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## SUMMARY

### Application details

JRPP Ref No.	2010SYW046
DA No:	DA/374/2010
Assessment Officer:	Michael Tully
Property:	LOT 24 DP 200061, 9 Nulang Street, TOONGABBIE NSW 2146
Proposal:	Construction of a carport at the front of the dwelling.
Date of receipt:	12-May-2010
Applicant:	Starport Constructions Pty Ltd
Owner:	NSW Housing.
Submissions received:	Nil
Property owned by a Council employee or Councillor:	No
Issues:	Carport dominance (beyond front building line) and streetscape.
Recommendation:	Refusal. (Crown application)

### Legislative requirements

Zoning:	2(a) Residential
Permissible under:	Parramatta LEP 2001
Relevant legislation/policies:	Parramatta DCP 2005
Variations:	Nil
Integrated development:	No
Crown development:	Yes

## **The site**

Site Area:	567m <sup>2</sup>
Easements/rights of way:	Nil
Grey area:	Yes.
Heritage item:	No
In the vicinity of a heritage item:	No
Heritage conservation area:	No
Site History:	Yes
06/06/2007	DA/335/2007- Approved the construction of a single storey dwelling. The development consent was never taken up by the applicant.
23/01/2008	DA/1005/2007- Approved the construction of a single storey dwelling. Consent was taken up and the dwelling constructed.

## **DA history**

12/05/2010	DA/374/2010 Lodged to Council.
18/05/2010	Development Application reviewed during clearing house, no referrals were required. Standard conditions were imposed by Council's development engineer.
24/05/2010 – 07/06/2010	The development Application was notified for a period of fourteen (14) days. No submissions were received.
18/06/2010	A telephone discussion was held with the Applicant (Starport Constructions) regarding the non-compliance with Council's controls and the adverse impact upon on the streetscape. The applicant forwarded Council details onto NSW Housing for all future discussions.
20/06/2010	A discussion was held with the Asset Operations Manager of NSW Housing, regarding Council's concerns with the proposal. During the discussion it was

advised how NSW housing would respond to the concerns raised and would inform Council on how they would like to proceed.

01/07/2010

An email was sent to NSW Housing outlining the reasons why Council can not support the application. A verbal response was received from Asset Operations Manager requesting Council to reconsider their position on the matter.

08/07/2010

Further to the email sent to NSW Housing on the 1<sup>st</sup> July, Council reconfirmed their position on the matter and requested a detailed written justification as to why a departure from Council's control is warranted. A time frame of fourteen (14) days was given for the justification to be prepared and submitted.

22/07/2010

No response received from the Asset Operations Manager of NSW Housing.

27/07/2010

The Asset Operations Manager of NSW Housing was contacted to ascertain when or if the information would be forthcoming. No response has been received to date.

## **SECTION 79C EVALUATION**

### **SITE & SURROUNDS**

The subject site is formally known as Lot 24 DP 200061, 9 Nulang Street, Toongabbie. The property is not subject to flooding, however is in a grey area (OSD required). The site is a small irregular block with a site area of 567m<sup>2</sup>. A single storey dwelling exists with some small canopy trees and shrubs. The surrounding development comprises of a mixture of single and double storey dwellings of differing architectural styles and ages.

### **THE PROPOSAL**

Details of the proposal lodged by the Crown are as follows:

- Construction of a metal single carport with pitched roof forward of the front building line, over the existing driveway. The proposed carport has dimensions of 6.0mts in length and 3.5mts in width.

Note: This is a Crown application pursuant to section 89 of the Environmental Planning & Assessment Act 1979 (NSW Housing)

## **PERMISSIBILITY**

The proposed carport is ancillary to the existing use defined as a “dwelling” under Parramatta LEP 2001.

“Dwellings” are permissible under the 2(a) residential zoning applying to the land. The carport is therefore permissible.

## **REFERRALS**

### **Development Engineer**

No referral required after review in clearing house, standard conditions imposed regarding stormwater disposal to the kerb and gutter system in Nulang Street.

## **PUBLIC CONSULTATION**

In accordance with Council's Notification DCP, owners and occupiers of surrounding properties were given notice of the application for a 14 day period between 24<sup>th</sup> May 2010 and 7<sup>th</sup> June 2010. In response, no submissions were received.

<b>ENVIRONMENTAL PLANNING INSTRUMENTS</b>
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### **STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND**

The provisions of SEPP No. 55 have been considered in the assessment of the development application. The site is not identified in Council's records as being contaminated. Further, the site does not have a history of a previous land use that may have caused contamination and there is no evidence that indicates that the site is contaminated. Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under SEPP 55.

### **STATE ENVIRONMENTAL PLANNING POLICY – BASIX**

N/A. Proposed works are under \$50,000.

### **PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2001**

The relevant matters to be considered under Parramatta Local Environmental Plan 2001 for the proposed development are outlined below.

**(a) General Requirements**

<b>Development standard</b>	<b>Comment</b>	<b>Discussion</b>
CI 16 Permissible within zone?	Yes	Res 2(a)
CI 20 Affected by rail/road noise and/or vibration	No	-
CI 21 Is the site flood affected? If yes will the development satisfy CI 2 (a)-(e)?	No	-
CI 30 Is the site subject to a masterplan?	No	-
CI 31 Is the site adjacent to the Parramatta River foreshore	No	-
CI 32 Affected by a Foreshore Building Line	No	-
CI 34 Will the proposal have any impact on Acid Sulphate Soils?	No	-
CI 47 Does the land abut Zone 7 or 9(d)?	No	-
CI 48 Is the land along or adjoining a public transport corridor?	No	-

**(b) Specific Requirements**

<b>Development Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Clause 38</b> <b>Minimum allotment size for dwelling house</b> Non battleaxe = 550m <sup>2</sup> Battleaxe = 670m <sup>2</sup>	567m <sup>2</sup> (no battleaxe)	Yes
<b>Clause 38 (1)(b)</b> <b>Minimum Frontage</b> Minimum width 15m	16.47m	Yes
<b>Clause 39</b> <b>Maximum height</b> 2 storeys or 1 storey + roof space if battleaxe	1 storey existing	Yes
<b>Clause 40</b> <b>Maximum FSR - dwelling = 0.5:1</b>	N/A. Proposal is for a carport only and will not alter the FSR. However the existing FSR is approx. 168/567m = 0.30:1	Yes

**Aims and objectives - residential zones**

The proposed development is inconsistent with the aims and objectives of the 2(a) Residential zoning applying to the land, as the proposed works are not suitably located and are of a bulk & scale that impacts upon the residential amenity of adjoining sites.

## **PARRAMATTA LOCAL ENVIRONMENTAL PLAN 1996 (HERITAGE & CONSERVATION)**

The site is not listed as a heritage item under LEP1996.

The site is not within the vicinity of heritage item listed under LEP1996.

The site is not located within a Conservation Area identified under LEP1996.

The site has a low sensitivity rating for aboriginal heritage significance under the Parramatta Aboriginal Heritage Study 2004.

### **Draft PLEP 2010**

The subject site is zoned Low Density Residential under Draft LEP 2010. The proposed use is defined as dwelling house and is *permissible* in the zone. The proposal is generally consistent with the relevant objectives of the zone.

Under the provisions of s.79C(1)(a)(ii) of the Environmental Planning & Assessment Act 1979, any draft environmental planning instrument (ie LEP) that is or has been placed on public exhibition is a relevant matter for consideration. Section 79C(e) of the Environmental Planning & Assessment Act 1979 also allows for matters in the public interest to be relevant matters for consideration in a development assessment.

The site is included under Draft Parramatta Local Environmental Plan (PLEP) 2010. The PLEP 2010 was placed on public exhibition between 1 March 2010 and 7 May 2010 and is a draft EPI for the purposes of this section of the Act. The provisions of the PLEP 2010 are therefore relevant considerations. Any such assessment must consider the degree of weight placed upon such provisions and whether the implementation of the draft LEP is certain and imminent. It must also consider the effect of any savings provisions contained within the instrument.

On 23 March 2009, the PLEP 2010 was adopted by Parramatta City Council to be forwarded to the Minister for Planning to be made. The Minister for Planning issued a s65(1) certificate in October 2009 in respect of the draft LEP to enable commencement of public exhibition. The PLEP is however not considered to be certain or imminent in its current form at this time as a review of public submissions and consideration by Parramatta City Council is yet to conclude. Accordingly, at this stage no determinative weighting can be afforded the provisions of the Draft LEP and Draft DCP in respect of this application.

## **DEVELOPMENT CONTROL PLANS**

### **PARRAMATTA DEVELOPMENT CONTROL PLAN 2005**

<b>Development Control</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Preliminary Building Envelope</b>		

<b>Height</b> Maximum of 2 storeys and a maximum building height of 9m to ridge	Existing 1 storey	Yes
<b>Street Setback</b> Is the setback consistent with the prevailing setback along the street within the range of 5-9m	Dwelling = 7.6m (existing)  Proposed carport = 2.6m	Yes.  No.
<b>Rear Setback</b> Minimum 30% of the length of site or 6m (small lot)	N/A as the carport is proposed at the front of the property.	
<b>Side Setback</b> Minimum 900mm	Dwelling = 1m (existing)  Proposed carport = 1.6m	Yes.  Yes. However, the proposal is for a single width carport which is not subject to side setback controls as it is an ancillary structure.
<b>Site Planning</b>		
<b>Views and Vistas</b> Does the development preserve views of significant topographical features such as ridges and natural corridors, the urban skyline, landmark buildings, sites of historical significance and areas of high visibility, particularly those identified in Appendix 3.  Does the building design, location and landscaping encourage view sharing between properties?	Views and vista are maintained.  The proposed carport will not alter the existing view sharing between properties.	Yes  Yes.
<b>Water Management</b> <b>Flooding or Grey Area</b>	The property is within	Yes.

<p>Is the site flood affected or within a grey area?</p> <p><b>Stormwater Disposal</b> Is stormwater to be directed to Council's stormwater network? If not, where is it directed?</p>	<p>a grey area, however the proposed carport does not increase the impervious area as it will be located over the existing driveway.</p> <p>The stormwater from the roof of the proposed carport is to be directed to the kerb and gutter and into the existing street system.</p>	<p>Yes.</p>
<p><b>Soil Management</b> Are there adequate erosion control measures?</p>	<p>No. Should the application be supported, conditions will be placed to ensure adequate erosion control during construction.</p>	<p>Yes</p>
<p><b>Development on Sloping Land</b> Does the design of the dwelling respond to the slope of the site? <i>(Generally speaking FFL should not exceed 500mm above existing NGL)</i></p>	<p>N/A as the site has a negligible fall.</p>	
<p><b>Biodiversity</b> Does the proposal minimise impact on indigenous vegetation and naturally occurring soils? Is there additional native vegetation to be planted?</p>	<p>No trees are proposed for removal.</p> <p>The proposal will be constructed over an existing concrete driveway.</p>	<p>Yes.</p>
<p><b>Landscaping</b> Are natural features on the site, such as existing trees, rock outcrops, cliffs, ledges, indigenous species and vegetation communities retained and incorporated into the design of development?</p> <p>Are trees planted at the front and rear of the site to encourage tree canopy to soften the built environment, to encourage the continuity of the landscape pattern and to minimise overlooking</p>	<p>The natural features are maintained.</p> <p>No trees are proposed for removal, no additional trees are proposed to be planted.</p>	<p>Yes.</p>



opportunities between properties?		
<b>Deep Soil Zone</b> Does the proposal provide for a 30% deep soil zone? (a minimum of 50% is to be located at the rear of the site with a minimum of 15% is to be located at the front of the site)	Remains unchanged as the proposed carport is over an existing concrete driveway.	
<b>Landscaped Area</b> Is a minimum of 40% of the site is to be landscaped? <i>(Note: Swimming pools can be included in landscape area calculations)</i>	Remains unchanged as the proposed carport is over an existing concrete driveway.	
<b>Building Elements</b>		
<b>Streetscape</b> Does the development respond to the existing character and urban context of the surrounding area in terms of setback, design, landscape and bulk and scale?	Refer to discussion of non-compliances below.	No
<b>Garage Dominance</b> Is the garage a maximum of 6.3m wide or 50% of the width of the street elevation whichever is the lesser?  Is the at grade garages/carport located a minimum of 300mm behind the front wall of the building?  Is a basement proposed?	N/A – no change proposed.  Refer to discussion of non-compliances below.  N/A –no basement proposed.	No
<b>Fences</b> Is the front fence a maximum height of 1.2m?  Are front fences a common element in the locality?  Is sheet metal fencing proposed to be used forward of the building line or on boundaries that have an interface with the public domain?	N/A – no fencing is proposed.	
<b>Building Form and Massing</b> Is the height, bulk and scale of the proposed building consistent with the building patterns in the street?	See Streetscape discussion. No change to dwelling.	Yes

<b>Attics</b> Is the attic floor area greater than 25m <sup>2</sup> ? Does the attic comply with the definition of attic contain in PLEP 2001?	N/A – no attic proposed.	
<b>Building Façade and Articulation</b> Are the building facades modulated in plan and elevation and articulated to reduce the appearance of building bulk and to express the elements of the building's architecture?  Does the building exceed the building envelope?  If yes, by more than: <ul style="list-style-type: none"> <li>• 800mm for balconies and eaves:</li> <li>• 600mm for Juliet balconies and bay windows</li> </ul>	N/A –the dwelling façade remains unaltered.	
<b>Environmental Amenity</b>		
<b>Private Open Space</b> Is a minimum of 100m <sup>2</sup> (or 80m <sup>2</sup> small lot) of private open space provided at ground level, behind the building line of the proposal with minimum dimensions of 6m?	Remains unchanged.	
<b>Visual Privacy</b> Are windows, balconies and decks designed to minimise overlooking of living areas and private open spaces of adjoining dwellings?	Remains unchanged.	
<b>Acoustic Privacy</b> Is the dwelling is located within proximity to noise-generating land uses such as major roads and rail corridors?	Remains unchanged.	
<b>Solar Access</b> Does this dwelling and adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and in at least 50% of the private open space areas between 9am and 3pm on 21 June?  Are living areas, such as kitchens and family rooms located on the northern side of dwelling with service areas such as laundries and bathrooms to the south or west?	The carport will not reduce natural sunlight below 3hrs during the winter solstice.	
<b>Cross Ventilation</b> Is the minimum floor to ceiling height 2.7m on the ground floor and 2.4m on the	Remains unchanged.	

first floor?  Is the minimum window head height 2.4m on the ground floor and 2.1m on the first floor?		
<b>Waste Management</b> Is the waste management plan satisfactory?	Waste Management Plan submitted is satisfactory	Yes.
<b>Social Amenity</b>		
<b>Safety and Security</b> Have the principles of CPTED been satisfied within the design?	Yes. Proposed carport does not unduly compromise opportunities for natural surveillance.	Yes.
<b>Movement &amp; Circulation</b>		
<b>Parking and Vehicular Access</b> Is adequate carparking provided to meet demand generated? (1 space GFA 125m <sup>2</sup> or less) (2 spaces GFA 125m <sup>2</sup> or more)  Does the enclosed garage have minimum dimensions of 3m x 5.4m?  Is the clearance above the general parking surface a minimum of 2.5m?	GFA = 168sqm. One space is available in the existing single car garage and one existing hardstand car space directly in front of the garage, which the carport is proposed to be constructed over.	Yes
<b>Special Character Areas</b>		
Is the site within a Special Character Area?  Is the proposal consistent with the controls in Part 5 of the DCP?	No.	

### **Discussion of non-compliances:**

#### **Parramatta DCP 2005, Building Elements 4.2**

##### **Streetscape 4.2.1**

##### **Design Principles**

*P.1 Development is to respond and sensitively relate to the broader urban context including topography, block patterns and subdivision, street alignments, landscape, views and vistas and the patterns of development within the area.*

*P.2 Building design and landscaping are to be in harmony with the form, mass and proportions of the streetscape.*

*P.3 New buildings are to recognise and enhance the patterns and elements of facades within the street. Designs are to provide visual cohesion, continuity and distinction, and in particular, have regard to the horizontal and vertical proportions of building elements which create the visual scene.*

*P.4 Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings.*

*P.5 Development adjoining land use zone boundaries should provide a transition in form, considering elements such as height, scale, appearance, materials and setbacks.*

*P. 9 Garages and parking structures are not to dominate the building facade and front setback.*

The property in its current state contains ample onsite parking of two (2) spaces, including a lock up garage, integrated into the existing dwelling which is flush with the existing front façade creating the building line. The proposal will not increase the onsite car parking available.

The plans submitted indicate the carport is to be constructed over the single car space, with a setback from the front boundary of 2.6m, which results in the entire structure being located forward of the building line.

The proposed carport will dominate the front façade of the dwelling. The construction of the carport within the front setback together with the gable roof design further enhances the bulk of the structure from the street. Although there are a couple of examples of single carports within the front building setback within Nulang Street, these carports pre-date Council's current DCP requirements and are not deemed to reflect the prevailing character of the street (see appendix for photos and plans) . There are also examples of carports within the street, which are larger than the one proposed, however these are located behind (or flush with ) the front building line, thereby integrating with the dwelling and not dominating the streetscape.

The proposed carport within the front setback is not consistent with the existing character of the area and will create an undesirable precedent. The proposed gable roof design, the bulk and scale of the carport and the location detract from the existing streetscape of the area and does not compliment the existing architectural character of the dwelling house.

*Parramatta DCP 2005, Building Elements 4.2*

*Garage/carport dominance*

*S.1 Garages are to be a maximum of 6.3m wide or 50% of the width of the street elevation whichever is the lesser.*

*S.2 At grade garages and carports are to be located a minimum of 300mm behind the front wall of the building.*

*S.3 Carports and garages associated with dwelling houses should be located at the rear of the property where this is the prevailing pattern of development in the street and the garage does not compromise other controls such as soft soil requirements.*

The proposed single car carport is entirely forward of the front facade of the dwelling. The majority of carports/garages within Nulang Street are located behind the building line or within the rear of the property. Relocation of the carport is not feasible as there is no space available on site to accommodate the carport behind the facade of the dwelling.

## **PARRAMATTA S94A DEVELOPMENT CONTRIBUTIONS PLAN 2008**

The proposal does not require payment of S94A development contributions as the value of works does not exceed \$317,440.

### **PLANNING AGREEMENTS**

The proposed development is not subject to a planning agreement entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F.

### **REGULATIONS**

There are no specific regulations that apply to the land to which the development application relates.

### **LIKELY IMPACTS**

The likely impacts of the proposed development have been addressed within this report.

### **SUITABILITY OF THE SITE**

The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

### **SUBMISSIONS & PUBLIC INTEREST**

No submissions were received in response to the notification of the application.

The proposed development is considered contrary to the public interest.

## **Conclusion**

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is not suitable for the site and is not in the public interest. Therefore, it is recommended that the application be refused.

## **Recommendation**

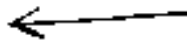
Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979 **That** The Sydney West Region Joint Regional Planning Panel resolve to refuse DA/374/2009 (being a Crown application) for the construction of a single car carport within the front building setback on land at 9 Nulang Street, Toongabbie for the following reasons:

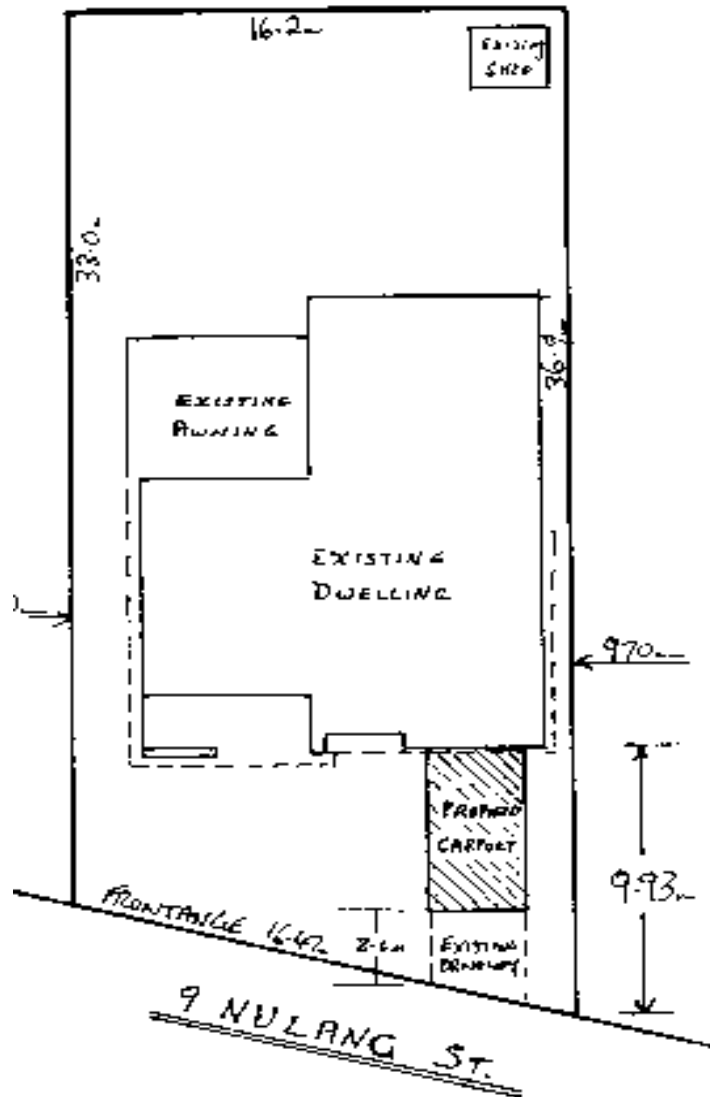
- The proposed carport does not respond to the existing character and urban context of the surrounding area in terms of setback, bulk and scale as the carport is located forward of the building line and is not consistent with the prevailing streetscape as per *Parramatta DCP 2005, 4.2.1 Streetscape*
- The proposed single carport is entirely forward of the facade of the dwelling and does not comply with the minimum setback of 300mm behind the facade of the building as per *Parramatta DCP 2005, 4.2.1 Garage/carport dominance*
- The proposal is contrary to the public interest.

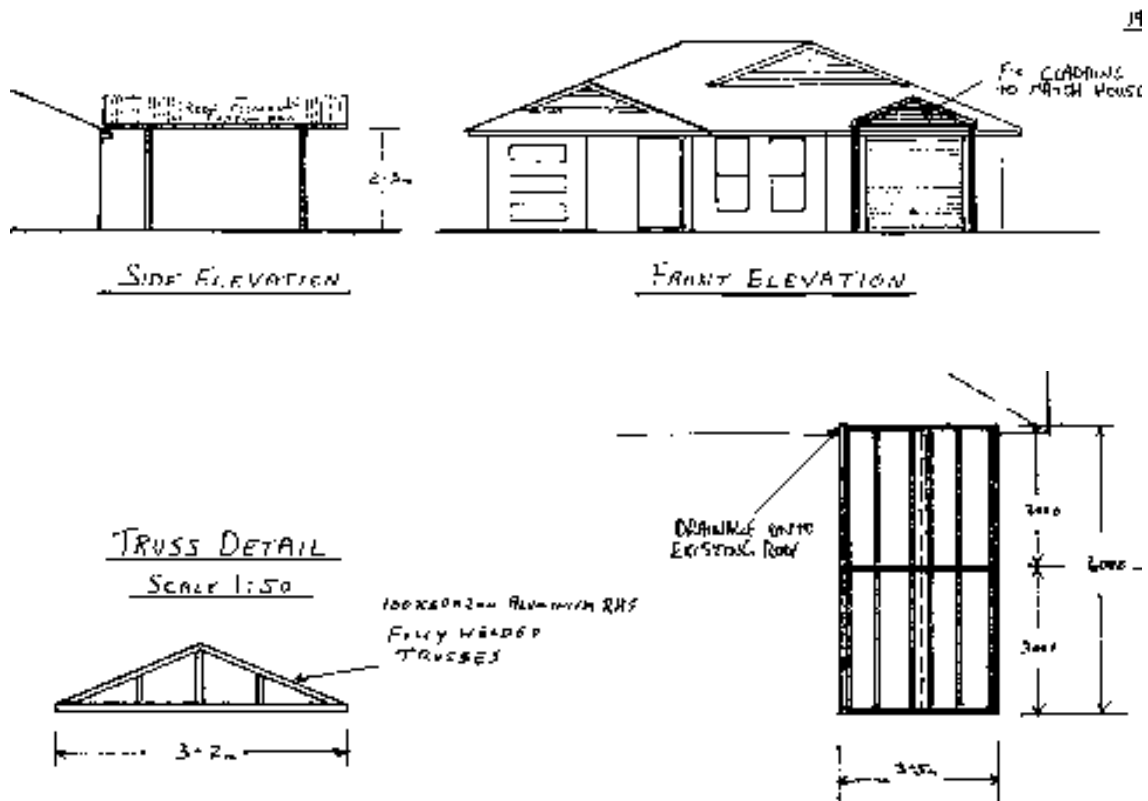
## **Appendix:**

### **Plans**

SITE PLAN  
SCALE 1:200

NORTH  






**Photos:**



**9 Nulang Street, Toongabbie (subject site)**





**13 Nulang Street, Toongabbie**



**15 Nulang Street, Toongabbie**



**Streetscape photo looking south from 9 Nulang Street, Toongabbie.**



**Aerial view of Nulang Street.**

**Report prepared by:**

***Michael Tully***  
***Development & Certification Officer***  
***Development Assessment Team***

**Signature:** .....

**Date:** .....

<input type="checkbox"/>	All DA fees paid.
<input type="checkbox"/>	Consent of all owners provided.
<input type="checkbox"/>	DA notified in accordance with Council's Notifications DCP.
<input type="checkbox"/>	Acknowledgement letters sent to all persons who lodged submissions.
<input type="checkbox"/>	All issues raised in submissions have been considered in the assessment of the application.
<input type="checkbox"/>	Comments from stakeholders considered in assessment of application.
<input type="checkbox"/>	Relevant matters for consideration (s79C assessment) addressed in report.
<input type="checkbox"/>	Section 94 Contributions calculated (if required).
<input type="checkbox"/>	Standard conditions of consent and extraordinary conditions or reasons for refusal prepared.
<input type="checkbox"/>	Letters responding to objectors prepared.
<input type="checkbox"/>	DOP Statistics Sheet completed and attached.

**Peer Review:**

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed.

***Nicole Askew***  
***Team Leader***  
***Development and Certification Team***

**Signature:** .....

**Date:** .....

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**Peer Review:**

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed. I concur with the recommendation.

***Mark Leotta***  
***Service Manager***  
***Development Assessment Services***

**Signature:** .....

**Date:** .....

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**Peer Review:**

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed. I concur with the recommendation.

***Louise Kerr***  
***Manager***  
***Development Services Unit***

**Signature:** .....

**Date:** .....

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## **Peer Review & Determination:**

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed. I concur with the recommendation and determine this application under Delegated Authority PB002 (DA with 1 submission).

I authorise the Development Assessment Officer whose name appears above to sign all plans and paperwork in relation to this determination.

***Sue Weatherley***  
***Group Manager***  
***Outcomes and Development***

**Signature:** .....

**Date:** .....

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