

Item No: D1
Subject: **HERITAGE LISTING OF 53 AND 55 DRUMALBYN ROAD, BELLEVUE HILL**
Author: Flavia Scardamaglia, Strategic Heritage Officer
Approver: Anne White, Manager - Strategic Planning
File No: 22/21993
Purpose of the Report: To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to list 53 and 55 Drumalbyn Road, Bellevue Hill as local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list the following as local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014:

- A. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 53 Drumalbyn Road, Bellevue Hill.
- B. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 55 Drumalbyn Road, Bellevue Hill.

Executive Summary:

The purpose of this report is to seek the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the listing of the following properties as local heritage items in Schedule 5 and the Heritage Map of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014):

- 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 53 Drumalbyn Road, Bellevue Hill 2023 (Lot 3, DP 316390)
- 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 55 Drumalbyn Road, Bellevue Hill 2023 (Lot B, DP 186880)

We recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 4**.

Discussion:

Reason for report to the Woollahra Local Planning Panel

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - a) the correction of an obvious error in a local environmental plan
 - b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
- When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.

- A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

The sites

The land at 53 Drumalbyn Road Bellevue Hill at Lot 3, DP 316390, is an Inter-War Spanish Mission house designed by Bohringer Taylor & Johnson for G J Wells in 1929 (see **Figure 1, 2 & 3** below).

The land at 55 Drumalbyn Road Bellevue Hill at Lot B, DP 186880 (see **Figure 1, 4 & 5** below) is an Inter-War Functionalist house designed by Craig & Brindley for A K Jones in 1937.

Neither properties have statutory heritage protection, and neither are located in a heritage conservation area.

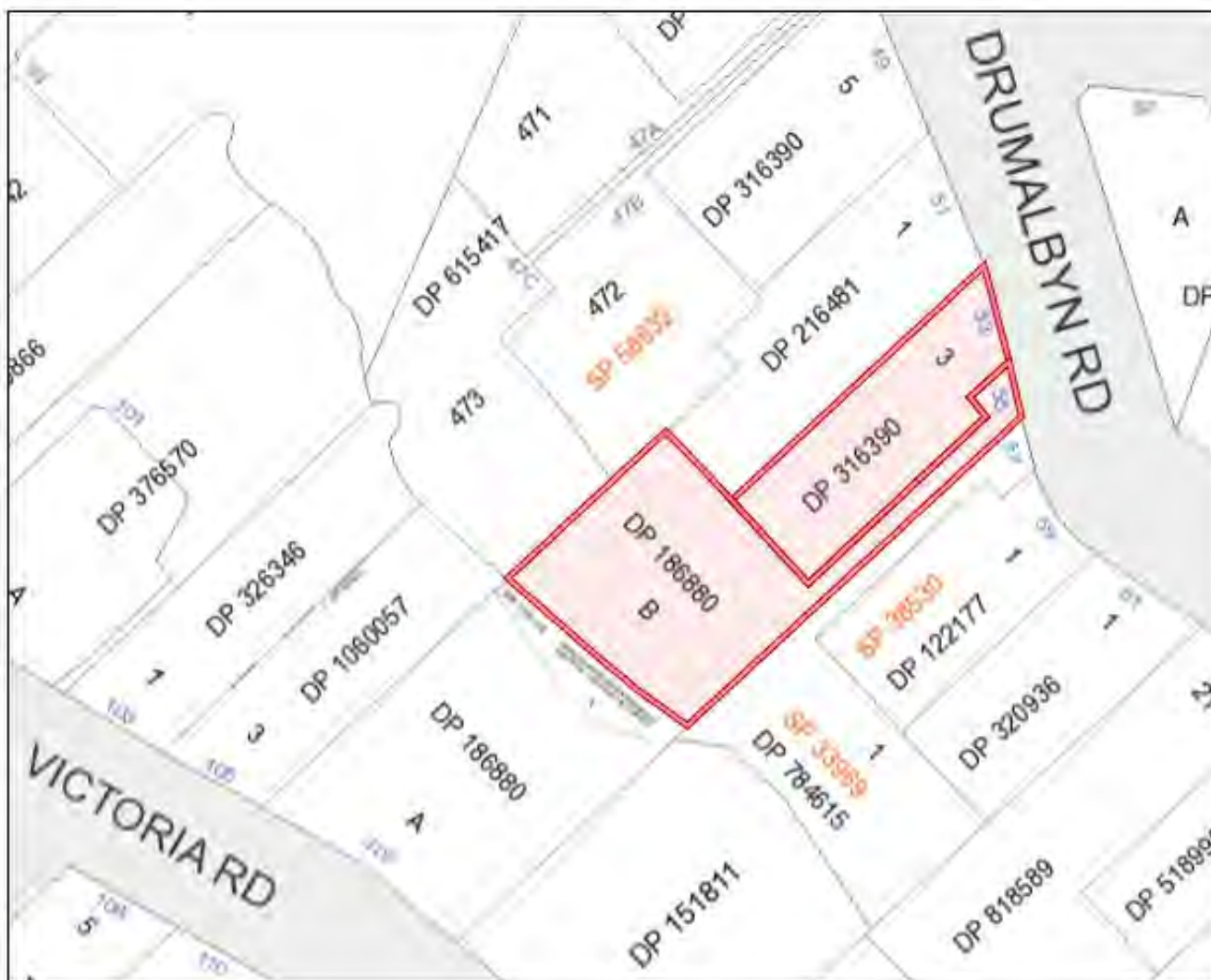


Figure 1: Cadastral map, with sites highlighted in red. (Source: Woollahra MAPS, 2021)



Figure 2: Current aerial photo, with 53 Drumalbyn Road highlighted in red.
(Source: Woollahra MAPS, 2022)



Figure 3: Front elevation of 53 Drumalbyn Road in April 2010.
Source: www.realestate.com.au.



**Figure 4: Current aerial photo, with 55 Drumalbyn Road highlighted in red.
(Source: Woollahra MAPS, 2022)**



**Figure 5: Front elevation of 55 Drumalbyn Road.
(Source: Woollahra Council, 2022)**

Interim Heritage Orders (IHO)

On 22 September 2021, a development application (DA) was lodged with Woollahra Council to demolish both buildings at 53 & 55 Drumalbyn Road, Bellevue Hill, amalgamate the sites and construct a seniors' housing development (DA2021/416/1).

Council staff engaged an external heritage consultant Scott Robertson of *Robertson & Hindmarsh Pty Ltd* to undertake a preliminary heritage assessment of both properties, which was finalised on 16 December 2021. A copy of the preliminary heritage assessment is at **Attachment 1**.

This assessment was prepared in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001 and *Investigating heritage significance: A guide to identifying and examining heritage items in NSW*, published by Heritage NSW in 2021.

The two properties were assessed against the seven criteria in the guidelines (see **Table 1** below). Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

Table 1: NSW Heritage assessment criteria summary

Criteria		
(a)	Historic significance	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
(b)	Associational significance	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
(c)	Aesthetic significance	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
(d)	Social significance	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
(e)	Technological significance/research potential	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)
(f)	Rarity	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
(g)	Representativeness	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. • or a class of the local area's • cultural or natural places; or • cultural or natural environments.

To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed. The preliminary assessment concluded that both properties were possibly of local significance under the following heritage criteria:

53 Drumalbyn Road Bellevue Hill	55 Drumalbyn Road Bellevue Hill;
✓ Criterion (a): Historical significance	✓ Criterion (a): Historical significance
✓ Criterion (b): Associative significance	✓ Criterion (c): Aesthetic significance
✓ Criterion (c): Aesthetic significance	✓ Criterion (f): Rarity
✓ Criterion (f): Rarity	✓ Criterion (g): Representativeness
✓ Criterion (g): Representativeness	

Under a Ministerial Order, the Authorisation for Local Councils to make IHOs, published in the Government Gazette on 12 July 2013 and under a sub-delegation to the *Director of Planning & Place* they may, on behalf of Council, make an IHO. An IHO can be made if, among other things, the following pre-conditions are in place:

- (b) *it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the Council and considers that:*
- i. The item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;*
 - ii. The item is being or is likely to be harmed;*
 - iii. The IHO is confined to the item determined to be under threat.*

Given DA2021/416/1 proposed the demolition of all structures on both sites, and that both sites are potentially of local heritage significance, the *Director of Planning & Place* formed the opinion that the above circumstances were in place.

Subsequently, the *Director of Planning & Place* authorised the making of a two IHOs. The IHOs were issued under section 25 of the *Heritage Act 1977* (IHO No. LC-5) and were published in the NSW Government Gazette No. 646 of 17 December 2021.

The orders will remain in place for an initial period of six months which gives Council the opportunity to fully assess the heritage significance of the sites and identify whether they should be listed as State and/or local heritage items. If within these six months Council resolves to proceed with the listing of the items, the orders remain in place for an additional six months.

Under section 57 of the *Heritage Act 1977*, when an IHO applies to a place or building a person must not, among other things, demolish, damage or carry out development except in pursuance of an approval granted by the approval body, i.e. Council.

On 17 December 2021 three appeals against the issue of both IHOs and the deemed refusal of the DA were lodged with the NSW Land and Environment Court. DA2021/416/1 is currently under assessment and will be reported to the meeting of the Woollahra LPP on 17 March 2022. A consolidated Section 34 conference (under the *Land and Environment Court Act 1979*) is scheduled for April 2022.

Assessment of heritage significance

Having carried out a preliminary heritage assessment, a comprehensive assessment of heritage significance was carried out for both 53 & 55 Drumalbyn Road, Bellevue Hill by Scott Robertson of Robertson & Hindmarsh. Informed by a site inspection on 1 March 2022 and the documents that were lodged to accompany the DA, these assessments were prepared in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001 and *Investigating heritage significance: A guide to identifying and examining heritage items in NSW*, published by Heritage NSW in 2021.

The two properties were again assessed against the seven criteria in the guidelines. A copy of the two assessments is provided at **Attachments 2** and **3**. A copy of the heritage inventory sheets, including an assessment against all criteria, is attached as appendices to **Attachments 2** and **3**.

The assessments concluded that both properties were of **local** significance under the following heritage criteria:

53 Drumalbyn Road Bellevue Hill	55 Drumalbyn Road Bellevue Hil;
✓ Criterion (a): Historical significance	✓ Criterion (a): Historical significance
✓ Criterion (b): Associative significance	✓ Criterion (b): Associative significance
✓ Criterion (c): Aesthetic significance	✓ Criterion (c): Aesthetic significance
✓ Criterion (f): Rarity	✓ Criterion (f): Rarity
✓ Criterion (g): Representativeness	✓ Criterion (g): Representativeness

The heritage significance assessment report has assessed the heritage significance of both 53 & 55 Drumalbyn Road, Bellevue Hill in accordance with the NSW Heritage Manual.

It has concluded that, based on the information available at the time of writing, both buildings meet the threshold for listing as items of local heritage significance. 55 Drumalbyn Road might meet the threshold for State listing but a more detailed study of Inter-War Modernism in NSW would have to be undertaken to determine this.

Planning Proposal

Consistent with the recommendations of the assessment of heritage significance report, a planning proposal has been prepared to list:

1. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 53 Drumalbyn Road, Bellevue Hill
2. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 55 Drumalbyn Road, Bellevue Hill

as local heritage items in Schedule 5 and the Heritage Map of the Woollahra LEP 2014. The planning proposal has been prepared in accordance with section 3.33 of the *NSW Environment Planning and Assessment Act 1979* and the two documents prepared by the NSW Department of Planning and Environment titled *Local Environmental Plan Making* (December 2021).

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Objective of the planning proposal

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of 53 & 55 Drumalbyn road, Bellevue Hill as local heritage items and provide them with statutory heritage protection. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site.

Relationship to strategic planning framework

The planning proposal has strategic and site specific merit. The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018) (refer to section 6.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces:

- 4.3 Protect local heritage, including significant architecture and the natural environment.

The planning proposal is also consistent with the Woollahra Local Strategic Planning Statement (approved by Council on 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

- Planning Priority 5 Conserving our rich and diverse heritage.

The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies and applicable section 9.1 directions.

Options:

As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with a planning proposal to list both properties as heritage items in the Woollahra LEP 2014.

Alternatively, the Woollahra LPP may resolve not to support the preparation of a planning proposal or require staff to make amendments.

Community Engagement and / or Internal Consultation:

On 17 December 2021, Council staff sent a letter to the owners of both 53 and 55 Drumalbyn Road, Bellevue Hill, informing them that an IHO on both properties had been published in the NSW Government Gazette.

On 13 January 2022, Council staff sent an additional letter to the owners to:

- inform them that Council had engaged a heritage consultant to prepare a detailed heritage assessment to investigate the heritage significance of their property; and
- request access to their property.

A site inspection was originally planned for the morning of Wednesday 9 February 2022. However, this site inspection was cancelled. An inspection was then conducted in the morning of 1 March 2022 which was attended by heritage consultant Scott Robertson, Flavia Scardamaglia - Strategic Heritage Officer and George Lloyd – Assessment Officer.

No other community engagement has been undertaken to date. Public exhibition of the planning proposal will be undertaken in due course and in accordance with the Gateway Determination conditions and the *NSW Environment Planning and Assessment Act 1979*.

Policy Implications:

Should Council resolve to prepare a planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there will be policy implications by listing both properties as heritage items in the Woollahra LEP 2014.

Financial Implications:

NIL

Resourcing Implications:

Staff resource implications will be associated with progressing a planning proposal which will include managing the public exhibition and preparing a post exhibition report to a meeting of Council.

Conclusion:

This report seeks the advice of the Woollahra LPP on a planning proposal to list the following properties as local heritage items in the Woollahra LEP 2014.

1. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 53 Drumalbyn Road, Bellevue Hill.
2. 'House (including interiors), garage, outbuilding, gardens (including retaining walls)' at 55 Drumalbyn Road, Bellevue Hill

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

We recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 4** to list the subject properties as local heritage items in the Woollahra LEP 2014.

Attachments

1. Preliminary Assessment of Heritage Significance for 53 and 55 Drumalbyn Road Bellevue Hill - 16 December 2022
2. 53 Drumalbyn Road Bellevue Hill - Heritage Assessment (including heritage inventory sheet)
3. 55 Drumalbyn Road Bellevue Hill - Heritage Assessment (including heritage inventory sheet)
4. Planning Proposal - Local heritage listing of 53 and 55 Drumalbyn Road Bellevue Hill - March 2022