



IRF22/1798

## Gateway determination report – PP-2022-1547

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Proposal to list 53 and 55 Drumalbyn Road, Bellevue Hill as Local Heritage Items

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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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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal – April 2022
Assessment of Heritage Significance 53 Drumalbyn Road, Bellevue Hill – 8 March 2022
Assessment of Heritage Significance 55 Drumalbyn Road, Bellevue Hill – 8 March 2022
Woollahra Local Planning Panel minutes – 17 March 2022
Woollahra Municipal Council resolution – 11 April 2022
Preliminary Assessment of Heritage Significance 53 & 55 Drumalbyn Road, Bellevue Hill – 16 December 2021
NSW Government Gazette No. 646 – 17 December 2021
Letter to Department from Boskovitz Lawyers – 10 May 2022
Letter to Department from Boskovitz Lawyers – 17 May 2022
Woollahra Council Heritage Gap Analysis – October 2021
Addendum on Comparative Analysis for 53 Drumalbyn Road, Bellevue Hill (additional information received on 7 June 2022)
Addendum on Comparative Analysis for 55 Drumalbyn Road, Bellevue Hill (additional information received on 7 June 2022)

# 1 Planning proposal

## 1.1 Overview

The planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 to list 53 and 55 Drumalbyn Road, Bellevue Hill within the Woollahra Local Government Area (LGA) as local heritage items.

The planning proposal is supported by the following reports:

- Assessment of Heritage Significance report – 53 Drumalbyn Road, Bellevue Hill and Addendum on Comparative Analysis for 53 Drumalbyn Road, Bellevue Hill.
- Assessment of Heritage Significance report – 55 Drumalbyn Road, Bellevue Hill and Addendum on Comparative Analysis for 55 Drumalbyn Road, Bellevue Hill.

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Woollahra</b>
<b>PPA</b>	<b>Woollahra Municipal Council</b>
<b>NAME</b>	<b>Local heritage listing of 53 and 55 Drumalbyn Road, Bellevue Hill</b>
<b>NUMBER</b>	<b>PP-2022-1547</b>
<b>LEP TO BE AMENDED</b>	<b>Woollahra Local Environmental Plan 2014</b>
<b>ADDRESS</b>	<b>53 Drumalbyn Road, Bellevue Hill (Lot 3 DP 316390) and 55 Drumalbyn Road, Bellevue Hill (Lot B DP 186880)</b>
<b>DESCRIPTION</b>	<b>Listing of 53 and 55 Drumalbyn Road, Bellevue Hill as local heritage items and amendment of Heritage Map to identify two additional heritage items at their respective addresses</b>
<b>RECEIVED</b>	<b>29/04/2022</b>
<b>FILE NO.</b>	<b>IRF22/1798</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

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

The objectives of the planning proposal are to:

- amend Woollahra Local Environmental Plan 2014 to insert 53 Drumalbyn Road, Bellevue Hill and 55 Drumalbyn Road, Bellevue Hill as new local heritage items by listing them in Part 1 Heritage Items of Schedule 5 Environmental heritage; and
- amend the Heritage Map to identify new local heritage items at their respective addresses.

The listing of the sites as heritage items of local significance is consistent with the findings of the heritage significance assessment reports undertaken by Robertson & Hindmarsh Pty. Ltd., which were commissioned by Council.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Woollahra LEP 2014 per the changes below:

- insert 53 Drumalbyn Road, Bellevue Hill and 55 Drumalbyn Road, Bellevue Hill as new local heritage items by listing them in Part 1, Schedule 5 to the LEP; and
- amend the Heritage Map to identify the subject sites as local heritage items.

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

The planning proposal describes the property at 53 Drumalbyn Road as: “*House (including interiors), garage, outbuilding, gardens (including retaining walls)*”; and 55 Drumalbyn as “*House (including interiors), garage, outbuilding, gardens (including retaining walls)*”. These item details are also stated in the heritage inventory sheets attached to the heritage reports.

The Department notes these details may inform the future description of these items in Schedule 5 of the LEP.

## 1.4 Site description and surrounding area

The planning proposal relates to two sites at 53 Drumalbyn Road and 55 Drumalbyn Road, Bellevue Hill. Both sites are adjacent to each other. The sites are identified and described in the table below:

**Table 3 Site identification – 53 Drumalbyn road, Bellevue Hill**

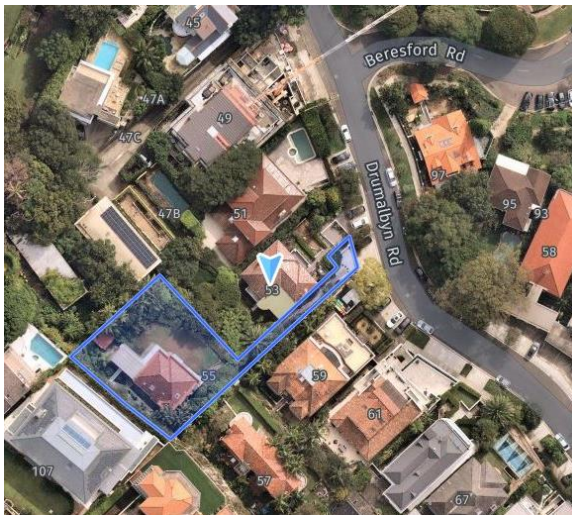

<b>Address</b>	53 Drumalbyn Road, Bellevue Hill (Lot 3 DP 316390)
<b>Description</b>	A two-storey residential building with terracotta tile roof. The building is setback from the street frontage. The planning proposal and heritage assessment make reference to the building interiors, outbuilding, garage and garden.
<b>Site context</b>	<p>The site is zoned R2 Low Density Residential and has maximum permitted building height of 9.5m. There is no floor space ratio identified for the site. The site has a north eastern frontage to Drumalbyn Road and encompasses a total site area of approximately 670sqm. The site is not located within a heritage conservation area. The closest listed local heritage item is approximately 750m away to the south of the site.</p> <p>The site and the adjacent properties facing Drumalbyn Road follow the topography of the area with frontage of buildings above the street level.</p>

<b>Address</b>	53 Drumalbyn Road, Bellevue Hill (Lot 3 DP 316390)
	The closest strategic centre is Bondi Junction, 2km away and the closest key local centre is Double Bay, 2.3km away. The site is located within an established residential neighbourhood, comprises of low to medium residential uses and is in close proximity to Woollahra Golf Club.
<b>Map</b>	 <p><b>Figure 1 The site shown by blue outline (source: Nearmap)</b></p>
<b>Site photo</b>	 <p><b>Figure 2 The site as viewed from Drumalbyn Road (source: Planning Proposal)</b></p>

Table 4 Site identification – 55 Drumalbyn Road, Bellevue Hill

<b>Address</b>	55 Drumalbyn Road, Bellevue Hill (Lot B DP 186880)
<b>Description</b>	A two-storey residential building with exterior walls of brick and a flat roof. The site is a battle-axe block with no street frontage. The planning proposal and heritage assessment make reference to the building interiors, outbuilding, garage and garden.



<b>Address</b>	55 Drumalbyn Road, Bellevue Hill (Lot B DP 186880)
<b>Site context</b>	<p>The site is zoned R2 Low Density Residential and has maximum permitted building height of 9.5m. There is no floor space ratio identified for the site. The site encompasses a total site area of approximately 1100sqm and is not located within a heritage conservation area. The closest listed local heritage item is approximately 750m away to the south of the site.</p> <p>The closest strategic centre is Bondi Junction, 2km away and the closest key local centre is Double Bay, 2.3km away. The site is located within established residentially neighbourhood, comprises of low to medium density residential uses and is in close proximity to Woollahra Golf Club.</p>
<b>Map</b>	 <p><b>Figure 3 The site shown by the blue outline (source: Nearmap)</b></p>
<b>Site photo</b>	 <p><b>Figure 4 The front elevation of the building (source: Planning Proposal)</b></p>

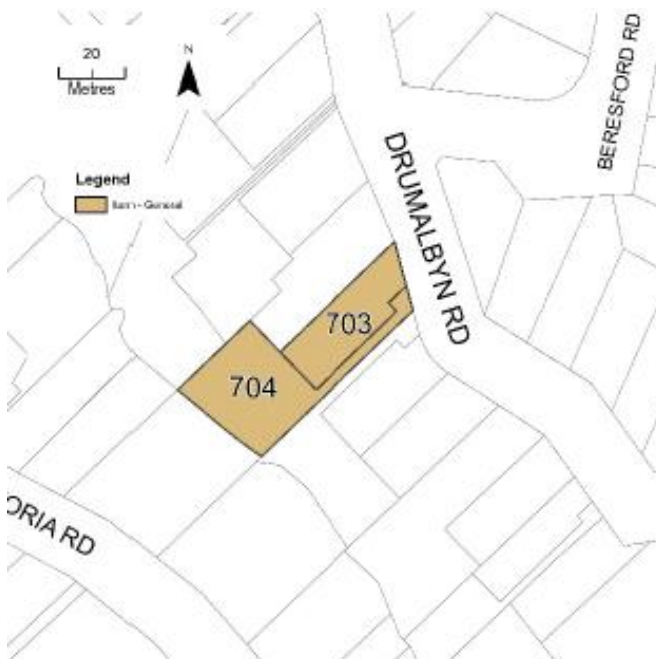


## 1.5 Mapping

The planning proposal includes figures (**Figure 5 and 6**) to identify the new local heritage items in the Heritage Map. The proposed mapping in the planning proposal is deemed appropriate for the purpose of exhibition and community consultation.



**Figure 5 Current Heritage Map, Woollahra LEP 2014 (source: Planning Proposal)**



**Figure 6 Proposed Heritage Map with indicative item numbers (source: Planning Proposal)**

## 1.6 Background

The following background is relevant to the planning proposal:

- 22 September 2021 – Council received a development application to construct a new seniors housing development by demolishing existing buildings on 53 and 55 Drumalbyn Road, Bellevue Hill and amalgamating the two sites.
- Council subsequently engaged heritage consultant Robertson & Hindmarsh Pty Ltd to undertake preliminary assessment of the properties and their potential significance against the NSW Heritage Office guideline for listing at a local level.
- 16 December 2021 – The preliminary assessment of heritage significance report by Robertson & Hindmarsh Pty Ltd concluded the two sites potentially meet the threshold for listing as local heritage items under the following criteria (listed in Table 5 below), and recommended an Interim Heritage Order be made to fully investigate their significance.

**Table 5 Preliminary assessment of sites against NSW Heritage Office guideline**

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
Criteria (a) Historical	Criteria (a) Historical
Criteria (b) Association	Criteria (c) Aesthetic
Criteria (c) Aesthetic	Criteria (f) Rarity
Criteria (f) Rarity	Criteria (g) Representativeness
Criteria (g) Representativeness	

- Based on the recommendation, Council under the Ministerial Order, section 25 of the Heritage Act 1977 proceeded to make two Interim Heritage Orders (IHOs). The Director of Planning and Place authorised the making of the two IHOs.
- 17 December 2021 – The IHOs were published in *the NSW Government Gazette No. 646 – Local Government*. The Government Gazette notified that the IHOs will lapse after six months from the date unless the local council has passed a resolution for seeking statutory listing of the items before the date.
- 17 December 2021 – The proponent lodged a class 1 appeal in the Land and Environment Court against the IHOs and the deemed refusal of the development application for seniors housing. Both the appeals are currently progressing in tandem with each other.
- 1 March 2022 – As part of a full heritage assessment, a site inspection was undertaken. Inspection included interiors, gardens, and outbuildings of both sites. The owner of the property at 53 Drumalbyn Road did not permit photographic recording of the inside of the site.
- 8 March 2022 - The Draft Assessment of Heritage Significance reports concluded that the two sites meet the threshold to be items of local heritage significance under the following respective criteria (listed in the Table 6 below) and recommended the house (including interiors), garage, outbuilding, garden (including retaining walls) of both properties be listed as local heritage items on Schedule 5 of the Woollahra LEP 2014.

**Table 6 Heritage significance reports - assessment of sites against NSW Heritage Office guideline**

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
Criteria (a) Historic	Criteria (a) Historic
Criteria (b) Association	Criteria (b) Association
Criteria (c) Aesthetic	Criteria (c) Aesthetic
Criteria (f) Rarity	Criteria (f) Rarity
Criteria (g) Representative	Criteria (g) Representative

- 17 March 2022 – The Woollahra Local Planning Panel (LPP) supported the staff recommendation and refused the development application for the subject sites. The LPP supported the planning proposal and recommended Council staff to investigate potential nomination of the sites for listing on the State Heritage Register.
- 11 April 2022 – Council resolved to endorse the planning proposal and forward it to the Department for Gateway determination. It was also resolved that Council progress the heritage program under the adopted *Woollahra Heritage Gap Analysis*, including a Modern heritage study. The *Woollahra Heritage Gap Analysis* prepared by Council identifies an action to investigate and list buildings with modernist influence as heritage items as a high priority.
- 28 April 2022 – The landowner's legal representative wrote to the Minister raising concerns regarding the process taken by Council for the proposed listing of the properties as local heritage items.
- 29 April 2022 – Council submitted the subject planning proposal to the Department for Gateway determination.
- 10 May 2022 – The Department received correspondence from the landowner's legal representative raising concerns around the process taken by Council for the proposed heritage listing and arguing that the planning proposal lacks merit. The correspondence also attached heritage studies and statements commissioned by the landowner, which conclude the sites do not warrant heritage listing.
- 17 May 2022 – The Department received further correspondence from the landowner's legal representative asserting that the planning proposal lacks strategic and site-specific merits.
- 3 June 2022 – The Department requested Council to provide additional information, including further details relating to the comparative analysis and assessment of significance in Council's heritage reports, as well as confirmation of any Aboriginal sites at the properties.
- 7 June 2022 – Council provided addendums to the comparative analysis and additional information relating to the proposed listing.

## 2 Need for the planning proposal

This planning proposal is a result of Council's motion for preliminary assessment of potential heritage listing of the sites at 53 and 55 Drumalbyn Road, Bellevue Hill. The planning proposal is based on the recommendations of a heritage assessment undertaken by Robertson & Hindmarsh Pty. Ltd. The review concluded that both sites meet the threshold for listing as local heritage items.

Council resolved to note advice provided by the Woollahra Local Planning Panel and forward the planning proposal to the Department with a request for a Gateway determination.

The planning proposal seeks to heritage list the sites to provide ongoing protection and recognition of the heritage significance of the sites and allow for better conservation management of the properties.

The planning proposal is the only means to alter Part 1 Schedule 5 of Woollahra LEP 2014 to reflect the local heritage significance of the sites and allow for the appropriate provisions for conservation management.

Council considers that the planning proposal is consistent with the objectives and directions of Greater Sydney Commission's Region Plan, the Eastern City District Plan and Council's Local Strategic Planning Statement.

### Assessment of heritage significance

The heritage significance of the sites has been assessed in accordance with the *Assessing Heritage Significance* guideline published by NSW Heritage Office in 2001. Both sites were assessed against the seven criteria included in the Heritage Office Guideline. If an item meets one of the seven listing criteria at a local level and retains the integrity of its key attributes, it can be considered to have local heritage significance. The key findings of this assessment are summarised in Table 7 below.

**Table 7 Heritage significance report assessment of sites against NSW Heritage Office guideline**

Site	a) Historical	b) Associative	c) Aesthetic	d) Social	e) Research	f) Rarity	g) Representativeness
53 Drumalbyn Road, Bellevue Hill	✓	✓	✓	✗	✗	✓	✓
55 Drumalbyn Road, Bellevue Hill	✓	✓	✓	✗	✗	✓	✓

#### Criterion (a) Historical Significance

With regard to 'historical significance', the sites have cultural significance at a local level on account of:

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
<p>The site is an example of Charles Bohringer's pared-back domestic architecture.</p> <p>The site is indicative of the lifestyle of the lower echelons and of the upper middle class during the interwar period.</p>	<p>The site is an example of Modernist residential architecture and reflects the first wave of Modernism.</p> <p>The site is indicative of the lifestyle of the upper middle class during the interwar period.</p>

#### Criterion (b) Associative Significance

With regard to 'associative significance', the sites have cultural significance at a local level on account of:

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
The existing development on the site is associated with the architectural firm of Bohringer, Taylor and Johnson Pty Ltd and developer High Standard Constructions Ltd.	<p>The site is associated with owners such as the Cole's family of magicians, escapologists and illusionists.</p> <p>The site is associated with architects such as P. Gordon Craig and John M. Brindley.</p>

### Criterion (c) Aesthetic Significance

With regard to 'aesthetic significance', the sites have cultural significance at a local level on account of:

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
<p>The site is one of a very few remaining examples of interwar Spanish style architecture in the local area. The site was part of a group of similar architectural buildings constructed in Drumalbyn Road.</p> <p>The site incorporates design responses to its topography through terracing of gardens. The structural elements such as retaining wall are also part of the architectural aesthetics presenting a front garden wall to the street.</p>	<p>The site is one of a very few examples left of the Modernist style architecture from the interwar period in the local area.</p> <p>The site takes advantage of its topography through terracing of the gardens.</p>

### Criterion (d) Social Significance

The heritage assessment does not find any strong or special association with a particular community or cultural group for social, cultural or spiritual reasons.

### Criterion (e) Research Potential

The heritage assessment does not indicate these sites as having potential to yield information that will contribute to an understanding of NSW's or the local area's cultural or natural history.

### Criterion (f) Rarity

With regard to 'rarity', the sites have cultural significance at a local level on account of:

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
The site provides rare evidence of original planning such as live-in maid's accommodation which no longer exists.	The site provides evidence of its rare interwar Functionalist style of architecture with provision such as two live-in maid's accommodation which no longer exists.

### Criterion (g) Representativeness

With regard to 'representativeness', the sites have cultural significance at a local level on account of:

53 Drumalbyn Road, Bellevue Hill	55 Drumalbyn Road, Bellevue Hill
The site represents an example of an interwar Spanish style house with characteristics of the architectural style as practised in Australia.	The site represents example of rare style of architecture of an interwar Modernist villa.

In summary, both sites have been assessed to meet five (5) of the seven (7) criteria for heritage listing at a local level. The following matters are noted during the assessment of the proposal:

- One of the limitations noted in the planning proposal is that photographic recording of the interiors was not carried out at 53 Drumalbyn Road, Bellevue Hill as the owner denied permission. Council's heritage assessment report relied on the consultant's observation and working notes during the site visit and photographs available online. The Department has been provided with heritage reports prepared by GBA Heritage Pty. Ltd. (dated April 2022) for the landowners. These reports have included photographs of the interior of the house, terrace/garden areas and a small storage outbuilding. Council has also provided the Department a copy of an Aboriginal heritage impact assessment (dated November 2021) commissioned by the landowners for a development application for the subject sites, which has additional photographs of the properties. The Department is able to review Council's heritage assessment against the available sources of photographic evidence.
- Council's heritage assessment reports have included draft inventory sheets. The inventory sheets contain an assessment against the "inclusion and exclusion" guidelines under the Heritage Office Guideline, which supplements the assessment of significance in the main body of the reports. The Department notes a minor omission in the assessment against the "inclusion and exclusion" guidelines for the historical criterion (criterion 'a'), and will advise Council to rectify this prior to exhibition.
- Council's heritage assessment reports contain a comparative analysis with examples from: works of the same architectural firm/designer and buildings of similar typology / era within the LGA (as well as other locations for certain examples). A list of heritage items belonging to the same architectural styles within the LGA has also been included. The comparison to buildings of similar typology / era only contains a photograph, year of construction, designer and heritage listing (if any) for each example, but without any commentary on their significance. On 7 June 2022, Council provided addendums to the comparative analysis confirming whether the cited examples are extant or demolished and including additional details of their heritage listing. It is considered that the comparative analysis should also include commentaries describing the significance or key elements/features of the selected examples to support the assessment of significance. A Gateway condition is therefore recommended to require this information to be incorporated in the planning proposal package prior to exhibition.
- The site at 55 Drumalbyn Road, Bellevue Hill is situated on a slope backing to an overhanging rock shelf. The topographical characteristics may suggest the sites have Aboriginal heritage sensitivity. Council provided a copy of an Aboriginal heritage assessment report prepared by Coast History & Heritage (dated November 2021) and commissioned by the landowners for the purposes of a development application for the sites. The report has included a check against the Aboriginal Heritage Information Management System (AHIMS) identifying that the subject properties do not contain any recorded Aboriginal sites (objects or places). The report notes that no Aboriginal objects, engravings or pigment art were found during site inspection. The subject planning proposal relates to listing of historic, European heritage. The available information is sufficient to enable an understanding of the site characteristics for the purposes of the planning proposal. Aboriginal heritage is subject to protection under the *National Parks and Wildlife Act*, and any Aboriginal heritage issues could be considered as part of any future development application.

The Department considers that subject to resolution of the above matters, the proposal would be adequate for community consultation. An appropriate Gateway condition has been recommended to give effect to the above.



## Landowner's submission

The landowner's concerns (via correspondence and supporting documents from their legal representative) regarding the process taken by Council for the proposed heritage listing are noted. A Council authorised under section 25 of the *Heritage Act 1977* may make an IHO for a place if the Council considers it may, upon further investigation, be found to have local heritage significance, and that the Council considers is being or is likely to be harmed.

A planning proposal forms part of the plan making process under the *Environmental Planning and Assessment Act 1979* required to amend a Council's LEP to list a place as a local heritage item.

As such, the current legislations allow a Council to pursue heritage listing of a place on its LEP via a planning proposal, and where relevant, make an IHO to provide temporary protection of the place while a heritage assessment is being carried out.

The proposed listing of the sites 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 sites through the application of Clause 5.10 of the Woollahra LEP 2014.

The proposed listing does not preclude any future development of the properties, such as change of use, renovation, alterations, additions or adaptation. 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 part of the development application process, the consent authority may require a heritage management document (e.g. heritage conservation management plan or heritage impact statement) to be prepared to assess the effect of the development and to enable informed decisions to be made. As such, the proposed heritage listing is not considered to unreasonably restrict future development of the site. It will ensure due process will be undertaken that considers the potential impacts on the heritage significance.

During exhibition of the planning proposal, any members of the community may make a submission to Council. Council as the planning proposal authority will consider any submissions made to inform its decision as to whether the planning proposal should be finalised.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan: *A Metropolis of Three Cities*.

**Table 8 Regional Plan assessment**

Regional Plan Objectives	Justification
13: Environmental heritage is identified, conserved, and enhanced.	<p>It notes that environmental heritage should be protected for its social, aesthetic, economic, historic and environmental values.</p> <p>The Council's heritage assessment considers the sites should be identified as local heritage items under the Woollahra LEP 2014 as each item has reached the threshold for listing at a local level.</p> <p>The planning proposal is consistent with this objective as it seeks to recognise and protect the identified heritage values. The proposal seeks to protect and conserve the subject sites, which have been identified as having local heritage significance.</p> <p>The proposal is considered to be consistent with the Region Plan.</p>

## 3.2 District Plan

The site is within the Eastern City District and the Greater Cities Commission (formerly 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 9 District Plan assessment**

District Plan Priorities	Justification
<p>E6: Creating and renewing great places and local centres and respecting the District's heritage.</p> <ul style="list-style-type: none"> <li>Objective 13: Environmental heritage is identified, conserved, and enhanced.</li> </ul>	<p>The proposal seeks to identify, protect and respect the District's heritage by listing the sites as local heritage items in the Woollahra LEP. The statutory heritage listing would facilitate conservation of the heritage significance of the sites.</p> <p>The proposal is considered to be consistent with the District Plan.</p>

## 3.3 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 10 Local strategic planning assessment**

Local Strategies	Justification
Woollahra Local Strategic Planning Statement	<p><i>Planning priority 5: Conserving our rich and diverse heritage.</i></p> <p>The planning proposal is consistent with the priority as the proposal seeks to conserve, protect and show case the heritage significance of the local government area.</p> <p>The proposal is consistent with the objectives of the LSPS.</p>

Woollahra – 2030 Our community, our place, our plan	<p><i>Goal 4: Well-planned neighbourhoods.</i></p> <ul style="list-style-type: none"> <li>4.3: <i>Protect our heritage, including significant architecture and the natural environment</i></li> </ul> <p>The planning proposal is consistent with this goal as it promotes vision for Woollahra. The proposal protects the subject sites which is of local heritage significance.</p>
Woollahra Heritage Gap Analysis	<p><i>Goal 4B Remain vigilant on development threats</i></p> <p>The planning proposal's supporting heritage assessment reports identify the sites to be of heritage significance and warrant statutory listing. The planning proposal responds to a potential threat to the on-going conservation of the existing buildings, which have been found to have heritage significance. The proposal is consistent with this goal of the Heritage Gap Analysis.</p>

### 3.4 Local planning panel (LPP) recommendation

Pursuant to the Ministerial Direction relating to Local Planning Panels, Council referred the planning proposal to the Woollahra LPP for advice.

On 17 March 2022, the Woollahra LPP supported the planning proposal to list the house (including interiors), garage, outbuilding, gardens (including retaining walls) at 53 and 55 Drumalbyn Road, Bellevue Hill as local heritage items.

The LPP recommended Council proceed with the proposal and forward it to the Department for a Gateway determination, and to investigate nomination and listing of the sites on the State Heritage Register.

Council resolved to accept the LPP advice at its meeting on 11 April 2022.

The Department notes that any proposed listing of the sites on the State Heritage Register is outside the scope of this planning proposal.

### 3.5 Section 9.1 Ministerial Directions

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

**Table 11 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	<p>This Direction applies to the planning proposal as it gives effect to the regional plan directions and actions.</p> <p>The proposal is considered to be consistent with the Direction.</p>

3.3 Heritage Conservation	Yes	<p>The Direction applies to the planning proposal as it conserves an item of environmental heritage significance. The Direction requires that a planning proposal contain provisions that facilitate the conservation of items identified in a study of environmental heritage significance. The planning proposal is informed by a heritage assessment undertaken in accordance with the NSW Heritage Office guideline. The assessment concluded that the subject sites satisfy the relevant criteria for a local heritage listing and thereby the proposal is warranted. The proposal will facilitate the conservation and protection of these sites.</p> <p>The proposal is consistent with this Direction.</p>
6.1 Residential Zones	Yes	<p>This Direction applies to any planning proposal that would affect land within an existing residential zone. Both sites are located within R2 zone.</p> <p>The proposal does not alter the existing residential zoning or development standards applicable to the sites.</p> <p>The listing of the sites as local heritage items would require any future development application for the sites to be assessed against the provisions of Clause 5.10 <i>Heritage Conservation</i> under the Woollahra LEP 2014.</p> <p>The planning proposal is consistent with this Direction.</p>

## 3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

The need for the planning proposal has arisen from the recommendations of a heritage significance assessment. The proposal would facilitate the conservation of the sites which have been found to have heritage significance.

### 4.2 Social and economic

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

**Table 12 Social and economic impact assessment**

Social and Economic Impact	Assessment
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Social	<p>The planning proposal is unlikely to result in any adverse social impact. Listing the sites as heritage items will provide the community with greater certainty about the heritage significance of the sites and help to conserve their significance.</p> <p>Additionally, the public exhibition of the planning proposal will provide additional opportunity for the wider community to determine whether the proposed heritage listing is supported and appropriate.</p>
Economic	<p>There would be a minor economic impact to the landowner as the heritage listing of the properties may require specialist heritage studies to form part of a development application submission. However, the proposal does not change the zoning or development standards applicable to the sites and will facilitate conservation of their heritage significance. As discussed above, the proposed listing means that the consent authority will need to consider the effect of any future development on the heritage significance of the site pursuant to Cl. 5.10 of the LEP, it does not prohibit change or development as such. The proposal is considered to have an acceptable economic impact.</p>

## 4.3 Infrastructure

The planning proposal does not require any additional 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 proposal seeks to list the sites as items of local heritage significance and would not have material implications on infrastructure demand.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

This timeframe is consistent with the Department's *Local Environmental Plan Making Guideline 2021* (LEP Making Guideline) timeframe of 20 working days for a standard planning proposal. A Gateway condition has been included to require the planning proposal be exhibited for 20 working days, consistent with the benchmark timeframes in the Guideline.

### 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Heritage NSW, Department of Planning and Environment
- National Trust of Australia, NSW

## 6 Timeframe

Council proposes a six month time frame to complete the LEP (that is, by 31 December 2022).

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect 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.

The proposed heritage listing is considered a local matter, and is consistent with all strategic documents, including Section 9.1 directions and SEPPs. A condition has been recommended to require consultation with Heritage NSW and the National Trust of Australia for any expert advice on the proposed heritage listing. Having regard to the above reasons the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

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

- It is supported by heritage assessment reports that identify the subject sites as being of local heritage significance, and the assessment is in accordance with the NSW Heritage Office Guidelines.
- It is consistent with the direction and priorities of the Greater Sydney Region Plan, Eastern City District Plan, Woollahra Local Strategic Planning Statement, Woollahra Community Strategic Plan, Woollahra Heritage Gap Analysis, the relevant SEPPs and the Section 9.1 Ministerial Directions.
- It will recognise and provide ongoing protection and allow for better conservation management of the sites which have been identified to be of local heritage significance.

Based on the Department's assessment, the following amendments to the planning proposal should be made prior to exhibition:

- Provide commentaries on the heritage significance and/or key elements or features of each of the selected examples in the Comparative Analysis in section 8 of the Assessment of Heritage Significance report for both proposed items. This may take the form of an amendment to the reports or as an addendum.

## 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 community consultation, the planning proposal is to be updated to:
  - Provide commentaries on the heritage significance and/or key elements or features of each of the selected examples in the Comparative Analysis in section 8 of the Assessment of Heritage Significance reports for No. 53 and No. 55 Drumalbyn Road, Bellevue Hill. This may take the form of an amendment to the reports or as an addendum.
2. Consultation is required with the following public authorities/organisations:
  - Heritage NSW (Department of Planning and Environment)
  - National Trust of Australia (NSW)
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

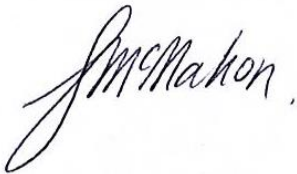


4. The planning proposal must be exhibited not more than 2 months from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be 7 months from the date of the Gateway determination.
6. The planning proposal must be reported to Council for a final recommendation not more than 5 months from the date of the Gateway determination.
7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



8 June 2022

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Manager, Place and Infrastructure



16 June 2022

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