

## Planning Services

IRF18/6173

### Gateway determination report

<b>LGA</b>	Woollahra
<b>PPA</b>	Woollahra Municipal Council
<b>NAME</b>	Proposal to list new heritage item (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2018_WOOLL_003_00
<b>LEP TO BE AMENDED</b>	Woollahra Local Environment Plan 2014
<b>ADDRESS</b>	2A Cooper Street, Double Bay (also known as 24-26 Bay Street, Double Bay)
<b>DESCRIPTION</b>	Lots 11 and 12 DP 4606
<b>RECEIVED</b>	6 November 2018
<b>FILE NO.</b>	IRF18/6173
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	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 the Woollahra Local Environment Plan 2014 (Woollahra LEP 2014) to list Gaden House at 2A Cooper St, Woollahra as an item of heritage significance.

### Site description

Located in the Double Bay town centre, the site is bounded by Cooper Street to the north, Brooklyn Lane to the west and Bay Street to the east (Figure 1, next page). The site is legally known 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 was designed by Sydney architect Neville Gruzman and includes a mix of uses including retail shops on the ground floor and offices at the upper two floors, and a restaurant on the lower-ground floor.

The building occupies the entire site bounded by Cooper Street, Bay Street, Brooklyn Lane and the neighbouring site at 16 Bay Street, Double Bay (Figures 2–4, pages 2 and 3).



**Figure 1:** Subject site outlined in red (source: SIX Maps)

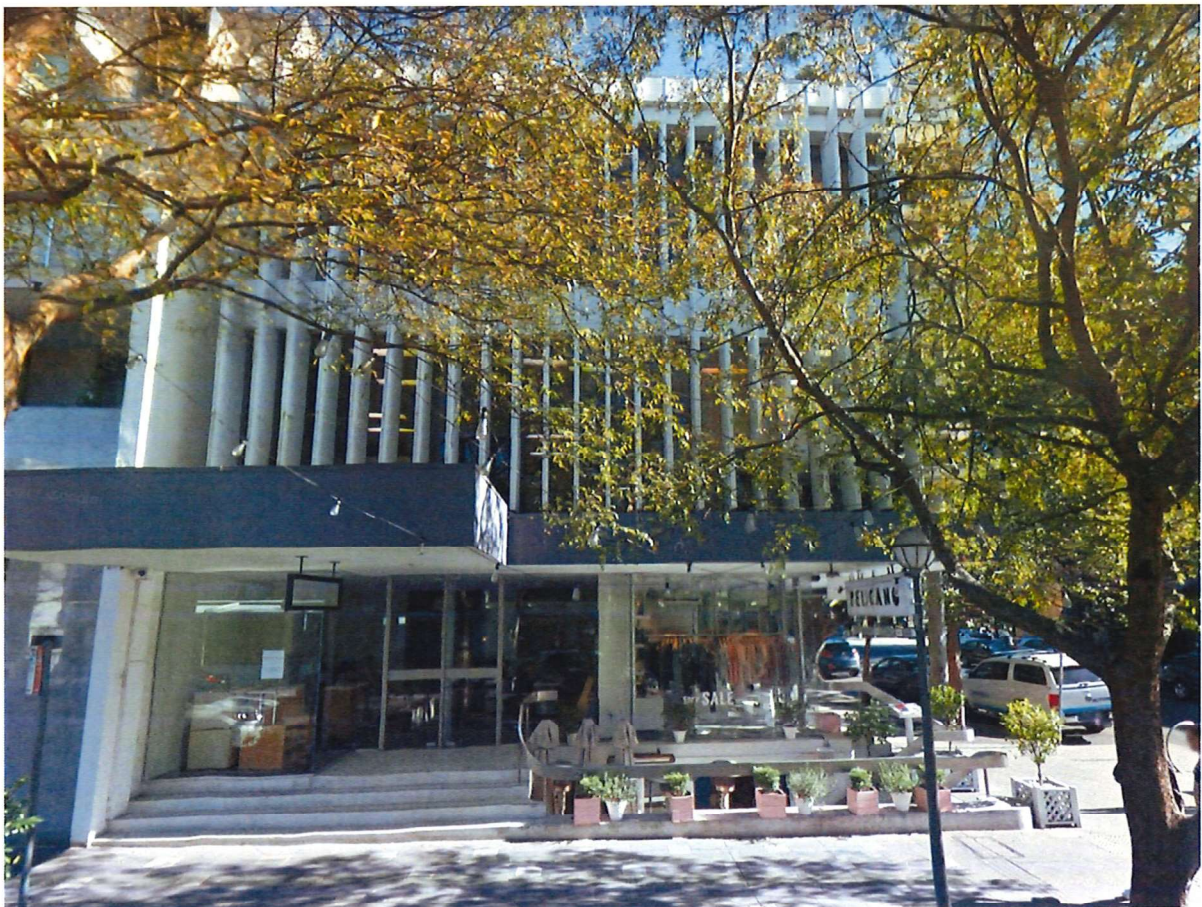


**Figure 2:** Aerial photograph of subject site (outlined in red – source: SIX Maps)





**Figure 3:** View of the subject site – north elevation – Cooper Street (source: Google Maps)



**Figure 4:** View of the subject site – east elevation – Bay Street (source: Google Maps)



## Existing planning controls

Under the Woollahra LEP 2014, 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 3:1. The FSR for the site is slightly more than afforded to other sites in the town centre and seeks to encourage more prominent development on corner sites (Figures 5–7, below and page 5).

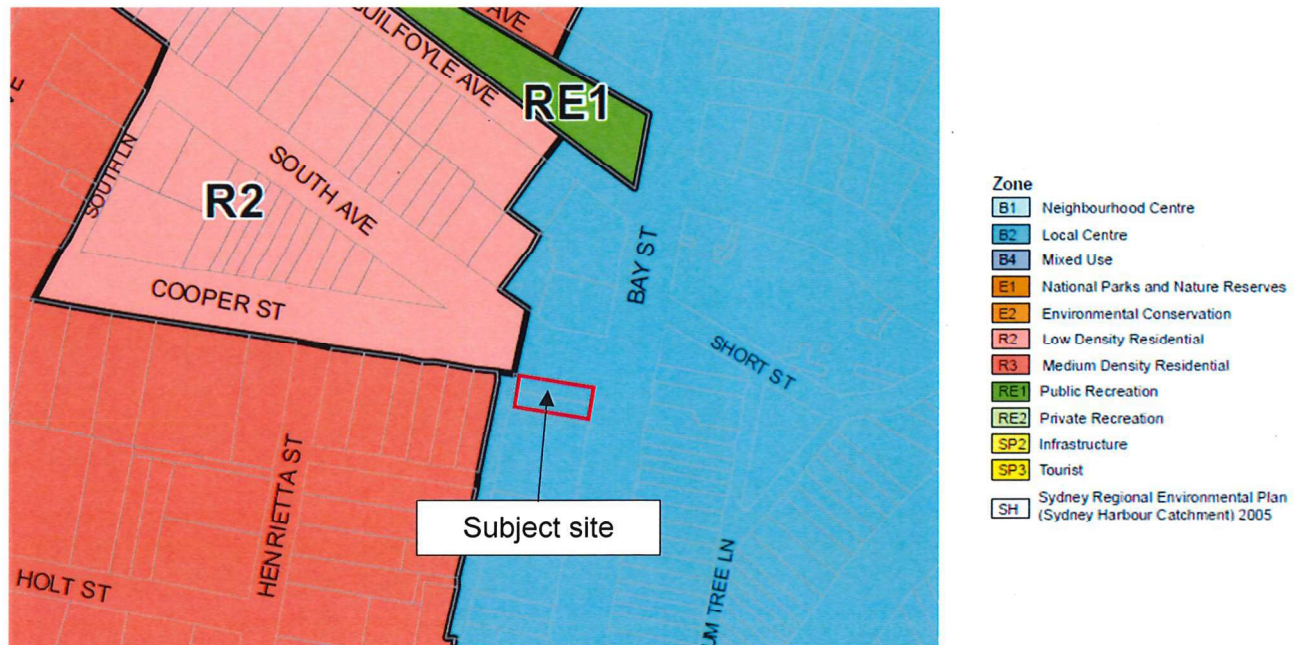


Figure 5: Woollahra LEP 2014 land zoning map (LZM\_003)

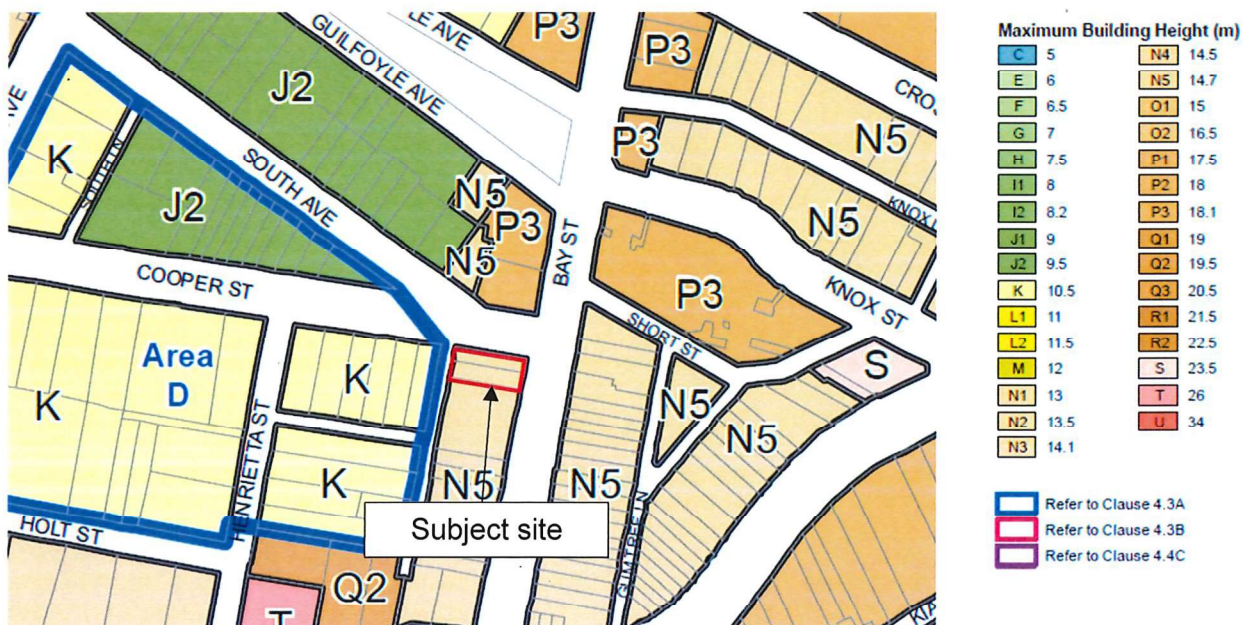


Figure 6: Woollahra LEP 2014 height of buildings map (HOB\_003)



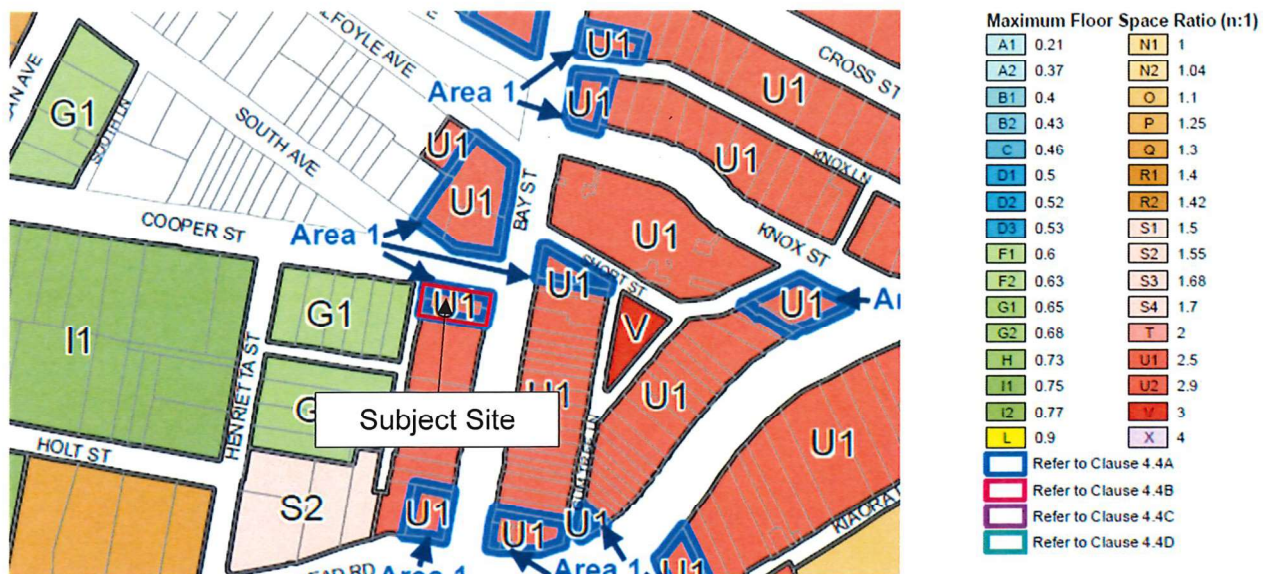


Figure 7: Woollahra LEP 2014 FSR map (FSR\_003)

### Surrounding area

The subject site is in the Double Bay town centre, which has a mix of commercial and medium-density residential buildings that comprises a variety of architectural styles, ages and heights of buildings.

Opposite the subject site to the north at 28 Bay Street is the two-storey Royal Oak Hotel. Bay Street is characterised by mainly one-storey and two-storey retail and food premises, including licensed premises, a nursery and several converted terraces on narrow lots with irregular setbacks at street level.

To the south and adjoining the subject site at 18 Bay Street is a five-storey modern mixed-use building comprising residential apartments above ground-floor retail.

To the west on the opposite side of Brooklyn Lane and north-west diagonally opposite the intersection of Cooper Street and South Avenue are 2-3-storey older-style and modern single detached dwellings and residential flat buildings.

On the opposite side of Cooper Street and to the east, is a group of five heritage items. There is also a conglomeration of heritage items further east of the site (Figure 8, next page).

### Background

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

On 20 April 2018, the applicant withdrew the development application and has been consulting with Council about the heritage significance of the site, which is explained later in this report.

The owner's heritage consultant, Heritage 21, wrote to Council on 12 July 2018 to advise that the owner intends to add floors while preserving key attributes of the building (**Attachment E**).

A further heritage report/letter from the owner's heritage consultant, Heritage 21, was sent to Council on 7 August 2018 agreeing that the site has local heritage significance, but disputing that the site is of state heritage significance.

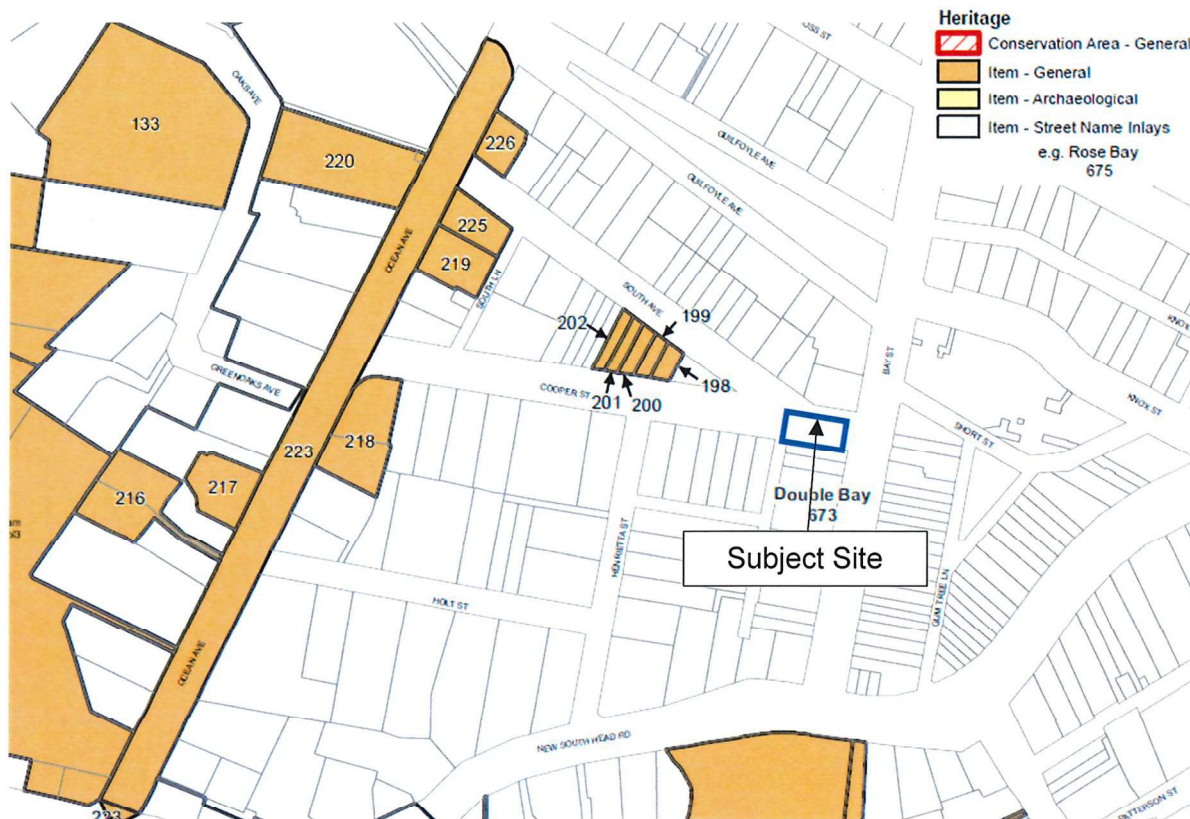


Figure 8: Woollahra LEP 2014 heritage map (HER\_003)

### Summary of recommendation

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

- is supported by two independent heritage assessments that identified the subject site as being of heritage significance;
- is listed by the Australian Institute of Architects on its Register of Significant Buildings in NSW;
- 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
- will allow for conservation management of the property, which has been identified to be of local heritage and state significance.

## PROPOSAL

### Objectives or intended outcomes

The planning proposal documentation states that the proposal intends to amend the Woollahra LEP 2104 to include 2A Cooper Street, Double Bay as a heritage item consistent with the findings of the heritage assessment undertaken by Anne Warr Heritage Consulting submitted with the planning proposal.

The proposal recommends the property be listed on the State Heritage Register. Nomination for the register is outside the scope of this planning proposal and is being sought separately by Council.



### **Explanation of provisions**

The planning proposal states that it seeks to make the following amendments to the Woollahra LEP 2014:

- insert a new heritage item, Gaden House at 2A Cooper Street, Double Bay, into Part 1 Schedule 5 Environmental Heritage; and
- amend and replace the heritage map (Sheet HER\_003A) to identify a heritage item on the Gaden House site.

The proposed amendments are considered clear and do not require amendment prior to community consultation.

If the site is listed as an item of heritage approval for alterations, additions and/or use of the building will be required to be sought in accordance with clause 5.1 of the LEP 2014. No additional provisions are required to support the planning proposal.

### **Mapping**

The proposal requires amendments to the Woollahra LEP 2014 heritage maps (Sheet HER\_003A) by applying an "Item – General" classification to Gaden House. Indicative mapping has been provided with the proposal that shows the current and proposed heritage maps.

This is deemed sufficient for the purposes of the planning proposal.

### **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal states that the need to amend the Woollahra LEP 2014 has arisen from the recommendation of a heritage assessment prepared by Anne Warr Heritage Consulting dated 20 June 2018, on behalf of Council.

The heritage assessment notes that Gaden House was designed by an important Australian architect, Neville Gruzman, and that the Australian Institute of Architects lists the building on its Register of Significant Buildings in NSW (number 4703579).

The landowner's appointed heritage architect, Heritage 21, intends to work with the developer to conserve key attributes of the building with the intention in the future to add additional floors to the building (**Attachment E**). A further heritage report by Heritage 21 was commissioned by the landowner and submitted to Council in response to the Anne Warr Heritage Consulting assessment. Heritage 21 found that the building was significant at a local level and agreed that a Conservation Management Plan should be written for the site.

The Heritage 21 report did not however agree with Anne Warr Heritage that Gaden House was of state heritage significance (**Attachment F**).

Anne Warr recommends that the property and its interiors be listed on the Woollahra LEP 2014. Whereas, the Heritage 21 report is less specific stating that they believe that the Neville Gruzman design should be kept and conserved and that they would work with the developer to add additional floors above Gaden House while conserving the key attributes of the existing building.

Both heritage consultants agree that a conservation management plan for the site would be appropriate.

Clause 5.10(6) of the Woollahra LEP 2014 states that a conservation management plan may be required by a consent authority before granting consent for works.

Preparing a conservation management plan will help outline what alterations and modifications (if any) and uses are suited to the building.

Heritage listing the site's building will provide ongoing protection and recognition of the heritage significance of the item. Adding site-specific objectives to the Woollahra Development Control Plan 2015 will not provide the same level of heritage protection and recognition.

## **STRATEGIC ASSESSMENT**

### **State**

#### Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the Greater Sydney Region Plan, which aims to coordinate and manage the growth of Sydney.

The plan contains objectives for the region over the next 40 years and informs the actions and directions of the district plans.

Of relevance in the 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 identifies 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”;* and
- *“managing and monitoring the cumulative impact of development on the heritage values and character of places”.*

The proposal is consistent with the plan as it seeks to protect and conserve the property at the subject site, which has been identified as being of local heritage significance by a heritage consultant, and the Australian Institute of Architects lists the building on its Register of Significant Buildings in NSW (number 4703579). The community will have the opportunity to comment on the heritage significance of the item when the planning proposal is publicly exhibited.

The heritage listing of the site will allow for the future application of adaptive reuse if considered appropriate and will assist in maintaining the building's architectural contribution to the streetscape. Provisions for a conservation management plan are contained in clause 5.10 of the Woollahra LEP 2014, which may deal with any further development application.

As such, the proposal is considered to be consistent with the region plan.

### **District**

#### Eastern City District Plan

The Eastern City District Plan gives effect to the 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 can be considered consistent with this priority as it seeks to provide the statutory



mechanisms required to protect and respect the district's heritage and to conserve the social, aesthetic and historic significance of this item.

The proposal is also consistent with Action 20 of the district plan as it seeks to identify and enhance heritage in a local area and enables the community to consider the heritage value of this item and whether it should be conserved through mechanisms under the Woollahra LEP 2014.

## **Local**

### Woollahra – 2030: Our community, our place, our plan

This is Council's community strategic plan and provides a long-term vision for the future of Woollahra. It is used to inform Council's decision-making and planning.

Relevant to the planning proposal is *Goal 4.3 – Protect our heritage, including significant architecture and the natural environment*. The planning proposal is consistent with this goal as it provides for the protection of Gaden House, which has been identified by independent heritage consultants Anne Warr Heritage Consulting and Heritage 21 to be of heritage significance.

## **Section 9.1 Ministerial Directions**

### 2.3 Heritage Conservation

This Direction applies to the planning proposal as it affects a property found to be of heritage significance. 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 proposes to amend schedule 5 of the Woollahra LEP 2014 to reflect the heritage significance of the property.

The Direction requires that a planning proposal contains provisions that facilitate the conservation of heritage items in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

The planning proposal is supported by a heritage assessment, which includes an assessment of significance. It has drawn attention to the significance of the item in relation to the above categories. The proposal will not alter the heritage conservation provisions under the Woollahra LEP 2014, which satisfy the requirements of this Direction. Therefore, the proposal is considered to be consistent with this Direction.

## **State environmental planning policies**

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

## **SITE-SPECIFIC ASSESSMENT**

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### **Social and economic**

The heritage report undertaken by Anne Warr Heritage Consulting assessed Gaden House against the criteria for 'cultural significance' as defined in the Australia ICOMOS Charter for Places of Cultural Significance (Burra Charter) for aesthetic, historic, scientific, social or spiritual value for past, present or future generations. The findings from this assessment were that Gaden House is of heritage significance at local and state levels, having met all criteria at moderate to exceptional levels.

The process to nominate and list the site as a state heritage item under the *Heritage Act 1977* is being pursued by Council and the subject planning proposal does not

depend on this listing for the site to be recognised as an item of local significance under the Woollahra LEP 2014.

The heritage listing for the site under the LEP can reflect this state-level significance if the site is listed under the *Heritage Act 1977* before the LEP amendment is made in accordance with the subject planning proposal.

The development of a conservation management plan for the site will help to identify what uses and works may be appropriate alongside the site's listing. This will enable the needs of the landowner and tenants to be considered in conjunction with the conservation of the building and the impact of changes on the building's heritage significance in the longer term.

The planning proposal will have a positive social and economic effect due to its ongoing protection and recognition of the social heritage significance of the item.

Heritage 21 has indicated that they propose to add additional floors which will require new services such as lifts, parking and related services.

The heritage listing will not preclude future additions to Gaden House if undertaken in accordance with heritage requirements under clause 5.10 of the LEP.

### **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 the findings of the heritage assessment conducted by Anne Warr Heritage Consulting and substantiated by Heritage 21. It is considered that the proposed amendments will list and thereby facilitate the conservation of the item for heritage purposes.

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

### **Infrastructure**

The proposal does not involve amendments to the planning controls that will intensify development on the site. Gaden House has access to adequate public infrastructure such as water, sewer, electricity and telephone services. The site is near public transport.

No significant infrastructure demand will result from the planning proposal. Current services for this site are suitable for the proposal.

## **CONSULTATION**

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### **Landowner**

On 28 June 2018, a copy of the Anne Warr Heritage Consulting assessment was sent to the landowner for comment.

The reply from Heritage 21 on behalf of the landowner (**Attachment F**) stated that the building was considered to have a contribution at a local level but not of state heritage significance. Key points identified in the Heritage 21 report include:

- Heritage 21 agrees with most of the recommendations in Anne Warr Heritage Consulting's assessment and that Neville Gruzman's design should be kept and conserved; and



- Heritage 21 intends to work with the developer on a proposal to add additional floors above Gaden House while conserving key attributes of the building. Anne Warr's report does not refer to any potential future development.

A further submission on behalf of the landowner was submitted to Council. This included a second report from Heritage 21, that agrees that Gaden House has significance at a level but does not meet requirements for State Heritage significance. Anne Warr Heritage Consulting responded in a submission dated 7 August 2018 stating it disagreed with this view.

### **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 undertaken with the Office of Environment and Heritage under section 3.34(2)(d) of the *Environmental Planning and Assessment Act 1979*.

Council is seeking to include the item on the State Heritage Register. Nomination for listing on the State Heritage Register is undertaken by submitting the nomination and inventory forms to the Office of Environment and Heritage. The planning proposal and state heritage listing nomination process will proceed independently.

### **TIME FRAME**

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

### **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority. The degree of heritage significance is of the building disputed between the landowner and the Council. Therefore, authorisation to Council as the local plan-making authority is not recommended.

### **CONCLUSION**

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The planning proposal to list the site as an item of heritage significance is supported to proceed as:


- 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;
- 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.

### **RECOMMENDATION**

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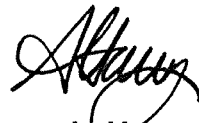
It is recommended that the delegate of the Minister of Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the Office of Environment and Heritage.
3. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council is not authorised as the local plan-making authority.
5. Prior to community consultation, the planning proposal is to be amended to update the project timeline.



15/1/19

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