



IRF24/1776

Gateway determination report – PP-2024-1539

New heritage item at 14 Sunderland Street Mayfield

August 24



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Gateway determination report – PP-2024-1541

Subtitle: New heritage item at 14 Sunderland Street Mayfield

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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
Heritage Significance Assessment (Version 2, dated 27 May 2024)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Newcastle City Council
NAME	New heritage item at 14 Sunderland Street Mayfield
NUMBER	PP-2024-1539
LEP TO BE AMENDED	Newcastle Local Environmental Plan 2012 to include a new local heritage item.
ADDRESS	14 Sunderland Street, Mayfield
DESCRIPTION	Lots 27A & 27B DP 977626
RECEIVED	11/07/2024
FILE NO.	IRF24/1776
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal seeks to include a new heritage item of local significance at 14 Sunderland Street, Mayfield. The objective of the planning proposal is clear and appropriate.

1.3 Explanation of provisions

The explanation of provisions confirm that the objectives of the proposal will be achieved by amending Schedule 5 Environmental Heritage of Newcastle LEP 2012. This will include listing the site as a heritage item of local significance and will be referred to as ‘Residence’. Newcastle LEP 2012 Heritage Map will also be amended to include the site. The planning proposal contains an explanation of provisions that adequately explain how the objectives will be achieved.

1.4 Site description and surrounding area

The site is located at 14 Sunderland Street Mayfield and consists of two individual lots (Lots 27A & 27B DP 977626). It has an area of 1,030m² and is zoned R3 Medium Density Residential. The site is rectangular in shape and is bounded by Sunderland Street to the south and an unnamed laneway to the north. The subject site is north of Waratah train station, south of Maitland Road and east of Hanbury Street. It is in close proximity to one heritage item. It currently contains a single storey masonry dwelling.

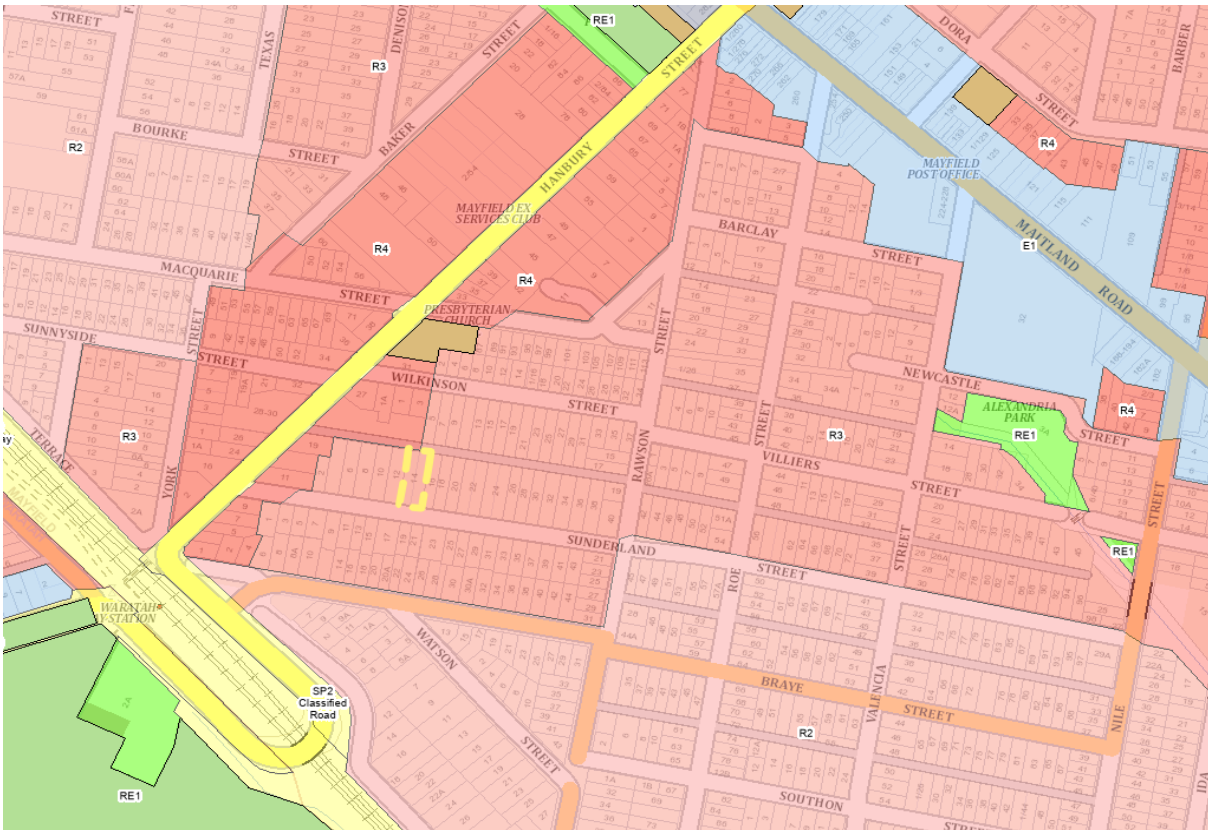


Figure 1: Site location, land zoning and surrounding area including Heritage Map layer (NSW Spatial Viewer 2024)



Figure 2: Aerial imagery of the site (NSW Spatial Viewer 2024)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the heritage map, which is suitable for community consultation.

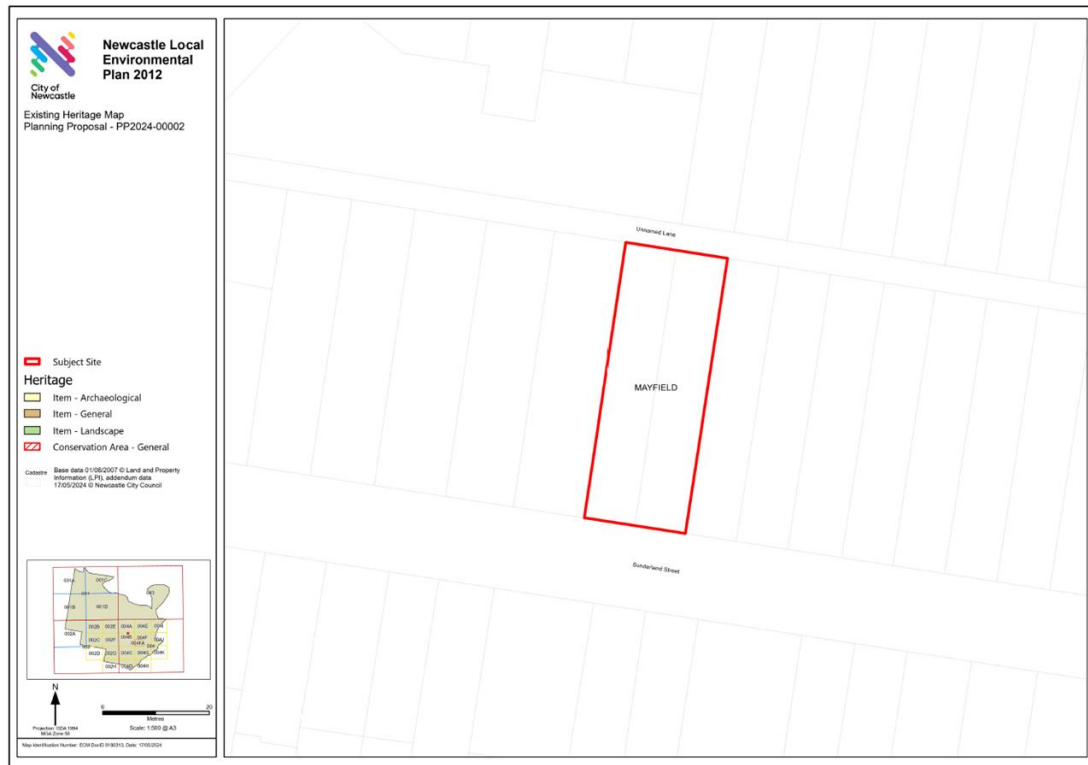


Figure 3: Existing Newcastle LEP 2012 Heritage map (planning proposal 2024)



Figure 4: Proposed Newcastle LEP 2012 Heritage map (planning proposal 2024)

1.6 Background

The City of Newcastle Council received a Development Application (DA2023/00965) on 13 October 2023 for the demolition of the existing dwelling and erection of a two storey co-living housing development. During public notification, submissions were received citing heritage as a concern.

A preliminary heritage assessment was undertaken and found that the site is likely to have heritage significance. As a result, an Interim Heritage Order (IHO) (No. 2024/01) was published in the NSW Government Gazette No. 73 – Planning and Heritage on 1 March 2024.

Council then engaged an independent heritage consultant to complete a Heritage Significance Assessment for the property. The assessment found that the site has local heritage significance as one of the earliest residences constructed on the Mayfield/Waratah subdivision, as well as its association with the former mayor of Waratah and prominent citizen of the area – Thomas Braye. The dwelling is considered to represent a rare and generally intact example of a Mid Victorian architectural style in the area.

During the Gateway assessment period, the Department received a letter dated 23 July 2024 from lawyers acting for owners of the site advising that both the DA and IHO are currently the subject of appeals to the NSW Land and Environment Court. The letter requested that the Department's gateway assessment of the planning proposal await the Court's finding in the IHO appeal.

While the pending Court proceedings are noted, it is considered that the Gateway determination can proceed to allow community and agency consultation to be undertaken. This will also allow the land owner the opportunity to lodge a submission raising his concerns during the public exhibition phase of the LEP making process that will need to be considered and addressed by Council (noting that the IHO appeal is also currently listed for hearing 5-6 September 2024). Any submissions received (and if available, court findings) will be considered prior to finalisation which is not anticipated to occur until late 2024/early 2025 should the proposal proceed to that stage. However, given these circumstances, it is recommended that Council not be authorised to be the local plan-making authority in order that the Department can undertake a final independent review of the proposal in regard to the consultation and court outcomes.

2 Need for the planning proposal

A Heritage Significance Assessment for the property undertaken on behalf of Council by Artefact Heritage and Environment (2024) recommended the subject site be listed in Schedule 5 Environmental Heritage of the Newcastle LEP 2012 as having local significance. This assessment was prepared in accordance with the NSW Heritage guidelines *Assessing Heritage Significance*.

A planning proposal is needed and the only means of listing a new local heritage item in Schedule 5 Environmental Heritage of Newcastle LEP 2012.

3 Strategic assessment

3.1 Regional and Subregion Plan

The planning proposal to provide heritage protection to a local item of significance is consistent with the relevant goals, objectives and intent of the Hunter Regional Plan 2041 and the Greater Newcastle Metropolitan Plan 2036.

3.2 Local Plan

The proposal to provide heritage protection to a local item of significance is consistent with the relevant objectives and planning priorities of Newcastle City Council's Local Strategic Planning Statement and Community Strategic Plan.

3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with the relevant 9.1 Ministerial Directions and is considered satisfactory.

3.4 State environmental planning policies (SEPPs)

The proposal is in accordance with the relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The site is located in a well-established R3 Medium Density Residential area and is not located on bushfire prone. The subject site is located on flood prone land and Class 4 Acid Sulfate Soils. However, it is acknowledged that the proposal does not lead to an intensification of use rather the outcome will result in a higher level of protection. The planning proposal to identify the land as having local heritage significance will not have any adverse or additional impact on traffic, transport, noise, water quality, stormwater management, contamination or soil stability.

4.2 Social and economic

The planning proposal aims to strengthen the site-specific planning controls and therefore has a positive social benefit by conserving and protecting Newcastle's local heritage.

The heritage listing of the site could have economic implications for the landowner if its future redevelopment potential for more intensive residential development is affected. As noted above, the land owner has objected to the proposed heritage listing. The heritage listing impact would however be minimal if the heritage significance of the item is confirmed (as any development application for redevelopment would already have to consider and cater for the heritage significance of the existing building). It is recommended that consultation with Heritage NSW be undertaken to confirm the heritage significance of the building to justify its proposed listing.

4.3 Infrastructure

Existing infrastructure is adequate to serve and meet the needs of the proposal.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. It is recommended NSW Heritage be consulted on the planning proposal and given 30 working days to comment.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

An LEP completion of 9 months from the date of the Gateway determination is recommended in accordance with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. 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 function as a Local Plan-Making authority.

As the planning proposal has in part occurred due to a development application and Council imposing a IHO on the site as a result, it is recommended that Council not be authorised to be the local plan-making authority in order that the Department can undertake a final independent review of the proposal in regard to the consultation and court outcomes.

8 Assessment summary

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

- The proposal is generally consistent with the State, regional and local planning frameworks.
- The proposal is supported by a Heritage Significance Assessment that confirms that the site has local heritage significance.

9 Recommendation

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

The following conditions are recommended to be included on the Gateway determination:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - a) The planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - b) The planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, August 2023).
2. Consultation is required with Heritage NSW under section 3.34(2)(d) of the Act. Heritage NSW is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 working days to comment on the proposal.

3. Given the nature of the planning proposal, it is recommended that the Gateway not authorise council to be the local plan-making authority and that an LEP completion date of 10 months from the date of the Gateway determination.



2/8/24

(Signature)

(Date)

Craig Diss, Manager, Hunter and Northern NSW



07/08/24

(Signature)

(Date)

Jeremy Gray

Director, Hunter and Northern NSW

Assessment officer

Stacey Stephens

Senior Planning Officer, Department of Planning, Housing and Infrastructure

(02) 9228 6239