

**Item No:** D1  
**Subject:** **PLANNING PROPOSAL - HERITAGE LISTING OF GADEN HOUSE AT 2A COOPER STREET, DOUBLE BAY**  
**Author:** Jorge Alvarez, Senior Strategic Planner  
**Approvers:** Chris Bluett, Manager - Strategic Planning  
Allan Coker, Director - Planning & Development  
**File No:** 18/123457  
**Reason for Report:** To seek the advice of the Woollahra Local Planning Panel in relation to the preparation of a planning proposal to list Gaden House as a heritage item in Woollahra Local Environmental Plan 2014.  
  
To seek the advice of the Woollahra Local Planning Panel in relation to the nomination of Gaden House as a heritage item on the State Heritage Register.

**Advice:**

THAT the Woollahra Local Planning Panel advises Council to:

- A. Support the listing of *Gaden House* at 2A Cooper Street, Double Bay as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. Forward a planning proposal to the Greater Sydney Commission to list *Gaden House* as a heritage item in the Schedule 5 of *Woollahra Local Environmental Plan 2014*, to allow public exhibition.
- C. Request delegation from 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*.
- D. Support the nomination to list *Gaden House* at 2A Cooper Street, Double Bay as a heritage item on the State Heritage Register.

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

This report seeks the advice of the Woollahra Local Planning Panel on the listing of *Gaden House* at 2A Cooper Street, Double Bay as a heritage item in the *Woollahra Local Environmental Plan 2014* (LEP) and on the State Heritage Register (SHR).

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.

In addition to providing advice on planning proposals, section 2.19(1)(c) of the Act specifies that a local planning panel may advise a Council on any other planning or development matter that is to be determined by the Council and is referred to the panel by the Council. In this regard the panel's advice on the proposed nomination of *Gaden House* on the SHR is sought.

A planning proposal has been prepared to list *Gaden House*, including its interiors, as a heritage item in the Woollahra LEP 2014 (**Annexure 1**).

## **2. Site and context**

### **2.1. Gaden House**

The planning proposal and nomination for SHR listing apply to *Gaden House*. The development occupies a site with a street address of 2A Cooper Street, Double Bay and a land title described as lots 11 and 12 in DP 4606. The site is also alternatively known as 24-26 Bay Street, Double Bay. *Gaden House* is a mixed use commercial building (retail and office), with three-storeys above ground and a lower ground level. The existing retail tenancies include a restaurant, gym, convenience store, real estate agent and two clothing stores. The building occupies the entire site bounded by Cooper Street, Bay Street, Brooklyn Lane and the neighbouring site at 16 Bay Street, Double Bay. Refer to Figure 1, 2 and 3 below.

*Gaden House* was designed in 1969 by Sydney architect, Neville Gruzman, and was opened by Premier Askin in 1971. The ground floor level is raised above street level and was designed with seven retail tenancies, five facing Cooper Street and two facing Bay Street. A lobby extends from the Cooper Street frontage to a spiral stair linking the ground floor to the two upper storeys, which are currently used as offices. A separate, external staircase allows access to the lower ground level, which was originally designed for D'Arcy's restaurant and one retail tenancy. Pelicano's restaurant now occupies the entire basement level.

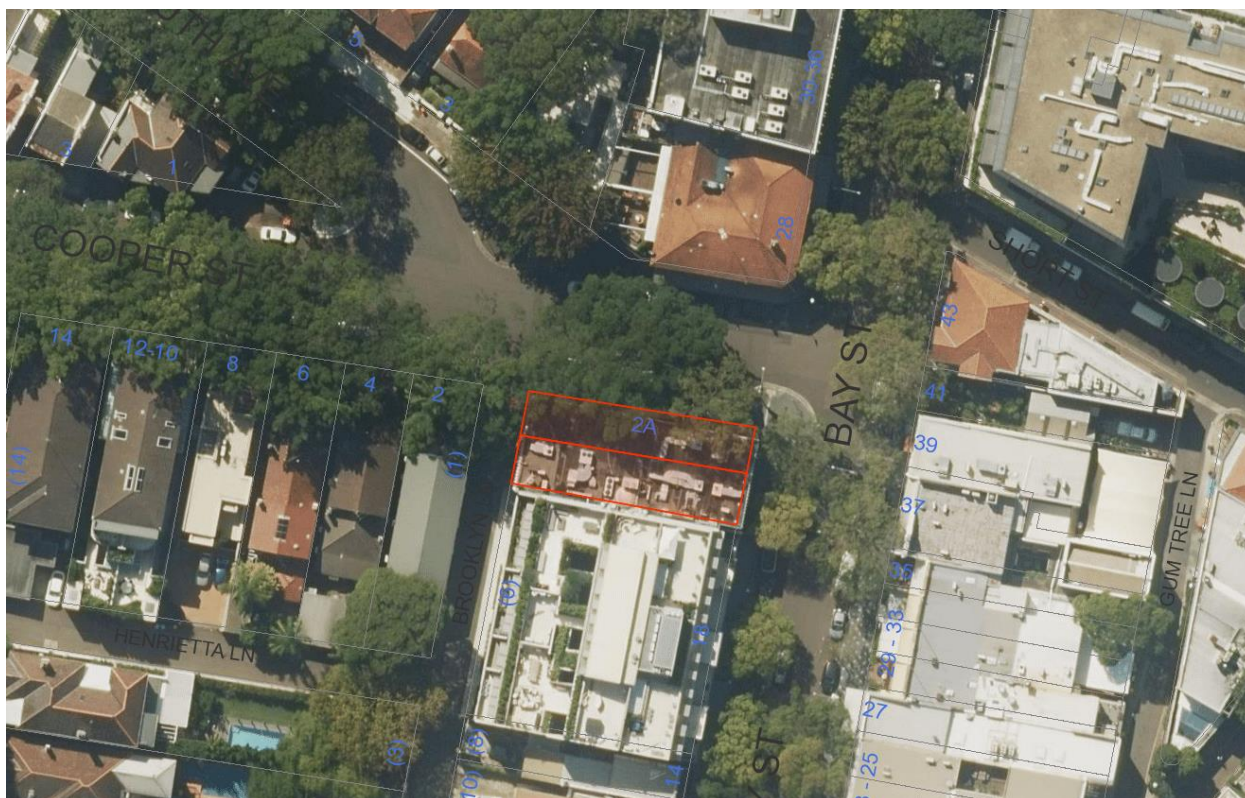


*Figure 1: Gaden House viewed from South Avenue, looking towards north and west elevation and Brooklyn Lane (Source: Anne Warr Heritage Consulting 20 June 2018)*



*Figure 2: Cadastral map showing Gaden House site outlined in red*





**Figure 3: Aerial photograph showing Gaden House outlined in red**

## 2.2. Context

*Gaden House* is located within the western boundary of the Double Bay Centre. The Centre relates generally to land zoned B2 Local Centre under the Woollahra LEP 2014. The Chapter D5 of the *Woollahra Development Control Plan 2015* (DCP) describes the Centre, specific character areas and individual building within the Centre.

Section D5.2.3 describes the built form of the Centre as follows:

*The building stock in and around the Centre reveals a cross section of architecture of varying quality. The built form of the Centre reflects a mix of periods, building types and scale with no particular period predominating. The architectural and streetscape quality is generally undistinguished, with a few exceptions, and*

*The buildings between New South Head Road, Bay and Short Streets have retained the fine grain evident in the early subdivision pattern.*

*Gaden House* is located in the Bay Street (south) character area of the Centre, as described in D5.4.4 of the DCP. The character area is described as follows:

*Bay Street connects New South Head Road with the harbour. Its north-south orientation results in the street being sunny throughout the day. It is lined by modest buildings on narrow lots, with irregular setbacks at street level and street trees. Together the elements contribute to an intimate and relaxed atmosphere.*

Further, *Gaden House* has been identified as a character building in Section 5.6.3.8 Heritage items of the DCP.

The properties in closest proximity to *Gaden House* are described in Table 1.

**Table 1: Description of nearby properties**

Location	Address	Description
North – opposite side of Cooper Street	28 Bay Street	Royal Oak Hotel - 2 storey hotel (pub)
East – opposite side of Bay Street	Various	1 and 2 storey retail and food premises, including licenced premises and a nursery. Includes a number of converted terraces.
South – directly adjoining <i>Gaden House</i>	18 Bay Street	5 storey modern mixed use building with residential apartments above ground floor retail.
West – opposite side of Brooklyn Lane, and North-west – diagonally opposite the intersection of Cooper Street and South Avenue	Various	2 to 3 storey older style and modern single detached dwellings and residential flat buildings

### 3. Background

#### 3.1. Development application DA589/2017

On 28 November 2017, a development application was lodged with Council relating to *Gaden House* (DA589/2017). The application was lodged by D Studio Architects Pty Ltd on behalf of the land owner, AMA Holdings Pty Ltd. The application proposed:

External and internal alterations and additions to an existing mixed use development including an additional two storeys (total five storeys plus basement level) accommodating commercial/office floor space, reconfiguration of internal walls/stairs, changes to building facade, new garbage/services room, awnings and A/C units.

The application was publicly exhibited from 13 December 2017 to 10 January 2018 and attracted more than 40 objections. Additionally, an online petition objecting to the application attracted more than 2,000 electronic signatures. The wording of the petition stated:

*Save GADEN HOUSE, Neville Gruzman's modernist masterpiece in Sydney's east.*

*We strongly urge council to refuse the existing Development Application DA589/2017 and consider the views of the many supporters in favour of retaining and restoring this significant example of Australian 20th Century architecture.*

The application was withdrawn by the applicant on 20 April 2018.

#### 3.2. Council decision – assessment of heritage significance

On 12 February 2018, Council adopted the following notice of motion (refer to **Annexure 2**):

**Item No: 11.1**

*THAT Council:*

1. *Notes that a Development Application has been received for alterations and additions to Gaden House, a commercial property located at 24-26 Bay Street, Double Bay.*
2. *Undertakes a Heritage Assessment of the property and report to the Urban Planning Committee on whether the property qualifies for listing as a Heritage Item.*

**3.3. Assessment of heritage significance**

In response to Council's decision on 12 February 2018, Anne Warr Heritage Consulting was engaged to prepare an assessment of the heritage significance for *Gaden House*. 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". A copy of the heritage assessment and accompanying forms are attached as follows:

- **Annexure 3** – Heritage Assessment – Anne Warr Heritage Consulting – September 2018
- **Annexure 4** – Local heritage data form – Anne Warr – September 2018
- **Annexure 5** – State heritage data form – Anne Warr – September 2018
- **Annexure 6** – State Heritage Register Nomination Form – September 2018

The heritage consultant was required to:

- Prepare a summary statement of significance for *Gaden House*.
- Make a recommendation as to whether *Gaden House* should be listed as a local or State heritage item in Schedule 5 of Woollahra LEP 2014.
- Make a recommendation as to whether *Gaden House* should be listed as an item on the SHR under the *Heritage Act 1977*.

**3.4. Statement of significance**

The assessment report provides the following statement of significance:

*Gaden House is an exemplar of the development of Australia's cultural life in the post-war era when architects embraced the purity of architecture as an art form including sculpture as an essential part of the design process. Neville Gruzman's determination to elevate the building above the ordinary, to make a contribution to the urban setting, to ensure that the external design was both functional and aesthetically pleasing, and to specially commission a sculpture that would flow through the building from the entrance foyer up the staircase to finish at the perspex dome, demonstrates a creative endeavour of the highest order and a contribution to Australia's cultural life both at the time and through to the present. The achievement of such a creative endeavour in a suburban commercial building in 1970s Sydney is rare.*

*Gaden House challenged the status quo of suburban shopping centres and transformed what could have been an ordinary suburban office and retail building into a work of art, pushing the design boundaries to produce a building that was a sculpture, both as an object in the streetscape at night as well as during the day, and in the interiors as a delightful and environmentally comfortable place to work. Gruzman proved that a small suburban office building could also be a work of art. When the building was opened in 1971 by the Premier of NSW, Mr. Robert Askin, its avant-garde design, combining international modernism to suit local conditions, played a pivotal role in elevating Double Bay to its pre-eminent position as Sydney's most cosmopolitan and international shopping centre and has continued to contribute to the community life of Double Bay ever since.*

*Gaden House demonstrates aesthetic characteristics and a high degree of creative and technical achievement by experimenting with materials and new technology, as evidenced by the precast concrete and glass spiral staircase topped by a perspex dome, the specially designed circular ceiling system incorporating lighting and air-conditioning, and the external metal clad louvres which were both environmentally functional and aesthetically significant. Adding to the creative and aesthetic significance of the building was the work of leading Australian sculptor Michael Kitching, which was an integral part of the original design and survived in-situ until around 2006. Despite the loss of the sculpture, which has the potential to be reconstructed through surviving documentation in the Kitching Archive, the building retains much of its original fabric and detailing externally and internally, and these original elements have the potential to yield information about architectural thinking and practice at the time related to a local interpretation of international modernism. The fact that Gaden House has survived in a relatively intact manner since 1971 makes it a structure of some quality and rarity in Double Bay and in Sydney*

(September 2018, Anne Warr Heritage Consulting, pp.64-65)

The assessment report provides the following recommendations:

1. That as *Gaden House* meets the criteria for local listing, it is recommended that *Gaden House* be listed on the Woollahra LEP 2014.
2. That as *Gaden House* meets the criteria for state listing, it is recommended that *Gaden House* be listed on the SHR.
3. That a heritage data form be prepared for listing of *Gaden House* on the Woollahra LEP 2014.
4. That a heritage data form and nomination for listing on the SHR be prepared for *Gaden House*.
5. That the inventory sheets include a recommendation that a Conservation Management Plan, CMP, be prepared for *Gaden House* to guide any future works on the place.
6. That the CMP include the preparation of a works schedule for the building to ensure that the appropriate maintenance, restoration and reconstruction of significant elements of the building be itemised and detailed. These works would include research into the reconstruction of the Kitching sculpture, the restoration of the external louvres by the removal of the intrusive paint layers, the retention of the specially designed ceiling system on the upper floor and its reconstruction of the lower floor.

In accordance with these recommendations the consultant has prepared:

- A heritage data form for listing *Gaden House* on the Woollahra LEP 2014.
- A heritage data form and nomination for listing *Gaden House* on the SHR.

### 3.5. Other significance listings

The building is currently listed as number 4702079, on the Australian Institute of Architects' Register of Significant Buildings in NSW, April 2018.

### 3.6. Consultation with the land owner

The land owner of *Gaden House* is AMA Holdings Pty Ltd. On 28 June 2018, in accordance with Council's standard practices, copies of the assessment report, heritage data forms, and nomination form were sent to the land owner for comment. On 12 July 2018, a submission on behalf of the land owner was submitted to Council by Sameh Ibrahim, Executive Chairman of PDS International, supported by Paul Rappoport, Director of Heritage 21 (Rappoport Pty Ltd) (**Annexure 7**).

The submission states that:

- Mr Rappoport agrees with most of the recommendations in the heritage assessment and believes that the Neville Gruzman design should be kept and conserved.
- Heritage 21 intends to work with the developer on a proposal to add additional floors above *Gaden House* while conserving the key attributes of the existing building.
- Mr Rappoport requests that Council defer any actions towards heritage listing of *Gaden House* for a period of 4 weeks to allow the owner to submit a report about a new direction in the proposed development for the site.

On 7 August 2018, a further submission on behalf of the landowner was submitted to Council. The submission includes a further report from the landowner's heritage consultant (**Annexure 8**). Mr Rappoport again agreed that *Gaden House* reaches the threshold of significance for heritage listing at the local level, but does not consider it has sufficient significance for heritage listing at the State level.

On 28 August Anne Warr provided a response to the submission of 7 August 2018 (**Annexure 9**). She disagrees with the submission's assessment that *Gaden House* does not possess sufficient significance for heritage listing at the State level, in stating:

*The H21 report seems to be arguing that if a building is located in a suburb, then it can only be of local significance, and that an architect's buildings need to be located across the state in order to be of state significance. Clearly these are fallacious arguments. The location of a building does not necessarily determine its level of significance, with buildings of state significance being located in suburbs, in rural areas as well as in central Sydney. An architect is not required to have a body of work located across the state, or a body of work in commercial buildings for a commercial building to be considered of state significance.*

(August 2018, Anne Warr Heritage Consulting, p.4)

As a result it is not considered appropriate to amend the heritage documentation provided by Anne Warr Heritage Consulting in relation to the assessment of heritage listing of *Gaden House*, either at the local and State levels.



#### **4. Planning proposal and State Heritage Register nomination**

Both Council and the land owner's heritage consultants agree that *Gaden House* meets the criteria for local listing in the Woollahra LEP 2014. However, the landowner's heritage consultant considers that the property does not have sufficient significance for listing at the State level on the SHR. A planning proposal is required for heritage listing in the Woollahra LEP 2014, and a nomination to the Office of Environment and Heritage (OEH) is required for heritage listing on the SHR.

##### **4.1. Planning proposal structure**

A planning proposal has been prepared to list *Gaden House*, including its interiors, 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 *Gaden House*, including its interiors, at 2A Cooper Street, Double Bay as a heritage item. Heritage listing will provide ongoing protection and recognition of the heritage significance of the item.

##### **4.3. Explanation of provisions**

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

- Insert a listing for *Gaden House*, including its interiors, in Part 1 Heritage Items of Schedule 5 Environmental Heritage. The recommended item number for the listing is 682, the next available number in the sequence for heritage items in the Schedule. The exact wording of the amendment will be determined by Parliamentary Counsel prior to the making of the LEP.
- Amend the Heritage Map (Sheet HER\_003A) to identify a heritage item on the site of *Gaden House* at 2A Cooper Street, Double Bay.

##### **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 the land owner of *Gaden House*.
- A letter to land owners in the vicinity of *Gaden House*.
- Local community and business groups such as the Double Bay Residents' Association and the Sydney East Business Chamber.

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

If Council resolves to proceed with the planning proposal, it 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.

#### **4.7. State Heritage Register nomination**

Nomination for listing on the SHR would be undertaken during the planning proposal gateway process by submitting the nomination and inventory forms to the OEH. The planning proposal and nomination process will proceed independently.

#### **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 building.
3. Identifies the community consultation that is to be undertaken.

Advice from the LPP will be provided in a report 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.

Nomination for State heritage listing would be undertaken as part of, or during, the planning proposal gateway process, by submitting the nomination and inventory forms to the OEH and awaiting their determination.

#### **Annexures**

1. Planning proposal – Gaden House (including Schedules 1 and 2) – September 2018 [↓](#)
2. Council notice of motion – 12 February 2018 [↓](#)
3. Heritage Assessment – Anne Warr Heritage Consulting – September 2018 [↓](#)
4. Local heritage data form – Anne Warr – September 2018 [↓](#)
5. State heritage data form – Anne Warr – September 2018 [↓](#)
6. State Heritage Register Nomination Form – September 2018 [↓](#)
7. Submission on behalf of the land owner – Heritage 21 – 12 July 2018 [↓](#)
8. Submission on behalf of the land owner – Heritage 21 – 7 August 2018 [↓](#)
9. Response to Heritage 21 submission – Anne Warr – 28 August 2018 [↓](#)