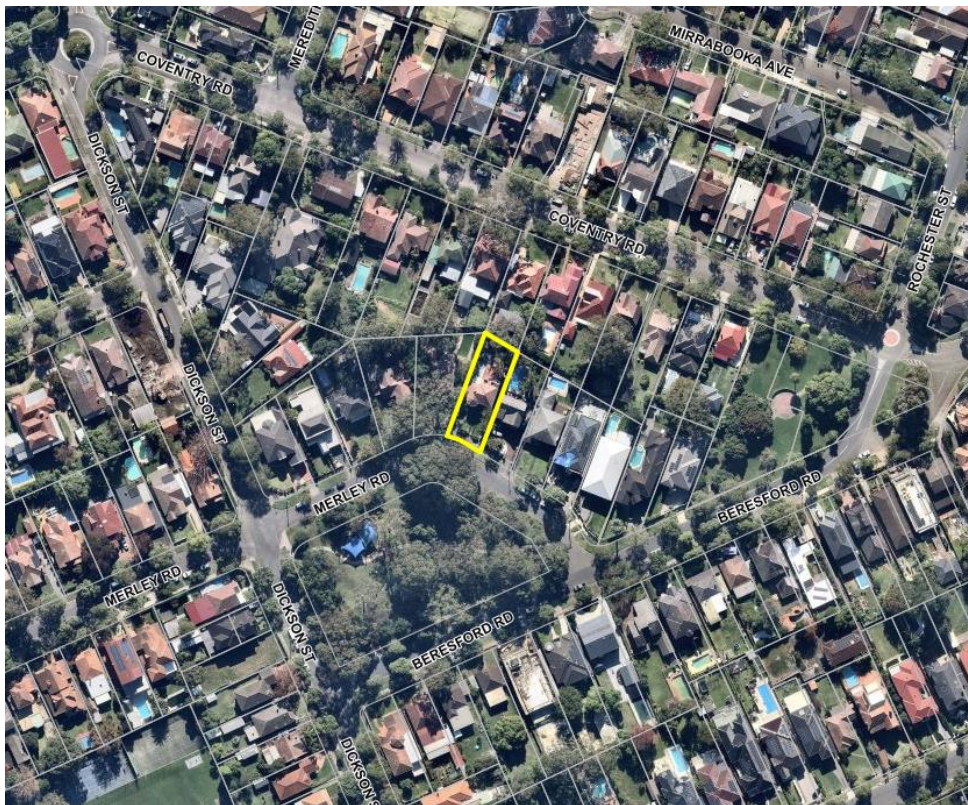


## IDAP REPORT

	9 Merley Road STRATHFIELD
<b>Property:</b>	Lot 15 DP 19348 DA2021.336
<b>Proposal:</b>	Demolition of existing structures, construction of a two-storey dwelling house, in-ground swimming pool with spa and ancillary landscaping.
<b>Applicant:</b>	A Chandrahasan
<b>Owner:</b>	A & S Urutherakumar
<b>Date of lodgement:</b>	14 January 2022
<b>Notification period:</b>	31 January – 14 February 2022
<b>Submissions received:</b>	1
<b>Assessment officer:</b>	L Fanayan / J Gillies
<b>Estimated cost of works:</b>	\$1,331,588.00
<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>	REFUSAL



**Figure 1 – Locality Plan**

## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the demolition of existing structures, construction of a two-storey dwelling house, in-ground swimming pool with spa and ancillary landscaping.

### **Site and Locality**

The site is identified as 9 Merley Road STRATHFIELD and has a legal description of Lot: 15 DP: 19348. The site is an irregular shaped parcel of land and is located on the northern side of Merley Road.

The site has a curved frontage width with an approximate length of 16m, an average depth of 45.805m and an overall site area of 725.5m<sup>2</sup>.

The locality surrounding the subject site primarily contains two storey dwellings of different eras in a low density residential setting. The Merley Road streetscape features pitched roof dwellings with a number of dwellings being local heritage Items. Inveresk park is located on the southern side of Merley Road and is a local heritage item (*Item 178*).

### **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 31 January – 14 February 2022, where one (1) submission was received raising the following concerns:

- Drainage and flooding.

### **Issues**

- Rear balcony, streetscape and character, bulk and scale, landscaping and setbacks.

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2021/336 is recommended for refusal subject to the attached reasons of refusal.

## REPORT IN FULL

### **Proposal**

Council has received an application for the Demolition of existing structures, construction of a two-storey dwelling house, in-ground swimming pool with spa and ancillary landscaping. More specifically, the proposal includes;

Ground floor level:

- Attached double garage, guest bedroom with ensuite, media room, dining and family room, kitchen, laundry, powder room, store room and stairs to Level 1 above.

First floor level:

- Four (4) bedrooms (Two (2) of which have walk in robes and ensuites), a bathroom, prayer room, living area, front balcony, rear balcony, rear void and void at the front over the entry below, stairs to the ground floor below.

External works:

- Alfresco area, in ground swimming pool and spa, new driveway and driveway crossover and landscaping works.

### **The Site and Locality**

The subject site is legally described as Lot: 15 DP: 19348 and commonly known as 9 Merley Road STRATHFIELD. It is located on the northern side of Merley Road between Dickson Street and Beresford Road.

The site is irregular in shape, with a curved frontage and splayed rear boundary. The site fans out from the street to the rear, but only slightly. The width as taken from after the curve inside the front setback is 15.3m and from the existing building line is 15.65m. From the rear building line it is 16.3m and the rear boundary length is 16.975m.

The western boundary length is 46.29m and the eastern side boundary length is 45.32m The total area is 725.5m<sup>2</sup>.

The site slopes from the northern boundary to the southern boundary and has a cross-fall of approximately 0.56m.

The site is occupied by a two storey brick dwelling which appears to be an inter-war period construction, similar in style to the dwelling to the north at 11 Merley Road. Vehicular access is provided to the site via an existing driveway located on the northern side boundary which leads to an attached garage. The rear yard features an in-ground swimming pool, cabana and a number of mature trees including a large lemon scented gum (*Corymbia citriodora*).

The current streetscape is characterised by low density residential dwellings with facebrick or concrete render facades, tiled and pitched rooves and landscaped front setbacks.

A number of local heritage items are located in the vicinity of the subject site, as follows:

- *Inveresk park (Item 178)* – located opposite the site.
- *Item 179- Inter-War Style House and Garden* – located at 13 Merley Road.
- *Item 180 – Georgian revival house and garden* – located at 15 Merley Road.





**Figure 2** – 19, 17 and 15 (left to right) Merley Road



**Figure 3** – 13 Merley Road



**Figure 4** – The site (centre), 11 Merley (left) and 7 Merley Road (right)





**Figure 5** – 7 (left), 5 (centre) and 3 (right) Merley Road



**Figure 6** – 3 (left), and 1 (centre) Merley Road and 55 Beresford Road (right)



**Figure 7** – Southern elevation of approved outcome for 3 Merley Road (DA2019/183/2)





**Figure 8** – Looking towards Inveresk Park from the existing dwelling at the site



**Figure 9** – eastern side setback





**Figure 10** – Existing Rear yard looking east



**Figure 11** – Existing rear yard looking north



**Figure 12** – Existing rear yard looking south with 11 Merley Road on the right of the frame

## **Background**

- 14 January 2022** The subject Development Application (DA) was lodged with Council.
- 31 January 2022** The DA was neighbour notified for 14 days, with 1 submission received.
- 24 March 2022** Council sent a Request for Further Information (RFI) to the Applicant raising the following concerns:
- Tree matters including the need for an arboriculture assessment (these have been resolved),
  - Flat roof façade design and materials proposed do not complement the setting of local heritage items in the vicinity of the site,
  - The proposed voids add unnecessary bulk and scale,
  - The landscape area is non-compliant,
  - A front fence plan is required.
- 7 April 2022** The Application was re-assigned from L Fanayan to J Gillies.
- 16 May 2022** The Applicant submitted additional information. An Arboricultural Impact Assessment Report was submitted and some changes were made to the first floor, with voids being reduced. It is noted that inclusive of voids, the first floor area remained the same.
- 29 June 2022** A site inspection was undertaken to better understand the issues.

## **Referrals – Internal**

### **Tree Management**

The Application was referred to Council's Tree Management Officer who offered no objection to the proposal, subject to suitable conditions of consent, including adoption of recommendations of the submitted Arboricultural Impact Assessment.

### **Stormwater**

The Application was referred to Council's Development Control Engineer who provided the following comments:

*Roof runoff on the eastern boundary drains into below ground rainwater tank in accordance with BASIX requirements via downpipes. Overflow from tank and western boundary roof runoff drains into the boundary pit via overflow pipe and downpipes. From engineering perspective, concept plan is feasible.*

Council's Development Control Engineer also provided recommended conditions of consent.



## Heritage

The heritage assessment for the proposed development was completed by the Assessing Officer, and informed by previous heritage advice for Number 3 Merley Road (DA2019/183/2) provided by Council's former Specialist Heritage Planner. The notable comments from Council's former Specialist Heritage Planner that are of relevance to the proposed development are outlined below.

### **Roof Form**

*The introduction of a modern, flat roofed building is not acceptable given that the streetscape of Merley Road is dominated and characterised by pitched roofed dwellings. In keeping with this streetscape character, a more appropriate roof form is a pitched roof.*

### **Front façade**

*The front façade comprises bold and stark tones of white render, bronze (shiny/metallic) coloured, metal cladding, dark metal cladding and grey, off-form concrete. Whilst the change in materials provides some interest to the built form, there needs to be some further interest and visual articulation of the façade in order to provide a more appropriate response and sensitivity toward the conservative styles within Merley Road and the nearby heritage conservation area.*

### **Articulation of side walls**

*The side walls, particularly the western side, appear blank and require more visual break-up and articulation. I understand that glazing is minimised on the western side; however, there is opportunity to improve either side.*

The image below shows the flat roof dwelling outcome the above comments relate to and Figure 7 above shows the approved outcome (with minor modifications resulting from DA DA2019/183/2).



**Figure 12** – Original outcome at 3 Merley which was amended to incorporate a pitched roof outcome

## **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,***

## **STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

### **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 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 a number of existing mature and significant trees located at the site.

No objection was raised to the removal of a number of trees on the site subject to replacement planting.

Should approval be granted, conditions of consent will be imposed to ensure retention of the trees mentioned above.

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

### **Chapter 10 – Sydney harbour Catchment**

All stormwater from the proposed development as modified can be treated in accordance with Council's Stormwater Management Code and would satisfy the relevant planning principles of Chapter 10 - Sydney Harbour Catchment.

## **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 (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 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	7.9m	Complies
<b>4.4</b> Floor Space Ratio	0.575:1 (417.16m <sup>2</sup> )	395.9m <sup>2</sup> (0.545:1)	Complies

#### **Clause 4.4 Objectives**

Sub-sections (a) and (d) of Clause 4.4 relate to the need for dwellings to be in keeping with the built form character of the area and to minimise the impact of development on heritage conservation areas and heritage items.

The proposed dwelling achieves numerical compliance with the Clause 4.4, with an FSR of 395.9m<sup>2</sup>. However, this figure excludes void spaces which add an additional 46m<sup>2</sup> of floor area and add significant bulk to the overall building. Of particular concern is the rear void which does not translate to any visual relief to the northern elevation, only adding to the overall bulk and scale of the development.

In combination with several DCP non-compliances, the proposed dwelling will detract from the character of Merley Road and setting for local heritage items in the vicinity of the site - primarily the setting of *Inveresk park (Item 178)* and setting of heritage listed dwelling houses further north along Merley Road.

### **Part 5 – Miscellaneous Provisions**

#### **Heritage Conservation**

The subject site is not listed as a heritage item or located within a heritage conservation area. The site is within close proximity to a number of local heritage items, however this situation does not trigger the provisions of Clause 5.10 (Heritage Conservation).

## **Flood Planning**

The subject site has been identified as being at or below the flood planning level. The application has been reviewed by Council's Engineer who 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 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.

### **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.

**(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.



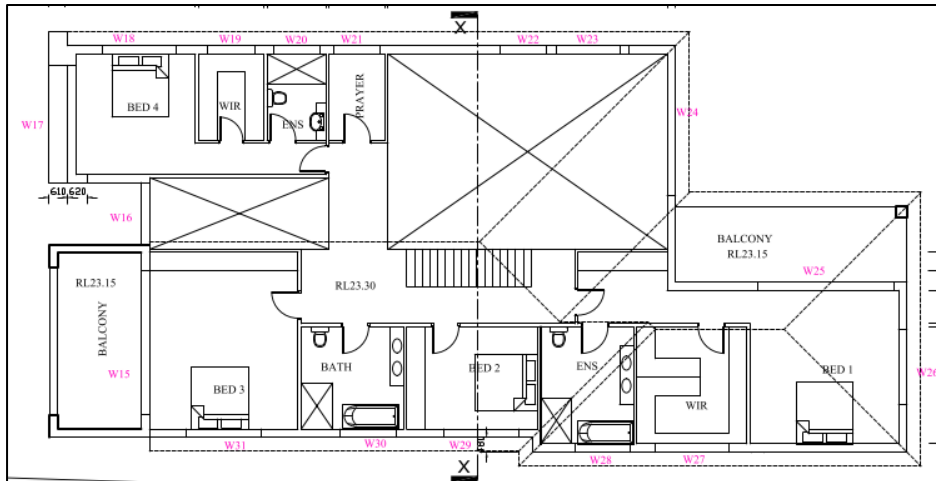
Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Heights:</b> Floor to ceiling heights:	3.0m	3m	Yes, refer discussion
Height to underside of eaves:	7.2m	6.23m	Yes
Number of Storeys/Levels:	2	2	Yes
<b>Setbacks:</b> Front:	9m	8.9m	TBC
Side:	1.2m (min)	1m	No
Side:	1.2m (min)	1.510m	Yes
Combined Side Setback:	3.1-3.2m (20%)	3m	No
Rear:	6m	12.3m	Yes
<b>Landscaping</b>			
Landscaping/Deepsoil Provisions:	312m <sup>2</sup> (725.5 x 43%)	307m <sup>2</sup>  (304m <sup>2</sup> with side setbacks <1.5m and pool pump area subtracted)	No, refer discussion
<b>Fencing</b>			
Height (overall/piers):	1.5m (maximum)	1.5m	Yes
Solid Component:	0.7m	0.89m	No
Secondary Frontage:	1.8m	N/A	N/A
<b>Solar Access</b>			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	>3hrs to habitable windows and to 50% of POS	Yes
<b>Vehicle Access and Parking</b>			
Driveway width at Boundary:	3m	3m	Yes
Vehicular Crossing:	1	1	Yes
Driveway setback – side:	0.5m	1.9m	Yes
No. of Parking Spaces:	2	2	Yes
<b>Ancillary Development</b>			
<b>SWIMMING POOL</b> Side/Rear Setback	1.0m	1.5m & 7.3m	Yes

## Building Envelope

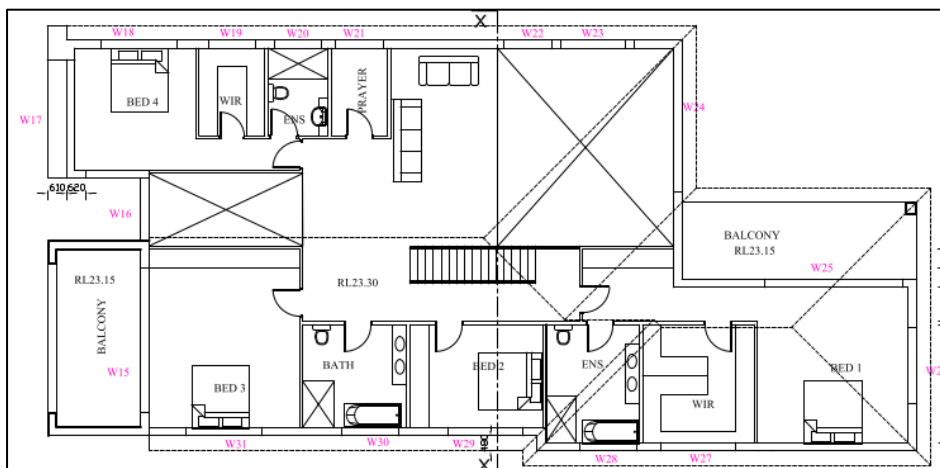
As outlined above, the proposed dwelling is inconsistent with the objectives of floor space ratio objectives under SLEP 2012. SCDP 2005 outlines that floor area calculations are to include void spaces. Council exercises reasonable allowances in the use of void spaces, however in this case the void spaces on the first floor result in an increase of 23% or nearly an additional quarter, with the first floor GFA measured at 199.72 and void spaces totalling 46m<sup>2</sup>.

Of particular concern is the rear void which does not translate into any visual relief to the northern elevation, only adding to the overall bulk and scale of the development.

The Applicant was advised of the excessive use of voids in the RFI issued in March. The resulting amendments did not change the footprint of the building or first floor total area, rather the void was reduced and floor area increased (refer images below).



**Figure 13 – Original First Floor Plan**



**Figure 14 – Revised First Floor Plan**

The impacts of the excessive total floor area are compounded by the non-compliances with setback requirements, landscaping requirements, rear balcony requirements and the need for a building presentation that compliments the distinguishable character of the Merley Road streetscape and setting of local heritage item – Inveresk Park.

### Floor to Ceiling Heights

It is also noted that the lack of a long-section requires an assumption to be made regarding slab thickness and floor to ceiling heights for the portion of the building in front of the void, as this area is not shown on the section provided, which cuts across the short section of the dwelling. In this regard, it is considered that insufficient information has been submitted with the Application.

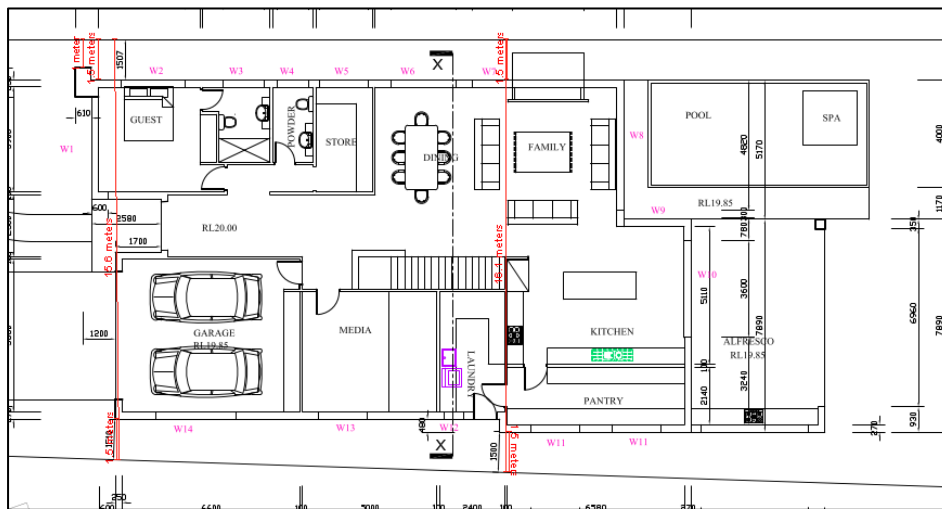


## Setbacks

The side setbacks and combined side setback vary along the development. This outcome is common for allotments where the side setbacks fan out or in. Accordingly, each side setback measurement has been based on the width of the lot at that point.

The western side setback incorporates a design feature that results in a 1m side setback at the front building line. While this is only for the façade of the dwelling, the impact on bulk and scale will be noticeable from the street as the visual separation will be felt as 1m. At this point, the western side setback is non-compliant.

Behind this design feature, the dwelling incorporates a side setback of 1.5m to the west and 1.51m to the east. This results in a non-compliant combined side setback of 3.01m, with 3.1m being required. This combined side-setback is also non-compliant further down the building once it juts out with 3m again being the total. Further, the lot width at this point expands to 16m which requires a 3.2m combined side setback. The figure below illustrates the side setback measurements.



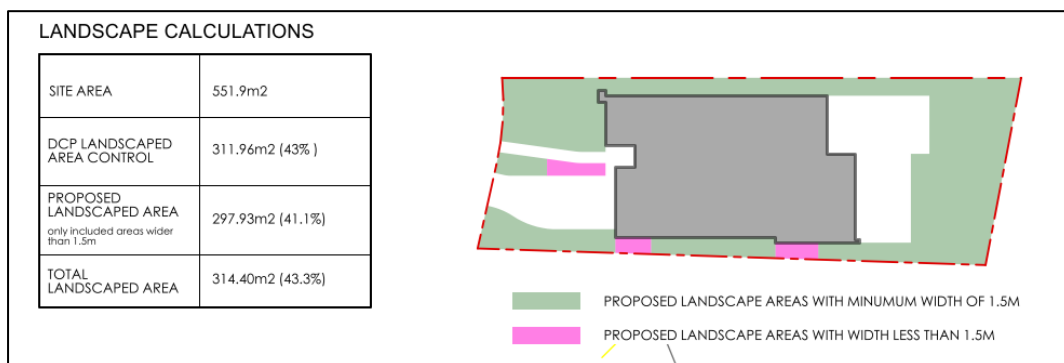
The materials chosen, being modern cladding, as opposed to neutral render tones or facebrick, will detract further from the streetscape character and setting for local heritage items in the vicinity of the site.

## Landscaping and Open Space

The proposed development does not satisfy the relevant objectives and controls of the SCDCP 2005 in terms of landscaping. The subject site is required to achieve a total landscaped area of 312m<sup>2</sup>, however the proposed dwelling footprint and other non-permeable surfaces (alfresco, driveway, footpath, pool, pool pump) as well as landscaped area along the side setback less than 1.5m wide) results in a total of 304m<sup>2</sup> landscaped area.

There are no clear reasons for a merit assessment of the non-compliant landscaped area. Given the generous size of the subject allotment, it is considered a quality dwelling design could be achieved which responds appropriately to the shape and topography of the site while also meeting the minimum requirements for compliant landscaping.

It is noted that the Applicants calculations show a total landscaped area of 297m<sup>2</sup> as shown below. These calculations represent greater non-compliance. It is also noted that the Landscape measurements show certain portions of the side setback as less than 1.5m wide, which is contrary to measurements on the Architectural Plans.

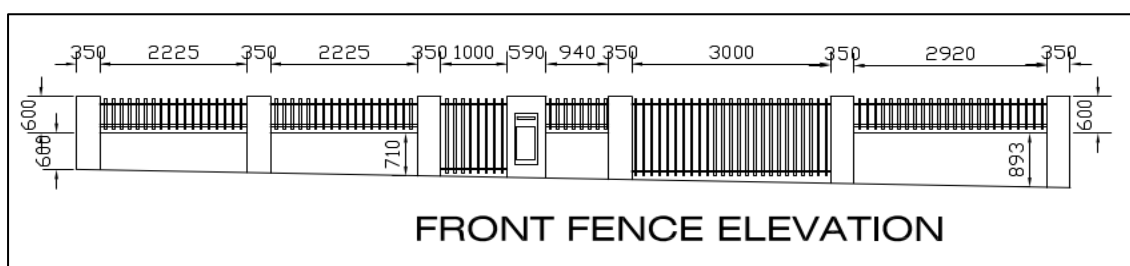


**Figure 16 – Proponents Landscape Area Calculations**

## Fencing

The proposed front fencing is non-compliant with SCDCP 2005 which requires the solid component to be no higher than 0.7m above natural ground level and topped by an additional maximum 0.8m high (maximum) open timber picket, wrought iron, palisade or similar element.

The proposed front fence incorporates a solid component 0.893m in height towards the eastern end and is non-compliant with the requirement.



**Figure 17 – Proposed front fence**



Side boundary fencing is not shown on the proposed plans and is assumed to not form part of the Application.

### **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 SCDCP 2005.

### **Privacy**

The proposed development is non-compliant with *Section 7.2.3 Elevated Decks, Verandahs and Balconies* of SCDCP 2005 which does not permit upper storey balconies on side boundaries and for rear upper storey balconies, requires a maximum depth of 1, and maximum length of 2m.

The proposed upper storey balcony is 2.42m deep and 7.45m long with a total area of approximately 18m<sup>2</sup>. The balcony is located at the rear of the dwelling, however it is orientated to the north and creates privacy issues for 11 Merley Road, looking directly into their private open space.

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

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005 in that it provides the minimum number of required parking spaces and adequate vehicular access provisions.

### **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.

## ANCILLARY STRUCTURES

### 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 planting if required.

It is not clear whether the pool pump equipment has been located in a sound proof enclosure however this could be conditioned. The swimming pool fence/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 P – Heritage (SCDCP 2005)**

Section 3 of Part P relates to development in the vicinity of local heritage items and is relevant to the proposed development which faces local heritage item Inveresk park (Item 178) and is situated along a section of Merley Road Road that features two heritage listed dwellings (Item 179 - Inter-War Style House and Garden – located at 13 Merley Road and Item 180 – Georgian revival house and garden – located at 15 Merley Road).

Section 3.2 relates to the setting of heritage items and requires that where a heritage item is part of a streetscape of buildings of consistent style, form and materials, development in the vicinity of the heritage item should incorporate elements of the dominant style, form and materials in the streetscape.

The Merley Road streetscape is one of distinctly pitched rooves and generally features traditional building materials such as roof tiles, neutral render tones and facebrick.

Some more modern developments exist to the south east near the intersection with Beresford Road. It is noted that the modern presentation of theses dwellings is balanced with pitched roofing.

The proposed dwelling is inconsistent with the requirements of Part 3, incorporating a front façade that results in a flat roof presentation and non-compliant side setbacks that exacerbate this departure from the Merley Road dwelling design characteristics. Issues relating to bulk and scale and inconsistency with the objectives of Part 4.4 of SLEP 2012 and the use of modern cladding materials are also relevant to Part 3 and add to a poor response to this section of Council's DCP.

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

The requirements of Australian Standard AS2601–1991: *The Demolition of Structures* is relevant to the determination of a development application for the demolition of a building.

The proposed development does involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is not in keeping with other developments being constructed in the locality. The negative environmental impacts associated with the development are as follows:

- The proposed dwelling incorporates a bulk and scale that is not suitable for the site and locality. This is partly a result of unnecessarily large void spaces on the first floor,
- The proposal incorporates non-compliant side setbacks that add to a poor site response,
- The proposal incorporates a non-compliant landscaped area and front fence, restricting the site's contribution to the landscape setting of the locality and limiting opportunity for meaningful deep soil planting.
- The proposal will create privacy issues for number 11 Merley Road, with an upper level balcony that is poorly located and too large,
- The proposal incorporates a poor streetscape interface with flat roof presentation and a non-complaint front fence that will have a negative contribution the character of Merley Road and setting of a number of local heritage items in the vicinity of the site.

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

The proposed development does not achieve a suitable outcome for the site. The proposed development does not respond to the shape of the site, forcing non-compliant setbacks in order to achieve the desired footprint. The scale and presentation of the development results in an overly bulky development that does not respond to the character of Merley Road and setting for a number of local heritage items in the vicinity of the site.

**(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. One submission was received from the neighbour at Number 7 Merley Road raising the following concerns:

1. **Stormwater Management** - Due to Number 9 being higher than Number 7, there is consistently stormwater flowing into the yard of Number 7. There is concern that the proposed stormwater works will not effectively address this issue.

Comment: Council's Stormwater Engineer has reviewed the proposed stormwater management plans and did not raise any concerns.

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

The proposed development is of a scale and character that conflicts with the public interest for the following reasons:

- The development does not adequately respond to the Merley Road Streetscape and setting for a number local heritage items,



- The proposed development does not achieve environmental objectives such as those associated with minimum landscaped area requirements,
- The proposed development will have negative impacts on adjoining residents, in particular due to privacy and bulk and scale implications.
- The non-compliances with SLEP2012 and SCDCP 2005 undermine Council's development standards.

### **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 however a fee has not been calculated as the recommendation is for refusal.

### **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. 336/2021 should be refused, subject to the attached reasons for refusal.

**Signed:**

**Date: 12/07/2022**

**J Gillies  
Senior 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 by;

**Signed:**

**Date: 13/07/2022**

**G Choice**

**(1) Refusal Reason – Environmental Planning Instrument**

Pursuant to Section 4.15 (1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- a) The proposal fails to satisfy the objectives of Clause 1.2(a) of the Strathfield Local Environmental Plan 2012 which seeks to achieve a high quality urban form. The proposal is an overdevelopment of the site that is excessive in bulk and scale and fails to demonstrate consistency and compatibility with existing and future desired development in the vicinity.
- b) The proposal fails to satisfy the objectives of Clause 1.2(b) of the Strathfield Local Environmental Plan 2012 which seeks to promote an efficient and spatial use of land. The proposal is an overdevelopment and is a poorly balanced design outcome.

**(2) Refusal Reason - Development Control Plan**

Pursuant to Section 4.15 (1)(a)(iii) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:

- (a) The proposed development is considered unacceptable as it fails to meet the objectives of Clauses 2.1 and controls under 2.2 of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in a dwelling that is of flat roof appearance and will be inconsistent with the prevailing character of the streetscape.
- (b) The proposed development is considered unacceptable as it fails to meet the objectives of Clauses 4.1 and controls under 4.2 of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in non-complaint side setbacks and an excessive bulk and scale resulting in an overdevelopment of the site.
- (c) The proposed development is considered unacceptable as it fails to meet the objectives of Clauses 5.1 and controls under 5.2 of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in a non-compliant landscaped area and front fence, restricting the site's contribution to the landscape setting of the locality and limiting opportunity for meaningful deep soil planting.
- (d) The proposed development is considered unacceptable as it fails to meet the objectives of Clauses 7.1 and controls under 7.2 of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in an upper level balcony that creates privacy and overlooking issues for the neighbour to the west (No. 11 Merley Road).
- (e) The proposed development is considered unacceptable as it fails to meet the objectives and controls under Section 3 of Part P of the Strathfield Consolidated Development Control Plan 2005. The proposed dwelling does not adequately address the setting of local heritage items located in the vicinity of the subject site.

**(3) Refusal Reason – Impacts on the Environment**

Pursuant to Section 4.15 (1)(b) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) Built environment - The proposed dwelling incorporates a bulk and scale that is not suitable for the site and locality. This is primarily a result of unnecessarily large void spaces on the first floor,
- (b) Built environment - The proposal incorporates non-compliant side setbacks that add to a poor site response,
- (c) Built and natural environment - The proposal incorporates a non-compliant landscaped area and front fence, restricting the site's contribution to the landscape setting of the locality and limiting opportunity for meaningful deep soil planting.
- (d) Built and social environment - The proposal will create privacy issues for 11 Merley Road, with an upper level balcony that is poorly located and too large, and
- (e) Built environment - The proposal incorporates a poor streetscape interface with flat roof presentation and a non-complaint front fence that will have a negative impact on the character of Merley Road and setting for a number of local heritage items in the vicinity of the site.

**(4) Refusal Reason – Suitability of Site**

Pursuant to Section 4.15 (1)(c) of the [Environmental Planning and Assessment Act 1979](#), the site is not considered suitable for the proposed development for the following reasons:

- The proposed development does not respond to the shape of the site, forcing non-compliant setbacks in order to achieve the desired footprint.
- The scale and presentation of the development results in a building footprint and bulk that will make a negative contribution to the character of Merley Road and setting for a number of local heritage items in the vicinity of the site.

**(5) Refusal Reason – Public Interest**

Pursuant to Section 4.15 (1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest for the following reasons:

- The development will have a negative impact on the Merley Road Streetscape and setting for a number local heritage items,
- The proposed development does not achieve environmental objectives such as those associated with minimum landscaped area requirements,
- The proposed development will have negative impacts on adjoining residents, in particular due to privacy and bulk and scale implications,
- The non-compliances with SLEP2012 and SCDCP 2005 undermine Council's development standards and are likely to set an undesirable precedent.