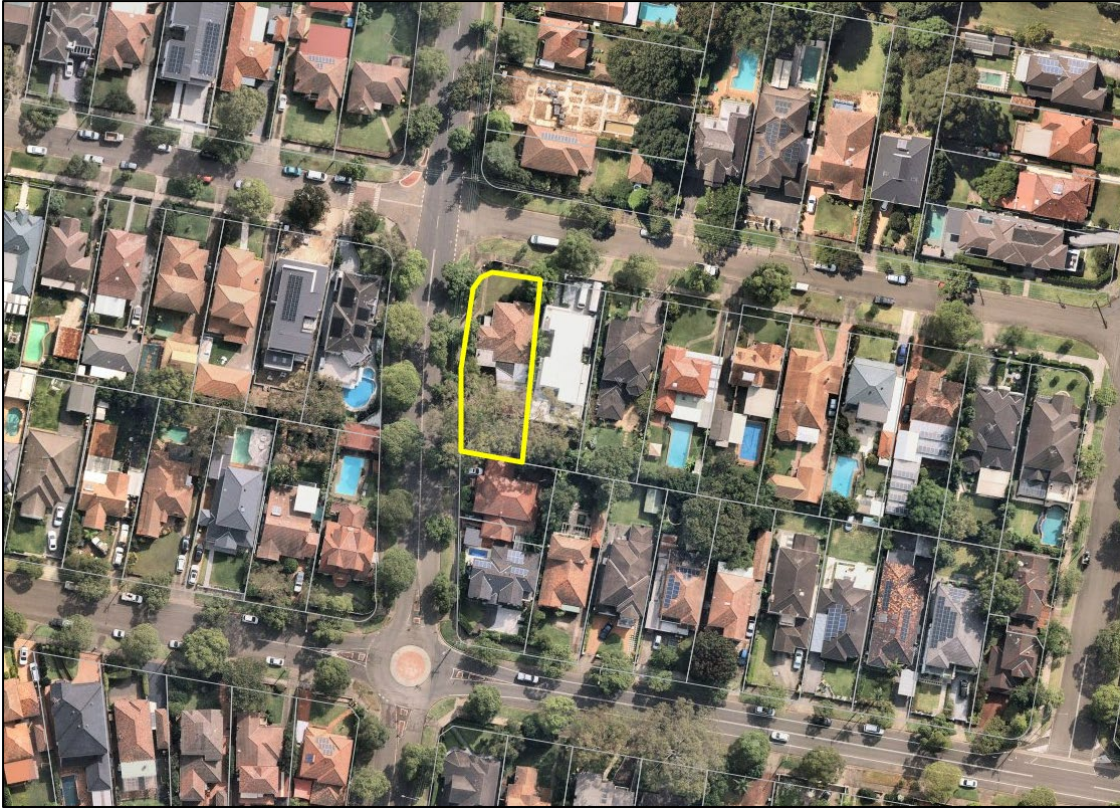


## IDAP REPORT

<b>Property:</b>	20 Karuah Street, Strathfield Lot: 188 DP: 15259 DA2022/81
<b>Proposal:</b>	Demolition of existing structures and construction of a two (2) storey dwelling with basement, swimming pool and associated works.
<b>Applicant:</b>	A Wu
<b>Owner:</b>	Mr Xuan Luo
<b>Date of lodgement:</b>	26 April 2022
<b>Notification period:</b>	10 May 2022 – 24 May 2022
<b>Submissions received:</b>	2
<b>Assessment officer:</b>	W van Wyk
<b>Estimated cost of works:</b>	\$1,583,094.00
<b>Zoning:</b>	R2-Low Density Residential
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Is a Clause 4.6 Variation Proposed:</b>	No
<b>RECOMMENDATION OF OFFICER:</b>	<b>REFUSAL</b>



**Figure 1:** Aerial Image of the Subject Site Outlined in Yellow (Source: NearMaps 2022)

## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the demolition of existing structures and construction of a two (2) storey dwelling with basement, swimming pool and associated works.

### **Site and Locality**

The site is identified as 20 Karuah Street, Strathfield and has a legal description of Lot: 188 in DP: 15259. The site is a regular shaped parcel of land and is located on the south eastern corner of Karuah and Pemberton Streets. The site has a width of that ranges from 14.67m to 17.1m (given a primary frontage to Karuah Street), a depth of 45.79m and an overall site area of 746.1m<sup>2</sup>.

### **Strathfield Local Environmental Plan (SLEP) 2012**

The site is zoned R2-Low Density Residential under the provisions of the SLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the SLEP 2012, with the exception of earthworks. This is discussed in more detail in the body of the report.

### **Strathfield Consolidated Development Control Plan (SCDCP) 2005**

The proposed development generally satisfies the provisions of the SCDCP 2005, with the exception of provisions relating to trees. 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 (CPP) from 10 May until 24 May 2022, where two submissions were received from the same property at 18 Karuah Street. Another objection was received from 91 Barker Road. These raised the following concerns:

- Basement setback;
- Basement entry;
- Height and overshadowing;
- Risk of tree death/collapse;
- Loss of privacy;
- Swimming pool and pump equipment; and
- Vibration concerns.

### **Issues**

- Ceiling height;
- Tree Impacts; and
- Fence height.

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2022/81 is recommended for refusal.

## REPORT IN FULL

### Proposal

Council has received an application for the demolition of existing structures and construction of a two (2) storey dwelling with basement, swimming pool and associated works. More specifically, the proposal includes;

#### **Basement level:**

- Two car spaces; and
- Stair access to the level above.

#### **Ground floor level:**

- High ceiling open plan living/dining/family/kitchen;
- Study;
- Lounge room;
- Guest bedroom with ensuite, WIR and a small street facing balcony;
- Laundry;
- Powder room; and
- Stair access to levels above and below.

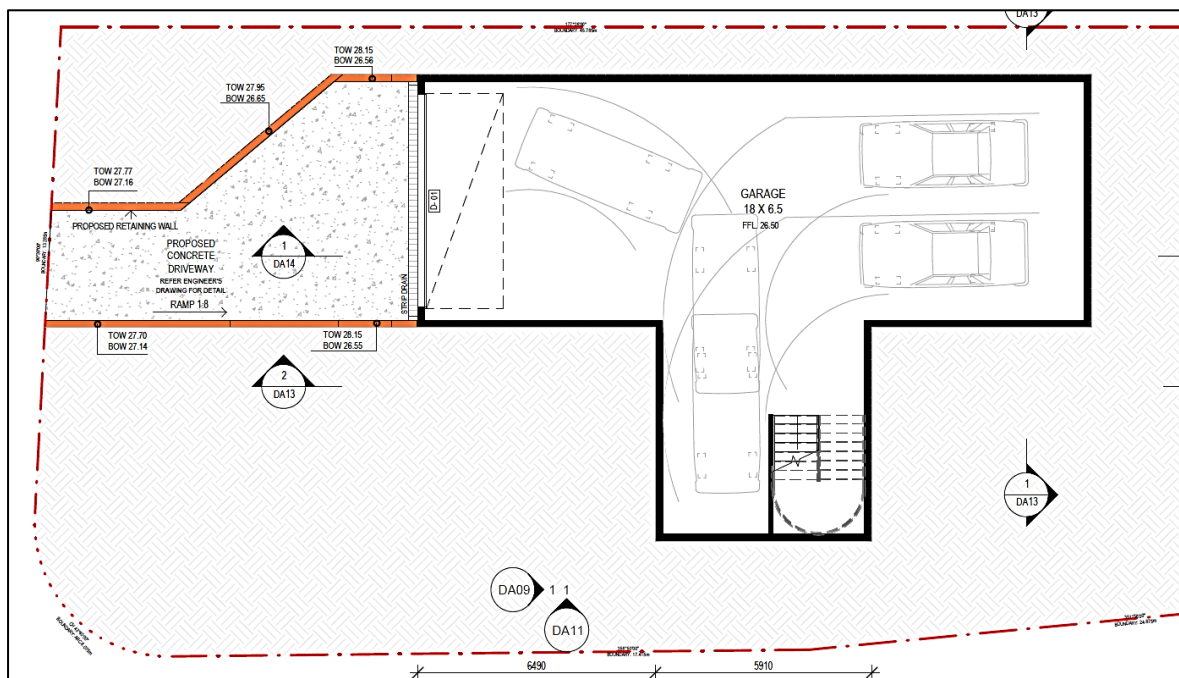
#### **First floor level:**

- Master bedroom with ensuite, WIRs and street facing balcony;
- Four other bedrooms, three with WIRs and two with ensuites; and
- Bathroom.

#### **External works:**

- Swimming pool; and
- Alfresco area.

Refer to **Figures 2-9**. For further details, refer to the architectural drawings (Rev E, dated 2/6/22).



**Figure 2: Proposed Basement Level**

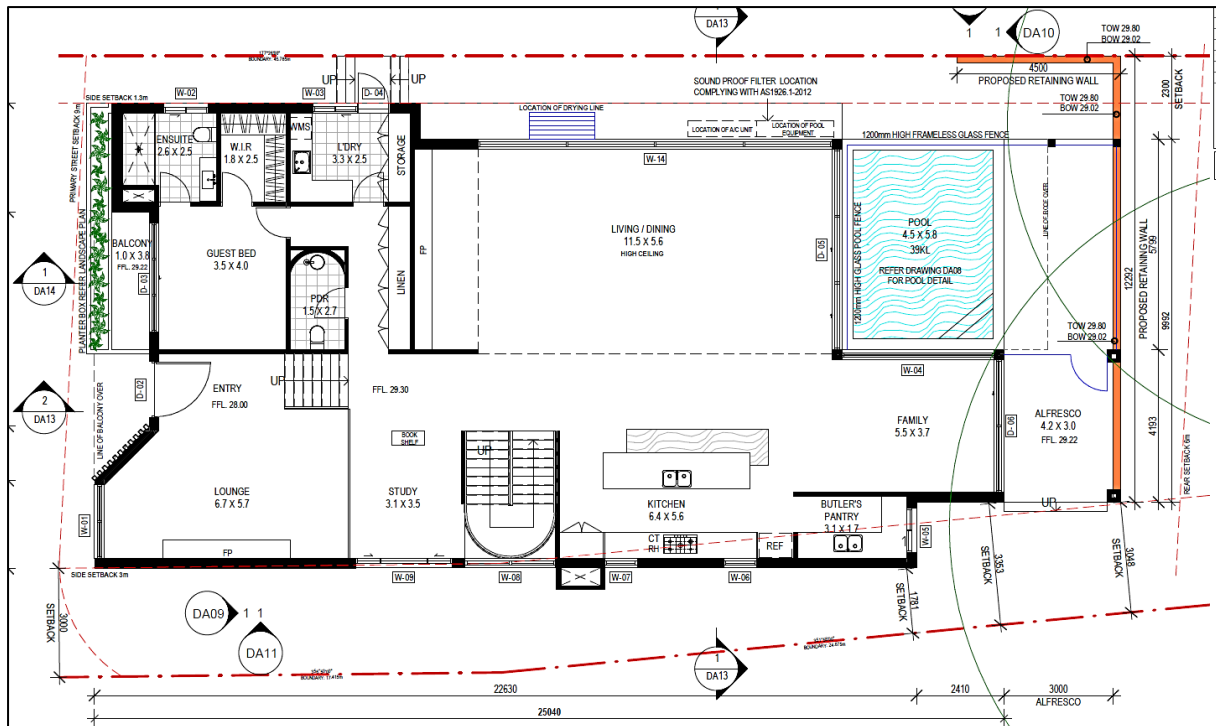


Figure 3: Proposed Ground Floor Level

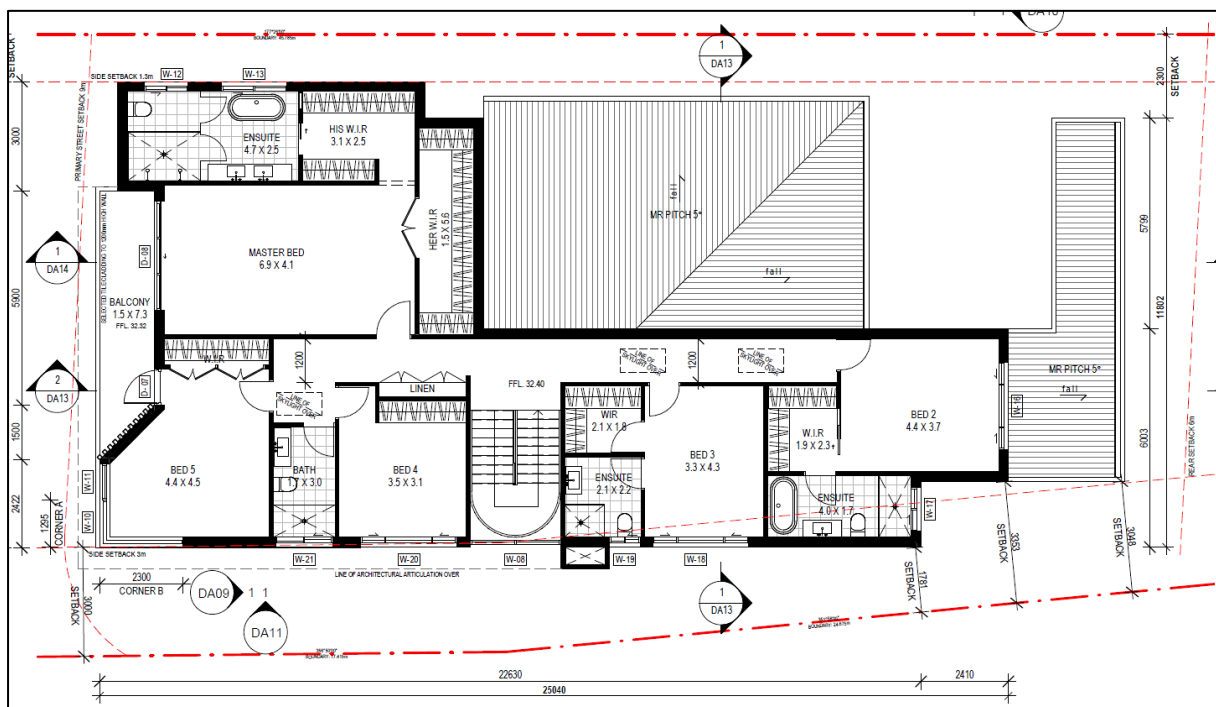


Figure 4: Proposed First Floor Level

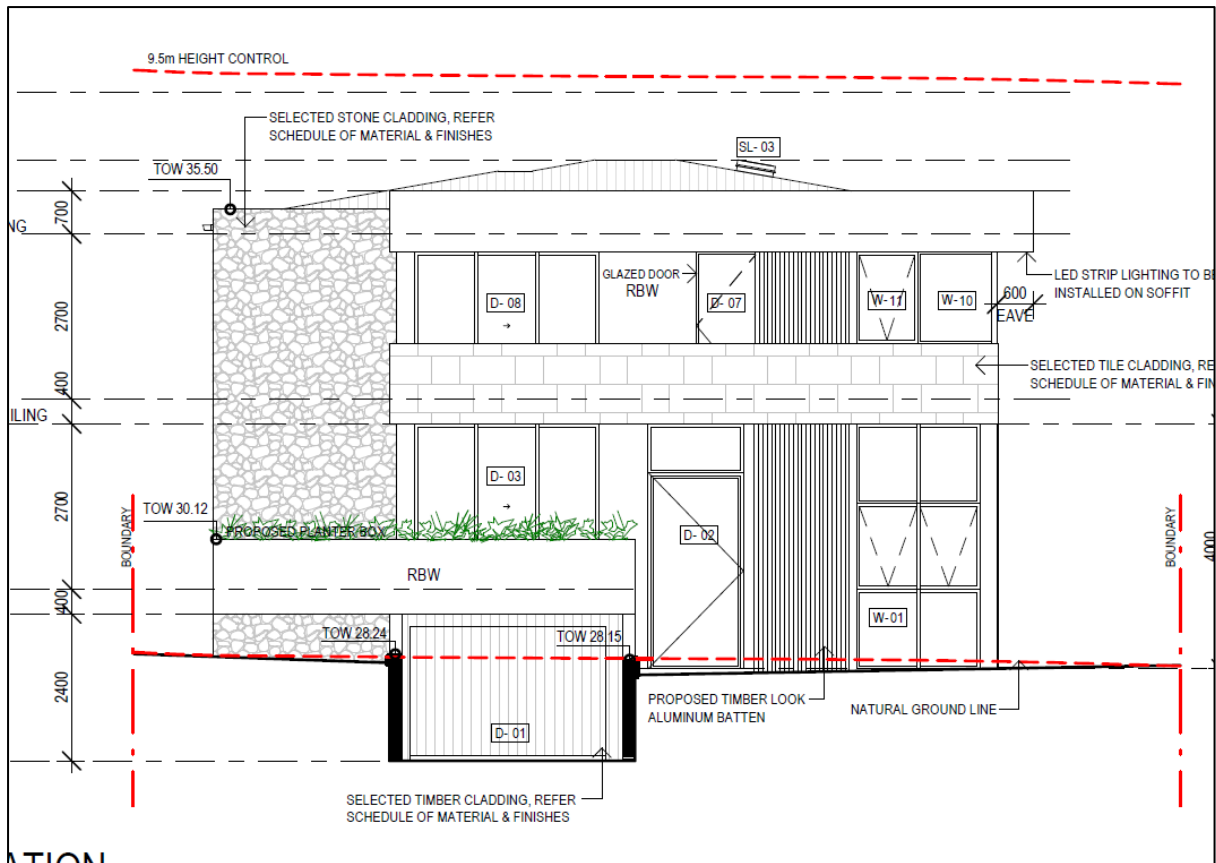


Figure 5: Proposed Northern Elevation

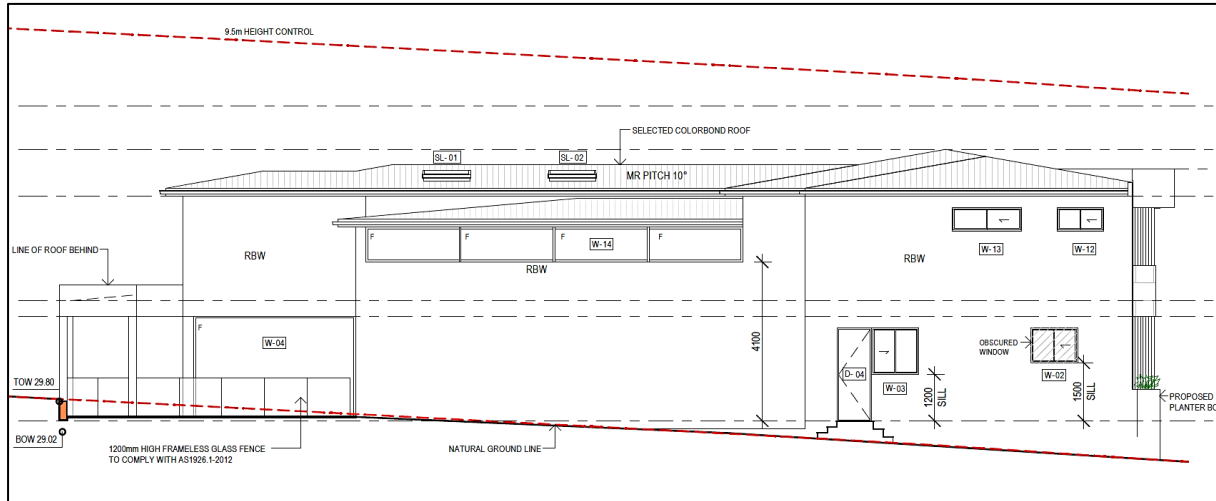


Figure 6: Proposed Eastern Elevation

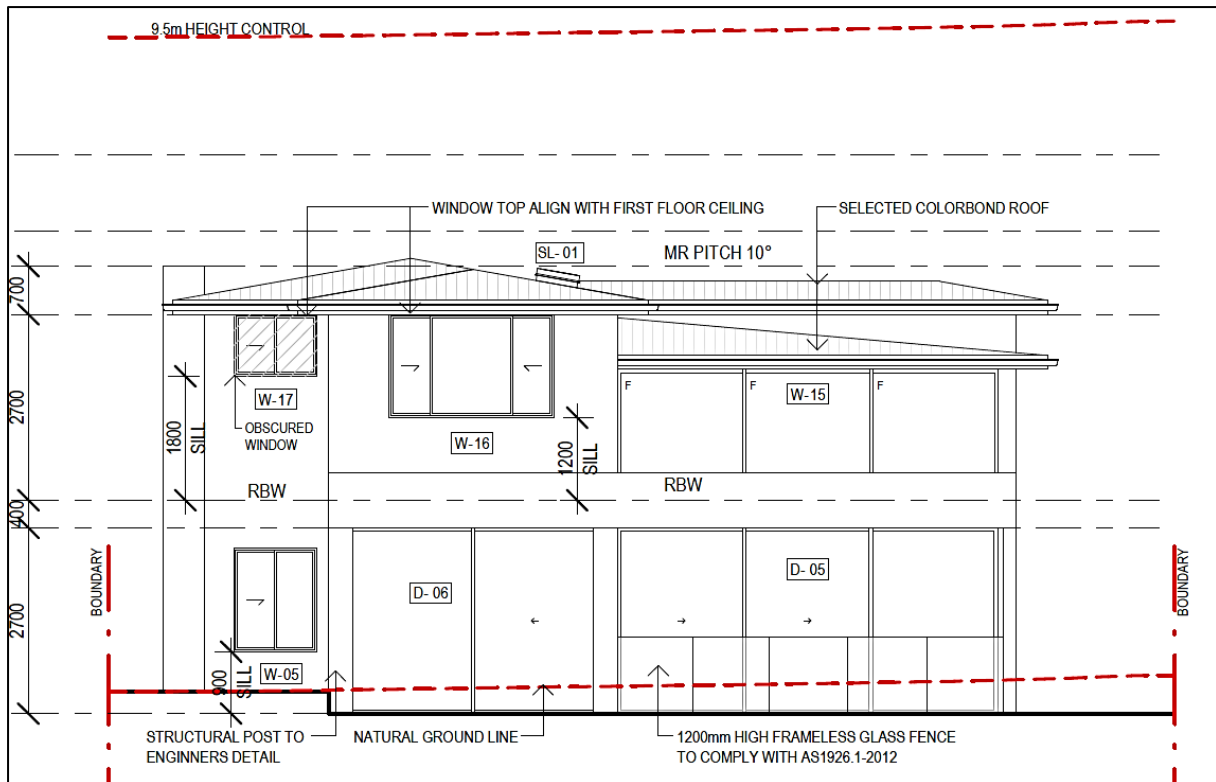


Figure 7: Proposed Southern Elevation

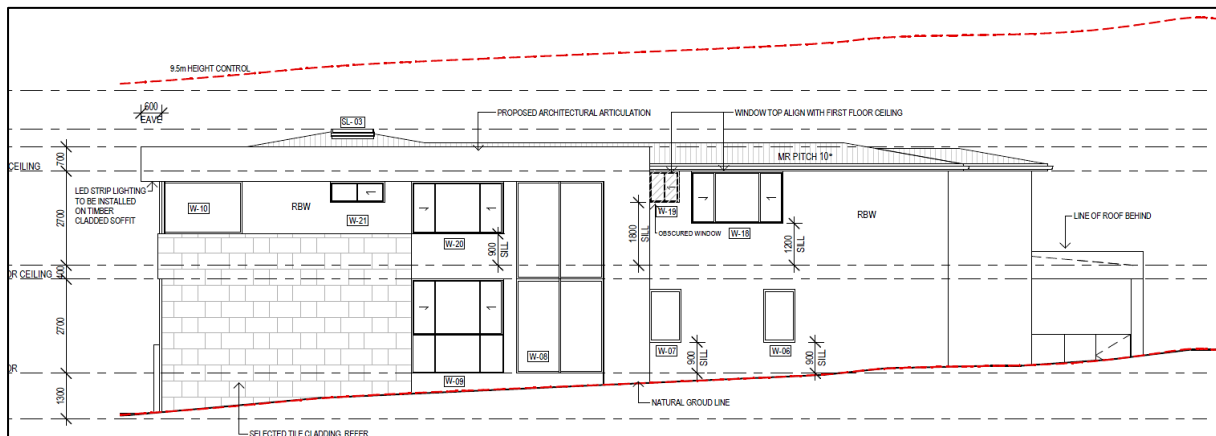


Figure 8: Proposed Western Elevation

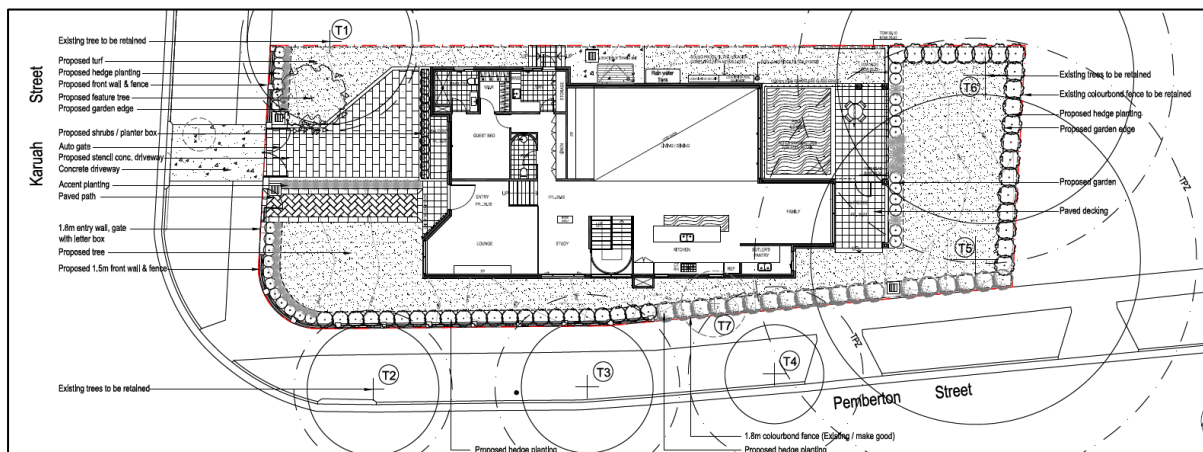


Figure 9: Proposed Landscape Plan (originally submitted driveway design)

## The Site and Locality

The subject site is legally described as Lot: 188 in DP: 15259 and commonly known as 20 Karuah Street, Strathfield. It is located on the south eastern side of the intersection of Karuah and Pemberton Streets, with a primary frontage to Karuah Street (refer to **Figure 10**).



**Figure 10:** Closer Aerial Image of the Subject Site Outlined in Yellow (Source: NearMaps 2022)

The site is rectangular in shape and has a frontage of 13.29m (excluding a splayed corner) to the north (Karuah Street), a rear boundary of 14.66m to the south, a side boundary length of 45.79m to the east, and side boundary length of 42.09m (excluding the splayed corner) to the west, providing a total site area of 746.1m<sup>2</sup>. The site is relatively steep, sloping 2.85m from south (RL 30.37 AHD) to north (RL 27.52 AHD) however does not have a significant cross-fall.

There is an existing Council street tree at the front of the subject site along Karuah Street and another three along Pemberton Street. The site is occupied by a single storey brick dwelling with a pitched tile roof. Vehicular access is provided to the site via an existing single width driveway from Pemberton Street to an existing brick garage and carport located in the rear yard (see **Figures 11 to 14**).

The current streetscape is characterised by single dwellings of varying age and architectural design. To the north, on the other side of the road, is a 2 storey brick dwelling with a pitched roof at 40 Pemberton Street. Adjoining the subject site to the east is a contemporary 2 storey rendered dwelling with a metal roof at 18 Karuah Street. Adjoining the rear boundary to the south is 81A Barker Street, comprising of a 2 storey brick dwelling with a tile roof. To the west, on the opposite side of the road is 22 Karuah Street, comprising of a rendered 2 storey dwelling with a darker colour tone.

There is an emerging character of more contemporary dwellings with rendered facades and flat roofs. This includes 18 Karuah Street directly to the east, 24 Karuah Street (CDC 2021-0140) to the west and 38 Pemberton Street (DA 2021/112) to the north (currently under construction). A number of developments in the direct vicinity also include swimming pools.



**Figure 11:** Front Façade of the Existing Dwelling, as Viewed from the Street



**Figure 12:** Secondary Street Frontage of the Existing Dwelling



**Figure 13:** Rear Yard Facing the Existing Dwelling

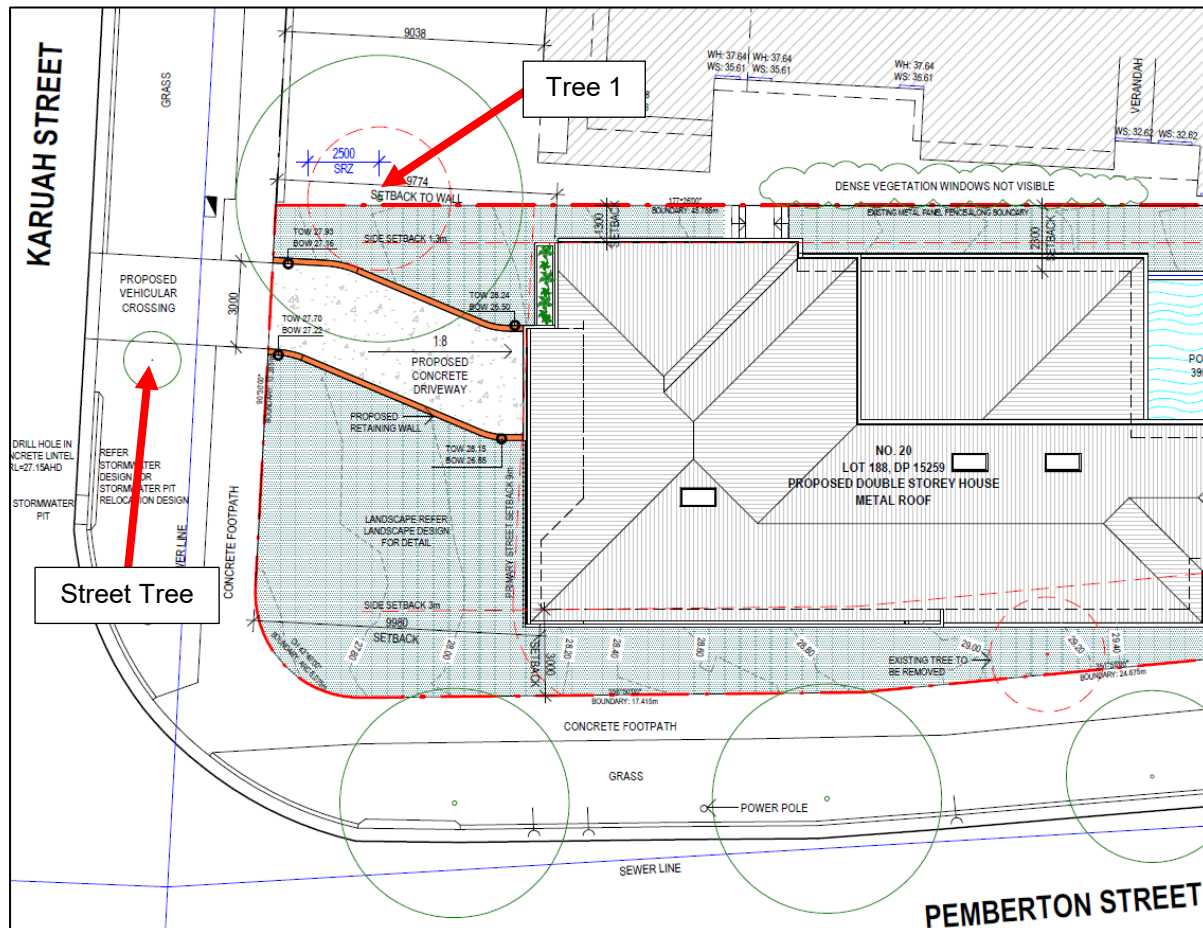


**Figure 14:** Garage in Rear Yard

## **Background**

- 26 April 2022** The subject development application (DA 2022/81) was lodged with Council.
- 10 May 2022** The application was publically exhibited until **24 May 2022**.
- 18 May 2022** Council's Planner carried out a visit of the subject site.
- 25 May 2022** Additional information was requested for the following:
- Reduce basement height above natural ground level;
  - Reduce number of basement car spaces;
  - Reduce basement extent to match building footprint;
  - Reduce unarticulated void area;
  - Relocate driveway to protect street tree; and
  - Additional details on proposed tree planting and retention.
- After receiving a late submission, this was supplemented by an additional request on **26 May 2022** to bring the parapet height into compliance.
- 2 June 2022** Additional information was requested following receipt of tree referral comments as follows:
- Root Mapping Report for Trees 5 and 6 at the rear; and
  - Assessment and stability of Tree 6.
- 8 June 2022** Additional information received from applicant reflecting the requests of **25 and 26 May 2022**. The ground floor was dropped between 0.2m - 0.3m. The void height was reduced by 0.8m and the parapet height by 0.67m. Skylights were introduced to provide natural light into the first floor corridor after the reduction in the void height reduced natural light from the windows. The only change not undertaken was the driveway and this was due to an assessment of the impact on the neighbouring Jacaranda Tree at 18 Karuah Street.
- It is this set (Drawing Issue E) which this assessment is based on as any subsequent material did not comprise a full package and can be considered alternative design options to attempt to resolve the tree impacts.
- 17 June 2022** Additional information received from the applicant reflecting the request of **2 June 2022**. This was referred to Council's Tree Manager.
- 30 June 2022** Revised BASIX and NaTHERS Certificates submitted reflecting the revised design.
- 8 July 2022** A Stop the Clock Letter was sent requesting additional information relating to the proposed driveway location. After per tree referral comments, it was advised that Council would not support removal or relocation of the street tree and alternative access should be pursued.

Over the following weeks until **8 August 2022**, revised Arboricultural Impact Assessments, Architectural Plans (see **Figure 15**) and Root Mapping Reports were provided at various dates, all seeking to resolve the issue of locating the driveway without unacceptably impacting the health of the street tree or the Jacaranda at the front of 18 Karuah Street. This exercise concluded that excavation within the Tree Protection Zone of the neighbouring Jacaranda Tree would compromise the health of this tree and that access was therefore not possible from Karuah Street without severely impacting at least one of the trees.



**Figure 15:** Final proposed driveway option, which was found to still adversely impact the neighbouring Jacaranda Tree

### Referrals – Internal and External

#### **Traffic Manager Comments:**

*I support this Development Application, subject to the following design modifications and conditions.*

Internal Ramp Grades and Basement Parking Layout	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
Redesign of the Driveway	Basically flipping the geometric design of the driveway crossing and access ramp to avoid the Council's Drainage Lintel and

<i>Crossing and Internal Access Ramp</i>	<i>Council's Street Tree. This will also move the vehicle access further away from the intersection. As per sketch attached Fig 2.</i>
<i>Basement design.</i>	<i>The design of the basement must accommodate a manoeuvring area to allow vehicles to enter and exist in a forward direction.</i>

The dimensions could be enforced as a condition of consent if the application were approved. The flipping of the driveway was not supported by Council's Arborist due to the potential impact on the neighbouring Jacaranda Tree (Tree 1). The drawings were amended to demonstrate forward ingress and egress and are considered acceptable in this regard.

### **Tree Management Coordinator Comments:**

*All trees numbered are in accordance with Arboricultural Impact Assessment Report prepared by Blues Bros Arboriculture dated 28<sup>th</sup> March 2022*

#### **Retention of trees 5 and 6**

1. *Trees 5 and 6 are significant trees and have been identified as being in good condition and vigour. No major ground level changes are to occur within the TPZ (Tree Protection zone)*
2. *The proposed basement is outside the TPZ (Tree Protection Zone) of trees 5 and 6.*
3. *Tree 6*
  - *The mounding of soil around the base of tree 6 has been identified in the above report and a concern of neighbouring residents. It is more than likely the soil has been placed around the base of the tree. Further assessment of this area is required, by removing the soil mound the consulting arborist can determine if soil heaving and /or root plate movement of this tree is occurring.*
4. *Trees 5 and 6*
  - *Ground levels changes and proposed works are occurring within the TPZ of trees 5 and 6*
  - *Consulting arborist has identified these works will more than likely impact one significant root of these trees. A root mapping exercise/ report is to be conducted to determine if any major roots may be compromised see attachment.*
5. *The proposed alfresco area/ retaining wall may need to be set back further for the retention of these trees.*

#### **Tree 1- neighbouring jacaranda**

1. *Tree 1*
  - *The suggested driveway redesign from traffic, will impact Tree 1.*
  - *It encroaches the trees TPZ by more than 10% which is classified as major encroachment.*
  - *It is also located less than 1.5 metres from an existing street tree in Karuah Street*
  - *Only way a new driveway could be located in this part of the street would be by removing the existing street tree. This will need approval from Patrick Wilmot-Coordinator of Tree Management.*

*Consulting Arborist needs to submit the following for assessment:*

- *Root Mapping Report*
- *Assessment and stability of tree 6*

This additional information was requested on 2 June 2022 and 8 July 2022 and provided on 17 June 2022, 18 and 25 July 2022, and 8 August 2022. Council's Tree Management Coordinator found an unacceptable impact on the neighbouring Jacaranda and would not accept a relocation of the driveway towards the west as this would result in the loss of the street tree. An assessment of the final design option concluded:

*Given that the neighbouring tree is likely to be placed at 'risk of critical impact and likely destabilisation', Council cannot support this application.*

*We can also not support the moving of the street tree located next to the driveway as this will place the tree in an undesirable location for the public. It will also effect the storm water drain and impact drivers line of sight if placed closer to the corner of Karuah Street and Pemberton Street.*

There is a reasonable expectation of access to a residential site. The applicant is advised to explore alternative access options utilising the existing crossover on Pemberton Street. Due to the presence of Trees 5 and 6 in the rear yard, it may be that excavation to a basement is not possible. A basement is not a development right and can only be included where the site constraints permit.

It is unfortunate that the driveway location forms the primary reason for recommending refusal in this matter. However approval cannot be provided where the development will result in demonstrable and unacceptable impacts. The onus is on the applicant to resolve these concerns.

#### **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 (EP&A) 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 preconditions to development consent; namely that the street tree and the neighbouring Jacaranda Tree be retained. The applicant did not provide a design where this could be achieved and the aims and objectives outlined within the SEPP are therefore not considered to be satisfied.

It is noted that no objection was raised to the proposed Landscape Plan within the subject site and accompanying removal and replacement of trees.

## **Chapter 10 – Sydney Harbour Catchment**

All stormwater from the proposed development as modified can be treated in accordance with Council's Stormwater Management Code. Stormwater will be regulated in accordance with the Stormwater Plans and the conditions of consent. The proposal will not be visible from any waterways 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 was issued for the proposed development and subsequently updated to reflect the revised design (Cert. No. 1293309S\_02). 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; rather the historic uses appear residential. The objectives outlined within Chapter 4 of the SEPP are considered to be satisfied.

### **STRATHFIELD LOCAL ENVIRONMENTAL PLAN (SLEP) 2012**

The development site is subject to the SLEP 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	8.6m	YES
<b>4.4</b> Floor Space Ratio	0.575:1	0.563:1	YES

The proposal complies with the relevant development standards and is acceptable in this regard.

## **Part 5 – Miscellaneous Provisions**

### **Heritage Conservation**

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

### **Flood Planning**

The proposed site has not been identified within the flood planning levels and as such, the provisions of this clause are not applicable to the subject development.

## **Part 6 – Additional Local Provisions**

### **Acid Sulfate Soils**

The subject site is identified as having Class 5 Acid Sulfate Soils however 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 an Acid Sulfate Soils Management Plan is not required.

### **Earthworks**

Clause 6.2 of the SLEP 2012 contains objectives and controls relating to earthworks. The proposal involves significant excavation works for the provision of a basement, driveway ramps and ancillary works. The extent of excavation has been limited to the footprint of the ground floor above and access to and from the basement. The depth of excavation has been kept to minimum requirements to comply with Council's SCDCP 2005 controls and all ancillary works have been limited to what is required to provide access to and from the basement. The sole objective of the Clause states:

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to effect the existing and likely amenity of adjoining properties and there is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas.

However, the impacts on Council's street tree or the neighbouring Jacaranda Tree are not consistent with the objective, being a material impact from the earthworks. As the applicant has not demonstrated how the health of these trees can be retained, the proposal also contravenes Clause 6.1(3)(h) which states:

- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*  
*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Accordingly, the proposal is consistent with Clause 6.2 of the SLEP 2012 and this forms a recommended reason for refusal.

## 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 noted that the application is simply to replace the existing dwelling.

It is considered that the proposed development satisfies the aims, objectives and development standards, where relevant, of the SLEP 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 directly applicable to the proposed development on the subject site.

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

The proposed development is subject to the provisions of the SCDCP 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP 2005.

Applicable SCDCP 2005 Controls	Provision	Development Proposal	Compliance/ Comment
<b>Building Envelope</b>			
<b>Heights:</b> Floor to ceiling heights: External wall height to underside of eaves: Parapet height: Overall height for flat roof dwelling: Number of levels:	 Max 3.0m  Max 7.2m Max 0.8m  Max 7.8m Max 2	 Generally 2.7m, 4m at entry and 5m at void  6.7m 0.7m  7.8m at frontage 2	 Acceptable (see below)  YES YES  YES YES
<b>Setbacks:</b> Front: Eastern side: Western side:  Combined side:  Rear:	 Min 9m Min 1.2m Min 2.1m (front) – 1.6m (rear) Min 20% of width (rear 2.9m) Min 6m	 9.77m 1.3m 3m (front) & 1.8m (rear) 5.3m at rear  7.64m	 YES YES YES  YES  YES
<b>Landscaping</b>			
Overall landscaped area:	Min 43% of site (320.8m <sup>2</sup> )	43% (323.87m <sup>2</sup> )	YES
Front setback landscaping	Min 50% of yard (measured 9m in) (75m <sup>2</sup> )	55% (83m <sup>2</sup> )	Acceptable (see below)
Rear yard landscaping	Min 50% of total area (160.4m <sup>2</sup> )	75% (240.87m <sup>2</sup> )	YES

Fencing			
Front	Max 1.5m (solid component 0.7m)	Generally 1.5m, part at 1.8m	Generally Complies (see below)
Secondary frontage:	Max 1.8m	1.8m	
Side & rear	Max 1.8m	1.5m for new component	
Solar Access			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	>3hrs	YES
Vehicle Access and Parking			
Driveway width at Boundary:	3m	3m	YES
Vehicular crossing:	1	1	YES
Driveway setback – side:	Min 0.5m	1.3m	YES
No. of parking spaces:	2	2	YES
<b>Basement:</b>			
Protrusion:	Max 1.0m	>1m	YES
Basement ramp width:	Max 3.5m	6.5m	Acceptable (see below)
Internal height:	Min 2.2m	2.1m	NO (see below)
Ancillary Development			
<b>RETAINING WALLS</b>			
Height:	Max 1.2m	0.78m	YES
<b>SWIMMING POOL</b>			
Side/rear setback	Min 1.0m	2.3m	YES

The proposal is generally consistent with the SCDCP 2005 provisions, however cannot be supported on the basis of the likely tree impacts beyond the subject site. Compliance with the relevant provisions will be discussed in more detail below.

### Setbacks

As the secondary frontage to Pemberton Street does not contain the main entry to the dwelling, the secondary street setback provisions in the SCDCP 2005 do not apply. Instead the standard side setback provisions apply requiring a combined width of 3.3m at the front of the site. The proposal easily complies, providing 4.3m.

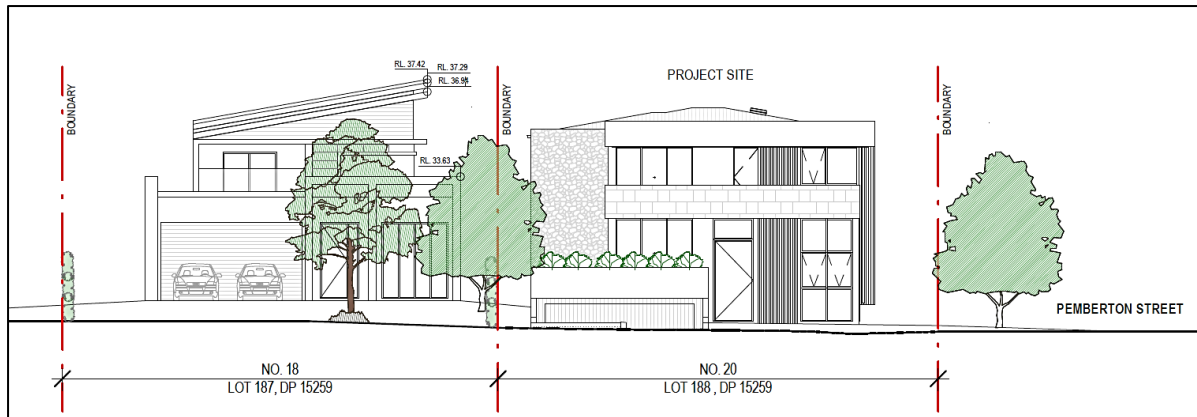
### Building Envelope

The proposed development satisfies the objectives and controls within the SCDCP 2005 relevant to:

- Building scale, height and FSR;
- Rhythm of built elements in the streetscape;
- Fenestration and external materials; and
- Street edge.

The proposal provides sufficient articulation through varied materiality, roof forms and fenestration. While a dark render is proposed, this is not inconsistent with the streetscape, particularly 22 Karuah Street.

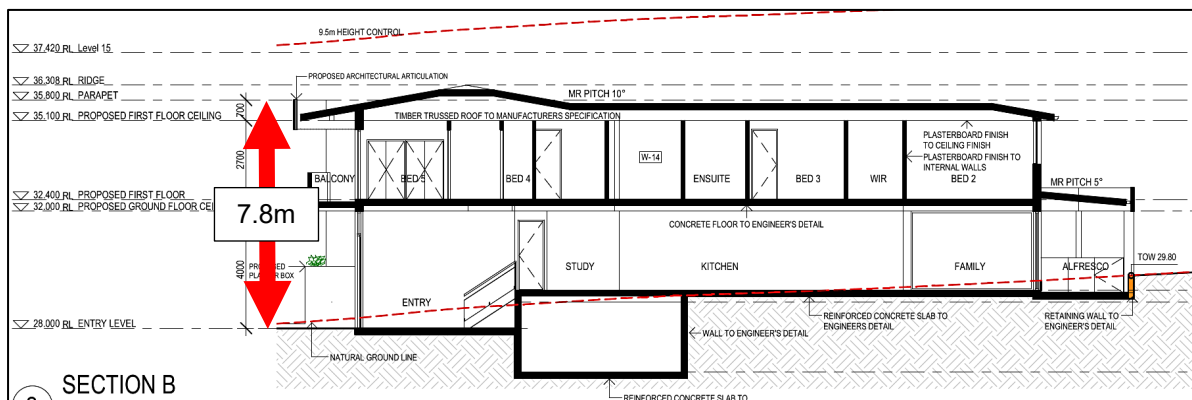
A streetscape analysis has been provided which demonstrates the bulk and scale will be consistent in the context. In fact, the adjoining dwelling at 18 Karuah Street (RL 37.42) is higher than what is proposed on the subject site (RL 36.31) (see **Figure 16**).



**Figure 16:** Karuah Streetscape Analysis

### Parapet Height

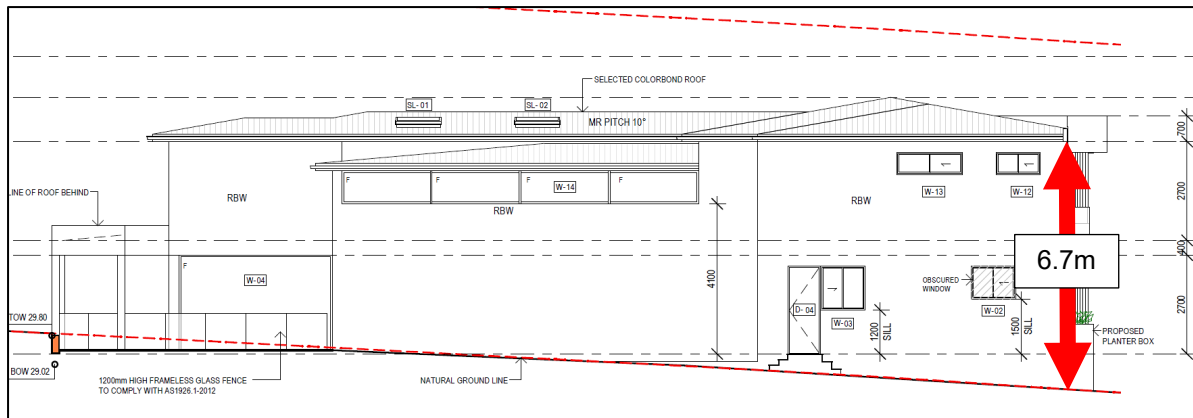
The building will have a flat roof appearance with a parapet at the street frontage. This will provide a total height of 7.8m (above the proposed ground level) with a parapet height of 0.7m, which complies with the SCDCP 2005 provisions (see **Figure 17**). The parapet was reduced by 0.67m as part of the amended plans requested by Council.



**Figure 17:** Section B Showing Front Height Calculations

### Wall Height

The maximum external wall height to the underside of the eaves is measured at the base of the highlight window of the East Elevation as 6.7m, complying with the 7.2m control (see **Figure 18**).

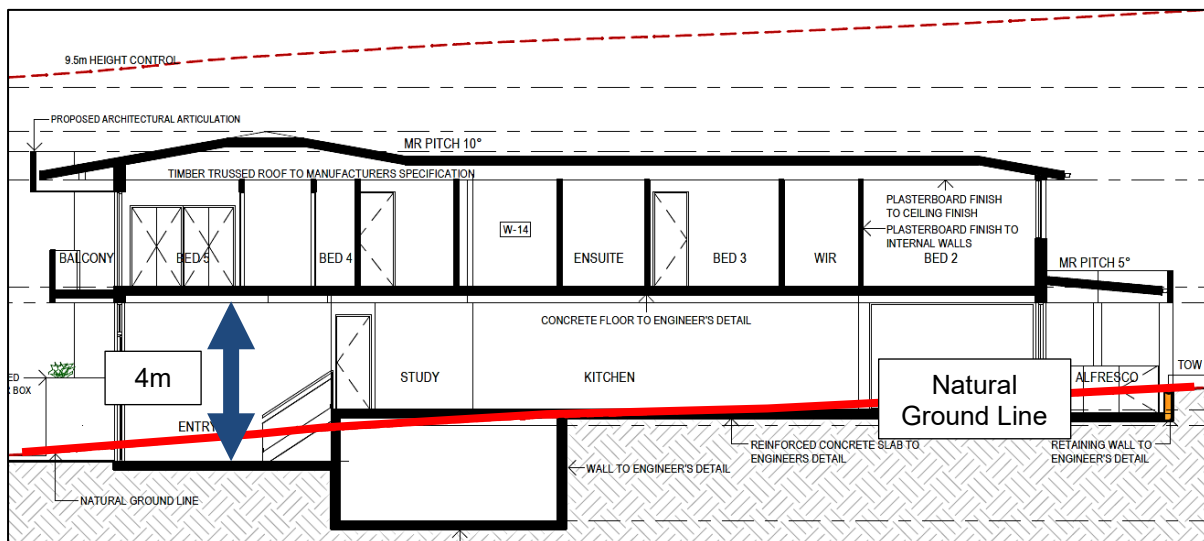


**Figure 18: East Elevation Showing External Wall Height**

### Ceiling Heights

The proposal generally provides 2.7m floor to ceiling heights which easily comply with the 3m maximum control. However, the entry/lounge room and the void above the living/dining room do not comply.

The entry ceiling height reaches 4m, however this primarily a function of the underlying topography which slopes down in the north western corner (see **Figure 19**). The entry ceiling height was reduced by 0.1m as part of the changes made at the request of Council. This ensures the basement does not protrude more than 1m above the ground level. The increased floor to ceiling height allows for a consistent first floor level which improves access and amenity. This area remains compliant with the wall and building height provisions and will not significantly contribute to the perceived bulk. Accordingly, the non-compliance is considered acceptable in this instance.

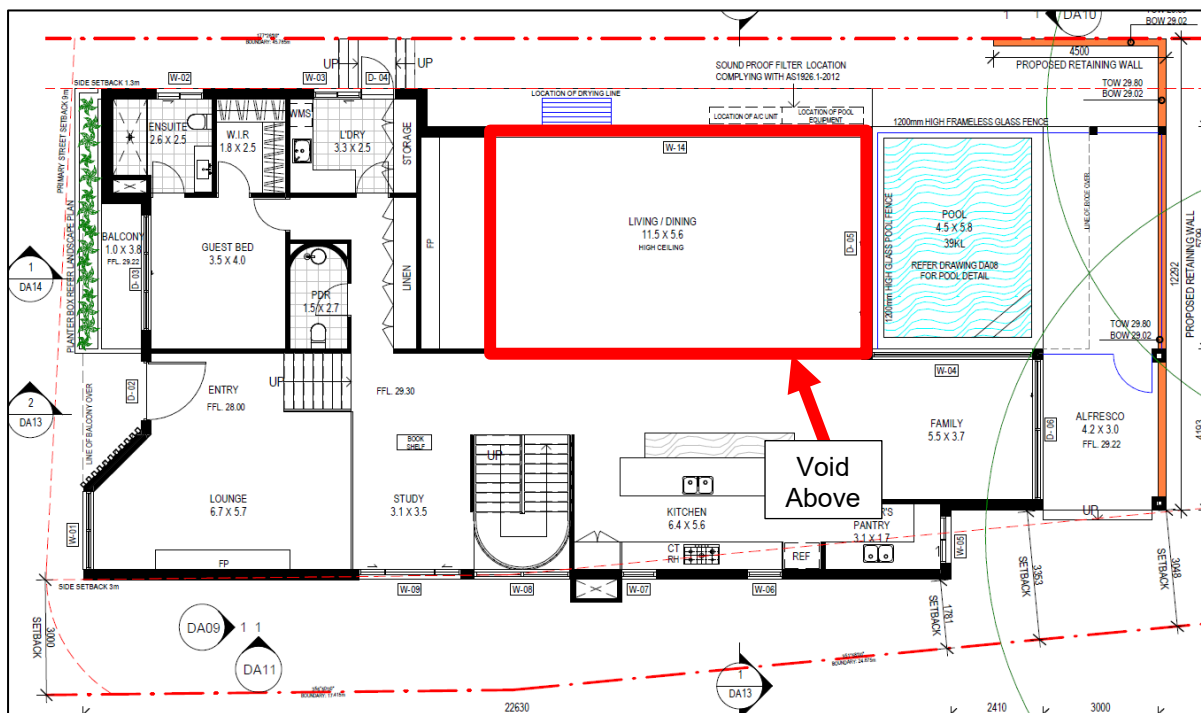


**Figure 19: Section Showing Entry Ceiling Height**

The void above the living/dining area results in a floor to ceiling height of 5m (see **Figures 20 and 21**). This has been reduced by 0.8m from the originally submitted design. The objectives of the height provisions of the SCDP 2005 are as follows:

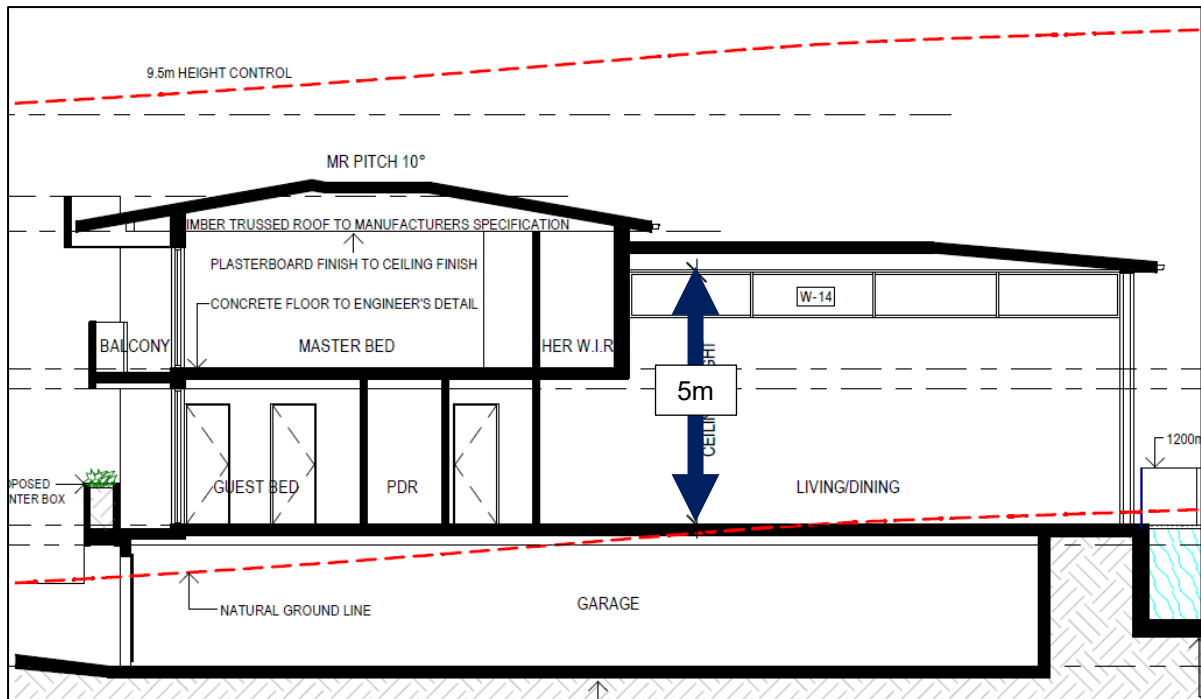
- A. To ensure that dwellings are compatible with the built form of the local area and that overall bulk and scale, size and height of dwellings relative to natural ground level responds to the adjoining dwellings, topography and desired future character.
- B. To minimise impact on the amenity of adjoining properties.
- C. To establish and maintain the desired setbacks from the street and define the street edge.
- D. To create a perception or reinforce a sense of openness in the locality.
- E. To maintain view corridors between dwellings.
- F. To assist in achieving passive surveillance whilst protecting visual privacy.
- G. To provide a transitional area between public and private space.

The proposed void area is located near the rear of the dwelling where it will not be readily visible from the public domain. Accordingly, it will not materially impact the character of the area nor impact any potential view corridors. The void has been reduced at the request of Council and now presents as an articulated element. The highlight windows were originally proposed to provide natural light to the first floor corridor. After the void height was reduced, skylights were incorporated to ensure natural light was retained.



**Figure 20: Ground Floor Plan Showing Location of the Void**

Although the void does not contribute to GFA, a relevant consideration is whether the built form could have been improved if upper level GFA was relocated to the location of the void. This would not be appropriate in the circumstances of this particular case given the only adjoining dwelling is to the east and therefore the habitable floor space would have, in any event, remained massed towards the west. This is also not a fair comparison given the height of the void has been reduced such that it is insufficient to act as habitable floor area.



**Figure 21: Section Showing Living/Dining Room Void**

There will not be significant solar impacts as will be addressed in the relevant section below. The void will allow additional sunlight to penetrate into the primary living areas. Accordingly, the void will improve the amenity for residents without readily impacting neighbours. For these reasons, although the void exceeds the floor to ceiling height, it is considered acceptable in its reduced form. To ensure it remains a void, an ongoing condition could be included if the application were approved

The proposal generally complies with the floor to ceiling height provision and the areas of exceedance are acceptable on balance.

### Landscaping and Open Space

The proposed development satisfies the overall landscaped area control in the SCDP 2005. Although landscape area calculations separated between the front and rear yards were requested from the applicant, these were not provided. The front setback has been measured at 9m as per the SCDP 2005 control. The proposal provides a shortfall (67m<sup>2</sup>) within the front setback however is well over the control for the rear setback (80m<sup>2</sup> surplus). It is noted that the front setback shortfall would be reduced under the alternative single width driveway design option proposed to ameliorate the impacts on neighbouring trees.

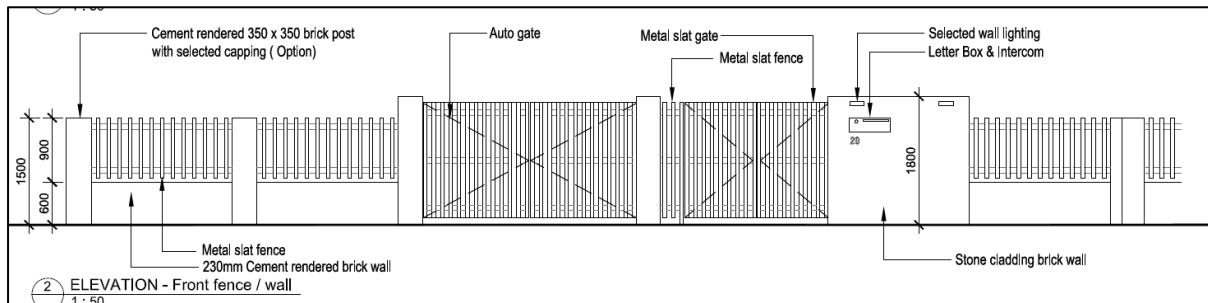
In any event, the front setback shortfall is considered acceptable as the distinction between the front yard and the rest of the site is less pronounced on a corner allotment. Compliance with the overall landscaping requirement ensures stormwater retention is maximised. While the non-compliant basement ramp width could be reduced to increase front setback landscaping, this is well stepped back from the street and would not readily improve the landscape setting as viewed from the public domain. In this regard, the proposal is considered to remain consistent with Control 6 of Part A5.2.1 of the SCDP 2005 as follows:

6. *The design and quality of front gardens must respond to the character of the street and surrounding area and contribute to the garden character of Strathfield.*

**Figure 22: Root Mapping Report Demonstrating Impacts on Structural Root of the Jacaranda by the Single Width Basement Driveway**

## Fencing

The proposed front fence is generally at 1.5m which complies with the SCDCP 2005 provision. However, there is a 1.8m solid component adjoining the vehicular entry gate (see **Figure 23**). This will be reduced down to 1.5m to match the rest of the fence line and forms a reason for refusal.



**Figure 23:** Proposed Front Fencing along Karuah Street

The existing side and rear fencing is partially retained. The new fencing is 1.5m with a 0.6m solid component, which complies with the SCDCP 2005 provisions. The existing 1.8m fencing along Pemberton Street is compliant given it adjoins private open space.

Other than the non-compliant area, the proposed front and side fencing satisfies the relevant objectives and controls within SCDCP 2005. It is considered to be sympathetic to the existing and desired character of the locality and is compatible to the height and style of adjoining fences.

## Solar Access

As per the submitted shadow diagrams, the only overshadowing on an adjoining property on the winter solstice will occur at 3pm onto 18 Karuah Street to the east. This will predominantly fall over the roof form of the neighbouring property where it will not impact amenity. Much of this overshadowing would in any event be caused by the dense vegetation between the two properties (see **Figure 24**). Accordingly, the proposal meets the numerical provision for 3 hours solar access to at least 50% of the private open space of adjoining properties. The proposal is also considered to generally satisfy the relevant objectives and controls of the solar access SCDCP 2005 clauses which state:

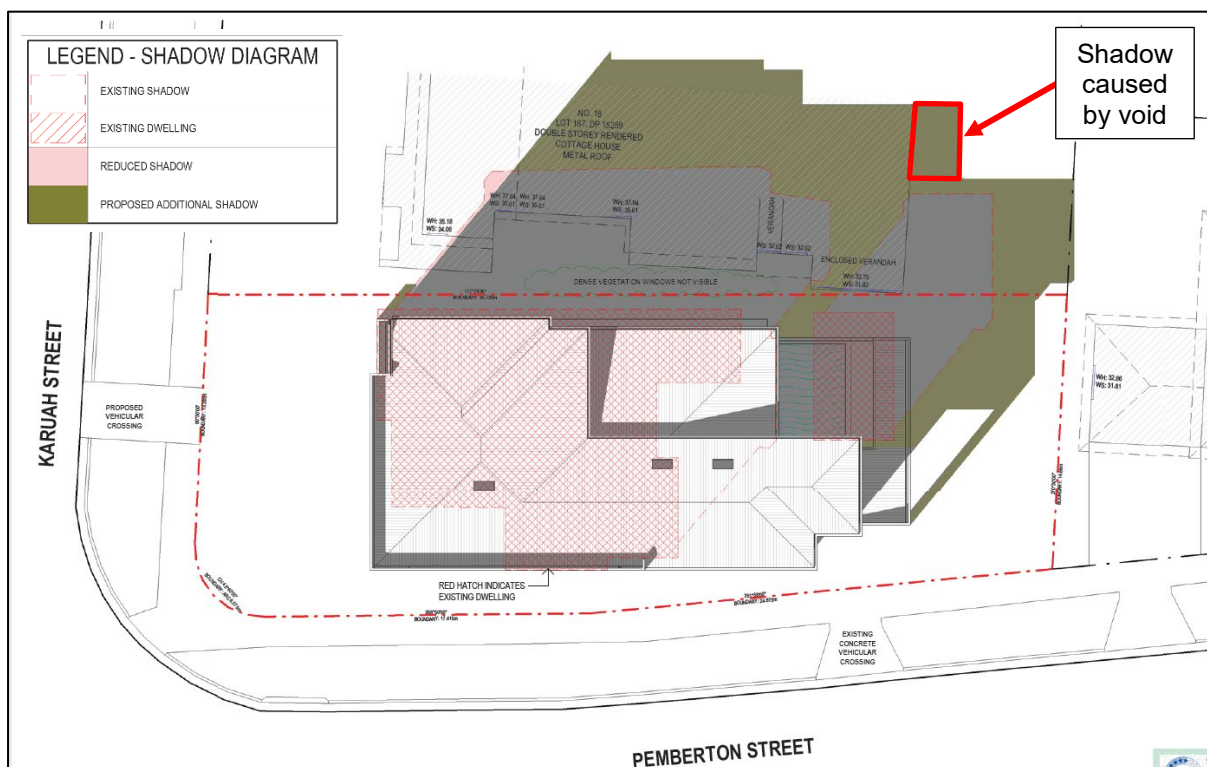
- A. *To ensure the design of new dwelling houses and alterations and additions maximises solar access to living areas and open space areas.*
- B. *To minimise overshadowing of adjoining properties.*

After a request from Council, the applicant amended the design to reduce the void component. This assisted in minimising overshadowing. The only additional overshadowing from the void component onto the rear yard of 18 Karuah Street is at 3pm and covers an area of approximately 4.5m<sup>2</sup> (see **Figure 25**). The rear yard of 18 Karuah Street is in the order of 147m<sup>2</sup> and this minor additional overshadowing for a small period of the day will not be readily noticeable.

As the proposal is consistent with the solar access objectives and numerical controls in the SCDCP 2005, it is considered acceptable in this regard.



**Figure 24:** Established Existing Vegetation (outlined in red) between the Subject Site and 18 Karuah Street, as Viewed From the Rear Yard towards the East



**Figure 25:** 3pm Shadow Diagram on the Winter Solstice with the Additional Shadow Generated by the Void Outlined in Red

## Privacy

As the subject site is located on a corner allotment, the only dwelling adjoining a side boundary is to the east at 18 Karuah Street. Sightlines from the ground floor are obscured by the boundary fence and dense landscaping on the neighbouring site. The alfresco area at the rear is set into the existing ground level. There are no window openings on the upper level towards the east, other than the ensuite. These are highlight windows servicing a non-habitable room. Accordingly, there will not be privacy impacts and the proposed development satisfies the relevant privacy objectives and controls of the SCDCP 2005.

## Vehicular Access, Parking and Basements

The proposed development satisfies the relevant objectives and controls of the SCDCP 2005 in that it provides the minimum number of required parking spaces and adequate vehicular access provisions. The basement has been kept to less than 1m above natural ground level, does not extend beyond the ground floor above, and has been designed so that vehicles can enter and exit in a forward direction.

The basement level has been dropped by 300mm as part of the revised architectural drawings. This ensures the basement does not protrude over 1m above ground level.

The basement ramp width varies from 3m at the boundary to 6.5m at the bottom, well above the 3.5m SCDCP 2005 provision. It is noted however, that a later design alternative proposed a compliant ramp width. In any event, the ramp size has been considered acceptable by Council's Traffic Engineer and assists in allowing vehicles to ingress and egress in a forward direction. The development complies with the overall landscaped area control and provides an acceptable landscape outcome to the street. Accordingly, the double width basement ramp width at the basement entry is considered acceptable in this instance.

The long section shows the basement entry as having a floor to ceiling height of 2.1m which falls short of the 2.2m minimum in the SCDCP 2005. The insufficient headroom for vehicles forms a reason for refusal.

Finally, the SEE states:

*The proposed use is not a traffic generating development, and is not required to be supported by a Traffic Impact Assessment.*

This is not strictly correct. The proposed dwelling is a traffic generating development as per Section 3.3.1 of the RTA (now RMS) Guide to Traffic Generating Developments. However, given the proposed use is only a dwelling, a separate Traffic Report is not required. There is unlikely to be any additional traffic on the local road network, especially given the previous use was also a dwelling.

## Cut and Fill

The proposed development has maintained existing ground levels where appropriate to reduce site disturbance. The extent of cut and fill has also been reduced at the request of Council and is now considered satisfactory. There are also unlikely to be impacts on overland flow and drainage is minimised. However, the excavation will result in impacts on either the existing street tree or the neighbour's Jacaranda which is considered antipathetic to the objectives.

## 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

### Retaining Walls

The proposed development satisfies the relevant objectives and controls within SCDCP 2005 and have been kept to a maximum height of 1.2m. All retaining walls greater than 600mm are required to be designed by a suitably qualified engineer. The Tree Root Mapping Report dated 14 June 2022 demonstrates that the retaining walls can be incorporated without adversely affecting Trees 5 and 6 in the rear yard.

### Swimming Pools

The proposed development satisfies the relevant safety objectives and controls with SCDCP 2005. The pool has been adequately set back from the eastern side boundary (2.3m). The pool pump equipment has been located in a sound proof enclosure and the pool coping has been designed to suit the ground level of the alfresco area. The swimming pool fence/enclosure will comply with the Swimming Pools Act 1992 and relevant standards.

## Waste Management

In accordance with Part H of SCDCP 2005, a Waste Management Plan was submitted with the application. The plan details measures 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 is acceptable.

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

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

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

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

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the built environment or any negative social or economic impacts on the locality. As assessed earlier in this report, the environmental amenity impacts are also

considered acceptable. However, the impact on surrounding trees is an unacceptable impact on the natural environment.

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

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

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

In accordance with the provisions of Council's CPP, the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. Two submissions were received from the same property at 18 Karuah Street. As per the CPP, these will be considered as one unique submission. A second submission was received from 91 Barker Road. The submissions raised the following concerns:

**1. Basement Setback & Entry – SCDCP 2005 and Codes SEPP Non-Compliances**

Consent is not sought under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and therefore the provisions relating to the depth of earthworks are not relevant. The proposed basement is within the footprint of the building above and complies with the 1.2m minimum side setback in the SCDCP 2005. Accordingly, the basement setback is considered acceptable. As requested in the submission and as is standard practice, a Dilapidation Report can be required as a condition of consent. A Dilapidation Report is also anticipated in the SCDCP 2005.

The driveway width will be 3m at the property boundary in accordance with the SCDCP 2005. While this extends out to 6.5m at the basement entry, this is well below street level and the landscaped character of the front setback will be maintained. This non-compliance was assessed in detail above and is considered acceptable on balance.

As discussed throughout this report, the basement entry is not acceptable because of the tree impacts on Council's street tree or the neighbouring Jacaranda Tree.

**2. Height**

As has been discussed throughout this report, the proposal is well under the 9.5m Height of Buildings development standard in the SLEP 2012 as well as all the accompanying height controls in the SCDCP 2005. The building height remains lower than 18 Karuah Street is acceptable.

**3. Overshadowing**

Overshadowing has been assessed in detail above. No overshadowing will occur over 18 Karuah Street at 9am and 12 pm. While there is overshadowing at 3pm, this is inevitable given the site orientation. The existing development on the subject site also results in a degree of overshadowing. The extent of solar access complies with the SCDCP 2005 and is a function of a compliant building envelope. Accordingly the proposal is considered acceptable in terms of solar access.

#### **4. Risk of Tree Death/Collapse (Trees 5 and 6)**

The applicant was required to provide tree root mapping for Trees 5 and 6 at the rear of the site, which was provided by Blues Brother Arboriculture dated 14 June 2022. This was assessed by Council's Tree Officer as follows:

*Examination of the basal flare of Tree 6 revealed little evidence to suggest tree instability issues; however, it was noted that early stages of decay were impacting the base of the tree above the root flare (collar rot) due to mounding.*

*It is recommended that landscaping of the rear yard includes the removal of soil mounding around the bases of Trees 5 (minor) & 6.*

*It is recommended that ongoing monitoring of Tree 6 occurs at least once every 3 years for the next 10 years. Inspections should include health, condition and stability for the trees. Particular attention to the basal flare of this tree is required.*

The long term health of Trees 5 and 6 is outside the scope of this assessment report, which pertains only to the proposed development. The proposal retains the two trees in the rear yard and will not increase the risk of tree death/collapse of these trees. The proposed basement is outside the TPZ of these trees. Accordingly, the proposal is considered acceptable in this regard.

#### **5. Loss of Privacy**

Privacy has been assessed in detail in this report. The proposed design will provide reasonable aural and acoustic privacy to 18 Karuah Street.

#### **6. Swimming Pool and Pump Equipment**

The swimming pool is set back 2.3m from the side boundary which is significantly more than the 1m required under the SCDGP 2005. Pools are also typically less utilised than open space areas, particularly during winter. Accordingly, the proposed pool location is considered acceptable.

The architectural drawings show a 'Sound Proof Filter' complying with AS1926.1-2012 around the pool equipment and A/C unit. This is considered sufficient to retain aural privacy.

#### **7. Vibration Concerns**

The conditions of development consent are considered sufficient to minimise potential structural impacts during construction.

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

The proposed development is generally considered in the public interest however the impacts on trees beyond the subject site are not. This forms a recommended reason for refusal.

### **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). Section 7.11 contributions are not relevant in this instance as no additional dwellings are proposed.

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

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

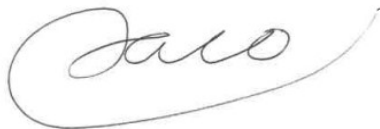
Based on the Cost of Works of \$1,583,094 and in accordance with Council's Section 7.12 Indirect Contributions Plan, a contribution of 1% of the cost of works is applicable. In this regard, the contribution is as follows;

Local Amenity Improvement Levy	\$15,831
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### **Conclusion**

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979, the provisions of the SLEP 2012 and SCDCP 2005.

Following detailed assessment it is recommended that DA2022/81 be **REFUSED**.



**Signed:**

**W van Wyk  
Planning Officer**

**Date: 8 August 2022**

- ☒ I confirm that I have assessed 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 7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed and concurred with.



**Signed:**

**J W Brown  
Planner**

**Date: 10 August 2022**

## REFUSAL REASONS

Under Section 4.16(1)(b) of the Environmental Planning and Assessment 1979, this consent is REFUSED for the following reasons;

### 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) Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 due to the tree impacts; and
- (b) Clause 6.2 of the Strathfield Local Environmental Plan 2012 due to the impacts of the proposed earthworks.

### 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 proposal does not comply with the controls and objectives of Section 5 of Part A due to the impact on Tree 1 at 18 Karuah Street and the Council street tree;
- (b) A portion of the front fence exceeds the 1.5m control in Section 5.2.4(3) of Part A;
- (c) The basement clearance height is insufficient and does not comply with Section 8.2.3(4) of Part A;
- (d) The proposal is antipathetic to the objectives of Section 9 of Part A; and
- (e) The proposal does not comply with the controls and objectives of Part O due to the impact on Tree 1 at 18 Karuah Street and the Council street tree.

### 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) Natural environment – the proposal has not demonstrated how the health of both Tree 1 at 18 Karuah Street and the Council street tree can be retained.

### 4. 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 due to the tree impacts.