



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 25 June 2007*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Delegated Authority (“D” Items):

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below:

Recommendation only to the Full Council (“R” Items):

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
 - Town Planning Objectives; and
 - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Traffic Management and Planning (Policy) and Approvals.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors, in accordance with any Council policy on "safeguards" and substantive changes.

Committee Membership:

7 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

21 June 2007

To: The Mayor, Councillor Keri Huxley, ex-officio
Councillors Geoff Rundle (Chair)
 Isabelle Shapiro (Deputy Chair)
 John Comino
 Christopher Dawson
 Wilhelmina Gardner
 David Shoebridge
 John Walker

Dear Councillors

Urban Planning Committee Meeting – 25 June 2007

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Monday 25 June 2007 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 12 June 2007	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	25 Hamilton Street, Rose Bay – Consideration as a Heritage Item – 1080.G	2
R2	Rezoning at 4A Nelson Street, Woollahra – 326.4a	36

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 12 June 2007**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Tuesday 12 June 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 12 June 2007 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **25 Hamilton Street Rose Bay – Consideration as a Heritage Item**
Author: Jodi Ayre - Strategic Heritage Officer
Chris Bluett – Manager Strategic Planning
File No: 1080.G [W] 1080.G [BH]
Reason for Report: To respond to the Council decision made on 13 December 2004, deferring the consideration of the heritage significance of 25 Hamilton Street, Rose Bay, to allow for further information.

Recommendation:

- A. THAT 25 Hamilton Street Rose Bay not be listed as a heritage item.
- B. THAT the heritage inventory sheet for 25 Hamilton Street Rose Bay be amended to include the Council's decision.

1. Background

Reports on the heritage significance of potential items in Bellevue Hill, Rose Bay and Darling Point were considered by the Urban Planning Committee meeting at its meetings on 27 September 2004, 1 November 2004 and 13 December 2004. At the meeting on 27 September 2004, the president of the Woollahra History and Heritage Society (WHHS), Mr Poland, addressed the Committee and requested that 25 Hamilton Street Rose Bay be listed as a heritage item. The report before the Committee recommended that the property not be listed.

On 11 October 2004 the Council made a decision on the potential items. The Council deferred consideration to allow further information to be provided to property owners. In regard to 25 Hamilton Street, the Council decided:

- C. *That the proposal by the Woollahra History and Heritage Society to include 25 Hamilton Street as a heritage item be investigated.*

A further report on the potential items, which included an assessment of 25 Hamilton Street, was considered by the Committee on 1 November 2004 (**annexure 1**). The report included information provided by the WHHS (**annexure 2** – information about heritage significance). Late correspondence from the Rose Bay Residents' Association dated 1 November 2004 supporting the views of the WHHS was tabled at the meeting (**annexure 3**). On 15 November 2004 the Council resolved:

That the matter be deferred and a report be submitted to the Urban Planning Committee meeting scheduled 13 December 2004 (and referred to full Council as a Matter of Urgency) in order for Councillors to further consider and review the process and steps involved in nominating and applying heritage listed properties in Woollahra.

On 13 December 2004 the Committee considered the matter. The Council resolved on the same night to prepare a draft local environmental plan to list a number of properties as heritage items and group heritage items and to include other properties in heritage conservation areas. An LEP was subsequently prepared, exhibited, endorsed by Council and then gazetted on 22 July 2005. In regard to 25 Hamilton Street, the Council's decision of 13 December 2004 was:

- K. THAT further investigation of the heritage significance of 25 Hamilton Street, Rose Bay be undertaken and submitted to the Urban Planning Committee for consideration. The property owner should be advised of this decision.*

The property owners were informed of the Council's decision by letter dated 24 December 2004.

This report to the Committee on 25 June 2007 presents the findings of further research and heritage assessment of 25 Hamilton Street Rose Bay. The report has been provided to the property owners.

2. Assessment of 25 Hamilton Street and review of documentation

The Council engaged a heritage consultant, Colin Brady from Colin Brady Architecture and Planning, to assess the heritage significance of a number of properties in Rose Bay and Bellevue Hill. Mr Brady prepared heritage inventory sheets for each property using the NSW Heritage Office heritage assessment criteria. A heritage inventory sheet for 25 Hamilton Street was prepared in July 2003. It was reviewed by Council's Strategic Heritage Officer, Libby Maher, and amended in July 2004 (**annexure 4**). The review had regard to information provided by the WHHS (**annexure 2**) and the submission from the Rose Bay Residents' Association (**annexure 3**).

The statement of significance prepared by Mr Brady identifies some degree of local significance for aesthetic and representative values. However, the limited extent of surviving original fabric and the extent of later unsympathetic additions can be seen to limit the significance of the building.

The recommendation contained in the inventory sheet states:

The residence at 25 Hamilton Street Rose Bay is not recommended for listing as a heritage item on the basis of [the] building being a representative but not remarkable example of [a] vernacular cottage incorporating Federation detailing. It is recommended that the building be recorded in the event of any planned demolition or removal. Due to the increasing rarity of the type, relocation is to be favoured over any future application for demolition.

A further review of documentation has been completed by Council's Strategic Heritage Officer, Jodi Ayre. Information provided by the WHHS and correspondence from the Rose Bay Residents' Association was considered again. Information provided by the heritage consultant firm Clive Lucas Stapleton and Partners Pty Ltd (**annexure 5**) for the current property owners was also taken into consideration.

The WHHS and the Rose Bay Residents' Association objected to the assessment within the draft heritage inventory sheet based on an alternative opinion of the degree of significance.

The WHHS also considers that the heritage inventory sheet and the assessment are flawed because an inspection of the interiors was not carried out. The Society is of the opinion that a different conclusion on heritage significance would have been reached if the interiors of the building had been inspected. Issues raised by the WHHS are discussed below.

2.1 Issues raised by the Woollahra History and Heritage Society

The WHHS provided a number of submissions which urged Council to reconsider the heritage significance of the property. In the submission dated 8 September 2003 (**annexure 2**) the following issues were raised by the Society:

Early cottages often consist of a front verandah, a central hall with one room either side and two rear rooms with a skillion across the rear. In 25 Hamilton Street the original hall and two front rooms are under the front transverse ridge roof and two original rear rooms are under the rear transverse ridge roof.

Response

The configuration of the original weatherboard cottage with the double transverse gable roof form is unusual. However, the limited architectural detailing and the limited extent of original external materials impact on the heritage significance.

A photograph c1970 of the house compared with a 2003 photograph shows the front verandah, the south-east side of the house and the two transverse ridge roofs virtually unchanged. This shows that the following two statements in the heritage assessment report are incorrect: - "...the duplicated gable form paralleling the forward section of the cottage also appearing a later addition" (page 3 Physical Condition. "Photograph dated c1970 probably relates to 1977 and shows construction of matching gable roofed addition to rear".(page 3 Physical Modification and Dates)

Response

This description of the original roof form was corrected in the heritage inventory sheet. The description now acknowledges:

- "a pair of transverse gable form roofs" and "The rear more recent portion of the residence has a skillion roof form."
- the terracotta roofing tiles are a recent replacement, of apparently earlier tiles. Much of the weatherboarding has been sympathetically replaced.

The c1970 photograph does not provide any additional understanding of the external detail, particularly the front façade verandah details.

The recent heritage assessment report states "Interiors have not been inspected". The Society believes that if this had been done it would have been obvious that the post 1977 extensions were done only to the rear of the 2nd transverse ridge roof. These extensions appear to have incorporated the original rear skillion, but did not change the front verandah, the hall, the four front rooms or the transverse ridge roofs.

Mr David Sheedy, heritage architect, states that the front four rooms and the verandah appear to be of a c1900 date. He also "found the front main part of the cottage under the two gable roof forms to be substantially intact including most of its Edwardian joinery, doors, windows and timber ceilings and cornice mouldings."

Response

Clive Lucas Stapleton and Partners Pty Ltd were engaged by the current property owners to provide an opinion of the heritage significance of the house. In a letter dated 18 February 2005 (**annexure 5**), the following advice was provided by Hector Abrahams of Clive Lucas Stapleton and Partners:

From my inspection on 14th February[2005]and my reading of the draft heritage inventory sheet by Colin Brady, I conclude that the house is a four room workers cottage, from about 1904, substantially remade in the 1970s or 1980s. As a result of this it has some aesthetic interest for that remaking, but is not of a historical integrity to warrant listing.

Mr Abrahams' carried out an external **and** internal inspection of the house.

In February 2005, Council's Strategic Heritage Officer, Libby Maher, undertook further investigations. An inspection of the interior of the building was carried out by Ms Maher on 24 February 2005. As a result of that inspection, Ms Maher raised a number of questions regarding the provenance of materials and features within the original four front rooms.

In correspondence to the former property owners on 24 February 2005, Ms Maher wrote:

The authenticity of the internal building and details and materials of the original part of this cottage is challenging because the house appears to have been renovated substantially in the 1970s-80s, and seems to have a lot of Victorian detail not expected in a simple cottage.

Ms Maher and Hector Abrahams formed the opinion that the highly ornate interior was inconsistent with the external Federation workers cottage form. Ms Maher's opinion of the heritage significance of 25 Hamilton Street was not altered, despite the inspection of the interior of the building.¹

Correspondence from the previous property owner outlined the extent of work undertaken to the front of the building.

The veranda, when I acquired the property, was totally enclosed with fibro and louvered windows. The present veranda columns, the French doors and front door itself, plus the 2 stained glass windows are not original. I bought them at demolition sites and second hand shops and installed them over time.²

The c1970 photograph provided by the WHHS clearly indicates the infill to the front verandah. Comparisons between the 1947 (BA 47/197) and 1979 (BA 79/1345) plans of the building illustrate the extent of alterations made to the front part of the building.

¹ Personal comments Libby Maher 11 April 2007.

² Letter dated 28 May 2003, Paris Osbourne

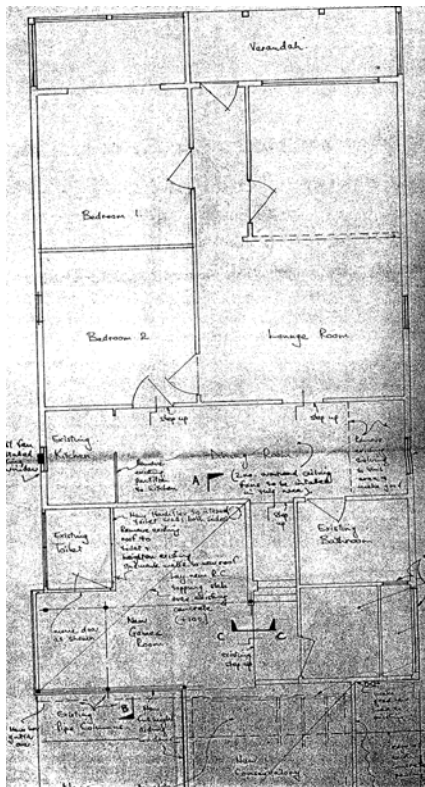


Figure 1 BA 47/197
Source: Woollahra Council

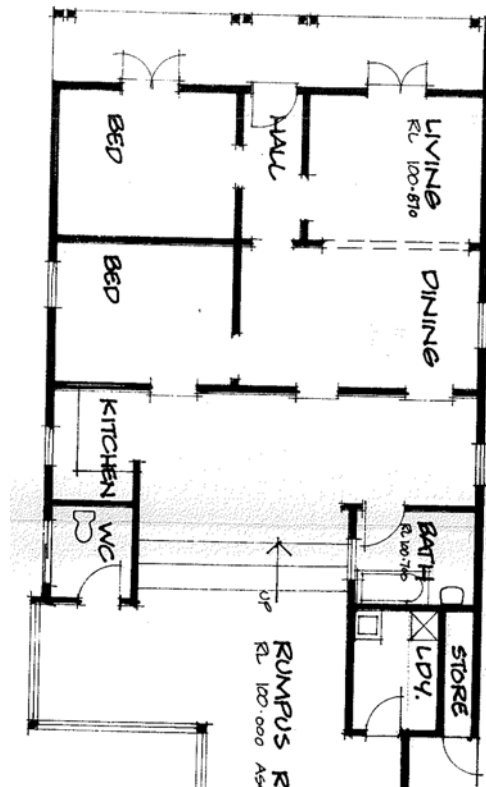


Figure 2 BA 79/1345
Source: Woollahra Council

2.2 Consideration of rarity

The rarity of the building has been assessed. At the time of assessment, the house was one of three timber cottages in the Hamilton/Spencer street area which remained from the early twentieth century.

Council's Heritage Officer assessed the timber cottage at No. 43 Spencer Street, in relation to an application for demolition, as having no heritage significance to the Woollahra area.

The early Federation cottage at No.23 Spencer Street is now a heritage item listed in Woollahra LEP 1995 (via Amendment 55 gazetted on 5 May 2006). This listing was based on the item's rarity and because it is a substantially intact example of the small weatherboard cottage form, which incorporates 'Carpenter Gothic details'.

While the transverse gable roof form of a timber weatherboard cottage is common throughout parts of Paddington, and the timber weatherboard workman's cottage vernacular can be found in Watsons Bay, the double transverse gable roof form is considered to be an unusual and relatively rare roof form within the Municipality. There is one example in Paddington of a two storey timber building with this type of roof form, and a known example on Glenmore Road, Paddington, which has since been demolished.



Figure 3 Double transverse gable roof form, Harris St, Paddington

Source: Woollahra Council



Figure 4 Double transverse hipped roof form

Source: *Survey of Timber Buildings*, 1996, Woollahra Local History Society

Throughout parts of North Sydney, there are small single storey timber cottages with the double roof form in small area pockets³. The importance of these buildings is the ability to convey the development of the area through the rusticated character associated with workman's cottages of various eras. The example below is a heritage item in North Sydney Local Environmental Plan.



Figure 5 Thomas Street, McMahon's Point

Source: Woollahra Council



Figure 6 Thomas Street, McMahon's Point

Source: Woollahra Council

Alterations and additions to the buildings do not appear to have had an impact on the building's integrity as a representation of the weatherboard workman's cottage vernacular.

During verbal presentations to the Urban Planning Committee, the example of Don Bank Cottage at North Sydney was provided as a rare example which might be comparable with 25 Hamilton Street. Further research has been carried out to determine comparative significance.

Don Bank Cottage is the oldest wooden house in North Sydney and is listed on the State Heritage Register. The following statement of significance identifies the importance of the building

*An interesting and well known cottage and one of the rare survivals of slab construction dwellings in an area of rapid and constant commercial development. The building is associated with the Wollstonecraft and Berry families and has become closely identified with local historic preservation forces. It is visually pleasing and for the area unusual in several respects.*⁴

³ Phone conversation with North Sydney Council's Heritage Officer, Libby Maher, 12 April 2007.

⁴ State Heritage Inventory Sheet *Don Bank Cottage* <http://www.heritage.nsw.gov.au>

The building is a single storey vertical fitted slab construction cottage with timber shingle roof. The principal building extends along the Napier Street frontage and has a single transverse gable roof form. A rear wing extends off the north side of the building.

The building is a State significant building with high historical significance associated with the development of North Sydney. This Victorian Georgian style cottage was constructed c1853 and is located within one of the earliest private subdivisions of North Sydney. The building retains a high degree of integrity and intactness. Don Bank Cottage is a much earlier building than 25 Hamilton Street and demonstrates a much higher degree of heritage significance which is reflected in its listing on the State Heritage Register. It is therefore not appropriate to identify Don Bank Cottage as a comparative example.



Figure 7 Don Bank Museum

Source: North Sydney Council, <http://www.northsydney.nsw.gov.au/www/html/4053-don-bank-museum.asp>

2.3 Consideration of significance and recommendation

The building at 25 Hamilton Street presents to the streetscape as a single storey form of a tiled double transverse gable roof form. While this roof form presents as an unusual roof form for a small timber weatherboard cottage, there is an overall lack of intactness of external original materials. There is also a use of fabric not original to the building which confuses the workman's cottage interpretation. The building's architectural character is unremarkable, despite the consideration of the double transverse gable roof form.

The heritage inventory sheet contains references to the extent of alterations and additions which have been carried out to the exterior.

Further investigation into the architectural merit of the interior of the cottage has been undertaken by Council's former Strategic Heritage Officer, Libby Maher. Ms Maher has confirmed that there is doubt about the originality of the interior fabric. Past renovations and alterations have impacted on the integrity of the interiors. An additional comment has been made in the inventory sheet to reflect this impact (see Physical description).

Heritage listing on the basis of the unusual double transverse gable roof form is not supported. There is insufficient evidence to warrant the consideration of the heritage significance under any of the heritage assessment criteria. The alterations and additions have impacted on the authenticity and integrity of the building.

The value alone of the double transverse gable roof form could be documented through a photographic archival record prior to any alterations or removal in the future.

4.0 Conclusion

This report concludes that 25 Hamilton Street should not be listed as a heritage item in Woollahra Local Environmental Plan 1995. The building does not demonstrate sufficient evidence to warrant listing. Additionally, the extent of alterations and introduced materials negatively impact on the building's authenticity.

Jodi Ayre
Strategic Heritage Officer

Chris Bluett
Manager Strategic Planning

ANNEXURE

1. Report to Urban Planning Committee - 1 November 2004 (excluding annexures)
2. Letter from Woollahra History and Heritage Society - 8 September 2003 (includes letter dated 23 August 2003 from David Sheedy Pty Ltd Architects)
3. Letter from Rose Bay Residents' Association Inc – 1 November 2004
4. Heritage inventory sheet for 25 Hamilton Street, Rose Bay, as amended July 2004
5. Letter from Clive Lucas Stapleton and Partners Pty Ltd - 18 February 2005

Item No: R2 Recommendation to Council
Subject: **Rezoning at 4A Nelson Street, Woollahra**
Author: John Davies – Strategic Planner
File No: 326.4a
Reason for Report: To respond to a request to amend Woollahra Local Environmental Plan 1995

Recommendation

- A. THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995, to change the zoning of 4A Nelson Street from Special Use 5 (Integrated Housing for Aged Persons/Community Facility) to Residential 2(a).
- B. THAT in order to retain the heritage significance of the site, the current allotment size be retained and no minimum allotment size be set under the Woollahra LEP 1995. All subdivision proposals are subject to development consent and will be assessed with regard to impact on heritage significance.
- C. THAT in resolving to prepare a draft local environmental plan the Council is not indicating its acceptance of a development proposal or building works on the site or other sites from which Jewish Care (the owner) operates or intends to operate. These matters will need to be assessed separately through the development application process.
- D. THAT as required by the Council's adopted Fees and Charges, the applicant is to pay all costs incurred by Council for the preparation and exhibition of the amending local environmental plan, including the assessment of the rezoning application report.

Requested amendment

On 12 January 2007, Council received a letter and background report from GSA Planning, acting on behalf of their clients Jewish Care. The letter requested a rezoning for 4A Nelson Street, Woollahra, from Special Use 5 (Integrated Housing for Aged Persons /Community Facility) to Residential 2(a); a copy is at **annexure 1**. A further letter supplying Council with some additional information is at **annexure 2**.

Jewish Care is a charity that has been operating for over 70 years. They are a major provider of non-residential community based services in the subregional area. The services offered by Jewish Care include counselling, family support, foster/respice care, mental health care, migrant support and personal support to the community.

Jewish Care employs a total of 85 staff, who provide 25 community outreach programmes within the subregional area, including the Aged and Disability Team (working out of Oxford Street, Bondi Junction), and a small programme which operates out of Darlinghurst. They estimate that these programmes help 4000 people each year. The head office is located at 4A Nelson Street, Woollahra. This is the main administration centre for Jewish Care, along with the Children Family and Community team. There are approximately 35 people operating out of Nelson Street.

The reason for the rezoning request is because the space provided at 4A Nelson Street is restrictive to the demands of Jewish Care, and they plan to relocate these services to Saber Street, Woollahra, (approximately 400m from the site). Saber Street previously housed the Burger Centre, (a Day Care centre for the frail and aged) and is currently being used for a range of Jewish Care activities and functions. Jewish Care state that there is opportunity for the consolidation of services into Saber Street and the potential to provide a more efficient operation of their services, with an expansion of service to more people.

A change to Residential 2(a) would permit the site to be converted into a residential dwelling. GSA Planning have stated that the rezoning will make the proposed move of facilities to Saber Street financially viable and allow the services which are currently provided by Jewish Care to remain in the Municipality.

Site and context

The site is located at the northwest corner of Wallis Street and Nelson Street and is known as 4A Nelson Street, Woollahra, being Lot 3 in DP 270205 (see figure 1 below). The building historically was also known as 'Brougham' or 'Brougham Hostel'.

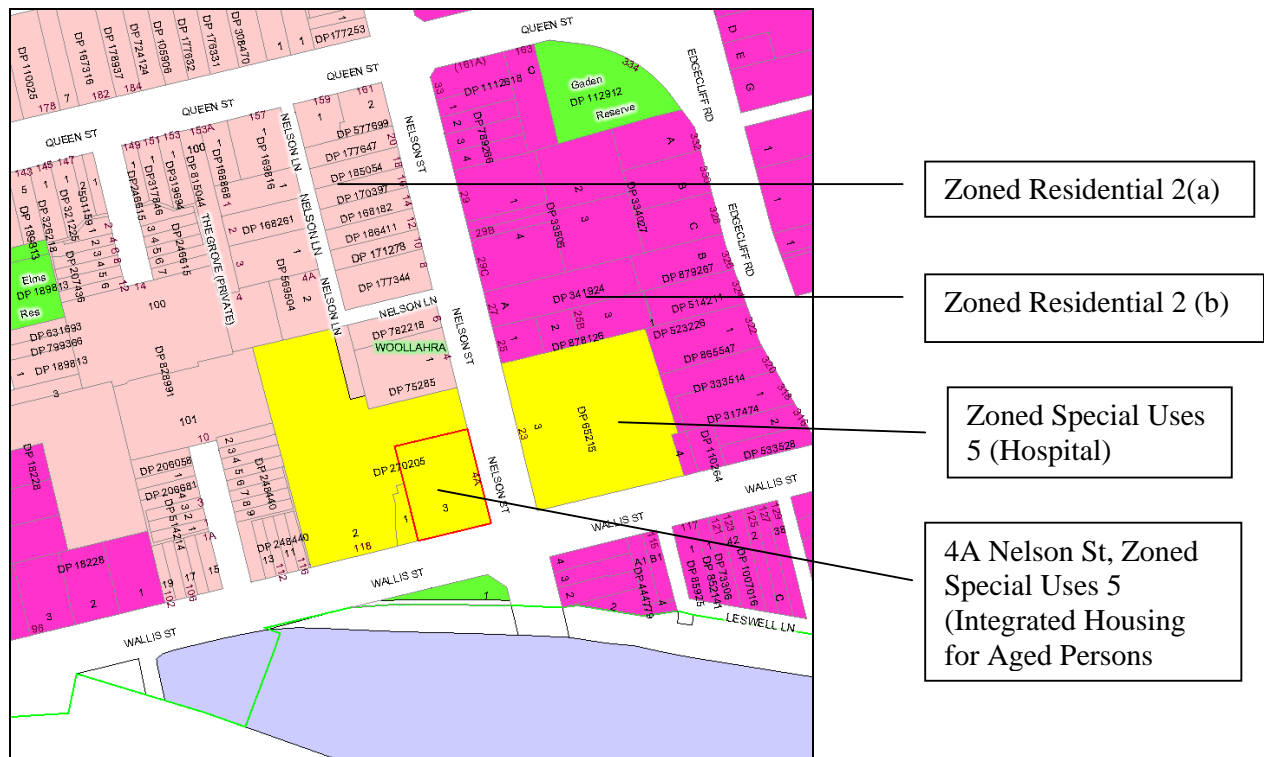


Figure 1 Site, context and land use zoning for 4A Nelson Street, Woollahra

The site is approximately 1259m². It is a single storey building, currently being used for community related purposes. It is owned and run by Jewish Care. The building was constructed in the late 1800s, for residential purposes. Over time there have been two additions to the original building. The site originally included land to the west and north – 118 Wallis Street, but was subdivided and redeveloped for housing for the aged (Emmanuel Gardens) in the 1990s. The building and the landscaped gardens are heritage items, within the Woollahra Heritage Conservation Area.

Development surrounding the site comprises predominantly of one and two storey residential uses, but also includes the Montefiore Home aged care home, and Emanuel Gardens which provide housing for the elderly through Temple Emanuel. Emanuel Gardens (on 118 Wallis Street) is completely separate to the subject site.

The land use zoning for 118 Wallis Street and 4A Nelson Street is Special Uses 5 (Integrated Housing for Aged Persons /Community Facility). The surrounding area is predominantly residential, being zoned either Residential 2 (a) or Residential 2 (b). The adjacent Montefiore Home is zoned Special Uses 5 (Hospital).

Annexure 3 shows some photos of the building and its local context.

3. Assessment

3.1 State and regional planning

3.1.1 Sydney Metropolitan Strategy 2005 and Eastern Subregional Strategy

Background

In December 2005 the NSW State Government released the Sydney Metropolitan Strategy - City of Cities: A Plan for Sydney's Future. This document is a framework for managing growth and development for twenty-five years to 2031. The metropolitan strategy comprises seven principal strategies:

- Economy and Employment
- Centres and Corridors
- Housing
- Transport
- Environment and Resources
- Parks and Public Places
- Implementation and Governance.

The metropolitan region has been divided into ten subregions and the Central Coast, combining local government areas with similar or related characteristics, issues and challenges. Planning strategies are being prepared for each of the subregions and the Central Coast.

Two key elements of the Subregional strategy are provision of additional dwellings and increasing opportunities for new jobs. The Metropolitan Strategy has set targets of 20,000 additional dwellings and 12,500 new jobs for the eastern region up to 2031. Preliminary targets originally set for Woollahra were:

- 2,782 additional dwellings
- 1330 new jobs.

These figures have been revised to:

- 2,900 additional dwellings
- 300 new jobs.

Assessment

The requested amendment **is consistent** with the Sydney Metropolitan Strategy. It seeks to rezone land designated as 'Special Use' to a residential zone. In so doing, it will provide an additional dwelling in the Municipality. Additionally, the relocation of existing community services to an alternate nearby location will ensure that there will be no loss of jobs within the Municipality or a loss of community services.

The net potential effect is an amendment which **is consistent** with the residential and employment objectives of the Strategy and the Subregional strategy.

3.1.2 State environmental planning policies

Background

There are 11 State environmental planning policies (SEPP) that apply to the Municipality.

Assessment

The proposed draft amendment **is consistent** with those SEPP's which would apply to the Municipality. The rezoning proposal does not propose any development. Should a development application be submitted in the future, it would need to comply with the objectives and provisions of the relevant SEPPs that apply to the development proposal.

3.1.3 Regional environmental plans

Background

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the land.

Assessment

There are no specific provisions of the REP relevant to the land. The REP deals largely with development and planning for foreshores and waters of Sydney Harbour. The site is distanced from the foreshores and waters of Sydney Harbour. The aims of the REP are not compromised by the rezoning proposal.

3.2 Directions under section 117 of the Act

Background

Section 117 of the *Environmental Planning and Assessment Act 1979* (the Act) provides that the Minister for Planning may give directions to a public authority or a person who has functions under the Act or under an environmental planning instrument. Through section 117, the Minister may direct a council to carry out the council's functions in preparing a draft LEP in accordance with principles set out in the direction. Under section 117, the Minister may also direct a council to include provisions in a draft LEP that will achieve or give effect to principles, aims, objectives or policies specified in the direction. In all instances the principles, aims, objectives and policies must be consistent with the Act.

Currently the Minister has issued twenty-eight directions. No directions have been issued specifically for the site or Woollahra Municipality.

Assessment

There are four Section 117 Directions that are relevant to the proposal:

Direction 1 Acid Sulfate Soils

Objective

- *To ensure that any use of land that is mapped as having a probability of containing acid sulphate soils will not result in significant environmental impacts.*

This site has a classification of 5, which indicates a low probability of acid sulfate soils. The proposal is to change the zoning of the site, no development is proposed and, therefore, there should not be any environmental impacts in terms of acid sulfate soils in the area.

Direction 9 Heritage

Objectives

- *To conserve items, places, and precincts of environmental heritage;*
- *To conserve the heritage significance of existing significant fabric, relics, Aboriginal objects, settings and views associated with the heritage significance of heritage items and heritage conservation areas;*
- *To conserve archaeological sites; and*
- *To conserve places of Aboriginal significance.*

No. 4A Nelson Street is listed in the Woollahra LEP 1995 as a heritage item. The provisions within the LEP ensure the conservation of this item and its surrounding garden landscape. The rezoning proposal does not seek to change the heritage item listing or amend the current heritage conservation provisions contained in Part 4 of the Woollahra LEP 1995.

Direction 21 Residential Zones

Objective

- *To ensure the orderly and economic use or development of residential land.*

The proposal does not aim to reduce the permissible residential density on the site. The proposal is consistent with the aims and objectives of the Sydney Metropolitan Strategy by providing an additional residential dwelling in the Municipality.

Direction 23 Savings

Objective

- *To ensure that all Crown and public utility undertakings are dealt with uniformly under the Act;*
- *To ensure that small business in the form of home occupations carried on in a dwelling houses are not regulated*

The proposal does not involve an amendment to Woollahra LEP 1995 that would remove or alter the savings provisions referred to in Direction 23.

NSW Department of Planning practice notes and circulars

Background

As part of the NSW State Government's planning reform package, which has a core requirement for councils to prepare a comprehensive LEP for their areas, the Department of Planning has issued a series of practice notes and circulars.

Planning Circular PS 06-015 deals with spot rezonings. When considering whether to resolve to prepare a draft LEP that aims to rezone land, Councils are required to address eight criteria. An assessment of the proposal using these criteria is provided below.

Assessment

Will the LEP be compatible with agreed State and regional strategic direction for development in the area (land release, strategic corridors, development within 800m of a transit node)

The amendment is consistent with creating housing in urban areas, close to existing infrastructure. The site is within 800 m of the Bondi Junction interchange. The proposal is in accordance with some of the objectives of the Metropolitan strategy by protecting employment and increasing housing numbers within the Municipality. No redevelopment is being proposed. The owner made a request to rezone the land to Residential 2 (a) and return the property to its original use. The heritage status is retained irrespective of the zoning.

Will the LEP implement studies and strategic work consistent with State and regional policies and ministerial (section 117) directions?

The Woollahra Council Housing Study and Strategy 1997 states that opportunities for housing on sites zoned Special Uses should be encouraged. The proposed rezoning also supports the study's recommendations for providing a range of housing type and choice within the Municipality. These recommendations are consistent with the State Government's urban consolidation policies.

Is the LEP located in a global /regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?

The subject site is not within the Global City, which is defined as the Sydney CBD and North Sydney CBD. However, the site is adjacent to Bondi Junction which is classified as a Major Centre. At the time of writing, no regional/subregional strategy has been released for consideration.

Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?

There will be a relocation and consolidation of current uses to a nearby site within the Municipality. The 35 staff operating from the Nelson Street property will combine with the service operating from Saber Street, Woollahra. The combined service of 85 staff members provide 25 community outreach programmes which are estimated to help 4000 people each year. These services may be relocated to another suburb if consolidation of properties cannot be achieved.

Will the LEP be compatible/complimentary with surrounding land uses?

The proposed draft LEP will be compatible with the surrounding predominantly residential housing, zoned Residential 2 (a) and Residential 2(b). If rezoned to Residential 2 (a) and used as a residential dwelling, it is reasonable to assume that less traffic will be generated in the local area.

Is the LEP likely to create a precedent or create or change the expectations of the landowners or other stakeholders?

The draft LEP will rezone the land from Special Uses 5 (Integrated Housing for Aged Persons /Community Facility) to Residential 2(a). The site is located within a residential street in the Woollahra Heritage Conservation Area, with the majority of surrounding buildings being zoned Residential 2(a) or Residential 2 (b). Therefore no precedent is being set.

Will the LEP deal with deferred matter in an existing LEP?

The draft LEP amendment will not deal with any deferred matters in an existing LEP.

Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

There are currently two other LEP amendments underway. Neither relate to a spot rezoning. The first amendment is a 'Community Services' definition relating to open space. The second deals with neighbourhood centres and relates to a broad scale strategic retail initiative. This spot rezoning cannot be accommodated within these LEP amendments as they both deal with other matters and are currently on exhibition.

3.4 Local planning

3.4.1 Woollahra LEP 1995

Background

Under Woollahra LEP 1995 the following provisions currently apply to the site:

<i>Land use zone</i>	Special Uses 5 (Integrated Housing for Aged Persons /Community Facility)
<i>Height controls</i>	9.5metres
<i>Density controls</i>	The site is zoned Special Uses 5. There are no FSR or minimum allotment sizes for such zones.
<i>Foreshore Building Line</i>	Not applicable
<i>Heritage conservation</i>	No 4A Nelson Street is contained within the heritage item listing for No 118 Wallis Street. The description of the heritage item is "Brougham" – building and grounds, 2 Norfolk Pines, Hoop Pine. The property is located within the Woollahra Heritage Conservation Area. The heritage provisions of Part 4 of Woollahra LEP 1995 apply to the site.
<i>Other</i>	The property is located with the foreshore scenic protection area

The properties to the east of the site are zoned Residential 2 (b) and those to the north and west are zoned Residential 2 (a). There is one other Special Use zone, for the Montefiore Hospital which is located directly across from 4A Nelson Street. This proposal relates specifically to 4A Nelson Street and will retain the Special Uses 5 (Integrated Housing for Aged Persons /Community Facility) zone for 118 Wallis Street.

The densities for the surrounding sites vary with the eastern side of Nelson Street being a maximum floor space ratio of 0.875:1. The site immediately to the north of 4A Nelson Street and the properties to the west of the site have a 230m² minimum allotment size. The remaining properties to the north of Nelson Street have a minimum allotment size of 400m². The maximum building height for this area is 9.5m.

The property is located within the Woollahra Heritage Conservation Area and specifically is within the Nelson Precinct. Under Woollahra LEP 1995 the following aims and objectives are relevant to the requested rezoning.

Woollahra LEP 1995 aims: 2 (1), (c), (d), and (g):

- To promote the management, development, conservation and economic use of property within the area of Woollahra
- To provide for an appropriate balance and distribution of land for commercial, retail, residential and tourist development and for recreation, entertainment and community facilities.
- To conserve the environmental heritage of Woollahra

Woollahra LEP 1995 objectives: 2 (2) (a) (iii) (iv);

- To zone land in order to create separate areas of residential and non-residential use in the interests of residential amenity, a balanced distribution of services and employment and efficient traffic distribution;
- To encourage and facilitate opportunities for diversity in dwelling density, type and tenure in suitable locations throughout the area of Woollahra

2 (2) (c) (i) (ii):

- To facilitate the provision and equitable distribution of community services necessary to meet the needs of the population;
- To provide opportunities for the development community services and facilities in appropriate areas.

And, 2 (2) (g) (ii) (iii):

- To ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the heritage significance of heritage items and their settings and of conservation areas
- To encourage the restoration or reconstruction of buildings or works which are heritage items or buildings and works that contribute to the character of conservation heritage areas.

Assessment

The proposal is **consistent** with the provisions of the Woollahra 1995 LEP, for the following reasons:

- The proposed zoning to Residential 2(a) is consistent with the predominant surrounding zoning;
- The rezoning is unlikely to create more traffic within the local area;

- The proposal will retain jobs within the Municipality;
- The proposal will allow an additional residential dwelling within the Municipality that is of a unique variety and type;
- The existing community facilities which operate from the site will be relocated to Saber Street, Woollahra, where Jewish Care state there is an opportunity to improve the efficiency of their services and a potential expansion of the services to more people in the subregional area; and
- Use of the property for residential purposes is consistent with its original intended use, which is desirable on heritage conservation grounds.

The property does not currently have a minimum allotment size for land subdivision. The majority of properties zoned Residential 2 (a) have been allocated minimum allotment sizes ranging from 230m² or 400m². In order to retain a suitable setting for the heritage building, further subdivision of the site may not be appropriate. Therefore, nominating a statutory minimum allotment size is not recommended. This approach is consistent with the heritage listed “Swifts” site in Darling Point. Any proposal would need to be carefully assessed through the development application process.

3.4.2 Woollahra DCPs and other policy documents

Background

The following development control plans and policy documents are relevant to the site.

- Woollahra Heritage Conservation Area DCP.
- DCP for 118 Wallis Street

Assessment

Woollahra Heritage Conservation Area Development Control Plan (DCP)

The objectives of this plan are:

- To facilitate the implementation of the objectives and provisions relating to heritage conservation contained in Woollahra LEP 1995;
- To acknowledge and conserve the heritage significance of the Woollahra Heritage Conservation Area (HCA);
- To encourage the retention and appropriate development of significant items
- To provide controls to protect the identified heritage values and significant character of the Woollahra HCA and encourage contemporary design that responds appropriately to that character;
- To enable appropriate expert consideration of proposed development to be made by the applicants and the Council;
- To encourage and promote public awareness, appreciation and knowledge of heritage conservation;
- To integrate planning, design and decision making associated with development initiated by the private and public sectors; and
- To enhance amenity and heritage values within the Woollahra HCA.

The desired future character objectives for the Woollahra HCA are:

- Retain its heritage significance and its recognition as a rare and distinctive urban area;
- Retain and promote evidence of the historical development of the HCA and its individual precincts and enables the interpretation of that historical development;

- Maintain the residential character that has been predominant from the earliest phase of its development;
- Maintain the character and significance of its identified precincts;
- Retain the distinctive building types and characteristic of the area and its precincts;
- Continue to cater for a variety of uses and building types within a predominantly residential area; and
- Exhibit contemporary design excellence.

The proposal is **consistent** with the objectives of the *Woollahra Heritage Conservation Area DCP* and the desired future character of the HCA for the following reasons:

- It is consistent with the relevant heritage conservation aims and objectives of the Woollahra LEP 1995;
- It allows for the future use of the property for residential purposes which is compatible with the site's heritage significance; and
- It will allow retention of the historical development of the area through future use of the property for residential purposes.

Should the rezoning of the site be approved, any future development application would have to comply with the relevant provisions in the *Woollahra Heritage Conservation Area DCP*.

118 Wallis Street Development Control Plan

The objectives of this plan are:

- To provide more detailed controls for development of land to which Woollahra Local Environmental Plan 1995 applies;
- To allow development of the site subject to compliance with the controls set down in this development control plan;
- To ensure conservation of Brougham and its mature garden setting;
- To ensure the protection of significant trees located on the site; and
- To require that any new development or work is in harmony with the design, scale, form and character of Brougham and its mature garden setting.

The proposal is **consistent** with the relevant objectives of the DCP for the following reasons:

- The rezoning does not involve any physical changes to the building and its grounds and therefore it will not impact on the heritage significance of the building, mature trees, or front fences;
- It allows for the future use of the property for residential purposes which is compatible with the site's heritage significance.

Any subsequent development will need to be accompanied by a conservation management plan, which must identify master planning options for sympathetic additional development that will not adversely affect the significance of the property or the precinct.

3.4.4 Woollahra Housing Study and Strategy 1997

Background

The Woollahra Housing Study and Strategy 1997 was carried out in response to the NSW Government's housing strategy initiatives which included regional and State plans and policies aimed at achieving urban consolidation. The purpose of the study and strategy was to make an objective assessment of the current and likely nature of residential development in the Woollahra Municipality and to determine appropriate strategies and residential actions and controls for future housing. The Council submitted the strategy to the then Department of Urban Affairs and Planning in order to gain exemption from *State Environmental Planning Policy No.53 – Metropolitan Residential Development*.

The study and the strategy consciously employed a methodology that addressed natural and built considerations including those relating to:

- Infrastructure capacity
- Impacts on local amenity
- Protection of scenic and landscape qualities
- Retention of heritage significance.

Hence, the strategy report identified that “As the Municipality is fully developed, the opportunities for further increases in residential densities are limited by the road network, the sewerage and drainage capacity and development impacts on the amenity, economy, environment and architectural character”. (pp. 3-4)

The report provided a set of objectives for future housing provision in Woollahra. Eight housing strategy options were identified. These options dealt with particular land use categories (such as dual occupancy and housing for aged or disabled people) and with land use zones (residential, commercial and special use zones).

Assessment

The proposed amendment is consistent with the relevant objectives and housing strategy options of the Woollahra Housing Study and Strategy 1997 for the following reasons:

- It will allow land currently zoned Special Use to be used for residential purposes;
- It adds to the range of housing type and choice within the Municipality.

Council's criteria for assessing requests to amend planning instruments

Background

Council has adopted three criteria for assessing applications that seek amendments to local statutory planning instruments such as Woollahra LEP 1995.

1. *The project, quite apart from its incidental advantage to the applicant, should produce some clear and tangible metropolitan or municipal benefit.*
2. *That generally proposals for suspension [rezoning] should only be considered by the Council where precinct planning has reached the stage of adoption by the Council as a policy.*

3. *That [rezoning needs to be considered] where there appears to be anomalies in the existing planning controls which are confirmed by carrying out a localised study.*

The following guidelines can be used to assist in the assessment of the proposal under criterion one:

A “**benefit**” in a planning sense would be the provision of a service or facility, an improvement of some type, or something for the good of people or a thing (such as the natural environment). It should not be something that is normally expected of new development such as good design, or something that would be required under planning controls such as the conservation of significant items and areas or the mitigation of environmental impact. It should also not be the retention of an “existing” benefit.

A “**clear and tangible**” metropolitan or municipal benefit must be:

- Real or actual, rather than imaginary or visionary.
- Definite, not vague or illusive.
- In the case of an asset, capable of being possessed or realised.

Assessment

Criterion 1 - The project, quite apart from its incidental advantage to the applicant, should produce some clear and tangible metropolitan or municipal benefit

Applicant’s Submission

Jewish Care provides a range of community and social services across the Municipality. The rezoning will make it feasible for these services to be relocated to an alternative location, where there is room for further expansion of these services. The rezoning will ensure these services are retained within the Municipality.

Assessment

The services provided by Jewish Care are supported by Council’s Community Services Division. As a community facility, the 4A Nelson Street property is made up of a number of small rooms and it is the opinion of Council’s Community Services Director that the property does not offer what is considered to be best practice as a community facility. The services provided by Jewish Care are not limited to Woollahra residents but also those communities in the subregional area. To lose such services would have an impact on jobs in the Municipality and also on community services and facilities in the subregional area.

Criterion 2 - That generally proposals for suspension [rezoning] should only be considered by the Council where precinct planning has reached the stage of adoption by the Council as a policy

Applicant’s Submission

Precinct planning has reached the stage of adoption by the Council as policy under the Woollahra Heritage Conservation Area Development Control plan. This plan contains a number of controls which will dictate development in the precinct.

Assessment

At the time of preparing the *Woollahra Heritage Conservation Area Development Control Plan*, this property was being used in accordance with its zoning as a community facility. At that time no consideration was required in terms of the property's zoning. We currently have adequate planning policy in place. That is, we are not in the process of preparing any policy which might have a bearing on the rezoning proposal and do not need to withhold consideration of the rezoning. Heritage recognition and the supporting conservation provisions which seek to protect the property will not change as a result of the rezoning.

Criterion 3 - That [rezoning needs to be considered] where there appears to be anomalies in the existing planning controls which are confirmed by carrying out a localised study

Applicant's Submission

A study of the area shows that the site is not strictly considered to be an anomaly. However, it is considered that it could become one should the property use be abandoned. The site to the west (Emmanuel Gardens) and the site to the east (Montifiore Hospital) are both zoned Special Uses 5. Emmanuel Gardens provides self-contained elderly person's housing. The subject site lends itself for use as a residential property yet is zoned Special Uses 5 (Integrated Housing for Aged Persons /Community Facility). Retaining the Special Use 5 zoning will make the site more of an anomaly, as the wider surrounding area is predominantly residential.

Assessment

The adjacent Montifiore Hospital and adjoining Emmanuel Gardens are both established and there is no indication that their services are to be suspended. These uses can continue to operate independently despite Jewish Care vacating 4A Nelson Street. Should Jewish Care cease to operate from 4A Nelson Street, the zoning could be seen as anomalous in the context of the surrounding predominantly residential land use if the intention is to convert the property to residential use. The option of retaining the zone to facilitate another community use is possible. However, it is the opinion of Council's Community Services staff that the property does not offer an internal configuration which lends itself to best practice in the provision of a community facility. With this in mind, it is unlikely that Jewish Care will be able to lease/sell the property to another organisation looking to provide community facilities and services in the area.

5. CONCLUSION

Jewish Care employs 85 full-time workers and provides a number of important community services to approximately 4000 people in the wider subregional area each year. Jewish Care would like to build on these services and consolidate their activities in a building which is more suited to their needs. Amending the zoning will allow the Jewish Care to ultimately sell 4A Nelson Street. The revenue from the sale will help with the consolidation of services.

The rezoning will allow conversion of the property to its former residential use. There are sufficient planning controls in place to ensure that the integrity of the building and its heritage listing are protected, should a development application be submitted in the future.

The rezoning request is also consistent with the State Government's Metropolitan planning objectives to increase the number of houses in the area and retain employment.

John Davies
Strategic Planner

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Annexures

Annexure 1 Letter and report from GSA Planning dated 12 January 2007

Annexure 2 Letter from GSA Planning dated 24 April 2007

Annexure 3 Context photos of 4A Nelson Street, Woollahra