

Camden Residents' Action Group

Incorporated
Camden – Still a Country Town

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The General Manager
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27 January 2021

Dear Sir,

Re: BP Service Station
12 Argyle St Camden
DA 2018/257/2
Section 4.55 Modification
Development Approval 13 December 2018
Camden Local Planning Panel

Our group, and we believe we speak for the broad community, object most strongly to this s4.55 modification application.

The service station is operating, an Occupation Certificate being issued by the Private Certifier. However, breaches with the approved plans are evident and it is understood a number of them have also been formally identified, particularly with the approved landscaping plan which this application now seeks to change.

We set out our objections as follows.

Landscape Plan

The modification application (16 December 2020, p.12) claims that amendments to the approved landscape plan are required to

- resolve a number of issues that were identified prior to and during construction, and
- respond to operational and safety concerns for staff.

The issues would seem to be those identified (p.1) as

- some of the larger existing trees on site had damaged the stormwater infrastructure;
- Jemena gas confirmation of minimum required setbacks for trees from the existing high-pressure gas main along the Argyle Street frontage;
- and determination that the landscape area between the approved service station building and adjoining neighbouring building was too narrow, and with insufficient sunlight for the existing and approved large trees in this area, and also that it would have present a concealment opportunity which would be a safety concern for night time staff.

The necessary connection between these issues and non-compliance with the approved landscape plan as well as justification for the design elements of the replacement landscape plan is not clear, especially as the issues would have been known at the development design phase.

The relevance to the s4.55 application of the reference to some of the larger (unspecified) existing trees on site having damaged stormwater infrastructure is not explained. Flooding in June 2016, possibly silted up the long-existing drainage system, which perhaps became especially apparent after heavy rain in March 2020. We understand Council rectified any problem. It is not detailed as to how this can subsequently affect the approved landscape plan.

We also state at the outset that we cannot accept that the professionals involved in researching the site and producing the DA documentation, including the architectural plans, environmental management plan, arboricultural report and landscape plan, reports on flood risk and water cycle management got it so wrong. This indeed would be an indictment on their professional competency.

For example, it beggars belief that these professionals would be unaware:

- of an existing high-pressure gas main along the Argyle Street frontage,
- that the landscape area between the building and adjoining neighbouring building was not sufficient for plants to grow or
- of their responsibilities in considering crime prevention and safer by design principles.

The modification application (p.12) nevertheless claims the above issues are minor in nature and their discovery will result in no significant impact on the way in which the site is perceived from the public realm. The shocked community response and social media commentary at its appearance within the Heritage Conservation Area, at the main entrance to the 1840 town, belies this statement.

We also point out that if issues had been discovered before and during construction, as claimed, that a s4.55 application should have been lodged well before any occupation certificate was issued.

As listed on Council's DA tracker, the number of referrals to professionals inside Council, including to engineering, flood plain, waste water, natural resources, urban tree and landscape and public health officers suggest that checks and balances were in place and nothing was overlooked.

The staff assessment report that was submitted to the Camden Local Planning Panel on 13 December 2018 did not question or raise any of the matters now claimed as reasons for a modified landscape plan.

Instead, the community speculates whether, if it had not raised the non-compliances, they would have conveniently slipped under the radar. Arguably from the community's viewpoint the s4.55 application is seeking retrospective approval for wilful non-compliance, with no remedy and no consequences.

We refer to our letters to Council of 14 August 2019, 24 November 2019, 4 March 2020, 11 May 2020 and 1 June 2020. In particular our correspondence alerted and provided evidence to Council of the history of the ill-health of three mature trees earmarked for retention that mysteriously died from the ground up. It was observed that trees approved for removal remained healthy. We also understand that other members of the community similarly raised the alarm, even as early as May 2019.

We received responses on 21 August 2019, 9 March 2020 and 15 May 2020 which has enabled us to form some understanding of the situation between Council and the Private Certifier.

The timeline is sketchy but we know that by 21 August 2019 the issue of the defoliated trees had been referred to Council's Recreation and Sustainability team for investigation. On 24 October 2019 under the heading 'unsafe tree notice' the Project Coordinator for the Developer requested Council inspect the trees as they believed they had died.

On 9 March 2020 we were referred to the Principal Certifier as the authority responsible for compliance with the consent. The Certifier provided us with a copy of an arborist report, which was dated 17 Nov 2019 and written by the same qualified arborist who wrote the required DA documentation of the arboricultural report and landscape plan. This report made no attempt to explain the deterioration of the trees and recommended their removal, stating: *This report should satisfy that Condition 1.0(7) of consent DA/2018/257/1 does not apply to dead, dying or dangerous trees as noted in the inspection.* In the same correspondence the Certifier indicated that the trees to be retained were removed on 1 February 2020.

On 9 March 2020 we were advised by Council that under Council's Tree Management Policy, the above-mentioned arborist report was used to deem the trees, due to their deteriorating health, a hazard and appropriate for removal.

On 15 May 2020 Council acknowledged that the trees were to be protected under the conditions of consent, but as the trees had been removed there was limited evidence nor ability for Council to

ascertain exactly the cause of their deterioration and whether if for example, it occurred as a result of any earthworks or construction works.

We were also advised on 15 May 2020 that the Certifier would be reminded of the concerns raised by the community and of a commitment to plant mature replacement trees, which Council would ensure happened at the landscaping phase.

The community, which has closely watched the denudation and excessive concreting of the site, had faith that the situation would be rectified. This did not happen. The result under the private certification system was that no action was taken by the developer, certifier or, a qualified arborist as specified in general consent condition 7, to protect the trees. All vegetation on the site was removed, including any overhanging branches from adjoining sites.

To our knowledge, despite the community alerts on their mysterious deterioration and the requirements of the consent conditions no action, as required, was ever taken to save the trees.

Now the community continues to speculate how it came to this, especially as it finds itself faced with a s4.55 application and modified landscape plan which is NOT substantially the same as originally approved, and certainly NOT of minimal environmental impact as is essential for a “modification” under s4.55 1A which is quoted verbatim in the modification application.

We refute categorically the following statement in the modification application (p. 10):

The proposal represents no environmental impact beyond that which was assessed and approved previously by Council.

This statement is not substantiated with any evidence and is evidently untrue. In particular the loss, in mysterious circumstances, of three mature trees framing the main gateway of the heritage area, which is the cultural hub of the LGA with its significance and character being a hallmark of council policies, has had a momentous environmental impact, similar to an act of vandalism.

The trees deteriorated, were removed and the approved landscape plan was not followed with no satisfactory explanation. It does not pass the pub test and brings into question the integrity of the planning system. This is not in the public interest.

Camden’s DCP (2.6.3b) requires that new work and any development within a heritage conservation area is compatible with and sympathetic to the significant characteristics of the conservation area as a whole and makes a positive contribution to the area. The modification application makes no attempt to explain how the new landscape plan is compatible with the conservation area and as shown in the before and after photos below the landscaping that has already been implemented, including removal of mature trees, makes a negative contribution.



*Photo opposite: PJ Myrea
2008 Camden Historical
Society 12 Argyle Street
prior to demolition in 2012
and denudation of the site
in 2019/2020¹.*



¹ Available at Camden Library (ref: CHS 1948)

<https://camden.spydus.com/cgi-bin/spydus.exe/FULL/WPAC/ARCENQ/2853163/5138962,4>

The legislated heritage conservation area and the main entrance to the historic town have been disrespectfully degraded and what is proposed makes no attempt at remedy.

The new s4.55 landscape plan is completely unacceptable and inadequate, goes no way towards restoring any softening effect and must be revised substantially to satisfy community expectations and demonstrate respect for Camden's planning provisions.

In particular the modification application/proposed landscape plan

- disrespects effect on heritage significance (CLEP 5.10);
- does not comply with Council policies including DCP heritage controls (DCP 2.16.4) that the tree lined "gateway" entrances to the township must be retained and embellished (2), that the rural-urban interface must be sensitively addressed in new development proposals (3) and that development of the flood affected fringes of the town must not compromise the town's prevailing heritage and rural character (11);
- is contrary to Camden's Local Strategic Plan which espouses the importance of the urban tree canopy and enhancement and economic leverage of the agricultural town's leafy cultural heritage;
- specifies very small pot sizes of plants which will take many years to mature, if they survive;
- refers to the maximum fully grown heights of the specified plants, which is visually misleading as maturity takes time and appropriate conditions and may never eventuate;
- does not require advanced trees, at least in pot sizes of 1000 to 2000 litres in order to have any shorter- term softening effect, which would still not compensate for the trees that mysteriously died;
- needs to justify the choice of species. For instance, it is unlikely that native frangipani would grow to the 10m claimed in a non-tropical area, and in any case would take forever to do it. Being tropical this is not a good choice as additional watering is needed for them to look their best. The type of commercial landscaping required is better if it is hardy and self-sufficient;
- does not address any commitment to and details of regular maintenance of the landscaping and health of the plants into the future. Members of the community report that a number of the current plantings are already looking unlikely to survive.

Feedback from the community is that the developer should be required to provide as much vegetation as possible commensurate with community expectations for the historic town and its strategic position within the LGA.

Either the approved landscape plan must be adhered to or a sensitive and restorative new landscape plan is required. **Both options require reinstatement of mature trees.**

At a minimum the community expects

- **very mature trees to be re-instated to replace the three that mysteriously died;**
- **the site to be vegetated to the maximum, not the minimum;**
- **the landscaping be required to be maintained, under Council’s ongoing direction, into the future.**

The expectation is that many very advanced and appropriate specimens be planted to immediately mitigate the startling, unsympathetic and incompatible character of the new service station. As can be seen in the photo of 9 January 2021 below appropriate arboricultural screening is also required at the back boundary if the current fencing, which is different to that indicated in the DA’s architectural plans, is to remain.

We expect that technical arguments will be provided as to why the landscaping is so sparse and why the new landscape plan is the only practical one (which in any case has not been attempted in the modification application). For all of the reasons given above the community will never accept arguments that result in the eyesore that now confronts tourists, visitors and residents, and will forever question how it came to be approved. **In other words, a solution must be found. We appreciate that an acceptable solution may require concrete to be removed, relocation of rainwater tanks and spill traps, an abundance of trees and shrubs on the nature strip, negotiation with adjoining property owners to plant trees and shrubs and so on.**

We have been left in no doubt that the community expects such remedial action as a sign of good faith and respect for compliance with consent conditions and the planning controls for the conservation area.

We also take this opportunity to raise other matters that have been brought to our attention.

It is misleading to the approval authority and the public in relation to their submissions if the finished product is materially different and is much more intrusive and degrading to the conservation area than indicated in the DA documentation and consent.

Lighting

The community is concerned about the lighting, which seems to be excessive and overbright particularly at night. The specifications of the consent need to be checked against what is actually installed and being used.

Starkness and glare of the paving concrete.

The architectural plans show the concrete as less extensive, coloured grey and blending into its surrounds. Instead, it is pronouncedly stark and conspicuously out of place in such a sensitive gateway location.



D + R Architects February 2018 Job 17068 12 Argyle St Camden Architectural Plans (Extract)

The blunt inappropriateness of the finished product may be demonstrated by comparison with the photo below, taken on 9 January 2021, which shows the excessive hardstand of white concrete and over-use of corporate colours.

Canopy/column colours

The contrast between what was presented in the DA documents as above, and was subsequently modified by the Camden Local Planning Panel, is evident in the photo below taken on 9 January 2021. The obtrusive glare of the concrete is unnecessarily discomforting and a shocking introduction for tourists and residents to Camden's valued heritage.



Photo. 9 January 2021

The Camden Local Planning Panel imposed this consent condition: *The canopy including supporting columns be finished in scheduled code P3 Dulux Tranquil Retreat*. This consent condition was likely intended to minimise, as set out in the DCP, the use of corporate colours and logo which are not considered appropriate in conservation areas.

The stamped plans state there is to be no white on the canopy and canopy shall be finished tranquil retreat (grey). The diagram in the stamped plans shows no green on the columns but a single green line and one logo on the canopy. This is not exactly what the Panel specified but may be one interpretation of it.

Notably there is no screening at the back boundary which exacerbates the unacceptable appearance of this new build.

In any case compliance with the consent, as evidenced by the above photo, is clearly questionable.

The community, which is renowned for valuing Camden's heritage, is shocked by the glaring and stark inappropriateness of the corporate franchise within the conservation area and at the entrance to the 1840 town, an outcome that is also contrary to Council policy and strategies. An amended Heritage Impact Statement was submitted with the s4.55 application, but it is dated July 2018 and does not appear to address the heritage impact of the loss of the mature trees, the negative impact on the town's sense of place or how the new landscape plan, as required, makes any positive contribution to the heritage conservation area.

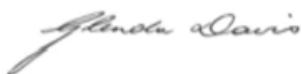
The s4.55 modification application, along with other troubling inconsistencies in the finished product, amounting to disrespect of Camden's heritage and Council policies, would seem to the community to be an attempt to bypass Camden's planning controls and sanction non-compliance with approved plans.

Such a retrospective approval would send a dangerous message and undermine the planning system and its due process. We sincerely request that this precedent be denied.

We also request that other potential breaches of the consent, concerns being discussed in the community as outlined above, be investigated. If these indeed are breaches then they exacerbate the message that compliance with consent conditions is optional.

The community will not be satisfied unless all breaches of the consent are remedied and expects that it be given the opportunity to comment on a new and sympathetic landscape plan, which includes reinstatement of very mature trees of appropriate species that provide the leafy welcome to the town that is quite rightfully expected of a heritage conservation area.

Yours sincerely,



Glenda Davis

President