

Bradley James

Subject: FW: 149 Livingstone Avenue Pymble: Department has recommended AGAINST heritage listing

From: Tom Loomes [REDACTED]
Sent: Wednesday, 6 May 2020 3:44 PM
To: IPCN Enquiries Mailbox <ipcn@ipcn.nsw.gov.au>
Cc: Michael Bishop [REDACTED] Brett Whitworth
Subject: FW: 149 Livingstone Avenue Pymble: Department has recommended AGAINST heritage listing

Dear Ms Leeson

The Minister for Planning and Public Spaces received the below in relation to the Gateway Determination Review Request for 149 Livingstone Avenue Pymble matter (A108/20) currently under consideration by the Independent Planning Commission.

The Minister has asked me to forward you the below concerns from a community member of the Ku-ring-gai LGA, Mr Adrian Batterby, for consideration in your review.

Thank you in advance.

Regards

Tom Loomes
Director of Parliamentary Business
Office of the Hon Rob Stokes MP
Minister for Planning and Public Spaces

[REDACTED]

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From: Alister Henskens <Alister.Henskens@parliament.nsw.gov.au>
Sent: Tuesday, 28 April 2020 9:11 AM
To: Tom Loomes [REDACTED]
Subject: Fwd: 149 Livingstone Avenue Pymble: Department has recommended AGAINST heritage listing

One more email below.

It doesn't sound like the DEP report did the community any favours.

Alister Henskens SC MP
Member for Ku-ring-gai

Sent from my iPhone

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Begin forwarded message:

From: Adrian Batterby [REDACTED]
Date: 28 April 2020 at 9:04:23 am AEST
To: Alister Henskens <Alister.Henskens@parliament.nsw.gov.au>
Cc: Deanna Turner [REDACTED]

[REDACTED] **Pymble: Department has recommended AGAINST heritage listing**

Reply-To: [REDACTED]

Hi Alister,

The reports are included. However the DPE assessment is biased and contains fundamental errors.

Firstly, the DPE assessment understates the community concern for the following reasons:

1. It does not refer to the 321 unique, written objections to the Development Application. That number of objections is unprecedented for Ku-ring-gai.
2. It states that a “a large number” of local residents attended the site to support heritage listing of the property. It does not specify the number, namely (conservatively):
 - a. 150 residents on the first occasion (2 June 2018),
 - b. 120 on the second occasion (7 May 2019); and
 - c. over 100 residents on the third occasion (19 August 2019).
3. It refers to Council’s decisions to apply for Gateway approval and, following rejection of the application, to request a review. It does not refer to the numbers of Councillors voting in support of those decisions. The numbers were:
 - a. 5 to 2 on 16 October 2018 to proceed with the Gateway application;
 - b. 9 to 1 on 12 February 2019 to proceed with the Gateway application (having considered the advice of the Ku-ring-gai Planning Panel of 17 December 2018 not to proceed); and
 - c. 9 to nil on 17 September 2019 to proceed with an application for review of the rejection of the Gateway application.

Secondly, the DPE wrongly asserts that the issues raised by the second report obtained by Residents’ Action Group 149, namely the report dated 10 September 2019 of Brian McDonald, Heritage Architect, did not raise new information. That is simply wrong. That is indisputably so in the case of assessment criterion D (importance to the local community). The report expressly referred to items 1 and 2 above and to the 9 to 1 support of the Councillors on 12 February

2019. None of those matters were referred to in the assessments relied upon by the developer in 2018 and the Council staff in 2018.

Thirdly, DPE assessment also refers to the 2018 assessment of the heritage officer of Council which recommended against heritage listing without acknowledging that officer changed her recommendation on 17 September 2019 to a recommendation in favour of heritage listing. The change was in light of the new matters raised in the abovementioned report dated 10 September 2019.

Fourthly, the DPE assessment renders meaningless both criterion D (importance to the local community) and the government's policy of obtaining and taking into account community concerns in development matters.

The DPE has taken 6 months to rubber stamp the decision of another DPE officer of 30 June 2019 to reject Council's request for Gateway approval.

Your continued concern and assistance is greatly appreciated.

Yours sincerely
Adrian Batterby

[REDACTED]

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From: Alister Henskens <Alister.Henskens@parliament.nsw.gov.au>

Sent: Monday, 27 April 2020 11:28 PM

To: [REDACTED]

Cc: Deanna Turner [REDACTED]

Subject: Re: 149 Livingstone Avenue Pymble: Department has recommended AGAINST heritage listing

Does the DPE report include your reports recommending listing?

Alister Henskens SC MP
Member for Ku-ring-gai

Sent from my iPhone

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On 27 Apr 2020, at 6:51 pm, Adrian Batterby [REDACTED] wrote:

Hi Alister,

I have just reviewed the information on the website of the Independent Planning Commission (**IPC**) in relation to 149 Livingstone Avenue, Pymble.

It shows:

1. The IPC received documents from Department of Planning and Environment (**DPE**) on 17 April 2020 including a covering letter dated 16 April 2020.
2. The assessment of the DPE is the new information relied upon by Residents' Action Group 149 and Ku-ring-gai Council does not satisfy the requirements for heritage listing.
3. DPE has requested the IPC to make a recommendation within 28 days of 16 April 2020 (i.e. by 14 May 2020).
4. That assessment is supported by reports dated 4 and 20 March 2020 obtained by the developer.
5. The assessment also relies on an assessment by Andreana Kennedy of Ku-ring-gai Council of 12 October 2018 which led to her recommending against heritage listing. The assessment of the DPE of 16 April 2020 fails to note that on 17 September 2019 Andreana changed her recommendation to a recommendation supporting heritage listing.

The interim heritage order expires on 13 May 2020. That is likely to be before the recommendation of the IPC is received, let alone considered by the Minister.

I propose that an extension of the interim heritage order be extended as a matter of prudence. The extension I propose is it remain in force unless terminated by the Minister after he has received and considered the recommendation of the IPC.

Your assistance once more will be greatly appreciated.

Yours sincerely
Adrian Batterby

[REDACTED]

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