



IRF22/1800

## Gateway determination report – PP-2022-1828

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Planning Proposal to list 40 Fitzwilliam Road,  
Vaucluse as a Local Heritage Item

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal – June 2022
Heritage Assessment Report – June 2021
Heritage Inventory Sheet – 17 June 2022
Woollahra Municipal Council Environmental Planning Committee minutes – 10 May 2021
Woollahra Municipal Council resolution – 24 May 2021
Woollahra Local Planning Panel minutes – 17 June 2021
Woollahra Municipal Council resolution – 26 July 2021
Woollahra Municipal Council Environmental Planning Committee minutes – 4 April 2022
Woollahra Municipal Council resolution – 26 April 2022

# 1 Planning proposal

## 1.1 Overview

The planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 to list 40 Fitzwilliam Road, Vaucluse within the Woollahra Local Government Area (LGA) as a local heritage item.

The planning proposal is supported by the following reports:

- Heritage Assessment Report prepared by GBA Heritage Pty. Ltd.
- Heritage Inventory Sheet

**Table 2 Planning proposal details**

<b>LGA</b>	Woollahra
<b>PPA</b>	Woollahra Municipal Council
<b>NAME</b>	Local heritage listing of 40 Fitzwilliam Road, Vaucluse, known as 'Sunny Brae'
<b>NUMBER</b>	PP-2022-1828
<b>LEP TO BE AMENDED</b>	Woollahra Local Environmental Plan 2014
<b>ADDRESS</b>	40 Fitzwilliam Road, Vaucluse (Lot 2 DP 1254483 and Lot 1 DP 1112583)
<b>DESCRIPTION</b>	Listing of 40 Fitzwilliam Road, Vaucluse as a local heritage item and amendment of Heritage Map to identify the site as an additional heritage item at its relevant address
<b>RECEIVED</b>	19/05/2022
<b>FILE NO.</b>	IRF22/1800
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

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

The objectives of the planning proposal are to:

- amend the Woollahra Local Environmental Plan (LEP) 2014 to insert 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item by listing it in Part 1 *Heritage Items* of Schedule 5 *Environmental heritage*; and
- amend the Heritage Map to identify the site as a local heritage item.

The listing of the site as a heritage item of local significance is consistent with the findings of the heritage assessment report prepared by GBA Heritage Pty. Ltd., which was commissioned by the owners of the subject site.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Woollahra LEP 2014 per the changes below:

- insert a local heritage listing for ‘Sunny Brae, including interiors’ at 40 Fitzwilliam Road, Vaucluse in Part 1 *Heritage items* of Schedule 5 *Environmental Heritage*; and
- amend the Heritage Map of the Woollahra LEP 2014 to identify land containing ‘Sunny Brae’ (Lot 1 DP 1112583 and Lot 2 DP 1254483) as a heritage item.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The subject site is located at 40 Fitzwilliam Road, Vaucluse and the residence is known as ‘Sunny Brae’ (**Figure 1**). The site is legally described as Lot 2 DP 1254483 and Lot 1 DP 1112583. The site is occupied by a two-storey Federation Queen Anne style house constructed in 1910 (**Figure 2**), with a contemporary swimming pool and a two-storey extension to the original building (**Figure 3**). In 2012, a restoration and refurbishment of the building including interiors (**Figure 4, 5 and 6**) were undertaken, which included the above-mentioned extension and pool.

The site is a battle axe lot, irregular in shape and has a total site area of approximately 1,078m<sup>2</sup>. The entry to the site is through Fitzwilliam Road. The adjoining buildings on Fitzwilliam Road follow the topography of the area, with some of the buildings situated above the street level. The site and surrounding areas are zoned R2 Low Density Residential under the Woollahra LEP.

The closest strategic centre is Bondi Junction, 6.5km away and the closest local centre is Double Bay, 6km away. The site is in close proximity to Vaucluse Bay, 1.5km away and Parsley Bay Wharf, 550m away.

The site is not located within a heritage conservation area. The closest listed heritage item is approximately 80m to the south of the site. The nearby heritage items to the site under the Woollahra LEP are shown in **Figure 7** and are listed as follows:

- Item 341 - *Wentworth Mausoleum and interior, surrounding stone and wrought iron fence, grounds, trees* (identified as having State significance)
- Item 351 - *Grounds and native vegetation of Wentworth Memorial Church*
- Item 352 - *Wentworth Memorial Church - church, interiors, grounds and moveable collection* (identified as having part Local and part State significance)
- Item 353 - *Forest Red Gum*
- Item 354 - *Tuckeroo*
- Item 355 - *Forest Red Gum*
- Item 356 - *West Parsley Bay Obelisk*
- Item 357 - *Remains of Vaucluse Point ferry wharf*
- Item 419 - *Eastern Channel Lighthouse - Front Lead*
- Item 420 - *4 Forest Red Gums*
- Item 421 - *Sydney Water pumping station and internal elements*



**Figure 1 The site shown by blue outline (source: Nearmap)**



**Figure 2 The front elevation of the building (source: heritage assessment report)**



**Figure 3 The original house (left), new swimming pool (centre, foreground) and recent two-storey belvedere (centre, background) and extension (right) (source: heritage assessment report)**





**Figure 4 Interior of the building, view of the staircase leading to the upper level (source: heritage assessment report)**



**Figure 5 Interior of the building, view of the dining room (source: heritage assessment report)**



**Figure 6 Interior of the building, view of the entry hall (source: heritage assessment report)**



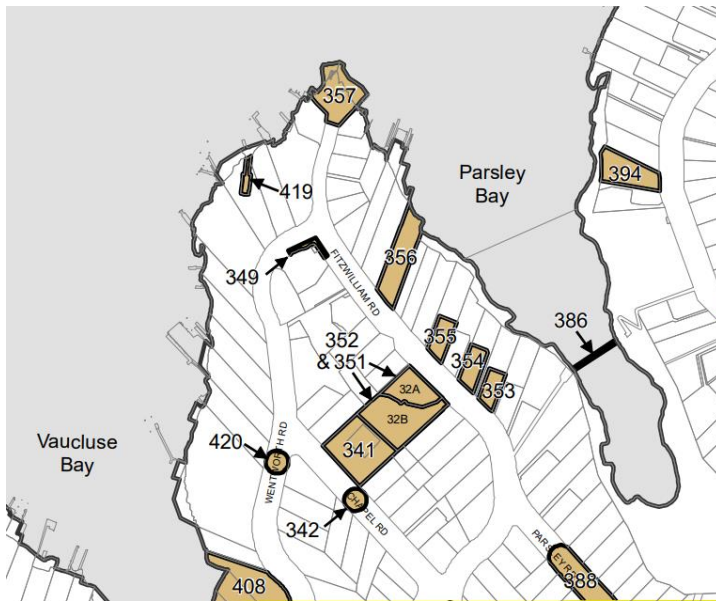


Figure 7 Surrounding heritage items (source: Heritage Map, Woollahra LEP 2014)

## 1.5 Mapping

The planning proposal includes figures (**Figure 8 and 9**) to identify the new local heritage item in the Heritage Map. The proposed mapping in the planning proposal is deemed appropriate for the purpose of exhibition and community consultation.

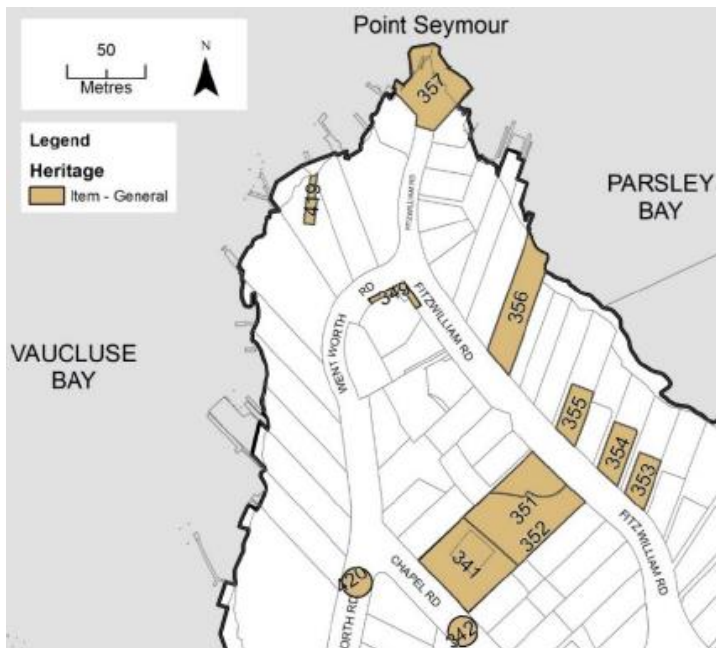
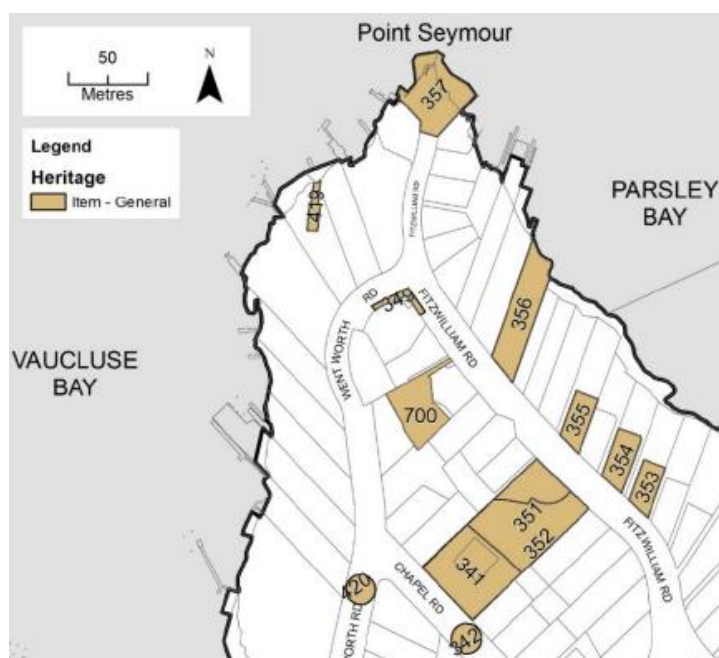


Figure 8 Current Heritage Map, Woollahra LEP 2014 (source: Planning Proposal)



**Figure 9 Proposed Heritage Map with indicative item number, '700' (source: Planning Proposal)**

## 1.6 Background

The following background is relevant to the planning proposal:

- A request for a planning proposal to list the subject site as a heritage item was facilitated by the property owners (the proponent).
- 11 January 2021 – The proponent submitted a pre-application consultation form and a Heritage Assessment Report prepared by GBA Heritage Pty. Ltd. to the Council to request listing of the site as a heritage item.
- 24 February 2021 – A pre-application meeting was held at the site with the owners, heritage consultant Graham Brooks and the Council's Strategic Planning team.
- 11 March 2021 – Council issued a pre-application consultation response to the proponent. The report recommended amendments to the heritage assessment report and request a heritage inventory sheet to be prepared in accordance with the Heritage NSW template.
- 28 April 2021 – The proponent lodged a request for a planning proposal to list the site including interiors as a heritage item in Schedule 5 of the Woollahra LEP 2014. The request was supported by a Heritage Assessment Report prepared by GBA Heritage Pty. Ltd. The heritage assessment report concluded that the site meets the threshold for listing as an item of local heritage significance. The report also recommended the site to be nominated for NSW State Heritage Register listing. The Department notes that the recommended listing of the site on the State Heritage Register is outside the scope of this planning proposal.
- 10 May 2021 – The Woollahra Municipal Council Environmental Planning Committee (EPC) recommended a planning proposal be prepared and the proposal be referred to the Woollahra Local Planning Panel (LPP) for advice.
- 24 May 2021 – Council resolved to prepare a planning proposal and refer the proposal to the Woollahra LPP for advice.
- 17 June 2021 – The Woollahra LPP recommended Council to proceed with the planning proposal to list the site, including interiors as a local heritage item in Schedule 5 of the Woollahra LEP 2014.

- 26 July 2021 – Council resolved to defer further consideration of the planning proposal until a site visit by the members of the EPC is undertaken and a report of the site visit is prepared.
- 7 March 2022 – A site inspection occurred and was attended by Councillors Grieve, Regan, Silcocks, Witt and Zeltzer. The inspection included a visit of the interiors of the house.
- 4 April 2022 – The EPC recommended the planning proposal be forwarded to the Department for Gateway determination.
- 26 April 2022 – Council resolved to endorse the planning proposal and forward it to the Department for Gateway determination. Council requested to be authorised as the local plan-making authority.
- 17 May 2022 – Council submitted the subject planning proposal to the Department for Gateway determination.
- 17 June 2022 – Council submitted an updated heritage inventory sheet clarifying how the item satisfies the social significance criterion and an updated planning proposal with minor administrative changes.

## 2 Need for the planning proposal

This planning proposal is a result of the landowner's initiative for a potential heritage listing of their site at 40 Fitzwilliam Road, Vacluse. The planning proposal is based on the recommendations of a heritage assessment report undertaken by GBA Heritage Pty. Ltd. The review concluded that the site meets the threshold for listing as a local heritage item.

The planning proposal seeks to list the site, including interiors as a local heritage item to provide ongoing protection and recognition of its heritage significance and to allow for better conservation management of the property.

A planning proposal is the only means to alter Part 1 Schedule 5 of Woollahra LEP 2014 to recognise the local heritage significance of the site and to provide statutory protection.

Council considers that the planning proposal is consistent with the objectives and directions of the Greater Sydney Region Plan, Eastern City District Plan, Council's Local Strategic Planning Statement, and relevant Section 9.1 Ministerial Directions and State Environmental Planning Policies.

### Assessment of heritage significance

The assessment of significance has been undertaken in accordance with the *Assessing Heritage Significance* guideline published by the NSW Heritage Office in 2001. The site was assessed against the seven listing criteria under the Heritage Office guideline. If an item meets one of the seven criteria at a local level and retains the integrity of its key attributes, it can be considered to have local heritage significance. The key findings of this assessment are summarised in **Table 3** below.

**Table 3 Heritage assessment of site against NSW Heritage Office guideline**

Site	a) Historic	b) Associative	c) Aesthetic	d) Social	e) Research	f) Rarity	g) Representativeness
40 Fitzwilliam Road, Vacluse	✓	✓	✓	✓	✗	✓	✓

#### Criterion (a) Historic Significance

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

- The site demonstrates a specific aspect of the general subdivision and suburbanisation of the broader Vaucluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay.
- The site was an important component of the early 1890s subdivision of the expansive Wentworth family estate.

#### Criterion (b) Associative Significance

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

- The house was designed by architect, Ferdinand Wilhelm Friederich in 1909 and is one of his substantial surviving work.
- The land comprising the subject site is strongly associated with William Charles Wentworth, a prominent politician in Australia who was also an explorer, barrister, statesman, landowner and author.

#### Criterion (c) Aesthetic Significance

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

- 'Sunny Brae' is one of the surviving Federation Queen Anne style houses from the early development of the area as a residential suburb. It demonstrates a high degree of design and craftsmanship, is in excellent condition and contributes to the character of the immediate area for its intactness and integrity.
- The house has a high level of aesthetic significance for its orientation, asymmetrical composition, unusual wrap-around verandah and upper floor dormer window, which were carefully designed to capture the expansive views.
- The interior layout, circulation spaces, fireplaces, decorative ceilings, stairs and joinery demonstrate key characteristics of the Queen Anne style.

#### Criterion (d) Social Significance

With regard to 'social significance', the heritage assessment report states that the site has significance as:

- The recent restoration and refurbishment of the property received various awards between 2017 and 2019, including "best Slate Roof of the year", "Master Builders Association award for alterations and additions" and "Woollahra Design Excellence – Mayor's Award".
- The site also received the National Trust (NSW) medal for the high number of visitors in 'Open Day', showing the importance of the house to the community.

Council has submitted an updated heritage inventory sheet that clarifies how the item satisfies criterion 'd' social significance. Specifically, Council has outlined the importance of the item to the members of the National Trust of Australia, a well established heritage advocacy group. The recent alteration and addition work to the house has also received the Woollahra Design Excellence Mayor's Award, which is reflective of the value of the item assigned by the local community.

#### Criterion (e) Research Potential

The heritage assessment does not indicate the site has potential to yield information that will contribute to an understanding of the local area's cultural or natural history.

#### Criterion (f) Rarity

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

- The site is one of a relatively small number of fine quality Federation Queen Anne style houses constructed in spectacular topographic locations across the local area. The house is considered rare within the neighbourhood.
- The house is a rare example of the broader Federation housing styles for its finely executed and complex architectural design.

#### Criterion (g) Representativeness

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

- The house is an excellent representative example of the Federation Queen Anne architectural style. The original structure and internal layout retain their legibility and contribute to the aesthetic significance of the house for its style and detailing.
- The house is in excellent condition and has a high level of integrity and intactness internally and externally.

In summary the site would satisfy six of the seven criteria for heritage listing at a local level. The assessment of significance is also supported by a review against the "inclusion / exclusion guidelines" under the Heritage Office guideline.

The Department considers the proposal to be adequate to progress to community consultation.

## 3 Strategic assessment

### 3.1 Regional 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 4 Regional Plan assessment**

Regional Plan Objectives	Justification
13: Environmental heritage is identified, conserved, and enhanced.	<p>The Region Plan provides that environmental heritage should be protected for its social, aesthetic, economic, historic and environmental values.</p> <p>The subject site has been assessed to have local heritage values. The planning proposal seeks to list the subject site as a statutory heritage item under the LEP. The proposal is consistent with this objective as it seeks to recognise the heritage significance and facilitate on-going protection of the site.</p> <p>The proposal is considered to be consistent with the Region Plan.</p>

### 3.2 District Plan

The site is within the Eastern City District and the Greater Cities Commission (formerly Greater Sydney Commission) released the Eastern City 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 5 District Plan assessment**

District Plan Priorities	Justification
<p>E6: Creating and renewing great places and local centres and respecting the District's heritage.</p> <p>i. Objective 13: Environmental heritage is identified, conserved, and enhanced.</p>	<p>The proposal seeks to identify, protect and respect the District's heritage by listing the site as a local heritage item in the Woollahra LEP. The statutory heritage listing would facilitate conservation of the heritage significance of the site.</p> <p>The proposal is considered to be consistent with the District Plan.</p>

### 3.3 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 6 Local strategic planning assessment**

Local Strategies	Justification
Woollahra Local Strategic Planning Statement (LSPS)	<p><i>Planning priority 5: Conserving our rich and diverse heritage.</i></p> <p>The planning proposal is consistent with this priority as it seeks to recognise, conserve and protect the heritage significance of the site.</p> <p>The proposal is consistent with the relevant objective and priority of the LSPS.</p>
Woollahra – 2030 Our community, our place, our plan (Community Strategic Plan)	<p><i>Goal 4: Well planned neighbourhoods.</i></p> <p>ii. <i>4.3: Protect our heritage, including significant architecture and the natural environment</i></p> <p>The planning proposal is consistent with this goal as it seeks to provide statutory protection of the site which has been found to have local heritage significance.</p>

### 3.4 Local planning panel (LPP) recommendation

Consistent with the Ministerial Direction for Local Planning Panels, Council has referred the planning proposal to the Woollahra LPP for advice. On 17 June 2021, the Woollahra LPP supported the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as local heritage item. The LPP recommended Council proceed with the proposal and forward it to the Department for a Gateway determination. Council resolved to accept the LPP advice at its meeting on 26 April 2022.

### 3.5 Section 9.1 Ministerial Directions

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



Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	This Direction applies to the planning proposal as it gives effect to the regional plan directions and actions. The proposal is considered to be consistent with the Direction.
3.3 Heritage Conservation	Yes	<p>The Direction requires that a planning proposal contain provisions that facilitate the conservation of item identified in a study of environmental heritage significance. The planning proposal is informed by a heritage assessment undertaken in accordance with the NSW Heritage Office guideline. The assessment concluded that the subject site satisfies the relevant criteria for a local heritage listing and thereby the proposal is warranted. The proposal will facilitate the conservation and protection of the site.</p> <p>The proposal is 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. The site is located within the R2 Low Density Residential zone.</p> <p>The proposal does not alter the existing residential zoning or development standards applicable to the site.</p> <p>The listing of the site as local heritage item would require any future development application for the site to be assessed against the provisions of Clause 5.10 <i>Heritage Conservation</i> under the Woollahra LEP 2014.</p> <p>The planning proposal is consistent with this Direction.</p>

## 3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

The need for the planning proposal has arisen from the recommendation of a heritage assessment report. The proposal would facilitate the conservation of the site which has been found to have heritage significance.

### 4.2 Social and economic

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

**Table 8 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 statutory heritage item will provide the community with greater certainty about the significance of the site and facilitate its on-going protection and conservation.</p> <p>Additionally, the public exhibition of the planning proposal will provide additional opportunity for the wider community to consider whether the proposed heritage listing is appropriate and should be supported.</p>
Economic	<p>There would be a minor economic impact to the landowner as the heritage listing of the property may require specialist heritage studies to form part of a development application submission. However, the proposal does not change the zoning or development standards applicable to the site and will facilitate conservation of their heritage significance.</p> <p>The proposal is considered to have an acceptable economic impact.</p>

## 4.3 Infrastructure

The planning proposal does not require any additional 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 proposal seeks to list the site as an item of local heritage significance and would not have material implications on infrastructure demand.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

This timeframe is consistent with the Department's *Local Environmental Plan Making Guideline 2021* (LEP Making Guideline) timeframe of 20 working days for a standard 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 Guideline.

### 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Heritage NSW, Department of Planning and Environment
- National Trust of Australia, NSW

## 6 Timeframe

Council proposes an eight- month time frame to complete the LEP (that is, by end of February 2023).

The Department recommends a time frame of eight months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the Gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site is of local heritage significance the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

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

- It is supported by a heritage assessment report that identifies the subject site as being of local heritage significance.
- The assessment of significance was undertaken in accordance with the NSW Heritage Office guideline.
- The proposal is consistent with the direction and priorities of the Greater Sydney Region Plan, Eastern City District Plan, Woollahra Local Strategic Planning Statement, Woollahra Community Strategic Plan, the relevant SEPPs and Section 9.1 Ministerial Directions.
- The proposal will recognise and provide ongoing protection and allow for better conservation management of the site.

## 9 Recommendation

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

1. Consultation is required with the following public authorities/organisations:
  - Heritage NSW (Department of Planning and Environment)
  - National Trust of Australia (NSW)
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. The planning proposal must be exhibited not more than 2 months from the date of the Gateway determination.
4. The timeframe for completing the LEP is to be on or before 28 February 2023.
5. The planning proposal should be reported to Council for a final recommendation not more than 5 months from the date of the Gateway determination.

6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



20 June 2022

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