

14 September 2023

Emily Scott (General Manager)
Emma Rogerson
Waverley Council
55 Spring Street
BONDI JUNCTION NSW 2022

By email: [REDACTED]

Dear Emily and Emma

Planning Proposal for Heritage Listing 34 Flood Street, Bondi

1. I am the General Counsel for Karimbla Properties (No 10) Pty Ltd (**KP 10**).
2. KP 10 is the owner of the land at 34 Flood Street, Bondi (**Site**) as trustee for the HOT Foundation. I make this submission on behalf of KP 10 to object to Council's proposed heritage listing of the Site.
3. I attach a copy of heritage assessment reports prepared by two well respected heritage experts, James Phillips of Weir Phillips (dated September 2023) and Dr Maclaren North of Extent Heritage (dated September 2023), in support of our objection to the heritage listing of the Site.
4. KP 10 objects to the listing of the Site as the Site does not satisfy the criterion of listing under the categories of the Burra Charter, for a local or state heritage listing, for the following reasons:
 - (a) The Site is not a significant work of Harry Seidler, architect and it is most likely that Harry Seidler himself would not consider this work to be of heritage significance.
 - (b) The Synagogue building, which was constructed in 1961, has since been materially changed with the majority of the interior being redone and contemporary extensions being constructed on and around the Synagogue building. Furthermore, the Site is not of wide social or Jewish religious value, particularly within the Bondi area. It has relatively low attendance levels and only the HOT Foundation makes financial contributions to its maintenance and operation.

- (c) The report prepared by Hector Abrams (which is relied on by the Council in support of the listing) does not make any real assessment of the Synagogue building as it currently stands today and fails to consider the contemporary changes which have occurred on the Site and to the Synagogue itself.
 - (d) Council did not recognise the Site as worthy of heritage retention in its 2020 local government wide heritage assessment report. Furthermore, the Council officers were supportive of the proposed re-zoning of part of the Site from SP2 to R3 (to make the whole Site R3). Despite the Councillors ultimately refusing to support that planning proposal (without any mention of heritage) the NSW Department of Planning and Environment gave Gateway approval for the planning proposal and the rezoning was gazetted on 28 July 2023.
 - (e) It therefore appears that Council has now formed a view that the Site is of heritage value, this is following an undated submission prepared and submitted to the Department of Planning by Penelope and Polly Seidler. Curiously the Council has also issued an Interim Heritage Order in respect of the Site (dated 8 February 2023), despite numerous assurances being provided by the owner of the Site that it was not intended to be developed in the immediate future.
 - (f) The imposition of a heritage listing on the Site would impose an unnecessary management and financial burden on the owner of the Site, without any real proper heritage justification. Currently the Site is utilised for the purposes of Our Big Kitchen (charity kitchen) and also 'JEMs', an after-school care program, at a considerable cost to the HOT Foundation. The cost of repair and maintenance of the Site has equated to \$millions and this will only continue into the future, at a much greater cost if the Site is listed as heritage. The on-going contributions to maintain the building (and its associated uses) have been made on the notion that the Site was capable of future expansion or redevelopment, and this was resolved by the R3 zoning change. The heritage listing would inevitably cause the HOT Foundation to reconsider its ongoing support.
 - (g) Over the years the Site has been eroded and sold off to fund its survival. Only the HOT Foundation has protected and prolonged its use. Otherwise, it would have been sold off to developers and redeveloped like the other portions of the original parcel of land. The HOT Foundation has made it clear to the Council that it has no intention to redevelop the Site in the immediate future but wants to ensure that the Site is not unreasonably constrained by incorrect or inappropriate planning controls.
5. The heritage reports attached to this letter have been prepared by two well respected heritage consultants, Dr Maclaren North of Extent Heritage and James Phillips of Weir Phillips. Both reports, after considering the Site in great detail, conclude that the Site is not of heritage significance and should not be listed as a local or State heritage item.

6. The Gateway Determination, dated 2 August 2023, provides that it is a condition of the Gateway approval that:

“Consultation with the landowner is required. Council should consider any information provided in its post exhibition assessment and reporting.”

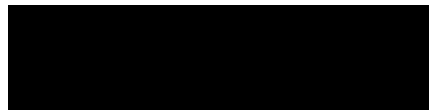
At no stage has Council made any attempt to consult with the landowner, despite a formal request by the managing director of the HOT Foundation to Council to discuss a possible solution for the Site. Council has therefore failed to comply with its obligations of the Gateway Approval.

7. It is abundantly clear that Council is utilising its power under the *Heritage Act 1977* and the *Environmental Planning and Assessment Act 1979* to appease a minority of constituents within its local government area, without proper consideration of the actual heritage significance of the Site. If this Planning Proposal is made it will effectively undo all of the work of the R3 Planning Proposal and only operate to isolate the Site into two separate portions with differing planning controls which was only recently rectified by the change to the R3 zoning for the Site.

Please contact me should you have any queries.

Yours faithfully,

MERITON GROUP



Emma Whitney

General Counsel

Direct line:



Email:



CC: Amanda Harvey, Department of Planning and Environment