

IDAP REPORT

Property:	8 Marion Street STRATHFIELD Lot: 81 DP: 12405 DA2020/254
Proposal:	Additions and alterations to an existing dwelling house within a heritage conservation area (Marion Street Conservation Area - C12) comprising of a rear extension, first-floor addition and restoration works, construction of alfresco area and in-ground swimming pool.
Applicant:	DM Investments Aust Pty Ltd
Owner:	Joseph Abdal and Layla Yarak
Date of lodgement:	18 January 2021
Notification period:	3 February – 17 February 2021
Submissions received:	None
Assessment officer:	E Black
Estimated cost of works:	\$285,000.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	Yes – Located within the C12 Marion Street Conservation Area, Inter-war bungalow style group
Flood affected:	Yes
Is a Clause 4.6 Variation Proposed:	No
RECOMMENDATION OF OFFICER:	APPROVAL



Figure 1: Locality plan

EXECUTIVE SUMMARY

Proposal

Development consent is sought for a rear addition and alterations to a dwelling house within the C12 - Marion Street Heritage Conservation Area. The addition will comprise of a two storey rear extension with an attached alfresco dining area and an in-ground swimming pool. The alterations to the contributory dwelling and front garden, include reshaping the front boundary fence around a significant tree, removal of part of the chimney and redesign of the driveway.

Site and Locality

The subject site is legally described as Lot 81 in DP12405 and is commonly known as 8 Marion Street, Strathfield. The site is located on the eastern side of Marion Street

The site has a width of 15.24m, a depth of 45.72m and an overall site area of 696.8m² (by Survey).

The current streetscape is characterised by single interwar dwellings interspersed with period and modern two storey dwellings. These dwellings are mainly 1930-40s dwellings with tiled hip roofs, dark coloured brick, small front bay timber windows, glass front doors, verandas low brick fences and track driveways. The Brush Box street trees and well-kept gardens are a significant feature of the area.

The wider surrounding area is characterised by a mixture of large modern and period dwellings within a garden setting.

Strathfield Local Environmental Plan

The site is zoned R2-Low Density Residential under the provisions of Strathfield Local Environmental Plan (SLEP) 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 3 February – 17 February 2021 where no submissions were received.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, Development Application 2020/254 is recommended for approval subject to suitable conditions of consent.

REPORT IN FULL

Proposal

Council has received an application for additions and alterations to an existing contributory two bedroom dwelling house within the Marion Street Conservation Area - C12 - Inter-war bungalow style group. The proposed works includes internal alterations to the original building and demolition of the rear balcony to allow for an entry into a new two storey modern addition with a skillion roof. The new addition is built on piers as the site is flood affected. Due to the significant site slope from front to rear the two storey addition will include living space and kitchen facing a new pool and covered alfresco area on the lower level and bedrooms and a lounge area on the upper street entry level. More specifically this will include:

Ground floor level (existing):

- Restoration to front façade including removal of chimney below the gutter, new glass front door and replacement of metal awnings with fabric.
- Changes to the internal configuration and walls of the original house resulting in three (3) bedrooms, two (2) bathrooms and a living room. Structural changes include:
 - Removal of part of an existing bedroom wall
 - Removal of living room doors
 - Removal of the walls between an existing bedroom, kitchen and dining room partition.
 - demolition of sunroom wall

New addition first floor level (upper floor):

- New access stairway to lower ground floor
- Master bedroom with walk in wardrobe and en-suite
- Bedroom
- Void area over living room (28.25m²)

New addition ground floor (lower floor):

- Open plan dining, kitchen and living area
- Walk in pantry
- Small bathroom
- Laundry
- Toilet

External works:

- Realign and redesign of driveway
- Removal of a Jacaranda tree
- Removal of rear elevated verandah
- New outbuilding under the attached covered alfresco area that includes pool storage and a toilet
- Semi-in ground pool
- Covered alfresco area with BBQ
- Change of the front fence to wrap around the Eucalyptus tree
- New fabric awnings covering the front windows
- New front door
- Removal of part of the chimney
- Construction of a retaining walls (1.2m setback from side and rear bounding within the rear setback.

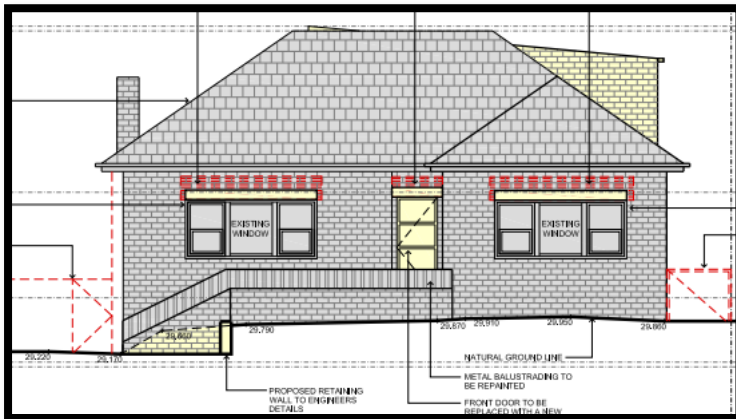


Image 1: 8 Marion Street – Façade

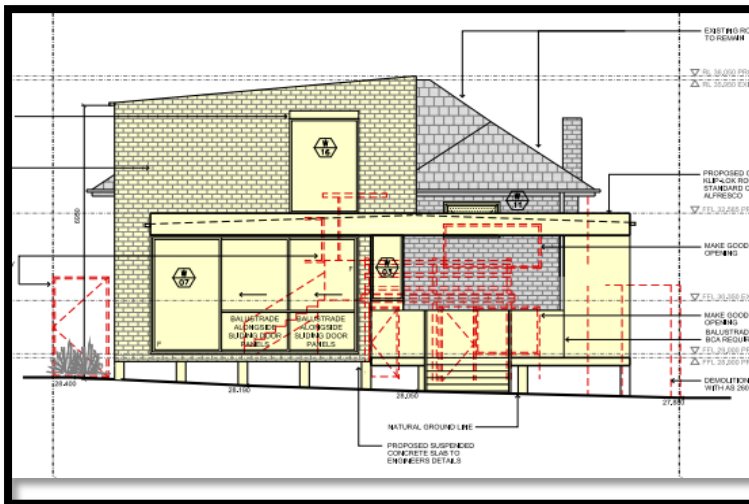


Image 2 – view of the extension. Note the new addition is on piers due to flooding issues.

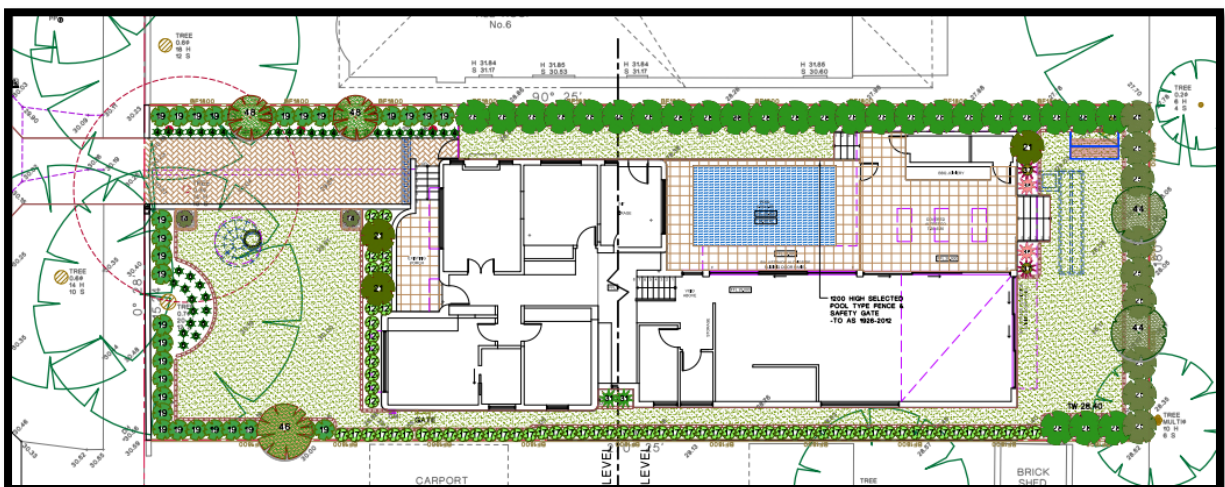
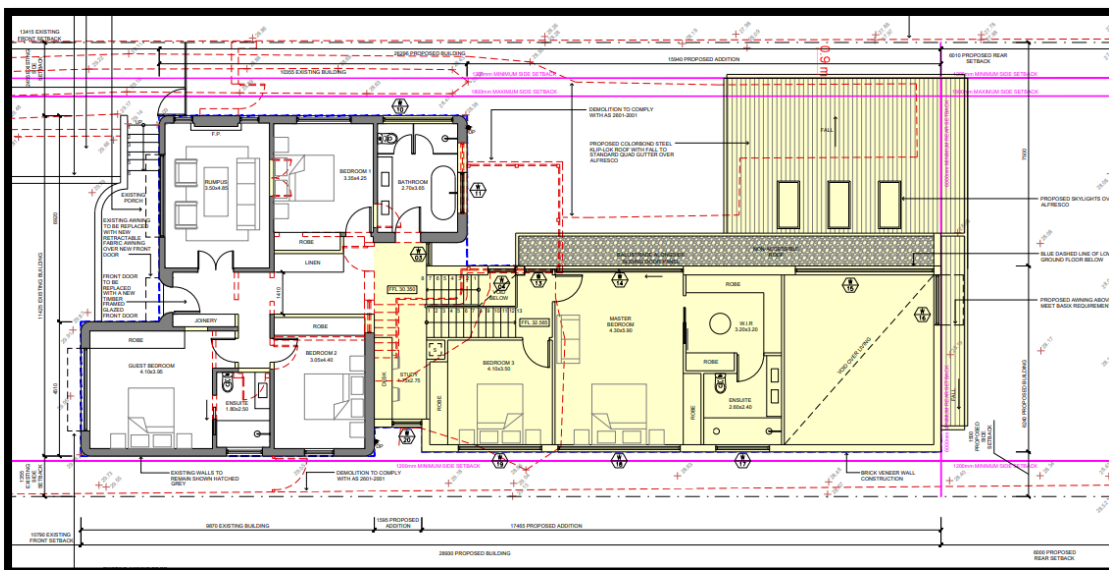
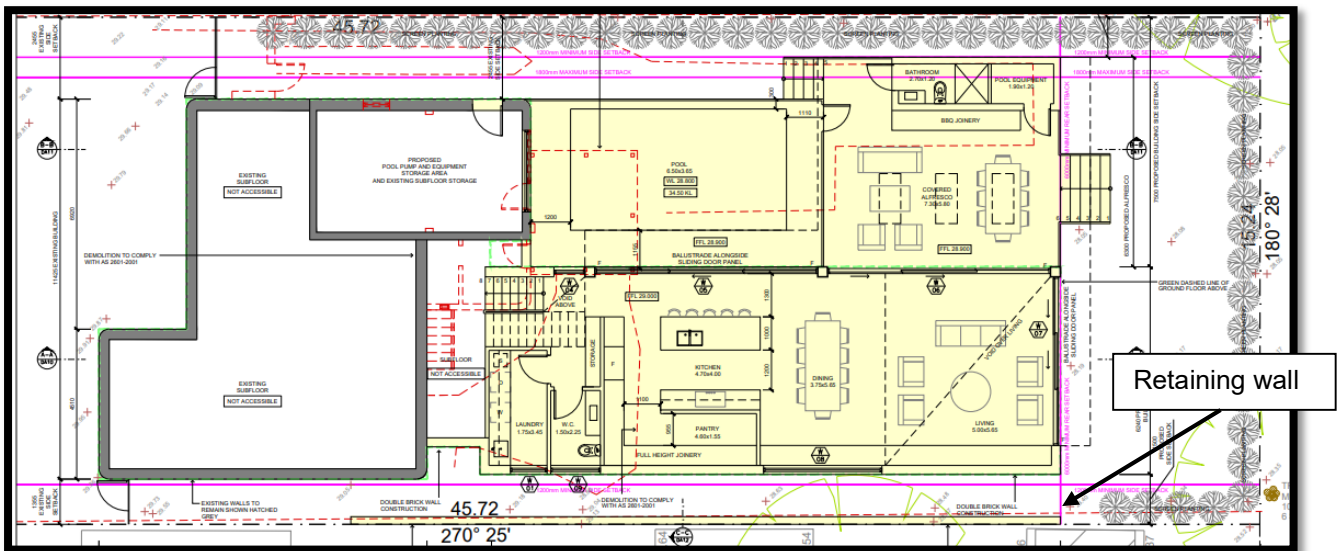
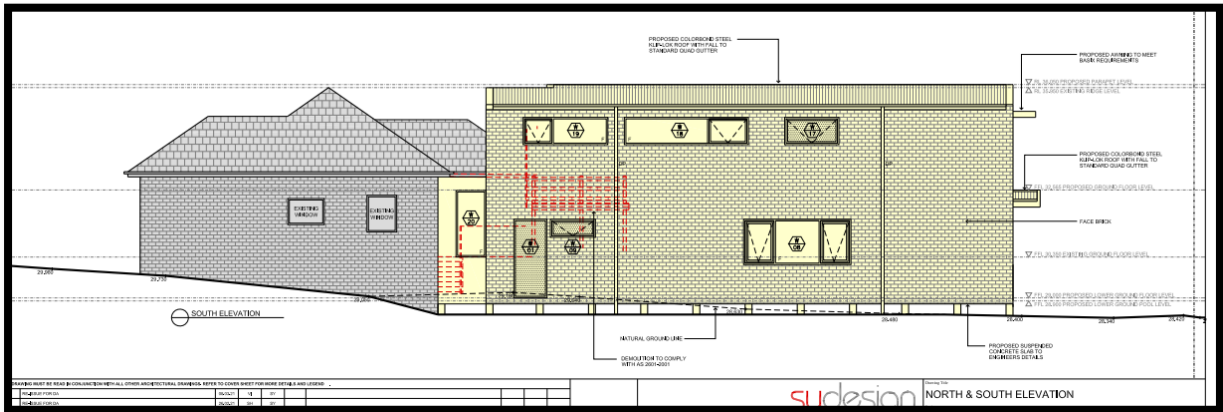


Image 3: Landscape Plan showing new fence design and driveway



The Site and Locality

The subject site is legally described as Lot 81 in DP12405 and is commonly known as 8 Marion Street, Strathfield. The site is located on the eastern side of Marion Street and has an area of 696.8m² (by Survey).

The site is rectangular in shape and has a frontage of 15.24m to the west, rear boundary of 45.72m to the east, a side boundary length of 45.72m to the north and south.

The site slopes 2.39m from the southwest (Marion street frontage) towards the northeast (RL30.46 western boundary to RL28.07 eastern boundary). Existing development on the site comprises of a modest 2 bedroom single storey interwar dwelling with a sunroom (c. 1930s) and period style garden with a two storey appearance when viewed from rear. Vehicular access is provided to the site via a driveway from Marion Street to an existing carparking space located at the north side of the dwelling, in front of the building line.

The current streetscape is characterised by single interwar dwellings interspersed with period and modern two storey dwellings. These dwellings are mainly 1930-40s dwellings with tiled hip roofs, dark coloured brick houses with small front bays, verandas, timber windows and low brick fences (See image 18).

The wider surrounding area is characterised by a mixture of large modern and period dwellings within a garden setting.

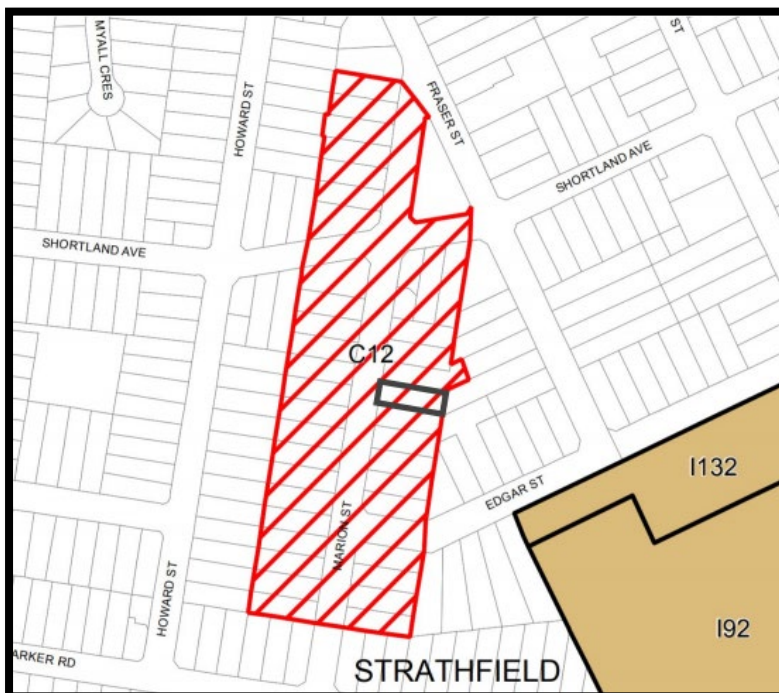


Image 10: Location of Subject Site within Marion Street Heritage Conservation Area.



Image 11: Subject site highlighted in yellow. Image shows the location of adjoining yards in the vicinity.



Image 12: 8 Marion Street (Looking East)



Image 13: 8 Marion Street (Rear showing slope)

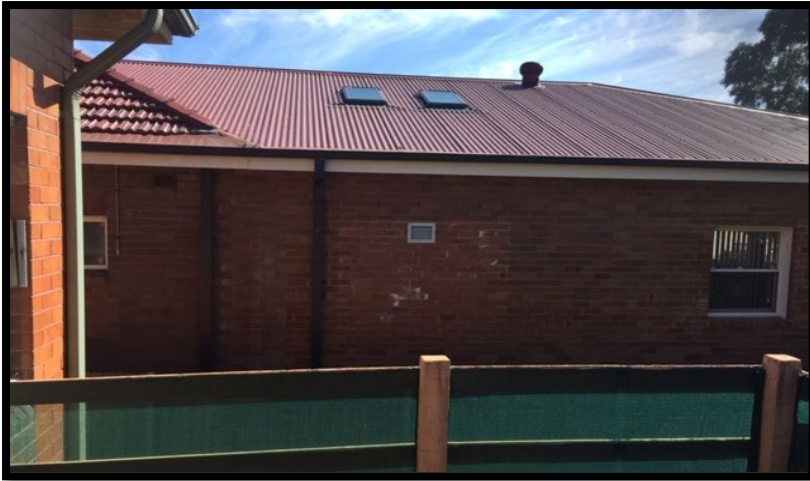


Image 14: View of 6 Marion Street from the existing verandah



Image 15: View from veranda into yard of 11 Edgar Street and 10 Marion Street.



Image 16: 10 Marion Street adjoins the site to the south. It shows a two storey addition to the rear. The new addition to 8 Marion Street should not be as prominent as this addition when viewed from the public domain.

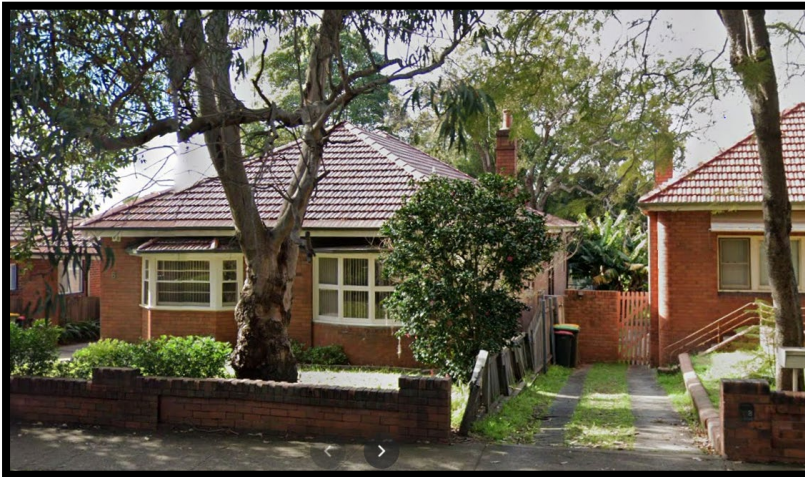


Image 17: 6 Marion Street and the driveway of 8 Marion St (source: Google maps)



Image 18: Marion Street (opposite 8 Marion Street – Looking South) showing consistent style with low pitch fences and type of dwellings.

Background

19 January 2021	The subject application was lodged.
3 February 2021	The application was publicly notified for a minimum of 14 days, with the last date for submissions being 17 February 2021. No submissions were received.
10 February 2021	A <i>Stop The Clock</i> letter was issued to the applicant, which stated that the proposal does not adequately meet the flood and stormwater impact concerns raised by Council's Development Engineer.
1 March 2021	Amended plans to address stormwater and flooding issues received and accessed by the Development Engineer as adequate. However, this raised the level of the development to the point where the skillion roof could be seen from the public domain.
9 March 2021	Site visit undertaken by Council's Planning Officer.
9 March 2021	Request for further information raised an issue with the skillion roof form being seen from the public domain.
9 March 2021	Amended plans received which lowered the roof were received.
23 March 2021	Amended landscape plans received reducing hard surfaces in the rear yard were received.

Referrals – Internal and External

Heritage Advisor Comments

Council's Heritage Advisor has commented on the final design of the proposal as follows:

It is unlikely that the proposed skillion roof will not be apparent, when viewed from the street. However, to ensure this is the case, it is recommended that the height be further reduced so that it is the same as the current roof height. It is noted that a precedent for two storey being seen in some part from the public domain has been set by neighbouring houses.

Minor additions to the front façade have been recommended by the Heritage Statement undertaken by Kemp and Johnson Heritage Consultants. This includes replacing the modern screen door and 1970's front door with a new front door that reflects the period and removal of the metal awning to be replaced with fabric awning. I support these recommendations with the exception that the new door should be a period door or a replica of the 1930's period design. Further to this an existing window along the side is to be replaced due to the sunroom becoming a bathroom. This will be acceptable if the chimney is kept as the chimney will block the view of the replacement window from the street.

I do not support the removal of the base of the Chimney below the eave, the design of the driveway and the removal of the small retaining wall as they will impact on the setting of the HCA. The removal of these elements will not meet Part P - Heritage Section 4.9 Landscape elements including paving and driveway as such conditions and plan changes in relation to this section have been included. These are below:

Plan Amendment:

1. *Retention of entire chimney*
2. *Lower the roof height from RL36.050 to RL35.950*

Special Conditions:

- a. *The bricks from the period retaining wall in the front setback to be reused in any new retaining walls.*
- b. *The front driveway be redesigned to allow for a section of the driveway to be of a track design. Track driveways are a feature of the Marion Street Conservation Area. That the landscape plan is altered to reflect this and approved by the Heritage Advisor Prior to Construction Certificate.*
- c. *The front door is replaced with either a period 1930's door or a replica of a 1930's door to be approved by Council's heritage consultant prior to Construction Certificate.*

It should be noted that the amended plans, which lowered the new skillion roof, has resulted in a reduction of the addition being visible from the public domain. However, a further minor amendment to lower the Reduced Level (RL) to the existing roof ridgeline will ensure that the skillion roof is unlikely to be visible above this roofline of the contributory item when viewed from the public domain.

Stormwater Engineer Comments

Council's Stormwater Engineer has commented on the proposal as follows:

*"The subject site has a natural fall to the rear, but **charged drainage system** has enabled the applicant to submit a compliant design. The provision of water sensitive urban design is not required as the site is less than 2000m². On Site Detention (OSD) provision is not required as the site cumulative imperviousness is less than 65% of total site area. The site discharges to the street kerb and gutter by means of charged pipe via the boundary pit. Roof runoff drains into below ground rainwater tank in accordance with BASIX requirements by charged means via downpipes.*

Overflow from the tank charges to the kerb and gutter. Driveway runoff drains into absorption trench by gravity means via grated trench drain. The concept plan is feasible..."

Council's Engineer offered no objections to the proposal, subject to conditions of consent.

Traffic Engineer Comments:

Council's traffic engineer has commented on the proposal as follows:

All aspects of the off-street parking has been assessed against the AS2890 series.

The proposal is to generally retain the existing driveway which is to provide access to a hardstand area. The position of the parking space however is in front of the building line which does not seem to satisfy DCP's requirement in terms of not dominating the appearance of the building or streetscape. This is a planning issue to be determined by the planners. From a traffic and parking of view, this hardstand parking area provides adequate parking function and satisfies the access requirement.

Tree Management Comments:

Council's tree co-ordinator has commented on the proposal as follows:

The Tree Co-ordinator could not support the location of the current placement of the watertank and the stormwater pipes in the front setback. The potential of the pipes poses a threat to three significant trees. These being the brush box street tree where the pipes are proposed to be within the root system of the tree, the neighbouring eucalyptus tree and the significant eucalyptus tree in the front yard. This results in the storm water management plan being unacceptable and requires the water tank to be moved from the front yard area and the water pipes to be relocated away from the three trees (including the street tree). The tree co-ordinator has requested a change to the plans prior to Construction Certificate to maintain the current crossing.

Special Conditions include the following:

Trees and Stormwater

a) The stormwater outlet pipe to the street is to be relocated to the immediate north of the existing driveway away and the water-tank relocated to under part of the driveway away from neighbouring trees. The new stormwater plan must be approved by Councils Tree Management Officer and Development Engineer prior to the issue of the Construction Certificate.

b) The half circle front boundary fence is to be made of light-weight materials, elevated above the soil surface and textured the match or contrast the main masonry boundary fence. This light weight is to be supported at 3 contact points into the ground to protect the root system of the Eucalyptus Scoparia. The fence must be approved by Councils Heritage Advisor prior to the issue of the Construction Certificate.

c) No alterations to the driveway crossing across Council land is permitted.

The concerns raised by the tree co-ordinator are addressed by the standard tree condition and the special tree and stormwater condition above. This condition was also forwarded to the stormwater engineer who did not object to the condition.

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
4.3 Height of Buildings	9.5m	8.2m	Compliant
4.4 Floor Space Ratio Site area -696.8m ²	418.08m ² (0.6:1)	304.1m ² (0.436:1)	Compliant

Part 5 – Miscellaneous Provisions

Heritage Conservation

The proposal is located within the C12 Marion Street Conservation Area, Inter-war bungalow style group and a Heritage Impact Statement by Kemp and Johnson has been submitted with the application. The application was referred to Council's Heritage Officer who has advised that the proposed works are satisfactory subject to the imposition of a number of conditions, which have been included in the conditions of consent. These conditions include retention of the chimney, retention and reuse of the retaining wall bricks in the alignment of the driveway.

It is considered that the proposed works, as amended and conditioned, will satisfactorily address the provisions of this clause.

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. The application has been reviewed by Council's Engineer who has advised that subject to suitable conditions, the development is considered compatible with the flood hazard of the land, will not result in significant adverse effects on flood behaviour or environment and is not likely to result in unsustainable social and economic loss. The proposed development is considered to satisfy the objectives of 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.

**SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT)
2005**

All stormwater from the proposed development can be treated in accordance with Council's Stormwater Management Code and would satisfy the relevant planning principles of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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

A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

**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 the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations.

The objectives outlined within SEPP55 are considered to be satisfied.

**STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS)
2017**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed provisions of clause 5.9 of SLEP 2012 relating to the preservation of trees and vegetation.

The intent of this SEPP is consistent with the objectives of the repealed Standard where the primary aims/objectives are related to the protection of the biodiversity values of trees and other vegetation on the site.

The aims and objectives outlined within the SEPP are considered to be satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

- (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
Building Envelope			
Heights: Floor to ceiling heights: Height to underside of eaves: Parapet height: Overall height for flat roof dwelling: Number of Storeys/Levels:	3.0m 7.2m 0.8m 7.8m 2	3.0m 6.95m 0.4m *7.15m to 7.7m (NGL) 2	Compliant Compliant Compliant Compliant Compliant
Setbacks: Front: South Side: North Side: Combined Side Setback: Rear:	9m 1.2m (min) 1.2m (min) 3.05m (20%) 6m	10.7m 1.4m 2.4 - 1.2m 3.8m 6m	Compliant Compliant Compliant Compliant Compliant
Landscaping			
Landscaping/Deepsoil Provisions:	696.8m ² = 289.17 (site area 41.5%)	309m ²	Compliant
Fencing			
Height (overall/piers): Solid Component:	1.5m (maximum) 0.7m	Existing fence redesigned around the tree	Compliant
Solar Access			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	3 hours within rear yard	Compliant
Vehicle Access and Parking			
Driveway width at Boundary: Vehicular Crossing: Driveway setback – side: No. of Parking Spaces:	3m 1 0.5m 2	3m 1 1.4m 2 (existing)	Compliant Compliant Compliant Compliant
Ancillary Development			
SWIMMING POOL Side/Rear Setback	1.0m	2.4m – side 14.2m- rear	Compliant
OUTBUILDINGS Area: Height: Side/Rear setback:	40m ² 3.5m 0.5m	5.52m ² (5.1m x 1.2m) 4.5m (NGL) 1.2-6m	Compliant Non- Compliant Compliant

Comments:

An outbuilding, which is part of the alfresco area and houses the toilet and pool equipment is non-compliant in height by a metre above the natural ground level. However, it is unlikely to have an impact on the neighbouring house at 6 Marion Street for the following reasons:

- It is unlikely to cause overshadowing as it's situated on the south side of 6 Marion Street;
- The building is 1.2m setback from the boundary and therefore the bulk will be reduced when viewed from the rear yard.

- The location of the outbuilding will provides privacy for both the applicant and their neighbours. The majority of the site will be planted with shrubs where planting along the boundary is limited.

Building Envelope

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

- Building Scale, height and floor space ratio
- Rhythm of Built Elements in the Streetscape, and
- External Materials.

Landscaping and Open Space

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

Fencing

The proposed front and side fencing satisfies the relevant objectives and controls within SCDCP 2005. It is considered to be sympathetic to the existing character of the locality and is compatible to the height and style of adjoining fences. The design of the fence around the tree whilst unusual for this location does seek to protect the tree and the remaining original fence. The tree is an important landscape feature in the street and thus the change of the fence line is necessary to retain the tree and the majority of the fence. A special condition on how the fence is to be designed and built has been included as part of the consent.

Solar Access

Given the orientation of the site, solar access to windows of habitable rooms and to at least 50% of the private open space is achieved or maintained for a minimum period of 3 hours between 9.00am-3:00pm at the winter solstice. Solar access is also achieved in relation to the private open space of the adjoining premises. The proposal is considered to generally satisfy the relevant objectives and controls of the SCDCP 2005.

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. Windows with the potential to overlook are offset and an appropriate sill height. Much of the upper storey is a void where windows facing north allow light into the living space on the lower floor.

Vehicular access, Parking and Basements

The proposed development maintains the current parking situation which is parking on a hard stand area within the front setback, this does not meet the Part I – Provisions for off-street parking for two spaces behind the building line. However, as the situation is existing and there is no additional structures forward of the building line, this is considered adequate. It should meet the “existing use” provisions within the Environmental Planning and

Assessment Act 1979 and as it does not propose any new structure in the front setback it will also meet the Objectives of Part P – Section 4 – 4.1 Settings.

Cut and fill

The proposed development is considered to satisfy the relevant objectives and controls of the SCDCP 2005, in that the need for cut and fill has been kept to a minimum and existing ground levels have been maintained where appropriate to reduced site disturbance. The plans have been amended from a slab to pier foundation to maintain overland flow and minimise excavation. The new plans has been reviewed by Councils Engineer and considered acceptable.

Retaining walls are shown on the front and rear yard architecture plans (see DA05 -Lower Ground Floor Plan). The height of the retaining wall has been conditioned.

Water and Soil Management

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

Access, Safety and Security

The proposed development mainly satisfies the relevant objectives and controls of the SCDCP 2005. Surveillance of the public street has been provided providing safety and perception of safety in the street. The driveway is still the main access to the site which maintains the existing situation.

ANCILLARY STRUCTURES

Swimming Pools, Spas & Associated Enclosures

The proposed development satisfies the relevant objectives and controls with SCDCP 2005. The pool has been adequately setback from all adjoining boundaries, allowing for screen panting if required. The pool pump equipment has been located in a sound proof enclosure and the pool coping has been designed to suit the existing ground level of the site. The swimming pool fence/enclosure will comply with the swimming pools act and relevant standards.

Retaining Walls

The retaining walls shown on the architectural plans (front and rear yards) have been conditioned to a maximum height of 1.2m with all retaining walls greater than 600mm required to be designed by a suitably qualified engineer.

PART H – Waste Management (SCDCP 2005)

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

PART P – Heritage (SCDCP 2005)

The dwelling, its setting (including driveway and front fence) and the canopy tree in the front setback are contributory to the streetscape. Council's heritage advisor has provided recommended special conditions to maintain these significant landscape elements (See Condition 19). The heritage advisor has also requested to lower the height so the structure is lower than the existing dwelling.

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

The requirements of Australian Standard AS2601–1991: *The Demolition of Structures* is relevant to the determination of a development application for the demolition of a building.

The proposed development does involve the demolition of a verandah. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment or any negative social or economic impacts on the locality.

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

It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

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

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

(e) *the public interest.*

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

Local Infrastructure Contributions

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. This section prescribes in part as follows:

A consent authority may impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

STRATHFIELD INDIRECT SECTION 7.12 CONTRIBUTIONS PLAN

Section 7.12 Contributions are applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan as follows:

Local Amenity Improvement Levy	\$2,850.00
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Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 4.15 (1) of the 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. 254/2020 should be approved subject to conditions.


Signed:
E Black
Specialist Planner Heritage

Date: 20 April 2021

- ☒ 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 7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed and concurred with.

Signed: *DS*
Dragana Strbac
Planner

Date: 21 April 2021

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
COVER SHEET	DA00	08.03.21	E	Sydesign
SITE PLAN AND SITE ANALYSIS	DA01	26.02.21	E	Sydesign
EROSION AND SEDIMENT CONTROL PLAN	DA02	26.02.21	D	Sydesign
LOWER GROUND FLOOR DEMOLITION PLAN	DA03	26.02.21	D	Sydesign
GROUND FLOOR DEMOLITION PLAN	DA04	26.02.21	D	Sydesign
LOWER GROUND FLOOR PLAN	DA05	26.02.21	D	Sydesign
GROUND FLOOR PLAN	DA06	26.02.21	D	Sydesign
ROOF PLAN	DA07	26.02.21	D	Sydesign
NORTH & SOUTH ELEVATION	DA08	08.03.21	E	Sydesign
EAST & WEST ELEVATION	DA09	08.03.21	E	Sydesign
SECTION A-A	DA10	08.03.21	E	Sydesign

SECTION B-B	DA11	08.03.21	E	Sydesign
SECTION C-C	DA12	08.03.21	E	Sydesign
STREETSCAPE ELEVATION	DA13	08.03.21	E	Sydesign
SCHEDULE OF MATERIALS AND FINISHES	DA14	08.03.21	E	Sydesign
LANDSCAPE CONCEPT PLAN	20180DA1	22/3/21	B	VISION DYNAMICS
WASTE MANAGEMENT PLAN		03/11/20		Sydesign
FLOOD IMPACT REPORT	SW20175	11 Jan 2021		CEC capital engineering consultants
8 MARION STREET, STRATHFIELD ALTERATIONS & ADDITIONS TO HOUSE AND ALTERATIONS TO LANDSCAPING HERITAGE IMPACT STATEMENT		22/03/21		KEMP AND JOHNSON HERITAGE CONSULTANTS
BASIX CERTIFICATE	A396367_04	01 March 2021		Sydesign
DETAIL SURVEY	200905	02/09/2020		BENCHMARK SURVEYS
STATEMENT OF ENVIRONMENTAL EFFECTS 8 MARION STREET, STRATHFIELD RESTORATION WORKS, ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE SWIMMING POOL	E	23/03/2021		PRAGMA PLANNING

2. Retaining Walls

The maximum height of 1.2m with all retaining walls greater than 600mm required to be designed by a suitably qualified engineer

SEPRARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

3. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

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

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

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

- (a) 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. For further information, please contact Council’s Customer Service Centre on (02) 9748 9999.

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

4. Sydney Water – Tap in™

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Tree Bond

A tree bond of \$40,000 (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

The deposit is required as security against any damage to existing trees to be retained on Council's road reserve, during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development.

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

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

Tree Bonds may be forfeited if a tree is dead, made dangerous or has been terminally damaged, or will be held until tree/s have fully recovered from the construction damage or were replacement/planted trees have become fully established and are over 6 metres in height.

6. BASIX Commitments

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

All measures and commitments as detailed in the BASIX Certificate No. A396367_04 must be implemented on the plans lodged with the application for the Construction Certificate.

7. Fees to be Paid

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	\$ 997
Security Damage Deposit	\$ 8,100
Tree Bond	\$ 40,000
Administration Fee for Damage Deposit	\$ 254
DEVELOPMENT CONTRIBUTIONS	
Strathfield Section 94A Indirect Development Contributions Plan 2017	\$ 2,850.00

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.

8. Required Design Changes

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

Dwelling Height	<p>The maximum dwelling height must be reduced from the proposed RL 36.050 to RL 35.950 or below.</p> <p>To achieve this, the roof pitch may be reduced, the parapet reduced in size or the building lowered in height. This is required to compliance with the controls as stated in the relevant DCP. In order that the 5.2 Siting and Garden Area (iii) can be met.</p>
Retention of the entire chimney	<p>The entire Chimney must be retained. The removal of part of the chimney must be changed on the demolition plan and all other plans are to show the retention of the entire chimney.</p>
Driveway crossing	<p>The proposed driveway crossing (Vehicle Entrance) over Council land must be removed from plans. The amended plan will show the retention of the existing Plan</p>

9. Damage Deposit – Minor Works

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage security deposit for the cost of making good any damage caused to any Council property as a result of the development: \$8,100.00
- (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: \$254.00
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

10. 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.

11. Building Works To Comply With BCA – Heritage Buildings Or Buildings Within Conservation Area

Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.

12. 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.

13. Compliance with Swimming Pool Act 1992

The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2018 and the Building Code of Australia. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.

14. 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.

15. 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.

16. Stormwater System

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

17. Compliance with Flood Study

The development shall be designed to conform to the recommendations and conclusions of the submitted flood study prepared by Capital Engineering Consultants project no. SW20175 dated 1st March 2021.

This shall include, but not be limited to, any recommendations for the following:

- (a) Minimum floor levels
- (b) Fencing
- (c) Site regrading
- (d) Overland flow path construction
- (e) Protection of the basement from inundation of surface waters

Evidence from professional engineer that specialises in hydraulic engineering that all design requirements have been adhered to shall be submitted with the Construction Certificate application.

18. Trees and Stormwater

a) The stormwater outlet pipe to the street is to be relocated to the immediate north of the existing driveway away and the watertank relocated to under part of the driveway away from neighbouring trees. The new stormwater plan must be approved by Councils Tree Management Officer and Development Engineer prior to the issue of the Construction Certificate.

b) The half circle front boundary fence is to be made of lightweight materials, elevated above the soil surface and textured the match or contrast the main masonry boundary fence. This light weight is to be supported at 3 contact points into the ground to protect the root system of the Eucalyptus Scoparia. The fence must be approved by Councils Heritage Advisor prior to the issue of the Construction Certificate.

c) No alterations to the driveway crossing across Council land is permitted.

d) No temporary structures or stockpiles are to be within the Tree Protection Zone of the protected tree on site.

19. Tree Protection and Retention

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
	Lophostemon confertus (Brush Box)	Street Tree - On front verge in-front of house next to driveway	6 - or as stipulated by the suitably qualified arborist
	Eucalyptus Scoparia	Front yard	6 - or as stipulated by the suitably qualified arborist
	Eucalyptus Scoparia	Neighbouring tree at 6 Marion Street	6 - or as stipulated by the suitably qualified arborist

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

General Tree Protection Measures

- All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

Specific Street Tree Protection Measures

- (g) A sound protection barrier anchored firmly into the ground 1.8m in height x 2 metres clear of the base of the tree at any one point and that the fence is to extend up to the back of the kerb and to the edge of the footpath.

The area within the tree protection zone is not to be used for storage of the any construction materials and a sign is to be erected stating the above.

Excavation works near tree to be retained

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

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

20. Heritage Landscape Conditions

- a. The bricks from the period retaining wall in the front setback shall be reused in any new retaining walls.
- b. The front driveway must be redesigned to allow for part of the driveway to be of a track design. Track driveways are a feature of the Marion Street Conservation Area. That the landscape plan is altered to reflect this and approved by the Heritage Advisor Prior to Construction Certificate.
- c. That the front door must be replaced with either a period 1930's door or a replica of a 1930's door to be approved by Council's heritage consultant prior to Construction Certificate.
- d. No part of the chimney on the northern elevation is to be demolished. It is required to remain in situ and protected during the building works.

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

21. 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.

22. Materials for Making Good

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

DURING CONSTRUCTION

23. 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.

24. 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.

25. Ground Levels and Retaining Walls

The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

26. 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.

27. Swimming Pools – Filling with Water

The pool/spa shall not filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.

28. Salvage, Reuse and Recycling of Traditional Building Materials

Stone, bricks, roof tiles, joinery and decorative architectural elements to be demolished, which include stairs, windows and doors, chimney pieces and ceiling roses must be salvaged and where possible reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

29. Retaining wall

A maximum height of 1.2 metres. All retaining walls greater than 600mm are required to be designed by a suitably qualified engineer as per the landscape concept plan by Sydesign.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

30. Restriction to User and Positive Covenant for On-Site Detention Facility

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

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

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

31. Stormwater Certification of the Constructed Drainage Works (Minor)

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's Stormwater Management Code, prior to the issue of any Occupation Certificate.

32. Stormwater Drainage Works – Works As Executed

Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

33. Completion of Landscape Works

At the completion of all works, a certificate 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.

34. 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.

35. 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.

OPERATIONAL CONDITIONS (ON-GOING)

36. Private Swimming Pools & Spas – Pump Noise

The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

37. No Structures on Street-Facing Roof Plane or Awning

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

38. Swimming Pools – Resuscitation Notice

An expired air resuscitation warning notice complying with the [Swimming Pools Act 1992](#)

must be affixed in a prominent position adjacent to the pool.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

39. 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.

40. 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](#).

41. 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.

42. 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.

43. Requirement for a Construction Certificate

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

PRESCRIBED CONDITIONS

44. 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](#).

45. 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.

46. 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.

47. Clause 97A – BASIX Commitments

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

ADVISORY NOTES

1. Review of Determination

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

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

2. Appeal Rights

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

3. Lapsing of Consent

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

4. Register your Swimming Pool

All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: www.swimmingpoolregister.nsw.gov.au

5. 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).

6. 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.