

Item No: D2
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF COOPER PARK, BELLEVUE HILL**
Author: Flavia Scardamaglia, Strategic Heritage Officer
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 19/191546
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to the preparation of a planning proposal to list Cooper Park as a local heritage item in Woollahra Local Environmental Plan 2014.
To seek the advice of the Woollahra Local Planning Panel in relation to the nomination of Cooper Park as a heritage item on the State Heritage Register.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to:

- A. Proceed with the planning proposal to list *Cooper Park* in Bellevue Hill (excluding Cooper Park North) as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. Forward the planning proposal to the Department of Planning, Industry and Environment to list *Cooper Park* in Bellevue Hill (excluding Cooper Park North) as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*, requesting a gateway determination to allow public exhibition.
- C. Request delegation from the Department of Planning, Industry and Environment in relation to the planning proposal, to carry out the plan-making functions of the Minister for Planning and Public Spaces under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- D. Support the nomination to list *Cooper Park* in Bellevue Hill (excluding Cooper Park North) as a heritage item on the State Heritage Register.

1. Reason for report to the Woollahra Local Planning Panel (Woollahra LPP)

This report seeks the advice of the Woollahra LPP on the listing of *Cooper Park* in Bellevue Hill as a heritage item in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - a) The correction of an obvious error in a local environmental plan,
 - b) Matters that are of a consequential, transitional, machinery or other minor nature, or
 - c) Matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.

- When a planning proposal is referred to the local planning panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.
- A proposal is to be referred to the local planning panel before it is forwarded to the Minister of the Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act)

In this case, the planning proposal is required to be referred to the local planning panel because the general manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

On 27 November 2017, Council adopted the following notice of motion (Item No. 11.1):

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for Cooper Park to the Urban Planning Committee to facilitate Cooper Park (and its elements) being:

1. *included in the Woollahra Local Environmental Plan as a heritage item; and*
2. *listed as a heritage item of state significance on the NSW State Heritage Register*

The following background information accompanied the notice of motion on the agenda for that meeting:

Woollahra Council's Heritage Study (1984) highlighted Cooper Park as a 'creek valley with quite thick vegetation...with unique rainforest species' and overall high recreational value. The Heritage Study nominated the north-facing valley and south-facing slope as areas of naturalistic character and pointed to the existence of Aboriginal engravings within Cooper Park and surrounding areas.

The Australian Heritage Commission listed Cooper Park on the Register of the National Estate (FileNo.1/12/041/0114/01) during 1992. 'Cooper Park is an uncommon example of an early twentieth century municipal park, which demonstrates a bushland pleasure ground style. The style is expressed by the predominance of bush vegetation, a creek and meandering network of paths which link a series of architectural features (Criterion B2)'.

Woollahra Council Cooper Park Plan of Management February 2001 sets out the elements and management of Cooper Park. The action plan included "Conduct heritage study that audits the presence and condition of, and makes recommendations for the protection and preservation of, any built structures or other material associated with the park's Aboriginal history and its history of recreation development".

Cooper Park is not currently listed as heritage item under the Woollahra LEP 2014 (except for the Adelaide Street sandstone retaining wall and railing facing Cooper Park) or on the NSW State Heritage Register.

In response to Council's decision, Chris Betteridge of Betteridge Heritage was engaged to carry out an assessment of heritage significance for Cooper Park. Chris Betteridge is a highly qualified and experienced heritage consultant with extensive and specialised experience in the identification, assessment, management and interpretation of landscape heritage.

On 18 November 2019 a report on the heritage listing of *Cooper Park* as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014* was presented to a meeting of the Environmental Planning Committee (Annexure 1) and on 25 November 2019, Council resolved the following:

- A. *THAT a planning proposal be prepared to list Cooper Park as a state significant heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- D. *THAT Council consider nominating Cooper Park for listing on the State Heritage Register when it considers the advice of the Woollahra Local Planning Panel.*
- E. *THAT further consideration be given to Aboriginal Cultural Heritage including appropriate engagement with Aboriginal Elders and the La Perouse Land Council.*

[Note: Part A relates to listing Cooper Park as a state significant heritage item. The Department of Planning, Industry and Environment's (DPIE) LEP Practice Note PN 11-001, which deals with the use of standard clauses in a Standard Instrument LEP, states in regard to LEP listings:

Items cannot be identified as having State significance unless they are listed in the State Heritage Register. However, a heritage item may be listed on the State Heritage Register as a "nominated item of State significance" if the item has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.

At this point of the process, the Council has not exhibited the assessment of heritage significance or has it submitted its nomination for State listing to the Heritage Council. The listing at this time should be limited to a local item. It could be updated to a State listing in the LEP description if the nomination to the Heritage Council proceeds to the acceptable point.]

3. The study area

Cooper Park is located along a creek valley that runs in an east-west direction and falls between the suburbs of Bellevue Hill and Woollahra. It was originally part of the early nineteenth century estate of Daniel Cooper. It was proclaimed as a park in 1917 and developed over the next twenty years into a bushland and recreational ground.

Broadly, the study area is defined to the west by Suttie Road, to the north by Northland Road/Streatfield Road, to the east by Bellevue Road/Victoria Road, and to the south by residential properties located north of Fletcher Street (see Figure 1 below).

The part of Cooper Park to the north (separated by Northland Road) is commonly known as 'Cooper Park North'. The area to the east of the tennis courts is commonly known as 'Lower Cooper Park', whilst further to the east is the Amphitheatre.

Cooper Park is approximately 17.7 hectares in size, with approximately 12 hectares of urban bushland. Cooper Park is owned by Woollahra Council, and is the largest Council-owned area of bushland in the Woollahra Municipality. The park provides open space for both passive and active recreation.

The park is dominated by bushland and planted native trees. The recreational facilities in the park include tennis courts, cricket pitches and cricket nets, a kiosk, a playground, junior sports fields, a community garden, an extensive system of walking tracks, unique synthetic stone shelters, a range of footbridges, a grassed amphitheatre, community facilities and informal open grassed areas.

Figures 2 to 5 below illustrate significant elements in Cooper Park including the Amphitheatre, the Moon Bridge, the sandstone balustrade and a rock shelter.

The eastern end of Cooper Park is characterised by an open grassed area with expansive views (the amphitheatre, see **Figure 2**). A smaller open grassed area to the south of the main area of the park is known as Fig Tree Lane Reserve and located over Fletcher's Gully.



Figure 1: Aerial photograph with the boundary of Cooper Park outlined in red.



*Figure 2: The Amphitheatre, Cooper Park, with stone steps leading down from Victoria Road
(Photo: Chris Betteridge, 29 March 2019)*



Figure 3: View of Moon Bridge, in the centre of Cooper Park.

(Photo: Chris Betteridge, 29 March 2019)



Figure 4: Sandstone balustrade near the Amphitheatre, Cooper Park. *(Photo: Chris Betteridge, 29 March 2019)*



Figure 5: One of the artificial rock shelters constructed by H Arnold at Cooper Park during the 1930s and located near the picnic area in the centre of Cooper Park *(Photo: Chris Betteridge, 29 March 2019)*

The park is zoned RE1 Public Recreation under *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

Cooper Park was listed on the Register of the National Estate (RNE) in 1993 – ID No: 17850. The statement of significance for this listing is:

Cooper Park is an uncommon example of an early twentieth century municipal park, which demonstrates a bushland pleasure ground style. The style is expressed by the predominance of bush vegetation, a creek and meandering network of paths which link a series of architectural features (Criterion B.2). The Park is important for an array of cultural features which include synthetic stone structures, a moon bridge, a brick and concrete bridge, sandstone paths, a tennis pavilion and tennis courts and a grass amphitheatre with retaining wall and plaque (Criterion A.3). The Park contains some significant stands of remnant Port Jackson/eastern suburbs vegetation (Criterion A.1 and D.1). These cultural features are laid out in a manner which demonstrates design excellence (Criteria F.1).

However, the RNE became non-statutory in February 2012 when all references to the RNE were removed from the *Environmental Protection and Biodiversity Conservation Act 1999*.

4. Assessment of heritage significance

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001. The assessment used the process and criteria set out in that document. There are seven criteria used in the process of assessing heritage significance.

Criterion (a)

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

Criterion (b)

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

Criterion (c)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

Criterion (d)

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.

Criterion (e)

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

Criterion (f)

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

Criterion (g)

An item is important in demonstrating the principal characteristics of a class of NSW's

- cultural or natural places, or
- cultural or natural environments,
(or a class of the local area's
- cultural or natural places, or
- cultural or natural environments.)

Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be considered for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

A copy of the assessment prepared by Chris Betteridge of Betteridge Heritage, which includes the assessment against all criteria, is attached as *Annexure 2*.

Table 1 below provides a summary of the assessment of the heritage significance of Cooper Park against the seven criteria, at the local and State levels.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	✗
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	✓
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	✗
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons	✓	✗
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	✗
(f)	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	✓
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. or a class of the local area's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. 	✓	✗

Overall, Cooper Park satisfies all criteria for local listing and criteria (b) and (f) at State level. It should be noted that the area recommended for listing (both at a local and State level) excludes Cooper Park North (see **Figure 6**). The heritage significance assessment provides the following statement of significance:

Cooper Park is historically significant at a local level through its associations with significant historical phases in the development of the cultural landscape of the Woollahra local government area, being part of the original Point Piper Estate. The park contains some of the largest areas of remnant bushland in Woollahra Municipality with representative vegetation from the area, including vegetation with an affinity to the endangered ecological community Eastern Suburbs Banksia Scrub. (Criterion A)

Cooper Park has associational significance at a State level derived from strong associations with the application of the NSW Prevention and Relief of Unemployment Act 1930 and includes fine examples of the unemployment relief works carried out by unemployed workers during the Great Depression to provide enhanced public recreation facilities and improved infrastructure. The park also has strong associations with noted architects S E Coleman and R G C Coutler who won the design competition for the park and with Ernest Miles and H Arnold who supervised the Depression-era works. The park has a strong association with the Cooper family, being a remnant of the extensive estate developed by the Cooper family from 1827 and including associations with two well-known members, both named Daniel Cooper. It was donated to Woollahra Municipal Council in May 1917 by Sir William Charles Cooper (1852-1925), the second son of Sir Daniel Cooper (1821-1902). It is significant at a local level for these associations. (Criterion B)

Cooper Park has aesthetic significance at a State level as an increasingly rare surviving example of an early 20th century municipal park, created in a bushland pleasure ground style, expressed by the predominance of bush vegetation, a constructed creek and meandering network of paths which link a series of architectural features. The Park is important aesthetically for its array of Depression-era cultural features which include a grass amphitheatre with retaining wall and plaque, artificial stone structures, a moon bridge, sandstone walls, steps and paths, concrete footbridges, and a diverse range of outdoor recreation facilities including a 1920s tennis pavilion and tennis courts. Cultural plantings consist of both exotic and native plantings that were planted during the park's early phases of establishment and contribute to the bushland pleasure ground style in both species selection and layout. These cultural features are laid out in a manner that demonstrates design excellence and high creative endeavour. (Criterion C)

While social value is hard to quantify without detailed surveys of those who have been associated with a place, it is likely that living individuals within the Woollahra Council area will have strong opinions about the place – some positive, some negative. Respondents to a limited sample size survey in 1992 identified Cooper Park as one of the most important spaces in Woollahra Municipality for both structured and unstructured recreation and amenity reasons. The local community also contributed to the establishment, protection and restoration of the natural bushland values of Cooper Park over a very long time. (Criterion D).

The Aboriginal cultural heritage values have not been investigated in the scope of this heritage assessment and therefore significance to Aboriginal cultural groups cannot be determined. However, there are records of engravings in or near Cooper Park and it is therefore likely that the site may contribute to enhanced understanding of the aboriginal cultural history of the area in the future, at least at a local level.

Cooper Park is considered to have technical and research significance at a local level but probably not at a State level. These values are derived from its ecological communities and two threatened plant species as well as the archival photographic record for the park which provides evidence of how various tree species have performed over a period of more than 80 years. (Criterion E)

*Cooper Park is rare at a State level as an excellent example of high-quality Depression-era public recreation landscape works including an extensive assemblage of artificial stone shelters from the 1930s constructed by H Arnold who built similar enclosures for animals at Sydney's Taronga Zoo. The rarity value of the park is also enhanced by the presence of two threatened plant species *Acacia terminalis* subsp. *terminalis* and *Syzygium paniculatum*. (Criterion F)*

The park is also representative at a local level, and possibly at a State level, subject to further comparative analysis, of 1920s /'30s pleasure ground designed landscapes with Depression-era public landscape works to provide employment for out-of-work men and improved amenities for the community. (Criterion G)

(Chris Betteridge: Heritage Significance Assessment, 3 November 2019, p. 65-66)

The assessment recommends the listing of Cooper Park (excluding Cooper Park North) as a heritage item at both the local level, in Schedule 5 of the Woollahra LEP 2014 and at the State level, on the State Heritage Register (SHR). A full copy of the report, inclusive of the heritage inventory form and SHR Nomination as Appendices A and B, is included in **Annexure 2**.

4.1 Cooper Park North

The proposed listings exclude Cooper Park North, which is identified with a dashed line in **Figure 6**. Cooper Park North was excluded as it fails to meet the criteria for local or state listing. This is due to its different character/natural setting and lack of threatened plant species. Further, it does not contain Depression era works and is physically separated from the main area of Cooper Park.

4.2 Recommendations of the heritage significance assessment report

The heritage significance assessment report contains the following recommendations:

- 1. Woollahra Municipal Council should propose the area of Cooper Park, encompassing the major significant ecological communities and the Depression-era unemployment relief landscape works, as outlined solid red on Figure 7 for listing as an item of State significance on Schedule 5, Woollahra LEP 2014.*
- 2. Woollahra Municipal Council should nominate Cooper Park, as identified in dot point #1 above and outlined solid red on Figure 27, to the Heritage Council of NSW for consideration of listing on the State Heritage Register.*

3. *Cooper Park should continue to be managed to conserve and enhance its heritage significance through a proactive program of arboricultural and horticultural maintenance, erosion control and conservation of its significant natural, landscape and built elements.*
4. *An updated Conservation Management Plan for Cooper Park should be prepared to take into account relevant information on the park that has been accumulated since 2011 and changes to the nature, condition and management regime that have taken place since 2011. If the park is listed on the SHR, Heritage Council endorsement of the updated CMP should be sought.*
5. *Consideration should be given to interpreting the heritage significance of Cooper Park in culturally sensitive ways which may include but should not be limited to material on Council's website and inclusion on a downloadable app for a walking tour of heritage sites in the Woollahra local government area.*
6. *An updated Vegetation Management Plan /Canopy Replenishment Strategy for Cooper Park should be prepared to provide for the conservation of natural vegetation in the park and the staged replacement of the significant cultural plantings on the site, the timing of such replacement to be guided by arboricultural assessment of the vigour, condition and useful life expectancy of the trees.*
7. *Should Cooper Park be listed on the State Heritage Register, any works consistent with the policies and other recommendations of an endorsed Conservation Management Plan could be exempted, subject to ministerial approval, to reduce the need for frequent applications under Section 60, Heritage Act.*

The area recommended for local and State listing is shown with a solid red line in **Figure 6** below.



Figure 6: The area of Cooper Park recommended for both Local and State listing is identified with a solid red line. The dashed area is Cooper Park North. (Source: Woollahra Municipal Council 2019)

In accordance with these recommendations the consultant has prepared:

- A heritage inventory form for listing *Cooper Park* on the Woollahra LEP 2014.
- A SHR heritage nomination for listing *Cooper Park* under the *Heritage Act 1977*.

These are included in *Annexure 2* as Appendices A and B of the Heritage Assessment report.

5. Planning proposal

A planning proposal has been prepared to list *Cooper Park* in Bellevue Hill (excluding Cooper Park North) as a heritage item in the *Woollahra LEP 2014* (see *Annexure 1*).

5.1 Planning proposal structure

The planning proposal has been prepared in accordance with section 3.33 of the Act and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

5.2 Objective of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of *Cooper Park* in Bellevue Hill (excluding Cooper Park North) and provide it with a statutory heritage protection.

5.3 Explanation of provisions

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

- Insert a listing for *Cooper Park* (excluding Cooper Park North), 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.
- Amend the Heritage Maps (Sheet HER_003D and 003E) to identify *Cooper Park* (excluding Cooper Park North) as a heritage item in Bellevue Hill.

5.4 Relationship to strategic planning framework

The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018), (refer to section 6.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhood) under the theme Quality places and spaces.

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

The planning proposal is also consistent with the *Draft Woollahra Local Strategic Planning Statement* (endorsed by Council for exhibition 9 September 2019). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability: *Planning Priority 5 Conserving our rich and diverse heritage*

The planning proposal is consistent with the *Standard Instrument –Principal Local Environmental Plan* and all other applicable State environmental planning policies (refer to Schedule 1 of the planning proposal).

The planning proposal is consistent with applicable section 9.1 directions (refer to Schedule 2 of the planning proposal).

6. Conclusion

This report seeks the advice of the Woollahra LPP on a planning proposal to list *Cooper Park* (excluding Cooper Park North) in Bellevue Hill as a heritage item in the Woollahra LEP 2014.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objective or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

This report also seeks the advice of the Woollahra LPP on the nomination to list Cooper Park (excluding Cooper Park North) as a heritage item on the SHR. The assessment of heritage significance concludes that the park (excluding Cooper Park North) meets the threshold for State listing.

Advice from the Woollahra LPP will be provided to Council.

Annexures

1. EPC report dated 18 November 2019 (excluding the annexures)
2. Heritage Significance Assessment Cooper Park, Bellevue Hill, 3 November 2019
3. Planning Proposal - Heritage listing of Cooper Park, Bellevue Hill (excluding annexures)