

# Planning Proposal



## Local Heritage Listing Sunny Brae 40 Fitzwilliam Road, Vaucluse

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Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Flavia Scardamaglia – Strategic Heritage Officer
HPE CM Record Number:	22/118525

**Acknowledgement of Country**

*We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.*

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## Supporting documents (circulated separately)

1. Heritage Assessment report by GBA Heritage: June 2021
2. Heritage Inventory Sheet: March 2022, updated June 2022
3. Council Resolution: 26 April 2022 (excluding attachments)
4. Report to Environmental Planning Committee: 4 April 2022 (excluding attachments)
5. Council Resolution: 26 July 2021 (excluding annexures)
6. Report to Environmental Planning Committee: 12 July 2021 (excluding annexures)
7. Report to Council: 24 May 2021 (excluding annexures)
8. Report to Woollahra Local Planning Panel: 17 June 2021 (excluding annexures)
9. Report to Environmental Planning Committee: 10 May 2021 (excluding annexures)
10. Late Correspondence for all EPC and Council Meetings (excluding annexures)

# 1. Introduction

## 1.1. Background

This planning proposal seeks to amend the provisions of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) for land at 40 Fitzwilliam Road, Vaucluse. Specifically, the planning proposal seeks to include 'Sunny Brae, including interiors' as a local heritage item in Schedule 5 of the Woollahra LEP 2014 and the inclusion of the land (identified as Lot 1 DP 1112583 and Lot 2 DP 1254483) on the Woollahra LEP 2014 Heritage Map (Sheet HER\_004).

This planning proposal applies to the land owned by George and Deirdre Murrell which contains a dwelling known as *Sunny Brae*. The planning proposal is supported by a Heritage Assessment Report and Heritage Inventory Sheet that has evaluated the heritage significance of the dwelling and interiors and demonstrates that the relevant criteria for local heritage listing have been satisfied.

On 10 May 2021, a report was presented to Council's Environmental Planning Committee (EPC) regarding the heritage listing 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse.

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.*

On 17 June 2021, the planning proposal was considered by the Woollahra Local Planning Panel (Woollahra LPP), who 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.*

On 26 July 2022, 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.*

As a consequence of 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 Council 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.

On 4 April 2022, and following the site visit, the EPC considered a report on the planning proposal to heritage list Sunny Brae 'including interiors' at 40 Fitzwilliam Road, Vaucluse and made the following recommendation to Council:

- 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.*

Subsequently, on 26 April 2022 Council Resolved:

- 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.*

## **1.2. Description of this planning proposal**

This planning proposal is made in relation to *Sunny Brae* at 40 Fitzwilliam Road, Vaucluse (Lot 1 DP 1112583 and Lot 2 DP 1254483) and explains the intended effect of an amendment to Woollahra LEP 2014.

The objective of the planning proposal is to amend the Woollahra LEP 2014 to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site, including its main building and interiors.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the two documents prepared by the formerly named NSW Department of Planning and Environment (now known as the NSW Department of Planning, Industry and Environment) titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

### 1.3. Assessment of heritage significance

The Heritage Assessment Report prepared by GBA Heritage outlines the historical development of the property and provides a description of its physical condition and an assessment of its heritage significance. The draft assessment was completed in June 2021.

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001.

There are seven criteria used in the process of assessing heritage significance. Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

Table 1 below provides a summary of the assessment of the heritage significance of *Sunny Brae* against the seven criteria, at both the local and State levels.

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State <sup>1</sup>
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✓
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✓
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).	✓	✓
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.	✓	✓
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).	✗	✗
(f)	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✗
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places,</li> <li>• cultural or natural environments, (or a class of the local area's</li> <li>• cultural or natural places, or</li> <li>• cultural or natural environments).</li> </ul>	✓	✓

#### 1.4. Statement of heritage significance

*Sunny Brae, the fine Federation house at 40 Fitzwilliam Road, Vacluse, designed by W Friederich and erected in 1910, has a high level of historic significance in Woollahra, as one of the first houses built high on the Vacluse headland, following the late 19th century subdivision of the expansive, early 19th century Wentworth Estate. It demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vacluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay. Fitzwilliam Road is named after the son of William Charles Wentworth and reflects his role in the subdivision of the Vacluse portion of the family estate.*

<sup>1</sup> The State significance assessment was undertaken by GBA Heritage.

*Compared with the more enclosed low level foreshore topography in which Vaucluse House is sited, the ridgeline on which Sunny Brae is located was a favourite elevated lookout for William Charles Wentworth called “Parsley Hill” where he wanted to be buried. Once subdivided, the site was deliberately chosen by John Taylor Cooke for its fine and expansive outlook over Watsons Bay, the Gap, Manly and the nearby dynamic topography that characterises the southern shores of the outer Harbour. Cooke was a keen sailor, as were his descendants, and views from their house gave them a ready appreciation of their favourite recreation. Cooke’s newly married daughter, Lily and her husband Henry Pfeiffer, moved into the freshly constructed house, with her parents. Successive members of the Pfeiffer family continued to live in the house for almost a century.*

*The highly complex architectural composition of the two storey Federation Queen Anne Sunny Brae house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. Both internally and externally, the original components of the house, demonstrate a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, wrap-around front verandah, bay windows, fine joinery, dramatic main staircase and finely detailed plaster ceilings and spatial composition. Recent alterations and additions have replaced an unsympathetic wing (on the north-west side of the building) from the 1950s with carefully designed, complementary two-storey extension that extends the original architectural language, enhances family amenity and responds to its expansive visual curtilage.*

*The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided an extensive harbour views and made the original house visible from Fitzwilliam Road. Despite the progressive subdivision of its original site and the erection of surrounding residential buildings, Sunny Brae retains the qualities of its expansive early hill-top setting, qualities that are reflected in the origins of its Scottish Gaelic name.*

*The ridge-top location and subsequent housing development on surrounding lots meant that Sunny Brae has almost become imperceptible to the general public from the surrounding streetscape in Fitzwilliam Road and from further afield.*

*Sunny Brae has rarity value as one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney’s Eastern Suburbs.*

*The contemporary additions to ‘Sunny Brae’, designed by David White Architects, have added to the significance of the building by applying a traditional style of architecture, compatible with the Federation style of the original house.*

*(GBA Heritage: Heritage Assessment report, 27 April 2021, p. 50)*

The Heritage Assessment report recommends:

- ‘Sunny Brae, including interiors’ be listed as an item of local heritage significance in Schedule 5 of the Woollahra LEP 2014;

- 'Sunny Brae, including interiors' be nominated for inclusion on the State Heritage Register (SHR) as an item of State significance;
- The curtilage of the item is Lot 2 DP 1254483 and Lot 1 DP 1112583.

## 2. Existing site and surrounding context

### 2.1. The site

The subject site comprises a battle axe lot with an area of approximately 1,078m<sup>2</sup> having a legal description of Lot 1 DP 1112583 and Lot 2 DP 1254483. The location of the subject site is shown edged red in the cadastral image at Figure 1 and aerial image provided at Figure 2.

Access to the site is via a pedestrian entrance and vehicular driveway off Fitzwilliam Road along a 20m access handle with 3m frontage. The majority of the site is occupied by the part two, part three storey dwelling including the original dwelling along the south-eastern boundary. More recent additions to the dwelling including a swimming pool and landscaping occupy the northern parts of the site.

Photographs of the subject site depicting existing conditions are provided at Figures 3 to 6. Further photographic imagery of the site and its heritage and local context are included in the Heritage Assessment Report provided with the submission.

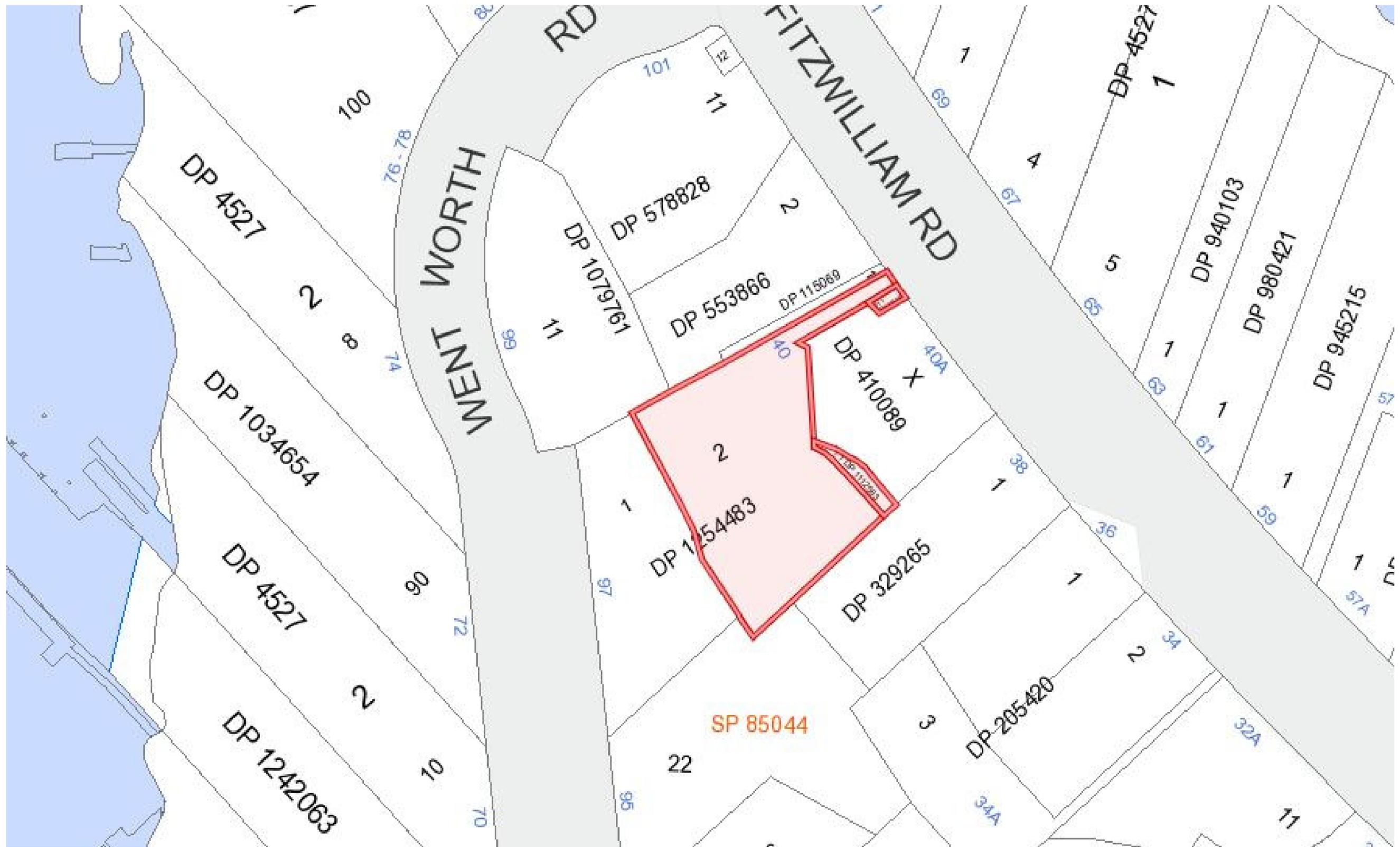


Figure 1: Cadastral image of 40 Fitzwilliam Road Vacluse within its context (Source: Woollahra MAPS)



Figure 2: Aerial view of 40 Fitzwilliam Road Vacluse, within its context (Source: Woollahra MAPS)



*Figure 3: The original house from the entry path*



*Figure 4: Looking north, showing the original house on the left and the landscape/garden in front of the house (Source: Images For Business, 2020)*



*Figure 5: Front elevation of the original dwelling*



*Figure 6: Front elevation of the contemporary additions*

## 2.2. Existing context

### 2.2.1. Metropolitan context

The subject site is located in the suburb of Vaucluse and is approximately 6km east of the Sydney CBD. The site is within the urban residential area under the Eastern City District Plan.

### 2.2.2. Local context

The subject site is located within a predominantly residential urban area in the harbour side suburb of Vaucluse.

The subject site is located on the top of a hill situated between the junction of Fitzwilliam Road and Wentworth Road, Vaucluse, on part of the original Wentworth Estate called “Parsley Hill”.

The development on the site, being a detached dwelling house, is generally characteristic of the dominant built form in the locality, being large residential dwellings. The local area is characterised by a range of development and architectural styles which include existing locally listed heritage items.

The site and its context within the Vaucluse locality is illustrated on the zoning map extract in Figure 7.



Figure 7: Context within the wider Vaucluse locality (Source: NSW Planning Portal)

### 2.3. Surrounding development

The site is located within a harbour side residential area that is typified by large, detached single dwellings interspersed with occasional medium density residential development or other land uses compatible with the residential zoning. Land uses directly adjoining the site comprise detached dwellings and dual occupancy development.

The aerial image provided at Figure 8 indicates key features of the immediate area.



Figure 8: Key features in proximity to the subject site

### 3. Existing planning controls

#### 3.1. Woollahra Local Environmental Plan 2014

The site is subject to the existing planning controls of the Woollahra LEP 2014. The current development standards that apply to the land under the Woollahra LEP 2014 are summarised as follows:

Table 2: Summary of current development standards

	<b>Zone</b>	<b>Maximum building height</b>	<b>Minimum Lot Size</b>
<b>40 Fitzwilliam Road, Vaucluse</b>	R2 Low Density Residential	9.5 m	675 sqm

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

No changes to the principal development standards currently applicable to the site under the Woollahra LEP 2014 are proposed to change under this planning proposal request.

The land is not mapped as being subject to **floor space ratio** controls or being within a flood planning area.

The land is not currently identified in the Woollahra LEP 2014 as containing any items of **heritage** significance.

The land is identified under the Woollahra LEP 2014 as potentially containing **Class 5** acid sulfate soils. The land is not known to be subject to any other environmental constraints.

#### 3.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to the subject site and its surrounds. Any development proposals either on the site or on adjoining sites are required to address any relevant Woollahra DCP 2015 controls.

The site is within the Vaucluse West Precinct as identified in Part B of the Woollahra DCP 2015, which specifies a character statement for the precinct and outlines the desired future character of the precinct that any new development proposals are required to address. The proposed listing of the site as a heritage item as requested in this Planning Proposal is generally consistent with the specified character statement and desired future character of the Vaucluse West Precinct and will not impact on its continued application.

## 4. Objective of the planning proposal

The objective of the planning proposal is to recognise the heritage significance of the historic dwelling house known as 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse and provide it with statutory heritage protections under the provisions of the Woollahra LEP 2014.

The planning proposal will amend Schedule 5 and the Heritage Map of the Woollahra LEP 2014 to include reference to Lot 1 DP 1112583 and Lot 2 DP 1254483, being the historic dwelling known as *Sunny Brae* at 40 Fitzwilliam Road, Vaucluse, including its interiors.

The inclusion of the item in Schedule 5 of Woollahra LEP 2014 will mean any future development proposals either on the subject site or on any land within its vicinity will need to consider the provisions of Clause 5.10 (5) of Woollahra LEP 2014. This will provide a statutory requirement for development proposals to consider the effects of proposed development on the heritage significance of the item.

## 5. Explanation of provisions

The proposed outcome will be achieved by amending the Woollahra LEP 2014 to:

- 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 (Sheet HER\_004) of the Woollahra LEP 2014 to identify the land containing *Sunny Brae* (Lot 1 DP 1112583 and Lot 2 DP 1254483) as a heritage item.

## 6. Justification

The planning proposal has strategic merit. The heritage significance of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse has been established by the assessment undertaken by GBA Heritage. The heritage listing will provide ongoing protection and recognition of the heritage significance of the item.

These matters are further discussed below in part 6.1 to 6.3.

### 6.1. Need for planning proposal

#### 1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The planning proposal is the result of the recommendations of the Heritage Assessment Report prepared by GBA Heritage which has been initiated by the owners of the subject site.

The report concludes that *Sunny Brae* meets six out of seven criteria for listing as a local heritage item. The report recommends that:

*It is recommended that 'Sunny Brae' to be listed as an item of local heritage significance on Schedule 5 of the Woollahra LEP 2014, and to be nominated for NSW State Heritage Register listing. The heritage listing is recommended to apply to:*

- "Sunny Brae" - House and interiors.

*The following lots should be included as part of the curtilage of the heritage item:*

- Lot 2, DP 1254483
- Lot 1, DP 1112583

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes. The objective of this planning proposal is to list ‘Sunny Brae, including interiors’ as a local heritage item in Schedule 5 of the Woollahra LEP 2014. The best, and only, means of achieving this objective is through the planning proposal process.

Heritage listing will provide ongoing protection and recognition of the heritage significance of the item. Other options, such as adding site-specific objectives and controls to the Woollahra DCP 2015, or including heritage conservation conditions to a development consent, will not provide the same level of heritage protection and recognition.

**6.2. Relationship to strategic planning framework**

**3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including exhibited draft plans or strategies)?**

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant planning priorities and actions of the *Eastern City District Plan* (2018), as discussed below.

**Greater Sydney Region Plan: A Metropolis of Three Cities**

The planning proposal is consistent with the directions and objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities*, particularly Objective 13: ‘Environmental heritage is identified, conserved and enhanced’.

The heritage listing of ‘Sunny Brae, including interiors’, will provide ongoing protection and recognition of the heritage significance of this item.

**Eastern City District Plan**

The planning proposal is generally consistent with the directions, planning priorities and actions of the *Eastern City District Plan*, particularly Planning Priority E6 and Action 20:

*Planning Priority E6 Creating and renewing great places and local centres, and respecting the District’s heritage*

*Action 20 Identify, conserve and enhance environmental heritage by:*

- engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
- applying adaptive re-use and interpreting heritage to foster distinctive local places*
- managing and monitoring the cumulative impact of development on the heritage values and character of places.*

This planning proposal seeks to initiate the process of conserving the environmental heritage of Woollahra LGA. Identifying, conserving, interpreting and celebrating Woollahra’s heritage values leads to a better understanding of history and respect for the experiences of diverse communities.

The heritage listing of ‘Sunny Brae, including interiors’, will provide ongoing protection and recognition of the heritage significance of this item.

#### **4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

Yes. The planning proposal is consistent with the *Woollahra Local Strategic Planning Statement 2020* and Council's Community Strategic Plan, *Woollahra 2030 – our community, our place, our plan* (Woollahra 2030).

The planning proposal is consistent with Planning Priority 5 of the Woollahra Local Strategic Planning Statement:

##### *Planning Priority 5 Conserving our rich and diverse heritage*

In particular Actions 28 and 30 of this planning priority seek to ensure that heritage is conserved and that the LEP and DCP reflect the evolving nature of heritage:

##### *28. Continue to proactively conserve and monitor heritage in the Municipality including:*

- *reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015*
- *sustainably managing visitation to our heritage conservation areas and destinations*
- *promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas*
- *supporting implementation of legislation for Aboriginal Heritage.*

##### *30. 'Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.'*

The planning proposal is also consistent with Council's Community Strategic Plan, Woollahra 2030. Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhoods) under the theme Quality places and spaces:

##### *4.3 Protect our heritage, including significant architecture and the natural environment*

This planning proposal seeks to initiate the process of conserving the environmental heritage of Woollahra LGA. Identifying, conserving, interpreting and celebrating Woollahra's heritage values leads to a better understanding of history and respect for the experiences of diverse communities.

The heritage listing of 'Sunny Brae, including interiors', will provide ongoing protection and recognition of the heritage significance of this item.

#### **5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies (refer to **Schedule 1**).

#### **6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

Yes. The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2**).

### 6.3. Environmental, social and economic impact

#### 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

#### 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no other likely environmental effects expected to arise as a result of the planning proposal. Measures to conserve the heritage item are unlikely to result in environmental harm and will be managed through the development assessment process.

#### 9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The heritage assessment undertaken by GBA Heritage has considered *Sunny Brae* in its context at 40 Fitzwilliam Road, Vaucluse against the criteria for 'cultural significance' as defined in the Australia ICOMOS Burra Charter, being the aesthetic, historic, scientific, social or spiritual value for past, present or future generations. The assessment has found that 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse meets the historic, historic associative, aesthetic, social, rarity and representativeness criteria at local level.

Identifying the site as a heritage item will require any future development applications (DAs) on the site to be considered against the heritage conservation provisions in Clause 5.10 of Woollahra LEP 2014. In addition, in respect of development that is proposed to be carried out on any site that is within the vicinity of the item, the Council will have the power to require that an assessment be undertaken of the extent to which the carrying out of that development would affect the heritage significance of the item.

To facilitate the assessment process, any future DA on the site will need to be accompanied by a heritage impact statement prepared by a suitably qualified professional. Any future DA on land in the vicinity of the item will also need to address and have regard for potential impacts on the heritage character of *Sunny Brae*. Accordingly, this will result in a minor additional costs in the preparation of an application on or adjoining a site which is listed as a heritage item.

Another effect of the land being identified as containing a heritage item is the prevention of certain works being carried out as either exempt or complying development.

### 6.4. State and Commonwealth interests

#### 10. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal involves the local heritage listing of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse and does not involve any amendments to the planning controls that will facilitate intensified development.

Currently, the dwelling-house on the site has access to adequate public infrastructure such as water, sewer, electricity and telephone services. The site has direct frontage to Fitzwilliam Road which provides vehicular and pedestrian access. Fitzwilliam Road is also serviced by regular public transport.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the site are suitable for the proposal of a local heritage listing in a residential zone.

**11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

This section will be completed following consultation with public authorities identified in the gateway determination. The following public authorities, including but not limited to, will be notified:

- Heritage NSW, Department of Premier and Cabinet
- National Trust of NSW

Any other authorities identified by the Greater Sydney Commission and Department of Planning, Industry and Environment will be consulted during the public exhibition of the planning proposal, in accordance with the Gateway Determination.

## 7. Mapping

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Map (Sheet HER\_004) to identify and label the land containing *Sunny Brae* at 40 Fitzwilliam Road, Vaucluse (identified as Lot 1 DP 1112583 and Lot 2 DP 1254483). An extract of the existing and proposed heritage maps are shown in Figures 9 and 10.

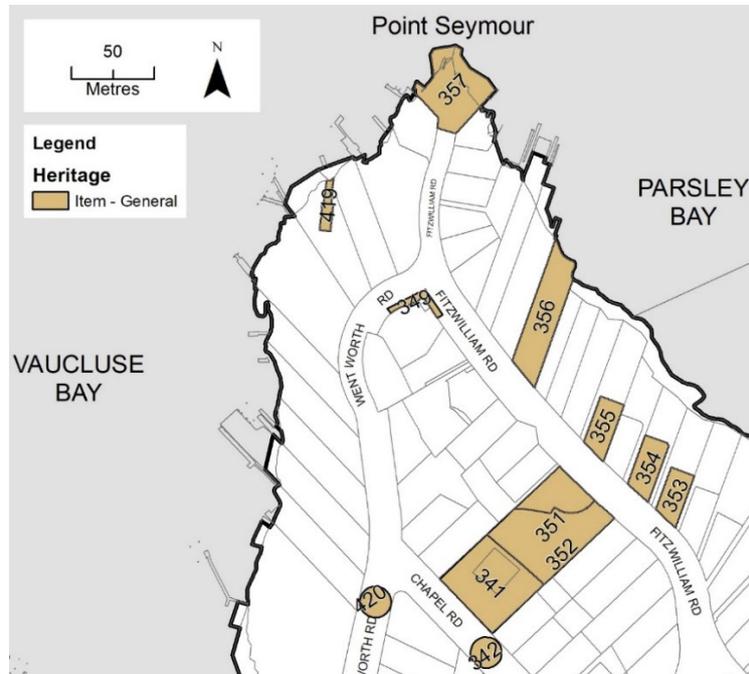


Figure 9: Extract from existing Woollahra LEP 2014 Heritage Map (Sheet HER\_004)

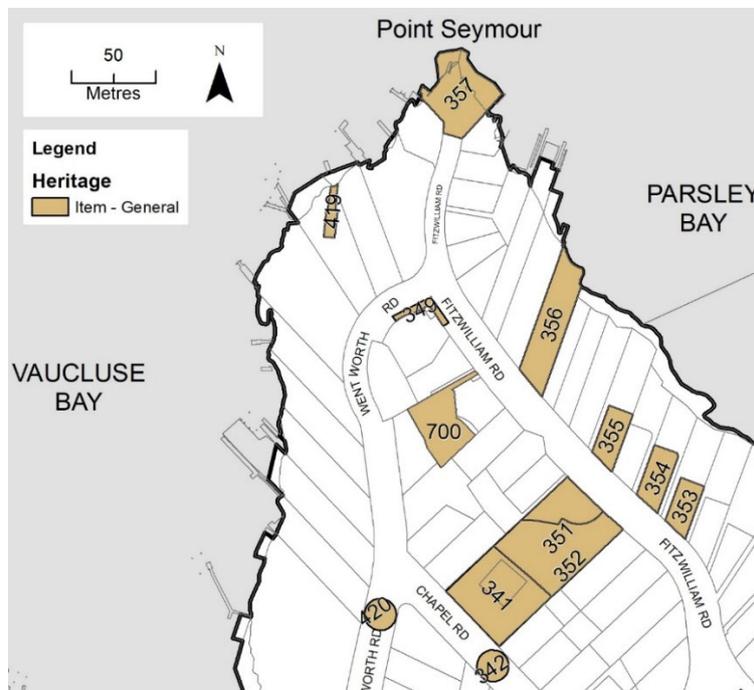


Figure 10: Extract from proposed Woollahra LEP 2014 Heritage Map (Sheet HER\_004)  
(Note: The item number is indicative only and will be confirmed upon finalisation).

## 8. Community consultation

### 8.1. Consultation with landowners

The owners of 40 Fitzwilliam Road are the proponents of this planning proposal. The owners have engaged GBA Heritage to undertake a heritage assessment of their property in accordance with the NSW Heritage Guidelines.

The owner George Murrell spoke in favour of the heritage listing at Council's EPC meetings and at the meeting of the Woollahra Local Planning Panel.

In progressing the planning proposal, consultation with the owners will be undertaken in accordance with the EP&A Act and the *Environmental Planning & Assessment Regulation 2000*.

### 8.2. Public exhibition

Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000*, also having regard to other relevant plans and guidelines including the *Woollahra Community Participation Plan 2019* and *Local Environmental Plans – a guide to preparing local environmental plans* (2018) and any conditions of the Gateway Determination.

We recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the exhibition will comprise:

- a weekly notice in the local newspaper (the *Wentworth Courier*) for the duration of the exhibition period, when a hardcopy version of that newspaper is being published.
- a notice on Council's website.
- a letter to land owners in the vicinity of the site.
- notice to local community, resident and business 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:

- the planning proposal, in the form approved by the gateway determination.
- the gateway determination.
- information relied upon by the planning proposal (such as the heritage significance assessment and relevant Council reports).

## 9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

<b>Plan-making step</b>	<b>Estimated completion</b>
Council resolution to prepare planning proposal	24 May 2021
Local Planning Panel provides advice	17 June 2021
Environmental Planning Committee recommends proceeding	12 July 2021
Council resolution to proceed	26 April 2022
Gateway determination	June 2022
Completion of technical assessment	Usually none required
Government agency consultation	July 2022
Public exhibition period	July 2022
Submissions assessment	August 2022
Council assessment of planning proposal post exhibition	October 2022
Council decision to make the LEP amendment	October 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	November 2022
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	January 2023
Notification of the approved LEP	February 2023

## Schedules

### Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP (Biodiversity and Conservation) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Housing) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Industry and Employment) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Planning Systems) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Precincts – Eastern Harbour City) 2021	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Regional) 2021	Not applicable.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Resilience and Hazards) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resources and Energy) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Transport and Infrastructure) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP 65 (Design Quality of Residential Apartment Development)	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX)	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

## Schedule 2 – Compliance with section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction	Applicable/comment	
<b>1</b>	<b>Planning systems</b>	
1.1	Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i> , particularly Objective 13: Environmental Heritage is identified, conserved and enhanced.
1.2	Development of Aboriginal Land Council land	Not applicable. This planning proposal does not affect Aboriginal Land Council Land.
1.3	Approval and referral requirements	The planning proposal seeks to heritage list a property in Vaucluse. This is not expected to require any additional approval or referral requirements. The planning proposal is consistent with this direction.
1.4	Site specific provisions	The planning proposal does not contain any unnecessarily restrictive site specific planning controls. The planning proposal is consistent with the direction
<b>1</b>	<b>Planning systems (cont.) – place based</b>	
1.5 – 1.17	Implementation Plans	Not applicable. These plans do not apply to the Woollahra LGA.
<b>2</b>	<b>Design and place</b>	
<b>3</b>	<b>Biodiversity and conservation</b>	
3.1	Conservation zones	Applicable and consistent. The planning proposal will not affect the conservation standards of any environmentally sensitive land.
3.2	Heritage conservation	Applicable and consistent. The planning proposal will not affect the significance of places with environmental heritage. Heritage listing of 40 Fitzwilliam Road Vaucluse will provide ongoing protection and recognition of the heritage significance of these two properties.
3.3	Sydney drinking water catchments	Not applicable. This direction does not apply to the Woollahra LGA.

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
3.4	Application of C2 and C3 zones and environmental overlays in Far North Coast LEPs	Not applicable. This direction does not apply to the Woollahra LGA.
3.5	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
<b>4</b>	<b>Resilience and hazards</b>	
4.1	Flooding	Applicable and consistent. The planning proposal will not rezone flood liable land or affect the application of controls that ensure that development on flood liable land will not result in risk to life or damage to property. The planning proposal is consistent with the direction.
4.2	Coastal management	Not applicable. The planning proposal will not affect land in a coastal zone.
4.3	Planning for bushfire protection	Not applicable. The planning proposal will not affect bushfire prone land.
4.4	Remediation of contaminated land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.
4.5	Acid sulfate soils	Applicable and consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.6	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
<b>5</b>	<b>Transport and infrastructure</b>	
5.1	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> <li>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</li> <li>The Right Place for Business and Services – Planning Policy (DUAP 2001).</li> </ul>
5.2	Reserving land for public purposes	The planning proposal does not amend reservations of land for public purposes. The planning proposal is consistent with the direction

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
5.3	Development near regulated airport and defence airfields	Applicable and consistent. The planning proposal does not contain a provision which is contrary to this direction.
5.4	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
<b>6</b>	<b>Housing</b>	
6.1	Residential zones	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2	Caravan parks and manufactured home estates	The planning proposal will not affect any caravan parks or manufactured housing estates.
<b>7</b>	<b>Industry and employment</b>	
7.1	Business and industrial zones	Not applicable. The direction does not apply where sites are zoned for business or industry.
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable. This direction does not apply to the Woollahra LGA.
7.3	Commercial and retail development along the Pacific Highway, North Coast	Not applicable. This direction does not apply to the Woollahra LGA.
<b>8</b>	<b>Resources and energy</b>	
8.1	Mining, petroleum production and extractive industries	Not applicable. This planning proposal will not affect any of the nominated activities.
<b>9</b>	<b>Primary production</b>	
9.1	Rural zones	Not applicable. This planning proposal will not affect any rural zones.
9.2	Rural lands	Not applicable. This planning proposal will not affect any rural lands.
9.3	Oyster aquaculture	Not applicable. This planning proposal will not affect any Priority Oyster Aquaculture Areas.

**Planning proposal –  
Compliance with section 9.1 directions**

<b>Direction</b>		<b>Applicable/comment</b>
9.4	Farmland of state and regional significance on the NSW Far North Coast	Not applicable. This direction does not apply to the Woollahra LGA.