

cw-CS8 Feedback from Owners on the Proposed Heritage Listing of Properties in the Wingecarribee Heritage Survey Project

Reference: 5650/4
Responsible Officer: Manager Strategic and Assets

PURPOSE

The purpose of this report is to present to Council the results on the consultations undertaken with owners of properties recommended to be heritage listed and to recommend that Council proceeds with a Strategy to heritage list properties whose owners have indicated support for the proposal, properties whose owners have not made contact with Council, and properties in the ownership and/or control of Council.

SUMMARY

Following deferral of this matter at the 11 July 2012 Ordinary Council Meeting, owners of properties recommended to be heritage listed were contacted by letter. That letter updated potential heritage listed property owners on the project and asked them to complete an enclosed feedback form.

360 forms were sent to potential heritage listed properties owners. 167 were returned, with 116 (69%) not supportive, 28 (17%) in favour, and 23 (14%) undecided.

It is recommended that the 28 properties whose owners supported heritage listing through the feedback form, as well as those who had otherwise indicated support (19), and all Council owned and/or controlled sites (23) should be endorsed by Council for heritage listing. In addition, those properties whose owners had not contacted Council via return of a feedback form, by a submission, or by telephone and whose address details were current according to Council's records (84) are also recommended to be heritage listed. It is recommended that a Planning Proposal be prepared to commence the process toward listing these properties as heritage items within the Wingecarribee Local Environmental Plan (WLEP) 2010. In total, 154 properties are recommended for heritage listing in this report.

As for those properties whose owners did not support the heritage proposal via a feedback form (116), or previous submission (5), as well as those who were undecided (23), together with 46 properties recommended for deferral for other reasons (including previously recommendation for deferral, or where a recent new owner or address change had been identified), it is recommended that these properties be put on hold pending the preparation of a Heritage Assistance and Education Programme for the Wingecarribee Shire. In total, 190 properties are recommended for deferral in this report.

It is further recommended that Council not list 15 properties as indicated in this report and acknowledge that a further 2 properties are already included in the heritage schedule to the WLEP 2010 and can be removed from this project.

DESCRIPTION OF PROPOSAL

Background

A previous report was presented to the Council at its Ordinary meeting of 11 July 2012 in relation to the Heritage Survey Project and provided information about the background to the project including consultations undertaken between February and July 2012. A copy of this report is included as **ATTACHMENT 1**.

Council, on considering this report, resolved:

MN 177/12

THAT the Wingecarribee Heritage Survey - Results of Initial Consultations with Property Owners be deferred pending the holding of an information session for Councillors with a further report to be referred to Council AND THAT a strategy be brought back to Council as to how Council should address the concerns raised by the stakeholders, including a public forum with concerned stakeholders.

On 15 August 2012, the matter was discussed by Councillors at the Local Planning Strategy Sunset Working Group which was attended by Cllrs Gair, Clark, Stranger and McLaughlin. The recommendation of the Group in relation to this matter was that a further report be tabled for Council consideration, setting out recommended steps for those properties whose owners are amenable to their property being heritage listed as well as a proposed course of action for all other properties. This report recommends a strategy to deal with all properties subject of the Wingecarribee Heritage Survey, and includes the possibility of a public forum in the next phase of the project.

FURTHER CONSULTATIONS

Following the Local Planning Strategy Sunset Working Group meeting letters were sent to the owners of all the properties being considered for heritage listing as part of this project informing them of Council's resolution and next steps. This letter included a feedback form which sought the views on the proposed heritage listing of their property from every owner. The purpose of the feedback form was to give owners a further opportunity to put forward their views on the proposal (and it was made clear that support would be assumed if no contact with Council was made), and to garner a higher response rate than had been previously achieved with the original notification letter. The feedback form was a substitute for the public forum suggested in Council's 11 July 2012 resolution as it was felt that a better and more useful response would be received to the feedback form and did not discriminate against those that could not attend a public meeting.

A copy of the letter and feedback form is included as **ATTACHMENT 2**.

Feedback and Submissions

Of the 360 letters sent out, 167 feedback forms were returned, representing a response rate of 46.4%. Of the forms received, 116 (69%) were not in support of the proposed heritage listing, 28 (17%) were in support, and 23 (14%) were undecided.

In addition to the feedback forms, more than 50 owners had previously submitted correspondence or otherwise made contact with Council officers to record their sentiments regarding the proposal and these responses have been noted against those properties.

The main reasons given by property owners IN SUPPORT of the proposal for heritage listing were:

- General support for heritage in the area.
- Recognition of the property as being of significance.
- The need for the preservation of the building/item.

Many of the UNDECIDED responses recognised the special qualities of the building/place but were still reluctant to fully support heritage listing. In general, those that were undecided either:

- felt that further information (such as what heritage restrictions applied, what the benefits of heritage listing are, and understanding effect on property prices, to name a few) was required before a position could be settled on, or
- questioned the significance of the item, or
- were unhappy about other developments in the area that had occurred in contravention of heritage principles.

The issues raised in the feedback forms NOT IN SUPPORT of the proposal were similar to those reported to the Council meeting of 11 July 2012 (see **ATTACHMENT 1**), namely:

- Loss of property value and reduced sale price.
- Item has been altered/modified
- Additional costs in owning, maintaining and developing a heritage house
- Property bought when no heritage restrictions existed
- Lack of evidence to support the heritage assessment
- Error(s) in description of item
- Maintaining autonomy
- Concern that changes cannot be made

There were also two main misconceptions that came through the consultations, these being that nothing can be changed in a heritage building and that current alterations will have to be removed and that building has to return to 'original' condition. Neither of these statements is correct or true. The proposed heritage listings of the buildings as part of the Heritage Survey Project are for local heritage listings which recognise the importance of a building or place to the local area. Local heritage listing is the first level of potential heritage significance, the other levels being State, National and World. The criteria used to assess whether something has local heritage significance in NSW are:

An item has local heritage significance when it is important in the local area for one or more of the following criteria:

- a) it is important in the course, or pattern, of the local area's cultural or natural history – known as *historic significance*
- b) it has strong or special association with the life or works of a person or group of persons, of importance in the cultural or natural history in the local area – known as *historic associations*
- c) it is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area – known as *aesthetic* or *technical significance*
- d) it has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons – known as *social significance*
- e) it has potential to yield information that will contribute to an understanding of area's cultural or natural history – known as *research potential* or *educational significance*
- f) it possesses uncommon, rare or endangered aspects of the area's cultural or natural history – known as *rarity*

- g) it is important in demonstrating the principal characteristics of a class of the area's cultural or natural places or cultural or natural environments – known as *representative significance*.

In order to become a heritage item, a building or place must satisfy at least one of these criteria, but they often satisfy more than one.

NEXT STEPS

Given that there are a number of property owners who support the heritage listing of their property (47), it is recommended that Council commence the process to heritage list these items. There are also a number of potential heritage items which are in the care or control of Council as part of this proposal and it is also recommended that these be heritage listed. Although 193 feedback forms were not returned, a number of property owners had previously made a submission or had otherwise contacted Council officers. However, there were over 80 owners who did not respond to Council's request for feedback, had not made a previous submission or had not contacted Council and as per the instructions on the letter sent with the feedback form, their support of the heritage listing has been assumed. In total 154 properties are recommended for heritage listing as detailed in **ATTACHMENT 3** circulated as a **CONFIDENTIAL ATTACHMENT** to this report.

At this stage, it is not recommended to proceed with heritage listing of properties where the owner has not supported the listing or is undecided, as well as those properties previously recommended for deferral and those with recent new owners. In total, 190 properties are recommended for deferral. It is further recommended that a Heritage Assistance and Education Programme be developed to formalise the current arrangements for heritage assistance and to investigate other avenues of financial and non-financial assistance for owners of heritage properties, as well as better and clearer general heritage information and information about specific heritage issues.

A Planning Proposal would be required to include the recommended properties on the schedule of heritage items within the WLEP 2010 (Schedule 5). If Council resolves to prepare a planning proposal, it would be prepared by Council staff and sent to the Department of Planning and Infrastructure's Local Environmental Plan Gateway for determination. Following a Gateway Determination, there will be a further opportunity for property owners and the wider community to comment on the proposed heritage listing of the subject properties.

In addition to the other properties recommended for listing and those for deferral, there are 15 properties whose heritage significance has been judged as marginal and are recommended to not be listed. Also, there are 2 properties that are already included in the heritage schedule and which can be deleted from this project.

Heritage Assistance And Education Programme

As mentioned above, it is recommended that properties for which the owners did not support the proposed heritage listing or whose owners were undecided will be put on temporary hold whilst a programme of heritage assistance and education is developed. The Heritage Assistance and Education Programme could cover the following areas:

- **Free Heritage Advisory Service**—Council currently provides this service to residents, but knowledge of its existence is not well known. However, the impact on the Heritage Advisor's limited time will need to be considered.
- **Local Heritage Fund**—continuation of the local heritage fund to annually offer small dollar-for-dollar grants for works to heritage buildings and works within heritage conservation areas.
- **Heritage Awards**—continuation of the biennial heritage awards.
- **Heritage Fees**—examination of options for subsidisation of development application and other fees for certain heritage projects.
- **Heritage Fact Sheets**—These could cover a range of topics and could be promoted through Council's web site and Wingecarribee Today. These fact sheets would be accompanied by a general review and updating of existing heritage information on the web site.
- **Heritage Approvals**—clarification of what types of minor works or maintenance require approval and which can be dealt with under clause 5.10(3) (*When consent is not required*) of the WLEP 2010.
- **Heritage Trades and Services Directory**—compilation of a listing of local tradespersons and services who can provide assistance to owners of heritage and period buildings.

It is recommended that this proposed Heritage Assistance and Education Programme be prepared and presented to Council before a decision about the remaining proposed heritage items is made. It is anticipated that some of the issues of concern identified by property owners who do not support or who are undecided about heritage listing in their feedback to Council can be addressed via this Programme. Once this proposed programme has been developed, the remaining recommended heritage items which have been deferred as recommended in this report should again be considered by Council, and consideration of the approach to further those deferred items may include a public forum and other strategies to engage with property owners.

SUSTAINABILITY ASSESSMENT

- **Environment**

The integrity of Council's heritage list relies on periodic review. This project seeks to expand the heritage list of the WLEP 2010 with those items identified and assessed to be important markers of the history and development of the Southern Highlands.

- **Social**

Many of the properties recommended for heritage listing were identified by members of the community as properties with potential heritage and existing social value. The advancement of these properties to a recognised heritage status through listing within the WLEP 2010 ensures that these properties are protected for the understanding and enjoyment of future generations.

- **Broader Economic Implications**

Whilst there are some economic implications for individual property owners in the heritage listing of their properties, these are somewhat tempered by avenues of assistance that are available to owners of heritage properties (such as free heritage advice and heritage grants)

as well as the opportunity to take advantage of the conservation incentives clause in the WLEP 2010.

- **Culture**

The advancement to heritage listing of buildings and places assessed as having special meaning to the history and development of the local area are important in nurturing the cultural understanding of our past and the role that it plays in our future.

- **Governance**

Council is being given the opportunity to consider the results of the consultations on which to base their decision on whether and in what manner to proceed toward heritage listing of all or some of the identified properties.

RELATIONSHIP TO CORPORATE PLANS

The decision to document local heritage is consistent with Council's 2011-2013 Delivery Plan task of "preparing a local environmental plan to list new heritage items", under the theme Environment. This task flows from the Community Strategic Plan, Wingecarribee 2031+, whose vision includes the recognition of heritage, as follows:

"In 2031 we will be a healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment."

This vision is supported by one main goal under the theme of Places, namely:

- Goal 3.5—Wingecarribee is recognised as a place of significant heritage conservation.

To implement this Goal, the 2011-2013 Delivery Plan includes the following task (3.5.1) - 'identify and promote buildings, places, trees, gardens, landscapes and other areas of significant cultural heritage value'.

Therefore, the advancement of recommended heritage items toward heritage listing within the WLEP 2010 is consistent with Goal 3,5 and is a specific implementation of task 3.5.1 of the 2011-2013 Delivery Plan.

BUDGET IMPLICATIONS

Existing in-house expertise and resources will be used in the preparation of the Planning Proposal as well as future consultations and other statutory steps in making an amendment to the local environmental plan. The Heritage Assistance and Education Programme will also be prepared using in-house resources and the input of Council's Heritage Advisor.

RELATED COUNCIL POLICY

If Council should decide to proceed toward heritage listing of properties, a planning proposal to amend the WLEP 2010 is required. The existing heritage provisions of the WLEP 2010 would be the benchmark against which future assessment of development applications for such properties would be undertaken.

CONCLUSION

The Wingecarribee Heritage Survey project recommended a significant number of additional heritage items throughout the Shire. This report summarises the consultations undertaken with owners of these properties since February 2012 when initial notifications were sent. During the course of these consultations it has become clear that there are a number of

owners who are supportive of their property being heritage listed and so as to not further hold back these properties it is recommended that the process of heritage listing be commenced through the preparation of a planning proposal including those properties together with those that did not make contact with Council officers and whose support is assumed, as well as sites under the ownership or control of Council.

For the remaining properties whose owners do not support heritage listing or who are undecided, it is recommended that these be put temporarily on hold so as to give time for development of a Heritage Assistance and Education Programme for the Shire which is anticipated to address many of the issues raised by property owners in their opposition to heritage listing.

OPTIONS

Three (3) options have been identified in relation to this project:

Option 1—Heritage List Owner-Supported and Other Selected Properties

Option 1 would be to proceed toward heritage listing of the following properties:

- Properties whose owners support the heritage listing (28),
- Properties whose owners have not provided feedback (193), and
- Council owned/controlled sites (21).

This option would see all the remaining properties be put on hold for the time being while a Heritage Assistance and Education Programme for the Wingecarribee Shire is developed.

Officer Comment: This is the preferred option which would see support of the recommendations of individual properties to proceed to heritage listing. The remaining properties would be put on hold until a Heritage Assistance and Education Programme can be devised and then Council can make a decision on whether or not to proceed with heritage listing of those properties. This is the recommended option as it moves those properties whose owners are supportive of heritage listing toward heritage protection and puts the others on hold while more information and heritage support is developed which may allay the fears of some properties owners who did not previously support heritage listing.

Option 2—Heritage List All Recommended Properties

This option would see Council resolve to heritage list all properties, including those whose owners do not support or are undecided about heritage listing but would exclude those properties no longer recommended for heritage listing, as contained in **ATTACHMENT 3** circulated as a **CONFIDENTIAL ATTACHMENT** to this report.

Officer Comment: Whilst this option would see the Heritage Survey Project adopted and moved forward as one, it is not recommended as it is thought that further work can be done to provide additional support and certainty to those persons who own heritage properties (whether they be heritage items or within heritage conservation areas). It is proposed that the Heritage Assistance and Education Programme, recommended in Option 1, can go some way toward providing this.

Option 3—Do Nothing

Option 3 would involve Council deciding not to implement any of the recommendations of the Wingecarribee Heritage Survey Project at this time.

Officer Comment: The do nothing option would put on hold, for the time being, the heritage listing of those recommended properties. Regardless of whether the properties are heritage

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listed or not, their heritage significance remains, and a future opportunity to progress the project should continue to be sought. However, if this decision is taken, the properties identified and recommended for heritage listing would not be afforded the level of protection that listing or draft listing would provide, and there may be some future loss or damage through inappropriate development to some of those significant places.

ATTACHMENTS

There are three (3) attachments to this report (as follows):

1. Report to the Council meeting of 11 July 2012 in relation to the *Wingecarribee Heritage Survey—Results of Initial Consultations with Property Owners*
2. Letter to property owners of 6 September 2012 giving an update on the project and seeking feedback.
3. List of properties and recommendations for this report.

ATTACHMENT 3 is a **CONFIDENTIAL ATTACHMENT** which has been circulated under separate cover. This list has not been made public at any time during the course of this project and given that some properties have been recommended not to proceed toward heritage listing at this time it is important that it remain confidential.

RECOMMENDATION

1. **THAT** Council endorses heritage listing of those properties owned by persons that have supported the proposed heritage listing, Council owned and/or controlled sites, and those properties owned by persons who have not made contact with Council officers about the project as indicated in Attachment 3 to this report (circulated under separate confidential cover).
2. **THAT** in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the Guide to Preparing Local Environmental Plans, Council prepare and lodge with the NSW Department of Planning and Infrastructure, a Planning Proposal to list those heritage properties indicated in Attachment 3 to this report (circulated under separate confidential cover).
3. **THAT** if the Planning Proposal is given a Gateway Determination to proceed, undertake consultation with the community and relevant government agencies in accordance with section 57 of the Environmental Planning and Assessment Act 1979 and the directions of the Gateway Determination.
4. **THAT** a comprehensive Heritage Assistance and Education Programme for the Wingecarribee Shire be prepared and submitted to Council for consideration.
5. **THAT** Council defer consideration of heritage listing for those properties whose owners have indicated that they do not support the proposal or who are undecided and that a report be submitted for Council consideration on how to proceed with the listing of these properties (including a possible public forum) following preparation of the Heritage Assistance and Education Programme.

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6. **THAT** those properties identified to NOT be listed in Attachment 3 to this report (circulated under separate confidential cover) be removed from the list of potential properties for the reason(s) indicated in Attachment 3 and the owners notified accordingly.
 7. **THAT** those properties that are already included in Schedule 5 of the Wingecarribee Local Environmental Plan 2010 be deleted from this project.
 8. **THAT** those properties identified for further investigation in Attachment 3 to this report (circulated under separate confidential cover) as well as any other properties identified and assessed for potential heritage listing be the subject of a future report to Council for determination.
 9. **THAT** all the affected property owners be advised of Council's decision.
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ATTACHMENT 1



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cw-CS3 Wingecarribee Heritage Survey—Results of Initial Consultations with Property Owners

Environment

Reference: 5650/4

Responsible Officer: Manager Strategic and Community Development

PURPOSE

The purpose of this report is to inform Council of the notifications to and consultations with the owners of properties recommended for heritage listing by heritage consultants on behalf of Council as part of the Wingecarribee Heritage Survey Project, and to provide recommendations on future actions.

SUMMARY

This report describes the consultations with property owners commenced in February 2012; discusses the submissions received; and makes recommendations for each property. The recommendations have been made having regard to the issues raised in submissions, and assessments made by staff and the Heritage Advisory Working Group. It is recommended that Council proceed with the preparation of a planning proposal for those properties proposed in this report to proceed toward heritage listing and for that planning proposal to be sent to the State Government's LEP Gateway.

DESCRIPTION OF PROPOSAL

BACKGROUND

In 2008 heritage consultants Architectural Projects Pty Ltd were engaged by Council to review more than 700 potential heritage items identified by Council and the community for potential heritage listing. Following research and field work undertaken by the consultants more than half were recommended to be heritage listed.

At its Ordinary Meeting of 9 March 2011 Council considered a report (o-EP7) on the advancement of these recommended items towards heritage listing and made the following resolution:

OC 29/11

1. *THAT letters be sent to property owners of the 358 properties recommended for heritage listing by consultants providing details of the reasons and implications of heritage listing and providing a period of no less than six (6) weeks to consult with the property owners.*
2. *THAT letters be sent to property owners of the 63 additional properties that have been identified as having potential heritage significance but have not yet been the subject of detailed investigation of the potential heritage significance of their property and requesting the assistance of owners in providing further information.*

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3. *THAT information sessions be arranged during the consultation period in areas with the greatest concentration of recommended heritage sites to allow interested parties to speak to council officers.*
4. *THAT a further report following the consultation period be presented to Council detailing options and next steps in the process of advancing the Wingecarribee Heritage Survey project.*

Given the amount of time that had lapsed since the March resolution due to the time taken in undertaking a required and considerable update of Council's heritage database, a report was submitted for Council's consideration at its Ordinary Meeting of 8 February 2012 (item o-EP10) which reconfirmed and replaced Council's 9 March 2011 resolution (OC 29/11). The updated resolution is as follows:

OC 09/12

1. *THAT letters be sent to the owners of the 342 unique properties recommended for heritage listing, accompanied by details of the reasons for and implications of heritage listing and providing a period of no less than six (6) weeks for property owners to contact Council to discuss.*
2. *THAT five (5) information sessions be held during the initial six (6) week consultation period, in localities with the greatest concentration of recommended heritage sites, to allow interested parties to speak with Council officers about the results of the heritage assessment of their properties.*
3. *THAT letters not be sent at this time to owners of those properties identified as having potential heritage significance but that have not yet been the subject of detailed investigation AND THAT preliminary investigation of these properties be undertaken by Council's Heritage Advisor and/or Heritage Land Use Planner, assisted by members of the Heritage Advisory Working Group AND FURTHER THAT the property owners be advised following investigation and provided opportunities to consult with Council staff at that time.*
4. *THAT a further report be presented to Council in May 2012, detailing options and next steps in the process of advancing the Wingecarribee Heritage Survey project following the consultation period of the notified recommended properties.*

CONSULTATION

Since the preparation of the February 2012 Council report and the notification letters being sent, one property was moved from the recommendation list to the investigation list because of major redevelopment that occurred on the site since the consultant's recommendation to the list was made. Consequently consultations commenced with owners of the 341 unique properties with notification letters sent out on 9 February 2012 (362 letters in total). The letter provided an overview of the Heritage Survey Project and a copy of the heritage inventory sheet for the subject property as well as a publication prepared by the NSW Heritage Council "Heritage Listing Explained—What it means for you".

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INFORMATION KIOSKS

The letter also gave details of five (5) information kiosks to be held over the subsequent seven (7) weeks, as follows:

Date (Time)	Venue
Monday 27 February 2012 (1.00pm – 5.00pm)	Bowral—Henrietta Rose Room
Wednesday 7 March 2012 (10.00am – 4.00pm)	Moss Vale—Gibraltar Room
Thursday 15 March 2012 (10.00am – 4.00pm)	Mittagong—Mittagong Memorial Hall
Friday 23 March 2012 (8.00am – 2.00pm)	Bowral—Henrietta Rose Room
Wednesday 28 March 2012 (10.00am – 4.00pm)	Exeter—Exeter Hall

The kiosks were all well-attended, with the first three Kiosks extremely well-attended with more than 20 property owners attending each. It is estimated that around 70 people attended the kiosks in total.

SITE VISITS AND OTHER MEETINGS

In addition to the information kiosks, Council's Heritage Land Use Planner fielded around 50 phone enquiries and made eight (8) visits to sites on the request of the owners, namely:

- Cottesbrook, 9 Caber Street, Moss Vale
- Bridgewater Lodge, 13230 Hume Highway, Sutton Forest
- Bowral Brickworks, Oxleys Hill Road, Bowral
- Milk Factory Gallery, Station Street, Bowral
- The Gunyah, Fitzroy Road, Moss Vale
- Oxley College, Bowral
- 16 Glebe Street, Bowral
- Empire Cinema, 325-327 Bong Bong Street, Bowral

Four (4) meetings were also held in Council's officers in relation the following properties:

- Jensen's Cottage & Old Nursery, Jensens Lane, Exeter
- Bendooley, Old Hume Highway, Berrima
- Capernwray (formerly Wongabri), 596-598 Moss Vale Road, Burradool
- Robertson & Burrawang Anglican Churches.

HERITAGE WORKING GROUP INPUT

The Heritage Advisory Working Group has been kept informed of the process of the Heritage Survey project and the consultations. They were asked for their input into a number of properties on which submissions had been received. Their input and comments are included in the assessment of submissions for those properties.

ASSESSMENT OF SUBMISSIONS

There was a total of 37 written submissions received in relation to 40 individual properties over the course of the consultation period. The majority of submissions (23 in total or 62%) were in objection to the proposed listing of the subject property; eight (8) submissions (22%) were neutral or providing additional historical or photographic information; and six (6) submissions (16%) were in support of the proposed heritage listing of the subject property.

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ISSUES RAISED IN SUBMISSIONS

The majority of the neutral submissions either sought further information, acknowledged the heritage significance of the property, or provided further information about the property.

The submissions in support of the proposed heritage listing recognised the special qualities of the subject property and expressed pride that its special qualities had been recognised.

There were a wide range of responses from the submissions in objection to the proposed heritage listing, but there were a number of recurrent themes which are discussed below. The issues raised in each submission, an assessment of these issues and a recommendation for each property is contained in the Attachment to this report. The attachment is discussed further in the following section (Assessment of Properties).

- **Loss of property value and reduced sale price**

The perceived loss of value and a reduced sale price for heritage listed houses and within heritage conservation areas were issues raised in a number of submissions and also at the Information Kiosks. Some people mentioned that they had personal experience of this phenomenon at previously owned properties, particularly in Sydney.

Officer comment

Immediate loss of value and sale price associated with heritage listing is a prevailing opinion that is often espoused by real estate agents. However, it is not one that is supported by empirical evidence and locally this theory does not bear itself out as evidenced by steadily rising property prices in Berrima, where the most stringent development controls within the Shire exist. (It is interesting to note that many real estate agents promote heritage features and age of a property in advertisements for sale, thereby somewhat negating that view that heritage or 'old' buildings are unsaleable.)

- **Item has been altered/modified**

There were many submissions that stated that the house had been modified from the original and, therefore, should not be listed.

Officer comment

Whilst it is true in most cases that the more a building is in its original condition, the more heritage value it has, it does not necessarily follow that if an item has been modified then it does not have heritage value. In some cases, the changes over time can demonstrate the adaptability of the item through differing needs. However, extensive loss of original fabric and form can mean irretrievable loss of heritage value in some cases. However, this can only be judged on a case-by-case basis with reference to the architectural style; original, previous or current use; people, groups or events associated with the property; rarity; and other factors. Each property whose owner has argued that modifications have negated heritage significance is assessed individually in the Attachment to this report.

- **Additional costs in owning, maintaining and developing a heritage house**

The higher relative cost of owning a heritage house was raised in a number of submissions and by owners at the Kiosks. It is acknowledged that when making changes to heritage places, the accepted rule of thumb (as promoted by the Australia ICOMOS Burra Charter) is to "replace like with like", and sourcing similar materials (such as wider traditional profile skirting boards or weatherboards or corrugated steel roofing) may mean a higher cost than what may be permitted on a new house. The difficulties in finding

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tradespeople that are willing and able to do the work, and the increased cost of insurance premiums are also common complaints.

Officer comment

The difficulties and increased costs faced by owners of heritage properties are acknowledged. Councils have tried to mitigate these costs by offering to owners of heritage properties free heritage advice and local heritage grant funding opportunities, schemes supported by the Heritage Branch of the NSW Office of Environment and Heritage. In addition to these mechanisms, it is proposed that Council officers examine other types of assistance and a local trades and services directory has been suggested. It is recommended in this report that Council consider a future report which examines options to provide further assistance and to strengthen existing forms of assistance as part of a comprehensive Heritage Assistance Scheme.

- **Property bought when no heritage restrictions existed**

Some owners objected to the proposed heritage listing of their property on the basis that it was not heritage listed when they bought it. A few indicated that if the house had been heritage listed at the time of purchase, they would not have proceeded. One submission criticised Council's lack of disclosure about the heritage investigations on their property as they purchased the property at the same time that the study was being undertaken and there was no evidence on Council's property file to indicate this.

Officer comment

Heritage listing of items is not a static process. What is valued by the community can change over time and information about an item, house or site can be discovered that was not known previously. It is important that Council's heritage lists are reviewed regularly to ensure that the strength of the list is maintained. Whilst it may be difficult for an owner to have the heritage position of a property change during their period of ownership (and this may be true of other planning mechanisms such as zoning, permissible uses, minimum lot size or height restrictions) sometimes it is necessary. In relation to the lack of disclosure of the Wingecarribee Heritage Survey, general information about the existence of the study is available on Council's website, but it was considered a fair and reasonable approach that all owners were notified concurrently of the recommendations of the Study, which was done via the notification letters in February 2012.

- **Lack of evidence to support the heritage assessment**

A couple of submissions indicated that the lack of information about the property on the heritage inventory sheet suggests a lack of proper assessment.

Officer comment

It is not within the budgetary ability of many Councils to undertake a full and thorough assessment of each and every property on their heritage list. Sometimes the information is incomplete and may only be supported by secondary sources. However, in the main, there is sufficient evidence to support the heritage listing of all the sites on Council's current heritage list and in the case of the current proposed list, where there is not sufficient evidence, or the evidence could be strengthened, deferral of the proposed listing is recommended until additional research can be undertaken. This is indicated against some properties in the Attachment to this report.

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- **Error(s) in description of item**

A number of errors in the descriptions of properties contained within the heritage database information have been pointed out by owners.

Officer comment

Errors, where they have been pointed out by owners, have been amended to the extent possible. A couple of owners indicated that the information contained in the heritage database is incorrect but were not forthcoming with corrections.

- **Maintaining autonomy**

A strong emotion that came through in the submissions and, more particularly, in the information Kiosks was anger or resentment of Council control over an individual's property. In some cases, this stemmed from previous bad experiences with this or other Councils. In others, it stemmed from the faulty notion that an owner can do whatever he/she likes to the property that they own without reference to Council.

Officer comment

In most cases, Council consent is required for changes to a property, whether or not they are heritage listed. There are some exceptions which apply more commonly to non-heritage affected properties in the form of exempt and complying development, but these are mostly for very minor works and there is a similar mechanism available to heritage properties under clause 5.10(3) of the Wingecarribee Local Environmental Plan 2010 which states:

5.10 Heritage conservation

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

This clause is available for owners of heritage properties to undertake maintenance works or proposed development of a minor nature, so long as Council has been informed in writing and the owner has received a response from Council in writing. This clause ensures that for the most part, owners of heritage properties are not disadvantaged by needing formal Council consent in all cases. It is noted that this clause is a standard inclusion under the State Government's Standard LEP Instrument.

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- **Concern that changes cannot be made**

One submission indicated concern that sustainability features, such as solar panels and water tanks, would not be allowed on a heritage home. The fear that change would not be allowed at all on or within a heritage home is a common one and one that was raised many times during the consultations.

Officer comment

The level of change acceptable in any heritage house is dependent on what is significant about the house and how the change will impact on the significance. Changes to bathrooms and kitchens, for example, are usually acceptable, and in many cases acceptable solutions to provide for sustainability features can be found. The common myth that buying or living in a heritage listed building means that you must live in a museum, is just that: a myth.

- **Loss of development potential**

Loss of development potential was raised as an issue in objection to heritage listing. In particular the impact on subdivision potential and medium density development potential was raised in a couple of submissions.

Officer comment

The zoning of a parcel of land and its minimum lot size, together with other development controls and provisions such as height limits and floor space ratios set the parameters for development potential on any parcel of land. However, it is a widely held misconception that the maximum development yield enumerated by development standards and controls is an attainable development potential of that land, but in reality this is uncommon. The physical characteristics of a site can have significant impact on what can and can't be done: topography, vegetation, existing development, heritage items or areas, neighbouring development, geotechnical considerations, and drainage and hydrology are all factors that play a role in determining the true development potential of a site. Having said that, heritage listing does not mean that the development potential of a parcel or area of land is reduced to zero and in fact, heritage listing opens up the potential to use the conservation incentives clause in the Wingecarribee Local Environmental Plan (WLEP) 2010 (clause 5.10(10)) which can permit development not normally allowed on the site subject to the conservation of the item of heritage. This is a mechanism that has been quite successfully applied in other developments to the benefit of the developer and the heritage place.

- **Lack of consultation by Council**

A few submissions criticised Council's approach in identifying the properties in the study and in consulting with the property owners. There were a couple of submissions that requested more time for consultation, and one submission that requested a delay in listing.

Officer comment

It is considered that the approach taken was appropriate and gave equal opportunity for property owners to discuss their concerns with a Council officer. Many property owners requested personal meetings and site visits which were accommodated as much as time would allow. There are some properties that are recommended in the Attachment to this report to be put on hold pending further research to establish a more solid basis for heritage listing, and further opportunities for consultation with the owner. If Council supports the properties recommended in this report to proceed toward heritage listing, a

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planning proposal would be prepared and, if endorsed by the LEP Gateway, further consultation with property owners and the wider community would necessarily take place.

- **Previous council decision to not list items where owners objected**
There were a number of submissions and enquiries at the Information Kiosks that asked whether Council's approach would be the same as taken previously when Council resolved not to heritage list properties where the owner had objected

Officer comment

In the conservation of buildings of heritage significance, those that meet the criteria for heritage listing should be listed. It is preferable if Council officers can guide owners in the process toward mutual acceptance of heritage listing and value but it is acknowledged that this will not be possible in all cases. It is up to Council to decide which approach it believes is the most appropriate to be taken to progress this matter, but a decision should be made knowing that the community at large has strongly supported the heritage of the Wingecarribee Shire, as demonstrated in the community's vision of "a healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment" as contained in the Wingecarribee 2031+ Community Strategic Plan.

COUNCILLOR BUS TOUR

On 30 May 2012 the Councillors were invited to attend a bus tour of a number of properties in Moss Vale, Bowral and Mittagong on which submissions in objection had been received. This tour gave the Councillors an opportunity to view and discuss some of the heritage issues in relation to these properties and make a judgement on whether or not they believed they should be listed or not. The properties that were viewed as part of this bus tour are noted in the Assessment column of the Attachment.

ASSESSMENT OF PROPERTIES

The recurring issues raised in each of the submissions have been addressed in the previous section of this report. However, the detail of each submission has been assessed in the context of the subject property and an updated recommendation has been made. The table contained in the Attachment (circulated separately) lists each property recommended by the consultant for heritage listing and notified to the property owner, outlines the issues raised in any submission received, provides a response to these issues and makes a recommendation on how to proceed. This table forms the basis of the recommendations contained in this report.

In addition to those properties on which a written submission was made, a number of other properties have also been reassessed and the re-assessment and officer's recommendation is also included in the table.

Should Council decided to progress heritage listing of any or all of the properties recommended in this report and its accompanying spreadsheet Attachment, then a Planning Proposal must be prepared to initiate an amendment of the Wingecarribee Local Environmental Plan 2010.

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PLANNING PROPOSAL

Items of local heritage significance are listed under Schedule 5 (environmental heritage) of the WLEP 2010 and shown coloured on the heritage map that forms part of that plan. To list a property as a heritage item requires an amendment to the WLEP to add a written description of each property to Schedule 5 and to colour each property on the heritage map. The preparation of a planning proposal is the first step in making an amendment to the WLEP.

A planning proposal consists of four (4) main parts:

- Part 1—Objectives or intended outcomes of planning proposal
- Part 2—Explanation of provisions
- Part 3—Justification
- Part 4—Community Consultation.

In this case, the planning proposal would be prepared by Council officers addressing all of the requisite parts and would be sent to the State Government's LEP Gateway for determination. The purpose of the planning proposal would be twofold: firstly, to add new heritage items to Schedule 5 and to the Heritage Map; and secondly, to amend any inaccuracies on the existing heritage items list and heritage map in terms of item name, property description, and heritage item number(s) and location (address and map).

CONCLUSION

There are many properties across the Wingecarribee Shire that have heritage significance as determined by heritage consultants and Council officers which have been the subject of notification and consultation with their owners from February to May this year. Although 23 submissions were received from property owners in objection to the heritage listing of their property, many of those properties had sufficient heritage values to support and recommend heritage listing. There are a number of properties that have been reassessed as part of the consideration of submissions and issues raised in consultations and the officer's recommendation for some of these properties differs from the consultant's recommendations, including recommendations not to proceed toward heritage listing, or recommendations to defer listing. There are also a number of properties where the reassessment has concluded that further investigation should be undertaken to support a recommendation to proceed toward heritage listing and the officer's recommendation reflects this.

It is important to the community and to the growing industry of heritage tourism in the Wingecarribee Shire to ensure that items of heritage significance are listed and protected and can be enjoyed by future generations. This report recommends that Council proceed toward heritage listing of several hundred new properties through the preparation of a Planning Proposal to be sent to the State Government's LEP Gateway for determination.

SUSTAINABILITY ASSESSMENT

• Environment

The integrity of Council's heritage list and the preservation of items of heritage rely on the identification of items of heritage significance supported by accurate information. This project seeks to expand the heritage list of the WLEP 2010 with those items identified and assessed to be important markers of the history and development of the Southern Highlands.

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- **Social**

Many of the properties recommended for heritage listing were identified by members of the community as properties with potential heritage and existing social value. The advancement of these properties to a recognised heritage status through listing within the WLEP 2010 ensures that these properties are protected for the understanding and enjoyment of future generations.

- **Broader Economic Implications**

Whilst there are some economic implications for individual property owners in the heritage listing of their properties, these are somewhat tempered by avenues of assistance that are available to owners of heritage properties (such as free heritage advice and heritage grants) as well as the opportunity to take advantage of the conservation incentives clause in the WLEP 2010.

- **Culture**

The advancement to heritage listing of buildings and places assessed as having special meaning to the history and development of the local area are important in nurturing the cultural understanding of our past and the role that it plays in our future.

- **Governance**

Council is being given the opportunity to consider the results of the consultations on which to base their decision on whether and in what manner to proceed toward heritage listing of all or some of the identified properties.

RELATIONSHIP TO CORPORATE PLANS

The decision to document local heritage is consistent with Council's Delivery Plan activity of "preparing a local environmental plan to list new heritage items", under the theme Environment. This activity flows from the Community Strategic Plan, Wingecarribee 2031+, whose vision includes the recognition of heritage, as follows:

"In 2031 we will be a healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment."

This vision is supported by one main goal under the theme of Places, namely:

- **Goal 3.5—Wingecarribee is recognised as a place of significant heritage conservation**

Therefore, the advancement of recommended heritage items toward heritage listing within the WLEP 2010 is consistent with this vision and the goals of the Community Strategic Plan and the activities stated in the Delivery Plan.

BUDGET IMPLICATIONS

Existing in-house expertise and resources will be used in the preparation of the Planning Proposal as well as future consultations and other statutory steps in making an amendment to the local environmental plan.

Insofar as possible, preliminary heritage assessments for the properties identified for further investigation (as resolved on 8 February 2012) will be undertaken by in-house (primarily the Heritage Land Use Planner) and voluntary (primarily the Wingecarribee Heritage Advisory

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Working Group) resources, with Council's Heritage Advisor to confirm the preliminary assessments.

RELATED COUNCIL POLICY

If Council should decide to proceed toward heritage listing of properties, an amendment to the WLEP 2010 via a Planning Proposal will be required. The existing heritage provisions of the WLEP 2010 would be the benchmark against which future assessment of development applications for such properties would be undertaken.

OPTIONS

Three (3) options have been identified in relation to this project:

Option1

Do Nothing

Option 2

Heritage List all of the properties as recommended in the Attachment (circulated under separate confidential cover) to this report.

Option 3

Heritage list selected properties as contained in the Attachment (circulated under separate confidential cover) to this report.

Option 2 is the preferred option, as discussed below.

1. DO NOTHING

The option to do nothing would put on hold heritage listing of the recommended properties for the time being. The fact is that the heritage significance of the properties would remain and a future opportunity to progress the project would be sought. However, if this decision is taken, the properties identified and recommended for heritage listing would not be afforded the level of protection that listing or draft listing will provide, and there may be some future loss or damage through inappropriate development to some of these places.

2. HERITAGE LIST ALL RECOMMENDED PROPERTIES

This option would see the support of all the recommendations as contained in the Attachment (circulated under separate confidential cover) to this report, including proceeding toward heritage listing of the majority of properties, deferring others for a specified period and deferring of others for further investigation with the aim of reporting these back to Council at a future date. This is the preferred option.

3. HERITAGE LIST SELECTED PROPERTIES

The final option would see Council support some of the recommendations as contained in the Attachment (circulated under separate confidential cover) to this report, but would make their own judgement on selected others as they see fit.

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ATTACHMENTS

There is one (1) attachment to this report, which has been circulated under confidential separate cover:

1. Heritage Survey Project – summary of submissions, assessment of issues and officer's recommendations.

RECOMMENDATION

1. THAT the officer's recommendation for each of the properties listed in the Attachment (circulated under separate confidential cover) to this report be adopted.
2. THAT in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the Guide to Preparing Local Environmental Plans, Council prepare and lodge with the NSW Department of Planning and Infrastructure, a Planning Proposal to list those heritage properties indicated in the Attachment (circulated under separate confidential cover) to this report.
3. THAT if the Planning Proposal is given a Gateway Determination to proceed, undertake consultation with the community and relevant government agencies in accordance with section 57 of the Environmental Planning and Assessment Act 1979 and the directions of the Gateway Determination.
4. THAT those properties identified for further investigation in the Attachment (circulated under separate confidential cover) to this report as well as any other properties identified for potential heritage listing be assessed for heritage significance and be the subject of a future report to Council for determination.
5. THAT a future report on options for a comprehensive Heritage Assistance Scheme for the Wingecarribee Shire be submitted to Council for consideration.
6. THAT all the property owners be advised of Council's decision.

(Voting on the Motion)

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ATTACHMENT 2



Our Ref: 5850/4. PN «Property_No», Heritage Inventory No. «Item_No»
Contact: Sarah Websdale Farnese

6 September 2012

«Owner_Name»
«Postal_Address»

Dear Sir/Madam

**COUNCIL'S RESOLUTION OF 11 JULY 2012 IN RELATION TO WINGECARRIBEE
HERITAGE SURVEY AND REQUEST FOR FEEDBACK ON THE NOMINATION OF YOUR
PROPERTY AT «STREET_NO» «STREET_NAME» «LOCALITY», AS A HERITAGE ITEM**

On 9 February 2012, Council wrote to owners of properties (as appearing in Council's records at that time) that were recommended by heritage consultants on behalf of Council to be listed as heritage items. The letter invited people to attend one of a number of Information Kiosks held across the Shire or to contact Council's Heritage Land Use Planner to discuss the proposal to heritage list these properties.

A report on the consultations undertaken and submissions received was subsequently prepared for consideration of the Council at its meeting of 11 July 2012. This report recommended that most of the properties initially notified be endorsed for heritage listing and that the heritage listing process be commenced. In consideration of a number of representations made to the Councillors that the consultations were inadequate, it was unanimously resolved:

THAT the Wingecarribee Heritage Survey - Results of Initial Consultations with Property Owners be deferred pending the holding of an information session for Councillors with a further report to be referred to Council AND THAT a strategy be brought back to Council as to how Council should address the concerns raised by the stakeholders, including a public forum with concerned stakeholders.

On 15 August 2012, the matter was discussed by Councillors at an information session. It was agreed that a further report be tabled for Council consideration, clearly setting out recommended steps for those properties whose owners are amenable to their property being heritage listed as well as a proposed course of action for all other properties.

.../2



Wingecarribee Shire Council, 11 Elizabeth Street, Moss Vale NSW 2567. Tel: 02 4628 0333. Fax: 02 4628 0334.
www.wsc.nsw.gov.au

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- 2 -

In order to gain a more complete understanding of the views of every property owner so that these can be reported to the Council, please find enclosed a feedback form which I urge you to complete and return in the enclosed Reply Paid envelope by Monday 1 October 2012.

Our records show you HAVE made a previous submission and unless your views have changed, completion and returning of the feedback form is not necessary. However, you are welcome to make further comments by completing the form.

OR

Our records show that you HAVE NOT made a previous submission. If you choose not to complete and return the feedback form, it will be assumed that you HAVE NO OBJECTION to the proposed heritage listing of your property.

I will write to you to let you know when the matter is to be again considered by Council as part of Council's standard procedure for notification to stakeholders of a matter to be considered by Council. Please note that as the Council Business Paper is confirmed only a week before the meeting, the letter may reach you only a day or so before the meeting.

If you have any queries in the meantime, please contact me by phone on (02) 4868 0830 (Mondays, Wednesdays and Thursdays) or by email at sarah.farnese@wsc.nsw.gov.au.

Heritage Grants for Small Projects

Please also note that applications are now being accepted for the Wingecarribee Heritage Assistance Grants, which are small dollar-for-dollar grants for works to heritage buildings. This year, applications are also open to properties that have been recommended for heritage listing as part of the Wingecarribee Heritage Survey Project, making your property eligible. Please note that applications must be received by 5 October 2012 and all works will be required to be completed and paperwork submitted by 31 March 2013. More information, including guidelines and application forms are available from Council's website at <http://www.wsc.nsw.gov.au/development/heritage-in-the-wingecarribee-shire/heritage-assistance-grants>.

Yours faithfully

Sarah Websdale Farnese
Heritage Land Use Planner

Encl. (2)

- Proposed Heritage Listing Feedback Form
- Reply Paid envelope.

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Our Ref: 58504, PN «Property_No»,
Heritage Inventory No. «Item_No»
Contact: Sarah Websdale Farnese

Proposed Heritage Listing Feedback Form

Please complete and sign the following form and return it to Council in the supplied reply paid envelope by Monday 1 October 2012. If no response is received and you have not made a previous submission, it will be assumed that you support the proposed heritage listing of the property.

Property Address: «Street_No» «Street_Name» «Locality»

Item Name: «Item_Name»

Property Description: «LotDP»

Owner's Name: «Owner_Name»

Owner's Declaration: *I HAVE READ THE INFORMATION SUPPLIED BY WINGECARRIBEE SHIRE COUNCIL THAT RECOMMENDS THAT MY PROPERTY BE LISTED AS A HERITAGE ITEM IN THE WINGECARRIBEE LOCAL ENVIRONMENTAL PLAN 2010. MY OPINION ON THIS PROPOSAL IS OUTLINED BELOW;*

☐

I DO NOT SUPPORT the proposed heritage listing of my property as described above due to the following reasons:

(use reverse side of this sheet or attach separate sheet if there is insufficient space)

-----OR-----

☐

I SUPPORT the proposed heritage listing of my property as described above due to the following reasons:

(use reverse side of this sheet or attach separate sheet if there is insufficient space)

-----OR-----

☐

I am UNDECIDED or I have a DIFFERENT VIEW about the proposed heritage listing of my property as described above due to the following reasons:

(use reverse side of this sheet or attach separate sheet if there is insufficient space)

-----SIGNATURES-----

Signature(s) of owner(s): _____

Name(s) (please print): _____

Dated: ____/____/2012