

# Heritage Referral Response

To: Tania Martin  
From: Michael Edwards – Heritage Advisor  
Application No.: Planning Proposal  
Date: 11 June 2019  
Address: 14-16 Victoria Street, Kogarah



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## Development proposal:

Removal of 14-16 Victoria Street, Kogarah from Schedule 5 of the *Kogarah LEP 2012*.

## Reason for the Heritage Referral:

The Planning Proposal has been referred for heritage advice and comment as the subject site is an item of heritage significance, listed on Schedule 5 of the *Kogarah LEP 2012* and is located within the vicinity of a number of items of heritage significance.

## Statement of Cultural Significance:

*'Relatively rare within the Kogarah LGA, 14-16 Victoria Street is a pair of two-storey late Victorian period terraces which are representative of the Victorian Italianate style. Integrity has been somewhat compromised by unsympathetic alterations (particularly No. 16) but they are still able to be conserved. These terraces make a positive contribution to the streetscape and provide evidence of the development of the Kogarah Township Estate and the historic building stock of Kogarah.'*

## Consideration of the Planning Proposal:

This Planning Proposal essentially seeks to remove the subject site (known as Nos.14-16 Victoria Street, Kogarah) from Schedule 5 of the *Kogarah LEP 2012*, or, in other words, to 'de-list' the heritage item.

At the outset, any decisions regarding the management of change to a heritage item or heritage conservation area, must always be guided by an understanding of the significance of that item or place concerned. Decisions must be made that respect those embodied values, both tangible and intangible, that gives the place its significance. Although changes to heritage items are often generated from the desires, needs and aspirations of the property owner or custodian, decisions must be assessed and considered against the assessed cultural significance and heritage values.

Nos.14-16 Victoria Street, Kogarah, first appear to have been heritage listed as part of the Kogarah Heritage Study 1994.

The Statement of Significance dating from 1994 records the building as having been 'compromised by unsympathetic alterations'. Photographic evidence from this time shows that the first floor balcony of No.16 had been enclosed by lightweight (yet reversible) additions. The 2011 Kogarah Heritage Study Review provided guidance on recommended management, specifically that 'when the opportunity arises, reconstruct historically accurate front boundary fences, remove non-original balcony infill from No.16 and reconstruct original cast iron lace balustrade to Council approval'.

Since that time, the balcony enclosure has been removed, reinstating the overall character of the building and re-instating design integrity to the building. Though the balustrade of No.16 does not appear to be original, it is not offensive, that is, it is stylistically in keeping with the character of the building and does not detract from its significance.

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The Planning Proposal (PP) report submitted with the application identifies that the purpose of the PP is to remove the heritage listing of the property, on the belief and assumption that the heritage listing is no longer warranted due to the perceived negative impacts on the item associated with the recent rezoning of land in the Kogarah North precinct from R2 to R4 and the changes to the development controls (in particular, the permitted height and FSR in the precinct). The report suggests that as a consequence, those changes will lead to potential impacts to the structural integrity of the buildings and the loss of historical context, together with negative financial impacts to the present owners through a loss of opportunities to capitalise on development potential.

While it is acknowledged that the surrounding context is changing owing to the renewal of building stock for a variety of reasons, it is noted that impacts on the heritage item from changes in the permitted height and FSR are at this stage merely perceived and not actual impacts.

The up-zoning of surrounding land or changing the development standards to permit a higher density of development is not a 'fait accompli' to impacts occurring to the heritage item. There is no certainty that the surrounding land *will* be redeveloped or that an inappropriate development outcome *will* occur. In any case, any future development within the vicinity of the heritage item would be required to demonstrate an acceptable impact on the heritage item to ensure its significance is not diminished through inter-alia, inappropriate scale, height, setbacks. For instance, the Heritage Assessment report prepared by Peremul Murphy Alessi (May 2019) (Section 2.4) states that 'a three level podium has been proposed in an attempt to align with the height and siting of the listed items', which demonstrates the accepted approach that any future development would need to be sensitively designed to be contextually responsive.

The PP also suggests that the development within the Kogarah North precinct will have potential impacts to the structural integrity of the building. Were development consent to be granted for the redevelopment of any surrounding or adjoining sites, it is a reasonable expectation that the imposition of conditions of consent would address issues of structural integrity, through ensuring changes to the landform do not diminish or impact on the structural integrity of the heritage item.

The Australia ICOMOS *Burra Charter* defines 'setting' as meaning 'the immediate and extended environment of a *place* that is part of or contributes to its *cultural significance* and distinctive character'.

Article 8 of the *Burra Charter* states that '*Conservation* requires the retention of an appropriate *setting*. This includes retention of the visual and sensory setting, as well as the retention of spiritual and other cultural relationships that contribute to the *cultural significance* of the *place*. New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate'.

This raises the question of what is the setting to the heritage item. In heritage terms, this is what is referred to as the 'curtilage'. The curtilage to most heritage items listed at the local level is defined as a lot boundary curtilage, that is, the space within the allotment boundaries is the minimum area required to retain the setting of the heritage item. In some instances, the curtilage can be expanded to be a composite curtilage, that is, one that incorporates a larger area comprising multiple allotments or spaces. Without question, the existing low-density residential setting of the terrace houses on the subject site contributes to the present visual setting and backdrop to the heritage item. However, I consider the existing setting to be complementary to the heritage items, not contributory to the significance, whereby the curtilage to the heritage item is sufficiently limited to the lot boundaries. It is important to note that the existing terrace houses pre-date many of the existing built structures within the streetscape, whereby the original setting to the terrace houses has changed, having evolved from the vacant landscape from the speculative subdivision of the area to the early residential development that ensued. In this manner, the setting of the terrace houses has already evolved, but this has not precluded the terraces from still displaying certain characteristics and values that warrant their listing.

Put simply, the argument that a potential change in the setting to the heritage items is insufficient justification to warrant the de-listing of the buildings. Such change may never occur, or may occur in a sympathetic manner that has an acceptable and tolerated impact.

A heritage assessment has been undertaken of the subject site (Perumal Murphy Alessi, May 2019).

The report identifies that the terrace houses were likely built c1886-1887 and despite some minor changes externally and internally, the buildings appear in sound and good condition.

The report includes a comparative analysis which has been undertaken of other listed items of heritage significance within the locality which display similarities in the architectural form and typology. That assessment identifies a small number of similar terrace houses within the locality, concluding that those other examples are superior in their quality and aesthetic appearance than the terraces on the subject site, whereby suggesting that late 19<sup>th</sup> century terrace houses are adequately represented on the Council's heritage inventory. As has been established by the Heritage Assessment, the subject site contains a pair of late 19<sup>th</sup> century terrace houses which are in sound and good condition. The report also considers the buildings to retain a strong sense of their original form and early detailing, making a positive contribution to the streetscape, though states that they are not benchmark sites and do not have landmark qualities. However, a building does not need to be individually iconic or of landmark quality to demonstrate aesthetic significance.

Schedule 5 of the LEP is not a repository for only the very best of the best items and places of significance, but a representation of a wide number of buildings and places of varying degrees of integrity, intactness and condition, but all displaying characteristics that warrant their protection through listing.

The report further justifies the de-listing of the subject site on the basis that the rezoning of the surrounding land to R4 will result in a loss of the early subdivision and development pattern. Already, the wider subdivision pattern has been altered from successive re-subdivisions. The existing Statement of Significance for the terrace houses states that '*These terraces make a positive contribution to the streetscape and provide evidence of the development of the Kogarah Township Estate and the historic building stock of Kogarah*'. In my opinion, this evidence is not exclusive to the subject site and beyond the site, is incidental to its cultural significance, for regardless of the redevelopment of the surrounding locality and streetscape, the evidence of the development of the Kogarah Township Estate would still be interpreted and read in the housing form and subdivision pattern evidenced in the subject site.

Ultimately, it is premature to assess the impact of development on the heritage items in the absence of specific development proposals occurring. As has been outlined above, the fact that the surrounding land has been up-zoned with correlating development controls, is not a fait accompli that development will adversely impact upon the setting and therefore significance of the heritage items. Such consideration could only be given once a development proposal has been made, however it is expected that any development of surrounding allotments would be designed with regard to the heritage items.

### **Recommendation:**

Having considered the existing heritage listing and Heritage Assessment (Peremul Murphy Alessi, May 2019), I am of the opinion that the present heritage listing is duly justified as the terrace houses are good examples of late 19<sup>th</sup> century residential development and have historical and aesthetic significance at the local level. This is confirmed by the Perumal Murphy Alessi report.

I do not consider there to be sound or cogent justification on a heritage basis to support the de-listing of the heritage items at 14-16 Victoria Street, Kogarah. The issues raised by the proponent in the supporting documentation can adequately be mitigated and addressed through the existing planning process, particularly through development controls to ensure that future development is designed in such manner to be contextually responsive to protect the amenity and ultimately, the significance of the heritage items. Issues such as structural integrity can be adequately addressed through the imposition of conditions of consent requiring certain measures to be implemented to ensure the structural integrity of the heritage item.

The loss of developmental opportunities or financial impacts to property values as a consequence of heritage listings are not valid considerations under the Heritage Council of NSW criteria for either assessing heritage significance or assessing impacts. Such matters should not be given any weight.

I do not recommend that Council supports the PP for these reasons.

Regards,



Michael Edwards  
Heritage Advisor