

Attachment C

Summary of Submissions

Introduction

This submissions table provides a summary of the 19 submissions received during the public exhibition period of the Planning Proposal to include 46 Chisholm Street as a heritage item within Schedule 5 of the Sydney Local Environmental Plan (LEP) 2012.

The planning proposal was exhibited from 25 November to 23 December 2019. 15 submissions were received in response to the public exhibition, including one petition.

Due to a miscalculation of the exhibition time period in late 2019, the City was required to re-exhibit the planning proposal. This new exhibition period occurred from 5 May 2020 until 3 June 2020. Previously submissions on this proposed heritage listing from the 2019 exhibition were still considered valid. A further four submissions were received in response to the second public exhibition.

The 19 submissions and the City's response are included in the table below.

Summary of Submissions – 46 Chisholm Street, Darlinghurst

No.	Submitter	Submission summary	Response
1	Community member	Support. Support the proposal to heritage list as a means of retaining our built heritage.	Support noted.
2	Potts Point and Kings Cross Heritage and Residents' Society,	Support. Support the proposal to heritage list, as a rare item of historical, social and architectural significance within the City of Sydney local government area.	Support noted.
3	Community member	Support. Support the proposal to heritage list. Notes that they would also support any proposal to develop 46 Chisholm Street behind but not above the ridge line.	Support noted.
4	Community member	Support. Support the proposal to heritage list to ensure that the full fabric of our area is conserved for future generations.	Support noted.
5	Heritage NSW	Support. Heritage NSW encourages the listing of new heritage items on Council's Local Environmental Plan. Council should satisfy itself that the necessary assessments, notifications and due diligence have been completed.	Support noted.
6	Community member	Support. Support the proposal to heritage list as a local resident who takes an active interest in development and heritage protection in their local area. Concerned about the scale of development on the periphery of their vicinity (Oxford and Flinders Streets) and degree of change within the conservation area.	Support noted.
7	Community member	Support. Support the proposal to heritage list as a local resident who lives in the area for its distinctive historic character. Notes that 46 Chisholm St represents the earliest history of the street, is unique and adds significant character to the area. Concerned that not heritage listing would	Support noted.

Summary of Submissions – 46 Chisholm Street, Darlinghurst

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		allow demolition which would be an unfortunate precedent for the rest of the street and the area as a whole.	
8	Community member,	Support. Support the proposal to heritage list as a local resident.	Support noted.
9	Dickson Rothschild (on behalf of the property owner)	Oppose. Oppose the proposal to heritage list, on behalf of the property owner	Opposition noted. Comments are addressed below.
		<p>Application process</p> <p>Issues raised include concerns about the listing process and procedural fairness.</p>	<p>The City has been clear it has not supported demolition of the cottage.</p> <p>Council first stated this position in preliminary discussions in December 2017, and in subsequent development application correspondence in October 2018 and February 2019.</p> <p>One of the reasons for not supporting demolition is the property is identified as a contributory building within the Paddington Conservation Area. Separate to the advice provided on the development application, the City carried out a heritage assessment which has established the heritage significance of the place.</p> <p>The City has followed due process. During the preparation of the heritage assessment, the City requested and was provided access from the landowner’s representative for staff and the consultant to inspect the property.</p>
		<p>Heritage significance</p> <p>The correspondence questioned the degree of heritage significance of the property and that it had not been identified in any previous studies of the area or building type, including the South Sydney Weatherboard Buildings Survey in 2004.</p>	<p>The independent heritage assessment by John Oultram Heritage + Design concluded the cottage at 46 Chisholm Street, Darlinghurst meets the threshold for inclusion as a heritage item on Sydney Local Environmental Plan 2012 (LEP) for its historic values, rarity and representativeness. The assessment notes the house as an example of a mid-late Victorian weatherboard cottage that retains its early form and its detail to the front. The property contains the only remaining, timber weatherboard cottage from the earliest development of the Chisholm Estate. The independent</p>

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			<p>assessment concluded the cottage meets three of the seven criteria for listing, noting only one is required to meet the threshold for inclusion as a heritage item.</p> <p>A comparative analysis was prepared in 2019 as an appendix to the initial heritage assessment. This study concluded that the subject site has all of the characteristics of heritage listed weatherboard cottages in the City with a comparable degree of significance and intactness. It remains readable as an early cottage in the conservation area and is the only weatherboard cottage in the Chisholm Estate subdivision.</p> <p>Following concerns about the demolition or redevelopment of weatherboard buildings, South Sydney City Council commissioned a study in 2002. After the amalgamation with the City of Sydney in 2004, the City endorsed a number of heritage listings of weatherboard cottages, as recommended by this study. Soon after, the City incorporated guidelines related to this study into the Heritage Development Control Plan 2006, which has evolved into the current Sydney Development Control Plan 2012. This guides development of weatherboard cottages within Conservation areas, but also any weatherboard buildings older than 50 years. The subject site was not identified in the 2002 study, however, the weatherboard study was not comprehensive. While there were no specific recommendations made for this site as part of the 2002 study, this does not negate the recommendation of the 2019 independent heritage assessment.</p>
		<p>Contrary views</p> <p>The submission noted previous heritage assessments had not determined that the site had any heritage significance. The submission contained a copy of the Heritage Impact Assessment prepared for the DA by Zoltan Kovacs Architect, dated April 2018</p>	<p>The City commissioned an independent heritage assessment of the property to determine if the site met the threshold for inclusion as a heritage item.</p> <p>This assessment was carried out separately to but concurrently with the development application assessment process and concluded the cottage meets the threshold for inclusion as a heritage item on the LEP for its historic values, rarity and</p>

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		and a review of Kovacs report by Weir Phillips Heritage, dated 25 August 2009 (sic).	representativeness. A comparative analysis supports heritage listing of the site.
		Savings provisions The submission suggested that a savings provision should be incorporated into the Planning Proposal.	As there was no application approved to demolish the property prior to the City’s heritage assessment, savings provisions are not applicable.
		Ad-hoc approach, lacking merit The correspondence considers that “this is an ad-hoc, spot-rezoning and lacks planning and heritage merit.”	The City commissioned an independent heritage assessment of the property to determine if the site met the threshold for inclusion as a heritage item. While thematic or place based heritage studies can be used to identify heritage items it is also common for individual sites to be assessed as their potential significance is revealed. Heritage and planning legislation enables the assessment and identification of heritage items on an individual basis. The merit of the listing has been addressed in the heritage assessment and comparative analysis. No further evidence has been raised to discount the conclusions of the assessment.
10	Property owner	Oppose. Oppose the proposal to heritage list.	Opposition noted. Comments are addressed below:
		Application process A major issue raised by this correspondence is the difficult application process that has happened since the DA submission.	The City has been clear it has not supported demolition of the cottage. Council first stated this position in preliminary discussions in December 2017 as it is a contributory building in a conservation area. Subsequent assessments of the development application in October 2018 and February 2019, identified heritage as a key consideration. One of the reasons for not supporting demolition is the property is identified as a contributory building within the Paddington Conservation Area.
		Lack of previous Council reports on the heritage significance of the site. Comments include lack of previous Council	The property is classified as a contributory building within the Paddington Conservation Area. Until recently this site has not

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		<p>studies regarding this property between 1994 and 2005, none of which determined that the site should be a heritage item.</p>	<p>previously had a detailed heritage assessment, other than an assessment of its contributory status.</p> <p>The independent heritage assessment by John Oultram Heritage + Design concluded the cottage at 46 Chisholm Street, Darlinghurst meets the threshold for inclusion as a heritage item on the LEP for its historic values, rarity and representativeness. The assessment notes the house as an example of a mid-late Victorian weatherboard cottage that retains its early form and its detail to the front. The property contains the only remaining, timber weatherboard cottage from the earliest development of the Chisholm Estate. The independent assessment concluded the cottage meets three of the seven criteria for listing, noting only one is required to meet the threshold for inclusion as a heritage item.</p> <p>Following concerns about the demolition or redevelopment of weatherboard buildings, South Sydney City Council commissioned a study in 2002. After the amalgamation with the City of Sydney in 2004, the City endorsed a number of heritage listings of weatherboard cottages, as recommended by this study. Soon after, the City incorporated guidelines related to this study into the Heritage Development Control Plan 2006, which has evolved into the current Sydney Development Control Plan 2012. This guides development of weatherboard cottages within Conservation areas, but also any weatherboard buildings older than 50 years. The subject site was not identified in the 2002 study, however, the weatherboard study was not comprehensive. While there were no specific recommendations made for this site as part of the 2002 study, this does not negate the recommendation of the 2019 independent heritage assessment.</p>
		<p>Long association with the property The submission referred to the long period of property ownership (almost 30 years and with a family connection to the place prior to</p>	<p>Noted. The nature of the ownership does not reduce the identified significance of the place.</p>

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		this) and the tenancy by family members for 10 years until recently.	
		<p>Past works and ongoing maintenance</p> <p>The submission noted major changes to the dwelling involving significant amounts of fabric replacement, resulting in a lack of original fabric and the ongoing maintenance required.</p>	<p>The submission noted major changes to the dwelling involving significant amounts of fabric replacement and ongoing maintenance required. These issues do not preclude heritage listing.</p> <p>Historic timber buildings in Sydney, especially those approximately 140 years old, are likely to have undergone replacement of original fabric.</p> <p>As noted in the heritage assessment, 46 Chisholm Street retains its original form and detail to the front, even if it has lost much of its original internal fabric with nearly all original finishes and detail replaced. Nonetheless, for its historic significance, representativeness and rarity value, it has been assessed as having heritage significance that warrants listing.</p>
		<p>Property location</p> <p>Another concern was the location of the dwelling in a small street overlooking garages.</p>	<p>The location of the site facing the rear of properties fronting Flinders Street is immaterial to the heritage significance of the property.</p>
		<p>Property owners current personal requirements</p> <p>Furthermore the objection reiterates the property owners current personal requirements and how Council has not addressed their personal desires.</p>	<p>Any potential development of a site is linked to current planning controls and can usually be confirmed during the development application process. In this case, the City has been consistent in its advice that it would not support the proposed demolition of the cottage.</p> <p>The current planning controls may indicate a greater development potential than currently exists, however, other considerations such as the location of the subject site within a conservation area and the contributory status of the building need to be addressed in any development proposal.</p>

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		<p>Contrary views in other reports The submission noted previous heritage assessments had determined that the site had no heritage significance. Furthermore the objection reiterates how Council has not addressed their consultants reports.</p>	<p>The City commissioned an independent heritage assessment of the property during the development application process to determine if the site met the threshold for inclusion as a heritage item. This assessment was carried out separately to but concurrently with the development application assessment process and concluded the cottage meets the threshold for inclusion as a heritage item on the LEP for its historic values, rarity and representativeness. A comparative analysis supported heritage listing of the site.</p>
11	Self identified family member of the landowner	<p>Oppose. Oppose the proposal to heritage list, as a family member with significant knowledge of the property and former tenant.</p>	<p>Opposition noted. Comments addressed below:</p>
		<p>Past works and maintenance The submission noted past renovations of the property with major amounts of replacement of building fabric, as well as ongoing maintenance.</p>	<p>Historic timber buildings in Sydney, especially those approximately 140 years old are likely to have undergone replacement of original fabric. The heritage assessment by John Oultram Heritage + Design, 46 Chisholm Street retains its original form and detail to the front, even if it has lost much of its original internal fabric with nearly all original finishes and detail replaced. Nonetheless, for its historic significance, representativeness and rarity value, it has been assessed as having heritage significance that warrants listing. Any historic property requires regular maintenance, especially Victorian timber structures. These issues do not preclude heritage listing.</p>
		<p>Lack of previous Council reports on the heritage significance of the site. Comments include lack of previous Council studies regarding this property , none of which determined that the site should be a heritage item.</p>	<p>The property is classified as a contributory building within the Paddington Conservation Area. Until recently this site has not previously had a detailed heritage assessment, other than an assessment of its contributory status.</p>
		<p>Current planning controls The correspondent identifies the</p>	<p>The current planning controls may indicate a greater development</p>

Summary of Submissions – 46 Chisholm Street, Darlinghurst

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		development potential of the site based on the current LEP/DCP controls compared to the current development on the site.	potential than currently exists, however, other considerations such as the location of the subject site within a conservation area and the contributory status of the building need to be addressed in any development proposal.
		Long family connection to property and its development potential The objection noted the long family ownership/connection the property and that heritage listing will be detrimental to the sites development potential.	The proposed heritage listing does not change the planning controls for the site. The current planning controls may indicate a greater development potential than currently exists, however, other considerations such as the location of the subject site within a conservation area and the contributory status of the building need to be addressed in any development proposal.
		A series of newspaper articles regarding residential development were provided, including: Rob Stokes “a keen supporter of medium density housing code as a means to increase the diversity of housing” SMH June 13, 2019. Gladys Berejeklian “a good city gives people choice” and “including to live and buy a house in Sydney”, The Guardian January 23, 2017 “Clover Moore criticises lack of public housing investment in the city”, Daily Telegraph August 8, 2019 Unreferenced article, re Clover Moore “Warns Waterloo redevelopment will create “ghettos of the future” & is a “planning disaster”. An excerpt from the Daily Telegraph dated 27/11/19 was also included, with the headline: “Yes, in your backyard: Gladys declares war on NIMBYs in bid to kick-start failing system”	The majority of the newspaper articles cited are not pertinent in this context as they relate to public housing and the major development associated with the new Waterloo metro station. The article relating to the medium density housing code is not relevant as the Code does not apply to heritage conservation areas.

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12	Self identified family member of the land owner	Oppose. Oppose the proposal to heritage list, as a family member with significant knowledge of the property.	Opposition noted. Comments addressed below:
		<p>Past works</p> <p>The correspondence raised issues relating to past renovations of the property with major amounts of replacement of building fabric (including a list of various building works). Submission included a copy of a receipt for plumbing repairs in August 2019.</p>	<p>Any historic property requires regular maintenance, especially Victorian timber structures. These issues do not preclude heritage listing.</p> <p>Historic timber buildings in Sydney, especially those approximately 140 years old are likely to have undergone replacement of original fabric. As noted in our heritage assessment, 46 Chisholm Street retains its original form and detail to the front, even if it has lost much of its original internal fabric with nearly all original finishes and detail replaced. Nonetheless, for its historic significance, representativeness and rarity value, it has been assessed as having heritage significance that warrants listing.</p>
		<p>Council approach</p> <p>The correspondent also comments that this is a “targeted and political tactic by the City”.</p>	<p>The City has not supported demolition of the cottage at any time consistent with Council’s adopted planning controls.</p>
13	Community member	Oppose. Oppose the proposal to heritage list	Opposition noted. Comments addressed below:
		<p>Proposed development</p> <p>The submission notes the streetscape contribution of the proposed development as well as provision of affordable accommodation in an increasingly unaffordable vicinity.</p>	<p>The public exhibition for the proposed heritage listing of 46 Chisholm Street is a separate though parallel process to the refused development application.</p>
		<p>Lack of significant or heritage fabric</p> <p>The correspondent flagged an apparent lack of significant or heritage fabric at the property.</p>	<p>Historic timber buildings in Sydney, especially those approximately 140 years old are likely to have undergone replacement of original fabric. As noted in our heritage assessment, 46 Chisholm Street retains its original form and detail to the front, even if it has lost much of its original internal fabric with nearly all original finishes and detail replaced. Nonetheless, for its historic significance,</p>

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			representativeness and rarity value, it has been assessed as having heritage significance that warrants listing.
		Council approach The correspondent noted their dismay at the “underhanded and unethical tactics” employed by Council.	The City has not supported demolition of the cottage at any time consistent with Council’s adopted planning controls and advised the proponent on a number of occasions. The City has followed due process, keeping the land-owner informed during this process and answering questions.
		Lack of previous Council reports on the heritage significance of the site. Comments include lack of previous Council studies regarding this property , none of which determined that the site should be a heritage item	The property is classified as a contributory building within the Paddington Conservation Area. Until recently this site has not previously had a detailed heritage assessment, other than an assessment of its contributory status. The independent heritage assessment by John Oultram Heritage + Design concluded the cottage at 46 Chisholm Street, Darlinghurst meets the threshold for inclusion as a heritage item on the LEP for its historic values, rarity and representativeness.
14	Self identified former tenant	Oppose. Oppose the proposal to heritage list, based on having been a tenant for 2 years.	Opposition noted. Comments addressed below:
		Poor environmental conditions Issues raised include poor environmental conditions in house eg cold in winter, hot in summer.	The proposed heritage listing of a property does not preclude change. For example, insulating walls and ceilings to minimise discomfort during the extremes of summer and winter would be acceptable if the property was a heritage item.
		Degree of maintenance required The comments regarding maintenance included leaking ceilings, lack of ventilation, issues with the front gate, replacement of the living room floor, damp causing mould in wardrobes.	Any historic property requires regular maintenance, especially Victorian timber structures. These issues do not preclude heritage listing.

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		<p>Lack of acoustic amenity As a former resident, the correspondent identified issues with poor acoustic amenity at the subject site.</p>	<p>The proposed heritage listing of a property does not preclude change such as measures to improve acoustic amenity.</p>
		<p>Humble nature of dwelling One of the reasons cited for not supporting the heritage listing is noted as relating to the humble nature of the dwelling.</p>	<p>Heritage is often described as the things we want to keep for future generations and can include a wide range of places. Heritage sites do not need to be grand places, but can also include simple humble dwellings such as 46 Chisholm Street.</p>
15	various names (petition), undated	<p>Oppose. Oppose the proposal to heritage list. Text of petition is as follows: “To whom it may concern, regarding the proposed heritage listing of 46 Chisholm St, Darlinghurst NSW 2010, by City of Sydney Council. The subject property has a pending hearing with the Land and Environment (sic) Court for the DA Approval of 2 x terrace homes. I support the proposed DA which is currently pending via the L&E and don’t support COSC heritage listing the property, which is clearly a blocking tactic. We need more housing in areas with infrastructure and convenience.”</p>	<p>Opposition noted. The 49 signatories include the property owner and others who also submitted individual responses to the public exhibition.</p> <p>The hearing with the Land & Environment Court relates to the Development Application refused by the City, a decision which was confirmed on its subsequent review. Both applications were refused on issues in addition to the potential heritage significance of the site. Additional issues include lack of solar access, minimum area and internal dimensions within the proposed rear private open spaces and the lack of functionality of the proposed internal dimensions and sizes of the proposed dwellings indicating an overdevelopment of the site. The City has not supported demolition of the cottage at any time consistent with Council’s adopted planning controls and advised the proponent throughout the process.</p> <p>The public exhibition for the proposed heritage listing of 46 Chisholm Street is a separate though parallel process to the refused development application.</p>
16	Dickson Rothschild (on behalf of the property owner)	<p>Oppose. Oppose the proposal to heritage list, on behalf of the property owner</p>	<p>Opposition noted. This is the same letter as the previous submission (dated 4 December 2019), without the previous attachments, but including one additional attachment:</p>

No.	Submitter	Submission summary	Response
			Kovacs Architect, Fabric Analysis – 46 Chisholm Street, Darlinghurst, 17 April 2020
		<p>Lack of significant or heritage fabric</p> <p>The report provides a construction history of the building plus a detailed analysis of all building fabric, identifying it as either presumed original fabric, modified original fabric or building component (where original and introduced fabric are inseparably mixed) or fabric introduced since 1992. This report notes that there has been substantial replacement of original fabric, with most evident fabric dating from 1992. It also notes that on the front elevation some original fabric is extant and the front elevation reflects its original configuration. The report highlights that several of the rooms retain their spatial integrity despite modern fabric and that it is likely that the majority of the existing building structure is original, with the exception of the floor.</p>	<p>The integrity of the building and loss of fabric was understood (to some extent) when the independent assessment was carried out. Nonetheless, as a result of the increased detail in this fabric analysis the draft inventory sheet has been updated. Historic timber buildings in Sydney, especially those approximately 140 years old are likely to have undergone major replacement of original fabric. As noted in our heritage assessment, 46 Chisholm Street retains its original form and detail to the front, even if it has lost much of its original fabric with nearly all original finishes and detail replaced. Nonetheless, for its historic significance, representativeness and rarity value, it has been assessed as having local heritage significance that still warrants local listing.</p>
17	Self identified family member and former tenant	Oppose. Oppose the proposal to heritage list	Opposition noted.
		This was an emailed response to the re-exhibition email, requesting an explanation of the administrative error that caused re-exhibition and noting an error in the Draft-Heritage-Inventory.	The miscalculation of required days for notification that triggering re-exhibition was explained and the error in Draft Heritage Inventory revised.
18	Community member	Support. Support the proposal to heritage list as a local resident, noting that “there is so little of this charming type of old cottage left.”	Support noted.

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19	Community member	Support. Support the proposal to heritage list as a local resident, noting that the property “should thus be protected, as a precious asset to this special enclave in which it is situated.”	Support noted.