

Camden Residents' Action Group

Incorporated
Camden – Still a Country Town

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Dear General Manager,

RE: DA 2019/225/1
11 Mitchell Street Camden

The above DA for 11 Mitchell Street within the B4 zone of Camden's Heritage Conservation Area (HCA) is for construction of two buildings, a single storey business premises with mezzanine at front (Unit 1) and two storeys at rear comprised of business premises at ground floor and shop top housing above (Unit 2). The buildings are to be connected by what appears to be an open awning structure over car parking spaces, the purpose for which is unexplained.

The supporting documentation makes various claims about the proposed development's sensitivity and complementarity to adjacent and nearby heritage items and the Heritage Conservation Area. DCP (B3) states that the heritage impact assessment (HIA) accompanying the proposal must describe the impact on the heritage significance and detail options considered and modifications made to reduce the impact on the heritage place.

Unfortunately, although what is proposed is clearly inconsistent with the fabric and roofscape of the cottage dominated area no explanations supporting the claims of no impact and consistency with heritage values and no detail of options considered are provided.

The HIA does not specifically address the appropriateness of Unit 2 within the cottage dominated area of the HCA and its proximity to heritage items. Surprisingly also the Statement of Environmental Effects (SEE) does not address Unit 2 in its report body.

The following statements about Unit 1, extracted from the HIA and SEE reports, are refuted as follows:

The building is clearly contemporary but references the cottages in its roof form. (HIA p.37).

The reference is not obvious. The proposed roof is designed with a lower pitch than the 19th century heritage listed cottages. The roof pitch is stated as 30^o but the heritage listed cottages have a roof pitch of around 40^o. The roof form includes what seems to be sky lights in its peak made from glazed aluminium, which cannot be referenced in the cottages, elsewhere in the streetscape or within the HCA.



The materials and finishes of the building area sympathetic to the conservation area and integrate well (HIA p.37). The proposed use of brick is sympathetic in its form and scale and reflects neighbouring land uses (SEE p. 15).

A number of materials to be employed are not sympathetic to or integrate with the HCA.

Aluminium, which is out of character and unsympathetic with traditional wood finishes is proposed for the skylights and commercially sized windows.

The face bricks to be used are an unnatural colour for the area and appear flat and obviously made with modern machinery. They will sit in stark contrast to the adjacent weather board clad cottages. They will be an anomaly in the streetscape and cannot be referenced to the traditional materials within the HCA.

Similarly, the proposed use of steel and aluminium elements that are painted and/or powder-coated black are not consistent or compatible with the fabric of cottages or other buildings in the HCA.

The shape of the front aluminium windows detracts from the cottage character of the area and the streetscape which is historically domestic (as shown in the photos below). The window frames should be wooden and the size and shape compatible with the vertical rectangle style which is characteristic of Mitchell Street, adjacent cottages and the B4 zone within the HCA.

Overall whilst the size and bulk of Unit 1 at the front of the site is somewhat compatible within the area the colours and palette of building materials are not consistent with nearby heritage items, adjacent cottages, the streetscape or the HCA and its desired future character. They do not comply with the planning objectives:

- that materials, finishes, and textures must be appropriate to the historic context of the original significant buildings within the streetscape (DCP B3.1.1. 23.)
- of retention of distinctive features that unite the place such as consistency of colours and the limited building material palette (DCP B3.1.2.4).



Appendices to the SEE include tables setting out compliance with the LEP and DCP which cover both Units. Our responses to selected comments/ claims in the LEP Compliance Table (Appendix B) and DCP Compliance Table (Appendix C) are provided below.

LEP Clause Incl. relevant section wording	SEE Comment	CRAG RESPONSE
<p>5.6 Architectural Roof Features <i>(3a.i.) Development consent must not be granted to any such development unless the consent authority is satisfied that the architectural roof feature comprises a decorative element on the uppermost portion of a building</i></p>	<p>Not Applicable</p> <p>The objectives of this clause are to provide flexibility in building height limits where architectural roof features result in minor encroachments.</p>	<p>This LEP clause is applicable because the 7m height limit is exceeded and there is NO architectural roof feature, which is contrary to the DCP which sets out the character elements and controls to conserve the roofscape of the HCA.</p>
<p>5.10 Heritage Conservation <i>The objectives are</i> <i>(a) to conserve the environmental heritage of Camden,</i> <i>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i> (4) Effect of proposed development on heritage significance <i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</i></p>	<p>The building sensitively responds to the streetscape. Though modern and distinct, the proposed development compliments the existing neighbouring heritage dwellings.</p>	<p>No reasoning is provided to demonstrate that the proposed development complements or is in sympathy with neighbouring heritage items, the streetscape or the Heritage Conservation Area.</p> <p>Camden Urban Design Framework (2018) reinforced the importance of protection of heritage items and the HCA. The effect of this proposal will be to detract from heritage significance of both.</p>

DCP Clause Requirement Incl. relevant section wording B3.1.2 HCA	SEE Comment	CRAG RESPONSE
<p>Existing cottage dominated streetscapes shall be retained and complemented with compatible extensions/additions and new developments.</p> <p>A two-storey height limit shall prevail except for significant architectural features incorporated in the design of buildings in significant locations.</p> <p>Large built forms in cottage dominated precincts shall be avoided through the use of various roof forms and pitches, wall openings and recesses, materials, recessive colours and landscaping.</p> <p>The development of the flood affected fringes of the town shall not compromise the prevailing character.</p>	<p>The proposed development has been designed to have regard to the existing streetscape.</p> <p>The proposed development incorporates a two-storey design with a minor 650mm height exceedance. Rationale for this has been provided in Appendix D.</p> <p>Architectural features of the proposed development have regard to the cottage streetscape and incorporate a variety of structural elements. The proposed development will not compromise the prevailing character of the town.</p>	<p>Some regard has been paid by Unit 1 to the heritage listed cottages at 7 and 9 Mitchell Street in terms of size and bulk. Otherwise no architectural features are apparent that have regard to the streetscape or adjacent and nearby cottages. The windows, roof pitch and fabric are not complementary.</p> <p>No regard has been paid to the two storey roofscape, shape and fabric of Unit 2 in relation to its surrounds or the HCA. A flat roof especially on a two-storey building is obviously unsympathetic with the cottage character of the area.</p> <p>The 30⁰ pitch of the Unit 1 roof is not as steep as that of early and interwar cottages and inconsistent with the 40⁰ to 45⁰ pitch of the adjacent heritage listed cottages. No roof pitch is provided for Unit 2 and its large box shape and fabric are clearly incompatible with the prevailing and desired character of the HCA as unanimously reconfirmed by adoption of the Camden Town Centre Urban Design Framework (2018).</p> <p>The rationale used for the design of Unit 2 is that it is a flood area. Clearly this argument cannot be used to justify compromising the heritage and cottage character of the area.</p>

DCP Clause Requirement Incl. relevant section wording D2.2.5 Controls Shop Top Housing	SEE Comment	CRAG RESPONSE
Building height, bulk and scale Shop top housing may be designed with flat roof forms in order to maximise the number of storeys within a building. However, such buildings must be a feature of a high level of architectural design and incorporate appropriate treatments to minimise the visual bulk and scale of the building.	Unit 2 has been designed to have a flat roof form due to the height limit of 7m and the site constraints of flood affectation. The proposed development will however incorporate a high level of architectural design which minimises the visual bulk and scale of the building.	<p>The maximum height is established by LEP 4.3 at 7 metres.</p> <p>DCP 2.2.5 for shop top housing is generic for the LGA and requires that design must minimise visual intrusion. It does not (as covered above) automatically override DCP 3.1.2 and its controls, in particular:</p> <p><i>8. Existing cottage dominated streetscapes shall be retained and complemented with compatible extensions/additions and new developments</i></p> <p><i>10. Large built forms in cottage dominated precincts shall be avoided through the use of various roof forms and pitches, wall openings and recesses, materials, recessive colours and landscaping</i></p> <p><i>11. The development of the flood affected fringes of the town shall not compromise the prevailing character.</i></p>

<p>DCP Clause Requirement Incl. relevant section wording D2.2.5 Controls Shop Top Housing</p>	<p>SEE Comment</p>	<p>CRAG RESPONSE</p>
<p>Image and legibility</p> <p>The proposed development should: (a) blend in with its surroundings and/or be in context with the area.</p> <p>(b) minimise intrusion on adjacent land uses e.g. noise, overshadowing, carparking overflow, vehicles reversing onto public roads.</p> <p>(c) create visual interest internally and with its relationship within the streetscape via building design, materials and colour scheme.</p>	<p>The development compliments the streetscape and is sympathetic to the heritage conservation area of the Camden Town Centre.</p> <p>The proposed development will not have any adverse effect on the surrounding area in regard to overshadowing and other land uses.</p> <p>The proposed development will incorporate visually interesting features.</p>	<p>No evidence is provided to demonstrate and specifically show how either the front or back Units complement or are sympathetic to the streetscape or HCA.</p> <p>No explanation is provided for the proposed open awning structure between Unit 1 and Unit 2 (over car parking spaces). It is uncharacteristic of the domestic nature of its surrounds, the HCA and seems to have no purpose.</p> <p>The development will have an adverse impact on the commercial viability of the heritage listed cottages as their competitive advantage is in their setting within the cottage dominated area and old-world attractiveness, particularly for businesses focussing on more rural, artistic and cultural pursuits. The design of Unit 1 and Unit 2 is in jarring contrast to their Victorian authenticity.</p> <p>There is no evidence of visual relationship within the streetscape. The anomalous aluminium and glass feature of the roofline of Unit 1 is unreferenced to the roofscape of the area. Unit 2, as well as being non-compliant with the heritage controls of the LEP and DCP, is designed as an inharmonious box and bears no relationship to its surrounds in its materials and colour scheme.</p>

Appendix D of the SEE presents an application in relation to Unit 2 to vary the 7m height standard (LEP 4.6) within the HCA. The height variation is not simply a result of the site constraints of flood affectation as claimed in the application (p. 10), which in any case the purchaser knew of and was factored into the site cost, at the time of purchase.

The variation requested is due to the desire to provide habitable accommodation and the design chosen for that accommodation. Commercial premises are not subject to the same freeboard level restrictions as evidenced by the design of Unit 1.

The first test, that the application must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case fails for this reason alone. Further, according to the LEP and DCP the 7m height standard is not unreasonable and was clearly set to retain the town's original intentionally designed village profile. This is supported by DCP (B3.1.2 Control 11) that development in flood affected areas is not to compromise the prevailing character, which Unit 2 most obviously does in terms of shape and materials, and which is exacerbated by the proposed unnecessary and unreasonable height exceedance. There is recent precedence that a more appropriate outcome can be achieved in flood affected areas nearby at 14 Elizabeth Street.

The second test, that the application must adequately demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard fails also.

There is no explanation as to why the exceedance is 650mm and why a more sympathetic roof line cannot be accommodated by Unit 2 on planning grounds. The s 4.6 application (p.5) states: "Floor to ceiling heights in the residential unit are proposed at 2.7m".

A room or space within a building must have sufficient height suitable for its intended function. The function of the shop-top housing of Unit 2 is to provide habitable rooms. According to the National Construction Code/ Building Code of Australia¹ habitable rooms are used for normal domestic activities and

- **Include** a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre, and sunroom; but,
- **Exclude** a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

¹ See: <https://www.abis.com.au/habitable-room-and-legal-ceiling-heights>

According to the building code (Vol 2 part 3.8.2) for habitable rooms the ceiling height must not be less than:

- *in a habitable room excluding a kitchen - 2.4 m and*
- *in a kitchen, laundry or the like - 2.1m and*
- *in a corridor or passageway or the like - 2.1m and*
- *in a bathroom, shower room, laundry, sanitary compartment, pantry, storeroom, garage, car parking area etc - 2.1m and*
- *in an attic, room with a sloping ceiling or projection below ceiling line or non-habitable room or similar - a height that does not unduly interfere with the proper functioning of the room or space. More than 50% of the ceiling space should be on average a minimum height.*
- *in a stairway - 2.0m measured vertically above the nosing line.*

Otherwise, the room would be deemed to be a "utility room".

Hence for the two proposed bedrooms it is only the average height of 2.4m that must be met, and for the kitchen, laundry, bathroom a height of 2.1m. These standards suggest that a box-like structure accommodating a blanket 2.7m height, measured from floor to ceiling, is NOT required.

There is scope to design a roofline that is less intrusive and significantly more compatible with the roof forms of adjacent and nearby heritage items and the cottage character of the B4 zone of the HCA. There are also performance solutions addressed by the Australian Building Codes Board² that can be explored to seek Deemed to Satisfy exemptions available in special circumstances. There is no evidence in the DA that any alternative to the inappropriate flat roof has been explored.

Therefore, on planning grounds this application for height variation should also be refused. There may be scope to submit a minor height variation to accommodate architectural roof features that



² See: <https://www.abcb.gov.au/Resources/Publications/Education-Training/Room-Heights>

would complement and not detract from the significant character element of the roofscape of immediate area and the HCA generally.

The third test, that the application shows that the development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within its zone fails for reasons already covered and expanded on below.

The objectives of Height Standard (LEP s4.3) are

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,

(b) To minimise the visual impact, disruption of views, loss of privacy and loss of solar access to existing development, and

(c) to minimise the adverse impact of development on heritage conservation areas and heritage items.

In relation to objectives (a) and (b), it has already been established in this submission that the proposal for Unit 2 is non-compliant with various LEP and DCP controls that also address the reasons for the height standard including protection of the HCA and heritage items and the desired future character of the area. There can be no doubt that the design of Unit 2 is incompatible with the existing and desired future character of the 1840 Macarthur town and would have an adverse impact on nearby heritage items and the HCA.

In relation to objective (b) it would have a detrimental visual impact on existing development in that the design is not consistent with what does exist and is meant to be protected by the planning instruments. It would also result in a loss of privacy to adjacent items with residential windows overlooking the residential garden of heritage listed Nepean House and heritage listed cottages and back yards, which have grandfather rights as heritage items and under the DCP³ to revert to residential use. Further the Camden Urban Design Framework (2018) has been approved to apply for the addition of “dwellings”, a residential use, within the B4 zone in which 11 Mitchell Street is located. This means that existing cottages or buildings in the B4 zone, including those adjacent and nearby, that have been adapted for commercial use may revert to residential use.

³ DCP B3.1.2 Control 7 states that original uses of significant buildings should be encouraged and facilitated

The privacy issue has not been addressed within the height variation application for Unit 2. Objective (b) is simply dismissed with incorrect assumptions about surrounding existing and potential land uses and rights to solar access.

The proposed development is somewhat consistent with three of the four objectives of the B4 Mixed Use zone in that the land use is compatible, integrates business and residential land uses in an accessible location and is complementary to the B2 zone.

However, as covered throughout this submission, architecturally the proposal is in conflict with land uses within its immediate vicinity and will reduce opportunities associated with other properties. The flat roof, box shape and anomalous fabric, accentuated by its height, do conflict with the prevailing and desired future character of the HCA, comprised of the B4 zone in which it is located and the adjoining B2 zone. Far from the proposed development generating demand and opportunities for businesses to service the area and contributing to economic growth as claimed, the visual incongruity and detrimental impact on the character of the area is more likely to reduce its appeal for the type of business that is attracted to Camden because of differentiated competitive advantage of rural and heritage amenity.

We cannot agree with the application's conclusion that the proposed development will not create an undesirable precedent (it will) or that it is in the public interest (which includes conserving Camden's unique heritage as has been confirmed by the community repeatedly).

We request that this proposal be sent back to the drawing board with full attention to be paid to the streetscape, the roofscape, adjacent and nearby heritage items and the heritage protections within the planning instruments so that what is developed on this vacant lot complements and enhances the HCA and individually listed items, rather than detract from them.

Yours sincerely



Glenda Davis

President