



IRF22/2942

## Plan finalisation report – PP-2021-6545

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Woollahra Local Environmental Plan 2014 –  
Amendment No. 26 – 133 New South Head Road and  
549 Glenmore Road, Edgecliff

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

Woollahra Local Environmental Plan (LEP) 2014 (Amendment No. 26).

### 1.1.2 Site description

**Table 1 Site description**

Site Description	The planning proposal applies to land at 133 New South Head Road and 549 Glenmore Road, Edgecliff
Type	Site
Council / LGA	Woollahra Local Government Area

The planning proposal relates to two properties as follows:

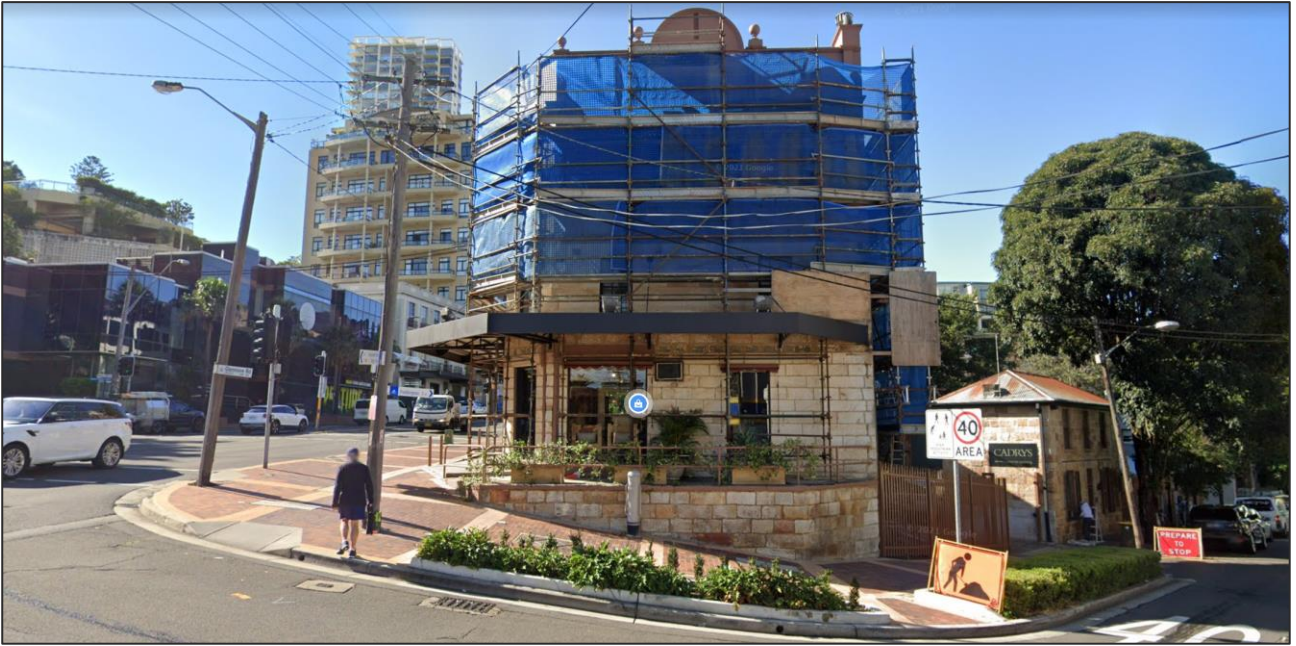
#### **Cadry's Building (former Rushcutters Bay Hotel)**

The land legally described as Lot 1 in DP 255233 is located at 133 New South Head Road, Edgecliff. It is located at the corner of New South Head Road and Glenmore Road. The site is irregular in shape and approximately 403m<sup>2</sup> 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.

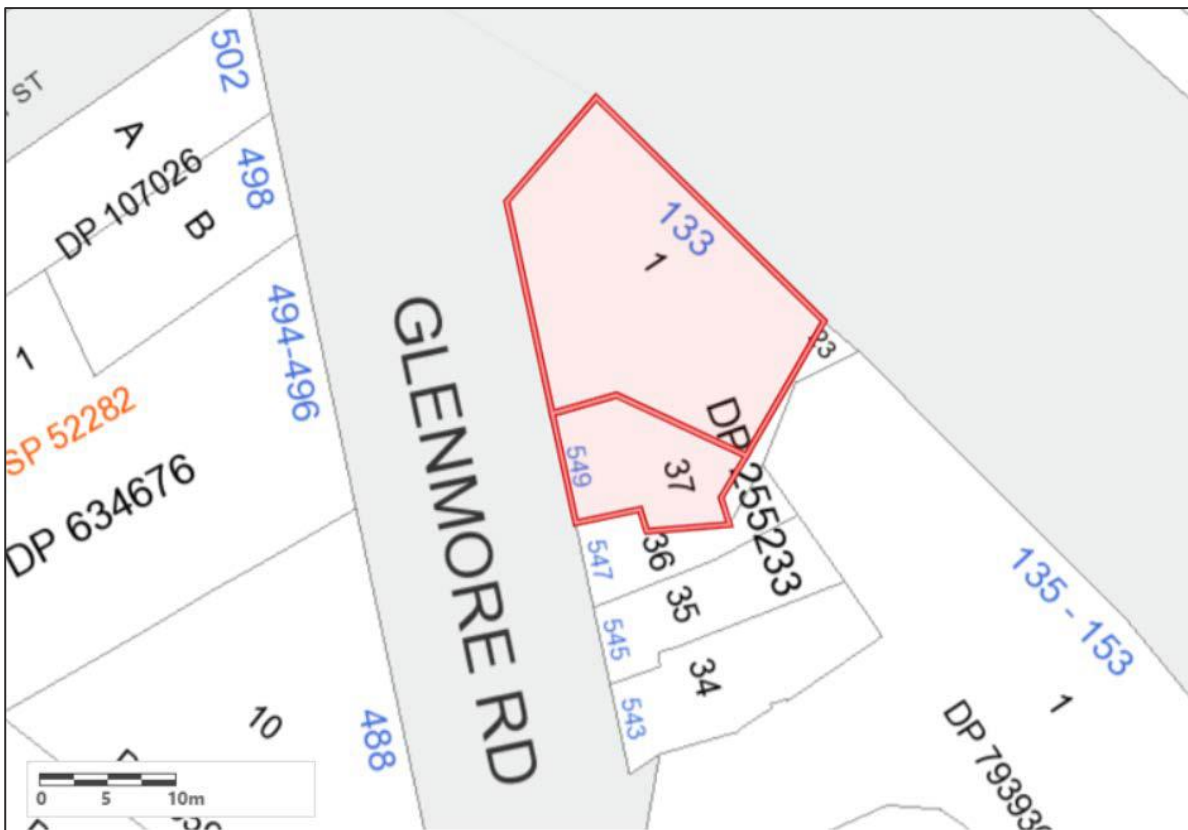
#### **549 Glenmore Road, Edgecliff**

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<sup>2</sup>. 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 Subject sites (Cadry's building at the middle, and the sandstone cottage to the right) as viewed from the corner of New South Head Road and Glenmore Road (Source: Google Street View, 2021)**



**Figure 2 Cadastral Map of subject sites (Source: Woollahra Council 2021)**

### 1.1.3 Purpose of plan

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 “Cadry’s Building (former Rushcutters Bay Hotel) and interiors” at 133 New South Head Road, Edgecliff; and
- Inserting a listing for the immediately adjacent “Early Victorian sandstone cottage and interiors” at 549 Glenmore Road, Edgecliff.

The proposal also requires amendment to the Heritage Map (Sheet HER\_003A) to identify two heritage items at 133 New South Head Road, Edgecliff and 549 Glenmore Road, Edgecliff respectively.

#### 1.1.4 State electorate and local member

The site falls within the Sydney state electorate. Alex Greenwich MP is the State Member.

The site falls within the Wentworth federal electorate. Allegra Spender MP is the Federal Member.

To the team’s knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 23/12/2021 determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

In accordance with the Gateway determination the proposal is due to be finalised on 31/08/2022. Council submitted the finalisation request on 15 July 2022. There has been no alteration to the Gateway.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 6/04/2022 to 20/05/2022 (44 days inclusive), consistent with the requirement of the Gateway.

A total of four submissions were received, comprising of three community submissions and one from Transport for NSW (TfNSW). All community submissions were in support of the proposal, including one from the Paddington Society. Council officers provided a summary of their consideration of the submissions received in the post-exhibition report to the Council’s Environmental Planning Committee dated 6 June 2022.

### 3.1 Submissions during exhibition

#### 3.1.1 Submissions supporting the proposal

Within these supporting submissions from the community, it was recommended that Council carries out an assessment of the heritage significance of the adjoining workers cottages at 543-547 Glenmore Road, Edgecliff. Woollahra Local Planning Panel (LPP) included this as an additional recommendation in their advice dated 16 September 2021 and Council resolved at its meeting dated 25 October 2021 to have this advice forming part of the future heritage work programme.

#### 3.1.2 Submissions objecting to and/or raising issues about the proposal

No community submissions objected to the proposal.



## 3.2 Advice from agencies

Condition 1 of the Gateway determination requires Council to consult with TfNSW prior to public exhibition. TfNSW provided feedback to Council on 29 March 2022, with the key information extracted below:

*“... both of these properties are located within the area identified for future transport improvements along New South Head Road and Glenmore Road... New South Head Road and the reserved land is part of an important public transport corridor from Darlinghurst to Bondi. One of the strategic visions in the corridor’s road network plan for the next 20 years is to provide a safe and reliable corridor that encourages the use of sustainable transport modes with efficient public transport services and high quality active transport facilities.*

*Due to the above, it is TfNSW’s preference not to list these buildings as local heritage items. However, local heritage matters fall under Council’s jurisdiction and should Council proceed with listing these two buildings as local heritage items, Council should be aware that TfNSW may acquire these two land parcels, if required, in the future once the type and extent of transport improvements are determined.”*

In accordance with condition 4 of the Gateway determination, Council was required to consult with the following agencies:

- Transport for New South Wales (TfNSW).
- Heritage for New South Wales.

**Table 2 Advice from public authorities**

Agency	Advice raised	Council response
TfNSW	TfNSW reiterated their comments of 29 March 2022, and expressed a preference for the listing to not proceed. However, it was also noted that should Council proceed with the heritage listing, it should be aware that TfNSW may acquire these two land parcels, if required, in the future once the type and extent of transport improvements are determined.	Council notes TfNSW’s comments, however does not consider that the comments warrant an amendment to the planning proposal as exhibited.  DPE comments:  TfNSW’s comments do not constitute an objection to the proposed heritage listing. Council’s position is concurred with.
Heritage NSW	Heritage NSW raised no objection and noted that local heritage listing falls within the jurisdiction of local councils.	The submission was received after the closing of the public exhibition and was considered by Council as a late correspondence. Council does not provide any response to this submission in the post-exhibition report.  DPE comments:  Heritage NSW’s comments are noted and there are no outstanding matters to address.

The Department considers Council has adequately addressed matters raised in the submissions from public authorities.

## 3.3 Post-exhibition changes

There were no post-exhibition changes made to the proposal.

## 4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to an adequate level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, State Environmental Planning Policies (SEPPs), Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal.

As outlined in the Gateway determination report, the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains consistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

**Table 3 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

**Table 4 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1



## 4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### 4.1.1 State Environmental Planning Policy (SEPP) Housing 2021

Condition 2(b) of the Gateway determination required the planning proposal to be updated to address SEPP Housing 2021 and remove references to the repealed housing related SEPPs.

The planning proposal has been updated to address the Housing SEPP and will not hinder its application.

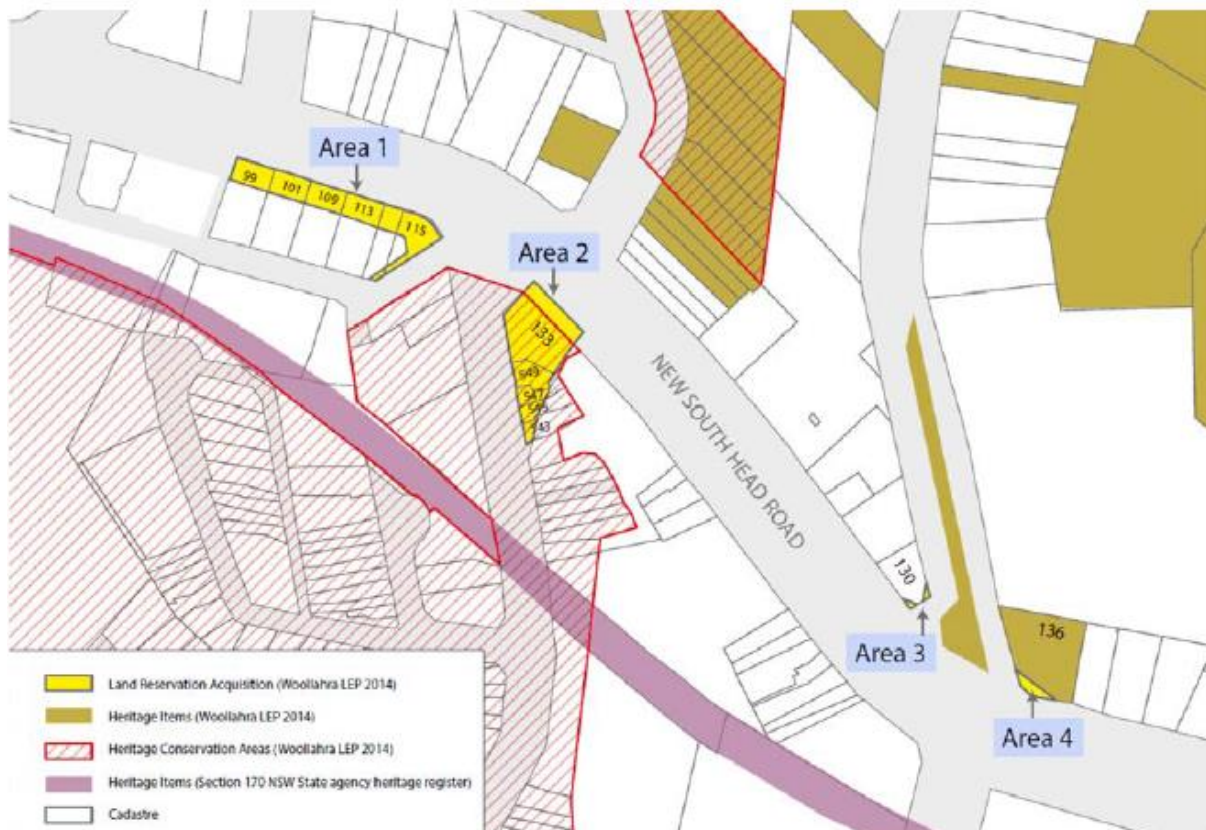
### 4.1.2 Indicative heritage item numbers on the mapping

Condition 2(a) of the Gateway Determination required the planning proposal 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.

The planning proposal has been updated to address the advisory note. The most updated item numbers have since been confirmed with Council.

### 4.1.3 Planning proposal – removal of road reservation in Edgecliff

The subject land is related to another planning proposal prepared by Council (PP-2021-6740), which sought to remove four areas of land acquisition reservation along New South Head Road in Edgecliff. The sites at 133 New South Head Road and 549 Glenmore Road fall within “Area 2” of the existing road reservation. Refer to **Figure 3** below.



**Figure 3 Existing land acquisition reservation in Edgecliff proposed to be removed by Council (Planning Proposal – PP-2021-6740)**

In June 2022, the Department issued a Gateway determination to not proceed with the above planning proposal, as the subject reserved land has been identified by TfNSW as part of an important public transport corridor; TfNSW, as the relevant acquisition authority, does not support the planning proposal; the proposal was inconsistent with relevant provisions of the District Plan and section 9.1 Direction – 5.2 Reserving Land for Public Purposes.

Council subsequently requested a Gateway determination review and the matter was heard by the Independent Planning Commission (IPC) on 10 October 2022.

With regard to “Area 2” of the road reservation, within which the subject sites are located, the IPC advised that:

*Area 2 is within a HCA and is soon to be listed as a heritage item... there appears to be no active/public transport works proposed for Areas 2 and 4, nor was the Commission presented with any material that would suggest demolition of the existing buildings should occur, contrary to their heritage status. Therefore, the Commission advises that the Acquisition Reservations for Area 2 and Area 4 should be considered for removal.*

The Department has carefully considered the IPC’s advice. As part of Gateway review process, TfNSW maintained that the road reservation should remain. It should also be noted that TfNSW’s submission on the subject planning proposal (PP-2021-6545) does not explicitly object to the heritage listing of the Cadry’s building and the adjoining Early Victorian cottage. Heritage listing is a separate planning matter to the road reservation and should TfNSW seek to acquire the land in future for the purposes of road widening or active/public transport improvements, it could be implemented pursuant to Clause 5.1 of the Woollahra LEP 2014.

The proposed heritage listing does not preclude future change to the properties but serves to ensure that the effect of such change, including demolition, on the significance of the sites will be considered as part of the planning and development process.

## 5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

**Table 5 Consultation following the Department’s assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	one map has been prepared by the Council and meets the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council confirmed on 26/08/2022 that it approved the draft and that the plan should be made, subject to a minor change to the item description. The draft LEP was subsequently amended to meet Council’s request.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 16 September 2022, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the Greater Sydney Region Plan, Eastern City District Plan, applicable SEPPs and section 9.1 Ministerial Directions and local strategic plans.
- The proposal has demonstrated that the sites have heritage significance and reach the threshold for listing at a local level.
- The proposal has satisfied the requirements of the Gateway Determination.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.



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13/12/2022

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