



# **Ku-ring-gai Council**

## **PLANNING PROPOSAL**

**To heritage list 33 Young Street, Wahroonga**

**May 2021**

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## INTRODUCTION

This Planning Proposal contains the justification for the proposed amendments to Schedule 5 of the *Ku-ring-gai Local Environmental Plan* ('KLEP 2015') to list 'Wainberg House,' also identified as 33 Young Street, Wahroonga (Lot 32, DP12371) as a local heritage item.

This Planning Proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the NSW Department of Planning, Industry and Environment's 'A Guide to Preparing Planning Proposals' (December 2018).

Council will request the plan making delegation under section 3.36 of the Environmental Planning and Assessment Act for this Planning Proposal.

This Planning Proposal includes:

- Existing site and surrounding context
- Existing planning controls applying to the site
- The objective of the amendment to the *Ku-ring-gai Local Environment Plan 2015*
- An explanation of provisions that are to be included in the amendment to the *Ku-ring-gai Local Environment Plan 2015*
- Justification for the objective and provisions to be included in the amendment to the *Ku-ring-gai Local Environment Plan 2015*
- Mapping for the heritage listing
- Community Consultation
- Project Timeline

## Background

The property at 33 Young Street, Wahroonga ('the site') is located across the road from a heritage item (I1002) and the Wahroonga Conservation Area (C1). The site was the subject of a Council commissioned Heritage Assessment by Robertson and Hindmarsh Pty Ltd in February 2021. The assessment concluded that as a good example of International style architecture, the property has historic and aesthetic significance and representative value at a Local level.

In October 2020, a community member brought the property to the attention of Council officers, expressing concern for the property's vulnerability, which was at the time advertised for sale with no heritage protection. The community member identified the property as an '*almost completely intact example of the International Style of architecture, with extensive original interiors designed and crafted by Paul Kafka.*'

On 22 October 2020, the potential vulnerability of the property was discussed with the Heritage Reference Committee ('HRC'). The HRC sought further information in relation to the dwelling before making a recommendation. On 26 November 2020, a preliminary heritage assessment of 33 Young Street, Wahroonga was provided to the HRC. This preliminary heritage assessment is included at **Appendix A**. Based on the preliminary findings of the assessment; the HRC agreed that an Interim Heritage Order ('IHO') should be invoked in this instance.

Council has delegated authority under s.25 of the *NSW Heritage Act 1977* ('Heritage Act') to make an IHO on the property. The purpose of an IHO being to provide Council with time to undertake an independent heritage assessment of the property to establish if it warrants formal heritage listing.

On 8 December 2020, the matter was raised at the Ordinary Meeting of Council (OMC) as Business without Notice (BWN1). At this meeting, Council resolved:

*"That Council resolve to place an Interim Heritage Order under section 25 of the NSW Heritage Act 1977 on 33 Young Street, Wahroonga, Lot 32 DP12371, to enable a full and proper evaluation of the heritage significance and prevent any harm to the site in the interim."*

A copy of the resolution is included at **Appendix B**.

On 11 December 2020, the IHO came into effect. The wording of the IHO is as follows:

*"This Interim Heritage Order will lapse six months from the date that it is made unless the local Council has passed a resolution before that date; and*

- (i) in the case of an item which, in the council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or*
- (ii) In the case of an item which, in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register."*

A copy of the IHO is included at **Appendix C**.

Under the above conditions of the IHO, the order will lapse on 11 June 2021 unless Council passes a resolution to list the item on the Schedule 5 of the KLEP 2015 to protect and manage the item, or it nominates the item for inclusion on the State Heritage Register.

Dr Scott Robertson of Robertson and Hindmarsh Pty Ltd prepared a heritage assessment for *Wainberg House* at 33 Young Street, Wahroonga in February 2021. Dr Scott Robertson is a registered architect, who specialises in Post-war and Modern architecture. Dr Scott Robertson and Council staff inspected the house on 3 February 2021.

The assessment found that the property is of local heritage significance and should be included as a heritage item on Schedule 5 and on the heritage map of the Ku-ring-gai Local Environmental Plan 2015 ('KLEP 2015'). The heritage assessment is included at **Appendix D**.

On 16 March 2021, the matter was considered by Council, with the officer's recommendation for a Planning Proposal to be prepared to list 33 Young Street, Wahroonga as an item of local heritage significance under Schedule 5 of the KLEP 2015. Council resolved to defer their decision pending a site inspection. The Council resolution is included at **Appendix E**.

On 31 March 2021, Councillors and Council staff undertook a further site inspection.

Following the site inspection, the Council reconsidered the matter on 27 April 2021 and resolved to forward the Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination. A copy of the Council report and resolution is included at **Appendix F**.

A draft Heritage Inventory ('SHI') form for 33 Young Street, Wahroonga is included as **Appendix G** in support of the Planning Proposal.

## Existing site and context

*Wainberg House* is located at No. 33 Young Street, Wahroonga. The site is identified as Lot 32, DP12371. *Wainberg House*. The property is a corner allotment on the south-east corner of Young and Randolph Street and is located across the road from a heritage item (I1002) and the Wahroonga Conservation Area (C1).

*Wainberg House* is a two-storey Post-War International Style rendered brick residence with a tile roof and timber windows and doors. The plan of the house has been arranged around a division between the family portion of the house and a servant area and is reminiscent of well-to-do Middle Class interwar houses designed to accommodate live-in help. The architect of this house is presently unknown, however the manufacturer (and possible designer) of the interior joinery and built-in furniture for this residence was Paul Kafka, a highly significant designer and furniture maker. The use of Paul Kafka for the joinery, and the design of the house itself, would suggest that the architect was most likely an émigré from either Central Europe or Eastern Europe.



Figure 1. 33 Young Street, Wahroonga site shaded blue (Source: Robertson & Hindmarsh Pty Ltd – see **Appendix D**)





Figure 2. 33 Young Street, Wahroonga. Entry to property. (Source: Robertson & Hindmarsh Pty Ltd – see **Appendix D**)

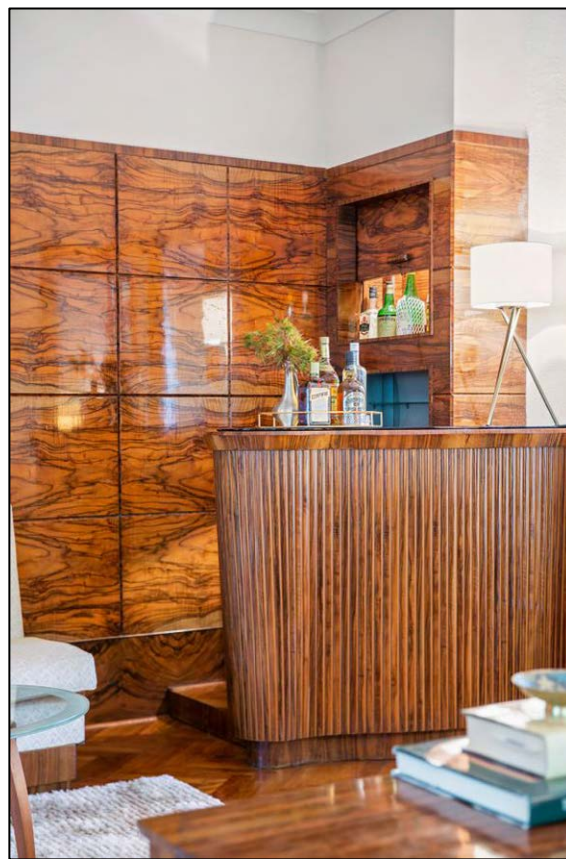


Figure 3. 33 Young Street, Wahroonga. View of the entrance hall (left) and view of bar at the end of upper living room (right). (Source: 2020 sale photograph from Real Estate.com)





Figure 4. 33 Young Street, Wahroonga. Looking from lower to upper living room. (Source: 2020 sale photograph from Real Estate.com)



Figure 5. 33 Young Street, Wahroonga. Looking from upper to lower living room. (Source: 2020 sale photograph from Real Estate.com)





Figure 6. 33 Young Street, Wahroonga. Formal dining room. (Source: 2020 sale photograph from Real Estate.com)



Figure 7. 33 Young Street, Wahroonga. First floor main bedroom. (Source: 2020 sale photograph from Real Estate.com)

## Existing planning controls

The site is subject to existing planning controls within the KLEP 2015, relating to land zoning, height of building and minimum lot size. These are as follows:

	Land Use Zone	Height of Building	FSR
<b>33 Young Street, Wahroonga</b>	R2 Low Density Residential	9.5m	0.3

The Objectives for R2 Low Density Residential in the KLEP 2015 are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.

The site is not located within a Heritage Conservation Area under the KLEP 2015. The site is not currently listed as a State or local heritage item.

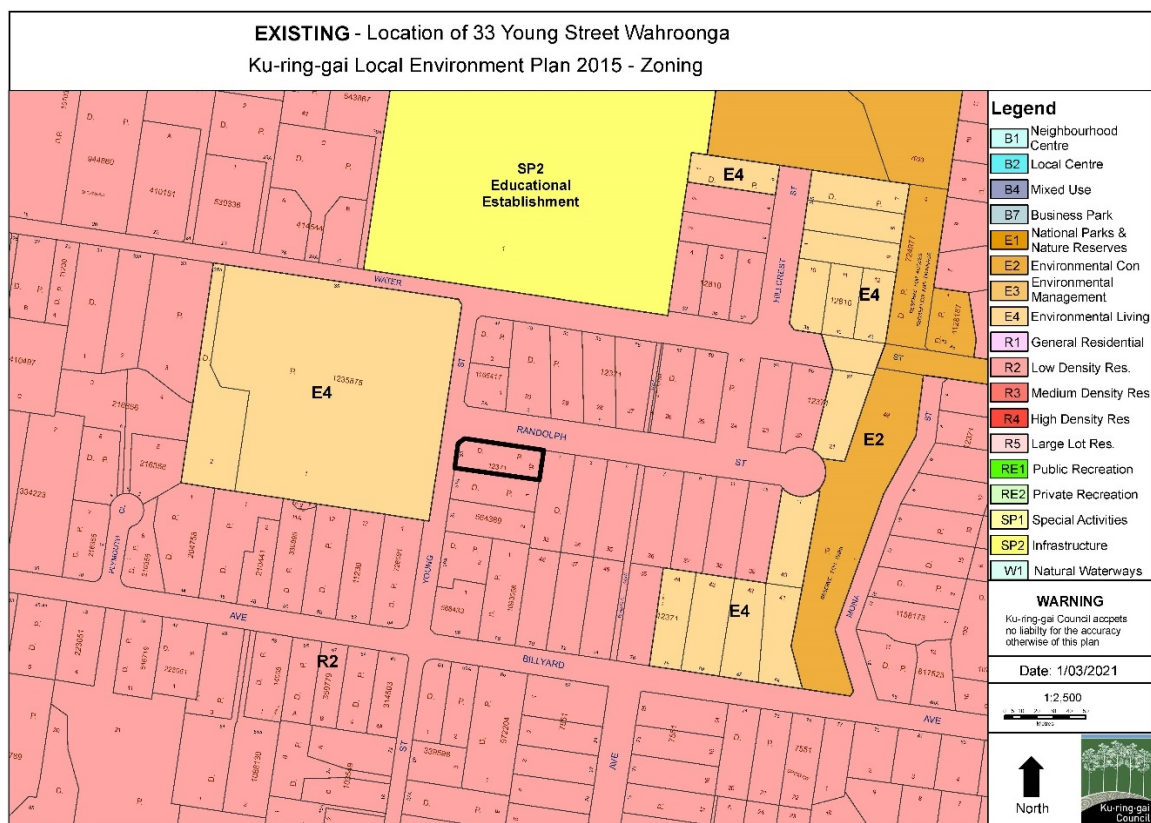


Figure 8. Map showing zoning 33 Young Street, Wahroonga



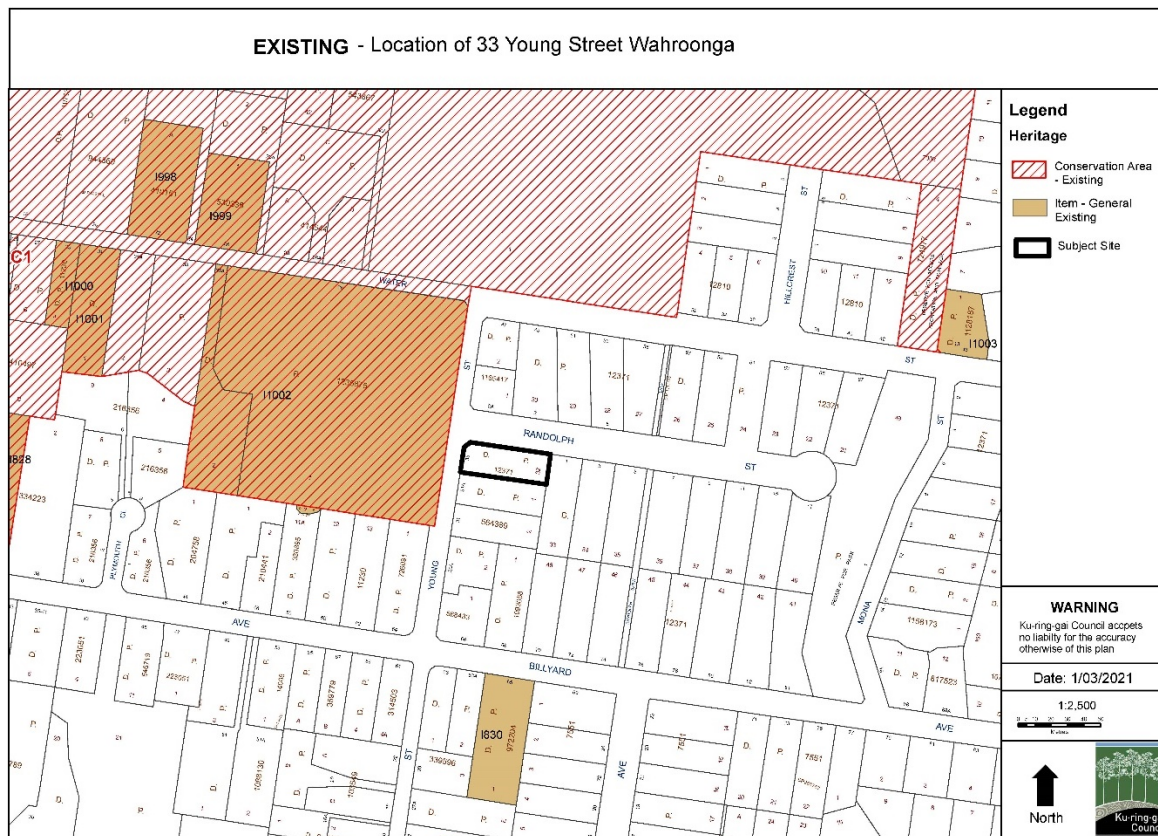


Figure 9. Map showing existing non-heritage listed status of 33 Young Street, Wahroonga and existing Heritage Items and the Heritage Conservation Area nearby



## PART 1 – OBJECTIVE AND INTENDED OUTCOMES

### A statement of the objectives and intended outcomes of the proposed instrument

The objective of the planning proposal is to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the KLEP 2015, to list *Wainberg House*, also identified as 33 Young Street, Wahroonga, as a local heritage item. Heritage listing of this property will ensure recognition of its significance, as well as protection through ensuring any future modification proposals are assessed against heritage provisions in the KLEP 2015.

The existing R2 Low Density Residential zoning and existing development standards applying to the site are not proposed to change as a result of this Planning Proposal.

## PART 2 – EXPLANATION OF PROVISIONS

### An explanation of the provisions that are to be included in the proposed instrument

The Planning Proposal seeks to amend Schedule 5 Environmental Heritage of the KLEP 2015 to insert the following:

Suburb	Item Name	Address	Property Description	Significance	Item No.
Wahroonga	<i>Wainberg and interiors, 33 Young Street, Wahroonga.</i>	33 Young Street, Wahroonga	Lot 32, DP12371	Local	<i>To be confirmed</i>

The Planning Proposal seeks to make amendments to the following map:

**Ku-ring-gai Local Environmental Plan 2015 – Heritage Map – Sheet HER\_006** by colouring the site so as to indicate a Heritage Item – General.

## PART 3 - JUSTIFICATION

The justification for those objectives, outcomes and the process for their implementation

### A. Need for the planning proposal

**Q1. *Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?***

Yes. Following the making of the IHO, an independent heritage assessment was prepared by Robertson & Hindmarsh Pty Ltd (see **Appendix D**). The assessment maintains that 33 Young Street, Wahroonga warrants local listing on Schedule 5 of the KLEP 2015, satisfying the NSW Heritage Council's criteria for listing. The assessment considers that the property meets the threshold for local heritage listing on the grounds of historical, associative and aesthetic significance and rarity value.

A heritage item is a place, which may include built structures, landscapes, moveable objects and relics, that have recognised cultural significance. In NSW, heritage items of local significance are assessed against 7 criteria:

- Historical significance – an item is important in the course, or pattern, of the cultural or natural history of the local area;
- Historical association significance – an item has strong or special association with the life or works of a person, or group of persons, of importance to the local area's cultural or natural history;
- Aesthetic significance – an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area;
- Social significance – an item has a strong or special association with a particular community or cultural group in the local area, for social, cultural or spiritual reasons;
- Technical/research significance – an item has potential to yield information that will contribute to an understanding of the local area's scientific, cultural or natural history;
- Rarity – an item possesses uncommon, rare or endangered aspects of the local area's cultural or natural history; and
- Representativeness - an item is important in demonstrating the principal characteristics of a class of the local area's cultural or natural places; or cultural or natural environments.



The comprehensive Statement of Significance prepared by Robertson and Hindmarsh Pty. Ltd. for 33 Young Street, Wahroonga, expounds this importance. It reads:

*“As a good example of International style architecture, 33 Young Street Wahroonga has historic and aesthetic significance and representative value at a Local level. These same values are evident internally through the building’s strong association with the designer of its high-quality interiors, Paul Kafka, as a fine and intact example of the work of the famed émigré designer and furniture maker. The planning of the house is also significant at a Local level as it demonstrates the planning of a house designed to accommodate live-in servants for the wealthy immigrant Middle Class.*

*In addition to aesthetic significance, the interior of 33 Young Street Wahroonga demonstrates rarity as a particularly intact and high-quality example of the interior design of Paul Kafka still located in its original setting, of which there appear to be few comparable known examples. This significance is potentially at a State level with regard to intact post-war interiors designed/constructed by émigré designers.*

*33 Young Street, Wahroonga, has historical significance at a local level for its ability to demonstrate patterns of European immigration in the inter-war and post-war periods following the series of conflicts in Europe.”*

A copy of the Heritage Assessment prepared by Robertson & Hindmarsh Pty Ltd in February 2021 is included at **Appendix D**. A draft Heritage Inventory (‘SHI’) form for 33 Young Street, Wahroonga is included at **Appendix G**.

**Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes. The Planning Proposal seeks to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the KLEP 2015, to list ‘Wainberg House,’ also identified as 33 Young Street, Wahroonga (Lot 32, DP12371), as a local heritage item. The best and only means of achieving the objective to recognise the heritage significance and provide the site with statutory protection is through the Planning Proposal process. The site has been assessed as satisfying the NSW Heritage Council’s Criteria for local heritage significance and a heritage listing will provide ongoing protection and recognition of the heritage significance of the site. Other options such as adding site-specific objectives and controls to the *Ku-ring-gai Development Control Plan 2016* will not provide the same level of heritage protection and recognition.

**B. Relationship to strategic planning framework****Q3. *Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?***

Yes. The Planning Proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant actions of the *North District Plan* (2018), as discussed below.

**Greater Sydney Region Plan: A Metropolis of Three Cities**

The Planning Proposal is consistent with the directions and objectives of the Plan, particularly Objective 13:

*‘Environmental heritage is identified, conserved and enhanced’.*

Heritage listing of *Wainberg House* at 33 Young Street, Wahroonga will provide ongoing protection and recognition of the heritage significance of the item.

**North District Plan**

Yes. The Planning Proposal is generally consistent with the directions, priorities and objectives of the *North District Plan*, and more specifically with:

*Planning Priority N6. Creating and renewing great places and local centres and respecting the District’s heritage*

Action 21. 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.

Action 55. Consider the following issues when preparing plans for tourism and visitation:

- e. protecting heritage and biodiversity to enhance cultural and eco-tourism

Action 67. Identify and protect scenic and cultural landscapes

**Q4. *Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?***

Yes. The Planning Proposal is consistent with Ku-ring-gai's Community Strategic Plan 2038 (2018) ('CSP'). In particular, the Planning Proposal gives effect to the identified priority of '*protecting heritage buildings and historic places*'. In addition, the Planning Proposal will give effect to Theme 3 of the CSP, 'Places, spaces and infrastructure' which identifies the long-term objective '*Ku-ring-gai's heritage is protected, promoted and responsibly managed*'.

The Planning Proposal is consistent with Ku-ring-gai's Local Strategic Planning Statement (2020) ('LSPS') giving effect to a number of Ku-ring-gai Local Planning Priorities identified within the LSPS, including:

*Local Character and Heritage*

*K12. Managing change and growth in a way that conserves and enhances Ku-ring-gai's unique visual and landscape character*

*K13. Identifying and conserving Ku-ring-gai's environmental heritage*



**Q5. *Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?***

The following table identifies the key applicable SEPPs and deemed SEPPs and outlines this Planning Proposal's consistency with those SEPPs.

SEPP	Comment on Consistency
SEPP 55 Remediation of Land	Consistent. There is no evidence to suggest that the subject site could be affected by contamination from past land uses or activities being carried out on the land. The Planning Proposal does not seek to rezone or change the use of the site.
SEPP Exempt and Complying Development Codes 2008	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP (Housing for Seniors or People with a Disability) – 2004	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Building Sustainability Index : Basix 2004	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Infrastructure 2007	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Affordable Rental Housing 2009	Consistent. The Planning Proposal is consistent with the aims of the policy.

SREPP	Comment on Consistency
SYDNEY REP 20 Hawkesbury-Nepean River	Consistent. The Planning Proposal is consistent with the aims of the policy and will have no adverse impacts on the Hawkesbury-Nepean River.

**Q6. *Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?***

The following table identifies applicable section 9.1 Directions and outlines this Planning Proposal's consistency with those Directions.

Directions under s.9.1	Objectives	Consistency
<b>2. ENVIRONMENT AND HERITAGE</b>		
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental Heritage significance and indigenous heritage significance.	Consistent. The Planning Proposal is consistent with this direction and it will result in the conservation of a property that has satisfied the NSW Heritage Council's criteria for local heritage significance.
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Consistent. The Planning Proposal relates to an established dwelling, and in this regard will have no effect on the housing choice, infrastructure or environment.
<b>6. LOCAL PLAN MAKING</b>		
Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.

Directions under s.9.1	Objectives	Consistency
Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. This Planning Proposal is not for the purpose of facilitating a particular development proposal. It relates solely to the heritage listing of a new item of environmental heritage.

**C. Environmental, social and economic impact****Q7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The Planning Proposal is for the purposes of retaining an existing building. As such, there will be no adverse impact upon any critical habitat, threatened species, populations or ecological communities, or their habitats as a result of the heritage listing.

**Q8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

There are no environmental effects envisaged as a result of the heritage listing proposed by the Planning Proposal. Protection of the proposed item will be required if development is proposed for the site or in the vicinity of the site. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process. The environmental sustainability benefits afforded by the retention and conservation of heritage places includes the substantial reduction in building demolition and new construction waste, and the conservation of embodied energy in the existing buildings.

**Q9. *Has the planning proposal adequately addressed any social and economic effects?***

The Planning Proposal will result in positive social effects by facilitating the conservation of an item of local architectural and cultural heritage that has significance for the local community. The identification and protection of Ku-ring-gai's heritage places contributes to the ongoing conservation of Ku-ring-gai's community-valued historic landscape and garden suburbs. The Planning Proposal will not adversely impact on existing social infrastructure, such as schools and hospitals.

The Planning Proposal is not expected to result in adverse economic effects. A review of the numerous studies investigating the effect of designation (heritage listing and/or inclusion within a heritage precinct) on the value of houses has found the impact to be negligible. Other features including locational factors such as proximity to schools and access to public transport, and household attributes, such as number of bedrooms and parking spaces, have been shown to have greater influence on price than designation.



**D. State and Commonwealth interests****Q10. *Is there adequate public infrastructure for the planning proposal?***

The planning proposal relates to the heritage listing of an established building and does not involve amendments to the planning controls that will facilitate intensified development. No additional demand for public infrastructure is anticipated as a result of this listing. The existing services that are available to the site are suitable for the proposal of a local heritage listing in a residential zone.

**Q11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Should the Planning Proposal proceed to public exhibition, consultation with the relevant public authorities will be conducted. Council intends to notify Heritage NSW, Department of Premier and Cabinet during the public exhibition of the Planning Proposal. Any other authorities nominated by the Department of Planning, Industry and Environment as part of the requirements of the Gateway Determination will be consulted.

## PART 4 - MAPPING

Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies

The land subject to the Planning Proposal is 33 Young Street, Wahroonga (Lot 32, DP12371). The Planning Proposal will require amendment to the following KLEP 2015 map sheet:

- **Ku-ring-gai Local Environmental Plan 2015 – Heritage Map – Sheet HER\_006**

The subject site will be coloured to indicate a Heritage Item – General.

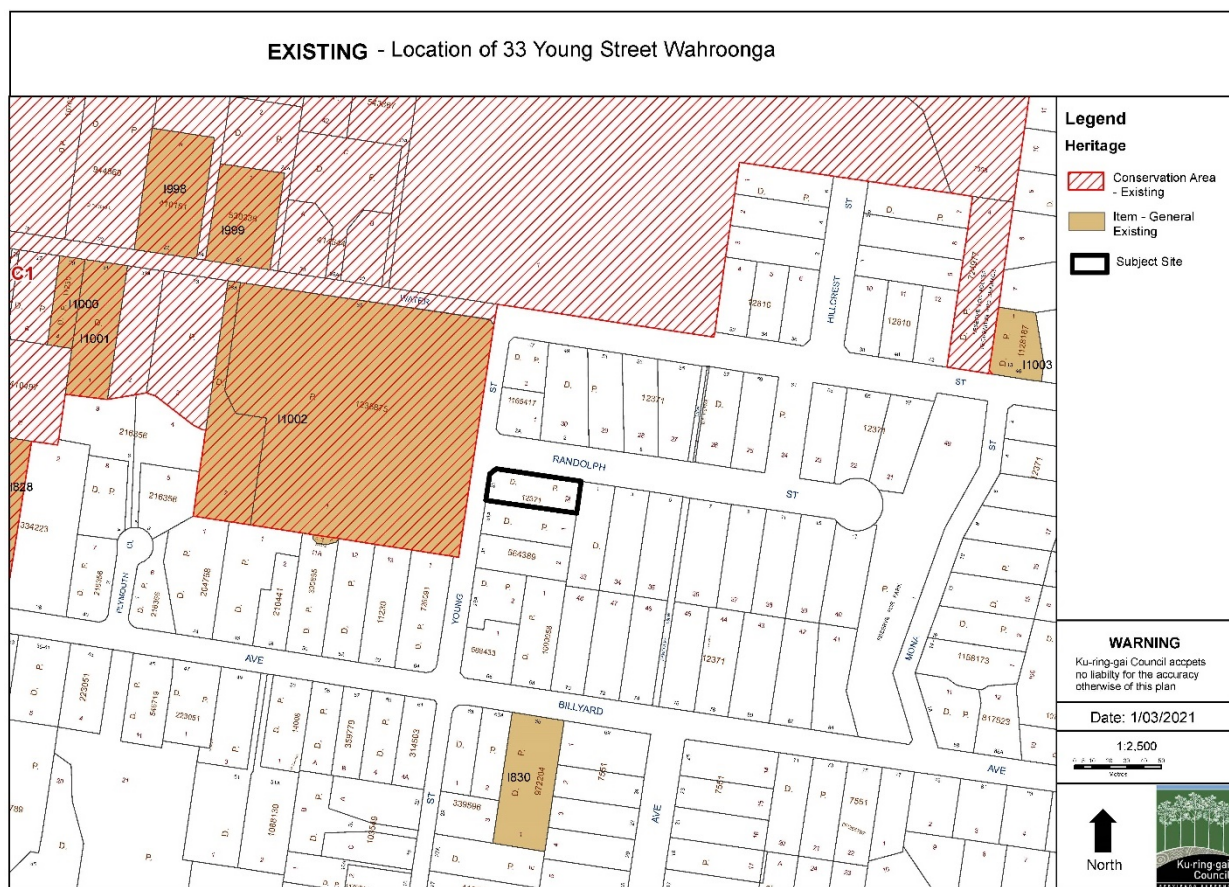


Figure 10. Map showing existing non-heritage listed status of 33 Young Street, Wahroonga and existing Heritage Items nearby

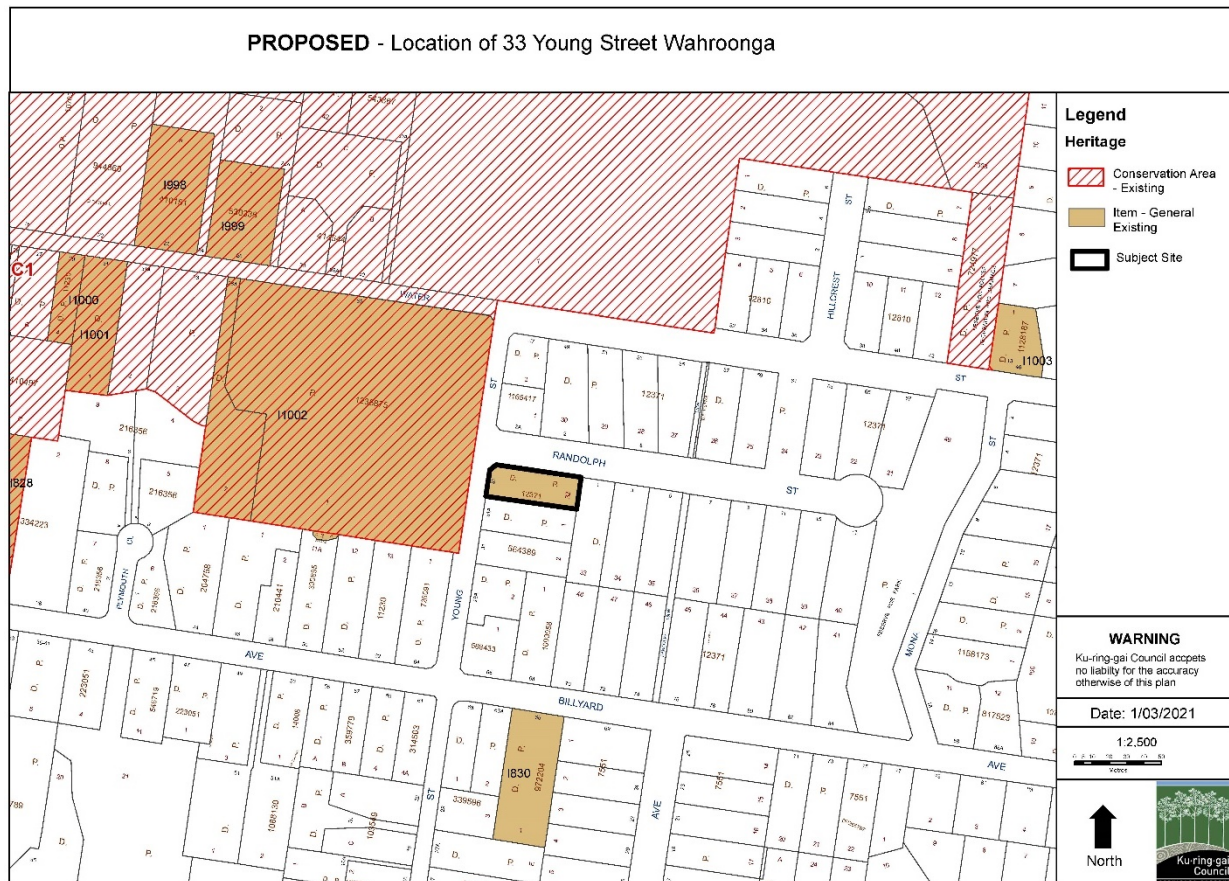


Figure 11. Draft map showing proposed amendment to heritage map showing 33 Young Street, Wahroonga shaded as Heritage Item – General

## PART 5 – COMMUNITY CONSULTATION

### Details of the community consultation that is to be undertaken on the planning proposal

Community Consultation for this Planning Proposal will be consistent with the requirements of the Gateway Determination, the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the consultation guidelines contained within the NSW Department of Planning, Industry and Environment's '*A Guide to Preparing Local Environmental Plans*' (December 2018).

In accordance with the Guide, the public exhibition of a Planning Proposal is generally undertaken in the following manner:

- Notification on Council's website on the 'Have my say' exhibition page
- Notification in writing to the affected and adjoining landowners

During the public exhibition period, the following material is made available for viewing:

- The Planning Proposal
- The Gateway Determination
- Information and technical reports relied upon by the Planning Proposal

The Planning Proposal is considered a low impact proposal. Therefore, the Proposal will be exhibited for a minimum of 14 days.

At the conclusion of the public exhibition period, a report will be prepared and presented to Council to allow for the consideration of submissions received from the community during the exhibition period.



**PART 6 – PROJECT TIMELINE**

Stage	Timing
Anticipated commencement date (date of Gateway determination)	May 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Run concurrently with exhibition period.
Commencement and completion dates for public exhibition period	31 May 2021 – 14 June 2021
Post exhibition review and reporting	14 June – 8 July 2021
Council meeting / consideration	20 July 2021
Legal drafting of LEP	August 2021
Anticipated date RPA will make the plan (if delegated)	August 2021
Notification of Plan on Legislation website	September 2021

**APPENDIX A – Preliminary Heritage Assessment of 33 Young Street,  
Wahroonga – November 2020**

## **APPENDIX B – Council resolution OMC - 8 December 2020**

**APPENDIX C – NSW Gazette – Interim Heritage Order – 33 Young Street,  
Wahroonga (Wainberg House) – 11 December 2020**

**APPENDIX D – Independent Heritage Assessment of 33 Young Street,  
Wahroonga (Wainberg House) – Robertson and Hindmarsh Pty Ltd –  
February 2021**



## **APPENDIX E – Council report and resolution OMC 16 March 2021**

## **APPENDIX F – Council report and resolution OMC 27 April 2021**

**APPENDIX G – 33 Young Street, Wahroonga ‘Wainberg House’ - Draft  
Heritage Inventory Sheet (SHI form)**