

IDAP REPORT – SECTION 4.55(1A) MODIFICATION

Property:	10 Myall Crescent STRATHFIELD Lot: 10 DP: 236435 DA2021.203.2
Proposal:	Section 4.55(1A) Modification Application for alterations and additions to first-floor plan, roof plan and outdoor areas.
Applicant:	W Fakh
Owner:	W Fakh
Date of lodgement:	25 February 2022
Notification period:	4 March 2022 to 18 March 2022
Submissions received:	Nil
Assessment officer:	P Santos
Estimated cost of works:	\$1,135,062.00 (same as original DA)
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	Yes
RECOMMENDATION OF OFFICER:	APPROVAL

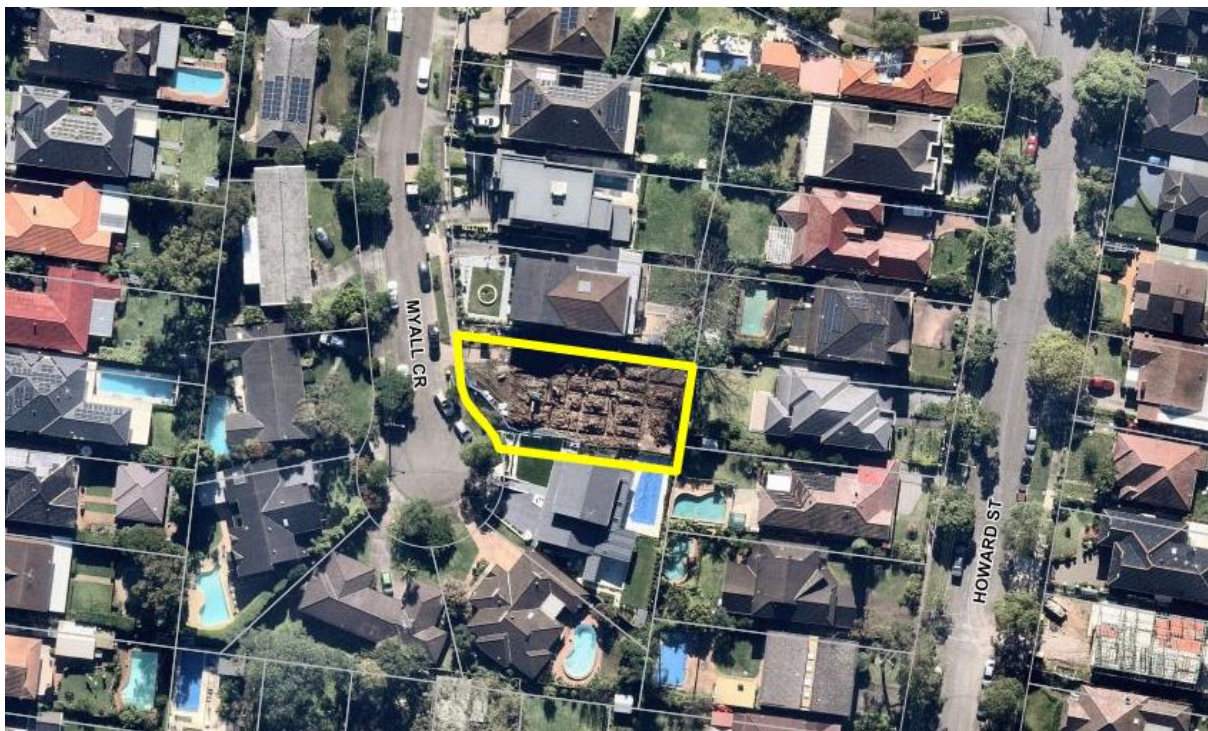


Figure 1. Aerial imagery of the subject site (outlined in yellow) and the immediate locality.

EXECUTIVE SUMMARY

Proposal

Approval is being sought for the modification of development consent DA2021/203 for the purpose of alterations and additions to the approved dwelling house.

Site and Locality

The subject site is legally described as Lot 10 DP 236435 and commonly known as 10 Myall Crescent, Strathfield. It is located off the eastern side of the cul-de-sac of Myall Crescent with the nearest intersection being Howard Street.

The site is irregular in shape and has a frontage of 20.66m to the west, rear boundary of 18.715m to the east, side boundary length of 41.45m to the north, and side boundary length of 31.64m to the south and an area of 689.2m².

Strathfield Local Environmental Plan

The site is zoned R2-Low Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal as amended satisfies all relevant objectives contained within the LEP.

Development Control Plan

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

Notification

The application was notified in accordance with Council's Community Participation Plan from 4 March 2022 to 18 March 2022, where no submissions were received during this period.

Issues

- Roof over alfresco resulting to a non-compliant rear setback.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, Development Application 2021/203/2 is recommended for approval subject to suitable conditions of consent as modified.

REPORT IN FULL

Council has received an application for the Section 4.55(1A) Modification Application of development consent DA2021/203 for the purpose of alterations and additions to the approved dwelling house.

More specifically, the proposed modification involves the following:

External works:

- Minor change to the façade introducing more curves.
- Interchanging location of the swimming pool and the alfresco.
- Roof over the new alfresco location.

First Level:

- Bedroom 1 –
 - Increase in the size of the attached front balcony; and
 - Increase in the size of the ensuite.
- Bedroom 4 –
 - Reduction in the size of the WIR; and
 - Increase in the size of the attached front balcony.
- Increase in the size of the void with a new skylight over.



Figure 1. Extract of the concept imagery of the front elevation in the subject modification application.



Figure 2. Extract of the concept imagery of the front elevation in the original DA.

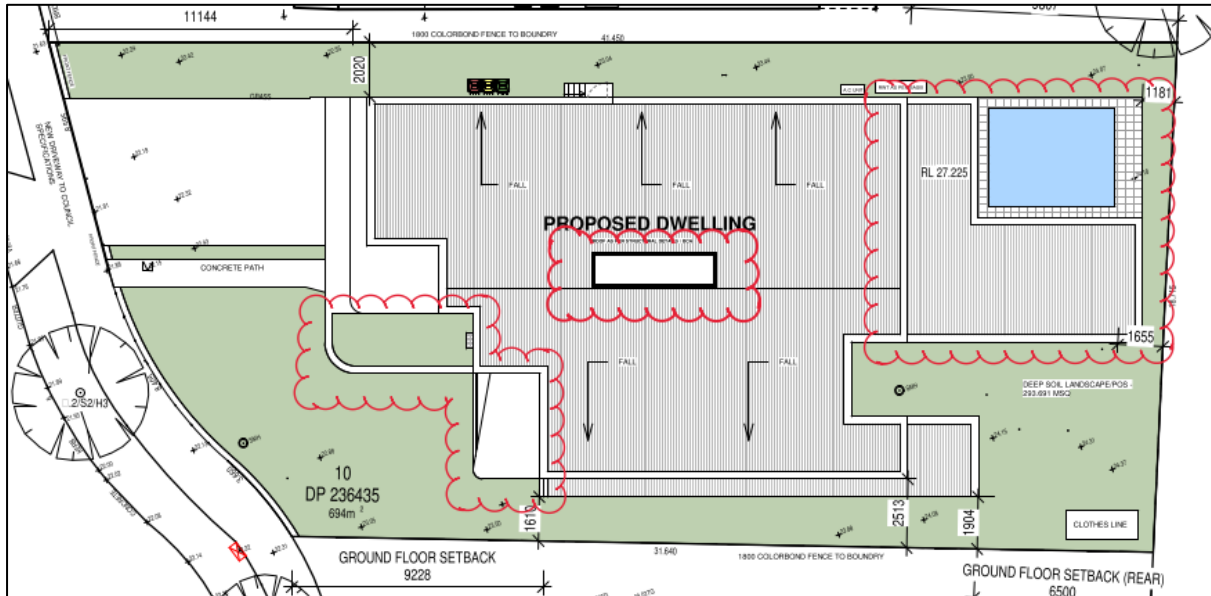


Figure 3. Extract of the site plan in the subject modification application.

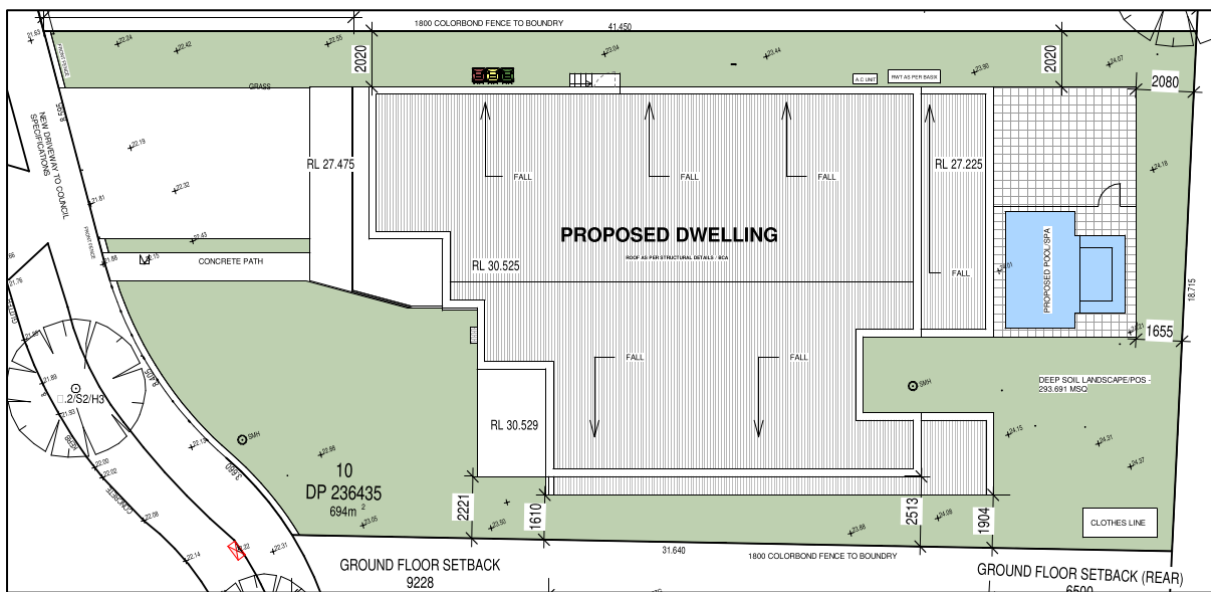


Figure 4. Extract of the site plan in the original DA.

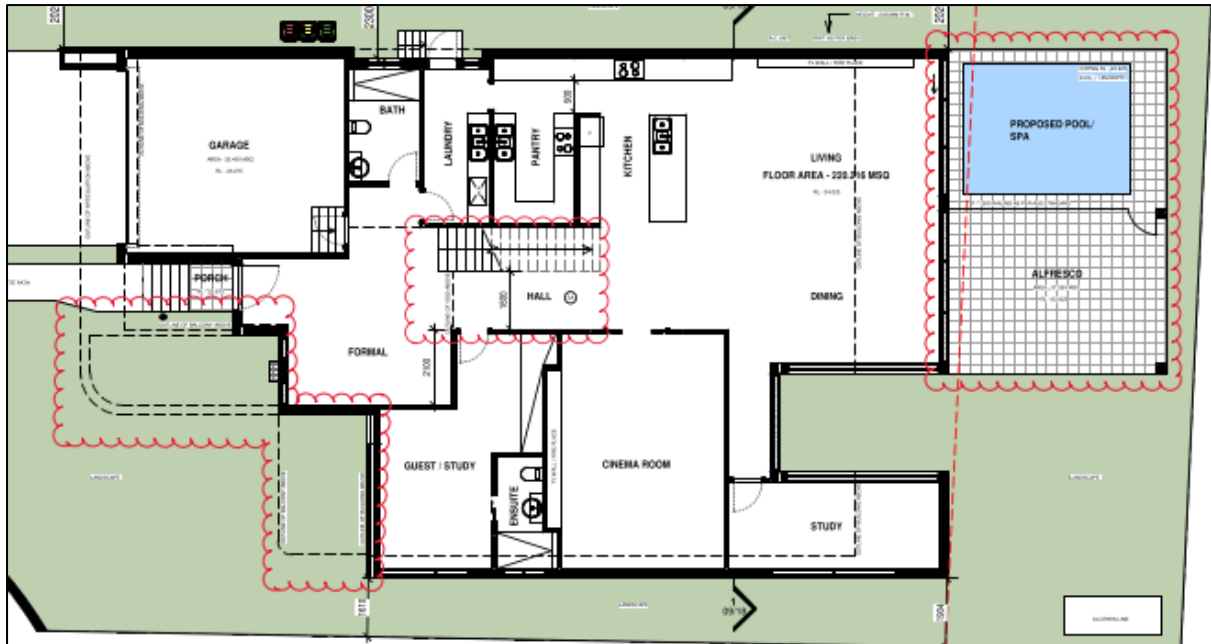


Figure 5. Extract of the ground floor plan in the subject modification application.

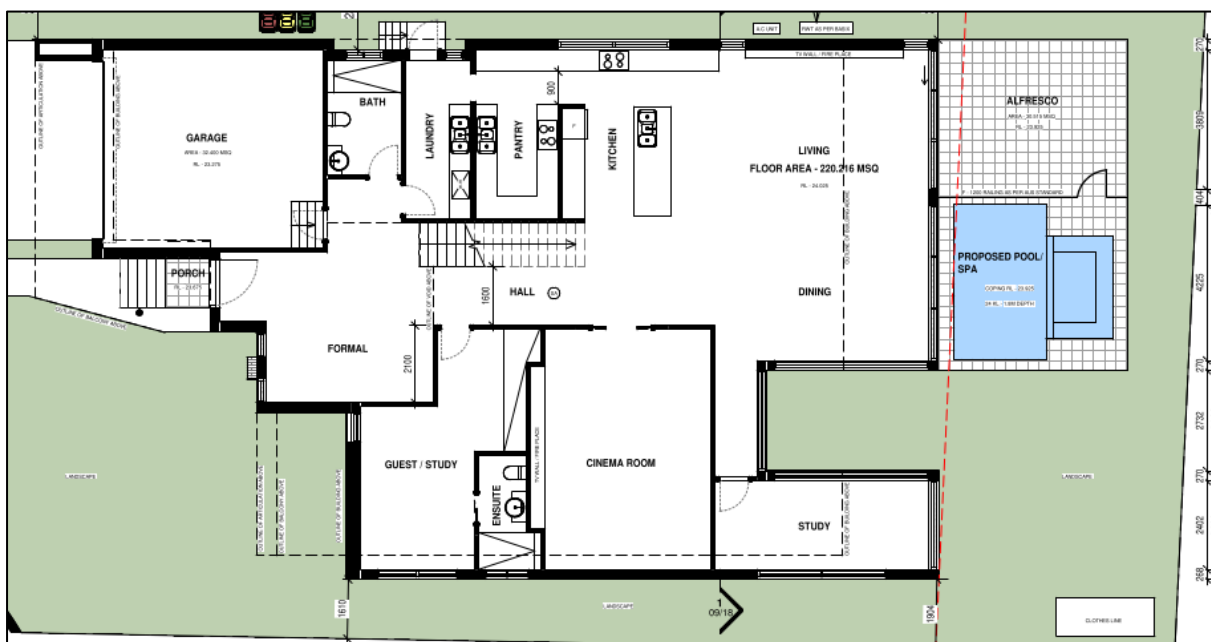


Figure 6. Extract of the ground floor plan in the original DA.

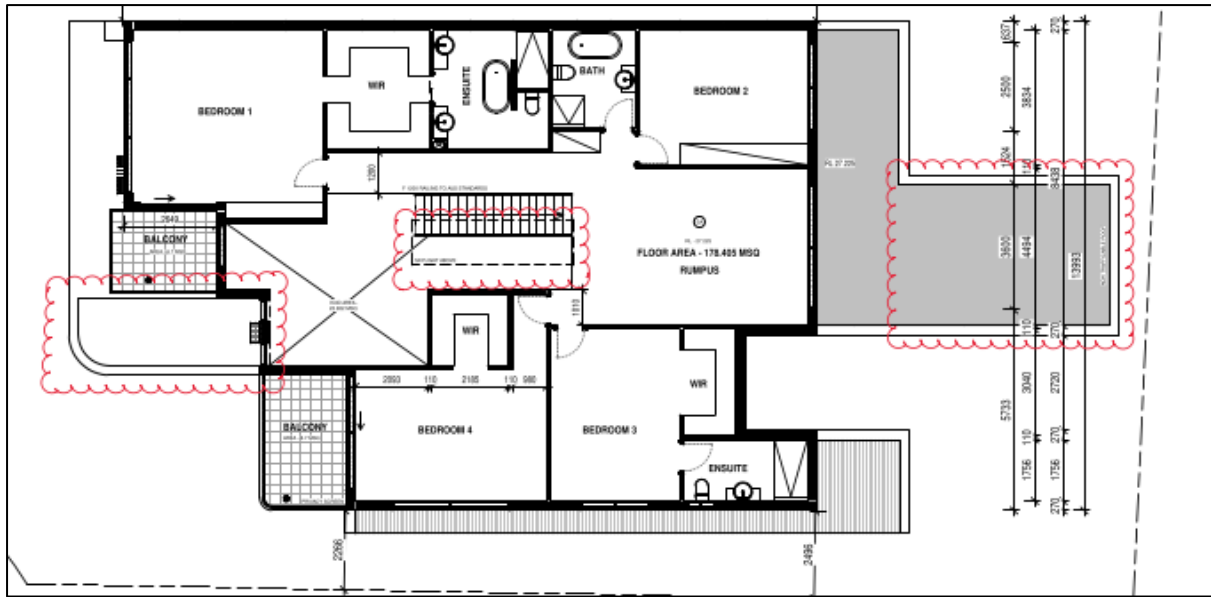


Figure 7. Extract of the first floor in the subject modification application.

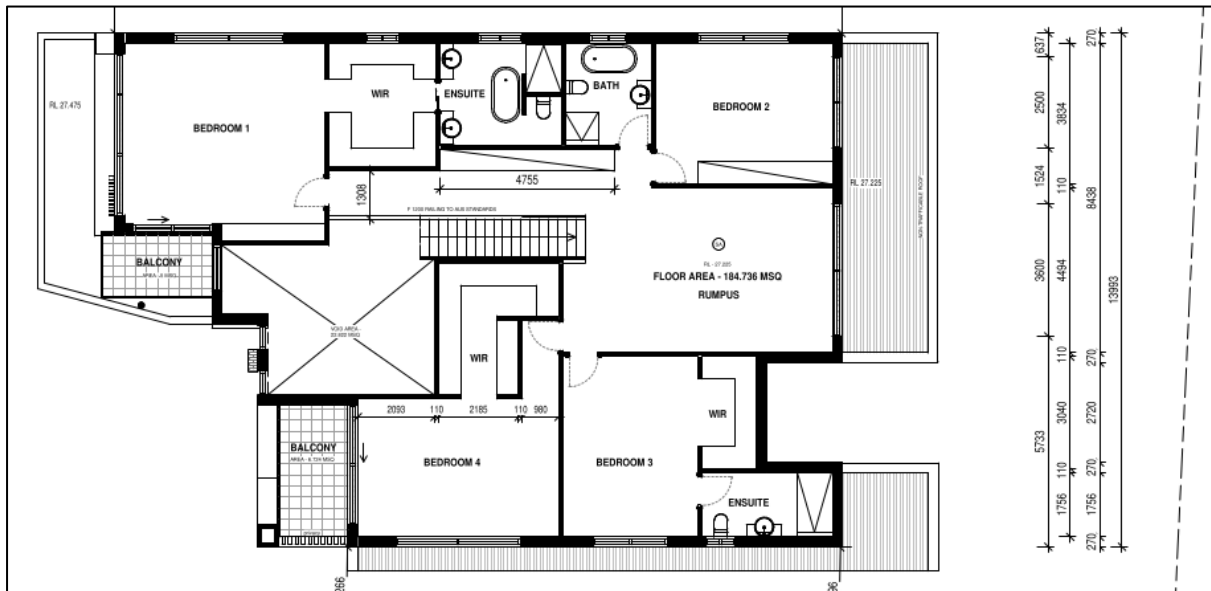


Figure 8. Extract of the first floor in the original DA.

The Site and Locality

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The site is irregular in shape and has a frontage of 20.66m to the west, rear boundary of 18.715m to the east, side boundary length of 41.45m to the north, and side boundary length of 31.64m to the south and an area of 689.2m².

The site slopes from south-east to north-west and has a cross-fall of 2.17m across the site.

The site is currently under construction.



Figure 9. Aerial imagery of the subject site with a capture date of 17 May 2022 (source: Nearmap)

The current streetscape is characterised by contains a mixture of low density residential (dwelling houses). Architectural styles vary, predominantly double storey with pitched roofing and brick and/or rendered façades. Some flat roofed, modern style architecture examples exist along the street.

Background

- | | |
|------------------|--|
| 12 November 2021 | Council's Internal Development Assessment Panel ('IDAP') has approved the original DA (DA2021/203) for the purpose of demolition of existing structures and construction of a two-storey dwelling house with pool and front fence. |
| 25 February 2022 | The subject modification application was lodged. |
| 26 May 2022 | <p>Council's Planner informed the applicant that the additional roof to the alfresco will not be supported as it would not comply with the rear setback development control of Council and that a condition would be imposed should the application be supported for its removal.</p> <p>Applicant requested for time to have a conversation with his architect and planner.</p> |
| 30 May 2022 | Council's Planner followed-up with the applicant about the outcome of his discussion with the consultants. Applicant requested for the application to be put on hold for a week for further exploration of other opportunities. |

- 2 June 2022 Applicant raised the idea of changing the design to having an outbuilding instead (i.e. pergola) and remove the alfresco. Council's Planner then informed the applicant that this change could require re-notification of the application.
- 14 June 2022 Applicant has agreed to continue with the condition to remove the alfresco roof.

Referrals – Internal and External

The nature of the proposal in the modification application did not trigger any internal or external referrals.

Section 4.55 of the EP&A Act 1979

The application has been lodged under the provisions of s4.55(1A) of the EPA Act. The application is considered to be of minor environmental impact, is substantially the same development for which consent was originally granted, has been notified in accordance with the provisions of Council's CPP and any submissions made will be considered as part of this assessment. In addition, under the provisions of s4.55 (3), the reasons for the granting on the consent that sought to be modified will be taken into consideration during the detailed assessment of the application.

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,***

Chapter 2 – Vegetation in non-rural areas

The intent of this Chapter within the SEPP is related to the protection of the biodiversity values of trees and other vegetation on the site.

The proposed development as modified does not result in any additional tree loss.

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

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

A BASIX Certificate had been approved and considered in the assessment of the original DA. The proposed works in this modification application will not impact the components approved in the BASIX Certificate in the original DA.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of land

Chapter 4 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 Chapter 4 of the SEPP are considered to be satisfied.

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 as modified is a permissible form of development with Council's consent.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Approved Standards	Development Proposal	Compliance/ Comment
4.4 Floor Space Ratio	0.6:1 (413.5m ²)	0.58:1 (404.952m ²)	0.58:1 (398.62m ²)	Yes

Floor Space Ratio

The floor space ratio proposed in the modification application has reduced due to the reduction in size of the WIR in bedroom 4 that resulted to a bigger void. The footprint of the dwelling will not be changed in this modification application apart from the alfresco area which increased by about 7m².

The provisions and objectives of the development standard is considered to be continually satisfied should the proposal be supported.

Part 5 – Miscellaneous Provisions

Flood Planning

The subject site has been identified as being at or below the flood planning level. Flooding considerations were addressed in the original DA. The nature of the proposed modifications does not trigger a different assessment against the provisions of the clause already assessed and dealt with in the original DA.

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.

Earthworks

The proposal modifications do not result in any additional or significant excavation works. The provisions and objectives of the clause are considered satisfied.

Essential Services

The subject site is considered to be adequately serviced for the purposes of the proposed development as modified.

It is considered that the proposed modifications satisfy the aims, objectives and development standards, where relevant, of the Strathfield LEP 2012.

(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, as modified, 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, where applicable to the proposed changes;

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
Building Envelope			
Setbacks: Rear:	6m	0.46m	No

Landscaping			
Landscaping/Deepsoil Provisions:	41.5% (288m ²)	41.17% (285.69m ²)	No (0.8% variation)
Solar Access			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	Proposed modification works retain the approved solar access for the site and neighbouring properties in the original DA.	Yes

Rear Setback

The proposed modification involves additional awning over the new location of the alfresco that would result to a rear setback that is less than what the DCP allows. It is noted that the original DA was approved with the minimum rear setback of 6m.

The new awning at the rear is not supported as it will not be consistent with the DCP and would have a structure that is part of the house that is going to be very close to the boundary, which is not supported. As such, as agreed with the applicant, a condition of consent will be imposed to remove the awning.

Landscaping and Open Space

The proposed modification involves a non-compliant landscaping of 41.17% (285.69m²) on the site. The non-compliance can be attributed to the increase in size of the alfresco from from the approved 46m² to 53.88m².

The site has an irregular shape which, with a compliant front setback, would have a backyard that is limited in size. In this regard, in order to allow the occupants of the site to have a reasonably-sized private open space, a negligible variation of 0.8% is deemed acceptable.

Further to the above, the proposal is not considered to have any adverse amenity and environmental impact to the site and to neighbouring properties. The proposed development as modified satisfies the relevant objectives and controls of the SCDP 2005.

Solar Access

The proposed modification works will not impact the solar access for the site and neighbouring properties, already approved and dealt with in the original DA.

PART H – Waste Management (SCDCP 2005)

A waste management plan was submitted with the original application. The existing plan adequately accommodates the modified development.

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

The provisions of this clause are not relevant to the modification and have been addressed/considered as part of the original development consent.

(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, as modified, 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, as modified, is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

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

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

(e) *the public interest.*

The proposed development, as modified, 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).

The proposed modifications do not result in the increase or change to the contributions imposed on the original consent.

Conclusion/Recommendation

The application for modification 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 SCDP 2005.

Pursuant to Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 and following detailed assessment of the proposed modifications to Development Consent No. 203/2021 for the alterations and additions to the approved dwelling house be approved, subject to any modifications below.

1. The proposed modifications does not result in the change to the description of the approved development and is to be maintained.

2. The original conditions of consent of Development Consent No. 2021/203 as approved for except were amended as below.
3. As part of this Section 4.55(1A) application, the following conditions are to be modified, added or deleted:
 - Amend condition #1 – Approved Plans & Documentation
 - Amend condition #6 – Required Design Changes

Accordingly, Development Consent 203/2021/2 is approved as per the following;


Signed:
P Santos
Senior Planner

Date: 27 June 2022

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

Report and recommendations have been peer reviewed and concurred with.


Signed:
J Brown
Planner

Date: 28 June 2022

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

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

DEVELOPMENT DETAILS

1. Approved Plans & Documentation

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Page 2 of 18	20 September 2021	A	Cedar Designs
Ground Floor Plan	Page 3 of 18	20 September 2021	A	Cedar Designs
First Floor Plan	Page 4 of 18	20 September 2021	A	Cedar Designs
Roof Plan	Page 5 of 18	20 September 2021	A	Cedar Designs
Building Elevations (West and South)	Page 7 of 18	20 September 2021	A	Cedar Designs
Building Elevations (North and East)	Page 8 of 18	20 September 2021	A	Cedar Designs
Section	Page 9 of 18	20 September 2021	A	Cedar Designs
Colours and Finishes	Page 10 of 18	20 September 2021	A	Cedar Designs
Proposed Driveway	Page 11 of 18	20 September 2021	A	Cedar Designs
Erosion and Sediment Control Plan	Page 15 of 18	20 September 2021	A	Cedar Designs

Demolition Plan	Page 16 of 18	20 September 2021	A	Cedar Designs
Pool Plan	Page 17 of 18	20 September 2021	A	Cedar Designs
Street Elevation	Page 18 of 18	20 September 2021	A	Cedar Designs
Demolition and Construction Management Plan	10 Myall Crescent, Strathfield	-	-	Cedar Designs
Stormwater Drainage Plans	Sheet No: S1 to S2	22 July 2021	-	MBC Engineering
Landscape Plans	LSP1	20 September 2021	A	Cedar Designs
Waste Management Plan	10 Myall Crescent, Strathfield	-	-	Cedar Designs
Proposed Site Plan	02/18	19/01/2022	A	Cedar Designs
Proposed Ground Floor Plan	03/18	19/01/2022	A	Cedar Designs
Proposed First Floor Plan	04/18	19/01/2022	A	Cedar Designs
Proposed Roof Plan	05/18	19/01/2022	A	Cedar Designs
Building Elevations 1	07/18	19/01/2022	A	Cedar Designs
Building Elevations 2	08/18	19/01/2022	A	Cedar Designs
Colours and Finishes	10/18	19/01/2022	A	Cedar Designs

Detailed Pool Plans	17/18	19/01/2022	A	Cedar Designs
Street Elevation	18/18	19/01/2022	A	Cedar Designs
Landscape Plan	LSP1	19/01/2022	A	Cedar Designs

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SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

2. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

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

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

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

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

3. **Vehicular Crossing - Minor Development**

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

To apply for approval, complete the *Works Permit Application Form* which can be downloaded from Strathfield Council's Website at www.strathfield.nsw.gov.au. 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

4. **Sydney Water – Tap in™**

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. **Fees to be Paid**

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://longservice.force.com/bci/s/levy-calculator	\$ 3,972.00
Security Damage Deposit	\$ 15,000.00
Tree Bond	\$ 3,000.00
Administration Fee for Damage Deposit	\$ 130.00
Administration Fee for Tree Bond	\$ 130.00
DEVELOPMENT CONTRIBUTIONS	
Indirect (Section 7.12) Contributions	\$ 11,350.62

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.

6. Required Design Changes

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

Landscape Plan	Amend the landscape plan to replace the two (2) Eucalyptus Botryodes in the front yard with two (2) trees that are capable of achieving 15m in order to achieve the conditions of DA 2021/21.
Front Fence	Reduce the overall proposed fence height by 0.2m across its length. The solid components would then measure 1m at the northern corner of the front boundary and 0.7m at the southern corner of the front boundary.
Driveway width at Boundary	Amend plans to show the width of the driveway at the boundary to be 3m to meet Clause 8.2.1.2 of SCDGP 2005 and to better reflect the streetscape character of the immediate area.
Roof Over Alfresco	Delete the roof over the alfresco and supporting posts.

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7. 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: \$15,000.00
- 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
- Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

8. **Tree Bond**

A tree bond of \$3,000.00 (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.

9. **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.

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. 1225071S 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. 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.

13. Driveway Surface Waters

For driveways on private property sloping to the street and greater than 10 metres in length, drainage control devices such as humps or grated surface inlet pits shall be installed at the front boundary in order to control excess stormwater flowing across Council's footpath.

14. 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.

15. 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.

16. Off Street Parking – Compliance with AS2890

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

17. Tree Removal & Replacement

Tree removal

Permission is granted for the removal of the following trees:

Tree No.	Tree species	Number of trees	Location
-	<i>Ligustrum spp.</i> (Privet)	1	Rear yard, north boundary
-	<i>Ligustrum spp.</i> (Privet)	1	Rear yard, south boundary
-	<i>Citrus spp.</i> (Lemon tree).	1	Rear yard, south boundary

General Tree Removal Requirements

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

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

18. 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.

19. 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.

20. 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](#).

21. 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

22. 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.

23. 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.

24. Ground Levels and Retaining Walls

The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

25. 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.

26. 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.

27. 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).

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

28. 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.

29. 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).

30. 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.

31. 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.

32. 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) 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;
- (c) Pipe invert levels and surface levels to Australian Height Datum;
- (d) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

OPERATIONAL CONDITIONS (ON-GOING)

33. Maintenance of Landscaping

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

34. 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.

35. 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.

36. Void Space (First Floor)

The first floor void space above the formal living room and stairwell must be retained for so long as the dwelling house is utilised.

37. 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

38. Requirement for a Construction Certificate

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

39. 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.

40. 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.

41. 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](#).

42. 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.

43. 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

44. Clause 97A – BASIX Commitments

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

45. 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.

46. 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.

47. 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](#).

SIGNED on behalf of
Strathfield Municipal Council



GEOFF BAKER
PUBLIC OFFICER

END CONDITIONS

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

v. **Long Service Levy**

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

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

vi. **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.

vii. **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.
- (b) In the Application Form, quote the Development Consent No. (eg. 2021/203) and reference this condition number (e.g. Condition 23)
- (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.

viii. **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).

ix. **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

x. **Noise**

Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nqlg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- (a) Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
- (e) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

xi. **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 (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

xii. **Australia Post – Letter Box Size and Location**

The size and location of letterboxes servicing the development are to comply with the requirements and standard of Australia Post (see attached link: https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-02.pdf)