

**Item No:** D2  
**Subject:** **PLANNING PROPOSAL - 46 VAUCLUSE ROAD, VAUCLUSE - LOCAL HERITAGE LISTING**  
**Author:** Kristy Wellfare, Strategic Heritage Officer  
**Approver:** Allan Coker, Director - Planning & Development  
**File No:** 20/34123  
**Reason for Report:** To seek the advice of the Woollahra Local Planning Panel in relation to the preparation of a planning proposal to list the Inter-war Mediterranean style dwelling house at 46 Vacluse Road, Vacluse, and its interiors, as a local heritage item in Woollahra Local Environmental Plan 2014

**Recommendation:**

THAT the Woollahra Local Planning Panel advises Council to:

- A. Proceed with the planning proposal to list the Inter-war Mediterranean style dwelling house at 46 Vacluse Road, Vacluse, and its interiors, (House and interiors) 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 the *House and interiors* at 46 Vacluse Road, Vacluse 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*.

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**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 the *House and interiors* at 46 Vacluse Road, Vacluse as a heritage item in Schedule 5 of 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:

1. *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.*
2. *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.*
3. *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 26 August 2019 the Council considered a notice of motion on the heritage protection of two buildings designed by the architect F. Glynn Gilling and resolved:

- A. *THAT Council write to the Minister, the Hon. (Don) Donald Harwin, MLC, Special Minister of State, Minister for Public Services and Employee Relations, Aboriginal Affairs and Arts, to ask him to make 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 Vaocluse Road, Vaocluse.*
- B. *THAT Council request the Director Planning & Development to prepare an urgent report to the Environmental Planning Committee which assesses the heritage significance of the property at 30 Wyuna Road, Point Piper.*
- C. *THAT part A and part B of this resolution remain confidential along with the legal advice tabled via the late correspondence from the Director Planning & Development.*

In response to Part A, an interim heritage order (IHO) was issued by the Minister administering the Heritage Act. The order was made pursuant to section 24 of the *Heritage Act 1977* and published in the NSW Government Gazette No. 165 of 6 December 2019, p.5406.

The order will remain in place for a period of 12 months and will give the Council the opportunity to fully assess the heritage significance of the building and whether or not it should be listed as a State and/or local heritage item. Under section 57 of the *Heritage Act 1977* when an IHO applies to a place or building a person must not, among other things, demolish, damage or carry out development except in pursuance of an approval granted by the approval body, i.e. the Heritage Council of New South Wales. As such, despite the site benefitting from a consent to a development application to demolish the existing building and construct a new dwelling house on the site, the effect of the IHO requires an approval to be issued under the *Heritage Act 1977* before works pertaining to that development application may commence.

In response to Part B, a Heritage Significance Assessment of the *Inter-war Mediterranean style dwelling house* at 46 Vaocluse Road, Vaocluse was prepared by Kristy Wellfare (Strategic Heritage Officer, Woollahra Council) (*Annexure 2*).

It will be noted that Part C of the Council resolution of 26 August 2019 was that Part A and Part B of the resolution remain confidential along with the legal advice tabled via the late correspondence from the Director of Planning and Development. The purpose of keeping the resolution confidential was to reduce the risk of the building being damaged or demolished prior to the undertaking of the heritage significance assessment. As the building is now protected by an IHO there is no need for this report to be confidential. However, the legal advice remains confidential.

On 17 February 2020 a report was considered by the *Environmental Planning Committee* (EPC) (*Annexure 3*) recommending the property be listed as a heritage item in Schedule 5 of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). At the meeting of 24 February 2020 Council resolved the following:

- A. *THAT a planning proposal be prepared to list the property at 46 Vacluse Road, Vacluse as a heritage item in 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.*

### 3. The site

The subject site is located at 46 Vacluse Road, Vacluse (refer to Figure 1). The site is occupied by an Inter-war Mediterranean style dwelling house and ancillary garage and swimming pool. The site is located in the Woollahra Local Government Area (LGA) and is legally identified as Lot A in DP 367302. The site is regular in shape, 1710m<sup>2</sup> in area, with a frontage of 32.004m to Vacluse Road, a rear boundary of 31.96m and a depth of between 52.330m and 54.42m.

The property is the subject of an Interim Heritage Order (IHO) issued by the Minister under section 24 of the *Heritage Act 1977* as published in NSW Government Gazette No. 165 of 6 December 2019, p.5406.



*Figure 1: Oblique view of the subject dwelling house at 46 Vacluse Road, Vacluse. (Source: WMC Officer, 2015)*







Development on adjoining sites consists of two and three storey dwelling houses of varying ages and styles including a part two storey and part three storey contemporary curvilinear dwelling house at 48 Vacluse Road to the north (**Figure 4**), a contemporary two storey dwelling house at 48 Vacluse Road to the south and a post war era dwelling house to the rear (west) of the site (**Figure 5**).



*Figure 4: 48 Vacluse Road, Vacluse, October 2017. (Source: Google Street View)*





*Figure 5: 44 Vaocluse Road, October 2017. (Source: Google Street View)*



*Figure 6: 29 Carrara Road, Vaocluse. (Source: WMC Officer, December 2019)*

#### **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 (or a class of the local area's)

- cultural or natural places, or
- cultural or natural environments,
- 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 assessed 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 Kristy Wellfare (Strategic Heritage Officer, Woollahra Council), 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 46 Vacluse Road, Vacluse, against the seven criteria, at the local and State levels, and demonstrates that the site meets five of the seven criteria for local listing, with potential to fulfil one additional criterion.

**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)	May fulfil 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)	✓	✗
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> </ul> or a class of the local area's <ul style="list-style-type: none"> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> </ul>	✓	✗

The heritage significance assessment provides the following statement of significance:

*Number 46 Vacluse Road, Vacluse is a rare example of an Inter-war Mediterranean style dwelling house arising from the innovatively designed alterations and additions by prominent architect F. Glynn Gilling of Joseland & Gilling for a site within the former Vacluse Estate. The dwelling house is a fine example of its type and includes original interior and exterior design detailing that is representative of the key elements of the Inter-war Mediterranean style. The informal massing of lightly textured rendered walls beneath a pitched tiled roof with sub-gable, formal entrance treatment using synthetic stone detailing, classical motifs, sweeping main stair with wrought iron balustrades [balustrade removed c.March 2019] and window detailing are skilfully combined to create a light and restrained residence that is carefully situated within its landscaped setting.*

*Demonstrative of its importance, 46 Vacluse Road is featured in the publication "Domestic Architecture in New South Wales, Australia: Illustrating the work of F. Glynn Gilling" by E. Lindsay Thompson. This book includes works by F. Glynn Gilling that are described as "the cream of F. Glynn Gilling's domestic work which, incidentally, comprises some of the finest houses in New South Wales". The property also has a degree of technical significance through the opportunity to research methods of Inter War detailing first hand. Number 46 Vacluse Road, Vacluse is of local heritage significance for historical, aesthetic, associative,*



*rarity, and representative significance, and has research significance potential. The subsequent alterations and additions have been mostly carried out in a sympathetic manner and have been confined to the rear and the service areas of the building, with key elements and spaces of the building likely to remain intact. Subsequent phases of building works have been mostly concentrated at the rear of the Gilling scheme and have not diminished the associative or representative significance of the site, which remains recognisable as a Gilling design in the Inter-war Mediterranean style.*

(31 January 2020: Kristy Wellfare, Strategic Heritage Officer, Heritage Significance Assessment, p.101)

The assessment recommends the listing of the house at 46 Vacluse Road, Vacluse, and its interiors as a local heritage item in Schedule 5 of Woollahra LEP 2014. The heritage significance assessment concludes that 46 Vacluse Road, Vacluse does not meet the threshold for State heritage listing.

Following the consideration of the matter by the Environmental Planning Committee, a heritage assessment report was submitted to Council on 10 March 2020 by Weir Phillips Heritage and Planning. This report includes reference to newspaper coverage of a fire that damaged the villa during H. D. Arnott's ownership in 1949. The fire was reported as being caused by a short circuit, with the top floor and roof being "gutted, and water seeped through to the rooms below from the firemen's hoses" (Fire Damages Vacluse Villa, 1949. The Sunday Herald, 21 August, 1949, p.5).



**Figure 7: Comparison of the 1940s (L) and 1950s (R) aerial photos of the site, showing the roof. (Source: NSW Historical Imagery)**

Despite the reported extent of the damage, it is noted that Council's files do not indicate that the rectification works warranted a building approval from Council. The presence of the dwelling to the rear of the site at 29 Carrara Road, which was approved by Council in 1950, confirms that the aerial photo from the 1950s post-dates the 1949 fire. Given the commentary of the fire damage described in the newspaper articles of the day, roof trusses and tiling damaged in the fire has been repaired by this time, with the aerial image confirming the roof form remained consistent with that of the 1943 aerial image prior to the reported fire. It is also noted that the roof cladding shown in the 1960 J.W. Roberts scheme is consistent with the tiling specified in the Gilling scheme works, indicating a sympathetic repair following the fire. Subsequent phases of development on the site have resulted in the loss of the original garden elevation, however, these works have been carried out in a manner that references the Gilling era finishes. This remains an accepted approach for carrying out

alterations to buildings with identified heritage significance. The Weir Phillips report identifies changes to internal fabric over time such as the installation of wardrobes and the inclusion of wall mouldings. Discussion of the phases of development for the site contained within Section 4.7 of the Heritage Significance Assessment indicates that the key spatial arrangements of the Gilling scheme remain, notwithstanding changes to the internal finishes.

The Weir Phillips report concludes that the alterations to the Gilling era design over time and the 1949 fire have impacted on the integrity of the dwelling house to the point that it is no longer significant on the any of the grounds identified in the Heritage Significance Assessment. It particularly identifies the loss of the western/garden elevation as critical to the integrity of the item and concludes that the dwelling does not have the same level of overall integrity demonstrated by other examples of Gilling's work already listed by Woollahra Council or demonstrate any significant aspect of Gilling's work not already demonstrated by the listed items. This conclusion is not concurred with for the above reasons, and the site remains recommended for listing as a local heritage items in Woollahra LEP 2017.

## **5. Consultation with the land owner**

Consultation with the land owner and their representatives has commenced and will continue throughout the process.

In progressing the planning proposal, consultation with the owners will be undertaken consistent with the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000*.

## **6. Planning proposal**

A planning proposal has been prepared to list the Inter-war Mediterranean style dwelling house at 46 Vacluse Road, Vacluse, including its interiors (*House and interiors*) as a heritage item in the Woollahra LEP 2014 (see *Annexure I*).

### **6.1. 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).

### **6.2. Objective of amendment to Woollahra LEP 2014**

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of the *house and interiors*, at 46 Vacluse Road, Vacluse, as a heritage item and provide it with statutory heritage protection. Heritage listing will provide ongoing protection and recognition of the heritage significance of the item.

### **6.3. Explanation of provisions**

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

- Insert a listing for the *House and interiors*, 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 Map (Sheet HER\_005 to identify a heritage item on the site at 46 Vacluse Road, Vacluse.

#### 6.4. 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 *Woollahra Local Strategic Planning Statement* (approved by Council 24 February 2020). 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).

#### 7. Conclusion




This report seeks the advice of the Woollahra LPP on a planning proposal to list the *House and interiors* at 46 Vacluse Road, Vacluse, 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 objectives 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, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Advice from the WLPP will be provided to Council.

#### Annexures

1. Draft Planning Proposal - 46 Vacluse Road, Vacluse [↓](#) 
2. Draft Heritage Significance Assessment - 46 Vacluse Road, Vacluse [↓](#) 
3. EPC Agenda - 17 Fenruary 2020 - 46 Vacluse Road, Vacluse [↓](#) 
4. Weir Phillips Heritage Report - 46 Vacluse Road, Vacluse [↓](#) 