

22 February 2019

Your ref:
Our ref: TJFS/AJWS/3322830

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Dear Mark

**The Uniting Church in Australia Property Trust (NSW) v Woollahra Municipal Council
Land and Environment Court Proceedings No. 193797 of 2018**

We refer to the above proceedings.

We refer to Council's amended statement of facts and contentions filed 18 February 2019 (the amended SFC).

A number of the contentions in the amended SFC are based on the assumption that the impact of the proposed development on the alleged heritage significance of the existing buildings on the subject site is a relevant consideration, which the Court as consent authority must take into account in determining the subject application under section 4.15(1) of the *Environmental Planning and Assessment Act 1979 (the Act)*. This is flawed and incorrect in our view.

The subject site is not listed as a heritage item in any environmental planning instrument.

The subject site is not a draft heritage item in any environmental planning instrument.

The subject site is not within a conservation area.

The subject site is not within the vicinity of any heritage item.

The subject site is not within the vicinity of any conservation area.

The subject DA did not and does not require a Heritage Impact Statement.

We further note in this regard that the planning proposal referred to in the amended SFC is still at the gateway determination stage, meaning it has no legal status as a relevant matter for consideration under section 4.15(1)(a)(ii) of the Act.

It is abundantly clear in the circumstances that there is no legitimate statutory or other basis upon which Council can raise a 'heritage' contention in this case. Accordingly, the Applicant requires Council to confirm that it no longer presses contentions 3(b), 3(f) and all of contention 4 in the amended SFC.

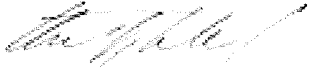
Bearing in mind the existing timetable and hearing dates, the matters raised in this correspondence need to be resolved in an urgent and expeditious manner. Accordingly, if Council does not provide the confirmation which the Applicant requires **by close of business next Wednesday 27 February 2019**, then the Applicant will apply to the Court without delay to have these heritage contentions in the amended SFC struck out.

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We await Council's urgent response.

Yours sincerely



Anthony Whealy
Partner

Accredited Specialist — Local Government and Planning

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