

INNER WEST PLANNING PANEL REPORT AND RESOLUTION



PLANNING PROPOSAL REPORT From the Planning Operations Team – Strategic Planning	
Application	Council initiated planning proposal – referral to the Inner West Planning Panel pursuant to the Environmental Planning & Assessment Act 1979.
Address	73 & 73A The Boulevarde, Dulwich Hill.
Proposal	To include Nos. 73 and 73A The Boulevarde, Dulwich Hill as items of environmental heritage in Schedule 5 of the Marrickville Local Environmental Plan 2011.
Recommendation	That the Panel supports the listing of 73 and 73A The Boulevarde, Dulwich Hill, as items of environmental heritage on Schedule 5 of the MLEP 2011, as proposed in the attached Council Report.

1. Referral to Planning Panel requirements

The Department of Planning and Environment confirmed to Council on 19 June 2018 that pursuant to the Environmental Planning and Assessment Act 1979, Clause 9.1- “Directions by the Minister” and “Local Planning Panels Direction – Planning Proposals”, that planning proposals lodged with Council and not submitted to the Minister before 1 June 2018 must be referred to the Local Planning Panel for advice before being referred for Gateway determination.

A Council report, including supporting attachments has been prepared (**Attachment 1**) for the 28 August 2018 Council Meeting, which recommends that Council resolves to include 73 & 73A The Boulevarde, Dulwich Hill in Schedule 5 of the Marrickville Local Environmental Plan (MLEP) 2011 as local items of environmental heritage and submit the planning proposal to the Minister for Planning for a Gateway determination.

Consequently, this proposal to prepare a planning proposal is required to be referred to the Inner West Local Planning Panel to provide advice to Council.

As the matter is being reported to the Council on the same day as being reported to the Inner West Local Planning Panel, any advice will be communicated to the Council meeting by a memorandum on the night of the Council Meeting.

2. Site Identification

The site that the planning proposal relates to is 73 The Boulevarde, Dulwich Hill (Lot 1 DP 301656), having a site area of 662 m², and 73A The Boulevarde, Dulwich Hill (Lot X DP 411590), having a site area of 621 m².



Fig. 1 & 2 – Cadastre and aerial location maps for 73 & 73A The Boulevard, Dulwich Hill



Fig. 3 – Photograph of 73 The Boulevard, Dulwich Hill



Fig. 4 – Photograph of 73A The Boulevarde, Dulwich Hill

3. Current Planning Controls

Both properties are currently zoned R1 General Residential (see Zoning map below) and have a maximum building height of 14m under Marrickville Local Environmental Plan (MLEP) 2011. Under MLEP 2011, in terms of floor space ratio (FSR), while the FSR map allows a maximum 0.6:1, under Clause 4.4 (2A) a variable FSR applies for dwelling houses, being 0.5:1 as each of the properties has greater than 400 m² area. Under Clause 4.4 (2B) a maximum 0.85:1 is allowed for residential flat buildings. Under MLEP 2011 there are no heritage items or heritage conservation area (HCA) close to the properties, however the Lewisham Estate HCA (labelled C26) is located to the north and south, the Hoskins Park and Environs (Dulwich Hill) HCA (labelled C36) is located to the west and the Dulwich Hill Commercial Precinct HCA (labelled C28) is located to the south (see Heritage map below).

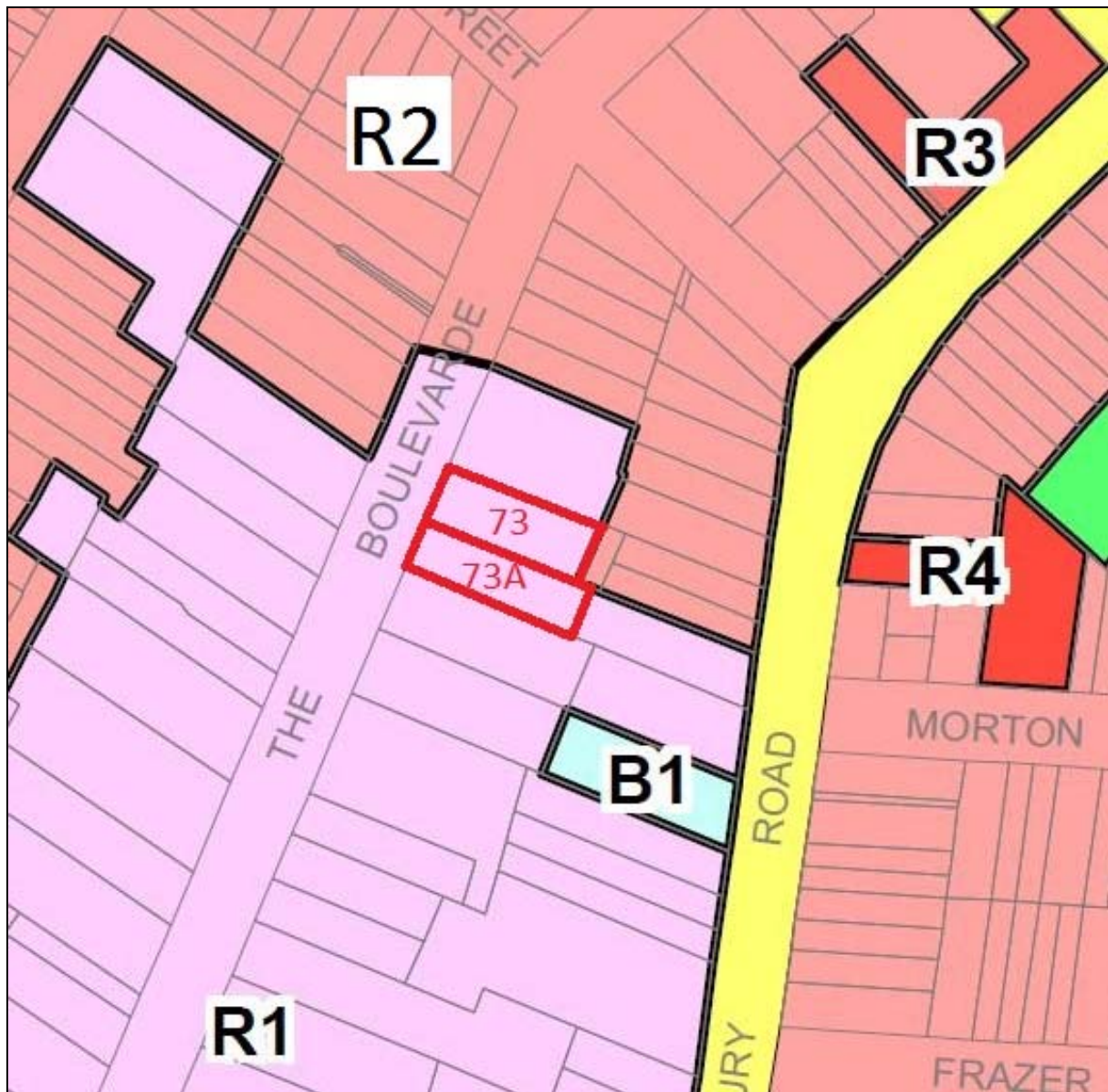


Fig. 5 – MLEP 2011 Zoning map

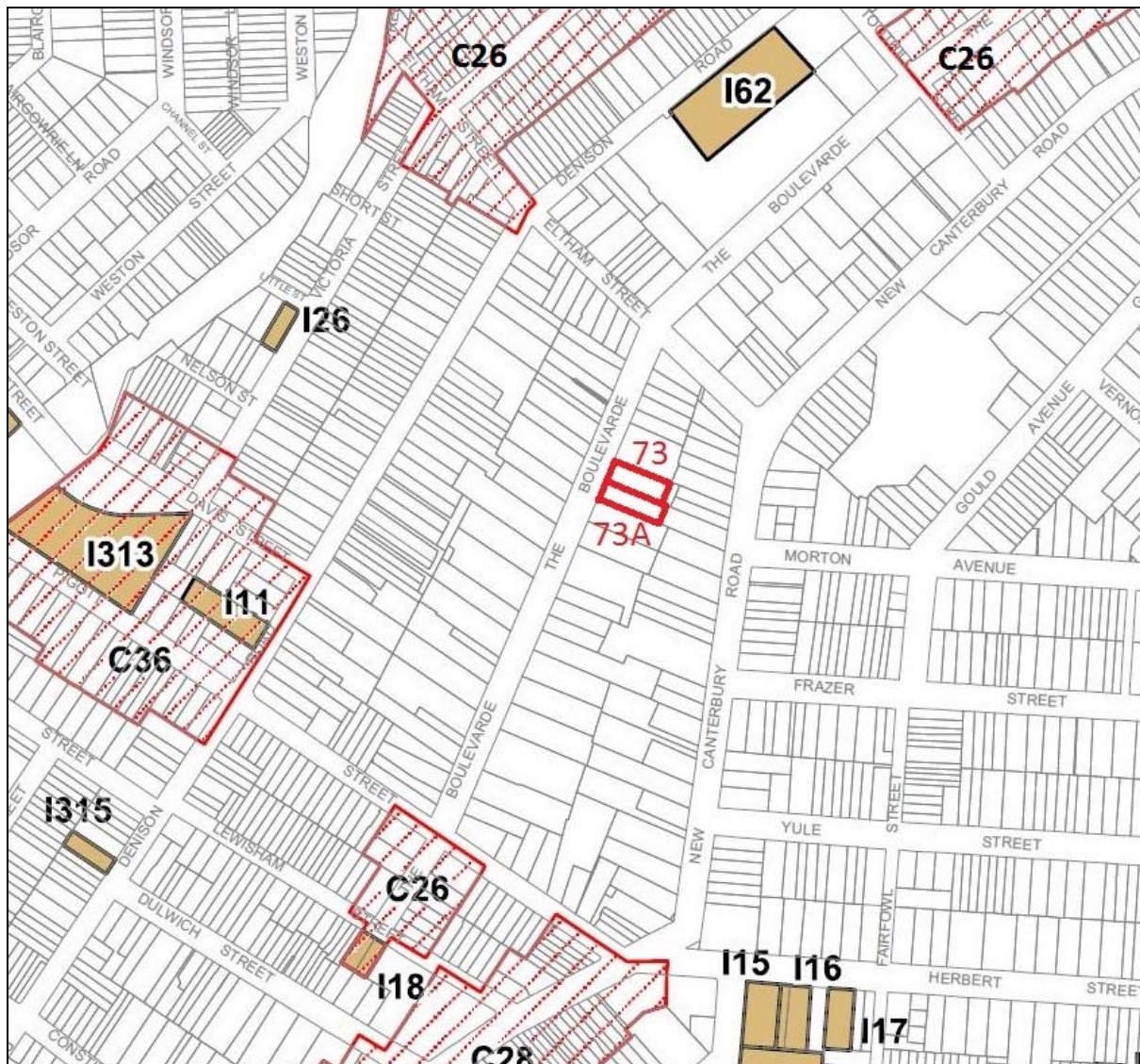


Fig. 6 – MLEP 2011 Heritage map

4. Background

The heritage significance of 73 The Boulevard, Dulwich Hill was investigated in response to the imminent threat associated with a development application (DA) to demolish a house and construct a four storey residential flat building. Council undertook a preliminary heritage assessment, which concluded it was likely, on further inquiry or investigation, to be found to be of local heritage significance. It also concluded that without imposing an Interim Heritage Order (IHO), Council cannot protect 73 The Boulevard, Dulwich Hill from demolition, which could be demolished under a Complying Development Certificate. An IHO was Gazetted on 23 March 2018 to protect the property, while the heritage assessment was being undertaken.

The IHO will lapse six months from the date that it is made unless Council has passed a resolution to place the item on the heritage schedule of the MLEP 2011. As the IHO was made on 23 March 2018, the resolution of Council is required by 23 September 2018.

The affected owner (the proponent of the development application on the site) made an appeal to the Court against the making of an IHO by Council. The Commissioner's judgment determined that the dwelling is likely, on further inquiry or investigation, to be found to be of

local heritage significance and therefore that the IHO should remain. Accordingly, the Court ordered that the appeal be dismissed. The Commissioners judgement can be viewed at the following link:

<https://www.caselaw.nsw.gov.au/decision/5b624595e4b0b9ab4020e4bf>

5. Heritage Assessment

Council engaged a heritage consultant (Robertson & Hindmarsh) to provide an expert heritage assessment. The heritage assessment has established that the house at 73, as well as the adjoining house at 73A The Boulevarde, Dulwich Hill, meets the NSW Office of Environment and Heritage's criteria for local heritage significance and recommends both properties being heritage listed.

It recommended that Council resolve to include 73 The Boulevarde, Dulwich Hill (Lot 1 DP 301656) in Schedule 5 of the Marrickville Local Environmental Plan 2011 as a local item of environmental heritage. The listing is to include the interiors of the intact rooms, including the inglenook.

It also recommended that Council resolve to include 73A The Boulevarde, Dulwich Hill (Lot X DP 411590) in Schedule 5 of the Marrickville Local Environmental Plan 2011 as a local item of environmental heritage. The listing is to include the front garden, path & fence, the exterior of the front section of the house (in front of the first floor addition); and the interior of the front section of the house (including the interiors of the intact rooms, including the ceilings and fireplaces).

In response to matters raised in the heritage assessments prepared by the consultants for the DA Applicant, forming part of the Land and Environment Court proceedings, the expert heritage consultant Council engaged (Robertson & Hindmarsh) also provided a further letter, providing further documentary evidence and refutes contentions from these heritage assessments, included as part of the Council report.

6. Overview of Proposed Planning Proposal

The proposed planning proposal is to include Nos. 73 and 73A The Boulevarde, Dulwich Hill as local items of environmental heritage in Schedule 5 of the Marrickville Local Environmental Plan.

7. Recommendation

That the Panel supports the listing of 73 and 73A The Boulevarde, Dulwich Hill, as items of environmental heritage on Schedule 5 of the MLEP 2011, as proposed in the attached Council Report.



INNER WEST COUNCIL

INNER WEST LOCAL PLANNING PANEL MEETING

28 August 2018

MINUTES

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held in the Council Chambers, Leichhardt Town Hall, Norton Street, Leichhardt on 28 August 2018.

Present: Adjunct Professor David Lloyd QC in the chair; Mr David Johnson;
Ms Heather Warton, Ms Annelise Tuor

Staff Present: Acting Development Assessment Manager; Team Leader
Development Assessment and Development Support Officer.

Meeting commenced: 2.09 pm

**** ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Gadigal and Wangal people of the Eora nation on whose Country we are meeting today, and their elders past and present.

**** DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

- Ms Annelise Tour declared a non-pecuniary interest in relation to item 7. She was absent for any discussions and the vote for this item.

SUSPENSION OF STANDING ORDERS

Standing Orders for item 7 were suspended to consider the following Items:

- **Item 8**

RESUMPTION OF STANDING ORDERS

Standing orders were resumed for item 7.

IWPP694/18 Agenda Item 7	Interim Heritage Order
Address:	73 & 73A The Boulevarde Dulwich Hill

The following people addressed the meeting in relation to this item:

- Alex Catania
- Andrew Pickles SC
- Stephen Davies
- Peter Failes
- Niall Macken

DECISION OF THE PANEL

The Panel supports the listing of 73 and 73A The Boulevarde, Dulwich Hill, as items of Environmental Heritage on Schedule 5 of Marrickville Local Environmental Plan 2011 as proposed in the Councils assessment report.

The reasons for the Panel's decision are listed below:

The Panel accepts the findings and recommendations in Councils planning proposal assessment report. In addition the Panel:

- (i) Notes that the mission interior is found in other heritage listed homes which suggest that it is worthy of being listed.
- (ii) Notes that the other examples in the report of Mr Stephen Davies are not from the interwar period.
- (iii) Notes that the other examples in the report of Mr Stephen Davies are not in the local area which suggests that the mission interior is rare in the local area.

The decision of the panel was unanimous.

Note that Annelise Tuor has taken no part in this decision due to a potential conflict of interest

The Inner West Planning Panel Meeting finished at 6.33pm.

CONFIRMED:

A handwritten signature in blue ink, appearing to read 'D. A. Lloyd', is positioned above the printed name.

**Adjunct Professor David Lloyd QC
Chairperson
28 August 2018**