



**Planning,
Industry &
Environment**

33 Young Street, Wahroonga – Gateway Determination Report

Greater Sydney, Place and Infrastructure

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Glossary

Abbreviation	Reference
ADG	Apartment Design Guide
Council	Ku-ring-gai Council
DA	Development Application
DCP	Development Control Plan
Department/DPIE	Department of Planning, Industry and Environment
DP	Deposited Plan
FSR	Floor Space Ratio
GFA	Gross Floor Area
LEP	Local Environmental Plan
LHS	Local Housing Strategy
LPP	Local Planning Panel
LSPS	Local Strategic Planning Statement
PANS-OPS	Procedures for Air Navigation Services – Aircraft Operations
PPA	Planning Proposal Authority
RMS	Roads and Maritime Services
SEPP	State Environmental Planning Policy
SNPP/Panel	Sydney North Planning Panel

Summary

Local Government Area	Ku-ring-gai
Planning Proposal Authority	Ku-ring-gai Council
Planning Proposal Name	PP-2021-3341
Dwellings and Jobs	N/A
LEP to be Amended	Ku-ring-gai Local Environmental Plan 2015
Address	33 Young Street, Wahroonga
Lot and DP	Lot 32 in DP 12371
Date Received	3 May 2021
File Number	IRF21/2339
Political Donations	There are no donations or gifts to disclose and a political donation disclosure is not required.
Lobbyist Code of Conduct	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. Introduction

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend the Ku-ring-gai LEP 2015 for the subject site by inserting '*Wainberg House* and interiors, 33 Young Street, Wahroonga', into Schedule 5 Environmental Heritage and recognise the dwelling including the interior as an item of local heritage significance.

1.2 Site description

The site is located at 33 Young Street, Wahroonga, legally identified as Lot 32 DP 12371. A secondary street frontage along Randolph Street forms the site's northern boundary. The site is situated on the eastern side of Young Street in a predominantly residential locality and comprises a single residential dwelling, carport, swimming pool and associated landscaping (**Figure 1**).

The site contains 'Wainberg House', a two-storey Post-War International Style rendered brick residence with a tile roof and timber windows and doors (**Figure 2**).

The house is located within the front half of the site, with vehicular access to a carport from Randolph Street and a swimming pool located in the rear half of the site. The site gradually slopes east from Young Street to the rear of the site. Large mature trees define the site and the streetscape, providing a bushland setting for the surrounding area (**Figure 3**). The site has an area of 980.9m².



Figure 1: Site map (source: Nearmap).



Figure 2: View of Wainberg House from the front (source: Planning Proposal).



Figure 3: View of site from the corner of Young and Randolph Streets (source: Google Maps).

1.3 Surrounding area

The surrounding locality is primarily a mix of one or two-storey low density residential dwellings within a well-established landscape setting. The streetscape of the locality is notably characterised by large mature trees which have created a bushland setting for the surrounding context.

The nearest heritage item ('I1002' Rippon Grange house, grounds and associated buildings) is located on the opposite side of Young Street. The surrounding area is not subject to a heritage conservation area under Ku-ring-gai LEP 2015, however, the Wahroonga Conservation Area captures much of the locality including Rippon Grange house.

Wahroonga Public School is located 100m north of the site, while the Wahroonga railway station is located approximately 960m to the west.

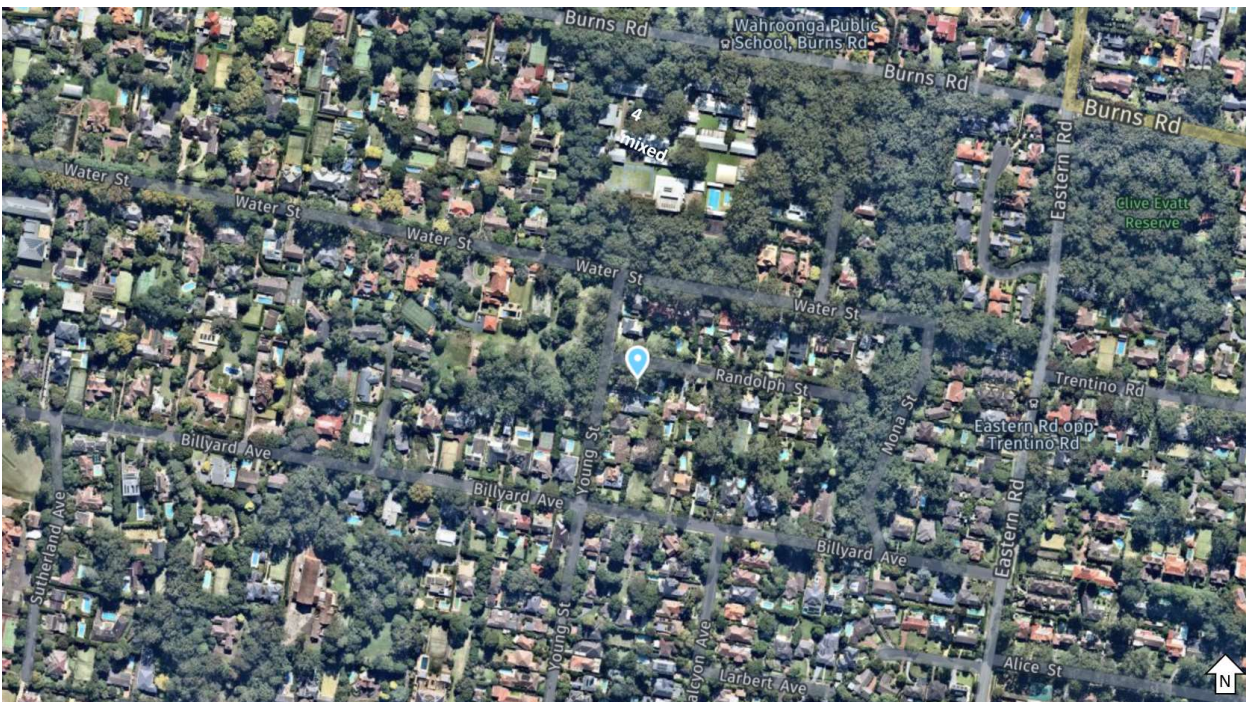


Figure 4: Site context map, showing the surrounding context to be low density and within a landscape / bushland setting – site indicated in blue (source: Nearmap).

1.4 Current planning controls

Under the Ku-ring-gai LEP 2015 the site is subject to the following key planning provisions:

- A R2 Low Density Residential zoning (**Figure 5**).
- A maximum building height of 9.5m (**Figure 6**).
- A maximum FSR of 0.3:1 (**Figure 7**).

The site is not currently identified as a heritage item or being within a heritage conservation area under Ku-ring-gai LEP 2015 (**Figure 8**).

Refer to **Attachment D** for further planning provisions under Ku-ring-gai LEP 2015.

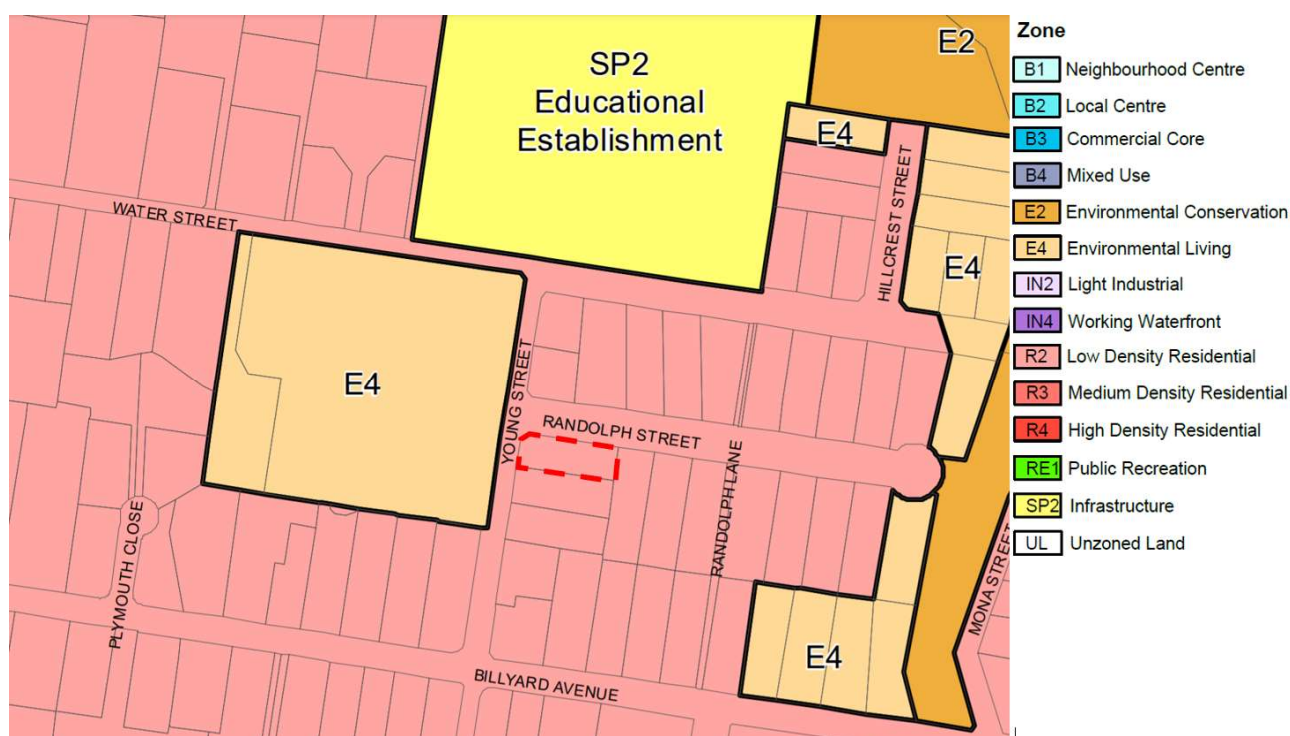


Figure 5: Ku-ring-gai LEP 2015 Land zoning map, site indicated in red dash (source: Legislation NSW).



Figure 6: Ku-ring-gai LEP 2015 Maximum building height map, site indicated in red dash (source: Legislation NSW).



Figure 7: Ku-ring-gai LEP 2015 Maximum FSR map, site indicated in red dash (source: Legislation NSW).



Figure 8: Ku-ring-gai LEP 2015 Heritage map, site indicated in red dash (source: Legislation NSW).

1.5 Summary of recommendation

The planning proposal for the local heritage listing of *Wainberg House* (including interiors) at 33 Young Street, Wahroonga, should proceed subject to conditions as:

- The proposed heritage listing is supported by an independent Heritage Assessment Report and inventory sheet which concluded that the property demonstrates significance as a good example of International style architecture with a strong association with Paul Kafka, the designer of its high-quality and intact interiors, and demonstrates patterns of European immigration in the inter-war and post-war periods following the series of conflicts in Europe. The heritage significance assessment has been undertaken in accordance with the NSW Heritage Office Guidelines;
- The proposal will recognise and provide on-going protection of the heritage significance of the dwelling and its interiors;
- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and Council's local strategic plans, and relevant State Environmental Planning Policies and Section 9.1 Directions; and
- The issue is primarily local in nature, and therefore Council should be authorised to be the local plan making authority to finalise the LEP.

2. Background

In October 2020, a community member brought the subject site to the attention of Council officers, noting that the property is an, *almost completely intact example of the International Style of architecture, with extensive original interiors designed and crafted by Paul Kafka*. The community member communicated their concern of the property's vulnerability with no heritage protection as a result of the property having recently been listed for sale.

On 26 November 2020, a preliminary heritage assessment was completed by Council officers (**Attachment A3**).

The concerns were discussed with Council's Heritage Reference Committee, who agreed that an Interim Heritage Order (IHO) should be invoked in this instance. The IHO would 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, Council resolved to place an IHO under section 25 of the *NSW Heritage Act 1977* on 33 Young Street, Wahroonga to enable a full and proper evaluation of the heritage significance and prevent any harm to the site in the interim (**Attachment E1**).

On 11 December 2020, the IHO came into effect though would lapse after 6 months (11 June 2021) unless Council passes a resolution to list the item on Schedule 5 of Ku-ring-gai LEP 2015, or nominates the item for inclusion on the State Heritage Register (**Attachment A4**).

In February 2021, a final heritage assessment, prepared by Council's commissioned heritage consultant Robertson and Hindmarsh Pty Ltd, was provided to Council (**Attachment A3**). The assessment found that the property is of local heritage significance and should be included as a heritage item under Ku-ring-gai LEP 2015.

A draft Heritage Inventory (SHI) form for 33 Young Street, Wahroonga was also prepared in support of the planning proposal (**Attachment A6**).

On 27 April 2021, Council resolved to forward the planning proposal to the Department for Gateway Determination (**Attachment E4**).

On 3 May 2021, the planning proposal was submitted to the Department via the Planning Portal.

It is noted that the planning proposal was not referred to the Ku-ring-gai Local Planning Panel for advice as Council's General Manager considered that the proposal would not have any significant adverse impact on the environment and adjoining land. Council considers this consistent with the Ministerial Direction for Local Planning Panels – Planning Proposals (**Attachment F1**).

The Department is satisfied this approach is consistent with the Ministerial Direction for Local Planning Panels – Planning Proposals.

3. Planning Proposal

3.1 Objectives or intended outcomes

The objective of the planning proposal is to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the Ku-ring-gai LEP 2015, to list *Wainberg House* and interiors, also identified 33 Young Street, Wahroonga, as a local heritage item. The proposal involves updating the corresponding heritage map under Ku-ring-gai LEP 2015 to identify the site as containing a heritage item.

The objective of the planning proposal is considered clear.

The proposal does not require amendments to any planning controls or land zoning under Ku-ring-gai LEP 2015.

3.2 Explanation of provisions

The Planning Proposal seeks to amend Schedule 5 Environmental Heritage of the Ku-ring-gai LEP 2015 as follows:

Table 1: Proposed amendments to Ku-ring-gai LEP 2015.

Suburb	Item Name	Address	Property Description	Significance	Item No.
Wahroonga	<i>Wainberg House</i> and interiors, 33 Young Street, Wahroonga.	33 Young Street, Wahroonga	Lot 32 DP 12371	Local	<i>To be prescribed when obtaining Parliamentary Counsel Opinion</i>

3.3 Mapping

The proposed heritage listing would require an amendment to Heritage Map Sheet HER_006 under Ku-ring-gai LEP 2015 to identify the site as containing a heritage item. The proposed map is provided at **Figure 9**.

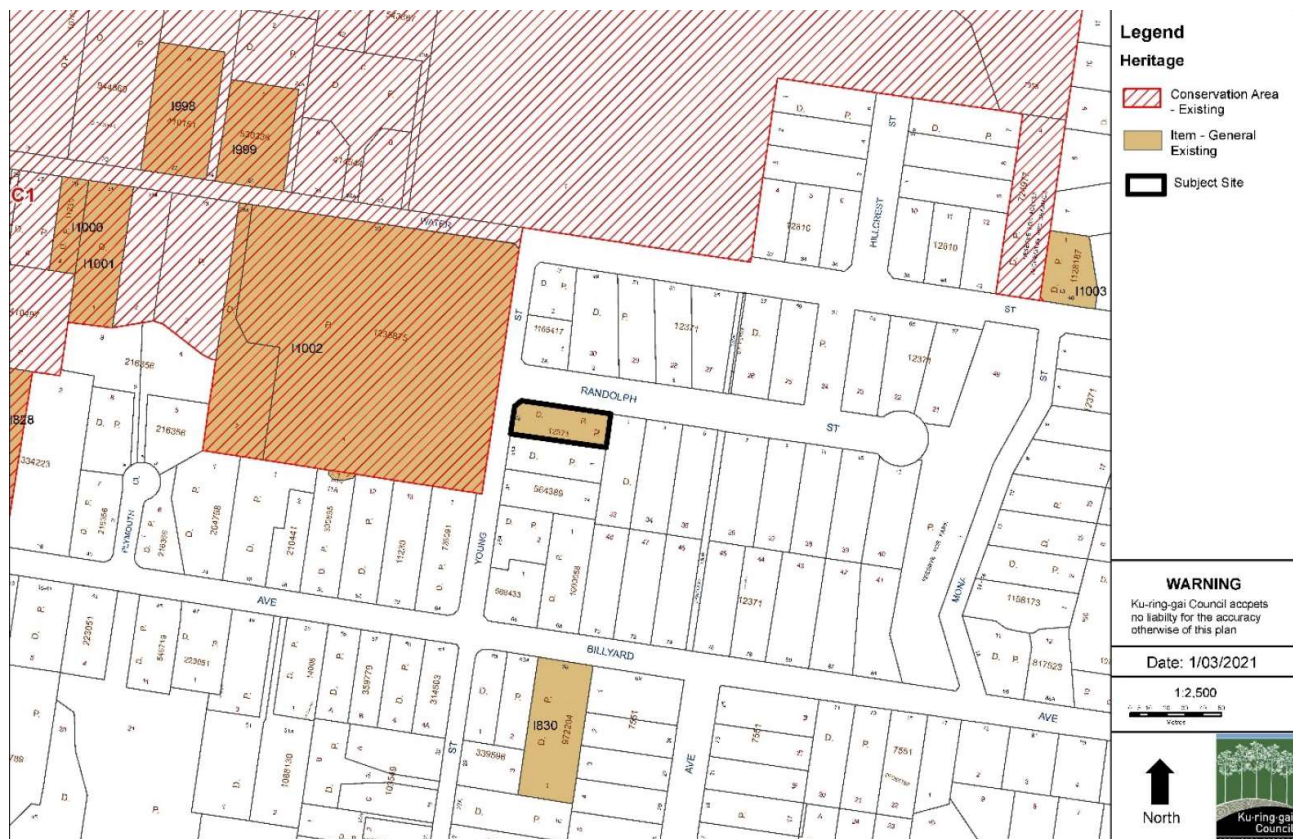


Figure 9: Proposed heritage mapping under Ku-ring-gai LEP 2015 (source: Planning Proposal).

The map will be required to be consistent with Department standard should the plan proceed to finalisation.

No changes are proposed to any other LEP maps.

4. Need for the planning proposal

The planning proposal intends to identify a detached dwelling as an item of local heritage significance under Ku-ring-gai LEP 2015, due to historical, associative and aesthetic significance, as well as rarity value.

The planning proposal is informed by a Heritage Assessment Report (HAR) prepared by Robertson & Hindmarsh Pty Ltd (**Attachment A5**) in accordance with the criteria and guidelines for assessing heritage significance gazetted by the NSW Heritage Council. The HAR provides a comparative analysis, identifies significant parts of the property which require retention and provides final recommendations.

The HAR concluded that the Wainberg House at 33 Young Street, Wahroonga, satisfies the NSW Heritage Council's criteria for local heritage listing and warrants listing under Schedule 5 of Ku-ring-gai LEP 2015.

The HAR notes that the property demonstrates significance as a good example of International style architecture with a strong association with Paul Kafka, the designer of its high-quality and intact interiors, and demonstrates patterns of European immigration in the inter-war and post-war periods following the series of conflicts in Europe.

5. Strategic Assessment

5.1 Greater Sydney Region Plan

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

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

The planning proposal is consistent with the above objective as heritage listing of the house and interiors at 33 Young Street, Wahroonga, will provide ongoing protection and recognition of the site's significance.

5.2 North District Plan

The North District Plan operates to give effect to the Region Plan. The North District Plan encompasses the Ku-ring-gai LGA.

The planning proposal is generally consistent with the North District Plan, and specifically aligns 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; and*
 - *c. managing and monitoring the cumulative impact of development on the heritage values and character of places.*

The proposal is consistent with the District Plan as it seeks to provide the statutory mechanism to protect and respect the District's heritage.

The proposal will recognise and provide on-going protection of the heritage significance of *Wainberg House* at 33 Young Street, Wahroonga, through heritage listing on the Ku-ring-gai LEP 2015.

5.3 Ku-ring-gai Community Strategic Plan 2038

The planning proposal report outlines that the proposal is generally consistent with Council's Community Strategic Plan (CSP). Within the CSP are priorities that centre on 'protecting heritage buildings and historic places'.

The CSP also contains underlying themes around 'place', with the CSP having a long-term objective of ensuring 'Ku-ring-gai's heritage is protected, promoted and responsibly managed'.

5.4 Ku-ring-gai Local Strategic Planning Statement

The Ku-ring-gai LSPS plans for Ku-ring-gai's economic, social and environmental land use needs for the next 20 years.

The proposal gives effect to Council's LSPS, specifically with the following Local Character and Heritage priorities:

- *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.*

The proposal will facilitate the conservation and protection of 33 Young Street, Wahroonga, which has been identified as having local heritage significance in a HAR commissioned by Council.

5.5 Section 9.1 Ministerial Directions

The proposal is consistent with the applicable section 9.1 Ministerial Directions as discussed in **Table 2**.

Table 2: Relevant section 9.1 Ministerial Directions.

Direction	Objective	Department comment
2.3 Heritage Conservation	<i>The objective of this direction is to conserve items, areas, objects and places of environmental Heritage significance and indigenous heritage significance.</i>	The objective of the proposal is to conserve an item that has been identified by Council as having local heritage significance. The proposal is consistent with this Direction.

Direction	Objective	Department comment
3.1 Residential Zones	<p><i>The objectives of this direction are:</i></p> <p><i>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p> <p><i>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i></p> <p><i>(c) to minimise the impact of residential development on the environment and resource lands.</i></p>	The proposal is not considered to be inconsistent with this Direction and does not impose changes to development controls or the existing land zoning.
6.4 Site Specific Provisions	<p><i>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</i></p>	The objective of the proposal is to protect a dwelling that has been identified by Council as having local heritage significance. The proposal is not inconsistent with this Direction.

5.6 State Environmental Planning Policies (SEPPs)

The proposal is not considered to be inconsistent with any SEPPs or Sydney Regional Environmental Plans.

6. Site-specific Assessment

6.1 Social

The planning proposal is unlikely to result in any adverse social impact. The heritage listing of the dwelling house and interiors would ensure a part of Ku-ring-gai's history is preserved and allow for appreciation of the item by the local community.

6.2 Environmental

The subject site is identified to have terrestrial biodiversity under Ku-ring-gai LEP 2015 (**Figure 10**), which refers to Clause 6.3 Biodiversity Protection. The objective of Clause 6.3 is to protect, maintain and improve the diversity and condition of native vegetation and habitat including:

- Protecting biological diversity of native fauna and flora;
- Protecting the ecological processes necessary for their continued existence;
- Encouraging the recovery of threatened species, communities, populations and their habitats; and

- Protecting, restoring and enhancing biodiversity corridors.

The clause requires that development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied the development is consistent with the objectives of the clause and is designed to avoid adverse environmental impacts on remnant vegetation communities, habitat and threatened species populations.

The planning proposal will not have any adverse impacts on the surrounding environment or to existing biodiversity located on the site as it seeks to list *Wainberg House* as a local heritage item and does not propose any amendments to the planning controls that will facilitate intensified development.



Figure 10: Ku-ring-gai LEP 2015 Terrestrial Biodiversity map, site indicated in red dash (source: Legislation NSW).

6.3 Economic

The proposal does not seek to change the zoning or development standards applicable to the site and is not considered to result in any significant adverse economic impacts.

The Department notes that the site is highly constrained by the Terrestrial Biodiversity map which applies to the majority of the site. This vegetation may limit the opportunity for development on the site.

The Department understands that the site was recently sold whilst the local heritage listing was being prepared and the new owner is aware of the proposed heritage listing.

Section 8 of the Heritage Assessment describes the significance of elements of the house and makes recommendations on the treatment of significant features with regard to any future alterations and additions.

6.4 Infrastructure

There is no significant infrastructure demand that will result from the planning proposal. The planning proposal does not involve any amendments to the planning controls that will facilitate intensified development.

7. Consultation

7.1 Community

Council has stated the intended community consultation will be consistent with the requirements of a Gateway determination, and in accordance with the *Guide to Preparing Local Environmental Plans* (December 2018). The Department agrees that the proposal is considered to be low-impact and requires a minimum 14 days for public exhibition.

7.2 Agencies

The planning proposal notes that Council will consult with Heritage NSW during the exhibition of the proposal. The Gateway is conditioned to require consultation with the Office of Premier and Cabinet – Heritage NSW to ensure consistency with NSW heritage listing policy.

8. Timeframe

The planning proposal includes a draft timeframe, anticipating approximately 6 months to make the LEP from the date of Gateway determination. The Department considers this timeframe to be satisfactory given the nature of the proposal.

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

9. Local Plan Making Authority

Council has sought to exercise its plan-making authority delegation under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979*. Given the proposal is primarily a local matter, as well as being low-impact, it is recommended that Council be the local plan-making authority.

10. Conclusion

The planning proposal for the local heritage listing of *Wainberg House* (including interiors) at 33 Young Street, Wahroonga, should proceed subject to conditions as:

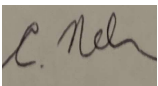
- The proposed heritage listing is supported by an independent Heritage Assessment Report and inventory sheet which concluded that the property demonstrates significance as a good example of International style architecture with a strong association with Paul Kafka, the designer of its high-quality and intact interiors, and demonstrates patterns of European immigration in the inter-war and post-war periods following the series of conflicts in Europe. The heritage significance assessment has been undertaken in accordance with the NSW Heritage Office Guidelines;

- The proposal will recognise and provide on-going protection of the heritage significance of the dwelling and its interiors;
- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and Council's local strategic plans, and relevant State Environmental Planning Policies and Section 9.1 Directions; and
- The issue is primarily local in nature, and therefore Council should be authorised to be the local plan making authority to finalise the LEP.

11. Recommendation

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

1. The planning proposal is to be amended to include an updated project timeline prior to public exhibition.
2. The planning proposal should be made available for community consultation for a minimum of **14** days.
3. The time frame for completing the LEP is to be **6 months** from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to finalise the LEP.



10 June 2021

Charlene Nelson

Manager, Place and Infrastructure, North District



14 June 2021

Brendan Metcalfe

Director, North District

Assessment officer: Geoff Kwok
A/ Senior Planning Officer, North District
Phone: 8275 1472

Attachments

Attachment Gateway – Gateway Determination

Attachment Letter – Letter to Council advising of decision

Attachment A – Planning proposal documentation

- **A1** – Planning Proposal Report
- **A2** – Planning Proposal Cover Letter
- **A3** – Preliminary Heritage Assessment
- **A4** – Interim Heritage Order (11 December 2020)
- **A5** – Independent Heritage Assessment Report
- **A6** – Draft State Heritage Inventory Form

Attachment B – Site map

Attachment C – Locality context map

Attachment D – Existing LEP maps

Attachment E – Council correspondence

- **E1** – Council Resolution (8 December 2020)
- **E2** – Council Resolution (16 March 2021)
- **E3** – Council Report (27 April 2021)
- **E4** – Council Resolution (27 April 2021)

Attachment F – Local Planning Panel

- **F1** – Referral Criteria for LPP Direction - Planning Proposals