

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

Website: <http://www.crag.org.au/>

Face Book:

<https://www.facebook.com/CRAGcamdenresidentsactiongroup/>

PO Box 188

Camden NSW 2570

Email: admin@crag.org.au

Ph: 0415 617 368

General Manager

Camden Council

70 Central Avenue

Oran Park 2570

Email: mail@camden.nsw.gov.au

3 July 2023

Dear General Manager,

Re: DA 2023/36/1

35 Menangle Road, Camden

Demolition of existing dwelling and construction of a new two storey dwelling with swimming pool and landscape works.

This DA as renotified with new plans, still involves demolition of original fabric in the Camden Heritage Conservation Area (HCA).

Although the new plans attempt to replicate the inter-war design of the original house, the fact remains that demolition of what is included as significant in the HCA listing is not consistent with conservation of the heritage and unique sense of place of the HCA. We refer to the many objections detailed in our first submission of 21st February 2023, as attached, which remain relevant.

DEMOLITION IS WRONG

As referred to in our previous submission, the Heritage Impact Statement (HIS) makes unevidenced claims, ones that are not supported by the planning instruments. As well as being contrary to community expectations and the overarching Council policy of heritage protection as articulated in Camden's Local Strategic Planning Statement, demolition is contrary to

- **HCA Listing.** New builds can never authentically replicate what is lost to the streetscape, the HCA and in this case, adjacent Macarthur Park. Both the Statement of Environment Effects (SEE) and the HIS avoid the fundamental fact that the dwelling is, by definition according to the HCA listing, contributory to the heritage significance of the HCA. Likewise, Camden DCP (2.16.4) includes *Federation cottages and interwar bungalows radiating out from the town centre* as a character element of the HCA.

- **Camden LEP** (5.10) (1) which requires conservation of the environmental heritage of Camden, the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.
- **Burra Charter** principle (adopted by Camden) that change to a heritage place including a conservation area in the form of demolition and new construction is generally not appropriate or acceptable.
- **LEC Planning Principle** (PP)¹ which addresses contribution of an item located in a HCA that is not individually listed. We refer to the analysis of this proposal in accordance with this PP in our first submission. Our analysis clearly shows that the extant dwelling is not “neutral” but contributory to the significance and heritage value of the HCA. Although there may be an argument that the new build design is a better “fit” the fact remains that an original element is lost forever.
- **Camden DCP**
 - ***2.16.3 General Heritage Provisions and 2.16.4 Camden Heritage Conservation Area.***

Demolition and new build are contrary to the objectives of retaining the town’s unique heritage significance and rarity, evidence of its historical development (as specifically recognised as important for the period 1841 to mid-20th Century in the HCA listing) and its cohesive character, including that of the streetscape (2.16.4 (a, b, c)).

2.16.3 Demolition states that demolition is contrary to the intent of heritage listing of a heritage place (the HCA) and a last resort only after it is documented and justified that the building is incapable of repair and all alternatives for retention have been investigated and ruled out. The HIS simply dismisses this DCP requirement by asserting that the original dwelling is of neutral contribution. The dwelling is contributory according to the HCA Listing and DCP 2.16.4 HCA character element (18). In any case there is every likelihood that the new-build would be non-contributory. There is no evidence in the documentation accompanying this proposal that alternatives for retention have been considered, indicating that demolition is a first, not a last resort.

Demolition of an element of a heritage place has not been justified.

The DCP (2.16.3) requires that the HIS:

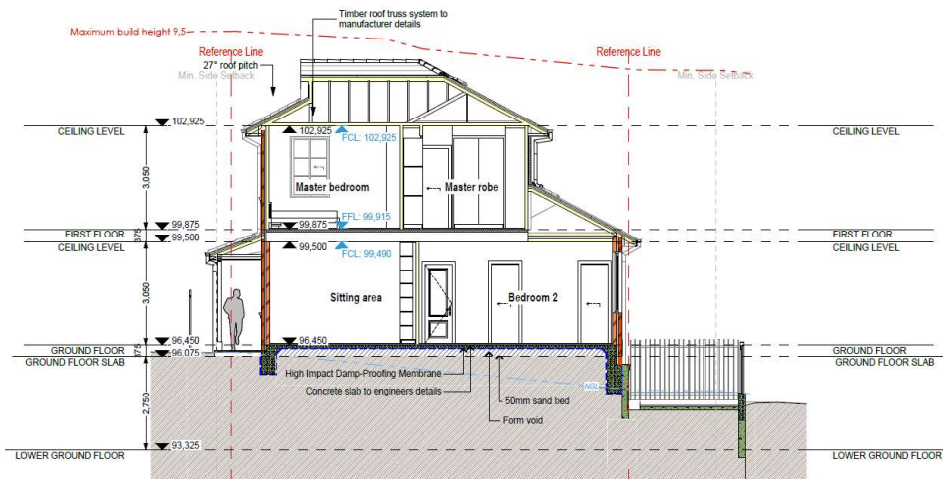
- (a) includes documentation that all alternatives for retention have been investigated and ruled out;
- (b) satisfactorily demonstrates that the building does not satisfy the criteria for listing established by the NSW Heritage Branch;
- (c) sufficiently documents and justifies that the structure is considered incapable of repair.

The HIS accompanying this proposal does not comply with this DCP requirement.

¹ Helou v Strathfield Municipal Council [2006] NSW LEC 66. Paras. 43-46
<https://www.caselaw.nsw.gov.au/decision/549f84273004262463abec2e>

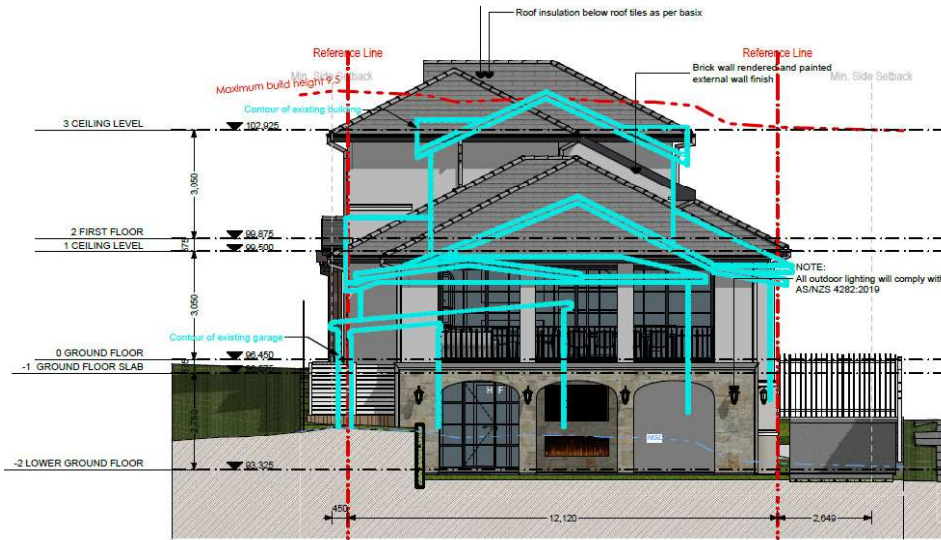
NEW BUILD ISSUES

Roofline



As is evident in the top drawing the roofline at the eastern top ridgeline is not consistent with the HCA roofscape, and presents as a jarring note. The odd roof form would seem to be the result of the additional possibly unnecessary roof space shown in second drawing above. A character element of the HCA is its unique roofscape (DCP 2.16.4), and as such the roof form of the design should be similar to and sympathetic with it.

Height



Source: Urban Revolutions 1 June 2023 *Amended Architectural Plans* West Elevation

As shown in the above architectural drawing the proposed building is over the height standard of 9.5m. The exceedance would appear to be greater than 10%. No s4.6 variation has been included with the DA, which indicates that the documentation for exhibition of this DA is incomplete.

Two-storey limit

It is problematic also that the building presents as a three-storey construction from some perspectives. A DCP control for the HCA (2.16.4 (9)) is that a two-storey height limit must prevail.

Setback

It is also apparent from the above architectural drawing that the side setback from Macarthur Park is less than the minimum setback of 0.900m. This setback is not a minimum of 1.350m as claimed in the SEE (Table 2, p. 15). As the Macarthur Park side of the proposed new build is the main pedestrian entrance this setback should be greater, more in keeping with the large scale of the proposed house. It is also appropriate and expected to have a much greater separation between a private residence and the public domain of the Park.

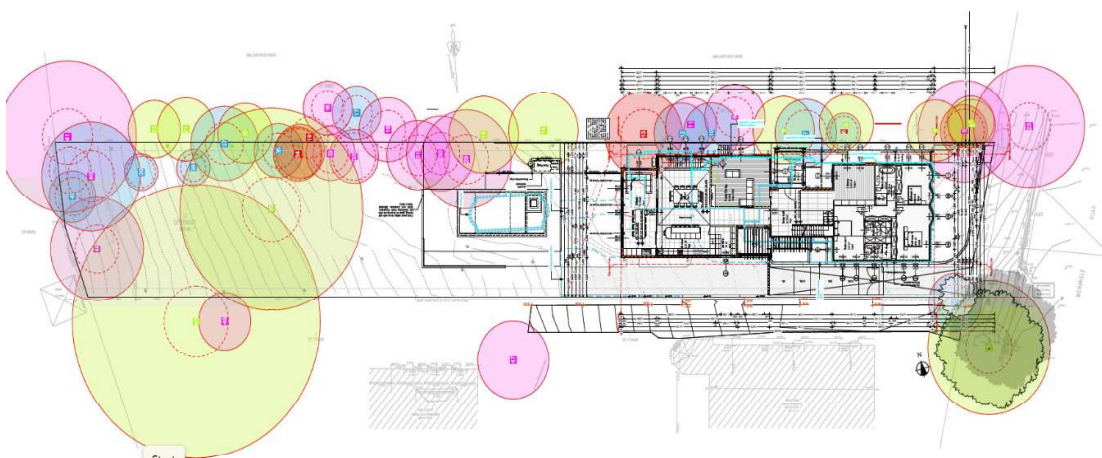
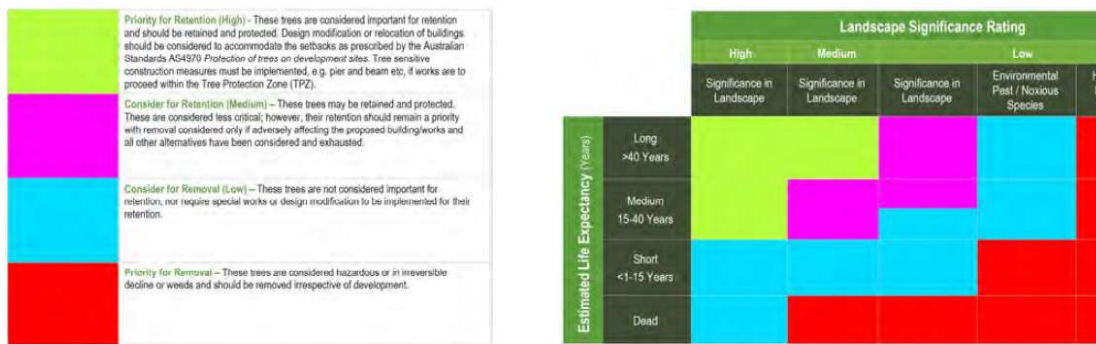
Macarthur Park

It would also seem that the view of the house from Macarthur Park would be an unexpected one, one that would appear inconsistent with the traditional fine-grained architecture of fabric within the HCA and also potentially not appropriately screened.

The SEE (5.1.1) states: *Trees on site have been assessed in the Arboriculture Report prepared by Aura Tree Services with recommendations for retention, or removal and replacement with more suitable species. Recommendations outlined in the report will be implemented during construction to ensure nominated trees are protected and retained.*

However, the Architectural Plans show trees in adjacent Macarthur Park, and encroachment into their tree protection zones. The diagram below shows Macarthur Park to the top, and the Google Earth image shows Macarthur Park to the left. It is clear that very mature trees in Macarthur Park

are close to the property boundary. The colours represent landscape significance and the colours of squares surrounding the tree numbers represent the importance of tree retention.



Source: Urban Revolutions 1 June 2023 Amended Architectural Plans



Source: Google Earth Available at <https://earth.google.com/web/search/Camden+NSW/@-34.06003027,150.69507652,95.85218684a,94.29905384d,35y,128.82397319h,44.99514847t,360r/data=CigiJgokCSFBM0G2UNAEdsBLhRkzkNAGa20IXYmI1XAlcmnMhViL1XA>

The proposed new build encroaches into the tree protection and structural root zones of trees in Macarthur Park. SEE 5.1.1, as quoted above, suggests that the Proponent sees no necessary requirement to protect the trees in the Park. It would seem that the proposal is deeming which trees are expendable and not taking responsibility for ensuring no damage to the historic community asset.

With the screening that currently exists in danger of being lost and with minimal setback of the new build from the Park boundary, even less than the DCP requirement, it seems that any screening from the public domain is the responsibility of Council and that the community must bear the financial and amenity costs.

This aspect of the proposal requires much clearer explanation.

Original features external

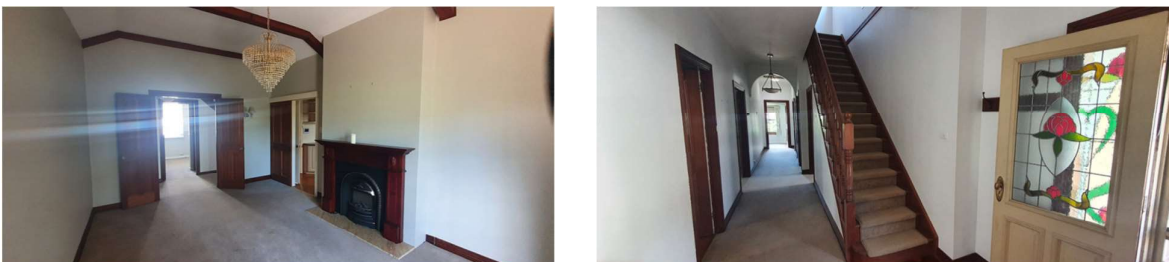


Source: Urban Revolutions 1 June 2023 *Amended Architectural Plans*

As evident in the above images comparing the original house and proposed new build, details such as bargeboards, shutters and chimney have been lost, and a more faithful representation of the inter-war dwelling would make for a more sympathetic infill.

Original features internal

It is very surprising that little, if any, reference has been made to the original internal features of the dwelling: its joinery, doors, fireplaces, stained glass, staircase etc.



There would seem to be no intention to incorporate them into the proposed new build. These must not be lost and the plans at least should have required them to be carefully salvaged for use in restoration works. We trust that this omission would be rectified in any consent.

Materials and colour palette

There is a lack of detail about material and colour palette on the new design. It is not clear whether materials, finishes, and textures will be sympathetic to the HCA and streetscape, although it is very important that the new build not appear as an anomaly (DCP 2.16.3). It is imperative that materials not be anachronistic, as would be the case if aluminium windows were permitted.

Cut/excavation

The maximum cut on the site must not exceed 1m, but the proposed level of excavation is significant (DCP 4.2.2). The cut at 2.6m according to the publicly available SEE is non-compliant. No geotechnical report is publicly available, therefore despite excavation being well in excess of the cut limit, there is no comfort that it will not cause problems for adjoining properties. The community also has no assurance that adjoining Macarthur Park will not be adversely affected by run-off and as noted above, disturbance of tree roots. The DCP (control 6) exemption for garages does not apply as the cut is to accommodate more than a garage.

St John's Precinct

The property is not only within the HCA but also within the heritage curtilage of the NSW listed Precinct of St John's Anglican Church. There has been no consideration or analysis of any potential impact on the curtilage and heritage significance of the Precinct.

- The proposed new build is in direct line of sight from the Precinct.
- The documentation should address compliance with the DCP provision that views associated with the St John's Church spire must not be compromised (DCP 2.16.4).

We conclude, as we did in our first submission, that the DA does not demonstrate that demolition is warranted. The extant dwelling is contributory according to the HCA Listing, Camden DCP and the LEC PP.

Although the amended new build design is an improvement it remains problematic and will degrade the originality and significance of the HCA.

The community expects that the HCA be respected. It cannot and should not be replaced piecemeal. It is not in the public interest that sense of place and fabric of the HCA, which is highly esteemed and highly significant in early European Australian history, be lost over time because the protective planning provisions are not followed and enforced. As its listing states, it is a conservation area.

Please refuse this DA.

Yours sincerely,



Glenda Davis
President

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

Website: <http://www.crag.org.au/>

Face Book:

<https://www.facebook.com/CRAGcamdenresidentsactiongroup/>

PO Box 188

Camden NSW 2570

Email: admin@crag.org.au

Ph: 0415 617 368

General Manager
Camden Council
70 Central Avenue
Oran Park 2570
Email: mail@camden.nsw.gov.au
21 February 2023

Dear General Manager,

Re: DA 2023/36/1

35 Menangle Road, Camden

Demolition of existing dwelling and construction of a new two storey dwelling with swimming pool and landscape works.

This DA involves demolition of original fabric in the Camden Heritage Conservation Area (HCA).

The extant dwelling, which is adjacent to Camden's highly significant Macarthur Park, presents obviously as an interwar domestic construction and contributes to the streetscape and HCA as such. Although the photos provided suggest that the house would be enhanced by a faithful restoration of all original features it is solidly built, in good repair and substantial in size.

It is baffling that the property would be recently purchased¹ only to be demolished. There are many opportunities for new builds in the Municipality. Not only does this DA not make economic sense it is inappropriate and destructive to the HCA.

We have read the Statement of Environment Effects (SEE) and the Heritage Impact Assessment (HIS). Both documents avoid the fundamental fact that the dwelling is, by definition according to the HCA listing and other evidence, contributory to the heritage significance of the HCA.

Our specific objections follow.

¹ Purchase price \$2.22m October 2021 <https://www.realestate.com.au/property/35-menangle-rd-camden-nsw-2570>

The Inter-war Dwelling is Contributory to HCA and so must be retained

Our experience is that HIS's submitted with DA Applications always support the DA. We have never encountered any HIS that does otherwise. That can be expected, given under the DA system it is the Applicant who pays for the HIS. There is a clear conflict of interest, so a HIS lodged with a DA cannot necessarily be relied upon for an objective and analytical assessment.

As defined in the DCP (2.16.2)

A Heritage Conservation Area is more than a collection of individual Heritage Items. It is an area in which the historical origins and relationships between various elements creates a sense of place that is special and therefore worth keeping.

The HIS presumes that the extant house is of "neutral" contributory value to the HCA. The only argument put forward for its demolition is that it is not individually heritage listed in the LEP or acknowledged in the DCP (2.16.9) as individually culturally significant (HIS 5.3). It also does not present any telling arguments why the proposed replacement new build would not be categorised as "uncharacteristic".

We find the HIS approach to be self-serving and illogical as it ignores the significance of the HCA itself which by definition depends on much more than a collection of individual items.

The HIS does not provide any evidence for these claims which are demonstrably untrue.

HIS 4.3:

35 Menangle Road Camden does not make a positive contribution to the Camden Town Centre Conservation Area. The streetscape elevation does not reflect the predominant scale and form of other buildings within the HCA, and therefore it has a neutral contributory form to the character of the HCA. It is assessed as having Neutral significance to the HCA.

HIS 5.1: *The proposal does not affect:*

- *The demolition of the subject site dwelling has no impact since the dwelling is of neutral contributory significance in the Camden Town Centre Conservation Area;*
- *The Local Heritage significance of Camden Town Centre Conservation Area or heritage items within the vicinity of the subject site;*
- *The proposal will not detract from the heritage significance of the Menangle Road streetscape within the Conservation Area.*

The HIS presents no evidence for the lack of contribution of the extant house to the HCA.

There is no attempt to analyse its contribution under LEC Planning Principle (PP)² which addresses contribution of an item located in a HCA that is not individually listed.

The basic principle is that demolition of a building which contributes to a conservation area will impact on the area's heritage significance. Even if its replacement building "fits" into the

² Helou v Strathfield Municipal Council [2006] NSW LEC 66. Paras. 43-46
<https://www.caselaw.nsw.gov.au/decision/549f84273004262463abec2e>

conservation area and streetscape, it does not address heritage impacts as the original heritage element has been removed.

This PP provides a framework for assessing how the item may reinforce HCA significance and be contributory by virtue of age, scale, materials, details, design style or intactness and consistency with the conservation area.

This PP poses questions to determine an item's contribution under the HCA listing, whether the item can be retained or whether demolition can be considered. The questions and our answers are set out below:

PP Question 1: *What is the heritage significance of the conservation area?*

Our answer: The HCA listing states:

While some built forms within the Township outside the generally important c. 1841 to mid-20th Century period, provide less than contributory values, they remain in a minority, yet act as reminders for the Town's abilities to grow, albeit with a need for respect to its significant qualities.

Logically and in other words, built forms dating between c1841 to 1950's ARE important and contributory. Demolition of the original house means demolition of an integral element of the HCA. Newer builds, post 1950's, are more likely to be non-contributory and the town is definitely not enhanced by more of them diluting its significant qualities.

PP Question 2: *What contribution does the individual building make to the significance of the conservation area? The starting point for these questions is the Statement of Significance of the conservation area. This may be in the relevant LEP or in the heritage study that led to its designation. If the contributory value of the building is not evident from these sources, expert opinion should be sought.*

Our Answer: The HCA listing³ refers to the generally important and contributory values of the HCA building stock c. 1841 to mid-20th Century period.

By definition the existing dwelling is contributory.

Feedback to us indicates that the community certainly considers it to be contributory to Camden's sense of place and history.

Its contribution is further confirmed in Camden DCP (2.16.4) which includes in the character elements of the HCA, *Federation cottages and interwar bungalows radiating out from the town centre.*

³ NSW State Heritage Inventory *Heritage Item ID: 1280090 Camden Town Centre Conservation Area*
<https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1280090>

The HIS claim that the streetscape elevation does not reflect the predominant scale and form of other buildings in the HCA is incomprehensible and, in any case, if it were true is irrelevant.

We dismiss this claim as having no foundation because:

- The HCA listing describes the nature of the town as eclectic.
- Characteristics of the HCA (Camden DCP 2.16.4) include *Buildings covering a range in stylistic periods reflecting the evolution of the town centre and Federation cottages and interwar bungalows radiating out from the town centre.*
- Menangle Road is an exemplar of the later evolution of the town centre founded in 1841.
- The neighbouring house, also of interwar vintage, is NOT of dissimilar elevation, scale and form.



37 Menangle Road



35 Menangle Road

PP Question 3: *Is the building structurally unsafe? Although lack of structural safety will give weight to permitting demolition, there is still a need to consider the extent of the contribution the building makes to the heritage significance of the conservation area.*

Our Answer: There is no evidence that the building is structurally unsafe. It also appears to be in good repair. The documentation accompanying this DA suggests that the extent of contribution to the HCA has not been adequately considered.

PP Question 4: *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition? If the answer is yes, the cost of the necessary remediation/rectification works should be considered.*

Our Answer: We understand that the building is structurally safe. If not, there is every indication that it could be made so.

PP Question 5: *Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted? If these costs are reasonable, then remediation/rectification (whether accompanied by alteration and/or extension or not) should be preferred to demolition and rebuilding.*

Our Answer: There is no evidence that the costs of restoring and extending the extant building present an unacceptable burden. Demolition and rebuild is likely far more costly. Retaining the building is preferred as it is defined as contributory under the HCA listing and would generally be considered contributory according to the DCP and other Council policies. Feedback from community members to us is one of astonishment about possible demolition and that it should not be permitted.

PP Question 6: *Is the replacement of such quality that it will fit into the conservation area? If the replacement does not fit, the building should be retained until a proposal of suitable quality is approved.*

Our Answer: No, the architectural aesthetic is not consistent with the architectural history of Menangle Road or the HCA. It would not fit into the conservation area, but be an anomaly.

Clearly from this analysis as well as in terms of common sense, the extant dwelling is not “neutral” but is contributory to the character and heritage value of the HCA.

The extant dwelling is unquestionably an integral and (by definition) a contributory element of the HCA. The old town’s long history, its aesthetic legacy and uniquely recognisable sense of place are highly valued by the people of Camden and NSW. Its historic and cultural value is long acknowledged as important and the community fully expects that any DA to make changes to it do so in a spirit of its conservation and respect for its heritage listing.

This DA does not do that.

Demolition of the inter-war house is not justified and is unacceptable

As may be concluded from the Planning Principle analysis above, demolition of the interwar house is unacceptable and should be refused. The principle is clear. The item is contributory according to the HCA Listing and demolition is a last resort only if all alternatives for retention have been investigated and ruled out and the building is incapable of repair.

Camden Council has adopted the Burra Charter (Camden DCP 2.16.2). Under its articles (8; 15.3) change to a heritage place including a conservation area in the form of demolition and new construction is generally not appropriate or acceptable.

Consistent with the Charter, demolition is contrary the Camden LEP (5.10) (1) particularly the objectives

- (a) to conserve the environmental heritage of Camden,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.*

These objectives are supported more specifically by the conservation objectives of Camden DCP 2.16.3 General Heritage Provisions and 2.16.4 Camden Heritage Conservation Area. Demolition and new build are contrary to the objectives of retaining the town's unique heritage significance and rarity, evidence of its historical development (as specifically recognised as important for the period 1841 to mid-20th Century in the HCA listing) and its cohesive character, including that of the streetscape (2.16.4 (a, b, c)).

In particular, like the PP approach, Camden DCP (2.16.3, Demolition) states that demolition is contrary to the intent of heritage listing of a heritage place (the HCA) and a last resort only after it is documented and justified that the building is incapable of repair and all alternatives for retention have been investigated and ruled out.

Clearly this DA presents demolition as a first resort and there is no evidence that any other approach has been considered.

Subscription to the assertion in the HIS that all HCA fabric that is not individually listed in the LEP or DCP can be "assessed" (claimed) as "neutral" without analysis would mean piecemeal demolition of the HCA. The broken teeth of the HCA would see its significance lost. We would be left with individual heritage items in inappropriate settings and no HCA.

Demolition is also contrary to community expectations and feedback to Council on heritage from the community. Such consultative feedback informs Council policy, which is recently broadly articulated in Camden's Local Strategic Planning Statement (LSPS), which also aligns with NSW Western City District Plan. The LSPS recognises the importance of heritage to an area's identity and that it must be protected.

For instance:

Heritage sites are protected and promoted, helping to engage the community on the importance of Camden in Australia's European and Indigenous history. (Our Vision p.22)

Local Priority 2 Celebrating and respecting Camden's proud heritage

Camden's heritage is an important component of the local identity. Identifying, conserving, interpreting and celebrating heritage values leads to a better understanding of history and respect for the experiences of diverse communities. As Camden grows, heritage identification, management and interpretation are important so that heritage places and stories can be experienced by current and future generations.

Demolition of original fabric of a heritage place does not respect what the community has long and clearly articulated about the high value it places on the unique heritage and sense of place of the early Macarthur private town and its conservation.

It is obvious that demolition of original fabric immediately and irrevocably reduces its significance and its contribution to present and future generation's understanding of the colonial and agricultural history of NSW and Australia. Its replacement with new build that is uncharacteristic of the streetscape and HCA does nothing to protect and promote the importance of Camden's heritage.

The proposed replacement building is inappropriate and detrimental to HCA significance

This DA proposes to replace the original dwelling with a very large construction that bears no relationship and makes little reference to the architectural aesthetics of Federation, Californian bungalows and other interwar constructions in Menangle Road or any contributory construction in the old town.

The use of aluminium windows, cantilevered balcony and arches mixed with a vaguely Victorian Italianate design aesthetic do not reflect an old country town, but are singular and anomalous in the streetscape and HCA.



Another characteristic of the HCA (Camden DCP 2.16.4) is *the grand Macarthur Park on the fringe of the Town Centre*. The Park is emblematic of Camden’s cultural history and its Macarthur private town legacy.

This new build would jarringly and anachronistically adjoin this beautiful Park which was gifted to the people of Camden in 1905 by Elizabeth Macarthur-Onslow⁴.

This proposed new build would be categorised in HCA terms as “uncharacteristic” and therefore detrimental to the heritage value and significance of the HCA. That would be an embarrassing outcome, one that is culturally and aesthetically unacceptable for Camden as well as disrespectful to Camden’s rich and significant historic legacy.

⁴ Camden Council *Macarthur Park Camden* <https://www.camden.nsw.gov.au/parks-and-recreation/parks-and-playgrounds/view/macarthur-park>

Other issues

The level of excavation of the site is non-compliant.

This may also cause problems for adjoining properties including Macarthur Park in terms of run-off, and disturbance of tree root zones.

Although the DCP (2.16.4)⁵ mandates a two-storey height limit in the HCA the new build is, in places, three storeys. As well as being non-compliant, this aspect of the proposal is particularly problematic for potential visual intrusion, including from some view lines towards the new build from Macarthur Park and Menangle Road.

Conclusion

The DA does not demonstrate that demolition is warranted. Instead, it seeks to destroy a contributory item of the HCA, one that enhances the story of Camden's development pattern and cultural legacy. The broken tooth approach of piecemeal demolition and rebuild of the fabric of the HCA that this DA represents, inevitably and eventually destroys its heritage and cultural and aesthetic significance.

This DA, including its new-build of anomalous design and its non-compliances with Camden DCP, is a prime example of this approach to dismantling the HCA.

The community highly values the 1841 town's sense of place, its history and its difference which is also economically important to its viability. Turning it bit by bit into a generic urban space is in contravention of Camden Council's policies and strategies and counter-productive.

This DA is not in the interests of the people of Camden or heritage conservation into the future. It is not in the public interest.

We see no merit in this DA and sincerely request that it be refused.

Yours sincerely,



Glenda Davis

President

⁵ Camden DCP 2.16.4 Camden Heritage Conservation Area Control 9: A two storey height limit must prevail except for significant architectural features incorporated into the design of buildings in significant locations.