

12.12 PLANNING PROPOSAL - 43 DONNELLY ROAD, NAREMBURN

ATTACHMENTS:	1. IMPLICATIONS 2. PLANNING PROPOSAL 3. INTERIM HERITAGE ORDER GAZETTED ON 26 MAY 2023 4. 43 DONNELLY ROAD NAREMBURN HERITAGEASSESSMENT, PREPARED BY VANESSA HOLTHAM HERITAGE & ARCHITECTURE (ATTACHMENTS 2-4 INCLUDED IN ATTACHMENT BOOKLET)
RESPONSIBLE OFFICER:	HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR
AUTHOR:	JANE LIANG – STRATEGIC PLANNER
CITY STRATEGY OUTCOME:	2.2 - RESPECT AND CELEBRATE OUR INDIGENOUS AND NON—INDIGENOUS HISTORY AND HERITAGE
MEETING DATE:	23 OCTOBER 2023

1. PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement to submit a Planning Proposal to the Minister for Planning to amend the *Willoughby Local Environmental Plan 2012 (Willoughby LEP)* by expansion of the existing local heritage item No. 160, presently described in Schedule 5 of the Willoughby LEP as '*St Leonard's Catholic Church (including original interiors)*' at 43 Donnelly Road, Naremburn.

2. OFFICER'S RECOMMENDATION

That Council:

1. Upon consideration of a report prepared by Vanessa Holtham, heritage architect, titled '43 Donnelly Road, Naremburn Heritage Assessment', the Presbytery and School Buildings located at 43 Donnelly Road, Naremburn (Lot 1 in Deposited Plan 115889, Lot A in Deposited Plan 341975 and Lot 1 in Deposited Plan 320984) form, with the St Leonard's Catholic Church, a complex of buildings that are of local heritage significance such that the Council proceed with the Planning Proposal to list the complex of buildings as a local heritage item.
2. Council place on Schedule 5 of the *Willoughby Local Environmental Plan 2012* the complex of buildings located at 43 Donnelly Road, Naremburn (Lot 1 in Deposited Plan 115889, Lot A in Deposited Plan 341975 and Lot 1 in Deposited Plan 320984), by:
 - a. Forwarding the Planning Proposal to the Minister administering the *Environmental Planning and Assessment Act 1979* for a Gateway Determination under section 3.34 of the Act.
 - b. Endorsing the Planning Proposal for public exhibition which is to be undertaken in accordance with the requirements of any Gateway Determination from the Minister; and

- c. **Requesting that the Minister nominate Council as the local plan-making authority pursuant to section 3.31 of the Act and delegate to the Head of Planning authority to make, as required, minor amendments to the Planning Proposal which do not alter its policy intent.**
3. **Council notes a further report will be provided to Council after the public exhibition of the Planning Proposal.**

3. BACKGROUND

The Planning Proposal has been prepared to acknowledge and move on the findings of a report prepared by Vanessa Holtham, heritage architect (**Holtham Report**, see **Attachment 4**), which identified that the complex of buildings located at 43 Donnelly Road, Naremburn (**Property**) have local heritage significance.

Presently, only part of the Property — being the St Leonard's Church and its original interiors and a small area of curtilage — are itemised on Schedule 5 of the *Willoughby Local Environmental Plan 2012* (**Willoughby LEP**).

On 9 November 2021, a development application was lodged with Council for the carrying out of a mixed use development including a multi dwelling housing development, single dwellings and other uses, on the Property.

The development application sought to convert the extant St Leonard's Presbytery (**Presbytery**) to a single dwelling and demolish a series of buildings associated with the former St Leonard's Catholic School (**School Buildings**). The Presbytery and the School Buildings are not presently listed under Schedule 5 of the Willoughby LEP.

On 26 July 2022, Council refused the development application. On 13 September 2022, proceedings were commenced in Class 1 of the Land and Environment Court against Council's refusal to grant development consent. The development application proceedings are ongoing.

On 27 February 2023, Council resolved to include the Presbytery as an item of potential local significance as part of the 2023/4 Council Heritage Review. It also resolved that Council should be notified if staff become aware that the School Buildings have potential heritage value.

On 22 May 2023, after considering a Preliminary Heritage Assessment prepared by Vanessa Holtham, heritage consultant, and a report prepared by Council staff, Council resolved to make an interim heritage order (**IHO**, see **Attachment 3**) in respect of the Presbytery and School Buildings.

The IHO temporarily prevents the buildings and structures on the site from being demolished. The IHO will lapse on 22 November 2023, unless Council has resolved to place these items on Schedule 5 of the Willoughby LEP by that date, in which case it will lapse on 22 May 2024.

On 26 May 2023, the IHO was published in the *New South Wales Government Gazette* and the owners of the Property, the Trustees of the Roman Catholic Church for the Diocese of Broken Bay, were notified and provided with a copy of the IHO. The making of the IHO was notified to members of the public.

The owners of the Property commenced proceedings in Class 1 of the Court against the making of the IHO. The IHO proceedings are ongoing and are listed for hearing on 24 and 26

October 2023 (they were originally listed for hearing on 25 and 26 September 2023, with these dates being vacated at the request of the Diocese).

These proceedings do not prevent the progression by Council of the Planning Proposal. The owners of the Property and members of the public will have the opportunity to comment on the Planning Proposal when it is publicly exhibited.

This report seeks Council's endorsement to submit a Planning Proposal to the Minister in relation to expand the heritage listing of item No. 160 to acknowledge that, in addition to the St Leonard's Catholic Church, an extant presbytery and buildings associated with the former St Leonard's Catholic School are, having regard to their collective social significance and representativeness of the symbiotic operation of religious and educational functions within a precinct, of local heritage significance.

4. DISCUSSION

Heritage consultant report

Following the making of the Interim Heritage Order (and considering the Preliminary Heritage Assessment), Council engaged Vanessa Hotham (heritage architect) to carry out an assessment of the local heritage significance of built elements of the Property — the Holtham Report. "*Local heritage significance*", as defined by section 4A of the *Heritage Act 1977*, means:

[S]ignificance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

The Holtham Report establishes that, as a matter of historical record:

The St Leonard's Catholic Church was constructed in two stages — the first in 1913, comprising its central portion, half of the nave and a chapel, and the second in 1955, comprising a western extension and the visually prominent spire.

- In 1919 and 1917, respectively, the Presbytery and its adjacent garage were constructed, the Presbytery being a two-storey brick building of Gothic design. The construction of the Presbytery was said at the time to be a symbol of the "*great catholic progress of the district*".
- In 1932, the westernmost school building was constructed, "*an Inter-War building constructed in the stripped classical style with functionalist influences*". It was said that the intention of the construction of a school on the Property would be a "*practical illustration of the progress of the faith and of the impregnable position of the church in this young country; a building that, for generations, will supply tangible evidence of the faith and fervour of the Catholic of Naremburn*".
- In 1936, the easternmost school building was constructed to accommodate increasing enrolments, with the materials for this building being recycled from the site of a former school and church in Market Street.
- At some point in the early-1970s and mid-1980s, accretions to the School Buildings were constructed, linking the buildings and adding additional floorspace.

Having regard to its detailed historical findings, the Holtham Report has undertaken an assessment of the built elements of the Property — the Church, School Buildings and Presbytery — against the seven criteria for establishing heritage significance identified by the Heritage Council of New South Wales (see *Assessing Heritage Significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria*, published by the Environment and Heritage Group, Department of Planning and Environment, May 2023).

The Holtham Report also considered relevant historical themes and the integrity and condition of the buildings, and includes a comparative analysis against similar religious and educational precincts in Greater Sydney.

The Holtham Report concludes that the Church, School Buildings and Presbytery have local historical significance *"as a complex"*. It notes explicitly that there was a *"considered evolution"* of the complex, evinced by the links between extant built and landscape elements. It finds that, against the Heritage Council's seven criteria, the complex of buildings has historical, aesthetic, social and representative significance.

The Holtham Report identifies not only that the condition of the buildings is either *"Excellent"*, *"Good"* or *"Fair"*, but that the between them retains *"a high degree of integrity in arrangement, form and setting"*. The 1970s and 1980s accretions, while acknowledged as including *"an intrusive addition"*, are not said to detract from the visual contribution of the School Buildings to the complex.

The collection of buildings, having regard to their history, are stated by the Holtham Report to be *"representative of the symbiotic operation of religious and educational functions contained within a single precinct"*. In their broader context, the complex — particularly the School Buildings — are found by the Holtham Report to have *"a visual and physical conduit between this group and other nearby religious buildings"*.

The Holtham Report, including the description of the statement of significance, can be viewed in full at **Attachment 4**.

Planning Proposal

A Planning Proposal has been prepared by Council staff in order to amend the Willoughby LEP to expand item No. 160 to include the Presbytery and School Buildings (in addition to the existing listing of the St Leonard's Catholic Church). The *"Property description"* of the item, for the purposes of Schedule 5 to the Willoughby LEP, would be defined by reference to lot boundaries, having regard to the Holtham Report's recognition of the importance of the spatial and landscaping relationship between the buildings and its curtilage. The Planning Proposal can be viewed at **Attachment 2**.

The Planning Proposal outlines how it aligns with the strategic objectives of the Greater Sydney Commission's *"A Metropolis of Three Cities – The Greater Sydney Region Plan, March 2018"*, and *"the North District Plan 2018"*. The Planning Proposal also details its consistency with the relevant heritage-related aims contained within the *"Our Future Willoughby 2032"* as well as Council's *"Local Strategic Planning Statement 2020"*.

The Planning Proposal has been prepared in accordance with the Department of Planning & Environment's *"Local Environmental Plan Making Guideline"* and the requirements of section 3.33 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

The Planning Proposal was provided to the Willoughby Local Planning Panel for advice on 10 October 2023. The Panel's advice was as follows:

The Panel advises it supports the planning proposal being forwarded to the DP&E for a Gateway consideration having considered the findings of the heritage expert Vanessa Holtham that the presbytery and school buildings have local historical significance as a complex and meets the threshold for listing as a local heritage item in the Willoughby Local Environmental Plan 2012 (WLEP 2012).

Should Council resolve to proceed with the Planning Proposal, Council staff will forward the Planning Proposal to the Department of Planning & Environment for a Gateway Determination.

5. CONCLUSION

After having assessed the buildings on the Property against the seven criteria for establishing heritage significance identified by the Heritage Council of New South Wales (see *Assessing Heritage Significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria*, published by the Environment and Heritage Group, Department of Planning and Environment, May 2023) it is evident that St Leonard's Church, Presbytery and School Buildings and their grounds are of local heritage significance.

The Planning Proposal, which has been prepared consistently with section 3.33 of the EP&A Act, would amend the Willoughby LEP to ensure that this significance is recognised.

It is therefore recommended that Council forward the Planning Proposal to the Department of Planning and Environment, seeking a Gateway Determination under section 3.34 of the EP&A Act.

ATTACHMENT 1

IMPLICATIONS	COMMENT
City Strategy Outcome	2.2 – Respect and celebrate our history and heritage sites
Business Plan Objectives, Outcomes / Services	To identify, conserve and enhance environmental heritage.
Policy	This matter relates to Council's Local Strategic Planning Statement (LSPS) in particular Priority 5 <i>Respect and celebrate our history, heritage sites and attractions of Willoughby City</i> , and Council's Local Environmental Plan and in particular the Schedule containing all items listed as having local Heritage significance.
Consultation	Should Council decide to proceed with the Planning Proposal, community consultation would be required by the Gateway Determination, should one be issued by the Department of Planning and Environment.
Resource	Additional officer time required to prepare and coordinate necessary revisions to the Willoughby LEP. Operating resources used to prepare this report and additional consultant resources were required to undertake the Heritage Study Review.
Risk	The risk of damage to or loss of these buildings is real with a current Class 1 development appeal on foot. Without the proposed amendments to the Willoughby LEP, no long-term heritage protection is available to the School Buildings, Presbytery and other elements of the Property which are not presently itemised, increasing the likelihood of loss.
Legal	The Planning Proposal will amend the <i>Willoughby Local Environmental Plan 2012</i> .
Legislation	<i>Heritage Act 1977</i> and <i>Environmental Planning and Assessment Act 1979</i> .
Budget/Financial	This is within approved budget.