



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

RE: 34-36 FLOOD STREET, BONDI PP - HERITAGE LISTING ADVICE (PP-2023-1224)

COUNCIL MEETING

PANEL: TERRY BAILEY (PANEL CHAIR)

OFFICE OF THE IPC: SAMANTHA MCLEAN
TAHLIA SEXTON

WAVERLEY COUNCIL: TIMOTHY WILLIAMS
ANNE MCGOVERN
HECTOR ABRAHAMS
CR DOMINIC WY KANAK

LOCATION: IPC, SUITE 15.02 - LEVEL 15,
135 KING STREET, SYDNEY NSW 2000

DATE: 10:00AM – 11:00AM
TUESDAY, 20TH FEBRUARY 2024

<THE MEETING COMMENCED

MR BAILEY: Formally commenced, and I'll just commence with good morning and welcome and the opening statement. And before we begin, I'd like to acknowledge
5 the traditional owners of the country that we've laid on today, the Gadigal people of the Eora nation, and pay my respects to Elders past, present. And I also pay respect to those that didn't make Elder status.

Welcome to the meeting today to discuss the request for the advice on the
10 finalisation of planning proposal PP 2023-1224 to list 34 Flood Street, Bondi as a local heritage item under the Waverley Local Environmental Plan 2012, which is currently before the Commission. My name is Terry Bailey and I'm the chair of the Commissions Panel. We're also joined today by Samantha McLean and Tahlia
15 Sexton from the Office of the Independent Planning Commission, and the interests of openness and transparency, and to ensure the full capture of information. Today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website.

The meeting is one part of my consideration on this matter and will inform one of
20 several sources of information upon which the Commission will base its advice. It's important that I get the opportunity to ask questions of attendees to clarify issues whenever it's appropriate. If you're asked a question and not in a position to answer, please feel free to take the question on notice and provide any additional information in writing, which can then be put up on our website.

25 I request as we go that all members here today introduce themselves before speaking for the first time. And for us to be mindful that we don't speak over the top of each other to ensure accuracy of the transcript and that the Commission's request is to review the final planning proposal and supporting documentation, to provide
30 opportunity for Council and landowners to present their views on the proposal.

Consider the submissions received by Council during the public exhibition period and importantly, provide advice including a clear and concise recommendation to the
35 Minister's delegate confirming whether, in its opinion, the planning proposal 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. So now begin, you know, just, firstly, thank you for forwarding through your presentation earlier today. I had the chance to review what I'd like to do just as
40 we commence is, offer the opportunity for you to step through your presentation over about the next ten minutes, 10 to 15 minutes, and then we'll come back to questions and discussions out of the presentation and other aspect itself.

MR WILLIAMS: Thank you. Commissioner. Thank you for the opportunity to
45 present our case for the retention of this building. And sorry, my name Tim-

MR BAILEY: Name and title would be great for the recording. Thank you.

MR WILLIAMS: My name is Timothy Williams. I'm the Manager of Urban Design and Heritage at Waverley Council. And I repeat, thank you, Commissioner, for the opportunity to present our case for the retention of, the synagogue designed by Harry Seidler in Flood Street. I'd also like to acknowledge the traditional owners of the land on which the synagogue is found, which is the land of the Birabiragal and Bidjigal people, and pay respects to their elders, past, present and emerging, and acknowledge their continuing, connection to that place.

We can just go to the next slide. So, these are pictures of the synagogue, two of the pictures taken by Harry Seidler himself and one taken by, Max Dupain, and he had all his favourite buildings photographed by Max Dupain, including this one. Just a brief building history. Next slide please. It's a historical place in terms of the recovery of Jewish study, which was mostly lost after World War Two. The construction was largely funded by refugees. And there was a certain Abraham Rabinovich who was the president of the medical Council. So it was the first medical school with an integrated synagogue. It's held in high esteem by the Jewish community in Waverley.

Harry Seidler won an architectural competition in 1958 to design the building. He himself was a Jewish immigrant from Vienna. It's an early civic building by this architect who went on to define civic architecture in Australia. The building was opened by doctor H.V. Evatt, who was the High Court judge, Attorney General, Minister for External Affairs, and on the Security Council of the UN, and presided in 1948 and 49 over the partition of Palestine, which created the State of Israel. Evatt also happens to be the uncle of Penelope Seidler. Next slide please. Council undertakes periodic assessments of its heritage. A whole of LGA review was done in 2020, which aims to preserve Waverley's prized local character and cultural history. More than ten years since the last study, so it was quite an extensive study to include new items on schedule five of the Waverley LEP.

The process follows the New South Wales Heritage Council's seven assessment criteria for determining cultural significance. Hundreds of sites were considered and identified by precinct committees, Council offices and a Council survey. The number was reduced down to 59 items and some extensions and new heritage conservation areas. A draft heritage assessment will soon become a Waverley Heritage Policy when gazetted. Next slide please. Synagogue- There were two previous attempts to list the building. The first followed a request from the Gutnick family, who later asked, Council not to list it when the site was sold in 2003, due to financial difficulties of the family, another attempt was made when the front blast wall was under construction, but these works prevented proper inspection, and so that listing didn't proceed.

While the site's zoning was SP2 or special purpose infrastructure, the synagogue was relatively safe from demolition. Meriton lodged a planning proposal to change the zoning to R3, therefore placing the synagogue at risk of demolition.

It was at that time that the Seidlers approached Council to see what could be done to protect the building. Council officers had not been supportive of the rezoning, which was assessed on a strategic merit, not heritage grounds. Council refused that zoning request, the spot rezoning request, as did the Waverley Local Planning panel. So an IHO or an Interim Heritage Order was sought to allow time for an independent assessment of the building's heritage significance to be undertaken. Methodology follows the highest standards of as determined by the Heritage Council for the heritage assessment.

10 And I think we can proceed fast through that; with that slide so that we don't lose any time. And the interim heritage order, we've already discussed. Next slide. So just a quick timeline to look at the process to date in 2022, Meriton lodged the planning proposal seeking to change the land zoning. Council refused the spot zoning. And then as did the local planning panel and the Department of Planning provided gateway approval for the rezoning. In February 2023, Council resolved to lodge an independent heritage order to allow the assessment of the heritage significance.

Hector Abrahams Architects was appointed and found the synagogue has heritage significance of local listing under the LEP, and also meets six out of seven of the Burra charters categories of significance for listing on the State Register. In May of 2023, Waverley Local Planning Panel unanimously endorses the heritage listing of the planning proposal. In June 2023, Council endorsed the planning proposal to list the synagogue sent to the Department of Gateway Determination for the purposes of public exhibition and Council resolved to seek the State Heritage Register listing.

25 In July 2023, the R3 zoning was finalised after the Sydney Eastern Planning Panel supported the change. Waverley LEP was then amended and Council also applied for Heritage Council of State Heritage Register listing of the synagogue. There was an exhibition, a public exhibition period of the planning proposal to list the building on schedule five from August the 3rd to September the 14th 2023, and there were 48 replies, 41 of which were positive in the retention of the building. On the 26th of October, Council officers met with the owners representatives to discuss the listing, of the planning proposal, and the landowner provided feedback during the exhibition and in discussions.

35 We held a tender to select the heritage consultant. There was an essential skill set that had to be an architectural historian with proven knowledge of modernist architecture. And, there was a tender list of eminent architects on that list. Hector Abrahams won the tender. Hector Abrahams' Architects strategic work includes assessment of places of national heritage significance, including the Australian War Memorial in Canberra. Hector Abrahams was a member of the New South Wales Heritage Council's Religion Property Advisory Panel from 1996 to 2014, and a chair of that committee. He was also on the Australian Institute of Architects team that composed listing nominations for Seidler Towers so, I'll now hand over to Hector Abrahams to talk about the statement of significance.

MR ABRAHAMAS: I am Hector Abrahams, Commissioner, I'm a registered architect in New South Wales. And have since 1986, the field of cultural significance. My task was to assess the place against the criteria of the New South Wales Heritage Office as they stood at the time. I've read and would like to make occasional remarks about the peer reviews that have been submitted late last week, if that's okay.

MR BAILEY: I'd like to move through the presentation to get through my questions before we move on to commentary about.

MR ABRAHAMAS: Well I'll leave over my commentary. Suffice to say, I just wanted to say to the Commission that my approach to heritage assessment is to not be inventive, but to rely on, existing sources. And I believe the. Task of heritage assessment is to locate the context, if any, that renders meaning to the place. So my work is concise. And I'd like to pull out a few, particularities from it. If you might go to the page. Did I not give you the page that had the highlight?

MS McGOVERN: You did go to that-.

MR ABRAHAMAS: Is it on that?

MS McGOVERN: Yeah. It's too big for us to put on to the-

MR ABRAHAMAS: I would like to go to the first stop point. After the Holocaust, the Jews that came here, built in a wave seven synagogues in the late 50s. This is one of them. And this synagogue held a Talmudical school. Which is the first purpose built school for Jewish scholarship in New South Wales. That wave and that school is a significant event in the religious history of New South Wales. When I was on the chair of the Heritage Council's Religious Property Advisory Panel, we always attempted to list buildings that represent change in religious history, and this is one.

Criterion B asks for- it is about the assessment of Association with the life or works of people or groups of people. And so the criteria can but throw light on the fact that it is a very important place in the history of engineering and architecture and the development of urban, civic, special design in the South Wales. So we focus our attention on Seidler. Alan Milston as well as the characters who Commissioned this event. Criteria B requires that. Criteria C -

MR BAILEY: I don't mean to be problematic. But we do have limited time. We have -

MR ABRAHAMAS: I need about three minutes -

MR BAILEY: So just to make sure we can get to the question.

MR ABRAHAMAS: Is that okay? About three minutes. Criteria C the technological significance, both my assessment and the assessment of the peer reviews is that there are no peers for this structure technologically New South Wales.

But I would particularly like to draw the Commission's attention to, the assessment about it as a work of architecture in Seidler's, architecture and in particular the application of Bauhaus principles. I was very careful not to rely on any documents produced by Seiler or his office, and a number of published histories about Seidler are really promoted by Seidler. Even the Frampton history, which is the most recent of them. So I've relied on encyclopaedia entries, and we're very fortunate in that enough years have passed since Seidler that the encyclopaedia world has caught up and been able to talk about him.

So I've relied on Goethe's book on modernism, and Goethe and Lewis edited Encyclopaedia of Australian Architecture, and they talk about Seidler as the bringer of the Bauhaus modernism. And my work enquires into that sort of - and I'd like to say to the Commission, it does truly exist in close time to his work at Australia Square. This is the only civic work by signer before that. If the Commission doubt my scholarship or my reading of other scholars, it's a suggestion that you email Professor Goethe and ask his opinion. I'd be happy to answer questions.

MR BAILEY: It might not just very quickly look for this in your presentation through the submissions before we come back.

MR WILLIAMS: Thank you, Commissioner. We received a 48, submissions, as I said before, 41 in support, seven against these included a letter from Docomomo, which recognised this as the only religious building designed by Harry Seidler and has important social significance to the local Jewish community. And whilst it's undergone, alterations for most of the building is left and can be reversed. The Australian Institute of Architects list the building on the Register of Significant Buildings of the 20th century and numerous other people, including Doctor Paolo Stracchi from the University of Sydney who, talked about the thin shelled concrete barrel vaults being of significance and the use of this structural technology is a great importance in understanding the development of architecture and building technology in Australia.

Seidler's use of it makes him to the world's great modernist architects. There were public submissions and comments. A summary is contained on this slide. The site is significant for its unique architectural style, and or construction was identified by 26 of the respondents. The site is significant for its historic and present day importance for the Jewish community was identified by 23 of the respondents and the Site is significant for its association with Harry Seidler.

By 19 of them, and one on an environmental grounds of the destruction of buildings being not good for the environment of the building. There were lots of strong messages received during the public exhibition period including this is an incredibly valuable heritage building designed by one of the most important Australian architects. His loss would be felt globally. It would be a major loss and hurt to so many people to see their beloved synagogue rezoned and destroyed. It would trigger many emotions of loss and trauma to this migrant community.

Had already suffered so much in Europe and watched their beloved synagogues destroyed and finally rebuilt. In the 50s in Bondi, another one is it's an iconic building with an important history in the building of a Jewish community in Australia. I do not believe there is an architecturally similar synagogue in the world.
5 We have a list of all the objections and responses. I don't know if the Commissioner would like us to go through it. Yep.

MR BAILEY: Those. That's read -

10 MR WILLIAMS: Thank you. And would the Commissioner like us to go through some of the responses to the comments on the Abrahams report?

MR BAILEY: I think we might run through a series of other questions. I might just check, just as we go on a series of questions to see where we come back to. But I
15 take those having received them and reviewed them this morning. So, just if we go to a few questions, in particular one and it does follow just in the section that we've been at around the listing, objections and responses, particularly as it related to the consultation slide.

20 So one of the questions that I wanted to gain an understanding of in timeline is the consultation with the property owner. Preceding the Interim Heritage Order. What Consultation preceding the interim heritage order? And to an extent might have occurred around the heritage significance of the site.

25 MS McGOVERN: This is before the IHO was launched.

MR BAILEY: Yes -

MS McGOVERN: You mean. Yeah-
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MR BAILEY: And within it there's, there's a construct here of the landowner. There's a note in here saying that you did contact the landowner. I'd just like to get a date to the extent. And it's in your deck. But consultation with the landowner included an invitation to view the planning panel and provide feedback. Would be
35 good if I could just get a date on when that occurred and the meeting was held with representatives actually appears quite late. It's in October 2023, so I'm just trying to get an understanding of that timeline of those consultations and engagements with the landowner?

40 MS McGOVERN: The first one would have that opportunity for that would have been, the fact that it was the full Council, the PDC committee of the Council who made the decision to for Council to lodge the issue. So it was at a full public Council meeting that occurred.

45 MR WILLIAMS: Which was the eighth of or the 7th of February-

MR BAILEY: So there isn't the 7th of February, 2023?

MS McGOVERN: Yeah,

MR WILLIAMS: Yeah.

5 MR BAILEY: And was there any-

MS McGOVERN: Then as soon as at that time. I think it's in the rules of IHO was then to let the owner, the landowners know that this has occurred.

10 MR BAILEY: I will just jump back to the slide. It might be worth bringing up, if we can. Back to the slide that's around why it was not why the synagogue was not in the Heritage Review-

MR WILLIAMS: Yes -

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MR BAILEY: I just wanted to step through to understand this a little further. So when we look at the first one, I think you've dated that for us to some extent. So I'm just stepping this through in terms of the attempts in the past with the family. There was a request in but then an agreement not to list-

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MR WILLIAMS: Yes -

MR BAILEY: And I think I heard in the presentation there before that that was a financial burden on the family. Was the decision not to list?

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MR WILLIAMS: Yes, because they wanted to sell the property. So it was it was sold without a listing.

30 MS McGOVERN: So Mrs. Gutnick asked Council officers to assess it as a heritage item, which we did, and it was proceeding. And then they decided that they were going to sell the building, which again was a philanthropic building like it is with Meriton.

35 MR BAILEY: Though the question would be, what was your finding when that work was done that the request of Mrs. Gutnick?

40 MS McGOVERN: Yeah, it was to list the building. But the Gutnick family then went to Council and Council decided that it wouldn't, would agree with Mrs. Gutnick that it would take it off the list for heritage listing.

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MR BAILEY: Would there be any documentation from that time around heritage listing? Could I ask that as a question on notice? On notice the helpful to see if there's documentation that, came to that finding. The other was, I just wanted to understand. Potentially the timing on the blast wall works where you couldn't access the site to actually make the assessment. That's the second point.

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Another was made when the first blast wall was under construction, but works prevented inspection, so I wanted to understand how far that might have gone in assessment and what any details that might exist in relation to that assessment, the heritage significance that was found at that time.

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MR WILLIAMS: We'll have to take that on notice as well. But I believe it was around 2005.

MR BAILEY: Yeah. So step through that slide. I still can't follow from that slide. Why in the review that Council ran? And I've got a couple of questions around the holistic study, I think is the language that you've used in the presentation. So the holistic study from 2020. So just to understand who conducted the study.

MS McGOVERN: Internally -

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MR WILLIAMS: Internally -

MR BAILEY: Internally? No, no, that was my question to see whether it was an internal or an external. So in that study and in that work, I note your heading says what was not in the Heritage Review, the dot points there don't actually tell me why I wasn't in, I think there's 750 sites that were identified and that was reduced down to 59 items. And I take it that it wasn't identified in the 750 sites.

MR WILLIAMS: That's correct.

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MR BAILEY: I'm still not sure why it was not identified in the 750 sites if there was a history of the site with two potential prior listings not to have been considered in 2020.

MR WILLIAMS: I agree that may have been an oversight. However, the fact that the site was in an SP2 zoned area meant that it didn't. Attract our attention as being at risk. So we didn't. Well, I wasn't around at the time, but I believe that's would have been part of the justification for not listing.

MR BAILEY: And the point I'm trying to understand is it wasn't even in the review. It wasn't captured in the review in the 750 at that stage.

MR WILLIAMS: Right-

MS McGOVERN: Trying to remember back. It was, there's always pressure to reduce the numbers of affected and to potentially capture them in conservation areas if they are important. And this one was deemed to be not likely to be affected because it was zoned for SP2 infrastructure and was heavily used by the Jewish community as a facility for their religious instruction. It was also a school. And at that stage, it's only just recently had its school accreditation taken away from it by the New South Wales Education Department. And very quickly after that it went,

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there was a request from Meriton to have it rezoned. So it was a heavily used community facility, and then it wasn't.

5 MR BAILEY: Thanks. That gives some more context. Did it be valuable if we could, just in terms of those previous assessments to understand what was captured in those previous assessments? So I appreciate that. Some. One of the things that I did, want to gain an understanding of. And I note again, you reference. And I'll jump back to the management of the site. And that question of, integrity of the site, in terms of the modifications that have happened, since the original. And I note your reference to
10 the, Docomomo submission that about the reversibility. And so I wanted to just touch on and gain an understanding of whether or not Council has done an assessment on the reversibility of the subsequent editions. Docomomo stated that there are some contrary views on how reversible things are, but I just wanted to understand Council's view.

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MR WILLIAMS: Mr. Abrahams will answer that question.

MR ABRAHAMS: I addressed that in my report as Hector Abrahams here. My report gave a schedule, scheduling all the fabric and spaces in the synagogue and the
20 school building below. So we captured, the level of integrity of the building. We didn't do a photo essay, but it is captured in a schedule that captures all the fabric in the Seidler building. We also captured an understanding of the Adler building next door when it dates from in the context of an analysis of the significance. As it's alluded to or mentioned in our analysis, the building is not intact in certain ways.
25 Let's say it's not intact as to its internal finishes and furniture. But internal finishes and furniture are quite sympathetic to Seidler's Bauhaus vision. In fact, the original furniture appears to be second-hand Victorian pews. Part of it.

MR ABRAHAMS: Another aspect of the presentation of the Seidler synagogue is
30 that it's gone through what we call liturgical change. Women no longer attend worship behind a screen as they did in the original. Integration of existing configuration appears to locate female worship in the space in pews, on a plinth. We took the view in our assessment. That the changes of finishing materials inside the chamber did not do away with the spatial and philosophical, that is Bauhaus
35 character?

MR ABRAHAMS: We did not discuss the blast wall specifically. But we did. But that does diminish the civic space presentation to the street. We've not been able to run it down to detail Commissioner, but it does appear that Seidler did build a screen.
40 That before the blast wall there was in fact some sort of architectural screen. So we took into account the integrity of the building during our assessment of the significance of the building.

45 And because we're doing a significant assessment, we did not need to make judgements about the reversibility. However, in our subsequent nomination to the State Heritage Register, we did indicate some suggested policies that indicate - that attend to the issue of reversibility.

Out of interest, you might be interested to know that the recent listing of the MLC building in North Sydney on the State Heritage Register is a building whose external envelope is not intact at all.

5 MR BAILEY: So acknowledge and know. We all do have considerations for my findings that relate to this building and its application at a local heritage level. So there's actually an interesting piece here around the considerations, at the state level. And I just want to be clear that our definitions and some of the material provided, in the findings, particularly to Council noting acknowledged that there's a state. Many
10 of the findings actually find state heritage significance. And I just want to be clear that it's your view on how that relates to the local heritage threshold, as distinct from the state heritage threshold -

15 MR ABRAHAMS: In New South Wales Commissioner, the same criteria are used.

MR BAILEY: Some criteria were used, but it was a threshold question, not as distinct from a criteria question. So there's the allocation of the threshold. And if we think if we're I'm pointing to is if we look at, the significance test is around the levels of significance of heritage listings. And we know that the significance around the
20 status of significance to the state, outstanding universal is the international test of outstanding heritage value to the nation is the national test. So I just want to be certain that, in your view, because a number of the findings are state significant, that you have a view that it is of local significance or not of local significance.

25 MR ABRAHAMS: Are you suggesting that an item can be of state significance and not of local significance?

MR BAILEY: I'm asking your view on that question, because your findings point to state significance in a number of the aspects where my decision is around local
30 significance. So I'm just pointing to the report notes that a number of areas I've.

MR ABRAHAMS: We were not asked to do an assessment on the local significance of the building. We were asked to do an assessment on the heritage significance of the building according to the criteria that are used that are common to both state and
35 state listing. To my knowledge, it is rare to ask someone to do a heritage assessment for a building and limit the assessment to local criteria only. I should think the Department would be innovative if it were to suggest that's something that should be done.

40 MS McGOVERN: One of the other documents that's online is the state, is the local heritage inventory sheet at a local level that was provided by Abrahams.

MR BAILEY: So it's just being certain that in your view that it does or doesn't follow around the state heritage significance in its relationship to local heritage. So
45 it's the same criteria, but they're different thresholds.

MR ABRAHAMMS: I'm not understanding you, Commissioner, because if it passes the higher threshold, it's deemed to have passed the lower one? Or is the Commissioner suggesting it's possible to pass the higher threshold and not the lower one?

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MR BAILEY: I'm asking your view on that question.

MR ABRAHAMMS: I'll just take a minute to think about it. I think I'd like to take a bit of time and maybe I'll get back to the Commission on that.

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MR BAILEY: That'd be good. And the reason I'm asking the question is the report points to state significance in a number of areas. The question I'm being asked to respond to is local significance-

15 MR ABRAHAMMS: Understood. Completely understood-

MR BAILEY: Well, I'm-

MR ABRAHAMMS: Approaching your issue is an application to enter as an item under the LEP, under the Local Planning Assessment Act, which normally lists places of local significance, although it does also list places of state significance.

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MR BAILEY: The question now, just to be really clear, the question in my terms is actually to give advice in around the local significance. So when we look at that, the local heritage listing recognises the place has significance to a local area and community listing is included in LEP. So it's that aspect versus the state test versus other tests that exist at National and-

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MR ABRAHAMMS: Not wishing to test the community's patience. But I think the question you've been asked is a leading question, because it is possible to at least locally, an item that is of state significance.

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MR BAILEY: Now, I concur with that, but it's also possible to list something that's local and not of state significance-

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MR ABRAHAMMS: No, no, the majority case-

MR BAILEY: It's just being assured that in your report where you refer to state significance, you've given consideration that applies at a local significance level as well. So that's the threshold test that differentiates even though the criteria are the same.

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So I just value that and recognising again that that's material that will be made available on our website in terms of question on those. I just want to- I think this is only a technical post, but just to be clear, because again, the material presented if it's available more broadly, and to be clear again, technically that when you refer to seven categories of significance on a state heritage register in your presentation. Just

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be clear that it is actually and it reads to me that it's six of seven of the State Heritage Register requirement.

5 MR BAILEY: Correct the presentation is wrong Commissioner, it's the state listings-

MR ABRAHAMS: Yeah-. Criteria-

10 MR BAILEY: I just want to make that clear so that- (Indistinct) We can note that through the documentation.

15 It has a little bit back to some earlier discussion that when we think about the conditions are this. There's a condition of the building. Do you have a view or an understanding of the condition of the building, particularly the concrete known. There is some, so do you have a view on the condition and have you been able to observe the condition of the structure?

20 MR ABRAHAMS: Thank you, Commissioner Hector Abrahams again. I did visit the site. I did observe some, exposed or rusted steel, photographs of which are presented in some of the other material that you've been given. I'm not an engineer. I'm a practising heritage architect. I was not concerned, the level of decay that could be observed on the edges of the exposed ends of the barrels. I would be concerned if the concrete cancer was on the gable beam, which is the beam aspect of the barrel, which it's not, and it has an intact membrane on the top. If the Commission is concerned about that, Yeah, yeah, I expect it would seek engineering advice.

25 MR BAILEY: Okay. Thank you. There are differing views that are presented on the condition of-

30 MR ABRAHAMS: I think if the owner was concerned, they wouldn't be occupying the building. Prima facie, it's not a safety risk. The opera house had concrete cancer when it was listed.

35 MR BAILEY: So we might go back now because we have a few moments, and I'd just welcome Council, the opportunity to step through the objections and responses very quickly that you've had the full presentation.

MR WILLIAMS: Thank you Commissioner, Timothy Williams here again-

40 MS McGOVERN: The previous one-

45 MR WILLIAMS: Right, I think this was where we're up to. Yes, thanks. So the, objection is that at no stage has Council made attempts to consult with the landowner, despite formal requests 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. Council's response is that the consultation with the landowner included an invitation to view the planning proposal and provide feedback.

The invitation was sent as a letter, via email and by hard copy via Australia Post. A meeting was also held between the representatives of the landowner and Council on Thursday, the 26th of October 2023, where the planning proposal was verbally
5 discussed. Second objection is the Council has also failed to provide the landowner with any procedural fairness throughout the planning proposal process, and Council's heritage significance report references that it relies on a report prepared by Council's Heritage Advisor, Colin Brady. This report was requested from Council by our heritage expert on 24th of August 2023, under the provisions of the Government
10 Information Public Access Act.

Closing date for the submissions was the 14th of September 2023. As the report has not been provided to date, our expert was forced to finalise his report without the benefit of all information which was available to the Council's heritage expert.
15 However, we don't think this is correct. The subject, GIPA was processed in October 2023, resulting in the Colin Brady Report being issued to the GIPA applicant. In fact, the landowners heritage expert directly, Doctor Mac North on the 17th of October 2023. And this is confirmed by our governance Department in the Council.

20 This allowed the landowner three weeks from the 17th of October to the Strategic Planning Development Committee meeting on the 7th of November to consider its contents and provide feedback to Council staff or Councillors before or at the 7th of November date of the meeting. Late submissions are also considered in Council officer's final consideration of this matter. And we'd just like to add that the Colin
25 Brady Report is not critical to the understanding of the criteria for heritage listing. All of that information is included in the Hector Abraham's report. And so it is our view that the Colin Brady Report does not have a significant bearing on the heritage listing.

30 MR BAILEY: So given where that sits in GIPA, which is it's a consideration outside in terms of the procedural fairness aspects, I'm more interested in the material that's set out that I've got. So it's probably one we can move on from.

MR WILLIAMS: Another objection is that Council does not appear to have properly
35 considered, and indeed assessed the heritage reports provided by the landowner, which include detailed analysis of the interior fabric. I could allow Hector to

MR BAILEY: I think Hector has covered -

40 MR WILLIAMS: He's covered that aspect.

MR BAILEY: Earlier that aspect in some detail - With the material there. So that's I think we could again move on.

45 MR WILLIAMS: Yes. Another objection. The report prepared by Hector Abrahams, which is relied on by Council in support of the listing, does not make a real assessment of the synagogue building as it currently stands today, as it fails to

consider the contemporary changes which have occurred on the site and to the synagogue itself. But Hector to respond to that as well. But we've already heard him talk about his analysis of the contemporary changes.

5 He said that the architectural significance is only one of the criteria that makes a building worthy of heritage significance. Not only does the synagogue meet the criteria for heritage listing for technical, Aesthetic Historical Association as a rare building of renown, it holds social and cultural heritage significance of at least local level and quite possibly state level.

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Further objections, the synagogue building which has 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.

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It has a relatively low attendance levels, and only the hot foundation makes financial contributions to its maintenance and operation.

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We contend that despite some alterations and since original construction, the building continues to feature clearly identifiable architecturally and historically significant elements and original fabric, which can be seen from the public domain despite the security wall and from within the site itself. 14 submitters who have identified themselves as members of the Jewish community, state that the site still has religious significance for them.

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Further, the proposed listing extends further than the association with the Jewish community and the later synagogue use. The history, construction method and association with Harry Seidler provides the site with significance. Discussions with the Heritage Council on progressing the potential listing of the building on the State Heritage Register suggests that the synagogue's social and cultural significance to a migrant religious community will form a key part of its research. Another objection. Furthermore, the Council officers were supportive of the proposed rezoning of part of the site from SP2 to R3 to make the whole site R3.

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35 Despite the Councillors ultimately refusing to support that planning proposal without any mention of heritage, the New South Wales Department of Planning and Environment gave gateway approval for the planning proposal, and the rezoning was gazetted on the 28th of July 2023. In fact, Council officers were not supportive of the proposed rezoning of part of the site from SP2 to R3 and recommending that Council not support the proposal for the spot rezoning. The rezoning was assessed on its strategic merit, not on its heritage grounds.

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Council later refused the rezoning request, as did the Waverley Local Planning Panel. Further Objection, it therefore appears the 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 also issued an Interim Heritage Order in respect of the site

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dated 8th February 2023. Despite numerous assurances being provided by the owner of the site that it not be intended due to the development in the immediate future. Council, through its Councillors, is weaponizing the Heritage Act 1977, in order to appease a very small number of its constituents.

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The reasons for Council issuing the IHO, dated February 2023 are detailed in the 7th of February 2023. Strategic Planning and Development Committee agenda and associated attachments. Council considers that there is no guarantee that the subject site will remain in the same ownership indefinitely. Therefore, the assurances, that it not be demolished are not taken into account. A request for a rezoning to R3 medium density residential provides a clear indication that some form of site development is planned, especially when the request is made by one of Australia's largest apartment construction and property development companies.

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Further objection, 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 the developers and redeveloped like 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 immediate future but wants to ensure that the site is not unreasonably constrained by incorrect or inappropriate planning controls. The proposed and Council's response to the proposed synagogue heritage listing does not inherently prevent additional land uses or buildings to be developed or expanded on the site, and furthermore, as per the previous objection, there is no guarantee that the subject site will remain in the same ownership indefinitely, so assurances by the current owner are not relevant.

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Further objections regarding the burden of the listing, 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 gems and 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 of dollars, and this will only continue into the future at a much greater cost if the site is listed as heritage.

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The ongoing contributions to maintain the building and its associated uses have been made on the notions that the site was capable of future expansion or redevelopment, and that this was resolved by the R3 zoning change. The heritage listing would inevitably cause the hot foundation to reconsider its ongoing support.

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Council's response is that the proposed synagogue building listing does not inherently prevent additional land uses and buildings to be developed or expanded on the site.

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The proposed R3 zoning would make the site more valuable for apartment development. Heritage listing of the synagogue is unlikely to create a financial burden, especially since it does not prevent sensitive development site. The site would have been purchased on the grounds that it is a nonprofit generating community use, and that maintenance would be required.

Historical media reports suggest that the purchase of the site in 2012 was a philanthropic gesture for the Jewish community, and the social services that provides such services are in even greater demand today. The synagogue's heritage significance has been assessed and justified by a highly respected independent heritage consultant and was found to be of local and state significance for multiple reasons.

MR BAILEY: Just a couple of quick questions as it relates particularly to the last slide Timothy around the listing. But my question relates to whether or not Council has a policy associated with listing burden and whether it makes decisions. And I ask that question, although it's some time ago. Isn't the good example from earlier where that? He to abide based on a financial implication and a burden. So just a question of whether there is any Council position on that?

MR WILLIAMS: The Council takes into consideration economic burden. And it is an item that is addressed as a matter of course, in a Council report. So, it is something that is considered.

MR BAILEY: In- The question of- in that, is that a consideration for not listing

MR WILLIAMS: We don't believe so because as we've stated, there are, many opportunities to redevelop the site in terms of uses and other, possible constructions on the site or associated with the site, which, would allow the retention of the heritage significant building.

MR BAILEY: Thank you, Timothy. Acknowledging that you've got this slide in around the state Heritage Register process. Just to advise that we will be talking with Heritage New South Wales as well, just to get an understanding of where that process is at.

MR WILLIAMS: Yes. Thank you for letting us know, we were wondering what the process would be from here in terms of your advice to the Minister's office and what

MR BAILEY: Just to be clear, my advice is to the delegate of the Minister that goes back into the Department. And we have a KPI that sits, I think, at 35 days from the date of receipt, we'd expect to meet that KPI. We're about a fortnight in now, so I would expect that we'll report back in the way that we're expected to within -

MR WILLIAMS: Okay.

MR BAILEY: Anything else you want to cover?

MR WILLIAMS: Yes. Thank you. Commissioner, I just wanted to go back about the economic burden. And I'd just like to add that, given that the landowners states that they have no intention of, demolishing the building and that they intend to continue

the services that they're providing within the building. Then it would suggest that there is no further economic burden on the building being listed.

5 MR BAILEY: Yeah. Thank you for your time. I think that concludes the hearing. I'm checking to see if there's any other.

MR ABRAHAMS: I haven't been given my opportunity to reflect Commissioner on your reviews of my work. You said I would be -

10 MS MCLEAN: We did have that listed.

MR BAILEY: Let's see how we can cover that in the next short while Hector.

15 MR ABRAHAMS: Yeah. There's two ways it could. Hector Abrams here. It's the - Commissioner. There's two ways I could advise the Commission. I could provide three short comments. I've had the material only for a couple of days. Or we could advise or I could give a more detailed response to the Commissioner if they think it necessary. Shall I try out my three short comments on you?

20 MR BAILEY: Yes.

25 MR ABRAHAMS: So I set my task was to make a heritage analysis. My task was not to publish a history, a photographic essay, or to prepare drawings, which I've been criticised for not doing. Is a very interesting, survey of world thin shell concrete structure and technology but we are not addressing world heritage. We are addressing local and state heritage. I think a historic mistake has been made by conflating this period of Jewish religious history with all post-war migration Jewish history which I think is a mistake of history.

30 And the last, short point, is that the contention that is small and religious building and therefore minor in Seidler's output, is a remarkable statement. Demonstrated is a civic building. It is probably his first civic building in Australia, soon followed by his major one. The fact that an architect might do a small number of churches does not make them unimportant. The crews used two units and did one. Marcel Breuer did
35 one. They are not unimportant links. That's the short answer. I could give longer if the Commission require it. That would take some time.

40 MR BAILEY: No. for hearings that we have time now. If there was other material that you wanted to put through, that again would be made available and published. You're welcome to do that. We'd set the next timing this week.

MS SEXTON: We will send you a formal letter with all the questions on notice that you've taken, and you can provide that back with that response.

45 MR ABRAHAMS: Excellent. Thank you.

MR BAILEY: Any other comments that anyone wanted to cover before we finish?

CR WY KANAK: It's time for me to address? Or should I make that in writing too?

5 MR BAILEY: Just very quickly, while we're here would be a good and just for introduction again on the microphone.

10 CR WY KANAK: Oh, okay. Thank you Commissioner, Councillor Dominic WY Kanak from Waverley Council. I just wanted to say some points in relation to the local significance. They may not be in the usual category of what local significance is but from a First Nations point of view, the community might see it a little differently. I know that the Environmental Planning Assessment Act. I think 1.37, talks about building heritage and cultural heritage, and it specifically mentions Aboriginal cultural heritage.

15 Section two of the New South Wales Constitution, as compared to the lack of a similar mention after the referendum result in the Commonwealth Constitution talks about recognising Aboriginals Australians, First Nations people on a variety of categories such as social, cultural and spiritual. And what I wanted to put before the Commission was in the same way that it's mentioned in the material about a former attorney general and High Court judge, going to the site, obviously on the occasion of its opening that there are other uses and intersections in that building that have high significance, I think, for the Aboriginal community, for the First Nations community. One of those was, round about May 2008.

25 There was a visit planned to the synagogue by the then prime minister. Same prime minister that delivered the what's known as the apology to the Stolen Generations, Prime Minister Kevin Rudd. And on that occasion, rabbis and staff of the synagogue asked for the community to participate in the welcome. It's recorded in at least in a media release around about that time that I gave that welcome but I was given permission to do that welcome from a traditional owner of the Sydney region whose genealogy is, referenced in this book, The Darug and their neighbours, traditional owners of Sydney.

35 He couldn't make the occasion and he gave me some Aboriginal language with which to address the gathering and the Prime Minister, by way of welcome, that's mentioned in a press release. That was back in 2008. Since then, the state government's gone to the extent of instituting a, Aboriginal Languages Act from 2017. And it talks about reawakening and reviving languages.

40 So, the intersection of a dignitary like the prime minister visiting the synagogue, the same prime minister that delivered an apology to the Stolen Generations and being given a welcome in the local language, which obviously is a local significance.

45 By myself as a local Council, First Nations person, but off country, with the permission of traditional owners, we think should go somewhere in the material as a mention of significance of cultural and social value to the uses made or that have happened, events that have happened in the synagogue. Another occasion on which I was called to do something similar was the visit by the first woman attorney sorry,

Governor-General of Australia, Madam Bryce. And it was on the occasion of her visit to the synagogue that a similar, welcome and Aboriginal language exchange took place.

5 And those are not mentioned in the material. They weren't offered during any of these studies because of some sensitivity about the person who gave that language recently passing. But I offer those, important intersections of spiritual, cultural, language association, with dignitaries from the broader community and from the input of dignitaries from our First Nations community, that is knowledge holders and
10 language holders that should in some way, be recorded, I think, in the history of the building and perhaps even make its way to the material. And because it hasn't thus far, in a similar vein to the offices and opportunities allowed to put that in writing and offer it to the material of you get Commissions consideration, I'll be happy to do that. Thank you.

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MR BAILEY: It'll be open to provide that material just in the time -

CR WY KANAK: All right -

20 MR BAILEY: Councillor. Thank you. Okay, I'll draw the hearing to a close, noting that we will. Move that correspondence quickly. I'd ask the questions that you've grabbed on notice already, that you start working on those even before the correspondence turns up, so that we can get that material in hand and will look to get that correspondence out. So it'll be late today or first thing tomorrow morning. And
25 thank you for your time. And thank you for your presentation.

<THE MEETING CONCLUDED