

14 July 2021

Daniel Herbertson
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School Infrastructure NSW

By Email: Daniel.Herbertson1@det.nsw.edu.au

Dear Mr Herbertson,

The National Trust raise serious concerns regarding modification (SSD-10340-Mod-1) which increases the height and bulk of the Fort Street Public School. The proposal goes against all previous planning and heritage advice for this State Heritage Listed location, and is now actively ignoring all submission responses – 99% of which opposed the modification.

These plans will have a major impact upon one of the most significant and historically important parts of Sydney, which must be treated with the utmost care. Submissions must be considered.

Good Neighbours

The National Trust has long supported the ongoing provision of an educational facility on Observatory Hill, and indeed notes the historical importance of this use. We have, since the 1970s, enjoyed a good relationship with our neighbours at the Fort Street Public School. The previously approved design for the school on this site (*SSDA Notice of Decision (7/10/2020) - SSD-10340 Fort Street Public School*), while not an optimal heritage outcome, was nonetheless designed to meet the heritage requirements, and was accepted on the basis that it obviously provided the needs for a modern school on this site.

A complete sham in terms of stakeholder engagement

The National Trust were invited to form part of a “Stakeholder Working Group” for this project, and attended in good faith. When the modification proposal was put forward, we expressed our immediate concern, and were assured that it would be placed on exhibition for public comment. We were specifically assured that it was not a “done deal”, but our suspicions have now been confirmed.

At the most recent Fort Street Public School & Observatory Hill Stakeholder Working Group Meeting on 12 July 2021, facilitated by Root Partnerships and chaired by the Project Director for School Infrastructure NSW, the working group was informed that School Infrastructure “is not planning to amend the design which will be lodged at the end of July” and that the Response to Submissions “will be made after the design has been lodged”, and that this was “in line with the planning process”.

What is the point of a public exhibition if its feedback is totally ignored, and considered after the design has been approved?

The National Trust would argue that this is not in line with planning processes, that submissions must be reviewed, and the design amended in response to concerns raised.



Planning process

As per the Response to Submissions letter by Karen Harragon (as delegate for the Planning Secretary) dated 25 May 2021, the National Trust notes:

- The exhibition of the modification request for Fort Street Public School Redevelopment (SSD-10340-Mod-1) ended on Thursday 20 May 2021.
- Submissions were received
- In accordance with clause 85A of the Environmental Planning and Assessment Regulation 2000, the Planning Secretary **requires the Applicant to respond to all issues raised** in these submissions and government agency advice, and where necessary, technical supporting documents must be revised and resubmitted.
- The Department has also undertaken a review of the modification request and in addition to the issues raised in agency submissions, **requires the matters at Attachment 1 be addressed in full.**

The Trust note that in particular the following heritage-related matters were to be addressed as noted in Attachment 1:

- **Address comments made by Heritage NSW**, particularly concerns raised regarding the proposed additional partial storey above Building J.
- **Public submissions raised concerns about impacts** to private and public domain views.
- Ensure that the Visual Impact Assessment appropriately assesses the impacts of the proposed modifications
- The Visual Impact Assessment diagrams must be revised to correct errors to ensure that they clearly show the approved and proposed modification envelopes. In addition, **a diagram showing the proposed development in context of the National Trust building should be provided to depict the proposed amendments to Building J in context of the adjoining site.**

The Department of Education were requested to provide the Department with a response to the submissions by 24 June 2021. No such response has been made, and now we have been informed that no response will be made.

This goes completely against clause 82 of the Environmental Planning and Assessment Regulation 2000:

- 1) The Planning Secretary is to provide to an applicant for State significant development the submissions, or a summary of the submissions, received in relation to the application during the submission period.*
- 2) The Planning Secretary may, by notice in writing, require the applicant to provide a written response to any issues raised in those submissions as the Planning Secretary considers necessary.*

The Planning Secretary, as shown above, has clearly requested that a number of key heritage concerns are indeed necessary and must be addressed in full.

Submissions made, and ignored

The National Trust have reviewed all of the public submissions, and note that 82 Public Submissions were made. Of these:

- Only one “supported” the amended proposal, but this related to the general use of the site as a school
- One made a comment
- 80 objected.

Six organisations also objected, including the National Trust, the Millers Point Community Resident Action Group, three adjacent residential building owners corporations, and, most damningly, even the Fort Street Public School P&C.



The National Trust note that overwhelmingly the submissions objected to:

- increased height and bulk of Building J, making it taller than the Bureau of Meteorology Building;
- impact on views;
- impact on the historic setting;
- totally ignoring the Conservation Management Plan for the site; and
- a lack of community consultation.

The National Trust note that Heritage NSW (as delegates of the Heritage Council of NSW) have also criticised the proposal in their submission:

“the modification to Building J increases the form, bulk, height and scale of Building J. This will have additional visual impact on the views and vistas to/from the FSPS site and Observatory Hill... The proposed modification to Building J therefore does not comply with the CMP. The proposal will make Building J the dominant building at the FSPS site and Observatory Hill which is a sub-optimal heritage outcome.”

Conclusion

The National Trust has, since it was first established in 1946, and long before it occupied its current site, advocated for the protection of Observatory Hill. It is one of the most historically important places in Sydney, and we are proud to occupy the 1815 Military Hospital – one of the oldest public buildings in Australia.

The previous design for the Fort Street Public School met the future educational needs of the school and considered heritage advice. This modification will be an even worse planning disaster for Observatory Hill than the Cahill Expressway cutting (surely the one thing \$50-\$100m could have addressed on this site).

It ignores all heritage advice. It ignores all community concern. It ignores all planning process.

With no increase in student population it is unclear why this modification in height and bulk is required, and why submissions are being totally ignored.

Please, consider the historical importance of this site. Please refuse this modification and once again follow the advice of the CMP, prepared by School Infrastructure NSW specifically for this project, that the Bureau of Meteorology building must be the tallest structure on Observatory Hill.

Yours sincerely,

David Burdon
Director, Conservation

CC: Pauline McKenzie, Executive Director, Heritage NSW
 Frank Howarth AM PSM, Chair, Heritage Council of NSW
 Clover Moore, Lord Mayor, City of Sydney
 Georgina Harrison, Secretary, NSW Department of Education
 Anthony Manning, Chief Executive, School Infrastructure NSW
 Abbie Galvin, NSW Government Architect
 Alex Greenwich MP, Member for Sydney



Appendix: National Trust concerns raised in our submission opposing modification (SSD-10340-Mod-1)



The town of Sydney in New South Wales, drawn by Major Taylor, 48 Regt. 1823. The main building in this image is the 1815 Military Hospital – now the National Trust Centre at Observatory Hill – and one of the earliest buildings in Australia. (Source: National Library of Australia)

The National Trust have long been resident at Observatory Hill and fully understand the importance of this place and the heritage protection it requires – indeed the Military Hospital Building at Observatory Hill was one of the earliest places nominated for heritage protection on the Trust’s very first list of historic buildings prepared in 1946. This modification proposal is not in sympathy with this important place and its established heritage protection measures.

The Proposal

The National Trust has long supported the ongoing provision of an educational facility on the subject site, and indeed notes the historical importance of this use. The previously approved design for the school on this site (*SSDA Notice of Decision (7/10/2020) - SSD-10340 Fort Street Public School*), while not an optimal heritage outcome, was nonetheless designed to meet the heritage requirements of the site. We note the feedback provided by the City of Sydney to that proposal:

“the proposal should be sympathetic to the heritage items on site, including the Fort Street Public School Building, the Meteorology Building and the Messenger’s Cottage, the surrounding heritage items, including the Sydney Observatory and the National Trust Centre, and State and locally significant conservation areas.”

The “modification” that has been submitted, only a few months after the original design was approved and immediately before construction on that design was due to commence, includes (but is not limited to):

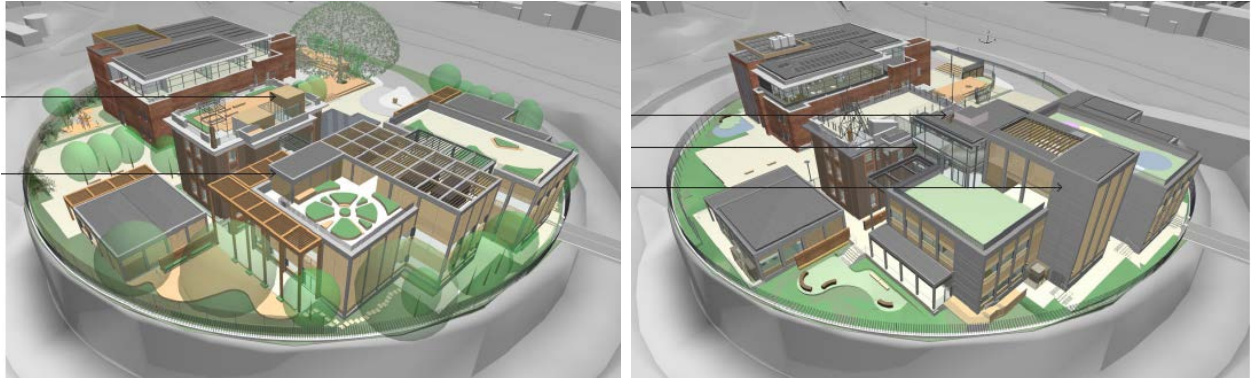
- a major redesign of the main new building on the site;
- increasing Building J by an additional level;
- removing an entire lower ground floor level;
- modifying all building services including lifts and mechanical plant;
- dramatically changing the external envelope in both design and material;
- completely altering the internal floor plan.

This must be considered a new application.

There is a perception that this modification was the planning strategy all along, and if so it is a worrying precedent and a totally irresponsible approach from a state government agency who should set the standard for heritage protection.



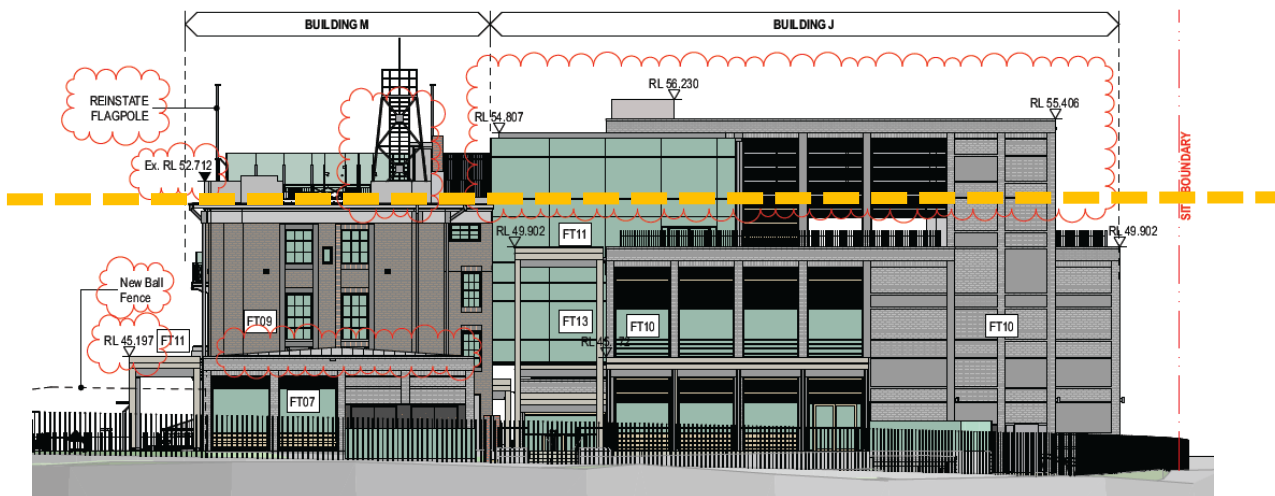
The new design means that a large, four-storey fire escape stair will now loom over one of Sydney's oldest public buildings (the National Trust Centre, housed within the remaining sections of the 1815 Military Hospital and 1840 National School) and be the immediate view from the main entry and exit door to the S.H. Ervin Gallery, housed within the 1856 Fort Street School building.



The approved design (left) and the "modified" design (right). Given the sensitive location, and the relatively small scale of the works under discussion and their impact on adjacent heritage buildings, this must not be considered a modification as per the definition under Section 4.55(2), which states that works must be "substantially the same" for which consent was originally granted. (Source: FJMT Architectural Design Statement, pp.29-30)



The original design (above) with classrooms fronting the National Trust Centre, compared to the new design (below) showing the dramatically increased building form and height. (Source: Heritage Impact Statement)



The proposed west elevation, showing the height datum of the rooftop of the MET Building and the new floor that is proposed above this line. This drawing was not included in the Heritage Impact Statement by Curio Projects that accompanied this modification. (Source: FJMT drawing, with National Trust overlay)

Heritage Impact

The modification proposal goes against all previous heritage advice for this sensitive site, and the heritage consultants (Curio Projects) engaged by School Infrastructure NSW have fully endorsed this modification in spite of it clearly not meeting their own previously submitted conservation guidance that was specifically prepared for the original application.

In the most recent documentation submitted for the modification for Fort Street Public School there is a *CMP Compliance Statement* (12 February 2021) from Curio Projects which states:

*“The proposed s4.55 modifications to SSD 10340 have been assessed against the policies established in the Conservation Management Plan (CMP) for the site (Curio Projects & TKD Architects 2020, Fort Street Public School—Conservation Management Plan. Report to Schools Infrastructure NSW, dated March 2020) and have been **found to be compliant with all CMP policies.**”*

This is not the case – it is not compliant with numerous policies.

The Compliance Statement goes on to state that section 5.4 of the Heritage Impact Statement (also by Curio Projects) assesses the modification against the relevant CMP policies – which it does not. The consultant has simply chosen to argue that the applicable and relevant heritage policies (which they have written) do not apply to this modification, or has completely ignored them.

It is simply staggering in this analysis that the heritage consultants for this project have claimed (p.72 of the Heritage Impact Statement) that the entire section of CMP policies dealing with the design and construction of new buildings is not applicable to this modification despite the fact that an additional storey is being added to a new building (Building J) as part of this modification which will make it taller than the Bureau of Meteorology (MET) Building.



The Conservation Management Plan for this site by Curio Projects (March 2020 – and not included in the documentation for this modification) has the following policies, which are not outlined in the HIS assessment of the modification. (Please note bold text by National Trust):

CMP Policy (Curio Projects, March 2020)	S4.55 Modification Assessment (Curio Projects, February 2021)	National Trust Assessment of modification against CMP Policy
<p>Policy 4.1</p> <p>Ensure that all conservation works undertaken at Fort Street Public School, the Messenger's Cottage, Bureau of Meteorology and adjacent parts of the site are overseen or undertaken in consultation with qualified and experienced conservation professionals acting within the principles, policies and guidelines established in the CMP.</p>	Compliant	<p>Does not comply.</p> <p>The addition of another storey, making the building taller than the MET building, clearly means the project does not comply with the broader principles, policies and guidelines of the CMP.</p>
<p>Policy 6.1</p> <p><i>Any significant works proposed for within the site curtilage should be accompanied by a Heritage Impact Statement, specific to the proposed activities, to be assessed in accordance with the policies presented within this CMP and all relevant NSW Heritage Council guidelines.</i></p>	Compliant	<p>Does not comply.</p> <p>The proposed modification has not been assessed in accordance with CMP policies (see below).</p>
<p>Policy 21.4</p> <p><i>Any future development should retain the general bulk and massing character of precinct (i.e. complement single storey Messengers Cottage as well as three stories of MET)</i></p>	Not applicable to this Modification.	<p>Does not comply.</p> <p>This clause is applicable.</p> <p>The project exceeds the three stories of the MET Building – this is a critical change in bulk and scale.</p>
<p>Policy 22.11</p> <p>Once the condition of the (MET) building has been properly assessed and made safe, the heritage significance of existing spaces and fabric should be properly assessed before planning modifications to the building.</p>	Compliant	<p>Does not comply.</p> <p>The National Trust understand the MET Building is still in a state of disrepair and has not been made safe and properly assessed, yet a full design for it has been prepared.</p>



CMP Policy (Curio Projects, March 2020)	S4.55 Modification Assessment (Curio Projects, February 2021)	National Trust Assessment of modification against CMP Policy
<p>Policy 25.1</p> <p><i>The design of any future new buildings will be consistent with the principles and guidelines established in this CMP.</i></p>	<p><i>Not applicable to this Modification.</i></p>	<p>Does not comply.</p> <p>This clause is applicable.</p> <p>The proposed modification is not consistent with the principles and guidelines established by the CMP (see below).</p>
<p>Policy 25.3</p> <p><i>The height of new buildings is to be considered in relation to existing buildings on the site and views to them from the north and east. Maximum heights of new buildings should not exceed those of the existing heritage items to which they are locationally and visually related.</i></p>	<p><i>Not applicable to this Modification</i></p>	<p>Does not comply.</p> <p>This clause is applicable.</p> <p>The proposed Building J exceeds the height of the existing adjacent MET Building.</p>
<p>Policy 25.5:</p> <p><i>The Bureau of Meteorology should remain as a dominant building on site (both in height, and architectural form)</i></p>	<p><i>Not applicable to this Modification</i></p>	<p>Does not comply.</p> <p>This clause is applicable.</p> <p>The project exceeds the three stories of the MET Building, and is far more dominant in terms of architectural form and massing.</p>

The modification will not only reduce the dominance of the Bureau of Meteorology building on this site, but will also have a dramatic and overbearing impact on the historic buildings which are located in a lower position to the south of the site. A large four storey fire escape stair will now be the dominant feature upon approaching and exiting the National Trust Centre and S.H. Ervin Gallery.

There are obvious historical reasons why the Bureau of Meteorology Building rooftop is the tallest on Observatory Hill, as a place for observing the weather. The National Trust firmly agree with the (ignored) CMP Policy that this building should remain as a dominant building on site, both in height and architectural form, in this important location. The modification, which proposes a four storey building, is clearly not compliant with the CMP Policies developed in March 2020 by Curio Projects, despite claims in the attached document and revised HIS that this is the case.

To claim that the applicable clauses which specifically state that new buildings on the site should not exceed the height of the Bureau of Meteorology Building simply “do not apply” to this modification makes a mockery of the entire Conservation Management Plan, and the planning process generally.