

SJB Planning Memo



To: Sydney North Planning Panel (SNPP)
Attn: Peter Debnam – Panel Chair
Cc: Lisa Kamali – North Sydney Council
From: Scott Barwick - SJB Planning
Date: 9 March 2020

Subject: DA 255/19 – 147, 151 and 153 Kurraba Road, Kurraba Point (Panel ref: PPSSNH-28)

I write with regard to the assessment report before you on the agenda of 11 March 2020 in relation to the redevelopment of 147, 151 and 153 Kurraba Road, Kurraba Point.

Following the receipt of the Development Application (DA) Assessment Report and Draft Conditions from Council I am writing to request consideration of minor amendments to two (2) of the recommended Conditions of Consent, should the Panel resolve to approve the DA:

1.0 External Finishes & Materials

Council's recommended DA Condition regarding external finishes and materials is reproduced below for reference purposes:

"A3. All external finishes and materials must be in accordance with those specified within the approved plans listed in Condition A1 of this consent. All face brick shall comprise "Bowral Shorthorn Mix" with dark mortar.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information.)"

Comments:

In order to provide the Applicant with some flexibility with suppliers regarding the specified face brick, should the need arise, it is requested that condition A3 is modified to read that all face brick shall comprise "Bowral Shorthorn" or similar. In order to ensure the brick work is to the satisfaction of Council, it is requested that the brick work details will be subject to the approval by the Manager of Development prior to the issue of a Construction Certificate.

For ease of reference the requested changes to Condition A3 are marked in red below:

"A3. All external finishes and materials must be in accordance with those specified within the approved plans listed in Condition A1 of this consent. All face brick shall comprise "Bowral Shorthorn Mix" or similar with dark mortar. Details are to be submitted to the Manager of Development Services for approval prior to the issue of a Construction Certificate.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information."

2.0 Roof Terrace Equipment

Council's recommended DA Condition regarding roof terrace equipment is reproduced below for reference purposes:

"I3. Use of all roof terrace area, both for private and communal use, are to comply with the following in relation to equipment:

All roof terrace equipment, furniture, or other ancillary equipment (e.g. , barbeques, chairs, portable heaters and lights) must not exceed a height of 1.2m above the finished floor level of the roof terrace.

No approval is granted or implied for the installation of any umbrella(s) on the roof terrace.

All equipment, furniture and other ancillary equipment are to be weighted and/or secured so that they are contained at all times within the perimeter of the Roof Terrace.

(Reason: To minimise visual clutter and in the interests if safety)"

Comments:

The proposed building (including lift overruns, plant, balustrades etc) complies with the maximum height of building standard of 12m in accordance with Clause 4.3 of the North Sydney Local Environmental Plan (NSLEP) 2013.

NSLEP 2013 defines building height (or height of building) as:

- "(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."*

A building is defined under Section 1.4 of the *Environmental Planning and Assessment (EP&A) Act 1979* as follows:

"building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the Local Government Act 1993."

The standard instrument defines a temporary structure as:

"Temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure."

In light of the above, it is considered that moveable furniture (i.e. tables, chairs, etc.) does not fall under the definition of a building or structure, and accordingly Clause 4.3 of NSLEP 2013 does not apply to furniture and ancillary equipment as identified in the proposed condition.

As such, it is considered that the proposed condition which seeks to restrict furniture on roof terraces to 1.2m above finished floor level is unreasonable in the circumstances, and difficult for Council to enforce. The necessity of the condition is also questioned given tables are typically less than 900mm in height.

Accordingly, it is requested that 'Condition I3 – Roof Terrace Equipment' is deleted as there is no development standard which applies to these restrictions, and the practicality of enforcement is questionable.