

Item No: D2
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF DUNARA RESERVE, POINT PIPER (REMNANT OF THE RESIDENTIAL GARDEN OF "DUNARA")**
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File No: 18/114181
Reason for Report: Council is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice. There are some exemptions to this requirement, however, this planning proposal does not meet the exemption criteria.

Advice:

THAT the Woollahra Local Planning Panel advises the Council:

- A. THAT it supports the planning proposal to list Dunara Reserve, Point Piper as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT it supports the planning proposal being sent to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- C. THAT it supports the Council requesting a delegation from the Department of Planning and Environment in relation to the planning proposal, to carry out the functions of the Greater Sydney Commission under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

1. Reason for report to Local Planning Panel (LPP)

This report seeks the advice of the Woollahra Local Planning Panel on the listing of Dunara Reserve, Point Piper as a heritage item in the *Woollahra Local Environmental Plan 2014* (LEP).

On 23 February 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - (a) the correction of an obvious error in a local environmental plan,
 - (b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
- A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the *Environmental Planning and Assessment Act 1979* (the Act).
- This direction takes effect on 1 June 2018 and applies to planning proposals prepared, but not submitted to the Minister, before 1 June 2018.

In this case, the planning proposal is required to be referred to the local planning panel because the general manager has not made a determination in regard to items (a), (b) or (c), above.

A planning proposal has been prepared to list Dunara Reserve – remnant of the residential garden of “Dunara”, as a heritage item in the Woollahra LEP 2014 (**Annexure 1**).

2. Site and context

The planning proposal applies to the site comprising Lot 11 in DP 27451, which is located between 1 Wentworth Street and 9 Dunara Gardens, Point Piper, as shown in Figures 1, 2 and 3 below. The site is irregular in shape, has an area of approximately 402m² and slopes down approximately 4m from its west boundary on Wentworth Street to the southeast.

To the west, the site has a narrow access of approximately 2.7m to Wentworth Road, which provides limited pedestrian access. To the north, the site adjoins Dunara Gardens, the private road to the former “Dunara” estate. To the east, the site adjoins 9 Dunara Gardens and to the south, the site adjoins 1 Wentworth Street.

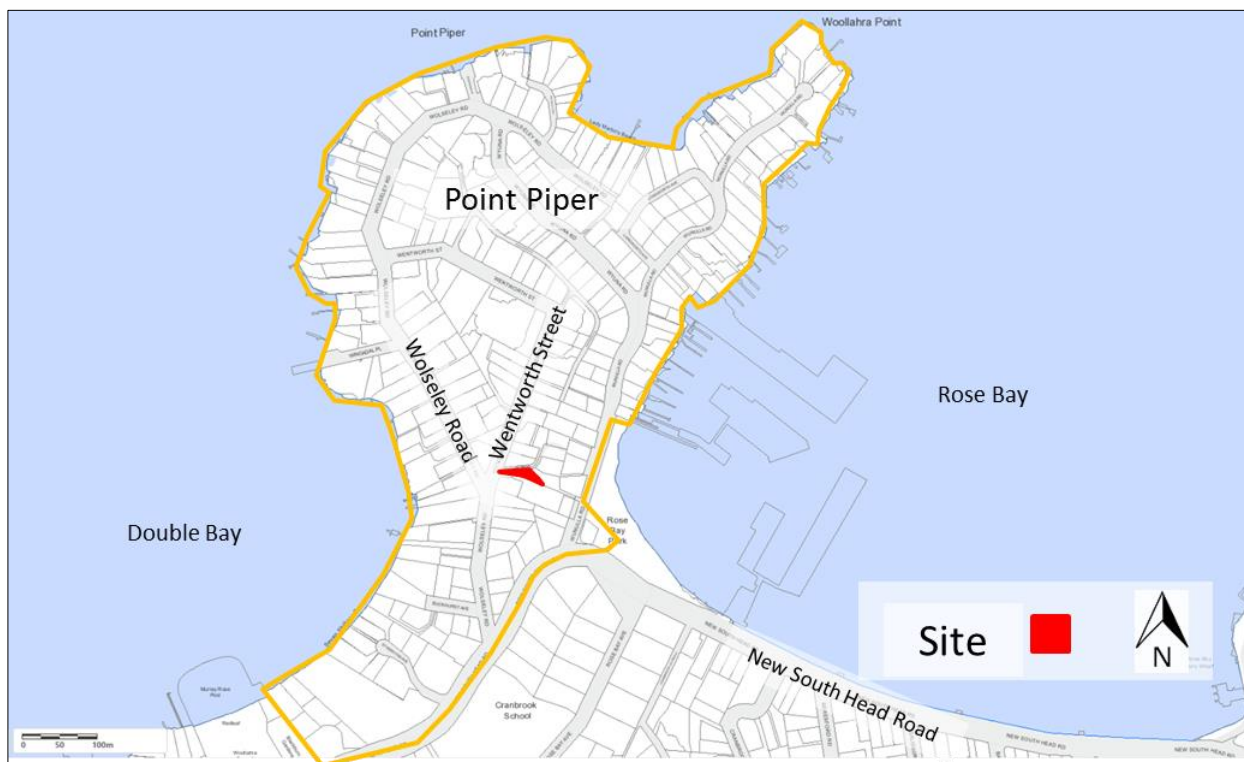


Figure 1: Local area map

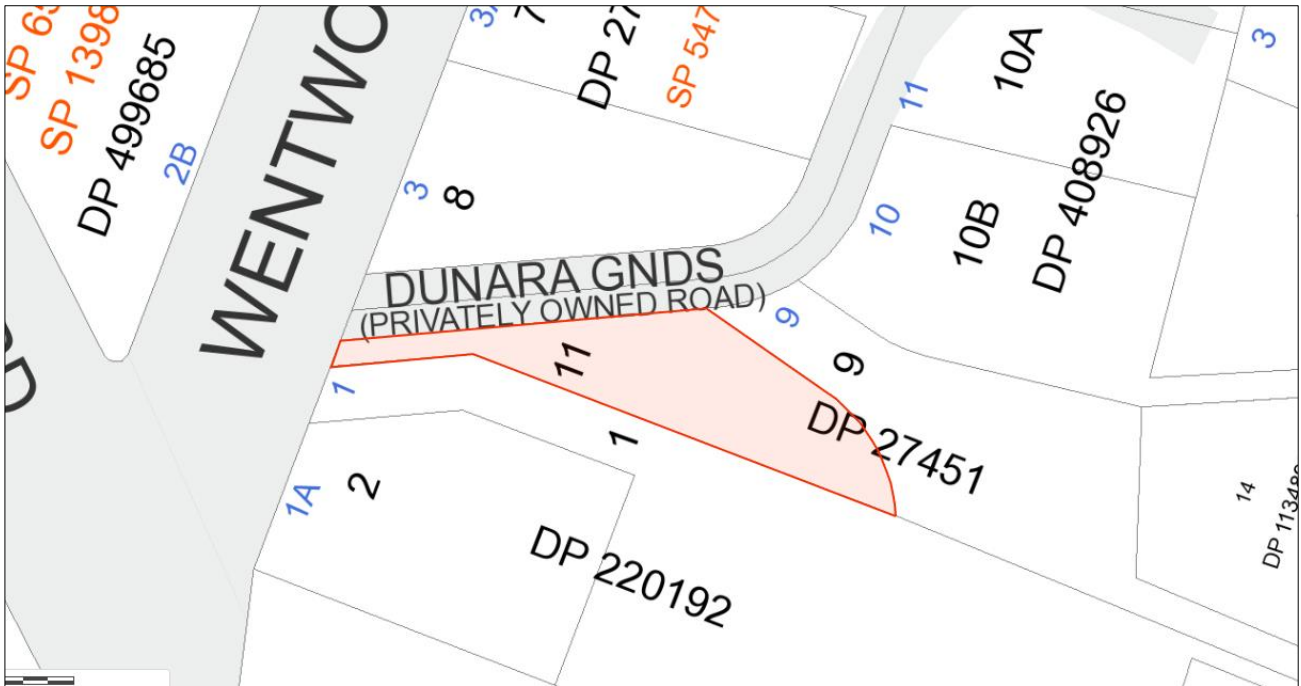


Figure 2: Site map



Figure 3: Site aerial

The site contains a range of exotic and native trees including a mature specimen of *Araucaria columnaris* (Cook's Pine), which is listed as local heritage item No. 277 in Schedule 5 of Woollahra LEP 2014 and is also listed as a significant tree on public land in Woollahra Council's Significant Tree Register.

There are three other heritage items listed in Schedule 5 of Woollahra LEP 2014, in the vicinity of the site:

1. To the north of the site, the house and interiors at 10 Dunara Gardens, known as "Dunara" (item No. 276). This item is also listed on the State Heritage Register (SHR).
2. Further to the north, the house, interiors and grounds at 4 Dunara Gardens (item No. 275).
3. Adjoining the site to the south, another specimen of *Araucaria columnaris* and a specimen of *Ficus macrophylla* (Moreton Bay Fig), located on the adjoining site at 1 Wentworth Street, are listed as local heritage item (No. 285).

Development around the site and on the eastern side of Wentworth Street comprises 2 to 3 storey dwelling houses. In the block bounded by Wolseley Road and Wentworth Street the scale of development varies and comprises a mix of 3 to 13 storey residential flat buildings (RFBs) and 2 to 3 storey dwelling houses. A 7 storey RFB is located opposite the site at 2B Wentworth Street.

3. Background

3.1. Council notice of motion and resolution

On 12 March 2018 Council adopted the following notice of motion:

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for Dunara Reserve to the Urban Planning Committee to facilitate consideration of Dunara Reserve (and its elements) being:

- 1. included in the Woollahra Local Environmental Plan as a heritage item; and*
- 2. listed as a heritage item of state significance on the NSW State Heritage Register.*

3.2. Assessment of heritage significance

In response to Council's decision, Betteridge Heritage was engaged to carry out an assessment of heritage significance of the site. The assessment was carried out in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001. It is important to note that heritage inventory sheets are currently alternatively also known as "heritage data forms". The consultant was required to:

1. Using the New South Wales Heritage Manual heritage assessment criteria, carry out a heritage assessment of the subject property to establish its heritage significance at a State and local level.
2. Make a recommendation as to whether the property should be listed as a local heritage item in Schedule 5 of Woollahra LEP 2014.
3. Make a recommendation as to whether the property should be listed as an item on the State Heritage Register under the *Heritage Act 1977*.

4. If the recommendation is for listing in Woollahra LEP 2014, prepare the relevant inventory sheet (heritage data form) for the property. This will include a summary statement of significance for the property.
5. If the recommendation is for listing on the State Heritage Register under the *Heritage Act 1977*, prepare the relevant inventory sheet (heritage data form) and Nomination for Listing of the State Heritage Register form for the property. This will include a summary statement of significance for the property.

A copy of the Heritage Significance Assessment (HSA) dated 21 June 2018 and the accompanying Heritage Inventory Form is attached in **Annexure 4**. The HSA concludes the following:

Based on the assessment in the previous sections, I am of the opinion that Dunara Reserve is of local heritage significance for its historic, aesthetic and social values, warranting its consideration for inclusion as an item of environmental heritage on Schedule 5, Woollahra LEP 2014.

I am of the opinion that Dunara Reserve is not of significance at a State level that would warrant its nomination for inclusion on the State Heritage Register.

*Given the importance of the reserve as the location for several significant tree specimens including the LEP-listed specimen of *Araucaria columnaris*, I am of the opinion that conservation of the reserve's heritage values may be best achieved if the reserve is retained in public ownership.*

(June 2018, Betteridge Heritage, p.51)

3.3. Council resolution

The consultant's report was presented to the Environmental Planning Committee on 2 July 2018 (**Annexure 2**). On 16 July 2018, Council resolved:

- A. THAT Council prepare a planning proposal to list Dunara Reserve Point Piper, being Lot 11 in DP 27451, as a heritage item in *Woollahra Local Environmental Plan 2014*.
- B. THAT the planning proposal describes the item as follows: Dunara Reserve – remnant of the residential garden of “Dunara”.
- C. THAT the planning proposal be forwarded to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- D. THAT when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- E. THAT Council seek access to Dunara Reserve from Dunara Gardens private road to facilitate maintenance, address biodiversity, succession and protecting canopy, and public access on a regular basis (noting that the adjacent owners with rights over the private road have indicated their cooperation to do that) to ensure the planning proposal to reclassify Dunara Reserve does not proceed.

A copy the Council resolution is attached at **Annexure 3**.

4. Planning proposal

4.1. Structure

A planning proposal has been prepared to list Dunara Reserve as a heritage item in the Woollahra LEP 2014 (**Annexure 1**).

The planning proposal has been prepared in accordance with section 3.33 of the Act and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (August 2016) and *A Guide to Preparing Local Environmental Plans* (August 2016).

4.2. Objective

The objective of the planning proposal is to amend Woollahra LEP 2014, to list Dunara Reserve as a heritage item. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site, including a range of exotic and native trees.

4.3. Explanation of provisions

The planning proposal seeks the following amendments to Woollahra LEP 2014:

- Insert a listing for Dunara Reserve – remnant of the residential garden of “Dunara”, in Part 1 Heritage Items of Schedule 5 Environmental Heritage. The recommended item number for the listing is No. 681, the next available number in the sequence for heritage items in the Schedule. The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the amending LEP.
- Amend the Heritage Map (Sheet HER_002) to identify an additional heritage item on the site of Dunara Reserve.

4.4. Relationship to strategic planning framework

The planning proposal is consistent with the relevant strategic planning framework plans, policies and directions:

- The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018), (refer to section 6.2 of the planning proposal).
- The planning proposal is consistent with the Council’s Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhood) under the theme Quality places and spaces.
 - 4.3 Protect local heritage, including significant architecture and the natural environment.
- The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies (refer to **Schedule 1** of the planning proposal).

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

4.5. Community consultation

The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the gateway determination issued by the Department of Planning and Environment as delegate for the Greater Sydney Commission. The gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days, which is consistent with Council's standard practice for the exhibition of a planning proposal.

Public notification of the exhibition will comprise:

- A weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period.
- A notice on Council's website.
- A letter to land owners in the vicinity of the site.
- Local community groups.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- The planning proposal, in the form approved by the gateway determination.
- The gateway determination.
- Information relied upon by the planning proposal, such as relevant Council and consultant reports.

4.6. Making the draft LEP under delegated authority

The planning proposal will be forwarded to the Department of Planning and Environment (as the delegate of the Greater Sydney Commission) for a gateway determination under section 3.34 of the Act.

To streamline the plan making process, the Minister can delegate some plan making powers to Council for routine matters. In this case, Council may request authorisation to exercise the functions of the Greater Sydney Commission to make an LEP under section 3.36 of the Act.

Following public exhibition, if Council resolves to proceed with and finalise the planning proposal, staff will request that the Parliamentary Counsel (PC) prepare a draft LEP. Once the draft LEP has been prepared, PC will issue an opinion that it can be made.

Alternatively, if Council decides not to finalise the planning proposal, it will resolve to request that the Minister, or Minister's delegate, not proceed with the planning proposal, under section 3.35(4) of the Act.

5. Conclusion

The planning proposal satisfies the requirements of section 3.33 of the Act because it:

1. Explains the intended effect of the proposed amendment to Woollahra LEP 2014.
2. Sets out the justification of making the proposed amendment. This is underpinned by the assessment of heritage significance for the site.
3. Identifies the community consultation that is to be undertaken.

Advice from the LPP will be provided to Council before the planning proposal is submitted to the Department of Planning and Environment for a gateway determination. Council will also request authorisation to exercise the functions of the Greater Sydney Commission to make an LEP under section 3.36 of the Act.

Annexures

1. Planning Proposal - Dunara Reserve, Point Piper (including Schedules 1 and 2) - September 2018 [↓](#)
2. Environmental Planning Committee Report - Dunara Reserve, Point Piper - Assessment of Heritage Significance - 2 July 2018 [↓](#)
3. Council Minutes - Dunara Reserve, Point Piper - Assessment of Heritage Significance - 16 July 2018 [↓](#)
4. Heritage Significance Assessment – Betteridge Heritage, including draft inventory sheet (heritage data form) – 21 June 2018 [↓](#)