

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 14 November 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 recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.



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TO: Strathfield Local Planning Panel Meeting - 14 November 2024
 REPORT: SLPP – Report No. 9
 SUBJECT: DA2023.53 - 54 LLANDILO AVENUE STRATHFIELD
 DA NO. 2023.53

SUMMARY

Property & DA:	54 Llandilo Avenue STRATHFIELD DA 2023/53
Proposal:	Demolition of structures and alterations and additions to the existing heritage dwelling, excavation for 2 basement parking levels and change of use for the purposes of a childcare centre with capacity for 176 children.
Applicant:	T Geagea
Owner:	Llandilo Property Pty Ltd
Date of lodgement:	28 April 2023
Notification period:	5 May 2023 - 26 May 2023
Submissions received:	Ninety six (96)
Assessment officer:	J Gillies
Estimated cost of works:	\$5,073,294.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	Yes – Local Heritage Item I172
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	Yes, 16.8% variation to Clause 4.3 height of buildings
Local Planning Panel Criteria	10+ unique submissions & >10% variation to development controls
RECOMMENDATION OF OFFICER:	REFUSAL

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of structures and alterations and additions to the existing heritage dwelling, excavation for 2 basement parking levels and change of use for the purposes of a childcare centre with capacity for 176 children.

Site and Locality

The site is identified as 54-56 Llandilo Avenue, Strathfield and has a legal description of Lot A DP337876. The site is a corner allotment with frontage to Llandilo Avenue and secondary frontage to Cotswold Road. The northern boundary to Llandilo Avenue is 41.16m, the western boundary to Cotswold Road is 66.95m, the rear southern boundary is 41.35m and the eastern side boundary is 66.95m. The site has a total area of 2,762m².

The locality features low density residential development with a variety of detached dwelling styles including traditional pitched roof developments and more modern flat roof developments.

Environmental Planning Instruments

State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed centre-based childcare centre has been assessed against the provisions under Part 3.3. The proposal fails to satisfy various requirements in the Child Care Planning Guideline referred to in Section 3.23 of the SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development has been assessed under SEPP (Biodiversity and Conservation) 2021 and fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas.

Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned R2-Low Density Residential under the provisions of SLEP 2012. The proposal is defined as centre-based childcare centre and is permitted with consent in the R2 zone. The proposal fails to comply with Clause 4.3 Building Height and the submitted Clause 4.6 variation request does not demonstrate compliance is unreasonable or unnecessary. The proposal also fails to satisfy provisions under Clause 5.10 Heritage conservation and Clause 6.2 Earthworks.

Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development incorporates numerous non-compliances with provisions in 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 5 May 2023 - 26 May 2023. Seventy-eight (78) submissions were received during the notification period and eighteen (18) were received following notification. The submissions relate to the following:

- Impacts to the heritage item,
- Impacts on streetscape and local character,
- Traffic and parking impacts on the local road network,
- Loss of trees,
- Decreased property values,
- Noise and a general change in local amenity,
- Privacy and overlooking,
- Overshadowing,
- Waste and odour impacts,
- Safety for local residents and children attending the centre,
- Geotechnical and impacts on the water table,
- The benefits of additional childcare in the area.

Issues

Assessment of the Application against the applicable planning controls presents the following unresolved issues:

- The clause 4.6 written request to contravene the height of buildings standard is not adequate.
- The proposed scale of the use and alterations to the existing dwelling results in adverse impacts to the fabric of the heritage dwelling and the garden which forms the heritage curtilage.

- The proposed side and rear setbacks result in a development that does not fit the residential context and results in undesirable outcomes for the heritage item and its setting, as well as privacy and overshadowing impacts for the adjoining dwellings.
- The proposed scale of the rear addition is not in keeping with the local character and pattern of residential development in the locality.
- Acoustic impacts are unacceptable.
- There is insufficient off-street parking.
- The proposed works conflict with trees identified for retention and replacement planting is inadequate.
- The landscape plan incorporates a number of poorly designed spaces and embellishments, and the proposed removal of trees is excessive.
- The proposed setbacks result in unacceptable overshadowing of the internal and rear open space of Number 14 Cotswold Road located to the south of the subject site.
- There is insufficient information relating to; fire emergency procedures and evacuation and compliance with various safety standards in the Childcare Planning and Assessment Guidelines.

RECOMMENDATION

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/53 is recommended for refusal subject to the attached reasons of refusal.

ATTACHMENTS

1. [DA2023/53/1 - 54 Llandilo Avenue STRATHFIELD - Standard SLPP Reprt Template](#)



SLPP REPORT

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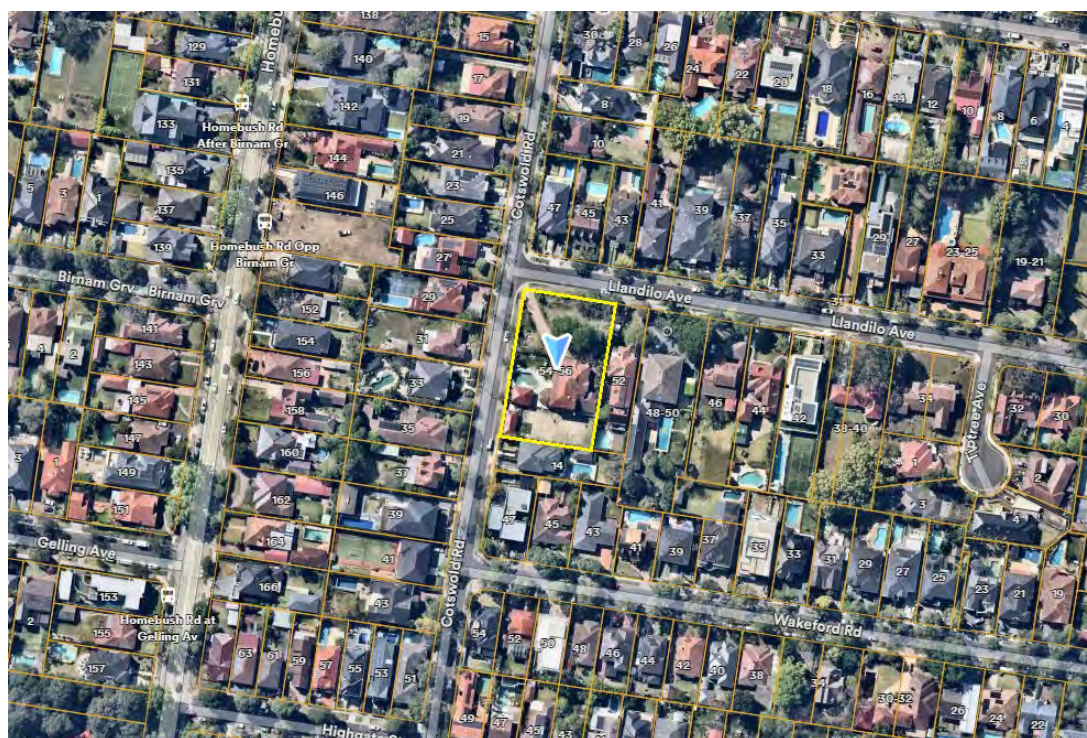


Figure 1: Aerial view of the subject site (outlined in yellow).



EXECUTIVE SUMMARY

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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) 2023/53 is recommended for refusal subject to the attached reasons of refusal.



REPORT IN FULL

Proposal

The proposal seeks development consent for a centre based childcare facility accommodating 176 children between ages 0-5 that will operate between 7am-6pm Monday to Friday. There will be 32 full time staff. The proposed breakdown of children by age group and the corresponding staff numbers is as follows:

Age Group	Children	Staff
0-2 years	48	12
2-3 years	51	12
3-5 years	77	8
Total	176	32

The proposal incorporates the following works:

- Demolition of existing structures including part of the existing dwelling, swimming pool, garage and outbuilding.
- Two basement ramp entries from Cotswold Road - a one way ramp to the lower basement and a two way ramp to the upper basement.
- Lower basement comprising 24 parking bays and turning bay, lift and stairs, gymnasium, laundry, storage, bin room with wash down area, and plant room.
- Upper basement comprising 15 parking bays for drop off and pick up parking, turning bay, program room, two indoor play spaces, courtyard (below cut out on ground floor), bathroom facilities and laundry, storage and lift and stairs.
- Ground floor comprising staff room, cot rooms, kitchen, toilets, supervisor room, reception/sign in, indoor play spaces within refurbished portions of the existing dwelling and the new rear extension, outdoor play spaces comprising hard and soft landscape areas as well as a pavilion, perimeter fencing and other noise attenuation fencing and an onsite detention (OSD) tank with safety fencing.
- Level 1 comprising indoor and outdoor play areas, toilets, lift and stairs.

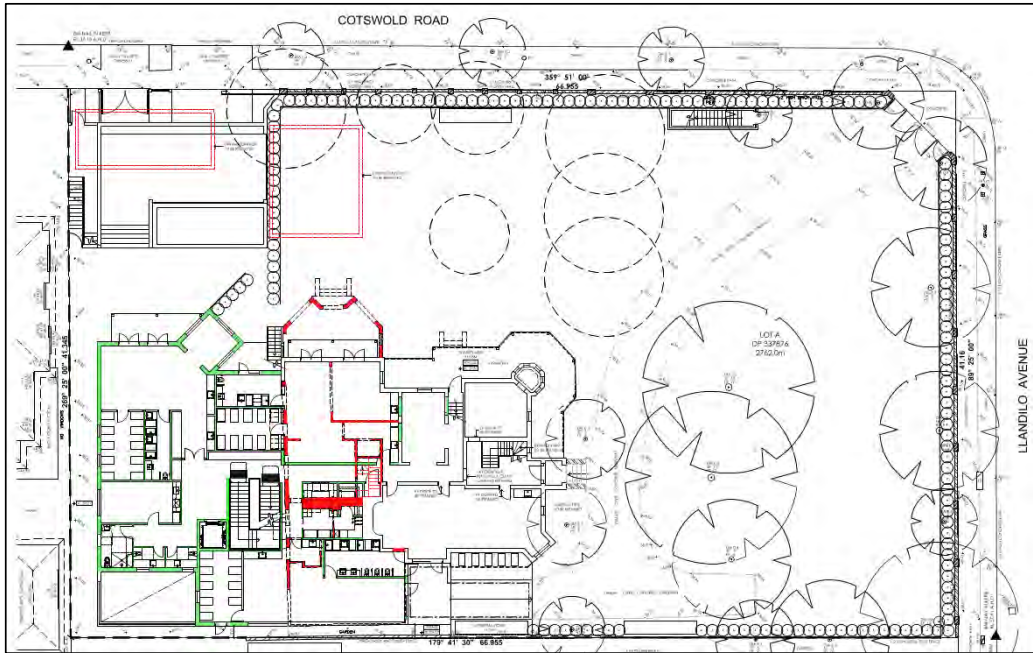


Figure 2: Demolition Plan – Ground Floor

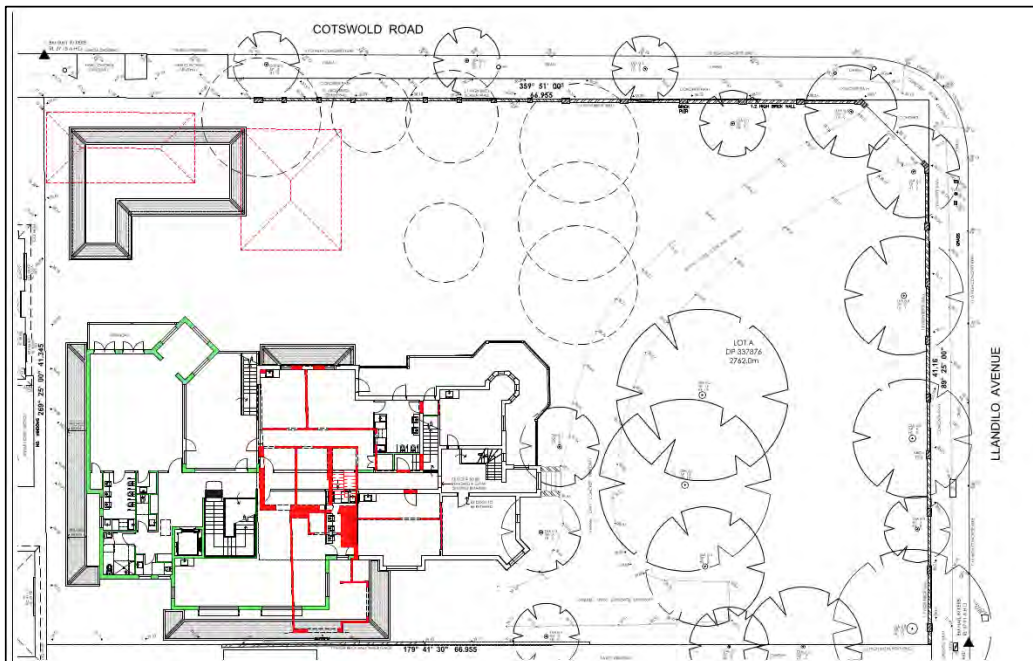


Figure 3: Demolition Plan – First Floor

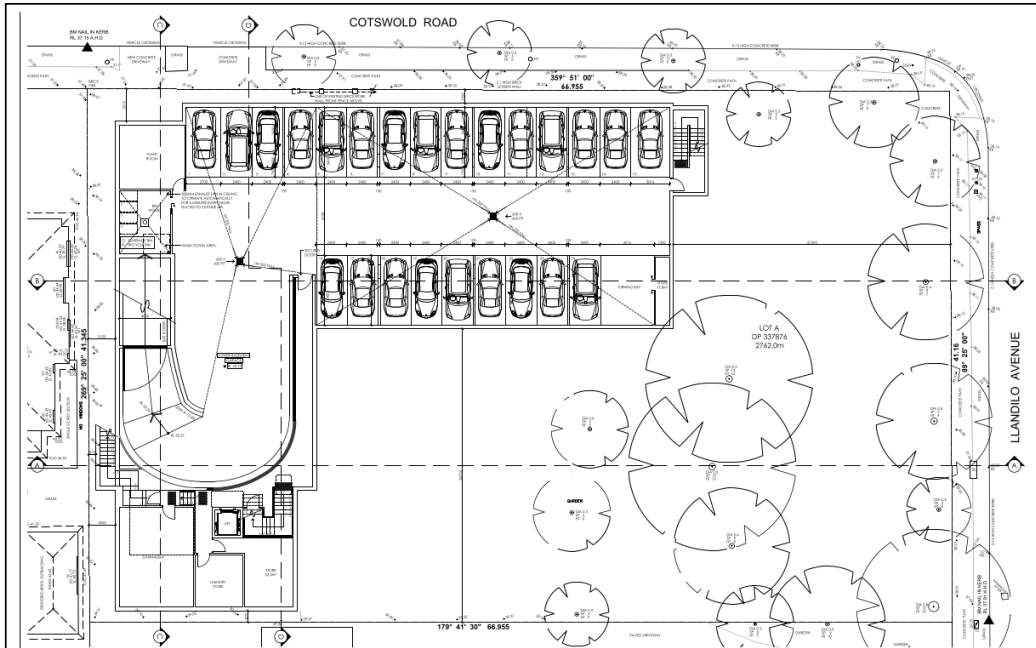


Figure 4: Lower Basement.

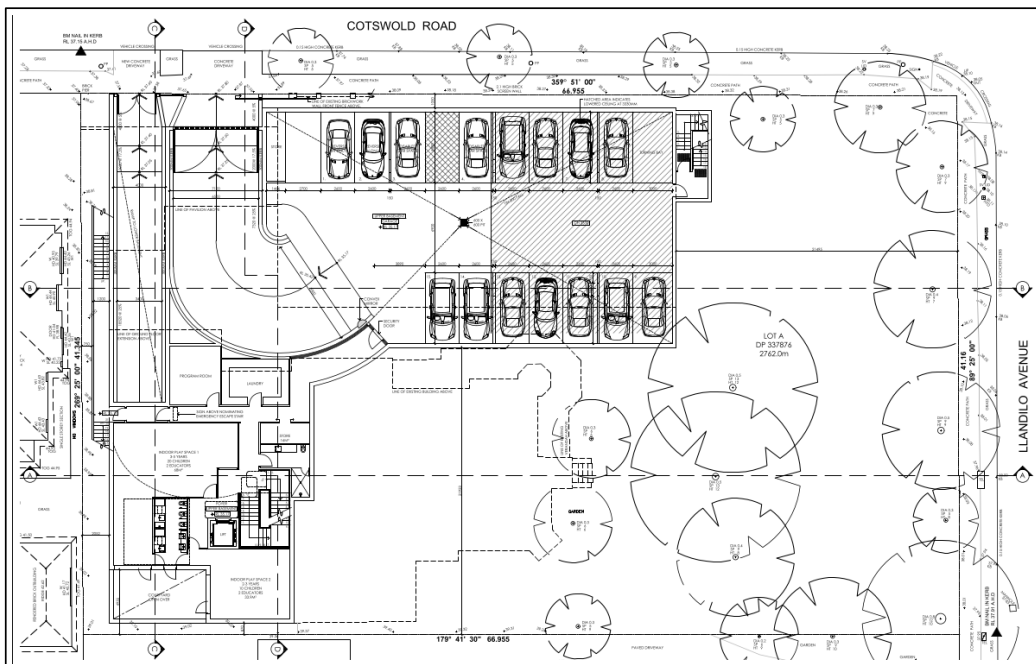


Figure 5: Upper Basement.

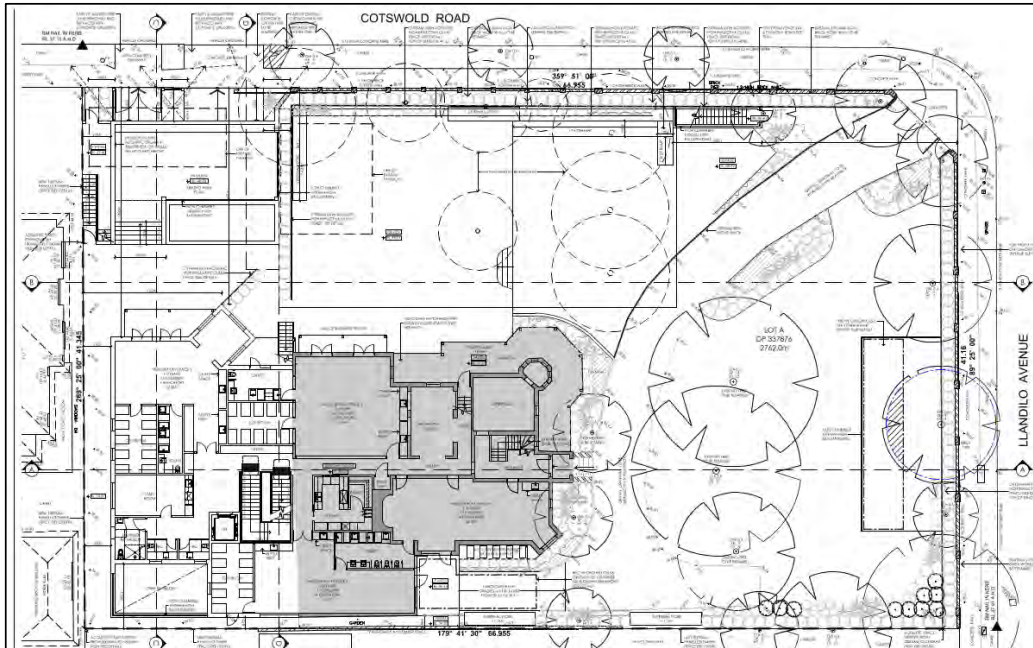


Figure 6: Ground Floor Plan

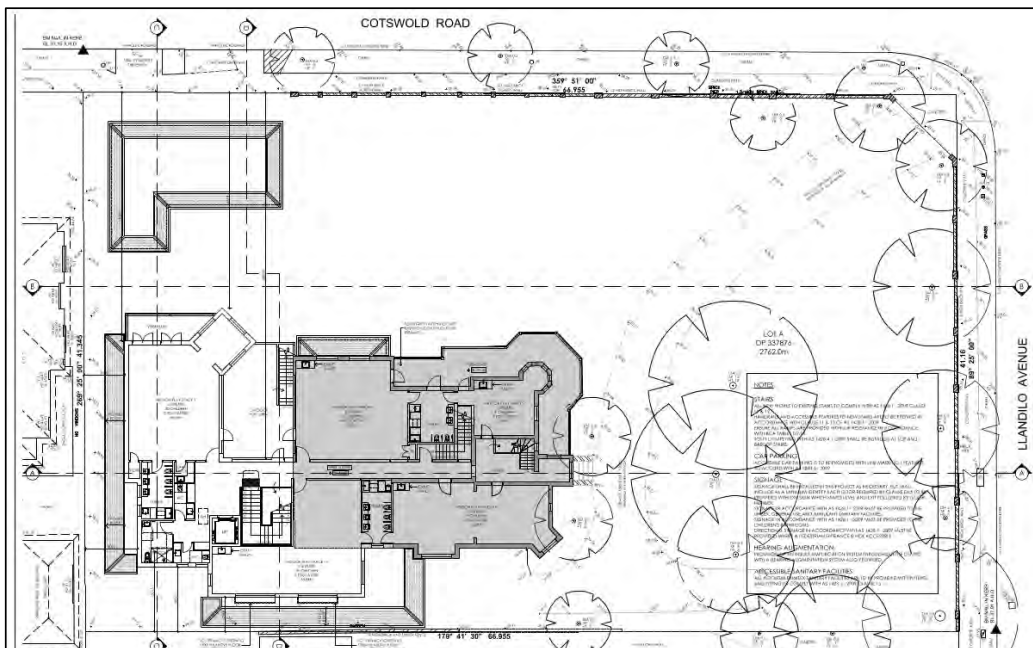


Figure 7: First Floor Plan

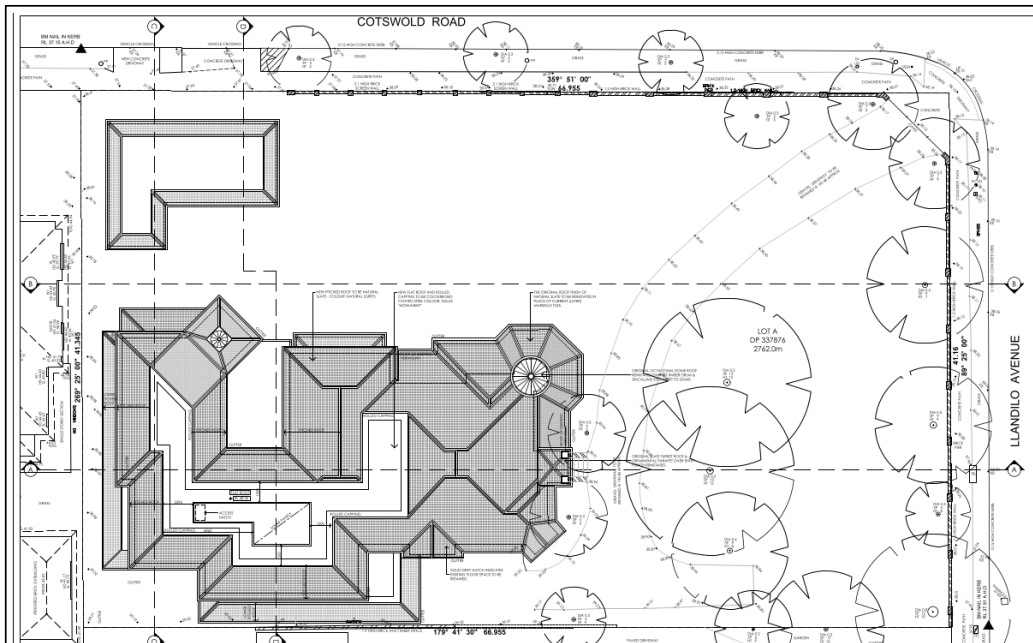


Figure 8: Roof Plan

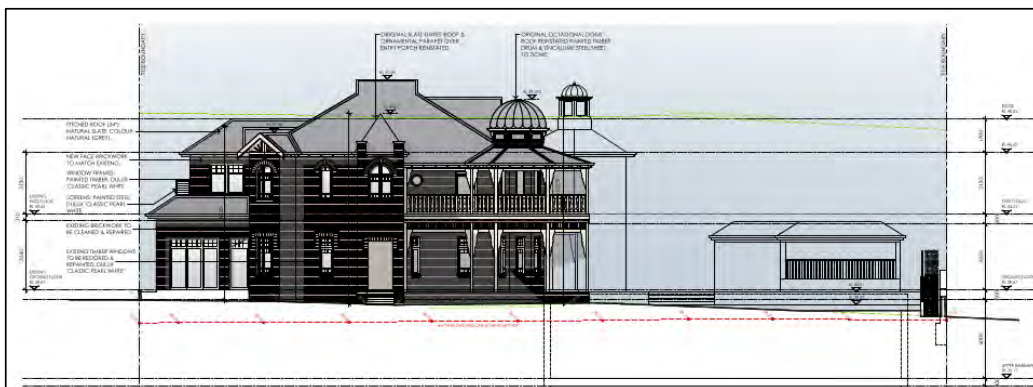


Figure 9: Northern Elevation

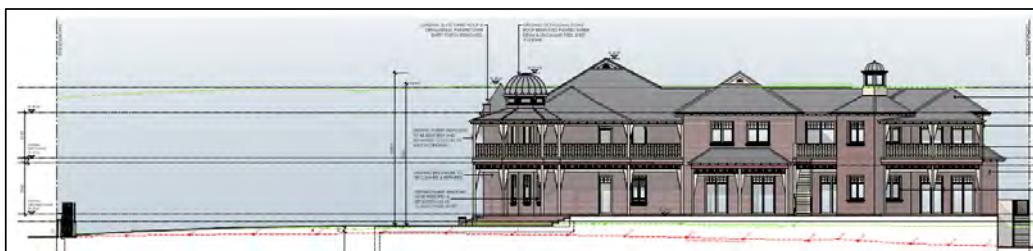


Figure 10: Western Elevation

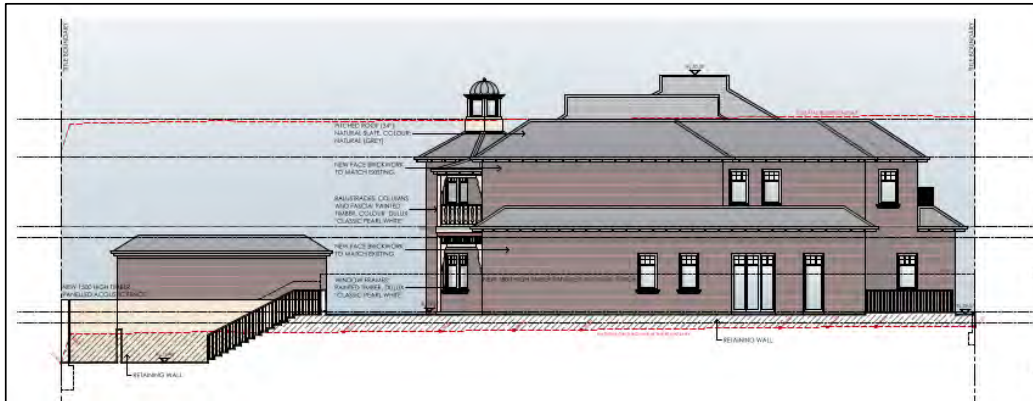


Figure 11: Southern Elevation

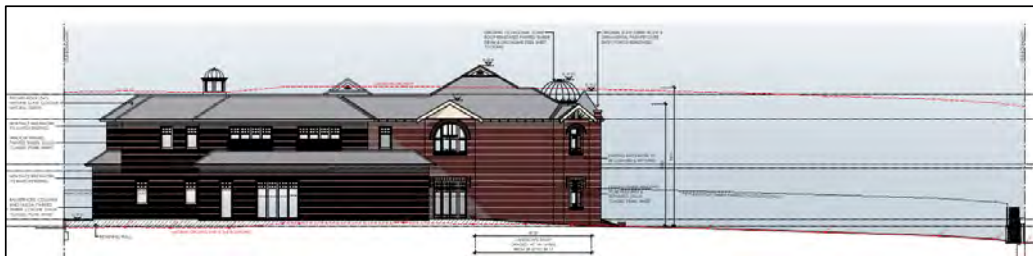


Figure 12: Eastern Elevation



Figure 13: Landscape Plan



The Site and Locality

The site is identified as 54-56 Llandilo Avenue, Strathfield and has a legal description of Lot A DP337876.

The site is a corner allotment with frontage to Llandilo Avenue and secondary frontage to Cotswold Road. The northern boundary to Llandilo Avenue is 41.16m, the western boundary to Cotswold Road is 66.95m, the rear southern boundary is 41.35m and the eastern side boundary is 66.95m. The site has a total area of 2,762m².

The site has a front setback of 28.5m and secondary street setback to Cotswold Road of 15.3m. The southern rear setback is 15.8m and the eastern side setback is 5.5m from the dwelling façade and 0.85m from the attached single storey garage.

Existing structures at the site comprise a two storey federation era dwelling with prominent verandas on both levels, a rear modern extension to the south and attached garage adjoining the eastern boundary. Within the western side setback, there is a pool and outbuilding and within the rear southern setback there is a synthetic tennis court.

The front and secondary street setbacks feature mature trees and landscaping embellishments including a gravel driveway with timber gate. A low brick front fence is located along the Llandilo Avenue frontage and the northern part of the Cotswold Road frontage, which transitions to a height above eye level towards the southern end of that frontage. Timber picket fencing is located along the southern and eastern boundaries, with some brick to the lower portions forward of the building line along the eastern boundary.

The existing dwelling at the site and features of the garden form a local heritage item identified as ‘Dunrobbin’, being item I172 under Strathfield Local Environmental Plan 2012.

The locality features low density residential development with a variety of detached dwelling styles including traditional pitched roof developments and more modern flat roof developments.

The closest non-residential uses are Strathfield Park (250m south west of the site) and Trinity Grammar School (350m east of the site). Strathfield Plaza and Train Station are approximately 1.25km north east of the site, with bus services providing connections along The Boulevarde which is located 500m east of the site.

There are a number of local heritage items in close proximity of the site as illustrated below (the site is shown by red boundary, other heritage items are coloured brown).

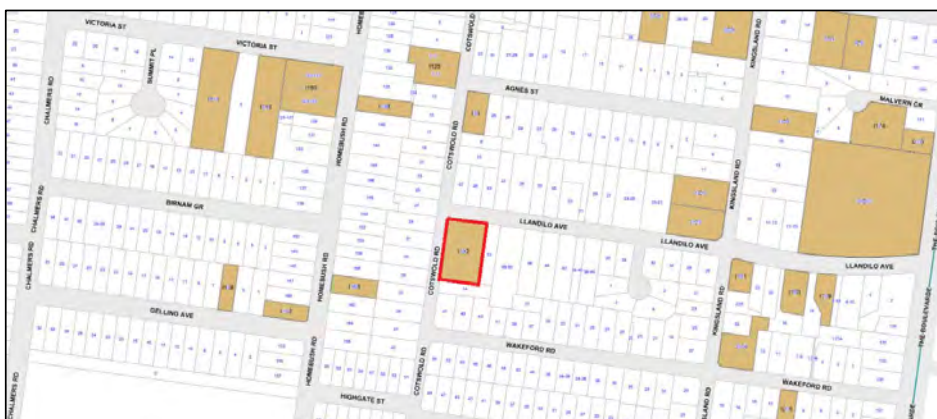


Figure 14: Local Heritage Items within proximity of the site

The Llandilo Avenue and Cotswold Road streetscapes are reflective of the locality, featuring a mixture of modern two storey dwellings and more traditional single and two storey dwellings.



Both streets feature landscaped front setbacks, tree lined verges and mostly single driveway crossovers set to one side.

The site abuts two properties. To the east, number 52 Llandilo Avenue which features a two storey brick dwelling and to the south, number 14 Cotswold Road which features a two storey rendered brick dwelling. Opposite the site on the western side of Cotswold Road the following face the site: single storey brick dwelling at 35 Cotswold Road, two storey rendered brick dwelling at 33 Cotswold Road, single storey rendered brick dwelling at 31 Cotswold Road, two storey rendered brick dwellings at 29 and 27 Cotswold Road.

Opposite the site on the northern side of Llandilo Avenue, the following face the site: two storey rendered brick dwelling at 47 Llandilo Avenue, two storey weatherboard dwelling at 45 Llandilo Avenue, two storey rendered brick dwelling at 43 Llandilo Avenue and two storey brick dwelling at 41 Llandilo Avenue.



Figure 15: Google street view of the site at the corner of Cotswold Road and Llandilo Avenue



Figure 16: Subject site as viewed from Cotswold Road



Figure 17: Existing dwelling house at the subject site as viewed from Llandilo Avenue



Figure 18: Western façade of the existing dwelling and part of the western setback



Figure 19: Existing outbuilding and pool located within the western setback and garage with access to Cotswold Road



Figure 20: Looking south across the rear setback to the neighbouring property at 14 Cotswold Avenue



Figure 21: Looking east across the rear setback at the site and the rear of 52 Llandilo Avenue



Figure 22: Rear façade of the dwelling at the site and interface with the eastern neighbour at 52 Llandilo Avenue



Figure 22: Eastern side setback at the site and interface with the eastern neighbour at 52 Llandilo Avenue



Figure 23: Looking east from Level 1 of the existing dwelling at the site



Figure 24: Looking north-west from an upper level balcony



Figure 25: Existing front entry and northern facade



Background

28 April 2023	DA2023.53 was lodged with Council
5 May 2023	DA2023.53 was neighbour notified until 26 May 2023. The Application was also advertised on Council's Public Notices webpage and in Council's enews.
19 July 2023	The Applicant filed a Class 1 Appeal (Case number 2023/184147) with the NSW Land and Environment Court against a deemed refusal of DA2023.53.
14 November 2023	A conciliation conference was held as part of LEC case number 2023/184147, however the parties were unable to reach an agreement.
6-8 May 2024	<p>A hearing was held for LEC case number 2023/184147. By this point, several updates to plans had been made via successive notice of motion. Changes included:</p> <ul style="list-style-type: none"> • A reduction in children numbers to 152, • Increased upper level setbacks along part of the southern façade, • Increased landscaping along the southern boundary, • A reduction in the overall height of the extension to the heritage item, • A change in style to remove replication of the item and create a lower profile that separates new from old whilst maintain use of traditional (of period) materials, • Updates to the basement layout including circulation and parking, • Revised overshadowing diagrams, • Changes to the landscape plan and provision of additional trees, • Updated acoustic impact modelling. <p>However, the amendments leading up to the hearing resulted in inconsistencies across the DA documentation. The Applicant applied for an adjournment to coordinate amended material, however this was denied by the Court.</p> <p>Council did not have the opportunity to address whether the design and associated impacts (notably acoustic impacts) was supportable.</p>
7 May 2024	Noting the above outcome, the Applicant filed a Notice of Discontinuance of the proceedings.
8 May 2024	Strathfield Council wrote to the Applicant requesting that DA2023.53 be withdrawn noting the outcomes of the Court proceedings, which revealed significant deficiencies in the DA package. Council recommended that a new DA be lodged once the Architectural Plans had been revised and supporting documents were coordinated.
8 May–3 July 2024	Without prejudice discussion occurred between Council and the Applicant in relation to costs of the proceedings and the Application generally.



30 September 2024 Council wrote to the Applicant's Planner outlining that if amended plans were to be submitted, then this should be done by 31 October 2024 and that if amended plans and supporting documentation are not submitted by this time, Council will determine the DA based on the originally lodged plans and documents.

25 October 2024 The Applicant's solicitor wrote to Council outlining that the Applicant intended to lodge amended documentation on 30 November 2024.

The Applicant had an extensive period of time to make amendments to the DA following discontinuance of the Court proceedings (7 May 2024). On 30 September, the Applicant was formally given a 4-week deadline, being more than Council's typical timeframe of 14 or 21 days.

Council has no guarantee the Applicant would submit a complete and comprehensive amended DA package by the 30 November. Accordingly, Council wrote to the Applicant on 11 October 2024 and advised the DA would be assessed against the originally lodged plans and documents and that the DA would be determined by the SLPP at its meeting on 14 November 2024.

Referrals – Internal and External

Heritage

The Application was referred to Council's Heritage Planner and Architect. The following comments were provided on the original plans:

- The proposed scale of the use and alterations to the existing dwelling results in adverse impacts to the fabric of the heritage dwelling and the garden which forms the heritage curtilage. In style, the proposed extension seeks to replicate the existing dwelling and in scale the extension overpowers the existing dwelling and the outcome will not protect the environmental heritage attributed to the site.
- The proposal includes extensive alterations and additions to the heritage item and its curtilage that will significantly impact on the heritage significance of the local heritage item, contrary to objectives 1(a) and (b) of cl 5.10 SLEP2012.
- Contrary to cl 2.3 (Scale) of Part P SCDCP 2005, in elevation the length and scale of the development significantly exceeds that of the heritage item, thereby overpowering the original and in good condition heritage dwelling.
- The proposed development is non-compliant in its form and design with cl2.4 of Part P SCDCP 2005 (particularly objectives A, B and Control 4) and with respect to the Burra Charter at Article 22 'New Work' because it aims to replicate or copy the design of the heritage house, rather than being identifiable as 'new work' as required by these provisions.
- The proposed development does not achieve objectives A and C and is non-compliant with Control 1 of cl 2.6 (Alterations and Additions) of Part P SCDCP 2005 because the proposed development requires excessive demolition and alteration of the original internal features, fabric and detailing of the heritage item, resulting in an unacceptable and adverse heritage impact. The proposed works would significantly detract from the originality and significance of the item.
- The proposal does not achieve Objective A and is non-compliant with Control 5 under Section 2.8 (Car Parking) of Part P Heritage of SCDCP 2005 because the 2 level basement entry, pavilion and associated structures, and high walled gates create an unsympathetic streetscape character and heritage outcome for the Cotswold Road



- frontage. The basement lies beneath the majority of the Cotswold Road frontage which would limit the growth of the hedge between the acoustic fence and the existing fence.
- The new fencing and gates are not in-keep with the character of the heritage item and are contrary to Objective B of cl 2.9 under Part P SCDP 2005 or Cl3.2(9) of the CCPG. A 2.1 metre acoustic fence surrounding the property to mitigate acoustic impacts is an unsatisfactory design response and will detract from the heritage significance of the property. Section 3.2 (subsection C9) under the CCPG also requires front fencing and walls within the front setback to be designed in accordance with local heritage provisions.
 - The proposed development does not achieve Objective A and Control 3 of cl 2.13 of Part P of SCDP 2005 because it incorporates partial demolition to significant fabric that is otherwise in good condition and does not need to be removed to facilitate the ongoing use of the property. The resulting impacts of the proposal are unreasonable as the removal of original fabric will significantly detract from the heritage significance of the item.
 - The proposed development does not achieve Objectives A, B, C, D and E and Controls 2, 4, 6 of cl 2.16 of Part P SCDP 2005 because the proposal includes substantial alterations internally within the building that will impact on significant and good condition of the heritage fabric of the item.
 - The scale of the proposed development and its detrimental impact on the significance of the heritage item does not achieve the requirements of the CCPG under Section 3.1 Site selection and location, sub-section C2. The proposal will have a detrimental impact on the heritage character and fabric of the heritage item.

Environmental Health - Acoustic

The Application was referred to Council's consulting Acoustic Engineer. The following comments were provided on the original plans and Noise Impact Assessment:

- The submitted acoustic report has not demonstrated that the development will not cause an unreasonable disturbance to neighbouring residents.
- Additional noise controls are likely to be required to prevent unreasonable noise impacts at neighbouring receiver locations.
- The submitted acoustic report has not identified an appropriate noise level for the child care centre.
- Insufficient information is provided in relation to the agreement reached with the owner of 52 Llandilo Avenue regarding the proponent paying for upgraded glazing to the western facade of that property, as outlined at contention 1 above.
- The acoustic report predicts an exceedance of up to 9 dB above the AAAC outdoor play criterion at the northern ground level, and an exceedance of up to 8 dB above the AAAC outdoor play criterion at the western elevated facade, of 52 Llandilo Avenue. The exceedance is deemed to be significant (as per the NSW Noise Policy for Industry Table 4.1 Significance of residual noise impacts) and is likely to lead to unreasonable disturbance.
- The criterion for a particular assessment (e.g. outdoor play, indoor play, vehicle noise, etc.) is not presented in any of the calculated results tables within the report.
- There are inconsistencies between the acoustic report and the architectural drawings, including:
 - Appendix D17 Source 1 has a source location height of 1 metre above RL 38.51, however the architectural and landscape drawings indicate the floor level at that location is RL 39.57. This means that children at source locations 1, 2, 3, 4, 7, 8 & 9 may have been modelled approximately 1 metre lower in height;



- Where the children are modelled at a lower height, the predicted noise emission is not representative of the noise impacts associated with children engaged in outdoor play;
- The applicant predicts identical noise levels for scenario 2 and scenario 7 at assessment receiver location A1 & A2 at 52 Llandilo Avenue. Such similar results are likely to be in error, given the different scenarios;
- Insufficient detail is provided in the architectural drawings or the acoustic report to determine the wall set-out and construction of the pavilion (i.e. excepting the western facade, it is not clear which facade orientations are fully open, or semi-enclosed with a glass balustrade).
- The proposed barrier configurations and heights are likely to be inadequate when considering that the acoustic report has relied upon lower finished floor heights than shown in the architectural drawings.
- The proposed barrier configurations and heights are likely to be inadequate when considering the children at play source heights are based upon lower finished floor heights than shown in the architectural drawings.
- The development application should be refused as the proposed mitigation measures are likely to be inadequate as noise emission from the site is predicted to exceed the background + 5 dB objective of the AAAC Guideline for Child Care Centre Acoustic Assessment (V3).

Traffic and Parking

The Application was referred to Council's Traffic Engineer. The following comments were provided on the original plans and submitted Traffic and Parking Assessment:

- The proposed development fails to provide adequate parking spaces for the intensity of use of the land which results in a detrimental impact on the surrounding local road network. Clause 3.8 - C30 and C31 CCPG provides that child care centre parking rates must be in accordance with Council's DCP if the DCP provide parking rates for the use.
- Clause 5.6 of Part E SCDGP requires the following parking rates for child care centres:
 - 1 space per employee (stack parking is permitted for staff parking),
 - 1 visitor space per 8 children (or part thereof) proposed to use childcare centre.
 - 2 additional parking spaces for any associated residence.
- Applying the rates contained in cl 5.6, the proposed development generates a requirement for a minimum of 54 parking spaces (comprised of 22 for parent use and 32 for staff use). However only 39 parking spaces (comprised of 15 for parent use and 24 for staff use) are proposed in the application. This results in a shortfall of 15 parking spaces.
- The Plan of Management submitted with the Application identifies the need for an additional 5 staff (part time cook, 4 educators and staff manager), in addition to the 32 staff included in the Traffic Impact Assessment Report. When included in the overall staffing numbers, this would result in a shortfall of 20 parking spaces.
- Insufficient on site parking will necessitate drop off, pick up and staff parking on street, adversely impacting on the amenity of adjacent and nearby dwellings.

Landscaping and Trees

The Application was referred to Council's Urban Forest Supervisor. The following comments were provided on the original plans lodged with the DA:



- The proposed development should be refused as the works conflict with trees identified for retention and replacement planting is inadequate. The landscape plan incorporates a number of poorly designed spaces and embellishments and the proposed removal of trees is excessive.
- The proposed extensive tree removal and replacement planting does not comply with cl 5 Part O SDCP 2005 because the Applicant has not replaced every removed tree with two new trees, as required under that part.
- The proposed stormwater works and building footprint will impact on trees identified for retention at the site and on neighbouring properties. The Arboricultural Impact Assessment (AIA) submitted with the development application has not considered these impacts. The following trees are of concern:
 - Tree 25 (Jacaranda mimosifolia). The proposed basement egress stairs and stormwater works conflict with this tree.
 - Tree 7 (Liquidambar styraciflua) and Tree 1 (Erythrina crista-galli) have stormwater works proposed within their structural root zones (SRZ).
 - Trees 2 & 35 (Koelreuteria sp.(identified as Pistacia in AIA)) will potentially be impacted by proposed above ground OSD.
 - Proposed fencing cuts through or close to base of trees 6, 29, 1, 35, 2, 3 & 25. Even if bridging techniques were used through root zones significant branches will require removal.
 - There are 2 trees within neighbouring property, 52 Llandilo Avenue and immediately adjacent to the subject property boundary. Tree 29 conflicts with there being another Tree 29 in the AIA. The tree is a Jacaranda mimosifolia. This tree and the adjacent Macadamia (Tree 9) have potential to be impacted by proposed stormwater works.
 - AIA numbering and assessment to be corrected to include both trees on neighbouring property and arborist to approve location and methods for any stormwater works within these trees TPZs.
- The development application should be refused as the landscaping outcome along the permitter next to the acoustic fencing (2.6m timber to east boundary, 2.1m glass to north and west boundaries) has not been adequately considered in terms of what planting is appropriate to complement the heritage characteristics at the site and what planting will grow in the environment created. The following issues are present:
 - The fencing height and alignment doesn't take into consideration existing trees as outlined above.
 - The proposed planting is a long line of single species which is not consistent with existing, mixed planting outcome at the property.
 - The Architectural Drawings show permitter planting to achieve height of acoustic fence however landscape plan nominates species to 1m height.
 - Consideration doesn't seem to have been given to maintenance of plants between acoustic fence and boundary wall which is necessary to ensure the outcome is realised. North and west facing glass fence will create extremely hot, reflective conditions for plants to grow.

Building Surveyor

- The Building Code of Australia (BCA) report submitted with the Application is inadequate and must be revised. Section 64 of the EP&A Regulations requires the consent authority to consider measures in the building to protect persons using the building if there is a fire, to facilitate safe egress and restrict the spread of fire to other buildings.
- The BCA report has been written by a fire engineer and must be prepared by an unrestricted building surveyor.



- The BCA report must make reference to the submitted Architectural Drawings.
- The measures required to make the building fire safe must be listed in detail.
- Measures required for access must be addressed and how they impact on heritage fabric. For example, any ramping required to internal and external features of the heritage dwelling.
- The fire safety report must include an assessment of whether appropriate fire safety measures have been implemented, their impact (if any) on the heritage fabric, and whether the appropriate fire safety separation has been accommodated.

Geotechnical / Excavation

The Application was referred to Council's consulting Geotechnical Engineer. The following comments were provided on the original plans and submitted Geotechnical Report:

- The geotechnical report submitted with the application discusses the need for retention systems to support the neighbouring ground and control deformations resulting from the excavation resulting in damage to neighbouring structures, pavements and services. However the GCA report does not provide sufficient information regarding:
 - The tolerable deformations for:
 1. Neighbouring buildings, pavements, services, roads and swimming pool,
 2. Existing heritage building on the property.
 - The proposed retention, and excavation controls (both design and construction) proposed to ensure that the actual deformations are less than the tolerable deformations and thus will not result in damage to these structures.
 - Potential deformations resulting from installation of the retention system including pile and anchor installation
 - Details of the support/construction methods where anchor installation across the boundary is not possible or permitted

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 DA was referred to Councils Urban Forest Supervisor who outlined that the lodgment documents did not identify adequate replacement planting and that a number of trees identified for retention would be compromised by the building footprint and ancillary works (fencing and stormwater infrastructure).

Accordingly, the proposed development fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas.

Chapter 10 – Sydney Harbour Catchment

All stormwater from the proposed development 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 (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.

STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

Chapter 3 applies to the construction of a new non-residential building with an Estimated Development Cost (EDC) of more \$5 million or more. The proposed development has an EDC that is more than \$5 million.

However, the provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022 do not apply to the subject application as it is captured by the savings and transitional provisions under Section 4.2, noting the lodgement date of the DA.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 3 – Part 3.3 - Early Education And Child Care Facilities

Chapter 3 of the SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities across NSW.

Section 3.22 of the SEPP prescribes that a consent authority must not grant consent to a development for the purpose of a centre-based childcare facility, except with the concurrence of the regulatory authority, if:

- *The floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations; or*
- *The outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those regulations.*

Section 107(2) of the Education and Care Services National Regulations contains the following provision:



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

Based on the above requirement, 572m² of unencumbered indoor space is required for the proposed capacity of 176 children. The originally lodged DA plans show a total unencumbered indoor space are of 590.4m².

However, it is noted that internal storage spaces are not shown on the submitted architectural drawings and these spaces must be excluded from the total unencumbered indoor space areas. Therefore, there is insufficient information to determine whether the proposal complies with the regulation requirement and whether referral to the National Regulator is required.

Section 108(2) of Education and Care Services National Regulations contains the following provision:

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

Based on the above requirement, 1,232m² of unencumbered outdoor space is required for the proposed capacity of 176 children. The centre proposes to provide 1,673.9m² of unencumbered outdoor space and therefore complies with the minimum unencumbered outdoor space requirement.

The submitted Architectural Drawings do not exclude certain features from the unencumbered outdoor space as required by the regulation. These are as follows:

- Outdoor storage spaces,
- Drainage pits and OSD tanks.

Notwithstanding, the proposal exceeds the unencumbered outdoor space requirement by a reasonable margin and referral to the national regulator is unlikely to be required for unencumbered outdoor space provision.

Section 23 of the SEPP prescribes as follows:

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

An assessment of the proposal against the relevant matters for consideration as prescribed in Part 2, 3 and 4 of the Child Care Planning Guidelines 2021 are as follows:

Matter for Consideration	Comment
3.1 Site selection and location	
C1	<p><i>Objective: To ensure that appropriate zone considerations are assessed when selecting a site.</i></p> <p>Objective not satisfied.</p> <p>Noise Impacts</p>



	<p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity 	<p>As noted in the Noise Impact referral, the proposed childcare centre has not adequately considered the acoustic impacts of the proposal.</p> <p>Setbacks and siting The proposal incorporates a southern and eastern setback that is inconsistent with residential development patterns in the locality. The proposed setbacks are non-compliant with Council’s DCP. This is discussed in further detail under the DCP assessment section of this report.</p> <p>Traffic and Parking As noted in the Traffic and Parking referral section, the proposal does not achieve off-street parking requirements in Council’s DCP.</p>
<p>C2</p>	<p><i>Objective: To ensure that the site selected for a proposed child care facility is suitable for the use.</i></p> <p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas -there are suitable drop off and pick up areas, and off and on street parking 	<p>Objective not satisfied.</p> <p>The scale of the proposed childcare centre results in an outcome that is not site responsive. The scale of the proposed extension detracts from the heritage characteristics of the site and results in overshadowing and privacy impacts for adjoining residential neighbours.</p> <p>The number of children and arrangement of plays spaces and mitigation measures are inappropriate for the site in its residential setting.</p>
<p>C3</p>	<p><i>Objective: To ensure that sites for child care facilities are appropriately located</i> A child care facility should be located:</p>	<p>Objective is satisfied.</p>



	<ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>It would be beneficial for a childcare centre of the scale proposed to be within closer proximity to a town centre, services, shops and public transport nodes.</p> <p>However, the CCPG does not establish numerical distance requirements and it cannot be said that the site is isolated.</p>
<p>C4</p>	<p><i>Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards</i></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"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - 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 	<p>Objective is satisfied.</p> <p>The subject site does not present any of these risks.</p>
<p>3.2 Local Character, Streetscape and the Public Domain Interface</p>		
<p>C5</p>	<p><i>Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.</i></p> <p>The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity 	<p>Objective not satisfied.</p> <p>The proposed side and rear setbacks result in a development that does not fit the residential context and results in undesirable outcomes for the heritage item and its setting, as well as privacy and overshadowing impacts for the adjoining dwellings. Further detail and specific numerical non-compliances are discussed in further detail under the DCP assessment section of this report.</p> <p>The proposed landscaping scheme is inadequate as noted in the Landscape and Tree Referral section of this report.</p>



	<ul style="list-style-type: none"> integrate car parking into the building and site landscaping design in residential areas. 	
C6	<p><i>Objective:</i> To ensure clear delineation between the child care facility and public spaces.</p> <p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> fencing to ensure safety for children entering and leaving the facility 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 integrating existing and proposed landscaping with fencing. 	<p>Objective is satisfied.</p> <p>The proposed development incorporates the features required in C6 and C7.</p>
C7	<p>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>	
C9	<p><i>Objective:</i> 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>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>Objective not satisfied.</p> <p>As noted in the Heritage referral, a 2.1 metre acoustic fence surrounding the property to mitigate acoustic impacts is an unsatisfactory design response and will detract from the heritage significance of the property.</p>
3.3 Building Orientation, Envelope and Design		
C11	<p><i>Objective:</i> 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"> ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: 	<p>Objective not satisfied.</p> <p>The proposed development incorporates extensions to the heritage item that result in overshadowing and privacy impacts to neighbouring properties. The majority of outdoor play spaces have been located within the setbacks to Cotswold Road and Llandilo Avenue, however smaller spaces are</p>



	<ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses <ul style="list-style-type: none"> • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>unnecessarily squeezed into the eastern and southern setbacks, adding to noise impact dilemmas.</p> <p>Cut and fill has not been minimised and as noted in the geotechnical referral section, insufficient information has been submitted to understand the impacts of the two story basement.</p>
<p>C12</p>	<p><i>Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i></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"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. 	<p>Objective not satisfied.</p> <p>The proposed side and rear setbacks result in a development that does not fit the residential context and results in undesirable outcomes for the heritage item and its setting, as well as privacy and overshadowing impacts for the adjoining dwellings. Further detail and specific numerical non-compliances are discussed in further detail under the DCP assessment section of this report.</p>
<p>C13</p>	<p><i>Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</i></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</p>	<p>Objective not satisfied.</p> <p>Refer above comments relating to setbacks.</p>



<p>C14</p>	<p>required for the predominant adjoining land use.</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>C15</p>	<p><i>Objective: To ensure that buildings are designed to create safe environments for all users.</i></p> <p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<p>Objective satisfied.</p> <p>The proposal incorporates three main access points – one from the corner of Llandilo Avenue and Cotswold Road, one via the basement and one via stairs along the southern setback leading to Cotswold Road. This is an acceptable outcome for the scale of the proposal, however there is insufficient detail on certain aspects of this access arrangement such as:</p> <ul style="list-style-type: none"> • Pedestrian paths within the basement, • Gates required for security from the Llandilo/Cotswold main entry, • Pram ramps and accessibility allowances for the main entry point, • Complicated internal routes to drop off areas from the basement.
<p>C16</p>	<p><i>Objective: To ensure that child care facilities are designed to be accessible by all potential users.</i></p> <p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • 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 • 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 • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. 	<p>Objective not satisfied.</p> <p>The pedestrian entry point from Llandillo Avenue does not allow for pram or wheeled device access and the basement visitor parking area does not designate areas for two-way pram access or clear pedestrian paths.</p> <p>At street level, the pedestrian access point identified in the development documents as the main access point for pedestrians requires entry via stairs at the front of the building.</p> <p>Within the visitor parking area, pedestrian thoroughfares are not marked on the Architectural Drawings and two-way pram access is not provided. Accessible parking bays are also not indicated. Further, the entry to the facility, via the car park,</p>



		requires movement through several corridors, a lift and the ground floor corridors, all of which is a considerable distance and presents way finding challenges.
3.4 Landscaping		
C17	<p><i>Objective: To provide landscape design that contributes to the streetscape and amenity.</i></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. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. 	<p>Objective not satisfied.</p> <p>The proposed landscaping scheme is inadequate as noted in the Landscape and Tree Referral section of this report.</p>
3.5 Visual and Acoustic Privacy		
C21	<p><i>Objective: To minimise impacts on privacy of adjoining properties</i></p> <p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	<p>Objective not satisfied.</p> <p>The area along the southern boundary near the pavilion and extending to the east along the southern boundary is identified as unencumbered outdoor space and has not been designed to minimise direct overlooking of 14 Cotswold Road. Considering the fill in this area and relationship to the pavilion and pedestrian basement stairs, the boundary fencing proposed is not a satisfactory privacy mitigation measure. In this regard, the development application does not achieve the requirement to minimise overlooking to adjoining developments.</p> <p>As noted in the Noise Impact referral section of this report, the submitted acoustic report has not demonstrated that the development will not cause an unreasonable disturbance to neighbouring residents.</p>
C22	<p>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"> • 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). • 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. 	



		<p>Additional noise controls are likely to be required to prevent unreasonable noise impacts at neighbouring receiver locations.</p> <p>The submitted acoustic report has not identified an appropriate noise level for the child care centre.</p>
C23	<p><i>Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</i></p> <p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>Objective not satisfied.</p> <p>Refer above comments.</p>
3.6 Noise and Air Pollution		
C24	<p><i>Objective: To ensure that outside noise levels on the facility are minimized to acceptable levels.</i></p> <p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas 	<p>Objective satisfied.</p> <p>The subject site is not within proximity to any noise generating sources. Therefore, the noise concerns relate to noise emissions at the site, rather than noise coming into the site.</p>



<p>C25</p>	<p>and play areas away from external noise sources.</p> <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"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise. 	
<p>3.7 Hours of Operation</p>		
<p>C28</p>	<p><i>Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.</i></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>Objective satisfied.</p> <p>The proposal is for 7am-6pm Monday to Friday.</p>
<p>3.8 Traffic, Parking and Pedestrian Circulation</p>		
<p>C30</p>	<p><i>Objective: To provide parking that satisfies the needs of users and demand generated by the centre.</i></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>Objective not satisfied.</p> <p>As noted in the Traffic and Parking referral, the proposed development fails to provide adequate parking spaces for the intensity of use of the land which results in a detrimental impact on the surrounding local road network.</p>
<p>C32</p>	<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised.</p> <p>The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> • the amenity of the surrounding area will not be affected 	<p>Objective not satisfied.</p> <p>Refer above comments.</p>



	<ul style="list-style-type: none"> there will be no impacts on the safe operation of the surrounding road network 	
C35	<p><i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i></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"> separate pedestrian access from the car park to the facility defined pedestrian crossings included within large car parking areas separate pedestrian and vehicle entries from the street for parents, children and visitors pedestrian paths that enable two prams to pass each other delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities vehicles can enter and leave the site in a forward direction. 	<p>Objective not satisfied.</p> <p>The pedestrian entry point from Llandillo Avenue does not allow for pram or wheeled device access and the basement visitor parking area does not designate areas for two-way pram access or clear pedestrian paths.</p> <p>At street level, the pedestrian access point identified in the development documents as the main access point for pedestrians requires entry via stairs at the front of the building.</p> <p>Within the visitor parking area, pedestrian thoroughfares are not marked on the Architectural Drawings and two-way pram access is not provided. Accessible parking bays are also not indicated. Further, the entry to the facility, via the car park, requires movement through several corridors, a lift and the ground floor corridors, all of which is a considerable distance and presents way finding challenges.</p>
C37	<p>Car parking design should:</p> <ul style="list-style-type: none"> include a child safe fence to separate car parking areas from the building entrance and play areas provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards include wheelchair and pram accessible parking 	

The Child Care Planning Guidelines also refer to the requirements of Part 4.3 Physical Environment of the Education and Care Services National Regulations. Compliance with these Regulations is addressed below.

Matter for Consideration		Comment
4.1 Indoor space requirements		
Reg 107	Every child being educated and cared for within a facility must have a minimum of 3.25m ² of unencumbered indoor space.	Insufficient information to determine if requirement is achieved.



		<p>572m² of unencumbered indoor space is required for the proposed capacity of 176 children. The originally lodged DA plans show a total unencumbered indoor space are of 590.4m².</p> <p>However, it is noted that internal storage spaces are not shown on the submitted architectural drawings and these spaces must be excluded from the total unencumbered indoor space areas. Therefore, there is insufficient information to determine whether the proposal complies with the regulation requirement and whether referral to the National Regulator is required.</p>
4.2 Laundry and hygiene facilities		
Reg 106	<p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that is not accessible by, and does not pose a risk to, children</p>	<p>Requirement not achieved.</p> <p>The proposed development is an expansive facility that has a disconnected laundry and laundry store and both spaces are considerable distances from many of the play spaces and cot rooms. The Plan of Management does not provide sufficient detail on how these laundry facilities will allow for regular cleaning of spaces throughout the day with the staff numbers proposed.</p>
4.3 Toilet and hygiene facilities		
Reg 109	<p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.</p>	<p>Requirement achieved.</p> <p>The plans indicate adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided.</p>
4.4 Ventilation and natural light		
Reg 110	<p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.</p>	<p>Insufficient information to determine if requirement is achieved.</p> <p>It is unclear whether the windows available for natural ventilation will need to be closed in order to achieve noise mitigation requirements.</p>
4.5 Administrative Space		
Reg 111	<p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service,</p>	<p>Requirement achieved.</p>



	consulting with parents of children and conducting private conversations.	The plans indicate adequate areas for the purposes of conducting the administrative functions are incorporated into the design.
4.6 Nappy change facilities		
Reg 112	Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	Requirement achieved. The plans indicate the design incorporates appropriate hygienic facilities for nappy changing and bathing.
4.7 Premises designed to facilitate supervision		
Reg 115	A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate adequate supervision of children at all times, having regard to the need to maintain their rights and dignity	Insufficient information to determine if requirement is achieved. Internal elevations are required to demonstrate where windows (include sill heights and dimensions on floor plans) are provided to determine if appropriate surveillance is available from the children's toilets, nappy change rooms, cot areas, bottle preparation rooms and the play areas.
4.8 Emergency and evacuation procedures		
Reg 97 & 168	Regulation 168 sets out the list of procedures that an education and care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: <ul style="list-style-type: none"> • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service 	Insufficient information to determine if requirement is achieved. Considering the scale of the development (including large numbers of infants) and the development configuration (noting limitations on possible movement paths resulting from the heritage constraints), emergency evacuation plans should be provided. These plans are expected to be complex when requirements for emergency evacuation devices, cot widths, exit path surface requirements and staff to children ratios are considered.
4.9 Outdoor space requirements		
Reg 108	An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m ² of unencumbered outdoor space.	Requirement achieved. 1,232m ² of unencumbered outdoor space is required for the proposed capacity of 176 children. The centre proposes to provide 1,673.9m ² of unencumbered outdoor space and therefore <u>complies</u> with the minimum



		unencumbered outdoor space requirement.
4.10 Natural environment		
Reg 113	The approved provider of a centre-based service must ensure that the outdoor spaces allow children to safely explore and experience the natural environment.	Requirement achieved. The plans indicate the design allows for children to safely explore and experience the natural environment.
4.11 Shade		
Reg 114	The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	Requirement not achieved. One of outdoor learning areas is located on the hot western aspect of the property but provides for minimal shade and proposes extensive use of artificial grass and softfall which both generate significant heat. This area features removal of large canopy trees and no replacement planting which would provide a degree of shading and soften the interface with the street. This is also an issue for the front northern setback, where there is removal of canopy trees and inadequate replacement planting. The SEE outlines canopy trees will be utilised for achieving shade requirements for play areas under the ECSNR however no solar analysis of this has been provided and any replacement planting would not provide shade in the short term unless mature trees are planted.
4.12 Fencing		
Reg 104	Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	Requirement achieved. The requirement is achieved, however the proposed fencing conflicts with tree retention and heritage requirements as noted elsewhere in this report.
4.13 Soil assessment		
Reg 25	Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval	In accordance with the requirement, the Applicant has included the following statement in the submitted SEE: The subject site has been utilised for residential accommodation, and as such there is no reason to suspect that site is unhealthy or contaminated.



		This statement from the Applicant is consistent with Council’s review of the site history as required under State Environmental Planning Policy (Resilience and Hazards) 2021.
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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 centre based child care facility 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	9.5m	11.1m (16.8%)	No, refer 4.6 discussion below
4.4/C Floor Space Ratio	0.5:1 (1,381m ²)	0.41:1 (1,156m ²)	Yes

Clause 4.6 Variations

The proposed development exceeds the 9.5m height limit established for the site under Clause 4.3 of SLEP 2012. The development exceeds the height limit in the following ways:

- Reinstatement of the dome on the existing dwelling - 10.365m (9.1% variation),
- New turret on the proposed extension – 9.76m (1.78% variation),
- New cupola on the proposed extension – 11.1m (16.8%).

Whether compliance with the development standard is unreasonable or unnecessary

The Applicant has endeavoured to justify the breach in height on the basis that the development achieves the objectives of the development standard and that there are no adverse impacts arising from the proposed non-compliance. 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 Applicant’s discussion against the objectives of the development standard and the objectives of the zone are provided below followed by a response (the entirety of the Applicant’s argument have not been included. Refer to Appendix D of the submitted SEE for full details).

Applicant’s comments:

Development standard - Objective (a) - to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area



The proposed variation is considered acceptable and will not be alarming to the visual aesthetic of the locality, rather compatible. The existing building on the site exceeds the maximum building height, and the proposed works will sit well below this maximum, and largely below the 9.5m height limit. The building elements that will exceed the 9.5m height limit are minor in extent when compared to the scale of the existing building and the size of the site, and will not be visually obvious when viewed from the public domain. These elements contribute to the heritage significance of the existing building, and improve the appearance of the building in relation to the architectural and heritage character of the site.

The proposed development presents as a compliant built form which will not be visible to the casual observer given compatibility with the existing building on the site and other buildings in the locality. It is considered that the proposed variation will not result in a scale of development that is noticeably different from the existing built form and the remaining compliant built form. The design of the proposal, height and scale of the existing development and location of the non-compliant elements within the middle of the site ensures that the development will nestle comfortably within its urban context, whilst also improving the overall visual appearance of the site. As such, it is considered that this non-compliance will be compatible with the height of the existing locality and is considered to achieve objective 1(a).

Development standard - Objective (b) - to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area

The proposed development, inclusive of the height variations, will nestle comfortably within the subject site, and present at a height and scale which is consistent with the existing building height on the site and appropriate for the lot size. Given the subject site has a total area of 2762m² and is a corner lot, with street frontages exceeding 40m in length, the site is capable of accommodating the proposed building height without the development appearing to be excessive in bulk and scale, or overbearing on the streetscape or adjoining sites. The proposed building height is considered to be suitable, since it will not increase the existing maximum building height, and therefore will not increase the height of the existing building to a scale which is not sustainable for future development within the locality. Therefore, the proposal is considered to achieve objective 1 (b).

Development standard - Objective (c) - to achieve a diversity of small and large development options

The proposed development provides for an appropriate scale of development for the size and character of the site. Given the nature of the subject site, being a large corner allotment, with lengthy street frontage, the site is suitable for larger development. The proposal extends the existing building footprint to provide for a development, which, whilst consistent with the character and built form of surrounding low density residential development, sits at a greater scale that is appropriate for the subject site. The building height variations, both existing and proposed, provide an overall building height which contributes to a larger built form, without impacting adjoining properties, as a result of the proposed building setbacks, existing and proposed trees and vegetation, and the siting of non-compliant elements within the middle of the site. As such, the proposal assists in achieving a diversity of smaller and larger developments within the locality and therefore, is consistent with objective 1 (c), despite the minor height breach.

R2 Low Density zone objectives

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



- *To ensure that development of housing does not adversely impact the heritage significance of adjacent heritage items and conservation areas.*

The proposed development is consistent with the relevant zone objectives in that:

- *The proposal is consistent with the scale and character of development within the low density residential area,*
- *The proposed alterations and additions and use of the site will contribute to the provision of facilities and services to meet the day to day needs of residents,*
- *The proposal, including the height variation, allows for reinstatement and restoration works of the heritage item to protect and enhance the heritage significance of the site.*

Council's Response:

Response to whether compliance with the development standard is unreasonable or unnecessary

The basis for certain features of the height variation is dependent on a notion that continuation of the building scale currently at the site is essential to protecting and restoring the heritage significance of the subject site which is contrary to Article 22 of the Burra Charter.

The environmental planning grounds in the 4.6 request rely heavily on the proposed extension and height variations reflecting the anticipated bulk and scale for the site (due to the existing height and the need to continue that scale). However, this assumes that the most appropriate outcome for an extension is replication of the existing heritage dwelling which is inconsistent with the Burra Charter (Article 22 new work) and Sections 2.3 and 2.4 Form of Part H Heritage under SCDP 2005.

In addition, the height variations form part of a design response that results in a significant building bulk extending into southern and eastern setbacks, resulting in overshadowing impacts and a visual bulk uncharacteristic of residential developments in the locality which typically feature a rear setback of 6m or more.

The heritage characteristics of the site limit building extensions within the northern and western setbacks. However, this does not justify maximising floor area across two levels within the southern and eastern setbacks. The building must be designed to be consistent with low density residential development patterns (minimum 6m rear setbacks) or provide an extension that is modulated in a way that achieves a sense of openness and building separation to the southern neighbour characteristic of a rear setback. This outcome is also important for the sites streetscape response when viewed from Cotswold Road (i.e. the western elevation).

The proposal does not meet the objectives of the R2 zone in that the development adversely affects the significant of the heritage item. Nor does the development meet the objectives of the development standard as the portion of the building that breaches the height contributes to a scale that is inconsistent with development patterns within the rear setback in the surrounding low density residential locality.

As such, the proposal has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary.

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

In relation to whether there are sufficient environmental planning grounds to justify contravening the development standard, the Applicant has referred to Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (paragraph 24). Among



other things, this case law makes reference to the need to justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole and demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter.

The Applicant has provided six environmental planning grounds. These are listed below along with responses.

1. *The existing building on the site exceeds the 9.5m height control, reaching a maximum height of 11.37m, therefore resulting in an existing height variation of 1.92m (20.2%). The proposed works, despite extending above the 9.5m height limit, sit below the existing maximum building height on the site, and as such, result in a building bulk and scale which is consistent with the existing development and anticipated for the subject site.*

Response: The environmental planning ground is flawed as it suggests the proposed exceedance is required to tie in with the height of the existing heritage dwelling at the site and that a modern extension should match this scale. Replication of the built form is contradictory to the Burra Charter (Article 22 new work). The existing non-compliance cannot be used to justify an additional non-compliance.

2. *The non-compliance with the height of buildings development standard is located within the middle of the site, well setback back from the site boundaries, particularly the street frontages, where the building height non-compliance will not be readily apparent when viewed from the public domain. The maximum height breach proposed will sit lower than the top of the existing building form and does not increase the overall height of the building. To the casual observer, the proposal would appear compliant with the existing, historic height and form of development.*

Response: The environmental planning ground is flawed as it suggests the proposed exceedance is required to tie in with the height of the existing heritage dwelling at the site and that a modern extension should match this scale

3. *To require strict compliance would not provide any material planning benefit and would in fact be counterproductive as it would result in a missed opportunity to reinstate key historical building elements on a heritage item of local significance. To insist on strict compliance would have negative impacts on the heritage conservation on the locality, and would directly impact the historical significance of the heritage item on the site. The non-compliant building elements relate entirely to reinstated elements which enhance the architectural significance of the building.*

Response: The environmental planning ground is flawed. Replication of the built form is contradictory to the Burra Charter (Article 22 new work).

4. *It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:*
 - a. *The extent of the additional height creates no adverse additional overshadowing impacts to adjoining properties when compared to a compliant building envelope. The extent of additional impact from the increased building height would be insignificant and would not be noticeable to the owners of the adjoining*



property especially considering the existing building on the site sits at a greater height than the proposed additions. Although the height will result in a minor degree of additional overshadowing, the centralised location and design of the building elements above the building height limit, as well as the remaining additions below the 9.5m height limit, will continue to retain an appropriate level solar access to the immediately adjoining properties.

- b. The height breach does not result in any adverse additional privacy impacts. The extent of privacy impacts caused by the height breach will have no greater impact on the privacy to the adjoining properties. The proposed non-compliant building elements are located towards the middle of the site, away from adjoining properties, with windows and openings oriented towards the street frontages. As such, the loss of privacy to neighbouring properties caused by the non-compliant elements would be insignificant or nil; and*
- c. The height breach will not result in any significant view loss. The proposed building height variation is less than the existing variation on the site, and as such the proposed building elements will sit lower than the existing building on the site and will not introduce any additional loss of views over what currently exists.*

Response: The environmental planning ground is flawed. It is unclear based on the shadow diagrams provided whether the cupola would contribute to overshadowing impacts for the southern neighbour.

- 5. The proposed development meets the objectives of the development standards and meets the objectives of the R2 Low Density Residential zone.*

Response: The environmental planning ground is flawed. As noted above, the proposed development does not meet the objectives of the R2 zone in that the development adversely affects the significant of the heritage item.

- 6. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*
 - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c));*
 - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).*

Response: The environmental planning ground is flawed. The proposed outcome is not a well-considered design noting that replication of the built form is contradictory to the Burra Charter (Article 22 new work).

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.

The central issues is that the Clause 4.6 relies on a notion that an extension that replicates the style and scale of the existing heritage item is the best means of extending the building footprint. This is inconsistent with the Burra Charter (Article 22 new work). A more appropriate outcome would be a new addition that is lower in profile and clearly discernible from the existing dwelling, whilst maintain use of traditional (of period) materials.

In addition, the height variations form part of a design response that results in a significant building bulk extending into southern and eastern setbacks, resulting in overshadowing impacts and a visual bulk uncharacteristic of residential developments in the locality which typically feature a rear setback of 6m or more.

The submitted Clause 4.6 Variation Request is not supported.

Part 5 – Miscellaneous Provisions

Clause 5.10 - Heritage Conservation

The proposal incorporates substantial works to Local Heritage Item I172 under Schedule 5 of SLEP. The item features the existing dwelling at the site and its curtilage being the garden within the northern and western setbacks.

In accordance with the requirements of subclause 5, a heritage assessment has been submitted with Application assessing the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.

However, in accordance with subclause 4 (effect of the proposed development on the significance of the heritage item), Council's Heritage Planner and Architect fundamentally disagrees with the contents of the heritage assessment and does not support the proposal.

This is detailed under the heritage referral section of this report. In summary, the proposal:

- Seeks to replicate the existing dwelling and the extension overpowers the existing dwelling and the outcome will not protect the environmental heritage attributed to the site.
- The proposal includes extensive alterations and additions to the heritage item and its curtilage that will significantly impact on the heritage significance of the local heritage item.

It is considered that the proposed works fails to comply with the provisions of Clause 5.10.

Clause 5.21 - Flood Planning

The proposed site has not been identified within the flood planning levels and as such, the provisions of Clause 5.21 are not applicable to the subject development.

Part 6 – Additional Local Provisions

Clause 6.1 - 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.



Clause 6.2 - Earthworks

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

The extent of excavation has not been minimised and the resulting outcome incorporates a basement that extends into the side setbacks. This outcome is inconsistent with residential parking arrangements in the locality, where basements are contained to the footprint of the main dwelling outside of setbacks.

Encroachment of the basement into the setbacks impacts on the provision of planting within setbacks and represents unnecessary excavation.

Insufficient information has been submitted to confirm if the basement will not adversely impact on drainage patterns.

The geotechnical report submitted with the application discusses the need for retention systems to support the neighbouring ground and control deformations resulting from the excavation resulting in damage to neighbouring structures, pavements and services. However the GCA report does not provide sufficient information regarding:

- The tolerable deformations for:
 - Neighbouring buildings, pavements, services, roads and swimming pool
 - Existing heritage building on the property
- The proposed retention, and excavation controls (both design and construction) proposed to ensure that the actual deformations are less than the tolerable deformations and thus will not result in damage to these structures.
- Potential deformations resulting from installation of the retention system including pile and anchor installation.
- Details of the support/construction methods where anchor installation across the boundary is not possible or permitted.

Insufficient information has been submitted to demonstrate;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, and
- (b) the effect of the development on the likely future use or redevelopment of the land

Accordingly, the proposed excavation works do not satisfactorily address the objectives of 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 sections of SCDCP 2005 are relevant to the proposed development:

- Part E – Child care centres
- Part H – Waste minimisation and management
- Part O – Tree management
- Part P – Heritage
- Part Q – Urban design controls

Relevant controls and objectives from each of these sections are referred to under the headings below.

Setbacks, Bulk and Scale

Part E, Section 5.2 requires a 4m setback for child care centres. The Applicant has used Part A (Dwelling Houses) controls to attempt to justify the southern and eastern setbacks proposed. Part A requires the following setbacks:

- Rear – 6m
- Side – 1.2m minimum + 20% 20% of the width of the lot (being 8.232m).

The proposal incorporates the following non-compliant setbacks:

- Rear setback - 1.5m from first floor gutter line, 2m from building façade line at ground floor.
- Eastern side setback – 0.87m from the upper and lower basement edge, ground floor and first floor.

The proposed development does not comply with the setback requirements in Part E or Part A. Non-compliance with these minimum requirements contributes to an outcome that is out of keeping with the low density residential development patterns in the locality.

Part E of SCDCP also establishes the following design provisions under Section 5.2 that are relevant to non-complaint setbacks and associated bulk and scale:

- 1. The bulk, scale, height, character and external detailing of the development is compatible with the character of development within the vicinity, including any adjoining items of environmental heritage or conservation areas.*
- 2. The child care centre design is generally consistent and sympathetic with the existing streetscape character of the locality (in residential areas the building should look like a residential dwelling).*
- 3. The development is unlikely to adversely affect the amenity of any existing development in terms of overshadowing, privacy, excess noise, loss of views or otherwise.*
- 4. Adequate screening has been provided where balconies and decks cause privacy concerns for adjoining properties*

The proposed side and rear setbacks result in a development that does not fit the residential context and results in undesirable outcomes for the heritage item and its setting, as well as privacy and overshadowing impacts for the adjoining dwellings. The development does not allow for the southern setback to achieve building separation that is consistent with rear setbacks in the locality and would concentrate a large extension into a corner of the site that abuts the rear yards of adjoining properties at 14 Cotswold Road and 52 Llandilo Avenue.

Part Q (Section 2.5 Building Massing and Scaling) also requires building massing and scaling to reinforce building patterns in the street and limit amenity impacts to adjacent properties. An



increase to the Level 1 setback (beyond the 4m minimum) along the southern boundary would allow for these DCP requirements to be achieved in addition to addressing overshadowing impacts.

Part E, Section 5.11 also provides requirements for Landscaping and Vegetation, including a requirement for a 1.5m wide landscape strip along side boundaries. The proposal does not allow for this to be achieved due to the setbacks proposed and the basement being built out to near the property boundary.

The proposed access arrangement, required for the two level basement, is out of character with the streetscape and locality and therefore does not achieve the requirements of Section 5.2. The proposed basement entry incorporates the equivalent of three cross overs and infrastructure that is not in keeping with the area.

Overshadowing

Overshadowing is addressed in Part E under section 5.1 (Site Analysis and Design Principles). This section requires developments to consider site orientation and neighbouring properties to ensure that:

The development is unlikely to adversely affect the amenity of any existing development in terms of overshadowing, privacy, excess noise, loss of views or otherwise.

In relation to overshadowing as an amenity impact, Part Q (Urban Design), provides relevant numerical controls. Section 3.5 of Part Q requires a minimum of 3 hours of sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm on 21 June. Section 3.5 of Part Q establishes that setbacks may need to be increased to maximise solar access.

The plans submitted show that overshadowing will be significantly increased for the southern neighbour, including across their rear alfresco areas and living area at the rear ground level.

To address overshadowing impacts, the extension should incorporate setbacks to upper levels characteristic of local residential development patterns in the locality. At a minimum, this would be 6m for the rear (southern) setback. Section 3.5 of Part Q notes that increases to setbacks may be required to achieve reasonable overshadowing impacts.

Heritage

The proposed development is non-compliant with the following sections in Part P – Heritage.

<p><u>Section 2.3 – Scale</u></p> <p><i>Objective A. To ensure that alterations and additions to a heritage item and new buildings on the site of a heritage item are of a scale consistent with the heritage item so as not to detract from the significance of the item.</i></p> <p><i>Control (i) Development on the site of a heritage item must not dominate the item or detract from its significance.</i></p> <p><i>Control (ii) Development shall not obstruct significant views to and from the item of significance.</i></p>	<p>Contrary to cl 2.3 (Scale) of Part P SCDCP 2005, in elevation the length and scale of the development significantly exceeds that of the heritage item, thereby overpowering the original and in good condition heritage dwelling.</p>
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<p><u>Section 2.4 – Form</u></p> <p><i>Objective A. To ensure that important elements of the form of a heritage item are not obscured or destroyed by alterations and additions.</i></p> <p><i>Objective B. To ensure that the form of a heritage item retains its importance in the streetscape and/or townscape.</i></p> <p><i>Control (i) Important elements of the form of a heritage item such as main roof forms, chimneys, parapet walls, verandahs etc. should not be demolished or obscured by alterations and additions.</i></p> <p><i>Control (ii) Development of a heritage item must seek to reconstruct missing architectural detailing of a Heritage Item where possible, including gables, finial trims, front verandahs or bays.</i></p> <p><i>Control (iii) Verandahs on the front and sides of a heritage item should not be filled in.</i></p> <p><i>Control (iv) Additions and alterations to a heritage item should not detract from important aspects of the form of the heritage item.</i></p> <p><i>Control (v) The original shape of the roof of a Heritage Item should not be altered.</i></p>	<p>The proposed development is non-compliant in its form and design with cl2.4 of Part P SCDP 2005 (particularly objectives A, B and Control 4) because it aims to replicate or copy the design of the heritage house, rather than being identifiable as ‘new work’ as required by these provisions.</p>
<p><u>2.6 Alterations and additions</u></p> <p><i>Objective A. To support the retention of heritage properties and maintain their heritage significance.</i></p> <p><i>Objective B. To allow changes to the rear of heritage items where the new work does not impact the heritage significance of the heritage item.</i></p> <p><i>Objective C. To ensure that alterations or additions to heritage properties are sympathetic to the item and reflect the predominant scale, height, proportion, character and setbacks of the existing property, and surrounding development.</i></p> <p><i>Control (i) Alterations and additions must not adversely impact the significance of a heritage item.</i></p> <p><i>Control (ii) Any alterations and additions must be consistent with the scale, form, proportion, details and materials of the heritage item.</i></p> <p><i>Control (iii) Alterations and additions to heritage items must be located so as to minimise their visibility and prominence from the street or adjoining streets, and</i></p>	<p>The proposed development does not achieve objectives A and C and is non-compliant with Control 1 of cl 2.6 (Alterations and Additions) of Part P SCDP 2005 because the proposed development requires excessive demolition and alteration of the original internal features, fabric and detailing of the heritage item, resulting in an unacceptable and adverse heritage impact. The proposed works would significantly detract from the originality and significance of the item.</p>



<p><i>the height must not be seen above the main ridgeline of the building. Refer to Figure 1.</i></p> <p><i>Control (iv) Ancillary buildings on the same site as a heritage item must be located so as to not obscure the significant elements of the Item.</i></p>	
<p>2.8 Car parking</p> <p><i>Objective A. To ensure that garages and carports are designed to minimise the visual impact on views of heritage items.</i></p> <p><i>Objective B. To ensure that car parking does not compromise the structural integrity of heritage items.</i></p> <p><i>Control (iv) Applications that propose basement additions are required to provide a Structural Report from a practicing structural and geotechnical engineer with experience in heritage buildings to confirm that the proposed excavation will not adversely affect the building as part of the development application.</i></p> <p><i>Control (v) The placement of the basement entrance should not detract from the street presentation of the item of the streetscape. Placement of basement entries toward the rear of the property and parallel to the side boundary is encouraged.</i></p>	<p>The proposal does not achieve Objective A and is non-compliant with Control 5 under Section 2.8 (Car Parking) of Part P Heritage of SCDCP 2005 because the 2 level basement entry, pavilion and associated structures, and high walled gates create an unsympathetic streetscape character and heritage outcome for the Cotswold Road frontage.</p> <p>The basement lies beneath the majority of the Cotswold Road frontage which would limit the growth of the hedge between the acoustic fence and the existing fence.</p>
<p>2.9 Fencing</p> <p><i>Objective A. To conserve gates and fences that are contemporary with heritage items.</i></p> <p><i>Objective B. To ensure that new fences and gates are in keeping with the character of the heritage item.</i></p> <p><i>Objective C. To ensure that the significance of the heritage item is not diminished by inappropriate fencing.</i></p> <p><i>Control (i) Original fencing styles and materials on a heritage item should be repaired and retained where possible.</i></p> <p><i>Control (ii) New fencing and gates to a heritage item should be of a style and scale that is consistent with the style of the building.</i></p> <p><i>Control (iii) Unless evidence is provided to establish a greater height, solid fencing (i.e. brickwork/stone) forward of the building line should not be greater than 1m in height above the adjacent public footpath level.</i></p>	<p>The new fencing and gates are not in-keep with the character of the heritage item and are contrary to Objective B of cl 2.9 under Part P SCDCP 2005. A 2.1 metre acoustic fence surrounding the property to mitigate acoustic impacts is an unsatisfactory design response and will detract from the heritage significance of the property.</p>



<p><i>Control (iv) Unless evidence is provided to establish a greater height, fencing forward of the building line, constructed of material such as timber pickets, metal pickets or wrought metal panels or a combination of masonry and one of the above materials, should not be greater than 1.5m in height above the adjacent public footpath level.</i></p>	
<p><u>2.13 Demolition</u></p> <p><i>Objective A. To retain buildings that are of heritage significance or contribute to the significance of a heritage item.</i></p> <p><i>Control (iii) Partial demolition of heritage items may be possible subject to the merits of the proposal. Partial demolition of a heritage item may only be allowed when it can be established in a Statement of Heritage Impact that the partial demolition will not have an impact on the significance of the heritage item.</i></p>	<p>The proposed development does not achieve Objective A and Control 3 of cl 2.13 of Part P of SCDCP 2005 because it incorporates partial demolition to significant fabric that is otherwise in good condition and does not need to be removed to facilitate the ongoing use of the property. The resulting impacts of the proposal are unreasonable as the removal of original fabric will significantly detract from the heritage significance of the item.</p>
<p><u>2.16 Adaptive Reuse</u></p> <p><i>Objective A. To encourage sympathetic adaptive reuse of buildings which are no longer suitable for their original use, by encouraging heritage items to be used for purposes that are appropriate to their heritage significance.</i></p> <p><i>Objective B. To ensure that adaptive reuse of heritage items respects the significance of the building and relates to the architectural qualities of the existing building.</i></p> <p><i>Objective C. To retain original building structure and fabric, and legibility of the original building layout, form and setting, and to reinstate significant missing details.</i></p> <p><i>Objective D. To ensure that the adverse impacts of adaptive reuse on heritage items are minimised.</i></p> <p><i>Objective E. To ensure that changes to the building as a result of adaptive reuse can be interpreted in the future as belonging to its applicable historical period.</i></p> <p><i>Control i) Alterations and additions to a building as part of adaptive reuse must be designed by a suitably qualified heritage architect to respect the original architectural qualities of the building such as building form, façade articulation, fenestration pattern, parapet profile and detail, materials and colours.</i></p>	<p>The proposed development does not achieve Objectives A, B, C, D and E and Controls 2, 4, 6 of cl 2.16 of Part P SCDCP 2005 because the proposal includes substantial alterations internally within the building that will impact on significant and good condition of the heritage fabric of the item.</p>



<p><i>Control ii) Adaptive reuse of a heritage item is to involve minimal change to the significant fabric of the place.</i></p> <p><i>Control iii) Adaptive reuse of a heritage item must respect significant associations and meanings of the place.</i></p> <p><i>Control iv) Retention of only the façades of the building is discouraged.</i></p> <p><i>Control v) New work necessary in the adaptive reuse of a heritage item should be distinguishable from original work and designed by a suitably qualified heritage architect.</i></p> <p><i>Control vi) Fire engineered solutions should be sought to allow retention of original structural systems that would otherwise not meet “deemed to comply” provisions of the Building Code of Australia. Proposals involving “alternative solutions” must be accompanied by a report from an appropriately qualified and experienced specialist confirming the proposal achieves the applicable performance requirements.</i></p>	
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Waste

Section 3.7 Part H relates to waste collection requirements for commercial premises and therefore applies to the proposed development. Section 3.7 includes the following objectives and controls.

3.7.2 Objectives

- a) *Ensure appropriate waste storage and collection facilities*
- b) *Maximise source separation and recovery of recyclables*
- c) *Ensure waste management systems are as intuitive for users as possible and readily accessible to occupants and service providers*
- d) *Minimise risk to health and safety associated with handling and disposal of waste and recycled material and ensure optimum hygiene*
- f) *Minimise adverse environmental impacts associated with waste management*
- g) *Discourage illegal dumping by providing onsite storage and removal services*
- h) *Improve the efficiencies of waste storage and collection through bulk bin storage and onsite collection.*

3.7.3 Controls

A Waste Management Plan (WMP) is required for all commercial and non-residential Development Applications prepared in accordance with the guidelines below and the following requirements:

- a) *Where development provides for construction of a new building, provision for onsite collection is required in accordance with Section 3.3 and Appendix E.*
- b) *The development must include a designed waste/recycling storage area or room(s) designed in accordance with Appendix D.*
- c) *A collection point for the collection and emptying of waste and recycling bins should be identified.*



- d) The path of travel for moving bins from the storage area to the identified collection point (if collection is to occur away from the storage area) should be clearly identified.*
- e) 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. 260*
- f) Written evidence of valid contracts for the regular collection and disposal of waste and recyclables generated on the site (e.g. medical related waste, trade waste or excessive waste volumes generated etc) by a licensed waste contractor must be maintained.*

There are insufficient details on the waste collection process in the submitted Plan of Management and Waste Management Plan. The Plan of Management indicates street side collection will occur. All commercial collection must occur on site within the basement.

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.

Landscaping and Trees

The proposal is non-complaint with the following objectives and controls with regard to landscaping requirements and tree removal/replacement requirements.

- *Part O Section 5 – Replacement tree planting and tree removal processes*
- *Part P Section 5.2 Siting and Garden Area – (ii) Front garden areas, lawns and associated pathways as traditional garden settings for houses should be maintained in any development proposal within a Residential Conservation Area.*
- *Part E – Section 5.10 Outdoor Play Areas (Control 8) Outdoor play areas shall utilise the site's natural features (where possible).*
- *Part E – Landscaping and Vegetation (4) Existing natural features and significant vegetation of a site shall be conserved where possible to help increase the amenity of the area (a tree preservation order applies throughout Strathfield Municipality). Where appropriate existing trees are to be retained and incorporated as shade elements in outdoor play areas*
- *Part E – Landscaping and Vegetation (Requirement) In residential zones, or on land adjoining residential zones, a 1.5 metre landscaping strip shall be provided on all boundaries to help with noise abatement and privacy.*

The proposed development should be refused as the works conflict with trees identified for retention and replacement planting is inadequate. The landscape plan incorporates a number of poorly designed spaces and embellishments and the proposed removal of trees is excessive.

The proposed extensive tree removal and replacement planting does not comply with cl 5 Part O SDCP 2005 because the Applicant has not replaced every removed tree with two new trees, as required under that part.

The proposed works stormwater works and building footprint will impact on trees identified for retention at the site and on neighbouring properties. The Arboricultural Impact Assessment (AIA) submitted with the development application has not considered these impacts and therefore fails to adequately consider the provisions of cl 5 Part P SDCP, cl5.10 Part E DCP2005. The following trees are of concern:

- i. Tree 25 (*Jacaranda mimosifolia*). The proposed basement egress stairs and stormwater works conflict with this tree.



- ii. Tree 7 (*Liquidambar styraciflua*) and Tree 1 (*Erythrina crista-galli*) have stormwater works proposed within their structural root zones (SRZ).
- iii. Trees 2 & 35 (*Koelreuteria sp.*(identified as Pistacia in AIA)) will potentially be impacted by proposed above ground OSD.
- iv. Proposed fencing cuts through or close to base of trees 6, 29, 1, 35, 2, 3 & 25. Even if bridging techniques were used through root zones significant branches will require removal.
- v. There are 2 trees within neighbouring property, 52 Llandilo Avenue and immediately adjacent to the subject property boundary. Tree 29 conflicts with there being another Tree 29 in the AIA. The tree is a Jacaranda mimosifolia. This tree and the adjacent Macadamia (Tree 9) have potential to be impacted by proposed stormwater works. AIA numbering and assessment to be corrected to include both trees on neighbouring property and arborist to approve location and methods for any stormwater works within these trees TPZs.

Exclusion of these trees proposed for retention impacts on the schemes compliance with cl5 SCDPC 2005 Part O cl 5.10 SCDPC 2005 Part E Child Care Centres, Section 5.10.

The development application should be refused as the proposed tree removal does not achieve the requirements under cl 5.11 L SCDPC Part E, which existing natural features of the site to be conserved and for existing trees to be retained and incorporated into shade elements where appropriate.

Traffic and Parking

Clause 5.6 of Part E SCDPC requires the following parking rates for child care centres:

- i. 1 space per employee (stack parking is permitted for staff parking),
- ii. 1 visitor space per 8 children (or part thereof) proposed to use childcare centre.
- iii. 2 additional parking spaces for any associated residence.

Applying the rates contained in cl 5.6, the proposed development generates a requirement for a minimum of 54 parking spaces (comprised of 22 for parent use and 32 for staff use). However, only 39 parking spaces (comprised of 15 for parent use and 24 for staff use) are proposed in the application. This results in a shortfall of 15 parking spaces.

The Plan of Management submitted with the Application identifies the need for an additional 5 staff (part time cook, 4 educators and staff manager), in addition to the 32 staff included in the Traffic Impact Assessment Report. When included in the overall staffing numbers, this would result in a shortfall of 20 parking spaces.

Insufficient on site parking will necessitate drop off, pick up and staff parking on street, adversely impacting on the amenity of adjacent and nearby dwellings.

(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 presents significant environmental impacts on both the natural and built environments. The scale of the use results in significant noise impacts and insufficient off-street parking.

The proposed development is of a scale and character that is not in keeping with other developments being constructed in the locality and detracts from the heritage status of the site. The scale of the proposed rear addition results in overshadowing impacts and impacts to tree preservation and limits the quality of landscaping outcomes.

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

Due to the limitations at the site, including the heritage conservation status, the site is not suitable for the scale of the use proposed and the associated built form.

The heritage characteristics of the site cannot accommodate the scale of development proposed. The size of the rear addition overpowers the heritage dwelling and hinders conservation of the local heritage item.

The internal and external alterations to the existing dwelling required to accommodate the scale of the proposed use results in erosion of the heritage fabric.

The scale of the use and proposed extension results in a number of environmental impacts including in relation to noise, privacy, local character, and parking as outlined above.

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

The application was notified in accordance with Council's Community Participation Plan (CPP) from 5 May 2023 - 26 May 2023. Seventy eight (78) submissions were received during the notification period and eighteen (18) were received following notification. The matters raised in the submissions are tabulated below.

Submission theme	Response
Impacts to the heritage item	A number of submissions raised concerns over the impacts to the heritage curtilage from the extension, ancillary works and impacts to the internal fabric of the existing dwelling. These concerns are addressed in the internal referrals (Heritage) section of this report.
Impacts on streetscape and local character	A number of residents raised concerns regarding the bulk and scale of the rear addition. The style and scale of the rear addition is addressed in the DCP assessment section of this report.
Traffic and parking impacts on the local road network	Impacts on local traffic network were consistently raised in submissions. Council's Traffic Engineer did not identify an issue with traffic volumes. However, as noted under the internal referrals section, Council's Traffic Engineer has identified deficient off-street parking as an issue.
Loss of trees	Removal of mature trees was consistently raised in submissions. Tree removal and replacement, as well as impacts to trees identified for retention from stormwater infrastructure and fencing has



	been addressed in the internal referrals section of this report.
Decreased property values	A number of submissions raised concern over the use in general and the potential negative impacts on the value of their property. These submissions came from within the notification area. This is not an assessment consideration under the EP&A Act 1979.
Noise and a general change in local amenity	Noise concerns have been addressed in detail. It is noted that noise impacts are only relevant to sensitive receivers which are properties abutting or adjacent to the subject site. General concerns regarding the amenity of the area are not a consideration under the EP&A Act 1979.
Privacy and overlooking	A number of submissions from residents adjoining or within close proximity of the subject site raised privacy and overlooking concerns. Privacy and overlooking is addressed under the CCPG assessment section of this report.
Setbacks	A number of submissions raised the non-compliant setbacks proposed. These submissions came from residents adjoining or within close proximity of the subject site. Setbacks are addressed under the DCP assessment section of this report.
Overshadowing	A number of submissions raised overshadowing impacts. These submissions came from residents adjoining or within close proximity of the subject site. Overshadowing is addressed under the DCP assessment section of this report.
Waste and odour impacts	Waste management impacts have been addressed under the DCP assessment section of this report. It is noted that submission received from adjoining properties raised the matter of the exhaust fans in the basement not being shown. An odour assessment was not provided that addressed this matter and therefore there is insufficient information to determine the impacts.
Safety for local residents and children attending the centre	A number of submissions raised safety concerns, primarily for young children attending the proposed child care centre and children who attend local schools. Concerns mostly related to the basement entry and number of vehicles accessing the site per day.
Geotechnical and impacts on the water table	Impacts from excavation on the heritage item and water table were raised in a number of submission. This has been addressed by Council's consulting geotechnical engineer in the internal referrals section of this assessment.



The benefits of additional childcare in the area	A number of submissions raised the lack of local childcare in support for the proposal and the public benefit of the development. These submissions were mostly from residents outside of the notification area (250m) or outside of the local government area.
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(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 apply to the proposed development. However, the recommendation is for refusal and contributions have not been calculated.

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 2023/53 should be refused for the reasons included at the end of this report.

Refusal Reason – Environmental Planning Instrument

1. Environmental Planning and Assessment Regulations 2021 (NSW) (EPAR)

Contrary to the provisions of cl 23(1) EPAR, the Application incorporates works to the neighbouring property at 52 Llandilo Avenue, Strathfield for the purpose of acoustic attenuation, however evidence of owner's consent from that site has not been provided.

The Acoustic Assessment submitted with the Application refers to the upgrading of glazing for windows on the dwelling at 52 Llandilo Avenue, Strathfield. However, the Applicant has not submitted evidence of consent from the owners of that property to the undertaking of those works.

2. Strathfield Local Environmental Plan (SLEP) 2012



a) Clause 4.6 – Exceptions to development standards

Contrary to clause 4.6 of the SLEP 2012, the Applicant's written request to contravene the clause 4.3 height of buildings standard does not demonstrate:

- i. that compliance with the height of buildings standard is unnecessary or unreasonable in the circumstance of the case, per clause 4.6(4)(a)(i) of SLEP 2012;
- ii. that there are sufficient environmental planning grounds to justify contravening the development standard, per clause 4.6(4)(a)(i) of SLEP 2012; or
- iii. that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, per clause 4.6(4)(a)(ii) of SLEP 2012.

b) Clause 5.10 – Heritage Conservation

Contrary to the requirements of Clause 5.10, the proposal includes extensive alterations and additions to the heritage item that will significantly impact on the heritage significance of the local heritage item, contrary to objectives 1(a) (i) & (b) and of Clause 5.10 SLEP 2012. The development also fails to satisfy cl 5.10 (4) of the SLEP 2012.

c) Clause 6.2 – Earthworks

Contrary to the requirements of Clause 6.2, the proposal incorporates unnecessary excavation that impacts on the landscaping requirements, setback requirements and is inconsistent with residential development patterns in the locality.

Insufficient information has been submitted to demonstrate:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, and
- (b) the effect of the development on the likely future use or redevelopment of the land

3. State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development fails to satisfy the following provisions of Chapter 3 Educational establishments and childcare facilities under the Transport and Infrastructure SEPP 2021:

- a) Section 3.23 Centre-based child care facility—matters for consideration by consent authorities as related to applicable provisions of the Child Care Planning Guideline (CCPG). The development fails to comply with the following applicable provisions in the CCPG:
 - 3.1 Site Selection and Location
 - 3.2 Local Character, Streetscape and Public Domain Interface
 - 3.3 Building Orientation, Envelope and Design
 - 3.4 Landscaping
 - 3.5 Visual and Acoustic privacy



- 3.6 Noise and Air Pollution &
- 3.8 Traffic, Parking and Circulation
- 4.1 Indoor space requirements
- 4.2 Laundry and hygiene facilities
- 4.4 Ventilation and natural light
- 4.7 Premises designed to facilitate supervision
- 4.8 Emergency and evacuation procedures
- 4.11 Shade

b) Section 3.27 Centre-based child care facility—development control plans – Specific provisions under Parts E, H, O, P & Q of the of the Strathfield Consolidated Development Control Plan (SCDCP) 2005.

4. State Environmental Planning Policy (Biodiversity and Conservation) 2021

a. Chapter 2 – Vegetation in non-rural areas.

The proposal incorporates tree removal without adequate replacement planting and building works that impact on trees identified for retention. The proposed development fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas.

5. Strathfield Development Control Plan 2005

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:

- a) Part E, Section 5.2 – The proposal fails to comply with the required rear and side setbacks.
- b) Part E, Section 5.2 – The proposal fails to achieve a bulk, scale and building footprint that is generally consistent and sympathetic with the existing streetscape character of the locality. The proposed access arrangements are also out of character with the locality.
- c) Part E, Section 5.2 – The proposal will adversely affect the amenity of adjoining properties.
- d) Part E, Section 5.11 – The proposal fails to comply with the 1.5m landscape buffer along the southern and eastern setbacks. The proposal also fails to conserve natural features and significant vegetation of the site.
- e) Part E, Section 5.1 – The proposal fails to satisfy site analysis and design principles in that the siting of the building, bulk and scale result in overshadowing impacts.
- f) Part E – Section 5.10 Outdoor Play Areas – The proposed tree removal does not achieve requirements for outdoor play areas shall utilise the site's natural features (where possible).
- g) Part E, Section 5.6 – The proposal fails to achieve off-street parking requirements.
- h) Part Q, Section 3.5 – The proposal fails to achieve the solar access requirements for the southern neighbour.
- i) Part Q, Section 2.5 Building Massing and Scaling – The proposal fails to incorporate a bulk and scale that is consistent with building patterns in the street.
- j) Part P, Section 2.3 - In elevation the length and scale of the development significantly exceeds that of the heritage item, thereby overpowering the original and in good condition heritage dwelling.



- k) Part P, Section 2.4 – The proposal fails to satisfy section 2.4 as it aims to replicate or copy the design of the heritage house, rather than being identifiable as 'new work' as required by these provisions.
- l) Part P, Section 2.6 – The proposal fails to satisfy section 2.6 because the proposed development requires excessive demolition and alteration of the original internal features, fabric and detailing of the heritage item, resulting in an unacceptable and adverse heritage impact.
- m) Part P, Section 2.8 – The proposal fails to satisfy section 2.8 because the 2 level basement entry, pavilion and associated structures, and high walled gates create an unsympathetic streetscape character and heritage outcome for the Cotswold Road frontage.
- n) Part P, Section 2.9 – The proposal fails to satisfy section 2.9. The 2.1 metre acoustic fence surrounding the property to mitigate acoustic impacts is an unsatisfactory design response and will detract from the heritage significance of the property.
- o) Part P, Section 2.13 – The proposal fails to satisfy section 2.13. The proposal incorporates partial demolition to significant fabric that is otherwise in good condition and does not need to be removed to facilitate the ongoing use of the property.
- p) Part P, Section 2.16 – The proposal fails to satisfy section 2.16. The proposal includes substantial alterations internally within the building that will impact on significant and good condition of the heritage fabric of the item.
- q) Part P, Section 3.7 – There is insufficient information to determine whether the proposal complies with waste collection requirements for commercial premises.
- r) Part O, Section 5 - The proposed extensive tree removal and replacement planting does not comply with requirements in this part.

6. Site Suitability

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.

7. 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.

TO: Strathfield Local Planning Panel Meeting - 14 November 2024
 REPORT: SLPP – Report No. 10
 SUBJECT: DA2024.44 - 15 HOMEBUSH ROAD, STRATHFIELD
 DA NO. DA2024.44

SUMMARY

Proposal:	Demolition of existing structures and the construction of a four storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – (including Managers Workstation) with basement level parking.
Applicant:	Qin Wang
Owner:	Qin Wang
Date of lodgement:	7 May 2024
Notification period:	13 May 2024 to 17 June 2024
Submissions received:	9 submissions
Assessment officer:	B.O.
Estimated cost of works:	\$4,356,613.00
Zoning:	R3 Medium Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	No
Is a Clause 4.6 variation proposed?	<p>Yes -Building Height, Building Separation, Communal Open Space, Landscaped Area and Setbacks.</p> <p>Clause 4.3 - Building Height 19.6% under SLEP 2012 Section 68 Communal Open Space 34.52% under SEPP (Housing) 2021 Section 68 - Landscape Area 3.94% under SEPP (Housing) 2021 Section 69 -Minimum Setbacks under SEPP (Housing) 2021</p> <ul style="list-style-type: none"> • Front Setback-27%, • Side Setback -25% • Basement Setback – 100% <p>Section 69 (2) Building Separation 50% under SEPP (Housing) 2021</p>

No Clause 4.6 written requests were made for the variations to the Basement Setback, Communal Open Space and Landscaped Area development standards.	
Extent of the variation supported?	Section 69 (2) Front Setback 27% under SEPP (Housing) 2021
Peer review of Clause 4.6 variation:	A peer review of the Clause 4.6 variation has been undertaken and the assessment officer's recommendation is supported.
RECOMMENDATION OF OFFICER:	REFUSAL

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and the construction of a four (4) storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – including managers workstation with basement level parking. The 34 private rooms proposed are all double occupancy rooms.

On 23 August 2024, the Applicant commenced Class 1 Land and Environment Court proceedings against the Council's deemed refusal of the development application.

This report is to provide formal determination of the application.

Site and Locality

The site is identified as 15 Homebush Road, Strathfield and has a legal description of Lot 5 DP 31394. The site is an irregular shaped parcel of land and is located on the western side of Homebush Road, Strathfield. The site has a width of 18.326m, an average depth of 45.38m and an overall site area of 809.4sqm (by calculation). The site has a fall of approximately 1.29m from rear to front.

The locality surrounding the subject site is characterised by a mix of building typologies, including detached dwellings, villas and residential flat buildings. There are a number of heritage items within the vicinity and the Abbotsford Road Conservation Area is located to the south of the site.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

The proposal, as a co-living development, falls under the provisions of the Housing SEPP. This contains a number of discretionary and non-discretionary development standards. The proposal fails to comply with the following sections of the SEPP

- Section 68 (2) (d) – Communal open spaces,
- Section 68 (2) (f), - Landscaping requirements
- Section 69 (1) (h) Adequate bicycle and motorcycle car parking
- Section 69 (2) (a) (i) – Minimum setbacks
- Section 69 (2) (b) – Building separation
- Section 69 (2) (f) (i) – The desirable elements of the character of the local area

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposal includes works that adversely impact 2x street trees, therefore fail to satisfy the following objectives and controls of the Biodiversity and Conservation SEPP:

- Section 2.1 (a) &(b) – Aims of Chapter
- Section 2.6 (l) - Clearing that requires permit or approval

Strathfield Local Environmental Plan

The site is zoned R3 Medium Density Residential under the provisions of SLEP 2012, and the proposal is a **permissible form of development with Council's consent by virtue of the Housing SEPP**. The proposal fails to satisfy the objectives of the following development controls in the SLEP 2012:

- Clause 4.3 – Building height
- Clause 5.10 Heritage conservation
- Clause 6.2 Earthworks

Development Control Plan

The proposed development fails to satisfy the provisions of Strathfield Consolidated DCP 2005 in terms of Part C – Multiple Unit Housing, Part O – Tree Management, Part P – Heritage and Part Q – Urban Design. 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 13 May 2024 to 17 June 2024, where nine (9) submissions were received. The issues raised in the submissions include the following:

- Traffic
- Bulk and scale
- Streetscape and Character
- Visual and acoustic privacy impacts
- Property devaluation and disturbance of amenity
- Inconsistency with relevant planning controls
- Loss of view and visual aesthetics
- Diverse housing

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2024/44 is recommended for 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 standards contained in Clause 4.3 - Height of the SLEP 2012, Section 69 (2) - Side Setback, Section 69 (2) Building Separation are well founded and that there are sufficient environmental planning grounds to justify contravening the development standards.

That Development Application No. DA2024.44 for demolition of existing structures and the construction of a four (4) storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – including managers workstation with basement level parking at 15 Homebush Road, Strathfield be **REFUSED**, for the reasons outlined in the attached development assessment report.

ATTACHMENTS

1. [Download](#) DA2024/44/1 - 15 Homebush Road STRATHFIELD - DA SLPP Report

**SLPP REPORT**

Property:	15 Homebush Road STRATHFIELD DA 2024/44
Proposal:	Demolition of existing structures and the construction of a four storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – (including Managers Workstation) with basement level parking.
Applicant:	Qin Wang
Owner:	Qin Wang
Date of lodgement:	7 May 2024
Notification period:	13 May 2024 to 17 June 2024
Submissions received:	9 submissions
Assessment officer:	Bismark Opoku-Ware
Estimated cost of works:	\$4,356,613.00
Zoning:	R3-Medium Density Residential - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	Yes – Building Height (19.6%) Building Separation (50%) Front Setback (27.8%) Side Setback (25%) Basement setbacks (100%) – No Clause 4.6 written request submitted Communal Open Space (34.52%) – No Clause 4.6 written request submitted Landscaped Area (3.94%) – No Clause 4.6 written request submitted
Local Planning Panel Criteria	Council Delegations Departure from development standards by more than 10%
RECOMMENDATION OF OFFICER:	REFUSAL

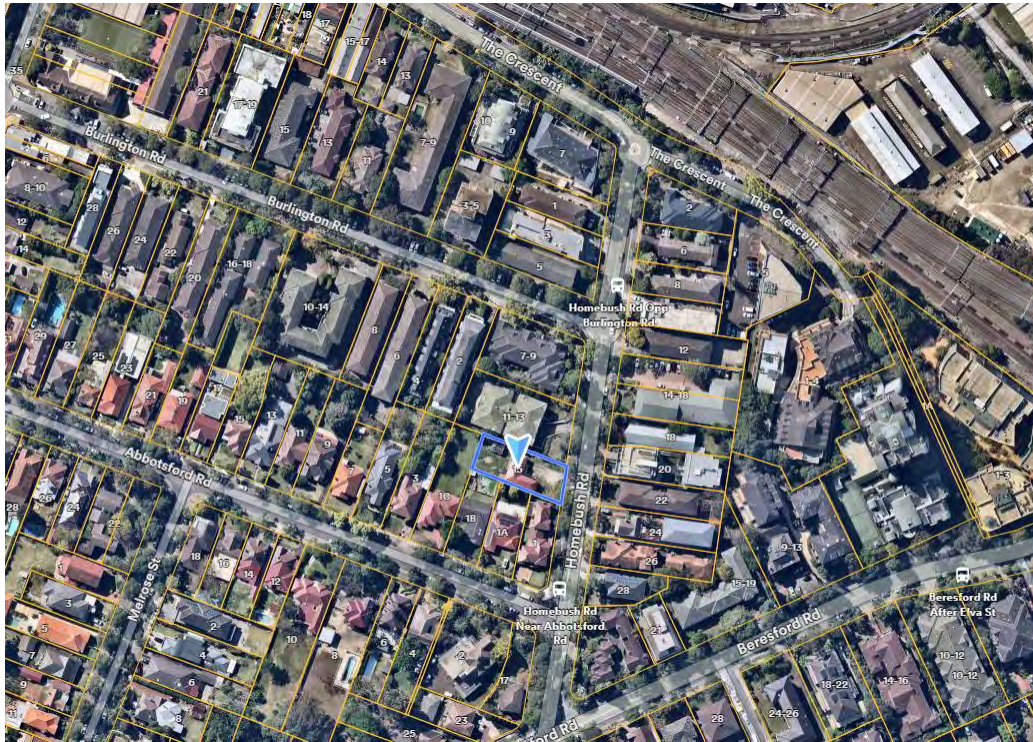


Figure 1: Aerial image of the subject site (outlined in blue) and the surrounding properties.

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and the construction of a four (4) storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – including managers workstation with basement level parking. The 34 private rooms proposed are all double occupancy rooms.

On 23 August 2024, the Applicant commenced Class 1 Land and Environment Court proceedings against the Council's deemed refusal of the development application.

This report is to provide formal determination of the application.

Site and Locality

The site is identified as 15 Homebush Road, Strathfield and has a legal description of Lot 5 DP 31394. The site is an irregular shaped parcel of land and is located on the western side of Homebush Road, Strathfield. The site has a width of 18.326m, an average depth of 45.38m and an overall site area of 809.4sqm (by calculation). The site has a fall of approximately 1.29m from rear to front.

The locality surrounding the subject site is characterised by a mix of building typologies, including detached dwellings, villas and residential flat buildings. There are a number of heritage items within the vicinity and the Abbotsford Road Conservation Area is located to the south of the site.



State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

The proposal, as a co-living development, falls under the provisions of the Housing SEPP. This contains a number of discretionary and non-discretionary development standards. The proposal fails to comply with the following sections of the SEPP

Non-Discretionary Standards:

- Section 68 (2) (d) – Communal open spaces,
- Section 68 (2) (f), - Landscaping requirements

Discretionary Standards

- Section 69 (1) (h) Adequate bicycle and motorcycle car parking
- Section 69 (2) (a) (i) – Minimum setbacks
- Section 69 (2) (b) – Building separation
- Section 69 (2) (f) (i) – The desirable elements of the character of the local area

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposal includes works that adversely impact 2x street trees, therefore fail to satisfy the following objectives and controls of the Biodiversity and Conservation SEPP:

- Section 2.1 (a) &(b) – Aims of Chapter
- Section 2.6 (1) - Clearing that requires permit or approval

Strathfield Local Environmental Plan

The site is zoned R3 Medium Density Residential under the provisions of SLEP 2012, and the proposal is a permissible form of development with Council's consent by virtue of the Housing SEPP. The proposal fails to satisfy the objectives of the following development controls in the SLEP 2012:

- Clause 4.3 – Building height
- Clause 5.10 Heritage conservation
- Clause 6.2 Earthworks

Development Control Plan

The proposed development fails to satisfy the provisions of Strathfield Consolidated DCP 2005 in terms of Part C – Multiple Unit Housing, Part O – Tree Management, Part P – Heritage and Part Q – Urban Design. 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 13 May 2024 to 17 June 2024, where nine (9) submissions were received. The issues raised in the submissions include the following:

- Traffic
- Bulk and scale
- Streetscape and Character
- Visual and acoustic privacy impacts
- Property devaluation and disturbance of amenity
- Inconsistency with relevant planning controls
- Loss of view and visual aesthetics
- Diverse housing

**Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2024/44 is recommended for refusal subject to attached reason of refusal.



REPORT IN FULL

Proposal

Council has received an application seeking development consent for the demolition of existing structures and the construction of a four (4) storey co-living development comprising of 34 private co-living rooms, 4 communal rooms – including managers workstation with basement level parking. More specifically, a detailed breakdown of the proposal includes.

Demolition:

- Single storey dwelling house and detached garage.
- Associated driveways.

Basement level:

- 7x Car parking spaces, including 1 accessible space
- 7x Bicycle parking spaces
- 7x Motorcycle spaces
- Bin room
- Bulky waste storage room
- Services room
- Pump room and airlock
- Lift and stair access to levels above
- Service bay
- Pump out pit

Ground floor level:

- New driveway to the basement level
- Hydrant booster
- Pedestrian pathway
- Letter box and gated access to rear
- 1x common room with dual use as managers workstation, bathroom, kitchen
- 8 x private co-living rooms, including 1 accessible unit (all double occupancy) each with bathroom
- kitchenette and private open space
- Services storage
- Lift and stair access to levels above and below
- Communal open space to the rear
- Communal open space to the front
- Below ground OSD tank
- Junction pit

Level 1:

- 9x private co-living rooms, including 1 accessible unit (all double occupancy) each with a bathroom, kitchenette and balcony space
- 1x common room with bathroom and kitchen
- Landscaping to the private open space of common room
- Services storage
- Lift and stair access to all levels

Level 2:

- 9x co-living rooms (all double occupancy) each with a bathroom, kitchenette and balcony space
- 1x common room with bathroom, kitchen



- Services storage
- Lift and stair access to all levels

Level 3

- 8 x private co-living rooms (all double occupancy) each with a bathroom, kitchenette and balcony space
- 1x communal living area with bathroom, kitchen and adjoining landscaping area
- Services Storage
- Lift and stair access to all levels

The Site and Locality

The subject site is legally described as Lot 5 DP 31394 and commonly known as 15 Homebush Road, Strathfield. It is located off the western side of Homebush Road between Burlington Road (north) and Abbotsford Road (south).

The site is irregular in shape and has a frontage of 18.326m to the east, rear boundary of 17.913m to the west, northern side boundary length of 43.828m to the and southern side boundary length of 46.939mm and an area of 809.4sqm (by survey calculation).

The site slopes from rear to front and has a cross-fall of approximately 1.29m from the south-west corner to the north-east corner of the site.

The site is occupied by a single storey brick house with a tile roof. A single detached brick and fibro garage with a metal roof is located within the north-western portion of the site. Vehicular access is provided to the site via an existing driveway from the north-eastern corner to the existing garage.

The site is within a R3 Medium Density Residential zone and is located in close proximity to Homebush Railway and businesses uses at the northern end of Rochester Street. The residential area is characterised by an eclectic mix of original single detached dwellings interspersed with residential flat building and townhouse development. The character of the area is therefore considered to be in transition. Specifically, the prevailing neighbourhood character consists predominantly of residential accommodation in varied forms including dwellings, attached dwellings, some of heritage value and residential flat buildings reflective of the mixed zoning in the locality.

The site is located approximately 390m from the Homebush Train Station (390m). Bus services are available along Homebush Road.



Figure 2: Subject site as viewed from Homebush Road.



Figure 3: Adjoining Heritage Conservation Area - Homebush Road



Figure 4: Adjoining 2 storey apartment building with basement as viewed from Homebush Road



Figure 5: Heritage Item located on the eastern side of Homebush Road.



Figure 6: Neighbouring 4 storey apartment building on the eastern side of Homebush Road.

Background

Date	Action
2 August 2017	DA2017/061 was approved by Strathfield Independent Hearing Assessment Panel (IHAP) on 3 August 2017 for the demolition of existing structures and construction of a four (4) storey residential flat building comprised of (14) units over a single level of basement car parking. The development consent lapsed on 3 August 2022.
7 May 2024	The subject development application was lodged to Council.
13 May 2024	<p>The application was publicly notified and advertised in accordance with the Strathfield Community Participation Plan (CPP), with the last date for public submissions being 17 June 2024. A total of 9 submissions were received during this period. The issues raised in the submissions included the following:</p> <ul style="list-style-type: none"> • Hostel building appearance undesired and unsuitable for the area. • Concerns about development not positively contributing to the community. • Concerns about development attracting a transient population. • Increased parking and congestion and inconvenience for residents • Loss of views and visual aesthetics • Detraction from character and safety of the area • Detraction from streetscape and adverse impacts on residential amenity



	<ul style="list-style-type: none"> • Loss of sunlight • Insufficient parking for residents • Concerns about short-term living arrangement and exacerbation of rental crisis and social crisis • Inconsistency of development with relevant environmental planning instruments, local policies and building legislation • Inappropriate precedence for co-living type of development, • Adverse impacts on heritage significance of neighbouring developments • Inappropriate form of development. • Property devaluation and disturbance of amenity. • Building height and density • Overlooking and overshadowing • Overdevelopment on site • Non-compliance with building separation and setbacks • Adjacency of the site to the R2 zone and heritage conservation area • Privacy and noise impacts • Concern that the proposal is not actually co-living development but a boarding house • Limited public benefit for development type • Traffic safety
29 July 2024	A site visit was carried out by a planning officer.
23 August 2024	The applicant commences Class 1 Land and Environment Court proceedings against Council for deemed refusal of the development application

Referrals

INTERNAL

Heritage

The application was referred to Council’s Heritage Advisor who raised objections to the proposal. The Heritage Advisor raised that the form of the development and its finishes are not sympathetic to the Abbotsford Road Heritage Conservation Area located adjacent south to the site. The development is inconsistent with the provisions of the of Clause 5.10 Heritage Conservation of the Strathfield LEP 2012. The proposed tree removal is also considered to have an adverse impact on the heritage context of the neighbourhood.

Urban Design

The application was referred to Council’s Urban Designer who raised a number of matters, related to the inadequacy of the proposed landscape design, access and communal open space. The inappropriate location of the hydrant booster and the letter boxes and the unit mix were raised in the urban design objection. Furthermore, the colours and finishes, fencing, bathrooms in communal open spaces and of the development were not supported.

Traffic Engineering

Council’s Transport Engineer reviewed the development application who found the parking arrangements and likely traffic generation acceptable. Conditions of consent were provided by the traffic engineer.



However, it is considered that the proposed 7x motorcycle and 7x bicycle parking spaces for the development which is located in an accessible area is considered inadequate.

Development Engineering

Council's Stormwater Engineer raised no objections to the development application, subject to conditions.

Tree Management

The development application was referred to Council's Tree Management Officer (TMO) who raised issues regarding the incursion of the stormwater trench installation into the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of 2 street trees, namely Tree 1(T1) and Tree 2 (T2). Furthermore, Council's TMO noted that the proposed location of 2x *Tristaniopsis laurina* 'Luscious' in the front yard being placed near the OSD tank area as shown in the landscape plan must be re-located.

Waste Management - Internal

Council's Waste Management Officer assessed the application as acceptable and provided conditions of consent.

Building and Compliance - Internal

Council's Building and Compliance Officer reviewed the application who raised no objections.

Environmental Health – Internal

EXTERNAL

No external referrals were made for the development application.

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 Environmental Planning and Assessment 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 (HOUSING) 2021 (HOUSING SEPP)

Co-living development is permissible under the Housing SEPP in zones where residential flat buildings are permitted under another environmental planning instrument. Residential flat buildings are permissible in the R3 Medium Density Residential zone under the SLEP 2012 and, accordingly, co-living is permissible on the subject site. An assessment against the relevant provisions is as follows:

Section 68 – Non-Discretionary Development Standards



- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

TABLE 1: SECTION 68 DEVELOPMENT STANDARDS			
Housing SEPP Section	Development Standards	Proposal	Compliance
(2)(a)(ii)	10% additional FSR if used only for co-living = 1.32:1 (1,068.408sqm)	1.32:1 (1,068.20sqm)	Yes
(2)(c)	Min 30m ² of communal living area + min 2sqm per private room in excess of 6, & min 3m dimension for each communal living area. Min communal area = 86sqm	88.5sqm provided across 4 common rooms	Yes
2(d)	Communal open space min 20% with min 3m dimension = 161.88sqm	13.09%, minimum dimension of 3m (106m ²)	No. Variation of 55sqm (34.52%)
2(e)	For development in accessible area: 0.2 car spaces per room = 20	34 private rooms x 0.2 = 6.8 spaces 7 spaces	Yes
2(f)	Minimum landscape requirements as per Part C, Table 1: Landscaped Area Requirements of the SDCDP = 40% of lot size (323.76sqm)	38.4% (311sqm)	No, Variation of 12.76sqm (3.94%) see

Section 69 – Standards for Co-Living Housing

- (1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—

TABLE 2: SECTION 69(1) STANDARDS			
Housing SEPP Section	Standards	Proposal	Compliance
(a)	(a) room floor area, excl. kitchen or bathroom facilities, max 25sqm & min (i) 12sqm for single occupant, (ii) otherwise 16sqm	All double rooms: 16sqm – 22.72sqm	Yes
(b)	Min lot size = 800sqm	809.4sqm	Yes
(d)	Contain an appropriate workspace for the manager, either within the communal living area or in separate space	The ground floor common room has a dual use the manager’s workstation	Yes
(f)	Adequate bathroom, laundry & kitchen facilities available for use of each occupant	Bathroom, kitchen and washing facilities	Yes



		provided in each room	
(g)	Max 2 occupants per private room	Max 2 as per PoM	Yes
(h)	Adequate bicycle & motorcycle parking	The 7x bicycle and 7x motorcycle spaces are considered inadequate.	No, see below

Adequate bicycle & motorcycle parking

The proposed development fails to provide adequate bicycle and motorcycle parking for the occupants as out in Section 69 (2)(a) (h) of Housing SEPP 2021. Noting that the development provides 7 car parking spaces in accordance with the provisions of the Housing SEPP, the proximity to Homebush Train Station presents a locational opportunity to optimise active and diverse travel mode options for occupants. It is considered that as the SEPP requires that ‘adequate bicycle and motorcycle’ parking spaces, the 7 bicycle and 7 motorcycle spaces in an accessible area is inadequate for the development.

(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—

TABLE 3: SECTION 69(2) STANDARDS			
Housing SEPP Section	Standards	Proposal	Compliance
(a)	(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, Front Setback – 9m Side Setbacks – 4m Rear Setback – buildings shall be sited within a building envelope determined by a plane projected at an angle of 45 degrees over a site from a height of 3.5m above natural ground level along the side and rear boundaries of the land Basement Setbacks – outer walls of basements shall	Provision of Part C of the SCDCP 2005 are applicable, Section 2.3 as follows: Front setback - 6.5m Side setbacks – 3m each for north and south. Rear Setback – 6m Basement – nil setback to side boundaries.	No, see below. No, Clause 4.6 submitted for front and side setbacks. Complies No, Clause 4.6 statement



	comply with the front, side and rear setbacks as above		provided for basement variation.
(b)	Min building separation distances specified in ADG: Habitable rooms & balconies: 6m Non-habitable rooms: 3m	Complies with rear separation requirements, but variations to the northern & southern (side) elevations.	No, Clause 4.6 submitted.
(c)	Min 3 hrs direct solar access provided 9am-3pm at mid-winter in min 1 communal living area	At least 3 hours of solar access is achieved to the communal living areas on Level 2 and 3.	Yes
(f)	the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	The design of the building attempts to mimic the form and emerging character of the R3 Medium Density Residential Zone, which is located northerly and easterly of the site, however, does not appropriately respond to the southern zone transition of the R2 Zone which has lower-scale and form and contains the Abbotsford Road Conservation Area Abbotsford Road Conservation Area is a high-quality streetscape with housing stock mainly dating from the late 19 th and early 20 th centuries. The streetscape is tied together by mature street planting and well-maintained gardens. Abbotsford Road is of particular significance for its architectural and aesthetic significance The application is considered incompatible with the desirable elements of the character of the local area. This is demonstrated in the building form and modulation; the façade materiality and detailing (including glazing); the site planning, including the driveway width and alignment; and the impact of the building on the streetscape.	No

Clause 4.6 Variation – Setbacks

Section 69(2)(a)(ii) of the Housing SEPP requires compliance with the setback controls in Part C of the SCDP 2005. It is noted that the minimum front and side setback requirements under the DCP are 9m and 4m respectively. The development proposes minimum 6.5m front setback to the eastern boundary and 3m side setbacks to the northern and southern boundaries. The



applicant submitted a written Clause 4.6 request (the written request) to vary the front and side setback standards in Section 69(2)(a)(i) of the Housing SEPP. This statement was combined with the variation to the building separation standard, which will be discussed separately below. Clause 4.6(2) of the SLEP 2012 allows variations of development standards in other environmental planning instruments such as the Housing SEPP.

As detailed in *Initial Action*, as a result of the breach of a development standard, Clause 4.6(3) and (4) of the SLEP establish preconditions that must be satisfied before the consent authority can grant development consent. 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* 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, which is that the objectives of the setback standard are achieved notwithstanding the numeric non-compliance.

There are no specific objectives for Section 69(2) of the Housing SEPP. In the absence, the Applicant contends that the objectives relating to the relevant planning instrument – Part C of SCDCP 2005 - can be considered “assumed objectives”. This approach is accepted as per *Feng*:

Whilst one cannot look to a development control plan for the purposes of construing the relevant local environmental plan, it is legitimate to consider the terms of the DCP here for the purpose of establishing the underlying objective of the standard (see *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 at [46] and [50]).

Control 2.2 (1) Building Envelope (Height, Scale and Setbacks) of Part C of SCDCP 2005, gives rise to the development standard. The relevant objectives require the following:

- “appropriate building envelopes for multiple-unit residential development throughout the Strathfield Municipality, while allowing flexibility in siting buildings”.
- “that the amenity, character and environmental quality of the Strathfield Municipality is maintained by grouping together compatible residential development”

An assessment against the relevant objectives is provided below. The written request also provides an assessment against the building separation objective of the ADG which is not considered relevant given this is not the relevant planning instrument.

Applicant's comments: In terms of the front setback, the front setback of the property immediately north of the site (No. 11-13 Homebush Road) is approximately 14.5m, at minimum. The property immediately south of the site (No. 1 Abbotsford Road) is a



corner lot with a primary frontage to Abbotsford Road and secondary frontage to Homebush Road. The building setback provided to Homebush Road at No. 1 Abbotsford Road is approximately 2m. The SIHAP assessment report for DA 2017/061 stated the following:

“Existing development upon the western side of Homebush Road includes varied setbacks ranging from 3m to 12m. The proposed development provides a 6.5m front setback which is considered to be consistent with the predominant building line in the streetscape, while allowing for an appropriate rear setback in recognition of the adjoining heritage conservation area.”

As noted above, there is considerable variance in existing building setbacks along Homebush Road. The proposed development will contain a front setback of 6.5m, which far exceeds the setback to Homebush Road achieved by the neighbouring dwelling to the south and aligns with the approved 6.5m front setback associated with the approved residential flat building under DA 2017/061. The proposed development will appear as a transition between the setbacks of the neighbouring properties and would not conflict with the existing streetscape, thereby complying with the front setback requirement which allows an undetermined variation under Part C2.2(2) of SDCP above.

Therefore, no further consideration of the front setback requirement is required.

In terms of the side and rear setback, SDCP 2005 requires a minimum side setback of 4m and a minimum rear setback of 3.75m based on an 11m height limit and the building envelope.

The proposed development provides a 6m rear setback and therefore far exceeds the minimum requirement. However, 3m side setbacks are proposed on the northern and southern elevations (side) which are discussed below.

Assessment Officer’s Comments

Front Setback: The extent of the departure from the front setback control is considered acceptable as the adjoining developments to the front and the south have significantly varied front setbacks. Furthermore, it is unlikely the 6.5m setback would result in unreasonable amenity impacts. The setback affords the development opportunity for front yard landscaping which contributes to streetscape. Having regard to the scale of the development, the front setback is considered acceptable.

Side Setback: In terms of the side setback, it is considered that the visual bulk, particularly to the southern adjoining 2 storey dwelling, is excessive. Also recognising the north-south spatial relationship between the sites it would result in significant overshadowing impacts on the adjoining development. The 4-storey form and proposed finishes are generally considered unsympathetic to the conservation area and neighbouring heritage items would detract from the heritage context of the HCA and items. The setback proposed also limits opportunities for internal amenity to be optimised for the subject development.

Clause 4.6 Variation – Building Separation

Section 69(2)(b) of the Housing SEPP requires compliance with the building separation distances specified in the ADG, a control related to the management of visual privacy between residences. The proposed building has a height of 4 storeys and the minimum separation requirements from the side boundary as identified in Part 3F-1 of the ADG are as follows:

- Balconies 6m
- Habitable rooms 6m
- Non-habitable rooms 3m



The rear setback complies at 6m. The two side elevations are set back 3m with habitable rooms facing these side boundaries. The 3m setback represents a 50% non-compliance, being half of the required distance.

The Applicant has provided a written Clause 4.6 request (the written request) annexed to the SEE to vary the building separation standard in Section 69(2)(b) of the Housing SEPP. Clause 4.6(2) of the SLEP 2012 allows variations of development standards in other environmental planning instruments such as the Housing SEPP.

As detailed in *Initial Action*, as a result of the breach of a development standard, Clause 4.6(3) and (4) of the SLEP establish preconditions that must be satisfied before the consent authority can grant development consent. 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)).

Whether compliance with the development standard is unreasonable or unnecessary

In *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, which is that the objectives of the standard are achieved notwithstanding the numeric non-compliance.

There are no specific objectives pertaining to Section 69(2) of the Housing SEPP. In the absence, the applicant contends that the objective of the relevant planning instrument found within the ADG can be considered the "assumed objective". This approach is accepted as per *Feng*:

Whilst one cannot look to a development control plan for the purposes of construing the relevant local environmental plan, it is legitimate to consider the terms of the DCP here for the purpose of establishing the underlying objective of the standard (see *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 at [46] and [50]).

The ADG can be considered similar to the DCP in this regard. The written request also provides an assessment against objectives of the SCDCP. However, the sole building separation objective in 3F-1 of the ADG states:

"Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy."

The written request assesses against this objective as follows:

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



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

Applicant's comments: The proposed design results in a superior planning outcome by providing 34 co-living dwellings in a highly accessible and appropriate location for additional density. Insistence on compliance with the separation requirements of the ADG (6m) would result in a development that is 6m wide and would more than halve the quantum of co-living rooms provided by the proposed variation. That is, the variation will provide a greater diversity and quantum of co-living rooms in an ideal location close to services, employment and transport. In this regard, the proposal achieves the objects in Section 1.3 of the EPA Act, specifically:

- (a) To promote the orderly and economic use and development of land (1.3(c));*
- (b) To promote and deliver affordable housing (1.3(d));*
- (c) The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).*

2. The setback requirements of the SDCP 2005 are for multi-dwelling-housing which envisages a height of 2-3 storeys which are a lower height and intensity than anticipated by SLEP 2012. Furthermore, these setback requirements do not account for the additional 10% FSR "bonus" provided under Section 68(2) of the Housing SEPP. This additional FSR needs to be allocated on the site and, in this instance, is provided within the side setback areas given additional height would have a greater impact on the streetscape and amenity of adjoining properties.

3. The separation requirements of the ADG are specifically related to maintaining the privacy of occupants and surrounding properties. Despite the variation to the numerical separation requirements, the proposal achieves the objective of Part 3F-1 of the ADG as the proposal provides "adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy". In this regard, the design response of the northern and southern elevations minimise the privacy impacts to adjoining properties through highlight windows and privacy screening for balconies.

The northern elevation is of greatest concern with regard to building separation due to the inadequate separation from the shared boundary by the two (2) central balconies at No. 11-13 Homebush Road. The design response has been critical in ensuring adverse amenity impacts are not caused to either party. The implementation of 1.6m privacy screens, awning windows and glazed sliding doors effectively creates a non-habitable situation across the northern elevation. The total separation distance between the neighbouring balconies and northern façade of the co-living building is approximately 5m. With the 1m deficit a result of non-compliance with respect to the neighbouring property rather than the proposed development. That is, the proposed development assumes a greater burden to provide separation distances than adjoining properties and the separation is not "shared evenly".

A similar situation exists for the southern elevation, where No. 1 Abbotsford Road is within 3m of the subject site, however, the built form has been staggered to increase building separation.

In addition, the southern façade features numerous privacy treatments including a privacy wall to the POS areas that align with the existing residential dwelling at No. 1 Abbotsford Road.

4. The previous approval on the subject site, DA2017-061, contained setbacks as little as 3m from the side boundaries amongst other variations. The proposed development, which provides a building envelope and footprint which is generally consistent with the previous



approval, comprises of a setback of 3m from the northern and southern side boundaries but noting that an acceptable setback for the site was established by DA 2017-061.

In the Land and Environmental Court Judgement, *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85 (8 June 2018) (*Abrams v CoS*), Robson J reinforced that a previous development consent is a relevant "instrument" which requires consideration under the EP&A Act. That is, a previous development application approved on a site should be considered for a new development application.

6. There is no consistent pattern of setbacks from side boundaries evident in the streetscape as the locality is undergoing transition to higher density development. The built form of the desired future character is residential flat buildings or boarding houses / co-living developments four storeys or greater and the design of these buildings is guided by the ADG. The proposal is consistent with the ADG Part 3F which includes the intent to achieve a minimum 3m setback for non-habitable spaces. The privacy centric design features along the northern and southern elevation create the characteristics of a non-habitable space and therefore the minimum 3m separation requirement is achieved.

7. Overall, the density and scale of the proposed development is compatible with the surrounding development. The proposed variation to the setback and separation requirements will not result in any additional material impacts on the amenity of surrounding properties. In this regard, the following points are noted:

- (a) The variation to the setbacks and separation distances creates no adverse additional overshadowing impacts to adjoining properties when compared to a compliant building envelope or the previous approved development. The additional shadow cast by the variation would be relatively minor, noting the solar access for 2 hours to primary living areas and open space areas for the apartments will be maintained by the proposal.
- (b) The setback and separation variations do not result in any adverse additional aural or visual impacts. As discussed above, the design elements and use of highlight windows and screening will minimise the privacy impacts on surrounding properties. The extent of privacy loss as a result of the non-compliant elements would be insignificant; and
- (c) The setback and separation variations do not result in any significant view loss. The proposed development will not result in any material loss of views or outlook when compared to a building with a compliant or approved envelope. The extent of view loss caused by the non-compliant elements would be insignificant or nil.

8. The proposed development meets the assumed objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone. In particular:

- (i) The proposed variation will encourage the development of housing that will meet the needs of more vulnerable members of the community, including low to moderate income households, seniors and people with a disability.
- (ii) Approval of the development will promote the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (iii) Approval of the proposed variation will ensure new housing development provides residents with a reasonable level of amenity; and
- (iv) Approval of the proposed variation will support a variety of housing types by providing a well located and compact development that will be a better choice for singles and couples in a socially inclusive building.

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly given the location of the site within



an established urban area undergoing transition to higher density located close to public transport, employment opportunities and services. The setback and separation distances are a function of the small, isolated site and the need to provide additional affordable and diverse housing which satisfies the intention and the objectives of the ADG and will not be inconsistent with the streetscape and pattern of building separation emerging in the locality.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018]* NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

Assessment Officer's Comments

The proposed non-compliant setbacks result in overlooking impacts. These are proposed to be ameliorated with privacy screens to the side POS balconies, which in turn result in poor amenity for the co-living rooms.

The maximum height of the development is approximately 12.15m, excluding the lift overrun. The limited building separation proposed exacerbates the visual bulk impacts from the excessive height. The proposed form and building separation would also have visual bulk impacts on the adjoining 3 storey apartment building to the north and low-density dwellings to the south, detracting from the southern adjoining development's heritage value. It is considered that the approved DA2017-061 is not sufficient environmental planning grounds in this regard.

The reduced setbacks cause visual bulk impact that detracts from the visual amenity of the single-storey detached dwellings and 2-storey townhouse developments adjoining south which are also within the Abbotsford Road Heritage Conservation Area. The variation to the setbacks is not sensitive and complementary in scale to adjoining properties and exacerbates amenity impact of the heritage conservation area.

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 offered objections regarding the incursion of the stormwater trench installation into the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of 2 street trees, namely Tree 1(T1) and Tree 2 (T2). Furthermore, Council's TMO noted that the proposed location of 2x *Tristaniopsis laurina* 'Luscious' in the front yard being placed near the OSD tank area as shown in the landscape plan must be re-located.

The aims and objectives outlined Sections 2.1 (a) &(b) – Aims of Chapter and Section 2.6 (1) - Clearing that requires permit or approval of the SEPP are considered not to be satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022



Chapter 2 of the Policy provides BASIX standards for residential development and more notably BASIX development. Schedule 1 of the SEPP states the definition of a 'BASIX Building' is the same as that in the Environmental Planning and Assessment Regulation 2021. In the definition a BASIX Building does not include a co-living housing development that accommodates more than 12 residents. Given the proposal is for co-living that will accommodate more than 12 residents, the development cannot be defined as a BASIX Building, nor is defined as BASIX development. Notwithstanding, A Section J Assessment prepared by ANEC which outlines compliance with the National Construction Code accompanies the development application.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of land

Chapter 4 applies to the land and pursuant to Section 4.15 is a relevant consideration.

The findings in the submitted Preliminary Site Investigations (PSI) report prepared by EI concluded that a Detailed Site Investigation (DSI) report to ascertain whether the site is suitable for the development is to be provided. A DSI has not been submitted with the application.

The PSI identified several Contaminants of Potential Concern (COPC's). Furthermore, the limitations and information gaps in the investigation methodology informing the PSI: lack of recent site observation and lack of sampling or analysis of soils, soil vapours or groundwater, as such, presents findings that are unverifiable. The Preliminary Site Investigation report states its findings are not based on actual samples collected on site but based on information provided by its client and other third parties which are anecdotal and historical in nature. As such, the findings in relation to contaminant levels near site surface soils, deleterious materials and groundwater impacts cannot be verified.

The objectives outlined within Chapter 4 of the SEPP are not considered to be satisfied.

Strathfield Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan 2012; however it is not consistent with all the aims of this plan. This is discussed further in the body of this report.

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The subject site is zoned R3 Medium Density Residential. As indicated above, while co-living is not identified as a permissible land use in the zone under the SLEP 2012, it is permissible by virtue of the Housing SEPP. Clause 2.3(3) of SLEP 2012 provides that "the consent authority [Council] must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone". Having regard to the zone objectives, it is found that the development is satisfactory.



Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	11m	13.154n	No – 2.154m or 19.6% exceedance. (see below)
4.4 Floor Space Ratio	1.2:1. However, by virtue of the provisions of the Housing SEPP an uplift of 10% of gross floor area applies as the development is used entirely for co-living. 1.32:1 (1,068.20sqm) applies	1.32:1 (1,068.20sqm)	Yes- Housing SEPP prevails

Clause 4.6 Variations – Height of Buildings

The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development; and
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(3) states that:

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

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

A written request under the provisions of Clause 4.6 of Strathfield LEP 2012 was lodged as the proposed development seeks a variation to the height of building development standard:

Clause 4.3 – Height of Buildings

The proposal does not comply with the maximum permissible building height of 11m stipulated within Clause 4.3 – Height of Buildings. The proposed overall building height is 13.154m including the lift overrun.

The development proposal exceeds the maximum permissible building height by 2.154m which is a 19.6% variation to the development standard.



Whether compliance with the development standard is unreasonable or unnecessary

With regard to testing whether compliance with the development standard is unreasonable or unnecessary as per cl 4.6(3)(a), *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.

The objectives under Clause 4.3 – Height have been considered below:

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

Applicant's comments addressing the above objectives:

- a) to ensure that development is of a height that is generally compatible with, or which improves the appearance of the existing area*

Applicant Comment: “The proposed development has been designed as to ensure that the variation to the maximum building height will have no adverse impact on the appearance of the existing area. It is noted that the appearance of the existing area is not defined and is subjective, however clearly the locality is in transition to higher density development envisaged by the planning controls. The appearance of the existing area is not characterised by development that is compliant with the height of buildings development standard. The subject site is located at the intersection of three differing height limits which, in itself will create differing height levels between the 9.5m to the south, 11m for the subject site and 15m to the east. In any event, the proposed variation of 2.154m is compatible with the variation of the building to the north (No. 2 Burlington Road) and less than No.10 Homebush Road opposite the site (0.5m).

Importantly, the proposed development is consistent with the approved development on the site (DA17/061) which must be considered. Therefore, the height variation is not a new element for the subject site or the locality, and the proposed variation will sit comfortably alongside this building and the building to its south (No.11-13 Homebush Road) to ensure compatibility with the character (and height) of the locality. In accordance with the objective, it is argued that the lower height will improve the appearance of the existing area and provide a better transition to the lower height development to the south. The height variation is less than what would be typically provided under Section 16 of the Housing SEPP which allows for an additional 30% height (3.3m) onto of the 11m height of buildings development standard which will ultimately alter the character from what is envisaged under SLEP 2012.

The proposed development will not appear visually jarring and will certainly improve the appearance of the locality which is transitioning to higher density development. Importantly, the development is compliant with the FSR development standard (Housing SEPP) and in doing so demonstrates that it is of an appropriate development density. The height of the building is generally compatible with neighbouring flat buildings and will seek to improve the appearance of the existing area with a well-considered design response to the site constraints and the existing streetscape. The proposal satisfies Objective (a).”

- (b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,*



Applicant Comment: “Objective (b) seeks to ensure that development consolidates sites leading to optimum sustainable capacity height for the area. Lot consolidation is not sought nor will the development result in isolated lots. Lot amalgamation is not required as the proposed bulk and scape of the development at No.15 Homebush Road is suitable.

The built form will not appear disproportionate to the nearby flat building developments along Homebush Road, many of which have been granted similar height variations to achieve the optimum sustainable capacity height for the area. The height limit is less than what was approved under DA17/061 and is considered to be appropriate in the context of other non-compliant development on similar sized allotments. The proposal satisfies Objective (b).”

(c) *to achieve a diversity of small and large development options.*

Applicant Comment: “Objective (c) seeks to ensure that there is a diversity of small and large development options in the area. In this locality there is diversity in the building typologies and residential accommodation largely due to the different site amalgamations, lot sizes and ages of development. The development to the north (No. 11-13 Homebush Road) represents a larger development in the area encompassing 2 lots, while the land to the east (No. 10 Homebush Road) has approval for a boarding house on a site comprising of one lot of similar proportions.

The provision of co-living development will provide for a better offering of smaller and more affordable accommodation options when compared to the typical residential flat building development in the locality, and indeed on the subject site under DA17/061. The proposed development will therefore encourage building and accommodation diversity and satisfies Objective (c).

On this basis, the requirements of Clause 4.6(3)(a) are satisfied. Notably, under Clause 4.6(3)(b) a consent authority must now be satisfied that there are sufficient planning grounds for the contravention of a development standard. Clause 4.6(3)(b) is addressed in Section 6 below.”

Assessment Officer Comment:

The extent of the departure from the development controls makes the development incompatible with the site context and contributes to the visual bulk impacts of the development on neighbouring developments. The proposed height detracts from the visual amenity of the single-storey detached dwellings and 2-storey townhouse developments adjoining south which are also within the Abbotsford Road Heritage Conservation Area.

The request is inconsistent with the objectives of Clause 4.3 (a) of the SLEP 2012 because the proposal is generally not compatible with the appearance of the existing area and proposed form would not improve the appearance of the existing area, in particular the Heritage Conservation Area and a Local Heritage Items. The development proposes a form that is higher than adjoining development which is in a heritage conservation area, however the design does not adequately respond to the changing height and scales.

It is noted that Section 16 of the Housing SEPP referenced by the applicant for additional FSR is applicable to affordable housing developments under part 2 of the SEPP. This subject development is pursuant to Diverse Housing for co-living development provisions under part 3 of the Housing SEPP, as such Section 16 does not apply.

The request also fails to demonstrate that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with Clause 4.3 (b) of the SLEP 2012. The request merely relies on a lapsed development approval for a different



building use as a benchmark to justify the departure from the development standard in this regard.

In conclusion, the applicant's written request to justify the contravention of the building height development standard is considered to be inadequate in that the applicant has unsatisfactorily 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

Clause 5.10 - Heritage Conservation

The subject site is not listed as a heritage item or located within a heritage conservation area. However, the site adjoins the Abbotsford Road Heritage Conservation Area and is in close proximity to heritage items and as such, the provisions of this clause are applicable.

It is noted that a Heritage Impact Statement was not submitted with the development application. As such, the effect of the proposed development on heritage significance as required under Clause 5.10(4) of the SLEP 2012 and Clause 5.10 (5) (c) cannot be appropriately reviewed.

Clause 5.21 - 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

Clause 6.1 - 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.

Clause 6.2 - Earthworks

The proposal involves significant excavation works for the provision of a basement, driveway ramp and levelled rear yard. It is considered that the proposed excavation works would have a detrimental effect on the heritage items and features of the surrounding land. The extent of the excavation to the southern boundary is unsympathetic to the adjoining contributory dwellings to the Abbotsford Road Heritage Conservation Area in the R2 Low Density Residential Zone and the heritage item on the eastern side of Homebush Road. The nil boundary setback will have an adverse impact on the heritage conservation area and items in terms of context.

The low-density heritage conservation area is characterised by landscaping strips on the side boundaries. The extent of excavation works to provide a basement on a nil boundary limits site opportunities to provide landscaping on the site and in turn diminishes the heritage value, as such, is considered unacceptable.

Accordingly, it is considered that the proposed earthworks would likely have an adverse impact on the future use and redevelopment of the land and does not meet the objectives of Clause 6.2.



Clause 6.4 - 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 this site.

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

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

Strathfield Development Control Plan 2005:

Part C – Multiple- Unit Housing (SCDCP 2005)

DCP 2005 Part C – Multiple Unit Housing is of relevance to the assessment of an application for a multi-unit housing development or residential flat building. Notwithstanding, Chapter 3 of the Housing SEPP confirms that in the event of any inconsistency between the controls of the ADG and Council’s Development Control Plan, the objectives, design criteria and design guidance set out in the ADG prevail. The Housing SEPP specifies controls within Part C of DCP that are applicable to co-living developments. A DCP analysis of the applicable controls in part C is provided below:

This confirms that if a development control plan contains provisions that specify requirements, standards or controls in relation to the following matters, those provisions are of no effect:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage,
- (i) parking.

Sect ion.	Development Control	Required	Proposed	Compliance
2.2	Building street setback and site requirements	Building Height and Scale 1. Density Sub Zone = 2-3 storeys	A 4 storey co living development is proposed.	No
	Building envelope and setbacks	Front Setback – 9m Side Setbacks – 4m	Front setback - 6.5m	No No



Section.	Development Control	Required	Proposed	Compliance
		<p>Rear Setback – buildings shall be sited within a building envelope determined by a plane projected at an angle of 45 degrees over a site from a height of 3.5m above natural ground level along the side and rear boundaries of the land.</p> <p>Basement Setbacks – outer walls of basements shall comply with the front, side and rear setbacks as above.</p>	<p>Side setbacks – 3m each for north and south.</p> <p>Rear Setback – 6m</p> <p>Basement – nil setback to side boundaries.</p>	<p>Yes</p> <p>No</p>
2.7	Open space and landscaping	<p>Minimum landscape requirements as per Part C, Table 1: Landscaped Area Requirements of the SCDCP = 40% of lot size (323.76sqm).</p> <p>At least 70% of the landscaped area must remain as unpaved 'soft' landscaping.</p> <p>The development provides a positive contribution to the streetscape, with appropriate and quality landscaping in the front setback area.</p> <p>At least 35% of the required landscaped area is to provide for deep soil landscaping. Buildings and basement car parks shall be planned to allow contiguous deep soil areas, and planned to allow planting of large trees.</p>	<p>38.4% (311sqm)</p> <p>> 70% of the landscaped area is as unpaved 'soft' landscaping.</p> <p>The landscaping quality in the front yard area is considered satisfactory</p> <p>The development provides 150.86sqm of deep soil area which is equivalent to 46% of the required landscaped area.</p> <p>Notwithstanding, the proposed siting of the basement level to a nil boundary setback limits opportunities to provide contiguous deep soil</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p>



Section.	Development Control	Required	Proposed	Compliance
			areas along the side boundaries. This results in a built form that is unsympathetic the site context, recognising the low density zone transition and heritage conservation area context.	

Part H – Waste Management (SCDCP 2005)

In accordance with Part H of Strathfield 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 and considered satisfactory.

Part O – Trees

The proposal fails to comply with the objectives outlined in Section 1.4 under Part O – Trees of the SCDCP 2005 where an integrated approach to urban development which promotes tree retention and protection has not been adequately considered. In addition, the proposal fails to promote the maintenance and preservation of Strathfield’s tree canopy areas as the stormwater trench installation presents incursion into the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of 2 street trees, namely Tree 1(T1) and Tree 2 (T2).

Furthermore, it is noted that the proposed location of 2x Tristaniopsis laurina ‘Luscious’ in the front yard being placed near the OSD tank area as shown in the landscape plan is not appropriate. This forms as a reason for refusal.

Part P – Heritage (SCDCP 2005)

The subject site adjoins The Abbotsford Road Heritage Conservation Area and is in the vicinity of several heritage items. A Heritage Impact Statement did not accompany the development application to assess the impact of the proposed development on the heritage items located within the immediate vicinity of the subject site. This forms as a reason for refusal.

Part Q - Urban Design

The proposal fails to comply with the controls under Part Q of SCDCP 2005. Adequate solar access diagrams have not been submitted to ensure compliance with Section 3.5 Solar Access and cross ventilation. Specifically, the proposal cannot be supported due to the following:

- The proposal fails to comply with Part Q – Urban Design, 3.10.2 (2) because it does not provide communal space that is located where it is highly visible and directly accessible to the maximum number of dwellings. The fragmented communal open spaces for the development on the Ground Floor Level and Level 3 of dwellings do not provide optimum opportunities to the residents for quality usable private outdoor living areas for recreational and outdoor activities. The location of the communal open space on Level 3 limits opportunities for maintenance and social activities for a maximum



number of dwellings. The Level 3 communal open space is also not integrated into an area deep soil planting.

- The building fails to comply with Part Q of the SCDCP 2005, Section 3.2 Building Entries, including Objective 3.2.1(a) and 3.2.2(1) and (2) due to the side building entry which is not visible from the street.
- The proposed development fails to adequately respond to the objectives and essential criteria which relate to establishing the character of the local area in Part Q of the SCDCP 2005, Section 2.2 Streetscape, Section 2.3 Siting and Section 2.5 Building massing and scale.
- The façade design, including the side entry, the angular façade elements and the tall vertical battens does not interpret and respond to the positive character of the locality, including the dominant patterns, textures and compositions of buildings as required by Part Q of the SCDCP 2005, Section 2.7 Building frontages to Public Domain.
- Adequate solar access diagrams have not been submitted to ensure compliance with Section 3.5 Solar Access and cross ventilation under Part Q of SCDCP 2005. Specifically, the proposal has insufficient information demonstrating that sunlight access is provided to private open space and habitable rooms to improve amenity and energy efficiency. There is a mismatch between the shadow cast onto properties to the south between the sun eye diagrams and shadow diagrams. Additional drawings will be required to demonstrate that the open space requirements are observed for No.1A Abbotsford Rd in both sun-eye and solar diagrams.
- Adequate information has not been submitted to assess compliance with Part Q of the SCDCP 2005, Section 3.6 Safety and Security in terms of the design of the development's compliance with Crime Prevention Through Environmental Design (CPTED) principles. The side location of the main entry door into the development is considered unacceptable in terms of how it incorporates and enhance opportunities for effective natural surveillance and a visible presence from various locations or approaches to the building. Also, the design limits visual connections between the street, the entry foyers and residential interiors areas. As such, a CEPTED report reviewing the design against the relevant principles is required.

(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 a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

(d) 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 the desired built form of the locality. Accordingly, the proposal will likely have a significant impact on the natural and built environment and cause negative social and 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 and that is unsuitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. Furthermore, there is a significant amount of insufficient information with the development application which has not allowed for a complete assessment of the impact of the development to be carried out.

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

In accordance with the provisions of Councils Community Participation Plan, the application was placed on neighbour notification for a period of twenty-one (21) days where adjoining property owners were notified in writing of the proposal and invited to comment. submissions were received raising the following concerns:

Concern	Comment
Traffic: <ul style="list-style-type: none"> • Traffic safety • Increased parking and congestion and inconvenience for residents • Insufficient parking for residents 	The application was referred to Council's Traffic Engineer who was satisfied with the proposed provision of on-site car parking.
Bulk and Scale <ul style="list-style-type: none"> • Building height and density • Overlooking and overshadowing • Overdevelopment on site • Non-compliance with building separation and setbacks • Loss of sunlight 	Agreed. Forms as a reason for refusal.
Streetscape and Character <ul style="list-style-type: none"> • Detraction from character and safety of the area • Detraction from streetscape and adverse impacts on residential amenity. • Adverse impacts on heritage significance of neighbouring developments. • Adjacency of the site to the R2 zone and heritage conservation area 	Agreed. Forms as a reason for refusal.
Visual and acoustic privacy impacts	Agreed in terms of visual privacy impacts and forms as a reason for refusal. In terms of acoustic privacy were this application supported, suitable conditions would have been included in the consent for the management of adverse acoustic impacts of the proposal on the adjoining properties
Property devaluation and disturbance of amenity.	Noted in terms of property valuation. Loss of neighbourhood amenity forms part of reasons of refusal.



Inconsistency of development with relevant environmental planning instruments, local policies and building legislation.	Agreed. Forms as a reason for refusal.
Loss of views and visual aesthetics	There are no significant view corridors identified within the vicinity that may be obscured by the development.
<p>Diverse housing – Co-living housing</p> <ul style="list-style-type: none"> • Concerns about short-term living arrangement and exacerbation of rental crisis and social crisis • Concern that the proposal is not actually co-living development but a boarding house • Inappropriate form of development • Concerns about development not positively contributing to the community. • Concerns about development attracting a transient population. • Hostel building appearance undesired and unsuitable for the area. • Inappropriate precedence for co-living type of development 	The proposed co-living development is a permissible form of development under SEPP (Housing).

(e) the public interest.

The proposed development is of a scale and character that conflicts 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).

As this application is recommended for refusal, the contributions have not been calculated for the proposal.

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979, the provisions of the SLEP 2012 and SCDP 2005.

Following detailed assessment, it is considered that Development Application No. 44/2024 should be refused for the following reasons.

Refusal Reason – Environmental Planning Instrument

- a. State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - i. Chapter 2 – Vegetation in non-rural areas.



- The proposed works would result in of two (2) street tree being adversely impacted. This fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas of the SEPP Biodiversity & Conservation because the proposal fails to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
- b. State Environmental Planning Policy (Resilience and Hazards) 2021
- i. Chapter 4 – Remediation of land. A detailed site investigation and remediation strategy has not been provided and therefore fails to comply with the objectives of the SEPP.
- c. State Environmental Planning Policy (Housing) 2021
- i. Chapter 3 – Part 3 – Co-living Housing
 - The proposed development fails to comply with Section 68 (2) (d) of SEPP Housing which prescribes a minimum communal open space of min 20% with min 3m dimension (161.88sqm). The proposal provides a communal open space area of 106sqm. A Clause 4.6 statement has not been submitted for seeking a variation to this development standard.
 - The proposed development fails to comply with Section 68 (2) (f) of SEPP Housing which prescribes a minimum of 40% or 323.85sqm of the site to be landscaped for development on land in Zone R3 Medium Density. The proposal has a landscaped area of 38.4% (311sqm). A Clause 4.6 statement has not been submitted for seeking a variation to this development standard.
 - The proposed development fails to comply with Section 68 (2) (f) of the SEPP Housing which prescribes that the minimum landscaping requirements for multi dwelling housing be applied for the development. The proposed siting of the basement to a nil boundary setback limits opportunities to provide contiguous deep soil areas along the side boundaries.
 - The proposed development fails to comply with the side setback requirements for development in the R3 zone set out in Section 69 (2)(a) of SEPP (Housing). Section 69(2)(a) requires the minimum setbacks of a multi dwelling housing to apply to the site which is a minimum of 4m on either side. The proposal has side setbacks of 3mm on the northern and southern elevations.
 - The proposed development fails to satisfy Section 69 (1) (h) of the Housing SEPP because inadequate parking for bicycle and motorcycle is provided.
 - The proposed development fails to comply with Section 69 (2)(a) (i) of SEPP Housing because the proposed building does not meet the minimum building setback requirements as required under the SCDCP 2005 for side setbacks and basement setbacks.
 - The proposed development fails to comply with Section 69 (2)(b) of SEPP Housing because the proposed building does not meet the minimum building separation distances specified in the Apartment Design Guide (ADG). The proposed development fails to comply with the required separation distances in Design Criteria 1 of the ADG, as the proposed separation on the northern and southern side boundaries of the building fails to provide the required separation distances for habitable rooms.



- The proposed development fails to comply with Section 69 (2) (f) (i) of the Housing SEPP – The development fails to demonstrate that the design of the building will be compatible with the character of the local area. The proposal does not provide an appropriate design response to the zone transition context of the site.

d. Strathfield Local Environmental Plan

i. Clause 4.3 – Height of Buildings

- The proposed building is non-compliant with Clause 4.3 of SLEP 2012, which allows for a maximum building height of 11m. The building height for the proposed development is 13.154m. This exceeds the maximum building height by 2.154m with a variation of 19.6% to the development standard of the maximum height allowed on the site.

ii. Clause 4.6 – Exceptions to development standards

- The Clause 4.6 variation request does not demonstrate that compliance with the maximum building height development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

iii. Clause 5.10 – Heritage Conservation. A Heritage Impact Statement was not submitted with the development application. As such, the effect of the proposed development on heritage significance as required under Clause 5.10(4) of the SLEP 2012 and Clause 5.10 (5) (c) cannot be appropriately reviewed.

iv. Clause 6.2 – Earthworks. The proposal involves significant excavation works for the provision of a basement, driveway ramp and levelled rear yard. It is considered that the proposed excavation works would have a detrimental effect on the heritage items and features of the surrounding land. The extent of the excavation to the southern boundary is unsympathetic to the adjoining contributory dwellings to the Abbotsford Road Heritage Conservation Area in the R2 Low Density Residential Zone and the heritage item on the eastern side of Homebush Road. The nil boundary setback will have an adverse impact on the heritage conservation area and items in terms of context. The low-density heritage conservation area is characterised by landscaping strips on the side boundaries. The extent of excavation works to provide a basement on a nil boundary limits site opportunities to provide landscaping on the site and in turn diminishes the heritage value, as such, is considered unacceptable.

2. Refusal Reason – Development Control Plan (Strathfield Consolidated Development Control Plan)

a. Part C – Multiple Unit Housing

- The proposed building is non-compliant with Section 2.2(1) of SCDCP 2005 where the maximum number of storeys under R3 Medium Residential zone is 2-3 storeys. The proposal includes 4 storeys.
- The proposal fails to comply with Section 2.7 - Open Space and Landscaping under Part C of SCDCP 2005 where the minimum landscaping required is 40% or (323.76sqm. A total of 38.4% or 311sqm



- landscaping is proposed which includes areas not located within the ground plain but at upper levels within the proposed building..
- iii. The proposed development is non-compliant with Section 2.7 - Open Space and Landscaping under Part C of SCDCP 2005 which requires that buildings and basement car parks be planned to allow for contiguous deep soil areas. The proposed siting of the basement to a nil boundary setback limits opportunities to provide contiguous deep soil areas along the side boundaries.
 - iv. The proposed development fails to comply with Section 2.2 (4) under Part C of SCDCP 2005 because the proposed basement is built boundary to boundary(side) with nil setback.
- b. Part K - Development on Contaminated Land
- i. The Preliminary Site Investigation report prepared by EI concluded a Detailed Site Investigation (DSI) report is required which has not been submitted. Several Contaminants of Potential Concern (COPC's) have been identified in the Preliminary Site Investigation (PSI) report by EI however further consideration of those areas has not been provided, and as such a proper assessment cannot be undertaken.
- c. Part O – Tree Management
- i. The proposal fails to comply with the objectives outlined in Section 1.4 under Part O – Trees of the SCDCP 2005 where an integrated approach to urban development which promotes tree retention and protection at the early stages of a development proposal has not been considered. In addition, the proposal fails to promote the maintenance and preservation of Strathfield's tree canopy areas.
 - ii. The proposed stormwater trench installation is not supported as it falls within the Structural Root Zone and Tree Protection Zone of the street tree proposed to be retained. into the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of 2 street trees, namely Tree 1(T1) and Tree 2 (T2). Also, the proposed location of 2x *Tristaniopsis laurina* 'Luscious' in the front yard being placed near the OSD tank area as shown in the landscape plan is inappropriate.
- d. Part P – Heritage
- i. The subject site is adjacent a heritage conservation area and in the vicinity of several heritage items. A Heritage Impact Statement has not been submitted to assess the impact of the proposed development on the conservation area and heritage items located within the immediate vicinity of the subject site.
- e. Part Q – Urban Design Controls
- i. The proposal fails to comply with objectives of Section 3.3 under Part Q – Urban Design Controls of SCDCP 2005 because the development causes unreasonable overlooking of habitable rooms of adjoining properties due to non-compliant building separation.
 - ii. The development fails to comply with Part Q – Urban Design, 3.10.2 (2) because it does not provide communal space that is located where it is highly visible and directly accessible to the maximum number of dwellings. The fragmented communal open spaces for the development on the Ground Floor Level and Level 3 of dwellings do not provide optimum opportunities to the residents for quality usable private outdoor living areas for recreational and outdoor activities. The location of the communal open space on Level 3 limits opportunities for maintenance



- and social activities for a maximum number of dwellings. The Level 3 communal open space is also not integrated into an area deep soil planting
- iii. Part Q, Part 2.6.1 Transition zone essential criteria of the SCDCP 2005 requires the proposed development to incorporate a gradual stepping up of the built form at its interface with existing low-density development to the south.
 - iv. The building fails to comply with Part Q of the SCDCP 2005, Section 3.2 Building Entries, including Objective 3.2.1(a) and 3.2.2(1) and (2) due to the side building entry which is not visible from the street.
 - v. The proposed development fails to adequately respond to the objectives and essential criteria which relate to establishing the character of the local area in Part Q of the SCDCP 2005, Section 2.2 Streetscape, Section 2.3 Siting and Section 2.5 Building massing and scale.
 - vi. The façade design, including the side entry, the angular façade elements and the tall vertical battens does not interpret and respond to the positive character of the locality, including the dominant patterns, textures and compositions of buildings as required by Part Q of the SCDCP 2005, Section 2.7 Building frontages to Public Domain.

3. Refusal Reason – Inconsistent plans and documents

- a. The submitted Clause 4.6 Variation states that the building height is less than 12m if the lift overrun is excluded, however, drawings indicate that the development achieves a maximum height of approximately 12.15m if the height lift overrun is excluded.

4. Refusal Reason – Inadequate Information

- a. A written request has not been made pursuant to Section 68 (2, d) of SEPP Housing in relation to the proposed variation to the minimum communal open space area required for the subject site.
- b. A written request has not been made pursuant to Section 68 (2, f) of SEPP Housing in relation to the proposed variation to the minimum landscaped area required for the subject site. Council's calculation of the landscaped area indicated that there is a shortfall of the minimum required 40% (323.85sqm) landscaped area where the development provided 38.4% (311sqm).
- c. A written request has not been made pursuant to Section 69 (2, a) of SEPP Housing in relation to the proposed variation to the minimum basement setbacks required for the subject site.
- d. The Preliminary Site Investigation report prepared by EI concluded a Detailed Site Investigation (DSI) report is required which has not been submitted. Several Contaminants of Potential Concern (COPC's) have been identified in the Preliminary Site Investigation (PSI) report by EI however further consideration of those areas has not been provided, and as such a proper assessment cannot be undertaken. Furthermore, the limitations and information gaps in the investigation methodology informing the PSI: lack of recent site observation and lack of sampling or analysis of soils, soil vapours or groundwater, as such, presents findings that are unverifiable. The Preliminary Site Investigation report states its findings are not based on actual samples collected on site but based on information provided by its client and other third parties which are anecdotal and historical in nature. As such, the findings in relation to contaminant levels near site surface soils, deleterious materials and groundwater impacts cannot be verified.



- e. The subject site adjoins a heritage conservation area and is in the vicinity of a several heritage items. A Heritage Impact Statement has not been submitted to discuss the impact of the proposed development on the heritage items located within the immediate vicinity of the subject site.
- f. The submitted Statement of Environmental Effects has not completed an assessment under Section 3 – Development in the vicinity of Heritage Items, Part P Heritage of SCDCP 2005. There is insufficient information that the proposed development is designed and sited in a manner sympathetic to the significance of the heritage properties located within the vicinity of the subject site.
- g. Information on the proposed materials, colours and finishes for all external elements has not been provided in sufficient detail to describe the design, nor to determine that the building is compatible with the local character.
- h. Adequate details of the hydrant booster have not been provided.
- i. Adequate solar access diagrams have not been submitted to ensure compliance with Section 3.5 Solar Access and cross ventilation under Part Q of SCDCP 2005. Specifically, the proposal has insufficient information demonstrating that sunlight access is provided to private open space and habitable rooms to improve amenity and energy efficiency. There is a mismatch between the shadow cast onto properties to the south between the sun eye diagrams and shadow diagrams. Additional drawings will be required to demonstrate that the open space requirements are observed for No.1A Abbotsford Road in both sun-eye and solar diagrams.
- j. Adequate information has not been submitted to assess compliance with Part Q of the SCDCP 2005, Section 3.6 Safety and Security in terms of the design of the development's compliance with Crime Prevention Through Environmental Design (CPTED) principles. The side location of the main entry door into the development is considered unacceptable in terms of how it incorporates and enhance opportunities for effective natural surveillance and a visible presence from various locations or approaches to the building. Also, the design limits visual connections between the street, letter boxes, the entry foyers and residential interiors areas. As such, a CEPTED report reviewing the design against the relevant principles is required.
- k. The Statement of environmental Effects states that the Preliminary Site Investigation recommendations include the requirement that a DSI be carried out. However, a DSI was not submitted.

TO: Strathfield Local Planning Panel Meeting - 14 November 2024
 REPORT: SLPP – Report No. 11
 SUBJECT: DA NO.2023.83 - 83 ALBYN ROAD, STRATHFIELD
 DA NO. DA 2023.83

SUMMARY

Property:	83 Albyn Road STRATHFIELD DA 2023/83
Proposal:	Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding.
Applicant:	Steve Wu Architects Pty Ltd
Owner:	A Y Xie
Date of lodgment:	16 September 2024
Notification period:	23 September 2024 – 8 October 2024
Submissions received:	One (1)
Assessment officer:	G Andonoski/N Stephen
Estimated cost of works:	\$1,809,500.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	Yes
Is a Clause 4.6 Variation Proposed:	No
Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	Approval

EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/83 which was refused by Strathfield Council on 29 July 2024. The refused application sought approval for demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding. The reasons for refusal pertained to streetscape impacts, non-compliance with DCP height controls, inadequate landscaping and visual privacy impacts.

Proposal

Development consent is being sought for the Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding.

Site and Locality

The site is identified as 83 Albyn Road Strathfield and has a legal description of Lot: 20 Sec: 2 DP: 581. The site is a regular shaped parcel of land and is located to the northern side of Albyn Road and 50 metres east of Chalmers Road. The site has a width of 15.24m, a depth of 55.63m and an overall site area of 847.3sqm.

The locality surrounding the subject site contains a mixture of single and two storey dwelling development.

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 23 September 2024 to 8 October 2024, where one (1) submission was received raising the following concerns.

- Lighting impacts
- Privacy impacts
- Replacement tree order
- Boundary fencing

Issues

- Floor to ceiling height and parapet height
- Landscaping
- Number of parking spaces and basement protrusion outside of dwelling footprint

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/83 is recommended for approval subject to suitable conditions of consent.

RECOMMENDATION

That Development Application No. DA 2023/83 for demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding at 83 Albyn Road, Strathfield be APPROVED subject to the following reasons and conditions as outlined in the planning report:

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 83 1 - 83 Albyn Road STRATHFIELD - S8.2 SLPP Report](#)



SLPP REPORT

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Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	Approval

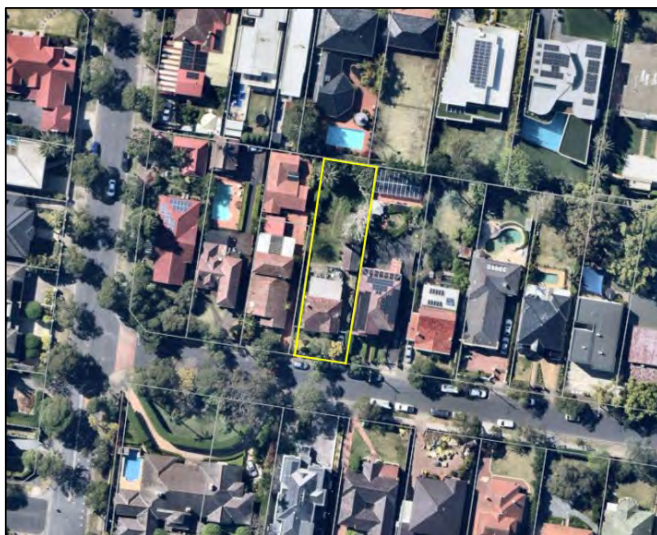


Figure 1: Aerial view of the subject site (outlined in yellow).



EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/83 which was refused by Strathfield Council on 29 July 2024. The refused application sought approval for demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding. The reasons for refusal pertained to streetscape impacts, non compliance with DCP height controls, inadequate landscaping and visual privacy impacts.

Proposal

Development consent is being sought for the Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding.

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The locality surrounding the subject site contains a mixture of single and two storey dwelling development.

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Issues

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- Landscaping



- Number of parking spaces and basement protrusion outside of dwelling footprint

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/83 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 previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling with basement, swimming pool and detached outbuilding.

Division 8.2 Reviews – EP&A Act 1979

The application has been lodged under the provisions of Division 8.2- Reviews of the EP&A Act 1979. The original application was refused by Council (Manager – Planning & Place under delegation). Given Council's delegation structure the review is to be made by the Strathfield Local Planning Panel.

Whilst there have been some modifications to the proposal that was refused, Council is satisfied that it is substantially the same development.

The application was refused by Council on 29 July and given that no appeal to the Land & Environment Court has been made, Council has jurisdiction to determine the application by 29 January 2025.

The application has been notified in accordance with the provisions of Council's Community Participation Plan (CPP).

It should be noted that in the applicant's submission, addressing the reasons for refusal appears to be based on the difference in the plans from those originally lodged with the application to those submitted with the s8.2 review and are not based on the final amended set of drawings (issue H) which is what the refusal is based upon. The reasons for refusal were:

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) Clause 1.2 (a) of the Strathfield Local Environmental Plan 2012 which seeks to achieve high quality urban form that reflects the existing and desired future character of particular localities and neighbourhoods in Strathfield. The proposal fails to take into consideration its impact on neighbours including visual amenity and streetscape compatibility.

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 and controls required under Section 2 of Part A which seek to ensure new development achieves appropriate composition and articulation of building elements, ensures new development is sympathetic with the streetscape and protects and retains the amenity of adjoining properties. The proposal is not responsive enough to the



- established building rhythm in the streetscape which comprises well-articulated built forms that achieve a sense of openness in the street.
- b) The proposal fails to satisfy the maximum 7.8m building height and 7.2m wall height controls provided by Section 4.2.2 of Part A of the Strathfield Consolidated Development Control Plan 2005. This creates additional visual scale and bulk to the proposed development resulting in an incompatible built form as viewed from the streetscape.
 - c) The proposal fails to satisfy the maximum internal floor to ceiling height requirement provided by Section 4.2.2.5 of Part A of the Strathfield Consolidated Development Control Plan 2005, which requires a maximum floor to ceiling height of 3m. This creates additional visual bulk to the detriment of adjoining neighbours as well as impacts upon the relatively consistent building rhythm in the streetscape.
 - d) The proposal fails to satisfy the control and objectives of Section 5.2.1 of Part A of the Strathfield Consolidated Development Control Plan 2005 which requires the adequate landscaping suited to the size of the allotment to be provided. The proposal results in a 7.8% (66.2m²) departure from the minimum landscaping requirements which demonstrates that the landscape design is inappropriate to the size and scale of the development.
 - e) The proposal fails to satisfy the objectives of Section 7 of Part A of the Strathfield Consolidated Development Control Plan 2005 which requires the siting and design of the buildings to minimise amenity impacts. The proposal results in several windows which cause overlooking impacts to adjoining residents.

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) Natural environment – the proposal results in insufficient deep soil planting which fails to make an equitable contribution to the landscape setting of the locality including provision of a habitat for native fauna.
- b) Built environment – the proposal results in an overly bulky development which fails to demonstrate compatibility with the streetscape and imposes on the visual amenity of adjoining residents.

4. Refusal Reason – Suitability of the site

Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is of a design that is not suitable for the site and has little regard for its relationship with adjoining developments. This is namely due to the development's failure to comply with the prescribed building and wall heights, landscaping and visual privacy requirements applying to the site as per Council's controls.

5. 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 for the following reasons:

- a) The proposed development will result in negative impacts on adjoining residents, due to impacts regarding privacy and bulk and scale implications.



- b) The proposal involves numerous variations and non-compliant matters that are unacceptable and fail to demonstrate merit.
- c) The non-compliance with SLEP 2012 and SCDCP 2005 undermine Council's development objectives and controls and are likely to set an undesirable precedent.

Below is a description of each level and comparison of plans submitted against the refused plans, with a description of the changes.

Basement level:

- Three parking spaces
- Electrical/data plant room
- Lift and stair access
- Bathroom
- Storage/bin area

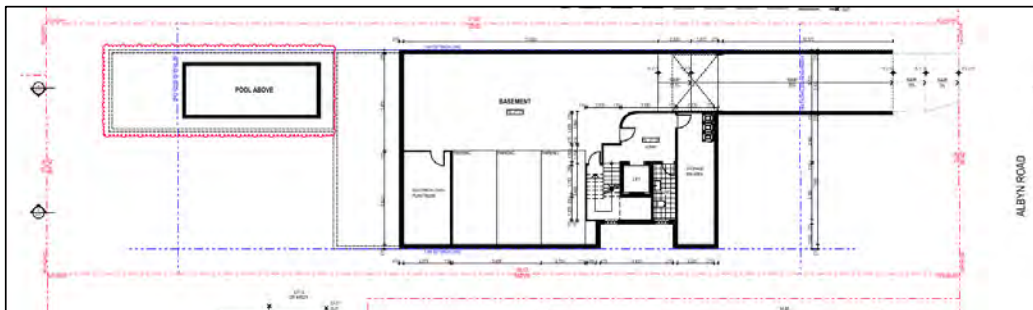


Figure 2: Proposed Basement Plan

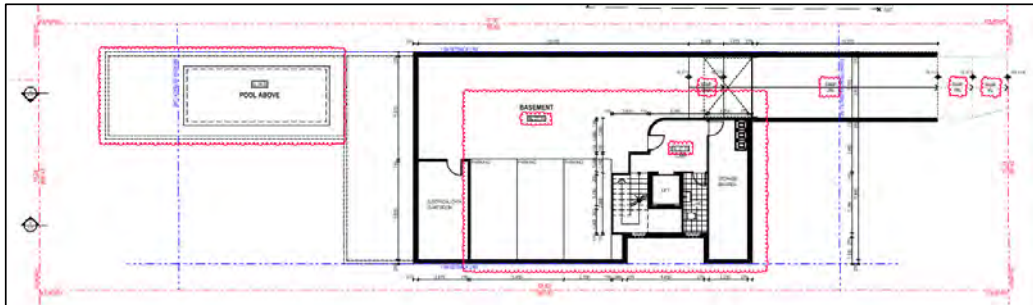


Figure 3: Refused Basement Plan

There has been no change in the basement plan with the s8.2 application.

Ground floor level:

- Lounge
- Bedroom 6 with ensuite
- Bathroom
- Lift and stair access
- Laundry
- Home office
- Living, dining, kitchen and walk in pantry

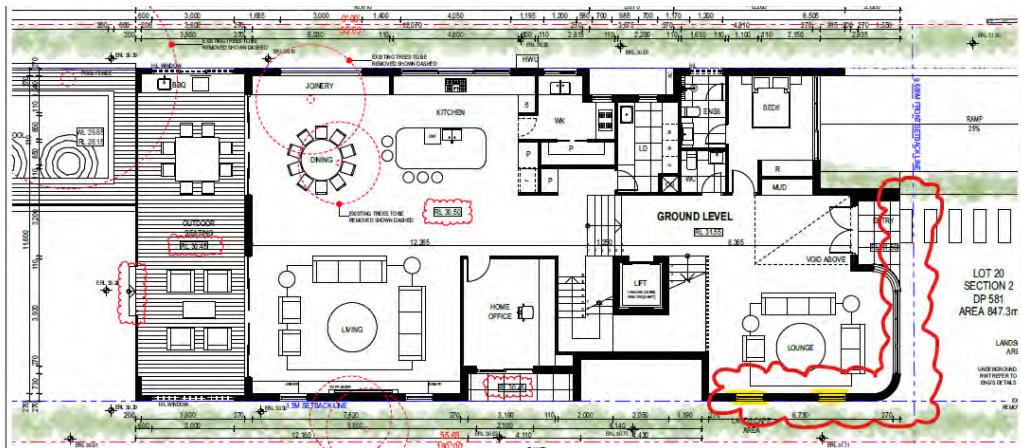


Figure 4: Proposed Ground Floor Plan

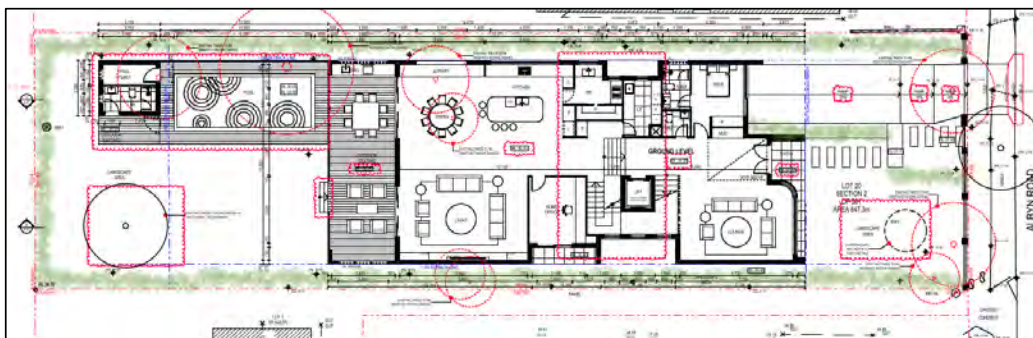


Figure 5: Refused Ground Floor Plan

There has been a reduction of 450mm off the front entry, with the tiling and structure in front of the living room removed and the front western corner of the living room has been curved to match the eastern corner. Two windows have also been added to the western elevation of the living room.

First floor level:

- Bedroom 4 with walk in wardrobe and ensuite. Bedroom 4 has access to a street facing balcony
- Bedroom 5 with ensuite. Bedroom 5 has access to a street facing balcony
- Lift and stair access
- Bedroom 3 with walk in wardrobe and ensuite
- Bedroom 2 with walk in wardrobe and ensuite. Bedroom 2 has access to a rear facing balcony
- Master bedroom with walk in wardrobe and ensuite. Master bedroom has access to a rear facing balcony.



Figure 6: Proposed First Floor Plan

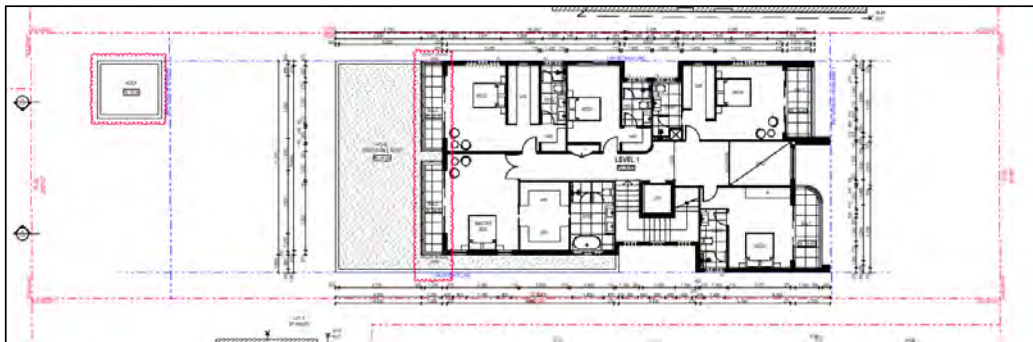


Figure 7: Refused First Floor Plan

All reduced levels on the first floor have been lowered by 150mm, which has mainly been achieved by reducing the depth for mechanical services between the ground floor ceiling and first floor level, which was very generous in the previous application. The solid wall on the western side of the balcony off the bedroom has been replaced with a curved timber screen and an additional window has been added to the western elevation of bed 5. The three long narrow windows have been replaced with one window over the stairwell.

External works:

- Alfresco with BBQ
- Swimming pool
- Outbuilding with pool plant and bathroom
- Landscape works

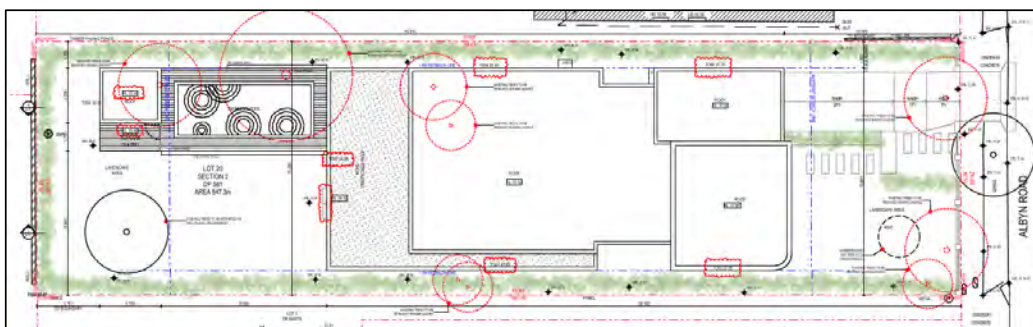


Figure 8: Proposed Site Plan

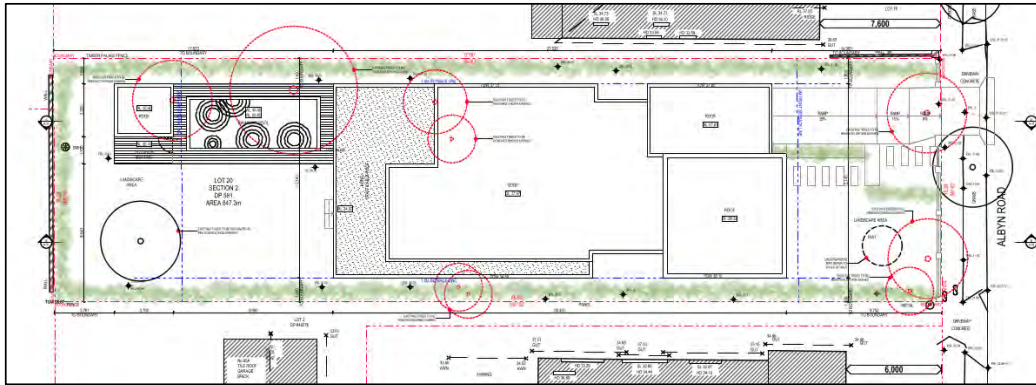


Figure 9: Refused Site Plan

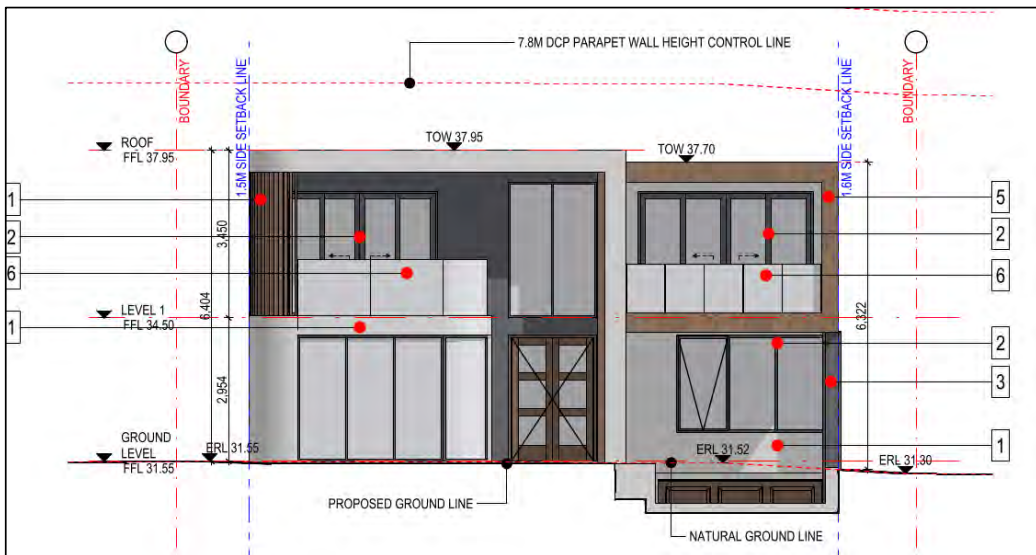


Figure 10: Proposed Street Elevation

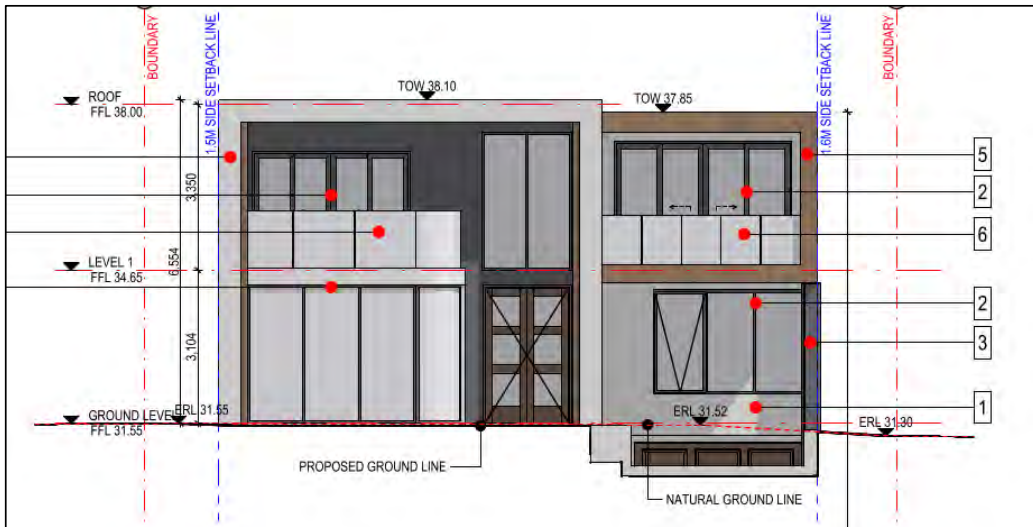


Figure 11: Refused Street Elevation

Changes on this elevation sees the introduction of the curved western corner and batten screen on the first floor and the lowering of the building by 150mm.

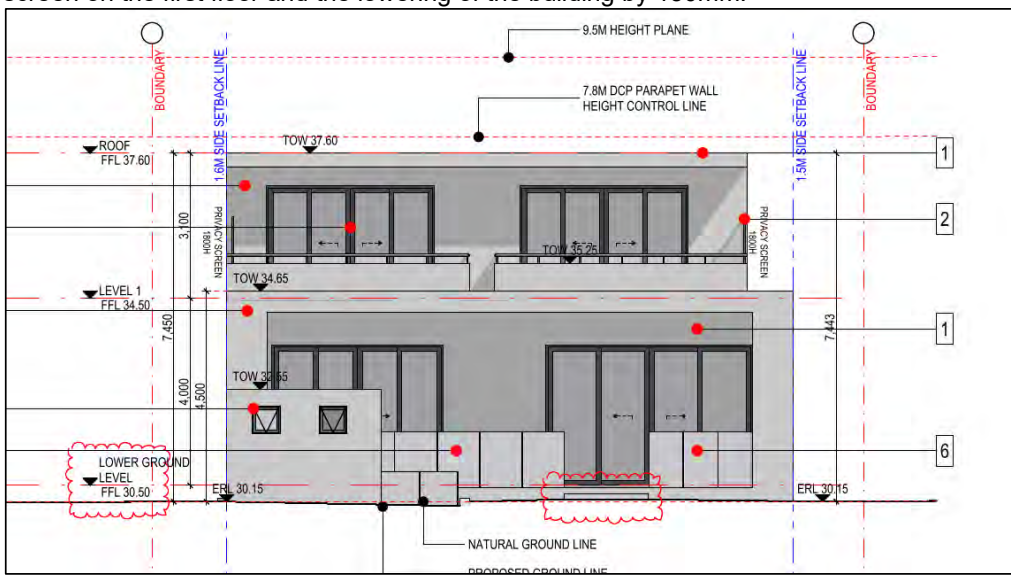


Figure 12: Proposed Rear Elevation

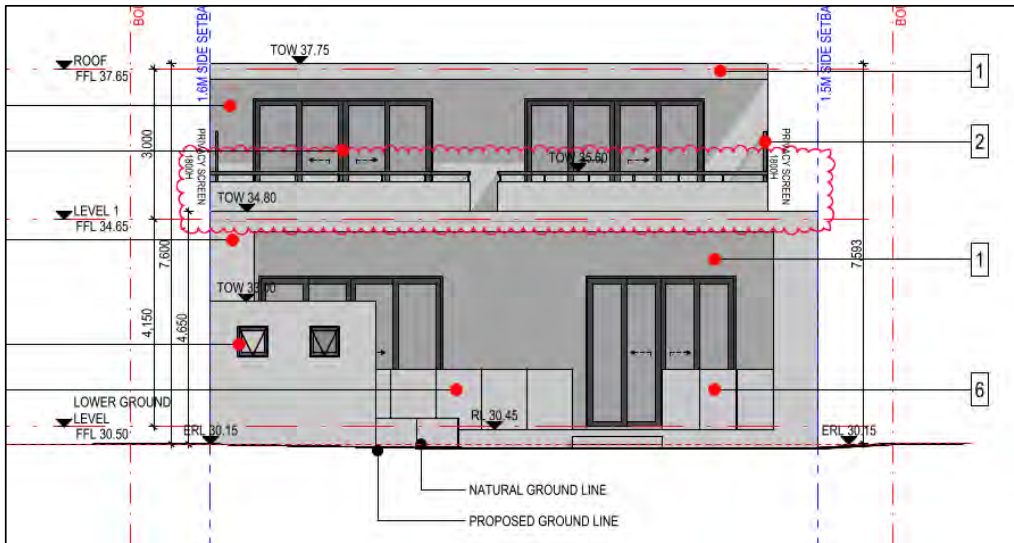


Figure 13: Refused Rear Elevation

The only visible change on this elevation is the lowering of the building by 150mm. There are no other changes to this façade.

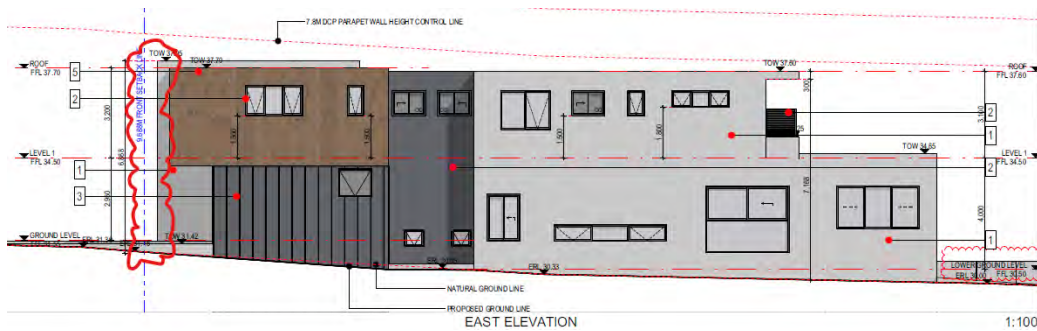


Figure 14: Proposed East Elevation



Figure 15: Refused East Elevation

On this elevation, you can see that the front façade has been setback a further 450mm from the 9.688m front setback line and the reduction in overall height.

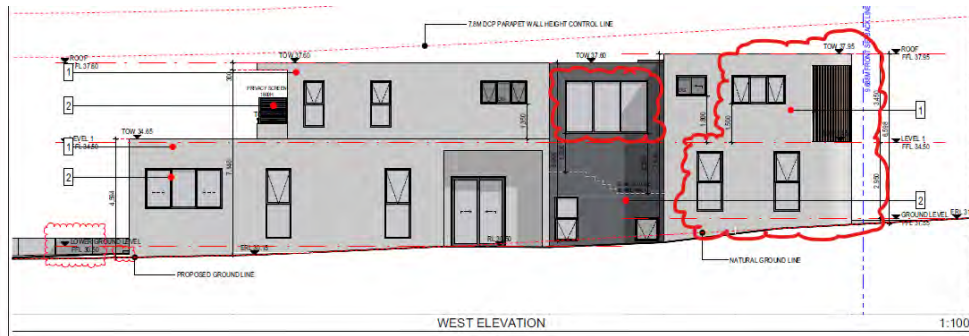


Figure 16: Proposed West Elevation

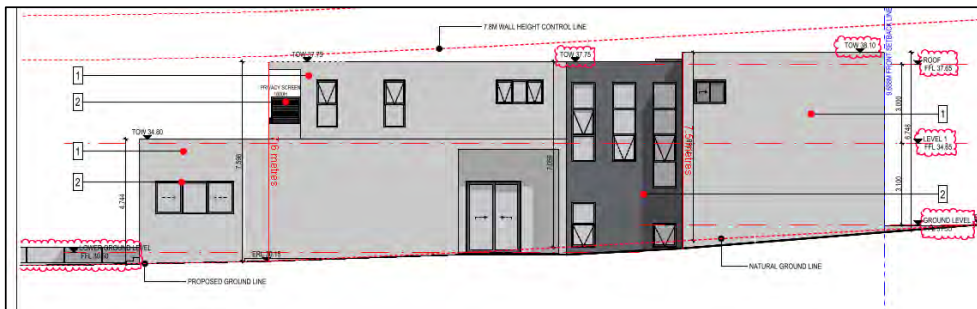


Figure 17: Refused West Elevation

On this elevation, again apart from the lowering in the height, you can see the curved front wall and timber screen across the balcony, the new ground and first floor windows off the living room and bed 5 and the change in window over the stairwell.

The Site and Locality

The subject site is legally described as Lot: 20 Sec: 2 DP: 581 and commonly known as 83 Albyn Road Strathfield. It is located on the northern side of Albyn Road between Chalmers Road and Homebush Road.

The site is rectangular in shape and has a frontage of 15.24m to the south, rear boundary of 15.24m to the north, side boundary length of 55.63m to the east, and side boundary length of 55.63m to the west and an area of 847.3m².

The site slopes from the front south western corner to the rear north eastern corner, with a cross fall of 2.3m.

The site is occupied by a single storey dwelling. Vehicular access is provided to the site via an existing driveway from the eastern side boundary to an existing garage located at the middle of the site.



Figure 18: Existing development on the subject site, as viewed from the street



Figure 19: Rear of the existing dwelling

To the east of the site is 81 Albyn Road which contains a two storey dwelling (see **Figure 20**).



Figure 20: Neighbouring dwelling at No. 81 Albyn Road

To the west of the site is a battle-axe allotment at 85a and 85b Albyn Road (see **Figure 21**).



Figure 21: Battle-axe allotment at 85a and 85b Albyn Road.

The locality surrounding the subject site contains a mixture of single and two storey dwellings.



Background

- 29 July 2024** DA 2023/83 was refused by Strathfield Council under delegation.
- 16 September 2024** The subject Section 8.2 review application was lodged with Council.
- 23 September 2024** The application was placed on public exhibition until **8 October 2024** during which time one (1) submission was received.
- 2 October 2024** Council's Assessing Officer undertook a site inspection.
- 8 October 2024** Additional information for the following was requested:
- The roof level should be 100mm lower than the corresponding parapets.
 - The lower ground floor RL should be reduced to address privacy concerns.
- 8 October 2024** Additional information was formally submitted by the Applicant
- 9 October 2024** An email was sent to the applicant requesting clarification if the correct version of the flood report was submitted.
- 11 October 2024** Updated flood report submitted, revision D referring to correct flood and finished floor levels.

Referrals – Internal and External

Tree Management Officer

The following issues were raised by Council's Tree Management Officer:

- The removal of Tree 4 (*Thuja plicata* – *Western Red Cedar*) is not supported
- The proposed new vehicle crossover has an incursion into the T1 SRZ. Council does not accept the location of the new vehicle crossover, as the proposed new location will impact the existing Street Tree T1 SRZ of 2.5 meters from centre of tree. Existing Vehicle Crossover to be used.
- Landscape Plan to be amended to reflect the three (3) new Canopy Trees to be in 100 litre bags.

Assessment Officer comment:

There are no concerns originally raised with the removal of Tree 4 (*Thuja plicata* – *Western Red Cedar*) as the tree is an exotic species and its removal was supported. Given the requirement to plant 3 new canopy trees of 100 litre pot size, permission to remove this tree is considered acceptable.

The following design change condition is recommended to address the impact of the vehicle crossover on T1:

“The new vehicle crossover is to be relocated a further 0.5m towards the eastern side boundary. Council notes that some internal driveway alignment modification will be required to meet the condition and will need to be indicated on CC plans for approval. “



The following design change condition is recommended to address the bag size:

“The Landscape Plan to be amended to reflect the three (3) new Canopy Trees with a minimum 100 litre bags.”

Stormwater Engineer

The amended plans were referred to Council's Development Engineer. No issues were raised subject to conditions of consent.

Traffic Engineer

The amended plans were referred to Council's Traffic Engineer. No issues were raised 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 results in the removal of nine (9) trees. The removal of eight (8) trees has been supported by Council's Tree Management Officer.

As discussed above, the removal of Tree 4 (*Thuja plicata* – Western Red Cedar) has not been supported by Council's Tree Management Officer. There are no concerns with the removal of Tree 4 (*Thuja plicata* – Western Red Cedar) as the tree is an exotic species.

Two (2) Council Street Trees (*Lophostemon confertus*) are present on the Council verge. 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.

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 demolition of existing structures, construction of a two storey dwelling with basement, swimming pool and detached outbuilding 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	7.5m	Yes
4.4C Exceptions to floor space ratio (Zone R2)	0.55:1 (466.02m ²)	0.54:1 (454.6m ²)	Yes

There have been minor reductions in height and FSR with the s8.2 submission, the original application was and is still well within the LEP development standards for height and FSR.

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 is located in close proximity to heritage items. The proposal is not considered to impact on the heritage significance of the heritage items. It is considered that the proposed works satisfactorily address the provisions of this Clause.



Figure 22: Location of the subject site from the heritage items (subject site shaded in red).

Flood Planning

The subject site has been identified as being at or below the flood planning level. The application has been reviewed by Council's 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.

A typing error has been identified in the report submitted with the s8.2 application. The south finished floor level should state 31.4m AHD. The plans show the ground floor RL to the south is RL 31.55 and meets the minimum requirement.

The applicant was requested to provide an updated flood report prior to the determination of the application. This was submitted to Council on 11 October 2024 and correctly identified the 1% AEP flood levels for the site and the required 500mm freeboard, with confirmation that the ground floor slab and nominated levels comply in the relevant locations.

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 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 are two small sections where the basement exceeds the ground floor footprint above, but this only occurs where there has been an indentation in the side boundary walls to break up the length of the wall and provide better articulation along the side elevation.

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
Building Envelope			
Heights (max):			NO, see
Floor to ceiling heights:	3.0m	3.25m	below
Parapet height:	0.8m	0.3m	YES
Overall height for flat roof dwelling:	7.8m	7.5m	YES
Height to underside of eaves:	7.2m	7.2m	YES
Number of storeys/levels:	2	2	YES
Setbacks (min):			
Primary Front:	9m	10.1m	Yes
Side:	1.2m (min) east	1.6m	YES
	1.2m (min) west	1.5m	YES
Combined side setback:	3.05	3.1m	YES
Rear:	6m	17.5m to alfresco	YES
Landscaping			



Overall area (min):	45% (381.3m ²)	41.4% (350.7m ²)	NO , see below
Front yard area (min):	50% (77.4m ²)	65% (100.6m ²)	YES
Rear area (min):	50% of overall landscape requirement (190.65m ²)	64% (244.2m ²)	YES
Fencing			
Height (max):	1.5m	1.2m	YES
Solid component (max):	0.7m	0.6m	YES
Side and rear (max):	1.8m	The SEE states existing to remain	YES
Solar Access			
POS or habitable windows on subject site (min):	3hrs to habitable windows and to 50% of POS	>3hrs	YES
Adjoining POS (min):	3hrs	>3hrs	YES
Vehicle Access and Parking			
Boundary driveway width (min):	3m	3m	YES
Vehicular crossing (max):	1	1	YES
Driveway setback – side (min):	0.5m	1.8m	YES
No. of parking spaces:	2	3	YES, with additional space counted as GFA
Basement:			
Vertical protrusion (max):	1.0m	<1.0m	YES
Ramp width (max):	3.5m	3.5m	YES
Internal height (min):	2.2m	2.8m	YES
Horizontal protrusion:	Within GF footprint	Two minor protrusions	NO , see below
Ancillary Development			
Outbuildings:			
Area (max):	40m ²	8.7m ²	Yes
Height (max):	3.5m	3m	Yes
Side/rear setback (min):	0.5m	1.6m	Yes
Swimming Pool:			
Side/rear setback (min):	1.0m	1.6m	YES
Retaining Walls:			
Height (max):	1.2m	400mm	YES

Streetscape and Character

The proposed development satisfies the objectives and controls within the development control plan relevant to:

- Rhythm of built elements in the streetscape,
- Fenestration and external materials, and
- Street edge.



The proposed development incorporates a flat roofed, two storey dwelling. The side elevations have a varied setback and provides visual interest. The contemporary design with flat roof is acceptable, reflecting an emerging streetscape character that appears consistent with nearby examples. The street frontage elevation to Albyn Road is well articulated and suitable in the streetscape.

It is noted the proposal's impact on neighbours including visual amenity and streetscape compatibility formed reason for refusal of the application. As part of the Section 8.2 application, the roof RL levels have been reduced, an increase the front setback and a softening of the elevation and western corner resulting in the proposal being be compatible and sympathetic with the streetscape and character.

Building Envelope

Control 4.2.2(5) requires the maximum internal floor to ceiling height is to be 3.0 metres for any residential level. A section of the ground floor has a floor to ceiling height of 3.25m and does not comply with this control. Despite the floor to ceiling height non compliance, the proposal has a maximum building height of 7.5m and complies with the LEP height development standard. The dwelling does not result in adverse overshadowing or privacy impacts. The increased floor to ceiling heights are due to the stepping of the building to suit the existing contours of the site whilst maintaining a level first floor slab which accesses the bedrooms. The non-compliance is considered acceptable.

The floor to ceiling height of the void of 5.6m and does not comply with Control 4.2.2(5). The void above the ground floor corridor is only 8.9m². This void is not considered excessive and will not readily contribute to the overall building bulk, given its location at the centre of the dwelling. The shadow diagrams show the void does not contribute to additional overshadowing impacts to the neighbouring property and is considered acceptable in this regard.

The proposal complies with the remainder of height and setback controls. The proposed dwelling features numerous breaks in the built form and a gross floor area which complies the floor space ratio standard, allowing for a moderated building envelope that adequately fits within the development controls.

It is noted the non compliance with the maximum 7.8m building height, 7.2m wall height and floor to ceiling height controls formed reason for refusal of the application. As part of the Section 8.2 application, the roof RL levels have been reduced and the proposal now complies with the DCP height controls. As part of the Section 8.2 application, there has been a reduction in the mechanical services cavity between the ground floor ceiling and first floor level. The proposed floor to ceiling height is considered acceptable as discussed above.

Landscaping and Open Space

Control 5.2.1(1) requires the minimum landscaped area for the lot to be 45% (381.3m²). The proposed total landscaped area is 41.4% (350.7m²) and does not comply with the control requirement. Control 5.2.1(1) specifies side setback areas between the boundary and house that are 1.5 metres or less in width should not be included as landscaped area. Sections of the western side setback have not been included in the calculation due to a technical interpretation of the DCP, where the side setback has been nominated at 1.5m, where as an extra setback of 1mm would mean that it is included and the proposal would comply.

The non compliance is considered acceptable as the extent of hard paved areas has been minimized across the site. The hard paved areas are associated with the front pathway and driveway which allow pedestrian and vehicle access from the street. The proposal satisfies the objectives of 'Section 5 – Landscaping' as adequate deep soil planting is retained and a



functional private open space area is provided. The deep soil area provided can accommodate large canopy trees. The non compliance is considered acceptable in this regard.

It is noted the non compliance with the minimum landscaped area control formed reason for refusal of the application. As part of the Section 8.2 application, the extent of landscaping has been slightly increased. While the proposal remains non-compliant with the control, the objectives of Section 5 Landscaping have been satisfied.

Fencing

The proposed front fencing satisfies the relevant objectives and controls within SCDP 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.

The Statement of Environmental Effects states existing side and rear fences are to remain.

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 SCDP 2005.

Privacy

The proposed development satisfies the relevant objectives and controls of the SCDP 2005, in that adequate privacy is maintained between adjoining properties and any potential overlooking is minimised.

Eastern side elevation

- The Bedroom 6 ensuite window has a sill height of 1.6 metres and will not result in overlooking impacts
- The laundry window and pantry window are below a standard sightline and will not result in visual privacy impacts
- The boundary fence will restrict overlooking from the two (2) kitchen windows
- The dining window is elevated 400mm above existing ground level and aligns with the neighbouring properties private open space area. However, it appears the bottom pane of the window is fixed and will be screened by any dividing fence and the openable panels above are above any sightlines, so no direct overlooking will be possible.
- The first floor consists of bedroom, walk in wardrobe and ensuite windows. The windows are associated with low use rooms and will not result in visual privacy impacts.

Western side elevation

- The bathroom window and stairs window within the basement will be concealed by the boundary fence and do not result in visual privacy impacts
- The two (2) lounge windows are vertically proportioned with a width of 0.9m. The windows are setback 5.1 metres from the neighbouring property. The windows are not considered to result in adverse visual privacy impacts
- The boundary fence will restrict overlooking from the home office window and the two (2) living windows



- The first floor consists of bedroom and ensuite windows. The windows are associated with low use rooms and will not result in visual privacy impacts.
- The first floor stairs window is associated with a transition space which is unlikely to be used for extended periods. The window is not considered to result in adverse privacy impacts.

The home office landing is located at existing ground level and does not result in overlooking impacts.

The alfresco is elevated 400mm and results in overlooking. A condition is recommended requiring the alfresco side elevation windows are to have a minimum sill height of 1.6m above the finished floor level.

Control 7.2.3(3) requires small upper floor rear balconies measuring no more than 1m in depth by 2m in length may be permitted where an applicant can demonstrate that the balcony would not unreasonably impact upon the privacy of adjoining premises. The two (2) rear facing first floor balconies have a depth of 1m and length of 5m. Despite the non compliance with the length requirement, the reduced depth limits use of the balconies. The balconies are associated with bedrooms, have screens on the side elevations and are unlikely to be used for extended periods. The non compliance is considered acceptable.

It is noted the overlooking impacts formed reason for refusal of the application. As part of the Section 8.2 application, the windows have been amended. The proposal is considered acceptable subject to conditions of consent.

Vehicular Access, Parking and Basements

Control 8.2.2(1) requires two (2) car parking spaces are to be provided and maintained behind the front building line of all new dwellings. Three (3) car parking spaces are proposed. The additional parking space has been included in the gross floor area calculation. The proposal has a floor space ratio of 0.54:1 (454.6m²) and complies with the floor space ratio development standard. The parking spaces are located within the basement and do not result in streetscape impacts. The non compliance is considered acceptable in this regard.

Sections of the basement breach the ground floor footprint at the side elevations. The breach on the eastern side elevation is necessary to provide adequate vehicle access. The breach at the western side will not have any impacts to the streetscape. The non-compliance is considered acceptable in this regard.

Cut and Fill

The proposed development is considered to satisfy the relevant objectives and controls of the SCDP 2005, in that the need for cut and fill has been kept to a minimum and existing ground levels have been maintained where appropriate to reduce site disturbance. Existing trees and shrubs have been retained where possible, ground water tables are maintained and impact on overland flow and drainage is minimised.

Water and Soil Management

The proposed development satisfies the relevant objectives and controls of the SCDP 2005 and complies with Council's Stormwater Management Code. A Soil Erosion Plan has been submitted with the application to minimise soil disturbances during construction.

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

Outbuildings

The proposed outbuilding complies with the height, setbacks and area controls in the SCDCP 2005.

Retaining Walls

The proposed development satisfies the relevant objectives and controls within SCDCP 2005. The proposed retaining walls do not exceed a maximum height of 1.2m.

Swimming Pools, Spas & Associated Enclosures

The proposed swimming pool satisfies the relevant objectives and controls with SCDCP 2005. The pool has been adequately setback from all adjoining boundaries. The pool pump equipment has been located in a sound proof enclosure. No issues have been raised by Council's Development Engineer. 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. 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. One (1) submission from the property to the rear was received raising the following concerns:

1. Impacts of rear flood lighting

Comment: The submission is from the property at the rear, whose residential dwelling is approximately 30m from the rear boundary and given the proposed dwelling is also setback over 17m from the rear boundary, there is approximately 47m between the two residential dwellings, with the property at the rear having a swimming pool and tennis court between the dwelling and boundary. Given the separation and the fact that the installation of lighting on a residential dwelling does not require consent, no action is required in relation to this issue.

2. Privacy impacts from deck and balconies. Privacy screen to be provided

Comment: The alfresco is 17.5 metres from the rear boundary. The increased separation ensures there are no visual privacy impacts. The two (2) rear facing first floor balconies have a depth of 1m and length of 5m. The reduced depth limits use of the balconies. The balconies are associated with bedrooms and are unlikely to be used for extended periods. The deck and balconies are not considered to result in adverse visual privacy impacts.

3. The site is subject to a replacement tree order following the removal of a liquidambar tree. This order is outstanding and requires the replacement of two (2) trees.

Comment: The replacement tree order is a separate matter to the DA and cannot form part of the assessment of the subject application. The DA also proposes/conditions the provision of three large canopy trees with a minimum 100 litre pot size.

4. Request for rear fencing which is in disrepair to be replaced

Comment: The Statement of Environmental Effects states existing side and rear fences are to remain. The replacement of boundary fencing cannot be enforced through the DA. Any matters regarding boundary fencing are regulated by The Dividing Fences Act 1991.

(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).

Based on the Cost of Works of \$ 1,809,500.00, a contribution of 1.0% of the cost of works is applicable. In this regard, the contribution is as follows;

Local Amenity Improvement Levy	\$18,095.00
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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 2023/83 should be approved.

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.



GENERAL CONDITIONS

1	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 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. 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. 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. 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. 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. 6. This section does not apply— <ol style="list-style-type: none"> 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 b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
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2	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 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"> a. showing the name, address and telephone number of the principal certifier for the work, and 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 c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be— <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to— <ol style="list-style-type: none"> 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 b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p>Fulfilment of BASIX commitments</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> <ol style="list-style-type: none"> 1. BASIX development, <p>BASIX optional development, if the development application was accompanied by a BASIX certificate.</p> <p>Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>



4	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 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— <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> i. the name of the owner-builder, and 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. 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. 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. <p>Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
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5	<p>Approved plans and supporting documentation.</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" style="width: 100%;"> <thead> <tr> <th colspan="5" style="text-align: left;">Approved Plans</th> </tr> <tr> <th style="text-align: left;">Description</th> <th style="text-align: left;">Reference No.</th> <th style="text-align: left;">Date</th> <th style="text-align: left;">Revision</th> <th style="text-align: left;">Prepared By</th> </tr> </thead> <tbody> <tr> <td>Site/site analysis</td> <td>Job No. 2228 Dwg No. DA-07/F</td> <td>8/10/2024</td> <td>F</td> <td>SWA Group</td> </tr> <tr> <td>Floor plans overall 01</td> <td>Job No. 2228 Dwg No. DA-11/F</td> <td>8/10/2024</td> <td>F</td> <td>SWA Group</td> </tr> <tr> <td>Floor plans overall 02</td> <td>Job No. 2228 Dwg No. DA-12/H</td> <td>8/10/2024</td> <td>H</td> <td>SWA Group</td> </tr> <tr> <td>Floor plan - basement</td> <td>Job No. 2228 Dwg No. DA-13/E</td> <td>30/08/2024</td> <td>E</td> <td>SWA Group</td> </tr> </tbody> </table>	Approved Plans					Description	Reference No.	Date	Revision	Prepared By	Site/site analysis	Job No. 2228 Dwg No. DA-07/F	8/10/2024	F	SWA Group	Floor plans overall 01	Job No. 2228 Dwg No. DA-11/F	8/10/2024	F	SWA Group	Floor plans overall 02	Job No. 2228 Dwg No. DA-12/H	8/10/2024	H	SWA Group	Floor plan - basement	Job No. 2228 Dwg No. DA-13/E	30/08/2024	E	SWA Group
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Floor plan – ground level	Job No. 2228 Dwg No. DA-14/F	8/10/2024	F	SWA Group
Floor plan – Level 1	Job No. 2228 Dwg No. DA-15/G	30/08/2024	G	SWA Group
Floor plan – roof	Job No. 2228 Dwg No. DA-16/F	8/10/2024	F	SWA Group
Elevations – overall & fence	Job No. 2228 Dwg No. DA-21/E	8/10/2024	E	SWA Group
Elevations – East & West	Job No. 2228 Dwg No. DA-22/G	8/10/2024	G	SWA Group
Elevations – North & South	Job No. 2228 Dwg No. DA-23/E	8/10/2024	E	SWA Group
Sections - overall	Job No. 2228 Dwg No. DA-31/E	8/10/2024	E	SWA Group
Sections – A & driveway	Job No. 2228 Dwg No. DA-32/E	8/10/2024	E	SWA Group
Sections – B & Pool	Job No. 2228 Dwg No. DA-33/E	8/10/2024	E	SWA Group
Demolition plan	Job No. 2228 Dwg No. DA-08/B	30/08/2024	B	SWA Group
Stormwater drainage plan	Job No. 2023323 Sheet No. S1	5/09/2024	3	MBC Engineering
Stormwater drainage plan	Job No. 2023323 Sheet No. S2	5/09/2024	3	MBC Engineering
Stormwater drainage plan	Job No. 2023323 Sheet No. S3	5/09/2024	3	MBC Engineering
Stormwater drainage plan	Job No. 2023323	5/09/2024	3	MBC Engineering



	Sheet No. S4			
Landscape planting plan	Dwg No. L01/1-K26803	29/08/2024	B	Michael Siu Landscape Architects
Approved Documentation				
Description	Reference No.	Date	Revision	Prepared By
Waste Management Plan	-	June 2023	01	SWA Group
Flood Impact Assessment Report	-	10/10/2024	D	MBC Engineering PTY LTD
BASIX Certificate	1402000S_02	11 September 2024	-	Building Sustainability Assessments
Arboriculture Impact Assessment	20242020.3	14 September 2023	-	Australis Tree Management
Tree Protection Plan	20242020.3	14 September 2023	-	Australis Tree Management
<p>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.</p>				
<p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development</p>				



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	\$ 18,095.00
	TOTAL CONTRIBUTIONS	\$ 18,095.00
<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 139.1 used to calculate the above contribution amount.</p> <p>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.</p> <p><u>Timing of Payment</u></p> <p>The contribution must be paid and receipted by Council prior to the issue of the Construction Certificate.</p> <p>A copy of the current Development Contributions Plans may be viewed on Council’s website www.strathfield.nsw.gov.au.</p>		
<p>Condition reason: 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>Building Height</p> <p>The height of the building measured from Australian Height Datum (AHD) must not exceed Relative Level (RL) RL 37.95 AHD to the parapet of the building as shown on the architectural plans.</p> <p>Condition reason: To ensure the approved building height is complied with.</p>
8	<p>Section 138 Roads Act 1993 & Section 68 Local Government Act 1993</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> <ul style="list-style-type: none"> (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 <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> <ul style="list-style-type: none"> (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; <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 www.strathfield.nsw.gov.au For further information, please contact Council's Customer Service Centre on (02) 9748 9999.</p> <p>Condition reason: To ensure the protection of existing public infrastructure and adjoining properties.</p>



9	Vehicular Crossing – Minor Development
	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. 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.
	Condition reason: To ensure appropriate vehicular access to the site can be achieved
10	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 reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of works in the road.
	Condition reason: To protect Council roads and footpaths and to ensure any works are to the relevant standards.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

11	Design amendments
	Before the issue of a construction certificate, the certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents: <ul style="list-style-type: none"> a) The stormwater plans shall be updated to be consistent with the stamped approved architectural plans b) The finished ground floor level must not be less than the level shown on the amended architectural plans submitted with this application. c) The crest in the driveway leading to the basement must not be lower than the level shown on the architectural plans submitted with this application. d) The top of walls adjacent to the driveway must not be less than the level of the crest in the driveway. e) The new vehicle crossover is to be relocated a further 0.5m towards the eastern side boundary. Council notes that some internal driveway alignment modification will be required to meet the condition and will need to be indicated on CC plans for approval. f) The Landscape Plan to be amended to reflect the three (3) new Canopy Trees to be in 100 litre bags. g) The alfresco side elevation windows are to have a minimum sill height of 1.6 metres above the finished floor level.
	Condition reason: To require minor amendments to the plans endorsed by the consent authority following assessment of the development



12	Long Service Levy
	<p>Before the issue of the relevant construction certificate, the long service levy of \$4,523.00, as calculated at the date of this consent, must be paid to the Long Service Corporation of Council under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to the certifier or council (where a certifier is not required).</p> <p>Condition reason: To ensure the long service levy is paid</p>
13	Payment of security deposits
	<p>Before the issue of the relevant construction certificate, the applicant must:</p> <ul style="list-style-type: none"> a) make payment of \$16,380.00 for a security deposit and \$145.00 for Administration Fee to the consent authority, and 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. <p>Condition reason: To ensure any damage to public infrastructure is rectified and public works can be completed</p>
14	Basix Commitments
	<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. 1402000S_02 must be implemented on the plans lodged with the application for the Construction Certificate.</p> <p>Condition reason: To comply with statutory requirements.</p>
15	Low Reflectivity Roof
	<p>Roofing materials must be low glare and reflectivity. Details of finished external materials must be provided to the Principal Certifier.</p> <p>Condition reason: To minimise excessive glare and reflectivity on the streetscape.</p>
16	Stormwater System
	<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>Condition reason: To ensure stormwater drainage system is adequately designed.</p>



<p>17</p>	<p>Erosion and sediment control plan</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"> a) Council's relevant development control plan, 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 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). <p>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways</p>
<p>18</p>	<p>Compliance with Flood Study</p> <p>The development must be designed to conform to the recommendations and conclusions of the submitted flood study prepared by MBC Engineering Pty Ltd dated 10 October 2024 Revision D.</p> <p>This must include, but not be limited to, any recommendations for the following:</p> <ul style="list-style-type: none"> (a) Minimum floor levels (b) Fencing (c) Site regrading (d) Overland flow path construction (e) Protection of the basement from inundation of surface waters <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>Condition reason: To mitigate flood risk and associated damage.</p>



<p>19</p>	<p>Pump-Out System Design for Stormwater Disposal</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"> (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; (b) The pump system must 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. <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> <p>Condition reason: To ensure suitable stormwater disposal method.</p>
<p>20</p>	<p>Stormwater Drainage Plan Details</p> <p>Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a suitably qualified professional engineering specialising in hydraulic engineering must be submitted with the Construction Certificate application. These plans must be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council’s Stormwater Management Code.</p> <p>Condition reason: To ensure the drainage system is appropriately designed and disposed of.</p>
<p>21</p>	<p>Dial Before Your Dig</p> <p>The applicant must contact Home Before You Dig Australia (BYDA) 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>Condition reason: To ensure the protection of services and utility.</p>
<p>22</p>	<p>Compliance with Swimming Pool Act 1992</p> <p>The construction of 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>Condition reason: To ensure the pool complies with the relative statutory requirements.</p>



23	Structural Details
	Engineer's details for all reinforced concrete work, structural beams, columns & 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.
	A copy must be forwarded to Council where Council is not the Principal Certifier.
	Condition reason: To ensure works are structurally sound.

24	Geotechnical Report
	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:
	<ul style="list-style-type: none"> (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. (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. (c) On-site guidance by a vibration specialist during the early part of excavation. (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. (e) Sides of the excavation must be parged prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
	Condition reason: To ensure structural safety and integrity of adjoining properties.



25	Swimming Pools – Use and Maintenance
	<p>The following apply to the construction, use and maintenance of swimming pools and spas:</p> <ul style="list-style-type: none"> (a) No ground level may be raised or filled except where shown specifically on the approved plans; (b) All pool or spa waste water is to be discharged to the sewer according to the requirements of Sydney Water; (c) The swimming pool must not be used for commercial or professional purposes; (d) Paved areas must be designed to ensure drainage flows to the landscaped areas or a suitable lawful drainage system; and (e) Any lighting external to the pool or spa must be arranged to minimise glaring nuisance to adjoining owners.
	<p>Condition reason: To ensure compliance with statutory requirements and protection of the amenity of surrounding properties.</p>
26	Off Street Parking – Compliance with AS2890
	<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>Condition reason: To ensure adequate vehicular access can be achieved and complies with relevant standards.</p>



<p>27</p>	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, a construction site management plan must be prepared, and provided to the certifier or council (where a certifier is not required). the plan must include the following matters:</p> <ul style="list-style-type: none"> a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: <ul style="list-style-type: none"> i) Proposed truck movements to and from the site; ii) Estimated frequency of truck movements; and iii) Measures to ensure pedestrian safety near the site; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; 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"> i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan; iii) An arborist’s report approved as part of this consent <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>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction</p>
<p>28</p>	<p>Waste Management Plan – an approved document of this consent</p> <p>Before the issue of a construction certificate, a waste management plan for the development must be provided to the certifier or council (where a certifier is not required).</p> <p>Condition reason: To ensure resource recovery is promoted and local amenity protected during construction</p>



<p>29</p>	<p>Tree Bond</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) T1 <i>Lophostemon confertus</i> (6.0 meters) - \$11,084.00 (b) T2 <i>Lophostemon confertus</i> (7.0 meters) - \$11,084.00 (c) <i>Administration Fee</i> - \$145.00</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>Condition reason: To ensure the protection of trees to be retained on Council's Road Reserve.</p>
<p>30</p>	<p>Landscape Plans</p> <p>All landscape works must be carried out in accordance with the approved landscape plans.</p> <p>Condition reason: To ensure provision and maintenance of quality landscaping.</p>
<p>31</p>	<p>Tree Removal/Pruning Prohibited</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>Tree Removal / Pruning is prohibited, unless accepted in the AIA report.</p> <p>Condition reason: To ensure tree preservation and environmental amenity.</p>



32	<p>Tree Protection and Retention</p> <p>Council Street Tree T1 and T3 (Lophostemon confertus – Queensland Brush Box) are located on the Council’s nature strip and are to be protected and retained.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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>Condition reason: To ensure the protection of trees to be retained on the site.</p>
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33	Tree Removal & Replacement			
	Tree removal			
	Permission is granted for the removal of the following trees:			
	Tree No.	Tree species	Number of trees	Location
	Tree 2	<i>Thuja plicata</i>	1	Front of the site
	Tree 4	<i>Thuja plicata</i>	1	Front of the site
	Tree 5	<i>Tibouchina lepidota</i> 'Alstonville	1	Front of the site
	Tree 6	<i>Cupressus sempervirens</i> var. <i>stricta</i>	1	Rear of the site
	Tree 7	<i>Camellia reticulata</i>	1	Rear of the site
	Tree 8	<i>Liquidambar styraciflua</i>	1	Rear of the site
	Tree 9	<i>Ulmus parvifolia</i>	1	Rear of the site
	Tree 11	<i>Dead tree</i>	1	Rear of the site
Tree 12	<i>Dead tree</i>	1	Rear of the site	
No Permission is granted for the removal of any other trees on site.				
General Tree Removal Requirements				
All tree removal must be carried out by a certified Tree Surgeon or 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).				
Condition reason: To maintain adequate tree canopy and preservation of environmental amenity.				

BEFORE BUILDING WORK COMMENCES



34	<p>Demolition & Asbestos</p> <p>The demolition work must 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 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 Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 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 Demolition Code of Practice (NSW Work Cover July 2015)</p> <p>Condition reason: Safety, amenity and protection of public infrastructure and the environment.</p>
35	<p>Demolition Notification Requirements</p> <p>The following notification requirements apply to this consent:</p> <p>(a) 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.</p> <p>(b) 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.</p> <p>(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 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>Condition reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.</p>



<p>36</p>	<p>Demolition Work Involving Asbestos Removal</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 Work Health and Safety Regulation 2011</p> <p>Condition reason: To ensure safety, amenity and protection of public infrastructure and the environment.</p>
<p>37</p>	<p>Dilapidation report</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the principal certifier or council (where a principal certifier is not required).</p> <p>where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifier or council (where a principal certifier is not required), that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than 7 days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to council (where council is not the principal certifier) at the same time.</p> <p>Condition reason: 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>
<p>38</p>	<p>Utility Arrangements</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>Condition reason: To ensure adequate provision of services is available.</p>



<p>39</p>	<p>Dust Control</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>Condition reason: To protect environmental amenity.</p>
<p>40</p>	<p>Erosion and sediment controls in place</p>
	<p>Before any site work commences, the principal certifier or council (where a principal certifier is not required), 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 the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p>
	<p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways</p>
<p>41</p>	<p>Tree protection measures</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>Condition reason: To protect and retain trees</p>



DURING BUILDING WORK

42	Hours of work
	<p>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)</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>
	Condition reason: To protect the amenity of the surrounding area during construction.
43	Ground Levels and Retaining Walls
	<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>Condition reason: To maintain existing ground levels and protect existing overland flow.</p>
44	Cost of Work to be Borne by the Applicant
	<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>Condition reason: To protect Council’s roads, reserves and public infrastructure.</p>
45	Responsibility for changes to public infrastructure
	<p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <p>Condition reason: To ensure payment of approved changes to public infrastructure</p>



46	<p>Obstruction of Road or Footpath</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 Roads Act 1993 and under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.</p> <p>Condition reason: To maintain public safety.</p>
47	<p>Construction Management Plan</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>Condition reason: To provide safe access to and from the site and protection of public infrastructure and the environment.</p>
48	<p>Procedure for critical stage inspections</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>Condition reason: To require approval to proceed with building work following each critical stage inspection</p>



<p>49</p>	<p>Registered Surveyors Report</p> <p>A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>Condition reason: To ensure buildings are sited and positioned in the approved location</p>
<p>50</p>	<p>Swimming Pools – Filling with Water</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>Condition reason: To ensure compliance with Swimming Pool Fences Act 1992 before use.</p>



<p>51</p>	<p>Implementation of the site management plans while site work is being carried out:</p> <ul style="list-style-type: none"> 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 b) a copy of these plans must be kept on site at all times and made available to council officers upon request. <p>Condition reason: To ensure site management measures are implemented during the carrying out of site work</p>
<p>52</p>	<p>Soil management</p> <p>While site work is being carried out, the principal certifier or council (where a principal certifier is not required) must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> a) all excavated material removed from the site must be classified in accordance with the epa’s waste classification guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier or council (where a principal certifier is not required). b) all fill material imported to the site must be: <ul style="list-style-type: none"> i) virgin excavated natural material as defined in schedule 1 of the <i>protection of the environment operations act 1997</i>, or ii) a material identified as being subject to a resource recovery exemption by the nsw epa, or iii) a combination of virgin excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Condition reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants</p>
<p>53</p>	<p>Tree Removal on Private Land</p> <p>The trees identified as ‘to be removed/pruned’ on the approved plans or by conditions of this consent must be removed in accordance with AS4373 - 2007 and the Amenity Tree Industry Code of Practice (SafeWork NSW, August 1998).</p> <p>Condition reason: To ensure tree preservation and pruning is undertaken in accordance with AS4373:2007</p>



54	<p>Tree protection during work</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ul style="list-style-type: none"> a) the construction site management plan required under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites, c) Council's relevant development control plan (in force as at the date of determination of this consent) and d) any arborist's report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p><u>Stormwater plan</u></p> <p>Installation of the Stormwater Plan connection to kerb , within the TPZ of T1 and T3 is to be dug by hand using tree sensitive methods and under the supervision of the Project Arborist.</p> <p>Any tree roots encountered during excavation, Council's Urban Forest Supervisor to be contacted to oversee tree management for this project.</p> <p><u>Front fencing</u></p> <p>Installation of the new front fence footings, within the SRZ of T1 (of 2.5 meters from centre of tree), is to be dug by hand using tree sensitive methods and under the supervision of the Project Arborist.</p> <p>Any tree roots encountered during excavation of the new front fence foots Council's Urban Forest Supervisor to be contacted oversee tree management for this project.</p> <p>Condition reason: To protect trees during the carrying out of site work</p>
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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

55	<p>BASIX Certificate</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>Condition reason: Statutory compliance.</p>
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56	BASIX Compliance Certificate
	<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>Condition reason: Statutory compliance.</p>
57	Completion of Landscape Works and Tree Works
	<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>Condition reason: To ensure compliance with the minimum landscape area requirements</p>
58	Completion of Landscape Works and Tree Works
	<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>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s)</p>
59	Minor Development
	<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>Condition reason: To ensure parking spaces are constructed appropriately.</p>



<p>60</p>	<p>Restriction to User and Positive Covenant for Stormwater Management System</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>Condition reason: To ensure the approved stormwater disposal system is maintained to an appropriate operational standard</p>
<p>61</p>	<p>Maintenance Schedule – On-site Stormwater Management</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>Condition reason: To ensure the approved stormwater disposal system is maintained at its designed capacity.</p>
<p>62</p>	<p>Vehicular Crossing – Minor Development</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>Condition reason: To ensure appropriate access to the site is achieved.</p>



<p>63</p>	<p>Post-construction dilapidation report</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 or council (where a principal certifier is not required), detailing whether:</p> <ul style="list-style-type: none"> 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 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>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>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site</p>
<p>64</p>	<p>Release of securities</p> <p>When Council receives an occupation certificate, an application may be lodged to release the securities held in accordance with Council's Policy.</p> <p>Condition reason: To allow release of securities where the terms and conditions for the securities have been met to council's satisfaction</p>
<p>65</p>	<p>Repair of infrastructure</p> <p>Before the issue of an occupation certificate:</p> <ul style="list-style-type: none"> a) 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 vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council, or 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 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>Condition reason: To ensure any damage to public infrastructure is rectified</p>
<p>66</p>	<p>Works-as-executed plans and any other documentary evidence</p> <p>Before the issue of the relevant 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> <ul style="list-style-type: none"> a) All stormwater drainage systems and storage systems, and b) A copy of the plans must be provided to council <p>Condition reason: To confirm the location of works once constructed that will become council assets</p>



67	Removal of waste upon completion
	<p>Before the issue of an occupation certificate:</p> <ul style="list-style-type: none"> a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan, and b) written evidence of the waste removal must be provided to the satisfaction of the principal certifier or council (where a principal certifier is not required). <p>Condition reason: To ensure waste material is appropriately disposed or satisfactorily stored</p>
68	Electricity Supply
	<p>Prior to the issue of any Occupation Certificate, evidence must be provided demonstrating that the development has been connected to the Ausgrid network.</p> <p>Condition reason: To ensure adequate provision of services.</p>
69	Completion of public utility services
	<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>Condition reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation</p>
70	Flood Prone Land – Survey of Levels
	<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>Condition reason: To mitigate flood risk and associated damage.</p>



71	Stormwater Drainage Works – Works As Executed
	<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> <p>(a) Compliance with conditions of development consent relating to stormwater.</p> <p>(b) The structural adequacy of the Pump-Out System.</p> <p>(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.</p> <p>(d) Pipe invert levels and surface levels to Australian Height Datum.</p> <p>(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.</p> <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>Condition reason: To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development</p>

OCCUPATION AND ONGOING USE

72	Maintenance of Landscaping
	<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>Condition reason: To ensure the amenity of landscaping is maintained.</p>

73	Swimming Pools – Resuscitation Notice
	<p>An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.</p> <p>Condition reason: Safety and statutory compliance.</p>



74	Use of Structure
	The outbuilding must not be used for human habitation or for any commercial or industrial purpose.
	Condition reason: Statutory compliance with the approved use.
75	Private Swimming Pools & Spas – Pump Noise
	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 required noise levels.
	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):
	(a) before 8 am or after 8 pm on any Sunday or public holiday, or (b) before 7 am or after 8pm on any other day.
	Condition reason: Noise control and protecting amenity of adjoining properties.
76	Entering and Exiting of Vehicles
	All vehicles must enter and exit the premises in a forward direction.
	Condition reason: Safety and traffic management.
77	Greywater System
	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. Th system must be maintained at all times and must not result in any adverse amenity impacts on the subject premises and surrounding properties.
	Condition reason: Encourage water conservation and re-use.

TO: Strathfield Local Planning Panel Meeting - 14 November 2024
 REPORT: SLPP – Report No. 12
 SUBJECT: S8.2-DA2023/151 - 1-3 WOOWARD AVENUE STRATHFIELD
 DA NO. S8.2-DA2023/151

SUMMARY

Proposal:	Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding.
Applicant:	Vision Group Architects Pty Ltd
Owner:	J & M Chen
Date of lodgement:	12 September 2024
Notification period:	19 September - 3 October 2024
Submissions received:	One (1) written submission received
Assessment officer:	L Gibson
Estimated cost of works:	\$1,989,286.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 variation proposed?	N/A
Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	APPROVAL

EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/151 which was refused by Strathfield Council on 1 August 2024. The refused application sought approval for demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding. The reasons for refusal pertained to FSR exceedance, bulk and scale, setback non-compliances and deficient landscaping.

Proposal

The design has been revised and development consent is being sought for demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding.

Site and Locality

The site is identified as 1-3 Woodward Avenue, Strathfield and has a legal description of Lot B DP 370815. The site is a regular shaped parcel of land and is located at the corner of Woodward Avenue and Parsons Avenue.

The site has a boundary length of 28.09m to Woodward Avenue, 34.24m to Parsons Avenue and splay of 3.695m, northern (rear) boundary length of 30.48m and eastern boundary length of 36.58m. The total site area is 1,113.6m². The locality surrounding the subject site contains a mixture of low-density development, primarily being detached dwellings. Several local conservation areas and local heritage items are located within the wider streetscape.

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 (19 September - 3 October 2024), where one (1) submission was received raising the following concerns:

- Privacy;
- Dwelling's proximity to adjoining properties; and
- Elevated ground levels

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/151 is recommended for approval subject to suitable conditions of consent.

RECOMMENDATION

That Development Application No. 2023/151 for demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding at 1-3 Woodward Avenue, Strathfield be **APPROVED** subject to conditions.

ATTACHMENTS

1. [S8.2 - DA2023/151 - 1-3 Woodward Avenue, Strathfield - SLPP Report \(PDF\)](#)



SLPP REPORT

Property:	1-3 Woodward Avenue Strathfield DA 2023/151
Proposal:	Section 8.2 Application to review previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding.
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Assessment officer:	L Gibson
Estimated cost of works:	\$1,989,286.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	N/A
Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	APPROVAL

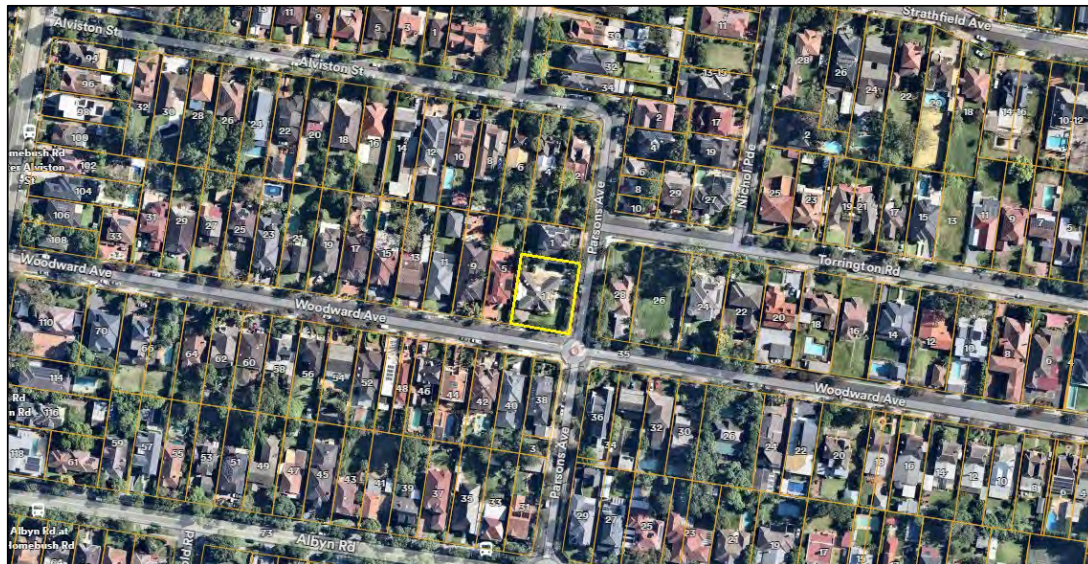


Figure 1: Aerial view of the subject site (outlined in yellow).



EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/151 which was refused by Strathfield Council on 1 August 2024. The refused application sought approval for demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding. The reasons for refusal pertained to FSR exceedance, bulk and scale, setback non-compliances and deficient landscaping.

Proposal

The design has been revised and development consent is being sought for demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding.

Site and Locality

The site is identified as 1-3 Woodward Avenue, Strathfield and has a legal description of Lot B DP 370815. The site is a regular shaped parcel of land and is located at the corner of Woodward Avenue and Parsons Avenue. The site has a boundary length of 28.09m to Woodward Avenue, 34.24m to Parsons Avenue and splay of 3.695m, northern (rear) boundary length of 30.48m and eastern boundary length of 36.58m. The total site area is 1,113.6m². The locality surrounding the subject site contains a mixture of low-density development, primarily being detached dwellings. Several local conservation areas and local heritage items are located within the wider streetscape.

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 (19 September - 3 October 2024), where one (1) submission was received raising the following concerns;

- Privacy;
- Dwelling's proximity to adjoining properties; and
- Elevated ground levels

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/151 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 previous determination to refuse the development for the demolition of existing structures, construction of a two-storey dwelling over basement, front fence, swimming pool and detached outbuilding.

Division 8.2 Reviews – EP&A Act 1979

The application has been lodged under the provisions of Division 8.2- Reviews of the EP&A Act 1979. The original application was refused by Council (Manager – Planning & Place under delegation). Given Council's delegation structure the review is to be made by the Strathfield Local Planning Panel.

Whilst there have been some modifications to the proposal that was refused, Council is satisfied that it is substantially the same development.

The application was refused by Council on 1 August 2024 and given that no appeal to the Land & Environment Court has been made, Council has jurisdiction to determine the application by 1 February 2025.

The application has been notified in accordance with the provisions of Council's Community Participation Plan (CPP).

Specifically, the proposal includes:

Basement level:

- 2 parking spaces, lift and lobby, stairs.

Ground floor level:

- Library/study, living/dining/kitchen, laundry, office, guest room with ensuite, nanny's room with ensuite, two bathrooms, stairs and lift.

First floor level:

- Master bedroom with walk in robe and ensuite, three (3) bedrooms with ensuites, front and rear balconies.

External works:

- Swimming pool, alfresco cabana, terrace, front and side boundary fencing, driveway and landscaping works.

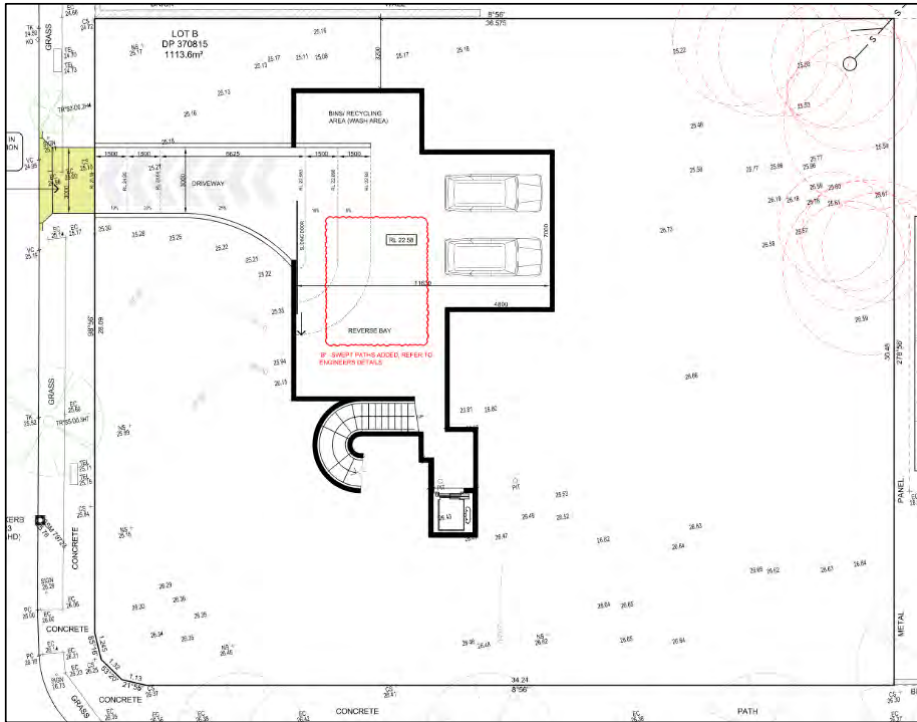


Figure 2: Refused Basement Level.

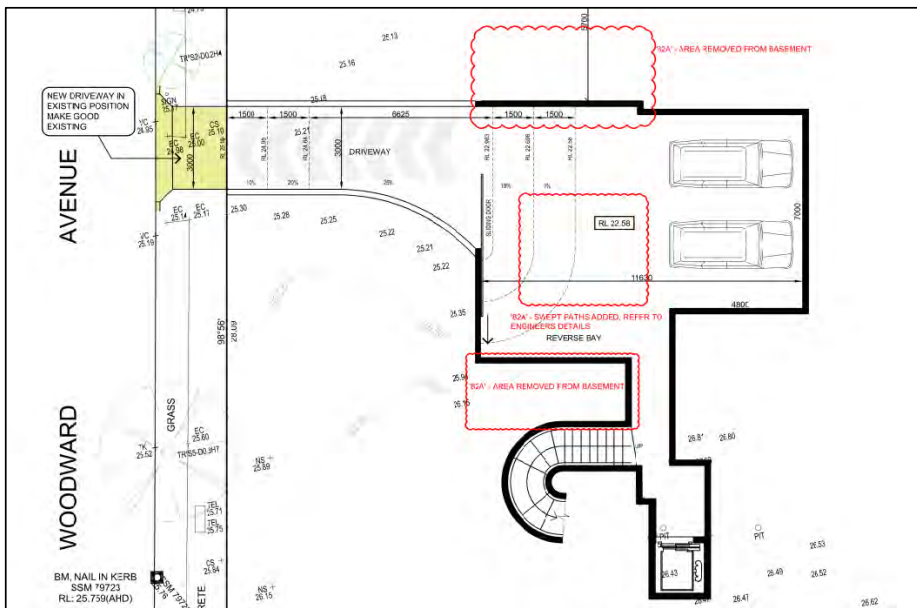


Figure 3: Proposed Basement Level.

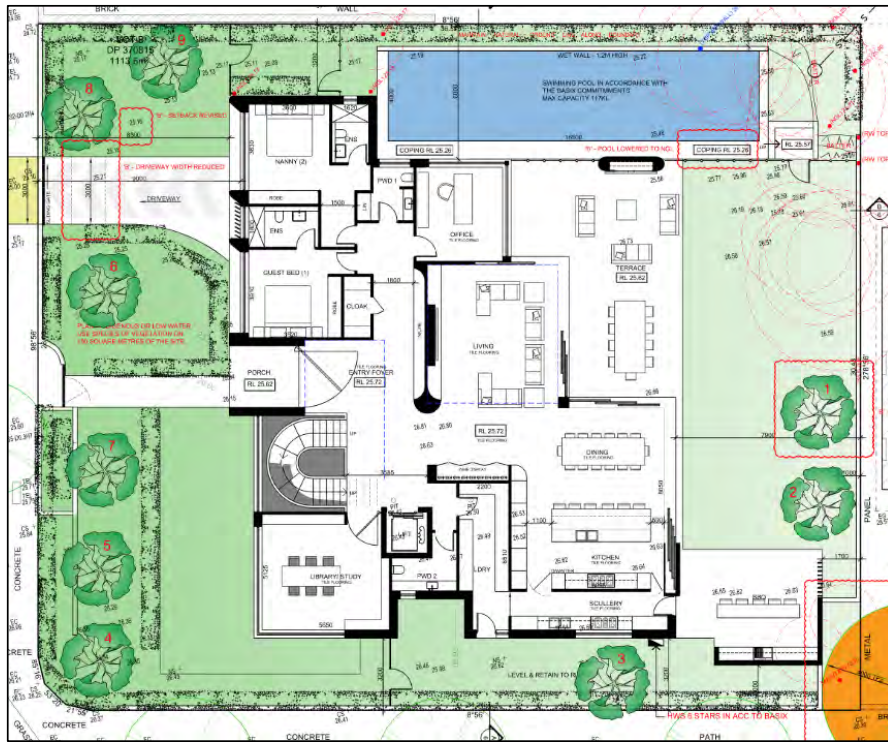


Figure 4: Refused Ground Floor Level.

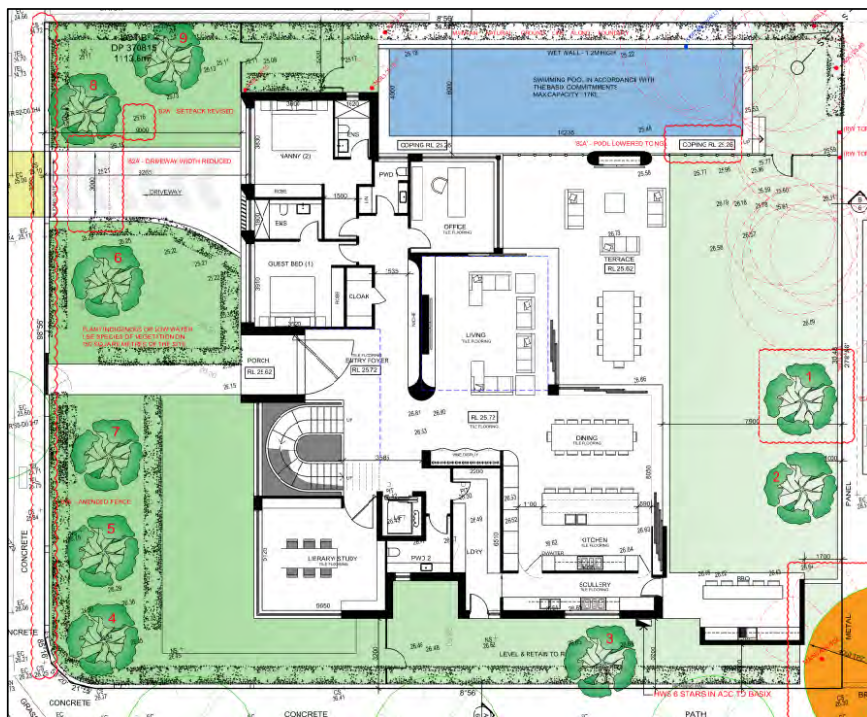


Figure 5: Proposed Ground Floor Level.

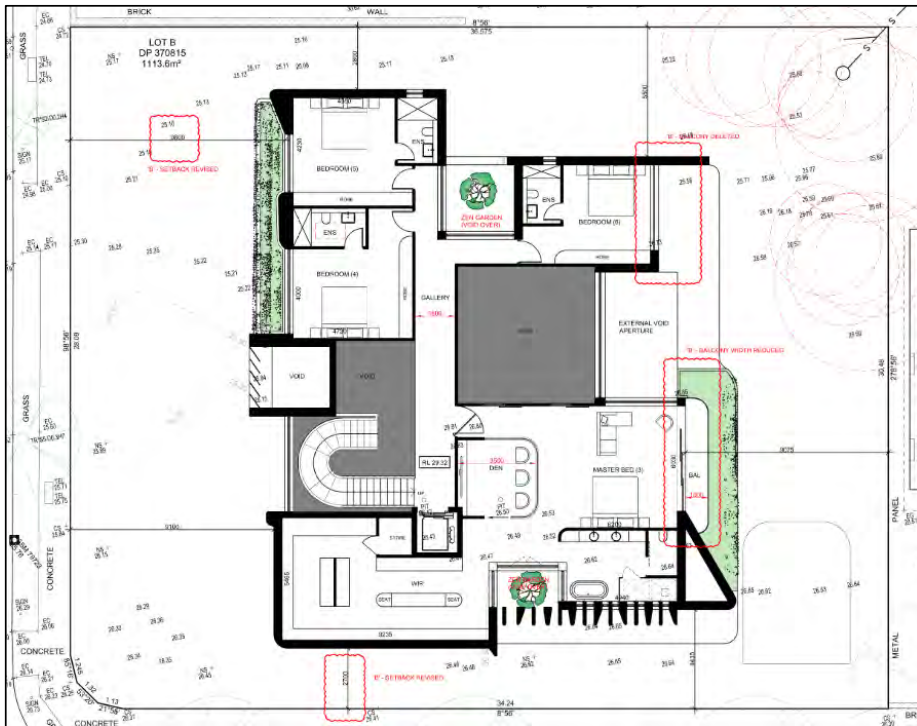


Figure 6: Refused First Floor Level.

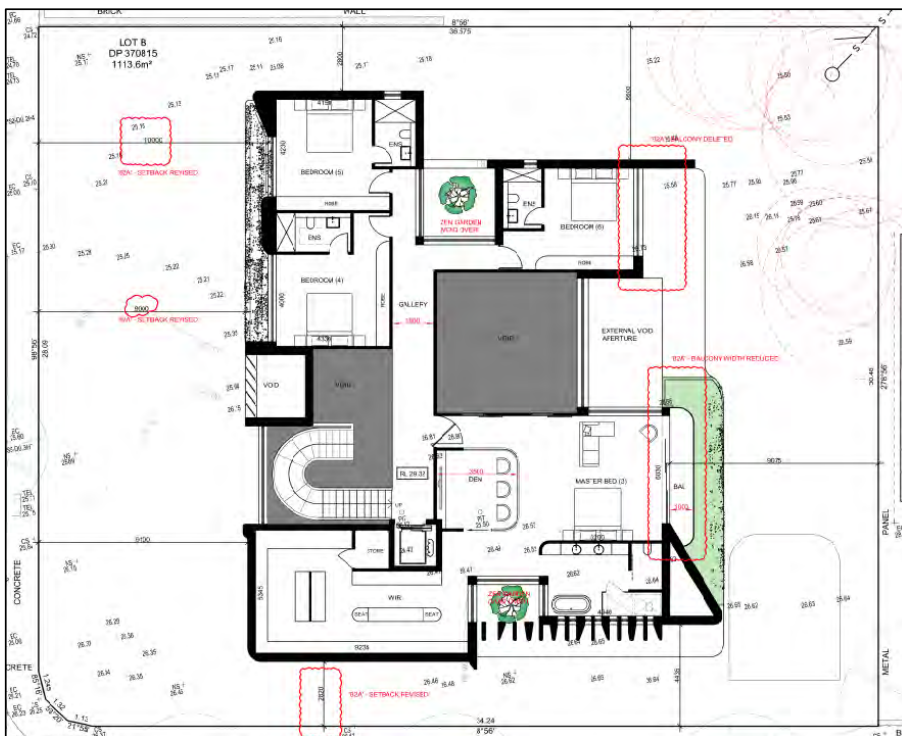


Figure 7: Proposed First Floor Level.

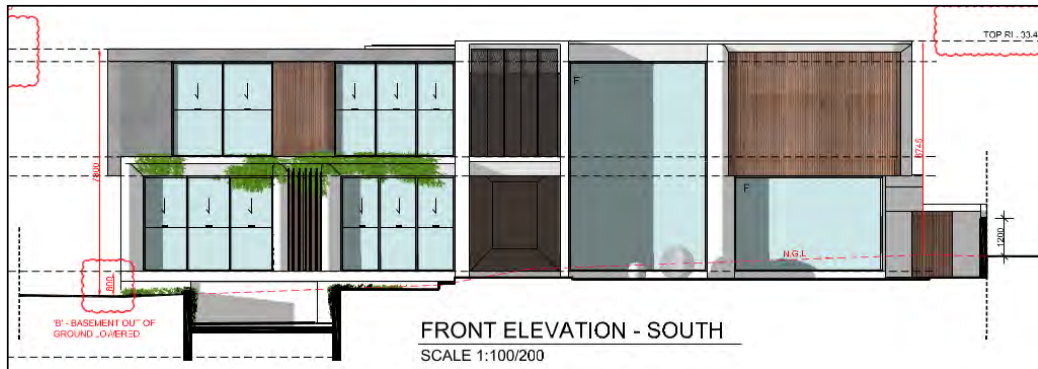


Figure 8: Refused Southern Elevation (Woodward Avenue).



Figure 9: Proposed Southern Elevation (Woodward Avenue).



Figure 10: Refused Eastern Elevation (Parsons Avenue).



Figure 11: Proposed Eastern Elevation (Parsons Avenue).

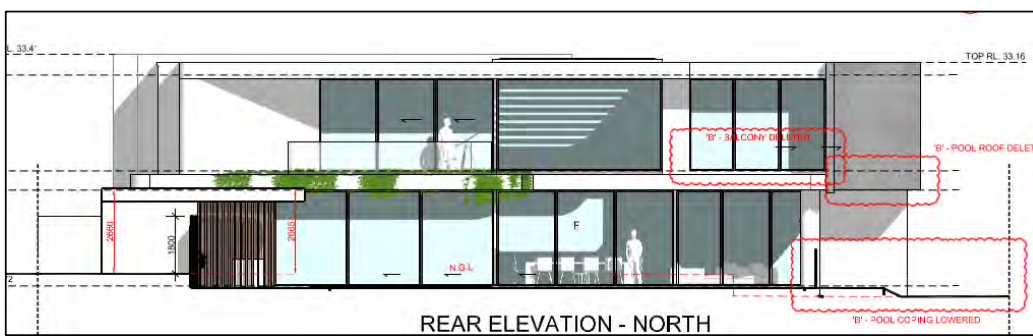


Figure 12: Refused Northern Elevation (rear).

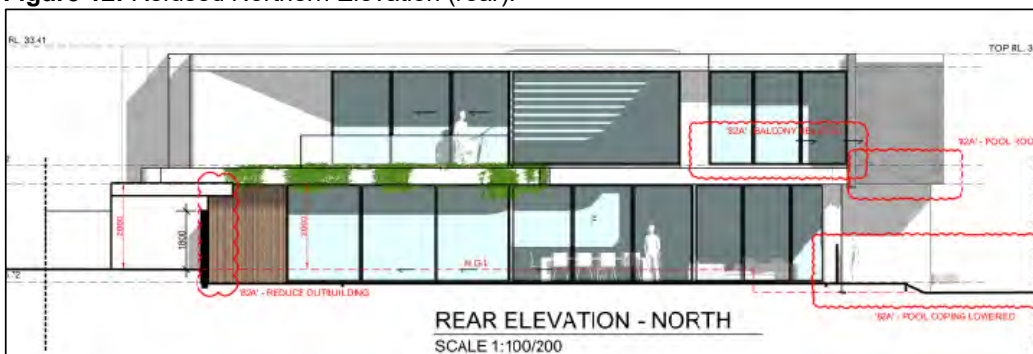


Figure 13: Proposed Northern Elevation (rear).

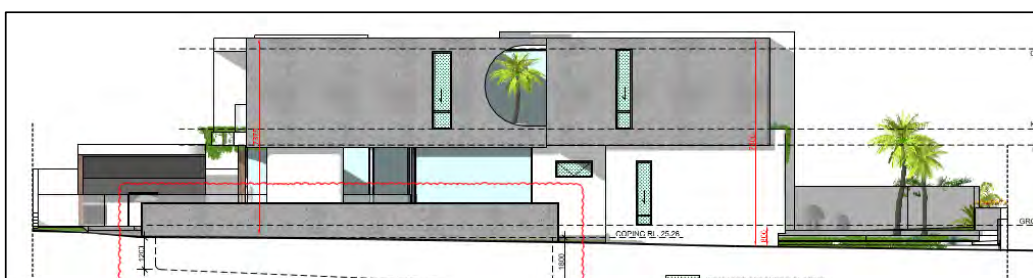


Figure 14: Refused Western Elevation.



Figure 15: Proposed Western Elevation

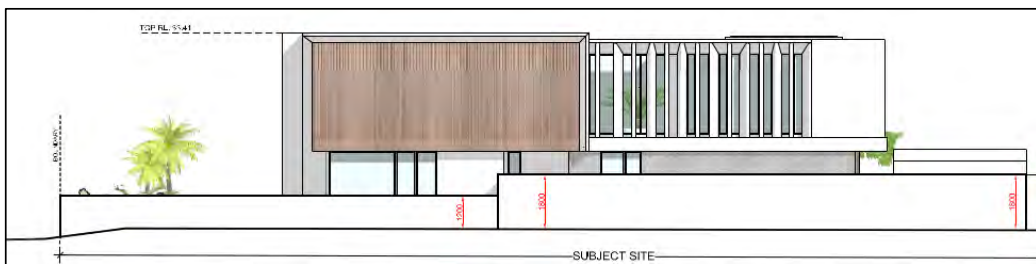


Figure 16: Refused Parsons Avenue Streetscape/Fence Elevation.

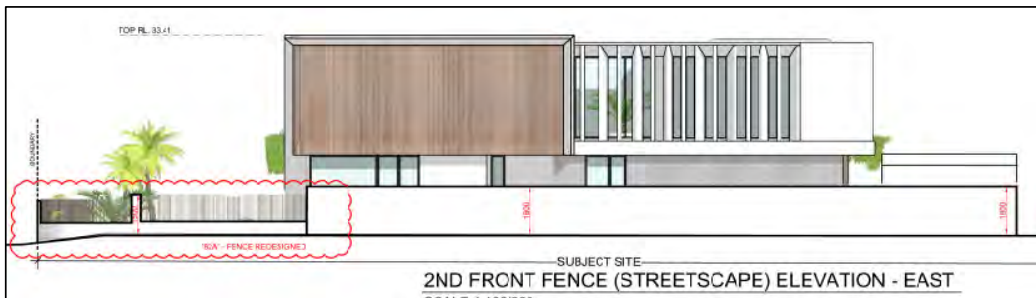


Figure 17: Proposed Woodward Avenue Streetscape/Fence Elevation.



Figure 18: Refused Woodward Avenue Streetscape/Fence Elevation.



Figure 19: Proposed Woodward Avenue Streetscape/Fence Elevation.

The Site and Locality

The subject site is legally described as Lot B DP 370815 and commonly known as 1-3 Woodward Avenue, Strathfield. It is located at the corner of Woodward Avenue and Parsons Avenue. The site has a boundary length of 28.09m to Woodward Avenue, 34.24m to Parsons Avenue and splay of 3.695m, northern rear boundary length of 30.48m and eastern boundary length of 36.58m. The total site area is 1,113.6m².

The site is square in shape and slopes from north-east to south-west, with the low point being in the south-western corner. This portion of the site contains the driveway which provides access to an under-croft 3 space garage via Woodward Avenue.

The site is occupied by a single storey residential dwelling atop the under-croft parking. The dwelling is atypical, featuring an X shaped roof with four wings each with a pitched tile roof angling up towards the exterior walls of the dwelling. The site also features a pool and small cabana both located within the rear northern yard of the site (see **Figures 20-26** below).



Figure 20: Existing driveway and dwelling at the site as viewed from Woodward Ave.



Figure 21: Subject site as viewed from Woodward Avenue facing north-east.



Figure 22: Dwelling as viewed from intersection of Woodward Avenue with Parsons Avenue.



Figure 23: Dwelling in background facing south-west. Dwelling at 1 Parsons Avenue pictured right.



Figure 24: Woodward Avenue frontage facing west.



Figure 25: North-western portion of the site facing north.



Figure 26: Rear yard of dwelling facing north toward site's northern side boundary.



The current streetscape is characterised by two storey dwellings of various architectural styles with some single storey dwellings scattered throughout. Facebrick is the most common exterior finish with pitched tiled roof forms also common however there are some examples of rendered dwellings in a more contemporary style also evident in the streetscape (see **Figures 27 and 28** below).



Figure 27: Dwellings along Woodward Avenue immediately south of the subject site (38, 40 and 42 Woodward Avenue pictured left to right)



Figure 28: Dwellings along Woodward Avenue (13, 11 and 9 Woodward Avenue pictured left to right).



Background

1 August 2024	DA2023/151 was refused by Strathfield Council. The section below provides the reasons for refusal along with a comment as to how the applicant has intended to resolve the matters in this S8.2 application.
12 September 2024	The subject application was lodged with Council.
19 September - 3 October 2024	The application was publicly notified for 14 days. One (1) submission was received during this time.
11 October 2024	Site inspection undertaken by assessing officer.
14 October 2024	A request for additional information letter was sent to the applicant to revise the basement plans to achieve a compliant FSR. The applicant submitted a revised basement plan and GFA plan to Council. The revised plans demonstrate a compliant FSR is now achieved.

Response to Reasons for Refusal

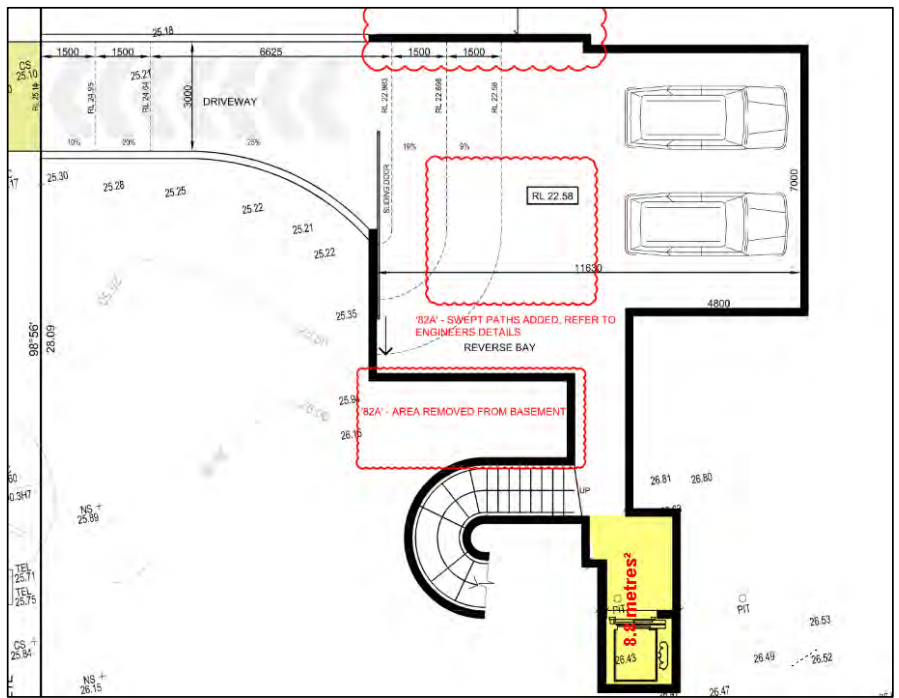
<p>1. Refusal Reason – Insufficient Information</p> <p>There is insufficient information to determine whether the Development Application satisfies the requirement for the basement ramp transition point at the site boundary such that it may exceed the 12.5% required by AS2890.1 and that the headroom clearance into the basement is achieved.</p> <p><u>Response:</u> The proposal has submitted sufficient information to adequately demonstrate that the basement ramp transition does not exceed 12.5% and is acceptable.</p>
<p>2. Refusal Reason – Environmental Planning Instrument</p> <p>Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, The proposed development does not comply with the Strathfield Local Environmental Plan 2012 in terms of the following:</p> <p>(a) Clause 1.2 – Aims of Plan</p> <p>The proposal fails to achieve high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities and neighbourhoods in Strathfield.</p> <p><u>Response:</u> The proposal achieves a high-quality design which, although is contemporary in style, generally complies with Council’s controls in regard to FSR, building height, setbacks, landscaping, visual privacy and solar access. The development’s general adherence with these controls demonstrates it is compatible with the existing and desired future character of the area. The proposal now satisfies this requirement.</p>



(b) Clause 4.4C Floor Space Ratio (FSR)

The proposed dwelling does not comply with the applicable FSR standard. The proposal seeks a variation of 2%.

Response: The applicant submitted revised plans proposing a marginally smaller dwelling overall primarily through a reduction in the basement size and increased front setback from Woodward Avenue. These modifications have resulted in a smaller building footprint thus floor space. The only area which has been included as floor space within the basement is highlighted in yellow in the image below. The proposal now achieves an FSR of 0.495:1 (551.5m²) which complies with the maximum 0.5:1 (556.8m²) permitted floor space required for the site as per SLEP 2012.



(c) Clause 4.6 – Exceptions to Development Standards

The proposed dwelling exceeds the floor space ratio development standard by 2%. No written request was made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, and therefore the consent authority cannot determine whether a variation to Clause 4.4C of the SLEP 2012 is well founded.

Response: As mentioned above, the application provides an FSR of 0.495:1 (551.5m²) which complies with the maximum 0.5:1 (556.8m²) permitted floor space required for the site as per SLEP 2012. The revised proposal has resolved this matter.

3. Refusal Reason – Strathfield Consolidated Development Control Plan 2005
 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



<p>Strathfield Consolidated Development Control Plan 2005 in terms of the following:</p>
<p>(a) Section 2.1 – Architectural Design and Streetscape Presentation</p> <p>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. The dwelling does not allow for a sense of openness and space to be retained for adjoining developments due to the architectural detailing, bulk and scale.</p>
<p><u>Response:</u> The proposal complies with the prescribed FSR, building height, setback and landscaping controls applying to the site with the exception of a few minor DCP non-compliances relating to wall and floor heights. These have been accepted on merit. The proposal demonstrates a contemporary built form that is suitable for the site and is commensurate with both the existing and future character envisaged for the area. The revised proposal has resolved this matter.</p>
<p>(b) Section 4.1 Building Envelope (objectives)</p> <p>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.</p>
<p><u>Response:</u> The building envelope objectives require dwellings to be compatible with the built form of the local area and that overall bulk and scale, size and height of dwellings relative to natural ground level responds to the adjoining dwellings, topography and desired future character. The dwelling height has been lowered from 8.1m to 7.78m to enable a compliant building height to be achieved. The proposal complies with the FSR and setback requirements pertaining to the SLEP 2012 and Chapter 4 of the SCDCP 2005 with the exception of a minor non-compliance pertaining to floor to ceiling heights and wall height to the undersize of eaves. These non-compliances are relatively minor and are justified further within this report.</p>
<p>(c) Section 4.2.2 – Building Height</p> <p>Part A Section 4.4.2(2) in that the proposed dwelling exceeds the height allowance for a flat roof dwelling.</p>
<p><u>Response:</u> The dwelling height has been lowered from 8.1m to 7.78m to enable a compliant building height to be achieved. The revised proposal has resolved this matter.</p>
<p>(d) Section 4.2.3.1 – Street Setbacks</p> <p>The proposal fails to satisfy the minimum primary setback requirement provided by Section 4.2.3.1(1) of Part A.</p>
<p><u>Response:</u> The dwelling front setback from Woodward Avenue has been increased from 8m to 9m so to satisfy this requirement. The revised proposal has resolved this matter.</p>
<p>(e) Section 4.2.3.2 – Side and Rear Setbacks</p>



The proposal fails to satisfy the combined side setback minimum requirements
<u>Response:</u> The proposal provides a combined setback of 6.4m which exceeds the minimum 5.6m (20%) required for the site. The revised proposal has resolved this matter.
(a) Section 5.2.1. – Landscaped Area
The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A, which requires a minimum of 45% landscaped area for the specific lot.
<u>Response:</u> Architectural and Landscape Plans were revised to demonstrate adequate provision of landscaping through the site. The increased front building setback has enabled additional landscaping in the front yard and therefore additional deep soil in total. The proposal now achieves 45.91% (511.2m ²) deep soil zone which exceeds the minimum 45% (500.85%) required for the site. The revised proposal has resolved this matter.
(a) Section 5.2.4 – Fencing
The proposal breaches the front fence controls in Section 5.2.4 of Part A.
<u>Response:</u> The front fence has been revised to achieve a maximum height of 1.5m. The solid 1.8m height boundary fencing terminates behind the front building line along Parsons Avenue to ensure a sense of openness in the street is maintained. The revised proposal has resolved this matter.
4. 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) Built environment – The proposed bulk and scale of the proposed dwellings does not achieve a site responsive development outcome and creates unacceptable visual impacts, (b) The impervious surfaces do not allow for sufficient soft landscape areas and may be detrimental to drainage patterns.
<u>Response:</u> As previously discussed, the proposal complies with the prescribed FSR, height, setback and landscape requirements applying to the land. The proposal achieves a built form that addresses visual impacts and is unlikely to result in detrimental drainage patterns. The proposal, whilst contemporary in its style, achieves a bulk, height and scale that is commensurate with existing dwellings in the street. The proposal also achieves compliant front, side and rear setbacks to ensure view corridors between dwellings along with a sense of openness can be maintained. The revised proposal has therefore resolved this matter.
5. 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.

Response: The revised proposal achieves a compliant FSR which, in addition to compliant setbacks, height and landscaping, demonstrates that the dwelling's bulk and scale is suitable for the land. The revised proposal has resolved this matter.

6. 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.

Response: Based on the changes discussed above, the proposal is now of a scale and character that no longer conflicts with the public interest. The revised proposal has resolved this matter.

Referrals – Internal

Tree Management

The Application was referred to Council's Tree Management Officer for comment. No concerns were raised subject to imposition of conditions of consent.

Stormwater Management

The Application was referred to Council's Development Engineer who outlined they support the Application, subject to conditions of consent.

Traffic and Parking Management

The Application was referred to Council's Senior Traffic Engineer raised no concern with the proposal subject to imposition of standard 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 removal of a number of trees 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

A BASIX Certificate (Cert no. 1378675S_02) 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 is a permissible form of development with Council's consent. The proposal is also consistent with the zone objectives.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	Max 9.5m	7.91m	Yes
4.4C Floor Space Ratio	0.5:1 (556.8m ²)	0.495:1 (551.5m ²)	Yes

Part 5 – Miscellaneous Provisions

Heritage Conservation



The subject site is not listed as a heritage item nor located within a heritage conservation area. The site is within the vicinity of a local Heritage item, being a Victorian house at 4 Alviston Street (item 188) located to the north.

Subsection 5 under Section 5.10 outlines that the consent authority may require a heritage management document for a development within the vicinity of heritage items. A heritage management document was not required for this development, as the proposal seeks approval for a dwelling house characteristic of the locality and streetscape and does not incorporate a height, bulk and scale that will disrupt views towards any heritage item from the public domain.

It is considered that the proposed works satisfactorily address the provisions of this Clause.

Flood Planning

The proposed site has not been identified within the flood planning levels and as such, the provisions of Clause 5.21 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 nor an Acid Sulfate Soils Management Plan.

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 the footprint of the ground floor above and access to and from the basement. The depth of excavation has been kept to minimum requirements and 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 Clause 6.2 of SLEP 2012.

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
Building Envelope			
Heights (max): Floor to ceiling heights:	3.0m	3.0m – 6.6m	No – refer to discussion below
Height to underside of eaves:	7.2m	7.4m	No – refer to discussion below
Parapet height:	0.8m	0.4m	Yes
Overall height for flat roof dwelling:	7.8m	7.78m	Yes
Number of storeys/levels:	2	Yes	Yes
Setbacks (min): Front:	9m	9.0m	Yes
Side:	1.2m (min)	3.2m east	Yes
Side:	1.2m (min)	3.2m west	Yes
Combined side setback:	5.6m (20%)	6.4m	Yes
Rear:	6m	7.9m	Yes
Landscaping			
Overall area (min):	45% (501.12m ²)	45.91% (511.2m ²)	Yes
Front yard area (min):	50% (136.5m ²)	84.57% (230.9m ²)	Yes
Rear area (min):	50% of overall requirement	76.46% (198.8m ²)	Yes
Fencing			
Height (max):	1.5m	1.5m	Yes
Solid component (max):	0.7m	0.7m	Yes
Secondary frontage (max):	1.8m	1.8m	Yes
Side and rear (max):	1.8m	1.8m	Yes
Solar Access			
POS or habitable windows on subject site (min):	3hrs to habitable windows and to 50% of POS	3 hours solar access achieved	Yes
Adjoining POS (min):	3hrs	3 hours solar access achieved	Yes
Vehicle Access and Parking			
Boundary driveway width (min):	3m	3.0m	Yes
Vehicular crossing (max):	1	1	Yes
Driveway setback – side (min):	0.5m	5.9m	Yes
No. of parking spaces:	2	2	Yes
Basement: Vertical protrusion (max):	1.0m	590mm	Yes
Ramp width (max):	3.5m	5.15m	No – refer to discussion below



Internal height (min):	2.2m	2.2m	Yes
Horizontal protrusion:	Within GF footprint	Within footprint	Yes
Ancillary Development			
Outbuildings:			
Area (max):	40m ²	Nil	Yes
Height (max):	3.5m	3.1m	Yes
Side/rear setback (min):	0.5m	1.7m (north) 2.0m (east)	Yes Yes
Retaining Walls:			
Height (max):	1.2m	1.02m	Yes
Swimming Pool:			
Side/rear setback (min):	1.0m	1.0m (west) 4.1m (north)	Yes Yes

Streetscape Character & Built Form

The proposed development seeks a contemporary dwelling design comprising a flat roof form with concrete and render exterior finishes and accents of timber cladding throughout. All elevations are relatively well articulated to assist in achieving a suitable bulk and scale as well as visual interest. Whilst the streetscape appears predominantly traditional in style with pyramidal roof forms and brick exterior finishes, the height, bulk and scale of dwellings in the streetscape are similar to that which is proposed notwithstanding its contemporary style.

The proposal results in an external wall height of 7.40m which is marginally more than the maximum 7.2m wall heights as per the SCDCP 2005. The proposal has also sought two voids located at the front entrance/stairwell and another to the rear building located over the living room. Both voids are proposed to a height of 6.6m which is contrary to the minimum 3.0m floor to ceiling heights required under the SCDCP 2005. All floor to ceiling heights across the ground and first floor levels are 3.0m which appear to align with that of existing dwellings in the streetscape. The site is a corner allotment with a north-south orientation and thus the dwelling will cast a shadow over the roads that border the property to the east and south. The voids will therefore not result in any overshadowing impact to adjoining neighbours.

The proposal complies with all prescribed FSR and remaining building height requirements as well as setback and landscaping controls applying to the site. This demonstrates that the proposal is of a height, bulk and scale that is suitable for the site as well as both the existing and future character envisaged for the streetscape notwithstanding its numeric non-compliance with wall and floor heights. These non-compliances are therefore supported in this instance.

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. Front boundary fencing is proposed to a maximum height of 1.5m above ground. A solid 1.8m height boundary fence is proposed to Parsons Avenue and terminates



behind the front building line. The fence achieves an adequate splay at the site's south-east corner to ensure safety for motorists.

Fencing 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 north-south 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 proposal has been revised to ensure privacy is maintained between adjoining properties and to reduce the potential for overlooking. The master bedroom balcony depth has been reduced from 2m to 1m and achieves an 8m setback from the site's northern rear boundary. The balcony, whilst resulting in a technical non-compliance from Section 7.2.3 of the SCDCP 2005, is unlikely to result in unreasonable acoustic and privacy impacts given that it is accessible only via a bedroom and can cater only to low-use activities. The non-compliance is acceptable in this instance.

The northern balcony to bedroom 6 has been deleted with the northern windows located 10.3m from the site's northern rear boundary. The rear north elevation plan however, still shows the window as being openable onto the adjoining roof area. Accordingly, a condition of consent is recommended to ensure the roof area immediately adjoining these windows remains as "non-trafficable roof area".

Vehicular Access, Parking and Basements

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005 in that it provides the minimum number of required parking spaces and adequate vehicular access provisions. The basement has been kept to less than 1m above natural ground level, does not extend beyond the ground floor above, has been designed so that vehicles can enter and exit in a forward direction and maintains a minimum internal height of 2.2m.

Whilst the basement driveway entrance extends to a maximum width of 5.15m, this is considered acceptable on merit given the driveway remains at 3m in width for 4m from between the property boundary and into the front yard of the property. Further, the proposal results in a considerable reduction in paved area in the front yard compared to the current driveway entrance design and follows a gradual tapering out to ensure that the basement entrance does not remain as a prominent feature of the site. The basement entrance width is therefore considered acceptable in this instance.

Cut and Fill

The subject site carries a substantial fall through the site from east to west. Whilst the site carries a steady fall from east to west in the front yard, the rear yard carries quite a sudden drop in levels shown between the swimming pool structure and remaining north-western private open space. This has resulted in the rear north-western portion of the site becoming an impractical remnant area which is cut off from the rest of the dwelling and open space areas of the site.



The proposal has sought to address this through demolishing the swimming pool structure and coping and returning it to a level of RL25.62. This will provide improved privacy to the northern adjoining resident at 1 Parsons Avenue. Whilst this will result in approximately 1.2m of cut, the majority of the cut will comprise the swimming pool hardstand structure only and is therefore acceptable. A condition of consent is recommended to ensure the rear yard between the proposed swimming pool fence to the west and cabana structure to the east retains a finished RL of 25.62 as this has not been marked clearly enough on the plans.

Cut and fill outside of the rear yard areas as discussed above has been kept to a minimum and the existing ground levels have been maintained where appropriate to reduce site disturbance. Existing trees and shrubs have been retained where possible, ground water tables are maintained and impact on overland flow and drainage is minimised.

Water and Soil Management

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005 and complies with Council's Stormwater Management Code. A Soil Erosion Plan has been submitted with the application to minimise soil disturbances during construction.

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

Outbuildings

The proposed outbuilding complies with the height, setbacks and area controls in the SCDCP 2005. A 1.7m setback is proposed to the rear with a 2m setback proposed from the site's eastern side boundary to Parsons Avenue. The structure provides a flat roof form and, whilst will be visible from the streetscape, is unlikely to detract from the character of the area being shielded from view largely by the boundary fence and screen hedging.

Retaining Walls

The proposed development satisfies the relevant objectives and controls within SCDCP 2005 and have been kept to a maximum height of 1.2m. All retaining walls greater than 600mm are required to be designed by a suitably qualified engineer.

Swimming Pools, Spas & Associated Enclosures

The proposed swimming pool satisfies the relevant objectives and controls with SCDCP 2005. The pool has been adequately setback from all adjoining boundaries. The proposal has sought a 1.2m height wet wall along the entire length of the swimming pool to the west which will assist in providing some suitable separation from the western adjoining property.

The plans fail to provide details of the pool pump location however, a condition of consent is recommended to ensure that it is provided in a suitable location away from boundary fencing so that it does not adversely impact neighbours. 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.

PART P – Heritage

The subject site is not listed as a heritage item or located within a heritage conservation area. However, there are conservation areas and heritage items within proximity of the subject site – to the north the C16 Vernon Street Conservation Area (and local Heritage item 188, a Victorian house at 4 Alviston Street), to the east the C17 Woodward Avenue Conservation Area. The design has been revised accordingly to achieve a bulk and scale that is compatible with the streetscape. The proposal is acceptable and will not obstruct any views to heritage items and conservation areas.

(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 environmental impacts have been assessed in detail above. The proposal is not considered to have a significant impact on the natural and built environment or any negative social or economic impacts on the locality.

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

The subject site is suitable for the purposes of a dwelling house and is consistent with consistent with the aims and objectives of the R2 Low Density Residential zoning. The size, shape, topography and vegetation of the site and its relationship to adjoining developments is suitable for the proposed dwelling house use and is deemed acceptable in this regard.

(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 raising the following concerns:

- 1. Privacy (raised levels) – concern is raised that the property is elevated above ground level from the northern adjoining property at 1 Parsons Avenue by up to 1.2m. The proposal is also closer toward the northern boundary**

Comment: As previously discussed, the proposal seeks to remove the raised swimming pool structure and associated paving to return the rear yard to a more suitable level. This will result



in a reduction of the rear yard height by 1.2m. Consequently, opportunities for overlooking will be reduced as a result of these works.

2. Privacy (rear balcony) –the master bedroom balcony has clear vision of living areas to 1 Parsons Avenue invading on personal space.

Comment: The master bedroom balcony is supported for the following reasons:

- The SCDCP 2006 only requires a 6m rear setback to be provided for dwellings. The balcony is setback 8m from the site's rear boundary achieving a suitable distance between the dwelling and the rear boundary fence.
- The rear balcony achieves a compliant depth of 1m. Whilst the length of the balcony is larger than the prescribed SCDCP 2005 requirements, the balcony pertains to a low-use room only.
- The southern elevation at 1 Parsons Avenue is relatively defensive in terms of window design and placement. All ground floor windows appear shielded by the 1.8m boundary fence. Upper-level windows are either high level or relatively small and/or treated so to minimise opportunities for overlooking.

It is considered that the balcony is acceptable and unlikely to result in undue privacy impacts notwithstanding its numeric non-compliance with SCDCP 2005 balcony length controls.

(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 \$1,989,286 contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows;

Local Amenity Improvement Levy	\$19,892.86
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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 2023/151 should be approved subject to conditions.

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.

GENERAL CONDITIONS

1	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 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. 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. 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. 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. 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. 6. This section does not apply— <ol style="list-style-type: none"> 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 b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
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2	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 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"> a. showing the name, address and telephone number of the principal certifier for the work, and 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 c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be— <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to— <ol style="list-style-type: none"> 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 b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p>Fulfilment of BASIX commitments</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> <ol style="list-style-type: none"> 1. BASIX development, <p>BASIX optional development, if the development application was accompanied by a BASIX certificate.</p> <p>Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>



4	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 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— <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> i. the name of the owner-builder, and 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. 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. 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. <p>Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
5	<p>Shoring and adequacy of adjoining property</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor. 2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person’s own expense— <ol style="list-style-type: none"> a. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation. 3. This section does not apply if— <ol style="list-style-type: none"> a. the person having the benefit of the development consent owns the adjoining land, or b. the owner of the adjoining land gives written consent to the condition not applying. <p>Condition reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>



6	Approved plans and supporting documentation.				
	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				
	Description	Reference No.	Date	Revision	Prepared By
	Site Management, Construction Management and Demolition Plan	Sheet 00	Dec 2023	C	Vision Group Architects
	Basement Plan	Sheet 01	Dec 2023	C	Vision Group Architects
	Ground Floor Plan	Sheet 02	Dec 2023	C	Vision Group Architects
	First Floor Plan	Sheet 03	Dec 2023	C	Vision Group Architects
	Roof Site Plan	Sheet 04	Dec 2023	C	Vision Group Architects
	Elevation Plan	Sheet 05	Dec 2023	C	Vision Group Architects
	Fence Details & Section	Sheet 05A	Dec 2023	C	Vision Group Architects
	Sections	Sheet 06	Dec 2023	C	Vision Group Architects
	Landscape Plans	Sheets 1-3	4 Sept 2024	C	Dapple Designs
	Stormwater Management Plan	Sheets 1-11	4 Sept 2024	C	NY Civil Engineering
	Approved Documentation				
Description	Reference No.	Date	Revision	Prepared By	
Arboricultural Impact Assessment Report	-	21 Dec 2024	-	Jacksons Nature Works	
Site Construction, Waste Management & Soil and Waer Management Erosion Sediment Control Plan	-	-	-	Vision Group Architects	
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					



7	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	\$ 19,892.86
	TOTAL CONTRIBUTIONS	\$ 19,892.86
	<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 139.1 used to calculate the above contribution amount.</p> <p>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.</p> <p><u>Timing of Payment</u></p> <p>The contribution must be paid and receipted by Council prior to the issue of the Construction Certificate</p> <p>A copy of the current Development Contributions Plans may be viewed on Council’s website www.strathfield.nsw.gov.au.</p>	
	Condition reason: To enable the provision of public amenities and services required and anticipated as a consequence of increased demand resulting from the development.	

8	Building Height	
	The height of the building measured from Australian Height Datum (AHD) must not exceed Relative Level (RL) 33.41 AHD to roof ridge of the building.	
	The cabana shall not exceed a building height of RL 28.715 AHD to the roof ridge of the building.	
	Condition reason: To ensure the approved building height is complied with.	



9	<p>Section 138 Roads Act 1993 & Section 68 Local Government Act 1993</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> <p>(a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.</p> <p>(b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;</p> <p>(c) Establishing a "works zone";</p> <p>(d) Placing or storing materials or equipment;</p> <p>(e) Placing or storing waste containers or skip bins;</p> <p>(f) Stormwater & ancillary to public infrastructure on private land</p> <p>(g) Erecting a structure or carrying out work</p> <p>Separate activity approvals for (a)-(g) must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>(h) Pumping water from the site into the public road;</p> <p>(i) Constructing a vehicular crossing or footpath;</p> <p>(j) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);</p> <p>(k) Stormwater & ancillary works in the road reserve; and</p> <p>(l) Pumping concrete from a public road;</p> <p>Separate activity approvals for (h)-(l) 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 www.strathfield.nsw.gov.au</p> <p>For further information, please contact Council's Customer Service Centre on (02) 9748 9999.</p> <p>Condition reason: To ensure the protection of existing public infrastructure and adjoining properties.</p>
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10	Design amendments
	<p>Before the issue of a construction certificate, the certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents:</p> <p>a) The plans shall clearly label the roof adjoining bedroom 6 as being “non-trafficable”. Any markings indicating that the bedroom 6 windows are openable to the roof top shall be deleted.</p> <p>b) The architectural plans shall show that the rear yard between the western pool fence and cabana shall remain at RL25.62.</p>
	Condition reason: To require minor amendments to the plans endorsed by the consent authority following assessment of the development

11	Vehicular Crossing – Minor Development
	<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>
	Condition reason: To ensure appropriate vehicular access to the site can be achieved

12	Road Opening Permit
	<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>
	Condition reason: To protect Council roads and footpaths and to ensure any works are to the relevant standards.

**BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

13	Long Service Levy
	<p>Before the issue of the relevant construction, the long service levy of \$4,973.00 as calculated at the date of this consent, must be paid to the Long Service Corporation of Council under the <i>Building and Construction Industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to The Certifier.</p>
	Condition reason: To ensure the long service levy is paid



14	Payment of security deposits
	Before the issue of the relevant construction certificate, the applicant must: <ul style="list-style-type: none"> a) make payment of \$16,380.00 for a security deposit and \$145.00 for Administration Fee to the consent authority, and 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.
	Condition reason: To ensure any damage to public infrastructure is rectified and public works can be completed
15	Basix Commitments
	The approved BASIX Certificate must be submitted to the Principal Certifier with the application for a Construction Certificate. All measures and commitments as detailed in the BASIX Certificate No. 1378675S_02 must be implemented on the plans lodged with the application for the Construction Certificate.
	Condition reason: To comply with statutory requirements.
16	Low Reflectivity Roof
	Roofing materials must be low glare and reflectivity. Details of finished external materials must be provided to the Principal Certifier.
	Condition reason: To minimise excessive glare and reflectivity on the streetscape.
17	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'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.
	Condition reason: To ensure stormwater drainage system is adequately designed.
18	Stormwater Pit Amendment
	The Stormwater pit SP8, as shown on the submitted stormwater plans by NY Civil Engineering (E230706, Drawing D3), is to be designed and constructed as a silt-arrestor pit fitted with trash screen and having an invert lower than the outlet invert. Amended stormwater plans are to be submitted to and approved by the Principal Certifier prior to the issue of a Construction Certificate.
	Condition reason: Achieve compliance with Council's Stormwater Code.



<p>19</p>	<p>Erosion and sediment control plan</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: Council’s relevant development control plan, a) 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 b) 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).</p> <hr/> <p>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways</p>
<p>20</p>	<p>Dial Before Your Dig</p> <p>The applicant must contact Home Before You Dig Australia (BYDA) 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> <hr/> <p>Condition reason: To ensure the protection of services and utility.</p>
<p>21</p>	<p>Structural Details</p> <p>Engineer’s details for all reinforced concrete work, structural beams, columns & 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> <hr/> <p>Condition reason: To ensure works are structurally sound.</p>
<p>22</p>	<p>Off Street Parking – Compliance with AS2890</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> <hr/> <p>Condition reason: To ensure adequate vehicular access can be achieved and complies with relevant standards.</p>



<p>23</p>	<p>Construction Site Management Plan</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"> a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: <ul style="list-style-type: none"> i) Proposed truck movements to and from the site; ii) Estimated frequency of truck movements; and iii) Measures to ensure pedestrian safety near the site; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; 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"> i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan; iii) An arborist’s report approved as part of this consent <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>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction</p>
<p>24</p>	<p>Waste Management Plan – an approved document of this consent</p>
	<p>Before the issue of a construction certificate, a waste management plan for the development must be provided to The Certifier.</p>
	<p>Condition reason: To ensure resource recovery is promoted and local amenity protected during construction</p>



25	<p>Tree Bond</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> <ul style="list-style-type: none"> (a) <i>Tree 1 – Lagerstroemia indica (6 Metres)</i>- \$11084.00 (b) <i>Tree 2 – Lagerstroemia indica (7 Metres)</i>- \$11084.00 (c) <i>Tree 3 – Lagerstroemia indica (6 Metres)</i>- \$11084.00 (d) <i>Tree 4 – Lagerstroemia indica (6 Metres)</i>- \$11084.00 (e) <i>Tree 5 – Lagerstroemia indica (3 Metres)</i>- \$3331.00 (f) <i>Administration Fee</i> - \$145.00 <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>Condition reason: To ensure the protection of trees to be retained on Council's Road Reserve.</p>
26	<p>Landscape Plans</p> <p>The landscape plan shall be amended to demonstrate the following:</p> <ul style="list-style-type: none"> • A continuous row of screen planting is provided along the entire length of the eastern side property boundary from the front building line to the rear northern boundary. The screen planting shall be capable of achieving a minimum mature height of 3m across the entire length of the boundary. • The rear yard between the western pool fence and the cabana shall remain at RL25.62. <p>A revised Landscape Plan shall be submitted to and approved by the Principal Certifier prior to the issue of a Construction Certificate. All landscape works must be carried out in accordance with the approved landscape plans and the requirement as provided above.</p> <p>Condition reason: To ensure provision and maintenance of quality landscaping.</p>



<p>27</p>	<p>Tree Removal/Pruning Prohibited</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>Condition reason: To ensure tree preservation and environmental amenity.</p>
<p>28</p>	<p>Tree Protection and Retention</p> <p>5 x Council Street Tree is located on the Council’s nature strip.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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>Condition reason: To ensure the protection of trees to be retained on the site.</p>



29	Tree Removal & Replacement
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Tree removal

Permission is granted for the removal of the following trees:
Following trees and shrubs are approved for removal:

Tree No.	Tree species	Council Determination
6	<i>Murraya paniculata</i>	Removal approved
8	<i>Murraya paniculata</i>	Removal approved
9	<i>Magnolia grandiflora</i> ' Little Gem"	Removal approved
10	<i>Magnolia grandiflora</i> ' Little Gem"	Removal approved
11	<i>Murraya paniculata</i>	Removal approved
13	<i>Dyopsis decaryi</i>	Removal approved
14	<i>Celtis spp.</i>	Exempt Species – Removal approved
15	<i>Cyathea australis</i>	Removal approved
16	<i>Schefflera actinophylla</i>	Exempt Species
17	<i>Syagrus romanzoffiana</i>	Exempt Species
18	<i>Syzygium leuhmannii</i>	Council Approves removal of this Tree. To comply with the Sydney Water Act 1994.
19	<i>Syagrus romanzoffiana</i>	Exempt Species
20	<i>Syagrus romanzoffiana</i>	Exempt Species
21	<i>Washingtonia robusta</i>	Removal approved
22	<i>Schefflera actinophylla</i>	Exempt Species
23	<i>Syagrus romanzoffiana</i>	Exempt Species
24	<i>Syagrus romanzoffiana</i>	Exempt Species
25	<i>Syagrus romanzoffiana</i>	Exempt Species
26	<i>Syagrus romanzoffiana</i>	Exempt Species

General Tree Removal Requirements

All tree removal must be carried out by a certified Tree Surgeon or 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 must be replaced by a total of 9 new trees. The species is to be selected from Council's Recommended Tree List and must have a minimum mature height of 8m.

Replacement trees must be a minimum 45 litre container size or larger. 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 must be true to type, healthy and vigorous at time of delivery and planting, must be pest and disease free, free from injury and wounds and self-supporting; and must be maintained until maturity.



	<p>All trees must be staked and tied with a minimum of three (3) hardwood stakes. Ties must 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.</p> <p>Trees within lawn areas or street verges must have Tree Guard bark protectors installed around the base of trunks to protect from damage by trimmers and mowers.</p> <p>Root deflection barriers having a minimum depth of 600mm are to be installed adjacent to all footpaths and driveways.</p> <p>Soil conditioner, fertilizer, and moisture retention additives must be applied in accordance with manufacturer’s recommendations, and mixed into the backfilling soil after planting tree/s.</p> <p>A minimum 75mm depth of organic mulch must be placed within an area 0.5m from the base of the tree.</p> <p>Details demonstrating compliance must be demonstrated to the Principal Certifier, prior to the issue of any Occupation Certificate.</p> <p>Condition reason: To maintain adequate tree canopy and preservation of environmental amenity.</p>
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30	<p>Pump-Out System Design for Stormwater Disposal</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"> (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; (b) The pump system must 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. <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> <p>Condition reason: To ensure suitable stormwater disposal method.</p>
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31	<p>Geotechnical Report</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> <ul style="list-style-type: none"> (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. (b) Dilapidation Reports on the adjoining properties including, but not limited to 1 Person’s Avenue and 5 Woodward Avenue 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. (c) On-site guidance by a vibration specialist during the early part of excavation. (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. (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>Condition reason: To ensure structural safety and integrity of adjoining properties.</p>
32	<p>Compliance with Swimming Pool Act 1992</p> <p>The construction of 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>Condition reason: To ensure the pool complies with the relative statutory requirements.</p>



33	<p>Swimming Pools – Use and Maintenance</p> <p>The following apply to the construction, use and maintenance of swimming pools and spas:</p> <ul style="list-style-type: none"> (a) No ground level may be raised or filled except where shown specifically on the approved plans; (b) All pool or spa waste water is to be discharged to the sewer according to the requirements of Sydney Water; (c) The swimming pool must not be used for commercial or professional purposes; (d) Paved areas must be designed to ensure drainage flows to the landscaped areas or a suitable lawful drainage system; and (e) Any lighting external to the pool or spa must be arranged to minimise glaring nuisance to adjoining owners. <p>Condition reason: To ensure compliance with statutory requirements and protection of the amenity of surrounding properties.</p>
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BEFORE BUILDING WORK COMMENCES

34	<p>Demolition & Asbestos</p> <p>The demolition work must 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 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 Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 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 Demolition Code of Practice (NSW Work Cover July 2015)</p> <p>Condition reason: Safety, amenity and protection of public infrastructure and the environment.</p>
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<p>35</p>	<p>Demolition Notification Requirements</p> <p>The following notification requirements apply to this consent:</p> <p>(a) 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.</p> <p>(b) 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.</p> <p>(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 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>Condition reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.</p>
<p>36</p>	<p>Payment of fees</p> <p>Before any site work commences, the following must be paid to council and written evidence of these payments provided to The Principal Certifier:</p> <p>a) inspection fees b) security deposit and tree bonds as specified in council's fees and charges at the payment date.</p> <p>Condition reason: To ensure fees are paid for inspections carried out by council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to council property.</p>
<p>37</p>	<p>Demolition Work Involving Asbestos Removal</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 Work Health and Safety Regulation 2011</p> <p>Condition reason: To ensure safety, amenity and protection of public infrastructure and the environment.</p>



38	<p>Utility Arrangements</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>Condition reason: To ensure adequate provision of services is available.</p>
39	<p>Erosion and sediment controls in place</p> <p>Before any site work commences, The Principal Certifier 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 the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways</p>
40	<p>Tree protection measures</p> <p>Before any site work commences, the principal certifier must be satisfied the measures for tree protection detailed in the construction site management plan are in place.</p> <p>Condition reason: To protect and retain trees</p>
41	<p>Dilapidation report</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Principal Certifier.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than 5 days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to council (where council is not the principal certifier) at the same time.</p> <p>Condition reason: 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>



42	Dust Control
	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.
	Condition reason: To protect environmental amenity.

DURING BUILDING WORK

43	Hours of 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.
	Condition reason: To protect the amenity of the surrounding area during construction.

44	Ground Levels and Retaining Walls
	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.
	Condition reason: To maintain existing ground levels and protect existing overland flow.

45	Physical Connection of Stormwater to Site
	Work must not proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb into the street.
	Condition reason: To ensure the site is drained appropriately and does not interfere with the natural flow of flood waters



46	Cost of Work to be Borne by the Applicant
	<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>Condition reason: To protect Council's roads, reserves and public infrastructure.</p>
47	Responsibility for changes to public infrastructure
	<p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <p>Condition reason: To ensure payment of approved changes to public infrastructure</p>
48	Obstruction of Road or Footpath
	<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 Roads Act 1993 and under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.</p> <p>Condition reason: To maintain public safety.</p>
49	Construction Management Plan
	<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>Condition reason: To provide safe access to and from the site and protection of public infrastructure and the environment.</p>
50	Procedure for critical stage inspections
	<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>Condition reason: To require approval to proceed with building work following each critical stage inspection</p>



<p>51</p>	<p>Registered Surveyors Report</p> <p>A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>Condition reason: To ensure buildings are sited and positioned in the approved location</p>
<p>52</p>	<p>Implementation of the site management plans while site work is being carried out:</p> <ul style="list-style-type: none"> 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 b) a copy of these plans must be kept on site at all times and made available to council officers upon request. <p>Condition reason: To ensure site management measures are implemented during the carrying out of site work</p>



<p>53</p>	<p>Tree Removal on Private Land</p> <p>The trees identified as “to be removed/pruned” on the approved plans or by conditions of this consent must be removed in accordance with AS4373 - 2007 and the Amenity Tree Industry Code of Practice (SafeWork NSW, August 1998).</p> <p>Condition reason: To ensure tree preservation and pruning is undertaken in accordance with AS4373:2007</p>
<p>54</p>	<p>Tree protection during work</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ul style="list-style-type: none"> a) the construction site management plan approved under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites, c) All sections of council’s relevant development control plan (in force as at the date of determination of this consent) and d) any arborist’s report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Condition reason: To protect trees during the carrying out of site work</p>
<p>55</p>	<p>Waste management</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) all waste management must be undertaken in accordance with the waste management plan, and b) upon disposal of waste, records of the disposal must be compiled and provided to The Principal Certifier, detailing the following: <ul style="list-style-type: none"> i) The contact details of the person(s) who removed the waste ii) The waste carrier vehicle registration iii) The date and time of waste collection iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill v) The address of the disposal location(s) where the waste was taken vi) 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. <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>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste</p>



56	Connection to the Network
	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.
	Condition reason: To protect Council assets.

57	Electricity Supply to Development
	The electricity supply to the Development must be underground.
	Condition reason: Minimise impact on streetscape and amenity from new allotments.

58	Soil management
	While site work is being carried out, The Principal Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements: <ul style="list-style-type: none"> a) All excavated material removed from the site must be classified in accordance with the EPA’s Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to The Principal Certifier b) All fill material imported to the site must be: <ul style="list-style-type: none"> i) Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>, or
	Condition reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants

59	Swimming Pools – Filling with Water
	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
	Condition reason: To ensure compliance with Swimming Pool Fences Act 1992 before use.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

60	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 the issue of any Occupation Certificate.
	Condition reason: Statutory compliance.



61	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.
	Condition reason: Statutory compliance.
62	Completion of Landscape Works and Tree Works
	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 be used for building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).
	Condition reason: To ensure compliance with the minimum landscape area requirements
63	Completion of Landscape Works and Tree Works
	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.
	Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s)
64	Minor Development
	Internal driveways and parking spaces must be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
	Condition reason: To ensure parking spaces are constructed appropriately.
65	Stormwater Certification of the Constructed Drainage Works (Minor)
	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.
	Condition reason: To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.



66	Vehicular Crossing – Minor Development
	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.
	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.
	The work must be completed before the issue of any Occupation Certificate.
	Condition reason: To ensure appropriate access to the site is achieved.
67	Release of securities
	When Council receives an occupation certificate, an application may be lodged to release the securities held in accordance with Council Policy.
	Condition reason: To allow release of securities where the terms and conditions for the securities have been met to council's satisfaction
68	Repair of infrastructure
	Before the issue of an occupation certificate:
	<ul style="list-style-type: none"> a) 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 vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council, or 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 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.
	Condition reason: To ensure any damage to public infrastructure is rectified
69	Removal of waste upon completion
	Before the issue of an occupation certificate:
	<ul style="list-style-type: none"> a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan, and b) written evidence of the waste removal must be provided to the satisfaction of the Principal Certifier
	Condition reason: To ensure waste material is appropriately disposed or satisfactorily stored



70	Electricity Supply
	Prior to the issue of any Occupation Certificate, evidence must be provided demonstrating that the development has been connected to the Ausgrid network.
	Condition reason: To ensure adequate provision of services.
71	Completion of public utility services
	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.
	Condition reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation
72	Restriction to User and Positive Covenant for Stormwater Management System
	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.).
	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.
	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.
	Condition reason: To ensure the approved stormwater disposal system is maintained to an appropriate operational standard
73	Maintenance Schedule – On-site Stormwater Management
	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.
	Condition reason: To ensure the approved stormwater disposal system is maintained at its designed capacity.



74	Post-construction dilapidation report
	<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"> 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 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>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>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site</p>

OCCUPATION AND ONGOING USE

75	Maintenance of Landscaping
	<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 turf areas.</p>
	<p>Condition reason: To ensure the amenity of landscaping is maintained.</p>

76	Greywater System
	<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>Condition reason: Encourage water conservation and re-use.</p>

77	Maintenance of wastewater and stormwater treatment device
	<p>During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).</p>
	<p>Condition reason: To protect sewerage and stormwater systems</p>

78	Entering and Exiting of Vehicles
	<p>All vehicles must enter and exit the premises in a forward direction.</p>
	<p>Condition reason: Safety and traffic management.</p>



79	<p>Swimming Pools – Resuscitation Notice</p> <p>An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.</p> <p>Condition reason: Safety and statutory compliance.</p>
80	<p>Private Swimming Pools & Spas – Pump Noise</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 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> <p>(a) before 8 am or after 8 pm on any Sunday or public holiday, or (b) before 7 am or after 8pm on any other day.</p> <p>Condition reason: Noise control and protecting amenity of adjoining properties.</p>

TO: Strathfield Local Planning Panel Meeting - 14 November 2024
REPORT: SLPP – Report No. 13
SUBJECT: DA2016.170.9 - 3-5 BRIDGE ROAD HOMEBUSH - SLPP S.455(2) MODIFICATION REPORT
DA NO. DA2016.170.9

SUMMARY

Proposal: S4.55(2) Modification Application to DA2016.170 for approved residential flat building development, including an increase to the approved building height to facilitate delivery of relevant services to ensure NCC compliance and facilitate delivery of 2.7m floor to ceiling heights in habitable rooms, minor internal reconfigurations, minor changes to facade and car parking and addition of essential services.

Applicant: BRIDGE ROAD UNITS PTY LTD
Owner: BRIDGE ROAD UNITS PTY LTD
Date of lodgement: 15 May 2024
Notification period: 22 May 2024 to 6 June 2024
Submissions received: Nil
Assessment officer: B.O.
Estimated cost of works: \$24,230,000.00
Zoning: R4-High Density Residential - SLEP 2012
Heritage: N/A
Flood affected: No

Is a Clause 4.6 variation proposed? Clause 4.6 not applicable for S.455 (2)
However, building height variation proposed.

Extent of the variation supported? Yes – Clause 4.3 – Building Height (11.9%)

Peer review of Clause 4.6 variation: Clause 4.6 not applicable for S.455 (2)

RECOMMENDATION OF OFFICER: **APPROVAL**

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the S4.55(2) modification application to DA2016.170 for the approved residential flat building development incorporating an increase to approved building height to facilitate delivery of relevant services to ensure compliance with NCC requirements and facilitate the delivery of 2.7m floor to ceiling in habitable rooms, amended finished floor levels, minor amendments changes to internal layout, and addition of essential services.

Site and Locality

The site is identified as 3-5 Bridge Road, Homebush and has a legal description of Lot 198 DP 1284363. The site is a rectangular shaped parcel of land and is located to the west of Bridge Road. The site has a total area of 2,558.9sqm. The site is relatively flat with a fall of approximately 1m from front to rear.

The current streetscape is characterised by a mixture of developments such as vehicle sales or hire premises, residential flat buildings and dwelling houses. Parramatta Road is about 50m away to the north of the site.

Strathfield Local Environmental Plan

The site is zoned R4-High Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development generally satisfies the provisions of Strathfield Consolidated DCP 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 from 22 May 2024 to 5 June 2024, where no submissions were received.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2016/170/9 is recommended for approval subject to suitable conditions of consent.

RECOMMENDATION

Pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the proposed modifications to Development Consent No. DA2016.170 for an approved residential flat building involving an increase to approved building height to facilitate delivery of relevant services to ensure compliance with NCC requirements and facilitate the delivery of 2.7m floor to ceiling in habitable rooms, amended finished floor levels, minor amendments changes to internal layout, and addition of essential services at 3-5 Bridge Road, Homebush be APPROVED, subject to:

1. The original conditions of consent of Development Application No. DA2016.170 as approved by Sydney Central Planning Panel on 15 June 2017 for demolition of existing structures and construction of a part three (3), part eleven (11) storey residential flat building containing (77) units over three (3) levels of basement parking.
2. As modified by the Section 4.55(2) Application DA2016.170.2 as approved by Strathfield Local Planning Panel on 4 March 2021 for increasing the maximum building height and FSR, increase the total number of residential units from 77 to 80 units, reduce the number of basement levels and increase the amount of communal open space and deep soil landscaping.
3. As modified by the Section 4.55 (1) Application DA2016.170.3 as approved by Council on 19 April 2021 to modify a Council error to include Lot 23 DP 9481 in the Notice Of Determination issued for DA2016.170 and DA2016.170.2

4. As modified by the Section 4.55(1A) application DA2016.170.5 as approved by Internal Development Assessment Panel on 17 September 2021 for reconfiguration of apartment layouts and amendments to glazing on the eastern façade of the approved residential flat building.
5. As modified by the Section 4.55(1) modification application DA2016.170.6 as approved by Council on 9 May 2022 to correct approved development description on notice of determination to match currently approved on site.
6. As modified by the Section 4.55(1A) application DA2016.170.8 as approved by Council on 4 October 2024 for the amendment of Condition 13- WaterNSW General Terms of Approval in the original consent to allow for the disposal of groundwater post construction as part of a drained basement design.

That Development Application No. DA2016.170.9 for S4.55(2) Modification Application to DA2016.170 for approved residential flat building development, including an increase to the approved building height to facilitate delivery of relevant services to ensure NCC compliance and facilitate delivery of 2.7m floor to ceiling heights in habitable rooms, minor internal reconfigurations, minor changes to facade and car parking and addition of essential services at 3-5 Homebush Road, Strathfield be **APPROVED**.

Pursuant to Section 4.55(2) of the EP&A Act 1979 and following detailed assessment of the proposed modifications to DA 170/2016 to amend Condition 15:

1. The proposed modification does not result in a change to the description of the approved development.
2. The original conditions of consent of DA 2016/170 are retained as approved except where amended as below.
3. As part of this Section 4.55(2) application, the following conditions are to be modified:

15 Approved Plans and Reference Documentation

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

Plans affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2016/170:

<i>Drawing No.</i>	<i>Title/Description</i>	<i>Prepared by</i>	<i>Issue Revision Date</i>	<i>/ Date & received by Council</i>
S4.55-002	Site Calculations	Urban Link	B	21 January 2021
S4.55-003	Site Location	Urban Link	B	21 January 2021
S4.55-004	Site Analysis	Urban Link	B	21 January 2021
S4.55-106	Floor Plans Level 11	Urban Link	B	21 January 2021
S4.55-107	Floor Plans Roof	Urban Link	B	21 January 2021
S4.55-108	Floor Plans Basement 01	Urban Link	B	21 January 2021

S4.55-109	Floor Plans Basement 02	Urban Link	B	21 January 2021
S4.55-201	Elevations North	Urban Link	B	21 January 2021
S4.55-203	Elevations South	Urban Link	B	21 January 2021
S4.55-204	Elevations West	Urban Link	B	21 January 2021
S4.55-205	Elevations Bridge Rd Streetscape	Urban Link	B	21 January 2021
S4.55-206	Elevations Laneway Streetscape	Urban Link	B	21 January 2021
S4.55-301	Sections AA	Urban Link	B	21 January 2021
S4.55-302	Sections BB	Urban Link	B	21 January 2021
S4.55-303	Sections CC	Urban Link	B	21 January 2021
S4.55-304	Sections BB	Urban Link	B	21 January 2021
SW100, SW200, SW201, SW202, SW203, SW300, SW301, SW400, SW500	Mixed – Use Development 3-5 Bridge Street, Homebush Stormwater Concept Design			6 October 2020
000	Landscape Coversheet	Site Image	C	21 September 2020
101	Landscape Plan Ground Floor	Site Image	C	21 September 2020
102	Landscape Plan Level 4	Site Image	C	21 September 2020
103	Landscape Plan Level 11	Site Image	C	21 September 2020
000	Landscape Coversheet	Site Image	C	21 September 2020
101	Landscape Plan Ground Floor	Site Image	C	21 September 2020
102	Landscape Plan Level 4	Site Image	C	21 September 2020
103	Landscape Plan Level 11	Site Image	C	21 September 2020
501	Landscape Details	Site Image	C	21 September 2020

S4.55-101	Floor Plans Ground Floor	Urban Link	C	26 May 2021
S4.55-102	Floor Plans Level 01-02	Urban Link	C	26 May 2021
S4.55-103	Floor Plans Level 03	Urban Link	C	26 May 2021
S4.55-104	Floor Plans Level 04	Urban Link	C	26 May 2021
S4.55-105	Floor Plans Level 05	Urban Link	C	26 May 2021
S4.55-106	Floor Plans Level 06-07	Urban Link	C	26 May 2021
S4.55-107	Floor Plans Level 08-10	Urban Link	C	26 May 2021
S4.55-1406	Compliance Adaptable Units	Urban Link	C	26 May 2021
S4.55-202	Elevations East	Urban Link	C	26 May 2021
Project No.20- 0506, S4.55- 101	Ground Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55- 102	Level 01-02 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55- 103	Level 03 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55-104	Level 04 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55 -105	Level 05 Floor Plan	Urban Link,	Issue E	7 May 2024
Project No.20- 0506 S4.55- 106	Level 06-07 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55-107	Level 08-10 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55-108	Level 11 Floor Plan	Urban Link	Issue E	7 May 2024
Project No.20- 0506 S4.55-109	Roof Plan	Urban Link	Issue E	7 May 2024

Project No.20-0506 S4.55-110	Basement 01	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-111	Basement 02	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-201	Elevation North	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-202	Elevation East	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-203	Elevation South	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-204	Elevation West	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-205	Bridge Road Streetscape	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55 -206	Laneway Streetscape	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55-301	Sections AA	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55 -303	Sections BB	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55 -304	Sections CC	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55 -305	Sections DD &D.01	Urban Link	Issue E	7 May 2024
Project No.20-0506 S4.55 -901	External Finishes	Urban Link	Issue E	7 May 2024

Reference Documentation affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2016/170:

<i>Title/ Description</i>	<i>Prepared By</i>	<i>Issue/ Revision Date</i>	<i>& Date received by Council</i>
Statement of Environmental	JBA Urban Planning Consultants Pty Ltd	November 2016	17 November 2016
Arboricultural Horticultural	Assessment and Management Impact Report Services	23 August 2016	17 November 2016
Amended Waste Management Plan	Dickens Solutions	-	January 2021

Preliminary Site Investigation	Martens Engineering and Consulting	November 2016	30 May 2016
Preliminary Geotechnical Groundwater Assessment	Martens Engineering and Consulting	November 2016	17 November 2016
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	October 2016	17 November 2016
Acoustic Report	Acoustic Works	1020161 R01D 3-5 Bridge Road Homebush ENV RTN.doc	6 October 2020
Accessibility Compliance Report	Access Link Consulting	Report # 20/098 / 27 May 2021 / Revision B	07 July 2021
BASIX Certificate	Greenworld Architectural Drafting	# 769404M_03 / 28 June 2021	07 July 2021
BASIX Certificate	Jensen Hughes Pty Limited	# 769404M_06	24 April 2024

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

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

ATTACHMENTS

1. [DA2016/170/9 - 3-5 Bridge Road HOMEBUSH - DA SLPP Report](#)



SLPP REPORT (RFB's, Mixed Use etc – Major Developments)

Property:	3-5 Bridge Road HOMEBUSH DA 2016/170
Proposal:	S4.55(2) Modification Application to DA2016.170 for approved residential flat building development, including an increase to the approved building height to facilitate delivery of relevant services to ensure NCC compliance and facilitate delivery of 2.7m floor to ceiling heights in habitable rooms, minor internal reconfigurations, minor changes to facade and car parking and addition of essential services.
Applicant:	BRIDGE ROAD UNITS PTY LTD
Owner:	BRIDGE ROAD UNITS PTY LTD
Date of lodgement:	15 May 2024
Notification period:	22 May 2024 to 6 June 2024
Submissions received:	Nil
Assessment officer:	Bismark Opoku-Ware
Estimated cost of works:	\$24,230,000.00
Zoning:	R4-High Density Residential - SLEP 2012
Heritage:	No
Flood affected:	Yes
Local Planning Panel Criteria	Height of Building Development Standard Variation (11.9%)
RECOMMENDATION OF OFFICER:	Approval, subject to conditions

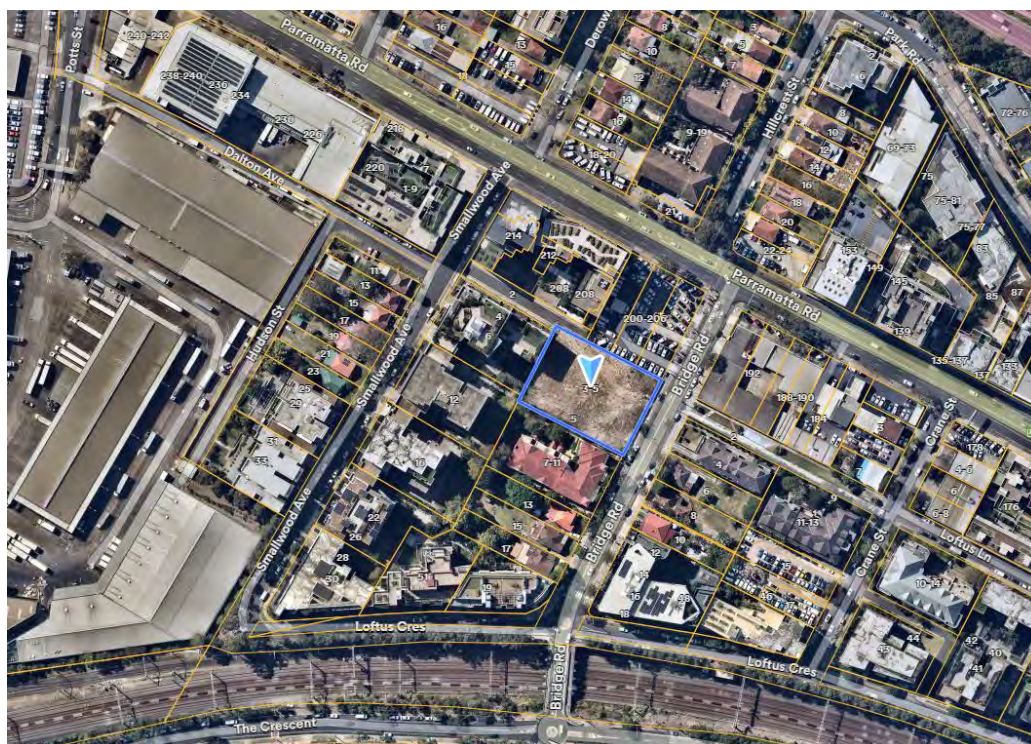


Figure 1 Aerial Photograph of the subject site outlined in blue.

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the S4.55(2) modification application to DA2016.170 for the approved residential flat building development incorporating an increase to approved building height to facilitate delivery of relevant services to ensure compliance with NCC requirements and facilitate the delivery of 2.7m floor to ceiling in habitable rooms, amended finished floor levels, minor amendments changes to internal layout, and addition of essential services.

Site and Locality

The site is identified as 3-5 Bridge Road, Homebush and has a legal description of Lot 198 DP 1284363. The site is a rectangular shaped parcel of land and is located to the west of Bridge Road. The site has a total area of 2,558.9sqm. The site is relatively flat with a fall of approximately 1m from front to rear.

The current streetscape is characterised by a mixture of developments such as vehicle sales or hire premises, residential flat buildings and dwelling houses. Parramatta Road is about 50m away to the north of the site.

Strathfield Local Environmental Plan



The site is zoned R4-High Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development generally satisfies the provisions of Strathfield Consolidated DCP 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 from 22 May 2024 to 5 June 2024, where no submissions were received.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2016/170/9 is recommended for approval subject to suitable conditions of consent.



REPORT IN FULL

Proposal

Council has received an application seeking development consent for the S4.55(2) modification application to DA2016.170 for the approved residential flat building development incorporating minor amendments involving changes to internal layout, addition of essential services, amended finished floor levels and approved building height. More specifically, a detailed breakdown of the proposal includes:

Basement Level

- Reduction of parking spaces from 94 to 92.

Ground Level –

- Inclusion of additional services at the ground floor including CPS vertical fans, fire tank connection and water tank above;
- Minor reduction in communal open space at ground level to accommodate additional services.
- Enclosure of pedestrian access adjoining driveway.
- Increase in the room size for waste holding, and extension of substation.

Level 1 to Level 11

- Increase in floor-to-floor height to accommodate 2.7m floor to ceiling heights in habitable rooms on Levels 1 to 11 as follows:
 - Level 1 finished floor level increased from RL19.25 to RL19.35
 - Level 2 finished floor level increased from RL22.30 to RL22.50
 - Level 3 finished floor level increased from RL25.35 to RL25.65
 - Level 4 finished floor level increased from RL28.40 to RL28.80
 - Level 5 finished floor level increased from RL31.45 to RL31.95
 - Level 6 finished floor level increased from RL34.50 to RL35.10
 - Level 7 finished floor level increased from RL37.55 to RL38.25
 - Level 8 finished floor level increased from RL40.60 to RL41.40
 - Level 9 finished floor level increased from RL43.65 to RL44.55
 - Level 10 finished floor level increased from RL46.70 to RL47.70
 - Level 11 finished floor level increased from RL49.75 to RL50.85
 - Roof level increased from RL52.85 to RL54.00
 - Lift overrun height increased by 1.27m, from RL53.9 to RL55.17
- Minor internal layout reconfigurations.
- Placement of air conditioning units on balconies of their respective units.
- Minor facade changes include adjustment of the curve in the north-eastern corner balconies as well as balustrade detail.
- Inclusion of structural columns at the pedestrian access off Bridge Road in accordance with structural engineer's advice.



- Minor reduction in communal open space at the roof top area due to the provision of services and fans; and
- Replacement of lighter toned brick with a vertically grooved precast panel finished in a similar tone to the brick it replaces.



Figure 2: Proposed section plan showing 3.15m floor to floor height to accommodate NCC requirements for services and habitable 2.7m floor to ceiling heights.

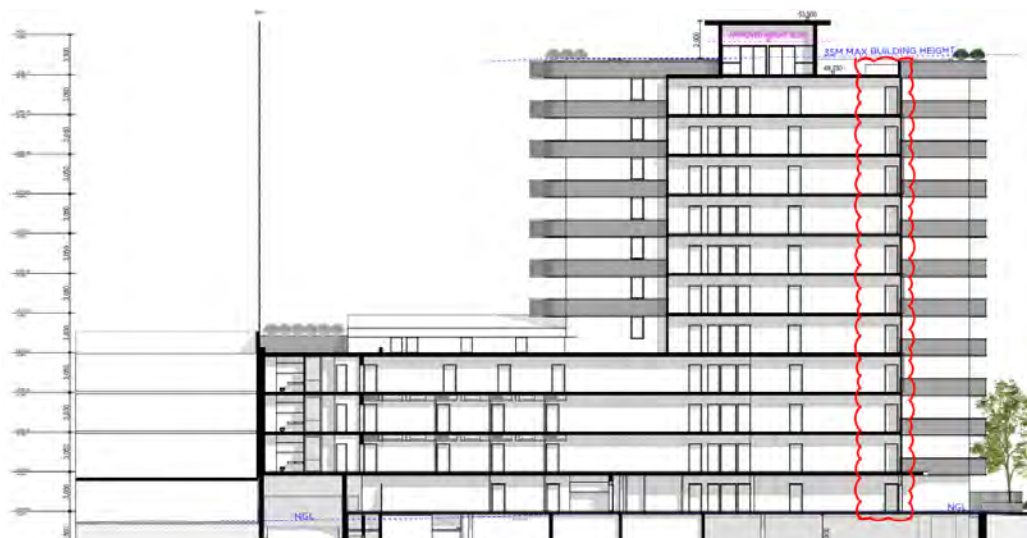


Figure 3: Approved DA2016/170/2 section plan showing 3.05m floor to floor height



Figure 4: Proposed Bridge Road elevation plan showing increase in building height to 39.17m



Figure 5: Approved DA2016/170/2 Bridge Road elevation plan showing maximum building height of 37.9m

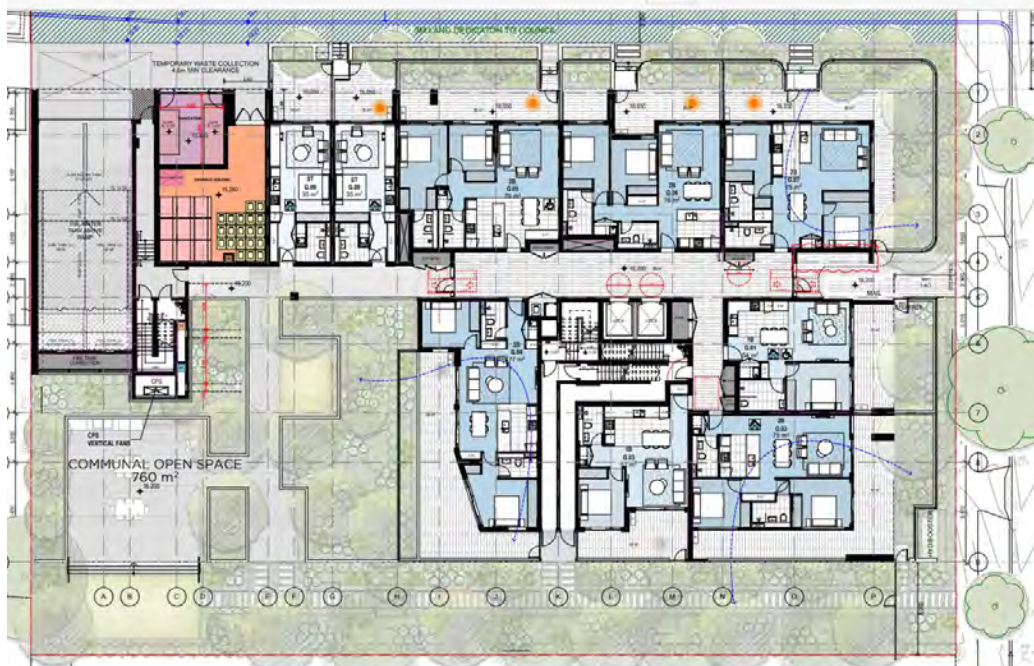


Figure 6: Proposed ground floor plan showing reduced COS area and provision of additional services, minor internal alterations and enclosure of pedestrian access adjoining driveway.

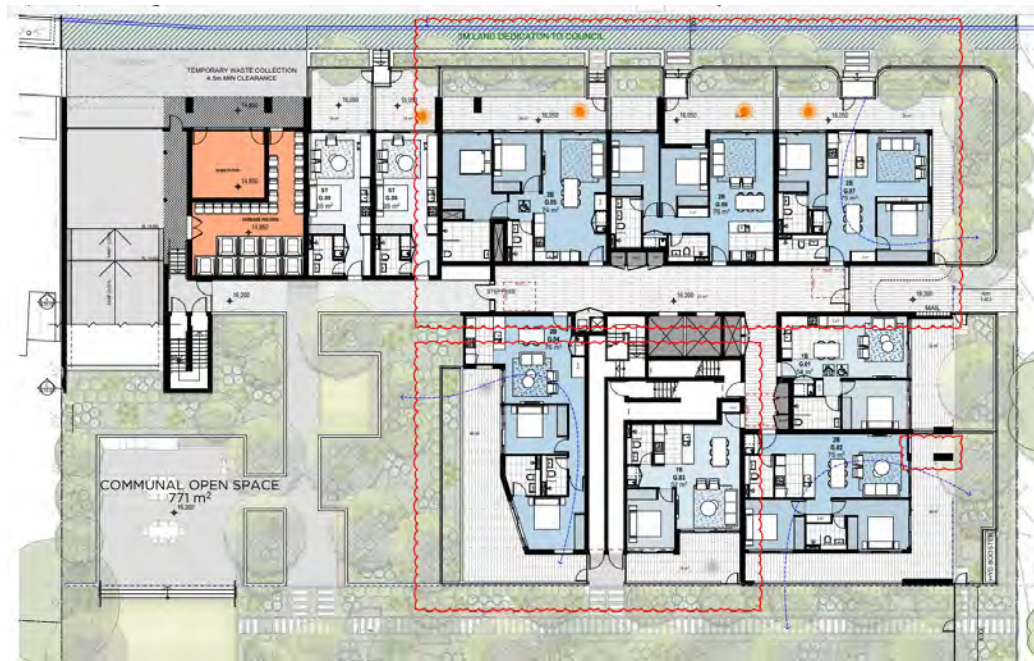


Figure 7: Approved DA2016/17/2 ground floor plan showing COS area.

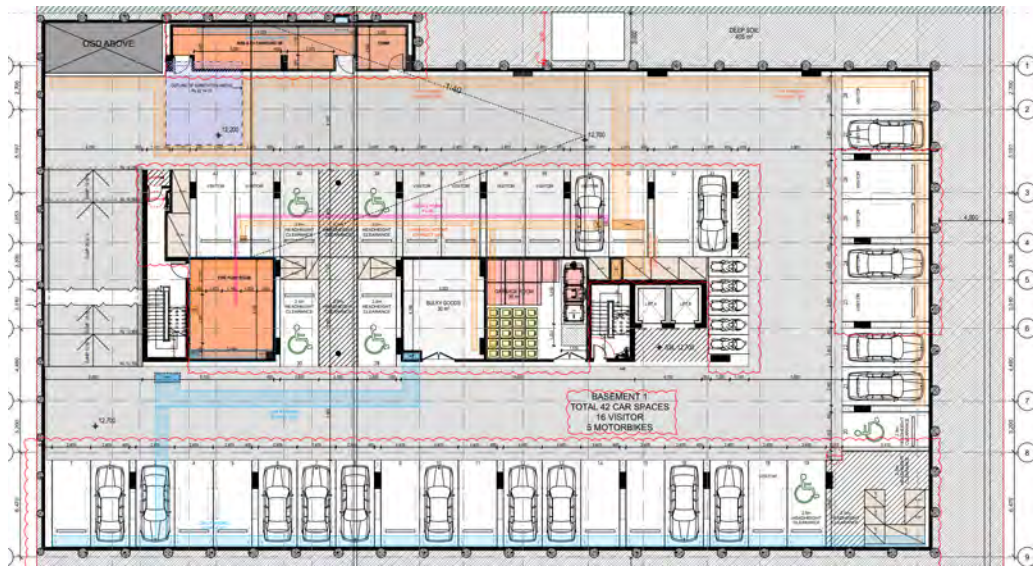


Figure 8: Proposed basement 01 plan showing 42 parking spaces.

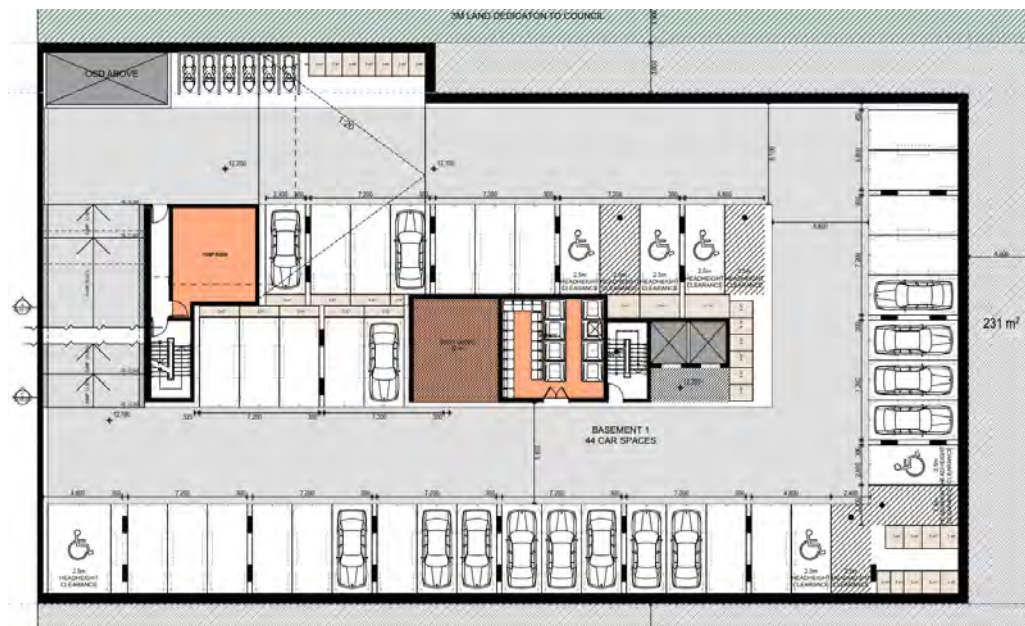


Figure 9: Approved DA2016/170/2 basement 01 plan showing 44 car parking spaces.

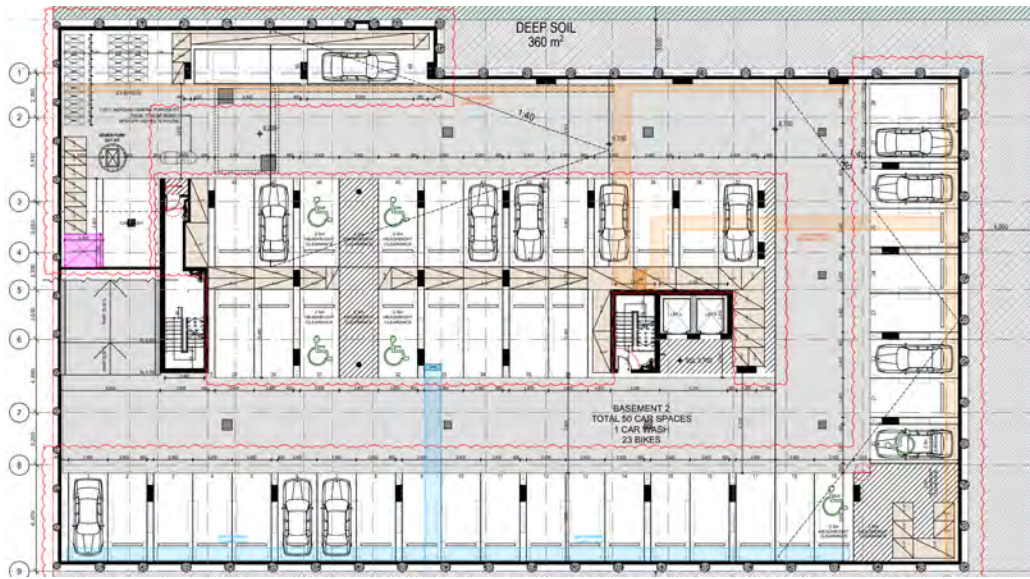


Figure 10: Proposed basement 02 plan showing proposed reconfiguration and 50 car parking spaces.

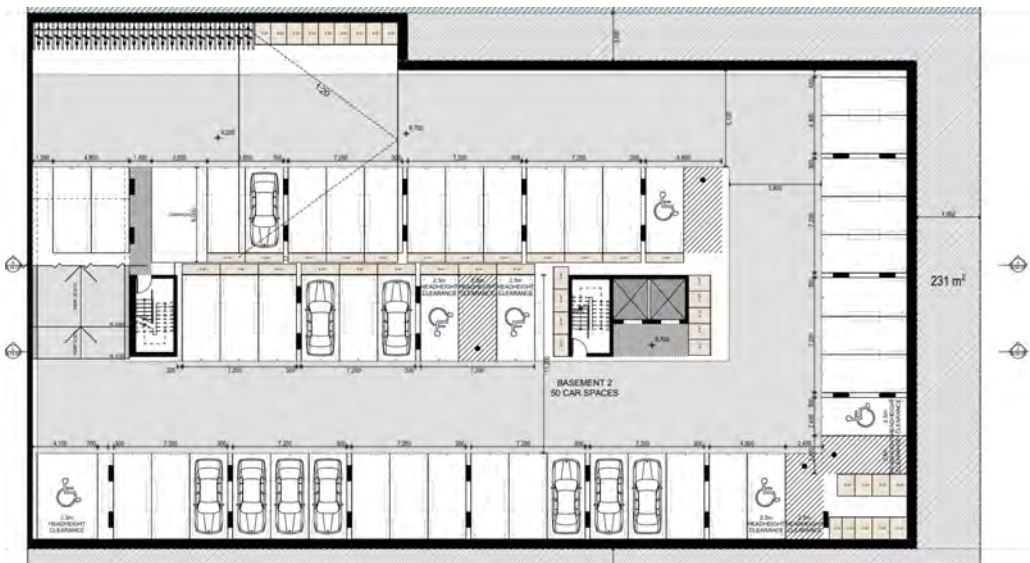


Figure 11: Approved DA2016/170/2 basement 02 plan showing 50 car parking spaces.

Background

Date	Comments
15 June 2017	A deferred commencement consent was granted by Sydney Central Planning Panel for the purpose of demolition of existing structures and construction of a part three, part eleven-storey residential flat building containing 77 units over three levels of basement parking.
27 November 2019	The deferred commencement conditions were satisfied, and a new notice of determination was issued with the same proposal



	description as the deferred commencement NOD issued on 15 June 2017.
4 March 2021	Consent was granted by the Strathfield Local Planning Panel for the modification application DA2016/170/2 for the purpose of increasing the maximum building height and FSR, increase the total number of residential units from 77 to 80 units, reduce the number of basement levels and increase the amount of communal open space and deep soil landscaping.
19 April 2021	Consent was granted by Council for the modification application DA2016/170/3 to modify a Council error to include Lot 23 DP 9481 in the Notice of Determination issued for DA2016.170 and DA2016.170.2.
17 September 2021	Consent was granted by Council's Internal Development Assessment Panel for the modification application DA2016/170/5 for reconfiguration of apartment layouts and amendments to glazing on the eastern façade of the approved residential flat building.
9 May 2022	Section 4.55 (1) Modification Application DA2016/170/6 was approved by Council to correct approved development description on notice of determination to match approved development on the site.
15 May 2024	DA2016/170/9 – The subject S.455(2) Modification Application is lodged to increase the approved building height of the residential flat building to facilitate delivery of relevant services to ensure NCC compliance and facilitate delivery of 2.7m floor to ceiling heights in habitable rooms, minor internal reconfigurations, minor changes to facade and car parking and addition of essential services.
4 October 2024	DA2016/170/8 - Section 4.55 (1A) Modification Application was approved under delegated authority to amend Condition 13 which relates WaterNSW General Terms of Approval in the original consent to allow for the disposal of groundwater post construction as part of a drained basement design.

The Site and Locality

The subject site is legally described as Lot 198 DP 1284363 and commonly known as 3-5 Bridge Road, Homebush. The site is a rectangular shaped parcel of land and is located to the west of Bridge Road between Parramatta Road (north) and Loftus Crescent (south). The site has a total area of 2,558.9sqm. The site is relatively flat with a fall of approximately 1m from front to rear.

The area is characterised by a mixture of development types including detached dwellings, older small scale residential flat buildings and newer large scale residential flat buildings and mixed-use development. Older industrial and commercial development is also present in the immediate vicinity and wider Parramatta Road Corridor.

Referrals

Internal

Traffic Engineering

The proposed modification was referred to Council's Traffic Engineer who provided the following comments:

"The proposal provides a total of 92 on-site car spaces over two basement levels, i.e.



Basement 1 - 42 parking spaces, including 10 visitor and 5 motorcycle parking,
Basement 2 - 50 parking space including 1 car wash bay and 23 bicycles,

which satisfies the minimum parking requirement and is considered to be satisfactory.

RMS TDT 2013/04a stipulate traffic generation rates for high density residential flat buildings as follows:

- AM Peak 0.19 vehicle trips per unit
- PM Peak 0.15 vehicle trips per unit

For an increase from 77 units to 80 units, the S4.55 generates a net increase of:

- AM Peak 0.57 vehicle trips
- PM Peak 0.45 vehicle trips

Comment: This modified proposal will have no parking or traffic implications beyond the approved development.”

Environmental Health

The proposed modification was referred to Council's Environmental Health Officer who provided the following comments:

Comment: “Environmental Health is concerned that noise and vibration may impact residential receivers due to the close proximity to bedrooms. As such, we are not supportive of the proposed relocation of air conditioning units to occupant’s balconies, due to the lack of detail and information, and likelihood of offensive noise.”

Council’s planning officer resolved that despite the potential noise and vibration concern from the Environmental Health Officer, the air conditioning units were approved in the original development and is to be used for residential use, as such have been considered previously. The proposed relocation is not expected to generate excessive noise impact. Further, the original development consent has the following condition imposed on the development to ensure offensive noise to the occupants and neighbouring residents are kept to a minimum:

“14 Noise Impact

Prior to issue of the construction certificate, the applicant must submit to Council for its approval, an acoustic report prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises, air conditioning units and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5Db.”

As such, the acoustic impact is considered acceptable.

External

No external referrals were made for the subject modification application.

Section 4.15 Assessment – EP&A Act 1979



The modification application has been submitted in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act which relates to amendments of a more substantial nature. The following provisions of Section 4.55(2) of the Act need to be considered in the assessment of the application.

Section 4.55(2) Other modifications

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

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

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with—

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

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

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

In considering whether the development is substantially the same, the applicant bears the onus of satisfying the consent authority that the modified development is substantially the same as the original development (*Vacik Pty Ltd v Penrith City Council*, unreported, 24 February 1992).

In this judgement, Stein J states that it is not appropriate to simply say that the nature of the development, in this case the use of the site as a residential flat building, as amended would be the same use and therefore substantially the same development. Stein J goes on to say that it is necessary to consider whether the proposed modified development would be *essentially or materially* or having the same **essence** as that which had been originally approved. These comments are reiterated in *Trinvass Pty Ltd v The Council of the City of Sydney [2018] NSWLEC 77*.

Bignold J in his decision in *Moto Projects No 2 Pty Limited v North Sydney Council [1999] 106 LGERA 298*, states that:



“The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the (currently) approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”

The proposed modifications, includes the following changes:

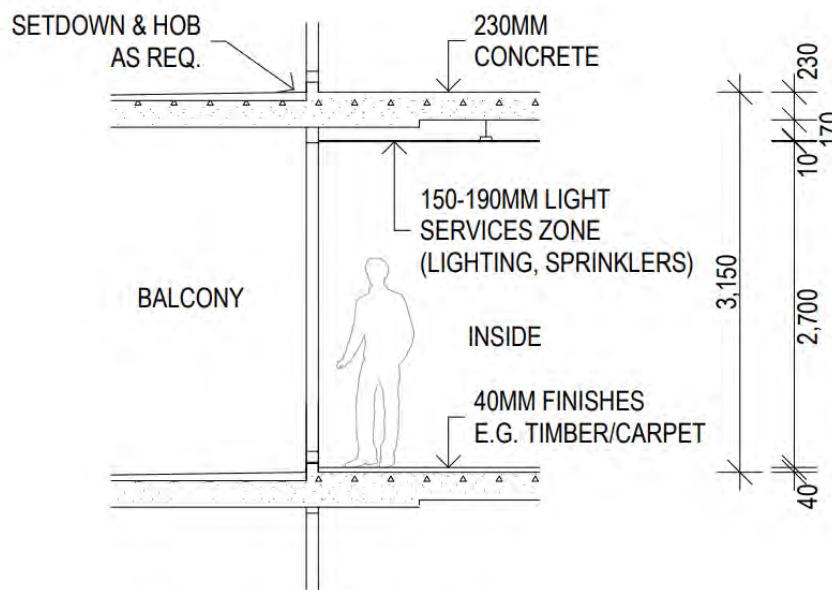
- Increase in floor-to-floor height to accommodate 2.7m floor to ceiling heights in habitable rooms on Levels 1 to 11 and subsequent increase in the lift overrun height
- Inclusion of additional services at the ground floor including CPS vertical fans, fire tank connection and water tank above;
- Minor reduction in communal open space at ground level to accommodate additional services.
- Enclosure of pedestrian access adjoining driveway.
- Increase in the room size for waste holding, and extension of substation
- Reduction of parking spaces from 94 to 92 on basement level
- Minor internal layout reconfigurations.
- Placement of air conditioning units on balconies of their respective units.
- Minor facade changes include adjustment of the curve in the north-eastern corner balconies as well as balustrade detail.
- Inclusion of structural columns at the pedestrian access off Bridge Road in accordance with structural engineer’s advice.
- Minor reduction in communal open space at the roof top area due to the provision of services and fans; and
- Replacement of lighter toned brick with a vertically grooved precast panel finished in a similar tone to the brick it replaces.

The proposed modifications above still provides for a development that is substantially the same as the development for which consent was granted (DA2016/170), and subsequently modified (DA2016/170/2). The consent authority can therefore consider the application pursuant to Section 4.55(2) of the EP&A Act. In reaching this conclusion, the modifications are considered against the above principles.



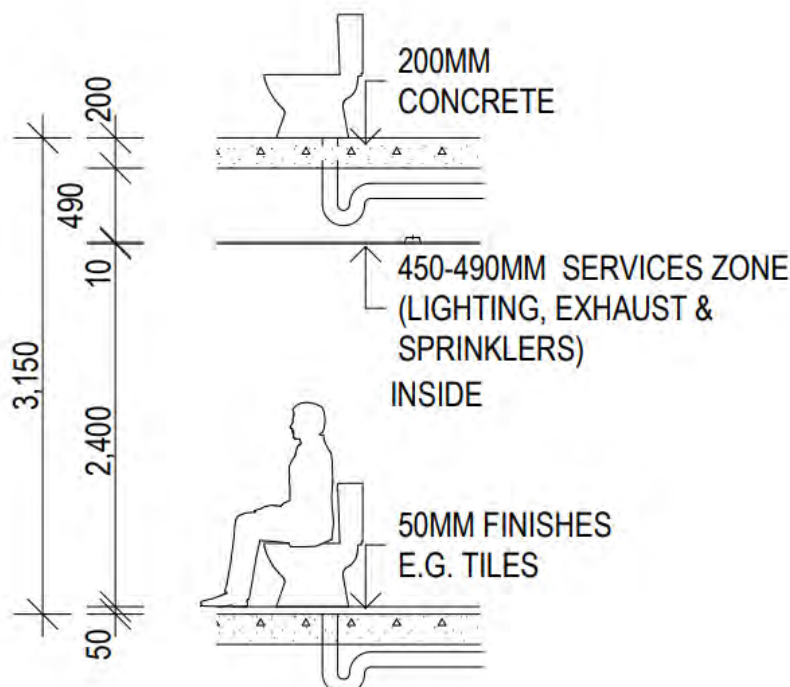
A comparison between the development as modified and the development that is the subject of the original (and subsequent) consent, can conclude that there is no considerable difference in the visual or physical appearance of the building, and therefore the extent of the modification will be “essentially or materially having the same essence” as the approved development (Vacik endorsed in *Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298 at [30]*).

The physical form of the building will be generally unchanged and is not substantially different from the form approved. Importantly, the proposed modifications simply provide increased floor to floor heights and will achieve a similar outcome (as originally approved) when viewed from the public domain. The proposed modifications will ensure a 2.7m floor to ceiling height can be achieved during construction for habitable rooms and that the necessary zone for services can be provided, therefore satisfying the ADG and NCC. This will maintain a high level of residential amenity for future occupants without significantly impacting the amenity of adjoining properties, despite the increase in building height. The proposal will also improve the internal layout of units through minor changes and accommodate additional services as necessary.



TYPICAL LIVING ROOM

Figure 12: A typical habitable room showing the floor to floor to heights. floor to ceiling height and services



TYPICAL WET AREA

Figure 13: A typical wet area showing the floor to floor to heights. floor to ceiling height and services

The modification proposal will provide air conditioning units on balconies; however, these will not be visible from the streetscape as the approved balustrades provides sufficient screening. Of relevance, there will be no change to the apartment count or mix, no increase in GFA and no alteration to the building envelope or form.

There will be no change to intensity or density and the proposed modifications will still have the same essence as the original approval and the proposed modifications will “alter without radical transformation”

The proposed modifications also do not alter the approved use of the land as a residential flat building. Whilst the intensity of use, of itself, is not sufficient to conclude the development is substantially the same, it is a relevant consideration.

Quantitative Assessment

In terms of a quantitative assessment, the proposed modifications will increase the approved height of the building by a maximum of 1.27m, noting this is a result of the increased floor to floor height to ensure provision of a 2.7m floor to ceiling height for habitable rooms and for relevant services. The remainder of the building form will be retained as approved.



The approved development does not comply with the height of buildings development standard (37.9m) and the proposed modification merely increases the height to meet the relevant Australian Standards. That is, the proposed modifications introduces a further a minor non-compliance. With regards to FSR, landscaped area, building envelope and apartment count and mix, this will be unchanged as part of this application. The proposal will reduce the number of parking spaces by two (2), however, satisfies the applicable parking requirements.

All other changes are minor, and largely internal, relating to enhancing the layout of apartments and provision of services. The additional building height proposed will not have an adverse impact on the amenity of adjoining properties, will not result in a radical transformation of the approved residential flat buildings and will be entirely compatible with the nature of development in Homebush.

The proposed amenity impacts are considered to be manageable, and the envelope will have no adverse impact on adjoining properties and from the streetscape.

Qualitative Assessment

Qualitatively, the proposal will retain the desired character of the residential flat buildings as viewed from Bridge Road and nearby streets. The increase in building height will have no bearing on the building envelope, form or design elements and will present to the surrounding locality as originally approved. The alterations to the height are relatively minor and will have a perceptible impact to the streetscape or amenity of the surrounding properties, nor will it be discernible to a casual street observer. The balance of the changes will not be overly perceptible from the public domain and largely relate to internal layout, with some minor façade amendments that will enhance the development.

These facade changes are relatively minor and will not substantially change the external appearance of the development, as approved. The change to materials from pre-formed brick panel to a pre-cast groove textures finish is considered acceptable and there is not a reduction in the overall quality of finish the building.

Furthermore, the inclusion of air conditioning units on residential balconies is not expected to have any additional adverse acoustic impacts, as supported by the acoustic assessment submitted with this application. A condition of consent is imposed in the original consent to ensure that noise impacts from the air conditioning unit and mechanical units are kept to a minimum (5db).

Overall, the form and scale of the approved development will not be transformed, excluding the minor increase in height to provide services, and remains compatible with the scale of other developments in the immediate locality.

In conclusion, the modifications proposed by this application are considered to result in a development that is substantially the same as the development for which consent was originally granted. This proposal does not seek to alter the residential use or built form other than a minor increase in building height, change finish material palettes. The proposal will continue to operate under all other conditions imposed under DA2016/170 and its subsequent modification applications.

In terms of the above, the below are provided in comparison to demonstrate that the footprint of the development and its external appearance remains in the essence of that originally approved:

The following is an assessment of the application with regard to Section 4.15 (1) of the Environmental Planning and Assessment 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 below:

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIES
State Environmental Planning Policy (Biodiversity and Conservation) 2021 <ul style="list-style-type: none"> Chapter 2 – Vegetation in non-rural areas Chapter 6 – Sydney Harbour Catchment 	Yes Yes
State Environmental Planning Policy (Sustainable Buildings) 2022	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021 <ul style="list-style-type: none"> Chapter 4 – Remediation of land 	Yes
State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment	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.

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 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

An amended BASIX Certificate has been issued in accordance with the standards of the Sustainable Buildings SEPP 2022 and the commitments required by this certificate have been satisfied and included on the development plans.

Certificate No. 769404M_06



Dwelling Type: Multi Dwelling
Dated 30 April 2024

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of land

Chapter 4 applies to the land and pursuant to Section 4.15 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.

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

STATE ENVIRONMENTAL PLANNING POLICY No 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

On 26 November 2021, the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) was published on the NSW Legislation website and as a consequence of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) was repealed.

Nevertheless, Schedule 7A Savings and transitional provisions of the Housing SEPP state at clause 2(1):

1) This Policy does not apply to the following matters—

d) a development consent granted on or before the commencement date,

As such, clause 2(1)(d) includes modification applications to a development consent granted on or before the commencement date of the Housing SEPP, and therefore SEPP 65 remains relevant and has been addressed by the applicant as part of this application.

The application has been accompanied by a design verification from a qualified designer that verifies that:

a) He or she designed or directed the design of the modification, and

b) The modifications achieve the design quality principles as set out in Part 2 of SEPP No 65, and

c) The modifications do not diminish or detract from the design quality, or compromise the design intent of the approved development.

The applicant's response to these design recommendations have been used in the assessment of the design quality principles and are detailed below;

Design Quality Principles under Schedule 1 of SEPP 65



Principle	Objective	Proposed
<p>Principle 1: Context and neighborhood character</p>	<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 undergoing change or identified for change.</p>	<p>The area surrounding the subject site is currently transitioning from low/medium density housing stock to high density residential and mixed-use development in accordance with the zoning provisions of the SLEP 2012. The proposed design responds to the desired future character as envisaged by the SLEP 2012 by providing a high quality residential flat building that incorporates a suitable mix of apartments to accommodate a variety of occupant types. The proposed design is consistent with new developments within the surrounding area. It is noted that there have also been several recent approvals in the locality for similar residential flat buildings that adopt a similar built form and building proportions in line with the draft Key Sites footprints.</p>
<p>Principle 2: Built form and scale</p>	<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>The proposed modification, while seeking a 4.17m or 11.9% departure from the permitted 35m building height, achieves an appropriate bulk and scale that is responsive to the desired future character of the area and more recent approvals in the street. The development has been designed having regard to building orientation, separation, privacy and the provision and arrangement of communal open space to ensure that all apartments receive a high level of residential amenity. The built form defines the public and private domain and provides a pedestrian scale to the development through the incorporation of direct street access to the ground floor units and the provision a large pedestrian atrium the site’s Bridge Road frontage.</p>
<p>Principle 3: Density</p>	<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</p>	<p>The proposal achieves a high level of residential amenity to units through practical unit layouts and adequate access to natural light and ventilation.</p>



Principle	Objective	Proposed
	<p>infrastructure, public transport, access to jobs, community facilities and the environment.</p>	
<p>Principle 4: Sustainability</p>	<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>The proposed development maintains the use of natural cross ventilation to minimise the dependency of the building on mechanical ventilation. Further, the building provides compliance with the minimum solar access requirements to reduce the buildings dependency on artificial lighting. The application is supported with an amended BASIX Certificate.</p>
<p>Principle 5: Landscape</p>	<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>The development incorporates natural landscaping, integrating the proposed building into the streetscape through the use of tree plantings which are responsive in scale to the development.</p> <p>The landscape design enhances the communal open spaces, providing shade trees and a range of areas/zones that can be used simultaneously by different residents whilst providing a sense of privacy through landscaped treatments including the provision of in-built utilities such as BBQs.</p>
<p>Principle 6: Amenity</p>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p>	<p>The proposal is designed to provide a good level of internal amenity for residents. 76% (59 units) receive 2 or more hours of solar access where the ADG requires a minimum of 70% (54 units) and 80% (62 units) are naturally</p>



Principle	Objective	Proposed
	<p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>cross ventilated where the ADG requires a minimum 60% (46 units).</p>
<p>Principle 7: Safety</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>The proposed modification maintains a strong definition between the private and public domain.</p> <p>Apartments have been orientated to front the future laneway extension and ensure this space benefits from passive surveillance.</p>
<p>Principle 8: Housing diversity and social interaction</p>	<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>The proposal provides the following housing mix:</p> <p>(8) x Studio Units;</p> <p>(10) x 1 bedroom;</p> <p>(52) x 2 bedroom; and</p> <p>(10) x 3 bedroom units. The proposed housing mix is considered acceptable and provides for a variety of housing types. The proposed ground level area of communal open space provides different areas of communal open space defined through different landscape treatments that allow flexibility in the use of the communal area.</p>
<p>Principle 9: Aesthetics</p>	<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 proposed modification maintains a strong built form that has appropriate proportions as envisaged by the draft Key Site controls. Further, the building composition is balanced through material treatment.</p>



Principle	Objective	Proposed
	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.	Overall, the scheme provides an appropriate aesthetic and presentation in context of the site location and orientation and in addressing both Parramatta Road, Bridge Street and the Smallwood Avenue entry point.

Apartment Design Guide Compliance Table

The following design requirements of the ADG not detailed in the SEPP 65 discussion above are assessed in the table below:

Required	Approved	Proposed	Compliance
2E – Building Depth			
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls.	The building depth reflects the approved outcome under DA2016.170. At certain points it is deeper than the required depth, however achieves a site responsive outcome	The subject modification does not propose any changes to the building depth approved outcome under DA2016.170 and subsequent modifications. It is considered that the proposal maintains a responsive outcome.	Yes – No changes
3B – Orientation			
<i>Objective 3B-1</i> <i>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</i> Buildings along the street frontage define the street, by facing it and incorporating direct access from the street Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east-west.	The approved development maintains the site responsiveness, with access from the laneway off Smallwood Avenue facilitating improved pedestrian and vehicular outcomes.	No changes proposed	Yes – No changes.
3D – Communal Open Space			



<p><i>Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</p> <p>Communal open space has a minimum area of 25% (639.7sqm) of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal useable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter).</p> <p>Communal open space should be consolidated into a well-designed, easily identified and useable area.</p> <p>Communal open space should have a minimum dimension of 3m and larger developments should consider greater dimensions.</p>	<p>The approved ground floor communal open space area is 771sqm.</p> <p>It is noted that an additional communal open space area of 451sqm was approved under DA2016/170/2</p>	<p>The modification proposes an 11sqm decrease in the ground floor communal open space area to accommodate additional services on the ground floor. Accordingly, the development would maintain a communal open space area of 760sqm on the ground floor.</p> <p>It is noted that the roof top communal open space area of 451sqm approved in DA2016/170/2 is unchanged</p>	<p>Yes - Complies</p>
3E – Deep Soil Zones			
<p><i>Objective 3E-1</i> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Provide deep soil zone comprising minimum 7% of site area (438m²) and a minimum dimension of 6m. 15% of the site area if greater than 1,500m².</p>	<p>360sqm of deep soil zone approved under DA2016/170/2</p>	<p>No proposed changes</p>	<p>Yes- No change</p>



3F – Visual Privacy			
<p><i>Objective 3F-1</i> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Up to 12m (4 storeys) Habitable rooms and balconies – 6m</p> <p>Non-habitable rooms - 3m</p>	<p>DA2016/170 approved building separation for the development having regard to the visual privacy provision</p>	<p>The proposal maintains the approved building separation between balconies under the original consent, DA2016/170. No proposed changes in this regard.</p>	<p>Yes – No changes</p>
3G – Pedestrian Access and Entries			
<p><i>Objective 3G-1</i> Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries should be provided to activate the street edge.</p> <p>Building entries should be clearly identifiable and communal entries should be distinguishable from private entries.</p> <p><i>Objective 3G-2</i> Access, entries and pathways are accessible and easy to identify</p> <p>Building access areas including lift lobbies, stairwells and hallways should be clearly visible from public domain and communal spaces.</p>	<p>DA2016/170 & DA206/170/2 approved clearly identifiable pedestrian entry points from Bridge Road.</p>	<p>The pedestrian entry points from Bridge Road are maintained for the development in the subject modification.</p> <p>However, it is noted that subject modification encloses the pedestrian access adjoining the driveway to comply with NCC provisions.</p> <p>The pedestrian access maintained are considered acceptable.</p> <p>Building access areas including lift lobbies, stairwells and hallways remain visible from the public domain in the subject modification as approved originally.</p>	<p>Yes</p>



<p>The design of ground floors and underground carparks minimise level changes along pathways and entries.</p> <p>Steps and ramps integrated into overall building and landscape design.</p>			
3H – Vehicle Access			
<p><i>Objective 3H-1</i> <i>Vehicle access points are designed and located to achieve safety, minimise conflict between pedestrians and vehicles and create high quality streetscapes.</i></p>	<p>The vehicle access from the laneway off Smallwood Avenue has been integrated into the design and the garbage holding area is screened.</p>	<p>No changes proposed.</p>	<p>Yes – No changes proposed</p>
3J – Bicycle and Car Parking			
<p><i>Objective 3J-1</i> <i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</i></p> <p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> • <i>On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area.</i> <p>11 spaces for studios/ 1-bedroom apartments 47 spaces for 2-bedroom apartments 14 spaces for 3-bedroom apartments 16 spaces for visitor parking.</p> <p><i>88 Spaces required</i></p>	<p>94 parking spaces approved</p>	<p>The proposed modification reduces the parking spaces to 92 spaces. The modification was reviewed by Council's traffic engineer who deemed it as acceptable. The parking spaces comply with the applicable parking requirements</p>	<p>Yes</p>
4A – Solar and Daylight Access			
<p><i>Objective 4A-2</i></p>			



<p><i>Daylight access is maximised where sunlight is limited.</i></p> <p>Living rooms and private open spaces of at least 70% of units receive 2 hours of sunlight between 9am and 3pm at mid-winter.</p> <p>A maximum of 15% of units (18 units) receive no direct solar access between 9am and 3pm at mid-winter.</p>	<p>58 (73%) of units receive greater than 2hrs of solar access, while this was 76% under the approved scheme.</p>	<p>The proposed modifications do not result in any changes to solar access into the residential units as approved in the DA2016/170. No external window changes are proposed. Further, the internal layout changes to the units do not result in any loss of sunlight amenity. The development remains consistent with the approval under DA2016/170.</p>	<p>Yes – No changes</p>
4C – Ceiling Heights			
<p><i>Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.</i></p> <p><u>Minimum floor to ceiling heights:</u></p> <ul style="list-style-type: none"> • Habitable: 2.7m • Non-habitable: 2.4m <p><i>Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</i></p> <p><i>Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building.</i></p>	<p>The original development approved a floor to floor height of 3.05m for the development which was to accommodate 2.7m for habitable rooms.</p>	<p>The proposed modification seeks to facilitate delivery of relevant services to ensure compliance with NCC requirements and facilitate the delivery of 2.7m floor to ceiling in habitable rooms by providing a 3.15m floor to floor height which is an increase from 3.05m originally approved.</p>	<p>Yes</p>
4D – Apartment Size and Layout			
<p><i>Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</i></p>	<p>The original approval in DA2016/170 complies with the</p>	<p>The proposed modification results in no changes to the approved internal unit areas</p>	<p>Yes – No change proposed</p>



<p><u>Minimum internal area:</u></p> <ul style="list-style-type: none"> • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² • Additional bathrooms +5m² 	<p>minimum internal areas for units</p>		
4E – Private open space and balconies			
<p><i>Objective 4E-1 Apartments provide appropriately sized private open spaces and balconies to enhance residential amenity.</i></p> <p>Studio: 4m² 1 bed: 8m², min depth 2m 2 bed: 10m², min depth 2m 3 bed: 12m², min depth 2.4m</p> <p><i>Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents.</i></p>	<p>The original approval in DA2016/170 approved a number of non-compliances in terms of the depth of balconies</p>	<p>The subject modification does not incorporate any changes to balconies and private open spaces.</p>	<p>Yes- No changes proposed</p>
4H – Acoustic Privacy			
<p><i>Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout</i></p> <p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.</p> <p>Window and door openings are generally orientated away from noise sources.</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter</p>	<p>A condition of consent is imposed in the original development, DA2016/170 to ensure noise impacts from air conditioning units</p>	<p>The development maintains the approved building separation. Window and door openings are generally orientated away from noise sources. The noise impacts generated from the AC units that are to be re-distributed on the balconies to be managed by Condition No. 14</p>	<p>Yes</p>



areas next to or above quieter areas			
4V – Water Management and Conservation			
Water Management and Conservation Efficient fixtures/fittings WSUD integrated Rainwater storage and reuse	Basix Certificate No. 769404M_02, dated 2 October 2020 was approved under DA2016/170/2	The proposed modification includes an amended Basix Certificate which is considered acceptable. Basix Certificate No. 769404M_06 24 April 2024	Yes

Strathfield Local Environmental Plan

The approved development as modified by the subject Section 4.55 modification is subject to the Strathfield Local Environmental Plan 2012 and is consistent with the aims of this plan.

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The subject site is zoned R4-High Density Residential, and the proposal is a permissible form of development with Council’s consent and is considered that the development meets the objectives of the zone.

residential flat building means a building containing 3 or more dwellings but does not include an attached dwelling or multi dwelling housing.” No change is proposed in the subject modification proposal to the approved use of the site for the purpose of a residential flat building.

2.3 Zone Objectives and Land Use Table

The modifications sought as part of this application are consistent with the following objectives of the R4 High Density Residential Zone.

- 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

Comments: The proposed development providing for additional housing opportunities to meet the needs of the community in a high density residential environment and is considered to be consistent with the objectives of the R4 High Density Residential zone

Part 4 – Principal Development Standards

The modification application seeks to amend the approved height as follows:

Applicable SLEP 2012 Clause	Development Standards	Approved (DA2016/170/2)	Development Proposal	Compliance/ Comment
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4.3 Height of Buildings	35m	37.9m	39.17m	No – 4.17m (11.9%) variation.
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In accordance with *Gann & Anor v Sutherland Shire Council [2008]*, where the Court held that despite a SEPP No. 1 Objection (or Clause 4.6 variation) not being required, Section 4.55(3) of the EP&A Act still requires the consent authority to take into consideration those matters referred to in Section 4.15 of the EPA Act, including the objectives of the development standard. This assessment is undertaken below.

- (a) to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area.

Comment: The proposed modification incorporates an increase to the height of the building to accommodate the increase in the floor to ceiling heights. The proposed modified height would be 39.17m, representing a variation of 4.17m (11.9%) over the 35m development standard. The breach in height is entirely a result of the increase to the floor to ceiling heights

Notably, whilst the height of the roof level will increase, the wall height of the building complies with the 35m development standard, excluding the lift overrun.

The proposed modifications will not significantly alter the appearance of the approved development and the proposal, as modified, is considered compatible with the desired future character of development within the locality.

The approved, built form will not be significantly altered with the modification to the floor to floor height resulting in the height breach. The increase floor to floor heights to ensure the delivery of relevant services in accordance with the NCC and a 2.7m floor to ceiling height within habitable rooms during construction necessitates the proposed height. The increase in height is relatively minor, ranging from 1m to 1.15m at different points of the building and will not impact the character of the approved built form or relationship to the prevailing character of surrounding development, including existing and recently constructed residential flat buildings and ageing residential dwellings.

Further, the increase in building height is relatively minor and will not impact the perceived bulk and scale of the approved development and will continue to be compatible with the Bridge Road and Homebush locality. The approved development is considered satisfactory with the desired scale and character of the locality.

Additionally, the approved landscape plan of the site will not be significantly altered. As detailed, the new works relate to an increased floor-to-floor height of the building above ground level and therefore the quantum and design of the landscaped area will be unchanged from the approved development.

Accordingly, it is considered that the scale of the building is compatible with adjoining development, the desired future character of the locality and the natural setting.

The increase in the floor to ceiling heights relate to a height variation relating only to the lift overrun and roof slabs which do not offend this compatibility in any noticeable way. The proposal therefore satisfies the objectives as follows:

- (b) (a) to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area



Comment: The proposed modifications result in a minor increase in the approved building height by a maximum of 1.27m. Noting that DA2016/170 approved a maximum 37.9m building height, the proposed height of 39.17m is considered to be minor and would remain generally compatible with developments in the vicinity. The development maintains the desired scale and character of the locality. The lift overrun remains the highest element of the built form is centrally located and is unlikely to be apparent from the public domain and will be consistent with the original approval. .

- (c) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area.

Comment: The proposed modifications do not alter the size or density of the approved development, and as such will not alter the provision of a diversity of development options within the locality, as approved. The proposed development is therefore consistent with the relevant objectives for maximum height, despite the numeric non-compliance.

The proposed development achieves an outcome that is compatible with the envisioned character for Parramatta Road. The height exceedance does not contribute to additional floor space, with the increase in FSR the result of an increase in height for the lower portion of the building.

Part 5 – Miscellaneous Provisions

Clause 5.10 - 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.

Clause 5.21 - Flood Planning

The subject site has been identified as being flood affected. The application has been reviewed by Council's Engineer who has raised no objection to the subject modification in terms of compatibility with the flood hazard of the land. The nature of the subject modification does not give rise to any 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 this clause.

Part 6 – Additional Local Provisions

Clause 6.1 - 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. The subject modification works do not include any earth surface works which would require the consent authority, under the provisions of this section to consider an Acid Sulfate Soils Management Plan in its assessment of the proposal.

Clause 6.2 - Earthworks

The proposed modification does not include any additional excavation, or basement works to what has been approved under DA2016/170. 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.



Clause 6.4 - 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. The subject modification proposes no changes to the approved development.

It is considered that the proposed modification remains satisfactory with the approved development under DA2016/2017 and is consistent with the aims, objectives and development standards, where relevant, of the Strathfield LEP 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 this site.

(iii) any development control plan,

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

STRATHFIELD DEVELOPMENT CONTROL PLAN NO 20 – PARRAMATTA ROAD CORRIDOR AREA

DCP – 20 is of relevance to the assessment of an application for a residential flat building within the Parramatta Road Corridor Area and as such applies to the subject application.

Clause 6(1) of SEPP 65 confirms that in the event of any inconsistency between the controls of the ADG and Council's Development Control Plan, the objectives, design criteria and design guidance set out in the ADG prevail.

This confirms that if a development control plan contains provisions that specify requirements, standards or controls in relation to the following matters, those provisions are of no effect:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage,
- (i) parking.

These matters, of relevance to the application, have been addressed in the ADG assessment above where it has been determined that the proposal is satisfactory. The remaining matters of relevance provided in the DCP have been addressed in the table below.



Development Control	Required	Approved	Proposed	Compliance
2.6 Façade Composition	Entrance should be distinguishable in the façade.	DA2016/170 and subsequent modifications approved distinguishable facades	Entries remain distinguishable and do not include opportunities for concealment.	Yes
	Facades should maintain a human scale to the street by incorporating appropriate architectural features.	DA2016/170 approved a design that maintains human scale, incorporating appropriate architectural features	Human scale is retained through development by the provision of individual entries to the ground floor apartments as well as a separate pedestrian access to other units.	Yes
	Materials and finishes should blend together with min. 30% to incorporate face brickwork.	DA2016/170 approved an appropriate schedule of colours and finishes	The proposal is generally consistent with the objectives of the control as noted in the ADG assessment.	Yes
	Consider the use of glass in facades on northern and western elevations in terms of glare impacts.	DA2016/170 approved an appropriate development with regards to glazing and associated heat and cooling performance that would meet BASIX requirements and this will be incorporated into conditions.	The proposal amendment is capable of meeting the updated BASIX requirements and this will be incorporated into conditions.	Yes
2.8 Visual and Acoustic Privacy	Visual privacy to be provided by separation or screening.	DA2016/170 approved appropriate privacy measures to be provided by separation or screening	No changes proposed.	Yes
	Main living areas oriented to the street or rear garden to prevent overlooking.	DA2016/170 approved appropriate privacy measures	No changes proposed in this regard	Yes
	Acoustic privacy must be considered in relation to proposal and surrounding environment.	The approved development and subsequent modifications considered acoustic privacy,	Acceptable, subject to condition No. 14 in DA2016/170. The proposed modification development re-distributes the air conditioning units to	Yes



Development Control	Required	Approved	Proposed	Compliance
		imposing Condition No. 14	their respective balcony areas. It is not expected that the acoustic impact from the residential air conditioning units will be excessive. Notwithstanding, Condition 14 for noise impact associated with air conditioning units and other noise sources is imposed to ensure the impacts are kept to a minimum.	
	Shared pedestrian entries shall be capable of being locked and serve a limited no. of dwellings	Secured entries maintained as approved under DA2016/170.	No changes proposed.	Yes – No changes
	Casual surveillance maintained of public streets and spaces with at least one habitable room window facing that area.	Casual surveillance is maintained through balcony orientation to overlook the public domain.	The proposed modification does no result in loss of casual surveillance opportunities for the development	Yes
2.9 Private Open Space	Retain and protect existing significant trees.	The original approval was granted for tree removal across the site as part of the original development application, DA2016/170. In addition, the approved landscape plan results in a comparable if not improved tree planting outcomes.	No changes proposed in regard to trees	Yes – no changes
	Each contiguous landscape area shall provide large trees.	Contiguous landscaped areas include canopy trees over deep soil zones and smaller trees on structures	No changes proposed.	Yes – No changes proposed
	Trees and pergolas to shade external areas	The approved development under DA2016/170	.	Yes – No changes proposed



Development Control	Required	Approved	Proposed	Compliance
	and control sunlight into buildings.	proposes trees along the property boundary to provide shade and control sunlight.	No changes proposed to trees and shade areas	
	<p>Proposal to provide common open space to the following dimensions:</p> <p>10% of site or 100m² (whichever is greater);</p> <p>Min dimensions of 7m;</p> <p>Positioned to receive sunlight, be conveniently located for residents with good opportunities for passive surveillance and contain durable children's play equipment;</p> <p>Located behind front setback.</p>	The original development and subsequent modifications were approved under the ADG considerations for communal open spaces.	<p>The modification proposes an 11sqm decrease in the ground floor communal open space area to accommodate additional services on the site.</p> <p>Accordingly, the development would maintain a communal open space area of 760sqm on the ground floor and additional roof top communal open space area which in turn complies with the ADG</p>	Yes

PART H – Waste Management (SCDCP 2005)

In accordance with Part H of Strathfield CDCP 2005, a waste management plan was submitted with the application. The approved plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is noted that the subject modification includes increasing the room size of the waste holding. Notwithstanding, there are no additional waste impacts envisaged in that regard.

Part I – Provision of Off Street Parking (SCDCP 2005)

The modification application was referred to Council's Traffic Engineer who deemed the reduction of the approved 94 parking to 92 spaces acceptable. Council's Traffic Engineer noted that modified proposal will have no parking or traffic implications beyond the approved development.

(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 approved development includes the demolition of buildings. Accordingly, the approval under DA2016/170 includes conditions relating to demolition. The subject modification would result in no changes in this regard. 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. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment or 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.

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

In accordance with the provisions of Councils Community Participation Plan, the application was placed on neighbour notification for a period of fourteen (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.

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. This section prescribes in part as follows:

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).

The modification application does not include additional residential units or change to unit mix, therefore Direct Development Contributions are not recalculated. Development Contributions were applied and have been calculated and imposed as conditions of consent in the original consent, DA2016/170 and the subsequent DA2017/170/02 which made substantial changes to the unit mix of the development.

Conclusion



The application has been assessed having regard to the Heads of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979, the provisions of the SLEP 2012 and SCDCP 2005.

1. The proposed modification does not result in a change to the description of the approved development.
2. The original conditions of consent of DA 2016/170 are retained as approved except where amended as below.
3. As part of this Section 4.55(2) application, the following conditions are to be modified;

15 Approved Plans and Reference Documentation

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

Plans affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2016/170:

Drawing No.	Title/Description	Prepared by	Issue Revision Date	/ Date & received by Council
S4.55-002	Site Calculations	Urban Link	B	21 January 2021
S4.55-003	Site Location	Urban Link	B	21 January 2021
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S4.55-106	Floor Plans Level 11	Urban Link	B	21 January 2024
S4.55-107	Floor Plans Roof	Urban Link	B	21 January 2024
S4.55-108	Floor Plans Basement 04	Urban Link	B	21 January 2024
S4.55-109	Floor Plans Basement 02	Urban Link	B	21 January 2024
S4.55-204	Elevations North	Urban Link	B	21 January 2021
S4.55-203	Elevations South	Urban Link	B	21 January 2021
S4.55-204	Elevations West	Urban Link	B	21 January 2021
S4.55-205	Elevations Bridge Rd Streetscape	Urban Link	B	21 January 2021
S4.55-206	Elevations Laneway Streetscape	Urban Link	B	21 January 2021
S4.55-304	Sections AA	Urban Link	B	21 January 2021
S4.55-302	Sections BB	Urban Link	B	21 January 2024
S4.55-303	Sections CC	Urban Link	B	21 January 2021



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S4.55-104	Floor Plans Level 04	Urban Link	C	26 May 2021
S4.55-105	Floor Plans Level 05	Urban Link	C	26 May 2021
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S4.55-202	Elevations East	Urban Link	C	26 May 2021
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BASIX Certificate	Jensen Hughes Pty Limited	# 769404M_06	24 April 2024
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In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail. However, the conditions of this consent shall prevail to the extent of any inconsistency.

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

MODIFIED: DA2016.170.9 DATE TBA XXXXX



SPECIAL CONDITIONS

2. Consolidation

The site shall be consolidated into one allotment and a plan of consolidation shall be approved by the Council, or lodged with Land & Property Information NSW (with proof of lodgment being furnished to the Council) **prior to issue of Construction Certificate** and shall be registered **prior to the issue of an Occupation Certificate**.

(Reason: to ensure that the proposed development is limited to a single allotment.)

3 Waste Collection

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

- (a) Full and free right must be provided to Strathfield Council employees or its authorised contractors to:
 - (i) Enter upon the land and remove any waste products using any vehicle or equipment as necessary;
- (b) The owner of the lot burdened shall be solely responsible for the cost of maintaining in good and sufficient repair at all times the internal roads or access ways used by Strathfield Council for the purpose of exercising its rights as set out in clause (a) above.

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

(Reason: To ensure for ongoing waste collection)

4 Adaptable unit

(12) adaptable units are to be provided within the development. Detailed plans showing the internal layout of the (12) units pre and post adaptation shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate**.

(Reason: To ensure compliance with DCP 20)

5 Vehicular access

*The applicant shall install a convex mirror at the driveway and a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment **Prior to the Issue of any Construction Certificate**.*

(Reason: Traffic Management and safety)

6 Storage

Purpose built storage compartment(s) shall be provided to and within each of the resident car parking bays and/or associated dwellings at the following rates:



- 4 m³ for each studio apartment
- 6m³ for each one (1) bedroom unit
- 8m³ for each two (2) bedroom unit, and
- 10m³ for each unit with three (3) bedrooms or more

In order to deter theft, the security compartments shall be designed in a manner to conceal from view and secure their contents i.e. through the use of dense, solid material and a shroud covered padlock (or similar).

(Reason: To ensure compliance with Apartment Design Guide)

7 Waste Collection

The basement design is to be amended to accommodate the following:

- *The Ground floor garbage holding room and Basement Level 1 Garbage Room must fit 18 X 1100L bins in total, being 9 (nine) X 1100L General Waste Bins for weekly collection and 9 (nine) X 1100L Recycling Bins for collection every fortnight. Alternatively, the development can have 15 (fifteen) X 660L general waste bins and 15 (fifteen) X 660L recycling bins (30 X 660L bins in total).*
- *Correct size of waste bin rooms and waste collection rooms, according to the proper bin requirements mentioned above must comply with a minimum rate of 2.03m² per 660L bin or 2.7m² per 1100L bin. 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.*

Reason: To ensure proper waste management in accordance with Council policy.

8 Clothes drying facilities

Screened communal clothes drying facilities receiving a minimum of 3 hours solar access as at 21 June are to be provided in the south western corner of the site. Amended plans including such changes are to be submitted to and approved by Council or an Accredited Certifier **prior to the issue of an Occupation Certificate.**

(Reason: To ensure compliance with DCP 20)

9 Master Antenna

A master antenna with internal connection to the each unit is to be provided **Prior to the Issue of any Occupation Certificate.**

(Reason: To ensure compliance with DCP 20)

10 Overhead powerlines

Prior to the issue of an Occupation Certificate all existing overhead electricity and telecommunication cabling adjacent to the development site shall be consolidated into a single Aerial Bundle Cable (ABC) at the applicants' expense in accordance with the specifications of AusGrid and the telecommunications supplier.



(Reason: To ensure compliance with DCP 20)

11 Services

All services, including downpipes, shall be concealed from view from the public domain.

(Reason: To ensure for a high level of design)

12 Design Quality Statement

The Principal Certifying Authority must not issue:

- a) A **Construction Certificate** unless the certifying authority has received a design verification statement from a qualified designer that verifies 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 in Part 2 of SEPP No. 65, in accordance with Clause 143A of the Regulations; and
- b) An **Occupation Certificate** to authorise a person to commence occupation or use of the residential flat building unless the certifying authority has received a design verification statement from a qualified designer that 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 SEPP No. 65, in accordance with Clause 154A of the Regulations.

(Reason: To ensure compliance with SEPP 65)

13 Water NSW

Dewatering

(a) 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:

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. 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.

[GT0116-00001]

(b) 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. The 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 paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.

[GT0117-00001]

(c) 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:

- (i) record water taken for which the exemption is claimed, and
 - (ii) record the take of water not later than 24 hours after water is taken, and
 - (iii) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and
 - (iv) keep the record for a period of 5 years, and
 - (v) 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
- not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or
 - if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

[GT0118-00001]

(d) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable agreement.

[GT0119-00001]

(e) Construction phase monitoring bore requirements GTA:



- (i) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
- (ii) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
- (iii) 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.

[GT0121-00001]

(f) Construction Phase Monitoring programme and content:

- (i) 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.

[GT0122-00001]

- (g) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.

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):

- (i) All results from the Approved Monitoring Programme; and
- (ii) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.



The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/waterlicensing/dewatering.

[GT0123-00001]

- (h) 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.

[GT0150-00001]

- (i) 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.

[GT0151-00001]

- (j) 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.

[GT0152-00001]

- (k) The following construction phase monitoring requirements apply (Works Approval):

- (i) 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.
- (ii) 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.

[GT0155-00001]

The development shall be carried out in accordance with the requirements of the following:

- Water NSW General Terms of Approval, Reference No. S4551155980, dated 31 July 2024.
- Water NSW correspondence, Reference No. s4551155980, dated 1 August 2024

A copy of the requirements of the approval Authority is attached to this consent.
(Reason: Water NSW General Terms of Approval)

MODIFIED: DA2016.170.8 DATE 4 October 2024

14 Noise Impacts

Prior to issue of the construction certificate, the applicant must submit to Council for its approval, an acoustic report prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises, air conditioning units and plant *equipment* shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5Db. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environmental Protection Authority's NSW Industrial Noise Policy.

Council *recommends* the air conditioning units be relocated to non-trafficable areas on the rooftop. This will limit the noise and vibration impact of the air-conditioners to residents of the proposed building and within adjacent buildings.

GENERAL CONDITIONS

15 Approved Plans and Reference Documentation

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

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

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

MODIFIED: DA2016.170.9 DATE TBA

16 Contamination

Full compliance is to be given to the recommendations of Preliminary Site Investigation Report prepared by Martens Consulting Engineering.

(Reason: To ensure for the suitability of the site for the purposes of the proposed development.)

17 Construction Hours

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

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

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



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

18 Building Height (maximum RL to be complied with)

The height of the building measured to Australian Height Datum (AHD) must not exceed Relative Level (RL) 53.90AHD to the top of the lift overrun structure.

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

19 Demolition (site safety fencing)

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

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

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

(Reasons: Statutory requirement and health and safety.)

20 Landscaping (irrigation of common and private landscape areas)

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

(Reason: To ensure appropriate landscape maintenance.)

21 Landscaping (trees permitted to be removed)

Site trees are permitted to be removed to accommodate the proposed *development* in accordance with the recommendations of the approved *Aboriginal Assessment and Impact Report* prepared by Horticultural Management Services

All *trees* permitted to be removed by this consent shall be replaced by species selected from Council's Recommended Tree List.

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.

(Reason: To ensure appropriate planting back onto the site.)

22 Landscaping (tree preservation)

All street trees and trees on private property that are protected under Council's controls, shall be retained except where Council's prior written consent has been obtained. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

All healthy trees and shrubs identified for retention on the approved drawings are to be suitably protected in accordance with Australian Standard AS4970 – Protection of Trees on Development Sites, prior to the commencement of any works (*including* any demolition and excavation) and maintained for the duration of the works.

(Reason: To ensure the protection of trees to be retained on the site.)

23 Lighting

Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads.

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

(Reason: To protect the amenity of surrounding development and protect public safety.)

24 Materials (schedule of external materials, finishes and colours)

The external materials, finishes and colours are to be consistent with the schedule *submitted* and approved by Council with the development application.

(Reason: To ensure compliance with this consent.)



25 Principal Certifying Authority (PCA) Identification Sign

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

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

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

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

(Reason: Statutory requirement.)

26 Site Management (during demolition and construction works)

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

- i* All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- ii* Demolition must be carried out by a registered demolition contractor.
- iii* A single entrance is permitted to service the site for demolition and construction.
The footway and nature strip at the service entrance must be planked out.
- iv* No blasting is to be carried out at any time during construction of the building.
- v* Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- vi* Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- vii* Any demolition and excess construction materials are to be recycled wherever practicable.
- viii* The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- ix* All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- x* All waste must be contained entirely within the site.
- xi* Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it.



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

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

27 Stormwater Management Plan (certification requirement)

A detailed Stormwater Management Plan (SWMP) in line with Council's Stormwater Management Code is to be prepared and certified by a practicing Chartered *Professional* Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia and submitted to the Principal Certifying Authority and Council, prior to the issue of a Construction Certificate. The SWMP is to be based on the approved development as modified by any conditions of consent.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.)

28 Sydney Water (stamped plans prior to commencement)

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer



Centre to determine whether the development will affect Sydney Water's sewer and water mains, *stormwater* drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

For Quick Check agent details please refer to the web site www.sydneywater.com.au (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92. The consent authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has stamped the plans before the commencement of work.

(Reason: Compliance with Sydney Water requirements.)

29 Utilities and Services (protection of)

Any *footings* or excavation to be located or undertaken adjacent to Council's stormwater must be designed to address the following requirements:

- all footings and excavation must be located wholly within the site and clear of any easement boundaries;
- all footings and excavation must be located a minimum of 1000mm from the centreline of the pipeline or 500mm from the outside of the pipeline, whichever is the greater distance from the centreline; and
- footings must extend to at least the depth of the invert of the pipeline unless the footings are to be placed on competent bedrock.

If permanent excavation is proposed beneath the obvert of the pipeline, suitable means to protect the excavation and proposed retaining structures from seepage or other *water* flow from the pipeline and surrounding subsoil, must be provided. The design must be prepared by a qualified practicing Structural/Civil Engineer.

Construction plans must be approved by the appropriate utility's office (e.g. council, Sydney Water Corporation) to demonstrate that the development complies with the utility's *requirements*.

The applicant must provide written evidence (e.g. compliance certificate, formal advice) of compliance with the requirements of all relevant utility providers (e.g. Water, Energy, Telecommunications, Gas).

(Reason: To ensure protection of Council assets.)

30 Waste (trackable)

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

(Reason: To ensure compliance with legislation.)



CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

31 Access (access for people with disabilities)

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

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

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

32 BASIX Commitments

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

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

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

(Reason: Statutory compliance.)

33 Bicycle Storage Provision

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

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

34 Building Code of Australia (compliance with)

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

In the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract



of insurance is to be in force before any building work authorised to be carried out by the consent commences.

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

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

35 Car Parking (compliance with AS/NZS 2890.1:2004)

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

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

36 Commencement of Works (no works until a CC is obtained)

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

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

(Reason: To ensure compliance with statutory provisions.)

37 Construction and Environmental Management Plan

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

- (i) Detailed information on any approvals required from other authorities prior to or during construction.
- (ii) Traffic management, including details of:
 - ingress and egress of vehicles to the site;
 - management of loading and unloading of materials; the location of heavy vehicle parking off-site; and
 - designated routes for vehicles to the site.
- (iii) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (iv) Erosion and sediment control, detailing measures and procedures consistent with the requirements of Council's guidelines for managing stormwater, including:
 - the collection and treatment of stormwater and wastewater generated on site prior to discharge; and
 - procedures to prevent run-off of solid material and waste from the site.
- (v) Waste management, including:



- details of the types and estimated volumes of waste materials that will be generated;
 - procedures for maximising reuse and recycling of construction materials; and
 - details of the off-site disposal or recycling facilities for construction waste.
- (i) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences.
- (ii) A soil and water management plan, which includes:
- measures to minimise the area of soils exposed at any one time and conserve top soil;
 - identification and protection of proposed stockpile locations;
 - preservation of existing vegetation and revegetation;
 - measures to prevent soil, sand, sediments leaving the site in an uncontrolled manner;
 - measures to control surface water flows through the site in a manner that diverts clean run-off around disturbed areas, minimises slope gradient and flow distance within disturbed areas, ensures surface run-off occurs at non-erodible velocities, and ensures disturbed areas are promptly rehabilitated;
 - details of sediment and erosion control measures in place before work commences;
 - measures to ensure materials are not tracked onto the road by vehicles entering or leaving the site; and
 - details of drainage to protect and drain the site during works.
- (iii) Asbestos management procedures:
- Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal License which ever applies and a current WorkCover Demolition License where works involve demolition. To find a licensed asbestos removalist please see www.workcover.nsw.gov.au
 - Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10sqm or less of non-friable asbestos (approximately the size of a small bathroom). Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
 - Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with the following:
 1. The Work Health and Safety Act 2011; o The Work Health and Safety Regulation 2011;
 2. How to Safety Remove Asbestos Code of Practice – WorkCover 2011; and o Safe Work Australia Code of Practice for the



Management and Control of Asbestos in the Workplace.

- Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.
- The developer or demolition contractor must notify adjoining residents at least two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of asbestos removal works.

Notification is to include, at a minimum:

the date and time when asbestos removal works will commence;
the name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
the full name and license number of the asbestos removalist/s; and
the telephone number of WorkCover’s Hotline 13 10 50
Warning signs informing all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance; and
Appropriate barricades installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

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

38 Dilapidation Report (pre-commencement)

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

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



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

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

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

39 Driveway Width (multi-unit development)

The internal driveway must be a minimum 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a *minimum* 1.5m x 1.5m splay to allow the passing to work. Details demonstrating compliance shall be submitted to the Principal Certifying Authority, prior the issue of a Construction Certificate.

(Reason: Safety and traffic management.)

40 Erosion and Sedimentation Control Plan

An Erosion and Sediment Control Plan is to be prepared where construction or *excavation* activity requires the disturbance of the soil surface and existing vegetation. Details including drawings and specifications must provide adequate measures for erosion and sediment control to ensure:

- Compliance with the approved Soil and Water Management Plan.
- 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).
- All uncontaminated run-off is diverted around cleared or disturbed areas.
- Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways.
- All erosion and sediment controls are fully maintained for the duration of demolition/ development works.
- Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways.
- All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.
- All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*.
- Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls are to be submitted to the Principal Certifying Authority with the Construction Certificate Application. Under no



circumstances are any works to commence, prior to these details being *approved* by the Principal Certifying Authority and the controls being in place on the site.

(Reason: Environmental protection.)

41 Excavation (affecting adjoining land)

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

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

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

(Reason: Structural safety.)

42 Excavation (shoring)

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Principal Certifying Authority for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practicing structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties.)

43 Hoardings

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

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

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



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

(Reason: Public safety.)

44 Landscaping (maintenance strategy)

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

(Reason: Ensure landscape survival.)

45 Landscaping (on slab)

To ensure the site landscaping thrives, the on slab landscaping shown on the approved landscaping plan is to be designed to include a minimum soil depth of 650mm for shrubs and trees; and 300mm for grass and ground covers. Adequate drainage provision and a permanent, automatic irrigation system conforming to Sydney Water *requirements* shall be included. Details demonstrating compliance shall be submitted to the Principal Certifying Authority with the Construction Certificate application.

(Reason: Ensure landscape survival.)

46 Noise and vibration management plan

Prior to the issue of a Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but shall not be limited to, the following matters:

- (i) identification of activities carried out and associated noise sources;
- (ii) identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment;
- (iii) determination of appropriate noise and vibration objectives for each identified sensitive receiver;
- (iv) noise and vibration monitoring, reporting and response procedures;
- (v) assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles;
- (vi) description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction;



- (vii) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency;
- (viii) procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration; and
- (ix) contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

(Reason: To protect acoustic amenity of surrounding properties and the public.)

47 Planning agreement (section 93F of the EP&A Act)

In accordance with Section 93F(3) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement offered by the developer in respect of the Development Application, the subject of this consent, for the dedication of a 179sqm portion of land with a minimum width of 3m wide adjacent to the northern boundary of the site and to pay for the construction of an extension of Loftus Lane for the purpose of an extension of Loftus Lane must be entered into prior to the issue of a Construction Certificate. The terms of the Voluntary Planning Agreement must, thereafter, be adhered to.

(Reason: To ensure compliance with the terms of the S93F Agreement.)

48 Planning agreement (bank guarantee/bond)

A Bank Guarantee/Bond for the amount agreed by Council to cover the cost of the works involved in the Voluntary Planning Agreement shall be submitted to Council prior to the issue of a Construction Certificate. The Bank Guarantee shall be registered with Council and a stamped copy recording the receipt of the Guarantee by Council shall be produced for the Principal Certifying Authority, prior to the issue of a Construction Certificate.

(Reason: Fees and charges.)

49 Privacy (obscure glazing in wet areas)

All bathroom, ensuite and toilet windows shall be installed with obscure glazing. Plans *shall* be notated accordingly and details demonstrating compliance submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

(Reason: Privacy amenity.)

50 DELETED: DA2016.170.2 21 January 2021

51 Section 94 Contribution Payment (direct contributions plan)

In accordance with the provisions of Section 94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 20102030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

Provision of Community Facilities	\$61,624.18
Provision of Major Open Space	\$735,341.63
Provision of Local Open Space	\$479,452.81
Provision Roads and traffic Management	\$46,841.39
Administration	\$14,497.07



TOTAL **\$1,437,757.09**

The total amount of the contribution is valid as at the date of determination and is subject to quarterly indexation. Contributions shall be indexed at the time of payment in *accordance* with clause 2.14 of the Strathfield Direct Development Contributions Plan 2010-2030.

Contributions must be receipted by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

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

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

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

52 Security payment (damage deposit for Council infrastructure)

A security payment of **\$7,254.00** in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply) shall be paid to Council prior to the issue of a Construction Certificate. The security payment is GST inclusive and comprises the following:

Refundable tree protection bond	\$3,000.00
Refundable works bond	\$4,000.00
Non-refundable administration fee (\$127/bond)	\$254.00

TOTAL **\$7,254.00**

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

- (i) road and stormwater drainage works in roadways and public areas;
- (ii) installation and maintenance of sediment control measures for the duration of construction activities;
- (iii) tree final inspection to ensure that Council's street trees have been retained, protected or replanted in accordance with conditions of consent and/or Arborists' report for the post final inspection twelve (12) month period; and
- (iv) inspection that no damage has occurred to or building debris/materials have been left on Council land including the footpath, nature strip, kerb and gutter.

Note: The security bond may be used to recover the costs incurred by Council in cleaning and *restoring* the land to its original condition.

(Reason: Protection of Council infrastructure.)



53 Stormwater (rainwater re-use)

A rainwater re-use system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Policy and/or specification of the *management* of stormwater, whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted to and approved by the Principal *Certifying Authority*, prior to the issue of a Construction Certificate.

(Reason: Compliance and amenity.)

54 Stormwater Drainage

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

- (i) Grated drains shall be provided along the basement entry at the vehicular crossing(s) and are to connect to the internal drainage system.
- (ii) Overflow paths shall be provided to allow for flows in excess of the capacity of the pipe/drainage system draining the site.
- (iii) Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.
- (iv) Boundary fencing shall be erected in such a manner as not to interfere with the natural flow of ground and surface water to the detriment of any other party.

(Reason: To ensure the site is drained appropriately and does not interfere with the natural flow of flood waters.)

55 Stormwater (silt arrestors and gross pollutant traps)

Silt and gross pollutant traps shall be fitted in all new stormwater pits and designed in accordance with Council's specification for the management of stormwater. Details *demonstrating* compliance are to be submitted to the Principal *Certifying Authority*, prior to the issue of a Construction Certificate.

(Reason: Environmental protection.)

56 Traffic (construction traffic management plan)

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

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

- (i) description of the demolition, excavation and construction works;
- (ii) site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- (iii) size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);



- (iv) proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- (v) impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- (vi) any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- (vii) proposed hours of construction related activities and vehicular movements to and from the site;
- (viii) current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- (ix) any activities proposed to be located or impact upon Council's road, footways or any public place;
- (x) measures to maintain public safety and convenience;
- (xi) any proposed road and/or footpath closures;
- (xii) turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- (xiii) locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- (xiv) location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- (xv) a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- (xvi) material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- (xvii) on-site parking area for employees, tradespersons and construction vehicles as far as possible;
- (xviii) proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- (xix) how it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.

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

57 Utilities and Telecommunications (electricity connection)

Provision must be made for connection to future underground distributions mains. This *must* be achieved by installing:

- (i) an underground service line to a suitable existing street pole; or
- (ii) sheathed underground consumers mains to a customer pole erected near the front property boundary (within 1 metre).



Note: A *limit* of one (1) pole per site will apply.

Any costs associated with the relocation of the above are at the requestor's expense. Any disturbance to public land as a result of the undergrounding of services shall be restored at no cost to Council.

Details are to be submitted to the Principal Certifying Authority with the *Construction Certificate Application*.

(Reason: *Environmental amenity.*)

58 Utilities and Telecommunications (electricity substation)

Any required electricity substation must be located within the boundaries of the site. *Documentary* evidence of compliance with the energy authority's requirements, including correspondence from the energy authority is to be provided to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

Note: Where an electricity substation is required but no provision has been made to place it within the approved building or its site and no details are provided on the approved development consent plans, a section 96 application is required to be *submitted* to Council for approval of an appropriate location for the required electricity substation.

(Reason: *Access to utility.*)

59 Utilities and Telecommunications (telecommunications assets)

Provision must be made for relocation of telecommunications network assets including underground placement of any existing aerial cables and infrastructure. Any costs associated with the relocation of the above are at the requestor's expense. Any disturbance to public land as a result of the undergrounding of services *shall* be restored at no cost to Council.

Details are to be submitted to the Principal Certifying Authority with the Construction Certificate application.

(Reason: *To ensure suitable relocation of telecommunications infrastructure if required.*)

60 Vehicular Crossings (works permit for construction of)

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footpath at the *entrance(s)* and/or *exit(s)* to the site and designed in accordance with Council's guidelines and specifications. In this regard, a Works Permit is to be obtained (available from Council's Customer Services Centre or downloaded from Council's website), and the appropriate fees and charges paid, prior to the lodgement of a Construction Certificate.

(Reason: *To ensure appropriate access to the site can be achieved.*)

61 Ventilation Systems (mechanical)

The *mechanical* ventilation system is to comply with the following:

- (i) The Building Code of Australia;



- (ii) Protection of the Environment Operations Act 1997; and (iii) Australian Standard AS1668-1991.

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

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

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

62 Waste (garbage rooms or grease arrestor rooms)

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

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

63 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.

(Reason: To promote Water Sensitive Urban Design.)

64 Water Heating Systems (location of)

Water heating systems shall be located so as not to be visible from public places and the ground level of adjoining properties. Details (type and location) of the water heaters shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of a Construction Certificate.

(Reason: To maintain streetscape character.)

65 Works Permit

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

(Reason: Council requirement.)



66 Works Within the Road Reserve

Detailed drawings including long and short sections and specifications of all works within existing roads (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) shall be submitted to and approved by Council under Section 138 of the Roads Act 1993 and all fees and charges paid, prior to the issue of a Construction Certificate.

Detailed *drawings* and specifications are to be prepared and certified by an appropriately qualified Civil Engineer.

Upon completion of the works, the Applicant is to provide to Council with electronic copies of 'Work as Executed Plans'. The plans are to show relevant dimensions and finished *levels* and are to be certified by a surveyor.

The Applicant is to provide to Council, in an approved format, details of all public infrastructure created as part of the works.

All civil engineering works adjacent/near/outside 3-5 Bridge Road, Homebush are to be fully supervised by Council. A maintenance period of six (6) months shall apply to the work, *after* it has been completed and approved. In that period the Applicant shall be liable for any part of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the design conditions.

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

67 Works Zone (approval by Council's traffic committee)

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

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

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

(Reason: Council requirement.)

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORKS

68 Appointment of a Principal Certifying Authority (PCA)

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



- (i) A construction certificate for the building work has been issued by the consent authority or a Principal Certifying Authority.
- (ii) The person having the benefit of the development consent has appointed a principal certifying authority for the building work, and notified the principal certifying authority that the person will carry out the building work as an owner/builder, if that is the case.
- (iii) The principal certifying authority has, no later than 2 days before the building work commences:
 - notified the Council of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work.
- (iv) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved;
 - notified the principal certifying authority of such appointment; and
 - unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work.
- (v) The person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

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

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

(Reason: Statutory requirement.)

69 Notice of Commencement

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

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

(Reason: Statutory requirement.)



CONDITIONS TO BE SATISFIED DURING DEMOLITION AND BUILDING WORKS

70 Contaminated Land Unexpected Finds

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

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

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

(Reason: To ensure compliance with statutory requirements.)

71 Fill Material

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

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

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

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

72 Obstruction of Public Way (not permitted during works)

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, *under* any circumstances, without the prior approval of Council.

(Reason: To maintain public access and safety.)

73 Public Infrastructure and Services

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



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

74 Site Requirements During Demolition and Construction

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

- (i) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (ii) Demolition must be carried out by a registered demolition contractor.
- (iii) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (iv) No blasting is to be carried out at any time during construction of the building.
- (v) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (vi) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (vii) Any demolition and excess construction materials are to be recycled wherever practicable.
- (viii) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (ix) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- (x) All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (xi) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All nonrecyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (xii) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (xiii) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- (xiv) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (xv) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior



separate approval from Council is obtained including payment of relevant fees.

- (xvi) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (xvii) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- (xviii) Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

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

75 Survey Report of Approved Levels (during and post construction)

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

- (i) At the completion of the first structural floor level prior to the pouring of concrete indicating the level of that floor and the relationship of the building to the boundaries.
- (ii) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials. (iii) At the completion of the development.
- (iii) Progress certificates in response to points (1) through to (3) shall be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances is work allowed to proceed until such survey information is submitted to and approved by the Principal Certifying Authority.

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

76 Car Parking (surplus vehicular crossings)

All surplus vehicular crossings and/or kerb laybacks must be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council. The nature strip is to be restored and the footpath area reinstated. All of the above are to be restored to the satisfaction of Council's Engineer and at full cost to the applicant, prior to the issue of any Occupation Certificate.

(Reason: Maintenance of public infrastructure.)

77 Car Parking

The following car parking and service vehicle requirements apply:-

- (i) 94 car spaces shall be provided on the development site. This shall consist of:
 - 78 residential spaces;
 - 16 visitor spaces;



For the residential component, the allocation of on-site parking shall satisfy the *following* minimum rates:

- 0.6 spaces per 1 bedroom unit,
 - 0.9 spaces per 2 bedroom unit,
 - 1.4 spaces per 3 bedroom unit,
 - 1 space per 5 units (visitor parking).
- (ii) All car spaces shall be allocated and marked according to this requirement.
- (iii) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot.
- (iv) Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- (v) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (vi) The parking bays shall be delineated by line marking.
- (vii) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.
- (viii) The following traffic control measures shall be implemented on site:-
- Signage indicating 'Entry Only' shall be prominently displayed at the entrance to the development.
 - Signage indicating 'Exit Only' shall be prominently displayed at the exit to the development.
 - One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

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

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

78 Engineering Works (certification of)

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

- (i) the stormwater drainage system; and/or
- (ii) the car parking arrangement and area; and/or
- (iii) any related footpath crossing works; and/or



- (iv) the proposed basement pump and well system; and/or
- (v) the proposed driveway and layback; and/or
- (vi) any other civil works

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

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

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

(Reason: Asset management.)

79 Occupation of Building

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

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

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

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

(Reason: Statutory requirement.)

80 Stormwater (certification of the constructed drainage system)

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's Stormwater Management Code, prior to the issue of any Occupation Certificate.

(Reason: Adequate stormwater management.)

81 Wash Down Areas (appropriate containment bunds)

The wash down area must be appropriately bunded. The effective volume of the bunded area must be 110% of the total volume of the wash-down area. Documentation and plans are to be supplied to certify compliance with this requirement prior to the issue of the Construction Certificate.

A collection sump must be installed within the bunded area and have no access to the *stormwater* system. The bund floor is to be graded in such a way to direct liquids into the sump.



The *applicant* must contact Sydney Water (tel.131 110) to discuss the requirements for a Trade Waste Permit before discharging any trade waste into the sewerage system.

(Reason: To prevent water pollution.)

82 **Separate Application (for strata subdivision)**

This consent does not imply approval to create a separate title, by subdivision or otherwise. Should it be intended to subdivide the approved development into strata title allotments, Council will require the lodgement of a separate development application for consideration.

(Reason: To ensure compliance with the consent.)

CONDITIONS TO BE SATISFIED DURING ONGOING USE OF THE PREMISES

83 **Fire Safety (annual statement)**

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

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

- (i) Forwarded to the Commissioner of the New South Wales Fire Brigade; and
- (ii) Prominently displayed in the building.

(Reason: Fire safety)

84 **Noise (compliance with acoustic assessment report)**

All recommendations contained in the approved Acoustic Assessment Report *prepared by Acoustic Works* shall be adopted, implemented, and adhered to.

The Principal Certifying Authority (PCA) shall obtain a statement from an *appropriately* qualified acoustic consultant, certifying that the acoustic mitigation measures outlined in the above stated report **as well as the assessment provided to Council in accordance with Condition 14 of this consent** have been suitably incorporated into the development and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate.

Any *changes* made to the proposal that would alter the acoustic assessment will require a further acoustic assessment and a copy of this further report shall be provided to Council for approval prior to the commencement of works and any recommendations adopted, implemented, and adhered to.

(Reason: Noise control and amenity.)

MODIFIED: DA2016.170.2 21 January 2021

85 **Pollution (compliance with PEOA 1997 generally)**



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

(Reason: Environmental protection.)

86 Visitor Parking Restriction

All visitor parking spaces must not at any time be allocated sold or leased to an *individual* owner/occupier and must be strictly retained as common property by the Owners Corporation.

(Reason: Compliance with approved visitor parking provision.)

87 Waste and Recycling (collection hours)

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

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

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

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

(Reason: To regulate noise and garbage collection arrangements.)

- 88 The finished floor level of the private open spaces for adaptable units is to be no lower than 35mm below the finished floor level of the unit. This will allow a compliant *threshold* ramp to be constructed in the post-adaptation stage, if required plus circulation space.

(Reason: To comply with Australian Standard AS4299,1995)

- 89 The tracks of the sliding doors to the private open spaces of adaptable units are to be recessed into the floor slab so as to avoid potential trip hazard.

(Reason: To comply with Australian Standard AS4299,1995)

END CONDITIONS



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 prior to the date specified in this determination, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.