

31/01/2024

IRF24/90

Professor Mary O’Kane AC  
Chair  
Independent Planning Commission  
Level 15, 135 King Street  
SYDNEY NSW 2000

Via email: [ipcn@ipca.nsw.gov.au](mailto:ipcn@ipca.nsw.gov.au)

Dear Professor O’Kane

**Request for advice on the finalisation of planning proposal PP-2023-1224 to amend Waverley Local Environmental Plan 2012**

I write to request the Independent Planning Commission’s (the Commission’s) expert advice as part of the finalisation of the planning proposal (PP-2023-1224) which seeks to list the site at 34 Flood Street, Bondi, as a local heritage item under the Waverley Local Environmental Plan 2012 (WLEP 2012). Details of the planning proposal are summarised below:

PPA	Waverley Council (Council)
Planning Proposal Ref No.	PP-2023-1224
LGA	Waverley Local Government Area
LEP to be amended	Waverley Local Environmental Plan 2012 (Waverley LEP 2012)
Address / location	34 Flood Street, Bondi (Lot 1 DP1094020)
Proposal	<p>The planning proposal seeks to amend Schedule 5 <i>Environmental heritage, Part 1 Heritage items</i> and the Heritage Map of the Waverley Local Environmental Plan 2012 to identify 34 Flood Street, Bondi as a local heritage item.</p> <p><i>(Note: The proposal does not seek any further changes to the development standards or LEP provisions which currently apply to the site).</i></p>

On 2 August 2023, a Gateway was issued which determined that the planning proposal (PP-2023-1224) for the subject site should proceed subject to conditions. The Gateway determination did not authorise Council to exercise the functions of local plan making authority.

The planning proposal was exhibited for a total of 30 working days, from 3 August 2023 to 14 September 2023. A total of 48 written submissions were received during this period, including 47 community submissions and a landowner objection.

The Gateway determination included a condition for Council to consult with the landowner. The landowner of 34 Flood Street, Bondi (Karimbla Properties Pty Ltd, a subsidiary of Meriton Property Group) objects to the proposal. A meeting was held between Council and landowner representatives on 26 October 2023. The landowner has also made post-exhibition representations to the Department objecting to the proposal and raising concerns about matters of procedural fairness.

On 7 November 2023, Council's Strategic Planning and Development Committee considered a post exhibition report on the proposal and resolved to forward the planning proposal to the Department with a recommendation to proceed to finalisation and gazettal.

The proposal, supporting documentation and mapping was received by the Department on 16 November 2023 finalisation and additional information was submitted on 5 December 2023.

Separate to the planning proposal process, a State heritage register nomination for the site was considered by the State Heritage Register Committee on 1 August 2023. The Committee resolved to progress the nomination to full assessment. A final determination of State Heritage significance had not been made at the time of writing.

### **Request for advice**

The planning proposal is supported by a heritage significance assessment prepared by Hector Abrahams Architects (2023) which recommended heritage listing the property. The landowner's objection is supported by two independent heritage assessment reports prepared by heritage experts James Phillips of Weir Phillips (dated September 2023) and Dr Maclaren North of Extent Heritage (dated September 2023), which recommend that the property is not heritage listed.

Given the conflicting recommendations of the three specialist heritage studies that have been undertaken for the site I have decided to refer the planning proposal advice from the Commission pursuant to section 2.9 (1)(c) of the *Environmental Planning and Assessment Act 1979* (the Act) prior to finalisation.

In this regard, the Commission is requested to:

- review the final planning proposal and supporting documentation;
- provide opportunity for Council and the landowner to present their views on the proposal;
- consider the submissions received by Council during the public exhibition period;

- provide advice, including a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the planning proposal (PP-2023-1224) to list the subject site as an item of local heritage significance in the Waverley LEP 2012 should be finalised (with or without amendment) and whether any further information is required.

I consider it important that independent advice on the proposal is sought from the Commission in this instance, given the conflicting heritage advice relating to the site.

Please find enclosed and attached the complete planning proposal package submitted to the Department for finalisation and additional documentation which may assist the Commission with its review.

I have notified Council, the landowner and Heritage NSW regarding referral of the matter to the Commission for advice.

The Department will make itself available to brief the Commission. Should you have any questions, please do not hesitate to contact Ms Laura Locke, Director, Eastern and South Districts at the Department of Planning, Housing and Infrastructure on (02)8275 1307 or via email at [laura.locke@planning.nsw.gov.au](mailto:laura.locke@planning.nsw.gov.au).

Yours sincerely



**Monica Gibson**  
**Acting Deputy Secretary, Planning, Land Use Strategy & Housing**  
**NSW Department of Planning, Housing and Infrastructure**