

## ADDENDUM IDAP REPORT

<b>Property:</b>	33 Hillcrest Avenue STRATHFIELD SOUTH DA2020/223
<b>Proposal:</b>	Demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works.
<b>Applicant:</b>	Urban Link Pty Ltd
<b>Owner:</b>	A Yassine
<b>Date of lodgement:</b>	3 December 2020
<b>Date of IDAP Meeting:</b>	5 March 2021
<b>Notification period:</b>	17 December 2020 to 25 January 2021
<b>Submissions received:</b>	One (1)
<b>Assessment officer:</b>	D Strbac
<b>Estimated cost of works:</b>	\$1,805,000.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Is a Clause 4.6 Variation Proposed:</b>	No
<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>

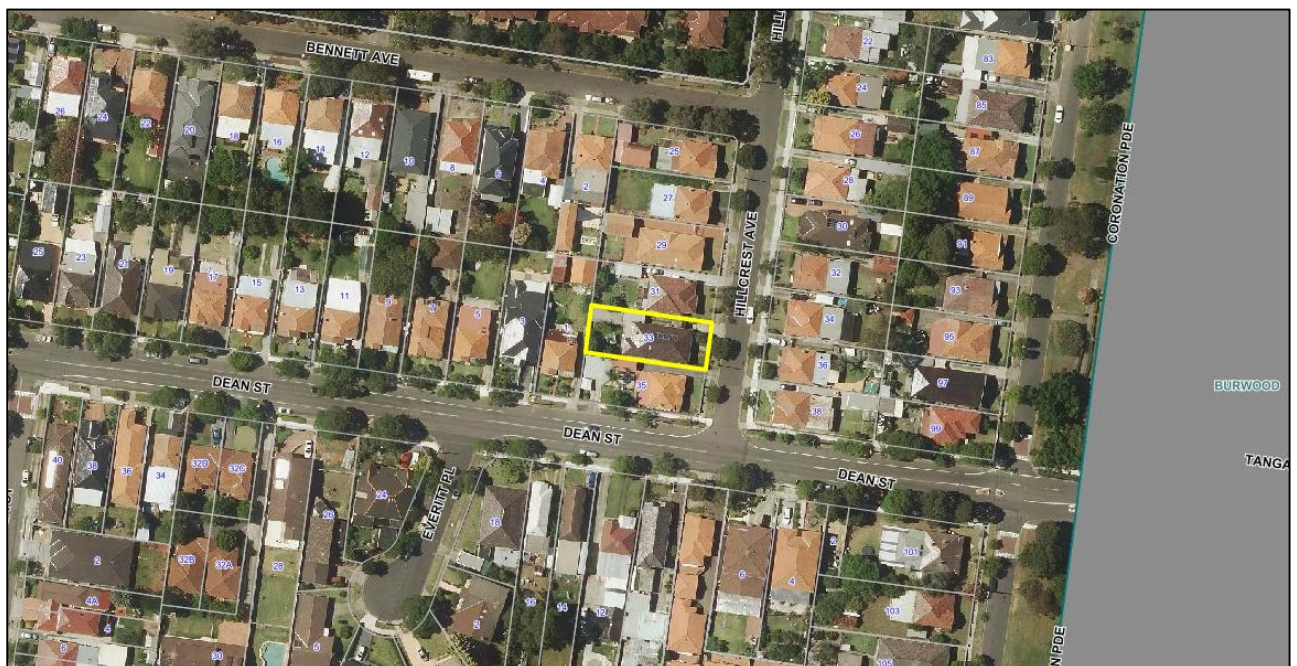


Figure 1: Locality plan with subject site outlined in yellow

## EXECUTIVE SUMMARY

### Proposal

Development consent is being sought for the demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works.

### Background

The application was considered by IDAP on 5 March 2021. At this meeting the panel resolved to defer the application to allow the following matters to be addressed;

- *Resolution: That the Panel DEFERS the application and the applicant be requested to submit amended plans which adequately identify the additional floor area as designated storage areas in the basement level and the front setback be increased to 7000mm which can be achieved by either pushing the building back or deleting the first floor balconies and blade wall.*

### 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 as amended satisfies all relevant provisions contained within the LEP.

### Development Control Plan

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

### Notification

The amendments to the application to satisfy the issues raised by IDAP did not require re-notification.

### Conclusion

The Applicant submitted amended plans to Council in response to the matters raised above. The addendum report provides confirmation that the deferred matter has been appropriately resolved through these revised plans.

Accordingly, having regards to the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Development Application 2020/223 is recommended for approval subject to suitable conditions of consent.

## **ADDENDUM REPORT**

### **Proposal**

Council has received an application for the demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works.

### **Background**

This report is to be read as an addendum to the report presented to IDAP on 5 March 2021. The subject application was deferred by the panel at this meeting for the following reasons;

- *Resolution: That the Panel DEFERS the application and the applicant be requested to submit amended plans which adequately identify the additional floor area as designated storage areas in the basement level and the front setback be increased to 7000mm which can be achieved by either pushing the building back or deleting the first floor balconies and blade wall.*

Amended plans and details have now been submitted addressing the matters raised by the panel. More specifically, the revised plans and details include the following changes;

- Additional floor area in basement identified as designated storage areas; and
- The front setback of the proposed dwelling reduced by 200mm to 5847mm. A streetscape analysis and written justification has been provided to demonstrate the proposed front setback's consistency with the streetscape, notwithstanding the IDAP's resolution.

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

The amendments did not require any additional internal or external referrals.

### **Assessment**

#### **Matters Raised By IDAP**

1. *Identify the additional floor area as designated storage areas in the basement level.*

Assessing Officer's comments: The additional floor areas within the basement level have been designated for storage purposes (refer to Figure 2 and 3 below).

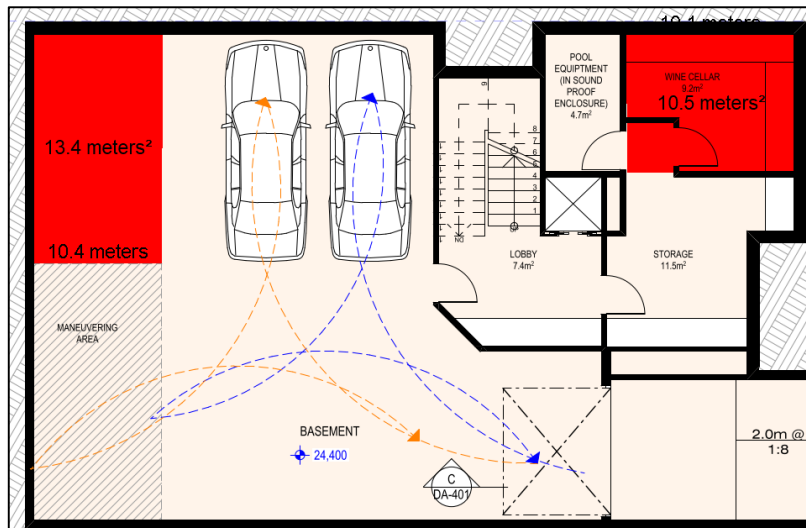


Figure 2: Areas of basement originally included in GFA calculations highlighted in red.

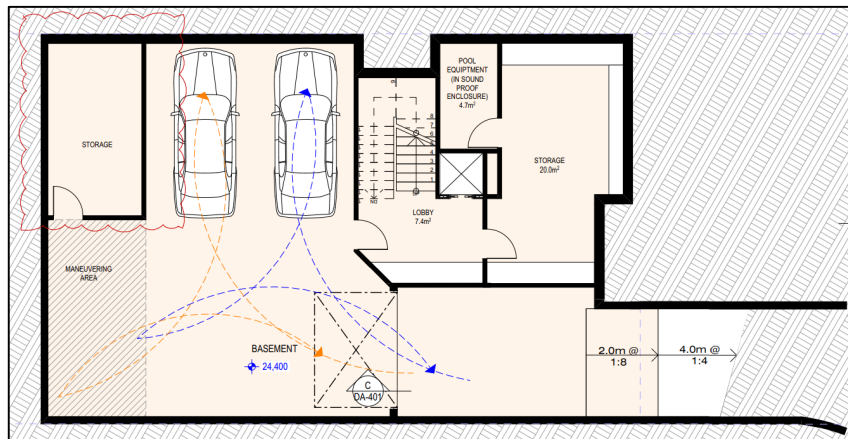


Figure 3: Revised basement design with new designated storage areas.

## 2. Increase front setback of the proposed dwelling to 7000mm.

Assessing Officer's comments: The original site plan submitted indicates the existing front setback of adjoining dwellings, 31 Hillcrest Avenue and 35 Hillcrest Avenue, to be 7000m and 6000m respectively. The applicant has confirmed that the outline of adjoining dwellings provided on the original site plan is inaccurate and the architectural plans have been updated to show the true front setbacks of these dwellings. A site visit by the assessing officer confirmed that the existing front setbacks of the adjoining dwellings are 5240mm (31 Hillcrest Avenue) and 6000m (35 Hillcrest Avenue). A front setback of 5847mm is therefore considered to be appropriate and demonstrates consistency with the streetscape. Notwithstanding IDAP's request for a 7000mm front setback, the proposed 5847mm is considered to be supportable and acceptable.

## Strathfield Local Environmental Plan

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

## Part 4 – Principal Development Standards

The original proposal exceeded the maximum permissible gross floor area (GFA) permitted under the SLEP 2012 due to surplus areas in the basement. The basement has now been

amended to identify those surplus areas as designated storage areas. The FSR calculations have therefore been revised to reflect these changes, and are included below.

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
<b>4.4 Floor Space Ratio (FSR)</b>	0.65:1 (311.675m <sup>2</sup> )	0.647:1 (310.1m <sup>2</sup> )	Yes.

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

The amendments to the application do not result in an amended BASIX Certificate being required and as such the original certificate issued for the proposed development and the commitments required have been satisfied.

The objectives outlined within SEPP 55 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,**

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Setbacks:</b> Front:  * Despite Subclause 1 above, a primary street setback of less than 9m may be considered where:  a) The predominant front setback in the street is less than 9m; b) The proposed setback is not less than the setback of the existing dwelling; or c) The proposed setback would not conflict with the character of the existing streetscape.	9m*	5.847m	Does not comply – acceptable on merit.

#### **Front setback**

It was confirmed by the applicant that the original set of architectural plans did not accurately display the outline of adjoining dwellings. The correct front setbacks of the adjoining dwellings are 5240mm (31 Hillcrest Avenue) and 6000mm (35 Hillcrest Avenue) (refer to Figure 4). A front setback of 5847mm is therefore considered to be appropriate and demonstrates consistency



with the streetscape. Notwithstanding IDAP's request for a 7000mm front setback, the proposed 5847mm is considered to be supportable and acceptable.

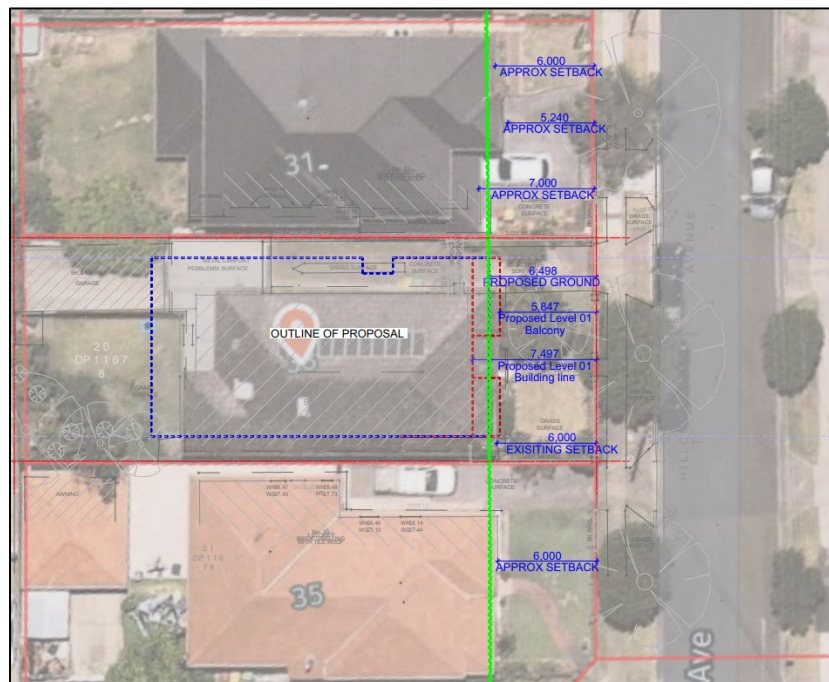


Figure 4: Analysis of adjoining development front setbacks prepared by applicant.

**(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 building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. 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,**

1. Existing development and trees on 31 Hillcrest Avenue are completely misrepresented.

Comment: Amended plans were submitted following the resolution of IDAP. The amended set of plans have provided a streetscape analysis plan which indicates the existing development of adjoining sites more accurately.

Under an approved outcome, specific conditions shall be imposed with any development consent in order to ensure the protection of existing trees that must be retained, including the neighbouring tree at 31 Hillcrest Avenue and the existing street tree.

2. *Proposed swimming pool will be directly over the sewer line. Therefore. Pool will need to be less than 1.8m deep.*

Comment: The application was referred to Council's Stormwater Engineer for comment. Council's Stormwater Engineer raised no concerns with the proposed development (including the swimming pool) subject to the imposition of conditions of consent.

3. *The staircase window appears to be directly in line with 2 of my bathroom windows (ground and first floor). The glass facing north on the alfresco area of the proposed dwelling should be obscure glazed as it looks directly into my alfresco area.*

Comment: A site visit revealed that all windows along the southern elevation of the (northern) adjoining dwelling at 31 Hillcrest Avenue are either obscure glazed or highlight windows. Therefore, adequate privacy is likely to be maintained between adjoining properties and potential for overlooking is minimised. Further, stairwells are considered low utility areas that are unlikely to facilitate excessive or unreasonable overlooking.

The north-facing window off the alfresco area appears to be a highlight window. This window is unlikely to generate adverse privacy amenity impacts for the northern adjoining dwelling.

**(e) the public interest.**

The proposed development is of a scale and character that does not conflict with the public interest as it demonstrates failure to comply with the maximum FSR development standard under Clause 4.4 of the SLEP 2012 and is unable to achieve key objectives and requirements under the SLEP 2012 and SCDGP 2005. The proposal introduces a non-compliant built form that will set an undesirable precedence for the locality.

**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**

In accordance with the Strathfield Indirect Development Contributions Plan, for developments with a cost of works of more than \$200,000, an indirect levy of 1% will be applied. Therefore, based on a cost of works of \$1,805,000, the following Section 7.12 Contributions are applicable to the proposed development:

Local Amenity Improvement Levy	\$18,050.00
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## Conclusion

The application as amended 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 of these changes, it is considered that Development Application No. 2020/223 should be approved subject to the following conditions.

**Signed:**

**D Strbac  
Planner**

**Date: 28 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:**

**M Rivera  
Senior Planner**

**Date: 29 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
Site Plan	DA-102	26 April 2021	C	Urban Link
Basement Floor Plan	DA-201	26 April 2021	C	Urban Link
Ground Floor Plan	DA-201	26 April 2021	C	Urban Link
Level 1 Floor Plan	DA-202	26 April 2021	C	Urban Link
Roof Plan	DA-202	26 April 2021	C	Urban Link
Elevations	DA-301	26 April 2021	C	Urban Link
Streetscape Analysis & Pool Detail	DA-302	26 April 2021	C	Urban Link
Sections	DA-401	26 April 2021	C	Urban Link
External Finishes	DA-601	26 April 2021	C	Urban Link
Landscape Plan	L/01	23 November 2020	A	A Total Concept Landscape Architects & Swimming Pool

				Designers
Landscaped Details	L/02	23 November 2020	A	A Total Concept Landscape Architects & Swimming Pool Designers
Landscape Specification	L/03	23 November 2020	A	A Total Concept Landscape Architects & Swimming Pool Designers
Demolition Plan	DA-602	3 December 2020	A	Urban Link
Stormwater Concept Design Cover Sheet	-	3 December 2020	A	SGC Consulting Engineers
Stormwater Drainage Design – Basement Floor Plan	SW200	3 December 2020	A	SGC Consulting Engineers
Stormwater Drainage Design – Ground Floor Plan	SW201	3 December 2020	A	SGC Consulting Engineers
Stormwater Drainage Design – Roof Plan	SW202	3 December 2020	A	SGC Consulting Engineers
Stormwater Drainage Design – Details Sheet	SW202	3 December 2020	A	SGC Consulting Engineers
Stormwater Drainage Design – Erosion and Sediment Control Plan and Details	SW400	3 December 2020	A	SGC Consulting Engineers
Waste Management Plan	-	3 December 2020	A	Urban Link

BASIX Certificate	Cert No. 1153146S	3 December 2020	A	Urban Link
Arboricultural Impact Assessment	-	19 February 2021	A	TALC Tree and Landscape Consultants

## SEPERATE 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.

### 3. Vehicular Crossing - Minor Development

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

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

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

### 4. Building – Hoarding Application

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

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

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

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

## 5. Road Opening Permit

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

## REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

## 6. Sydney Water – Tap in™

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](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

## 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](http://www.strathfield.nsw.gov.au)).

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation)  Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	\$ 6,317.50
Security Damage Deposit	\$ 15,000.00



Tree Bond	\$ 10,150.00
Administration Fee for Damage Deposit	\$ 130.00
Administration Fee for Tree Bond	\$ 130.00

<b>DEVELOPMENT CONTRIBUTIONS</b>	
Strathfield Section 94A Indirect Development Contributions Plan 2017	\$ 18,050.00

### **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](http://www.strathfield.nsw.gov.au).

## 8. Required Design Changes

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

Utility Relocation	<p>The applicant must acquire an approval from the energy authority for relocating the existing power pole on Hillcrest Avenue. The new driveway is to be no closer than 1200mm from the relocated power pole. All costs associated with relocating the power pole will be borne by the applicant.</p> <p>Details demonstrating compliance with this condition shall be provided to the Principal Certifying Authority prior to the issue of any Construction Certification.</p>
Side boundary fencing	The side boundary fencing forward of the building line shall not exceed a height of 1500mm above natural ground level.
Rear balcony	The rear balcony shall not exceed a length of 2000mm and width of 1000mm.

## 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: \$15,000.00
- (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: \$130.00.
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

## 10. Tree Bond

A tree bond of \$10,150.00 (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

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

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

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

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

#### 11. **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. 1153146S must be implemented on the plans lodged with the application for the Construction Certificate.

#### 12. **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.

### 13. **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.

### 14. **Pump-Out System Design for Stormwater Disposal**

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

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

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

### 15. **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.

### 16. **Off Street Parking – Compliance with AS2890**

All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities), AS 2890.6 (parking for people with disabilities) and AS 2890.2 (for commercial vehicle facilities).

### 17. **Compliance with Submitted Arborist Report**

The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Tree and Landscape Consultants dated 18 February 2021 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

The tree/s to be protected are listed in the table below.

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
1	Photinia robusta	Street tree	3m
2	Photinia robusta	Street tree	3m
3	Callistemon viminalis	Street tree	3m

### General Tree Protection Measures

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

### Specific Street Tree Protection Measures

- (g) 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.

### 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.

## 18. Tree Removal & Replacement

### Tree removal

Permission is granted for the removal of the following trees:

Tree No.	Tree species	Location
4	Magnolia x soulangeana	Front setback
5	Malus sp.	Rear setback
6	Olea sp.	Rear setback
7	Not specified	Rear setback

### General Tree Removal Requirements

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

### Tree Replacement

All trees permitted to be removed by this consent shall be replaced [1 tree for each tree removed] by species selected from Council's Recommended Tree List and must have a minimum mature height of 10 metres.

Replacement trees shall be a minimum 50 litre container size. Trees are to conform to the NATSPEC guide and Guide for assessing the quality of and purchasing of landscape trees by Ross Clarke, 2003. Trees are to be true to type, healthy and vigorous at time of delivery and planting, shall be pest and disease free, free from injury and wounds and self-supporting; and shall be maintained until maturity.

All trees are to be staked and tied with a minimum of three (3) hardwood stakes. Ties are to be hessian and fixed firmly to the stakes, one tie at half the height of the main stem, others as necessary to stabilise the plant.

Root deflection barriers having a minimum depth of 600mm are to be installed adjacent to all footpaths and driveways.

Soil conditioner/fertilizer/moisture retention additive/s are to be applied in accordance with manufacturer's recommendations, and mixed into the backfilling soil after planting tree/s.

A minimum 75mm depth of organic mulch shall be placed within an area 0.5m from the base of the tree.

Details demonstrating compliance shall be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

## 19. Pre-Construction Dilapidation Report – Private Land

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

- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
- (b) 35 Hillcrest Avenue
- (c) 31 Hillcrest Avenue

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

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

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

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

## 20. Demolition & Asbestos

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

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

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

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

## **21. Demolition Notification Requirements**

The following notification requirements apply to this consent:

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

## **22. 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.

## **23. Utility Arrangements**

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

### **DURING CONSTRUCTION**

## **24. 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.

## **25. 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.

**26. 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.

**27. Cost of Work to be Borne by the Applicant**

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

**28. 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.

**29. Swimming Pools – Filling with Water**

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

**30. Tree Removal on Private Land**

The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with *AS4373 -2007* and the *Amenity Tree Industry Code of Practice* (SafeWork NSW, August 1998).

**31. Excavation Works Near Tree to be Retained**

Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone 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.

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

### **32. 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.

### **33. 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.

### **34. Post Construction Dilapidation Report – Private Land**

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

- (a) 35 Hillcrest Avenue
- (b) 33 Hillcrest Avenue

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

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

### **35. Minor Development**

Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.

### **36. 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.

### **37. 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) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) 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.

#### **38. Vehicular Crossing - Minor Development**

The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Civic & Urban Services and in accordance with Council's Driveway Specifications.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.

The work must be completed before the issue of an Occupation Certificate.

#### **39. 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;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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.

### **OPERATIONAL CONDITIONS (ON-GOING)**

#### **40. Maintenance of Landscaping**

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

**41. 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.

**42. Entering & Exiting of Vehicles**

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

**43. Greywater System**

In order to conserve and re-use water, Council encourages all developments for new dwellings to incorporate a greywater reuse system. The system can incorporate a greywater diversion device or a domestic greywater treatment system. Any system installed is to ensure that it complies with the Plumbing Code of Australia, maintained at all times and does not result in any adverse amenity impacts on the subject premises and surrounding properties.

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

**44. Requirement for a Construction Certificate**

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

**45. 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.

**46. Notification of Critical Stage Inspections**

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

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

**47. 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.

**48. 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](#).

**49. 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.

**50. 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**

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

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

**52. 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.

**53. Clause 98B – Home Building Act 1989**

If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).

## **ADVISORY NOTES**

### **i. Review of Determination**

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

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

### **ii. Appeal Rights**

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

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

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

### **iv. 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)

### **v. 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.

### **vi. Site Safety Fencing**

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

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

#### **vii. 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](http://www.swimmingpoolregister.nsw.gov.au)