



Ku-ring-gai Council

PLANNING PROPOSAL

Heritage listing of 149 Livingstone Avenue, Pymble

Updated February 2019 (following adoption by Council)

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APPENDIX H – Inventory assessment for 149 Livingstone Avenue Pymble by Betteridge
Heritage [2018/335412](#)

INTRODUCTION

This planning proposal contains justification for proposed amendments to Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015) and the corresponding Heritage Map to heritage list the dwelling house at 149 Livingstone Avenue, Pymble (Lot 3, DP 607951).

This planning proposal has been prepared in accordance with Section 3.3 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's "A Guide to Preparing Planning Proposals" (August 2016).

Council is not seeking to use its delegation to make the plan.

Background

In July 2018 Council engaged Anne Warr Heritage Architect to undertake a heritage assessment of 149 Livingstone Avenue, Pymble (see **Appendix A**). Council considered the Anne Warr heritage assessment as well as submissions from members of the local community in support of heritage listing 149 Livingstone Avenue, Pymble and resolved (see **Appendix B**):

- A. That Council proceed with the heritage listing of 149 Livingstone Avenue, Pymble; and*
- B. That in accordance with Section 3.31 of the Environmental Planning & Assessment Act 1979, Council prepares a Planning Proposal to list the property as a local heritage item and seeks a Gateway Determination accordingly.*

A copy of the Council Report and minutes are included at Appendices A and B.

Early in 2018 Council received representations from the community that the historic house at 149 Livingstone Avenue Pymble was under threat from demolition. Council subsequently received an application for the Development Application DA0152/18 for 149, 151 & 153 Livingstone Avenue Pymble - to demolish existing structures, consolidate lots (including 149 Livingstone Avenue - subject of Interim Heritage Order) and construct a multi dwelling housing development comprising 19 dwellings, basement car parking and associated works - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

At its meeting of 8 May 2018, Ku-ring-gai Council resolved to place an interim heritage order (Section 25 *Heritage Act 1977 (NSW)*) on the property at 149 Livingstone Avenue, Pymble (Lot 3, DP 607951) to enable full and proper evaluation of the heritage significance and prevent any harm to the site in the interim. The IHO was valid for a period of six months unless Council passed a resolution before this date. A copy of the IHO is included at **Appendix C**.

The key findings from the historical research by Anne Warr found it could not be established that the property was architecturally designed. Thomas Darling could not be confirmed as the architect, however, he did purchase the house in 1918 and he and his family resided there from 1919 to

1922. The house was commissioned by George Hamilton and likely built in 1912 being on-sold to Ernest and Emma Coombe in 1914. The occupation of the house by the unmarried children of FJ Hamilton, from 1926 to the 1960s is considered to be a minor association.

In reviewing the potential for the house to have aesthetic significance or as a representative example of type Anne Warr assessed the intactness of the house. While the house was found to be a competent and well-built example of type, the original setting of the house was substantially reduced through several subdivisions and the form of the house compromised by the 1998 alterations and additions, which added two large dormer windows and demolished the rear of the house.

The overall recommendation of the Anne Warr Heritage Consultant report was:

Although the house is not deemed to meet the criteria for local or state heritage listing, it demonstrates changes to the suburb of West Pymble over the last century, and for this reason the house and grounds should be archivally documented before any future changes are made.

A further report was provided to Council by members of the Residents' Action Group 149 authored by Betteridge Heritage with contradictory findings. This report supported the listing on the grounds it was historically significant; had historical associations with the architect Thomas James Darling and the Hamilton family (who were responsible for much of the early subdivision of Pymble on western side of the Pacific Highway; the house has aesthetic significance as a landmark and a quality example of a particular architectural style; it has social significance that contributes to the community's sense of place and identity; and it is a representative example of a Federation bungalow.

The Council in resolving to prepare a Planning Proposal to list 149 Livingstone Avenue Pymble listened to several representations made by the community which expressed the community's strong regard and attachment to the property as a physical link to the history of development that occurred in this area in the early 1900s and particularly by the Hamilton family.

As required by the Local Planning Panels Direction – Planning Proposals issued by the Minister for Planning under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, the Planning Proposal was referred to the Ku-ring-gai Local Planning panel meeting of 17 December 2018 for advice.

The Ku-ring-gai Local Planning Panel provided the following advice:

The Council not refer the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

A copy of the Ku-ring-gai Local Planning Panel Report and Minutes are included at **Appendices D and E**.

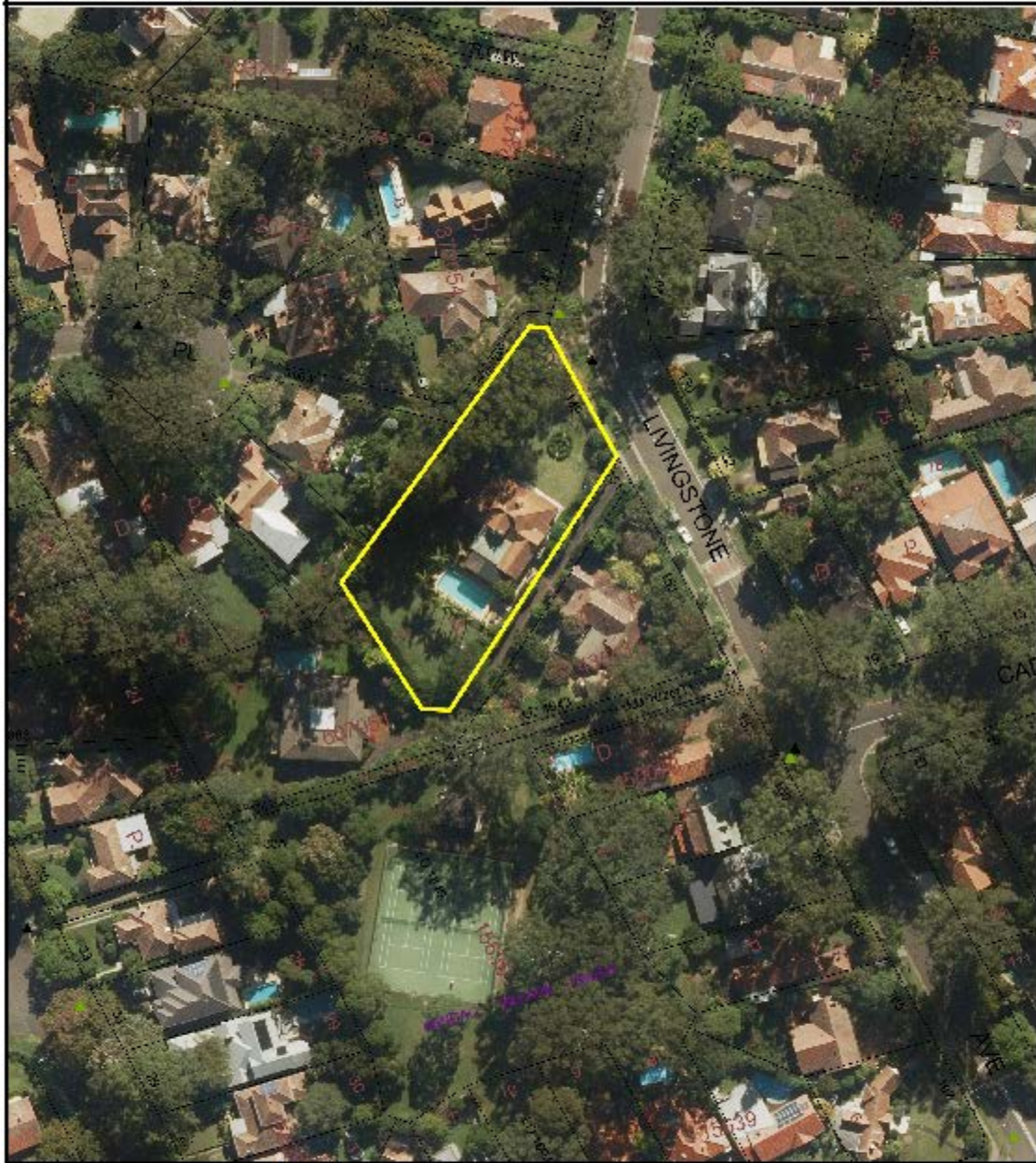
At its meeting of 12 February 2019 Council considered the advice of the KLPP and resolved:

- A. Council notes the Ku-ring-gai Planning Panel's advice;*
- B. Council refers the Planning Proposal to heritage list 149 Livingstone Avenue, Pymble to the Department of Planning and Environment for a Gateway Determination;*
- C. That Council request the Minister to extend the Interim Heritage Order until the Gateway determination has been completed.*

A copy of the Council Report and minutes are included at **Appendices F and G**.

This Planning Proposal is seeking a Gateway Determination to include 149 Livingstone Avenue, Pymble, as a local heritage item within the Ku-ring-gai Local Environmental Plan 2015.

Location Sketch: 149 Livingstone Avenue, Pymble



Legend		Scale 1 : 1233	06/11/2018	 Kuring-gai Council	
	Subject Land	Kuring-gai Council accepts no responsibility for any misprints, errors, omissions or inaccuracies in these maps or damages resulting from use of this information.			 NORTH
		 Meters			

Image 1: Aerial Photo – Boundary potential heritage item – 149 Livingstone Avenue, Pymble

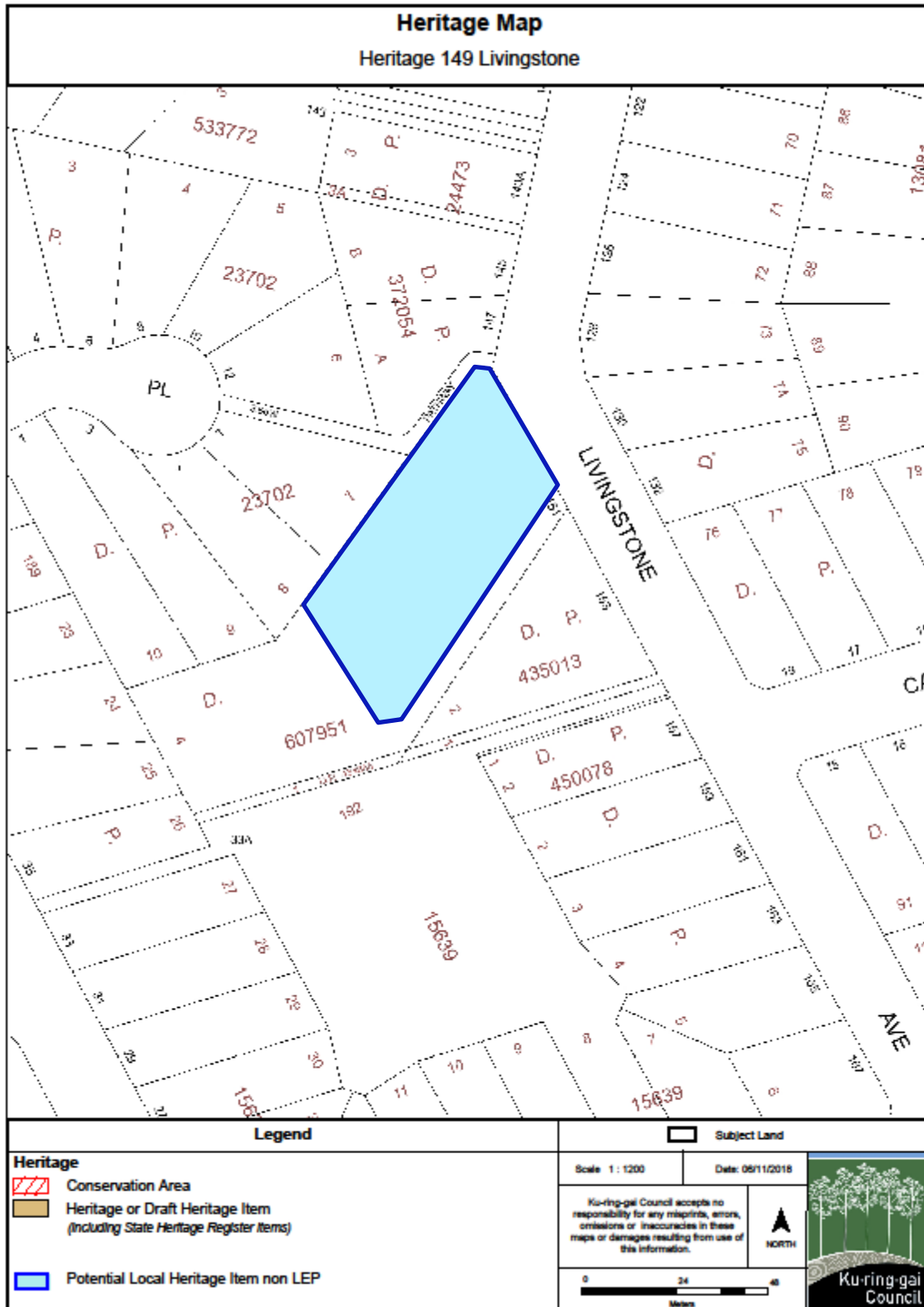


Image 2: Potential heritage item – 149 Livingstone Avenue, Pymble

PART 1 – OBJECTIVE AND INTENDED OUTCOMES

A statement of the objectives and intended outcomes of the proposed instrument

The objective of this Planning Proposal is to conserve the cultural heritage of Ku-ring-gai by including 149 Livingstone Avenue, Pymble as a heritage item on Schedule 5 of the KLEP 2015, and on the accompanying heritage map.

The zoning and development standards applying to the site are not proposed to change as a result of this Planning Proposal.

PART 2 – EXPLANATION OF PROVISIONS

An explanation of the provisions that are to be included in the proposed instrument

The Planning Proposal seeks to amend Schedule 5 Environmental Heritage of the KLEP 2015 by including one additional heritage item:

Suburb	Item Name	Address	Property Description	Significance	Item No.
Pymble	Former "Clooneen"	149 Livingstone Avenue	Lot 3, DP 607951	Local	I1110

This Planning Proposal will require the amendment to the following maps:

- Ku-ring-gai Local Environmental Plan 2015 – Heritage Map – Sheet HER_008

To identify 149 Livingstone Avenue Pymble with distinct colouring and black edging with the heritage reference number I1110.

Refer to **Part 4** for the proposed amended Heritage Map Sheet.

The planning proposal does not seek to change zoning or development standards for the area identified in this proposal.

PART 3 - JUSTIFICATION

The justification for those objectives, outcomes and the process for their implementation

A. Need for the planning proposal

Q1. *Is the planning proposal a result of any strategic study or report?*

The identification of 149 Livingstone Avenue, Pymble as a potential heritage item occurred through community requests for an Interim Heritage Order to be placed on the property in May 2018. The Interim Heritage Order was imposed over 19 Livingstone Avenue, Pymble on 8 May 2018.

The Residents Action Group 149 engaged Betteridge Heritage to undertake a heritage assessment.

The Heritage Inventory Sheet for 149 Livingstone Avenue Pymble is included at **Appendix H.**

Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is the best means of achieving the objectives. A local heritage listing conserves and protects sites that have been assessed as satisfying the NSW Heritage Council's Criteria for local heritage significance. The property 149 Livingstone Avenue Pymble has been assessed by Betteridge Heritage as satisfying the criteria; therefore a Planning Proposal is the best means of conserving the heritage values of this place.

B. Relationship to strategic planning framework

Q3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The relevant regional strategy is the Greater Sydney Region Plan: A Metropolis of Three Cities (March 2018). This document has been developed by the Greater Sydney Commission and contains a vision, objectives, strategies and actions for a metropolis of three cities across Greater Sydney to the year 2056.

The following relevant Direction and objective contained within the 'Greater Sydney Region Plan' is relevant to this planning proposal and has been assessed against it as follows:

- *Direction 5: A city of great places: designing places for people*

This Direction contains Objective 13 being that *‘Environmental heritage is identified, conserved and enhanced’*. The objective is supported by Strategy 13.1 which states:

Identify, conserve and enhance environmental heritage by:

- *Engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
- *Applying adaptive re-use and interpreting heritage to foster distinctive local places*
- *Managing and monitoring the cumulative impact of development on heritage values and character of places*

This planning proposal is consistent with objectives and strategies for this Direction. It aims to identify and protect an item of local environmental heritage for the Ku-ring-gai community. The planning proposal process provides an opportunity for community input as part of the public exhibition process which will further assist in community understanding of these sites, their relationship to each other and their heritage significance.

The ‘Greater Sydney Region Plan’ contains a number of other Directions and this planning proposal is assessed against them as follows:

Direction 1: A city supported by infrastructure

This planning proposal will not have any impacts on Ku-ring-gai’s current infrastructure or its ability to provide adequate infrastructure into the future.

Direction 2: A collaborative city

This planning proposal does not compromise Council’s ability to work collaboratively when planning for the future.

Direction 3: A city for people

This planning proposal will not impact on Council’s ability to create vibrant and resilient communities.

Direction 4: Housing the city

This planning proposal only relates to a single property within the Ku-ring-gai local government area. Therefore, it will not impact on Council’s ability to provide housing supply with improved affordability outcomes.

Direction 6: A well connected city

This planning proposal will not impact on Council’s transport initiatives or options.

Direction 7: Jobs and skills for the city

This planning proposal relates to the listing of an individual property as a heritage item and, therefore, will not impact on this direction relating to employment and training options.

Direction 8: A city in its landscape

This Direction relates to green spaces and landscaping. This Direction also discusses scenic and cultural landscapes. It is considered that the planning proposal is consistent with the aims of the Direction.

Direction 9: An efficient city

This Direction relates to energy efficiency initiatives. This planning proposal will not impact on Council's ability to respond to this Direction.

Direction 10: A resilient city

This Direction relates to resilience planning by local government for the future. It is not considered this planning proposal is inconsistent with this Direction.

The relevant draft district plan is the "North District Plan" (March 2018). The North District Plan, *Liveability Priority N6: Creating and renewing great places and local centres, and respecting the District's heritage* requires relevant planning authorities to identify, conserve and enhance environmental heritage by:

- (a) *Engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
- (b) *Applying adaptive re-use and interpreting of heritage to foster distinctive local places*
- (c) *Managing and monitoring the cumulative impact of development on the heritage values and character of places.*

The planning proposal is consistent with this priority as it involves the heritage listing in Schedule 5 of the KLEP 2015 of a local heritage item which has undergone an independent heritage assessment. The assessment and listing of heritage items is the role of local government and is an ongoing process. The planning process is the formal process by which Council engages with the wider community regarding identification and protection of local heritage values.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Ku-ring-gai Community Strategic Plan is called "Our Ku-ring-gai 2038: Community Strategic Plan". The Planning Proposal is consistent with the following objectives within the community strategic plan:

P1.1 *Ku-ring-gai's unique visual character and identity is maintained*

P2.1 *A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai*

P5.1 *Ku-ring-gai's heritage is protected, promoted and responsibly managed*

The Planning Proposal is consistent with the following aims of the KLEP 2015:

- (a) To guide the future development of land and the management of environmental, social, economic, heritage and cultural resources within Ku-ring-gai*
- (f) To recognise, protect and conserve Ku-ring-gai's indigenous and non-indigenous cultural heritage*

The planning proposal is consistent with these objectives as inclusion on Schedule 5 of KLEP 2015 will conserve the cultural heritage of the recognised heritage place.

Q5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The following table identifies the key applicable SEPPs and outlines this Planning Proposal's consistency with those SEPPs.

SEPP	Comment on Consistency
SEPP 55 Remediation of Land	Consistent. The planning proposal does not seek to change the permissible land uses on the sites subject to the planning proposal.
SEPP (Housing for Seniors or People with a Disability) – 2004	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Infrastructure 2007	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Affordable Rental Housing 2009	Consistent. The Planning Proposal is consistent with the aims of the policy.
SEPP Exempt and Complying Development Codes 2008	Consistent. The Planning Proposal is consistent with the aims of the policy.

SREPP	Comment on Consistency
SYDNEY REP 20 Hawkesbury-Nepean River	Consistent. The Planning Proposal is consistent with the aims of the policy and will have no adverse impacts on the

SREPP	Comment on Consistency
	Hawkesbury-Nepean River.
SYDNEY REP (Sydney Harbour Catchment) 2005	Consistent. The Planning Proposal is consistent with the aims of the policy and will have no adverse impacts on the Sydney Harbour Catchment.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The following table identifies applicable Section 9.1 Directions and outlines this Planning Proposal’s consistency with those Directions.

Directions under S9.1	Objectives	Consistency
2. ENVIRONMENT AND HERITAGE		
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. The planning proposal is consistent with this direction and it will result in the conservation of an item of local heritage significance.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Consistent. The planning proposal relates to areas of established dwellings, and in this regard will have no effect on the housing choice, infrastructure or environment.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Consistent. The Planning Proposal does not preclude the carrying out of a home occupation.
6. LOCAL PLAN MAKING		
Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. The Planning Proposal will not result in the requirement for concurrence, consultation or referral of a future development application to a Minister or public authority as a result of the local heritage listing.

Directions under S9.1	Objectives	Consistency
7. METROPOLITAN PLANNING		
7.1 Implementation of the Metropolitan Strategy	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.	Consistent. The Planning Proposal will not adversely affect the directions and actions outlined in the strategy to achieve the four goals relating to economy, housing, environment and community.

C. Environmental, social and economic impact

Q7. Is there any likelihood that *critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The Planning Proposal will not adversely impact any critical habitat, threatened species, populations or ecological communities, or their habitats as a result of the heritage listing.

Q8. Are there any other likely *environmental effects as a result of the planning proposal and how are they proposed to be managed?*

There are no environmental effects envisaged as a result of the listing of the additional heritage item as proposed by the Planning Proposal.

Q9. *Has the planning proposal adequately addressed any social and economic effects?*

The Planning Proposal has no expected social or economic effects.

D. State and Commonwealth interests

Q10. *Is there adequate public infrastructure for the planning proposal?*

The Planning Proposal relates to the listing of an additional heritage item. No additional demand for public infrastructure is anticipated as a consequence.

Q11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

Council will consult with any agencies nominated by the Department of Planning and Environment as part of the requirements of the Gateway Determination.

PART 4 - MAPPING

Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies

This Planning Proposal will require the amendment to the following KLEP map sheets:

- Ku-ring-gai Local Environmental Plan 2015 – Heritage Map – Sheet HER_008

The subject property at 149 Livingstone Avenue, Pymble (Lot 3, DP 607951) is to be coloured to be identified as a heritage item.

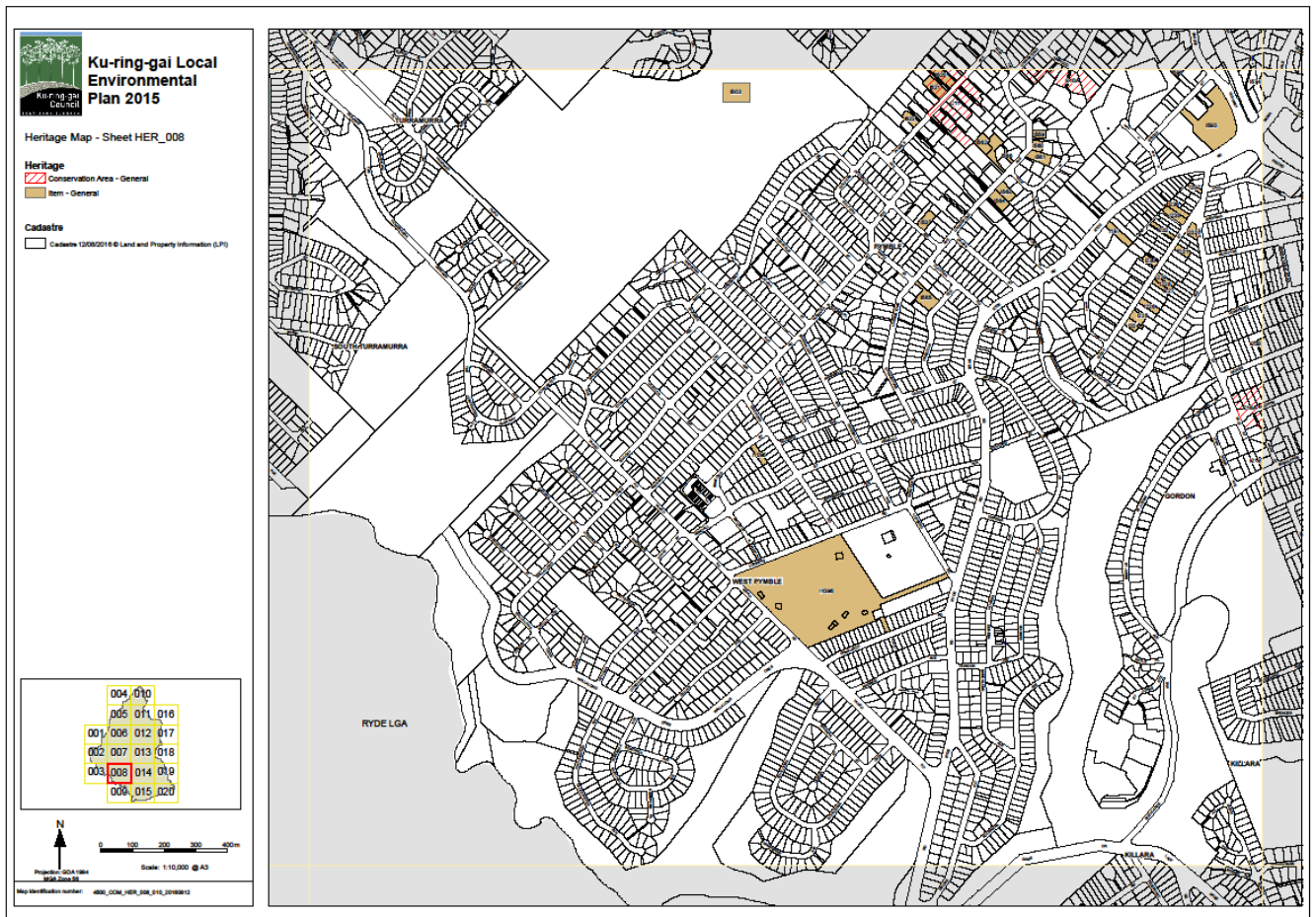


Image 3: Existing KLEP 2015 Heritage Map Sheet- Sheet HER_08

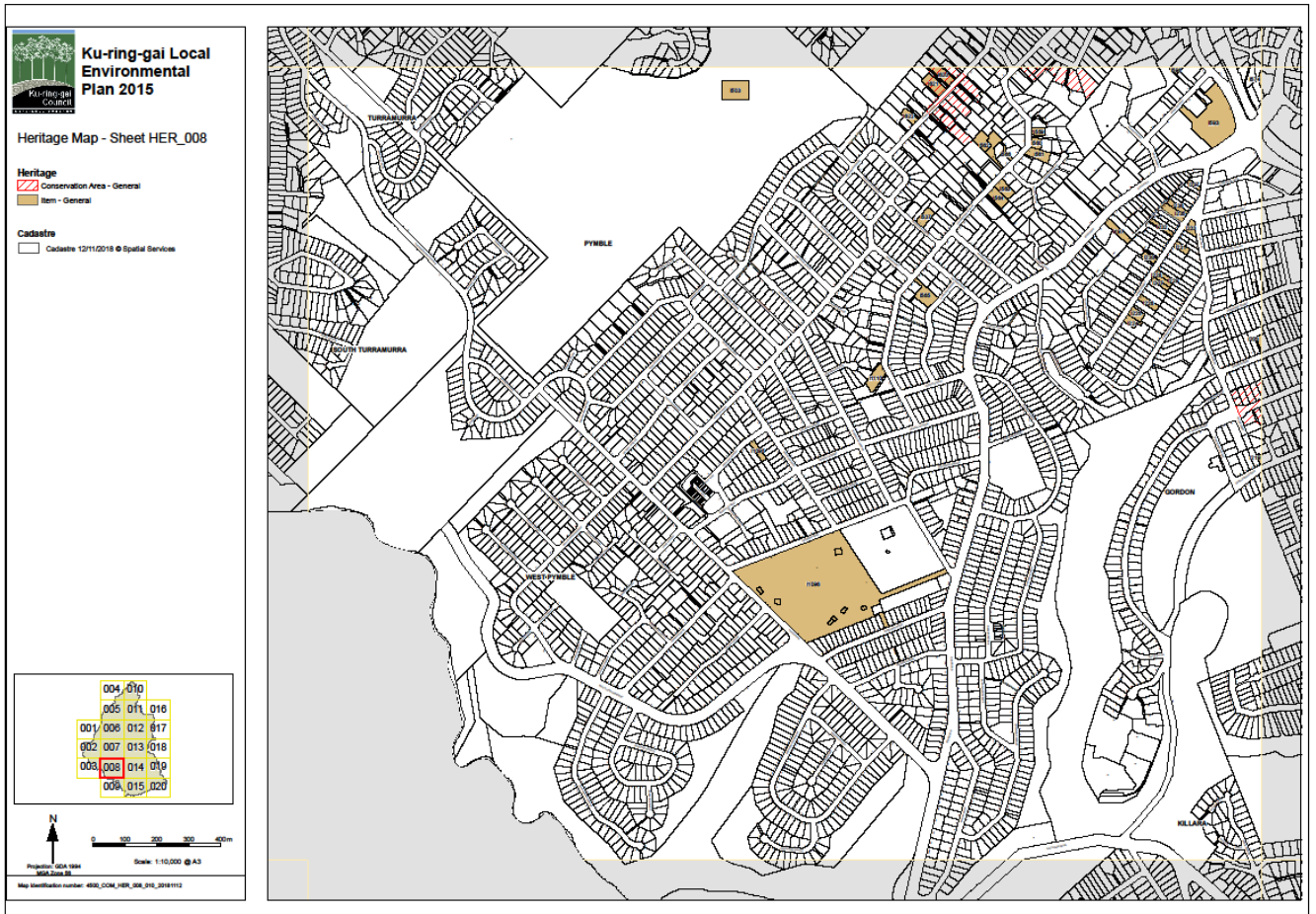


Image 4: Proposed KLEP 2015 Heritage Map Sheet- Sheet HER_08

PART 5 – COMMUNITY CONSULTATION

Details of the community consultation that is to be undertaken on the planning proposal

Community Consultation for this Planning Proposal will be consistent with the requirements of the Gateway Determination and the consultation guidelines contained in the Department of Planning and Environments “*A Guide to Preparing Local Environmental Plans*” (August 2016).

Public exhibition of the Planning Proposal is generally undertaken in the following manner:

- Notification in a newspaper that circulates the area affected by the Planning Proposal
- Notification on Council's website
- Notification in writing to the affected and adjoining land owners

During the exhibition period, the following material is made available for viewing:

- Planning Proposal
- Gateway Determination
- Information relied upon by the Planning Proposal (e.g. reports)

At the conclusion of the public exhibition, a report was prepared and reported back to Council to allow for the consideration of any submissions received from the community.

PART 6 – PROJECT TIMELINE

Stage	Timing
Anticipated commencement date (date of Gateway determination)	Late February 2019
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	March - April 2019 28 days
Commencement and completion dates for public exhibition period	March 2019- April 2019
Post exhibition review and reporting	April 2019 – May 2019
Council meeting / consideration	June 2019
Legal Drafting LEP	June 2019
Anticipated date RPA will make the plan (if delegated)	July 2019
Notification of Plan on Legislation website	July 2019

Council Report – 16 October 2018

Council Resolution – 16 October 2018

Interim Heritage Order for 149 Livingstone Avenue Pymble

Ku-ring-gai Local Planning Panel Report 17 December 2018

APPENDIX E

Ku-ring-gai Local Planning Panel Minutes 17 December 2018

APPENDIX F

Council Report – 12 February 2019

APPENDIX G

Council Resolution – 12 February 2019

Heritage assessment for 149 Livingstone Avenue, Pymble