

Item No: R5 Recommendation to Council
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF 'SUNNY BRAE, INCLUDING INTERIORS' AT 40 FITZWILLIAM ROAD, VAUCLUSE**
Author: Flavia Scardamaglia, Strategic Heritage Officer
Approvers: Anne White, Manager - Strategic Planning
Nick Economou, Acting Director Planning & Place
File No: 21/112554
Reason for Report: To provide Council with the advice of the Woollahra Local Planning Panel.
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 Woollahra Local Environmental Plan 2014.

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, Vacluse 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*.

1. 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 (**Annexure 1**).

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 **Annexure 2**) 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, Vacluse 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*

At the meeting of the EPC, Councillors requested GBA Heritage insert additional information into the background of the Heritage Assessment. This work was undertaken and has been included in Part 2.2 of the Assessment at **Annexure 1**.

2. Planning Proposal

A planning proposal was prepared in accordance with the Council's decision of 24 May 2021. The objective of the amendment to the Woollahra LEP 2014 is to recognise the heritage significance of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse and provide it with statutory heritage protection.

3. Woollahra Local Planning Panel advice

The matter was referred to the Woollahra Local Planning Panel (Woollahra LPP) on 17 June 2021, where they 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, Vacluse, as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.

The planning proposal (attached at **Annexure 3**) has been updated to include the advice from the Woollahra LPP.

4. Next steps

Subject to the Council's decision, the planning proposal (with updates to make reference to the Council decision) will be referred to the Department of Planning, Industry and Environment (the Department) 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 2000* and the gateway determination issued by the Department 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.

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, Council may 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.

5. 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. On 17 June 2021, the Woollahra LPP provided advice to Council that it supports the planning proposal.

The Council may now proceed with referring the planning proposal to the Department requesting a gateway determination to allow public exhibition

Annexures

1. Assessment of heritage significance (including heritage inventory sheet) by GBA Heritage - June 2021
2. Report to the Environmental Planning Committee 10 May 2021 (excluding Annexures)
3. Updated Planning Proposal (excluding annexures) July 2021