

IDAP REPORT

Property:	58 Myrna Road STRATHFIELD Lot 32 DP 14613 DA2021/9
Proposal:	Demolition of existing shed and construction of a secondary dwelling.
Applicant:	L Balachandran
Owner:	DN Soni
Date of lodgement:	25 January 2021
Notification period:	12 February – 26 February 2021
Submissions received:	Nil
Assessment officer:	D Strbac
Estimated cost of works:	\$99,000.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	No
Flood affected:	Yes
RECOMMENDATION OF OFFICER:	APPROVAL

DECISION

Development Approval

That Council as the Consent Authority pursuant to Section 4.16(1) (a) *Environmental Planning & Assessment Act 1979*, grant consent to Development Application No. 2021/9 for the demolition of existing shed and construction of a secondary dwelling at No. 58 Myrna Road Strathfield, subject to conditions.



Aerial map of subject site (shaded in red) and surrounding context

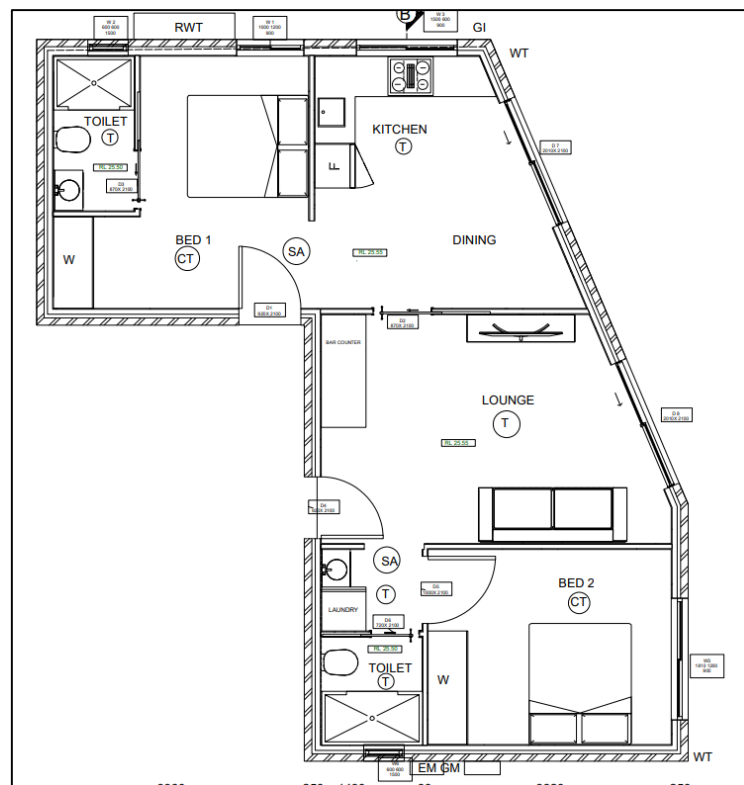
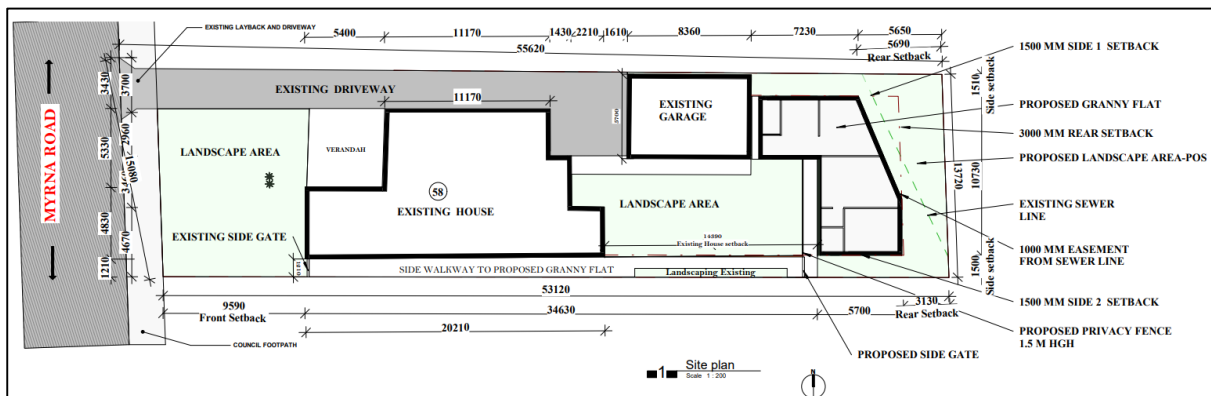
Report in Full

Proposal

Council has received an application for the demolition of existing shed and construction of a secondary dwelling. More specifically, the secondary dwelling will be located at the rear of the site, behind the primary dwelling, and includes:

- Two (2) bedrooms with ensuites;
- Lounge room;
- Laundry;
- Kitchen; and
- Dining room.

A site plan and floor plan of the proposed development is included below.



The Site and Locality

The subject site is legally described as Lot 32 in DP 14613 and commonly known as 58 Myrna Road, Strathfield. It is located on the western side of Myrna Road, between Ada Avenue and Glenarvon Street.

The site is rectangular in shape and has a frontage of 13.715m, a side boundary length of 53.135m, and a total area of 727.2m².

The site is relatively flat. It slopes to the front (east) and has a cross fall of approximately 1.2m.

The site is occupied by a single storey dwelling house (Figure 3). Vehicular access to the site is via an existing driveway on the southern end of the front setback.

The current streetscape features a suburban, low density residential character, featuring dwelling houses of diverse architectural styles and scale.



Figure 3: Existing dwelling at 58 Myrna Road.



Figure 4: Northern adjoining dwelling (56 Myrna Road).



Figure 5: Southern adjoining dwelling (60 Myrna Road).

Background

- 25 January 2021:** The subject application was lodged.
- 23 March 2021:** A Request for Information letter was sent to the applicant which requested a flood impact assessment report to be submitted.
- 29 March 2021:** A site visit was undertaken.
- 2 April 2021:** A flood impact assessment report was submitted.
- 6 April 2021:** A second letter was sent to the applicant which requested that the second kitchen and laundry be deleted. Concerns were raised that the secondary dwelling was capable of being separated into two (2) separate occupancies.
- 11 April 2021:** An amended floor plan was submitted which appropriately responded to the above concerns.

Section 4.15 Assessment

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,***

Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan (SLEP) 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	3.5m	Yes.
4.4 Floor Space Ratio	0.575:1 (418.4m ²)	0.28:1 (200.5m ²)	Yes. Primary dwelling = 141.8m ² Secondary dwelling = 58.7m ²

Part 5 – Miscellaneous Provisions

Controls Relating to Miscellaneous Permissible Uses – Secondary Dwellings

Clause 5.4(9) of the SLEP 2012 requires secondary dwellings to have no more than 60m² of floor area or 20% of the total floor area of the principal dwelling. The proposal involves a floor area of 58.7m², which satisfies the requirements of the development standard. In this regard, the proposed development is acceptable, subject to the conditions of consent.

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.

Flooding

The subject site has been identified as being at or below the flood planning level. Based on the flood impact assessment report, the flood level is 25.05AHD and therefore to satisfy the freeboard requirement, the minimum floor level for the proposed secondary dwelling has been set at 25.55AHD. The architectural plans and flood impact assessment report 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.

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 SEPP 55 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 proposed development does not result in the removal or loss of any trees or vegetation subject to the provision of this SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

Applicable SEPP Controls	Development Standards	Compliance/Comment
(2)	No other dwelling other than the principal and secondary dwelling is permitted.	Complies.
(3)(a)	Not more than total floor area allowed under another EPI	Complies.
(3)(b)	Total floor area of secondary dwelling is no more than >60m ² or whatever is allowed under another EPI	Complies.

(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 (SCDCP) 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP.

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/Comment
Landscaping Deep Soil Area: Private Open Space Area: Minimum Dimension:	43% (312.696m ²) 10m ² 3m	36.85% (268m ²) >10m ² >3m	Does not comply. Complies. Complies.
Solar Access POS or habitable windows	3hrs to habitable windows and to 50% of POS	>3hrs to habitable windows and to 50% of POS	Complies.
Secondary Dwellings Floor Area: Height: Private Open Space: Side Setback: Rear Setback:	60m ² 3.5m 12m ² 1.5m 3m	58.7m ² 3.5m >12m ² 1.5m 3m	Complies. Complies. Complies. Complies. Complies.

Landscaping and Open Space

The SCDCP requires 43% (312.696m²) of the site to be landscaped. The proposal fails to satisfy this landscaping requirement, providing a total deep soil landscaped area of 36.85% (268m²). A condition will therefore be included in the consent which requires the paved side walkway within the southern side setback area to be replaced with deep soil landscaping (in the form of grassed turf areas) in order to satisfy the minimum 43% requirement.

Privacy

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

Solar Access

Given the east-west 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 or maintained 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.

Ancillary Structures

Secondary dwelling

The proposed secondary dwelling satisfies the relevant objectives and controls of the SCDCP 2005. The secondary dwelling achieves compliance with the maximum allowable floor area and is appropriately setback from side and rear boundaries. The finished floor level of the secondary dwelling also relates appropriately to the existing ground level. The design and configuration of the secondary dwelling are considered appropriate and acceptable and are unlikely to result in significant privacy impacts to the primary dwelling and adjoining dwellings.

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

Not applicable.

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

(e) the public interest.

The proposed development 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 DIRECT SECTION 7.11 CONTRIBUTIONS PLAN

Section 7.11 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contributions Plan 2010-2030.

Provision Roads and traffic Management	\$509.10
Provision of Local Open Space	\$1913.88
Provision of Major Open Space	\$8967.16
Provision of Community Facilities	\$1911.59
Administration	\$164.83
TOTAL	\$13,196.56

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. 9/2021 should be approved subject to conditions of consent.

Signed:
D Strbac
Planner

Date: 29 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 7.11/7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed and concurred with.

MCP

Signed:

**Miguel Rivera
Senior Planner**

Date:

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	03	12 January 2021	A	Lakshmy Balachandran
Ground Floor Plan	05	11 April 2021	C	Lakshmy Balachandran
Roof plan	06	2 April 2021	C	Lakshmy Balachandran
Elevations 1	07	2 April 2021	C	Lakshmy Balachandran
Elevations 2	08	2 April 2021	C	Lakshmy Balachandran
Finishes Schedule	15	12 January 2021	A	Lakshmy Balachandran

Stormwater Drainage Plan	1	12 January 2021	A	MBC Engineering Pty Ltd
Sediment Control Plan	11	12 January 2021	A	Lakshmy Balachandran
Landscape plan	12	12 January 2021	A	Lakshmy Balachandran
BASIX Certificate	Cert no. 1131033S	12 January 2021	A	Lakshmy Balachandran
Flood Impact Assessment Report	-	2 April 2021	A	C. Zhao
Waste Management Plan	-	12 January 2021	A	Lakshmy Balachandran

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

3. **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) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

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. 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/	\$ 346.50
Security Damage Deposit	\$ 2,700.00
Administration Fee for Damage Deposit	\$ 130.00

DEVELOPMENT CONTRIBUTIONS	
Strathfield Section 94 Development Contributions - Roads and Traffic Management	\$509.10
Strathfield Section 94 Development Contributions – Local Open Space	\$1913.88
Strathfield Section 94 Development Contributions – Major Open Space	\$8967.16
Strathfield Section 94 Development Contributions – Community Facilities	\$1911.59
Strathfield Section 94 Development Contributions - Administration	\$164.83
Total:	\$13,196.56

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.

6. Required Design Changes

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

Deep soil landscaped area	The paved walkway within the southern side setback is to be replaced with grassed turf.
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7. 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: \$2,700.00.
- (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.

8. 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. 1131033S must be implemented on the plans lodged with the application for the Construction Certificate.

9. 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.

10. **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.

11. **Compliance with Flood Study**

The development shall be designed to conform to the recommendations and conclusions of the submitted flood study prepared by MBC Engineering rev A dated 30.03.2021.

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

- (a) Minimum floor levels
- (b) Overland flow path construction

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.

12. **Drainage System – Maintenance of Existing System**

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

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

13. **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.

14. **Tree Protection and Retention**

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.

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

15. **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.

16. **Dial Before You Dig**

The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.

DURING CONSTRUCTION

17. **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.

18. **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.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

19. **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.

20. **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.

21. **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.

22. **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)

23. **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

24. **Requirement for a Construction Certificate**

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

25. **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.

26. **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.

27. **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.

28. **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](#).

29. **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.

30. **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

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

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

32. **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.

33. **Clause 98F – Build to Rent Housing**

- (1) For the purposes of section 4.17(11) of the Act, the requirements set out in this clause are **prescribed** as conditions of development consent for development permitted under Part 2, Division 6A of [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#).
- (2) During the relevant period-
 - (a) the development must contain at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and
 - (b) for development on land in Zone B3 Commercial Core—any building to which the development relates must not be subdivided into separate lots, and
 - (c) for development on land in another zone—the tenanted component of the development must not be subdivided into separate lots, and
 - (d) the tenanted component of the development—
 - (i) must be owned and controlled by 1 person, and
 - (ii) must be operated by 1 managing agent, who provides on-site management.
- (3) In this clause-
relevant period means-
 - (a) for development on land in Zone B3 Commercial Core—for the period commencing on the day an occupation certificate is issued for all parts of the building or buildings to which the development relates and continuing in perpetuity, or
 - (b) for development on other land—for a period of 15 years commencing on the day an occupation certificate is issued for all parts of the building or buildings to which the development relates.

tenanted component has the same meaning as in clause 41A of [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#).

ADVISORY NOTES

i. Review of Determination

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

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

ii. Appeal Rights

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

iii. Lapsing of Consent

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

iv. Long Service Levy

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

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.