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## PROPOSED HERITAGE LISTING OF 207 EASTERN ROAD, WAHROONGA

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To have Council consider the proposed heritage listing of Laverty House, the property known as 207 Eastern Road, Wahroonga, on Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015 ('KLEP 2015').
<b>BACKGROUND:</b>	On 22 September 2020 Council resolved to make an Interim Heritage Order ('IHO') for 207 Eastern Road, Wahroonga using delegated authority and requested a that a Councillor site inspection be undertaken as soon as practicable. The IHO was gazetted on 25 September 2020 and a Councillor site inspection undertaken on Tuesday, 13 October 2020.
<b>COMMENTS:</b>	Council has commissioned architect and heritage consultant, Dr Scott Robertson of Robertson and Hindmarsh Pty. Ltd. to prepare a heritage assessment for the property known as 207 Eastern Road, Wahroonga. The assessment considers that the property meets the threshold for local heritage listing on the grounds of historic, associative, aesthetic, social, research, rarity and representative values. The assessment concludes that the property demonstrates significance through its connection with the Laverty family and their strong links to the NSW Art movement, as well as its association with renowned Australian architect Sydney Anchor, as an intact example of the his work.
<b>RECOMMENDATION:</b>	That a Planning Proposal be referred to the Ku-ring-gai Local Planning Panel ('KLPP') for the listing of Laverty House, the property known as 207 Eastern Road, Wahroonga, as an item of local heritage significance on Schedule 5 of the KLEP 2015.

## PURPOSE OF REPORT

To have Council consider the proposed heritage listing of Lavery House, the property known as 207 Eastern Road, Wahroonga, on Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015 ('KLEP 2015').

## BACKGROUND

On Thursday, 3 September 2020 the property known as 207 Eastern Road, Wahroonga was brought to the attention of Council officers by a group of architects. The group communicated their concern for the property's vulnerability as an intact example of renowned Australian architect Sydney Ancher's work, which is located on a large allotment that was (and still is) being advertised for sale. The property is not located within a Heritage Conservation Area ('HCA') nor is it within the immediate vicinity of any local or state heritage items.

On Tuesday, 8 September 2020, the potential vulnerability of the property was discussed with the Heritage Reference Committee ('HRC'), who agreed that an Interim Heritage Order ('IHO') should be invoked in this instance. A preliminary heritage assessment was then completed by Council officers on 9 September 2020 (See **Attachment A1**).

Council has delegated authority under s.25 of the *NSW Heritage Act 1977* ('Heritage Act') to make an IHO on the property. The purpose of an IHO being to provide Council with time to undertake an independent heritage assessment of the property to establish if it warrants formal heritage listing.

On 22 September 2020, the matter was raised at the OMC. At this meeting, Council resolved:

*"Council resolve to place an Interim Heritage Order under section 25 of the NSW Heritage Act 1977 on Lavery House, 207 Eastern Road Wahroonga, Lot B, DP414327, to enable a full and proper evaluation of the heritage significance and prevent any harm to the site in the interim. Once the Interim Heritage Order is in place, that a site inspection for Councillors be arranged as soon as practicable."* (See **Attachment A2**).

On 25 September 2020 the IHO came into effect. The wording of the IHO is as follows:

*"This Interim Heritage Order will lapse six months from the date that it is made unless the local Council has passed a resolution before that date; and*

- (i) in the case of an item which, in the council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or*
- (ii) In the case of an item which, in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register."* (See **Attachment A3**).

Under the above conditions of the IHO, the order will lapse on 25 March 2021 unless Council passes a resolution to list the item on the Schedule 5 of the KLEP 2015 to protect and manage the item, or it nominates the item for inclusion on the State Heritage Register. A flowchart of the IHO process can be viewed at **Attachment A4**.

## COMMENTS

Following the gazettal of the IHO, the property owner's representative made contact with Council officers to arrange a meeting to discuss the process. This meeting was held at Council Chambers in person on Thursday, 8 October 2020. The owner's representative was generally supportive of heritage listing the property however, expressed reservations about the IHO process and any likely impacts that this would have (or continue to have) on the property's sale campaign. During the meeting, the style and approach to the Council commissioned heritage assessment was discussed, with the possible inclusion of a heritage curtilage review, reference to the advantages of Clause 5.10.10 *Heritage Incentives* of the KLEP 2015 and any potential for development in this regard.

The property owner's representative requested that the processes be expedited as much as possible to limit impacts on their current sale campaign. However, it was discussed that the report would not commence until after the site inspection, which was scheduled for Tuesday, 13 October of the following week, and therefore unlikely to make the agenda for the November OMC.

An inspection of the property including the internals of the house was undertaken on Tuesday, 13 October 2020 with Councillors, Council's commissioned heritage consultant and Council staff. The property owner's representative and their Real Estate Agent were present and assisted during the inspection. After the inspection, Council's commissioned heritage consultant was requested to commence their extended heritage assessment and complete as soon as they were able.

### The NSW Heritage Assessment Criterion

A heritage item is a place, which may include built structures, landscapes, moveable objects and relics, that have recognised cultural significance. In NSW, heritage items of local significance are assessed against seven (7) criterion:

- A. Historical significance – an item is important in the course, or pattern, of the cultural or natural history of the local area;*
- B. Historical association significance – an item has strong or special association with the life or works of a person, or group of persons, of importance to the local area's cultural or natural history;*
- C. Aesthetic significance – an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area;*
- D. Social significance – an item has a strong or special association with a particular community or cultural group in the local area, for social, cultural or spiritual reasons;*
- E. Technical/Research significance – an item has potential to yield information that will contribute to an understanding of the local area's scientific, cultural or natural history;*
- F. Rarity – an item possesses uncommon, rare or endangered aspects of the local area's cultural or natural history; and*
- G. Representativeness – an item is important in demonstrating the principal characteristics of a class of the local area's cultural or natural places; or cultural or natural environments.*

### 207 Eastern Road – Heritage Assessment

The full heritage assessment has now been completed for Laverty House, the property known as 207 Eastern Road, Wahroonga, by Robertson and Hindmarsh Pty. Ltd. Dr Scott Robertson of this firm is a registered architect, who specialises in Post-war and Modern architecture. The final draft heritage assessment was provided to Council officers on 29 October 2020 (See **Attachment A5**). The assessment found that the property is of at least local heritage significance and should be included as a heritage item on Schedule 5 of the KLEP 2015.

## Item GB.11

S10066

The heritage assessment considers that the property meets the threshold for local heritage listing on the grounds of historic, associative, aesthetic, social, research, rarity and representative values. The assessment concludes that the property demonstrates significance through its connection with the Lavery family and their strong links to the NSW Art movement, as well as its association with renowned Australian architect Sydney Ancher, as an intact example of the his work.

The comprehensive Statement of Significance prepared by Robertson and Hindmarsh Pty. Ltd. for 207 Eastern Road, Wahroonga, expounds this importance. It reads:

*"The substantially intact Lavery House is a rare example of an artist's residence still with its functioning and identifiable artist studio. The way of life of the Lavery Family is still clearly evident in the extant planning and fabric of the house and studio. The design of the house and studio is of exceptional interest when planned expansion of the house is understood in order to cater for young couples of modest financial means in the post-war years, of post-war frugality, and of their increasing wealth and family size through later additions and enlargement of the small house nucleus.*

*The Lavery House is of local historical significance in demonstrating the post-World War 2 process of suburban infill development in earlier subdivisions. The Lavery House is of local aesthetic significance as its design exhibits the hallmarks of the Modernism with its clean lines, simple form, and walls of glass. The Lavery House is one of a series of houses within the Ku-ring-gai municipality that demonstrate the emergence of modern architecture in New South Wales, of which the architect Sydney Ancher was a leading proponent.*

*The Lavery House is of local associative significance because of its strong association with renowned architect, Sydney Ancher and his firm, Ancher, Mortlock & Murray and also because of its association with two prominent Australian artists, Ursula and Peter Lavery, who was Head of the National Art School and later Director of the Art Gallery of NSW. In this regard the house is of historical significance as the site of a meeting that inaugurated the concept of the international art biennale for Sydney. The Lavery House has the potential to yield information about cultural history in NSW, through its association with the artistic world, which is strongly reflected through the extant building fabric, arrangement and composition of elements on the site, including a purpose-built artist studio.*

*The surviving architectural drawings and the completed Lavery House demonstrate the palette of materials and construction methods employed by the architectural firm of Ancher, Mortlock and Murray that are recognised as forming a regional expression of modern architecture. The Lavery House demonstrates the key characteristics of the domestic work of the firm of Ancher, Mortlock and Murray in the 1940s, 1950s & early 1960s and demonstrates the firm's use of similar details in houses for young couples of modest means in the economically constrained period after World War II."*

In conjunction with the listing of *Lavery House*, the report identifies a suggested heritage curtilage, refers to the advantages of Clause 5.10.10 *Heritage Incentive* of the KLEP 2015 and identifies the development potential for the rest of the site from a heritage perspective, including the possible subdivision arrangement, all of which would be subject to a full planning approval.

In support of the recognised heritage value, it is recommended that Council prepare a planning proposal to include Lavery House - 207 Eastern Road, Wahroonga on Schedule 5 of the KLEP 2015. To support the Planning Proposal a State Heritage Inventory form will also be prepared.

## INTEGRATED PLANNING AND REPORTING

### Theme 3: Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
Ku-ring-gai's heritage is protected, promoted and responsibly managed.	Strategies, plans and processes are in place to effectively protect and preserve Ku-ring-gai's heritage assets.	Implement, monitor and review Ku-ring-gai's heritage planning controls including the development of a heritage strategy.

## GOVERNANCE MATTERS

This report addresses the first stage in obtaining a Gateway Determination for a Planning Proposal which seeks to list an item of local heritage significance under an amendment to Schedule 5 of the KLEP 2015. If the Planning Proposal is supported by the Department, the Planning Proposal will be placed on exhibition seeking further State agency and stakeholder feedback prior to being reported back to Council to decide if the property should be formally listed.

The process for the preparation and implementation of planning proposals is governed by the provisions of the *Environmental Planning and Assessment Act, 1979*. Council will seek the plan-making delegation under Section 3.36(2) of the EP&A Act to finalise the Planning Proposal.

## RISK MANAGEMENT

There is a community expectation that places of heritage significance within the Ku-ring-gai Council LGA will be identified and protected. There is a strategic risk of damaging the reputation of Council if these culturally significant places are not identified and considered for protection.

## FINANCIAL CONSIDERATIONS

The cost of preparing this report is covered by the Ku-ring-gai draft Principal Local Environmental Plan - Urban Planning & Heritage Budget – Strategy and Environment Department.

## SOCIAL CONSIDERATIONS

The identification and protection of Ku-ring-gai's heritage places contributes to the ongoing conservation of Ku-ring-gai's community-valued historic landscape and garden suburbs.

## ENVIRONMENTAL CONSIDERATIONS

The retention and conservation of heritage places has an important role in protecting the environment. The environmental sustainability benefits afforded by the retention of heritage places includes the substantial reduction in building demolition and new construction waste, and the conservation of embodied energy in the existing buildings.

## COMMUNITY CONSULTATION

As part of making the Interim Heritage Order for the site, the IHO was published in the NSW Government Gazette on 25 September 2020. Council advised the property owner on 25 September 2020 that the order had been approved and published in the NSW Government Gazette.

The purpose of the IHO was to enable a full assessment of the property's heritage significance to be conducted. Council representatives and Dr Scott Robertson visited the property and met with the representatives of the property owner's representative on 13 September 2020.

The property owner's representative was notified of this report going before Council and will be further notified and have the opportunity to provide feedback if Council supports its listing in a planning proposal during the formal exhibition period.

Should the Planning Proposal receive a favourable Gateway Determination, it will be exhibited in accordance with the Department's Gateway Determination requirements and with explanatory heritage information. This will involve appropriate notification and receipt of submissions on the draft Planning Proposal from the relevant State agencies and the general community, and a further report back to Council regarding this matter.

## **INTERNAL CONSULTATION**

Consultation with relevant Departments of Council has taken place in preparing this report, in particular, Development and Regulation. In addition, Council's Heritage Reference Committee has reviewed the proposed heritage item and moved a unanimous decision to support the listing.

## **SUMMARY**

An assessment of heritage significance supports the findings that Laverty House - 207 Eastern Road, Wahroonga is worthy of inclusion on Schedule 5 of the KLEP 2015. The purpose of this report is to instigate Council's commencement of a Planning Proposal in relation to this listing.

## **RECOMMENDATION:**






That:

- A. Council proceed to prepare a Planning Proposal to amend KLEP 2015 to include Laverty House - 207 Eastern Road, Wahroonga [Lot B, DP414327] as a local heritage item on Schedule 5 of the KLEP 2015.
- B. The Planning Proposal is referred to the Ku-ring-gai Local Planning Panel ('KLPP') for advice in accordance with the Local Planning Panel Direction – Planning Proposals.
- C. A report be brought back to Council following the advice from the KLPP for Council to consider whether or not to forward the Planning Proposal for a Gateway Determination under section 3.34 of the Environmental Planning & Assessment Act 1979.

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<b>Attachments:</b>	A1		Final Preliminary Heritage Assessment - 207 Eastern Road Wahroonga	2020/285398	
	<a href="#">↓</a>	A2		Council Resolution - OMC188 - 207 Eastern Road, Wahroonga	2020/319606
	<a href="#">↓</a>	A3		NSW Gazette - Interim Heritage Order IHO - 207 Eastern Road Wahroonga (Lavery House )	2020/319169
	<a href="#">↓</a>	A4		Heritage NSW - Interim heritage orders process flowchart	2020/229568
	<a href="#">↓</a>	A5		Robertson and Hindmarsh - Heritage Assessment - 207 Eastern Road (Lavery House)	2020/321901

223 **Proposed Heritage Listing of 207 Eastern Road, Wahroonga**

File: S10066

*Vide: GB.11*

To have Council consider the proposed heritage listing of Laverty House, the property known as 207 Eastern Road, Wahroonga, on Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015 ('KLEP 2015').

**Resolved:**

(Moved: Councillors Spencer/Pettett)

That:

- A. Council proceed to prepare a Planning Proposal to amend KLEP 2015 to include Laverty House - 207 Eastern Road, Wahroonga [Lot B, DP414327] as a local heritage item on Schedule 5 of the KLEP 2015.
- B. The Planning Proposal be referred to the Ku-ring-gai Local Planning Panel ('KLPP') for advice in accordance with the Local Planning Panel Direction – Planning Proposals.
- C. A report be brought back to Council following the advice from the KLPP for Council to consider whether or not to forward the Planning Proposal for a Gateway Determination under section 3.34 of the Environmental Planning & Assessment Act 1979.

**CARRIED UNANIMOUSLY**

224 **Adoption of the revised Ku-ring-gai Community Participation Plan 2020**

File: S12564/2

*Vide: GB.1*

For Council to consider the finalisation of the revised Community Participation Plan following public exhibition

**Resolved:**