

Planning Services

Gateway Determination Report

LGA	Willoughby
PPA	Willoughby City Council
NAME	Heritage Review 2018 Amendment – Proposal to list new local heritage items and amend an existing heritage item (0 homes, 0 jobs)
NUMBER	PP_2018_WILLO_003_00
LEP TO BE AMENDED	Willoughby Local Environmental Plan 2012
ADDRESS	Various properties in Castle Cove, Castlecrag, West Chatswood, Middle Cove and Willoughby
DESCRIPTION	Various Lots and DPs
RECEIVED	24 September 2018
FILE NO.	IRF18/5286
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend Willoughby Local Environmental Plan (LEP) 2012 to list eight properties as local heritage items and update the status of an existing local heritage item to a State heritage item, as this site is now registered on the State Heritage Register.

The proposal also seeks to identify six of the nine properties on Willoughby LEP 2012 Dual Occupancy Restriction Map. This map includes all other heritage listed items and conversation areas in the Willoughby Local Government Area (LGA), where dual occupancy development is permissible in the zone. The other three items are either already included on the map or are in zones that do not permit dual occupancy.

Site description

The proposal involves a total of nine properties, spread throughout the Willoughby LGA. The sites are located in the suburbs of Castle Cove, Castlecrag, Chatswood, Middle Cove and Willoughby East. A summary of the sites and the proposed LEP amendments for each is included in **Table 1**.

All of the properties contain either one to three storey residential dwellings except for 126 Greville Street, Chatswood which is the site of the former National Acoustic Laboratory and Ultrasonics Institute.

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Dr Basser House (Figures 1 and 2)	11 Padulla Place, Castle Cove – Lot 429 DP 31069 E4 Environmental Living	List as local heritage item. Include on the Dual Occupancy Restriction Map.
		This house is of significance as it is a rare example of a highly intact late 20 th century Harry Seidler house, which demonstrates innovative design and a high-level execution of detail.



Figure 1: Aerial map of 11 Padulla Place
(Source: Council's Planning Proposal)



Figure 2: 11 Padulla Place
(Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Gowing House (Figures 3 and 4)	8A The Bulwark, Castlecrag – Lot 1 DP 731215 E4 Environmental Living	List as local heritage item. Include on the Dual Occupancy Restriction Map.
		This house retains a high degree of historical significance as one of Neville Gruzman's best works and is highly regarded as an outstanding work of architecture by the architectural profession.



Figure 3: Aerial map of 8A The Bulwark
(Source: Council's Planning Proposal)



Figure 4: 8A The Bulwark
(Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Maley House (Figures 5 and 6)	13 The Citadel, Castlecrag – Lot 332 DP 1102256 & Lot 2 DP 389112 E4 Environmental Living	List as local heritage item.
		This house is an example of modernist domestic architecture designed by architect Andre Porebski.



Figure 5: Aerial map of 13 The Citadel (Source: Council's Planning Proposal)



Figure 6: 13 The Citadel (Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Duval House (Figures 7 and 8)	2 The Tor Walk, Castlecrag – Lot 2 DP 210277 E4 Environmental Living	List as local heritage item. Include on the Dual Occupancy Restriction Map.
		This house was designed by Hugh Buhrich in 1962 and is considered an accomplished suburban modernist house that illustrates the new Modernist aesthetic.



Figure 7: Aerial map of 2 The Tor Walk (Source: Council's Planning Proposal)



Figure 8: 2 The Tor Walk (Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Luursema House (Figures 9 and 10)	14 The Tor Walk, Castlecrag – Lot Y DP 417554	List as local heritage item. Include on the Dual Occupancy Restriction Map.
	E4 Environmental Living	This house has historical association with internationally significant architect Harry Seidler and. is a good example of Seidler's modernist design methodology.



Figure 9: Aerial map of 14 The Tor Walk
(Source: Council's Planning Proposal)



Figure 10: 14 The Tor Walk
(Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Former National Acoustic Laboratory (Figures 11 and 12)	126 Greville Street, Chatswood – Lot 1 DP 532353	List as local heritage item.
	R3 Medium Density Residential; and E2 Environmental Conservation	The buildings at this site have high aesthetic significance as fine examples of brutalist government offices, sensitively situated in a suburban bushland setting. Despite recent adaptation, the building retains a high level of integrity.



Figure 11: Aerial map of 126 Greville Street
(Source: Council's Planning Proposal)



Figure 12: 126 Greville Street
(Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Frischknecht House (Figures 13 and 14)	1A North Arm Road, Middle Cove – Lot 1 DP 217754	List as local heritage item. Include on the Dual Occupancy Restriction Map.
	E4 Environmental Living	This house is historically significant for its ability to demonstrate features of Modernist architecture, design theory and practice.



Figure 13: Aerial map of 1A North Arm Road (Source: Council's Planning Proposal)



Figure 14: 1A North Arm Road (Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
Helsham House (Figures 15 and 16)	8 First Avenue, Willoughby East – Lot 1 DP 940444	List as local heritage item. Include on the Dual Occupancy Restriction Map.
	R2 Low Density Residential	This house was designed by prominent architect Peter Hall. It is regarded as one of his best houses and an important work of high aesthetic value.



Figure 15: Aerial map of 8 First Avenue (Source: Council's Planning Proposal)



Figure 16: 8 First Avenue (Source: Architectural Projects)

Item Name	Address and Current Zoning	Proposed Amendment/s and Rationale for Listing
The Glass House (Figures 17 and 18)	80 The Bulwark, Castlecrag – Lot 257 DP19290	Change the significance of the existing heritage item from local to state.
	E4 Environmental Living	A Government notice on 21 October 2016 changed the status of this existing local heritage item to a state heritage item.



Figure 17: Aerial map of 80 The Bulwark
(Source: Council's Planning Proposal)



Figure 18: 80 The Bulwark
(Source: Office of Environment and Heritage)

Table 1: Proposed Amendments and Sites

Existing planning controls

Six of the properties are zoned E4 Environmental Living under Willoughby LEP 2012. Number 8 First Avenue, Willoughby East is zoned R2 Low Density Residential and 126 Greville Street, Chatswood is zoned part R3 Medium Density Residential and part E2 Environmental Conservation.

Surrounding area

The subject sites in the planning proposal are primarily within established low density residential localities, comprised of E4 Environmental Living and R2 Low Density Residential land use zoning. Natural vegetation surrounds the majority of the sites.

A context map is provided at **Figure 1**, next page.

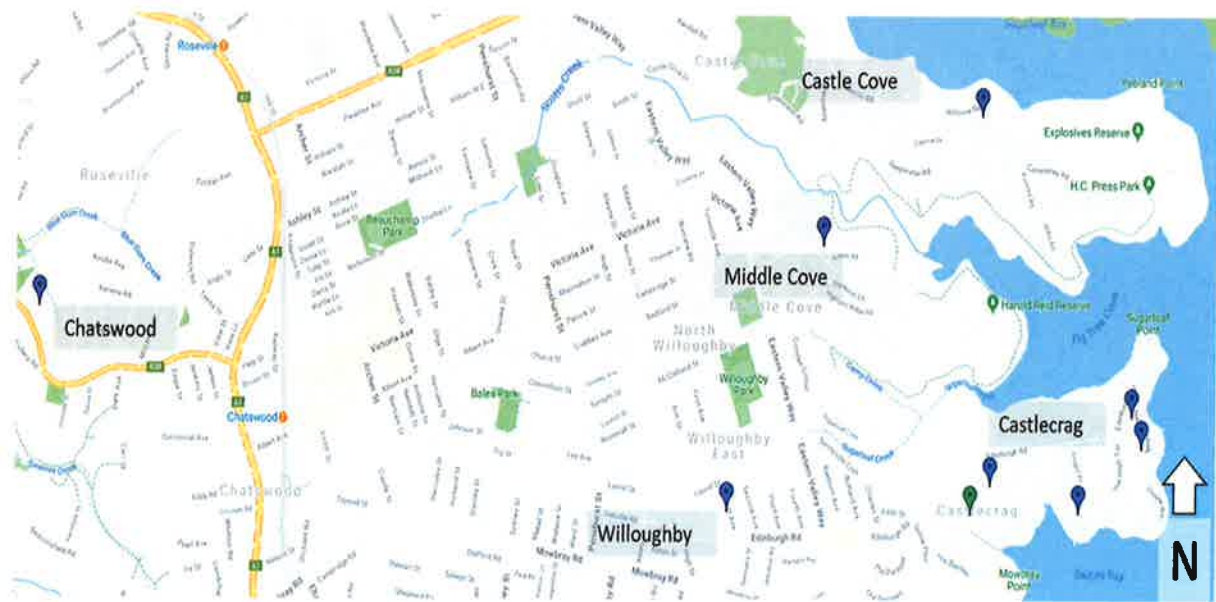


Figure 1: Context map showing the proposed listings with blue markers and the current listing with a green marker (Base map source: Nearmap)

Summary of recommendation

It is recommended that the planning proposal proceed, subject to conditions as it:

- is supported by an independent heritage assessment that identifies the subject sites as being of heritage significance;
- is consistent with the objectives and directions of the Greater Sydney Region Plan, the North District Plan and Council’s Community Strategic Plan;
- will allow for better conservation management of the properties which have been identified to be of local heritage significance; and
- enables a housekeeping amendment to the existing local heritage item (I41) to reflect that the heritage item is now on the State Heritage Register.

PROPOSAL

Objectives or intended outcomes

The planning proposal intends to amend Willoughby LEP 2012 to include eight properties as local heritage items, consistent with the findings of the heritage assessment undertaken by Architectural Projects, submitted with the proposal.

The proposal also seeks to include six of these properties on Willoughby LEP 2012 Dual Occupancy Restriction Map.

The proposal seeks to update the heritage status of 80 The Bulwark, Castlecrag from a local heritage item to a State heritage item, as the NSW Office of Environment and Heritage notified Council in October 2016 that this property has become a State item. As a result, the heritage status needs updating in the Willoughby LEP 2012.

Explanation of provisions

The proposal states that it seeks to insert new local heritage items into Part 1 of Schedule 5 of Willoughby LEP 2012. Amendments to the applicable Willoughby LEP 2012 Heritage Maps are also proposed to identify the sites as heritage items.

The Willoughby LEP 2012 Dual Occupancy Restriction Map will be amended to include those six properties referred to in Table 1 where dual occupancy is permissible in the respective zone (i.e. R2 Low Density Residential and E4 Environmental Living).

Already included on the Dual Occupancy Restriction Map are 13 The Citadel, Castlecrag as it is in the Griffin Heritage Conservation Area, and 80 The Bulwark, Castlecrag as it is an existing local heritage item. The property at 126 Greville Street, Chatswood will not be included as it is zoned R3 Medium Density Residential and E2 Environmental Conservation and dual occupancy is not a permitted use in these zones.

This change will have the effect of prohibiting the development of dual occupancies on six of the sites and this has not been explained in the objectives of intended outcomes of the planning proposal. The planning proposal should therefore be updated to reflect this intended outcome.

Mapping

The planning proposal does not currently include any mapping. A condition of Gateway requires that the planning proposal is revised prior to exhibition to include the proposed amendments to Willoughby LEP 2012 Heritage Maps and Dual Occupancy Restriction Maps.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the need to amend Willoughby LEP 2012 has arisen from the recommendations of an independent heritage assessment prepared by Architectural Projects that was finalised in 2018.

The heritage assessment was considered by the Willoughby Local Planning Panel on 17 August 2018 and Willoughby Council at its meeting on 27 August 2018. The Council report notes that the proposed heritage listings were mainly compiled from Heritage Nomination Forms received by members of the public as well as Council staff recommendations.

The planning proposal intends to recognise the heritage significance of the properties, which the heritage assessment notes have been designed by notable architects including Neville Gruzman and Harry Seidler. The heritage assessment has a focus on modernist architecture.

A planning proposal is the only means to alter Schedule 5 of Willoughby LEP 2012 to reflect the local and state heritage significance of the properties and allow for the appropriate provisions for conservation management.

STRATEGIC ASSESSMENT

State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released *the Greater Sydney Region Plan – A Metropolis of Three Cities* (the Region Plan), which aims to coordinate and manage the growth of Sydney. The Region Plan contains specific objectives for the region over the next 40 years and informs the actions and directions of the District Plans.

Of particular relevance in the Region Plan is 'Objective 13: *Environmental heritage is identified, conserved and enhanced*'. This objective seeks to protect environmental heritage for its social, aesthetic, economic, historic and environmental values.

The objective also identified a strategy that comprises three components:

- *“engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of place”*
- *“applying adaptive re-use and interpreting heritage to foster distinctive local places”*
- *“managing and monitoring the cumulative impact of development on the heritage values and character of places”*

The proposal is consistent with the Region Plan as it seeks to protect and conserve the properties that have been identified as being of local heritage significance in the heritage assessment report. The proposal is also consistent with the Region Plan as it identifies buildings suitable to preserve for future generations.

As such, the proposal is considered to be consistent with the Region Plan.

District

North District Plan

The *North District Plan* operates to give effect to the Region Plan. The *North District Plan* encompasses the Willoughby LGA. The proposal is consistent with the outcomes and directions outlined in the District Plan, particularly those associated with heritage.

Planning Priority N6 requires *“creating and renewing great places and local centres and respecting the District’s heritage.”* The proposal can be considered consistent with Priority N6 as it seeks to provide the statutory mechanisms required to protect and respect the District’s heritage and to conserve the aesthetic and architectural significance of these items.

There are also three actions contained in Action 21 of the District Plan, which reiterate those described above in relation to the Region Plan. The proposal is consistent with Action 21 as it seeks to identify and enhance heritage and enables the community to consider the heritage value of these items and whether they should be conserved through mechanisms under Willoughby LEP 2012.

Local

Our Future Willoughby 2028 is the Council's Community Strategic Plan, providing a long-term vision for the future of Willoughby. It is used to inform Council's decision making and planning.

The relevant priorities in the plan relevant to this planning proposal are the following:

- *2.2 Respect and celebrate our history and heritage sites*
- *3.4 Create desirable places to be and enjoy*

The planning proposal is consistent with these actions as it provides for the protection of these properties, which have been found to be of local heritage significance by independent heritage consultants, Architectural Projects.

Section 9.1 Ministerial Directions

2.3 Heritage Conservation

This Direction applies to the planning proposal as it conserves an item of environmental heritage significance. It requires that a planning proposal contain provisions that facilitate the conservation of items, places, buildings or works identified in a study of environmental heritage of the area.

The heritage assessment concluded that the subject properties satisfy the relevant State Heritage Inventory criteria for a local heritage listing and thereby the proposal is warranted.

The proposal will not alter the existing heritage conservation provisions which already satisfy the requirements of this Direction. Therefore, the proposal is considered to be consistent with Direction 2.3 Heritage Conservation.

3.1 Residential Zones

This Direction applies to the planning proposal due to the intention to include six of the sites on the Willoughby LEP 2013 Dual Occupancy Restriction Map, which would have the effect of prohibiting the development of a dual occupancy on these sites.

Part 5(b) of the Direction states that a planning proposal must not contain provisions which will reduce the permissible residential density of land. The inconsistency is considered to be justified as it is of minor significance as it restricts dual occupancies only. Furthermore, the proposal is consistent with objectives 1(a) and (c) of the Direction as it encourages a variety of housing types, being heritage dwellings and minimises the impact of residential development on the environment, being sites identified to be of heritage significance.

4.4 Planning for Bushfire Protection

This Direction applies to the planning proposal as the proposal includes properties that are located on bushfire prone land, as identified in the planning proposal.

Part 4 of the Direction states that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation, and take into account any comments so made. The consistency of the proposal with this Direction remains unresolved until after consultation with the Commissioner of NSW Rural Fire Service has been undertaken.

State environmental planning policies

The planning proposal is considered to be consistent with all relevant state environmental planning policies.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal seeks heritage listings in response to the community submitting Heritage Nomination Forms and Council staff recommendations. Council subsequently engaged external heritage consultants, Architectural Projects to review and assess all of the nominations and undertake further assessment of the heritage significance of the properties.

Listing the sites as heritage items will provide the community with greater certainty about the heritage significance of the sites and therefore help to conserve the heritage significance.

Conserving the properties of heritage significance will allow residents to have a positive understanding and connection with the heritage qualities of the properties.

Additionally, the public exhibition of the planning proposal will provide additional opportunity for the owners of the properties and the wider community to determine whether the proposed heritage listings are supported and appropriate.

Environmental

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

Heritage

The need for the planning proposal has arisen from community heritage listing nominations, Council staff recommendations and the subsequent heritage assessment report. It is considered that the proposed amendments will list and thereby facilitate the conservation of the items for heritage purposes.

While it is considered that the proposed heritage listings will facilitate the conservation of the heritage items, the Gateway determination has been conditioned to require consultation with the Office of Environment and Heritage.

Economic

The planning proposal is not expected to generate any negative economic outcomes. The proposal simply seeks to list the sites as items of local heritage significance and undertake a housekeeping amendment in relation to the existing heritage item at 80 The Bulwark, Castlecrag.

CONSULTATION

Landowners

The Council report of 27 August 2018 states that as part of conducting the heritage study all of the affected property owners of potential heritage items were notified by Council to make them aware of the study and that they would be contacted by the heritage consultants in order to arrange an on-site inspection.

Formal consultation through the planning proposal process with affected landowners would be beneficial. It is also recommended that the affected landowners be given notice of the proposals public exhibition.

Community

Council has proposed a public exhibition period of 28 days. This period is considered to be appropriate as reflected in the Gateway conditions.

Agencies

It is recommended that consultation be required with the Office of Environment and Heritage under section 3.34(2)(d) of the *Environmental Planning and Assessment Act 1979*.

Consultation is also required with the NSW Rural Bushfire Service to satisfy s 9.1 Direction 4.4 Planning for Bushfire Protection.

TIME FRAME

Council has proposed a timeline for completion of the LEP in six months. Given the nature of the plan, a nine-month timeframe is considered appropriate to allow sufficient time for consultation. It is recommended that Council update the project time frame to reflect this.

LOCAL PLAN-MAKING AUTHORITY

The Department has considered Council's request to be the local plan-making authority and has determined not to condition the Gateway for Council to be the local plan-making authority as Council has not demonstrated that all landowners are supportive of the proposed heritage listings.

CONCLUSION

The proposal is supported to proceed with conditions, as it:

- is supported by an independent heritage assessment that identifies the subject sites as being of heritage significance;
- is consistent with the objectives and directions of the Greater Sydney Region Plan, the North District Plan and Council's community strategic plan;
- will allow for better conservation management of the properties which have been identified to be of local heritage significance; and
- enables a housekeeping amendment to the existing local heritage item (I41) to reflect that the heritage item is now on the State Heritage Register.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 3.1 Residential Zones is justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Office of Environment and Heritage; and
 - prior to community consultation, the NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. Consultation is required with the landowners during public exhibition.
6. Prior to community consultation, the planning proposal is to be updated to:
 - (a) include the proposed map amendments to Willoughby LEP 2012 Heritage Maps and Dual Occupancy Restriction Maps;
 - (b) update the objectives and intended outcomes of the planning proposal to reflect the intention to restrict the development of dual occupancy on several of the sites; and
 - (c) update the project timeline.



Brendan Metcalfe
Team Leader, Sydney Region East



Amanda Harvey 22/10/18
Director, Sydney Region East
Planning Services

Contact Officer: Lawren Drummond
Planning Officer, Sydney Region East
Phone: 9274 6185