

IDAP REPORT

Property:	148 Homebush Road STRATHFIELD Lot 5 in DP 666172 DA2021.207
Proposal:	Demolition of existing structures and Torrens title subdivision of one (1) lot into two (2) lots with a battle-axe access configuration.
Applicant:	Platform Five Design Pty Ltd
Owner:	N G D'Alessandro & J R Nader
Date of lodgement:	18 August 2021
Notification period:	30 August – 14 September 2021
Submissions received:	Nil
Assessment officer:	L Gibson
Estimated cost of works:	\$50,000.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	No
RECOMMENDATION OF OFFICER:	REFUSAL



Figure 1: Aerial Imagery of the subject site (outlined in yellow) and surrounding locality.

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and Torrens Title subdivision of one (1) lot into two (2) lots with a battle-axe access configuration.

Site and Locality

The site is identified as 148 Homebush Road Strathfield and has a legal description of Lot: 5 DP: 666172. The site is an irregular shaped parcel of land providing a frontage width of 23.17m, a depth of 61.7m to the south and a depth of 55.9m to the north. The site provides a combined site area of 1,346.1m².

A dwelling with attached garage and in-ground swimming pool exist on the site. The locality surrounding the subject site is comprised of low-density residential development, predominantly of two (2) storey dwellings.

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 does not satisfy the subdivision requirements stipulated in the SCDP 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 30 August 2021 to 14 September 2021, where no submissions were received.

Issues

- Insufficient information supporting tree removal; and
- Inconsistent subdivision pattern

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Development Application 2021/207 is recommended for refusal subject to attached reason of refusal.

REPORT IN FULL

Proposal

Council has received an application for the demolition of existing structures and Torrens Title subdivision to create two (2) lots.

More specifically, the proposed lots will comprise one (1) rectangular-shaped lot fronting Homebush Road and a battle-axe block with a 4m access handle off Homebush Road. The new lots will feature the following lot sizes and dimensions:

Lot 1 (proposed pentagonal allotment):

- A site area of 646m²,
- Western frontage of 19.171m,
- Northern side boundary of 34.01m,
- Southern side boundary of 31.1m,
- A rear splay of 4.22m and;
- Eastern rear setback of 16.27m.

Lot 2 (proposed battle-axe allotment):

- A site area of 575m² (excluding the calculation of the handle),
- Lot 2 proposes a battle-axe handle; as its primary frontage, with a width of 4.0m. The battle-axe handle is to be 124m² in area.
- Staggered western frontage of 4.0m,
- A front splayed frontage of 4.2m, and
- A straight frontage of 16.271m.
- A northern side boundary of 21.895m and a southern side boundary of 30.603m. A north-eastern side setback of 6.09m is located within the rear of the allotment.
- A rear staggered eastern boundary of 13.716m and 9.32m is provided.

The proposed subdivision plan is provided in the Figure below:

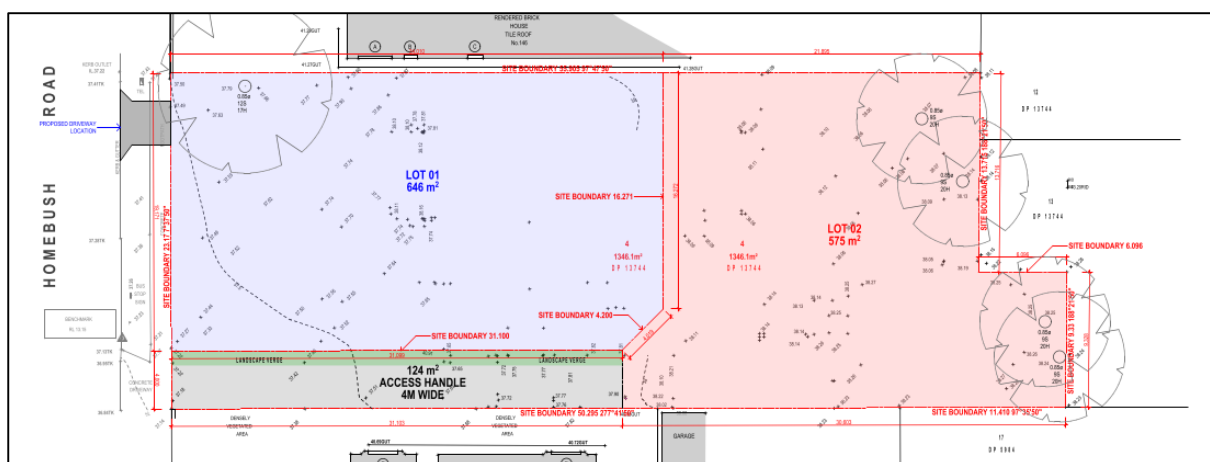


Figure 2: Proposed Subdivision Plan of subject site.

The Site and Locality

The site is identified as 148 Homebush Road Strathfield and has a legal description of Lot: 5 DP: 666172. The site is an irregular shaped parcel of land providing a frontage width of 23.17m, a depth of 61.7m to the south and a depth of 55.9m to the north. The site provides a combined site area of 1,346.1m².

A dwelling with attached garage and in-ground swimming pool exist on the site. Vehicular access is provided to the site via an existing driveway upon the southern side boundary of the site. There are number of mature trees both throughout and surrounding the site.

Background

- | | |
|----------------|--|
| 18 August 2021 | The subject application was lodged with Council. |
| 31 August 2021 | The application was put on public exhibition until 31 August 2021 – 14 September 2021. No submissions were received by Council during this period. |

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,*

SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

All stormwater from the proposed development can be treated in accordance with Council's Stormwater Management Code and would satisfy the relevant planning principles of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND (SEPP 55)

SEPP 55 applies to the land and pursuant to Section 4.15 is a relevant consideration.

A review of the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations.

The objectives outlined within SEPP55 are considered to be satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed provisions of clause 5.9 of SLEP 2012 relating to the preservation of trees and vegetation.

The intent of this SEPP is consistent with the objectives of the repealed Standard where the primary aims/objectives are related to the protection of the biodiversity values of trees and other vegetation on the site.

The proposal fails to consider the retention and protection of trees as part of this application. Based on the latest aerial data information available (refer to Neamap figure below), it appears that a number of mature trees are located both in and around the site. Conversely, the submitted survey plan and proposed subdivision plans fail to include this level of information with a number of mature trees not shown on the plan.

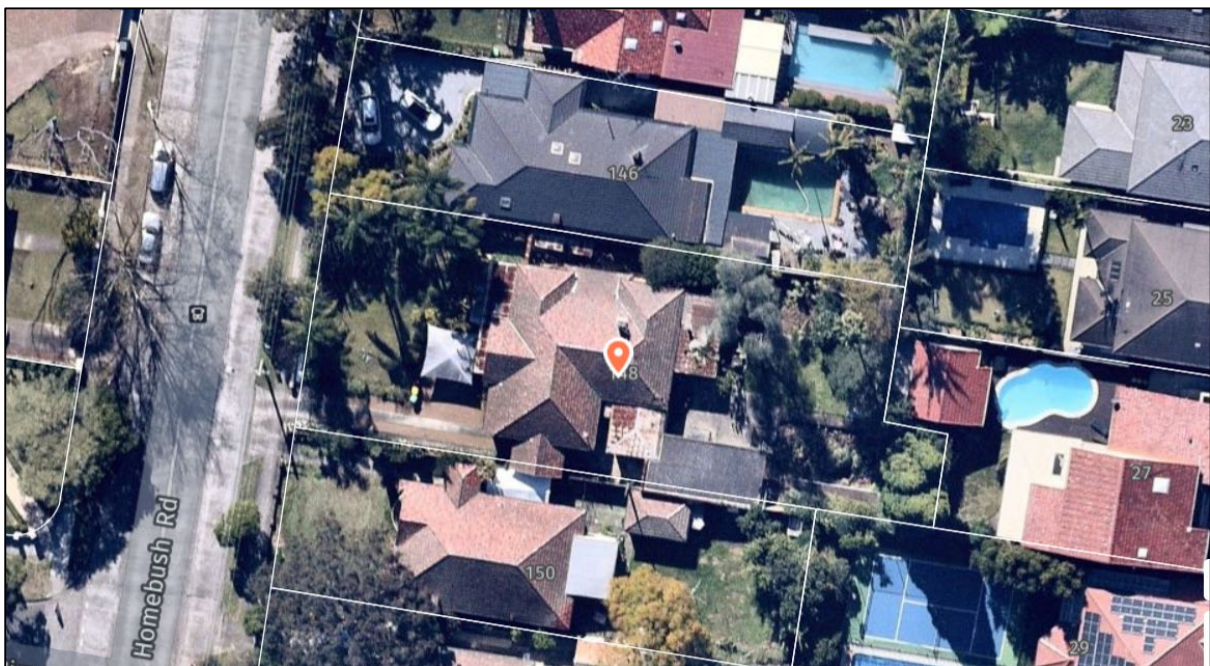


Figure 3: Aerial imagery of subject site (Source: Nearmaps).

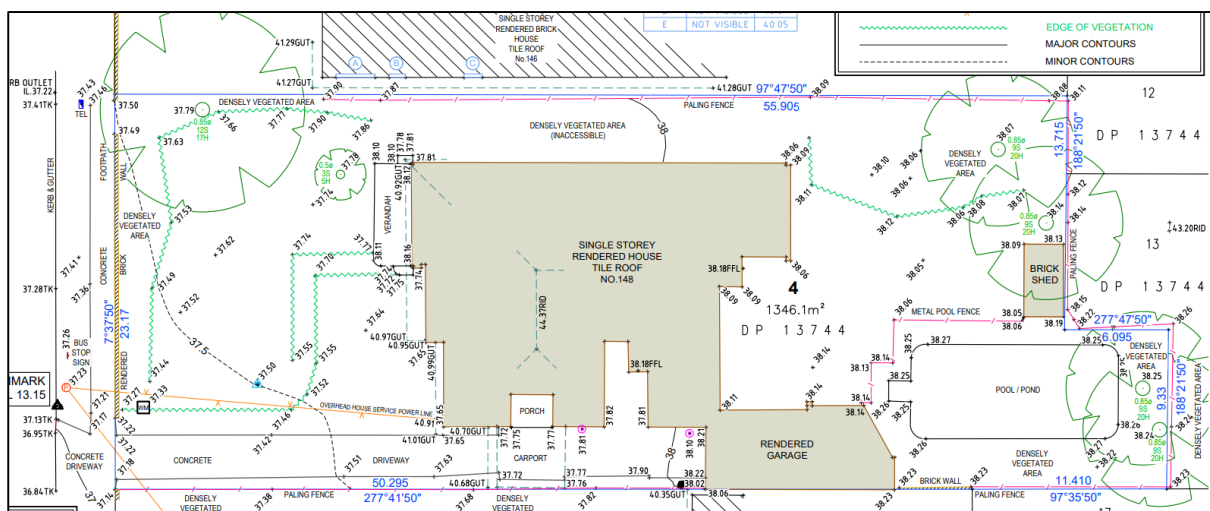


Figure 4: Submitted Survey Plan

The application not only fails to accurately document the trees both in and around the site but has also failed to provide any justification for tree removal to accommodate the proposed development. This includes proposed provision of a second driveway crossing from Homebush Road which appear to result in adverse tree impacts. Accordingly, the proposal fails to satisfy the aims and objectives outlined within the SEPP and is unable to be supported.

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
4.1 Minimum subdivision lot size (excl. strata subd.)	560m ²	Lot 1 = 646m ² Lot 2 = 575m ² (excluding the calculation of the handle) + 124m ² for access handle	Yes Yes

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 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 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.

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.

PART R – Subdivision

Residential Subdivision Pattern

Section 3 of Part R of the SCDCP 2005 stipulates as follows:

3. Proposed subdivision or amalgamation must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of lot width, area, dimensions, shape and orientation. In the case of irregular shaped allotments, Council will require that a suitable building envelope be available for development.

4. Lots must be oriented to maximise solar access for future dwellings.

With regard to Clause 3, aerial imagery of the surrounding subdivision pattern is provided in Figure 4 below. Based on the current subdivision pattern of the area (as defined in the SCDCP as ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site) the figure demonstrates that the subdivision pattern is relatively uniform. Lots are predominantly regular in shape with similar depths and frontage widths. Whilst the corner property at 123-127 displays an irregular lot size, the property is a heritage listed site containing only one (1) single dwelling house across three (3) separate lots. The proposed subdivision plan will result in lots which are severely inconsistent and thus incompatible with the prevailing subdivision pattern in the immediate vicinity and is therefore not supported in this regard.

With regard to Clause 4, the site has an east-west orientation. Accordingly, overshadowing to southern adjoining properties is unavoidable. Whilst shadow diagrams have not been submitted as part of this application, it is evident that the southern adjoining property at 140 Homebush Road will be cast in shadow throughout the entirety of the day due to the proposed subdivision resulting in two (2) separate dwelling houses. Figures 5 and 6 below demonstrates the indicative building layout plan and building heights of the new dwelling developments envisaged for the site. The dwellings appear to be two (2) storey in height sitting just below the 9.5m building height limit. The property at 140 Homebush Road will therefore be severely impacted by the proposed development receiving minimal solar access throughout the day.

Further, whilst to a lesser extent, it appears that the eastern and south-eastern adjoining properties at 27 and 29 Cotswold Road may also be affected by the proposed development. Solar access to these properties is already compromised due to their east-west orientation as

well as existing two (2) storey development located north of these properties. The proposed subdivision development and likely redevelopment of the subsequent lots will further reduce solar access received to these properties in the afternoon hours of the day thus compromising opportunities for solar access to these properties. The proposal fails to demonstrate that a reasonable development of the new lots can facilitate a contextually appropriate design and planning outcome that enables equitable and sufficient amenity for adjoining residents (as well as future residents of any future dwelling development on lot 2). Accordingly, the proposal is unable to be supported in this regard.

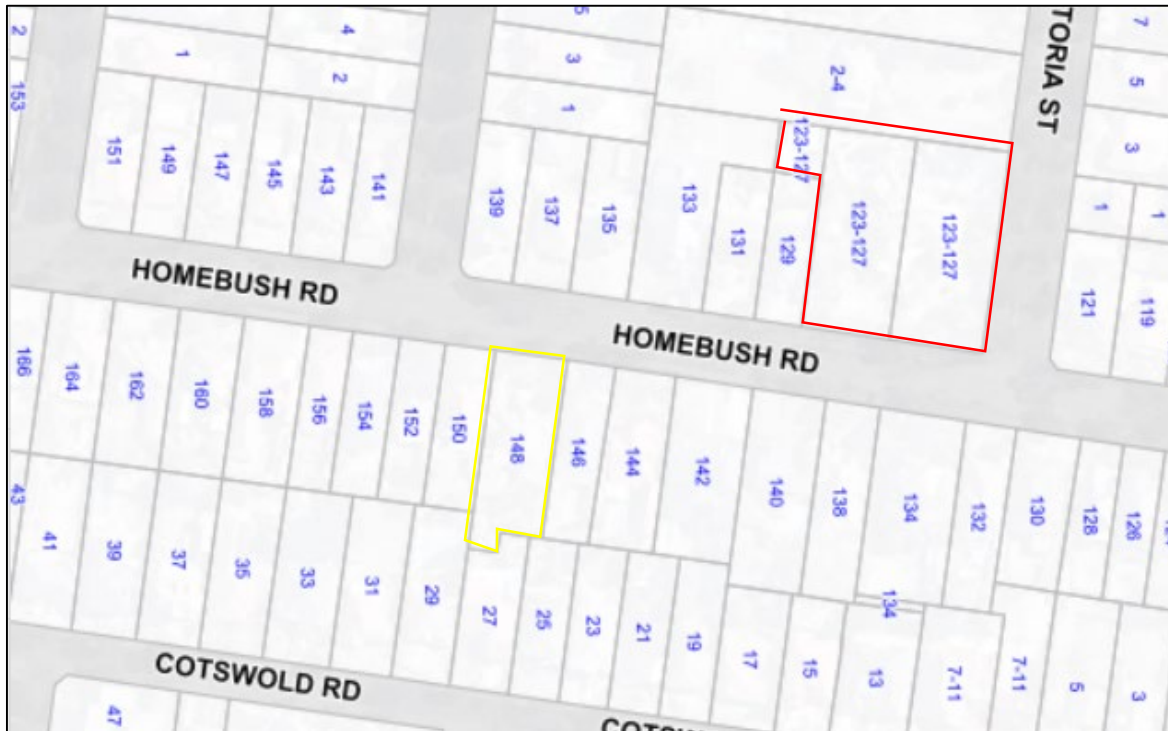


Figure 4: Subdivision pattern of surrounding context (subject site in yellow) also showing heritage listed property at 123-127 Homebush Road spanned across three (3) separate Torrens Title Lots (outlined in red).

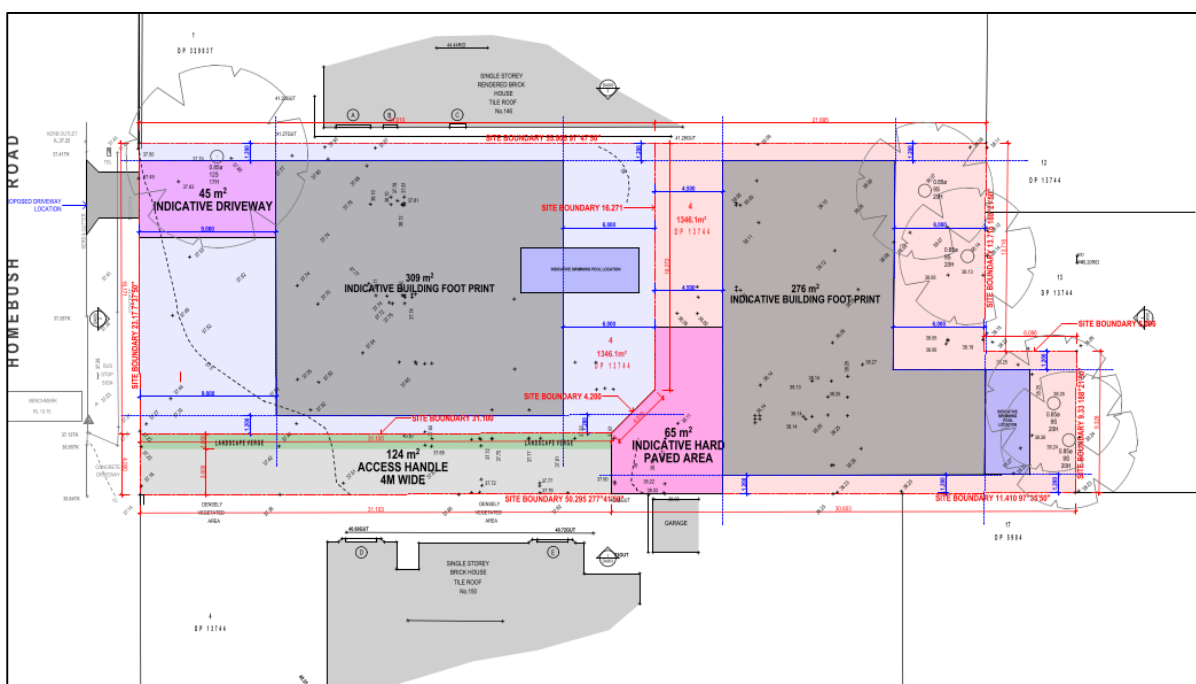


Figure 5: Indicative building footprint plans of subject site.

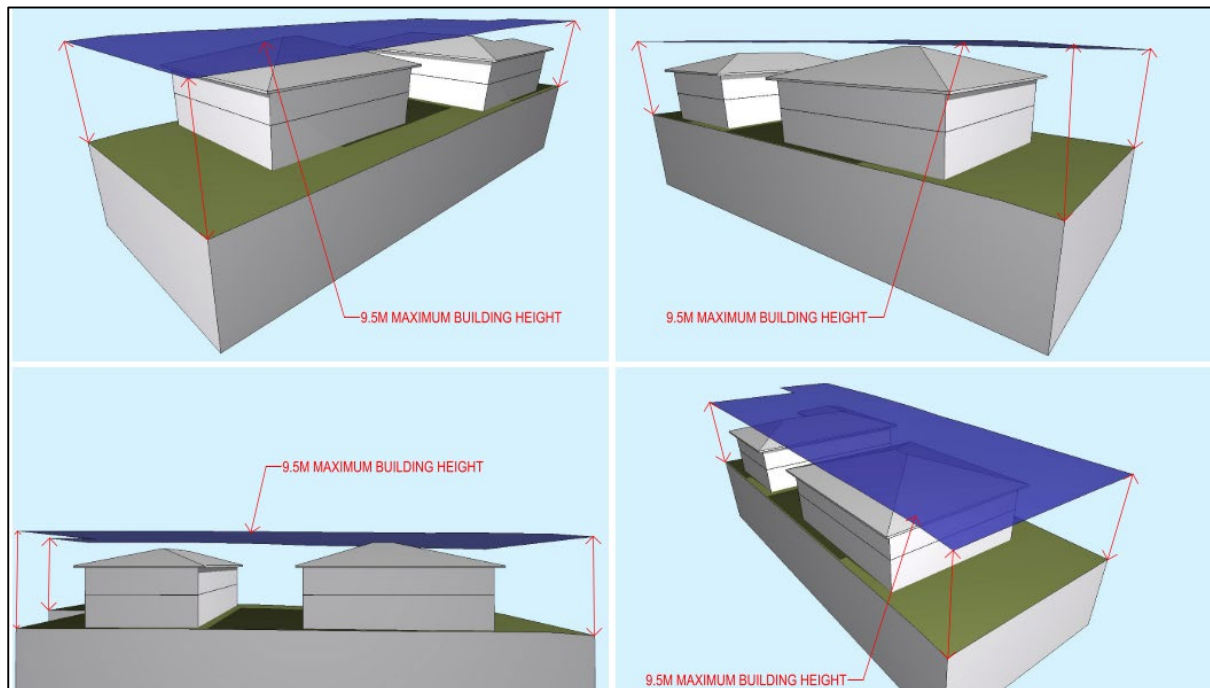


Figure 6: Indicative building heights of new dwellings envisaged for each newly proposed allotment.

PART H – Waste Management (SCDCP 2005)

In accordance with Part H of Strathfield CDCP 2005, a waste management plan was submitted with the application. It is considered that this plan adequately address Part H and considered satisfactory.

(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 proposal cannot be supported as the outcome of the proposal will not be consistent with the subdivision pattern envisaged under Council's SLEP 2012 and the SCDCP 2005. The proposal fails to consider tree removal/retention impacts, solar access impacts as well as visual privacy impacts as a result of the proposed subdivision. The proposal therefore cannot be supported.

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

As discussed in (b) above, the site will not be suitable for the development as the site's orientation and size is inadequate to accommodate the creation of a new lot.

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

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

(e) the public interest.

The proposed development is considered not in the public interest as it contravenes the provisions in the Vegetation in Non-Rural Areas SEPP 2017 and the SCDCP 2005 for subdivision.

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). However, the proposal is not supported and the application is recommended for refusal. As such, no contributions will be imposed to be paid.

Conclusion

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

Following detailed assessment it is considered that Development Application No. 2021/207 should be refused for the reasons attached.



Signed:
L Gibson
Senior Planner

Date: 23 September 2021

☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position;

Report and recommendations have been peer reviewed and concurred with.



Signed:
Miguel Rivera
Senior Planner

Date: 23 September 2021

REFUSAL REASONS

Under Section 4.16(1)(b) of the Environmental Planning and Assessment (EP&A Act, 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) Clause 4.1(1)(a) of the Strathfield Local Environmental Plan 2012 ('SLEP 2012') as it is not consistent with the prevailing subdivision pattern of the area.
- (b) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 as the proposal fails to consider the retention and protection of trees as part of this application.

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 ('SCDCP 2005') in terms of the following:

- (a) Section 2.1(A) of Part R Subdivision ('Part R') of the SCDCP 2005 as it does not reflect the prevailing subdivision pattern, in particular the lot size, lot width and lot shape.
- (b) Section 2.1(C) of Part R of the SCDCP 2005 as the proposal fails to consider the existing trees both in and around the site as well as overshadowing impacts which both present as site constraints to the property.
- (c) Section 2.1(E) of Part R of the SCDCP 2005 as the resulting Lot 2 will be bordering on to the rear boundaries of several adjoining properties that potentially creates land use conflict and unacceptable amenity impacts between neighbours.
- (d) Section 3.1(4) of Part R of the SCDCP 2005 as the proposed Lots are not oriented to maximise solar access for future dwellings.

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 fails to consider how trees both in and around the site are to be protected and retained as a result of the proposal.
- (b) Social environment – as the resulting Lot 2 will be located behind several adjoining

properties' rear yard creating privacy and amenity concerns between neighbours. Further, the proposed subdivision will result in significant overshadowing to the southern and (to a lesser extent) eastern adjoining properties resulting in an unreasonable loss of solar access to adjoining properties.

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:

- (a) As the site's orientation and shape is inadequate to accommodate the proposed subdivision.
- (b) The proposed subdivision fails to facilitate contextually appropriate redevelopment of subsequent lots without significantly compromising the amenity of neighbouring properties.

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 due to unacceptable impacts on the environment and is likely to set an undesirable precedent.