

## IDAP REPORT – SECTION 4.55(1A) MODIFICATION

<b>Property:</b>	23-25 Churchill Avenue STRATHFIELD DA 2020/055/02
<b>Proposal:</b>	S4.55(1A) - Modification Application involving internal and external reconfigurations to Level 10 apartment and the common areas at the ground and Level 10.
<b>Applicant:</b>	J Group PM Pty Ltd C/o Urbis Pty Ltd
<b>Owner:</b>	Owners of SP 96307
<b>Date of lodgement:</b>	15 October 2020
<b>Notification period:</b>	23 October 2020 to 6 November 2020
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	N Doughty
<b>Zoning:</b>	B4 Mixed Use - SLEP 2012
<b>Heritage:</b>	Subject site is located within the vicinity of heritage conservation area and heritage items.
<b>Flood affected:</b>	Yes
<b>Is a Clause 4.6 Variation Proposed:</b>	No
<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>



**Figure 1:** Locality plan. The subject site is outlined in yellow, Churchill Avenue Heritage Conservation Area in red and heritage listed item in green.

## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the Section 4.55(1A) modification application involving internal and external reconfigurations to Level 10 apartment and the common areas at the ground and Level 10.

### **Site and Locality**

The site is identified as 23-25 Churchill Avenue Strathfield and has a legal description of Lot 0 SP 96307. The site is located off the north western corner of Raw Square and Churchill Avenue. It is almost rectangular in shape, having street frontages of 22.95m and 38.29m to Churchill Avenue and Raw Square, respectively, and an overall area of 987m<sup>2</sup> (Figure 1). The site is occupied by a recently completed 11 storey mixed use building, including four (4) levels of basement car parking, ground floor commercial space, residential apartments above and two (2) communal open spaces located on the ground floor and on the rooftop.

The site is located just outside the western periphery of the Strathfield Town Centre and within a short walking distance of Strathfield Railway Station and adjacent bus interchange. The Churchill Avenue Heritage Conservation Area is located to the southwest of the site beyond Eva Street

### **Strathfield Local Environmental Plan**

The site is zoned B4-Mixed Use 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 23 October 2020 to 6 November 2020. No submissions were received.

### **Issues**

- Landscaping; and
- Residential amenity.

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2020/55/2 is recommended for **APPROVAL**, subject to the recommended modified conditions of consent.

## **REPORT IN FULL**

### **Proposal**

Council has received an application for the S4.55(1A) Modification application internal involving reconfigurations and correction of errors to the Level 10 apartment and amendments to landscaped common areas at ground and roof level.

#### **Level 10 apartment:**

- Internal reconfiguration of the kitchen and bedroom layouts and the relocation of the bathrooms;
- Amendments to the location of structural columns to reflect existing site conditions;
- Replacement of balcony landscaping with void to reflect existing site conditions;

#### **Landscaping:**

- Reconfiguration of the common areas on the rooftop;
- Inclusion of existing essential services at ground level; and
- Revised plant schedule.

### **The Site and Locality**

The subject site is legally described as Lot 0 SP 96307 and commonly known as 23-25 Churchill Avenue Strathfield. The site is located off the north western corner of Raw Square and Churchill Avenue. It comprises of a single allotment including strata lots and common property forming Strata Plan 96307. It is almost rectangular in shape, having street frontages of 22.95m and 38.29m to Churchill Avenue and Raw Square, respectively, and an overall area of 987m<sup>2</sup> (Figure 1).

The site is occupied by a recently completed 11 storey mixed use building, including four (4) levels of basement car parking, ground floor commercial space and 51 residential apartments above (Figure 2). There are two (2) communal open spaces located on the ground floor and above the uppermost residential floor on the rooftop. Vehicular access to the basement car parking levels is via the cul-de-sac head in Churchill Avenue adjacent to the site. A stormwater culvert traverses the north eastern corner of the site.





**Figure 2:** North easterly view of the subject building from Churchill Avenue

Immediately to the north of the site is an 11 storey mixed use building including basement car parking, ground floor commercial space and residential apartments above. Immediately to the west is a two (2) storey residential flat building. Across the road to the east is a 16 storey mixed use building including ground floor commercial space and residential apartments. Across the road to the south is medium density residential development.

The site is located just outside the western periphery of the Strathfield Town Centre and within a short walking distance of Strathfield Railway Station and adjacent bus interchange. The Churchill Avenue Heritage Conservation Area is located to the southwest of the site beyond Eva Street.

## **Background**

16 June 2015

Development Consent DA2014/171 for the demolition of existing structures and construction of a ten (10) storey mixed use development was approved.

<u>22 February 2018</u>	Final Occupation Certificate for the mixed use development approved under DA2014/171 was issued.
<u>6 August 2020:</u>	Development consent of DA2020/055 for the construction of an additional unit in an existing mixed use development was granted by the Strathfield Local Planning Panel.
<u>15 October 2020</u>	The subject modification application was lodged.
<u>23 October 2020 to 6 November 2020</u>	The subject application was notified for a period of (14) days and no submissions were received.
<u>26 November 2020</u>	Correspondence was sent to the applicant requesting the following: <ul style="list-style-type: none"><li>• An amended BASIX Certificate;</li><li>• The proposed replacement of the raised planter beds with planter boxes is not supported, reducing the quality of the landscaping in comparison to the approved development consent.</li></ul>
<u>27 November 2020</u>	Amended BASIX Certificate and NatHERS Certificate is submitted to Council.
<u>27 November 2020</u>	The applicant submitted a letter to Council in response to the landscaping concerns raised on 26 November 2020.

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

No internal or external referrals were required for the subject application.

### **Section 4.55 of the EP&A Act 1979**

The application has been lodged under the provisions of s4.55(1A) of the EPA Act. The proposed modifications are considered to be of minor environmental impact, relating to the internal configuration of the approved residential apartment and the landscaping of the communal areas at ground level and the rooftop. The development as modified is substantially the same development for which consent was originally granted. The bulk, scale and external appearance of the modified development will not change in a significant manner and the amenity impacts to neighbouring development and the existing residential apartments are essentially the same as that of the approved development. The application has been notified in accordance with the provisions of Council's CPP and no submissions were received.

### **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 B4 Mixed Use and the proposal as modified is a permissible form of development with Council's consent.

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

The subject application does not seek to alter the approved building height or floor space ratio.

### **Part 5 – Miscellaneous Provisions**

#### **Heritage Conservation**

Clause 5.10 of the SLEP 2012 requires consideration be given to the potential effect of proposed development on the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views. The site is located next to the Churchill Avenue Heritage Conservation area and is in the vicinity of a heritage item (No. 42 Churchill Ave 'Wychwood' – Federation House – Item No. I119 (Figure 1). The proposed amendments to the approved development are of a minor scale and will have no additional impact on the heritage conservation area and heritage item than was approved under the parent development application. The development as modified is considered to satisfy the objectives of this clause.

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

#### **Earthworks**

The proposal modifications do not result in any additional or significant excavation works and will not have any further detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

#### **Flood Planning**

The subject site has been identified as being at or below the flood planning level. The modifications are confined to the footprint of the existing mixed use building and therefore no further consideration of this clause is required. The development is considered to satisfy the objectives of this clause.

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

A modified BASIX Certificate was submitted during the assessment process meeting the designated energy and water targets. An appropriate condition is included under the original consent to ensure compliance with the approved BASIX Certificate.

## STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The site is adjacent to Raw Square which is a 'classified road'. The relevant provisions of the Infrastructure SEPP were addressed in the assessment of the parent development application (DA2020/055). The subject application does not result in any modifications that would trigger a referral to the Transport for NSW.

## STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT (SEPP 65)

SEPP 65 aims to improve the design quality of residential apartment development in New South Wales. It also recognises that the design of residential apartments is of significance due to the economic, environmental, cultural and social benefits of high quality design.

An assessment of the modification application against the design principles of the SEPP and the relevant criteria of the ADG has been undertaken below.

### Design Quality Principles

Principle	Criteria	Comment
<b>Context and neighbourhood character</b>	<p><i>Responding to context involves identifying the desirable elements of an area's existing or future character.</i></p> <p><i>Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	The development is compatible with the surrounding mixed use and residential development. The proposed modifications do not alter the compatibility of the development as approved under the original consent.
<b>Built form and scale</b>	<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	The proposed modifications do not alter the built form or scale of the development as approved under the original development consent.



Principle	Criteria	Comment
<b>Density</b>	<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	The proposed modification do not alter the floor space ratio for the development or the unit composition.
<b>Sustainability</b>	<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	During the assessment process, an amended BASIX Certificate was submitted demonstrating compliance with the minimum required targets. The alterations to the window locations will maintain opportunities for cool breezes, solar access and cross-ventilation.
<b>Landscape</b>	<p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p>	<p>The landscape areas are appropriately distributed throughout the communal areas on the ground floor and rooftop to create an inviting area. The proposed planting schedule responds to the conditions of the site.</p> <p>A condition of consent was imposed under the original development consent to ensure all landscaped areas are watered by an automatic irrigation system.</p>



Principle	Criteria	Comment
	<i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i>	
<b>Amenity</b>	<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	The modifications to the apartment and the communal areas on the ground level and rooftop are considered to provide an acceptable level of amenity for the future residents.
<b>Safety</b>	<p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	The proposal does not involve any changes to the security and safety measures of the approved development.
<b>Housing diversity and social interaction</b>	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p>	The modification application does not alter the composition of the residential unit or the significant changes to the configuration of the communal open spaces.

Principle	Criteria	Comment
	<i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i>	
<b>Aesthetics</b>	<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	The external alterations to the residential flat building are of a minor scale and remain appropriate.

### **Apartment Design Guide**

Design Criteria	Required	Proposed	Compliance
3D – Communal and public open space	<p>Min 25% (246.75m<sup>2</sup>) of site as communal open space.</p> <p>Min 2hr solar access to 50% of communal open space at mid-winter.</p>	The application does not alter the amount of communal open space as approved under the original development consent.	N/A
3F – Visual Privacy	Min. 12m setback from side/rear boundaries	No changes to the setbacks are proposed.	N/A
4D – Apartment Size and Layout	<p>3 bed: 90m<sup>2</sup> min.</p> <p>Additional bathrooms +5m<sup>2</sup></p> <p>Proposal = 3 bedroom + 1 additional bathrooms = 90 + 5 = 15m<sup>2</sup></p> <p>Each habitable room must have a window &gt; 10% floor area of the room.</p> <p>Max. 8m depth from a window for open plan layouts</p>	The proposed internal reconfiguration of the residential apartment does not alter the compliant size (124.42m <sup>2</sup> ) of the apartment, bedrooms and living room.	Yes

Design Criteria	Required	Proposed	Compliance
	Master bed: min. 10m <sup>2</sup> Other bed: min. 9m <sup>2</sup> Dimension: min. 3m  Living room width: 3 bed: min. 4m		
4E – Private Open Space and Balconies	3 bed: 12m <sup>2</sup> 2.4m min. depth	The modified apartment layout has four (4) balconies, 17.72m <sup>2</sup> , 6.69m <sup>2</sup> , 10.19m <sup>2</sup> and 17.47m <sup>2</sup> . The 17.72m <sup>2</sup> balcony is directly accessible from the dining/living room and meets the 2.4m depth requirement.	Yes
4O – Landscape Design	Responsive to streetscape.  Viable and sustainable	The proposed modifications to the landscape design include an amended plant schedule and replacement of raised garden beds with planter boxes. During the assessment process the applicant submitted correspondence justifying the modifications. To ensure all landscaped areas are fit for purpose, the existing conditions of consent are recommended to be modified with the inclusion that the structures are permanently fixed into place, connected to a drainage/irrigation system and regularly maintained by a landscape gardener.	Yes

**(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,**

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

No significant implications arise in terms of the provisions of Strathfield Consolidated Development Control Plan 2005. The requirements of this development control plan (particularly the multiple-unit housing requirements in Part C) are largely overridden by the provisions of SEPP 65 and the objectives and design criteria in the ADG.

**(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 proposed development, as modified is compatible with the surrounding streetscape and through the recommended conditions of consent result in a high level of residential amenity for the future occupants of the residential apartment and the communal open areas. As previously discussed, the existing conditions of consent are recommended to be modified to ensure the landscaped areas are high quality with long-term management measures in place. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment or any negative social or economic impacts on the locality.

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

The approved development as modified by the Section 4.55(1A) application does not alter the suitability of the development to the site. The modifications sought are contained within the building envelope and are of minimal environmental impact.

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

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

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

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

### **Local Infrastructure Contributions**

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

This Section 4.55(1A) application does not trigger any changes to the original condition of consent requiring the payment of Section 7.11 contributions in accordance with Council's Direction 7.11 Contributions Plan.

### **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 relevant State Environmental Planning Policies and SLEP 2012.

Following detailed assessment it is considered that Development Application No. 2020/055/02 should be **APPROVED**, subject to:

- Modifications to Condition No. 1 to reflect the amended plans and documents; and
- Modifications to Condition No. 16 relating to landscaping works.



**Signed: N. Doughty**  
**Planning Officer**

**Date: 30 November 2020**

- ☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position;
- ☒ I have reviewed the details of this modified development application and I also certify that Section 7.11/7.12 Contributions are not applicable to this development;

Report and recommendations have been peer reviewed and concurred with.

**Signed: P. Santos**  
**Development Assessment Planner**

**Date: 1 December 2020**

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:

<b>Description</b>	<b>Reference No.</b>	<b>Date</b>	<b>Revision</b>	<b>Prepared by</b>
Ground Floor  <b>MODIFIED:</b> <b>DA2020/055/02</b>  <b>4 DECEMBER 2020</b>	Drawing No. 07	<del>17 July 2020</del> <b>1 September 2020</b>	<del>L</del> <b>M</b>	Urban Link
Level 10  <b>MODIFIED:</b> <b>DA2020/055/02</b>  <b>4 DECEMBER 2020</b>	Drawing No. 13	<del>17 July 2020</del> <b>1 September 2020</b>	<del>L</del> <b>M</b>	Urban Link

North & East Elevations	Drawing No. 14	12 June 2020	K	Urban Link
South & West Elevations  <b>MODIFIED: DA2020/055/02  4 DECEMBER 2020</b>	Drawing No. 15	<del>12 June 2020</del> <b>1 September 2020</b>	<del>K</del> <b>M</b>	Urban Link
Section A	Drawing No. 16	12 June 2020	K	Urban Link
Schedule of Finishes	Drawing No. 24	12 June 2020	K	Urban Link
Landscape Ground Plan  <b>MODIFIED: DA2020/055/02  4 DECEMBER 2020</b>	LDA-04	<del>16 July 2020</del> <b>25 September 2020</b>	<del>01</del> <b>02</b>	NBRS Architecture Landscape
Landscape Roof Plan  <b>MODIFIED: DA2020/055/02  4 DECEMBER 2020</b>	LDA-05	<del>16 July 2020</del> <b>25 September 2020</b>	<del>01</del> <b>02</b>	NBRS Architecture Landscape
Materials Palette	LDA-06	16 July 2020	01	NBRS Architecture Landscape
Planting Palette and Schedule  <b>MODIFIED: DA2020/055/02  4 DECEMBER 2020</b>	LDA-07	<del>16 July 2020</del> <b>25 September 2020</b>	<del>01</del> <b>02</b>	NBRS Architecture Landscape
Landscape Details	LDA-08	16 July 2020	01	NBRS Architecture Landscape

Acoustic Report	2020-207	20 July 2020	-	Acoustic, Vibration & Noise Pty Ltd
Construction Management Plan	-	June 2020	-	J Group PM Pty Ltd
BASIX Certificate  <b>MODIFIED: DA2020/055/02 4 DECEMBER 2020</b>	No. <del>1084672M_02</del>  No. <b>1084672M_03</b>	<del>21 July 2020</del>  <b>26 November 2020</b>		Greenworld Architectural Drafting
NatHERS Certificate  <b>MODIFIED: DA2020/055/02 4 DECEMBER 2020</b>	No. <del>0004653531-04</del>  No. <b>0004653531-03</b>	<del>21 July 2020</del>  <b>26 November 2020</b>		-
National Construction Code 2019	-	April 2020		Dix Gardner Group Pty Ltd

## SEPRARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

### 2. Building – Hoarding Application

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

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

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and

- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

## **REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES**

Nil

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

#### **3. 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: **\$8,100**.
- (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: **\$127**.
- (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.

#### **4. Fees to be Paid**

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

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

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

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



Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation)	<b>\$1,050.00</b>
Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Security Damage Deposit	<b>\$8,100.00</b>
Administration Fee for Damage Deposit	<b>\$127.00</b>
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Strathfield Section 94 Development Contributions - Roads and Traffic Management	<b>\$673.45</b>
Strathfield Section 94 Development Contributions – Local Open Space	<b>\$4,188.28</b>
Strathfield Section 94 Development Contributions – Major Open Space	<b>\$12,220.63</b>
Strathfield Section 94 Development Contributions – Community Facilities	<b>\$2,686.63</b>
Strathfield Section 94 Development Contributions - Administration	<b>\$231.61</b>
<b>TOTAL Section 94 Contributions</b>	<b>\$20,000.00</b>

### General Fees

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

### Development Contributions

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

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

### Indexation

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

### Timing of Payment

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

### Further Information

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

## **5. 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.

## **6. SEPP 65 Design Verification Statement**

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

## **7. 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 must be implemented on the plans lodged with the application for the Construction Certificate.

## **8. 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.

#### 9. **Drainage System – Maintenance of Existing System**

Where elements of the existing drainage system are to be utilised, the existing drainage system shall be overhauled and maintained clear of silt and accumulated debris. Silt and the like shall be removed, not flushed from the system.

A certificate shall be provided by a suitably qualified person (a registered plumber or a person of equivalent or greater experience or qualification) to the satisfaction of the Principal Certifying Authority, prior to the issue of any Occupation Certificate to confirm that the system is in good working order and adequate to accept additional flows having regard to any relevant standards and/or Sydney Water requirements.

#### 10. **Fire Safety Measures**

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

#### 11. **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 PCA.

#### 12. **Engineer's Certificate**

A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

13. **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.

14. **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.

15. **Acoustic Requirements**

**- Compliance with submitted Acoustic Report**

The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council.

The site is affected by noise from the Raw Square. A suitably qualified acoustic consultant must ensure that the 1.8m acoustic barrier detailed on the architectural plans has been designed with measures of acoustic attenuation to meet the noise levels specified in Clause 102 of State Environmental Planning Policy (Infrastructure) 2007.

The measures of acoustic attenuation shall be reflected on the Construction Certificate plans.

16. **Landscape Plans**

All common and private landscape areas **including all raised planter boxes and pots** are to have full coverage by a fully automatic irrigation system. The design, materials and installation are to be in accordance with Sydney Water Codes and satisfy all relevant Australian Standards. Details demonstrating compliance including photographs shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

**All landscape structures (planter boxes, pots) are to be permanently fixed into place.**

**All common landscape areas shall be maintained including the irrigation system in accordance with the approved plans and conditions of this consent in perpetuity.**

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17. **Tree Removal/Pruning Prohibited**

This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties.



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

### **18. 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 PCA prior to the commencement of works.

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

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

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

### **19. 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.

### **20. 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.

## **DURING CONSTRUCTION**

### **21. Site Sign – Soil & Erosion Control Measures**

Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

### **22. 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.

### **23. 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.

### **24. 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.

### **25. 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.

### **26. 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 PCA and Council, where Council is not the Principal Certifying Authority.

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

### **27. 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.

### **28. BASIX Compliance Certificate**

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

### **29. Completion of Landscape Works**

At the completion of all works, a certificate including photographic evidence is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboricultural Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. All furniture (table tennis, barbeque facilities, tables, seats) detailed in the landscape plans are to be installed with anti-theft provisions, including but not limited to being bolted to a permanent surface. This certificate including photographic evidence must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

### **30. SEPP 65 Design Verification Statement**

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

### **31. Fire Safety Certificate before Occupation or Use**

In accordance with Clause 153 of the [Environmental Planning and Assessment Regulation 2000](#), 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 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the [Environmental Planning and Assessment Regulation, 2000](#). 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.

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.

**32. 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.

**33. Acoustic Certification**

Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.

**34. Acoustic Compliance**

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report.

**OPERATIONAL CONDITIONS (ON-GOING)**

**35. Use of Structure**

The rooftop communal open space shall be accessible to the residents of the building.

**36. 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.

**37. 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*.

**38. 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.

**39. Responsibility of Owners Corporation**

The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

**39A. By-Law for the rooftop communal open space**

A by-law is to be registered on the title prior to the occupation of the building, applying to the management of the rooftop communal open space area and is to provide for:

- a. Measures to prevent overcrowding and excessive noise
- b. Hours of access
- c. Nuisance smoking
- d. Landscaping maintenance

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

**40. Requirement for a Construction Certificate**

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

**41. Appointment of a PCA**

The erection of a building must not commence until the applicant has:

- (a) Appointed a PCA 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 PCA 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.

**42. Notification of Critical Stage Inspections**

No later than two days before the building work commences, the PCA 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.

**43. Notice of Commencement**

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

**44. Notice to be Given Prior to Critical Stage Inspections**

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

**45. 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**

**46. Clause 97A – BASIX Commitments**

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

**47. Clause 98 – 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.

**48. Clause 98B – 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. Review of Determination**

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

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

### **ii. Appeal Rights**

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

### **iii. Lapsing of Consent**

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

### **iv. Long Service Levy**

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

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.

### **v. Disability Discrimination Act**

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

vi. **Site Safety Fencing**

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

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