

Relevant Information for Local Planning Panel

FILE: D/2023/1179 **DATE:** 14 August 2024

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager City Planning and Development

SUBJECT: Information Relevant To Item 5 – Development Application: 104 Pitt Street, Redfern - D/2023/1179

Alternative Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.4 Floor Space Ratio in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No.D/2023/1179, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 14 August 2024, subject to the following amendments to 'Condition 2 Design Modifications' – (additions shown in bold italics, deletions shown in strikethrough):

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) ~~The southern timber fencing is not permitted for demolition as no landowners consent has been submitted from 98 Pitt Street Redfern, for the demolition of this structure. To ensure structure integrity of the timber fence as a whole, this fence must be retained in full and not demolished.~~ ***The existing timber gate and posts located within the Right of Footway easement are to be retained. Demolition of this gate is not approved.***

(b) ~~No~~ ***The*** new masonry southern side boundary fencing is to be constructed ***on the subject site only and to a maximum height of 1.8m above the existing natural ground level.*** ~~as the existing timber fence is required to be retained by (a) above.~~

(c) No structures or works are permitted to encroach within the Right of Footway easement or over the land of 98 Pitt Street Redfern, as no land owners consent from this property has been submitted with this development application.

(d) The western facade glazing (Window WG.06) of the floor to ceiling sliding doors adjacent to the living area at the ground floor level must be amended to comply with the ***deemed to satisfy provisions within the NCC 2022 Australian Building Codes Board (ABCB) Part 9.1 Scope and Application of Section 9 and Part 9.2 Fire Separation of External Walls*** ~~Volume 2 Part 3.7.2 Fire Separation of External Walls.~~ This may require change to the FRL of the glazing, change to solid non-openable masonry wall or alternative fire protection measures as required to comply with the NCC. ***Alternatively, fire protection may be addressed via a performance-based solution that achieves the requirements of the National Construction Code.***

(e) Details of the proposed landscaping species, densities and irrigation measures for the Level 1 garden bed adjacent to Bedroom 3 and the Level 2 terrace garden bed must be submitted to the satisfaction of Council's Area Planning Manager.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

Attachments

Attachment A – Photo of existing timber gate posts to demonstrate the gate is structurally sound and capable of remaining upright independent of the existing timber fencing (Photo provided by applicant on 11 August 2024)

Attachment B – Email on 11 August 2024 from applicant with requested wording changes to condition 2 design modifications

Background

Following discussions with the planner the applicant provided a written request and a site photo to demonstrate retaining the existing timber gate which is located within the adjacent easement would not result in any works outside the boundaries of the subject property. The planner supports the applicant's request and an amendment to condition 2(a) is outlined in the recommendation above.

An amendment to condition 2(b) is recommended to allow the construction of a 1.8m high masonry side boundary fence.

An amendment to condition 2(d) is also recommended to update the reference to the relevant 2022 National Construction Code provision.

Prepared by: Gavin Ho, Senior Planner

Approved

AJT

ANDREW THOMAS

Executive Manager City Planning and
Development

Attachment A

Photo



Attachment B

Email

From: Charles Peters [REDACTED]
Sent: Sunday, 11 August 2024 2:16 PM
To: Gavin Ho
Cc: [REDACTED]
Subject: 104 Pitt St Redfern - D/2023/1179 - Amended draft conditions (DRAFT)
Attachments: IMG_4451.jpg

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Hi Gavin,

Thanks for speaking with me last week. As discussed, there are a few draft conditions that we were looking to amend – specifically relating to the rear easement. The intent is to remove any proposed works within the easement that would require owner’s consent from 98 Pitt Street. This can be achieved by retaining the existing timber gate located within the easement and limiting all new work to within the property boundary. A photo of the existing gate is attached.

Please find the suggested amendments below. Amendments are shown in blue, commentary in red:

(2) DESIGN MODIFICATIONS

- (a) ~~The southern timber fencing is not permitted for demolition as no landowners consent has been submitted from 98 Pitt Street Redfern, for the demolition of this structure. To ensure structure integrity of the timber fence as a whole, this fence must be retained in full and not demolished.~~ The existing gate located within the Right of Footway easement is to be retained, including any supporting structure.

The retention of the existing gate allows access in accordance with the covenant and does not require any new works outside the property boundaries of 104 Pitt Street.

- ~~(b) No new masonry southern side boundary fencing is permitted to be constructed as the existing timber fence is required to be retained by (a) above.~~

This condition can be omitted. The existing gate is independently supported. Restriction of works to within the site boundaries is addressed by condition (c).

- (c) No structures or works are permitted to or encroach within the Right of Footway easement or over the land of 98 Pitt Street Redfern, as no land owners consent from this property has been submitted with this development application. (No change to this condition)
- (d) The western facade glazing (Window WG.06) of the floor to ceiling sliding doors adjacent to the living area at the ground floor level must be amended to comply with the NCC clause H3D1 and Part 9.2 of the ABCB Housing Provisions Volume 2 Part 3.7.2 Fire Separation of External Walls. This may require change to the FRL of the glazing, change to solid non-openable masonry wall or alternative fire protection measures as required to comply with the NCC. Alternatively this may be addressed by a performance based solution achieving the requirements of NCC clause H3P1.

The intent is to achieve compliance using a performance based solution to allow operable glazing in this location. NCC clauses have been updated to reference NCC 2022.

(e) *Details of the proposed landscaping species, densities and irrigation measures for the Level 1 garden bed adjacent to Bedroom 3 and the Level 2 terrace garden bed must be submitted to the satisfaction of Council's Area Planning Manager. (No change to this condition)*

I trust these amendments address council's requirements while clarifying the extent of approved works. Let me know if you have any comments – if you're comfortable with these amendments we'll propose them at the panel meeting on the 14th August.

Thanks,

Charles

Charles Peters
Principal

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