

## IDAP REPORT

<b>Property:</b>	2-4 Badgery Avenue HOMEBUSH Lot: 1 DP:1267936 DA2021.161
<b>Proposal:</b>	Demolition of existing structures and construction of a two (2) storey dwelling with basement, in-ground swimming pool, boundary fencing and associated landscaping.
<b>Applicant:</b>	J Tannous
<b>Owner:</b>	B Wai & A Wai
<b>Date of lodgement:</b>	16 July 2021
<b>Notification period:</b>	23 July 2021 to 9 August 2021
<b>Submissions received:</b>	1
<b>Assessment officer:</b>	G I Choice
<b>Estimated cost of works:</b>	\$1,500,000.00
<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:** Subject site aerial photograph (highlighted in yellow)

## **EXECUTIVE SUMMARY**

### **Proposal**

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

### **Site and Locality**

The subject site is legally described as Lot: 1 DP: 1267935 and commonly known as 2-4 Badgery Avenue HOMEBUSH. It is located on the south-east side of Badgery Avenue. The site is a five-sided corner allotment with a primary frontage to Badgery Avenue, a secondary frontage to Mackenzie Street, and an area of 1389.7m<sup>2</sup>.

The surrounding area is characterised by low density residential development.

### **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 satisfies all relevant objectives contained within the LEP.

### **Development Control Plan**

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

### **Notification**

The application was notified in accordance with Council's Community Participation Plan from 23 July 2021 to 9 August 2021, one (1) submission was received raising the following concerns:

- Traffic generated by associated works
- Dust Suppression
- Noise control measures (during works and ongoing domestic machinery)
- Side setbacks
- Impacts of excavation, cut and fill

### **Issues**

- Combined side setback totals less than 20% of site width (SCDCP 2005).

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2021/161 is recommended for approval subject to suitable conditions of consent.

## REPORT IN FULL

### Proposal

Council has received an application for the Demolition of existing structures and construction of a two (2) storey dwelling with basement, in-ground swimming pool, boundary fencing and associated landscaping. More specifically, the proposal includes;

#### Basement level:

- Two (2) parking spaces
- Storage room
- Internal lift and stair access

#### Ground floor level:

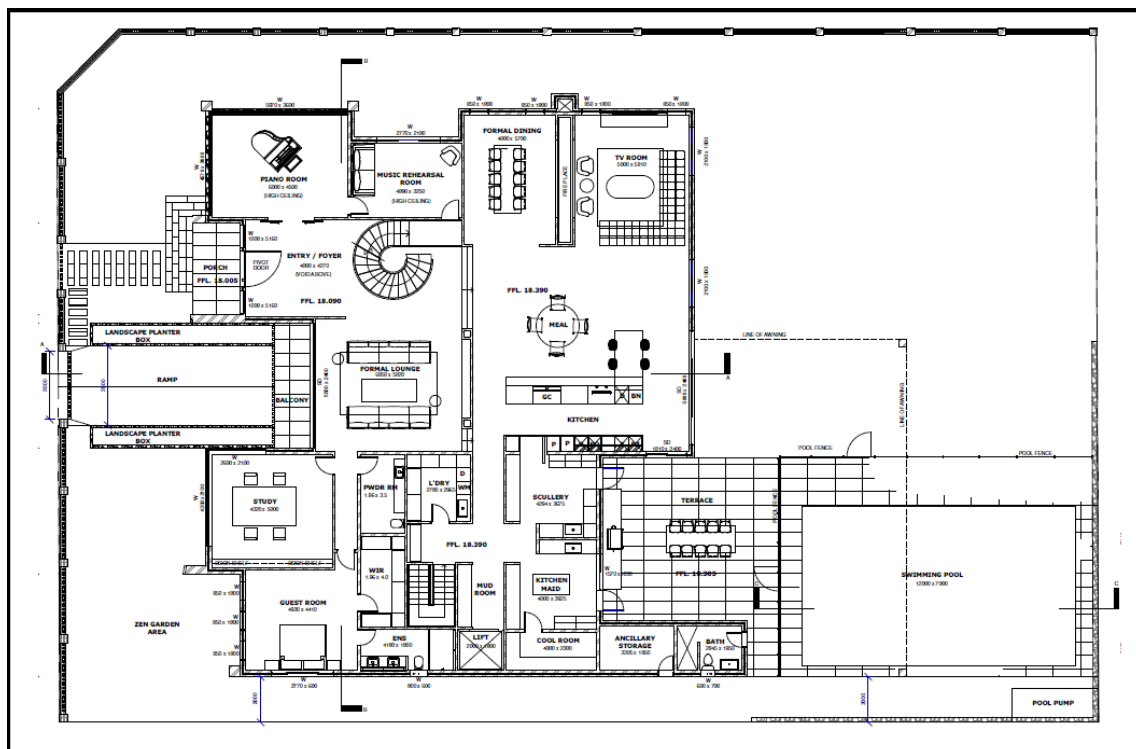
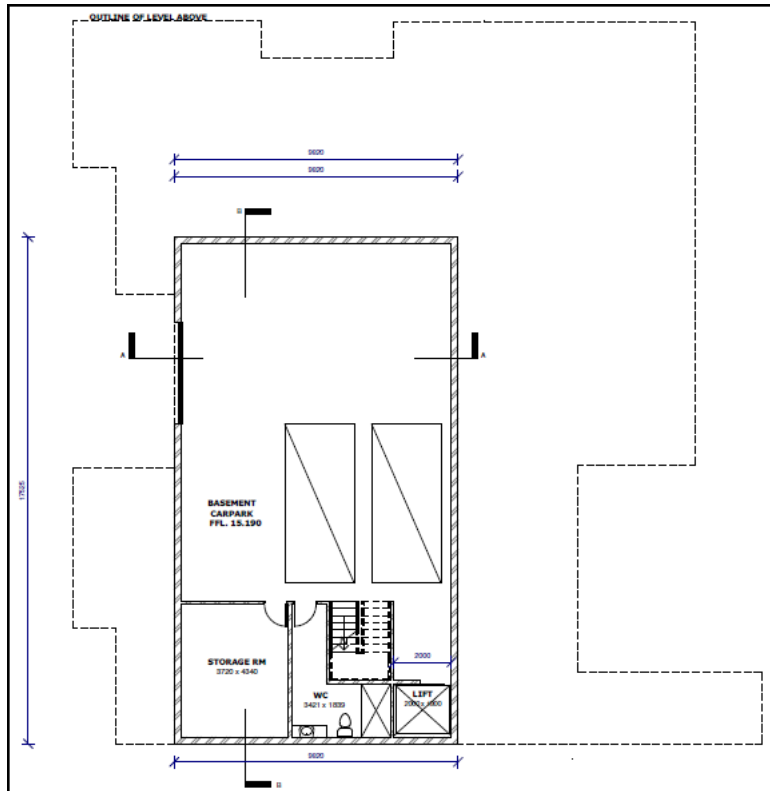
- Kitchen/meals area with scullery, kitchen maid and cool room
- Formal dining area
- TV room
- Music Rehearsal room
- Piano room
- Formal lounge
- Study
- Guest room with WIR and en suite
- Powder room
- Mud room
- Separate laundry
- Separate storage room
- Rear outdoor terrace
- Terrace bathroom

#### First floor level:

- Four (4) bedrooms – each with en suite - including Master bedroom with WIR

#### External works:

- New swimming pool
- Associated landscaping
- Front and secondary frontage fencing



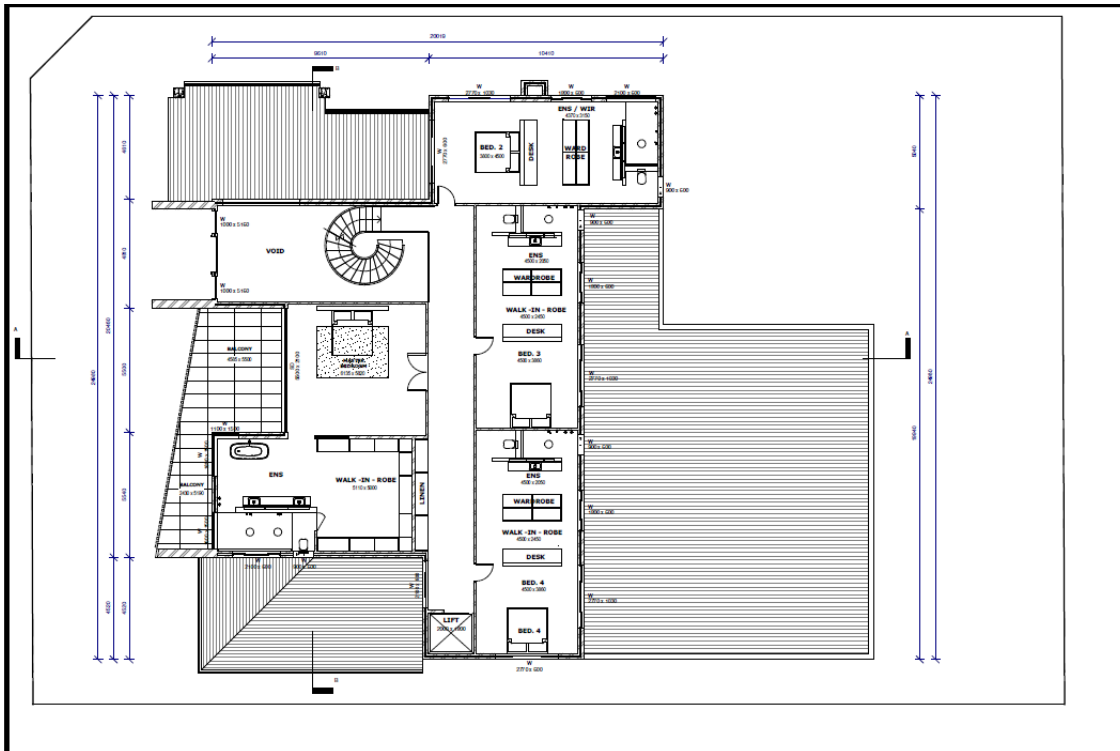


Figure 4: Proposed first floor plan

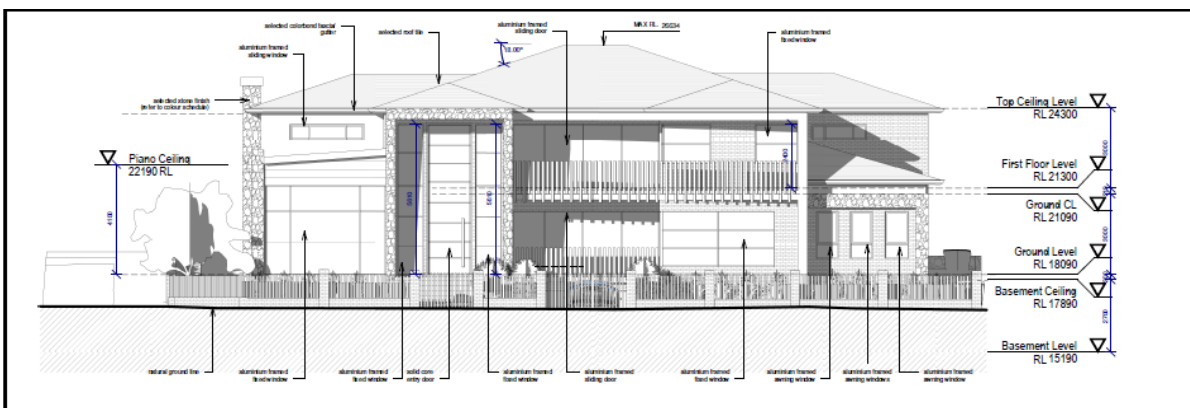


Figure 5: Proposed north elevation

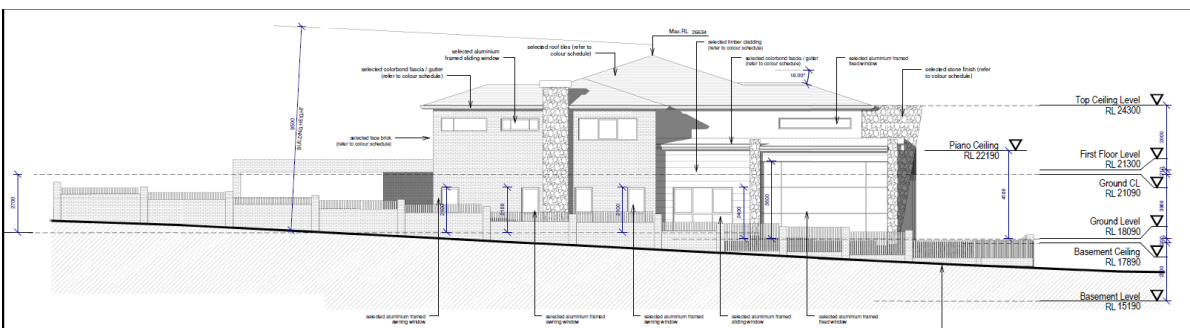
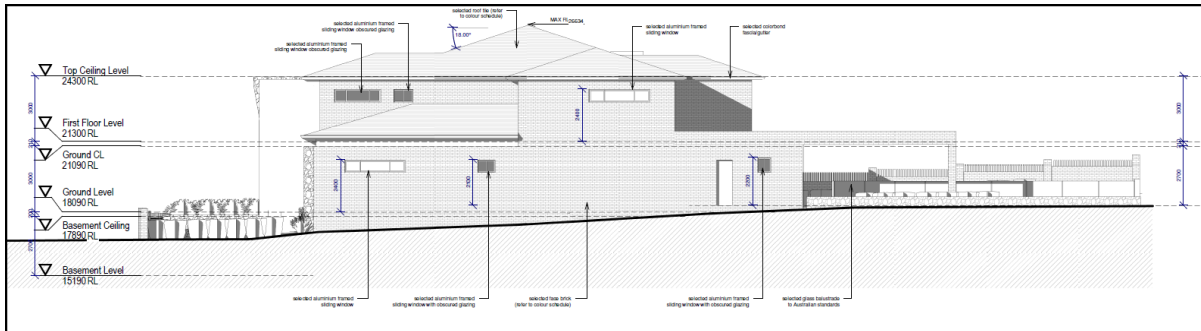
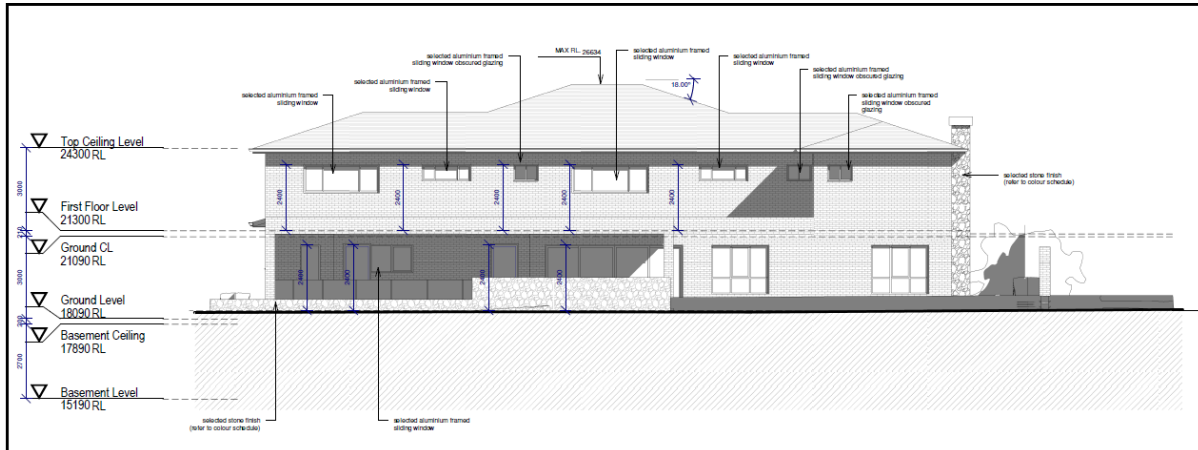


Figure 6: Proposed east elevation





**Figure 7: Proposed west elevation**



**Figure 8: Proposed south elevation**

## **The Site and Locality**

The subject site is legally described as Lot: 1 DP: 1267935 and commonly known as 2-4 Badgery Avenue HOMEBUSH. It is located on the south-east side of Badgery Avenue between Mackenzie Street to the east; Arthur Street to the south; and Bates Street to the west.

The site is a five-sided corner allotment with a Badgery Avenue frontage of 27.7m to the north-west, a Mackenzie Street secondary frontage of 45.7m to the north-east, a splayed corner boundary of 3.9m; rear boundary of 30.48 and a west boundary depth of 45.72m; and an area of 1389.7m<sup>2</sup>. The site slopes to the north-west (rear to front) at 2 – 3°

Existing development on the subject site comprises two (2) detached dwellings described as follows:

- No.2 (corner of Badgery and Mackenzie) is a split-level inter-war style dwelling with a steep pitched roof and dormer windows to Badgery Avenue (see **Figure 9**)
- No.4 (common boundary with 6 Badgery Avenue) is a modern two-storey brick dwelling with attached garage (see **Figure 10**).

The subject site is larger than the prevailing subdivision pattern. The abovementioned dwellings are separated by an internal dividing fence comparable to that of a de facto

subdivision. Vehicular access is provided to No.2 via an existing driveway from Mackenzie Street to a detached garage located in the rear yard. Vehicular access is provided to No.4 via an existing driveway from Badgery Avenue to an attached garage located at the front of the existing dwelling.

Existing development on adjoining properties comprises a single-storey dwelling with gable roof at 6 Badgery Avenue (west); and a single-storey brick dwelling at 35 Mackenzie Street located to the rear of the subject site (south-east common boundary).

The current streetscape is characterised by a mix of single-storey and two-storey dwelling houses of different architectural styles. Brick pier front fences are prominent as are simpler metalwork fences. Large established Brushbox street trees line both sides of Badgery Avenue. The surrounding area is characterised by low density residential development.



**Figure 9:** Existing corner dwelling at 2-4 Badgery Avenue





**Figure 10:** Existing west boundary dwelling at 2-4 Badgery Avenue



**Figure 11:** Subject site adjoining 6 Badgery Avenue





**Figure 12:** Subject site rear (no.4) yard facing 35 Mackenzie Street HOMEBUSH



**Figure 13:** Existing dwelling at 6 Badgery Avenue HOMEBUSH





**Figure 14:** Adjoining Mackenzie Street streetscape



**Figure 15:** Existing dwelling at 1A Badgery Avenue



**Figure 16:** Existing dwelling at 3 Badgery Avenue



**Figure 17:** Existing dwelling at 5 Badgery Avenue

### **Background**

7 January 2021	DA 2020/236 was lodged for the demolition of existing structures at 2 Badgery Avenue, and alterations and additions to the existing dwelling at 4 Badgery Avenue including basement parking, outbuilding and extension to the consolidated lot. The DA was withdrawn 13 March 2021.
13 April 2021	Complying Development Certificate 2021/7045 for the demolition of existing structures was issued by private certifier.
16 July 2021	DA 2021/161 was lodged for the demolition of existing structures and construction of a two-storey dwelling with basement, in-ground swimming pool, boundary fencing and associated landscaping.
2 August 2021	A photographic survey of the subject site was provided by the applicant.
9 August 2021	End of neighbour notification period.
27 August 2021	An additional information request letter was issued by Council to the Applicant which identified the following issues: <ul style="list-style-type: none"> <li>i. Amended plans were required to address several key issues including: <ul style="list-style-type: none"> <li>- The proposed building height at 9.81 metres exceeded the maximum SLEP 2012 9.5m height for the site.</li> <li>- The proposed floor space ratio of 0.56:1 exceeded the maximum allowable Clause 4.4C SLEP 2012 standard of 0.5:1 for the site.</li> </ul> </li> </ul>



- The first floor void above the entry foyer and formal lounge area was to be reduced to address visual impacts of bulk, scale and massing on the front dwelling façade.
- Internal floor to ceiling heights were to be reduced to 3m.
- Addition modulation and articulation was required on the west elevation to remove large bulky expanses of blank wall.
- Side setbacks were to be increased to comply with the minimum SCDCP 2005 control of 20%.
- The proposal was to increase landscaping and deep soil zones to comply with minimum 45% landscaping for the site as well as additional canopy tree planting.
- An amended driveway and basement entry design was required to comply with SCDCP Part A Clause 8.2 controls.

ii. A B85 swept paths analysis was required to demonstrate that all vehicles can enter and exit the basement in a forward direction.

iii. A long driveway ramp section was required to demonstrate that finished driveway gradients and transitions comply with AS 2890.1.

13 September 2021 Amended plans were submitted by the Applicant including the following changes:

- i. Amended basement plan with swept path provided;
- ii. Ceiling heights reduced to 3m;
- iii. Amended first floor plan including reduction of first floor void and decreased GFA;
- iv. Reduction of pool area paving and increased landscaping; and
- v. Compliant building height to.

27 October 2021 Following an assessment by Council's Tree Management Coordinator, An arborist report was requested to address potential impacts of trees on adjoining properties and the public domain.

2 November 2021 A Tree Report and Arboricultural Impact Statement was submitted by the Applicant.

4 November 2021 The subject site was inspected by Council's Tree Management Coordinator.

4 November 2021 All internal referral responses to additional information received.

Sufficient information has been provided to allow a full and thorough assessment to be completed.

**NOTE:** Due to NSW government Health Order following the COVID-19 outbreak in greater Sydney, the Assessing Officer was unable to attend the site and subsequently relies on the site inspection photos taken by the Applicant and provided on 2 August 2021. The application has been assessed utilising a thorough suite of photographic evidence provided, Council's geographic information systems data and other available information relating to the existing site conditions.

## **Referrals – Internal**

### **Stormwater**

The subject application was referred to Council's Development Engineer who has reviewed the submitted stormwater drainage plans prepared by Deboke Engineering Consultants (dated 22 June 2021). Council's Development Engineer raises no objections to the proposal.

### **Traffic**

The subject application was referred to Council's Traffic Manager and the following additional information was requested:

“

- *Pursuant to Council's CDCP Part A Clause 8.2.1, the driveway width at the property boundary shall not exceed 3m.*
- *Pursuant to DCP Part A Clause 8.2.3, basement entries and ramps/driveways within the property are to be no more than 3.5m wide.*
- *Pursuant to DCP Part A Clause 8.2.3, the applicant is required to demonstrate that all vehicles can enter and exit the basement in a forward direction by B85 swept paths analysis. Alternatively a turning bay shall be nominated to allow adequate manoeuvring.*
- *Long section of the ramp shall be provided to demonstrate that finished driveway gradients and transitions comply with AS 2890.1 and will not result in scraping to the underside of cars.”*

**Comment:** Amended plans show a 3m driveway width at the boundary and 3.5m internal driveway width. An assessment of the revised basement plan shows adequate space for a manoeuvring and the driveway ramp profile demonstrates a sufficient gradient and transition to prevent vehicle scraping.

### **Tree Management**

The subject application was referred to Council's Tree Management Coordinator who has inspected the site and provided the following comments:

*"I have reviewed the Tree Assessment & Protection prepared by Stuart Pittendrigh on 29 October 2021... only concern is a single Lophostemon confertus (street tree). This tree has a SRZ (structural root zone) of 4.6 metres, the proposed basement car park needs to be a minimum of 1.2 metres of the McKenzie Street Boundary. The 1.2 metres is the edge of the excavation."*

The proposed development is supported subject to appropriate conditions including a tree preservation bond to insure the protection and retention of significant trees within and adjacent to the subject site.

#### **Section 4.15 Assessment – EP&A Act 1979**

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

##### **(1) Matters for consideration – general**

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

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

#### **Strathfield Local Environmental Plan**

The development site is subject to the Strathfield Local Environmental Plan 2012

#### **Part 2 – Permitted or Prohibited Development**

##### **Clause 2.1 – Land Use Zones**

The subject site is zoned R2-Low Density Residential and the proposal is a permissible form of development with Council's consent.

#### **Part 4 – Principal Development Standards**

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
<b>4.3</b> Height of Buildings	9.5m	9.274m	Yes
<b>4.4C</b> Exceptions to floor space ratio (Zone R2)	Site area 1389.7m <sup>2</sup>  0.5:1 or 694.85m <sup>2</sup>	Ground: 429.4m <sup>2</sup> First: 259.5m <sup>2</sup> <b>Total: 688.9m<sup>2</sup></b>	Yes



		<b>FSR = 0.5:1 (49.6%)</b>	
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## **Part 5 – Miscellaneous Provisions**

### **Heritage Conservation**

The subject site is not listed as a heritage item or located within a heritage conservation area or within close proximity to Heritage Item.

### **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 Development 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.

## **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 new swimming pool. 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 – subject to appropriate conditions as discussed above - the proposed development satisfies the aims, objectives and development standards, where relevant, of the Strathfield LEP 2012.

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

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

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

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

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

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

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

The objectives outlined within 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.

There are eight (8) trees located on adjoining properties and the public domain that are relevant to the proposed development. The proposal was referred to Council's Tree Management Officer who outlined specific conditions to be imposed with any development consent in order to ensure the protection of these trees.

Further, no objection was raised to the removal of a number of trees on the site subject to replacement planting. Relevant consent conditions will be imposed.

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
<b>Building Envelope</b>			
<b>Floor Space Ratio:</b>	0.5:1 or GFA 694.85m <sup>2</sup>	0.5:1 or GFA 713m <sup>2</sup>	Yes
<b>Heights:</b> Floor to ceiling heights: Height to underside of eaves: Basement height above NGL: Number of Storeys/Levels:	3.0m 7.2m 1.0m 2	Max 3.0m 6.9m 0.6m 2	Yes Yes Yes Yes
<b>Setbacks:</b> Front:  Side (east): Side (west):  Combined Side Setback:  Rear:	9m  1.2m (min) 1.2m (min)  6.1m (20% x 30.48)  6m	6.48m  3.5m 2m  5.5m (18%)  17.676m	No – see comments  Yes Yes  No – see comments  Yes
<b>Landscaping</b>			
Landscaping/Deepsoil Provisions:	(1389.7 x 45%) or 625.4m <sup>2</sup>	Assessment calculation 626.3m <sup>2</sup> or 45.1%	Yes
<b>Fencing</b>			



Height (overall/piers):	1.5m (maximum)	1.5m	Yes
Solid Component:	0.7m	0.5m	Yes
Secondary Frontage:	1.8m	1.8 (piers)	Yes
<b>Solar Access</b>			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	Adequate solar access is achieved	Yes
<b>Vehicle Access and Parking</b>			
Driveway width at Boundary:	3m	3m	Yes
Vehicular Crossing:	1	1	Yes
Driveway setback – side:	0.5m	Min. 11m	Yes
No. of Parking Spaces:	2	2	Yes
<b>Basement:</b>			
Basement protrusion:	Less than 1.0m	0.6m	Yes
Basement ramp/driveway	3.5m	3.5m	Yes
Internal height:	2.2m	2.7m	Yes
<b>Ancillary Development</b>			
<b>SWIMMING POOL</b>			
Side/Rear Setback	1.0m	Min 1.m provided	Yes

#### Comments:

#### Setbacks

The proposed front setback which varies from 6.48m to 8.02m is less than the minimum 9m setback. Part A Clause 4.2.3.1 (2) of the SCDP 2005 states that 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.*

The proposed front setback is consistent with the prevailing front setback for the street which ranges between 5m to 7m and is considered acceptable.

The combined side setback of 5.5m or 18.4% of site width does not comply with the minimum 20% as per Part A - 4.2.3.2 of SCDP 2005. The shortfall is considered acceptable give the proposal provides a 3.5m setback from the secondary street frontage and a 2m side setback from the common side boundary with 6 Badgery Avenue.

#### Building Envelope

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

- Building scale, height and floor space ratio
- Rhythm of built elements in the streetscape,
- Fenestration and external materials, and
- Street edge

Amended plans have increased the west side setback from 1.5m to 2m at ground floor and 4.52m at first floor. The increase of setback and inward shift of the first floor plate provides greater articulation and significantly reduces vertical bulk and massing along the west elevation. The 532mm reduction in building height achieves a design that is compliant with SLEP 2012 cl 4.3 standards. The amended first floor design and addition of a pitched roof over the ground floor guest bedroom reduces impacts of visual bulk to the existing streetscape while also improving the transition to the single-storey pitched roof of 6 Badgery Avenue.

### **Landscaping and Open Space**

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

### **Fencing**

The proposed front and secondary street fencing satisfies the relevant objectives and controls within SCDP 2005. It is considered to be sympathetic to the existing and desired character of the locality and is compatible to the height and style of adjoining fences.

### **Solar Access**

Given the orientation of the site, solar access to windows of habitable rooms and to at least 50% of the private open space is achieved or maintained for a minimum period of 3 hours between 9.00am-3:00pm at the winter solstice. Solar access is also achieved 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 SCDP 2005.

### **Privacy**

The proposed development satisfies the relevant objectives and controls of the SCDP 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. All first floor windows are to low activity rooms (bedrooms, bathrooms etc.). Rear first floor windows are setback a minimum 20m from to the rear boundary so as not to impact on the amenity or privacy of the adjoining dwelling at 35 Mackenzie Street and 3 Arthur Street, whilst also providing good amenity to the occupant of the dwelling.

### **Vehicular access, Parking and Basements**

The proposed development satisfies the relevant objectives and controls of the SCDP 2005 in that it provides the minimum two (2) required parking spaces and adequate vehicular access provisions. The basement has been kept to less than 1m above natural ground level,

does not extend beyond the ground floor above, has been designed so that vehicles can enter and exit in a forward direction and maintains a minimum internal height of 2.5m

### **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 and impact on overland flow and drainage is minimised.

### **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.

### **Swimming Pools, Spas & Associated Enclosures**

The proposed development satisfies the relevant objectives and controls with SCDCP 2005. The pool has been adequately setback from all adjoining boundaries, allowing for screen panting if required. A condition is imposed requiring the pool pump equipment to be in a sound proof enclosure to minimise impacts to the neighbouring property at 35 Mackenzie Street. The pool coping has been designed to suit the existing ground level of the site. The swimming pool fence and enclosure will comply with the swimming pools act and relevant standards.

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

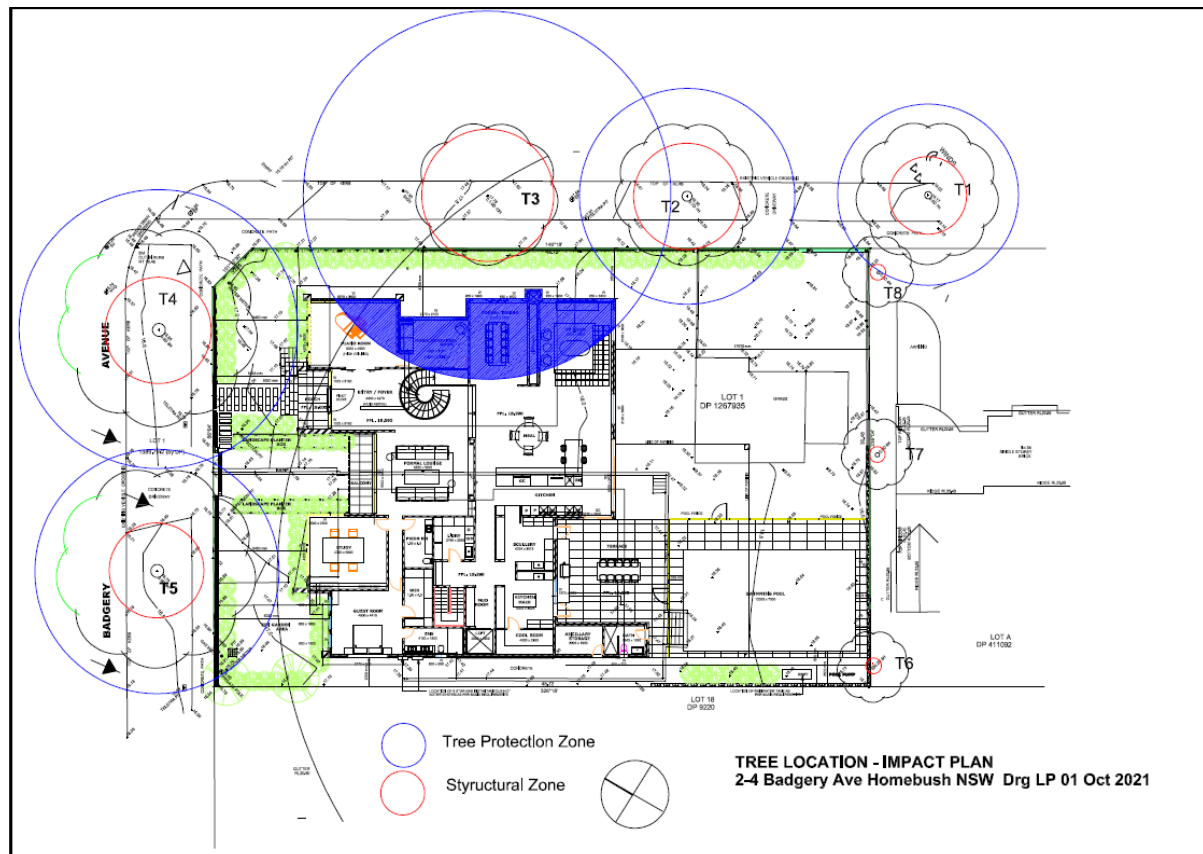
In accordance with Part H of Strathfield CDCP 2005, a waste management plan was submitted with the application. The plan details measure for waste during demolition and construction, and the on-going waste generated by the development during its use. It is considered that this plan adequately address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

### **PART O – Tree Management**

Clauses 4 and 5 of Part O provide detailed controls regarding tree management, protection and removal. With regard to tree management for the proposed development, there are eight (8) trees – located within and adjacent the subject site - that are relevant to this proposed development as shown in **Figure 18** and described in the table below:

Tree No	Tree Species	Location of Tree
1	Lophostemon confertus (Brushbox)	Street tree – Mckenzie Street
2	Lophostemon confertus (Brushbox)	Street tree – Mckenzie Street
3	Lophostemon confertus (Brushbox)	Street tree – Mckenzie Street
4	Lophostemon confertus (Brushbox)	Street tree 2-4 Badgery Avenue
5	Lophostemon confertus (Brushbox)	Street tree 2-4 Badgery Avenue
6	Citrus sp	35 Mc Kenzie Street
7	Morus nigra (Mullberry)	35 Mc Kenzie Street
8	Callitsomen viminalis (Brushbox)	35 Mc Kenzie Street

It is considered that satisfactory measures can be implemented to protect all subject trees on adjoining properties.



**Figure 18:** Proposed TPZ & SRZ plan



The submitted *Tree Assessment & Protection* report prepared by *Stuart Pittendrigh* (dated 29 October 2021) has been reviewed by Council's Tree Management Coordinator (TMC). The TMC supports the proposal and has imposed a number of conditions to ensure the retention and protection of significant trees including a tree bond and specific construction techniques for the front fence piers.

The proposal complies with Part O subject to these conditions.

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

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

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

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

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

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

In accordance with the provisions of Council's Community Participation Plan, the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. One (1) submission was received raising the following concerns:

**1. *Traffic and parking control***

Concern was raised over additional on-street parking and traffic generated by works associated with the proposed development as well future works associated the DA 2021/119 at 7 Badgery Avenue (under assessment at the time of this report).

**Comment:** An appropriate condition is imposed requiring a Site Management Plan - detailing all weather access control points, materials storage and unloading arrangements – to be submitted with the application for the Construction Certificate. The owner/applicant is to ensure that the approved Management Plan is to be strictly complied with and kept on site at all times during construction works. This is considered to be a reasonable measure as it cannot be assumed or expected that both abovementioned development shall occur at once. Unacceptable impacts to traffic and general amenity generated by the proposed development during demolition and works should be reported and dealt with when they occur.

## **2. Dust Suppression**

Specific dust suppression measures were requested during demolition and works including dust screens on temporary fences, and water spraying to suppress dust and cover stock piles.

**Comment:** Appropriate conditions of consent are imposed to ensure compliance with Australian Standard *AS2601–1991: The Demolition of Structures*. These conditions are considered to be reasonable and this matter has been addressed.

## **3. Screen scaffolding**

Scaffolding with dust screen to two-storeys high was requested along the common fence line with 6 Badgery Avenue before the demolition of existing structures and during the construction of new building.

**Comment:** Appropriate conditions of consent are imposed to ensure compliance with Australian Standard *AS2601–1991: The Demolition of Structures*. These conditions are considered to be reasonable and this matter has been addressed.

## **4. Noise control measures**

Compliance with start and finishing times for works and noise plant and equipment measures were requested.

**Comment:** Appropriate conditions are imposed to ensure demolition and construction occurs during reasonable hours and noise control measures are in place prior to and during demolition and works. This matter has been addressed.

## **5. Side setback and excavation impacts**

An increase to the 1.5m side setback to the common boundary with 6 Badgery Avenue was requested and concerns regarding vibration due to excavation was raised.

**Comment:** Amended plans have increased the west side setback to 2m which is considered acceptable. An appropriate condition is imposed requiring a dilapidation report for structures on the adjoining property at 6 Badgery Avenue prior to the issue of a Construction Certificate to insure against encroachment and damage to private property during excavation. This issue has been addressed.

## **6. Natural ground level**

It was requested that the Natural Ground Level (NGL) not be altered to prevent additional stormwater surface flows into the adjoining property.

**Comment:** The NGL shall not be altered as part of the proposed development and conditions will be imposed accordingly. Appropriate stormwater drainage plans have been submitted and are supported by Council's Development Engineer.

#### **7. Cool room & Lift**

A request was made for the relocation of the proposed lift and cool room due to concerns of noise impacts to bedrooms located on the east side of the dwelling at 6 Badgery Avenue.

**Comment:** A minimum 4m separation is proposed between the existing dwelling at 6 Badgery Avenue and the proposed two-storey dwelling. Plans do not indicate the location of machinery associated with the lift and cool room such as compressor, hydraulics and the like. An appropriate condition is imposed prohibiting machinery associated with the lift and cool room from being installed to the exterior of the dwelling. Additionally, a condition is imposed which requires the operation of all equipment shall so as not to give rise to 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations. A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. It is considered that this is an appropriate and reasonable measure to protect the amenity of the neighbouring property.

#### **(e) *the public interest.***

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

### **Local Infrastructure Contributions**

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

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

#### **STRATHFIELD INDIRECT SECTION 7.12 CONTRIBUTIONS PLAN**

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

The proposed development has a value of greater as \$100,000. In order to provide additional public facilities and infrastructure to meet the demand created by development, the proposed development will attract Section 7.12 Indirect Contributions in accordance with the Strathfield Indirect Development Contributions Plan (3 September 2010). This

contribution is based on the proposed cost of works for the development and has been calculated at 1% of \$1,440,975.42 (the estimated cost of development identified in the development application). Therefore, the Section 94 Indirect Contributions for the proposed development is **\$14,409.75**

## 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. 2021/161 for the demolition of existing structures and construction of a two-storey dwelling with basement, in-ground swimming pool, boundary fencing and associated landscaping should be approved.



**G I Choice**  
**Planner**

- ☒ 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.

**Signed:**  
**Miguel Rivera**  
**Senior Planner**

**Date: 15 November 2021**



## Conditions

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/Sediment Control Plan	A01	09/2021	B	Dvyne Design
Ground/Basement Plan	A02	09/2021	B	Dvyne Design
First Floor Plan	A03	09/2021	B	Dvyne Design
Elevations	A04	09/2021	B	Dvyne Design
Elevation/ Streetscape	A05	09/2021	B	Dvyne Design
Sections	A06	09/2021	B	Dvyne Design
Roof Plan	A07	09/2021	B	Dvyne Design
Landscape Plan	LDA - 198	13/09/2021	B	Jungle Design
Concept Stormwater Drainage Plans  Cover Sheet	S101	22/06/2021	B	Deboke
Concept	S200	22/06/2021	B	Deboke

Stormwater Drainage Plans  Basement Plan				
Concept Stormwater Drainage Plans Site Stormwater Management Plan	S201	22/06/2021	B	Deboke
Concept Stormwater Drainage Plans Roof Plan	S202	22/06/2021	B	Deboke
Concept Stormwater Drainage Plans Details Sheet	S300	22/06/2021	B	Deboke
Details of External Finishes	-	-	-	-
Document	Reference No.	Date	Revisio n	Prepared by
Topographical Survey	120319	10/09/2020	-	New South Wales Surveys
BASIX Certificate	1209442S _02	28/06/2021	2	EPS
Elemental Cost Estimate	CC302033	06/07/2021	-	Duo Tax
Waste Management Plan		06/2021	-	Dvyne Design

## 2. Building Height

The height of the building measured from Australian Height Datum (AHD) must not exceed Reduced Level (RL) 26.634 AHD to the ridge for example of the building.

## SEPRARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

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

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

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

public road (including the footpath) listed below.

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

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;
- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

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

- (h) Pumping water from the site into the public road;
- (i) Constructing a vehicular crossing or footpath;
- (j) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (k) Stormwater & ancillary works in the road reserve; and
- (l) Pumping concrete from a public road;

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.

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.

#### **4. 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.

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

### **5. 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**

### **6. Fees to be Paid**

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

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

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

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

<b>Fee Type</b>	<b>Fee</b>
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation)  Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://longservice.force.com/bci/s/levy-calculator">https://longservice.force.com/bci/s/levy-calculator</a>	\$ 5,043.00
Security Damage Deposit	\$ 15,000.00



Tree Bond	\$ 50,750.00
Administration Fee for Damage Deposit	\$ 130.00
Administration Fee for Tree Bond	\$ 130.00

### **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**

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).

### **7. Damage Deposit.**

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

Amendments made in red on approved plans	All changes made in red on the approved plans shall be updated and shown on the Construction Certificate plans.
Basement Plan	Delete the area labelled 'TURNING BAY'. There is still ample turning area available within the basement due to the large size parking spaces.

## **8. 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.

## **9. Tree Bond**

A tree bond of \$50,750.00 (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.

## **10. 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. 1209442S\_02 must be implemented on the plans lodged with the application for the Construction Certificate.

## **11. 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.

## **12. 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) 6 Badgery Avenue HOMEBUSH

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.

## **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. Stormwater Drainage Plan Details**

Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Management Code.

#### **16. Site Management Plan**

##### **Minor Development**

A Site Management Plan detailing all weather access control points, sedimentation controls, waste management plans, fencing, builders' site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

#### **17. Low Reflectivity Roof**

Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.

#### **18. 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.

### **19. Swimming Pools – Use and Maintenance**

The following apply to the construction, use and maintenance of swimming pools and spas:

- (a) no ground level may be raised or filled except where shown specifically on the approved plans;
- (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
- (c) the swimming pool must not be used for commercial or professional purposes;
- (d) drain paved areas to the landscaped areas or a suitable lawful drainage system; and
- (e) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.

### **20. 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).

### **21. Landscape Plan**

A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:

- (a) Location of existing and proposed structures, services and existing trees;
- (b) Details of earthworks including mounding and retaining walls and planter boxes;
- (c) At least two (2) new canopy trees in the rear yard - to have a minimum mature height of 10m planted within a minimum 50 litre container;
- (d) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
- (e) Details of planting procedure and maintenance;
- (f) Landscape specification;
- (g) Details of drainage and watering systems;
- (h) Details of garden edging and turf; and
- (i) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.

## 22. Landscape Plans

All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

## 23. Tree Removal/Pruning Prohibited

This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties.

## 24. Compliance with Submitted Arborist Report

The recommendations outlined in the Arborist's Report titled **Tree Assessment & Protection** prepared by Stuart Pittendrigh dated October 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	Lophostemon confertus	Street tree – Mackenzie Street	6.3 metres
2	Lophostemon confertus	Street tree – Mackenzie Street	7.5 metres
3	Lophostemon confertus	Street tree – Mackenzie Street	12.8 metres
4	Lophostemon confertus	Street tree 2-4 Badgery Avenue	9.7 metres
5	Lophostemon confertus	Street tree 2-4 Badgery Avenue	8.5 metres
6	Citrus sp	35 Mackenzie Street	1.8 metres
7	Morus nigra (Mullberry)	35 Mackenzie Street	1.8 metres
8	Callitsomen viminalis	35 Mackenzie Street	1.5 metres

## 25. Tree Protection and Retention

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
1	Lophostemon confertus	Street tree – Mackenzie Street	6.3 metres
2	Lophostemon confertus	Street tree – Mackenzie Street	7.5 metres
3	Lophostemon confertus	Street tree – Mackenzie Street	12.8 metres
4	Lophostemon confertus	Street tree 2-4 Badgery Avenue	9.7 metres
5	Lophostemon confertus	Street tree 2-4 Badgery Avenue	8.5 metres
6	Citrus sp	35 Mackenzie Street	1.8 metres
7	Morus nigra (Mullberry)	35 Mackenzie Street	1.8 metres
8	Callitsomen viminalis	35 Mackenzie Street	1.5 metres

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

### 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.

#### **Pier and Beams**

- (k) To preserve the Trees 1, 2, 3, 4 & 5 as marked on Tree Location- Impact Plan DRG LP 01 Oct 2021 prepared by Stuart Pittendrigh dated October 2021, the footings of the proposed front brick fence shall be isolated pier and beam construction within a 4 metre radius of the trunk. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.

Details of this construction method shall be shown on the Construction Certificate plans.

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

#### **26. 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).

## **27. 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.

## **28. Demolition Work Involving Asbestos Removal**

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).

## **29. 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.

## **30. Registered Surveyors Report - During Development Work**

A report must be submitted to the PCA at each of the following applicable stages of construction:

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the

datum shown on the approved plans.

- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

Work must not proceed beyond each stage until the PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

### **31. 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**

### **32. 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.

### **33. 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.

### **34. 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.

### **35. 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.

### **36. 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.

### **37. Waste Management Facility**

All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

### **38. 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).

### **39. 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**

### **40. 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.

#### **41. 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.

#### **42. Completion of Landscape Works**

The approved landscape works have identified that the side setback area between the dwelling and boundary be nominated as landscaped area to ensure compliance with the minimum landscape area requirements. In this regard, this area shall be maintained as landscaped area and can only be used for growing plants, grasses and trees and cannot include any building, structure or hard paving (including rainwater tanks, air-conditioning units of ground mounted hot water systems).

#### **43. 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 6 Badgery Avenue HOMEBUSH as identified in the dilapidation report (see **Condition 12** of this consent).

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.

#### **44. 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.

#### **45. Maintenance Schedule – On-site Stormwater Management**

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

#### **46. 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.

#### **47. 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.

#### **48. Acoustic Compliance – General Operation of Premises**

The proposed use of the premises and the operation of all plant and equipment including internal lift and ground floor cool room shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy"](#).

Certification must be submitted to the PCA prior to the issue of any Occupation Certificate.

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

#### **49. 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.

#### **50. Private Swimming Pools & Spas – Pump Noise**

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



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

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

#### **51. No Mechanical Equipment located on Street-Facing External Walls or Common Boundaries (OG1310)**

No mechanical equipment associated with the internal lift or cool room are to be placed on the external walls of the building which are visible from a public street (other than the rear south elevation); or the common boundary with 6 Badgery Avenue HOMEBUSH.

#### **52. 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**

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

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

#### **54. 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.

## **55. 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.

## **56. 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.

## **57. 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](#).

## **58. 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**

### **59. Clause 97A – BASIX Commitments**

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

### **60. 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.

### **61. Clause 98A – Erection of Signs**

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

## **62. 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](#).

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### **ADVISORY NOTES**

#### **1. Review of Determination**

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

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

#### **2. Appeal Rights**

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

#### **3. Lapsing of Consent**

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

#### **4. 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)

#### **5. 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.

## **6. Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993**

To apply for approval under Section 138 of the [Roads Act 1993](#):

- (a) 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).
- (b) In the Application Form, quote the Development Consent No. (DA 2021/161) and reference this condition number (Advisory note 6)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to 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 by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

## **7. 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)).

## **8. 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)

## **9. Electricity Supply**

This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.