

IDAP REPORT – SECTION 4.55(1A) MODIFICATION

Property:	9-13 Beresford Road STRATHFIELD (Lot 45 in SP83492) DA 2017/114/2
Proposal:	4.55(1A) Modification Application to delete Condition 4A relating to development contributions
Applicant:	ABC Planning
Owner:	Vernor Pty Ltd
Date of lodgement:	8 September 2020
Notification period:	14 September – 28 September 2020
Submissions received:	Nil.
Assessment officer:	L Gibson
Estimated cost of works:	Nil
Zoning:	R3-Medium Density Residential - SLEP 2012 Yes – 11 Beresford Road listed as an item of environmental heritage under Schedule 5 of the SLEP 2012 (<i>Item No.96 of local significance – “Wairuna”: Victorian Italianate style house</i>).
Heritage:	
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	No
RECOMMENDATION OF OFFICER:	REFUSAL



Figure 1: Locality Plan with subject site outlined in yellow.

EXECUTIVE SUMMARY

Proposal

Council approval is being sought for modification to DA2017/114 under Section 4.55(1A) of the *EP&A Act 1979* to delete Condition 4A of the Notice of Determination relating to development contributions.

Site and Locality

The site is identified as 9-13 Beresford Road STRATHFIELD within SP 69537. The subject property is one of three buildings on the property and is legally described as Lot 45 in SP 69537. The subject building is commonly known as 11 Beresford Road, Strathfield.

The site is located on the northern side of Beresford Road east of the intersection of Homebush Road and Beresford Road.

The site is comprised of three (3) separate residential buildings. The oldest building is the two (2) storey heritage listed Victorian Italianate style house with direct frontage to the street. The other two (2) buildings are residential flat buildings constructed in the early 2000s accommodating a total of 45 units consisting of 22 x 1 bedroom, 22 x 2 bedroom and 1 x 3 bedrooms.

Strathfield Local Environmental Plan

The site is zoned R3-Medium Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development generally satisfies the provisions of Strathfield Consolidated DCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan from 14 September – 28 September 2020. No submissions were received during this time.

Issues

- The contributions which were calculated under the parent application require contributions to be paid for 19 lodger rooms. The contributions applied a credit of a 4 bedroom dwelling house. This reduced the overall cost of the contributions to be levied for 19 lodger rooms. The figures have therefore been calculated correctly and still apply to the subject consent. Accordingly, the proposal to delete Condition 4A requiring payment of such contributions is not supported thus the proposal is recommended for refusal.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2017/114/2 is recommended for refusal.

REPORT IN FULL

Proposal

Council approval is being sought for modification to DA2017/114 under Section 4.55(1A) of the *EP&A Act 1979* to delete Condition 4A of the Notice of Determination relating to development contributions.

Condition 4A of the consent states as follows:

4A. STRATHFIELD DIRECT SECTION 94 CONTRIBUTIONS PLAN (GC)

Section 94 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contribution Plan 2010-2030 as follows:

Major Open Space	\$114,949.98
Local Open Space	\$39,395.86
Roads and Traffic	\$10,321.06
Provision of a Community Facility	\$25,265.39
Administration	\$2,178.57
Total	\$192,110.87

The Site and Locality

The site is identified as 9-13 Beresford Road STRATHFIELD within SP 69537. The subject property is one of three buildings on the property and is legally described as Lot 45 in SP 69537. The subject building is commonly known as 11 Beresford Road, Strathfield.

The site is located on the northern side of Beresford Road east of the intersection of Homebush Road and Beresford Road.

The site is comprised of three (3) separate residential buildings. The oldest building is the two (2) storey heritage listed Victorian Italianate style house with direct frontage to the street. The other two (2) buildings are residential flat buildings constructed in the early 2000s accommodating a total of 45 units consisting of 22 x 1 bedroom, 22 x 2 bedroom and 1 x 3 bedrooms.

Vehicular access to the site for the boarding house is provided from Beresford Road along the western side property boundary. An at-grade car park is provided within the front setback of the site which services the boarding house.

The surrounding built environment consists of similar multi-unit residential flat building developments in close proximity to the Strathfield Town Centre.

Background

22 March 1994 DA93/162 was approved for internal alterations and additions to the existing building at 11 Beresford Road for the purpose of providing accommodation for 31 students in conjunction with the existing use of the property for school purposes. Direct contributions were not levied under this application for the purposes of lodger rooms as the site was still deemed a single dwelling house in conjunction with the school.

***NOTE: The school is no longer operating on the property. The use of the dwelling has since continued as a boarding house.**

- 15 June 2001 DA0001/122 was approved for the demolition of the existing building at 9 Beresford Road and the buildings located at the rear of the property 11-13 Beresford Road, refurbish the existing 2-storey Victorian house and construct two (2) residential flat buildings with basement car parking.
- **NOTE: The proposal involved refurbishment of the Victorian house (subject site) as a single dwelling only.**
- 26 February 2002 A Modification Application (DA0001/122/1) was granted approval including the modification the internal layout from the approved 45 units consisting of 22 x 1 bedroom, 22 x 2 bedroom and 1 x 3 bedroom to a total of 38 units consisting of 33 x 2 bedroom, 4 x 3 bedroom and 1 x 1 bedroom. Further modification to the basement to increase the setback to an existing sewer pipe at the rear of the site and an additional four (4) stacked parking spaces within the basement.
- 26 May 2009 In an appeal upheld by LEC against an Order issued by Council, *08/11170 Warranby Pty Ltd v Strathfield Council* the respondent was to undertake modifications to ensure the dwelling was no longer to be utilised as a boarding house. The site was to operate within the confines of their original consent DA0001/122. Again, no contributions were issued for the use of the site as a boarding house.
- 14 March 2018 DA2017/114 was approved by Council's Internal Development Assessment Panel to regularise the use of an existing two (2) storey heritage listed structure as a boarding house comprised of (19) boarding rooms (10 single rooms and 9 double rooms) and a manager's residence. The contributions were levied accordingly with the dwelling house calculated as a credit in exchange for the 19 boarding rooms.
- 8 September 2020 DA2017/114/2 (the subject application) was lodged with Council.
- 14 September – 28 September 2020 The subject application was placed on public notification. No submissions were received during this time.

Section 4.55 of the EP&A Act 1979

The application has been lodged under the provisions of S4.55(1A) of the *EP&A Act 1979*. The application is considered to be of minor environmental impact, is substantially the same development for which consent was originally granted, has been notified in accordance with the provisions of Council's CPP and any submissions made will be considered as part of this assessment.

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,*

Strathfield Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan 2012

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The subject site is zoned R3-Medium Density Residential and the proposal as modified is a permissible form of development with Council's consent.

The provisions under Part 4, 5 and 6 of the SLEP 2012 were addressed/ considered under the previous consent and do not apply to the subject modification application.

(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 provisions of this clause are not relevant to the modification and have been addressed/considered as part of the original development consent.

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

The provisions of this clause are not relevant to the modification and have been addressed/considered as part of the original development consent.

(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 proposal does not result in any change to the likely impacts of the environment beyond which was identified and considered under the original application.

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

The proposal does not change the suitability of the site for the development.

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

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

(e) *the public interest.*

The proposal would result in no payment being made toward the contribution of public infrastructure in the area. Therefore, the proposal is not in the public interest.

Local Infrastructure Contributions

Section 7.11 contributions were levied under the DA2017/114 which sought to regularise the use of the existing two (2) storey dwelling as a boarding house comprised of (19) boarding rooms and a manager's residence.

As discussed in the background section of this report, contributions for a boarding house use have not been levied under any previous approvals (DA93/162 or DA0001/122) pertaining to the site. Whilst DA93/162 was approved for internal alterations to the existing building for the purpose of providing accommodation for 31 students, the development was to operate in conjunction with the school. Thus the site was recognised as a single dwelling house only. As previously mentioned, the school is no longer operating on site and the illegal use of the boarding house has since continued.

It is further noted that contributions were not levied under DA0001/122 which sought demolition of the school buildings and construction of two (2) new residential flat buildings and refurbishment of the Victorian house. In this instance, the parent application DA2017/114 sought approval for use of the site as a boarding house comprised of (19) lodger rooms and a manager's room. The use of the building has therefore changed from that of a single dwelling house use to a boarding house use. Contributions are still therefore required to be levied and paid for the new boarding house use on the site.

The contributions which were calculated under the parent application applied a credit of a 4 bedroom dwelling house. This reduced the overall cost of the contributions to be levied for 19 lodger rooms. The figures have therefore been calculated correctly and still apply to the subject consent. Accordingly, the proposal to delete Condition 41 requiring payment of such contributions is not supported thus the proposal is recommended for refusal.

Conclusion

The application for modification 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. 2017/114/2 should be refused subject to the following reasons:

L.G.

Signed:
L Gibson
Senior Planner

Date: 29 September 2020

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

Report and recommendations have been peer reviewed and concurred with.

Signed:
J Gillies
Senior Planner

Date: 29 September 2020

Reasons for Refusal

1. The proposal seeks deletion of the condition which requires Section 7.11 contributions payable under the subject application (Clause 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979).
2. The proposal would result in no payment being made toward the contribution of public infrastructure in the area. Therefore, the proposal is not in the public interest (Clause 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).