

## Agenda

# Strathfield Local Planning Panel Meeting

Notice is hereby given that a Strathfield Local Planning Panel Meeting will be held at Council Town Hall (Supper Room), 65 Homebush Road, Strathfield on:

**Thursday, 6 September 2018**

Commencing at 10:00am for the purpose of considering items included on the Agenda

Persons in the gallery are advised that the proceedings of the meeting are being recorded for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

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**TO:** Strathfield Local Planning Panel Meeting - 6 September 2018  
**REPORT:** SLPP – Report No. 1  
**SUBJECT:** DA2017/186/01 - 5 THE CRESCENT, STRATHFIELD  
LOT 1 IN DP 1021801  
**DA NO.** 2017/186/01

## SUMMARY

**Proposal:** Division 8.2 Review of determination of Development Application DA2017/186 for the extension of operating hours of an existing educational establishment to include Sundays from 8am to 9:15pm and an increase in student numbers from 240 to 350 for Thursday to Saturday classes

**Applicant:** moMA Architects  
**Owner:** Richard & Thomas Pty Ltd  
**Date of lodgement:** 13 June 2018  
**Notification period:** 29 June 2018 to 16 July 2018  
**Submissions received:** 19 submissions and a petition with six (6) signatories  
**Assessment officer:** ND  
**Estimated cost of works:** Nil  
**Zoning:** R3 Medium Density Residential - SLEP 2012  
**Heritage:** N/A  
**Flood affected:** Yes  
**Is a Clause 4.6 variation proposed?** No  
**RECOMMENDATION OF OFFICER:** REFUSAL

## EXECUTIVE SUMMARY

- 1.0 Development Application DA2017/186 for the extension of operating hours of an existing educational establishment to include Sundays from 8am to 9:15pm and an increase in student numbers from 240 to 350 for Thursday to Saturday classes was refused by the Strathfield Local Planning Panel on 5 April 2018.
- 2.0 The current application has been lodged under Division 8.2 of the *Environmental Planning and Assessment Act* (EP&A Act) 1979 and seeks a review of the determination. The current application differs from the original application, seeking consent for Sunday operations from 8am to 9:15pm and a maximum of 200 students and 15 staff on that day. The original proposal to increase student numbers on other days is no longer being sought.
- 3.0 The current application relies upon existing use rights, as founded in the decision of the Land and Environment Court (Appeal No. 10606/2001) on 8 March 2002 which granted consent to use of the site for the purposes of an educational establishment and associated car parking. There is no evidence to suggest that the current use has been abandoned since the grant of consent by the Land & Environment Court.

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- 4.0 The application was publicly notified from 29 June 2018 to 16 July 2018 in accordance with Part L of the Strathfield Consolidated Development Control Plan 2005. (19) submissions and a petition with six (6) signatories were received as a result. The submissions raise concerns regarding traffic congestion, on-street parking and residential amenity.
- 5.0 The significant student numbers proposed on Sunday is incompatible with the prevailing residential character of the surrounding locality, to the detriment of the amenity of adjacent residents and the operational efficiency of the surrounding road network.
- 6.0 Deficiencies in the acoustic and traffic assessment reports submitted with the application have also been identified by Council's Environmental Health Officers and Traffic Engineers.
- 7.0 Following a detailed assessment of the proposal and having regard to the heads of consideration under Section 4.15(1) of the *EP&A Act 1979*, the application is not supported on its merits and is recommended for refusal.

**BACKGROUND**

**8 March 2002:** The Land and Environment Court granted consent to the use of the site for the purposes of an educational establishment and associated car parking.

**5 April 2018:** Development Application DA2017/186 for the extension of operating hours of the existing educational establishment to include Sundays from 8am to 9:15pm and an increase in student numbers from 240 to 350 for Thursday to Saturday classes was refused by the Strathfield Local Planning Panel (SLPP) for the following reasons:

1. *The proposal is inconsistent with Conditions 2, 3, 4 and 5 of the Land and Environment Court Appeal No. 10606/2001 approved by the Court on 8 January 2002, granting consent to use of No's 4-5 The Crescent, Homebush for the purposes of an educational establishment and associated car parking.*
2. *Although Strathfield Local Environmental Plan (SLEP) 2005 has no force with regard to the proposal, it is considered that the proposal would be unsatisfactory on its merits with regards to aims (b) and (d) of SLEP 2012, as it does not contribute towards the orderly and sustainable development of land. (Section 4.15(1)(a)(i), of the Environmental Planning and Assessment Act, 1979)*
3. *Although SCDCP 2005 has no force with regard to the proposal, it is considered that the proposal would be unsatisfactory on its merits with regards to objectives 3, 4 and 5 of Section 1.2 of Part M of Strathfield Consolidated Development Control Plan (SCDCP 2005 (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).*
4. *Although SCDCP 2005 has no force with regard to the proposal, it is considered that the proposal would be unsatisfactory on its merits with regards to objectives 1 and 2 and guideline (d) of Section 4.3 of Part M of Strathfield Consolidated Development Control Plan (SCDCP 2005 (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).*
5. *Although SCDCP 2005 has no force with regard to the proposal, it is considered that the proposal would be unsatisfactory on its merits with regards to objectives 1, 2, 3, 4 & 5 and guidelines (m), (o) and (q) of Section 4.15 of Part M of Strathfield Consolidated Development Control Plan (SCDCP 2005 (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).*



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6. *Although SCDCP 2005 has no force with regard to the proposal, it is considered that the proposal would be unsatisfactory on its merits with regards to Clause 4.16 of Part M of Strathfield Consolidated Development Control Plan (SCDCP 2005 (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).*
7. *The submitted Traffic and Parking Impact Assessment Report is insufficient to make a proper assessment of the application.*
8. *The proposed extended hours and increased student capacity is not considered to be suitable to the location of the site within a residential cul-de-sac (Section 4.15(1)(c) of the Environmental Planning and Assessment Act, 1979).*
9. *The proposal is not considered to be in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979).*

**13 June 2018:** The current application for a review of the determination was submitted to Council (DA2017/186/01).

**DESCRIPTION OF THE SITE AND LOCALITY**

The site is legally described as Lot 1 in DP 1021801 and commonly known as 5 The Crescent, Strathfield. It is located off the south western side of The Crescent and east of Homebush Road, where The Crescent forms a dead-end.

The site is irregularly shaped and has an area of 1847m<sup>2</sup> and a street frontage of 51m. It slopes moderately in a north easterly direction to the street frontage.

The site is occupied by a four (4) storey building that is currently used as a coaching college. Vehicular access is via an entry driveway adjacent to the eastern end of the street frontage and an entry/exit driveway at the western end of the street frontage. The site includes off-street car parking facilities for 36 vehicles including 20 staff car spaces and seven (7) long-stay spaces on the western side of the building and a 'drop-off/pick-up zone' comprising the remainder of the car spaces in front of the building.

Immediately to the southeast, south and west of the site are residential flat buildings. Across the road to the north is the Sydney CBD-Parramatta railway corridor. Homebush Railway Station is about 280m walking distance northwest of the site. A further 100m walking distance beyond the railway station is a small commercial strip including local shops and restaurants.

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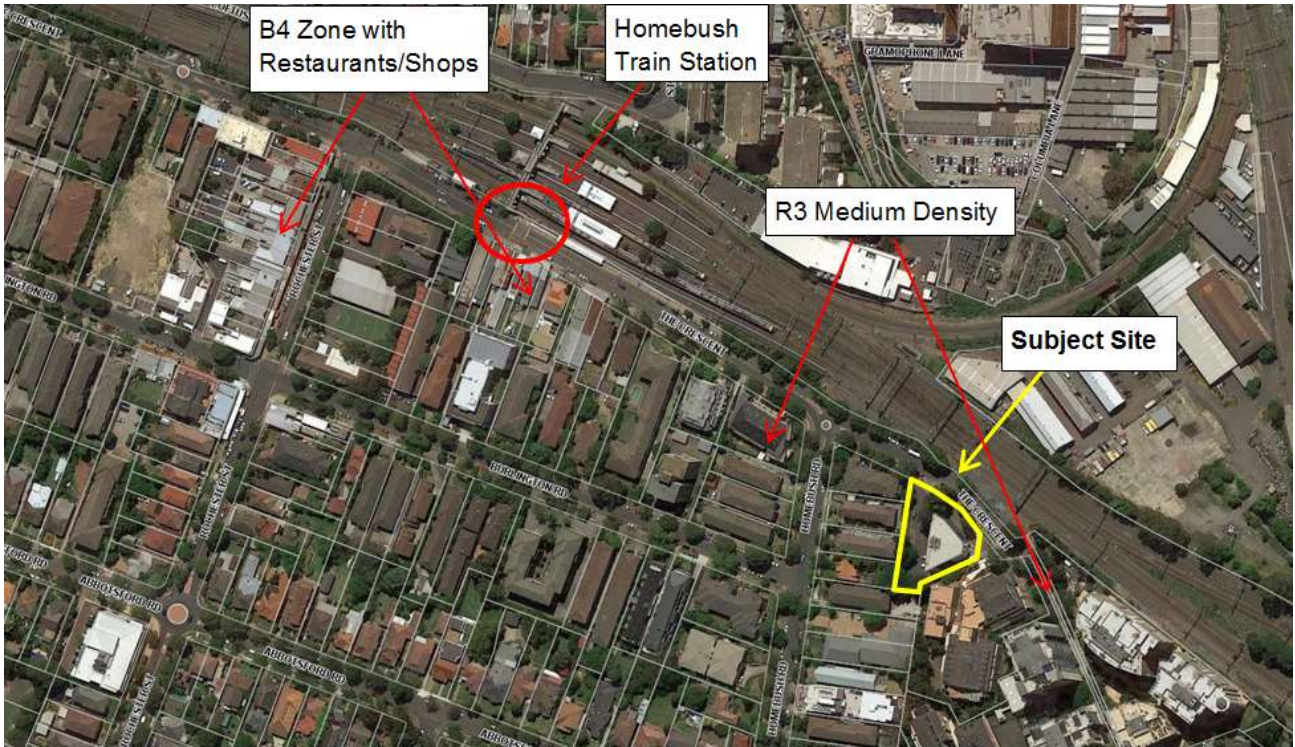


Figure 1: Aerial view of the site and locality.



Figure 2: The site as viewed from The Crescent.



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**Figure 3:** The site and adjoining five (5) storey residential flat buildings.

### PROPERTY BURDENS AND CONSTRAINTS

There are no easements or burdens on the land which could affect, or be affected by, the proposed development.

### DESCRIPTION OF THE PROPOSED DEVELOPMENT

The current application seeks a review of the refusal of Development Application DA2017/186 for the extension of operating hours of an existing educational establishment to include Sundays from 8am to 9:15pm and an increase in student numbers from 240 to 350 for Thursday to Saturday classes.

The current application seeks the following:

1. Proposed Sunday Classes

- Hours of operation: 8:00am to 9:15pm with core hours 8:30am to 5:30pm
- Maximum number of students: 200
- Maximum number of staff: 15

2. Deletion of Condition 9

Deletion of this condition which reads as follows -

*To enable the monitoring of class numbers and sizes the applicant is to provide the following information to Council at the commencement and completion of each school term for the duration of the use of the site as an education facility;*

- a) Timetables at the start of each term.*
- b) Enrolment summaries (ie. number of students per class) at the end of each term.*

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Comment:

The appropriate mechanism for seeking the deletion of conditions of consent is by way of an application under Section 4.55 of the EP&A Act and not by way of a development application. The current application seeks development consent and relies upon existing use rights, rather than seeking a modification of the existing development consent. No modifications to the conditions of the parent consent can be made in determining the current application.

Note:

The original proposal to increase student numbers on Thursdays to Saturdays is no longer being sought as part of the current application. Further, no building works as proposed.

Details of the scheduling of the Sunday classes as submitted by the applicant are reproduced as follows:

**TABLE 1.** Proposed student numbers at 5 The Crescent, Strathfield

Day	No of Classes	Class starting time	Class finishing time	Number of students
Sunday AM	8	8:30pm	12:55pm	200
Sunday PM	8	1:00pm	5:25pm	200

**TABLE 2.** Proposed class timetable at 5 The Crescent, Strathfield

Sunday AM	5WEMG MC 1	8:30 - 12:55
	5WEMG MC 2	8:30 - 12:55
	5STTC MC 1	9:30 - 12:30
	5STTC MC 2	9:30 - 12:30
	4WEMG MC 1	8:45 - 12:30
	4WEMG MC 2	8:45 - 12:30
	3WEMG MC 1	9:00 - 12:30
	3OCTTC MC 1	9:10 - 12:15
Sunday PM	5WEMG MC 1	1:00 - 5:25
	5WEMG MC 2	1:00 - 5:25
	5STTC MC 1	1:30 - 4:30
	5STTC MC 2	1:30 - 4:30
	4WEMG MC 1	1:00 - 4:45
	4WEMG MC 2	1:00 - 4:45
	3WEMG MC 1	1:00 - 4:30
	3OCTTC MC 1	1:15 - 4:15

**REFERRALS**

**INTERNAL REFERRALS**

**Traffic Comments**

Council's Traffic Engineer has commented on the proposal as follows:

*I refer to the Traffic Report and the architectural drawings to DA2017/101/01 for the proposed extension of college at 5 The Crescent, Strathfield. It can be noted that the parking required for this institute is justified based on the criteria recommended for normal schools. However, the operating condition of the normal school is not comparable with these kinds of private coaching centres,*

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*where in the duration of the classes are short with multiple sessions. This kind of segregated operation of coaching sessions increases the parking demand and the duration and cannot be compared with the standards and guidelines recommended for normal schools.*

*The existing traffic scenario on The Crescent with the operation of this centre is leading to chaotic situations during the start and end of the sessions, resulting in traffic queue spill over on the Crescent. This means that the traffic generation rate from the proposed student enrolment on Sunday will apparently not be sufficient enough to cater the demand.*

*Number of students indicated in Appendix B reads 200 finishing at 12:55pm and 200 starting and 1:00 pm. This means that total number of student at any one time will exceed 400 during these hours due to tendency to arrive early. The saturation on this cul-de-sac will fail Traffic Management Plans.*

*The existing modal split of the students on their travel behavior needs to be justified with survey results. It is required to include the age profile of the students through appropriate surveying techniques. The Drop-off/pick up zone, Disabled parking bay and service/delivery commercial vehicle parking bay need to be provided separately apart from the parking spaces.*

*I do not support this application following the above arguments.*

**Environmental Health Comments**

Council's Environmental Health Officer has commented on the proposal as follows:

*I have reviewed the above development application in regards to environmental health aspects – Protection of the Environment Operations Act 1997, corresponding regulations, and the EPA Industrial Noise Policy 2017.*

*In the acoustic report, Table 3 of nearby residences, it states that the receiver measurements are based on urban zoning. However the land zoning is R3 – medium residential. The industrial noise policy states in Table 2.3 “Determining which of the residential receiver categories applies” states R3 is categorised as suburban residential. The report must ensure that the noise measurements for the nearby resident receiver are correct. The report mentions both urban and suburban in section 4.3.2. The acoustic report must detail the noise generated from the students from the site including pick up and drop off times.*

*The report must account for any meteorological events during noise measurements. In accordance with Section B1.3 of the INP, Fact Sheet B, if any day has more than 8 excluded measurements due to weather events, re-monitoring for each wind affected period of each day must be undertaken, unless the noise assessment report fully justifies how the wind affected data will not affect the results.*

*In Appendix B of the Statement of Environmental Effects Table 1, there is a timeframe of five (5) minutes where there is a changeover of 200 students from 12.55pm and 1pm, which can potentially cause a total of 400 students in the building which goes against the condition of no more than 200 students in the building at time. In addition, Table 2 does not account for classes past 4.15pm on a Sunday.*

**SECTIONS 8.2 & 8.3 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 –  
REVIEW OF DETERMINATIONS**

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Under Section 8.2 and 8.3 of the EP&A Act, an applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. Further, in requesting the review, the applicant may amend the proposed development the subject of the original application for development consent if the consent authority is satisfied that it is substantially the same development.

The current application has been submitted under the above provisions and is considered to be substantially the same development, as it seeks to expand the hours of operation of the existing coaching college to include Sundays as was proposed under the development application. The main difference is that consent for an increase in student numbers for Thursday to Saturday classes is no longer being sought.

Pursuant to Sections 8.3(5) and 8.10(1) of the EP&A Act 1979, the current application must be determined by the Strathfield Local Planning Panel on the basis that the panel was the consent authority for the previous development application. Further, a determination must be made by the panel within six (6) months of the date of the original determination (i.e. 5 April 2018).

**EXISTING USE RIGHTS**

Existing use rights are regulated under Division 4.11 of the *EP&A Act 1979* and Part 5 of the *EPA&A Regulation 2000*, with the relevant sections discussed below:

**PART 4 - DEVELOPMENT ASSESSMENT AND CONSENT****Division 4.11: Definition of “existing use”**

Division 4.11 of the *Environmental Planning and Assessment Act 1979 (EPA Act)* states that an “existing use” means:

- a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 of this Part, have the effect of prohibiting that use, and*
- b) *the use of a building, work or land:*
  - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*

**Comments:**

With regard to sub-clauses (a) and (b), the use of the site as a coaching college was granted consent by the Land and Environment Court on 8 March 2002.

Under the *Strathfield Local Environmental Plan 2012*, coaching colleges do not fall under the definition of ‘educational establishments’. The premise falls under the definition of ‘businesses premises’ which is a prohibited use in the R3 Medium Density Residential zone.

- (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

**Comments:**

In accordance with condition 9 of the consent, council has consistently received student enrolment summaries and lesson timetables of the coaching college. Hence, there is no evidence to suggest that the use of the site has been abandoned since consent was granted.

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#### **Division 4.66: Continuance of and Limitations on Existing Use**

- 1) *"Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- 2) *Nothing in subsection (1) authorises:*
  - a) *any alteration or extension to or rebuilding of a building work, or*
  - b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
  - c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
  - d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b), or*
  - e) *the continuance of the use therein mentioned where that use is abandoned.*
- 3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of twelve months.*

#### Comments:

Council has consistently received student enrolment summaries and lesson timetables of the coaching college as per condition 9 of the consent. Hence, there is no evidence to suggest that the use of the site has been abandoned since consent was granted.

#### **Division 4.67: Regulations respecting existing use**

- 1) *"The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*
  - a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
  - b) *the change of an existing use to another use, and*
  - c) *the enlargement or expansion or intensification of an existing use.*
- 2) *The provisions (in this section referred to as "the incorporated provisions") of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- 3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

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- 4) *Any right or authority granted by the incorporated provisions or any other provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under Section 809 to a development application for consent to carry out a prohibited development.*

The above clauses are verified in established case law and in the planning principles established in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71* which provide a guide to a merit based assessment under Section 4.15(1) of the EPA Act 1979.

**PLANNING PRINCIPLES: ASSESSMENT OF PROPOSALS ON LAND WITH EXISTING USE RIGHTS**

The following commentary provides an assessment of the planning principles to be considered when undertaking a merit assessment of a proposed development of a site with existing use rights, established by Roseth SC in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71*, and confirmed by Pain J 83-89 in *Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 587*.

***Principle 1: How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?***

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with exiting use rights; they have relevance to the assessment of applications on such sites. This is because the controls that apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

Comment:

The proposal does not seek any changes to the existing built form on the site.

***Principle 2: What is the relevance of the building in which the existing use takes place?***

*Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

Comment:

The proposal does not seek the demolition or a change in use of the existing building on the site. The proposal seeks to use the existing classrooms within the building on the site for the proposed Sunday classes, as well as the on-site car parking arrangements approved as part of the original consent.

***Principle 3: What are the impacts on adjoining land?***

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*



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Traffic Impacts

As illustrated in the table below, the proposal seeks student numbers and hours of operation on Sundays that are not dissimilar to those on Saturdays as permitted under the Court approved consent.

	Hours of Operation	Max students in the building attending tuition	Staff
Approved Saturday (approved under Appeal No. 10606/2007)	8:15am to 9:15pm	240	15
Proposed hours on Sunday	8:00am to 9:15pm: <ul style="list-style-type: none"> <li>• 8:30am to 12:55pm</li> <li>• 1:00pm to 5:25pm</li> <li>• After 5:25pm not indicated</li> </ul>	200 200 Not provided	15

Whilst the site is located in close proximity to Homebush Railway Station and local bus services, the age profile of the students attending the college are such that these public transport services are unlikely to be used by the students outside daylight hours and particularly during later hours into the night. The vast majority of students are likely to be collected by private transport on Sunday nights, thus compounding existing adverse traffic, parking and noise impacts at a time when local residents have a reasonable expectation for some peace and quiet.

The existing business is already having an adverse effect on the operational efficiency of the adjacent road network as reflected in comments from Council's Traffic Engineer as follows:

*The existing traffic scenario on The Crescent with the operation of this center is leading to a chaotic situation during the start and end of the sessions, resulting in traffic queue spill over on the Crescent. This means that the traffic generation rate from the proposed student enrolment on Sunday will apparently not be sufficient enough to cater the demand.*

The existing traffic congestion issues observed within the immediately locality are a good indication of the traffic conditions that are likely to arise on Sundays if the proposal proceeds.

Acoustic Privacy Impacts

The site is located in a dead end, with vehicular access to the wider road network by means of a roundabout at the intersection of The Crescent and Homebush Road. The site also immediately adjoins residential flat buildings, reflective of the R3 Medium Density Residential zoning of the site and surrounds (as shown in Figure 4).

The acoustic report submitted does not account for noise generated from the students on the site during pick-up and drop-off times, only accounting for noise generated by vehicle movements and students during internal classroom activities. The proposed Sunday timetable could see up to 400 children moving around the site during the morning and afternoon transition period (where a maximum of 200 children is proposed between 8:30pm to 12:55pm and another 200 students is proposed between 1:00pm to 5:25pm). The timetable proposes five (5) classes finishing at 12:30pm with five (5) classes commencing at 1:00pm.

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In conclusion, the acoustic report submitted provides insufficient information to determine whether acoustic impacts of the proposal on adjoining residential properties are reasonable. In coming to this conclusion, it is relevant to consider that the proposed timetable provides no information regarding class times or allocation of student numbers after 5:25pm.



**Figure 4:** View of the site and adjoining residential flat building from The Crescent.

**Principle 4: What is the internal amenity?**

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

The proposal does not seek any changes to the existing built form on the site or any change in use of the existing building.

**SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 as relevant to the application.

**(a)(i) The provisions of any environmental planning instrument**

**Strathfield Local Environmental Plan 2012 (SLEP 2012)**

An assessment of the proposal against the general aims of SLEP 2012 is included below:

<b>Cl. 1.2(2) Aims</b>	<b>Complies</b>
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(a)	To achieve high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities and neighbourhoods in Strathfield	N/A
(b)	To promote the efficient and spatially appropriate use of land, the sustainable revitalisation of centres, the improved integration of transport and land use, and an appropriate mix of uses by regulating land use and development	No
(c)	To promote land uses that provide a wide range of employment, recreation, retail, cultural, service, educational and other facilities for the local community	Yes
(d)	To provide opportunities for economic growth that will enhance the local community	Yes
(e)	To promote future development that integrated land use and transport planning, encourages public transport use, and reduced the traffic and environmental impacts of private vehicle use	No
(f)	To identify and protect environmental and cultural heritage	Yes
(g)	To promote opportunities for social, cultural and community activities	Yes
(h)	To minimise risk to the community by identifying land subject to flooding and restricting incompatible development	Yes

**Comments:**

The site benefits from its close proximity to Homebush Railway Station and local bus services. As the majority of the students attending the classes at the site are of school age, it is unlikely that the available public transport will be used outside of daylight hours. Accordingly, the rate of private vehicle use and potential for traffic congestion will be increased outside daylight hours, contrary to objective (e).

The site is located in a dead-end street and immediately surrounded by several residential flat buildings that share the same road access. The traffic generated by the proposed Sunday classes together with the site's residential context and location in a dead-end street serving several residential flat buildings is not appropriate, contrary to objective (b).

**Permissibility**

The site is zoned R3 Medium Density Residential under the *Strathfield Local Environmental Plan 2012*. At the time of approval, the use of the premises as a coaching college was consistent with the definition of 'educational establishment' under the Strathfield Planning Scheme Ordinance (as applicable at that time). Under *Strathfield Local Environmental Plan 2012*, coaching colleges are not defined as an 'educational establishment', but rather as 'business premises'.

**Business premises means a building or place at or on which:**

- a) An occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Business premises are prohibited in the R3 Medium Density Residential zone. Notwithstanding, the site apparently benefits from existing use rights (as discussed earlier in this report) and council may consider the proposal on its merits.

**(a)(ii) The provisions of any draft environmental planning instrument**

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Not applicable.

**(a)(iii) The provisions of any development control plan**

**Strathfield Consolidated Development Control Plan 2005 (SCDCP 2005)**

The following is an assessment of the proposal's compliance with the relevant provisions contained within SCDCP 2005.

**PART I – PROVISION OF OFF STREET PARKING FACILITIES**

**Part 3.3 Office and Commercial**

**3.3.1 Commercial Premises**

<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
1 space / 40m <sup>2</sup> GFA (35 spaces / approx. 1429.7m <sup>2</sup> )	36 (9 spaces in pick-up drop off area and 27 spaces in main car park)	Yes
10% spaces / designated short stay (customer, visitor)	25%	Unchanged from Court approval
90% spaces / long stay (employees)	75%	Unchanged from Court approval.
At least 1 courier car parking space	A courier space is not considered necessary.  No parking bay for the shuttle bus is indicated.	No
Driveways – in accordance with Appendix B	Existing eastern and western entry unchanged.	Unchanged

Whilst the proposed development is categorised as a commercial premises under the *SLEP 2012*, the parking dynamics of the coaching college where the duration of the classes are short with multiple sessions commencing and finishing does not align with the parking patterns of a commercial premises.

**(a)(iia) The provisions of any planning agreement or draft planning agreement**

Not applicable.

**(a)(iv) The provisions of the regulations**

Not applicable.

**(b) The likely impacts of the development including environmental impacts on both the natural and built environments and social and economic impacts in the locality**

In addition to the adverse traffic, car parking and noise impacts on immediately adjoining properties and the adjacent road carriageway as discussed earlier in this report, the proposal will also have adverse impacts on the wider locality. The proposed 8:00am to 9:15pm hours of operation correspond with the peak business hours of the existing restaurants, food shops and retail stores located along The Crescent and Rochester Street. The traffic congestion and on-street parking demands generated by the proposal are likely to detract potential customers from visiting those businesses.

DA2017/186/01 - 5 The Crescent, Strathfield  
Lot 1 in DP 1021801 (Cont'd)

In addition to the commencement of Sunday classes, the proposal seeks the deletion of Condition No. 9 of Appeal No. 10606/2011, relating to the monitoring of class numbers and sizes. As the subject application was lodged as a development application and not a modification, no condition amendments can be made. In any event, the deletion of Condition No. 9 would not be supported.

**(c) The suitability of the site for the development**

The site is considered to be unsuitable for the proposal on the grounds of traffic and noise impacts. The traffic generated by the number of students proposed will exceed the capacity of the adjacent dead-end street and nearby roundabout, resulting in traffic congestion in The Crescent and vehicular access difficulties for adjoining residents. Additionally, the noise generated by students entering and leaving the premises will unreasonably impose upon the acoustic amenity of adjacent residents.

**(d) Any submissions made in accordance with this Act or the regulations**

The application was notified from 29 June 2018 to 16 July 2018 in accordance with Part L of the SCDCP 2005. 19 submissions and a petition with six (6) signatories were received as a result. The issues raised in these submissions are summarised and addressed as follows.

1. Pedestrian Safety

*Concern is raised as to pedestrian safety of the students attending the Pre-Uni College, specifically during the pick up and drop off times.*

Assessing Officer's Comments: This concern is concurred with based on the existing traffic congestion and the potential pedestrian safety implications of the proposal.

2. Traffic Increase

*As the only access to the Pre-Uni College is via the roundabout at the intersection of Homebush Road and The Crescent and is located in a cul-de-sac, the intersection becomes blocked during peak change over times making it difficult for residents to enter the adjoining properties. The situation has been exacerbated by the new roundabout at the Homebush Road and Burlington Road intersection. The submitted Traffic Report has not included the new Burlington Road and Homebush Road roundabout in its assessment.*

Assessing Officer's comments: The traffic implications have already been addressed in this report and are considered unacceptable.

3. Emergency Services

*Concern is raised as to the ability of emergency services reaching the adjoining residential flat buildings due to the traffic congestion.*

Assessing Officer's Comments: There is some legitimacy to this concern based on the existing traffic congestion experienced in the surrounding road network and the likelihood that the proposal will further exacerbate this issue.

4. Monitoring of Student Numbers

*The proposal seeks to delete Condition No. 9 relating to the monitoring of class numbers and sizes. The College does not show the class time timetables on their website anymore so that residents can avoid the traffic along The Crescent in accordance with the class times.*

Assessing Officer's Comments: The appropriate mechanism for seeking the deletion of a condition of consent is via an application under Section 4.55 of the EPA Act 1979.

DA2017/186/01 - 5 The Crescent, Strathfield  
Lot 1 in DP 1021801 (Cont'd)

5. Residential Amenity

*The Pre-Uni College is located within a residential cul-de-sac, consequently the noise emitted by the cars and children are easily heard.*

Assessing Officer's Comments: This concern is concurred with and has been discussed earlier in this report.

6. Impact on surrounding streetscape

*The reduced availability of on-street car parking will have parking and traffic implications on the nearby restaurants.*

Assessing Officer's Comments: This concern is concurred with and has been discussed earlier in this report.

**(e) The public interest**

The proposed development is considered to be contrary to the public interest as the development will result in amenity impacts to the surrounding residences and generate traffic congestion on the surrounding road network.

**SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. Section 7.11 Contributions in accordance with the Strathfield Direct Development Contributions Plan 2010-2030 are not applicable.

**CONCLUSION**

The application benefits from existing use rights and has been assessed against the relevant provisions of the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000* and the planning principles regarding existing use rights established by the Land & Environment Court. The proposal will result in increased traffic congestion over longer durations within the dead-end adjacent to the site and the roundabout nearby, as well as acoustic impacts on the residents of the adjoining properties.

Following a detailed assessment the proposal is unacceptable on its merits and recommended for refusal.

**RECOMMENDATION**

That Division 8.2 Review of determination of Development Application No. 2017/186 for the operation of Sunday classes from 8:00am to 9:15pm with 200 students at an existing educational establishment at 5 The Crescent, Strathfield be **REFUSED**, for the following reasons:

1. The proposed hours of operation and number of students is considered to be unsuitable to the location of the site on its merits (Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*).
2. The proposal is considered unacceptable on its merits in that it fails to provide adequate parking arrangement (Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*).
3. The proposal is considered unacceptable on its merits in that it is likely to result in unreasonable adverse amenity impacts on adjacent properties (Section 4.15(1)(b) of the

**DA2017/186/01 - 5 The Crescent, Strathfield**  
**Lot 1 in DP 1021801 (Cont'd)**

*Environmental Planning and Assessment Act 1979).*

4. The proposal is considered unacceptable on its merits in that it is likely to result in unreasonable traffic congestion on the surrounding road network (Sections 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*).
5. The proposal is not in the public interest (Section 4.15 (1) (e) of the *Environmental Planning and Assessment Act 1979*).

**ATTACHMENTS**

1. [↓](#) 5 The Crescent - Architectural plans



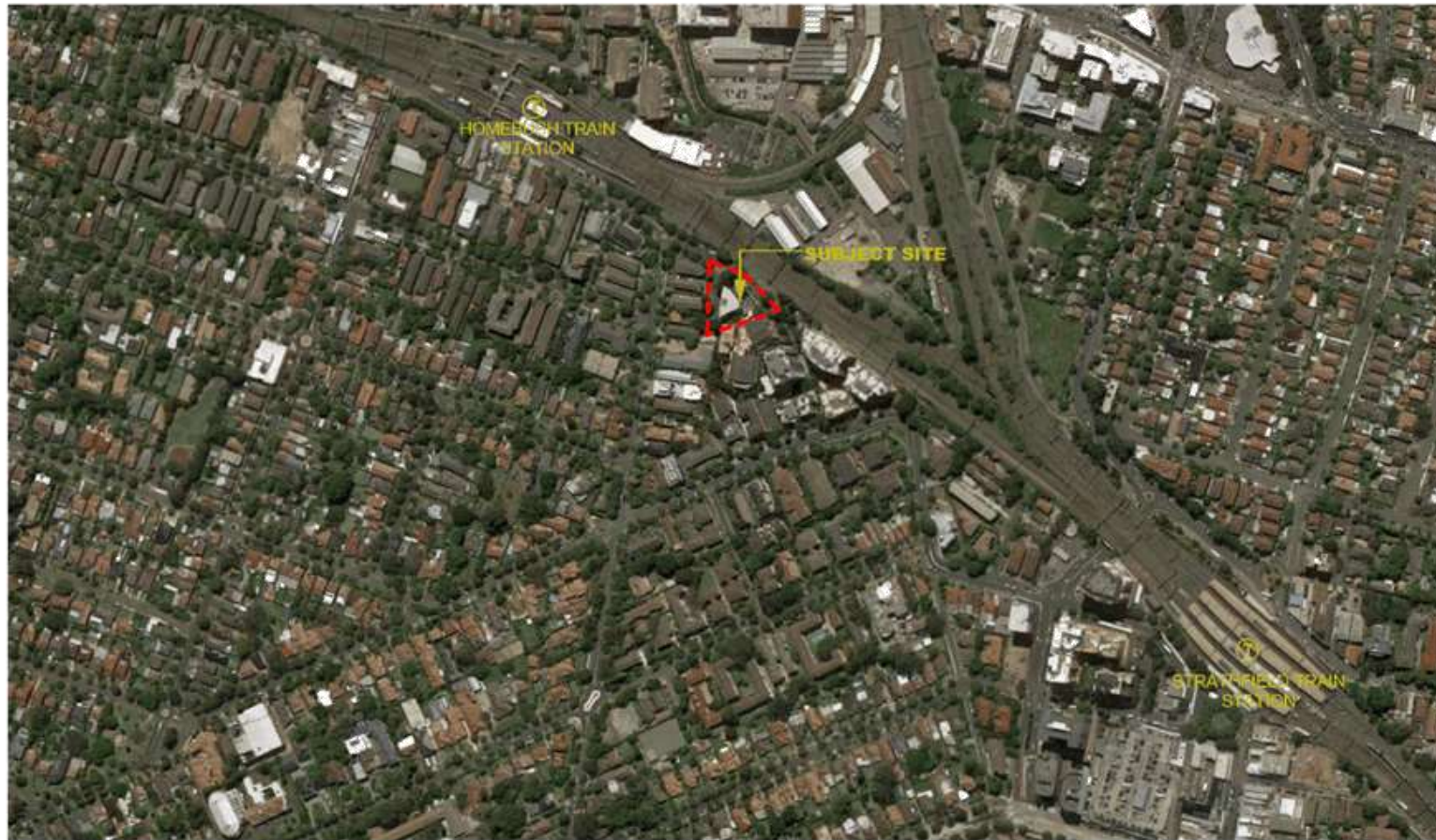




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**DEVELOPMENT APPLICATION      ISSUE A**

PRE-UNIVERSITY COLLEGE  
 5 THE CRESCENT, STRATHFIELD

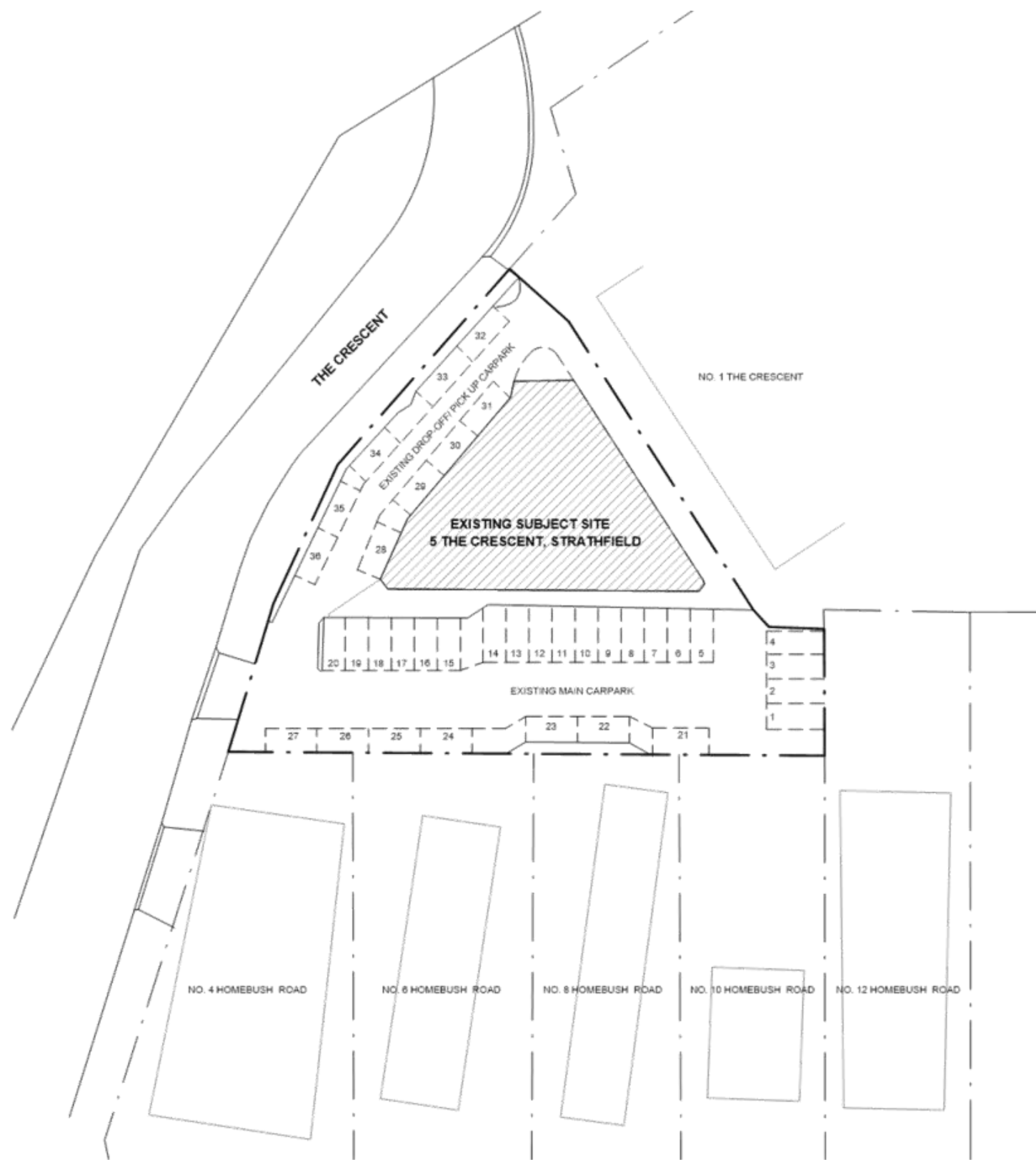


- A 0.00 COVER
- A 1.00 SITE PLAN
- A 1.01 EXISTING FLOOR PLAN - GROUND LEVEL
- A 1.02 EXISTING FLOOR PLAN - LEVEL 1
- A 1.03 EXISTING FLOOR PLAN - LEVEL 2
- A 1.04 EXISTING FLOOR PLAN - LEVEL 3

**STRATHFIELD COUNCIL  
 RECEIVED**  
  
**S8.2**  
  
**DA2017/186/01  
 13 June 2018**

**SITE ANALYSIS PLAN**  
 NTS

**STRATHFIELD COUNCIL  
RECEIVED**  
  
**S8.2**  
  
**DA2017/186/01**  
**13 June 2018**



**EXISTING PLAN ONLY  
NO NEW WORK PROPOSED**

**1** **SITE PLAN**  
 1 : 500

ARCHITECTURE  
**mo**  
**MA**  
 Nominated Architects  
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Issue	Description	Date
1	FOR INFORMATION	27.11.17
A	FOR DEVELOPMENT APPLICATION	05.12.17

Client Name  
**PRE-UNI COLLEGE**  
 Project Name  
**5 THE CRESCENT, STRATHFIELD**



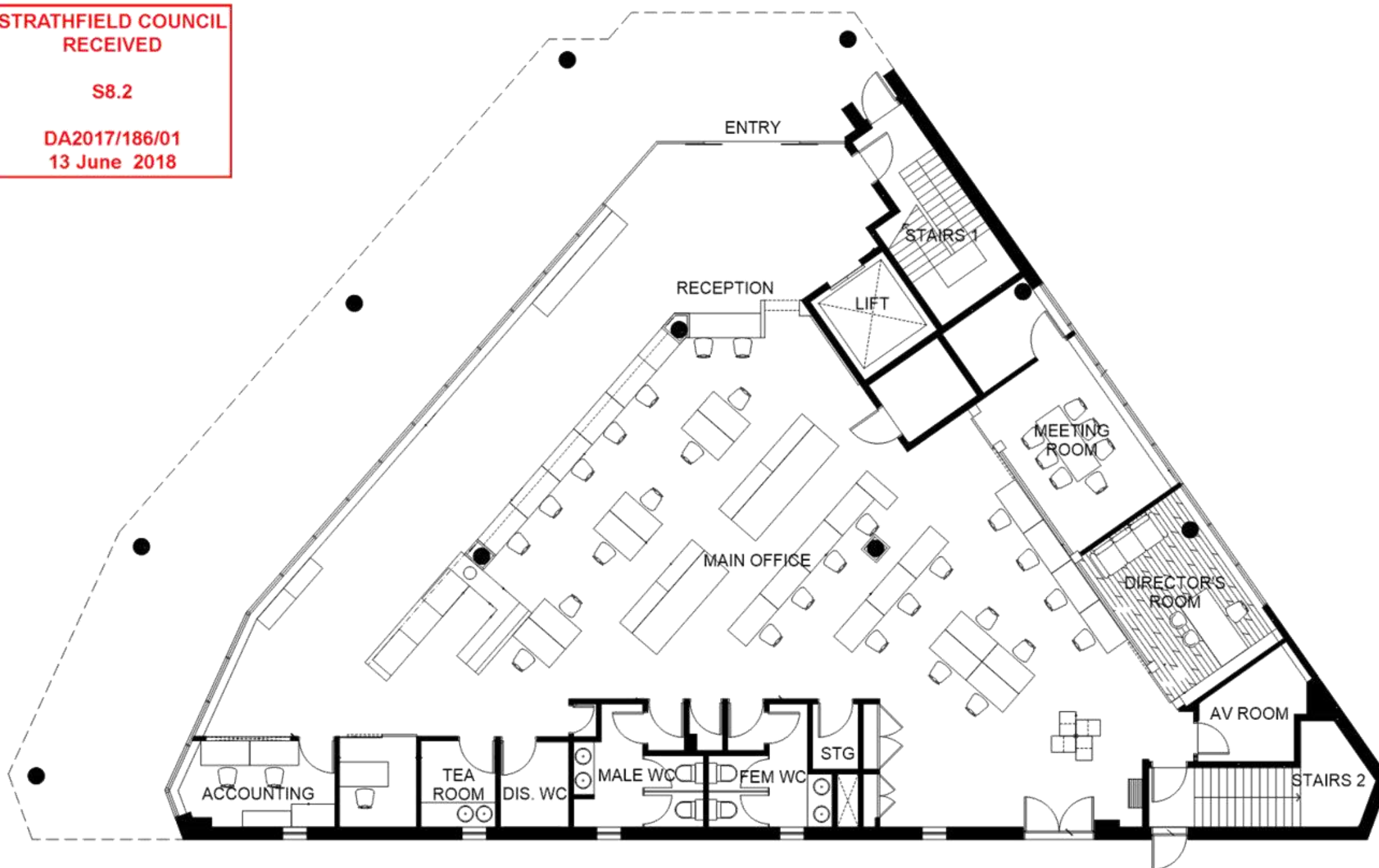
Drawing Title			
SITE PLAN			
Job No.	Scale	Drawing no.	ISSUE
A17014	1 : 500 @A3	A 1 00	A



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**S8.2**

**DA2017/186/01  
13 June 2018**



EXISTING PLAN ONLY  
NO NEW WORK PROPOSED

1 EXISTING FLOOR PLAN - GROUND FLOOR  
1 : 100

ARCHITECTURE  
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Issue	Description	Date
1	FOR INFORMATION	27.11.17
A	FOR DEVELOPMENT APPLICATION	05.12.17

Client Name  
**PRE-UNI COLLEGE**

Project Name  
**5 THE CRESCENT STRATHFIELD**



Drawing Title			
EXISTING FLOOR PLAN - GROUND LEVEL			
Job No.	Scale	Drawing no.	ISSUE
A17014	1 : 100 @A3	A 1 01	A

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**DA2017/186/01**  
**13 June 2018**



**EXISTING PLAN ONLY  
NO NEW WORK PROPOSED**

**1** EXISTING FLOOR PLAN - LEVEL 1  
1 : 100

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Issue	Description	Date
1	FOR INFORMATION	27.11.17
A	FOR DEVELOPMENT APPLICATION	05.12.17

Client Name  
**PRE-UNI COLLEGE**

Project Name  
**5 THE CRESCENT STRATHFIELD**



Drawing Title			
EXISTING FLOOR PLAN - LEVEL 1			
Job No.	Scale	Drawing no.	ISSUE
A17014	1 : 100 @A3	A 1 02	A

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**DA2017/186/01**  
**13 June 2018**



**EXISTING PLAN ONLY  
NO NEW WORK PROPOSED**

**1** EXISTING FLOOR PLAN - LEVEL 2  
1 : 100

ARCHITECTURE  
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Issue	Description	Date
1	FOR INFORMATION	27.11.17
A	FOR DEVELOPMENT APPLICATION	05.12.17

Client Name  
**PRE-UNI COLLEGE**

Project Name  
**5 THE CRESCENT STRATHFIELD**



Drawing Title			
EXISTING FLOOR PLAN - LEVEL 2			
Job No.	Scale	Drawing no.	ISSUE
A17014	1 : 100 @A3	A 1 03	A

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**DA2017/186/01  
13 June 2018**



EXISTING PLAN ONLY  
NO NEW WORK PROPOSED

1 EXISTING FLOOR PLAN - LEVEL 3  
1 : 100

ARCHITECTURE  
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Issue	Description	Date
1	FOR INFORMATION	27.11.17
A	FOR DEVELOPMENT APPLICATION	05.12.17

Client Name  
**PRE-UNI COLLEGE**

Project Name  
**5 THE CRESCENT STRATHFIELD**



Drawing Title			
EXISTING FLOOR PLAN - LEVEL 3			
Job No.	Scale	Drawing no.	ISSUE
A17014	1 : 100 @A3	A 1 04	A



**TO:** Strathfield Local Planning Panel Meeting - 6 September 2018  
**REPORT:** SLPP – Report No. 2  
**SUBJECT:** DA2015/127/02 - 19 FLORENCE STREET, STRATHFIELD  
LOT 13 TO 15 SEC 2 DP 581  
LOT 5 DP 456916  
**DA NO.** 2015/127/02

## SUMMARY

**Proposal:** Section 4.55(2) application to increase the maximum number of child placements at an approved child care centre from (99) to (124) places.

**Applicant:** P. Malek

**Owner:** Malek Group Pty Ltd

**Date of lodgement:** 16 March 2018

**Notification period:** 10 April 2018 to 24 April 2018

**Submissions received:** Three (3) written submissions received.

**Assessment officer:** ND

**Estimated cost of works:** Nil

**Zoning:** R2 Low Density Residential - SLEP 2012

**Heritage:** Yes – part of the site forms Local Heritage Item I232 'Strathfield Synagogue'

**Flood affected:** Yes

**Is a Clause 4.6 variation proposed?** No

**RECOMMENDATION OF OFFICER:** REFUSAL

## EXECUTIVE SUMMARY

- 1.0 On 19 April 2016, Council approved Development Application No. 2015/127 for alterations, additions and expansion of the existing child care centre.
- 2.0 On 22 December 2017, a Section 96(2) application (DA2015/127/02) to increase the number of children from 99 to 124 was lodged. Due to insufficient information, the application was voluntarily withdrawn.
- 3.0 The current application has been lodged under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* and seeks to increase the maximum number of child placements at the existing child care centre from 99 to (124) places.
- 4.0 The plans and accompanying documents were publicly notified from 10 April 2018 to 24 April 2018 in accordance with Part L of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. Three (3) written submissions were received raising concerns regarding traffic congestion, noise and on-site parking provision.
- 5.0 During the assessment process, a survey of the constructed child care centre was requested, consequently, the proposed increase was amended from (124) to (121) places.

DA2015/127/02 - 19 Florence Street, Strathfield  
Lot 13 to 15 Sec 2 DP 581  
Lot 5 DP 456916 (Cont'd)

- 6.0 The application satisfies the minimum unencumbered indoor and outdoor space requirements of the *Education and Care Services National Regulations*. However, the number of on-site car parking spaces is significantly short of the minimum space requirements under the Part E 'Child Care Centres' of the SCDCP 2005. The shortfall is likely to result in increased kerbside parking and traffic congestion in the surrounding road network, to the detriment of the amenity of the neighbourhood.
- 7.0 Having regard to the likely adverse traffic, on-street parking and noise impacts associated with the proposed modification, the application is not supported and is recommended for refusal.

### DESCRIPTION OF THE PROPOSED MODIFICATION

The specific elements of the proposed modification are as follows:

- Increase the maximum number of child placements at the childcare centre from (99) to (124) places.
- Increase the maximum number of staff at the child care centre at any one time from 16 to 19 staff.
- Deletion of condition 14 of the consent as follows:

*Prior to the issue of a Construction Certificate, the storage room provided between proposed cot rooms adjacent to Albyn Road shall be provided as a nappy changing room including a properly constructed nappy changing bench and hand cleaning facilities for adults as required by the Education and Care Services National Regulation.*

**Note:** During the assessment process, the proposed increase of child placements was reduced to (121).

### DESCRIPTION OF THE SITE AND LOCALITY

The subject site is located on the northern side of Albyn Road at the cul-de-sac intersection with Florence Street to the east. The site is comprised of four (4) separate allotments and is currently occupied by an associated building and the approved child care centre (as shown in Figure 1). The immediately surrounding streetscape is characterised by low density residential, predominantly single and two (2) storey dwelling houses.



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Lot 13 to 15 Sec 2 DP 581  
Lot 5 DP 456916 (Cont'd)



Figure 1: Aerial view of the subject site.

## BACKGROUND

19 April 2016: Development approval for alterations and additions to and expansion of the existing childcare centre was granted at Council's Planning and Development Meeting. The development application initially sought approval for (109) children. A condition of consent was recommended and imposed to the effect that the number of children be limited to (99) to achieve compliance with the minimum parking requirements under the SCDCP 2005.

22 December 2017: A Section 96(2) application (DA2015/127/01) was lodged seeking an increase in the number of children at the child care centre so as to allow for a maximum of (124) places.

11 January 2018: The applicant was requested to submit further information including clarification of the proposed works, an amended statement of environmental effects addressing the relevant childcare centre regulations, legislation and guidelines, amended acoustic and traffic reports and an amended waste management plan.

31 January 2018: The requested information was not submitted and the above application was voluntarily withdrawn.

16 March 2018: The current Section 4.55(2) modification to increase the maximum number of child placements at the approved child care centre from (99) to (124) places was lodged.

10 April 2018: The plans and accompanying documents were publicly notified from 10 April 2018 to 24 April 2018 in accordance with Part L of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. Three (3) written submissions were received raising concerns regarding traffic congestion, noise and on-site parking provision.

20 June 2018: A deferral letter was sent to the applicant, noting area/size inconsistencies between the layout plans submitted and the original approved plans. Additionally, clarification was sought regarding the proposed staff numbers to accommodate the increase in children numbers.

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Lot 13 to 15 Sec 2 DP 581  
Lot 5 DP 456916 (Cont'd)

12 July 2018: Floor plans of the existing child care centre as prepared by a registered surveyor were submitted to Council. Consequently, the proposed maximum number of children was reduced from (124) to (121) in order to satisfy the unencumbered indoor and outdoor space requirements under the National Regulations.

7 August 2018: An amended Statement of Environmental Effects was submitted reflecting the alteration in children and staff numbers.

9 August 2018: An amended Traffic Report was submitted reflecting the alteration in children and staff numbers.

#### **SECTION 4.55 OF THE EP&A ACT 1979**

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) states as follows:

#### **4.55 Modifications of consents - generally**

##### **(2) Other modifications**

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

##### **Comment:**

The proposed modification does not seek approval for any physical works. The built form and use of the site remains unchanged, albeit the number of childcare places is increased. Accordingly, the proposed development as modified is considered to be substantially the same development.

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

##### **Comment:**

No concurrence was required under the original development consent and the subject modification application.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

##### **Comment:**

In accordance with Part L of the SCDCP 2005, the application was publicly notified from 10 April 2018 to 24 April 2018. This process included notification of properties notified in the original

DA2015/127/02 - 19 Florence Street, Strathfield  
Lot 13 to 15 Sec 2 DP 581  
Lot 5 DP 456916 (Cont'd)

development application and those persons whom lodged submissions in response to that application.

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Comment:**

Three (3) written submissions were received raising concerns regarding traffic congestion, noise and on-site parking provision. These concerns are discussed later in this report.

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application.*

**Comment:**

An assessment of the modification application against the matters referred in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* is included in this report.

*(3) The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

**Comment:**

The assessment report relating to the original development application concluded as follows:

*The proposal generally complies with the development controls of the Strathfield Consolidated Development Control Plan 2005 and will provide a high quality childcare centre, while ensuring an acceptable level of amenity is maintained for surrounding residential developments.*

The development as modified will increase the car parking demands of the child care centre, without proposing any additional on-site car parking spaces to accommodate the increase in children numbers, resulting in non-compliance under the relevant parking controls in the development control plan. As a result, there is likely to be an increased reliance upon kerbside parking in the vicinity of the site to the detriment of the amenity of the neighbourhood and the operational efficiency of the surrounding road network.

The acoustic report submitted relies upon background noise levels and noise emission data from 2015 when the childcare centre was operating with a maximum of 60 children. Based on the limitations of this information and the substantial increase in the number of childcare places proposed, council cannot be satisfied that an acceptable level of amenity is maintained for surrounding residential properties.

## REFERRALS

### INTERNAL REFERRALS

#### Traffic Comments

Council's Principal Engineer has commented on the proposal as follows:

*"Currently, there are 13 parking spots within the property including one disable parking and two (2) tandem parking - i-e two cars cannot be moved without the front car being moved. The proposal seeks to increase the capacity of the centre by 22 children, however no additional parking is proposed under the subject application.*

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Lot 13 to 15 Sec 2 DP 581  
Lot 5 DP 456916 (Cont'd)

*The width of Albyn Road is approx. 9m. Generally, a parking lane width is 2.2m and traveling lane width is 3m. As Albyn Road is approximately 9m, there is only a width of 4.6m for two vehicles to pass through when cars are parked on either side of the kerb, which is very tight for two vehicles to pass through. Additionally, if one vehicle has to wait to enter the child care, the traffic flow along this street will have more adverse traffic flow.*

*I have observed with the current arrangements, cars waiting to enter the child care centre resulting in the road being blocked and traffic congestion, during afternoon especially when the kids are being pick up by parents or caretakers from the childcare centre.*

*Based on the above, I am unable to support the increment of children number without additional off-street parking and it will have result in adverse traffic congestion and parking issues to the local residents and road users.*

### **Environmental Health Comments**

Council's Environmental Health Officer has commented on the proposal as follows:

*"I have reviewed the above development application in regards to environmental health aspects – Protection of the Environment Operations Act 1997 and corresponding regulations.*

*The application states that it will be using noise impact assessment from approved DA2015/127. Environmental Services does not accept the reasoning to not perform another noise assessment. The original noise assessment conducted in 2015 accounts for the increase of children from 60 to a total of 109 children, and background noise parameters from 2015.*

*The current application in question is a proposal to increase child care centre numbers from 99 children to 124 children. A new acoustic report must be conducted so Environmental Services can provide specific recommendations in regards to this proposal.*

*The acoustic report from 2015 states in Table 2 the median background noise level is 39dB(A). An updated background noise level is required to assess this application.*

*The Acoustic Logic document dated 16 February 2017, received by Council on 16 March 2018 states that the number of children from 99 to 124 would typically increase the noise level by 1dB(A). However, this data is based on the noise assessment conducted in 2015.*

*The updated acoustic report which is required by Environmental Services must identify the exact location of the noise receivers and the unattended noise monitoring location. The acoustic report from 2015 also states that after 4pm, 75% (82 children) of children could remain onsite while waiting to be picked up for the day. It is not clear where the children will be located when waiting to be picked up.*

*A scientific paper from Journal "Acoustics" published in 2006 conducted an outdoor play area model to monitor noise levels produced by children. A play area with 35 children with raised voices was measured at 60dB(A) over a 15 minute average. The noise report from 2015 notes that the predicted noise level at the noise receivers are is a maximum of 44dB(A).*

*Environmental Services does not accept this proposal without an updated noise assessment."*

### **Heritage Comments**

Council's Heritage Advisor has commented on the proposal as follows:

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 Lot 13 to 15 Sec 2 DP 581  
 Lot 5 DP 456916 (Cont'd)

*"I note that the proposed modification to the childcare centre the subject of the above application is located on a site that contains a listed item of environmental heritage (Item I232). As this proposal seeks amendment to the number of approved child care places and is not accompanied by any proposal for physical works, no further heritage comment is required. Should the additional children necessitate additional works these should be forwarded through for further comment."*

#### **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining an application for modification of development consent, the consent authority is to take into consideration the following matters of consideration contained within section 4.15(1) of the Environmental Planning and Assessment Act, 1979 as relevant to the application:

##### **(a)(i) The provisions of any environmental planning instrument**

#### **STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017**

Clause 23 of the *Education SEPP 2017* prescribes as follows:

*Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.*

The provisions of the Child Care Planning Guideline as applicable to the proposed modification are assessed as follows.

#### **3.5 Visual and Acoustic Privacy**

##### **3.5 Objective**

*To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.*

##### **Guidelines**

**C24** *A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:*

*Identify an appropriate noise level for a child care facility located in residential and other zones.*

*Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use.*

*Determine the appropriate height of any acoustic fence to enable the noise criteria to be met.*

##### **Comment:**

The application was accompanied by an acoustic report prepared by a suitably qualified acoustic professional concluding that, *"the numbers of children outside at any one time are limited to 60 in the main play area and 20 in the 0-2 year old play area, noise emission from the use of outdoor spaces will be the same as what is currently permitted, and so can have no adverse impact."* The report relies on the background noise levels and noise emission data from the original acoustic assessment carried out in 2015 for the original development consent (DA2015/127). Council's Environmental Health Officers do not accept the use of the 2015 data in the assessment of the

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 Lot 13 to 15 Sec 2 DP 581  
 Lot 5 DP 456916 (Cont'd)

potential noise impacts of the proposed modification particularly given that the background noise levels may have changed and the outdoor play noise emission data was taken when the child care centre was operating with (60) children and not at its current capacity.

Having regard to the deficiencies in the acoustic report submitted as identified by Council's Environmental Health Officer, Council cannot be satisfied that the acoustic impacts on neighbouring residential developments will not be increased by the proposed modification.

### 3.8 Traffic, Parking and Pedestrian Circulation

#### 3.8 Objectives

*To provide parking that satisfies the needs of users and demand generate by the centre.*

#### Guidelines

**C31** *Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.*

*Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:*

*In other areas:*

- *1 space per 4 children.*

*A reduction of car parking rates may be considered where:*

- *The proposal is an adaptive re-use of a heritage item.*
- *The site is in proximity to high frequency and well connected public transport.*
- *The site is co-locates or in proximity to other uses where parking is appropriately provided (eg. Business centres, schools, public open spaces, car parks).*
- *There is sufficient on street parking available at appropriate times within proximity of the site.*

#### Comment:

Under Part E of SCDCP 2005, child care centres must provide on-site car parking at a rate of one (1) space per employee plus one (1) space per eight (8) children. The proposed modification seeks a total of (121) children and (19) staff, resulting in a requirement for 34 car parking spaces. The existing child care centre provides (13) car spaces for visitors/customers. No additional car parking is proposed under the subject modification application.

Whilst the car parking rates of the Child Care Planning Guideline do not take precedence over the rates as prescribed in the SCDCP 2005, a comparison is warranted. As the site is not located within 400m of a train station, a car parking rate of 1 space per 4 children applies, resulting in a requirement for (30) spaces compared to (34) spaces under SCDCP 2005. Regardless of the rate applied, the proposed modification results in a significant shortfall in on-site car parking provision amounting to between (17) and (21) car spaces. In other words, about half of the car parking requirement for the child care centre is not accommodated on the site.

In accordance with the Guidelines, a reduction in car parking rates may be considered under certain circumstances, including where *the site is in proximity to high frequency and well-connected public transport* and *there is sufficient on-street parking available at appropriate times within proximity of the site.*

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The site is not located within reasonable walking distance of any major public transport interchange or railway station. Albyn Road adjacent to the site is serviced by one (1) bus route operating between Strathfield Train Station and Burwood. The closest bus stop serviced by multiple bus routes is located some 820m from the site on The Boulevarde.

Albyn Road adjacent to the site has limited capacity for on-street parking, due to its carriageway (approximately 9m) not being of an optimum width to accommodate two (2) way traffic flows together with kerbside parking either side. Hence, if one vehicle has to wait to enter the child care due to insufficient on-site and kerbside parking, the road becomes blocked. In addition to direct traffic congestion, the utilisation of kerbside parking to accommodate the parking demands of the child care centre raises the issue as to the safety of the road and footpath for parents/caretakers and children.

Given the above public transport and on-street parking limitations, a reduction in the car parking rates are not warranted in this instance. This is further supported by Council's Principal Engineer whom recommends as follows, "*I am unable to support the increment of children number without additional off-street parking and it will have result in adverse traffic congestion and parking issues to the local residents and road users.*"

### Guidelines

**C33** A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:

*The amenity of the surrounding area will not be affected.*

*There will be no impacts on the safe operation of the surrounding road network.*

As per C33 of the Guidelines, the application was accompanied by a Traffic and Parking Study including a justification for the proposed variation to the parking rates under the SCDCP 2005. The report states that as the actual traffic generation rates of 1 space per 9.9 children and 1 in 4 staff driving to work, the proposed increase of (22) children and three (3) staff will require an additional 2.95 on-site car parking spaces. As there are three (3) vacant car parking spaces during peak morning demand, the "*existing car parking area has sufficient spare capacity to absorb any increase in parking demand associated with the proposed increase in child enrolments at the centre.*". Council's Principal Engineer does not concur with the conclusions of the applicant's Traffic and Parking Study.

### 4.1 Indoor Space Requirements

Regulation 107 of the Education and Care Services National Regulations prescribes as follows:

*The approved provides of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space.*

The proposed modification complies with this requirement as detailed as follows:

Cl.	Regulation	Children	Required	Proposed	Complies
107	Unencumbered indoor space 3.25m <sup>2</sup> per child	121	393.25m <sup>2</sup>	395.6m <sup>2</sup>	Yes

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#### 4.9 Outdoor Space Requirements

Regulation 108 of the Education and Care Services National Regulations prescribes as follows:

*The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered indoor space.*

The proposed modification complies with this requirement as detailed as follows:

Cl.	Regulation	Children	Approved	Proposed	Complies
108	Unencumbered outdoor space 7m <sup>2</sup> per child	121	847m <sup>2</sup>	875m <sup>2</sup>	Yes

#### STRATHFIELD LOCAL ENVIRONMENTAL PLAN 2012 (SLEP 2012)

An assessment of the proposal against the general aims of SLEP 2012 is included below.

Cl. 1.2(2)	Aims	Complies
(a)	To achieve high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities and neighbourhoods in Strathfield	Yes
(b)	To promote the efficient and spatially appropriate use of land, the sustainable revitalisation of centres, the improved integration of transport and land use, and an appropriate mix of uses by regulating land use and development	Yes
(c)	To promote land uses that provide a wide range of employment, recreation, retail, cultural, service, educational and other facilities for the local community	Yes
(d)	To provide opportunities for economic growth that will enhance the local community	Yes
(e)	To promote future development that integrated land use and transport planning, encourages public transport use, and reduced the traffic and environmental impacts of private vehicle use	No

#### Comments:

The proposal is inconsistent with the above aims in that the proposed increase in children places at the centre will generate additional on-street and off-street car parking demands that will likely result in unreasonable adverse traffic congestion and noise emissions.

#### Permissibility

The site is zoned R2 Low Density Residential. The development the subject of the proposed modification being for the purpose of a child care centre is permissible with consent.

#### Zone Objectives

An assessment of the proposed modification against the objectives of the R2 Low Density Residential Zone is as follows.

Objectives	Complies
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➤ To provide for housing needs of the community within a low density residential environment.	N/A
➤ To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Yes
➤ To ensure that development of housing does not adversely impact the heritage significance of adjacent heritage items and conservation areas.	N/A

#### Comments:

The development the subject of the proposed modification being for the purpose of a child care centre is consistent with the relevant zone objectives in that it provides a service to meet the day to day needs of residents.

#### **Part 4: Principal development standards**

There are no provisions contained within Part 4 of the *SLEP 2012* that are applicable to the proposed modification.

#### **Part 5: Miscellaneous Provisions**

There are no provisions contained within Part 5 of the *SLEP 2012* that are applicable to the proposed modification.

#### **Part 6: Local Provisions**

There are no provisions contained within Part 6 of the *SLEP 2012* that are applicable to the proposed modification.

#### ***(a)(ii) The provisions of any draft environmental planning instrument***

There are no draft environmental planning instruments of relevance to the proposed modification.

#### ***(a)(iii) The provisions of any development control plan***

### **STRATHFIELD CONSOLIDATED DEVELOPMENT CONTROL PLAN 2005 (SCDCP 2005)**

An assessment of the proposed modification against the relevant provisions of SCDCP 2005 relating to child care centres is as follows.

#### **1.2: Objectives of Part E**

<b>1.2</b>	<b>Objectives</b>	<b>Satisfactory</b>
<b>A.</b>	<i>To encourage the provision of child care centres to meet the needs of the community and ensure that such centres will be appropriate for the purpose and provide a functional and pleasant environment for users.</i>	<b>Yes</b>
<b>C.</b>	<i>To ensure that child care centres are compatible with neighbouring land uses.</i>	<b>Yes</b>
<b>D.</b>	<i>To ensure the amenity of adjoining neighbours is retained (including protection of privacy, access to property, etc) and is not detrimentally affected by noise emissions from the site.</i>	<b>No</b>
<b>E.</b>	<i>To ensure child care centres are located with adequate, convenient and safe parking for visitors that do not impose on any residential neighbourhoods or commercial areas.</i>	<b>No</b>
<b>F.</b>	<i>To ensure that child care centres integrate into existing residential environments and are unobtrusive in terms of size, bulk, height and the amount of landscaped area provided.</i>	<b>Yes</b>

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<b>G.</b>	<i>To provide child care centres that are located or designed so as not to pose a health risk to children using the centre.</i>	<b>Yes</b>
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**Comments:**

The proposed modification is inconsistent with Objective D in that the unacceptable data utilised in the acoustic report does not enable an accurate determination as to whether the potential acoustic impacts of the proposed on the adjoining residential properties are reasonable.

In regards to Objective E, the proposal seeks a significant variation to the on-site parking requirements of the SCDCP 2005, reducing available off-street parking for the surrounding residents and traffic congestion.

**5.6: Traffic, Parking and Access****5.6 Objectives**

<b>A.</b>	<i>To ensure that the relationship between child care centres and adjoining land uses are favourable in terms of parking, traffic and vehicular access</i>
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<b>B.</b>	<i>To ensure that a child care centre is safe for children</i>
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**5.6 Guidelines****Complies**

	1	Car parking shall be provided at a rate of 1 space per employee (stack parking is permitted for staff parking) and 1 visitor space per 8 children or part thereof (stack parking is not permitted for parents or guardians).	<b>No</b>
	4	The centre has been designed to allow the safe drop off and collection of children and safe movement and parking of staff, parents, visitors and service vehicles.	<b>Yes</b>
	5	Parking spaces and vehicle access points are located to ensure the safe movement of children to and from the centre.	<b>Yes</b>
	7	All vehicles shall move in a forward direction on the site at all times.	<b>Yes</b>
	8	Access for people with disabilities provided to allow continuous wheelchair access from the street, car park, building entry and into individual playrooms and toilets.	<b>Yes</b>
	9	Parking and vehicle access areas separated from any area used by children by safety fencing and gates	<b>Yes</b>

**Comments:**

As per the comments under the Child Care Planning Guidelines, the proposed modification seeks a total of (121) children and (19) staff, resulting in a requirement for 34 car parking spaces. The existing child care centre provides (13) car spaces for visitors/customers with no additional car parking proposed under the subject modification. The shortfall in on-site parking spaces places additional pressure on traffic flow within the on-site car parking arrangement and increases the utilization of available kerbside parking. As previously discussed, the width of Albyn Road is not an optimum width to accommodate two (2) way traffic flows together with kerbside parking either side.

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## 5.9: Noise

5.9	Objectives
A.	<i>To protect neighbours from excessive noise by ensuring that noise from a child care centre is not created by additional traffic, activities on and off the site and children's activities on site.</i>

### Comments:

The proposed modification is inconsistent with the above objective, in that background levels and noise emissions data of the current operating arrangement (in accordance with the recommendations of the acoustic report of the originally approved development) have not been undertaken. Accordingly there is insufficient information to ascertain whether the proposed modification protects the adjoining neighbours from excessive noise as per the objective.

### **(a)(iii) The provisions of any planning agreement or draft planning agreement**

Not applicable.

### **(a)(iv) The provisions of the regulations**

Not applicable.

### **(b) The likely impacts of the development including environmental impacts on both the natural and built environments and social and economic impacts in the locality**

### On-Site Parking

The proposed increase in children places from (99) to (121) results in a significant variation to the on-site car parking requirements in the SCDCP 2005. In instances where there are no vacant on-site car parking spaces, reliance will be placed on kerbside parking on Albyn Road. As previously stated, the width of Albyn Road is unable to comfortably accommodate two (2) way traffic flows in conjunction with kerbside parking either side. Hence, if a vehicle has to wait to enter the child care, traffic flow will stop. Further, the utilization of kerbside parking is not considered as an acceptable alternative arrangement as no pedestrian safety measures such as a pedestrian crossing or pedestrian island exist.

### Acoustic Amenity

As discussed throughout this report, the submitted acoustic report relies on the noise emission data and background levels collected in 2015 as part of the original development application. The recommendations of the acoustic report including the installation of an acoustic fence and limiting the number of children playing in the outdoor area were imposed as Special Condition No. 5 and 15 of the development consent (DA2015/127). The acoustic report accompanying the subject modification concludes that *"the numbers of children outside at any one time are limited to 60 in the main play area and 20 in the 0-2 year old play area, noise emission from the use of outdoor spaces will be the same as what is currently permitted, and so can have no adverse impact."* However, no noise emission data of the current outdoor play arrangements at the child care centre have been undertaken. As the outdoor play area of the child care centre adjoins the backyards of three (3) residential properties and is also directly opposite residential dwelling houses it is considered that the proposal has not provided sufficient information to demonstrate that the acoustic amenity of the neighbours will be acceptable.

### **(c) The suitability of the site for the development**

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Lot 5 DP 456916 (Cont'd)

The proposed modification is unsuitable for the site in that it does not provide for sufficient on-site car parking spaces to accommodate the increased children and staff numbers. The significant shortfall in car parking will result in increased on-street parking to the detriment of traffic flows in the surrounding road network and more particularly in Albyn Road.

**(d) Any submissions made in accordance with this Act or the regulations**

The application was publicly notified from 10 April 2018 to 24 April 2018 in accordance with Part L of the SCDCP 2005. Three (3) submissions were received as a result. The issues raised in these submissions are outlined and addressed as follows:

1. On-site parking provisions

*The proposal makes no provisions for additional car parking to accommodate the proposed increase in staff and children numbers. The provided number of car parking spaces does not comply with the minimum car parking requirements as per the Strathfield Consolidated Development Control Plan 2005 Part E Child Care Centres.*

Assessment Officer's Comment: These concerns are concurred with and have already been addressed in this report. About half of the car parking requirement for the child care centre is not accommodated on the site, thereby increasing demands for on-street parking in the adjacent streets.

2. Traffic Flow and compatibility with streetscape

*The traffic volumes through Elwin Street, Florence Street and Albyn Road are not compatible with the low density of the area with traffic congestion already occurring particularly during school hours.*

Assessment Officer's Comment: The surrounding road network already experiences considerable traffic volumes during school drop-off and pick-up periods. The proposed modification will generally make a relatively small contribution to these existing traffic volumes.

3. Noise

*Concern is raised regarding the increase in noise created by the children as a result of the proposed development.*

Assessment Officer's Comment: These concerns are concurred with and have already been addressed in this report. Due to deficiencies identified in the acoustic report submitted, council is unable to be satisfied that the proposed modification will not adversely affect the adjacent residents.

**(e) The Public Interest**

The proposed modification is contrary to the public interest in that it will result in unreasonable impacts on the amenity of the neighbourhood in terms of noise emissions and on-street parking demand and the operational efficiency of the surrounding road network.

**SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

This application does not trigger any modifications or changes to the original condition of consent requiring payment of a section 7.11 contribution in accordance with Council's Section 94 Contributions Plan.

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## CONCLUSION

Following a detailed assessment of the proposed modification and having regard to the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, it is concluded that the application is not acceptable on its merits and should be refused for the reasons outlined in this report.

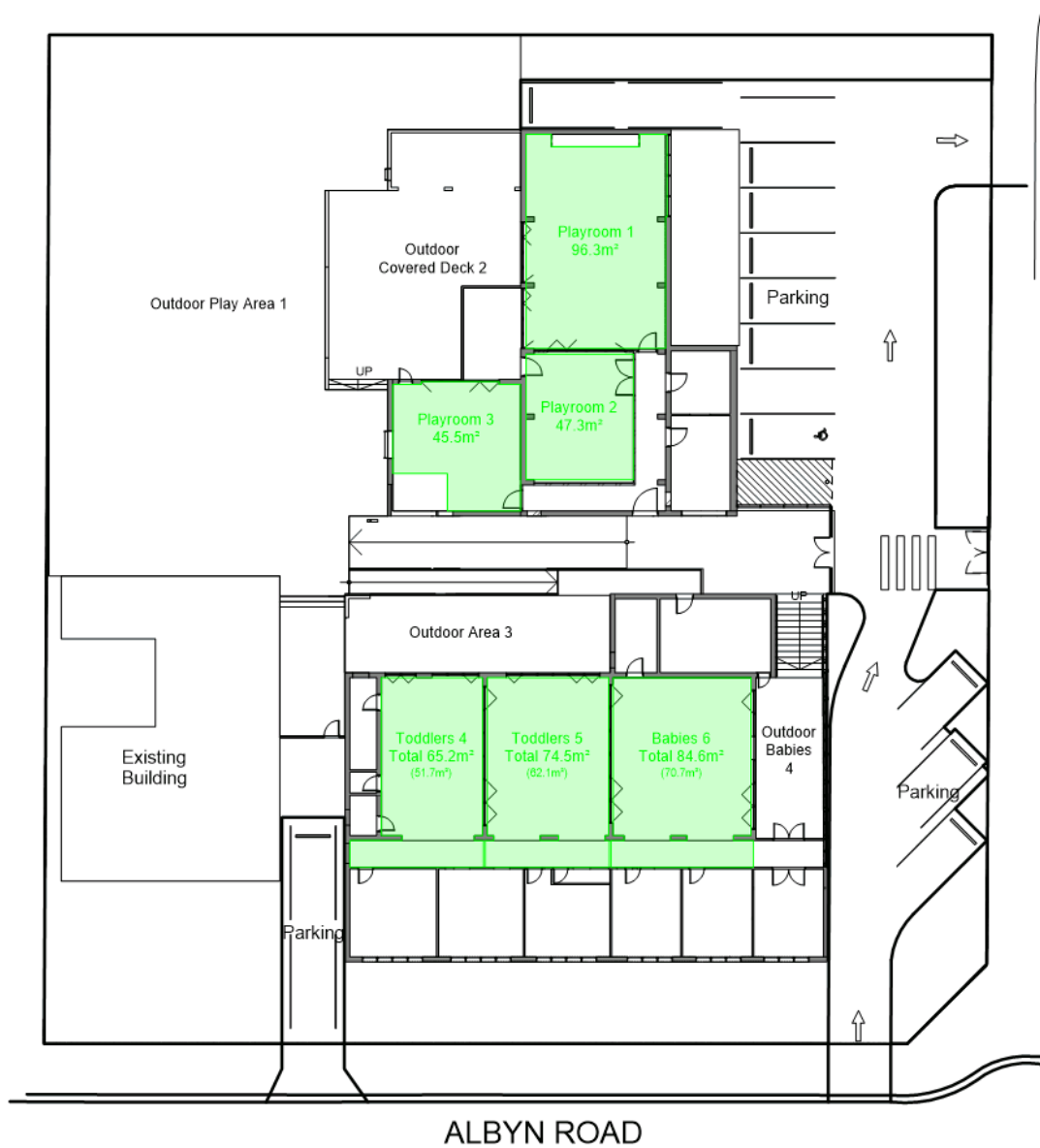
## RECOMMENDATION

Pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, the proposed modification to Development Consent No. 2015/127/02 to increase the number of children from 99 to 121 at an approved childcare centre at 19 Florence Street, Strathfield be **REFUSED** for the following reasons:

1. The proposed modification does not comply with the relevant car parking provisions as prescribed in Strathfield Consolidated Development Control Plan 2005 and the Child Care Planning Guideline accompanying State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Sections 4.15(1)(a)(i) & 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*).
2. The proposed modification is likely to result in unreasonable adverse impacts on the amenity of the neighbourhood and operational efficiency of the surrounding road network by reason of increased on-street parking, traffic congestion and noise emissions (Sections 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*).
3. The information submitted with the proposed modification is inadequate in terms of demonstrating that the existing acoustic amenity of adjacent residents is maintained.
4. The proposed modification is not considered to be suitable for the site (Section 4.15 (1) (c) of the *Environmental Planning and Assessment Act 1979*).
5. The proposed modification is not considered to be in the public interest (Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*).

## ATTACHMENTS

1. [↓](#) 19 Florence - Floor Plan



**STRATHFIELD COUNCIL  
RECEIVED**

**AMENDED PLANS**

**DA2015/127/02  
12 JULY 2018**

FLORENCE STREET

Rev.	Date	Description
A	11-07-18	Original drawing issued

SCALE : NOT TO SCALE	SURVEYOR : D. A. Loomes
SHEET No. : 1 of 1	DATE : 3rd July, 2018
DATUM : -	DRAWN : G. L. Bowtle
ORIGIN : -	DATE : 4th July, 2018
CO-ORD SYSTEM : -	REFERENCE : 16-1042
ORIGIN : -	PLOT FILE : WAX-01-250-A

**Peter Bolan and Associates Pty Ltd**  
 Consulting Surveyors A.B.N. 55 003 079 605  
 Incorporating  
 Loomes Consulting Surveyors  
 6 Marina Place, BELROSE N.S.W. 2085  
 Telephone : (02) 9261-1244  
 Email : bolanp@ozemail.com.au

**AS BUILT ROOM AREAS**  
 for  
**Albyn Road Early Childhood Centre**  
 19 Florence Street  
 STRATHFIELD

**TO:** Strathfield Local Planning Panel Meeting - 6 September 2018  
**REPORT:** SLPP – Report No. 3  
**SUBJECT:** DA2016/195/02 - 10 HOMEBUSH ROAD, STRATHFIELD  
LOT 10 DP 2461  
**DA NO.** DA2016/195/02

## SUMMARY

**Proposal:** Section 4.55(2) modification application seeking to modify internal configuration of lodger rooms, external changes to window screens, balconies and external finishes to the approved boarding house development.

**Applicant:** Cairich Property Development Pty Ltd  
**Owner:** Cairich Property Development Pty Ltd  
**Date of lodgement:** 12 April 2018  
**Notification period:** 1 May 2018 – 23 May 2018  
**Submissions received:** Nil  
**Assessment officer:** KL  
**Zoning:** R3 – Medium Density Residential - SLEP 2012  
**Heritage:** N/A  
**Flood affected:** Yes  
**RECOMMENDATION OF OFFICER:** APPROVAL

## EXECUTIVE SUMMARY

- 1.0 On 4 May 2017, Strathfield Independent Assessment Panel (SIHAP) approved Development Application No. DA2016/195 for the demolition of existing structures and construction of a boarding house containing (52) lodger rooms over one (1) level of basement parking under the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- 2.0 Following the approval, an agreement under Section 34(3) of the Land & Environmental Court Act was reached between the parties as to the terms of a decision relating to the deletion of Condition DACC050 and the imposition of the new Condition DACC050. On 15 February 2018, Council approved a Section 4.55(2) application to modify Development Application No. DA2016/195/01 involving deletion of condition DACC050 and the imposition of the new condition DACC050.
- 3.0 This modification application seeks to modify the internal configuration of units as well as external changes to window screens, balconies and external finishes to the approved boarding house development. The proposed modifications provide mechanical serviceability to the approved development, providing AC units and hot water systems on service balconies to satisfy the minimum dwelling sizes as imposed via condition of consent under DA2016/195.



**DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)**

- 4.0 The proposed modification was notified in accordance with Part L of the Strathfield Consolidated Development Control Plan 2005. No written submissions were received as a result.
- 5.0 The proposed modification has been assessed and is considered satisfactory with respect to the relevant legislative provisions of the ARHSEPP 2009, the Strathfield Local Environmental Plan 2012 and relevant DCP 2005 controls. Accordingly, the proposed modification is recommended for approval.

**BACKGROUND**

- 4 May 2017:** Development approval granted by the SIHAP for the demolition of existing structures and construction of a boarding house containing (52) rooms over one (1) level of basement parking.
- 15 February 2018:** Section 96(1) modification application (DA2016/195/01) relating to the calculation of Section 94 contribution fees was approved under delegated authority.
- 12 April 2018:** Subject Section 4.55(2) modification application (DA2016/195/02) was lodged to modify the internal configuration of lodger room, external changes to window screens, balconies and external finishes to the approved boarding house development.
- 1 - 23 May 2018:** Notification period for subject modification application. No submissions received.

**DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is located on the eastern side of Homebush Road immediately east of the T-intersection of Homebush Road and Burlington Road. The site is a regular shaped residential allotment providing a frontage width of 15.25m, a depth of 45.72m and a total site area of 697.14m<sup>2</sup>.



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Lot 10 DP 2461 (Cont'd)

**Figure 1:** Aerial view of the subject site and surrounding residential properties.

The subject site is currently comprised of a two (2) storey residential dwelling with exposed brick exterior walls and steep pitched tiled roof forms including a gable structure provided to the front façade of the dwelling. Immediately surrounding the site are medium density residential flat buildings which are predominantly three (3) storeys in height although there are some examples of four (4) storey residential flat buildings within the streetscape.



**Figure 2:** View of subject site.

## DESCRIPTION OF THE PROPOSED MODIFICATION(S)

The specific elements of the modification(s) sought are as follows:

- Increase size of lift shaft size to facilitate a stretcher lift;
- Units G03, 108 typical, 109 typical, 405 and 406 increased in internal area as per condition DASP001;
- Rear setback reduced from 3900mm to 3150mm from level 1 to level 4;
- Front setback reduced from 6800mm to 6050mm from level 1 to level 4; and
- Remove hoods

### Basement 1

- Driveway ramp offset 500mm from north boundary to basement wall.

### Ground Floor

- Area of Common room increased from 20m<sup>2</sup> to 25.74m<sup>2</sup>;
- Area of Manger room increased from 23.17m<sup>2</sup> to 29.58m<sup>2</sup>;
- Room layout of G01 reconfigured to align with the Level 01 building footprint above;
- Size of common laundry increased;
- Private open spaces introduced to rooms G01, G02 and G05; and
- Service balconies provided to facilitate AC compressor and hot water system.

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Lot 10 DP 2461 (Cont'd)**

## Level 1-4

- Compact services balconies provided to facilitate AC compressor and hot water system with 1.8m height privacy screen; and
- Rooms layout reconfigured.

The proposed modification results in a change of boarding room mix:

	<b>Approved (4 May 2017)</b>	<b>Proposed</b>
Ground Floor	3 single rooms; 2 double rooms; and 1 manager room	3 single rooms; 2 double rooms; and 1 manager room
Level 1	2 single rooms; and 10 double rooms	5 single rooms; and 7 double rooms
Level 2	2 single rooms; and 10 double rooms	5 single rooms; and 7 double rooms
Level 3	2 single rooms; and 10 double rooms	5 single rooms; and 7 double rooms
Level 4	2 single rooms; and 7 double rooms	4 single rooms; and 5 double rooms
Total	50 lodger rooms; and 1 manger room	50 lodger rooms; and 1 manager room

Note: In accordance with the imposed condition of consent **DASP001** of **DA2016/195**, Units G03, 108, 109, 405 and 406 are increased in size to comply with the minimum 12m<sup>2</sup> single lodger unit sizes required by Clause 29 of the Affordable Rental Housing SEPP 2009.

**SECTION 4.55 OF THE EP&A ACT 1979**

Section 4.55(2) of the Environmental Planning and Assessment states as follows:

**4.55 Modifications of consents - generally****(2) Other modifications**

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

**Comment:** The proposed modifications involve changes to the lodger room sizes as required by Clause 29 of the Affordable Rental Housing SEPP 2009 and introduce service balconies to facilitate AC compressor and hot water systems. There are no fundamental changes to the uses and definition of the approved development and to the totality of the development in terms of general built form. As such, the proposed modification remains substantially the same to that originally approved.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval*

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Lot 10 DP 2461 (Cont'd)**

*proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

**Comment:** The original development application did not required referral to any approval body.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Comment:** In accordance with Part L of the SCDCP 2005 the application was notified from 1 May 2018 to 23 May 2018. No written submissions were received.

**(3)** *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application.*

**Comment:** An assessment of the modification application against the matters referred in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* is included in this report.

**(3)** *The consent authority must also take into consideration the reason given by the consent authority for the grant of the consent that is sought to be modified.*

**Comment:** The original development application was granted approval on 4 May 2017 by the Strathfield Independent Hearing and Assessment Panel (SIHAP). In accordance with Clause 4.55(3), the recommendation report presented at the SIHAP meeting has been taken into consideration.

Section 79(1)(c) suitability of the site for the development of the report comments,

*“The subject site is located within close proximity to the Strathfield Railway Station as well as the Homebush Railway Station. The site is therefore located within close proximity to bus services as well as a plethora of restaurants, shops and communal facilities to meet the needs of local residents.*

*The provision of low cost rental housing in the form of a boarding house is considered a suitable form of development for the subject site. Overall, the proposed development is considered to be of a high quality construction which will positively contribute to the streetscape without adversely impacting upon the amenity of future lodgers and adjoining residents.*

*The proposed development is therefore considered suitable for the site.”*

With the conclusion stating,

*“As discussed in detail within this report, the proposed development will provide a good level of amenity for lodgers within a highly accessible location in close proximity to Strathfield Railway Station and Homebush Railway Station as well as regularly serviced bus stops, shops and restaurants.”*

The development as modified aims to improve the amenity for lodgers by providing services balconies to facilitate AC compressor and hot water systems. There are no fundamental changes

**DA2016/195/02 - 10 Homebush Road, Strathfield  
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to the uses and definition of the approved development and to the totality of the development in terms of general built form. As such, the proposed modification remains substantially the same to that originally approved.

**REFERRALS****INTERNAL REFERRALS****Waste Comments**

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

**SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within Section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

**4.15(1)(a) the provisions of:****(i) any environmental planning instrument**

The following Environmental Planning Instrument's (EPI) are applicable in the assessment of the subject application:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Strathfield Local Environmental Plan 2012
- Strathfield Development Control Plan 2005

An assessment of the proposal against the relevant provisions of each of these EPI's is provided below.

**State Environmental Planning Policy No. 55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the site is suitable in its current state, contaminated state or following the completion of remediation works for the purposes for which development consent is being sought.

The original development application was accompanied by a preliminary or "Stage 1" Environmental Site Assessment (ESA) stating that the site is suitable for the purposes of the proposed development. The proposed modification seeks only a minor variation to the excavation approved under the original consent and does not warrant further investigation.

**State Environmental Planning Policy (Affordable Rental Housing) 2009**

The proposed development is lodged under Part 2, Division 3 of the ARH SEPP which relates to the provision of 'boarding houses'.

An assessment of the development against the development standards for boarding houses under the ARH SEPP is presented in the table below.

It is relevant to note that the ARH SEPP states that Council is unable to refuse an application where it complies with the minimum standards provided by Clause 29 (refer to shaded section of table).



DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)

Clause	Development Control	Required	Proposal	Compliance
26	Permissibility	Permissible in the following zones: <ul style="list-style-type: none"> <li>• R2 Low Density Residential</li> <li>• R3 Medium Density Residential</li> <li>• R4 High Density Residential</li> <li>• B1 Neighbourhood Centre</li> <li>• B2 Local Centre</li> <li>• B4 Mixed Use</li> </ul>	Within a prescribed zone (R3 – Medium Density Residential) under 'SLEP 2012'	Yes.
27(2)	Location and access to facilities	If it is located in R2 – must be within an 'accessible area'	N/A – not located in R2 zone	N/A
29 Note: Unable to refuse based on compliance these standards	FSR	Max as per SLEP 2012: 1.45:1 (1,010.32m <sup>2</sup> )  PLUS incentive of 0.5:1 if the max FSR is > 2.5:1  = 1.95:1 (1,358.72m <sup>2</sup> )	The proposed modification results in an increase in FSR resulting in 1.93:1 (1342.5m <sup>2</sup> ).	Yes.
	Height	Max permitted per SLEP: 14m	No change to the approved building height is proposed.	As approved.
	Landscaping	Front setback is compatible with streetscape	The proposed modification does not result in changes to the approved 8m front setback.	As approved.
	Solar Access	At least one (1) common area receives at least three (3) hours of direct sunlight between 9am and 3pm, mid-winter	The proposed modification will not alter the approved solar access of the common area.	As approved.
	Private Open Space	Lodgers: Min 20m <sup>2</sup> with min. dimension of 3m	The proposed modification intends to create four (4) separate Private Open Spaces which do not meet the requirement.	As approved.
	Dwelling Size	Single: min 12m <sup>2</sup> Other: min 16m <sup>2</sup>	Previously approved DA2016/195 included lodger rooms G03,108,109,405 and 406 that did not meet the minimum dwelling size. The proposed	As approved.

DA2016/195/02 - 10 Homebush Road, Strathfield  
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			modification has increased the abovementioned rooms to m <sup>2</sup> as per condition DASP001.	
30	Standards for Boarding Houses	<p>One (1) communal living room required where there are five (5) or more rooms</p> <p>No boarding room &gt; 25m<sup>2</sup></p> <p>No boarding room occupied by &gt; two (2) adult lodgers</p> <p>Adequate bathroom and kitchen facilities available</p> <p>Boarding House Manager where capacity of &gt; 20 lodgers.</p> <p>One (1) bicycle space and one (1) motorcycle space per five (5) boarding rooms. Therefore, 11 (10.4) spaces required</p>	<p>One (1) living room is provided.</p> <p>Max. 24.31m<sup>2</sup></p> <p>Condition to be imposed.</p> <p>Adequate communal bathrooms, kitchens and laundry provided.</p> <p>A manager room is located on the ground floor.</p> <p>No changes to the approved (11) spaces and one (1) additional accessible parking bay.</p>	<p>As approved.</p> <p>As approved.</p> <p>As approved.</p> <p>As approved.</p> <p>As approved.</p> <p>As approved.</p>
30A	Character	A consent authority must not consent to development to which this division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposal is compatible with the medium density character of the area which typically provide residential flat buildings.	Yes

**Comments:** The proposed modification creates four (4) separate private open spaces areas on Ground Floor level which do not meet the requirement of minimum area (20m<sup>2</sup>). The approved private open space incorporates a total area of 205.2m<sup>2</sup> and minimum dimension of 3m, a condition of consent to be recommended to ensure the originally approved Private Open Space is maintained.

**STRATHFIELD LOCAL ENVIRONMENTAL PLAN (SLEP) 2012**

An assessment of the proposal against the general aims of SLEP 2012 is included below:

Cl. 1.2(2) <i>Aims</i>	<i>Complies</i>
(a) <i>To achieve high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities and neighbourhoods in Strathfield</i>	<b>Yes</b>
(b) <i>To promote the efficient and spatially appropriate use of land, the sustainable revitalisation of centres, the improved integration of transport and land use, and an appropriate mix of uses by regulating land use and development</i>	<b>Yes</b>



DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)

(c)	To promote land uses that provide a wide range of employment, recreation, retail, cultural, service, educational and other facilities for the local community	Yes
(d)	To provide opportunities for economic growth that will enhance the local community	Yes
(e)	To promote future development that integrated land use and transport planning, encourages public transport use, and reduced the traffic and environmental impacts of private vehicle use	Yes
(f)	To identify and protect environmental and cultural heritage	Yes
(g)	To promote opportunities for social, cultural and community activities	Yes
(h)	To minimise risk to the community by identifying land subject to flooding and restricting incompatible development	Yes

**Comments:** This modification application involves minimal environmental impact and will not alter the approved developments compliance with the general aims of the SLEP 2012. Accordingly, the proposed modification is considered an appropriate use of the site and will continue to promote affordable rental accommodation for residents.

**Permissibility**

The site is zoned R3 Medium Density Residential, pursuant to *SLEP 2012* boarding houses are permissible with consent. No change is proposed to the approved use of the site for the purpose of a boarding house.

**Zone Objectives**

An assessment of the proposal against the objectives of the R3 Zone is included below:

Objectives	Complies
To provide for the housing needs of the community within a medium density residential environment	Yes
To provide a variety of housing types within a medium density residential environment	Yes
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Yes

**Comments:** The proposed modification to the approved boarding house development continues to achieve the objectives of the R3 zone given that the development is suited to the medium density residential environment and is compatible with prevailing residential flat building developments within the streetscape.

**Part 4: Principal development standards**

An assessment of the proposal against the relevant provisions contained within Part 4 of the SLEP 2012 is provided below.

**Height of building**

Cl.	Standard	Controls	Approved	Proposed
4.3	Height of building	14m	15.43m	15.43m (unchanged)

	Objectives	Complies
(a)	To ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area	Yes
(b)	To encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area	Yes
(c)	To achieve a diversity of small and large development options	

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**Comments:** The height of the development remains as approved by the Development Application. No change to the building height is proposed by this modification.

**Floor Space Ratio**

Cl.	Standard	Controls	Approved	Proposed	Complies
4.4	Floor space ratio	1.95:1 (1,358.72m <sup>2</sup> )	1.92:1 (1,338.48m <sup>2</sup> )	1.93:1 (1,342.51m <sup>2</sup> )	Yes
<b>Objectives</b>					<b>Complies</b>
(a)	To ensure that dwellings are in keeping with the built form character of the local area				Yes
(b)	To provide consistency in the bulk and scale of new dwellings in residential areas				Yes
(c)	To minimise the impact of new development on the amenity of adjoining properties				Yes
(d)	To minimise the impact of development on heritage conservation areas and heritage items				Yes
(e)	In relation to Strathfield Town Centre:				Yes
	i. to encourage consolidation and a sustainable integrated land use and transport development around key public transport infrastructure, and				
	ii. to provide space for the strategic implementation of economic, social and cultural goals that create an active, lively and people-oriented development				
(f)	In relation to Parramatta Road Corridor – to encourage a sustainable consolidation pattern that optimises floor space capacity in the Corridor				Yes

**Comments:** The proposed modification results in a minor increase in FSR resulting in 1.93:1 (1342.5m<sup>2</sup>). The proposed increase is the result of an increase in lodger rooms G03, 108, 109, 405 and 406 to comply with the minimum 12m<sup>2</sup> single lodger unit sizes, required by Clause 29 of the Affordable Rental Housing SEPP 2009. Nonetheless, the modified FSR is within the maximum permissible FSR for the subject site and is acceptable.

**Part 5: Miscellaneous Provisions**

This modification application involves no changes to the assessment of the original application against the relevant provisions contained within Part 5 of the SLEP 2012.

**Part 6: Local Provisions**

This modification application does not involve changes to the assessment of the original application against the relevant provisions contained within Part 6 of the SLEP 2012.

**4.15(1)(a)(ii) any draft environmental planning instruments**

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

**4.15 (1)(a)(iii) any development control plan****STRATHFIELD CONSOLIDATED DEVELOPMENT CONTROL PLAN (SCDCP) 2005**

The following is an assessment of the proposal's compliance with the relevant provisions contained within SCDCP 2005.

**PART H - WASTE MANAGEMENT (SCDCP 2005)**

The Waste Management and Minimisation provisions remain unchanged. As such, the conditions of consent previously imposed is considered still apply.

DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)

**4.15 (1)(a)(iia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.14 of the *Environmental Planning and Assessment Act 1979*.

**4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration the provisions of the Government Coastal Policy and Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Appropriate conditions are included on the original consent to ensure compliance with any relevant regulations.

**4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

**Balconies**

The proposed modifications involve either the addition or extension of balconies to service units. The service balconies privacy screens at the height of 2.6m at Ground Floor to Level 03 and 1.8m at Level 04. The areas of the proposed balconies are increased to allow the inclusion of mechanical services to individual rooms. The modifications are limited to the existing volume of the front balconies and are not considered to adversely affect the shape of the façades as per the approved Development Application. As such, it is considered that the amended proposal will not result in adverse privacy impacts to future and/or neighbouring residents.

In addition, the proposed amendments to the side elevations are mostly contained within the recessed portions of both façades and will not reduce the side setbacks as per the approved Development Application. The proposed louvres will soften the visual impact to neighbouring properties and mitigate perceived privacy impacts. As such, the proposed addition and extension to the approved balconies are considered acceptable in this case.

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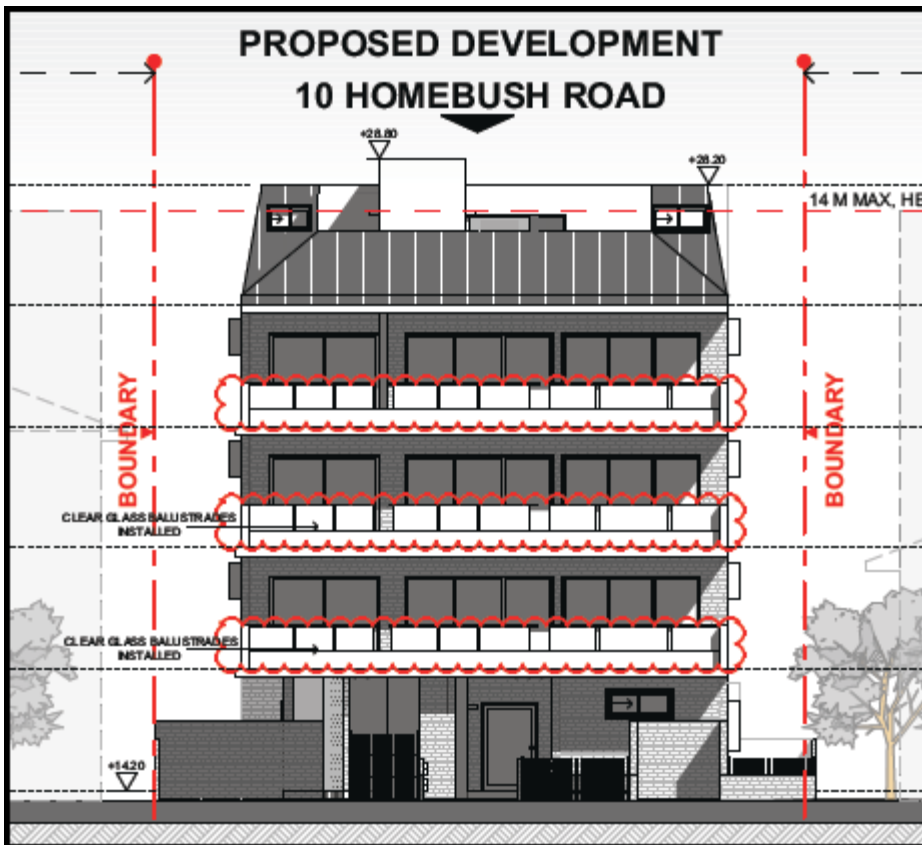


Figure 3. The approved western elevation fronting Homebush Road

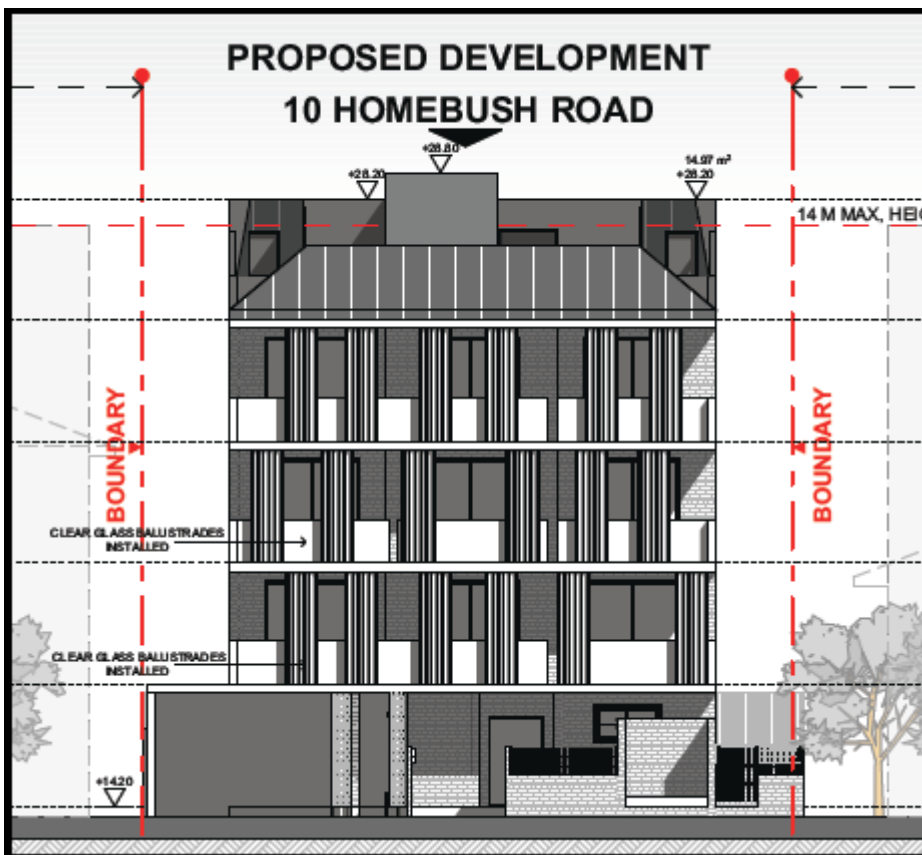


Figure 4. The proposed Western Elevation fronting Homebush Road  
Private Open Space

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Figure 5. The proposed site plan

The proposed modification creates four (4) separate private open spaces areas on Ground Floor level which do not meet the requirement of minimum area (20m<sup>2</sup>). The approved private open space incorporates a total area of 205.2m<sup>2</sup> and minimum dimension of 3m, a condition of consent to be recommended to ensure the originally approved Private Open Space is maintained.

**4.15 (1)(c) the suitability of the site for the development**

The subject site is located within close proximity to the Strathfield Railway Station as well as the Homebush Railway Station. The site is therefore located within close proximity to bus services as well as a plethora of restaurants, shops and communal facilities to meet the needs of local residents. As such, the provision of low cost rental housing in the form of a boarding house is considered a suitable form of development for the subject site. Therefore, the approved development as modified by the current Section 4.55 application does not alter the suitability of the development to the site.

**4.15 (1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified from 1 May 2018 to 23 May 2018 in accordance with Part L of the SDCDP 2005 and no submissions were received as a result.

**4.15 (1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation. The approved development as modified by the current modification application is not contrary to the public interest.

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Lot 10 DP 2461 (Cont'd)

**SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- “(1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
  - (a) *the dedication of land free of cost, or*
  - (b) *the payment of a monetary contribution,*
  - or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.”*

Previous Section 4.55(1) application DA2016/195/01 was lodged to modify the imposed Section 7.11 Contributions under the original Condition DACC050, which were:

Provisions of Community Facilities	\$91,527.01
Provision of Major Open Spaces	\$453,377.04
Provision of Local Open Space	\$152,072.05
Provision Roads and Traffic Management	\$27,270.03
Administration	\$8,409.51
<b>TOTAL</b>	<b>\$738,655.84</b>

An agreement under s34(3) of the Land & Environment Court Act was reached between the parties as to the terms of a decision relating to the deletion of Condition DACC050 and the imposition of the new Condition DACC050 which states the following:

**DACC050 SECTION 94 CONTRIBUTIONS (DIRECT CONTRIBUTIONS PLAN)**

*In accordance with the provisions of s94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 2010-2030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:*

**TOTAL: \$370, 000**

*The total amount of the contribution is valid as at the date of determination of the s96 application consent DA2016/195 (being the date of the orders upholding the Land and Environment Court proceeding 2017/00249174) and is subject to quarterly indexation from that date. Contributions shall be indexed at the time of payment and in accordance with clause 2. 14 of the Strathfield Direct Contributions Plan 2010-2030. Contributions must be receipted by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.*

*Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.*

*Note: a copy of Strathfield Council's section 94 Direct Development Contributions Plan may be downloaded from Council's website.*

**DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)**

*(Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development)*

In accordance with Condition DACC050, the indexed rate has been calculated as **\$372,285.97** and has been calculated as follows:

<b>Original S94 Fee:</b>	\$370,000.00	<b>Quarter Issued</b>	<b>Current Quarter</b>
		2017 - December	2018 - June
<b>Indexed Fee:</b>	<b>\$372,285.97</b>	113.3	114

**CONCLUSION**

The application has been assessed having regard to Section 4.55 of the Environmental Planning and Assessment Act 1979, the Strathfield Local Environmental Plan 2012 and the Strathfield Development Control Plan 2005 and is considered to be satisfactory for approval.

**RECOMMENDATION**

Pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the proposed modification(s) to Development Consent No. DA2016/195/02 involving modifications to internal configuration of lodger rooms, external changes to window screens, balconies and external finishes to the approved boarding house development at 10 Homebush Road, Strathfield be **APPROVED**, subject to:

1. The original conditions of consent as approved by SIHAP on 4 May 2017 for demolition of existing structures and construction of a boarding house containing (52) lodger rooms over one (1) level of basement parking under the Affordable Rental Housing SEPP 2009.
2. As modified by Section 96(1) modification application Application (DA2016/195/01) as approved by Delegated Approval on 15 February 2018 for the modification of Development Consent.
3. As modified by Section 4.55(2) Application (DA2015/195/02) for internal reconfiguration of units and external changes to window screens, balconies and external finishes to approved boarding house development. Accordingly, the modification consent is as follows:

- Condition 1 be amended as follows:

**DAGC001 APPROVED PLANS AND REFERENCE DOCUMENTATION**

The development, except where modified by a condition(s) of consent, is to be carried out in accordance with the following plans and reference documentation:

*Plans affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2016/195/02:*

<b>Drawing No.</b>	<b>Title/Description</b>	<b>Prepared By</b>	<b>Issue/ Revision &amp; Date</b>	<b>Date Received by Council</b>
A1101	Demolition Plan	Ghazi Al Ali Architect	A	22 December 2016



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A1200	Basement Plan	Ghazi Al Ali Architect	Project No. 69.15, Rev 'B' dated 11/04/2018	12 April 2018
A1201	Ground Floor Plan	Ghazi Al Ali Architect	Project No. 69.15, Rev 'A' dated 16/01/2018	12 April 2018
A1202	Level 01-03	Ghazi Al Ali Architect	Project No. 69.15, Rev 'A' dated 11/04/2018	12 April 2018
A1203	Level 04	Ghazi Al Ali Architect	Project No. 69.15, Rev 'A' dated 11/04/2018	12 April 2018
A1204	Roof Plan	Ghazi Al Ali Architect	Project No. 69.15, Rev 'A' dated 11/04/2018	12 April 2018
A1500	West & East Elevation Plan	Ghazi Al Ali Architect	Project No. 69.15, dated 11/04/2018	12 April 2018
A1501	North & South Elevation	Ghazi Al Ali Architect	Project No. 69.15, Rev 'A' dated 11/04/2018	12 April 2018
A1601	Material Schedule	Ghazi Al Ali Architect	B	23 March 2017.
A1602	Material Board	Ghazi Al Ali Architect	A	30 March 2017
A1700	Section AA & Section BB Plan	Ghazi Al Ali Architect	Project No. 69.15, Rev 'B' dated 11/04/2018	12 April 2018
101	Stormwater Layout Plan Basement Level Sheet 1 of 2	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
102	Stormwater Layout Plan Basement Level Sheet 2 of 2	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
103	Stormwater Layout Plan Ground Level	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
104	Stormwater Layout Plan Level 1	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
105	Catchment Plan	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
106	On-site Detention Details and Calculation Sheet 1 of 2	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
107	On-site Detention Details and Calculation Sheet 2 of 2	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
108	WSUD Details Sheet	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018
109	Miscellaneous Details Sheet	Australian Consulting Engineers	Project No. 171561, Issue 'A' dated 06/04/2018	12 April 2018

DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)

110	<b>Sediment &amp; Erosion Control Plan</b>	<b>Australian Consulting Engineers</b>	<b>Project No. 171561, Issue 'A' dated 06/04/2018</b>	<b>12 April 2018</b>
LPDA-16-469/1	Landscape Plan	Conzept Landscape Architects	A	22 December 2016
A2301	Typical Kitchen Details	Ghazi Al Ali Architect	A	22 December 2016

Reference Documentation affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2016/195/02:

Title / Description	Prepared By	Issue/ Revision & Date	Date Received by Council
Plan of Management	Nexus Environmental Planning	A	22 December 2016
Acoustic Report	Acoustic Consulting Engineers	A	22 December 2016
Disability Access Report	Access Solutions	A	22 December 2016.
Flood Assessment Report	SGC Engineering	A	17 March 2017
<b>Section J Compliance Report</b>	<b>BCA Innovations</b>	<b>Project No. PRO-01956-V0W2 Issue v1.0 Dated 10/04/2018</b>	<b>12 April 2018</b>
Geotechnical Investigation Report	Geo-environmental Engineering	A	22 December 2016
Traffic and Parking Assessment Report	Parking & Traffic Consultants	A	22 December 2016
Waste Management Plan	Ghazi Al Ali Architect	A	22 December 2016
BCA Indicative Compliance Report	Building Innovations Australia	A	22 December 2016
Stage 1 Preliminary Environmental Site Investigation Report	Geo-environmental Engineering	A	22 December 2016

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail. However, the conditions of this consent shall prevail to the extent of any inconsistency.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)

- Condition DACC050 be amended as follows:

#### **DACC050 SECTION 94 CONTRIBUTIONS (DIRECT CONTRIBUTIONS PLAN)**

In accordance with the provisions of s94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 2010-2030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

**TOTAL: \$372,285.97**

The total amount of the contribution is valid as at the date of determination of the s96 application consent DA2016/195 (being the date of the orders upholding the Land and Environment Court proceeding 2017/00249174) and is subject to quarterly indexation from that date. Contributions shall be indexed at the time of payment and in accordance with clause 2. 14 of the Strathfield Direct Contributions Plan 2010-2030. Contributions must be receipted by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

Note: a copy of Strathfield Council's section 94 Direct Development Contributions Plan may be downloaded from Council's website.

(Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development)

Accordingly, Development Consent No. DA2016/195/02 is approved as following:

#### **Special Conditions (DASC)**

##### **DASP001 UNIT SIZES**

Units G03, 108, 109, 405 & 406 are to be increased in size to comply with the minimum 12m<sup>2</sup> single lodger unit sizes as required by Clause 29 of the Affordable Rental Housing SEPP 2009. Kitchen and laundry facilities shall not be included when calculating room size and may need to be deleted in order to comply with the minimum standards. Amended plans demonstrating compliance with this requirement shall be submitted to and approved by the Principle Certifying Authority **prior to issue of a Construction Certificate.**

*(To ensure units comply with the requirements of the Affordable Rental Housing SEPP 2009)*

##### **DASP002 STREET TREE REMOVAL & REPLACEMENT**

Consent is given for the removal of the existing 1x Lophostemon confertus (Brush Box) located in the nature strip to accommodate the proposed new driveway entrance at 10 Homebush Rd, Strathfield, subject to the following:

- Tree is to be removed (including stump ground), replaced with a specimen selected by Council (species to be confirmed) and maintained for a 12 month establishment phase at the expense of the applicant.
- All tree work must be undertaken by a minimum AQF3 qualified Arborist.
- All tree work must be in accordance with Australian Standard (AS) 4373-pruning of amenity trees.

**DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)**

- It is the responsibility of the applicant to call Dial before you dig to locate any underground services and the applicant is responsible for any damages incurred to these services as a result of works being undertaken.
- Council will be required to inspect the quality of replacement specimen at time of installation. A follow up inspection will be conducted after 12 months to assess the health of the replacement tree.

**TREE REPLACEMENT SPECIFICATIONS**

- Replacement tree shall be minimum 400 Litre container size.
- Plants shall be vigorous and well established, free from disease and pests, of good form, consistent with species or variety, hardened off, with a large healthy root system with no evidence of root curl, restriction or damage. Tree is to have a single leader and clear straight trunk.
- Tree is to be staked and tied with a minimum of three (3) hardwood stakes. Ties are to be hessian and fixed firmly to the stakes, one tie at half the height of the main stem, others as necessary to stabilise the tree.
- Specimen must be in accordance with NATSPEC specifications and guidelines.
- Root deflection barriers having a minimum depth of 600mm are to be installed adjacent to all footpaths and driveways.
- Minimum 75mm depth of organic mulch shall be placed within an area .05m radius from the base of the tree, leaving a 150mm gap around the stem free of mulch.
- Tree must be not be planted directly back in the same spot as previous tree that has been removed. If there is no feasibly spot to replace tree at the front of 10 Homebush Rd, Strathfield, Council will nominate an alternate location for replanting.

*(Reason: To ensure the landscape character of the locality is maintained)*

**DASP003 JUNCTION PIT**

The proposed junction pit in Homebush Road shall be constructed over Council's drainage pipe in Homebush Road with a 600mmx900mm heavy duty solid Gatic asphalt infill solid lid. If it is found that Council's pipe is under the kerb and gutter than the lid over the pit shall be constructed at the front of the gutter.

*(Reason: To maintain Council's infrastructure)*

**DASP004 WATER SENSITIVE URBAN DESIGN**

A detailed design of the Water Sensitive Urban Design (WSUD) components (stormwater treatment measures) shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate** and shall include, but not be limited to:

- a. Batters, levels, underdrains, high flow bypass details, clean out points, filter media details, mulching details, material specification, planting details, inlet scour protection areas, maintenance access ramps and maintenance schedule(s).*
- b. The design shall be prepared by a suitably qualified professional engineer experienced in Water Sensitive Urban Design in accordance with the approved plans, conditions of consent, Strathfield Council's Development Control Plan Part N - Water Sensitive Urban Design 2005, Strathfield Council WSUD Reference Guideline and WSUD Technical Design Guidelines for South East Queensland (SEQ Healthy Waterways Partnership) Version 1 June 2006 or subsequent updated versions.*

**DA2016/195/02 - 10 Homebush Road, Strathfield  
Lot 10 DP 2461 (Cont'd)**

- c. All approved stormwater works are required to be carried out in accordance with the conditions of consent, approved construction certificate plans, "Strathfield Council WSUD Reference Guideline" and the Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands (SEQ Healthy Waterways Partnership) Version 1.1 April 2010 or subsequent versions that may be updated.
- d. The filter media of the bioretention basin (rain garden) shall comply with the requirements set out in "Strathfield Council WSUD Reference Guideline", "Guidelines for Soil Filter Media in Bioretention Systems" (Facility for Advancing Water Biofiltration) and the minimum hydraulic conductivity approved as part of the Stormwater Quality Management Plan.
- e. A minimum of eight (8) plants per square metre are required for the rain garden. The rain garden is not to operate until the end of the construction phase.

*(Reason: To achieve compliance with Council's WSUD requirements)*

**DASP005 SEDIMENT TANK**

The sediment tank shall be inspected quarterly and cleaned as necessary. The accumulated sediment should be disposed off site as per standard practice and National guidelines. A record of quarterly maintenance of the sediment tank shall be kept and produced when requested by Council.

*(Reason: To comply with National guidelines)*

**DASP006 OPERATIONAL MANAGEMENT AND MAINTENANCE REPORT**

An Operational Management and Maintenance Report is required to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate** outlining the proposed long term operational management and maintenance requirements of the stormwater system on the site.

A schedule or timetable for the proposed regular inspection and monitoring of the devices, maintenance techniques, reporting and record keeping requirements and associated rectification procedure shall be included in the report.

*(Reason: maintain stormwater system on site)*

**DASP007 STORMWATER DRAINAGE**

The following stormwater precautions are required to be provided on the site:

- a. Grated drains shall be provided along the basement entry at the vehicular crossing(s) and are to connect to the internal drainage system.
- b. The OSD basin must be graded to drain completely and gradients shall not be less than 1%. Discharge restriction from the OSD shall be by use of appropriately sized short length of reduced diameter pipe and weir; orifice plate shall not be used and a coefficient of 0.8 shall be used for designing the pipe. Details of the storage system shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- c. All surface inlet drains upstream of the on-site detention basin must be designed so that there is no overflow before the storage is full.

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### **General Conditions (DAGC)**

#### **DAGC004 BOARDING HOUSE (APPROVED USE)**

This approval is granted for the use of the land for the purposes of a Boarding House comprising a maximum of 52 Boarding Rooms (plus one Manager's Room). This includes six (39) double rooms (maximum 2 persons per room) and eleven (11) single rooms (maximum 1 person per room).

All lodgers shall be required to reside on the premises for a minimum period of three (3) months in accordance with the definition of a Boarding House under the Strathfield Local Environmental Plan 2012.

The approved boarding house must operate within the definition of 'boarding house' under SLEP 2012. The approved boarding house cannot be strata or community title subdivided.

*(Reason: To clarify the terms of the approval and to control the maximum number of lodgers living in the premises at any one time)*

#### **DAGC005 BUILDING HEIGHT (MAXIMUM RL TO BE COMPLIED WITH)**

The height of the building measured to Australian Height Datum (AHD) must not exceed Relative Level (RL) 28.80AHD to the ridge of the lift shaft and 28.20AHD to the remaining roof ridge of the building.

*(Reason: To ensure the approved building height is complied with)*

#### **DAGC007 CONSTRUCTION HOURS**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Fridays and 8am to 1pm Saturdays.

No building activities are to be carried out at any time on a Sunday or public holiday.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

*(Reason: To maintain amenity to adjoining land owners)*

#### **DAGC008 CONSTRUCTION WITHIN BOUNDARIES**

The development including but not limited to footings, walls, roof barges and guttering must be constructed wholly within the boundary of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath or adjoining land.

*(Reason: Approved works are to be contained wholly within the subject site).*

#### **DAGC009 DEMOLITION (GENERALLY)**

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.



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*(Reason: To ensure compliance with the approved development)*

**DAGC011 DEMOLITION (SITE SAFETY FENCING)**

Site fencing is to be erected to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site, prior to any demolition works occurring and maintained for the duration of the demolition works.

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

*(Reasons: Statutory requirement and health and safety)*

**DAGC016 LANDSCAPING (CANOPY TREES IN FRONT SETBACK)**

New development shall provide at least two (2) canopy trees within the front setback adjacent the front boundary (existing trees may be included). New canopy trees shall be at least three (3) metres high at the time of planting and capable of reaching a mature height of 10m.

Species shall be selected from Council's Recommended Tree List (Available from Council's website or from the Customer Service Centre). Compliance with this condition is to be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

*(Reason: To ensure the landscape character of the locality is maintained)*

**DAGC017 LANDSCAPING (IRRIGATION OF COMMON AND PRIVATE LANDSCAPE AREAS)**

All common and private landscape areas including all planters are to have full coverage by a fully automatic irrigation system. The design, materials and installation are to be in accordance with Sydney Water Codes and satisfy all relevant Australian Standards. Details demonstrating compliance shall be submitted to the Principal Certifying Authority, prior occupation of the premises.

*(Reason: To ensure appropriate landscape maintenance)*

**DAGC022 MATERIALS (EXTERNAL MATERIALS AND REFLECTIVITY)**

All external materials and finishes including windows and doors and roofing materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority.

*(To minimise excessive glare and reflectivity)*

**DAGC023 MATERIALS (SCHEDULE OF EXTERNAL MATERIALS, FINISHES AND COLOURS)**

The external materials, finishes and colours are to be consistent with the schedule submitted and

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approved by Council with the development application.

*(Reason: To ensure compliance with this consent)*

**DAGC024 PRINCIPAL CERTIFYING AUTHORITY (PCA) IDENTIFICATION SIGN**

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- (a) The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- (b) The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- (c) The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

*(Reason: Statutory requirement)*

**DAGC025 PRIVACY (SCREEN PLANTING TO SIDE AND REAR BOUNDARIES)**

Evergreen shrubs with a minimum 5 litre container size achieving a minimum mature height of 3m shall be planted along the side and rear boundaries to provide suitable privacy screening. Screen planting shall be maintained at all times. Details of the selected plants shall be submitted to and approved by the Principal Certifying Authority. Compliance with this condition shall be certified by the Principal Certifying Authority, prior to occupation of the premises.

*(Reason: To maintain privacy amenity to neighbouring residences)*

**DAGC027 SITE MANAGEMENT (DURING DEMOLITION AND CONSTRUCTION WORKS)**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

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- (j) All waste must be contained entirely within the site.
- (k) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (l) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (m) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- (n) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (o) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- (p) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (q) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- (r) Any work must not prohibit or divert any natural overland flow of water.
- (s) Toilet facilities for employees must be provided in accordance with WorkCover NSW.
- (t) Protection pads are to be installed to the kerb and gutter where trucks and vehicles enter the site.

*(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area)*

**DAGC031 WASTE (TRACKABLE)**

Removal of trackable waste (as defined by the NSW Environment Protection Authority) from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and must with the provisions of the Protection of the Environment and Operations Act 1997.

*Reason: To ensure compliance with legislation)*

**Conditions to be satisfied prior to the issue of a Construction Certificate (DACC)****DACC001 ACCESS (ACCESS FOR PEOPLE WITH DISABILITIES)**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. Prior to the issue of a Construction Certificate, plans shall be notated demonstrating compliance, and approved by the Principal Certifying Authority

Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful

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under the Disability Discrimination Act 1992.

*(Reason: To provide equitable access for people(s) with disabilities in accordance with the relevant legislation and Australian Standards)*

**DACC002 ACCESS (DISABLED TOILETS)**

Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the Building Code of Australia, and with regard to the *Disability Discrimination Act 1992*. Prior to the issue of a Construction Certificate, plans shall be notated demonstrating compliance, and approved by the Principal Certifying Authority.

Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

*(Reason: To provide equitable access for people(s) with disabilities in accordance with the relevant legislation and Australian Standards)*

**DACC007 BASIX COMMITMENTS**

The approved BASIX Certificate shall be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Principal Certifying Authority and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 96 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate.

*(Reason: Statutory compliance)*

**DACC008 BICYCLE STORAGE PROVISION**

On-site provision for bicycle storage facilities shall be in accordance with the Strathfield Consolidated Development Control Plan 2005. Details demonstrating compliance shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

*(Reason: Compliance with SCDCP 2005 and to encourage sustainable transport options)*

**DACC009 BOARDING HOUSE (CONSTRUCTION OF)**

The construction of the boarding house shall comply with all applicable legislation/regulation and standards, including:

- Boarding Houses Act 2012;
- Boarding Houses Regulation 2013;
- Local Government Act 1993; and
- Local Government Regulation 2005.

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Details demonstrating compliance shall be submitted to the Principal Certifying Authority, prior to occupation of the premises.

*(Reason: To ensure compliance with relevant legislation)*

#### **DACC010 BUILDING CODE OF AUSTRALIA (COMPLIANCE WITH)**

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by the consent commences.

Details demonstrating compliance with this condition are to be submitted to the Principle Certifying Authority, prior to issue of the Construction Certificate.

*(Reason: This is a 'prescribed' condition under clause 98(1) of the Environmental Planning and Assessment Regulation 2000)*

#### **DACC011 CAR PARKING (BASEMENT CAR PARKING REQUIREMENTS)**

Details demonstrating compliance with the following is to be submitted to the Principal Certifying Authority, prior to issue of the Construction Certificate:

- 1) Minimal internal clearance of the basement is 2.2m in accordance with BCA requirements.
- 2) Driveways shall comply with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and achieve a maximum gradient of 1:4.
- 3) Basement entries and ramps/driveways within the property are to be no more than 3.5m wide.
- 4) Provision of pump-out systems and stormwater prevention shall be in accordance with Council's Stormwater Management Guide.

*(Reason: To ensure suitable development)*

#### **DACC013 CAR PARKING (REQUIREMENTS FOR MULTIPLE USE BUILDINGS)**

The following car parking and service vehicle requirements apply:-

- (a) 23 car spaces shall be provided on the development site. This shall consist of:
  - (i) 11 residential spaces;
  - (ii) 11 motorcycle spaces; and
  - (iii) 1 car parking spaces for people with mobility impairment, in accordance with AS 2890.1.
- (b) All car spaces shall be allocated and marked according to this requirement.
- (c) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot.
- (d) Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- (e) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (f) The parking bays shall be delineated by line marking.
- (g) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by

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persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.

- (h) The following traffic control measures shall be implemented on site:-
- (i) Signage indicating 'Entry Only' shall be prominently displayed at the entrance to the development.
  - (ii) Signage indicating 'Exit Only' shall be prominently displayed at the exit to the development.
  - (iii) One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

Details demonstrating compliance with this condition shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of a Construction Certificate.

*(Reason: To ensure car parking provision in accordance with this consent)*

**DACC015 CAR PARKING (VEHICULAR ACCESS RAMPS)**

Vehicular access ramps shall comply with the provisions of AS/NZS 2890.1:2004. Plans to be submitted shall contain the following details:

- 1) Longitudinal section along the extreme wheel paths of each driveway/access ramp at a scale of 1:25 demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels and grades, including those levels stipulated as boundary levels, both existing and proposed. It shall extend from the centre-line of the roadway through to the parking area.
- 2) Sections showing the clearance to the underside of any overhead structure (minimum headroom requirements 2200mm minimum for standard headroom clearance or 2400mm where disabled access provisions are to be provided) demonstrating compliance with the provisions of AS/NZS 2890.1:2004.
- 3) Longitudinal section along the gutter line showing how it is intended to transition the vehicular crossing into the existing kerb and gutter. Boundary levels shall generally run parallel with the kerb levels.
- 4) Location of verge trees, street furniture and service installations.
- 5) Superimposition of vehicle turning circles for access into parking spaces.
- 6) Certification that the design complies with AS/NZS 2890.1:2004 by a Qualified Engineer.

The certification referred to in (vi) above shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate (for the design) and to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the 'as-built works'.

*(Reason: To ensure adequate vehicular access can be achieved)*

**DACC016 CAR PARKING (COMPLIANCE WITH AS/NZS 2890.1:2004)**

Car parking dimensions must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Details demonstrating compliance are to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

*(Reason: To ensure compliance with Australian Standards relating to parking of vehicles)*

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### **DACC017 CAR PARKING (VEHICULAR CIRCULATION, AISLE AND RAMP WIDTHS)**

The aisle widths, internal circulation, ramp widths and grades of the car park shall comply with the Roads and Traffic Authority Guidelines and ASNZS 2890.1:2004 - Off-Street Car Parking Code.

Vehicular manoeuvring paths are to be prepared demonstrating that all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces.

*(Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles)*

### **DACC019 COMMENCEMENT OF WORKS (NO WORKS UNTIL A CC IS OBTAINED)**

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued by either Strathfield Council or a Principal Certifying Authority.

Demolition of any part of a building triggers 'commencement of erection of building' pursuant of section 81A(2) of the EP&A Act 1979. Accordingly, demolition works must not commence until a Construction Certificate has been issued, a Principal Certifying Authority has been appointed and a Notice of Commencement has been issued.

*(Reason: To ensure compliance with statutory provisions)*

### **DACC020 CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN**

The applicant must prepare and submit a Construction and Environmental Management Plan (CEMP) to the Principal Certifying Authority, including:

- 1) Detailed information on any approvals required from other authorities prior to or during construction.
- 2) Traffic management, including details of:
  - (a) ingress and egress of vehicles to the site;
  - (b) management of loading and unloading of materials;
  - (c) the location of heavy vehicle parking off-site; and
  - (d) designated routes for vehicles to the site.
- 3) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- 4) Erosion and sediment control, detailing measures and procedures consistent with the requirements of Council's guidelines for managing stormwater, including:
  - (a) the collection and treatment of stormwater and wastewater generated on site prior to discharge; and
  - (b) procedures to prevent run-off of solid material and waste from the site.
- 5) Waste management, including:
  - (a) details of the types and estimated volumes of waste materials that will be generated;
  - (b) procedures for maximising reuse and recycling of construction materials; and
  - (c) details of the off-site disposal or recycling facilities for construction waste.
- 6) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences.
- 7) A soil and water management plan, which includes:
  - (a) measures to minimise the area of soils exposed at any one time and conserve top soil;
  - (b) identification and protection of proposed stockpile locations;
  - (c) preservation of existing vegetation and revegetation;
  - (d) measures to prevent soil, sand, sediments leaving the site in an uncontrolled



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- manner;
- (e) measures to control surface water flows through the site in a manner that diverts clean run-off around disturbed areas, minimises slope gradient and flow distance within disturbed areas, ensures surface run-off occurs at non-erodible velocities, and ensures disturbed areas are promptly rehabilitated;
  - (f) details of sediment and erosion control measures in place before work commences;
  - (g) measures to ensure materials are not tracked onto the road by vehicles entering or leaving the site; and
  - (h) details of drainage to protect and drain the site during works.
- 8) Asbestos management procedures:
- (a) Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies and a current WorkCover Demolition License where works involve demolition. To find a licensed asbestos removalist please see [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)
  - (b) Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m<sup>2</sup> or less of non-friable asbestos (approximately the size of a small bathroom). Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
  - (c) Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with the following:
    - (i) The Work Health and Safety Act 2011;
    - (ii) The Work Health and Safety Regulation 2011;
    - (iii) How to Safety Remove Asbestos Code of Practice – WorkCover 2011; and
    - (iv) Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace.
  - (d) Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.
  - (e) The developer or demolition contractor must notify adjoining residents at least two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of asbestos removal works. Notification is to include, at a minimum:
    - (i) the date and time when asbestos removal works will commence;
    - (ii) the name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
    - (iii) the full name and license number of the asbestos removalist/s; and
    - (iv) the telephone number of WorkCover's Hotline 13 10 50
    - (v) warning signs informing all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance; and
    - (vi) appropriate barricades installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

*(Reason: Safety, amenity and protection of public infrastructure and the environment)*

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### **DACC021 DILAPIDATION REPORT (PRE-COMMENCEMENT)**

Subject to access being granted, a pre-commencement Dilapidation Report is to be undertaken on all adjoining properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out prior to the issue of a Construction Certificate.

The Dilapidation Report is to be prepared by a suitably Qualified Engineer with current Corporate Membership with the Institution of Engineers, Australia or Geotechnical Practitioner. The report shall include a photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

The Report shall cover structural and geotechnical factors likely to arise from the development. A copy of this Report shall be submitted to Council as a record. The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

*(Reason: To ensure no damage to adjoining properties occurs)*

### **DACC025 EXCAVATION (AFFECTING ADJOINING LAND)**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- 1) protect and support the adjoining premises from possible damage from the excavation, and
- 2) where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. Details shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

*(Reason: Structural safety)*

### **DACC030 FIRE SAFETY SCHEDULE**

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 of Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

*(Reason: Compliance with the Environmental Planning and Assessment Act 1979)*

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### **DACC036 HOARDINGS**

A Hoarding Application for the erection of a Class A (fence type) or Class B (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained.

The relevant application form shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied according to Council's Schedule of Fees and Charges, and the application shall be approved before the commencement of work.

A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council.

The Policy is to note Council as an interested party. The copy is to be provided to Council, prior to the issue of a Construction Certificate.

*(Reason: Public safety)*

### **DACC038 LANDSCAPING (MAINTENANCE STRATEGY)**

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Principal Certifying Authority with the Construction Certificate application. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

*(Reason: Ensure landscape survival)*

### **DACC050 SECTION 94 CONTRIBUTIONS (DIRECT CONTRIBUTIONS PLAN)**

In accordance with the provisions of s94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 2010-2030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

**TOTAL: \$372,285.97**

The total amount of the contribution is valid as at the date of determination of the s96 application consent DA2016/195 (being the date of the orders upholding the Land and Environment Court proceeding 2017/00249174) and is subject to quarterly indexation from that date. Contributions shall be indexed at the time of payment and in accordance with clause 2. 14 of the Strathfield Direct Contributions Plan 2010-2030. Contributions must be received by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

Note: a copy of Strathfield Council's section 94 Direct Development Contributions Plan may be downloaded from Council's website.

*(Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development)*

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### **DACC052 SECURITY PAYMENT (DAMAGE DEPOSIT FOR COUNCIL INFRASTRUCTURE)**

A security payment of **\$5,254.00** in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply) shall be paid to Council prior to the issue of a Construction Certificate. The security payment is GST inclusive and comprises the following:

1.	Refundable tree protection bond	\$1,000.00
2.	Refundable works bond	\$4,000.00
3.	Non-refundable administration fee (\$127/bd)	\$5,254.00
4.	<b>TOTAL</b>	<b>\$5,254.00</b>

The security payment covers the following matters and will be released upon satisfactory completion of these items:

- (a) installation and maintenance of sediment control measures for the duration of construction activities;
- (b) tree final inspection to ensure that Council's street trees have been retained, protected or replanted in accordance with conditions of consent and/or Arborists' report for the post final inspection twelve (12) month period; and
- (c) Ensuring no damage occurs to or building debris/materials are left on Council land including footpath, nature strip, kerb and gutter. The security bond may be used to recover the costs incurred by Council in cleaning and restoring the land to its original condition.

*(Reason: Protection of Council infrastructure)*

### **DACC059 WORKS PERMIT**

A Works Permit shall be obtained from Strathfield Council at least five (5) working days prior any work (including demolition, excavation and the erection of site fencing/hording). The approved Works Permit and any approved Construction Traffic Management Plan must be complied with at all times until all demolition, building, engineering and construction work associated with the development has been completed. The permit must be retained on site at all times.

*(Reason: Council requirement)*

### **DACC060 WORKS (WITHIN THE ROAD RESERVE)**

- (a) Detailed drawings including long and short sections and specifications of all works within existing roads (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) shall be submitted to and approved by Council under Section 138 of the Roads Act 1993 and all fees and charges paid, prior to the issue of a Construction Certificate.
- (b) Detailed drawings and specifications are to be prepared and certified by an appropriately qualified Civil Engineer.
- (c) Upon completion of the works, the Applicant is to provide to Council with electronic copies of 'Work as Executed Plans'. The plans are to show relevant dimensions and finished levels and are to be certified by a surveyor.
- (d) The Applicant is to provide to Council, in an approved format, details of all public infrastructure created as part of the works.
- (a) All civil engineering works adjacent/near/outside 10 Homebush Road, Strathfield are to be fully supervised by Council. A maintenance period of six (6) months shall apply to the work, after it has been completed and approved. In that period the Applicant shall be liable for any part of the work which fails to perform in the manner

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Lot 10 DP 2461 (Cont'd)**

outlined in Council's specifications, or as would reasonably be expected under the design conditions.

*(Reason: To ensure compliance of engineering works/Council assets are constructed to acceptable standards for engineering works)*

**DACC061 TRAFFIC (CONSTRUCTION TRAFFIC MANAGEMENT PLAN)**

A Construction Traffic Management Plan (CTMP) is to be prepared by an appropriately qualified Traffic Management Consultant and submitted to and approved by Council's Engineering Section, prior to the commencement of any works including demolition.

The following matters should be addressed in the CTMP (where applicable):

- 1) A description of the demolition, excavation and construction works
- 2) A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- 3) Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- 4) Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network
- 5) Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways.
- 6) Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.)
- 7) Proposed hours of construction related activities and vehicular movements to and from the site
- 8) Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority)
- 9) Any activities proposed to be located or impact upon Council's road, footways or any public place
- 10) Measures to maintain public safety and convenience
- 11) Any proposed road and/or footpath closures
- 12) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
- 13) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
- 14) Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road).
- 15) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
- 16) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- 17) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
- 18) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- 19) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.

*(Reason: To mitigate traffic impacts on the surrounding area during the construction period)*

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Lot 10 DP 2461 (Cont'd)

### **DACC066 VENTILATION SYSTEMS (MECHANICAL)**

The mechanical ventilation system is to comply with the following:

- (a) The Building Code of Australia;
- (b) Protection of the Environment Operations Act 1997; and
- (c) Australian Standard AS1668-1991.

In addition, odour control measures, such as activated carbon or catalytic oxidisers, must be used to treat ventilation gases prior to discharge. The method of odour control must be designed by a suitably qualified mechanical ventilation engineer.

Details demonstrating compliance with the above are to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

*(Reason: To ensure the mechanical ventilation system complies with the relevant requirements/standards).*

### **DACC069 WASTE (GARBAGE ROOMS OR GREASE ARRESTOR ROOMS)**

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

*(Reason: To keep garbage rooms in a clean and sanitary condition to protect public health)*

### **DACC073 WORKS ZONE (APPROVAL BY COUNCIL'S TRAFFIC COMMITTEE)**

An application for a 'Works Zone' must be submitted to and approved by the Strathfield Council Traffic Committee prior to the commencement of any site work (including demolition).

The suitability of the proposed length and duration of the Works Zone is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Strathfield Council Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

*(Reason: Council requirement)*

### **Conditions to be satisfied prior to the commencement of works (DAPC)**

#### **DAPC001 APPOINTMENT OF A PRINCIPAL CERTIFYING AUTHORITY**

No work shall commence in connection with this Development Consent until:

- 1) A construction certificate for the building work has been issued by:
  - (a) the consent authority; or
  - (b) a Principal Certifying Authority; and
- 2) the person having the benefit of the development consent has:
  - (a) appointed a principal certifying authority for the building work, and

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Lot 10 DP 2461 (Cont'd)**

- (b) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- 3) the principal certifying authority has, no later than 2 days before the building work commences:
  - (a) notified the Council of his or her appointment, and
  - (b) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- 4) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (a) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - (b) notified the principal certifying authority of such appointment, and
  - (c) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- 5) the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

*(Reason: Statutory requirement)*

**DAPC003 NOTICE OF COMMENCEMENT**

No work shall commence until the following details are submitted to Council:

- 1) A Notice of Commencement (form will be attached with issue of a Construction Certificate or available from our website) within two (2) days of the date on which it is proposed to commence works associated with the Development Consent;
- 2) Details of the appointment of a Principal Certifying Authority (either Council or another Principal Certifying Authority); and
- 3) Details of the name, address and licence details of the Builder.

*(Reason: Statutory requirement)*

**Conditions to be satisfied during demolition and building works (DADW)****DADW001 CONTAMINATED LAND UNEXPECTED FINDS**

In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.



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Lot 10 DP 2461 (Cont'd)**

The contaminated land situation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Strathfield Council's Environmental Services Manager.

Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

*(Reason: To ensure compliance with statutory requirements)*

**DADW002 FILL MATERIAL**

The only waste derived material which may be received at the development site is:

- (i) Virgin excavated material (within the meaning of the Protection of the Environment Operations Act 1997), and
- (ii) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any (b)-type material received at the development site must be accompanied by documentation certifying by an appropriately qualified environmental consultant the materials compliance with the exemption conditions; and this documentation must be provided to the Principal Certifying Authority on request.

*(Reason: To ensure imported fill is of an acceptable standard for environmental protection purposes)*

**DADW007 PUBLIC INFRASTRUCTURE AND SERVICES**

The applicant must comply with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc.) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

*(Reason: To maintain public infrastructure and/or services)*

**DADW010 SITE REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water

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- as defined by the Protection of the Environment Operations Act 1997.
- 10) All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
  - 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
  - 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
  - 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
  - 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
  - 15) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.
  - 16) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

*(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area)*

**DADW011 SURVEY REPORT OF APPROVED LEVELS (DURING AND POST CONSTRUCTION)**

A Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:-

- 1) At the completion of the first structural floor level prior to the pouring of concrete indicating the level of that floor and the relationship of the building to the boundaries.
- 2) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- 3) At the completion of the development.

Progress certificates in response to points (1) through to (3) shall be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances is work allowed to proceed until such survey information is submitted to and approved by the Principal Certifying Authority.

*(Reason: To ensure compliance with the approved plans)*

**Conditions to be satisfied prior to the issue of an Occupation Certificate (DAOC)**

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Lot 10 DP 2461 (Cont'd)

### **DAOC006 ENGINEERING WORKS (CERTIFICATION OF)**

Prior to occupation of the premises, a Work As Executed (WAE) Plan of all engineering and/or drainage works is to be submitted to the Principal Certifying Authority. The WAE Plan is to be certified by a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers Australia and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, demonstrating that:

- 1) the stormwater drainage system; and/or
- 2) the car parking arrangement and area; and/or
- 3) any related footpath crossing works; and/or
- 4) the proposed basement pump and well system; and/or
- 5) the proposed driveway and layback; and/or
- 6) any other civil works

have been constructed in accordance with the approved plans and any relevant Standards and Council policies/specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that an Engineer supervise all engineering related works.

Where Council is not the Principal Certifying Authority, an electronic copy of the above documents is to be provided to Council, prior to the issue of any Occupation Certificate.

*(Reason: Asset management)*

### **DAOC007 FIRE SAFETY (CERTIFICATION)**

A fire safety certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment Regulation 2000, prior to the issue of any Occupation Certificate.

An fire safety certificate is a certificate issued by the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the part of the building to which the certificate relates:

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

An interim fire safety certificate must be provided before an interim occupation certificate can be used for a building under Clause 153(2) of the *Environmental Planning & Assessment Regulation 2000*.

A final fire safety certificate must be provided before an interim occupation certificate can be used for a building under Clause 153(1) of the *Environmental Planning & Assessment Regulation 2000*.

A copy of the fire safety certificate and fire safety schedule shall be:-

- 1) submitted to Strathfield Council;
- 2) submitted to the Commissioner of the New South Wales Fire Brigade; and
- 3) prominently displayed in the building.

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Lot 10 DP 2461 (Cont'd)

*(Reason: Fire safety and statutory requirement)*

#### **DAOC011 LANDSCAPING (ARBORIST'S FOLLOW UP REPORT OF TREE/S TO BE RETAINED)**

As part of the on-going assessment of the tree/s to be retained, the consulting arborist engaged by the applicant is to assess their health and any impacts suffered by them as a result of the proposed approved development, prior to the issue of an Occupation Certificate. Findings are to be compiled in a detailed report and submitted to the Principle Certifying Authority, which documents the following:

- 1) methods of excavation or construction used to carry out the works;
- 2) any damage sustained by the tree/s as a result of the works;
- 3) any subsequent remedial works required to be carried out by the consulting arborist as a result of the damage and
- 4) any future or on-going remedial work required to be carried out to ensure the long term retention of the tree/s

*(Reason: Ensure survival of trees to be retained)*

#### **DAOC013 OCCUPATION OF BUILDING**

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- 1) all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- 2) any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

*(Reason: Statutory requirement)*

#### **DAOC019 STORMWATER (COVENANT AND RESTRICTION AS TO USER FOR STORMWATER CONTROLLED SYSTEMS)**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the:

- (a) On-site stormwater detention system **AND**
- (b) All Water Sensitive Urban Design components

incorporated in the development. The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at Land & Property Information NSW. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority **prior to the issue of an Occupation Certificate/use of the building.**

The positive covenant is required to prevent future modification or alteration without the written consent of the consent authority, and to ensure suitable maintenance is carried out.

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Lot 10 DP 2461 (Cont'd)**

*(Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard)*

**DAOC021 VENTILATION SYSTEMS (MECHANICAL)**

The mechanical ventilation system is to comply with the following:

- (a) The Building Code of Australia;
- (b) Protection of the Environment Operations Act 1997; and
- (c) Australian Standard AS1668-1991.

In addition, odour control measures, such as activated carbon or catalytic oxidisers, must be used to treat ventilation gases prior to discharge. The method of odour control must be designed by a suitably qualified mechanical ventilation engineer.

At the completion of the installation of the mechanical exhaust ventilation system, a certificate from a practising mechanical engineer shall be submitted to the Principal Certifying Authority, prior to issue of the Occupation Certificate demonstrating compliance with the above.

*(Reason: To ensure the mechanical exhaust ventilation system complies with the relevant requirements/standards)*

**Conditions to be satisfied during ongoing use of the premises (DAOU)****DAOU002 BOARDING HOUSE (ONGOING USE OF)**

Ongoing operation of the approved use for the purpose of a boarding house shall comply with the following:

- 1) Use of the premises shall remain consistent with the definition of 'boarding house' as defined under Strathfield Local Environmental Plan 2012 as a building that:
  - (a) is wholly or partly let in lodgings, and
  - (b) provides lodgers with a principal place of residence for 3 months or more, and
  - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
  - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgersbut does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.
- 2) Subdivision of the approved boarding house under strata or community title is prohibited.
- 3) The use and operation of the boarding house shall comply with all applicable legislation/regulation and standards, including:
  - Boarding Houses Act 2012;
  - Boarding Houses Regulation 2013;
  - Local Government Act 1993; and
  - Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation 2005.
- 4) The maximum number of persons accommodated in a bedroom, or in a cubicle of a dormitory, must not exceed the number determined by allowing a minimum floor area within the bedroom or cubicle in accordance with the relevant provisions under the *Public Health Act 1991* for each person.
- 5) No speakers or music is permitted outdoors or in the communal areas

*(Reason: To minimise the impact of the boarding house on surrounding residences)*

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Lot 10 DP 2461 (Cont'd)

### **DAOU006 FIRE SAFETY (ANNUAL STATEMENT)**

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall provide to Council an Annual Fire Safety Statement from an appropriately qualified person certifying the essential fire safety measures in the building. The Annual Fire Safety Statement shall be submitted within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

1. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
2. Prominently displayed in the building

*(Reason: Fire safety)*

### **DAOU018 NOISE (COMPLAINTS RELATING TO USE OR MACHINERY)**

The use of the premises shall comply with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Should substantiated complaints or breaches of noise regulations occur, a suitably qualified acoustic consultant shall be engaged by Council to measure noise emanating from the building/premises and to recommend appropriate action. The cost of such an appointment shall be borne by the operator/owner and any works recommended by the acoustic consultant shall also be borne by the operator/owner and carried out within a time frame set by Council.

*(Reason: Noise control and amenity)*

### **DAOU020 NOISE (NO AMPLIFIED MUSIC)**

Music and other amplified sound played on the premises shall not give rise to offensive noise as defined under the provisions of the *Protection of the Environment Operations Act 1997*. The sound level output shall not exceed 5 dB(A) above the ambient background level at the received boundary.

Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

*(Reason: Environmental amenity)*

### **DAOU025 POLLUTION (COMPLIANCE WITH PEOA 1997 GENERALLY)**

The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the *Protection of the Environment Operations Act 1997*.

*(Reason: Environmental protection)*

### **DAOU037 WASTE AND RECYCLING (COLLECTION HOURS)**

The collection of waste and recycling must only occur between 6.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.

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Lot 10 DP 2461 (Cont'd)**

Garbage and recycling must not be placed on the kerbside for collection more than one hour before the scheduled collection time. Bins and containers are to be removed from the kerbside within one (1) hour of collection and returned to the designated garbage storage area(s).

The garbage and recyclable storage area and bins must be adequate to contain the volume and type of garbage and recyclable matter of the food premises.

All garbage and recyclable matter must be enclosed in the waste bins with lids completely closed at all times.

*(Reason: To regulate noise and garbage collection arrangements)* DAOU008 - Flashing lights and lighting nuisance

No flashing, moving or intermittent lighting, visible from any public place may be installed on the premises or external signage associated with the development, without the prior approval of Council.

*(Reason: Environmental amenity and to mitigate any distraction or disturbance to nearby or adjacent residents, pedestrians or motorists)*

*(Reason: Environmental protection)*

**DAOU038 WASTE (CONTROL OF LITTER)**

The occupant or person in control of the premises must take all practicable steps to ensure that the area of public footpath or public area adjacent to the premises is maintained in a clean and tidy condition. Where a litter problem arises and the offending material is found to usually include wrappers, containers or the like, and remains of goods or items which it might reasonably be assumed were purchased at the subject premises, the shopkeeper must comply with any direction of Strathfield Council with regard to the regular sweeping, collection and disposal of rubbish.

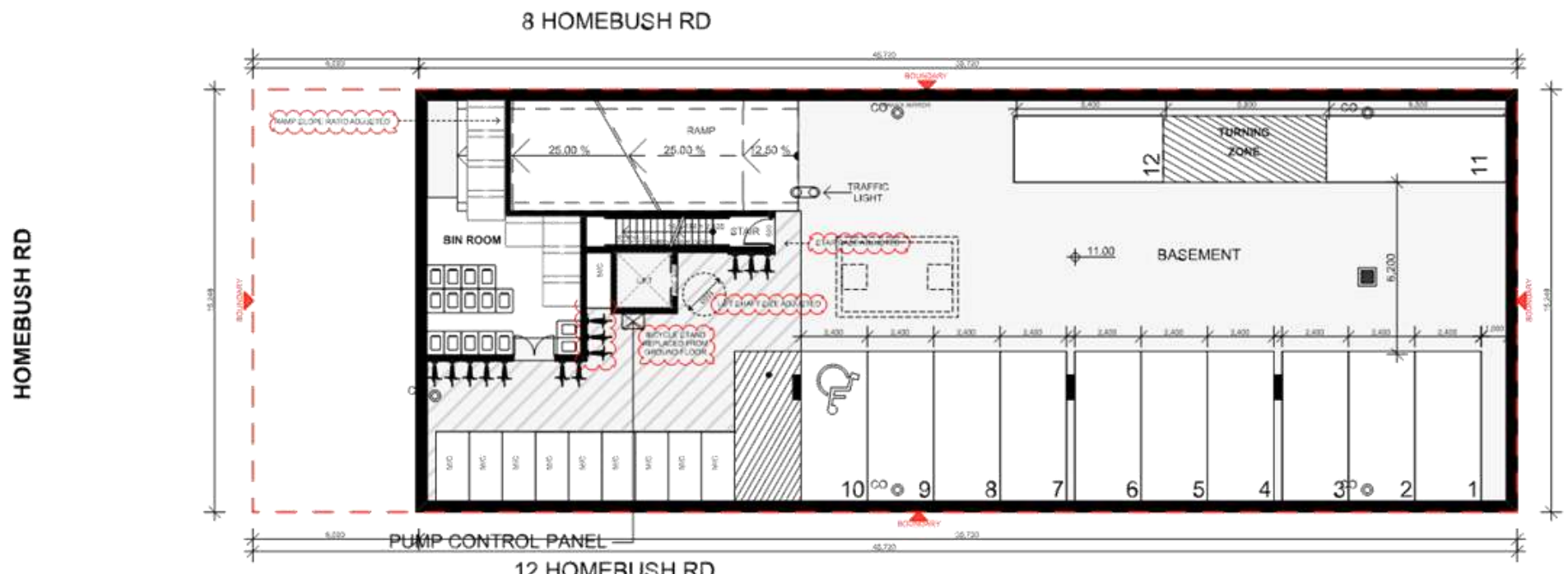
*(Reason: Environmental health)*

**ATTACHMENTS**

1. [↓](#) Architectural Plans



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12 April 2018



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**S4.55**

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**N**

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Quantity Survey Consultant  
www.mcco.com.au  
02 9439 2000

**TRAFFIC:**  
Wentworth  
Urban Traffic Engineer  
Planning & Traffic Consultants  
www.wentworth.com.au  
02 9439 2000

**ACOUSTIC:**  
Acoustic Consulting Engineers Pty Ltd  
PO BOX 2112  
SYDNEY NSW 2012  
02 9550 8888

**GEOTECHNICAL:**  
GWA GROUP  
Geotechnical Engineering  
www.gwa.com.au  
02 9550 8888

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**WASTE MANAGEMENT:**  
GHAZI AL ALI ARCHITECTS

**PROJECT:**  
GHAZI AL ALI ARCHITECTS

<b>PROJECT:</b> HOME BUSH RD Cairich Property Development P/L			
<b>DATE:</b> 1/2/2018	<b>DRAWN BY:</b> M.A.	<b>CHECKED BY:</b> J.A.	<b>APPROVED BY:</b>
<b>PROJECT NO.:</b> S4.55	<b>A1200</b>	<b>B</b>	<b>69.15</b>

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12 April 2018



GROUND FLOOR PLAN @ 1:200



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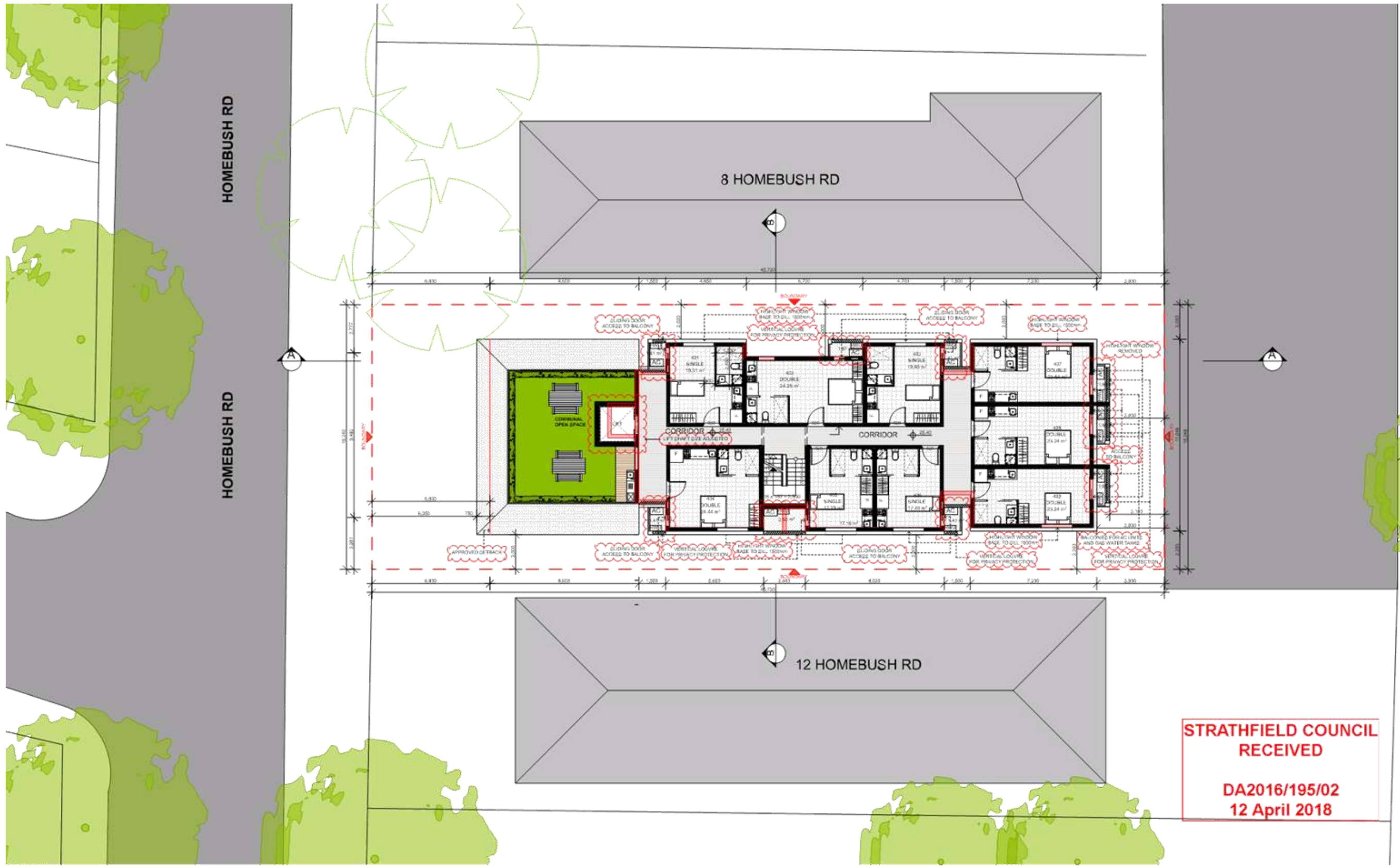
**DA2016/195/02  
12 April 2018**

SCALE 1:200

LEVEL 01-03 FLOOR PLAN @ 1:200

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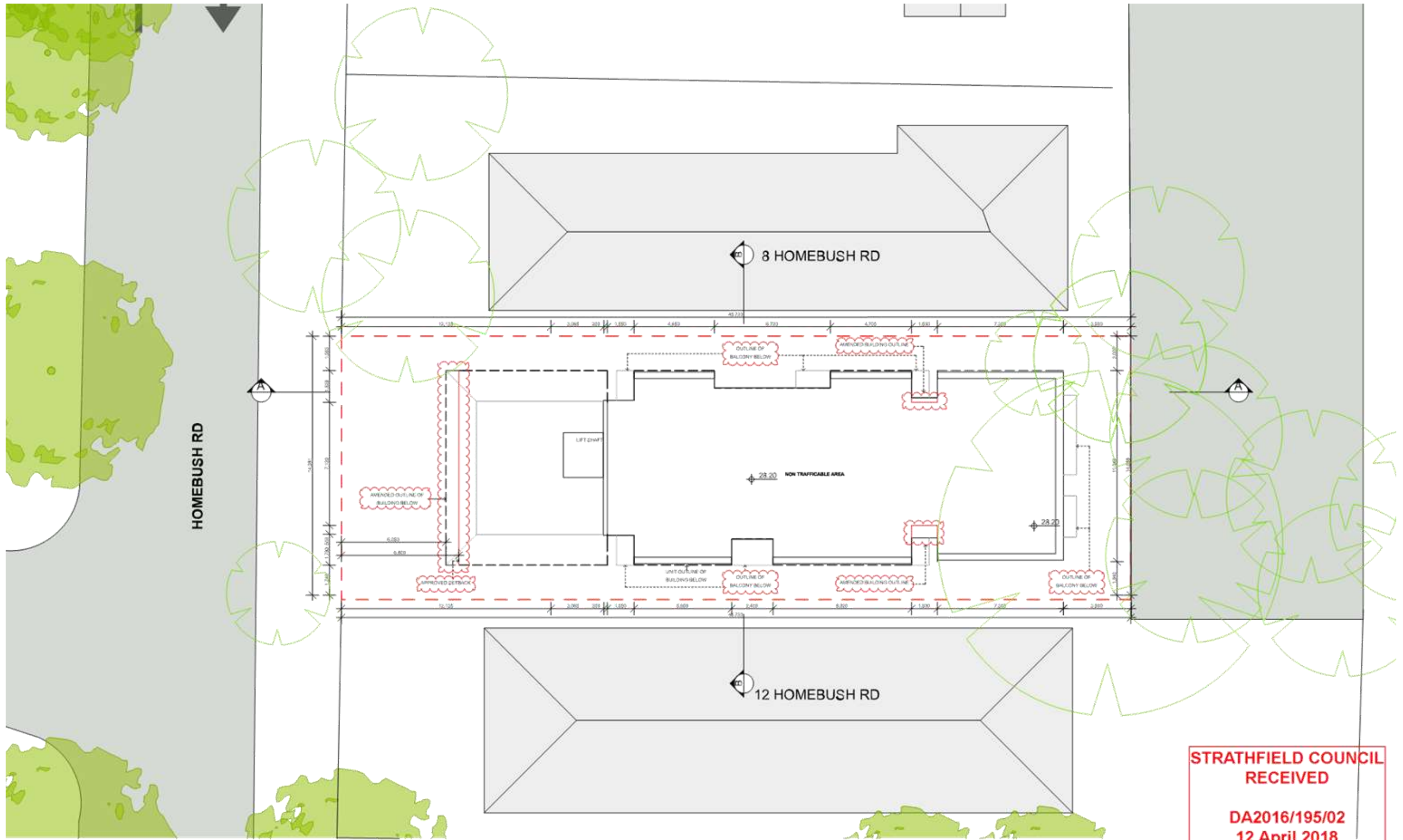
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LEVEL 04 FLOOR PLAN @ 1:200

SCALE 1:200

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ROOF PLAN @ 1:200



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12 April 2018**



**GROUND LEVEL @ 1:200**  
TOTAL GFA: 246.91 SQM



**TYPICAL LEVEL 01-03 @ 1:200**  
GFA: 296.52 X 3 SQM  
TOTAL GFA: 889.56 SQM



**LEVEL 04 @ 1:200**  
TOTAL GFA: 224.01 SQM

**GFA CALCULATION**

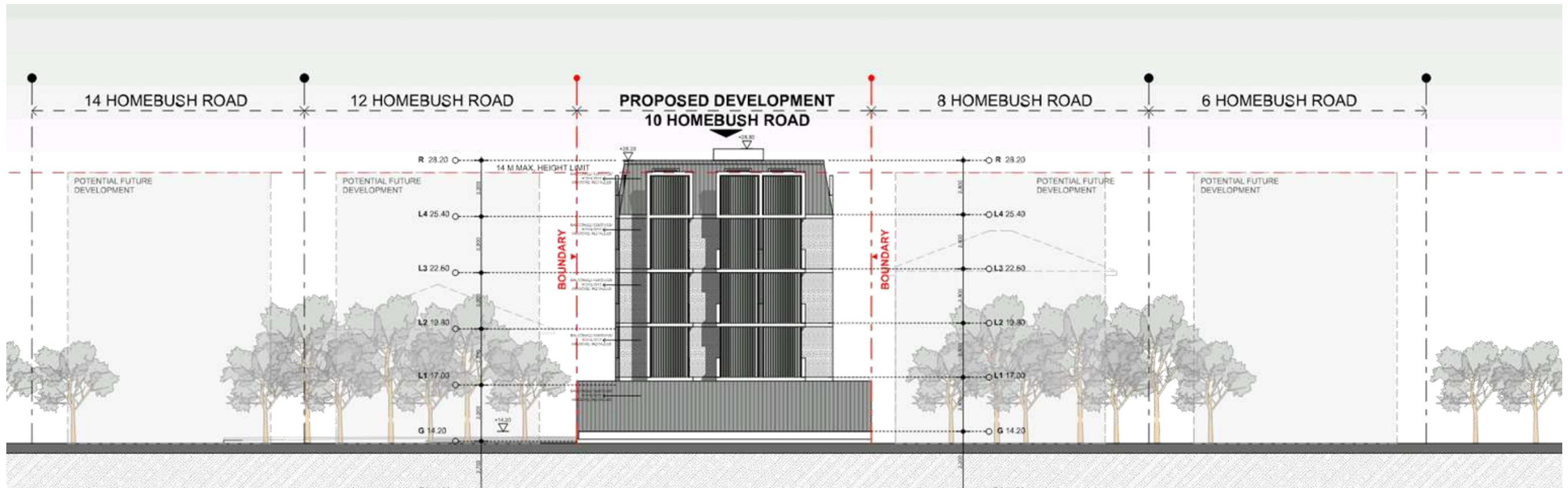
SITE AREA: 696.78 SQM  
PERMISSIBLE FSR: 1.5:1 + 0.50 ARH = 2:1  
PERMISSIBLE GFA: 1393.56 SQM

TOTAL GFA

TOTAL GFA: 1342.51 SQM  
TOTAL FSR: 1.927:1

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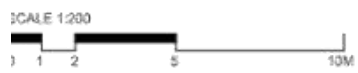


EAST ELEVATION @ 1:200



WEST ELEVATION @ 1:200

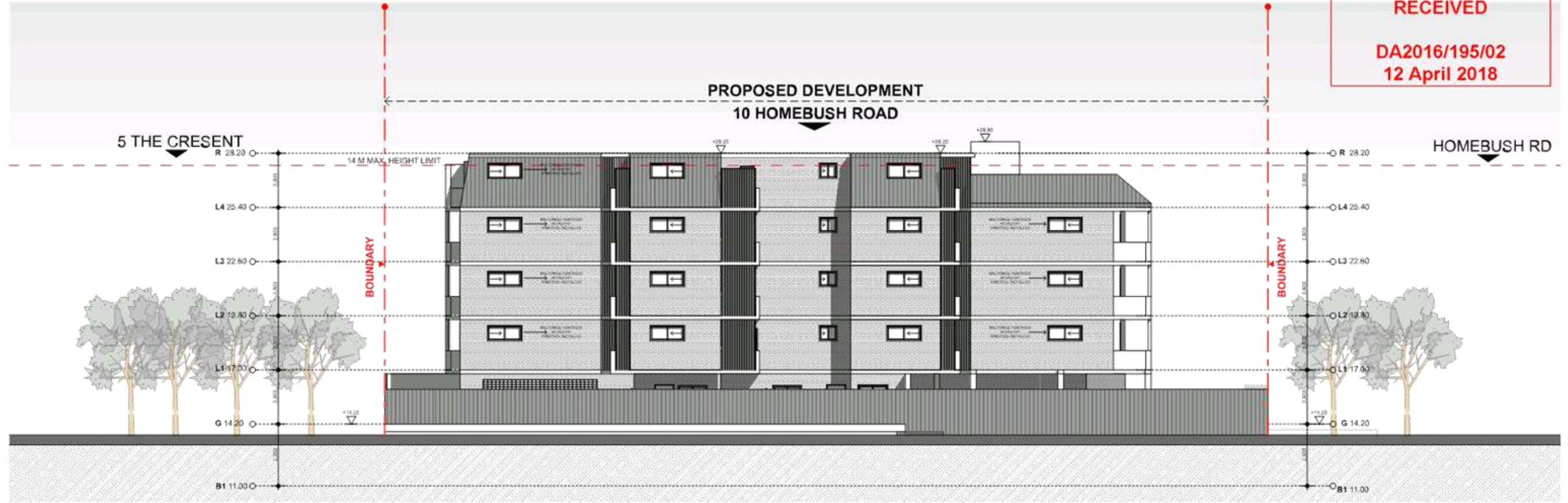
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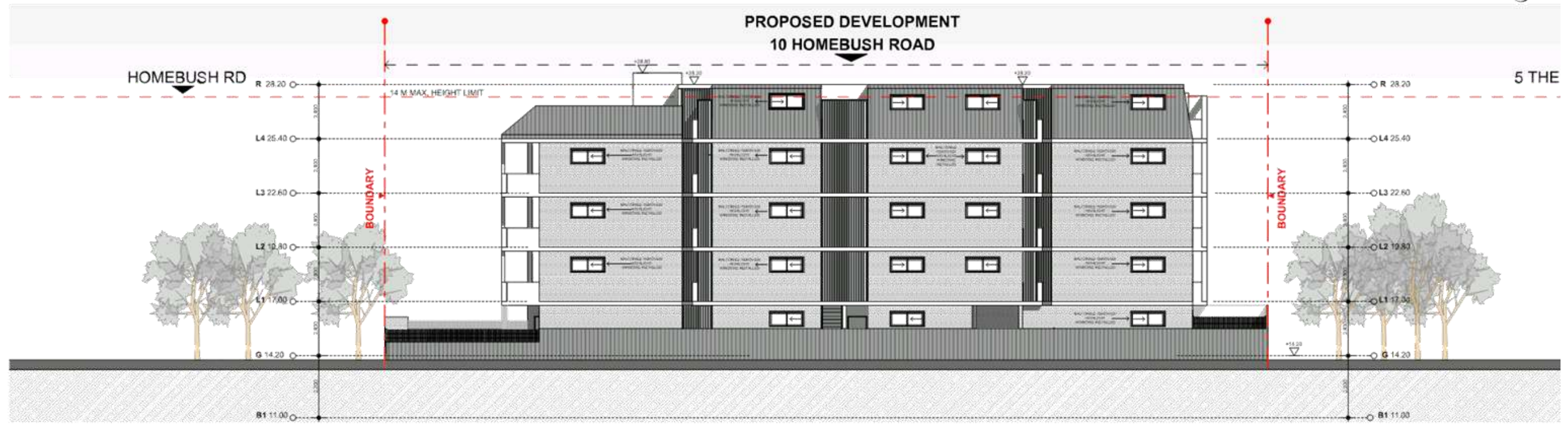
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NORTH ELEVATION @ 1:20

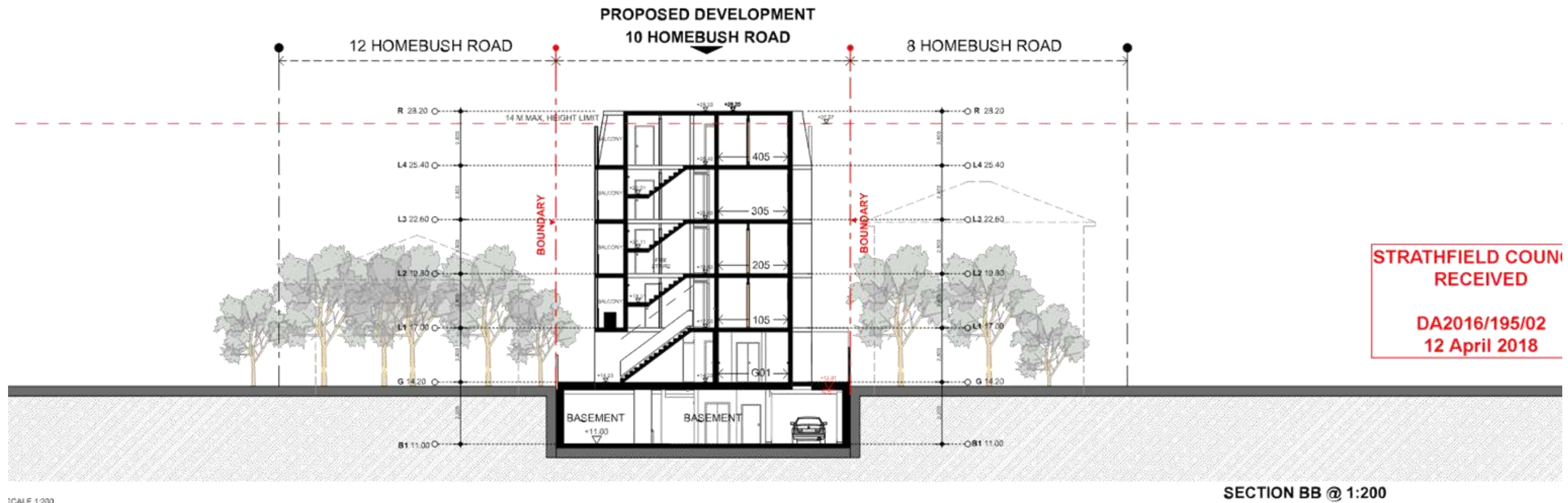
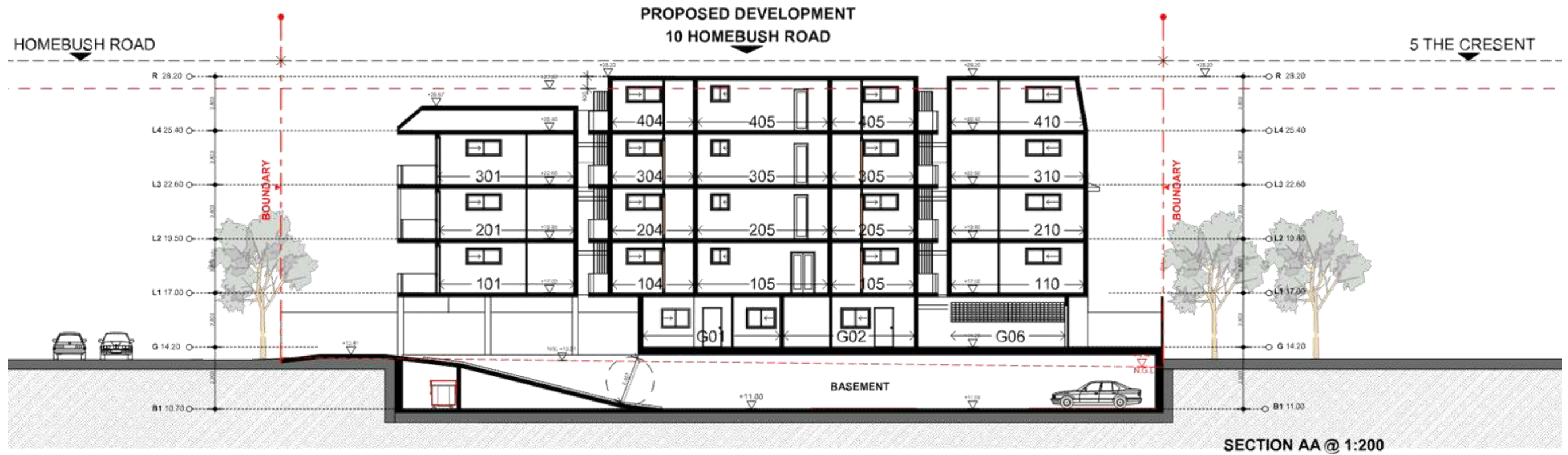


SOUTH ELEVATION @ 1:20



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**TO:** Strathfield Local Planning Panel Meeting - 6 September 2018  
**REPORT:** SLPP – Report No. 4  
**SUBJECT:** DA2018/119 - 10-14 SMALLWOOD AVENUE, HOMEBUSH  
LOTS 10-12 IN DP 9481  
**DA NO.** 2018/119

## SUMMARY

**Proposal:** Construction of an additional one (1) bedroom unit to the ground floor of an approved residential flat development.

**Applicant:** Smallwood Joint Venture

**Owner:** Charbel Hanna Pty Ltd  
Mrs. OM Ware

**Date of lodgement:** 30 April 2018

**Notification period:** 15 May 2018 – 30 May 2018

**Submissions received:** Nil

**Assessment officer:** MLM

**Estimated cost of works:** Nil

**Zoning:** R4 – High Density Residential

**Heritage:** n/a

**Flood Affected:** No

**Clause 4.6 variation?** Yes – Floor Space

**Extent of variation supported?** 0.76% (32.2m<sup>2</sup>)

**RECOMMENDATION OF OFFICER:** **APPROVAL**

## EXECUTIVE SUMMARY

- 1.0 On 21 June 2016, Council approved Development Application No. 2015/174 for demolition of existing site structures and the construction of a nine (9) storey residential flat building comprising eight (8) x 1 bedroom apartments, (42) x 2 bedroom apartments and (6) x 3 bedroom apartments over two (2) levels of basement parking.
- 2.0 On 19 July 2018, IDAP approved a Section 4.55(2) application to modify Development Application No. 2015/174 involving relocation of the lift core, reconfiguration of the recycling room, relocation of one window, increasing the building height by 600mm and amendment of Conditions 57, 59, 60, 67 and 23.
- 3.0 The current application seeks the introduction of a new 1 bedroom unit to the ground floor of the development. This results in a 0.76% (32.2m<sup>2</sup>) variation beyond the maximum 2:1 (4,262m<sup>2</sup>) permitted FSR controls as per the SLEP 2012.
- 4.0 The proposed development is considered suitable for the site and would result in minimal adverse impacts to future residents both on and adjoining the site. As such, this application is recommended for approval.



DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)

## DESCRIPTION OF THE SITE AND LOCALITY

The subject site is located on the eastern side of Smallwood Avenue near the intersection with Dalton Avenue to the north. The site is regular in shape with the following dimensions:

**Site Area:** 2,131m<sup>2</sup>

**Site Dimensions:** 36.576m x 59.03m (approx.)

The subject site has a moderate fall from south east to north west allowing stormwater to drain by gravity to Councils drainage system.

The streetscape is currently in a state of transition from single storey residential dwellings to high rise residential flat developments as a result of the gazettal of the SLEP 2012, which ensued a change to the land zoning to R4 High Density Residential. The subject site is comprised of three (3) separate allotments, each of which were occupied by single storey residential dwellings. The existing dwellings comprised of original housing stock were in moderate state of repair. The dwellings have since been demolished.

An aerial photograph of the subject site is shown below:



**Figure 1:** Aerial photograph of the subject site and surrounding residential area. The subject site is outline in red.

## PROPERTY BURDENS AND CONSTRAINTS

Given the slope of the site, the land currently has a private easement running through the centre of the site, which caters for the stormwater disposal of the residential flat building at 7-11 Bridge Road, Homebush.

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

The specific elements of the proposed development are as follows:

### Ground Floor

- Construction of a one (1) bedroom apartment to the ground floor of the development comprised of 50.27m<sup>2</sup> floor space.

**DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)**

NOTE: As a result of the reconfiguration of the waste bin area (approved under the previous modification application DA2015/174/1), and the creation of an additional unit to the ground floor (sought under the current application), the proposal results in a total FSR of 2.01:1 (4,294.2m<sup>2</sup>). This presents 32.3m<sup>2</sup> additional floor space which is a 0.76% variation beyond the maximum permitted FSR controls permitted for the site.

**REFERRALS****INTERNAL REFERRALS****Waste Comments**

Council's Waste Officer has commented on the proposal as follows:

*"The below bin numbers are required in a building of 57 units,*

- a. 29 x 240L Recycling Bins*
- b. 11 x 660L Garbage Bins required*

*The bin room will need to be resized accordingly."*

Accordingly, a condition has been imposed to reflect the additional bins required for the development (refer Condition 1).

**Water NSW**

The original Development Application (DA2015/174) was defined as Integrated Development requiring the concurrence of Water NSW. General Terms of Approval (GTA) were provided on 9 February 2016 and were included as conditions of consent under the assessment of the parent application.

A request for comments by Water NSW was sought as part of the subject application, with no comments received. Due to the expiration of time which comments should be received, concurrence was assumed.

**SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

The application has been assessed pursuant to the heads of consideration of Section 4.15 of the Environmental Planning and Assessment Act and the relevant matters described in Sub-section (1)(a), (b), (c), (d) and (e) of Section 4.16 have been considered within this report.

The following statutory controls are relevant to the proposal:

- SEPP 55 – Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP 65 – Design Quality of Residential Development
- Strathfield Local Environmental Plan 2012
- Strathfield Development Control Plan No. 20 – Parramatta Road Corridor
- Strathfield Consolidated Development Control Plan 2005:

**4.15(1)(a) the provisions of:****(i) any environmental planning instrument****State Environmental Planning Policy No. 55 – Remediation of Land**

**DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the site is suitable in its current state, contaminated state or following the completion of remediation works for the purpose for which development consent is being sought. The site is not located in an area of investigation under Part K of the Strathfield Consolidated DCP 2005 (SCDCP 2005) which identifies past known landfill and potentially contaminated sites in the Strathfield Local Government Area.

Conditions of consent were imposed under DA2015/174 requiring preparation of a Hazardous Material Survey, the implementation of an unexpected find protocol and a site inspection performed by a suitably qualified environmental consultant.

The proposed application is generally within the building footprint of the development approved under DA2015/174 and therefore poses no additional cause for concern in relation to site remediation.

**State Environmental Planning Policy (SEPP) – BASIX 2004**

In accordance with the BASIX SEPP all new housing in NSW is required to meet a designated target for energy and water reduction.

A BASIX Certificate was submitted during the assessment process demonstrating that the development will ensure future compliance with these targets. The BASIX Certificate has been included within the conditions of consent (refer Condition 3).

**State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat development in New South Wales. SEPP 65 recognises that the design of residential apartments is of significance due to the economic, environmental, cultural and social benefits of high quality design.

The subject application was not referred to Council’s Design Review Panel referred to under Clause 28. Notwithstanding, an assessment of the design quality of the development against the design principles of the SEPP and the relevant design criteria of the Apartment Design Guide has been undertaken in the table below:

<b>Principle</b>	<b>Objective</b>	<b>Proposed</b>
<b>Built form and scale</b>	<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their</i></p>	<p>Whilst the proposal presents a minor non-compliance with the maximum permitted FSR, the development overall is considered to achieve an acceptable scale, bulk, and height, which is consistent with approved development immediately surrounding the site.</p> <p>The development continues to achieve appropriate separation, visual privacy and adequate communal and landscaped open space areas to ensure every apartment receives a high level of residential amenity.</p>

DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)

<b>Principle</b>	<b>Objective</b>	<b>Proposed</b>
	<i>views and vistas, and provides internal amenity and outlook.</i>	
<b>Density</b>	<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposal achieves a high level of residential amenity to each unit in terms of solar access (85.7% of units receive a minimum of 2hr solar access) and cross ventilation (86% of units are cross ventilated), compliant unit sizes, and the provision of sufficient open space.</p>
<b>Sustainability</b>	<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The proposed development employs the use of natural cross ventilation to reduce the dependency of the building on mechanical ventilation.</p> <p>Further, the building provides compliance with the minimum solar access requirements to reduce the building's dependency on artificial lighting.</p> <p>The application is supported with an up to date BASIX Certificate.</p>
<b>Landscape</b>	<p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>Whilst the proposal has resulted in the loss of landscaped space within the central courtyard, sufficient deep soil zone and embellished communal open space areas are provided in the rear and northern side portions of the site.</p>



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Principle	Objective	Proposed
<b>Amenity</b>	<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>As discussed, the proposal achieves a high level of residential amenity through the provision of a large communal open space area; compliance with the minimum solar access (85.7%) and cross ventilation (86%) requirements; and compliance with the minimum unit size requirements.</p>
<b>Safety</b>	<p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The proposal has been well designed to minimise opportunities for concealments whilst clearly defining the private and public domain.</p>
<b>Housing diversity and social interaction</b>	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>The proposal provides the following housing mix:</p> <p>(9) x 1 bedroom; (42) x 2 bedroom; and (6) x 3 bedroom units.</p> <p>The proposed housing mix is considered acceptable and provides for a variety of housing types.</p> <p>The communal open space areas are clearly defined through different landscape treatments that allow flexibility and variation in the use of the space.</p>

**Apartment Design Guide**

Design Criteria	Required	Proposed	Compliance
3B – Orientation	Responsive to streetscape and site	The proposal is designed to optimise	Yes.

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Lots 10-12 in DP 9481 (Cont'd)

Design Criteria	Required	Proposed	Compliance
	Designed to optimise solar access and minimise overlooking 4 hours solar access retained to neighbouring buildings or does not further reduce solar access by more than 20%	solar access and provides 85.7% (48 units) of units with 2 hours of solar access during mid-winter.  The proposed additional unit to the northern elevation of the development will have a negligible impact upon solar access to adjoining residential units within the site and to the development north of the site.	
3F – Visual Privacy	<u>Up to 4 storeys:</u> <ul style="list-style-type: none"> <li>• 6m between habitable rooms/balconies</li> <li>• 3m between habitable and non-habitable rooms</li> </ul> 12m between non-habitable rooms  At zone boundaries, increase separation by 3m Offset windows Vertical fins or privacy screens between balconies	<u>Up to 4 Storeys:</u> North: 9m  The proposal continues to provide a 'T' shape pattern where the front of the building is provided with nil side setbacks and the rear of the property is provided with increased setbacks. The new unit to the ground floor will be setback a minimum 9m from the northern side boundary which will align with the remaining body of the approved building footprint.	Yes.
4A – Solar and Daylight Access	Min. 70% (37 units) receive 2 hours solar access  Max. 15% units have no solar access	85.7% (48) units receive 2 hours solar access.  15.8% (9) units receive no solar access.	Yes.  No - Acceptable on merit.
4B – Natural Ventilation	Min. 60% (35 units) are cross ventilated in first 9 storeys  Cross-over/Cross-through Max 18m depth  Light wells are not the primary source of ventilation for habitable rooms Single aspect units have limited depth to maximise ventilation	86% (49) units are cross ventilated.	Yes.
4C – Ceiling Heights	Habitable: 2.7m Non-habitable: 2.4m 2 storey apartments: 2.7m main living area, 2.4m mezzanine	2.7m ceiling heights are provided to all rooms.	Yes.

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Lots 10-12 in DP 9481 (Cont'd)

Design Criteria	Required	Proposed	Compliance
	Mixed Use: 3.3m ground floor		
4D – Apartment Size and Layout	1 bed: 50m <sup>2</sup>  Habitable room depths =max 2.5 x ceiling height <u>Or</u> if open plan layout =max 8m from a window Master bed: min 10m <sup>2</sup> Other bedroom: min 9m <sup>2</sup> Living room min. width: Studio and 1 bed: 3.6m 2 and 3 bed: 4m Crossover/through: min 4m	The proposal seeks provision of a 1 bedroom unit to the ground floor of the building which complies with the minimum 50m <sup>2</sup> unit size requirements.	Yes.
4E – Private Open Space and Balconies	1 bed: 8m <sup>2</sup> , min depth 2m	The balcony to the new unit (G03) achieves a minimum depth of 2m and a minimum area of 22.8m <sup>2</sup> .	Yes.
4K – Apartment Mix	Variety of apartment types Appropriate apartment mix Different apartments distributed throughout the building	The proposal provides for an acceptable mix of units. The following unit mix is proposed: <ul style="list-style-type: none"> <li>• (9) x 1 bedroom;</li> <li>• (42) x 2 bedroom; and</li> <li>• (6) x 3 bedroom units</li> </ul>	Yes.
4O – Landscape Design	Responsive to streetscape Viable and sustainable	The landscape design remains relatively unchanged with the development continuing to provide a large BBQ area along the northern boundary of the site with consolidated deep soil and communal open space areas also provided in the rear portion of the site.	Yes.
4U – Energy Efficiency	Adequate natural light to habitable areas Adequate natural ventilation Screened areas for clothes drying Shading on northern and western elevations	Adequate access to natural light and ventilation is provided to habitable areas of all units.	Yes.
4V – Water Management and Conservation	Efficient fixtures/fittings WSUD integrated Rainwater storage and reuse	The proposal was supported with a current BASIX Certificate including BASIX commitments, which seek to meet sustainability targets.	Yes.

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Lots 10-12 in DP 9481 (Cont'd)

### Strathfield Local Environmental Plan (SLEP) 2012

An assessment of the proposal against the general aims of SLEP 2012 is included below:

Cl. 1.2(2)	Aims	Complies
(a)	To achieve high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities and neighbourhoods in Strathfield	Yes
(b)	To promote the efficient and spatially appropriate use of land, the sustainable revitalisation of centres, the improved integration of transport and land use, and an appropriate mix of uses by regulating land use and development	Yes
(c)	To promote land uses that provide a wide range of employment, recreation, retail, cultural, service, educational and other facilities for the local community	Yes
(d)	To provide opportunities for economic growth that will enhance the local community	Yes
(e)	To promote future development that integrated land use and transport planning, encourages public transport use, and reduced the traffic and environmental impacts of private vehicle use	Yes
(f)	To identify and protect environmental and cultural heritage	Yes
(g)	To promote opportunities for social, cultural and community activities	Yes
(h)	To minimise risk to the community by identifying land subject to flooding and restricting incompatible development	Yes

**Comments:** The proposed development is consistent with the general aims of SLEP 2012.

### Permissibility

The site is zoned R4 High Density Residential, pursuant to SLEP 2012 residential flat building are permissible with consent and are defined under the SLEP 2012 as follows:

**“residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.”**

The development is for the purpose of a residential flat building which is consistent with the definition above.

### Zone Objectives

- |  |     |
|--|-----|
| ➤ To provide for the housing needs of the community within a high density residential environment.         | Yes |
| ➤ To provide a variety of housing types within a high density residential environment.                     | Yes |
| ➤ To enable other land uses that provide facilities or services to meet the day to day needs of residents. | Yes |

The proposal is consistent with the objectives of the R4 – High Density Residential Zone, providing for the housing needs of the community.

### Part 4: Principal development standards

The proposal will not alter the approved building height however modifications to the approved floor space ratio are proposed as follows:

#### Floor space ratio

Cl.	Standard	Controls	Approved under DA2015/174	Proposed	Complies
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4.4	Floor space ratio	2:1 (4,262m <sup>2</sup> )	1.99:1 (4,248.61m <sup>2</sup> )	2.01:1 (4,294.2m <sup>2</sup> )	No
	<b>Objectives</b>				<b>Complies</b>
(a)	To ensure that dwellings are in keeping with the built form character of the local area				Yes
(b)	To provide consistency in the bulk and scale of new dwellings in residential areas				Yes
(c)	To minimise the impact of new development on the amenity of adjoining properties				Yes
(d)	To minimise the impact of development on heritage conservation areas and heritage items				Yes
(e)	In relation to Strathfield Town Centre:				N/A
	i. to encourage consolidation and a sustainable integrated land use and transport development around key public transport infrastructure, and				
	ii. to provide space for the strategic implementation of economic, social and cultural goals that create an active, lively and people-oriented development				
(f)	In relation to Parramatta Road Corridor – to encourage a sustainable consolidation pattern that optimises floor space capacity in the Corridor				Yes

**Clause 4.6 Exceptions to Development Standards**

Under Clause 4.6 of the SLEP 2012, the consent authority may consider a variation, where that variation would achieve a better outcome.

As demonstrated in the table above, the proposed development fails to comply with the maximum FSR development standard permitted under Clause 4.4 of the SLEP 2012. The area of non-compliance relates to a portion of the new 1 bedroom unit contained to the ground floor of the development. This results in a variation of 0.76% (32.2m<sup>2</sup>) beyond the maximum permitted FSR controls.

Clause 4.6(3) of the SLEP 2012 states the following:

*“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided a written request that seeks to justify the proposed contravention of the FSR development standard on the following grounds:

- The proposed building will be of a form and scale that is compatible with the desired future character, presenting an attractive facade to Smallwood Avenue and making a positive contribution to the streetscape character and urban form and scale.
- In the context of the overall development the proposed variation is considered to be minor and has little bearing on the developments resultant building mass, bulk and height, which is contained entirely within the maximum building height limit for the site.

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- It is considered that the density proposed is sustainable and appropriate given that the site is located within an identified urban renewal corridor (Parramatta Road Corridor) and is in close proximity to public transport (both train and buses) and the facilities and services available in the surrounding area.
- The proposal seeks to provide additional residential accommodation in proximity to public transport, shops and services, which is considered to be a desirable planning outcome.
- Strict compliance with the development standard would not alter the design approach or outcome for the site, and would not improve the building's relationship to its surrounding. The proposed design solution is considered to represent the best possible development outcome for the site, whilst ensuring the amenity of both existing and future residents is preserved.
- The scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Clause 4.6(4) of the SLEP 2012 states the following:

*"Development consent must not be granted for a development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)*

The applicant's written request to justify the contravention of the FSR standard adequately addresses the matters required to be demonstrated in subclause 4.6(3). Specifically, compliance with the standard is unnecessary or unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The written request is considered to provide sufficient substantive information on the environmental planning grounds relating to streetscape, bulk, scale, amenity, views, solar access and public interest.

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

The site is zoned R4 High Density Residential under SLEP 2012 wherein development for the purposes of a residential flat building is permissible with consent. The proposal is generally consistent with the objectives of the Zoned R4 – High Density Residential in that:

- The proposed development will facilitate an additional unit within an approved residential development which is in keeping with the character and approved use of the development;
- The proposed additional unit is generally within the approved building footprint of the development resulting in a negligible increase in bulk and scale which is not visible from the street;
- The proposal seeks to utilise remnant common space areas which is considered a more effective and appropriate use of the area; and
- The proposal still accords with the consolidation patterns sought for the Parramatta Road Corridor.

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*(b) the concurrence of the Secretary has been obtained."*

Council may assume the concurrence of the Director-General under the Planning Circular PS 08-003 issued in May 2008.

In conclusion, the applicant's written request to justify the contravention of the FSR development standard is considered to be well founded in that the applicant has satisfactorily demonstrated that compliance with the standard is unnecessary or unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

### **Part 5: Miscellaneous Provisions**

There are no provisions in Part 5 of the SLEP 2012 which relate to the proposal.

### **Part 6: Local Provisions**

The relevant provisions contained within Part 6 of the SLEP 2012 are addressed below as part of this assessment:

#### **6.1 Acid sulfate soils**

The subject site is identified as having Class 5 soils and is located within 500m of Class 1, 2, 3 or 4 soils. As the proposal does not involve works below 5 AHD, the proposed development was not required to be accompanied by an Acid Sulfate Soils Management Plan and has satisfied the requirements of Clause 6.1 of the SLEP, 2012.

#### **6.2 Earthworks**

The proposal does not involve any earthworks beyond that which have been approved and conditioned under DA2015/174.

#### **6.4 Essential services**

The proposed development has been designed having consideration for the supply of water, electricity, sewerage, waste, stormwater and suitable vehicular access. Standard conditions of consent have been imposed under DA2015/174 to ensure that these services are provided for the site.

#### **6.9 Additional provisions for development in Parramatta Road Corridor**

The site is located within the Parramatta Road Corridor and therefore the provisions of Clause 6.9 of the SLEP 2012 apply. In accordance with Clause 6.9(3) development consent must not be granted for development on land to which this Clause applies unless the consent authority is satisfied that the development will contribute to the general mix of residential and non-residential land uses in the area and the vertical and horizontal integration of land uses in the area.

The subject site is zoned R4 High Density Residential and the development results in a high quality residential flat building that achieves the objectives of this zone and is considered to satisfy Clause 6.9 (3) of the SLEP 2012.

#### **4.15(1)(a)(ii) any draft environmental planning instruments**

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

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#### 4.15 (1)(a)(iii) any development control plan

### STRATHFIELD CONSOLIDATED DEVELOPMENT CONTROL PLAN (SCDCP) 2005

The following is an assessment of the proposal's compliance with the relevant provisions contained within SCDCP 2005.

DCP – 20 is of relevance to the assessment of an application for a residential flat building within the Parramatta Road Corridor Area and as such applies to the subject application.

Clause 6A of SEPP 65 confirms that in the event of any inconsistency between the controls of the ADG and Council's Development Control Plan, the objectives, design criteria and design guidance set out in the ADG prevail.

This confirms that if a development control plan contains provisions that specify requirements, standards or controls in relation to the following matters, those provisions are of no effect:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation, and
- (h) storage.

These matters, as of relevance to the Application, have been addressed in the ADG assessment above where it has been determined that the proposal is satisfactory.

The remaining matters of relevance provided in the DCP are addressed in the table below:

Section	Development Control	Required	Proposed	Compliance
2.2	Built form/footprint	Proposal to conform to the building footprint shown in figure 9.	The building footprint generally accords with the Draft Key Sites Map.	N/A
	Land Consolidation	Proposal to conform to the consolidation pattern identified in figure 12.	Conforms with consolidation pattern of SLEP 2012 (Key Site 47)	N/A
2.3	Building Height	Proposal to conform to building height identified in figure 12, which requires max. 3 storeys.	Refer to previous discussion of building height under SLEP 2012	N/A
	Minimum Unit Sizes	Proposal to comply to the following min. unit sizes:  1 bed – 70m <sup>2</sup>	The unit sizes of the ADG prevail.	N/A
2.8	Visual and Acoustic Privacy	Visual privacy to be provided by separation or screening.	ADG prevails	N/A
		Main living areas oriented to the street or rear garden to	ADG prevails	N/A



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Section	Development Control	Required	Proposed	Compliance
		prevent overlooking.		
2.9	Private Open Space	Proposal to provide 35% deep soil landscape area on the site.	ADG prevails.	N/A
	Balconies	Dwellings without ground level open space shall have balconies to the following requirements: <ul style="list-style-type: none"> <li>• 12m<sup>2</sup> up to 2 bed; and</li> <li>• 15m<sup>2</sup> for 3 or more bed;</li> </ul> Min. dimension of 2.0m;	ADG prevails.	N/A
		Achieve required BASIX rating.	BASIX satisfied.	Yes.
	Solar Access	Main living and 50% of POS receive min. 3 hours solar access.	ADG prevails	N/A
		Min. 3 hours solar access maintained to habitable rooms and POS of adjoining development.	ADG prevails	N/A
2.13	Vehicular Access and Car Parking	Car parking to be provided on the following basis:  1 and 2 bed – 1 space required  3 bed – 1.5 spaces required  Visitor – 1 space per 5 units	1 space is required to accommodate the new 1 bedroom unit.  Overall, 71 spaces are provided in the basement which can accommodate for:  • 51 x 1 bedroom units and 2 bedroom units (51) spaces +  • 6 x 3 bedroom units =(9) spaces  <b>60 spaces required</b>  11.4 visitor spaces required <b>11 spaces required</b>  Total – 71 spaces provided	No– Refer to Condition 9 requiring (72) spaces to be provided.

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Section	Development Control	Required	Proposed	Compliance
			however 72 required to accommodate additional visitor space.	

#### **Part H – ‘Waste Management’ of the Strathfield Consolidated Development Control Plan (DCP) 2005**

In accordance with Part H of the SCDCP 2005, residential waste storage was provided at the following rates:

**General Waste:** 120L/unit/week

**Recycling:** 120L/unit/fortnight

Having regard to the above rates, a minimum of eleven (11) x 660L bins are to be provided for general waste and (29) x 240L bins are to be provided for recycling waste. Condition 1 has been imposed to reflect the updated bin numbers required to be provided for the development.

#### **4.15 (1)(a)(iia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.14 of the *Environmental Planning and Assessment Act 1979*.

#### **4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration the provisions of the Government Coastal Policy and Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Appropriate conditions are included on the original consent DA2015/174 to ensure compliance with any relevant regulations.

#### **4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

As previously discussed, the proposed development seeks the construction of an additional 1 bedroom unit to the ground floor of the approved development under DA2015/174 which will result in a minor increase beyond the maximum permitted FSR for the site. Notwithstanding, the development's orientation, bulk, scale and overall design allows the development to achieve an acceptable level of streetscape compatibility with the future character of the immediately surrounding streetscape and the wider Parramatta Road Corridor.

The development follows the intended building envelope pattern envisaged for the site under the Key Sites Map and generally complies with the requirements of the ADG in relation to building separation, solar access, cross ventilation, communal open space and landscaped areas. This demonstrates that the development is suited to the site and will provide a high level of residential amenity.

#### **4.15 (1)(c) the suitability of the site for the development**

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The subject site is a regular residential block and is largely unconstrained aside from the existing stormwater easement running through the centre of the site. The proposal has been designed having regard to the orientation of the land and achieves a high quality residential flat building capable of meeting the design quality principles of the ADG and numeric development standards of the SLEP 2012.

**4.15 (1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with Part L of the SCDCP 2005 from 15 May 2018 – 30 May 2018. No submissions were received.

**4.15 (1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation. The proposed development presents a good outcome for the high density residential redevelopment of the site and is not contrary to the public interest.

**SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- “(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) the dedication of land free of cost, or*
  - (b) the payment of a monetary contribution,*
  - or both.*
- (2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.”*

Section 7.11 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contributions Plan 2010-2030. Accordingly, the Section 7.11 contributions are required as follows:

Provision of Community Facilities	\$1,475.34
Provision of Major Open Space	\$6,712.38
Provision of Local Open Space	\$4,376.56
Provision Roads and Traffic Management	\$614.25
Administration	\$127.22
<b>TOTAL</b>	<b>\$13,305.75</b>

**CONCLUSION**

The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, the Strathfield Local Environmental Plan 2012 and the Strathfield Development Control Plan 2005 and is considered to be satisfactory for approval.

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## RECOMMENDATION

That Development Application No. 2018/119 involving construction of an additional one (1) bedroom unit to the ground floor of an approved residential flat development at 10-14 Smallwood Avenue, Homebush be **APPROVED**, subject to the following conditions:

## SPECIAL CONDITIONS (SC)

### 1. WASTE (SC)

The below bin numbers are required in a building of 57 units,

- c. 29 x 240L Recycling Bins
- d. 11 x 660L Garbage Bins required

The bin room will need to be resized accordingly to accommodate the additional unit within the development.

Details demonstrating compliance with the above shall be prepared and submitted to Council and the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.**

(Reason: compliance with Part H of SCDCP 2005)

### 2. CONCURRENCE WITH PREVIOUS CONSENT (SC)

The proposed development shall be constructed in accordance with DA2015/174 and the conditions approved under the subject application.

(Reason: to ensure consistency with the construction of the development approved on the site).

## GENERAL CONDITIONS (GC)

### 3. APPROVED PLANS AND REFERENCE DOCUMENTATION (GC)

The development, except where modified by a condition(s) of consent, is to be carried out in accordance with the following plans and reference documentation:

Plans affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2018/119:

Ground Floor Plan, Project No. 439, Drawing 405, Revision 201, prepared by Ross Howieson Architects, received by Council 30 April 2018.

North Elevation, Project No. 439, Drawing 304, Revision 201, prepared by Ross Howieson Architects, received by Council 30 April 2018.

Section EE, Project No. 439, Drawing No. 405, Revision 201, prepared by Ross Howieson Architects, received by Council 30 April 2018.

BASIX Certificate No. 687931M\_03, issued 26 July 2018, received by Council 27 July 2018.

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Landscape Plan, Drawing No. IS0197DA1, Issue C, prepared by Isthmus Pty Ltd, received by Council 30 April 2018.

Landscape Plan, Drawing No. IS0197DA2, Issue C, prepared by Isthmus Pty Ltd, received by Council 30 April 2018.

Landscape Plan, Drawing No. IS0197DA3, Issue C, prepared by Isthmus Pty Ltd, received by Council 30 April 2018.

In the event of any inconsistency, the conditions of this consent shall prevail.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.)

**4. CONSTRUCTION HOURS (GC)**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Fridays and 8am to 1pm Saturdays.

No building activities are to be carried out at any time on a Sunday or public holiday.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: To maintain amenity to adjoining land owners.)

**5. LANDSCAPING - TREE PRESERVATION (GC)**

All street trees and trees on private property that are protected under Council's controls, shall be retained except where Council's prior written consent has been obtained. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited. This applies to the following trees:

<u>Tree</u>	<u>Height/ Spread (m)</u>	<u>Location</u>	<u>Protection Zone (m)</u>	<u>Structural Root Zone (m)</u>
13)Liquidambar styraciflua	16	Rear	9.6	3.2
25)Ligustrum lucidum	10	Adjoining (North)	2.0	2.0
26)Syagrus romanzoffianum	10	Adjoining (North)	2.4	2.0
27) Syagrus romanzoffianum	5	Adjoining (North)	2.0	2.0
23)Grevillea robusta	15	Rear	4.2	2.25

and protected by the establishment of a protection zone (in accordance with Australian Standard AS4970-Protection of trees on development sites) before any site works begin (including any demolition/excavation). The protection zone shall be maintained for the duration of works and implemented as follows:

**DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)**

- (a) A minimum 1.8m high barrier (Chain wire mesh panels, plywood or wooden paling fence panels: refer to AS4687-Temporary fencing and hoardings for fencing requirements) shall be erected around the perimeter of the stated Protection Zone as measured from the base of the tree (or where practical). Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20mm and be located clear of roots. The barrier shall be constructed so as to prevent pedestrian and vehicular entry into the protection zone. The barrier shall not project beyond the kerb onto the roadway or any adjacent footpath.
- (b) Signs identifying the Protection Zone should be installed on the fencing and be visible from within the development site. Lettering should comply with AS4970-2009: Protection of Trees on Development Sites.
- (c) No concrete slurry or wash, building materials, builders' rubble, excavation soil or similar shall be placed or stored within the tree protection zone.
- (d) The whole of the tree protection zone shall be mulched to a minimum depth of 75mm.
- (e) The tree protection zone shall be regularly watered.
- (f) Any major structural roots which are encountered shall be pruned by a qualified Arborist.
- (g) No excavation or construction shall be carried out within the stated Structural Root Zone distances from the base of the trunk surface.
- (h) Only permeable surfaces (e.g. decomposed granite, gravel, turfpave, permeable paving systems or soft landscaping) are permitted within the canopy spread of the trees to be protected.

**6. MATERIALS – CONSISTENT WITH SUBMITTED SCHEDULE (GC)**

All external materials, finishes and colours are to be consistent with the schedule submitted and approved by Council with development application DA2015/174.

(Reason: To ensure compliance with this consent.)

**7. PRINCIPAL CERTIFYING AUTHORITY (PCA) IDENTIFICATION SIGN (GC)**

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- i) the Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- ii) the Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person; and
- iii) the sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory requirement.)

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE (CC)**

DA2018/119 - 10-14 Smallwood Avenue, Homebush  
Lots 10-12 in DP 9481 (Cont'd)

8. **BUILDING CODE OF AUSTRALIA - COMPLIANCE WITH (CC)**

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by the consent commences.

Details demonstrating compliance with this condition are to be submitted to the Principle Certifying Authority, prior to issue of the Construction Certificate.

(Reason: This is a 'prescribed' condition under clause 98(1) of the Environmental Planning and Assessment Regulation 2000.)

9. **CAR PARKING - (CC)**

The entire site shall provide a total of 72 off-street parking spaces, hardpaved, linemarked, labelled and drained, which are distributed as follows:

Residents	60 (Including 9 accessible parking spaces)
Visitors	12

---

**TOTAL**            **72**

These spaces shall only be used for the parking of motorcycles, sedans, utilities, vans and similar vehicles up to two (2) tonne capacity.

Residential parking spaces shall be designated at a rate of at least one (1) space per unit.

Visitor parking spaces shall be provided on the upper most level of basement parking and shall include at least one (1) accessible parking space. .

If it is proposed to strata subdivide the development in the future, parking designation shall be strictly in accordance with this condition.

NOTE: This is the total parking rate for the entire site.

10. **COMMENCEMENT OF WORKS (NO WORKS UNTIL A CC IS OBTAINED)**

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued by either Strathfield Council or a Principal Certifying Authority.

Demolition of any part of a building triggers 'commencement of erection of building' pursuant of section 81A(2) of the EP&A Act 1979. Accordingly, demolition works must not commence until a Construction Certificate has been issued, a Principal Certifying Authority has been appointed and a Notice of Commencement has been issued.

(Reason: To ensure compliance with statutory provisions.)

11. **CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN (CC)**

The applicant must prepare and submit a Construction and Environmental Management Plan (CEMP) to the Principal Certifying Authority, including:

**DA2018/119 - 10-14 Smallwood Avenue, Homebush**  
**Lots 10-12 in DP 9481 (Cont'd)**

- i) Detailed information on any approvals required from other authorities prior to or during construction.
- ii) Traffic management, including details of:
  - ingress and egress of vehicles to the site;
  - management of loading and unloading of materials;
  - the location of heavy vehicle parking off-site; and
  - designated routes for vehicles to the site.
- iii) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- iv) Erosion and sediment control, detailing measures and procedures consistent with the requirements of Council's guidelines for managing stormwater, including:
  - the collection and treatment of stormwater and wastewater generated on site prior to discharge; and
  - procedures to prevent run-off of solid material and waste from the site.
- v) Waste management, including:
  - details of the types and estimated volumes of waste materials that will be generated;
  - procedures for maximising reuse and recycling of construction materials; and
  - details of the off-site disposal or recycling facilities for construction waste.
- vi) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences.
- vii) A soil and water management plan, which includes:
  - measures to minimise the area of soils exposed at any one time and conserve top soil;
  - identification and protection of proposed stockpile locations;
  - preservation of existing vegetation and revegetation;
  - measures to prevent soil, sand, sediments leaving the site in an uncontrolled manner;
  - measures to control surface water flows through the site in a manner that diverts clean run-off around disturbed areas, minimises slope gradient and flow distance within disturbed areas, ensures surface run-off occurs at non-erodible velocities, and ensures disturbed areas are promptly rehabilitated;
  - details of sediment and erosion control measures in place before work commences;
  - measures to ensure materials are not tracked onto the road by vehicles entering or leaving the site; and
  - details of drainage to protect and drain the site during works.
- viii) Asbestos management procedures:
  - Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies and a current WorkCover Demolition License where works involve demolition. To find a licensed asbestos removalist please see [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)
  - Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m<sup>2</sup> or less of non-friable asbestos (approximately the size of a small bathroom). Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
  - Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos



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- material must comply with the following:
- The Work Health and Safety Act 2011;
  - The Work Health and Safety Regulation 2011;
  - How to Safety Remove Asbestos Code of Practice – WorkCover 2011; and
  - Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace.
- Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.
  - The developer or demolition contractor must notify adjoining residents at least two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of asbestos removal works. Notification is to include, at a minimum:
    - the date and time when asbestos removal works will commence;
    - the name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
    - the full name and license number of the asbestos removalist/s; and
    - the telephone number of WorkCover's Hotline 13 10 50
    - warning signs informing all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance; and
    - appropriate barricades installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

(Reason: Safety, amenity and protection of public infrastructure and the environment.)

**12. COUNCIL PERMITS – FOR ALL ACTIVITIES ON COUNCIL LAND (CC)****Works Permit**

(as per Section 68 of the Local Government Act 1993 and Section 138 and 139 of the Roads Act 1993)

A Works Permit is required for construction of a vehicular crossing (driveway), new stormwater down pipe connection to kerb and gutter, new footpath and/or stormwater connection. A Works Permit Application Form is available from Council's Customer Centre or can be downloaded from Council's website. The applicable fees and charges are located on Council's website.

**Standing Plant Permit**

This permit must be applied for where it is intended to park a concrete pump, crane or other plant on the roadway or footpath. A Standing Plant Permit Application Form is available from Council's Customer Centre or can be downloaded from Council's website. The applicable fees and charges are located on Council's website. Please note a Road Closure Permit is not required for standing plant.

**Skip Bin Permit**

This permit must be applied for if you intend to place a skip bin on the roadway or footpath. A Skip Bin Application Form is available from Council's Customer Centre or can be

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downloaded from Council's website. The applicable fees and charges are located on Council's website.

Temporary Full or Part Road Closure Permit

This permit must be applied for if you require a full or a part road closure to take place to assist in your construction works. Please use the Works Permit Application Form, which is available from Council's Customer Service Centre or can be downloaded from Council's website. The applicable fees and charges are located on Council's website. Please note a Road Closure Permit is not required for standing plant.

Hoarding Permit

This permit must be applied for if you intend to erect a Class A (fence type) or Class B (overhead type) hoarding along the street frontage(s). A Hoarding Permit Application Form is available from Council's Customer Service Centre or can be downloaded from Council's website. The applicable fees and charges are located on Council's website.

Work Zone Permit

This permit must be applied for if you require permanent parking along the kerbside at the front of the site during construction works. A Work Zone Permit Application Form is available from Council's Customer Service Centre or can be downloaded from Council's website. The applicable fees and charges are located on Council's website.

Ground Anchoring Permit

This permit must be applied for, for the installation of ground anchors under Council's footway/road reserve. It does not cover ground anchors under private properties. A separate approval is required to be obtained from Roads and Maritime Services (RMS) if it is proposed to install ground anchors under a State or Classified Regional Road (please refer to the end of this application form for more information).

(Reason: Council requirement)

**13. FIRE SAFETY SCHEDULE (CC)**

A Fire Safety Schedule specifying the fire safety measures which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 of Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

(Reason: Compliance with the Environmental Planning and Assessment Act 1979.)

**14. SECTION 7.11 CONTRIBUTION PAYMENT - DIRECT CONTRIBUTIONS PLAN (CC)**

In accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 2010-2030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

Provision of Community Facilities	\$1,475.34
Provision of Major Open Space	\$6,712.38
Provision of Local Open Space	\$4,376.56
Provision Roads and Traffic Management	\$614.25
Administration	\$127.22
<b>TOTAL</b>	<b>\$13,305.75</b>

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Lots 10-12 in DP 9481 (Cont'd)**

The total amount of the contribution is valid as at the date of determination and is subject to quarterly indexation. Contributions shall be indexed at the time of payment in accordance with clause 2.14 of the Strathfield Direct Development Contributions Plan 2010-2030.

Contributions must be receipted by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

Note: A copy of Strathfield Council's Section 94 Direct Development Contributions Plan may be downloaded from Council's website.

(Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.)

**15. UNIT STORAGE (CC)**

Purpose built storage compartment(s) shall be provided to and within each of the resident car parking bays and/or associated dwellings at the following rates:

- 6m<sup>3</sup> for each one (1) bedroom unit
- 8m<sup>3</sup> for each two (2) bedroom unit, and
- 10m<sup>3</sup> for each unit with three (3) bedrooms or more.

In order to deter theft, the security compartments shall be designed in a manner to conceal from view and secure their contents i.e. through the use of dense, solid material and a shroud covered padlock (or similar).

Amended plans showing the location and configuration of each of storage compartment(s) shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORKS (CW)****16. APPOINTMENT OF A PRINCIPAL CERTIFYING AUTHORITY (PCA) (CW)**

No work shall commence in connection with this Development Consent until:

- i) A construction certificate for the building work has been issued by the consent authority or a Principal Certifying Authority.
- ii) The person having the benefit of the development consent has appointed a principal certifying authority for the building work, and notified the principal certifying authority that the person will carry out the building work as an owner/builder, if that is the case.
- iii) The principal certifying authority has, no later than 2 days before the building work commences:
  - notified the Council of his or her appointment, and
  - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work.
- iv) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved;

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Lots 10-12 in DP 9481 (Cont'd)**

- notified the principal certifying authority of such appointment; and
  - unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work.
- v) The person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirement.)

**17. NOTICE OF COMMENCEMENT (CW)**

No work shall commence until the following details are submitted to Council:

- i) a Notice of Commencement (form will be attached with issue of a Construction Certificate or available from our website) within two (2) days of the date on which it is proposed to commence works associated with the Development Consent;
- ii) details of the appointment of a Principal Certifying Authority (either Council or another Principal Certifying Authority); and
- iii) details of the name, address and licence details of the Builder.

(Reason: Statutory requirement.)

**CONDITIONS TO BE SATISFIED DURING DEMOLITION AND BUILDING WORKS (DW)****18. OBSTRUCTION OF PUBLIC WAY NOT PERMITTED DURING WORKS (DW)**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without the prior approval of Council.

(Reason: To maintain public access and safety.)

**19. PUBLIC INFRASTRUCTURE AND SERVICES (DW)**

The applicant must comply with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc.) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

(Reason: To maintain public infrastructure and/or services.)

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Lots 10-12 in DP 9481 (Cont'd)

## 20. SITE REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- i) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- ii) Demolition must be carried out by a registered demolition contractor.
- iii) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- iv) No blasting is to be carried out at any time during construction of the building.
- v) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- vi) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- vii) Any demolition and excess construction materials are to be recycled wherever practicable.
- viii) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- ix) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- x) All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- xi) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- xii) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- xiii) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- xiv) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- xv) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.
- xvi) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- xvii) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- xviii) Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

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Lots 10-12 in DP 9481 (Cont'd)

21. **SURVEY REPORT OF APPROVED LEVELS DURING AND POST CONSTRUCTION (DW)**

A Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:

- i) At the completion of the first structural floor level prior to the pouring of concrete indicating the level of that floor and the relationship of the building to the boundaries.
- ii) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- iii) At the completion of the development.

Progress certificates in response to points (1) through to (3) shall be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances is work allowed to proceed until such survey information is submitted to and approved by the Principal Certifying Authority.

(Reason: To ensure compliance with the approved plans.)

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE (OC)**

22. **FIRE SAFETY CERTIFICATION (OC)**

A fire safety certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment Regulation 2000, prior to the issue of any Occupation Certificate.

An fire safety certificate is a certificate issued by the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the part of the building to which the certificate relates:

- i) has been assessed by a properly qualified person; and
- ii) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

An interim fire safety certificate must be provided before an interim occupation certificate can be used for a building under Clause 153(2) of the Environmental Planning & Assessment Regulation 2000.

A final fire safety certificate must be provided before an interim occupation certificate can be used for a building under Clause 153(1) of the Environmental Planning & Assessment Regulation 2000.

A copy of the fire safety certificate and fire safety schedule shall be:

- i) submitted to Strathfield Council;
- ii) submitted to the Commissioner of the New South Wales Fire Brigade; and
- iii) prominently displayed in the building.

(Reason: Fire safety and statutory requirement.)

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23. **OCCUPATION OF BUILDING (OC)**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- i) all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- ii) any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement.)

24. **POSITIVE COVENANT (OC)**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property as follows:

- (a) Full and free right must be provided to Strathfield Council employees or its authorised contractors to:
  - (i) Enter upon the land and remove any waste products using any vehicle or equipment as necessary;
- (b) The owner of the lot burdened shall be solely responsible for the cost of maintaining in good and sufficient repair at all times the internal roads or access ways used by Strathfield Council for the purpose of exercising its rights as set out in clause (a) above.

The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at Land & Property Information NSW. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority **prior to the issue of an Occupation Certificate.**

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE (SC)**

25. **COMMENCEMENT OF SUBDIVISION WORKS - REQUIREMENTS PRIOR TO (SC)**

Subdivision work in accordance with a consent must not commence until:

- i) a Construction Certificate has been issued;
- ii) the person having the benefit of the development consent has appointed the Principal Certifying Authority (PCA);
- iii) the PCA (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the PCA's appointment; and
- iv) the person having the benefit of the consent has given at least two (2) day's notice to the Council of the person's intention to commence the subdivision work.

NB: Crown work certified in accordance with s109R of the Environmental Planning and Assessment Act 1979 is exempted from the above requirements.

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Lots 10-12 in DP 9481 (Cont'd)**

(Reason: Statutory requirements.)

**26. SEPARATE APPLICATION FOR STRATA SUBDIVISION (SC)**

This consent does not imply approval to create a separate title, by subdivision or otherwise. Should it be intended to subdivide the approved development into strata title allotments, Council will require the lodgement of a separate development application for consideration.

(Reason: To ensure compliance with the consent.)

**27. SUBDIVISION CERTIFICATE - REQUIREMENTS PRIOR TO THE ISSUE OF (SC)**

A Subdivision Certificate allows a person to lodge a plan of subdivision with NSW Land and Property Information (LPI). The plan of subdivision identifies each of the allotments approved under the original consent (if required) or each allotment subject to an exempt boundary adjustment. The plan of subdivision is required to be prepared by a registered surveyor.

All types of subdivision (Torrens, Strata and Community Title) are required to be registered with NSW LPI before a new 'allotment' of a subdivision of land can be created.

The release of a Subdivision Certificate confirms that the Principal Certifying Authority (Council or Accredited Certifier) is satisfied that works are completed in accordance with the applicable Development Consent and that the land is suitable to occupy.

Prior to the issuing of any Subdivision Certificate under section 37A of the Strata Schemes (Freehold Development) Act 1973, and section 66A of the Strata Schemes (Leasehold Development) Act 1986, and in accordance with section 29A of the Strata Schemes (Freehold Development) Regulation 2007 and section 30A of the Strata Schemes (Leasehold Development) Regulation 2007, the PCA is required to be satisfied that:

- i) the floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed;
- ii) the floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building; and
- iii) any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.

As construction of the building nears completion, or after it has been completed, the Principal Certifying Authority must inspect the building and the common property areas around the building, so as to be satisfied, as required by section 66AA of the Act, that the above requirements have been met.

The Principal Certifying Authority shall also be satisfied that:

- i) all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- ii) any preconditions to the issue of the certificate required by a development consent or complying development certificate have been met.

The Subdivision Certificate must not be issued until the Principal Certifying Authority has issued the Final Occupation Certificate in relation to the approved development.

(Reason: Statutory requirements.)



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Lots 10-12 in DP 9481 (Cont'd)

28. **SUBDIVISION - LODGEMENT OF FINAL PLAN OF SUBDIVISION (SC)**

Once a Subdivision Certificate is issued by the Principal Certifying Authority, the Final Plan of Subdivision must be registered with Land and Property Information. Documentary evidence that the linen plan has been registered with Land and Property Information must be submitted to Strathfield Council as soon as practicable.

(Reason: Statutory requirement.)

**ATTACHMENTS**

1. [↓](#) Architectural Plans
2. [↓](#) Clause 4.6 Variation Request

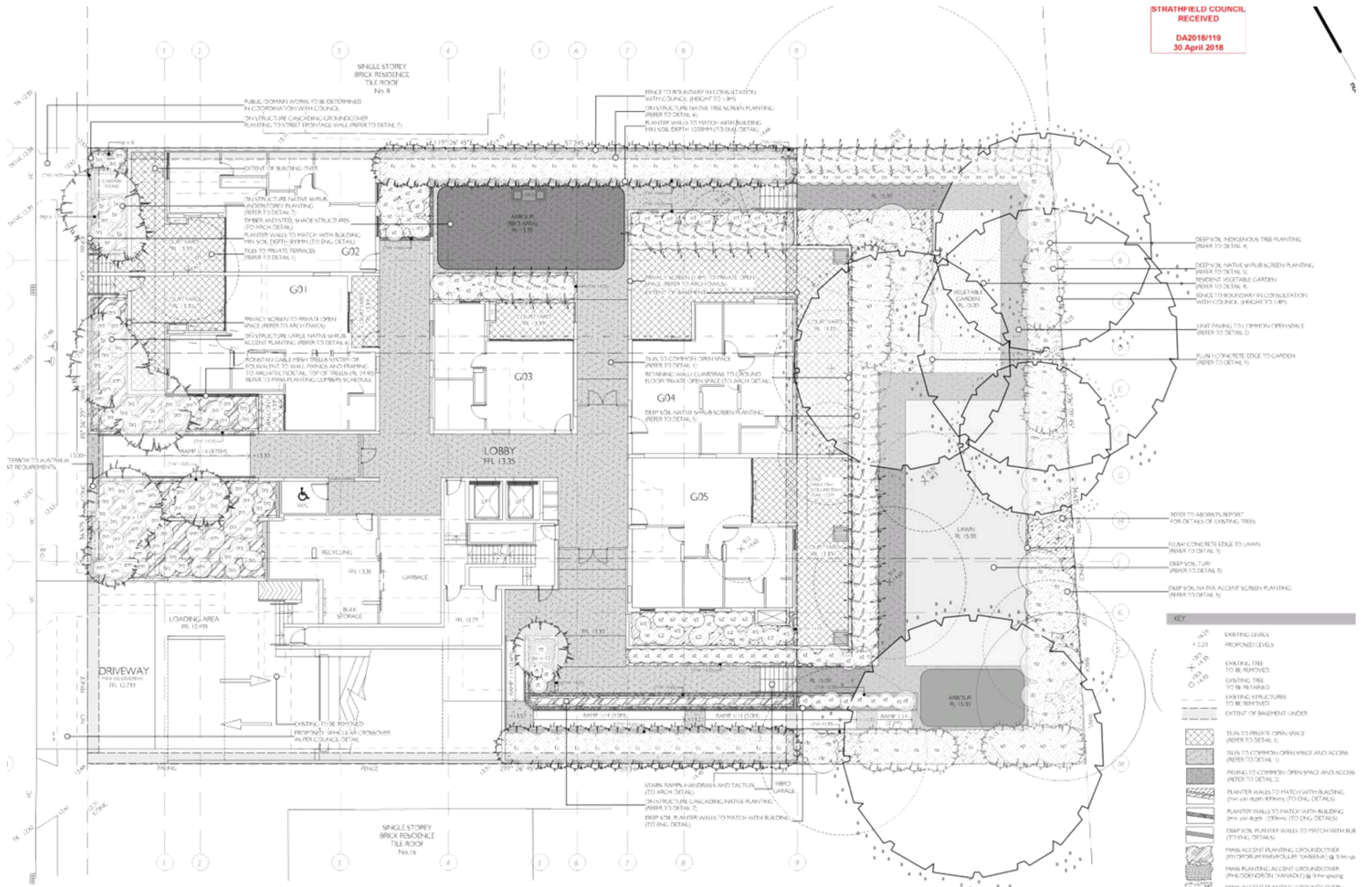








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30 April 2018

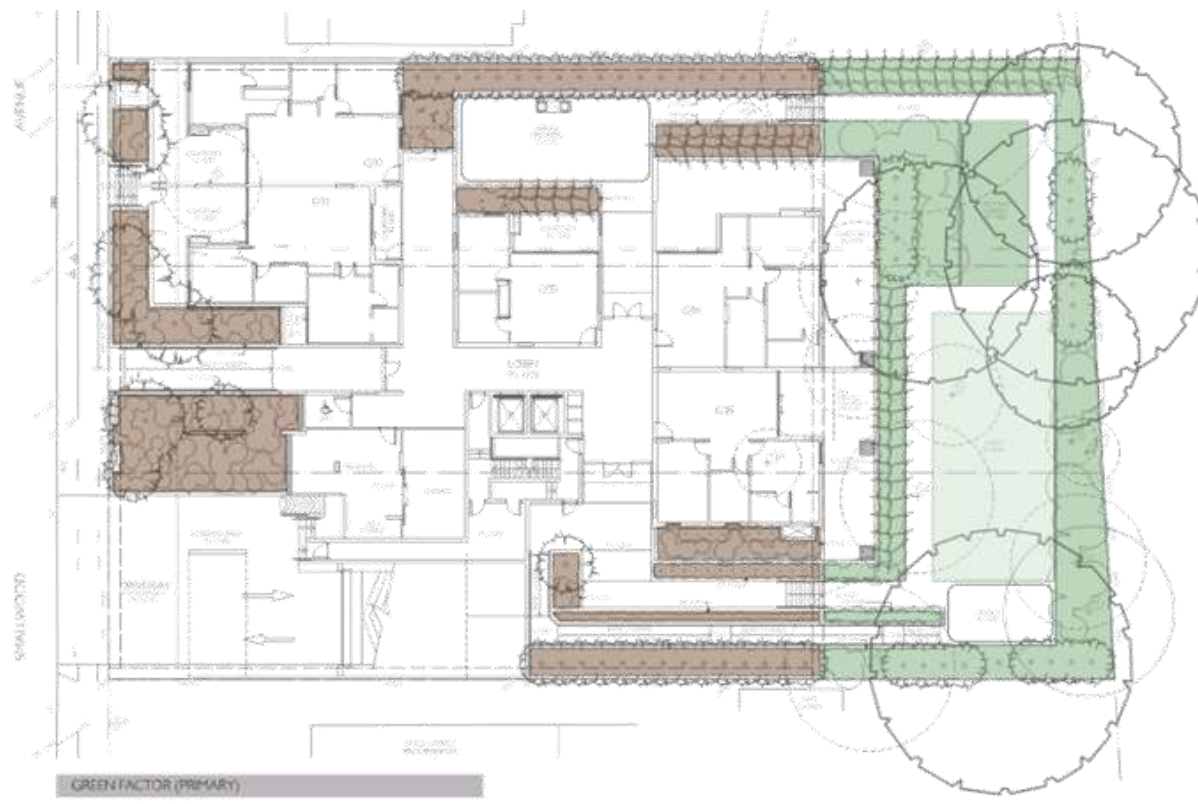


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 lethmus psy isa  
 10-14 SMALLWOOD AVE, HOME BUSH NSW 2148  
 TEL: 02 9339 2333

Sheet 1 of 3  
 LANDSCAPE PLAN  
 GROUND FLOOR  
 10-14 SMALLWOOD AVE, HOME BUSH 2148  
 DWG: B2197E  
 ISSUE: C

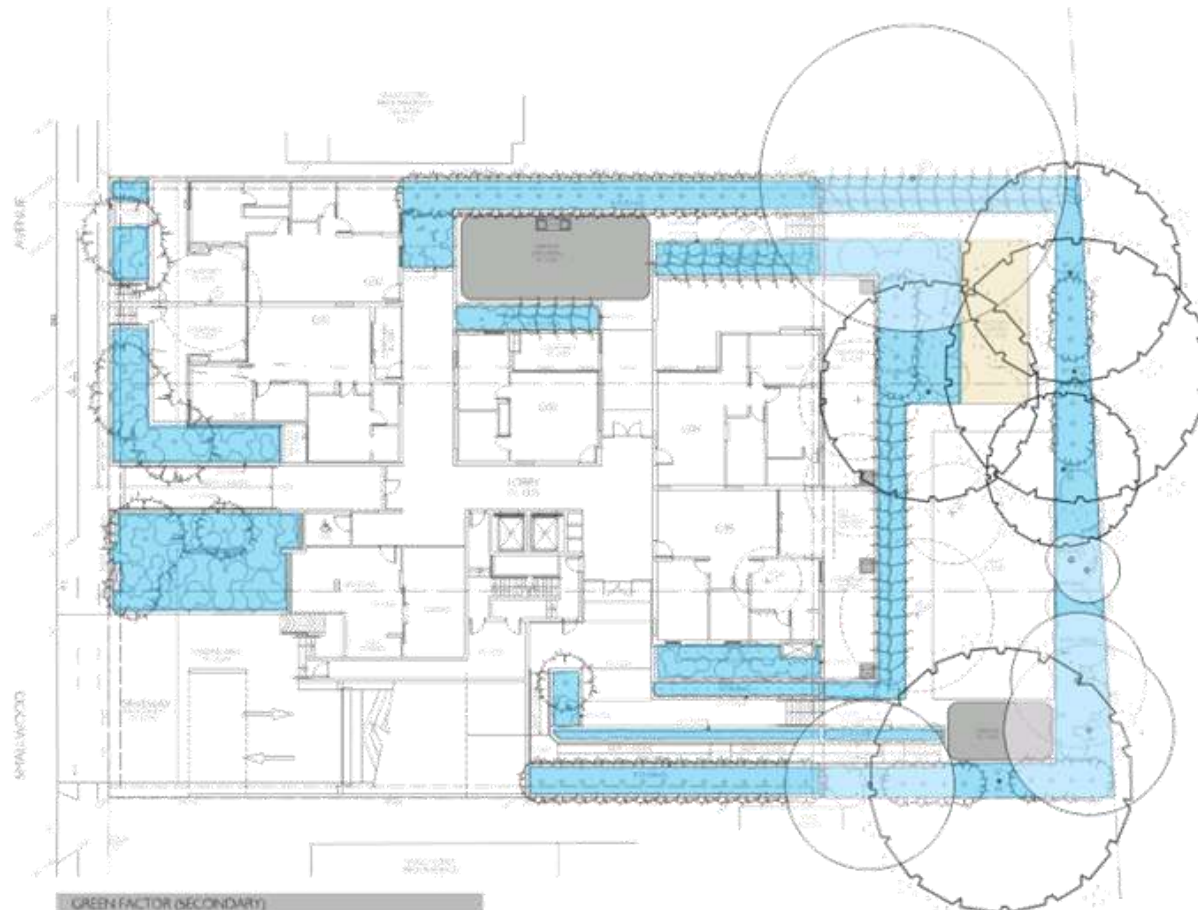






- KEY**
- P1 - PLANTING BUFFER ZONE (TOTAL AREA 273m<sup>2</sup>)
  - P2 - PLANTING AREA OVER STRUCTURE & GROUND (801-1330m<sup>2</sup>) (TOTAL AREA 257m<sup>2</sup>)
  - P5 - LAWN AREA OVER DEEP SOIL SUITABLE FOR BALL GAMESPLAYING (TOTAL AREA 113m<sup>2</sup>)

GREEN FACTOR (PRIMARY)



- KEY**
- S2 - INDIGENOUS NATIVE SPECIES / BIRD ATTRACTING (TOTAL AREA 462m<sup>2</sup>)
  - S14 - FOOD GROWING AREA FOR RESIDENTS (TOTAL AREA 39m<sup>2</sup>)
  - S23 - PERGO/SHADE (TOTAL AREA 75m<sup>2</sup>)

GREEN FACTOR (SECONDARY)

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30 April 2018



ITEM	DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE	REMARKS
1	PLANTING BUFFER ZONE	273	1.00	273.00	
2	PLANTING AREA OVER STRUCTURE & GROUND	257	1.00	257.00	
3	LAWN AREA OVER DEEP SOIL SUITABLE FOR BALL GAMESPLAYING	113	1.00	113.00	
4	INDIGENOUS NATIVE SPECIES / BIRD ATTRACTING	462	1.00	462.00	
5	FOOD GROWING AREA FOR RESIDENTS	39	1.00	39.00	
6	PERGO/SHADE	75	1.00	75.00	

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 10/14 SMALLWOOD AVE, HOME BUSH NSW 2148  
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Sheet 3 of 3  
**LANDSCAPE PLAN**  
 GREEN FACILITY  
 10-14 SMALLWOOD AVE, HOME BUSH 2148  
 DWG: B21575  
 ISSUE: C



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ADDITIONAL INFORMATION

DA2018/119  
6 August 2018



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**Clause 4.6 Exceptions to Development Standards**  
**Clause 4.4 Floor Space Ratio - Strathfield Local Environmental Plan 2012**

**Proposed Demolition of the Existing Structures and Construction of a Nine (9) Storey Residential Flat Building - Nos. 10-14 Smallwood Avenue, Homebush**

**1.0 Introduction**

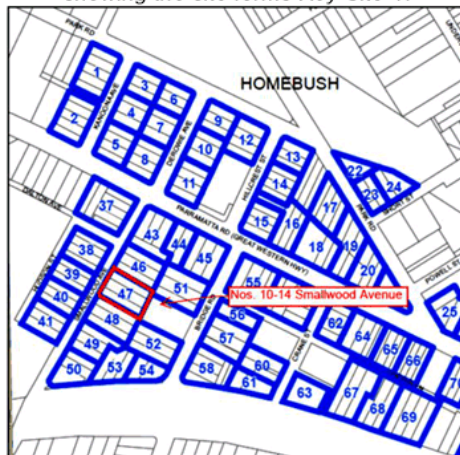
This Clause 4.6 Exceptions to Development Standards request has been prepared by Andrew Robinson Planning Services Pty Ltd on behalf of Smallwood Joint Venture to accompany a development application for a proposed nine storey residential flat building at Nos. 10-14 Smallwood Avenue, Homebush.

The Clause 4.6 Exceptions to Development Standards request relates to the floor space ratio principal development standard prescribed under subclause 4.4A of *Strathfield Local Environmental Plan 2012*.

Clause 4.4A of the LEP relates to exceptions to the floor space ratio of buildings located in the Parramatta Road Corridor and states that despite Clause 4.4, the floor space ratio of a building on land in 'Area 1' identified on the Floor Space Ratio Map and that comprises a Key Site on the Key Sites Map is not to exceed the maximum floor space ratio shown for the land in Column 2 to Clause 4.4A.

The site at Nos. 10-14 Smallwood Avenue comprises Key Site 47 and in accordance with Column 2 of Clause 4.4A, a maximum floor space ratio of 2:1 applies to the site. The proposed development has a gross floor area of 4,289.7m<sup>2</sup>. This equates to a floor space ratio of 2.01:1, representing a 27.71m<sup>2</sup> (0.65%) variation to the development standard.

**Figure 1: Extract from Strathfield LEP 2012 Key Sites Map showing the site forms Key Site 47**



Andrew Robinson Planning Services Pty Ltd  
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The following *Strathfield Local Environmental Plan 2012* definitions are important in considering the proposed variation:

**floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- a. the area of a mezzanine, and
- b. habitable rooms in a basement or an attic, and
- c. any shop, auditorium, cinema, and the like, in a basement or attic; but excludes:
- d. any area for common vertical circulation, such as lifts and stairs, and
- e. any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- f. plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- g. car parking to meet any requirements of the consent authority (including access to that car parking), and
- h. any space used for the loading or unloading of goods (including access to it), and
- i. terraces and balconies with outer walls less than 1.4 metres high, and
- j. voids above a floor at the level of a storey or storey above.

## 2.0 The Effect of Clause 4.6 Exceptions to development standards

Clause 4.6 of *Strathfield Local Environmental Plan 2012* states (in part):

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')

In summary, the principles arising from the above matters are:

That the relevant objectives are those stated in the controls not unidentified underlying objectives at [57] in Four2Five No. 1;

- (i) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site at [60] in Four2Five No. 1; and
- (ii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition.

In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

However, as a result of *Four2Five*, it is now necessary to demonstrate something *more* than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

### 3.0 Justification for Variation

#### ***What is the context of the variation?***

Nos. 10-14 Smallwood Avenue Street comprises three (3) existing residential allotments. The streetscape character was formerly that of an established low density residential neighbourhood, where the predominant built form was free standing single dwellings in garden settings. However, following amendments to the zoning to permit a higher density residential built form, the character of the area is in transition, with a number of multi storey residential flat buildings either under construction, or recently constructed in the locality. Adjoining the site to the south (Nos. 16-20 Smallwood Avenue) is a nine (9) storey residential flat building. Similarly, on the adjoining site to the north (Nos. 4-8 Smallwood Avenue) an eight (8) storey residential flat building has recently been constructed on this site.

The proposed building will be of a form and scale that is compatible with the desired future character, presenting an attractive facade to Smallwood Avenue and making a positive contribution to the streetscape character and urban form and scale.

#### ***Strict Compliance is unreasonable or unnecessary in the circumstances of the case.***

The proposed floor space ratio of 2.01:1 exceeds the maximum allowable floor space ratio of 2:1 by 27.71m<sup>2</sup> in gross floor area (GFA), representing a variation of 0.65% above the numerical development standard. Accordingly, in the context of the overall development the proposed variation is considered to be minor and has little bearing on the developments resultant building mass, bulk and height, which is contained entirely within the maximum building height limit for the site. Further, it is considered that the density proposed is sustainable and appropriate given that the site is located within an identified urban renewal corridor (Parramatta Road Corridor) and is in close proximity to public transport (both train and buses) and the facilities and services available in the surrounding area.

In addition, the proposal seeks to provide additional residential accommodation in proximity to public transport, shops and services, which is considered to be a desirable planning outcome.

Further, strict compliance with the development standard would not alter the design approach or outcome for the site, and would not improve the building's relationship to its surrounding. The proposed design solution is considered to represent the best possible development outcome for the site, whilst ensuring the amenity of both existing and future residents is preserved.

In light of the above, the requirement to strictly adhere to the numerical development standard for floor space ratio is considered to be unreasonable and unnecessary in this instance.

#### ***There are sufficient environmental planning grounds to justify contravening the development standard.***

There are considered to be sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- The proposed FSR (2.01:1) for the development represents a 0.65% (27.71m<sup>2</sup>) increase over the development standard prescribed under *Strathfield Local Environmental Plan 2012*;

- The additional FSR is considered to be a relatively minor departure that has negligible effect to the overall bulk and scale of the proposed development;
- Despite the proposed development exceeding the FSR principal development standard, a comprehensive design process was implemented to ensure that the development outcome responds effectively to its surroundings and minimises potential impacts on surrounding residents.
- Requiring the development to strictly adhere to the development standard would not enhance the relationship between the proposed building and its immediate surrounds; and
- The proposed development is consistent with the overarching FSR and zoning objectives for the site.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.***

The Table below demonstrates that the proposed development will be in the public interest because it will be consistent with both the floor space ratio principal development standard objectives and the B2 Local Centre zone objectives of the LEP.

LEP Clause	Objectives	Proposal
<b>Clause 4.4</b> <b>Floor Space Ratio</b>	(a) <i>to ensure that dwellings are in keeping with the built form character of the local area,</i>	The proposed development represents an appropriate use and density for the site as the bulk and scale of the building is consistent with existing developments and the desired future character for the locality.
	(b) <i>to provide consistency in the bulk and scale of new dwellings in residential areas,</i>	The orientation of the site allows for the development to achieve reasonable amenity to all residential units.
	(c) <i>to minimise the impact of new development on the amenity of adjoining properties,</i>	It is also noted that the development is capable of being adequately serviced, and the road network has sufficient capacity to accommodate the traffic to be generated by the development.
	(d) <i>to minimise the impact of development on heritage conservation areas and heritage items,</i>	The proposed development will not result in any significant impacts on adjoining properties and the surrounding public domain and maintains an acceptable degree of solar access and visual privacy to surrounding development.
	(e) <i>in relation to Strathfield Town Centre:</i>	
	(i) <i>to encourage consolidation and a sustainable integrated land use and transport development around key public transport infrastructure, and</i>	The proposed development will not impact on any heritage listed properties or heritage conservation areas.
(ii) <i>to provide space for the strategic implementation of economic, social and cultural goals that create an active, lively and people-orientated development,</i>	The site forms Key Site 47, as identified on the Key Sites Map under Strathfield Local Environmental Plan 2012 and therefore, achieves the desired consolidation pattern for the Parramatta Road Corridor.	
(f) <i>in relation to Parramatta Road Corridor—to encourage a sustainable consolidation</i>	Despite exceeding the floor space ratio, the proposed density is considered appropriate for this emerging urban renewal area within easy walking distance of the railway station and nearby commercial area.	

	<i>pattern that optimises floor space capacity in the corridor.</i>	
<b>R4 High Density Residential Zoning Objectives</b>	<i>To provide for the housing needs of the community within a high density residential environment.</i>	The proposed development will provide an additional 91 high quality residential units in Homebush within the Parramatta Road Corridor precinct. The variety of unit types provides for housing choice within Homebush.
	<i>To provide a variety of housing types within a high density residential environment.</i>	As above, the variety of apartments within the building provides a suitable mix of additional housing choice in proximity to public transport options, as well as local shops and services. The sites proximity to the railway station, bus stops and cycle paths will encourage walking and cycling.
	<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Noted. Residents will have access to facilities and services to meet their daily needs within close proximity to the site.

#### 4.0 Non-compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979

The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to (former) Objects (a)(i) and (a)(ii) in Section 5 of the *Environmental Planning and Assessment Act 1979* is necessary. These are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

The proposed variation to the floor space ratio standard will not contravene either of these Objects. The proper management of the existing urban environment in order to achieve better social and community outcomes, as well as the orderly and economic use and development of land, will be realised through the provision of high quality residential accommodation in a location with good access to public transport options and in proximity to shops, services and recreational facilities and educational establishments.

#### 5.0 Secretary's Concurrence

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained prior to granting consent to a development that contravenes a development standard. In accordance with the Planning Circular (PS 18-003) issued on 21 February 2018, as the proposal does not contravene a numerical standard by greater than 10%, Council can assume the Secretary's concurrence. Notwithstanding, this restriction does not apply to decisions made by Local Planning Panels, that (it is understood) will exercise the consent authority function on behalf of Strathfield Council in this instance.

Provided below is a discussion on the matters under subclause 4.6(5) that the Secretary must consider in deciding whether to grant concurrence:

**Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.**

The variation to the floor space ratio principal development standard under *Strathfield Local Environmental Plan 2012* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside the immediate area of the site.

**The public benefit of maintaining the development standard.**

No substantive public benefit would be realised by maintaining the development standard. Reducing the floor space ratio to strictly comply with 2:1 would not alter the overall design approach or outcome for the site and would not realise an improvement to the relationship between the site, the adjoining buildings and the surrounding area.

**Any other matters required to be taken into consideration by the Secretary before granting concurrence.**

Despite exceeding the statutory maximum floor space ratio, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a residential flat building that will positively contribute to the achievement of the NSW government's vision and strategic objectives for the redevelopment of the Parramatta Road Corridor and *Strathfield Local Environmental Plan 2012*.

**5.0 Conclusion**

Based on the discussion provided above, it can be concluded that:

- strict compliance with the floor space ratio principal development standard under *Strathfield Local Environmental Plan 2012* is unreasonable or unnecessary in the circumstances of the case, as the proposed design solution is considered to represent the best possible development outcome for the site, whilst ensuring the amenity of both existing and future residents is preserved;
- there are sufficient environmental planning grounds, having regard to the Court matters *Four2Five v Ashfield Council* and *Wehbe v Pittwater Council*, to justify the minor contravention to the development standard as the building has been designed to a high quality and amenity for future residents will be to a high standard;
- the non-compliance does not directly result in any adverse environmental impacts in terms of the building being out of context with the prevailing (and anticipated) bulk and scale of development in the locality;
- the proposal will provide a high quality residential flat development that is sympathetic to and in keeping with the existing and desired future character of the area and will provide a variety of housing choice in a high density residential environment, in proximity to public transport, facilities and services; and
- the scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Having regard to the circumstances of this case where:

- the overall style, scale and built form of the building will be commensurate with the existing and likely future 'built environment' and desired character of the area;



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10-14 Smallwood Avenue, Homebush – Clause 4.6 Exception

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- the proposal will have a positive impact on the streetscape appearance and character of the locality;
- the proposal is generally consistent with the aims and objectives of *Strathfield Local Environmental Plan 2012*; and
- the proposal is generally consistent with the objects of the *Environmental Planning & Assessment Act 1979*, in particular, the orderly and economic use and development of land and the promotion of good design and amenity of the built environment,

it is submitted that this Clause 4.6 Exceptions to Development Standards request is well founded. As such, strict compliance with the floor space ratio principal development standard prescribed in Clause 4.4 of *Strathfield Local Environmental Plan 2012* is unreasonable and unnecessary having regard to the circumstances of the case. Accordingly, having regard to the assessment contained in this Clause 4.6 Exceptions to Development Standards submission, it is requested that Council support the proposed variation and the development in its proposed form.

Dated: 6 August 2018

**Andrew Robinson Planning Services Pty Ltd**



Andrew Robinson MPIA CPP  
Director