



STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55 (1) Modification – DA/2017/114

9-13 Beresford Road, Strathfield

STRATHFIELD COUNCIL
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Modifications to the consent for DA/2017/114

Submitted to Strathfield Council

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1. INTRODUCTION

ABC Planning Pty Ltd has been engaged to prepare this Statement of Environmental Effects to accompany the Section 4.55 (1) application for modify the consent for the approved boarding house.

On 21/03/2018 Council granted approval for DA-2017/114 to “*Regularise the use of an existing two (2) storey heritage listed structure as a boarding house comprised of (10) boarding rooms and a manager’s residence*” at 9-13 Beresford Road, Strathfield.

Condition 4A of Notice of Determination for DA-2017/114 requires the following Section 94 Contributions to be paid:

4A STRATHFIELD DIRECT SECTION 94 CONTRIBUTIONS PLAN (GC)

Section 94 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contribution Plan 2010-2030 as follows:

Major Open Space \$114,949.98

Local Open Space \$39,395. 86

Roads and Traffic \$10,321 .06

Provision of a Community Facility \$25, 265. 39

Administration \$2,178. 57

Total \$192,110.87

However, the existing development on the site consists of a boarding house with an occupancy of 31 lodges (DA/93/162). The development approved under DA/2017/114 does not increase the number of rooms or the occupancy of the existing boarding house and therefore should not be subject to Section 94 levies. Accordingly, this Section 4.55 application proposes to delete Condition 4A of Notice of Determination for DA-2017/114.

This Section 4.55 application does not seek any building works. The Section 4.55 application only relates to modifying Condition 4A of Notice of Determination for DA-2017/114 to “*correct a minor error, misdescription or miscalculation*”.

The proposed modification is thereby in coherence with the provisions of Section 4.55 (1) and the modification application is considered to be worthy of approval

2. SITE ANALYSIS

This section provides a detailed description of the existing site and surrounding development.

2.1. Site Location and Context

The subject site is located on the northern side of Beresford Road between Elva Street to the east and Homebush Road to the west. The subject site is also identified as SP 69537.

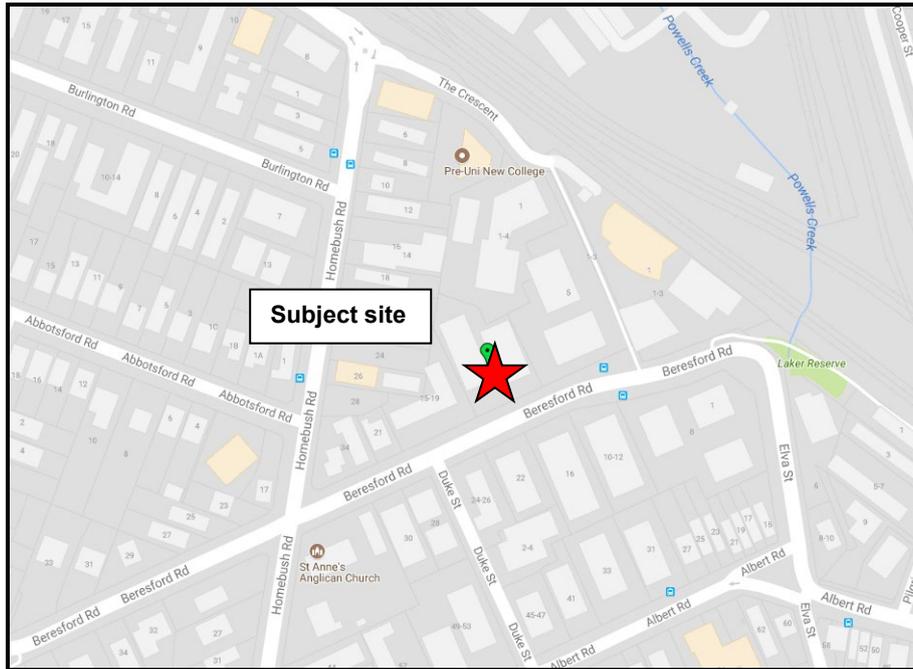


Figure 1: Site context location plan



Figure 2: Aerial Photo

2.2. Existing Development

Existing development on the site is comprised of a 2-storey heritage listed Victorian Italianate style house, which is used as a boarding house.

Vehicular access to the site is provided from Beresford Road adjacent the western boundary. An at-grade car parking area is located within the front setback.



Figure 3: Entrance to subject site



Figure 4: Existing building on the subject site

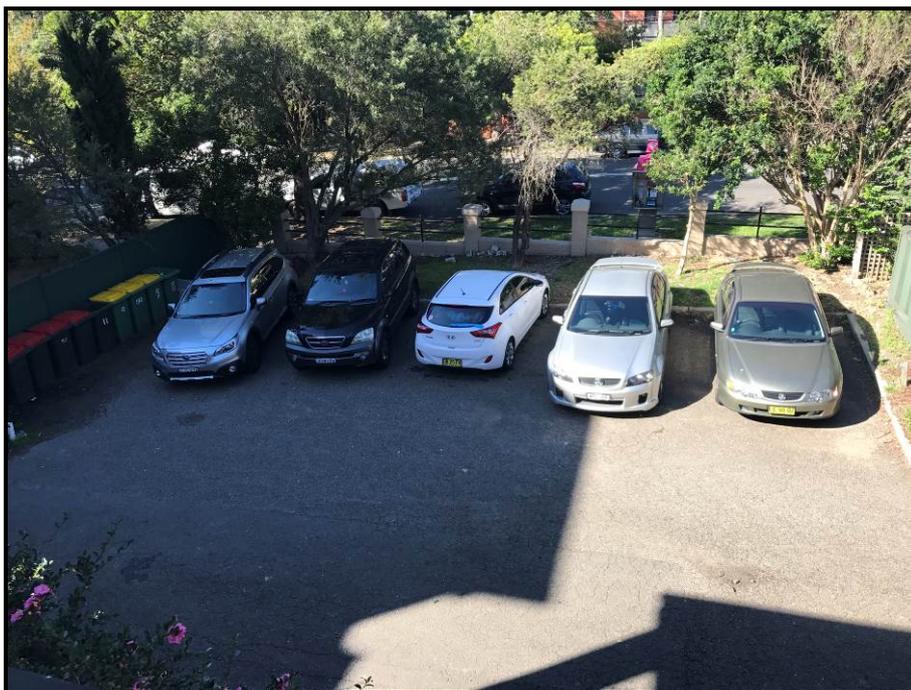


Figure 5: Existing parking facilities to the front of the subject building

3. SURROUNDING DEVELOPMENT

3.1. North

To the north of the subject building, located on the same site, is a 3-storey residential flat building.



Figure 6: 3-storey residential flat building to the north of the subject site

3.2. East

To the east of the subject building, located on the same site, is a 4/5 storey residential flat building identified as 9-13 Beresford Road.



Figure 7: Residential flat building to the east of the subject site

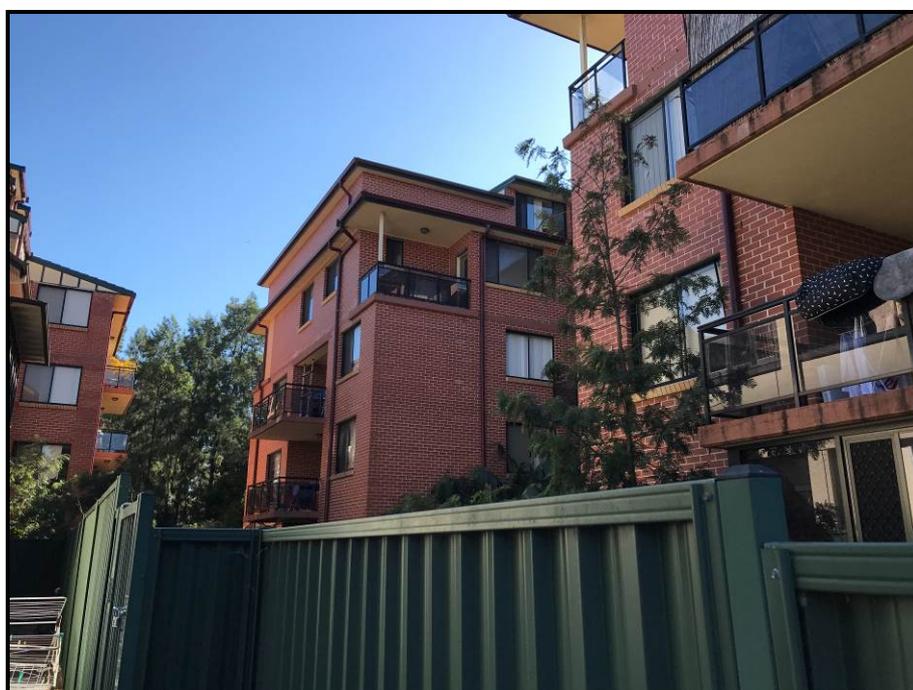


Figure 8: Residential flat building to the east of the subject building

3.3. South

To the south of the subject site, across Beresford Road, is a 3-storey residential flat building at 18-22 Beresford Road.



Figure 9: Residential flat building at 18-22 Beresford Road, south of the subject site



Figure 10: Residential flat building to the south of the subject site

3.4. West

A 2-storey residential flat building is located to the west of the subject site at 15-19 Beresford Road.



Figure 11: 2-storey residential flat building to the west of the subject site

4. BACKGROUND

On 22/03/1994, DA/93/162 was approved for internal alterations and additions to the existing building at 11-13 Beresford Road for the purpose of providing accommodation for 31 students in conjunction with the existing use of the property for school purpose. As stated in the Council Planners Report for DA/2017/114, this use has continued as a boarding house. The adjoining sites to the east have replaced the previous school with residential flat buildings.

On 21/03/2018, DA/2017/114 was approved to regularise the use of the existing boarding house comprising of 10 boarding rooms and a manager's residence at 9-13 Beresford Road, Strathfield. No physical works were proposed.

5. PROPOSED MODIFICATIONS

Condition 4A of Notice of Determination for DA-2017/114 requires the following Section 94 Contributions to be paid:

4A STRATHFIELD DIRECT SECTION 94 CONTRIBUTIONS PLAN (GC)

Section 94 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Development Contribution Plan 2010-2030 as follows:

Major Open Space \$114,949.98

Local Open Space \$39,395.86

Roads and Traffic \$10,321.06

Provision of a Community Facility \$25,265.39

Administration \$2,178.57

Total \$192,110.87

However, the existing development on the site consists of a boarding house with an occupancy of 31 lodges (DA/93/162). The development approved under DA/2017/114 does not increase the number of rooms or occupancy of the existing boarding house and therefore should not be subject to Section 94 levies.

Section 7.11 (formerly s 94) of the *Environmental Planning and Assessment Act 1979* sets out the circumstances in which Council has the power to impose a condition requiring payment of a monetary contribution. It provides as follows:

(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring—

- (a) the dedication of land free of cost, or*
 - (b) the payment of a monetary contribution,*
- or both.*

The correct method of calculating the section 94 contribution for DA-2017/114 is to calculate the **increase** in the demand for public amenities and public services within the area. The correct calculation for the contributions offsets the amenity demands generated by the previous approval/use in DA/93/162 against the amenity demands generated by development approved in DA-2017/114. It appears that the section 94 contribution has been calculated for DA-2017/114 without offsetting the amenity demands generated by DA/93/162. This has resulted in a miscalculation of the section 94 contributions for DA-2017.

The amenity demands generated by the 10 room boarding house development in DA-2017/114 is less than the amenity demands generated by the 31 capacity boarding house

development in DA/93/162. In those circumstances there is no basis to impose a condition requiring payment of a contribution on DA/2017/114.

Accordingly, this Section 4.55 application proposes to delete Condition 4A of Notice of Determination for DA-2017/114.

6. ASSESSMENT AGAINST THE PROVISIONS OF SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(1) Modifications involving minor error, misdescription or miscalculation A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or

- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modification is submitted as a Section 4.55 (1) application.

This Section 4.55 application does not seek any building works. The Section 4.55 application only relates to modifying Condition 4A of Notice of Determination for DA-2017/114 to “*correct a minor error, misdescription or miscalculation*”.

The development approved under DA/2017/114 does not increase the number of rooms or occupancy of the existing boarding house and therefore should not be subject to Section 94 levies outlined in Condition 4A of Notice of Determination for DA-2017/114.

The proposed modification is thereby in coherence with the provisions of Section 4.55 (1) and the modification application is considered to be worthy of approval.

7. CONCLUSION

On 21/03/2018 Council granted approval for DA-2017/114 to “Regularise the use of an existing two (2) storey heritage listed structure as a boarding house comprised of (10) boarding rooms and a manager’s residence” at 9-13 Beresford Road, Strathfield.

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