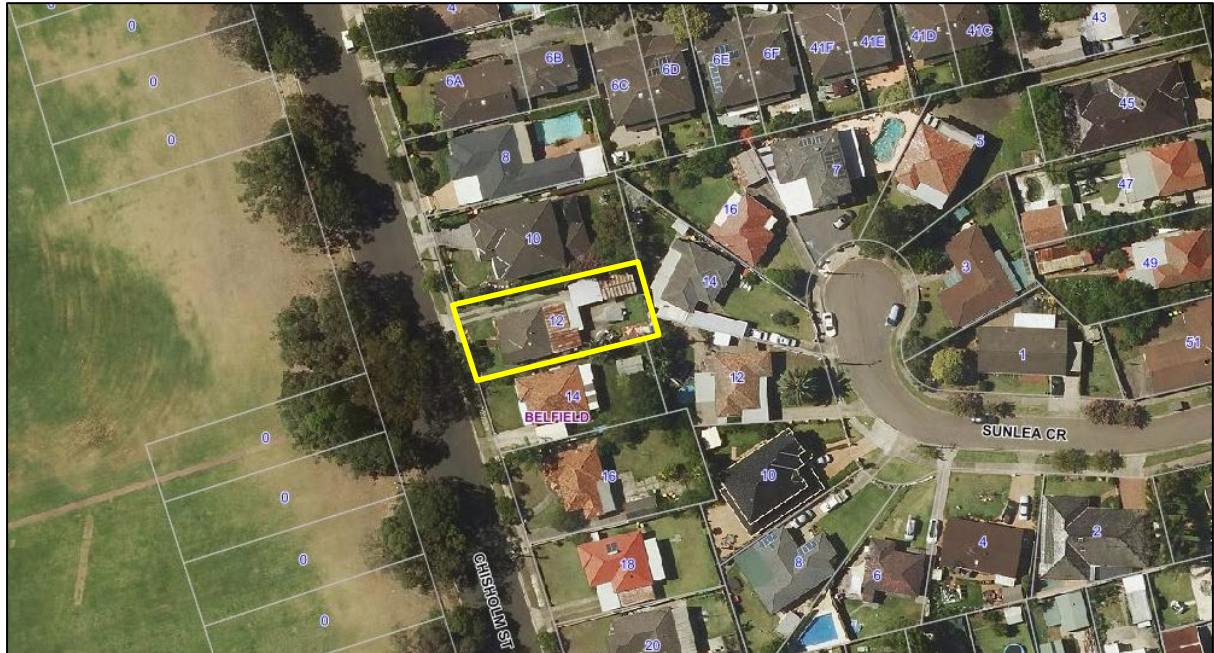


## IDAP REPORT

<b>Property:</b>	12 Chisholm Street BELFIELD Lot 4 in DP 313426 DA2021.271
<b>Proposal:</b>	New carport for car and boat parking
<b>Applicant:</b>	J Nowosad
<b>Owner:</b>	L Sorbello & MJ Elhelou
<b>Date of lodgement:</b>	20 October 2021
<b>Notification period:</b>	25 October 2021 – 8 November 2021
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	L Gibson
<b>Estimated cost of works:</b>	\$15,000.00
<b>Zoning:</b>	R2 – Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	Yes
<b>Is a Clause 4.6 Variation Proposed:</b>	No
<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>



**Figure 1: Aerial view of subject site (outlined in yellow) and surrounding context**

## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the new carport for car and boat parking.

### **Site and Locality**

The site is identified as 12 Chisholm Street Belfield and has a legal description of Lot 4 in DP 313426. The site is a regular shaped parcel of land and is located on the eastern side of Chisholm Street directly east of Cook Park.

The site provides a frontage width of 15.24m, an average depth of 37m and overall site area of 564m<sup>2</sup>. The site is generally flat, with a slight fall across the site to the north-west corner of the site. There are no existing trees located on the site.

The immediate streetscape contains a mixture of single and two storey dwellings. Development in the streetscape is predominantly traditional in style featuring brick exterior walls and hipped roofs with terracotta and concrete roof tiles.

### **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 25 October 2021 – 8 November 2021. No submissions were received during this time.

### **Issues**

- Height of carport

### **Conclusion**

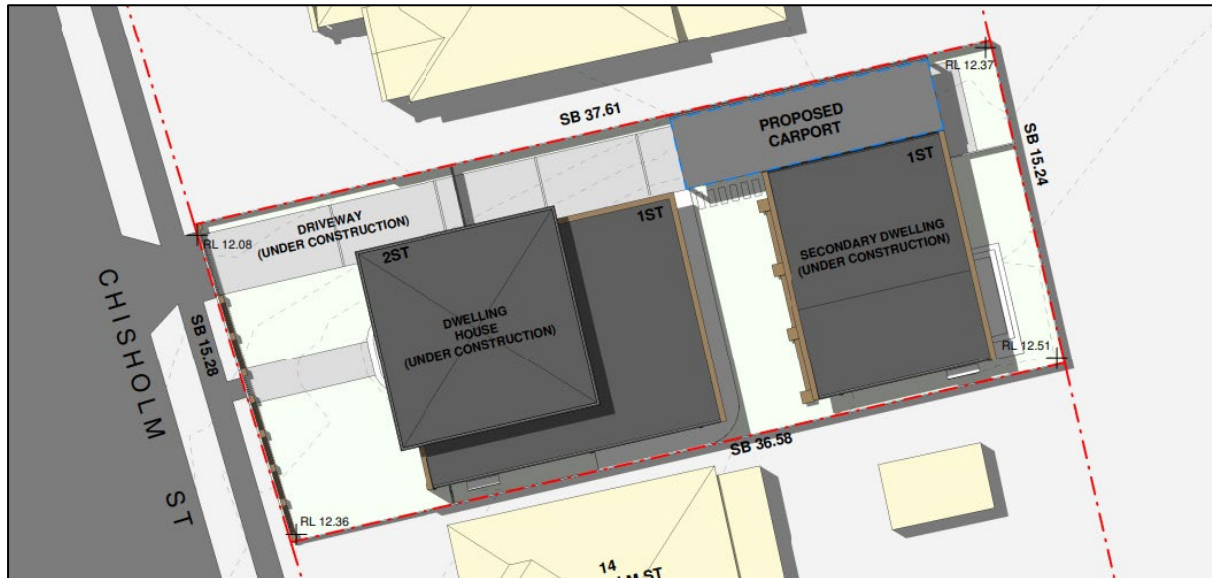
Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2021/271 is recommended for approval subject to suitable conditions of consent.

## REPORT IN FULL

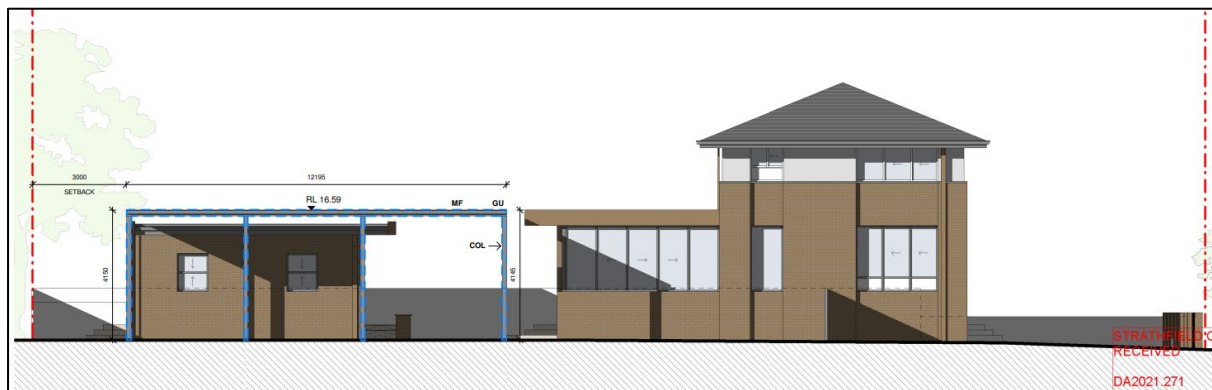
### Proposal

Council has received an application for a new carport for car and boat parking. The new carport structure will be located along the site's northern side boundary toward the rear.

The carport will attain a height of 4.27m above Natural Ground Level (NGL) and will be open on 3 sides. The carport will accommodate a single car parking space and a single boat parking space.



**Figure 2: Site Plan showing proposed carport (light grey) and approved CDC dwelling and secondary dwelling development (dark grey).**



**Figure 3: Proposed northern elevation plan showing carport structure alongside approved dwelling development (currently under construction)**

### The Site and Locality

The site is identified as 12 Chisholm Street Belfield and has a legal description of Lot 4 in DP 313426. The site is a regular shaped parcel of land and is located on the eastern side of Chisholm Street directly east of Cook Park.

The site provides a frontage width of 15.24m, an average depth of 37m and an overall site area of 564m<sup>2</sup>. The site is generally flat, with a slight fall across the site to the north-west

corner of the site. Aside from the Council street tree located on the Council verge, there are no existing trees located on the site.

The immediate streetscape contains a mixture of single and two storey dwellings. Development in the streetscape is predominantly traditional in style featuring brick exterior walls and hipped roofs with terracotta and concrete roof tiles.

Works associated with approved CDC 2021/7119 are currently underway on the site. The original dwelling has been demolished and foundations are currently being laid for the new development (refer to Figure 4 below).



**Figure 4: Subject site showing that the approved CDC development is currently under construction**

### **Background**

- |                                   |   |
|-----------------------------------|---|
| 14 September 2021                 | A Complying Development Certificate was issued (CDC 2021/7119) for demolition of existing dwelling and construction of a new two storey dwelling and detached secondary dwelling. |
| 20 October 2021                   | The subject application was lodged  |
| 25 October 2021 – 8 November 2021 | The subject application was placed on public notification for a period of 14 days. No submissions were received during this time.   |
| 15 November 2021                  | Site inspection was carried out by assessing officer. Works under the approved CDC have commenced.  |
| 16 November 2021                  | Correspondence sent to Applicant querying the proposed carport height and reducing the carport height (is possible) to comply with the maximum 3.5m building height.              |
| 17 November 2021                  | Applicant agreed with reducing the clearance height and overall height of carport to a compliant 3.5m.  |

## **Referrals – Internal and External**

The application did not required any internal or external referrals.

## **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 Height of Buildings</b>	9.5m	4.27m	Compliant

## **Part 5 – Miscellaneous Provisions**

### **Flood Planning**

The site is partially affected by overland flows as identified by the Cook's River and Cox's Creek Flood Study. The proposal is for a carport structure only which is an open structure on all sides and 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 4 Acid Sulfate Soils and is located within 500m of a Class 5 soils. The proposal does not involve works more than 2m below the natural ground surface and thus, an Acid Sulfate Soils Management Plan was not required. The proposal satisfies the requirements of this clause.

### **Earthworks**

The proposal does not include any significant excavation or basement works. Any excavation for footings or levelling of the site is considered to be minor and will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed 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 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 proposed development does not result in the removal or loss of any trees or vegetation subject to the provision of this SEPP. A Tree Bond for the Council street tree fronting the site has already been paid under the CDC (CDC6167) for the new dwelling and secondary dwelling development works. Given that this bond has already been paid and that the carport is unlikely to result in any considerable impacts on the street tree, no additional tree bonds are required as a result of this proposal.

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.

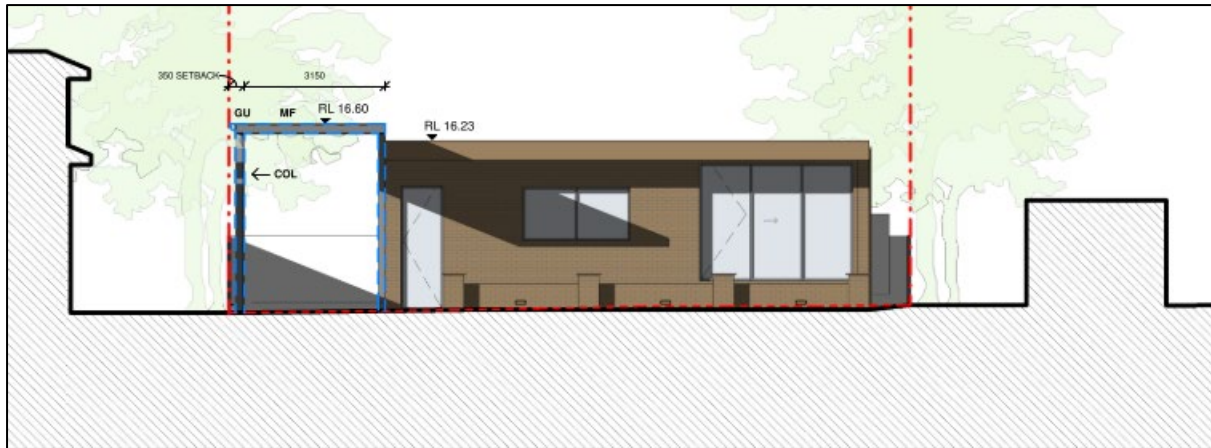
**(iii) any development control plan,**

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>Vehicle Access and Parking</b>			
No. of Parking Spaces:	2	3 – The approved driveway under the CDC already permits 3 stacked parking spaces to be provided behind the front building line. The proposal will seek to utilise the third parking space as boat parking.	Compliant.
<b>Ancillary Development</b>			
<b>Carport Height:</b>	3.5m	4.27m	No – refer to discussion below
Side/Rear setback:	Nil (open on 3 sides)	150mm setback to the north and open on 3 sides	Compliant

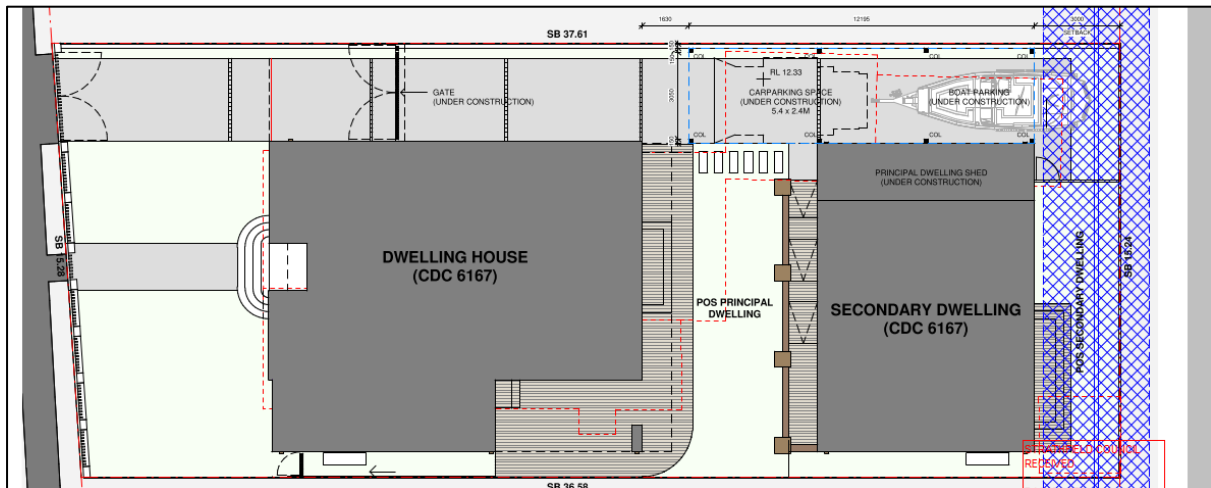
**Carport**

The proposed carport seeks a building height of 4.27m above NGL which exceeds the maximum 3.5m permitted carport requirements under Council's DCP (refer to Figure 5 below). The submitted Statement of Environmental Effects stated that the proposed carport requires a minimum clearance height of 3.8m to enable the boat on the top of the trailer to be parked within. Upon further discussions with the applicant throughout the assessment process, the owners have agreed to put down the canopy of the boat so to reduce the minimum required clearance height and thus overall carport building height. A condition of consent is therefore recommended to reduce the overall height of the carport by 770mm from 4.27m (RL16.23m) to 3.5m (RL15.83m). This will enable the carport to align with the height of the secondary dwelling and attached garage structure which will achieve a more compatible built form in the streetscape.



**Figure 5: Proposed carport western elevation plan**

Section 4.2.3.2 of Part A of the SCDP 2005 permits carports to be constructed with a nil setback from the side and rear property boundaries so long as the carport is open on 3 sides (refer to Figure 6 below). The proposed carport structure is open along the north, east and western elevations as well as a portion of the southern elevation between the principle and secondary dwelling structures. The proposed carport will be located 150mm from the northern property boundary and 3m from the rear eastern property boundary to enable ample separation to be achieved between properties.



**Figure 6: Proposed carport site plan**

The proposal will enable the boat to be parked on site and off the street to increase parking availability for the sporting activities at Cooke Park located opposite the site. The proposed carport will be located to the rear of the site approximately 22.3m from the front property boundary. The carport will not encroach upon the private open space allocated to the rear secondary dwelling or the sewer line which traverses the site to the rear. Thus, the proposal is unlikely to adversely impact adjoining development or the existing streetscape. The proposal therefore satisfies the relevant objectives and controls of the SCDP 2005.

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

A Waste Management Plan was not submitted as part of the subject application. The proposal does not involve any demolition works and it is unlikely that the carport construction will result in any considerable need for waste management and removal. Notwithstanding this, a condition of consent is recommended for a waste management plan to be prepared in

accordance with Part H of Strathfield CDCP 2005 to ensure that any waste generated on the site is disposed of accordingly.

**(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 not involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

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

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

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

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

In accordance with the provisions of Councils Community Participation Plan, the application was placed on neighbour notification for a period of fourteen days where adjoining property owners were notified in writing of the proposal and invited to comment. No submissions were received during this time.

**(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 not applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan as the proposed works are \$15,000 and do not meet the minimum \$100,000 requirement to qualify for contributions.

## 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. 2021/271 should be approved subject to conditions of consent.

**Signed:**

**L Gibson  
Senior Planner**

**Date: 17 November 2021**

- ☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position;
- ☒ I have reviewed the details of this development application and I also certify that Section 7.11/7.12 Contributions are not applicable to this development;

Report and recommendations have been peer reviewed and concurred with.



**Signed:**

**Gary Choice  
Assessment Officer**

**Date: 22 November 2021**

The following conditions of consent are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instrument and/or Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To protect the environment.
- (c) To ensure that there is no unacceptable impact on the amenity of the area, or to private and public property.
- (d) It is in the public interest.

## **DEVELOPMENT DETAILS**

### **1. Approved Plans & Documentation**

The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

<b>Description</b>	<b>Reference No.</b>	<b>Date</b>	<b>Revision</b>	<b>Prepared by</b>
Site Plan	DA.003	10.10.21	A	Jason Mowosad Architect
Level 1 (G) Plan	DA.101	10.10.21	A	Jason Mowosad Architect
Roof Plan	DA.102	10.10.21	A	Jason Mowosad Architect
West Elevation	DA.201	10.10.21	A	Jason Mowosad Architect
North Elevation	DA.202	10.10.21	A	Jason Mowosad Architect
East Elevation	DA.203	10.10.21	A	Jason Mowosad Architect
South Elevation	DA.204	10.10.21	A	Jason Mowosad Architect
West Elevation	DA.205	10.10.21	A	Jason Mowosad Architect

### **2. Building Height**

The height of the carport measured from Australian Height Datum (AHD) shall be reduced in height so as not to exceed Relative Level (RL) 15.83 AHD to the roof of the structure. Amended plans demonstrating this shall be prepared and submitted to the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.

## 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.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

### 4. Fees to be Paid

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

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Security Damage Deposit	\$ 430.00
Administration Fee for Damage Deposit	\$ 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.

#### 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).

### 5. Damage Deposit – Minor Works

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

- 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: \$430.00
- 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.

## **6. Site Management Plan**

### **Minor Development**

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

## **7. Waste Manage Plan (WMP)**

Prior to the issue of a Construction Certificate, a Waste Management Plan (WMP) must be submitted and it must comply with the requirements contained within Part H of Strathfield Development Control Plan 2005 (DCP 2005). A WMP will become part of any development consent issued and aims to facilitate better waste management, waste minimization and resource recovery.

The WMP is an important planning document that will not only be utilised as part of the development application process, but during construction and for the ongoing use of the development. The WMP will continue to apply as a working reference for the life of the development.

At least one copy of the WMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **8. Structural Details**

Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.

## **9. 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.

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

### **10. Dial Before You Dig**

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

## **DURING CONSTRUCTION**

### **11. 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.

### **12. 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.

### **13. 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.

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

### **14. 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.

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

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

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

### **16. 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.

### **17. 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.

### **18. 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.

### **19. 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](#).

### **20. Notice to be Given Prior to Critical Stage Inspections**

The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

## **21. 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**

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

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

### **23. 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.

### **24. 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.

### **25. 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**

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

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

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

## **ii. Appeal Rights**

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

## **iii. Lapsing of Consent**

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

## **iv. Access to NSW Legislations (Acts, Regulations and Planning Instruments)**

NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

## **v. Disability Discrimination Act**

This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.