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Gateway determination report – PP-2022-1088

Local heritage listing of 11 Seale Street, Burwood

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal – 11 Seale Street, Burwood (dated March 2022)
Heritage Assessment – 11 Seale Street, Burwood, GML Heritage (dated October 2021)
Burwood Council Ordinary Council Meeting Agenda, 22 March 2022
Burwood Council Ordinary Council Meeting Minutes, 22 March 2022
Burwood Local Planning Panel Minutes, 8 March 2022

1 Planning Proposal

1.1 Overview

The planning proposal seeks to amend the Burwood Local Environmental Plan 2012 (Burwood LEP 2012) to list 11 Seale Street, Burwood (the site) as a local heritage item.

The planning proposal is supported by the following report:

- Heritage Assessment – 11 Seale Street, Burwood, prepared by GML Heritage, dated October 2021

Table 2 Planning proposal details

LGA	Burwood Council
PPA	Burwood Council
NAME	Local heritage listing of 11 Seale Street, Burwood
NUMBER	PP-2022-1088
LEP TO BE AMENDED	Burwood Local Environmental Plan 2012
ADDRESS	11 Seale Street, Burwood
DESCRIPTION	Lot 1 DP 942801
RECEIVED	29/03/2022
FILE NO.	IRF22/1106
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

1.2 Site description and surrounding area

The site is legally described as Lot 1 DP 942801 and is located at 11 Searle Street, Burwood. The site is 1,169 m² in area with a wide street frontage of 23m. It is located on relatively flat land on the northern side of Seale Street, opposite the intersection of Seale Street and Quandong Avenue.

The site is zoned R2 Low Density Residential and is surrounded by 1-2 storey low density dwellings to the north, east and west (**Figure 1**). The surrounding area is characterised by narrow, rectangular residential lots, with the exception of the subject site which has retained its original large lot size and setting from the time the dwelling was constructed.

The site is occupied by a detached single-storey federation dwelling, known as ‘Carinya’ (**Figure 2**) constructed in 1913- 1914. The dwelling displays stylistic influences from the Federation Queen Anne and Federation Bungalow architectural style. The primary façade is asymmetrical and features a prominent slate roof, projecting bays and a verandah that wraps around the front and eastern side of the house. A single storey rear extension was built in more recent times, and a garage was constructed on the site post-1943. Photographs of the site are at **Figure 4 to 6**.

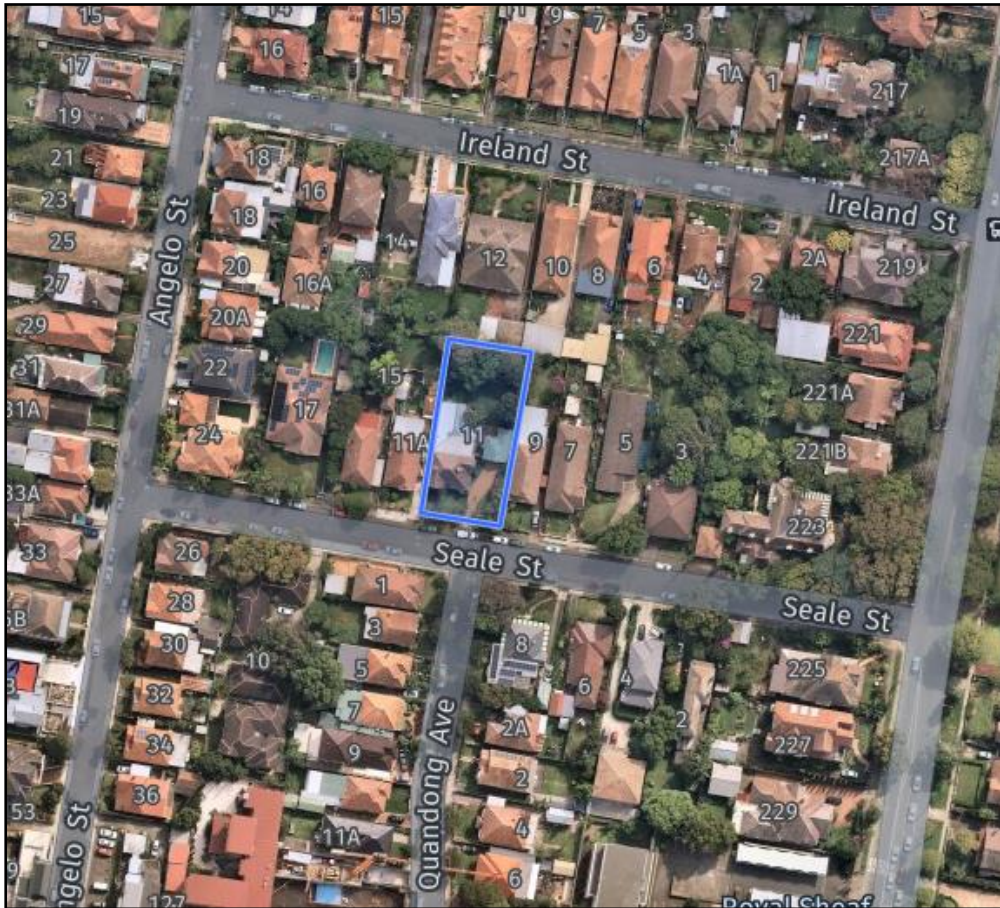


Figure 1 Site context, bounded in blue line (Base source: Nearmap)

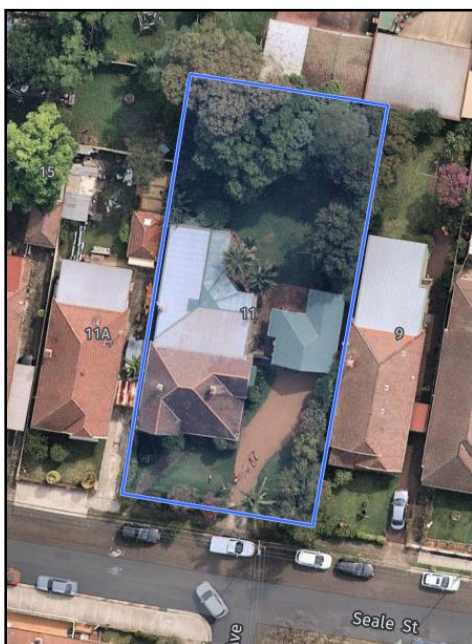


Figure 2 The subject site (Base source: Nearmap)



Figure 4 The view of the site's primary street frontage (source: GML Heritage)



Figure 5 and 6. Original timber and glass panelled door with leadlight and decorative plaster ceiling in central hallway (source: GML Heritage)

1.2.1 Heritage Context

The site is not within a heritage conservation area (HCA) under Schedule 5 of the Burwood Local Environmental Plan (Burwood LEP) 2012 (**Figure 7**). The site is close to the Burwood Road HCA (reference C5 on Figure 7) and the following local heritage items are located in the vicinity of the site:

- *Brick Cottage* (Item I99) at 8 Seale Street, Burwood, is an item of local heritage significance located to the south of the subject site
- *'St Cloud' and grounds* (Item I35) at 223 Burwood Road, Burwood, is an item of state heritage significance located to the east of the subject site
- *'Glenrock'* at 31 Angelo Street, Burwood (Item I1) is an item of local heritage significance located to the west of the site.

The site is subject to an Interim Heritage Order (IHO) which was published in the NSW Government Gazette on 2 July 2021 and will expire on the 2 July 2022.



Figure 7 Map - Surrounding Heritage Context (source: GML Heritage)

1.3 Background

The following background is relevant to the planning proposal:

- **18 May 2021** – A Development Application (DA – Council's reference: DA2020/51) was submitted to Council for the demolition of all existing structures on the site, including the dwelling house and construction of a new two storey dwelling.
- **29 June 2021** – Council resolved to request an Interim Heritage Order for the site from Heritage NSW under section 25 of the *Heritage Act 1977* and engage a heritage advisor to undertake a heritage investigation of the property to determine the heritage significance of the site.
- **2 July 2021** – An Interim Heritage Order for the site was gazetted and Council engaged GML Heritage to undertake a Heritage Assessment of the site.

- 26 October 2021 – the findings of the Heritage Assessment were reported to Council. Council resolved to endorse the heritage listing of the site.
- 8 March 2022 – the Burwood Local Planning Panel (LPP) supported the planning proposal to proceed to Gateway.
- 29 March 2022 – the planning proposal was submitted to the Department of Planning and Environment (the Department) for Gateway determination

2 Proposal

2.1 Objectives or intended outcomes

The objective of the planning proposal is to recognise the heritage significance of 11 Searle Street Burwood and provide it with additional statutory protection.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

2.2 Explanation of provisions

The planning proposal seeks to amend the Burwood LEP 2012 to:

- Insert a local heritage listing for 11 Seale Street, Burwood, with the item name 'Carinya' in Part 1 (Heritage items) of Schedule 5 (Environmental heritage); and
- Amend the Heritage Map (Sheet HER_002) of the Burwood LEP 2012 to identify 11 Seale Street, Burwood, as a heritage item.

The explanation of provisions in the planning proposal adequately explains the intended changes to the Burwood LEP 2012.

The planning proposal includes an item number for the proposed heritage listing (being I225). A Gateway condition is recommended to require inclusion of an advisory that this item number is indicative and will be confirmed at the finalisation stage.

2.3 Mapping

The planning proposal includes mapping showing the proposed changes to the Heritage Map, which is suitable for community consultation.

It is noted the heritage item number 'I225' as shown on the proposed Heritage Map in **Figure 8** is indicative only and will be confirmed at finalisation stage.

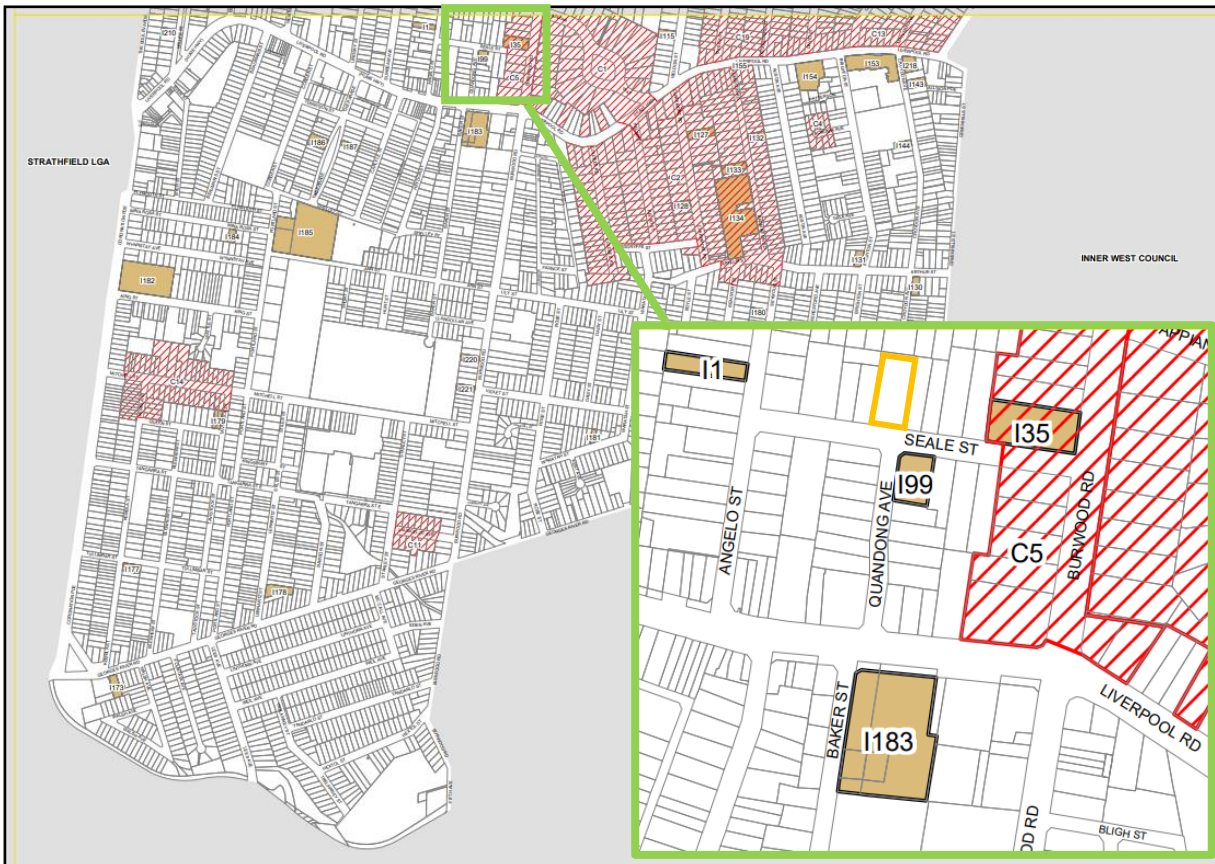


Figure 11 Existing Heritage Map identifying 11 Seale Street, Burwood, within the orange line.

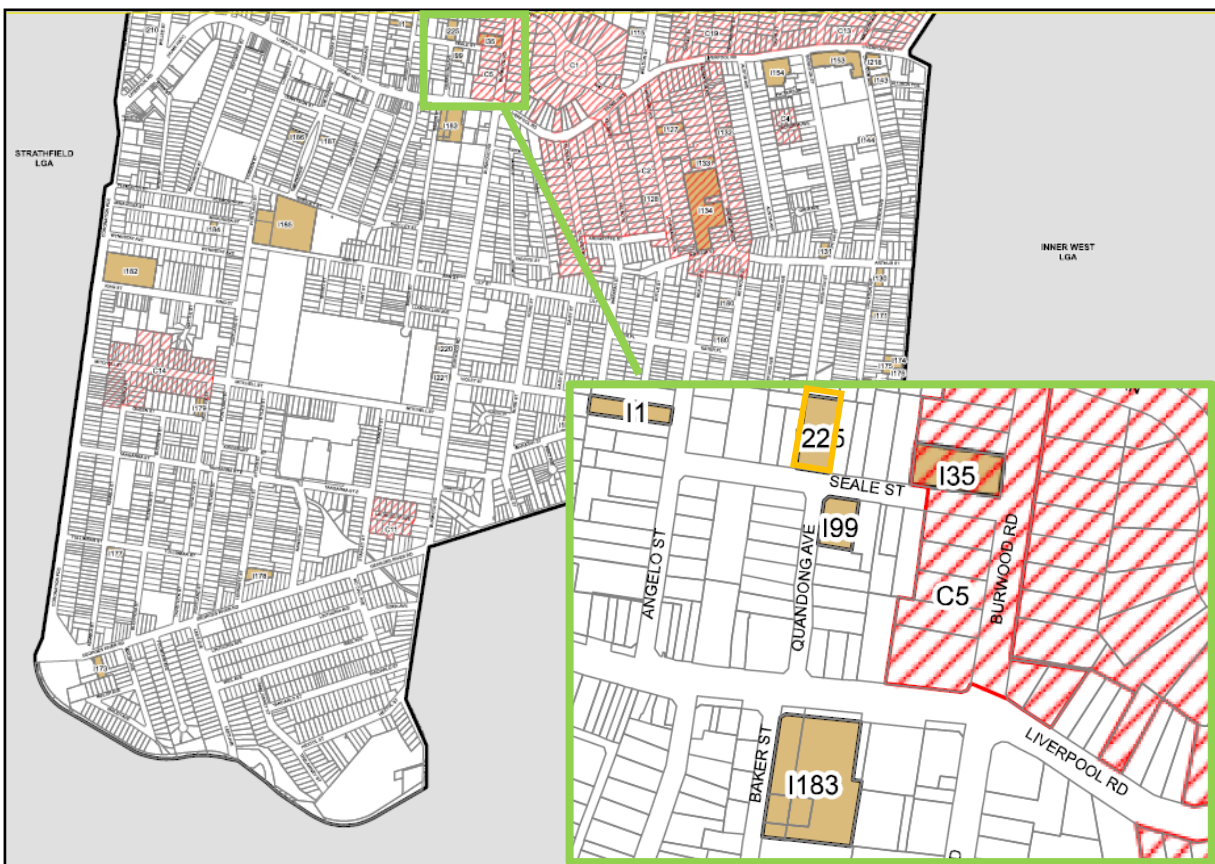


Figure 14 Proposed Heritage Map identifying 11 Seale Street, within the orange line

3 Need for the planning proposal

The planning proposal is based on the recommendations of a Heritage Assessment undertaken by GML Heritage (**Attachment B**). The assessment concluded that the site is of local heritage significance and meets the criteria for listing as a local heritage item.

The assessment was undertaken in accordance with the NSW Heritage Manual Guidelines, prepared by the NSW Heritage Office and Department of Urban Affairs and Planning (July 2001).

The key findings of this assessment are summarised below:

Criterion (a) Historical Significance

With regard to 'historical significance', the site has cultural significance at a local level on account of:

- the site being owned by the Seale and Ireland families who played a formative role in the development of the area from the mid-nineteenth century to the early twentieth century
- the lot boundaries have remained unaltered and provide an understanding of the subdivision pattern prevalent in the area
- the dwelling represents residential development of Burwood during the late Federation period.

Criterion (b) Associative Significance

With regard to 'associative significance', the site has cultural significance at a local level on account of:

- the Ireland family were a locally prominent family and played a key role in the Burwood's development in the early twentieth century. Members of the Ireland family have a long-standing connection to 11 Seale Street, having resided there until the 1960s.

Criterion (c) Aesthetic Significance

With regard to 'aesthetic significance', the site has cultural significance at a local level on account of:

- the dwelling demonstrates a small-scale Federation dwelling
- the dwelling demonstrates a high level of integrity and intactness and incorporates several architectural features typical of the style and period.
- the house retains its original scale, form, features, detailing and materiality.
- the original internal configuration, architectural features and decorations remain largely unaltered.
- the curtilage and setting of the site, including the front and rear gardens, are highly intact.

Criterion (d) Social Significance

The Heritage Assessment notes the site does not meet the threshold for local social significance as there is no evidence to suggest the property holds any strong or significant associations with any local community or cultural groups.

Criterion (e) Research Potential

The Heritage Assessment notes that an assessment of the sites' archaeological potential is beyond the scope of the report. The property, however, is considered unlikely to yield any information that could contribute to the understanding of the local area that is not otherwise available.

Criterion (f) Rarity

With regard to 'rarity' the site has cultural significance at a local level on account of:

- the lot boundaries have not been altered since the construction of the dwelling in 1913 or 1914.
- the high degree of integrity of the fabric, particularly the original internal layout and decorations are rare in the Burwood area.

Criterion (g) Representativeness

With regard to 'representativeness' of European settlement the site has cultural significance at a local level on account of:

- the house is a fine example of a Federation dwelling and exhibits typical features
- the very high and unusual degree of integrity and intactness of the fabric.

4 Strategic assessment

4.1 Region Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan: *A Metropolis of Three Cities*.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 13: Environmental Heritage is identified, conserved and enhanced	<p>Objective 13 states that '<i>Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations</i>'. It notes that environmental heritage should be protected for its social, aesthetic, economic, historic and environmental values.</p> <p>Environmental heritage is defined as '<i>the places, buildings, works, relics, movable objects and precincts of State or local heritage significance</i>'.</p> <p>The Heritage Report considers that the site should be included as a local heritage item under the BLEP 2012 as it meets the listing criteria for historic, associative, aesthetic, rarity and representative values.</p> <p>The planning proposal is consistent with this objective as it seeks to recognise and protect these identified heritage values.</p>

4.2 District Plan

The site is within the East District and the Greater Sydney Commission released the Eastern District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for liveability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4 District Plan assessment

District Plan Priorities	Justification
Planning Priority E6 – Creating and renewing great places and local centres and respecting the District's heritage	<p><u>Action 20 - Identify, conserve and enhance environmental heritage</u></p> <p>The planning proposal is consistent with the District Plan as it identifies a site that has been assessed to have local heritage significance for statutory listing. This listing in Schedule 5 of the LEP would facilitate conservation of the environmental heritage and provide ongoing protection of its values in the local government area.</p>

4.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Burwood Strategic Planning Statement (BLSPP 2040)	<p><u>Planning Priority 5 – Identify local character areas considering preservation, enhancement and cultivation.</u></p> <p>The planning proposal is consistent with this Priority as it would result in the local heritage listing of a site that is of local heritage significance to the Burwood local government area (LGA). This would enable statutory heritage listing of the site and would preserve, protect and promote its value in the LGA.</p> <p>The Department therefore concludes the planning proposal is consistent with the objectives of the Burwood LSPS.</p>
Burwood Community Strategic Plan 2030	<p>The Burwood Community Strategic Plan (CSP), <i>Burwood 2030</i>, was developed in 2018 and aims to turn community aspirations into reality and to make sure Council's priorities are set according to the residents' needs.</p> <p>The planning proposal is consistent with Action 4.3.2 – Preserve heritage through relevant planning strategies.</p> <p>The heritage listing of the site would contribute to achieving this goal as it would facilitate the on-going protection of the site and would preserve the site for future generations to enjoy and appreciate.</p>

4.4 Local planning panel (LPP) recommendation

On 8 March 2022, the Burwood LPP considered a report on the planning proposal for the local heritage listing of the site and recommended Council proceed with the proposal and forward it to the Department for a Gateway determination.

4.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Yes	<p>This Direction requires that a planning proposal must contain provisions which facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance, as identified in a study of the environmental heritage of the area.</p> <p>The planning proposal is informed by a heritage significance assessment. The assessment was undertaken in accordance with the NSW Heritage Office guidelines. The report concluded the subject site satisfies the relevant criteria for local heritage listing.</p> <p>The proposal will facilitate the conservation and protection of the site and is therefore considered to be consistent with this Direction.</p>
6.1 Residential Zones	Yes	<p>This Direction applies to any planning proposal that would affect land within an existing residential zone.</p> <p>There is no proposed change the current R2 zoning of the site or to the development standards applicable to the site.</p> <p>The listing of the site as a local heritage item would require any future development application for the site to be assessed against the provisions of Clause 5.10 (Heritage Conservation) in the Burwood LEP 2021.</p> <p>The planning proposal is consistent with this Direction.</p>

4.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

5 Site-specific assessment

5.1 Environmental

The planning proposal relates only to the listing of the site as an item of local heritage significance and does not propose any changes to the LEP controls that would facilitate intensification of land use.

There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject site.

The Department therefore concludes that there are no likely negative environmental impacts that would arise as a result of the planning proposal.

5.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal is unlikely to result in any adverse social impact. Listing the site as a heritage item will help conserve its heritage significance and allow it to be appreciated by the local community.</p> <p>The heritage listing of the site is likely to result in a positive social impact to the local government area. The Department also notes the aesthetic and historic qualities of the site remain appreciated in the local community.</p> <p>The listing of the site as a local heritage item would facilitate conservation of its values and protect it for future generations.</p>
Economic	<p>There would be a minor economic impact to the landowner as the heritage listing of the property will prevent certain works from being carried out as exempt or complying development. A specialist heritage assessment would also be required to support any development applications for the site. However, the proposal does not change the zoning or development standards applicable to the site and will facilitate conservation of its heritage significance.</p>

5.3 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. The site has access to adequate public infrastructure such as water, sewer, electricity, telephone services and are nearby to transport services.

6 Consultation

6.1 Community

Council proposed a community consultation period of 14 days.

This timeframe is inconsistent with the LEP Making Guideline timeframe of 20 days for a basic planning proposal. A gateway condition has been included to require the planning proposal be exhibited for 20 working days, consistent with the benchmark timeframes in the LEP Making Guideline.

6.2 Agencies

The planning proposal notes that Heritage NSW (Department of Planning) should be consulted.

It is recommended Council consult Heritage NSW (Department of Planning) on the planning proposal and are given 21 days for comment.

7 Timeframe

Council's program in the planning proposal indicates a timeframe of 8 months to complete the LEP.

The Department's *Local Environmental Plan Making Guideline 2021* (LEP Making Guideline) sets a maximum benchmark timeframe of 115 working days for the post-Gateway, exhibition and finalisation stages of a basic planning proposal.

The Department recommends a timeframe of 6 months to complete the LEP consistent with the timeframes for a basic planning proposal in the LEP Making Guideline.

8 Local plan-making authority

Council requested to exercise its functions as a Local Plan-Making authority.

The proposed heritage listing is considered a local matter, and the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

9 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposed heritage listing is supported by a Heritage Assessment and inventory sheet which determined that 11 Seale Street, Burwood, is of local heritage significance. The heritage significance assessment has been undertaken in accordance with the NSW Heritage Guidelines.
- The proposal will recognise and provide ongoing protection of the heritage significance of the site.
- The proposal is consistent with the East District Plan, Council's LSPS, the relevant SEPPs and the Section 9.1 Directions.

Based on the Department's assessment, the following amendments to the planning proposal should be made prior to exhibition:

- include an advisory that the heritage item number is indicative only and will be confirmed at the finalisation stage, and
- update the project timeline to reflect the timeframe allowed to complete the LEP, where appropriate.

10 Recommendation

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

1. The planning proposal is to be revised, prior to exhibition, to:
 - include an advisory that the heritage item number is indicative only and will be confirmed at the finalisation stage, and

- update the project timeline to reflect the timeframe allowed to complete the LEP, where appropriate.
2. Consultation is required with the following public authorities / organisations:
 - Heritage NSW (Department of Planning and Environment)
 3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
 4. The planning proposal must be exhibited not more than 2 months from the date of the Gateway determination.
 5. The planning proposal must be reported to council for a final recommendation not more than 4 months from the date of the Gateway determination.
 6. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
 7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



20 April 2022

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