



IRF23/2719

Gateway determination report – PP-2023-2203

Planning proposal to heritage list 2C Dumaresq Road
Rose 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 planning proposal

Relevant reports and plans
Planning Proposal – October 2023
Heritage Assessment – August 2023
Heritage Inventory Sheets – August 2023
Woollahra Local Planning Panel Agenda – 17 August 2023
Woollahra Local Planning Panel Minutes – 17 August 2023
Environmental Planning Committee Agenda – 4 September 2023
Environmental Planning Committee Minutes – 4 September 2023
Environmental Planning Committee Late Correspondence – 4 September 2023
Council Meeting Agenda – 11 September 2023
Council Meeting Minutes – 11 September 2023
Cover Letter Requesting Gateway Determination

1 Planning proposal

1.1 Overview

The planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 to list 'Lapin House' at 2C Dumaresq Road Rose Bay in the Woollahra local government area (LGA) as a local heritage item.

The proposal is supported by a heritage study and heritage inventory sheets prepared by Council.

Table 2 Planning proposal details

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Proposal to list 'Lapin House' at 2C Dumaresq Road Rose Bay as a heritage item
NUMBER	PP-2023-2203
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014)
ADDRESS	2C Dumaresq Road, Rose Bay
DESCRIPTION	<ul style="list-style-type: none"> • 'Lapin House' – house and interiors • Lot A DP 33652 • A modernist dwelling house designed by prominent Architect and former Woollahra Mayor, Neville Gruzman
RECEIVED	4/10/2023
FILE NO.	IRF23/2719
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 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 the Woollahra LEP 2014 to list 'Lapin House' at 2C Dumaresq Road Rose Bay as a local heritage item in Part 1 Schedule 5.

The proposal is based on the findings of the Heritage Study, prepared by TKD Architects dated August 2023, and inventory sheets, dated August prepared by Council. They have concluded that the sites has heritage significance in accordance with the criteria in the *Assessing Heritage Significance* guidelines published by Department of Planning and Environment in 2023. The proposed heritage listing seeks to recognise the significance of the site and provide statutory protection.

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 to:

- insert a local heritage listing in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage) for 'Lapin House' at 2C Dumaresq Road Rose Bay; and
- amend the Heritage Map to identify the site as a heritage item (**Figure 6**)

It is noted that the Heritage Inventory sheet names the proposed listing as "'Lapin House' – House and Interiors'.

There are no other amendments to the Woollahra LEP 2014 proposed including to the existing R2 Low Density Residential zone.

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 is identified in **Table 3** below.

Table 3 – Site identification

Site identification	
Address	2C Dumaresq Road Rose Bay (Lot A Deposited Plan 33652)
Description	<p><i>'Lapin House'</i> – House and Interiors.</p> <p>The 'Lapin House' is a two-storey Modern Movement house designed by Neville Gruzman, a prominent Australian architect, mayor of Woollahra, writer and architectural activist, on the commission of his Aunt. The building was completed in 1952. The building itself is made of white rendered brick and concrete with steel beams. The central part of the house and the living room are glazed to the full height of the house and a stand stone wall lines the southern wall of the house. In the rear setback there is an irregular shaped pool.</p>
Site Context	<p>The 'Lapin House' sits on a battle axe allotment in Rose Bay which is accessed by a steep driveway and elevated above the level of the adjoining Rose Bay Beach. It faces west, with views over the harbour, towards the Harbour Bridge. The land at 4 Dumaresq Road (Lot C DP 33652) is located immediately East of the site and fronts Dumaresq Road. 2C and 4 Dumaresq Road are under the same ownership. 2B Dumaresq Road is another battle axe allotment to the north of site and contains the 'Bursill House', another early work of Gruzman's.</p>
Existing Controls	R2 Low Density Residential Zone, Maximum Height of Building of 9.5m, Floor Space Ratio of 0.5:1 and Minimum Lot Size of 675m ²

Site identification

Map



Figure 1: 'Lapin' House at 2C Dumaesq Road Rose Bay is outlined in red, and 4 Dumaesq Road is outlined in blue. Both lots are subject to DA2023/204/01 (Source: Planning Proposal)

Site Photos

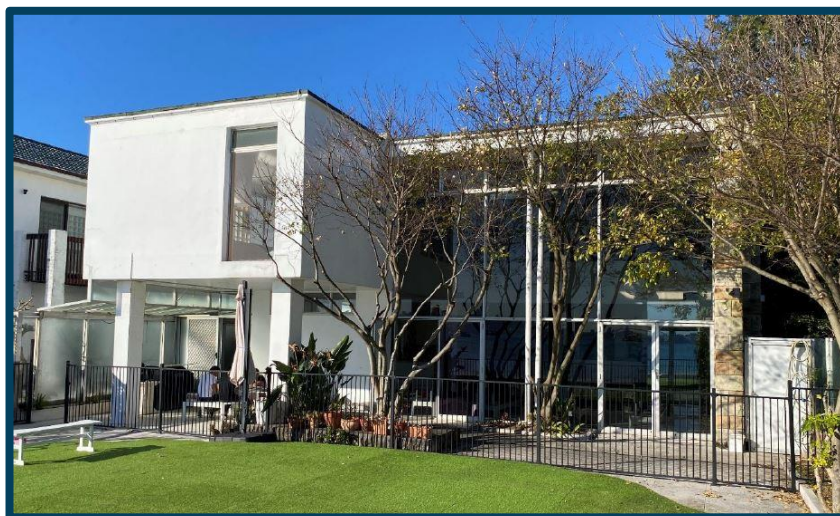


Figure 2: 'Lapin House', western elevation, looking east (Source: Planning Proposal)

Site identification

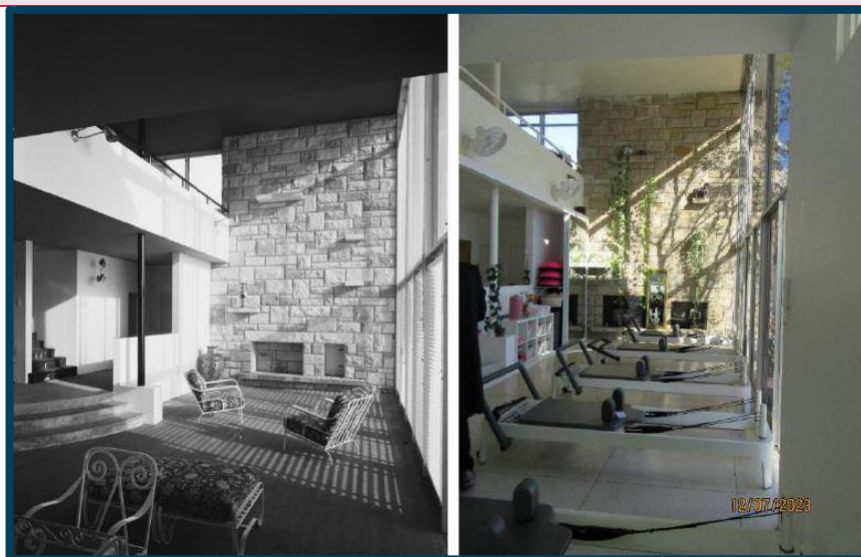


Figure 3: Side by side comparison of original sitting room and current condition (Source: Planning Proposal)

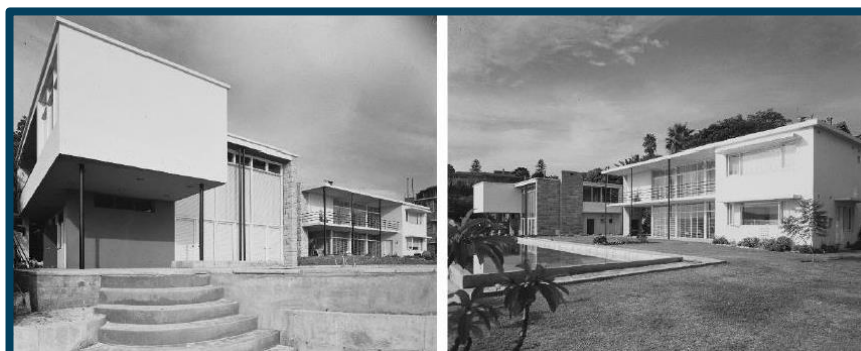


Figure 4: 'Lapin House' viewed in context next to 'Bursill House' (Source: Planning Proposal)

1.5 Mapping

The planning proposal includes mapping (**Figures 5 & 6**) showing the proposed changes to the Heritage maps. The maps identify the proposed heritage items with indicative item numbers.

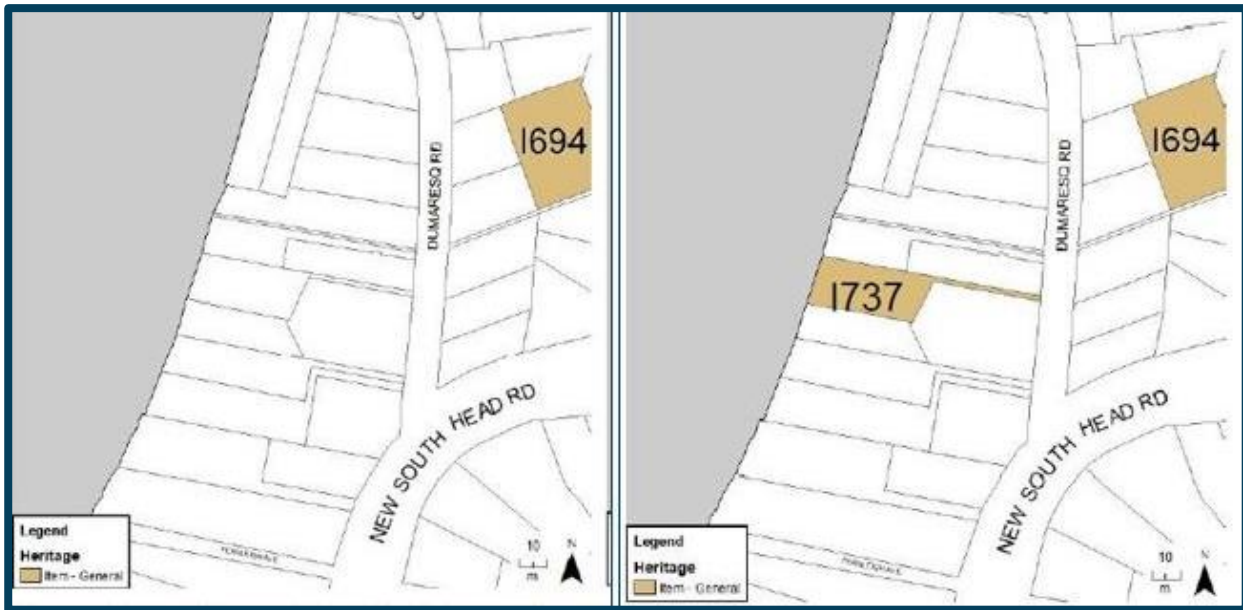


Figure 5: Current Woollahra LEP Heritage Map

Figure 6: Proposed Woollahra LEP Heritage Map

The proposed mapping in the planning proposal is suitable for community consultation.

1.6 Background

The timeline for the planning proposal is shown in **Table 4**.

Table 4 Overview of background to the planning proposal

Date	Description
8 June 2023	<p>DA2023/204/01 was lodged with Woollahra Council for <i>'Alterations and additions to the existing dwelling at 2C Dumaresq Road; demolition of all existing structures at 4 Dumaresq Road and construction of a new dwelling; amalgamation of the two properties resulting in a single dwelling across the consolidated site; swimming pool and landscaping works.'</i></p> <p>Council's Heritage Officer considered the works proposed by the Development Application and identified that due to the connection with architect Neville Gruzman, the building may meet the criteria for listing as a heritage item.</p>
6 July 2023	<p>Dr Roy Lumby of TKD Architects was appointed to provide Council with advice on the potential heritage significance of the property under the Heritage NSW criteria.</p>
21 July 2023	<p>The IHO was issued under section 25 of the Heritage Act 1977 (IHO No. LC-10) and was published in the NSW Government Gazette No. 151 of 21 July 2023.</p>
17 August 2023	<p>The proposal was referred to the Woollahra Local Planning Panel (the LPP).</p> <p>The LPP advised Council:</p> <p><i>'To proceed with the planning proposal to list "Lapin House" – house and interiors, at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Environmental Plan 2014.'</i></p>

Date	Description
4 September 2023	<p>The planning proposal was submitted to the Woollahra Environmental Planning Committee (the EPC) for its consideration and recommendation to Council.</p> <p>The EPC recommended that Council:</p> <ul style="list-style-type: none"> A. <i>'Notes the advice provided by the Woollahra Local Planning Panel from 17 August 2023 regarding the planning proposal to list "Lapin House" as a local heritage item.</i> B. <i>Endorses the planning proposal as contained at Attachment 3 of the report to the Environmental Planning Committee of 4 September 2023 to list "Lapin House" – house and interiors at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014, and resolves to forward this to the Department of Planning and Environment with a request for Gateway Determination to allow public exhibition.</i> C. <i>Requests the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979.</i> D. <i>Requests from the owner of Lapin House, a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site.</i> E. <i>As part of the Significant Architects Study further assesses whether Lapin House" – house and interiors at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) merits state listing.'</i>
11 September 2023	<p>The recommendation by the EPC was considered by Council.</p> <p>Council's resolution was consistent with the EPC recommendation which included that the planning proposal be submitted to the Minister for a Gateway determination.</p>

2 Need for the planning proposal

The planning proposal is the result of the findings and recommendations of a Heritage Study of 'Lapin House' conducted in August 2023 and supporting heritage inventory sheets prepared by Council. The assessment of significance concludes that the 'Lapin House', the first commissioned work of prominent Australian architect and former Woollahra Mayor, Neville Gruzman, meets the criteria for listing at a local level.

The planning proposal is the only means to alter Part 1 Schedule 5 of the Woollahra LEP 2014 and the Heritage Map, to recognise the heritage significance of the sites 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 2023¹.

¹ 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.

All sites have 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 5**, which finds that the site satisfies relevant criteria, thus meeting the threshold for local heritage listing.

Table 5 Heritage assessment of ‘Lapin House’ at 2C Dumaresq Road, Rose Bay against Assessing Heritage Significance guidelines published by Department of Planning and Environment in 2023

Site	(a) Historic significance	(b) Historical association	(c) Aesthetic/creative/technical achievement	(d) Social, cultural and spiritual	(e) Research potential	(f) Rare	(g) Representative
‘Lapin House’ 2C Dumaresq Road Rose Bay (Part of Lot 7093 DP 107469)				Unlikely	Unlikely		

The following provides a summary of the assessment of significance undertaken by Council. The full details are in the planning proposal, heritage study and inventory sheets.

Criterion (b) Historical association

The planning proposal states that ‘Lapin House’ at 2C Dumaresq Road is associated with Dr Mollie Lapin, Neville Gruzman, and Justice Michael Kirby.

According to the proposal, ‘Lapin House’ is associated with Dr Mollie Lapin, Neville Gruzman’s aunt, who commissioned him to design the house. The planning proposal states that Dr Lapin was a medical practitioner of some note, and she was the youngest female graduate to have emerged from the University of Sydney when she graduated. Dr Lapin resided in the house until she died.

‘Lapin House’ has strong associations with prominent and influential architect (and former Woollahra Mayor) Neville Gruzman. It was his first commission and a seminal building for him. It was his initial foray into his ongoing exploration of the relationships between inside and outside space, an essential aspect of his residential work. It also demonstrates three principal aspects of his later work – the site as a major determinant in the development of his design, moulding and shaping space through planar surfaces, and rapport with clients, reflected in their long tenure in the houses he designed for them. The house has been included in several exhibitions between 1954 and 1992 and the book, ‘*Gruzman: an architect in his city*’ is indicative of its significance in the Gruzman body of work.

The planning proposal states that 2C Dumaresq Road has associations with Justice Michael Kirby, who with his partner occupied the house from 1976 to 2014. This period represents a large part of his significant legal career during which he was chairman of the Australian Law Reform

Commission (1975 to 1984), appointment as a judge in the Federal Court of Australia (1983), appointment as President of the New South Wales Court of Appeal (1984), Chancellor at Macquarie University (1984-1993) and Justice of the High Court of Australia (1996-2009), amongst other important appointments. However, the planning proposal states his occupation in the house is unlikely to have influenced his legal career.

Criterion (c) Aesthetic/creative/technical achievement

‘Lapin House’ meets the threshold for criterion (c) on account of:

- It is an important Modernist house in the Woollahra local government area
- It is notable for its spatial, structural and aesthetic qualities including :
 - Vertical interpenetration of space at the ground and first floor levels
 - Use of reinforced concrete slabs in a residential building
 - Expansive glazed western façade and convincing Modernist expression
- The house has important visual associations with Bursill House at 2B Dumaresq Road – the two houses were both designed by Neville Gruzman at around the same time and share stylistic similarities

It has critical acclaim of a place as a notable local example by a prominent architect, is unusual in its application of Modernist architectural design within its local context and is of particular interest in a local comparison of similar places and has a notable or distinctive construction response to local constraints.

Criterion (d) Social, cultural and spiritual

Council did not undertake a full social assessment as part of their heritage study. Further investigation would be needed to confirm whether this criterion is met for the site.

Criterion (e) Research Potential

2C Dumaresq Road is unlikely to fulfil this criterion. The information that it can yield can also be obtained from other sites in the local government area. However, further investigation is required to confirm this.

Criterion (f) Rare

With regard to ‘rarity’, the site has satisfied the criterion on account of:

- It is an uncommon surviving example of a house in the Woollahra local government area demonstrating the direct influence of European modernism on local domestic architecture in the middle third of the twentieth century
- It is also distinguished by its exploitation of the views from the site and its spatial complexity when compared to pre-war Modernist houses in the Woollahra LGA
- The house is a rare surviving example of the work of Neville Gruzman showing direct European Modernist influence, particularly that of Le Corbusier. His work evolved quickly after visiting Europe in 1953-54, Japan in 1955 and the United States of America circa 1956, absorbing a wider range of influences.

Criterion (g) Representative

The site has met the criterion (g) as it is a representative of early and experimental forays into European Modern Movement architecture in Woollahra and other parts of NSW between the second half of the 1930s and the first half of the 1950s. It is a particularly fine example of a Modernist house in the local area, demonstrating a range of characteristics that are typical of its class.

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 6 Regional Plan assessment

Regional Plan Objectives	Justification
13: Environmental heritage is identified, conserved, and enhanced	<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 inventory sheet prepared by Council have provided an assessment of significance indicating that the site has reached the threshold for listing 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 sites and facilitate their ongoing protection.</p>

3.2 District Plan

The site is within the Eastern City District and the former Greater Sydney Commission (now the Greater Cities 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*. **Table 7** below provides an assessment of the planning proposal against relevant directions and actions.

Table 7 District Plan assessment

District Plan - Planning Priorities	Justification
<p>E6: Creating and renewing great places and local centres, and respecting the District's heritage</p> <p>Action 20: Environmental heritage is identified, conserved, and enhanced</p>	<p>This priority seeks to identify, conserve, interpret and celebrate Greater Sydney's heritage values.</p> <p>The proposal is consistent with the District Plan because it contributes to the protection of the district's heritage through listing a site in the Woollahra LGA which has been found to have heritage significance in a study. The listing will recognise the sites' significance and facilitate their on-going conservation.</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 summarised in **Table 9** below.

Table 8 Local strategic planning assessment

Local Strategies	Justification
Woollahra Local Strategic Planning Statement 2020 (LSPS)	<p>The planning proposal is consistent with the endorsed Woollahra LSPS, particularly <i>Planning Priority 5: Conserve our rich and diverse heritage</i>, under the theme of <i>Liveability</i>.</p> <p>The planning proposal is consistent with this priority as it seeks to recognise and facilitate the on-going protection of a distinctive and significant Modernist house, which has been found to have significance in a heritage study.</p>
Woollahra Community Strategic Plan 2030 (CSP)	<p>The Woollahra CSP outlines a vision for Council's current and future goals and strategies. The planning proposal is consistent with the CSP, particularly with <i>Strategy 4.3: protect our heritage, including significant architecture and the natural environment</i> under Goal 4 (Well-planned neighbourhood), as it seeks to recognise the heritage value of the house and facilitate its on-going conservation.</p>

3.4 Local planning panel (LPP) recommendation

The planning proposal was referred to the Woollahra LPP on 17 August 2023. The LPP recommended to Council that:

1. To proceed with the planning proposal to list “Lapin House” – house and interiors, at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Environmental Plan 2014.
2. To request that the applicant prepare and submit to Council a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site.
3. To investigate whether the house at 2B Dumaresq Road, Rose Bay, “Bursill House”, (Lot B DP 33652, Lot 3 DP 365945) is worthy of local or state heritage listing, including its relationship with Lapin House.

As noted in Recommendation 3, the LPP recommended to investigate whether the neighbouring ‘Bursill House’ is worthy of local or state heritage listing.

The ‘Bursill House’ at 2B Dumaresq Road is mentioned throughout the Heritage Assessment prepared by TKD Architects for its own heritage significance and complimentary nature in relation to the ‘Lapin House’. The ‘Bursill House’ was also built by Neville Gruzman and is of a similar modernist architectural style.

In conversations with the Department, Woollahra Council has notified the Department that it has determined not to jointly list ‘Bursill House’ with the ‘Lapin House’ because as a standalone dwelling, it is not of Heritage significance and DA2020/502 to demolish existing dwelling and associated structures, and to erect a new dwelling, boatshed and swimming pool has commenced works leading to irreparable damage to the ‘Bursill House’ before the discovery of its potential heritage significance. The Department notes that Council is currently undertaking a heritage assessment of all architecturally significant houses in the LGA and other works of Gruzman’s are being considered for inclusion in a heritage planning proposal.

3.5 Section 9.1 Ministerial Directions

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

Table 9 9.1 Ministerial Direction assessment

Directions	Consistency	Justification
1.1 Implementation of Regional Plans	Yes	This Direction applies to the proposal as it seeks to give effect to the Greater Sydney Region Plan and Eastern City District Plan. The proposal is consistent with this Direction.
3.2 Heritage Conservation	Yes	<p>The Direction applies to the planning proposal as it seeks to conserve an item of 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.</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 subject site satisfies the relevant criteria for 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 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 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 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 proposal will not have any adverse effects on any critical or threatened species, populations or ecological communities, or their habitat.

The planning proposal seeks to provide statutory protection of the site which has been found to have local heritage significance. The proposal is informed by a heritage report and heritage inventory sheets undertaken by Council. The assessment of significance has been carried out in accordance with the NSW Heritage Office manual.

4.2 Social and economic

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

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal is unlikely to have any significant adverse social impacts. Listing the site as a heritage item will provide the community with greater certainty regarding the heritage significance of the site and facilitate its ongoing protection.</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 future development application submission.</p> <p>The planning proposal does not seek to amend the zone or development standards currently applicable to the sites. 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.</p> <p>The proposed listing does not preclude any future development of the properties, including 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.</p> <p>The proposal is thus considered to have an acceptable economic impact.</p>

4.3 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 sites. The proposal would not facilitate intensified developments and therefore would not generate additional demand for infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

As the planning proposal is categorised as a 'basic' per the *Local Environmental Plan Making Guideline 2022*, a timeframe of minimum 20 working days is proposed. A condition has been included in the Gateway determination, consistent with the benchmark timeframes in the Guideline.

5.2 Agencies

It is recommended that the following agencies / public organisations be consulted on the planning proposal:

- Environment and Heritage Group, Department of Planning and Environment; and
- National Trust of Australia (NSW)

6 Timeframe

Council proposes a six month time frame to complete the LEP. The Department considers it appropriate that the LEP is finalised within this time to ensure it is completed within its commitment to reduce processing times.

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 Department supports this request as the proposal is of local heritage significance.

8 Assessment summary

The planning proposal is supported to proceed with conditions, because it:

- is supported by an assessment of significance prepared in accordance with the NSW Department of Planning and Environment guidelines, *Assessing Heritage Significance*, 2023, which finds that all five sites satisfy relevant listing criteria and reach the threshold for local heritage listing;
- will recognise and provide on-going protection of the heritage significance of the site; and
- is consistent with the relevant objectives, directions and priorities of the Greater Sydney Region Plan, Eastern City District Plan and Local Strategic Planning Statement, and the applicable State Environmental Planning Policies and Section 9.1 Ministerial Directions.

9 Recommendation

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

1. The planning proposal should be made available for community consultation for a minimum of 20 working days.
2. Consultation with the Environment and Heritage group (Department of Planning and Environment) and the National Trust of Australia should be undertaken.
3. The timeframe for completing the LEP should be on or before 9 April 2024.
4. Council should be authorised to be the local plan-making authority.



12 October 2023

Alexander Galea

Manager, Place and Infrastructure

Assessment officer

Hannah Darwin

Planning Officer