

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 28 March 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 - 28 March 2024
 REPORT: SLPP – Report No. 4
 SUBJECT: DA2023/52 - 5 STRATHFIELD SQUARE, STRATHFIELD - LOT 1 DP 433421
 DA NO. DA2023/52

SUMMARY

Proposal:	Demolition of existing structures and construction of a two storey building over basement level for use as a pub (licensed premises).
Applicant:	The Trustee for Strathfield Freehold Unit Trust
Owner:	Strathfield Freehold Pty Ltd
Date of lodgement:	27 April 2023
Notification period:	5 May 2023 - 26 May 2023
Submissions received:	7
Assessment officer:	J W Brown
Estimated cost of works:	\$3,032,565.00
Zoning:	E2-Commercial Centre - SLEP 2012
Heritage:	No, but in proximity of State Heritage Listed Strathfield Railway Station
Flood affected:	No
Is a Clause 4.6 variation proposed?	N/A
Local Planning Panel Criteria	Sensitive Development (d) Development for the purposes of new licenced premises, that will require one of the following liquor licences: (ii) a hotel (general bar) licence under the Liquor Act 2007,
RECOMMENDATION OF OFFICER:	Approval

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and construction of a two storey building over basement level for use as a pub (licensed premises).

Site and Locality

The site is identified as 5 Strathfield Square STRATHFIELD and has a legal description of Lot: 1 DP: 433421. The site is a regular shaped parcel of land and is located on the corner of Churchill Avenue and Strathfield Square.

The site has an average width of 12m, an average depth of 28m and an overall site area of 449.2m².

The site is located within the Strathfield Town Centre which features a mixture of commercial premises including retail, services and food and drink premises, high density residential development and plaza areas adjacent to Strathfield Station and bus terminal.

Strathfield Local Environmental Plan

The site is zoned E2-Commercial Centre 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 and development standards 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 5 May 2023 to 26 May 2023, where 7 submissions were received raising the following concerns;

- Noise Impacts
- Traffic and Parking Impacts
- Hours of operation
- Safety and Social Impact
- Patron Capacity
- Signage
- Design
- Strategic Planning Context

Issues

- Gaming Machines
- Signs
- Trees
- Urban Design

RECOMMENDATION

That Development Application No. DA2023/52 for demolition of existing structures and construction of a two storey building over basement level for use as a pub (licensed premises) at 5 Strathfield Square, Strathfield be **APPROVED**, subject to the recommended conditions of consent.

ATTACHMENTS

1. [DA2023/52 - 5 Strathfield Square, Strathfield - SLPP Report](#)



SLPP REPORT

Property:	5 Strathfield Square STRATHFIELD DA2023.52
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Figure 1: Aerial view of the subject site (outlined in yellow)

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Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2023/52 is recommended for approval subject to suitable conditions of consent.

REPORT IN FULL

Proposal

Council has received an application seeking development consent for the demolition of existing structures and construction of a two storey building over basement level for use as a pub (licensed premises).

More specifically, the proposal includes;

Basement level:

- Garbage room
- Stairs to ground floor
- Lift that services all levels
- Keg room
- Lockers
- Staff WC
- Communications room
- Storage
- Office

Ground floor level:

- Gaming Lounge with bar and Female and Male WC



- Entry lobby with staircase to first floor
- Storage room
- Ancillary café
- Secondary entry to Gaming Lounge

First floor level and above:

- Bistro dining room with access to outdoor terrace
- Bar
- Kitchen with cool room and freezer
- Male and Female WCs with accessible WC

External works:

- Enclosed loading dock

The proposed trading hours for the pub and ancillary cafe are the following:

- 10:00am to 2:00am (the following morning) Monday to Saturday;
- 10:00am to 12:00 midnight Sunday
-



Figure 2: Southern perspective view of the proposal



Figure 3: Southern Eastern perspective view of the proposal



Figure 4: Eastern perspective view of the proposal

Background



27 April 2023	The subject development application (DA2022/52) was lodged with Council.
5 May 2023	The application was publicly exhibited until the 26 May 2023
10 May 2023	Council's Planner carried out a site visit.
21 August 2023	Additional information for the following was requested: <ul style="list-style-type: none"> • Gaming machines need to be shown on plans. • VIP signs are to be removed in line with legislation. • Confirmation of proposed levels at the rear of the site. • Improvement to public domain interface. • Protective awnings need to be provided. • Improve visual interest and visual impacts of the proposed building. • Overshadowing diagrams need to be provided. • Landscaping on terrace needs to be shown.
9 October 2023	Amended plans were provided including a landscape plan.
31 October 2023	Additional information was requested in relation to extension of the ancillary café around the whole front façade (therefore obstructing views to gaming areas).
13 November 2023	Updated plans were provided by the applicant
6 December 2023	Council's Urban Designer reviewed the updated plans and had the following outstanding requirements: <ul style="list-style-type: none"> • An encapsulating-built structure around the loading zone needs to be provided. • Finished floor level of café and street level need to be conducive for accessibility. • Updated Shadow diagrams need to be provided
13 December 2023	Updated plans were provided by the applicant
15 January 2024	Meeting with referral officers advised to request for additional information due to design changes.
22 January 2024	Updated documentation provided including updated Traffic Report and Waste Management Plan provided.

The Site and Locality

The subject site is legally described as Lot: 1 DP: 433421 and commonly known as 5 Strathfield Square STRATHFIELD. It is located on the corner of Churchill Avenue and Strathfield Square.

The site is rectangular in shape and has a frontage to Albert Road and Strathfield Square of 9.21m to the east. It has an arc of 8.8m leading to the secondary frontage that has length of 25.425m facing Churchill Avenue. It has a rear boundary of 14.49m to the west and a side boundary length of 30.365m to the north. The total site area is 449.2m².



The site slopes gradually from the north to south.

The site is occupied by a single storey vacant commercial building. Vehicular access is provided to the site via an existing driveway from Churchill Avenue to an existing open air parking area with several car spaces located behind the existing building.

The site is located within the Strathfield Town Centre which features a mixture of commercial premises including retail, services and food and drink premises, high density residential development and plaza areas adjacent to Strathfield Station and bus terminal.



Figure 5: Closer image of the site



Figure 6: Existing vacant commercial building and carparking to the rear



Figure 7: Existing vacant commercial building from Churchill Avenue



Figure 8: Existing vacant commercial building facing northwest towards train station.



Figure 9: Existing vacant commercial building facing southwest towards Strathfield Plaza

Referrals

INTERNAL

Development Engineers Comments:

The application was referred to Council's Development Engineer who provided the following comments:

The site is not subject to flooding and the proposed works do not involve a large increase in impervious area. Therefore, there will not be any conditions imposed on consent with regard to minimum floor levels and on-site detention of stormwater. However, the proposed works involve excavating for a basement level adjacent to adjoining properties and Council assets. Accordingly, conditions in this regard have been applied to protect these properties.

Council's Development Engineer offered no further objection or requirements subject to the conditions of consent.

Tree Management Coordinator Comments:

The application was referred to Council's Tree Management Coordinator who had concern for the two nearest *Casuarina cunninghamiana* (River She-Oaks) immediately adjacent to the site boundary, within the Council carpark to the west. Concern was raised in relation to the impact of the proposed loading dock on these trees.



The plans specify that an arborist is to conduct a detailed review of the adjacent River She Oaks to determine root extent. Notwithstanding this review Council's Tree Management Coordinator suspects that the tree will be detrimentally impacted by the development and unlikely to survive the construction.

Due to the location of the trees, it would not be appropriate for replacement planting in the same location. Thus, two options will be given within the tree bond condition subject to root mapping and review from Council's Tree Management Officer. If Council's tree management officer is satisfied with the root mapping and the works will not be detrimental to the two adjacent River She Oaks. All street trees and adjacent trees within Council's carpark will have a standard protection bond put on them (Option A). If the two River She Oaks are considered unlikely to survive the proposed works after review from Council's Tree Management Officer a non-refundable fee will be required for the removal of the two closest River She Oaks within Council's carpark. To allow for the replacement of these trees in a new location within Strathfield local government area. The removal cost and restorations works on Council's property will be borne by the applicant (Option B).

Heritage Planner Comments:

The application was referred to Council's Heritage Planner who offered the following comments:

The proposal sits adjacent to several listed items of significance. In particular the site is directly adjacent the state Heritage Listed Strathfield Railway Station. The proposal is also directly adjacent to a heavily modified building that appears to date from the federation period which can be interpreted from the rear car park/laneway. This building is not heritage listed and impacts to it are acceptable.

The proposal will not pose any real built heritage impacts to the adjacent railway listing or any other locally listed items in the vicinity. The proposal will be introducing a new use to a disused derelict building and is welcomed to activate the space and improve the aesthetics of the curtilage of the adjacent listed railway.

The proposal is supported from a heritage perspective.

Council's heritage Planner offered no further comments or conditions.

Environmental Health Officer Comments:

The application was referred to Council's Environmental Health Officer who was satisfied with the hours of operation of the proposed pub subject to conditions. Concern was raised that a Preliminary Site investigation for contamination was not provided and therefore a condition be added to investigate this.

Council's Environmental Health Officer was satisfied with the applicant's acoustic report subject to the following special conditions.

- 1. No amplified sound equipment is to be used on the terrace.*
- 2. The doors to the terrace are only permitted to open to permit travel entry of patrons. The doors are not be intermittently open for an extended period of time, when patrons are not passing through.*

Council's Environmental Health Officer offered no further recommendations or comments subject to the conditions of consent.

**Senior Traffic Engineer Comments:**

The application was referred to Council's Senior Traffic Engineer who considered that the vehicular access arrangement including both the driveway and loading dock is satisfactory. Noting that visuals splays are unable to be provided on either side of the access driveway due to building constraints, the following engineering solutions are proposed to be conditioned in order to ensure that pedestrian safety is maintained:

- *Convex mirrors are to be provided on either side of the driveway in order to sight pedestrians.*
- *A Stop Sign and "Warning Give Way to Pedestrians" sign is to be clearly visible to egressing vehicles at the egress.*
- *An alarm and flashing light is to be activated prior to an egressing vehicle departing from the subject site in order to alert pedestrians of an egressing vehicle*

Council's Senior Traffic Engineer had no concern that the development will not provide any parking onsite and that the removal of the four (4) existing parking spaces for the loading dock is acceptable due to the large amount parking available in the Strathfield Town Centre currently.

Due to addition of the covered loading dock to the amended plans, Council's traffic engineer reviewed the loading dock and requested updates to both the traffic impact assessment and waste management plan and was satisfied that the loading dock was still functional.

Overall Council's Senior Traffic Engineer had no further concerns with the development subject to the conditions of consent.

Urban Designer Comments:

The application was referred to Council's Urban Designer who offered following comments:

Public Domain Interface

The Strathfield Town Centre DCP Control 3.2.1(a) requires "to maximise opportunity for shopfront activities at street alignments."

The use of glass brick leads to a highly opaque public domain interface on the ground floor level. Whilst this may be acceptable on the eastern side where the site faces the existing drop-off/pick-up zone on Albert Road, the Applicant is advised to replace glass brick with a transparent façade treatment such as clear glazing at the southeastern corner to maximise visibility to and from the internal space.

The Applicant is also recommended to consider creating large window openings on the ground floor level with seating facing Churchill Avenue to encourage social interaction and increase street activation.

Awnings

DCP Control 3.4.2 (b) "All buildings fronting footpath areas are to incorporate protective awnings over, using traditional cantilever form and materials unless special circumstances dictate otherwise." The proposal currently fails to comply with the above control. Continuous awnings are recommended to be provided along Albert Road, extending along Churchill Avenue over the main entry.

Awning fascia signs are to be provided facing Churchill Avenue and Strathfield Square respectively.

**Visual impacts**

The subject site is located at a prominent location visible to a high volume of pedestrians. The Applicant is recommended to use an alternative material that is of high quality and visual interest to the soffit over the outdoor terrace on Level 01. The plain concrete currently proposed for the soffit does not meet the expected aesthetic standards for this prominent Town Centre location.

The proposal presents a 10m high blank wall to the west/rear, which will be highly visible from Churchill Avenue and the existing Council car park. It is recommended to extend the textured brick pattern from the south elevation to the west to increase visual interest and help articulate the large windowless wall.

The exposed loading area at the rear of the site is highly visible from the public domain of Churchill Avenue and cannot be supported. The Applicant is recommended to provide a single storey building form to encapsulate and internalise the turntable and loading area. The single storey form will also help articulate and reduce the prominence of the western blank wall. The three Casuarina cunninghamiana (River She-Oaks) immediately adjacent to the site boundary on the western side might be impacted by the single storey loading area as it will be built to the boundary.

Council's Urban designer also requested that the shadow diagrams to be updated as they appeared inaccurate and Landscape Plan to be provided to show the planting on Level 01 terrace. All the items above have been addressed appropriately by the applicant during the assessment to satisfy Council's Urban Designer, a minor issue to deal with colour and finishes of the loading dock rolling door will be dealt through a design change within the conditions of consent.

EXTERNAL**NSW Police Comments:**

The application was referred to NSW Police who did not object to the Pub development application and have made recommendations which reflect principles of Crime Prevention through Environmental Design. These recommendations are aimed at target hardening (the strengthening of the security of a building or installation in order to protect it in the event of attack or reduce the risk of theft) the location to prevent crime in the highest degree. Relevant recommendations have been added as advice to the conditions of consent.

Not all recommendations have been implemented such as the advice for a 12month trial period for the operation of the pub. A more versatile condition has been added for a variable extended hours condition allowing at any time Council to review extended hours throughout the life of the pub. This gives more opportunity for better compliance of the operation of the business for the entirety of its lifespan. It allows Council and the police to better mitigate late hour operations of the pub. It must be noted that NSW police provides advice and that Council has the opportunity to adapt any recommendations for the betterment of compliance.

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 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 10 – Sydney Harbour Catchment 	Yes 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 (Industry and Employment) 2021 <ul style="list-style-type: none"> Chapter 3 – Advertising and signage 	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 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.

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 (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. No preliminary investigation has been provided by the applicant, but this only required if the land is the following (Chapter 4 Clause 4.6 (4)):

- (4) *The land concerned is—*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The land is not within an investigation area, the land has not known to be used and is not currently being used as land referred to in Table 1 of the contaminated land planning guidelines. The proposed use being a pub is not for residential, educational, recreational or child care purposes. Thus, preliminary investigation is not required in the determination of this application.

However, a precautionary condition within the consent has been added for a site investigation to be undertaken by suitably qualified person.

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

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

Chapter 3 – Advertising and signage

The objectives of Chapter 3 of the SEPP are as follows:

- (1) *This Chapter aims—*
- (a) *to ensure that signage (including advertising)—*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
 - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
 - (c) *to provide time-limited consents for the display of certain advertisements, and*
 - (d) *to regulate the display of advertisements in transport corridors, and*
 - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
- (2) *This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.*

The proposal has six (6) signages that all relate to identification of the businesses including the ancillary café. Two signs reference “open late”. The signage is considered acceptable for the area and provide clear communication, are of high-quality material and are in keeping with the visual character of the area. The signs have been assessed below under Schedule 5:



Schedule 5 Assessment Criteria:

Assessment Criteria	Development Proposal	Compliance/ Comment
1: Character of the area <ul style="list-style-type: none"> • <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i> • <i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i> 	The contemporary signage is keeping with surrounding development in the area.	Yes
2: Special Areas <ul style="list-style-type: none"> • <i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i> 	The signage does not distract from the amenity of the area and likely to improve upon it.	Yes
3: Views and Vistas <ul style="list-style-type: none"> • <i>Does the proposal obscure or compromise important views?</i> • <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i> • <i>Does the proposal respect the viewing rights of other advertisers?</i> 	None of the signs will compromise important views or dominate the skyline. They will not impact on other advertisers.	Yes
4: Streetscape, setting or landscape <ul style="list-style-type: none"> • <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i> • <i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i> • <i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i> • <i>Does the proposal screen unsightliness?</i> • <i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i> • <i>Does the proposal require ongoing vegetation management?</i> 	The signs are of a scale and proportion suitable for the development. The contemporary designs are appropriate for this location.	Yes
5: Site and Building <ul style="list-style-type: none"> • <i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i> • <i>Does the proposal respect important features of the site or building, or both?</i> • <i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i> 	The signage is keeping with the contemporary designed pub and are an important architectural feature.	Yes



<p>6: Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>There are no associated devices and logos proposed.</p>	<p>Yes</p>
<p>7: Illumination</p> <ul style="list-style-type: none"> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	<p>The illumination of the signage is unlikely to impede on the area as it is located in the commercial centre of Strathfield.</p>	<p>Yes</p>
<p>8: Safety</p> <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>The signage is appropriate for the built form and unlikely to impact on safety of others.</p>	<p>Yes</p>

Note all VIP signs have been removed during assessment to comply with the ban by the State government on the 1 September 2023.

The objectives outlined within Chapter 3 of the SEPP are considered to be satisfied.

Strathfield Local Environmental Plan

The development site 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 E2-Commercial Centre 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.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	55m	10.32m	Yes
4.4 Floor Space Ratio	3:1 (1,347.6m ²)	1.2:1 (537.3m ²)	Yes



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 however is in close proximity to a heritage item (Strathfield Train Station (I199)). Thus, the application was referred to Council's Heritage Officer who has advised that the proposed works are acceptable and unlikely to impact on the adjacent heritage item. 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, this has been confirmed by Council's Engineer and as such, the provisions of this Clause are not applicable to the subject development.

Part 6 – Additional Local Provisions

Acid Sulfate Soils

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

Earthworks

The proposal involves significant excavation works for the provision of a basement and ancillary works. The extent of excavation has been limited to the footprint required to accommodate storage and 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 effect the existing and likely amenity of adjoining properties and there is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. The proposed excavation works are considered to satisfactorily address the objectives of this clause.

Essential Services

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

Design Excellence for Strathfield Town Centre

Clause 6.7 of the SLEP 2012 requires consideration to be given to the delivery of the highest standard of architectural design and urban design within the Strathfield Town Centre. Determining whether the proposal exhibits design excellence is demonstrated by the following:



Design Excellence Requirements	Development Proposal	Compliance/ Comment
(a) has a high standard of architectural, landscape and urban design, will be constructed with quality materials and has a high standard of detailing that reflects the building type, location and the surrounding buildings,	External materials have been selected to sensitively respond to the surrounding locality and will add to the modernisation of the area.	Yes
(b) will significantly improve the quality and amenity of the public domain through the form, external appearance and ground level detailing of the development that addresses any heritage or streetscape issues,	The land is currently underutilised with an empty building and the proposal will provide a new use and activate the land.	Yes
(c) will not detrimentally impact on the amenity of the surrounding area, nor on any view corridors, vistas or landmark locations,	There will be limited impact on view corridors, vistas or landmark locations due to size and scale of the development.	Yes
(d) will not detrimentally impact on pedestrian movements and experience, but will reinforce the public transport interchange as the focal point of movement for the area and facilitate the ease of such movement,	Pedestrian legibility and connectivity maintained and corner location improved through activation of the public domain.	Yes
(e) is designed to encourage an integrated land use mix that reflects the desired future high quality town centre that supports a vibrant economic location, a lively social and community hub, and a diversity of public open spaces at the ground level, as well as the roof and other levels of the building,	Although limited in size and scale it is in keeping with the existing surrounding development. It does provide a mix of uses which includes the ancillary café and is unlikely to impede the future development of Strathfield Town Centre.	Yes
(f) includes building massing, modulation and bulk that is appropriate in the context of surrounding buildings in terms of its separation, setback, building street height and amenity and its relationship to such buildings,	The two-storey development is of a similar scale of the surrounding and adjacent development.	Yes
(g) has achieved a high level of ecologically sustainable design, including low-energy or passive design, and minimises environmental impacts such as overshadowing, wind effects and reflectivity	The use of high-quality materials including energy efficient glazing will provide sustainable design building.	Yes
(h) supports designed sustainable urban mobility through a high quality pedestrian environment, high quality provision for cycling infrastructure,	Improves activation of the street and sight lines of an already highly used section of footpath.	Yes



high quality service access, circulation and vehicular design.		
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As such, the proposal has considered the requirements for design excellence with the Strathfield Town Centre.

It is considered that the proposed development satisfies 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 DCP No. 13 (Strathfield Town Centre), Part H – Waste Minimisation and Management, Part I – Provision of Off-Street Parking, Part O – Tree Management, Part P- Heritage, Part Q – Urban Design Controls.

STRATHFIELD DEVELOPMENT CONTROL PLAN 2005:

DCP No. 13 – Strathfield Town Centre

DCP 2005 No. 13 – Strathfield Town Centre is of relevance to the assessment of an application for a pub within Strathfield Town Centre and as such applies to the subject application. The following objectives and controls are relevant to this application.

Part 3 – Building Siting and Design

3.2.1 Objectives	Proposal	Compliance/Comment
b) To ensure built form is kept generally to 2 storeys to street alignment	Two (2) Storey Pub.	Yes
e) To ensure that infill development is consistent in height with adjoining structures.	Development will be at the same height as adjacent buildings to the north.	Yes
i) To ensure that building colour and signage is sympathetic and attractive	The proposed signs are clear and simple in design, they have a metal finish providing a contemporary design	Yes
j) To ensure that new development has high regard for pedestrian shopper amenity and movement with the Centre.	The proposal will improve walking between the centre and the train/bus interchange by activating the public domain, especially during the evening and maintaining current verge widths.	Yes



k) To ensure that any new structure has regard for minimising overshadowing and wind effects in all public spaces, having particular regard for non-summer conditions in areas of pedestrian activity.	Updated shadow diagrams were provided and show that most shadowing will occur over the road and have limited impacts to the plaza area.	Yes
l) To locate site access so as to avoid footpath crossings to street frontage and make use of available rear access wherever possible.	Existing crossing to be maintained to loading dock which will be covered and have the ability for 6.4m Small Rigid Vehicles and turntable for forward ingress and egress. Conditions relating to pedestrian safety including convex mirrors, stop signs and exiting alarms will be conditioned to improve safety.	Yes
m) To provide additional parking within the Centre and encourage consolidation of customer parking.	Will remove existing parking (pertaining to four (4) spaces) for the introduction of a loading dock. Sufficient private and public parking in the area.	No but acceptable, refer to Part I Provision of Off-Street Parking and internal Traffic Engineer referral comments.
3.4.2 Principal considerations at design stage	Proposal	Compliance/Comment
a) Vertical Elements	Vertical window structure façade that faces the corner of Strathfield Square and Albert road creates visual interest.	Yes
b) Horizontal Elements	Horizontal elements such as the awning over the main entrance provides visual interest.	Yes
c) Ornamentation	Design provides visual interest in the use of brickwork and glass design.	Yes
3.6 Access 3.6.2 Pedestrian Access	Proposal	Compliance/Comment
To maximise shopper amenity, convenience and safety it is important that pedestrians and disabled persons enjoy priority treatment within the Town Centre itself.	The design has a supplementary access report that specifies that the proposal will be compliant with the relevant legislation for access. The development is also likely to improve the footpath amenity.	Yes
Use of public land adjoining shopfront premises for	Proposed outdoor seating has been provided subject	Yes



outdoor seating purposes is generally favoured by Council providing that no conflict occurs with other uses	to an outdoor seating application.	
3.6.4 Vehicular Access	Proposal	Compliance/Comment
Not permitted across the following property boundaries: <ul style="list-style-type: none"> • Properties with frontage to The Boulevard • Properties fronting Strathfield Square, Albert Road and Churchill Avenue as far west as the existing service access to Strathfield Plaza 	Existing crossover, no change therefore still acceptable.	Yes
3.7 Parking	Proposal	Compliance/Comment
3.7.1 This information supplements Part I of Strathfield Consolidated DCP 2005 – (Provision of Off-Street Parking Facilities) which should also be consulted. Council’s Parking Code stipulates a provision of 6.2 car spaces per 100m ² gross leasable area (GLA) of retail floor space and 1 space per 30m ² gross floor area (GFA) for office development in Strathfield Town Centre. Council’s Parking Policy also distinguishes between long stay and short stay parking. Parking provision rates for other uses is found in Council’s general parking policy.	The use does not pertain to this control as it refers retail use. Ample parking is provided in the area including close access to public transport. Parking is unlikely to be an issue, refer to Part I of this report.	Yes
3.7.2 As a general principle, employee (ie long term) parking may be provided on site if practicable ie 1.5 spaces per 100m ² GLA for retail and the great bulk (2.5-2.7 spaces per 100m ² GFA) for office uses. In the case of office uses, if all required parking can be provided on-site in a manner	The use does not pertain to this control as it refers retail and office use. Ample parking is provided in the area including close access to public transport. Parking is unlikely to be an issue, refer to Part I of this report.	Yes



<p>Council considers practicable and safe, then it may be provided on-site on the basis that other DCP provisions are not contravened. In the case of smaller retail uses, a minimum of 1.5 spaces per 100 m2 GLA may be provided on-site though also subject to DCP conformity otherwise. Spaces not provided on-site may be provided by contribution in lieu as provided for in Council's Section 94 Contributions Plan for provision in Council public parking area elsewhere serving the Town Centre.</p>		
<p>3.7.3 Council has the discretion to vary these rates according to circumstances - for example, in the case of out-of-hours uses such as evening restaurants when ample parking might be available.</p>	<p>Ample parking provided in the area therefore rates can be varied. The pub is considered an out of hours use.</p>	<p>Yes</p>
<p>3.8 Signage Objectives</p>	<p>Proposal</p>	<p>Compliance/Comment</p>
<p>1. To permit adequate identification and business advertising;</p>	<p>Identifies business.</p>	<p>Yes</p>
<p>2. To ensure that signs enhance the commercial/retail vitality of the area without adversely affecting the amenity of the locality;</p>	<p>Enhances Commercial activity without affecting amenity.</p>	<p>Yes</p>
<p>3. To ensure that signs are in keeping with the scale and character of the building to which they are affixed and do not detract from the architectural treatment;</p>	<p>Signs are of reasonable scale and unlikely to impact on the Character Strathfield Town Centre. VIP signs have been removed during assessment to comply with the ban by State government on the 1 September 2023.</p>	<p>Yes</p>
<p>4. To ensure that all businesses have the opportunity for reasonable exposure</p>	<p>Reasonable signage that identifies the building.</p>	<p>Yes</p>



for the purposes of identification		
3.8.3 The following approach is adopted by Council for each shopfront.	Proposal	Compliance/Comment
3.8.4 Signage subject matter will be limited to advertising the business itself or the goods or services offered by that business on that property. All signs are to be displayed predominantly in the English language, but may include a direct or near direct translation into another language using similar lettering or characters. Predominantly means more than 50% of the written area of the sign. This shall not increase the total sign coverage allowance	Signage is in English and relevant to the Pub and its use.	Yes

Part 4 – Development Controls over land bounded by Albert Road, Raw Square, Churchill Avenue and Strathfield Square

4.2 – Planning Objectives	Proposal	Compliance/Comment
4.2.1 The planning objectives nominated in sections 2.1.1, 2.1.2 and 3.2.1 of this DCP except for those which clearly relate to other parts of the Town Centre, also apply to land referred to in Part 4.	See above.	Yes
4.2.2 The following planning objectives have more specific application to this land: <ul style="list-style-type: none"> ◆ To ensure shopfront development built to the street alignment, at least over the eastern half of the block, fronting Albert Road, Strathfield Square and Churchill Avenue. ◆ To retain human scale to the streetscape by keeping street frontage development a minimum of two storeys and a 	Human scale maintained with two storey development, appropriate design to minimise visual impacts. The development is in line and consistent to the streetscape and scale of other developments nearby. Limited overshadowing impacts, most shadowing will occur over the road. The development will have street level access and two entry points with a third entry for the ancillary café.	Yes



<p>maximum of 12m in height.</p> <ul style="list-style-type: none"> ◆ To minimise visual impacts on the pedestrian, particularly as viewed from Strathfield Square, by stepping taller building elements up away from the Square and setting back a minimum of 3-4m from street alignments. ◆ To recognise the contextual “framing” elements formed by the Strathfield Plaza and Sandalwood apartments buildings as viewed both from the east and west. ◆ To see the planning advantages available from development over sites of 3000 m2 or more by offering up to 3:1 FSR bonus for site consolidation and associated public benefits. ◆ To maximise site access to any development. ◆ To maximise on-site availability of public parking. ◆ To minimise below-ground parking to minimise massing impacts. ◆ To minimise overshadowing and wind effects. 		
<p>4.3 Planning Controls</p>	<p>Proposal</p>	<p>Compliance/Comment</p>
<ul style="list-style-type: none"> • Adequate provision is made for public car parking on the land (LEP) 	<p>No car parking proposed but substantial public and private carparking nearby, including easily accessible public transport options. Transport options include Strathfield Train Station and the adjacent bus interchange</p>	<p>Yes</p>
<ul style="list-style-type: none"> • Appropriate measures for pedestrian comfort, safety and 	<p>Development provides good interface between the private and public realm. Visual transparency</p>	<p>Yes</p>



convenience are incorporated into the development (LEP).	between the internal and external features of the development	
<ul style="list-style-type: none"> Development at ground level should be a minimum of two storey shopfront form built to the street alignment, at least over the eastern half of the street block, with weather protection for pedestrians. 	The two-storey height of the development is acceptable, and weather protection (e.g. awning) has been provided.	Yes
<ul style="list-style-type: none"> The building(s) do not overshadow Strathfield Square or the southern side of Churchill Avenue west to the Plaza pedestrian entry, before 3pm on the winter solstice (LEP). 	Minimal increase of shadowing from existing building is acceptable in this circumstance.	Yes
<ul style="list-style-type: none"> Roof lines shall be "finished", i.e. not revealing lift overruns or services 	Lift overruns and services hidden.	Yes
<ul style="list-style-type: none"> A model of the proposal shall be prepared, showing the Square and other nearby building forms; a photomontage representation shall also be prepared by a recognised specialist, certified by a surveyor as to accuracy. 	Photomontage provided, demonstrating that the proposal will improve the existing outcome for the site, providing passive surveillance of the plaza and Strathfield Town centre and improved urban design outcomes.	Yes
<ul style="list-style-type: none"> The articulation of the facade and roofs should be designed to create a good quality landmark with particular attention to streetscape and the street corners 	The addition of the ancillary café has improved the overall streetscape and street corner of the development.	Yes
<ul style="list-style-type: none"> The building's facade should be developed to achieve the above appropriate proportions, patterns 	Building materials examined by Urban Designer and acceptable subject to conditions. The proposal provides appropriate	Yes



and masonry to window ratios for a well designed building complex. The materials should be good and approved by Council.	proportions of masonry to window ratios.	
<ul style="list-style-type: none"> Any loss of at-grade public parking should at least be replaced on-site with visible and accessible parking of generous dimension. 	Parking has not been replaced but ample parking is within close proximity of the development.	No but acceptable, refer to Part I Provision of Off-Street Parking
<ul style="list-style-type: none"> Other DCP controls would still apply. 	See Below.	

Part 4 – Performance Standards

5.1 – General	Proposal	Compliance/Comment
5.1.1 Building design and choice of building materials should concentrate on the comfort and amenity of its occupants as well as how the building relates to adjoining and nearby developments. It is essential that the building designer pay close regard to how a proposed building will contribute to overshadowing and wind conditions in nearby public areas, as well as reflected heat and potentially eye-damaging glare. Other considerations are the sensitive use of materials and colours, building proportion and appearance, pedestrians and disabled access and weather protection.	Materials have been considered, by Council's Urban Designer and considered acceptable subject to conditions. The materials are keeping with surrounding development and provide a modernisation to the area as well.	Yes
5.1.2 Council will take into account all of these matters when considering an application. Applicants should demonstrate in their application that close attention has been given to all of these performance issues, as any building in the Town Centre has the real potential to impact	Further information required relating to gaming room was required during the assessment. Applicant has provided amended plans, which is considered acceptable.	Yes



<p>significantly on the many people who use the Centre, particularly pedestrians. This applies particularly to larger developments and Council reserves the right to call for additional information dealing with these matters including advice from specialists in matters such as wind, overshadowing, reflectivity, etc.</p>		
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Overall, the design of the development is appropriate for the location. The proposed development is an accessible design with an ancillary café to activate the street frontage. It has a first story balcony that overlooks Strathfield Square and will be managed appropriately at night to be closed at 12am to reduce any noise impacts. The building has also been recommended for noise attenuation measures to limit impacts to surrounding residential development. Gaming will be hidden from the public realm limiting potential impacts. Overall the design is appropriate for this corner site.

Part H – Waste Minimisation and Management

In accordance with Part H of Strathfield CDCP 2005, a waste management plan was submitted with the application. The plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is considered that this plan adequately address Part H and considered satisfactory.

Part I – Provision of Off-Street Parking

SCDCP 2005 Part I – Provision of Off-Street Parking has no specific controls for pubs but relevant objectives. Section 1.3 (i) allows for departures from on-site parking space requirements if it meets the following criteria:

Section 1.3(i) Departures Criteria	Proposal	Compliance/Comment
a) Will the proposed development/change of use/alteration/addition to the premises create a demand for additional parking?	The proposed use as a pub is likely to increase demand but already substantial carparking within proximity to the development.	Yes
(b) The existing situation in relation to car parking in the locality;	Substantial private and public parking in the area.	Yes
(c) Whether any dedication of land to Council for public parking purposes is proposed;	None is proposed but is unnecessary due to the minor scale of development.	Yes
(d) Proximity and adequacy of off-street parking facilities to the site, ie a public parking station within 180m of the site having the spare capacity during the	Adequate Council carpark adjacent to the development.	Yes



premises' hours of operation;		
(e) Whether the site is located on a main or county road;	Located within the centre of Strathfield Town Centre, unlikely to impact on main roads.	Yes
(f) The hours of operation of the premises;	The development proposes operating hours between 10:00am and 2:00am for most days of the week. This will help to spread the need for car parking over long period. Also will be open when other businesses are closed (eg Retail, Health Services and other businesses). Meaning that there is likely to be ample parking spaces in the area.	Yes
(g) Any other factors which, in the Council's opinion, may have an impact on the amount of requisite off-street parking	The proposed development is adjacent to the Strathfield Train Station and bus interchange therefore close to public transport limiting the number parking needed for the development.	Yes

Although the proposed development is removing the existing four (4) parking spaces the surrounding public and private parking in the area and proximity public transport will likely alleviate any parking issues for the proposed pub. The spread of hours and the use as a pub will likely lessen concentrated hours of use and therefore reduce the need for parking at critical times. Thus, the development satisfies the requirements and objectives of SCDCP 2005 Part I – Provision of Off-Street Parking.

Part J – Erection and Display of Advertising Signs and Structures

SCDCP 2005 Part J – Erection and Display of Advertising Signs and Structures is of relevance to the assessment as the new pub has several proposed signs relating to the business. The following aims and controls are relevant to the proposed development.

SCDCP Controls	Development Proposal	Compliance/ Comment
Part J Cl2.3 Commercial Areas		
(i) permit the adequate display of information concerning the identification of premises, the name of the occupier and the activity conducted on the land;	Clear signage has been provided for both the pub and the ancillary café.	Yes
(ii) Enhance and add to the commercial/retail vitality of the area without adversely affecting the amenity of the locality;	Additional food and drink premises that is unique to the area and unlikely to affect the surrounding amenity.	Yes
(iii) ensure that signs are in keeping with the scale and character of the building to which they are affixed and not detract from the	Reasonable size for the proposed development.	Yes



architectural treatment;		
(iv) ensure that all businesses have the opportunity for reasonable exposure for the purposes of identification.	Achieved.	Yes
Part J 4.0 Schedule 2 ITEM 3 – Fascia Signs		
(a) shall not project above or below the fascia or return end of the awning to which it is attached;	Due to the thin design of the awning, the two business identification signs protrude above and below the awning. This is unlikely to conflict with any neighbouring awnings and add interest to the building form.	No but acceptable
(b) shall not extend more than 0.3m from the fascia or return end of the awning;	It is below and above fascia and does not extend beyond the return end of the awning.	Yes
(c) unless Council otherwise approves, shall not extend or project beyond a point 0.6m within the vertical projection of the kerb line;	Less than 0.6m.	Yes
Part J 4.0 Schedule 2 ITEM 6 – Flush Wall Signs		
(a) where it is illuminated, shall not be less than 2.6m above the ground;	More than 3m above ground level for main sign, other signs have small lights projecting onto the wall and are unlikely to cause impacts and considered reasonable.	No but acceptable
(b) shall not extend laterally beyond the wall of the building to which it is attached;	No does not extend beyond the wall.	Yes
(c) shall not project above the top of the wall to which it is attached more than - (i) 2.4m; or (ii) 50% of its height, whichever is the lesser;	Does not project above the top of the wall where its attached.	Yes
(d) unless Council otherwise approves, where of a skeleton letter type, shall not have an advertising area greater than 4.6 times the distance (to the nearest whole metre) between the lowest part of the sign and the ground; and	Achieved	Yes
unless Council otherwise approves, where not of a skeleton letter type, shall not have an advertising area, in square metres, greater than three times the distance (to the nearest whole metre) between the lowest part of the sign and the ground.	Achieved	Yes

Overall, the signage provided is acceptable and is mostly to do with identification of the use of the proposal. Any VIP signs have been removed in the assessment of the application in keeping with NSW state legislation for gaming machine signage. In general, the development meets most of the controls for Part J – Erection and Display of Advertising Signs and Structures.



Part O – Tree Management

The aims and objectives of Part O of the SCDCP 2005 is to maintain and enhance Strathfield's high quality landscape character and amenity, to promote the maintenance and preservation of Strathfield's tree canopy and encourage integrated approach to urban development. The site contains no trees on site but is adjacent to three Eucalyptus Microcorys (Tallowoods) on the pathway adjacent to Churchill Avenue and Albert Road. There are also three (3) Casuarina cunninghamiana (River She-Oaks) immediately adjacent to the site boundary, within the council carpark to the west.

All trees were considered by Council's Tree Management Officer who raised concern for the retention of the two closest River She-Oaks. As above within the referral comments a condition has been added in the consent to allow for the opportunity for the retention or removal of these two trees subject to further investigation. Overall, the development maintains the street path canopy (tallowoods) and has an integrated approach to deal with the River She Oaks within Council's Carpark. Thus, the development meets the aims and objectives of Part O.

Part P – Heritage

The purpose of Part P is to establish control for development affecting places of heritage significance. The proposed development site is not a heritage item or within a conservation area. It is within proximity to State Heritage Listed Strathfield Train Station. The development is unlikely to cause impact to this item and this has been reviewed by Council's Heritage Planner who considered that the proposed pub is unlikely to cause impact on the Train Station or any other items and conservation areas within the locality. Thus, the development is considered to satisfy the objectives of Part P.

Part Q – Urban Design Controls

The purpose of Part Q is to facilitate design excellence to deliver the highest standard of architectural, urban and landscape design.

The proposed development continues to positively respond to the street through its attractive street frontage, appropriate corner building articulation and understates yet modern external finishes that will complement the prevailing and future transitioning nature of Strathfield Town Centre.

The proposal has been re-designed throughout the assessment process to achieve a better active frontage including the addition of the ancillary café with transparent glass to allow for activation of the street corner. Awnings have been extended and lowered to allow improved footpath use. The textured brickwork creates visual interest to the built form. Signage has been updated and provides clear identification of the business. The loading dock has been covered by a physical structure to limit and reduce amenity impacts. Overall, the design of the proposal is consistent with delivering a high standard urban and architectural design within the Strathfield Town Centre.

- (i) ***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 likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal including traffic, urban design and environmental impacts have been considered in response to SEPPs, LEP and DCP controls outlined above.

The consideration of further impacts on the natural and built environments and social and economic impacts includes the following:

Noise Impacts:

An acoustic report was prepared by Arup Australia Pty Ltd dated 20 March 2023 whereby a criterion for the assessment of the operational noise of the proposal was derived from the existing noise environment of the area. A range of short-term and long-term measurements were taken within proximity of the proposed development site. The assessment concluded that the architectural design, proposed uses, hours of operation and patron occupancy limits proposed for the development can satisfy the established Noise Policy for Industry and Liquor and Gaming NSW noise goals. The following noises mitigation measures were recommended and are to implemented as conditions of consent.

- i. Apply an absorptive finish to the inside faces (to all 4 sides) of both voids/shafts, extending for their entire vertical height (~5m tall). The finish should have a minimum acoustic absorption performance of α_w 0.90. Typical finish options may include 50mm thick fiberglass or mineral wool mechanical duct liner products, or a harder, non-fibrous panel product such as 50mm thick Pyrotek Reapor (or equivalent).
- ii. Waste and recycling collection schedule to be:
 - a. Between 7am and 10am on Monday through Saturday
 - b. Between 8am and 10am on Sunday
 (A standard condition for commercial activity has been added which gives more flexibility to the above hours but still helps to reduce noise impacts: 6.00am and 8.00pm weekdays and 9.00am and 5.00pm on weekends and public holidays)

And after midnight, implement the following operational noise mitigation measures:

3. Reduce patron occupancy on the Outdoor Terrace to 20 people
4. Turn off background music in the Outdoor Terrace
5. Limit background music to 70 dBLA₁₀ (15min) sound pressure level in the ground level Lounge Bar

Note: That recommendation 3 and 4 were reviewed by Council's Environmental Health Officer and further restrictions to the terrace have been recommended for the consent, which include:

- No amplified sound equipment is to be used on the terrace.
- The doors to the terrace are only permitted to open to permit travel entry of patrons. The doors are not intermittently open for an extended period of time, when patrons are not passing through.



Further a condition will be added that the outdoor terrace is to be closed after midnight and 10pm on Sundays. This will be an easier condition to comply with than requiring only 20 people to be allowed on the terrace after midnight. This will help in mitigating noise impacts in the local area.

Noise impacts of the development are considered acceptable and appropriate for the Strathfield Town Centre, the mitigation measures will help to reduce noise impacts to the surrounding locality.

Social and Economic Impacts

A social impact assessment was prepared by Sarah George Consulting (Social Planning Consultants) in April 2023. The report considered the proposal against a myriad of criteria to determine the social impacts of the proposed development. These criteria included but not limited to population change, housing, access and mobility, community health and safety, social cohesion, amenity, social equity and character. These criteria were used in a social impact assessment of the pub. The conclusion of the report suggests that the inclusion of numbering mitigation measures for the proposed pub and that it operate in accordance with the Plan of Management submitted with the application. Measures such CCTV monitoring and an incident register will be used, also staff are to be trained in accordance with harm minimisation and responsible service of alcohol requirements. The proposed pub is unlikely to generate any unreasonable social impacts given the location of the subject site in the Strathfield Town Centre. Any potentially negative impacts generated by the operation of the proposed pub can be mitigated through operational characteristics and in consultation with the applicant.

The development has considered Crime Prevention Through Environmental Design (CPTED). There are four key principles of CPTED and they relate to surveillance, access control and movement, territorial reinforcement and environmental management (space management). The proposed development has been reviewed by NSW police and is considered acceptable subject to conditions which improve on the above principles. The applicant also provided a CPTED report by Sarah George Consulting (Social Planning Consultants) dated April 2023. Which concluded that the development could meet the CPTED principles. The design of the development provides passive surveillance, with control to the entries and exit of the building. The plan of management provides detail that the proposal will be managed appropriately. Overall, the development satisfies the CPTED principles.

Gaming machines can have the potential to cause a detrimental impact on individuals and the community. During the assessment of the application the proposal was required to show the location of the machines within the plans to illustrate the ability for the gaming machines to meet the requirements outlined within the social Impact Assessment and Plan of Management provided by the applicant. An ancillary café has been added to the proposal which provides clear separation of any gaming from the public realm. VIP signs have also been removed from the plans in accordance with the ban by the NSW state government. The redesign of the development has placed less emphasis on gaming from a street perspective. Thus, gaming is likely to have a lesser social impact to the locality.

Currently there is only one (1) other hotel licence development within the suburb of Strathfield as identified by the Office of Liquor and Gaming's Premises list. The development is the Strathfield Hotel located 27-29 Everton Road, Strathfield. This existing licensed premises is located on the northern side of the railway approximately 150m north east of the subject site within the Burwood LGA. The proposed development will be unique by providing a modern recreation and entertainment venue within the Strathfield Town Centre. Also, the



proposal is likely to provide local employment opportunities. Overall, the development is likely to have a positive economic impact.

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

It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. The development is within the commercial centre of the Strathfield Town Centre and is located close to several forms of public transport. The development has been designed to activate the street frontage and provide a modern design that is suitable for the changing context of the Strathfield Town Centre.

(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. Seven (7) submissions were received raising the following concerns:

1. Noise Impacts

Comment: Several of the neighbouring properties have concern with the noise impacts due to the operational hours of the proposed establishment and the use of the first-floor balcony. As discussed already in this report, several measures will be added to the conditions of consent to limit the noise impact of the development. Including but not limited to conditions relating to not allowing for amplified music on the terrace, reducing number of patrons on the terrace after midnight and the use of noise absorptive material for the finish of the building to help reduce escaping noise from the building.

Further concerns raised included impact of noise of patrons outside the premise, the Plan of Management provides details on how these patrons are to be managed including extended security measures outside the pub for the orderly dispersal of patrons. The Plan of Management has considered the amenity of neighbouring properties. Overall, the information provided by the applicant has been sufficient that noise amenity in the area will be maintained.

2. Traffic and Parking Impacts

Comment: Several submissions had concerns about the increase in traffic in the area and the reduction in parking that the development proposes. This reduction in car parking is seen as acceptable in this circumstance due the location of the proposal being within a 100m of major train and bus interchange allowing ease of access to the proposal without the use of a car. Being a pub, it is preferable that patrons use public transport before using their private vehicles. The development is also within proximity to Public Carparking (Strathfield Square and Albert Road Public Parking) and private parking (Strathfield Plaza). The hours operation mean that the development is unlikely to affect daytime peak hours for parking or traffic. Meaning that there should be acceptable amounts of parking within the Town Centre for this proposal.

Truck and large vehicle movements will improve with the loading dock within site, reducing traffic movements on the street and impacts on-street carparking. The development has been reviewed by Council's Senior Traffic Engineer who found that the reduction of carparking was acceptable, and that traffic was unlikely to be an issue due to the operational



of the development. Overall, the development is likely to have a minor impact to traffic and parking and is considered acceptable.

3. Hours of Operation

Comment: The submissions raised had concern about the hours of operation and that they would be beyond normal trading hours for a newly established pub. Concern about the impact to the amenity of the local area after 12am was raised and it was suggested that a trial period of operation hours should be conditioned. This issue has been resolved with introduction of a variable hours of operation condition that allows council to review hours between 12am to 2am at anytime throughout the life of the pub, which provides better opportunity for compliance than a 12-month trial period of the hours.

4. Safety and Social Impact

Comment: Several of the submissions identified concerns that the introduction of a pub will create nefarious behaviour within the area. The proposed development has been amended with an ancillary café fronting the street, limiting visual presence of it being just a drinking and gambling institution. The development is also located in a commercial centre which is an appropriate location for these types of development. The applicant has provided a Plan of Management that contains safety measures for both patrons and surrounding public. As discussed above, a variable hours of operation condition will be within the consent and will allow a review of the late-night hours and safety of the pub. Overall, the development provides enough information to mitigate safety concerns.

5. Patron Capacity

Comment: A submission had concern for the patron capacity and whether it is appropriate. A condition will be added that a maximum of 300 patrons will be allowed onsite divided between the two floors with a maximum of 150 patrons on the first floor and a maximum 150 patrons on the ground floor. This is in line with the Statement Environmental Effects and BCA report provided.

6. Signage

Comment: A submission had concern with the ambiguity in the signage. The applicant has provided updated plans with clearer signage and the removal of 'VIP' signage in line with NSW State legalisation.

7. Design

Comment: Submissions had concern about the design of the proposed development. The development has been reviewed by Council's urban designers has been revised in several iterations and is considered acceptable and appropriate for the location. Refer to urban design section of this report.

8. Strategic Planning Context

Comment: Two Submissions had concern that the development will be inconsistent with the strategic planning for the Strathfield Town Centre. The development is consistent with the current controls and objectives for the Strathfield Town Centre as illustrated in this report. Ongoing strategic planning work is occurring for Strathfield Town Centre currently including consultation with the community. The proposal does not restrict future redevelopment of the wider town centre.



(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 development is likely to reinvigorate the street corner and add value to a location that has been unused and underutilised for some time.

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).

STRATHFIELD DIRECT SECTION 7.11 CONTRIBUTIONS PLAN

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

Provision of Community Facilities	\$0.00
Provision of Major Open Space	\$63,469.29
Provision of Local Open Space	\$21,896.91
Provision Roads and traffic Management	\$43,793.81
Administration	\$2,698.89
TOTAL	\$131,858.90

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.

Following detailed assessment, it is considered that Development Application No. 2023/52 should be approved.

A handwritten signature in black ink, appearing to read "J W Brown".

Signed:
J W Brown
Planner

Date: 26 February 2024

I confirm that I have determined the abovementioned development application with the delegations assigned to my position;



- I have reviewed the details of this development application and I also certify that Section 7.11/7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed by;

JG

Signed:
J Gillies
Senior Planner

Date: 11 March 2023



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

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

DEVELOPMENT DETAILS

(1) Approved Plans & Documentation

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan – Existing & Demolition	DA1-0401	13/12/23	05	H&E Architects
Site Plan – Proposal	DA1-0500	13/12/23	06	H&E Architects
Basement Level Plan - Proposal	DA1-1100	13/12/23	07	H&E Architects
Ground Floor Plan - Proposed	DA1-1101	13/12/23	06	H&E Architects
Level 01 Plan - Proposed	DA1-1102	13/12/23	06	H&E Architects
Roof Level Plan - Proposed	DA1-1103	13/12/23	06	H&E Architects
Elevations Proposed – East & West	DA1-3100	13/12/23	06	H&E Architects
Elevations Proposed – North & South	DA1-3101	13/12/23	06	H&E Architects



Detail Elevations – Signage 01,02 & 05	DA1-3200	13/12/23	05	H&E Architects
Detail Elevations – Signage 03,04 & 06	DA1-3201	13/12/23	05	H&E Architects
Section 01 - Proposed	DA1-4000	13/12/23	06	H&E Architects
Section 02 - Proposed	DA1-4001	13/12/23	06	H&E Architects
Section 03 - Proposed	DA1-4002	13/12/23	06	H&E Architects
Materials Palette	DA1-9803	13/12/23	05	H&E Architects
Landscape Plan	LAP-0001	13/12/23		H&E Architects
Hydraulic Services – Site Plan	SW-01	30/03/23	A	Harris Page & Associates Pty Ltd
Hydraulic Services – Basement Level Plan	SW-02	30/03/23	A	Harris Page & Associates Pty Ltd
Hydraulic Services – Ground Floor Plan	SW-03	30/03/23	A	Harris Page & Associates Pty Ltd
Hydraulic Services – Level 01 Plan	SW-04	30/03/23	A	Harris Page & Associates Pty Ltd
Hydraulic Services – Roof Plan	SW-05	30/03/23	A	Harris Page & Associates Pty Ltd
Hydraulic Services – Sediment and Erosion Control Plan	SW-06	30/03/23	A	Harris Page & Associates Pty Ltd



Description	Reference No.	Date	Revision	Prepared by
Access Report	LP_23061	22/03/23	1	Lindsay Perry Access
Acoustic Report	AC-01	20/03/23	1	ARUP
BCA Compliance Report	022-219115	27/03/23	R03	Philip Chun Building Compliance
Geotechnical Investigation	35444Lrpt	15/03/23		JK Geotechnics
CPTED Report		April 2023		Sarah George Consulting
Plan of Management		March 2023		Uploaded by Niall McAteer
Social Impact Assessment		April 2023		Sarah George Consulting
Traffic Impact Assessment	22.392r01v03	18/02/24	v03	Traffix
Operational Waste Management Plan	4872	22/01/24	D	Elephants Foot
Construction & Demolition Waste Management Plan		28/03/24	B	Elephants Foot

SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

(2) Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

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

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



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

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;
- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

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

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

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

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

(3) Vehicular Crossing – Major Development

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

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



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

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

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

(4) **Road Opening Permit**

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

(5) **Building – Hoarding Application**

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

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

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at www.strathfield.nsw.gov.au) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

(6) **Below Ground Anchors – Information to be Submitted with**



S68 Application under LGA 1993 and S138 Application under Roads Act 1993

In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the [Local Government Act 1993](#) and the [Roads Act 1993](#) for approval, prior to commencement of those works. The following details must be submitted.

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$20,000.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

- (e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

(7) Sydney Water – Tap in™

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

(8) Liquor Licence

Application shall be made to NSW Office of Liquor and Gaming for a Liquor Licence under the [Liquor Act 2007](#), prior to the issue of a construction certificate. Evidence that the Licence has been issued shall be provided to the Principal Certifier prior to the commencement of works.

Note: A use which is reliant on the obtaining of a Liquor Licence should refrain from progressing until the Licence is obtained.



PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

(9) Fees to be Paid

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation)	\$7,581.00
Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Security Damage Deposit	\$22,050.00
Tree Bond	\$117,235.00 (Overall cost may reduce subject Tree Bond condition)
Administration Fee for Damage Deposit	\$137.00
Administration Fee for Tree Bond	\$137.00



DEVELOPMENT CONTRIBUTIONS

Strathfield Section 94 Development Contributions - Roads and Traffic Management	\$43,793.81
Strathfield Section 94 Development Contributions – Local Open Space	\$21,896.91
Strathfield Section 94 Development Contributions – Major Open Space	\$63,469.29
Strathfield Section 94 Development Contributions – Community Facilities	\$0.00
Strathfield Section 94 Development Contributions - Administration	\$2,698.89
Total Section 94 Contributions:	\$131,858.90

General Fees

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

Development Contributions

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

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

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Development Contributions Plan.

Timing of Payment

The contribution must be paid and receipted by Council:

- prior to the release of the Construction Certificate.

Further Information

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



(10) Required Design Changes

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

Driveway Access and Splay.	<p>Convex mirrors are to be provided in lieu of the standard splays on either side of the driveway in order to sight pedestrians.</p> <p>A Stop Sign and "Warning Give Way to Pedestrians" sign is to be clearly visible to egressing vehicles at the egress.</p> <p>An alarm and flashing light is to be activated prior to an egressing vehicle departing from the subject site in order to alert pedestrians of an egressing vehicle.</p>
Terrace	<p>No amplified sound equipment is to be used on the terrace.</p> <p>The doors to the terrace are only permitted to open to permit travel entry of patrons. The doors are not be intermittently open for an extended period of time, when patrons are not passing through.</p>
Roller Door	<p>The colours and finishes of the perforated roller door to the loading dock entry are to match the bronze metal finish (Brz01) of the proposed signage and window frames.</p>

(11) Damage Deposit – Major Works

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

- (a) Pay Council, before the issue of the Construction Certificate, a security damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$22,050
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$137
- (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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



(12) **Tree Bond**

A tree bond of (calculated in accordance with Council's adopted Fees and Charges) including an administration fee of \$137 shall be paid to Council, prior to the issue of a Construction Certificate.

Root mapping of the two nearest *Casuarina cunninghamiana* is to occur and be provided to Council's Tree Management Officer for review and will provide confirmation on whether Bond Option (A) or (B) is to be used.

Option (A)

- *Casuarina cunninghamiana* (Carpark) \$31 973.00
- *Casuarina cunninghamiana* (Carpark) \$31 973.00
- *Casuarina cunninghamiana* (Carpark) \$21 315.00
- *Eucalyptus microcorys* (Churchill Ave) \$10 658.00
- *Eucalyptus microcorys* (Strathfield Square) \$10 658.00
- *Eucalyptus microcorys* (Strathfield Square) \$10 658.00

OR

Option (B)

- *Casuarina cunninghamiana* (Carpark) \$21 315.00
- *Eucalyptus microcorys* (Churchill Ave) \$10 658.00
- *Eucalyptus microcorys* (Strathfield Square) \$10 658.00
- *Eucalyptus microcorys* (Strathfield Square) \$10 658.00

*A non-refundable fee of \$6,406 for the removal of the two closest *Casuarina cunninghamiana* within Council's carpark. The removal cost and restorations works on Council's property must be borne by the applicant.*

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.

Payment may be accepted in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply). Note: Additional fees apply for the lodgement of a bank guarantee in lieu of cash bond applies in accordance with Council's adopted Fees and Charges.

A request for refund of the Tree Bond must be made in writing.

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.



(13) **Site Management Plan**

Major Development

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

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

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.

(14) **Erosion & Sedimentation Control**

Erosion and sediment controls must be provided to ensure:

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



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

(15) Pre-Construction Dilapidation Report – Private Land

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

- (a) All neighbouring buildings in Albert Road and Churchill Avenue likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

(16) Stormwater System

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

(17) Structural Details

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

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

(18) Access for Persons with a Disability

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

(19) Commonwealth Disability (Access to Premises) Standard

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



(20) **Off Street Parking – Compliance with AS2890**

All driveways, access ramps, vehicular crossings and car parking spaces shall 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).

(21) **Construction Traffic Management Plan**

A Construction Traffic Management Plan detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles

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

(22) **Food Premises**

The following information shall be provided and shown on the Construction Certificate Plans:

(a) Plans and Specifications

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- i. [Food Act 2003](#) (as amended)
- ii. [Food Regulation 2015](#) (as amended)
- iii. Food Standards Code as published by Food Standards Australia
- iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
- v. Sydney Water – trade Waste Section.

Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(b) Odour Control – Exhaust System (Charcoal Cooking)

Details of the construction and fit out of the exhaust ventilation system must be submitted for approval with the construction certificate .

Plans and specifications must demonstrate compliance with the [Protection of the Environment Operations Act 1997](#) (as amended) whereby the exhaust system in the food premises is fitted with pollution control equipment capable of removing odour and smoke from cooking fumes.

A suitably qualified person shall certify that this condition is satisfied prior to the issue of the Occupation Certificate. The development shall at all times comply with these odour control measures.



(c) Waste Facility

Details of the construction and fit out of the waste facility of the food premises, as well as a Waste Management Plan must be submitted to Council's Waste Services Team for approval. Such details must demonstrate compliance with the [Food Act 2003](#) (as amended), [Food Regulation 20105](#) (as amended); the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 *Design, construction and fit out of food premises (as amended.)* and must be:

- i. provided with a hose tap connected to the water supply;
- ii. paved with impervious floor materials;
- iii. coved at the intersection of the floor and the walls;
- iv. graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- v. adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the [Protection of the Environment Operations Act 1997](#);
- vi. Must be large enough to accommodate the bins required.

Council's Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(d) Litter Control

Ensure that the area of public footpath or public area adjacent to the premises is maintained in a clean and tidy condition. Litter management plan must be included in Waste Management Plan when applicable, indicating all steps being taken to prevent, reduce and collect any litter produced by the site as well as measures to conduct litter collection within a 50m radius from premises entrance or exit.

(e) Above Ground Grease Trap Bunding

The above ground grease trap must be located in a bunded area. The 'size of the area' is to be bunded to contain a minimum of 110% of the volume of the above ground grease trap tank.

The bund is to be constructed of a material, which is impervious to the liquid being stored. All pipework from the enclosed tanks and/or pumps shall be directed over the bund wall and not through it. Hose couplings for the tanks enclosed within the bund shall be placed in such a position that leaks or spillages are contained within the bund. The bunded area shall be roofed.

After completion, the bund shall be maintained in such a condition, that all spillages or leaks will be retained within the bund, until disposed of by means that do not pollute waters. Details of the above ground grease trap and bunding details must be included with the Construction Certificate application for approval.

(23) Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with detailed plans indicating that all fire hydrant, sprinkler valves and the like are enclosed in accordance with the requirements of AS 2419.1 – 2005 Fire Hydrant Installations.



(24) Onsite Waste Collection

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

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

(25) Commercial and Industrial Waste

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

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

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

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

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

(26) Landscape Plans

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

(27) Tree Removal/Pruning Prohibited

This consent does not approve 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.



(28) **Tree Protection and Retention**

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
	<i>Casuarina cunninghamiana</i>	Neighbouring property (carpark)	5.88m
	<i>Casuarina cunninghamiana</i>	Neighbouring property (carpark)	4.68m
	<i>Casuarina cunninghamiana</i>	Neighbouring property (carpark)	4.38m
	<i>Eucalyptus microcorys</i>	Street Tree (Churchill Ave)	6.18m
	<i>Eucalyptus microcorys</i>	Street Tree (Strathfield Square)	4.32m
	<i>Eucalyptus microcorys</i>	Street Tree (Strathfield Square)	4.14m

Note: The two *Casuarina cunninghamiana* (5.88m and 4.68m) protection is subject to the Bond Condition.

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- (e) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.



Specific Street Tree Protection Measures

- (f) For all street trees and carpark trees adjoining the subject site, unless otherwise specified in AS 4970-2009, 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 and that 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. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.
- (g) Should replacement or repair of the public footpath within the TPZ area of a street tree be required, Council's Tree Management Officer 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 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.

Excavation works near tree to be retained

- (h) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (j) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

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

(29) Contamination Site Assessment

Prior to Council or an accredited certifier issuing a construction certificate, a detailed site investigation and remedial action plan (if required) shall be undertaken/completed by a suitably qualified person in accordance with the relevant guidelines approved by the Office of Environment and Heritage (OEH) and in accordance with the requirements of the [Contaminated Land Management Act 1997](#).

The Assessment shall satisfy the Principal Certifier that the untested land as defined under the Statement of Environmental Effects is suitable for the proposed use.

(30) Detailed Stormwater Drainage Design

The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) in accordance with Council's Stormwater Management Code must be submitted with the Construction Certificate application.



(31) Pump-Out System Design for Stormwater Disposal

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

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

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

(32) Stormwater Drainage Plan Details

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

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

(33) Council Property Shoring

Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

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

(34) Geotechnical Report

Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (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 (address) and (address) prior to any excavation of site works. The Dilapidation Report is to 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 are to 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 shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (e) Sides of the excavation are to be piersed prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

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

(35) Demolition & Asbestos

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

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

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

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

(36) Demolition Notification Requirements

The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.



- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

(37) Demolition Work Involving Asbestos Removal

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

(38) Dial Before You Dig

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

(39) Dilapidation Report on Public Land

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

- (a) Road reserve in Churchill Avenue
- (b) Road reserve in Albert Road

The report must include the following:

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

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

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

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



(40) **Utility Arrangements**

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

(41) **Dust Control**

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of a minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as required should it fail to adequately control any dust nuisance.

Major Works

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

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

DURING CONSTRUCTION

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

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Friday and 8:00am to 1:00pm on Saturdays. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Where the development involves the use of jack hammers/rock breakers and the like, or other heavy machinery, such equipment may only be used between the hours of 7:00am to 5:00pm Monday to Friday only.



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

(43) Cost of Work to be Borne by the Applicant

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

(44) Obstruction of Road or Footpath

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

(45) Construction Management Plan

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

(46) Waste Management Facility

All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier and Council, where Council is not the Principal Certifier.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

(47) Post Construction Dilapidation Report – Private Land

At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

- (a) All neighbouring buildings in Albert Road and Churchill Avenue likely to be affected by the excavation as determined by the consulting engineer.

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



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

(48) Dilapidation Report on Public Land for Major Development Only

Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

- (a) Road reserve in Churchill Avenue
- (b) Road reserve in Albert Road

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- i. Photographs showing the condition of the road pavement fronting the site
- ii. Photographs showing the condition of the kerb and gutter fronting the site
- iii. Photographs showing the condition of the footway including footpath pavement fronting the site
- iv. Photographs showing the condition of retaining walls within the footway or road
- v. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- vi. The full name and signature of the professional engineer.

The report must be provided to the Principal Certifier and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

NOTE: Council will use this report to determine whether or not to refund the damage deposit. Council's Engineering Services Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

(49) Fire Safety Certificate before Occupation or Use

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

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

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



(50) **Slip Resistance**

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

(51) **Maximum Number of Persons**

Pursuant to clause 73(2) of the [Environmental Planning and Assessment Regulation 2021 - NSW Legislation](#), a sign must be displayed in a prominent position in the building stating that the maximum number of persons that are permitted in the building. The sign must not exceed the following capacity as specified in the schedule below:

Description of Building Portion "Scheduled Area(s)"	Approved Capacity/Patronage
Ground floor	150 persons
First Floor	150 persons
Total	300 persons

The manager on duty shall ensure that the approved capacity as scheduled above is not exceeded and checked by either ticket sale, counting machine, invitation schedule or other approved method. On request by an authorized officer such as the Council, Police or Fire Brigade, the duty manager shall provide evidence of the number of person's occupying each scheduled area.

(52) **Acoustic Compliance**

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the Principal Certifier certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Acoustic Report for Development Application, prepared by ARUP and dated 20 March 2023.

(53) **Noise from Roof Top Mechanical Plant and Equipment**

Noise from the operation of rooftop mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and / or refrigeration systems must not exceed *background noise* when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest strata, stratum or community title boundary.

A professional acoustic engineer shall be engaged to certify that the design and construction of the all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.



(54) Food Premises – Inspection & Registration

Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- (a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
- (b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- (c) The Food Premises must notify and register its business details with Strathfield Council as required under section 100 of the [Food Act 2003](#).

(55) Electricity Supply

Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

(56) Restriction to User and Positive Covenant for On-Site Detention Facility

Prior to the issue of any Occupation Certificate, the applicant shall register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, water sensitive urban design, surface flow path, finished pavement and ground levels etc.).

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

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

(57) Stormwater Certification of the Constructed Drainage Works (Minor)

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.

(58) Works as Executed and Certification of Stormwater Works

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

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

The works-as-executed drainage plan must be prepared by a professional engineer



specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):

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

OPERATIONAL CONDITIONS (ON-GOING)

(59) Variable Hours of Operation

The hours of operation are approved as follows:

- a) The core hours of operation of the premises shall be limited to the following
 - **Monday to Saturday 10am to 12am**
 - **Sunday 10am to 12am**
 - **Outdoor Terrace must be closed Sunday 10pm to 12am**
- b) Notwithstanding (a) above, the use may operate with extended hours of operation between **12am to 2am Monday to Saturday (except for the Outdoor Terrace which must be closed between 12am to 2am)**. The extended hours of operation may be reviewed by Council at any time, subject to the operator of the premises being given twenty one (21) days written notice that a review of the extended hours of operation will take place. In that time the operator may submit to Council any information they wish to be considered in support of the extended hours of operation.
- c) Any review of the extended hours of operation in (b) above by Council will be based on, among other things, the performance of the operator in relation to the compliance with the development consent conditions, any substantiated complaints received and any views expressed during public consultation or from other stakeholders including the Police.
- d) Following a review, Council may allow the use to continue to operate for the hours specified in (b) above, require the use to revert to the core hours of operation specified in (a) above or otherwise modify the condition as considered appropriate.
- e) The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.



(60) Maintenance of Landscaping

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

(61) No Structures on Street-Facing Roof Plane or Awning

No solar hot water heater storage tanks, solar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street (other than rear laneways).

(62) Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the Acoustic Report submitted by ARUP titled Acoustic Report for Development Application dated 20 March 2023.

(63) Operation of Air Handling Systems

The occupier must operate air handling systems in compliance with Part 2 of the [Public Health Regulation 2012](#) (as amended).

Where there is any change in the air handling system the occupier must register the changes in the regulated systems with Council.

Water cooling systems must be certified annually by a competent person as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

(64) Outdoor Lighting

To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with *AS 4282-1997: Control of the obtrusive effects of outdoor lighting*.

(65) Lighting – General Nuisance

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

(66) Amenity of the Neighbourhood

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

(67) Food Premises – Adequate Waste Receptacles (Restaurants, takeaway/cafe)

Appropriate waste and recycling containers must be provided for waste generation rates of 0.3 to 0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals. All waste and recycling containers shall be stored in the approved waste



storage area that is large enough to store the required number of bins and must be adequately serviced by waste collection vehicles.

(68) Food Premises – Maintenance of Food Premises

The food premises must be maintained in accordance with the [Food Act 2003](#) (as amended), [Food Regulation 2015](#) (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises (as amended)*.

(69) Food Premises – Garbage Odour

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the [Protection of the Environment Operations Act, 1997](#) (as amended).

(70) Outdoor Gaming/Smoking Area - Smoke Free Compliance

The subject development consent issued by Council does not imply or otherwise verify compliance with the [Smoke-Free Environment Act 2000](#) and/or the [Smoke-Free Environment Regulation 2016](#). The applicant and/or owner of the premises should seek their own legal advice as to compliance with Act and/or Regulation if proprietors of the premises intend allowing smoking in any area of the premises, including that area subject of this consent.

(71) Food Premises – Storage of Waste – Used Cooking Oil

Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.

(72) Licensed Premises – Noise Levels (7.00am to 12midnight)

The L_{A10} noise level emitted from the premises, measured between the hours of 7am and 12 midnight, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

(73) Licensed Premises – Noise Levels (12 midnight to 7.00am)

The L_{A10} noise level emitted from the premises, measured between the hours of midnight and 7am, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

(74) No of Patrons in Licensed Premises

A sign shall be displayed in a prominent position in the building specifying the maximum number of persons 300 persons (Maximum 150 on first floor and 150 on ground floor) permitted in the building.

(75) Loading & Unloading of Vehicles

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



(76) **Entering & Exiting of Vehicles**

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

(77) **Maximum Vehicle Size**

Small Rigid Vehicle

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

(78) **Annual Fire Safety Statement**

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

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

(79) **Noise Control**

The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

(80) **Requirement for a Construction Certificate**

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

(81) **Appointment of a Principal Certifier**

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

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



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

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

(82) Notification of Critical Stage Inspections

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

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

(83) Notice of Commencement

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

(84) Critical Stage Inspections

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

(85) Notice to be Given Prior to Critical Stage Inspections

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

(86) Occupation Certificate

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

PRESCRIBED CONDITIONS

(87) Clause 70 – Erection of Signs

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



(88) Clause 72 - Entertainment Venues

If the development/building is to be used as an Entertainment Venue, Clause 72(2) – (11) of the [Environmental Planning and Assessment Regulation 2021 - NSW Legislation](#) outlines the prescribed conditions which apply to Entertainment Venues.

(89) Clause 73 – Erection of sign for maximum number of persons

This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.

(90) Clause 74 – Protection & Support of Adjoining Premises

If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

ADVISORY NOTES

1. 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.

2. 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.

3. Lapsing of Consent

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

4. Long Service Levy

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



<http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

5. Disability Discrimination Act

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

6. Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993

To apply for approval under Section 138 of the [Roads Act 1993](#):

- (a) Complete the Works Permit Application Form which can be downloaded from Strathfield Council's Website at www.strathfield.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. Year/DA 2023/52) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Works Permit applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

7. Site Safety Fencing

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

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



8. Food Premises

Information on Australian Standards can be obtained from www.standards.com.au

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at foodstandards.gov.au or the NSW Food Authority on 1300 552 406, email: contact@foodauthority.nsw.gov.au or by visiting the website www.foodauthority.nsw.gov.au

Notification of Food Business under Section 100 of the [Food Act 2003](#) requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

9. Noise

Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- (a) Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

10. Acoustical Engineer Contacts & Reference Material

Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au)
- (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
- (c) NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)



11. Electricity Supply

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

12. NSW Police

i. Entry / Exit

Police recommend that height stickers be installed at all entry/exit points. This would assist staff in providing Police with a more accurate description of an offender when they leave the premises. Ensure the design and security systems are not obstructed or provide hindrance to the safety of staff and patrons. The area should be free of any bulky items such as decorative statues or large pot plants. The entry/exit points provide opportunity for staff to screen visitors before they enter and observe patrons as they leave the premises. This reduces the risk of a crime occurring within the premises.

ii. Signage

Glass windows, doors or screens on the premises be kept free of posters, signage, or decorations to prevent obstructing lines of sight inside and outside the tavern. Signage can be used effectively if placed in restricted areas such as "staff access only". Therefore, Warning signs should be strategically posted around the perimeter of the property, particularly near entry points to warn intruders of security measures. Example: Warning these premises are under constant surveillance, Warning don't leave valuables unattended, Staff Only Access, No cash kept on premises Directional signage should also be posted at decision making points (eg. Entry/egress points) to provide guidance to patrons. Knowing how and where to enter, exit and find assistance within a car park can impact perceptions of safety, victim vulnerability and crime opportunity.

iii. Noise

The walls and ceiling be made soundproof to prevent noise travelling upwards as this will increase community calls to Police and Council on the noise emitting from the premises. Police responding to noise complaints, limits their ability to conduct high visibility policing patrols around Strathfield hotspot areas. Windows be soundproof for maximum noise reduction.

iv. Security Systems

(CCTV, Alarms, Storage) Security systems for entrances should maximise the internal control of entry to the premises by providing adequate means of identifying and screening visitors/clients before they enter the premises. Security systems should not obstruct staff members from quickly and easily exiting the premises in case of an emergency. CCTV cameras form part of the evidence that assist police in identifying and prosecuting offenders. It also captures incidents that has occurred where there are no eyewitnesses. Police strongly recommend the installation of CCTV cameras at all entry/exit points in the restaurant, particularly where cash is being handled. CCTV is also recommended on the outside of the tavern covering the entire exterior of the tavern's frontage on both Albert Road and Strathfield Square. CCTV cameras should be of high quality where faces can be recognised. The CCTV should have a storage capacity of a minimum 40 days to allow time for the CCTV to be saved and collected without potential evidence being lost. A duress alarm should also be



considered, in the event of an incident the staff member can press the help button for emergency assistance. Lockable storage units should be provided to staff to secure their personal belongings and protect against thefts whilst on shift. Another recommendation is height stickers, to be placed along the inside of the entry door frame which assist in describing offenders. Mirrors should be considered and installed high up on walls and positioned to cover hiding spots in the dining areas, so staff have a visual of patrons from the service counter. Police suggest that all cash be removed from the premises at the conclusion of each shift, and the cash register drawers be left open.

v. Cash Handling

A robbery prevention program needs to be established to ensure that management and staff are aware of their responsibilities. Establish clear cash-handling procedures for the pub to reduce opportunities for crime and train Staff on cash handling procedures to reduce the opportunities for crime. Where possible, limit the amount of cash the business deals with by installing electronic payment systems such as EFTPOS. Limit the amount of money carried in the cash drawer at any time (\$200 float). Lock cash drawers when not in use, and clear money from the cash drawer on a regular basis, e.g., to a safe. Avoid counting cash in view of the public. Avoid wearing uniform or identification when transferring money. Don't use conspicuous bank-bags when transferring money, as this can be a clear indication to the thief. Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money.

TO: Strathfield Local Planning Panel Meeting - 28 March 2024
 REPORT: SLPP – Report No. 5
 SUBJECT: DA2023/141 - 175A ALBERT ROAD, STRATHFIELD - LOT 22 DP 590192
 DA NO. DA2023/141

SUMMARY

Proposal:	Alterations and additions to the existing two storey dwelling and a new swimming pool at rear.
Applicant:	KSE Consulting Pty Ltd & Mourad Demian Partnership Pty Limited
Owner:	K & S H Asfour
Date of lodgement:	24 November 2023
Notification period:	1 December 2023 – 15 December 2023
Submissions received:	Nil
Assessment officer:	J W Brown
Estimated cost of works:	\$730,950.00
Zoning:	R2 Low Density Residential - SLEP 2012
Heritage:	<p>Adjacent to heritage items:</p> <ul style="list-style-type: none"> State and Local Item I92 - Australian Catholic University, Strathfield Campus (includes former “Mount Royal”)—various buildings and landscape. <p>Local Item I132 - St Patrick’s College—Brother Hickey Building</p>
Flood affected:	N/A
Is a Clause 4.6 variation proposed?	N/A
Local Planning Panel Criteria	<p>Schedule 1:</p> <ol style="list-style-type: none"> Conflict of Interest Development for which the applicant or landowner is: <ol style="list-style-type: none"> a Councillor <p>Note: Councillor is of a different Local Government Authority. The schedule does not differentiate Councils.</p>
RECOMMENDATION OF OFFICER:	Approval

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for alterations and additions to the existing two storey dwelling and a new swimming pool at rear.

Site and Locality

The site is identified as 175A Albert Road, Strathfield and has a legal description of Lot: 22 DP: 590192. The site is an irregular shaped parcel of land and is located on the north side of Albert Road.

The site has an average width of 15m, an average depth of 38m and an overall site area of 831.1m².

The locality surrounding the subject site contains a mixture of residential development and education campuses.

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 1 December 2023 to 15 December 2023. No submissions were received.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/141 is recommended for approval subject to suitable conditions of consent.

RECOMMENDATION

That Development Application No. DA2023/141 for alterations and additions to the existing two storey dwelling and a new swimming pool at rear at 175A Albert Road, Strathfield be **APPROVED**, subject to the recommended conditions of consent.

ATTACHMENTS

- [1. DA2023/141 - 175A Albert Road, Strathfield - SLPP Report](#)



SLPP REPORT

Property:	175A Albert Road, Strathfield DA 2023/141
Proposal:	Alterations and additions to the existing two storey dwelling and a new swimming pool at rear.
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Owner:	K & S H Asfour
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Assessment officer:	J W Brown
Estimated cost of works:	\$730,950.00
Zoning:	R2 Low Density Residential - SLEP 2012
Heritage:	Adjacent to heritage items: <ul style="list-style-type: none"> • State and Local Item I92 - Australian Catholic University, Strathfield Campus (includes former "Mount Royal")— various buildings and landscape. • Local Item I132 - St Patrick's College—Brother Hickey Building
Flood affected:	N/A
Is a Clause 4.6 Variation Proposed:	N/A
Local Planning Panel Criteria	Schedule 1: 1. Conflict of Interest Development for which the applicant or landowner is: (b) a Councillor Note: Councillor is of a different Local Government Authority. The schedule does not differentiate Councils.
RECOMMENDATION OF OFFICER:	Approval



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

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for alterations and additions to the existing two storey dwelling and a new swimming pool at rear.

Site and Locality

The site is identified as 175A Albert Road, Strathfield and has a legal description of Lot: 22 DP: 590192. The site is an irregular shaped parcel of land and is located north side of Albert Road.

The site has an average width of 15m, an average depth of 38m and an overall site area of 831.1m².

The locality surrounding the subject site contains a mixture of residential development and education campuses.

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 1 December 2023 to 15 December 2023, where no submissions were received.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/141 is recommended for approval subject to suitable conditions of consent.

REPORT IN FULL

Proposal

Council has received an application for alterations and additions to an existing two storey dwelling and a new swimming pool at rear. Specifically, the proposal includes the demolition of a substantial number of walls. The outer frame walls will mostly remain as the base for the new works.

Ground floor level:

- Two car Garage
- Bedroom
- Bathroom
- Laundry
- Study
- Open plan kitchen, dining, and lounge room
- Butler's pantry

First floor level:

- Master Bedroom with ensuite and balcony
- Bedroom with ensuite
- Two Bedrooms
- Bathroom
- Open seating area

External works:

- Front porch
- Rear alfresco
- Swimming pool
- Outbuilding with toilet and shower

Further details are contained in the architectural plans submitted with the application and **Figures 2 to 6** below.

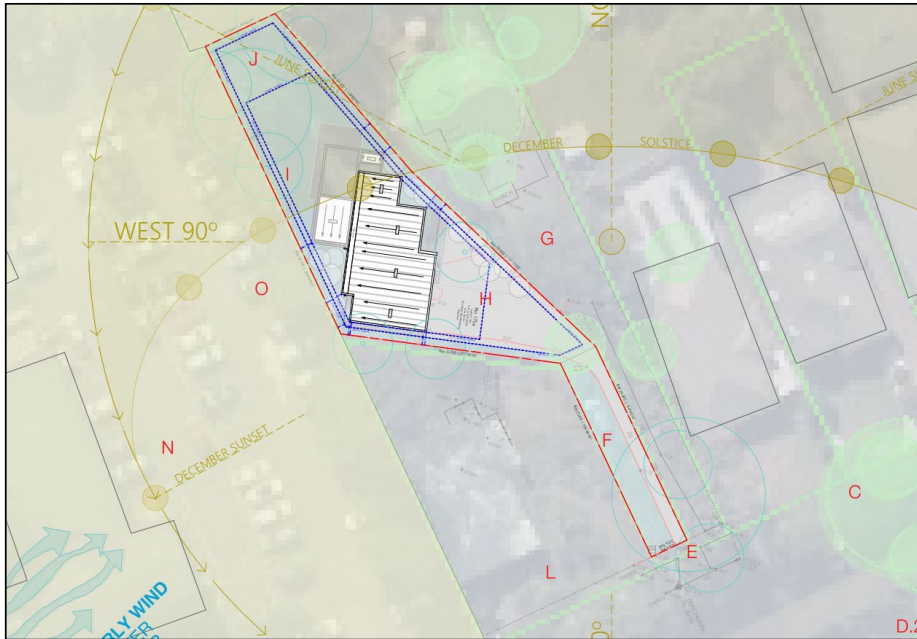


Figure 2: Site Analysis Plan

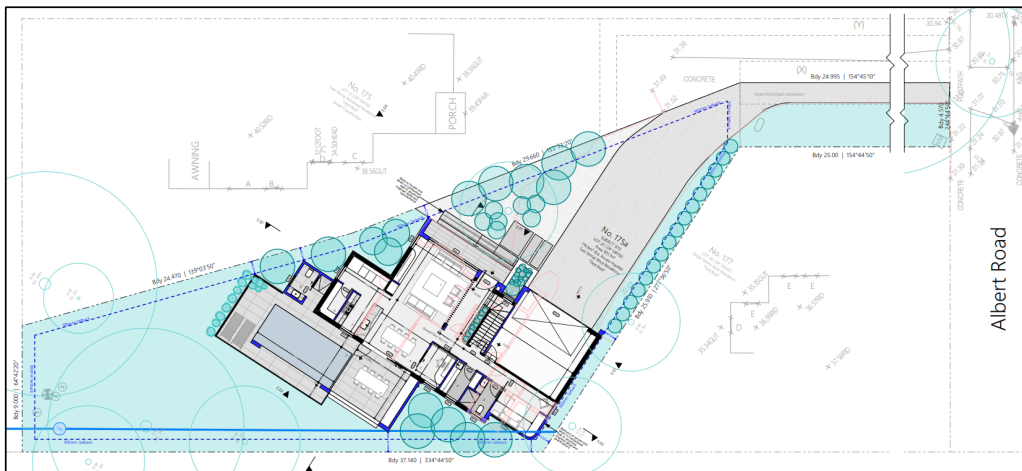


Figure 3: Ground Floor Plan

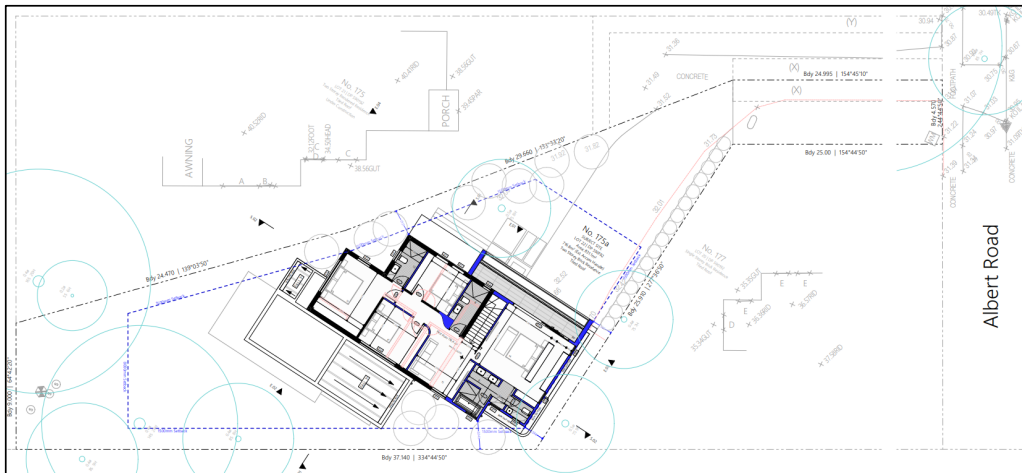


Figure 4: First Floor Plan

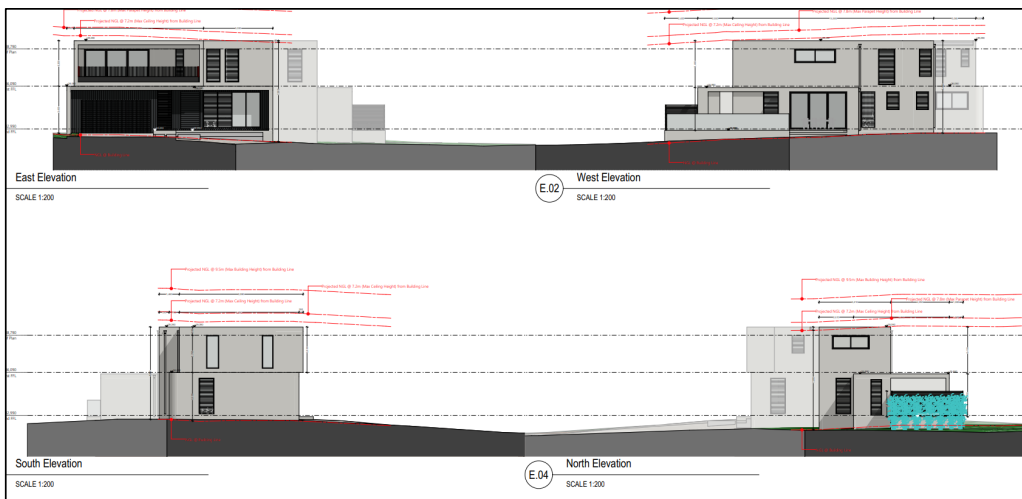


Figure 5: Elevations



Figure 6: Front Façade Montage

The Site and Locality

The subject site is legally described as Lot: 22 DP: 590192 and commonly known as 175A Albert Road, Strathfield. It is located off the north side of Albert Road, between South Street and Allenby Crescent.

The site is irregular in shape and is a battle-axe lot with a 25m by 4.57m access handle to the street. The lot has a southern boundary length of 25.10m, a western boundary length of 37.14m, a rear boundary length of 9m to the north and a boundary length of 54.13m to the east. The overall area of the site is 831.1m².

The site slopes gradually from the western boundary to the south eastern boundaries.

The site is occupied by an existing two storey dwelling with a tiled roof (see **Figure 9**). Vehicular access is provided to the site via a driveway that accesses the street by an access handle with right of carriageway that straddles both 175A and 175 Albert Road, both properties have right to use each other's driveway through the access handle. All work is proposed within 175A Albert Road. The dwelling has an existing garage located at the front façade of the dwelling.



Figure 7: Existing development (dwelling in the middle) on the subject site with 177 Albert Road to the left and 175 Albert Road to the right, as viewed from the street.

The current streetscape is characterised by dwelling houses and educational campuses (see **Figure 8**). Directly adjacent to the east of the property is another battle-axe lot at 175 Albert Road with a new two storey dwelling with a basement (see **Figure 12**). Adjacent to the south is an older single storey development at 177 Albert Road that has direct access to the street (see **Figure 13**). The proposal is also adjacent to both Australian Catholic University Campus to the west and St Patrick's College Campus to the north.



Figure 8: Closer aerial image of the site



Figure 9: Front façade of the existing dwelling



Figure 10: Rear yard facing north.



Figure 11: Rear façade of existing dwelling facing south west.



Figure 12: Dwelling at 175 Albert Road nearing completion



Figure 13: Dwelling at 177 Albert Road



Background

24 November 2023	The subject development application (DA2023/141) was lodged with Council.
1 December 2023	The application was publicly exhibited until 15 December 2023.
30 January 2023	Council's Planner carried out a site visit.

Referrals – Internal and External

Development Engineers Comments:

The application was referred to Council's Stormwater Engineer who offered no objection subject to standard conditions of consent.

Senior Traffic and Transport Engineer Comments:

The application was referred to Council's Senior Traffic and Transport Engineer who offered no objection subject to standard conditions of consent.

Tree Management Coordinator Comments:

The application was referred to Council's Tree Management Coordinator who offered no objection subject to 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 has been issued in accordance with the standards of State Environmental Planning Policy (Sustainability Buildings) 2022 and the commitments required by this certificate have been satisfied and included on the development plans.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of Land applies to the subject site and, pursuant to Section 4.15 of the EP&A Act 1979, is a relevant consideration. A review of the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations. Accordingly, the objectives outlined within Chapter 4 of the SEPP are considered to be satisfied.

STRATHFIELD LOCAL ENVIRONMENTAL PLAN (SLEP) 2012

The development site is subject to the SLEP 2012.

Part 2 – Permitted or Prohibited Development

The subject site is zoned R2 Low Density Residential and the proposed dwelling house is a permissible form of development with Council's consent.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.3 Height of Buildings	9.5m	7.4m	Yes
4.4C Floor Space Ratio	0.55:1 (457.1m ²)	0.27:1 (225.7m ²)	Yes

Part 5 – Miscellaneous Provisions

Heritage Conservation

The subject site is not listed as a heritage item or located within a heritage conservation area. The site does however adjoin, and is in close proximity to, heritage items (see **Figure 14**). These items include state and local heritage items. West of the subject property is Item 92 (I92) Australian Catholic University, Strathfield Campus (includes former Mount Royal) and to the north of the subject property is Item 132 (I132) 'St Patrick's College - Brother Hickey Building'. The Applicant has provided a Letter of Heritage Advice (LOA) by NWT Heritage Consulting Pty Ltd dated 23 October 2024. The LOA provides a detailed impact assessment of the proposed works in relation to the heritage items. The LOA concludes that the development is likely to have negligible visual impacts and no physical impacts to the heritage items. Therefore, the proposal satisfactorily addresses the provisions of this Clause.

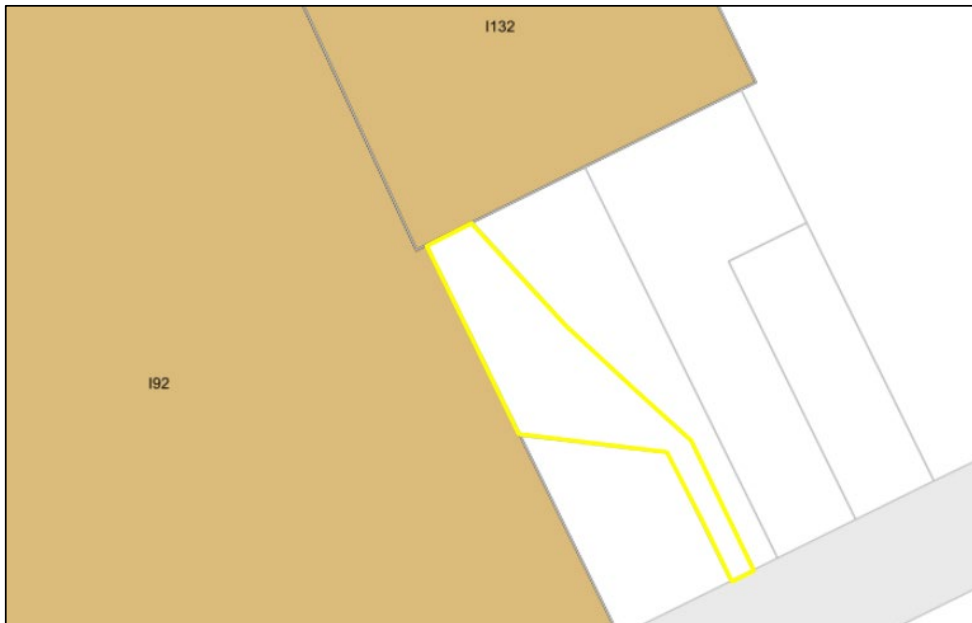


Figure 14: Adjacent heritage items

Flood Planning

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

Part 6 – Additional Local Provisions

Acid Sulfate Soils

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

Earthworks

The proposal does not include any significant excavation or basement works. Any excavation for footings or levelling of the site is considered to be minor and will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Essential Services

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

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



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

(iii) any development control plan,

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. A key consideration is whether the works can properly be constituted “alterations and additions” and therefore whether only the new works are subject to assessment under SCDCP 2005. In determining whether a development application should be described as being for alterations and additions rather than a new development, the Planning Principle in *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 was used. The Planning Principle’s qualitative and quantitative requirements were considered and on balance, the application acceptably demonstrates the changes can be considered as alterations and additions. Therefore, key non-compliances are considered acceptable due to the existing non-compliant built form.

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	2.7m	Yes
Height to underside of eaves:	7.2m	6.8m	Yes
Parapet height:	0.8m	0.6m	Yes
Overall height for flat roof dwelling:	7.8m	7.4m	Yes
Number of storeys:	2	2	Yes
Setbacks (min):			
Front:	Battle axe lots 4.5m	>4.5m	Yes
Side: Eastern	1.2m (min)	0.913m	No, see below
Side: Western	1.2m (min)	0.922m	No, see below
Combined side setback:	4.88m (25%)	1.835m	No, see below
Rear:	6m	>6m	Yes
Landscaping			
Overall area (min):	45% (374m ²)	45.9% (381.6m ²)	Yes
Front yard area (min):	50% (123.6m ²)	44.8% (110.6m ²)	No, see below
Rear area (min):	50% of overall landscape requirement (187m ²)	72% (271m ²)	Yes
Solar Access			
POS or habitable windows on subject site (min):	3hrs to habitable windows and to 50% of POS	Achieved	Yes
Adjoining POS (min):	3hrs	Achieved	Yes
Vehicle Access and Parking			
Boundary driveway width (min):	3m	3m	Yes (existing)
Vehicular crossing (max):	1	1	Yes
Driveway setback – side (min):	0.5m	>0.5m	Yes
No. of parking spaces:	2	2	Yes



Ancillary Development			
Outbuildings:			
Area (max):	40m ²	3.1m ²	Yes
Height (max):	3.5m	3.99m	No, see below
Side/rear setback (min):	0.5m	0.962m	Yes
Swimming Pool:			
Side/rear setback (min):	1.0m	0.939m	No, see below

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 contemporary design and scale of the development is suitable for the location. It will relate well with the adjacent two storey contemporary dwelling being constructed directly to the east. The proposal will have a similar footprint to the existing dwelling which limits the bulk.

Side Setbacks

The proposed development does not satisfy the minimum requirements for both the east and west side setbacks. The proposed western setback varies between 0.922m to 1.005m, which is below the 1.2m requirement. This non-compliance is considered acceptable as the development follows the existing building setback of 0.978m on the ground level and only reduces due to the addition of the guest bedroom. The second storey is setback further to 1.5m which is well beyond the minimum 1.2m requirement.

The eastern side setback, at a minimum of 0.913m, also does not meet the minimum 1.2m requirement. However, the eastern façade setbacks are all point encroachments as the development is articulated in a zig zag pattern along the eastern boundary (see **Figure 15**). Therefore, these encroachments are unlikely to cause significant impact as they are staggered along the eastern boundary with some parts of the built form having a larger setback. Accordingly, the variation is considered acceptable.

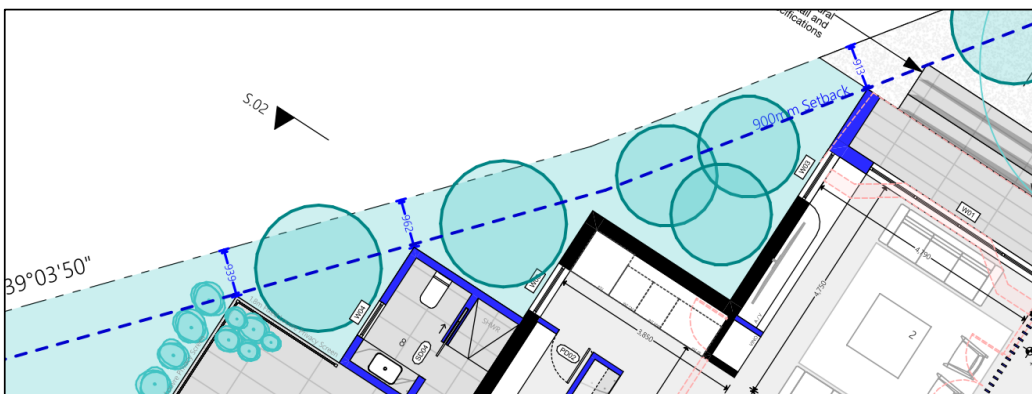


Figure 15: Easter Façade Zig Zag setback pattern

The combined setback of the development also does not comply, the proposed shape of the block being irregular mean that the combined setback is 25% of the width of the block at each



point. This control is difficult to achieve in this unique development due to that the proposal uses the existing dwelling as the basis for the new works. The proposal is also likely to achieve the combined setbacks if the point encroachment distance was not to be used but the average setback of the eastern façade. Overall, the development does not meet the side setbacks but is well positioned to limit impacts such as privacy and overshadowing concerns on other surrounding development. This is considered acceptable in this circumstance.

Landscaping and Open Space

The proposed development satisfies the relevant objectives and most of the controls of the SCDPC 2005. The development is considered to enhance the existing streetscape, provide adequate areas for deep soil planting and can accommodate large canopy trees. Where possible trees have been retained and protected.

The proposal does not meet the requirement for at least 50% of the front yard to be maintained as landscaped area, this is due to the unique shape of the site being a battle axe lot and therefore has a very small entryway to the street for landscaping and the driveway. Thus, there will be a limited amount of landscaping in front of the dwelling. It is only minor deficit of 13m² and is compensated by the large amount of landscaped area in the rear. Overall, the landscape area is compliant and provides significant private open space. Hence the non-compliance is acceptable in this circumstance.

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 generally satisfy the relevant objectives and controls of the SCDPC 2005.

Privacy

The proposed development satisfies the relevant objectives and controls of the SCDPC 2005, in that adequate privacy is maintained between adjoining properties and any potential overlooking is minimised. Windows are offset from adjoining dwellings where required, they are screened, obscured or off low active use rooms so as not to negatively impact on adjoining properties. Balconies are either screened, setback or of limited size so as to not impact on the amenity or privacy of the adjoining dwellings whilst providing good amenity to the occupant of the dwelling. The front porch of the proposal is raised, but faces towards the south east and is unlikely to impact on 177 Alberts Road privacy. As it faces towards its front façade and protected by the privacy wall that extends the whole of the porch.

Overlooking from the raised pool area into the adjacent rear yard to the east of the property was improved by the introduction of a privacy screen. The pool is raised to be inline with the proposed deck and therefore is about 800mm above existing ground level nearing the eastern boundary. The orientation and separation of the pool will also address potential overlooking concerns. The privacy screen will improve privacy in this location.

Vehicular Access and Parking

The proposed development satisfies the relevant objectives and controls of the SCDPC 2005 in that it provides the minimum number of required parking spaces and adequate vehicular access provisions.



Cut and Fill

The proposed development is considered to satisfy the relevant objectives and controls of the SCDCP 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 SCDCP 2005 and complies with Council's Stormwater Management Code. A Soil Erosion Plan has been submitted with the application to prevent or 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 access handle and the public street has been provided providing safety and perception of safety in the street.

Ancillary Structures

Outbuildings

The proposed outbuilding satisfies the relevant objectives and most of the controls the SCDCP 2005, including the key controls of setbacks and floor space. The outbuilding protrudes above the 3.5m height requirement to 3.99m. This is due to it being level with the finished floor level of the pool coping and alfresco. The outbuilding height is considered acceptable as it is minimal in size (only 3.1m²). Also it is only being proposed as a toilet, overlooking issues are unlikely to occur due to obscure glass. Thus, considered acceptable in this circumstance.

Swimming Pools, Spas & Associated Enclosures

The proposed pool satisfies the relevant objectives and most of the controls within SCDCP 2005. The pool pump equipment will be conditioned to have noise mitigation measures. The swimming pool fence/enclosure will comply with the Swimming Pools Act and relevant standards.

The pool has a point encroachment with the eastern boundary line that does not meet the 1m setback requirement, being only 0.939m (see **Figure 15**). This is a negligible non-compliance which is unlikely to impact on adjacent properties given any impacts are mitigated by the privacy screen. Landscaping has also been added between the pool coping and the boundary. Overall, the pool and its design are acceptable in this circumstance.

PART H – Waste Management

In accordance with Part H of the 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 development is not a heritage item, however is adjacent to heritage items as specified above. The development is unlikely to impact on the neighbouring heritage items significance and will have negligible visual impacts and no physical impacts. Therefore, the development satisfies the relevant objectives of Part P – Heritage of the SCDCP 2005.

(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 partial 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 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. The proposed use is the same as existing and permissible in the zone.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. No submissions were received.

(e) the public interest.

The proposed development is of a scale and character that does not conflict with the public interest. The public interest is served through the consistent application of planning controls. The proposal is generally consistent with what is anticipated by the planning controls and can therefore be considered in the public interest.

Local Infrastructure Contributions

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



Strathfield Indirect Section 7.12 Contributions Plan

Section 7.12 Contributions are applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan. Based on the Cost of Works of \$730,950 and in accordance with Council's Section 7.12 Indirect Contributions Plan, a contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows;

Local Amenity Improvement Levy	\$7,309.50
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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 2023/141 should be approved.

A handwritten signature in black ink, appearing to read "J W Brown".

Signed:
J W Brown
Planner

Date: 21 February 2024

- I confirm that I have assessed the abovementioned development application with the delegations assigned to my position;
- I have reviewed the details of this development application and I also certify that Section 7.11/7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed by:

A handwritten signature in black ink, appearing to read "W van Wyk".

Signed:
W van Wyk
Senior Development Assessment Planner

Date: 26 February 2024



Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be determined by the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Dylan Porter
Manager Planning, Place & Development
Person on behalf of the consent authority



Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

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>
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—



	<ul 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. <p>3. The sign must be—</p> <ul 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. <p>4. This section does not apply in relation to—</p> <ul 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> <ul style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate.
	<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> <ul 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— <ul style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ul 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— <ul 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



	<p>carried out unless the principal certifier has given the council written notice of the updated information.</p> <p>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>																																																							
	<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> <p>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.</p> <p>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—</p> <ul 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. <p>3. This section does not apply if—</p> <ul 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	<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" data-bbox="336 1339 1117 1865"> <thead> <tr> <th colspan="5">Approved plans</th> </tr> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>DA.08</td> <td>A</td> <td>Ground Floor Plan</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.09</td> <td>A</td> <td>First Floor Plan</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.10</td> <td>A</td> <td>Roof Plan</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.11</td> <td>A</td> <td>Elevations</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.12</td> <td>A</td> <td>Sections</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.13</td> <td>A</td> <td>Window Door Schedule</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>DA.20</td> <td>A</td> <td>Materials Finishes Schedule</td> <td>mdp</td> <td>8/02/2024</td> </tr> <tr> <td>L/01</td> <td></td> <td>Proposed Landscape Plan</td> <td>atc</td> <td>30/10/2023</td> </tr> <tr> <td>L/02</td> <td></td> <td>Landscape Details</td> <td>atc</td> <td>30/10/2023</td> </tr> </tbody> </table>	Approved plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	DA.08	A	Ground Floor Plan	mdp	8/02/2024	DA.09	A	First Floor Plan	mdp	8/02/2024	DA.10	A	Roof Plan	mdp	8/02/2024	DA.11	A	Elevations	mdp	8/02/2024	DA.12	A	Sections	mdp	8/02/2024	DA.13	A	Window Door Schedule	mdp	8/02/2024	DA.20	A	Materials Finishes Schedule	mdp	8/02/2024	L/01		Proposed Landscape Plan	atc	30/10/2023	L/02		Landscape Details	atc	30/10/2023
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L/03		Landscape Specification	atc	30/10/2023
D1	A	Details, Notes & Legend	NY Civil Engineering	8/11/2023
D2	A	Stormwater Management Plan	NY Civil Engineering	8/11/2023
D3	A	Stormwater Management First Floor / Roof Plan	NY Civil Engineering	8/11/2023
D4	A	Stormwater Details	NY Civil Engineering	8/11/2023
D5	A	Stormwater Details	NY Civil Engineering	8/11/2023
D6	A	Sediment Control Plan	NY Civil Engineering	8/11/2023
D7	A	Sediment Control Details	NY Civil Engineering	8/11/2023

Approved documents			
Document title	Version number	Prepared by	Date of document
Arboricultural Impact Assessment & Tree Protection Plan		The Ents Tree Consultancy	16/11/2023
Waste Management Plan		m plan	October 2023

In the event of any inconsistency between the approved plans and documents, the approved **Documents** 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	\$7,309.50



	<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.</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 received 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>
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> <ol style="list-style-type: none"> 1. If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways. 2. Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like; 3. Establishing a "works zone"; 4. Placing or storing materials or equipment; 5. Placing or storing waste containers or skip bins; 6. Stormwater & ancillary to public infrastructure on private land 7. 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> <ol style="list-style-type: none"> 1. Pumping water from the site into the public road; 2. Constructing a vehicular crossing or footpath;



	<p>3. 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>4. Stormwater & ancillary works in the road reserve; and</p> <p>5. Pumping concrete from a public road;</p> <p>Separate activity approvals for (1)-(5) must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.</p> <p>The relevant Application Forms for these activities can be downloaded from Council's website</p> <p>www.strathfield.nsw.gov.au</p> <p>For further information, please contact Council's Customer Service Centre on (02) 9748 9999.</p> <p>Condition reason: To ensure the protection of existing public infrastructure and adjoining properties.</p>
9	<p>Vehicular Crossing – Minor Development</p> <p>Constructing a vehicular crossing and footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the commencement of those works. This approval must be obtained from Council by completing and submitting a works permit application.</p> <p>The approval for a new or modified vehicular crossing will contain the plans and specifications required to construct the crossing and footpath. These works must be completed prior to the issue of an Occupation Certificate.</p> <p>Condition reason: To ensure appropriate vehicular access to the site can be achieved</p>
10	<p>Road Opening Permit</p> <p>A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from TFNSW in the case of State roads, for every opening of a public reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of works in the road.</p> <p>Condition reason: To protect Council roads and footpaths and to ensure any works are to the relevant standards.</p>

Building Work

Before issue of a construction certificate

11	<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</p>
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	<p>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>
12	<p>Long Service Levy</p> <p>Before the issue of a Construction Certificate, the long service levy of \$1,827.00, as calculated at the date of this consent, must be paid to the Long Service Corporation under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the certifier or Council (where a certifier is not required).</p> <p>Condition reason: To ensure the long service levy is paid.</p>
13	<p>Payment of security deposits</p> <p>Before the issue of a Construction Certificate, the applicant must:</p> <ul style="list-style-type: none"> a. make payment of \$12,810 for a security deposit to the consent authority with a non-refundable administration fee of \$137; 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	<p>Utilities and services</p>



	<p>Before the issue of a Construction Certificate, written evidence of the following service provider requirements must be provided to the certifier or Council (where a certifier is not required):</p> <ol style="list-style-type: none"> 1. a response from Sydney Water as to whether the plans accompanying the application for a Construction Certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met; 2. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.
	<p>Condition reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
15	<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>
16	<p>Basix Commitments</p> <p>The approved BASIX Certificate must be submitted to the Principal Certifier with the application for a Construction Certificate.</p> <p>All measures and commitments as detailed in the BASIX Certificate No. A1375397 must be implemented on the plans lodged with the application for the Construction Certificate.</p>
	<p>Condition reason: To comply with statutory requirements.</p>
17	<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>
18	<p>Engineer's Certificate</p> <p>A certificate from a suitably qualified professional engineer specialising in structural engineering certifying that the existing structure is structurally adequate to support all proposed additional superimposed loads must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.</p>
	<p>Condition reason: Structural adequacy of existing structure.</p>
19	<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</p>



	<p>(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>
20	<p>Stormwater System</p> <p>The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system in accordance with Council’s Stormwater Management Code and AS/NZS 3500.3: 2015 (as amended), prepared by a suitably qualified professional engineer specialising in hydraulic engineering, must be submitted for approval to the Principal Certifier with the Construction Certificate.</p> <p>A silt-arrestor pit is to be added to the stormwater plans (to be submitted at Construction Certificate stage), prior to connection with stormwater outlet pipe located within the inter-allotment drainage easement (Y) shown on Survey and Stormwater plans.</p> <p>Condition reason: To ensure stormwater drainage system is adequately designed.</p>
21	<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> <p>Condition reason: To ensure works are structurally sound.</p>
22	<p>Swimming Pools – Use and Maintenance</p> <p>The following apply to the construction, use and maintenance of swimming pools and spas:</p> <ol style="list-style-type: none"> 1. No ground level may be raised or filled except where shown specifically on the approved plans; 2. All pool or spa waste water is to be discharged to the sewer according to the requirements of Sydney Water; 3. The swimming pool must not be used for commercial or professional purposes; 4. Paved areas must be designed to ensure drainage flows to the landscaped areas or a suitable lawful drainage system; and 5. 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>
23	<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> <ol style="list-style-type: none"> 1. <i>Tree 1 - Lophostemon confertus (14 Metres)</i> - \$21,315.00 2. <i>Tree 2 - Lophostemon confertus (14 Metres)</i> - \$21,315.00 3. Administration Fee - \$137.00 <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>
24	<p>Tree Protection and Retention</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 (TPZ) to implement the tree protection measures as required.</p> <p>No services shall be installed within the TPZ 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 TPZ of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the 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</p>



	<p>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 TPZ 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>Existing concrete driveway to be retained in – situ for the time of the development to protect the Canopy, Trunk, and Roots during demolition, excavation, and construction of the development. Excavation of the Driveway and Stormwater in the area of Tree 25 TPZ is to be dug by hand using non-motorised machinery to further assist in the protection of Tree 25 and under the guidance of a Project Arborist. Any roots found greater than 25mm, must be cut and treated accordingly by the Project Arborist.</p> <p>Positioning of the Skip Bin/ Stockpile for construction materials, during construction, is to remain on the current concrete driveway, outside the Tree 25 TPZ and treated accordingly by the Project Arborist.</p> <p>The design is to be modified to show protection of Tree 12, Tree 14, and Tree 16 located in the rear triangle corner of the property. Tree Protective Fencing to installed across the rear garden from the North Boundary Fence to South Boundary Fence. The Tree Protective Fencing to be installed in front of Tree 12 TPZ. This Tree Protective Fencing is to remain in-situ for the entire time of the development with no entry into the area or storage of materials into this area.</p> <p>Sediment Fencing for the rear garden is to remain outside the Tree Protection Fenced area that runs across the rear garden from the North Boundary Fence to South Boundary Fence. Sediment Fencing, in the rear garden, is to be dug by hand using non-motorised machinery to further assist in the protection of Tree 25 and under the guidance of a Project Arborist. Any roots found greater than 25mm, must be cut and treated accordingly by the Project Arborist.</p> <p>Condition reason: To ensure the protection of trees to be retained on the site.</p>
25	<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>



26	<p>Tree Removal & Replacement</p> <p>Tree removal</p> <p>Permission is granted for the removal of the following trees:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Tree No.</th> <th style="width: 40%;">Tree species</th> <th style="width: 15%;">Number of trees</th> <th style="width: 30%;">Location</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">6</td> <td>1 x Thuja occidentalis (Book Leaf Conifer)</td> <td style="text-align: center;">1</td> <td>Front Garden</td> </tr> <tr> <td style="text-align: center;">7</td> <td>1 x Thuja occidentalis (Book Leaf Conifer)</td> <td style="text-align: center;">1</td> <td>Front Garden</td> </tr> <tr> <td style="text-align: center;">13</td> <td>1 x Ligustrum lucidum (Privet)</td> <td style="text-align: center;">1</td> <td>Front Garden</td> </tr> </tbody> </table> <p>General Tree Removal Requirements</p> <p>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).</p> <p>Tree Replacement</p> <p>All trees permitted to be removed by this consent must be replaced four (4) trees by species selected from Council’s Recommended Tree List and must have a minimum mature height 10m.</p> <p>Replacement trees must be a minimum 75 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 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> <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>			Tree No.	Tree species	Number of trees	Location	6	1 x Thuja occidentalis (Book Leaf Conifer)	1	Front Garden	7	1 x Thuja occidentalis (Book Leaf Conifer)	1	Front Garden	13	1 x Ligustrum lucidum (Privet)	1	Front Garden
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	<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>
27	<p>Driveway Construction Plan Details</p> <p>Detailed engineering plans for the driveway must be submitted with the Construction Certificate application for approval by the Principal Certifier that show:</p> <ol style="list-style-type: none"> 1. Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004. 2. Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits). 3. The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement from kerb face to kerb face width, and a non-slip surface. <p>Condition reason: To ensure newly create allotments have adequate vehicular access.</p>
28	<p>Driveway Surface Waters</p> <p>For driveways on private property sloping to the street and greater than 10 metres in length, drainage control devices such as humps or grated surface inlet pits must be installed at the front boundary in order to control excess stormwater flowing across Council's footpath.</p> <p>Condition reason: To minimise uncontrolled overflow of stormwater from paved surfaces onto the public road.</p>
29	<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.</p> <p>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>

Before building work commences

30	Erosion and sediment controls in place
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	<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 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (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>
31	<p>Tree protection measures</p> <p>Before any site work commences, the principal certifier or Council (where a principal certifier is not required) 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>
32	<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>
33	<p>Demolition Notification Requirements</p> <p>The following notification requirements apply to this consent:</p> <ol style="list-style-type: none"> 1. The builder must notify adjoining residents five (5) working days prior to demolition. Such notification will be a clearly written note giving the date demolition will commence, contact details of the builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification must be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site. 2. Five (5) working days prior to demolition, the builder must provide written notification to Council advising of the demolition date, details of the



	<p>SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.</p> <p>3. On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm must be erected in a prominent visible position (from street frontage) on the site. The sign must be erected prior to demolition work commencing and will remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.</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>
34	<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 <u>Work Health and Safety Regulation 2011</u>.</p>
	<p>Condition reason: To ensure safety, amenity and protection of public infrastructure and the environment.</p>
35	<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>

During building work

36	<p>Implementation of the site management plans</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> 1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times; and 2. 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>
37	<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>
38	<p>Responsibility for changes to public infrastructure</p> <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>
39	<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> <ol 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: <ol style="list-style-type: none"> a. Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>; or b. a material identified as being subject to a resource recovery exemption by the NSW EPA; or c. 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>
40	<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> <ol style="list-style-type: none"> 1. the construction site management plan approved under this consent; 2. the relevant requirements of AS 4970 Protection of trees on development sites; 3. Council's relevant development control plan (in force as at the date of determination of this consent); and



	<p>4. any arborist's report approved under this consent.</p> <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>
41	<p>Waste management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> 1. all waste management must be undertaken in accordance with the waste management plan; and 2. upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier or Council (where a principal certifier is not required), detailing the following: <ol style="list-style-type: none"> a. The contact details of the person(s) who removed the waste; b. The waste carrier vehicle registration; c. The date and time of waste collection; d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; e. The address of the disposal location(s) where the waste was taken; f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <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>
42	<p>Hours of work</p> <p>Site work must only be carried out between the following times-</p> <p>For building construction and delivery of machinery and materials from 7:00am to 5:00pm on Monday to Saturday (excluding Public Holidays)</p> <p>For demolition, excavation and/or construction works that involve heavy machinery, noisy trades, or the like from 7:00am to 5:00pm on Monday to Friday (excluding Public Holidays)</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area during construction.</p>



43	<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>
44	<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>

Before issue of an occupation certificate

45	<p>Completion of landscape and tree works</p> <p>Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
46	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p> <p>Condition reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.</p>
47	<p>Repair of infrastructure</p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> 1. 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 2. if the works in (a) are not carried out to Council’s satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.



	Condition reason: To ensure any damage to public infrastructure is rectified.
48	<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>
49	<p>BASIX Compliance Certificate</p> <p>A Compliance Certificate must be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.</p> <p>Condition reason: Statutory compliance.</p>
50	<p>Completion of Landscape Works and Tree Works</p> <p>The approved landscape works have identified that the side setback area between the dwelling and boundary be nominated as landscaped area to ensure compliance with the minimum landscape area requirements. In this regard, this area must be maintained as landscaped area and must only be used for growing plants, grasses and trees and must not include any building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).</p> <p>Condition reason: To ensure compliance with the minimum landscape area requirements.</p>
51	<p>Minor Development</p> <p>Internal driveways and parking spaces must be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.</p> <p>Condition reason: To ensure parking spaces are constructed appropriately.</p>
52	<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>
53	<p>Works as Executed and Certification of Stormwater Works</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be provided to the Principal Certifier and Council, from a suitably qualified professional engineer</p>



	<p>specialising in hydraulic engineering.</p> <p>This Plan and Certification must confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the Principal Certifier.</p> <p>The works-as-executed drainage plan must be prepared by a suitably qualified professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):</p> <ol style="list-style-type: none"> 1. The location of any detention basin/s with finished surface levels; 2. Finished site contours at 0.2 metre intervals 3. Volume of storage available in any detention areas; 4. The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes; 5. The orifice size/s (if applicable); 6. Details of any infiltration/absorption systems; and (if applicable); 7. Details of any pumping systems installed (including wet well volumes) (if applicable). <p>Condition reason: To ensure appropriate provision have been made for the disposal and management of stormwater generated by the development.</p>
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Occupation and ongoing use

54	<p>Entering and Exiting of Vehicles</p> <p>All vehicles must enter and exit the premises in a forward direction.</p> <p>Condition reason: Safety and traffic management.</p>
55	<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> <ol style="list-style-type: none"> 1. before 8 am or after 8 pm on any Sunday or public holiday, or 2. before 7 am or after 8pm on any other day. <p>Condition reason: Noise control and protecting amenity of adjoining properties.</p>



56	<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>
57	<p>Maintenance of Landscaping</p> <p>All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or drying plants and any other operations required to maintain healthy trees, plants and turfed areas.</p> <p>Condition reason: To ensure the amenity of landscaping is maintained.</p>

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.



Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means STRATHFIELD MUNICIPAL COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Strathfield Local Planning Panel

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.



Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Sydney Eastern City Planning Panel.

TO: Strathfield Local Planning Panel Meeting - 28 March 2024
 REPORT: SLPP – Report No. 6
 SUBJECT: S8.2-DA2023/51 - 40 PEMBERTON STREET, STRATHFIELD - LOT 189 DP 15259
 DA NO. S8.2-DA2023/51

SUMMARY

Proposal:	Section 8.2 Application to review previous determination to refuse the development application for demolition of existing structures and tree removal and construction of a two storey dwelling over basement level
Applicant:	ES Engineering & Design Pty Ltd
Owner:	C & DD Hanna
Date of lodgement:	9 December 2023
Notification period:	18 December 2023 – 18 January 2024
Submissions received:	Nil
Assessment officer:	WvW
Estimated cost of works:	\$1,343,512.00
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:	REFUSAL

EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/51 which was refused by Strathfield Council on 31 October 2023. The refused application sought approval for the demolition of existing structures and tree removal and construction of a two storey dwelling over basement level. The reasons for refusal pertained to excessive bulk and scale, Floor Space Ratio (FSR) breach, landscaped area shortfall and insufficient information.

Proposal

While the design has been revised, the description of works remains the same: a two storey house with basement, pool, and front boundary fence.

Site and Locality

The site is identified as 40 Pemberton Street, Strathfield and has a legal description of Lot: 189 DP: 15259. The site is a rectangular-shaped corner allotment with a curved splay and is located on the north-eastern corner of Pemberton and Karuah Streets. The site has an average width of 47m, an average depth of 12m and an overall site area of 676.6m².

The locality surrounding the subject site contains a mixture of low density residential 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 complies with the height of buildings development standard however breaches the floor space ratio (FSR). No Clause 4.6 variation report is provided to justify this breach.

Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development results in a number of significant non-compliances with 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 18 December 2023 to 18 January 2024, where no submissions were received.

Issues

- Floor Space Ratio
- Bulk and scale
- Privacy
- Excavation

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, DA 2023/51 is recommended for refusal in accordance with the reasons contained at the end of this report.

RECOMMENDATION

That Development Application No. 2023/51 for demolition of existing structures and tree removal and construction of a two storey dwelling over basement level at 40 Pemberton Street, Strathfield be **REFUSED**, for the following reasons:

1. Refusal Reason – Environmental Planning Instrument

Pursuant to Section 4.15(1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) The Proposal fails to satisfy the aims and objectives of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in non-rural areas due to the removal of significant trees on the site.
- (b) The proposal fails to meet the development standard of Clause 4.4C of the Strathfield Local Environmental Plan 2012, which provides the maximum floor space ratio for a building on a lot being land in Zone R2 Low Density Residential. No Clause 4.6 Variation request is provided to justify the breach.
- (c) The proposal fails to satisfy the objectives of Clause 6.2(3), which requires consideration of the detrimental impact of earthworks on the environment functions, processes and neighbouring uses of the area. The significant and unnecessary excavation of the site has the potential to contribute to cumulative adverse environmental impacts.

2. Refusal Reason - Development Control Plan

Pursuant to Section 4.15(1)(a)(iii) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:

- (a) The proposal fails to satisfy the Architectural Design and Streetscape Presentation objectives in Section 2.1 of Part A. This requires developments to retain a feeling of openness and space between built elements by maintaining landscaped setbacks and preserve the appearance of dwellings set in the tree-lined streets and park-like environment. This also requires developments to protect and retain the amenity of adjoining neighbours.
- (b) The proposal fails to satisfy the Building Envelope objectives provided by Section 4.1 of Part A, which requires that dwellings are compatible with the built form of the local area and the overall bulk and scale, size and height are appropriate.
- (c) The proposal fails to satisfy the maximum internal floor to ceiling height requirement provided by Section 4.2.2.5 of Part A.
- (d) The proposal fails to satisfy the minimum primary setback requirement provided by Section 4.2.3.1(i) of Part A.
- (e) The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A, which requires a minimum of 41.5% landscaped area for the specific lot.
- (f) The proposal does not demonstrate compliance with Section 5.2.2 of Part A of the SCDCP 2005 which requires a minimum of 25% of canopy trees and vegetation to be locally indigenous species.
- (g) The proposal breaches the front fence controls in Section 5.2.4 of Part A. In particular, the secondary street front fence rises to 1.8m high before the rear yard.
- (h) The north facing upper level bedrooms fall short of the 1.7m sill height control in Section 7.2.2(2)(b) of Part A resulting in unacceptable privacy impacts.
- (i) The proposal fails to meet Objective 8.1(E) of Part A given the driveway width non-compliance contributes to the shortfall in landscaped area. The width of the driveway is in breach of the control in Section 8.2.1(2) of Part A.
- (j) The proposal fails to meet the objectives and controls pertaining to excavation and cut and fill including:
 - (i) Objective 8.1(G) - To minimise excavation to reduce disturbance to natural ground level particularly adjacent to site boundaries.
 - (ii) Control 8.2.3(3) - No excavation is permitted within the required minimum side setbacks. Furthermore, the location of basement walls may warrant increased setbacks to provide sufficient area for water proofing, drainage etc.
 - (iii) Control 8.2.3(9) - Basements may not be permissible on flood affected sites. Applicants should check with Council and consider submitting a pre-lodgement application.
 - (iv) Control 8.2.3(11) - Basements are not to be used for habitable purposes.
 - (v) Objective 9.1(A) - To maintain existing ground levels and minimise cut and fill to reduce site disturbance.

- (vi) Objective 9.1(B) - To ensure existing trees and shrubs are undisturbed, ground water tables are maintained and impacts on overland flow/drainage are minimised.
- (vii) Control 9.2(5) - All areas of excavation shall be setback from property boundaries in accordance with the building setback controls. No excavation is permitted within the minimum required setbacks.
- (viii) Control 9.2(8) – Avoid excessive fill that may create the potential for overlooking of adjoining properties.

3. Refusal Reason – Impacts on the Environment

Pursuant to Section 4.15(1)(b) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) The proposal results in excessive excavation which has the potential for environmental impacts.
- (b) The proximity of excavation to adjoining properties creates the potential for geotechnical impacts.
- (c) The excessive bulk and scale create unacceptable visual impacts.
- (d) The proposal results in the removal of significant trees that are of high visual significance to the streetscape and make a significant urban canopy contribution and improved the overall landscaped area of the proposal.
- (e) There are unacceptable visual privacy impacts from the raised pool landing area and upper level north facing bedrooms.
- (f) There are unacceptable aural privacy impacts from the raised pool area parallel to the side boundary and the outbuilding entry within the rear setback.

4. Landscape Quality

The Landscape Plan is of insufficient quality to warrant approval. In particular:

- (a) The Landscape Plan provides an insufficient mix of planting types. These would soften built form and improve energy conservation and efficiency.
- (b) Given the loss of trees on site, the Landscape Plan should incorporate minimum 4 trees that can reach minimum 10m in height.
- (c) The proposed use of *Acacia falcata* as perimeter hedge is inappropriate because this is a spindly, open form shrub.
- (d) Ground treatments other than lawn should be used in densely shaded areas.

5. Character

The proposal is inconsistent with the existing and desired future character of the area due to, inter alia, its bulk, incongruous front setback and lack of articulation.

6. Refusal Reason – Suitability of Site

Pursuant to Section 4.15(1)(c) of the [Environmental Planning and Assessment Act 1979](#), the site is not considered suitable for the proposed development given its size and shape, its changing of natural levels, loss of vegetation and unacceptable relationship to adjoining developments.

7. Refusal Reason – Public Interest

Pursuant to Section 4.15(1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

8. Refusal Reason – Insufficient Information

- (a) The solar access diagrams are unsatisfactory as they do not show the adjoining property at 7 Karuah Street.
- (b) The lodgement package shows the eastern retaining wall is beyond the boundaries of the subject **site and no adjoining owner's consent is provided.**
- (c) The floor plans submitted with the architectural drawings do not indicate all the adjoining windows or the correct building outline of 38 Karuah Street.
- (d) There is insufficient information to give confidence that the outbuilding will not be used as a secondary dwelling, especially given the second set of bins indicated.
- (e) No Clause 4.6 written request for variation is provided for the breach of Clause 4.4C - Floor Space Ratio in the Strathfield Local Environmental Plan 2012.

ATTACHMENTS

- 1. [↓](#) SLPP Report - S8.2 - DA2023/51 - 40 Pemberton Street, Strathfield



SLPP REPORT

Property:	40 Pemberton Street, Strathfield DA 2023/51
Proposal:	Section 8.2 Application to review previous determination to refuse the development application for demolition of existing structures and tree removal and construction of a two storey dwelling over basement level
Applicant:	ES Engineering & Design Pty Ltd
Owner:	C & DD Hanna
Date of lodgement:	9 December 2023
Notification period:	18 December 2023 – 18 January 2024
Submissions received:	Nil
Assessment officer:	WvW
Estimated cost of works:	\$1,343,512.00
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:	Refusal

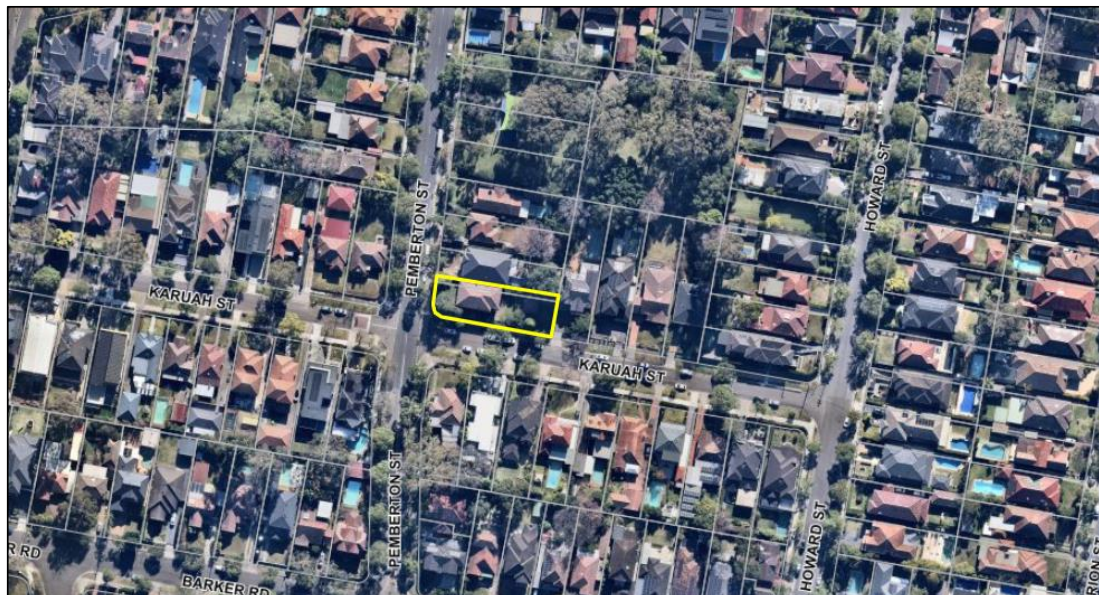


Figure 1: Aerial view of the subject site (outlined in yellow)



EXECUTIVE SUMMARY

Background

The subject application is a Section 8.2 Review of Development Application (DA) 2023/51 which was refused by Strathfield Council on 31 October 2023. The refused application sought approval for the demolition of existing structures and tree removal and construction of a two storey dwelling over basement level. The reasons for refusal pertained to excessive bulk and scale, Floor Space Ratio (FSR) breach, landscaped area shortfall and insufficient information.

Proposal

While the design has been revised, the description of works remains the same: a two storey house with basement, pool, and front boundary fence.

Site and Locality

The site is identified as 40 Pemberton Street, Strathfield and has a legal description of Lot: 189 DP: 15259. The site is a rectangular-shaped corner allotment with a curved splay and is located on the north-eastern corner of Pemberton and Karuah Streets. The site has an average width of 47m, an average depth of 12m and an overall site area of 676.6m².

The locality surrounding the subject site contains a mixture of low density residential 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 complies with the height of buildings development standard however breaches the floor space ratio (FSR). No Clause 4.6 variation report is provided to justify this breach.

Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development results in a number of significant non-compliances with 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 18 December 2023 to 18 January 2024, where no submissions were received.

Issues

- Floor Space Ratio
- Bulk and scale
- Privacy
- Excavation

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, DA 2023/51 is recommended for refusal in accordance with the reasons contained at the end of this report.



REPORT IN FULL

Proposal

Council has received an application for the Section 8.2 review of the previous determination to refuse the development of a two storey dwelling with basement. The revised proposal the subject of the Section 8.2 review includes:

Basement:

- Two storage rooms, one of which is partially utilised for a pump room
- Stair access

Ground floor level:

- Open plan living, kitchen, bar and dining room
- Laundry
- Walk in pantry
- Powder room
- Media room
- Double garage
- Separate stair access to upper and lower levels

First floor level:

- Five bedrooms, two with ensuites and one with walk in wardrobe
- Stair access

External works:

- Alfresco
- In-ground swimming pool
- Outbuilding (studio) with bathroom

Changes under the Section 8.2

- Lowered ground floor level by 300mm in accordance with revised Flood Impact Statement with accompanying reduced wall and overall height
- Landscape Plan updated to be consistent with Arborist Report in retaining Tree 11

Figures 2-11 below are excerpts from the architectural package (Rev E, dated 27.11.23) and **Figure 12** is from the Landscape Plan (Rev D, dated 15.11.23).

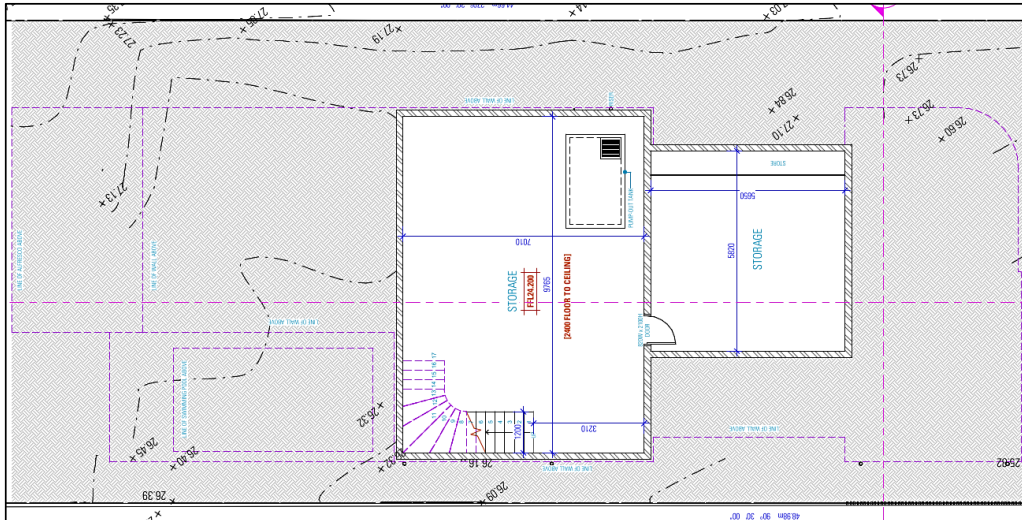


Figure 2: Proposed Basement Level

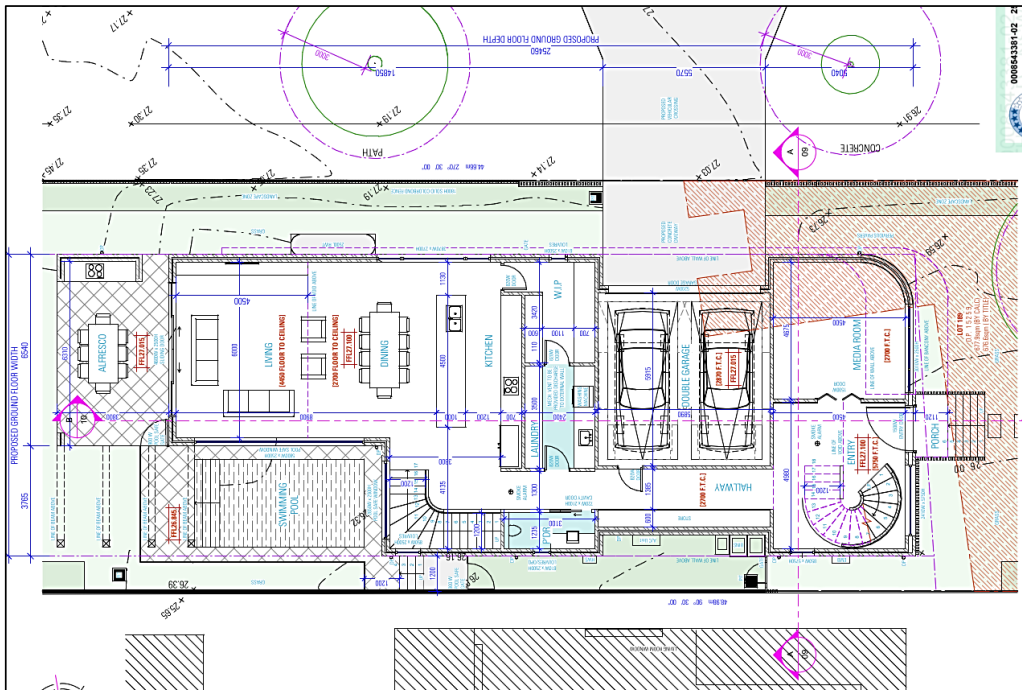


Figure 3: Proposed Ground Floor Level

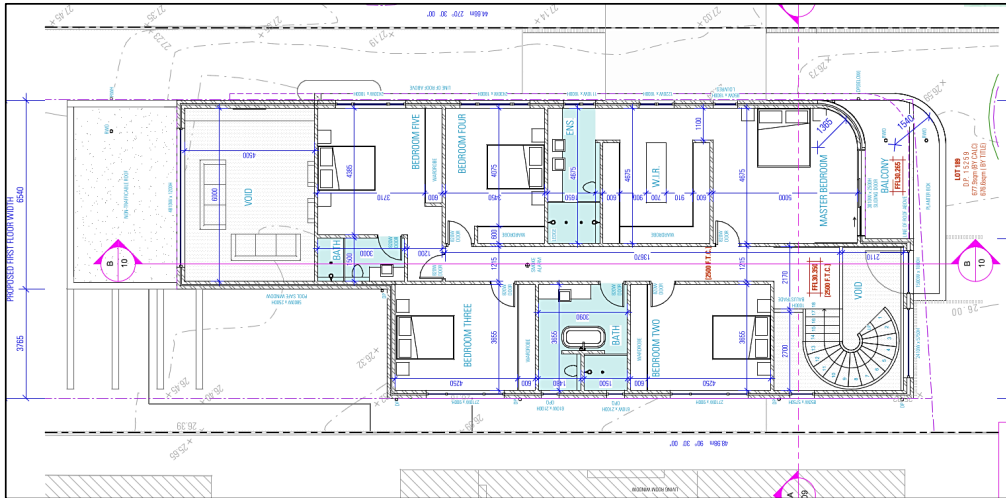


Figure 4: Proposed First Floor Level

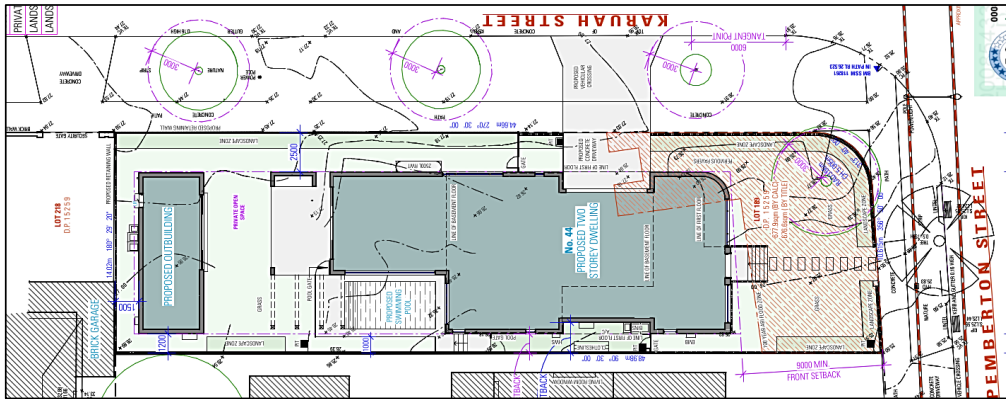


Figure 5: Proposed Site Plan

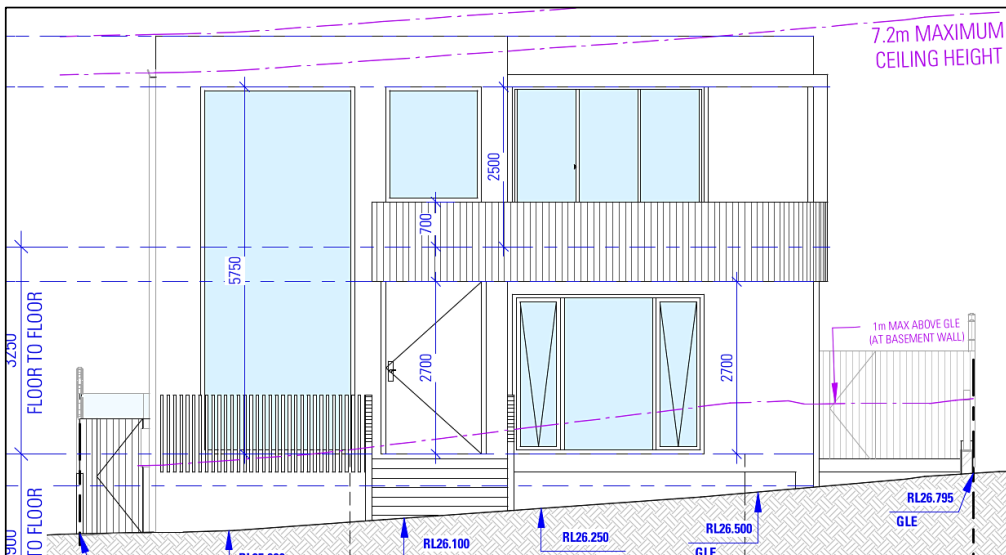


Figure 6: Proposed Pemberton Street (West) Elevation

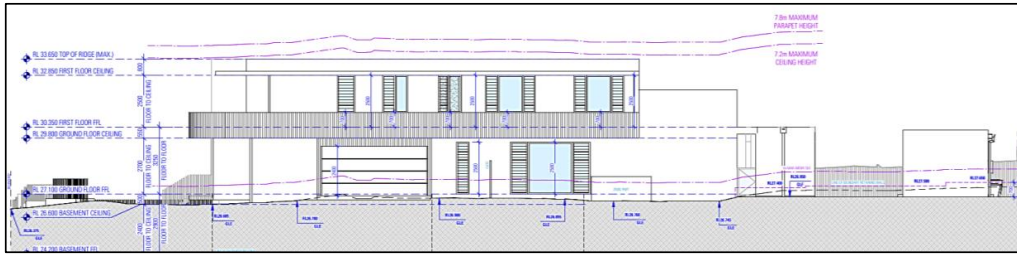


Figure 7: Proposed Karuah Street (South) Elevation

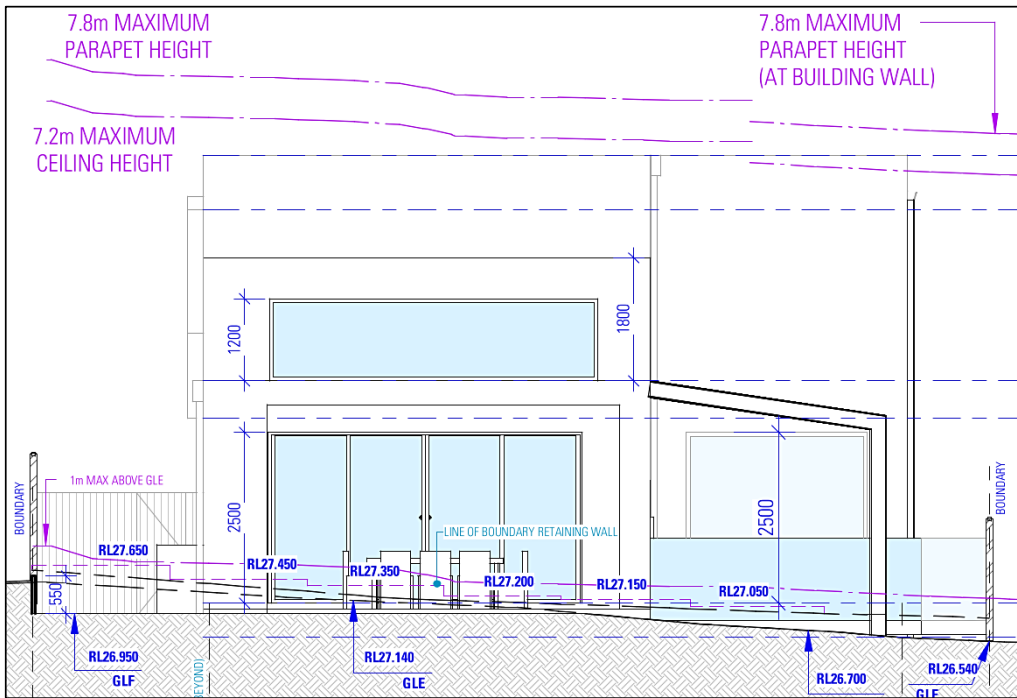


Figure 8: Proposed East (Rear) Elevation

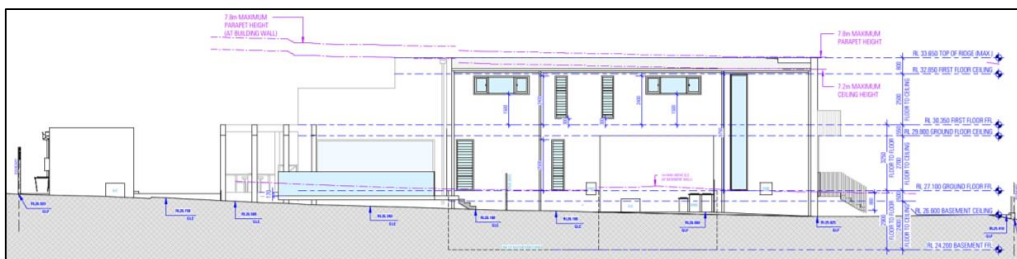


Figure 9: Proposed North Elevation

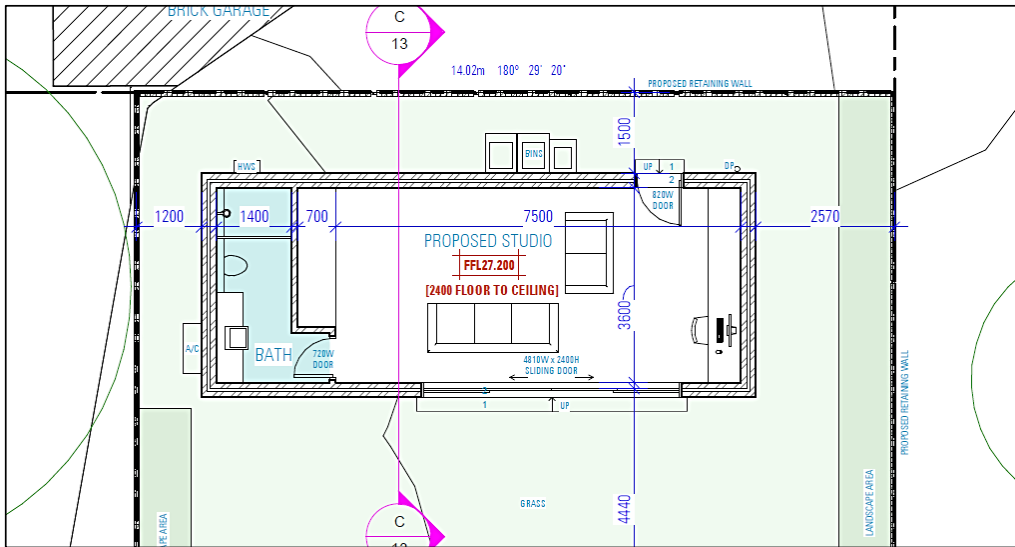


Figure 10: Floor plan of Proposed Outbuilding / Studio

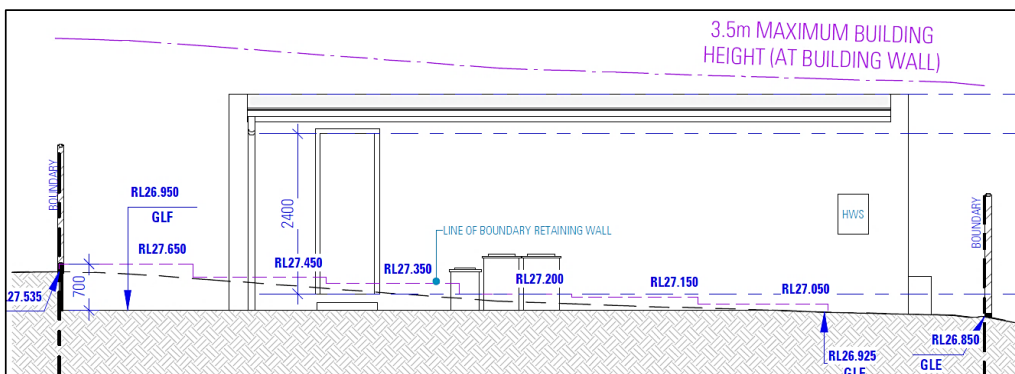


Figure 11: Proposed Eastern Elevation of the outbuilding fronting 7 Karuah Street

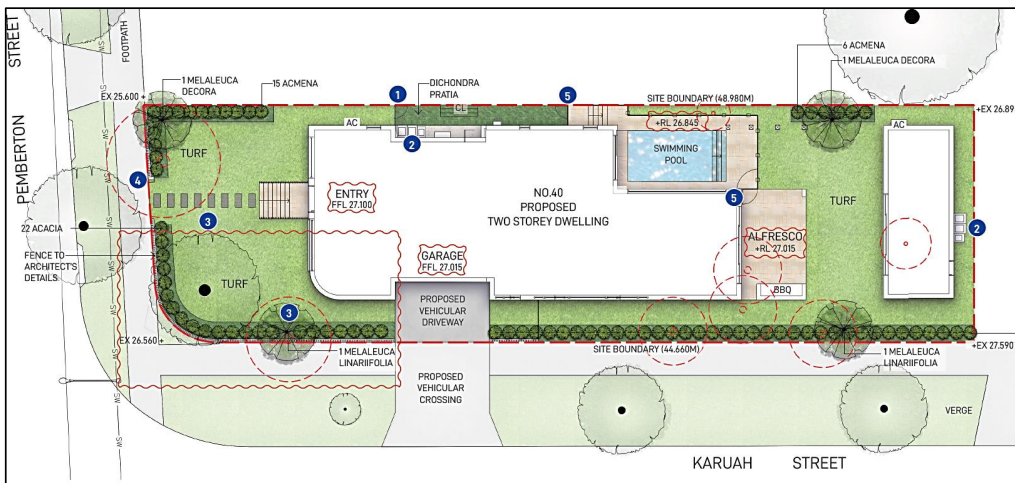


Figure 12: Proposed Landscape Plan



The Site and Locality

The subject site is legally described as Lot: 189 DP: 15259 and commonly known as 40 Pemberton Street, Strathfield. It is located on the northeast corner of the intersection of Pemberton and Karuah Streets (see **Figure 13**).



Figure 13: Subject site as viewed from the intersection of Pemberton and Karuah Streets

The site is rectangular in shape with a curved splay and has a primary frontage to Pemberton Street of 10.62m to the west, a rear boundary of 14.02m to the east, a 44.66m secondary frontage to Karuah Street to the south, and a side boundary length of 48.98m to the north, resulting in a total area of 676.6m². The site has a crossfall that gradually slopes downwards from south to north.

The site is occupied by a two storey brick dwelling with tiled roof (see **Figure 14**). Vehicular access is provided to the site via a driveway from the secondary street frontage (Karuah Street) to a brick garage located in the rear yard (see **Figure 15**).



Figure 14: Front façade of the existing dwelling to Pemberton Street



Figure 15: Rear yard facing brick garage



The current streetscape is characterised by dwellings of differing architectural styles and ages. Directly adjacent to the north of the property is a newly constructed two storey rendered dwelling at 38 Pemberton Street with a secondary dwelling at the rear (DA2021/112) (see **Figure 16**).



Figure 16: 38 Pemberton Street, as viewed from the street

The rear adjacent dwelling to the east of the subject site at 7 Karuah Street is a two-storey brick façade dwelling with a tiled roof (see **Figure 17**). This property has a north south orientation allowing a much larger setback to Karuah Street than the subject site. However, the brick double garage is against the shared boundary.



Figure 17: 7 Karuah Street, as viewed from the street



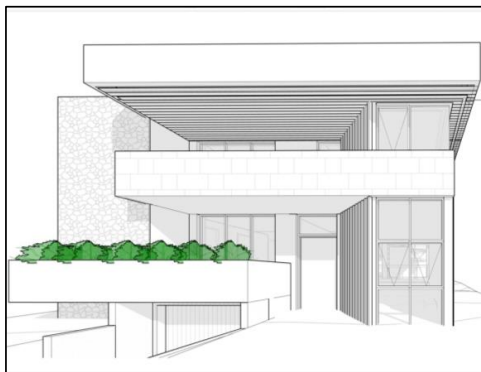
The surrounding area is characterised by low density residential development with Boden Reserve located 50m north of the proposal. The proposal is also 200m west of Hudson Park. There are contemporary developments across the intersection at 18 and 22 Karuah Street as well as a recent approval at 20 Karuah Street (DA2022/81) (see **Figure 18**). The other corner property at the intersection, 9 Karuah Street, is a more traditional design and only single storey.



18 Karuah Street



22 Karuah Street



Approved montage of 20 Karuah Street



9 Karuah Street

Figure 18: Developments in the direct vicinity of the subject site

Background

31 October 2023 DA 2023/51 was refused by Strathfield Council for the following reasons:

1. Refusal reason – Environmental Planning Instrument

Pursuant to Section 4.15 (1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) The Proposal fails to satisfy the aims and objectives of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in non-rural areas due to the removal of significant trees on site.
- (b) The proposal fails to satisfy the aims and objectives of the State Environmental Planning Policy (Sustainable Buildings) 2022, in providing an inaccurate BASIX and Nather's certificate



- (c) The proposal fails to meet the development standard of Clause 4.4C of the Strathfield Local Environmental Plan 2012, which provides the maximum floor space ratio for a building on a lot being land in Zone R2 Low Density Residential.
- (d) The proposal fails to satisfy the objectives of Clause 6.2 (3) of the *Strathfield Local Environmental Plan 2012*, which requires consideration of the detrimental impact of earthworks on the environment functions, processes and neighbouring uses of the area. The significant excavation and fill of the site is likely to have a detrimental effect on the existing and likely amenity of adjoining properties.

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 provided by Section 2.1 of Part A of the Strathfield Consolidated Development Control Plan 2005. This requires developments to retain a feeling of openness and space between built elements by maintaining landscaped setbacks and preserve the appearance of dwellings set in the tree-lined streets and park-like environment. Also requires developments to protect and retain the amenity of adjoining neighbours.
- (b) The proposal fails to satisfy the Building Envelope objectives provided by Section 4.1 of Part A of the Strathfield Consolidated Development Control Plan 2005, which requires that dwellings are compatible with the built form of the local area and the overall bulk and scale, size and height are appropriate.
- (c) The proposal fails to satisfy the maximum wall heights as specified in Section 4.2.2.2 and Section 4.2.2.4 of Part A of the Strathfield Consolidated Development Control Plan 2005. Which requires maximum height of 7.8m for a flat roofed dwelling and maximum wall height from existing ground level to the underside of the uppermost ceiling level of 7.2m
- (d) The proposal fails to satisfy the requirement of being a two storey development as specified in Section 4.2.2.7 of Part A of the Strathfield Consolidated Development Control Plan 2005, due to that the basement is considered another storey
- (e) 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.
- (f) The proposal fails to satisfy the minimum primary setback requirement provided by Section 4.2.3.1 (1) of Part A of the Strathfield Consolidated Development Control Plan 2005, which requires a minimum setback of 9m.
- (g) The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A of the Strathfield Consolidated Development Control Plan 2005, which requires a minimum of 41.5% landscaped area for the specific lot.
- (h) The proposal fails to meet the basement out ground height as specified by Section 8.2.3.3 of the SCDCP 2005, which requires basements to be no more than 1m out of ground.

3. Refusal Reason – Impacts on the Environment

Pursuant to Section 4.15 (1)(b) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) The proposal results in excessive excavation and fill as well as additional and unnecessary bulk and scale applied to the development which is incompatible with



the streetscape and affects natural ground levels (Section 4.15(b) of the Environmental Planning and Assessment Act 1979).

- (b) The proposal results in the removal of significant trees that are of high visual significance to the streetscape and make a significant urban canopy contribution and improved the overall landscaped area of the proposal (Section 4.15(b) of the Environmental Planning and Assessment Act 1979).

4. 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 for the following reasons:

- (a) The proposal is considered unsuitable for the restrictive corner lot site that is flood affected. Resulting in excessive bulk and scale with limited mitigation through vegetation and landscaping. (Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979).

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 and is likely to set an undesirable precedent.

9 December 2023 The subject Section 8.2 review application was lodged with Council.

18 December 2023 The application was placed on public exhibition until **18 January 2023** during which time no submissions were received.

17 January 2024 Council's Assessing Officer undertook a site inspection.

Referrals – Internal and External

Development Engineer

The revised application was referred to Council's Development Engineer who found it acceptable, subject to standard conditions of consent. The Section 8.2 review application was submitted with a revised Flood Impact Report which indicated the minimum habitable floor level of 27.05 AHD. This is down from 27.19 AHD in the original report submitted with the DA. The proposal provides a minimum habitable floor level of 27.10 AHD, consistent with the conclusions of the new report, which have been reviewed and confirmed as acceptable by Council's Development Engineer.

Tree Management Officer

The Section 8.2 application was referred to Council's Tree Management Officer for comment who reiterated concerns from the original DA about the removal of the following trees:

- Tree 6 - Cupressus torulosa (approx. 15m high) at Karuah Street driveway entry
- Tree 12 - Cupressus torulosa (approx. 15m high) at NW corner of site (see **Figure 19**)

A third tree, Tree 11, was identified for removal in the Landscape Plan submitted with the DA, however this was changed in the Section 8.2 review to be retained (see **Figure 12**).

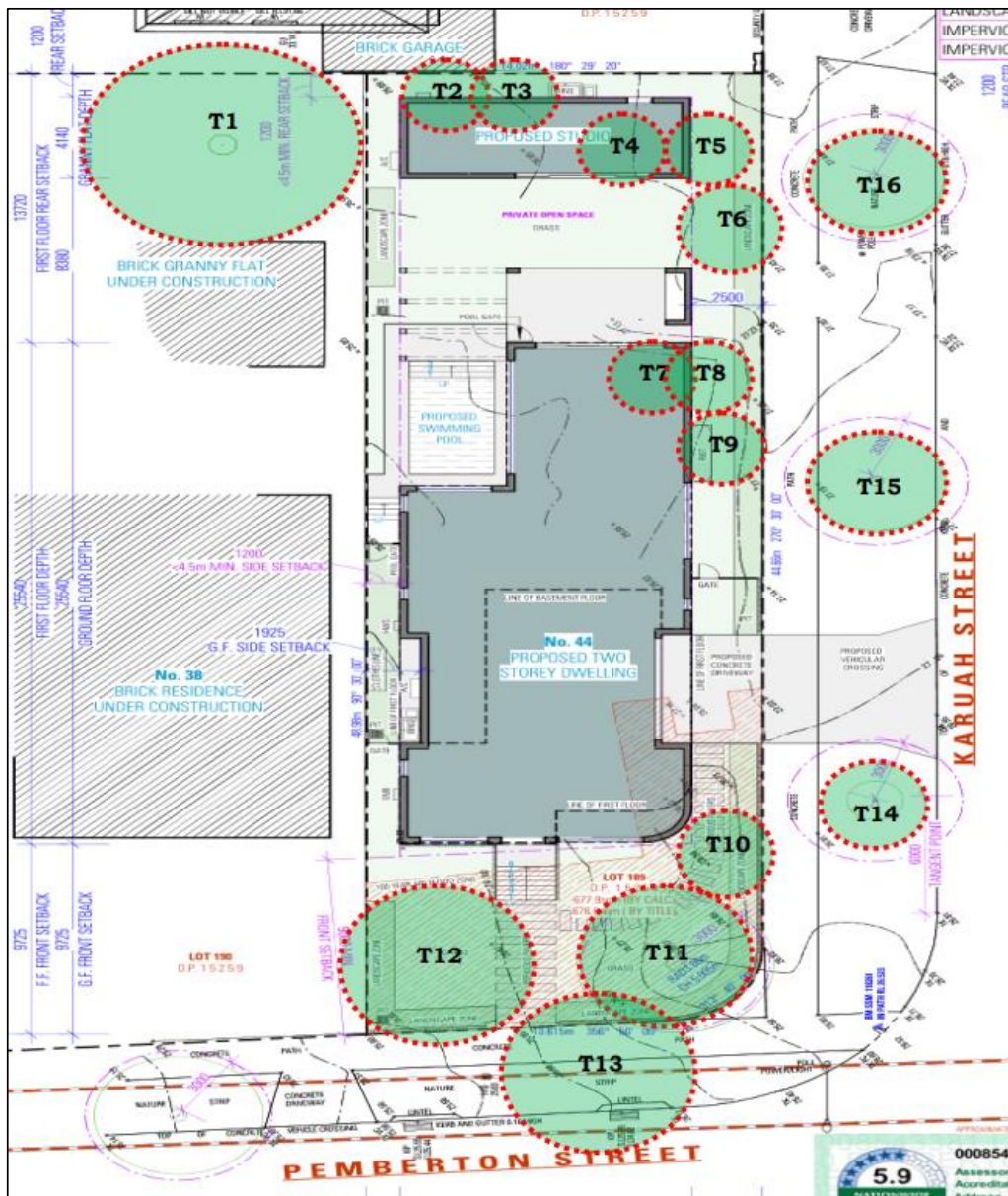


Figure 19: Existing trees on site

The Arboricultural Impact Assessment (AIA) submitted with the original DA, dated 25 July 2023, was resubmitted with the Section 8.2 review. The AIA assesses Trees 6 and 12 as low-moderate visual significance and low retention value. This assessment is not supported. The AIA also claims that the impact of the proposed building works will negate the loss of the trees, but it does not quantify the impact nor consider design changes that will allow retention.

These two trees are in good health and condition; of high visual significance to the streetscape; and make a significant urban canopy contribution. They are protected under Part O of the SCDP 2005. The two trees appear to be clear of proposed building works and have the potential to be retained. At a minimum one is required to be retained with appropriate large replacement tree planting nominated for the other.



Several other issues were identified by Council's Tree Management Officer:

- The Landscape Plan requires a greater mix of planting types to soften built form and to improve energy conservation and efficiency.
- The Landscape Plan is to be amended to incorporate minimum 4 trees that can reach minimum 10m height.
- In accordance with Section 5.2.2 of Part A of the SCDCP 2005, a minimum of 25% of canopy trees and vegetation shall be locally indigenous species. The proposed use of *Acacia falcata* as perimeter hedge seems to be an attempt to meet indigenous compliance without consideration that this is a spindly, open form shrub.
- Ground treatments other than lawn should be used in densely shaded areas.

The loss of significant trees and insufficient landscape quality form recommended reasons for refusal.

Traffic Engineer

The original application was referred to Council's Senior Traffic Engineer who offered no objection to the proposal, including the non-compliant driveway width, given the site constraints. Standard conditions of consent were provided for incorporation into any consent. As the proposed double garage and access have not changed in the revised Section 8.2 application, re-referral was not considered necessary and the comments from the original DA are relied upon.

Section 4.15 Assessment – EP&A Act 1979

The following is an assessment of the application regarding 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 the need for specific trees to be retained. Noting that the two trees proposed for removal are of high visual significance to the streetscape and make a significant urban canopy contribution, the aims and objectives of Chapter 2 of the SEPP have not been achieved.



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 (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

A revised BASIX Certificate has been issued for the proposed development with accompanying NatHERS Certificate. These appear to indicate all the requisite information. While the State Environmental Planning Policy (Sustainable Buildings) 2022 was introduced after lodgement, the application is subject to the savings provisions in Section 4.2.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of Land applies to the land and, pursuant to Section 4.15 of the EP&A Act 1979, is a relevant consideration. A 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. Rather, historical uses appear residential. 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 locates in R2 Low Density Residential zone and the proposed dwelling is a permissible form of development with Council's consent. The zone objectives are as follows:

- 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 proposal provides for the housing needs of the community within a low density environment. There will be no heritage impacts. Accordingly, the proposal is consistent with these objectives.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standard	Proposal	Compliance
4.3 Height of Buildings	9.5m	7.8m	Yes
4.4C Floor Space Ratio	0.6:1 (405.96m ²)	0.63:1 (425.8m ²)	No, see below

Floor Space Ratio (FSR)

The ground floor has been lowered by 0.3m from the application the subject of the refusal. This has resulted on the ground floor being a maximum of only 0.94m above the existing



ground level, and the basement therefore falling under the definition of a basement in the SLEP 2012. Accordingly, the basement storage is no longer automatically counted to GFA.

While the Standard Instrument LEP definition allows for basement storage to be excluded from GFA, clearly this has to be within reason. For a dwelling of this size, 30m² is considered a generous storage provision. As per the evidence of Council in *Malass v Strathfield Municipal Council* [2022] NSWLEC 1160, which was endorsed by the Court, there must be some practical limit (at [37]). As per their website, a large personal storage unit at Kennards is only 18m². Any area greater than 30m² is counted to GFA, particularly since a floor to ceiling height of 2.4m is provided when 2.1m would suffice for storage. A 500mm ceiling provision for services also seems unnecessary.

When the pump out tank (which is considered as plant / services) and the stairs are excluded, the total basement storage area comes to 87.9m². Accordingly, 57.9m² of the basement is counted to GFA. The total GFA breakdown is as follows:

- Basement: 57.9m²
- Ground Floor: 169.3m²
- First Floor: 163.6m²
- Outbuilding: 35.0m²
- Total: 425.8m²

This results in an FSR of 0.63:1 which breaches the 0.6:1 development standard. No Clause 4.6 written request for variation was provided. Therefore, the variation cannot be approved. As in the original development application, the FSR breach forms a recommended reason for refusal.

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 does not adjoin, nor is in close proximity to, a heritage item and as such, the provisions of this clause are not applicable.

Flood Planning

The subject site has been identified as being at or below the flood planning level. The application was reviewed by Council's Engineer who has advised it is compatible with the flood hazard of the land and will not result in significant adverse effects on flood behaviour, subject to suitable conditions. Hence, it is not likely to result in unsustainable social and economic loss. Accordingly, the proposal is considered to satisfy the objectives of Clause 5.21 of SLEP 2012.

Part 6 – Additional Local Provisions

Acid Sulfate Soils

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



Earthworks

The proposal involves excavation works for the provision of a basement. The basement internal floor to ceiling height of 2.4m is considered excessive given the area is only proposed for storage. A 500mm ceiling for undefined services is also considered unnecessary. The extent of the area is excessive with 30m² considered a generous provision for storage and the proposal providing 87.9m².

As per the South Elevation, almost the entire rear yard will be excavated up to a depth of 0.5m (see **Figure 20**). While the desire for consistent external levels is appreciated, this does not justify the extent of excavation proposed nor its proximity to the adjoining property. The proposed in-ground swimming pool further increases excavation on the site.

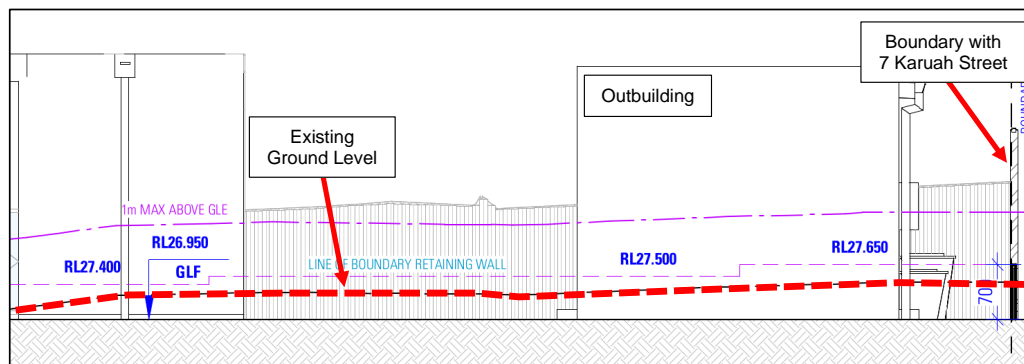


Figure 20: Southern Elevation showing excavated rear yard

The design is not considered to minimise excavation risk, particularly when the site is designated as flood prone. The unnecessary volume of excavation has the potential to contribute to cumulative adverse ground water and soil stability impacts. Accordingly, the proposal is considered inconsistent with Clause 6.2 of the 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. The previous use was also a dwelling.

(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 relevant controls.



SCDCP 2005 Provision	Control	Proposal	Compliance
Building Envelope			
Heights (max):			
Floor to ceiling heights:	3.0m	2.5m – 5.7m	No, see below
Parapet height:	0.8m	0.8m	Yes
Height for flat roof dwelling:	7.8m	7.8m	Yes
Wall height to underside of uppermost ceiling:	7.2m	7.2m	Yes
Number of storeys:	2	2	Yes
Setbacks (min):			
Front:	9m	8m (Pemberton Street)	No
Secondary Frontage	3m where main entry is from secondary frontage	Main pedestrian entry at primary frontage, & therefore on merit	Yes
Side:	1.2m	1.2m (north)	Yes
Rear:	6m	13.72m	Yes
Landscaped Area			
Overall (min):	41.5% (280.8m ²)	39.7% (268.9m ²)	No, see below
Front yard (min, taken at 9m):	50% (62m ²)	89% (110.5m ²)	Yes
Rear (min):	50% (140.4m ²) of overall	56.4% (158.4m ²)	Yes
Fencing			
Front height (max):	1.5m, 1.8m for rear yard	1.2m, 1.8m before rear yard	No, see below
Solid component (max):	0.7m	0.4m	Yes
Solar Access			
POS or habitable windows on subject site (min):	3hrs to habitable windows & 50% of POS	3hrs	Yes
Adjoining POS (min):	3hrs	3hrs	Yes
Vehicle Access and Parking			
Boundary driveway width (min):	3m	5.57m	No, see below
Vehicular crossing (max):	1	1	Yes
Driveway side setback (min):	0.5m	14m	Yes
No. of parking spaces:	2	2	Yes
Basement:			
Basement protrusion (max):	1.0m	0.94m	Yes
Internal height (min):	2.2m	2.4m	Yes
Ancillary Development			
Outbuildings:			
Area (max):	40m ²	35m ²	Yes
Height (max):	3.5m	3.5m	Yes
Side/rear setback (min):	0.5m	1.2m	Yes
Swimming Pool:			
Setback (min):	1.0m	1.6m	Yes

Architectural Design and Streetscape Presentation

The proposed development does not satisfy the architectural design and streetscape presentation objectives within Part A of SCDCP 2005. The perceived bulk of the building is significant and does not adequately address each street frontage. The bulk is a function of other non-compliances, such as the void, fence height, front setback and removal of significant trees. The development is thereby unable to achieve the objective of retaining a sense of openness through providing space between built elements and by maintaining landscaped setbacks. The proposed development does not preserve the appearance of the dwelling within tree-lined streets and park-like environment as per the SCDCP 2005.

The 7.8m northern wall along the primary street (western) frontage to Pemberton Street is not stepped back at the upper level and creates a prominent and bulky form (see **Figure 21**). While the overall wall height has been reduced from the refused design and now complies, the design does not provide the visual relief anticipated in the controls.



Figure 21: Montage of the proposed development from Pemberton Street

Along the 25.5m long secondary street frontage façade to Karuah Street, there is no articulation through recesses (see **Figure 22**). While there is a black band proposed between the two levels and some variety in materials, this not considered to reduce bulk in the way stepped-in portions of built form would. The blank wall at the rear covering the void area contributes significantly to bulk, as does the insufficient 300mm separation to the alfresco wall with the connecting roof. This elevation does not adequately address the streetscape, especially when existing trees which soften the built form are proposed for removal. Overall, the southern elevation to the street has excessive building length with little relief.

Accordingly, the streetscape presentation, character and overall bulk and scale are not supported.



Figure 22: Montage of the proposed development from Karuah Street

Voids

The majority of the proposal complies with the 3m maximum floor to ceiling height provision in the SCDP 2005. The ground floor provides 2.7m and the first floor 2.5m. However, there are two voids which breach the control. The first is a smaller area around the entry stairwell at 5.75m and the second is an 27m² area above the living area at 4.75m (see **Figures 23 and 24**). These non-compliances are discussed as part of the broader building envelope assessment below.

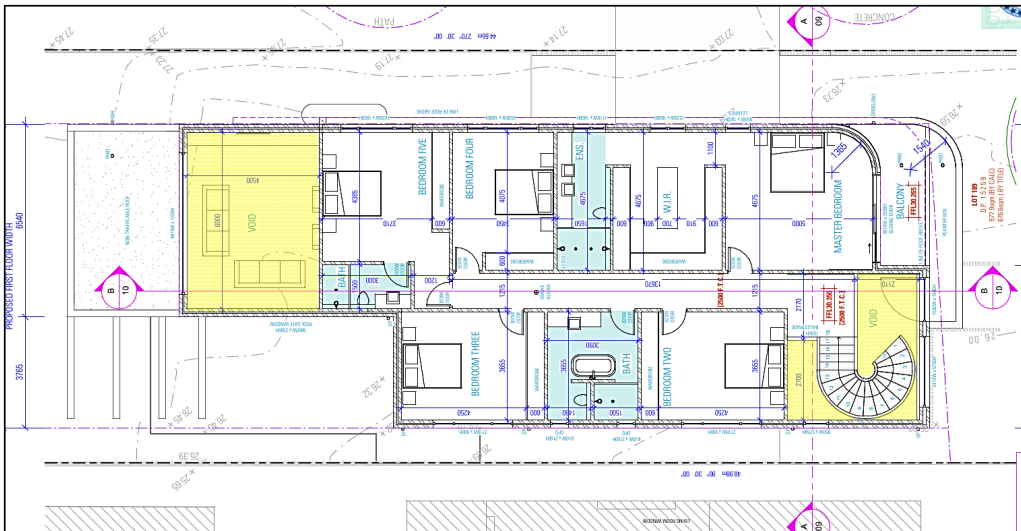


Figure 23: First Floor Plan showing locations of proposed voids (highlighted in yellow)

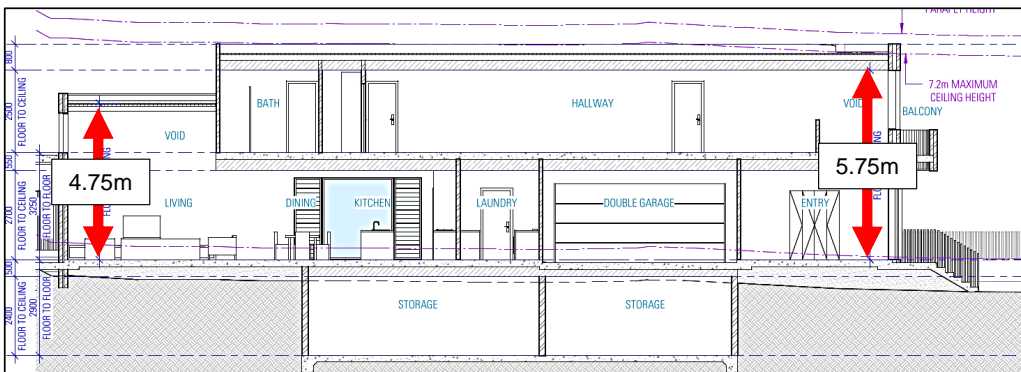


Figure 24: Section Plan showing floor to ceiling height breaches



Building Envelope

The proposed development does not satisfy the building envelope objectives and controls within the SCDPC 2005. More specifically the development is beyond the maximum FSR requirement and has two voids that push the building envelope toward the boundaries of the site.

The void over the living room has a lower ceiling than the rest of the roof, however continues to create significant bulk to the rear which is readily visible from the street. The void seems unnecessary when the living room has adequate solar access to the east and north. No northern opening is provided for the void which one would assume is where the maximum amenity could be derived. It adds excessive bulk to the streetscape presentation. The area of the void will appear as a blank wall to the street (see **Figure 25**).

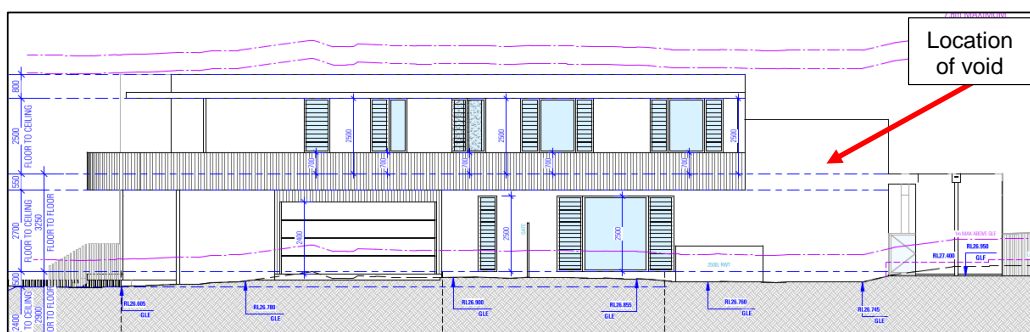


Figure 25: Proposed Karuah Street (South) Elevation

The front setback is non-compliant with the SCDPC 2005 requirement of 9m. There is an 8m setback from the first storey planter box (see **Figure 26**). Although a minor non-compliance, it still contributes to the bulk of the development. It also clearly protrudes further than the two neighbours to the north.

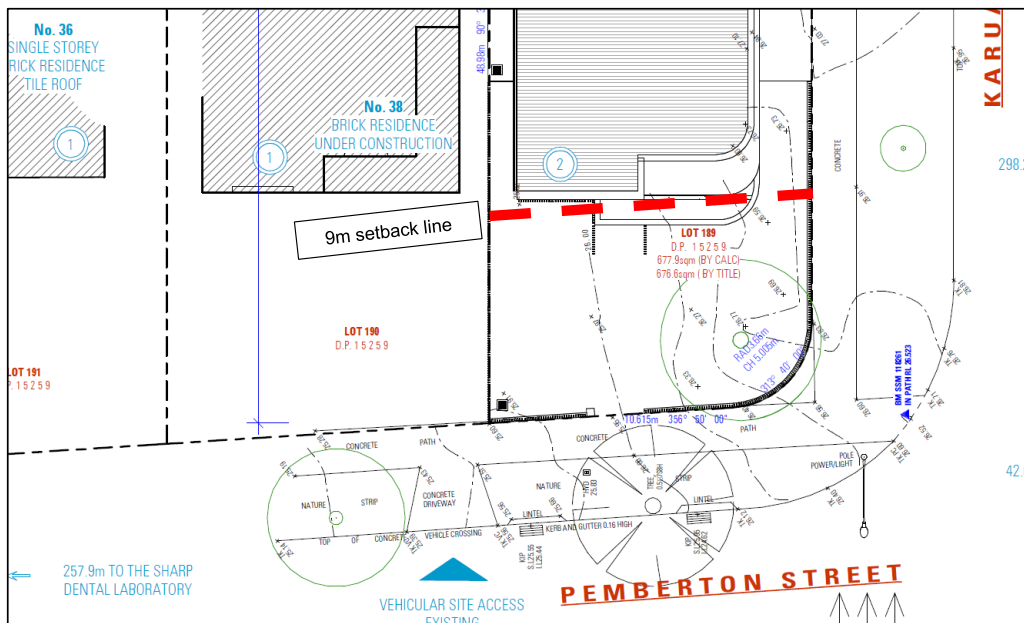


Figure 26: Site plan showing front setback breach



These non-compliances contribute to the excessive bulk and scale of the development. The accumulation of all the non-compliances means that, overall, the development is of a bulk and scale that is unacceptable for the site and the streetscape.

Overshadowing

Given the subject site adjoins the roadway to the south, solar access impacts on surrounding residential properties are limited. However, the shadow diagrams only show the boundaries of the subject site and do not indicate the extent of overshadowing on the property to the east at 7 Karuah Street. The shadow diagrams indicate some overshadowing from the proposed outbuilding will fall onto this property, however, does not show the extent. While it is likely that overshadowing would be confined to the garage wall and driveway and driveway of this property, this still forms insufficient information and a recommended reason for refusal.

Landscaping and Open Space

The proposed development does not satisfy the relevant landscaping objectives and controls of the SCDCP 2005. The proposal has a 12m² shortfall of the overall control. While the landscaped area diagram submitted within the architectural drawings indicates compliance, this inadvertently includes an area below the first floor front balcony overhang.

The shortfall in landscaped area can be attributed to the dwelling's non-compliant building envelope. The overall bulk of the development and the addition of the proposed outbuilding limit opportunities for landscaped area. The front balcony breaches the front setback. For a knock down and rebuild proposal, compliance should be able to be readily achieved. The proposal seeks to remove significant trees on the site which will further reduce opportunities for softening the built form.

Accordingly, the proposal fails to meet several of the objectives within Section 5 of Part A of the SCDCP 2005 including ensuring adequate deep soil planting is retained, making an equitable contribution to landscaping in the locality and maximising the amenity of existing and proposed development. This forms a recommended reason for refusal.

Fencing

The primary fencing along the primary and secondary frontages satisfies the relevant controls within SCDCP 2005. The maximum height will be 1.2m with a 0.4m solid component which complies with the 1.5m and 0.7m maximum controls respectively. However, the fencing along the Karuah Street frontage extends up to 1.8m high in line with the kitchen (see **Figure 27**). The SCDCP 2005 anticipates an increase but only beyond the rear building line with the express purpose of providing privacy for the rear yard. The solid fence will not integrate well with the open paling fence of the adjoining 7 Karuah Street. This non-compliance forms a reason for refusal.

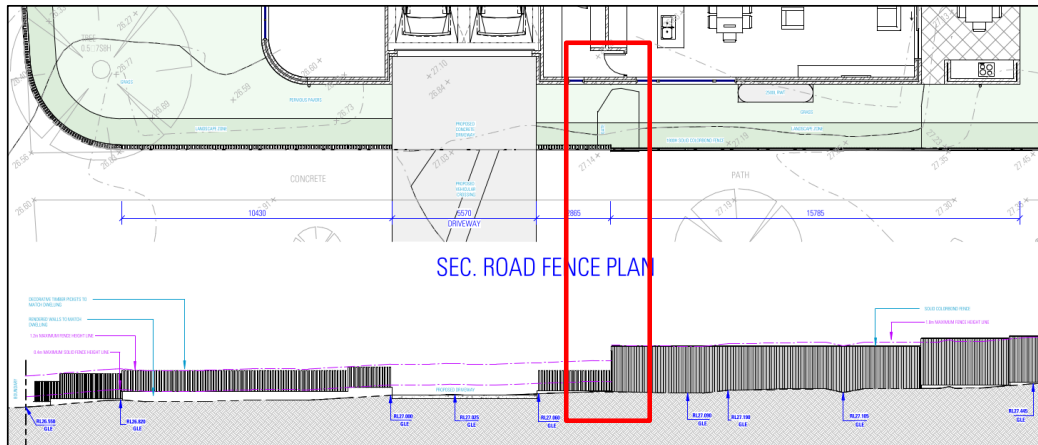


Figure 27: Front fence elevation showing increase to 1.8m

Privacy

While the northern elevation is raised above existing ground level, which ordinarily creates ground floor sightlines over the side boundary, in this case there are no habitable ground floor windows along the side boundary. The only windows are from the stairwells and powder room. The living room is well stepped back behind the pool. On the upper level, the only habitable windows are from the bedrooms. These have a sill height of only 1.5m which does not sufficiently prevent sightlines (see Figure 28).

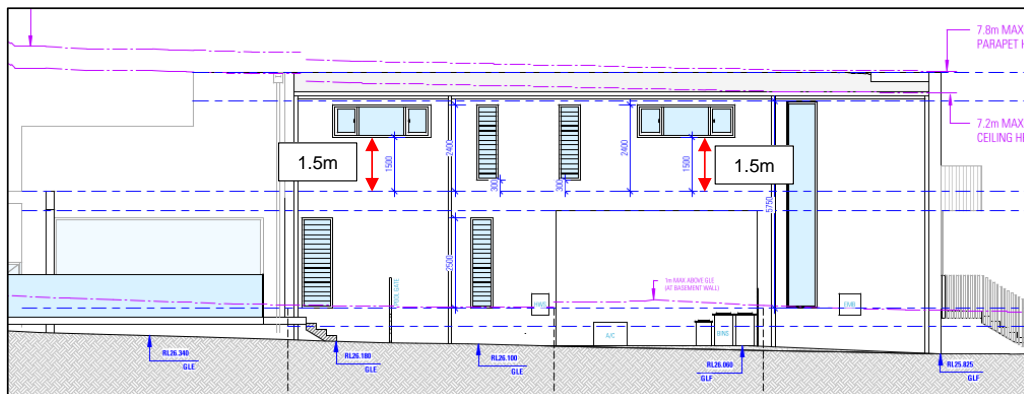


Figure 28: Proposed North Elevation showing bedroom window sill heights

Section 7.2.2 of Part A of SDCDCP 2005 requires:

2. Where a transparent window is to be located within 9m of any window of a habitable room of an adjoining dwelling, the window must:
 - a) be offset from the edge of any windows in an adjoining dwelling by a distance of at least 0.5m; or
 - b) have a sill height of at least 1.7m above the finished floor level or have fixed, obscure glazing in any part of the window less than 1.7m above the floor level.

The Bedroom 2 window does not appear offset 500mm from the adjoining windows, however, there is insufficient information to demonstrate this definitively (see Figures 29 and 30). Figure 29 does not indicate all the windows or the current built form of the adjoining development as per Figure 30. It incorrectly references a living room window and appears to



be based on a previous development. The large neighbouring window in **Figure 30** services a bedroom. Given, the proposal only provides a 1.2m upper level setback to the north, there will be a significant privacy impact into this room. This forms a recommended reason for refusal. Privacy from the outbuilding is discussed in the relevant outbuilding section below.

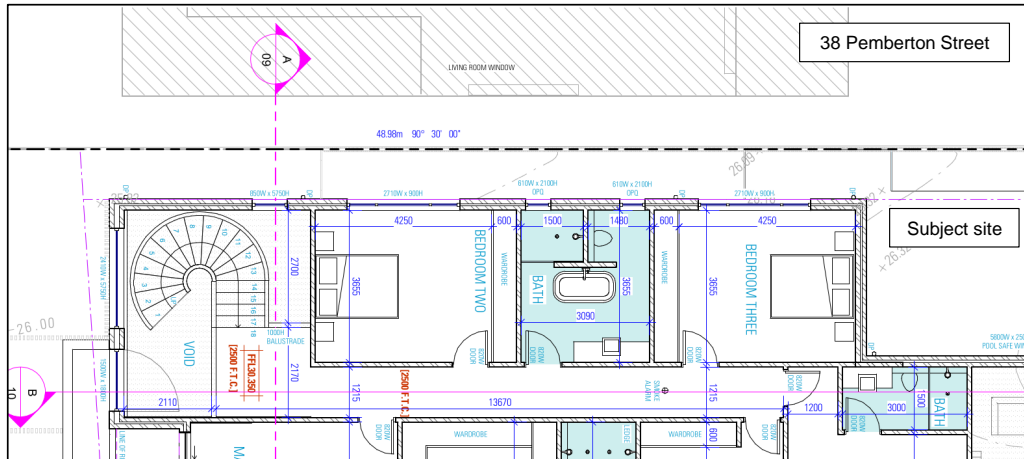


Figure 29: Proposed First Floor Plan showing insufficient horizontal offset from adjoining property



Figure 30: Northern boundary with adjacent newly constructed dwelling at 38 Pemberton Street (right)



Vehicular Access and Parking

The proposed development generally satisfies the relevant objectives and controls of the SCDCP 2005 in that it provides the required number of parking spaces and complies with the vehicular access provisions. While the driveway width exceeds the 3m control, this was assessed as acceptable by Council's Traffic Engineer in the original application. The width is acceptable from a traffic perspective, however, it contributes to a shortfall of landscaped area which is not acceptable. Thus, it is considered in breach of Objective E of Section 8.1 of Part A which states:

"To minimise the area of access driveways to minimise impermeable surfaces and maximise landscaped areas."

This forms a recommended reason for refusal.

Basements, Cut and Fill

As discussed in the SLEP 2012 assessment above, the proposal is not considered to minimise cut and fill on the site. The size and depth of the basement storage area is excessive. The extent of cut in the rear yard is also excessive and its proximity to the boundary unacceptable. Cumulatively, the excavation has the potential for environmental impacts such as ground water and soil stability, particularly given the site is flood affected. The excavation fails to satisfy the following objectives and controls in SCDCP 2005:

- Objective 8.1(G) - To minimise excavation to reduce disturbance to natural ground level particularly adjacent to site boundaries.
- Control 8.2.3(3) - No excavation is permitted within the required minimum side setbacks. Furthermore, the location of basement walls may warrant increased setbacks to provide sufficient area for water proofing, drainage etc.
- Control 8.2.3(9) - Basements may not be permissible on flood affected sites. Applicants should check with Council and consider submitting a pre-lodgement application.
- Control 8.2.3(11) - Basements are not to be used for habitable purposes.
- Objective 9.1(A) - To maintain existing ground levels and minimise cut and fill to reduce site disturbance.
- Objective 9.1(B) - To ensure existing trees and shrubs are undisturbed, ground water tables are maintained and impacts on overland flow/drainage are minimised.
- Control 9.2(5) - All areas of excavation shall be setback from property boundaries in accordance with the building setback controls. No excavation is permitted within the minimum required setbacks.

This forms a recommended reason for refusal.

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. An Erosion and Sediment Control Plan has been submitted within the Stormwater Plans to minimise soil disturbances during construction. This will be included in any list of approved plans.

Access, Safety and Security

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005. Separate pedestrian and vehicle access is provided. The building is orientated towards the



street which promotes passive surveillance of the public domain, thereby increasing safety and the perception of safety in the street.

Ancillary Structures

Outbuildings

The proposed studio complies with the relevant height, setbacks and floor space controls. The finished floor level of the outbuilding is below the existing ground level ensuring no sightlines across the property boundaries. The proposed outbuilding is in a similar location to the newly constructed granny flat in the rear yard of 38 Pemberton Street.

The proposed outbuilding is close to the side boundary of 7 Karuah Street where it interfaces with the brick garage and driveway. This is not a sensitive interface. Nevertheless, the door into the outbuilding is along the eastern side within the 1.2m setback. This seems to encourage the use of the rear setback for trafficable purposes which is unnecessary and forms a reason for refusal.

If the application were to be approved, a condition of consent would enforce that no kitchen or cooking facilities are permitted within the studio. It is particularly concerning that the site plan shows separate bins for the studio, suggesting a more intensive use. While it is only the application before Council that is being assessed, as per Bindon AC in *Hatch v Northern Beaches Council* [2019] NSWLEC 1422, it is appropriate to raise concern over a non-habitable space being used for habitable purposes, with the consent authority being none-the-wiser.

Swimming Pools, Spas & Associated Enclosures

The pool provides a compliant setback to all adjoining boundaries. Nevertheless, the ancillary structures objectives speak to maintaining the amenity of surrounding dwellings. The proposed location of the pool, lengthways along the side boundary, does not minimise impacts and is therefore not acceptable.

The pool coping is approximately 0.52m above the existing ground level at its highest point (based on existing RL26.32 indicated on drawings). The raised pool area increases aural and visual privacy impacts given, at this height, the boundary fence is insufficient to prevent downward sightlines. It seems possible for a person to stand on the eastern pool landing area and overlook the side boundary fence to the north (see **Figure 31**). This scenario is exacerbated along the northern side boundary where it appears possible to look directly over the fence. This forms a recommended reason for refusal, being inconsistent with Section 9.2(8) of Part A of the SCDP 2005.

The pool pump equipment has been located in a soundproof enclosure (the basement). While this is technically below the flood level, there are no openings other than to the ground floor above the flood level and is therefore acceptable.

The swimming pool fence appears capable of compliance with the Swimming Pools Act 1992 and relevant standards.

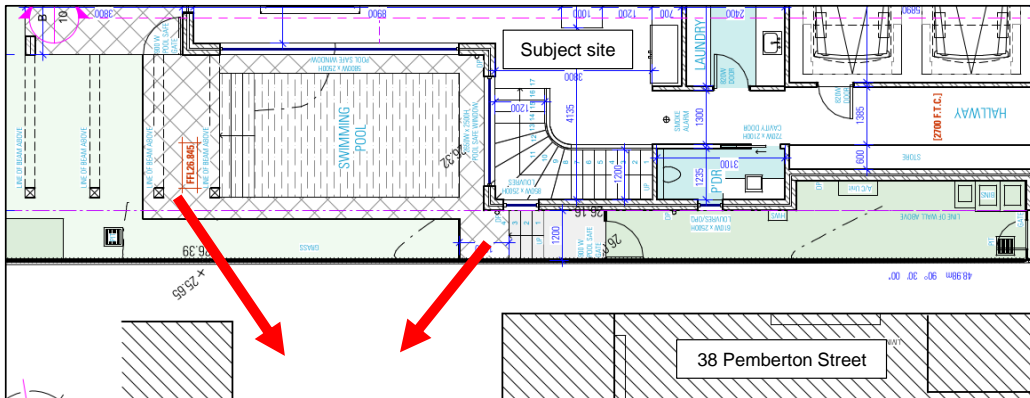


Figure 31: Ground Floor Plan showing areas of potential sightlines from pool area

Retaining Walls

The proposal appears to provide a 0.7m retaining wall to the eastern boundary with 7 Karuah Street (see **Figure 32**). This is to retain the adjoining property's soil given the subject site will be excavated to allow for the proposed outbuilding. The 0.7m height complies with the maximum height of 1.2m, however, it would require to be designed by a suitably qualified engineer.

Of greater concern however is that this retaining wall appears at or beyond the property boundary and no owner's consent from 7 Karuah Street is provided (EPA Regulation 2021, s 23(1)). This forms a recommended reason for refusal.

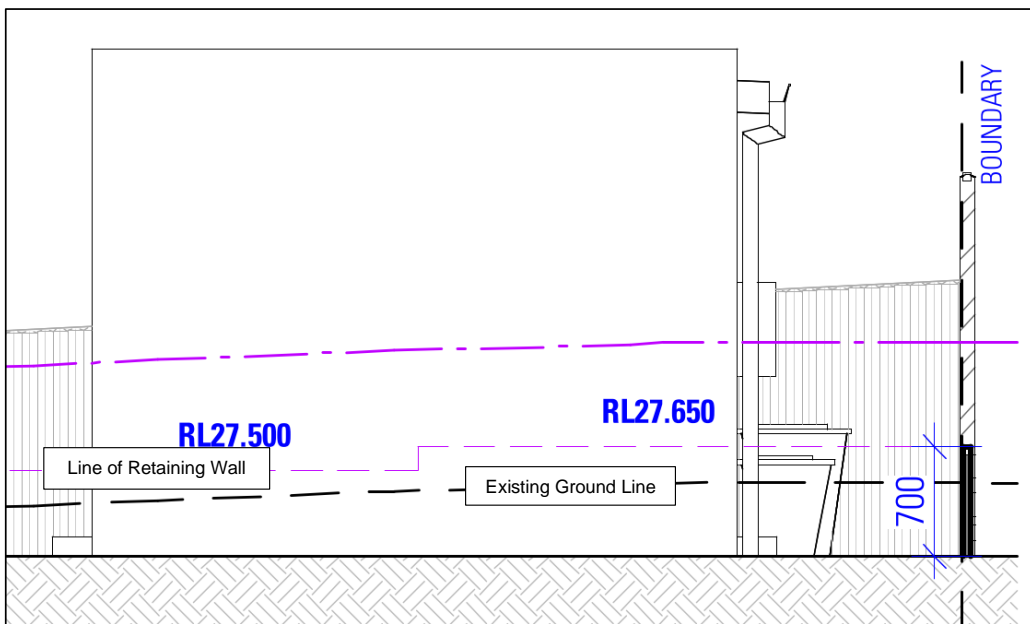


Figure 32: Southern Elevation showing retaining wall beyond property boundary



Waste Management

In accordance with Part H of SCDCP 2005, a Waste Management Plan was submitted with the application. It is considered that this plan adequately addresses Part H and is satisfactory. It is noted that a second set of bins for the outbuilding are not required by SCDCP 2005 and are excessive.

(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 DA for the demolition of a building, as is the case here. 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,

As discussed above, the proposed development is of a scale and character that is not in keeping with other developments being constructed in the locality. In addition, the proposal is considered to have a significant impact on the natural and built environment. However, there are not considered to be any negative social or economic impacts on the locality.

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

It is considered that the site is suitable for low density residential development as per the zoning and previous use. However, the specific proposal is considered unsuitable, given its size and shape, its changing of natural levels, loss of vegetation and unacceptable relationship to adjoining developments. This forms a recommended reason for refusal.

(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 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 conflicts with the public interest and is likely to set an undesirable precedent. The Statement of Environmental Effects (SEE) states:

"Planning precedent carries no determining weight as each application must be assessed on its own merits, together with the unique response to the relevant planning controls. Additionally, precedent is not identified as a Head of Consideration under section 4.15 of The Act."

In response, it is noted that the Courts have that the precedent effect of a proposed development is a valid planning consideration (*Goldin v Minister for Transport Administering the Ports Corporatisation and Waterways Management Act 1995* (2002) 121 LGERA 101). This is not necessarily inconsistent with the development being assessed on its particular planning merits. While precedent is not identified as a head of consideration, the matters listed in Section 4.15(1) of the EPA Act 1979 are not exhaustive. Section 4.15 sets out the matters that a consent authority must take into consideration but does not exclude from consideration



other matters which may be relevant to the particular application (*Carstens v Pittwater Council* (1999) 111 LGERA 1).

The public interest is served through the consistent application of planning controls which promotes certainty and fairness. Insufficient planning merits are provided to justify breaches of the planning controls in this particular application.

Furthermore, the SEE states:

“The public interest is served by the provision of an additional dwelling in a manner that adds to housing stock and site longevity.”

It goes on to suggest the proposal contributes to meeting the housing targets in the Strathfield Local Housing Strategy. In response, it is pointed out that the proposal simply replaces one dwelling with another. There is no net increase in dwellings and the proposal will therefore not contribute to meeting strategic housing targets. It is reiterated that the proposal is for an outbuilding and not a secondary dwelling in the rear yard, although the provision of additional bins creates uncertainty in this regard.

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. Based on the Cost of Works of \$1,343,512.34 provided for the original application, a contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows:

Local Amenity Improvement Levy	\$13,435.10
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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 SCDP 2005. Following detailed assessment, it is considered that DA 2023/51 should be refused, subject to the reasons attached.

A handwritten signature in black ink, appearing to read "W van Wyk", with a horizontal line underneath.

Signed:

W van Wyk
Senior Development Assessment Planner

Date: 8 February 2024



- I confirm that I have assessed the abovementioned DA with the delegations assigned to my position;
- I have reviewed the details of this development application and I also certify that Section 7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed by:

JA

Signed:
J Gillies
Senior Planner

Date: 6 February 2024



1. Refusal Reason – Environmental Planning Instrument

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) The Proposal fails to satisfy the aims and objectives of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in non-rural areas due to the removal of significant trees on the site.
- (b) The proposal fails to meet the development standard of Clause 4.4C of the Strathfield Local Environmental Plan 2012, which provides the maximum floor space ratio for a building on a lot being land in Zone R2 Low Density Residential. No Clause 4.6 Variation request is provided to justify the breach.
- (c) The proposal fails to satisfy the objectives of Clause 6.2(3), which requires consideration of the detrimental impact of earthworks on the environment functions, processes and neighbouring uses of the area. The significant and unnecessary excavation of the site has the potential to contribute to cumulative adverse environmental impacts.

2. Refusal Reason - Development Control Plan

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:

- (a) The proposal fails to satisfy the Architectural Design and Streetscape Presentation objectives in Section 2.1 of Part A. This requires developments to retain a feeling of openness and space between built elements by maintaining landscaped setbacks and preserve the appearance of dwellings set in the tree-lined streets and park-like environment. This also requires developments to protect and retain the amenity of adjoining neighbours.
- (b) The proposal fails to satisfy the Building Envelope objectives provided by Section 4.1 of Part A, which requires that dwellings are compatible with the built form of the local area and the overall bulk and scale, size and height are appropriate.
- (c) The proposal fails to satisfy the maximum internal floor to ceiling height requirement provided by Section 4.2.2.5 of Part A.
- (d) The proposal fails to satisfy the minimum primary setback requirement provided by Section 4.2.3.1(1) of Part A.
- (e) The proposal fails to satisfy the minimum landscape area provided by Section 5.2.1.1 of Part A, which requires a minimum of 41.5% landscaped area for the specific lot.
- (f) The proposal does not demonstrate compliance with Section 5.2.2 of Part A of the SCDCP 2005 which requires a minimum of 25% of canopy trees and vegetation to be locally indigenous species.
- (g) The proposal breaches the front fence controls in Section 5.2.4 of Part A. In particular, the secondary street front fence rises to 1.8m high before the rear yard.
- (h) The north facing upper level bedrooms fall short of the 1.7m sill height control in Section 7.2.2(2)(b) of Part A resulting in unacceptable privacy impacts.
- (i) The proposal fails to meet Objective 8.1(E) of Part A given the driveway width non-compliance contributes to the shortfall in landscaped area. The width of the driveway is in breach of the control in Section 8.2.1(2) of Part A.
- (j) The proposal fails to meet the objectives and controls pertaining to excavation and cut and fill including:
 - (i) Objective 8.1(G) - To minimise excavation to reduce disturbance to natural ground level particularly adjacent to site boundaries.
 - (ii) Control 8.2.3(3) - No excavation is permitted within the required minimum side



- setbacks. Furthermore, the location of basement walls may warrant increased setbacks to provide sufficient area for water proofing, drainage etc.
- (iii) Control 8.2.3(9) - Basements may not be permissible on flood affected sites. Applicants should check with Council and consider submitting a pre-lodgement application.
 - (iv) Control 8.2.3(11) - Basements are not to be used for habitable purposes.
 - (v) Objective 9.1(A) - To maintain existing ground levels and minimise cut and fill to reduce site disturbance.
 - (vi) Objective 9.1(B) - To ensure existing trees and shrubs are undisturbed, ground water tables are maintained and impacts on overland flow/drainage are minimised.
 - (vii) Control 9.2(5) - All areas of excavation shall be setback from property boundaries in accordance with the building setback controls. No excavation is permitted within the minimum required setbacks.
 - (viii) Control 9.2(8) – Avoid excessive fill that may create the potential for overlooking of adjoining properties.

3. Refusal Reason – Impacts on the Environment

Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) The proposal results in excessive excavation which has the potential for environmental impacts.
- (b) The proximity of excavation to adjoining properties creates the potential for geotechnical impacts.
- (c) The excessive bulk and scale create unacceptable visual impacts.
- (d) The proposal results in the removal of significant trees that are of high visual significance to the streetscape and make a significant urban canopy contribution and improved the overall landscaped area of the proposal.
- (e) There are unacceptable visual privacy impacts from the raised pool landing area and upper level north facing bedrooms.
- (f) There are unacceptable aural privacy impacts from the raised pool area parallel to the side boundary and the outbuilding entry within the rear setback.

4. Landscape Quality

The Landscape Plan is of insufficient quality to warrant approval. In particular:

- (a) The Landscape Plan provides an insufficient mix of planting types. These would soften built form and improve energy conservation and efficiency.
- (b) Given the loss of trees on site, the Landscape Plan should incorporate minimum 4 trees that can reach minimum 10m in height.
- (c) The proposed use of *Acacia falcata* as perimeter hedge is inappropriate because this is a spindly, open form shrub.
- (d) Ground treatments other than lawn should be used in densely shaded areas.

5. Character

The proposal is inconsistent with the existing and desired future character of the area due to, inter alia, its bulk, incongruous front setback and lack of articulation.



6. Refusal Reason – Suitability of Site

Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development given its size and shape, its changing of natural levels, loss of vegetation and unacceptable relationship to adjoining developments.

7. Refusal Reason – Public Interest

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

8. Refusal Reason – Insufficient Information

- (a) The solar access diagrams are unsatisfactory as they do not show the adjoining property at 7 Karuah Street.
- (b) The lodgement package shows the eastern retaining wall is beyond the boundaries of the subject site and no adjoining owner's consent is provided.
- (c) The floor plans submitted with the architectural drawings do not indicate all the adjoining windows or the correct building outline of 38 Karuah Street.
- (d) There is insufficient information to give confidence that the outbuilding will not be used as a secondary dwelling, especially given the second set of bins indicated.
- (e) No Clause 4.6 written request for variation is provided for the breach of Clause 4.4C - Floor Space Ratio in the Strathfield Local Environmental Plan 2012.

TO: Strathfield Local Planning Panel Meeting - 28 March 2024
 REPORT: SLPP – Report No. 7
 SUBJECT: S8.2 - DA2023/36 - 83 NEWTON ROAD, STRATHFIELD - LOT 34 DP:12714
 DA NO. S8.2 – DA2023/36

SUMMARY

Proposal:	Section 8.2 Application to review previous determination to refuse the development for demolition of existing dwelling, and construction of a double storey dwelling with basement parking, inground pool and front fence
Applicant:	DESIGN CORP ARCHITECTS
Owner:	D Mieng Van
Date of lodgement:	12 February 2024
Notification period:	16 February – 1 March 2024
Submissions received:	Nil
Assessment officer:	George Andonoski
Estimated cost of works:	\$3,088,971.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 variation proposed?	No
Extent of the variation supported?	NA
Peer review of Clause 4.6 variation:	Internal Delegations
RECOMMENDATION OF OFFICER:	APPROVAL

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the Section 8.2 Application to review previous determination to refuse the development for demolition of existing dwelling, and construction of a double storey dwelling with basement parking, inground pool, and front fence.

Site and Locality

The site is identified as 83 Newton Road, Strathfield and has a legal description of Lot: 34 DP: 12714. The site is a regular shaped parcel of land and is located on the northern side of Newton Road. The site has a width of 20.12m, a depth of 70.56m and an overall site area of 1,416m². The locality surrounding the subject site contains large, detached dwellings.

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 16 February to 1 March 2024, where no submissions were received.

Issues

- Unnecessary screen on eastern side
- Unnecessary cut and retaining walls adjacent to alfresco area
- Excessive roof over alfresco area extending into landscaped area

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/36 is recommended for approval subject to suitable conditions of consent.

RECOMMENDATION

That Development Application No. 2023.36 for the demolition of existing dwelling, and construction of a double storey dwelling with basement parking, inground pool and front fence at 83 Newton Road, Strathfield be **APPROVED** under the provision of Division 8.2 of the Environmental Planning & Assessment Act 1979, subject to the following conditions.

DRAFT CONDITIONS OF CONSENT

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

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

(1) **Approved Plans & Documentation**

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

Description	Reference No.	Date	Revision	Prepared by
Demolition Plan	2022-015	18.12.2023	L	Design Corp Architects
Site Analysis/Roof Plan	2022-015	18.12.2023	L	Design Corp Architects
Basement Plan	2022-015	18.12.2023	L	Design Corp Architects
Ground Floor Plan	2022-015	18.12.2023	L	Design Corp Architects
First Floor Plan	2022-015	18.12.2023	L	Design Corp Architects
Elevation Plan 1/2	2022-015	18.12.2023	L	Design Corp Architects
Elevation Plan 2/2	2022-015	18.12.2023	L	Design Corp Architects
Sections	2022-015	18.12.2023	L	Design Corp Architects
Materials and Finishes	2022-015	18.12.2023	L	Design Corp Architects
Stormwater Plans	C23108 – DA01-DA05	15.02.2024	G	Cam Consulting
Landscape Plans	2023-010	08.02.2024	C	plandrew
Waste Management Plan		29.11.2022		

(2) **Building Height**

The height of the building measured from Australian Height Datum (AHD) must not exceed Relative Level (RL) 35.870m AHD to the uppermost roof level of the building.

SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

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

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

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

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

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;
- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

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

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

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

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

(4) Vehicular Crossing - Minor Development

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

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

An approval for a new or modified vehicular crossing will contain the approved access and/or

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

(5) **Road Opening Permit**

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

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

(6) **Sydney Water – Tap in™**

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

(7) **Fees to be Paid**

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation)	\$7,722.43

Or, provide evidence of Payment direct to the Long Service Corporation.

See <https://portal.longservice.nsw.gov.au/bci/levy/>

Security Damage Deposit	\$22,050.00
Tree Bond	\$3,203.00
Administration Fee for Damage Deposit	\$137.00
Administration Fee for Tree Bond	\$137.00

DEVELOPMENT CONTRIBUTIONS

Strathfield Section 94A Indirect Development Contributions Plan 2017	\$30,889.71
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General Fees

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

Development Contributions

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

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Development Contributions Plan.

Timing of Payment

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

Further Information

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

(8) Required Design Changes

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

Screen Wall	Delete the proposed screen wall adjacent to the eastern side boundary located between the water feature and family room.
Alfresco Roof	The proposed roof over the alfresco area is to be cut back so it does not encroach over the landscaped area and is to be in line with the hard paving below.
Retaining wall and cut	The proposed retaining wall and cut of natural ground adjacent to the family room and courtyard (eastern side) is to be deleted and existing ground level maintained throughout this area.

(9) **Damage Deposit – Minor Works**

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage security deposit for the cost of making good any damage caused to any Council property as a result of the development: \$22,050.00.
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$137.00.
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

(10) **Tree Bond**

A tree bond of \$ 3023.00 (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

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.

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.

Payment may be accepted in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply). Note: Additional fees apply for the lodgement of a bank guarantee in lieu of cash bond applies in accordance with Council's adopted Fees and Charges.

A request for refund of the Tree Bond must be made in writing.

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.

(11) **Site Management Plan**

Minor Development

A Site Management Plan detailing all weather access control points, sedimentation controls, waste management plans, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

(12) **BASIX Commitments**

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

All measures and commitments as detailed in the BASIX Certificate No. 1371369S_03 must be implemented on the plans lodged with the application for the Construction Certificate.

(13) **Erosion & Sedimentation Control**

Erosion and sediment controls must be provided to ensure:

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

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

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

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

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

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

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

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

(15) **Stormwater System**

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

(16) **On Site Detention**

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

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

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

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

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

Full details shall accompany the application for the Construction Certificate.

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

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

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

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

(18) **Stormwater Drainage Plan Details**

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

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

(19) **Structural Details**

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

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

(20) **Geotechnical Report**

Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (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 is to 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 are to 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 shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (e) Sides of the excavation are to 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.

(21) Off Street Parking – Compliance with AS2890

All driveways, access ramps, vehicular crossings and car parking spaces shall 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).

(22) Landscape Plans

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

(23) Tree Protection and Retention

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
1	<i>Lophostemon confertus</i>	Street tree located in front of 83 Newton Road, Strathfield	2m
2	<i>Cinnamomum camphora</i>	Rear of 102 Barker Road	5m

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).

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

Specific Street Tree Protection Measures

- (g) For the street tree in front of 83 Newton Road, unless otherwise specified in AS 4970-2009, 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 and that 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.

Excavation works near tree to be retained

- (h) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (j) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

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

(24) Tree Removal & Replacement

Tree removal

Permission is granted for the removal of all existing trees and shrubs on the subject property.

General Tree Removal Requirements

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

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

(25) Demolition & Asbestos

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

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

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

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

(26) Demolition Notification Requirements

The following notification requirements apply to this consent:

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

(27) Demolition Work Involving Asbestos Removal

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

(28) Dial Before You Dig

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

(29) Registered Surveyors Report - During Development Work

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

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

(30) Dust Control

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of a minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as required should it fail to adequately control any dust nuisance.

DURING CONSTRUCTION

(31) Hours of Construction for Demolition and Building Work

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or

adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Friday and 8:00am to 1:00pm on Saturdays. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Where the development involves the use of jack hammers/rock breakers and the like, or other heavy machinery, such equipment may only be used between the hours of 7:00am to 5:00pm Monday to Friday only.

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

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

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

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

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

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

(34) **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.

(35) **Completion of Landscape 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 shall be maintained as landscaped area and can only be used for growing plants, grasses and trees and cannot include any building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).

(36) **BASIX Certificate**

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

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

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

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

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

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

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

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

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

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

(39) **Vehicular Crossing - Minor Development**

The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Civic & Urban Services and in accordance with Council's Driveway Specifications.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.

The work must be completed before the issue of an Occupation Certificate.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

nil

OPERATIONAL CONDITIONS (ON-GOING)

(40) **Maintenance of Landscaping**

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

(41) **Entering & Exiting of Vehicles**

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

(42) **Greywater System**

In order to conserve and re-use water, Council encourages all developments 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 is to ensure that it complies with the Plumbing Code of Australia, maintained at all times and does not result in any adverse amenity impacts on the subject premises and surrounding properties.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

(43) Requirement for a Construction Certificate

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

(44) Appointment of a Principal Certifier

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

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

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

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

(45) Notification of Critical Stage Inspections

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

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

(46) Notice of Commencement

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

(47) Critical Stage Inspections

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

(48) Notice to be Given Prior to Critical Stage Inspections

The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier

at least 48 hours before each required inspection needs to be carried out.

(49) **Occupation Certificate**

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

PRESCRIBED CONDITIONS

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

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

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

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

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

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

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

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

ADVISORY NOTES

i Lapsing of Consent

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

ii Long Service Levy

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

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

iii. Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993

To apply for approval under Section 138 of the [Roads Act 1993](#):

- (a) Complete the Works Permit Application Form which can be downloaded from Strathfield Council's Website at www.strathfield.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No.DA 2023.36.01.
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Works Permit applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

iv Site Safety Fencing

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

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

v Australia Post – Letter Box Size and Location

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

vi Residential Waste

Council's residential waste collection service comprises one (1) x 120 litre (L) general waste bin, one (1) x 240L recycling bin and one (1) x 240L garden vegetation bin per dwelling for single dwellings, semi-detached and dual occupancy developments. Waste containers should be stored in a suitable place to avoid vandalism, nuisance (odour, vermin) and adverse visual impacts on residents and the streetscape. Waste storage areas should be located to minimise the distance of travel to the collection point, be easily accessible and be of sufficient size to accommodate the necessary waste storage bins in accordance with Appendix C, Section H Waste Minimisation and Management, Strathfield Consolidated Development Control Plan 2005.

ATTACHMENTS

1. [DA2023 36 1 - 83 Newton Road STRATHFIELD - s8.2 SLPP Report](#)



SLPP REPORT

Property:	83 Newton Road STRATHFIELD DA 2023/36
Proposal:	Section 8.2 Application to review previous determination to refuse the development for demolition of existing dwelling, and construction of a double storey dwelling with basement parking, inground pool, and front fence
Applicant:	DESIGN CORP ARCHITECTS
Owner:	D Mieng Van
Date of lodgement:	12 February 2024
Notification period:	16 February – 1 March 2024
Submissions received:	Nil
Assessment officer:	George Andonoski
Estimated cost of works:	\$3,088,971.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	No
Local Planning Panel Criteria	Internal Delegations
RECOMMENDATION OF OFFICER:	APPROVAL

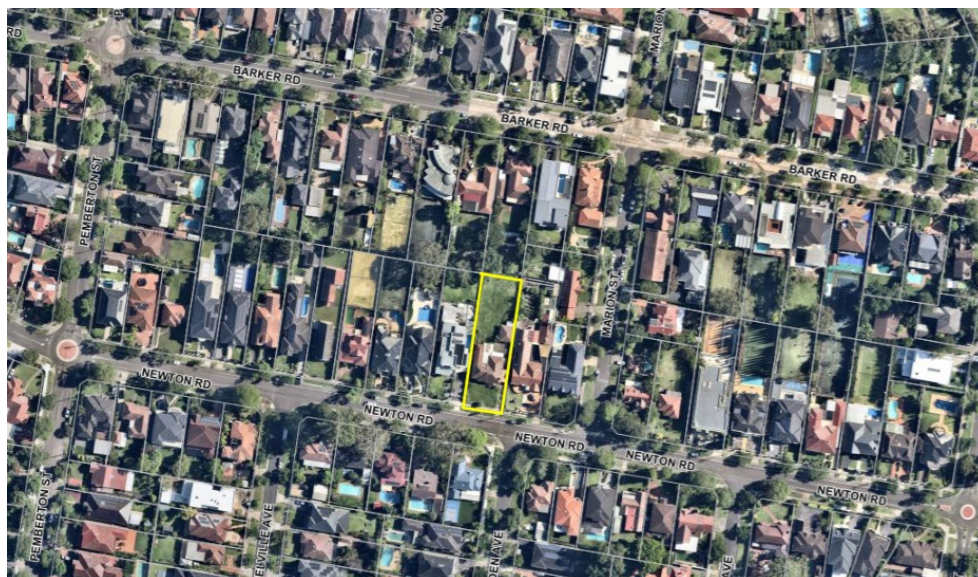


Figure 1: Aerial view of the subject site (outlined in yellow)



EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of an existing dwelling, and construction of a double storey dwelling with basement parking, inground pool, and front fence. The Application is a Section 8.2 Review of a refusal for the same uses.

Site and Locality

The site is identified as 83 Newton Road, Strathfield and has a legal description of Lot: 34 DP: 12714. The site is a regular shaped parcel of land and is located on the northern side of Newton Road. The site has a width of 20.12m, a depth of 70.56m and an overall site area of 1,416m². The locality surrounding the subject site contains large, detached dwellings.

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 16 February to 1 March 2024, where no submissions were received.

Issues

- Unnecessary screen on eastern side
- Unnecessary cut and retaining walls adjacent to alfresco area
- Excessive roof over alfresco area extending into landscaped area

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2023/36 is recommended for approval subject to suitable conditions of consent.



REPORT IN FULL

Proposal

Council has received an application for the Section 8.2 Application to review the previous determination to refuse the development for demolition of existing dwelling, and construction of a double storey dwelling with basement parking, inground pool, and front fence. The reasons for refusal were:

"REASONS FOR REFUSAL:

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) Strathfield Local Environmental Plan 2012 – Clause 4.4C Exceptions to Floor Space Ratio (Zone R2)
- b) Strathfield Local Environmental Plan 2012 – Clause 6.2 Earthworks – (3)(a) and (h)

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) Part A4.2.3.2(1) – Setbacks – combined side setback breach
- b) Part A5.2.3(1) – Private open space – the formal living area alfresco is fragmented from the other private open space
- c) Part A7.1 – Privacy objectives – private open space orientated towards the site boundary with direct privacy impacts
- d) Part A8.1 – Vehicular access and parking objectives – minimise excavation
- e) Part A8.2.3(1) – Basements – basement breach of ground floor footprint

The merits of these breaches are inadequate to justify a departure from the policy.

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 excessive excavation beyond what is anticipated by the SCDCP 2005 controls has potential environmental impacts, including cumulative groundwater impacts and truck movements during construction.
- b) Built environment – Privacy impact from the living room and accompanying alfresco area. The proposed 2.6m privacy screen breaching the 1.2m side setback would result in unacceptable bulk impacts. The proposed side setbacks of the building also contribute to overbearing bulk impacts.

4. 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 for the following reasons:



- a) Excessive basement areas beyond the ground floor footprint, breach of the combined side setback and privacy impacts from an alfresco area are not suitable development for the site. Ameliorating the privacy through a 2.6m structure within the side setback is not considered a suitable design solution.

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 and is likely to set an undesirable precedent.

6. **Refusal Reason – Insufficient Information**

- a) No written request for a variation of the Floor Space Ratio Development Standard (Clause 4.4C) under Clause 4.6 has been provided by the Applicant. The variation cannot be approved without a written request which demonstrates compliance is unreasonable and unnecessary and that there are sufficient environmental planning grounds.
- b) The Applicant has not provided turning circles from a qualified Traffic Engineer to demonstrate the revised basement layout allows ingress and egress in a forward direction in accordance with the Australian Standards.”

Below is a description of each level and comparison of plans submitted against the refused plans:

Basement level:

- Two car spaces
- (Boat) storage
- Garbage room
- pool pump room/plant storage room
- Tesla power wall
- Lift and stair access

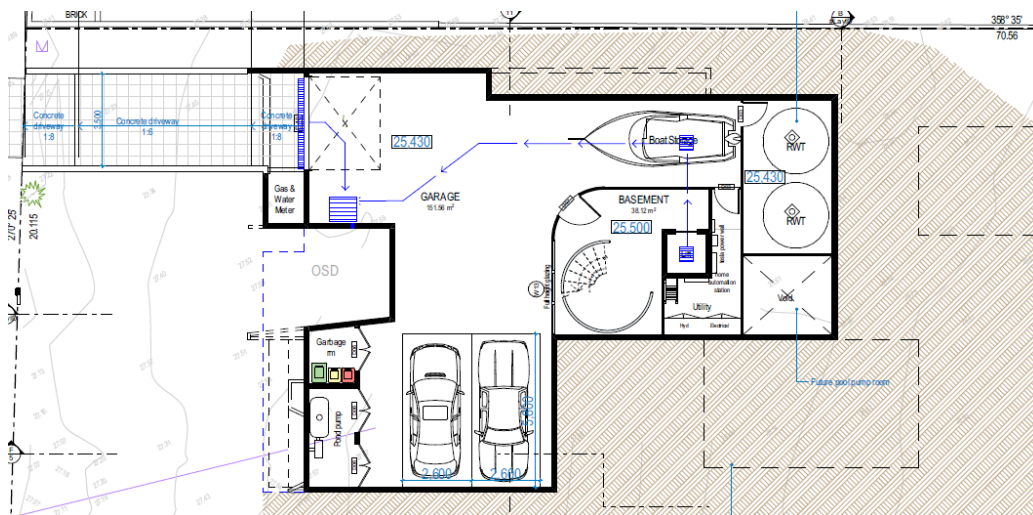


Figure 2: Refused Basement Plan

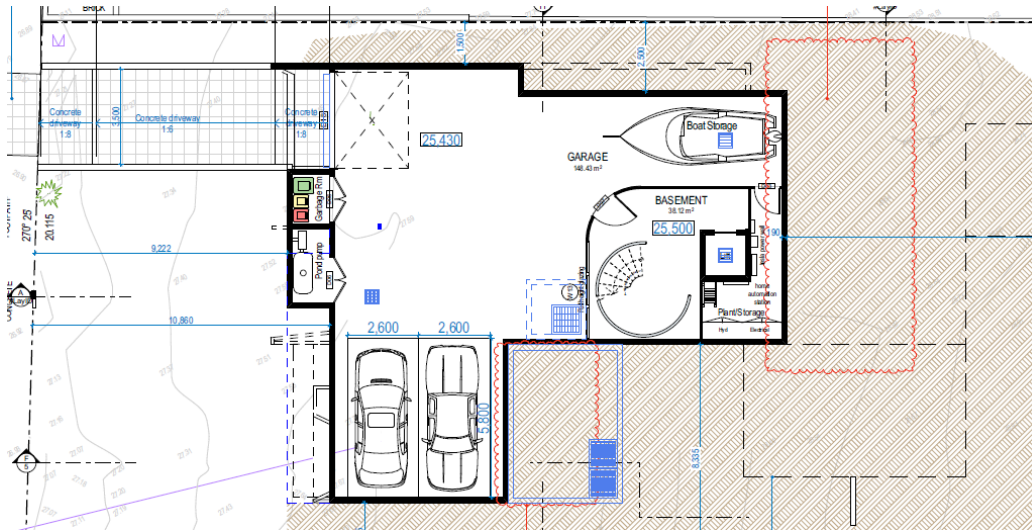


Figure 3: S8.2 Review Basement Plan

The basement area has been reduced from the previous application. The excessive excavation for rainwater tanks and future pool pump room have since been deleted and the car spaces brought forward and utility rooms have been moved to the previous OSD void. Whilst there is a minor encroachment of the basement outside the ground floor footprint (under the porch area) this is minor and reduces the depth of the basement and helps limit the excavation within the basement, which is considered acceptable and the minimum amount required to provide for the required number of parking spaces, manoeuvring areas, utility areas and internal access.

Ground floor level:

- Open plan living / dining / kitchen
- Formal living
- Office
- Rumpus
- Bedroom with ensuite
- Laundry
- Butlers room
- Lift and stair access

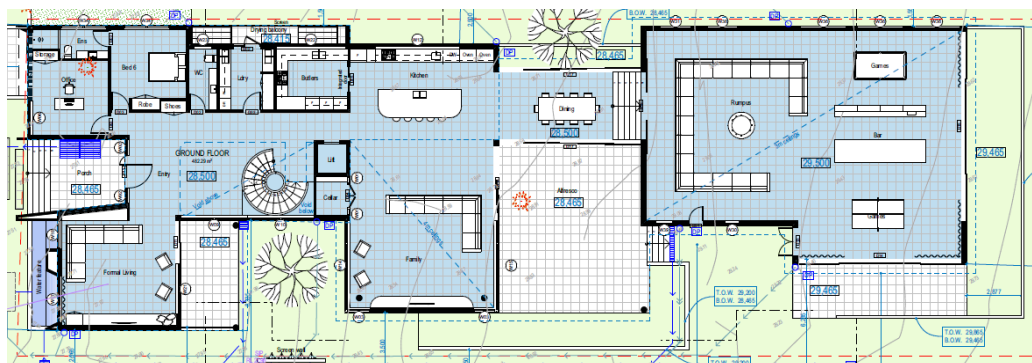


Figure 4: Refused Ground Floor Plan

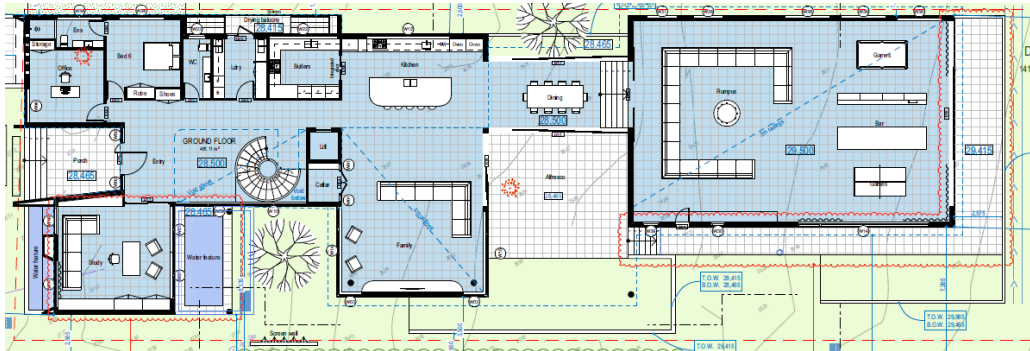


Figure 5: s8.2 Review Ground Floor Plan

The rumpus room has been reduced in size and area, it has now rectangular in shape and a paved walkway has been added around the eastern and northern ends. The alfresco area has been reduced and increased setback from the side boundary. The formal living room has been changed to a study room and the elevated courtyard outside the living room has been converted to a water feature. These changes have addressed a number of concerns with the original proposal. The development now complies with the FRS controls, potential privacy impacts from the elevated courtyard have been removed, which also then negates the need for the privacy screen on the eastern elevation.

First floor level:

- Four bedrooms, each with ensuite
- Rumpus room
- Lift and stair access

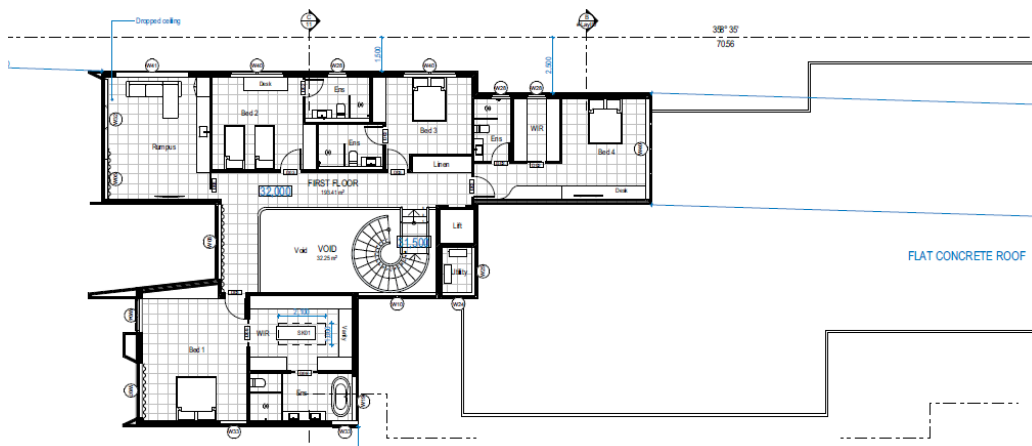


Figure 6: Refused First Floor Plan and s8.2 Review First Floor Plan (No Change)

External works:

- Alfresco
- Front fence
- Retaining walls and cutting of existing ground levels



Figure 7: Front Elevation (south) – No Change

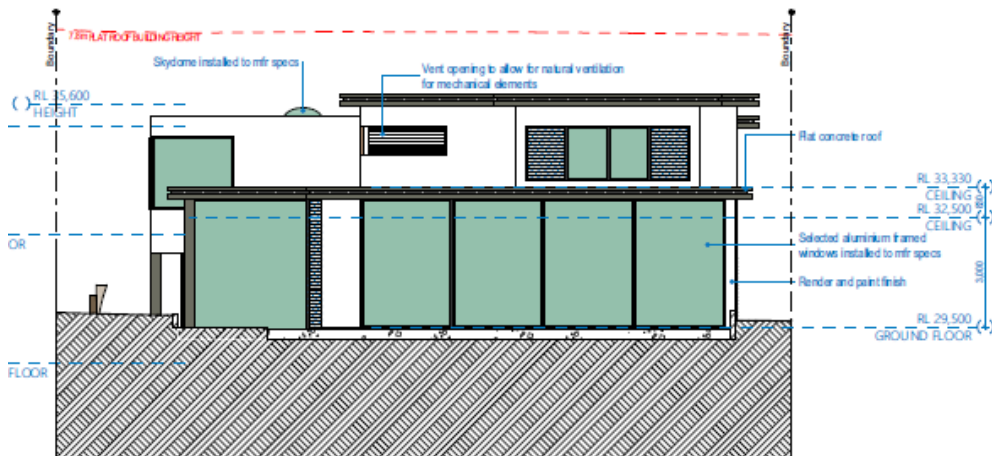


Figure 8: Rear Elevation (north) – No Change

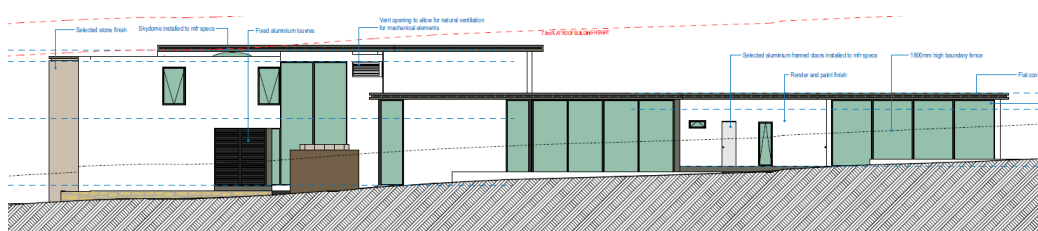


Figure 9: Refused – East Elevation

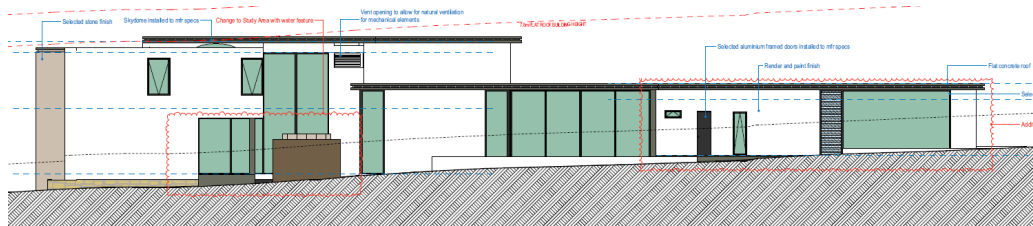


Figure 10: s8.2 Review – East Elevation

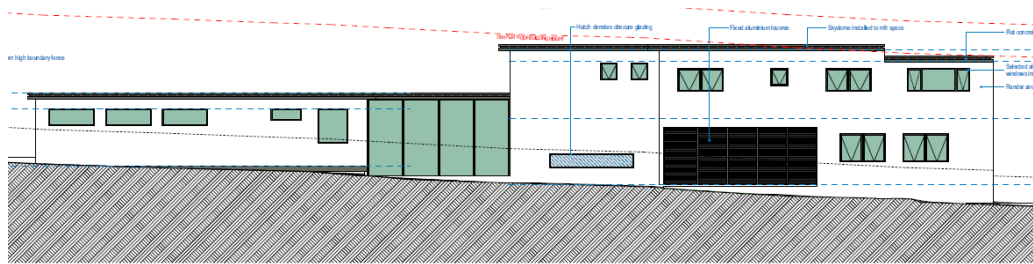


Figure 11: West Elevation (No Change)

The Site and Locality

The subject site is legally described as Lot: 34 DP: 12714 and commonly known as 83 Newton Road, Strathfield. It is located off the northern side of Newton Road between Marion and Pemberton Streets.

The site is rectangular in shape and has front and rear boundaries of 20.12m, side boundaries of 70.56m, resulting in a total area of 1,416m². The site slopes from the rear at RL 30.26 to the front at RL 27.13 and does not have a significant cross-fall.

The site is occupied by a single storey detached dwelling (see **Figure 12**). Vehicular access is provided to the site via an existing driveway along the eastern boundary to an attached single car garage. There is a large rear yard comprising a lawn area.



Figure 12: Existing development on the subject site, as viewed from the street.

The current streetscape is characterised by large, detached dwellings on elongated allotments. Adjoining the subject site to the west is 85 Newton Road which comprises of a contemporary two storey rendered dwelling (see **Figure 13**). This property includes a swimming pool on the side boundary adjoining the subject site (see **Figure 14**).



Figure 13: 85 Newton Road, as viewed from the street



Figure 14: 85 Newton Road, as viewed from the rear yard of the subject site

Adjoining to the east is 81 Newton Road which is a single storey dwelling with a pitched tiled roof (see **Figure 15**). Adjoining the rear of the subject site is 102 Barker Road which comprises of a detached dwelling located towards the street frontage and away from the subject site. This property is raised slightly above the subject site.



Figure 15: 81 Newton Road, as viewed from the street.

Background

- 12.05.23** Original application lodged with Council.
- 16.10.23** Application recommended for refusal by assessing officer and refused by Director of Planning & Development under delegation.
- 12.02.24** s8.2 Review application lodged with Council.
- 16.02.24** Application neighbour notified for 14 days – no submissions.

Assessment report prepared based on plans and details submitted with the application for review. Plans identified as issue L dated 18.12.2023.

Referrals – Internal and External

Tree Management Officer

The original application was referred to Council's Tree Management Officer who did not raise any objection, subject to standard conditions of consent. There are no trees of significance on the subject property itself. Tree protection conditions would apply to the large tree of significance close to the rear boundary on the adjoining property at 102 Barker Road. If



approved, the street tree (*Lophostemon confertus*) would require a bond and retention conditions.

The s8.2 application was not referred to Councils Tree Management Officer and their original comments and conditions are still applicable.

Stormwater Engineer

Council's Stormwater Engineer did not object to the original application, subject to standard conditions of consent.

The s8.2 application was not referred to Councils Development Engineer and their original comments and conditions are still applicable.

Traffic Engineer

The s8.2 application was referred to Council's Traffic Engineer due to the revised basement layout and provision of turning circles/swept paths provided by a traffic consult. Based on the additional information provided, Council's traffic engineer confirmed that the driveway access, ramp and turning circles are satisfactory and subject to 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	COMPLIES
State Environmental Planning Policy (Biodiversity and Conservation) 2021 <ul style="list-style-type: none"> Chapter 2 – Vegetation in non-rural areas 	Yes
State Environmental Planning Policy (Sustainable Buildings) 2022	Yes, SEPP (BASIX) 2004 applies under savings provisions and the proposal complies with those standards
State Environmental Planning Policy (Resilience and Hazards) 2021 <ul style="list-style-type: none"> Chapter 4 – Remediation of land 	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 original proposal was referred to Council's Tree Management Officer who outlined specific conditions to be imposed with any development consent to ensure the protection of trees, and these conditions have been incorporated into the draft consent. Accordingly, the aims and objectives outlined within the SEPP are satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

The provisions of the State Environmental Planning Policy (Sustainability Buildings) 2022 do not apply to the subject application as it is captured by the savings and transitional provisions under Section 4.2. The BASIX Certificate for the proposed development has been issued under the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 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 use 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	8.1m	YES
4.4C Floor Space Ratio	0.5:1 (708m ²)	0.48:1 (675m ²)	YES

Under the s8.2 amendments, the pool pump room was deleted from the basement level and the ground floor rumpus room has been reduced in size and area. Originally the pool pump room was counted in GFA in the assessment as there was no pool as part of the application and the inclusion of this area resulted in a non-complying FSR. The removal of this area and the reduction of the rumpus room now results in an application with a complying FRS.

Part 5 – Miscellaneous Provisions

Heritage Conservation

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



Flood Planning

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

Part 6 – Additional Local Provisions

Acid Sulfate Soils

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

Earthworks

The proposal involves significant excavation works for the provision of a basement, driveway ramp and ancillary works. The extent of excavation has been reduced from the originally refused application and limited to sit within the footprint of the ground floor above and access to and from the basement. The depth of excavation has been kept to a minimum and all ancillary works have been limited to what is required to provide access to and from the basement. The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to affect the existing and likely amenity of adjoining properties. There is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. Accordingly, the proposed excavation works are considered to satisfactorily address the objectives of this clause.

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	4m	NO (see below)
Parapet height:	0.8m	0.9m	NO (see below)
	7.8m	8.1m	NO (see below)



Overall height for flat roof dwelling: Number of storeys:	2	2	YES
Setbacks (min): Front: Side: Combined side setback: Rear:	9m 1.2m (min) 4.023m (20%) 6m	9m 2.57m (east) 1.50m (west) 4.1m 11.34m	YES YES YES YES YES
Landscaping			
Overall area (min):	45% (637.2m ²)	47% (668.58m ²)	YES
Front yard area (min):	50% (91.55m ²)	83% (151.19m ²)	YES
Rear area (min):	50% of overall requirement (318.6m ²)	81% (517.39m ²)	YES
Fencing			
Height (overall/piers) (max): Solid component (max):	1.5m 0.7m	1.5m 0.6m	YES YES
Solar Access			
POS or habitable windows on subject site (min):	3hrs to habitable windows & to 50% of POS	>3hrs	YES
Adjoining POS (min):	3hrs	>3hrs	YES
Vehicle Access and Parking			
Boundary driveway width (min): Vehicular crossing (max): Driveway setback – side (min): No. of parking spaces:	3m 1 0.5m 2	3m 1 1.5m 2	YES YES YES YES
Basement: Vertical protrusion (max): Horizontal extent: Ramp width (max): Internal height (min):	1.0m Within GF footprint 3.5m 2.2m	0.99m Within GF footprint 3.5m 2.4m	YES YES YES YES
Ancillary Development			
Retaining Walls: Height (max):	1.2m	Up to 950mm	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 front façade complies with the flat roof height control. The proposal provides a variety of materials and articulation to create visual interest (see **Figure 16**). It also achieves a transition in building height between adjoining properties (see **Figure 17**). Accordingly, the proposal is considered acceptable in terms of streetscape presentation.



Figure 16: Montage of the proposed front façade (No Change)

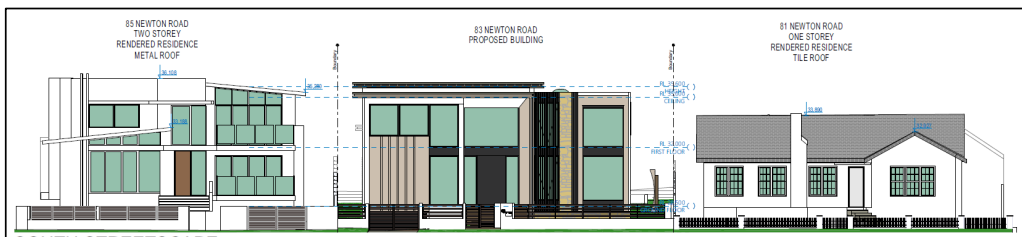
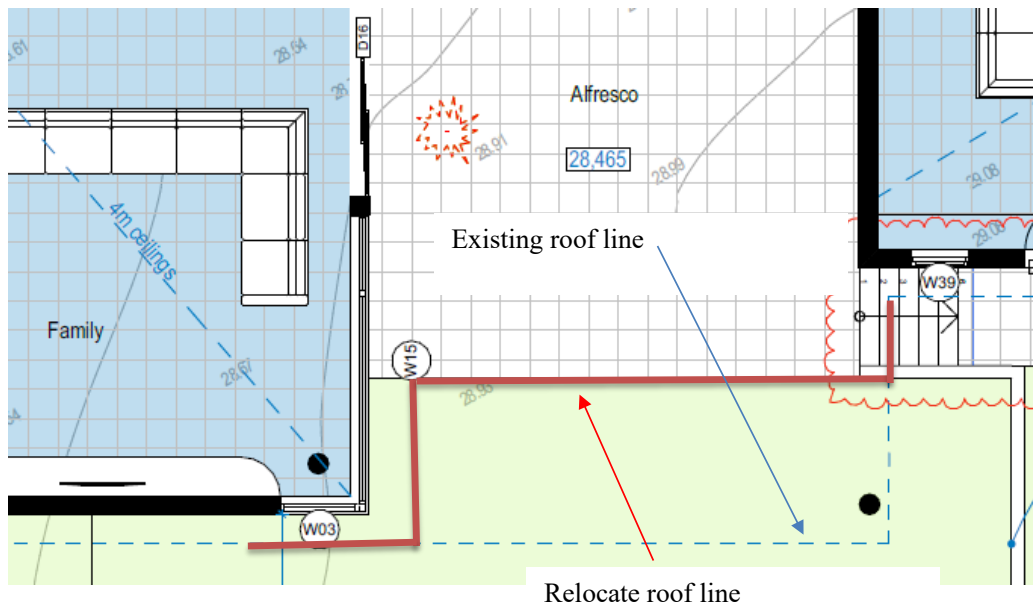


Figure 17: Front elevation in the streetscape

Building Envelope

Parapet and Flat Roof Height

While the front façade complies, there will be a minor 0.3m exceedance of the flat roof dwelling height control for a small portion of the pop-up roof form further into the site (see **Figure 18** below). The extent of this had been significantly reduced at the previous request of Council. There will also be a 0.1m parapet height breach.



Fencing

The proposed front and side fencing satisfies the relevant objectives and controls within SDCDP 2005. It is sympathetic to the existing and desired character of the locality and is compatible to the height and style of adjoining fences.

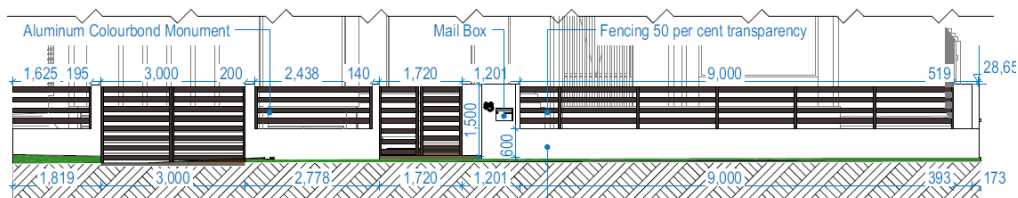


Figure 19: Front Fence Elevation (No Change)

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 generally satisfy the relevant objectives and controls of the SDCDP 2005.

Privacy

The proposal is generally orientated towards the front and rear boundaries and there are no upper-level balconies.

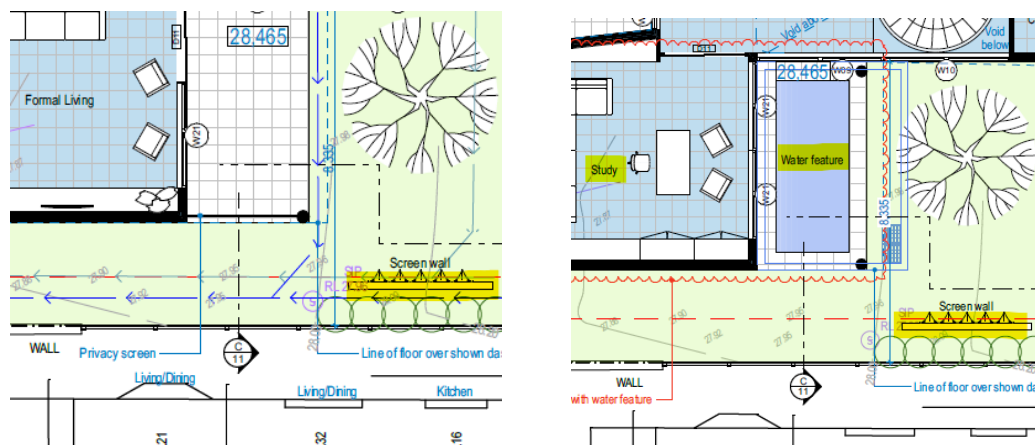
The western elevation is acceptable in terms of privacy. The ground floor includes fixed louvers for the drying area and obscure glazing for the kitchen. Bedroom 6 at the front and its



accompanying ensuite are located forward of the adjoining building line (85 Newton Road). Given the underlying topography, the side boundary fence should block direct sightlines from the Dining Room while the Rumpus Room windows are generally highlight. These are behind the building line of the adjoining property.

The eastern elevation is also acceptable in terms of privacy. The adjoining property at 81 Newton Road is single storey. Ground level sightlines will be obscured by the boundary fence. Privacy concerns were originally raised in relation to the raised formal living room and courtyard. The s8.2 plans have converted the raised formal living area and courtyard to a study room and water feature, removing any privacy concerns to the adjoining property at 81 Newton Street.

The original application proposed a 2600mm screen wall 900mm off the eastern side boundary to mitigate the privacy impacts but given the raised courtyard and formal living room have been changed, there is no need for this screen, and it is recommended it be deleted. This will be imposed via a condition of consent (Condition 8 – Design Changes) and marked in red on the approved plans.



On the upper level, the only windows service an ensuite and a bedroom. These are considered less intensive uses compared to primary living areas. The bedroom window is narrow and likely to capture roof form only.

The central and rear alfresco areas are sunken and therefore will not generate unacceptable privacy impacts.

No privacy issues were raised by any of the adjoining properties.

Vehicular Access, Parking and Basements

The proposed development satisfies the relevant objectives and controls of the SCDP 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. The basement also includes the provision of a storage area (for a boat). The LEP definition excludes any storage within the basement and as such this areas was excluded from the GFA. There is no other significant storage area/room within the basement. The boat storage area is 21sqm and



Retaining Walls

The proposed development satisfies the relevant objectives and controls within SCDCP 2005 and have been kept below the maximum height of 1.2m (950mm). All retaining walls greater than 600mm are required to be designed by a suitably qualified engineer.

PART H – Waste Management

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

(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 existing structures. 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 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. The proposed use is the same as existing and permissible in the zone.

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

In accordance with the provisions of Council's Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. No submissions were received during this period.

(e) the public interest.

The proposed development as modified under the s8.2 application 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 \$ 3,088,971.00 and in accordance with Council's Section 7.12 Indirect Contributions Plan, a contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows.

Local Amenity Improvement Levy	\$ 30,889.71
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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 36/2023 should be approved subject to the conditions outlined below.

A handwritten signature in blue ink, appearing to be "G. Andonoski".

Signed:

**George Andonoski
Planning & Operations Coordinator**

Date: 12 March 2023

- I confirm that I have assessed the abovementioned development application with the delegations assigned to my position;
- I have reviewed the details of this development application and I also certify that Section 7.11/7.12 Contributions are applicable to this development and have been levied accordingly.

Report and recommendations have been peer reviewed by:

Handwritten initials "JG" in blue ink.

Signed:

**Joe Gillies
Senior Planner**

Date: 7 March 2024



DRAFT CONDITIONS OF CONSENT

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

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

(1) **Approved Plans & Documentation**

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

Description	Reference No.	Date	Revision	Prepared by
Demolition Plan	2022-015	18.12.2023	L	Design Corp Architects
Site Analysis/Roof Plan	2022-015	18.12.2023	L	Design Corp Architects
Basement Plan	2022-015	18.12.2023	L	Design Corp Architects
Ground Floor Plan	2022-015	18.12.2023	L	Design Corp Architects
First Floor Plan	2022-015	18.12.2023	L	Design Corp Architects
Elevation Plan 1/2	2022-015	18.12.2023	L	Design Corp Architects
Elevation Plan 2/2	2022-015	18.12.2023	L	Design Corp Architects
Sections	2022-015	18.12.2023	L	Design Corp Architects
Materials and Finishes	2022-015	18.12.2023	L	Design Corp Architects
Stormwater Plans	C23108 – DA01-DA05	15.02.2024	G	Cam Consulting
Landscape Plans	2023-010	08.02.2024	C	plandrew
Waste Management Plan		29.11.2022		



(2) **Building Height**

The height of the building measured from Australian Height Datum (AHD) must not exceed Relative Level (RL) 35.870m AHD to the uppermost roof level of the building.

SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

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

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

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

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

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;
- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

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

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



- (l) Pumping concrete from a public road;

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

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

(4) Vehicular Crossing - Minor Development

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

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

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

(5) Road Opening Permit

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

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

(6) Sydney Water – Tap in™

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



PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

(7) Fees to be Paid

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation)	\$7,722.43
Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Security Damage Deposit	\$22,050.00
Tree Bond	\$3,203.00
Administration Fee for Damage Deposit	\$137.00
Administration Fee for Tree Bond	\$137.00
DEVELOPMENT CONTRIBUTIONS	
Strathfield Section 94A Indirect Development Contributions Plan 2017	\$30,889.71

General Fees

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



Development Contributions

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

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Development Contributions Plan.

Timing of Payment

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

Further Information

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

(8) Required Design Changes

The following changes are required to be made and shown on the Construction Certificate plans and as marked up in red on the approved plan:

Screen Wall	Delete the proposed screen wall adjacent to the eastern side boundary located between the water feature and family room.
Alfresco Roof	The proposed roof over the alfresco area is to be cut back so it does not encroach over the landscaped area and is to be in line with the hard paving below.
Retaining wall and cut	The proposed retaining wall and cut of natural ground adjacent to the family room and courtyard (eastern side) is to be deleted and existing ground level maintained throughout this area.

(9) Damage Deposit – Minor Works

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage security deposit for the cost of making good any damage caused to any Council property as a result of the development: \$22,050.00.



- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$137.00.
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

(10) **Tree Bond**

A tree bond of \$ 3023.00 (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

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.

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.

Payment may be accepted in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply). Note: Additional fees apply for the lodgement of a bank guarantee in lieu of cash bond applies in accordance with Council's adopted Fees and Charges.

A request for refund of the Tree Bond must be made in writing.

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.

(11) **Site Management Plan**

Minor Development

A Site Management Plan detailing all weather access control points, sedimentation controls, waste management plans, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

(12) **BASIX Commitments**

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



All measures and commitments as detailed in the BASIX Certificate No. 1371369S_03 must be implemented on the plans lodged with the application for the Construction Certificate.

(13) Erosion & Sedimentation Control

Erosion and sediment controls must be provided to ensure:

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

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

(14) Pre-Construction Dilapidation Report – Private Land

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

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

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

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



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

(15) **Stormwater System**

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

(16) **On Site Detention**

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

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

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

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

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

Full details shall accompany the application for the Construction Certificate.

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

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

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding four hour's runoff from a one-hour duration storm of the 1 in 100 year storm;



- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

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

(18) Stormwater Drainage Plan Details

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

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

(19) Structural Details

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

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

(20) Geotechnical Report

Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (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 is to 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 are to 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 shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.

- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

(21) Off Street Parking – Compliance with AS2890

All driveways, access ramps, vehicular crossings and car parking spaces shall 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).

(22) Landscape Plans

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

(23) Tree Protection and Retention

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
1	<i>Lophostemon confertus</i>	Street tree located in front of 83 Newton Road, Strathfield	2m
2	<i>Cinnamomum camphora</i>	Rear of 102 Barker Road	5m

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance AS4970 - 2009 *Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist



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

Specific Street Tree Protection Measures

- (g) For the street tree in front of 83 Newton Road, unless otherwise specified in AS 4970-2009, 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 and that 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.

Excavation works near tree to be retained

- (h) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (j) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

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

(24) Tree Removal & Replacement

Tree removal

Permission is granted for the removal of all existing trees and shrubs on the subject property.

General Tree Removal Requirements



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

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

(25) Demolition & Asbestos

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

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

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

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

(26) Demolition Notification Requirements

The following notification requirements apply to this consent:

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



is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

(27) Demolition Work Involving Asbestos Removal

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

(28) Dial Before You Dig

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

(29) Registered Surveyors Report - During Development Work

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

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

(30) Dust Control

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be



erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of a minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as required should it fail to adequately control any dust nuisance.

DURING CONSTRUCTION

(31) Hours of Construction for Demolition and Building Work

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Friday and 8:00am to 1:00pm on Saturdays. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Where the development involves the use of jack hammers/rock breakers and the like, or other heavy machinery, such equipment may only be used between the hours of 7:00am to 5:00pm Monday to Friday only.

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

(32) Cost of Work to be Borne by the Applicant

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

(33) Obstruction of Road or Footpath

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

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

(34) 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.

(35) Completion of Landscape 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 shall be maintained as landscaped area and can only be used for growing plants, grasses and trees and cannot include any building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).

(36) BASIX Certificate

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

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

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

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

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

(38) Works as Executed and Certification of Stormwater Works

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

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

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



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

(39) Vehicular Crossing - Minor Development

The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Civic & Urban Services and in accordance with Council's Driveway Specifications.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.

The work must be completed before the issue of an Occupation Certificate.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

nil

OPERATIONAL CONDITIONS (ON-GOING)

(40) Maintenance of Landscaping

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

(41) Entering & Exiting of Vehicles

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



(42) **Greywater System**

In order to conserve and re-use water, Council encourages all developments 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 is to ensure that it complies with the Plumbing Code of Australia, maintained at all times and does not result in any adverse amenity impacts on the subject premises and surrounding properties.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

(43) **Requirement for a Construction Certificate**

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

(44) **Appointment of a Principal Certifier**

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

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

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

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

(45) **Notification of Critical Stage Inspections**

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

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



(46) **Notice of Commencement**

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

(47) **Critical Stage Inspections**

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

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

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

(49) **Occupation Certificate**

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

PRESCRIBED CONDITIONS

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

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

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

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

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

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



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

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

ADVISORY NOTES

i Lapsing of Consent

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

ii Long Service Levy

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

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

iii. Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993

To apply for approval under Section 138 of the [Roads Act 1993](#):

- (a) Complete the Works Permit Application Form which can be downloaded from Strathfield Council's Website at www.strathfield.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No.DA 2023.36.01.
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Works Permit applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in



accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

iv Site Safety Fencing

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

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

v Australia Post – Letter Box Size and Location

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

vi Residential Waste

Council's residential waste collection service comprises one (1) x 120 litre (L) general waste bin, one (1) x 240L recycling bin and one (1) x 240L garden vegetation bin per dwelling for single dwellings, semi-detached and dual occupancy developments. Waste containers should be stored in a suitable place to avoid vandalism, nuisance (odour, vermin) and adverse visual impacts on residents and the streetscape. Waste storage areas should be located to minimise the distance of travel to the collection point, be easily accessible and be of sufficient size to accommodate the necessary waste storage bins in accordance with Appendix C, Section H Waste Minimisation and Management, Strathfield Consolidated Development Control Plan 2005.