

Item No: R3 Recommendation to Council

Subject: **PLANNING PROPOSAL - 46 VAUCLUSE ROAD, VAUCLUSE**

Author: Kristy Wellfare, Strategic Heritage Officer

Approver: Allan Coker, Director - Planning & Development

File No: 20/4526

Reason for Report: To respond to Council's resolution of 26 August 2019, and in light of the Interim Heritage Order placed on the site by the Minister administering the Heritage Act 1977,
To present a report to the Environmental Planning committee which assesses the heritage significance of the property at 46 Vacluse Road, Vacluse.

Recommendation:

- A. THAT a planning proposal be prepared to list the property at 46 Vacluse Road Vacluse as a heritage item in 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.

1. Background:

On 20 October 2015 the Woollahra Council Application Assessment Panel (AAP) approved demolition of the existing dwelling house and construction of a new dwelling on the site. On 26 August 2019 the Council considered a Notice of Motion on the Heritage protection of two F. Glynn Gilling properties and resolved:

- A. *THAT Council write to the Minister, the Hon. (Don) Donald Harwin, MLC, Special Minister of State, Minister for Public Services and Employee Relations, Aboriginal Affairs and Arts, to ask him to make an Interim Heritage Order (IHO) under section 24(1) of the Heritage Act 1977 in respect of the properties at 30 Wyuna Road, Point Piper and 46 Vacluse Road, Vacluse.*
- B. *THAT Council request the Director Planning & Development to prepare an urgent report to the Environmental Planning Committee which assesses the heritage significance of the property at 30 Wyuna Road, Point Piper.*
- C. *THAT part A and part B of this resolution remain confidential along with the legal advice tabled via the late correspondence from the Director Planning & Development.*

The objective of an Interim Heritage Order (IHO) is to afford a level of statutory protection to a site for a period of time in which an assessment of the heritage significance of the site may be undertaken. This report advises Council of the making of an IHO in respect of this property, and responds to the making of the IHO through the provision of a Heritage Significance Assessment for the site.

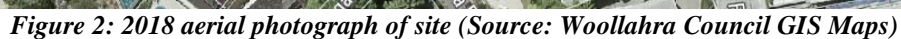
2. The Site

The subject site is an Inter-war Mediterranean style dwelling house at 46 Vacluse Road, Vacluse (refer to Figure 1). The site is located in the Woollahra Local Government Area (LGA) and is legally identified as Lot A in DP 367302. The site is regular in shape, 1710m² in area, with a frontage of 32.004m to Vacluse Road, a rear boundary of 31.96m and a depth of between 52.330m and 54.42m.

The site is the subject of an Interim Heritage Order (IHO) issued by the Minister under Section 24 of the *Heritage Act 1977* as published in NSW Government Gazette No. 165 of 6 December 2019, p.5406.



Figure 1: Oblique view of the subject dwelling house at 46 Vacluse Road, Vacluse. (Source: WMC Officer, 2015)



Development on adjoining sites consists of two and three storey dwelling houses of varying ages and styles including a part two storey and part three storey contemporary curvilinear dwelling house at 48 Vacluse Road to the north (**Figure 4**), a contemporary two storey dwelling house at 48 Vacluse Road to the south and a post war era dwelling house to the rear (west) of the site (**Figure 5**).



Figure 4: 48 Vacluse Road, Vacluse, October 2017. (Source: Google Street View)



Figure 5: 44 Vacluse Road, October 2017. (Source: Google Street View)



Figure 6: 29 Carrara Road, Vacluse. (Source: WMC Officer, December 2019)

3. The Interim Heritage Order

A development application for the site was lodged with Woollahra Council on 14 May 2015 proposing demolition of the existing dwelling house on the site and construction of a new residential dwelling house on the site with basement parking. The development application was approved by the Woollahra Council Application Assessment Panel.

At its meeting of 26 August 2019, Council considered a Notice of Motion on the Heritage protection of two F. Glynn Gilling properties and resolved:

- A. *THAT Council write to the Minister, the Hon. (Don) Donald Harwin, MLC, Special Minister of State, Minister for Public Services and Employee Relations, Aboriginal Affairs and Arts, to ask him to make an Interim Heritage Order (IHO) under section 24(1) of the Heritage Act 1977 in respect of the properties at 30 Wyuna Road, Point Piper and 46 Vaocluse Road, Vaocluse.*

In response, an Interim Heritage Order (IHO) was issued by the Minister administering the Heritage Act. The order was made pursuant to Section 24 of the *Heritage Act 1977* and published in the NSW Government Gazette No. 165 of 6 December 2019, p.5406.

The order will remain in place for a period of 12 months and will give the Council the opportunity to fully assess the heritage significance of the building and whether or not it should be listed as a State and/or local heritage item. Under section 57 of the *Heritage Act 1977* when an IHO applies to a place or building a person must not, among other things, demolish, damage or carry out development except in pursuance of an approval granted by the approval body, i.e. the Heritage Council of New South Wales. As such, despite the site benefitting from an approval to demolish the existing building and construct a new dwelling house on the site, the effect of the IHO requires an approval to be issued under the *Heritage Act 1977* before works pertaining to this development application may commence.

It will be noted that Part C of the Council resolution of 26 August 2019 was that Part A and Part B of the resolution remain confidential along with the legal advice tabled via the late correspondence from the Director of Planning and Development. The purpose of keeping the resolution confidential was to reduce the risk of the building being damaged or demolished prior to the undertaking of the heritage significance assessment. However, because the building is now protected by an IHO there is no need for this report to be confidential.

4. Assessment of heritage significance

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001. The assessment used the process and criteria set out in that document. There are seven criteria used in the process of assessing heritage significance:

Criterion (a)

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).

Criterion (b)

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).

Criterion (c)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

Criterion (d)

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.

Criterion (e)

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).

Criterion (f)

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).

Criterion (g)

An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's)

- cultural or natural places, or
- cultural or natural environments,
- cultural or natural places, or
- cultural or natural environments.)

Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed. A copy of the assessment prepared by Kristy Wellfare (Strategic Heritage Officer, Woollahra Council), which includes the assessment against all criteria, is attached as **Annexure 1**.

Table 1 below provides a summary of the assessment of the heritage significance of 46 Vacluse Road, Vacluse against the seven criteria, at the local and State levels, and demonstrates that the site meets four of the seven criteria for local listing, with potential to fulfil two additional criteria.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	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)	✓	✗
(b)	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)	✓	✗
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	✗

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(d)	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	✗	✗
(e)	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)	May fulfil criterion	✗
(f)	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)	✓	✗
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. or a class of the local area's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. 	✓	✗

The heritage significance assessment provides the following statement of significance:

Number 46 Vacluse Road, Vacluse is a rare example of an Inter-war Mediterranean style dwelling house arising from the innovatively designed alterations and additions by prominent architect F. Glynn Gilling of Joseland & Gilling for a site within the former Vacluse Estate. The dwelling house is a fine example of its type and includes original interior and exterior design detailing that is representative of the key elements of the Inter-war Mediterranean style. The informal massing of lightly textured rendered walls beneath a pitched tiled roof with sub-gable, formal entrance treatment using synthetic stone detailing, classical motifs, sweeping main stair with wrought iron balustrades [balustrade removed c.March 2019] and window detailing are skilfully combined to create a light and restrained residence that is carefully situated within its landscaped setting.

Demonstrative of its importance, 46 Vacluse Road is featured in the publication "Domestic Architecture in New South Wales, Australia: Illustrating the work of F. Glynn Gilling" by E. Lindsay Thompson. This book includes works by F. Glynn Gilling that are described as "the cream of F. Glynn Gilling's domestic work which, incidentally, comprises some of the finest houses in New South Wales". The property also has a degree of technical significance through the opportunity to research methods of Inter War detailing first hand. Number 46 Vacluse Road, Vacluse is of local heritage significance for historical, aesthetic, associative, rarity, and representative significance, and has research significance potential. The subsequent alterations and additions have been mostly carried out in a sympathetic manner and have been confined to the rear and the service areas of the building, with key elements and spaces of the building likely to remain intact. Subsequent phases of building works have been mostly concentrated at the rear of the Gilling scheme and have not diminished the associative or representative significance of the site, which remains recognisable as a Gilling design in the Inter-war Mediterranean style.

(31 January 2020: Kristy Welfare, Strategic Heritage Officer, Heritage Significance Assessment, p.101)

The assessment recommends the listing of 46 Vacluse Road, Vacluse and its interiors as a local heritage item in Schedule 5 of Woollahra LEP 2014. The heritage significance assessment concludes that 46 Vacluse Road, Vacluse does not meet the threshold for State heritage listing.

5. Consultation with the land owner

Consultation with the land owner has not been carried out to date. This was due to the Council's resolution of 26 August 2019 requiring that the matter remain confidential, and also in light of the threat to the dwelling house arising from the development application (DA2019/252) which approved demolition of the dwelling house. The development consent lapses on 20 October 2020.

Should a planning proposal proceed to public exhibition, consultation with the owner will be undertaken consistent with the *Environmental Planning and Assessment Act 1979* (EP&A Act) *Environmental Planning and Assessment Regulation 2000* and in accordance with Council's Community Participation Plan.

6. Woollahra Local Planning Panel advice

Section 2.19 of the EP&A Act sets out the functions of local planning panels. One of those functions is "to advise the council on any planning proposal that has been prepared or is to be prepared by the council under section 3.33 and that is referred to the panel by the council".

Additionally, the Local Planning Panel Direction – Planning Proposals which was issued by the Minister for Planning on 27 September 2018 identifies the types of planning proposals that are to be referred to a local planning panel for advice prior to a planning proposal being sent to the *Department of Planning, Industry and Environment* for a gateway determination.

Under the terms of the Direction, the planning proposal to list 46 Vacluse Road, Vacluse as a local heritage item must be referred to the Woollahra Local Planning Panel (Woollahra LPP) for advice.

This step will be undertaken at the next available meeting of the Woollahra LPP should the Council decide to prepare a planning proposal.

7. Next steps

If Council supports the recommendation of this report, the next steps in the process are:

- Prepare a planning proposal under section 3.33 of the Act to list the property as a heritage item in the Woollahra LEP 2014.
- Report a draft planning proposal to the Woollahra LPP for advice;
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.
- Further steps will depend on advice from the Woollahra LPP and the decision of the Council following the Environmental Planning Committee meeting.

The heritage significance of 46 Vacluse Road, Vacluse has been assessed in accordance with the NSW heritage best practice guidelines. The Assessment of Heritage Significance prepared by Kristy Wellfare (Strategic Heritage Officer, Woollahra Council) identifies that, based on the information available, 46 Vacluse Road, Vacluse is of local heritage significance for historical, associational, aesthetic, rarity and representative significance and may have research potential.

Based on the findings of the heritage significance assessment, we recommend the listing of 46 Vacluse Road, Vacluse, and interiors, as a local heritage item in Schedule 5 of Woollahra LEP 2014.

To facilitate a listing at the local level, a planning proposal should be prepared with the aim of amending Schedule 5 of Woollahra LEP 2014 by adding 46 Vacluse Road, Vacluse to the list of heritage items. The planning proposal should be referred to the Woollahra LPP for advice.

8. Conclusion:

The heritage significance of 46 Vacluse Road, Vacluse has been assessed in accordance with the NSW heritage best practice guidelines. The Assessment of Heritage Significance prepared by Kristy Wellfare (Strategic Heritage Officer, Woollahra Council) identifies that 46 Vacluse Road, Vacluse is of local heritage significance for historical, associational, aesthetic, rarity and representative significance and may have research potential.

We recommend the listing of the *House and interiors* at 46 Vacluse Road, Vacluse, as a local heritage item in Schedule 5 of Woollahra LEP 2014.

The item does not meet the threshold for State heritage listing.

To facilitate a listing at the local level, a planning proposal should be prepared with the aim of amending Schedule 5 of Woollahra LEP 2014 by adding 46 Vacluse Road, Vacluse to the list of heritage items. The planning proposal should be referred to the Woollahra LPP for advice.

Annexures

1. Draft Assessment of Heritage Significance - 46 Vacluse Road, Vacluse - 31 January 2020 [↓](#) 