

## IDAP REPORT

<b>Property:</b>	7 Oxford Road STRATHFIELD DA 2020/193
<b>Proposal:</b>	Alterations and additions to a new dwelling approved as a complying development.
<b>Applicant:</b>	E Chowdhury
<b>Owner:</b>	W & V Manisier
<b>Date of lodgement:</b>	27 October 2020
<b>Notification period:</b>	9 November 2020 to 23 November 2020
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	D Strbac
<b>Estimated cost of works:</b>	\$20,000.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	Yes
<b>Is a Clause 4.6 Variation Proposed:</b>	Yes, FSR (0.56:1) 2.5%
<b>RECOMMENDATION OF OFFICER:</b>	<b>Part approval</b>

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Figure 1: Site locality with the subject site outlined in yellow.

## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for alterations and additions to a new dwelling approved as a complying development.

### **Site and Locality**

The subject site is legally described as Lot 1 in DP 304688 and more commonly known as 7 Oxford Road, Strathfield. The site is located on the northern side of Oxford Road, between Homebush Road and Heyde Avenue. The site is rectangular in shape and has a total area of 836.1m<sup>2</sup>, a frontage of 15.24m and a side boundary length of 54.86m.

The site falls by 1.5% to the rear.

Works are currently being undertaken on the site for the purpose of a primary dwelling house that received an approval through complying development – CDC 039/20, dated 28/05/2020. The approved CDC dwelling comprises a flat roof and a rendered brick exterior.

The streetscape comprises a mix of one (1) and two storey (2) dwellings predominately with pitched roofs and a mix of face brick and rendered brick exteriors.

### **Strathfield Local Environmental Plan**

The site is zoned R2-Low Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal fails to satisfy all relevant objectives contained within the SLEP 2012.

### **Development Control Plan**

The proposed development fails to satisfy certain provisions of Strathfield Consolidated Development Control Plan 2005 (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 9 to 23 November 2020. No submissions were received during this period.

### **Issues**

- Site responsiveness
- Bulk and scale
- Inconsistencies and insufficient information

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2020/193 is recommended for part approval subject to suitable conditions of consent.

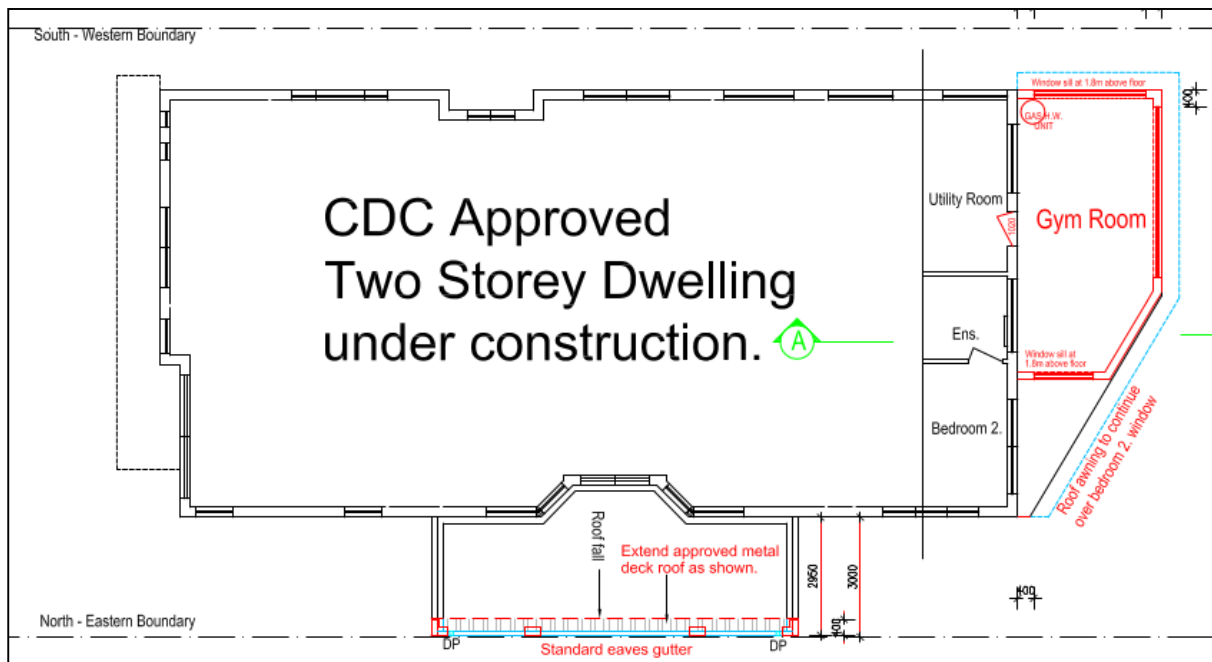
## REPORT IN FULL

### Proposal

Council has received an application for alterations and additions to a new dwelling under construction (CDC Approved). More specifically, the proposal includes:

- First floor addition at the rear of the dwelling to be used as a 'gym room';
- Extend CDC approved metal awning right up to the north-eastern side boundary; and
- Convert CDC approved awning into carport by installing four (4) posts along north-eastern side boundary.

A floor plan of the proposed alterations and additions is included below.



*Figure 2: First floor plan with proposed alterations and additions highlighted in red.*

### The Site and Locality

The subject site is legally described as Lot 1 in DP 304688 and more commonly known as 7 Oxford Road, Strathfield. The site is located on the northern side of Oxford Road, between Homebush Road and Heyde Avenue (Figure 1). The site is rectangular in shape and has a total area of 836.1m<sup>2</sup>, a frontage of 15.24m and a side boundary length of 54.86m.

The site falls by 1.5% to the rear.

Works are currently being undertaken on the site for the purpose of a primary dwelling house that received an approval through complying development – CDC 039/20, dated 28/05/2020 (Figure 3). The approved CDC dwelling comprises a flat roof and a rendered brick exterior.

Development consent was also granted by IDAP for the construction of a secondary dwelling at the rear of the site (DA2020/130 – approved 20 November 2020).

The streetscape comprises a mix of one (1) and two storey (2) dwellings predominately with pitched roofs and a mix of face brick and rendered brick exteriors.





*Figure 3: CDC approved dwelling currently under construction on the subject site.*

## **Background**

- |                          |  |
|--------------------------|--|
| <b>28 May 2020:</b>      | A Complying Development Certificate (CDC 039/20) was issued for the construction of a two (2) storey dwelling, carport and garden shed.  |
| <b>20 November 2020:</b> | DA2020/130 was approved by Council for the construction of a secondary dwelling (granny flat) and new front boundary fence.  |
| <b>27 October 2020:</b>  | The subject Development Application (DA2020/193) was lodged.   |
| <b>9 November 2020:</b>  | The subject Development Application (DA2020/193) was publicly notified until 23 November 2020. No submissions were received during this time.  |
| <b>24 November 2020:</b> | A letter was sent to the applicant which advised that the proposed rear balcony would not be supported by Council due to the unreasonable privacy amenity impacts that would result from its excessive size. |
| <b>25 November 2020:</b> | A site visit was undertaken by the Assessing Officer.  |
| <b>27 November 2020:</b> | Amended plans were submitted by the applicant. These amended plans replaced the originally proposed rear balcony with an enclosed gym.   |

## **Referrals – Internal and External**

### **Compliance comments**

The application was referred to Compliance for comment. The following comments were provided:

- *Building Code of Australia states that a side of a carport is only considered to be open where that side is setback at least 500mm from the allotment boundary.*

The applicant's justification for the nil setback of the carport from the north-eastern side boundary is that it is open on three (3) sides and Section 4.2.3.2 of the DCP allows for a nil setback where a carport is open on three (3) sides. Based on the comments raised above, the proposed carport is classified to be open on two (2) sides only (front and rear of carport) given that it is attached to the dwelling on the south-western side and on the north-eastern side it has a nil setback from the north-eastern side boundary. According to Section 4.2.3.2 of the Strathfield Consolidated Development Control Plan (SCDCP) 2005, the minimum setback required for carports from side boundaries (except for those open on three sides) is 0.5m. A condition will therefore be included in the consent which requires the carport to be setback 0.5m from the north-eastern side boundary, in order to comply with this DCP requirement.

## **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 R2-Low Density Residential and the proposal 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
<b>4.4 Floor Space Ratio</b>	0.55:1 (459.855m <sup>2</sup> )	0.56:1 (471.38m <sup>2</sup> )	No.

**Comments:** The proposed first floor addition exceeds the FSR allowance under Part 4.4 of the SLEP 2012. During the assessment process the applicant had initially proposed an extension to the CDC approved rear balcony however this was not supported due to the adverse privacy amenity impacts that would result from its excessive size (Figure 4). The applicant submitted revised plans which replaced the enlarged rear balcony with an enclosed gym room (Figure 5). Accordingly, this room has been included in the FSR calculation and contributes to an exceedance of the allowable GFA.

The applicant's FSR calculations provided on the Site Plan (*Drawing No. PR020.09, Issue 2, dated 27 November 2020*) suggest the total GFA to be 418.42m<sup>2</sup> (0.5:1). However, this calculation excludes the recently approved secondary dwelling and outbuilding located at the rear of the site.

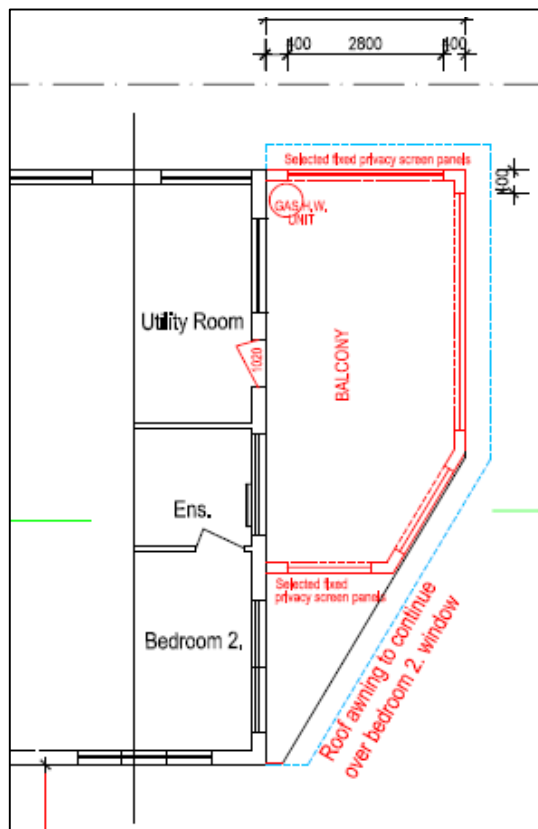


Figure 4: Originally proposed rear balcony extension

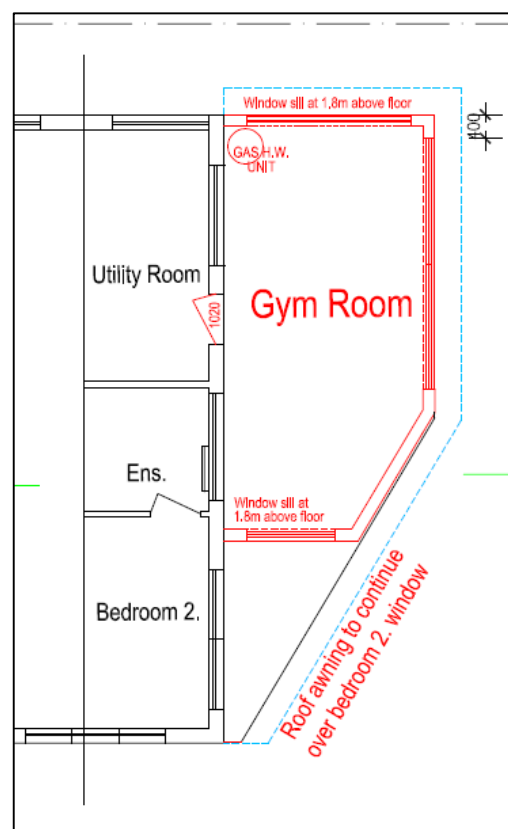


Figure 5: Revised design with enclosed gym room proposed

#### Clause 4.6 Variations –If relevant

Clause 4.6(3) stipulates that:

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

Regardless of the applicant's failure to provide a written request as per Clause 4.6, Council is unable to support the proposed variation of (0.56:1) 2.5% to the maximum FSR provision under Clause 4.4C of SLEP 2012 given that:

- There are no substantive merits and justification for the excess FSR;
- There are no site constraints and contextual considerations that would warrant a contravention to the development standard;
- The contravention to the development standard creates an incompatible built form that is excessive in bulk and scale and represents an overdevelopment of the site;
- The proposal fails to achieve a high quality urban form;
- The proposal fails to promote a spatially appropriate use of land;
- The proposal fails to achieve key objectives under Clause 4.4;
- The proposal is not in the public interest as it will introduce an excessively massed and bulky built form in the surrounding locality that will have adverse impacts and will set an undesirable precedence.

In light of the above, the proposed contravention is unreasonable and unacceptable and therefore, is not supported. In the event of approval, a condition will therefore be included in the consent which states that the first floor addition does not form part of the development approval.

## **Part 5 – Miscellaneous Provisions**

There are no provisions in this Part that are relevant to the proposal.

## **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.

### **Flood Planning**

The subject site has been identified as being at or below the flood planning level. However, the food affectation is limited to the front portion of the site only. The proposal is for a rear addition on the first floor (gym room) and conversion of a CDC approved awning into a carport. The proposal is not likely to result in significant adverse effects on flood behaviour or environment and is not likely to result in unsustainable social and economic loss. The proposed development is considered to satisfy the objectives of this clause.

## Essential Services

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

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

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

As the value of works is less than \$50,000, there is no requirement for the application to be assessed in accordance with the BASIX SEPP.

## STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND (SEPP 55)

SEPP 55 applies to the land and pursuant to Section 4.15 is a relevant consideration.

A review of Council's records for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations.

The objectives outlined within SEPP55 are considered to be satisfied.

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

There are no draft planning instruments that are applicable to this site.

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

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

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Setbacks:</b>			
Rear setback (dwelling):	6m	21.5m (unchanged)	Complies.
Side setback (dwelling):	1.2 (min)	1.55m (unchanged)	Complies.
Side setback (dwelling):	1.2 (min)	3m (unchanged)	Complies.
Combined side setback:	3.048m (min)	4.55m (unchanged)	Complies.
Carports (side and rear setback):	0.5m	0m	No.
<b>Heights:</b>			



Height to the top of the parapet for flat roof:	7.8m	7.3m (first floor addition)	Complies
Carports:	3.5m (max)	3.85m	No.
No. of Parking Spaces	Two (2) car parking spaces	Two (2) car parking spaces.	Complies.

### Carport height

Whilst the proposed carport structure exceeds the maximum height requirement of 3.5m, it is noted that, given the slope of the site, the proposed height ranges from 3.45m at the front of the carport, to 3.85m at the rear of the carport (Figure 6). The non-compliance is therefore limited to the rear portion of the carport. The carport has also been largely recessed, more than 7m from the front building line of the dwelling, and is unlikely to visually dominate the appearance of the dwelling from the street. The proposed carport is considered to be proportionate to the dwelling and the non-compliant height is considered to be minor and acceptable in the circumstances.

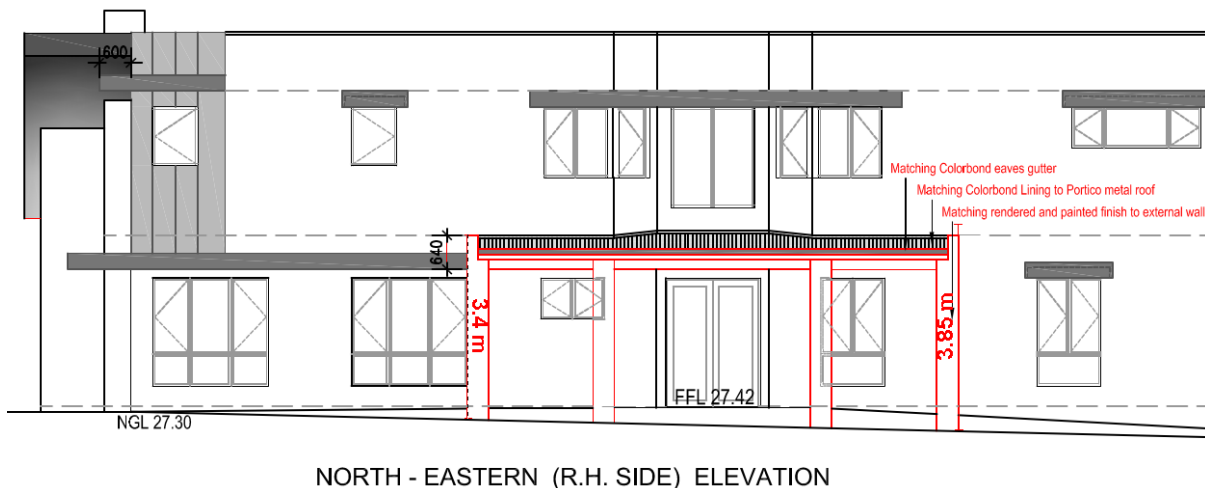


Figure 6: Carport height at each side

### Carport side setback

The proposed carport seeks a nil setback from the north-eastern side boundary. With reference to Section 4.2.3.2 of the Strathfield Consolidated Development Control Plan (SCDCP) 2005, the minimum setback required for carports from side boundaries (except for those open on three sides) is 0.5m. The Building Code of Australia stipulates that a side of a carport is only considered to be open where it is setback at least 0.5m from the allotment boundary. The proposed carport is therefore considered to be open on two sides only (front and rear) and must therefore be setback 0.5m from the side boundary in accordance with Section 4.2.3.2 of the DCP. A condition will be included in the consent which requires the carport to be setback 0.5m from the north-eastern side boundary.

### Privacy

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

## **Solar Access**

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005. Solar access is also achieved or maintained to the private open space of adjoining properties. The proposal is considered to generally satisfy the relevant objectives and controls of the SCDCP 2005.

## **Building Scale, Bulk & Rhythm**

The proposed first floor addition creates unnecessary bulk and scale and this is a result of the contravention to the FSR development standard. The proposed first floor addition fails to contribute to a high quality built form and the excessive mass will set an undesirable precedence in the street. A condition will therefore be included in the consent which restricts the development approval to the carport structure only.

## **PART H – Waste Management (SCDCP 2005)**

A waste management plan was not submitted with the application. A condition of consent will be imposed to ensure compliance with this Part 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 does not involve the demolition of a building.

### ***(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,***

Subject to the carport meeting the 0.5m side setback requirement, it is considered that the proposed carport structure is of a scale and character that is in keeping with existing developments in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment or any negative social or economic impacts on the locality.

However, the first floor addition will generate unacceptable, unreasonable, adverse and significant impacts on the natural and built environment, particularly in relation to neighbourhood and visual amenity. The proposed first floor addition will result in an excessively massed and bulky built form that will set an undesirable precedence in the locality.

A condition will therefore be included in the consent which restricts the development approval to the carport structure only.

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

Subject to the carport meeting the 0.5m side setback requirement, it is considered that the proposed carport 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 first floor addition is not considered to be site responsive and will result in an overdevelopment of the site.

**(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 during this time.

**(e) the public interest.**

The proposed first floor addition is of a scale and character that does conflict with the public interest. However, the proposed carport is of a scale and character that does not conflict with the public interest.

**Local Infrastructure Contributions**

In accordance with the Indirect Contributions Plan, Section 7.12 Indirect Contributions are not applicable to the proposed development as the associated cost of works are less than \$100,001.

**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. 193/2020 should be partially approved, subject to conditions.

**Signed: D Strbac  
Planner**

**Date: 8 December 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 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  
Planner**

**Date: 8 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:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	PR020.09, Page 01	27 November 2020	Issue 2 25 November 2020	Australiawide Consulting Service P/L
Ground Floor Plan	PR020.09 Page 02	27 November 2020	Issue 2 25 November 2020	Australiawide Consulting Service P/L
First Floor Plan	PR020.09 Page 03	27 November 2020	Issue 2 25 November 2020	Australiawide Consulting Service P/L
Elevations and Sections	PR020.09 Page 04	27 November 2020	Issue 2 25 November 2020	Australiawide Consulting Service P/L
Stormwater Drainage Concept Plan	SW01	21 October 2020	Issue 1 8 May 2020	Australiawide Consulting Service P/L



Stormwater Drainage Concept Plan	SW02	21 October 2020	Issue 1 8 May 2020	Australia-wide Consulting Service P/L
Stormwater Drainage Concept Plan	SW03	21 October 2020	Issue 1 8 May 2020	Australia-wide Consulting Service P/L
Colour & Materials schedule	-	21 October 2020	Issue 1	Stormwater Drainage Concept Plan

## 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) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

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

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

### **3. Sydney Water – Tap in™**

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

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

### **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:

<b>Fee Type</b>	<b>Fee</b>
<b>GENERAL FEES</b>	
Security Damage Deposit	<b>\$ 630.00</b>
Administration Fee for Damage Deposit	<b>\$ 127.00</b>
<b>General Fees</b>	

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.

## 5. Required Design Changes

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

Amendments made in red on approved plans	All changes made in red on the approved plans shall be updated and shown on the Construction Certificate plans.
Deletion of gym room	The gym room does not form part of this approval and is to be removed/deleted.
Carport side setback	The carport is to be setback 0.5m from the north-eastern side boundary.

## 6. 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: **\$630.00**.
- (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: **\$127.00**.
- (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.

## 7. 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.

## 8. Waste Manage Plan (WMP)

Prior to the issue of a Construction Certificate, a Waste Management Plan (WMP) must be submitted and it must comply with the requirements contained within Part H of Strathfield Development Control Plan 2005 (DCP 2005). A WMP will become part of any development consent issued and aims to facilitate better waste management, waste minimization and resource recovery.

The WMP is an important planning document that will not only be utilised as part of the development application process, but during construction and for the ongoing

use of the development. The WMP will continue to apply as a working reference for the life of the development.

At least one copy of the WMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

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

### **9. 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.

## **DURING CONSTRUCTION**

### **10. 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.

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

### **11. Works as Executed and Certification of Stormwater Works**

Prior to the issue of an Occupation Certificate, the PCA 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 PCA 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 PCA.

### **12. Requirements Prior to the Issue of the Occupation Certificate**

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



- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

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

### **13. Requirement for a Construction Certificate**

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

### **14. 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.

### **15. Critical Stage Inspections**

The last critical stage inspection must be undertaken by the PCA. 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 162A of the [Environmental Planning and Assessment Regulation 2000](#).

### **16. 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.

17. **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**

18. **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.

19. **Clause 98A – 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 PCA and the Principal Contractor.

**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. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)**

NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)