

IDAP REPORT

Property:	77 Homebush Road STRATHFIELD Lot 7, Sec 1 in DP 581 DA 2021/283
Proposal:	Construction of a natural grass tennis court and associated structures including perimeter fencing, lighting and tree removal within a heritage-listed property (I152 - "Mornington"—Victorian Italianate style house).
Applicant:	Bechara Chan & Associates
Owner:	P Egan & M Magesan
Date of lodgement:	2 November 2021
Notification period:	9 November 2021 to 22 November 2021
Submissions received:	One (1)
Assessment officer:	L Fanayan
Estimated cost of works:	\$80,000.00
Zoning:	R2-Low Density Residential - SLEP 2012
Heritage:	Yes – "Mornington" – Victorian Italianate style house (I152)
Flood affected:	Yes
RECOMMENDATION OF OFFICER:	Approval



Figure 1: Site locality plan outlined in yellow.

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the construction of a natural grass tennis court and associated structures including perimeter fencing, lighting and tree removal within a heritage-listed property (I152 - "Mornington"—Victorian Italianate style house).

Site and Locality

The site is identified as 77 Homebush Road, Strathfield and has a legal description of Lot 7, Sec 1 in DP 581. The site is a regular shaped parcel of land and is located on the western side of Homebush Road. The site has a width of 15.24m, a depth of 60.35m and an overall site area of 919.7m².

77 Homebush Road and 2A Florence Street share a rear boundary and have the same owner. The locality surrounding the subject site contains a mixture of low density residential development. Architectural styles vary with both single and double storey dwellings, pitched roofing and brick and/or rendered façades. Some modern style examples along street.

Strathfield Local Environmental Plan

The site is zoned R2-Low Density Residential under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development generally satisfies the provisions of Strathfield Consolidated DCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan from 9 November 2021 to 22 November 2021, where one (1) submission was received raising the following concerns:

- Noise
- Overlooking and privacy
- Appropriateness of the site
- Safety and damage to adjacent properties
- Removal of palm tree

Issues

- Proposed removal of healthy tree
- Heritage impacts
- Landscaping and private open space

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, development application 2021/283 is recommended for approval subject to suitable conditions of consent.

REPORT IN FULL

Proposal

Council has received an application for the construction of a natural grass tennis court and associated landscaping works and structures including perimeter fencing, lighting and tree removal within a heritage-listed property (1152 - "Mornington"—Victorian Italianate style house).

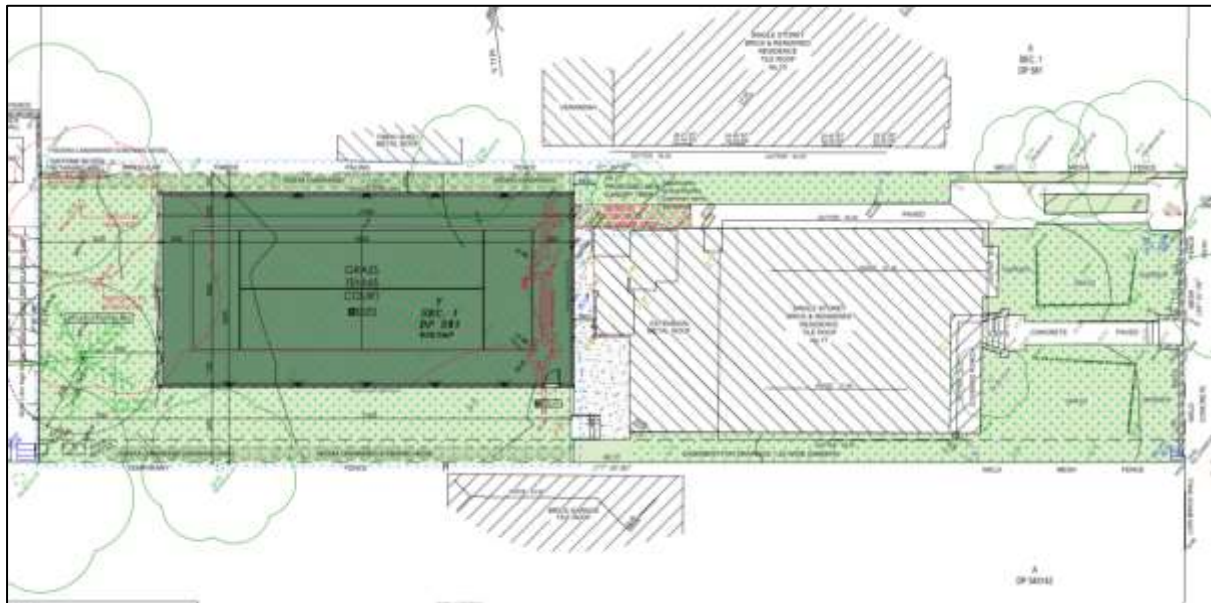


Figure 2: Site plan

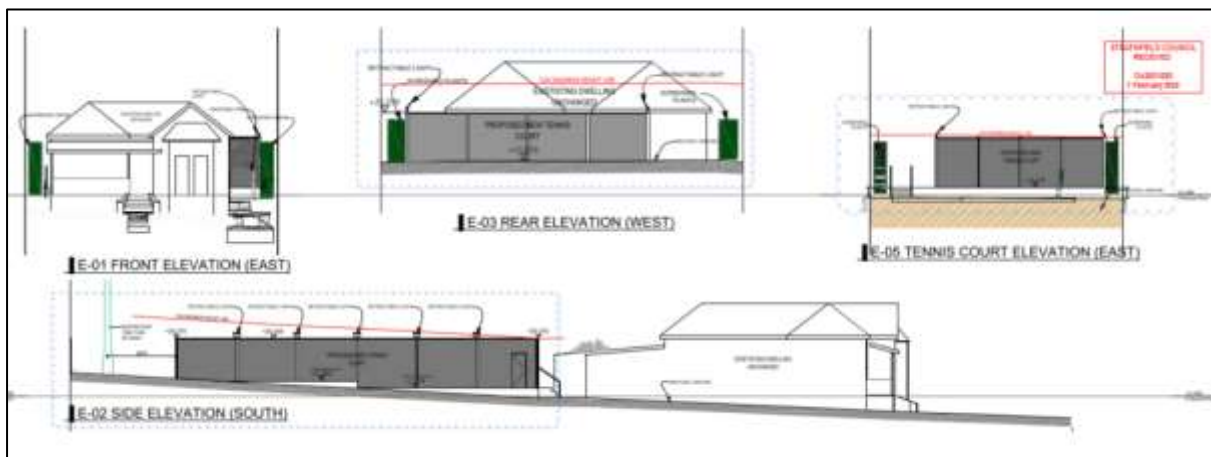


Figure 3: Elevation plans

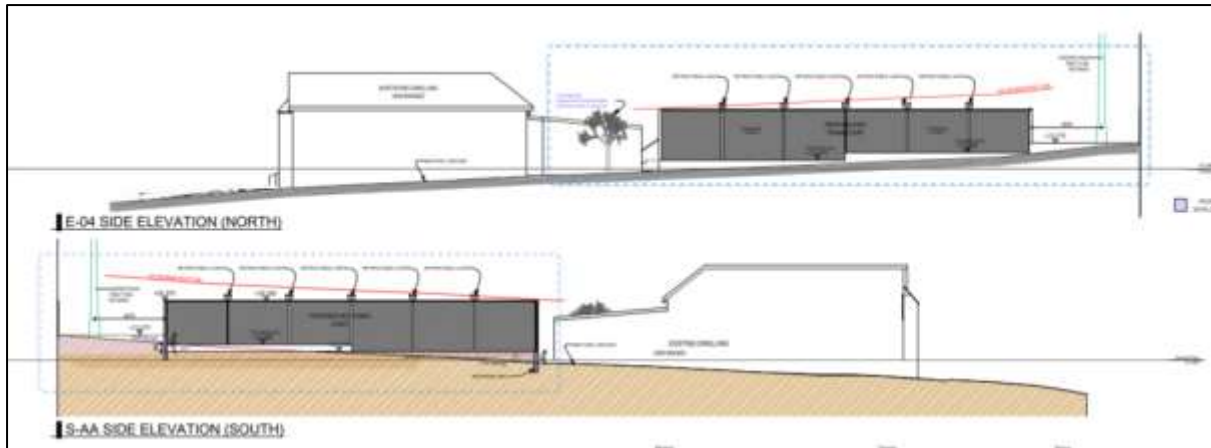


Figure 4: Elevation plans

The Site and Locality

The subject site is legally described as Lot 7, Sec 1 in DP 581 and commonly known as 77 Homebush Road, Strathfield. It is located off the western side of Homebush Road between Redmyre Road and Elwin Street.

The site is rectangular in shape and has a frontage of 15.24m to the east, rear boundary of 15.24m to the west, both side boundaries to the north and south are 60.35m in length and an area of 919.7m².

The site slopes from west to east and has a cross-fall of 3.7m over the length of the site.

The site is occupied by a single storey brick and rendered dwelling. Vehicular access is provided to the site via an existing driveway from Homebush Road to an existing open parking space located along the northern boundary.

77 Homebush Road and 2A Florence Street share a rear boundary and have the same owner. It was identified in the site visit that the back yard of 77 Homebush Road is being utilised as an extension of the back yard of 2A Florence Street.

The dwelling on the site is identified as a heritage item (I52) for its good example of a Victorian Italianate home. The property is adjacent to another heritage item (I51) at 75 Homebush Road. There are many other heritage items and conservation areas in the surrounding area.

The surrounding area is characterised a mixture of low density residential development. Architectural styles vary with both single and double storey dwellings, pitched roofing and brick and/or rendered façades. Some modern style examples along street.



Figure 5: View from rear boundary towards dwelling on 77 Homebush Road



Figure 6: View to northern boundary of 77 Homebush Road



Figure 7: View toward the rear boundary and the back of 2A Florence Road, showing the Canary Island Date Palm

Background

- | | |
|-------------------------|---|
| 2 November 2021 | The subject application was lodged to Council. |
| 9 November 2021 | The application was notified as per Council's Community Participation Plan, with the final date for public submissions being 22 November 2021. One (1) submission was submitted during this period. |
| 8 December 2021 | A site visit was undertaken by Assessing Officer. |
| 21 January 2022 | Spoke to applicant regarding Tree Management Officers concerns with removal of Canary Island Date Palm. Amended plans to be provided in order to retain palm tree. |
| 18 February 2022 | Received updated plans and elevations. |
| 25 February 2022 | Spoke to the Objector regarding the amended plans. |

Referrals – Internal and External

Tree Management Officer

Council's Tree Management Officer provided the following advice:

The phoenix carnariensis (Canary Island Date Palm) is in good health, condition and should be retained as it is located, because it is a significant specimen in a heritage conservation area.

Accordingly, Council's Tree Management Officer objected to the original proposal.

An amended design was submitted which retains the *Phoenix carnariensis* (Canary Island Date Palm) by reducing the size of the proposed tennis court and providing a 4m Tree Protection Zone.

Accordingly, Council's Tree Management Officer offered no objections to the amended proposal subject to the imposition of conditions.

Heritage Officer

Council's Heritage Officer provided the following advice:

The assessment is based on Louise Thom Heritage Impact Statement for the proposal, site photos and the plans.

Tennis courts are a historical element of the Strathfield landscape. The court is to be grass and will be easy to remove at a later stage if necessary. The rear yard does have several historical plantings. However, it is my understanding that these have not been identified as contributory. I concur with the Louise Thom Heritage Impact Statement.

Whilst, the tennis court does extend past the footprint, its view from the public domain will be obstructed by a canopy tree. It will also be setback beyond the dwelling and is unlikely to be seen from the public domain. The court fence is also lower than the house.

Accordingly, Council's Heritage Officer offered no objections to the proposal and required no further conditions.

Environmental Health Officer

Council's Environmental Health Officer offered no objections to the proposal subject to the imposition of conditions that control the obtrusive effects of outdoor lighting. The total number of lights is to be reduced to six (6) with three (3) on each sides and outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*.

Building Compliance Officer

Council's Building Compliance Officer offered no concerns in relation to the site excavation and the construction of the retaining walls subject to the imposition of conditions.

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,***

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

There are no provisions under this part which are relevant to the application.

Part 5 – Miscellaneous Provisions

Heritage Conservation

The proposal (has been identified as a Heritage Item I-152 under Schedule 5 of SLEP and a Heritage Impact Statement has been submitted with the application. The application was referred to Council's Heritage Officer who has advised that the proposed works are satisfactory. There are no conditions required from a heritage perspective.

It is considered that the proposed works satisfactorily address the provisions of this Clause.

Flood Planning

The subject site has been identified as being at or below the flood planning level. The proposed tennis court has a grass surface and therefore permeable. No additional impervious surface or drainage systems are proposed.

The application was not referred to Council's Engineer as the proposal does not involve additional hard surface area that can trigger a change in the behaviour of flood water. As such, the proposed development is considered to satisfy the objectives of this clause.

Part 6 – Additional Local Provisions

Acid Sulfate Soils

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2 3 or 4 soils. Therefore, Development Consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

Earthworks

The proposal does not include any significant excavation or basement works. Excavation for 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.

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 original proposal was referred to Council's Tree Management Officer and was not supported due to the removal of a health *Phoenix carnariensis* (Canary Island Date Palm) as it is a significant specimen in a heritage conservation area. An amended design has been submitted which retains the *Phoenix carnariensis* (Canary Island Date Palm) by reducing the size of the proposed tennis court.

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

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

There are no draft planning instruments that are applicable to this site.

(iii) any development control plan,

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Applicable DCP Controls	DCP Controls	Development Proposal	Compliance/ Comment
Landscaping			
Landscaping/Deepsoil Provisions:	45% (413.87m ²)	64.3% (591.1m ²)	Compliant
TENNIS COURTS			
Side setback	1.0m (min)	1.0m	Compliant
Finished Surface Level	Less than 0.75m	0.645m	Compliant
Enclosed Fence	3.6m (max)	3.6m	Compliant

Landscaping and Open Space

The proposed development satisfies the relevant objectives and controls of the SCDPCP 2005. The amended development proposes a smaller grass tennis court surface which satisfies the requirements for landscaping. Screen planting is proposed along the side

boundaries and will help block any visual impact the tennis fencing may have on adjoining properties.

A canopy tree is proposed in the side setback adjacent to the dwelling. This is not an appropriate location and it will be conditioned to be planted in the rear yard, within the boundary of 77 Homebush Road, where there is more space to grow and reduce potential conflicts with existing structures. Concrete slab identified on plans is no longer required to be removed.

After the site visit it is noted that the proposed court will likely be utilised by the occupants of 2A Florence Street judging by how the properties are set up, with the rear yard of 77 Homebush Road and extension of the rear yard at 2A Florence Street. This is the result of both properties having the same owners. It is also noted that 77 Homebush Road has an internal dividing fence along the alfresco area limiting the outdoor space to the tenants in 77 Homebush Road.

Privacy

The proposed development satisfies the relevant objectives and controls of the SCDP 2005, in that adequate privacy is maintained between adjoining properties and any potential overlooking is minimised. Screen planting will provide adequate privacy. The proposed cut and fill of will not create any overlooking impacts into neighbouring property.

Cut and fill

The proposed development is considered to satisfy the relevant objectives and controls of the SCDP 2005, in that the need for cut and fill has been kept to a minimum and existing ground levels have been maintained where appropriate to reduced site disturbance. Existing trees and shrubs have been retained where possible and ground water tables are maintained and impact on overland flow and drainage is minimised.

Retaining Walls

The proposed development satisfies the relevant objectives and controls within SCDP 2005 and have been kept to a maximum height of 0.645 metres. All retaining walls greater than 600mm are required to be designed by a suitably qualified engineer.

Tennis Courts

The proposed development satisfies the relevant objectives and controls of the SCDP 2005 as it is ancillary to the dwelling and will be used for residential purposes. Adequate setbacks and fencing have been provided and lighting will be appropriately conditioned.

The initial design of the proposed tennis court submitted to Council was a full competition-sized tennis court. However, as previously mentioned, a significant tree triggered the reduction in its size. The amended design still proposes the use of ten (10) total lights to illuminate a smaller area. This is considered excessive and is visually dominating and a potential nuisance to neighbouring properties considering the smaller area to be covered by these lights. As such, as discussed and agreed with Council's Environmental Health Officer, the total number of lights is to be reduced to six (6) with three (3) on each sides. This will be imposed as a design change condition.

PART O – Tree Management (SCDP 2005)

Clauses 4 and 5 of Part O of the SCDP 2005 provide detailed controls regarding tree management, protection and removal. The arborist report nominates Tree 3 and 4 (T3 and T4) as exempt removal and do not form part of this approval.

The amended proposed no longer recommends the removal of Tree 5 (T5) as Council's Tree Management Officer recommended that the tree is to be retained as part of any future development of the site at 77 Homebush Road, Strathfield. Tree 5 is in good health and contributes positively to the surrounding natural environment and heritage item.

Council's Tree Management Officer advises to increase the TPZ of the *Phoenix carnariensis* (Canary Island Date Palm) to 5m as a precaution to ensure the palm is protected and will be include as a condition of consent.

No tree removal forms part of this application.

PART P – Heritage (SCDCP 2005)

The subject site contains a Heritage Item - I157, as listed in Schedule 5 of SLEP 2012. It is considered that there are no impact of the tennis court on the heritage value of the property. Whilst, the tennis court does extend past the footprint, its view from the public domain will be obstructed by a canopy tree. It will also be setback beyond the dwelling and is unlikely to be seen from the public domain.

(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 not involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

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

The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment or any negative social or economic impacts on the locality.

(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.

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

In accordance with the provisions of Council's Community Participation Plan, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment. One (1) submission was received raising the following concerns:

1. Noise impact from people playing tennis.

Noise generated for the proposed tennis court is not anticipated to be any greater than other recreational activities that can occur in a residential rear yard.

The tennis court is not directly adjacent to any habitable rooms and the tennis court meets the required setbacks outlined in the Strathfield Council Development Control Plan 2005.

Lighting will be conditioned to be switched off at 10pm and it is not expected that the tennis court will generate any player noise past this time.

Accordingly, the proposal is acceptable in this regard with no further changes required to be made.

2. Lighting impact on the objector's property.

Appropriate conditions will be imposed ensuring the lighting meets the Australian Standards, AS 4282-1997: Control of the obtrusive effects of outdoor lighting. Further, lighting provided on the tennis court shall have a maximum intensity of 450 lux on the court surface. Councils Environmental Health Officer has provided appropriate lighting conditions for the proposed tennis court.

Accordingly, the proposal is acceptable in this regard with no further changes required to be made.

3. Overlooking and privacy from raised portion of the court into objector's rear yard and veranda.

The SCDCP 2005 limits fill to a maximum of 1m. Tennis court is raised to a maximum 0.645m at the eastern portion of the court. The raised portion is also setback 1m from the side setbacks. The proposal includes a screening hedge capable of reaching 3.4 meters. It is considered that any privacy impacts are mitigated with the provided setbacks and screen hedging.

4. Objector questions the appropriateness of the site for use as a tennis court.

Tennis courts are a permitted ancillary use in the R2 zone. And the tennis court complies with the requirements of the SCDCP 2005.

5. Objector is concerned about the safety and damage to adjacent properties from tennis balls.

The proposal includes a 3m high fence to reduce the nuisance of tennis balls from entering neighbouring properties. Accordingly, the proposal is acceptable in this regard with no further changes required to be made.

6. The use arrangement of the tennis court with the adjacent neighbour.

Both properties, 2A Florence Street and 77 Homebush Road, have the same owner. The issue is regarding an internal arrangement which the development controls in the SLEP 2012 and SCDCP 2005 do not control.

7. Impact of tree removal to the amenity of the area.

Council notes that the amended proposed development now retains the Canary Island Date Palm that is in good health and contributes positively to the surrounding natural environmental and heritage item.

8. Imposing a greater side setback for the tennis court.

The tennis court complies with the SCDCP 2005 requirement for tennis court side boundary setbacks. There are other mitigating factors such as vegetation and fencing that support the 1m setback from the side boundary.

(e) *the public interest.*

The proposed development is of a scale and character that does not conflict 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).

STRATHFIELD INDIRECT SECTION 7.12 CONTRIBUTIONS PLAN

Section 7.12 Contributions are not applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan as total development cost is less than \$100,000.00.

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. 2021/283 should be approved subject to conditions.

Signed: 
**L Fanayan
Planner**

Date: 28 February 2022

- ☒ 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 not applicable to this development;

Report and recommendations have been peer reviewed and concurred with.



Signed:
P Santos
Planner

Date: 1 March 2022

The following conditions of consent are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instrument and/or Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To protect the environment.
- (c) To ensure that there is no unacceptable impact on the amenity of the area, or to private and public property.
- (d) It is in the public interest.

DEVELOPMENT DETAILS

1. Approved Plans & Documentation

The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Site and Ground Floor Plan	DA.01	7 February 2022	B	Bechara Chan & Associates Pty Ltd
Elevations and Sections	DA.02	7 February 2022	B	Bechara Chan & Associates Pty Ltd
Heritage Impact Assessment	77 Homebush Road, Strathfield	September 2021	-	Louise Thom Heritage
Survey Plan	77HOMEBUS HRD	9 May 2021	C	D. Singh Registered Surveyors

Arborist Report	-	30 September 2021	-	Horticultural Management Services
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SEPRARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

2. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the [Roads Act 1993](#) and/or Section 68 of the [Local Government Act 1993](#) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (b) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (c) Establishing a "works zone";
- (d) Placing or storing materials or equipment;
- (e) Placing or storing waste containers or skip bins;
- (f) Stormwater & ancillary to public infrastructure on private land
- (g) Erecting a structure or carrying out work

These separate activity approvals (a)-(g) must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

- (h) Pumping water from the site into the public road;
- (i) Constructing a vehicular crossing or footpath;
- (j) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (k) Stormwater & ancillary works in the road reserve; and
- (l) Pumping concrete from a public road;

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the activities commencing.

The relevant Application Forms for these activities can be downloaded from Council's website www.strathfield.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9748 9999.

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

3. Sydney Water – Tap in TM

The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneypwater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Fees to be Paid

The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.strathfield.nsw.gov.au).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

A summary of the fees to be paid are listed below:

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://longservice.force.com/bci/s/levy-calculator	\$ 280.00
Security Damage Deposit	\$ 2,700.00
Administration Fee for Damage Deposit	\$ 130.00
Tree Bond	\$ 3,050.00
Administration Fee for Tree Bond	\$ 130.00

General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

5. Required Design Changes

The following changes are required to be made and shown on the Construction Certificate plans:

Proposed new canopy tree	Proposed canopy tree is to be planted within the rear yard, at least 2m off the boundaries. The concrete slab adjacent to the dwelling, proposed to be removed to accommodate the canopy tree can remain.
Tennis Court Lighting	Total number of lights are to be reduced to 6 – 3 on the northern side and 3 on the south.

6. Damage Deposit – Minor Works

In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a damage security deposit for the cost of making good any damage caused to any Council property as a result of the development: \$2,700.00.
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$130.00.
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

7. Tree Bond

A tree bond of \$3,050.00 (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

The deposit is required as security against any damage to existing trees to be retained

on Council's road reserve, during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development.

A sound protection barrier anchored firmly into the ground 1.8m in height x 2 metres clear of the base of the tree at any one point and that the fence is to extend up to the back of the kerb and to the edge of the footpath.

Payment may be accepted in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply). Note: Additional fees apply for the lodgement of a bank guarantee in lieu of cash bond applies in accordance with Council's adopted Fees and Charges.

A request for refund of the Tree Bond must be made in writing.

Tree Bonds may be forfeited if a tree is dead, made dangerous or has been terminally damaged, or will be held until tree/s have fully recovered from the construction damage or were replacement/planted trees have become fully established and are over 6 metres in height.

8. Structural Details

Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.

9. Geotechnical Report

Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) On-site guidance by a vibration specialist during the early part of excavation.
- (c) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (d) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

10. Landscape Plans

All landscape works shall be carried out in accordance with the approved site plan. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

11. Tree Protection and Retention

The following trees shall be retained and protected:

Tree No.	Tree Species	Location of Tree	Tree Protection Zone (metres)
5	Phoenix carnariensis	77 Homebush Road, Rear yard	5.0

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance *AS4970 - 2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- (e) Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (f) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

Specific Street Tree Protection Measures

- (g) A sound protection barrier anchored firmly into the ground 1.8m in height x 2 metres clear of the base of the tree at any one point and that the fence is to extend up to the back of the kerb and to the edge of the footpath.

Excavation works near tree to be retained

- (h) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (j) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)

12. Demolition & Asbestos

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#) unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the [Demolition Code of Practice](#) (NSW Work Cover July 2015)

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

13. Demolition Notification Requirements

The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

14. Demolition Work Involving Asbestos Removal

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).

15. Dial Before You Dig

The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

DURING CONSTRUCTION

16. Site Sign – Soil & Erosion Control Measures

Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

17. Hours of Construction for Demolition and Building Work

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Friday and 8:00am to 1:00pm on Saturdays. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Where the development involves the use of jack hammers/rock breakers and the like, or other heavy machinery, such equipment may only be used between the hours of 7:00am to 5:00pm Monday to Friday only.

Note: A penalty infringement notice may be issued for any offence.

18. Ground Levels and Retaining Walls

The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

19. Obstruction of Road or Footpath

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.

OPERATIONAL CONDITIONS (ON-GOING)

20. Tennis Court

- (a) The tennis court shall not be used for any commercial or business purpose.
- (b) The tennis court shall be enclosed with plastic coated chain wire on suitable galvanised iron pipe frame. The colour of the chain wire shall be black or dark green.
- (c) The approved tennis court lighting systems must be extinguished no later than 10pm on any evening.

21. Maintenance of Landscaping

All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

22. Outdoor Lighting

To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with *AS 4282-1997: Control of the obtrusive effects of outdoor lighting*.

23. Lighting – General Nuisance

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

24. Lighting Specifications

Any lighting provided on a tennis court shall have a maximum intensity of 450 lux on the court surface with a spill of zero lux at horizontal distance of 2m from the court surface.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

25. Requirement for a Construction Certificate

The erection of a building must not commence until a Construction Certificate has been issued.

26. Appointment of a PCA

The erection of a building must not commence until the applicant has:

- (a) appointed a PCA for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner - Builder.

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (c) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (d) notify the PCA of the details of any such appointment; and
- (e) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

27. Notification of Critical Stage Inspections

No later than two days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

28. Notice of Commencement

The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building.

29. Critical Stage Inspections

The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).

30. Notice to be Given Prior to Critical Stage Inspections

The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

31. Occupation Certificate

A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

PRESCRIBED CONDITIONS

32. Clause 98 – Building Code of Australia & Home Building Act 1989

Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the [Home Building Act 1989](#) relates, there is a requirement for a contract of insurance to be in force before any work commences.

33. Clause 98A – Erection of Signs

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

34. Clause 98E – Protection & Support of Adjoining Premises

If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

ADVISORY NOTES

I. Review of Determination

Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney East Planning Panel or the Land & Environment Court.

II. Appeal Rights

Division 8.3 (Reviews and appeals) Part 8 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

III. Lapsing of Consent

This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.

IV. Access to NSW Legislations (Acts, Regulations and Planning Instruments)

NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au

V. Long Service Levy

The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

VI. Disability Discrimination Act

This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

VII. Site Safety Fencing

Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).