

Planning and Assessment

IRF19/5458

Plan finalisation report

Local government area: Woollahra

1. NAME OF DRAFT LEP

Woollahra Local Environmental Plan 2014 (Amendment No 12)

2. SITE DESCRIPTION

The planning proposal (PP_2019_WOOLL_001_00) (**Attachment A**) applies to land at 105 Sutherland Street, Paddington, at the south-eastern corner of Sutherland Street and Elizabeth Street, legally known as Lot A in DP330465 (Figure 1).

The Four in Hand Hotel building occupies the entire site bounded by Sutherland Street to the north-east, Elizabeth Street to the north-west, a small private lane to the south-west which is off Elizabeth Street and the neighbouring site at 107 Sutherland Street.

The hotel is a landmark corner two-storey building constructed in 1878 specifically for use as a hotel and has continuously operated as such to the present day (Figure 2 and Figure 3).



Figure 1 Aerial photograph of subject site (Source: Six Maps)



Figure 2 View from the corner of Sutherland Street and Elizabeth Street (Source: Google Maps)



Figure 3 Interior of the Four in Hand Hotel (Source: Domain)

3. PURPOSE OF PLAN

The planning proposal seeks to amend Woollahra LEP 2014 as follows:

- Insert a listing for the Four in Hand Hotel, including its interiors, in Part 1 Heritage items of Schedule 5 Environmental heritage; and
- Identify the site of the Four in Hand Hotel as a heritage item on the Heritage Map (Sheet HER_003A).

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Sydney state electorate. Alex Greenwich MP is the State Member.

The site falls within the Wentworth federal electorate. The Federal Member for Wentworth is Dave Sharma MP.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 17 May 2019 (**Attachment B**) determined that the proposal should proceed subject to conditions.

The proposal is due for finalisation by 17 February 2020. Authorisation was not given to Council to exercise delegation to make the plan, due to the dispute over the degree of heritage significance between the landowner and Council.

On 29 July 2019, the Department received a request by Council to finalise the planning proposal.

The proposal was not amended prior to exhibition. The Department is now satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from Wednesday 29 May 2019 to Friday 28 June 2019 (inclusive).

The exhibition involved:

- 1) notices of the exhibition in the Wentworth Courier;
- 2) a public exhibition page on Council's website;
- 3) display of exhibition material at Council's Customer Service counter of the Woollahra Council Chambers at Double Bay; and
- 4) notification letter or email to stakeholders including the owners of the Four in Hand Hotel, adjoining and nearby landowners.

Council received five submissions (**Attachment C**) from the community during the exhibition period. A summary of the issues raised in the community submissions and Council's responses (**Attachment D**) are outlined below:

- The Woollahra History and Heritage Society and two local residents supported the planning proposal.
- One local resident (and business owner) opposed the planning proposal as "there is nothing inspiring or important" about the property and the listing may affect the owner's ability to convert the building to a residential use. Council responded that the heritage listing of the building will not amend the land uses permissible within the R2 Low Density Residential zone, and will not prevent the owners from lodging a development application for a residential use.
- One objection was received from the heritage consultant (Ms Ruth Daniell) on behalf of the owner of the subject property. In summary, this submission sought to have the words "including interiors" deleted from the heritage listing. The submission stated that: "The percentage of the original and early building fabric is small. It is

approximately 5-7% of the total interior building fabric.” Council’s response is as follows:

- Council considered that the listing of the whole building, including its interiors, would provide appropriate protection of its heritage significance. This is based on the findings and recommendations of the heritage assessment report prepared by Robert A Moore Architects and Conservation Consultant, commissioned by Council.
- Council’s heritage consultant also advised that the listing of the interiors would “enable understanding of the building in complement to its interior”.
- Council considered that the proposed listing of the building’s interiors would not preclude changes in the future. The listing of the interiors would enable consideration to be given to the nature of any proposed change and its potential impact on the heritage significance of the interior.

Having regard to the above, it is considered that the issues raised in the submissions have been appropriately addressed.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with the former Office of Environment and Heritage (OEH) (currently part of the Department of Premier and Cabinet) (DPC) in accordance with the Gateway determination.

The DPC issued a letter (**Attachment E**) on 1 August 2019 raising no objection to the planning proposal.

8. POST-EXHIBITION CHANGES

No amendments were made to the planning proposal following public exhibition.

9. ASSESSMENT

It is recommended that the LEP be made as:

- The planning proposal will facilitate the conservation of a building that has been found to have local heritage significance in accordance with the heritage assessment report commissioned by Council.
- The submission from the owner’s heritage consultant argues that there is only a small percentage of original and early building fabric remaining in the interior. Notwithstanding, the submission also identifies a range of spatial elements and extant fabric, including ceilings, beams, cornices, brickwork, staircases and doors, which provide evidence of the historic development of the building, despite successive changes and alterations in the past.
- The proposed listing of the building, including its interior, would enable consideration to be given to the nature of any proposed change in the future and its potential impact on the heritage significance of the whole building through the application of Clause 5.10 of the Woollahra LEP 2014.
- The proposed listing does not preclude any future development of the property, such as change of use, renovation, alterations or adaptation. The listing will ensure that the effect of any proposed development on the heritage significance will be considered prior to a development consent being granted. As part of the development application process, the consent authority may require a heritage management document (e.g. heritage conservation management plan or heritage impact statement) to be prepared to assess the effect of the development and to

enable informed decisions to be made. As such, the proposed heritage listing, including the building's interior, is not considered to unreasonably restrict future development of the site. It will ensure due process will be undertaken that considers the potential impacts on the heritage significance.

- The heritage listing of the interior is considered to facilitate sympathetic development that conserves the significance of the extant fabric and spatial components.
- The planning proposal complies with all conditions of the Gateway determination (**Attachment B**).
- The planning proposal satisfies all applicable Section 9.1 Directions and State Environmental Planning Policies.
- The planning proposal is consistent with the relevant provisions and actions of the Eastern City District Plan.

9.1 Section 9.1 Directions

Direction 2.3 *Heritage Conservation* applies to the planning proposal. The Direction requires that a planning proposal contain provisions that facilitate the conservation of items identified in a study of the environmental heritage of the area.

The proposal is consistent with this Direction as it seeks to amend schedule 5 of the Woollahra LEP 2014 to address the heritage significance of the subject property as identified in a heritage study commissioned by Council.

9.2 State Environmental Planning Policies

The draft LEP is consistent with all relevant SEPPs.

9.3 State, Regional and District plans

The Eastern City District Plan (Greater Sydney Commission, 2018) gives effect to the Greater Sydney Region Plan. The Eastern City District Plan encompasses the Woollahra LGA.

Planning Priority E6 – Creating and renewing great places and local centres and respecting the District's heritage is relevant to the planning proposal. The proposal is considered to be consistent with this priority as it seeks to provide the statutory mechanism required to protect and respect the district's heritage and to conserve the significance of the subject building.

The proposal is consistent with Actions 24 and 26 of the District Plan as it identifies and enhances heritage in the local area. The proposal recognises the distinctive character of the area by conserving a building which has significant heritage values and will enable its appreciation by members of the community.

10. MAPPING

The proposal requires an amendment to the Heritage Map (Sheet HER_003A) (**Attachment Map**) under WLEP 2014 to identify the site of the Four in Hand Hotel and interiors as "Item – General".

The draft mapping was submitted via the ePlanning Portal. The mapping has been examined by the GIS staff and is considered to satisfy the relevant technical requirements.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under section 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment F**). Council confirmed on 1 October 2019 that it was satisfied with the draft and that the plan should be made (**Attachment G**).

12. PARLIAMENTARY COUNSEL OPINION

On 4 October 2019 Parliamentary Counsel provided the final Opinion that the draft LEP can legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under section 3.36(2)(a) of the Act because:

- The planning proposal will facilitate the conservation of a building that has been found to have local heritage significance in accordance with the heritage assessment report commissioned by Council.
- The planning proposal complies with the conditions of the Gateway determination.
- There are no outstanding matters arising from the exhibition of the proposal. Council's response to the submissions, including the land owner's submission, are adequate.
- The planning proposal complies with the applicable Section 9.1 Directions and SEPPs and the relevant provisions of the Eastern City District Plan.



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