

Item No:	R3 Recommendation to Council
Subject:	PLANNING PROPOSAL - HERITAGE LISTING OF 'SUNNY BRAE, INCLUDING INTERIORS' AT 40 FITZWILLIAM ROAD, VAUCLUSE
Authors:	Flavia Scardamaglia, Strategic Heritage Officer Anne White, Manager - Strategic Planning
Approver:	Scott Pedder, Director - Planning & Place
File No:	22/39605
Purpose of the Report:	To update Council on the site visit which was conducted on 7 March 2022. To obtain Council's approval to proceed with the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse as a local heritage item in Schedule 5 and on the Heritage Map of Woollahra Local Environmental Plan 2014.
Alignment to Delivery Program:	Strategy 4.3: Protect our heritage, including significant architecture and the natural environment.

Recommendation:

- A. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee meeting of 4 April 2022 be forwarded to the Department of Planning and Environment with a request for a gateway determination to allow public exhibition.
- B. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Executive Summary:

The purpose of this report is to seek Council's support to proceed with the planning proposal at **Attachment 1** to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse as a local heritage item in Schedule 5 and on the Heritage Map of Woollahra Local Environmental Plan 2014.

Discussion:

Background

On 28 April 2021, a request for a planning proposal was lodged by the Applicant's team to list 'Sunny Brae, including interiors' as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). The request for a planning proposal was accompanied by a Heritage Assessment prepared by GBA Heritage (**Attachment 2**).

The Heritage Assessment report recommends:

- 'Sunny Brae, including interiors' should be listed as an item of local heritage significance in Schedule 5 of the Woollahra LEP 2014;
- 'Sunny Brae, including interiors' should be nominated for inclusion on the State Heritage Register (SHR) as an item of State significance;
- The curtilage of the item should include only Lot 2 DP 1254483 and Lot 1 DP 1112583.

Council staff support the recommendation to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse as a local heritage item in the Woollahra LEP 2014. With regards to the State Listing, as this is a proactive owner initiated heritage listing, we recommend that the Applicant progresses this element and is responsible for making a SHR nomination to Heritage NSW.

The request for a planning proposal was considered by the Environmental Planning Committee (EPC) on 10 May 2021 (see **Attachment 4**) and subsequently on 24 May 2021, Council resolved:

- A. *THAT a planning proposal be prepared to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee*

The matter was referred to the Woollahra Local Planning Panel (Woollahra LPP) (see **Attachment 5**) on 17 June 2021, where the Woollahra LPP provided the following advice to Council:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse, as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.

The planning proposal has been updated to include the advice from the Woollahra LPP (see **Attachment 1**).

The updated planning proposal was considered by the EPC meeting of 12 July 2021 (see **Attachment 6**), where staff made the following recommendation:

- A. *THAT Council note the advice provided by the Woollahra Local Planning Panel on 17 June 2021 for the planning proposal to list 'Sunny Brae, including interiors', at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal, as contained in **Annexure 3** of the report to the Environmental Planning Committee meeting of 12 July 2021 be forwarded to the Department of Planning, Industry and Environment with a request for a gateway determination to allow public exhibition.*
- C. *THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979.*

On 26 July 2021, Council resolved the following:

- A. *THAT Council defer the further consideration of the Planning Proposal to heritage list "Sunny Brae", including interiors at 40 Fitzwilliam Road, Vaucluse until such time that a site visit can occur attended by the members of the Environmental Planning Committee.*
- B. *THAT a further report be prepared and reported to the Environmental Planning Committee following the site visit.*

Late correspondence was tabled to the meetings of Council from (or on behalf of) owners of neighbouring properties. In summary, this correspondence raised concerns with the proposed heritage listing impeding the development potential of adjoining land. In March 2022, and in light of the issues raised in the late correspondence and the discussions held at the EPC meeting of 12 July 2021 the heritage inventory sheet was modified (see **Attachment 3**). The key amendment was to remove any reference to views in the recommendations.

Site Visit

As a consequence of the COVID-19 restrictions, Council elections, and the Christmas shutdown period, the site visit could not be arranged until 7 March 2022 at 4.30pm. All Councillors were invited, and the meeting was attended by Cr Grieve, Cr Regan, Cr Silcocks, Cr Witt and Cr Zeltzer.

The adjoining owners who had submitted late correspondence on this matter were invited to participate, and were given the opportunity to invite Councillors onto their property. None of these owners responded to staff correspondence.

The inspection commenced at the front door of the property at 40 Fitzwilliam Road, Vaucluse where Councillors were able to see the views available from this level. A commentary from council staff was provided regarding the recently approved development application at 40A Fitzwilliam Road, Vaucluse, DA2020/496/1. Councillors then inspected the interiors of the property, including the views afforded from the rest of the property level.

Next steps

Subject to Council's decision, the planning proposal (with minor updates to refer to the site visit and Council decision) will be referred to the Department of Planning and Environment (DPE) for a gateway determination. This will allow the planning proposal to be placed on public exhibition.

The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the *Environmental Planning and Assessment Regulation 2021* and the gateway determination issued by the DPE as delegate for the Minister.

The gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days, which is consistent with Council's standard practice for the exhibition of a planning proposal.

Public notification of the exhibition will comprise:

- A notice to the land owner of the site.
- A notice on Council's website.
- A notice to land owners adjoining and in the vicinity of the site.
- A weekly notice in the Wentworth Courier for the duration of the exhibition period (if a hardcopy is being published).
- A letter to local community groups.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices (subject to current COVID-19 health orders):

- The planning proposal, in the form approved by the gateway determination.
- The gateway determination.
- Information relied upon by the planning proposal (such as relevant Council reports).

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, staff have recommended that Council should request authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act. Part C of the recommendation for this report deals with this request. After public exhibition, the planning proposal and submissions received will be reported to Council.

Options:

As a consequence of this report, Council may resolve to proceed with a planning proposal to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vaucluse as a heritage item in the Woollahra LEP 2014.

Alternatively, Council may resolve not to support the preparation of a planning proposal or require staff to make amendments.

Community Engagement and / or Internal Consultation:

No other community engagement has been undertaken to date. Public exhibition of the planning proposal will be undertaken in due course and in accordance with the Gateway Determination conditions and the *NSW Environment Planning and Assessment Act 1979*.

Policy Implications:

Should Council resolve to prepare a planning proposal, and should the planning proposal progress to finalisation, there will be policy implications by listing the property as a heritage item in the Woollahra LEP 2014.

Financial Implications:

NIL

Resourcing Implications:

Staff resource implications will be associated with progressing a planning proposal which will include managing the public exhibition and preparing a post exhibition report to a meeting of Council.

Conclusion:

The listing of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Woollahra LEP 2014 is supported by an assessment of the heritage significance prepared by GBA Heritage. This is supported with a heritage inventory sheet which has been amended to remove any reference to views in the recommendations.

On 7 March 2022 at 4.30pm, a site visit to 40 Fitzwilliam Road occurred, attended by Council staff and Councillors.

Staff recommend that Council proceeds by referring the planning proposal to the DPE requesting a gateway determination to allow public exhibition

Attachments

1. Planning Proposal - Local heritage listing of 40 Fitzwilliam Road Vaucluse - updated March 2022
2. Heritage Assessment report by GBA Heritage - June 2021
3. Updated Heritage Inventory Sheet (March 2022)
4. Report to the Environmental Planning Committee dated 10 May 2021 (excluding attachments)
5. Report to the Woollahra LPP 17 June 2021 (excluding attachments)
6. Report to the Environmental Planning Committee dated 12 July 2021 (excluding attachments)