



IRF23/2562

## Gateway determination report – PP-2023-2145

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28A Carlton Crescent Kogarah Bay

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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 No. 2023/0003 – 28 Carlton Crescent, Kogarah Bay
Heritage Significance Assessment Report – dated July 2023
Local Planning Panel report – dated 17 August 2023
Local Planning Panel minutes – dated 17 August 2023
Environment and Planning Committee meeting report – dated 11 September 2023
Environment and Planning Committee meeting minutes – dated 11 September 2023
Georges River Council Meeting Agenda - dated 25 September 2023
Georges River Council Meeting Minutes - dated 25 September 2023

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Georges River Local Government Area</b>
<b>PPA</b>	Georges River Council
<b>NAME</b>	Local Heritage Item listing at 28 and 28A Carlton Crescent, Kogarah Bay (0 Homes, 0 Jobs)
<b>NUMBER</b>	PP-2023-2145
<b>LEP TO BE AMENDED</b>	Georges River Local Environmental Plan 2021 (GRLEP 2021)
<b>ADDRESS</b>	28 and 28A Carlton Crescent, Kogarah Bay
<b>DESCRIPTION</b>	Lot 21 (28 Carlton Crescent) and Lot 22 (28A Carlton Crescent) in Section 15 of Deposited Plan 1963
<b>RECEIVED</b>	29/09/2023
<b>FILE NO.</b>	IRF23/2562
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose, and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives and intended outcomes of the 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:

- conserve the heritage significance of 28 and 28A Carlton Crescent, Kogarah Bay (the site), including built and landscape elements with identified cultural significance and value; and
- assist in conserving the environmental heritage of the Georges River Local Government Area

## 1.3 Explanation of provisions

The proposal gives effect to its objectives by

- amending Item No. I208 in Schedule 5 the GRLEP 2021 to:
  - revise the item name from *'House and front garden, "Bayview"'* to *" Bayview" house and garden, boatshed, garage and summerhouse*;

- revise the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay'; and
- revise the property description to include both Lots 21 and 22 in Section 15 of DP 1963.
- update the Heritage Mapping to identify the site.

No changes are proposed to other existing LEP provisions including; R2 Zoning, HOB, FSR, Minimum Lot Size.

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

## 1.4 Site description and surrounding area

The site includes two lots, being 28 and 28A Carlton Crescent, Kogarah Bay. These lots total 1,915m<sup>2</sup> and immediately adjoin Kogarah Bay. The site contains:

- 28A Carlton Crescent:
  - contains the dwelling and former boat shed as well as semi-mature palms and shrubbery.
- 28 Carlton Crescent:
  - includes most of the site's mature Canary Island Palms
  - the circulation paths of the property;
  - the detached garage; and
  - detached former teahouse.

Both lots have maintained singular ownership since the original purchase in 1916 from the c1911 Kogarah Bay Estate subdivision.

The area surrounding the site is predominately zoned R2 Low Density Residential with some Carrs Bush Park, The Harold Fraser Reserve and Claydon Reserve zoned RE1 Public Recreation nearby. Surrounding existing development is single or double storey dwellings on 600-800 square metre blocks of land (**Figure 2**). The nearest Heritage items are Carrs Cottage and Carrs Bush Park approximately 500m to the southwest of the site.



Figure 1: The site (Source: Nearmaps 2023)



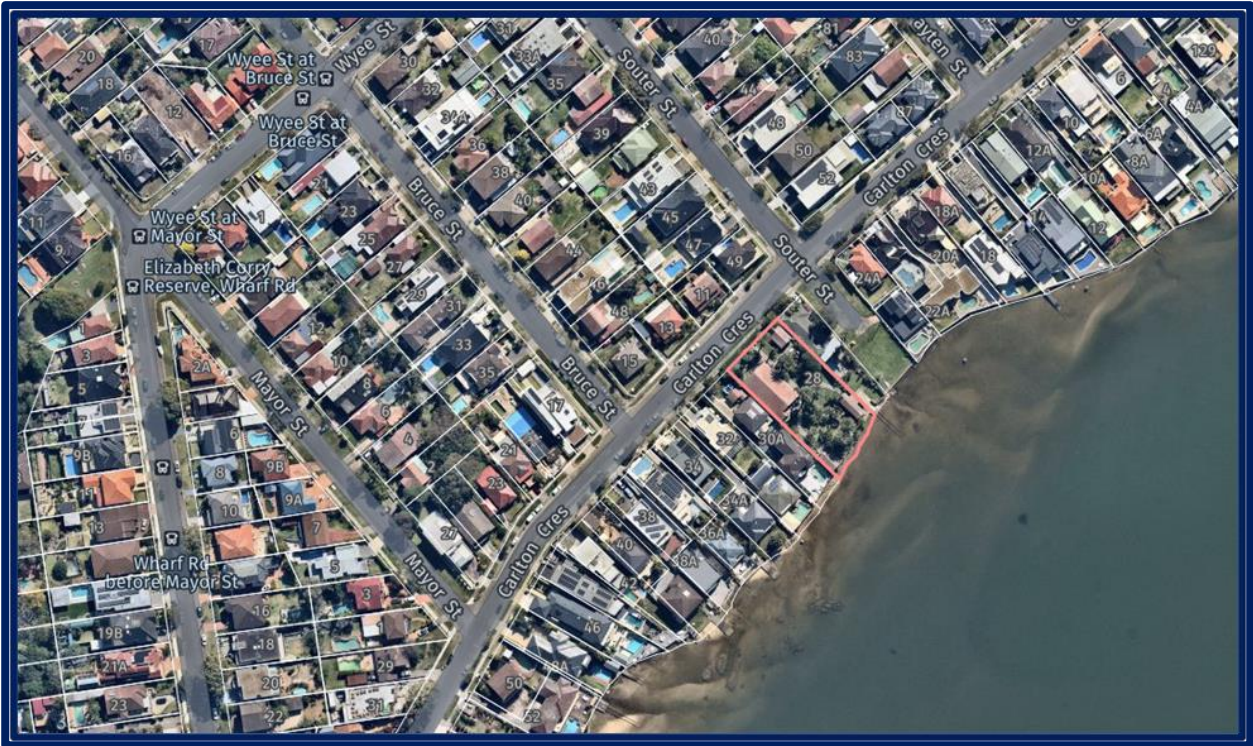


Figure 2: The site context (Source: Six Maps 2023)

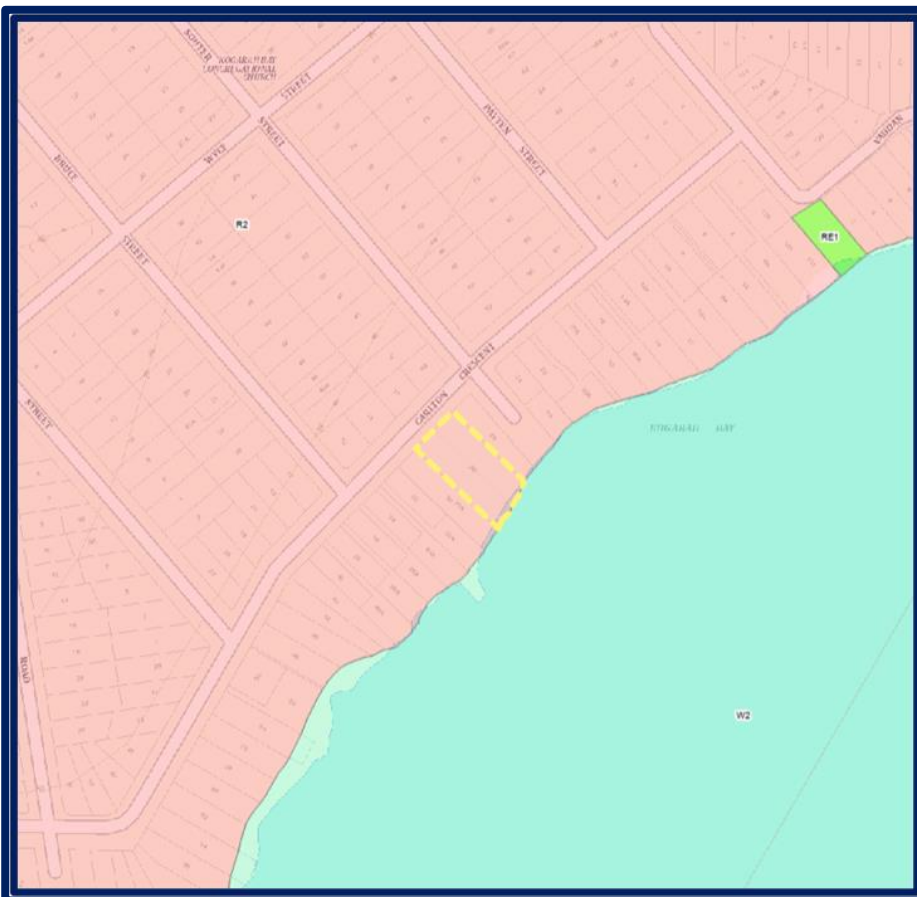


Figure 3: Suburb Zoning Context (Source: ePlanning Spatial viewer, 2023)



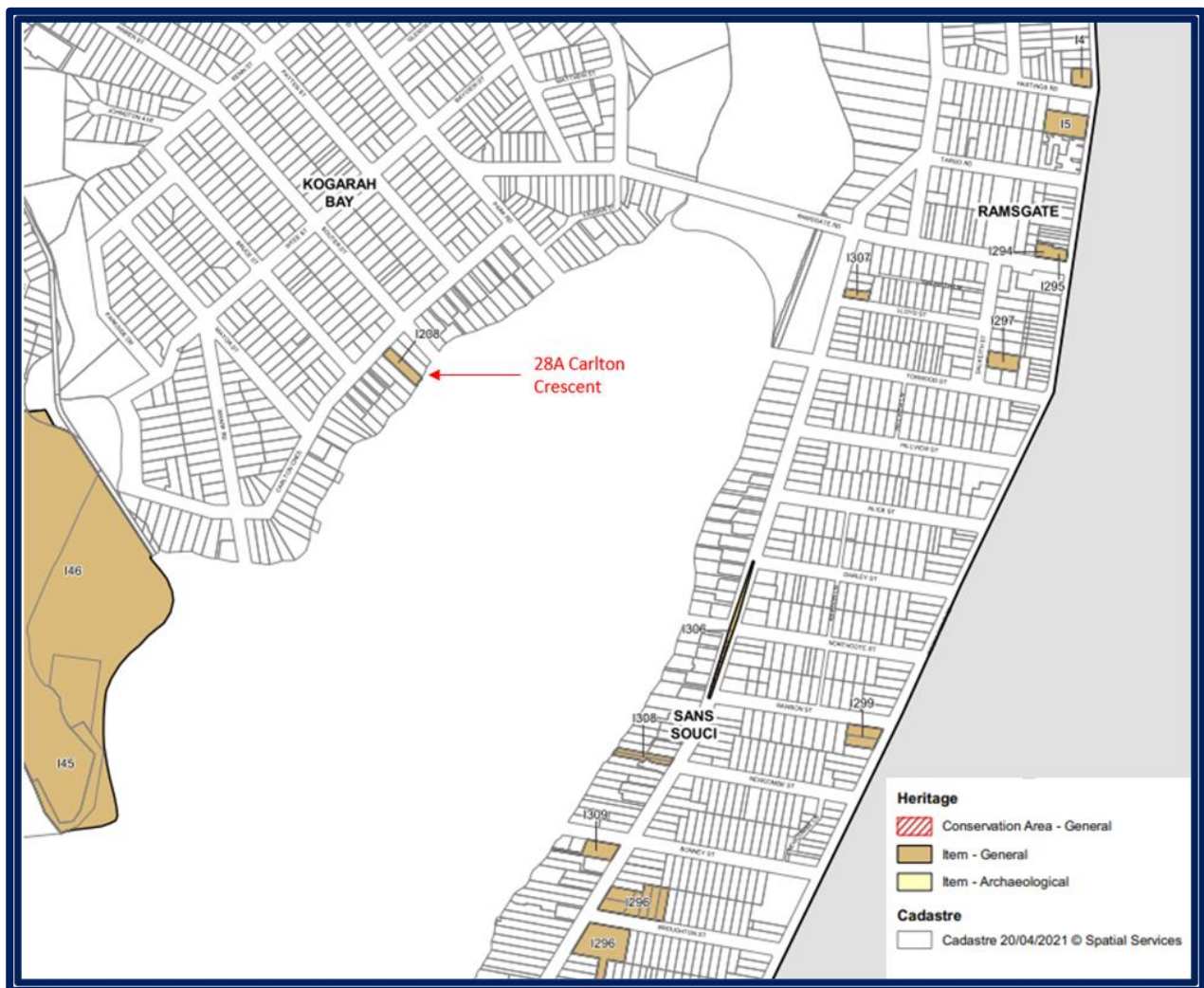
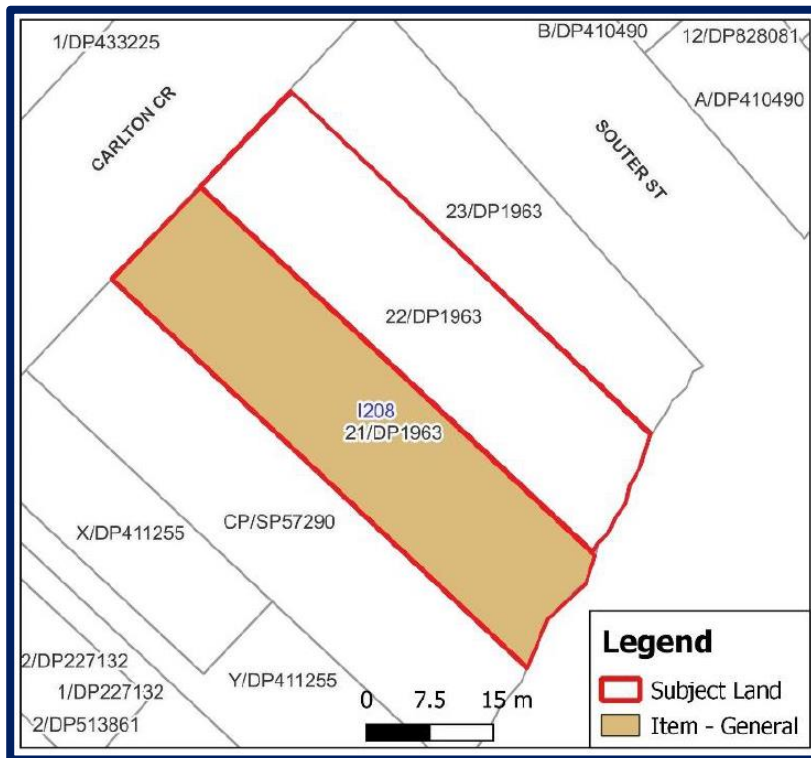


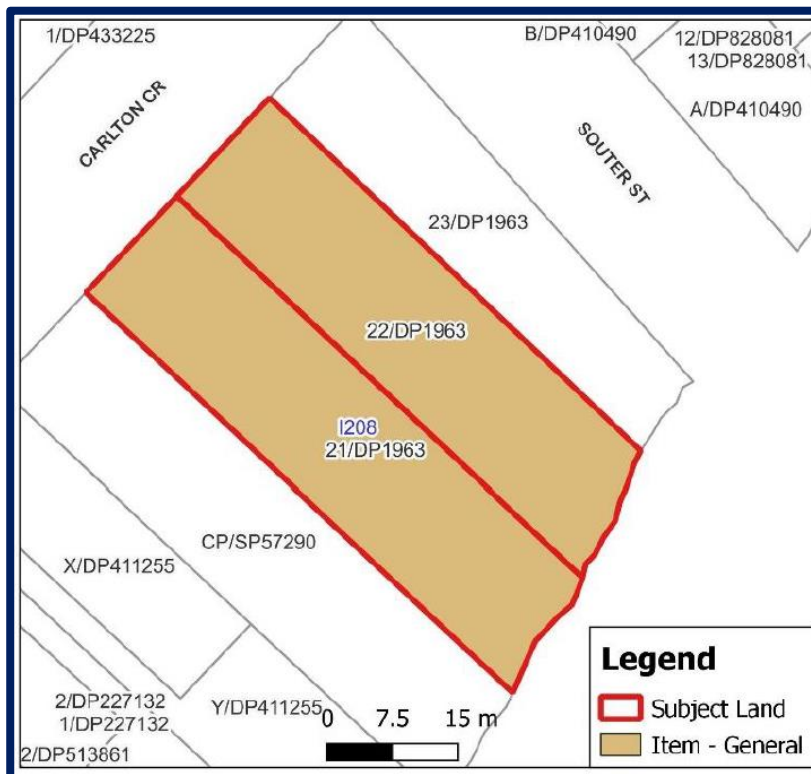
Figure 4: Current Heritage Map (Source: Georges River LEP Heritage Map)

## 1.5 Mapping

The planning proposal includes suitable mapping showing the proposed changes to the Heritage maps (**Figures 6 and 7**)..



**Figure 5: Current Heritage Map**



**Figure 7: Proposed Heritage Map**

## 1.6 Background

On 21 March 2023, DA2023/0025 was lodged seeking consent for tree removal and the demolition of an existing detached garage and detached secondary dwelling and construction of a new two storey dwelling with associated in ground swimming pool and construction of a new hardstand carparking space and vehicular access driveway.

On 24 April 2023, preliminary heritage advice from Michael Edwards, Heritage Advisor to Council, was provided which found:

- a) *'There is clear evidence that the intent of the heritage listing for 28A Carlton Crescent was to include 28 Carlton Crescent, though only 28A is identified in Schedule 5 of the GRLEP 2021 and mapped accordingly.'*
- b) *This is considered to incorrect and incomplete, and the heritage listing of the Site should in fact be both 28 and 28A.*
- c) *28 Carlton Crescent does not appear to be afforded any statutory heritage protection, meaning the demolition of the garage, summerhouse / teahouse and mature Canary Island Palms could potentially occur via a Complying Development Certificate (CDC). Demolition of those described features would have an adverse impact on the identified heritage values and significance of the Site.*
- d) *The Development Application which proposes demolition of the garage and summerhouse, together with the construction of a new two-storey dwelling house at 28 Carlton Crescent presents a threat of harm to the heritage item and Council should consider urgently placing an IHO on 28 (Lot 22) to prevent demolition and to allow the anomaly of the heritage listing to be corrected in Schedule 5.'*

On 22 May 2023, Council considered the potential heritage listing of 28 Carlton Crescent, Kogarah Bay, resolving:

- a) *'That Council acknowledges that the potential heritage listing over No. 28 Carlton Crescent Kogarah Bay is necessary for the protection of the heritage integrity of No. 28A Carlton Crescent as both Nos. 28 and 28A create an historic narrative through retaining the original design intent and the physical and visual relationship of both sites.'*
- b) *That Council make an Interim Heritage Order over No. 28 Carlton Crescent Kogarah Bay (Lot 22, Section 15, DP1963) as the potential heritage item:*
  - a. *is likely to be of heritage significance*
  - b. *is under threat of demolition and unsympathetic alteration through any consent given to Development Application No. 2023/0025*
  - c. *does not have statutory heritage protection under the Environmental Planning and Assessment Act 1979 or the Heritage Act 1977. 8 PP – Heritage Item No. I208 – 28 and 28A Carlton Crescent, Kogarah Bay – Pre-Gateway Version*
- c) *That Council authorise the preparation of a detailed assessment of the heritage significance of No. 28 Carlton Crescent Kogarah Bay in accordance with Heritage Council guidelines.*
- d) *That if the heritage assessment prepared in (c) above determines that No. 28 Carlton Crescent is of heritage significance then Council resolve to prepare a Planning Proposal to amend the listing for Item I208 to include both No. 28 (Lot 22) and No. 28A (Lot 21) Carlton Crescent Kogarah Bay, as a local heritage item in Schedule 5 to the Georges River LEP 2021.'*

On 26 May 2023, the IHO was gazetted. The IHO will lapse six months from the date that it is made unless council has passed a resolution before that date to place the item on the heritage schedule of a local environmental plan.

On 17 August 2023, the proposal was considered by the Georges River Local Planning Panel (the LPP) discussed in **Section 3.4** of this report. The LPP supported the proposal proceeding to the Department for a Gateway determination without amendment.

On 11 September 2023, the proposal was considered by Council's Environment and Planning Committee (the Committee), which recommended to the Council:

- a) *'That Council Acknowledge the Heritage Significance Assessment Report for 28 Carlton Crescent, Kogarah Bay, prepared by Edwards Heritage Consultants dated July 2023.*
- b) *'That Council forward the Planning Proposal No. 2023/0003 to the Department of Planning and Environment for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.*
- c) *'That Council endorsed to publicly exhibit the Planning Proposal in accordance with the terms of the Gateway Determination issued by the Department of Planning and Environment and the Georges Ricer Council Engagement Strategy.'*

The Council resolution on the 25 September 2023, is consistent with that of the Environmental Committee and the LPP before it.

**Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?**

The planning proposal is the result the Heritage Significance Assessment report by Edwards's heritage consultants (EHC). The proposal states that it is not a direct result of the Georges River Local Strategic Planning Statement (the LSPS) or other strategic study including Council's Community Strategic Plan.

**Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The assessment of significance concludes that the site meets the criteria for listing at a local level.

The planning proposal is the only means to alter Part 1 Schedule 5 of the GRLEP 2021 and the Heritage Map, to recognise the heritage significance of the site and allow provisions that facilitate their ongoing conservation and management.

### **Assessment of heritage significance**

The heritage significance of the sites has been assessed in accordance with the *Assessing Heritage Significance* guidelines published by Department of Planning and Environment in 2023<sup>1</sup>.

The site has been assessed against the seven listing criteria in the manual, being (a) historic significance, (b) historical association, (c) aesthetic/creative/technical achievement, (d) social, cultural and spiritual, (e) research potential, (f) rare, and (g) representative. If an item meets one of the seven criteria at a local level, it can be considered to have local heritage significance. The assessment of the sites is summarised in **Table 4**, which finds that the site satisfies relevant criteria, thus meeting the threshold for local heritage listing.

**Table 3: Heritage Criterion Assessment**

Criteria	Applicable	Heritage Assessment
(a) Historic significance	Yes	Historically significant at a local level as evidence of early residential development in Kogarah Bay and example of the original 1911 subdivision pattern with original boathouse, garage/workshop

<sup>1</sup> This is an update of the 2001 guideline. It outlines how to assess heritage significance of places or objects against the criteria developed by the Heritage Council of NSW.

Criteria	Applicable	Heritage Assessment
		and summerhouse plus original landscape plantings and theme making the property easily understandable as an early 20 <sup>th</sup> century representation.
(b) Historical association	Yes	Historical association significance at a local level is demonstrated by the site's association with the builder Frederick Rowe who is attributed with building the dwelling and other structures on the site circa 1928 both as a home and place of business. Rowe was responsible for building several homes in the area during the 1920-30s.
(c) Aesthetic/creative/technical achievement	Yes	Aesthetic and Technical Significance is established at a local level by the sites craftsmanship and special detailing making it a high distinction reflection of early 20 <sup>th</sup> century inter-war Californian Bungalow style developments. The properties aesthetic qualities are promoted by the double allotment width which creates a well sized garden setting reinforced by the deliberate placement of structures at the corners of the two lots. The wide water frontage at the rear of the site and relationship to Kogarah Bay with the aesthetic quality of the property has been maintained.
(d) Social, cultural and spiritual	Yes	Community cultural significance is provided by the sites previous use during the 1950s until the late 1980s as a function centre that hosted weddings, parties, and similar social events. Therefore, the site is likely to have a strong social significance for many public members in the local and broader community.
(e) Research potential	Yes	The site has research potential due to the unusually high amount of ornamentation of unusual features which suggest the location was used to showcase craftsmanship. The dwelling specifically exhibits construction technical that were uncommon to the style of the building for example the large floor area and matching ceiling span with no column interruption in the formal lounge room.
(f) Rare	Yes	The site has many qualities that contribute to its rarity, including: <ul style="list-style-type: none"> <li>- 'Bayview' is considered to be Rowe's best and most distinguished work;</li> <li>- the construction is considered superior in the quality of craftsmanship and detailing</li> </ul>



Criteria	Applicable	Heritage Assessment
		<p>with many unique features such as curved balconies, distinctive large bay windows and ceiling panelling;</p> <ul style="list-style-type: none"> <li>- 'Bayview' is a rare example of highly intact early 20<sup>th</sup> century residential property with deliberate design for an expansive garden and waterfrontage;</li> <li>- the site is unusual and uncommon as it is split across two allotments; and</li> <li>- the site gives evidence to early 20<sup>th</sup> marine activity with the boatshed and summerhouse build on the waters edge. Both structures plus the workshop garage are exceptionally rare in the local context.</li> </ul>
(g) Representative	Yes	The high level of integrity and intactness of each structure across the two lots makes the site an important group setting of quality. This representativeness is enhanced by the retention of the original allotment boundaries and garden setting which clearly shows the property as a representative example of a waterfront property from the early 20 <sup>th</sup> century.

The Heritage Significance Assessment supporting the proposal concludes:

*"In summary, the Heritage Significance Assessment Report concludes that both Lot 21 and Lot 22 in section 15 of DP 1963 are considered to be of equal cultural significance and neither lot is mutually exclusive – they both rely on each other to complete the historical narrative of the site, retain the original design intent and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection."*

## 2 Strategic assessment

### 2.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

**Table 4 Regional Plan assessment**

Regional Objectives	Plan	Justification
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Objective 13. Environmental heritage is conserved and enhanced	13.	<p>The Region Plan emphasises the need to conserve items of heritage significance. Objective 13 notes that environmental heritage should be protected for its social, aesthetic, economic, historic and environmental values.</p> <p>The heritage study and heritage data forms submitted by Council have provided an assessment of significance indicating that the sites have reached the threshold for listing a heritage item at a local level.</p> <p>The proposal is consistent with the objectives of the Region Plan, as it seeks to recognise the heritage significance of the proposed Heritage item and facilitates its ongoing protection.</p>
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## 2.2 District Plan

The site is within the South District and the Greater Sydney Commission released the South 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 infrastructure and collaboration, liveability, productivity, and sustainability 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 Priorities	Plan	Justification
Planning Priority S6. Creating and renewing great places and local centres and respecting the Districts Heritage.		<p>The objectives of the planning priority are to create great places that bring people together and to identify, conserve and enhance environmental heritage.</p> <p>The proposal is consistent with this planning priority, because it contributes to the protection of the district's heritage through locally listing the site which has been found to have heritage significance. The listing will recognise the places' significance and facilitate its on-going conservation.</p>

## 2.3 Local

The proposal states that it is consistent with the LSPS and its reasons for consistency include the justification found in **Table 7**, below:

**Table 6 Local strategic planning assessment**

Planning Priority	Justification
P.11 Aboriginal and other Heritage is protected and promoted.	<p>This priority seeks to prepare an Aboriginal Commitment Statement and Action Plan, encourage adaptive reuse of Heritage, Implement the Historical Markers Policy and Complete the Heritage Review for the Hurstville LEP.</p> <p>Key actions of this priority include encouraging adaptive reuse of heritage. The planning proposal enables this by amending schedule 5 to include both lots and protect structures that have been adaptively reused including the teahouse/summerhouse.</p>

Planning Priority	Justification
P.17 Tree canopy, bushland, landscape settings and biodiversity are protected, enhanced and promoted	<p>This priority seeks to increase urban tree canopy and biodiversity across the LGA, develop and implement a significant tree register of public and private land and develop a biodiversity strategy informed by the LGA-wide biodiversity study.</p> <p>Key actions of this priority include developing a significant tree register of public and private land. By updating Schedule 5 to include the mature palm trees on the site the planning proposal is inline with the key actions of this priority.</p>

## 2.4 Local planning panel (LPP) recommendation

On 17 August 2023, the LPP considered the proposal, Councils Strategic Planners recommendation is as follows;

*‘That the Georges River LPP support the attached Planning Panel to amend the Georges River Local Environment Plan (GRLEP) 2021 by amending the listing of Heritage Item No. I208 (‘House and front garden, “Bayview”’) at 28A Carlton Crescent, Kogarah Bay by:*

- Revising the item name from ‘House and front garden, “Bayview”’ to “ Bayview” house and garden, boatshed, garage and summerhouse’ in Schedule 5 Environmental Heritage*
- Revising the address from ‘28A Carlton Crescent Kogarah Bay’ to ‘28 and 28A Carlton Crescent, Kogarah Bay’ in Schedule 5 Environmental Heritage*
- Revising the property description to include both Lots 21 and 22 in Section 15 of DP 1963 in Schedule 5 Environmental Heritage.*
- Updating the Heritage Map to reflect the above changes.”*

The LPP resolved:

*“That the Georges River LPP recommends to Council that the attached Planning Proposal to amend Georges River Local Environmental Plan (GRLEP) 2021 be forwarded to the department of Planning and Environment for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.”*

These recommendations to Council are in line with the Report Recommendation prepared by Council’s Strategic Planner.

## 2.5 Section 9.1 Ministerial Directions

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

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Assessment
3.2 Heritage Conservation	Yes	<p>The Direction applies to the planning proposal as it seeks to conserve environmental heritage significance on the site. The Direction requires that a planning proposal contain provisions that facilitate the conservation of items identified in a study of environmental heritage significance.</p> <p>The planning proposal is informed by a heritage assessment undertaken in accordance with the NSW Heritage Office manual. The assessment concluded that the site satisfies the relevant criteria for</p>

Directions	Consistent/ Not Applicable	Assessment
		<p>local heritage listing and thereby the proposal is warranted. The proposal will facilitate the conservation and protection of the site.</p> <p>The proposal is consistent with this Direction.</p>
6.1 Residential Zones	Yes	<p>This Direction applies as the site is zoned R2 Low Density Residential. The proposal does not seek to alter the existing residential zoning or any development standards applicable to the site.</p> <p>Listing the site as local heritage item would require any development application for the site to be assessed against the provisions of Clause 5.10 <i>Heritage Conservation</i> under the GRLEP 2021.</p> <p>The proposal is consistent with this Direction.</p>

## 2.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

## 3 Site-specific assessment

### 3.1 Environmental

The proposal is environmentally appropriate, because it:

- is unlikely to adversely impact critical habitat areas, threatened species, populations, or ecological communities as the site is within an existing urban area;
- will facilitate the conservation of the site which has been found to have heritage significance.

**Table 8 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The planning proposal may have a positive a social effect on the local community. Listing the additional lot in the GRLEP 2021 will provide the community with greater certainty about the significance of the site and facilitate its on-going protection and conservation.</p> <p>Through the community consultation process, the wider community will have an opportunity to voice their views regarding the values of the sites and whether the proposed listing is warranted</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 any development application.</p> <p>The proposal does not prohibit change or future development. The proposal is considered to have an acceptable economic impact. 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</p>

Social and Economic Impact	Assessment
	<p>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.</p> <p>As discussed in this report, Council's assessment of significance has been carried out in accordance with the process and criteria stated in the Heritage Office manual.</p> <p>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.</p>

## 3.2 Infrastructure

The proposal does not seek to change any existing infrastructure or facilitate further infrastructure provision. The proposal will not alter the existing zoning or development standards applicable to the site. The proposal would not facilitate intensified developments and therefore would not generate additional demand for infrastructure.

## 4 Consultation

### 4.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is appropriate and the Gateway determination has been conditioned accordingly. [Choose an item](#)

### 4.2 Agencies

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

- Department of Planning and Environment – Environment and Heritage; and
- National Trust of Australia (NSW).

## 5 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a basic

The Department recommends an LEP completion date of 4 April 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

The Gateway determination includes guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

## 6 Local plan-making authority

Council has advised that it would like to exercise the functions of Local Plan-Making Authority.



Council is authorised to be the local plan-making authority because the proposal is of local significance.

## 7 Assessment summary

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

- It is supported by a heritage assessment report prepared in accordance with the Assessing Heritage Significance guidelines that identifies the subject site as being of local heritage significance and meriting inclusion of both lots within Schedule 5 of the GRLEP 2021.
- The proposal is consistent with the Greater Sydney Region Plan, South District Plan, Council's Local Strategic Planning Statement, and the relevant SEPPs and Section 9.1 Directions.
- It will recognise and provide ongoing protection and allow for better conservation management of the additional lot which has been identified to be of local heritage significance.

## 8 Recommendation

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

The following conditions are recommended to be included on the Gateway determination:

1. Consultation is required with the following public authorities:
  - Department of Planning and Environment – Environment and Heritage; and
  - National Trust of Australia (NSW).
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. The planning proposal must be exhibited by 6 November 2023 from the date of the Gateway determination.
4. Given the nature of the planning proposal, it is recommended that the Gateway:
  - authorise council to be the local plan-making authority; and
  - the LEP be completed by 4 April 2024.



\_\_\_\_\_  
(Signature)

9 October 2023 (Date)

Alexander Galea

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