

26 February 2014

Mr Geoff Bailey
Executive Director
Sydney Harbour Federation Trust
PO Box 607
Mosman NSW 2088

Dear Mr Bailey,

Aged-care proposal at Middle Head and Amendment to the Management Plan for land at Middle Head

The National Trust has considered the development proposal for an aged-care facility at Middle Head and associated amendments to the Middle Head Management Plan and sets out below the background to its involvement with this site and its broader setting.

On 8 December, 1997, the then President of the National Trust of Australia (NSW) wrote to National Trust members in the suburbs adjoining Sydney Harbour expressing the National Trust's concern about the proposed sale for profit by the Department of Defence of Sydney Harbour foreshore lands. The letter stated: -

"The National Trust believes in re-establishing the Neilsen concept of a greenbelt around the Harbour and we have made a commitment to bringing pressure to bear on the Commonwealth so that our leaders act as statesmen who have vision; and vision doesn't mean just looking at the 'bottom line.'

Parliamentarians place great store on the views of their local constituents. As a Sydney Harbourside resident you are likely to have strong feelings on this issue. I urge you to write to your local Federal member putting those views.

Please take this opportunity (a once in a millennium opportunity) to influence our politicians to take a visionary approach to our heritage and environment and to preserve our public foreshores as a gift to our Nation as we approach the Centenary of Federation. Please also, send a copy of our letter to the National Trust Centre."

The response was extraordinary, with hundreds of letters containing detailed and thoughtful comments copied to the National Trust.

The Member for Warringah, The Hon. Tony Abbott, responded on this issue: –

"I have been extremely concerned about this issue ever since the former Labor Government announced the military's plans to leave in answer to a Parliamentary Question on Notice from me in May 1995. Since then, I have organized a number of protest meetings and campaigned strongly to ensure that this priceless piece of our heritage is not squandered to the everlasting loss of the people of Sydney and Australia.



The principles I have attempted to uphold have been: that all bushland must be protected forever; that there should be no large scale commercial development; that heritage buildings should be protected and restored; that any redevelopment must be confined to existing areas; and that the military's departure should produce a better environment for local people with more open space, more bushland and more public access to the last unspoilt headlands in Sydney Harbour."

I can understand your disappointment at the Defence Department's continuing enthusiasm for a disposal programme – but as I have pointed out both publicly and privately, you can't sell what you can't develop and the chances of Defence selling much of its harbourside estate are virtually nil."

A response from Joe Hockey, the Member for North Sydney stated: -

"The sheer volume of correspondence I have received on this issue indicates that while the community respects the need for the Department of Defence to occupy prime land for strategic purposes, this need does not encompass a right to pass title to this land into the hands of private interests.

Significantly, the views of the local community also reflect a general desire to promote intergenerational equity when it comes to our environment. The request that the lands do not fall victim to private concerns is not motivated by jealousy on the part of local residents. Instead, the community is determined to see the lands preserved for the benefit of future generations. This desire for preservation is consistent with the view of a large majority of people who live on the lower north shore that this generation is the guardian of our environment for the generations to come."

In September 1998, the Liberal Party of Australia issued "Protecting the Sydney Harbour Foreshore – The Howard Government's plan to return Sydney Harbour foreshore defence sites to the people of Australia and protect the natural and heritage values of those sites." The statement announced that the government had decided to provide \$90 million from the Federation Fund and establish a Sydney Harbour Federation Trust to maximise public access and to preserve and rehabilitate the natural and heritage values of these areas.

"It will be required to manage the five former defence sites with the objective of:

- *maximizing public access to the sites;*
- *Cleaning up contaminated areas;*
- *Rehabilitating bushland; and*
- *Preserving heritage buildings and features of the sites.*

The Trust will be a transitional body to ensure that the Commonwealth's duty to rehabilitate the current defence sites is fulfilled and that they are returned to the people of Australia in good order and with a sustainable financial base for their ongoing management.

It will therefore be required to complete that task within ten years.

After that stage, the Commonwealth government will transfer North Head, Middle Head and Georges Heights to the New South Wales government for inclusion in the Sydney Harbour National Park."

Importantly, the statement noted that *"The Trust will not be required to generate a profit for the Commonwealth government."*

Responding to the Howard Government's plan, the National Trust adopted a policy: – "Conserving Sydney Harbour Foreshores" and forwarded a copy to the Prime Minister. The National Trust particularly noted: -



“The National Trust is concerned that inappropriate development might be permitted in order to finance the work of the (Sydney Harbour Federation) trust. Funds must be allocated to the (SHF) trust to allow for administration support, the commissioning of conservation plans, and to allow for ongoing maintenance of the sites.”

The National Trust’s Policy stated that: -

- The National Trust opposes development on Sydney Harbour foreshore sites which compromises, or leads to the loss of, heritage significance.
- The National Trust opposes the sale of public land of heritage significance.
- The National Trust opposes residential development on publicly-owned sites on the Harbour because it alienates public land to private interests.
- The National Trust believes that all publicly-owned Sydney Harbour foreshore land should be part of the Sydney Harbour National Park managed by the National Parks & Wildlife Service. This should be done with adequate funding by government.
- The National Trust accepts that some commercial use of publicly-owned heritage buildings on Sydney Harbour foreshore may be required but such uses must be compatible with heritage significance. The National Trust believes that appropriate reuse options for heritage buildings must be found so that these buildings are preserved, well-maintained and accessible to the public.

At that time, the National Trust also expressed strong support for the findings of the 1996 Report by the Committee of Review – Commonwealth Owned Heritage Properties (“the Schofield Report”) which was intended to guide the Commonwealth Government’s decisions regarding Sydney Harbour foreshore land:-

1. The Australian people should be regarded as the owners of Commonwealth heritage properties. The Commonwealth [should] act as a responsible custodian.
2. The views of communities should be sought in decisions on the future of these properties.
3. The Commonwealth has a responsibility to past, future and present generations to conserve, protect and sustain these assets.
4. The appropriate management of these properties should be an integral part of the core business responsibilities of the Commonwealth’s entities.
5. Conservation of these properties should also be considered in any changes to administration or ownership arrangements of these entities.
6. Through ‘best practice’ management of its own heritage properties, the Commonwealth will provide leadership to other levels of government, the private sector and the community.
7. The Commonwealth accepts the role of State and territory governments in heritage management and planning and aims to forge a partnership approach across all levels of government in caring for the nation’s heritage assets.

It is in the context of this history and National Trust involvement and adopted policies and public statements over the past seventeen years that the National Trust makes the following comments on this development proposal.

The Approvals Process

It is not appropriate for the Sydney Harbour Federation Trust (SHFT) to be the determining authority for a development which would financially benefit the Sydney Harbour Federation Trust and which involves



decisions relating to the role and charter of the Sydney Harbour Federation Trust. A development of the nature proposed is likely to have a significant impact upon the environment and should be determined by the Commonwealth Department of Environment and Heritage.

The Heritage Impact Assessment Process

The National Trust is very concerned that the Heritage Impact Statement (HIS) prepared by C C G Architects for Middle Head Health Care has downgraded the heritage significance of a number of buildings proposed for redevelopment or demolition (see Table 3: Comparison Grading of Significance table, pages 170,171 of the HIS).

The HIS undertakes a 're-evaluation' of significance and determines that certain buildings (especially those to be demolished in the proposed development) are less significant than determined by the two previous studies (including the comprehensive Conservation Management Plan).

The National Trust does not accept the arguments put forward by the consultant to justify these 'new' results. The HIS States (page 42): *"The authors of this assessment do not subscribe to the view that ... the significance derived from historic associations transfers directly to the physical evidence, regardless of its characteristics"*. The argument is presented that these buildings' *"construction is conventional; their design is understated and devoid of any attempt to embellish or manipulate building form for effect"* and this fabric does not embody their historic associations and significance.

This argument is contrary to the principles of the Burra Charter of Australia ICOMOS (in particular, Article 2 –that *"Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects"*). With this "logic", the significance of the National Heritage Register-listed Mawsons Hut at Cape Denison in Antarctica would have to be downgraded because this simple wooden structure *"did not physically document or reflect the history and social significance of this site."*

The downgrading of significance at the last minute and without peer review in the context of a related development outcome is contrary to the intent of the EPBC Act and would cast doubt upon the outcomes of any development approval process.

The Development Proposal

The National Trust accepts that a form of residential use may be the most appropriate use for the group of buildings known as 10 Terminal and does not rule out the aged-care facility activity in principle. However, the operational and commercial requirements of this current Aged-care Facility Proposal are clearly given a greater priority than the conservation of the cultural significance of the former military buildings and areas at Middle Head, which is contrary to both the statutory objectives of the SHFT and the expectations of the community.

The development proposed will require the demolition of the buildings (B1, B2, B3 & B4) on the north side of the carpark. The National Trust could potentially accept demolition of these buildings on the basis that they are of lesser heritage significance than other buildings and, for example, their removal could have allowed an unrestricted view northwards from this key vantage point, a positive outcome in landscape and public amenity terms.

Unfortunately, they are to be replaced with a new building which, additionally, fills in the views which currently exist between the present buildings (B1, B2 & B3). Replacement of these original buildings with a new construction totally blocking the views northwards cannot be accepted by the National Trust as enhancing the environmental qualities of the site for the public. Removing heritage fabric (of any significance) to suit the needs of the proposed use is, again, contrary to the objectives of the SHFT and the expectations of the community.



On the southern side of the roadway, building footprints and heights are to be significantly increased, to the point where, in the National Trust's view, we are faced with the large-scale commercial development that the community, including the Member for Warringah, had campaigned against in the late 1990s. Indeed, the development now proposed is the very same scale and type of development threat that led to the National Trust's campaign in the 1990s to have the Sydney Harbour foreshore lands and their heritage buildings protected and conserved.

This development cuts off public access and views within this 'gateway to Middle Head' area and privatizes the existing open space and landscaping between the current buildings. The operation of the facility must also impinge on the main access road through the site to the Sydney Harbour National Park at Middle Head. An aged care facility will, by its very nature, require security and restriction of public access and some control of resident movement to ensure their safety and security. Suggestions that the operation of the aged-care facility is somehow a 'public' activity and that aged-care facilities are 'public assets' are rejected.

The proposed development is contrary to one of the statutory 'objects' of the Sydney Harbour Foreshore Trust Act: -

"to maximise public access to Trust land;"

The development cannot be compatible with another object of the Act: -

"To ensure that management of Trust land contributes to enhancing the amenity of the Sydney Harbour region"

It is difficult to reconcile the development with another object of the Act: -

"To protect, conserve and interpret the environmental and heritage values of Trust land."

The development proposed is one that the National Trust would normally expect on a privately-owned site, zoned for medium density housing where buildings of heritage significance are not sited. That this development is being proposed on public land within the intended expanded boundary of Sydney Harbour National Park is totally unacceptable.

Conclusion

The National Trust strongly opposes this development proposal in its present form and urges that the Sydney Harbour Federation Trust, in fulfilment of its legislative objectives, reject the application.

Yours sincerely

Graham Quint
Director - Advocacy