

Planning Services

Plan Finalisation Report

Local Government Area: Woollahra

PP Number: PP_2018_WOOLL_003_00

1. NAME OF DRAFT LEP

Woollahra Local Environmental Plan 2014 Amendment No.11 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at 2A Cooper Street, Double Bay (the site) as shown in Figure 1. The site is legally described as Lots 11 and 12 DP 4606 and is also known as 24-26 Bay Street, Double Bay.

The site comprises a four-storey mixed-use commercial building with a lower-ground level, which is below street level. The building a mix of uses including retail shops on the ground floor and offices at the upper two floors, and a restaurant occupies the entire lower-ground floor. The building was designed by Sydney architect Neville Gruzman in 1969 and opened by Robert Askin in 1971.

The building occupies the entire site bounded by Cooper Street, Bay Street, Brooklyn Lane and the neighbouring site at 16 Bay Street, Double Bay (Figure 1-3).



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



Figure 2 View of site from Cooper Street (Source: Anne Warr Consulting 20 June 2018)



Figure 3 View of site from Bay Street (Source: Google Maps)

The site is zoned B2 Local Centre and has a maximum permitted building height of 14.7m and a maximum floor space ratio (FSR) of 2.5:1 on the FSR map or 3:1 under clause 4.4A. The 3:1 FSR seeks to encourage development on prominent corner sites.

Gaden House is located in the Bay Street (south) character area of the Centre as described in D5.4.4 of the Woollahra DCP 2015. It is also identified as character building in section 5.6.3.8 Heritage items and character buildings of the DCP.

3. PURPOSE OF PLAN

The draft LEP seeks to:

- list the site as a local heritage item in Schedule 5; and
- amend and replace the relevant Woollahra LEP 2014 Heritage Map

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Vacluse State Electorate. Hon. Gabrielle Upton MP is the State Member for Vacluse.

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

To the Department'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. BACKGROUND

Previous development application

On 28 November 2017, a development application (DA589/2017) was lodged with Woollahra Municipal Council for external and internal alterations to the building. The development application was exhibited from 13 December 2017 to 10 January 2018 and attracted over 40 objections and more than 2000 electronic signatures from an online petition. The objections were due to concerns with the proposal's impacts on the building's architectural significance.

On 12 February 2018, Council proposed to undertake a heritage assessment of the property. Anne Warr Heritage Consulting was appointed to prepare an assessment of heritage significance by Council.

The applicant withdrew the development application on 20 April 2018 and has been consulting with Council about the heritage significance of the site.

Current development

The owner's heritage consultant, Heritage 21, advised Council in a letter on 12 July 2018 that the owner intends to add floors while preserving key attributes of the building.

In a further submission to Council dated 7 August 2018, Heritage 21 agreed that the site has local significance but did not agree with Anne Warr Consulting that the site had state

heritage significance. Anne Warr Consulting responded in a submission dated 28 August 2018 stating that they disagreed with this view.

The heritage report dated 4 September 2018 from Anne Warr Heritage Consulting recommended that:

- the exterior and interior are of heritage significance;
- as Gaden House meets the criteria for local listing, it is recommended that Gaden House be listed on the Woollahra LEP 2014;
- as Gaden House meets the criteria for state listing, it is recommended that Gaden House be listed on the State Heritage Register; and
- a Conservation Management Plan be prepared to ensure appropriate maintenance, restoration and reconstruction of significant elements.

The Heritage 21 responded to the Anne Warr Heritage Consulting assessment stating that they agreed that the building was of significance at a local level and that a Conservation Management Plan should be written. However, they did not agree that Gaden House was of state significance.

Heritage 21 stated that the Neville Gruzman design should be kept and conserved, and they would be working with the developer to add additional floors above Gaden House while conserving key attributes of the building.

It is noted that the building is listed as number 4702079 by the Institute of Architects on its Register of Significant Buildings in NSW.

On 30 August 2019 an Interim Heritage Order was published in the NSW Government Gazette and is effective until 30 August 2020. Council considered this a necessary action in order to protect the proposed heritage item from being damaged by complying development (**Attachment E**).

6. GATEWAY DETERMINATION

The Gateway determination issued on 11 February 2019 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council was not delegated as plan-making authority due to the level of heritage significance disputed between the landowner and the Council.

All of the conditions as stated in the Gateway determination have been satisfied.

The proposal is due for finalisation in October 2019.

7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 27 February 2019 to 29 March 2019.

A total of 38 submissions were received during the exhibition period, all 38 supported the listing of the property as a heritage item. This included a submission from the Howe Architects acting for the owner supporting the listing (**Attachment D**). Authors of thirteen of the submissions in support of the listing identified themselves as architectural practitioners, 3 submissions identified themselves as tenants of Gaden House and one submission was from OEH.

In summary, the community consultation raised the following points in support of the proposal:

1. strong support of the listing including its interiors;
2. the building is a significant example of modernist architecture by an important Sydney architect;

3. the building is a contribution to the streetscape;
4. NSW is not doing enough to preserve outstanding architectural styles; historic buildings contain precious material no longer available;
5. Gaden House needs to be saved as an excellent example of architecture and building skills;
6. Neville Guzman was the father of Modernism in Australia; few examples exist of his public buildings;
7. the building is an example of early environmentally considered design, and it would be a great loss if it were demolished;
8. support for the reinstallation of missing or damaged features; and
9. the building is a fine example of Australian Modernist architecture of state and national significance.

No submissions objected to the report but the landowner's Architect, Howe Architects, although in support of local listing, was not in favour of state listing (**Attachment D**).

Council intends to nominate the site for inclusion on the State Heritage Register. Nomination for the register is a separate issue for Council and the Heritage Office and not covered by this planning proposal.

8. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with the former Office of Environment and Heritage, now the Environment, Energy and Science Group (ESS) in accordance with the Gateway determination.

Council has consulted ESS. ESS provided a response on 8 April 2019 supporting the proposal to list Gaden House. ESS noted the proposal was supported by a heritage assessment prepared by Anne Warr Heritage Consulting.

9. ASSESSMENT

It is recommended that the planning proposal to heritage list Gaden House, 2A Cooper Street, Double Bay be supported as:

- the listing is supported by the community and the landowner;
- Gaden House is designed by a prominent Australian architect, Neville Gruzman and has survived relatively intact since its opening in 1971;
- the building demonstrates aesthetic characteristics and a high degree of creative and technical achievement;
- two independent heritage assessments that identified the subject site as being of local heritage significance;
- the site's building is listed by the Australian Institute of Architects on its Register of Significant Buildings in NSW;
- the ESS approves of the heritage listing of the site;
- the proposal will ensure the ongoing conservation and recognition of the social heritage significance of the item;
- it will not prevent future development and modification of Gaden House if undertaken in accordance with heritage requirements; and
- the landowner supports the heritage listing at a local level.

10. MAPPING

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Map (Sheet HER_003A) by applying an "Item – General" classification to Gaden House.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**). Council advised on 22 July 2019 that the item number should be amended to 681. Council confirmed that it was happy with the draft on 31 July 2019 and that the plan should be made.

12. PARLIAMENTARY COUNSEL OPINION

On 31 July 2019 Parliamentary Counsel provided the final Opinion that the draft LEP could 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 clause 3.36(2)(a) of the Act because:

- it is supported by two independent heritage assessments that identified the subject building as being of heritage significance;
- the site's building is listed by the Australian Institute of Architects on its Register of Significant Buildings in NSW;
- is supported by the ESS;
- listing of the building as a local heritage item is supported by the community and the landowner;
- it is consistent with the objectives and directions of the Greater Sydney Region Plan, the Eastern City District Plan and Council's community strategic plan; and
- it will allow conservation management of the property, thereby enabling appropriate modification and ongoing use of the building.

Sp. 5 sept 2019

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