

IDAP REPORT

Property:	20 Myee Avenue STRATHFIELD Lot 12 in DP 15955 DA2021.153
Proposal:	Demolition of existing structure, construction of a two (2) storey dwelling house with basement, outbuilding with bathroom and pool equipment storage, front fence, in-ground swimming pool and associated landscaping works.
Applicant:	ZTA Group
Owner:	R. Sibai
Date of lodgement:	6 July 2021
Notification period:	13 July 2021 – 29 July 2021
Submissions received:	1 (One)
Assessment officer:	L Gibson
Estimated cost of works:	\$1,078,001.00
Zoning:	R2 – Low Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	No
RECOMMENDATION OF OFFICER:	REFUSAL



Figure 1: Locality Plan with subject site outlined in yellow.

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures, construction of a two (2) storey dwelling house with basement, outbuilding with bathroom and pool equipment storage, front fence, in-ground swimming pool and associated landscaping works.

Site and Locality

The site is identified as 20 Myee Avenue Strathfield and has a legal description of Lot: 12 DP: 15955. The site is a regular shaped parcel of land and is located north of Ada Avenue and south of Newtown Road.

The site is a rectangular-shaped allotment providing a frontage width of 15.24m, an average depth of 50.29m and a total site area of 771.4m².

The current streetscape is undergoing a state of transition from that of single storey brick cottages with pitched tiled roof forms, to contemporary-style dwellings. The streetscape therefore portrays a variety of old and new housing stock.

Strathfield Local Environmental Plan

The site is zoned R2-Low Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent.

The proposal fails to satisfy the aims and objectives contained in the LEP. Namely, the proposal contradicts the flood planning aims and objectives as required by the LEP. Accordingly, the proposal is not supported in this regard.

Development Control Plan

The proposed development fails to satisfy the provisions of Strathfield Consolidated DCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan from 13 July 2021 – 29 July 2021, where one (1) submission was received. Concerns relating to visual privacy; overshadowing; height of building; bulk and scale; character of development; FSR compliance; and setbacks were raised.

Issues

The proposal raises a number of planning concerns. These include floor space, basement size, building height, streetscape compatibility, colours and finishes, landscaping, solar access, driveway, outbuilding, and flood affectation.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Development Application 2021/153 is recommended for refusal subject to attached reasons of refusal.

REPORT IN FULL

Proposal

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

More specifically, the proposal includes construction of a dwelling house comprising:

Basement level:

- Two (2) vehicle parking spaces;
- Cinema room;
- Spa room;
- Gym;
- Sauna room;
- Rubbish bin area; and
- Storage room.

Ground floor level:

- Lounge room;
- Study;
- Bedroom;
- Laundry; and
- Open plan living, dining kitchen and butler's pantry and attached alfresco.

First floor level:

- Library;
- Three (3) bedrooms with ensuite; and
- Master suite with WIR and ensuite.

External works:

- Outbuilding attached to pump equipment storage area;
- In-ground swimming pool;
- Front fencing; and
- Associated landscaping and drainage works.

Note: all three (3) levels of the building are serviced by a stairwell and lift shaft.

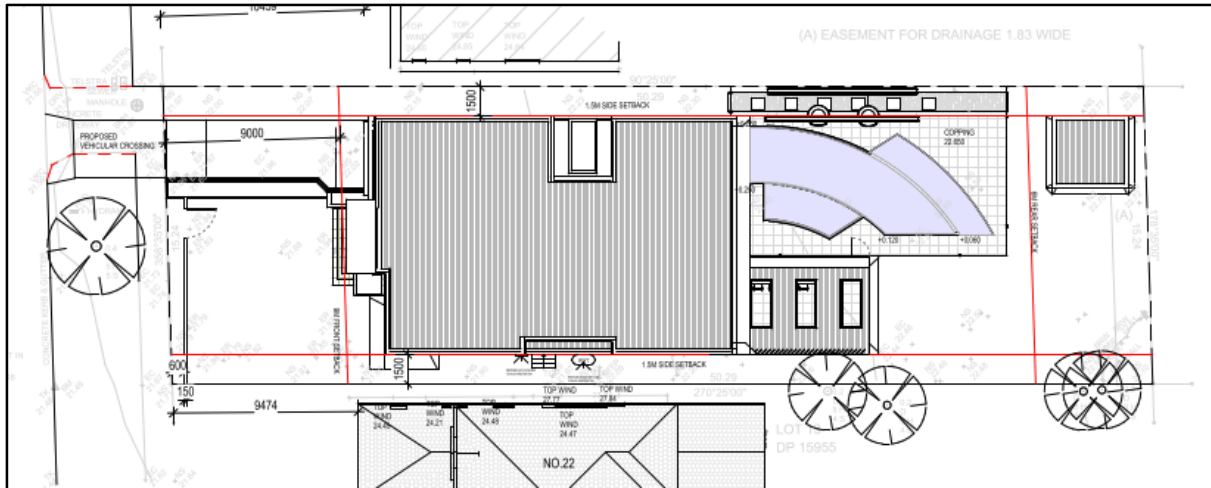


Figure 2: Amended site plan, received by Council 1 September 2021.

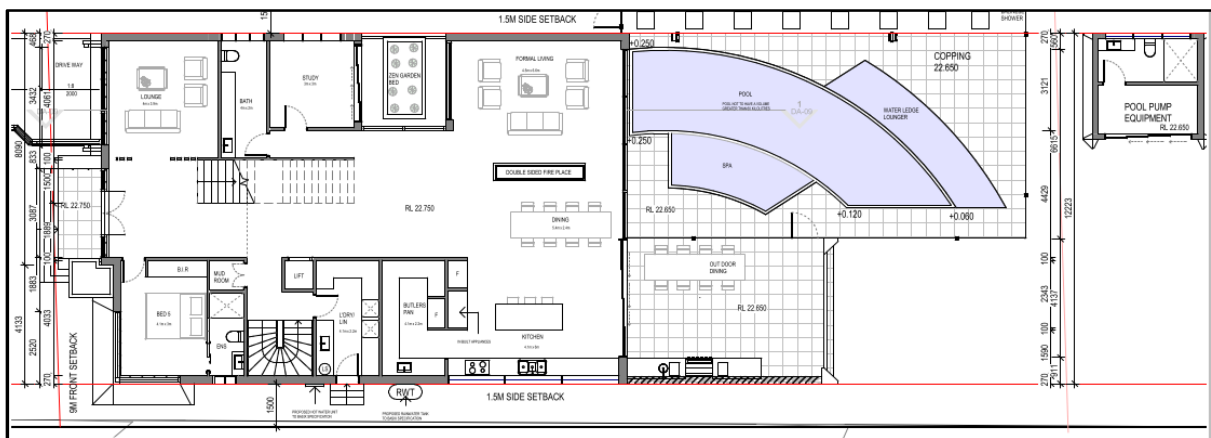


Figure 3: Amended ground floor plan, received by Council 1 September 2021.



Figure 4: Amended 3D render, received by Council 1 September 2021.

The Site and Locality

The site is identified as 20 Myee Avenue Strathfield and has a legal description of Lot: 12 DP: 15955. The site is a regular shaped parcel of land and is located north of Ada Avenue and south of Newtown Road. The site is a rectangular-shaped allotment providing a frontage width of 15.24m, an average depth of 50.29m and a total site area of 771.4m² (refer to Figure 5 below).



Figure 5: View of subject site (outlined in yellow) and surrounding residential development.

The site is currently comprised of a single storey cream render cottage with pitched terracotta roof tiles. The driveway is located upon the northern portion of the site which leads to an attached tandem carport (refer to Figure 6 below).



Figure 6: View of existing dwelling on subject site.

The current streetscape is undergoing a state of transition from that of single storey brick cottages with pitched tiled roof forms, to contemporary-style dwellings. The streetscape therefore portrays a variety of old and new housing stock (refer to Figures below)

The new dwellings in the street feature bold geometrically-shaped designs which demonstrate a significant increase in the prevailing massing, bulk, height and scale to that of existing original dwellings in the street. An emerging presence of a black, white and grey colour palate is prevalent in new development within the streetscape (refer to Figures below).



Figure 7: Existing development immediately opposite subject site at 19-21 Myee Avenue.



Figure 8: New contemporary dwelling under construction at 11 Myee Avenue, Strathfield



Figure 9: Modern-style dwelling at 13 Myee Avenue, Strathfield

Background

13 July 2021 – 29 July 2021	The application was publicly notified for a period of 14 days. One submission was received during this time.
8 July 2021	<p>A ‘Stop the Clock’ letter was sent to the Applicant raising concern for the following:</p> <ul style="list-style-type: none"> • Compliance with permissible FSR; • Excessive basement footprint; • Building height; • Streetscape compatibility; • External colours and finishes selection; • Landscaping; • Overshadowing; • Driveway width; • Outbuilding
15 July 2021	<p>A second deferral letter was sent requesting:</p> <ul style="list-style-type: none"> • A Flood Impact Assessment; and • Basement design changes
28 July 2021	A Flood Impact Assessment and amended plans were submitted to Council for review.
12 August 2021	Amended architectural plans were submitted to Council for further consideration.

Council's assessing officer contacted neighbouring objector who expressed concern for loss of solar access, lack of streetscape compatibility and loss of privacy.

Further discussion with Applicant regarding solar access and a requirement for further details to demonstrate extent of overshadowing to adjoining property and further efforts to resolve this.

- 19 August 2021 A third deferral letter was sent to the applicant raising concern for:
- Non-compliant floor space;
 - Streetscape compatibility; and
 - Overshadowing impacts.
- 1 September 2021 Revised architectural plans were submitted to Council for further consideration.

Referrals – Internal and External

Stormwater

The application was referred to Council's Stormwater Engineer who made the following comments:

"20 Myee Avenue, Strathfield (DA2021/153) is affected by overland flow of stormwater from adjoining property of the 1 in 100yr ARI storm event in accordance with Cooks River and Coss Creek flood study. Flood plan attached.

Flood Impact Assessment report in accordance with Council Interim Flood Prone Land Policy for 20 Myee Avenue needs to be submitted for determination."

On 28th July 2021, a Flood Impact Assessment was prepared and submitted to Council's Stormwater Engineer for further consideration. Whilst the Flood Impact Assessment report was in itself satisfactory, the recommendations made were not incorporated into the amended design.

Trees

The application was referred to Council's General Manager of Civic Services. The proposal seeks to retain the street tree with minimal impact imposed to neighbouring trees surrounding the site. No concern was raised for the proposal in this regard.

Section 4.15 Assessment – EP&A Act 1979

The following is an assessment of the application with regard to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

(1) *Matters for consideration – general*

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) **the provision of:**
 (i) **any environmental planning instrument,**

Strathfield Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan 2012. The proposal fails to satisfy the objectives contained in the LEP. Namely, the proposal is contrary to clause (h) of the aims of the LEP which requires development:

- (h) to minimise risk to the community by identifying land subject to flooding and restricting incompatible development.*

Whilst a Flood Impact Statement was submitted to Council during the assessment process, the proposal has not been revised to adhere to the recommendations provided by the report. This includes providing a sufficient freeboard level for habitable rooms of the dwelling and a suitable driveway crest height. Consequently, the proposal fails to satisfy this overarching aim of the LEP and has been included as a reason for refusal.

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	7.45m	Yes
4.4 Floor Space Ratio	0.575:1 (443.56m ²)	0.56:1 (429.5m ²)	Yes

Part 5 – Miscellaneous Provisions

Heritage Conservation

The subject site is not listed as a heritage item or located within a heritage conservation area. The site does not adjoin nor is in close proximity to a heritage item and as such, the provisions of this clause are not applicable.

Flood Planning

The subject site has been identified as being at or below the flood planning level. The application has been reviewed by Council's Engineer who requested a Flood Impact Statement to be prepared and submitted to Council for consideration. The Flood Impact Statement later submitted during the assessment process has recommended that due to the flood affectation of the site, a habitable freeboard of RL 23.30m is to be provided along with a driveway crest height of RL 22.80m. The proposed habitable freeboard of RL 22.75 and driveway crest height of RL 21.6m presents a 500mm and 200mm departure respectively from the minimum requirements as recommended in the report.

The proposal is therefore considered incompatible with the flood hazard of the land resulting in adverse risks and effects on flood behaviour and the environment. Accordingly, the proposal fails to satisfy the objectives of this clause.

Part 6 – Additional Local Provisions

Acid Sulfate Soils

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2 3 or 4 soils. Therefore, Development Consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

Earthworks

The proposal involves significant excavation works for the provision of a basement, driveway ramps and ancillary works. The extent of excavation has been limited to the footprint of the ground floor above and access to and from the basement. The depth of excavation has been kept to minimum requirements to comply with Council's DCP controls and all ancillary works have been limited to what is required to provide access to and from the basement. The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to effect the existing and likely amenity of adjoining properties and there is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. The proposed excavation works are considered to satisfactorily address 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 SEPP55 are considered to be satisfied.

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

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

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

The proposal was referred to Council's General Manager of Civic Services for comment. No concern was raised to the proposal in this regard as the proposal seeks to retain and protect all existing trees on the site.

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

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

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

(iii) any development control plan,

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

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
Building Envelope			
Heights: Floor to ceiling heights:	3.0m	6.2m	No – refer to discussion below
Height to underside of eaves:	7.2m	6.95	Yes
Parapet height:	0.8m	0.5m	Yes
Overall height for flat roof dwelling:	7.8m	7.45m	
Basement height above NGL:	1.0m	550mm	
Number of Storeys/Levels:	2	2	
Setbacks: Front:	9m	9.3m	Yes
Side:	1.2m (min)	N: 1.5m	Yes
Side:	1.2m (min)	S: 1.5m	Yes
Combined Side Setback:	3.08m (20%)	3m	Yes
Rear:	6m	14.3m	Yes
Landscaping			
Landscaping/Deep soil Provisions:	43% (331.7m ²)	28.22% (217.7m ²) based on the original landscape plan submitted to Council.	No – based on information provided to Council, it appears deep soil zone is insufficient.
Fencing			

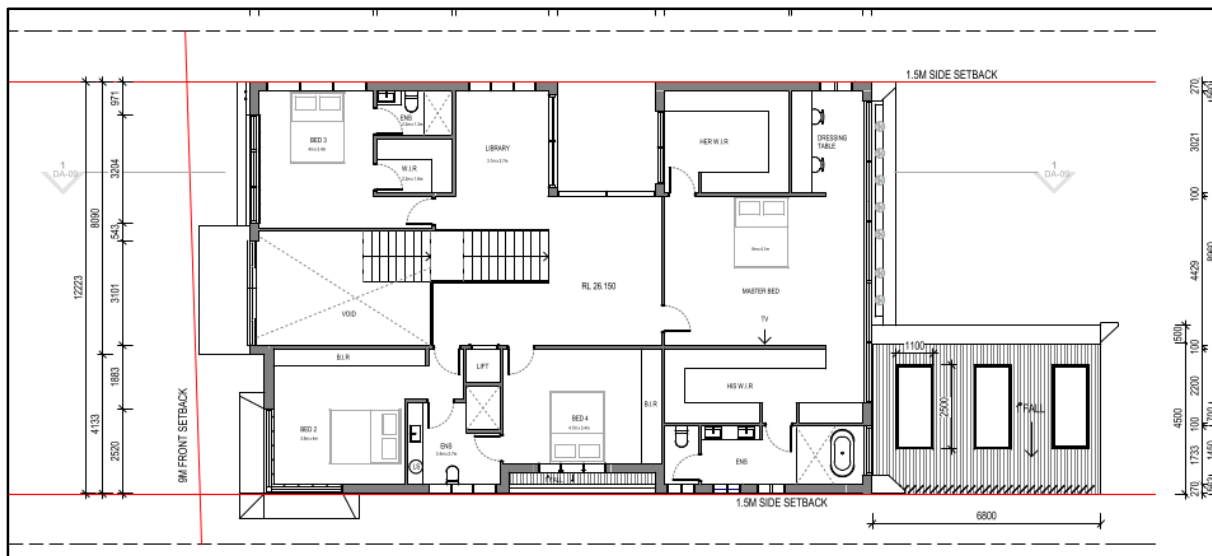
Height (overall/piers):	1.5m (maximum)	1.4m	No – refer to discussion below
Solid Component:	0.7m	1.4m	
Secondary Frontage:	1.8m	-	
Solar Access			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	The site's east-west orientation results in significant overshadowing to southern adjoining dwelling through the day.	No – refer to discussion below
Vehicle Access and Parking			
Driveway width at Boundary:	3m	3m	Yes
Vehicular Crossing:	1	1	Yes
Driveway setback – side:	0.5m	1.7m	Yes
No. of Parking Spaces:	2	2	Yes
Basement:			
Basement protrusion:	Less than 1.0m	550mm	Yes
Basement ramp/driveway	3.5m	3.5m	Yes
Internal height:	2.2m	2.3m	Yes
Ancillary Development			
OUTBUILDINGS			
Area:	40m ²	10m ² (excluding pool pump area)	Yes
Height:	3.5m	3m	Yes
Side/Rear setback:	0.5m	500mm	Yes
SWIMMING POOL			
Side/Rear Setback	1.0m	1.47m	Yes

Architectural Design and Streetscape Presentation

The proposal has been revised with some design changes made to achieve improved streetscape compatibility. The streetscape along Myee Avenue and surrounding locality is comprised of dwelling houses with an array of architectural styles. The street is in a state of transition and thus, the proposal for a contemporary dwelling with flat roof form is considered acceptable in this instance. Overall, the proposal generally meets the architectural features and design requirements under SCDP 2005. The photomontages below demonstrate some design changes which have been made to reduce the apparent bulk and height of the development and improve the development's compatibility with the streetscape.



Figure 10: Streetscape elevation of original building design



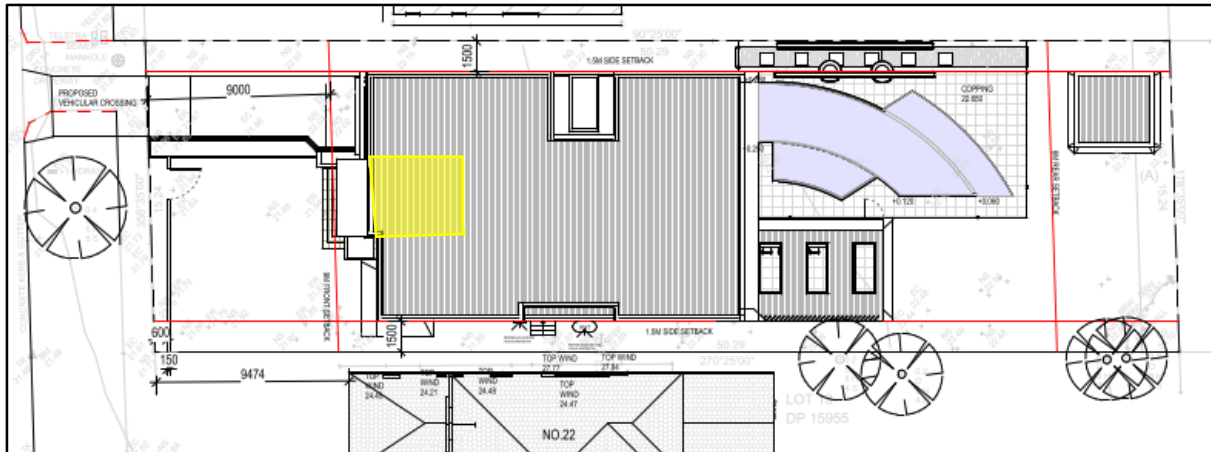


Figure 13: Site Plan of subject site showing general extent of void space as highlighted in yellow.

Landscaping and Open Space

The proposal is required to provide a minimum 43% (331.7m²) deep soil zone as per Section 5 of the SCDPC 2005. Based on the original landscape plan submitted as part of the application to Council, a minimum 28.22% (217.7m²) deep soil zone was proposed (refer to Figure 14 below). The plan presents a significant departure from the minimum requirements and was requested to be amended as part of the first deferral letter sent to the applicant.

The applicant submitted a revised draft landscape calculation plan during the assessment process (refer to Figures 15 below). The revised plan shows little change made to the original plan submitted to Council. The plan has also included areas of 1.5m or less as deep soil zone which is contrary to the definition of deep soil zone. Deep soil zone must be more than 1.5m in order to be included as such. It is further noted that the plan fails to include a pedestrian walkway from the front boundary to the front entrance which would further reduce deep soil zone through the site.

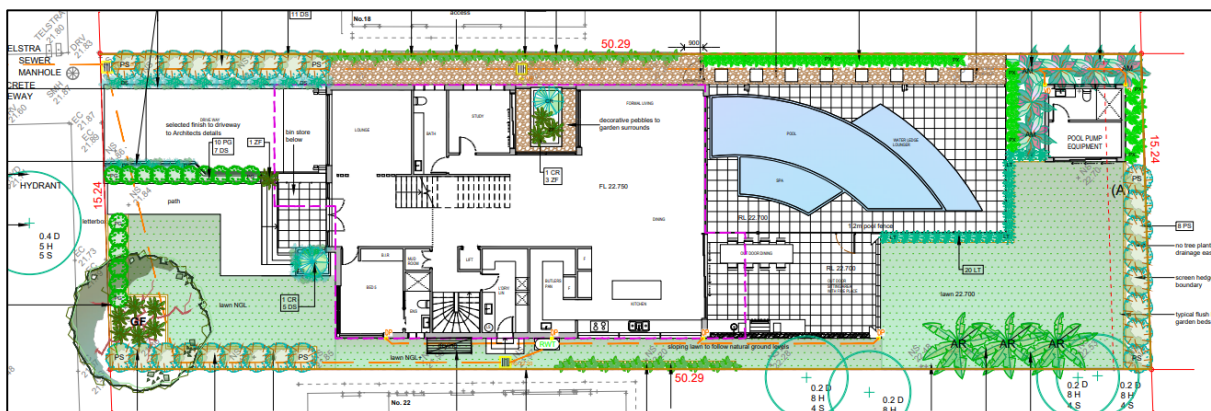


Figure 14: Proposed Landscape Plan

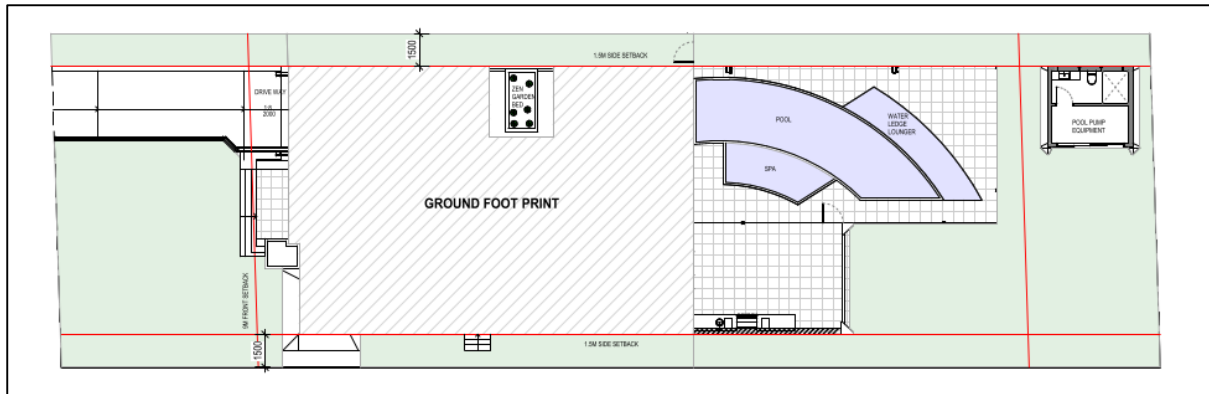


Figure 15: Revised draft landscape calculation Plan.

The plan fails to comply with the minimum numeric landscaping requirements for the site. The site is located within a generous and relatively unconstrained parcel of land and provides ample opportunity to embellish the site with deep soil zone suitable to the scale of the development.

Accordingly, compliance with the minimum landscaping requirements should be achieved without detriment to the overall design of the dwelling. This has been included as a reason for refusal.

Fencing

The proposal seeks a solid rendered front fence to a minimum height of 1.4m with horizontal slats forming the driveway and pedestrian gate entrances. Section 5.2.4 of Part A of the SCDGP requires front fencing forward of the front building line not to exceed 1.5m with solid components not to exceed 0.7m above NGL with the exception of brick piers.

Whilst the street is in a state of transition and thus a variety of fencing heights and styles are prevalent, all fencing has been designed to achieve a high level of visual permeability. Further, the solid construction is contrary to the CPTED principles which seek to improve passive surveillance in public domains through design. Accordingly, the solid fence design combined with the proposed height is not acceptable. This non-compliance has been included as a reason for refusal.



Figure 16: front fence design.

Solar Access

The unfavourable east-west orientation of the site results in a significant loss of solar access to the southern adjoining property at 22 Myee Avenue. The proposal fails to achieve a minimum 3 hours solar access to windows of habitable rooms and to at least 50% of the private open space between 9.00am-3:00pm at the winter solstice as per the SCDP 2005.

A series of shadow diagrams accompanied the application (refer to Figures below).

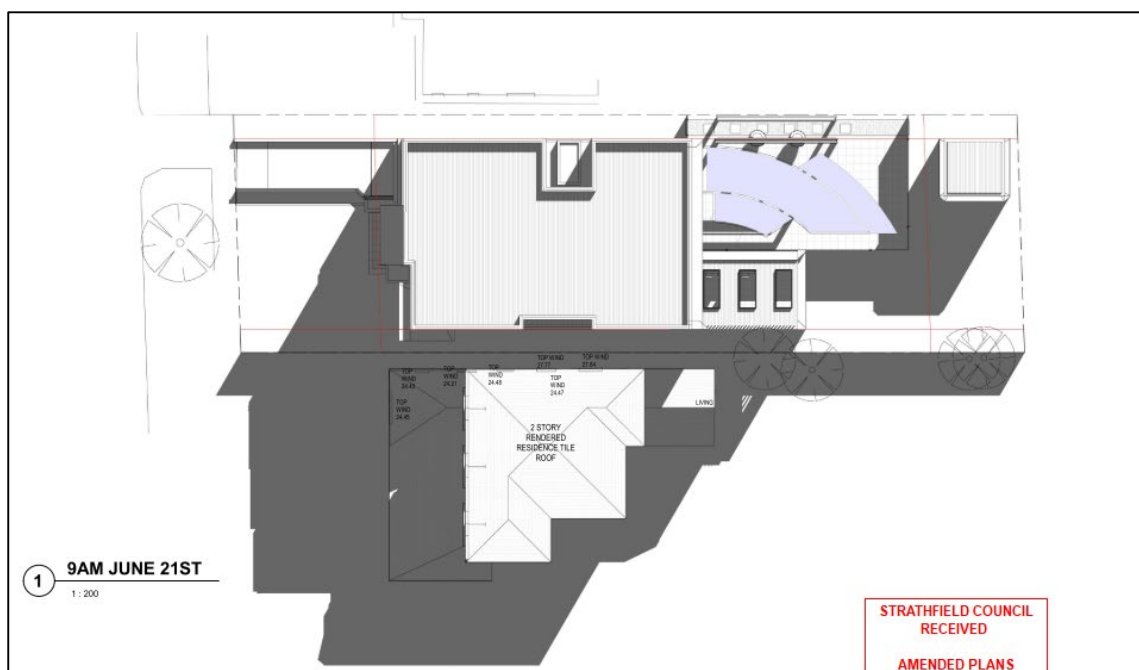


Figure 17: Shadow Diagram showing extent of overshadowing at 9am 21st June

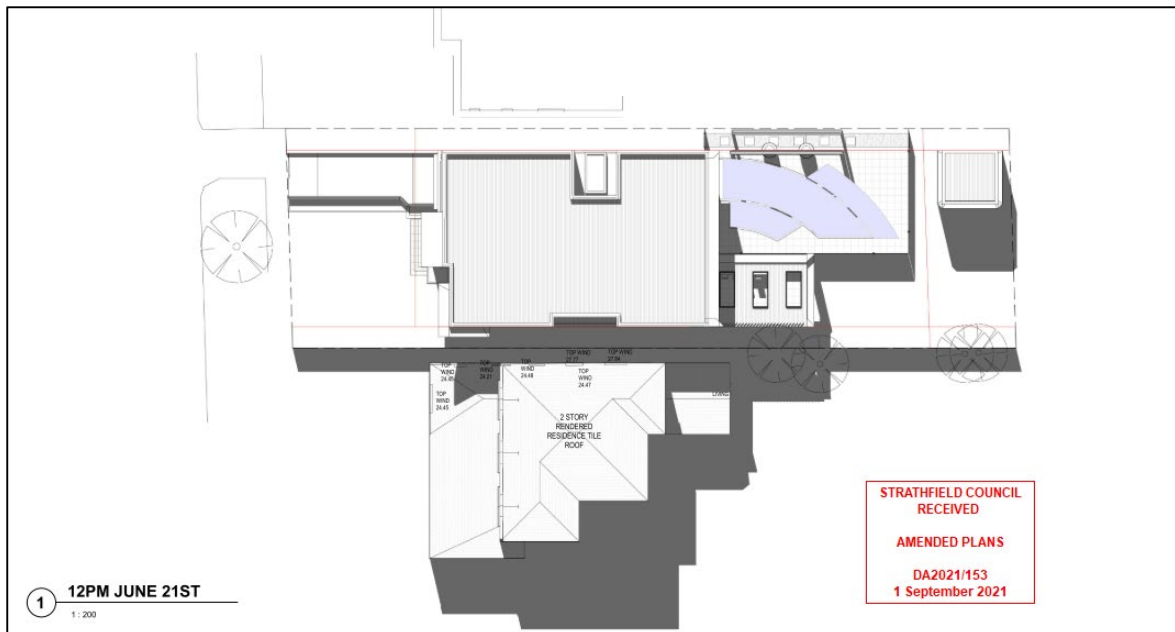


Figure 18: Shadow Diagram showing extent of overshadowing at 12pm 21st June

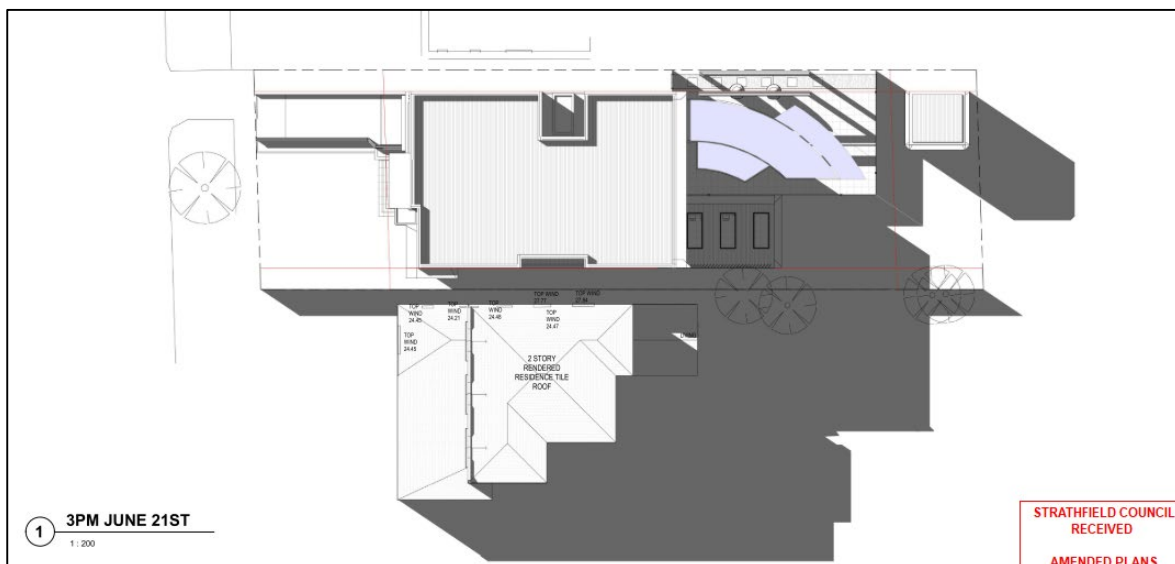


Figure 19: Shadow Diagram showing extent of overshadowing at 3pm 21st June

The figures above demonstrate that at 9am the proposed development casts a shadow over the northern wall of the southern adjoining dwelling as well as portions of the rear eastern elevation. At 12pm, the shadow moves east and continues to cast a shadow along the majority of the northern wall of the dwelling. By 3pm, the shadow moves further east, casting a shadow over the majority of the rear yard of the property.

Due to the severity of overshadowing to the southern adjoining property, Council requested a further analysis of overshadowing to the southern adjoining dwelling by way of shadow on elevation plans (refer to Figures below). The submitted diagrams demonstrate that a shadow will be cast over the northern oriented windows of the southern adjoining dwelling throughout the entire day. The front-most northern window to the ground floor pertains to a bedroom and appears to be the only northern window which will receive some solar access as a result of the proposal. This window will receive some solar access from 1pm onwards thus only receiving 2 hours solar access in total.

The shadow on elevation diagrams further demonstrate that the proposal overshadows the large bifold door upon the rear southern elevation of the dwelling (refer to figures 20 and 21 below). This room (pertaining to the kitchen), will only receive some solar access at 8am only. As clarified by the objector, the kitchen does not have any northern oriented windows to enable any solar access to be received and thus relies upon the eastern opening for some natural light.

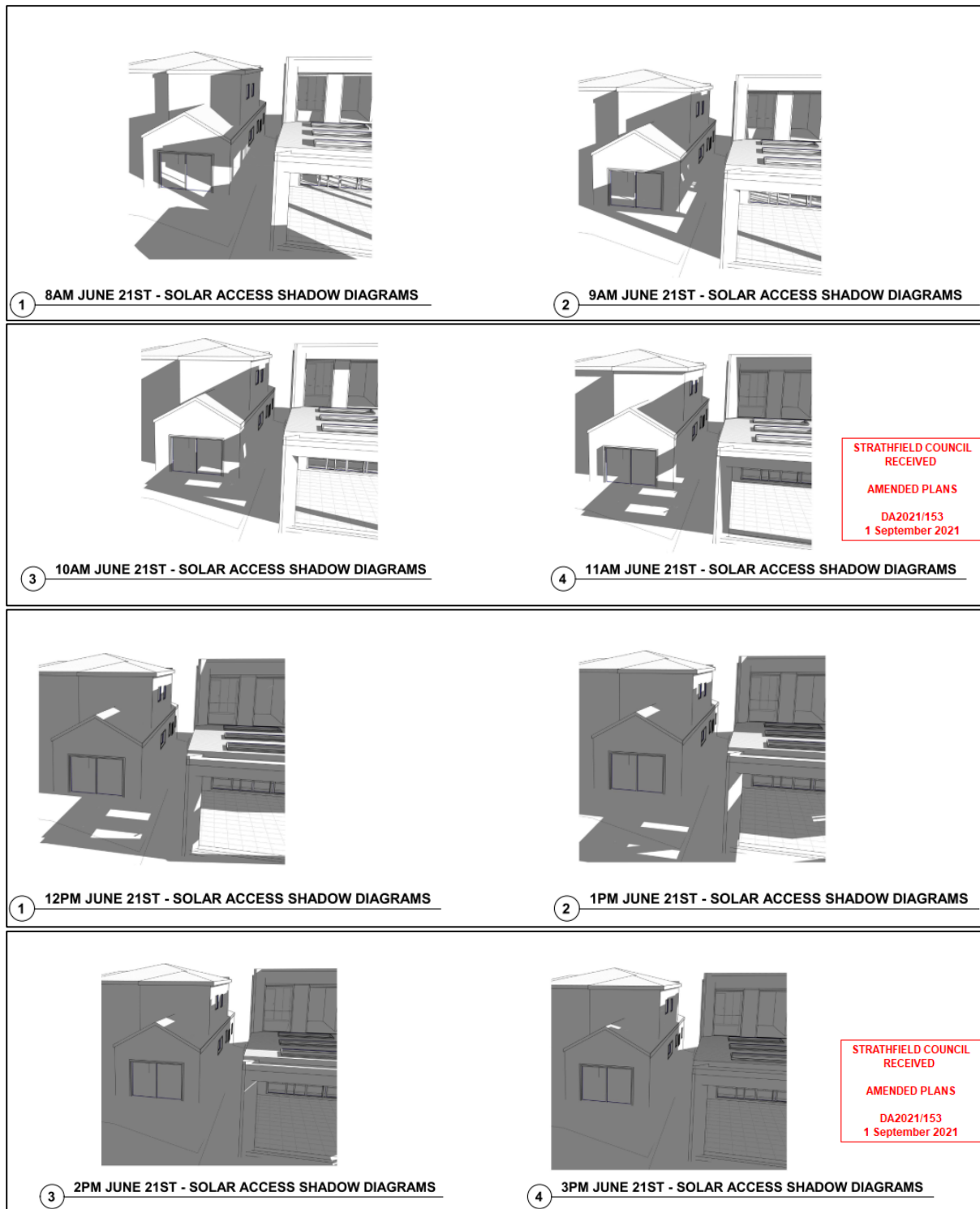


Figure 20: Shadow on elevation plans depicting extent of overshadowing to southern adjoining property.

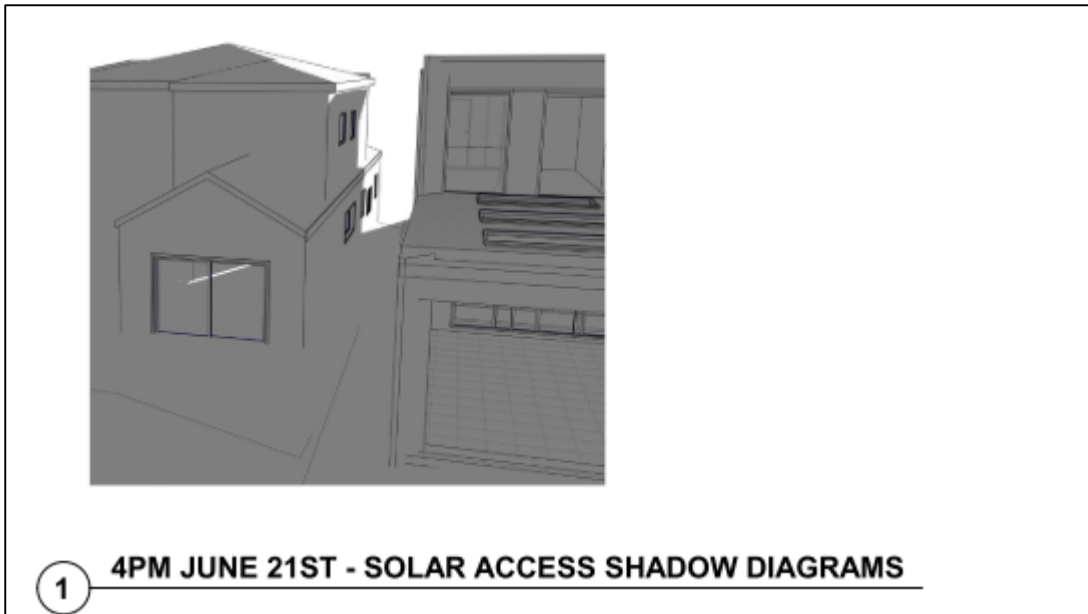


Figure 21: Shadow on elevation plans depicting extent of overshadowing to southern adjoining property.

The site is an east-west allotment and some degree of overshadowing is unavoidable. Council's assessing officer agreed with the applicant that the northern driveway should be retained so as not to adversely impact the council street tree. Notwithstanding these constraints, the site offers ample opportunities to increase building separation, reduce the bulk and height of the development, and re-arrange the floor layout so to enable improved solar access to the southern adjoining property.

A further request was made, via a third deferral letter, to the Applicant to revise the design so to minimise overshadowing impacts to the southern adjoining property. Specifically, the following design changes were requested to be considered:

- Relocate the zen garden to the southern side of the dwelling;
- Increasing the front setback to the southern portion of the façade;
- Relocating the rear alfresco area to the northern portion of the dwelling;
- Reducing the overall building height and length of building footprint where possible.

The revised set of plans submitted to Council demonstrated only a slight reduction in the overall building height and a small cut out proposed to a portion of the southern elevation wall on the first floor. These changes have not resulted in any noticeable improvement to overshadowing impacts to the southern adjoining property (refer to figure 22 below).

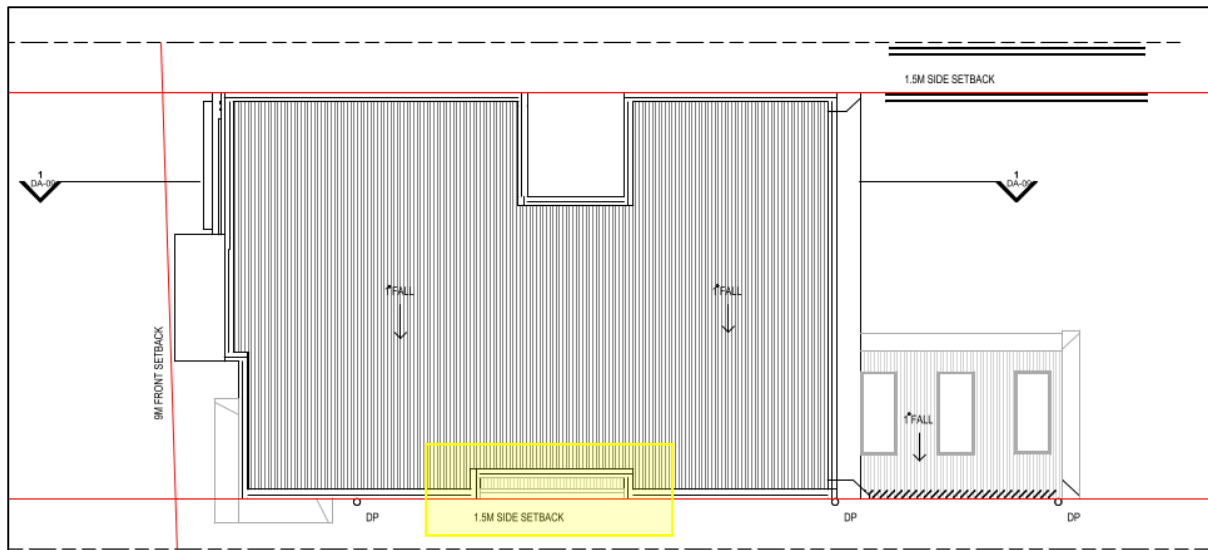


Figure 22: Revised roof plan depicting small cut out on the southern side elevation

Privacy

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005, in that adequate privacy is maintained between adjoining properties and any potential overlooking is minimised. Windows are offset from adjoining dwellings where required, they are screened, obscured or off low active use rooms so as not to negatively impact on adjoining properties.

Vehicular access, Parking and Basements

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005 in that it provides the minimum number of required parking spaces and adequate vehicular access provisions. The basement achieves a minimum clearance height of 2.3m and enables vehicles to enter and exit through the site in a forward motion. The basement protrudes 550mm above NGL and is therefore not considered as a storey as per the LEP definition. The proposal is acceptable in this regard.

Cut and fill

The proposed development is considered to satisfy the relevant objectives and controls of the SCDCP 2005, in that the need for cut and fill has been kept to a minimum and existing ground levels have been maintained where appropriate to reduced site disturbance. Existing trees and shrubs have been retained where possible and ground water tables are maintained.

Water and Soil Management

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

Access, Safety and Security

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005. Separate pedestrian and vehicle access provisions are provided, passive surveillance of the public street has been provided providing safety and perception of safety in the street.

ANCILLARY STRUCTURES

Swimming Pools, Spas & Associated Enclosures

The pool pump has been located within the rear outbuilding. This is generally acceptable as it is located away from sensitive habitable areas.

The proposed swimming pool is located 1.47m from the northern side boundary of the site however is comprised of hardstand surfaces devoid of any screen planting. This is contrary to the requirements of Section 12.2.5 of Part A of the SCDCP 2005 which requires a minimum 1m wide deep soil soft landscaped area continuous planting of screening shrubs to be provided. This has been included as a reason for refusal.

PART H – Waste Management (SCDCP 2005)

In accordance with Part H of Strathfield CDCP 2005, a waste management plan was submitted with the application. The plan adequately address Part H and considered satisfactory.

(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 proposal has failed to address the flood affectation of the site and overshadowing impacts to adjoining neighbours. The proposal thus results in significant impacts to the natural and built environment and is not supported.

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

It is considered that the proposed development is of a scale and design that is unsuitable for the flood affected nature of the land. The proposal fails to provide sufficient landscaping treatments to soften and balance the built form. The design and built form fail to respond adequately with the east-west orientation of the site and will deliver an undesirable and poor amenity outcome for the southern-adjointing neighbour that is unreasonable and unacceptable. Accordingly, the proposal is not supportable in this regard.

(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. A single submission was received from the southern adjoining neighbour at 22 Myee Avenue. This submission raised the following concerns:

1. Overshadowing

Concern is raised for the level of overshadowing to the southern adjoining property particularly to the ground floor living room with northern aspect. There are 3 north facing windows in living room, bathroom, hallway/dining and bedroom which will be adversely affected.

Comment: Refer back to previous solar access assessment in this report.

2. Visual Privacy

Concern is raised that the visual privacy intrusion resulting from the upper level windows proposed to the dwelling will impact the amenity of adjoining properties.

Comment: All windows and openings (including the rear alfresco area) have been designed to minimise opportunities for overlooking where possible. The proposal satisfies the visual privacy requirements under the SCDCP 2005 and is acceptable in this regard.

3. Building Height

Concern is raised that the flat roof is proposed to the dwelling. The proposal results in an overall building height of 8.2m which exceeds the maximum 7.8m building height controls as per the DCP. Additionally, the parapet should not be more than 0.8m.

Comment: Amended plans were submitted during the assessment process demonstrating a slight reduction in the overall building height to 7.45m above NGL which satisfies the maximum 7.8m building height requirements as per the SCDCP 2005. Further, the parapet heights have been reduced to 500mm.

4. Streetscape Compatibility

Comment: concern is raised that the proposal's bulk and scale is excessive and would result in adverse visual impacts when viewed from within the southern adjoining dwelling and rear yard of 22 Myee Avenue, Strathfield. The flat roofs is not compatible with the character of the area. Two (2) storey porticos should be avoided and the building length should be broken down through articulation. The building length on the southern façade is excessive with no articulation. The unbroken building length coupled with lack of building setbacks on its southern side have added to the monstrosity of this building.

Comment: The proposed design has been revised throughout the assessment process to achieve improved compatibility with the transitioning nature of dwelling designs in the street. Refer back to previous streetscape compatibility assessment in this report.

5. Gross Floor Area

Concern is raised that the gross floor area of the dwelling house is incorrectly identified in the architectural plans. The building includes a gymnasium and a cinema room in the basement, both of which are habitable rooms and 1.4m above the ground level on the northern side. The floor areas have not been added to the overall GFA. When added, they would exceed the maximum permissible for this site.

Comment: amended plans were submitted during the assessment process to address the site's exceedance beyond the maximum permitted floor space requirements for the site.

The habitable areas within the basement have been included in the floor space calculations. The amended plans have resulted in a reduced basement footprint to

ensure the site complies with the floor space requirements as permitted by Clause 4.4C of the SLEP 2012. The proposal results in an overall floor space of 0.56:1 (429.5m²) which complies with the maximum 0.575:1 (443.56m²) permitted for the site.

6. Side Setbacks

The side setbacks, especially on the southern side (for an east-west lot) do not comply with the DCP requirements. The driveway is on the northern side rather than on the south.

Comment: Section 4.2.4 of Part A of the SCDP 2005 requires east-west oriented lots to be designed with the greater side setback and driveway preferably located on the southern side. The proposal has sought to retain the existing driveway layback on the northern side so to minimise adverse impacts on the mature council street tree located forward of the site. Consequently, a greater setback and visual relief is provided along the northern side portion of the site which results in greater overshadowing impacts to the southern adjoining property. Refer back to previous solar access assessment in report.

7. Basement Design

The design of the basement on the northern side results in the dwelling house appearing as three storeys rather than two.

Comment: The basement protrudes 550mm above NGL and therefore does not constitute a third storey. The proposal is acceptable in this regard.

Mediation

On 12 August, Council's assessing officer contacted neighbouring objector who expressed concern for loss of solar access, lack of streetscape compatibility and loss of privacy. Further clarification was provided to Council regarding the location and specification of windows pertaining to rooms located on the neighbour's north facing length of the dwelling.

A third deferral letter was sent to the applicant on 19 August requesting additional information to be submitted to Council. This included a request for further design changes to be made to the dwelling to reduce overshadowing impacts and improve solar access to the southern adjoining property.

Refer back to previous solar access assessment in report.

(e) *the public interest.*

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation. The proposal results in adverse overshadowing and flood risk impacts. Accordingly, the proposed modifications are unable to be supported.

Local Infrastructure Contributions

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

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

STRATHFIELD INDIRECT SECTION 7.12 CONTRIBUTIONS PLAN

Section 7.12 Contributions are applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan. Notwithstanding, as the proposal is recommended for refusal, a calculation has not been provided.

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 SCDGP 2005.

Following detailed assessment it is considered that Development Application No. 2021/153 should be refused for the reasons attached.



Signed:

**L Gibson
Senior Planner**

Date: 2 September 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 whilst Section 7.11/7.12 Contributions are applicable to this development, they have not been levied as the report is a recommendation for refusal.

Report and recommendations have been peer reviewed and concurred with.



Signed:

**Miguel Rivera
Senior Planner**

Date: 7 September 2021

Reasons for Refusal

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
 - a) The proposal fails to satisfy the objectives of Clause 1.2(h) and Clause 5.21(1) of the *Strathfield Local Environmental Plan 2012* which seeks to minimise flood risk to life and property and to restrict incompatible development. The proposal has not been designed in accordance with the planning recommendations provided in the submitted Flood Impact Assessment. This includes provision of an appropriate freeboard level and driveway crest height to minimise risk to flood affectation (Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*)
 - b) The proposal fails to satisfy the objectives of Clause 1.2(a) of the Strathfield Local Environmental Plan 2012 which seeks to achieve high quality urban form by ensuring that new development exhibits design excellence and reflect the existing and desired future character of particular localities and neighbourhoods in Strathfield. The proposal results in a considerable loss of solar access to the southern adjoining property and therefore to the detriment of the resident's amenity (Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*)
2. Pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:
 - a) The proposal results in unacceptable void spaces providing a floor to ceiling height of 6.2m contrary to Section 4.2.2 of Part A of the SDCDP 2005. This results in additional and unnecessary bulk and scale to the development which further increases overshadowing impacts to the southern adjoining property (Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*).
 - b) The proposal fails to satisfy the fencing design objectives as provided by Section 5.2.4 of Part A of the Strathfield Consolidated Development Control Plan 2005 which requires front fencing forward of the front building line not to exceed 1.5m with solid components not to exceed 0.7m above NGL with the exception of brick piers. The proposed 1.4m height front fence is of solid construction which is incompatible with other fence designs in the surrounding streetscape which achieve a high level of visual permeability. The front fence design is also contrary to CPTED principles which seeks to encourage visual permeability to improve passive surveillance to the street (Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*).

- c) The proposal fails to satisfy the minimum solar access requirements as provided by Section 6.6 of Part A of the Strathfield Consolidated Development Control Plan 2005 which requires new dwellings to achieve a minimum 3 hours solar access between 9.00am and 3.00pm on June 21 to the windows of habitable rooms and 50% of private open space to adjoining properties. The southern adjoining property at 22 Myee Avenue will be cast in shadow throughout the entirety of the day as a result of the proposal (Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act 1979*)
 - d) The proposal fails to satisfy the minimum 43% (331.7m²) deep soil zone requirements as provided by Section 5 of Part A of the Strathfield Consolidated Development Control Plan 2005. The deep soil zones proposed on the site appear inadequate and unsuitable to both the scale of the development as well as to existing landscaping in the streetscape (Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act 1979*)
 - e) The proposal fails to satisfy the requirements as per Section 12.2.5 of Part A of the SDCDP 2005 which requires a minimum 1m wide deep soil soft landscaped area continuous planting of screening shrubs to be provided between the swimming pool and property boundary (Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act 1979*)
- 3. Pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
 - a) The proposal results in the southern adjoining property receiving poor solar access throughout the day and thus resulting in poor amenity for its residents at 22 Myee Avenue (Section 4.15(b) of the *Environmental Planning and Assessment Act 1979*)
- 4. Pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development for the following reasons:
 - a) The proposal is considered unsuitable for the site as it fails to satisfactorily address the flood planning requirements of the site as well as the overshadowing impacts to the southern adjoining property at 22 Myee Avenue, Strathfield (Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*).
 - b) The proposal results in an unacceptable loss of solar access received by the southern adjoining property at 22 Myee Avenue, Strathfield as well as presents a flood risk to life and property (Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*).
- 5. Pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent. The proposal fails to address substantive issues raised in public submission/s and involves numerous variations and non-compliant matters that are unacceptable and fail to demonstrate merit.