

## IDAP REPORT

<b>Property:</b>	51-55 Homebush Road STRATHFIELD Lot 2 in DP1886 & Lot 11A in DP 17492 DA2021.211
<b>Proposal:</b>	Alterations and additions to an existing boarding house (LEC approved) and heritage item - I147 ("Merriwa"—Federation house), including provision of ramp.
<b>Applicant:</b>	C & C Investment Pty Ltd
<b>Owner:</b>	C & C Investment Pty Ltd
<b>Date of lodgement:</b>	25 August 2021
<b>Notification period:</b>	30 August 2021 – 20 September 2021
<b>Submissions received:</b>	One (1) written submission received
<b>Assessment officer:</b>	L Gibson
<b>Estimated cost of works:</b>	\$10,000.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	Yes – Heritage Item I147 – “Merriwa” – Federation house under Schedule 5 of the SLEP 2012.
<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 view of subject site (outlined in yellow) and surrounding context.**

## **Proposal**

Development consent is being sought for alterations and additions to an existing boarding house (LEC approved) and heritage item - I147 ("Merriwa"—Federation house), including provision of ramp.

## **Site and Locality**

The site is identified as 51-55 Homebush Road Strathfield and has a legal description of Lot 2 in DP 1886 & Lot 11A in DP 17492. The site is an irregular-shaped parcel of land. The surrounding area is low density residential in character with a number of prominent heritage items.

The site has a frontage width of 46.48m to Homebush Road, a depth of 50.45m along the side Oxford Road frontage, a depth of 38.73m to the western side boundary and a depth of 75.83m along the rear northern boundary. The site provides a total site area of 2,445m<sup>2</sup>.

## **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 does not satisfy the relevant objectives contained within the LEP.

## **Development Control Plan**

The proposed development fails to satisfy 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 (30 August 2021 – 20 September 2021), where one (1) submission was received raising the following concerns;

- Encroachment on and access to non-trafficable roof area;
- Non-compliant landscaping; and
- Failure of development to achieve an appropriate setback from heritage building.

## **Issues**

- Heritage
- Compliance with building standards
- Landscaping
- Streetscape & Character
- Bulk & Scale
- Setbacks

## **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2021/211 is recommended for refusal.

## REPORT IN FULL

### **Proposal**

Council has received an application for alterations and additions to an existing boarding house (LEC approved) and heritage item - /147 ("Merriwa"—Federation house), including provision of ramp.

More specifically, the proposal includes;

- Construction of reinforced concrete pedestrian ramps to enable suitable access for people with mobility issues, between the main pedestrian entry off Oxford Road and the communal areas on the western side of the heritage listed building; and
- Insertion of a 1.1 metre high infill panel including a weatherboard base (to match existing fabric) and glass panel above, within the recess at first floor level on the front facade of the heritage listed building.

It is noted that a Building Information Certificate Application for the site was lodged concurrently with the subject application.

For clarity, the Building Certificate Application seeks approval for the following:

#### **Ground Floor Level**

- *The pathway located within the side passage between the building and western side boundary;*
- *The four (4) square planter boxes and long narrow planter box adjacent to Oxford Road located adjacent to the vehicle entry and exit off Oxford Road;*
- *The three (3) square planter boxes located in the courtyard adjacent to rooms 10 and 11;*
- *The 1.8m high colorbond fences including gates adjacent to the entries to rooms 2 to 21;*
- *The square planter box located in the central communal space; and*
- *The 1.8m high colorbond fence adjacent to the rear exit of the kitchen.*

#### **First Floor Level**

- *The sliding door in the eastern external wall of room 22;*
- *The 1.5m high colourbond fence adjacent to the sliding door off Room 22; and*
- *The fixed full height window adjacent to room 22 at the eastern end of the corridor.*

#### **Second Floor Level**

- *The 1.1m high wall at the outer perimeters of the covered external path and covered stairwell; and*
- *The 1.2m high parapet along the perimeters of the roof at the southern end of the building.*

A comparison of the LEC approved development and the proposal is illustrated in Figures 2 to 5.

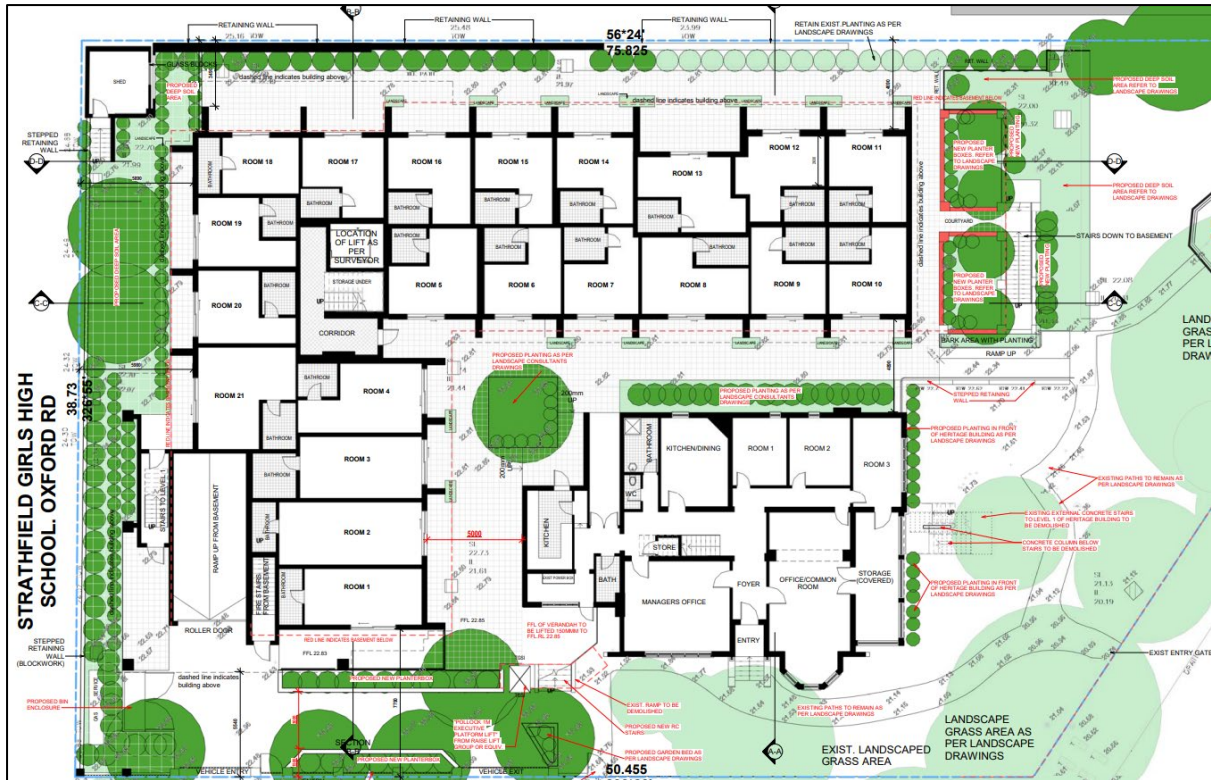


Figure 2: Approved Ground Floor Plan



Figure 3: Proposed Ground Floor Plan

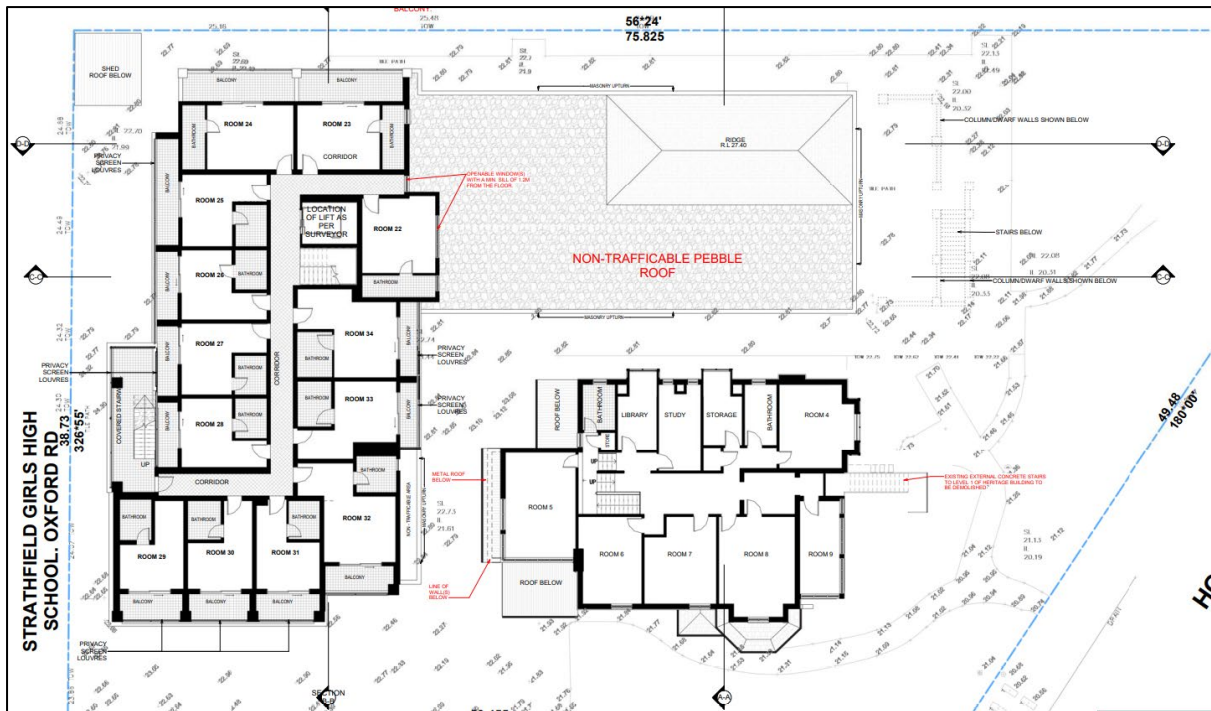


Figure 4: Approved first floor plan

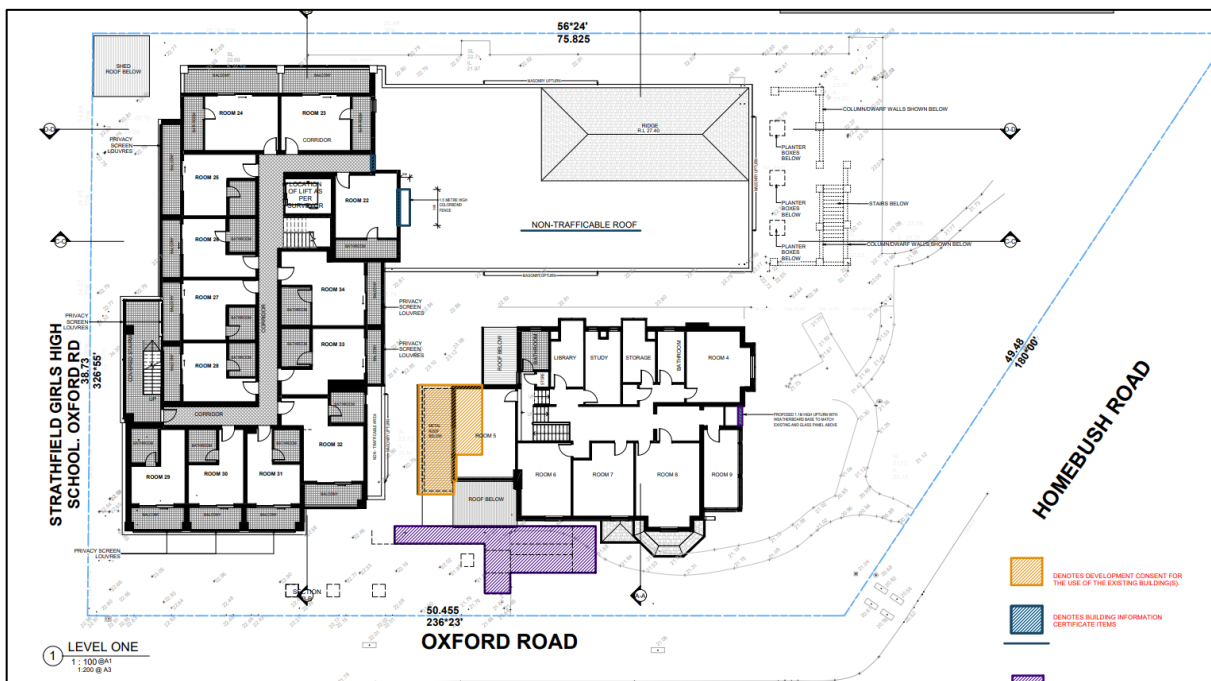


Figure 5: Proposed first floor plans

## The Site and Locality

The site is identified as 51-55 Homebush Road Strathfield and has a legal description of Lot 2 in DP 1886 & Lot 11A in DP 17492. The site is an irregular-shaped parcel of land located on the north western corner of the intersection with Homebush Road and Oxford Road.

The site has a frontage width of 46.48m to Homebush Road, a depth of 50.45m along the side Oxford Road frontage, a depth of 38.73m to the western side boundary and a depth of 75.83m along the rear northern boundary. The site provides a total site area of 2,445m<sup>2</sup>.

The site currently contains a heritage item being the original two storey dwelling in the south east corner of the site and some additions. The heritage item is Item I147 to Schedule 5 of Strathfield LEP 2012 and is described as “Merriwa” – Federation house of local significance.

Adjoining the site to the north are two (2) residential allotments. Adjoining the western site boundary is Strathfield Girls High School. The high school occupies several parcels of land. The building closest to the shared boundary is a single storey brick building containing classrooms and set back less than 2m from the shared boundary.

The current streetscape is part of the Homebush Road Conservation Area which is characterised by federation detached houses of one and two storeys with large landscaped front setbacks and front facades angled to the front boundary. The Homebush Road Conservation Area is described by the Strathfield Heritage Study as:

*“...residential in character and features three churches on prominent corner locations....The large allotments feature substantial housing dating from the early twentieth century. Important streetscape elements include fencing, gardens and Brush box street planting that combine to provide a sense of enclosure and continuity...Homebush Road precinct is of local significance for its architectural character and for its diverse high quality streetscape.”*



**Figure 6: Proposed location of ramp in front of heritage building (note palm tree on right).**



**Figure 7: Oxford Road façade.**

### **Background**

1 July 2015	Development Application No. 2014/103 was approved on a Deferred Commencement basis at the Land and Environment Court for demolition of parts of the existing building and construction of a part 2, part 3-storey building with basement level car parking and conversion of the entire subject site into a boarding house comprising 45 boarding rooms and a manager's room.
10 December 2015	Deferred Commencement consent activated following successful lodgement of additional information submitted to Council for consideration.
30 May 2017	A Section 96(AA) modification application (DA2014/103/2) pursuant to Section 96 of the <i>Environmental Planning and Assessment Act 1979</i> to regularise the nonconforming built development was lodged with Council.
2 August 2017	The application (DA2014/103/2) was refused at Council's IDAP meeting held 2 August 2017.
8 September 2017	Applicant filed an appeal with the Land and Environment Court against the deemed refusal of the modification application (DA2014/103/2).
27 October 2017	The Applicant filed an appeal against the S 121B Cease works order advising development consent is not being complied with.
17 Nov 2017	Interlocutory Injunction Class 4 hearing held querying the validity of the OC.

18 February 2018	A S34 Conference in the 2 Class 1 appeals were unsuccessful and was terminated.
9 May 2018	Commissioner deemed OC invalid and for occupation to cease immediately.
1 June 2018	An appeal was filed with the Supreme Court of NSW by the applicant.
27 July 2018	The conciliation conference for the Class 1 appeal was held whereby an agreement was made between parties to amend the conditions of consent including plans. This included some building works to be modified on the site.
1 August 2018	Parties reached agreement from Section 34 proceedings including acceptance of modified plans and conditions of consent.
25 August 2021	The subject application along with a separate Building Information Certificate Application was lodged with Council. The Building Information Certificate is being assessed concurrently under separate cover.
30 August 2021 – 20 September 2021	The subject application was placed on public notification. One (1) written submission was received during this time.
7 October 2021	Applicant filed an appeal with the Land and Environment Court against the deemed refusal of the subject development application
21 October 2021	The assessment officer undertook a site inspection of the property.
4 November 2021	Correspondence sent to objector identifying concerns with proposal.

## **Referrals – Internal and External**

### **Building Compliance Officer**

The ramp provides access for people with a disability to the heritage building however the heritage building does not accommodate the requirements of the National Construction code in regards to sanitary facilities, accessibility and fire safety.

The court approved DA stipulated the following conditions. My concerns are that a construction certificate was not issued prior to the works commencing therefore the intent of the conditions of consent have not incorporated into the design or the construction of the modifications that have already taken place.

### **Heritage**

The application was referred to Council's Heritage Officer for comment. The following comments were made in relation to the submitted Development Application:

***"I do not support the application due to the following issues and concerns:***

- ***A1- Secondary Ramp – The ramp is located within the secondary setback and requires the removal of a heritage significant Palm Tree. The trees were identified as significant***

*under the Item's Statement of Significance. Further to this, the dwelling and its palms being located on a corner is a significant contributory element to the Homebush Heritage Conservation Area.*

*The ramp will be an unnecessary and intrusive element which will impact the curtilage of the heritage item and the HCA. It is not supported under Objective 1.2(2) (f) of the EP&AA 1979, SLEP 2012 Clause 5.10(1)(b) which aims to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views and the setting objectives of the Part P of the DCP.*

- *F - A glass panel within the recess at first floor is an unnecessary and intrusive element to the front of the heritage listed building. It is also the last remaining section of the original verandah that hasn't been infilled. If the structure is necessary, and supported by Council.*
- *F (1) – I do not support the new panel as it's not a proper reconstruction of the original style of the building. It would not meet Condition 7 (Appeal No. 2017/273815) which states:*

7. *The point at which the external stair to be demolished enters the Eastern elevation first floor level of "Merriwa" is to be reconstructed and detailed to match the two existing bays of the veranda to the immediate South.*

**Details of the above measures shall be clearly labelled on the Construction Certificate drawings submitted to the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.**

## **Trees**

The application was referred to Council's Tree Officer for comment. The removal of the palm tree to accommodate the proposed ramp was not supported. The following comments were made in relation to the submitted Development Application:

*"There are a number of significant trees and palms on site at 51-55 Homebush Road.*

*The current landscape plans has not addressed any tree protection setbacks and measures in accordance with AS4970-2009- Protection of trees on sites.*

*Any proposed landscape design on site needs to be accompanied by an Arboricultural Impact Assessment Report with Tree Protection Measures by suitably qualified Arborist who holds an AQF Level 5 or above in Arboriculture."*

## **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 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 SEPP 55 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 was referred to Council's Tree who objects to the proposed tree removal. The proposal seeks to remove a number of significant trees and palms on the site with no consideration for protection or special measures in place to protect landscaping where possible.

The aims and objectives outlined within the SEPP are considered not to be satisfactory and are thus unable to be supported.

## **STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**

Any applicable development standards for boarding houses under the ARH SEPP is presented in the table below.

<b>Clause</b>	<b>Development Control</b>	<b>Required</b>	<b>Proposal</b>	<b>Compliance</b>
29 Note: Unable to refuse based on compliance these standards	Landscaping	Front setback is compatible with streetscape	The proposal seeks to remove a mature canopy tree to accommodate a ramp.  The landscaping (in particular the palm tree) in the	No, refer to likely impact discussion.

			front setback forms part of the heritage significance of the site. Further, the front setback is incompatible with setbacks in the streetscape which are provided with deep soil landscaped areas.	
30A	Character	A consent authority must not consent to development to which this division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposed alterations are incompatible with the character of the heritage building located upon the site and is inappropriate as proposed	No, refer to discussion below.

### Character

The character of the area is largely defined by its heritage significance (both forming part of the Homebush Road Heritage Conservation Area and being in itself a heritage listed item). It is therefore paramount that the heritage attributes be considered and protected where possible.

The proposal results in a further loss of deep soil landscaping which was approved under previous active consents pertaining to the land. The proposal results in the removal of an established palm tree in the Oxford Road setback. The plans also denote a further reduction in deep soil zone through the central courtyard, far eastern courtyard adjacent lodger rooms 10 and 11 as well as in the Oxford Road frontage. The removal of the palm tree as part of this proposal along with a further reduction overall in landscaping through the site will result in a poor balance of hardscaped and landscaped elements on site. The landscaped spaces along the Oxford and Homebush Road frontages are of particular importance as they form part of the heritage listing for the building and Homebush Rd Conservation Area.

The Homebush Road Conservation area has, *“Important streetscape elements include fencing, gardens and Brush box street planting that combine to provide a sense of enclosure and continuity”*

Merriwa Heritage Inventory Sheet notes the *“...Mature planting (containing palms) screens the house from the street.”*

It is evident that the landscaping forms an integral component to the heritage importance of the site. Whilst it is appreciated that the proposal seeks to demolish the existing palm tree on the Oxford Road frontage to accommodate a new pedestrian ramp, the site already benefits from an existing pedestrian ramp and thus a second ramp is not required. The new ramp is therefore unnecessary and unable to be supported.

It is further noted that the retention of the single storey later addition which forms the western wing of the heritage building encroaches upon the building separation required between the heritage building and new development. The LEC approved plans already provided sufficient kitchen and storage spaces within the heritage building and that this second kitchen is unnecessary. The retention and use of this retained portion (as is) is not necessary in ensuring the ongoing operation of the boarding house. The removal of this portion will improve the presentation of the development and its response with respect to the value and setting of the heritage item.

Having applied the character test required as per Clause 30A of the ARHSEPP, the proposed modifications are considered inappropriate and are 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**

Part 4 is not applicable to this subject application.

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

#### **Heritage Conservation**

The proposal (has been identified as a Heritage Item - I147 (“Merriwa”—Federation house) and is also located within the Homebush Road Heritage Conservation Area under Schedule 5 of SLEP. A Heritage Impact Statement was submitted with the application.

“Merriwa” as stated in the Strathfield Heritage Study Item Identification Sheet is:

*“... of local significance for its aesthetic and architectural qualities and as a focal point for the vista west along Churchill Avenue. This two storey brick residence features a first floor bay window to Homebush Road, a ground floor bay to Oxford Road, a rendered first floor façade with shingles, rendered chimneys, splayed brickwork to the walls, gables to Oxford and Homebush Roads and an arched window. Mature planting (containing palms) screens the*

*house from the street. This large home forms an important corner element and forms an important focal point for views along Churchill Avenue”*

The proposed ramp and retention/use of the kitchen storage structure impinges on the curtilage established around the heritage building. Further, the loss of landscaping to accommodate these structures is contrary to the heritage aspects of the item and conservation area within which it is located. The landscaping elements are of particular importance to the heritage significance of the site and its surrounds.

Refer to Part P discussion below for further assessment relating to heritage impacts.

Overall, the proposal is considered contrary to the objectives of Clause 5.10 of the SLEP 2012 and is not supported.

## **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.

**(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 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)

An assessment of the proposal against the objectives and development controls contained within Part P of SCDCP 2005 is included below:

### 1.5: Objectives of this DCP Part

<b>1.5</b>	<b>Objectives</b>	<b>Satisfactory</b>
<b>a.</b>	<i>To encourage development which complements existing heritage items and heritage Conservation Areas in a modern context.</i>	<b>No</b>
<b>b.</b>	<i>To retain evidence of historic themes of development evident in the Strathfield Local Government Area, through the proper care and maintenance of individual heritage items and heritage Conservation Areas.</i>	<b>Yes</b>
<b>c.</b>	<i>To protect those items and areas that are of value to the local community</i>	<b>No</b>
<b>d.</b>	<i>To ensure that development in the vicinity of heritage items is designed and sited to protect the heritage significance of the item.</i>	<b>No</b>
<b>e.</b>	<i>To retain any significant horticultural or landscape features that assist in the interpretation of Strathfield's heritage.</i>	<b>No</b>

### 2.1: General Objectives

<b>2.1</b>	<b>Objectives</b>	<b>Satisfactory</b>
<b>a.</b>	<i>To ensure that additions to a heritage item and new buildings on the site of a heritage item are of a scale, mass, bulk, orientation, setback and character consistent with the heritage item.</i>	<b>No</b>
<b>b.</b>	<i>To ensure that new development respects the contribution of a heritage item to the streetscape and/or townscape, and allows an ongoing application of its heritage significance.</i>	<b>No</b>
<b>c.</b>	<i>To retain or reinstate missing original details that contribute to the aesthetic quality and/or significance of a heritage item and to encourage the removal of inappropriate alterations and additions.</i>	<b>No</b>
<b>d.</b>	<i>To ensure that important elements of the form or fabric of a heritage item are not obscured or destroyed by alterations and additions.</i>	<b>Yes</b>
<b>e.</b>	<i>To ensure that materials and colours used on both the original heritage item and any alterations and additions are consistent with the significance of the heritage item.</i>	<b>No</b>
<b>f.</b>	<i>To provide an appropriate visual setting for heritage items, including landscaping, fencing and car parking.</i>	<b>No</b>

**Comments:** The proposal seeks to retain a later addition to the heritage building which was required to be removed under the current active consent on the site as required by the LEC. The later addition is incompatible with the original fabric of the heritage building and further restricts the view corridor between the original building and more recent development as viewed from Oxford Road. The proposal is not acceptable in this instance.



**Figure 8: New boarding house development (left) and heritage building with later single storey addition (right).**

## 2.2: Setting

2.2.1 Objectives		Satisfactory
A.	To provide an appropriate visual setting for heritage items, including landscaping, fencing and car parking; and	No
B.	To ensure that new development respects the contribution of a heritage item to the streetscape and/or townscape and retains the significance of the item.	No
2.2.2 Controls		Complies
(1)	Original elements that contribute to the setting of a heritage item such as landscaping, fences and gates, driveways, seawalls etc. should not be removed and, traditional garden designs should be reinstated where possible.	No
(2)	New structures on land on which a heritage item is located such as swimming pools and outbuildings should be located so that they do not adversely impact on the significance of the heritage item.	N/A
(3)	The natural landform and character of the area within which a Heritage Item is located, should be maintained, avoiding any cut and fill to land when constructing new buildings and landscaping grounds.	No

**Comments:** The proposed installation of the new pedestrian ramp to Oxford Road results in further loss of landscaping including removal of a date palm which is a contributory element to the heritage listing of the site.

## 2.5: Materials and colours

2.5.1 Objectives		Satisfactory
A.	To ensure that original materials that contribute to the significance of heritage items are not obscured.	No
B.	To ensure that colours of paintwork on heritage items are consistent with the significance of the heritage item.	Yes
C.	To ensure that materials on alterations and additions to heritage items are consistent with the materials of the heritage item.	No
2.5.2 Development Controls		Complies
(1)	Original materials of heritage items should not be replaced with different materials or materials of different colour.	No
(5)	Materials for additions and alterations to heritage items should be compatible with the original materials of the heritage item.	No

**Comments:** As previously discussed, the proposed ramp is not consistent with the materials of the heritage item. The proposed ramp would detract from the item as viewed from the street.

## 2.6: Alterations and additions

2.6.1 Controls		Complies
(1)	Alterations and additions must not adversely impact the significance of a heritage item.	No
(2)	Any alterations and additions must be consistent with the scale, form, proportion, details and materials of the heritage item.	No

**Comments:** As previously discussed, the proposed ramp is not consistent with the proportion, form and materials of the heritage item. The proposed ramp would detract from the item as viewed from the street.

## 2.10: Landscape elements including paving and driveways

2.10.1 Objectives		Satisfactory
A.	To retain important landscape elements that contribute to the significance of heritage items.	No
B.	To reinforce the significance of the heritage item through appropriate landscaping.	No
2.10.2 Development Controls		Complies

(1)	Original driveways and footpath crossings that relate to a heritage item should not be relocated	<b>Yes</b>
(2)	Double driveways and footpath crossings will generally not be permitted for houses listed as heritage items.	<b>Yes</b>
(3)	Original or early garden layouts that contribute to the significance of the heritage item should not be altered.	<b>No</b>
(4)	Established trees and shrubs that contribute to the significance of the heritage item should not be removed unless it can be established by an arborist that the health of the tree or shrub is such that it must be removed.	<b>No</b>

**Comments:** The proposal results in the removal of two (2) trees within the frontage of the original heritage building to Oxford Road. This includes removal of a palm tree immediately forward of the heritage building which forms part of the heritage attributes of the site. The following is an excerpt from Council's Heritage Inventory sheet on the heritage item "Merriwa":

*"Mature planting (containing palms) screens the house from the street."*

The proposed removal of this tree would reduce the setting and appreciation of the heritage building and setting which is not supported.

The proposal also results in the removal of the canopy tree required to be planted in the central courtyard between the heritage building and the new development under the most recent court consent under DA2014/103. The intent of the canopy tree was to improve the visual separation between the old and new buildings so that the heritage building could be better appreciated as a stand-alone-building on the site. This landscaping change is not supported.

#### **4. Development in Conservation Areas**

##### **4.1: Setting**

<b>4.1.1 Objectives</b>		<b>Complies</b>
<b>1</b>	<i>To ensure that new development respects the established patterns in the streetscape of a heritage Conservation Area, including setbacks, siting, landscaped settings, car parking and fencing.</i>	<b>No</b>
<b>2</b>	<i>To ensure that new development respects the established patterns in the streetscape of a heritage Conservation Area, including setbacks, siting, landscaped settings, car parking and fencing.</i>	<b>No</b>
<b>3</b>	<i>To ensure that new development respects the established patterns in the streetscape of a heritage Conservation Area, including setbacks, siting, landscaped settings, car parking and fencing.</i>	<b>No</b>
<b>4.1.2 Development Controls</b>		<b>Complies</b>
(1)	The side and front setbacks of new development in a Conservation Area should be typical of the spacing of existing buildings in the vicinity of the proposed	<b>No</b>

	development in that Conservation Area, such that the rhythm of buildings in the streetscape is retained.	
(2)	No new structures should be built forward of the established street building line.	<b>No</b>
(3)	The established landscape character of the locality including the height of canopy and density of boundary landscape plantings should be retained in any new development.	<b>No</b>

**Comments:** As previously discussed, the proposal seeks the removal of landscaping in the Oxford Road entrance to accommodate a new pedestrian ramp. The ramp will be located forward of the heritage building and established building line.

## 4.2: Scale

4.2.1 Objectives		Complies
1	<i>To ensure that new development adjacent to or within a heritage Conservation Area is of a scale consistent with the existing development in the vicinity of the site that contributes to the character of the in the heritage Conservation Area.</i>	<b>No</b>
2	<i>To ensure that additions and alterations to a building within a Conservation Area are of a scale consistent with the contributory buildings in the Conservation Area.</i>	<b>No</b>

4.2.2 Development Controls		Complies
(1)	The scale of new development adjacent to or within a Conservation Area should relate to the scale of the adjacent or nearest contributory elements of the Conservation Area.	<b>No</b>
(2)	Development of a larger scale is allowable only if it can be demonstrated that the new development will not adversely impact the identifiable character of the Conservation Area.	<b>No</b>

**Comments:** As previously discussed, the proposed retention of the later single storey addition to the heritage building increases the scale of the development which is incompatible with the Heritage Conservation Area.

## 4.9: Landscape elements including paving and driveways

4.9.1 Objectives		Complies
1	<i>To retain important landscape elements that contribute to the significance of Conservation Areas.</i>	<b>No</b>
2	<i>To reinforce the qualities of the Conservation Area through appropriate landscaping</i>	<b>No</b>

**Comments:** The proposal results in the removal of two (2) trees within the frontage of the original heritage building to Oxford Road. This includes removal of a palm tree immediately forward of the heritage building which forms part of the heritage attributes of the site.

## 5. Additional controls for development within the Residential Conservation Areas

### 5.1: General objectives

5.1	Objectives	Complies
1	<i>To conserve the existing character and heritage significance of Strathfield's residential Conservation Areas.</i>	No
2	<i>To facilitate sympathetic and appropriate alterations and additions, whilst minimising the impact on the heritage significance of the dwellings and streetscapes within residential Conservation Areas.</i>	No
3	<i>To ensure that new development is sympathetic to the particular building and/or relevant Conservation Area in terms of siting, form, massing, articulation and detail composition.</i>	No
4	<i>To ensure that the proposed form of roof and details, the style, size, proportion and position of openings of windows and doors, the colours, textures, style, size and type of finish of materials to be used on the exterior of the building is compatible with similar features and materials used in the existing building on the site and within the relevant Conservation Area</i>	No
5	<i>To retain any horticultural or landscape features within the relevant Conservation Area.</i>	No
7	<i>To promote an understanding of the importance of conserving the fabric of existing buildings and its context within the relevant Conservation Area.</i>	No

### 5.2: Siting and Garden Area

5.2	Development Controls	Complies
	(1) The historical pattern of development of individual buildings on separate allotments of land separated by garden space, which characterise each of the Residential Conservation Areas, should be maintained.	No
	(2) Front garden areas, lawns and associated pathways as traditional garden settings for houses should be maintained in any development proposal within a Residential Conservation Area.	No
	(3) Views around and between buildings collectively forming a Residential Conservation Area should be retained in any development proposal.	No

	(4) Side boundary setbacks should match existing setbacks.	<b>N/A</b>
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**Comments:** As previously discussed, the proposal fails to retain the landscaping features of the site which contribute to the heritage significance of the site and conservation area. Further, the proposed retention of the later single storey addition to the heritage building was to be removed under previous consents as it does not form or contribute to the heritage significance of the heritage building “Merriwa”.

## **PART Q – URBAN DESIGN CONTROLS**

An assessment of the proposal against the objectives and development controls contained within Part Q of SCDCP 2005 is included below:

### **2: Building Form Controls**

#### **2.2: Streetscape**

2.1.1	<b>General objectives</b>	<b>Satisfactory</b>
a.	<i>To ensure that all development contributes positively to the street and locality.</i>	<b>No</b>
b.	<i>To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.</i>	<b>No</b>
c.	<i>To increase the legibility of streetscapes and urban spaces so that the interrelationship between development and the Public Domain is visually coherent and harmonious.</i>	<b>No</b>
d.	<i>To maximise opportunities for buildings to define the Public Domain.</i>	<b>N/A</b>
e.	<i>To encourage attractive street frontages and improve pedestrian amenity.</i>	<b>No</b>
2.2.2	<b>Essential criteria</b>	<b>Complies</b>
	4 Building design and landscaping must be in harmony with the form, mass and proportions of the streetscape.	<b>No</b>
	9 Buildings must be constructed of suitably robust and durable materials which contribute to the overall quality of the streetscape.	<b>No</b>

**Comments:** The proposed reduction in landscaping along with a reduction in the view corridor separation between the heritage building and new development is not in harmony with the intended layout of buildings on the site nor the prevailing rhythm of the streetscape which includes relatively high quality landscaping and generous setbacks.

### **3: Amenity Guidelines**

#### **3.9: Landscaping**

3.9.1	<b>Objectives</b>	<b>Satisfactory</b>
a.	<i>To enhance the existing streetscape and promote a scale and density of planting that softens the visual impact of buildings.</i>	<b>No</b>

<b>b.</b>	<i>To ensure developments make an equitable contribution to the landscape setting of the locality.</i>	<b>No</b>
<b>c.</b>	<i>To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.</i>	<b>No</b>

<b>3.9.2</b>	<b>Essential criteria</b>	<b>Complies</b>
1	1) The design, quantity and quality of open space must respond to the character of the street and surrounding area and contribute to the garden character of Strathfield.	<b>No</b>
2	Existing trees within the front setback shall be retained. Front setback areas must contain at least two (2) canopy trees adjacent the front boundary and comprise at least 50% of the setback is to be for deep soil planting.	<b>No</b>
3	Existing trees on Council's Road Reserve area must be retained and protected. New driveway locations that necessitate removal of a Council street tree will not be supported.	<b>Yes</b>
5	Landscaping must be designed to protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.	<b>Noted</b>
10	Landscaping must enhance the visual setting and accentuate the design qualities of the built form. Landscaping solutions shall be used to create a screening effect for visually obtrusive land uses or building elements.	<b>No</b>
11	Trees must be planted at the front and rear of properties to encourage tree canopy, to soften the built environment and to encourage the continuity of the landscape pattern.	<b>No</b>
12	Landscaping is to be designed so as to minimise overlooking between properties.	<b>Noted.</b>
13	The amount of hard surface area shall be minimised to reduce run-off. Run-off from hard surfaces is to be directed to permeable surfaces such as garden beds.	<b>No.</b>

**Comments:** The site has resulted in a considerable loss of deep soil landscaping over time. Landscaping forms part of the heritage listing for the site as well as contributes to the character of the Homebush Road Conservation Area. The proposed ramp results in a further and unnecessary loss of landscaping on the site which is not supported.

**(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,***

Heritage

The proposed modifications result in significant adverse impacts upon the heritage building as well as the curtilage established around the periphery of the building itself. The unauthorised works have resulted in the retention of the single storey western kitchen and storage structure. This structure was to be rectified as part of the active consent to ensure that a minimum 5m building separation is maintained between the heritage building and the three storey boarding house addition. This later addition which bears no significance to the original heritage fabric of the building was to be removed in order to recapture the character of the original western wing. Further, its removal was to provide a clear and appropriate distinction between the heritage item and addition. This in turn would have enabled the heritage building to be better interpreted from Oxford Road and its significance not compromised by the appearance of the new building on the site.

As previously discussed, the removal of landscaping and increase in hardstand surfaces by facilitating a pedestrian ramp forward of the building line and heritage building adversely detracts from the presentation of this building from the street. The landscaping that is proposed to be removed, is a contributory element to the heritage listing of the site as well as the surrounding heritage conservation area within which it is located. Any further loss of deep soil zone or additional built upon structures in the front setback is not supported as it is not suited to the site. The Court approved plans relating to the site under DA2014/103 depicted a lift in the front setback in lieu of the ramp (refer Figure 2). This is considered a more appropriate solution compared to the ramp given it will maintain further building separation from the heritage building and will not require any further loss of landscaping in the Oxford Road setback.

Landscaping

The areas of deep soil landscaping immediately adjoining the heritage building to the north-west and north have been either significantly reduced or deleted from the most recent Court approved plans. This results in further loss of deep soil landscaping which is a major physical and visual intrusion into the significant curtilage of the heritage item. Accordingly, this reduction of deep soil landscaping is unable to be supported by Council.

Streetscape

Overall, the proposal seeks to retain a later addition to the heritage building which was required to be removed under the current active consent on the site. The later addition is incompatible with the original fabric of the heritage building and further restricts the view corridor required to be maintained between the original building and more recent development as viewed from Oxford Road. This is not in harmony with the intended layout of the buildings on the site nor the prevailing building rhythm of the streetscape which is typified by relatively high quality landscaping and generous setbacks. The proposed ramp forward of the heritage building further impinges on its setting as viewed from Oxford Road. The proposal is not acceptable in this instance.

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

It is considered that the proposed development is of a scale and design that is unsuitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. The proposal is not supported in this regard.

**(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 21 days where adjoining property owners were notified in writing of the proposal and invited to comment. One (1) submission was received raising the following concerns:

- ***Encroachment on and access to non-trafficable roof area:*** Concern is raised for the structure built upon the non-trafficable roof area outside room 22 which is not highlighted as an amended DA change on the submitted architectural plans.

Comment: The proposed creation of the private open space area to lodger room 22 is being dealt with separately via the Building Information Certificate application.

- **Objection to the development of the pedestrian ramps to the extent that they affect any landscaping on the site.**

Comment: The proposed ramp in the front setback of the site is not supported as it results in further loss of landscaping which is contributory to the heritage value of the site. This has been discussed at length throughout this report.

- **Failure to provide for setback from the heritage building. The boarding house eastern wall should be removed rather than considering the removal of the heritage building western wall.**

Comment: The latest court decision of the site required a 5m building separation to be achieved between the original heritage building and the new development addition via the removal of the later single storey addition to the heritage building. The proposal seeks to retain this portion which does not form part of the original heritage fabric. The retention and use of the later addition kitchen and storage area is not supported.

**(e) the public interest.**

The proposed development is of a scale and character that conflicts with the public interest.

### **Local Infrastructure Contributions**

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. This section prescribes in part as follows:

A consent authority may impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

Contributions were not levied as part of the subject application as the proposal is recommended 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. 2021/211 should be refused subject to the conditions attached.



**Signed:**

**L Gibson  
Senior Planner**

**Date: 11 November 2021**

- ☒ 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 however have not been levied as the application is recommended for refusal.

Report and recommendations have been peer reviewed and concurred with.



**Signed:**

**Miguel Rivera  
Senior Planner**

**Date: 12 November 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 reason;

### 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 does not satisfy the requirements of the State Environmental Planning Policy (Vegetation In Non-Rural Areas) 2017 which requires trees to be protected and retained.
- (b) The proposal fails to satisfy the landscaping requirements under Clause 29 of the ARHSEPP which requires the front setback to be compatible with the surrounding area.
- (c) The proposal fails to satisfy the character test requirement under Clause 30A of the ARHSEPP which requires the proposed development to achieve harmony with the buildings. This is a consequence of the further loss of deep soil landscaping through the site and proposed retention of single storey addition to the heritage building on the site.
- (d) The proposal fails to satisfy the objectives of Clause 1.2 (2) (a) and (f) of the Strathfield Local Environmental Plan 2012 which seeks to ensure high quality built form and to protect environmental and cultural heritage.
- (e) The proposal fails to satisfy the provisions under Clause 5.10 of the Strathfield Local Environmental Plan 2012 which requires heritage items including associated fabric, settings and views to be conserved.

### 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 is contrary to objectives (a), (c), (d) and (e) of Part P of the SCDCP 2005.
- (b) The proposal is contrary to the Clause 2.2 streetscape and Clause 3.9 landscaping requirements of Part Q of the SCDCP 2005.

### 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) The proposal will result in adverse heritage, landscaping and streetscape impacts

**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) The proposal is not suitable for the site with regard to its incompatible relationship to adjoining developments

**5. Refusal Reason – Public Interest**

Pursuant to Section 4.15 (1)(d) and (e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.