

# IDAP REPORT

<b>Property:</b>	33 Hillcrest Avenue Strathfield South Lot 20 DP 11678 DA2020/223 Demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works.
<b>Proposal:</b>	
<b>Applicant:</b>	Urban Link Pty Ltd
<b>Owner:</b>	T Zhu
<b>Date of lodgement:</b>	3 December 2020
<b>Notification period:</b>	17 December 2020 to 25 January 2021
<b>Submissions received:</b>	One (1)
<b>Assessment officer:</b>	D Strbac
<b>Estimated cost of works:</b>	\$782,735.80
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Is a Clause 4.6 Variation Proposed:</b>	Yes, FSR 0.7:1 (7.8%)
<b>RECOMMENDATION OF OFFICER:</b>	REFUSAL

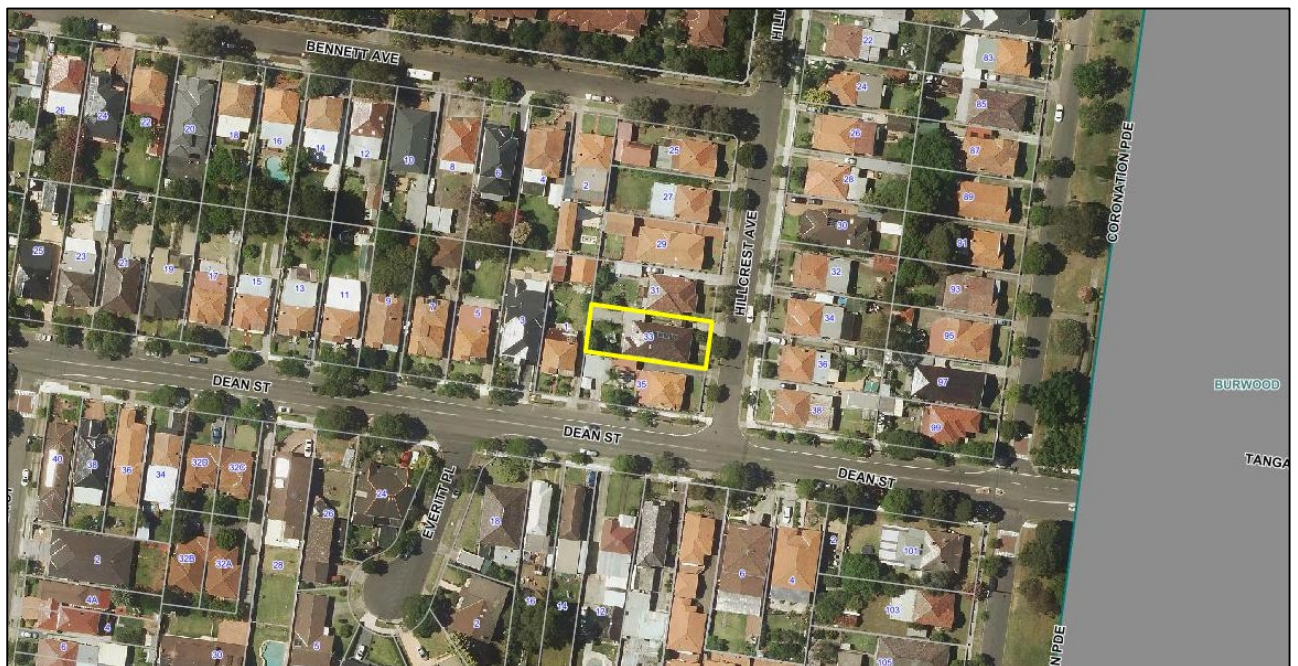


Figure 1: Locality plan with subject site outlined in yellow



## **EXECUTIVE SUMMARY**

### **Proposal**

Development consent is being sought for the demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works.

### **Site and Locality**

The site is identified as 33 Hillcrest Avenue Strathfield South and has a legal description of Lot: 20 DP: 11678. The site is a rectangular shaped parcel of land and is located on the western side of Hillcrest Avenue. The site has a width of 13.654m, a maximum depth of 35.35m and an overall site area of 479.5m<sup>2</sup>. There is a slight fall from north to south.

### **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 fails to satisfy all relevant objectives contained within the SLEP 2012.

### **Development Control Plan**

The proposed development fails to satisfy certain 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 (CPP) from 17 December 2020 to 25 January 2021 where one (1) submission was received, raising the following concerns:

- Misrepresentation of the existing development and trees at 35 Hillcrest Avenue;
- View loss; and
- Visual privacy.

### **Issues**

- FSR exceedance;
- Bulk and scale
- Compatibility with streetscape character;
- Inconsistencies and insufficient information.

### **Conclusion**

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, Development Application 2020/223 is recommended for refusal.

## REPORT IN FULL

### **Proposal**

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

#### Demolition:

- Single storey dwelling;
- Detached garage; and
- Removal of four (4) trees.

#### Basement level:

- Two (2) car parking spaces;
- Lift and stair access to ground floor;
- General storage;
- Pool equipment storage;
- Lobby; and
- Wine cellar.

#### Ground floor level:

- Living room;
- Dining room;
- Kitchen with butler's pantry;
- Office;
- Lift and stairwell;
- One (1) bedroom with ensuite;
- Powder room;
- Laundry; and
- Toilet.

#### First floor level:

- One (1) master bedroom with walk-in-rob and ensuite;
- One (1) bedroom with ensuite;
- Two (2) bedrooms with ensuite;
- Lift and stairwell;
- Leisure room;
- Two (2) front facing balconies;
- One (1) rear facing balcony; and
- Void.

#### External works:

- New driveway crossover and driveway to basement;
- Pedestrian pathway leading to portico;
- Landscaping within the front setback comprising turf, low ground cover planting, one (1) tree and stepping stones;
- Pebbled mulch within the side setbacks;
- An alfresco area and in-ground swimming pool; and
- Landscaping comprising turf, low ground cover and one (1) tree in the rear setback.

A front elevation plan of the proposed dwelling is included below:



Figure 2: Front (east) elevation plan.

## **The Site and Locality**

The subject site is a legally described as Lot: 20 DP: 11678 and commonly known as 33 Hillcrest Avenue, Strathfield South.

The site is a rectangular shaped parcel of land and has a frontage of 13.654m, a side boundary length of 35.35m to the south, a side boundary length of 35.35m to the north, and an overall site area of 479.5m<sup>2</sup>.

The site slopes from north to south and has a cross fall of 0.88m.

The site currently contains a single storey dwelling house with a front verandah and a detached garage (refer to Figure 3). The site also contains four (4) trees. The site benefits from vehicular access via an existing driveway on the northern side of the site's frontage, off Hillcrest Avenue.

The surrounding locality is low density residential in character and consists of single and two storey residential dwellings similar to those shown in Figures 4, 5, 6 and 7. Hillcrest Avenue features pitched roof dwellings and a mix of face brick and rendered finishes.

The site is surrounded by the following properties:

- Adjoining the northern boundary: a two (2) storey dwelling house at 31 Hillcrest Avenue, Strathfield South (Figure 4);
- Adjoining the southern boundary: a single storey dwelling house at 35 Hillcrest Avenue (refer to Figure 5);
- Adjoining the western (rear) boundary: a single storey dwelling house at 1 Dean Street, Strathfield South (refer to Figure 6); and
- East of the site and across the road: single storey dwelling houses at 34 and 36 Hillcrest Avenue, Strathfield South (refer to Figure 7).





*Figure 3: Existing development on the subject site (33 Hillcrest Avenue).*



*Figure 4: Northern adjoining dwelling (31 Hillcrest Avenue).*





*Figure 5: Southern adjoining dwelling (35 Hillcrest Avenue).*



*Figure 6: Western (rear) adjoining dwelling (1 Dean Street).*



*Figure 7: Dwelling houses across the road from the subject site (34 and 36 Hillcrest Avenue).*

## **Background**

3 December 2020:	The subject application was lodged.
17 December 2020:	The application was place on exhibition, with the last date for submissions being 25 January 2021. One (1) submission was received during this period. The submission was made by the adjoining owner at 31 Hillcrest Avenue who raised concerns in relation to privacy and view loss implications, as well as the misrepresentation of existing development on 31 Hillcrest Avenue.
18 January 2021:	A site inspection was undertaken by the Assessment Planner.
22 January 2021:	<p>A withdraw/refuse letter was issued raising the following issues:</p> <ul style="list-style-type: none"> <li>• Exceedance of floor space ratio;</li> <li>• The flat roof design is not supported due to incompatibility with the exclusively pitched roof dwelling theme along Hillcrest Avenue;</li> <li>• The basement level is not contained within the footprint of the ground floor above;</li> <li>• The basement layout does not enable vehicles to enter and exit in a forward direction;</li> <li>• The storage areas proposed in the basement are considered to be excessive;</li> <li>• The proposed dwelling does not comply with the maximum height controls for flat roof dwellings;</li> <li>• The proposed development provides minimal side wall articulation;</li> <li>• The proposed driveway relocation will result in root damage to the street tree and is not supported;</li> <li>• The proposed landscaped area fails to comply with the minimum DCP landscaped area requirements.</li> <li>• The proposed front and side boundary fence exceeds the maximum allowable height (1.5m) and is not supported;</li> </ul> <p>The letter also requested additional information as follows:</p> <ul style="list-style-type: none"> <li>• Arborist report;</li> <li>• Elevations and sections of the proposed swimming pool; and</li> <li>• Finished floor level and finished ceiling level of the dwelling.</li> </ul>
10 February 2021:	<p>In response to this letter, the Applicant submitted amended plans which included the following changes:</p> <ul style="list-style-type: none"> <li>• Revisions to the configuration of spaces within the basement (including the reduction of the storage and pool equipment plant room and the addition of a wine cellar);</li> </ul>



	<ul style="list-style-type: none"> <li>• The basement footprint was slightly reduced in size however, the revised design still exceeds the building footprint;</li> <li>• The side elevations of the dwelling were amended to incorporate a visual break up of materials;</li> <li>• The proposed driveway was further setback from the existing street tree;</li> <li>• The landscaped area was increased however it still does not comply with the minimum deep soil landscaped area requirements;</li> <li>• The front boundary fence was reduced in height;</li> <li>• No changes to roof design were included in this revised material; and</li> <li>• No changes to floor space were included in this revised material.</li> </ul> <p>The applicant also submitted the following additional information:</p> <ul style="list-style-type: none"> <li>• Swept path analysis; and</li> <li>• Elevations and sections of the proposed swimming pool.</li> </ul> <p>The finished floor level and finished ceiling level of the dwelling were not provided.</p>
5 February 2021	The Applicant phoned Council to confirm that further changes would not be made to the dwelling design.
19 February 2021:	The applicant submitted an arborist report.

## **Referrals – Internal and External**

### **Stormwater Engineer Comments**

Council's Stormwater Engineer raised no objections to the proposal, subject to the imposition of recommended conditions of consent.

### **Traffic Manager Comments**

Council's Traffic Manager reviewed the application and provided the following comments:

*All aspects of the off-street parking has been assessed against the AS2890 series.*

*The aisle width as indicated in red does not conform to the minimum requirement of 5.8m for Class 1A parking facility. This would require vehicles to perform more than 3-point turns to be able to enter and exit the site in a forward direction. Nevertheless this is considered acceptable given the single dwelling development, as the additional vehicular movements will not affect other internal circulation flow.*

*This proposal would require the relocation of the existing power pole to allow the construction of the vehicular crossover.*

No concerns were raised to the proposal subject to the imposition of recommended conditions of consent.

### **Tree Coordinator Comments**

No concerns were raised to the proposal subject to the imposition of recommended conditions of consent.

### **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, being a dwelling house and ancillary structures, is a permissible form of development with Council's consent.

### **Zone Objectives**

An assessment of the proposal against the objectives of the R2 – Low Density Residential zone is included below:

<b><i>Objectives</i></b>	<b><i>Complies</i></b>
<ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low density residential environment.</i></li> </ul>	<b>Yes</b>
<ul style="list-style-type: none"> <li>• <i>To enable other land uses that provide facilities or services that meet the day to day needs of residents.</i></li> </ul>	<b>Yes</b>
<ul style="list-style-type: none"> <li>• <i>To ensure that development of housing does not adversely impact the heritage significance of adjacent heritage items and conservation areas.</i></li> </ul>	<b>N/A</b>

## Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
<b>4.3</b> Height of Buildings	9.5m	7.8m	Yes.
<b>4.4</b> Floor Space Ratio (FSR)	0.65:1 (311.675m <sup>2</sup> )	0.7:1 (336m <sup>2</sup> )	No.

The proposed dwelling house exceeds the FSR allowance under Part 4.4 of the LEP. The Applicant's FSR calculations suggest the total GFA is 311m<sup>2</sup> with an FSR of 0.65:1. However, this calculation excludes the wine cellar room in the basement and the surplus area to the west of the two (2) basement car parking spaces (Figure 8).

Accordingly, these areas have been included in the FSR calculation undertaken as part of this assessment and contribute to an exceedance of the allowable GFA.

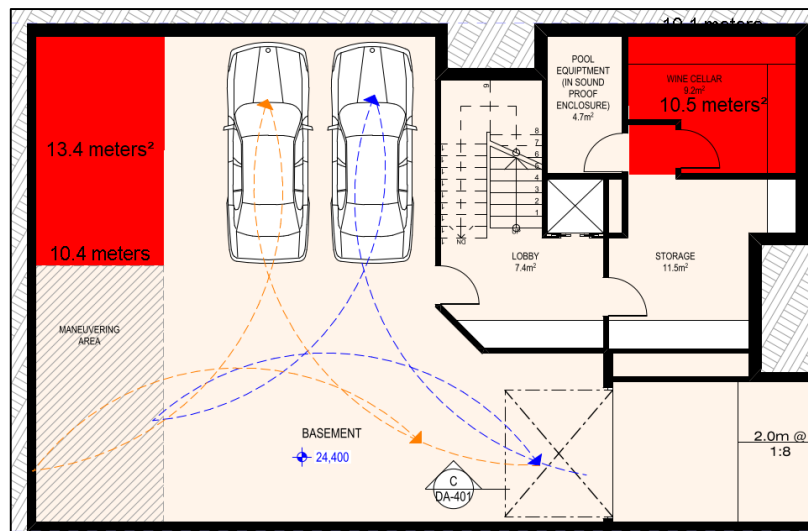


Figure 8: Areas of basement included in GFA calculations highlighted in red.

### Clause 4.6 – Exception to development standard

Clause 4.6(3) stipulates that:

*“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant failed to provide a written request as per Clause 4.6 as there was disagreement on the calculation of GFA and FSR.



## Part 5 – Miscellaneous Provisions

### Heritage Conservation

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

## Part 6 – Additional Local Provisions

### Acid Sulfate Soils

The subject site is identified as having Class 5 Acid Sulfate Soils and is located within 500m of a Class 1, 2 3 or 4 soils. The proposed development does not involve excavation more than 2m below Australian Height Datum. As such, the application was not required to submit an Acid Sulphate Soils Management Plan and the provisions under Clause 6.1 are satisfied.

### Earthworks

The proposal involves significant excavation works for the provision of a basement, driveway ramps and ancillary works. The proposed basement is mostly contained within the footprint of the ground floor level above. Whilst the revised basement design exceeds the footprint of the ground floor above (Figure 9), it is noted that the areas of the basement that exceed the ground floor footprint are required for sufficient manoeuvring area to allow vehicles to enter and exit the basement in a forward direction. The depth of excavation has been kept to minimum requirements to comply with Council's DCP controls. The proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. It is unlikely to effect the existing and likely amenity of adjoining properties and there is no potential for adverse impacts on any waterways, drinking water catchment or environmentally sensitive areas. The excavation works proposed for the basement are considered to be reasonable and the non-compliance is minor and acceptable in this instance.

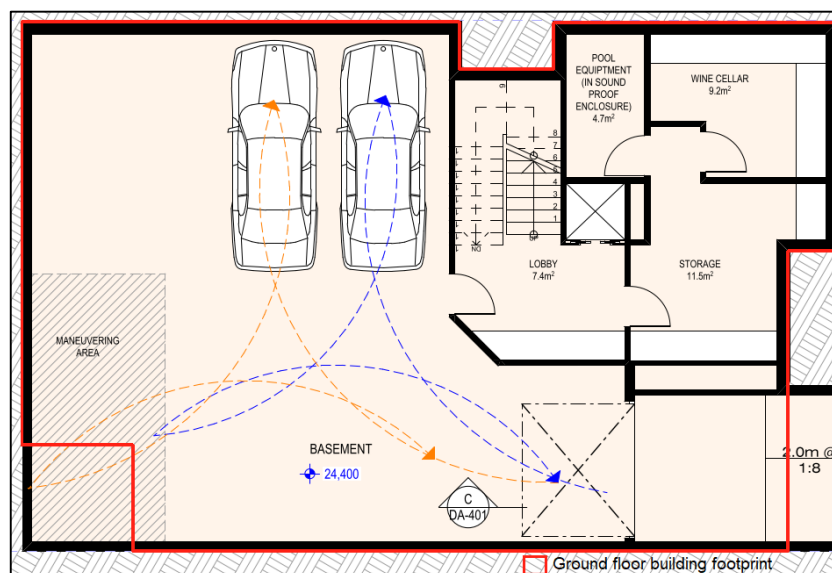


Figure 9: Proposed basement floor plan with ground floor building footprint outlined in red.

## **Flood Planning**

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

## **Essential Services**

Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council's stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development.

It is considered that the proposed development satisfies the aims, objectives and development standards, where relevant, of the SLEP 2012.

## **STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

## **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.

No objection is raised to the removal of a number of trees on the site subject to replacement planting.

It is noted that the arborist report did not take into consideration the potential impacts of the proposed swimming pool on the existing tree, located at 31 Hillcrest Avenue along the shared side boundary. Under an approved outcome, specific conditions shall be imposed with any development consent in order to ensure the protection of existing trees that must be retained, including the neighbouring tree at 31 Hillcrest Avenue and the existing street tree.

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,**

#### **Part A – Dwelling Houses and Ancillary Structures (SCDCP 2005)**

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 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
<b>Building Envelope</b>			
<b>Heights:</b> Floor to ceiling heights: Height to underside of eaves: Parapet height: Overall height for flat roof dwelling:  Basement height above NGL: Number of Storeys/Levels:	3.0m 7.2m 0.8m  7.8m  1.0m 2	3.3m 7.2m 0.8m  7.85m  0.99m 2	<b>No – see below.</b> Yes. Yes. <b>No – see below</b> Yes. Yes.
<b>Setbacks:</b> Front:  Side: Side: Combined Side Setback: Rear:	9m  1.2m (min) 1.2m (min) 2.7m (20%) 6m	5.867m  1.2m (North) 1.5m (South) 2.7m 8.3m	<b>No – see below.</b> Yes. Yes. Yes. Yes.
<b>Landscaping</b>			
Landscaping/Deepsoil Provisions:	35% (168m <sup>2</sup> )	34.4% (165m <sup>2</sup> )	<b>No – acceptable on merit.</b>
Private Open Space Area: Minimum Dimension:	10m <sup>2</sup> 3m	>10m <sup>2</sup> >3m	Yes. Yes.
<b>Fencing</b>			
Height (overall/piers): Solid Component:	1.5m (maximum) 0.7m	1.5m 1.47m (columns)	<b>Yes</b> <b>No – acceptable on merit</b>
<b>Solar Access</b>			
POS or habitable windows	3hrs to habitable windows and to 50% of POS	3hrs to habitable windows and to 50% of POS	Yes.
<b>Vehicle Access and Parking</b>			
Driveway width at Boundary: Vehicular Crossing:	3m 1	3m 1	Yes. 1



Driveway setback – side: No. of Parking Spaces:	0.5m 2	1m 2	Yes. 2
<b>Basement:</b> Basement protrusion: Basement ramp/driveway Internal height:	Less than 1.0m 3.5m 2.2m	Less than 1.0m 3.0m 2.4m	Yes. Yes. Yes.
<b>Ancillary Development</b>			
<b>SWIMMING POOL</b> Side/Rear Setback	1.0m	1.35m (rear) 1.2m (side)	Yes. Yes.
<b>REAR BALCONY</b> Length:  Width:	2m  1m	4.8m  1.65m	<b>No – see below.</b> <b>No- see below.</b>

### Architectural Design and Streetscape Presentation

The proposed development fails to meet the following design controls under Section 2 of Part A of the SCDP 2005:

- *2.2.1 Streetscape Presentation – New buildings should reflect the dominant rhythm in the street and roof design must be similar in pitch, materials and colour to roofs in the immediate streetscape.*

The design patterns of the existing housing stock along Hillcrest Avenue and the immediate vicinity is dominated by pyramidal roof forms and the proposed dwelling has not incorporated this identifiable characteristic of the streetscape into the design. The proposal's inconsistency with the streetscape has not been offset by a flat roof dwelling with a low profile that would allow the dwelling to achieve a more sympathetic outcome. Additional comments on building envelope is provided below.

### Building Envelope

The proposed development is inconsistent with a number of building envelope controls. In the context of the proposed flat roof dwelling on a street with consistently pitched roof outcomes, ensuring the development achieves a low profile and bulk that does not create an undesirable environmental impact is paramount.

- 4.2.1 Floor Space Ratio – As discussed under the SLEP 2012 FSR assessment, the application has excluded the wine cellar room in the basement and the surplus area to the west of the two (2) basement car parking spaces. With the inclusion of these areas, the dwelling exceeds the maximum permissible FSR.
- 4.2.2 – Building Height – The proposed dwelling exceeds the 7.8m dwelling height for flat roof dwellings, with a 7.85m height from the uppermost building feature to the finished ground level. This measurement includes the raised architectural feature at the front of the dwelling. The FFL and FCL of the both floors were not provided and so an accurate assessment of floor to ceiling heights could not be made. However, it appears that the dwelling incorporates floor to ceiling heights on the ground floor greater than 3m. The excess height adds to the bulk and scale of the development.
- 4.2.3 – Front Setback – The proposed dwelling fails to maintain the desired setback from the street, with a proposed setback of 5.84m. It is noted that the existing front setbacks of the adjoining developments at 31 Hillcrest Avenue and 35 Hillcrest Avenue are 7m and 6m respectively and these setbacks are maintained further down the street.

The reduced front setback adds to the bulk and scale of the proposed development, further exacerbating its intrusiveness in the street.

These controls are essential to ensuring flat roof dwellings achieve unobtrusive design outcomes along streets where the interface with the public domain is stepped and gradual due to the presence of pitched roofs.

Therefore, with regard to matters relating to bulk, scale and massing of the proposed development, the proposal fails to achieve relevant requirements and is considered unacceptable and not supported.

### **Landscaping and Open Space**

The proposed development will result in a total of 34.4% (165m<sup>2</sup>) of deep soil landscaping, contrary to the minimum requirement of 35% (168m<sup>2</sup>). However, the existing landscaped area is 31.95% (153.2m<sup>2</sup>) and the proposal will result in a 2.45% increase to the deep soil landscaped area. The front setback will be embellished with high quality landscaping. Notwithstanding the minor numeric non-compliance with the controls, the development satisfies the objectives of this section and the proposed landscaped area is acceptable in this regard.

It is noted that the arborist report did not consider the potential impacts of the proposed swimming pool on the existing tree, located at 31 Hillcrest Avenue along the shared side boundary. Under an approved outcome, specific conditions shall be imposed with any development consent in order to ensure the protection of existing trees that must be retained, including the neighbouring tree at 31 Hillcrest Avenue and the existing street tree.

### **Fencing**

The design of the proposed front boundary fencing features open metal palisade panels supported by 1.5m high masonry columns. These columns are greater than the maximum height for solid components for front fences (0.7m), however, the proposed design demonstrates sufficient merit as it still presents a primarily open visual aesthetic that is compatible with existing front fencing within the streetscape.

It is noted that the front elevation plan indicates the side boundary fencing (forward of the building line) to be 2m whereas on the side elevation plans, a height of 1.5m is proposed. This inconsistency would form a special condition of consent under an approval.

### **Rear balcony**

The proposed (4.8m x 1.65m) rear balcony fails to comply with the maximum (2m x 1m) rear balcony size requirements under Section 7.2.3. This would form a special condition of consent under an approval which restricts the maximum dimensions to 2m in length and 1m in width.

### **Solar Access**

Given the orientation of the site, solar access to windows of habitable rooms and to at least 50% of the private open space is achieved or maintained for a minimum period of 3 hours between 9.00am-3:00pm at the winter solstice. Solar access is also achieved or maintained to the private open space of the adjoining premises. The proposal is considered to generally satisfy the relevant objectives and controls of the SDCP 2005.

## **Privacy**

A site visit revealed that adequate privacy is likely to be maintained between adjoining properties and potential for overlooking is minimised, with the exception of the rear-facing balcony. The proposed rear-facing balcony will have unacceptable privacy impacts, primarily due to its excessive size. Under an approved outcome, a condition would be recommended which restricts its size to 2m in length and 1m in width.

It appears that windows have been offset and, where required, they are screened, obscured or off low active use rooms so as not to negatively impact on adjoining properties.

## **Vehicular access, Parking and Basements**

The proposed basement exceeds the footprint of the ground floor above. However, the area of the basement that exceeds the ground floor footprint is considered necessary to allow sufficient manoeuvring area for vehicles to enter and exit the basement in a forward direction. The area that extends beyond the ground floor footprint is minor and will not be highly visible nor contribute to excess bulk and scale. Further, the basement is appropriately setback and balanced by the proposed landscaping treatments within the setback zones. The proposed works are unlikely to effect the existing and likely amenity of adjoining properties. The basement has been kept to less than 1m above natural ground level and maintains an internal height of 2.2m. The excavation works proposed for the basement are considered to be reasonable and the non-compliance is minor and acceptable in this instance.

## **Cut and fill**

The proposed development is considered to satisfy the relevant objectives and controls of the SCDGP 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.

## **Water and Soil Management**

The proposed development satisfies the relevant objectives and controls of the SCDGP 2005 and complies with Council's Stormwater Management Code. A soil erosion plan has been submitted with the application to prevent or minimise soil disturbances during construction.

## **Access, Safety and Security**

The proposed development satisfies the relevant objectives and controls of the SCDGP 2005. Separate pedestrian and vehicle access provisions are provided, passive surveillance of the public street has been provided providing safety and perception of safety in the street.

## **ANCILLARY STRUCTURES**

### Swimming Pools, Spas & Associated Enclosures

The proposed development satisfies the relevant objectives and controls with SCDGP 2005. The pool has been adequately setback from all adjoining boundaries, allowing for screening if required. The pool pump equipment has been located in a sound proof enclosure and the pool coping has been designed to suit the existing ground level of the site. The swimming pool fence/enclosure will comply with the swimming pools act and relevant standards.



## **PART H – Waste Management (SCDCP 2005)**

In accordance with Part H of SCDCP 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.

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

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

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

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

The proposed development incorporates a flat roof design which does not comply with height and design controls under the DCP and exceeds GFA allowances under the LEP. The result is a dwelling bulk and scale that does not respond to the streetscape and prevalence of pitched roof dwellings along Hillcrest Avenue and is likely to negatively impact on the built environment.

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

It is considered that the proposed development is excessive in terms of design, bulk and scale. It is evident that the site is not suitable for the proposal as its design has little regard for the site's dimensions, shape and constraints including its relationship to adjoining developments.

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

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

1. *Existing development and trees on 31 Hillcrest Avenue are completely misrepresented.*

Comment: Noted. An accurate assessment was not able to be made against the visual privacy controls of the SCDCP 2005.

The arborist report failed to address the potential impact of the proposed swimming pool on the nearby tree, located at 31 Hillcrest Avenue along the shared boundary of 31 and 35 Hillcrest Avenue. Under an approved outcome, specific conditions shall be imposed with any development consent in order to ensure the protection of existing trees that must be retained, including the neighbouring tree at 31 Hillcrest Avenue and the existing street tree.

2. *Proposed swimming pool will be directly over the sewer line. Therefore. Pool will need to be less than 1.8m deep.*

Comment: The application was referred to Council's Stormwater Engineer for comment. Council's Stormwater Engineer raised no concerns with the proposed development (including the swimming pool) subject to the imposition of conditions of consent.

3. *The staircase window appears to be directly in line with 2 of my bathroom windows (ground and first floor). The glass facing north on the alfresco area of the proposed dwelling should be obscure glazed as it looks directly into my alfresco area.*

Comment: A site visit revealed that all windows along the southern elevation of the (northern) adjoining dwelling at 31 Hillcrest Avenue are either obscure glazed or highlight windows. Therefore, adequate privacy is likely to be maintained between adjoining properties and potential for overlooking is minimised. Further, stairwells are considered low utility areas that are unlikely to facilitate excessive or unreasonable overlooking.

The north-facing window off the alfresco area appears to be a highlight window. This window is unlikely to generate adverse privacy amenity impacts for the northern adjoining dwelling.

**(e) the public interest.**

The proposed development is of a scale and character that does conflict with the public interest as it demonstrates failure to comply with the maximum FSR development standard under Clause 4.4 of the SLEP 2012 and is unable to achieve key objectives and requirements under the SLEP 2012 and SCDGP 2005. The proposal introduces a non-compliant built form that will set an undesirable precedence for the locality.

**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).

*"A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development."*

The proposed development has a value of greater than \$100,000. In order to provide additional public facilities and infrastructure to meet the demand created by development, the proposed development will attract Section 7.12 Indirect Contributions in accordance with the Strathfield Indirect Development Contributions Plan. This contribution is based on the proposed cost of works for the development and has been calculated at 1% of \$782,735.80 (the estimate cost of development identified in the development application). Therefore, the Section 7.12 Indirect Contributions for the proposed development is **\$7,827.36**.

## 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. 2020/223 should be **REFUSED**.

**Signed:**

**Date: 1 March 2021**

**D Strbac  
Student Planner**

- ☒ 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 and have been levied accordingly;

Report and recommendations have been peer reviewed and concurred with.

**Signed:**

**Date: 2 March 2021**

**M Rivera  
Senior Planner**

## Recommendation

In accordance with Clause 4.6(3) of the Strathfield Local Environmental Plan 2012, a written request from the applicant seeking justification for the contravention of the development standard – Clause 4.3 (Floor Space Ratio) was not provided to Council. Accordingly, the consent authority is unable to grant development consent.

That Development Application No. **DA2020/223** for demolition of existing structures and construction of a two (2) storey dwelling house with basement level, an in-ground swimming pool and associated external and landscaping works be **REFUSED**, for the following reasons:

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the aims of the Strathfield Local Environmental Plan 2012 relating to achieving high quality urban form that reflects the existing and desired future character of the locality. The proposal fails demonstrate achieving a high quality urban design as its bulk, scale and overall design are not reflective of the existing or desired future character of the surrounding locality.
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed development fails to satisfy the floor space development standard – Clause 4.4C of the SLEP 2012.
3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the objectives for the maximum floor space under clauses 4.4(1)(a), (b) and (c) of the Strathfield Local Environmental Plan 2012. The proposal features a design, bulk and scale that is not in keeping with the built form character of the local area and does not maintain consistency.
4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the objectives of Clause 4.1 (Building Envelope) of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in a building that is not compatible with the built form of the local area and is of a bulk and scale that does not respect the site's context, adjoining dwellings and desired future character.
5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the objectives of Clause 2.1 (Architectural Design and Streetscape Presentation) of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal will result in an excessive built form that does not respect the predominant height, scale, character, type, form and architectural qualities of surrounding development. The overall design of the proposal does not complement the character of the public domain and does not provide a positive contribution to public domain. The proposal will not ensure the public domain maintains is attractive and interesting setting.
6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* as it will result in unacceptable adverse impacts in terms of streetscape and visual amenity.

7. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as it fails to demonstrate that the subject site is suitable for the proposed built form.
8. The Application is considered not acceptable under the provisions of S4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposed dwelling design is of a scale and design which is not in the public interest. Approval of the proposed development will set an undesirable precedent for similar excessively massed development.