

# Planning Proposal



## Local Heritage Listing: Lapin House 2C Dumaresq Road Rose Bay



Version Date:	October 2023
Division/Department:	Strategic Planning
Responsible Officer:	Tristan Ryan – Senior Strategic Heritage Officer
HPE CM Record Number:	23/130262

## **Acknowledgement of Country**

*Woollahra Council acknowledges the Gadigal and Birrabirragal people, the traditional custodians of the land of Woollahra. We would like to acknowledge Aboriginal or Torres Strait Islander people and pay our respects to Elders past, present and emerging.*

**Cover Photo:** Left: The western side of Lapin House showing the original configuration and close relationship with Bursill House. Right: Bursill House, viewed from the south, with Lapin House beyond (Source: Heritage Assessment by TKD Architects, August 2023, pp. 16-17, from SLNSW ON 558/Box 3/nos. 416-422, Max Dupain photographs)

## TABLE OF CONTENTS

<b>1.</b>	<b>Introduction .....</b>	<b>5</b>
1.1.	Summary.....	5
1.2.	Background .....	5
1.3.	Description of this planning proposal.....	7
1.4.	Assessment of Heritage Significance .....	8
1.5.	Statement of Heritage Significance.....	9
	Assessment of significance.....	9
	Statement of significance.....	11
<b>2.</b>	<b>Site and surrounding context.....</b>	<b>12</b>
<b>3.</b>	<b>Existing planning controls.....</b>	<b>15</b>
3.1.	Woollahra Local Environmental Plan 2014 .....	15
3.2.	Woollahra Development Control Plan 2015 .....	15
<b>4.</b>	<b>Objectives of planning proposal .....</b>	<b>16</b>
<b>5.</b>	<b>Explanation of provisions.....</b>	<b>16</b>
<b>6.</b>	<b>Justification .....</b>	<b>16</b>
6.1.	Need for planning proposal.....	16
6.2.	Relationship to strategic planning framework .....	17
6.3.	Environmental, social and economic impact .....	19
6.4.	State and Commonwealth interests.....	20
<b>7.</b>	<b>Mapping .....</b>	<b>21</b>
<b>8.</b>	<b>Community consultation.....</b>	<b>22</b>
<b>9.</b>	<b>Project timeline.....</b>	<b>23</b>
	<b>Schedules.....</b>	<b>24</b>
	Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs) .....	24
	Schedule 2 – Compliance with section 9.1 directions (Directions by the Minister) under the EP&A Act.....	26

## Supporting documents (circulated separately)

- **Heritage Study & Heritage Inventory Sheet (August 2023)**



# 1. Introduction

## 1.1. Summary

This planning proposal seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), at Schedule 5 (Environmental heritage) and the Heritage Map, to include Lapin House, 2C Dumaresq Road, Rose Bay, as a new heritage item.

After the submission of a development application relating to the place and including a proposal for the partial demolition of the house, designed by Neville Gruzman, Council sought an Interim Heritage Order and commissioned an assessment of significance of the place by TKD Architects. The report by TKD Architects found that the place meets the threshold for local heritage significance and should be listed as a local heritage item.

## 1.2. Background

On 8 June 2023, development application (DA 2023/204/01) was lodged with Woollahra Council for the following:

*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.*

Council's Heritage Officer considered the works proposed by the DA, and identified that due to the connection with architect Neville Gruzman, may meet the criteria for listing as a heritage item.

On 6 July 2023, Dr Roy Lumby of TKD Architects was appointed to provide Council staff with advice on the potential heritage significance of the property under the Heritage NSW criteria. Dr Lumby is well-known as an expert in the interwar and modern movement periods and is co-author of the book "A Spirit of Progress: Art Deco Architecture in Australia" and "The Modern Movement in NSW thematic history (in association with Colleen Morris and Professor Peter Spearritt, 2014)". As part of the assessment of the DA, Dr Roy Lumby and Council's Senior Strategic Heritage Officer attended the site for an internal site inspection on 12 July 2023.

This preliminary assessment was prepared in accordance with the NSW Department of Planning and Environment's guidelines, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria*, published 2023.

Under a Ministerial Order, the Authorisation for Local Councils to make Interim Heritage Orders, published in the Government Gazette on 12 July 2013 and under a sub-delegation to the Director of Planning 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 DA2023/204/01 proposed the partial demolition of Lapin House, and that the site is potentially of local heritage significance, the Director of Planning & Place formed the opinion that the conditions required for Council to make an IHO were in place.

Subsequently, the Director of Planning & Place authorised the making of an IHO. 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.

The IHO will remain in place for an initial period of six months which gives Council the opportunity to fully assess the heritage significance of the building and identify whether the building should be listed as a State and/or local heritage item. If, within these six months, Council resolves to proceed with the listing of the item, the order remains 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 (Council).

#### Advice of the Woollahra Local Planning Panel

The planning proposal was referred to the Woollahra LPP on 17 August 2023. Having considered the matter, the Woollahra LPP provided the following unanimous advice to Council regarding the subject site:

*THAT the Woollahra Local Planning Panel advises Council:*

*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.*

It is noted that the Woollahra LPP provided the following **reasons for its decision**:

- The Heritage Assessment of Lapin House prepared by TKD Architects was considered by the panel to be a comprehensive, well-considered and thorough report, with appropriate recommendations aiming to conserve the building.*
- The Heritage Assessment demonstrates that Lapin House has strong associations with the prominent architect Neville Gruzman, and is an important and uncommon European Modernist house in Woollahra.*
- The panel noted that the building is generally intact but that repairs and maintenance will be required and that there are current proposals to further develop the site. For long-term conservation, these works should be guided by a Conservation Management Plan or Conservation Management Strategy*

#### Environmental Planning Committee and Council

The planning proposal was then submitted to the Woollahra Environmental Planning Committee for its consideration and recommendation to Council at the Committee meeting of 4 September 2023. The EPC unanimously recommended, in relation to the subject site, the endorsement of 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 Local Environmental Plan 2014*, and to forward the

proposal to the Department of Planning and Environment with a request for Gateway Determination to allow public exhibition. They further recommended that Council:

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*.

This recommendation was considered at the following Council meeting of 11 September 2023, and supported unanimously by the Council.

### Gateway Approval

This planning proposal received Gateway approval from the Department of Planning and Environment on 12 October 2023. The proposal is categorised as “basic” as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023), and it was determined that Council may exercise local plan-making authority functions.

### **1.3. Description of this planning proposal**

This planning proposal seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), at Schedule 5 (Environmental heritage) and the Heritage Map, to insert ‘Lapin House – House and interiors’ at 2C Dumaresq Road, Rose Bay (Lot A in DP 33652) as a local heritage item.

The objective of the planning proposal is to amend the Woollahra LEP 2014 to recognise the heritage significance of the site and to provide the site with statutory heritage protection consistent with its identified significance. Heritage listing aims to provide the ongoing protection and recognition of the heritage significance of the site.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the NSW Department of Planning and Environment supporting document, *Local Environmental Plan Making Guideline* (September 2022).

## 1.4. Assessment of Heritage Significance

An assessment of heritage significance was carried out by Roy Lumby of TKD Architects. That assessment is separately attached to this planning proposal.

The assessment of heritage significance was undertaken in accordance with Environment and Heritage Group, Department of Planning and Environment publications *Assessing heritage significance* (2001)-and *Investigating heritage significance* (2021). There are seven criteria used in the process of assessing heritage significance:

### **Criterion (a) – Historical 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).*

### **Criterion (b) – Associative 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).*

### **Criterion (c) – Aesthetic/technical significance**

*An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (or the local area).*

### **Criterion (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.*

### **Criterion (e) – 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).*

### **Criterion (f) – Rarity**

*An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural (or the cultural or natural history of the local area).*

### **Criterion (g) – Representative**

*An item is important in demonstrating the principal characteristics of NSW's*

- *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.)*

Each criterion includes 'significance indicator' and 'significance threshold' 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.

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 assessment concluded that Lapin House is of **local** heritage significance. Accordingly, it is recommended that the site is listed in Schedule 5 and identified on the associated Heritage Maps of the Woollahra LEP 2014.

## 1.5. Statement of Heritage Significance

Below is a summary of the assessment of significance, and the Statement of Significance the property. A copy of the inventory sheet is separately attached.

Assessment of significance under criteria	
<b>Historic significance</b>  Criterion (a)	<p>2C Dumaresq Road is not considered to fulfil this criterion. It is not associated with significant historical events within Woollahra or with important cultural phases or movements. While its construction is evidence of the consolidation of population in Woollahra after World War II, there are many buildings across the local government area that provide similar evidence.</p> <p>2C Dumaresq Road does not meet the State or Local threshold for Criterion A.</p>
<b>Historical association significance</b>  Criterion (b)	<p>2C Dumaresq Road is associated with Dr Mollie Lapin, Neville Gruzman's aunt, who commissioned him to design the house. A medical practitioner of some note who enjoyed a productive and varied career, she was the youngest medical graduate to have emerged from the University of Sydney when she graduated.</p> <p>2C Dumaresq Road has strong associations with prominent and influential architect 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 the architect's residential work. The house 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 overlapping and interpenetrating space; and rapport with clients, reflected in their long tenure in houses he designed for them (Mollie Lapin was still living in the house in the year she died). Inclusion in several exhibitions between 1954 and 1992 and in the book <i>Gruzman: an architect and his city</i> is indicative of its significance in Gruzman's body of work. Gruzman is significant locally because of the buildings that he designed in the local government area, which contribute to its architectural heritage, and his involvement in local government. Gruzman's contribution to architecture was recognized by his receipt of the Order of Australia in 1985.</p> <p>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, his occupation in the house is unlikely to have influenced his legal career.</p> <p>2C Dumaresq Road meets the State significance threshold for Criterion B because of its associations with Neville Gruzman, who made an important contribution to the history of NSW.</p> <p>2C Dumaresq Road meets the Local significance threshold for Criterion B because of its associations with Neville Gruzman and with Mollie Lapin. Gruzman made an important contribution to the history of the local area through his architecture and his active involvement in Woollahra Council.</p>

<b>Assessment of significance under criteria</b>	
	Mollie Lapin is significant because of her associations with the house, thus making an important contribution to the local area.
<b>Aesthetic/ creative/ technical achievement</b>  Criterion (c)	<p>2C Dumaresq Road is an important Modernist house in the Woollahra local government area. Although significant Modern Movement houses were built in the local government area during the 1930s, such as 6 Graylind Place, Vaucluse and the Prevost House at 65 Kambala Road, Bellevue Hill, 2C Dumaresq Road is notable for its spatial, structural and aesthetic qualities. These include the vertical interpenetration of space at ground and first floor levels, use of reinforced concrete floor slabs in a residential building, expansive glazed western façade and convincing Modernist expression.</p> <p>The house has important visual associations with the Bursill House at 2B Dumaresq Road. The two houses were both designed by Neville Gruzman around the same time and share stylistic similarities.</p> <p>2C Dumaresq Road meets the Local significance threshold for Criterion C. 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.</p>
<b>Social, cultural and spiritual significance</b>  Criterion (d)	2C Dumaresq Road is unlikely to fulfil this criterion. However, further investigation is required to confirm this.
<b>Research potential</b>  Criterion (e)	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.
<b>Rare</b>  Criterion (f)	<p>2C Dumaresq Road 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 distinguished by its exploitation of the views from the site and its spatial complexity when compared to pre-war Modernist houses such as 6 Graylind Place and the Prevost House.</p> <p>2C Dumaresq Road 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.</p>
<b>Representative</b>  Criterion (g)	<p>2C Dumaresq Road is 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.</p> <p>2C Dumaresq Road meets the Local significance threshold for Criterion G. It is a particularly fine example of a Modernist house in the local area, demonstrating a range of characteristics that are typical of the class.</p>
<b>Integrity</b>	Notwithstanding modifications to wet areas and replacement of original fabric – the plan, a large amount of original fabric and the innovative spatial character of the house are intact.

## Assessment of significance under criteria

### Statement of significance

2C Dumaresq Road, Rose Bay is significant because of its strong associations with prominent architect Neville Gruzman. His first commission, it was his initial foray into the exploration of fulfilling client needs and the relationship between interior and exterior spaces and demonstrates principal aspects of his later work. The importance of the house in Gruzman's oeuvre is underlined by its inclusion in several exhibitions between 1954 and 1983 and in the book *Gruzman: an architect and his city*. The house is also associated with Dr Mollie Lapin, Neville Gruzman's aunt, a medical practitioner of some note who commissioned him to design the house.

2C Dumaresq Road is an important and uncommon Modernist house in the Woollahra local government area showing the direct influence of European Modernism. It is also a rare surviving example of the work of Neville Gruzman showing direct European Modernist influence, particularly that of Le Corbusier. The House is notable for its technical interest, demonstrated by the use of reinforced concrete floors and roof and by the wide expanses of glazing in the western elevation. It is also notable for its aesthetic qualities and is distinguished by its exploitation of the views from the site and its spatial complexity. It has important shared visual associations with the contemporary Bursill House at 2B Dumaresq Road, which was also designed by Neville Gruzman.

## 2. Site and surrounding context

The land at 2C Dumaresq Road, Rose Bay sits on Lot A, DP 33652, and contains Lapin House. Completed in 1952 the building is a two storey Modern movement house designed by Neville Gruzman on the commission of his aunt, prominent medical practitioner Dr Mollie Lapin (see **Figures 1-5** below).

The house sits on a battle axe allotment, accessed by a drive leading down a steep hill, elevated above the level of the adjoining beach. It faces directly west, with views over the foreshore and wider harbour, toward the Harbour Bridge. The building is of white rendered brick and concrete, with steel supports. The central part of the house is a full height atrium and living space completely glazed to the west and with a striking sandstone wall to the south. An upstairs volume containing the master bedroom cantilevers over the yard area, with a single full height window facing west to the view and more glazing to the north. The other rooms of the house face a garden at the rear. Between the house and the beach there is an irregularly shaped pool.

The land at 4 Dumaresq Road at Lot C, DP 33652, located immediately to the east of the site, includes a residential flat building containing six flats. The allotment is bounded by the access handles for 2B to the south of the site and 2C to the north of the site. The site at 2B Dumaresq Road (Lot B DP 33652) is another battle-axe allotment with the access handle located on the southern side. The existing structures on the site of 2B includes the two storey dwelling house known as Bursill House, another early work of Gruzman



Figure 1 Current cadastral map, with 2C Dumaresq Road, Rose Bay, Woollahra (highlighted red) and 4 Dumaresq Road, Rose Bay (highlighted blue). (Source: Woollahra MAPS, 2023)



Figure 2 Current aerial photo, with 2C Dumareshq Road, Rose Bay, Woollahra (highlighted red) and 4 Dumareshq Road, Rose Bay (highlighted blue)(Source: Woollahra MAPS, 2023)



Figure 3: Left: The western side of Lapin House showing the original configuration and close relationship with Bursill House. Right: Bursill House, viewed from the south, with Lapin House beyond (Source: Heritage Assessment by TKD Architects, August 2023, pp. 16-17, from SLNSW ON 558/Box 3/nos. 416-422, Max Dupain photographs)



Figure 4 Lapin House, 2C Dumaresq Road, Rose Bay, 12 July 2023. The pool, foreground, has had a cover placed over the top. (Source: Woollahra Council staff)

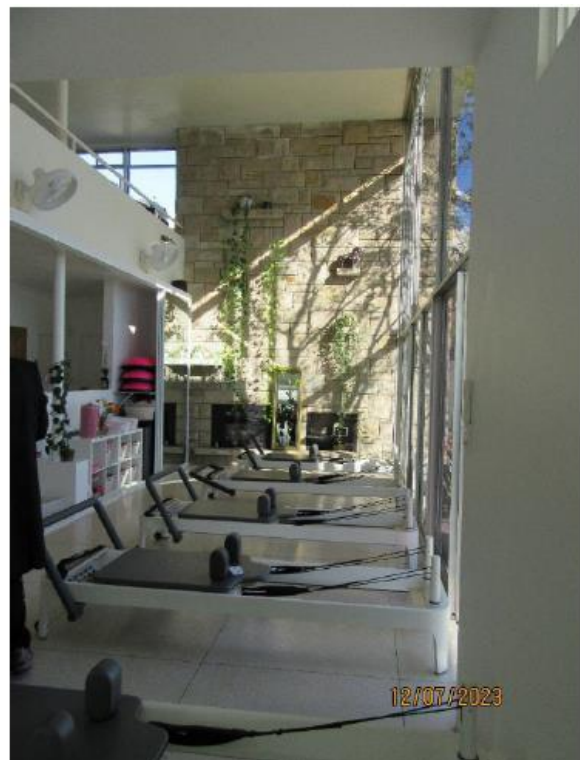


Figure 5 Interior of 2C Dumaresq Road, Rose Bay, looking south. Left by Max Dupain, 1954, right by TKD Architects, 2023. TKD Architects notes that "Notwithstanding the installation of tracks and sliding doors [at left, background] (which can be removed), the space has retained much of its original character."

### 3. Existing planning controls

#### 3.1. Woollahra Local Environmental Plan 2014

Table 2 below identifies the zone and key principal development standards that currently apply to the subject site under Woollahra LEP 2014.

No changes are proposed to these under this planning proposal.

*Table 2: Summary of current development standards*

Site	Zone	Maximum building height (m)	Floor space ratio	Minimum Lot size
2C Dumaresq Road, Rose Bay [Lot A, DP 33652]	R2 Low Density Residential Zone	9.5	0.5:1	675sqm

##### 3.1.1. Zoning Objectives

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.
- To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.
- To ensure development conserves and enhances tree canopy cover.

No changes to the principal development standards currently applicable to the site under the Woollahra LEP 2014 are proposed to change under this planning proposal request.

The land is not currently identified in the Woollahra LEP 2014 as containing any items of heritage significance.

#### 3.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to the subject site. Any development proposals either on the site, or on an adjoining site, are required to address any relevant Woollahra DCP 2015 controls.

## 4. Objectives of planning proposal

The objective of the planning proposal is to recognise the heritage significance of Lapin House at 2C Dumaresq Road, Rose Bay and provide the site with statutory heritage protection consistent with its identified significance. Heritage listing aims to provide the ongoing protection and recognition of the heritage significance of the site.

## 5. Explanation of provisions

The planning proposal seeks the following amendments to Woollahra LEP 2014:

- Insert a listing for the site in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage).
- Amend the Heritage Map to identify an additional heritage item.

## 6. Justification

The planning proposal has strategic and site specific merit. The heritage significance of Lapin House at 2C Dumaresq Road, Rose Bay has been established by the assessment undertaken by Dr Roy Lumby of TKD Architects. Heritage listing aims to provide the ongoing protection and recognition of the heritage significance of the item.

These matters are further discussed below in part 6.1 to 6.3.

### 6.1. Need for planning proposal

#### 1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The planning proposal is the result of the recommendations of an independent assessment report prepared by Roy Lumby of TKD Architects. The report concludes that Lapin House at 2C Dumaresq Road, Rose Bay meets four criteria out of seven for listing as a local heritage item in the Woollahra LEP 2014.

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

Yes. The objective of the planning proposal is to list Lapin House in Schedule 5 of the Woollahra LEP 2014 and associated heritage maps. The only means of achieving this objective is through the planning proposal process.

Heritage listing will provide ongoing protection and recognition of the heritage significance of the item. Other options, such as adding site-specific objectives and controls to the Woollahra DCP 2015, or including heritage conservation conditions to a development consent, will not provide the same level of heritage protection and recognition.

## 6.2. Relationship to strategic planning framework

### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant planning priorities and actions of the *Eastern City District Plan* (2018), as discussed below.

#### **Greater Sydney Region Plan: A Metropolis of Three Cities**

The planning proposal is consistent with the directions and objectives of *Greater Sydney Regional Plan: A Metropolis of Three Cities*, particularly Objective 13 'Environmental heritage is identified, conserved and enhanced'.

Heritage listing of 2C Dumaresq Road, Rose Bay aims to provide the ongoing protection and recognition of the heritage significance of the item.

#### **Eastern City District Plan**

Yes. The planning proposal is generally consistent with the directions, priorities and objectives of the *Eastern City District Plan*, particularly Planning Priority E6 and Action 20:

*Planning Priority E6 'Creating and renewing great places and local centres, and respecting the District's heritage'*

*Objective 13 'environmental heritage is identified, conserved and enhanced'*

*Action 20 'Identifying, conserving and enhancing the environmental heritage of the local area' through:*

- a. engaging with the community early to understand heritage values*
- b. applying adaptive re-use and interpreting heritage to foster distinctive local places managing and monitoring the cumulative impact of development on the heritage values and character of places'.*

Heritage listing of Lapin House aims to provide the ongoing protection and recognition of the heritage significance of the item.

### 4. Will the planning proposal give effect to a Council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal is consistent with the Woollahra Local Strategic Planning Statement and Council's Community Strategic Plan, Woollahra 2030.

The planning proposal is consistent with Planning Priority 5 of the Woollahra Local Strategic Planning Statement:

*Planning Priority 5 Conserving our rich and diverse heritage*

In particular Actions 28 and 30 of this planning priority seek to ensure that heritage is conserved and that the LEP and DCP reflect the evolving nature of heritage:

28. Continue to proactively conserve and monitor heritage in the Municipality including:

- reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015
- sustainably managing visitation to our heritage conservation areas and destinations
- promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas
- supporting implementation of legislation for Aboriginal Heritage.

30. Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.

The planning proposal is also consistent with Council's community strategic plan, *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 and residential amenity, including protection of significant architecture and the natural environment.*

Heritage listing of Lapin House at 2C Dumaresq Road, Rose Bay aims to provide the ongoing protection and recognition of the heritage significance of the item.

**5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

Yes. The planning proposal is not inconsistent with other relevant State or regional studies or strategies.

**6. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies.

Regarding *SEPP (Exempt and Complying Development Codes) 2008*, where an item is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.

Refer to **Schedule 1** for an outline of consistency with all SEPPs.

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

Yes. The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2**).

### 6.3. Environmental, social and economic impact

#### 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

#### 9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no likely environmental effects that would arise as a result of the planning proposal. Protection of the items will be required when development is proposed, or if there is development proposed in its vicinity. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process.

#### 10. Has the planning proposal adequately addressed any social and economic effects?

Yes. The heritage assessment reviewed the property against the definition for 'cultural significance' as defined in the *Australia ICOMOS Burra Charter*, as meaning the historic, associative, aesthetic, scientific, social or spiritual value for past, present or future generations.

The assessment found that these the site meets the heritage criteria at a local level. While the planning proposal does not have any direct economic effect, it has some social impact for the local community that appreciates and enjoys local heritage in the Woollahra LGA.

There will be potential economic implications relating to the need for heritage management documents (to accompany a development application) to assess and support future changes to the building, including new uses, alterations and modifications. With regards to development pathways, depending on the scale and impact of works, developments to local heritage items can be managed as:

- a development application process,
- a heritage works without consent application (under CI 5.10(3) of the Woollahra LEP 2014 for works with minor impacts or for maintenance only.

Furthermore, *SEPP (Exempt and Complying Development Codes) 2008* allows some work to local heritage items (with restrictions).

These additional heritage management and development approval processes will enable the needs of the landowner to be considered in conjunction with the conservation of the building and the impact of the proposed changes on the heritage significance of the building.

Therefore, it is considered that the planning proposal will have a positive social and economic effects because:

- Heritage listing will provide ongoing protection and recognition of the social heritage significance of the site.
- Heritage listing will not preclude future development of the site that is undertaken in accordance with heritage requirements.

- The potential need for additional assessments and management documents to support development applications is necessary in order to provide the appropriate protection against impacts to significance.
- It is not anticipated that the planning proposal will have any negative social effect that needs to be addressed as part of the proposal.

#### **6.4. State and Commonwealth interests**

##### **11. Is there adequate public infrastructure for the planning proposal?**

Yes. The planning proposal involves the local heritage listing of the site and does not involve amendments to the planning controls that will facilitate intensified development.

Currently, the property has access to adequate public infrastructure such as water, sewer, electricity and telephone services.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the site is suitable for the proposal of a local heritage listing in a residential zone.

##### **12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Should the planning proposal proceed to public exhibition, consultation with the relevant public authorities will be carried out. These authorities will include, but are not limited to:

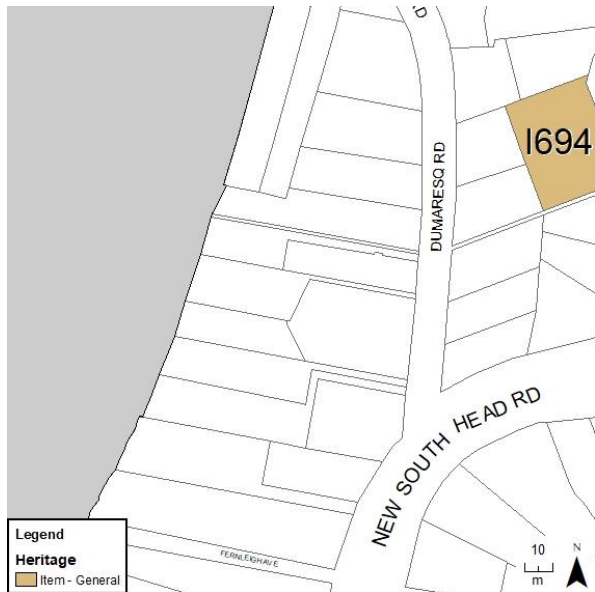
- Environment and Heritage Group, Department of Planning and Environment
- The National Trust of Australia (NSW).

Further consultation will take place with any other authorities identified by the Gateway Determination.

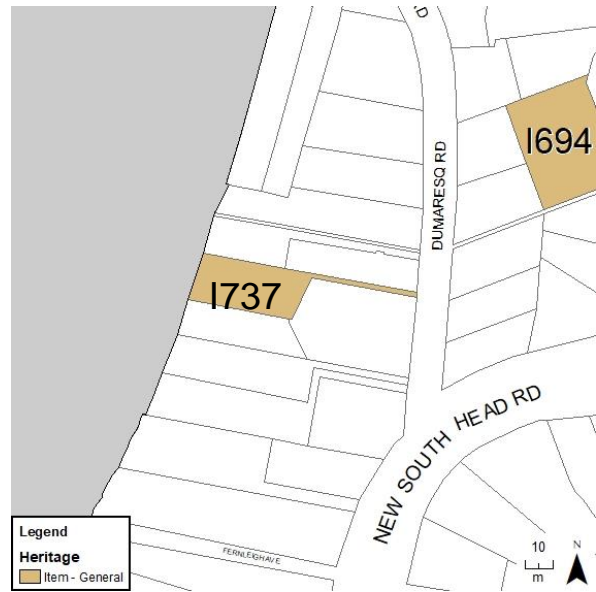
## 7. Mapping

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Maps (Sheet 8500\_COM\_HER\_005) by applying an “Item-General” classification to the site.

An extract of the existing and proposed heritage maps are shown in **Figures 6 & 7**. The heritage item number illustrated in the maps below is indicative only. The heritage item number will be confirmed upon finalisation of the planning proposal.



*Figure 6 Extract from existing Woollahra LEP 2014 Heritage Map (Sheet 8500\_COM\_HER\_005)*



*Figure 7 Extract from proposed Woollahra LEP 2014 Heritage Map (Sheet 8500\_COM\_HER\_005)*

## 8. Community consultation

Public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2021*. It will also have regard to the other relevant plans and guidelines including the *Woollahra Community Participation Plan* (2019), the *Local Environmental Plan Making Guideline* (2022) and any conditions of the Gateway Determination.

We recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the exhibition will comprise:

- weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period,
- a notice on Council's website
- a letter to land owners in the vicinity of each site, which will include every landowner in the Centre
- notice to local community, resident and business groups such as the Paddington Society, the Woollahra History and Heritage Society and the Vaucluse Progress Association.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- the planning proposal, in the form approved by the gateway determination
- the Gateway determination
- information relied upon by the planning proposal (such as relevant Council reports and the heritage significance assessment)
- Woollahra LEP 2014
- Section 9.1 Directions.

## 9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Woollahra Local Planning Meeting	August 2023
Environmental Planning Committee recommends proceeding	September 2023
Council resolution to proceed	September 2023
Gateway determination	November 2023
Completion of technical assessment	Usually none required
Government agency consultation	November 2023
Public exhibition period	Same time as agency consultation
Submissions assessment	January 2024
Council assessment of planning proposal post exhibition	February 2024
Council decision to make the LEP amendment	February 2024
Council to liaise with Parliamentary Counsel to prepare LEP amendment	March 2024
Forwarding of LEP amendment to the Department-of Planning and Environment for notification	March 2024
Notification of the approved LEP	April 2024

## Schedules

### Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs)

State environmental planning policy	Comment on consistency
SEPP (Biodiversity and Conservation) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.  It is noted that where a property is locally heritage listed (or is a draft item) in the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.
SEPP (Housing) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Industry and Employment) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No.65 – Design Quality of Residential Apartment Development	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Planning Systems) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Applicable  There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Precincts – Regional) 2021	Not applicable.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resilience and Hazards) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resources and Energy) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Transport and Infrastructure) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

**Schedule 2 – Compliance with section 9.1 directions (Directions by the Minister)  
under the EP&A Act**

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
<b>1</b>	<b>Planning systems</b>	
1.1	Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i> , particularly Objective 13: Environmental Heritage is identified, conserved and enhanced.  The heritage listing of the property aims to provide the ongoing protection of the heritage significance of these items.
1.2	Development of Aboriginal Land Council land	Not applicable. This planning proposal does not affect Aboriginal Land Council land.
1.3	Approval and referral requirements	The planning proposal seeks to heritage list a property in the Woollahra Local Government Area. This is not expected to require any additional approval or referral requirements. The planning proposal is consistent with this direction.
1.4	Site specific provisions	The planning proposal does not contain any unnecessarily restrictive site specific planning controls. The planning proposal is consistent with the direction
<b>1</b>	<b>Planning systems – place based</b>	
1.5 – 1.20	Implementation Plans	Not applicable. These plans do not apply to the Woollahra LGA.
<b>2</b>	<b>Design and place</b>	
<b>3</b>	<b>Biodiversity and conservation</b>	
3.1	Conservation zones	Applicable and consistent. The planning proposal will not affect the conservation standards of any environmentally sensitive land.
3.2	Heritage conservation	Applicable and consistent. The planning proposal will not affect the significance of places with environmental heritage. The proposed Heritage listing of the property aims to provide the ongoing protection and recognition of the heritage significance of these properties.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3.3	Sydney drinking water catchments	Not applicable. This direction does not apply to the Woollahra LGA.
3.4	Application of C2 and C3 zones and environmental overlays in Far North Coast LEPs	Not applicable. This direction does not apply to the Woollahra LGA.
3.5	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
3.6	Strategic Conservation Planning	Not applicable. The planning proposal does not apply to land identified as avoided land or a strategic conservation area under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .
<b>4</b>	<b>Resilience and hazards</b>	
4.1	Flooding	Applicable and consistent. 2C Dumaresq Road is located on flood liable land. The planning proposal will not rezone flood liable land or affect the application of controls that ensure that development on flood liable land will not result in risk to life or damage to property. The planning proposal is consistent with the direction.
4.2	Coastal management	Applicable and consistent. The planning proposal does not contain a provision that is contrary to this direction.
4.3	Planning for bushfire protection	Not applicable. The planning proposal will not affect bushfire prone land.
4.4	Remediation of contaminated land	Applicable and consistent. The planning proposal does not contain a provision that is contrary to this direction.
4.5	Acid sulfate soils	Applicable and consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.6	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
<b>5</b>	<b>Transport and infrastructure</b>	
5.1	Integrating land use and transport	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> <li>• <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</li> <li>• <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</li> </ul>
5.2	Reserving land for public purposes	The planning proposal does not amend reservations of land for public purposes. The planning proposal is consistent with the direction
5.3	Development near regulated airport and defence airfields	Applicable and consistent. The planning proposal does not contain a provision that is contrary to this direction.
5.4	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
<b>6</b>	<b>Housing</b>	
6.1	Residential zones	Applicable and consistent. The planning proposal does not contain a provision that is contrary to the operation of this direction.
6.2	Caravan parks and manufactured home estates	The planning proposal will not affect any caravan parks or manufactured housing estates.
<b>7</b>	<b>Industry and employment</b>	
7.1	Business and industrial zones	Not applicable. The direction does not apply where sites are zoned for business or industry.
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable. This direction does not apply to the Woollahra LGA.
7.3	Commercial and retail development along the Pacific Highway, North Coast	Not applicable. This direction does not apply to the Woollahra LGA.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
<b>8</b>	<b>Resources and energy</b>	
8.1	Mining, petroleum production and extractive industries	Not applicable. This planning proposal will not affect any of the nominated activities.
<b>9</b>	<b>Primary production</b>	
9.1	Rural zones	Not applicable. This planning proposal will not affect any rural zones.
9.2	Rural lands	Not applicable. This planning proposal will not affect any rural lands.
9.3	Oyster aquaculture	Not applicable. This planning proposal will not affect any Priority Oyster Aquaculture Areas.
9.4	Farmland of state and regional significance on the NSW Far North Coast	Not applicable. This direction does not apply to the Woollahra LGA.