

Planning and Assessment

IRF20/1023

Gateway determination report

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Listing of the property at 30 Wyuna Road, Point Piper as a local heritage item.
NUMBER	PP_2020_WOOLL_003_00
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014
ADDRESS	30 Wyuna Road, Point Piper
DESCRIPTION	Lot 2, DP 567775
RECEIVED	25 February 2020
FILE NO.	IRF20/1023
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.

1. INTRODUCTION

1.1 Description of planning proposal

The objective of the planning proposal is to list the site, including the dwelling and its interiors, at 30 Wyuna Road, Point Piper as a heritage item by amending Schedule 5 and heritage map of the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014).

1.2 Site description

The subject site is legally described as Lot 2 in DP 567775 and is known as 30 Wyuna Road, Point Piper. The site is occupied by a two-storey Inter-war Mediterranean style dwelling house with external sandstone stairs and pathways as well as a garage at street level.

The site has a land area of 376.9m² and has irregular boundaries to its north, west and south (**Figure 1**). The eastern boundary is a street frontage of 31.86m to Wyuna Road, its southern boundary is shared with the property at 26 Wyuna Road and its western and northern boundaries are shared with a seven-storey residential flat building and a four-storey residential building respectively. The site is steep, sitting several metres above Wyuna Road. The sloping nature strip between the site and Wyuna Road is densely vegetated, which largely obstructs the view of the dwelling house from street level (**Figure 3**).

The site is in the vicinity of several heritage items (as shown in **Figure 8**).



Figure 1: Aerial photograph of the site (outlined in red) (source: Nearmap)



Figure 2: The subject site as viewed from the southeast (source: Woollahra Municipal Council)



Figure 3: The subject site as viewed from Wyuna Road, looking southwest, the existing garage and driveway are seen in the foreground (source: Google Maps)



4(a) Original fire place mantel with moulded wall lighting at the corner



4(b) Fluted column with decorative capital in the lounge room



4(c) Main doorway with fan and side lights



4(d) Curved main staircase with wrought iron balustrade

Figure 4(a)-(d): The interior of the dwelling house with details such as decorative cornices, moulded lighting, columns, fireplace and mantel piece being intact (source: Woollahra Municipal Council)

1.3 Existing planning controls

Under the Woollahra LEP 2014, the following planning controls apply to the site:

- Land zoning: R2 Low Density Residential (**Figure 5**);
- Maximum height of buildings: 9.5 metres (**Figure 6**); and
- Minimum lot size: 675m² (**Figure 7**).

No floor space ratio controls apply to the site. The site is not currently listed as a State or local heritage item.

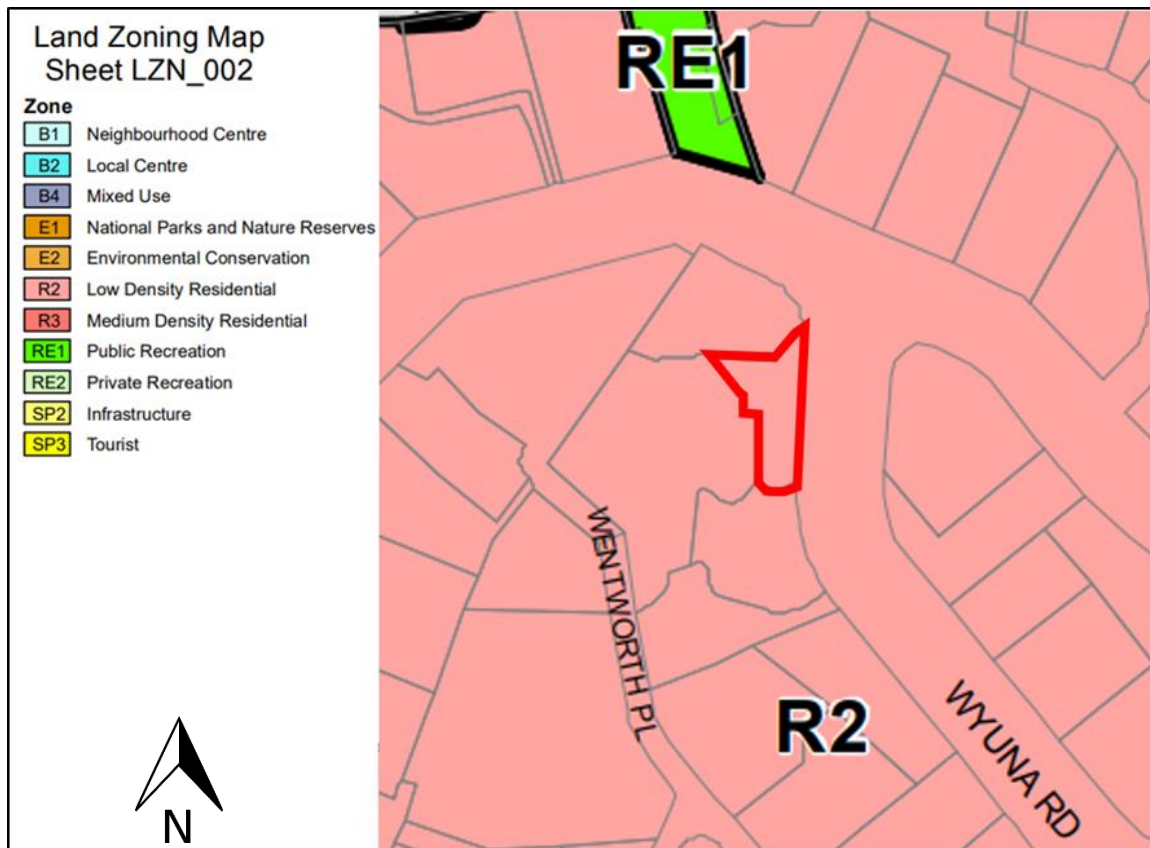


Figure 5: Woollahra LEP 2014 Land Zoning Map with the subject site outlined in red.

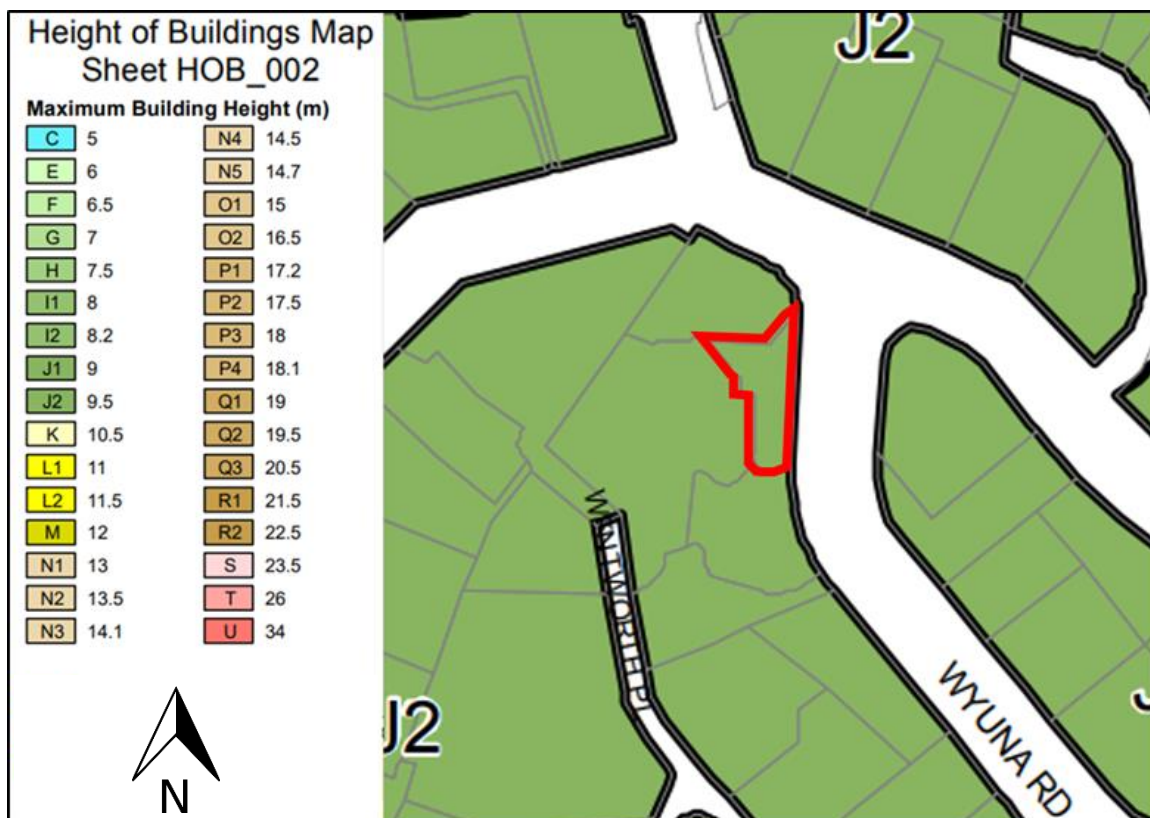


Figure 6: Woollahra LEP 2014 Height of Buildings Map with the subject site outlined in red.



Figure 7: Woollahra LEP 2014 Minimum Lot Size Map with the subject site outlined in red.

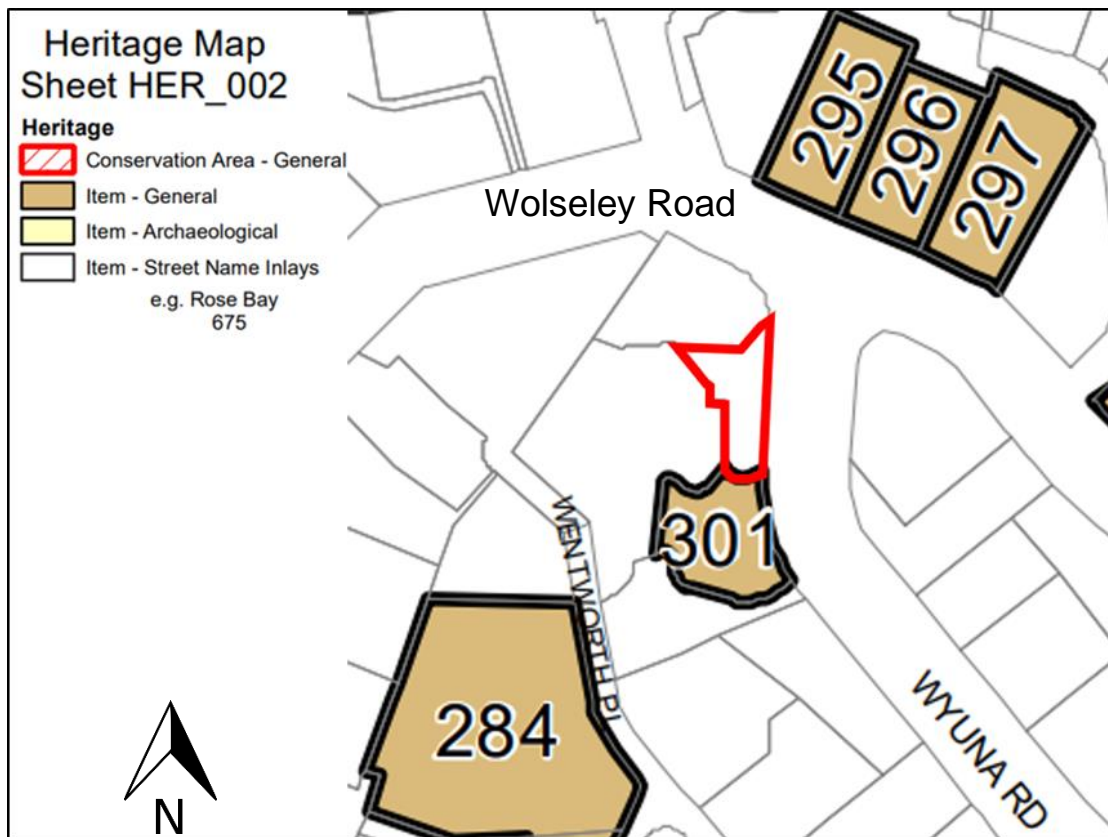


Figure 8: Woollahra LEP 2014 Heritage Map with the subject site outlined in red.

1.4 Surrounding area

The subject site is located near the northern tip of the Point Piper peninsula (**Figure 9**). The surrounding area is zoned R2 low density residential and consists largely of detached dwelling houses in a variety of architectural style from different periods. There are also residential flat buildings in the locality, including a seven-storey flat building located directly adjacent to the subject site.

Duff Reserve and Lady Martin's Beach are the two closest public open spaces to the site. There are no commercial centres near the site, with the nearest shops and services being located in neighbouring Double Bay and Rose Bay.

There are several heritage items in the vicinity of the site, including the property immediately to the south at 26 Wyuna Road (Item 301), as well as three separate items located across Wolseley Road to the north-east of the site (Items 295, 296 and 297).



Figure 9: Bird-eye view over the site and surrounds (source: realestate.com)



Figure 10: Aerial photograph showing the site (in red) within its context (source: Woollahra Municipal Council GIS Maps)

1.5 Background

The following provides background information relating to the planning proposal.

12 July 2019

A development application (DA2019/252) was lodged for alterations and additions to the existing dwelling at 30 Wyuna Road, Point Piper, which included modifications to sections of the house, widening of the garage and landscaping.

26 August 2019

Council considered a notice of motion for the heritage protection of the site and resolved to, among other things, request an urgent report to the Environmental Planning Committee be prepared to assess the heritage significance of the property at 30 Wyuna Road.

10 September 2019

A Class 1 appeal against the deemed refusal of development application DA2019/252 was filed with the Land and Environment Court on 10 September 2019 [reference number 2019/281987].

The matter was scheduled for a Section 34 conciliation conference for early May 2020.

16 October 2019

A notification of intention to issue a Complying Development Certificate (CDC) for demolition of all structures and construction of a new dwelling house on the site was received by Council.

23 October 2019

Council's Director of Planning authorised the making of an Interim Heritage Order (IHO) for the property on 23 October 2019, pursuant to a Ministerial Order and Authorisation for Local Councils to make Interim Heritage Orders published in the Government Gazette on 12 July 2013. The IHO was issued under section 25 of the Heritage Act 1977.

The order will remain in place for a period of up to 12 months (the gazette indicates a period of 6 months, subject to extension for another 6 months upon satisfaction of certain conditions by Council) and will allow Council the opportunity to fully assess the heritage significance of the building and whether or not should be listed as a heritage item.

4 November 2019

A report was considered by Council's Environmental Planning Committee (EPC) recommending the site be listed as an item of environmental heritage in Schedule 5 of the Woollahra LEP 2014. The report concluded that the house and interiors at 30 Wyuna Road satisfy relevant criteria stated in the Heritage Office guidelines, *Assessing Heritage Significance, 2001*.

11 November 2019

At its meeting of 11 November 2019, Council resolved that a planning proposal be prepared to list the property as a heritage item under the Woollahra LEP 2014, and that the planning proposal be referred to the Woollahra Local Planning Panel (WLPP) for advice.

5 December 2019

The Woollahra Local Planning Panel resolved to advise Council that it supports the planning proposal to list the dwelling house and its interiors as a local heritage item.

19 December 2019

The development application (DA2019/252) was referred to the Woollahra Local Planning Panel on 19 December 2019. The WLPP resolved to defer the development application to enable the applicant to undertake further geotechnical investigations, and submit revised architectural and landscape plans to address issues such as privacy.

It is noted that amended plans and additional information have recently been submitted to Council in response to the WLPP's resolution.

3 February 2020

A report was made to the Environmental Planning Committee to note the advice provided by the WLPP on 5 December 2019, and to seek Council's approval to forward the planning proposal to the Department for Gateway determination.

25 February 2020

Council lodged a planning proposal for the heritage listing of the property at 30 Wyuna Road with the Department.

1.6 Summary of recommendation

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

- The proposed heritage listing is supported by a heritage study prepared by Council, which identifies the subject site as having local heritage significance. The heritage assessment has been undertaken in accordance with the NSW Heritage Office Guidelines;
- The proposal will recognise and provide on-going protection of the heritage significance of the item; and
- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and Council's local strategic plans, as well as relevant State Environmental Planning Policies and Section 9.1 Directions.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the planning proposal is to amend Part 1 *Heritage items* under Schedule 5 *Environmental heritage* of the Woollahra LEP 2014, to list the house and its interiors at 30 Wyuna Road, Point Piper as a local heritage item. Heritage listing of this property will ensure recognition of its significance, as well as protection, through ensuring any future development proposals are assessed against Clause 5.10 *Heritage conservation* of the Woollahra LEP 2014.

The objectives of the planning proposal are considered to be clear and do not require amendment prior to community consultation.

2.2 Explanation of provisions

The planning proposal seeks the following amendments to the Woollahra LEP 2014:

- Insert a listing for *House and interiors* at 30 Wyuna Road, Point Piper, in Part 1 *Heritage items* of Schedule 5 *Environmental heritage*. The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the LEP; and
- Amend the Heritage Map (Sheet HER_002) to identify a heritage item on the site of 30 Wyuna Road, Point Piper.

The explanation of provisions in the planning proposal adequately explains the intended changes to the Woollahra LEP 2014.

2.3 Mapping

The proposal requires an amendment to the Heritage Map (Sheet HER_002) under the Woollahra LEP 2014 to identify the house and interiors at 30 Wyuna Road, Point Piper as an "Item – General". Part 7 – Mapping of the planning proposal includes extracts of the existing and proposed Heritage Maps in relation to the site (**Figure 11**).

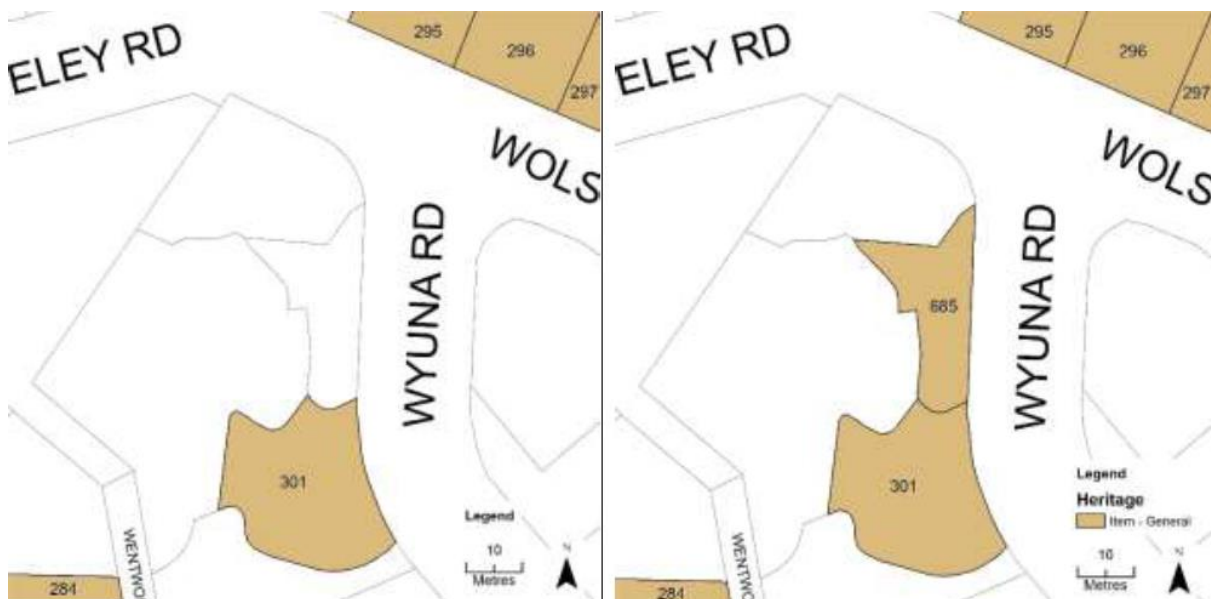


Figure 11: Existing (left) and proposed (right) Woollahra Heritage Maps (Sheet HER_002)

There is an error message that has been inadvertently shown on page 13 (Part 7 – Mapping) of the planning proposal. The Department will advise Council to remove this error message prior to exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is informed by a heritage assessment report prepared by Council (**Attachment D**) in accordance with the *Assessment of Significance* guidelines published by the NSW Heritage Office.

The heritage assessment concluded that the dwelling at 30 Wyuna Road, Point Piper is a fine, rare example of an Inter-war Mediterranean style house. The assessment found that the dwelling has historical, associative, aesthetic, rarity and representative significance and has research potential. The house has a very high degree of intactness in its design as well as its fabric in both the exterior and interior. The house has been assessed to meet the threshold for local heritage listing.

The proposal intends to recognise the significance of the dwelling and its interiors as a local heritage item under the Woollahra LEP 2014. The listing of the property will also ensure any future development applications on or adjacent to the subject site will address the heritage value of the dwelling house.

Options, such as adding site-specific objectives and controls to the *Woollahra Development Control Plan 2015* or including heritage conservation conditions to a potential development consent will not provide the same level of heritage protection and recognition.

A planning proposal is the best and only means to alter Schedule 5 of the Woollahra LEP 2014 to accurately reflect the heritage significance of the item.

Development application and class 1 appeal

A development application has been lodged with Council for alterations and additions to the existing dwelling on the site. A class 1 appeal has been filed with the

Land and Environment Court against the deemed refusal of the above-mentioned development proposal.

4. STRATEGIC ASSESSMENT

4.1 State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan*, which aims to manage and coordinate growth in 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, historic and environmental values.

The objective also identifies a strategy for achieving the above:

- “*engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the 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 planning proposal is consistent with the above objective and strategy in the Region Plan as heritage listing of the house and interiors at 30 Wyuna Road, Point Piper will provide ongoing protection and recognition of the heritage significance of the site.

4.2 District

Eastern City District Plan

The Eastern City District Plan operates to give 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 is consistent with the above priority as it seeks to provide the statutory mechanism required to protect the Inter-war Mediterranean style dwelling house, including its interiors, which have been found to carry local heritage significance.

4.3 Local

Woollahra 2030 – our community, our place, our plan

The planning proposal is consistent with the Council’s Community Strategic Plan *Woollahra 2030*, which establishes a long-term vision for the future of Woollahra and guides Council’s planning and decision making.

The proposal is specifically consistent with the following strategy under Goal 4 – *Well planned neighbourhoods*:

- *4.3 Protect our heritage, including significant architecture and the natural environment.*

The proposal will provide recognition and protection of the heritage significance of the subject dwelling house.

Woollahra Local Strategic Planning Statement (LSPS)

The *Woollahra LSPS*, endorsed by Council in February 2020 and supported by the Greater Sydney Commission, sets out a 20-year vision and planning priorities for managing future land use and preserving the special characteristics of the Woollahra LGA.

The following planning priority under the theme of *Liveability* in the LSPS is relevant to the planning proposal:

- *Planning Priority 5 - Conserving our rich and diverse heritage.*

The proposal will facilitate the conservation of the dwelling house at 30 Wyuna Road, Point Piper which has been identified to have local heritage significance.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the applicable section 9.1 Ministerial Directions, particularly:

Direction 2.3 Heritage Conservation

The Direction applies to the subject planning proposal. It requires that a planning proposal must contain provisions which facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance, as identified in a study of the environmental heritage of the area.

The proposal is supported by a heritage assessment prepared by Council, which identifies the house and interiors at 30 Wyuna Road, Point Piper as having local heritage significance. The heritage listing of the item will provide ongoing protection and recognition of its significance and is consistent with the Direction.

4.5 State Environmental Planning Policies (SEPPs)

The proposal is consistent with all relevant State Environmental Planning Policies.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The heritage significance assessment states that due to its aesthetic contribution to the local area and the number of submissions Council received in response to the recent development application for the site, it is likely that the dwelling has some social value amongst the community. However, no community survey has been undertaken regarding the social significance of the subject site.

Notwithstanding, the heritage listing of the dwelling house and interiors would ensure a part of Woollahra's history is preserved and allow for appreciation of the item by the local community.

5.2 Environmental

The planning proposal will not have any adverse impacts on the surrounding environment and there are no critical habitat areas, threatened species, populations or their habitats present on the subject site.

Heritage

The heritage significance assessment conducted by Council determined that the house at 30 Wyuna Road, Point Piper is of local heritage significance. The listing of the item will facilitate the conservation of the site and maintain its aesthetic contribution to the local streetscape.

5.3 Economic

The proposal does not change the zoning or development standards applicable to the site and is not considered to result in any significant adverse economic impacts.

5.4 Infrastructure

The planning proposal does not seek to change the land use zoning or development standards applicable to the site. The proposal is unlikely to result in any material impact on the infrastructure demand.

6. CONSULTATION

6.1 Community

Council proposes a public consultation period of a minimum of 28 days. Having regard to the nature and scale of the planning proposal, this is considered an appropriate timeframe for community consultation.

The planning proposal states that consultation would include:

- a weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period;
- a notice on Council's website;
- a letter to the landowner of the site;
- a letter to landowners in the vicinity of the site; and
- local community groups.

During the exhibition period the following material will be made available on Council's website and in the customer service area at Council's office:

- the planning proposal, in the form approved by the Gateway determination;
- the Gateway determination; and
- information relied upon by the planning proposal (such as relevant Council reports).

On 25 March 2020, the NSW Government introduced the *COVID-19 Legislation Amendment (Emergency Measures) Bill 2020*, which made changes to the *Environmental Planning and Assessment Act 1979*. This has allowed the provision of planning documents online via the NSW Planning Portal or local council website, in lieu of displaying physical copies. Council has advised that planning documents will be made available on its website in digital form. Council also has the option to utilise a generally circulated newspaper, such as Sydney Morning Herald, to provide notice about exhibition of the planning proposal.

6.2 Agencies

The proposal states that Council intends to consult with the following public authorities / organisations during exhibition:

- NSW Heritage, Department of Premier and Cabinet
- NSW Heritage Council

- The National Trust of NSW

The NSW Heritage Council advises the Minister administering the *Heritage Act 1977* on heritage matters in NSW and makes recommendations to the Minister for the listing of places and objects on the State Heritage Register. The Heritage Council also makes decisions about the care and protection of heritage places and items that have been identified as being of State significance. As the proposal is for the listing of a dwelling house as a local item under the Woollahra LEP, consultation with the Heritage Council is not deemed necessary and will not be required as part of the Gateway condition.

7. TIME FRAME

The planning proposal includes a project timeline with a projected finalisation date of October 2020. To allow flexibility for Council to administer the planning proposal process, a time frame of 12 months for completing the LEP following Gateway determination is recommended.

A Gateway condition is recommended to require the project time frame to be updated prior to exhibition to reflect the current progress (see discussion below).

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation to make the LEP amendment. Having regard to the nature of the planning proposal, it is recommended that authorisation be granted for Council to exercise the plan making functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* in this instance.

The Department acknowledges that there is an active development application for the site, which is the subject of an appeal in the NSW Land and Environment Court. This is considered a local planning matter and does not require the Department's involvement.

9. CONCLUSION

The planning proposal to list 30 Wyuna Road, Point Piper as a heritage item should proceed subject to conditions as:

- The proposed heritage listing is supported by a heritage study prepared by Council, which identifies the subject site as having local heritage significance. The heritage assessment has been undertaken in accordance with the NSW Heritage Office Guidelines;
- The proposal will recognise and provide on-going protection of the heritage significance of the item; and
- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and Council's local strategic plans, and relevant State Environmental Planning Policies and Section 9.1 Directions.

As previously discussed, there is an active development application for the site which is currently the subject of an appeal in the Land and Environment Court. This is considered a local planning matter and does not require involvement by the Department.

10. RECOMMENDATION

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

1. Prior to public exhibition, the planning proposal is to be amended to include the following:
 - (a) An updated project timeline.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with the following public authorities / organisations under section 3.34(2)(d) of the Act:
 - NSW Heritage, Department of Premier and Cabinet
 - The National Trust of NSW

Each public authority / organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.



19 May 2020
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21 May 2020
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