



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

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

HERITAGE NSW MEETING

PANEL: TERRY BAILEY (PANEL CHAIR)

OFFICE OF THE IPC: SAMANTHA MCLEAN
TAHLIA SEXTON

HERITAGE NSW: MATTHEW CLARK
ANNA LONDON
ALEXANDRA BOUKOUVALAS

LOCATION: ZOOM VIDEO CONFERENCE

DATE: 10:00AM – 11:00AM
WEDNESDAY, 21ST FEBRUARY 2024

<THE MEETING COMMENCED

MR BAILEY: Just before we begin, I'll just make a few opening remarks, and I'd like to begin by acknowledging that I'm speaking to you from the lands of the Gadigal people of the Eora nation, and would like to acknowledge the Traditional Owners of all the countries from which we virtually meet today and to pay my respects to Elders past, present, and those that didn't make Elder status.

Welcome to the meeting today to discuss the request for advice on the 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 Commission panel. And we're also joined today by Samantha McLean and Tahlia Sexton from the Office of the Independent Planning Commission.

And in 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 made available on the Commission's website. For background, this meeting is one part of many of my consideration of this matter and will form one of several sources of information upon which the Commission will base its advice. And it's important that I ask questions of attendees to clarify issues whenever it is appropriate.

And if you're asked a question and not able to be in a position to answer, please feel free to take that question on notice and to provide any additional information in writing which will then also put up on our website. I'd request that all members here today introduce themselves before speaking for the first time. And for us just to be mindful that we don't speak over the top of each other to ensure the accuracy of the transcript as we step through.

Additionally, I'll just note that the Commission has been requested to review the final Planning Proposal and supporting documentation and provide opportunity for Council and the Landowner to present their views on the proposal. Consider the submission received by Council during the public exhibition period and importantly, provide advice including a clear and concise recommendation to the 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.

But just in presenting those opening remarks, I'll now begin. And just as we commence, I just did want to check to see if there were any opening comments that you might want to make from a Heritage New South Wales perspective before we go into some additional questions.

MS LONDON: I can answer that. My name is Anna London. I'm the Director of Heritage Programs at Heritage New South Wales, so responsible for State Heritage

Register listing program. We have nothing to add, I suppose, at this time and happy to answer any questions that you may have.

5 MR BAILEY: Thanks, Anna. We might just step through. So as part of the work that we've been asked to advise on. We're aware, that there has been a nomination of the site to the State Heritage Register. So I was particularly keen to gain some understanding around that nomination itself. And if possible, is it possible to advise who nominated?

10 MS LONDON: I might pass to my colleague Alexandra Boukouvalas, who is the Manager of our State Heritage Register program and is familiar with the nomination. And she can answer your questions.

15 MS BOUKOUVALAS: Thank you. So I'm Alexandra Boukouvalas, Manager of the State Heritage Register Listing Team at Heritage New South Wales. The nomination was made on the 14th of January 2023, by Waverley Council, to investigate, sorry, I've gotten confused with myself here. The nomination for State Heritage Register Listing - I was previously speaking about the IHO request. So the nomination for State Heritage Register Listing was made in August 2023. And that's when the State
20 Heritage Register Committee considered a nomination form from Waverley Council and resolved to progress the nomination to a full assessment.

MR BAILEY: So just confirming - thanks, Alexandra - just confirming it was
25 Waverley that also did the nomination on that date as well?

MS BOUKOUVALAS: Correct.

MR BAILEY: Thank you. Just a couple of questions then around the decision
30 making that you have in terms of progressing from a nomination submission to a further assessment. How was that conducted?

MS BOUKOUVALAS: So the process for listing an item on the State Heritage
35 Register is set out under Part 3A of the Heritage Act 1977, and items are added to the SHR by the Minister responsible for administering the act on the recommendation of the Heritage Council of New South Wales. And the process for listing an item comprises three main stages with a series of steps. The first step is nomination. So when a nomination is lodged, there are three things that happen. There's an eligibility and completeness check that happens internally by Heritage New South Wales. The nomination is then presented to the Heritage Council or its Committee, the State
40 Heritage Register Committee, as this one was presented to, for a triage or preliminary assessment. If the Heritage Council or State Heritage Register Committee, finds that the item is likely to be of State Heritage Significance and also meets a number of other considerations across several factors then that may be found to be of potential State Heritage Significance and added to our pipeline of listings for
45 potential additions to a work plan, a future financial year work plan. So the considerations that the Heritage Council thinks about include factors including Heritage Council priorities, thematic priorities it might have, strategic opportunities

and threat. So in this case, the State Heritage Register Committee found that the item was likely to meet the was had the potential to meet the criteria for State Heritage Significance and progressed it. It is currently on the pipeline of nominations for consideration by Heritage New South Wales for progression to a work, a future work plan and assignment to an officer at which stage the next stage of the listing process would occur, which is assessment, which includes Owner and stakeholder engagement.

MR BAILEY: Thanks, Alexandra. Can I just ask - it's been two uses of language there that I just really like to understand. You talked about through the triage process, likely. And then you mention the fact that it had potential. So I wanted to know, in that movement from nomination to full assessment, is it possible to gain a copy of any framework that you have in place that helps you determine - you've just talked to some criteria that help you determine how it moves from nomination to assessment. Is that documented and would that be available to actually - for me to review?

MS BOUKOUVALAS: Yes.

MR BAILEY: And including in this instance, because I think in the triage framing, you talked around thematic alignment, threats and other aspects that actually point to the triaging decision, if you like. What relates to 34 Flood Street in terms of that? So, at some level, I guess it's really seeking a copy of the documentation that's gone to date under the assessment that moved it from nomination to the assessment stage.

MS BOUKOUVALAS: Yes, we're able to provide that.

MR BAILEY: Thank you, so we'll follow up to gain a copy of that. Can I ask a couple of other questions in that context? To gain an understanding of how many nomination submissions you might receive that actually do move to full assessment. So in the context of how many nominations you would receive for places, but how many actually moved to full assessment? I wonder if you have that number.

MS BOUKOUVALAS: I'd have to take that on notice to give you an up to date number.

MR BAILEY: That'd be fine. We'll capture that as well. So I'd be curious just to know the number that move through, the pipeline, if you like.

MS BOUKOUVALAS: Yep.

MR BAILEY: And I've just talked to the fact that it'd be good to have the work that's gone on. But those steps that you put in place around the preliminary assessment process for nominated sites, have you got an expanded view on the criteria? Well, what I'd describe, sorry criteria is the wrong word because we use criteria in terms of the criteria for assessment, but it is around this framework. What guidance material you work with internally or is publicly available about that progression and that decision making? What framework sit in place?

I am particularly interested in that context on that that language that you used before about the likelihood of having state heritage values and how your triage system works. And what that framework looks like to be able to determine or to give a sense of the material needed to determine the likelihood. So do you have any guidance material that sits in that?

5
10 MS BOUKOUVALAS: I do, I might just defer to my Acting Executive Director, Matthew Clark. He's got his hand up. He might have something he wishes to say before I do.

10 MR CLARK: Yeah. Thank you. I am Matthew Clark, Executive Director, Heritage. Certainly we can provide the material that provides guidance to Heritage New South Wales when preparing the material that we take to the Heritage Council and the State Heritage Register Committee. And certainly the minutes of the committee are
15 publicly available. So they can also be, you know, they provide the, I suppose, the outcomes of the discussion and the decisions that are made there.

I suppose I was just trying I wanted to add to what Alex was saying in the sense that when you ask that question about the number of nominations that are received and
20 the number that progress through to assessment that number is obviously affected by the Heritage Council or the State Heritage Register Committee's consideration of significance but it is also a consideration of the other factors that Alex talked about which is relating to relative priority and also threats and also strategic priorities.

25 So, I just wanted to make, I suppose, emphasise that point that Heritage New South Wales prepares material and then a judgement is made by the Heritage Council, the State Heritage Register Committee relating to likely State Heritage Significance. But also a judgement is made as to the relative importance of a progression to an assessment even if likely State Heritage Significance is found to exist. And then the
30 third point I would make is that at times there's a consideration that State Heritage Significance might be of a lower consideration. There are values identified, but they may not necessarily be considered by the Council of the Committee to be of state significance.

35 But that significance might be revealed at a later time. And so we do have I think we probably find examples, but I'll speak generally where there's been nominations that have sat or have been preliminarily assessed to be able to lower significance and then at a much later date, several years later, considered again. And there's been a consideration that perhaps the significance is higher now or is higher in the
40 consideration of the Committee now because it's a different makeup of the Committee. Just some factors I wanted to put in there.

MS BOUKOUVALAS: Thank you, Matthew. Alexandra Boukouvalas speaking
45 again. Just to answer the Chair's queries about the terminology used in terms of likely or potential heritage significance. This is because at this stage of a nomination being received and triaged we haven't entered into the statutory heritage listing process as set out in the Heritage Act.

So that involves a number of steps including the Heritage Council giving its Notice of Intention to consider whether to recommend a listing. And in that public exhibition period, submissions are received and all of those are considered in
5 formulating the final assessment that the Heritage Council considers when it decides whether to make a recommendation to the Minister or not.

And at that point of making a recommendation, that is when it makes a definitive statement of heritage significance state heritage significance. So until that point, we
10 talk about likely or potential state heritage significance because the full assessment process as set out under the Act hasn't been undertaken.

MR BAILEY: Thanks, Alexandra. Understand that I think, likely and potential have two very different meanings. But I need to clarify, in terms of, two different
15 meanings. So I wanted to understand it can only have potential because it's a decision that will come at a later point, I think very much to the point you're making there and accepting that. But is the use of the term likely?

I'm curious to know if you've used the term likely as it relates to this assessment.
20 Because while potential has a particular meaning, likely has a particular meaning. And so I want to clarify it'd be helpful if they're used interchangeably or if likely is actually given a consideration and awaiting in a probability context.

MS BOUKOUVALAS: In this context, they're used interchangeably.
25

MR BAILEY: Okay. Are there any other terms that you use in terms of that referral at the preliminary assessment stage? So potential, Yes, likely, yes. Are there any other terms that you use in that construct that might replace for example, likely?

MS BOUKOUVALAS: Do you mean in terms of grading or something high, low or
30 medium or things like that? Because we don't use any of those.

MR BAILEY: No, it was to get a level of understanding because likely has indicated a higher probability of something happening than some other terms. So I wanted to
35 understand if you're using any other terms that have a lower probability.

MS BOUKOUVALAS: No we're not.

MR BAILEY: Thank you. Thanks for the clarification. It was just to understand that
40 the language of likely and potential to make sure that it's read appropriately and reviewing the documentation.

MS McLEAN: I think we might have a minor technology issue. Terry's, just
45 reconnecting. Thanks for your patience everyone. Here we go. Hi, Terry. Can you hear us?

MR BAILEY: Apologies. My apologies. I just to let know my phone overheated sitting on top of my computer.

MS LONDON: Is it okay? I'm sorry Terry.

5

MR BAILEY: No. Sorry. Anna. Let's continue.

MS LONDON: I just wanted to, I suppose, in terms of the words that we are using, I think that, framing as potential is probably the way that we consider, that if that provides more clarity to you. And I've actually just drawn up the resolution that the Heritage Council made on this particular matter, the preliminary assessment. And in fact, they used the word may. So the resolution says, 'Considers that the synagogue and former Sydney Talmudical College premises building including interiors, Bondi may be of State Heritage Significance and advises that the nomination will be progressed to a full assessment'.

10
15

MR BAILEY: Thanks, Anna. That's a really important. And again please check the availability of the document just to be sent through for review. But that was- Yes, the critical point around my inquiry there was in that language. So thank you for the clarification. I think I'll just check. I have a follow up question that I'll come to in just a moment but I did want to also check the expected time frame for completion of assessment. And I think from hearing Alexandra a little earlier, that is still some time away. It may not have formally commenced the assessment itself.

20

MS BOUKOUVALAS: Correct. It's, on the pipeline at the moment. It hasn't been added to the work plan for this financial year. There's potential that it will be added to the work plan for the next financial year, in which case it would be completed by June 30, 2025.

25

MR BAILEY: Thank you. So that's the clarification.

30

MS BOUKOUVALAS: I'd also like to make a quick clarification, if that's okay. I made an error earlier talking about the date of the nomination. The nomination receipt was received on the 29th of June 2023, and the consideration by the State Heritage Register Committee was on the 1st of August, 2023.

35

MR BAILEY: Thanks, Alexandra. I'll just check quickly with Tahlia and Samantha to see if there are any other questions before I come back. I've still got one question that I wanted to cover off around the relationship between state heritage and local heritage. Is there anything more around the assessment itself, Samantha or Tahlia?

40

MS McLEAN: Yes, Terry, and I don't know how. I'll just ask the question because I assume I believe I know the answer, but with the, SHRC, preliminary review to say yes, go to full assessment is that's based on documentary evidence. There's no site visit?

45

MS BOUKOUVALAS: Correct. There's no site visit.

MS McLEAN: Okay, I think that's right. You answered my other question, which is about the timing. Thanks.

5 MS SEXTON: Nothing further from me at the moment either. Thanks, Terry.

MR BAILEY: Thanks. So we're moving a little bit away from the assessment, but I did want to ask question that I'd be interested to know your views on. And that is do you really have a view on whether a state heritage listed place should be adopted for
10 a local heritage area as a matter of course? So, State heritage listing would result in inclusion in an LEP. So I'm curious to know your view on that.

MS LONDON: This is Anna London again. Look, I think that one of the important considerations here is that heritage listing at different levels is generally about
15 context. And so the context of the item or potential item is the really important component when deciding whether or not it should be listed at the Local level and or listed at the State level. So there isn't a policy that I'm aware of that says that if a place is of State significance and is on the State Heritage Register that it also should be on the local plan. We do, however, often find that that is the case, that there are
20 recognised local values, that mean that it is listed on the LEP.

MR BAILEY: Yeah. Thanks for that. And so just wanted to check your view on whether it is automatic and it's a contextual relationship. So I'm taking from that it's the context is actually the important part of that aspect and it doesn't automatically
25 follow.

MS LONDON: That is my view. Yes. Matthew, did you have any further comments you'd like to make?

30 MR CLARK: Yeah. I suppose when it comes to view, I don't think we would have a view on whether or not a local item should be on a Local Environmental Plan. That's a matter for the Council and the relevant process for updating Local Environmental Plans.

35 MR BAILEY: And just to check language on that, Matthew, it's a State heritage item onto a local LEP was the query?

MR CLARK: Yes. But I still don't think that it's necessary. We don't follow up with local Councils and ask them to consider putting items onto their Local
40 Environmental Plan because they have become listed on the State Heritage Register. It's not a process that we follow. And as far as I understand, the Heritage Council hasn't raised that as an expectation of theirs in relation to State heritage items.

45 So it's certainly not automatic and it hasn't come up certainly not recently as a as a relevant consideration in fact. I'm recalling that it's sometimes the reverse in the sense that if an item is already considered to be of Local heritage significance and is listed on the Local Environmental Plan, then that can be considered by the Heritage

Council or the Committee to be a reason to consider that an item of potential or likely State heritage significance might be of lower importance in a work plan sense. So to explain that, an item comes forward for their consideration, it might be of State heritage significance if there's a further assessment. But they consider that it's already
5 well looked after and it's on a Local Environmental Plan. And they might say that lowers its importance for consideration by the Heritage Council, where other items that don't have Local environmental recognition or might be facing a greater level of threat, might be of a higher priority.

10 So that's where it comes into it. When I talk about earlier about whether items move from nomination to full assessment takes into account a relative priority sense. And so sometimes items on a local LEP might mean that the Heritage Council doesn't see the same priority for that item as for other items because it reduces the risk to that item or it reduces the risk of bad management for that item.

15 MR BAILEY: And for 34 Flood Street. Just going back to the decision to progress to full assessment. In terms of the thematic alignment, threat or other aspect, which other aspects played into the consideration of the Heritage Council to proceed to full assessment.

20 MR CLARK: Alexandra, do you have that information?

MS BOUKOUVALAS: Sorry. I'm just looking for the resolution to make sure I have it accurately.

25 MS LONDON: I think that this is something that we probably need to rely on. The minutes of the meeting that are published, online to reflect the Heritage Council's considerations. This matter. I can see a couple of points being noted. But I just want to make sure that I have the right minutes and that if we can take that on notice and provide those to you.

30 MR BAILEY: Exactly. Sorry. Anna talking over the top. Exactly. Let's take that and if that could just be provided through that resolution, the full the resolution in full provided through that would be appreciated. Thank you. And I think that concludes, from my perspective the questions that I wanted to run through. Anything else that, Heritage New South Wales wanted to add.

MS LONDON: Not from my perspective. Thanks, Terry.

40 MR BAILEY: Thanks Anna we'll, follow up. You probably grabbed a number of the questions on notice. We'll follow up on those. But it does relate to particularly that preliminary assessment process and how it progresses through to full assessment. It does reflect those minutes and that decision making as well. So we'll follow up and get those in writing to you. But it'll be appreciated if you could start to pull that
45 material together as soon as possible.

The other just to let you know, in terms of the process, in case you're not aware, the Independent Planning Commission has a 35 day KPI to conduct and provide its advice, and so we'd expect to provide the advice back within three weeks. So, that's a relatively short timeline that we'll come back with in terms of providing that material so we can give it consideration. If there's any other queries out of that, I'll follow up, separately. But again, thank you for your time.

VARIOUS SPEAKERS: Thank you.

10 <THE MEETING CONCLUDED