

### Item 3.

#### **Post Exhibition – Planning Proposal – Heritage Listing of 1A Elizabeth Bay Road (Kingsley Hall); 22-24 Darlinghurst Road (The Bourbon); and 32-32A Darlinghurst Road (The Empire), Potts Point**

**File No: X018038**

#### **Summary**

Darlinghurst Road has a long and rich history and a unique cultural identity and character. Located within the internationally renowned precinct of Kings Cross, the area has previously been recognised as a popular late night trading precinct. Over the course of the mid-late 20th century and until recently, the high street has featured a variety of bars, nightclubs, restaurants and entertainment venues, amongst other community, service and residential uses. Consisting of an eclectic mix of architectural styles spanning the end of the 19th and much of the early to mid-20th century, the streetscape of Darlinghurst Road contributes to and reflects the rich social, cultural and built heritage of the area.

Darlinghurst Road's heritage and history, its recent status as a late night entertainment district and its diverse built environment all contribute to its local character and distinctiveness. Interest in residential development is increasing due to improving amenity, changes to licensing regulations and other market factors, and the area is currently experiencing a period of incremental change. Through consultation, the local community has told the City that Darlinghurst Road is highly valued for its heritage, built and social fabric, and variety of buildings and places.

In response to anticipated future development, Council commissioned a heritage assessment to investigate which properties on the block bounded by Darlinghurst Road, Barncleuth Square, Barncleuth Lane and Roslyn Street should be considered for heritage listing. The heritage assessment recommended the heritage listing of three items for local significance, including Kingsley Hall at 1A Elizabeth Bay Road, the facade of The Bourbon at 22-24 Darlinghurst Road and the site of The Empire at 32-32A Darlinghurst Road for social significance only. Progressing the local listing will ensure the significance of these items is appropriately considered and conserved as part of any future development proposal.

On 13 September 2017, the Central Sydney Planning Committee (CSPC) resolved to exhibit the Planning Proposal for 1A Elizabeth Bay Road, 22-24 Darlinghurst Road and 32-32A Darlinghurst Road, Potts Point (planning proposal) as well as the Development Control Plan - Darlinghurst Road, Potts Point (Darlinghurst Road DCP). Council also resolved to exhibit the Darlinghurst Road DCP on 17 September 2018. A copy of the Resolution of the CSPC and of Council are at Attachment B. This report describes the exhibition outcomes and recommends that Council approve the planning proposal with some minor changes. The planning proposal recommended for adoption is at Attachment A.

The planning proposal was exhibited from 10 December 2018 to 25 March 2019. Twenty-nine (29) submissions were received, with the majority of submitters being local residents. Two submissions were made on behalf of the landowner of 18-32A Darlinghurst Road and the strata committee of 1A Elizabeth Bay Road.

Issues raised include clarifying the listing of The Empire, the extent of the listing of internal heritage fabric of Kingsley Hall and general comments concerning heritage, character and future development along Darlinghurst Road.

There are no changes to the proposed amendment of the local environmental plan; however, minor clarifications have been made to the supporting documentation of the planning proposal in response to submissions and further review by staff.

This report recommends that Council approve the revised planning proposal at Attachment A.

The report also notes the City is undertaking further investigation into the broader Darlinghurst Road precinct. This includes the second stage of the heritage assessment for the remainder of the high street, which is currently underway. The heritage assessment will inform the second stage of the Urban Design Study as well as further DCP controls. This ongoing work will provide the public with further opportunities to consider potential heritage listings and to provide Council with feedback.

## Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition and public authority consultation of Planning Proposal – Heritage Listing of 1A Elizabeth Bay Road (Kingsley Hall); 22-24 Darlinghurst Road (The Bourbon); and 32-32A Darlinghurst Road (The Empire), Potts Point as shown at Attachment D to the subject report;
- (B) Council approve Planning Proposal – Heritage listing of 1A Elizabeth Bay Road (Kingsley Hall); 22-24 Darlinghurst Road (The Bourbon); and 32-32A Darlinghurst Road (The Empire), Potts Point, as shown at Attachment A to the subject report, to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal – Heritage listing of 1A Elizabeth Bay Road (Kingsley Hall); 22-24 Darlinghurst Road (The Bourbon); and 32-32A Darlinghurst Road (The Empire), Potts Point to correct drafting errors prior to finalisation of the local environmental plan.

## Attachments

- Attachment A.** Planning Proposal - Proposed Heritage Items, Potts Point: Kingsley Hall, 1A Elizabeth Bay Road; The Bourbon Hotel, 22-24 Darlinghurst Road; and The Empire Hotel, 32-32A Darlinghurst Road, Potts Point
- Attachment B.** Resolution of the Central Sydney Planning Committee - 13 September 2018 and Resolution of Council - 17 September 2018
- Attachment C.** Gateway Determination - 26 October 2018
- Attachment D.** Summary of Submissions

## Background

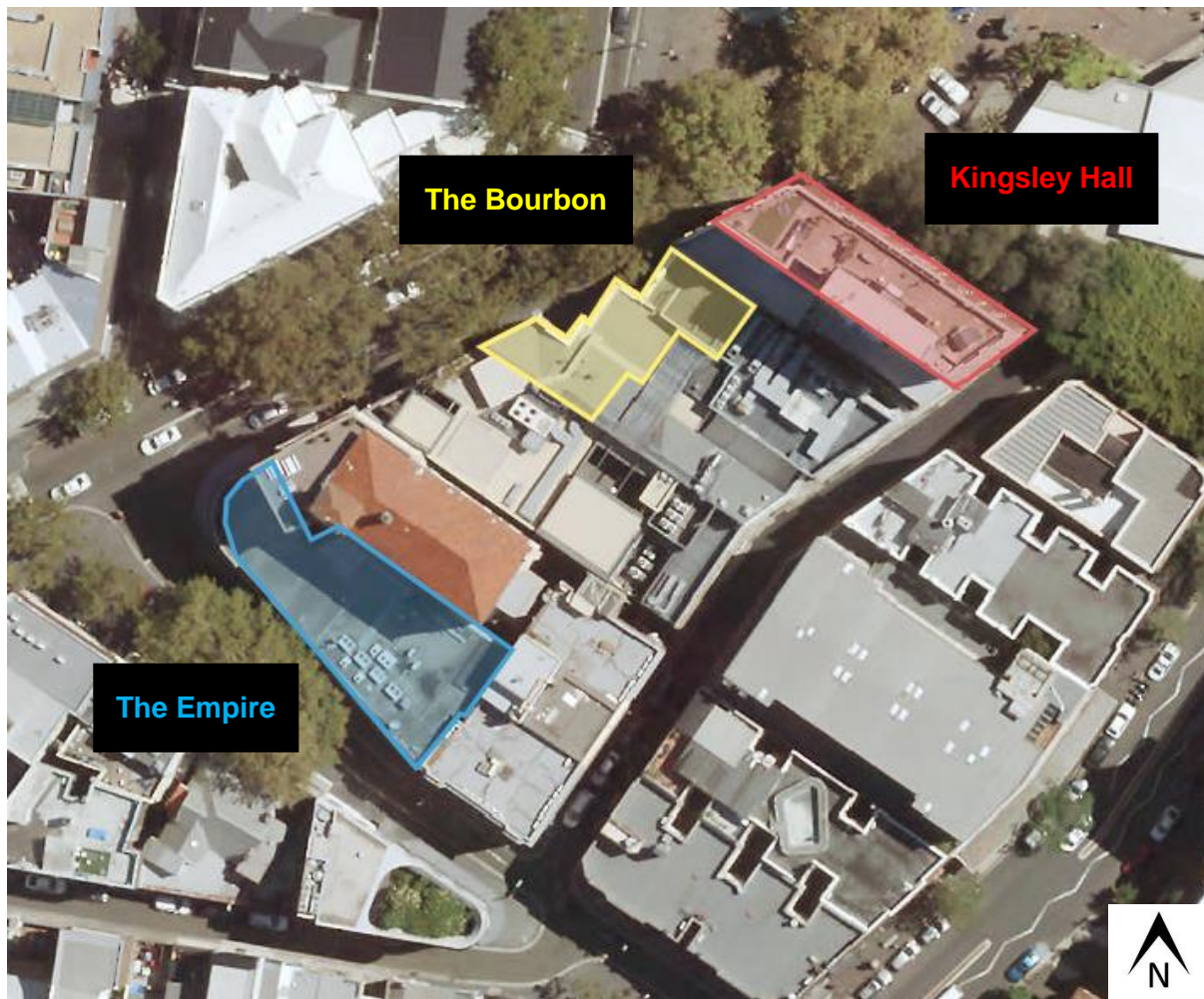
1. The purpose of this report is to seek Council approval of a planning proposal relating to three sites at 1A Elizabeth Bay Road (Kingsley Hall), 22-24 Darlinghurst Road (The Bourbon) and 32-32A Darlinghurst Road (The Empire), Potts Point, following public exhibition and a consequent review of the proposal. The planning proposal, at Attachment A, seeks to amend Sydney Local Environmental Plan 2012 (LEP) to list the three sites as heritage items.
2. The Central Sydney Planning Committee and Council approved the planning proposal and a related site-specific Development Control Plan for Darlinghurst Road for public exhibition on 13 September and 17 September 2018. The Council and the Central Sydney Planning Committee resolutions are at Attachment B.
3. The Department of Planning and Environment issued a Gateway Determination setting out the requirements for public exhibition on 26 October 2018. The Gateway Determination is at Attachment C.
4. The planning proposal was publicly exhibited in accordance with the Gateway Determination from Monday 10 December 2018 to Monday 25 March 2019.
5. The City received 29 submissions made up of 27 individual resident submissions, one submission made on behalf of the body corporate of 1A Elizabeth Bay Road (Kingsley Hall), and one submission made on behalf of the landowner of 18-32A Darlinghurst Road, which includes both The Bourbon and The Empire sites. A summary of all submissions and the City's response is at Attachment D. Key issues are discussed later in this report.
6. A number of changes are recommended to the planning proposal which respond to submissions and further internal review. These changes are discussed in this report.

## Site details and context

7. The subject sites are located at the northern end of Darlinghurst Road at the junction of Macleay Street, Potts Point. The proposed heritage items at 1A Elizabeth Bay Road, 22-24 Darlinghurst Road and 32-32A Darlinghurst Road are identified in Figure 1 and Figure 2 below.



**Figure 1:** Map of subject sites - 1A Elizabeth Bay Road (Kingsley Hall) in red, 22-24 Darlinghurst Road (The Bourbon) in yellow and 32-32A Darlinghurst Road (The Empire) in blue.



**Figure 2:** Aerial image of subject sites - extent of proposed heritage listings

8. Kingsley Hall is located at 1A Elizabeth Bay Road, Potts Point. The site is legally described as Lot 1 DP 191425 and has a total area of 281 square metres. Kingsley Hall is shown at Figure 3 below. It is a 10 storey inter war flat building with a ground floor food and drink premises.
9. The Bourbon is located at 22-24 Darlinghurst Road, Potts Point. The site is legally described as Lot 1 DP 1097710 and has a total area of 1,386 square metres. The facade of The Bourbon is shown at Figure 4 below. The Bourbon is formerly a group of 2 to 3 storey terraces, altered and re-purposed over the twentieth century, and currently used as The Bourbon Hotel.
10. The Empire is located at 32-32A Darlinghurst Road, Potts Point. The site is legally described as Lot 1 DP 510235 and has a total area of 443 square metres. The Empire is shown at Figure 5 below. The Empire (32-32A Darlinghurst Road) is a modernist 3 storey mixed use building with a curved corner dating to 1961. It once housed Les Girls, Carousel Lounge and the Palladium nightclubs and is currently known as The Empire Hotel.



11. Darlinghurst Road is a main road, servicing vehicular and pedestrian traffic. The precinct is characterised by mostly small scale, fine grain commercial buildings of around 3 to 4 storeys interspersed with some larger sites and taller buildings. These include The Bourbon, The Empire, Wintergarden, Kings Cross Library and the development known as 'Omnia', located at the intersection of Darlinghurst Road, Bayswater Road and Victoria Street. Surrounding development is mixed in scale and form, varying from two storey Victorian terraces to multi-storey residential flat buildings.



**Figure 3:** Kingsley Hall at 1A Elizabeth Bay Road, Potts Point





Figure 4: The facade of The Bourbon at 22-24 Darlinghurst Road, Potts Point



Figure 5: The facade of The Empire at 32-32A Darlinghurst Road, Potts Point

**Exhibited controls/proposed amendments - heritage listings**

12. The planning proposal at Attachment A seeks to protect the heritage significance of Kingsley Hall at 1A Elizabeth Bay Road, the facade of The Bourbon at 22-24 Darlinghurst Road, and the social significance of The Empire at 32-32A Darlinghurst Road. To achieve this it is proposed to amend Sydney Local Environmental Plan 2012 to:
  - (a) list Kingsley Hall at 1A Elizabeth Bay Road, Potts Point, as a heritage item in Schedule 5;
  - (b) list the facade of The Bourbon (to a depth of 8 metres) at 22-24 Darlinghurst Road, Potts Point, as a heritage item in Schedule 5; and
  - (c) list The Empire at 32-32A Darlinghurst Road, Potts Point, as a heritage item in Schedule 5.

13. The sites have been assessed against the seven Heritage Council criteria and meet the threshold for listing as heritage items of local significance.

14. Kingsley Hall satisfies at least six of the Heritage Council's listing criteria at a local level for its historic evolution, historic association, social significance, aesthetic characteristics, representativeness and research value. Heritage assessments carried out by PTW Architects and LSJ Planning and Architecture have concluded the building has local heritage significance for its internal and external fabric, including the information it yields on design, construction and use of luxury flats within the City of Sydney prior to World War II. Aesthetically, its significant external features include its well-preserved form and prominent elements such as its face brick Art Deco façade. The statement of significance for Kingsley Hall reads:

Kingsley Hall is a fine example of a purpose built Inter-War Art Deco apartment building designed by the celebrated Sydney architect Emil Sodersteen. Being well sited on the corner of Darlinghurst Road and Barncleuth Square, and now overlooking Fitzroy Gardens, it is an important urban element within Potts Potts. Tightly and efficiently planned, each apartment commands a northerly aspect with views overlooking Potts Point and Sydney Harbour.

15. The facade of The Bourbon satisfies all seven of the Heritage Council's listing criteria, including the criterion for rarity. The Bourbon has high historic significance, through its long relationship with its former residential use, private hospital and nightclub uses. The facade of The Bourbon and the external space facing onto the street has moderate aesthetic and high social significance. External features include its well-preserved form and prominent elements such as the Italianate facade with a later 1950s addition. Only the facade to a depth of 8 metres is proposed to be identified as significant in the listing given the extent of change that has occurred to the remainder of the building. The statement of significance for The Bourbon at 22-24 Darlinghurst Road reads:

This building is significant as it demonstrates a complex social and associated architectural form and is representative of change in Potts Point, from speculative mansion terrace built by the entrepreneur Bakewell Brothers for wealthy professionals to use as a private hospital, managed by the prominent nurse Susan Bell McGahey, to boarding house, and later a celebrated nightclub.



16. The Empire satisfies at least four of the Heritage Council's listing criteria, based largely on its social associations with its use as the former 'Les Girls' nightclub. This site has high historic and social significance due to its association with the area's nightlife and the growing acceptability of the LGBTQI community during the late 1960s to the 1980s. The proposed listing of the Empire extends only to the site's social significance as there is no physical fabric worthy of retention. The Darlinghurst Road DCP states that the building may be demolished and its former use is to be interpreted through the new building form, signage and use of the lower levels for food and drink and entertainment uses. The statement of significance for The Empire at 32-32A Darlinghurst Road reads:

The former Les Girls Nightclub, located on the upper floor of 32 Darlinghurst Road, was a unique and long standing club/cabaret of international standing. Here the company of talented female impersonators, Les Girls, performed with Carlotta, Australia's first transgender patient. As an important part of the cosmopolitan life of 'The Cross' during the 1960s and 1970s, Les Girls performed within a low rise mixed used commercial building designed in the modernist style by the celebrated Sydney architect Neville Gruzman.

17. The listing of Kingsley Hall and the facade of The Bourbon will ensure valuable physical fabric is retained, and will allow present and future generations to understand the breadth of Australia's early 20th century and Inter-War architectural heritage. The listing of The Empire for its social significance will ensure it is recognised for its status as a socio-cultural institution (particularly to the LGBTQI+ community).
18. The identification of these items will ensure any future development of 18-32A Darlinghurst Road considers the heritage value and significance of these buildings, and encourages sympathetic built form and uses. Conservation and interpretation of these items is consistent with the community's aspiration to retain the diverse mix of heritage buildings on Darlinghurst Road.

### **Public exhibition**

19. The planning proposal was exhibited from 10 December 2018 to 25 March 2019.
20. Relevant documents were made available on the 'Sydney Your Say' website and at the Kings Cross Neighbourhood Service Centre. The City sent 318 letters to occupants and 44 letters to landowners to notify them of the public exhibition.
21. The exhibition was also advertised in the Sydney Morning Herald and Wentworth Courier, and through the City's website and the 'Sydney Your Say' e-newsletter.
22. A total of 29 submissions were received. These comprise 27 individual submissions and two submissions from local landowners.
23. Issues raised in submissions and the City's response are summarised at Attachment D, with discussion of key issues below.

## Public authority submissions

### Office of Environment and Heritage

24. In accordance with the Gateway Determination issued by the Department of Planning on 26 October 2018, the planning proposal was referred to the Office of Environment and Heritage (OEH) on 10 December 2018.
25. On 18 December 2018 OEH advised they had no objection to the proposed heritage listings.

### Key issues raised

26. The City reviewed 29 submissions, of which 24 fully supported the proposed listings, four submissions partially supported the proposal, and one submission opposed the proposal. The main issues are discussed below.
27. A review of the planning proposal was undertaken following submissions and further internal consideration. The changes to the planning proposal are shown in Attachment A, with new text underlined and deleted text as strikethrough. All other issues raised are discussed in detail in the summary of submissions at Attachment D.

### The Empire

28. A number of submissions raise the heritage status of The Empire as a key issue. Some submitters wrote in support of the listing of The Empire, with some suggesting it should be listed for its physical fabric as well as its social significance. Three submissions opposed the listing of The Empire at all, with one stating it should be demolished and amalgamated with surrounding lots, and rebuilt to the height of Kingsley Hall. One submission called for the status of the physical structure of The Empire to be clarified in the heritage listing description in Schedule 5 of the Sydney Local Environmental Plan 2012 (SLEP 2012) and in the heritage inventory sheets.
29. The City commissioned a heritage report by PTW Architects as part of Council's review into Darlinghurst Road. The recommendation to list The Empire for social significance is the result of this assessment, which has determined that The Empire has a high degree of heritage significance at a local level, primarily linked to its former use as the Les Girls Nightclub. The social significance was also supported through community consultation. Since being constructed in the 1960s, the building has been heavily modified, and the current fabric is not significant or representative of the place's social significance.
30. In terms of the existing building's representativeness and its modernist form, the recently endorsed site-specific DCP for Darlinghurst Road requires any new building on the site of The Empire at 32-32A Darlinghurst Road to interpret the social and historical significance of the site as the original Les Girls venue. This is to be achieved through an architectural interpretation of the building between 1962-1980s, including the curved corner form, floor and parapet levels, ground level awning, the first and second floor balconies and the corner sign reading 'Les Girls'.
31. With respect to increased height, the building can be demolished and rebuilt, however the subject planning proposal does not seek to increase the permissible height limit for the site of The Empire (which is 22m or 6 storeys). As such, new development at the site cannot be built to the same height as Kingsley Hall under existing planning controls.

32. Concerning amalgamation, controls in the site-specific DCP for Darlinghurst Road require new development at 18-32A Darlinghurst Road to consist of separate buildings with individual cores and entries, to ensure they are legibly distinct. This is in keeping with the character of existing development on Darlinghurst Road, and reflects the community's strong desire to avoid large, homogenous apartment buildings that are unsympathetic to Potts Point's fine grain.
33. The heritage inventory sheet for The Empire has been updated to clarify that the physical structure of The Empire may be demolished and redeveloped. The description of the listing for The Empire in Schedule 5 of SLEP 2012 has not been amended as the inventory sheets clearly detail the heritage value of The Empire which extends only to the site's social significance, and explicitly state that the structure itself may be demolished and rebuilt. The DCP adopted by Council also notes the building may be demolished provided the site's social significance is interpreted.

### **Kingsley Hall**

34. Kingsley Hall is generally described as a fine building characteristic of its era, with its facade being considered particularly valuable. Most submissions that speak specifically to the listing of Kingsley Hall have been made by residents of the building, including a detailed assessment made by Lucas Stapleton Johnson (LSJ) on behalf of the building's strata committee.
35. Most submissions made by residents of Kingsley Hall support the proposed heritage listing of the building. Issues raised include concerns over the extent of internal building fabric to be listed based on additional burden and costs for owners, as well as limitations in terms of maintaining original room configurations and whether such steps result in any real public benefit. It was also stated that the listing of Kingsley Hall will provide an argument against any new development near or close to the building.
36. LSJ Planning and Architecture have carried out an extensive internal assessment of the building, including inspecting 18 of 36 apartments in the building, as well as the ground floor restaurant and foyer, roof, basement level, and common circulation spaces. The findings and recommendations of this fabric survey have been reviewed and are supported by Council's heritage specialist. The heritage inventory sheet has been updated to reflect this information.
37. The listing of Kingsley Hall includes the face brick facades of the building; and the principal room layout and planning configuration as well as significant internal original features including joinery (glazed French windows, built-in cupboards, doors, skirtings and architraves), remaining steel windows, timber flooring and terrazzo staircase. The heritage inventory sheet for Kingsley Hall has been updated and clarified accordingly.
38. Maintaining the original configuration of units and rooms reflects and conserves the original intent of the architect as well as the spatial and structural integrity of the building, and is an important aspect of the heritage significance of a residential flat building like Kingsley Hall. Change may be possible to internal spaces subject to an assessment of the impact on significance.
39. Concerning the issue of cost burden to residents, Council offers an alternate pathway to a Development Application for minor works to a heritage item. Provided work is consistent with the exempt provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, an application for heritage works without consent can be made. Such works typically consist of minor, non-structural alterations, such as refurbishment and maintenance. The application is made directly to the City of Sydney and there is no fee required for single dwellings/units.

40. It is also noted that whilst listing Kingsley Hall does afford the building a level of protection, and requires additional consideration in the event that development is proposed within the vicinity of the building, heritage listing does not preclude development from occurring where it complies with relevant planning standards, objectives and provisions.

### **General heritage**

41. The majority of submissions made are generally supportive of the proposed heritage listings. Submissions in support of the proposal state that:
- (a) The listings will protect buildings which feature a mix of architectural, historic and cultural importance that improve the amenity of the area;
  - (b) Too much destruction is occurring and that the loss of buildings such these would alter the substance of what makes Potts Point unique;
  - (c) The proposed heritage listings are in line with community expectations;
  - (d) The Bourbon has a beautiful and articulated Italianate terrace façade and the site has been a hub of the Cross for the latter half of the 20th century;
  - (e) All three buildings, structurally and culturally, have a relationship in how residents and visitors perceive the history of the area; and
  - (f) This block (18-32A Darlinghurst Road) has considerable social significance – including The Bourbon representing the Vietnam R&R era and decades of Kings Cross sleaze – all part of Darlinghurst Road’s colourful history.
42. No changes to the planning proposal are required.

### **Character and overdevelopment**

43. Some submissions comment on unique local character of Darlinghurst Road and the benefits of the listings in terms of preserving this character through conserving architecture. The loss of character to overdevelopment in the inner city was also mentioned.
44. These submissions are noted. The subject planning proposal and recommended heritage listings are the result of a Council resolution to commission an urban design study to identify design principles for 18-32A Darlinghurst Road and to audit planning controls for improvements that could be considered and consulted with the community. Much of the research and consultation undertaken in this process has been based on the local character of Kings Cross and Potts Point.
45. The proposed heritage listings are consistent with expert heritage advice and what the community expects and desires for the character and built form of Darlinghurst Road now and into the future.

### **Opposition to the proposal**

46. One submission stated the subject planning proposal has no merit, that there is nothing to admire or like about Kingsley Hall, The Bourbon, and The Empire, and that they should be demolished and replaced with beautiful buildings.



47. As noted above, The Empire is being listed for social significance and its structure can be demolished. With regard to Kingsley Hall and the façade of The Bourbon, heritage assessments have been carried out by experts from PTW Architects (on behalf of Council), GML Heritage (on behalf of Iris Capital, owners of 18-32A Darlinghurst Road) and LSJ Planning and Architecture (on behalf of the body corporate of Kingsley Hall). The proposal to list these items has also been thoroughly considered by Council's heritage specialists.
48. The advice from consultants and internal heritage specialists is consistent, identifying considerable aesthetic, social, historical and cultural significance in the buildings and sites at 18-32A Darlinghurst Road. The subject heritage listings also have strong public support and are in keeping with the community's expectations for Darlinghurst Road, as told to Council through community consultation in 2018.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030 Vision

49. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This planning proposal is aligned with the following strategic direction and objectives:
  - (a) Direction 7 - A cultural and creative city: the design of the built environment contributes to the City's culture, and the conservation of heritage fabric is a means of recording, sharing and promoting the history of the city and the values of the community.
  - (b) Direction 9 - Sustainable development, renewal and design: the conservation of heritage buildings is essential to creating great streets that reflect the unique identity of local communities and are enjoyable to visit.

### Strategic Alignment - Eastern City District Plan

50. The Eastern City District Plan sets the local planning context for the City of Sydney local government area. It provides a 20-year plan to manage growth and achieve the 40-year vision of the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.
51. The Eastern City District Plan identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth.
52. This planning proposal gives effect to Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage.

### Social / Cultural / Community

53. The planning proposal responds to issues and concerns raised by the local community concerning the heritage significance of buildings and sites along Darlinghurst Road. The proposed heritage listings seek to conserve the physical and social significance of sites identified as having heritage value.

### Relevant Legislation

54. Environmental Planning and Assessment Act 1979.
55. Environmental Planning and Assessment Regulation 2000.

### Critical dates / time frames

56. The Gateway Determination requires that the amendment to Sydney Local Environmental Plan 2012 is completed by 26 July 2019. The Greater Sydney Commission may take action under section 3.32(2)(d) of the Environmental Planning and Assessment Act 1979 if this time frame is not met.
57. The Gateway Determination states that the Council is not authorised to exercise delegation to make the local environmental plan. If approved by Council, the planning proposal will be forwarded to the Department of Planning and Industry with a request to draft and publish the local environmental plan.

### Public Consultation

58. The planning proposal was publically exhibited from 10 December 2018 to 25 March 2019 in accordance with the Gateway Determination. Exhibition documents were made available for viewing on the 'Sydney Your Say' website, and at the One Stop Shop at Town Hall and the Kings Cross Neighbourhood Service Centre.
59. The exhibition was also advertised in the Sydney Morning Herald and Wentworth Courier, and through the City's website and the 'Sydney Your Say' e-newsletter
60. Written notification to landowners affected by the proposal and in the vicinity of the area provided information on how to view the relevant documentation. The Office of Environment and Heritage was also consulted on the planning proposal and supporting documentation, in accordance with the Gateway Determination.
61. A discussion regarding the submissions received is provided earlier in this report. A summary of all the issues raised by residents and public authorities and how the planning proposal addresses each issue is provided at Attachment D.

### GRAHAM JAHN, AM

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