



northern
beaches
council

MEMORANDUM

DATE: 04 July 2023
TO: Northern Beaches Local Planning Panel (NBLPP)
FROM: Adam Richardson A/Executive Manager Development Assessment
SUBJECT: Item No. 5.2 – DA2022/2232 – 152-154 Sydney Road, Fairlight
TRIM REFERENCE: 2023/421637

The purpose of this memo is to provide a response to the Panel in relation a letter addressed to the Panel from the Applicant in relation to the recommended Conditions of Consent.

The letter from the applicant seeks to delete and/or amend the following conditions, subject to the following:

9. Entry Awning

The proposed replacement of the existing awning of the main entry at the William Street facade is required to match the existing awning.

Details demonstrating compliance are to be submitted to the Council's Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To retain the historical integrity of the existing building.

Applicant's rebuttal - The awning is made of painted aluminium and was erected between 1960 & 1970 & is not part of the original fabric. The style of the existing awning has no heritage value & will be inconsistent with the proposed new finishes and awnings proposed as part of the building upgrade. Retention of the awning or the style of the awning is unreasonable.

Council response:

Council's Heritage Officer has reviewed the Applicant's rebuttal and provided the following comments:

The heritage referral comments acknowledged that the existing awning to the main entry at William Street may not have been part of the original fabric, however the form has been known as part of the building for the past 60-70 years and provides evidence of material change and development overtime and on this basis the 'style' should be retained.

Heritage do not support the condition being changed or removed.

10. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- *The bin room is to be fitted with a vermin proof door(s).*

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure development minimizes unreasonable impacts upon surrounding land.

Applicant's rebuttal – We understand there was a historical issue which was addressed by all meat & other mammalian biproduct waste being contained wholly within the Butcher Shop tenancy & responsibly disposed of via a commercial contractor. There is no change proposed to the current method of disposal of meat & other mammalian biproduct waste disposal which will remain within the Butcher Shop tenancy. The bin store is proposed for general waste & cardboard disposal & does not require a door as the commercial bins have lids to prevent vermin. With commercial collections to be ongoing 3x per week it is highly likely that any door required to be installed will become damaged disused & redundant.

Requiring a vermin proof door is in this case impractical & unreasonable & determining the size of vermin for a "vermin proof door" is too ambiguous.

Council response:

This condition has arisen through consultation with Council's Waste Officer, due to the type and scope of the submissions. Given the openness of the structure, it is susceptible to illegal dumping of any goods included discarded food material. Accordingly, access to the area is required to be through controlled means.

'Vermin proof' is not ambiguous; it is considered that the door will need to be of a type that does not allow it to be penetrated by vermin. A metal or composite door would be adequate in this regard and such doors are commonplace in commercial settings.

13. Glass balustrade

The height of the proposed 1.4m high new frameless glass balustrades - mounted inside of the existing parapet on "Level 4" should be reduced to be maximum 1.2m higher than RL 60.54 in order to minimise the visibility.

Details demonstrating compliance are to be submitted to the Council's Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To ensure that the visibility from the streets is minimised.

Applicant's rebuttal – The proposed frameless glass balustrades located inside the existing parapet at 1.4m height are proposed to act as wind breaks to the exposed terraces on the crest of the hill & will minimise the risk of falls to ground level between 9m & 11m below. The requirement to reduce the height to 1.2m reduces the level of safety & adds risk for the owners & is unreasonable.

Council response:

Council's Heritage Officer has reviewed the Applicant's rebuttal and provided the following comments:

The balustrade height of 1.4 metres is not supported due to the visual impact on the heritage building and streetscape. Reducing the height to 1.2 metres is not considered unreasonable as the height is

above the minimum required height in accordance with the BCA and AS regulations and will not pose any safety threat to patrons or subsequent risk to the owners.

Heritage do not support the condition being changed or removed.

14. External colours

The proposed materials, colours and finishes must be revised as the proposed grey tones are not appropriate for the style and period of the heritage listed building. The new additions could be in grey tones but in complementary tones of grey. Details demonstrating compliance are to be submitted to the Council's Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To ensure the integrity of the heritage building is retained.

Applicant's rebuttal – The grey tones proposed are intended to be recessive and the proposed colour scheme is subtle & has been carefully considered by 2x architects. Further ongoing responses to & negotiation with Council's Heritage advisor is considered unreasonable.

Council response:

Council's Heritage Officer has reviewed the Applicant's rebuttal and provided the following comments:

The proposal must retain the existing integrity and the streetscape qualities of the building and comply with the objectives and requirements of Manly DCP 2013 - 3.2 Heritage Considerations, being *"External colour schemes are to be in keeping with the original character of the heritage building based where possible on physical or documentary evidence in keeping with the architectural style and period of the building."*

The heritage listed building is an intact example of Inter War Spanish Mission style commercial development. The colour scheme for this style consisted of white, off white or cream wall surfaces. The proposed grey tones suggested are not consistent with or appropriate for the style of the heritage listed building.

Heritage do not support the condition being changed or removed.

15. Stepped roof to Stair 4

The height of the proposed curved and stepped roof to stair 4 is required to be changed to a pitched roof form or alternatively be reduced by minimum 200mm including the landing.

Details demonstrating compliance with this condition are to be submitted to the Council's Heritage Advisor prior to the issue of the Construction Certificate.

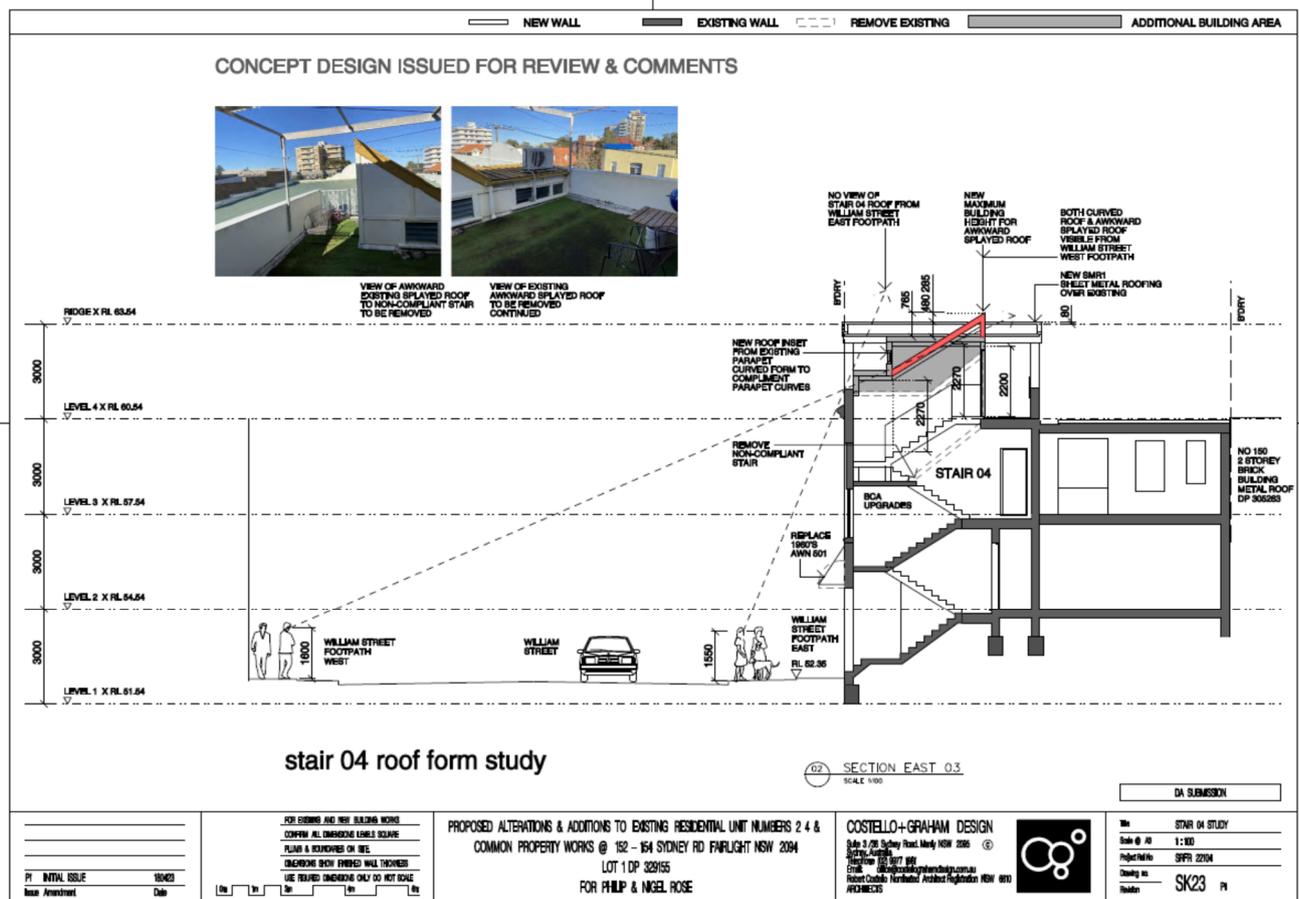
Reason: To ensure that the visibility from the streets is minimised.

Applicant's rebuttal – The proposed requirement to reduce the curved stair height by 200mm cannot be achieved on site as the existing ceiling height proposed is only 2.2m and a standard 2.1m door frame will not fit below the required condition 15 ceiling height of only 2.0m. There will also be no ceiling room available for essential building services including emergency lights & exit signs if this unreasonable impracticable & BCA non-compliant condition is imposed.

Alternatively, if the proposed condition 15 requires a splayed roof similar to the existing "awkward" roof form, this resultant element will increase the overall building height by an additional 285mm above the existing non-compliant roof height and will provide a new maximum building height. Refer SK 23_P1, previously issued to council.

It is noted that the proposed stair 04 roof form cannot be seen from the eastern William St footpath and is lower than the existing roof in its proposed form. The consequences of this condition do not

improve the building aesthetics or visibility and are unreasonable. The proposed curved roof form is designed to complement the curved parapets.



Council response:

Council’s Heritage Officer has reviewed the Applicant’s rebuttal and provided the following comments:

The condition provides 2 options for the Applicant to consider, being (1) change the roof to a pitched roof form (not a splayed form as suggested in the rebuttal above) or (2) alternatively reduce the current proposed roof form by minimum 200mm including the landing. The BCA and NCC stipulate a minimum ceiling height for stairways of 2 metres, not 2.2 metres or 2.1 metres as required for habitat rooms or kitchens and bathrooms. Therefore, the condition to reduce the roof form and landing by 200mm can be achieved and will be compliant with the BCA and NCC requirements.

Heritage do not support the condition being changed or removed.

Recommendation

That the Northern Beaches Local Planning Panel approve the application in accordance with the recommendation of the Officers assessment report.