

## ADDENDUM IDAP REPORT

<b>Property:</b>	300 Homebush Road STRATHFIELD SOUTH DA 2020/231
<b>Proposal:</b>	Alterations and fit out to the existing dwelling house to use part of it as a beauty salon that involves skin penetration (i.e. skin tattoo).
<b>Applicant:</b>	Akt Engineering & Consulting
<b>Owner:</b>	TTH Nguyen
<b>Date of lodgement:</b>	23 December 2020
<b>Date of IDAP Meeting:</b>	9 April 2021
<b>Notification period:</b>	13 January 2021 to 29 January 2021
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	P Santos
<b>Estimated cost of works:</b>	\$12,000.00
<b>Zoning:</b>	R2-Low Density Residential - SLEP 2012
<b>Flood affected:</b>	Yes
<b>RECOMMENDATION OF OFFICER:</b>	REFUSAL



Figure 1. Aerial imagery of subject site (outlined) and the immediate locality.

## EXECUTIVE SUMMARY

### Proposal

Development consent is being sought for the alterations and fit out to the existing dwelling house to use part of it as a beauty salon that involves skin penetration (i.e. skin tattoo).

### Background

The application was considered by IDAP on 09 April 2021. At this meeting the panel resolved to defer the application to allow the following matter/s to be addressed:

- *“...it would appear the DA does not comply with the definition of a ‘home business’ and that the owners be required to provide a written evidence of compliance in that the operator/licensee of the ‘home business’ is a permanent resident of the principal dwelling.”*

### Strathfield Local Environmental Plan

The site is zoned R2-Low Density Residential under the provisions of Strathfield LEP 2012 and the proposal of home business is a permissible form of development with Council's consent. The feasibility of the proposal is discussed in more detail in the body of the report.

### Development Control Plan

With the proposal being considered as a development that is not permitted with consent under the SLEP 2012, no development controls under the SCDCP 2005 will be applicable.

### Notification

The discovery of the unauthorised use of the subject site as a boarding house did not require re-notification as the proposed development will not be supported.

### Conclusion

The addendum report provides confirmation that the deferred matter has been appropriately resolved.

Accordingly, having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2020/231 is recommended for refusal.

## ADDENDUM REPORT

### Proposal

Council has received an application for the alterations and fit out to the existing dwelling house to use part of it as a beauty salon that involves skin penetration (i.e. skin tattoo).

### Background

This report is to be read as an addendum to the report presented to IDAP on 09 April 2021. The subject application was deferred by the panel at this meeting for the following reason/s:

- *“...it would appear the DA does not comply with the definition of a ‘home business’ and that the owners be required to provide a written evidence of compliance in that the operator/licensee of the ‘home business’ is a permanent resident of the principal dwelling.”*

As a result of the resolution of the IDAP, a site visit to see the internal of the existing building was undertaken on 20 April 2021. Council’s Compliance Officers were asked to join to assist in the verification of the use of the building.

A Notice of Proposed Development Control Order dated 26 April 2021, was issued by council’s Compliance Officer. The letter details the following:

- *“1. Cease the use of the premises operating as boarding house.”*

### Referrals – Internal and External

The discovery of the use of the site as a boarding house did not require any additional internal or external referrals.

### Assessment

#### **Matters Raised By IDAP**

Council’s IDAP raised a concern about the legitimacy of the proposal of a home business on the subject property – 300 Homebush Road, Strathfield South. A home business is defined in the SLEP 2012 as follows –

**“home business means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following –**

- (a) the employment of more than 2 persons other than the residents,*
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,*
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,*
- (d) the exhibition of signage, other than a business identification sign,*

*(e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,*

*but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.”*

The use of a home business, as per its definition in the SLEP 2012, relates to a dwelling or a building that is ancillary to a dwelling and carried out by one or more permanent residents of the dwelling.

The letter issued to the owner of the property indicating that there is an intent for council to issue a DCO to stop the operation of the building as a boarding house contradicts the feasibility of the home business on the site. This means that council is of the opinion that the building is operating as a boarding house. And until the issue with the use is resolved, council will have this view and as such, the proposed home business will not be supported.

Council's Compliance Team is dealing with the matter relating to the use.

### **Strathfield Local Environmental Plan**

It is considered that the proposed development does not satisfy the definition of a home business that is permitted with consent in the zone under the Land Use Table of the SLEP 2012. In this regard, the proposal is not supportable.

***(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,***

With the discovery of the unauthorised use of the site as a boarding house, the proposed home business is not supportable. As such, no development controls will be relevant at this time.

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

The discovery of the unauthorised use of the site as a boarding house do not impact on the original assessment of this provision.

***(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 discovery of the unauthorised use of the site as a boarding house do not impact on the original assessment of this provision.

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

The discovery of the unauthorised use of the site as a boarding house does not impact on the original assessment of this provision.

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

In accordance with the provisions of Councils Community Participation Plan, the discovery of the unauthorised use of the site as a boarding house renders the proposed development not supportable. As such, re-notification of the application is not necessary.

**(e) the public interest.**

The proposal is considered to be not in the public interest. The proposed use of a home business is not supportable as it relates to a use that is neither a dwelling nor a building that is ancillary to a dwelling. As such, the home business proposal does not satisfy its definition in the SLEP 2012 and is not acceptable in this regard.

### **Local Infrastructure Contributions**

Consideration has been given to the Contributions Plan of Strathfield Council, in accordance with Section 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979*. No contributions will be applicable to the development.

### **Conclusion**

The application as amended 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 of these changes, it is considered that Development Application No. 2020/231 should be refused for the reasons enumerated at the end of this report.

**Signed:**

**Date: 07/05/2021**

**P Santos  
Development Assessment Planner**

- I confirm that I have determined the abovementioned development application with the delegations assigned to my position; and
- 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:**

**Date:**

**M Rivera  
Senior Planner**

## REFUSAL REASONS

Under Section 4.16(1)(b) of the Environmental Planning and Assessment (EP&A Act, 1979), this consent is REFUSED for the following reasons:

### 1 Refusal Reason – Environmental Planning Instrument

Pursuant to Section 4.15 (1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) Part 2 of the Strathfield Local Environmental Plan 2012 ('SLEP 2012') where the proposed development does not satisfy the definition of a home business as it is related to a building that is currently being used as a boarding house.

### 2 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 site is currently being used as a boarding house without any form of consent. The development of a home business is not suitable to be operated if it relates to a use other than a dwelling.

### 3 Refusal Reason – Public Interest

Pursuant to Section 4.15 (1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest as it –

- (a) Relates to a use that has no consent and is operating unlawfully.
- (b) Is not a development that can be used ancillary to the operation of the site as a boarding house.