



New South Wales Government
Independent Planning Commission

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Gateway Determination Review Request - Edgecliff (PP-2021-6740)

Advice Report

Juliet Grant (Chair)

10 October 2022

1. Introduction

1. On 8 September 2022, the NSW Independent Planning Commission (**Commission**) received a referral from the NSW Department of Planning and Environment (**Department**) requesting advice pursuant to section 2.9(1)(c) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) in relation to a planning proposal and gateway determination for land in the Woollahra Local Government Area.
2. On 5 November 2021, Woollahra Municipal Council (**Council**) submitted the planning proposal PP-2021-6740 (the **Planning Proposal**) to the Department, seeking to remove four areas of affections, being reservations for future acquisition (**Acquisition Reservations**) by Transport for NSW (**TfNSW**).
3. The Planning Proposal is in respect of 13 lots of land located in four areas on New South Head Road (**NSH Road**), and Glenmore Road, Edgecliff (collectively, the **Land**).
4. The Department issued a Gateway Determination on 8 June 2022 that the Planning Proposal not proceed and Council seeks a review of this decision.
5. This report forms the Commission's advice to the Secretary of the Department as to whether the Gateway Determination should be altered. Professor Mary O'Kane AC, Chair of the Commission, determined that Juliet Grant would constitute the Commission for the purpose of exercising its functions with respect to this request.

2. Edgecliff Gateway Determination Review

2.1 Land and Locality

6. The Land in Edgecliff subject to Planning Proposal PP-2021-6740 is set out in Table 1:

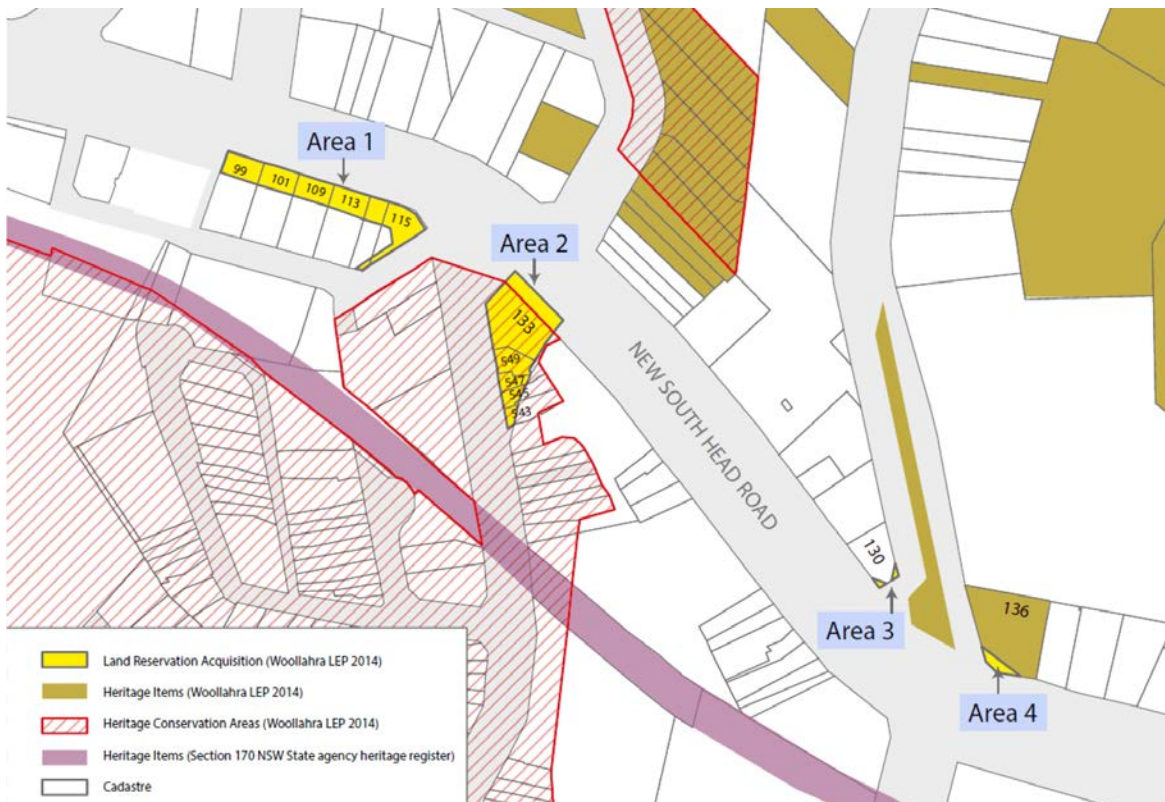
Table 1: The subject Land

Area	Address	Lot and DP/SP
Area 1	99 NSH Road, 101 NSH Road, 109 NSH Road, 113 NSH Road, 115 NSH Road	Lot A DP 341458, SP 11555, SP 12507, SP 71681, Lot 9 & 10 DP 15833
Area 2	133 NSH Road, 549 Glenmore Road 543, 544 & 547 Glenmore Road	Lot 1 DP 255233, Lot 37 DP 255233 Lot 34, 35 & 36 DP 255233
Area 3	130 NSH Road	Lot A DP 176247
Area 4	136 NSH Road	Lot 1 DP 633495

7. The Acquisition Reservations are mapped for all of 133 NSH Road and 549 Glenmore Road and only part of each remaining lot (according to the information provided by Council in Attachment A of the Planning Proposal).

8. The Land is located on or near an intersection with NSH Road, which is a major throughfare leading east from the City of Sydney CBD, towards the Bondi Junction Strategic Centre and the Eastern Suburbs. The Land is in the Edgecliff Local Centre. The Land is within the stretch of NSH Road that leads uphill eastwards from Rushcutters Bay towards Edgecliff Railway Station. There is a mixture of multi-level buildings, with retail, business, entertainment and residential uses along this part of NSH Road.
9. The Land is zoned B4 Mixed Use under Woollahra Local Environmental Plan 2014 (**WLEP 2014**). The Land is mapped on the Land Reservation Acquisition Map (**LRA Map**) in WLEP 2014. Figure 1 depicts information from the WLEP 2014 Heritage Map with an overlay of the Acquisition Reservations (shown in yellow).

Figure 1: The subject Land with the Acquisition Reservations shown in yellow and information from WLEP 2014 Heritage Map overlaid (Source: Planning Proposal, pg 1)



10. Clause 5.1 of WLEP 2014 establishes the relevant authority to acquire the parts of the Land reserved for the public purpose is TfNSW. Clause 5.1A of WLEP 2014 has the effect that the subject Land shown in yellow on the LRA Map can only be used for 'roads'. An owner may seek TfNSW to acquire their property under clause 5.1 of WLEP 2014 under circumstances of 'hardship' (explained further on page 25 of the Planning Proposal).
11. Schedule 5 of WLEP 2014, which lists items of environmental heritage, is relevant to this Review as follows:
 - **136 NSH Road**, is a local heritage item (Item 238, 'building and interiors'). This is a two-storey former bank building, locally known as the *Jom Photo* building (the current use).

- **133 NSH Road and 549 Glenmore Road (Cadry's Site)** are sandstone buildings, and 543, 545 and 547 Glenmore Road (which extend around the corner) are single-storey workers cottages. Both are within the C8 Paddington Heritage Conservation Area (HCA).

2.2 Related Planning Proposals

2.2.1 Planning Proposal PP-2021-6545

12. The **Cadry's Site** within Area 2 is subject to a Council-led planning proposal (PP-2021-6545) to list the site as a heritage item under WLEP 2014. A Gateway determination was issued by the Department on 23 December 2021 for this planning proposal to proceed subject to conditions. In its meeting with the Commission on 19 September 2022, the Department advised this planning proposal is with the Department for finalisation (Department & TfNSW Meeting Transcript, pg 5).
13. Consultation occurred with TfNSW, as a condition of the Gateway determination and as part of the exhibition. The response from TfNSW dated 10 May 2022 was referenced as an attachment in the post-exhibition report considered by Council's Environmental Planning Committee on 6 June 2022 (Environmental Planning Committee Meeting Agenda, 6 June 2022, pg 399¹). This stated (bold added):

*As Council would be aware, both of these properties are located within the area identified for **future transport improvements** along New South Head Road and Glenmore Road and subject to land reservation provisions under the Woollahra Local Environmental Plan 2014 with Transport for NSW as acquisition authority. As Council would appreciate, New South Head Road and the reserved land is part of an **important public transport corridor from Darlinghurst to Bondi**. One of the strategic visions in the corridor's road network plan for the next 20 years is to provide a safe and reliable corridor that encourages the use of **sustainable transport modes with efficient public transport services and high quality active transport facilities**.*
14. TfNSW also advised that its preference was not to list the Cadry's Site as a heritage item, but that it was a local matter; and that Council should be aware that the land may be acquired in the future once the type and extent of transport improvements are determined.

2.2.2 Draft Planning Proposal – 136 New South Head Road and adjoining land

15. **136 NSH Road** (Area 4) and adjoining land at 138, 140, 142-140 and 146-148 NSH Road is subject to a proponent-led draft planning proposal for site-specific amendments to increase the maximum height and FSR.
16. Council resolved on 12 September 2022 matters in relation to this planning proposal, including to accept the role of Planning Proposal Authority and to prepare this planning proposal. The next step will be for the planning proposal to be forwarded to the Department for a Gateway determination.
17. Of relevance to this review is Part E of the resolution of Council of 12 September 2022 "THAT due to an existing road reservation being over the corner part of the site, that Council recommends that the issue of the road reservation is resolved by the applicant with Transport for NSW prior to the making of any LEP" (Woollahra Council Meeting Minutes, 12 September 2022, pg 10).

¹ https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0008/260387/EP-Agenda-6-Jun-2022.pdf

2.3 Background to the Planning Proposal

18. The background to Council's decisions to initiate the Planning Proposal is provided in the Material considered by the Commission.
19. The objectives of the Planning Proposal are to (Planning Proposal, pg 8):
 - Remove redundant road reservation affectations from the Woollahra LEP 2014;
 - Ensure that the buildings of heritage significance on the affected properties are protected from any future demolition; and
 - Support Council's investment in the long-term place making of Edgecliff.

2.3.1 Objective 1: Remove redundant road reservations

20. The Acquisition Reservations in WLEP 2014 were carried over from the previous WLEP 1995. The areas were "identified for road widening purposes as part of the 1958 Road Alignment project, which was superseded by the Cross City Tunnel project in 2005" (Planning Proposal, pg 39). Council is of the view that the reservations are now redundant as substantial improvements have been made to public transport to Edgecliff, and the Cross City Tunnel has superseded "any intention to direct traffic through Paddington which would have been partially facilitated by the NSH Road widening" (Planning Proposal pg 39).
21. This is contrary to the views expressed by TfNSW who, consistent with their position in relation to the Cadry's Site (PP-2021-6545), indicate the Acquisition Reservations are needed, to encourage the use of sustainable transport with efficient public transport services and high quality active transport facilities (Department & TfNSW Meeting Transcript, pg 6).
22. Council advises it sought support from TfNSW to remove the affectations, that TfNSW has no known road widening plans for NSH Road, and that TfNSW has been "unable to provide clear or compelling reasons that would prevent the removal of these land reservations" (Planning Proposal, pg 6).
23. The subject lots are in separate private ownership. As this Planning Proposal is in the early pre-gateway stage, consultation has not occurred with the landowners.
24. Council is of the view that the affectations have an economic implication for the land owners, should they seek to make improvements to their land and raise finance (Planning Proposal, pg 24). More certainty would be provided to the land owners with the removal of the Acquisition Reservations.

2.3.2 Objective 2: Protection of heritage significance

25. According to Council, the Planning Proposal is a result of the assessment of heritage significance of the Cadry's Site and in light of the progress of the local heritage item listing (as per PP-2021-6545). In its meeting with the Commission on 19 September 2022, Council advised that it was investigating the other Glenmore Road properties in Area 2 (the single-storey workers cottages at 543, 545 and 547 Glenmore Road) for heritage listing and was undertaking a heritage review of the whole Edgecliff Commercial Centre (ECC) (Council Meeting Transcript pg 3 & 4).
26. The Planning Proposal states it is "inconsistent with Council's planning policies and best-practice for planning for heritage items to be subject to land reservation affectations" (Planning Proposal pg 27).

27. As the reservations run through all of the affected buildings, including the heritage listed/potential heritage listed ones, demolition of the whole building on each of the subject lots would be inevitable should the reservations be acquired for works by TfNSW.

2.3.3 Objective 3: Long term place-making in Edgecliff

28. The Planning Proposal seeks to implement the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy, April 2021 (**Draft Edgecliff Strategy**) and accompanying Draft Edgecliff Commercial Centre Public Domain Plan, May 2021 (**Draft PDP**).
29. The Council's webpage states that:
The draft strategy sets a new vision for the ECC and makes recommendations on key built form outcomes including land uses, heritage conservation, maximum building heights, active street frontages, affordable housing, design excellence, community infrastructure and transport.²
30. Exhibition of the Draft Edgecliff Strategy concluded on 30 September 2021. The Commission understands Council is currently preparing a heritage study and the findings will inform a revision to the Draft Strategy that will then be reported to the Council (Council Meeting Transcript, pg 13).
31. In its meeting with the Commission, Council displayed the Public Domain Structure Plan from the Draft Edgecliff Strategy, which is depicted in Figure 2 showing the subject Acquisition Reservations in cross hatching. Figure 3 is also an extract from the Draft Edgecliff Strategy, depicting the indicative massing and the preferred built form. These figures identify uplift for Area 1 and Area 3. For clarity, area labels have been added for the Acquisition Reservations areas in both Figure 2 and Figure 3.
32. In its meeting with the Commission, the Department indicated that Council is required by the end of 2024 to have lodged a planning proposal for all or part of Edgecliff Commercial Centre, as part of its Local Housing Strategy (Department & TfNSW Transcript, pg 5).
33. Council has outlined concerns in the Planning Proposal (pg 5) that:
The road reservations on the subject sites constrain Council's ability to invest in the long term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purpose
34. In its meeting with the Commission, Council also indicated the reservations will affect Council's draft Active Transport Plan, which is soon to be exhibited (Council Meeting Transcript, pg 13).

² https://yoursay.woollahra.nsw.gov.au/edgecliff?tool=survey_tool

Figure 2: Draft Edgecliff Commercial Centre Public Domain Structure Plan (source: Council's Draft Edgecliff Strategy, pg 28)

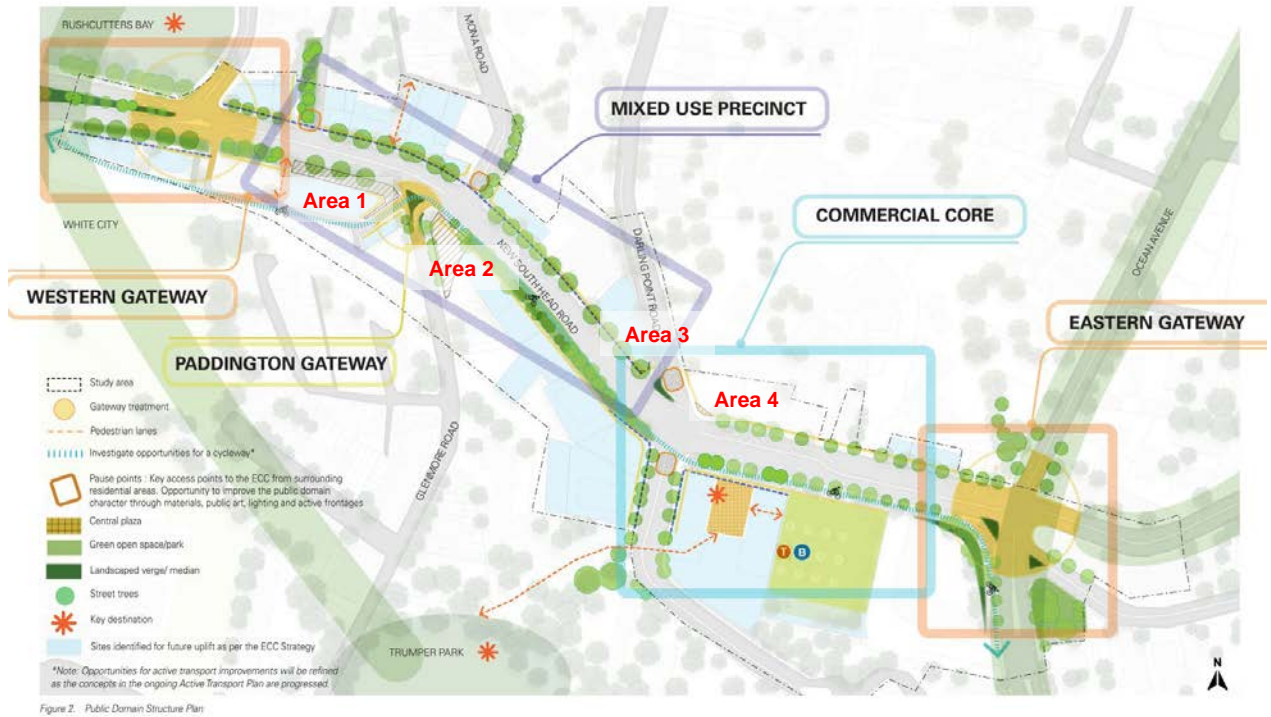
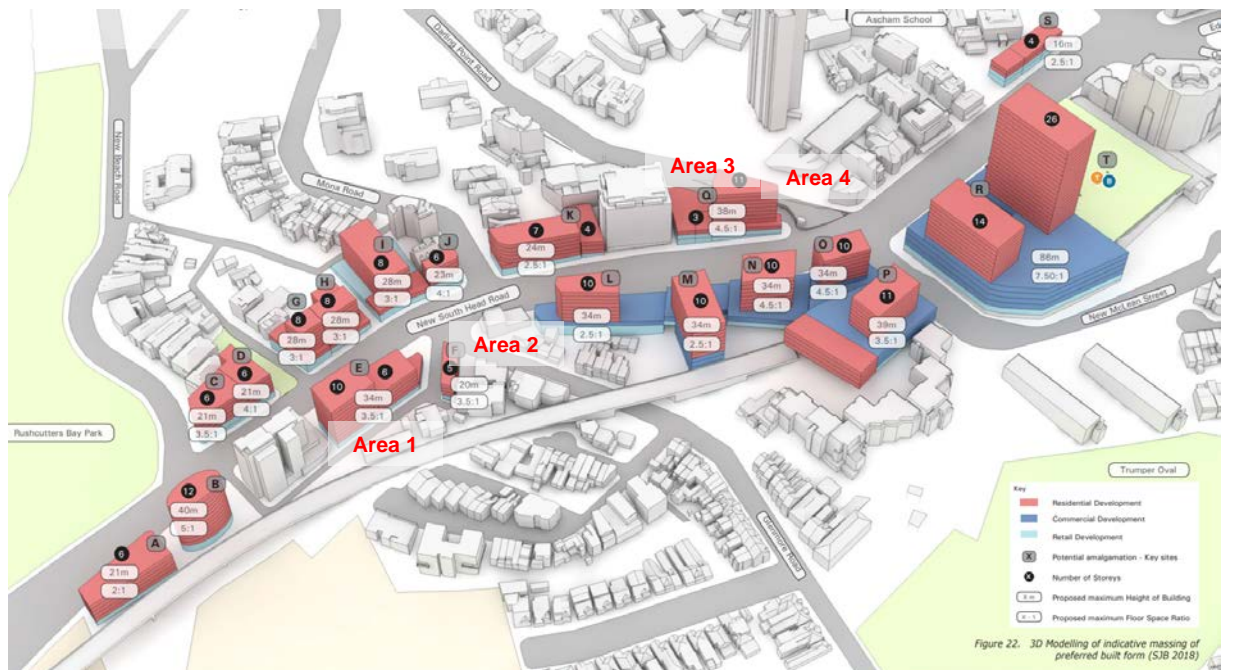


Figure 3: Edgecliff Commercial Centre Indicative Massing and Preferred Built Form (source: Council's Draft Edgecliff Strategy, pg 23)



2.4 The Gateway Decision

35. The Department's delegate for the Minister for Planning and Homes made the decision on 8 June 2022 that the Planning Proposal should not proceed for the following reasons:

1. Transport for NSW, the authority of the State that is the relevant acquisition authority for the subject land reservations pursuant to clause 5.1 of the Woollahra LEP 2014, does not support the planning proposal as the reservations are required to be retained for future public and active transport purposes.

2. New South Head Road and the subject reserved land have been identified by Transport for NSW as part of an important public transport corridor between Darlinghurst and Bondi. The planning proposal does not safeguard opportunities for future public and active transport improvements.

3. The proposal is inconsistent with the relevant aims, objectives, or actions of the following Priorities in the Eastern City District Plan:

(a) Planning Priority E1: Planning for a city supported by infrastructure; and

(b) Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city.

4. The proposal is inconsistent with section 9.1 Ministerial Direction 5.2 Reserving Land for Public Purposes as Transport for NSW, the relevant public authority, has not agreed or provided approval to facilitate the removal of the reservations.

36. The Department's Gateway determination report PP-2021-6740 dated May 2022 (**Gateway Report**) sets out an assessment of the strategic and site specific merits of the Planning Proposal.

2.4.1 Consistency with City East District Plan

37. The Department's position is that the Planning Proposal is inconsistent with City East District Plan Priorities:

- E1: Planning for a city supported by infrastructure, and
- E10: Delivering integrated land use and transport planning and a 30-minute city.

38. This is based on the position of TfNSW that the Acquisition Reservations are still needed for future public transport corridors (Gateway Report, Table 4, pg 10):

One of the strategic visions in the corridor's road network plan for the next 20 years is to provide a safe and reliable corridor that encourages the use of sustainable transport modes with efficient public transport services and high-quality active transport facilities.

2.4.2 Consistency with Section 9.1 Ministerial Directions

39. The Department's view is that the Planning Proposal is inconsistent with Section 9.1 Ministerial Direction 5.2: *Reserving Land for Public Purposes* (Gateway Report pg 14).

40. The Objectives of the Direction are to:

(a) facilitate the provision of public services and facilities by reserving land for public purposes, and

(b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

41. Direction 5.2(1) states:
A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).
42. The inconsistency arises as TfNSW has not agreed to the remove the reservations.

2.4.3 Site Specific assessment

43. The Site Specific assessment of the environmental, social and economic impacts of the Planning Proposal raised no reasons not to proceed.
44. In summary, a key reason for the Department's decision not to proceed is noted in the Gateway Report at pg 15:
Removing the land reservation affectations whilst TfNSW has advised these are still required to be retained is considered premature and may jeopardise this important transport corridor. The Department considers that the proposal should not progress in order to safeguard future active and public transport improvement opportunities in this corridor.

2.5 Review Request

45. Council lodged the Request for Gateway Review to the Department on 22 July 2022. A Gateway review justification (**Council's Review Report**), was submitted with the completed Gateway Determination Review Application Form, dated 20 July 2022.
46. The reasons advanced by Council that the Planning Proposal should proceed include discussion around the objectives of the Planning Proposal (as outlined in section 2.3) and that:
- there is no evidence, plans or strategies to demonstrate that the land is needed for future transport improvements;
 - retaining the reservations would be inconsistent with TfNSW policy to prioritise walking and cycling over vehicular transport modes;
 - in addition to the heritage listings, existing and proposed, three parcels are under investigation for potential heritage listing; and
 - in relation to the Section 9.1 Direction Reserving Land for Public Purpose, the Council acknowledges the inconsistency with this Ministerial Direction, but argues the Planning Proposal satisfies objective b) of the Ministerial Direction.
47. The Gateway Review Justification Assessment (**Department's Review Report**) includes what appears to be informal comments provided via email by an officer of TfNSW to the Department (email correspondence, 12 August 2022) and reiterates the position of TfNSW that the Acquisition Reservations are still needed (Department's Review Report, pg 7). The reasons are the same as already cited by TfNSW, as quoted in paragraph 21 above; and there is also reference to a current review of a strategic cycleway corridors program, between Darlinghurst and Rose Bay (Department's Review Report, pg 8).
48. The Department notes there are "...opportunities for Council to collaborate with TfNSW about active and public transport improvements or place-making initiatives on New South Head Road" (Department's Review Report, pg 9).

3. The Commission's Consideration

3.1 Material considered by the Commission

49. In this review, the Commission has considered the following (the **Material**):

- Council's Planning Proposal (PP-2021-6740), dated November 2021, including all attachments (Planning Proposal);
- The Department's Gateway Determination, dated 8 June 2022;
- The Department's Gateway Determination Report, dated May 2022;
- Planning Proposal PP-2021-6545 (Heritage listing of 133 NSH Road, and 549 Glenmore Road, Edgecliff) and associated documents, on the Department's Planning Portal (Cadry's Site Planning Proposal);
- Planning Proposal Request for 136-148 NSH Road, Edgecliff, and associated documents and Report and Minutes of meeting of Council on 12 September 2022, on the Council's website;
- Post Exhibition Report - Heritage Listing of 133 NSH Road and 549 Glenmore Road, Edgecliff, from the Agenda of the Environmental Planning Committee of Council on 6 June 2022, on the Council's website;
- Minutes from Woollahra Council Meeting 12 September 2022 (Item number 12.1);
- Council's Draft Edgecliff Commercial Centre Planning and Urban Design Strategy, Woollahra Municipal Council, April 2021 (Draft Edgecliff Strategy);
- Council's Draft Edgecliff Commercial Centre Public Domain Plan, Woollahra Municipal Council, May 2021 (Draft PDP);
- Council's Gateway review justification and Gateway Determination Review Application Form, dated 20 July 2022 (Council's Review Report);
- The Department's Gateway Review Justification Assessment, undated (Department's Review Report);
- Email correspondence between the Department and TfNSW, dated 12 August 2022, and attachment to the Department's Review Report (email correspondence, 12 August 2022);
- Comments and presentation material at meetings with Council and the Department and TfNSW, as referenced in Table 2 below; and
- Email correspondence from Council to the Commission, dated 26 September 2022.

3.2 Stakeholder engagement

50. To inform its advice, the Commission met with the three key stakeholders, as set out in Table 2. All meeting transcripts and site inspection notes are available on the Commission's website.

Table 2: The Commission's Meetings

Meeting	Date	Transcript/Notes Available on
Department & TfNSW	19 September 2022	26 September 2022
Council	19 September 2022	26 September 2022
Site Inspection and Locality Tour	20 September 2022	29 September 2022 (Note: amended notes to correct a minor error were uploaded 10 October 2022)

51. Following consideration of the Material, the site inspection and the stakeholder meetings, the Commission is of the view that its advice is best provided in terms of the objectives of the Planning Proposal as they relate to each Area 1 – 4. Key to this is the identification of the reason for the Acquisition Reservation in each Area.

3.3 Area 1

52. Area 1 comprises five lots. The current improvements are four three-storey 'Interwar Style' residential flat buildings (99, 101, 109 and 113 NSH Road); and a car service facility (tyre/wheel outlet), located on the corner of Reddy Street (115 NSH Road).
53. The residential apartment buildings variously project forward of the building line established by the properties further east on the same side of NSH Road, heading from Reddy Street to Edgecliff Railway Station. Those properties have a greater setback, leaving a wide footpath area.
54. A greater setback to the building line from the road is also evident for the adjoining property to the east, *Bayside* 85-97 NSH Road (SP 70724 and SP 70456), which is well setback from NSH Road. On 21 September 2021, the Commission requested additional information as to whether the land comprising this large setback had historically once been an Acquisition Reservation, and if so when was this removed, and did this occur when the site was redeveloped (for the current multi-storey mixed use development). On 26 September 2021, Council advised that the only information it could provide in the timeframe requested was that the subject land is owned by the Roads and Traffic Authority (now TfNSW).
55. It therefore appears that the Area 1 reservation was for road widening, and that this may be a continuation of the reservation that may have once existed to the west (and possibly to the east), that is now a separate lot owned by TfNSW, which according to the Deposited Plan (DP 817499) is for public road.
56. In terms of **Objective 1** and the issue of whether the reservation is redundant, in its meeting with the Commission TfNSW was asked to provide more details as to the transport improvements or network improvements that are envisaged for the reserved land. TfNSW outlined that the uplift proposed for ECC would generate immense demand for the retention of corridors such as this which are needed for managing future development. TfNSW clarified that there are no investigations currently being undertaken or immediately planned to be undertaken for the future use of this corridor (Department & TfNSW Meeting Transcript, pg 7).
57. TfNSW advised that the improvements could include the provision of sufficient road corridor space to provide bus priority measures or bus layovers to accommodate future growth as part of a wider public transport link beyond Edgecliff, to Bondi (Department & TfNSW Meeting Transcript, pg 10).
58. The lots are not currently heritage listed or in a HCA, so **Objective 2** does not apply, although Council noted in its meeting with the Commission that all of the ECC (including the flat buildings) are the subject of a current heritage study (Council Meeting Transcript, pg 3).

59. In terms of **Objective 3**, the impact on Council's investment in place-making, the Draft Edgecliff Strategy identifies land in Area 1 for possible future uplift. Figure 3 of this advice depicts the indicative massing of the preferred built form from Council's draft Edgecliff Strategy. Area 1 is depicted as showing a draft massing diagram for ground floor retail development with residential development above, a building height of 6 and 10 storeys (34m) and FSR 3.5:1. The Commission notes that this is a draft indicative diagram, and endorsement of uplift, and a draft planning proposal has not yet been prepared by the Council. In addition, at its meeting with the Commission, Council advised that the inclusion of this area for uplift is being reconsidered (Council Meeting Transcript, pg 13).
60. If the draft ECC Strategy leads to an increase to the density and height limit for Area 1, this would provide opportunity for this site to be redeveloped and at that time, the dedication or acquisition of the reservation, such as for a bus corridor or cycle way, and possible configuration of a new associated footpath on the remaining land could be resolved.
61. In terms of Council's objective to avoid conflict with future possible public domain improvements, the Commission notes the Draft PDP (see Figure 2) shows tree planting in Area 1 on the existing footpath area. As it currently stands, to create a wider footpath in this location would require the demolition of the buildings. The proposed improvements do not appear to involve intensive capital expenditure.
62. The Commission agrees with the position of the Department and TfNSW, as outlined at paragraphs 56 and 57 and finds that there is public interest in retaining the Area 1 Acquisition Reservation.

3.4 Area 2

63. Area 2 comprises five lots which includes the three storey Cadry's building at 133 NSH Road which is a corner site (NSH Road and Glenmore Road); 549 Glenmore Road containing a two storey sandstone workers cottage; and 543-547 Glenmore which includes a group of three single storey workers cottages.
64. In terms of **Objective 1**, the configuration of the Acquisition Reservation suggests the land in part is reserved for works at the intersection of Glenmore Road and NSH Road, continuing around to widening of NSH Road itself. This would be to the benefit of vehicles travelling west, that wish to turn from NSH Road into Glenmore Road.
65. The reason for the reservations located at street intersections (also in Areas 3 and 4) was raised with TfNSW in its meeting with the Commission. TfNSW advised that where an Acquisition Reservation affects side streets "it would probably be aimed at better geometry site lines and to accommodate swept path of vehicles turning into and turning out of the side streets" (Department & TfNSW Meeting Transcript pg 14).
66. This reservation is essentially for road widening at the Glenmore Road intersection. In its meeting with the Commission, TfNSW indicated that it could not provide more specific details of this intersection upgrade as it currently does not have any plans or survey model with cadastral overlay and widening affectations shown (Department & TfNSW Meeting Transcript pg 14).

67. The widening proposed at Glenmore Road is not minor, evidenced by the amount of land proposed to be acquired. The configuration of the Acquisition Reservation does suggest that traffic was to be encouraged to travel into the local streets of Paddington, consistent with Council's view that this was part of the previous plan from 1958 that is now redundant. Given that adjusting the road geometry/road widening is not facilitating public transport or active transport improvements, and TfNSW cannot point to a current specific scheme for this intersection upgrade, there is no compelling strategic reason to maintain the Acquisition Reservation in Area 2.
68. The other reason for this view is that the lots are within an existing HCA and the planning proposal to list the Cadry's Site as a local heritage item is well advanced (**Objective 2**). Council is also investigating extending the heritage listing to all of the Glenmore Road properties in Area 2 (Council Meeting Transcript, pg 4).
69. The Commission notes that PP-2021-6545 for the Cadry's Site has proceeded with the Department not raising the same inconsistency with the Priorities of the District Plan as with the subject Planning Proposal. The Commission notes the view of TfNSW is that it prefers that the area not be listed as a heritage item, but there was apparently no outright conflict with the Section 9.1 Ministerial Direction 5.2 for this planning proposal. However, the Commission's view is that the retention of the existing Acquisition Reservation, with the result that the buildings will eventually be demolished, is at odds with the proposed listing of the Cadry's Site as a heritage item.
70. The Commission observes there is no uplift identified in the Draft Edgecliff Strategy for Area 2, indicating that all items in HCAs (and heritage items) are proposed to be retained.
71. The public domain works in the Draft PDP, comprising one area of tree planting and a bike path, are accommodated around the existing buildings, as was mentioned by Council in its meeting with the Commission (**Objective 3**).
72. The Commission agrees with Council's position that retaining the heritage significance of Cadry's Site is important, and should be strengthened by its listing as a heritage item. The reservation does not appear to relate to possible future active transport works, but rather to intersection widening works to facilitate traffic moving from NSH Road into the residential area of Glenmore Road. The Commission finds that the Acquisition Reservation should be removed for Area 2.

3.5 Area 3

73. Area 3 includes a three storey building on the corner of NSH Road and a one way slip road from NSH Road that leads to the main part of Darling Point Road. The building is built to the boundary and contains a retail use.
74. In terms of **Objective 1**, only a small portion of the corners of the lot are subject to Acquisition Reservations. Similar to the reservation in Area 2, this appears to be reserved to improve the road geometry for vehicles entering Darling Point Road from the west, noting that there is a somewhat sharp turn into the slip road to Darling Point Road.
75. There would be no heritage impediment to this, as the building is not listed, and so is not contrary to **Objective 2**.

76. As noted at paragraph 59 above, Figure 3 depicts indicative massing of the preferred built form from Council's draft Edgecliff Strategy. In this image Area 3 and the adjoining lots show a possible future redeveloped building massing for an amalgamated site with ground to first floor retail space, 11 storeys (33m) and FSR 4.5:1. As Area 3 and the adjoining sites have been identified for possible uplift, and given the relatively small area involved, acquisition or dedication of the land to improve the intersection's geometry could occur at the same time as any redevelopment, which would involve the demolition of the existing building.
77. The public domain works identified in the Draft PDP are tree planting on NSH Road (but not on the subject corners), and on the road adjoining, a new pedestrian crossing, a possible art installation and along the front of the raised median heritage listed shelter in the centre of the road, a landscape median. No public domain works would appear to be directly impeded by the retention of the reservation; and further works could be negotiated if the building was demolished, and as part of any planning proposal for uplift.
78. The Commission finds that as the reservations are minor, appear to serve a valid purpose to assist future traffic movements into Darling Point Road and would improve 'network efficiency', the lot is not heritage listed, and the public domain improvements are not located in the area of the widening, the Acquisition Reservation should remain in Area 3 at this stage.

3.6 Area 4

79. Area 4 located at 136 NSH Rd contains a locally listed heritage item, a former bank building, with art deco features. The Acquisition Reservation cuts across the front of the building, extending around to Darling Point Road. Similar to Area 3, on the opposite side of the NSH Road/Darling Point Road corner, the reservation appears to be required to improve the geometry of the road for vehicles travelling from Darling Point Road to NSH Road. This widening would appear not to be currently critical for road safety, as the intersection is already controlled by traffic lights.
80. Importantly, consistent with **Objective 2**, the building in Area 4 is heritage listed. As noted above in paragraph 64, TfNSW was unable to point to specific plans to explain the works at this intersection.
81. The Draft Edgecliff Strategy does not identify 136 NSH Road for uplift as it contains a heritage item. It is to be retained in the separate planning proposal request for uplift for a larger site on adjoining land.
82. No public domain works are identified in the location of the Acquisition Reservation, for Area 4 in the Draft PDP.
83. The Commission finds that the need for public transport improvements in the form of intersection works in this location, potentially leading to demolition of the heritage item, has not been clearly demonstrated. The Commission is of the view that the removal of the Acquisition Reservation should be supported in this location.

4. The Commission's Advice

84. The Commission acknowledges there is strategic merit in long term corridor preservation for regional infrastructure. This is achieved by the application of Acquisition Reservations under a local planning instrument, as has occurred for the Land at Edgecliff.
85. The Commission also acknowledges there is strategic merit in the urban renewal of Edgecliff commercial centre, balancing heritage objectives and the importance of this precinct in the context of Woollahra's local housing strategy.
86. The Commission notes that Areas 1 and 3 have been identified by Council for development uplift under the draft ECC Strategy. Acquisition could be resolved as part of the future ECC planning proposal. These Areas present no strong conflict with Council's plans for public domain improvements as shown in the Draft PDP. Therefore, the Commission advises that the Acquisition Reservations for Area 1 and Area 3 should be considered for retention.
87. Area 2 is within a HCA and is soon to be listed as a heritage item. Area 4 contains an existing heritage item. On the basis of the information before the Commission, there appears to be no active/public transport works proposed for Areas 2 and 4, nor was the Commission presented with any material that would suggest demolition of the existing buildings should occur, contrary to their heritage status. Therefore, the Commission advises that the Acquisition Reservations for Area 2 and Area 4 should be considered for removal.
88. Section 9.1 Ministerial Direction 5.2(1) requires the approval of the relevant public authority to remove a reservation of land for a public purpose. On the basis of the information before it, the Commission cannot state with confidence that the relevant public authority has formally stated it does not provide its consent.
89. Accordingly, the Commission suggests the Department undertakes further consultation with TfNSW at an appropriate level of seniority with a view to ascertaining whether TfNSW would consider, based on the details of the works proposed in each location, whether the Acquisition Reservations in Areas 2 and 4 are in fact redundant. TfNSW should be provided with a copy of this Advice Report, to consider the reasoning presented by the Commission with respect to the reservations in Areas 2 and 4.
90. If the relevant public authority, after being provided with a copy of this Advice Report, formally confirms that it does not provide its consent to the removal of the Acquisition Reservations in Areas 2 and 4, the Commission's view is that it is still a desirable policy outcome for these reservations to be removed. The Commission acknowledges however that without the consent of the relevant public authority the removal of those reservations could be inconsistent with Ministerial Direction 5.2(1). If the consent of the relevant public authority is confirmed, the Commission advises that the Acquisition Reservations in Areas 2 and 4 should be removed for the reasons set out above.



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