

REVIEW OF DETERMINATION REPORT

DA2021.168

130 Homebush Road, Strathfield

**STRATHFIELD COUNCIL
RECEIVED**

S8.2-DA2021.168

DATE 13 January 2022



Navigate Planning

7 December 2021

1 INTRODUCTION

This report supports an application under Section 8.2 of the Environmental Planning and Assessment Act 1979 for a review of the determination of development application DA2021.168 for a dwelling, secondary dwelling and swimming pool at Lot 1, DP 170353, 130 Homebush Road, Strathfield. The development application was refused by Strathfield Council on 1 October 2021.

The proposed development has been amended to ensure full compliance with all relevant requirements and to address the reasons for refusal of the development application.

This report is supported by the following amended plans and reports:

- Development Plan Set (Project No. ARCH-20-06, Drawing Nos DA01 to DA22 Revision C, dated 30 November 2021) by Studio Make Made (Appendix 1).
- Landscape Plan and Landscape Details Sheet (Project No. 210502 Sheet No L/01 Revision B, dated 22 November 2021) by Aspect Designs (Appendix 2)
- Drainage Concept Plan and Details (Job# DD2283, Sheets 1 and 2, Issue B, dated 3 December 2021) by KD Stormwater Pty Ltd (Appendix 3)
- BASIX Certificate No. 1209832S_03, dated 3 December 2021 (Appendix 4)
- NatHERS Certificate No. INAYS6IW6Z-01, dated 3 December 2021 (Appendix 5).

2 PROPOSED DEVELOPMENT

The development consists of:

1. Demolition of all existing buildings on site and removal of existing front fence,
2. Excavation of site to create a basement for car parking, storage, plant room and swimming pool,
3. Erection of a new two-storey dwelling,
4. Erection of a single storey secondary dwelling,
5. Construction of a swimming pool,
6. Erection of a new front fence and retaining walls, and
7. Removal of existing garden plants and provision of new landscaping.

3 MODIFICATIONS TO THE DEVELOPMENT

The following modifications to the development have been made to address the reasons for refusal of the development application:

1. The size of the basement car parking and storage area has been reduced to accommodate two cars and reduce storage areas.
2. The building footprint has been reduced by:
 - a. Increasing the northern side boundary setback to 3m;
 - b. Increasing the southern side boundary setback to 3.1m;
 - c. Reducing the depth of the front patio area

- d. Reducing the overall length of the dwelling.
3. The height of the dwelling has been reduced.
 4. The front façade has been modified by removing the first floor balconies.
 5. The first floor void space has been reduced in size.
 6. The front fence has been reduced in height to 1.5m.
 7. A 1m deep rear balcony with planter box has been added.

The amendments to the development proposal ensures that all relevant standards in the Strathfield Local Environmental Plan 2012 are complied with. The amended proposal also now fully complies with all relevant provisions of the Strathfield Development Control Plan 2005.

Of the above changes, the only addition to the proposed development is the first floor balcony. This has been introduced to compensate for the removal of the two front balconies. The balcony is small (1m deep) and is bounded by a planter box to minimise potential overlooking of adjoining properties.

4 ASSESSMENT OF AMENDED PLANS AGAINST REASONS FOR REFUSAL

The development application was refused by Strathfield Council on 1 October 2021. An assessment of the amended plans against the reasons for the refusal of the development application are outlined below:

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
 - a) The proposal fails to satisfy the objectives of Clause 1.2(a) of the Strathfield Local Environmental Plan 2012 which seeks to achieve a high quality urban form. The proposal is an overdevelopment of the site that is excessive in bulk and scale and fails to demonstrate consistency and compatibility with existing and future desired development in the vicinity. The resultant urban form is considered disproportionate to the site area.
 - b) The proposal fails to satisfy the objectives of Clause 1.2(b) of the Strathfield Local Environmental Plan 2012 which seeks to promote an efficient and spatial use of land. The proposal is an overdevelopment and is a poorly balanced design outcome.
 - c) The proposal fails to comply with the maximum FSR provision under Clause 4.5 and the following objectives of this standard: 4.4(1)(a) and (b). The proposal is not in keeping with the built form character of the local area and fails to demonstrate consistency with regard to bulk and scale.
 - d) The application fails to provide sufficient planning grounds to satisfy Clause 4.6(4) to the extent that the proposed variation under Clause 4.4 can be considered acceptable and supportable.
 - e) The proposal fails to satisfy the objectives of Clause 6.2 of the Strathfield Local Environmental Plan 2012 with regard to earthworks. The proposed development involves excessive excavation (in association with the non-compliant built form and large basement). The development fails to respect the features of the site and streetscape and requires an unnecessary amount of excavation to facilitate overdevelopment.

Comment: The amended plans reduce the FSR of the development to 0.516:1, less than the maximum 0.525:1. The proposal is therefore now fully compliant with clause 4.4C of SLEP 2012. As the proposal now fully complies with the LEP, a variation to the FSR development standard is no longer required.

The amended plans also increase the landscaped area to 45.78% of the site area.

In relation to bulk and scale, the increased side boundary setbacks, reduction in height and modifications to the front façade ensure the proposed development has a reduced bulk, with greater space between adjoining dwellings providing opportunity for landscaping to further reduce perceived bulk. The reduced footprint and height further reduces overshadowing and improves solar access to adjoining properties. The amended front façade presents a simpler, more streamlined and slightly slimmer building with a more vertical scale. These changes reduce the perceived bulk of the building when viewed from the street.

The reduction in the size of the basement area minimises the area of excavation to provide the minimum number of car parking spaces required for the development, including room for manoeuvring and modest room for storage and plant. The amended proposal is not considered excessive in terms of the amount of excavation required.

The amended proposal is not considered an overdevelopment of the site and the changes to the front façade present an improved design outcome as discussed above.

2. Pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Strathfield Consolidated Development Control Plan 2005 in terms of the following:
 - a) The proposed development is considered unacceptable 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 with bulk and scale that fails to complement the existing streetscape. The development has limited articulation, is disproportionate to the site dimensions and comprises a non-compliant front fence.
 - b) The proposed development is considered unacceptable 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 design, bulk and scale of the proposal is not compatible with the built form of the local area and is a poor response to the adjoining dwellings, topography and desired future character.
 - c) The proposed development is considered unacceptable as it fails to meet the objectives of Clause 5.1 (Landscaping) of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal features a front fence that fails to comply with the maximum fence height control. The proposed fence combined with the excessive bulk and scale of the new dwelling house ensures that the overall scheme is unable to provide a positive and equitable contribution to the landscape setting of the locality.
 - d) The proposed development is considered unacceptable as it fails to meet the objective of Clause 8.1 of Part A of the Strathfield Consolidated Development Control Plan 2005. The proposal involves an excessive basement level and does not minimise excavation, particularly adjacent to site boundaries.

Comment: The amended proposal is considered to be in keeping with the built form character of the local area. As noted in the Council Planner's assessment report:

"The general design of the new dwelling house is acceptable in that it incorporates certain architectural and landscaping elements such as pitched roofing, exposed bricks, front porches, front fencing and garden beds that appear to tie-in with the character and setting of the locality. The primary issue identified by Council is the bulk and scale of the proposal – which are considered excessive and disproportionate to the site. In this regard, the new dwelling house is out of character for the locality as it reflects an unreasonable overdevelopment of the property."

The fundamental design principles of the proposed development that were considered acceptable by Council have not changed, however the changes to the side boundary setbacks, the building height and the front façade present a development that is considered proportionate to the site and the streetscape. The dwelling has a combined side setback greater than the minimum requirement and both side boundary setbacks are large enough to facilitate additional landscaping to further reduce the perceived bulk of the dwelling.

As discussed above, the proposal is now fully compliant with the relevant controls that relate to the bulk and scale of development, including FSR, height, setbacks and landscaped area. Compliance with the FSR requirement has been achieved by reducing the size of the basement car park and reducing the footprint of the dwelling.

The amended plans reduce the height of the front fence to 1.5m, which is compliant with the DCP requirement.

3. *Pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:*

a) *Streetscape impacts.*

Comment: As noted above, the Council Planner's assessment report acknowledged that a number of features of the proposed development are consistent with the character and setting of the locality. These features are retained in the amended proposal. The primary concern with the original proposal is the bulk and scale of the development. As discussed above, this has been addressed in the amended plans and it is considered that the proposed development is in keeping with, and will make a positive contribution to, the streetscape.

4. *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) *Lack of spatial distribution and excessive bulk and scale that presents poorly to public domain and adjoining properties.*

b) *Poorly balanced development outcome that will create an undesirable precedence and have unacceptable impacts.*

Comment: As discussed above, the changes to the proposed development as presented in the amended plans satisfactorily address the bulk and scale concerns. The amended proposal is considered to be suitable for the site.

5. *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 and is likely to set an undesirable precedent. The proposal involves an unreasonable and significant contravention to the maximum FSR permissible for the site that fails to demonstrate merit. The proposal is unable to appropriately address substantive issues and represents an overdevelopment of the site.*

Comment: The amended proposal no longer contravenes the maximum permissible FSR and an exception to the development standard is no longer required. The issues of concern raised in the reasons for refusal have been satisfactorily addressed by the amended plans. The amended proposal is considered to be in the public interest.

5 CONCLUSION

The proposed amended development of the subject land at 130 Homebush Road, Strathfield is a development that complies in all respects with the Strathfield Local Environmental Plan 2012 and relevant provisions of the Strathfield Development Control Plan 2005.

The changes proposed address the key concerns relating to non-compliance with FSR and the resultant bulk and scale of the development. It is considered that there is no longer any impediment to the approval of this development application on review under Section 8.2 of the *Environmental Planning and Assessment Act 1979*.

APPENDIX 1 – DEVELOPMENT PLAN SET

APPENDIX 2 – LANDSCAPE PLAN

APPENDIX 3 – DRAINAGE CONCEPT PLAN AND DETAILS

APPENDIX 4 – BASIX CERTIFICATE

APPENDIX 5 – NatHERS CERTIFICATE

