

Saman Rahmani

23rd January 2006

Heritage Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Sir/Madam

RE:Submission to the public inquiry into the policy framework and incentives for the conservation of Australia's historic built heritage places.

I am the owner of No. 27 Richmond Avenue St Ives, NSW. I would like to draw your attention to the difficulties that I am confronting with and the hardship I have gone through due to the threat of Heritage listing on my property.

I purchased this house in good faith in October 1998 with no indication of any potential heritage listing. This house was and is the perfect candidate for demolishing and rebuilding. I would never have purchased this house if there was the slightest hint that it would have heritage significance.

This house is set back on the site to give the adjoining houses a better presentation to the street for marketing purposes in the Sixties. As a result of this, the backyard is very small and one could not comfortably have a reasonable size gathering there.

For the reasons that I outline in detail below, I believe the process by which Ku-ring-gai Council acted was very improper in that initially they approached the State Heritage Office, recommending them to list my house on their State Heritage Register. Once this approach failed, they subsequently attempted in a number of occasions to list my house on their LEP Heritage list.

On 14th June 2002, I lodged a Development Application with Ku-ring-gai Council for a dual occupancy under the State Environmental Planning Program number 53 (SEPP 53).

There was no indication to me from the Council at any point that the council would be looking at listing my property as a Heritage item. At the council meeting one year later on 24th June 2003 my application was recommended for approval by the officer in charge.

In the meeting one Councillor pointed out that this application should be refused because of some heritage matter. The council later requested the NSW Heritage Office to place an interim heritage order over my house.

Why is it that all of a sudden my house became an item worthy of being listed on the State Heritage Register? This happened conveniently at a time when the Council did not have any other option to stop my development under SEPP 53.

It is a well known fact that Ku-ring-gai Council does not want SEPP 53 development in their municipality and that they will do what ever they can to refuse these applications.

After a number of protest by my neighbours and I, the NSW Heritage Office, at the time said that they are not going to go ahead with the listing of this house on the State Heritage Register but could look at it in the future.

The council did not stop harassing me about my application and it ended up in the land and environment court. I spent tens of thousands of dollars and eventually lost the case.

We could not live in this house. We moved out of this house back in January 2004 two years ago and it has been vacant since. Because of its small size and excessive humidity and dust due to its poor construction.

I have tried to sell this house through two different agents at two different times without any success. The marketing of it has cost me thousands of dollars. All the potential buyers have been deterred from purchasing it because of the possible Heritage listing, first by the State Heritage Office and now by the Ku-ring-gai Council. I have attached the report of these two real estate agents to clarify this point in detail.

Since the potential heritage listing was the deterrent to sell this property. I therefore came to conclusion that the building was an expensive liability for me and that I would have a much better chance to sell the property as land. I therefore lodged a demolition application with the Council but before they reviewed the application they had a meeting to again recommend the listing of my property on their LEP in order to stop my application.

At the meeting that was held on Tuesday 19th July 2005 the councillors had to vote for the heritage listing of my property and another one in the same group as mine (No. 400 Mona Vale Road, St Ives) two of the councillors, Mr. Nick Ebbeck and Mr. Ian Cross had voted not to list No. 400 Mona Vale Road but to list mine. These same councillors always claimed that they base their opinions on their expert report. Their expert report indicates that No. 400 Mona Vale Road has more heritage significance than No. 27 Richmond Avenue (My house). Councillor Ebbeck and Councillor Cross should be accountable for their decisions. There has not been any inquiry into their actions as yet.

Our ward councillor Tony Hall raised a rescission motion and this was discussed and put to the vote one week later on Tuesday 26th July, the Mayor (Ms. Ryan) had to eventually use her casting vote to not recommend the listing of my property.

Since that time, out of despair and fear, I withdrew my demolition application. I was fed up with the whole situation and the way I was treated. I was certain that the Council would bring up the heritage issue if I persevered with my demolition application. During this time the mayor was changed and the new Mayor (Ms. Malicki) would have used her casting vote against me. She was always against my applications and was one of the Councillors who had forced the heritage listing on my property in order to stop my development.

My only options are to either sell my property at a price substantially below the market value or rent it out at a very low price. These two options will cause even more hardship on me.

I have since obtained an official valuation for my property. It clearly indicates that if it becomes listed as a heritage item its value will drop by \$170,000. A copy of this valuation is attached.

I also have engaged a heritage expert by the name of Stephen Davies to do a heritage report on this property. This report and his Curriculum Vitae is also attached.

It is reassuring that our member of parliament Mr. Andrew Humpherson member for Davidson has raised this unjust heritage listing in the parliament and also made a Media Release(attached) on the 20th July 2005.

If you analyse my case thoroughly and also read the court judgment then to a fair-minded person it becomes very clear that the current Heritage laws are very unfair. They give the State excessive power over the property rights of the citizens.

In some cases the property owner's right is being abused by the State because of these current heritage laws or lack of them.

Legislations have never been perfect anywhere but in countries such as Australia that have inclination toward a more just society we have continually looked at our legislations and tried to improve them.

Can you imagine what kind of society we would have had if we did not follow this path?

I therefore urge this commission to look in detail at my case and many similar cases before they make their recommendations.

Yours truly

Saman Rahmani

Attachments:

Valuation report (also on the CD)

Statutory Declaration by real estate agent Ms. Shayne Brukarz (also on CD)

Report by real estate agent Mr. Don Espey (also on CD)

Heritage report by Mr. Stephen Davies (only on the CD), Curriculum Vitae(also on CD)

Media Release by Mr. Andrew Humpherson MP member for Davidson (also on CD)

VALUATION

27 Richmond Avenue, St Ives, NSW, 2075.

SUMMARY

PURPOSE

To undertake a valuation based on:

1. Market valuation as at November 26, 2004 under the existing zoning "as is" (subject to the property being removed from the "Kuring-gai Local Environmental Plan – mooted for Heritage status " and having re-development potential under the existing zoning); and
2. Market valuation as at November 26, 2004 under the existing zoning as a heritage listed property.

Prepared under instructions from Saman Rahmani.

SYNOPSIS

The subject consists of a parcel of land of 900.70 square metres with improvements comprising a single level brick veneer residence with a floor area of approx. 117 square metres. Additionally there is a detached garage (32 square metres) and covered courtyard area (30 square metres), all in an average state of repair and condition.

The property is located on the northern side of Richmond Avenue, approximately 140 metres west of the intersection to Mona Vale Road and approx. 23 kilometres north of the City of Sydney CBD. This can be considered a good location in close proximity to most services, facilities and amenities.

VALUATION

I am of the opinion that, subject to the qualifications and recommendations contained within the body of this report, the Fair Market Value of the subject property, as at the date of valuation, would be:

"As is" (subject to the property being removed from the "Kuring-gai Local Environmental Plan – mooted for Heritage status " and having re-development potential under the existing zoning):

\$770,000

(Seven Hundred and Seventy Thousand Dollars)

As a heritage listed property:

\$600,000

(Six Hundred Thousand Dollars)

VALUER

Anthony Zantiotis.
Registered Valuer
NSW Registration No. 3881

REPORT

LOCATION

The subject property is located on the northern side of Richmond Avenue 140 west of the intersection to Mona Vale Road at St Ives, an established residential area approx. 23 kilometres north of the City of Sydney CBD. This can be considered a good location in close proximity to most services, facilities and amenities.

TITLE

Lot 5
Deposited Plan (DP) 220538
at St Ives
Local Government Area of Ku-ring-gai
Parish of Gordon. County of Cumberland.

The current owners are noted as being Saman and Neda Rahmani

SERVICES

Electricity, Town Water, Sewerage, Drainage and Telephone are all available to the property. Streets in the area are bitumen-sealed thoroughfares with concrete kerb & gutter.

THE LAND

The land is a rectangular shaped parcel on the northern side of Richmond Avenue 140 metres west of the intersection to Mona vale Road with a gentle rise from the Richmond Avenue frontage to a level building platform on a total area given as 900.7 square metres.

Vehicular access is gained via the Richmond Avenue frontage.

ZONING

We understand that the property has a Residential zoning under the Ku-ring-gai Local Environmental Plan. The present use appears to be a compliant use.

IMPROVEMENTS

The improvements comprise a single level brick veneer residence constructed on both concrete footings and brick piers, erected in 1964 with a further extension carried out, with a concrete tiled roof supported on a timber frame:

The approximate floor area of the dwelling was measured at:

Internal Living Area	117 square metres
Detached garage with tool /storage area	32 square metres
Covered courtyard	30 square metres
Total Area:	179 square metres

Accommodation provided includes:

- Main lounge / living room;
- family room;
- study;
- kitchen with laminate benches over laminated kitchen cupboards, 4-plate electric up right stove, dishwasher and 1+1/2 stainless steel sink;
- main bedroom with built-in wardrobe;
- two additional bedrooms;
- bathroom with shower over bath, vanity;
- separate toilet;
- laundry with stainless steel wash tub and provision for washing machine;
- detached garage with tool/storage area; and
- covered rear courtyard.

Inclusions comprise floor coverings of vinyl, concrete, tiles and polished timber floor boards (pine); light fittings; timber window and door treatments; deadlocks and three packaged air conditioning units. Additional improvements, as noted above, comprise a covered rear courtyard and detached garage incorporating a tool/storage area.

STATE OF REPAIR

As we are neither builders nor engineers, we can make no claims concerning the structural state of the premises and recommend that a building inspection report and pest certificate be commissioned from suitably qualified professionals to determine the exact structural state of the property. This valuation is dependant upon a satisfactory report.

Overall we found the subject residence to be in an average state of repair and condition throughout.

GENERAL

The subject consists of a parcel of land in a popular residential area, close to most services, facilities and amenities. The improvements comprise a single level brick residence constructed on solid footings, initially erected in 1964 and extended, with concrete tiles over a timber frame roof.

The property is predominantly in original condition and in need of refurbishment/upgrade.

We understand that Ku-ring-gai Council has mooted the property for possible heritage listing. Whilst this potential for heritage listing remains the potential to redevelop the property may be limited and our "as-is" valuation is subject to the property being removed from the "Kuring-gai Local Environmental Plan – mooted for Heritage status " and having re-development potential under the existing zoning.

Prices for the area have improved noticeably over the past few years. However, two interest rate increases, with further increases predicted, have resulted in a decline in demand and sales volume since late 2003.

METHOD OF VALUATION

Consideration has been given to the location and position, and the age, size, and particularly the condition and state of presentation of the subject; the sale and analysis of similar and/or comparable property in the area; the Summation Method; and the current real estate market.

Our prime method of valuation is the Adjusted Direct Comparable Analysis method, which compares the subject with other residences that have sold in the area in recent times, after making appropriate adjustments taking into consideration factors such as:

1. variations in the location and position of the properties;
2. variations in the size, quality, topography, slope, etc. of the land;
3. variations and differences in the scope, range, direction and quality of any views available or possible from the properties;
4. the size, nature, quality, age, state of repair, condition and presentation of any improvements on the land;
5. inherent positive and negative features and characteristics of the properties;
6. current permissible uses and future potential uses of the land; and
7. other factors considered of relevance.

Of the sales that occurred in the area during 2004, we found the following of the most assistance to our assessment of the "as is" value:

<u>Address</u>	<u>Sold</u>	<u>Price</u>	<u>Comparability</u>
52 Richmond Ave, St Ives Steep block on low side of road	Dec 03	\$745,000	Inferior
71 Ayres Rd, St Ives Larger Home, larger land	Jul 04	\$815,000	Superior
63 Ayres Rd, St Ives Larger Home, larger land	Sep 04	\$965,000	Superior
16 Horace Street, St Ives Inferior improvement	July 04	\$650,000	Inferior

Of the sales that occurred in the area during 2003-2004, we found the following of the most assistance to our assessment of the value as a heritage listed property:

<u>Address</u>	<u>Sold</u>	<u>Price</u>	<u>Comparability</u>
21 Richmond Ave, St Ives Larger Home, Quite location.	Oct 03	\$712,000	Superior
42 Mona Vale Rd, Pymble Larger Home, Larger land	July 03	\$670,000	Superior
83 Coonanbarra Rd, Wahroonga Quality Federation house	Aprl 04	\$1,400,000	Superior

Based on our overall analysis of the available heritage sales and market evidence, we assess the figures shown in the following Certificate of Value

DATE OF VALUATION

November 26, 2004.

CERTIFICATE OF VALUE

I am of the opinion that, subject to the qualifications and recommendations contained within the body of this report, the Fair Market Value of the subject property, as at the date of valuation, would be:

“As is” (subject to the property being removed from the “Kuring-gai Local Environmental Plan – mooted for Heritage status ” and having re-development potential under the existing zoning):

\$770,000

(Seven Hundred and Seventy Thousand Dollars)

As a heritage listed property:

\$600,000

(Six Hundred Thousand Dollars)

Anthony Zantiotis
Registered Valuer
NSW Registration No. 3881.

18 January 2006

Mr. S Rahmani
345 Mona Vale Road
St Ives NSW 2075

Dear Sam,

RE: Marketing and Sale: 27 Richmond Avenue, St Ives

It gives me no pleasure to advise that after all of the cost and effort expended in the marketing and potential sale of your Richmond Avenue property, we are no closer to a sale being made.

The response to our advertising and marketing has been good with over 80 groups now registered as having shown interest in your property and the number of full page internet hits on Domain.com alone approaching 2000.

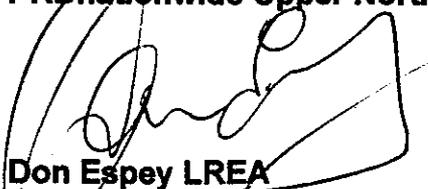
As you know, whilst the land is in an excellent location, the house is not only small but also poorly positioned to take advantage of the land having currently a very limited back yard area. The Extensions that were undertaken some time ago also do not flatter the property and the house itself is dated and draughty. I had every expectation though of being able to at least achieve 'Land Value'

This has not been the case, as whilst the property itself is not currently 'Heritage Listed', it may as well be, as it is 'Heritage Affected' with the Council advising that as it may be 'Heritage Listed' in the future. They are consequently not prepared, or able, to give guidelines of comfort even to potential purchasers like the Bothmas, who engaged an Architect to plan modifications and expansions, in sympathy with the surrounding properties, but have now given up. It apparently being all too hard even for willing and cooperative purchasers.

The only conclusion that I can draw is that we are wasting our time trying to achieve anything near what should be market price for the property, owing to the Heritage issues. I can only recommend that you take the property off the market, sell at whatever price you can get, or try to rent the property out which owing to the nature of the house itself is unlikely to be financially very rewarding.

Notwithstanding the frustrations associated with trying to sell this property, I have enjoyed working with you and wish you every success in the future.

Yours Sincerely
PRDnationwide Upper North Shore



Don Espey LREA
Marketing and Negotiation Specialist
0409 203 031

PS: Advertising amount owing: \$5,461.00 plus \$365.00 now paid to Housewashing Australia. Total amount owing \$5,826

STATUTORY DECLARATION

I, SHAYNE PATRICIA BRUKARZ OF 164A Mona Vale Road, St. Ives, in the State of New South Wales, Real Estate Agent, do solemnly and sincerely declare as follows:

1. I am a Real Estate Agent employed by St. Ives Real Estate, the office being located at 164A Mona Vale Road, St. Ives.
2. Mr. Saman Rahmani instructed me to sell his property known as 27 Richmond Avenue, St. Ives. An agreement was entered into and dated 9th January, 2004.
3. Upon my inspection of the property I noted it was a small home containing 3 small bedrooms, a small study which, I believe, was once the kitchen, an open plan combined lounge/dining room and an eat-in kitchen, which has been an addition since the original house was built in the late 1960's. There is also a small bathroom with a separate toilet. The house has been positioned towards the back of the block, limiting the backyard space for families and practically ruling out adding a pool. At the front of the property there is positioned a single garage which does not allow undercover access to the house.
4. My evaluation of the home was that it was in disrepair and would either need a substantial amount of funds being spent to bring it up to today's standards or that it would need to be demolished to make way for a new home.
5. I believe and have been informed by Mr. Rahmani that Ku-ring-gai Municipal Council intends to nominate the property for inclusion on the State Heritage Register, administered by the Heritage Council of New South Wales. This is also disclosed in Clause 10 of the Certificate under Section 149(2) & (5) of the Environmental Planning and Assessment Act, provided by Ku-ring-gai Council and included in the Contract for Sale.
6. 27 Richmond Avenue, St. Ives was first opened for inspection on Saturday, 31st January, 2004.
7. I have found from talking to people inspecting the property that the property is unsuitable because:
 - (a) it requires total renovation, the cost of which would be substantial
 - (b) it lacks space for the average family
 - (c) the backyard is too small
 - (d) the garage, being a single garage, is too small and is in the wrong position

(e) they want to demolish and build a new home

8. Whilst I personally believe this property should not be included on the State Heritage Register, the threat of such has been a major deterrent to prospective purchasers. One couple who were very interested in the property wanted to demolish and build a new home for their family. I suggested that they talk to someone at Council about this possibility and the proposed Heritage Listing. They were informed that it was basically "a done deal", that is, that the property would be listed as Heritage.

9. In my capacity as a Real Estate Agent and my experience of many years, should this property be listed as 'Heritage', it would decrease in value considerably. The prospect of future price increases would be significantly diminished.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by the provisions of the Oaths Act 1900.

SIGNED SEALED AND DELIVERED
by SHAYNE PATRICIA BRUKARZ
at St. Ives on 13th day of February
2004 in the presence of:



Romie Phon Yee Tsang
Solicitor
Supreme Court of New South Wales
High Court of Australia



MEDIA RELEASE

Andrew Humpherson MP Member for Davidson

20th July 2005

MEDIOCRE HERITAGE LISTING OBSESSION UNJUST

Davidson MP Andrew Humpherson has criticised the ongoing campaign by the NSW Heritage Office to list a controversial group of Pettit and Sevitt homes in North St Ives

"Along with many community members I support the concept of preserving quality buildings of significance, but not mediocrity to the detriment of property owners.

"If listing is likely to diminish property values as in this case, and the owners oppose listing, then listing should not occur.

"The only fair alternative is for Council or the Heritage Office to compensate or purchase affected homes. If the community want to preserve something then the cost should be borne by the community.

"The NSW Heritage Office has misled Ku-ring-gai Council over the heritage listing of this group of prefabricated project homes specifically in regard to claims it had made over the significance of this group in Richmond Avenue.

"The Office had asked Council in June to reconsider an earlier decision not to list the homes because it was "not aware of any heritage assessment, reputable or otherwise" about the heritage significance of the Pettit and Sevitt group.

"I am amazed that the Heritage Office has ignored a September 2004 conclusion by an eminent heritage architect and former National Trust conservation director, Stephen Davies, which contradicts the Heritage Office's claims.

In his report, Mr. Davies said there were anomalies in listings and relative differences in authenticity of the dwellings in the identified group.

He concluded the group was mixed in its sequence of development and could not be considered cohesive.

In relation to 27 Richmond Avenue, Mr. Davies said that the dwelling was not sufficiently significant to warrant restoration or justify the owner maintaining the building for the public good.

"I will not support a situation where the property rights of citizens were over-ridden to achieve a very dubious heritage outcome.

"Ku-ring-gai Council must reconsider its decision to heritage list 27 Richmond Avenue.

"My expresses concerns in Parliament last year remain today - these property owners should not be burdened with this unjust imposition." Mr Humpherson said

For further information Andrew Humpherson 0419 241 587, Roger White 0417 044 795/ 9230 3462

Mr. Stephen Davies' Curriculum Vitae

Mr. Stephen Davies is a Heritage Consultant, Director of City Plan Heritage, and was formerly the Deputy Director and Head of Conservation at the National Trust of Australia (NSW). In that position he had considerable experience in assessing and responding to Development Applications associated with heritage conservation issues. As both a member of the Heritage Council and Chair of Woollahra Council's Development Control Committee (while a Councillor on Woollahra Municipal Council), he was involved in the resolution of applications before the Heritage Council and Woollahra Council. He is a member of the Randwick/Waverley SEPP 65 Design Review Panel. City Plan Heritage is currently providing ongoing heritage advice to Canterbury Council and Randwick City Council and reviewing the North Sydney Heritage Study and the Mosman Conservation Areas.

1.0 INTRODUCTION

I am a Heritage Consultant, Director of City Plan Heritage, and was formerly the Deputy Director and Head of Conservation at the National Trust of Australia (NSW). In that position I had considerable experience in assessing and responding to Development Applications associated with heritage conservation issues. As both a member of the Heritage Council and Chair of Woollahra Council's Development Control Committee (while a Councillor on Woollahra Municipal Council), I was involved in the resolution of applications before the Heritage Council and Woollahra Council. I am a member the Randwick/Waverley SEPP 65 Design Review Panel. City Plan Heritage is currently providing ongoing heritage advice to Canterbury Council and Randwick City Council and reviewing the North Sydney Heritage Study and the Mosman Conservation Areas. (Attachment 1: Curriculum Vitae)

The proposal is for the demolition of the existing dwelling at 27 Richmond Ave. St. Ives and the erection of two dwellings as a dual occupancy.

I have read the following documents in relation to the matter:

- Revised Plans and elevations for the subject application, prepared by Patricia Vandenbruel (B.arch), September 2004
- Ku-ring-gai Planning Scheme Ordinance, as amended 18 June 2004.
- State Heritage Inventory listing form: Pettit and Sevitt Exhibition Centre No.1
- Statement of Evidence prepared by Robert Moore on behalf of Ku-ring-gai Council, for 27 Richmond Ave.
- Statement of Evidence prepared by Sheridan Burke on behalf of Ku-ring-gai Council, for 27 Richmond Ave.
- 'The New Suburban Dream: The Marketing of Pettit & Sevitt Project Houses 1961-1978', by Judith O'Callaghan, Faculty of the Built Environment, University of New South Wales, included in the papers of the XIXth Conference of the Society of Architectural Historians, Australia and New Zealand, Brisbane: SAHANZ, 2002.
- The Burra Charter, 1999. The Australia ICOMOS Charter for Places of Cultural Significance.
- Infill – Guidelines for the Design of Infill Buildings. Heritage Council of NSW and RAI 1988.

I agree to be bound by the expert witness Code of Conduct which forms Schedule 1 of the 'Expert Witness Practice Direction (No.22), Land and Environment Court of New South Wales Dated 2nd January 2004'.

2.0 STATEMENT OF ISSUES

2.1 **A Statement of Issues** has been prepared for the proceedings, dated 26 August 2004, which raises 11 issues, (Attachment 2: Issues). I will address Issues 1, 3, 6, and 8.

The issues, although numerous, relate in heritage terms to the following matters:

- **A. The heritage significance of the subject dwelling.**
- **B. The suitability of the design proposal as infill adjacent to, and in the vicinity of, heritage listed dwellings.**

I will address the subject matters in turn below.

When these issues were formulated the design of the proposal was different to what is now before the Court.

When I was asked to look at this matter I had reservations about both issues. The idea of conserving a group of places related to an event is one that has credence in conservation philosophy. I am particularly interested in mid to late twentieth century architecture in Australia and recognise the value of conserving the best of the period.

When I inspected the site I was particularly concerned about the amount of change to the dwelling and its ability to be adapted for additional accommodation. The original philosophy of extending the dwelling was to be 'long and low'. It is not possible on this site to achieve that design aim. The existing additions and those suggested by others, as detailed below, do not follow the original design intent.

The issues relating to the dual occupancy are being dealt with by Glendinning Minto and Associates, although I don't have an objection in principle to a dual occupancy in this regard.

The Council has already listed other buildings in the row and notwithstanding their individual merit it is incumbent on the applicant to respect heritage items in the vicinity. It is noted that out of the 8 houses in the 'Centre' group, designed by Ken Woolley, three are not listed in the Ku-ring-gai Planning Scheme Ordinance, including the subject site. The original design for the two new dwellings on the site I considered to be too blocky and not of appropriate materials that "fitted in"

with the existing streetscape. Discussions were held with the applicant and the applicant's Architectural designer and the subject plans have been prepared. These are analysed in detail below and I consider that they are a suitable complement to the existing streetscape.

The issues for me, therefore, are:

- the relative significance of this dwelling, including its history in the 'estate' movement and the staging of the street.
- the inconsistency of the Planning Scheme Ordinance
- the livability of the dwelling in terms of room sizes and design,
- the alterations and additions that have been made,
- its siting on the block in terms of potential additions in both physical and philosophical terms, and
- the difficulty of extending it satisfactorily under the current circumstances that have a relationship to economic feasibility.
- the importance of achieving a satisfactory design for dual occupancy on the site having regard to the listed heritage items in the vicinity.

This is a case that I believe should not be based on theory. Council's then external independent Heritage and Urban Design Advisor at the time of the initial assessment, Sean Johnson of Clive Lucas Stapleton and Associates, in his memo of the 17th September 2002, was concerned about the infill design of the new dwellings rather than the demolition of the existing building. I concur with this point. I requested that the design be altered to ensure that the principles espoused by Sean Johnson, relevant to good 'infill', be satisfied.

The issue of economic feasibility and the imposition of heritage values is not one that has been extensively explored, as far as I am aware. The planning acts seem more silent on this issue than the Heritage Act and I refer to this in the discussion below. The reality of expecting an individual to restore and then extend this dwelling for it to be a satisfactory contemporary living environment and retain its 'identified' heritage values, under the site and economic constraints, is an issue for me that I cannot reconcile with Council's determination.

Refer to Attachment 3: Photos

A. The heritage significance of the subject dwelling.

This matter is raised under Issue 1.

The issue states:

Whether the dwelling on the property should be retained on heritage grounds.

Particulars:

(1) Prior to consideration of the nature of the development itself, the issue of as to whether the building can be demolished needs to be addressed.

I will assess the significance of the dwelling from the readily available information to hand. It is noted that the dwelling is not a heritage item under the Ku-ring-gai Planning Scheme, as amended 18 June 2004.

Assessment Criteria

The following assessment of significance has been prepared in accordance with the 'Assessing Heritage Significance' guidelines from the *NSW Heritage Manual*.

a) an item is important in the course, or pattern, of the local area's cultural or natural history

The dwelling is the first 'Gambrel'- Mark VII constructed in Australia. It was erected as an addition to the first stage of the Pettit and Sevitt Exhibition centre. Although the centre was opened by the leader of the Opposition of the time, Mr RW Askin, the subject dwelling had not been erected.

The subject dwelling type was awarded the 1967/1968 RAI A NSW project House Award for an example constructed in Belrose. The subject dwelling did not receive an award.

The exhibition centre was preceded by three important 'villages'-

- 'The Parade of Homes' in West Pennant Hills in 1960, with 35 architect designed homes, including work by Ken Woolley,
- the Lend Lease '1962 Demonstration Village' in Carlingford, although opened in 1961, with 5 dwellings.
- the 1962 Kingsdene Estate, the second, larger, estate by Lend Lease, which included 24 project homes, 19 designed by seven local architectural practices, including Ken Woolley.

The works by Ken Woolley in the former estates have not been identified or included in local environmental plans.

Historically, the idea of 'Estate' housing in what is now termed the 'Sydney School' or the 'Late Twentieth- Century Sydney Regional 'style was not new at the time of the construction of this dwelling.

It is important to note that the group of dwellings, being 400 Mona Vale Road, 17, 19, 21, 23, 25, 27 and 29 Richmond Avenue, were not constructed as an entire village. Significance could possibly be attributed to a group, designed by one architect for an exhibition village at one time for presentation to the public. In this case No. 400 Mona Vale Road and 17, 19 and 21 Richmond Avenue were constructed initially as the 'Centre'. They are currently listed. These were followed by Nos. 25 and 27. The blocks at 23 and 29 were constructed by private owners to a design of Ken Woolley and constructed by Pettit and Sevitt. Historically, it is not obvious from visual observation to understand the sequence and significance of the group. Most of the dwellings have been modified since construction.

b) an item has strong or special associations with the life or works of a person, or group of persons, of importance in the local area's cultural or natural history

The estate has association with two important people in the development of Australian housing and landscape, being Ken Woolley and Bruce Mackenzie. The work of Woolley and Mackenzie is recognized elsewhere in more significant examples.

c) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area

The dwelling was not technically significant and was the cheapest of the Woolley types. These types were replicated elsewhere and even locally. The dwelling is not exceptional in construction or in its use of materials or approach to detailing. It was designed to be the first module for potentially larger dwelling.

The dwelling has been subsequently altered due to its small and awkward scale but not to the pattern set out by Woolley. It is subject to the limited nature of views out of the small bedrooms, the narrow hall, the inexpensive materials and the small kitchen. The bathroom has been altered. The dwelling has had an addition to accommodate the kitchen. The original kitchen has been removed. A garage has been added to the front of the dwelling. These changes are the result of the inadequate design to the original dwelling. Current conditions have changed the desire to live in this prototype and the dwelling is not considered to be so aesthetically or technically significant that it should be restored by a private owner.

d) an item has strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons

The dwelling does not appear to have a special association with a particular community group in the area for its heritage significance. It is considered significant by the National Trust of NSW and the RAIA for its contribution to some of the other criteria. There is no relationship between the Trust or the RAIA to this dwelling in terms of ownership or previous actions. The RAIA did not award this particular dwelling or the 'Centre' an award.

e) an item has potential to yield information that will contribute to an understanding of the local area's cultural or natural history

The group of dwellings does have the ability to illustrate physically the work of Pettit and Sevitt and their early association with Ken Woolley on an estate.

The work of this firm has not been comprehensively surveyed and the remaining dwellings out of the 3,500 constructed have not been formally assessed. This is obviously expressed in the decision of the Heritage Council not to include this group on the State Register. The RAIA is currently compiling a spreadsheet on the works by prominent architects of this period and the relationship to their influence as expressed by demonstration villages. This work is currently still being prepared.

f) an item possesses uncommon, rare or endangered aspects of the local area's cultural or natural history

The dwellings in the group are rare in that each was designed by Ken Woolley, in a different style, as a row of dwellings. They are not rare for their all being included in the exhibition 'Centre' as two were independently erected.

Rarity alone is not a criterion for listing.

g) an item is important in demonstrating the principal characteristics of a class of the local area's

- **cultural or natural places; or**
- **cultural or natural environments**

The dwelling is representative of the 3,500 Pettit and Sevitt dwellings erected in the then contemporary style, known now as the 'Late Twentieth – Century Sydney Regional'.

Statement of Significance

The subject dwelling is the first Mark VII- 'Gambrel' type, to be erected by Pettit and Sevitt. The dwellings in the 'Centre' were designed by Ken Woolley, recognized as a significant and influential architect of the period and who has continued to be recognised throughout his career. He also designed dwellings for 'villages' prior to the subject example. The dwelling, designed as a cheaper type of project home, has been subsequently altered as a response to its design limitations and does not represent a significant individual architectural design of the architect. The design is recognised as one of a number of designs for Pettit and Sevitt's catalogue of houses.

The dwellings in the group were not all erected at the same time for the exhibition 'Centre' Nos. 25 and 27 were erected after the initial four dwellings were 'opened' and were interrupted in physical sequence by No. 23, which was privately constructed.

A later version of the 'Gambrel', designed for Ron Pettit by Ken Woolley was awarded a RAIANSW Chapter Project Home Design Award. I have no record that this dwelling has been listed at State or Local level.

It is considered that the dwelling is of such a type and with significant modifications that it is not the type of dwelling that has the level significance that should now be restored. I do not consider that the significance justifies the owner maintaining the building as an item for the public 'good' having regard to its particular location and the nature of the suburb in which it is now located. The implications of this will be discussed below.

(2) following consideration by the heritage Council of New South Wales (who determined not to list the dwelling or the surrounding Pettit and Sevitt Houses at this time in the absence of any conclusive comparative assessments on a state wide basis), the dwelling was subsequently considered for inclusion within the Ku-ring-gai Planning Scheme Ordinance ('KPSO') as a heritage item.etc.

I agree with the Heritage Council's determination that there are no conclusive comparative assessments that can argue the listing of this dwelling on the State Register. At the local level, this remains relevant and the significance of the individual dwelling, its type, alterations and configuration on the land are not conducive to its effective conservation.

The Heritage Council commissioned Bruce Eels, Architect, with expertise in architecture of the mid to late twentieth century, to design a second dwelling for the site, in recognition of the permissibility of erecting a dual occupancy and to test the ability of retaining the existing dwelling. It is noted that the design was one that added a new addition on the rear, in a new location, with issues for setbacks, and a new dwelling on the front of the site, in a similar location to the subject application. The details of the plans that I have access to show the concept only, with no elevations and no measured drawings.

It is noted that the plans prepared by Bruce Eels, even if economically feasible in terms of conservation, and this is untested, would obscure the subject dwelling from a street view. The location of the dwelling is not conducive to the Eels plan as it would impact on the streetscape in a more significant manner than the proposed plans.

An issue with the subject dwelling is that as a later addition to the row it was placed to the rear to the site to be subservient to the two storey dwelling at No.25,

B. The suitability of the design proposal as infill, adjacent to, and in the vicinity of, heritage listed dwellings.

This matter is raised under Issues 3, 6 and 8.

To formally assess the principles of infill the Heritage Council Guidelines provide a useful reference. The guidelines state that *“the concepts of infill building apply where the town has character we value. Good infill is a building which, sympathetic with the surrounding buildings and streets, tries to create new structures that enhance and complete the existing urban character.”* The Guidelines also state that *“Infill does not mean imitation or following inflexible design rules.”*

“Successful infill satisfies the following five major design criteria;

- *Character*
- *Scale*
- *Massing*
- *Materials and detailing*
- *Setback and Orientation”*

Character

Infill design requires a careful neighbourhood inspection to identify the elements of the overall character.

As most conservation areas have developed over a short period of time the character is often defined by architectural style. New buildings should therefore harmonize with their surroundings.

The 7 other dwellings designed by Ken Woolley in the street were inspected and, notwithstanding their additions and alterations, the typical characteristics were identified. The characteristics of bagged brickwork, dark stained timber and simple roof lines were identified as general unifying features.

The original design is not considered appropriate in the streetscape due to the different character of the dwelling style. The original design character exists in the area, and there are examples to the rear of the site, however it is not considered appropriate in this location.

The character is a component of the scale, massing, materials and details and setback and orientation.

Scale

Infill design strives to maintain the scale of a place. New buildings should not dominate their surroundings, nor should they be significantly smaller.

The proposal is for two, two storey buildings designed as a dual occupancy. One building is located in front of the other. The dwellings have separate garages. The dwellings adjoin a two storey dwelling, being No. 25 Richmond Ave. No.21 is a two storey split level design.

Massing

The massing of a building is its overall bulk and the arrangement of its parts.

The building masses have been modeled to produce a scale compatible with the scale of the dwellings in Richmond Ave.

Materials and Details

Materials and details of surrounding buildings need not be simply copied but used as a continual point of reference. Modern materials can be used if their proportions and details match. Colour and tonal contrast can be unifying elements.

The materials are not the same as the existing building, but in this sense it is the odd one out, notwithstanding that the unpainted brickwork is original. The materials are a point of reference to the other buildings by Woolley in Richmond Ave.

Setback and Orientation

The qualities of the streetscape can be reinforced by conforming to existing setbacks, and walls and fences should be related to adjacent properties.

Established buildings are usually oriented to their street frontage. Where the facades create a more or less continuous line, this pattern should be repeated.

The original dwellings in the street were designed as an exhibition centre and as such there were no fences between them. The dwellings were sited in relation to the marketing objectives of the properties. No. 27 was set back to enhance the visual appreciation of the two storey dwelling at No. 25. They have subsequently been fenced to the side boundaries and screen walls have been built in front of Nos. 25 and 23. Additional garages have also been built in front of some dwellings, including the subject dwelling. The original relationship of garages and walls to the street has therefore been changed over time.

The subject proposal is considered suitable in terms of the adjoining dwellings at No.29 and 25 due to the evolving street setbacks. The orientation is of a dwelling having a façade to the street and an entrance to the side. This is also a typical feature of dwellings in the row.

The impact on heritage items in the vicinity.

The subject proposal is an amended design that has had regard to concerns and is compatible with the heritage items in the vicinity.

I have viewed the revised landscape plan, dated August 2004, prepared by Stuart Pittendrigh, Landscape Architect, Director of PSB, and consider that it is an appropriate response to the locality in terms of the native landscape philosophy applied to the original 'Centre'.

Economic Considerations

The issue of heritage conservation and economic use is a difficult philosophical area. A building can be conserved, including restoration, in almost any condition if the budget will allow it. There must be therefore a consideration of significance and cost involved. Whilst the significance of the dwelling as an example of its type is appreciated it is not considered of such significance that any amount of expenditure is reasonable. It would appear not to be reasonable, having regard to its significance, to restore this dwelling if it could not recoup its expenditure, otherwise it would be more financially preferable to an owner to allow the building to remain empty or rent it at a lower rent and not spend money on its conservation. The issue also relates to how much change is required to restore the dwelling and the amount of change that might subsequently be applied when the building is extended during this process.

It is important to apply the level of care related to the level of significance. The Burra Charter does not distinguish rules for different levels of significance, but it does recognise that the cultural significance is "best understood by a sequence of collecting and analysing information before making decisions. Understanding cultural significance comes first, then development of policy and management of the place in accordance with the policy."

The Burra Charter does not deal with economic issues. It is about establishing and managing significance.

The Heritage Act appears to be one of the few documents that actually includes financing conservation. Under Clause 33 of the Act- *Procedure before recommendation for listing* it states that *without limiting the submissions that can be made for the purposes of this section, any of the following submissions can be made:*

(2)(d) a submission that conservation of the item the subject of the proposed recommendation could not be achieved without causing undue financial hardship to the owner, mortgagee or lessee.

The applicant considers that the conservation of the building is detrimental to the financial value of the site. Whilst this is not a criterion for heritage listing it emphasises the issue of the comparative benefit of the building for the community in heritage conservation terms against that of the individual owner in personal and financial terms. The restrictions placed on the site by the location and width of the building makes it difficult in heritage terms to satisfactorily resolve the design of reasonable additions, let alone another dwelling on the site.

3.0 CONCLUSION

I do not consider that there is enough comparative information currently available to formally determine the listing of this building.

In terms of the 'group' itself, there are anomalies in listings and relative differences in authenticity of the dwellings in the identified 'group'. The group itself is mixed in development sequence, notwithstanding that it has the same architect for all dwellings. The 'Centre' cannot be read as a contiguous group unless it is restricted to 400 Mona Vale road and 17, 19 and 21 Richmond Ave.

The design of the amended dual occupancy is considered a complementary 'infill'. The external design elements complement the adjoining heritage items. The scale, massing, materials, setbacks and orientation all respect the surrounding built context and allow the ongoing appreciation of the original four dwellings in the Pettit and Sevitt Exhibition Centre No.1, three of which are heritage listed at the local level.

Stephen Davies

City Plan Heritage

September 2004

Attachments:

- 1. Curriculum Vitae**
- 2. Statement of Issues**
- 3. Photos of 27 Richmond Avenue.**



Front elevation: 27 Richmond Ave.



Front Elevation: 27 Richmond Ave. Note that timber boarding was originally stained



Front Elevation: 27 Richmond Ave.



27 Richmond Ave: Addition to rear of original dwelling



27 Richmond Ave: Addition to rear



27 Richmond Ave: Garage added to front of site after dwelling was erected.



27 Richmond Ave: Entry to dwelling into Living room



27 Richmond Ave: Detail of skylight in Gambrel roof of living room



27 Richmond Ave: Former kitchen room, presently study/store



27 Richmond Ave: New kitchen located in rear extension to the dwelling.



27 Richmond Ave: Central hall providing access to bedrooms and bathroom and WC. Note the narrow width and pine floor in accordance with the low cost nature of the dwelling.



27 Richmond Ave: Main and only bathroom. Note that it has been retiled.



27 Richmond Ave: Gambrel roof form in bedroom 3.



27 Richmond Ave: Corner bedroom detail. Note highlight windows and small size of bedroom 2.