
Item No:	R7 Recommendation to Council
Subject:	ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL - PLANNING PROPOSAL - REMOVAL OF LAND ACQUISITION RESERVATIONS IN EDGECLIFF COMMERCIAL CENTRE
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File No:	21/186468
Reason for Report:	To provide Council with the advice of the Woollahra Local Planning Panel. To obtain Council's approval to proceed with a planning proposal to amend the Woollahra Local Environmental Plan 2014 to remove the land acquisition reservations from certain sites in the Edgecliff Commercial Centre.

Recommendation:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 16 September 2021 for the planning proposal to amend the Woollahra Local Environmental Plan 2014 to remove the land acquisition reservations from certain sites in the Edgecliff Commercial Centre.
- B. THAT the planning proposal, as contained in **Annexure 3** of the report to the Environmental Planning Committee meeting of 11 October 2021 be forwarded to the Department of Planning, Industry and Environment with a request for a gateway determination to allow public exhibition.
- C. THAT Council request 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*.

1. Background

The *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) identifies land reserved for acquisition on the *Land Reservation Acquisition Map*. By including these parcels (and part of parcels) in the Woollahra LEP 2014, this land may be acquired in the future by public agencies for a specific purpose. The purpose for which the land is to be acquired is identified on the Map, and this includes uses such as “road widening” and “open space”. By being identified as land reserved for acquisition in the Woollahra LEP 2014 there is an implication that current development on that parcel (or part of parcel) will at some point be the subject of demolition to make way for the public purpose.

The Woollahra LEP 2014 currently identifies land reservation acquisition for road widening affecting a number of properties along New South Head Road and Glenmore Road in the Edgecliff Centre. Figure 1 below identifies the four Areas in the Edgecliff Centre that are subject to a reservation for road widening. The properties affected in each Area, and what currently exists on the site is summarised in section 3 of the Planning Proposal (**Annexure 3**). It is noted that Chapter C1 Paddington HCA of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) identifies that all properties located in the Paddington HCA are contributory items.

As identified below (**Figure 1**), the affected areas include properties located in the Paddington heritage conservation area (C8), listed heritage items, contributory items and the Cadry’s building at 133 New South Head Road.

Under the Woollahra LEP 2014 and in accordance with *Clause 5.1A Development on land intended to be acquired for public purposes*, development consent can only be granted for the purpose of “Roads” on these properties.

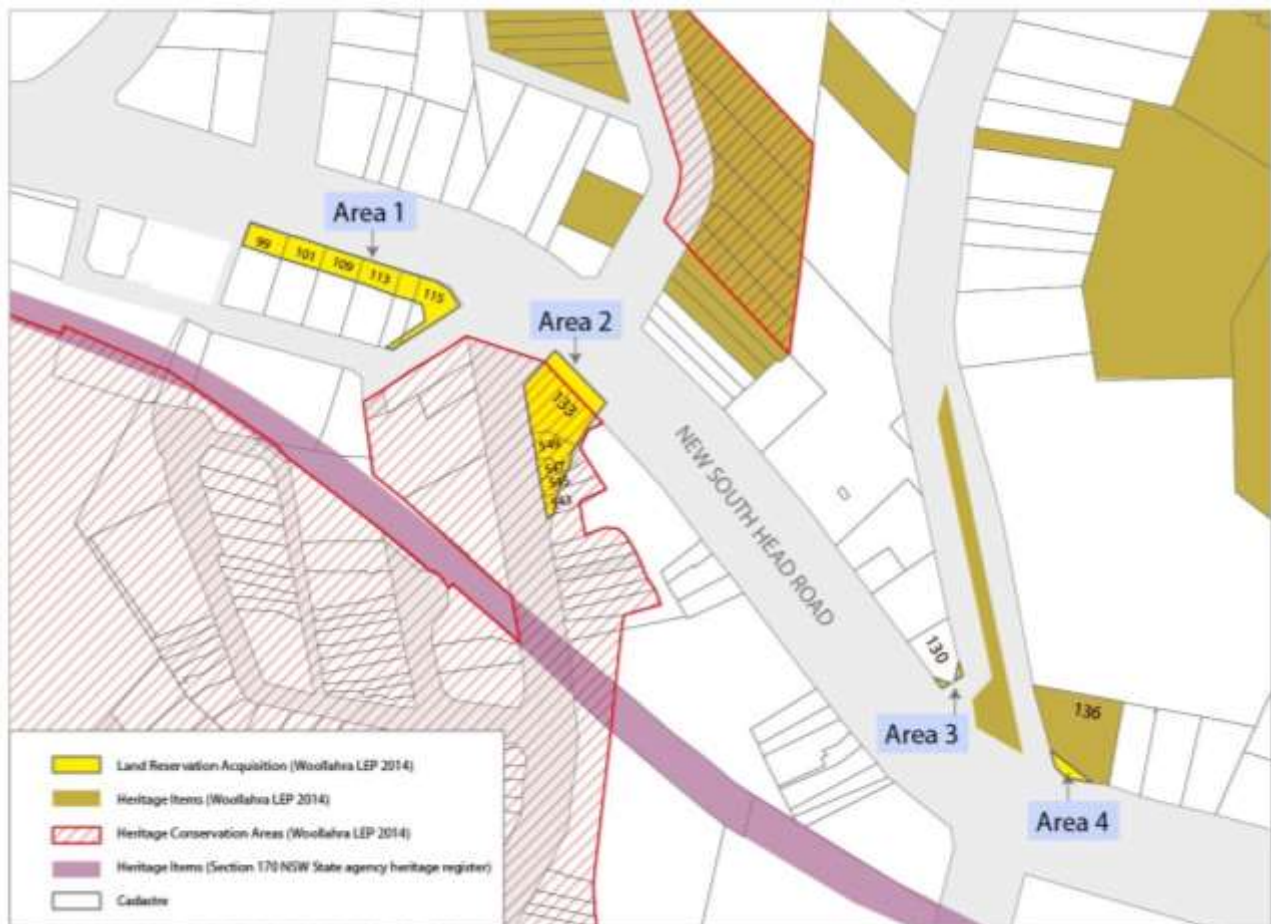


Figure 1: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

136 New South Head Road is listed as a Local Heritage Item ‘Item 238’ ‘two-storey historic bank building and interiors’ in the Woollahra LEP 2014 (see **Figure 2**). The former Commonwealth Bank building is an Art Deco style building constructed in 1940 on the site of an earlier bank, which was reconstructed to accommodate the expansion of Daring Point Road. It is a significant building as an exemplar of the style and for its strong architectural response to its corner location, which makes it a landmark building.

All five properties in Area 2 are located in the Paddington Heritage Conservation Area (HCA) and are identified as contributory items in the Woollahra DCP 2015.

On 5 July 2021 Council resolved to prepare a planning proposal to list the Cadry’s building (including interiors) at 133 New South Head Road, Edgecliff as a local heritage item (see **Figure 3**). This matter is being progressed via a separate planning proposal.

On 5 July 2021 Council also resolved that the cottages at 543-549 Glenmore Road should be investigated to determine whether these buildings fulfil the criteria for heritage listing (see **Figures 4 & 5**).²



Figure 2: Street view of 136 New South Head Road Edgecliff at the corner of Darling Point Road, facing north-east (Source: Google Maps 2021)



Figure 3: Cadry's Building, 133 New South Head Road, Edgecliff viewed from New South Head Road facing south (Source: Google Maps 2021)

² On 16 September 2021 the Woollahra Local Planning Panel resolved to advise Council that the planning proposal to list the Cadry's building at 133 New South Head Road, Edgecliff as a local heritage item should be amended to also include the building at 549 Glenmore Road, Edgecliff (see **Figure 4** below).



Figure 4: Street view (obscured) of the two-storey sandstone workers cottage at 549 Glenmore Road Edgecliff from Glenmore Road facing east (Source: Google Maps 2019)



Figure 5: Street view of the three single storey timber workers' cottages at 543-547 Glenmore Road Edgecliff from Glenmore Road facing east (Source: Google Maps 2019)

2. Relevant acquisition authority

The relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS), which forms part of Transport for NSW (TfNSW). These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and at the time the land was identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005.

When Council staff prepared the current LEP, consultation occurred with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that these parcels had to be retained on the Land Reservation Acquisition Map. This was despite the fact that the RMS has no plans to acquire the land and no proposal to carry out road improvement works on these parcels.

3. Purpose of the land reserved for acquisition

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two

bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed, superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening. In summary, these land reservations are now superfluous.

The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years. Having land identified for acquisition (and ultimately demolition) is in conflict with the LEP objective to conserve the built and environmental heritage of Woollahra, which includes conserving the significance of the Paddington HCAs and heritage items. Should Council resolve to endorse the planning proposal to list the Cadry's building at 133 New South Head Road, Edgecliff and 549 Glenmore Road, Edgecliff as local heritage items, the land reservations on these sites will be in direct contradiction to Council's intention to protect the heritage significance of this building.

4. Consultation

Since the drafting and implementation of Woollahra LEP 2014, Council staff have continued to seek support from TfNSW and the Department of Planning, Industry and Environment (DPIE) and remove the road reservation affectations. Most recently this has included:

- 16 January 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council, to the Hon. Robert Stokes MP, Minister for Planning and Public Spaces seeking the removal of the land reservations along New South Head Road and Glenmore Road in Edgecliff (**Annexure 4**).
- 4 February 2020, Council received a letter from Brett Whitworth, Deputy Secretary, Greater Sydney Place and Infrastructure, NSW DPIE stating that the need for removal of the land reservations will be discussed as part of the implementation of the *Eastern City District Plan* and the *Woollahra Local Strategic Planning Statement 2020* (**Annexure 5**).
- On 26 February 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council, to the Hon Andrew Constance MP, Minister for Transport and Roads, requesting support for the removal of the land reservations prior to the release of the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (**Annexure 6**).
- On 21 April 2020, Council received a letter from Eleni Petinos MP, Parliamentary Secretary for Transport and Roads, stating that TfNSW had no plans on removal of land acquisition at this time. The letter indicated that removing the land reservations may allow for future developments on this site, which may hinder the public transport possibilities for this key corridor. (**Annexure 7**).

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations 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 purposes. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening. Removing the land reservations will enable Council to implement the public domain improvements identified in the *Draft Edgecliff Planning and Urban Design Strategy* and the *Draft Edgecliff Commercial Centre Public Domain Plan*. Council's proposed public domain improvements do not require demolition of any existing building structures and will ensure the heritage significance of the properties is retained.

The current land reservation affectations may enable TfNSW to demolish the buildings on the affected sites if they were to be acquired. Demolition of existing structures for road-related works would be an adverse outcome for all sites resulting in the loss of residential dwellings, buildings of heritage significance, landmark corner buildings, a heritage item and proposed heritage items.

The removal of land reservation affectations will provide certainty to the property owners and the community that the buildings will not be subject to demolition in the future.

5. Council decision

On 15 June 2021, this matter was presented to Council's Environmental Planning Committee (EPC) (**Annexure 1**) with a recommendation to prepare a planning proposal to amend the Woollahra LEP 2014 by removing the land acquisition reservations in the Edgecliff Commercial Centre. Subsequent to this, on 5 July 2021, Council resolved (in part):

- A. *THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.*
- C. *THAT these planning proposals are referred to the Woollahra Local Planning Panel for Advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

A planning proposal was prepared in accordance with the Council's decision of 5 July 2021. The objectives of the planning proposal are:

- To remove redundant road reservation affectations from the Woollahra LEP 2014;
- To ensure that the buildings of heritage significance on the affected properties are protected from future demolition; and
- Council is able to invest in the long-term place making of Edgecliff.

6. Woollahra Local Planning Panel advice

The matter was referred to the Woollahra Local Planning Panel (Woollahra LPP) on 16 September 2021 (**Annexure 2**), where they provided the following advice to Council:

Resolved:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to amend the Woollahra Local Environmental Plan 2014 to remove the land acquisition reservation from certain sites in the Edgecliff Commercial Centre.

Reasons:

For the reasons in the report, the Panel supports the Planning Proposal to remove the land reserved for acquisition to retain the buildings of heritage significance, and to facilitate works to the public domain that have been identified in the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy.

However, based on the matters that were discussed at the Woollahra LPP, it became evident that the Planning Proposal could be enhanced to address in more detail the issues raised in the correspondence from TfNSW. It was also suggested that the Planning Proposal could be enhanced to make greater references to the Draft Edgecliff Commercial Centre Public Domain Strategy, and the implications should TfNSW seek to acquire the land.

In response to the issues that were raised at the meeting of the WLPP, the Planning Proposal (attached at **Annexure 3**) has been updated with changes highlighted in yellow.

7. Next steps

Subject to the Council's decision, the planning proposal (with updates to make reference to the Council decision) will be referred to the DPIE for a gateway determination. This will allow the planning proposal to be placed on public exhibition.

It is anticipated that the DPIE will require agreement from TfNSW before public exhibition can commence. In light of the discussions Council staff have previously had with representatives from TfNSW, it is recognised that this issue may take some time to resolve. Council staff have also raised this issue with representatives from the Greater Sydney Commission, and we anticipate including this agency as part of the process.

Should the DPIE issue a gateway determination, the public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the *Environmental Planning and Assessment Regulation 2000* and the gateway determination issued by the DPIE as delegate for the Minister.

The gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days, which is consistent with Council's standard practice for the exhibition of a planning proposal.

Public notification of the exhibition will comprise:

- A notice to the land owners of the affected site
- A notice on Council's website
- A notice to land owners adjoining and in the vicinity of the site
- A weekly notice in the Wentworth Courier for the duration of the exhibition period (if a hardcopy is being published)
- A letter to local community groups.

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, Council may request authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act. Part C of the recommendation for this report deals with this request. After public exhibition, the planning proposal and submissions received will be reported to Council.

8. Conclusion

On 16 September 2021, the Woollahra LPP provided advice to Council that it supported the planning proposal to amend the Woollahra LEP 2014 to remove the land reserved for acquisition on certain sites in the Edgecliff Commercial Centre.

The removal of the land reservations will ensure that the buildings of heritage significance on the affected properties are protected from any future demolition for road widening and allow Council to move forward with place-based improvements to the public domain in the Edgecliff Commercial Centre.

Based on the discussions at the Woollahra LPP meeting, Council staff have amended the planning proposal to address in more detail the issues raised in the correspondence from TfNSW.

The Council may now proceed with referring the planning proposal to the DPIE requesting a gateway determination to allow public exhibition. However, it is anticipated that the release of the gateway determination may be delayed whilst the DPIE seeks agreement from TfNSW.

Annexures

1. Environmental Planning Committee report - 15 June 2021 (annexures removed) [↓](#) 
2. Woollahra Local Planning Panel Report - 16 September 2021 (annexures removed) [↓](#) 
3. Planning Proposal - Removal of Land Acquisition Reservations in Edgecliff - Updated September 2021 (annexures removed) [↓](#) 
4. Mayoral letter to Robert Stokes MP - 16 January 2020 [↓](#) 
5. Letter from DPIE - 4 February 2020 [↓](#) 
6. Mayoral letter to Andrew Constance MP - 26 February 2020 [↓](#) 
7. Letter from Eleni Petinos MP - 21 April 2020 [↓](#) 