

Item No: R2 Recommendation to Council
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF COOPER PARK, BELLEVUE HILL**
Author: Flavia Scardamaglia, Strategic Heritage Officer
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 20/15091
Reason for Report: To report on the advice made to Council by the Woollahra Local Planning Panel.

To obtain Council's approval to proceed with the planning proposal to list Cooper Park in Bellevue Hill (excluding Cooper Park North) as a heritage item in Woollahra Local Environmental Plan 2014.

Recommendation:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 30 January 2020.
- B. THAT the planning proposal, as contained in *Annexure 3* of the report to the Environmental Planning Committee meeting on 17 February 2020 to list *Cooper Park* in Bellevue Hill (excluding Cooper Park North) be forwarded to the *Department of Planning, Industry and Environment* with a request for a gateway determination to allow public exhibition.
- C. THAT Council request the *Minister for Planning and Public Spaces* to authorise Council as the local plan making authority in relation to the planning proposal, to allow it to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

1. Background

On 27 November 2017, Council adopted the following notice of motion (Item No. 11.1):

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for Cooper Park to the Urban Planning Committee to facilitate Cooper Park (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*

The following background information accompanied the notice of motion on the agenda for that meeting:

Woollahra Council's Heritage Study (1984) highlighted Cooper Park as a 'creek valley with quite thick vegetation...with unique rainforest species' and overall high recreational value. The Heritage Study nominated the north-facing valley and south-facing slope as areas of naturalistic character and pointed to the existence of Aboriginal engravings within Cooper Park and surrounding areas.

The Australian Heritage Commission listed Cooper Park on the Register of the National Estate (FileNo.1/12/041/0114/01) during 1992. ‘Cooper Park is an uncommon example of an early twentieth century municipal park, which demonstrates a bushland pleasure ground style. The style is expressed by the predominance of bush vegetation, a creek and meandering network of paths which link a series of architectural features (Criterion B2)’.

Woollahra Council Cooper Park Plan of Management February 2001 sets out the elements and management of Cooper Park. The action plan included “Conduct heritage study that audits the presence and condition of, and makes recommendations for the protection and preservation of, any built structures or other material associated with the park’s Aboriginal history and its history of recreation development”.

Cooper Park is not currently listed as heritage item under the Woollahra LEP 2014 (except for the Adelaide Street sandstone retaining wall and railing facing Cooper Park) or on the NSW State Heritage Register.

In response to Council’s decision, Chris Betteridge of Betteridge Heritage was engaged to carry out an assessment of heritage significance for *Cooper Park*. Chris Betteridge is a highly qualified and experienced heritage consultant with extensive and specialised experience in the identification, assessment, management and interpretation of landscape heritage.

On 18 November 2019 a report on the heritage listing of *Cooper Park* as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014* was presented to a meeting of the Environmental Planning Committee (***Annexure I***) and on 25 November 2019, Council resolved the following:

- A. *THAT a planning proposal be prepared to list Cooper Park as a state significant heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- D. *THAT Council consider nominating Cooper Park for listing on the State Heritage Register when it considers the advice of the Woollahra Local Planning Panel.*
- E. *THAT further consideration be given to Aboriginal Cultural Heritage including appropriate engagement with Aboriginal Elders and the La Perouse Land Council.*

[Note: Part A relates to listing *Cooper Park* as a state significant heritage item. The Department of Planning, Industry and Environment’s (DPIE) LEP Practice Note PN 11-001, which deals with the use of standard clauses in a Standard Instrument LEP, states in regard to LEP listings:

Items cannot be identified as having State significance unless they are listed in the State Heritage Register. However, a heritage item may be listed on the State Heritage Register as a “nominated item of State significance” if the item has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.

At this point of the process, the Council has not exhibited the assessment of heritage significance or has it submitted its nomination for State listing to the Heritage Council. The listing at this time should be limited to a local item. It could be updated to a State listing in the LEP description if the nomination to the Heritage Council proceeds to the acceptable point.

2. Planning proposal

A planning proposal was prepared in accordance with the Council's decision of 25 November 2019. The objective of the planning proposal is to recognise the heritage significance of *Cooper Park* (excluding Cooper Park North) and provide it with statutory heritage protection.

3. Woollahra Local Planning Panel advice

On 30 January 2020, the Woollahra Local Planning Panel (LPP) considered a report on the planning proposal (see *Annexure 2*) and provided the following advice to Council:

- A. *Proceed with the planning proposal to list Cooper Park in Bellevue Hill (excluding Cooper Park North) as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *Forward the planning proposal to the Department of Planning, Industry and Environment to list Cooper Park in Bellevue Hill (excluding Cooper Park North) as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014, requesting a gateway determination to allow public exhibition.*
- C. *Request delegation from the Department of Planning, Industry and Environment in relation to the planning proposal, to carry out the plan-making functions of the Minister for Planning and Public Spaces under section 3.36 of the Environmental Planning and Assessment Act 1979.*
- D. *Support the nomination to list Cooper Park in Bellevue Hill (excluding Cooper Park North) as a heritage item on the State Heritage Register.*

Subsequent to the meeting of the Woollahra LPP on 30 January 2020 and based on the advice provided, the planning proposal has been updated to refer to the Panel's advice. The planning proposal is provided in *Annexure 3*.

4. Next steps

Subject to the Council's decision, the planning proposal will be referred to the DPIE for a gateway determination. This will allow the planning proposal to be placed on public exhibition.

The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the *Environmental Planning and Assessment Regulation 2000* and the gateway determination issued by DPIE as delegate for the Minister. 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 each sites.
- A letter to land owners adjoining and in the vicinity of each site.
- A letter to local community groups, such as the Woollahra History & Heritage Society, Friends of Cooper Park, Bushcare Group, Cooper Park Tennis, Cooper Park Community Garden, Cooper Park Community Hall and Cooper Park Volunteers.
- A letter to the National Trust of Australia (NSW).

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 Minister to make an LEP under section 3.36 of the Act. Part C of the recommendation for this report deals with this request.

Progression of the nomination on the State Heritage Register should occur after the local listing has advanced through the planning proposal phase to the preparation of a draft LEP. This will provide more support for the State listing.

5.0 Conclusion

The heritage significance of *Cooper Park* in Bellevue Hill has been assessed in accordance with the NSW heritage best practice guidelines.

The Assessment of Heritage Significance prepared by Chris Betteridge of Betteridge Heritage identifies that *Cooper Park* (excluding Cooper Park north) satisfies all seven criteria of heritage significance at local level and two criteria at State level. Accordingly, the heritage significance of *Cooper Park* should be recognised and conserved through listing as a heritage item in Schedule 5 of the *Woollahra LEP 2014*.

On 30 January 2020, the LPP provided advice to Council that it supports the planning proposal and its submission to the Minister.

The Council may now proceed with referring the planning proposal to the Department requesting a gateway determination to allow public exhibition.

Annexures

1. Report to Environmental Planning Committee - 18 November 2019 (annexures removed)
2. Report to Woollahra LPP - 30 January 2020 (annexures removed)
3. Planning Proposal - February 2020 (annexures removed)