

## Planning and Assessment

IRF19/5754

### Gateway determination report

<b>LGA</b>	North Sydney
<b>PPA</b>	North Sydney Council
<b>NAME</b>	Heritage listing of No. 6 Hayes Street, Neutral Bay
<b>NUMBER</b>	PP_2019_NORTH_001_00
<b>LEP TO BE AMENDED</b>	North Sydney Local Environmental Plan 2013
<b>ADDRESS</b>	6 Hayes Street, Neutral Bay
<b>DESCRIPTION</b>	Lot 5 / DP 192932
<b>RECEIVED</b>	1 August 2019
<b>FILE NO.</b>	IRF19/5754
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

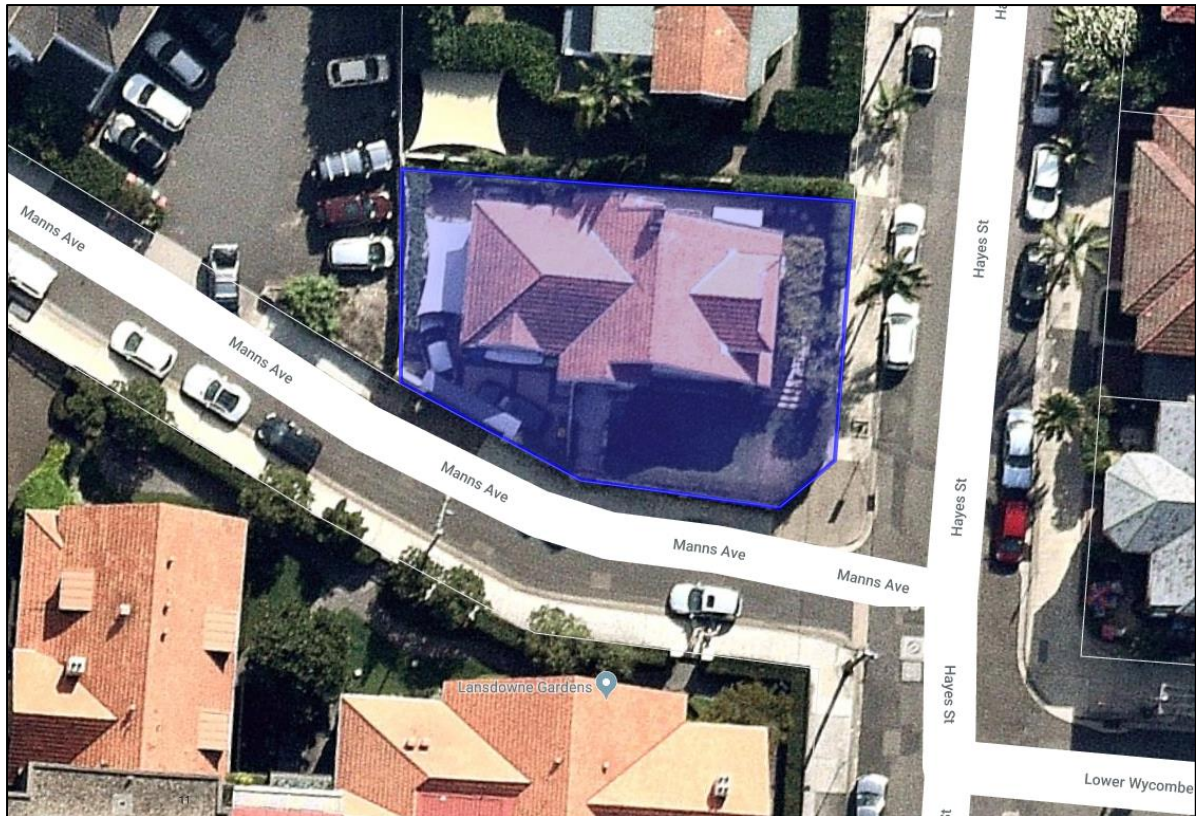
The planning proposal seeks to amend *North Sydney Local Environmental Plan 2013* (North Sydney LEP 2013) by listing 6 Hayes Street, Neutral Bay as a heritage item of local significance in Part 1 Heritage Items of Schedule 5 Environmental Heritage, and to amend the Heritage Map accordingly.

### 1.2 Site description

The subject site is legally described as Lot 5 in DP 192932 and has an area of 430sqm. It is prominently situated at the intersection of Hayes Street and Manns Avenue (**Figure 1 & 2**).

The site contains a two storey dwelling house with a primary frontage to Manns Avenue. The Hayes Street and Manns Avenue frontages are bordered with a tall masonry fence.

A driveway fronts Manns Avenue and provides access to an uncovered parking space.



**Figure 1: Subject site aerial (Nearmap)**



**Figure 2: Subject site from the intersection of Hayes Street and Manns Avenue**

### **1.3 Existing planning controls**

Under North Sydney LEP 2013 the site is within Zone R4 High Density Residential (**Figure 3**).

A maximum height of 12m is shown for the land on the Height of Buildings Map (**Figure 4**) and no floor space ratio is shown for the land.

The site is within the Kurraba Point Heritage Conservation Area (HCA) (**Figure 5**) but is not listed as contributory item in North Sydney Development Control Plan 2013 (NS DCP 2013).

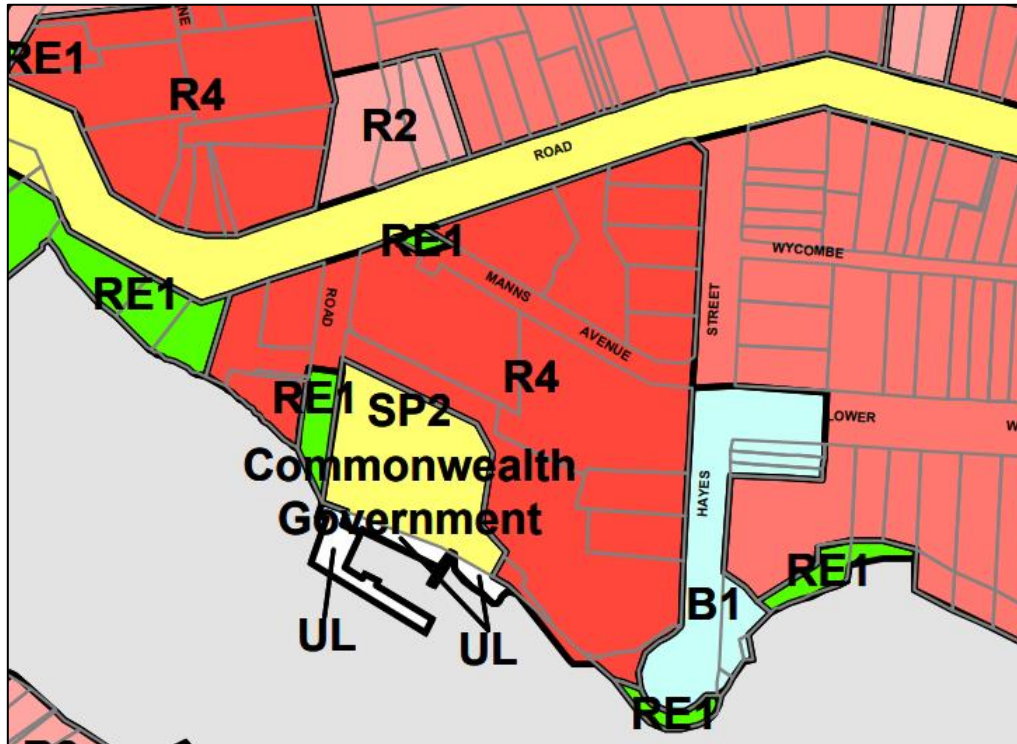


Figure 3: Land Zoning Map



Figure 4: Height of Buildings Map

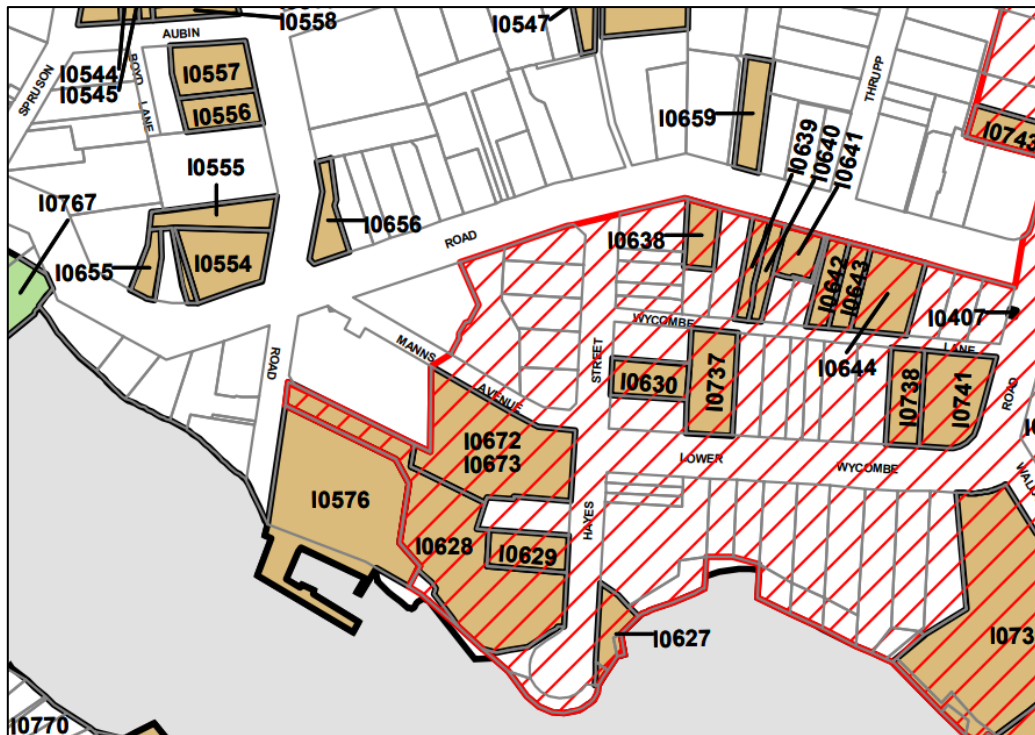


Figure 5: Heritage Map

#### 1.4 Surrounding area

The site is in a residential area to the north of the Hayes Street retail precinct, which slopes down to the Neutral Bay Ferry Wharf and Hayes Street Beach (**Figure 6**).

The site is adjoined to the north by a two storey dwelling house at 8 Hayes Street. Development application DA299/18 was lodged in March 2018 for the demolition of existing dwellings and structures at 6 and 8 Hayes Street, and erection of a new residential flat building. The development application is subject to an ongoing appeal at the Land and Environment Court of NSW. Based on a GML Heritage study, Council resolved in January 2019 to list No 8 Hayes Street as a contributory item to Kurraba Point HCA in NS DCP 2013.

The site is adjoined to the west at 2 Manns Avenue by a two storey building containing Elevera Lodge, a hotel.

Across Manns Avenue to the south is a seniors housing development which incorporates local heritage items I0672 and I0673 (both being converted houses).

To the east across Hayes Street are two residential flat buildings and local heritage item I0630, which is the former Neutral Bay Post Office.

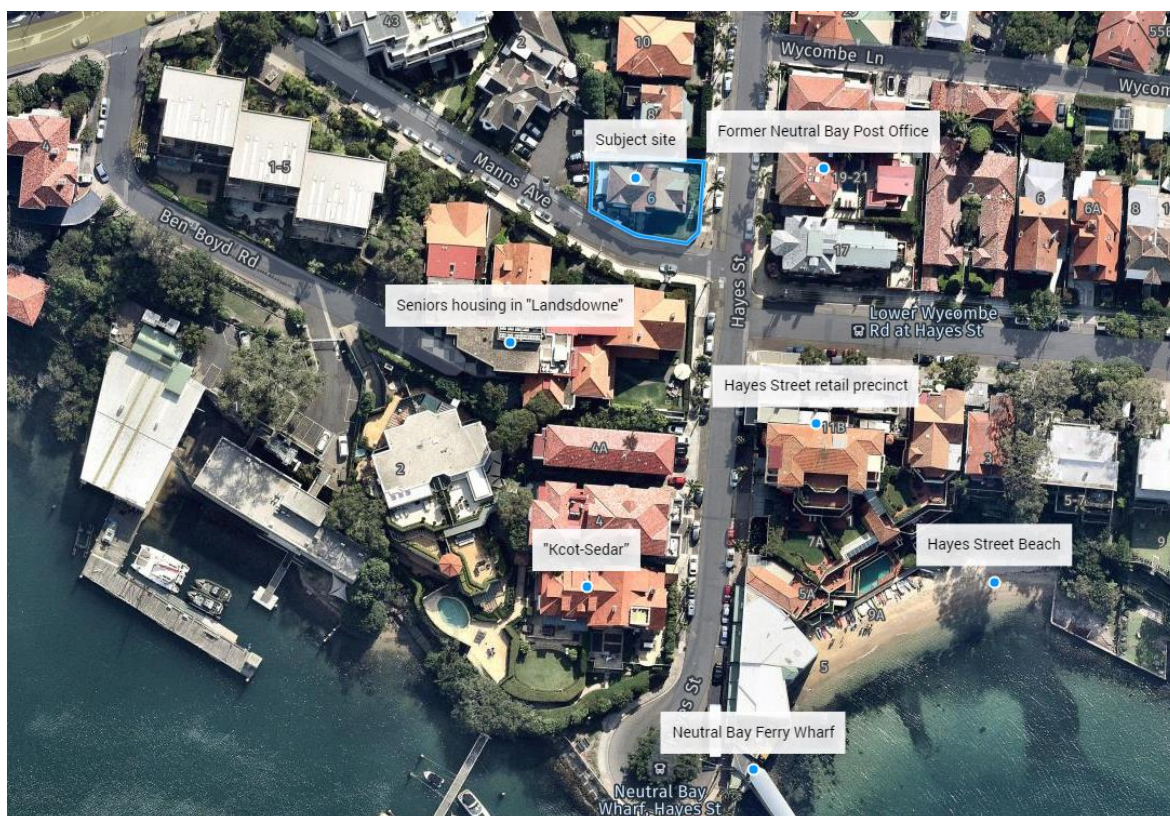


Figure 6: Surrounding area

## 1.5 Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions.

A heritage assessment commissioned by Council recommends the property be listed an item of local heritage significance. Consultation with the new owner (following the sale of the property on 31 August 2019) and the Office of Environment and Heritage has been included in the conditions.

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The objective of the planning proposal is to designate the house at 6 Hayes Street, Neutral Bay as a heritage item of local significance in North Sydney LEP 2013.

### 2.2 Explanation of provisions

The explanation of provisions clearly describes the LEP amendments required to achieve the objective of the planning proposal.

The proposed LEP amendment is to add and describe the site as follows under Part 1 Heritage Items of Schedule 5 Environmental Heritage of LEP 2015:

- **Locality:** Neutral Bay
- **Item name:** House
- **Address:** 6 Hayes Street
- **Property description:** Lot 5, DP 192932
- **Significance:** Local
- **Item no:** I1137

## **2.3 Mapping**

The planning proposal involves an amendment to the Heritage Map under LEP 2013 to identify the site as an item of heritage significance.

Indicative mapping has been included with the planning proposal, which is considered adequate for community consultation.

## **3. BACKGROUND**

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In March 2018, development application DA299/18 was lodged with Council for the demolition of existing dwellings and structures at 6 and 8 Hayes Street, and construction of a four storey residential flat building. In response to notification and exhibition of the application, concern about the loss of the two dwelling houses on heritage grounds was raised by the community. In October 2018, Council considered a Mayoral Minute and a Notice of Motion regarding these concerns. Council resolved to apply an interim heritage order (IHO) upon both properties. GML Heritage was subsequently engaged to prepare a preliminary heritage assessment.

In November 2018, the applicant of the development application lodged a Class 1 Appeal with the Land and Environment Court of NSW for its deemed refusal. The hearing of the appeal is scheduled for March 2020.

In accordance with the recommendations of the preliminary heritage assessment, Council resolved in January 2019 to request the Minister for Heritage to impose an IHO upon 6 Hayes Street, and to identify 8 Hayes Street as a contributory item under NS DCP 2013. The request to the Minister was necessary because 6 Hayes Street is located within an existing HCA.

The order was published in the NSW Government Gazette on 27 February 2019 with a lapse date 12 months later.

Council received a detailed heritage assessment of 6 Hayes Street in April 2019 which concludes that the house meets the threshold for listing as a heritage item of local significance in North Sydney LEP 2013 (See Section 4 for more detail). In accordance with the recommendation of the report, Council prepared the subject planning proposal.

## **4. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is the result of the Heritage Assessment prepared by GML Heritage. The report states that it adopts the methodology for heritage assessment published by the former NSW Heritage Office, and the relevant principles of the Australia ICOMOS Burra Charter, 2013. In its assessment against the criteria for heritage significance, the report advises that the house meets the threshold for listing in the following manner:

### **Criterion A – Historical significance**

The report describes how the subdivision of Elevera Estate in 1921 was one of the last in the area to be broken up. Builder H.E. Edwards was hired to build 6 Hayes Street and he designed it in the predominant Federation Arts and Crafts style that characterised the area. This historic subdivision pattern remains intact.

As a result, 6 Hayes Street is one of the last detached Federation Arts and Crafts style houses built in the area of Neutral Bay Wharf. Its construction in 1923/4 was at the very end of the first period of residential development in Neutral Bay which began in the late 1880s. Residential flats began to dominate construction after this time.

### Criterion C: Aesthetic significance

The report considers that 6 Hayes Street reflects the principal characteristics of the Federation Arts and Crafts style, such as residential picturesqueness, conspicuous roofing, informality, roughcast walls, prominent eaves, in a simplified and restrained manner. It incorporates the key aspects of the local aesthetic character and contributes positively to the streetscape, its roofline complementing the form and line of nearby Lansdowne's roof and setting.

The report also notes that key aesthetic characteristics of 6 Hayes Street are demonstrated by nearby listed heritage buildings, including 47 Kurraba Road, 28 Lower Wycombe Road and the Wallingara Mansions, which reflects a shared typology characteristic of the local area.

### Criterion G: Representativeness

The report asserts that the house represents the principal characteristics of a typology of early twentieth-century Federation Arts and Crafts houses common throughout Neutral Bay. It considers that the house is a good example of its type and displays a number of original characteristics shared by nearby listed heritage items, including its high pitched terracotta roof, overhanging eaves, roughcast cement rendered exterior walls, informal massing and original decorative chimney and joinery.

The report considers that the house contributes to the setting and amenity of the surrounding HCA.

Given the conclusion of the Heritage Assessment is that the house meets the threshold for listing, the planning proposal is considered to be justified.

A planning proposal is the best way to conserve the heritage significance of the house.

No objection to the planning proposal has been made to Council or the Department.

It is noted that the site inspection was carried out from the street.

## **5. STRATEGIC ASSESSMENT**

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### **5.1 District**

#### North District Plan

The *North District Plan* gives effect to the Region Plan, *A Metropolis of Three Cities*, and encompasses the North Sydney LGA.

The planning proposal is consistent with the relevant outcomes and directions of the plan, including Planning Priority N6, which seeks to deliver Objective 13 of the Region Plan by creating great places and identifying, conserving and enhancing environmental heritage.

Action 21 of Planning Priority N6 is to 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
- b) applying adaptive re-use and interpreting of heritage to foster distinctive local places
- c) managing and monitoring the cumulative impact of development on the heritage values and character of places.

The planning proposal is consistent with Action 21 because it facilitates the appropriate statutory mechanisms required to consult about and conserve the heritage significance of the subject site.

## **5.2 Local**

### **North Sydney Residential Development Strategy 2009**

The *North Sydney Residential Development Strategy* was engaged in the preparation of the NS LEP 2013, and identifies the potential for an additional 6,199 dwellings in the North Sydney LGA by 2031.

Council's report indicates that the planning proposal will not adversely affect the dwelling targets established by the strategy because the site was excluded from areas assumed to grow as it is within a HCA.

### **Community Strategic Plan 2013-2023**

*North Sydney Community Strategic Plan* (CSP) outlines the community-wide priorities and aspirations for the LGA, and provides long-term goals, objectives and actions to achieve these visions.

The planning proposal will facilitate the preservation, protection and recognition of a heritage item, and is thus consistent with:

- 'Outcome 2.4: North Sydney's heritage is preserved and valued' of Direction 2: Our Built Environment; and
- 'Outcome 4.4 North Sydney's history is preserved and recognised' of Direction 4: Our Social Vitality.

## **5.3 Section 9.1 Ministerial Directions**

The planning proposal is consistent with the relevant local planning directions, including Direction 2.3 Heritage Conservation.

Direction 2.3 aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Of relevance to this assessment is that the Direction requires a planning proposal to contain provisions that facilitate conservation of items, places or buildings of environmental heritage significance to an area, in relation to its value identified in a study.

The planning proposal is consistent with the Direction because it contains provisions which facilitate the conservation of the house at the subject site, as identified in the Heritage Assessment.

Other than amending Schedule 5 and the Heritage Map to list the heritage item, the planning proposal will not alter the existing heritage conservation provisions of NS LEP 2013, which are already consistent with this Direction.

Therefore, the planning proposal is considered consistent with Direction 2.3.

## **5.5 State environmental planning policies (SEPPs)**

The planning proposal is consistent with all relevant SEPPs.

## **6. SITE-SPECIFIC ASSESSMENT**

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### **6.1 Social**

The planning proposal is considered to provide a positive social outcome for the community since it will facilitate public consultation and further assessment of the heritage significance of the subject site. This further consultation is of importance to the community given the objections raised to demolition of the house in the development application presently subject to a Class 1 appeal. As a result, a greater understanding of the site's heritage significance, and if considered appropriate following public and agency consultation, its conservation will occur.

### **6.2 Environmental**

The planning proposal will enable further consideration of whether the house should benefit from the greater environmental protection afforded by listing as a heritage item. If listed, development applications pertaining to the item will be required to take into consideration the effect of the works upon its heritage significance.

The planning proposal is not considered to result in any adverse impacts upon the environment.

### **6.3 Economic**

With regards to economic impact, the property is the R4 zone within an existing HCA. An IHO current applies to the site which prohibits demolition of the subject building until its expiration on 27 February 2020. While demolition of a local heritage item is discouraged, the heritage listing does not preclude development that is sensitive to its heritage significance.

## **7. CONSULTATION**

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### **7.1 Community**

Council indicates that community consultation will occur in accordance with the Gateway determination.

A public exhibition period of 28 days is considered appropriate and forms a condition of the Gateway determination.

In addition, given the ongoing Class 1 appeal and the uncertainty over future ownership of the subject land, with the site listed for sale at the time of writing, a further condition is recommended to require written landowner consultation.

### **7.2 Agencies**

Consultation with Heritage, Department of Premier and Cabinet is recommended following the Gateway determination as the proposal involves an assessment of European heritage.

## **8. TIME FRAME**

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Council proposes a timeframe of approximately six months which is not considered appropriate in this instance due to change of ownership.

As a result, a condition of the Gateway determination is recommended to establish a nine-month timeframe for community consultation, reporting to Council and making the amended LEP.

## **9. LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested to exercise an authorisation to be the local plan-making authority for the planning proposal.

Given the significant community interest in the development application subject of the Class 1 appeal, and the uncertain future property ownership, it is recommended that Council not be authorised to be the plan-making authority.

## **10. CONCLUSION**

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The planning proposal is supported to proceed subject to conditions, as outlined below. The planning proposal is consistent with the District Plan as it provides for conservation of the heritage significance of the site.

## **11. RECOMMENDATION**

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

1. Written consultation with the landowner is required during exhibition.
2. The planning proposal should be made available for community consultation in accordance with Part 6.5.2 of *A guide to preparing local environmental plans* for a minimum of 28 days.
3. Consultation with Heritage, Department of Premier and Cabinet is required.
4. The timeframe for completing the LEP is to be nine months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



**Eva Klaic**  
**Manager, North District**

**Amanda Harvey    26/09/19**  
**Director, North District**  
**Place, Design and Public**  
**Spaces**

Assessment officer: Alex Hill  
Planning Officer, Eastern and South Districts  
Phone: 8217 2069