

Planning and Assessment

IRF20/3448

Gateway determination report

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Local heritage listing of 46 Vacluse Road (including interiors), Vacluse.
NUMBER	PP_2020_WOOLL_009_00
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014
ADDRESS	46 Vacluse Road, Vacluse
DESCRIPTION	Lot A DP 367302
RECEIVED	20 July 2020
FILE NO.	IRF20/3448
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 planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 to list 46 Vacluse Road (including interiors), Vacluse as a local heritage item.

1.2 Site description

The subject site is legally described as Lot A in DP 367302 and is known as 46 Vacluse Road, Vacluse. The site is regular in shape, has a land area of 1,710m² with a frontage of 32.0m to Vacluse Road, a rear boundary of 32m and a depth of between 52.3m and 54.4m. The site slopes down to west toward the Sydney Harbour foreshore. It is bounded by dwelling houses to the north, south and west.

The site is occupied by a part two and part three-storey Inter-war Mediterranean style dwelling. The dwelling is constructed of light coloured, lightly textured rendered brickwork with tiled roof. The site also features a detached double garage to the north of the dwelling, breezeblock fencing and a triangular shaped swimming pool, dating from the 1960s. Beneath part of the ground floor level at the rear of the floorplate is a partial basement level.

The original dwelling on the site was built circa 1915 by architect John Spencer Stansfield for himself, with major alterations and additions carried out in 1928 to Frederick Glynn Gilling's Inter-war Mediterranean design that presents to Vacluse Road today. Subsequent physical changes include addition of a ballroom in 1937 by Dudley Ward as well as 1960s and 70s modification to the building. These works, however, have not undermined the legibility of Gilling's design.



Figure 1: Aerial photograph with the subject site outlined in red. (source: Nearmap)



Figure 2: Oblique view of the front elevation of the subject dwelling. (source: Woollahra Municipal Council)



Figure 3: Opening from the former ballroom to the formal dining room with decorative detailing remains intact. (source: Woollahra Municipal Council)



Figure 4: Main sweeping curved staircase; note that the original wrought-iron balustrade has been removed. The stair treads and risers are clad in stoneware tiles. (source: Woollahra Municipal Council)

1.3 Existing planning controls

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

	Land Use Zone	Height of Building	Minimum Lot Size	Heritage
46 Vaucluse Road, Vaucluse	R2 Low Density Residential	9.5m	675m ²	Not applicable

Land Zoning Map Sheet LZN_005

Zone	
B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
E1	National Parks and Nature Reserves
E2	Environmental Conservation
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP2	Infrastructure
SP3	Tourist

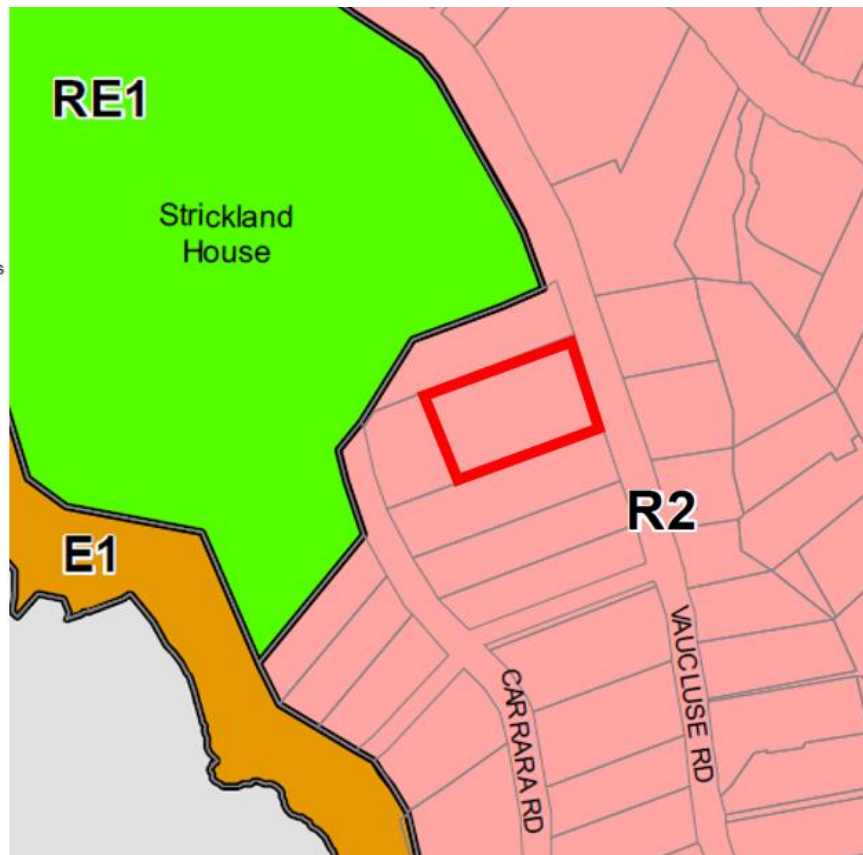


Figure 5: Woollahra LEP 2014 Land Zoning Map with the subject site outlined in red.

Heritage Map Sheet HER_005

Heritage	
	Conservation Area - General
	Item - General
	Item - Archaeological
	Item - Street Name Inlays e.g. Rose Bay 675

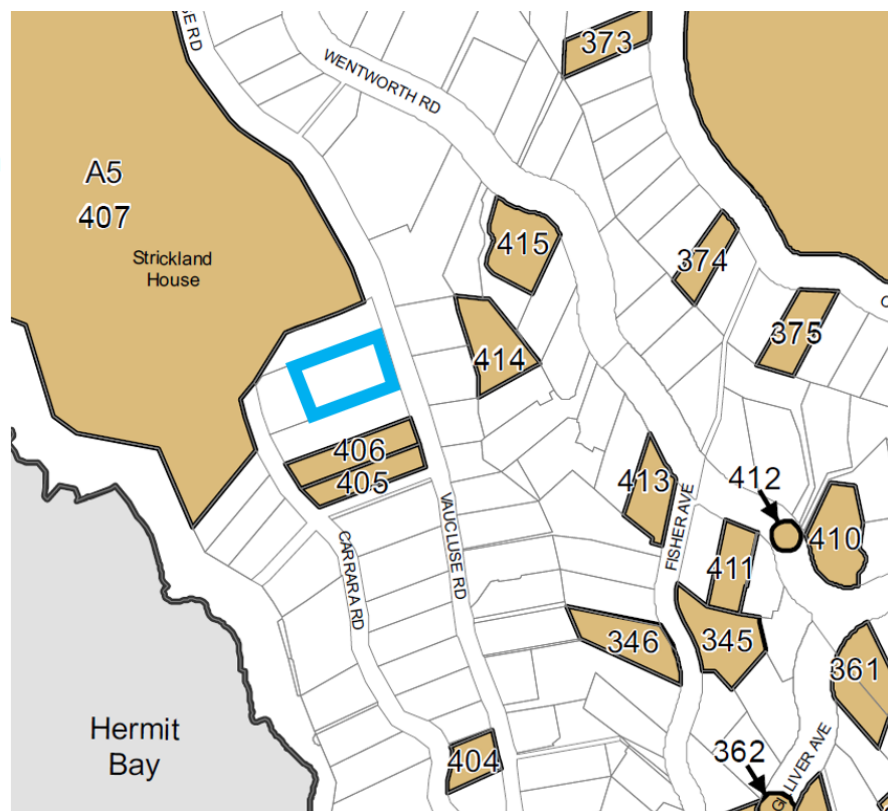


Figure 6: Woollahra LEP 2014 Heritage Map with the subject site outlined in blue.

1.4 Surrounding area

The subject site is located within the suburb of Vaucluse close to the Sydney Harbour foreshore (**Figure 7**).



Figure 7: An aerial image of the surrounding area with the subject site outlined in red (source: Nearmap).

The site is in an established residential area of predominantly two to three-storey dwelling houses of varying ages and architectural styles. The area surrounding the site is mostly zoned R2 Low Density Residential apart from areas of RE1 Public Recreation and E1 National Parks and Nature Reserves located to the west of the site (**Figure 5**).

The adjoining developments include a part two and part three storey contemporary dwelling at 48 Vaucluse Road to the north, a contemporary two storey dwelling to the south at 27 Carrara Road, and a post war era dwelling to the rear (west) of the site at 29 Carrara Road.

The subject site is not located within a heritage conservation area; however, it is in proximity to several heritage items (**Figure 6**), including:

- Item 407 – *Strickland House, 52 Vaucluse Road* (also listed as an Archaeological site A5),
- Item 406 – *Sydney Pink Gums, 42 Vaucluse Road,*
- Item 405 – *Swamp Mahogany, 40 Vaucluse Road,*
- Item 414 – *House and interiors, 34 Wentworth Road, and*
- Item 415 – *House and interiors, 38 Wentworth Road.*

1.5 Background

On 20 October 2015, development consent was granted for demolition of the existing dwelling and construction of a new dwelling with basement car parking on the site. The consent was due to expire on 20 October 2020. However, recent legislative changes in response to the COVID-19 pandemic have allowed consents granted before 25 March 2020 to be extended by 2 years.

On 26 August 2019, Council considered a notice of motion on the heritage protection of two buildings designed by the architect F. Glynn Gilling and resolved to request an Interim Heritage Order (IHO) under section 24(1) of the *Heritage Act 1977* in respect of the properties at 30 Wyuna Road, Point Piper and 46 Vacluse Road, Vacluse.

On 6 December 2019, an Interim Heritage Order (IHO) was issued for the site under Section 24 of the *Heritage Act 1977*, as published in NSW Government Gazette No. 165. The IHO will expire on 6 December 2020.

On 17 February 2020, a report on the heritage listing of 46 Vacluse Road (including interiors), Vacluse as a local heritage item was presented to the Environmental Planning Committee.

On 24 February 2020, Council resolved that a planning proposal to list 46 Vacluse Road, Vacluse as a local heritage item be prepared and referred to the Woollahra Local Planning Panel (WLPP) for advice.

On 23 April 2020, the WLPP advised that the planning proposal to list 46 Vacluse Road, Vacluse as a local heritage item should proceed and be forwarded to the Department.

On 21 May 2020, a planning proposal for the heritage listing of 30 Wyuna Road was issued a Gateway determination by the Department. The building is also an example of Gilling's work.

On 25 May 2020, Council resolved to forward the planning proposal to the Department for a Gateway determination and to request delegation to make the local environmental plan.

1.6 Summary of recommendation

It is recommended that the planning proposal to list 46 Vacluse Road (including interiors), Vacluse as a local heritage item proceed subject to conditions as:

- The proposed heritage listing is supported by a heritage significance assessment and inventory sheets prepared by Woollahra Municipal Council, which determined that 46 Vacluse Road, Vacluse is of local heritage significance. The heritage significance 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 dwelling, including its interiors; 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.

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 at 46 Vacluse Road, Vacluse and its interiors as a local heritage item. Heritage listing of this property will ensure recognition of its cultural significance, as well as protection through ensuring any future development works are assessed against the heritage provisions in the Woollahra LEP 2014.

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 46 Vacluse Road, Vacluse, in Part 1 (Heritage items) of Schedule 5 (Environmental heritage). The exact wording of the amendment will be determined by Parliamentary Counsel prior to the making of the LEP.
- Amend the Heritage Map (Sheet HER_005) to identify a heritage item on the site of the 46 Vacluse Road, Vacluse.

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

2.3 Mapping

The proposal requires an amendment to the Heritage Map (Sheet HER_005) under the Woollahra LEP 2014 to identify the house and interiors at 46 Vacluse Road, Vacluse 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 (**Figures 8 and 9**).

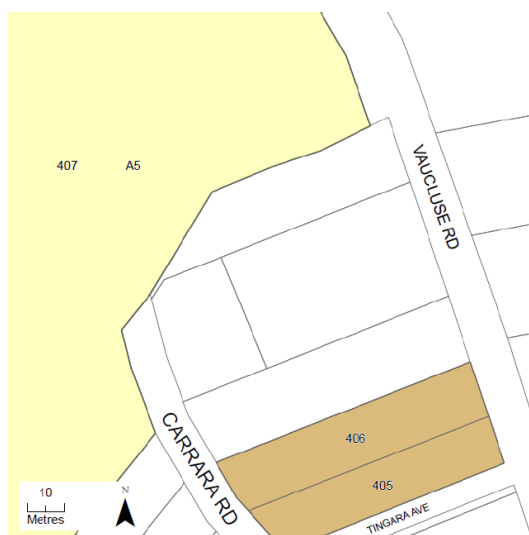


Figure 8: Extract from existing Woollahra LEP 2014 Heritage Map (Sheet HER_005)

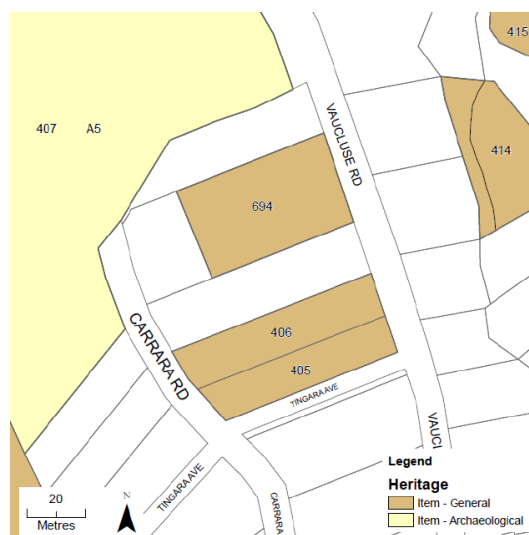


Figure 9: Extract from proposed Woollahra LEP 2014 Heritage Map (Sheet HER_005)

The mapping in the planning proposal is adequate and does not require any updates prior to community consultation. However, a note should be included in a revised planning proposal that the item number is indicative only at this stage and will be confirmed upon finalisation. A condition to address this will be included in the Gateway determination.

3. NEED FOR THE PLANNING PROPOSAL

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

The HSA concluded that the dwelling at 46 Vacluse Road, Vacluse is a rare example of major alterations carried out by renowned architect Frederick Glynn Gilling in the Inter-war Mediterranean style within the Woollahra municipality, and should be listed as a local heritage item.

The key findings of the assessment are:

- **Historical Significance** - 46 Vacluse Road is historically significant as part of the body of residential work in the Inter-war Mediterranean style carried out by F. Glynn Gilling of Joseland & Gilling. F. Glynn Gilling was one of the most influential architects of Sydney's Eastern Suburbs, having been active from the 1910s to the 1950s. 46 Vacluse Road forms part of a suite of work of this prominent architect, demonstrating the key elements of the Inter-war Mediterranean style.
- **Historical Association Significance** – 46 Vacluse Road is significant as an example of the Inter-war Mediterranean style dwelling houses designed by F. Glynn Gilling, an English born and trained architect who was recognised as a key practitioner of this style of architecture.
- The dwelling was originally designed by John Spencer Stansfield, the architect of the Haberfield Estate, circa 1915, in the Federation Arts and Crafts style as his own house. The house was remodelled by F. Glynn Gilling for Henry Dixon Arnott, barrister and grandson of William Arnott of Arnott's Biscuits.
- **Aesthetic Significance** – 46 Vacluse Road is a fine example of an Inter-war Mediterranean style house, which was the result of substantial alterations and additions to an existing Federation Arts and Crafts house.
- **Technical/Research Significance** – 46 Vacluse Road may have research potential pertaining to an understanding of the Inter-war Mediterranean style architecture, the remnant portions of the Federation Arts and Crafts dwelling, or the historic approaches to carrying out alterations and additions in the 1920s, 1930s and 1960s.
- **Rarity** – It is a rare example of an Inter-war Mediterranean style house designed by F. Glynn Gilling in the Woollahra Municipality that is the result of major alterations and additions to an existing dwelling. The dwelling was originally constructed in 1915 to an Arts and Crafts design by John Spencer Stansfield.
- **Representativeness** - 46 Vacluse Road shares a design language consistent with other examples of Gilling's Inter-war Mediterranean style houses. It responds to the site context while demonstrating the key design characteristics of this style of architecture. It retains the integrity of the Gilling design, despite having been altered at the rear and modified internally in the service and wet areas.

The planning proposal will ensure the recognition of the heritage significance of the site, as well as providing protection through ensuring any future development works are assessed against heritage provisions in the Woollahra LEP 2014.

The proposal states that heritage listing is the best and only means of achieving this objective. Other options, such as adding site-specific objectives and controls to the Woollahra Development Control Plan (DCP) 2015, or including heritage conservation conditions to a potential development consent will not offer the same level of heritage protection and recognition. Without the listing, the structures may be demolished in whole or in part under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

4. STRATEGIC ASSESSMENT

4.1 State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan: A Metropolis of Three Cities*, 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.

The planning proposal is consistent with the directions and objectives of the Region Plan, particularly:

- Objective 13: Environmental heritage is identified, conserved and enhanced.

The planning proposal is consistent with the above objective as heritage listing of the house and interiors at 46 Vacluse Road, Vacluse will provide ongoing protection and recognition of the significance of the site.

4.2 Regional / 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.

The planning proposal is consistent with the relevant directions, priorities and objectives of the Plan, as outlined in the table below:

Planning Priority	Objective	Action	Proposal Consistency
<i>E6 Creating and renewing great places and local centres, and respecting the District's heritage</i>	<i>Objective 13 Environmental heritage is identified, conserved and enhanced.</i>	<i>20. Identify, conserve and enhance environmental heritage by: a. engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place</i>	<p>The proposal is consistent with the District Plan as it seeks to provide the statutory mechanism to protect and respect the District's heritage.</p> <p>The proposal will recognise and provide on-going protection of the heritage significance of the dwelling at 46 Vacluse Road, Vacluse through heritage listing on the Woollahra LEP 2014.</p>

4.3 Local

Woollahra 2030 – our community, our place, our plan

The planning proposal is consistent with the Council's Community Strategic Plan titled *Woollahra 2030 – our community, our place, our plan*. In particular, it meets the following strategy within Goal 4, *Well planned neighbourhoods*, under the theme *Quality places and spaces*:

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

The planning proposal seeks to recognise and protect the dwelling at 46 Vaucluse Road, which has been found to have local heritage significance in a heritage assessment. The proposal is considered to be consistent with the above provision in the Plan.

It is noted that the wording for Strategy 4.3 in the planning proposal is slightly different to that in the published version of the Community Strategic Plan. A condition will be included in the Gateway determination requiring Council to rectify the wording and ensure consistency with the Community Strategic Plan.

Woollahra Local Strategic Planning Statement (LSPS)

The Woollahra LSPS sets out a 20-year vision and planning priorities for managing future land use and preserving the community's values and special characteristics of the Woollahra LGA.

The planning proposal is consistent with the Woollahra LSPS, particularly with the following planning priority under the theme of *Liveability*:

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

The proposal will facilitate the conservation and protection of 46 Vaucluse Road which has been identified as having local heritage significance in a heritage significance assessment commissioned by Council.

The planning proposal incorrectly refers to the LSPS as a draft document. A Gateway condition is recommended to rectify this issue prior to exhibition.

4.4 Section 9.1 Ministerial Directions

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

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 planning proposal is informed by a heritage significance assessment prepared by Council. The assessment was undertaken in accordance with the Heritage Office Guidelines. The report concluded that 46 Vaucluse Road (including interiors), Vaucluse meets the criteria for local heritage listing. The planning proposal is consistent with this Direction as it will facilitate the conservation and protection of the subject site.

The following minor issues in Schedule 2 of the planning proposal have been identified:

- The titles of the following Directions are not correctly referenced: 2.2 Coastal Management, 3.5 Development Near Regulated Airports and Defence Airfields;
- The following Directions are omitted: 3.7 Reduction in Non-Hosted Short Term Rental Accommodation Period, 5.11 Development of Aboriginal Land Council Land, and Direction 7.4 to 7.10 inclusive.

A Gateway condition is recommended to require the planning proposal to be revised to rectify the above, prior to exhibition.

4.5 State environmental planning policies (SEPPs)

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

It is noted that Schedule 1 of the planning proposal has omitted the following SEPPs:

- SEPP (Activation Precincts) 2020
- SEPP (Major Infrastructure Corridors) 2020

A Gateway condition is recommended to require the planning proposal to be revised to rectify the above, prior to exhibition.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal is unlikely to result in any adverse social impact. 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.

Future development applications for works within or in the vicinity of 46 Vacluse Road will be required to address Clause 5.10 of the Woollahra LEP. The potential impacts on the heritage significance of 46 Vacluse Road will be managed through the development assessment process.

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

There is no significant infrastructure demand that will result from the planning proposal. The planning proposal does not involve any amendments to the planning controls that will facilitate intensified development. The site has access to adequate public infrastructure such as water, sewer, electricity and transport services.

6. CONSULTATION

6.1 Community

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

The consultation would include:

- a weekly notice in the local newspaper (Wentworth Courier) for the duration of the exhibition period (note: Council has the option to advertise in a generally circulated newspaper, such as Sydney Morning Herald, during the COVID-19 pandemic);
- 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
- a letter to local community groups such as the Vaucluse Residents' Association.

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

- 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).

During the COVID-19 pandemic, Council has the option to exhibit the planning proposal and supporting documents on its website or the NSW Planning Portal, in lieu of making them available at a physical location pursuant to section 10.18 of the *Environmental Planning and Assessment Act*.

The planning proposal should be updated to reflect Council's current notification and exhibition practice during the COVID-19 pandemic. A Gateway condition will be included to address the above.

6.2 Agencies

The proposal states that Council intends to consult with NSW Heritage, Department of Premier and Cabinet and the National Trust of NSW during exhibition. This is considered adequate for the purposes of this planning proposal.

7. TIME FRAME

The planning proposal includes a project timeline with a projected finalisation date of December 2020. To allow flexibility for Council to finalise the proposal, a time frame of 12 months for completion is recommended.

A Gateway condition is recommended to require the project time frame to be updated prior to exhibition to reflect the current progress.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority for this planning proposal. Having regard to the nature of the 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.

9. CONCLUSION

The planning proposal for the local heritage listing of 46 Vacluse Road (including interiors), Vacluse should proceed subject to conditions as:

- The proposed heritage listing is supported by a heritage significance assessment and inventory sheets prepared by Woollahra Municipal Council, which determined that 46 Vacluse Road (including interiors), Vacluse is of local heritage significance. The heritage significance 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 dwelling and its interiors; 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.

10. RECOMMENDATION

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

1. The planning proposal is to be amended to address the following matters prior to public exhibition:
 - (a) Include a note to clarify that the heritage item number in the proposed mapping is indicative only and will be confirmed upon the finalisation of the proposal;
 - (b) Correct the wording of *Strategy 4.3* of the Woollahra Community Strategic Plan, *Woollahra 2030 – our community, our place, our plan*, to ensure consistency with the published version of the Plan;
 - (c) Remove reference to the *Woollahra Local Strategic Planning Statement* (LSPS) as a draft document and clearly state that the LSPS has been assured by the Greater Sydney Commission and adopted by Council;
 - (d) Update the proposed community consultation requirements to align with Council's current notification and exhibition arrangements during the COVID-19 pandemic;
 - (e) Update Schedule 2 of the planning proposal to:
 - (i) State the correct title of Section 9.1 Directions – 2.2 Coastal Management and 3.5 Development Near Regulated Airports and Defence Airfields;
 - (ii) Include reference to Section 9.1 Directions - 3.7 Reduction in Non-Hosted Short Term Rental Accommodation Period, 5.11 Development of Aboriginal Land Council Land, and Directions 7.4 to 7.10 inclusive; and
 - (iii) Include reference to SEPP (Activation Precincts) 2020 and SEPP (Major Infrastructure Corridors) 2020; and
 - (f) Include 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 NSW Heritage, Department of Premier and Cabinet and the National Trust of NSW under section 3.34(2)(d) of the Act.

The 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.



17 August 2020
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21 August 2020
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