

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

To make modifications to the existing commercial building (verandah) located within the historic heritage overlay extent of place under the Auckland Unitary Plan - Operative in Part (AUP). The proposal is to replace the existing verandah on the eastern elevation of the building (street front) and to add a verandah along its northern elevation. The proposed modifications include the introduction of posts to add structural support to the existing tie-back supported canopy along the front façade, and posts only on the northern elevation.

This resource consent is **REFUSED**. The reasons are set out below.

Application number(s):	LUC60305958
Site address:	7 Papakura-Clevedon Road, Clevedon
Applicant:	Mark Balemi
Hearing commenced:	Friday 9 March 2018
Hearing panel:	Greg Hill (Chairperson) Heike Lutz
Appearances:	<p><u>For the Applicant:</u> Mark Balemi (Applicant) Maurice Hinton (Agent) Dennis Cooper (Architect/Heritage Advisor) Ali Gholamhoseini (Chartered Engineer) Bob Tilsley (Tilsley Engineering)</p> <p><u>For Council:</u> Robert Chieng, Team Leader Rayya Ali, Reporting Planner Bryan Pooley, Heritage Specialist</p>
Commissioners' site visit	Mr Hill - 2 March 2018 and Ms Lutz - 7 March 2018
Hearing Closed:	9 March 2018

Introduction

1. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners Greg Hill and Heike Lutz, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (“**the RMA**”).
2. This decision contains the findings from our deliberations on the application for resource consent.
3. The application was dealt with on a non-notified basis. The application was considered by Mr Barry Kaye - an Auckland Council "Duty Commissioner". Mr Kaye approved the application to be processed on a non-notified basis. This was due to Rule D17.5 of the AUP precluding public and limited notification of the application, unless special circumstances under section 95A(4) of the RMA applied. Mr Kaye did not find there were special circumstances warranting notification.
4. Notwithstanding the decision to process the application on a non-notified basis, Mr Kaye determined that due to the likely effects of the proposal, the application should proceed to a hearing and be determined by Independent Hearing Commissioners. His reasons were:
 - *The adverse effects of the proposed verandah along the northern elevation of the building on historic heritage, streetscape and character are likely to be more than minor based on the Council's heritage assessment wherein it is noted that the addition of the north verandah with a bull-nose edge and support posts will alter the design aesthetic and compromise good practice conservation principles and methods.*
 - *The Council's heritage expert also considers that the proposed works will alter the design aesthetic and the historical connection with the adjacent village reserve and scheduled cemetery.*
 - *Additionally it is concluded that a new post canopy along the northern elevation will have a significant effect on the building's appearance and is considered to be an inappropriate building element for a commercial structure.*
 - *Based on the above reasons the Council's heritage expert concludes that this part of the proposal is contrary to objective D17.2 and policy D17.3 of the Auckland Unitary Plan (Operative in Part).*
 - *The other parts of the proposal relating to the alterations to the front verandah, including construction of supporting posts, are supported by the Council's heritage expert.*
 - *As the proposal overall seeks to enable the retention of the building through enhancing its economic sustainability and viability the matter of whether or not a partial consent will achieve the applicant's objectives needs to be fully traversed and a hearing process provides the most equitable opportunity for that to occur in a transparent manner.*

Summary of proposal and activity status

5. The applicant has proposed modifications to the existing commercial building which is located within the historic heritage overlay extent of place under the AUP. The proposed modification comprises replacing the existing (partially damaged) verandah on the front of the commercial building (facing the road) and an additional new verandah along the northern elevation. The proposed modifications include a bull-nose edge (as opposed to the current square edge) design and posts to add structural support to the existing tie-back supported canopy. The proposed works include the following:
 - Remove and replace existing canopy
 - Replace the metal roof with colour steel
 - Introduce timber supporting posts
 - Paint the timber structure a shade of cream
 - Construct a new canopy/verandah; similar to the proposed replacement, along the northern side approximately 15 metres long, towards the rear of the building.
6. There was a lack of clarity about what had been applied for in terms of the design of the verandah. The material we had in the agenda, including the applicant's specialist report from Archifact -Architecture and Conservation Limited, and the plans from Ian M Scott - Architectural designer, both showed andevaluated a square edged verandah.
7. Mr Balemi and Mr Hinton clarified at the hearing that the applicant was seeking resource consent for a bull-nose design, and that he already has the material to build this design. At the hearing Mr Balemi provided a plan and perspective drawing of this verandah design. We were also provided a copy of the building consent plans from the council reporting officer that showed the bull-nose design¹.
8. We asked several times during the hearing if the bull-nose design was now what was applied for, and not the square edge. Mr Balemi and Mr Hinton maintained it was the bull-nose design that was sought and Mr Hinton reiterated this in his Reply.
9. We accepted that the applicant sought consent for the bull-nose designed verandah. However, we pointed out to the applicant that the Archifact - Architecture and Conservation Limited'sHeritage Impact Assessment was based on the square edge design, and that accordingly we could place little weight on that assessment².
10. Dr Pooley and Ms Ali had assessed the application on the information provided with the application for resource consent - and this was the square edged design. Ms Ali said she was aware that the building consent was for a bull-nose design, but this was not what was sought in the resource consent. In recommending that a partial consent be

¹ We were advised that the building consent had been issued but was subject to obtaining resource consent.

²Archifact- Architecture and Conservation Limited were not at the hearing to present evidence

granted, she recommended a condition that "*No bull-nose edge shall be incorporated into the roof design*"³.

11. We asked Dr Pooley if he was able to offer an opinion on the bull-nose design having viewed the elevation and plans provided by the applicant. He stated that a bull-nose verandah would have greater adverse effects on the integrity and heritage values of the building, as it would introduce a Victorian style element to the simple art deco façade, and the square edge design was in keeping with the art deco style of building.

12. The proposal requires resource consent for the following reasons:

The Hawthorn & Munro Butchery at 7 Papakura - Clevedon Road is scheduled as a Category B Place (02258) in Schedule 14.1 Schedule of Historic Heritage in the AUP. The site holds historical, social, technology, aesthetic and context heritage values.

D17 – Historic Heritage Overlay

- Modifications of a buildings within the scheduled extent of place of Category B places under rule D17.4.1(A9) is a restricted discretionary activity. This also includes demolition of less than 30% of a category B historic heritage place.
- New Buildings and structures within the scheduled extent of place of Category B places under rule D17.4.1(A10) is a restricted discretionary activity.

13. Overall the proposal has been considered as a **Restricted Discretionary** activity.

Relevant statutory provisions considered

14. This land use application had been received before 18 October 2017 and therefore the provisions of the Resource Management Amendment Act 2017 are not applicable to this application.

15. The application is for restricted discretionary activity resource consent for the reasons set out above in paragraph 12.

16. Under section 104C of the RMA only those matters over which the AUP has restricted its discretion have been considered. Those matters relevant to this application are:

- D17.8.1(1)(a),(b),(c),(e) and (f). .

Relevant standards, policy statements and plan provisions considered

17. In accordance with section 104(1)(b)(i)-(vi) of the RMA, and as limited by 104C (2), we have had regard to the relevant policy statements and plan provisions of the following documents.

³ Section 2Conditions in respect of the front façade.

- Auckland Unitary Plan - Operative in Part

Local Board comments

18. The Franklin local board provided the following comments on this application - "*This would enhance the main street and good to see the design reflecting the era and character of the architecture. In future it may enhance and activate the neighbouring reserve*". We have considered these comments in our deliberations of this application.

Summary of evidence heard

19. The Council planning officer's Section 42A report, and Dr Pooley's specialist memo was circulated prior to the hearing. Ms Ali, the reporting officer, and relying on Dr Pooley's professional opinion, recommended that consent be granted for the new square edged verandah on the eastern (road) facade with supporting posts, but refusal of the verandah on the northern side of the building.
20. The evidence presented by the applicant at the hearing is summarised below.
21. Messrs Hilton and Balemi set out the background to the application and the desire to rebuild the partly damaged verandah. They both addressed the bull-nosed design vs the square edged design (addressed earlier in this decision). They both considered that the bull-nose design was an appropriate design response to the building, especially on the northern side as, as Mr Balemi described, it was an older weatherboard building with a masonry facade to the front.
22. They both also addressed that the Local Board had supported the proposal, stating that it was "*what the community wanted*" in terms of the northern verandah which was adjacent to the Council's open space/park. They considered that the verandah on the northern side would better integrate the site and park with each other and would provide summer and winter shelter.
23. Mr Balemi set out that while he sought the posts to hold up the verandah, he proposed to retain the steel ties for aesthetic reasons. He and Mr Hinton also set out that the front verandah (over the footpath) was to be shortened by 780mm from that existing. This was to comply with a requirement from Auckland Transport; that vehicles (trucks and double-decker buses were mentioned) would not hit the verandah when parking. There was no evidence or correspondence from Auckland Transport in this respect. We note, the narrowing of the verandah would result in the need to shorten the steel ties, which were to be retained by the applicant as part of the application.
24. Mr Cooper considered that the applicant's design response was an appropriate one. He produced a photo of a "rolled edge" designed verandah on an old building in Mt Eden; citing this as an accepted design response in that case - and opined that it was appropriate on the building at 7 Papakura-Clevedon Road. He set out that a lot of buildings have "hybrid" design elements, and this was no different in Clevedon, which had a mixture of styles. He considered the proposed verandah would enhance the building rather than detract from it.

25. Dr Gholamhoseini and Mr Tilsley discussed the engineering reasons why the posts were an appropriate addition to the verandah. These included for better structural resilience in terms of wind uplift and earthquakes. Dr Gholamhoseini considered that the structural integrity of the existing verandah could be improved without the posts, if the steel ties were made stronger (increased size of steel).

Principal issues in contention

26. The principal issue in contention was whether the design and scale of the verandah, and the use of posts to support it (northern and eastern elevations) was in keeping with and consistent with the values for which the building had been scheduled in the AUP.

Main findings on the principal issues in contention and reasons

27. Our main findings and reasons are set out below.

28. The relevant matters to which the AUP has reserved discretion over were set out in the officer's section 42A report and Dr Pooley's specialist memo⁴. They are the only matters we are able to consider, and we address them below:

(a) effects on the known heritage values of a historic heritage place from the scale, location, design, (including materials), duration and extent of the proposal, the construction methodology and associated site works;

(b) effects on the inter-relationship between buildings, structures and features within the place;

(c) effects of the proposal on the overall significance of the place

(e) the purpose and necessity for the works and any alternatives considered

(f) effects of the proposal on the long-term viability and/or the ongoing functional use of the place.

29. The Hawthorn & Munro butchery building is a scheduled as a Category B place(02259) in the AUP, with the scheduling reasons are given as historical, social, technology, aesthetic and context. The interior is also protected, but this is not affected by this application, and the extent of place contains the title area and extends to the kerb edge. As set out in the Archifact report and Dr Pooley's report, the building is a simple art deco style building.

30. The existing verandah (with an older small-scale extension at the northern end) with its steel ties and lack of ground supporting poles is the part of the (original) historic, aesthetic and context value of the scheduled building. It is within this context that this application needs to be assessed and determined.

31. With respect to the bull-nose designed verandah, the evidence of Dr Pooley is that it would not be in keeping with, and would seriously detract from, the values of the heritage

⁴section D17.8.1 of the AUP.

building for which it has been scheduled. Mr Cooper's opinion was that the bull-nose design as a "hybrid" was appropriate in this case as Clevedon has no particular coherent design and that the bull-nose design is utilised on many buildings, including 13 Papakura-Clevedon Road.

32. The proposed bull-nosed verandah is clearly not of an 'art deco' style, but rather more reminiscent of a Victorian era structure. We agree with Dr Pooley's opinion that the bull-nose design would have a significant adverse effect on the "*known heritage values of a historic heritage place from the design of the proposal*". It would also have an adverse effect on the "*overall significance of the place*".
33. The 15 metre long extension of the canopy/verandah along the northern elevationsideof the building (and exacerbated by the bull-nose design) will, in our view, substantially alter the simple appearance of the original design by adding building elements that would not have been included at the period of construction and changes the visual alignment of the building with the street into a corner feature. It also introduces a "hip" roof to return the canopy/verandah along the north elevation that changes the simple presentation of the street front canopy.
34. It is our finding that the addition of the north verandah, including support posts, will further alter the historical and design aesthetic of the buildings exterior's, and the form of the building will become an inaccurate historic representation using building elements of other eras. In this respect we agree with Dr Pooley that "*the proposed north verandah could be considered an intrusive modification*".⁵
35. We find that this verandah extension (including with the bull-nosed edge) would also have a significant adverse effect on the "*known heritage values of a historic heritage place from the design of the proposal*" and on the "*overall significance of the place*". On this basis the proposal will have a significant adverse effect on the historical and aesthetic value of the scheduled building by altering its key design elements of the "*simple*" Art deco building.
36. With respect to "*the purpose and necessity for the works and any alternatives considered*" the applicant stated that there is need to reinstate or repair the front canopy. This, including the supports posts, was supported by the Tilsley's engineering report⁶ and presentation at the hearing regarding the necessity for a method to "...*support the uplift forces...*" While we understand the engineering perspective is that without the posts the verandah will pose a public safety hazard, Dr Gholamhoseini in answering questions considered that the structural integrity of the existing verandah could be improved if the steel ties were made stronger and stiffer (increased size of steel).
37. From a heritage perspective (and in terms of the AUP) it would be preferable to maintain historical accuracy of the building, site and place. As we have refused consent, due to the overall design of the verandah (as set out above) we do not need to make a finding if

⁵ para 6.8 of Dr Pooley's specialist memo.

⁶Tilsley Engineering Ltd, 5 October, 2017

the posts would be acceptable. However, we understand why the applicant has sought to install the posts, but he did not present any alternatives (one of the matters of discretion) such as replacing or upgrading the existing verandah in its current design. While we suspect this would have been a more expensive option, we have no details, costings or information on the practicality of doing so. On this basis we do not know if there are other 'better' options in terms of protecting the values of the building as set out in the AUP's objectives and policies (addressed below).

38. We also note that the reinstatement of the front verandah is to be 780mm shorter than the existing one. We were advised by the applicant this was to meet an Auckland Transport requirement. This would mean steel canopy ties would have to be shortened when re-fixed to the new narrowed veranda. Changing the form of the front veranda by shortening the ties and narrowing the roof, along with the bull-nose design and the introduction of posts, would in our view result in an accumulation of effects. These, from a heritage perspective, cannot be supported as it would result in a newly designed verandah that has little or no resemblance with the original.
39. The fact that the new street fronting verandah should be narrowed considerably was not obvious in the application and its impact on heritage values has therefore not been assessed by Dr Pooley, nor has it been mentioned in the Archifact Heritage Impact Assessment. On the contrary, the Archifact assessment states that "*The replacement veranda structure follows the form of the original front veranda...*"⁷ In that respect we could again not rely on the assessment.
40. The introduction of a variety of elements (i.e. bull-nose edge, reduction of width, posts and north extension) that are not original or in keeping with the building, in so far that they do compromise the ability to read and interpret the original key design features, is according to Dr Pooley and in reference to the ICOMOS NZ Charter⁸ not following '*good practice conservation principles and methods*'. We agree with that view.
41. In terms of "*the purpose and necessity for the works*" no substantive functional reason was given for the north verandah, other than the applicant considering it necessary to ensure continual use and the long-term viability of the building - i.e. "*effects of the proposal on the long-term viability and/or the ongoing functional use of the place*".
42. At the hearing the applicant advised that the purpose of the northern verandah was to provide shelter and casual seating and to better integrate with the adjoining public open space. However, it was also stated that this part of the site would be retained for vehicular access to the rear of the site (under the verandah), and that the elevations showed a fence between the site and the open space.
43. We accept that the long-term viability and/or the ongoing functional use of the building/place is important. Notwithstanding this, it was not clear to us what the actual purpose of this verandah extension was and it had not been demonstrated what was

⁷ Archifact-Architecture and Conservation Limited, Heritage Impact Assessment, 7.1 p10

⁸ International Council on Monuments and Sites New Zealand Charter 2010, Paragraph 6 and 17

"*the purpose and necessity for the works*" vis-à-vis the effect this would have on the values for which the building was scheduled -notably its historical, aesthetic and contextual values.

44. In relation to the matters of discretion, the AUP objectives and policies are relevant to this proposal. These were fully set out in the officer's section 42A report and Dr Pooley's specialist memo, along with their analysis of them. To a large extent we agree with that analysis.
45. In summary those objectives and policies seek to "protect" scheduled historic heritage places from "inappropriate modification" that will not result in adverse effects on the significance of the place, are in accordance with good practice conservation principles and methods and will not result in cumulative adverse effects on the historic heritage values of the place.
46. In respect to our findings above, the proposed verandah, especially its design (bull-nose and shortening the verandah) on the eastern elevation and the northern extension (including the hip roof necessitated by this extension) is "inappropriate" and would not "protect" the heritage values of the building and place. It would result in adverse effects on the significance of the place, and would not be in accordance with good practice conservation principles and methods, and would result in cumulative adverse effects on the historic heritage values.

Decision

47. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104 and 104 C and Part 2 of the RMA, we determine that resource consent for modifications to the existing commercial building (verandah) located within the historic heritage overlay extent of place under the Auckland Unitary Plan - Operative in Part (AUP) is **refused** for the reasons set out above.



Signature here

Greg Hill (Chairperson)

21 March 2018