

Planning Services

IRF18/4856

Gateway Determination Report

LGA	Willoughby
PPA	Willoughby City Council
NAME	Proposal to list new heritage item (0 homes, 0 jobs)
NUMBER	PP 2018 WILLO 002 00
LEP TO BE AMENDED	Willoughby Local Environmental Plan 2012
ADDRESS	9 Centennial Avenue, Chatswood
DESCRIPTION	Lot D DP 336587
RECEIVED	3 September 2018
FILE NO.	IRF18/4856
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

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend Willoughby Local Environmental Plan (LEP) 2012 to list the property at 9 Centennial Avenue, Chatswood as a heritage item of local significance.

It also seeks to include the site on Willoughby LEP 2012 Dual Occupancy Restriction Map, which includes all other heritage listed sites within the Willoughby local government area and would have the effect of prohibiting the development of a dual occupancy on this site.

Site description

The site is on the northern side of Centennial Avenue, on the western corner of Centennial Avenue and Jenkins Street, Chatswood and is legally described as Lot D, DP 336587. The site has an area of 1,561m² (**Figure 1**).

The site contains a two-storey dwelling and a separate single storey double garage fronting Jenkins Street (**Figures 2 and 3**).



Figure 1: Subject Site (Source: Six Maps)



Figure 2: View of the subject site – east elevation (Source: Architectural Projects)



Figure 3: View of the subject site from Centennial Avenue (Source: Architectural Projects)

Existing planning controls

The site is zoned R2 Low Density Residential under Willoughby LEP 2012 and has a maximum permitted building height of 8.5m; a maximum permitted FSR of 0.4:1; and a 650m² minimum lot size (Figures 4, 5 and 6).

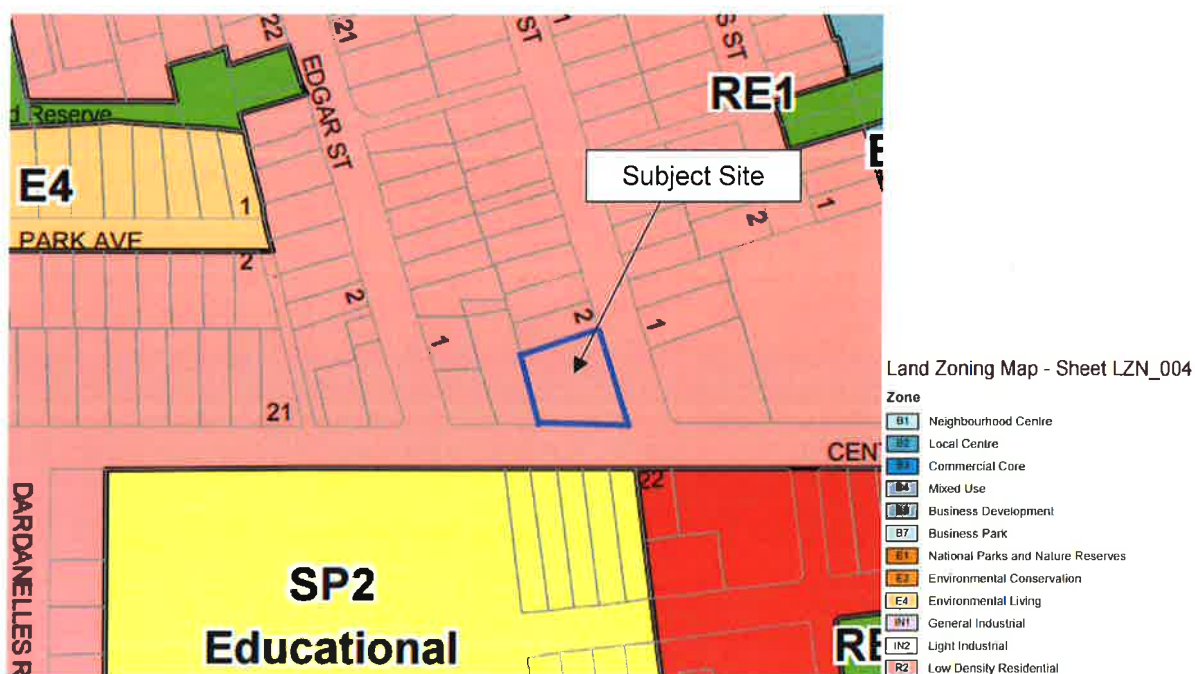


Figure 4: Willoughby LEP 2012 Land Zoning Map

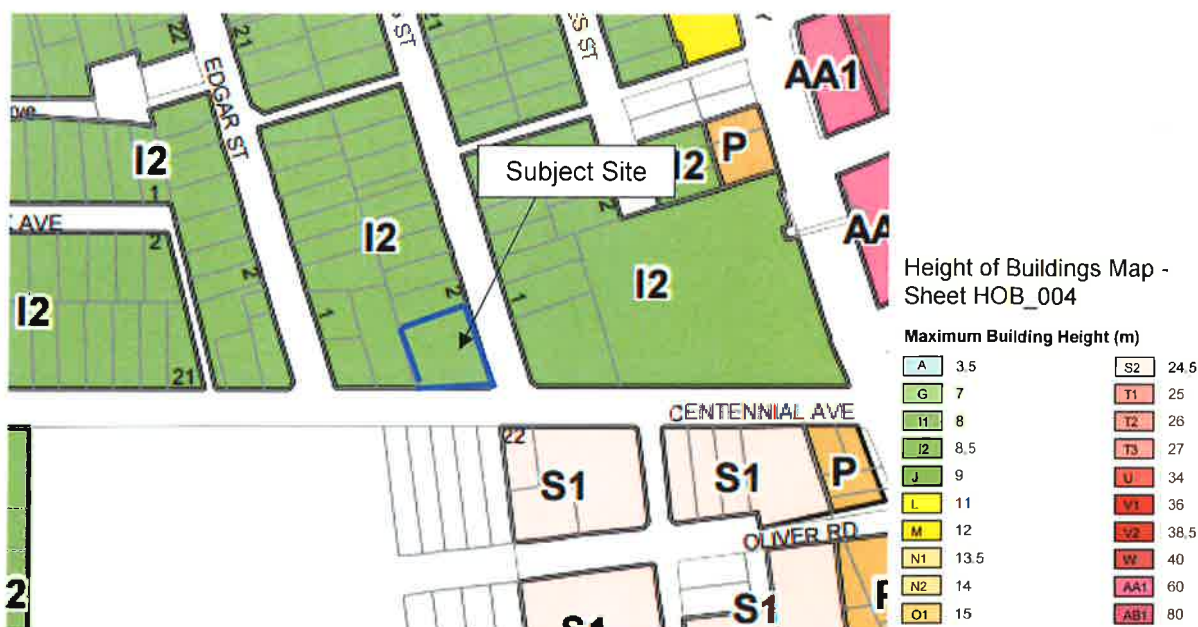


Figure 6: Willoughby LEP 2012 Height of Buildings Map

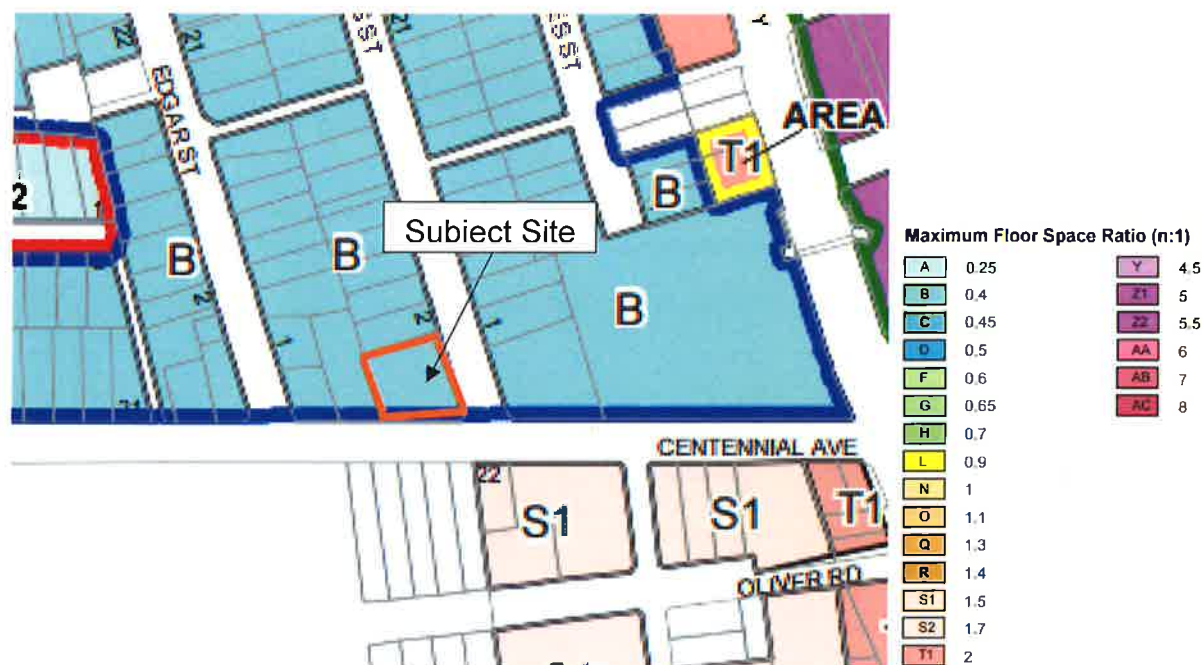


Figure 7: Willoughby Local Environmental Plan 2012 Floor Space Ratio Map

Surrounding area

The subject site is located within an established residential locality, comprised of low density residential uses mainly being one to two storey detached dwellings.

Opposite the subject site to the south at 24 Centennial Avenue, is Chatswood High School. Chatswood Public School is located to the east of the site on the opposite side of Jenkins Street and is listed as a heritage item of local significance under Schedule 5 of Willoughby LEP 2012 (Item 106).

There are two other heritage items on Centennial Avenue near the subject site, both are of local significance and listed as a house (including interiors) at 19 Centennial Avenue and 60 Centennial Avenue (Items 66 and 67 respectively).

The nearest heritage conversation area is C11 – South Chatswood, located three blocks to the east of the site.

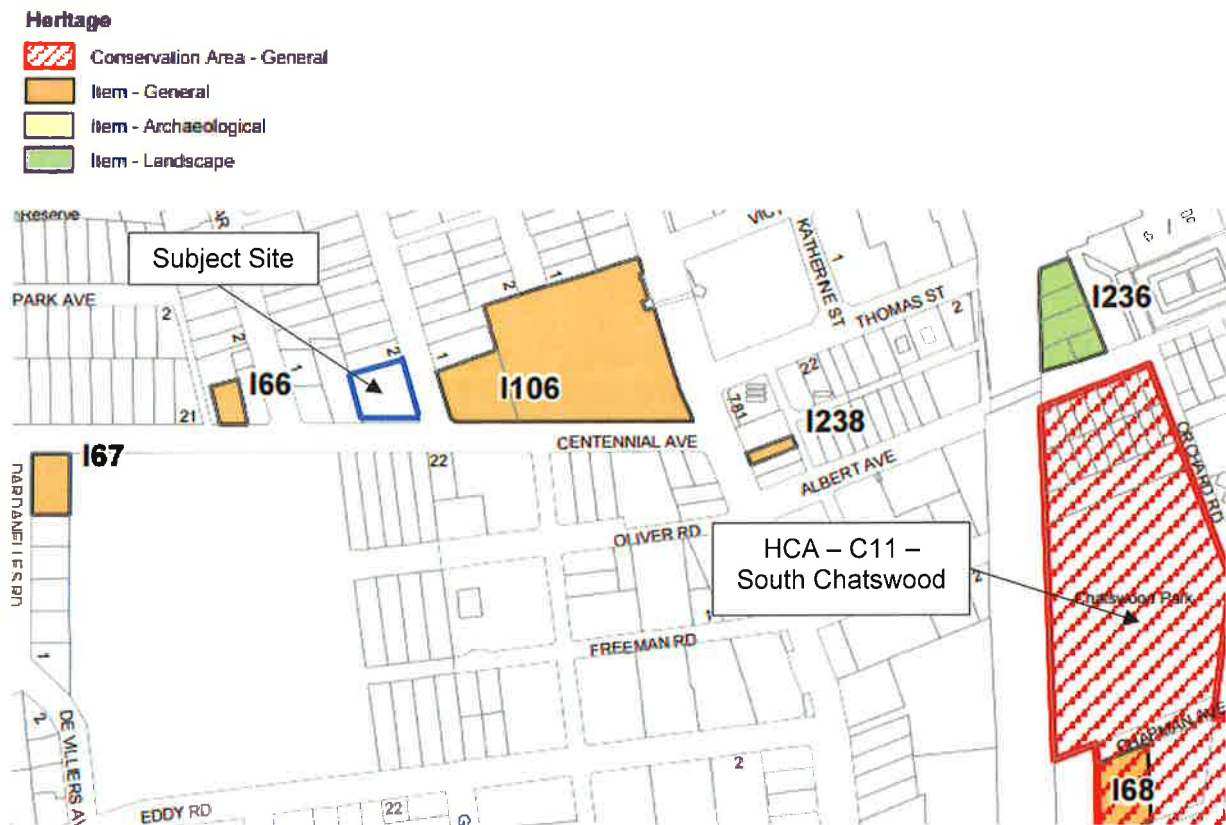


Figure 8: Willoughby LEP 2012 Heritage Map

Summary of recommendation

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

- it is supported by three independent heritage assessments that identified the subject site as being of heritage significance;
- it is consistent with the objectives and directions of applicable strategic and statutory planning frameworks; and
- will allow for better conservation management of the property which has been identified to be of local heritage significance.

PROPOSAL

Objectives or intended outcomes

The planning proposal documentation states that the proposal intends to amend Willoughby LEP 2012 to include 9 Centennial Avenue, Chatswood as a local heritage item, consistent with the findings of the heritage assessment undertaken by Architectural Projects, submitted with the planning proposal.

Explanation of provisions

The proposal states that it seeks to insert the following new item into Part 1 of Schedule 5 of Willoughby LEP 2012:

Suburb	Item Name	Address	Property Description	Significance	Item No.
Chatswood West	House (including original interiors)	9 Centennial Avenue	Lot D, DP336587	Local	I245

Amendments to Willoughby LEP 2012 Heritage Map are also proposed to identify the site as a heritage item.

The explanation of provisions also notes that amendments will be required to Willoughby LEP 2012 Dual Occupancy Restriction Map, which includes all heritage items and conservations areas within Willoughby. This will have the effect of prohibiting the development of a dual occupancy on the site and this has not been explained in the objectives or intended outcomes of the planning proposal. The planning proposal should therefore be updated to reflect this intended outcome.

Mapping

The planning proposal does not currently include any mapping. It is recommended that the planning proposal is revised prior to exhibition to include the proposed amendments to Willoughby LEP 2012 Heritage Map and Dual Occupancy Restriction Map, as per the Gateway conditions.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the need to amend Willoughby LEP 2012 has arisen from recommendations of an independent heritage assessment prepared by Jennifer Hill, Architectural Projects in 2018.

The heritage assessment notes that the dwelling at 9 Centennial Avenue, Chatswood is believed to be designed by an important architect, FG Castleden and is one of the first substantial houses in Centennial Avenue.

The matter was considered by Willoughby Council at its meetings on 12 February and 23 July 2018. The Council reports provide a timeline of events in relation to the decision to list the property as local heritage item as follows:

- Preliminary heritage assessments were undertaken by independent heritage consultants Robert Moore in 1996 and Graham Brooks in 2005, which both supported its listing as a local heritage item.
- In 2009 Council resolved to incorporate 9 Centennial Avenue as a local heritage item in draft Willoughby LEP 2009. It was subsequently deferred after its listing was opposed by the landowner and entry into the property refused by the landowner.
- On 6 February 2018, Council received notification from a private certifier advising of the intention to approve a complying development certificate to

demolish the dwelling on the site. Council obtained legal advice on issuing an Interim Heritage Order;

- On 12 February 2018, Council was notified by local residents that demolition of the building had commenced. A compliance officer visited the site and obtained agreement from the builder to stop work.
- An Interim Heritage Order (IHO) for the property was issued on 14 February 2018, which temporarily prevents the buildings and structures on the site from being demolished. The IHO includes a condition that it ceases to take effect after 6 months from the date of issue unless Council resolves to proceed to list the property as a heritage item under Willoughby LEP 2012.
- On 23 July 2018, Council resolved to list the property as a local heritage item, meaning the IHO will stand until such a time as it is removed or the LEP process is completed.
- On 12 April 2018, the property owner appealed the imposition of the IHO to the Land and Environment Court. The appeal was heard on 23 May 2018 and decision made on 31 May 2018. The judgement concluded that the IHO had been validly made.
- On 13 June 2018, the applicant lodged an appeal against the judgement. This appeal is yet to be heard.

The planning proposal intends to recognise the significance of the house and interiors at the subject site, which is supported by three different independent heritage consultants. A planning proposal is the only means to alter Schedule 5 of Willoughby LEP 2012 to reflect the heritage significance of the property and allow for appropriate provisions for conservation management.

STRATEGIC ASSESSMENT

State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commissions released the Greater Sydney Region Plan – A Metropolis of Three Cities (The Region Plan), which aims to coordinate and manage the growth of 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 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 identified 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”*
- *“managing and monitoring the cumulative impact of development on the heritage values and character of places”*

The proposal is consistent with the Region 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 three independent heritage consultants. The community will have the opportunity to comment on the heritage significance of the item when the planning proposal goes to public exhibition.

The heritage listing of the site will allow for the future application of adaptive re-use if considered appropriate and will assist in maintaining the building's contribution to the streetscape.

As such, the proposal is considered to be consistent in relation to the Greater Sydney Region Plan.

Regional / District

North District Plan

The Greater Sydney Commission released the North District Plan on 18 March 2018. The North District Plan encompasses the Willoughby local government area.

The proposal is consistent with the outcomes and directions outlined in the plan, particularly those associated with heritage. Planning Priority N6 requires "*creating and renewing great places and local centres and respecting the District's heritage*"

There are also three actions contained in "Action 21" of the District plan, which reiterates those described above in relation to the Region Plan.

The proposal is considered consistent with the Priority E6 and Action 21 of the District Plan as it seeks to provide the statutory mechanisms required to protect the heritage item and provide appropriate provisions for conservation management.

Local

Our Future Willoughby 2028 is the Council's community strategic plan, providing a long-term vision for the future of the Willoughby. It is used to inform Council's decision making and planning.

Priority 2.2 requires Council to respect and celebrate its history and heritage.

The planning proposal is consistent with this action as it provides for the protection of the property, which has been found to be of local heritage significance by three different independent heritage consultants.

Section 9.1 Ministerial Directions

The proposal is consistent with the following relevant section 9.1 Ministerial Direction:

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 Willoughby LEP 2012 to reflect the heritage significance of the property.

Part 4(a) of Direction 2.3 Heritage Conservation 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. While the planning proposal is supported by a heritage assessment, which includes an assessment of significance, it has not addressed the significance of the item relation to these categories.

It is therefore recommended that the planning proposal and heritage assessment be updated to outline the items heritage significance in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

3.1 Residential Zones

This direction applies to the planning proposal due to the intention to include the site on the Willoughby LEP 2013 Dual Occupancy Restriction Map, which would have the effect of prohibiting the development of a dual occupancy on the site.

Part 5(b) of Direction 3.1 Residential Zones states that a planning proposal must not contain provisions which will reduce the permissible residential density of land. The inconsistency is considered to be justified as it is of minor significance as it relates to a single site and restricts dual occupancies only. Furthermore, the planning proposal is consistent with the objectives of the direction as it minimises the impact of residential development on the environment, being a site identified to be of heritage significance.

State environmental planning policies

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

SITE-SPECIFIC ASSESSMENT

Social and Economic

Conserving the property of heritage significance will allow residents to have a positive understanding and connection with the area's history.

Additionally, the public exhibition of the planning proposal will provide opportunity for the owners of the properties and the wider community to determine whether the listing is appropriate.

Listing the site as a heritage item will provide the community with greater certainty about the heritage significance of this site and therefore help to conserve its heritage significance.

Where works have the potential to affect the significance of the heritage on the site, a development application would need to be lodged with Council (as opposed to a complying development certificate application).

Listing the property as an item of local heritage significance will provide a suitable balance between protecting the heritage item and providing the appropriate level of assessment within the development application process.

Environmental

The need for the planning proposal has arisen from the recommendations of three heritage assessments.

The heritage impact statement supporting the planning proposal provides an assessment of significance. As discussed in relation to section 9.1 Direction 2.3

Heritage Conservation, it is recommended that the planning proposal and heritage assessment be updated to outline the heritage significance in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item. This will also allow the community to have a clear understanding of the heritage significance of the item during the public exhibition period.

While it is considered that the proposed heritage listing will facilitate the conservation of the heritage item, consultation with the Office of Environment and Heritage will be required in relation to this matter.

CONSULTATION

Community

Council has proposed a public exhibition period of 28 days. This period is considered to be appropriate as reflected in the Gateway conditions.

It is also recommended that the affected land owner be given notice of the proposal and public exhibition.

Agencies

The Office of Environment and Heritage should be consulted during public exhibition as the proposal relates to a heritage item.

TIME FRAME

Council has proposed a timeframe for completion of the LEP in five months. Given the nature of the plan, a nine-month timeframe is considered appropriate to allow sufficient time for community consultation.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given that the related IHO is currently subject to a court appeal, it is considered that Council should not be made the plan-making authority.

CONCLUSION

The proposal is supported to proceed with conditions, as it:

- is supported by three independent heritage assessments that identified the subject site as being of heritage significance;
- is consistent with the objectives and directions of applicable strategic and statutory planning frameworks; and
- will allow for better conservation management of the property which has been identified to be of local heritage significance.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 3.1 Residential Zones is of minor significance.

It is recommended that the delegate of the Greater Sydney Commission, 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 Office of Environment and Heritage.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. The planning proposal is to be updated to:
 - (a) include the proposed map amendments to Willoughby LEP 2012 Heritage Map and Dual Occupancy Restriction Map.
 - (b) update the objectives and intended outcomes of the planning proposal to reflect the intention to restrict the development of a dual occupancy on the site.
 - (c) outline the heritage significance in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.



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