IRF21/4865

Gateway determination report – PP-2021-6545

Local heritage listing of Cadry's Building (133 New South Head Road, Edgecliff) and early Victorian sandstone cottage (549 Glenmore Road, Edgecliff)

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1 Introduction

1.1 Overview

Table 1 Planning proposal details

LGA	Woollahra
NAME	Heritage listing of Cadry's building and an early Victorian cottage.
NUMBER	PP-2021-6545
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014 (LEP)
ADDRESS	133 New South Head Road, Edgecliff and 549 Glenmore Road, Edgecliff
DESCRIPTION	Lot 1/-/DP 255233 and Lot 37/-/ DP 255233 (respectively)
RECEIVED	2 November 2021 (adequate 15 November 2021)
FILE NO.	IRF21/4865
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Site description and surrounding area

The planning proposal relates to two properties as follows:

Cadry's Building

The land legally described as Lot 1 in DP 255233 is located at 133 New South Head Road, Edgecliff. It is at the corner of New South Head Road and Glenmore Road in Edgecliff. The site is irregular in shape and approximately 403m^2 in area. It is occupied by a part single and part three-storey commercial building with basement known as the Cadry's building. The ground and first floors feature sandstone wall construction that is partially rendered and painted. The lower two levels originally date from the early 1850s, and the uppermost floor is comprised of rendered and painted masonry added in 1909 during which time the site operated as the Rushcutters Bay Hotel. The building was used as a hotel from 1858 to 1966, and thereafter has been used as a private commercial or business premises.

549 Glenmore Road, Edgecliff

Adjoining the southern side boundary of the Cadry's building is an early Victorian sandstone cottage. The land is described as Lot 37 in DP 255233 and is an irregularly shaped lot of 116.8m^2. The internal building fabric has been altered, and the first floor of the building was removed in 2020 due to a structural collapse. Until recently, the building was used as offices in association with the retail use of the Cadry's Building and is currently used for storage.

Development on adjoining sites includes a three-storey contemporary commercial building with basement parking at 135-153 New South Head Road constructed circa mid-1980s, and a group of early Victorian era buildings at 543-547 Glenmore Road comprising three brick cottages.

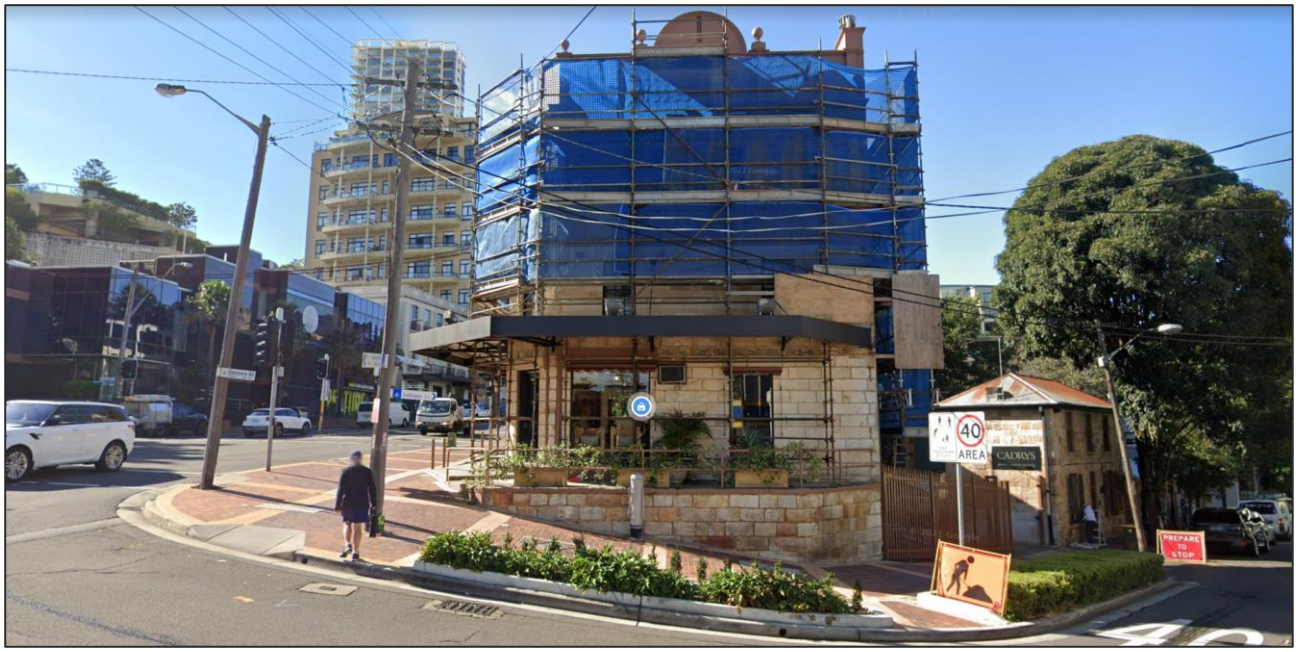


Figure 1 View of subject sites from corner of New South Head Road and Glenmore Road (Source: Google Street View, 2021)

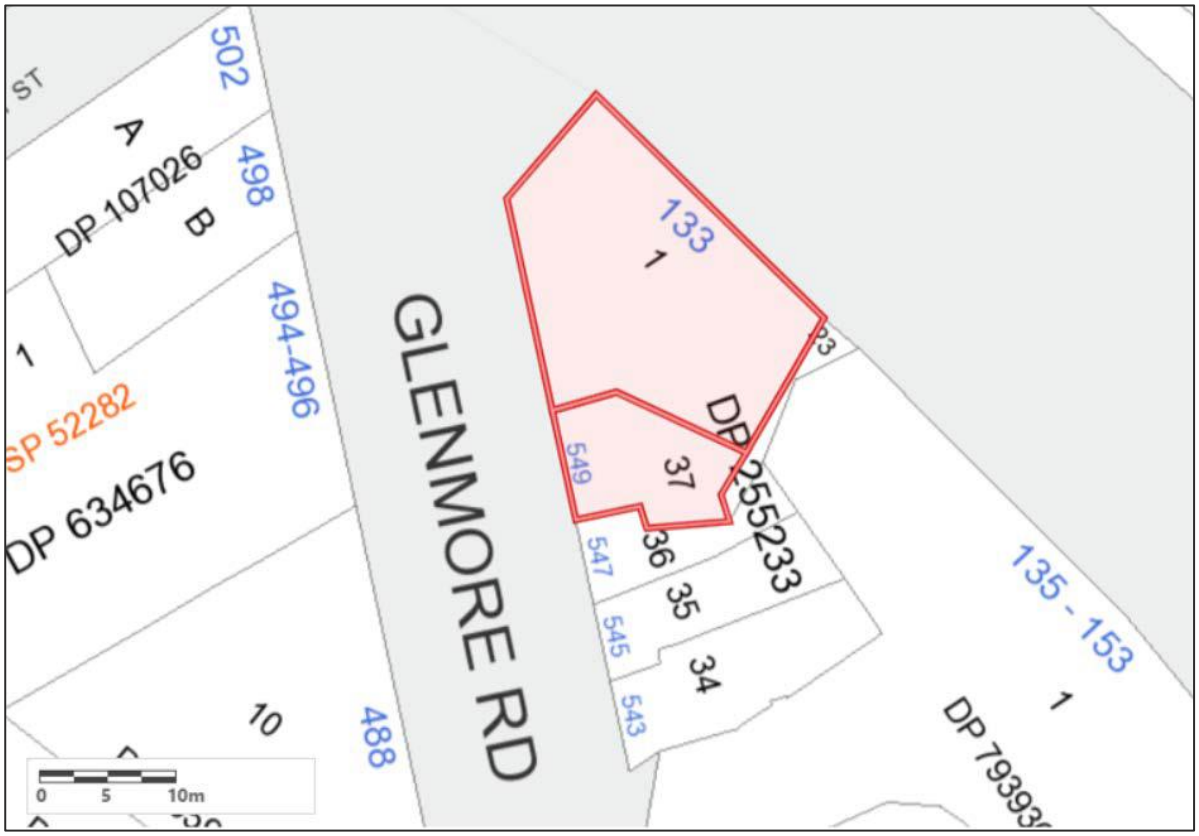


Figure 2 Cadastral map of subject sites (Source: PP-2021-6545, Woollahra Council, 2021)

Planning context

Table 2 Current controls

Control	Cadry's Building (133 New South Head Road, Edgecliff)	Early Victorian sandstone cottage (549 Glenmore Road, Edgecliff)
Zone	B4 Mixed Use	B4 Mixed Use
Maximum height of buildings (HOB)	12m	9.5m
Floor space ratio (FSR)	1.5:1	1.5:1
Land reservation acquisition (LRA)	Classified Road (B4)	Classified Road (B4)

The subject sites as well as adjoining properties along Glenmore Road are identified on the Land Reservation Acquisition Map (LRA_003) of the Woollahra LEP 2014. The land reservation is for acquisition for the purposes of road widening of New South Head Road, which is a classified road (see **Figure 2**). According to Clause 5.1 of the LEP, the acquisition authority is Transport for NSW. Clause 5.1A prescribes that development consent must not be granted to any development on LRA affected land if it has not been acquired by the relevant authority, unless it is for the identified acquisition purpose (i.e. roads).

Both sites are within the C15 – Paddington Heritage Conservation Area of the LEP, and are not listed as State or local heritage items (see **Table 3**). They are subject to the relevant controls under Clause 5.10 (Heritage Conservation) of the LEP.

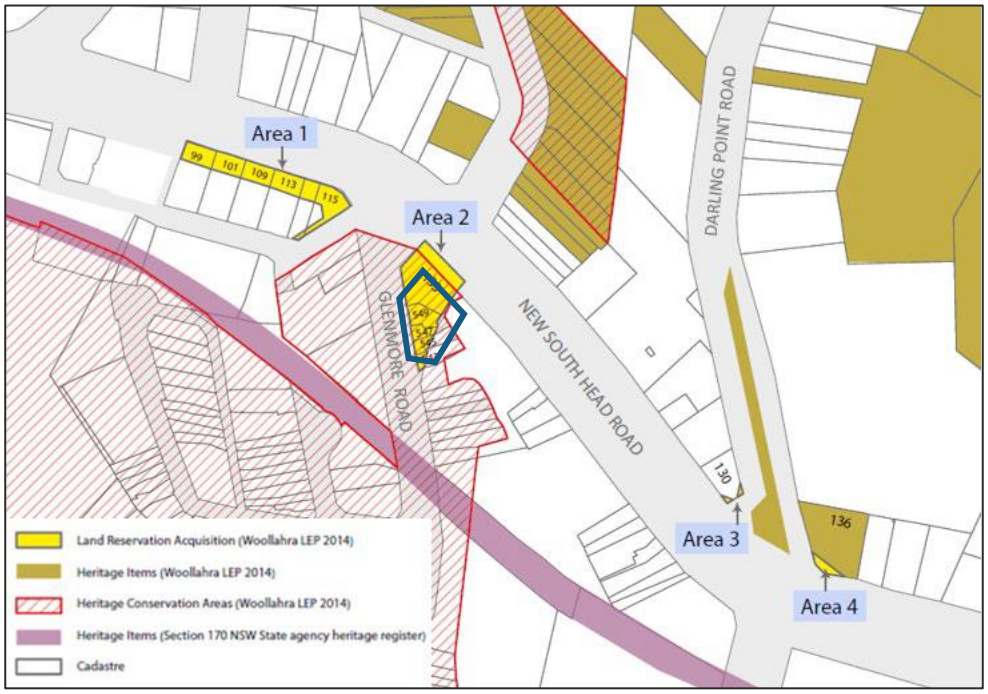


Figure 3 Map showing land reservation acquisition (in yellow), heritage items and heritage conservation areas with the sites outlined in blue (Source: PP-2021-6740, Woollahra Council, 2021)

1.3 Objectives or intended outcomes

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- List the subject buildings and interiors at both addresses as local heritage items;
- Ensure recognition of their significance through heritage listing; and
- Ensure any future modification proposals are assessed against heritage provisions in the Woollahra LEP 2014.

The objectives of this planning proposal are clear and adequate.

1.4 Explanation of provisions

The planning proposal seeks to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the Woollahra LEP 2014 by:

- Inserting a listing for the building known as the “Cadry’s Building (former Rushcutters Bay Hotel), including interiors” at 133 New South Head Road, Edgecliff;
- Inserting a listing for the immediately adjacent “Early Victorian sandstone cottage, including interiors” at 549 Glenmore Road, Edgecliff; and
- Amending the Heritage Map (Sheet HER_003A) to identify a heritage item on the sites of 133 New South Head Road, Edgecliff and 549 Glenmore Road, Edgecliff (see **Section 2.3** below).

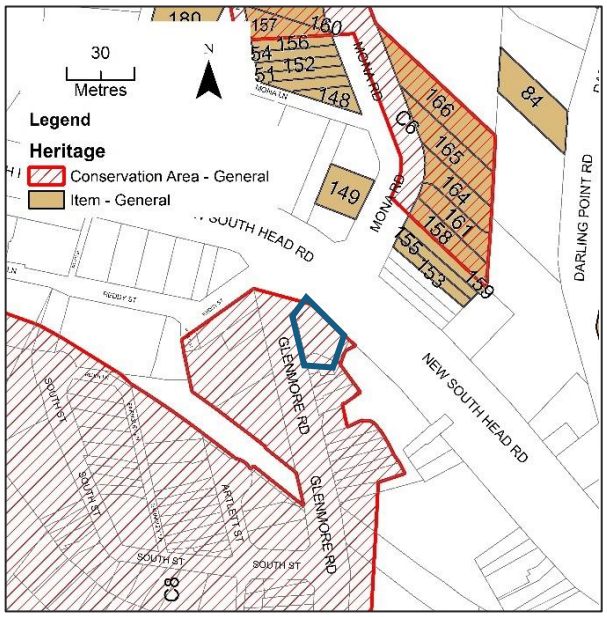
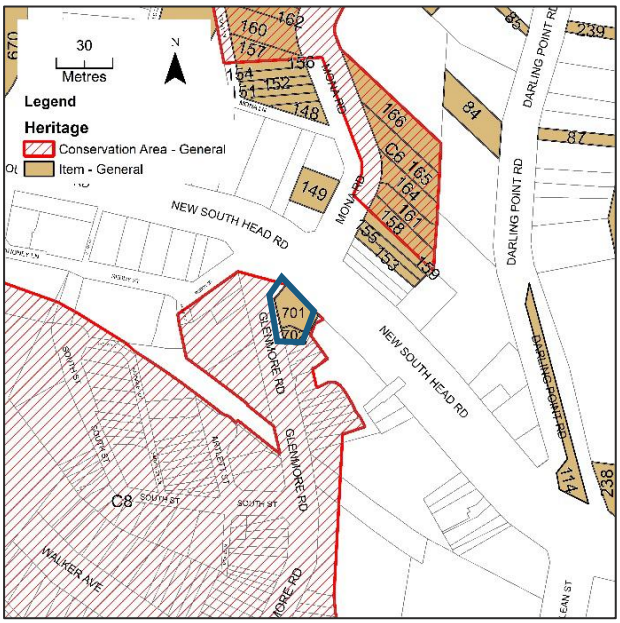
The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Heritage map, which are suitable for community consultation.

A Gateway condition is recommended to require insertion of an advisory note that the heritage item numbers are indicative only and will be subject to confirmation at the finalisation stage.

Table 3 Current and proposed Heritage maps (sites outlined in blue)

Current map	Proposed map
	

2 Need for the planning proposal

The planning proposal is based on the recommendations of a heritage significance assessment completed by Council's Strategic Heritage Officer (see **Attachment D)**. The assessment was undertaken in accordance with the NSW Heritage Office (now Heritage NSW) Guidelines, *Assessing Heritage Significance, 2001.* The key findings of the assessment are summarised in the table below.

Table 4 Summary of heritage significance assessment

Heritage Office Assessment of Significance Criteria	Cadry's Building (133 New South Head Road, Edgecliff)	Early Victorian sandstone cottage (549 Glenmore Road, Edgecliff)
a. Historic significance	Significant	Significant
b. Historic association significance	Significant	Unlikely to be significant
c. Aesthetic significance	Significant	Significant
d. Social significance	Unlikely to be significant	Unlikely to be significant
e. Research potential	May fulfil criterion	May fulfill criterion
f. Rarity	Significant	Significant
g. Representativeness	Significant	Significant

Council's assessment of significance determines that the Cadry's building satisfies the historic, associative, aesthetic, rarity and representative significance at a local level, and that the early

Victorian cottage satisfies the historic, aesthetic, rarity and representative significance at a local level. The Department concurs with Council's findings.

The objective of the planning proposal is to recognise and provide the statutory mechanism to protect the heritage significance of the sites.

The planning proposal states that the best and only means of achieving this objective is through the planning proposal process. The alternative options below would not provide the same level of heritage protection and recognition:

- Adding site-specific objectives and controls to Woollahra Development Control Plan 2015; or
- Including heritage conservation conditions to a potential development consent.

Council's position as outlined above is considered reasonable.

The Department notes that the scope of development which may occur on the sites is currently limited due to the land reservation affectation. A development application for more substantial changes, such as alterations or redevelopment, could not be approved as it would not be defined as "roads" pursuant to Clause 5.1A of the LEP. However, some minor works may be permissible in accordance with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as the sites are within the Paddington Heritage Conservation Area but not individually listed.

However, Council has submitted another planning proposal (PP-2021-6740) that seeks to remove the land reservation acquisition for road widening by Transport for NSW for the subject and other sites along New South Head Road in Edgecliff. If the removal of the LRA progresses and is finalised, then a much broader scope of change could potentially occur on the subject sites. In light of the heritage significance of the Cadry's building and the adjacent early Victorian cottage, there is merit for listing on Schedule 5 of the LEP to formally recognise their values and to ensure their on-going protection.

Notwithstanding correspondence from the Parliamentary Secretary for Transport and Roads to Woollahra Council dated 21 April 2020 indicates that Transport for NSW have no plans to remove the land reservations at this time. The heritage listing of the subject sites could affect the potential mechanisms for road widening and as such, it is recommended that Transport for NSW be consulted.

3 Strategic assessment

3.1 District Plan

The sites are within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for liveability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage	The planning proposal is consistent with this Priority as it seeks to provide the statutory mechanism to protect and respect the District's heritage. The proposal will recognise and provide on-going protection of the heritage significance of the buildings and their interiors through listing them on the Woollahra LEP 2014.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	The planning proposal is consistent with the endorsed Woollahra LSPS, particularly with Planning Priority 5 - *Conserving our rich and diverse heritage*, under the theme of *Liveability*. The proposal intends to facilitate the conservation and protection of the buildings and their interiors which have been identified as having local heritage significance in a heritage report prepared by Council.
Community Strategic Plan (CSP)	The planning proposal is consistent with Council's CSP, particularly with strategy 4.3 in Goal 4 (Well-planned neighbourhood) – *Protect our heritage, including significant architecture and the natural environment*. The proposal seeks to recognise and protect the local heritage significance of the sites.
Woollahra Local Housing Strategy (to be endorsed by the Department)	This strategy is applicable as the sites are located in the B4 Mixed Use zone, which permits housing such as boarding houses, dwelling houses, seniors housing and shop top housing, subject to development consent. The planning proposal would give effect to housing objective 3 of the strategy, which is to "*ensure housing conserves heritage, maintains local character and achieves design excellence*".

3.3 Local planning panel (LPP) recommendation

On 16 September 2021, the Woollahra LPP considered a report on the planning proposal for the local heritage listing of both sites and recommended Council proceed with the proposal and forward it to the Department for a Gateway determination.

Council accepted the LPP's advice at its meeting of 25 October 2021.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 Section 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.3 Heritage Conservation	Consistent	This Direction requires that a planning proposal must contain provisions which facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance, as identified in a study of the environmental heritage of the area. The planning proposal is informed by a heritage significance assessment. The assessment was undertaken in accordance with the NSW Heritage Office guidelines. The report concluded that the subject sites satisfy the relevant criteria for local heritage listing and thereby the proposal is warranted. The proposal will facilitate the conservation and protection of the sites and is therefore considered to be consistent with this Direction.
3.5 Development near regulated airports and defence airfields	Consistent	This Direction applies to a planning proposal for land near a regulated airport. The subject sites are affected by the Sydney (Kingsford-Smith) Airport Obstacle Limitation Surface map. However, the proposal does not increase the development potential of the site (e.g. building height) and is therefore consistent with the Direction.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

The new Housing SEPP has been finalised and commenced on 26 November 2021. A Gateway condition is recommended to require the planning proposal to be updated to address the Housing SEPP and remove repealed SEPPs prior to exhibition.

4 Site-specific assessment

4.1 Environmental

There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject sites. There are no likely environmental impacts that would arise as a result of the planning proposal.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	The planning proposal is unlikely to result in any adverse social impact. The heritage significance assessment states that a community survey has not been undertaken and the properties are not deemed to carry social significance based on the available evidence. While the sites are already in a heritage conservation area, listing the building and their interiors as individual heritage items will better conserve their values for the current and future generations.
Economic	There would be a minor economic impact as the heritage listing of the properties will prevent certain works from being carried out as exempt or complying development. However, the proposal does not change the zoning or development standards applicable to the sites and will facilitate conservation of their heritage significance.

4.3 Infrastructure

There is no significant infrastructure demand that will result from the planning proposal. The planning proposal does not involve any amendments to the planning controls that will facilitate intensified development. The sites have access to adequate public infrastructure such as water, sewer, electricity, telephone services and are nearby to transport services.

As discussed, the sites are subject to land reservation for the purposes of road widening under the Woollahra LEP. Council has submitted another planning proposal seeking to remove the land reservation affection for the subject and other sites along New South Head Road in Edgecliff. A previous correspondence from the Parliamentary Secretary for Transport and Roads to Woollahra Council dated 21 April 2020 indicates that Transport for NSW have no plans to remove the land reservations at this time, and that removing land reservations may hinder public transport opportunities.

Consultation with TfNSW is recommended as part of the Gateway so that the impact on the road reservation can be considered by TfNSW.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

Landowner consultation

The planning proposal states that Council staff contacted and informed the current landowners of Council's adopted Notice of Motion to assess the site with a view to a local heritage listing.

At the Environmental Planning Committee Meeting on 15 June 2021, the landowner, Mr Robert Cadry, addressed the Meeting expressing his support for the proposed listing of the site as a heritage item.

At the Woollahra Local Planning Panel meeting of 16 September 2021, Council officers recommended that the Cadry's building be listed as a local heritage item. However, the Panel resolved to also list the adjacent building at 549 Glenmore Road, Edgecliff because it meets the threshold for a heritage listing and is in the same ownership, among other things.

According to the planning proposal, Mr Cadry expressed support for the progression of a heritage listing for the adjoining site at 549 Glenmore Road, Edgecliff which is also in his company's ownership.

The Department notes the landowner will have further opportunity to provide feedback on the planning proposal during exhibition.

5.2 Agencies

Council has nominated to consult with both Heritage NSW, Department of Premier and Cabinet and National Trust of Australia (NSW) about the planning proposal. The Department notes that the latter is a non-government organisation.

Considering the planning context outlined above, it is recommended that Council be required to consult with the following agencies on the planning proposal. Agencies should be given 21 days to comment:

- Heritage NSW, Department of Premier and Cabinet; and
- Transport for NSW.

6 Timeframe

Council proposes an 8- month time frame to complete the LEP.

The Department considers this timeframe as being adequate.

A condition requiring completion of the proposed LEP on or before 31 August 2022 is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

However, given the sites are subject to land reservation with a State agency as the acquisition authority (Transport for NSW), the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed to public exhibition with conditions for the following reasons:

- The proposed heritage listing is supported by a heritage significance assessment report and inventory sheet which found that the Cadry's Building and the early Victorian sandstone cottage, including their interiors, are of local heritage significance. The heritage significance assessment has been undertaken in accordance with the NSW Heritage Office Guidelines;
- The proposal is consistent with the Eastern City District Plan, Council's local strategic plans, and relevant SEPPs and Section 9.1 Directions; and
- The implications of the proposed heritage listing on the existing land reservation affecting the sites can be ascertained and confirmed through consultation with Transport for NSW as the acquisition authority identified under the Woollahra LEP.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Include an advisory note that the heritage item numbers shown on the mapping are indicative only and will be subject to confirmation at the finalisation stage.
- Address the Housing SEPP and remove references to repealed housing related SEPPs.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, consultation must be undertaken with Transport for NSW with the results or response provided to the Department.
2. The planning proposal is to be updated to:
    - Include an advisory note that the heritage item numbers as shown on the mapping are indicative only and will be subject to confirmation at the finalisation stage; and
    - Address the Housing State Environmental Planning Policy 2021 (Housing SEPP) and remove references to repealed housing-related SEPPs.
3. Consultation is required with the following public authorities/agencies:
    - Heritage NSW, Department of Premier and Cabinet; and
    - Transport for NSW (refer to condition 1 above).
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The planning proposal must be exhibited not more than 4 months from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be on or before 31 August 2022.
7. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.

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