

## STRATHFIELD COUNCIL

# STRATHFIELD LOCAL PLANNING PANEL MEETING AGENDA

Strathfield Municipal Council

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

**Thursday 11 July 2024**

Commencing at 4pm 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

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TO: Strathfield Local Planning Panel Meeting - 11 July 2024  
 REPORT: SLPP – Report No. 9  
 SUBJECT: DA2023.60 - 8-12 KANOONA AVENUE, HOMEBUSH  
 DA NO. DA2023.60

**SUMMARY**

<b>Property:</b>	8-12 Kanoona Avenue, Homebush DA 2023/60
<b>Proposal:</b>	Demolition of existing structures, lot consolidation, construction of a seven storey residential flat building with a 90-place child care centre on the ground floor and 33 residential units over three levels of basement parking and associated site works (integrated development)
<b>Applicant:</b>	AKA Property Pty Ltd
<b>Owner:</b>	AKA Property Pty Ltd
<b>Date of lodgement:</b>	17 May 2023
<b>Notification period:</b>	25 May 2023 – 16 June 2023; 13 September 2023 - 11 October 2023
<b>Submissions received:</b>	3
<b>Assessment officer:</b>	George Andonoski/W van Wyk
<b>Estimated cost of works:</b>	\$13,735,903.00
<b>Zoning:</b>	R4 High Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	<b>No</b>
<b>Is a Clause 4.6 Variation proposed:</b>	Yes – Clause 4.3A – Exceptions to Height of Buildings (Parramatta Road Corridor) - 14.5%
<b>Extent of variation supported:</b>	14.5%
<b>Peer review of Clause 4.6 variation:</b>	A peer review of the Clause 4.6 variation has been undertaken and the Assessment Officer’s recommendation is supported
<b>Local Planning Panel criteria</b>	SEPP 65 Development Over 10% breach of height development standard
<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>

## EXECUTIVE SUMMARY

### Proposal

Development consent is being sought for the demolition of existing structures, lot consolidation, construction of a seven-storey residential flat building with a 90-place child care centre on the ground floor and 33 residential units over three levels of basement parking and associated site works.

### Site and Locality

The site is identified as 8-12 Kanoona Avenue, Homebush and has a legal description of Lot: 27 DP: 12100, Lot: 1 DP: 595201, Lot: 2 DP: 595201. The consolidated site is a regular shaped parcel of land and is located on the western side of the street. The site has a width of 40.56m, a depth of 40.22m and an overall site area of 1,631.6m<sup>2</sup> (deed).

### State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)

The residential flat building component falls under SEPP 65 and is consistent with the key design principles. The application is also generally consistent with the accompanying Apartment Design Guide (ADG).

### Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned R4 High Density Residential under the provisions of SLEP 2012 and both residential flat buildings and childcare centre are permissible forms of development with Council's consent. Mixed use development is also an innominate permissible use. The proposal satisfies all relevant objectives contained within the SLEP 2012. The proposal complies with the floor space ratio (FSR) development standard and a Clause 4.6 variation is proposed to the height of buildings development standard.

### Strathfield DCP 20 – Parramatta Road Corridor and Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development generally satisfies the provisions of both DCP's and their relevant sections. This is discussed in more detail in the body of the report.

### Child Care Legislation and Guidelines

The proposal is generally consistent with the relevant childcare controls including the Education and Care Services National Law 2010 (the National Law), Guide to the National Quality Framework 2018 (ACECQA Guide), State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) and Child Care Planning Guidelines 2021 (the Guideline).

### Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 25 May to 16 June 2023, where two submissions were received raising concerns about traffic etc. The amended application was renotified as integrated development from 13 September to 11 October 2023 and another submission was received raising similar issues.



## Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/60 is recommended for approval subject to suitable conditions of consent.

## RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, the consent authority is satisfied that compliance with the development standard contained in Clause 4.3A – Exceptions to building height of the SLEP 2012 is well founded and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. 2023.60 for the demolition of existing structures, lot consolidation, construction of a seven-storey residential flat building with a 90-place childcare centre on the ground floor and 33 residential units over three levels of basement parking and associated site works (integrated development) at 8-12 Kanoona Avenue, Homebush be APPROVED subject to the following conditions outlined in the attached report.

## ATTACHMENTS

1. [1](#) DA2023 60 1 - 8-12 Kanoona Avenue HOMEBUSH - SLPP Report PDF Attachment
2. [2](#) DA2023.60 - 8-12 Kanoona Avenue, Homebush - Sydney Water Cover Letter with GTAs



## SLPP REPORT

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<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>



Figure 1: Aerial view of the subject site (outlined in yellow)

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**Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/60 is recommended for approval subject to suitable conditions of consent.

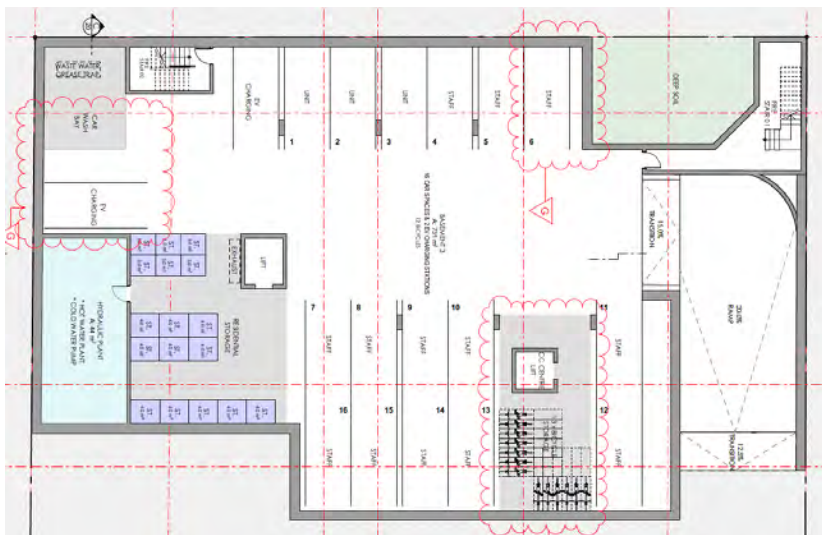
## REPORT IN FULL

### Proposal

Council has received an application for the demolition of existing structures, lot consolidation, construction of a seven storey residential flat building with a 90-place child care centre on the ground floor and 33 residential units over three levels of basement parking and associated site works. The childcare centre will operate from 7:00am to 6:00pm Monday to Fridays, accommodating children from 0-5 years of age, with the majority of kids being 3-5 years of age. Based on the number of children and age groups, there will be a total of 13 staff/educators required. More specifically, the proposal includes:

#### Basement 3:

- 16 car spaces
  - 13 staff parking (10 stacked)
  - 3 residential
- 2 EV charging stations.
- Car wash bay
- Residential storage/plant room
- 13 x bicycle spaces



**Figure 2:** Basement Level 3

#### Basement 2:

- 31 residential parking spaces (5 adaptable/disabled spaces)
- 11 bicycles spaces
- Bulk waste room and residential storage areas



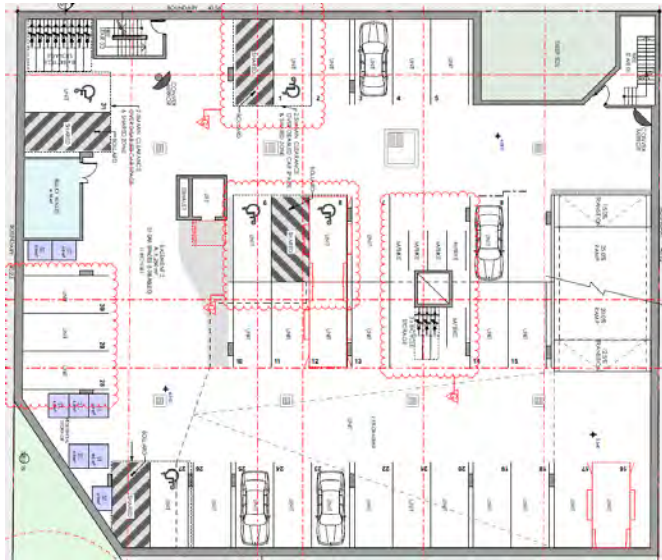


Figure 3: Basement Level 2

Basement 1:

- 13 childcare spaces (2 staff/11 drop-off, includes 1 adaptable)
- 7 residential visitor spaces
- 15 bicycles spaces
- Loading dock
- Residential bin storage, child care centre bin storage and residential storage areas
- Service and utility rooms



Figure 4: Basement Level 1



Ground floor level:

- Residential entry foyer
- 90 place child care centre and outdoor play area
- Driveway ramp to basement

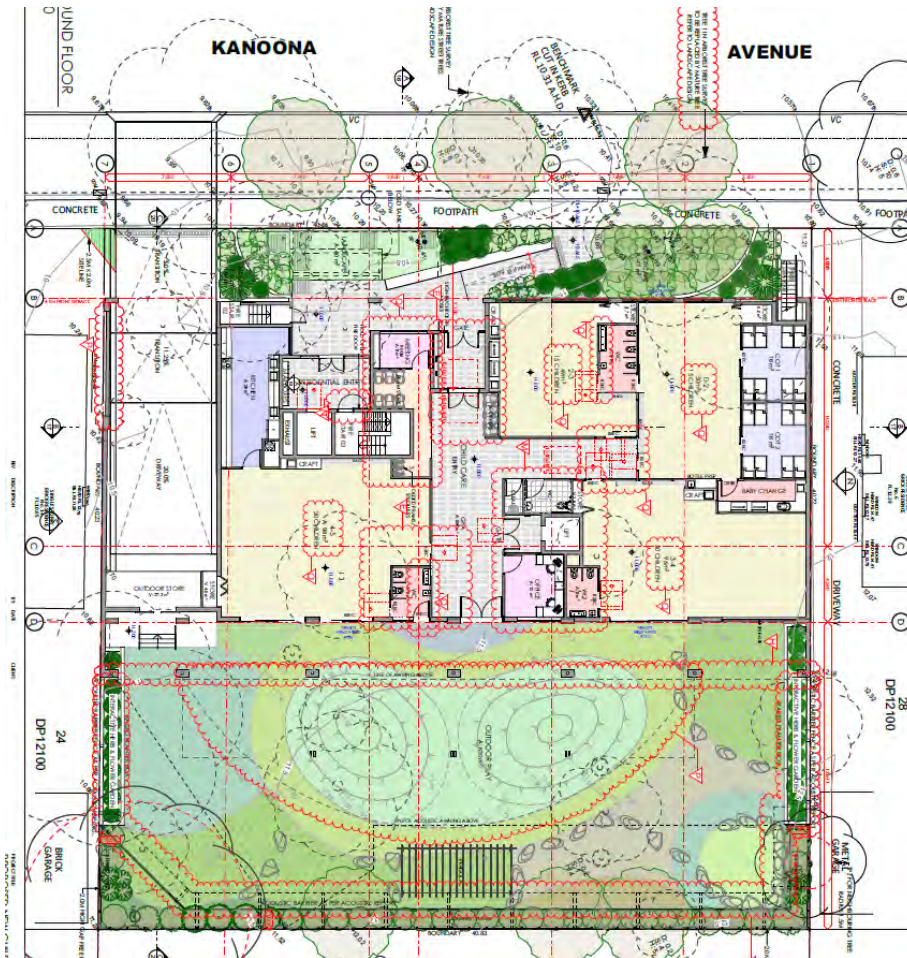


Figure 5: Ground Floor Plan

First floor level:

- 6 residential units (2 x 1 bed, 3 x 2 bed and 1 x 3 bed)
- Awning and acoustic awning over play area





Figure 6: First Floor Level

Residential 2<sup>nd</sup> to 4<sup>th</sup> floor levels

- 7 residential units per floor (1 x studio, 2 x 1 bed and 4 x 2 bed)

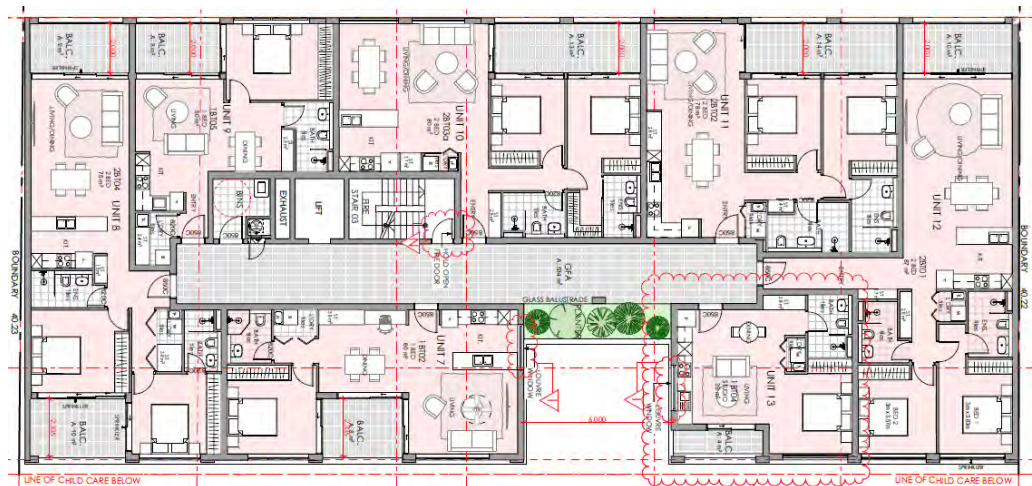


Figure 7: Levels 2 to 4

Residential 5<sup>th</sup> to 6<sup>th</sup> floor levels

- 3 residential units pre floor (2 x 2 bed and 1 x 3 bed (adaptable))
- Common open space – 110sqm on 5<sup>th</sup> floor



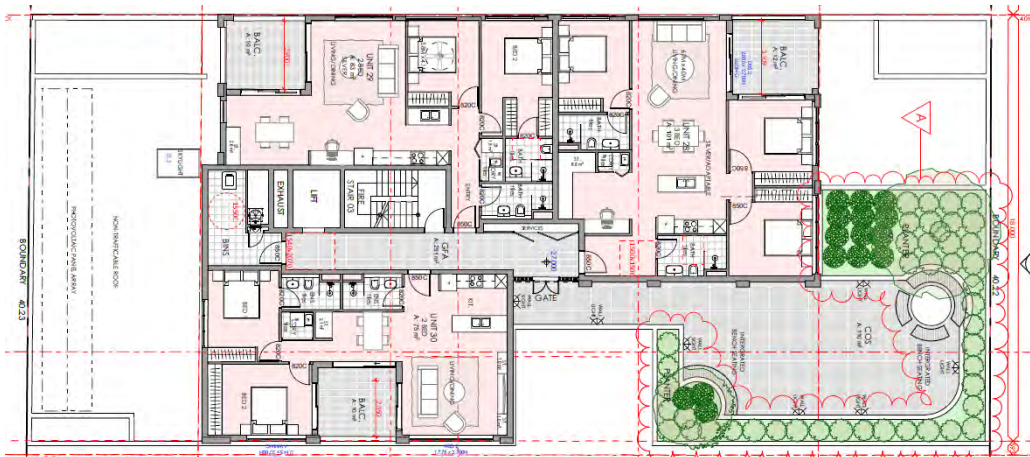


Figure 8: Level 5 floor plan and common open space

Roof level

- Common open space (307sqm) with lobby, pergola and BBQ area

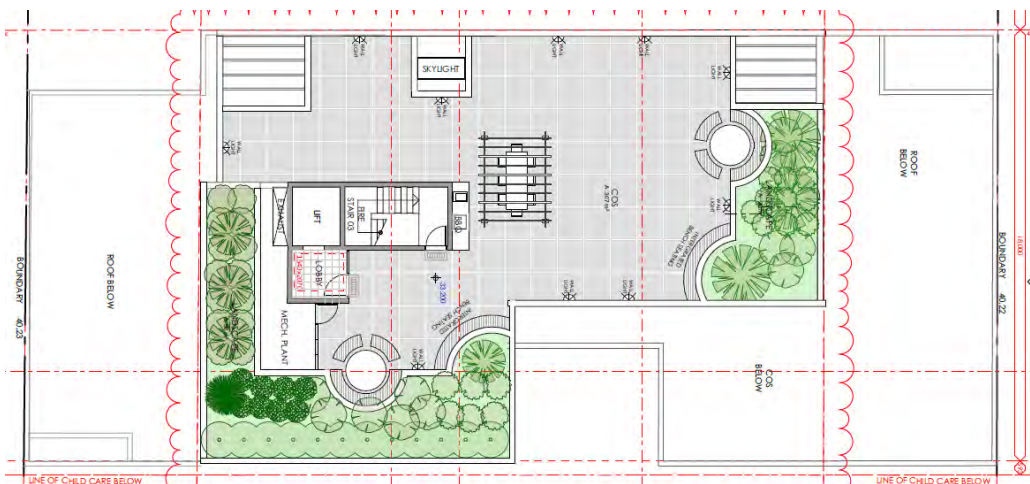


Figure 9: Roof Level – common open space

External works:

- Landscape within front setback and accessible ramp.
- Driveway to basement
- Outdoor childcare centre play area
- Curved acoustic awning and acoustic barrier around perimeter of rear playground.



Figure 10: Street (West) Elevation



Figure 11: Rear (East) Elevation



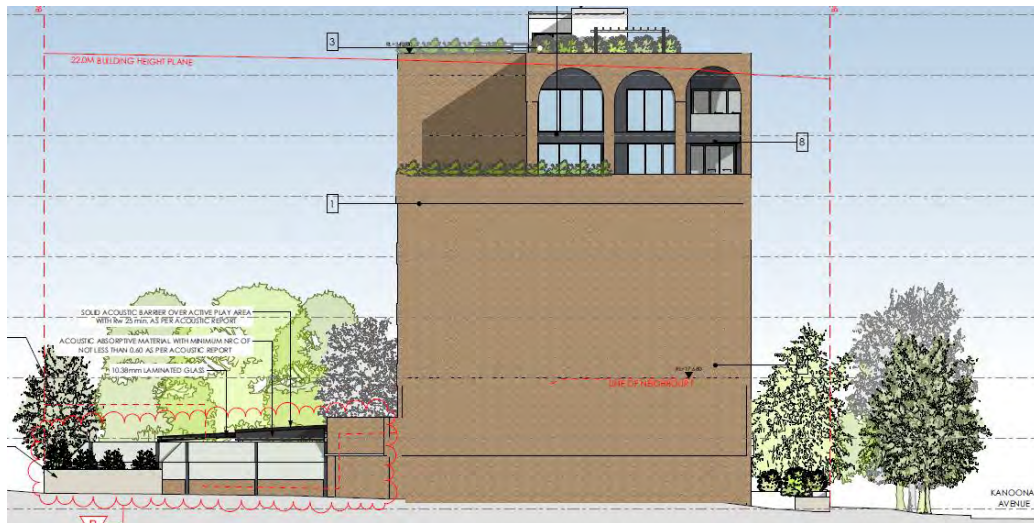


Figure 12: North Elevation

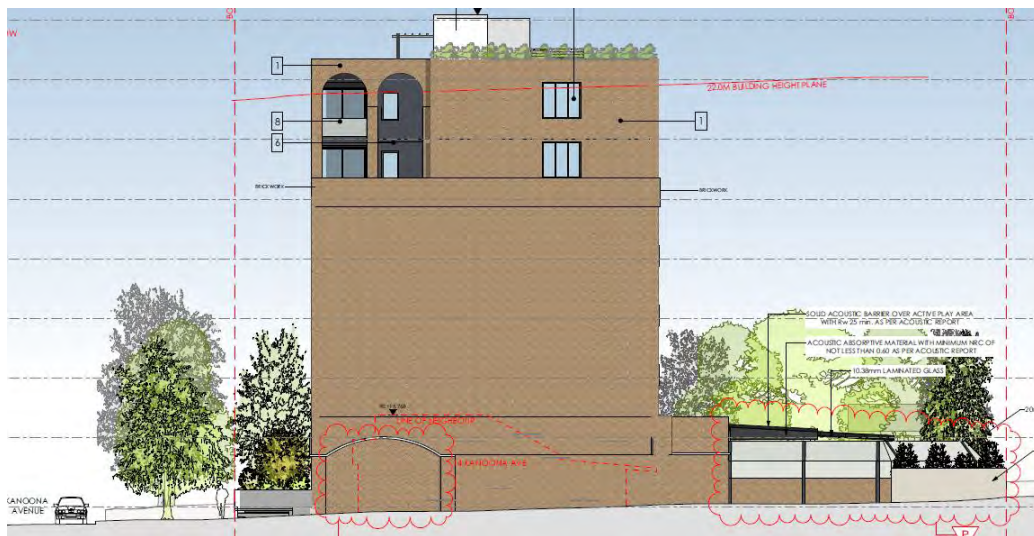


Figure 13: South Elevation

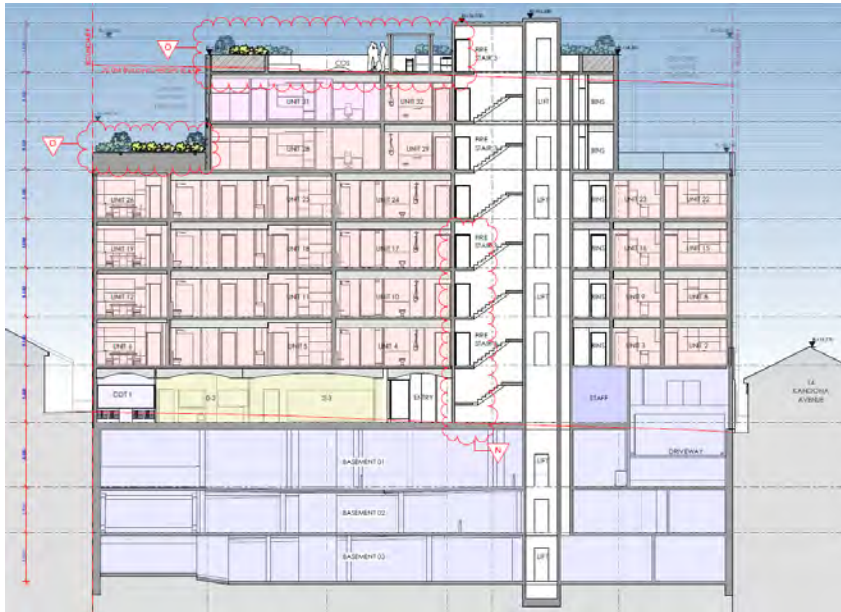


Figure 14: Section Plan

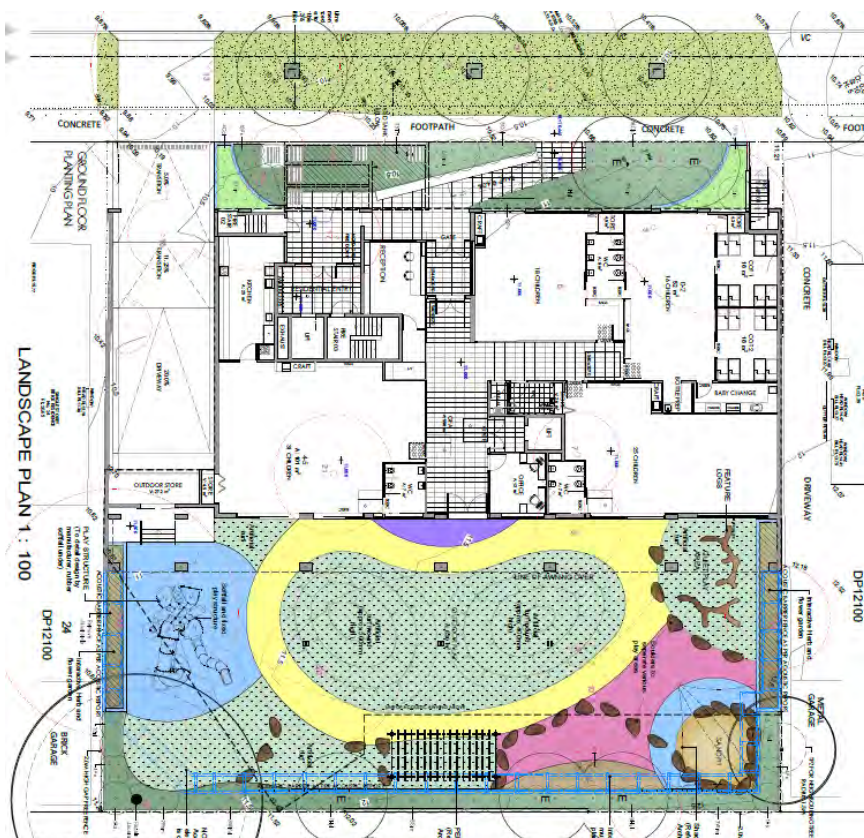


Figure 15: Landscape Plan





### The Site and Locality

The subject site is located on the eastern side of Kanoona Avenue, north of Parramatta Road and south of Park Road. The site is a regular-shaped allotment currently comprised of three separate lots, each occupied by a single storey detached dwelling and ancillary structures (see **Figures 16-21**). The combined street frontage is 40.56m and area is 1631.6m<sup>2</sup> (by deed).



**Figure 16:** 8 Kanoona Avenue, as viewed from the street



**Figure 17:** The rear of 8 Kanoona Avenue, as viewed towards the east



**Figure 18:** 10 Kanoona Avenue, as viewed from the street



**Figure 19:** The rear of 10 Kanoona Avenue, viewed towards the south east



**Figure 20:** The rear yard of 10 Kanoona Avenue, viewed towards the south



**Figure 21:** 12 Kanoona Avenue, as viewed from the street

The current streetscape is undergoing a state of transition from low density residential to high density residential development. Adjoining to the north is 6 Kanoona Avenue, comprising of a



detached dwelling (see **Figure 22**). The site at 2-6 Kanoona Avenue (Key Site 3) has also been approved (DA2015/66) for a five storey residential flat building containing 39 units however at the time of the site inspection, works were yet to commence and has now lapsed, even with the 2 year extension due to COVID.



**Figure 22:** Adjoining development at 6 Kanoona Avenue, as viewed from the street

Adjoining to the south is 14 Kanoona Avenue, comprising of a detached dwelling (see **Figure 23**). Further to the south is a used car dealer fronting Parramatta Road followed by Sydney Markets (see **Figures 24 and 25**).



**Figure 23:** Adjoining development at 14 Kanoona Avenue, as viewed from the street





Figure 24: 18-20 Parramatta Road



Figure 25: Sydney Markets, as viewed from the north

To the west, on the opposite side of the road, is 11 Kanoona Avenue, comprising of a detached dwelling (see **Figure 26**). Adjoining this is a driveway to a warehouse use below followed by a five storey residential flat building at 1-9 Kanoona Avenue (Key Site 1) (see **Figure 27**).



Figure 26: Development on the other side of the road, immediately opposite the subject site, at 11 Kanoona Avenue



Figure 27: Residential flat building on the other side of the road at 1-9 Kanoona Avenue

Adjoining the rear of the subject site is a residential flat building at 7 Derowie Avenue (Key Site 7) (see **Figure 28 and 29**).



Figure 28: 7 Derowie Avenue, as viewed from the street



Figure 29: Blank southern wall of 7 Derowie Avenue



## **Background**

- 1 February 2017** A previous DA (DA2016/142) on the subject site was approved by the Strathfield Internal Development Assessment Panel. This approval was for the demolition of existing structures and construction of a 7-storey residential flat building containing 46 units above 3 levels of basement parking (see **Figure 30**). It had 2.98m (18.50%) height exceedance and would have resulted in the loss of all trees on site other than the Jacaranda in the southeastern corner. This application has since lapsed.



**Figure 30:** Montage of approved residential flat building on the subject site

- 17 May 2023** The subject DA2023/60 was lodged with Council.
- 25 May 2023** The subject DA was placed on public exhibition until **16 June 2023**. During this time, two objections were received which will be considered as part of this assessment.
- 21 June 2023** The application was considered by the Design Review Panel (DRP).
- 19 July 2023** A Request for Additional Information Letter (**First RFI**) was provided to the Applicants outlining a variety of suggested design changes and additional information requirements.
- 27 July 2023** A meeting was held with the Applicants to discuss the design changes required in the **First RFI**.
- 4 August 2023** At the request of the Applicant, the application was converted to an integrated development. It was subsequently referred to Water NSW.
- 25 August 2023** Additional information was submitted on the NSW Planning Portal responding to the **First RFI**. The key design changes included:





- Increased floor to ceiling heights
- Reconfigured building entry to separate residential and child care uses
- Additional basement level with increased bicycle parking and EV charging stations
- Retention of Trees 1 and 19 through reconfigured façade and basement
- Reconfigured communal areas
- Additional details on age-specific play areas
- Face-brick façade extended to all sides of the building
- Provided Acid Sulphate Soil Assessment and Management Plan

- 13 September 2023** The application was renotified until **11 October 2023** and readvertised as integrated development and considering the extensive design changes. One submission was received from a different person than the two submissions in the first round of exhibition.
- 23 November 2023** General Terms of Approval received from WaterNSW.
- 4 December 2023** A second Request for Information Letter (**Second RFI**) was sent to the Applicants requesting minor design changes, additional information and further acoustic input.
- 19 January 2024** A meeting was held with the Applicants to discuss the **Second RFI**.
- 4 March 2024** The additional information was submitted on the NSW Planning Portal with new acoustic reports and documentation.
- 20 March 2024** A third Request for Information Letter (**Third RFI**) was sent to the Applicants pertaining exclusively to remaining acoustic issues.
- 3 April 2024** The Applicant responded to the **Third RFI** with an Amended Noise Impact Assessment, Acoustic RFI Response Letter and Amended Architectural Plans (rear yard changes for acoustic).
- 2 May 2024** A further meeting was held with the Applicant and council's acoustic consultant to discuss the remaining acoustic issues. It was agreed what the report would need to address.
- 23 May 2024** An amended acoustic report and operational plan, together with supporting documents and drawings were submitted, which have since been reviewed by Council's acoustic consultant and found to be acceptable subject to some additional conditions of consent.

#### **Referrals – Internal and External**

The application was externally referred to Water NSW, Ausgrid and the Design Review Panel and internally referred to Tree Management, Waste Management, Acoustic Engineer (external consultant used) and Traffic Engineer.

#### **WaterNSW**

The application was referred to Water NSW as it was hitting ground water. When the amended drawings proposed a further level of excavation, the application was changed to Integrated



Development by the Applicants. Part of the proposed development requires a Water Supply Work approval under the *Water Management Act 2000* (WM Act). General Terms of Approval (GTA) were provided by WaterNSW and will be incorporated into any consent.

### **Ausgrid**

The application was referred to Ausgrid who did not object and provided letters of consent for the underground and above ground cables. The relevant construction notes will be included as conditions of consent.

### **Design Review Panel**

Strathfield Council does not have a constituted Design Review Panel, so referral under the Housing SEPP 2021 is not a legislative requirement.

To assist Council with its assessment of developments of this nature, it utilises the services of the Canada Bay Design Review Panel to provide some guidance and feedback for Council to consider. The Canada Bay DRP is not a constituted panel.

This Application was referred to the Canada Bay DRP who suggested a range of design changes and refinements. These comments were discussed both internally with Council's Urban Designer/Architect and the applicant, and the following changes were made in response to these discussions and the DRP's feedback.

#### Building Height

Building height has net increased to accommodate the increased floor to floor heights. The overall height change is 400mm, to the previous highest point, but this is due to the removal of the lift overrun. The building itself to the roof level has increased by 1200mm. The height variation and non-compliance is considered in the Clause 4.6 assessment and was found acceptable in this application.

#### Ceiling Heights

The ceiling heights were increased as requested by the DRP, with the ground floor ceiling height raised to 3.6 metres floor to floor to provide adequate amenity to a use as a childcare. Residential floors have increased to 3.1m. All floor to ceiling heights now comply with the ADG requirements and are appropriate for the use.

#### Building Envelope

This has not significantly changed in plan, with the exception of the increase in building height which was discussed above. The DRP's suggestion to relocate GFA from deleting one level (top level) and relocate that GFA to form the bottom of a 'T' shape on the floors below has not been adopted.

#### Foyer and Street Treatment

The residential and childcare foyer entry experience has been improved in response to DRP's comments and further discussions with Council's Urban Designer. There are clear separate entrances for both use. Further emphases of the entrances will be achieved with appropriate wayfinding signage, in particular for the childcare centre. This will be subject to further applications once an operator of the childcare centre is appointed.

#### Architectural Presentation and Expression

The brick façade has been retained, with the ground floor arched openings becoming geometrically consistent and more easily buildable in keeping with DRP's comments. The brick now continues around to the side elevations in lieu of precast panels. The planning of the upper floor apartments has been reworked to be consistent with the façade expression. The



façade has been flattened to assist solar access and some arches along with the original curved façade have been removed.

#### Childcare

The fragmented layout of ground floor rooms and spaces has been addressed by rationalising the spatial relationships of entry, foyer, residential lobby and the wayfinding needs of childcare operations. The first floor office has been removed and relocated to the ground floor, keeping all childcare services on this level. The reception now addresses a weather protected secure space, with the ramp aligning to make wayfinding clear, yet visually interesting on approach. An awning reflecting the arched profile of the front facade has been added to mitigate overlooking of the outdoor play area. The awning stretches across the rear of the building and then has an additional curved acoustic awning extending into the rear playground areas. The play areas have been redesigned to protect the existing tree and shade sails are proposed to provide an attractive and useable outdoor play area.

#### ADG compliance

- As discussed in the ADG compliance table further on in the report, the application generally satisfies the provisions of the ADG and a suitable outcome is achieved.
- The natural ventilation report details that cross ventilation can be met with the appropriate window operability specs (66%).
- The centrally located apartments have reconfigured their balcony spaces to limit overlooking.
- Additional solar diagrams indicate that over 70% of units achieve mid-winter solar access.
- Wayfinding to the communal open space on level 5 has improved and the acoustic / privacy concerns on the adjacent apartment have been satisfactorily addressed.

#### Lift & Accessibility

A single lift is proposed for the residential floors and all basements. A separate lift is proposed to service the childcare on the ground floor with access down to basement levels 1 and 3. Whilst concern on the provision of only 1 lift was raised by the panel, there does not appear to be any legislative requirement that specifies the number of lifts per residential units. The building will have to be BCA compliant prior to the issue of a Construction Certificate.

#### **Waste Management Officer**

The development proposes separate waste storage areas within the basement for the residential units and child care services. Waste collection will be done from within the basement, with adequate access for a medium rigid truck. There are also garbage chutes and each floor and additional recycling bin rooms. The basement waste storage areas are of sufficient size for the development and have an adequate waste management plan. Councils Coordinator of waste services has advised that the amended plans (29.02.2024) are satisfactory and the comments and recommendations from original referral are suffice.

#### **Traffic Engineer**

The application was supported by a detailed traffic and parking assessment report prepared by CJP Consulting Engineers. The report considered traffic generation, parking numbers and configuration, waste collection and access arrangements, which have been reviewed by Council Traffic Engineer who has concurred with the report and conclusion and that the proposal will not result in any unacceptable traffic implications on the surrounding road network and the parking layout satisfies the provision of the Australian standard. The proposal was found to be acceptable, subject to Council's standard conditions.



The report also recommended additional signage for the childcare parking spaces and an additional condition will be imposed requiring this.

As safe and sufficient underground parking is provided, a designated pick up / drop off area is not considered necessary.

### **Acoustic Engineer**

The application was referred to an external acoustic consultant who outlined an extensive range of additional information required to form a conclusion on whether the acoustic impacts are acceptable. This related to the management of noise impacts for future residents to the upper floors of the building and also noise transmission to the existing apartment building to the rear of the application site. There has been extensive consideration of these points and a number of mitigation strategies put forward by the applicant before settling in the preferred solution.

These were requested in the additional information request letter and further details and assessment was subsequently provided. A further amended acoustic report, plan of management, statement from qualified childcare operator and amended architectural plans were submitted on 23.05.24 to address a final meeting held with all parties on 2 May 2024.

The acoustic consultant has found the final application was acceptable, subject to a condition confirming that the number of children in the outdoor play area be capped at 30 as per the assumption in the POM and the noise reduction coefficient (NRC) on the outdoor acoustic awning be increased from 0.6 to 0.9 as the proposed 0.6 NRC is considered too low to be reliably effective. These will be included as conditions of consent.

### **Tree Management Officer**

The application proposed the removal of all trees within the subject site. This was further discussed with Council's tree management officer and a more detailed Arborist report was submitted.

Following review of this report and on-site meetings, Council's officer was in agreement with the removal of the three street trees, subject to the planting of replacement trees plus one additional street tree to the north. This is to be in consultation with Council and has been conditioned accordingly.

As stated above, following consultation, approval was granted for the removal of all trees on site, with the exception of Tree 19 in the southeastern corner. There were some concerns with the original landscape plan, with relation to the location of play equipment in the rear yard being too close to Tree 19 which was to be retained and additional planting required in the front setback. Appropriate conditions of consent were provided at this time.

The amended landscape plan, issue D (21.02.2024) has addressed this issue and have been reviewed by Council's tree management officer and has not raised any outstanding issues.

### **Section 4.15 Assessment – EP&A Act 1979**

The following is an assessment of the application with regard to Section 4.15(1) of the EP&A Act 1979.



**(1) Matters for consideration – general**

*In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- (a) the provision of:**  
**(i) any environmental planning instrument,**

**State Environmental Planning Policies**

Compliance with the relevant state environmental planning policies is detailed in **Table 1** below.

<b>TABLE 1: LIST OF SEPPS</b>	
<b>STATE ENVIRONMENTAL PLANNING POLICY</b>	<b>COMPLIES</b>
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy – Housing 2021 (previously SEPP 65)	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)	Yes

**STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

**Chapter 2 – Vegetation in Non-Rural Areas**

The intent of this Chapter within the SEPP is related to the protection of the biodiversity values of trees and other vegetation on the site. No objection was raised to the removal of a number of trees on the site subject to replacement planting (see **Figure 31**). The design was emended to ensure retention of Tree 19. Relevant consent conditions will be imposed. The aims and objectives outlined within the SEPP are considered to be satisfied.

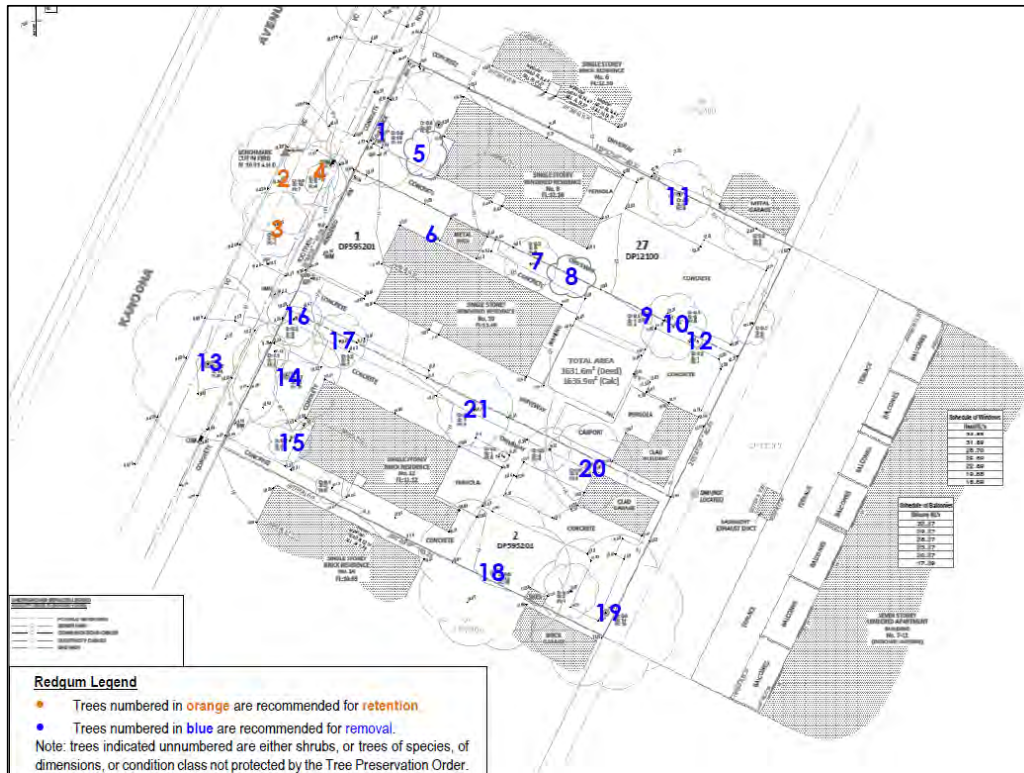


Figure 31: All trees on site (included street trees) to be removed except Tree 19

**Chapter 10 – Sydney Harbour Catchment**

All stormwater from the proposed development as modified can be treated in accordance with Council’s Stormwater Management Code and would satisfy the relevant planning principles of Chapter 10 - Sydney Harbour Catchment.

**STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied. While the State Environmental Planning Policy (Sustainable Buildings) 2022 is now in effect, the application was lodged prior to this being gazetted and is subject to savings provisions.

**STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

Chapter 4 – Remediation of Land applies to the land and, pursuant to Section 4.15 of the EP&A Act 1979, is a relevant consideration. A Preliminary Site Investigation was submitted with the DA which found, in summary:

Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil contamination at the site are low in the context of the proposed use of the site. The site **is suitable** for the proposed development, subject to the following recommendations:





Any soils proposed for removal from the site should initially be classified in accordance with the “*Waste Classification Guidelines, Part 1: Classifying Waste*” NSW DECC (2014).

Accordingly, the objectives outlined within Chapter 4 of the SEPP are considered to be satisfied.

**State Environmental Planning Policy - Housing 2021**

**Chapter 4 – Design of Residential Development (formerly SEPP 65)**

On 14 December 2023 SEPP No. 65 - Design Quality of Residential Flat Development (SEPP No. 65) was repealed and the provisions inserted into Chapter 4 of the Housing SEPP. A further amendment was made on 15 March 2024 to the savings provisions to note that any application lodged prior to 14 December 2023 and still pending is to be assessed under the Housing SEPP.

Strathfield Council does not have a constituted design review panel under Clause 145(3)(a) and as such does not require a referral to the design review panel under Clause 145(2). Council does however utilise the services of a Design Review Panel (DRP) formed at Canada Bay Council to assist and guide Council in their assessment. The application was referred to the DRP and their comments have been taken into consideration and where appropriate have been incorporated into the assessment and additional information request.

Some of the changes implemented as a result of DRP feedback are discussed in detail above under external referrals. The changes made were found to adequately address the majority of the DRP comments where Council considered them applicable and appropriate to the final design.

The nine design principles under Schedule 9 – Housing SEPP are addressed in **Table 2** below.

<b>TABLE 2: Housing SEPP SCHEDULE 9 - DESIGN QUALITY PRINCIPLES</b>		
<b>Principle</b>	<b>Objective</b>	<b>Proposed</b>
<b>Principle 1: Context and Neighbour-hood character</b>	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those</p>	<p><b>Satisfactory.</b></p> <p>It is acknowledged that this precinct is identified to undergo a transition in character. The proposal is consistent with the desired future character, notwithstanding the addition of a childcare facility within an LGA sought out for its amenity for young families.</p> <p>The consistent brick façade, arched motifs and low-scale podium base creates a desirable address.</p> <p>Located close to Homebush and Flemington Railway Stations.</p>



	undergoing change or identified for change.	
<b>Principle 2: Built form and scale</b>	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. 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.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><b>Satisfactory.</b> The proposed design sets a good precedent to a precinct identified for considerable change in scale. The zero-lot podium with 2 storey stepped form creates a modulated silhouette with an ideal taper from bottom to top. Council supports the additional floor to floor height requested for the childcare use.</p>
<b>Principle 3: Density</b>	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><b>Satisfactory</b> The site has good orientation and solar access to be able to provide high amenity to the development. The proposed density is compliant with the key site provisions (Key site 4) and for what is anticipated for the locality. The ground floor childcare centre will provide a service/facility that is anticipated in the zoning.</p>
<b>Principle 4: Sustainability</b>	<p>Good design combines positive environmental, social, and economic outcomes.</p> <p>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.</p>	<p><b>Satisfactory</b> The development has been designed to provide the apartments with good levels of amenity, with good solar access to the majority of apartment living and balcony areas. DA drawing DA31, from the original submission showed that 26 of the 33 units (79%) received at least 2 hours of direct sunlight to the living and POS areas during mid-winter. Most units achieve cross flow ventilation, with 22 out of 33 (66%) units being naturally cross ventilated to not be overly dependent on mechanical heating or cooling.</p>





		<p>Roof water will be recycled and used for watering of landscape areas.</p> <p>There is provision for a large amount of bicycle parking proposed as the precinct will be well served by proposed active transport network projects.</p> <p>The provision of two EV charging spaces encourages and facilitates the use of electric vehicles. In addition, standard power points will be fitted to each residential car bay.</p>
<b>Principle 5: Landscape</b>	<p>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.</p> <p>Good landscape design enhances the development’s environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>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.</p>	<p><b>Satisfactory</b></p> <p>Council’s tree management officers have found the landscaped plans and communal areas to be satisfactory for the site and use.</p> <p>Modifications to the plans were made to provide additional tree planting in the front setback and relocation of play area to protect tree 19 in the rear yard.</p> <p>There are adequate raised planter beds throughout the development, mainly on level 1 and both communal areas on level 5 and 7.</p>
<b>Principle 6: Amenity</b>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes,</p>	<p><b>Satisfactory</b></p> <p>Almost all units maintain the approved unit and balcony dimensions with provision for storage and acceptable layouts. Minor balcony area shortfall in one unit discussed in ADG section below.</p>



	<p>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.</p>	<p>The relocation of the childcare office to the ground floor has removed the need for the childcare lift to go beyond the ground floor and the lift overrun has been removed. This lift now has no impact on the residential units above.</p> <p>The unit above on level 1 has been increased to 3 bedrooms and the studio above on level 2 is no longer impacted on by the childcare centre lift.</p>
<p><b>Principle 7: Safety</b></p>	<p>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.</p> <p>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.</p>	<p><b>Satisfactory</b></p> <p>The proposal has been designed taking into consideration the main principles of Crime Prevention through Environmental Design: Natural Surveillance, Access Control, Territorial Reinforcement. The design and planning of the proposed development ensures excellent passive surveillance and overlooking of both internal and external areas without compromising privacy or amenity. Around the site, all landscaped areas and the public domain are highly visible from the living areas and balconies of multiple apartments. The entrance is accessed from the street frontage of the property. The access to the basement is by a secured roller door fitter with an intercom entry system for visitors. Access from secured basement is available to all units above. The lifts will be restricted to residents use only by coded key cards. No access from the side and rear boundaries is possible due to the ground floor being built to zero side. Private open spaces and communal open spaces are</p>



		clearly distinguished by the use wide planters.
<b>Principle 8: Housing diversity and social interaction</b>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>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.</p>	<p><b>Satisfactory</b> The development provides a good mix of unit sizes (3 studio, 8 x 1 bed, 19 x 2 bed and 3 x 3 bed) providing good housing diversity and affordability.</p> <p>A total of five adaptable units of the 33 proposed (15%) are provided. Units 5, 11, 18, 25 and 28.</p> <p>Communal areas on both levels 5 and 7 will provide residents with good social interaction opportunities. These areas in total exceed the minimum 25% requirement (25.6% or 417m<sup>2</sup> provided), with 110sqm on level 5 and 307sqm on the main rooftop COS.</p>
<b>Principle 9: Aesthetics</b>	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><b>Satisfactory</b> The design has been simplified with material being consistent to provide a more timeless and streamlined presentation. The design adequately addresses the street frontage and provides a fine grained and visually interesting appearance. Separate and distinguishable entrances to the residential component and childcare centre help create a active streetscape and presentation.</p>

The Housing SEPP is informed by the Apartment Design Guide (ADG) which provides specific controls for residential flat buildings. These controls prevail over a DCP where there is a conflict. An assessment against each of the objectives of the ADG controls has been provided by the applicant in accordance with the EP&A Regulations 2021. An assessment against the key provisions of the ADG are provided in **Table 3** below.

<b>Design Criteria</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
2E Building Depth	12-18m	16.6m	Yes



3B Orientation	Responsive to streetscape & site	Acceptable in the streetscape	Yes
	Designed to optimise solar access & minimise overlooking	The proposal is responsive to the site orientation and designed to optimise solar access whilst minimising the potential for overlooking. There is a degree of unavoidable overshadowing to the southern adjoining site as a result of its east-west orientation. The development is orientated to the street and has incorporated a significant rear setback to minimise overlooking potential.	Yes
3C Public Domain Interface	Balconies/windows orientated to overlook the public domain	Majority of balconies orientated towards street frontage and those facing the rear are significantly setback over 17m from rear boundary	Yes
	Front fence design is permeable	Minimal front fencing shown and incorporated in front setback landscape area.	
	Opportunities for concealment minimised	Passive surveillance incorporated	
	Services concealed	Services such as fire booster, gas & water meters not shown within the basement levels.	
	Access ramps minimised	Single separate pedestrian ramp & vehicular driveway	
3D Communal & Public Open Space	Min 25% (407.9m <sup>2</sup> )	25.6% (417m <sup>2</sup> )	Yes
	Min 2h to 50% communal open space at mid-winter	>2h to more than 50% of the communal open space	
	Consolidated area, Min dimension 3m, Equitable access	Consolidated areas on upper levels	
3E Deep Soil Zones	Min 7% (114.2m <sup>2</sup> ) 6m min dimension (>1500m <sup>2</sup> )	11% (188m <sup>2</sup> ) 5.8m minimum – majority of deep soil across the rear	No – but considered appropriate. See discussion below.
3F Visual Privacy	Up to 12m (4 storeys) <ul style="list-style-type: none"> <li>6m between habitable rooms/balconies and boundary</li> </ul>	Level 1 to Level 3 0m side setbacks – blank solid walls 17.6m rear setback to habitable windows and balconies)	Yes





	<ul style="list-style-type: none"> <li>• 3m between non-habitable rooms and boundary</li> </ul>		
	<p>Up to 25m (5-8 storeys)</p> <ul style="list-style-type: none"> <li>• 9m between habitable rooms/balconies and boundary</li> <li>• 4.5m between non-habitable rooms and boundary</li> </ul>	<p>Level 4 0m side setbacks – blank solid walls 17.6m rear setback Level 5-6 7.25m to side boundary (habitable rooms/balconies) 17.6m rear setback</p>	Acceptable – See below
	<p>Within the development – habitable room/balconies to habitable room/balconies – 12m</p>	<p>6m between Unit 7 &amp; 13 on L2, Unit 14 &amp; 20 on L3 and Unit 21 &amp; 27 on L4.</p>	Acceptable – See below
3G Pedestrian Access & Entries	<p>Entry addresses public domain. Clearly identifiable steps &amp; ramps integrated into building design</p>	<p>The entry addresses the public domain &amp; is clearly identifiable. The design was revised to better distinguish the residential and childcare uses. The vehicle &amp; pedestrian ramps are separated &amp; suitable integrated into the building</p>	Yes
3H Vehicle Access	<p>Vehicle access designed &amp; located to achieve safety, minimise conflicts btw pedestrians &amp; vehicles &amp; create high quality streetscape</p>	<p>Vehicle access is clearly separated from the pedestrian access and ramp to the residential units and childcare centre. Childcare centre parking is grouped together and has its own lift access, with no access to the residential parking level on basement 2.</p>	Yes
	<p>Garbage collection screened</p>	<p>Garbage collection is provided within the basement. And will be collected from within the development.</p>	Yes
	<p>Pedestrian &amp; vehicular access separated</p>	<p>Separated access. Balustrade between walkway &amp; driveway ramp</p>	Yes
3J Bicycle & Car Parking	<p>DCP-20 applies as the site is not within 800m of a train station 1 and 2 bed: 1 space (30) 3 bed: 1.5 spaces (4.5) Visitor 1 per 5 units. (6) Total Parking (residential) – (40.5)</p>	<p>Providing 34 residential and 7 visitor spaces (41). Condition will be imposed to reduce visitor to 6 spaces and provide additional residential space to be allocated to a 3 bedroom unit. Excess amount of bicycle parking.</p>	Yes



4A Solar & Daylight Access	Min 70% of units receive 2h solar access in mid-winter	A total of 26 apartments (78%) achieve this control.	Yes
4B Natural Ventilation	Min 60% units cross ventilated	A total of 22 apartments (66%) achieve this control.  All units have a depth of less than 18m	Yes
4C Ceiling Heights	Habitable min 2.7m	>2.7m	Yes
	Non-habitable min 2.4m	>2.4m	Yes
4D Apartment Size & Layout	Studio min 35m <sup>2</sup> 1 bed min 50m <sup>2</sup> 2 bed min 70m <sup>2</sup> 3 bed min 90m <sup>2</sup>	All units exceed the minimum unit size	Yes
4E Private Open Space & Balconies	Studio – 4m <sup>2</sup> 1 bed: 8m <sup>2</sup> , depth 2m 2 bed: 10m <sup>2</sup> , depth 2m 3 bed: 12m <sup>2</sup> , depth 2.4m	All units comply with the minimum balcony size, with most exceeding this. U6 does not comply with the depth of the balcony.	Yes – Acceptable see below
4G Storage	Min 1 bed: 6m <sup>3</sup> 2 bed: 8m <sup>3</sup> 3 bed: 10m <sup>3</sup> Min 50% within unit	All units have the required storage, combined with storage in the unit and separate storage cages in the basement.	Yes
4K Apartment Mix	Variety of unit types. Appropriate mix. Different units distributed throughout building	3 x studio 8 x 1 bed 19 x 2 bed 3 x 3 bed	Yes
4M Facades	Defined base, middle & top. Building services integrated into the façade	The proposed material palette incorporates a consistent use of red brick cladding system punctuated with square and arched openings or varies sizes and lengths. Secondary materials compliment the red brick through contrast and are equally applied constantly to achieve a holistic character with an appropriate scale and proportion to the streetscape.	Yes
4Q Universal Design	Variety of adaptable units	5 units have been nominated as silver/adaptable. Units 5, 11, 18, 25 and 28	Yes
4W Waste Management	Waste storage facilities to minimise impacts on streetscape, building entry & amenity	Waste storage provided in basement	Yes Waste further discussed under DCP below
	Domestic waste minimised by providing safe &	Waste streams are separated	



	convenient source separation & recycling		
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It can be seen that the proposal generally maintains compliance with the provisions of the ADG. The non-compliances will now be discussed.

**Deep Soil Zones - 3F**

The deep soil zones are located across the rear of the site between the basement and rear boundary. This area forms part of the childcare centre outdoor play area. Whilst they are not part of the common open space for the residential component, the location is considered satisfactory as it achieves the objectives of the ADG in that the areas allow for and promote healthy plant and tree growth. This zone will also provide screening to the childcare centre and resident form the development at the rear.

Whilst the development satisfies the minimum requirement of 7%, it does not satisfy the minimum width requirement. For sites greater than 1500sqm (1631sqm), the minimum width requirement increases from 3m to 6m. The main deep soil areas provided have a width of 5.82m, which is only a minor non compliance. Considering this very minor non-compliance does not restrict the ability for tree planting and growth and that 11% deep soil zones have been provided, it is considered acceptable in this instance.

**Visual Privacy 3F - Building separation**

For development up to 25m (5-8 storeys) the ADG requires a minimum separation/setback from side and rear boundaries of 9m for habitable rooms and balconies and 4.5m for non-habitable room. Whilst the proposal complies with the rear separation, with a setback over 18 metres, it does not comply with separation to the side boundary requirement of 9 metres on levels 5 and 6.

The levels below (ground to level 4) have been proposed with zero setback, with solid walls on the boundary. The zero setback was assessed and considered appropriate for the locality and future character of the area, which will undergo significant change and increase in density as part of the Homebush TOD precinct which will line up with the previous Parramatta Road Urban Corridor Strategy (PRCUTS), which also proposed to rezone these sites to MU1 – mixed use (old B4 zone).

The ADG also allows for a reduced separation when it is between habitable and non-habitable rooms (6m) and the proposal would comply with this, however at this stage the sites either side have not been redeveloped and there is no certainty to what will be built on the adjoining sites. Given the restrictions around the building footprint on the upper levels in order to accommodate the childcare centre on the ground floor, which is envisaged to be needed to support the future growth in the locality, its considered that these minor non-compliances are considered acceptable in this instance.

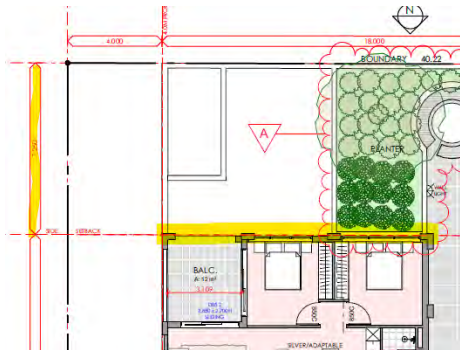


Figure 32: Northern side separation 7.25m



Figure 33: Southern side separation 7.25m

There is also a non-compliance in separation of habitable rooms/within within the development on levels. This occurs on Levels 2, 3 and 4 between the two central units on the eastern side.

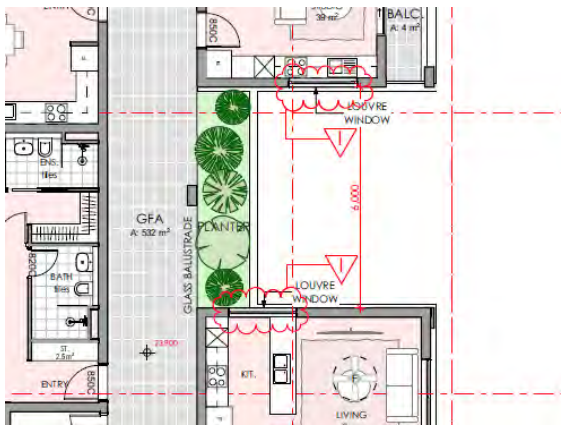


Figure 34: Separation between units

The ADG recommends a separation of 12 metres between habitable rooms, whereas only 6m is proposed in this development. Given that the windows are off the kitchen, slightly offset and screened with louvres, adequate visual privacy will still be maintained and is considered acceptable in this instance.

**Private open space and balconies**

In general, all the balconies/private open space areas comply with the ADG in terms of area and width. This is except for Unit 6 – northern unit on level 1. This non-compliance is for the balcony depth which occurred as a result of design changes requested by Council where the childcare office on the first floor was relocated to the ground floor and this area incorporated into an existing two-bedroom unit. An additional balcony was added, so the total area is well in excess of the requirement, the existing balcony which had a complying depth for a 2-bedroom unit, no longer satisfied the depth for a 3-bedroom unit which increased it from 2m to 2.4m. Given this minor non-compliance at one location only, and that there is excess private open space for this unit, this is considered acceptable.





### CHILD CARE CENTRES

There is a patchwork of overlapping regulation relating to childcare centres which will be considered in turn.

### STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 (Transport and Infrastructure SEPP)

This is the primary overarching document for Council's assessment purposes. Section 3.26 requires the consent authority to consider the play space areas in the Regulations as non-discretionary development standards. This will be discussed under the Regulations assessment below. Section 3.23 requires consideration of the Guideline which will also be undertaken below.

### EDUCATION AND CARE SERVICES NATIONAL REGULATIONS (2011) (The Regulations)

The Regulations support the Children (Education and Care Services) National Law. An assessment against the relevant regulations for DA consent are in Table 4 below.

<b>TABLE 4: THE REGULATIONS</b>			
<b>Applicable Clause</b>	<b>Standards/Regulations</b>	<b>Proposal</b>	<b>Compliance</b>
<b>107</b> Unencumbered indoor play space	3.25m <sup>2</sup> per child = 292.5m <sup>2</sup>	293m <sup>2</sup>	YES
<b>108</b> Unencumbered outdoor play space	7m <sup>2</sup> per child = 630m <sup>2</sup>	630m <sup>2</sup>	YES
<b>109</b> Toilet and hygiene facilities	b) the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	The proposal includes allocation of various toilet, washing and drying facilities for each play room	YES
<b>110</b> Ventilation and natural light	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises— (a) are well ventilated; and (b) have adequate natural light; and (c) are maintained at a temperature that ensures the safety and wellbeing of children	The proposal provides for a void space through the centre of the site and cross ventilation	YES
<b>Division 2 Additional requirements for centre-based services'</b>	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of—	A separate meeting room and office space is provided on the ground floor to monitor attendance and enable consultation	YES
<b>111</b> Administrative space			



	(a) conducting the administrative functions of the service; and (b) consulting with parents of children; and (conducting private conversations	with parents and staff when required	
<b>112</b> Nappy change facilities (1) This regulation applies if a centre-based service educates and cares for children who wear nappies.	The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing. Without limiting sub-regulation (2), the approved provider of the service must ensure that the following are provided— if any of the children are <3, min 1 properly constructed nappy changing bench; and hand cleansing facilities for adults in the immediate vicinity of the nappy change area	A dedicated nappy change area is provided on the ground floor of the building and is readily accessible from the 0-2 year room. Hand washing is provided as part of the area	YES
<b>113</b> Outdoor space – natural environment	The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment	The proposal includes a variety of hard and soft landscaped finishes which enable children to explore and experience their natural environment	YES
<b>114</b> Outdoor space - shade	The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun	An awning over the play areas is proposed	YES
<b>115</b> Premises designed to facilitate supervision	The approved provider of a centre-based service must ensure that the education and care service premises (incl. toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by	Playrooms are suitably located within the building and designed to face inward so to create direct lines of site through the building. Rooms of a standard shape and glazed where possible ensuring	YES



	the service, having regard to the need to maintain the rights and dignity of the children	sightlines. Outdoor play areas are consolidated to create direct lines of sight	
<b>123</b> Staffing ratios (Cl.271 modified 123 (1)(C) for NSW)	(a) birth – 24 months: 1 educator to 4 children; (b) 24-36 months: 1 educator to 5 children; (c) 36 months or over (not including children over preschool age): 1 educator to 10 children. (d) over preschool age: 1 educator to 15 children Required (4+3+3+2) = 12	(a) – 15 children -4 educators (b) – 15 children – 3 educators (c) 30 children – 3 educators (d) 30 children – 3 educators  Provide 13 educators	YES

Accordingly, the proposal complies with the relevant childcare Regulations. As the play spaces comply, Department of Education (DoE) concurrence is not required for the DA (c.f. Section 3.22 of the Transport and Infrastructure SEPP). Final licensing and service approval may still be required post consent by DoE.

**AUSTRALIAN CHILDREN’S EDUCATION & CARE QUALITY AUTHORITY (ACECQA) GUIDE**

Section 225 of the Children (Education and Care Services) National Law gives authority to the ACECOA Guide. The most recent edition of the ACECOA Guide is 2017, which was last updated in September 2020. The document is broad, however does include provisions relating to the physical environment which are relevant to planning. These are contained in Quality Area 3 as follows:

TABLE 5: ACECQA GUIDE				
Standard	Concept	Descriptor	Assessment	Complies
3.1	Design	The design of the facilities is appropriate for the operation of a service	The proposal provides varied and quality play areas which are specific to different ages	Yes
3.1.1	Fit for purpose	Outdoor and indoor spaces, buildings, fixtures and fittings are suitable for their purpose, including supporting the access of every child		Yes
3.1.2	Upkeep	Premises, furniture and equipment are safe, clean and well maintained		Capable of incorporating furniture and equipment that will be maintained in a matter that is safe and clean
3.2	Use	The service environment is inclusive, promotes competence and supports exploration and play-based learning	Internal and external areas are barrier free and promote an inclusive,	Yes



3.2.1	Inclusive environment	Outdoor and indoor spaces are organised and adapted to support every child's participation and to engage every child in quality experiences in both built and natural environments	participation- and exploration- based play and learning environment. This includes fixed equipment such as climbing frames and obstacle courses; space for riding and ball games; and sand play	Yes
3.2.2	Resources support play-based learning	Resources, materials and equipment allow for multiple uses, are sufficient in number, and enable every child to engage in play-based learning	The spaces are adaptable and tailored	Yes
3.2.3	Environmentally responsible	The service cares for the environment and supports children to become environmentally	This will be a matter for the operator	NA

**THE GUIDELINE**

The Guideline informs the Regulations and the Transport and Infrastructure SEPP. Both Parts 3 and 4 of the Guideline are given explicit weight by these documents. Section 3.27 of the Transport and Infrastructure SEPP clarifies that the Guideline takes precedence over any DCP. Part 4 as it reiterates the Regulations was assessed as part of the Regulations above. Part 3 and the remainder of Part 4 is assessed in the table below.

As per the Guidance for Centre-Based Child Care Facilities Fact Sheet PS 21-037, the Design Quality Principles in Part 2 of the Guideline must also be considered.

<b>TABLE 6: THE CHILD CARE GUIDELINE</b>	
<b>Matter for Consideration</b>	<b>Comment</b>
<b>Part 3 – Matters for Consideration</b>	
<b>3.1 Site selection and location</b>	
<p><b>C1</b></p> <p><b>Objective:</b> To ensure that appropriate zone considerations are assessed when selecting a site.</p> <p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>the setbacks and siting of buildings within the residential context</li> <li>visual amenity impacts (e.g. additional building bulk and overshadowing, local character)</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The application is supported by a final Acoustic Report prepared by Pulse White Noise Acoustics (PWNA) (Revision 3 dated 17 May 2024) which has deemed that the site will not cause “Offensive Noise’ to neighbouring residences provided that the noise control measures recommended in the report are implemented.</p> <p>Acoustic barriers have been implemented into the design to of the</p>





	<ul style="list-style-type: none"> <li>• traffic and parking impacts of the proposal on residential amenity</li> </ul>	<p>rear outdoor play area, including perimeter walls and noise reducing awning, minimising any possible noise disturbances to adjoining properties</p> <p>The proposal includes a basement carpark to accommodate staff and visitor parking. The proposal does not need to rely on existing on-street parking availability to function. Vehicles are capable of entering and exiting the site in a forward provided by the proposed driveway along the southern side boundary of the site on Kanoona Avenue.</p>
<p><b>C2</b></p>	<p><b>Objective:</b> To ensure that the site selected for a proposed childcare facility is suitable for the use.</p> <p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> <li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to:                             <ul style="list-style-type: none"> <li>- length of street frontage, lot configuration, dimensions and overall size</li> <li>- number of shared boundaries with residential properties</li> </ul> </li> <li>• the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> <li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item.</li> <li>• there are suitable and safe drop off and pick up areas, and off and on street parking</li> <li>• the characteristics of the fronting road or roads (for example its operating speed,</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The site is located amidst various residential development including single storey dwellings to the north and south, with a large seven storey apartment building to the rear (east).</p> <p>The site is a regular-shaped parcel of land providing a suitable frontage width, depth and overall size to accommodate a childcare facility.</p> <p>The childcare is located at the ground floor of a proposed residential flat building and is not located near any incompatible social activities.</p> <p>Suitable drop off and pickup has been provided within the proposed basement and direct lift access to the childcare centre. Also, direct street access available off Kanoona Avenue, which is a local road with no significant volumes of traffic.</p>



	<p>road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use</p> <ul style="list-style-type: none"> <li>• the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities</li> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises</li> </ul>	
<p><b>C3</b></p>	<p><b>Objective:</b> To ensure that sites for child care facilities are appropriately located</p> <p>A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The proposed childcare is appropriately located in an area undergoing significant transformation and increase in density and population with a much needed demand for child care services. It has good public transport accessibility and located adjacent to employment areas.</p>
<p><b>C4</b></p>	<p><b>Objective:</b> To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards</p> <p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• proximity to:             <ul style="list-style-type: none"> <li>- heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>- LPG tanks or service stations</li> <li>- water cooling and water warming systems – odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> <li>- extractive industries, intensive agriculture, agricultural spraying activities</li> </ul> </li> <li>• any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The site is not located within close proximity to any land use which would result in adverse environmental conditions.</p>



<b>3.2 Local Character, Streetscape and the Public Domain Interface</b>		
<b>C5</b>	<p><b>Objective:</b> To ensure that the child care facility is compatible with the local character and surrounding streetscape.</p> <p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The proposed centre, which forms part of a mixed used development with residential units above has been reviewed by Council’s Urban Design and the Design Review Panel and found to complement the existing and future character of the area.</p> <p>Adequate landscape has been provide to integrate with the existing street and the parking has been integrated into the building basement and is not visually intrusive to the streetscape.</p>



	<p><b>Objective:</b> To ensure clear delineation between the child care facility and public spaces.</p> <p><b>C6</b> Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community</li> <li>• integrating existing and proposed landscaping with fencing.</li> </ul> <p><b>C7</b> On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p> <p><b>C8</b> Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>Proposal redesigned at the request of Council to provide separate child care and residential entries. These are legible, differentiable and clearly distinguished.</p> <p>The windows from the centre face the public domain and integrate with the proposed landscape allowing passive surveillance to the street.</p> <p>The proposal does not adjoin any public parks, open space or bushland to require any additional streetscape treatment to what has been proposed.</p>
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<p><b>C9</b></p> <p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p> <p><b>C10</b></p> <p>High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p><b>Objective:</b> To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</p>	<p><b>Objective is satisfied.</b></p> <p>There is no front fencing proposed with the development as such and the front boundary setback is landscape creating an open presentation to the streetscape with unimpeded views.</p> <p>There are some small walls proposed along the accessible ramp which provides access to both the childcare centre and residential entries.</p> <p>There are high solid acoustic fence around the perimeter of the rear outdoor play area and acoustic awning to minimise the potential noise impacts on the residents at the rear and within the subject site.</p>
<p><b>3.3 Building Orientation, Envelope and Design</b></p>		
<p><b>C11</b></p>	<p><b>Objective:</b> To respond to the streetscape and site, while optimising solar access and opportunities for shade</p> <p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:                             <ul style="list-style-type: none"> <li>- facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>- placing play equipment away from common boundaries with residential properties</li> <li>- locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The proposal has been considered with respect to adjoining land uses and has been designed to minimise visual and acoustic privacy impacts to adjoining residents. Building walls around the peripheries of the site are predominantly enclosed with a nil setback proposed along the site's north and south side boundary. The central portion of the site is open with a void space. The development is provided with an east-west orientation which enables ample solar access to be provided to rear outdoor play area.</p> <p>The outdoor play area has been well setback from the rear boundary allowing both good solar access to the area and centre, whilst the acoustic awning and barriers around the site with provide both privacy to the childcare centre and acoustic amenity to the adjoining residents and residents within the complex.</p>
	<p><b>Objective:</b> To ensure that the scale of the child care facility is compatible with</p>	<p><b>Objective is satisfied.</b></p>



<p><b>C12</b></p>	<p>adjoining development and the impact on adjoining buildings is minimised.</p> <p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p>The proposed building height fails to align with new residential flat development within the street as envisaged by the SLEP 2012, including the Key Sites Map.</p> <p>Notwithstanding this, the proposed use of the site for the purposes of a childcare facility is appropriate given the increased demand for such a use within the area.</p> <p>The proposed nil side setback along the site's north and south side boundary is considered appropriate as it aligns with the future redevelopment envisaged by the State Government led PRCUTS.</p>
<p><b>C13</b></p>	<p><b>Objective:</b> To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</p> <p>Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p><b>Objective is satisfied.</b></p> <p>The proposed front and side setbacks are reflective of the future desired character and redevelopment of the locality envisage under the provisions of PRCUTS and Homebush TOD precinct.</p>
<p><b>C14</b></p>	<p>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p><b>Objective is satisfied.</b></p> <p>The proposal provides a clearly defined child care specific entry with separate vehicular access and residential entry. The entry allows ease of pedestrian access directly from the street and is easily monitored via natural surveillance without the need to access through a play area. A ramp provides disabled access/ Staff and patrons can access the centre via the basement carpark which includes a lift core and stair which leads to the ground floor reception/lobby area.</p>
<p><b>C15</b></p>	<p><b>Objective:</b> To ensure that buildings are designed to create safe environments for all users.</p> <p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The proposal provides a clearly defined child care specific entry with separate vehicular access and residential entry. The entry allows ease of pedestrian access directly from the street and is easily monitored via natural surveillance without the need to access through a play area. A ramp provides disabled access/ Staff and patrons can access the centre via the basement carpark which includes a lift core and stair which leads to the ground floor reception/lobby area.</p>



	<ul style="list-style-type: none"> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	
<b>C16</b>	<p><b>Objective:</b> To ensure that child care facilities are designed to be accessible by all potential users.</p> <p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The design achieves equitable access throughout via use of ramps and lifts incorporated into the design. The basement carpark (L1 and L3) is serviced by a lift which continues through to the reception area on the ground floor childcare centre.</p>
<b>3.4 Landscaping</b>		
<b>C17</b>	<p><b>Objective:</b> To provide landscape design that contributes to the streetscape and amenity.</p> <p>Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• reflecting and reinforcing the local context</li> <li>• incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>The submitted landscape plan indicates 2m height screen hedging along the site's eastern side boundary and a continuous row of camellia trees along the site's rear property boundary capable of growing to a maximum mature height of 2.5m. Hedging is also proposed along the front, eastern and remaining northern boundaries of the property which run alongside the site's fencing.</p>
<b>C18</b>	<p>Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>• using low level landscaping to soften and screen parking areas.</li> </ul>	<p>The proposal seeks a basement carpark which is compatible with the development to the rear and previous approvals for adjoining sites and desired future redevelopment character of the locality.</p>



<b>3.5 Visual and Acoustic Privacy</b>		
<p><b>C19</b> Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p> <p><b>C20</b> Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p><b>Objective:</b> To protect the privacy and security of children attending the facility</p>	<p><b>Objective is satisfied.</b></p> <p>Permanent screening is proposed through incorporation of solid boundary fencing, acoustic barriers and dense hedging landscaping around the peripheries of the site. Indoor play areas are designed to face inwards toward the central void of the site.</p> <p>An acoustic report was prepared and submitted as part of the application which supports the proposal in this regard. It identifies that the proposal should achieve appropriate acoustic privacy to adjoining residents and those within the complex through the implementation of the recommendations.</p>
<p><b>C21</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p><b>Objective:</b> To minimise impacts on privacy of adjoining properties</p>	<p><b>Objective is satisfied.</b></p> <p>Given the landscaping and barrier treatment along the side and rear setbacks, and rear acoustic awning any overlooking potential into adjoining developments is minimal.</p>
<p><b>C22</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. An acoustic fence is one that is a solid, gap free fence</li> <li>• ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure</li> </ul> <p><b>C23</b> A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a</li> </ul>	<p><b>Objective:</b> To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</p>	<p><b>Objective is satisfied.</b></p> <p>The subject application was accompanied by an acoustic report. This report has undergone detail review and assessment by a Council engaged external consultant. After numerous revisions and clarification around data and modelling, a final report was considered acceptable that would not result in any unreasonable impact on the adjoining residents or those within the complex.</p> <p>Treatment includes sound barrier walls/fencing around the perimeter of the outdoor play area and an acoustic treated awning above</p>





	<p>child care facility located in residential and other zones</p> <ul style="list-style-type: none"> <li>determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	
<b>3.6 Noise and Air Pollution</b>		
	<p><b>Objective:</b> To ensure that outside noise levels on the facility are minimised to acceptable levels.</p>	<p><b>Objective is satisfied.</b></p>
<b>C24</b>	<p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>creating physical separation between buildings and the noise source</li> <li>orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>using landscaping to reduce the perception of noise</li> <li>limiting the number and size of openings facing noise sources</li> <li>using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p>The childcare centre has been appropriately designed to minimise the impact of external noise sources. A series of acoustic fencing barriers have been proposed throughout the site to reduce adverse noise impacts upon adjoining land uses.</p> <p>Detailed acoustic reporting has been carried out and reviewed by an independent Council appointed consultant who has assessed the noise impacts on both the children within the centre and adjoining resident and found this to be acceptable subject to compliance with the recommendations in the report and treatment measures.</p>
<b>C25</b>	<p>An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>on industrial zoned land</li> <li>where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>on a major or busy road</li> <li>other land that is impacted by substantial external noise.</li> </ul>	
	<p><b>Objective:</b> To ensure air quality is acceptable where child care facilities are proposed close to external sources of air</p>	<p><b>Objective is satisfied.</b></p>



<p><b>C26</b></p> <p><b>C27</b></p>	<p>pollution such as major roads and industrial development.</p> <p>Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p> <p>A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</li> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility</li> </ul>	<p>The proposed childcare is located away from Parramatta Road and other external sources of air pollution. Landscaping has been maximised with screen planting where possible to create improved visual separation between existing developments where possible and achieve an appropriate level of amenity for children at the centre.</p>
<p><b>C28</b></p>	<p><b>Objective:</b> To minimise the impact of the child care facility on the amenity of neighbouring residential developments.</p> <p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p><b>Objective is satisfied.</b></p> <p>The proposed operating hours are 7:30am – 6:30pm Monday to Friday (not inclusive of public holidays). This is considered acceptable given acoustic testing has found the impacts will not be unreasonable.</p>
<p><b>3.8 Traffic, Parking and Pedestrian Circulation</b></p>		
<p><b>C30</b></p> <p><b>C31</b></p>	<p><b>Objective:</b> To provide parking that satisfies the needs of users and the demand generated by the centre and to minimise conflicts between pedestrians and vehicles</p> <p>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.</p> <p>In commercial or industrial zones and</p>	<p><b>Objective is satisfied.</b></p> <p>Part E 'Child Care Centres' of SCDCP 2005 requires 1 spaces per employee and 1 visitor space per 8 children.</p> <p>The proposal has 14 staff (14 spaces) and 90 children (11.25 spaces) and requires 25-26 spaces in</p>



<p><b>C32</b></p>	<p>mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p> <p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>• the amenity of the surrounding area will not be affected</li> <li>• there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>accordance with SCDCP 2005 requirements.</p> <p>The development provides 26 spaces (11 childcare visitors – 1 adaptable and 15 staff spaces).</p> <p>All required parking is provided within the basement and does not rely on on-street parking.</p> <p>The application was supported by a Traffic Study which was reviewed and found satisfactory by Council's Traffic Engineer.</p>
<p><b>C33</b></p> <p><b>C34</b></p>	<p><b>Objective:</b> To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</p> <p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• a classified road</li> <li>• roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>Child care facilities proposed within cul-de-sacs or via narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p><b>Objective is satisfied.</b></p> <p>Vehicular access is of Kanoona Avenue, which does not have direct access off Parramatta Road, via a driveway ramp into the basement where all parking for staff and parents is provided in accordance with Council's DCP requirements.</p>
<p><b>C35</b></p>	<p><b>Objective:</b> To provide a safe and connected environment for pedestrians both on and around the site.</p> <p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings and defined/separate paths included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery, loading and vehicle turnaround</li> </ul>	<p><b>Objective is satisfied.</b></p> <p>A clearly defined pedestrian pathway/ramp is provided to the childcare care centre entry and is clearly separated and distinguishable from the basement carpark entry, avoiding any potential conflicts.</p> <p>The basement parking design provides for 1 accessible parking space located in close proximity to the basement lift well.</p> <p>Visitor parking spaces, openings to the basement lobby as well as openings to the ground floor</p>



	<p>areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</p> <ul style="list-style-type: none"> <li>• minimise the number of locations where pedestrians and vehicles cross each other</li> <li>• in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction</li> <li>• clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations</li> </ul> <p><b>C36</b> Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul> <p><b>C37</b> Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>• include wheelchair and pram accessible parking</li> </ul>	<p>reception and lounge area are pram accessible.</p> <p>The basement carpark is separate to the ground floor play areas and the design achieves minimal conflicts with pedestrians.</p>
<b>Part 4 – Applying the National Regulations to Development Proposals</b>		
<b>A – Indoor Space Requirements</b>		
<b>4.1</b>	<p>It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space = 27m<sup>2</sup></li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space = 18m<sup>2</sup></li> </ul>	<p>27.8m<sup>2</sup> external 19.8m<sup>2</sup> internal Complies</p>





<p><b>4.2</b></p>	<p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on-site laundry cannot be calculated as useable unencumbered play space for children.</li> </ul> <p>A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	<p>On-site laundry facilities proposed and complies with the objectives.</p>
<p><b>4.3</b></p>	<p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include:</p> <ul style="list-style-type: none"> <li>• junior toilet pans, low level sinks and hand drying facilities for children</li> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow adequate supervision by staff</li> <li>• external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p>Age appropriate toilets provided in each area within the centre.</p>
<p><b>4.4</b></p>	<p>Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility.</p> <p>To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.</p> <p>Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant</p>	<p>Given the orientation of the site and depth of the ground floor, adequate provisions for natural ventilation and good solar access is available to all group and play areas.</p>



	<p>conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing childcare facilities consideration should be given to:</p> <ul style="list-style-type: none"> <li>• providing windows facing different orientations</li> <li>• using skylights as appropriate</li> <li>• ceiling heights.</li> </ul> <p>Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5x. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.</p>	
4.5	<p>Design considerations could include closing doors for privacy and glass partitions to ensure supervision.</p> <p>When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot. Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel.</p> <p>Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.</p>	<p>All areas have adequate glass partition walls and solid walls are very limited.</p> <p>Good supervision and access is available throughout the site.</p>
4.6	<p>In circumstances where nappy change facilities must be provided, design considerations should include:</p> <ul style="list-style-type: none"> <li>• properly constructed nappy changing bench or benches</li> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of dedicated hand cleansing facilities for adults in the immediate vicinity of the nappy change area</li> <li>• a space to store steps</li> <li>• positioning to enable adequate supervision of the activity and play areas.</li> </ul>	<p>Specific nappy change area provided and are capable of complying with these requirements.</p>
4.7	<p>Design considerations for facilitating supervision should include:</p>	<p>Adequate supervision is available throughout the childcare centre and</p>



	<ul style="list-style-type: none"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties</li> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• avoiding multi-level rooms which compromise, or require additional staffing, to ensure adequate supervision. If multi-level spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities.</li> </ul>	<p>the layout and final finishes are capable of complying with these requirements.</p>
4.8	<p>For all child care facilities, an emergency and evacuation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> <li>• the mobility of children and how this is to be accommodated during an evacuation</li> <li>• the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	<p>Fire extinguishers and emergency signage is integrated into the internal design of each level of the development and will be part of the fire safety schedule.</p> <p>An Emergency and Evacuation Plan was submitted as part of the architectural set of plans.</p>
<b>B – Outdoor Space Requirements</b>		
4.9	<p>Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> <li>• be open on min 1/3 of its perimeter</li> <li>• have a clear height of 2.1m</li> <li>• have a wall height &lt;1.4m where a wall with an opening forms the verandah perimeter</li> <li>• have adequate flooring and roofing</li> <li>• be designed to provide adequate protection from the elements</li> </ul>	<p>A total of 630m<sup>2</sup> of unencumbered outdoor play space for the 90 children has been provided which satisfied these requirements.</p>
4.10	<p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space. Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health and safety</p>	<p>Variety of materials used in outdoor space and planting reviewed and accepted by Tree Management officer.</p> <p>The outdoor play space provides adequate space for children to explore</p>



	<p>of the centre’s occupants, such as those which:</p> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches.</li> </ul> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> <li>• ensure adequate supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>• enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction</li> </ul>	<p>and experience the natural environment. No dangerous plants or other vegetation are currently present on the site or are proposed.</p>
<p><b>4.11</b></p>	<p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>• have a min 2hrs solar access between 8am-4pm during winter months, for min 30% (or 2.1m<sup>2</sup>) of the 7.0m<sup>2</sup> of outdoor space per child required.</li> <li>• adequate shade for outdoor play areas is to be provided in the form of natural shade such as trees or built shade structures giving protection from ultraviolet radiation to min 30% of the outdoor play area</li> <li>• have evenly distributed shade structures over different activity spaces.</li> </ul> <p>Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas. Species that suit local soil and climatic conditions and the character of the environment are recommended.</p> <p>Dense shrubs can also provide shade. They should be planted around the site perimeter, so they don’t obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> <li>• providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter</li> </ul>	<p>A detailed landscape plan has been submitted and approved by Councils Tree Management officer. The plan provides appropriate shading through planting and provision of shade sails.</p>



	<p>Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>• permanent structures (pergolas, sails and verandahs) • demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul> <p>Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively.</p>	
<p><b>4.12</b></p>	<p>In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> <li>• not create a sense of enclosure</li> <li>• if the outdoor space is being fenced internally, then the fence must be at least 1.2m high. Design considerations for side and rear boundary fences should include:</li> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul> <p>Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards, Austroads and Transport for NSW traffic management guidance. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems</p>	<p>2m fence provided behind screen planting which is acceptable. This ensures children cannot go through or under the fence and the centre is secure.</p>
<p><b>4.13</b></p>	<p>A soil assessment should be undertaken as part of the development application process</p>	<p>Soil assessment provided and found to be suitable for the use.</p>





## STRATHFIELD LOCAL ENVIRONMENTAL PLAN (SLEP) 2012

The development site is subject to the SLEP 2012.

### Part 2 – Permitted or Prohibited Development

The subject site is zoned R4 High Density Residential and both residential flat buildings and childcare centre are permissible forms of development with Council's consent. Mixed use development is also an innominate permissible use.

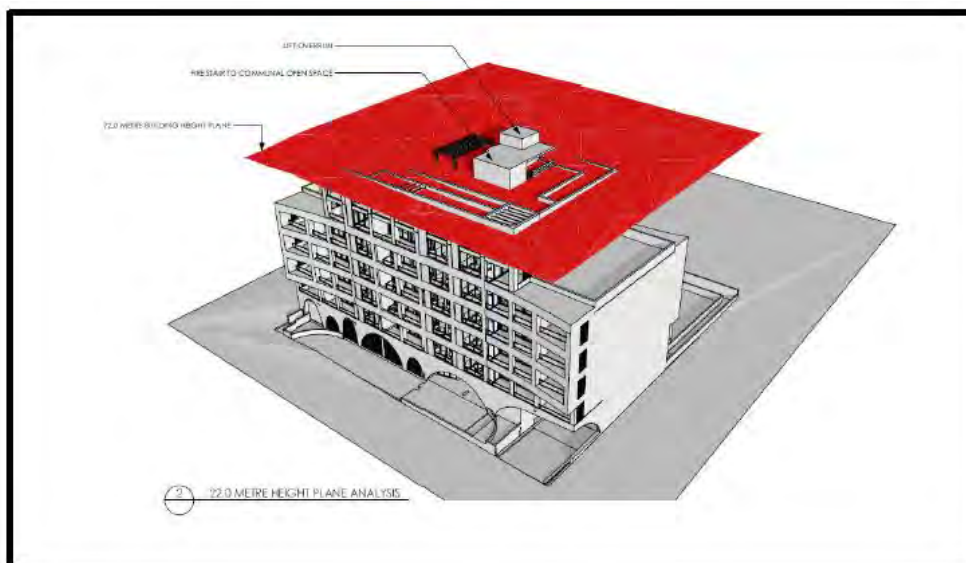
### Part 4 – Principal Development Standards

TABLE 6: SLEP 2012 DEVELOPMENT STANDARDS			
Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.1A Minimum lot size for residential flat building	1,000m <sup>2</sup>	1,631.6m <sup>2</sup>	YES
4.3A Exceptions to Height of Buildings (Parramatta Road Corridor)	22m (Key Site 4 Exemption)	25.6m (16.4% variation)	NO Clause 4.6 assessment below
4.4A Exceptions to Floor Space Ratio (Parramatta Road Corridor)	2:1 [Key Site 4 Exemption (3,263.8m <sup>2</sup> )	2:1 (3262m <sup>2</sup> ) Res – 2706m <sup>2</sup> Comm – 556m <sup>2</sup>	YES

### Clause 4.6 Variation

In November 2023, there were amendments to the assessment of Clause 4.6 variations, making them less complex and more transparent. However, there was a savings provision for application lodged prior to and not determined by 1 November 2023. Given that this application was lodged in May 2023, it will be subject to the savings provisions.

Clause 4.3 within SLEP 2012 states that the subject site has a maximum height of buildings of 22m under the exceptions to height of buildings for key sites in the Parramatta Road corridor. The proposal seeks an overall height of 25.6m, which is a variation of 3.6m or 16.4%. The majority of the breach is for the provision of access to the rooftop common open space and structures on the roof.



**Figure 35:** Height plane and section demonstrating building height exceedance.

The applicant has provided a written Clause 4.6 request (the written request) to vary the height of buildings standard which relates to the development proposal before the Council, for consideration pursuant to SLEP 2012 Clause 4.6(3) and (4).

As detailed in *Initial Action Pty Ltd v Woollahra Municipal Council* (2008) 236 LGERA 256; [2018] NSWLEC 118 (*Initial Action*), as a result of the breach of a development standard Clause 4.6(3) and (4) establish preconditions that must be satisfied before the consent authority can grant development consent to the development. These preconditions are:

- The written request must adequately demonstrate that compliance with the development standard is unreasonable or unnecessary (cl 4.6(3)(a) and cl 4.6(4)(a)(i));
- The written request must adequately demonstrate that there are sufficient environmental planning ground to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i));
- That the proposed development is in the public interest because it is consistent with the objectives of both the zone and the development standard (cl 4.6(4)(a)(ii)); and
- Concurrence of the Planning Secretary must be obtained (cl 4.6(4)(b)).

These will now be addressed in turn.

***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 (*Wehbe*) at [42] - [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the applicant's written request, the first method described in *Initial Action* at [17] is used to establish that compliance with the development standard is unreasonable or unnecessary, which is that the objectives of the height of buildings standard are achieved notwithstanding the numeric non-compliance. Clause 4.3A provides exceptions to the more general height standards in Clause 4.3. As Clause 4.3A does not have any objectives, the objectives of Clause 4.3 are relevant.



The first objective of Clause 4.3 is “to ensure that development is of a height that is generally compatible with, or which improves the appearance of the existing area”. As noted in the written request, the proposed development provides a scale and intensity that is consistent with the existing surrounding development and development that has been approved yet to be constructed. Accordingly, I am satisfied the proposed development meets this objective.

The second objective of Clause 4.3 is “to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area”. The development proposes the consolidation of three sites, in accordance with Council’s consolidation and key site patterns for this location. The consolidated site leads to the optimal capacity in the immediate locality. In addition, as stated in the written request, the height variation still maintains the desired street pattern with the non-compliance recessed from the front elevation and not readily apparent from surrounding development or public domain. Accordingly, I am satisfied, based on the justification in the written request that the proposed development meets this objective.

The third objective of Clause 4.3 is “to achieve a diversity of small and large development options”. I am satisfied based on the justification in the written request, which is further supported by the observations I made on site, that the proposed development achieves a large development by consolidating the sites within the Key Site area 4 and will not impact adjoining amenity. Accordingly, the proposal meets this objective.

As the proposal achieves the objectives of the FSR development standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Clause 4.6(3)(b), the applicant advances three environmental planning grounds to justify contravening the development standard. Each will be dealt with in turn:

*Ground 1 – The proposed development is consistent with the objectives of the zone and the objectives of the building height control.* It is accepted that from my detailed assessment, the development is consistent with the objectives of the R4 land zone and building height control and I accept this ground.

*Ground 2 – The proposal does not result in any adverse impacts on adjoining properties.* It is accepted from the detailed assessment of this application, that it does not result in any adverse impacts on adjoining properties. Accordingly, I also accept this ground.

*Ground 3 – The height variation only includes a minor portion of the building and is a result of providing rooftop open space which provides a better planning outcome for the site that strict compliance with the height control.* Given the inclusion of a childcare facility on the ground floor, which is likely to become a higher demand service within the local area as continued urban renewal occurs and residential population increases, the most appropriate location for the common open space for the residents was to locate it on the roof. The roof structures (stairwell, pergola and planter boxes) all result in a better utilisation of this area and a better planning outcome for the site. I accept this ground.

*Ground 4 – The area of exceedance only consists of the lift overrun and roof structures and does not contain any habitable floor space.* It is accepted that the only exceedance of the height control is due to the roof structures that provide access and useability to the rooftop common open space, which is the most suitable location for this development. It is also accepted that the height variation is exacerbated by the use of the ground floor as a childcare centre, with the floor-to-floor height increase to 3.6m, compared to 3.1 required for residential development. This adds 500mm to the height variation.



Ground 5 – *The proposal will provide a suitable design and suitable amenity in terms of the built environment and represents the orderly and economic use of land, which are identified as objects of the EP&A Act 1979. The building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.*

Cumulatively, these grounds are considered sufficient to justify contravening the development standard.

***Whether the proposed development meets the objectives of the development standard, and of the zone***

The objectives of the R4 High Density Residential zone under the SLEP 2012 are:

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

I accept the applicant's submissions in the written request that the relevant objectives of the Strathfield LEP are met. The proposed development will provide the housing needs of the community. It would also provide facilities and services in the form of a 90-place childcare centre which is required to meet the day to day needs of the residents and local community. I am also satisfied that the proposed development meets all the relevant objectives of the development standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

***Whether the concurrence of the secretary has been obtained.***

Under Clause 55 of the EP&A Regs 2021, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (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.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The public benefit of maintaining the development standard is not considered significant given that the perceived bulk from the street will not change.



Accordingly, the proposal is considered consistent with the matters required to be taken into consideration before concurrence can be granted.

In summary, the breach of the development standard is considered acceptable as it meets all the relevant provisions of Clause 4.6.

## **Part 5 – Miscellaneous Provisions**

### **Heritage Conservation**

The subject site is not listed as a heritage item or located within a heritage conservation area. The site does not adjoin nor is in close proximity to a heritage item and as such, the provisions of this clause are not applicable.

### **Flood Planning**

The proposed site has not been identified within the flood planning levels and as such, the provisions of this Clause are not applicable to the subject development.

## **Part 6 – Additional Local Provisions**

### **Acid Sulfate Soils**

The subject site is identified as Class 5 Acid Sulfate Soils and falls within the criteria in the table of subclause 6.1(2) as it is within 500m of a Class 2 and 3 land and below 5m AHD. As such Development Consent for the proposed works is required under the provisions of this Clause. The applicant was required to submit an Acid Sulphate Soils Management Plan which has been prepared by Foundation Earth Sciences dated August 2023 in accordance with the Acid Sulfate Soils Manual. This report has been submitted to Council and concluded that the site is not impacted on by acid sulphate soils and that an Acid Sulphate Soil Management Plan is not required.

### **Earthworks**

The proposal involves significant excavation works for the provision of three levels of basement, driveway ramps and ancillary works. The extent of excavation has been limited to the minimum requirements to comply with the Council's relevant DCP controls and all ancillary works have been limited to what is required to provide access to and from the basement. Adequate areas for deep soil planning across the rear have been provided and significant trees within the site retained. The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to affect the existing and likely amenity of adjoining properties and there is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. The proposed excavation works are considered to satisfactorily address the objectives of this clause.

### **Essential Services**

Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council's stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development.





It is considered that the proposed development satisfies the aims, objectives and development standards, where relevant, of the SLEP 2012.

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft planning instruments that are applicable to the proposed development on the subject site.

**(iii) any development control plan,**

**Strathfield Development Control Plan No. 20 – Parramatta Rd Corridor Area (DCP 20)**

DCP 20 is the relevant DCP as the site is located within the Parramatta Road Corridor Area. However, DCP 20 co-opts several parts of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. The key parts for this application are:

- Part E – Child Care Centres
- Part H – Waste Management
- Part Q – Urban Design Controls

Clause 6A of SEPP 65 confirms that in the event of any inconsistency between the controls of the ADG and Council's DCP, the objectives, design criteria and design guidance set out in the ADG prevail. This confirms that if a DCP 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.

Similarly, Section 3.27 of the Transport and Infrastructure SEPP clarifies that the following matters in the DCP do not apply to the centre-based child care facility:

- (a) operational or management plans or arrangements (including hours of operation),
- (b) demonstrated need or demand for child care services,
- (c) proximity of facility to other early education and care facilities,
- (d) any matter relating to development for the purpose of a centre-based child care facility contained in—
  - (i) the design principles set out in Part 2 of the *Child Care Planning Guideline*, or
  - (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).

Of course, the development standards in the SLEP 2012 also override any provisions in a DCP.





These matters, as of relevance to the application, have been addressed in the SLEP 2012, Guideline and ADG assessments above where it has been determined that the proposal is satisfactory.

Some of the provisions in Part E – Child Care Centres no longer reflect current legislation, such as the requirement for a letter from NSW Department of Community Services prior to DA lodgement.

Finally, Part Q – Urban Design says to refer to Parramatta Road Urban Transformation Strategy. This strategy has not progressed since the DCP was amended in July 2017. Accordingly, a detailed assessment is not considered necessary against this strategy.

The remaining matters of relevance provided in the DCPs are addressed in **Table 7** below.

TABLE 7: DCP ASSESSMENT			
DCP 20			
Section	Development Control	Proposed	Complies
2.1 Site Analysis	Provide site analysis and consent authority to be satisfied the design is consistent with the Masterplan	Site analysis provided	Yes
2.2 Building footprint	Proposal to conform to the building footprint shown in figure below. 	The building footprint generally accords with the Draft Key Sites Map.	N/A
	Conform to the consolidation pattern identified in figure below 	Conforms with consolidation pattern of SLEP 2012 (Key Site 4)	N/A
2.3 Building Height	Proposal to conform to building height identified in figure 9 = 3 storeys	Refer to previous discussion of building height under SLEP 2012	N/A
2.4 Built Form	Proposal to comply to the following min unit sizes: 1 bed – 70m <sup>2</sup> 2 bed - 85m <sup>2</sup> 3 bed - 100m <sup>2</sup>	The unit sizes of the ADG prevail	N/A
2.5 Roof Form	Lift and service plant concealed within roof structure	The lift overrun structure protrudes beyond the roof structure however, given the height non-	Yes



		compliance it would be considered inappropriate to require the lift overrun structure to be covered as it would contribute toward the bulk of the building. It has been stepped back so as to not be visible from the street	
	Provide an interesting skyline and enhance views from adjoining developments	Acceptable roofline provided for the scale of the building	Yes
2.6 Façade Composition	Entrance should be distinguishable in the façade	Entries are distinguishable and do not include opportunities for concealment. At the request of Council, the combined entry was separated	Yes
	Facades should maintain a human scale to the street by incorporating appropriate architectural features	Human scale is maintained through archway façade design	Yes
	Materials and finishes should blend together with min 30% to incorporate face brickwork	Materials and finishes predominately comprise face brick, two different types of textured concrete panels and rendered & painted sections.	Acceptable
	Consider the use of glass in facades on northern and western elevations in terms of glare impacts	Complies with BASIX.	Yes.
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 prevent overlooking	ADG prevails	N/A
	Acoustic privacy must be considered in relation to proposal and surrounding environment	Acoustic report submitted. Compliance with construction methodology by way of condition of consent	Yes
	Buildings designed and sited to minimise transmission of noise to adjoining developments	Residential in nature and unlikely to generate noise. Ground floor childcare play area subject to aural amelioration measures in final Acoustic Report.	Yes



	Developments adjoining major road or railway line to consider potential noise impacts	Proximity to Parramatta Road addressed in Acoustic Report.	Yes
	Shared pedestrian entries shall be capable of being locked and serve a limited no. of dwellings	Secured entries proposed	Yes
	Casual surveillance maintained of public streets and spaces with min 1 habitable room window facing that area	Casual surveillance encouraged through balcony orientation to overlook the public domain and rear	Yes
2.9 Private Open Space	Proposal to provide 35% deep soil landscape area	ADG prevails	N/A
	Retain and protect existing significant trees	Proposal redesigned at the request of Council to retain large tree in rear yard	Yes
	Each contiguous landscape area shall provide large trees	Consolidated rear landscaped area with new and existing trees	Yes
	Trees and pergolas to shade external areas and control sunlight into buildings	Trees and shade structures provided for ground floor play area. Small pergola on rooftop communal open space.	Yes
	10% of site or 100m <sup>2</sup> (whichever is greater) of common open space	ADG and Child Care Guideline prevails	N/A
	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;</li> <li>• 15m<sup>2</sup> for 3 or more bed;</li> </ul> Min dimension 2.0m;	ADG prevails	N/A
	Located off living areas and with good solar access; and		
	Balustrades designed to provide privacy and conceal service areas whilst allowing passive surveillance		
	Design front gardens to provide a positive setting for the building		
	Design front gardens for security by providing adequate lighting to entrances. Lighting at entrances should enhance security at the street. Avoid planting which may obscure the entry		
Minimise impact of driveways in front gardens by design, materials selection and planting			
Front fences relate to the predominant streetscape			



	<p>character. Fences &gt;1.2m will only be considered where the site is located on a major road or is exposed to other significant noise sources. The max fence height is 1.8m where 50% is transparent</p> <p>Solid fences or fences with less wrought iron inserts than specified above, &gt;900mm, must be setback min 1.5m from the street alignment and the setback area is to be suitably landscaped to Council's satisfaction</p>		
	Main living and 50% of POS receive min 3hrs solar access	ADG prevails	N/A
	Min 3hrs solar access maintained to habitable rooms and POS of adjoining development	ADG prevails	N/A
2.11 Stormwater, Sewerage and Drainage	Site to be adequately serviced in accordance with Council's Stormwater Management Code	Stormwater assessed to comply with Council's Stormwater Management Code	Yes
2.12 Disabled Access	One main entrance barrier free and accessible	Barrier free access to and from the main entrance	Yes
2.13 Vehicular Access and Parking	Mixed Use Development car parking to be provided on the following basis:	41 spaces provided. See detailed discussion under ADG table.	Yes
(child care parking assessed separately below)	<p>1 space / 1 &amp; 2 bed (30) = 30</p> <p>1.5 spaces / 3 bed (3) = 4.5</p> <p>1 visitor space / 5 units (33) = 6</p> <p><b>Total required: 40.5 (41)</b></p>		
	Comply with driveway ramp gradient and dimension requirements.	Condition of consent recommended requiring the driveway ramp be designed in accordance with AS2890.1-2004	Yes
	Bicycle parking to be suitable	39 spaces which is more than adequate.	Yes
2.14 Site Facilities and Services	Electricity and telecommunication supplies shall be underground.	A condition of consent will be imposed requiring consultation with the relevant service providers.	Acceptable subject to condition
	Letterbox provision	Mailboxes shown in residential foyer and details provided.	Yes
	Master TV antenna provided	Shown on roof plan	Yes





	Clothes drying facilities provided not visible from the street	No detail	Yes - Condition will be imposed provide a dryer within each unit as no external drying area available
2.16 Excavation of Sites	Dilapidation report for all adjoining development	No details provided	Dilapidation Report conditioned to be required prior to CC
<b>Part E – Child Care Centres – SCDP 2005</b>			
5.2 Site Requirements	Child care centres are not favoured on classified roads or within 30m of a classified road	Driveway access 46m from classified road, however no direct access from classified road.	Yes
	Child care centres are not favoured in residential cul-de-sacs (as cul-de-sacs do not allow good traffic circulation). The additional traffic generated by a child care centre may create a noise and traffic nuisance to surrounding residences within a cul-de-sac	In cul-de-sac, however assessed as acceptable by Council's traffic engineer	Yes
	Child care centres are not favoured adjoining service stations or heavy industrial developments	Adjoins residential	Yes
	In residential areas, a min site area of 1,000m <sup>2</sup> is required in order to overcome the potential problem of noise and nuisance	1,631.6m <sup>2</sup>	Yes
	Sites other than corner sites need to have min width 25m	40.56m	Yes
	Child care centres shall be set back min 4m from side and rear boundaries	17.64m rear, nil side setbacks	Rear: Yes Side: Acceptable given it is located in R4 high density zone.
	The entry areas of a child care centre should be setback min 12m from the front boundary line. A 9m setback may be considered by Council where it	9.187m which is considered acceptable as the objectives of 5.6 are satisfied through the separate basement	Yes



	can be shown that the objectives of section 5.6 of Part E can be achieved	for vehicle entrance, pickup and drop off	
5.6 Traffic, Parking and Access	Car parking: 1 space / employee (stack parking is permitted for staff parking) and 1 visitor / 8 children or part thereof (stack parking is not permitted for parents / guardians)	Stacked parking provided for staff only. Parking spaces comply with DCP requirements.	Yes
	The centre should be designed to allow the safe drop off and collection of children and safe movement and parking of staff, parents, visitors and service vehicles	Pick up and drop off in basement	YES
	Standing areas for the dropping off and collecting of children are to be provided	As safe and sufficient underground parking is provided, a drop off area is not required	No but acceptable
	All vehicles shall move in a forward direction on the site at all times	Vehicles will enter and exit the basement in a forward direction	Yes
	Access for people with disabilities should be provided to allow continuous wheelchair access from the street, car park, building entry and into individual playrooms and toilets	Disabled access provided through ramp and internal lift. All childcare services provided on level ground floor.	Yes
	Parking and vehicle access areas are to be separated from any area used by children by safety fencing and gates	Underground parking	Yes
5.7 Height	Stairs present a safety risk to young children. The optimal height for a child care centre is therefore 1 storey. A child care centre that exceeds 1 storey shall ensure the safety of children by minimising access to stairs	Children's areas are all on one storey – ground floor.	Yes
	A child care centre shall not be than 2 storeys above natural ground level on any part of the lot, and in any event shall not exceed 9.5m to the ridge of the roof	Single storey childcare component. 3.6m floor to floor height.	Yes
5.9 Noise	Sites should be chosen which protect children from excessive noise	Reasonable acoustic environment for use, as per Acoustic referral comments	Yes
	Where the centre is affected by excessive noise, the centre should be designed to minimise the impact of that noise source.	Internal child care areas not subject to excessive noise	Yes



	Eg, using appropriate screening devices or locating sensitive areas (eg sleeping rooms) away from the source of noise		
	In situations where noise may be excessive from surrounding areas, an acoustic consultant's report may be required	Acoustic Report provided and use is appropriate.	Yes
5.10 Outdoor Play Areas	Outdoor play areas are not to be located so that they are adjacent to the living/bedroom areas of adjoining residents, busy roadways/driveway areas and other potential noise or pollution sources	Rear play area maximises aural privacy. Adequate sound barrier screens around perimeter and awning provided.	Yes
	A variety of surfaces, such as grass, sand, hard paving and moulding shall be provided in outdoor play areas. The heat absorption qualities and texture of materials must be suitable, with surfaces such as bitumen being avoided	Variety of play services provided	Yes
	Outdoor play areas must not be occupied by any motor vehicles during operating hours	No vehicular access to play areas	Yes
	Outdoor play areas shall have immediate access to toilets	Toilets reasonably accessible for each age group	Yes
	Where possible, outdoor play areas shall be located to the north or north-east of the site to ensure that play areas receive adequate sunlight	East with a section north east	Yes
	Outdoor play areas shall be designed to allow constant supervision and access to children by staff	Open sightlines allow surveillance in the design	Yes
	5.11 Landscaping	Landscaping shall be in keeping with adjoining developments.	Detailed landscaped plan provided. Selection of planting is acceptable as assessed by Council's Tree Management Officer. Screening plants along the perimeter of the outdoor play area
Landscaping and fencing shall be designed to provide a noise barrier and privacy screen for adjoining residents. In residential zones, or on land adjoining residential zones, a 1.5m landscaping strip shall be provided on all boundaries to help with noise abatement and privacy			
Existing natural features and significant vegetation of a site shall be conserved where possible to help increase the			



	amenity of the area. Where appropriate existing trees are to be retained and incorporated as shade elements in outdoor play areas		
	Plant species shall be chosen for their suitability to the site, ease of maintenance and interest to children		
	Plant species shall not be toxic, allergic, prickly or otherwise unsafe for children.		
	A Detailed Landscape Plan prepared by a suitably qualified landscape professional is to be submitted with all development applications for child care centres addressing the provisions included in this section.		
5.12 Fencing and gates	Outdoor play areas must be fenced on all sides by fencing of min 1.8m	2m fence	Yes
	No play equipment shall be located adjacent to a fence if, by doing so, it reduces the effective height of the fence and enables it to be scaled	No play equipment at fenceline	Yes
	All gates leading to or from play areas shall be equipped with child self locking mechanisms	Capable of compliance	Yes
5.14 Stormwater drainage and control	All child care centre developments must be in accordance with the requirements of Council's Stormwater Management Code	In accordance with Council's code	Yes
5.16 Hours of operation	Where a child care centre is proposed within a residential area or adjoining a residential area, the hours of operation shall generally be limited to 7 am to 6 pm, Monday to Friday. Operating hours outside these times will be considered on their merits. Where outside, a noise impact assessment is required to demonstrate that the hours of operation will not adversely impact any adjoining residential neighbours.	7:30am-6:30pm Noise impact assessment provided and assessed as acceptable	Yes
5.17 Maximum number of children	Max 30 at any one time	90 children	Acceptable in light of other



			legislation and policy
<b>Part H – Waste Management – SCDCP 2005</b>			
3.6 Multi Dwelling Housing (Town Houses and Villas) and Residential Flat Buildings	<p>Waste storage is to be provided at the following rates:  <b>General Waste:</b> 120L/unit/week  <b>Recycling:</b> 120L/unit/fortnight</p> <p>On-site waste collection</p>	Having regard to the above rates, a minimum of 6 x 660L bins are to be provided for general waste and 12 x 240L bins are to be provided for recycling waste, with 6 in the basement and 1 swap out bin on each residential level. Ample room in the basement residential bin area to accommodate this.	Yes
3.7 Commercial Premises and Change of Use Applications	The onsite path of travel for collection vehicles (for larger non-residential development schemes with internal roadways) must be designed to accommodate the largest size of vehicle likely to access the site/collection point and shall be specified in the waste management plan	The proposal is supported with plans that demonstrate a minimum 3.61m head clearance to the basement, a turning circle for a medium-ridged vehicle and a driveway ramp with a gradient <20% in accordance with Appendix F of Part H of SCDCP	Yes
3.8 Mixed- Use Development	<p>Separate waste storage rooms/areas must be provided for residential and non-residential uses</p> <p>Residential units shall be insulated from noise if adjacent to or above:                      i) Waste and recycling storage facilities,                      ii) Chute and compaction systems,                      iii) Waste and recycling collection and vehicle access points</p> <p>Separate waste management systems must be designed so that they can effectively operate without conflict or adversely affecting amenity</p>	Separate waste rooms provided for residential and childcare centre. Separate waste and recycling bins provided, with recycling bins provided one each residential level. Chute system provided for residential waste to basement bin.	Yes
Various	Accompanied by a Waste Management Plan including all relevant details regarding the storage, types and quantities of waste and the storage and disposal of the waste	Waste Management Plan provided	Yes





Part Q – Urban Design – SCDP 2005			
2 Built form controls	a. to ensure that development adjacent to the Public Domain complements the landscape character, public use and enjoyment of that land. b. To enhance the quality of the Public Domain. c. To ensure the Public Domain is attractive, safe, interesting, comfortable, readily understood and easily accessed	The ADG overrides the objectives of Councils DCP and has been considered in detail above and found to be satisfactory.	Yes
3 Amenity Guidelines	3.4 Acoustic amenity and air quality 3.4.1 Objectives a. To ensure that the siting and design of buildings minimises noise impacts from abutting roads, rail corridors and other noise-generating land uses. b. To ensure that new commercial or industrial development does not unreasonably diminish the amenity of nearby residential uses by noise intrusion. c. To ensure mitigation measures such as building layout and design and building materials are taken into consideration where poor air quality is likely to affect inhabitants. 3.4.2 Essential criteria 1) Where dwellings are proposed within proximity to noise-generating land uses such as major roads and rail corridors; entries, halls, storage rooms, bathrooms and laundries must be located on the noise affected side of each dwelling and should be able to be sealed off by doors from living areas and bedrooms where practicable. 2) Where dwellings are proposed within proximity to noise-generating land uses, appropriate materials with acoustic properties shall be incorporated into the development. 3) New non-residential development must not adversely affect the amenity of adjacent residential development in terms of noise, odour, poor air quality, hours of operation and/or service		ADG generally overrides objectives, however, provides no controls for acoustic privacy for neighbouring dwellings. In the case for 3.3 visual and acoustic privacy, the proposal has been able to demonstrate through revised acoustic report, analysis and additional treatments (condition of consent) the development will minimise the impacts of noise transmission to the residents from the adjoining developments and those within



	deliveries. 4) Noise generating developments particularly those adjacent residential developments and residential developments adjacent to noise generating sources such as busy roads and rail corridors, must submit an Acoustic Report prepared by a suitably qualified acoustic consultant with a development application.		the new complex.
4.4 Child care centres	<p>4.4.1 Objectives</p> <p>a. To encourage the provision of high quality child care which have a minimum impact on surrounding land uses and are appropriate for the surrounding built and natural environment.</p> <p>b. To ensure that Child Care Centres are appropriately located on sites which have high levels of safety, security, environmental health and amenity for children.</p> <p>c. 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.</p>	The development proposes a quality childcare centre with minimal impact on the adjoining natural and built environment. It has been designed to provide a high level of safety, security and amenity of the children and retains the neighbours amenity through appropriate acoustic screen barriers and landscaping.	Yes

**(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,**

The requirements of Australian Standard AS2601–1991: The Demolition of Structures is relevant to the determination of a development application for the demolition of a building. The proposed development involves the demolition of buildings. Should this application be approved, appropriate conditions of consent will be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality and those envisioned with the urban renewal of this precinct. It will not result in any undue impacts on the amenity of the current and future surrounding developments. The development will enable a use that meets the needs of existing and future residents in the surrounding area. It will promote enhanced neighbourhood safety and security with an active street frontage and surveillance generated by the new ground floor development and residential units above. Accordingly, the proposal is considered to have a positive impact on the natural and built environment and will not result in any negative social or economic impacts on the locality.



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

It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. The development positively responds to the streetscape and is comparable in size and sitting with surrounding development. It will provide a well-designed childcare facility that supports the viability of the area and is generally consistent with the legislative provisions applying to the development.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. The amended application was nominated as integrated development by the applicant and was renotified. In total, three submissions were received, two to the initial application and one to the amended application. These raised the following concerns:

**1. Solar access to 7-11 Derowie Avenue**

Given the orientation of the site and significant rear setback of over 17m, the proposed development will have little or no impact on the solar access to no 7-11 Derowie Avenue, which is site to the east of the subject properties.

**2. Traffic and parking impacts**

The proposal provides for the required parking for both the residential units and childcare centre within the three levels of basement and should not impact on the existing street parking. The traffic generation from the development is not considered significant and will not negatively impact of the capacity or functioning of the local streets or Parramatta Road. Council's traffic engineer has reviewed the application and raised no objections on traffic grounds.

**3. Façade colours**

*The proposed building exterior looking and color is not matching with existing surrounding building color tone or exterior looking, please see attached image. Its appearance more like industrial looking with red bricks finish. We suggest neutral and soft color with modern design to match. We noticed the North elevation and South Elevation are patterned precast panel, what's the finish of it? We do not want it looks like not finished.*

The application has been reviewed by both the Design Review Panel and Council's Urban Design Advisor. The proposed material palette incorporates a consistent use of red brick punctuated with square and arched openings or varies sizes and lengths. Secondary materials compliment the red brick through contrast and are equally applied constantly to achieve a holistic character. The finishes on the north and south side elevations have been amended to continue the finishes of the front and rear facades and completes the whole building.

**4. Overshadowing impacts from height breach**

This issue was raised by the owners of the site to the north, which is yet to be developed. Given they are to the north, there will be no overshadowing impacts from the height breach. In any regard, the main height breach is from the roof-top structures which are centrally located and any shadowing from these structures falls within the subject roof area.



## 5. Impacts from northern open terrace

Given the inclusion of a childcare centre at ground level, the only place to accommodate the open space for the residents is on the podium and roof level of the development. The main common open space area is located on the roof level with communal facilities including BBQ, outdoor table and general seating and landscaped area. This area is well setback from the side boundaries (over 10m from the northern boundary) with adequate planter boxes and planting to ensure that any privacy or amenity impacts from this area is minimised.

There is a secondary common open space area on the podium level (Level 5) which only provides direct access to 3 x 2 bedroom units on that level. Other residents within the complex are most likely to catch the lift and utilise the main area on the roof level. This area is positioned to the northeastern part of the site and takes advantage of the sites orientation and solar access. Whilst it is located against the northern boundary, it is not of significant size, it is setback with the use of raised planters and landscaping and unlikely to have any impacts on the potential redevelopment to the north.

## 6. Privacy impacts from top floors of northern elevation

The north facing side windows are from bedrooms which are low active use rooms and setback over seven metres from the side boundary. They will have little or no privacy impacts on any future redevelopment of the site to the north.

There are two small balconies which also face north, which are also setback over 7 metres, but however given their size are not likely to result in amenity or privacy issues to any future development to the north.

Also, given the orientation to the north and potential impact on from the future redevelopment of the site to the north, these windows will provide good solar access and amenity to the occupants without compromising any future development.

## 7. Fire resistance

*The vertical fire resistance mesh/ window or sliding door automatic closing system/ wall wetting sprinklers are needed for protection of its external opening to the future adjoining development building.*

Should consent be granted, fire safety will be considered and addressed with the Construction Certificate. These details will be verified by the Certifier as part of the construction certificate process.

### (e) *the public interest.*

The proposed development is of a scale and character that does not conflict with the public interest.

## Local Infrastructure Contributions

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. A consent authority may impose a condition under Section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).



## STRATHFIELD DIRECT SECTION 7.11 CONTRIBUTIONS PLAN

Section 7.11 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contributions Plan 2010-2030 as follows:

Provision Roads and Traffic Management	\$ 1,803.14
Provision of Local Open Space	\$ 186,325.04
Provision of Major Open Space	\$ 285,768.62
Provision of Community Facilities	\$ 62,810.42
Administration	\$ 5,976.60
<b>TOTAL</b>	<b>\$ 558,953.82</b>

The application is not subject to Housing and Productivity Contributions given it was lodged before these provisions took effect and is excluded under the savings provision of the ministerial orders.

### Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979 including the provisions of the SLEP 2012, child care legislation and DCP 20. Following a detailed assessment, it is considered that DA 60/2023 should be **Approved** subject to the conditions as outlined below.

The following conditions of consent are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instrument and/or Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To protect the environment.
- (c) To ensure that there is no unacceptable impact on the amenity of the area, or to private and public property.
- (d) It is in the public interest.

## DEVELOPMENT DETAILS

### (1) Approved Plans & Documentation

The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Project Summary	P681 DA03	21.05.2024	E	pti Architecture
Demolition Plan	P681 DA04	29.02.2024	D	pti Architecture





Site Plan/Roof Plan	P681 DA05	21.05.2024	F	pti Architecture
Ground Floor Plan/ Child Care Centre	P681 DA06	21.05.2024	F	pti Architecture
Level 1 Floor Plan	P681 DA07	21.05.2024	F	pti Architecture
Level 2 Floor Plan	P681 DA08	29.02.2024	D	pti Architecture
Level 3 Floor Plan	P681 DA09	29.02.2024	D	pti Architecture
Level 4 Floor Plan	P681 DA10	29.02.2024	D	pti Architecture
Level 5 Floor Plan	P681 DA11	29.02.2024	D	pti Architecture
Level 6 Floor Plan	P681 DA12	29.02.2024	D	pti Architecture
Level 7 – Communal Open Space Plan	P681 DA13	29.02.2024	D	pti Architecture
Roof Plan	P681 DA14	29.02.2024	D	pti Architecture
Basement 1 Plan	P681 DA15	29.02.2024	D	pti Architecture
Basement 2 Plan	P681 DA16	29.02.2024	D	pti Architecture
Basement 3 Plan	P681 DA17	29.02.2024	D	pti Architecture
Section AA	P681 DA18	21.05.2024	F	pti Architecture
Section BB	P681 DA19	29.02.2024	D	pti Architecture
Elevations – West (Street)	P681 DA21	29.02.2024	D	pti Architecture
Elevations - North	P681 DA22	29.02.2024	D	pti Architecture
Elevations - East	P681 DA23	21.05.2024	F	pti Architecture
Elevations - South	P681 DA24	21.05.2024	F	pti Architecture
External Finishes Schedule	P681 DA25	29.02.2024	D	pti Architecture
Pre-Post Adaptable Units	P681 DA27	29.02.2024	D	pti Architecture



P681 DA28

Operational Plan of Management		Submitted 22.05.2024		pti Architecture
Emergency Evacuation Plan	P861 DA40	20.03.2023	B	pti Architecture
Amended Acoustic Report	230719	17.05.2024	3	Pulse White Noise Acoustics
Stormwater Concept Plans	GC22354 SW01–SW08	25.11.2022	A	Geba Consulting
Landscape Plans	L01 – L02	21.02.2024	D	rfa Landscape Architects
Waste Management Plan		20.08.2023	B	pti Architects
Arborist Report	Ref.8623.3	16.02.2024		Redgum Horticultural

#### Supporting Documentation

Access Report	22431			Vista Access Architects
Geotechnical Report	G181 REV 2	April 2022	REV 2	Benviron Group
Preliminary Site Investigation (PSI)		April 2023	Rev 2	Benviron Group
Section J Report – Class 2 - Only	BC22/185	29.03.2023	B	Building & Energy Consultants Australia
DA Assessment		06.02.2023		
SEPP 65 Design Verification Statement		23.02.2023		pti Architects
Acid Sulphate Soil Assessment (ASSA)	E1013-3	24.08.2023	0	Foundation Earth Sciences
Addendum Statement of Environmental Effects	22/307	25.08.2023		pti Architects
BCA Assessment Report		18.08.2023	0	BCP Building Code Professionals



Childcare Report	Expert		21.05.2024		Early Education Solutions
Natural Ventilation Statement		W1001-01F02	24.08.2023	0	Windtech

(2) **Building Height**

The height of the building measured from Australian Height Datum (AHD) must not exceed Relative Level (RL) 36.600m AHD to the top of the lift overrun of the building.

(3) **Child Care Centre**

This approval is given for the use of the land for the purposes of a Child Care Centre with a maximum number of 90 children. A separate approval and/or license will be required from the Department of Community Services for the operation of a child care centre from the subject premises.

(4) **Signage**

A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

**SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION**

(5) **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993**

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the [Roads Act 1993](#) and/or Section 68 of the [Local Government Act 1993](#) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;



- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

These separate activity approvals (a)-(g) must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

- (h) Pumping water from the site into the public road;
- (i) Constructing a vehicular crossing or footpath;
- (j) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (k) Stormwater & ancillary works in the road reserve; and
- (l) Pumping concrete from a public road;

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.

The relevant Application Forms for these activities can be downloaded from Council's website [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9748 9999.

#### **(6) Vehicular Crossing – Major Development**

The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a new concrete footpath for the full length of the frontage of the site in Kanoona Avenue in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Kanoona Avenue in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.



Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the [Roads Act 1993](#), prior to the commencement of those works.

To apply for approval, complete the *Works Permit Application Form* which can be downloaded from Strathfield Council's Website at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au). Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Civic & Urban Services Section in Council's adopted *Fees and Charges* for the administrative and inspection charges associated with *Works Permit* applications.

An approval for civil works will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

**(7) Road Opening Permit**

A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from TfNSW, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

**(8) Building – Hoarding Application**

Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the [Local Government Act 1993](#) and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the [Local Government Act 1993](#) and Section 138 of the [Roads Act 1993](#):

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The 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 (available at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)) before the commencement of work; and
- (d) 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 a copy provided to Council.





The Policy is to note Council as an interested party.

## REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

### (9) General Terms of Approval

The development shall be carried out in accordance with the requirements of the General Terms of Approval (GTA) outlined below.

Approval Body	Date of GTA
NSW Office of Water	23 November 2023

A copy of the requirements of the approval Authority is attached to this consent.

### (10) Trade Waste Agreements

A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.

### (11) Sydney Water – Tap in™

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

### (12) Notice of Requirements for a Section 73 Certificate

A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted prior to the commencement of work.



A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

**(13) Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the Principal Certifier prior to the issue of the Occupation/Subdivision Certificate.

**(14) Electricity Supply**

An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**(15) Fees to be Paid**

The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact council prior to the payment of s7.11 or s7.12 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

A summary of the fees to be paid are listed below:

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation)	\$ 34,340.00
Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Security Damage Deposit	\$ 36,030.00
Administration Fee for Damage Deposit	\$ 145.00



## DEVELOPMENT CONTRIBUTIONS

Strathfield Section 94 Development Contributions - Roads and Traffic Management	\$ 1,803.14
Strathfield Section 94 Development Contributions – Local Open Space	\$ 186,325.04
Strathfield Section 94 Development Contributions – Major Open Space	\$ 285,768.62
Strathfield Section 94 Development Contributions – Community Facilities	\$ 62,810.42
Strathfield Section 94 Development Contributions - Administration	\$ 5,976.60
<b>Total Section 94 Contributions:</b>	<b>\$ 558,953.82</b>

### General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

### Development Contributions

The Section 7.11 contribution (s94) is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

A Section 7.12 contribution has been levied on the subject development pursuant to the Strathfield Section 94A Indirect Development Contributions Plan.

### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Development Contributions Plan. Indexation will be based on the CPI 137.7 used to calculate the above contribution amount.

### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

### Further Information



A copy of the *current Development Contributions Plans* may be inspected at Council's Customer Service Centre at 65 Homebush Road, Strathfield or on Council's website [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au).

(16) **Required Design Changes**

The following changes are required to be made and shown on the Construction Certificate plans:

Amendments made in red on approved plans	All changes made in red on the approved plans shall be updated and shown on the Construction Certificate plans.
Rooftop Communal Open Space	The proposed rooftop common open space is to be redesigned to better utilise and embellish this area bringing it into line with the objectives of the Apartment Design Guide. The detailed landscape plan is to be submitted to Council for approval prior to the issue of the Construction Certificate.
Basement Parking Spaces	<p>The basement parking allocation of spaces be amended as follows;</p> <ul style="list-style-type: none"> <li>• Basement Level 3 – Space 4 being changed from Staff to Unit</li> <li>• Basement Level 1 – Space 14 being changed from Visitor to Staff</li> </ul> <p>This results in the overall reduction of 1 visitor space and the creation of an additional residential unit parking space.</p>
Childcare Parking Spaces	The childcare parking spaces located on Basement Level 1 are to be signposted and marked in accordance with the recommendations of the Traffic & Parking Assessment Report prepared by CJP Consulting Engineers dated 5 April 2023 (Ref.22198)
Acoustic Awning	The acoustic absorptive material on the acoustic barrier over the active play area is to have a minimum noise reduction coefficient (NRC) of 0.9 rating in lieu of the NRC of 0.6 nominated in the report.
Operational Plan of Management	The Operational Plan of Management is to be amended to restrict the number of children engaged in active play at any one time to 30 children, in accordance with the acoustic report.



(17) **Damage Deposit – Major Works**

In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a security damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$ 36,036.00
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$ 145.00
- (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

(18) **Site Management Plan**

**Major Development**

A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of demolition materials, according to Waste Management Plan and which should be used or recycled wherever practicable;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins, according to the Waste Management Plan and including resource recovery methods;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public





health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.

(19) **SEPP 65 Design Verification Statement**

A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of [State Environmental Planning Policy No 65 —Design Quality of Residential Flat Development](#).

(20) **BASIX Commitments**

The approved BASIX Certificate shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

All measures and commitments as detailed in the BASIX Certificate No. 1365206M-02 must be implemented on the plans lodged with the application for the Construction Certificate.

(21) **Erosion & Sedimentation Control**

Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water run-off is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.



(22) **Pre-Construction Dilapidation Report – Private Land**

A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the Principal Certifier.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

(23) **Stormwater System**

The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system in accordance with Council stormwater management code and AS/NZS 3500.3: 2015 (as amended), prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

(24) **On Site Detention**

The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- (b) at Annual Recurrence Intervals of 2 years, 10 years and 100 years.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above



ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

***"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."***

Full details shall accompany the application for the Construction Certificate.

(25) **Water Sustainability – Water Sensitive Urban Design**

Details 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. Details shall demonstrate compliance with the water conservation and stormwater quality targets set out under Sections 3.1 and 3.2 respectively under Part N of the SCDCP 2005, and be prepared by a suitably qualified professional engineer.

(26) **Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding four hour's runoff from a one-hour duration storm of the 1 in 100 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

(27) **Stormwater Drainage Plan Details**

Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2019) and Council's Stormwater Management Code.

(28) **Council Property Shoring**

Prior to the issue of the Construction Certificate, plans and specifications prepared by



a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

(29) **Fire Safety Measures**

Prior to the issue of a construction certificate a list of the existing and proposed essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a Principal Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Principal Certifier will then issue a Fire Safety Schedule for the building.

(30) **Structural Details**

Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the Principal Certifier.

(31) **Access for Persons with a Disability**

Access and sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.

(32) **Commonwealth Disability (Access to Premises) Standard**

The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.

(33) **Construction Traffic Management Plan**

A Construction Traffic Management Plan detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;



- (c) hours of construction;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles

must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

#### (34) **Acoustic Requirements**

##### **Compliance with submitted Acoustic Report**

The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled 8-12 Kanoona Avenue, Homebush prepared by Pulse White Noise Acoustics and dated 17 May 2024 and subject to the following change:

- The acoustic absorptive material on the acoustic barrier over the active play area is to have a minimum noise reduction coefficient (NRC) of 0.9 rating in lieu of the NRC of 0.6 nominated in the report.
- The plans are to also address appropriate noise attenuation between residential units, especially where living areas adjoin bedrooms from a different unit.

#### (35) **Car Wash Bays**

Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

#### (36) **Enclosure of Fire Hydrant**

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with detailed plans indicating that all fire hydrant, sprinkler valves and the like are enclosed, integrated into the front setback landscaping with none of these services actually visible from the public domain, in accordance with the requirements of AS 2419.1 – 2005 Fire Hydrant Installations.

#### (37) **Waste Management Plan**

A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of



site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

WMP should also indicate how waste education will be provided, in order to minimise waste disposal, contamination and to increase recycling. Educational signage is to be installed in waste rooms and commons areas.

[EPA's Better Practice Guide for Waste Management in Multi-unit Dwellings](#) and [Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities](#) should be used to inform design and waste management outcomes in new and existing development.

### (38) **Waste, Recycling and Bulky Storage Rooms**

The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the following number of bins for the development;

- (a) Domestic Waste – 6 x 660 litre mobile bins collected weekly.
- (b) Domestic Recycling – 6 x 660litre or 18 x 240 litre mobile bins collected fortnightly.

At a minimum rate of 1.1m<sup>2</sup> per 240L bin, 2.03m<sup>2</sup> per 660L bin, 2.7m<sup>2</sup> per 1100L bin and located in an area to suitably facilitate servicing on waste collection day.

The layout of the waste and recycling storage room must allow easy unobstructed access to all bins (stacked bin arrangements are not acceptable) and allow the bins to be easily removed for servicing purposes.

Arrangements must be in place regarding the regular maintenance and cleaning of waste management facilities.

A caretaker or individual(s) shall be nominated as being responsible for transferring the bins to the collection point and back into the waste storage room/area.

Detailed plans of waste and recycling storage rooms must be submitted along with Waste Management Plan and Waste and Recycling Storage Room/Area Design Checklist.

Details of any specialised waste disposal equipment to be used in the development such as compactors (carousel and linear), bin tugs, chutes, crushers, bunding, oil water separators (coalescing plate separators), etc. to be provided to Council for approval.

Bulk collection area must be provided at a rate of 4m<sup>2</sup> per 10 units and should be located adjacent to waste and recycling storage rooms.

### (39) **Onsite Waste Collection**

Development for the purposes of multi-unit housing, residential flat buildings, serviced apartments, boarding houses, mixed use and commercial developments must provide onsite underground or at-grade collection of waste, which must comply with the requirements contained within Part H of Strathfield Development Control Plan 2005 (DCP 2005).





Waste servicing and collection arrangements should be clearly depicted and annotated on architectural drawings, which should indicate adequate turning circles to allow collection vehicles to enter and exit the site in a forward direction.

(40) **Commercial and Industrial Waste**

Appropriate waste and recycling containers and facilities will need to be provided according to Waste Management Plan for all specific end use businesses in accordance with the waste generation rates provided at Part H of Strathfield Council DCP 2005 – Appendix B.

WMP should also provide written evidence of valid contracts for the regular collection and disposal of waste and recyclables generated on the site. The private waste contractor must confirm the frequency of the waste collections (general waste, recycling and bulky goods), and that the size and location of the storage room is suitable for the frequency of the waste collections.

The collection of commercial and industrial waste and recycling must only occur between 6.00am and 8.00pm weekdays and 9.00am and 5.00pm on weekends and public holidays, to avoid noise disruption to the surrounding area. All garbage and recyclable matter must be enclosed in the waste bins with lids completely closed at all times.

Waste education must be provided through signs in common areas indicating how to avoid, reduce, reuse and recycle waste.

Note: Refer to the EPA's [Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities](#)

(41) **Child Care Centre Waste Management**

All waste and recycling containers shall be stored in an approved waste storage area, located in an area of the site that is satisfactory for these purposes. Facilities are to be provided in accordance with any requirements of the NSW Family and Community Services and the Education and Care Services National Regulations.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate for approval.

Waste education must be provided through signs in common areas indicating how to avoid, reduce, reuse and recycle waste.

(42) **Landscape Plans**

All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

(43) **Compliance with Submitted Arborist Report**

The recommendations outlined in the Arborist's Report titled Arboricultural Impact Report prepared by Red Gum Horticultural as revised on 24 August 2023 must be



implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

The tree/s to be protected are listed in the table below.

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
19	Jacaranda mimosifolia	12 Kanoona Avenue	6.6 metres

### General Tree Protection Measures

- (a) All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be in undertaken in accordance *AS4970 - 2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- (e) Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (f) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

### Excavation works near tree to be retained

- (g) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (h) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the



Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

- (i) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

#### (44) Tree Removal & Replacement

##### Tree removal

Permission is granted for the removal of the following trees:

Tree No.	Tree species	Number of trees	Location
1	Lophostemon confertus	1	8 Kanoona Avenue
2	Schinus areira	1	Street Tree – Kanoona Avenue
3	Jacaranda mimosifolia	1	Street Tree – Kanoona Avenue
4	Melia azedarach	1	Street Tree – Kanoona Avenue
5	Celtis sp	1	8 Kanoona Avenue
6	Cordyline australis	1	10 Kanoona Avenue
7	Mangifera indica	1	10 Kanoona Avenue
8	Cordyline australis	1	10 Kanoona Avenue
9	Cordyline australis	1	10 Kanoona Avenue
10	Cinnamomum camphora	1	10 Kanoona Avenue
11	Ficus rubignosa	1	8 Kanoona Avenue
12	Cordyline australis	1	10 Kanoona Avenue
13	Jacaranda mimosifolia	1	Street Tree – Kanoona Avenue
14	Cedrus atlantica	1	12 Kanoona Avenue
15	Syzygium luehmannii	1	12 Kanoona Avenue
16	Callistomen citrinus	1	12 Kanoona Avenue
17	Callistomen viminalis	1	12 Kanoona Avenue
18	Jacaranda mimosifolia	1	12 Kanoona Avenue
20	Schefflera actinophylla	1	12 Kanoona Avenue



21

Jacaranda mimosifolia

1

12 Kanoona Avenue

### **General Tree Removal Requirements**

All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Amenity Tree Industry Code of Practice (Safework NSW, August 1998).

### **Tree Replacement**

All trees permitted to be removed by this consent shall be replaced in accordance with the approved landscape plan. Street tree species are to be selected in consultation with Council.

Replacement trees shall be a minimum 50 litre container size. Trees are to conform to the NATSPEC guide and Guide for assessing the quality of and purchasing of landscape trees by Ross Clarke, 2003. Trees are to be true to type, healthy and vigorous at time of delivery and planting, shall be pest and disease free, free from injury and wounds and self-supporting; and shall be maintained until maturity.

All trees are 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 plant.

Root deflection barriers having a minimum depth of 600mm are to be installed adjacent to all footpaths and driveways.

Soil conditioner/fertilizer/moisture retention additive/s are to be applied in accordance with manufacturer's recommendations, and mixed into the backfilling soil after planting tree/s.

A minimum 75mm depth of organic mulch shall be placed within an area 0.5m from the base of the tree.

Details demonstrating compliance shall be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

### **PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)**

#### **(45) Demolition & Asbestos**

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified



person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#) unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the [Demolition Code of Practice](#) (NSW Work Cover July 2015)

**Note:** Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).

#### (46) **Demolition Notification Requirements**

The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

#### (47) **Demolition Work Involving Asbestos Removal**

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).

#### (48) **Dial Before You Dig**

The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.



(49) **Dilapidation Report on Public Land – Major Development Only**

Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site.

The report must include the following:

- i. Photographs showing the existing condition of the road pavement fronting the site,
- ii. Photographs showing the existing condition of the kerb and gutter fronting the site,
- iii. Photographs showing the existing condition of the footpath pavement fronting the site,
- iv. Photographs showing the existing condition of any retaining walls within the footway or road, and
- v. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- vi. The full name and signature of the structural engineer.
- vii. The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Principal Certifier and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the Principal Certifier and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

**Note:** Council will use this report to determine whether to refund the damage deposit after the completion of works.

(50) **Registered Surveyors Report - During Development Work**

A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.





- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

Work must not proceed beyond each stage until the Principal Certifier is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

(51) **Utility Arrangements**

Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicants expense.

(52) **Dust Control**

**Major Works**

The following measures must be implemented (in part or in total) to control the emission of dust:

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.
- c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- d) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- e) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- f) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours.

**DURING CONSTRUCTION**



(53) **Hours of Construction for Demolition and Building Work**

Site work must only be carried out between the following times –

For building construction and delivery of machinery and materials from 7:00am to 5:00pm on Monday to Saturday (excluding Public Holidays)

For demolition, excavation and/or construction works that involve heavy machinery, noisy trades, or the like from 7:00am to 5:00pm on Monday to Friday (excluding Public Holidays)

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

**Note:** A penalty infringement notice may be issued for any offence.

(54) **Cost of Work to be Borne by the Applicant**

The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

(55) **Obstruction of Road or Footpath**

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.

(56) **Construction Management Plan**

The owner/applicant is to ensure that the approved Construction Traffic management Plan is to be strictly complied with and kept on site at all times during construction works.

(57) **Tree Removal on Private Land**

The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with *AS4373 -2007* and the *Amenity Tree Industry Code of Practice* (SafeWork NSW, August 1998).

**PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

(58) **BASIX Certificate**

All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue



of any Occupation Certificate.

(59) **BASIX Compliance Certificate**

A Compliance Certificate must be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

(60) **Completion of Landscape Works**

At the completion of all works, a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboricultural Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established.

(61) **Post Construction Dilapidation Report – Private Land**

At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the properties identified by the construction engineer that required a pre-dilapidation report.

The report is to be prepared at the expense of the applicant and submitted to the Principal Certifier prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damage has occurred to the adjoining premises, the Principal Certifier, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

(62) **Allocation of Parking Spaces**

Parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: 35 residential spaces including 5 adaptable spaces.
  - A minimum of 1 space per residential unit, with the 2 remaining spaces being allocated 2 of the 3 bedroom units at an additional 1 per unit.
  - The five adaptable spaces are to be allocated to the five nominated adaptable units at 1 space per unit.
- (b) Residential visitors: 6 spaces
- (c) Bicycle: 39 spaces
- (d) Childcare Centre: 26 spaces to be allocated to the childcare centre.
  - 15 spaces are to be allocated for staff use exclusively.
  - All stacked spaces are to be allocated as part of the staff spaces



- 11 spaces are to be allocated to visitors of the childcare centre, including the 1 adaptable space.
- (e) Loading/Services: 1 space
- (f) EV Charging stations: 2 spaces.
- (g) Car wash bay: 1 space

All spaces are to be adequately marked and sign posted and are not to be used for other than their intended use.

**(63) Major Development**

Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

**(64) SEPP 65 Design Verification Statement**

The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the Principal Certifier has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#).

**(65) Adaptable Units**

Prior to the issue of an occupation certificate, a report prepared by a suitably qualified consultant must be obtained that demonstrates, to the certifier's satisfaction, that the five nominated adaptable dwellings specified in the approved plans or documents comply with the provisions of AS 4299 Adaptable Housing Standards.

**(66) Internal Storage Units**

The 33 residential storage cages within the basement levels are to be allocated to each residential unit. The certifier is to confirm that the combined volume of the storage cages and internal unit storage (50%) volume complies with the following for each unit;

- Studio/1 bed: 6m<sup>3</sup>
- 2 bedroom unit: 8m<sup>3</sup>
- 3 bedroom unit: 10m<sup>3</sup>

**(67) Restriction to User and Positive Covenant for Stormwater Management System**

Prior to the issue of any Occupation Certificate, the applicant shall register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out,



charged lines, water sensitive urban design, surface flow path, finished pavement and ground levels etc.).

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement no less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88E and or 88B Instrument is to make reference to the Council file where the Construction plans and the Work As Executed (as built), plans are held. Typical wording can be obtained from Council's Specification for the Management of Stormwater document.

**(68) Maintenance Schedule – On-site Stormwater Management**

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

**(69) Works as Executed and Certification of Stormwater Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council, from a professional engineer specialising in hydraulic engineering.

This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the Principal Certifier.

The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any infiltration/absorption systems; and (if applicable);
- (g) Details of any pumping systems installed (including wet well volumes) (if applicable).



(70) **Consolidation of Site**

The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land Registry Services (LRS) prior to the issue of a final occupation certificate.

(71) **Requirements Prior to the Issue of the Occupation Certificate**

The following shall be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

(72) **Vehicular Crossing & Frontage Work – Major Development**

The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

- (a) Construct a new concrete footpath for the full length of the frontage of the site in Kanoona Avenue in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Kanoona Avenue in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.





A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

**(73) Completion of Major Works**

Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings;
- (d) New footpaths within the road related area;
- (e) New or replacement street trees;
- (f) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (g) New or reinstated kerb and guttering within the road related area; and
- (h) New or reinstated road surface pavement within the road.

Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.]

**(74) Stormwater Drainage Works – Works As Executed**

Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.



Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

**(75) Fire Safety Certificate before Occupation or Use**

In accordance with Clause 41 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021 - NSW Legislation](#), on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 83 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 86 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021 - NSW Legislation](#). In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the schedule.

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

**(76) Slip Resistance**

At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

**(77) Acoustic Compliance**

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the Principal Certifier certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled 8-12 Kanoona Avenue, Homebush prepared by Pulse White Noise Acoustics and dated 17 May 2024 and incorporating the following change.

- The acoustic absorptive material on the acoustic barrier over the active play area is to have a minimum noise reduction coefficient (NRC) of 0.9 rating in lieu of the NRC of 0.6 nominated in the report.

**(78) Notice to Council – Allocation of Street Addresses**

Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the



satisfaction of Council.

#### **OPERATIONAL CONDITIONS (ON-GOING)**

##### **(79) Maintenance of Landscaping**

All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

##### **(80) Loading & Unloading of Vehicles**

All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.

##### **(81) Entering & Exiting of Vehicles**

All vehicles shall enter and exit the premises in a forward direction.

##### **(82) Maximum Vehicle Size**

###### **Medium Rigid Vehicle**

The maximum size of truck using the proposed development shall be limited to Medium Rigid Vehicle as denoted in AS2890.2-2002: Parking Facilities – Off-street commercial vehicle facilities.

##### **(83) Annual Fire Safety Statement**

The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

- (a) Within 12 months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 92 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021 - NSW Legislation](#).
- (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

##### **(84) Greywater System**

In order to conserve and re-use water, Council encourages all developments for multi-unit residential dwellings to incorporate a greywater reuse system. The system can



incorporate a *greywater diversion device* or a *domestic greywater treatment system*. Any system installed is to ensure that it complies with the Plumbing Code of Australia, maintained at all times and does not result in any adverse amenity impacts on the subject premises and surrounding properties.

#### **OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

##### **(85) Requirement for a Construction Certificate**

The erection of a building must not commence until a Construction Certificate has been issued.

##### **(86) Appointment of a Principal Certifier**

Building and/or demolition works must not commence until the applicant has:

- (a) appointed a Principal Certifier for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner - Builder.

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (c) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (d) notify the Principal Certifier of the details of any such appointment; and
- (e) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

##### **(87) Notification of Critical Stage Inspections**

No later than two days before the building work commences, the Principal Certifier must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

##### **(88) Notice of Commencement**

The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection or demolition of a building.



(89) **Critical Stage Inspections**

The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 61 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021 - NSW Legislation](#).

(90) **Notice to be Given Prior to Critical Stage Inspections**

The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours before each required inspection needs to be carried out.

(91) **Occupation Certificate**

A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

**PRESCRIBED CONDITIONS**

(92) **Clause 75 – BASIX Commitments**

This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

(93) **Clause 69 – Building Code of Australia & Home Building Act 1989**

Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the [Home Building Act 1989](#) relates, there is a requirement for a contract of insurance to be in force before any work commences.

(94) **Clause 70 – Erection of Signs**

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.

(95) **Clause 71 – Home Building Act 1989**

If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).

(96) **Clause 74 – Protection & Support of Adjoining Premises**

If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the



person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

## **ADVISORY NOTES**

### **(i) Review of Determination**

Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney East Planning Panel or the Land & Environment Court.

### **(ii) Appeal Rights**

Division 8.3 (Reviews and appeals) Part 8 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

### **(iii) Lapsing of Consent**

This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.

### **(iv) Long Service Levy**

The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

### **(v) Disability Discrimination Act**

This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.



**(vi) Child Care Centre – Staff to Child Ratios**

The operator of a centre based or mobile children's service must ensure that appropriate approvals are obtained from [NSW Family & Community Services](#). This will include maintaining the regulated ratio of carers to children.

**(vii) Site Safety Fencing**

Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au)).

**(viii) Australia Post – Letter Box Size and Location**

The size and location of letterboxes servicing the development are to comply with the requirements and standard of Australia Post (see attached link: [https://auspost.com.au/content/dam/auspost\\_corp/media/documents/Appendix-02.pdf](https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-02.pdf) )

**(ix) Electricity Supply**

This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.



Contact: Jenny Campion  
Email: [jenny.campion@waternsw.com.au](mailto:jenny.campion@waternsw.com.au)

Strathfield Municipal Council

Our ref: IDAS1151140  
Your ref: DA2023.60

[willem.vanwyk@strathfield.nsw.gov.au](mailto:willem.vanwyk@strathfield.nsw.gov.au)

23 November 2023

Dear Willem,

**Integrated Development Referral – General Terms of Approval  
Proposed Development DA2023.60  
Lot 1 & 2 DP595201 and Lot 27 DP12100  
8-12 Kanoona Avenue, Homebush NSW 2140ADDRESS**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47 (3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.
- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

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Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO Box 398, Parramatta, NSW 2124  
[customer.helpdesk@waternsw.com.au](mailto:customer.helpdesk@waternsw.com.au) | [www.waternsw.com.au](http://www.waternsw.com.au)



**The attached GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*.** The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.

**Information to the proponent:**

- An extraction limit will be determined by the Department of Planning and Environment (DPE) following a further hydrogeological assessment and included on the conditions applied to the approval authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The [Minimum requirements for building site groundwater investigations and reporting](#) (DPE Oct 2022) identify what data needs to be collected and supplied.
- Site specific data gathering to meet or exceed the information required by the Minimum Requirements for Building Site Groundwater Investigations and Reporting needs to be continued by the proponent for the period between the determination of the development application by the consent authority and the lodgement of a water supply work approval application with WaterNSW (should a consent be granted).

Note: This is necessary for the appropriate site-specific information to be supplied with the water supply work approval application so that the volume of water take from the excavation is confirmed and an appropriate extraction limit can be determined by the Department of Planning and Environment. Any report (such as a dewatering management plan) that is provided at the time of the water supply work approval application must demonstrate that new or additional site information has been incorporated into a more detailed water take predictions for the proposed development and include a minimal harm assessment of water table, water pressure and water quality effects in the form required to satisfy the NSW Aquifer Interference Policy.

- The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jenny Champion".

**Jenny Champion**  
**Water Regulation Specialist**  
**WaterNSW**



## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

<b>Reference Number:</b>	IDAS1151140
<b>Issue date of GTA:</b>	23 November 2023
<b>Type of Approval:</b>	Water Supply Work
<b>Description:</b>	80mm submersible pump
<b>Location of work/activity:</b>	8-12 Kanoona Avenue Homebush NSW 2140
<b>DA Number:</b>	DA2023.60
<b>LGA:</b>	Strathfield Municipal Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
	<b>Dewatering</b>
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

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water.enquiries@waternsw.com.au | www.waternsw.com.au



## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

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<b>Location of work/activity:</b>	8-12 Kanoona Avenue Homebush NSW 2140
<b>DA Number:</b>	DA2023.60
<b>LGA:</b>	Strathfield Municipal Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Groundwater Sources 2023

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- the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- GT0120-00001 The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion

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## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

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<b>DA Number:</b>	DA2023.60
<b>LGA:</b>	Strathfield Municipal Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Groundwater Sources 2023

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- of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/water-licensing/dewatering](http://www.waternsw.com.au/customer-service/water-licensing/dewatering)
- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

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**SCHEDULE 1**

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA2023.60 as provided by Council:

- Preliminary Site Investigation, Benviron Group dated April 2023 (Rev 2)
- Geotechnical Investigation Report, Benviron Group dated April 2022 Rev 2
- Addendum Statement of Environmental Effects, The Planning Hub, dated 25 August 2023
- Architectural Plans, PTI Architecture, Project P681, Drawings 18C, 19C, 20C

TO: Strathfield Local Planning Panel Meeting - 11 July 2024  
 REPORT: SLPP – Report No. 10  
 SUBJECT: DA2024.1 - 27 BODEN AVENUE, STRATHFIELD  
 DA NO. DA2024.1

**SUMMARY**

Property:	27 Boden Avenue STRATHFIELD DA 2024/1
Proposal:	Partial demolition of the existing dwelling as constructed and alterations responsive to previous litigation including associated landscaping to the site.
Applicant:	D Haskew
Owner:	S Malass
Date of lodgement:	15 January 2024
Notification period:	22 January – 6 February 2024
Submissions received:	Two (2)
Assessment officer:	J Gillies
Estimated cost of works:	\$61,850.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	Yes
Is a Clause 4.6 Variation Proposed:	Yes – Clause 4.4C - Floor Space Ratio (11.7%)
Local Planning Panel Criteria	Development Standard Variation >%10
RECOMMENDATION OF OFFICER:	Refusal

**EXECUTIVE SUMMARY**

**Proposal**

Development consent is being sought for the partial demolition of the existing dwelling as constructed and alterations in response to Class 1 and Class 4 proceedings in the NSW Land and Environment Court.

The Class 1 and Class 4 proceedings are the result of a dwelling constructed at the site that is not in accordance with the approved plans under DA2027/019 and the Construction Certificate that was issued for that DA. The subject DA seeks to make amendments to the as built dwelling to address non-compliances established in the various Class 1 and Class 4 proceedings.

A Building Information Certificate (BIC) has also been lodged in conjunction with this Development Application. With this in mind, and based on the Applicant’s SEE, this assessment has been undertaken on the following basis:

- The subject DA seeks approval to retain the unlawfully constructed dwelling, as modified in the submitted plans;
- The DA does not need to seek approval for the use of parts of the site for a dwelling. The use was approved under DA2017/019 (although the built form is substantially different to that approved under DA2017/019);
- The DA cannot retrospectively grant development consent to the unauthorised works. The DA seeks approval for prospective works, being the proposed demolition and building amendments. However, as the proposed dwelling is vastly different to the approved outcome under DA2027/019, the assessment of the subject DA must consider the ultimate built form that will be approved if development consent is granted;
- The BIC seeks approval to authorise the unlawful works or structures and is therefore retrospective. However, due to the nature of the development, the unauthorised works are, in essence, the whole dwelling; and
- Therefore, the merit of the DA and the BIC are the same with regard to Planning.

### Site and Locality

The site is identified as 27 Boden Avenue STRATHFIELD and has a legal description of Lot: 62 DP: 15955. The site is a regular shaped parcel of land and is located on the western side of Boden Avenue between Ada Avenue and Newton Road. The site has a width of 15.24m, an average depth of 50.29m and an overall site area of 765.1m<sup>2</sup>.

The locality surrounding the subject site is characterised by detached freestanding dwellings in a low density residential setting.

### Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned R2-Low Density Residential under the provisions of SLEP 2012 and the proposal is a **permissible form of development with Council's consent**. The proposal does not comply with Clause 4.4C Floor Space Ratio, being a principal development standard. A Clause 4.6 Variation Request has been submitted to justify the breach.

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

The proposed development is non-compliant with a number of the provisions within SCDCP 2005. This is discussed in more detail in the body of the report.

### Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 22 January – 6 February 2024. Two submissions were received objecting to the proposal. One raised the need for the proposal to address all existing non-compliances established during Class 1 and 4 LEC proceedings. The other submission related to civil works within the Council verge and is outside the scope of this assessment.

### Issues

- Unjustified breach to the FSR principal development standard,
- Non-compliant height for a flat roof dwelling and other bulk and scale related impacts,
- Non-compliant setbacks,
- Non-compliant landscape area provisions,
- Privacy impacts,

- Insufficient information submitted to address relevant State Environmental Planning Policies and various DCP requirements.

## Conclusion

Having regard to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2024/1 is recommended for refusal subject to the attached reasons of refusal.

## RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, the consent authority is not satisfied that compliance with the development standard contained in Clause 4.4C – Floor Space Ratio of the SLEP 2012 is well founded. The consent authority has identified that there are no sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. 2024.1 for partial demolition of the existing dwelling as constructed and alterations responsive to previous litigation including associated landscaping to the site at 27 Boden Avenue STRATHFIELD be REFUSED for the reasons outlined in the attached Development Assessment report.

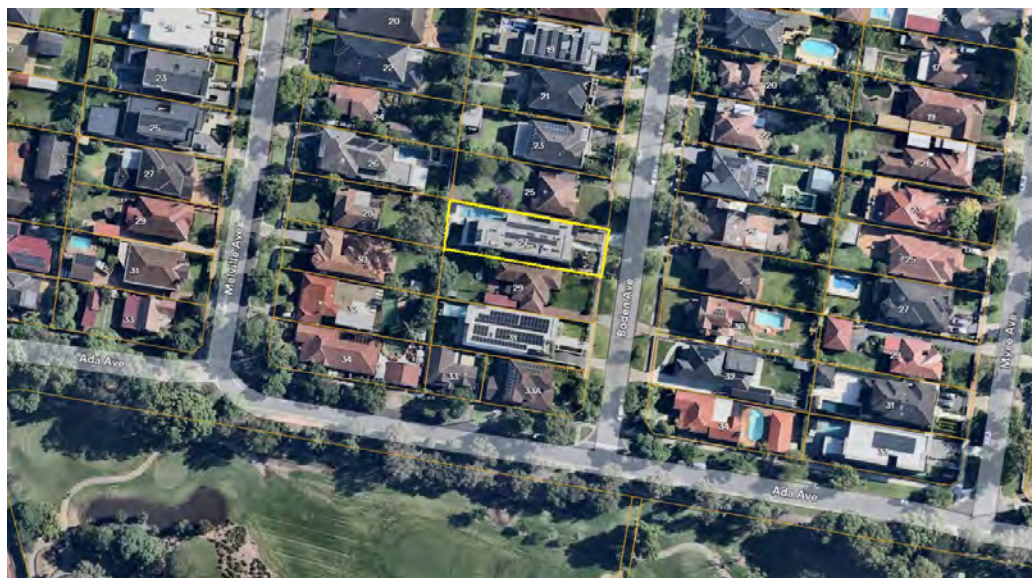
## ATTACHMENTS

1. [DA2024.1 - 27 Boden Avenue STRATHFIELD - SLPP Report \(PDF\)](#)



## SLPP REPORT

<b>Property:</b>	27 Boden Avenue STRATHFIELD DA 2024/1
<b>Proposal:</b>	Partial demolition of the existing dwelling as constructed and alterations responsive to previous litigation including associated landscaping to the site.
<b>Applicant:</b>	D Haskew
<b>Owner:</b>	S Malass
<b>Date of lodgement:</b>	15 January 2024
<b>Notification period:</b>	22 January – 6 February 2024
<b>Submissions received:</b>	Two (2)
<b>Assessment officer:</b>	J Gillies
<b>Estimated cost of works:</b>	\$61,850.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	Yes
<b>Is a Clause 4.6 Variation Proposed:</b>	Yes – Clause 4.4C - Floor Space Ratio (11.7%)
<b>Local Planning Panel Criteria</b>	Development Standard Variation >%10
<b>RECOMMENDATION OF OFFICER:</b>	Refusal



**Figure 1:** Aerial view of the subject site (outlined in yellow)

170137761 - 215130 (DAL)



## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the partial demolition of the existing dwelling as constructed and alterations in response to Class 1 and Class 4 proceedings in the NSW Land and Environment Court.

The Class 1 and Class 4 proceedings are the result of a dwelling constructed at the site that is not in accordance with the approved plans under DA2027/019 and the Construction Certificate that was issued for that DA. The subject DA seeks to make amendments to the as built dwelling to address non-compliances established in the various Class 1 and Class 4 proceedings.

A Building Information Certificate (BIC) has also been lodged in conjunction with this Development Application. With this in mind, and based on the Applicant's SEE, this assessment has been undertaken on the following basis:

- The subject DA seeks approval to retain the unlawfully constructed dwelling, as modified in the submitted plans;
- The DA does not need to seek approval for the use of parts of the site for a dwelling. The use was approved under DA2017/019 (although the built form is substantially different to that approved under DA2017/019);
- The DA cannot retrospectively grant development consent to the unauthorised works. The DA seeks approval for prospective works, being the proposed demolition and building amendments. However, as the proposed dwelling is vastly different to the approved outcome under DA2027/019, the assessment of the subject DA must consider the ultimate built form that will be approved if development consent is granted;
- The BIC seeks approval to authorise the unlawful works or structures and is therefore retrospective. However, due to the nature of the development, the unauthorised works are, in essence, the whole dwelling; and
- Therefore, the merit of the DA and the BIC are the same with regard to Planning.

### **Site and Locality**

The site is identified as 27 Boden Avenue STRATHFIELD and has a legal description of Lot: 62 DP: 15955. The site is a regular shaped parcel of land and is located on the western side of Boden Avenue between Ada Avenue and Newton Road. The site has a width of 15.24m, an average depth of 50.29m and an overall site area of 765.1m<sup>2</sup>.

The locality surrounding the subject site is characterised by detached freestanding dwellings in a low density residential setting.

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

The site is zoned R2-Low Density Residential under the provisions of SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal does not comply with Clause 4.4C Floor Space Ratio, being a principal development standard. A Clause 4.6 Variation Request has been submitted to justify the breach.

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

The proposed development is non-compliant with a number of the provisions within SCDCP 2005. This is discussed in more detail in the body of the report.

170137761 - 215130 (DAL)



**Notification**

The application was notified in accordance with Council's Community Participation Plan (CPP) from 22 January – 6 February 2024. Two submissions were received objecting to the proposal. One raised the need for the proposal to address all existing non-compliances established during Class 1 and 4 LEC proceedings. The other submission related to civil works within the Council verge and is outside the scope of this assessment.

**Issues**

- Unjustified breach to the FSR principal development standard,
- Non-compliant height for a flat roof dwelling and other bulk and scale related impacts,
- Non-compliant setbacks,
- Non-compliant landscape area provisions,
- Privacy impacts,
- Insufficient information submitted to address relevant State Environmental Planning Policies and various DCP requirements.

**Conclusion**

Having regard to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2024/1 is recommended for refusal subject to the attached reasons of refusal.

170137761 - 215130 (DAL)



## REPORT IN FULL

### Proposal

Council has received an application for the partial demolition of the existing dwelling as constructed and alterations responsive to previous litigation including associated landscaping to the site. As noted above, the DA seeks approval for specific works, being demolition across the basement level, ground floor and level 1 and removal of louvres from the front elevation at Level 1. However, the ultimate built form, with these changes made, is being assessed and is described below and shown in Figures 2-15.

#### Demolition:

- Removal of various parts of the basement at the site,
- Removal of numerous stairs and parts of the slab within the front, northern side and rear setback.
- Removal of a bathroom and room on the first floor along the southern edge of the building and replacement with a skillion style roof.
- Removal of part of the first floor roof in the location of the bathroom and room on the southern edge to be removed.
- Removal of a wing on the first floor located on the northern edge and roof above.

#### Basement level (retention of):

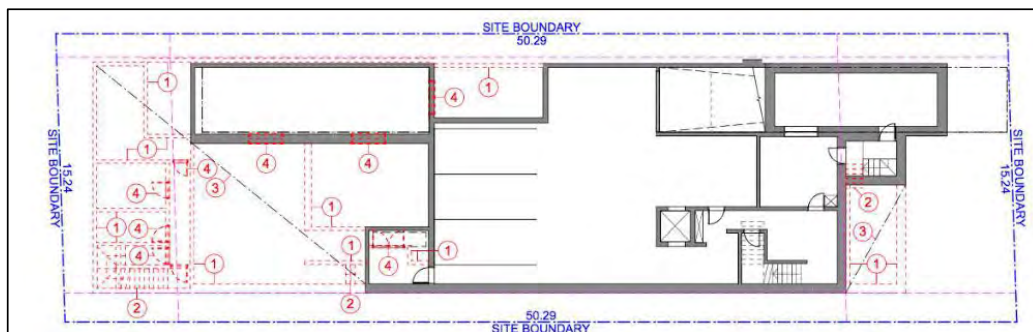
- 2 parking spaces, turning areas, lift and stairs, cool room, and a switch/plant room.

#### Ground floor level (retention of):

- The existing building footprint which incorporates a front study, bathroom, laundry and large open plan living, kitchen and dining area, stairs and lift.

#### First floor level:

- Retention of: front bedroom, 3 bedrooms with ensuites, lounge and master bedroom with ensuite, stairs and lift.
- Additions: screens to front facade



**Figure 2:** Demolition Plan – Basement

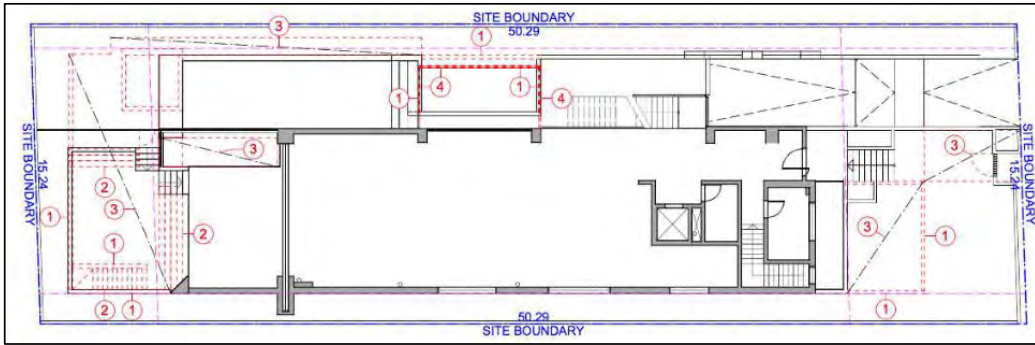


Figure 3: Demolition Plan – Ground

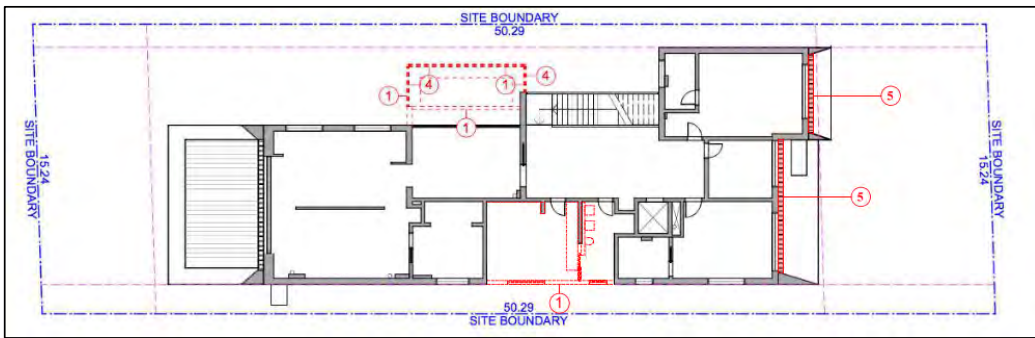


Figure 4: Demolition Plan – First Floor

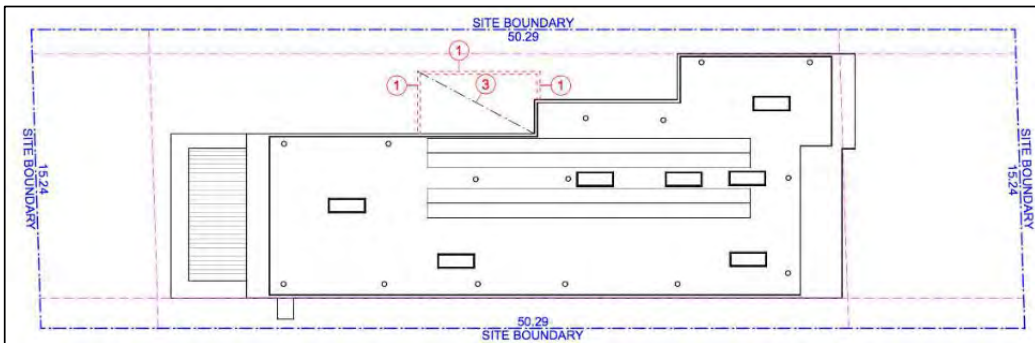


Figure 5: Demolition Plan – Roof Level

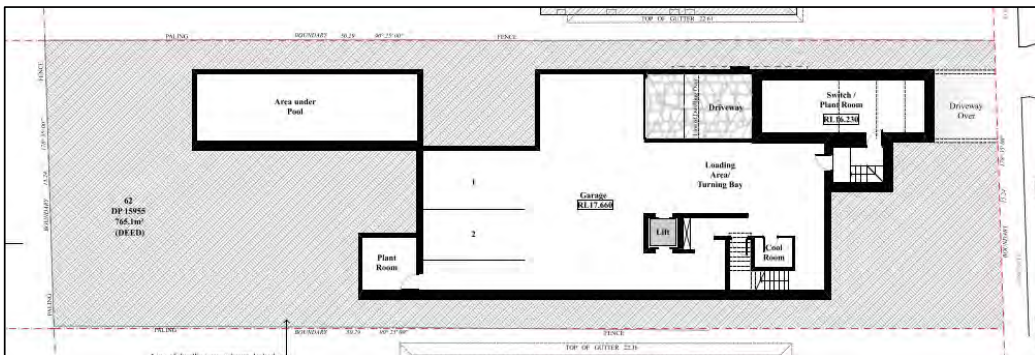


Figure 6: Proposed Basement

170137761 - 215130 (DAL)



Figure 7: Proposed Ground Floor



Figure 8: Proposed First Floor

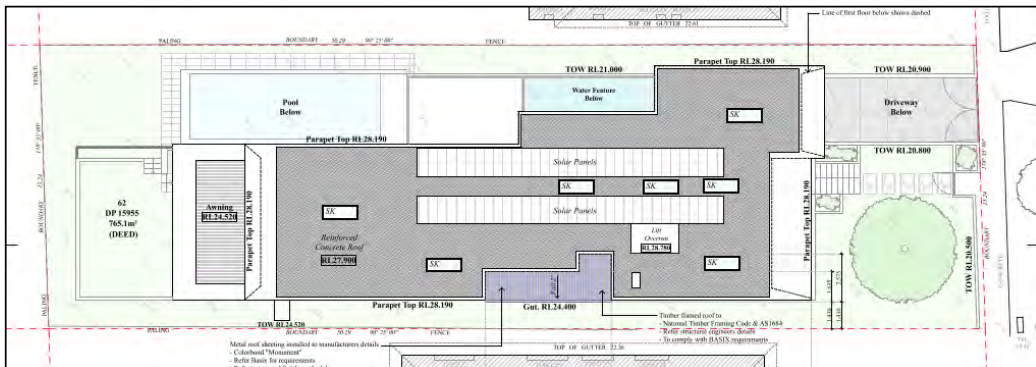


Figure 9: Proposed Roof Level

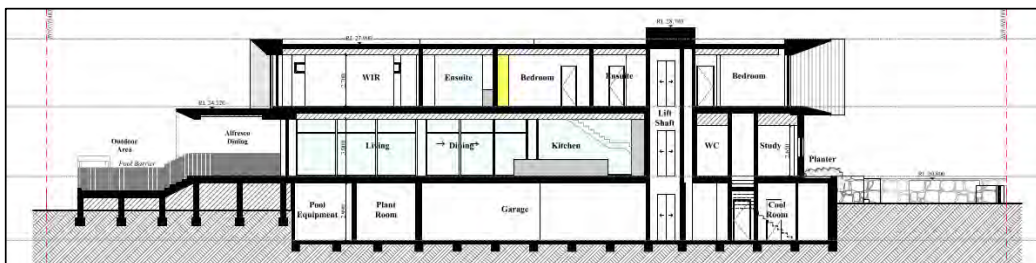


Figure 10: Proposed Section A-A

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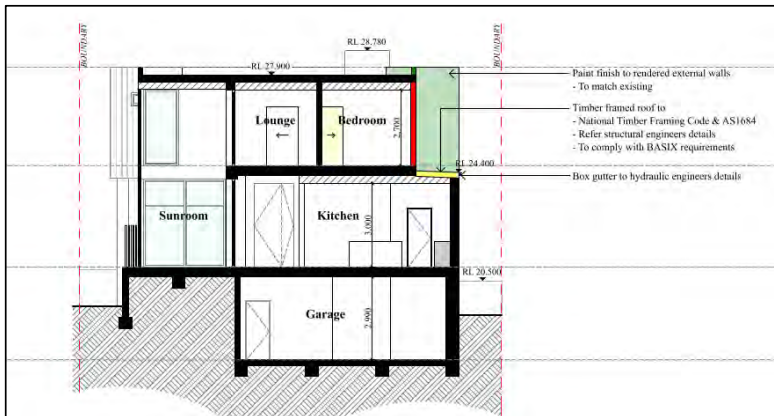


Figure 11: Proposed Section B-B

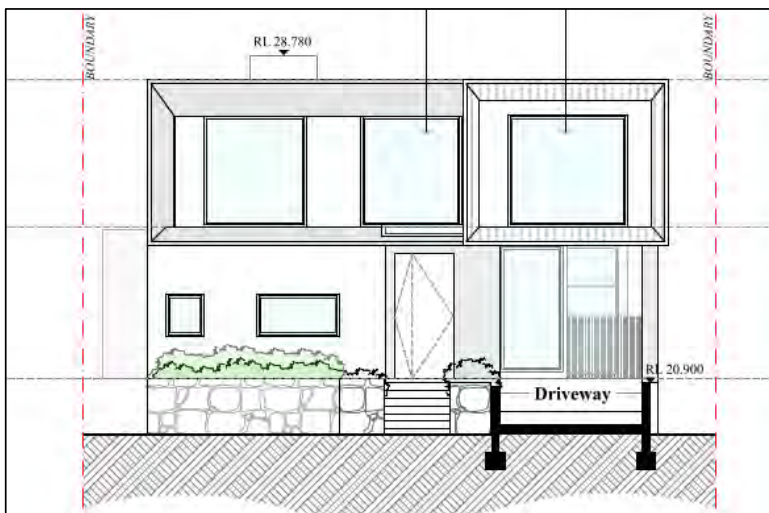


Figure 12: Proposed Eastern Elevation

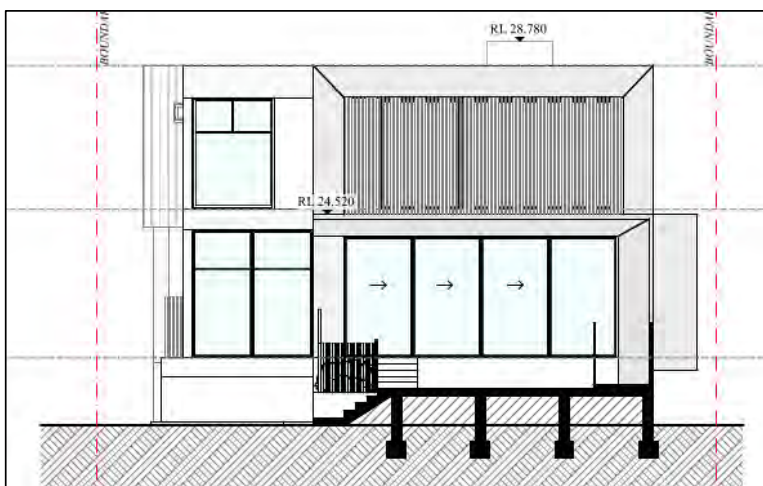
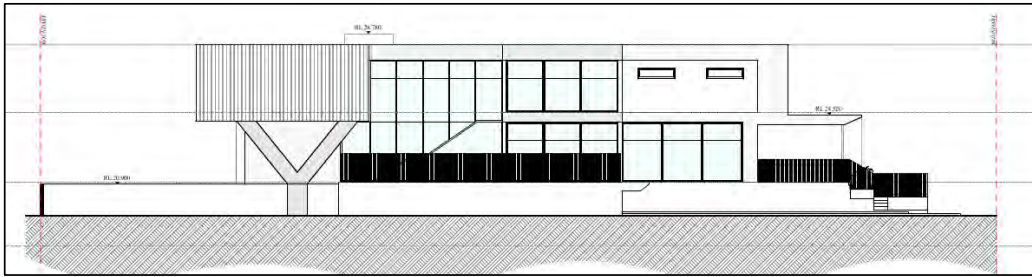
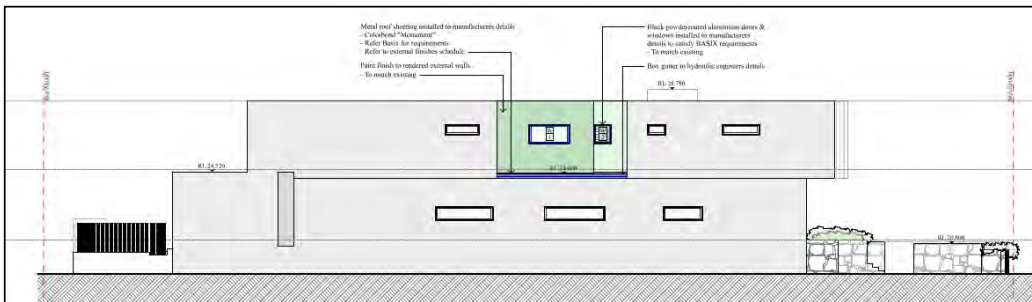


Figure 13: Proposed Western Elevation

170137761 - 215130 (DAL)



**Figure 14:** Proposed Northern Elevation



**Figure 15:** Proposed Southern Elevation

**The Site and Locality**

The subject site is legally described as Lot: 62 DP: 15955 and commonly known as 27 Boden Avenue STRATHFIELD. It is located on the western side of Boden Avenue between Ada Avenue and Newton Road.

The site is rectangular in shape and has a frontage of 15.24m to the east, rear boundary of 15.24m to the west, side boundary lengths of 50.29m to the north and south, and side and an area of 765.1m<sup>2</sup>.

The survey plan of the site prior to redevelopment shows a relatively flat topography with small variations of 0.5m unevenly across the site. On balance, there is a minor level difference of 0.5m, from a high point near the front boundary, to low point near the rear boundary.

At present, the site is occupied by a flat roof, 3 storey dwelling. Vehicular access is provided to the site via an existing driveway running along the northern boundary which leads to a basement parking area.

The locality and Boden Street streetscape features single and two storey residential dwellings. Both flat roof and pitched roof development styles are present, spanning a number of decades. The site does not adjoin, nor is it in close proximity of a local heritage item of conservation area.

The site was viewed from the street by this assessment officer. Photos from site inspections undertaken by Council’s regulatory officers in February 2021 were used to gain an understanding of structures in the side and rear setback. Site access was not requested for this DA considering the nature of the development and history (the owner has denied Council access in the past).

170137761 - 215130 (DAL)





Figure 16: Existing dwelling at the site (nearmaps – February 25, 2024)



Figure 17: Existing dwelling at the site

170137761 - 215130 (DAL)





**Figure 18:** Existing dwelling at the site



**Figure 19:** Existing dwelling at the site

170137761 - 215130 (DAL)



**Figure 20:** Existing dwelling at the site and adjoining dwelling to the north at 25 Boden Ave



**Figure 21:** Southern façade of the dwelling at 27 Boden Avenue (far right of photo) and adjoining dwellings to the south at 29 and 31 Boden Avenue

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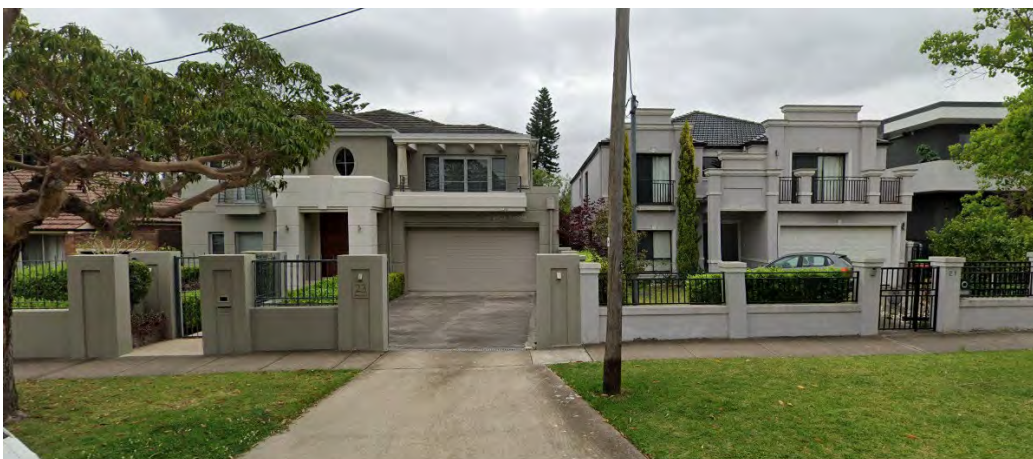




**Figure 22:** Opposite the site at 24 (far left), 26, 28 and 30 Boden Avenue (Source – Google)



**Figure 23:** On the eastern side of Boden Avenue near Ada Avenue (30, 32 and 43 Boden Avenue) (Source – Google)



**Figure 24:** North of the site along Boden Avenue (Numbers 23 and 21) (Source – Google)

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**Figure 25:** Photo taken by Strathfield Council staff in February 2021 – rear setback looking west



**Figure 26:** Photo taken by Strathfield Council staff in February 2021 – rear setback looking north-east

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**Figure 27:** Photo taken by Strathfield Council staff in February 2021 – rear setback looking north



**Figure 28:** Photo taken by Strathfield Council staff in February 2021 – rear setback looking south

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### **Background**

The background to this Development Application is complex, with numerous and overlapping Land and Environment Court Proceedings. It is noted that the subject DA and concurrently lodged BIC are not the result of any orders from any of the LEC proceedings listed below. In this regard, the list below provides important case law relevant to what is proposed and has been read to provide an understanding of the proposal context.

A brief summary of the site's history is provided below:

22 November 2017	Notice of determination (approval) of development application no. DA2017/091 granted by Strathfield Council.
30 July 2018	Construction certificate no. 2018/144, issued by Prime Building Certifiers.
14 September 2020	A Development Control Order was issued by Strathfield Council relating to unauthorised works at the site. In summary, a dwelling had been constructed that was larger, in numerous ways, than the approved dwelling under DA2017/091 and CC2018/144.
9 October 2020	Class 1 Application filed by the Applicant against Strathfield Council [ <i>Malass v Strathfield Municipal Council</i> [2020] NSWLEC 168] against the Development Control Order - DCO proceedings 2020/00291053.
27 November 2020	Orders made by Chief Justice Preston in Class 1 Proceedings 2020/291053. [ <i>Malass v Strathfield Municipal Council</i> [2020] NSWLEC 168]. The orders included granting of leave on the condition that the owner pursue a BIC and DA to rectify unauthorised works and if those applications are refused, that they be consolidated into a single appeal.
13 January 2021	Development application no. 2020/239 is lodged seeking approval for use of the unauthorised dwelling.
5 March 2021	Notice of determination (refusal) of development application no. 2020/239.
9 March 2021	Notice of determination (refusal) of building information certificate application no. 2020/022.
11 March 2021	The Owner commenced two appeals in the NSW LEC against the refused BIC and DA, being Proceedings 2021/00069569 (DA) and Proceedings 2021/00069575 (BIC). There were now three Class 1 Proceedings, which were consolidated as required Chief Justice Preston.

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12 May 2022	<p>Judgement delivered by Commissioner Dixon for the consolidated Cass 1 proceedings - Malass v Strathfield Municipal Council [2022] NSWLEC 1160. The appeal was dismissed and development consent was refused.</p> <p>The basis for the dismissal is extensive, however the decision is largely based on an inadequate 4.6 variation request for the non-compliant Floor Space Ratio.</p>
2 November 2022	<p>Judgment delivered by Justice Robson in Malass v Strathfield Municipal Council [2022] NSWLEC 131. Strathfield Council sought orders that the owner, S Malass, be found guilty of contempt of the Court for disobeying orders made by the LEC court of 27 November 2020. The disobeyed orders formed part of the DCO appeal (proceedings 2020/00291053) which at a point were paused to allow for minor works to continue such as waterproofing, to avoid damage to existing unlawfully erected structures. The owner instead undertook works beyond these established minor works.</p> <p>Justice Robson found that the owner, S Malass, had committed wilful contempt of the Court, and that this contempt was objectively serious. Fines were ordered to be paid.</p> <p>These proceedings ran concurrently with the Class 4 proceedings outlined below.</p>
2 November 2022	<p>Judgment delivered by Justice Robson in Class 4 proceedings commenced by Strathfield Council in August 2021 - Strathfield Municipal Council v Malass [2022] NSWLEC 132.</p> <p>In the Class 4 civil contempt proceedings, Strathfield Council had originally sought orders that S Malass be found guilty of contempt for carrying out works not in accordance with the development consent.</p> <p>During the Class 4 proceedings, Council sought an interlocutory injunction that Sarah Malass immediately cease all works at the Property following site inspections that works were continuing at the site during the proceedings. The Class 4 proceedings evolved to address this contempt for court orders.</p> <p>Justice Robson found that the owner, S Malass, had committed wilful contempt of the Court, and that this contempt was objectively serious. Fines were ordered to be paid.</p>
19 March 2024	<p>Judgment delivered by Justice Pain on Class 4 civil enforcement proceedings commenced by Strathfield Council - Strathfield Municipal Council v Malass (No 4) [2024] NSWLEC 22. The judgement considers the various earlier Class 1 and Class 4 proceedings and judgements. In the judgment her Honour found that the Council had overwhelmingly established its case.</p> <p>Council's Summons seeks various orders restraining use of the property and requiring compliance with the 2017 development consent, the 2018 construction certificate and the Compliance Order. On 4 April 2024, her Honour made the following orders:</p>

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The Court declares and orders:

1. The Court declares that, in breach of section 4.2 of the Environmental Planning and Assessment Act 1979 (EPA Act), the Respondent has carried out works:
  - (a) not in accordance with Development Consent 2017/091 issued on 22 November 2017 for the demolition of existing structures and construction of a new two storey dwelling with basement car parking, in ground swimming pool and front fence; and
  - (b) not in accordance with the plans that are the subject of Construction Certificate 2018/144 issued by Mohammad Abdullah Hussein of Prime Building Certifiers on 30 July 2018 on land being Lot 62 in Deposited Plan 15955 otherwise known as 27 Boden Avenue Strathfield (Subject Property).
2. The Court declares that, in breach of section 9.37 of the EPA Act, the Respondent has failed to comply with the terms of an Order issued by the Applicant pursuant to section 9.34 of the EPA Act being a Stop Works Order in terms of an Order Number 2 in Part 1 of Schedule 5 of the EPA Act relating to the Subject Property (Stop Works Order).
3. The Court declares that, in breach of section 9.37 of the EPA Act, the Respondent has failed to comply with the terms of an Order issued by the Applicant pursuant to section 9.34 of the EPA Act being a Compliance Order in the terms of an Order Number 11 under Part 1 of Schedule 5 of the EPA Act relating to the Subject Property (Compliance Order).
4. The Court orders that the Respondent by herself, her servants, tenants or agents, are restrained from using or carrying out works at the Subject Property except in accordance with:
  - (a) Development Consent 2017/019, or
  - (b) The plans that are subject of Construction Certificate 2018/144, or
  - (c) Such other development consent as may be granted in future.
5. The Court orders that the Respondent, her servants, tenants, agents, and any other person, occupying the Subject Property, are to vacate within ten (10) months from the date of these orders.
6. The Court orders that the Respondent by herself, her servants, tenants or agents are to demolish any building or part of a building that has been unlawfully erected and is non-compliant with the approved plans pursuant to Development Consent number DA2017/091 issued by Council on 22 November 2017 and Construction Certificate number 2018/144 issued by Accredited Certifier (Mohammad Abdullah Hussein BPB 2894) within twelve (12) months from the date of these orders.

### **Referrals – Internal and External**

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Typically, a development application for construction of the subject dwelling would require the following documents for consideration by specialist staff within Council:

- Flood Impact Assessment and Stormwater Management Plan - Council's Development Control Engineer would review these and provide comments.
- Parking assessment addressing turning paths – Council's Traffic Engineer would review this and provide comments.
- Council's Tree Management Officer would review the plans and site to determine if any tree impacts are possible, trees on the site, on neighbouring sites and within the public domain. Depending on the proximity of any trees, an Arboricultural Impact Assessment may be required.

These documents have not been submitted with the application. This information is required to undertake an assessment of the ultimate built form for the following reasons:

- Stormwater Plans – Council must have certainty that the outflows and pipe locations can be connected to Council's stormwater infrastructure.
- Flood Impact Assessment – Council must be satisfied that the proposed floor levels and any habitable spaces incorporate adequate freeboard levels and that overland flow is being appropriately addressed.
- Traffic and Parking assessment – Council must be satisfied that the basement parking area has been designed to allow for two parking spaces and turning paths. This is obviously the case, however dimensioned plans prepared by a suitably qualified Traffic Engineer allow for an accurate GFA calculation in the basement. Notwithstanding, this has been an ongoing discussion point in LEC proceedings and there is enough information to undertake the assessment.
- A landscape plan and potentially an Arboricultural Impact Assessment – To understand if the existing structure have harmed or may harm neighbouring trees (noting the site does not feature any trees and has not since construction).

#### **Section 4.15 Assessment – EP&A Act 1979**

The following is an assessment of the application with regard to Section 4.15(1) of the EP&A Act 1979.

##### **(1) *Matters for consideration – general***

***In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:***

- (a) *the provision of:***  
**(i) *any environmental planning instrument,***

#### **STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

##### **Chapter 2 – Vegetation in Non-Rural Areas**

The intent of this Chapter within the SEPP is related to the protection of the biodiversity values of trees and other vegetation.

As noted above, the Application has not been supported by a Landscape Plan or Arboricultural Impact Assessment. It is unlikely that the development has impacted on Council's Street Tree,

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noting observations made during the site visit. Aerial imagery and site photos from 2012 show the site is within close proximity to neighbouring trees to the west at 28 Melville Avenue, north at 25 Boden Avenue and south at 29 Boden Avenue.

While impacts to these trees has likely already occurred, in order to satisfy the provisions of the SEPP, an Arboricultural Impact Assessment would be required.

Accordingly, the aims and objectives outlined within the SEPP have not been satisfied.

### **STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

A BASIX Certificate has been issued in accordance with the standards of State Environmental Planning Policy (Sustainable Buildings) 2022. However, the Certificate is for alterations and additions which is considered insufficient for the purposes of determining if the ultimate built form being considered achieves the standards of the SEPP.

A BASIX Certificate for a single dwelling would be required considering that the proposed dwelling, as amended, would not reflect the BASIX Certificate lodged under DA2017.091.

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

The development site is subject to the SLEP 2012.

#### **Part 2 – Permitted or Prohibited Development**

The subject site is zoned R2-Low Density Residential and the proposed dwelling is a permissible form of development with Council's consent. Use of parts of the site for the purposes of a dwelling house has been approved under DA2017.091.

However, the proposed dwelling, as amended, is inconsistent with the R2 Low Density Residential Zone. The proposed dwelling incorporates a 3 storey built form, bulk and scale that is out of character with the low density residential setting.

#### **Part 4 – Principal Development Standards**

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
<b>4.3</b> Height of Buildings	9.5m	9.39m (lift overrun) 9.07m (rear parapet)	Yes
<b>4.4/C</b> Floor Space Ratio	0.575:1 (439.9m <sup>2</sup> )	0.64:1 (492m <sup>2</sup> )	No, refer discussion below

#### **Clause 4.6 Variation – Floor Space Ratio**

Clause 4.4C of SLEP 2012 establishes a permissible floor space ratio of 0.575:1, allowing for a gross floor area of 439.9m<sup>2</sup>. The Applicant has provided a Clause 4.6 request (the written request) to vary the floor space ratio development standard.

The variation is the product of the basement level which protrudes by more than 1m above existing ground level (being the ground level that existed prior to the dwelling being built as shown on the survey plan prepared by Urbanex dated 2 March 2017), at all points. The ground floor slab sits at RL21.000, resulting in a level difference of 1.67m at the front and 1.9m at the rear.

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The written request outlines that the proposed development has an FSR of 0.64:1, which has been calculated based on a GFA of 492m<sup>2</sup>, being an 11.7% variation to the permitted FSR.

This figure varies to the GFA diagrams included in the submitted Architectural Drawings, which are shown in Figures 29-31 below.



**Figure 29:** Level 1 - GFA diagram included in submitted Architectural Drawings



**Figure 30:** Ground Floor - GFA diagram included in submitted Architectural Drawings



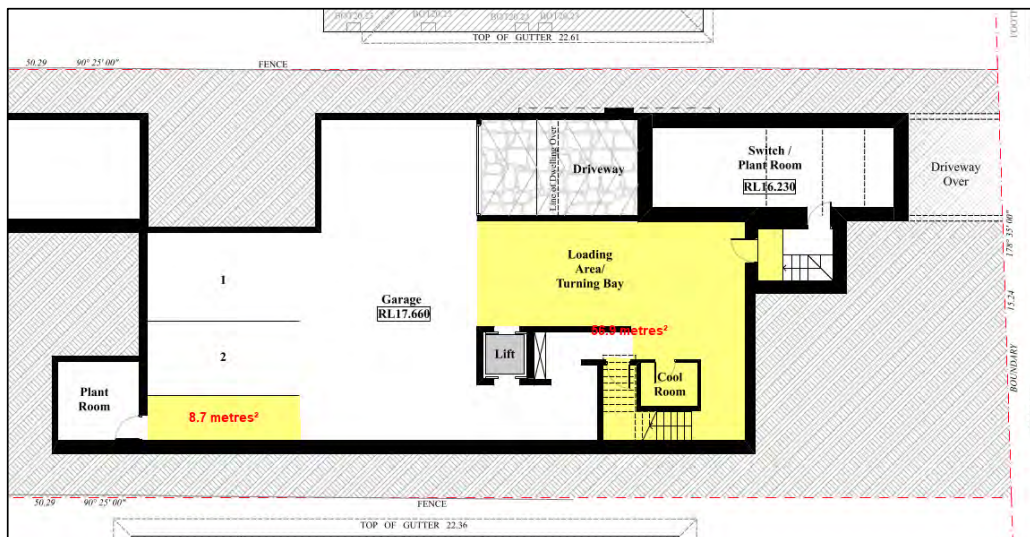
**Figure 31:** Basement Level - GFA diagram included in submitted Architectural Drawings

The GFA diagram areas for the ground floor and level 1 are agreed with. There is an additional 10.23m<sup>2</sup> in the written request (492m<sup>2</sup> - 481.77m<sup>2</sup>) which is assumed to include additional portions of the basement to what is shown in Figure 31.

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This officer’s interpretation of what should be included as GFA within the basement is shown in Figure 32.



**Figure 32:** GFA within the basement

The above calculations have been based on the following key points:

- Storage and access other than what is required for two parking spaces and access to those spaces is included in GFA. Spaces 1 and 2 likely exceed the minimum space requirements, however the outcome is accepted based on the typical loading requirements for a domestic car in a residential setting. Excess loading and pedestrian access are not excluded from GFA. This is explained in detail in *Malass v Strathfield Municipal Council* [2022] NSWLEC 1160 as part of Council’s evidence.
- The portion of the basement just inside the front plant/switch room is assumed to be at an RL of 17.66 and is therefore more than 1m above ground.
- The stairs to ground floor are included as they are excluded on the ground floor.
- The lift is excluded as it is included on ground floor.

The GFA for Ground Level and Level 1 are agreed with in terms of what the Applicant has shown in Figures 29 and 30. Therefore, this officer’s interpretation of the total GFA is 230.393m<sup>2</sup> (L1) + 202.491m<sup>2</sup> (GL) + 65.6m<sup>2</sup> (Basement) = 489.78m<sup>2</sup>. This would result in an FSR of 0.64:1 and variation of 11.3%.

Noting that the written request establishes a GFA of 492m<sup>2</sup> (FSR 0.64:1), the GFA and FSR are agreed with and it is assumed that the 4 points above would be generally agreed with.

***Whether compliance with the development standard is unreasonable or unnecessary***

The Applicant has endeavoured to justify the breach in FSR on the basis that the development achieves the objectives of the development standard. This is a common way of addressing whether compliance is unreasonable or unnecessary based on well-known case law (*Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007)).



The points put forward in the Applicant's justification are summarised below against each of the relevant objectives of Clause 4.4 (the Applicant's 4.6 is long and detailed and should be read in full by any reader), with assessment comments following each objective.

(a) to ensure that dwellings are in keeping with the built form character of the local area.

Key points included in the Applicant's 4.6 with regard to Objective (a) are:

- The proposed dwelling is in keeping with the built form character of the local area **because** the built form of the existing development is assessed as being in keeping (compatible) with the built form character of the local area. Focussed comparison with reference buildings in the local area demonstrates strong similarities on all metrics with two exceptions. First, the height and unmodulated length of the southern side elevation is noticeably different. Second the architectural presentation to the street is different because the privacy screens to front windows give the appearance of a noticeably different window to wall ratio than is observable in other reference buildings in the local area.
- The proposed development seeks to improve on both elements of built form character compatibility. The first amendment to the existing development is the proposed partial demolition of the southern elevation at first floor. That proposed amendment will deliver articulation to the most visually prominent part of the southern elevation and assist in reducing the scale of the building and achieving comparability with the level of articulation observable inside elevations of the reference buildings. The second amendment is to remove the louvres to the first floor front elevation. The design outcome will be to expose the windows so that the perceived window to wall ratio will be comparable with the front elevations of the reference buildings.

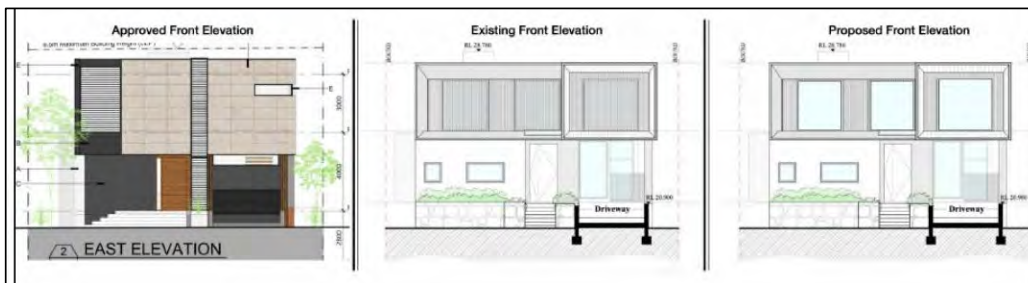
The Applicant's argument that the existing dwelling, as amended, would be compatible with the built form character of the local area is not agreed with for the following reasons:

- All of the buildings in Figure 3 present as lower in scale than the subject dwelling. This is primarily a product of the proposed dwellings elevated ground floor and resulting three-storey building appearance which is the crux of the issue and results in the need for the floor space ratio variation (basement counts as a storey).
- The three-storey presentation is made worse by the 'top-heavy' built form at the third level which extends over the middle floor. The 'comparable' buildings in Figure 3 mostly feature much more notable modulation of the top floor, either horizontally or vertically. Some examples even feature a setting back of the top floor which is ideal in terms of moderating bulk and scale.
- Some examples include basements with a ground floor that appears to sit above the natural ground level, however the scale of protrusion is noticeable less than the subject dwelling which, at the front setback, is almost 50% greater than what is accepted as constituting a basement (1m) and therefore being accepted as a two storey, low density, residential dwelling.
- The change to the fenestration of the eastern elevation at level 1 (removal of the louvres) will have a negligible impact on the existing bulk and scale of the building. The change will not impact in any way the general envelope of the building or core issues.
- The argument suggests that only newly built flat roof dwellings are worthwhile comparisons for determining whether the existing dwelling, as amended, is compatible with the built form character of the local area. In their response to clause (b) below, this approach is taken based on an interpretation of that particular clause. However, the same cannot be said for Clause (a) – the total built form character should be considered including single storey dwellings and two storey pitched roof dwellings.

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- Figure 5 shows an approved front façade. However, this façade is not on file as approved. Figure 5 from the Applicant’s 4.6 is shown below as Figure 33 and Figure 34 shows the approved east elevation on Council’s filing system.



**Figure 33:** Applicant’s use of an eastern elevation that is not on file as being approved



**Figure 34:** Approved eastern elevation on Council’s filing system

(b) to provide consistency in the bulk and scale of new dwellings in residential areas.

Key points included in the Applicant’s 4.6 with regard to Objective (b) are:

- The bulk and scale of the proposed development is consistent with new dwellings in residential areas **because**;
  - The proposed dwelling is generally consistent with the buildings footprints (two dimensional) of newly constructed dwellings in the locality;
  - The proposed dwelling marginally exceeds the height allowance for a CDC dwelling (8.5m required, 8.95m built/proposed) and is therefore not inconsistent with surrounding newly built dwellings;
  - The side setbacks are in the range of setbacks for dwellings in the locality as the setbacks are close to what is required for a CDC (1.9m);
  - The side façade articulation as built is inadequate, however the proposed cut out along the southern façade achieves suitable articulation for this façade;





- Removal of louvres from the east (street) façade will improve the window to wall ratio and therefore be more consistent with other newly built dwellings in terms of fenestration to the street façade;
- Site topography and building separation are not relevant considerations.

In relation to Objective (b) the following points are agreed:

- The 4.6 takes a specific interpretation of objective b, suggesting that it is only concerned with achieving consistency in the bulk and scale of new dwellings being constructed in the locality. This is not an unreasonable interpretation of the objective. However, as noted below, whether the proposal is consistent with the FSR, height, bulk and scale of new buildings in the locality has not been adequately demonstrated.

The following points are refuted:

- The 4.6 offers a high level and inadequate analysis of whether the proposed dwelling is consistent with new dwellings being constructed in the locality. The footprint of a dwelling, based on aerial imagery, offers little insight into a buildings bulk and scale and is undermined by the depth of interpretation included in the 4.6 on important factors such as proportionality, articulation and modulation. A building could have a large footprint and use half of the available FSR by having only a small second storey element or none at all. A building could also have a large footprint and be modulated in a way that results in an acceptable bulk and scale. This is not the case for the proposed development.
- The 4.6 suggests the proposed dwelling is two storeys, which is a fundamental misunderstanding of the circumstances. The dwelling is three storeys due to the basement protrusion above existing ground level.
- Use of the codes SEPP is flawed. The Codes SEPP requires 1.9m setbacks to both sides above 4.5m. At the front of the dwelling, where bulk and scale are most prominent, the first floor has a setback of 1.2m to the north and 1.5m to the south.
- The analysis of comparable buildings in the local area on page 15 of the 4.6 does not provide a convincing demonstration that surrounding buildings are of similar scale. The photos are two-dimensional single angle snap shots. To adequately demonstrate the built/proposed dwelling is not inconsistent with new dwellings in the locality, the analysis would need to, at a minimum, provide a 3 dimensional analysis addressing the approved wall heights, setbacks at both levels and total FSR. Further, in my opinion the examples provided show the height, bulk and scale are, on a face value basis, significantly less for the example comparison dwellings.
- The cut out on the southern façade does not provide suitable relief for this elevation. The cut out is restricted to the first floor and considering the overall wall height (which is a result of the protruding basement) has little impact and presents as an afterthought. The overall bulk, wall length, height of building and 3 storey appearance are unchanged.
- Removal of the louvres would not result in a significant change to bulk and scale.
- Site topography is a relevant consideration, contrary to what is established in the submitted 4.6. The existing/proposed dwelling has a significantly elevated ground floor level in all areas and there are no apparent topographical constraints that warrant these levels. Flood impacts and overland flow requirements are understood to have been relevant considerations in the past.

(c) to minimise the impact of new development on the amenity of adjoining properties.

Key points included in the Applicant's 4.6 with regard to Objective (c) are:



- The two impacts to be considered are overshadowing and overlooking.
- The additional overshadowing impact from the existing/proposed dwelling, in comparison to a dwelling that is 400mm lower (where FSR would be compliant due to exclusion of the basement), would be minimal.
- Privacy impacts are no worse than what the impacts would be for the approved dwelling under DA2017.091.

The Applicant's argument that the proposed dwelling, as amended, achieves the objective of Clause (c) is not agreed with for the following reasons:

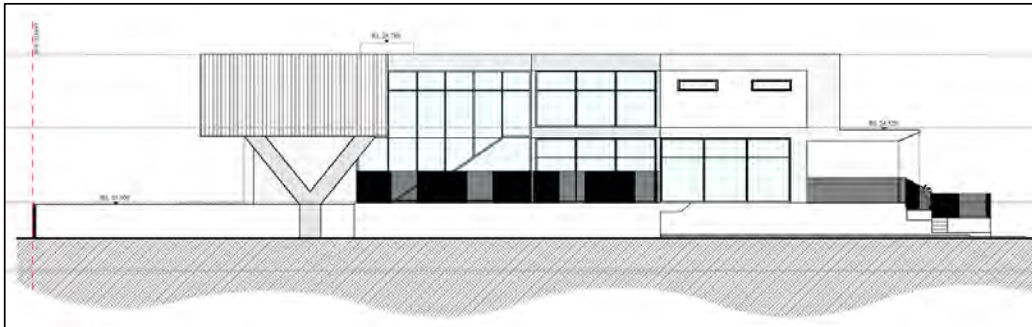
- In terms of overshadowing, the comparison to a building that is simply 400mm lower and therefore compliant with FSR is a one dimensional approach to considering whether the objective is met. The concentration of floor space within a large and flat façade along the southern boundary is contrary to the objective and does represent a design that minimises overshadowing.
- It is noted that the basement is much more than 1.4m above existing ground level. Figure 36 shows that at points, the existing ground level RL is 19.11, being a level difference of 1.89m to the ground floor top of slab (RL 21.00).
- In terms of overlooking, the comparison to the approved dwelling under DA2017.091 does not demonstrate that the objective is met, just that it is, arguably, an improvement on the approved outcome. This does not demonstrate that compliance is unnecessary or unreasonable.
- Notwithstanding the above, the existing dwelling as amended presents significantly greater privacy impacts than the approved dwelling as follows:
  - The ground floor of the proposed dwelling as amended is an additional 600mm above existing ground level (approved GF RL20.4, Built GF RL21.00). This significantly reduces the function of the boundary fence as a privacy measure.
  - The proposed dwelling incorporates alfresco areas within the northern side setback at 1.7m above existing ground level and a pool coping on the northern side of the pool at similar elevations. The approved dwelling does not have these features.
  - The proposed dwelling as amended incorporates significantly more glazing along the northern façade to the ground floor and first floor, as shown in Figures 33 and 34 below.



**Figure 35:** Northern elevation of the approved dwelling under DA2017.091

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**Figure 36:** Northern elevation of the proposed dwelling

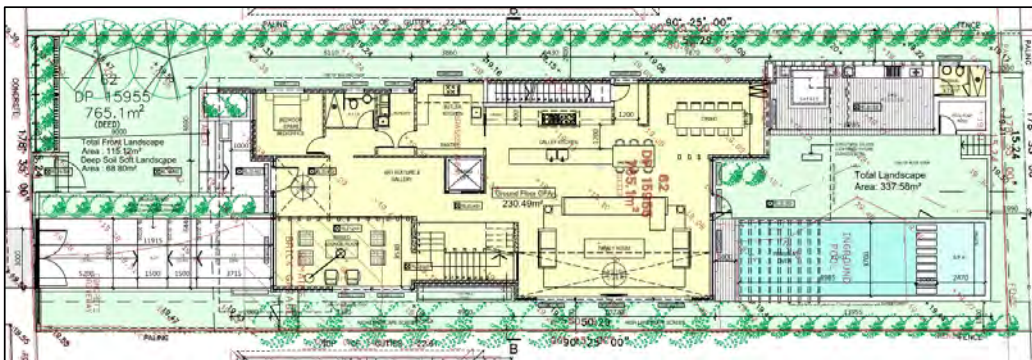
**Whether there are sufficient environmental planning grounds to justify contravening the development standard**

The Applicant has addressed Clause 4.6(3)(b) with the following two environmental planning grounds:

1. *The originally approved development did not comply with the FSR development standard and the extent of non-compliance proposed by the subject application is less than the approved development.*

The Applicant presents an argument that, noting the approved dwelling under DA2017.091 has a ground floor RL of 20.40, all of the basement would be more than 1m above ground. With basement areas such as storage counted towards GFA, the approved dwelling would have a greater FSR than the proposed dwelling.

A snapshot of the survey plan overlaid on the ground floor plan of both dwellings is provided below:



**Figure 37:** Ground floor of the approved dwelling under DA2017.091 and survey overlaid

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**Figure 38:** Ground floor of the proposed dwelling and survey overlaid

The survey levels show the ground level is uneven. The following levels are shown in the area of the basement: 19.27, 19.48, 19.40, 19.39, 19.15, 19.21, 19.33, 19.16, 19.11, 19.32, 19.06, 19.08.

These levels show that the 4.6 is correct in that the approved dwelling would have had a basement that protrudes more than 1m above existing ground level. Although certain parts of the basement would not (protrude), having any part that does (protrude) triggers inclusion of the basement as an 'above ground' storey that does not benefit from exclusion of spaces such as storage.

This environmental planning ground is not agreed with for the following reasons:

- The basis for the environmental planning ground hinges on a technicality – that the FSR in the approved development is greater than the proposed dwelling due to the definition of a basement. This does not provide any real demonstration that the proposed dwelling achieves a better outcome (in terms of promoting good design and amenity or minimising impacts) than either the approved development or a hypothetical compliant development.
  - For this approach to work, the argument that the approved FSR is greater would need to be supported by clear impacts from that greater FSR on the quality of design, amenity, etc.
  - The real impacts from the existing/proposed dwelling are significantly greater than what the approved outcome is likely to result in. Most obviously:
    - The approved dwelling has a basement that protrudes 600mm less at any point than the proposed dwelling. Although it still protrudes above 1m, it would look more like a two storey dwelling at all points.
    - Facing the street, the approved basement would be protruding by 1m, vs 1.6m. Therefore, at it's most prominent point, the approved dwelling would be consistent with the characteristics of a basement in a residential setting.
    - The overall height of the approved dwelling is 1.145m less than the proposed dwelling. As the FSR non-compliance is a result of protruding basements, height is a relevant consideration.
2. *The location and nature of the non-compliant gross floor area is substantially underground which results in less expression of bulk than would be otherwise the case for a dwelling of the same FSR where no floor space was below ground level existing.*

The environmental planning ground is not agreed with. This concept assumes that an outcome where the FSR of the proposed dwelling is entirely above ground would be permitted at the site. It is highly unlikely, given the development context, topography and lack of physical constraints that such an outcome would be approved. Further, this again ignores the



fundamental point of the circumstances which is that the FSR is above ground, on account of the elevated basement level and three storey building appearance.

Additional points which undermine the environmental planning ground are as follows:

- Across the top two levels, the GFA is comparable (Approved - 438.59m<sup>2</sup>, Proposed – 444.48m<sup>2</sup>).
  - The measure of impact is most importantly the degree of protrusion of the basement above ground, which pushes the GFA of the top two levels higher. The proposed dwelling is objectively higher and dwelling bulkier and less tapered where it faces the street/public domain. Therefore, the footprint of the basement and resulting GFA (noting that the top two levels for both dwellings are comparable) is less relevant, especially as the footprint of proposed basement has been amended.
  - The higher portion of the proposed basement is exacerbated by the design of the front façade and bulk created by the bedroom at Level 1 in the north-eastern corner.
3. *Physical impacts of the proposed development are substantially the same as the approved development*

The Applicant's third Environmental Planning Ground is not agreed with. The proposed development is not considered to have a lesser or equivalent environmental impact than the approved development. Bulk and scale, design character, privacy, setbacks and landscaped area are all markedly worse. The environmental planning ground has not been sufficiently demonstrated.

### **Conclusion**

The submitted Clause 4.6 Variation Request has not demonstrated that compliance is unreasonable or unnecessary and has not provided any convincing environmental planning grounds for the variation.

It is not agreed that the built outcome, as amended, has negligible amenity impacts. The elevated ground floor, elevated pool and alfresco areas and glazing to the northern façade result in privacy and overlooking impacts that are difficult to mitigate, and in any event have not been.

The proposed dwelling, as amended, does not resemble other modern two storey dwellings in the locality. The dwelling clearly presents as three storeys, with the ground floor being elevated more than 1.5m above ground level (1.89m at points) and the basement cut out results in a distinguishable level marker (as opposed to a raised ground floor level with landscaping in the front setback that softens the raised floor level).

The distinguishable three storey outcome feeds into the non-compliant FSR and approval would create an undesirable precedent for flood affected allotments. Council does on occasion approve a ground floor level more than 1m above existing ground level with basement below, however FSR must be compliant across all 3 levels, the height of the ground floor above EGL must be marginal or there must be a clear topographical constraint.

Use of the approved dwelling under DA2017.091 to justify the proposed dwelling is flawed in this officer's opinion. Both the approved outcome and the proposed outcome breach the FSR standard, however the approved outcome does so only marginally and at the interface with the street protrudes by 1m. In combination with a tapered roofline and height closer to the 7.8m limit, the outcome, despite the FSR compliance, would be in the vicinity of modern flat roof dwellings (with a basement) being constructed in the locality and wider LGA.

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The same cannot be said for the proposed dwelling, as amended. The elevated ground level is more than 50% of what is permitted and the flow on effects are significant, most notably bulk and scale and privacy.

The proposed changes (first floor cut out and removal of the front level 1 louvres) have no significant impact on reducing the bulk and scale of the dwelling.

The submitted Clause 4.6 Variation Request is not supported.

## **Part 5 – Miscellaneous Provisions**

### **Flood Planning**

The subject site has been identified as being at or below the flood planning level. No Flood Impact Assessment was submitted with the Application and therefore, it was not referred to Council's Development Control Engineer.

There is insufficient information to determine whether the proposed dwelling, as amended, is considered compatible with the flood hazard of the land, will not result in significant adverse effects on flood behaviour or environment and is not likely to result in unsustainable social and economic loss.

Therefore, the proposed development does not satisfy the objectives of Clause 5.21 due to insufficient information.

## **Part 6 – Additional Local Provisions**

### **Acid Sulfate Soils**

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2, 3 or 4 soils. Therefore, development consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

### **Earthworks**

The proposal involves significant excavation works for the provision of a basement, driveway ramp and ancillary works.

The extent of excavation has not been minimised and the resulting outcome incorporates a basement that extends beyond the ground floor footprint and protrudes well above the 1m requirement. Insufficient information has been submitted to confirm if the basement is compatible with and will not adversely affect the flood function and behaviour of the land or detrimentally impact on drainage patterns.

The proposed basement size (vertically and horizontally) will result in negative impacts on the amenity of adjoining properties, primarily through overlooking resulting from elevated ground floor levels.

Accordingly, the proposed excavation works do not satisfactorily address the objectives of this Clause 6.2.

### **Essential Services**

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Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council’s stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development.

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft planning instruments that are applicable to the proposed development on the subject site.

**(iii) any development control plan,**

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP 2005.

Applicable SCDCP 2005 Controls	SCDCP 2005 Controls	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Heights (max):</b>			
Floor to ceiling heights:	3.0m	3m	Yes
Height to underside of eaves:	7.2m	8.26m	No
Parapet height:	0.8m	0.28m	Yes
Overall height for flat roof dwelling:	7.8m	8.82m	No
Number of storeys/levels:	2	3	No
<b>Setbacks (min):</b>			
Front:	9m	8.17m	No
Side:	1.2m (min)	1.16m (north)	No
Side:	1.2m (min)	1.43m (south)	Yes
Combined side setback:	3.048m (20%)	2.59m	No
Rear:	6m	6.7m	Yes
<b>Landscaping</b>			
Overall area (min):	328.9m <sup>2</sup> (765.1m <sup>2</sup> x 43%)	266.4m <sup>2</sup>	No
Front yard area (min):	50%	Front yard area = 134.9m <sup>2</sup> Landscape area = 84m <sup>2</sup>	Yes
<b>Fencing</b>			
Height (max):	1.5m	1.3m	Front fence does not comply
Solid component (max):	0.7m	1.3m	
Secondary frontage (max):	1.8m	No	
Side and rear (max):	1.8m	details provided on side and rear boundary fencing	
<b>Solar Access</b>			
POS or habitable windows on subject site (min):	3hrs to habitable windows and to 50% of POS	Yes	Yes

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Adjoining POS (min):	3hrs	Insufficient information provided	TBC
<b>Vehicle Access and Parking</b>			
Boundary driveway width (min):	3m	3.376m	No
Vehicular crossing (max):	1	1	Yes
Driveway setback – side (min):	0.5m	1.75m	Yes
No. of parking spaces:	2	3	Yes
<b>Basement:</b>			
Vertical protrusion (max):	1.0m	1.7m	No
Ramp width (max):	3.5m	3.5m	Yes
Internal height (min):	2.2m	2.99m	Yes
Horizontal protrusion:	Within GF footprint	No	No
<b>Ancillary Development</b>			
<b>Retaining Walls:</b>			
Height (max):	1.2m	1.79m	No
<b>Swimming Pool:</b>			
Side/rear setback (min):	1.0m	1.34	No, coping within 1m landscape area

**Streetscape and Character**

The proposed dwelling does not achieve the objectives and controls under Section 2 of Part A. The dwelling is a three storey dwelling within a low density residential context where dwellings are either single or two storeys. The proposed development does not achieve the following Controls under Section 2:

- The overall scale of the proposed dwelling does not complement the existing streetscape for reasons outlined above.
- The building form has not been adequately articulated. The amendment to the southern façade (cut out on Level 1) does not adequately articulate the southern façade and the removal of the front louvres does not introduce any recesses or tapering of the bulk at the top level that would allow the scaling and massing controls to be achieved.
- The roof does not minimise bulk and scale and air conditioning units are visible from the public domain.

**Building Envelope**

The proposed dwelling exceeds the permitted height for a flat roof dwelling by 1.06m. This control is consistently applied by Council to mitigate bulk and scale impacts from modern flat roof dwellings. Some leniency is occasionally applied where an architectural feature or part of the roof line exceeds the 7.8m mark, however this is on the basis the outcome introduces façade modulation and taper in the design, resembling the effect of a pitched roof. The proposed dwelling exceeds the 7.8m mark considerably and features a boxy top heavy design with no modulation. Merit application of the control cannot be applied.

The proposed variation to the front setback is not justified and the impacts on the streetscape are amplified by bulk and scale impacts associated with the FSR exceedance and flat roof dwelling height exceedance. The majority of the streetscape features a 9m or greater front setback. There are anomalies at 30 and 32 Boden Avenue, however these are single storey dwellings. The former house had a 9m+ setback.

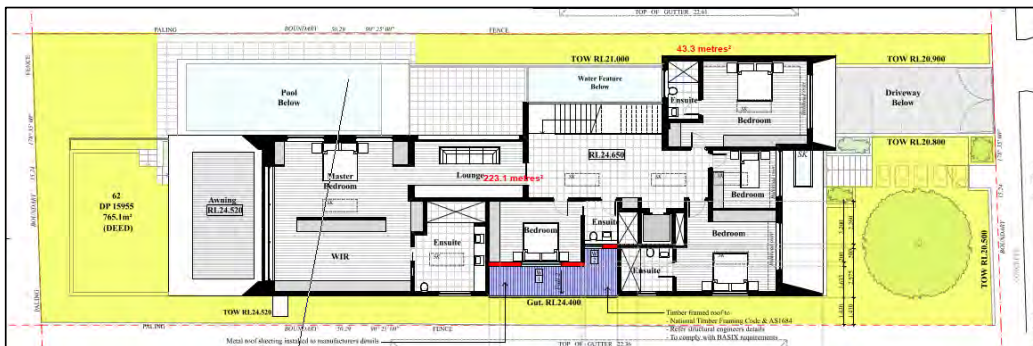
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The non-compliant combined side setback has not been justified in the submitted SEE. The non-compliance is located at the front of the dwelling where the bulk is most prominent. Areas further west along the building comply with the combined side setback, however this visual relief is largely obscured by the non-compliant area.

**Landscaping and Open Space**

The proposed development does not satisfy the relevant objectives and controls of the SCDCP 2005. Inadequate areas for deep soil planting have been provided.



**Figure 39: Total Landscape Area Calculation**

The overall landscape area does not comply by a significant amount and no merit based reason has been provided other than references to what can be permitted via a complying development certificate. Although the pool being built under a CDC is not considered a valid reason, if the pool area is excluded, there is still a 28m<sup>2</sup> shortfall in landscaped area.

**Fencing**

The proposed front fence does not comply with the development control and no justification has been provided. The fence line sits below the 1.5m total requirement, however the masonry extends 0.6m above the permitted level. This does not allow for an outcome that does not achieve a feeling of openness and casual surveillance. The outcome is somewhat mitigated by the elevated level of the ground floor, however this non-compliance cannot be used to justify the front fence height breach.

**Solar Access**

The application is not supported by overshadowing diagrams. The submitted 4.6 makes reference to diagrams used in previous court proceedings and makes assumptions based on the changes proposed. This approach is inadequate. Considering the height and FSR breaches and concentration of bulk along an unbroken and long southern façade, detailed shadow diagrams should be provided, as well as elevational shadow diagrams for the southern neighbour.

This would allow for the objectives and controls under Section 6.1 to be addressed. The submitted diagrams do not consider where the southern neighbours living areas are or where their principal private open space is.

Considering the SEE and 4.6 are so heavily weighted towards new developments in the locality, the footprints analysis used in the 4.6 could be applied to the southern neighbour to



ensure future contemporary buildings will also be able to achieve adequate solar access in mid-winter.

### **Privacy**

The proposed dwelling has not been designed to provide reasonable privacy to adjoining dwellings, in particular for the neighbour to the north at 25 Boden Avenue and to the west at 26, 28 and 30 Melville Avenue. Key parts of the design causing these privacy impacts are as follows:

- The proposed dwelling incorporates alfresco areas within the northern side setback and rear setback at 1.7m above existing ground level and a pool coping on the northern side of the pool at similar elevations.
- The proposed dwelling as amended incorporates significant glazing along the northern façade to the ground floor and first floor. The elevated ground floor (1.7m above existing ground level at points) creates significant overlooking impacts from living spaces.
- The elevated ground floor and alfresco also creates overlooking impacts to the west.
- The first floor lounge area creates unacceptable overlooking impacts to the north.

### **Vehicular Access, Parking and Basements**

The proposed development does not satisfy the relevant objectives and controls of the SCDPC 2005. The basement protrudes more than 1m above ground and extends beyond the ground floor footprint. This creates numerous bulk and scale and amenity based impacts as outlined above.

The width of the driveway at the boundary exceeds the permitted 3m, thereby not achieving the objective of minimising impervious surfaces and dominating the streetscape with vehicular access infrastructure.

### **Cut and Fill**

The proposed development does not satisfy the relevant objectives and controls of the SCDPC 2005. The basement incorporates cut and fill beyond what is required. Structures within the rear setback require unacceptable cut and fill.

### **Water and Soil Management**

As noted under the 'Referrals' section of this report, insufficient information has been submitted in relation to stormwater management and flooding impacts. Although the dwelling exists, these documents are required to confirm the dwelling satisfies the relevant objectives and controls of the SCDPC 2005 and complies with Council's Stormwater Management Code.

Importantly, these documents would confirm if the proposed dwelling, its footprint, retaining walls and ancillary structure, do not detrimentally affect local drainage patterns and overland flow.

### **Access, Safety and Security**

The proposed development satisfies the relevant objectives and controls of the SCDPC 2005. Separate pedestrian and vehicle access provisions are provided, passive surveillance of the public street has been provided, however as noted above, the fence height limits surveillance to a certain degree.



## **Ancillary Structures**

### Retaining Walls

The proposed development does not satisfy the relevant objectives and controls within SCDCP 2005 as a number of areas are elevated above 1.2m, including the rear alfresco area and pool and these will require retaining structures.

### Swimming Pools, Spas & Associated Enclosures

The proposed swimming pool does not satisfy the relevant objectives and controls with SCDCP 2005. The pool coping intrudes into what should be a 1m landscape strip within the side setback adjacent to the pool.

## **PART H – Waste Management**

In accordance with Part H of SCDCP 2005, a Waste Management Plan was submitted with the application. The plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is considered that this plan adequately addresses Part H.

### ***(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,***

The requirements of Australian Standard AS2601–1991: The Demolition of Structures is relevant to the determination of a development application for the demolition of a building.

The proposed development does involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is not in keeping with other developments being constructed in the locality. The non-compliant FSR and three storey building are more consistent with a medium density development outcome, as opposed to a single freestanding dwelling in a low density residential setting. The associated issues such as overlooking and bulk and scale are not mitigated through the design and non-compliant setbacks, landscape area, driveway design, front fence design and swimming pool design add to the out of character development.

The proposal is considered to have a significant and negative impact on the built environment in the locality. Insufficient information has been submitted to determine whether the proposal has a detrimental impact on the natural or existing local environment. Most importantly, whether stormwater and drainage patterns are impacted by the proposal.

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

The subject site is not suitable for the proposed development. The proposed dwelling features a three storey freestanding dwelling in a locality dominated by two storey or single storey dwellings. The proposed dwelling has not been designed to mitigate impacts associated with elevated ground floor levels and bulk and scale and works against the topographical characteristics of the site and neighbouring sites.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. Two submissions were received during this period. The issues raised are outlined below.

**1. Council must ensure that the proposed development rectifies all parts of the development that vary from the approved plans.**

Comment: The assessment has considered the proposed changes, but in the context of the ultimate built form that would occur. As the proposed dwelling is vastly different to the approved dwelling, it was not practical to undertake the assessment as a comparison to what was approved.

**2. Construction was observed as occurring outside of the permitted hours and construction involved significant works within the verge and nature strip.**

Comment: This concern is not something that can be addressed as part of the development assessment.

**(e) the public interest.**

The proposed development is of a scale and character that conflicts with the public interest. The public interest is served through the consistent application of planning controls and the proposed development does not comply with principal development standards under SLEP 2012 and a raft of controls under SCDCP. Approval would create an undesirable precedent for low density residential dwellings and how councils planning controls are applied to different development typologies and densities.

**Local Infrastructure Contributions**

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. A consent authority may impose a condition under Section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

Section 7.12 Contributions would not apply to the proposed development has a cost of works of less than \$100,000.

It is noted that the cost of works on the pre-DA form submitted with the Application are \$61,850. This is assumed to represent the cost of the Level 1 cut out, demolition and removal of the front façade louvres.

However, this officers review of Councils records did not show contributions had been paid for the dwelling as a whole. This would require clarification in the event of an approval, however the recommendation is for refusal.

**Conclusion**

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979, including the provisions of the SLEP 2012 and SCDCP 2005.

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Following detailed assessment it is considered that DA 2024/1 should be refused for the reasons included at the end of this report.

### 1. Refusal Reason - Clause 4.6 Variation Request

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, the consent authority is not satisfied that compliance with the development standard contained in Clause 4.4C – Floor Space Ratio of the SLEP 2012 is well founded. The consent authority has identified that there are no sufficient environmental planning grounds to justify contravening the development standard.

### 2. Refusal Reason - Development Control Plan

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:

- (a) The proposal fails to satisfy the Architectural Design and Streetscape Presentation objectives in Section 2.1 of Part A. The overall scale and design of the proposed dwelling does not complement the existing streetscape.
- (b) The proposal fails to satisfy the Building Envelope objectives provided by Section 4.1 of Part A, which requires that dwellings are compatible with the built form of the local area and the overall bulk and scale, size and height are appropriate.
- (c) The Proposal fails to satisfy the Privacy objectives under Section 7.1 of Part A and Privacy Controls under Section 7.2 of Part A. Elevated ground floor levels, alfresco areas and ancillary structures and glazing on the northern and western facades create unmitigated overlooking impacts.
- (d) The proposal fails to satisfy the building height control for a flat roof dwelling under Section 4.2.2 of Part A.
- (e) The proposal fails to satisfy the minimum primary setback requirement provided by Section 4.2.3.1(1) of Part A.
- (f) The proposal fails to satisfy the combined side setback and northern side setback minimum requirements provided by Section 4.2.3.2 of Part A.
- (g) The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A, which requires a minimum of 43% landscaped area for the specific lot.
- (h) The proposal breaches the front fence controls in Section 5.2.4 of Part A.
- (i) The proposal breaches the setback requirement for a swimming pool under Section 12.2.6 of Part A. The 1m setback must be landscaped and not include any part of the pool concourse.
- (j) The proposal incorporates numerous areas that require retaining walls above 1.2m and therefore breaches the maximum retaining wall height permitted under Section 12.2.3 of Part A.
- (k) The proposal fails to meet the 3m requirement for driveway widths at the front boundary under 8.2.1 of Part A.
- (l) The proposal fails to meet the objectives and controls pertaining to excavation and cut and fill including:
  - (i) Objective 8.1(G) - To minimise excavation to reduce disturbance to natural ground level particularly adjacent to site boundaries.
  - (ii) Control 8.2.3(1) - No excavation is permitted outside of the ground floor footprint.
  - (iii) Control 8.2.3(9) - Basements may not be permissible on flood affected sites.
  - (iv) Objective 9.1(A) - To maintain existing ground levels and minimise cut and fill to reduce site disturbance.

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- (v) Objective 9.1(B) - To ensure existing trees and shrubs are undisturbed, ground water tables are maintained and impacts on overland flow/drainage are minimised.
- (vi) Control 9.2(8) – Avoid excessive fill that may create the potential for overlooking of adjoining properties.

### **3. Refusal Reason – Impacts on the Environment**

Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) The non-compliant FSR, excessive bulk and scale and unarticulated facades create unacceptable visual impacts.
- (b) The impervious surfaces do not allow for sufficient soft landscape areas and may be detrimental to drainage patterns.
- (c) The elevated ground floor levels create unacceptable privacy impacts for adjoining dwellings.
- (d) The proposal results in excessive excavation which has the potential for environmental impacts.

### **6. Refusal Reason – Suitability of Site**

Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development given its size and shape and unacceptable relationship to adjoining developments and the locality.

### **7. Refusal Reason – Public Interest**

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

### **8. Refusal Reason – Insufficient Information**

- (a) There is insufficient information to determine whether the Development Application satisfies the aims and objectives of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in non-rural areas.
- (b) There is insufficient information to determine whether the Development Application satisfies the aims and objectives of the State Environmental Planning Policy (Sustainable Buildings) 2022. It is unclear whether the submitted BASIX Certificate relating to alterations and additions is appropriate considering the development history.
- (c) There is insufficient information to determine whether the Development Application satisfies the objectives and considerations under Clause 5.21 Flood Planning of the Strathfield Local Environmental Plan 2012.
- (d) There is insufficient information to determine whether the Development Application satisfies stormwater management requirements under Part A - Section 10 of the Strathfield Consolidated Development Control Plan 2005 and the Strathfield Council Stormwater Management Code.
- (e) There is insufficient information to determine whether the Development Application satisfies solar access requirements under Part A - Section 6 of the Strathfield Consolidated Development Control Plan 2005.

TO: Strathfield Local Planning Panel Meeting - 11 July 2024  
 REPORT: SLPP – Report No. 11  
 SUBJECT: DA2023.156 - 145-151 ARTHUR STREET, HOMEBUSH WEST  
 DA NO. 2023.156

## SUMMARY

Property:	145-151 Arthur Street HOMEBUSH WEST DA2023.156
Proposal:	Extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week.
Applicant:	B Clifton & Hale Capital Partners Pty Ltd
Owner:	ITG Australia TS MID Pty Ltd
Date of lodgement:	8 January 2024
Notification period:	15 January – 30 January 2024
Submissions received:	One (1)
Assessment officer:	J Gillies
Estimated cost of works:	\$4,694,800.00
Zoning:	E4-General Industrial - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	Yes, 15.8% variation to the building height development standard.
Local Planning Panel Criteria	Departure from development standard >10%
RECOMMENDATION OF OFFICER:	Approval

## EXECUTIVE SUMMARY

### Proposal

Development consent is being sought for the extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week.

### Site and Locality

The site is identified as 145-151 Arthur Street HOMEBUSH WEST and has a legal description of Lot: 100 DP: 1035650. The site has an average width (east to west) of 190m, an average depth of 178m and an overall site area of 32,100m<sup>2</sup>.

The site is an irregular shaped parcel of land and is located on the northern side of Arthur Street. The large lot contains two industrial warehouses, both with business park like facades or second levels. The subject site adjoins similar industrial development with internal service roads connecting numerous industrial premises.

The locality surrounding the subject site contains general industrial land uses located in a triangular pocket of the Homebush locality between Arthur Street, the T4 Rail Line and Centenary Drive. The subject site is accessed via internal private access roads that service numerous warehouses and office spaces within a larger industrial business park.

### Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned E4-General Industrial under the provisions of SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the SLEP 2012, with the exception of a variation to the Height of Buildings standard under Clause 4.3 of SLEP 2012.

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

The proposed development generally satisfies the provisions of SCDCP 2005. This is discussed in more detail in the body of the report.

### Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 15 January – 30 January 2024, where one (1) submission was received raising general concerns such as increased traffic impacts, air pollution, noise pollution, increased crime rates, decreased property values and a negative impact on quality of life.

### Issues

- Bulk and scale, façade treatments, landscaping and pedestrian and vehicle sight lines.

### Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/156 is recommended for approval subject to suitable conditions of consent.

## RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, the consent authority is satisfied that compliance with the development standard contained in Clause 4.3 Height of Building of the SLEP 2012 is well founded and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. 2023/156 for extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week at 145-151 Arthur Street HOMEBUSH WEST be **APPROVED**, subject to the conditions in the attached assessment report.

### ATTACHMENTS

1. [DA2023.156 - 145-151 Arthur Street HOMEBUSH WEST - SLPP Report \(PDF\)](#)



## SLPP REPORT

<b>Property:</b>	145-151 Arthur Street HOMEBUSH WEST DA 2023/156
<b>Proposal:</b>	Extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week.
<b>Applicant:</b>	B Clifton & Hale Capital Partners Pty Ltd
<b>Owner:</b>	ITG Australia TS MID Pty Ltd
<b>Date of lodgement:</b>	8 January 2024
<b>Notification period:</b>	15 January – 30 January 2024
<b>Submissions received:</b>	One (1)
<b>Assessment officer:</b>	J Gillies
<b>Estimated cost of works:</b>	\$4,694,800.00
<b>Zoning:</b>	E4-General Industrial - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Is a Clause 4.6 Variation Proposed:</b>	Yes, 15.8% variation to the building height development standard.
<b>Local Planning Panel Criteria</b>	Departure from development standard >10%
<b>RECOMMENDATION OF OFFICER:</b>	Approval



**Figure 1:** Aerial view of the subject site (outlined in yellow)





## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week.

### **Site and Locality**

The site is identified as 145-151 Arthur Street HOMEBUSH WEST and has a legal description of Lot: 100 DP: 1035650. The site has an average width (east to west) of 190m, an average depth of 178m and an overall site area of 32,100m<sup>2</sup>.

The site is an irregular shaped parcel of land and is located on the northern side of Arthur Street. The large lot contains two industrial warehouses, both with business park like facades or second levels. The subject site adjoins similar industrial development with internal service roads connecting numerous industrial premises.

The locality surrounding the subject site contains general industrial land uses located in a triangular pocket of the Homebush locality between Arthur Street, the T4 Rail Line and Centenary Drive. The subject site is accessed via internal private access roads that service numerous warehouses and office spaces within a larger industrial business park.

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

The site is zoned E4-General Industrial under the provisions of SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the SLEP 2012, with the exception of a variation to the Height of Buildings standard under Clause 4.3 of SLEP 2012.

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

The proposed development generally satisfies the provisions of SCDCP 2005. This is discussed in more detail in the body of the report.

### **Notification**

The application was notified in accordance with Council's Community Participation Plan (CPP) from 15 January – 30 January 2024, where one (1) submission was received raising general concerns such as increased traffic impacts, air pollution, noise pollution, increased crime rates, decreased property values and a negative impact on quality of life.

### **Issues**

- Bulk and scale, façade treatments, landscaping and pedestrian and vehicle sight lines.

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/156 is recommended for approval subject to suitable conditions of consent.



## REPORT IN FULL

### Proposal

Council has received an application for the extension to an existing warehouse to provide a new two (2) storey warehouse unit, including loading docks, awning and ancillary office space on the first floor with 24 hours operation 7 days per week. Specifically, the proposal includes:

#### Operation and staff numbers

- 24 hours, 7 days a week,
- 26 full time staff, and
- Access to be provided for medium and heavy rigid vehicles and articulated vehicles.

#### Demolition:

- Removal of an existing at grade car park (83 car bays),
- Removal of 2.5 car spaces in an undercroft area along the western edge of Unit 8 and 9, and
- Removal of one tree, informal landscape strips, traffic island, boundary fencing and kerb associated with the car park and existing internal private access arrangement.

#### Ground floor level:

- Warehouse space with 1,882m<sup>2</sup> of floor area and loading dock integrated into an existing warehouse to the south.
- Relocation of fire stair and fire egress.

#### First floor level:

- Ancillary office space at ground floor with 39m<sup>2</sup> of floor area, and
- Ancillary office space at Level 1 with 199m<sup>2</sup> of floor area.

#### External works:

- Landscaping and pedestrian areas (primarily along the eastern edge of the warehouse extension, however 4 trees are proposed in the existing parking area south of the main works area),
- Earthworks and changes to stormwater infrastructure, and
- Installation of a pump room, motorbike park, and installation of fire hydrants (located south of the main works area underneath Units 8 and 9), and
- Changes to landscaping at the Arthur Street entry to allow for widening of the driveway crossover.
- New chain wire boundary fencing

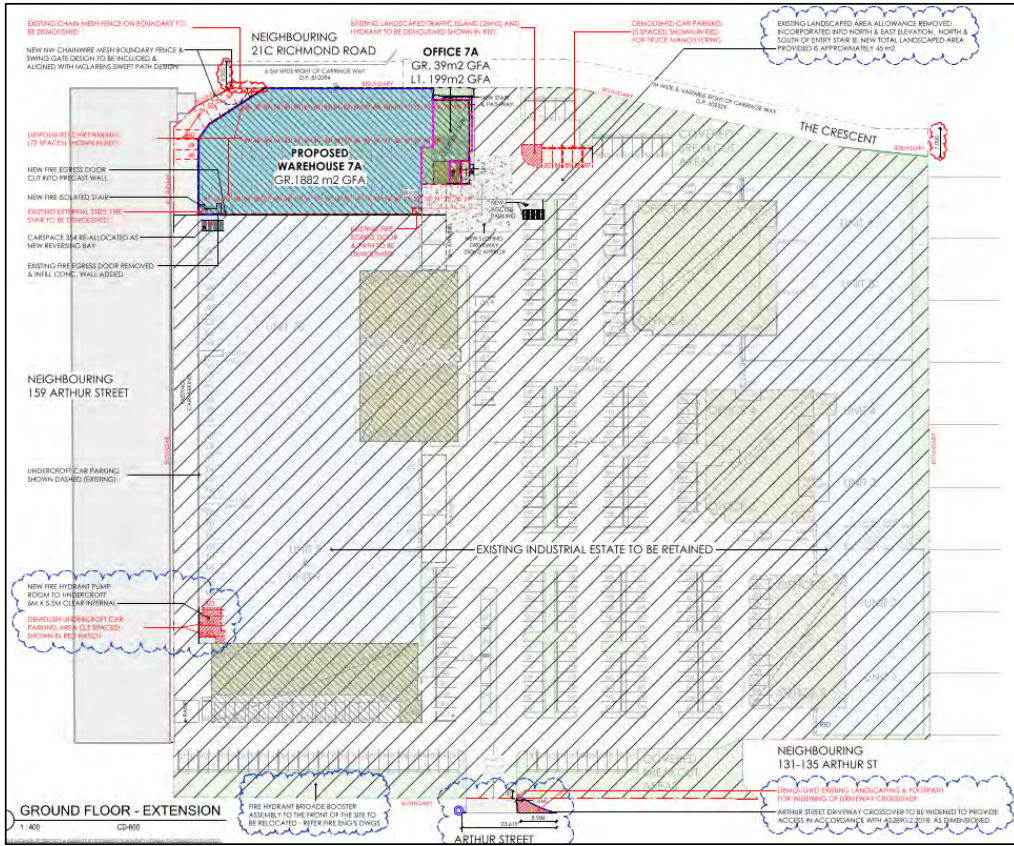


Figure 2: Ground floor Plan – All works across site

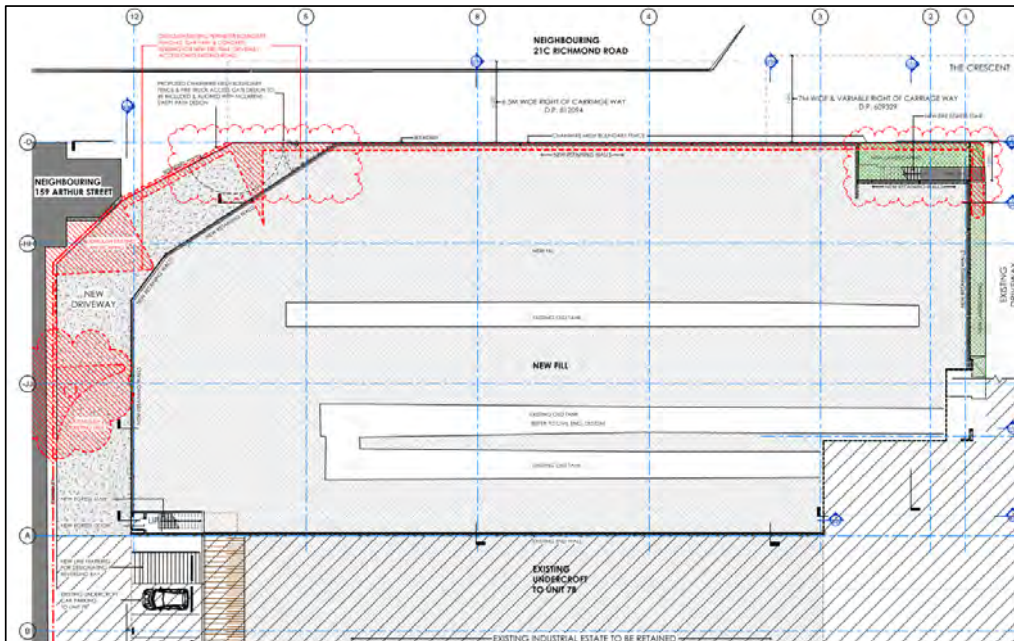


Figure 3: Lower Ground Plan – Main works area





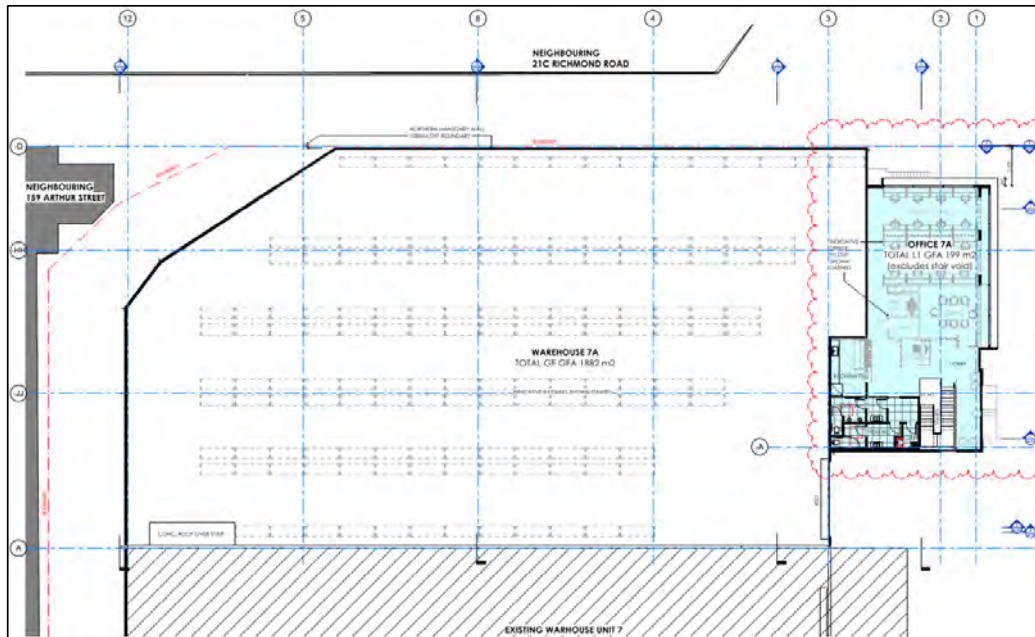


Figure 6: Level 1 Plan - Main works area

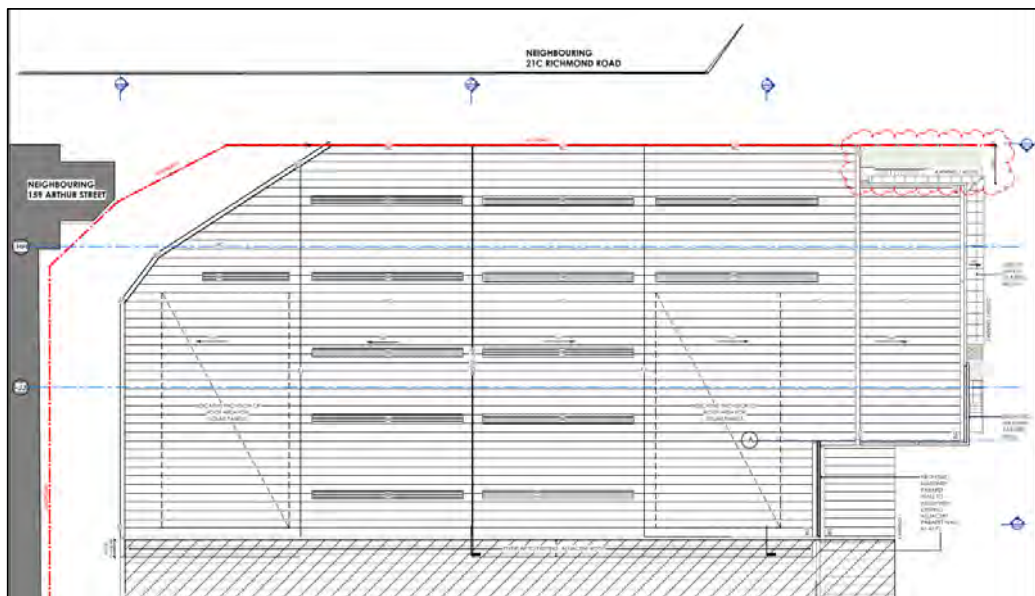


Figure 7: Roof Plan - Main works area

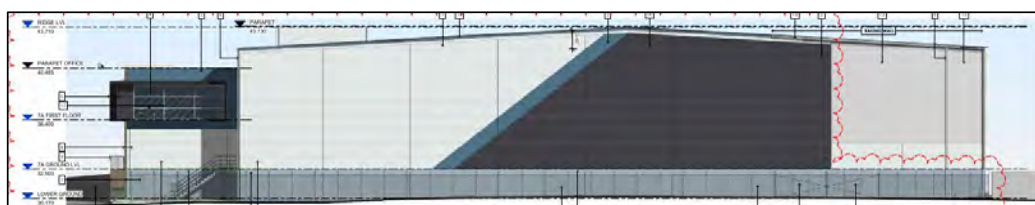


Figure 8: Northern Elevation





Figure 9: Eastern Elevation

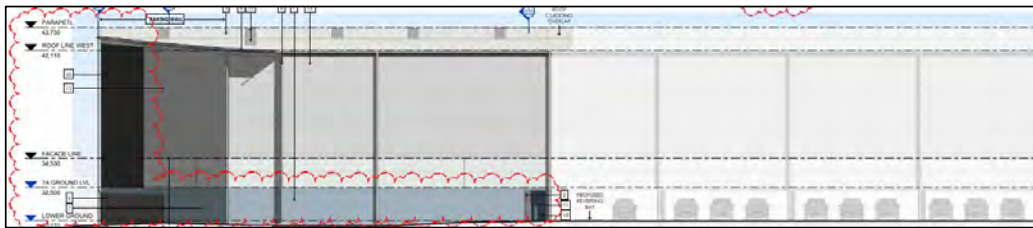


Figure 10: Western Elevation

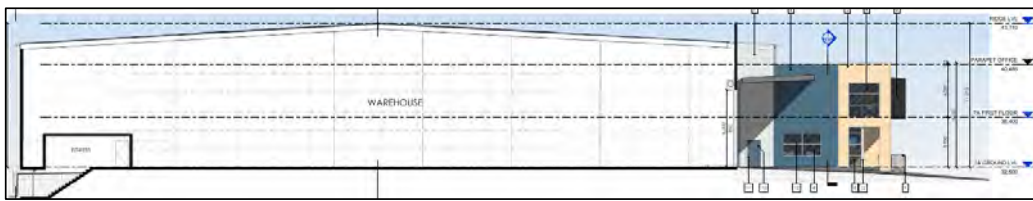


Figure 11: Section and South Elevation

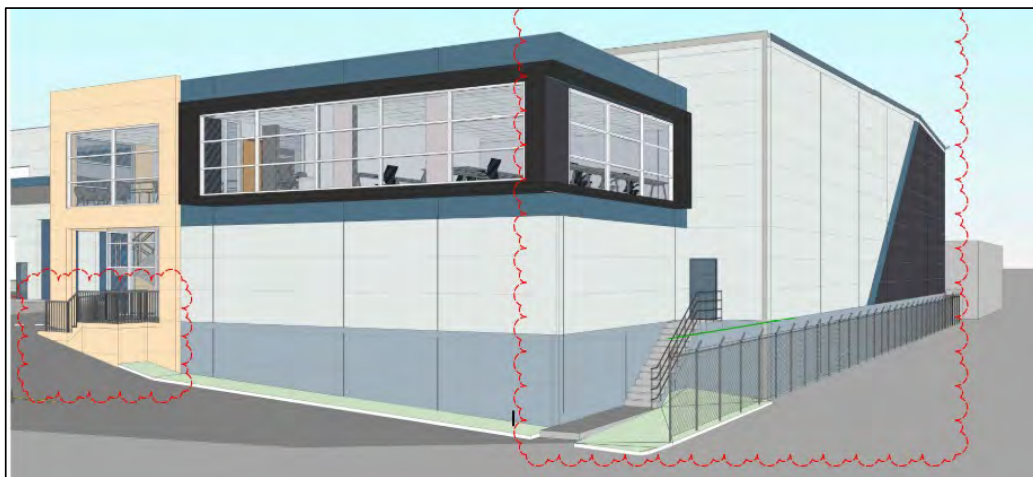


Figure 12: 3D View (north-eastern façade)



Figure 13: 3D View (eastern façade)

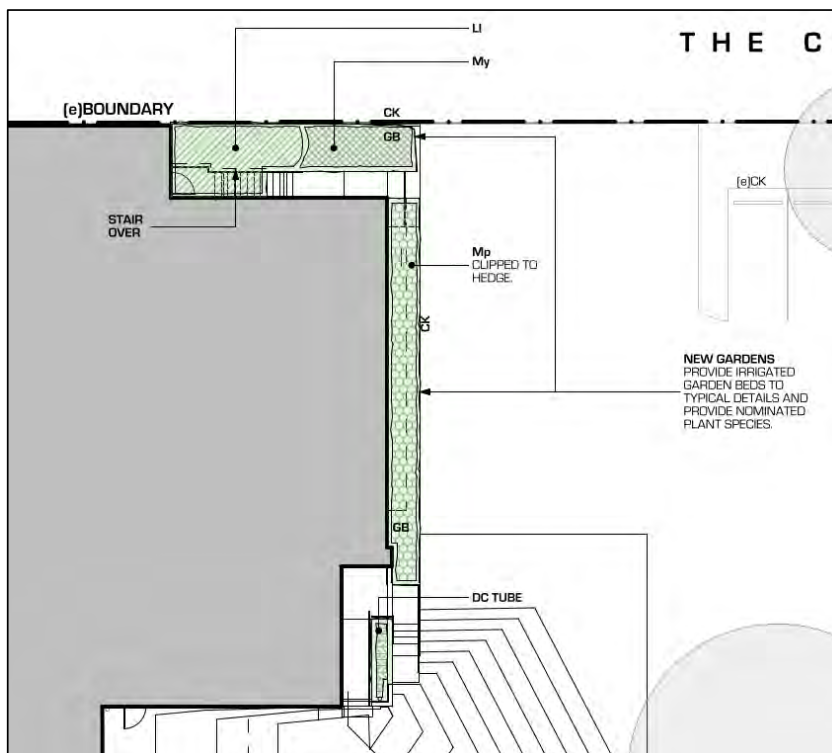


Figure 14: Landscape Plan

**The Site and Locality**

The development area forms the north-western corner of a large industrial lot comprising several industrial warehouses, as well as ancillary office spaces, internal access roads, parking, and landscaping including numerous canopy trees.

The development area itself forms an existing carpark on the northern side of an existing industrial warehouse. The carpark contains 83 parking bays. There is a notable fall in gradient from south to north with a cross fall of approximately 2.67m.



The allotment that the development area forms part of is identified as 145-151 Arthur Street and is located on the northern side of Arthur Street. Direct access is provided via Arthur Street to the development area, as well as to Richmond Road east of the site via internal access roads.

This lot forms part of a large general industrial / business park that includes areas south of the site closer to Arthur Street as well as developments to the east closer to Richmond Road and to the north near the T4 Rail Line. Additional industrial unit developments exiting further west along Arthur Street and to the east until Centenary Drive.

The nearest non-industrial uses are parklands and the Rookwood Cemetery on the southern side of Arthur Street (approximately 200m from the development site) and medium density residential development on the eastern side of Centenary Drive (approximately 300m from the development site).



**Figure 15:** Aerial Image of main works area within the larger lot/site





**Figure 16:** Looking west from an internal access road at the car park proposed for development



**Figure 17:** Looking north-west at the development site. The extension will be attached to the existing warehouse with the pale green façade and awning



**Figure 18:** View of the car park to be demolished and developed, looking west



**Figure 19:** View of the car park to be demolished and developed, looking east





**Figure 20:** View of the western end of the northern façade of the warehouse to be extended. Site access runs along the western boundary with undercroft parking. The tree on the right is proposed for removal.



**Figure 21:** View of the car park to be demolished and developed, looking east



**Figure 22:** View from the north-western corner of the land to be developed, looking south



**Figure 23:** View from exit point onto the internal private road, looking south back towards Arthur Street





**Figure 24:** View looking north along the access road that services the site from Richmond Road



**Figure 25:** View from the boundary of the site looking north over surrounding industrial warehouses



**Figure 26:** View of other industrial development north of the subject land to be developed, near the T4 rail line

### **Background**

<b>1 December 2023</b>	Council issued a Pre-Development Application advice letter following a Pre-DA meeting held on 23 November. The pre-DA advice letter established in-principal support for the removal of parking spaces and stormwater management concepts, subject to appropriate documentation submitted with the Development Application. The relevant planning controls were addressed in the letter and it was accepted merit consideration of setbacks and landscaping requirements would be applied considering the location. The letter established that a 4.6 Variation Request would be required in the event of a height breach.
<b>8 January 2024</b>	The subject Development Application (DA) was lodged with Council.
<b>30 January 2024</b>	The 14 day neighbour notification period ended, with one (1) submission received.
<b>16 February 2024</b>	Council issued a request for further information. This was done via email and related to traffic engineering matters only.
<b>6 March 2024</b>	Council's Planner undertook a site inspection.
<b>26 March 2024</b>	Council issued an additional request for further information.
<b>23 April 2024</b>	A response was submitted by the Applicant including; amended plans, an amended Clause 4.6 Variation Request, amended SEE, amended Landscape Plan, and revised Traffic Report.



A summary of how the additional information responded to the RFI is provided in Table 1 below.

RFI Item	Response
<p><b>Floor Space Ratio</b> The plans submitted were unclear on the total floor area across the site.</p>	<p>The Applicant submitted GFA diagrams demonstrating a mixture of the original approved plans and scaling had been used to calculate the GFA. Noting the gross floor area is well below what is permitted at the site, this methodology was accepted.</p> <p>Future development at the site that pushes the permitted FSR closer to 1:1 may require surveying of existing buildings to create a more accurate calculation.</p>
<p><b>Height of Building Variation</b> The submitted Clause 4.6 Variation Request to vary the height of building limit required further consideration, notwithstanding it was supported in principle.</p>	<p>The amended Clause 4.6 Variation request was revised and improved on, albeit only marginally. The merits of the 4.6 and arguments put forward by the Applicant are discussed in detail later in this report.</p>
<p><b>Northern façade and north-west corner design</b> The bulk and scale of the northern façade (especially the north-eastern corner of the building) required further consideration to introduce more visual relief and allow for pedestrian and vehicular legibility. It was also recommended that a pedestrian accessway along the northern edge of the site underneath the cantilevered warehouse be removed and replaced with an alternative design solution.</p>	<p>The amended Architectural Drawings incorporate changes to the northern façade including variation in the façade materials and colours and a new window facing north for the Level 1 office space.</p> <p>The pedestrian accessway underneath the cantilevered warehouse has been removed. To achieve sight lines and relief to the north eastern corner, the building has been recessed with additional at grade landscaping space.</p> <p>The change in the design is shown in Figures 27 and 28 below.</p>
<p><b>Trees and Landscaping</b> Additional landscaping at the north-eastern corner to tie in with the characteristics of the wider industrial precinct. A landscape plan prepared by a registered Landscape Architect was also requested.</p>	<p>The amended material submitted by the Applicant included additional landscaping in the recommended location and a landscape plan prepared by a registered Landscape Architect.</p>
<p><b>Traffic and Parking</b> Additional detail was requested in relation to; access arrangements and swept paths at the Arthur Street egress and internal private accessway providing egress from the north; details on the changes to the fire-trail access along the western and northern edges of the site and; sight line requirements for vehicles exiting the site</p>	<p>The amended material submitted by the Applicant includes a revised Traffic and Parking assessment addressing all of the outstanding matters raised by Council's Traffic Engineer. The sight line issue has been addressed via the amended design for the north-eastern corner of the warehouse extension which now incorporates a recessed element.</p>

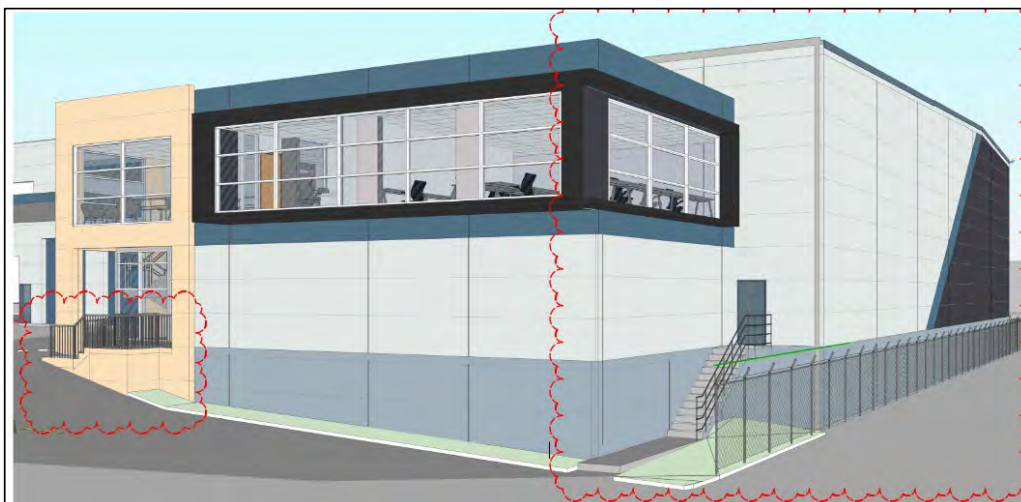




<p>onto the private access road north of the site.</p>	<p>Further details on traffic and parking matters are included in the internal referrals section of this assessment report.</p>
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**Figure 27:** Original north-eastern corner



**Figure 28:** Amended north-eastern corner

**Referrals – Internal**

**Tree Management and Landscaping**

The application was reviewed by Council’s Tree Management Officer who requested additional landscaping be incorporated into the development, including new canopy trees, and that a Landscape Architect prepare a plan for inclusion in the Notice of Determination, should approval be granted.

The Applicant has provided a Landscape Plan to the satisfaction of Council’s Tree Management Officer. It is noted that the requested canopy trees have been proposed south of the main works area in retained portions of the car park. This is accepted as the canopy



cover objectives are achieved and low ground over for the new landscape areas allow for optimum sight lines for pedestrians and drivers.

Council's Tree Management Officer provided conditions of consent, including tree management requirements to safeguard retained canopy trees during construction.

### **Traffic Management**

The application was referred to Council's Traffic Engineer who initially raised concerns in relation to; access arrangements and swept paths at the Arthur Street egress and internal private accessway providing egress from the north; details on the changes to the fire-trail access along the western and northern edges of the site and; sight line requirements for vehicles exiting the site onto the private access road north of the site.

The revised Traffic and Parking Assessment (McLaren, 18 April 2024) addresses the above matters raised by Council's Traffic and Transport Engineer. The submitted Traffic and Parking Assessment factors in the amended design to the north-eastern corner of the building, allowing for sight lines to be achieved as requested by Council.

The details of Council's Traffic and Transport Engineer's final referral are provided below for clarity:

#### **1. Vehicular access arrangements**

*Both accessways operate under an approved 2-way traffic flow arrangement, with simultaneous movement possible for both accesses. It is noted that the northern access is unlikely to cater for simultaneous 2-way access due to turning manoeuvres required on the road and the lower rate of vehicle access from this road.*

*There are considerations for both accessways:*

##### Accessway at Arthur Street

*Vehicle swept paths of both 12.5m heavy rigid vehicles and 20m articulated vehicles have only been shown as operating via this accessway, with 8.8 medium rigid vehicles operating via the accessway off the private road to the north – it is presumed that 8.8m medium rigid vehicles can also use the accessway at Arthur Street.*

*Additionally, as per AS2890.2, the largest vehicle to access the site (20m articulated vehicle) must be able to exit the site without crossing the centre line of the public roadway to avoid interactions with vehicles travelling in the opposite direction.*

##### Accessway at private road

*It has been identified that sight distances are to be maintained from the site accessway to the west on the private road at the northern accessway for the safe exit of vehicles onto the private road. The building line also accommodates a driver eye height of 1.1m for light vehicles and 2.4m for truck drivers. No obstructions are proposed to the east and the obstructions to the north are existing.*

*The Traffic and Parking Impact Assessment provides both Stopping Sight Distance (SSD) and Minimum Gap Sight Distance (MGSD) calculations for the private laneway accessway as per the Austroads Guide to Road Design series.*

**Comment:**



*The Traffic and Parking Impact Assessment outlines the accessways that various vehicle types, from a passenger vehicle up to a 20m articulated vehicle, can use, supporting proposed access with the relevant swept paths.*

*Driveway widening at the Arthur Street accessway is proposed to accommodate the existing manoeuvres of a left-turning 20m articulated vehicle, where it has been demonstrated that simultaneous 2-way movement with a B99 light vehicle can be achieved. Furthermore, swept paths demonstrate that a 20m articulated vehicle can both enter the site from and exit the site to the eastbound traffic lane on Arthur Street without crossing the centreline of Arthur Street.*

*The provided sight distance calculations demonstrate there is sufficient sight distance provided at the private accessway and that the proposed building line does not hinder sight distances and hence is considered satisfactory.*

*All components of the accessways have been accommodated and I concur with the Traffic and Parking Impact Assessment.*

## **2. Parking arrangements**

*As there is a contradiction in warehouse parking rates between Council's DCP Parts D and I, the RTA Guide to Traffic Generating Developments has also been examined, where the parking rates provided by this document support the lesser parking rates required by Part D (noting that Part D and the Guide to Traffic Generating Developments have the same parking rates for warehouses and offices). As such, the existing and further parking rates required are outlined below:*

- *Existing parking rates required*
  - *Warehouse – 9,349m<sup>2</sup> – 1 space per 300m<sup>2</sup> = 32 spaces*
  - *Office – 9,833m<sup>2</sup> – 1 space per 40m<sup>2</sup> = 246 spaces*
  - *Total spaces required = 278 spaces*
  - *Spaces provided = 398 spaces*
- *Additional parking rates required*
  - *Warehouse – 1,866m<sup>2</sup> – 1 space per 300m<sup>2</sup> = 7 spaces*
  - *Office – 239m<sup>2</sup> – 1 space per 40m<sup>2</sup> = 6 spaces*
  - *Additional spaces required = 13 spaces*
  - *Existing spaces being removed to facilitate new development = 83 spaces*
  - *Total final spaces required = 291 spaces*
  - *Total final spaces provided = 315 spaces*

*As such, there is an excess of 24 off-street parking spaces.*

*Council's DCP Part D and the RTA Guide to Traffic Generating Developments require at least 1 parking space to offices for a courier vehicle and recommends additional parking for courier motorcycles but given the nature of the office associated with the warehouse, this has not been provided.*

*The SCDCP and RTA documents advising of parking rates do not stipulate the minimum required parking rates required for either motorcycles or bicycles for industrial or warehouse land uses, and as such no parking has been provided specifically for these transportation types. It is noted that the surplus of parking spaces and under croft areas allow for parking of both of these forms of transport.*



*In relation to accessible parking spaces, the SCDCP and RTA documents do not provide parking rates for accessible spaces associated with industry, warehouse, or office uses. As such, the Traffic and Parking Impact Assessment examines the accessible parking rates set out in the Building Code of Australia. The clause for accessible car parking provides the below required parking rate:*

- *Class 8 development type – 315 spaces provided – 1 accessible space per 100 parking spaces or part thereof = 4 spaces required*

*The proposed development provides more than 4 accessible parking spaces.*

*In considering parking requirements for servicing and loading, Council's DCP Part D provides the rate of spaces required for warehouse facilities:*

- *1 space per 800m<sup>2</sup> up to 8,000m<sup>2</sup> plus 1 space per 1,000m<sup>2</sup> thereafter = 3 spaces.*

*The proposed development provides 1 internal loading area, resulting in a shortfall of 2 delivery / service areas. However, the DCP does not outline the required delivery vehicles to be accommodated, so delivery vehicles can include B99 service vans. As such, given the surplus of 24 parking spaces, these small delivery vehicles can be accommodated in the regular off-street parking areas.*

**Comment:**

*In considering the parking rates provided by both parts of Council's DCP and the RTA Guide to Traffic Generating Developments, the provision for off-street parking is acceptable. Further, the lack of provision for courier, motorcycle, and bicycle parking is considered satisfactory as per the discussed documents.*

### **3. Traffic Generation**

*The Traffic and Parking Impact Assessment draws traffic generation rates from the RTA Guide to Traffic Generating Developments to determine the level of impact of the proposed development on the road network.*

*The Guide to Traffic Generating Developments provides the following vehicle trip rates:*

- *Office spaces: evening peak hour rate of 2 trips per 100m<sup>2</sup>.*
- *Warehouse spaces: morning peak hour rate of 0.5 trips per 100m<sup>2</sup>.*

*This additional trip rate equates to approximately 1 vehicle every 4 minutes during peak hour on average, with traffic light signals typically running on a cycle time of 90-120 seconds. As such, the additional trips add 1 vehicle to every cycle of the traffic signals adjacent to the site, which will not detrimentally affect the operation of the road network. As such, no analysis of the existing and proposed level of service of the traffic signals has been provided.*

**Comment:**

*In considering the RTA Guide to Traffic Generating Developments and the Traffic and Parking Impact Assessment, I concur that the proposed development will not adversely affect the road network surrounding the site.*



#### **4. Internal ramp grades**

*The Traffic and Parking Impact Assessment outlines that the loading dock achieves a minimum width of 3.5m and a minimum length of 20m as per AS2890.2 for articulated vehicles.*

*While the Traffic and Parking Impact Assessment correctly identifies the applicable grades dependent on the vehicle to access the site, AS2890.2 also requires a maximum grade of 12.5% where reversing manoeuvres are permitted.*

*As shown in the Civil Engineering Report, the development complies with the requirements of AS2890.2 in relation to the maximum permitted grade within the development and the maximum permitted change in grade within the development.*

*As such, all ramp grades are compliant as per AS2890.2 and hence considered satisfactory.*

Council's Traffic and Transport Engineer provided recommended conditions of consent to enforce conclusions and recommendations in the final Traffic and Parking Assessment (McLaren, 18 April 2024).

#### **Stormwater Management and Flooding**

The application was referred to Council's Development Engineer who made the following comments in relation to the sites flood characteristics and management of stormwater:

*I have made an assessment based on the flooding characteristics and topography of the site, the proposed stormwater system, the Civil Engineer Report prepared by Costin Roe Consulting dated 14 December 2023, Geotechnical Investigation Report by Geotechnique Pty Ltd dated 13 December 2023, and the finished floor levels of the development.*

*The site is not subject to flooding, nor is it burdened by stormwater easements. As there is no proposed net increase in impervious area, no additional OSD is required.*

*The Application is supported, subject to conditions of consent.*

#### **Section 4.15 Assessment – EP&A Act 1979**

The following is an assessment of the application with regard to Section 4.15(1) of the EP&A Act 1979.

##### **(1) Matters for consideration – general**

***In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:***

- (a) the provision of:**
- (i) any environmental planning instrument,**

**STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION)  
2021**





## **Chapter 2 – Vegetation in Non-Rural Areas**

The intent of this Chapter within the SEPP is related to the protection of the biodiversity values of trees and other vegetation.

The proposal was referred to Council's Tree Management Officer who outlined specific conditions to be imposed with any development consent in order to ensure the protection of these trees.

Further, no objection was raised to the proposed removal of the tree on the site subject to replacement planting. Relevant consent conditions will be imposed.

Accordingly, the aims and objectives outlined within the SEPP are considered to be satisfied.

## **Chapter 10 – Sydney Harbour Catchment**

All stormwater from the proposed development as modified can be treated in accordance with Council's Stormwater Management Code and would satisfy the relevant planning principles of Chapter 10 - Sydney Harbour Catchment.

### **STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

Based on the nature of the development type, there is no requirement for the application to be assessed in accordance with the State Environmental Planning Policy (Sustainable Buildings) 2022.

### **STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

Chapter 4 – Remediation of Land applies to the subject site and, pursuant to Section 4.15 of the EP&A Act 1979, is a relevant consideration. A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if it is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Preliminary Site Investigation prepared by Arcadis was submitted with the proposal and included the following conclusion:

*The outcomes of the PSI, the nature of the current site activities, previous and current land use of the site and surrounding area, suggest that the risk of contamination at the site is low. As such, the site is considered suitable for continued industrial use. From the available information, a Phase 2 Environmental Site Assessment is not recommended for the site, and there is a low likelihood that site contamination issues will be a significant issue.*

Accordingly, the likelihood of contamination at the site has been considered and given the continued use of the site for industrial purposes, remediation will not be required to meet the provisions of the SEPP.



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

The development site is subject to the SLEP 2012.

**Part 2 – Permitted or Prohibited Development**

The subject site is zoned E4-General Industrial and the proposed warehouse and distribution centre is a permissible form of development with Council’s consent.

**Part 4 – Principal Development Standards**

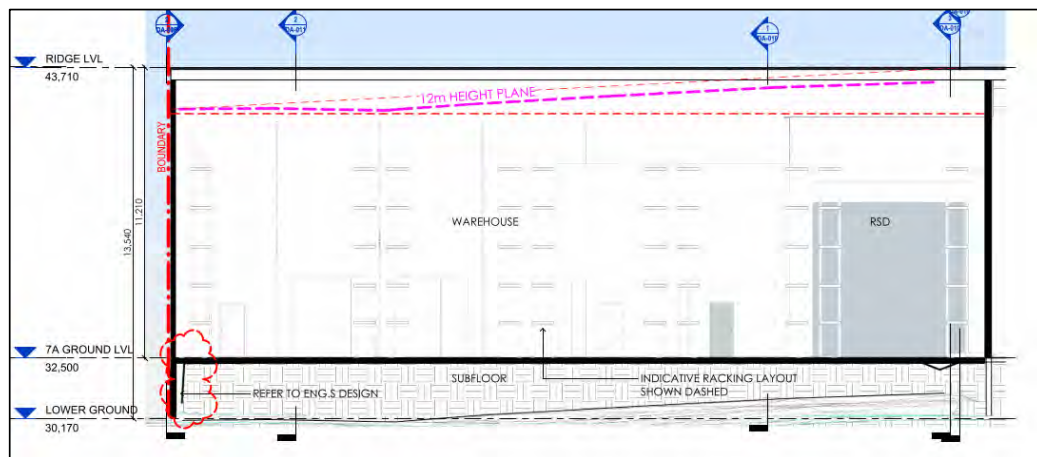
Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	12m	13.9m (15.8%)	No, refer 4.6 assessment
4.4 Floor Space Ratio	1:1 (32,100m <sup>2</sup> )	0.66:1 (21,341.5m <sup>2</sup> )	Yes

**Clause 4.6 Variation**

Clause 4.3 of SLEP 2012 establishes a 12m height limit for the subject site. The submitted Clause 4.6 variation request indicates the proposal has a maximum building height of 13.54m, being a 12.75% increase (1.54m) above the permitted building height. The 13.54m building height exceedance does not apply across the entire development, reflecting a fall in gradient from south to north. This is depicted in Figure 29 below.

It is noted that the survey submitted with the Application shows RL’s of 29.81 and 29.99 along the ridge line (RL43.71) of the proposed extension. This would result in a maximum building height of 13.9m, being a 15.8% increase to the 12m limit.

The 0.36m difference in the height calculation bears no significant weight on the assessment of the Clause 4.6 variation in the circumstances.



**Figure 29:** Section along ridge line

The applicant has provided a written Clause 4.6 request (the written request) to vary the height of building standard, for consideration pursuant to SLEP 2012 Clause 4.6(3) and (4). Clause



4.6(3) and (4) establish preconditions that must be satisfied before the consent authority can grant development consent to the development. These preconditions are:

- The written request must adequately demonstrate that compliance with the development standard is unreasonable or unnecessary (cl 4.6(3)(a) and cl 4.6(4)(a)(i));
- The written request must adequately demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i));
- That the proposed development is in the public interest because it is consistent with the objectives of both the zone and the development standard (cl 4.6(4)(a)(ii)); and
- Concurrence of the Planning Secretary must be obtained (cl 4.6(4)(b)).

These are addressed below.

***Whether compliance with the development standard is unreasonable or unnecessary***

The Applicant has used an assessment against the objectives of the standard (Clause 4.3 Building Height) to establish that compliance is unreasonable or unnecessary. Their response to each objective is considered below:

<b>Objective</b>	<b>Consideration of Applicant's 4.6 response</b>
To ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area	<p>The Applicant has proposed that the height of the warehouse is consistent with heights and appearances of the surrounding 2 storey industrial warehouses that form part of an established industrial precinct.</p> <p>It is also proposed that the extension maintains the height of the existing building to the south (the height exceedance thereby being a result of a falling topographical gradient) and that the extension incorporates articulated facades that create and add visual interest for the industrial area.</p> <p>The 4.6 includes crude measurements of surrounding buildings, however these measurements show existing buildings comply with the height control and are of little help in justifying the variation.</p>
To encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area	The Applicant has commented on how the extension allows for the continuation of a coherent built form which is generally agreed with. The development area already forms part of a consolidated allotment and does not impact or restrict consolidation.
To achieve a diversity of small and large development options	<p>The Applicant has presented an argument that the proposed development contributes to provision of larger floor plate industrial uses to meet the requirements of modern occupiers.</p> <p>This is generally agreed with.</p>



The Applicant has also argued that the variation is consistent with the E4 General Industrial Zone and provides the following points in their discussion of whether the development standard is unreasonable or unnecessary:

- *In order to comply with the maximum building height whilst satisfying the operational demands, significant excavation would be required which would result in inconsistent floor levels and proportions with the immediate neighbouring building, and site levels which would significantly worsen loading and unloading arrangements, and vehicle access and movement for vehicles using the internal access roads within the wider lot.*
- *The proposed development will not result in adverse impacts to the surrounding land. The site is located within an established industrial cluster with no residential zones or sensitive land uses in close proximity to the site. The impact on any views from the public domain has been considered as well the nearby industrial and non-industrial development. The site is located to the rear of 145 Arthur Street and will be largely screened by the existing warehouse and commercial buildings on the site.*
- *To achieve a compliant offering would have no material benefit and no measurable change on the surrounding environment in terms of traffic, visual impact or building bulk and scale.*

Essentially, the Applicant is stating that the variation is primarily a result of the topography of the site, which falls away to the north, and that there is a need to have a level floor area for the use proposed.

Although the written request does not show that surrounding buildings incorporate heights that are of the scale proposed (i.e. above the 12m height limit), the practicality of maintaining a consistent floor level and roof level for the extension to the existing warehouse is considered adequate justification. The height variation is a product of a sudden fall in topography and the continued level of the roof line will not result in any significant change to the bulk and scale of the building as viewed from Arthur Street or other (distant) areas of the public domain. This key justification is supported by the façade treatments, especially to the north-eastern corner, addressing the need for new developments to add to or improve the appearance of the industrial area.

Further, it is agreed there are no significant amenity impacts, especially to the public domain, but also internally within the industrial precinct.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

The Applicant has made the following points in considering whether there are sufficient environmental planning grounds to justify contravening the development standard:

- *The proposal is entirely consistent with the underlying objectives and purposes of the standard. The change in gradient across the site, with a significant slope from south to north, is the primary reason why the proposed building height exceeds the 12m Height of Building development standard;*
- *The proposal is entirely consistent with the underlying objective or purpose of the E4 General Industrial zone.*
- *Compliance with the standard would be unreasonable and unnecessary for the reasons outlined elsewhere in the 4.6;*
- *The proposed non-compliance results in a built form and land use, which is permitted at the site.*



- *Should compliance with the development standard be enforced, the effective operation of the warehouse and efficiency of the entire site would be significantly reduced.*
- *The proposal is consistent with the established character of the site and the area and generally complies with the relevant built form controls including FSR, setbacks, landscaping and car parking.*
- *The projected level of traffic activity as a consequence of the development is minimal and is not expected to result in any unacceptable traffic implications, as concluded within the Traffic and Parking Assessment prepared by McLaren and submitted with the DA;*
- *The surrounding road network will not require any augmentation to accommodate the Proposal;*
- *There would be no measurable environmental or amenity benefits in maintaining the maximum Height of Buildings standard nor would this support the function of the E4 zone or the wider Arthur Street Precinct.*

The above list included in the Applicant's 4.6 Variation Request includes some reasonable environmental planning grounds. The final ground relating to the absence of any environmental or amenity benefit is considered the strongest and on that basis, it is agreed there are sufficient environmental planning grounds to justify the breach to the height control.

***Whether the concurrence of the secretary has been obtained.***

Under Clause 55 of the EP&A Regs 2021, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

In conclusion, the applicant's written request to justify the contravention of the building height 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**

**Heritage Conservation**

The subject site is not listed as a heritage item or located within a heritage conservation area. The site does not adjoin nor is in close proximity to a heritage item and as such, the provisions of this clause are not applicable.

**Flood Planning**

The proposed site has not been identified within the flood planning levels and as such, the provisions of this Clause are not applicable to the subject development.

**Part 6 – Additional Local Provisions**

**Acid Sulfate Soils**





The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2 3 or 4 soils. Therefore, development consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

**Earthworks**

The proposal does not include any significant excavation or basement works. Any excavation for footings or levelling of the site is considered to be minor and will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

**Essential Services**

Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council’s stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft planning instruments that are applicable to the proposed development on the subject site.

**(iii) any development control plan,**

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP 2005.

Part D of SCDCP 2005 relates to industrial development and is relevant to the proposed development.

Control	Comment
<p><b>2.2 Contamination</b> Consideration as to whether the site is potentially contaminated.</p>	<p>Refer to SEPP discussion above.</p>
<p><b>2.5 Density, Bulk &amp; Scale</b></p> <ul style="list-style-type: none"> <li>• 10m maximum wall height</li> <li>• Ancillary office space 25% max</li> </ul>	<p>The northern façade of the proposed warehouse extension will have a 13.9m wall height at it’s highest point, tapering to a low point of approximately 12m.</p> <p>For reasons included in the submitted 4.6 variation request, this outcome is accepted on merit. The northern façade incorporates a recessed north-eastern corner with windows to the Level 1 office space that modulates the most prominent part of the extension. The remainder of the northern façade features changes in colours and materials to break up the scale of the wall. Further, the façade is an internal elevation within the established industrial precinct.</p>



	<p>The proposed office space (total of 238m<sup>2</sup> across two levels) equates to 12.6% of the warehouse floor area (1,882m<sup>2</sup>) and complies with the 25% requirement.</p>
<p><b>2.6 Setbacks</b></p> <ul style="list-style-type: none"> <li>• 10m front setback</li> <li>• Merit based side setbacks adjoining residential land</li> <li>• Nil setback adjoining industrial land</li> <li>• Setbacks may include parking</li> </ul>	<p>The proposed extension has a nil setback to the northern boundary (practically nil being 100mm). This outcome is permitted in the controls (nil setback adjoining industrial land) and accepted in the development context noting the road to the north is an internal access road. The design of the north-eastern corner has been setback from the road/parking areas by 2.4m at ground and 3m at Level 1, allowing for sight lines to be achieved for pedestrians and vehicles existing the car park as the turn onto the private access road.</p> <p>A setback of 6m along the western edge and the north-western splay allows for the fire service trail to be maintained.</p>
<p><b>2.7 Building Requirements &amp; Materials</b></p> <ul style="list-style-type: none"> <li>• Brick, stone, concrete, glass facades</li> <li>• No external services</li> <li>• Avoid long blank walls to street</li> <li>• Compatible with adjoining buildings</li> <li>• Offices to face the street</li> <li>• Building facades to be modulated and entries emphasised</li> <li>• Materials to be indicated on plans</li> </ul>	<p>The proposed extension incorporates recessed elements and changes in materials and colours that modulates the scale of the northern façade. On balance, the proposed outcome introduces variety and interest into the industrial precinct.</p> <p>The design of the office element has been modified to provide an aspect to the southern, eastern and northern elevation to minimise blank façade and promote passive surveillance.</p>
<p><b>2.8 Energy Efficiency &amp; Water Conservation</b></p> <ul style="list-style-type: none"> <li>• Orientation to facilitate ideal solar</li> <li>• Glazing to northern façade encouraged</li> <li>• Rain water tanks to be provided on site</li> </ul>	<p>The proposed extension incorporates windows to all ancillary office spaces which is consistent with other industrial designs in the area.</p>
<p><b>2.9 Parking Access &amp; Manoeuvring</b></p> <ul style="list-style-type: none"> <li>• Parking rate controls</li> <li>• Loading areas at rear</li> <li>• Access to be via non-residential streets and to comply with relevant AS</li> <li>• Vehicles to enter and exit in forward direction</li> <li>• Entry and exit points and parking to allow for safe pedestrian access</li> </ul>	<p>Complies – refer Traffic referral discussion.</p>
<p><b>2.10 Landscaping &amp; Fencing</b></p> <ul style="list-style-type: none"> <li>• Street trees to be retained</li> <li>• On-site trees over 4m subject to assessment</li> </ul>	<p>The proposal generally achieves the controls, with landscaping strips incorporated into the design where appropriate and additional canopy trees</p>



<ul style="list-style-type: none"> <li>• 2m min landscape strips in front setback required</li> <li>• 1.2m strip required to common boundaries forward of the building line</li> <li>• 2m to common boundaries with residential areas</li> <li>• Tree planting required in car parks</li> <li>• Tree planting to reflect scale of development</li> <li>• Screen plating required</li> <li>• Landscape areas to have permanent edging and must be maintained in perpetuity</li> <li>• Side fencing min 1.8m</li> </ul>	<p>proposed for the existing parking area. The proposed outcome is considered satisfactory considering the works front an internal access road. Notwithstanding, the wider industrial precinct incorporates various pockets of landscaping that create visual interest and aesthetic appeal and the proposal will make a modest contribution to this.</p>
<p><b>2.11 Signage</b> Refer SEPP assessment</p>	<p>The Application does not incorporate signage. The SEE states signage will be subject of a separate future application.</p>
<p><b>2.12 Site Drainage &amp; Water Management</b> Stormwater concept plan to be submitted with all DAs</p>	<p>Controls addressed in Stormwater Flooding Referral.</p>
<p><b>2.13 Utilities</b> Sydney Water and Ausgrid requirements</p>	<p>To be conditioned.</p>
<p><b>2.14.2 Noise Pollution</b></p> <ul style="list-style-type: none"> <li>• Buildings designed to minimise transmission of noise.</li> </ul>	<p>Complies – refer discussion under acoustic referral.</p>
<p><b>2.14.3 Water Pollution</b></p> <ul style="list-style-type: none"> <li>• Type/Volume and Storage of Chemicals to be provided with DA.</li> <li>• Only clean water discharged into stormwater system</li> <li>• Internal floors graded/drained</li> </ul>	<p>Addressed in stormwater referral comments and to be conditioned.</p>

**PART H – Waste Management**

In accordance with Part H of Strathfield CDCP 2005, a Waste Management Plan was submitted with the application. The plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is considered that this plan adequately address Part H and considered satisfactory.

**PART Q – Urban Design Controls**

Section 4.9 of Part Q incorporates requirements for development in Industrial Zones and is relevant to the proposed development. An assessment against the requirements of Section 4.9 is provided below.

Requirement/Criteria	Comment
Adequate off-street parking, relative to the likely demand for parking generated by the proposed development, must be provided on-site.	Adequate off-street parking is delivered as outlined by Council’s Traffic Engineer under ‘internal referrals’.
The site of the proposed development must be suitably landscaped, particularly	As outlined above, the proposal generally achieves the controls, with landscaping strips incorporated into the design where



<p>between any buildings and the street alignment.</p>	<p>appropriate and additional canopy trees proposed for the existing parking area. The proposed outcome is considered satisfactory considering the works front an internal access road. Notwithstanding, the wider industrial precinct incorporates various pockets of landscaping that create visual interest and aesthetic appeal and the proposal will make a modest contribution to this.</p> <p>The proposed outcome is supported by Council's Tree Management Officer.</p>
<p>The proposed development must contribute to the maintenance or improvement of the character and appearance of the locality.</p>	<p>As outlined above, the northern façade incorporates a recessed north-eastern corner with windows to the Level 1 office space that modulates the most prominent part of the extension. The remainder of the northern façade features changes in colours and materials to break up the scale of the wall. Further, the façade is an internal elevation within the established industrial precinct.</p>
<p>Any proposal shall demonstrate that detailed consideration has been given to the effect of traffic generated from the site and the likely impact on surrounding residential areas, including the identification of appropriate traffic management schemes which would mitigate potential impacts of the traffic generated from the development on any residential environ.</p>	<p>The Traffic and Parking Impact Assessment submitted with the application has been reviewed and supported by Council's Traffic Engineer.</p>
<p>Any goods, plant, equipment and other material used in carrying out the proposed development must be suitably stored or screened at the rear of the site.</p>	<p>The design allows storage inside the warehouse. Conditions of consent will ensure external storage is not permitted.</p>
<p>The proposal must not detract from the amenity of any residential area in the vicinity.</p>	<p>The site is not within the vicinity of any residential areas and the proposed height will not significantly protrude above the height plane of the wider industrial precinct.</p>

**(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,**

The requirements of Australian Standard AS2601–1991: The Demolition of Structures is relevant to the determination of a development application for the demolition of a building.

The proposed development does involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.



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

The proposed development is of a scale and character that is in keeping with other industrial warehouse developments in the area, and importantly ties in with the existing warehouse to the south of the main works area. The proposal is not considered to have a significant impact on the natural and built environment or pose any negative social or economic impacts on the locality.

While there is no significant change to the general layout of the area, just an extension of an existing warehouse, there are changes that warrant consideration against the principles of Crime Prevention Through Environmental Design (CPTED). The Applicant has prepared a CPTED assessment which considers the four key principles, being; surveillance; access control; territorial reinforcement; and space/activity management.

In general, the Applicant's CPTED assessment is unconvincing. Consideration of the Surveillance principle outlines what is required, rather than how the design achieves the principle. Access Control and Territorial Reinforcement provide slightly more substance, discussing the clear pedestrian and vehicular access paths from Arthur Street, signage (but not where this signage will be or what it will say) and access security measures. However, no references are provided to the plans or specific design features and diagrams are not used.

Notwithstanding the lacklustre CPTED assessment, the development is an extension of the existing outcome and is not in close proximity to the public domain. The wider industrial area reads as a private space that discourages any informal and anti-social congregation.

The extension does have the potential to reduce passive surveillance, with the existing car park allowing for more passive surveillance of the area along the northern boundary than what will be achieved with a 13m+ wall along the boundary. The extension northwards only adds to an existing rat run along the western edge of the building, however this space currently is, and will continue to be, a concealed space.

To address this, a condition of consent will require a lighting plan to be submitted to Council prior to issue of the construction certificate. Details of the lighting plan, once approved by Council, will need to be included on the Architectural Drawings submitted with the Construction Certificate.

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

The site of the warehouse extension is considered suitable. The land is not required for parking and presents an opportunity to expand an existing floor plate in a well serviced industrial precinct.

The design allows for pedestrian and vehicle legibility to be maintained and the height of building exceedance will not result in any bulk and scale impacts or overshadowing of high amenity areas.

Warehousing is anticipated by the zoning and the proposal retains the existing use.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment.





One (1) submission was received during the notification period. The submission was general in nature, raising concern for increased traffic congestion, air pollution, noise pollution, crime rates and decreases to property values.

The proposed development is not considered to be a unique expression of any of these issues. Traffic and parking has been addressed in detail, air pollution and property values are not an assessment consideration, acoustic impacts are anticipated to be consistent with current noise generation and crime rates (interpreted as potential for crime) have been covered in the CPTED assessment above.

**(e) *the public interest.***

The proposed development is of a scale and character that does not conflict with the public interest. The public interest is served through the consistent application of planning controls. The proposal is generally consistent with what is anticipated by the planning controls and can therefore be considered in the public interest.

**Local Infrastructure Contributions**

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. A consent authority may impose a condition under Section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

**Strathfield Direct Section 7.11 Contributions Plan**

Section 7.11 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contributions Plan 2010-2030 as follows:

Provision Roads and Traffic Management	\$185, 305.94
Provision of Local Open Space	\$48,340.68
Provision of Major Open Space	\$142,336.45
Provision of Community Facilities	\$0
Administration	\$2,685.59
TOTAL	\$378,668.67

**Conclusion**

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979, including the provisions of the SLEP 2012 and SCDCP 2005.

Following detailed assessment it is considered that DA 2023/156 should be approved, subject to conditions of consent.



**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**General Conditions**

<b>1</b>	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
<b>2</b>	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—             <ol style="list-style-type: none"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>c. stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be—             <ol style="list-style-type: none"> <li>a. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>b. removed when the work has been completed.</li> </ol> </li> <li>4. This section does not apply in relation to—</li> </ol>



	<ul style="list-style-type: none"> <li>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>																																																																																												
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3	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1"> <thead> <tr> <th colspan="5">Approved Plans</th> </tr> <tr> <th>Plan number</th> <th>Revision</th> <th>Plan title</th> <th>Author</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>DA-004</td> <td>9</td> <td>Lower Ground Floor Unit 7A</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-004.1</td> <td>2</td> <td>Lower Ground – Pump Room</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-005</td> <td>13</td> <td>Ground Floor Unit 7A</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-006</td> <td>13</td> <td>First Floor Unit 7A</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-007</td> <td>12</td> <td>Roof Plan Unit 7A</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-008</td> <td>12</td> <td>Elevations</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-009</td> <td>9</td> <td>Elevations</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-010</td> <td>12</td> <td>Sections</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA-011</td> <td>9</td> <td>Sections</td> <td>Pace Architects</td> <td>16.04.24</td> </tr> <tr> <td>DA800</td> <td>B</td> <td>Landscape Plan 1</td> <td>HD Landscape Architects</td> <td>17.04.24</td> </tr> <tr> <td>DA801</td> <td>B</td> <td>Landscape Plan 2</td> <td>HD Landscape Architects</td> <td>17.04.24</td> </tr> <tr> <td>DA850</td> <td>B</td> <td>Landscape Details</td> <td>HD Landscape Architects</td> <td>17.04.24</td> </tr> <tr> <td>SA01</td> <td>-</td> <td>OSD Specialist Access Concept</td> <td>Pace Architects</td> <td>06.12.23</td> </tr> <tr> <td>Civil Development Application Package</td> <td>C</td> <td>C06862.14 – DA100, DA200, DA250, DA400, DA450, DA451, DA452, DA500, DA550</td> <td>Costin Roe Consulting</td> <td>14.12.23</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Approved Documents</th> </tr> <tr> <th>Document title</th> <th>Version</th> <th>Author</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Approved Plans					Plan number	Revision	Plan title	Author	Date	DA-004	9	Lower Ground Floor Unit 7A	Pace Architects	16.04.24	DA-004.1	2	Lower Ground – Pump Room	Pace Architects	16.04.24	DA-005	13	Ground Floor Unit 7A	Pace Architects	16.04.24	DA-006	13	First Floor Unit 7A	Pace Architects	16.04.24	DA-007	12	Roof Plan Unit 7A	Pace Architects	16.04.24	DA-008	12	Elevations	Pace Architects	16.04.24	DA-009	9	Elevations	Pace Architects	16.04.24	DA-010	12	Sections	Pace Architects	16.04.24	DA-011	9	Sections	Pace Architects	16.04.24	DA800	B	Landscape Plan 1	HD Landscape Architects	17.04.24	DA801	B	Landscape Plan 2	HD Landscape Architects	17.04.24	DA850	B	Landscape Details	HD Landscape Architects	17.04.24	SA01	-	OSD Specialist Access Concept	Pace Architects	06.12.23	Civil Development Application Package	C	C06862.14 – DA100, DA200, DA250, DA400, DA450, DA451, DA452, DA500, DA550	Costin Roe Consulting	14.12.23	Approved Documents				Document title	Version	Author	Date				
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Traffic and Parking Assessment	A	McLaren Traffic Engineering & Road Safety Consultants	13.12.23														
Operational Management Plan	-	-	28.11.23														
Construction WMP	1.1	Lid Consulting	15.12.23														
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Arboricultural Impact Assessment	-	Naturally Trees	21.11.23														
<p>In the event of any inconsistency between the approved plans and documents, the approved <b>Plans</b> prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>																	
4	<p><b>Infrastructure Development Contributions</b></p> <p>Council has identified that the development will be subject to the imposition of Development Contributions. In accordance with Council's relevant Contributions Plan, the following monetary contributions are required.</p> <table border="1"> <thead> <tr> <th colspan="2">DEVELOPMENT CONTRIBUTIONS</th> </tr> </thead> <tbody> <tr> <td>Strathfield Section 94 Development Contributions - Roads and Traffic Management</td> <td>\$185,305.94</td> </tr> <tr> <td>Strathfield Section 94 Development Contributions – Local Open Space</td> <td>\$48,340.68</td> </tr> <tr> <td>Strathfield Section 94 Development Contributions – Major Open Space</td> <td>\$142,336.45</td> </tr> <tr> <td>Strathfield Section 94 Development Contributions – Community Facilities</td> <td>\$0</td> </tr> <tr> <td>Strathfield Section 94 Development Contributions - Administration</td> <td>\$2,685.59</td> </tr> <tr> <td><b>TOTAL CONTRIBUTIONS</b></td> <td><b>\$378,668.67</b></td> </tr> </tbody> </table> <p><u>Indexation</u></p> <p>The above contributions will be indexed at the time of payment to reflect inflation, in accordance with the indices provided by the relevant Development Contributions Plan. Indexation will be based on the CPI of <b>137.7</b> used to calculate the above contribution amount.</p> <p>Please contact council prior to the payment of s7.11 Contributions to confirm the indexed contribution payable and the form of payment that will be accepted by Council.</p> <p><u>Timing of Payment</u></p> <p>The contribution must be paid and receipted by Council</p>			DEVELOPMENT CONTRIBUTIONS		Strathfield Section 94 Development Contributions - Roads and Traffic Management	\$185,305.94	Strathfield Section 94 Development Contributions – Local Open Space	\$48,340.68	Strathfield Section 94 Development Contributions – Major Open Space	\$142,336.45	Strathfield Section 94 Development Contributions – Community Facilities	\$0	Strathfield Section 94 Development Contributions - Administration	\$2,685.59	<b>TOTAL CONTRIBUTIONS</b>	<b>\$378,668.67</b>
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	<p>[prior to the issue of the Construction Certificate OR prior to the consent being acted upon].</p> <p>A copy of the current Development Contributions Plans may be viewed on Council's website <a href="http://www.strathfield.nsw.gov.au">www.strathfield.nsw.gov.au</a>.</p> <p><b>Condition reason:</b> To enable the provision of public amenities and services required and anticipated as a consequence of increased demand resulting from the development.</p>
5	<p><b>Road Opening Permit</b></p> <p>A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from TFNSW in the case of State roads, for every opening of a public reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of works in the road.</p> <p><b>Condition reason:</b> To protect Council roads and footpaths and to ensure any works are to the relevant standards.</p>
6	<p><b>Section 138 Roads Act 1993 &amp; Section 68 Local Government Act 1993</b></p> <p>Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.</p> <p>Separate approval is required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.</p> <p>An application is required to be lodged and approved prior to the commencement of any of the following works or activities.</p> <ol style="list-style-type: none"> <li>1. If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.</li> <li>2. Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;</li> <li>3. Establishing a "works zone";</li> <li>4. Placing or storing materials or equipment;</li> <li>5. Placing or storing waste containers or skip bins;</li> <li>6. Stormwater &amp; ancillary to public infrastructure on private land</li> <li>7. Erecting a structure or carrying out work</li> </ol> <p>Separate activity approvals for (1)-(7) must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.</p> <ol style="list-style-type: none"> <li>1. Pumping water from the site into the public road;</li> <li>2. Constructing a vehicular crossing or footpath;</li> <li>3. Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);</li> <li>4. Stormwater &amp; ancillary works in the road reserve; and</li> <li>5. Pumping concrete from a public road;</li> </ol> <p>Separate activity approvals for (1)-(5) must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.</p> <p>The relevant Application Forms for these activities can be downloaded from Council's website</p>





	<p>www.strathfield.nsw.gov.au</p> <p>For further information, please contact Council's Customer Service Centre on (02) 9748 9999.</p> <p><b>Condition reason:</b> To ensure the protection of existing public infrastructure and adjoining properties.</p>
7	<p><b>Vehicular Crossing - Major Development</b></p> <p>The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:</p> <ol style="list-style-type: none"> <li>1. Changes to the crossover, kerb and gutter and verge on Arthur Street.</li> </ol> <p>Constructing a vehicular crossing and footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the commencement of those works. This approval must be obtained from Council by completing and submitting a works permit application.</p> <p>Approval for civil works will contain the approved works plans and specifications required to construct the crossing and footpath. These works must be completed prior to the issue of an Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate access to the site can be achieved</p>

**Before issue of a construction certificate**

8	<p><b>Construction Site Management Plan</b></p> <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to <b>the certifier</b>. The plan must include the following matters:</p> <ol style="list-style-type: none"> <li>a. The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>b. Provisions for public safety;</li> <li>c. Pedestrian and vehicular site access points and construction activity zones;</li> <li>d. Details of construction traffic management including: <ol style="list-style-type: none"> <li>i. Proposed truck movements to and from the site;</li> <li>ii. Estimated frequency of truck movements; and</li> <li>iii. Measures to ensure pedestrian safety near the site;</li> </ol> </li> <li>e. Details of bulk earthworks to be carried out;</li> <li>f. The location of site storage areas and sheds;</li> <li>g. The equipment used to carry out works;</li> <li>h. The location of a garbage container with a tight-fitting lid;</li> <li>i. Dust, noise and vibration control measures;</li> <li>j. The location of temporary toilets;</li> <li>k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ol style="list-style-type: none"> <li>i. AS 4970 – Protection of trees on development sites;</li> <li>ii. An applicable Development Control Plan;</li> <li>iii. An arborist's report approved as part of this consent</li> </ol> </li> </ol> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p>
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	<p><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
9	<p><b>Design amendments</b></p> <p>Before the issue of a construction certificate, a lighting plan must be submitted to Council demonstrating how the warehouse extension manages all areas along the building facade and undercroft areas during nighttime hours.</p> <p><b>Condition reason:</b> To require minor amendments to the plans endorsed by the consent authority following assessment of the development.</p>
10	<p><b>Erosion and sediment control plan</b></p> <p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier:</p> <ol style="list-style-type: none"> <li>1. Council's relevant development control plan,</li> <li>2. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li> <li>3. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).</li> </ol> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
11	<p><b>Long Service Levy</b></p> <p>Before the issue of a Construction Certificate, the long service levy of \$11,737, as calculated at the date of this consent, must be paid to the Long Service Corporation under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to <b>the certifier</b>.</p> <p><b>Condition reason:</b> To ensure the long service levy is paid.</p>
12	<p><b>Payment of security deposits</b></p> <p>Before the issue of a Construction Certificate, the applicant must:</p> <ol style="list-style-type: none"> <li>a. make payment of \$25,200 for a security deposit and \$137 for administration to the consent authority; and</li> <li>b. if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.</li> </ol> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
13	<p><b>Commercial and Industrial Waste</b></p> <p>Appropriate waste and recycling containers and facilities must be provided according to the approved Waste Management Plan for all specific end use businesses in accordance with the waste generation rates provided at Part H of Strathfield Council DCP 2005 – Appendix B.</p> <p>The WMP must also provide written evidence of valid contracts for the regular collection and disposal of waste and recyclables generated on the site. The private waste contractor must confirm the frequency of the waste collections (general waste, recycling and bulky goods), and that the size and location of the storage room is suitable for the frequency of the waste collections.</p>



	<p>The collection of commercial and industrial waste and recycling must only occur between 6.00am and 8.00pm weekdays and 9.00am and 5.00pm on weekends and public holidays, to avoid noise disruption to the surrounding area. All garbage and recyclable matter must be enclosed in the waste bins with lids completely closed at all times.</p> <p>Waste education must be provided through signs in common areas indicating how to avoid, reduce, reuse and recycle waste.</p> <p><b>Condition reason:</b> To ensure the appropriate management of waste through the separation of commercial and residential waste.</p>
14	<p><b>Construction Traffic Management Plan</b></p> <p>A Construction Traffic Management Plan detailing:</p> <ol style="list-style-type: none"> <li>1. Construction vehicle routes;</li> <li>2. Anticipated number of trucks per day;</li> <li>3. Hours of construction;</li> <li>4. Access arrangements; and</li> <li>5. Proposed traffic measures to minimise impacts of construction vehicles</li> </ol> <p>Must be submitted to Council for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.</p> <p><b>Condition reason:</b> To mitigate traffic impacts on the surrounding area during the construction period.</p>
15	<p><b>Detailed Stormwater Design</b></p> <p>The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) in accordance with Council's Stormwater Management Code must be submitted to and approved by the Principal Certifier with the Construction Certificate Application.</p> <p>Where elements of the existing drainage system are to be utilised, the existing drainage system shall be overhauled and maintained clear of silt and accumulated debris. Silt and the like must be removed, not flushed from the system.</p> <p>A certificate must be provided by a suitably qualified person (a registered plumber or a person of equivalent or greater experience or qualifications) to the satisfaction of the Principal Certifying Authority, prior to the issue of any Occupation Certificate to confirm that the system is in good working order and adequate to accept additional flows having regard to any relevant standards and/or Sydney Water requirements.</p> <p><b>Condition reason:</b> To ensure the site is drained appropriately and does not interfere with the natural flow of flood waters.</p>
16	<p><b>Dial Before Your Dig</b></p> <p>The applicant must contact <a href="#">Home   Before You Dig Australia (BYDA)</a> to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" must be forwarded to Council's Engineers for their records.</p> <p><b>Condition reason:</b> To ensure the protection of services and utility.</p>
17	<p><b>Enclosure of Fire Hydrant</b></p>



	<p>Prior to the issue of a Construction Certificate for works above the ground or podium slab level, the Principal Certifier must be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in a manner that is in a recessive colour and material which complements the building and is in accordance with the requirements of EP1.3 &amp; EP1.4 of the BCA.</p> <p><b>Condition reason:</b> To ensure essential services are appropriately screened and do not impact on streetscape.</p>
18	<p><b>Fire Safety Measures</b></p> <p>A list of the existing and proposed essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which must be submitted to the Principal Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list.</p> <p><b>Condition reason:</b> Fire safety and statutory requirements.</p>
19	<p><b>Geotechnical Report</b></p> <p>The applicant must submit a Geotechnical Report, prepared by a suitably qualified professional engineer specialising in geotechnical engineering. The Geotechnical Report must address dilapidation reports, all site works and construction. This is to be submitted to the Principal Certifier and Council (where Council is not the Certifier) before the issue of the Construction Certificate and must include:</p> <ol style="list-style-type: none"> <li>1. Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks, stabilization works and any excavations.</li> <li>2. Dilapidation Reports on the adjoining properties including, but not limited to [address] and [address] prior to any excavation of site works. The Dilapidation Report must include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Principal Certifier and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents must be provided with the report five (5) working days prior to any works on the site.</li> <li>3. On-site guidance by a vibration specialist during the early part of excavation.</li> <li>4. Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report must detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.</li> <li>5. Sides of the excavation must be piers prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.</li> </ol> <p><b>Condition reason:</b> To ensure structural safety and integrity of adjoining properties.</p>
20	<p><b>Industrial Premises – Wet Areas and Trade Waste Systems</b></p> <p>Details and specification of wet areas must be submitted to the Principal Certifier for approval with the Construction Certificate application.</p> <p>All wet-rubbing, engine degreasing or vehicle washing is to be conducted in a vehicle wash bay connected to the sewer. This area is to be bunded to prevent wastewater entering the stormwater system.</p>



	<b>Condition reason:</b> To ensure suitable disposal of wastewater.
21	<p><b>Industrial Waste Material</b></p> <p>Industrial waste materials must not be discharged onto the site, neighbouring land or into any road, drain, pipeline or watercourse.</p> <p>Storage tanks, fuelling areas, product mixing, filling and preparation areas, and the like and wash bays provided for cleaning and maintenance of vehicles, machinery, equipment and the like, must be bunded and all waste water collected and discharged to the sewer in accordance with the requirements of Sydney Water and the EPA.</p> <p>Documentary evidence of compliance with the Sydney Water's requirements must be submitted to the Principal Certifier, prior to use or occupation of the building. Vehicles, machinery, equipment or the like, must not be washed or steam cleaned or the like, except in areas provided especially for the purpose in accordance with this condition.</p> <p>Where the approval of Sydney Water, in accordance with the requirements of this condition, is not forthcoming, an alternative method of treatment and removal of wastes must be installed and implemented to the satisfaction the Principal Certifier.</p> <p><b>Condition reason:</b> To ensure appropriate management of waste.</p>
22	<p><b>Landscape Plans</b></p> <p>All landscape works must be carried out in accordance with the approved landscape plans.</p> <p><b>Condition reason:</b> To ensure provision and maintenance of quality landscaping.</p>
23	<p><b>Off Street Parking – Compliance with AS2890</b></p> <p>All driveways, access ramps, vehicular crossings and car parking spaces must be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities), AS 2890.6 (parking for people with disabilities) and AS 2890.2 (for commercial vehicle facilities).</p> <p><b>Condition reason:</b> To ensure adequate vehicular access can be achieved and complies with relevant standards.</p>
24	<p><b>Tree Removal/Pruning Prohibited</b></p> <p>The removal or pruning (branches or roots) of any trees on the subject property (excluding those approved for removal in these conditions or species on Council's exempt species list), Council's public footway, public reserves or on neighbouring properties must not be undertaken other than in accordance with the express provisions of this consent.</p> <p><b>Condition reason:</b> To ensure tree preservation and environmental amenity.</p>
25	<p><b>Tree Removal &amp; Replacement</b></p> <p>No Permission is granted for the removal of any other trees on site.</p> <p><b>Condition reason:</b> To maintain adequate tree canopy and preservation of environmental amenity.</p>
26	<p><b>Water Sustainability – Water Sensitive Urban Design</b></p> <p>Details of the Water Sensitive Urban Design (WSUD) components (stormwater treatment measures) must be submitted to and approved by the Principal Certifier prior to the issue of a Construction Certificate. Details must demonstrate compliance with the water conservation and stormwater quality targets set out under Sections 3.1 and 3.2 respectively under Part N of the SDCDP 2005 and be prepared by a suitably qualified professional engineer.</p> <p><b>Condition reason:</b> To promote Water Sensitive Urban Design.</p>





27	<p><b>Stormwater System</b></p> <p>The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system in accordance with Council's Stormwater Management Code and AS/NZS 3500.3: 2015 (as amended), prepared by a suitably qualified professional engineer specialising in hydraulic engineering, must be submitted for approval to the Principal Certifier with the Construction Certificate.</p> <p><b>Condition reason:</b> To ensure stormwater drainage system is adequately designed.</p>
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**Before building work commences**

28	<p><b>Erosion and sediment controls in place</b></p> <p>Before any site work commences, <b>the principal certifier</b>, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
29	<p><b>Tree protection measures</b></p> <p>Before any site work commences, <b>the principal certifier</b> must be satisfied the measures for tree protection detailed in the construction site management plan are in place.</p> <p><b>Condition reason:</b> To protect and retain trees.</p>
30	<p><b>Demolition &amp; Asbestos</b></p> <p>The demolition work must comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW <a href="#">Work Health &amp; Safety Act 2011</a> and the NSW <a href="#">Work Health &amp; Safety Regulation 2011</a>. The work plans required by AS2601:2001 must be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement must be submitted to the Principal Certifier prior to the commencement of works.</p> <p>For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW <a href="#">Work Health &amp; Safety Act 2011</a> and the NSW <a href="#">Work Health &amp; Safety Regulation 2011</a> unless specified in the Act or Regulation that a license is not required.</p> <p>All demolition work including the removal of asbestos, must be undertaken in accordance with the <a href="#">Demolition Code of Practice</a> (NSW Work Cover July 2015)</p> <p><b>Condition reason:</b> Safety, amenity and protection of public infrastructure and the environment</p>
31	<p><b>Demolition Notification Requirements</b></p> <p>The following notification requirements apply to this consent:</p> <ol style="list-style-type: none"> <li>1. The builder must notify adjoining residents five (5) working days prior to demolition. Such notification will be a clearly written note giving the date demolition will commence, contact details of the builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification must be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.</li> </ol>



	<ol style="list-style-type: none"> <li>2. Five (5) working days prior to demolition, the builder must provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.</li> <li>3. On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm must be erected in a prominent visible position (from street frontage) on the site. The sign must be erected prior to demolition work commencing and will remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.</li> </ol>
	<p><b>Condition reason:</b> 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.</p>
32	<p><b>Demolition Work Involving Asbestos Removal</b></p> <p>Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the <u>Work Health and Safety Regulation 2011</u>.</p> <p><b>Condition reason:</b> To ensure safety, amenity and protection of public infrastructure and the environment.</p>
33	<p><b>Dust Control</b></p> <p>Where a dust nuisance is likely to occur, suitable screens and barricades must be erected during the demolition, excavation and building works. Water sprays must be used on the site to reduce the emission of dust. Screening must consist of a minimum 2 metres height of shade cloth or similar material secured to a chain wire fence or the like and must be modified as required should it fail to adequately control any dust nuisance.</p> <p><b>Major Works</b></p> <p>The following measures must be implemented to control the emission of dust:</p> <ol style="list-style-type: none"> <li>1. Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.</li> <li>2. All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.</li> <li>3. All stockpiles of materials that are likely to generate dust must be kept damp or covered.</li> <li>4. All stockpiles of soil or other materials must be placed away from drainage lines, gutters or stormwater pits or inlets.</li> <li>5. All stockpiles of soil or other materials likely to generate dust or odours must be covered.</li> <li>6. All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours.</li> </ol> <p><b>Condition reason:</b> To protect environmental amenity.</p>

**During building work**



34	<p><b>Implementation of the site management plans</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times; and</li> <li>2. a copy of these plans must be kept on site at all times and made available to Council officers upon request.</li> </ol> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p>
35	<p><b>Procedure for critical stage inspections</b></p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><b>Condition reason:</b> To require approval to proceed with building work following each critical stage inspection.</p>
36	<p><b>Tree protection during work</b></p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> <li>1. the construction site management plan approved under this consent;</li> <li>2. the relevant requirements of AS 4970 Protection of trees on development sites;</li> <li>3. Council's relevant development control plan (in force as at the date of determination of this consent); and</li> <li>4. any arborist's report approved under this consent.</li> </ol> <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p><b>Condition reason:</b> To protect trees during the carrying out of site work.</p>
37	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>2. upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier, detailing the following:             <ol style="list-style-type: none"> <li>a. The contact details of the person(s) who removed the waste;</li> <li>b. The waste carrier vehicle registration;</li> <li>c. The date and time of waste collection;</li> <li>d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill;</li> <li>e. The address of the disposal location(s) where the waste was taken;</li> <li>f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.</li> </ol> </li> </ol> <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p>



	<b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.
38	<p><b>Connection to the Network</b></p> <p>Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council before the commencement of any work.</p> <p><b>Condition reason:</b> To protect Council assets.</p>
39	<p><b>Construction Management Plan</b></p> <p>The builder must ensure that the approved Construction Traffic Management Plan is to be strictly complied with and kept on site at all times during construction works.</p> <p><b>Condition reason:</b> To provide safe access to and from the site and protection of public infrastructure and the environment.</p>
40	<p><b>Cost of Work to be Borne by the Applicant</b></p> <p>The applicant must pay the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc, and where plant and vehicles enter the site, the footway must be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction must be maintained in a state of good repair and condition throughout the course of construction.</p> <p><b>Condition reason:</b> To protect Council's roads, reserves and public infrastructure.</p>
41	<p><b>Ground Levels and Retaining Walls</b></p> <p>The ground levels of the site must not be excavated, raised or filled and retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.</p> <p><b>Condition reason:</b> To maintain existing ground levels and protect existing overland flow.</p>
42	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times-</p> <p>For building construction and delivery of machinery and materials from 7:00am to 5:00pm on Monday to Saturday (excluding Public Holidays)</p> <p>For demolition, excavation and/or construction works that involve heavy machinery, noisy trades, or the like from 7:00am to 5:00pm on Monday to Friday (excluding Public Holidays)</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area during construction.</p>
43	<p><b>Obstruction of Road or Footpath</b></p> <p>The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the <a href="#">Roads Act 1993</a> and under Section 68 of the <a href="#">Local Government Act 1993</a>. Penalty infringement Notices may be issued for any offences and severe penalties apply.</p> <p><b>Condition reason:</b> To maintain public safety.</p>

**Before issue of an occupation certificate**



44	<p><b>Completion of landscape and tree works</b></p> <p>Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p><b>Condition reason:</b> To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
45	<p><b>Pedestrian safety signage</b></p> <p>Before the issue of an occupation certificate, ensure an appropriate sign(s) is provided and maintained within the site to advise all vehicles to be aware of pedestrians within the shared driveway.</p> <p><b>Condition reason:</b> To make drivers aware of pedestrians and to ensure the safety of pedestrians using the shared driveway</p>
46	<p><b>Completion of Landscape Works and Tree Works</b></p> <p>At the completion of all works and prior to the issue of any occupation certificate, a certificate is to be submitted to the Principal Certifier from a suitably qualified Landscape or Arboricultural Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established.</p> <p><b>Condition reason:</b> To ensure compliance with the minimum landscape area requirements.</p>
47	<p><b>Maintenance Schedule – On-site Stormwater Management</b></p> <p>A Maintenance Schedule for the proposed on-site stormwater management measures must be prepared by a suitably qualified professional hydraulic engineer and submitted to Council. The Maintenance Schedule must outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.</p> <p><b>Condition reason:</b> To ensure the approved stormwater disposal system is maintained at its designed capacity.</p>
48	<p><b>Restriction to User and Positive Covenant for Stormwater Management System</b></p> <p>Prior to the issue of any Occupation Certificate, the applicant must register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (<b>on-site detention, pump-out, charged lines, water sensitive urban design, surface flow path, finished pavement and ground levels etc.</b>).</p> <p>Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant must register an easement no less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.</p> <p>The wording on the 88E and or 88B Instrument is to make reference to the Council file where the Construction plans and the Work As Executed (as built), plans are held. Typical wording can be obtained from Council's Specification for the Management of Stormwater document.</p> <p><b>Condition reason:</b> To ensure the approved stormwater disposal system is maintained to an appropriate operational standard.</p>





49	<p><b>Stormwater Certification of the Constructed Drainage Works (Minor)</b></p> <p>The constructed stormwater system must be certified by a suitably qualified person, in accordance with Council's Stormwater Management Code, prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.</p>
50	<p><b>Vehicular Crossing – Minor Development</b></p> <p>The vehicular crossing and footpath works must be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Engineering Design Services and in accordance with Council's Driveway Specifications.</p> <p>Any existing vehicular crossing and laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas must be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.</p> <p>The work must be completed before the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate access to the site is achieved.</p>
51	<p><b>Works as Executed and Certification of Stormwater Works</b></p> <p>Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed plans submitted to Council detailing:</p> <ul style="list-style-type: none"> <li>(a) Compliance with conditions of development consent relating to stormwater.</li> <li>(b) The structural adequacy of the On-Site Detention System (OSD).</li> <li>(c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations.</li> <li>(d) Pipe invert levels and surface levels to Australian Height Datum.</li> <li>(e) Contours indicating the direction in which water will flow overland should the capacity of the pit be exceeded in a storm event exceeding design limit.</li> </ul> <p>Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.</p>

**Occupation and ongoing use**

52	<p><b>Annual Fire Safety Statement</b></p> <p>The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:</p> <ol style="list-style-type: none"> <li>1. Within 12 months after the date on which the fire safety certificate was received.</li> </ol>
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	<ol style="list-style-type: none"> <li>2. Subsequent annual fire safety statements must be given within 12 months after the last such statement was given.</li> <li>3. An annual fire safety statement must be given in or to the effect of Clause 92 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 - NSW Legislation.</li> <li>4. A copy of the statement must be given to the Commissioner of Fire &amp; Rescue NSW, and a further copy is to be prominently displayed in the building.</li> </ol>
	<b>Condition reason:</b> Fire safety and statutory requirements.
53	<p><b>Bundling, Liquids (chemical, paint solvent)</b></p> <p>All liquids onsite are to be stored within a bunded area. The size of the bunded area must be calculated as follows (as a minimum):</p> <ol style="list-style-type: none"> <li>1. in the case of tanks, 110% of the volume of the largest sized tank.</li> <li>2. In the case of small containers and drums, 25% of the total volume of liquid to be stored, with a minimum of 400L capacity.</li> </ol> <p>The bund is to be roofed and constructed of a material, which is impervious to the liquid being stored. After completion, the bund must be maintained in such a condition, that all spillages or leaks will be retained within the bund, until disposed of by means that do not pollute waters.</p>
	<b>Condition reason:</b> To ensure adequate safety measures are in place.
54	<p><b>Bundling Work Areas</b></p> <p>All work areas where spillage is likely to occur must be bunded. This is to be done by way of speed humps, grading the floor area or by any other appropriate means, to prevent contaminated water entering the stormwater system. The bunded area is then to be drained to a sump for collection and appropriate disposal of the liquid.</p>
	<b>Condition reason:</b> To ensure adequate safety measures are in place.
55	<p><b>Emergency Spill Response Management Plan</b></p> <p>An Emergency Spill Response Management Plan must be prepared and submitted to Council within three months of the issuing of the Occupation Certificate. The plan must include the following:</p> <ol style="list-style-type: none"> <li>1. list of chemicals and maximum quantities to be stored at the site;</li> <li>2. identification of potentially hazardous situations;</li> <li>3. procedure for incident reporting;</li> <li>4. details of spill stations and signage;</li> <li>5. containment and clean-up facilities and procedures; and</li> <li>6. the roles of all staff in the Plan and details of staff training.</li> </ol>
	<b>Condition reason:</b> To ensure adequate safety measures are in place.
56	<p><b>Entering and Exiting of Vehicles</b></p> <p>All vehicles must enter and exit the premises in a forward direction.</p>
	<b>Condition reason:</b> Safety and traffic management.
57	<p><b>Industrial Premises – Prohibition of Certain Works</b></p> <p>The following must not be carried out on the premises without the prior consent of Council:</p> <ol style="list-style-type: none"> <li>1. Panel beating external to the building</li> </ol>



	<p>2. Wrecking or dismantling of vehicles                  3. Wrecking external to building                  4. Cooling and heating systems or radiator cleaning involving the use of corrosive liquids must not be carried out on the premises without the prior consent of Council.</p> <p><b>Condition reason:</b> Compliance with the approved used and protection of the amenity of surrounding premises.</p>
58	<p><b>Industrial Premises – Prohibition of Spray Painting</b></p> <p>Spray painting must not be carried out on the premises without prior consent of Council.</p> <p><b>Condition reason:</b> Compliance and environmental protection.</p>
59	<p><b>Industrial Premises – Spill Clean Up</b></p> <p>Sufficient supplies of appropriate absorbent materials must be kept on site to recover any liquid spillage. Liquid spills must be cleaned up using dry methods, by placing absorbent material on the spill, and sweeping or shovelling the material into a secure bin. Absorbent materials used to clean up spills must be disposed of to an appropriately licensed waste facility.</p> <p><b>Condition reason:</b> To ensure adequate safety measures are in place.</p>
60	<p><b>Industrial Premises – Storage of Waste Oil</b></p> <p>Waste oil must be stored in covered and bunded area prior to offsite recycling/disposal. Copies of receipts for the recycling of oil must be kept onsite and made available to Council officers on request.</p> <p><b>Condition reason:</b> Compliance and environmental protection.</p>
61	<p><b>Loading &amp; Unloading of Vehicles</b></p> <p>All loading and unloading of vehicles in relation to the use of the premises must take place wholly within a dedicated loading dock area.</p> <p><b>Condition reason:</b> Compliance and mitigate traffic impacts on the surrounding area.</p>
62	<p><b>Maintenance of Landscaping</b></p> <p>All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or drying plants and any other operations required to maintain healthy trees, plants and turfed areas.</p> <p><b>Condition reason:</b> To ensure the amenity of landscaping is maintained.</p>
63	<p><b>Maximum Vehicle Size</b></p> <p>Small Rigid Vehicle                  The maximum size of truck using the proposed development must be limited to Small Rigid Vehicle as denoted in AS2890.2-2018: Parking Facilities – Off-street commercial vehicle facilities.</p> <p>Medium Rigid Vehicle                  The maximum size of truck using the proposed development must be limited to Medium Rigid Vehicle as denoted in AS2890.2-2018: Parking Facilities – Off-street commercial vehicle facilities.</p> <p>High Rigid Vehicle                  The maximum size of truck using the proposed development must be limited to Heavy Rigid Vehicle as denoted in AS2890.2-2018: Parking Facilities – Off-street commercial vehicle facilities.</p>



	<p>Articulated Vehicle The maximum size of truck using the proposed development must be limited to Articulated Vehicle as denoted in AS2890.2-2018: Parking Facilities – Off-street commercial vehicle facilities.</p> <p><b>Condition reason:</b> Safety and traffic management.</p>
64	<p><b>Storage and Handling of Flammable and Combustible Liquids</b></p> <p>The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 – <i>The storage and handling of flammable and combustible liquids</i> (as amended).</p> <p><b>Condition reason:</b> To ensure adequate safety measures are in place.</p>

### General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

TO: Strathfield Local Planning Panel Meeting - 11 July 2024  
 REPORT: SLPP – Report No. 12  
 SUBJECT: DA2023.149 - 98 BERESFORD ROAD, STRATHFIELD  
 DA NO. DA2023.149

**SUMMARY**

Proposal:	Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures and construction of two storey dwelling with basement, front fence and in ground swimming pool at rear.
Applicant:	A Nemra
Owner:	AR Shamsin
Date of lodgement:	7 May 2024
Notification period:	14 May 2024 – 28 May 2024
Submissions received:	Nil
Assessment officer:	J W Brown
Estimated cost of works:	\$1,848,683
Zoning:	R2 Low Density Residential- SLEP 2012
Heritage:	N/A
Flood affected:	Yes
Is a Clause 4.6 variation proposed?	N/A
Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	<b>APPROVAL</b>

**EXECUTIVE SUMMARY**

Proposal

Development consent is being sought for the Section 8.2 Application to review the previous determination to refuse the development for the demolition of existing structures and construction of a two-storey dwelling with basement, front fence and in ground swimming pool at rear.

Site and Locality

The site is identified as 98 Beresford Road STRATHFIELD and has a legal description of Lot: 1 DP: 798285. The site is a regular shaped parcel of land and is located on the southern side Beresford Road. The site has a width of 15.2m, a depth of 47.5m and an overall site area of 720.8m<sup>2</sup>.

The locality surrounding the subject site primarily contains residential development of one and two storeys.

Strathfield Local Environmental Plan (SLEP) 2012



The site is zoned R2-Low Density Residential under the provisions of SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives and development standards contained within the SLEP 2012.

Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development generally satisfies the provisions of SCDCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 14 May 2024 to 28 May 2024, where no submissions were received.

Issues

- Basement and front facade

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/149 is recommended for approval subject to suitable conditions of consent.

## RECOMMENDATION

That Development Application No. DA2023/149 for the demolition of existing structures and construction of two storey dwelling with basement, front fence and in ground swimming pool at rear at 98 Beresford Road, Strathfield be **APPROVED** subject to the following for the following reasons:

### Reasons for approval

1. The development facilitates the orderly economic development of the land.
2. The proposed dwelling provides good design quality and is considered suitable for the subject site.
3. There are no unreasonable environmental impacts.
4. The application is considered in the public interest.
5. The proposal was assessed against each of the mandatory relevant considerations of Section 4.15 of the EP&A Act 1979 in the assessment report, and found to be acceptable.

### ATTACHMENTS

1. [DA2023.149 - 98 Beresford Road STRATHFIELD - SLPP Report \(PDF\)](#)



## SLPP REPORT

<b>Property:</b>	98 Beresford Road STRATHFIELD DA 2023/149
<b>Proposal:</b>	Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures and construction of two storey dwelling with basement, front fence and in ground swimming pool at rear.
<b>Applicant:</b>	A Nemra
<b>Owner:</b>	AR Shamsin
<b>Date of lodgement:</b>	7 May 2024
<b>Notification period:</b>	14 May 2024 – 28 May 2024
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	J W Brown
<b>Estimated cost of works:</b>	\$1,848,683.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	Yes
<b>Is a Clause 4.6 Variation Proposed:</b>	N/A
<b>Local Planning Panel Criteria</b>	Internal Delegations
<b>RECOMMENDATION OF OFFICER:</b>	Approval



**Figure 1:** Aerial view of the subject site (outlined in yellow)



## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the Section 8.2 Application to review the previous determination to refuse the development for the demolition of existing structures and construction of a two storey dwelling with basement, front fence and in ground swimming pool at rear.

### **Site and Locality**

The site is identified as 98 Beresford Road STRATHFIELD and has a legal description of Lot: 1 DP: 798285. The site is a regular shaped parcel of land and is located on the southern side Beresford Road. The site has a width of 15.2m, a depth of 47.5m and an overall site area of 720.8m<sup>2</sup>.

The locality surrounding the subject site primarily contains residential development of one and two storeys.

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

The site is zoned R2-Low Density Residential under the provisions of SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives and development standards contained within the SLEP 2012.

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

The proposed development generally satisfies the provisions of SCDCP 2005. This is discussed in more detail in the body of the report.

### **Notification**

The application was notified in accordance with Council's Community Participation Plan (CPP) from 14 May 2024 to 28 May 2024, where no submissions were received.

### **Issues**

- Basement and front facade

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/149 is recommended for approval subject to suitable conditions of consent.



**REPORT IN FULL**

**Proposal**

Council has received an application for the Section 8.2 Application to review the previous determination to refuse the development for the demolition of existing structures and construction of a two storey dwelling with basement, front fence and in ground swimming pool at rear. Specifically, the proposal includes:

**Basement level:**

- Two (2) car spaces and manoeuvring area
- Stairs to ground floor
- Lift to all levels

**Ground floor level:**

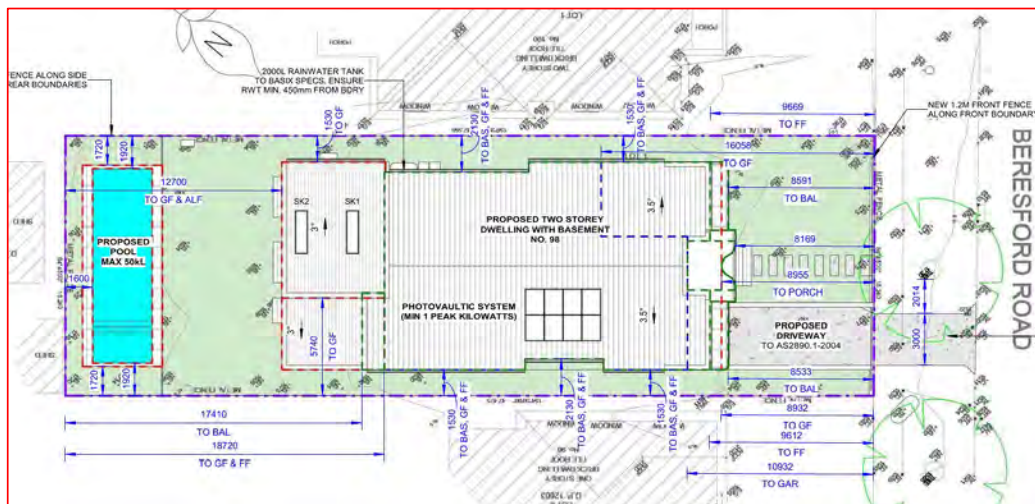
- Entry atrium with two (2) sets of stairs to first floor
- Formal Lounge room
- Guest Bedroom with ensuite
- Office
- Powder room
- Laundry
- Open plan kitchen, dining and living room
- Butler’s pantry

**First floor level:**

- Two (2) bedrooms with ensuite and balcony
- Rumpus
- One (1) bedroom with ensuite
- Master Bedroom with ensuite, walk-in-wardrobe and balcony

**External works:**

- Front porch
- Rear alfresco
- Swimming pool



**Figure 1: Refused Site Plan**







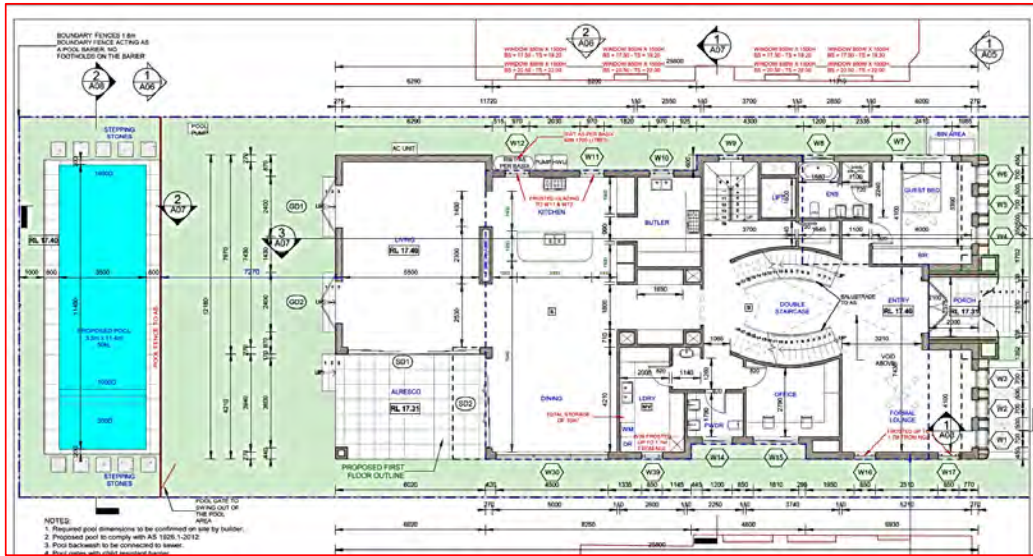


Figure 5: Refused Ground Floor Plan

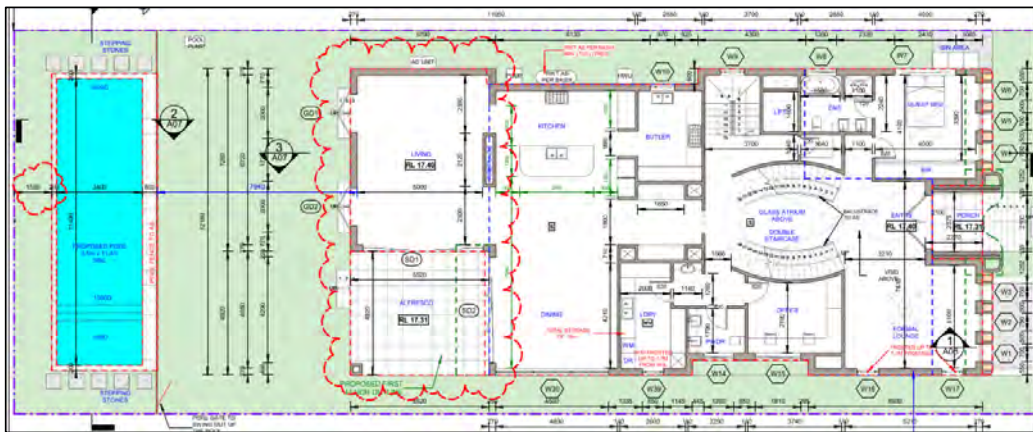


Figure 6: S8.2 Ground Floor Plan

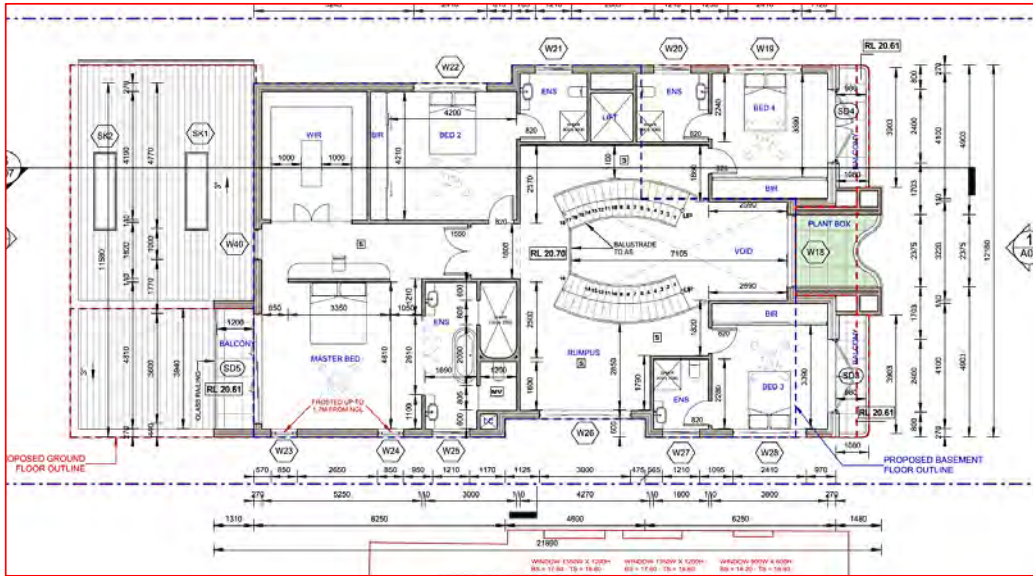


Figure 7: Refused First Floor Plan

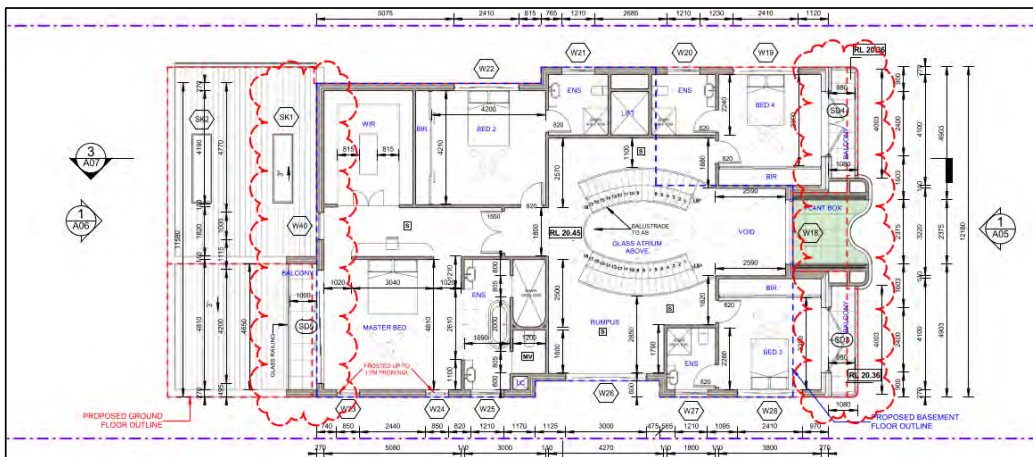


Figure 8: S8.2 First Floor Plan



Figure 9: Refused Northwest (Front) Elevation

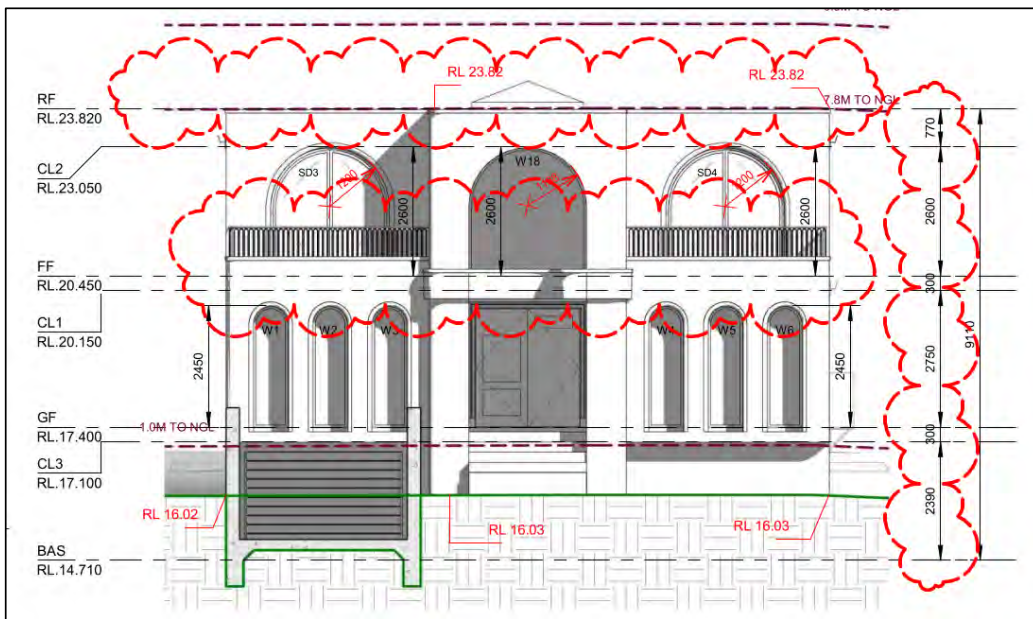


Figure 10: S8.2 Northwest (Front) Elevation



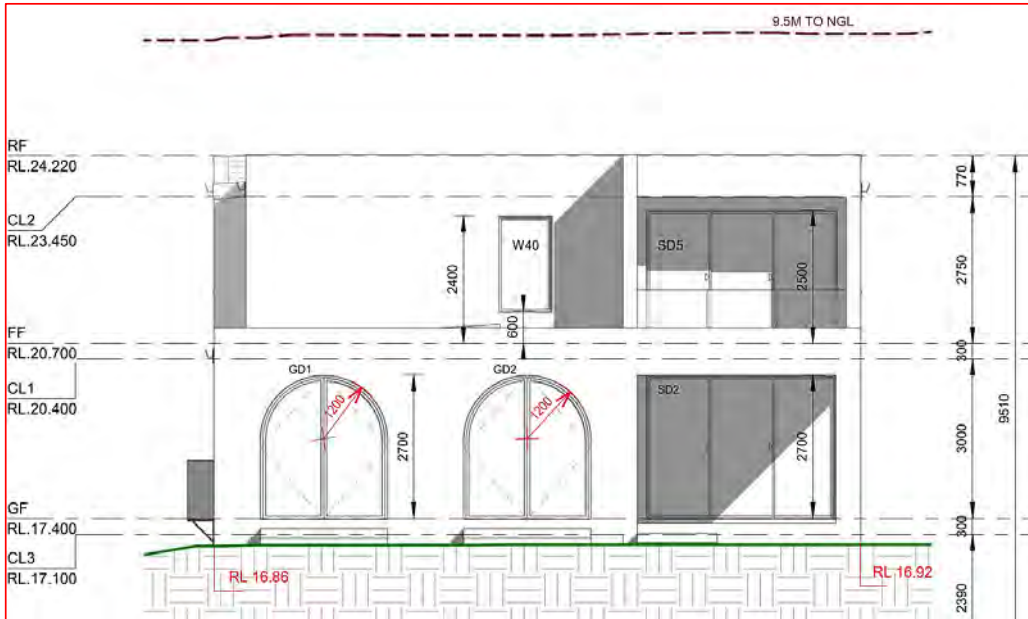


Figure 11: Refused Southeast (Rear) Elevation

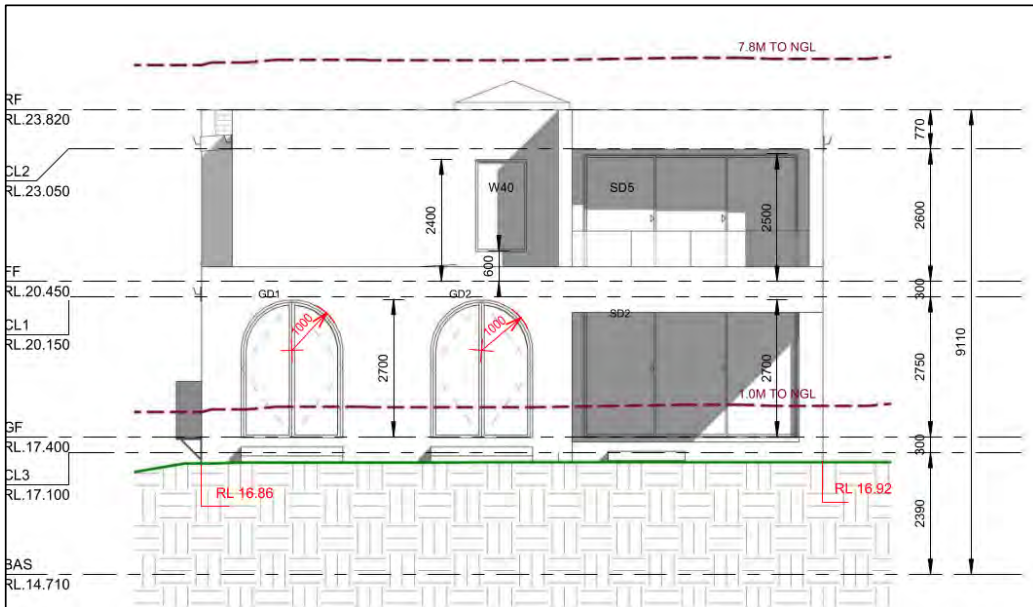


Figure 12: S8.2 Southeast (Rear) Elevation



Figure 13: Refused Northeast Elevation



Figure 14: S8.2 Northeast Elevation



Figure 15: Refused Southwest Elevation



Figure 16: S8.2 Southwest Elevation





### **The Site and Locality**

The subject site is legally described as Lot: 1 DP: 798285 and commonly known as 98 Beresford Road, Strathfield. It is located off the southern side of Beresford Road between Merley and Coventry Roads.

The site is rectangular in shape and has a frontage of 15.2m to the north west, a rear boundary of 15.2m, side boundary lengths of 47.5m, resulting in a total area of 720.8m<sup>2</sup>. The site slopes from the rear at RL 17.18 to the street frontage at RL 15.75.

The site is occupied by a detached single storey brick dwelling with a pitched tiled roof (see **Figure 17**). Vehicular access is provided to the site via a driveway along the north eastern boundary to a carport. There is a large street tree out front of subject site. The rear yard comprises of open lawn area.

Adjoining the subject site to the south west is 100 Beresford Road comprising of a detached two-storey dwelling with a pitched roof and an integrated garage (see **Figure 18**). Adjoining to the east is 96 Beresford Road which contains a single storey dwelling known as "Strathome". The dwelling has a pitched roof with attached garage and a small outbuilding in the rear (see **Figure 19**).

The locality surrounding the site primarily contains low density residential development of various architectural eras, designs and scales. Davey Square Reserve and Inveresk Park are on the opposite side of Beresford Road to the north and west respectively.



**Figure 17:** Existing Front façade of dwelling



**Figure 18:** 100 Beresford Road, as viewed from the street



**Figure 19:** 96 Beresford Road, as viewed from the street





**Figure 20:** Rear yard facing south



**Figure 21:** Rear yard facing the existing dwelling



## **Background**

**15 April 2024** DA2023/149 was refused by Strathfield Council for the following reasons:

### **1. Refusal Reason – Environmental Planning Instrument**

Pursuant to Section 4.15(1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) *The Proposal fails to satisfy the aims and objectives of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in non-rural areas due to the likely impact on the street tree (T1).*

**Comment:** The updated plans provide protection to street tree (T1) and thus the issue has been resolved.

- (b) *The proposal fails to meet the development standard of Clause 4.4C of the Strathfield Local Environmental Plan 2012, which provides the maximum floor space ratio for a building on a lot zoned R2 Low Density Residential. No Clause 4.6 Variation request is provided to justify the breach.*

**Comment:** The updated plans provide compliant floor space ratio. The breach mostly came from the extra storage room within the basement (which was calculated due to the basement considered another storey). This has been removed and therefore no area within the basement has been calculated for FSR due to it all being used for car parking and access to that car parking, thus the issue has been resolved. For the FSR calculation refer to the assessment below.

### **2. Refusal Reason - Development Control Plan**

Pursuant to Section 4.15(1)(a)(iii) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply (nor provide compelling merit to justify the breach) with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:

- (a) *The proposal fails to satisfy the Architectural Design and Streetscape Presentation objectives in Section 2.1 of Part A. This is partially a consequence of non-compliance with wall height, permitted number of storeys, flat roof height, front setback and floor to ceiling height controls.*

**Comment:** Changes have been made with only some minor breaches within the SDCDP 2005. The below assessment report provides a merit assessment on why the changes are acceptable.

- (b) *The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A, which requires a minimum of 43% landscaped area for the specific lot.*

**Comment:** The updated plans provide compliant landscape area. Refer to assessment below, issue has been resolved.

### **3. Refusal Reason – Suitability of Site**



*Pursuant to Section 4.15(1)(c) of the [Environmental Planning and Assessment Act 1979](#), the site is not considered suitable for the proposed development given the potential impact on the street tree and the way the flooding constraint has been incorporated into the design.*

**Comment:** Street Tree issue has been resolved and design has been modified to manage flooding constraint, refer to assessment below.

#### **4. Refusal Reason – Public Interest**

*Pursuant to Section 4.15(1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.*

**Comment:** The proposed development as updated is unlikely to cause an undesirable precedent and is within the public interest.

#### **5. Refusal Reason – Insufficient Information**

*(a) No root mapping was provided to demonstrate the impact on T1 would be acceptable.*

**Comment:** No need for root mapping as existing driveway is maintained, issue has been resolved.

*(b) No Clause 4.6 written request for variation is provided for the breach of Clause 4.4C - Floor Space Ratio in the Strathfield Local Environmental Plan 2012.*

**Comment:** The updated plans provide compliant floor space ratio. Refer to assessment below, issue has been resolved.

*(c) It has not been demonstrated that the basement provides adequate headroom clearance.*

**Comment:** Updated plans show adequate headroom and has been reviewed by Council's Senior Traffic and Transport Engineer who was satisfied. Issue has been resolved.

<b>7 May 2024</b>	The subject Section 8.2 review application was lodged with Council
<b>14 May 2024</b>	The subject application was placed on public exhibition until <b>28 May 2024</b> .
<b>22 May 2024</b>	Council's Assessment Officer undertook a site inspection.

### **Referrals – Internal and External**

#### **Development Control Engineer Comments:**

The application was referred to Council's Development Control Engineer who offered no objection subject to the conditions of consent.

#### **Senior Traffic and Transport Engineer Comments:**

The application was referred to Council's Senior Traffic and Transport Engineer who offered no objection subject to the conditions of consent.



**Tree Management Coordinator Comments:**

The application was referred to Council's Tree Management Coordinator who offered no objection subject to the conditions of consent.

All referral officers were satisfied with updated documentation and plans in this review. Previous concerns have been addressed or are satisfactory.

**Section 4.15 Assessment – EP&A Act 1979**

The following is an assessment of the application with regard to Section 4.15(1) of the EP&A Act 1979.

**(1) Matters for consideration – general**

*In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- (a) the provision of:**  
**(i) any environmental planning instrument,**

**STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021****Chapter 2 – Vegetation in Non-Rural Areas**

The intent of this Chapter within the SEPP is related to the protection of the biodiversity values of trees and other vegetation.

The proposed development as modified does not result in the removal or loss of any trees or vegetation subject to the provision of this SEPP.

The proposal was referred to Council's Tree Management Officer who outlined specific conditions to be imposed with any development consent in order to ensure the protection of the street tree.

Further, no objection was raised to the removal of one dead tree in the rear yard subject to replacement planting.

Accordingly, the aims and objectives outlined within the SEPP are considered to be satisfied.

**Chapter 10 – Sydney Harbour Catchment**

All stormwater from the proposed development as modified can be treated in accordance with Council's Stormwater Management Code and would satisfy the relevant planning principles of Chapter 10 - Sydney Harbour Catchment.

**STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

A BASIX Certificate has been issued in accordance with the standards of State Environmental Planning Policy (Sustainable Buildings) 2022 and the commitments required by this certificate have been satisfied and included on the development plans.

**STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**



Chapter 4 – Remediation of Land applies to the subject site and, pursuant to Section 4.15 of the EP&A Act 1979, is a relevant consideration. A review of the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations. Accordingly, the objectives outlined within Chapter 4 of the SEPP are considered to be satisfied.

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

The development site is subject to the SLEP 2012.

**Part 2 – Permitted or Prohibited Development**

The subject site is zoned R2-Low Density Residential and the proposed dwelling house is a permissible form of development with Council’s consent. The proposal is also consistent with the objectives of the zone.

**Part 4 – Principal Development Standards**

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	9.5m	8.2m	Yes
4.4/C Floor Space Ratio	0.575:1 (414.46m <sup>2</sup> )	0.573:1 (413.3m <sup>2</sup> )	Yes

Diagrams of the calculation of the FSR is found below:

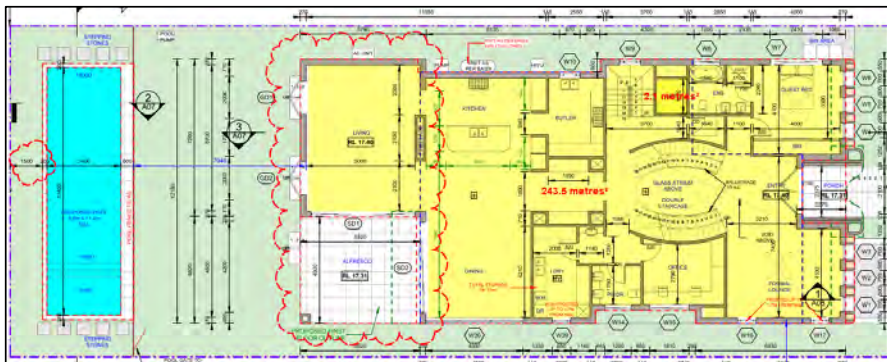


Figure 22: Ground Floor Calculation

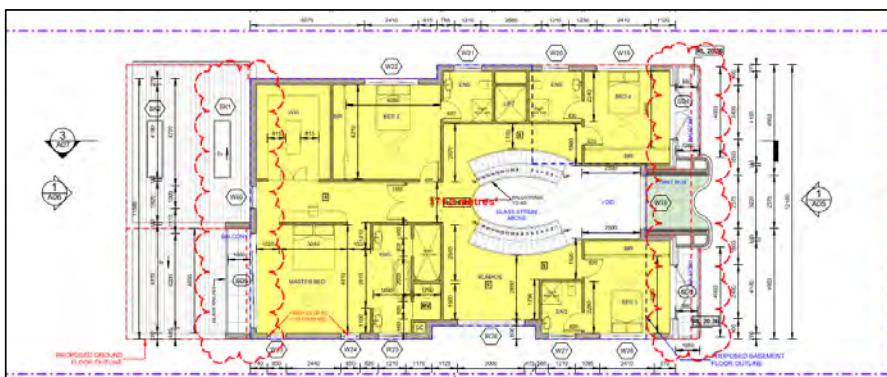


Figure 23: First Floor Calculation



**Note:** No FSR was calculated within the basement as there was no storage areas only car parking and access to that car parking provided, which is excluded under the gross floor area definition under the standard instrument.

## **Part 5 – Miscellaneous Provisions**

### **Heritage Conservation**

The subject site is not listed as a heritage item or located within a heritage conservation area. The site does not adjoin nor is in close proximity to a heritage item and as such, the provisions of Clause 5.10 are not applicable.

### **Flood Planning**

The subject site has been identified as being at or below the flood planning level as per the Flood Report prepared by BMB Engineers:

*Based on modelling result, the maximum 1% AEP flood level adjacent to the proposed dwelling is RL 16.90 m AHD and at the location of the crest of the driveway ramp to the basement is RL 15.65 m AHD. The minimum habitable floor level is to be 500mm and crest of the driveway ramp is to be 200mm above the 1% AEP flood level. **It is recommended that the minimum habitable floor level of the proposed dwelling is to be RL 17.40 m AHD and crest of the driveway ramp to the basement is RL 15.85 m AHD.***

The application has been reviewed by Council's Development Control Engineer who has advised that, subject to suitable conditions, the development is considered compatible with the flood hazard of the land, will not result in significant adverse effects on flood behaviour or environment and is not likely to result in unsustainable social and economic loss. The proposed development is considered to satisfy the objectives of Clause 5.21.

## **Part 6 – Additional Local Provisions**

### **Acid Sulfate Soils**

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2, 3 or 4 soils. Therefore, development consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

### **Earthworks**

The proposal involves significant excavation works for the provision of a basement, driveway ramp and ancillary works. The extent of excavation has been limited to most of the footprint of the ground floor above and access to and from the basement. The depth of excavation has been kept to a minimum and all ancillary works have been limited to what is required to provide access to and from the basement.

The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to affect the existing and likely amenity of adjoining properties. There is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. Accordingly, the proposed excavation works are considered to satisfactorily address the objectives of this Clause 6.2.

### **Essential Services**



Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council’s stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development.

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft planning instruments that are applicable to the proposed development on the subject site.

**(iii) any development control plan,**

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP 2005.

Applicable SCDCP 2005 Controls	SCDCP 2005 Controls	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Heights (max):</b>			
Floor to ceiling heights:	3.0m	5.65m	No but acceptable
Height to underside of eaves:	7.2m	7.05m	Yes
Parapet height:	0.8m	0.77m	Yes
Overall height for flat roof dwelling:	7.8m	8.2m (Glass Atrium)	No but acceptable
Number of storeys/levels:	2	3	No but acceptable
<b>Setbacks (min):</b>			
Front:	9m	8.17m	No but acceptable
Side:	1.2m (min)	1.53m	Yes
Side:	1.2m (min)	1.53m	Yes
Combined side setback:	3.048m (20%)	3.06m	Yes
Rear:	6m	>13m	Yes
<b>Landscaping</b>			
Overall area (min):	43% (309.9m <sup>2</sup> )	43.7% (315.4m <sup>2</sup> )	Yes
Front yard area (min):	50% (66.5m <sup>2</sup> )	65.8% (87.5m <sup>2</sup> )	Yes
Rear area (min):	50% of overall requirement (154.95m <sup>2</sup> )	73.5% (227.9m <sup>2</sup> )	Yes
<b>Fencing</b>			
Height (max):	1.5m	1.2m	Yes
Solid component (max):	0.7m	0.6m	Yes
Side and rear (max):	1.8m	1.8m	Yes
<b>Solar Access</b>			
POS or habitable windows on subject site (min):	3hrs to habitable windows and to 50% of POS	Achieved	Yes
Adjoining POS (min):	3hrs	Achieved	Yes



Vehicle Access and Parking			
Boundary driveway width (min):	3m	2.756m	Yes
Vehicular crossing (max):	1	1	Yes
Driveway setback – side (min):	0.5m	0.25m	No but acceptable
No. of parking spaces:	2	2	Yes
Basement:			
Vertical protrusion (max):	1.0m	1.4m	No but acceptable
Ramp width (max):	3.5m	3.39m	Yes
Internal height (min):	2.2m	2.2m	Yes
Horizontal protrusion:	Within GF footprint	Minor Protrusion	No but acceptable
Ancillary Development			
Swimming Pool:			
Side/rear setback (min):	1.0m	1.5m	Yes

**Streetscape and Character**

The proposed development satisfies the objectives and most of the controls within the development control plan relevant to:

- Rhythm of built elements in the streetscape,
- Fenestration and external materials, and
- Street edge.

The development presents appropriately to the street and is in keeping with the existing developments within the area. Due to that the basement out of ground height is more than 1m because of the impact of flooding to the site the development technically is considered three storeys. The flat roof structure and the recessed basement entry helps to limit the bulkiness of the development allowing it to still present as a two-storey development. It also presents similarly to the adjacent property at 100 Beresford Road (see **Figure 24**), which has a finished ground floor similar to what is being proposed on the subject site.

The reduction in height of 400mm and the use of metal balustrades for the front balconies have softened the design and made the development less bulky from the refused proposal. The curved driveway has also helped in reducing the perception of three storey dwelling by hiding the basement similar to the neighbouring property at 55 Beresford Road, Strathfield (see **Figure 26**). This has also allowed the existing driveway crossing to be used, thus protecting the street tree.





**Figure 24:** 100 Beresford Road, ground floor protrudes substantially out of natural ground level.



**Figure 25:** Refused Front Façade (Left) and S8.2 front Façade (Right)



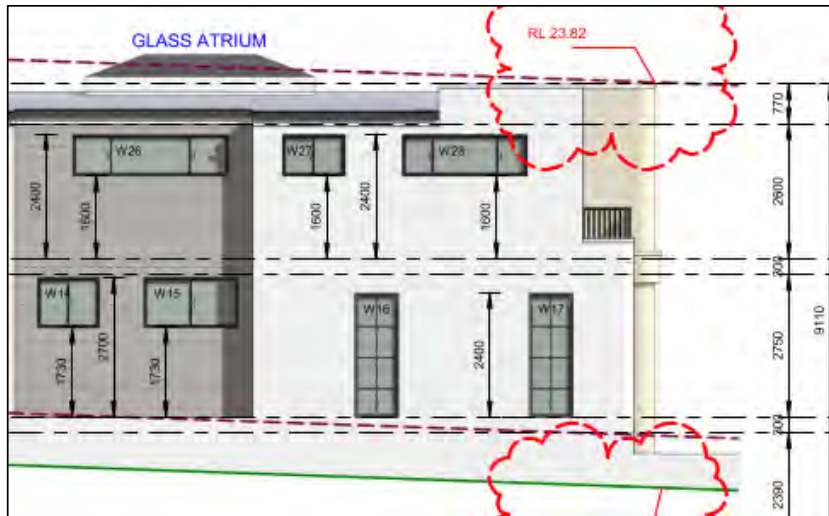
**Figure 26:** 55 Beresford Road, Strathfield

### **Building Envelope**

The proposed development satisfies the objectives and the majority of the controls within Part A of the SCDCP 2005 relating to building envelope. The development is of reasonable bulk and scale for the lot and is unlikely to impact on neighbouring properties.

The non-compliance of Floor to Ceiling height of 3m is due to the void within the entry and atrium area. The size of the void is reasonable as it provides direct natural light and ambient light to the building, which improves the overall solar access to the development. This has a limited impact on the bulk of the development as both the side and rear setbacks are compliant. There is a negligible non-compliance with the overall flat roof height, but the void does not contribute to this or the non-compliance within the front setback. Therefore, the void has a limited influence on the bulk and scale of the development, which thus makes it acceptable in this circumstance.

The development has a point encroachment for the overall height of flat roof dwelling on the southeast corner of the dwelling. The point encroachment is negligible at 20mm and is due to the fall of the site to the street and is therefore unlikely to impact on the overall bulk of the development. There is also the glass atrium that protrudes 400mm above the 7.8m maximum requirement. Although a non-compliance the glass atrium provides natural light into the proposed dwelling. It is within the middle of the roof structure and unlikely increase the bulk and scale of the dwelling. It also will not contribute to overshadowing. In this instance the variation to the overall height of a flat roofed dwelling is considered acceptable.



**Figure 27:** Point encroachment bubbled in red and glass atrium.

The front setback is non-compliant and protrudes towards the boundary. Due to the design of the dwelling the largest protrusion is the front portico having a front setback of 8.17m from the boundary. This is considered acceptable as the SCDCP 2005 allows for a portico and associated porch to protrude no more than a 1m forward of the front building façade, in which it complies. The main front façade of the first floor excluding the balconies is setback more than 9.5m which helps to reduce the impact of the balconies and ground floor that protrudes into the front setback limiting the overall bulky presence of the front façade. Therefore, the non-compliance of the front setback control is considered acceptable in this circumstance.

**Landscaping and Open Space**

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005. The development is considered to enhance the existing streetscape, adequate areas for deep soil planting have been provided and can accommodate large canopy trees and where possible trees have been retained and protected.

**Fencing**

The proposed front and side fencing satisfies the relevant objectives and controls within SCDCP 2005. It is considered to be sympathetic to the existing and desired character of the locality and is compatible to the height and style of adjoining fences.

**Solar Access**

Given the orientation of the site, solar access to windows of habitable rooms and to at least 50% of the private open space is achieved or maintained for a minimum period of 3 hours between 9.00am-3:00pm at the winter solstice. Solar access is also achieved or maintained to the private open space of the adjoining premises. The proposal is considered to satisfy the relevant objectives and controls of the SCDCP 2005.

**Privacy**

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005, in that adequate privacy is maintained between adjoining properties and any potential overlooking is minimised. Windows are offset from adjoining dwellings where required, they







### **Access, Safety and Security**

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005. Separate pedestrian and vehicle access provisions are provided, passive surveillance of the public street has been provided providing safety and perception of safety in the street.

### **Ancillary Structures**

#### Swimming Pools, Spas & Associated Enclosures

The proposed swimming pool satisfies the relevant objectives and controls within the SCDCP 2005. The pool has been adequately setback from all adjoining boundaries, allowing for screen planting as required. The pool pump equipment has been conditioned to be sound attenuated and to be protected from flooding impacts. The pool coping has been designed to suit the existing ground level of the site. The swimming pool fence/enclosure will comply with the Swimming Pools Act 1992 and relevant standards.

### **PART H – Waste Management**

In accordance with Part H of SCDCP 2005, a Waste Management Plan was submitted with the application. The plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is considered that this plan adequately addresses Part H.

**(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,**

The requirements of Australian Standard AS2601–1991: The Demolition of Structures is relevant to the determination of a development application for the demolition of a building.

The proposed development does involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. The proposal is not considered to have a significant impact on the natural and built environment nor any negative social or economic impacts on the locality.

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

The size, shape, topography and vegetation of the site and its relationship to adjoining developments is suitable for the proposed dwelling house use as anticipated by the zoning. The proposal retains the existing use.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining





property owners were notified in writing of the proposal and invited to comment. No submissions were received.

**(e) *the public interest.***

The proposed development is of a scale and character that does not conflict with the public interest. The public interest is served through the consistent application of planning controls. The proposal is generally consistent with what is anticipated by the planning controls and can therefore be considered in the public interest.

**Local Infrastructure Contributions**

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. A consent authority may impose a condition under Section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

**Strathfield Indirect Section 7.12 Contributions Plan**

Section 7.12 Contributions are applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan as follows:

Based on the Cost of Works of \$1,848,683.00, a contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows;

Local Amenity Improvement Levy	\$18,486.83
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**Conclusion**

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979, including the provisions of the SLEP 2012 and SCDCP 2005.

Following detailed assessment it is considered that DA 2023/149 should be approved.



**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**GENERAL CONDITIONS**

<b>1</b>	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
<b>2</b>	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—             <ol style="list-style-type: none"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>c. stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be—</li> </ol>



	<ul style="list-style-type: none"> <li>a. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>b. removed when the work has been completed.</li> </ul> <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> <li>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ul style="list-style-type: none"> <li>1. BASIX development,</li> <li>2. BASIX optional development, if the development application was accompanied by a BASIX certificate.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ul style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ul style="list-style-type: none"> <li>a. for work that requires a principal contractor to be appointed— <ul style="list-style-type: none"> <li>i. the name and licence number of the principal contractor, and</li> <li>ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ul> </li> <li>b. for work to be carried out by an owner-builder— <ul style="list-style-type: none"> <li>i. the name of the owner-builder, and</li> <li>ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ul> </li> </ul> </li> <li>3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</li> <li>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
5	<p><b>Approved plans and supporting documentation</b></p>



Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
A01.01	A	Demolition Plan	Nemco Design	27/04/24
A01.02	A	Site Plan & Roof Plan	Nemco Design	27/04/24
A01.03	A	Waste Management Plan and Sediment Control Plan	Nemco Design	27/04/24
A01.04	A	Landscaping Plan	Nemco Design	27/04/24
A02	A	Proposed Basement Floor Plan	Nemco Design	27/04/24
A03	A	Proposed Ground Floor Plan	Nemco Design	27/04/24
A04	A	Proposed First Floor Plan	Nemco Design	27/04/24
A05	A	Elevations – Part 1	Nemco Design	27/04/24
A06	A	Elevations – Part 2	Nemco Design	27/04/24
A07	A	Section 1	Nemco Design	27/04/24
A08	A	Driveway Section & Pool Section	Nemco Design	27/04/24
A14	A	Windows & Doors Schedule	Nemco Design	27/04/24
A15	A	Streetscape View & Front Fence Elevation	Nemco Design	27/04/24
A16	A	Schedule of Materials & Finishes	Nemco Design	27/04/24
A18	A	BASIX Requirements	Nemco Design	27/04/24
C00	A	Stormwater – General Notes	Nemco Design	13/11/23
C01	A	Stormwater Drainage Plan	Nemco Design	13/11/23
C02	A	Stormwater Plan – Floor Plan	Nemco Design	13/11/23
C03	A	Section 1 Through Pump Pit & Details	Nemco Design	13/11/23
C04	A	Stormwater Details	Nemco Design	13/11/23
C05	A	Stormwater Details	Nemco Design	13/11/23



**Stormwater Plans (C00 to C05) must be updated to align with stamped approved architectural plans by Nemco Design.**

Approved documents			
Document title	Version number	Prepared by	Date of document
Flood Study Report	V0	BMB Engineers	4/12/24
Waste Management Plan		Nemco Design	8/12/24

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

**Condition reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**6 Infrastructure Development Contributions**

Council has identified that the development will be subject to the imposition of Development Contributions. In accordance with Council's relevant Contributions Plan, the following monetary contributions are required.

**DEVELOPMENT CONTRIBUTIONS**

Strathfield Section 94A Indirect Development Contributions Plan 2010	\$18,486.83
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Indexation

The above contributions will be indexed at the time of payment to reflect inflation, in accordance with the indices provided by the relevant Development Contributions Plan.

Please contact council prior to the payment of s7.11 or s7.12 Contributions to confirm the indexed contribution payable and the form of payment that will be accepted by Council.

Timing of Payment

The contribution must be paid and receipted by Council prior to the issue of the Construction Certificate.

A copy of the current Development Contributions Plans may be viewed on Council's website [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au).





	<p><b>Condition reason:</b> To enable the provision of public amenities and services required and anticipated as a consequence of increased demand resulting from the development.</p>
7	<p><b>Road Opening Permit</b></p> <p>A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from TFNSW in the case of State roads, for every opening of a public reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of works in the road.</p> <p><b>Condition reason:</b> To protect Council roads and footpaths and to ensure any works are to the relevant standards.</p>
8	<p><b>Section 138 Roads Act 1993 &amp; Section 68 Local Government Act 1993</b></p> <p>Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.</p> <p>Separate approval is required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.</p> <p>An application is required to be lodged and approved prior to the commencement of any of the following works or activities.</p> <ol style="list-style-type: none"> <li>1. If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.</li> <li>2. Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;</li> <li>3. Establishing a "works zone";</li> <li>4. Placing or storing materials or equipment;</li> <li>5. Placing or storing waste containers or skip bins;</li> <li>6. Stormwater &amp; ancillary to public infrastructure on private land</li> <li>7. Erecting a structure or carrying out work</li> </ol> <p>Separate activity approvals for (1)-(7) must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.</p> <ol style="list-style-type: none"> <li>1. Pumping water from the site into the public road;</li> <li>2. Constructing a crossing or footpath;</li> <li>3. Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);</li> <li>4. Stormwater &amp; ancillary works in the road reserve; and</li> <li>5. Pumping concrete from a public road;</li> </ol> <p>Separate activity approvals for (1)-(5) must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.</p> <p>The relevant Application Forms for these activities can be downloaded from Council's website</p>



	<p><a href="http://www.strathfield.nsw.gov.au">www.strathfield.nsw.gov.au</a></p> <p>For further information, please contact Council's Customer Service Centre on (02) 9748 9999.</p> <p><b>Condition reason:</b> To ensure the protection of existing public infrastructure and adjoining properties.</p>
9	<p><b>Vehicular Crossing – Minor Development</b></p> <p>Constructing a vehicular crossing and footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the commencement of those works. This approval must be obtained from Council by completing and submitting a works permit application.</p> <p>The approval for a new or modified vehicular crossing will contain the plans and specifications required to construct the crossing and footpath. These works must be completed prior to the issue of an Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate vehicular access to the site can be achieved</p>
10	<p><b>Driveway Ramp</b></p> <p>The crest in the driveway and the top of walls adjacent to the driveway must not be lower than the level (RL 15.85m AHD) shown on drawing A08, Job number 23555 by Nemco Design.</p> <p><b>Condition reason:</b> To ensure that the basement is not impacted by flooding</p>



**BUILDING WORK**

**BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

11	<p><b>Construction Site Management Plan</b></p> <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> <li>a. The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>b. Provisions for public safety;</li> <li>c. Pedestrian and vehicular site access points and construction activity zones;</li> <li>d. Details of construction traffic management including:                         <ul style="list-style-type: none"> <li>i. Proposed truck movements to and from the site;</li> <li>ii. Estimated frequency of truck movements; and</li> <li>iii. Measures to ensure pedestrian safety near the site;</li> </ul> </li> <li>e. Details of bulk earthworks to be carried out;</li> <li>f. The location of site storage areas and sheds;</li> <li>g. The equipment used to carry out works;</li> <li>h. The location of a garbage container with a tight-fitting lid;</li> <li>i. Dust, noise and vibration control measures;</li> <li>j. The location of temporary toilets;</li> <li>k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:                         <ul style="list-style-type: none"> <li>i. AS 4970 – Protection of trees on development sites;</li> <li>ii. An applicable Development Control Plan;</li> <li>iii. An arborist’s report approved as part of this consent</li> </ul> </li> </ul> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
12	<p><b>Payment of security deposits</b></p> <p>Before the issue of a Construction Certificate, the applicant must:</p> <ul style="list-style-type: none"> <li>a. make payment of <b>\$15,750.00 (and administration fee of \$137.00)</b> for a security deposit to the consent authority; and</li> <li>b. if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.</li> </ul> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
13	<p><b>Waste Management Plan – an approved document of this consent</b></p> <p>Before the issue of a Construction Certificate, a waste management plan for the development must be provided to the certifier.</p> <p><b>Condition reason:</b> To ensure resource recovery is promoted and local amenity protected during construction.</p>
14	<p><b>Erosion and sediment control plan</b></p>



	<p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier or Council (where a certifier is not required):</p> <ul style="list-style-type: none"> <li>a) Council's relevant development control plan,</li> <li>b) the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and</li> <li>c) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).</li> </ul>
	<p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
15	<p><b>Long Service Levy</b></p> <p>Before the issue of a Construction Certificate, the long service levy of <b>\$4,621.00</b>, as calculated at the date of this consent, must be paid to the Long Service Corporation under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the certifier or Council (where a certifier is not required).</p>
	<p><b>Condition reason:</b> To ensure the long service levy is paid.</p>
16	<p><b>Basix Commitments</b></p> <p>The approved BASIX Certificate must be submitted to the Principal Certifier with the application for a Construction Certificate.</p> <p>All measures and commitments as detailed in the BASIX Certificate No. 137881S_02 must be implemented on the plans lodged with the application for the Construction Certificate.</p>
	<p><b>Condition reason:</b> To comply with statutory requirements.</p>
17	<p><b>Compliance with Swimming Pool Act 1992</b></p> <p>The new dwelling house subject of this consent must not generate any non-compliance with the Swimming Pools Act 1992, Swimming Pool Regulation 2018, and the Building Code of Australia. Details of compliance must be the illustrated on the plans lodged with the application for the Construction Certificate.</p>
	<p><b>Condition reason:</b> To ensure the pool complies with the relative statutory requirements.</p>
18	<p><b>Dial Before Your Dig</b></p> <p>The applicant must contact <a href="#">Home   Before You Dig Australia (BYDA)</a> to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" must be forwarded to Council's Engineers for their records.</p>
	<p><b>Condition reason:</b> To ensure the protection of services and utility.</p>
19	<p><b>Swimming Pools – Use and Maintenance</b></p> <p>The following apply to the construction, use and maintenance of swimming pools and spas:</p> <ul style="list-style-type: none"> <li>1. No ground level may be raised or filled except where shown specifically on the approved plans;</li> </ul>



	<ol style="list-style-type: none"> <li>2. All pool or spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;</li> <li>3. The swimming pool must not be used for commercial or professional purposes;</li> <li>4. Paved areas must be designed to ensure drainage flows to the landscaped areas or a suitable lawful drainage system; and</li> <li>5. Any lighting external to the pool or spa must be arranged to minimise glaring nuisance to adjoining owners.</li> </ol>
	<p><b>Condition reason:</b> To ensure compliance with statutory requirements and protection of the amenity of surrounding properties.</p>
20	<p><b>Stormwater System</b></p> <p>The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system in accordance with Council's Stormwater Management Code and AS/NZS 3500.3: 2015 (as amended), prepared by a suitably qualified professional engineer specialising in hydraulic engineering, must be submitted for approval to the Principal Certifier with the Construction Certificate.</p> <p><b>Condition reason:</b> To ensure stormwater drainage system is adequately designed.</p>





21	<p><b>Detailed Stormwater Design</b></p> <p>The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) in accordance with Council's Stormwater Management Code must be submitted to and approved by the Principal Certifier with the Construction Certificate Application.</p> <p><b>Condition reason:</b> To ensure the site is drained appropriately and does not interfere with the natural flow of flood waters.</p>
22	<p><b>Driveway Surface Waters</b></p> <p>For driveways on private property sloping to the street and greater than 10 metres in length, drainage control devices such as humps or grated surface inlet pits must be installed at the front boundary in order to control excess stormwater flowing across Council's footpath.</p> <p><b>Condition reason:</b> To minimise uncontrolled overflow of stormwater from paved surfaces onto the public road.</p>
23	<p><b>Compliance with Flood Study</b></p> <p>The development must be designed to conform to the recommendations and conclusions of the submitted flood study prepared by BMB Engineers dated December 2023</p> <p>This must include, but not be limited to, any recommendations for the following:</p> <ul style="list-style-type: none"> <li>(a) Minimum floor levels</li> <li>(b) Fencing</li> <li>(c) Site regrading</li> <li>(d) Overland flow path construction</li> <li>(e) Protection of the basement from inundation of surface waters</li> </ul> <p>Evidence from a suitably qualified professional engineer that specialises in hydraulic engineering that all design requirements have been adhered to must be submitted to the Principal Certifier with the Construction Certificate application.</p> <p><b>Condition reason:</b> To mitigate flood risk and associated damage.</p>
24	<p><b>Pump-Out System Design for Stormwater Disposal</b></p> <p>The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:</p> <ul style="list-style-type: none"> <li>(a) The pump system must consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank must be capable of holding four hour's runoff from a one-hour duration storm of the 1 in 100 year storm;</li> <li>(b) The pump system must be regularly maintained and serviced, every six (6) months; and</li> <li>(c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.</li> </ul> <p>Details and certification of compliance from a suitably qualified professional engineer specialising in hydraulic engineering must be provided to the Principal Certifier for approval with the Construction Certificate application.</p>



	<b>Condition reason:</b> To ensure suitable stormwater disposal method.			
25	<p><b>Off Street Parking – Compliance with AS2890</b></p> <p>All driveways, access ramps, vehicular crossings and car parking spaces must be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities), AS 2890.6 (parking for people with disabilities) and AS 2890.2 (for commercial vehicle facilities).</p> <p><b>Condition reason:</b> To ensure adequate vehicular access can be achieved and complies with relevant standards.</p>			
26	<p><b>Tree Bond</b></p> <p>A tree bond (calculated in accordance with Council’s adopted Fees and Charges) must be paid to Council, prior to the issue of a Construction Certificate.</p> <p>(a)</p> <table border="1" data-bbox="427 824 1308 891"> <tr> <td><i>T1 - Lophostemon confertus</i></td> <td>• 11.0 Meters</td> <td>• \$21,315.00</td> </tr> </table> <p>(b) <i>Administration Fee</i> - \$137.00</p> <p>The deposit is required as security against any damage to existing trees to be retained on Council’s Road reserve, during works on the site. The applicant must bear the cost of all restoration works to Council’s property damaged during the course of this development.</p> <p>A sound protection barrier anchored firmly into the ground 1.8m in height x 2 metres clear of the base of the tree at any one point and that the fence is to extend up to the back of the kerb and to the edge of the footpath.</p> <p>Payment may be accepted in the form of a bank cheque, credit card or bank guarantee. An administration fee applies to all bonds in accordance with Council’s adopted Fees and Charges.</p> <p>A request for refund of the Tree Bond must be made in writing.</p> <p>Tree Bonds may be forfeited if a tree is dead, made dangerous or has been terminally damaged, or will be held until tree/s have fully recovered from the construction damage or were replacement/planted trees have become fully established and are over 6 metres in height.</p> <p><b>Condition reason:</b> To ensure the protection of trees to be retained on Council’s Road Reserve.</p>	<i>T1 - Lophostemon confertus</i>	• 11.0 Meters	• \$21,315.00
<i>T1 - Lophostemon confertus</i>	• 11.0 Meters	• \$21,315.00		
27	<p><b>Tree Removal/Pruning Prohibited</b></p> <p>The removal or pruning (branches or roots) of any trees on the subject property (excluding those approved for removal in these conditions or species on Council’s exempt species list), Council’s public footway, public reserves or on neighbouring properties must not be undertaken other than in accordance with the express provisions of this consent. Tree Removal / Pruning is prohibited, unless accepted in the AIA report.</p>			



	<p><b>Condition reason:</b> To ensure tree preservation and environmental amenity.</p>
28	<p><b>Tree Protection and Retention</b></p> <p>1 x Council Street Tree – T1-is located on the Council’s nature strip.                  A Project Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the Tree Protection Zone to implement the tree protection measures as required.                  No services shall be installed within the Tree Protection Zone of the tree unless approved by Council. Tree protection fencing shall be kept in place during demolition, construction and also have a sign displaying ‘Tree Protection Zone’ attached to the fence and must also include the name and contact details of the Project Arborist.                  Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Project Arborist shall be submitted to Council prior to any further demolition or construction works taking place.</p> <p>A protective fence consisting of a fully supported chainmesh fence 1.8 metres height x 2 metres clear of the base of the tree at any one point must be erected around the street tree unless otherwise specified in AS4970-2009. The fence is to extend up to the back of the kerb and to the edge of the footpath. No soil, fill, building materials or waste should be placed or disposed of within the protection area.                  Should replacement or repair of the public footpath or vehicle crossing within the Tree Protection Zone area of a street tree be required, Council’s Urban Forest Supervisor is to be notified (with minimum 24hrs notice) of the intent to undertake the works and is to attend a site inspection after the existing footpath has been lifted but prior to any preparation works for laying of the new path. No street tree roots are to be cut without the Approval of Council. Failure to comply with this condition may result in the forfeiting of the Tree Bond should the street tree’s health or structure be compromised.</p> <p><b>Vehicle crossing</b></p> <p>All deliveries and construction vehicles to access the site via the Vehicle Crossover.</p> <p><b>Condition reason:</b> To ensure the protection of trees to be retained on the site.</p>
29	<p><b>Tree Removal &amp; Replacement</b></p> <p>No Permission is granted for the removal of any other trees on site, other than what is approved.</p> <p><b>Condition reason:</b> To maintain adequate tree canopy and preservation of environmental amenity.</p>
30	<p><b>Structural Details</b></p> <p>Engineer’s details for all reinforced concrete work, structural beams, columns &amp; other structural members must be prepared by a suitably qualified practising Structural Engineer. These details are to be submitted to the Principal Certifier for approval.</p> <p>A copy must be forwarded to Council where Council is not the Principal Certifier.</p> <p><b>Condition reason:</b> To ensure works are structurally sound.</p>
31	<p><b>Geotechnical Report</b></p> <p>The applicant must submit a Geotechnical Report, prepared by a suitably qualified professional engineer specialising in geotechnical engineering. The Geotechnical Report must address dilapidation reports, all site works and construction. This is to be submitted to the Principal Certifier and Council (where Council is not the Certifier) before the issue of the Construction Certificate and must include:</p>



	<p>(a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks, stabilization works and any excavations.</p> <p>(b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report must include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Principal Certifier and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents must be provided with the report five (5) working days prior to any works on the site.</p> <p>(c) On-site guidance by a vibration specialist during the early part of excavation.</p> <p>(d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report must detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.</p> <p>(e) Sides of the excavation must be piers prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.</p>
	<p><b>Condition reason:</b> To ensure structural safety and integrity of adjoining properties.</p>
32	<p><b>Pre-Construction Dilapidation Report – Private Land</b></p> <p>A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:</p> <ul style="list-style-type: none"> <li>(a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.</li> <li>(b) 96 Beresford Road, Strathfield</li> <li>(c) 100 Beresford Road, Strathfield</li> </ul> <p>The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report ) a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the Principal Certifier.</p> <p>Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council’s agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.</p> <p><b>Condition reason:</b> To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>

**BEFORE BUILDING WORK COMMENCES**

33	<b>Erosion and sediment controls in place</b>
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	<p>Before any site work commences, <b>the principal certifier or Council (where a principal certifier is not required)</b>, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
34	<p><b>Tree protection measures</b></p> <p>Before any site work commences, the principal certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan are in place.</p> <p><b>Condition reason:</b> To protect and retain trees.</p>
35	<p><b>Demolition &amp; Asbestos</b></p> <p>The demolition work must comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW <a href="#">Work Health &amp; Safety Act 2011</a> and the NSW <a href="#">Work Health &amp; Safety Regulation 2011</a>. The work plans required by AS2601:2001 must be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement must be submitted to the Principal Certifier prior to the commencement of works.</p> <p>For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW <a href="#">Work Health &amp; Safety Act 2011</a> and the NSW <a href="#">Work Health &amp; Safety Regulation 2011</a> unless specified in the Act or Regulation that a license is not required.</p> <p>All demolition work including the removal of asbestos, must be undertaken in accordance with the <a href="#">Demolition Code of Practice</a> (NSW Work Cover July 2015)</p> <p><b>Condition reason:</b> Safety, amenity and protection of public infrastructure and the environment</p>
36	<p><b>Demolition Notification Requirements</b></p> <p>The following notification requirements apply to this consent:</p> <ol style="list-style-type: none"> <li>1. The builder must notify adjoining residents five (5) working days prior to demolition. Such notification will be a clearly written note giving the date demolition will commence, contact details of the builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification must be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.</li> <li>2. Five (5) working days prior to demolition, the builder must provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.</li> <li>3. On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x</li> </ol>





	<p>300mm must be erected in a prominent visible position (from street frontage) on the site. The sign must be erected prior to demolition work commencing and will remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.</p> <p><b>Condition reason:</b> 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.</p>
37	<p><b>Demolition Work Involving Asbestos Removal</b></p> <p>Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the <u>Work Health and Safety Regulation 2011</u>.</p> <p><b>Condition reason:</b> To ensure safety, amenity and protection of public infrastructure and the environment.</p>
38	<p><b>Utility Arrangements</b></p> <p>Arrangements must be made with utility authorities in respect to the services applied those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas will be at the applicant's expense.</p> <p><b>Condition reason:</b> To ensure adequate provision of services is available.</p>

**DURING BUILDING WORK**

39	<p><b>Implementation of the site management plans while site work is being carried out</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a) the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and</li> <li>b) a copy of these plans must be kept on site at all times and made available to council officers upon request.</li> </ul> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p>
40	<p><b>Procedure for critical stage inspections</b></p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><b>Condition reason:</b> To require approval to proceed with building work following each critical stage inspection.</p>
41	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> </ul>



	<p>2. upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier or Council (where a principal certifier is not required), detailing the following:</p> <ul style="list-style-type: none"> <li>a. The contact details of the person(s) who removed the waste;</li> <li>b. The waste carrier vehicle registration;</li> <li>c. The date and time of waste collection;</li> <li>d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill;</li> <li>e. The address of the disposal location(s) where the waste was taken;</li> <li>f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.</li> </ul> <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p>
	<p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
42	<p><b>Construction Management Plan</b></p> <p>The builder must ensure that the approved Construction Traffic Management Plan is to be strictly complied with and kept on site at all times during construction works.</p> <p><b>Condition reason:</b> To provide safe access to and from the site and protection of public infrastructure and the environment.</p>



43	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times-</p> <p>For building construction and delivery of machinery and materials from 7:00am to 5:00pm on Monday to Saturday (excluding Public Holidays)</p> <p>For demolition, excavation and/or construction works that involve heavy machinery, noisy trades, or the like from 7:00am to 5:00pm on Monday to Friday (excluding Public Holidays)</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area during construction.</p>
44	<p><b>of Road or Footpath</b></p> <p>The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the <a href="#">Roads Act 1993</a> and under Section 68 of the <a href="#">Local Government Act 1993</a>. Penalty infringement Notices may be issued for any offences and severe penalties apply.</p> <p><b>Condition reason:</b> To maintain public safety.</p>
45	<p><b>Swimming Pools – Filling with Water</b></p> <p>The pool must not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifier.</p> <p><b>Condition reason:</b> To ensure tree preservation and pruning is undertaken in accordance with AS4373:2007.</p>
46	<p><b>Building Materials – Flood Prone Land</b></p> <p>All building materials used to construct the dwelling including the pool pump equipment must be constructed using flood proof materials up to RL 17.40 AHD and this must be specified by the manufacturer. All electrical services must also be located above this level. The applicant should refer to <a href="#">REDUCING VULNERABILITY OF BUILDINGS TO FLOOD DAMAGE (nsw.gov.au)</a>, Chapter 4.3.</p> <p><b>Condition reason:</b> To ensure occupants safety on flood effected development</p>
47	<p><b>Tree protection during work</b></p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> <li>the construction site management plan required under this consent,</li> <li>the relevant requirements of AS 4970 Protection of trees on development sites,</li> <li>Council's relevant development control plan (in force as at the date of determination of this consent) and</li> <li>any arborist's report approved under this consent.</li> </ol> <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p><b>Vehicle crossing</b></p>



<p>Removal of the existing Driveway Concrete Crossover is to be by hand, to ensure no damage occurs to the existing tree roots and canopy of T2. Project Arborist to be present to oversee works.</p> <p>New turf to be laid on Lawn Topsoil, to grade, where existing Driveway Concrete Crossover has been removed. All works is to occur by hand.</p> <p>All construction access and deliveries are to be made from Ada Ave. All deliveries and stockpiling of materials must be kept outside of Trees TPZ's.</p> <p>Concrete to be pumped in and should not require truck movements within Tree's TPZ's</p> <p>New Vehicle Crossover to be installed on existing levels and Hand excavation within TPZ</p> <p><b><u>Canopy trees</u></b></p> <p>Two (2) Canopy Trees must be provided in the front yard and One (1) Canopy Tree in the rear yard. Each tree must attain minimum 10m height in a minimum container size of 100 litres each. Each tree to be planted with 3 stakes and hessian ties.</p> <p><b><u>Front boundary fence</u></b></p> <p>Support footings must be hand excavated allowing a minimum 100mm distance from roots measuring greater than 40mm in diameter. Hand excavated must occur within any TPZ to protect roots measuring greater than 40mm in diameter.</p> <p><b><u>Erosion and sediment control fencing</u></b></p> <p>Erosion and sediment control fencing located within the TPZ's for Tree No.'s 1, 2 &amp; 4, must <b>not be</b> excavated. A soil strip may be mounded 200mm. Star pickets must not be installed within any Structural Root Zone</p> <p><b>Condition reason:</b> To protect trees during the carrying out of site work</p>
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**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

48	<p><b>Completion of landscape and tree works</b></p> <p>Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p><b>Condition reason:</b> To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
49	<p><b>Repair of infrastructure</b></p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> <li>any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting</li> </ol>



	<p>vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or</p> <p>2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</p>
	<p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.</p>
50	<p><b>Works-as-executed plans and any other documentary evidence</b></p> <p>Before the issue of an Occupation Certificate, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the principal certifier:</p> <ol style="list-style-type: none"> <li>1. All stormwater drainage systems and storage systems; and</li> <li>2. A copy of the stormwater plans must be provided to Council</li> </ol>
	<p><b>Condition reason:</b> To confirm the location of works once constructed that will become Council assets.</p>
51	<p><b>BASIX Certificate</b></p> <p>All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before the issue of any Occupation Certificate.</p>
	<p><b>Condition reason:</b> Statutory compliance.</p>
52	<p><b>BASIX Compliance Certificate</b></p> <p>A Compliance Certificate must be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.</p>
	<p><b>Condition reason:</b> Statutory compliance.</p>
53	<p><b>Completion of Landscape Works and Tree Works</b></p> <p>The approved landscape works have identified that the side setback area between the dwelling and boundary be nominated as landscaped area to ensure compliance with the minimum landscape area requirements. In this regard, this area must be maintained as landscaped area and must only be used for growing plants, grasses and trees and must not include any building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).</p>
	<p><b>Condition reason:</b> To ensure compliance with the minimum landscape area requirements.</p>
54	<p><b>Minor Development</b></p> <p>Internal driveways and parking spaces must be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.</p>
	<p><b>Condition reason:</b> To ensure parking spaces are constructed appropriately.</p>
55	<p><b>Stormwater Certification of the Constructed Drainage Works (Minor)</b></p>





	<p>The constructed stormwater system must be certified by a suitably qualified person, in accordance with Council’s Stormwater Management Code, prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.</p>
56	<p><b>Restriction to User and Positive Covenant for On-Site Detention Facility</b></p> <p>Prior to the issue of any Occupation Certificate, the applicant must register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, water sensitive urban design, surface flow path, finished pavement and ground levels etc.).</p> <p>Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant must register an easement no less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.</p> <p>The wording on the 88E and or 88B Instrument is to make reference to the Council file where the Construction plans and the Work As Executed (as built), plans are held. Typical wording can be obtained from Council's Specification for the Management of Stormwater document.</p> <p><b>Condition reason:</b> To ensure the approved stormwater disposal system is maintained to an appropriate operational standard</p>
57	<p><b>Maintenance Schedule – On-site Stormwater Management</b></p> <p>A Maintenance Schedule for the proposed on-site stormwater management measures must be prepared by a suitably qualified professional hydraulic engineer and submitted to Council. The Maintenance Schedule must outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.</p> <p><b>Condition reason:</b> To ensure the approved stormwater disposal system is maintained at its designed capacity.</p>
58	<p><b>Completion of public utility services</b></p> <p>Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p> <p><b>Condition reason:</b> To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation</p>
59	<p><b>Post-construction dilapidation report</b></p> <p>Before the issue of an occupation certificate, a post- construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:</p> <ul style="list-style-type: none"> <li>a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and</li> </ul>



	<p>b) where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and</p> <p>c) a copy of the post-construction dilapidation report must be provided to council (where council is not the principal certifier or a principal certifier is not required) and to the relevant adjoining property owner(s).</p> <p><b>Condition reason:</b> To identify any damage to adjoining properties resulting from site work on the development site</p>
60	<p><b>Repair of Infrastructure</b></p> <p>Before the issue of an occupation certificate:</p> <p>a) Any public infrastructure damaged because of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council, or</p> <p>b) If the works in(a) are not carried out to Council's satisfaction, Council may carry out the works required, and the costs of any works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</p> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.</p>
61	<p><b>Vehicular Crossing – Minor Development</b></p> <p>The vehicular crossing and footpath works must be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Engineering Design Services and in accordance with Council's Driveway Specifications.</p> <p>Any existing vehicular crossing and laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas must be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.</p> <p>The work must be completed before the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure appropriate access to the site is achieved.</p>
62	<p><b>Flood Prone Land – Survey of Levels</b></p> <p>A registered surveyor must verify the levels of the design runoff overland flow path and finished floor levels to Australian Height Datum. The surveyor must also verify that the flow paths and finished floor levels have been built to the design levels, dimensions and surface finishes as specified in the approved plans.</p> <p><b>Condition reason:</b> To mitigate flood risk and associated damage.</p>
63	<p><b>Section 73 Compliance Certificate</b></p> <p>A Section 73 Compliance Certificate under the <a href="#">Sydney Water Act 1994</a> must be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To comply with the statutory requirements of Sydney Water.</p>
64	<p><b>Works as Executed and Certification of Stormwater Works</b></p>



	<p>Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be provided to the Principal Certifier and Council, from a suitably qualified professional engineer specialising in hydraulic engineering.</p> <p>This Plan and Certification must confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the Principal Certifier.</p> <p>The works-as-executed drainage plan must be prepared by a suitably qualified professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):</p> <ol style="list-style-type: none"> <li>1. Compliance with conditions of development consent relating to stormwater.</li> <li>2. The structural adequacy of the Pump-Out System.</li> <li>3. That the works have been constructed in accordance with the approved design and will provide the storage volume and attenuation in accordance with the submitted calculations.</li> <li>4. Pipe invert levels and surface levels to Australian Height Datum.</li> </ol> <p><b>Council’s Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.</b></p>
	<p><b>Condition reason:</b> To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.</p>

**OCCUPATION AND ONGOING USE**

65	<p><b>Greywater System</b></p> <p>In order to conserve and re-use water, Council encourages all development for new dwellings to incorporate a greywater reuse system. The system can incorporate a greywater diversion device or a domestic greywater treatment system. Any system installed must ensure that it complies with the Plumbing Code of Australia. The system must be maintained at all times and must not result in any adverse amenity impacts on the subject premises and surrounding properties.</p> <p><b>Condition reason:</b> Encourage water conservation and re-use.</p>
66	<p><b>Maintenance of Landscaping</b></p> <p>All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or drying plants and any other operations required to maintain healthy trees, plants and turfed areas.</p> <p><b>Condition reason:</b> To ensure the amenity of landscaping is maintained.</p>
67	<p><b>Private Swimming Pools &amp; Spas – Pump Noise</b></p> <p>The swimming pool or spa pump and associated equipment must be located so that the noise emitted does not exceed 5db(A) above the background level. If this cannot be achieved a ventilated and sound-proofed enclosure the pump to achieve the</p>



	<p>required noise levels.</p> <p>Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):</p> <ol style="list-style-type: none"> <li>1. before 8 am or after 8 pm on any Sunday or public holiday, or</li> <li>2. before 7 am or after 8pm on any other day.</li> </ol> <p><b>Condition reason:</b> Noise control and protecting amenity of adjoining properties.</p>
68	<p><b>Swimming Pools – Resuscitation Notice</b></p> <p>An expired air resuscitation warning notice complying with the <a href="#">Swimming Pools Act 1992</a> must be affixed in a prominent position adjacent to the pool.</p> <p><b>Condition reason:</b> Safety and statutory compliance.</p>
69	<p><b>Entering and Exiting of Vehicles</b></p> <p>All vehicles must enter and exit the premises in a forward direction.</p> <p><b>Condition reason:</b> Safety and traffic management.</p>

**General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the *Conditions of development consent: advisory notes*. The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.



### **Dictionary**

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**Council** means STRATHFIELD MUNICIPAL COUNCIL.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Strathfield Local Planning Panel

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,





- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Sydney district or regional planning panel** means Sydney Eastern City Planning Panel.