



PLANNING PROPOSAL

To amend the *Woollahra Local Environmental Plan 2014* by including the property known as “Sunny Brae” at 40 Fitzwilliam Road, Vaucluse (Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069) as a local heritage item in Schedule 5 and its identification on the Heritage Map (Sheet HER_004).

Prepared for: George & Deirdre Murrell

REF: M200406

Date: 26 April 2021





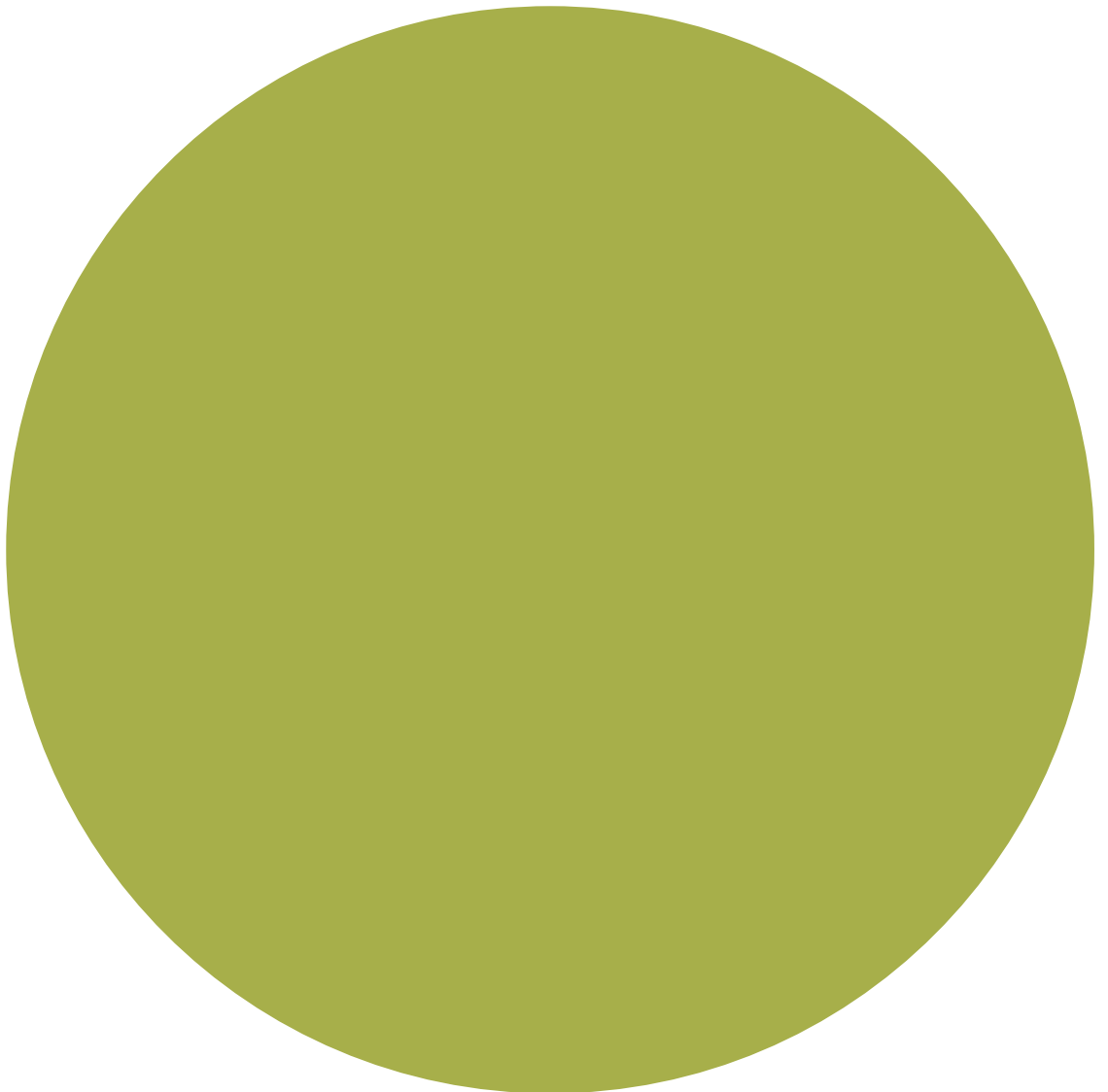
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Executive Summary

This Planning Proposal seeks to amend the provisions of the *Woollahra Local Environmental Plan 2014* (WLEP) for land at No. 40 Fitzwilliam Road, Vaucluse. Specifically, the Planning Proposal seeks to include the land identified as “Sunny Brae” as a local heritage item in Schedule 5 of the WLEP and the inclusion of the land (identified as Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069) on the WLEP Heritage Map (Sheet HER_004).

This Planning Proposal applies to the land owned by George and Deirdre Murrell and contains the historic dwelling known as “Sunny Brae” at No. 40 Fitzwilliam Road, Vaucluse. The Planning Proposal seeks to preserve the dwelling and its interiors for its identified local heritage values and 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.

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 assessment has been undertaken following the guidelines in the NSW Heritage Manual which have provided guidance on the substance, structure and methodology for determining the heritage significance of the site. The heritage assessment has identified the dwelling known as “Sunny Brae” as a prominent, significant and relatively intact example of Federation Queen Anne style residential architecture that is worthy of conservation. The heritage assessment has considered the cultural significance of the site in accordance with *The Australia ICOMOS Burra Charter* and Heritage NSW criteria and recommends the listing of the site as an item of local heritage in the WLEP.

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.

Table 1 Summary of Seven Criteria			
Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	<i>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).</i>	√	√
(b)	<i>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).</i>	√	√
(c)	<i>An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).</i>	√	√



(d)	<i>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.</i>	√	√
(e)	<i>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).</i>	x	x
(f)	<i>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).</i>	√	x
(g)	<i>An item is important in demonstrating the principal characteristics of a class of NSW's</i> <ul style="list-style-type: none"><i>• cultural or natural places, or</i><i>• cultural or natural environments, (or a class of the local area's</i><i>• cultural or natural places, or</i><i>• cultural or natural environments.)</i>	√	√

The Planning Proposal has been prepared in accordance with the NSW Department of Planning & Environment's *Guide to Preparing Planning Proposals* and has adequately addressed the relevant strategic and statutory planning considerations.

The proposed listing of the subject site containing the dwelling known as "Sunny Brae" at 40 Fitzwilliam Road, Vaucluse is considered to satisfy the requirements to enable the amendment of the WLEP and is submitted to Woollahra Council for endorsement and submission to the Department of Planning, Industry and Environment for Gateway determination.



1. Introduction

This Planning Proposal has been prepared for George and Deirdre Murrell, the owners of No.40 Fitzwilliam Road, Vaucluse. It is submitted in support of an application to request that Council seek a Gateway Determination under the provisions of Section 3.34 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The Planning Proposal submitted with this report has been prepared in accordance with Section 3.33 of the EP&A Act as well as the NSW Department of Planning & Environment's publications "*A Guide to Preparing Planning Proposals*" and "*A Guide to Preparing Local Environmental Plans*".

The primary intent of this submission is to initiate the Planning Proposal process to amend the *Woollahra Local Environmental Plan 2014* (WLEP) by including the property at No. 40 Fitzwilliam Road, Vaucluse in Schedule 5 as a local heritage item and the inclusion of the property on the WLEP Heritage Map.

Submitted in support of this Planning Proposal application is a Heritage Assessment Report prepared by GBA Heritage that has evaluated the heritage characteristics of the site and the dwelling known as "Sunny Brae". The proposal is consistent with local and state government planning strategies and will protect the heritage of the existing dwelling and its interiors within the Woollahra LGA.

This application for a Planning Proposal has been informed by the following documents:

Table 2 – Supporting Documents with this Planning Proposal

Document	Author
Heritage Assessment Report	GBA Heritage
Heritage Inventory Sheet	GBA Heritage
View Assessment	Richard Lamb and Associates

This report is divided into six sections including a locality and site analysis, existing planning provisions, draft planning provisions, the Planning Proposal and a conclusion.

2. Locality and Site Analysis

2.1 THE CONTEXT

2.1.1 Metropolitan Context

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



Figure 1: Context within the Eastern City District.

2.1.2 Local Context

The subject site is located within a predominantly residential urban area in the harbour side suburb of Vacluse. The subject site is located on the top of a hill situated between the junction of Fitzwilliam Road and Wentworth Road, Vacluse, 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 Vacluse locality is illustrated on the zoning map extract in Figure 2.



Figure 2: Context within the wider Vaucluse locality (Source: NSW Planning Portal)

2.2 THE SITE

The subject site comprises a battle axe lot with an area of approximately 1010m² having a legal description of Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069. The location of the subject site is shown edged red in the aerial image provided at **Figure 3**.



Figure 3 Aerial image (Source: NSW Government SIX Maps)

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 in the following figures. Further photographic imagery of the site and its heritage and local context are included in the Heritage Assessment Report provided with the submission.



Figure 4 The original house from the entry path



Figure 5 Looking north, showing the original house on the left and the landscape/garden in front of the house (Source: Images For Business, 2020)



Figure 6 Front elevation of the original dwelling



Figure 7 Front elevation of the contemporary additions

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 Provisions

3.1 Woollahra Local Environmental Plan 2014 (WLEP)

The land is zoned R2 Low Density Residential under the WLEP. 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 zoning of the land are proposed in this application for a Planning Proposal. An extract of the WLEP Land Zoning Map is provided in Figure 9 below.

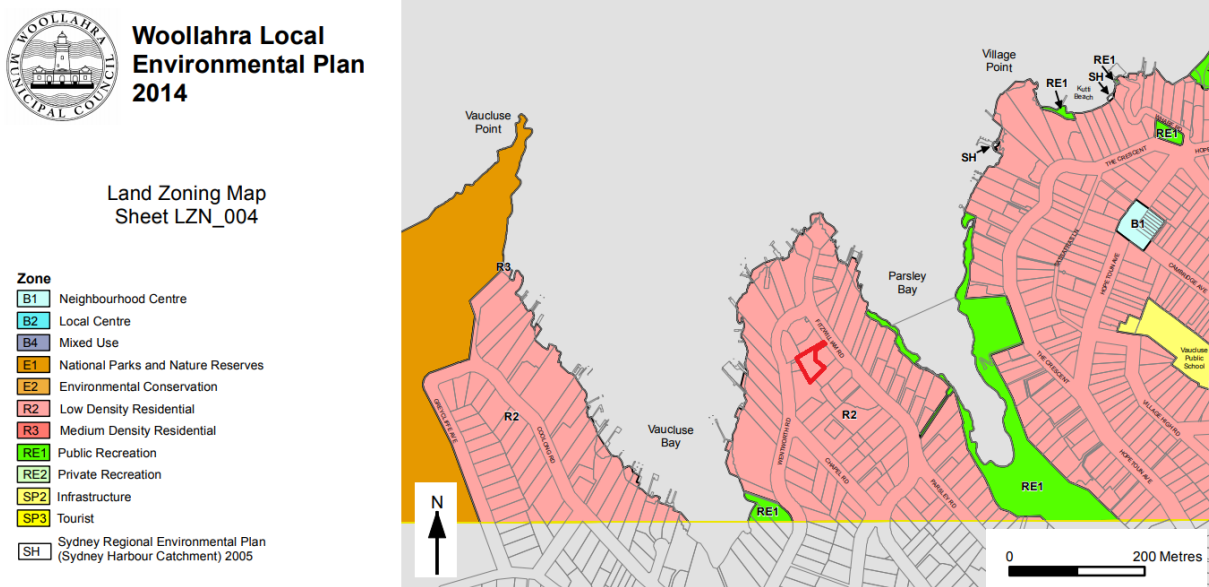


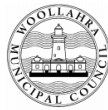
Figure 9: Extract from WLEP Land Zoning Map (LZN_004) with the subject site edged in red

The current development standards that apply to the land under the WLEP are summarised as follows:

Table 3 Summary of Current Development Standards		
Control	Existing Requirement	Figure
Minimum Subdivision Lot Size	675sqm	10
Height of Buildings	9.5m	11



No changes to the principal development standards currently applicable to the site under WLEP are proposed to change under this Planning Proposal request.



Woollahra Local Environmental Plan 2014

Lot Size Map - Sheet LSZ_004

Minimum Lot Size (sq m)

B	230
E	350
F	400
P	675
Q	700
U	1100

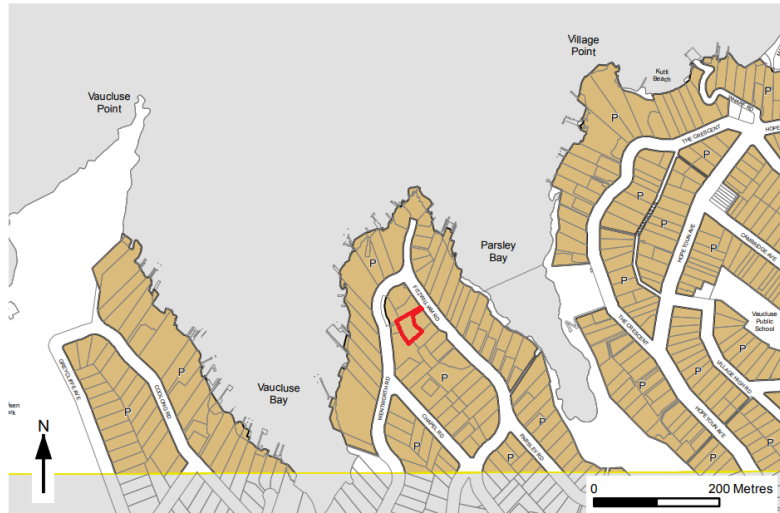


Figure 10: Extract from WLEP Lot Size Map (LSZ_004) with the subject site edged in red



Woollahra Local Environmental Plan 2014

Height of Buildings Map Sheet HOB_004

Maximum Building Height (m)

C	5	N3	14.1
E	6	N4	14.5
F	6.5	N5	14.7
G	7	O1	15
H	7.5	O2	16.5
I1	8	P1	17.5
I2	8.2	P2	18
J1	9	P3	18.1
J2	9.5	Q1	19
K	10.5	Q2	19.5
L1	11	Q3	20.5
L2	11.5	R1	21.5
M	12	R2	22.5
N1	13	T	26
N2	13.5	U	34
Refer to Clause 4.3A			
Refer to Clause 4.3B			
Refer to Clause 4.4C			



Figure 11: Extract from WLEP Height of Buildings Map (HOB_004) with the subject site in red





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 WLEP as containing any items of heritage significance. The land is identified under the WLEP 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 (WDCP) 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 WDCP controls.

The site is within the Vacluse West Precinct as identified in Part B of WDCP 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 Vacluse West Precinct and will not impact on its continued application.



4. Draft Planning Provisions

4.1 Proposed Amendments

This Planning Proposal request seeks to include the land in Schedule 5 of the WLEP as a local heritage item and as a result, it will require an amendment to the Heritage Map to identify the land. An extract of the current Heritage Map is provided in Figure 12.

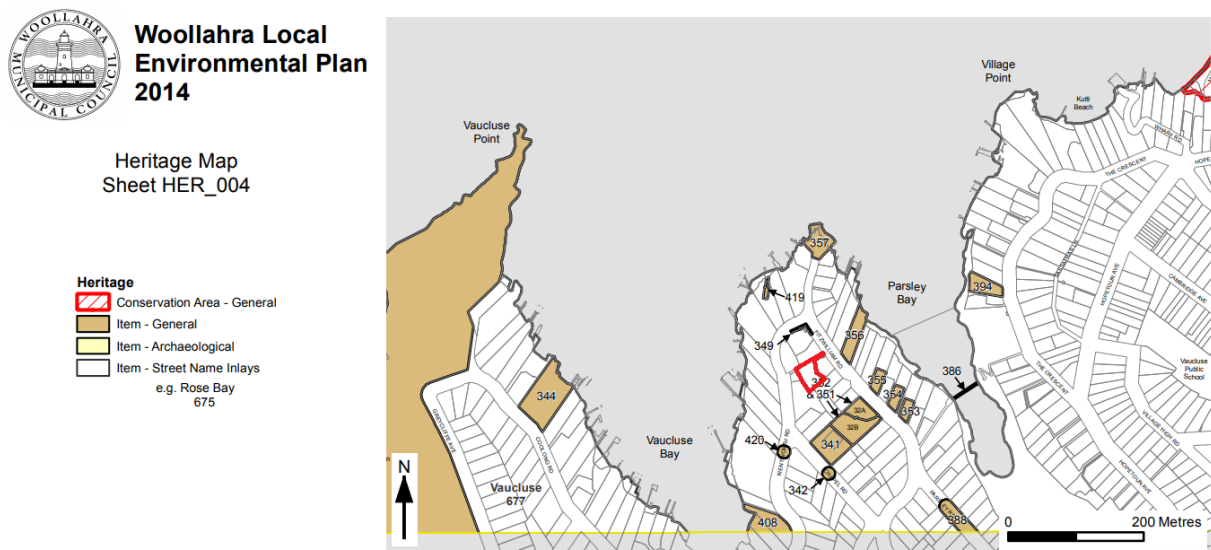


Figure 12: Extract from WLEP Heritage Map (HER_004) with the subject site in red

The revised Heritage Map will be prepared by Woollahra Council.



5. Planning Proposal

5.1 Objectives or Intended Outcomes – Part 1 of The Guide

5.1.1 Objectives

The objective of this Planning Proposal is to recognise the heritage significance of the historic dwelling house known as “Sunny Brae” at No. 40 Fitzwilliam Road, Vaucluse and provide it with statutory heritage protections under the provisions of the WLEP 2014.

5.1.2 Intended Outcomes

The Planning Proposal will amend Schedule 5 and the Heritage Map of the WLEP 2014 to include reference to Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069, being the historic dwelling known as “Sunny Brae” at No. 40 Fitzwilliam Road, Vaucluse including its interiors.

The inclusion of the item in Schedule 5 of WLEP 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 of WLEP 2014. This will provide a statutory requirement for development proposals to consider the effects of proposed development on the heritage significance of the item.

5.2 Explanation of Provisions – Part 2 of The Guide

The proposed outcome will be achieved by amending the WLEP to:

- Insert a local heritage listing for “Sunny Brae House and Interiors” at No. 40 Fitzwilliam Road, Vaucluse in Part 1 (Heritage Items) of Schedule 5 Environmental Heritage, and
- Amend the Heritage Map (Sheet HER_004) of the WLEP to identify the land containing “Sunny Brae” (Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069) as a heritage item.

5.3 Justification – Part 3 of The Guide

This section details the reasons for the proposed LEP amendments and is based on a series of questions as outlined in the Department of Planning and Environment’s ‘*A Guide to Preparing Planning Proposals*’. The matters to be addressed include the strategic planning context of the amendments, potential State and Commonwealth agency interests, environmental, social and economic impacts.

The planning proposal has strategic merit. The heritage significance of “Sunny Brae” at No. 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 potential item.

These matters are further discussed below in Parts 5.3.1 to 5.3.3 of this report.

Questions for consideration in demonstrating justification

5.3.1 Section A - The Need for the Planning Proposal

Q1: Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?





In part. There are no strategic studies or reports that directly address the subject site. However, the conservation of heritage is consistent with the desired outcomes expressed in the *Woollahra Local Strategic Planning Statement* (March 2020) in relation to conservation of local heritage.

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 and five out of seven criteria for listing as a State heritage item. The report recommends that:

Given the recent development of the area and the replacement of early houses with new buildings, Sunny Brae in the Federation Queen Anne style has aesthetic significance as a prominent example of the style in Fitzwilliam Road from the first decades of the 20th century. The original building is significant as a relatively intact example of Federation Queen Anne style, as the key characteristics of the style have been restored and retained, externally and internally.

Sunny Brae has a significant setting and an extensive panoramic Harbour view due to its hill top location, adding to its significance.

Q2: 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” as a local heritage item in Schedule 5 of the WLEP. 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.

5.3.2 Section B - Relationship to the Strategic Planning Framework

Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

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

A Metropolis of 3 Cities: The Greater Sydney Region Plan (March 2018)

On 23 March 2018, the Greater Sydney Commission released A Metropolis of 3 Cities: The Greater Sydney Region Plan. The new Regional Plan contains a revised ten directions for the Greater Sydney Metropolitan Area. The Directions include the following:

1. A city supported by infrastructure;
2. A collaborative city;
3. A city for people;
4. Housing the city;
5. A city of great places;
6. A well connected city;
7. Jobs and skills for the city;
8. A city in its landscape;
9. An efficient city;
10. A resilient city.

The Metropolitan Strategy identifies the site as being located within the “Eastern Harbour City” as detailed in Figure 13.



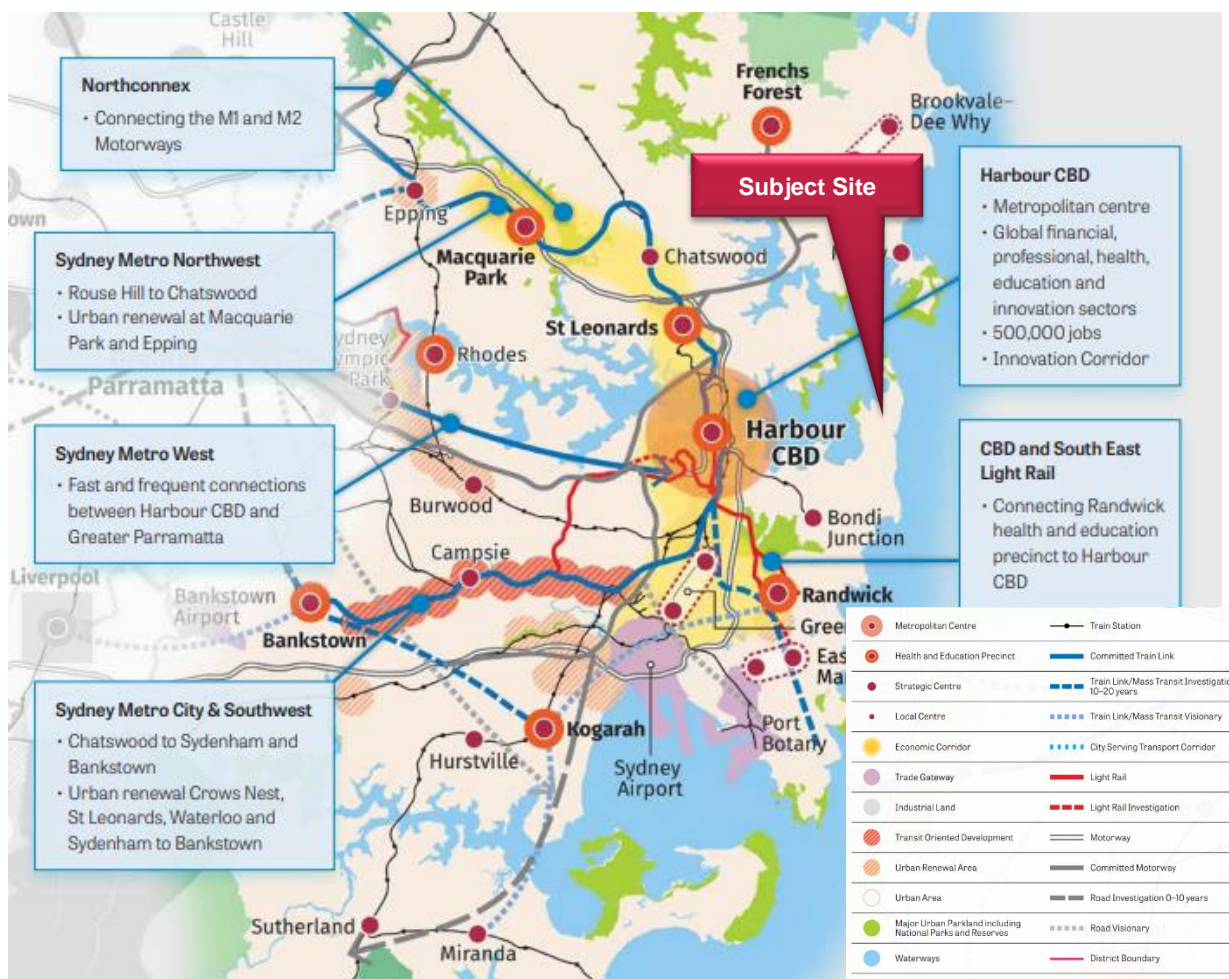


Figure 13: The Eastern Harbour City (Source: A Metropolis of 3 Cities: The Greater Sydney Region Plan)

An assessment against the relevant directions and their objectives is provided in the table below.

Table 4 Greater Sydney Region Plan: A Metropolis of Three Cities Directions

Direction 4 – Liveability

Objective 13: Environmental heritage is identified, conserved and enhanced

This planning proposal seeks to initiate the process of conserving the environmental heritage of Woollahra LGA. The heritage listing of “Sunny Brae”, including its interiors, will provide ongoing protection and recognition of the heritage significance of this item.

Eastern City District Plan

In March 2018, the Greater Sydney Commission released the Eastern City District Plan. The Eastern City District Plan is a guide to implementing the Greater Sydney Region Plan at a District level. It provides a 20-year plan to manage growth and achieve the 40 year vision.

The Eastern City District Plan establishes a number of priorities and actions to guide growth, development and change, relating to productivity, liveability and sustainability. Additional housing to improve diversity and affordability co-ordinated with transport, centres and services is required in response to population growth. As such, the local area will require more dwellings, jobs and infrastructure in order to accommodate the needs of the growing population.

The District Plan outlines actions for how the Eastern City District will work towards meeting the priorities and objectives of the Regional Plan. Figure 14 details the land within the Eastern City District Plan.

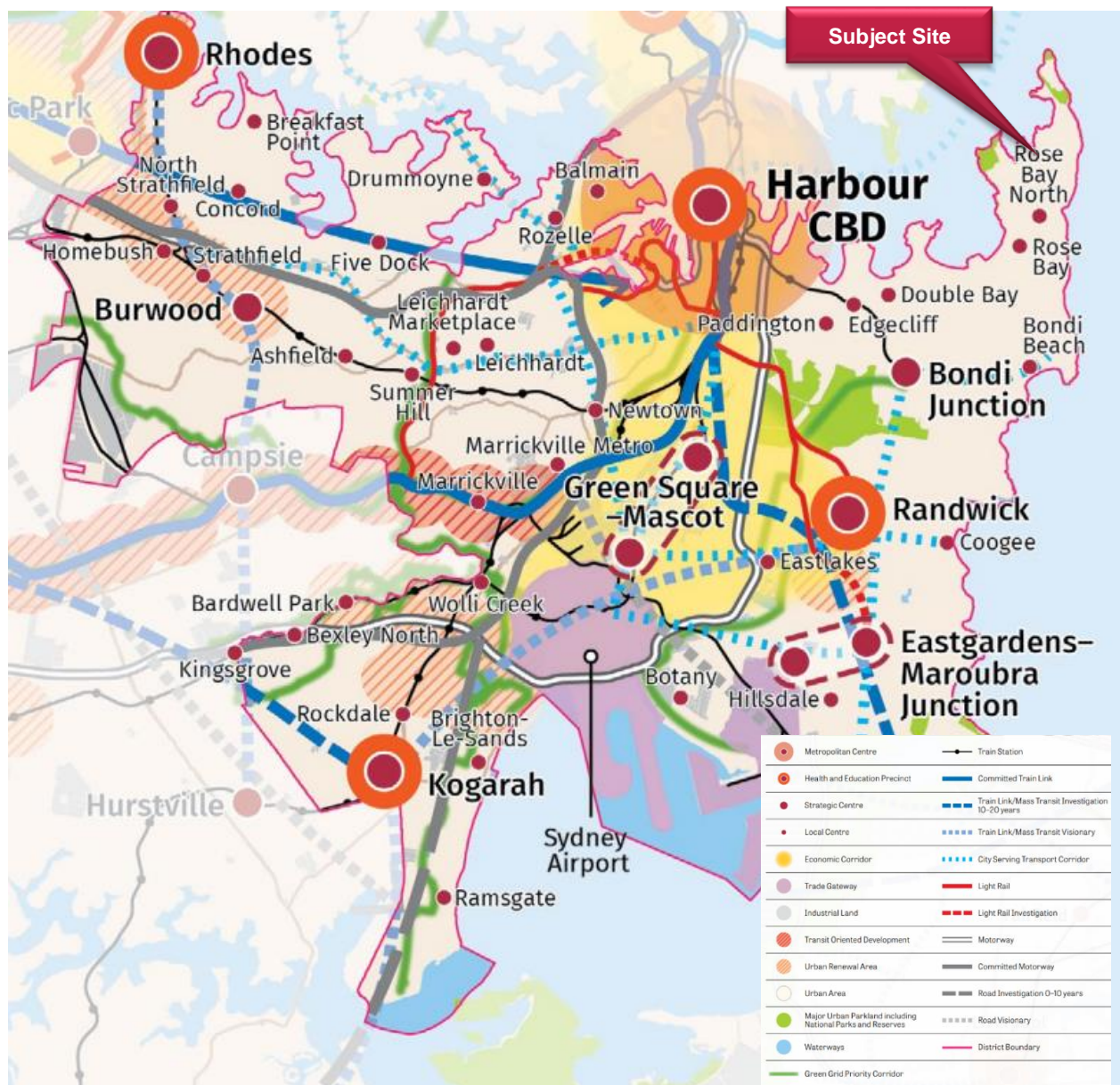


Figure 14: The Eastern City District Plan locality (Source: Eastern City District Plan)



The Proposal supports a number of the actions outlined in the plan as outlined in the following table:

Table 5 Eastern City District Plan
Direction 3 – Liveability
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage
<p>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.</p> <p>The heritage listing of "Sunny Brae", including its interiors, will provide ongoing protection and recognition of the heritage significance of this item. The planning proposal will satisfy Action 20.</p>

Q4: 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 and Council's Community Strategic Plan, *Woollahra 2030*.

Woollahra Community Strategic Plan, Woollahra 2030

The Woollahra Community Strategic Plan, Woollahra 2030 was adopted by Council after extensive community engagement. The Plan has been prepared by Council through a series of community consultations. This Plan sets out the community's vision to 2030 and sets out five strategic themes to deliver that vision:

- Theme One: Community wellbeing.
- Theme Two: Quality places and spaces.
- Theme Three: A healthy environment.
- Theme Four: Local prosperity.
- Theme Five: Community leadership and participation.

The following table details how the Planning Proposal is consistent with the relevant vision and strategic goals of the Woollahra Community Strategic Plan:

Table 6 –Woollahra Community Strategic Plan 2030
Theme Two: Quality Places and Spaces
Goal 4: Well-planned neighbourhoods - Woollahra will have well planned, high quality and sustainable building development that respects and enhances our environment and heritage. It will complement and retain local character of our suburbs, villages and neighbourhoods and provide access to a range of housing options.
<p>Strategy 4.3: Protect our heritage, including significant architecture and the natural environment</p> <p>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.</p> <p>The heritage listing of "Sunny Brae", including its interiors, will provide ongoing protection and recognition of the heritage significance of this item. The planning proposal will satisfy Action 20.</p>





Woollahra Local Strategic Planning Statement

The Woollahra Local Strategic Planning Statement commenced on 31 March 2020.

Local Strategic Planning Statements (LSPS) are a new legislative requirement for Councils, requiring a 20-year vision for land use, as well as outlining strategies for managing change and preserving the unique character of their areas. The LSPS will provide Council with strategic direction for planning and help facilitate a coordinated approach to managing growth and development in the Woollahra area. The LSPS will align with the Community Strategic Plan and Eastern City District Plan.

The following table details how the Planning Proposal is consistent with the relevant vision and strategic goals of the Woollahra LSPS:

Table 7 Woollahra Local Strategic Planning Statement
Theme: Liveability
Planning Priority 5 – Conserving our rich and diverse heritage
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:
<i>28. Continue to proactively conserve and monitor heritage in the Municipality including:</i> <ul style="list-style-type: none"><i>reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015</i><i>sustainably managing visitation to our heritage conservation areas and destinations</i><i>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</i><i>supporting implementation of legislation for Aboriginal Heritage.</i>
<i>30. Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.</i>
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 its interiors, will provide ongoing protection and recognition of the heritage significance of this item. The planning proposal will satisfy Action 20.

Q5: Is the Planning Proposal consistent with the 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 Tables 8 & 9 below).

Table 8: Relevant State Environmental Planning Policies	
SEPP	Application and Consistency
SEPP No. 19- Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.





Table 8: Relevant State Environmental Planning Policies

SEPP	Application and Consistency
SEPP No. 21- Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No. 33- Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No. 36- Manufactured Home Estates	Not Applicable.
SEPP No. 47-Moore Park Showground	Not Applicable.
SEPP No. 50- Canal Estate Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No. 55- Remediation of Land	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No. 64 – Advertising and Signage	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No. 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 No 70- Affordable Housing (Revised Scheme)	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable. There is no land in the Woollahra LGA currently identified on the Land Application Map of SEPP (Aboriginal Land) 2019.
SEPP (Activation Precincts) 2020	Not applicable. There are no activation precincts identified in the Woollahra LGA.
SEPP (Affordable Rental Housing) 2009	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.





Table 8: Relevant State Environmental Planning Policies

SEPP	Application and Consistency
SEPP (Building Sustainability Index: BASIX) 2004	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Education Establishments and Child Care Facilities) 2017	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. Listing the land as a heritage item will have the effect of preventing certain works being carried out as either exempt or complying development.
SEPP (Gosford City Centre) 2018	Not Applicable.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not Applicable.
SEPP (Koala Habitat Protection) 2021	Not Applicable.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not Applicable.
SEPP (Kurnell Peninsula) 1989	Not Applicable.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not Applicable.
SEPP (Major Infrastructure Corridors) 2020	Not applicable. The planning proposal does not apply to land within a future infrastructure corridor or the adjacent land.
SEPP (Penrith Lakes Scheme) 1989	Not Applicable.





Table 8: Relevant State Environmental Planning Policies

SEPP	Application and Consistency
SEPP (Primary Production and Rural Development) 2019	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State Significant Precincts) 2005	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Sydney Drinking Water Catchment) 2011	Not Applicable.
SEPP (Sydney Region Growth Centres) 2006	Not Applicable.
SEPP (Three Ports) 2013	Not Applicable.
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra Municipality which are identified in the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not Applicable.
SEPP (Western Sydney Employment Area) 2009	Not Applicable.
SEPP (Western Sydney Parklands) 2009	Not Applicable.

Table 9: Relevant Deemed State Environmental Planning Policies

Sydney Regional Environmental Plans (deemed State Environmental Planning Policies)	Application and Consistency
SREP No. 8 (Central Coast Plateau Areas)	Not applicable.
SREP No. 9 – Extractive Industry (No. 2 – 1995)	Not applicable.
SREP No. 16 – Walsh Bay	Not applicable.
SREP No.20 – Hawkesbury-Nepean River (No. 2 – 1997)	Not applicable.
SREP No. 24 – Homebush Bay Area	Not applicable.





Table 9: Relevant Deemed State Environmental Planning Policies

Sydney Regional Environmental Plans (deemed State Environmental Planning Policies)	Application and Consistency
SREP No. 26 – City West	Not applicable.
SREP No. 30 – St Marys	Not applicable.
SREP No. 33 – Cooks Cove	Not applicable.
SREP (Sydney Harbour Catchment) 2005	<p>Applicable.</p> <p>Consistent. The planning proposal applies to land within the Sydney Harbour Catchment. Therefore the planning principles under Part 2, clause 13 Sydney Harbour Catchment of the SREP have been considered during its preparation. The planning proposal is consistent with the principles.</p> <p>The site is not land in the Foreshores and Waterways Area, therefore the principles of clause 13 Foreshores and Waterways Area are not applicable to this planning proposal.</p>

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The consistency of the Planning Proposal with the relevant Ministerial Directions is demonstrated in Table 10 below.

Table 10: Section 9.1 Ministerial Directions

Ministerial Direction	Applicability and Comments
1. Employment and Resources	
1.1 Business and Industrial Zones	Not applicable.
1.2 Rural Zones	Not applicable.
1.3 Mining, Petroleum and Extractive Industries	Not applicable.
1.4 Oyster Aquaculture	Not applicable.
1.5 Rural Lands	Not applicable.
2. Environment and Heritage	
2.1 Environment Protection Zones	Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2 Coastal Management	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3 Heritage Conservation	<p>Applicable.</p> <p>Consistent. The heritage listing of “Sunny Brae”, including its interiors, will provide ongoing protection and recognition of the heritage significance of this item and is consistent with this direction.</p>
2.4 Recreation Vehicle Areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation





Table 10: Section 9.1 Ministerial Directions	
Ministerial Direction	Applicability and Comments
	values. It will not allow land to be developed for a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
2.6 Remediation of Contaminated Land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the objective of this direction.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Applicable. Consistent. The subject land is zoned for residential purposes. The planning proposal does not contain any provision which is contrary to the operation of this direction.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.
3.3 Home Occupations (Revoked 9 November 2020)	Not applicable.
3.4 Integrating Land Use and Transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
3.5 Development Near Regulated Airports and Defence Airfields	Not applicable.
3.6 Shooting Ranges	Not applicable.
3.7 Reduction in non-hosted short term rental accommodation period	Not applicable.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Applicable. Consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.2 Mine Subsidence and Unstable Land	Not applicable.
4.3 Flood Prone Land	Not applicable.
4.4 Planning for Bushfire Protection	Not applicable.
5. Regional Planning	
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)	Not applicable.
5.2 Sydney Drinking Water Catchments	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.
5.4 Commercial and Retail development along the Pacific Highway, North Coast	Not applicable.





Table 10: Section 9.1 Ministerial Directions	
Ministerial Direction	Applicability and Comments
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)(Revoked 18 June 2010)	Not applicable.
5.6 Sydney to Canberra Rail Corridor (Revoked 10 July 2008)	Not applicable.
5.7 Central Coast (Revoked 10 July 2008)	Not applicable.
5.8 Second Sydney Airport: Badgerys Creek (Revoked 20 August 2018)	Not applicable.
5.9 North West Rail Link Corridor Strategy	Not applicable.
5.10 Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the Greater Sydney Regional Plan: A Metropolis of Three Cities, particularly Objective 13 'Environmental heritage is identified, conserved and enhanced.' The heritage listing of "Sunny Brae", including the interiors, will provide ongoing protection and recognition of the heritage significance of the item.
5.11 Development of Aboriginal Land Council land	Not applicable.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2 Reserving Land for Public Purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	Not applicable. The planning proposal does not allow a particular development to be carried out.
7. Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney (Revoked 9 November 2020)	Not applicable.
7.2 Implementation of Greater Macarthur Land Release Investigation (Revoked 28 November 2019)	Not applicable.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.





Table 10: Section 9.1 Ministerial Directions	
Ministerial Direction	Applicability and Comments
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
7.12 Implementation of Greater Macarthur 2040	Not applicable.
7.13 Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.

5.3.3 Section C - Environmental, Social and Economic Impacts

Q7: 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. The site is part of an urban environment and does not contain habitat for threatened species, populations or ecological communities.

Q8: 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 any future development assessment process.

Q9: 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 No. 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” at No. 40 Fitzwilliam Road, Vaucluse meets the historic, aesthetic, research potential, 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 WLEP 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.



5.3.4 Section D - State and Commonwealth Interests

Q10: Is there adequate public infrastructure for the Planning Proposal?

Yes. The planning proposal involves the local heritage listing of “Sunny Brae” at No. 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.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

If this planning proposal is supported by Council and a Gateway determination is issued, this will specify the list of agencies and public authorities required to be consulted and the methods and timing of such consultation. The Gateway determination may identify additional agencies to be consulted.

5.4 STRATEGIC MERIT TEST

The Department of Planning in Circular PS 18-012 issued 14 December 2018 released updated criteria relating to strategic merit. They include:

The key factor in determining whether a proposal should proceed to a Gateway determination should be its strategic merit. The Department has strengthened the Strategic Merit Test and proposals will now be assessed to determine if they are:

- consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
- consistent with a relevant local strategy that has been endorsed by the Department; or*
- responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.*

A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test.

As outlined at Section 5.3.2 of this Report, the proposal is consistent with the strategic planning documents prepared by the Greater Sydney Commission, including *A Metropolis of 3 Cities: The Greater Sydney Region Plan* and the *Eastern City District Plan*. The proposal is also consistent with the strategic planning documents prepared by Woollahra Council, including the *Woollahra Community Strategic Plan 2030* and the *Woollahra Local Strategic Planning Statement*. The proposal is consistent with these documents since it provides for the conservation of items of heritage significance.

Once satisfied that sufficient strategic merit exists for the development, the Department will then consider the site specific merit and have regard to the following:

- the natural environment (including known significant environmental values, resources or hazards);*
- the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal; and*

- *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The subject site is not subject to known significant environmental hazards, values or resources. Furthermore, the proposal is not anticipated to alter the demand for infrastructure, utilities and services to support the day to day demands of future land uses.

Based on the existing and likely future uses of land in the vicinity of the land subject to the proposal, the listing of “Sunny Brae” as a heritage item will require additional consideration of the potential heritage item as part of any future redevelopment.

5.5 Mapping – Part 4 of The Guide

The planning proposal will necessitate the amendment of the WLEP Heritage Map (Sheet HER_004) to identify and label the land containing “Sunny Brae” at No. 40 Fitzwilliam Road, Vaucluse (identified as Lot 2 DP 1254483, Lot 1 DP 1112583 (2 Parts) and Lot 1 DP 115069). The site is outlined in red on the Heritage Map extract below

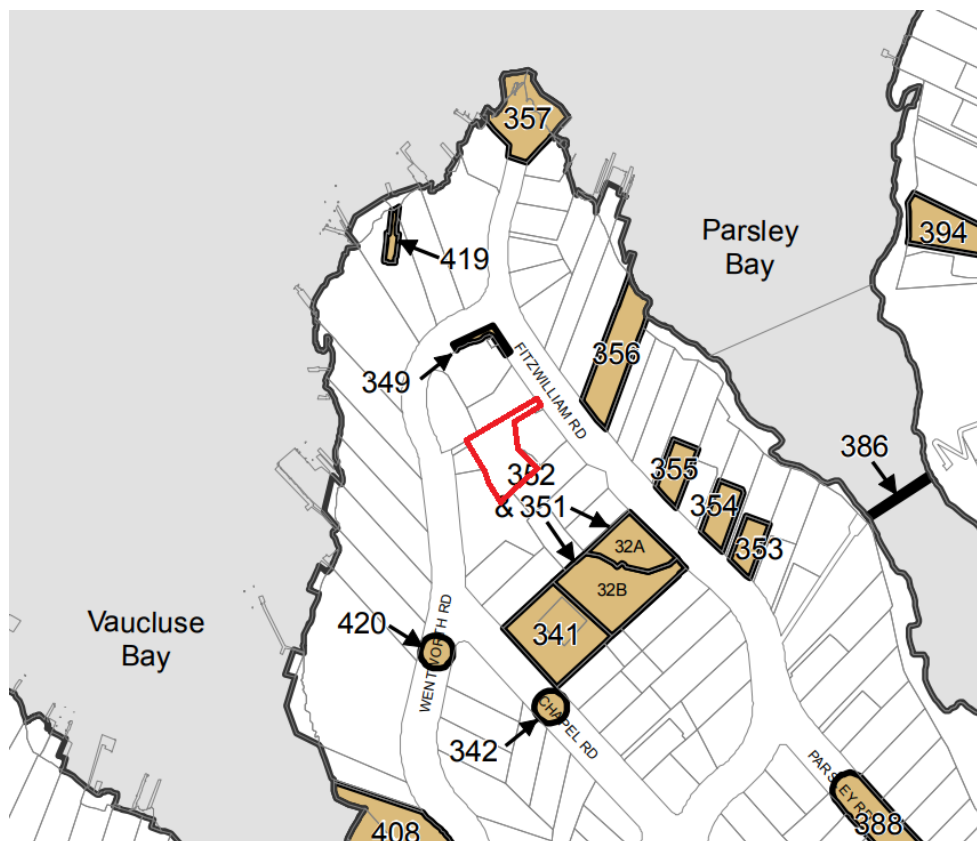


Figure 15: Extract from WLEP Heritage Map (HER_004) with the subject site in red

5.6 Community Consultation – Part 5 of The Guide

It is anticipated that a draft Planning Proposal would be publicly exhibited for a period of at least 28 days. The exhibition material will include documents as specified in the Gateway determination and will include a copy of the Planning Proposal, an explanation of provisions, draft LEP maps and an indication of the timeframes for completion of the process as estimated by Council.



The Community Consultation methods may include forwarding copies of relevant documents to appropriate State and Commonwealth agencies, notice of public exhibition in local media outlets and on Woollahra Council's website, providing copies of exhibition material in electronic and hard copy form at relevant local government premises and letters of notification to nearby and potentially affected land owners.

5.6.1 Project Timeline

The estimation of the project timeline is provided below with the intention of optimising efficiency in the process:

Phase	Timing
Gateway determination date	TBD (by Department of Planning, Industry & Environment)
Completion of required technical information	No additional supporting studies required at this stage
Government agency consultation (pre-exhibition)	Not required
Government agency consultation (during exhibition)	Concurrent with public exhibition (28 days)
Commencement and completion dates for public exhibition period	TBD
Consideration of submissions	Two weeks from close of public exhibition
Post-exhibition consideration of the application	Four weeks from close of public exhibition
Date of submission to the Department to finalise the LEP / anticipated date RPA will make the plan (if delegated)	Six weeks from close of public exhibition





6. Conclusion

This Planning Proposal has been prepared for George and Deirdre Murrell, the owners of No. 40 Fitzwilliam Road, Vaucluse. It has been prepared as part of an application to seek Council support for the proposal and consequently seek a Gateway Determination under the provisions of Section 3.34 of the *Environmental Planning & Assessment Act, 1979*. The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* as well as the NSW Department of Planning publication "*A Guide to Preparing Planning Proposals*" and "*A Guide to Preparing Local Environmental Plans*".

The intent of the application is to initiate the Planning Proposal process to amend the provisions of WLEP 2014 to include the land containing "Sunny Brae", including its interiors, at No. 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 of the WLEP and to identify the site as a heritage item on the WLEP Heritage Map.

The Planning Proposal is consistent with local, regional and state planning strategies for the Woollahra LGA and the Eastern City District Plan within the Sydney Metropolitan Area. The Planning Proposal will make a positive contribution to the protection and conservation of heritage and cultural values of the community and is considered worthy of Council's support.



