

SUBJECT: CCL 23/07/24 - HERITAGE ITEM - 13 SECTION STREET MAYFIELD - PLANNING PROPOSAL AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENT PLAN 2012

REPORT BY: PLANNING AND ENVIRONMENT

CONTACT: EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT / INTERIM EXECUTIVE MANAGER PLANNING AND DEVELOPMENT

PURPOSE

To seek endorsement to commence the statutory process for a planning proposal to amend the Newcastle Local Environmental Plan 2012 (NLEP 2012) for a new heritage item at 13 Section Street Mayfield.

RECOMMENDATION

- 1 That Council:
 - a) Endorses the planning proposal as at **Attachment A**, prepared under Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to amend NLEP 2012 to create a new heritage item at 13 Section Street Mayfield.
 - b) Forwards the planning proposal to the Department of Planning, Housing and Infrastructure (the department) for gateway determination under Section 3.34 of the EP&A Act, requesting the role of planning proposal authority.
 - c) Consults with the community and relevant government agencies as the gateway determination requires.
 - d) Receives a report on the exhibition outcomes, considers any amendments, and makes a final determination on the planning proposal following the close of the exhibition period.

KEY ISSUES

- 2 On 19 July 2024, interim heritage order (IHO) No. 2024/03 for 13 Section Street Mayfield was published in NSW Government Gazette No. 275 (**Attachment B**).
- 3 An IHO is a temporary protection measure to safeguard a place of potential heritage significance for up to 12 months. This temporarily prevents demolition of, or harm to a building. It enables a heritage assessment to determine if a place should be listed as a heritage item on LEP 2012. An IHO prohibits demolition and requires development approval for the item for the duration of the order.
- 4 City of Newcastle (CN) prepared an in-depth assessment, as required under Section 25 of the *Heritage Act 1977*, to determine if 13 Section Street Mayfield

warrants listing as an item of local heritage significance. The Heritage Significance Assessment found the subject property warrants listing as a local heritage item (**Attachment C**).

- 5 Under Section 29 of the *Heritage Act 1977*, CN has 12 months from the gazettal of the IHO to prepare a planning proposal, obtain gateway determination, and exhibit the planning proposal, before the IHO expires.

FINANCIAL IMPACT

- 6 Costs for this project will be met within existing allocated work program and budget.

NEWCASTLE 2040 ALIGNMENT

- 7 The planning proposal is consistent with Newcastle 2040 Community Strategic Plans strategic directions including:

Liveable

- 1.1 Enriched neighbourhoods and places
- 1.1.3 Protected heritage places

IMPLEMENTATION PLAN/IMPLICATIONS

- 8 Should Council endorse the planning proposal; it will be forwarded to the department for gateway determination. This will enable CN to exhibit the planning proposal and progress the amendment to NLEP 2012.
- 9 CN recognises the importance and diversity of heritage and is committed to the principles of heritage conservation under the Heritage Strategy 2020-2030 and the Newcastle Heritage Policy 2022.
- 10 Listing 13 Section Street Mayfield on the NLEP 2012 recognises the heritage significance of the building (Annesley House). This is consistent with Newcastle Heritage Strategy 2020–2030 objectives.
- 11 The planning proposal is consistent with CN's Local Strategic Planning Statement planning priority to protect and celebrate our heritage.

RISK ASSESSMENT AND MITIGATION

- 12 The planning proposal was prepared in accordance with the requirements of the EP&A Act, and the department's Local Environmental Plan Making Guideline 2023 for amending an NLEP.
- 13 The gateway determination will identify any further technical studies and the consultation requirements before the exhibition. This will ensure all relevant parties can consider and comment on the planning proposal before it is reported back to the Council for final consideration.

- 14 Following gateway determination, CN may vary the planning proposal after consideration of any submission received during public exhibition under Section 3.35 of the EP&A Act. The owner can make a submission during the public exhibition of the planning proposal.
- 15 Adherence to the legislative framework under the EP&A Act reduces risk by ensuring a planning proposal considers relevant strategic planning documents and is determined in an appropriate timeframe.

RELATED PREVIOUS DECISIONS

- 16 At the Ordinary Council Meeting held on 28 November 2023, Council endorsed Notice of Motion 9.4 Protecting and Valuing Newcastle's Heritage. It noted CN values the unique heritage and character of its buildings, streetscapes and landscapes. Listing 13 Section Street Mayfield is consistent with Council's commitment to protecting significant heritage buildings and streetscapes.

CONSULTATION

- 17 CN will exhibit the planning proposal and consult with stakeholders (including the community) in accordance with the EP&A Act and any gateway determination requirements. This will include, at a minimum, formal written notification to property owners, publication on CNs web page, and letters to owners of adjoining and nearby properties.

BACKGROUND

- 18 On 2 March 2023 a development application (DA) (DA2023/00147) was lodged to demolish a two-storey building (Annesley House) and construct additional carparking facilities at 13 Section Street Mayfield. Assessment of DA2023/00147 identified the potential heritage value of the building (Annesley House).
- 19 A Heritage Impact Statement (HIS), by EJE Heritage, July 2023 in support of the DA, concluded the site does not reach the threshold for heritage protection. However, the site is identified for investigation as a potential heritage item in Volume 4 of the 1997 Newcastle City Wide Heritage Study, by Suters, as a potential heritage item (Item no – MAYF.098 - 'Former Arnott Home').
- 20 On 14 December 2023, the applicant was asked to consider amending plans to retain the building (with a small demolition at the rear).
- 21 On 31 January 2024, the applicant's response stated they would not be amending plans or willing to withdraw the application.
- 22 On 16 July 2024, the subject DA was called into Council to be determined by the Development Applications Committee (DAC). A preliminary heritage assessment found the site likely to have heritage significance. The approval of the DA would constitute an immediate threat of harm to the property.

- 23 Due to the preliminary heritage assessment findings and possible immediate threat of harm to the property, CN's Interim Executive Manager - Planning and Development supported the submission of an IHO for the site.
- 24 IHO No. 2024/03 for the subject property, was published in the NSW Government Gazette No. 275 on 19 July 2024.
- 25 CN prepared a detailed assessment, the Heritage Significance Assessment (**Attachment C**). It found that 13 Section Street, Mayfield reaches the local significance threshold under five of the standard criteria identified in NSW Assessing Heritage Significance guidelines. A heritage item is of state or local significance if it meets one or more of the seven criteria for assessment.
- 26 The Heritage Significance Assessment for the site (**Attachment C**) provides the following statement of significance:

Annesley House is associated with prominent local figures, including Charles Upfold, William Arnott, and Isaac Winn. It contributes to an understanding of the development of Mayfield as a suburb during the late 19th century – a period when wealthy families were relocating to the local area and building at a rapid rate.

Annesley House was designed by John W. Pender, a notable architect practicing primarily in the Maitland and Hunter areas, held in high esteem locally. His work appears to be less common in Newcastle, but his engagement is likely to be an outcome of his established reputation for large house designs in the scenic context of the Hunter River.

The building has lost its fine detail following renovations in the 20th century. However, its built form, roof, a chimney, windows and some internal features remain legible. Much of the replacement external claddings are nearing replacement and able to be replaced by more sympathetic or original materials in ongoing maintenance.

Annesley House is comparable to other heritage-listed grand Victorian residences throughout Mayfield. While some are in good condition and retain key characteristics of their class, some have been significantly altered.

The extent of alterations and the removal of its context are changes that have left the building in similar circumstances to majority of 'grand residences' of Australian cities, retaining interpretive significance in remaining form, scale, detail, and identity, within regularly altering settings. Annesley House is most comparable to its neighbour, the former Mayfield House, as they were constructed around the same time, with a similar curtilage, setting and outlook, and have undergone very similar alterations.

The dwelling at 13 Section Street Mayfield reaches the local significance threshold under Criteria (a), (b), (c), (d) and (g).

OPTIONS

Option 1

27 The recommendation as at paragraph 1. This is the recommended option.

Option 2

28 Council resolves not to proceed with the planning proposal. This is not the recommended option as it would not acknowledge the findings of the heritage significance of the subject site or enable necessary amendments to the NLEP 2012 to reflect those findings.

ATTACHMENTS

Attachment A: Planning Proposal – Heritage item at 13 Section Street Mayfield

Attachment B: NSW Government Gazette No. 275 of 19 July 2024 – IHO No. 2024/03 for 13 Section Street Mayfield

Attachment C: Heritage Significance Assessment – 13 Section Street Mayfield, prepared by CN

Attachments distributed under separate cover.