

Place, Design and Public Spaces

IRF20/1623

Plan finalisation report

Local government area: Randwick

1. NAME OF DRAFT LEP

Randwick Local Environmental Plan 2012 (Amendment No. 7)

2. SITE DESCRIPTION

The planning proposal applies to land in Coogee. The study area comprises 10 lots bounded by Havelock Street to the north-east, Brook Street to the east, and Dudley Street to the south. Edgecombe Avenue dissects the area and runs north to south through the centre. The subject area and the surrounding land are zoned R3 Medium Density Residential (**Figures 1-3**), with a maximum height limit of 12m and a maximum floor space ratio (FSR) of 0.9:1 (note: dwelling houses and semi-detached dwellings are subject to alternative FSR controls based on a sliding scale under Randwick Local Environmental Plan 2012).



Figure 1: Aerial view of the subject sites (Source: Near Map – overlay by DPIE)



Figure 2: Property identification map showing the subject sites (Source: Near Map – overlay by DPIE)

Three adjoining lots in the western portion of the site, facing Dudley Street, contain a continuous row of one and two-storey detached Inter-War bungalows. The six lots on the east side, facing Brook Street, contain single-storey detached dwellings and residential flats of varying ages and styles. There are two lots facing west to Edgecombe Avenue, one contains an Inter-War Art Deco style residential flat building and the other contains a mid-twentieth century duplex (**Figures 1-15 and Table 1**).

The sites at 142A and 152 Brook Street (**Figures 9 and 14**) are listed as local heritage items in Randwick Local Environmental Plan (LEP) 2012 (**Figure 4**). The remaining sites are not heritage listed.

Table 1: site description

Address	Legal Description	Lot Size	Building Type
37 Dudley Street, Coogee	Lot A DP 301192	415.95m ²	Single-storey Inter-War bungalow with a later double-storey extension
39 Dudley Street, Coogee	Lot B DP 301192	420.37m ²	Single-storey Inter-War bungalow
41 Dudley Street, Coogee	Lot C DP 301192	410.72m ²	Single-storey Inter-War bungalow
142-142A Brook Street, Coogee	Lots 1-6 SP 13844	701.68m ²	Three-storey Art Deco flats

Address	Legal Description	Lot Size	Building Type
144 Brook Street, Coogee	Lots 1-6 SP 4898	578.72m ²	Two-storey Inter-War flats
1-3 Edgecombe Avenue, Coogee			Two-storey mid-century duplex
146 (referred to as 146A and 146B) Brook Street, Coogee	Lot 2 DP 388326	331.62m ²	Two-storey Inter-War duplex
148 Brook Street, Coogee	Lot B DP 305284	546.30m ²	Single-storey Inter-War bungalow
150 Brook Street, Coogee	Lot A DP 305284	554.87m ²	Single-storey Inter-War bungalow
152 Brook Street, Coogee	Lot 1 DP 195960	620.19m ²	Three-storey Inter-War flats known as 'Brooklyn' c1919
5 Edgecombe Avenue, Coogee	SP 12306	234m ²	Two-storey Inter-War Art Deco flats

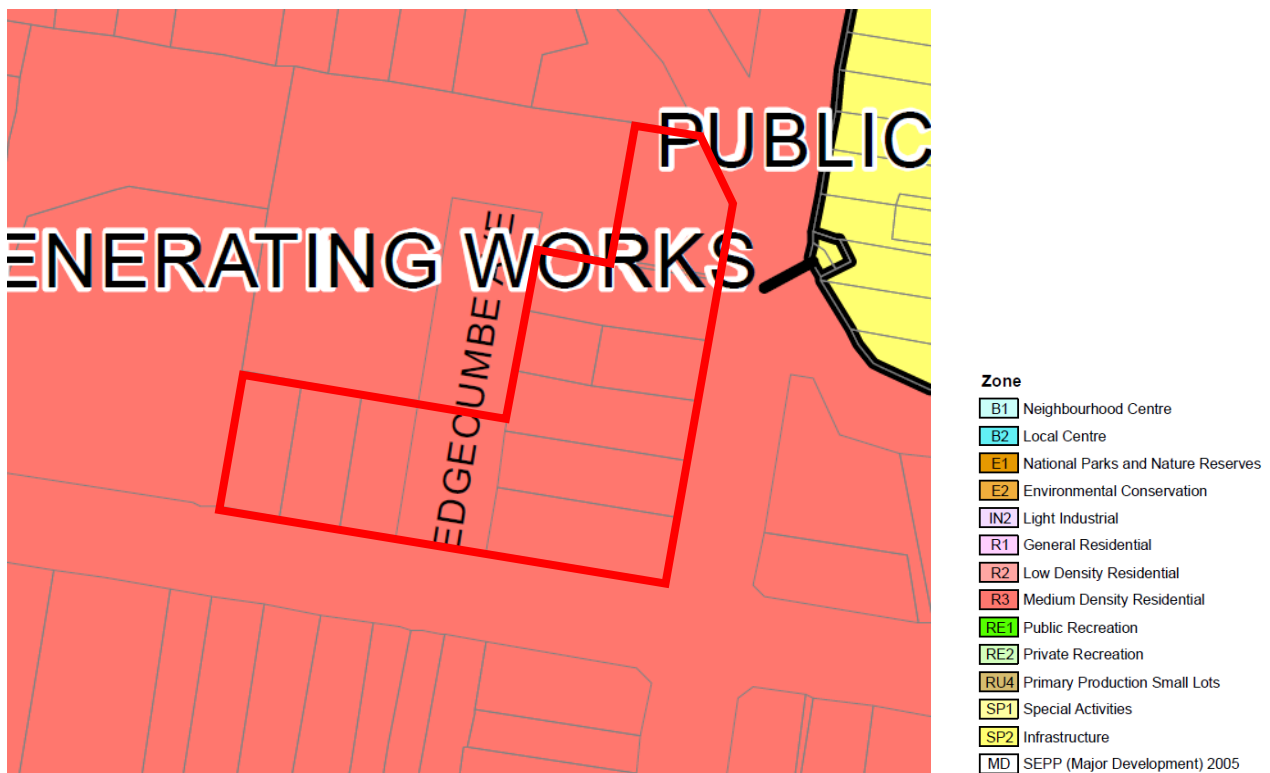


Figure 3: Existing land zoning map LZN_007, the subject area (outlined in red) is zoned R3 Medium Density Residential (Source: NSW Legislation)

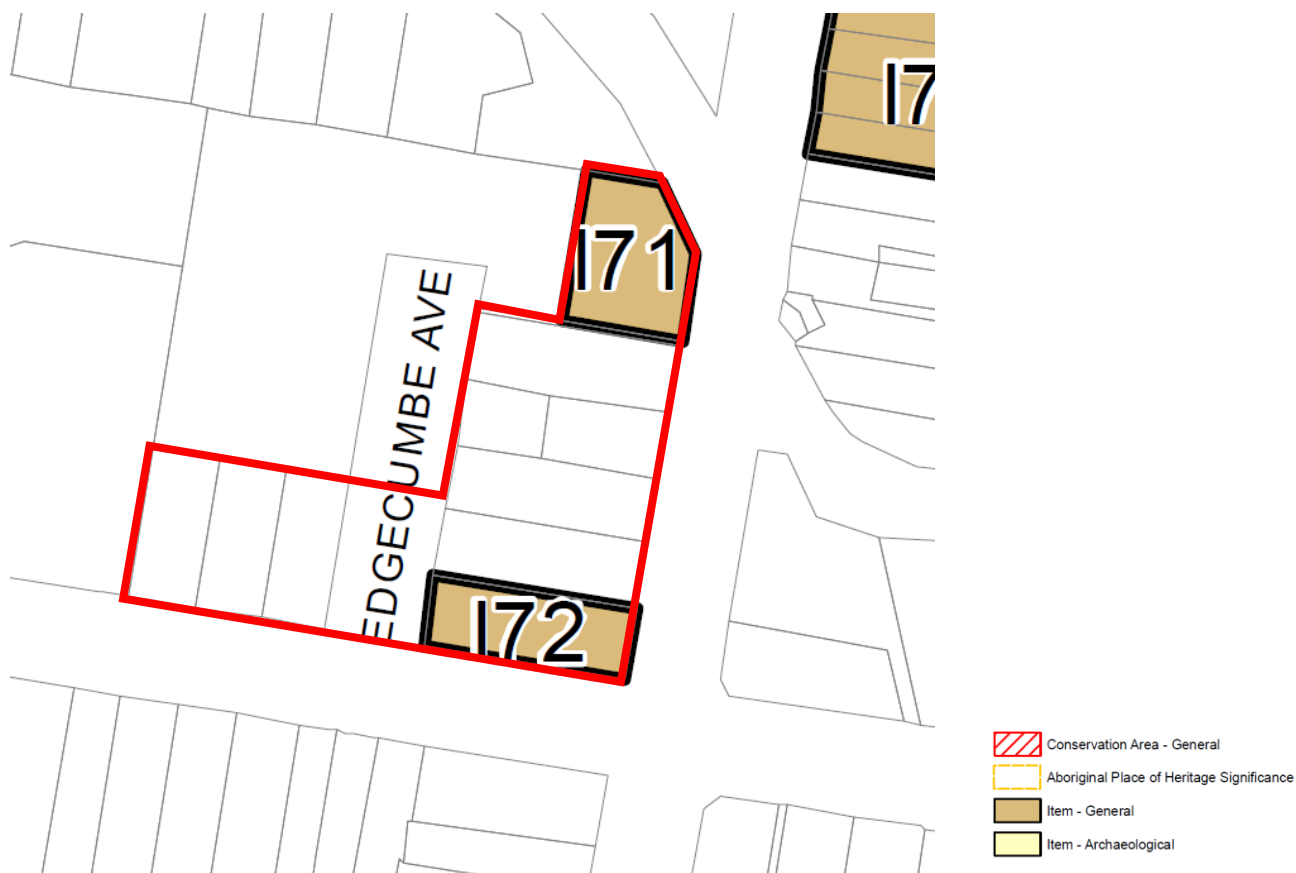


Figure 4: Existing heritage map HER_007, with the subject area outlined in red (Source: NSW Legislation)



Figure 5: 37 Dudley Street, Coogee (Source: Google Maps)



Figure 6: 39 Dudley Street, Coogee (Source: Google Maps)



Figure 7: 41 Dudley Street, Coogee (source: Google Maps)



Figure 8: 5 Edgecumbe Avenue, Coogee (Source: Google Maps)



Figure 9: 152 Brook Street, Coogee (Source: Google Maps)



Figure 10: 150 Brook Street, Coogee (Source: Google Maps)



Figure 11: 148 Brook Street, Coogee (Source: Google Maps)

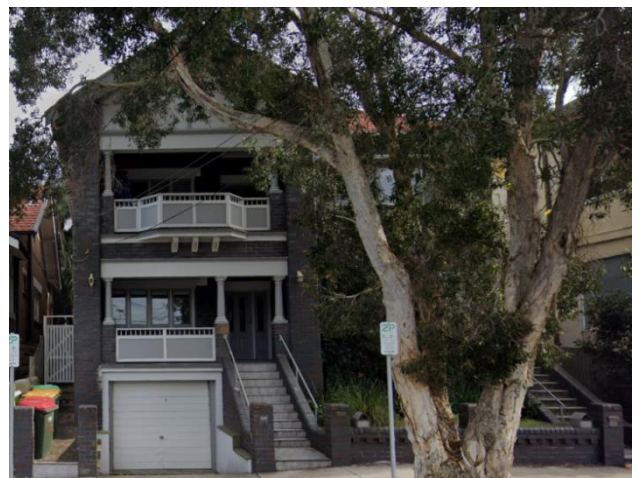


Figure 12: 146 Brook Street, Coogee (Source: Google Maps)

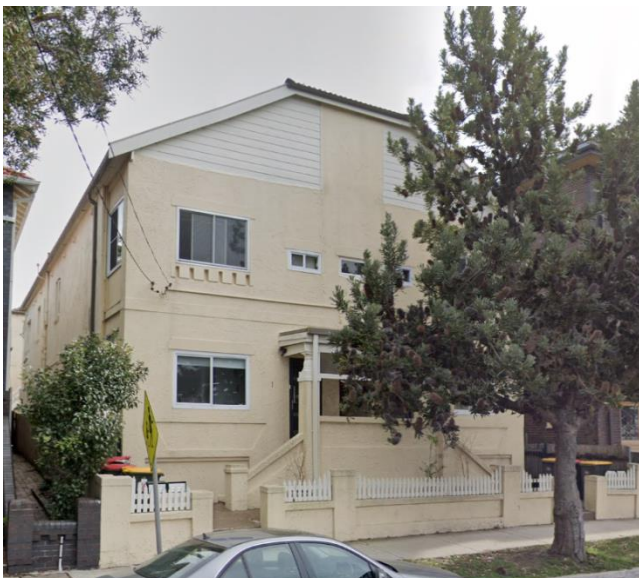


Figure 13: 144 Brook Street, Coogee (Source: Google Maps)



Figure 14: 142A Brook Street, Coogee (Source: Google Maps)



Figure 15: 1-3 Edgecumbe Avenue (also known as 144 Brook Street, Coogee) (Source: Google Maps)

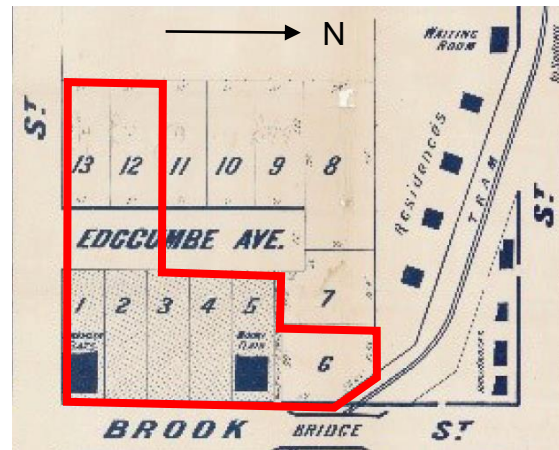


Figure 16: Extract of auction notification, 24 April 1920, of the Edgecumbe Estate (Source: Council, NSW State Library, overlay by DPIE)

3. PURPOSE OF PLAN

The draft LEP seeks to amend Randwick LEP 2012 to list the following sites as items of local heritage significance in Schedule 5:

- 39 Dudley Street, Coogee – single-storey Inter-War bungalow;
- 41 Dudley Street, Coogee – single-storey Inter-War bungalow; and
- 148 Brook Street, Coogee – single-storey Inter-War bungalow.

The draft LEP also seeks to establish the Edgecombe Estate Heritage Conservation Area (HCA) to include the 10 properties at Dudley Street, Brook Street and Edgecombe Avenue, Coogee:

- | | |
|--|--|
| • 37 Dudley Street, Coogee; | • 146 (referred to as 146A and 146B) Brook Street, Coogee; |
| • 39 Dudley Street, Coogee; | • 148 Brook Street, Coogee; |
| • 41 Dudley Street, Coogee; | • 150 Brook Street, Coogee; |
| • 142A Brook Street, Coogee; | • 152 Brook Street, Coogee; and |
| • 144 Brook Street and 1-3 Edgecumbe Avenue, Coogee; | • 5 Edgecumbe Avenue, Coogee. |

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Coogee state electorate. Marjorie O'Neill MP is the State Member.

The site falls within the Kingsford Smith federal electorate. Matt Thistlewaithe MP is the Federal Member.

To the Eastern Harbour City team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. BACKGROUND

A number of heritage studies have been commissioned by both Council and landowners in relation to the proposed heritage items and conservation area; they include:

Table 2: List of heritage studies

Subject	Title / Author	Commissioned by
Edgecumbe Estate	Edgecumbe Estate Heritage Study, November 2018 Randwick City Council (in-house study)	Council
Edgecumbe Estate	Peer Review (of Council's heritage study), March 2019 Sue Rosen Associates	Council
39 Dudley Street	Heritage Assessment, November 2018 John Oultram Heritage and Design	Landowners
39 Dudley Street	Peer Review of John Oultram's Report, 7 February 2019 Stephen Davies, Urbis	Landowners
148 Brook Street	Heritage Assessment, June 2019 Weir Phillips Heritage and Planning	Landowners
148 Brook Street	Letter (with heritage assessment), 13 February 2019 Heritage Assessment, June 2019 John Oultram Heritage and Design	Landowners
148 Brook Street	Heritage Significance Assessment, 24 June 2019 Urbis	Landowners
HCA	Heritage Assessment, October 2019 John Oultram Heritage and Design	Landowners

The above heritage reports contain different views on the heritage values of the proposed items and conservation area. In general, studies commissioned by the landowners do not support the heritage listing of both 39 Dudley Street and 148 Brook Street and the making of the HCA.

Based on a detailed analysis of the information provided, it is considered that there is sufficient evidence and merit to warrant listing of the three properties – 39 and 41 Dudley Street and 148 Brook Street. However, there is inadequate assessment of the heritage significance of the proposed HCA. It is recommended that the proposal be finalised to list the three individual items and defer the HCA component pending additional heritage assessment and community consultation. Refer to Section 10 Assessment of this report for further details.

6. GATEWAY DETERMINATION

The Gateway determination issued on 15 May 2019 determined that the proposal should proceed subject to conditions.

The proposal is due for finalisation by 15 February 2020. Council was not delegated as local plan-making authority as:

- Two landowners objected to the heritage listing;
- It is subject to a number of conflicting heritage studies or peer views; and

- There are two ongoing IHOs, three CDC applications and a DA for properties subject to the planning proposal.

7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 28 May 2019 to 26 June 2019. A total of 931 submissions were received during the exhibition period. The submissions included two petitions. A summary is provided in **Table 3**.

Table 3: Summary of responses

Summary of Responses		
	Supportive	Unsupportive
Written submissions	24	186
On-line petitions	1 (Randwick Heritage Action Group - 677 signatures)	1 (44 signatures)
Number of responses	701	230
Total responses	931	

A summary of the matters raised in the submissions as well as Council's response can be found in Council's Post Exhibition Report.

7.1 Submissions in support of the proposal

The key issues raised in the submissions supporting the planning proposal are summarised in **Table 4** below.

Table 4: Summary of issues and Council's response

Summary of Issues and Council's Response	
Issue	Council Comment
The need to preserve local history and local character Loss of heritage buildings and their replacement with higher density housing typologies	Council commented that the subject planning proposal seeks to protect and conserve heritage buildings and will enable future generations to appreciate the architectural history of the area.
Concerns about overdevelopment	Council stated that the subject area is identified as having heritage significance. Council has prepared a draft Local Housing Strategy to guide development and growth across Randwick for the next 20 years.

7.2 Submissions not supporting the proposal

The key issues raised in submissions which do not support the planning proposal are summarised in **Table 5** below.

Table 5: Key issues raised in submissions and summary of Council's response

Summary of Issues and Council's Response	
Issue	Summary of Council's Comments
There is insufficient heritage significance to justify listing of the subject properties. The properties proposed to be listed as heritage items or included in a new	The properties were identified in Council's heritage study as meeting one or more criteria for individual listing or inclusion in a conservation area. The study has been peer reviewed by Sue Rosen Associates which concurred with Council's findings. Although the properties have been altered, it is considered that they retain their original character and significance.

Summary of Issues and Council's Response	
Issue	Summary of Council's Comments
<p>conservation area have been altered.</p> <p>The proposal is inconsistent with the NSW Heritage Office Guidelines.</p>	
<p>There is conflicting expert opinion on the heritage significance of 39 Dudley Street and 148 Brook Street.</p>	<p>The Randwick Local Planning Panel recommended an independent peer review of Council's heritage study be carried out, due to conflicting expert opinion on the heritage significance of two properties proposed for listing. In accordance with the RLPP's advice, Sue Rosen Associates were engaged to undertake the peer review, which confirmed the findings of Council's heritage study and recommended the inclusion of 39 Dudley Street and 148 Brook Street in Schedule 5 of the LEP.</p>
<p>The properties were not identified in the previous heritage studies or included in Randwick LEP 2012.</p> <p>New conservation areas should be identified as part of an LGA-wide heritage study.</p> <p>The proposal is a result of development applications lodged in the subject area and driven by a small number of residents.</p>	<p>Council routinely reviews and amends its planning controls as strategic issues occur; this includes the ongoing recognition of properties and areas of heritage significance within the Randwick LGA. The subject properties are found to have heritage significance in Council's heritage study and peer review. The planning proposal for heritage listing will result in an amendment to the Randwick LEP.</p> <p>Council resolved to commence a heritage study at their meeting of 28 August 2018. The development applications and complying development certificates relating to the subject properties were lodged after the study commenced.</p> <p>Separate IHOs were placed on 39 Dudley Street and 148 Brook Street due to the threat of demolition and prior to the completion of the heritage study and planning proposal respectively.</p>
<p>The proposal will reduce property value and result in financial impacts and hardship on landowners. The proposal does not consider the property rights of owners and Council should provide compensation.</p>	<p>The planning proposal seeks to apply the conservation and protection measures that are available to Council under the <i>Environmental Planning and Assessment Act 1979</i> and <i>Heritage Act 1977</i>. Council exercised its function under the above legislation and there is no requirement for Council to compensate homeowners due to the proposed listing.</p> <p>A range of factors affects the market values of a property. Research has shown that over time heritage listing could have a positive impact on property values. (www.environment.nsw.au/Heritage/listings/benefitowners.htm)</p>
<p>The heritage listing of the properties will affect housing affordability, supply and diversity.</p> <p>The proposal will limit redevelopment and is contrary to the objectives of the R3 Medium Density Residential zoning.</p>	<p>The planning proposal was assessed against the strategic directions of the Greater Sydney Region Plan and the Eastern City District Plan. The proposed listing of the heritage items and HCA is considered to have a negligible impact on housing supply and diversity in the Randwick LGA.</p> <p>Council has prepared a draft Local Housing Strategy which will guide future development and housing growth across the city for the next 20 years.</p>
<p>The heritage report prepared by Council utilised real estate</p>	<p>During the preparation of Council's heritage study, access to the property was denied and Council has no other option but to utilise publicly available photographs.</p>

Summary of Issues and Council's Response	
Issue	Summary of Council's Comments
marketing photographs for No. 39 Dudley Street. No inspection was conducted during preparation of the peer review by Sue Rosen Associates.	Council's solicitors arranged an inspection of 39 Dudley Street with the owners for 11 March 2019, prior to completion of the peer review. The owners did not make the property available for inspection on that date. As such, no inspection of the property was undertaken by Sue Rosen as part of the peer review.
The owners of 148 Brook Street did not have the opportunity to be heard prior to the planning proposal being submitted to the Department.	Council provided a detailed response including dates of notification to the landowners about the commencement of the heritage study and various Council meetings relating to the heritage study and planning proposal.
Council has ignored its own section 10.7 planning certificate.	Any information provided in the section 10.7 certificate issued by Council is correct at the time of issue. The Interim Heritage Orders placed on 39 Dudley Street and 148 Brook Street were in accordance with the provisions of the Heritage Act 1977.
The planning proposal is inconsistent the Greater Sydney Region Plan, Eastern City District Plan, Randwick City Plan and section 9.1 Ministerial Directions.	The planning proposal has been assessed as being consistent with the relevant directions of the Greater Sydney Region Plan and the Eastern City District Plan, the provisions of the Randwick City Plan and the relevant section 9.1 Directions.

The Department considers that Council has adequately addressed the issues raised in the submissions. Full details are available in Council's post-exhibition report.

7.3 Submissions received after the exhibition period

The Department received additional submissions from two of the landowners after the exhibition period.

37 and 39 Dudley Street, Coogee

On 4 November 2019, Mills Oakley, the solicitor acting on behalf of the landowners, raised a number of issues including procedural fairness and conflicting assessment of significance and misrepresentation of community consultation outcomes. The key issues raised are addressed in **Table 6** below.

Table 6 Issues raised in post-exhibition submission to Department

Issue	Department's comments
<i>No internal inspection carried out within properties proposed to be listed as Heritage Items – despite express invitations from owners.</i>	According to information provided by Council, access was denied by the owners of 148 Brook Street and 39 Dudley Street. With the owners' consent, site inspections were carried out on the properties at 37 and 41 Dudley Street and 144, 146A and 146B and 150 Brook Street in October 2018.
<i>All of the heritage consultants who have undertaken internal inspections conclude that the properties do not meet the requirements for heritage listing.</i>	This issue is addressed in detail in Section 10 Assessment of this report.

<p><i>Submissions reported include online petitions which pre date the Planning Proposal and its community consultation period. Results considered by Council factually incorrect and 'skewed'. The total number of written submissions against the Planning Proposal clearly outweigh those in support.</i></p> <p><i>... the online petition... includes commentary from a range of different "community members" who have vastly differing interests and understanding of the proposal</i></p>	<p>The origins and dates of the signatures in the online petition (change.org) could not be traced via the website. Notwithstanding, Council's post-exhibition report contains an analysis of the issues raised with a response to each.</p> <p>The finalisation of the planning proposal is not dependent on the number of submissions, rather the matters raised in those submissions.</p>
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148 Brook Street, Coogee

On 4 November 2019, Hartley Solicitors, who act on behalf of the landowner requested that the Department undertake an independent heritage assessment. It reiterated the owners' objection to both the heritage listing of 148 Brook Street and the creation of the HCA; the key issues are summarised in **Table 7** below:

Table 7 Issues raised in post-exhibition submission to Department

Issue	Department's comments
The letter criticised the methodology used by Council in assessing the proposed HCA, including the absence of an internal inspection of the property and reliance on real estate marketing photographs.	A detailed critique on the heritage assessment undertaken by Council and landowners is provided in Section 10 below.
It requested the deferral of the heritage listing until an LGA-wide study is undertaken and completed to avoid ad hoc heritage listing.	A detailed critique on the heritage assessment undertaken by Council and landowners is provided in Section 10 below.
It also argued that the proposed listing would result in detrimental financial impacts on the landowners.	<p>Financial impact is not a matter for consideration in the Heritage Office Guidelines for assessing heritage significance.</p> <p>The ambit of the Department's assessment is to determine whether or not the proposed heritage items and conservation area satisfy the threshold for listing as described in the Heritage Office Guidelines.</p>

8. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the former Office of Environment and Heritage (currently NSW Heritage, Department of Premier and Cabinet) in accordance with the Gateway determination.

On 8 July 2019, the Department of Premier and Cabinet (DPC) issued a letter stating that they encourage the identification and listing of new heritage items and the creation of heritage conservation areas, provided all due diligence, assessments and notifications have been undertaken.

DPC recommended that Council await the findings of the IHO processes before considering the subject properties for listing as heritage items. The planning proposal was submitted to the Department for finalisation after the appeal against the IHO (with respect to 39 Dudley Street) was dismissed by the Court.

9. POST-EXHIBITION CHANGES

Council did not make any post-exhibition changes to the planning proposal.

On 6 February 2020, planning officers of the Department met with Council staff and advised that additional heritage assessment of the HCA component and further community consultation are required.

As detailed in emails to Council dated 18 and 28 February, the Department considers the current assessment as contained in Council's Heritage Study (November 2018) and Sue Rosen Associates' Peer Review (March 2019) as inadequate to support the proposed HCA. The Department advised Council that the listing of the three properties as individual heritage items could be supported.

Council responded that their preference is to expedite the heritage listing of the three individual items.

On 26 March 2020, the Department provided further advice that it will partially finalise the planning proposal, subject to deferral of the HCA component pursuant to section 3.36(3) and (4) of the *Environmental Planning and Assessment Act 1979*. Council will be required to prepare additional heritage studies on the proposed HCA and re-exhibit the HCA component. Upon completion of the above to the satisfaction of the Department, the HCA component may then be finalised. See further discussion below.

10. ASSESSMENT

It is recommended that the listing of the three properties at 39 Dudley Street, 41 Dudley Street and 148 Brook Street as heritage items be supported for the following reasons:

- (i) According to the Heritage Office Guidelines, *Assessing Heritage Significance*, 2001, an item can be considered to be of heritage significance if it meets one or more of the criteria contained therein. Despite the conflicting opinions between the Council's heritage reviews and expert reports commissioned by the landowners, there is sufficient evidence to justify that the three dwellings satisfy at least the aesthetic (criterion c) and/or representative (criterion g) criteria and warrant heritage listing:

No. 39 Dudley Street:

- The dwelling is a modest but well detailed example of an Inter War Californian bungalow. The house has a high degree of integrity with its original form, layout and detail to the front retained. More major alterations are confined to the rear with the internal joinery painted.
- On balance, the house is considered to have aesthetic significance even though it does not achieve landmark or seminal status. The Heritage Office Guidelines state that an item is not to be excluded from listing on the basis that other items with similar characteristics exist.
- In this case, the dwelling is considered to be a well preserved, representative example of the Californian bungalow architectural style.

No. 41 Dudley Street:

- Council's heritage assessment identifies the dwelling to have historical, aesthetic and representative significance. There is no dispute to the heritage value of the dwelling from its owner.

No. 148 Brook Street:

- The house is a fine, well-detailed (externally) example of an Inter-War bungalow, its form is reminiscent of the Arts and Crafts style while the detailing is of the Californian bungalow style. Its presentation to the street is

substantially intact and features distinctive verandah detailing. The external modifications include painted brickwork, replacement of windows and front door and rear enclosure, which could be reinstated or reversed at least in part.

- The dwelling's distinctive architectural form, exterior detailing and contribution to the streetscape as argued in the Council's assessment are concurred with in the report by John Oultram. The representativeness of the dwelling as an Inter-War California bungalow is identified in the report by Weir Phillips.
 - Both the Council's and landowner's reports have limited information regarding the significance of the sandstone retaining wall at the front of the site. A broader comparative analysis could have identified the value and uniqueness of this feature.
 - The recommendation against listing in the landowner's expert reports appears to be primarily due to the loss of internal fabric. Based on the building certifier's and heritage reports from the landowners, the internal demolition work which has been executed relate to removal of skirting boards, window trims, door trims, ceiling linings, floor linings and kitchen joinery. The internal layout of the house has not been altered and the items removed could be partly restored.
 - The listing of the property would enable consideration to be given to the nature of any proposed change in the future, and its potential impact on the heritage significance of the whole building through the application of Clause 5.10 of the Randwick LEP. The listing will facilitate sympathetic development that conserves any significant extant, surviving fabric and spatial elements.
- (ii) The landowners' heritage reports fail to provide conclusive evidence or analysis against the heritage significance of the above houses. Specifically, the landowner's heritage reports do not demonstrate adequate justification or reasoning to conclude that the houses have no heritage significance, particularly from the aesthetic (criterion c) and representativeness (criterion g) perspectives. They do not convincingly disprove Council's assessment of significance.
- (iii) The listing does not preclude any future development of the properties, such as change of use, renovation, alterations or adaption. The listing will ensure that the effect of any proposed development on the heritage significance will be considered prior to a development consent being granted. As such, the proposal is not considered to unreasonably restrict future development of the sites. It will ensure due process will be undertaken that considers the potential impacts on the heritage significance.

Proposed Heritage Conservation Area

It is recommended that the Edgecumbe Estate HCA component of the proposal be deferred pursuant to section 3.36(3) and (4) of the *Environmental Planning and Assessment Act 1979*. This is because the heritage assessment undertaken by Council is not sufficient and fails to provide solid justification for the establishment of the HCA. As such, the HCA component is not supported at this stage and further assessment and community consultation are required prior to any finalisation. The key issues include:

- Council did not establish substantive reasoning for the proposed HCA and there is no Statement of Significance to explain and encapsulate the heritage values of the area in question (note: Sue Rosen Associates' Peer Review, page 7, also raised this issue; however, it did not include such a statement either);

- Council's Heritage Review and Sue Rosen Associates' Peer Review did not address the criteria under the NSW Heritage Office Guidelines. The criteria provide guidance to assessing the historical, associative, aesthetic, social and cultural, research potential, rarity and representative significance of an item or area and are fundamental in determining its heritage values;
- There is limited analysis of the physical attributes, curtilage and setting of the proposed HCA, including but not limited to subdivision pattern, development pattern, landscaping and streetscape;
- The entire original Edgecumbe Estate was not captured in the HCA. The north-western portion of the former estate is not included in the proposed HCA and the land has been redeveloped with the individual lots amalgamated. Justification is required to warrant listing of the proposed smaller area as a cohesive HCA; and
- There is no comparative analysis of the Edgecumbe Estate with other similar estates within Coogee or the LGA.

Pending additional detailed studies addressing the above issues and re-exhibition of the HCA component, the planning proposal may then be reconsidered by the Department for finalisation as discussed with Council previously.

10.1 Section 9.1 Directions

2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance. This direction applies to the planning proposal as it affects sites found to be of heritage significance in Council's heritage study, which was peer reviewed by a heritage consultant.

The planning proposal is consistent with this Direction as it seeks to amend Schedule 5 of the LEP to address the heritage significance of properties identified in Council's heritage study.

Upon completion of further heritage studies relating to the proposed HCA and community consultation, the Department will determine whether the HCA should be created and an amendment to the LEP made.

3.1 Residential Zones

The objective of this Direction is to encourage a variety and choice of housing types for addressing existing and future housing needs, and to make efficient use of existing infrastructure and services. As the site is located in an R3 Medium Density Residential zone, this direction is considered relevant.

The proposal is consistent with this Direction as it will not affect the permissibility of residential development while protecting certain items found to be of local heritage significance in the Randwick LGA.

10.2 State Environmental Planning Policies

The planning proposal does not hinder or contradict the application of relevant State Environmental Planning Policies (SEPPs).

10.3 State, regional and district plans

Eastern City District Plan

The Eastern City District Plan operates to give effect to the Region Plan. The Eastern City District Plan encompasses the Randwick LGA. The planning proposal is consistent with the relevant directions, priorities and objectives of the Plan.

Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

The planning proposal does not change the existing zoning and development standards applicable to the subject sites. Given that the proposal relates to only 10 properties, of which only three are proposed to be listed as individual items, the overall impact on housing supply and diversity is considered minimal. The statutory heritage listing does not prohibit development, it serves to ensure that any future changes to the sites or conservation area must have regard to the potential impact on the heritage significance.

Planning Priority E6 - Creating and renewing great places and local centres, and respecting the District's heritage

The proposal is consistent with this priority as it seeks to provide the statutory mechanism required to recognise and protect the District's heritage and the significance of Inter-War architecture in this part of Coogee.

Randwick Local Strategic Planning Statement – Vision 2040 (LSPS)

The Randwick LSPS has been finalised and endorsed by Council. The planning proposal dated March 2019 predates the endorsed LSPS and does not address the relevant planning priorities.

The following planning priorities under the theme of Liveability of the Randwick LSPS are relevant to the proposal:

Table 8 Assessment against relevant planning priorities in the Randwick LSPS

Planning priority	Comments
(1) Provide diverse housing options close to employment, services and facilities	The planning proposal does not change the existing zoning and development standards applicable to the site. The proposal is not considered to result in significant impact on housing supply and diversity in the LGA.
(3) Encourage development that responds to the local character and desired future character of our neighbourhoods	The proposal seeks to conserve buildings that are identified to have heritage significance and will contribute to protecting the character of the locality.
(4) Conserve and protect our unique built cultural heritage	The proposal seeks to provide the statutory mechanism to recognise and protect local heritage and is consistent with this priority in the LSPS.

Randwick City Plan

The Randwick City Plan is a community strategic plan that seeks to guide and coordinate Council's activities over the next 20 years. The following outcome is relevant to the planning proposal:

Outcome 7: Heritage that is protected and celebrated

This outcome provides that *Local and cultural history is recognised, known, preserved and celebrated*, and that *Council implement, monitor and review our City's heritage planning provisions to ensure suitable conservation and adaptive re-use*.

The proposal is considered consistent with the above outcome as it seeks to provide statutory protection to a group of properties as well as individual buildings identified to have heritage significance in Council's heritage study and a peer review.

11. MAPPING

The planning proposal seeks to amend Randwick LEP 2012 by inserting new local items in Part 1 and a new conservation area in Part 2 of Schedule 5, and updating the Heritage Map – Sheet HER_007 (**Figure 17**).

As discussed, it is recommended that the proposed HCA be deferred. The amendment to the mapping is limited to the listing of 3 new local heritage items (I471, I472 and I473) only.

The map cover sheet and map have been checked by the Department's e-Planning Team and will be sent to Parliamentary Counsel's Office.

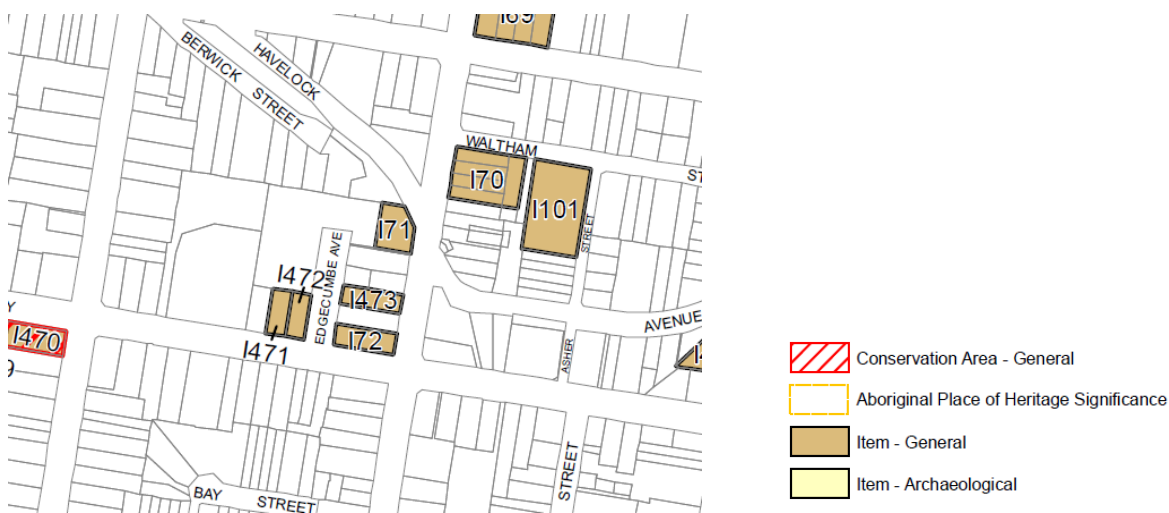


Figure 17: Extract of the proposed heritage map HER_007 with the new items I471, I472 and I473.

12. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979*. Council confirmed on 5 June 2020 that it has no objection to the draft and that the plan should be made.

13. PARLIAMENTARY COUNSEL OPINION

On 10 June 2020, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made.

14. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine that:

- a) a draft LEP with respect to the listing of 39 and 41 Dudley Street and 148 Brook Street be made under clause 3.36(2)(a) of the Act because:
 - i. the three Inter-War bungalows satisfy one or more assessment criteria under the Heritage Office Guidelines, *Assessing Heritage Significance*, 2001, and warrants listing as local heritage items;
 - ii. the proposed heritage listing does not preclude future development of the properties; the listing will ensure the effect of any proposed development on the heritage significance will be considered prior to a development consent being granted;
 - iii. despite the existing modification to the subject dwellings, the proposed listing will facilitate sympathetic development that conserves any significant extant fabric and spatial elements;
 - iv. the proposal with regard to the individual heritage listing is consistent with the directions and priorities of the Greater Sydney Region Plan, Eastern

City District Plan and local strategic plans. It is consistent with relevant SEPPs and section 9.1 Directions; and

- v. there are no unresolved or valid objections that would prevent the LEP being partially made to list the 3 properties as local heritage items;
- b) the creation of the proposed Edgecumbe Estate heritage conservation area not be supported at this stage and be deferred pursuant to section 3.36(3) of the Act as the heritage assessments undertaken and commissioned by Council fail to provide adequate justification for the establishment of the conservation area;
- c) the following procedures must be complied with by the planning proposal authority to the satisfaction of the Department, as the Minister's delegate, before the deferred matter is reconsidered for finalisation pursuant to section 3.36(4) of the Act:
 - i. A detailed assessment of the heritage significance of the proposed conservation area, including but not limited to:
 - an evaluation against the criteria in the Heritage Office Guidelines, *Assessing Heritage Significance*, 2001;
 - completion of a statement of significance to explain the heritage values of the conservation area;
 - an analysis of the physical attributes, curtilage and setting of the conservation area; and
 - comparative analysis of the area with other similar estates within Coogee or the LGA;
 - ii. Re-exhibition of the heritage conservation area component of the planning proposal in conjunction with the additional heritage assessment specified above for a period of 28 days;
- d) The Council is not to be authorised as the local plan-making authority for the deferred part of the planning proposal; and
- e) Should the procedures specified in part (c) above be completed to the satisfaction of the Minister's delegate, a separate local environmental plan be prepared to amend Schedule 5 of the Randwick LEP 2012 to include the proposed HCA.



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