

Item 2.

Post Exhibition - Planning Proposal - Modern Movement Heritage Items - William Bland Centre - Sydney Local Environmental Plan 2012 Amendment

File No: X017182.004

Summary

At the meeting of 29 June 2020, Council approved the Modern Movement heritage items planning proposal to list seven buildings and one sculpture and deferred its decision on the William Bland Centre for further discussion. The Transport, Heritage and Planning Committee meeting of 22 June 2020 did not make a recommendation to Council.

The Central Sydney Planning Committee approved the listing of the William Bland Centre as a local heritage item at its meeting on 25 June 2020 together with the other eight Modern Movement items.

The listing of the William Bland Centre has been deferred for approximately six months for further discussion. Since June 2020, the key landowner issues of listing merit, the planned façade, fire and other upgrades and associated landowner costs have been discussed by the Design Advisory Panel and at further meetings between City staff, the owners and their consultants. City staff also inspected the building again and considered additional owner information. This report outlines the outcomes of these discussions and consideration of additional owners submissions and information since June 2020.

Council's previous consultation with landowners, consideration of submissions from the public exhibition and post-exhibition review of the listing for the William Bland Centre is described in the 22 June 2020 Committee report at Attachment B and summary of submissions at Attachment D.

As a result of further discussions and consideration, listing this building as a heritage item is considered appropriate. The inventory at Attachment A has been updated to allow additional options in the way upgrade and maintenance works can be undertaken. It is recommended that Council list this building as a heritage item in line with the decision of the Central Sydney Planning Committee and the recommendation to the Transport, Heritage and Planning Committee on 22 June 2020.

Recommendation

It is resolved that:

- (A) Council note the submissions received to the public exhibition of the planning proposal for the William Bland Centre, shown at Attachment D to the subject report;
- (B) Council note the information in the subject report describing further discussions with the landowners and Design Advisory Panel on the proposed heritage listing of the William Bland Centre since Council deferred its decision on listing this building on 29 June 2020;
- (C) Council approve the planning proposal as it relates to the William Bland Centre at 229-231 Macquarie Street, Sydney, as shown at Attachment C to the subject report for finalisation and making as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979; and
- (D) authority be delegated to the Chief Executive Officer to make any minor amendments to the planning proposal, to correct any minor drafting errors prior to finalisation and making of the Local Environmental Plan.

Attachments

- Attachment A.** Modified Heritage Inventory - William Bland Centre
- Attachment B.** 22 June 2020 Transport, Heritage and Planning Committee Report - Post Exhibition - Planning Proposal - Modern Movement Heritage Items - Sydney Local Environmental Plan 2012 Amendment
- Attachment C.** Planning Proposal – Central Sydney Modern Movement Heritage Items
- Attachment D.** 22 June 2020 Summary of Submissions from the Public Exhibition – William Bland Centre

Background

1. At the meeting of 29 June 2020, Council approved the Modern Movement heritage items planning proposal to list seven buildings and one sculpture and deferred its decision on the William Bland Centre for further discussion. The Transport, Heritage and Planning Committee meeting of 22 June 2020 did not make a recommendation to Council.
2. The report to the 22 June 2020 Transport, Heritage and Planning Committee is provided at Attachment B. This considers the submissions on the public exhibition and recommends listing the William Bland Centre as a heritage item.
3. The Central Sydney Planning Committee approved the listing of the William Bland Centre as a local heritage item at its meeting on 25 June 2020 together with the other eight Modern Movement items, as shown in the planning proposal at Attachment C.
4. The listing of the William Bland Centre has been deferred for approximately six months for further discussion. Since June 2020, the key landowner issues of listing merit, the planned façade, fire and other upgrades and associated landowner costs have been discussed by the Design Advisory Panel and at further meetings between City staff, the owners and their consultants. City staff also inspected the building again and considered additional owner submissions and information in this report.
5. The issues and outcomes from the landowner consultation, further discussions and consideration of additional information are described below.

Consultation: August 2018 to June 2020

6. Consultation with landowners commenced in August 2018 and includes:
 - (a) In August 2018, Council deferred its decision to proceed with exhibition for two months to enable City staff to advise owners of the process and invite enquiries.
 - (b) From 2018, City staff met with landowners from the William Bland Centre on four occasions in September 2018, March 2019 and April 2019 to discuss the proposed listing, owner issues and inspect interiors, as requested by the landowners.
 - (c) In July 2019, City staff notified interested landowners about the upcoming public exhibition and invited the William Bland Centre to provide a heritage assessment for exhibition. The William Bland Centre owners provided an assessment from their heritage consultant and Council exhibited this with the proposal.
 - (d) In August 2019, all William Bland Centre lot owners were notified of the public exhibition for the proposed listing and comments invited for 2 months. The exhibition was extended, and late submissions considered, at the request of William Bland Centre owners to enable the multiple lot owners to comment.

- (e) Forty-four submissions were considered relating to the William Bland Centre listing. 26 opposed the listing and 18 were in support. These include 19 lot owners and three consultants on behalf of the strata who objected and two lot owners who supported the listing. These are considered in the summary of submissions at Attachment D.

As a result of this public consultation and consideration of submissions from landowners and others, the proposed listing was supported and revised as set out in the Transport, Heritage and Planning Committee report of 22 June 2020 at Attachment B. The revised proposal for the William Bland Centre reduces and specifies the extent of listing to exclude non-structural tenancy interiors and enable complying development for internal alterations to these features.

- (g) In June 2020, William Bland Centre landowners addressed and made additional submissions to the Council and CSPP committee meetings. The issues were considered in the “Information relevant to” for the 29 June 2020 Council meeting. Landowners also tabled a petition of 64 signatures at this Council meeting. Council deferred the listing decision for this building for further discussion.

Further discussion: June to December 2020

7. Since Council’s deferral, further City staff discussions and consideration include:
 - (a) Referral of the listing to Council’s Design Advisory Panel on 17 September 2020.
 - (b) Meetings with landowners and their consultants on 5 August and 17 November 2020.
 - (c) Building inspection and on-site discussion of façade and other management issues with landowners’ consultants on 7 September 2020.
 - (d) Considering additional information from the landowners’ consultants:
 - (i) Graham Brooks and Associates (GBA), submissions of 13 July 2020 and 30 October 2020;
 - (ii) Apex Diagnostics, east façade reports of 3 September and 21 October 2020;
 - (iii) Minnerva, fire engineering brief of 30 September 2020;
 - (iv) Enstruct, slab deflection report of 22 October 2020;
 - (v) Warren Smith and Partners, fire services response of 15 October 2020.
8. The following outlines the outcomes from this further discussion and consideration of the above additional information since the deferral.

Design Advisory Panel

9. The Design Advisory Panel considered the merit of listing the building, its façade condition and other issues raised by landowners. Photographs from the owners and their consultants of the building condition and details were included in the panel presentation. The resulting panel advice is outlined below.

10. The panel supports the listing of the William Bland Centre, noting the significance of its architect, Hans Peter Oser, for his contribution to the development of the Modern Movement in Sydney. The panel also notes the significance of the building façade, including the original shopfront, building name signage and ground floor foyer.
11. For repair and restoration, the panel prefers restoration of the façade system. If restoration is not possible, the panel recommends careful replication in keeping with the size, proportion and scale of the facade, including replication of the mullion, transoms, sections and glass. The panel also encourages restoration of the original foyer and shopfront. For fit-outs, the panel recommends protecting the façade from impacts of partition walls and other internal elements abutting the facade that could detract from the façade's presentation.
12. The proposed local heritage listing and complying development for internal alterations for the William Bland Centre is consistent with this advice, or has capacity to consider these recommendations in the future. The listing extent for "façade wall and fixtures, foyers, lightwells and internal structure" captures the significant features. The proposed complying development provisions prevent internal alterations that are visible from the street or affect the listed façade being approved by a private certifier.
13. The panel's advice on repair and restoration works can be considered in a future development or heritage floor space award application. The owners have advised that near-exact replication for the façade, with minor adjustments, and re-use of the glass spandrels is possible. The heritage inventory management recommendations have been updated to incorporate this panel advice. Additional City research, including original images of the building and plans, are included in the inventory to assist owners.

Inventory management recommendations

14. The GBA submission of 30 October 2020 seeks to amend the inventory management recommendations to allow for conservation options other than retention of all original exterior fabric. This is to facilitate the upgrade works, while protecting the building's heritage significance. GBA submits that "retain" is not defined in the Burra Charter and could be construed as a requirement to retain without alteration. GBA recommends "retain and conserve" which acknowledges that various methods of conservation, including repair, reconstruction and replacement, may be employed.
15. The inventory at Attachment A to this report has been updated to allow façade replication by adding "and conserve" and some other requested points. Further advice from the Transport, Heritage and Planning Committee report of 22 June 2020 and the panel meeting have also been included to assist owners with managing the building's significance.
16. The inventories are for noting only, as they do not form part of the planning proposal. Inventories do not direct the form of development, which is determined through the development application process.

Upgrade works

17. In July 2020, GBA submitted that the Owners' Corporation is fully committed to upgrading the building, but are unsure of the methodology. GBA describes these upgrades as:
 - (a) Fire safety upgrades following Council's fire safety order from August 2016;

- (b) The street façade's structural soundness, corrosion, air and water ingress, glass failure and thermal and acoustic performance. The recommended and preferred option is complete replacement in a manner closely matching the original and catering for the past slab deflection;
 - (c) Mechanical ventilation system upgrades; and
 - (d) Minor architectural alterations for contemporary functionality, for example installation of mailboxes in the ground floor lobby.
18. In response to the July 2020 submission, City staff met with the owners and their consultants to discuss the façade and upgrade options and inspect the building again. It was agreed to wait to late October 2020 for additional information on the upgrades before reporting back to Council. GBA supplied this information on 30 October 2020, providing a covering submission and consultant reports noted above.
19. City staff provided advice to the owners and their consultants on these facade works to provide greater certainty about the options and process if the building is listed as a heritage item. At the September 2020 site inspection, City staff provided preliminary advice that a replicated façade, which retains and re-uses the original glass spandrels, could be considered. This advice has been included in the updated inventory.
20. On 30 October 2020, GBA advised that all of the proposed works fall within the scope of normal upgrade and conservation works for a mid-twentieth-century building and can be assessed under the normal heritage controls and process for a development application. GBA further indicates that the works will have an acceptable heritage impact. GBA is confident that the William Bland Centre can be upgraded and conserved as required and its significance protected for the long term, in line with the requested inventory changes noted above.
21. City staff reviewed the fire order and inspected the building on two occasions. The works to improve the building's fire safety will have minimal or no effect on significant building features. This conclusion is supported by GBA.
22. The GBA submission indicates the owners intend to lodge a development application in 2021. When plans for all proposed works are prepared, the owners and consultants are encouraged to arrange pre-application meetings with City planners to gain greater certainty about development proposals and the most streamlined assessment process.

Owner costs

23. In the submission of 13 July 2020, GBA indicates the owners are worried the heritage listing will make it more difficult or costly to resolve the upgrade issues for lot owners. The assumed costs, restrictions or burden of listing underlie most owner objections received in submissions, the petition or described in meetings with City staff.
24. The fire and other upgrade works and associated costs are needed for the continued use of the building. The need for the upgrades and the costs are not caused by the proposed listing. As described above, the upgrades can be carried out sympathetically to protect the significance of the building.
25. City staff met with owners and inspected the building again to provide advice to owners and their consultants on the works they are considering to assist with the process. GBA also provided further advice to the owners in the October 2020 submission.

26. Listing the building will not change the development process and associated costs for these upgrades. A development application is currently needed to replace the façade. A heritage impact statement is currently needed because of the building age. The fire ordered upgrades can continue uninterrupted by the listing.

Streamlined and low cost processes are available for standard works to the building. Council endorsed the introduction of a complying development provision which allows fast track fit-outs to the tenancies. This has been supported by reducing the listing to exclude non-structural tenancy interiors. Other minor works or repairs affecting listed building features can be achieved through the quick low-cost notification process for 'heritage works without consent' without the need for a development application.

28. The building's development potential is unchanged by listing. The planning proposal does not change the permissible uses, building height or floor space ratio that currently applies to the site. The GBA submission of 13 July 2020 states the building's demolition and redevelopment is extremely unlikely due to multiple owners in the strata, the small site size and low probability of site amalgamation. These existing restrictions are not caused by the proposed listing. A development application can still be lodged for additions if the building is listed.
29. Listing the building enables the award and sale of heritage floor space. Funds raised can assist owners with maintenance, repair and upgrades. Owners can lodge the heritage floor space application with the development application for building works.

Significance and listing criteria

30. In the submission of 13 July 2020, GBA agrees that one of the most important heritage aspects of the William Bland Centre is its association with the émigré architect, Hans Peter Oser, and the distinctive nature of the glazed façade as an expression of the post war international movement.
31. After reviewing the listing and considering submissions, the City has concluded that the William Bland Centre fulfils six Heritage Council criteria for local listing. The criteria include historic, associations, aesthetic/technical, research, rarity and representative significance.
32. The William Bland Centre is significant as a central Sydney example of the Post War International style of glass curtain wall offices, distinguished by its unusual curtain wall pattern. It demonstrates the work of respected emigre architect Hans Peter Oser and the oldest known surviving example of lift slab construction in central Sydney. It also has significant associations with the medical profession.
33. This significance and listing is supported by Council's Design Advisory Panel and submissions from heritage authorities, industry and community members.

Grading of significant features

34. GBA has graded the significance of features and asked for the inventory to include a more detailed grading. GBA notes that not all of the original fabric in the subject building is of equal significance and grades features from high to little significance.

35. Gradings are typically provided in a conservation management plan and supported with detailed historic and fabric analysis. A conservation management plan has not been provided. Further research would be needed to support the conclusions of the GBA grading. Known features of no significance have previously been excluded from the proposed listing in the LEP.

Listing building features ensures impacts on significant features are assessed when major changes are proposed. The intactness or significance of the listed building features is assessed in more detail at the development or heritage floor space application stage, when a statement of heritage impact or conservation management plan is prepared.

Strata Committee objection and covenant proposal

37. On 30 October 2020, the Strata Committee advised that the Strata owners resolved at a general meeting to oppose any heritage listing of the building. The opposition is reflected in the owners' petition tabled at the June 2020 Council meeting. Key issues raised in the petition are the building's significance, the strata ownership and costs associated with building maintenance and the heritage listing. These issues are considered in the Transport, Heritage and Planning Committee report of 22 June 2020 and this report.
38. The Committee members have since proposed a positive covenant as an alternative to listing, which could be considered by the owners at a future Annual General Meeting. However, the Strata Committee has yet to confirm its commitment towards a covenant, the process or wording. The Committee advised that the covenant could set an obligation for the owners to re-name the building name and respect its heritage when replacing or upgrading the façade, provided this does not adversely impact safety or unreasonably increase the cost.
39. The option of a covenant is not considered to be a practical or recommended alternative to the heritage listing. A covenant has no established or oversight process for assessing and evaluating works affecting the heritage significance of the building. It also does not have the checks and balances of the planning system, such as public consultation, appeal rights, and public reporting. The existing development application pathway provides transparency, with a legislated process to ensure a determination is made and appropriate matters are taken into account in assessing proposed development.

Strata ownership

40. The owners of the William Bland Centre say the building's strata ownership creates additional challenges and is unlike the other seven Modern Movement buildings approved for listing. The building has more than 70 owners for more than 90 lots. All lot owners were consulted in the 2019 public exhibition for the proposed listing and their submissions considered.

41. The City of Sydney has more than 295 existing heritage items that are in strata ownership, including other commercial buildings on Macquarie Street. The effect and associated costs of listing is no different for buildings in strata ownership than for buildings with single owners. While the process for owners' consent for a development application differs for a strata building, compared to a single owner, this is unchanged by heritage listing. The building features proposed for listing are the common property, managed by the owners corporation rather than multiple lot owners. The owners corporation can provide owners consent on behalf of the strata for development applications in most cases where proposed works affect the common property proposed for listing.

Options

42. Council has the option not to list the William Bland Centre as a local heritage item. This is not recommended because it is inconsistent with the findings of the heritage assessment and the Central Sydney Planning Committee's approval to list the William Bland Centre as a local heritage item. A decision not to list this building following its study identification, public exhibition and CSPC approval creates more uncertainty about the future development management of this building for the community, current and future owners. Without listing, the building will be ineligible for a heritage floor space award.
43. If unlisted, the building would remain eligible for an interim heritage order in the event its significance is threatened. This is not recommended. Preference remains for the proposed strategic listing, as an interim heritage order is an emergency listing that is less certain to protect the building's significance and gives owners no warning. Owners are not consulted for an interim heritage order, unlike the current proposal.

Key Implications

Strategic Alignment - Sustainable Sydney 2030

44. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The planning proposal is aligned with the following Sustainable Sydney 2030 strategic directions and objectives:
 - (a) Direction 7 – A Cultural and Creative City. The planning proposal identifies nine buildings and artworks as a local heritage item, allowing the buildings or art to be retained and allowing present and future generations to understand the breadth of Australia's architectural heritage into the late twentieth century. The identification will ensure any future development of the buildings or art considers the heritage value and significance of the site and encourages its sympathetic adaptive re-use.

Relevant Legislation

45. Environmental Planning and Assessment Act 1979.
46. Environmental Planning and Assessment Regulation 2000.
47. Heritage Act 1977.

Conclusion

48. As a result of these discussions and consideration, listing this building as a heritage item is considered appropriate. The inventory at Attachment A has been updated, as recommended by the owners' heritage consultant, to allow additional options in the way upgrade and maintenance works can be undertaken.
49. Landowners of the William Bland Centre have been consulted and their issues and requests considered since August 2018. Following approximately six months deferral for further discussion, it is recommended that Council list this building as a heritage item in line with the decision of the Central Sydney Planning Committee and the recommendation to the Transport, Heritage and Planning Committee on 22 June 2020.

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