**(ITEM 39/18) PUBLIC EXHIBITION - PLANNING PROPOSAL TO HERITAGE LIST ELY HOUSE - 122-126 BURWOOD ROAD BURWOOD**

File No: 18/16345

REPORT BY Manager Strategic Planning

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| Owner: Euston Investment Pty Ltd and H R P E (Holdings) Pty Ltd and Majer Nominees Pty Ltd  Summary  A Planning Proposal (PP) has been prepared to list the properties known as Ely House at 122-126 Burwood Road Burwood as a local heritage item. The PP was placed on public exhibition for a period of 14 days in accordance with the Department of Planning and Environment’s (DP&E) Gateway Determination. Two submissions were received in respect to the PP and site inspections have been conducted with Councillors. It is the recommended that the PP be progressed to list the property as a heritage item. |

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**Background**

At its meeting on 24 August 2015, Council considered the findings of the *Assessment of Potential Heritage Items - Stage 1*. The study recommended that several properties be listed as heritage items of local significance, including Ely House at 122-126 Burwood Road Burwood.

Council resolved to undertake preliminary consultation with property owners which was the subject of a subsequent report at the Council Meeting on 22 March 2016. Council resolved to undertake further investigation of four properties. This peer review included Ely House and the findings of the second study were reported to Council in November 2016.

At its meeting on 22 November 2016, Council considered a report on several heritage matters. A representative for the owners of Ely House spoke against the heritage listing of the property at the Council meeting. Council resolved to defer the matter to enable the owner to make a written submission.

In accordance with Council’s resolutiona letter was sent inviting the owners of Ely House to make a submission. The owner’s submission, which took the form of a report prepared by Urbis Pty Ltd (Urbis), was the subject of a further report to Council on 25 July 2017. It was resolved:

*1. That Council endorse the preparation of a Planning Proposal for the heritage listing of Ely House at 122-126 Burwood Road Burwood and submit the Planning Proposal to NSW Planning and Environment for a Gateway Determination.*

*2. That subject to the Gateway Determination, the Planning Proposal be publicly exhibited and consultation with any relevant public authorities be undertaken.*

*3. That the results of the public exhibition and consultation be reported back to Council.*

This report discusses the outcomes of the public exhibition and consultation. Council initially considered these matters at its meeting on 6 February 2018 where it was resolved:

*That the matter be deferred for a site inspection and Council’s determination.*

The site inspection was held on 24 April 2018, and the matter is now being reported back to Council for its determination.

**Proposal**

The PP would amend Schedule 5 and Heritage Map of the Burwood Local Environment Plan 2012 (BLEP) to include Ely House at 122-126 Burwood Road Burwood as a local heritage item. The PP is provided as **Attachment 1**.

The PP was forwarded to DP&E on 8 September 2017 and a Gateway Determination dated 6 October 2017 was received by Council. The DP&E determined that the PP should proceed subject to compliance with the Gateway Determination. Such conditions included the extent of public authority consultation and the duration of the public exhibition period.

The DP&E has also determined to issue an authorisation for Council to exercise delegation in making the BLEP amendment in respect to this matter.

**Consultation**

Community consultation was undertaken in accordance with the conditions of the Gateway Determination and also in accordance with the community consultation requirements for public exhibition of PPs as set out in *A Guide to Preparing Local Environmental Plans*. The Gateway Determination stipulated that the matter be publicly exhibited for a period of 14 days.

**Public Exhibition**

The PP was placed on public exhibition from 14 November 2017 to 29 November 2017 inclusive. The PP was available for viewing at Council’s Customer Service Centre and on Council’s Website. Notice of the public exhibition of the PP was also placed in the Inner West Courier on 14 November 2017.

One public submission was received during the public exhibition period objecting to the heritage listing (refer **Attachment 2**). The details of this submission are discussed below.

**State Agency Consultation**

In accordance with the Gateway Determination, the PP was forwarded to the Heritage Division of the Office of Environment and Heritage (OEH) for comment. The submission received from OEH does not raise objections to the PP (refer **Attachment 3**).

It is considered that Council should adopt the PP as exhibited to ensure the ongoing protection of a significant heritage property.

Discussion

The owner’s submission objects to the heritage listing of Ely House and is accompanied by a document prepared by Urbis. The Urbis document was first received by Council on 8 February 2017 and has been resubmitted during the recent public exhibition period. The Urbis document was already considered by Council at its meeting on 25 July 2017 but is summarised as follows:

* The mixed-use (commercial and residential) is common.
* The building has been substantially modified, specifically the ground floor and internally. The ground floor presents as a contemporary row of retail tenancies. Only on the first-floor does the building embody elements of the Inter-War Spanish Mission style.
* The building fabric is in poor condition and does not present a good example of its type as the building was of a representative design without distinction.
* The assessment of “rarity” should not be based on examples in the Local Government Area as these boundaries are subject to change. While the Spanish Mission style itself is potentially rare within the Burwood region, the style is evident in other significantly superior examples throughout Sydney.
* A heritage listing would promote façadism.

The full submission is provided as **Attachment 2**.

Preceding this submission two heritage assessments were commissioned by Council which supported a heritage listing of the property. Both assessments were carried out by independent heritage consultants, being City Plan Services and Colin Israel Heritage Advice.

The following is an overview of matters considered in determining whether to progress a heritage listing of Ely House:

* The initial nomination for heritage listing came from the Burwood and District Historical Society.
* The owner’s submission does not refute the historical facts (i.e. ownership details, date of construction, architectural style) contained in the assessments commissioned by Council.
* Both of the assessments commissioned by Council found the property to satisfy the heritage criteria of (a) historic significance, (c) aesthetic significance, and (f) rarity.
* The heritage listing would acknowledge that the ground floor shopfronts have been altered.
* The assessment criteria for local heritage items is based on its value to the “local area”, regardless of Council boundaries, and are not based on a Sydney-wide context as suggested by the submission.
* In particular, Colin Israel’s assessment found that:

*Spanish Mission style buildings from the Inter-War period are relatively rare in Burwood. This example exemplifies characteristic features of the style and is prominently located within Burwood Road’s streetscape. Apart from the alteration of the ground floor shops, the form, materials and design retain original character and stylistic elements.*

Relevant sections of the heritage assessments by City Plan Services and Colin Israel Heritage Advice are provided as **Attachment 4** and **Attachment 5** respectively.

Planning or Policy Implications

It is recommended that Council endorse the PP as exhibited, and proceed to the preparation of the BLEP amendment.

In accordance with the delegated authorisation for making the BLEP, Council Officers will liaise with Parliamentary Counsel and DP&E representatives in preparing a draft BLEP and progressing the BLEP to notification where it becomes law.

Financial Implications

There are no financial implications for Council.

Conclusion

The PP was placed on public exhibition in accordance with the Gateway Determination. A representative of the property owner made a submission objecting to the Planning Proposal. It is considered that the heritage listing would serve the public interest whilst ensuring that development is sympathetic to heritage values. Site inspections have been conducted with Councillors. Accordingly, this report recommends that Council endorse the PP as exhibited, and that it be progressed to the making of a BLEP amendment and subsequent notification.

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| ***Recommendation(s)***   1. That Council note the findings of the review of submissions from the public exhibition of the Planning Proposal. 2. That Council use its authorisation to exercise delegation in the making of the BLEP to give effect to the Planning Proposal and progress the BLEP to notification, to facilitate the heritage listing of Ely House at 122-126 Burwood Road Burwood. 3. That the property owners be advised of Council’s resolution. |

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Attachments

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| **1** | Planning Proposal |  |  |
| **2** | Owner Submission |  |  |
| **3** | OEH Submission |  |  |
| **4** | Assessment by City Plan Services |  |  |
| **5** | Assessment by Colin Israel Heritage Advice |  |  |