

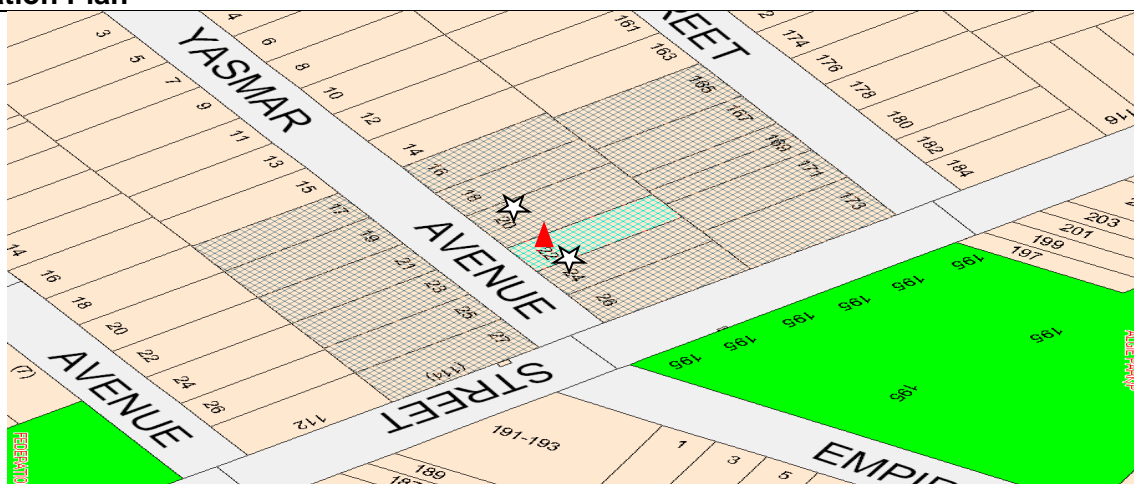


INNER WEST COUNCIL

SECTION 82 ASSESSMENT REPORT

Application No	10.2016.280
Address	22 Yasmar Avenue, HABERFIELD NSW 2045
Proposal	<p>This Application seeks a review of Council's Determination 10.2016.280.1 dated 28 February 2017, which approved Alterations and Additions to a Dwelling House.</p> <p>The Review seeks to:-</p> <ul style="list-style-type: none"> • Amend Condition B(1)(a) (western side setback of the new addition) so as to permit a setback on the western boundary between zero to a maximum of 200mm, and • Delete Condition B(1) (d) (degree of slope of the new rear hipped roof plane)
Date of Lodgement	20 April 2017
Applicant	Seeman Rush Architects
Owner	Ms Sarah Elliot & Mr Malcolm Noble
Number of submissions	Three (3) objections
Building Classification	1a
Reason for determination at Planning Panel	Recommendation is substantially the same as the Development Application
Main Issues	Heritage
Recommendation	Confirm the Original Determination
Attachment A	Plans of proposal
Attachment B	Draft conditions of consent

Location Plan



Locality Map

Subject Site		Objectors	
Notified Area		Supporters	

1.0 EXECUTIVE SUMMARY

Council has received a request to review the Determination of Development Application (DA) No. 2016.280.1 under Section 82A of the Environmental Planning and Assessment Act, 1979, for the alterations and additions to an existing dwelling house.

All of the approved works are at the rear of the property and involve:-

- Partial demolition of the rear of the existing dwelling and 2 outbuildings.
- On the Ground Floor, construction of a new kitchen/living/dining space, plus a new laundry and bathroom. A new rear terrace accessed off the new living/dining area.
- A new Attic studio with bathroom and storage. A new skylight is proposed on each new roof plane of the rear addition (3 skylights in total).
- A new shed is proposed in the north-eastern corner of the backyard.

The DA was approved on 28 February 2017, subject to conditions of consent. The applicant is seeking to amend Condition B(1)(a) (western side setback of the new addition) and delete Condition B(1)(d) (degree of slope of the new rear hipped roof plane).

These conditions are as follows:-

B Design Changes

(1) Amended plans to be submitted

Amended plans and specifications incorporating the following amendments are to be submitted with the application for a construction certificate

- (a) The lateral extension on the western side of the dwelling house shall be set back a minimum of 470mm from the western boundary.**
- (b) The boundary fence shall have a maximum height of 1.8m*
- (c) The shed shall be setback at least 450mm from the boundary*
- (d) The rear hip roof slope is to be the same roof slope as the side planes of the roof addition.**

In the original assessment of this Development Application, the main concern was the proposed lateral extension on the western side of the dwelling extending to the side boundary (nil setback) instead of maintaining the side setback established by the existing western wall (900mm). Given that a currently active approval (Determination No. 1999/468 dated 21 March 2000) allows for a rear extension to be setback 470mm from the western boundary, it was considered reasonable to require the new work to also be setback a minimum of 470mm from the western boundary; instead of maintaining a consistent setback to match the existing dwelling.

In order to accommodate sufficient head height within a proposed attic studio, the Development Application proposed that the pitch of the rear roof plane be 40°. Council's Heritage Advisor had regard to the form of the existing roof and required that the pitch of the rear hip roof to match the proposed side roof planes at 20°.

Accompanying this review application are submissions from the Applicant, the Applicant's Heritage Consultant, and plans from the Architect demonstrating the effect of Condition B(1)(d) on the head height (and therefore the functionality) of the proposed attic studio.

In summary, having regard to the requirements of the Ashfield Local Environmental Plan 2013 and the Ashfield Interim Development Assessment Policy 2013, it is considered that the Applicant has not provided adequate reasons to amend or delete Conditions B(1)(a) & (d) and it is recommended that these conditions not be amended or deleted.

2.0 PROPOSAL

Section 82A Review application seeking consent to amend:-

- Condition B1(a) – relating to the western side setback of the new addition

And delete:-

- Condition B1(d) – relating to the degree of slope of the new rear hipped roof plane

3.0 APPLICATION DETAILS

Applicant	:	Seemann Rush Architects
Owner	:	Ms S J Elliott & Mr M H Noble
Value of work	:	\$400,000
Lot/DP	:	LOT: 1 DP: 130779
Date of last amendment	:	N/A
Building classification	:	1A & 10A (Shed)
Application Type	:	Local
Construction Certificate	:	Yes – will be required
Section 94A Levy	:	Yes

A disclosure with respect to the *Local Government and Planning Legislation Amendment (Political Donations) Act 2008* accompanies the original Development Application.

4.0 SITE DESCRIPTION

The subject site is a rectangular allotment located on the northern side of Yasmar Avenue, bounded by Ramsay Street to the east and Denman Avenue to west. The site area is approximately 613.1m² and is generally level. An existing dwelling house and outbuildings are located on the site. Surrounding development comprises mainly single storey dwelling houses.

5.0 BACKGROUND

Development History

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

NO.	DATE	PROPOSAL	DECISION
DA 1999/468	21 March 2000	Alterations and additions to dwelling house, new garage and front fence	Approved
CC 358/99	8 May 2000	Same as above	Approved

The previous consent was noted in the original assessment of DA 2016.280.1 and was accepted as “active”; as building work inside the dwelling house has been carried out.

6.0 ASSESSMENT

Zoning/Permissibility/Heritage

- The site is zoned R2 Low Density Residential under the provisions of Ashfield LEP 2013.
- The property is located within the Haberfield Conservation Area.
- The property is not a heritage item.

- The property is not located within the vicinity of a heritage item.

The proposed works are permissible with Council consent.

Section 82(A) Review

Section 82A of the Environmental Planning and Assessment Act, 1979 allows an applicant to request Council to review the determination of an application. The review is to be carried out in accordance with the requirements discussed in the following.

- A review of a determination cannot be carried out on a complying development certificate, or a determination in respect of designated development, or a determination in respect of integrated development, or a determination made by the council under section 116E in respect of an application by the Crown.

The subject application was not complying development, designated development, integrated development or an application made by the Crown.

- A determination cannot be reviewed after the time limit for making of an appeal under Section 97 expires, being 6 months from the original determination.

The subject application was determined on 28 February 2016. The request for review was received by Council on 20 April 2017, and the expiration of the time period to complete this review is 28 August 2017.

- The prescribed fee must be paid in connection with a request for a review.

The applicant has paid the applicable fee in connection with the request for a review.

- In requesting a review, the applicant may make amendments to the development described in the original application, provided that Council is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The current S.82A Review application drawings generally accord with the original development application. The principal design modification is that the external wall of the proposed rear extension is shown with a 200mm setback off the western boundary.

- The review of determination has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations.

The application was advertised for a period of 14 days. The advertising period was between 3 May 2017 and 18 May 2017.

A total of three (3) objections were received during the advertising period.

- Consideration of any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan.

Issues raised in submissions are addressed later in this report.

- As a consequence of a review, Council may confirm or change the determination.

After reviewing the determination of the application, it is recommended that Council confirm the original determination of the application.

- The review must not be made by the person who determined the original but is to be made by another delegate of the council who is not subordinate to the delegate who made the determination. If the original determination was made by the Council then the review is also to be considered by the Council.

The original application was determined under Council Officer delegation. The review of the application is reported to a Planning Panel meeting in accordance with the requirements of officer delegations in the case where the recommendation is not substantially altered from the original determination.

Section 82A Assessment

The development application was approved with conditions. The applicant is now seeking review of conditions B(1)(a) and B(1)(d). The applicant's justification is summarised below followed by the Officer's comments.

Condition B1(a) – Western side setback of the new addition

- The Applicant's claim in their letter dated 19 April 2017, is that:-

The submitted plans have a lateral extension to the western boundary. This was not raised as a significant issue in our discussions with council's heritage adviser or Council's planners, as the existing building reaches to the boundary and a longer and higher extension in this direction is the subject of a previously approved active DA.

We made concessions to council by reducing the lateral extension into the "driveway" on the eastern side, even though the current width of the "driveway" does not comply with planning controls and a driveway and garage to the rear would never be approved; and recent precedents of lateral extensions into driveway in Haberfield in similar situations including 82 O'Connor St and 4 Baton St. These concessions were based on our understanding that there was no objection to the western lateral extension.

The extent of the western lateral extension is important to:

- *Provide a clear articulation of the extension from the main building with glazing to separate the walls*
- *Allow an openable window for natural cross flow ventilation and light*
- *Allow lateral placement of kitchen, dining and living spaces to preserve as much garden to the rear of the house as possible and avoid protruding beyond the extent of the eastern neighbour*
- *Retain the northern view corridor of the western neighbour by reducing the need to extend further along that boundary into the garden.*

Reducing the lateral extension to 470mm would:

- *Deny critical space for the three zones proposed in the extension*
- *Prohibit an operable window and compromise the integrity of the design*
- *Create a void between the fence and the building wall that will simply gather leaves and weeds.*

Council planners indicated that this condition is in response to a complaint from the western neighbour, but a freedom of information request indicated that no written complaint regarding this matter was received during the exhibition period. It should be noted that this same neighbour's garage wall extends for 10m along the western boundary of our property, at less than 200mm from the boundary. Council verbally mentioned concern about drainage. Seemann Rush Architects advise that a 200mm drain inside the fence line could address this concern.

Proposed action: We request that the setback from the boundary should be reduced to a maximum of 200mm.

- The Applicant's Heritage Advisor (John Oultram Heritage & Design – letter dated 14 April 2017) has commented as follows:

The proposals showed a zero setback to the boundary and this was accepted by Council's heritage advisor on the basis that a previous development application had approved an encroachment into the side setback on the western side. The zero setback allows for greater amenity to the rear additions and also reduces the extent of the development into the rear garden.

To the western side, views to the rear addition from the street are very limited and the addition is set well back from the street. Whether the setback is zero or 470mm the visible impact of the addition is negligible when viewed from the street as this portion of the addition is single storey. We consider the condition is both unreasonable and unnecessary.

Officer's comments in response:

- The western wall of the new rear addition is 7 metres in length and 3 metres in height. If this was permitted as a boundary wall (zero setback) or with only a 200mm setback it would be out of keeping with the general pattern of development within the Haberfield Conservation Area. A wall of these dimensions on or close to the boundary will present an amount of visual bulk and scale of development that will adversely compromise the amenity of the adjoining property at No. 20 Yasmar Avenue.
- Council's Heritage Advisor has conducted an analysis of the positive and negative impacts of the proposed work on the setting and local streetscape and also on the significance of the conservation area and does not support the Applicant's claims in this Review application.
- The "concessions" that the Applicant refers to; with regard to the eastern side setbacks; reflect the decisions that the Applicant has made and are not relevant to this review of Condition B1(a).
- The only existing wall on the subject site that has less than a 470mm setback on the western boundary is an existing rear laundry, which is a separate outbuilding (fibro with metal roofing) and is proposed to be demolished.
- The existing dwelling is setback off the western boundary by 900mm, and it is feasible to maintain this setback and still provide adequate room sizes to cater for the functions specified on the approved plans. The approved 470mm setback is considered a generous reduction from the existing setback.
- The Applicant's desire is to have Condition B1(a) deleted; and if not, then to have the western side setback reduced to a maximum 200mm. It is considered that a zero to 200mm setback does not retain sufficient width to provide reasonable access for necessary maintenance of the building without having to gain access from the neighbour's property.
- Notwithstanding that State *Environmental Planning Policy (Exempt and Complying Development Codes) 2008* does not apply to this application, if development on this site could occur as complying development under the General Housing Code, then the minimum requirement for side building setbacks for a dwelling house and its ancillary development is 900mm (Note: the width of this site is 13.41m).

Condition B1(d)

- The Applicant's claim in their letter dated 19 April 2017, is that:-

Additional space is required to accommodate adult children who cannot afford to rent in Sydney or buy their own houses. To reduce the depth of the rear addition into the garden, a rear attic space has been included for a studio, shower and storage. The pitch of the existing roof is very low (21.5 degrees).

The maximum height in the proposed extension at both ground and attic levels was to be obtained by dropping the floor level in the extension and having a gable at the rear. The gable eaves were to provide shelter from the westerly sun and privacy for the neighbours from the proposed screened window at the rear. The view of our heritage consultant John Oultram was that there was no heritage issue with the proposed gable at the rear.

Council's heritage adviser rejected the use of the gable. His advice was as follows:

"Two approaches to the provision of the attic are available for consideration:

- *The use of a pavilion hipped form, lit by skylights, and linked by a lowered roof form to the back of the existing main roof by a coupled roof of differentiated plane distinguishing it from the side plane of the existing cottage roof; or*

- *A hip ended roof form, engaged with the rear roof plane of the existing cottage, not employing any intermediate roof link, but differentiated in pitch.”*

The implication of Condition B1(d), to lower the pitch of the back roof plane to 19.8 degrees, is that the habitable area of the attic (minimum 2.2m for an attic room) is reduced by more than 50% to an area 1.5m x 0.7m. Attachment B1 and B2 shows the impact of this condition on the relevant Section and Attic Floor Plan. The attic area is no longer a habitable space and the current plans are completely redundant.

If this condition is not reversed, a completely new design would have to be developed, incurring additional time and financial costs and more protracted dealings with Council staff.

Proposed action: We request that this condition be reversed.

- The Applicant's Heritage Advisor (John Oultram Heritage & Design – letter dated 14 April 2017) has commented as follows:

The form of the rear roof was the subject of much discussion with Council and the applicant accepted changes proposed by Council's heritage advisor to delete a dormer to the rear and lower the roof extension to below the ridge of the existing roof to allow the rear hips of the existing roof to remain visible from the street.

The use of a varying pitch to the rear was accepted by Council's heritage advisor and the design was developed to DA on this basis. Reducing the pitch of the rear roof will severely impact on the amenity of the internal space at the upper floor. The pitching height to the roof is a mere 1200mm above the new floor level.

The use of a varying pitch to the rear is a clever way of providing greater space to the upper floor as it retains a hipped roof form. The change of pitch will be imperceptible to the casual observer from both the street and rear gardens due to the perspective effect and the setback of the rear roof plane effectively disguises the change.

The current roof pitch is low and has been lowered further in the side planes to the extension to set the new ridge below the existing. The design has a series of roof pitches but the overall composition is very sympathetic to the house and will retain the single storey presentation of the house to the street.

We consider the condition is both unreasonable and unnecessary.

Officer's comments in response:

- The principal justification for continuing to impose this condition is on heritage grounds and in this regard, the comments from Council's Heritage Advisor are relevant.
- Council's Heritage Advisor is of the opinion that the submitted design is attempting to do something for which the property is not suitable (i.e. include an Attic (as habitable space) within a low pitched and low profile roof).
- The existing house is a different age and architectural style to its neighbours. It has a much lower pitched roof form (20° to 22°) compared to neighbouring dwellings (40°). The inclusion of a 40° roof plane at the rear of the subject site is incongruous to the remainder its roof form; notwithstanding that it would more closely match its neighbours.
- The construction of a space within the roof is not opposed; however, it should be limited in area (m²) and height so that there is no need to require the dramatic roof design that the Applicant proposes.
- Accordingly, the use of any roof space may not be assumed to be capable of being used for habitable purposes and perhaps should be limited to storage only.

Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

6.1 The provisions of any Environmental Planning Instrument

6.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 2013

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance - Acceptance
2.2	Zoning	Zone R2 Low Density Residential	Alterations and additions to the existing dwelling house + new shed	Yes
4.1	Minimum subdivision lot size	500sqm	613.1m ² (existing site area no subdivision proposed)	N/A
4.3	Height of buildings	7.0m	6.32m	Yes
4.4	Floor space ratio	0.5:1	0.36:1 (GFA=226m ²)	Yes
5.10	Heritage Conservation	<ul style="list-style-type: none"> The subject site is located within the Haberfield Conservation Area 		
5.10(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 the 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).	Council's Heritage Advisor is opposed to this s.82A review application.	No
5.10(5)	Heritage Assessment	<p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>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.</p>	Refer to part 7.1 of this report for further details.	No
6.5(3)(d)		A minimum of 50% of the site is available for landscaping	313m ² (51% site area)	Yes

6.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

6.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of land

Remediation of the site is not required prior to the carrying out of the proposed development.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Not applicable.

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

A BASIX Certificate was lodged with the original application and a condition of consent has been imposed on the consent. The Section 82A review does not require an amended BASIX certificate.

6.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Not applicable.

6.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Council Interim Development Assessment Policy 2013 (Council Policy) as the application was submitted prior to the 10 January 2017 when the Comprehensive Inner West DCP 2016 came into force:-

C7	HABERFIELD HERITAGE CONSERVATION AREA	See Table below
C11	PARKING	Complies. The policy requires at least one car space but preferably two behind the building line. There is space for parking a car behind the building line.
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	Complies. The application was notified as required by this part.

C15	5(a)(viii) HOUSES & DUAL OCCUPANCIES	5(a)(ix) Complies. See table below	
Compliance table – Interim Policy Part C7 Haberfield Heritage Conservation Area			
2.3. Pattern of Development		Generally complies	
2.6. Building Form		Complies.	
2.9. Roof Forms		Rear hip slope needs to match side planes.	
2.12. Siting, Setbacks & Levels		Generally complies	
2.15. Walls		Generally complies	
2.18. Chimneys		There are no chimneys affected	
2.21. Joinery		Generally complies.	
2.24. Windows and Doors		Generally complies	
2.27. Window Sunhoods, Blinds and awnings		Generally complies	
2.30. Verandahs		Generally complies	
2.33. Garages and Carports		N/A	
2.36. Garden Sheds/Store		Complies	
2.39. Colour Schemes		Complies	
2.42. Fences & Gates		N/A	
2.45. Garden Elements including paving, driveways, pergolas & pools		Generally Complies.	
Part C15 Houses and Dual Occupancies			
Control	Required	Proposed	Complies
General Landscaping	50% of the site (306.55m ²)	56% (345.5 m ²)	Yes
Soft/deep soil landscaping	70% of required general landscaping (313m ²)	102% of the required landscaped area - (313m ²).	
Wall height	6m maximum	3.6m	Yes

It is considered the application generally complies with the parts as indicated and ultimately achieves the aims and objectives of the Ashfield Interim Development Assessment Policy 2013.

6.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

6.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application. It is considered that subject to the continued imposition of the approved conditions, the proposed development will have no significant adverse environmental, social or economic impacts upon the locality

6.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality subject to compliance with the conditions of Consent.

6.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners and occupants from 3 May 2017 until 18 May 2017.

6.7.1 Summary of submissions

Three (3) submissions were received during the notification of the development application. The issues raised are summarised as follows:-

Haberfield Association

- Objection to any decrease in the approved 470mm setback from the western boundary. The Association resolved at a meeting on the 15 May 2017, that the traditional 900mm setback of dwellings from side boundaries should be maintained.
- The Association supports maintaining the established pattern of front and side setbacks and past encroachments or deviations should not be relied upon as precedents for future developments.
- The Association would prefer Council to modify Condition B(1)(a) by now requiring a 900mm setback from the western side boundary.

20 Yasmar Avenue (adjoining to the west of the site)

- Object to the approved 470mm setback from the western boundary and would prefer a 900mm setback.
- A 3 metre high wall setback only 470mm will be an overbearing structure and will result in increased overshadowing.
- There is no justification for this short setback.

26 Yasmar Avenue (2nd property to the east of the site)

- Principal concern is the protection of privacy by raising the sill height of the skylight on the rear (northern) roof plane.

Comments in response:-

- While it is open to Council to amend Condition B(1)(a) to require the western setback to be increased to 900mm, this is not considered justified in this instance. Council have previously accepted that DA 1999/468 continues to be an operative consent and the Applicant could continue to construct according to those approved plans, which permitted a wall setback 470mm from the western boundary 6.25m (length) x 5.0m (high).
- The previously approved western wall under DA 1999/468 would result in a far more overbearing structure and with greater overshadowing impacts than that approved under DA 2016.280.1.
- The sill height of the northern attic skylight is set by Condition B(2)(a). This application does not seek to amend or delete this condition.

6.8 The public interest

The proposed development will have no detrimental impact on the public interest pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, subject to appropriate conditions being imposed. Importantly, Conditions B(1)(a) & (d) which are necessary for the ensuring that the proposal fits in with the original building fabric of the dwelling and complements with the heritage value of the locality.

7.0 REFERRALS

7.1 Internal

Heritage: Council's heritage advisor reviewed the original application and S82A submission and has provided the following advice:-

Roof

This proposal has been discussed at great length. The design is attempting to do something for which the property is not suitable – include an attic within a low pitched and low profile roof.

The design solution proposes an atypical and unusual “bastard hip” profile in order to gain volume to create a habitable room in circumstances which do not lend themselves readily to the incorporation of such a space. The outcome would be extremely poor in its unusual appearance which would be quoted in support of copycat proposals which invariably follow such eccentric approvals. Additionally, the orientation of the allotment and the proposed design of the attic would result in any habitable space having very low amenity.

This is an extremely fine cottage which should be complemented by any alterations and additions made to it, and not undermined by them. The conservation area should not suffer from approvals for inappropriate designs such as has been proposed.

Side setback

The importance of maintaining side setbacks within Haberfield comes straight from its significance as a profoundly influential garden suburb. The separating space between Haberfield's cottages is crucial to its identity and character as a garden suburb. The issue is problematic in the management of the heritage conservation area because of the relentless demand for extensions from owners who do not understand this significance.

The Applicant has not advanced any convincing reason why the side setback condition should be varied or deleted.

7.2 External

Not applicable.

8.0 OTHER RELEVANT MATTERS

Section 94A Contribution Plan

Condition C(1) requires the payment of a \$4,000 contribution in accordance with Council's Section 94A Development Contributions Plan 2009.

Stormwater Pipes

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes.

9.0 BUILDING CODE OF AUSTRALIA (BCA)

A Construction Certificate will be required to be applied for by condition of consent.

10.0 CONCLUSION

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 as amended with all matters specified under Section S82A have been taken into consideration. Having reviewed the DA 2016.280.1 in light of the relevant planning controls and having regard to the Applicant's written submissions and those of the Objectors, it is considered that the modification &/or deletion of Conditions B(1)(a) & (d) be refused.

Attachments

ATTACHMENT 1 – Reduced s.82A Plans

ATTACHMENT 2 – Original Council Delegated Assessment Report

ATTACHMENT 3 – Original Determination

ATTACHMENT 4 – Stamped Approved Plans

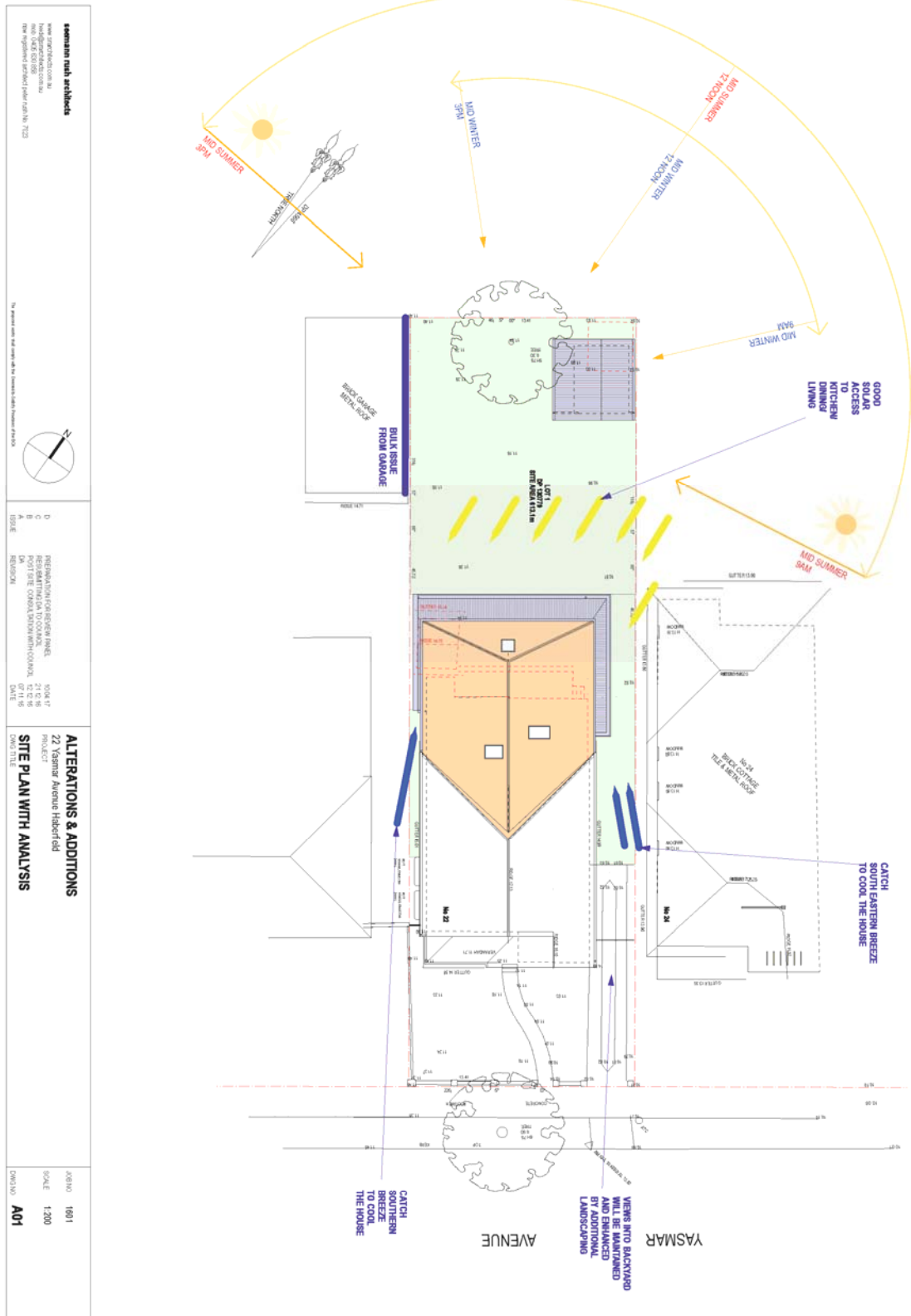
ATTACHMENT 4 – Applicant's Submissions (s.82A request & response to objections)

ATTACHMENT 5 – Council's Heritage Advisor's Comments

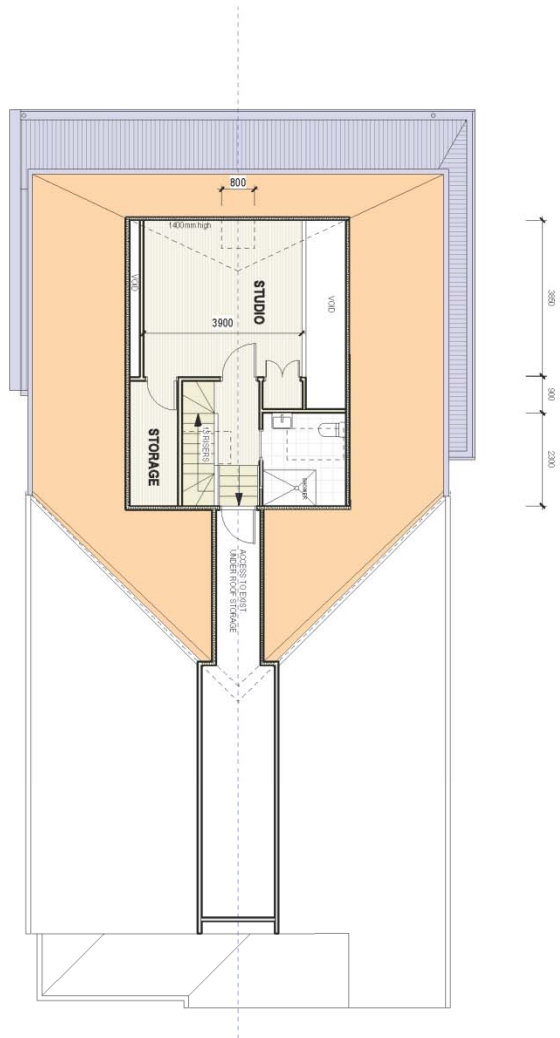
11.0 RECOMMENDATION

That the Determination of Development Application 10.2016.280.1 dated 28 February 2017, pursuant to Section 82A of the Environmental Planning & Assessment Act 1979 remain unchanged and that Conditions B(1)(a) and B(1)(d) not be amended or deleted.

ATTACHMENT 1 – Reduced s.82A Plans

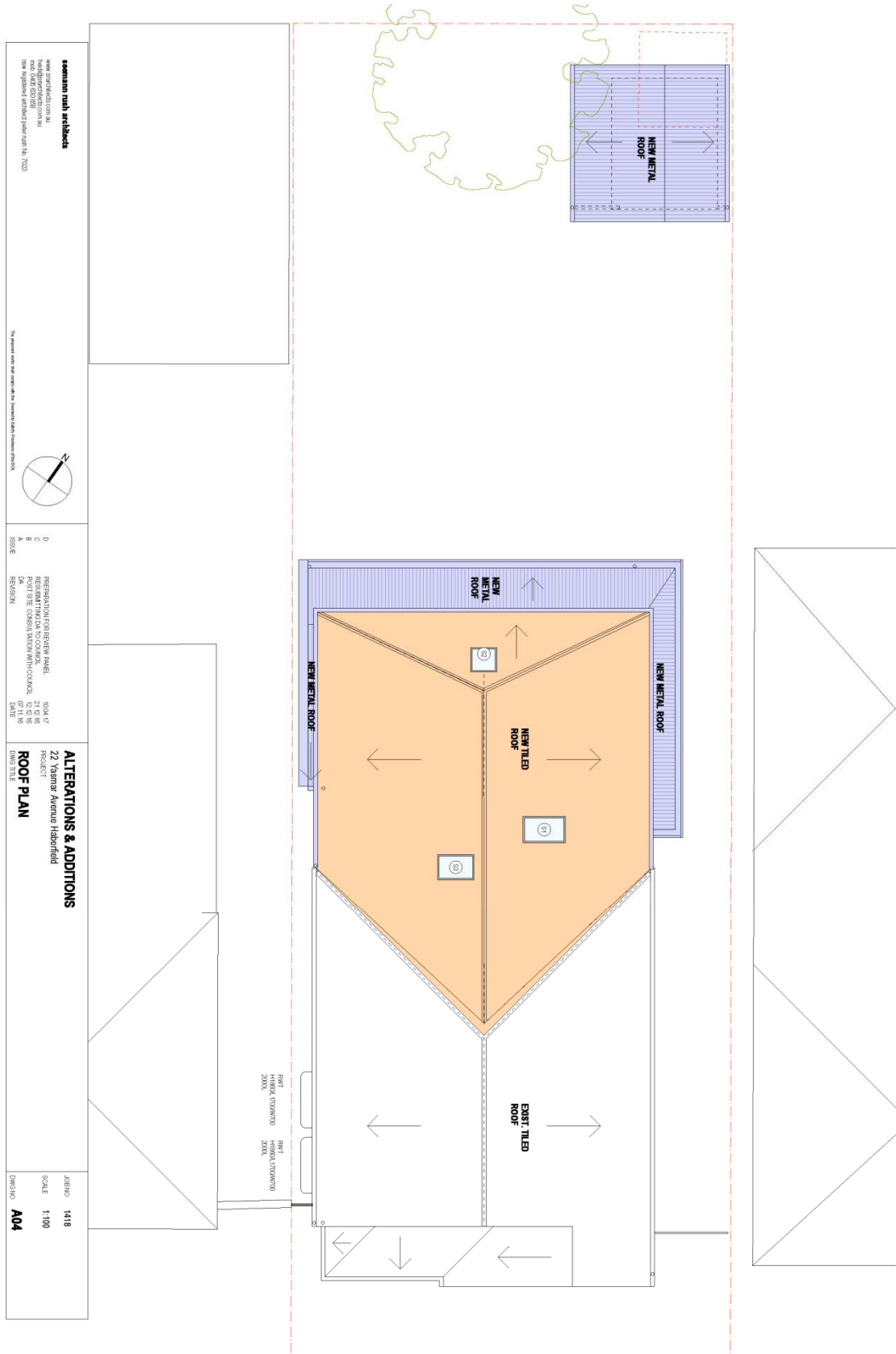


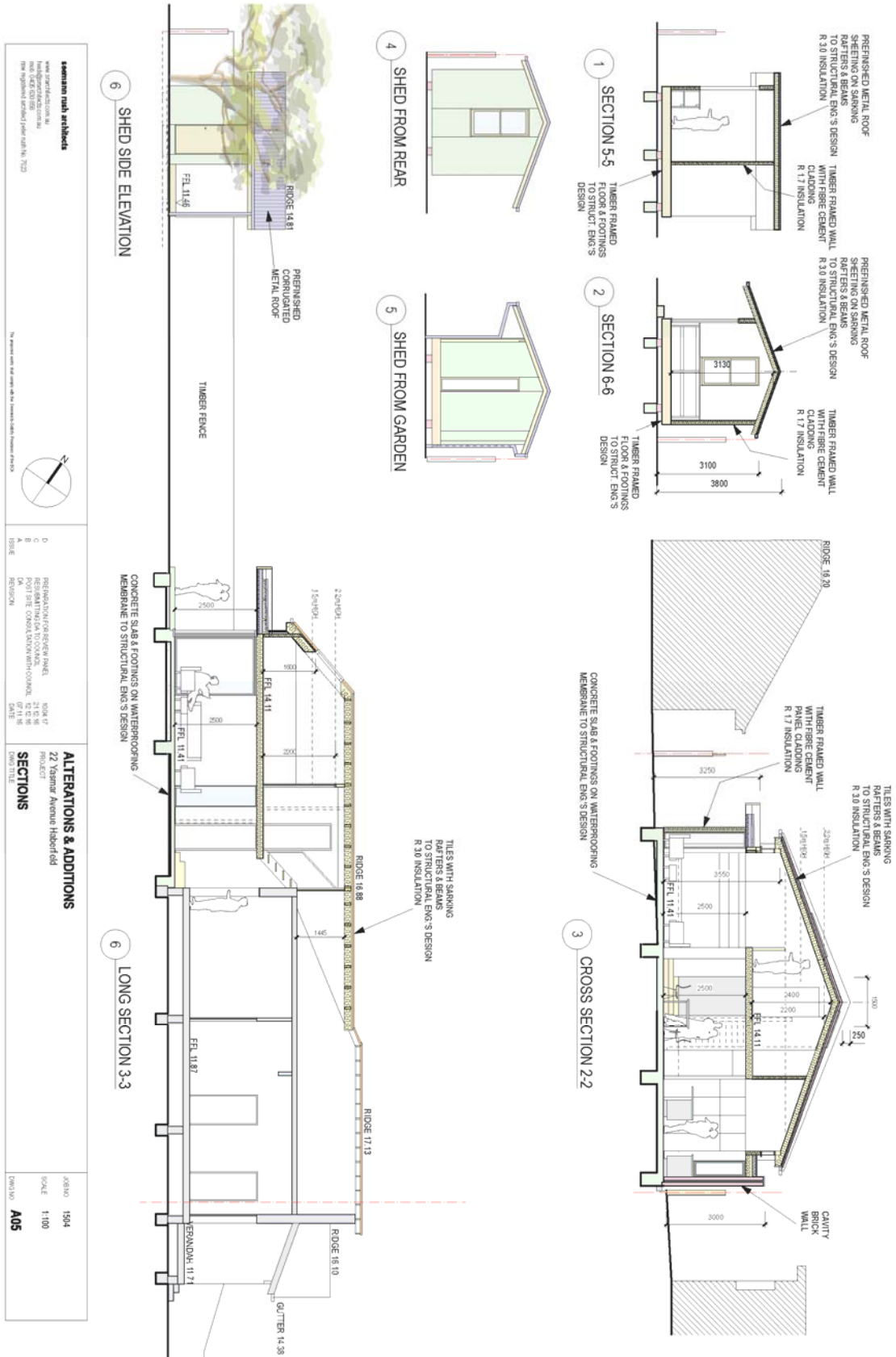
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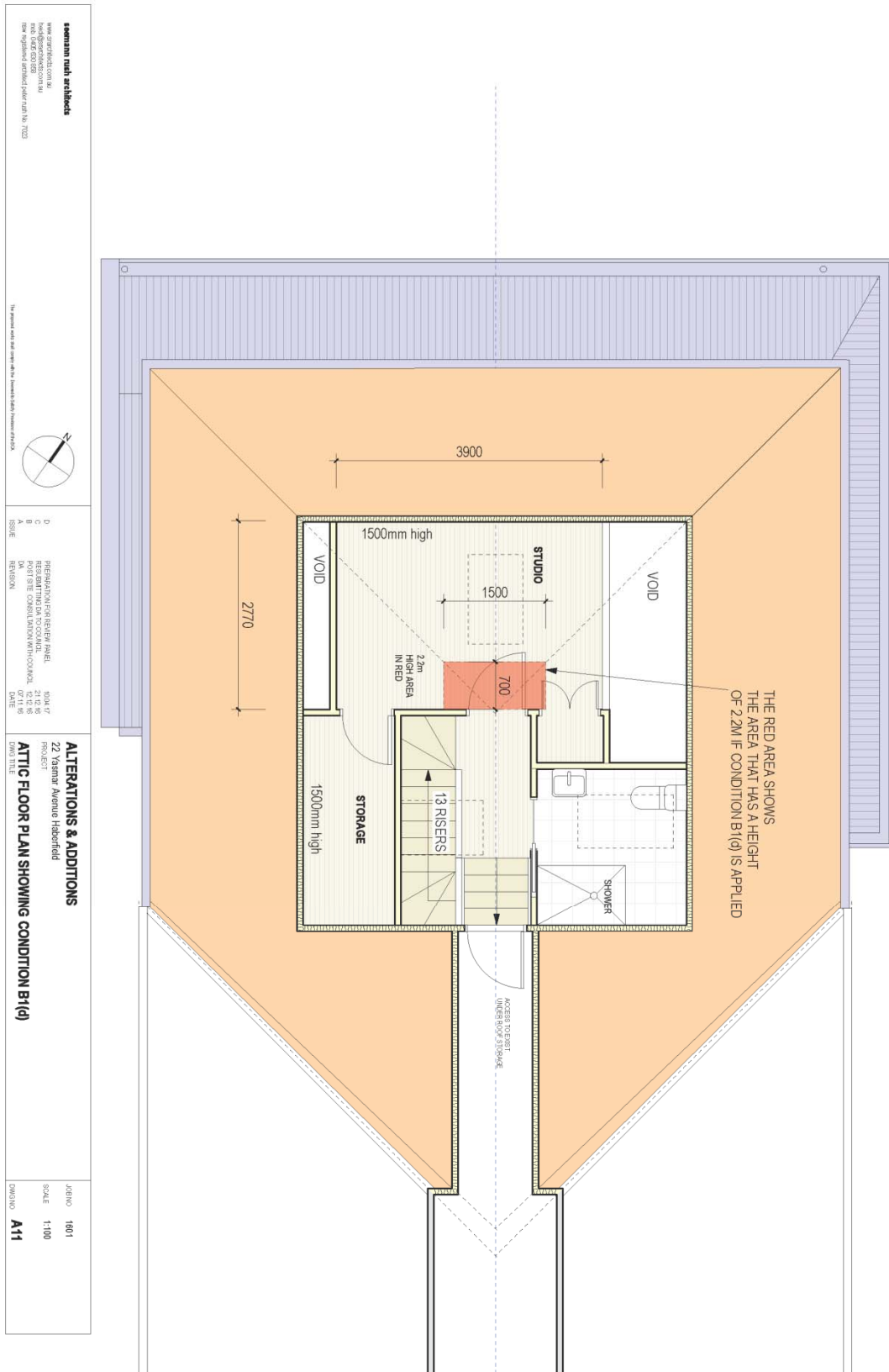


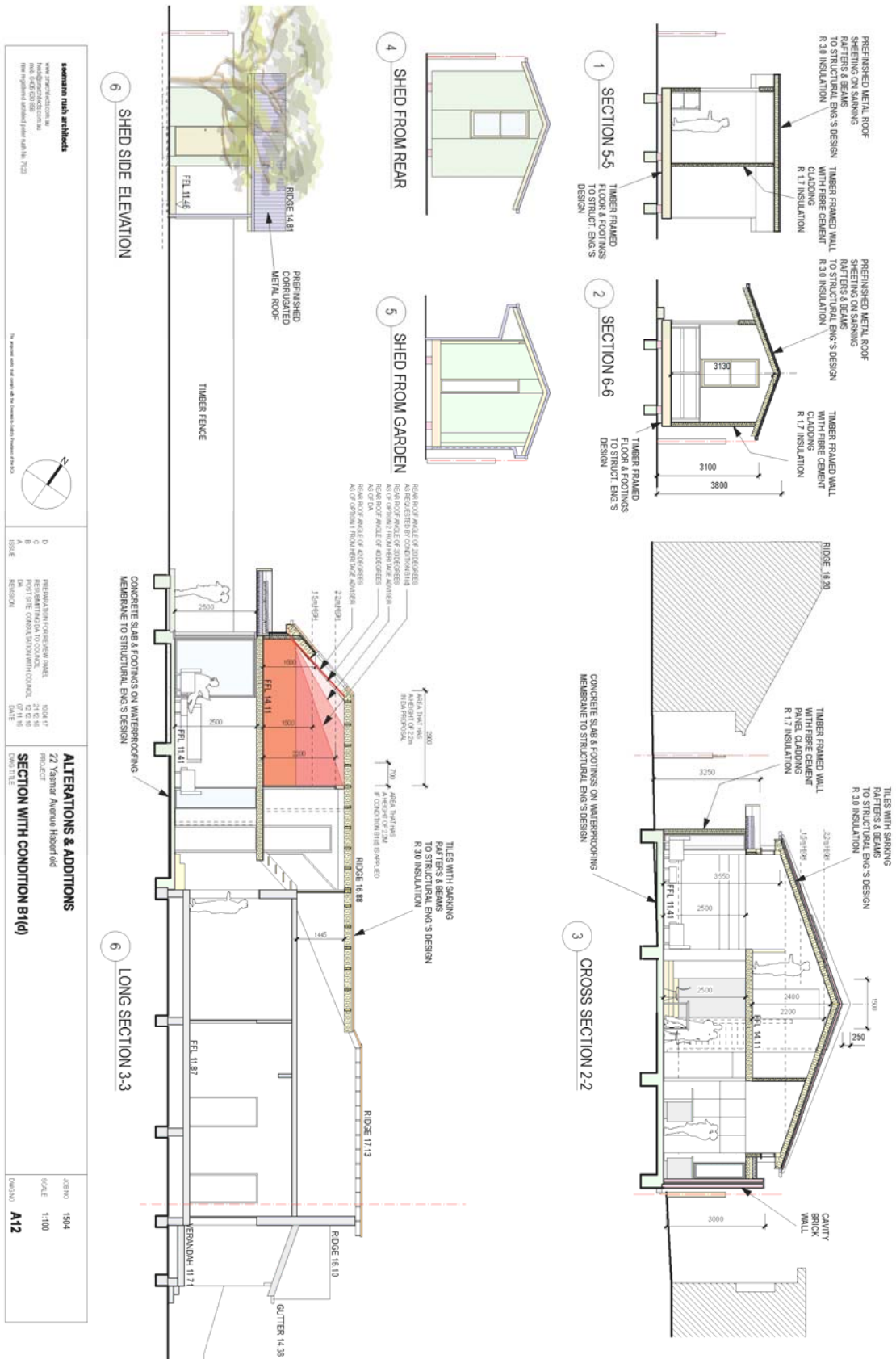
1 ATTIC FLOOR PLAN

<p>seaman nat architect www.seamannat.com.au nat@seamannat.com.au 100 Regent Street, Sydney NSW 1522</p>		<p>The project will be carried out by the Licensed Builder/Builder's Representative</p>	
<p>D PREPARATION FOR REVIEW PANEL C REBAMENDING TO COUNCIL B POINT SITE CONSULTATION WITH COUNCIL A ISSUE REVISION</p>		<p>4/04/17 21.12.16 12.12.16 DATE</p>	
<p>ALTERATIONS & ADDITIONS 22 Yassini Avenue Haberfield</p>		<p>JOB NO 1601 SCALE 1:100 DWG NO A03</p>	
<p>ATTIC FLOOR PLAN</p>		<p>DWG TITLE</p>	









ATTACHMENT 2 – Original Council Delegated Assessment Report

**Development Assessment Report**

Subject	Development Application: 10.2016.280.1
Property	22 Yasmar Avenue HABERFIELD
File No	2016.280.1
Prepared by	Mr W Daskalopoulos
Report To:	Atalay Bas
Objective	Determine Application
Strategic Plan Link	N/A
Management Plan Activity	2.11 Development & Building Control, Strategic Planning

Date 28/2/2017

Overview of Report

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent for :

- Alterations and additions to a dwelling house including new dining, living room, bathroom and terrace on the ground floor level
- Studio and shower room and storeroom in an attic level
- New shed
- Landscaping
- Boundary fence

Plans of the proposal are included as **Attachment 1**.

2.0 Summary

The main concern with the proposed development is the lateral extension on the western side of the dwelling which is to extend to the boundary. A previous construction certificate issued in 2000 for building work to the dwelling house included a lateral extension on the western side extending 470mm from the boundary. A recent inspection of the premises revealed that internal work on the dwelling house in relation to the Construction Certificate has commenced.

Given that a lateral extension has been approved which is 470mm from the boundary it is recommended that the application be approved with a lateral extension of 470mm from the boundary in lieu of a lateral extension extending to the boundary.

Objections have been received regarding loss of privacy from a rear (north) facing skylight. A condition is recommended to have the sill of this skylight 1.6m above the floor level of the attic.

Recommendation

The development is recommended for Conditional Approval.

Background

3.0 Application Details

Applicant	:	Seemann Rush Architects
Owner	:	Ms S J Elliott & Mr M H Noble
Value of work	:	\$ 400,000
Lot/DP	:	LOT: 1 DP: 130779
Date lodged	:	21/12/2016
Date of last amendment	:	N/A
Building classification	:	1A ,10A
Application Type	:	Local
Construction Certificate	:	No
Section 94A Levy	:	No

4.0 Site and Surrounding Development

The subject site is located on the northern side of Yasmar Avenue, bounded by Ramsay Street to the east and Denman Avenue to west. The site area is approximately 613.1 square metres. An existing dwelling house is located on the site. Surrounding development comprises mainly single storey dwelling houses. Refer to **Attachment 2** for a locality map.

5.0 Development History

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

NO.	DATE	PROPOSAL	DECISION
DA 1999/468	21/3/2000	Alterations and additions to dwelling house, new garage and front fence	Approved

The previous consent is active as building work inside the dwelling house has commenced. The previous consent included a lateral extension on the western side of 470mm from the boundary. The proposed development seeks a lateral extension on the western side extending up to the boundary. The recommendation is for approval of a lateral extension of 470mm from the boundary instead of the proposed lateral extension on the boundary. A condition has been included in this regard.

Assessment

6.0 Zoning/Permissibility/Heritage

- The site is zoned R2 Low Density Residential under the provisions of Ashfield LEP 2013.

- The property is located within the Haberfield Conservation Area.
- The property is not a heritage item.
- The property is not located within the vicinity of a heritage item.

The proposed works are permissible with Council consent.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 2013 - Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	Zone R2 Low Density Residential	Alterations and addition to dwelling , new shed and attic	Yes
4.1	Minimum subdivision lot size	500m ²	613.1m ² No subdivision proposed	Yes
4.3	Height of buildings	7m	6.32m	N/A
4.4	Floor space ratio	0.5:1	0.36 :1 (225.6 m ² GFA)	Yes
5.10	Heritage Conservation	Located in the Haberfield Conservation Area		
5.10(4)	Effect on heritage significance	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 (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.	Satisfactory assessment by Council's Heritage Advisor subject to conditions.	Yes
6.5(3)	Development in the Haberfield Heritage Conservation Area	Development consent must not be granted to development for the purposes of a dwelling house on land to which this clause applies unless the consent authority is satisfied that:		Generally Complies

6.5(3)(a)(i)		If the development involves the addition of gross floor area above the ground floor of a dwelling house the additional gross floor area is contained entirely within the roof space of the dwelling house.	There is no additional gross floor area above the ground floor proposed.	N/A.
6.5(3)(a)(ii)		If the development involves the additional gross floor area below the ground floor of the dwelling house – the additional gross floor area does not exceed 25 percent of the gross floor area of the dwelling house and does not require significant excavation.	There is no additional gross floor area below the ground floor of the dwelling house.	N/A
6.5(3)(c)		The development does not involve the installation of dormer or gablet windows.	No dormer or gablet windows are proposed.	N/A
6.5(3)(d)		A minimum of 50%(306.55m2) of the site is available for landscaping.	313 m2 = (51%)	Yes

7.1.2 Regional Environmental Plans

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

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of land

Remediation of the site is not required prior to the carrying out of the proposed development.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

N/A

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Council Interim Development Assessment Policy 2013 (Council Policy) as the application was submitted prior to the 10 January 2017 when the Comprehensive Inner West DCP 2016 can into force

C7	HABERFIELD HERITAGE CONSERVATION AREA	See Report below
C11	PARKING	Complies. The policy requires at least one car space but preferably two behind the building line. There is space for parking a car behind the building line and therefore the proposed development complies.
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	Complies. The application was notified as required by this part.
C15	5(a)(xi) HOUSES & DUAL OCCUPANCIES	5(a)(xii) Complies. See table below

Compliance table – Interim Policy Part C7 Haberfield Heritage Conservation Area

2.3. Pattern of Development	Generally complies
2.6. Building Form	Complies.
2.9. Roof Forms	Rear hip slope needs to match side planes A condition is included in this regard.
2.12. Siting, Setbacks & Levels	Generally complies
2.15. Walls	Generally comply
2.18. Chimneys	There are no chimneys affected
2.21. Joinery	Generally complies.
2.24. Windows and Doors	Generally complies
2.27. Window Sunhoods, Blinds and awnings	Generally complies
2.30. Verandahs	Generally complies
2.33. Garages and Carports	N/A
2.36. Garden Sheds/Store	Complies
2.39. Colour Schemes	Complies
2.42. Fences & Gates	N/A
2.45. Garden Elements including paving, driveways, pergolas & pools	Generally Complies.

Part C15 Houses and Dual Occupancies

Control	Required	Proposed	Complies
General Landscaping	50% of the site (306.55m2)	56% (345.5 m2)	Yes
Soft/deep soil landscaping	70% of required general landscaping (313m2)	102% of the required landscaped area (313m2).	
Wall height	6m maximum	3.6m	Yes

Scale and bulk:

The proposal consists of external works which do not add to the bulk and scale of the dwelling house.

Aesthetics:

Ashfield Interim Development Assessment Policy requires new development to be sympathetic to the context of the site, and have a high standard of architectural composition. There are varying architectural forms of development within the vicinity of the site, comprising of mainly single storey federation dwellings.

The proposed development as submitted is considered to be sympathetic in context to the adjoining dwellings. The building work is to the rear of the dwelling house and includes landscaping. Council's Heritage Advisor has not raised any objection to the proposed development and it is considered that the development is generally sympathetic to the streetscape subject to reduction in the width of the lateral extension.

Landscape and Site Layout:

As indicated in the ALEP compliance table the proposal does comply with Council's development control for a minimum of 50% of the site being soft landscaped.

The proposed landscaping is generally consistent with the pattern of development in the area and Council's Heritage Advisor has raised no objection to the proposed landscaping

Given that the landscaped area complies with Council's development controls the application is supported subject to conditions.

Trees:

The proposed development does not seek the removal of any trees.

Amenity for neighbours:

The Policy requires solar access to at least 50% (or 35m², whichever is lesser) of the principal private area at ground level of the private open spaces of the adjacent properties is not reduced to less than three hours between 9am and 3pm on the 21 June.

The Policy also requires that solar access be maintained to at least 40% of the glazed areas of any neighbouring north facing living room/dining room windows.

The proposed development is single storey in scale. The property to the south is not greatly impacted given the nature and scale of the development. Solar access will be maintained to windows and to private open space of all properties in the vicinity as required by Council's policy.

Neighbour's Privacy:

Existing boundary fences maintain privacy to adjoining properties from the ground floor additions and a condition is recommended that the north (rear) facing skylight have a sill height of 1.6m above the attic floor level to protect the privacy of adjoining properties.

Ecological Sustainable Development:

The work exceeds \$50,000 as such a BASIX certificate is required and has been submitted.

It is considered the application complies with the parts as indicated and ultimately achieves the aims and objectives Council's policy.

- 7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

- 7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality. The development has minimal impact on the adjoining properties by way of overshadowing. A condition will be imposed to raise the sill height of the north (rear) skylight in the attic to 1.6m in height above the floor level of the attic to ensure privacy is maintained to adjoining properties. The main concern with the proposed development is the lateral extension on the western side of the dwelling which is to extend to the boundary. A previous construction certificate for building work to the dwelling house included a lateral extension on the western side extending 470mm from the boundary. A recent inspection of the premises revealed that internal work on the dwelling house in relation to the Construction Certificate has commenced. A condition has been included to require the western lateral extension to be setback 470mm from the western boundary as previously approved. A condition has also been included to require the shed to be setback 450mm from the boundary and the boundary fence to be reduced from 2.1m to 1.8m above ground level.

- 7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality .

- 7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified between to 5 January 2016 and 23 January 2017 under Part C12 of Council's Interim Development Assessment Policy. No objections were received.

- 7.7.1 Summary of submissions

Submissions received from Mr and Mrs Scardilli of 26 Yasmar Avenue, Pedro Di Costa of 24 Yasmar Avenue and A Catania of 20 Yasmar Avenue Haberfield.

- *Loss of Privacy.*

Officer Comment:

The concerns raised are privacy from the rear (north) facing attic skylight. The proposed sill height of the skylight is only 1.2m. A condition is recommended that the subject skylight have a sill height of 1.6m above the floor level of the attic to ensure that privacy is maintained to the adjoining properties.

- *Overshadowing*

Officer Comment:

Council Policy requires solar access to at least 50% (or 35m², whichever is lesser) of the principal private area at ground level of the private open spaces of the adjacent properties is not reduced to less than three hours between 9am and 3pm on the 21 June.

The Policy also requires that solar access be maintained to at least 40% of the glazed areas of any neighbouring north facing living room/dining room windows.

The proposed development is single storey in scale. The property to the south west (20 Yasmar Avenue) is not greatly impacted given the nature and scale of the development and there is a driveway separating the proposed addition from the neighbours dwelling house. Furthermore a lateral extension of 470mm from the boundary was approved on 21/3/2000 and that application is still active.

Solar access will be maintained to windows and to private open space of all properties in the vicinity as required by Council’s policy.

- *Proposed 2.1m high Boundary fence is too high.*

Office Comment:

The maximum height for boundary fences is usually 1.8m. The proposed boundary fence has a height of 2.1m as such a condition has been imposed to lower the fence to 1.8m as is the usual height.

- *Lateral extension affects amenity*

Officer Comment:

The lateral extension on the western side of the dwelling is proposed to extend to the boundary. A condition has been recommended to have the lateral extension setback 470mm from the western boundary as previously approved by DA 1999/468. See also report under Part 7.5 of this report for further discussion.

- *The proposed development does not comply with existing settlement pattern*

Officer Comment:

The proposed development has a lateral extension extending up to the western boundary. Development Consent No.1999.468 was approved in 2000 and a construction certificate was issued which allowed for a lateral extension of 470mm from the western boundary. Given that a lateral extension has been approved and that approval is still active it is considered that a lateral extension of 470mm be allowed in relation to the current application. Council’s Heritage Advisor has no objection to the proposed development subject to the rear hip roof slope matching the side planes. A condition has been included in this regard.

7.7.2 Mediation

N/A

7.8 The public interest

The public interest is best served by approval of the application.

8.0 Referrals

Internal referrals	
Heritage Advisor	Council’s Heritage Advisor has no objection to the proposed development subject to the rear hip roof slope matching the side planes. A condition has been included in this regard.
Council’s Engineers	No objection to the proposed development subject to conditions.
Council’s Building Surveyor	No objection subject to condition.

External Referrals	
N/A	

9.0 Other Relevant Matters

Stormwater Pipes –

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes.

10.0 Building Code of Australia (BCA)

A construction certificate application will be required to be submitted

Financial Implications

Section 94A Contributions will be applicable as the value of the work exceeds \$100,000

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is acceptable and is recommended for approval.

Attachments

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – Heritage Advisor Comments
- Attachment 4 - Conditions

Recommendation

That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No. 2016.280 for alterations and additions to a dwelling house including an attic, outbuilding and boundary fence on Lot 1 in DP: 130779, known as 22 Yasmar Avenue Haberfield, subject to the following conditions.

ATTACHMENT 3 – Original Determination



DEVELOPMENT CONSENT
 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
 (SECTION 81(1)(A))
 ASHFIELD LOCAL ENVIRONMENTAL PLAN 2013

Consent No. 10.2016.280.1
 Date of Determination 28 February 2017
 Lapse Date: Five (5) years from date of determination

APPLICANT:

SEEMANN RUSH ARCHITECTS
 100 JULIETT STREET
 MARRICKVILLE NSW 2204

PREMISES: 22 Yasmar Avenue, Haberfield
 LOT: 1 DP: 130779
BUILDING CLASSIFICATION: Class 1a & 10a

APPROVAL:

Inner West Council, as the responsible authority, hereby consents to:

- Alterations and additions to a dwelling house including new dining, living room, bathroom and terrace on the ground floor level
- Studio, shower room and storeroom in an attic level
- New shed
- Landscaping
- Construction of boundary fence

CONDITIONS:**A General Conditions****(1) Approved plans stamped by Council**

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers date stamped by Council and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Per 
 Atalay Bas
 Manager Development Services

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 250 Liverpool Road Ashfield NSW 2131

CONSENT NO. 10.2016.280.1

2/10

No.	Title	Prepared by	Amendment Date
A01 C	Site Plan	Seemann Rush Architects	21/12/2016
A02 C	Ground Floor Plan	Seemann Rush Architects	21/12/2016
A03 C	Attic Floor Plan	Seemann Rush Architects	21/12/2016
A04 C	Roof Plan	Seemann Rush Architects	21/12/2016
A05 C	Sections	Seemann Rush Architects	21/12/2016
A06 C	Elevations	Seemann Rush Architects	21/12/2016
A07 C	Elevations	Seemann Rush Architects	21/12/2016
A08 C	Landscape Calculation Plan	Seemann Rush Architects	21/12/2016

B Design Changes**(1) Amended plans to be submitted**

Amended plans and specifications incorporating the following amendments are to be submitted with the application for a construction certificate

- (a) The lateral extension on the western side of the dwelling house shall be set back a minimum of 470mm from the western boundary.
- (b) The boundary fence shall have a maximum height of 1.8m
- (c) The shed shall be setback at least 450mm from the boundary
- (d) The rear hip roof slope is to be the same roof slope as the side planes of the roof addition.

(2) Privacy

In order to preserve the privacy of adjoining properties, the following amendments are necessary:

- (a) The skylight on the northern (rear) elevation shall have a minimum sill height of 1.6m above floor level.

Details of the above privacy measures are to be submitted with the application for a Construction Certificate.

C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate**(1) Section 94A Contribution**

Pursuant to Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Ashfield Council's Section 94A Development Contributions Plan 2009 a contribution of **\$4,000** shall be paid to Ashfield Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Ashfield Council's Section 94A Development Contributions Plan 2009.

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the Principal Certifying Authority (PCA).

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

3/10

(2) Long service levy

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

(3) Home Building Act 1989 Insurance

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

(4) Damage deposit/footpath, road, kerb and gutter

A Damage Deposit of \$7,600 is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an original with no end date and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

(5) Footpath/laneway – photographs to be submitted

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

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

4/10

(6) Payment of any Additional Fees

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

D Conditions that must be complied with before work commences**(1) Requirement for a Construction Certificate**

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

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

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

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(2) Inspections required by Principal Certifying Authority

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

(3) Notice of Commencement – Notification of Works

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

(4) Sanitary facilities - demolition/construction sites

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

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

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

5/10

(5) Site Controls

Sediment and erosion controls must be in place before work is commenced on the site. The control strategies must be consistent with the technical requirements set out in the Sydney Coastal Councils' *Stormwater Pollution Control Code for Local Government*.

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

A sediment and erosion control plan must be prepared and identify appropriate measures for bunding and siltation fencing. Any such erosion and sedimentation controls shall also include the protection of stormwater inlets or gutter systems within the immediate vicinity of the site.

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

(6) Site fencing/security

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

(7) Structural Engineering Details

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval.

(8) Sydney Water approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

E Conditions that must be complied with during construction or demolition**(1) Matching materials - repairs to fabric**

Matching materials are to be used in repairing the fabric of external surfaces.

(2) Materials and colour schemes

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

(3) BASIX Requirements

The new works shall be constructed in accordance with, and comply with the undertakings given on the BASIX (Building Sustainability Index) Certificate No.A265394 as obtained on 17 November 2016 from the Department of Infrastructure, Planning and Natural Resources. For more information visit www.basix.nsw.gov.au.

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

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(4) Road opening permit – Council controlled lands

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

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

(5) Building materials and equipment - storage/placement on footpath/roadway - Council approval

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

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

(6) Roof guttering and drainage system/disposal of stormwater

The roof shall be provided with a complete guttering and drainage system. Roofwater shall be disposed of by approved drainage lines discharging into the street gutter.

(7) Safety Glazing - BCA

Safety glazing complying with B1 of the Building Code of Australia (BCA) is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288:2006 'Glass in Buildings – Selection and Installation'.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288 and Part 3.6.4 of the BCA.

(8) Waterproofing materials/installation – BCA/Australian Standards

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part 3.8.1 of the Building Code of Australia (BCA). The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA & AS 3740:2004 'Waterproofing of wet areas within residential buildings'.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

(9) Termite treatment

Treatment for the protection of the building from subterranean termites shall be carried out in accordance with AS 3660.1:2000 'Protection of Buildings from Subterranean Termites'.

On completion of the installation of the barrier the Principal Certifying Authority shall be furnished with a certificate from the person responsible, stating that the barrier complies with AS 3660.1.

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

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A durable notice shall be permanently fixed to the building in a prominent location, such as the meter box or the like indicating:

- the method of protection;
- the date of installation;
- where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- the need to maintain and inspect the system on a regular basis.

Due to the present limited effective life of soil chemical treatments, Council does not permit hand spraying as a stand alone method of termite protection. It is recommended that any soil chemical treatment should embrace a reticulation system.

(10) Wall position and boundary - check survey

A Survey Certificate (or copy) taken at damp course level and showing distances of walls to boundaries and alignments is to be submitted to the Principal Certifying Authority.

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

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.
- (2) Any-sign shall be maintained and not removed until work has been finished.

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

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

(13) Demolition requirements/standards

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

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:

Per.....
Atalay Bas

Manager Development Services

CONSENT NO. 10.2016.280.1

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- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg: ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.

(14) Site vehicles - mud/debris

You are to ensure that ALL vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

(15) Skylight design

In-plane skylights in clear glazing, close-fitting to the roof and of a rectangular and vertical shape are to be installed. The northern (rear) skylight shall have a sill height of 1.6m above floor level

(16) Rainwater Items - design

Quad or "D" shaped gutters only are to be used.

(17) Fire Detection/Alarm System installation and certification

Smoke alarms must be installed in dwellings in accordance with Clause 3.7.2.3 of the Building Code of Australia (BCA) and AS 3786 on or near the ceiling in -

- (a) any storey containing bedrooms -
- between each area containing bedrooms and the remainder of the dwelling, including any hallway associated with the bedrooms

Per.....
Atalay Bas
Manager Development Services

CONSENT NO. 10.2016.280.1

9/10

- (b) any storey not containing bedrooms.

Smoke alarms must be connected to the consumer mains power and have a stand-by power supply.

The licensed Electrical Contractor shall on completion of the installation of the smoke alarm system, submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786:1993.

F Conditions that must be complied with prior to installation of services

nil

G Conditions that must be complied with before the building is occupied

(1) Approval to use/occupy building

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

H Conditions that are ongoing requirements of development consents

(1) Landscaping to be maintained

Landscaping as shown on the approved plans shall be maintained.

(2) Power Pole

No power pole to be constructed on the

(3) Use of attic space

The attic space shall be used in conjunction of the dwelling house and not to be used as a separate dwelling at all times.

I Advisory Notes

nil

Reason for the imposition of conditions

Unrestricted consent would be likely to cause injury:

- a) to the amenity of the neighbourhood
- b) to the heritage significance of the area
- c) to the heritage significance of the property
- d) to the amenity of the neighbourhood due to the emission of noise
- e) to the amenity of the neighbourhood due to the creation of a traffic hazard

and further, would not be in the public interest.

Per.....
Atalay Bas
Manager Development Services

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Compliance with Building Code of Australia

- (1) All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- (2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 or 188.

NOTES

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 78A of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.

Ask Council if you are unsure of what procedures you need to follow.

SECTIONS 82A, 97 AND 95 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

You are advised that:

- Under the provisions of Section 82A of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 95 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.

Per 
Atalay Bas
Manager Development Services

ATTACHMENT 4 – Stamped Approved Plans

ASHFIELD COUNCIL
21 DEC 2016
Application Number
2016/00016/2/201

YASMAR AVENUE

GOOD SOLAR ACCESS TO INTERIOR LIVING

CATCH SOUTH EASTERN BREEZE TO COOL THE HOUSE

VIEWS INTO BACKYARD WILL BE MAINTAINED BY ADDITIONAL LANDSCAPING

CATCH SOUTHERN BREEZE TO COOL THE HOUSE

see condition 8 (2)(a) of Development Consent (KYL) floor level

see condition 8 (2)(a) of Development Consent (KYL) floor level

see condition 8 (2)(a) of Development Consent (KYL) floor level

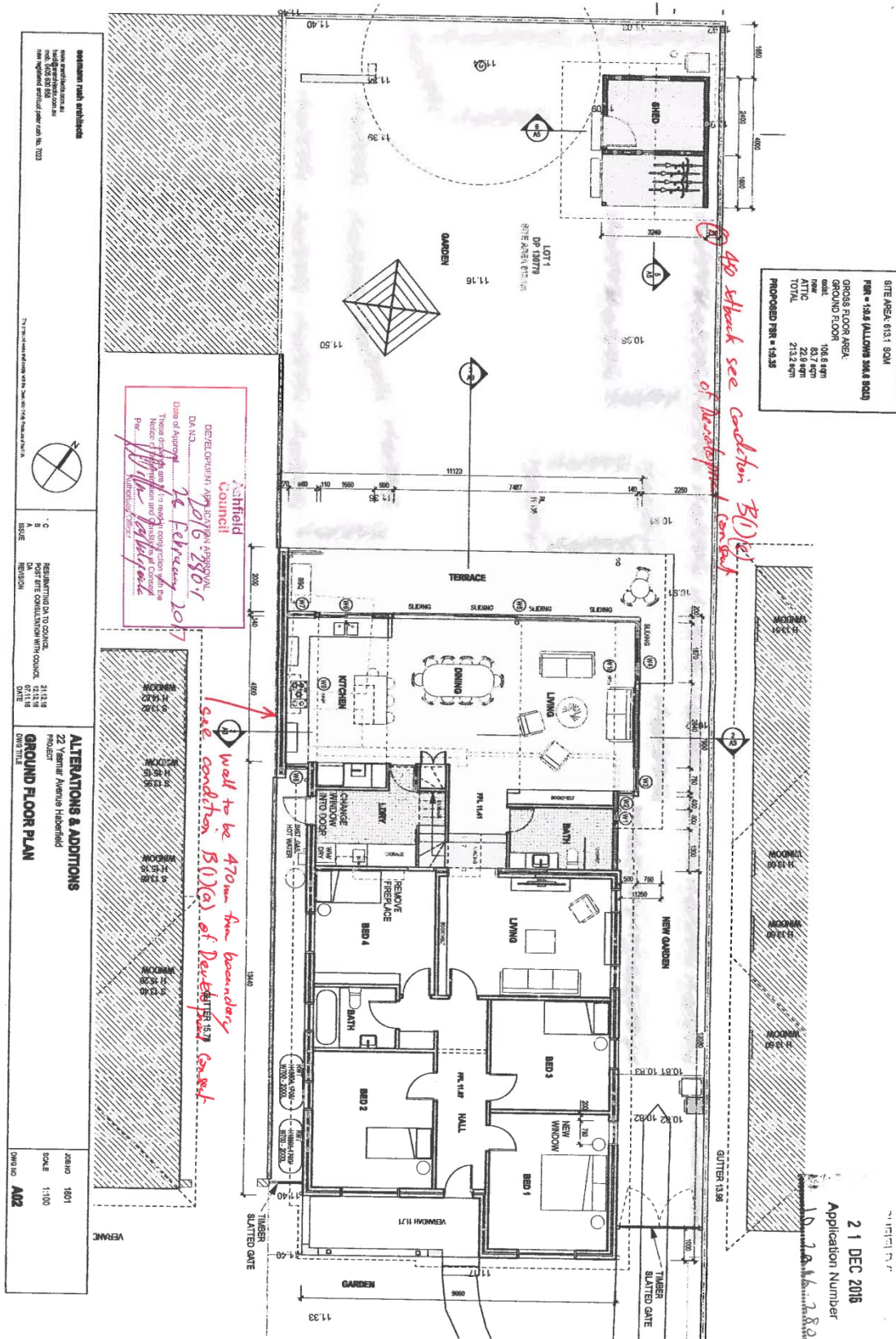
Ashfield Council
DEVELOPMENT APPLICATION APPROVAL
Date of Approval: 28 February 2017
To: [Name] [Address] [City] [State] [Postcode]
I, [Name], [Title], [Address] [City] [State] [Postcode]
AMIC/16/00016/2/201

<p>ALTERNATIONS & ADDITIONS 22 Yasmara Avenue Haberfield PROJECT SITE PLAN WITH ANALYSIS DRAWN BY: AM</p>		<p>21.12.16 12.12.16 12.12.16</p>
<p>RESUBMITTING DA TO COUNCIL REVISION DA REVISION DA</p>	<p>DATE DATE DATE</p>	<p>21.12.16 12.12.16 12.12.16</p>

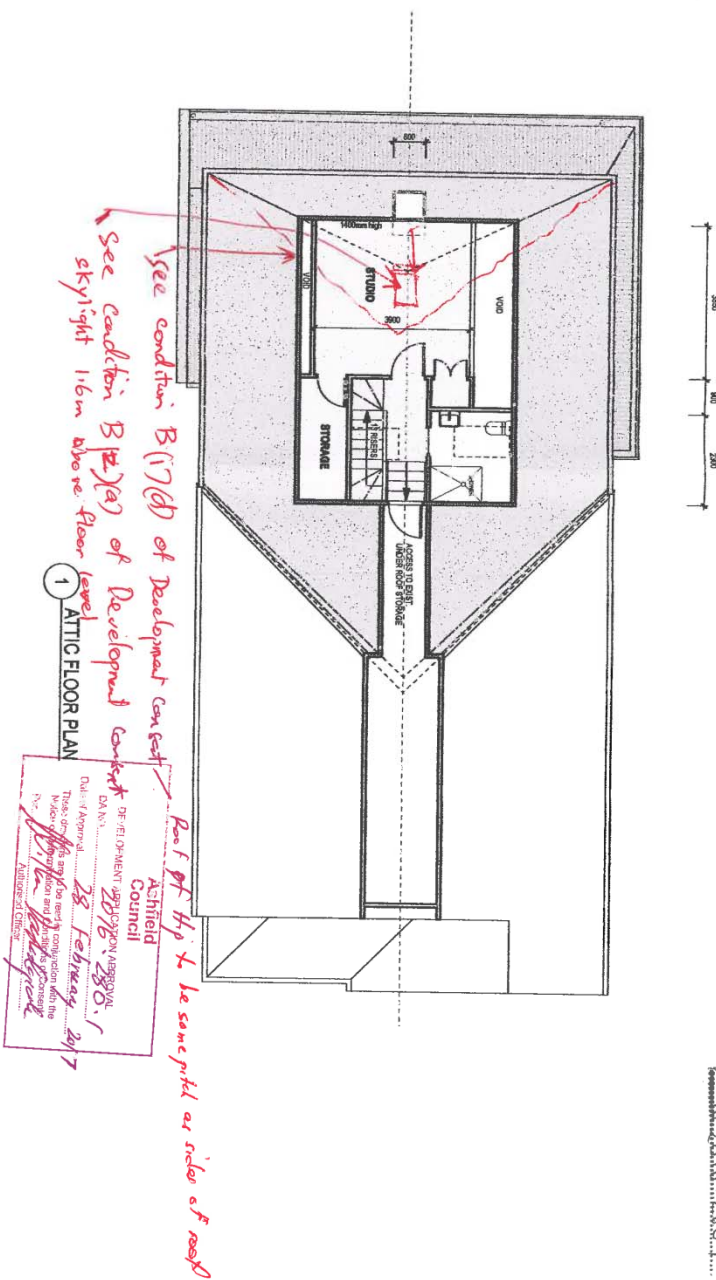
22 Yasmara Avenue Haberfield
PROJECT
SITE PLAN WITH ANALYSIS
DRAWN BY: AM

22 Yasmara Avenue Haberfield
PROJECT
SITE PLAN WITH ANALYSIS
DRAWN BY: AM

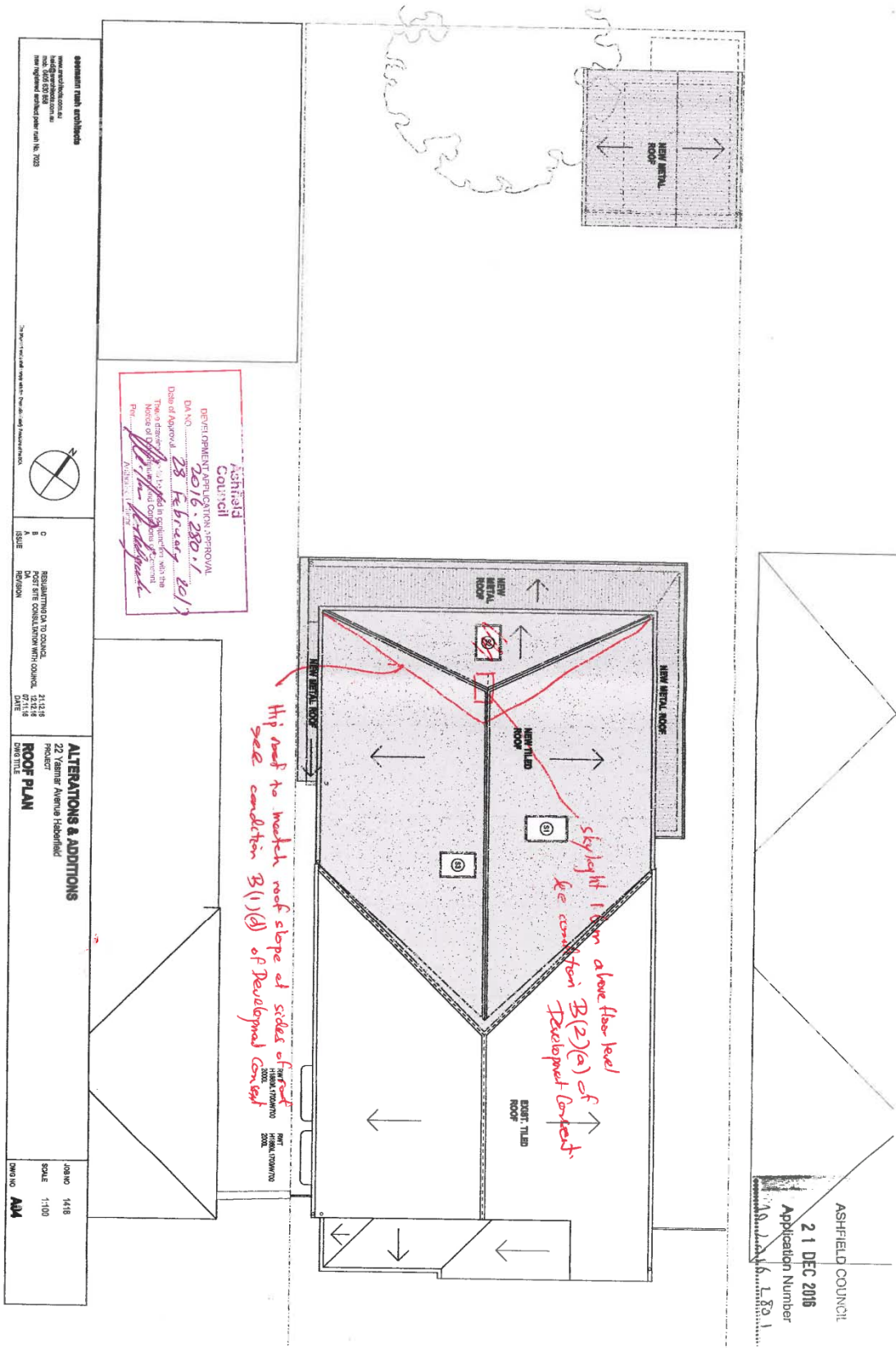
22 Yasmara Avenue Haberfield
PROJECT
SITE PLAN WITH ANALYSIS
DRAWN BY: AM

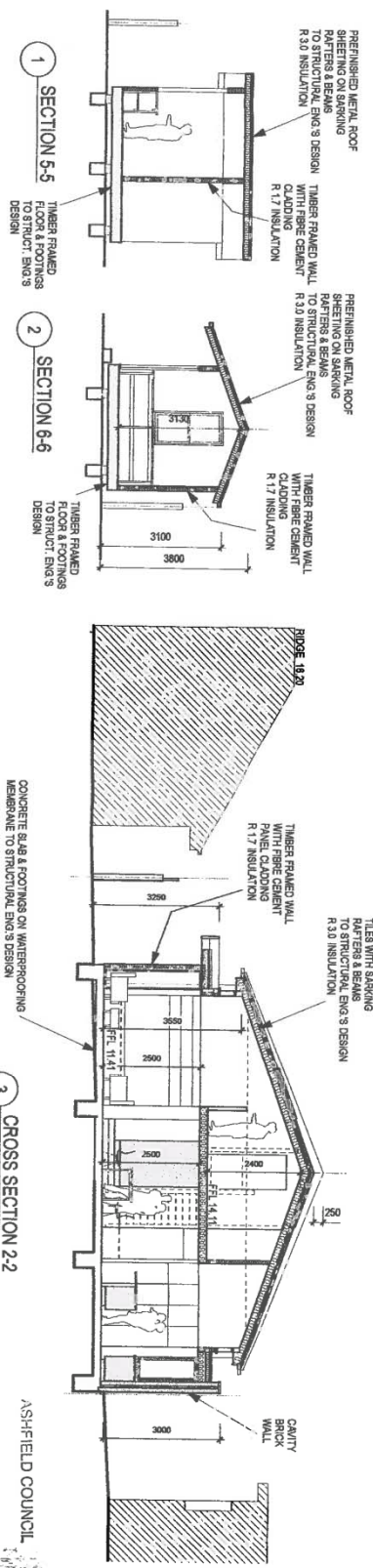


<p>ASHFIELD ARCHITECTS 100/102 Ashfield Road Ashfield NSW 1585 Tel: 02 951 531 00 Fax: 02 951 531 01 www.ashfieldarchitects.com.au</p>		<p>21/12/16 07/11/16 DATE</p>		<p>ALTERATIONS & ADDITIONS 22 Yarrilee Avenue Haberfield Project: ATTIC FLOOR PLAN DWG TITLE</p>		<p>JOB NO: 1601 SCALE: 1:100 DWG NO: A03</p>	
<p>REGISTERED ARCHITECTS No. 123456789 No. 987654321 No. 123456789 No. 987654321</p>		<p>REGISTERED ARCHITECTS No. 123456789 No. 987654321 No. 123456789 No. 987654321</p>		<p>REGISTERED ARCHITECTS No. 123456789 No. 987654321 No. 123456789 No. 987654321</p>		<p>REGISTERED ARCHITECTS No. 123456789 No. 987654321 No. 123456789 No. 987654321</p>	

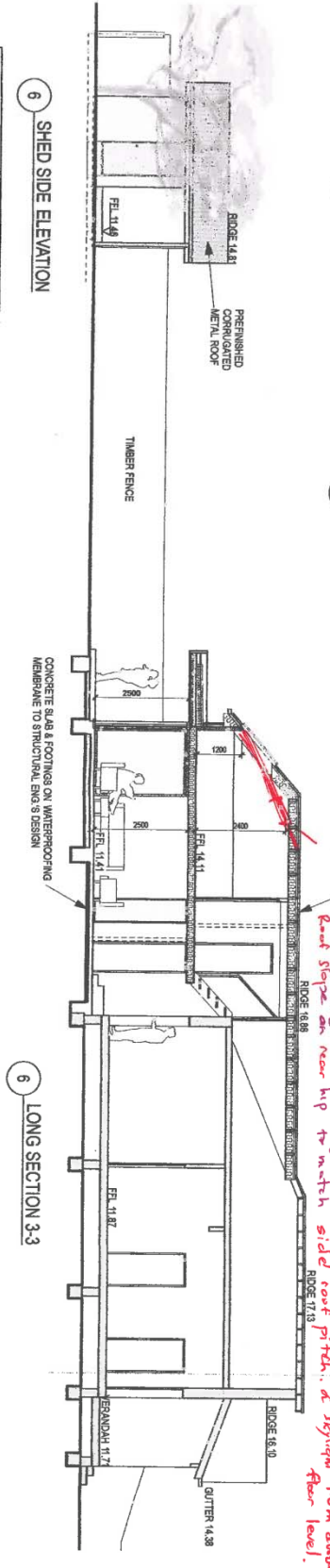
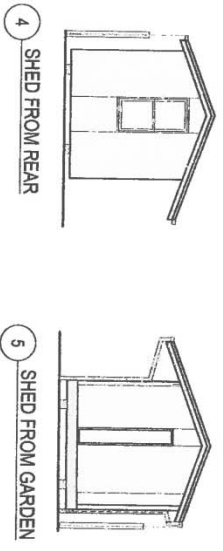


ASHFIELD COUNCIL
 21 DEC 2016
 Application Number
 10-2016-1801





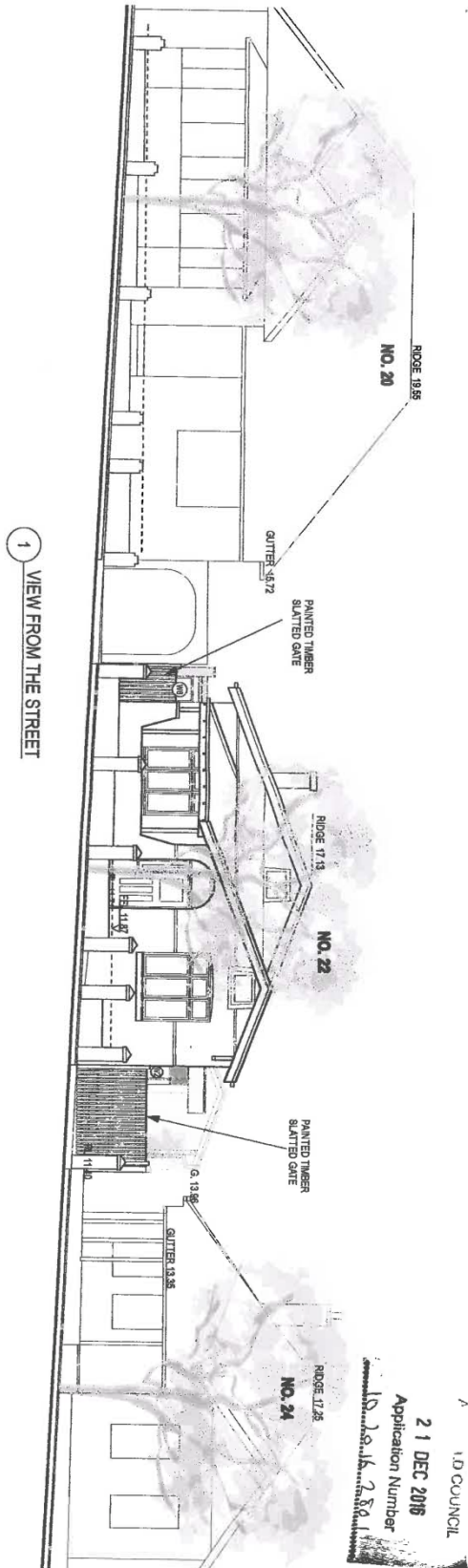
ASHFIELD COUNCIL
 21 DEC 2016
 Application Number
 1002816...



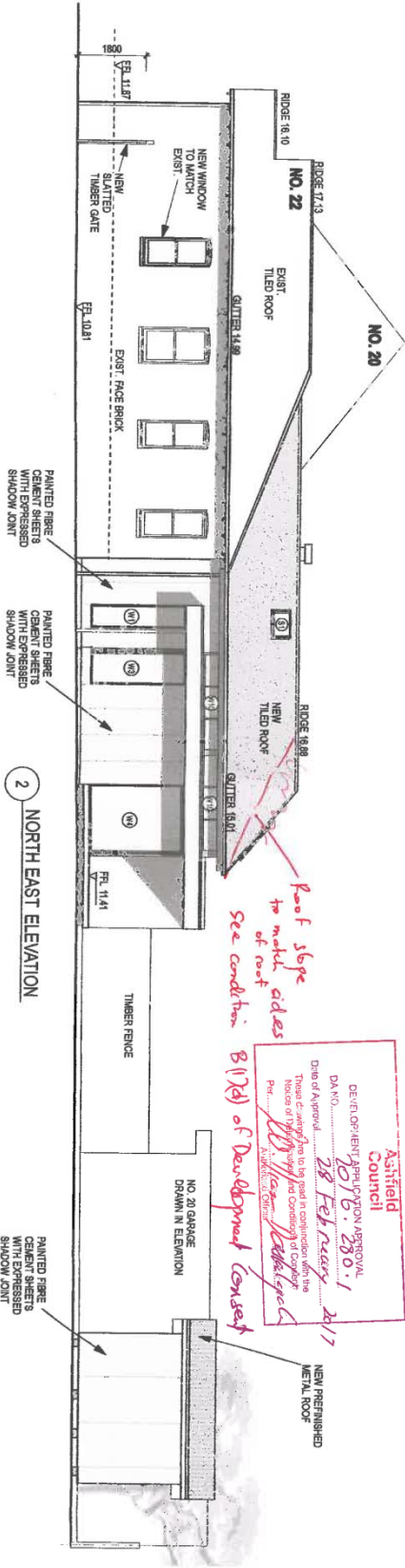
DEVELOPMENT APPLICATION APPROVAL
Ashfield Council
 DA NO. 2016.290.1
 Date of Approval 28 February 2016
 I have reviewed the plans in conjunction with the relevant codes of practice and the applicant's information and hereby approve this application.
 Signed: [Signature]
 Ashfield Council

ALTERNATIONS & ADDITIONS
 22 Yarran Avenue Harbourside
 PRELIMINARY SECTIONS
 DWD NO. A05

ISSUE	DATE	DESCRIPTION
C	21.12.16	RESPONDING DA TO COUNCIL
A	07.11.16	REVISION DA SITE CONSULTATION WITH COUNCIL
B	07.11.16	REVISION DA



1 VIEW FROM THE STREET



2 NORTH EAST ELEVATION

Roof slope to match sides of roof
 See condition 8 (1) of Development Consent
 Date of Approval: 28 Feb 2017
 DA No: 2016.280.1
 Project: 22 Yarrar Avenue, Haberfield
 Title: Alterations & Additions
 Preparer: [Signature]
 Drawn: [Signature]

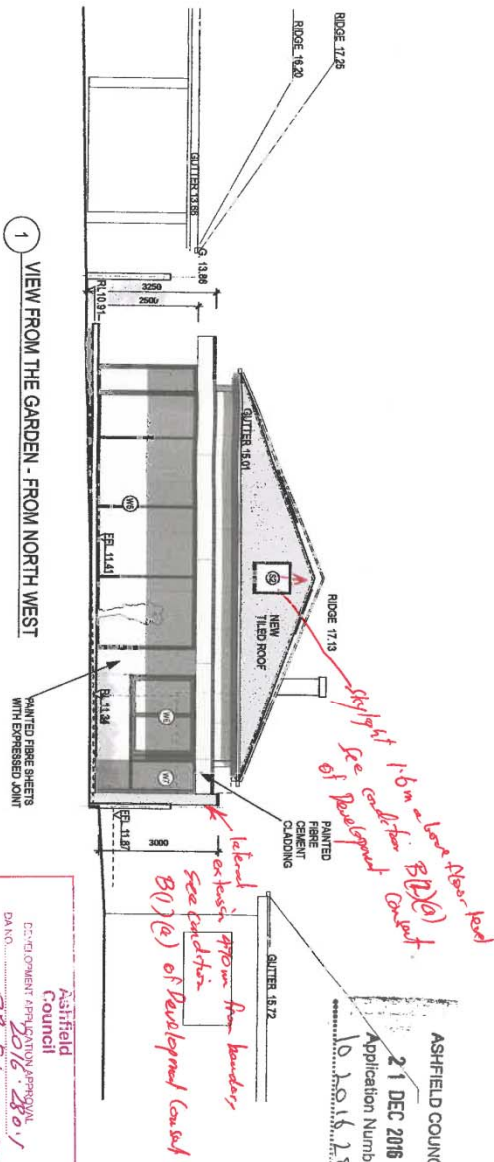
10 COUNCIL
 21 DEC 2016
 Application Number
 10.20.16.280.1

alterations & additions
 www.pastorichitects.com.au
 22 Yarrar Avenue Haberfield
 NSW 2170
 Tel: (61) 61 61 7000
 Fax: (61) 61 61 7001
 New registered architect under No. 7023

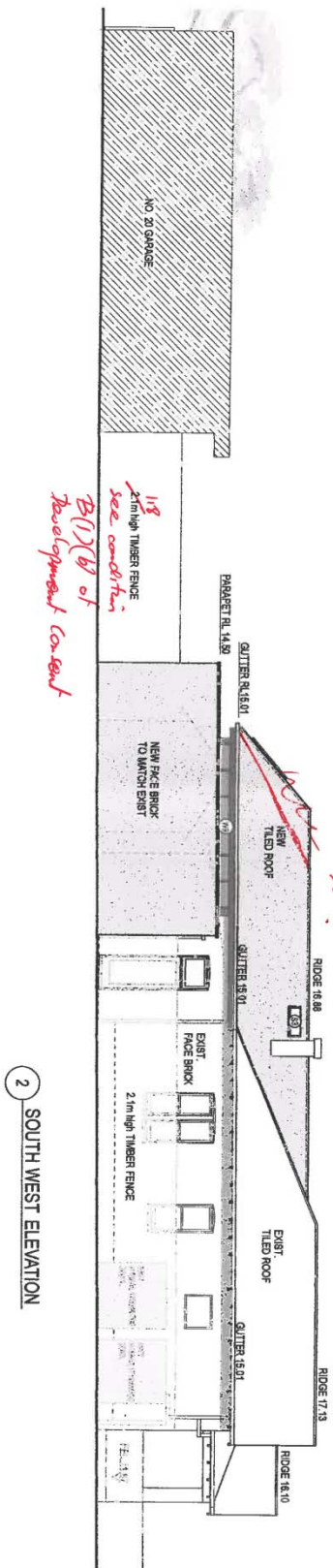
The paper on which this drawing was produced conforms to AS/NZS 1906:2009.

<p>RESUBMITTING DA TO COUNCIL FOR SITE CONSULTATION WITH COUNCIL</p> <p>DATE: 14.10.16</p>	<p>ALTERATIONS & ADDITIONS</p> <p>Project: 22 Yarrar Avenue Haberfield</p> <p>ELEVATIONS 1</p> <p>DA No: 2016.280.1</p> <p>Scale: A06</p> <p>Drawn: [Signature]</p>	<p>RESUBMITTING DA TO COUNCIL FOR SITE CONSULTATION WITH COUNCIL</p> <p>DATE: 21.12.16</p>
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CODE	MATERIAL	FINISH / COLOUR
	DEMOLITION	
	EXIST. FACE BRICKWORK	
	NEW BRICKWORK	REUSE EXIST. OR MATCH EXIST.
	NEW BRANDED CONSTRUCTION	
	FIBRE CEMENT SHEETING WALLS	DULLY ROZES TRISTINI
	FIBRE CEMENT SHEETING RAINING GLAZING	DULLY WESTERN WALL CLEAN
	SLAB EDGE	NATURAL CONCRETE
	SEALED TIMBER WINDOW	DULLY WHITE DUCK
	TIMBER GATES	DULLY FIBRE CEMENT
	ALUMINIUM DOOR/WINDOW	DULLY CHANGOL
	NEW ROOF TILE	UNGLAZED
	STEEL ROOFING	ZINC/POLINE
	STEEL GUTTER, D PIPES, FLASHINGS	ZINC/POLINE



1 VIEW FROM THE GARDEN - FROM NORTH WEST



2 SOUTH WEST ELEVATION

document with enclosure

www.ashfieldcouncil.nsw.gov.au
 22 Yarnier Avenue Haberfield
 NSW 1585
 Tel: 02 9630 2200
 Fax: 02 9630 2201
 Email: info@ashfieldcouncil.nsw.gov.au

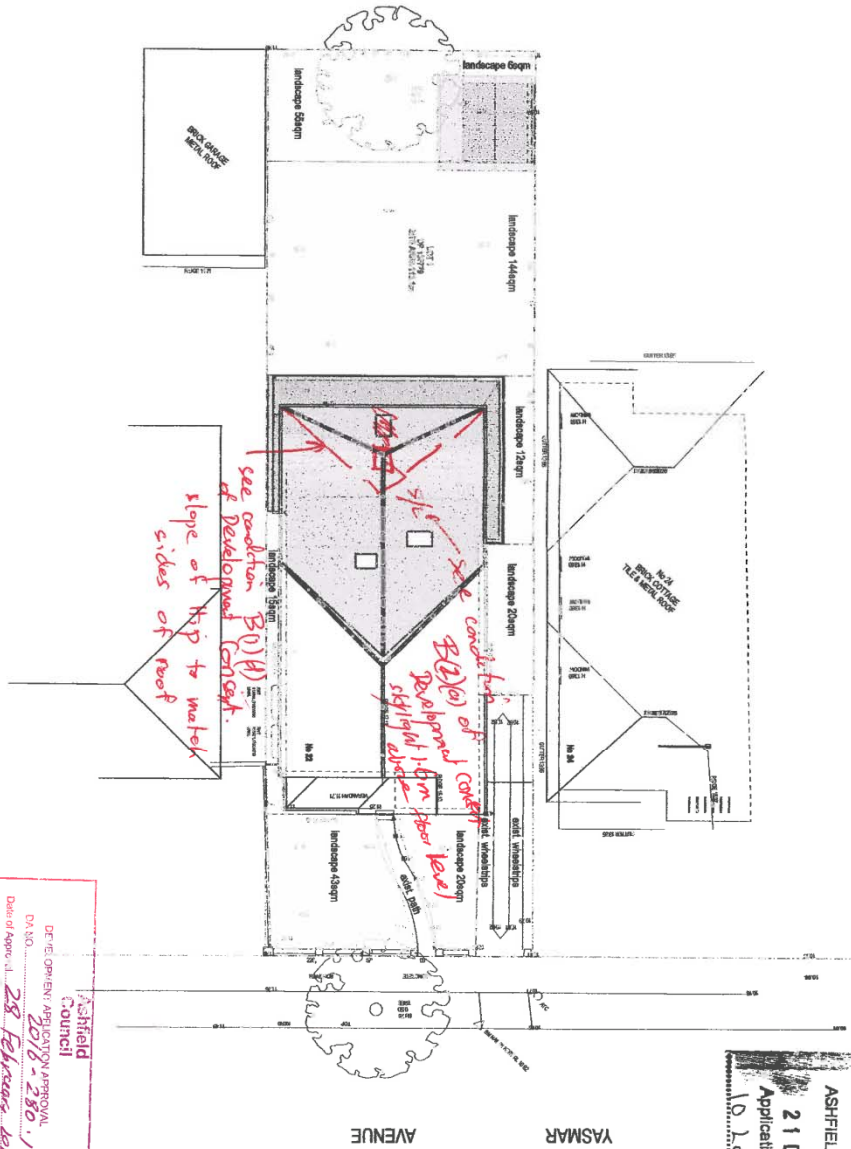
RESUMING PLANS TO CONDUCT POST SITE CONSULTATION WITH COULDC. 07/11/16

ALTERATIONS & ADDITIONS

22 Yarnier Avenue Haberfield
 project
ELEVATIONS 2

DATE: 07/11/16
 SCALE: A07
 DRAWN BY: [signature]

Landscape 6sqm
Landscape 5sqm
Landscape 144sqm
Landscape 7sqm
Landscape 20sqm
Landscape 43sqm
Landscape 15sqm
TOTAL 316sqm
SITE AREA = 613.18sqm
REQUIRED LANDSCAPED AREA 0% OF 613.18sqm = 000.00sqm
ACHIEVED LANDSCAPED AREA = 316sqm



ASHFIELD COUNCIL
 21 DEC 2016
 Application Number
 10.20.16.280.1

Ashfield Council
 DE/IE/CP/ENV/ASPL/CON APPROVAL
 DA NO: 2018.280.1
 Date of Approval: 28 February 2017
 This document is to be used in conjunction with the Notice of Development Consent and Conditions of Consent.
 For: [Signature]
 ADDRESS: [Signature]

<p>www.ashfield.com.au 02 9390 2000 100 Yassmar Avenue Ashfield NSW 1585</p> <p>The project was prepared by: [Signature] Date: 27/11/15</p>	<p>ALTERNATIONS & ADDITIONS 22 Yassmar Avenue Haberfield PROJECT LANDSCAPE CALCULATION PLAN DWG NO. A08</p>	<p>JOB NO 1801 SCALE 1:200 DWG NO. A08</p>
<p>RESUBMITTED TO COUNCIL POST SITE CONSULTATION WITH COUNCIL DATE</p> <p>21.12.16 15.12.16 02.12.16</p>	<p>REVISION</p> <p>C B A</p>	<p>DATE</p>

ATTACHMENT 4 – Applicant’s Submissions (s.82A request & response to objections)

20 Yasmar Avenue
Haberfield NSW 2045
17th May 2017

Mr Richard Pearson
Administrator
Inner West Council
260 Liverpool Road
Ashfield NSW 2131

Dear Sir

Development Application 10.2016.280
Development Site: 22 Yasmar Avenue Haberfield

I refer to your letter dated 3 May 2017.

I strongly object to the Council’s failure to prescribe a 900 mm setback. To the extent that my neighbours seek to argue that there should be a reduced setback or no setback, I strongly oppose their attempt to circumvent the clear directions in the Council’s own Design Control Plan and State Planning and Environment laws.

The matter of the setback is an extremely important matter to me. The erection of a 3 metre high wall directly on the boundary or at a setback of only 470 mm, is not reasonable and not justified. The wall forms part of the main extension to the house, it is not part of an outbuilding. The Council’s own Design Control Plan is not being applied. I refer you to the portions of the Plan I set out on pages 2 and 3 of my letter I sent to you in January. There are many adverse impacts on my property as discussed in the letter I sent to the Council in response to the original Development Application.

To try and justify a reduced setback by referring to the existing laundry is totally unreasonable. The laundry is an outbuilding and a small one at that. It is not an overbearing structure which is what a 3 metre high by 8 metre long wall on or very close to the boundary would be.

I went to great length to outline my position. I was extremely disappointed that the minimum 900mm setback was not imposed. I find this difficult to accept. It flies in the face of Council’s own Design Control Plan as well as State Planning laws. No attempt has been made to justify the decision. No detailed reasons for the decision were provided. I was not invited to make further submissions nor was there any consultation with me prior to the decision being made.

In considering the request for Review, I again ask the Council to impose a setback of 900 mm. I ask this for the same reasons I put forward in my original letter. The failure to prescribe a 900 mm setback combined with the proposal by my neighbours to raise the slope of the roof will have a further adverse impact on my property due to overshadowing and due to the bulk of the building. Such adverse impact would be avoided or reduced if at the very least a setback of 900 mm is prescribed.

2.

Once again if you require further detailed submissions please let me know. Please also let me know if this matter is referred to mediation and/or to a Council meeting.

This matter is causing considerable stress to me and my family.

Yours faithfully

A handwritten signature in black ink that reads "A. Catania". The signature is written in a cursive style with a large initial "A" and a distinct "Catania" following.

Antonio Catania

JOHN OULTRAM HERITAGE & DESIGN

Level 2, 386 New South Head Road

DOUBLE BAY NSW 2028

(Access from Knox Lane)

PO Box 1441

DOUBLE BAY NSW 2028

Telephone: (02) 9327 2748

Email: heritagedesign@bigpond.com

ABN 23 581 172 790

14th April 2017

Inner West Council

c/o Seemann Rush Architects,
100 Juliet Street,
Marrickville,
NSW 2204

Attention: Heidi Seemann

Dear Sirs,

**Re: 22 Yasmar Avenue, Haberfield – Proposed Alterations and Additions
DA10.2016.280.1 – Section 82A Review**

Further to your recent correspondence, we are writing to comment on the conditions of the development consent for the above issued by the Inner West Council on 28th February 2017.

We are heritage advisors on the project and prepared a Heritage Impact Statement supporting the works.

The consent has imposed conditions on the development that will impact on the layout, detail and amenity of the proposals and we consider that the conditions are not justified and are not in line with discussions with Council during the pre DA and DA process.

1.0 Western Setbacks*B Design Changes*

- 1(a) *The lateral extension on the western side of the dwelling house shall be set back a minimum of 470mm from the boundary.*

The proposals showed a zero setback to the boundary and this was accepted by Council's heritage advisor on the basis that a previous development application had approved an encroachment into the side setback to the western side. The zero setback allows for greater amenity to the rear additions and also reduces the extent of the development into the rear garden.

To the western side, views to the rear addition from the street are very limited and the addition is set well back from the street. Whether the setback is zero or 470mm the visible impact on the addition is negligible when viewed from the street as this portion of the addition is single storey. We consider the condition is both unreasonable and unnecessary.

Nominated Architect. John Oultram NSW ARB 7359

1(d) *The rear hip roof slope is to be the same as the side planes of the roof addition*

The form of the rear roof was the subject of much discussion with Council and the applicant accepted changes proposed by Council's heritage advisor to delete a dormer to the rear and lower the roof extension to below the ridge of the existing roof to allow the rear hips of the existing roof to remain visible from the street.

The use of a varying pitch to the rear was accepted by Council's heritage advisor and the design was developed to DA on this basis. Reducing the pitch of the rear roof will severely impact on the amenity of the internal space at the upper floor. The pitching height to the roof is a mere 1200mm above the new floor level.

The use of a varying pitch to the rear is a clever way of providing greater space to the upper floor as it retains a hipped roof form. The change of pitch will be imperceptible to the casual observer from both the street and rear gardens due the perspective effect and the setback of the rear roof plane effectively disguises the change.

The current roof pitch is low and has been lowered further in the side planes to the extension to set the new ridge below the existing. The design has a series of roof pitches but the overall composition is very sympathetic to the house and will retain the single storey presentation of the house to the street.

We consider the condition is both unreasonable and unnecessary.

We would strongly support the design as submitted and, in heritage terms, consider that Council should remove these two conditions from the consent.

Yours faithfully,



JOHN OULTRAM

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26 June 2017

The General Manager
Inner West Council Ashfield
260 Liverpool Road Ashfield NSW 2131

Re: Public submissions to Section 82 A - 22 Yasmar Avenue Haberfield

Letter 1: Neighbour No. 20 Yasmar Avenue Haberfield:

Issue: Wall towards this property applied to be 200mm off the boundary rather than the approved 470mm.

Response:

- Please note that the S82A submission has taken this neighbour's concerns into consideration and has made changes to the DA plans namely that the timber fence remains in front of the wall with the requested height of 1800mm. This will reduce the height perception of the wall as there will be 1.8m of timber fence and 1.2m of brick wall.
- The wall would be built 200mm off the boundary with a drain between wall and fence to allow for adequate drainage.
- This design as opposed to an alternative design preserves the northerly view corridor of No. 20.
- No. 22's block is only 13.41m wide rather than the usual 15m. In order to accommodate the kitchen, dining and living area next to each other a lateral extension is needed.
- The lateral extension to the east was reduced to 500mm in negotiations with Council's heritage consultant on the basis that the western extension to the boundary would be approved.
- The current owner agreed to the previously approved plan consisting of a wall that was 6m long and 4m high in mediation with Council on 28 February 2000.
- The existing building in the same position is currently built 400mm off the boundary, the roof extends to the boundary. The new structure will not be very different in its bulk.
- The planned wall faces the concrete driveway, which is of utilitarian character and not used as an outdoor recreation area.
- It should be noted that even though the property No 20 is 18.6m wide, the current owner has built his garage 100mm off the boundary with No. 22. The wall of this building, which is 10m long and 3.5m high is facing the main outdoor recreation area of No. 22. This should be taken into consideration.
- The concern of the additional overshadowing due to the different roof pitch at the rear is not sustainable as this minor additional shadow will fall onto the neighbour's roof area and will cause no negative impact.

22 Yasmar Avenue Haberfield

Letter 2: Neighbour No. 24 Yasmal Avenue Haberfield:

Issue: Reiterating that privacy needs to be maintained.

Response:

- The issue of potential overlooking has been addressed. The sill level of the skylight has been raised to 1.6m as requested. Condition B(2) has been complied with.

Letter 3: Haberfield association:

Issue: 900mm setback from side boundaries requested.

Response:

- The reason for seeking an independent review of the determination is that buildings have to be viewed in their individual differences and site restrictions. A blanket approach is inflexible and unjust. This is why an individual assessment on the merit of the application is important.
- This building and site has particular limitations as acknowledged by Council's Heritage Advisor.
- The building is a Californian Bungalow built in 1918 with a very low pitched roof, not a Federation House with a steeply pitched roof.
- The size of a typical block of land in Haberfield is 15m x 45m. The subject block is only 13.41m wide.
- In order to accommodate kitchen, dining and living space next to each other a lateral extension is needed. The lateral extension to the east was reduced to 500mm in negotiations with Council's heritage consultant on the basis that the western extension to the boundary would be approved.
- Development approval for a 470mm setback in the kitchen position has been granted. The owner is asking for an additional 270mm. This will allow for a bigger openable window to the South which will improve the cross ventilation for the kitchen area as it will catch more breezes. There is also a practical reason as the left over space between the wall and the fence will be hard to maintain. The visible impact to the streetscape is negligible as this part of the building is set far to the rear and will be less imposing than the current structure.
- Architecturally it is clearly defined and the solidity of the primary form is maintained.
- Please note that the application is fully complying with the landscaped area. The owners of No. 22 have submitted this design to maximise the garden area and are contributing positively to the character of the Haberfield Garden suburb by maintaining and further planting their garden. They have also done extensive restorations to the main house and front fence based on old photos. This should be acknowledged.
- It should be noted that the Haberfield association has not objected to the differentiation in roof pitch at the rear. It shows that this approach to solve this particular challenge is acceptable as it has no negative impact on the neighbours and the wider community.

ATTACHMENT 5 – Council’s Heritage Advisor’s Comments



**DEVELOPMENT SERVICES
HERITAGE ADVISOR’S REFERRAL COMMENTS**

ADDRESS:	22 Yasmar Avenue HABERFIELD	File No: 10.2016.280.1
ADVISOR	Robert Moore	
DATE	19 June 2017	
STATUS	Heritage Conservation Area	
DESCRIPTION	S82 Review – Additions and alterations	
PREVIOUS COMMENTS	Yes – on the original DA	
<input type="checkbox"/>	HIS/CMP recommended for archiving in library	
<p>Note: These comments relate to heritage issues only. They do not include a planning review. Planning comments will, however, be provided separately in relation to Pre-lodgement Applications or Provisional Development Applications.</p>		

The application has been reviewed in respect of heritage issues and has been assessed as follows:

<input type="checkbox"/>	Acceptable as lodged
<input type="checkbox"/>	Acceptable with the following Conditions of Consent Applied:
<input type="checkbox"/>	Acceptable with the following amendments to the application:
<input type="checkbox"/>	Application to be returned to Heritage Advisor for review after amendments
<input type="checkbox"/>	Planner may assess amendments
<input type="checkbox"/>	Additional information is required as follows:
<input checked="" type="checkbox"/>	Not acceptable
Discussion:	
Roof	
<p>This proposal has been discussed at great length. The design is attempting to do something for which the property is not suitable – include an attic within a low pitched and low profile roof.</p> <p>The design solution proposes an atypical and unusual “bastard hip” profile in order to gain volume to create a habitable room in circumstances which do not lend themselves readily to the incorporation of such a space. The outcome would be extremely poor in its unusual appearance which would be quoted in support of copycat proposals which invariably follow such eccentric approvals. Additionally, the orientation of the allotment and the proposed design of the attic would result in any habitable space having very low amenity.</p>	

This is an extremely fine cottage which should be complemented by any alterations and additions made to it, and not undermined by them. The conservation area should not suffer from approvals for inappropriate designs such as has been proposed.

Side setback

The importance of maintaining side setbacks within Haberfield comes straight from its significance as a profoundly influential garden suburb. The separating space between Haberfield's cottages is crucial to its identity and character as a garden suburb. The issue is problematic in the management of the heritage conservation area because of the relentless demand for extensions from owners who do not understand this significance.

The Applicant has not advanced any convincing reason why the side setback condition should be varied or deleted.

Robert Moore