

Item No: R2 Recommendation to Council
Subject: **POST-EXHIBITION PLANNING PROPOSAL - HERITAGE LISTING OF HILLCREST, 780-786 NEW SOUTH HEAD ROAD, ROSE BAY**
Authors: Emma Williamson, Strategic Planner
Kelly McKellar, Team Leader Strategic Planning
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 21/146125
Reason for Report: To report on the public exhibition of the planning proposal to list Hillcrest, including interiors and gardens, at 780-786 New South Head Road, Rose Bay as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra Local Environmental Plan 2014.

To obtain Council's approval to proceed with the finalisation of the planning proposal and the preparation of a draft LEP.

Recommendation:

- A. THAT Council finalise the planning proposal at **Annexure 1** of the report to the Environmental Planning Committee meeting of 13 September 2021 which seeks to amend Schedule 5 and the Heritage Map of the *Woollahra Local Environmental Plan 2014* to list Hillcrest, including interiors and gardens, at 780-786 New South Head Road, Rose Bay (SP 30455) as a local heritage item.
- B. THAT Council make the local environmental plan as the local plan making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* as authorised by the Gateway Determination issued on 9 June 2021.

Background

This report relates to the public exhibition of a planning proposal to list Hillcrest, including interiors and gardens, at 780-786 New South Head, Rose Bay (SP 30455) as a local heritage item in Schedule 5 and the Heritage Map of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). The planning proposal, as exhibited, is included at **Annexure 1**.

The subject site is known as Hillcrest and comprises a part two-storey and part-three storey residential flat building. It was built c.1890 as a pair of semi-detached dwellings which were converted into six flats in the 1920s.

The building's ground floor level is set significantly below the footpath level so that only the top floor is readily apparent from New South Head Road. The site benefits from generous front and side setbacks, which accommodate established gardens that contribute to the character of the site and the amenity of the site and neighbouring sites.

Figures 1 to 5 contain maps and photos of the site and its location.

The site and the sites immediately adjacent to the north and south are zoned R3 Medium Density Residential under the Woollahra LEP 2014. The site is located within an established residential area characterised by a mix of single dwellings and residential flat buildings of varying ages and styles.



Figure 1: Hillcrest, as viewed from the southern side of the New South Head Road frontage. (Source: WMC Officer, 2020)



*Figure 2: Aerial photo of the locality in 2018.
The subject site is highlighted in red and shows the cadastre information.
(Source: Woollahra MAPS)*

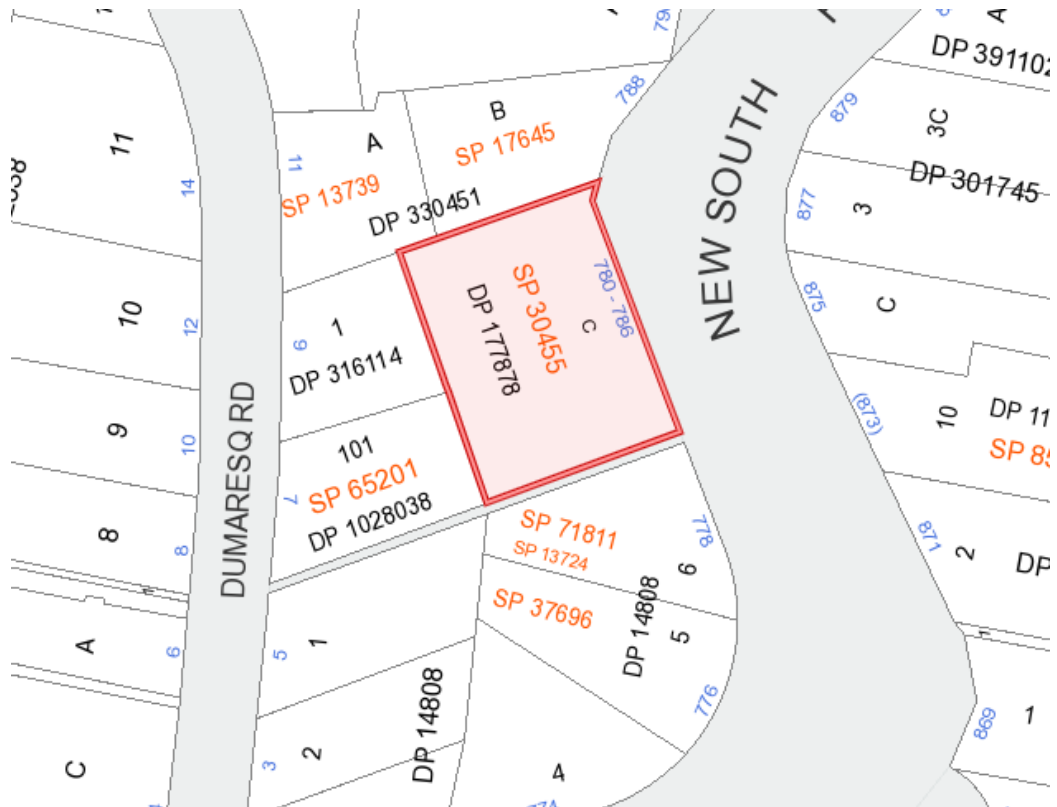


Figure 3: Cadastral map, with the subject site highlighted in red.
(Source: Woollahra MAPS)



Figure 4: Heritage map with the subject site highlighted in red.
(Source: Woollahra MAPS)

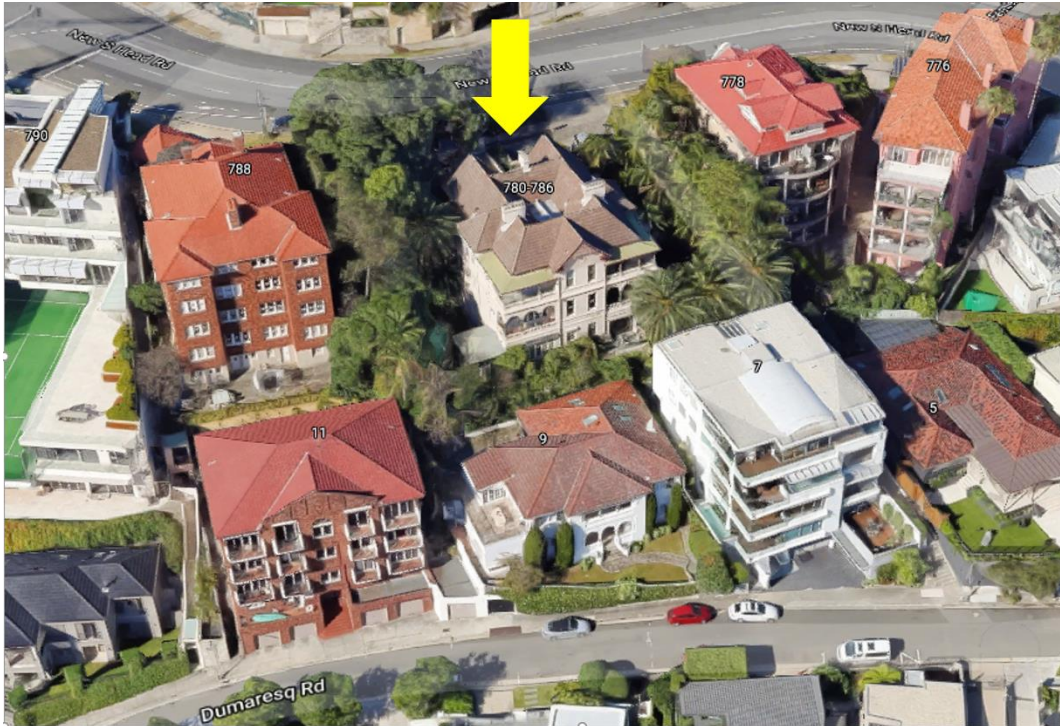


Figure 5: Oblique aerial view of Hillcrest from rear (site identified with an arrow), with Dumaresq Road properties in the foreground. The landscape setting is apparent at this angle. (Source: Google Maps. Annotation: WMC Officer)

Planning proposal chronology

The process for assessing the heritage significance of Hillcrest and preparing the planning proposal has involved the following steps, organised chronologically.

1. In September 2020, after an Interim Heritage Order (IHO) was issued for the site (see section 3 of this report), Council engaged Robert A Moore Architect Pty Ltd to prepare a Heritage Significance Assessment (HSA) for Hillcrest.
2. On 2 November 2020, the HSA was reported to the Environmental Planning Committee (EPC).
3. On 23 November 2020, Council resolved to proceed with the preparation of a planning proposal and seek the advice of the Woollahra Local Planning Panel (Woollahra LPP).
4. On 17 December 2020, the planning proposal was reported to the Woollahra LPP for advice.
5. On 1 February 2021, the advice of the Woollahra LPP was reported to the EPC.
6. On 23 February 2021, Council resolved to proceed with the planning proposal and submit it to *Department of Planning, Industry and Environment* (DPIE) requesting Gateway Determination.
7. A Gateway Determination was issued by DPIE on 9 June 2021 (see **Annexure 3**). The Gateway Determination authorised Council to exercise the plan-making functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* (the Act) to make the LEP.

The property owners and interested parties were notified of all relevant meetings, including the meetings of the EPC and the Woollahra LPP.

Development application and Interim Heritage Order

On 3 February 2020, a development application (DA) was lodged with Council for the demolition of Hillcrest (DA 19/2020/1).

Council's Heritage Officer considered the demolition proposed by DA 19/2020/1 and provided a preliminary assessment of the heritage significance of the building. The building was considered to have potential to meet the threshold for local significance under the historic, aesthetic, rarity and representative criteria identified in the NSW Heritage Manual.

On 4 June 2020, the Woollahra LPP refused DA 19/2020/1 for reason of heritage grounds and a lack of adequate information, consistent with the staff recommendation.

On 8 July 2020, Council made an IHO under Section 25 of the *Heritage Act 1977* (IHO No. LC-5) and published in the NSW Government Gazette No. 151 of 10 July 2020, p. 3569-3570. The IHO will remain in place for a period of twelve months, to allow time for a heritage significance assessment and to identify whether Hillcrest should be listed as a State and/or local heritage item.

On 22 December 2020, a Class 1 appeal was filed with the NSW Land and Environment Court (LEC) against the determination to refuse DA 19/2020/1 and against the issuing of the IHO.

On 29 January 2021, a new DA was lodged with Council for alterations and additions to the existing residential flat building, site remediation and landscaping (DA 2021/30/1). On 15 April 2021, a Class 1 appeal was filed with the NSW LEC on 15 April 2021 against the deemed refusal of this DA. Subsequently on 17 July 2021, the DA was refused by the Woollahra LPP.

On 28 April 2021, a notice was filed with the NSW LEC joining the two proceedings [Case No. 2021/104607]. The appeal is ongoing at the time of preparing this report.

Public exhibition of the planning proposal

The planning proposal³ and supporting material were public exhibited for 44 days, from Wednesday 23 June 2021 to Friday 6 August 2021 (inclusive), consistent with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* (the Regulation), the *Woollahra Community Participation Plan 2019*, the relevant DPIE guidelines, and the conditions of the Gateway Determination.

The exhibition included the following:

1. Six notices in the Wentworth Courier newspaper providing details of the exhibition, appearing on 23 June 2021, 30 June 2021, 7 July 2021, 14 July 2021, 21 July 2021 and 28 July 2021.

³ During the exhibition, staff identified that the strata plan (SP) number for this property was incorrectly labelled on page six of the planning proposal. However, the correct SP was included in the Wentworth Courier advertisement, Council's main website, the Your Say page and in all other references of the planning proposal. Accordingly, the correct SP could be easily identified in the exhibition material and the planning proposal can proceed. This minor administrative amendment will be corrected prior to the finalisation of the planning proposal.

2. A public exhibition webpage for the planning proposal and supporting material on Your Say Woollahra. This webpage was visited by 67 people during the exhibition period.
3. A notice on Council's website in the Notifications section. This webpage was visited by 44 people during the exhibition period.
4. Display of the planning proposal and supporting materials at the Customer Service counter of the Woollahra Council Chambers at Double Bay, available during normal business hours until 25 June 2021 when Council's Customer Service area was closed in accordance with the health orders issued by the NSW Government.
5. A notification letter or email was sent to the stakeholders, including:
 - the property owners
 - adjoining and nearby property owners
 - DA applicants and related consultants
 - Heritage NSW at the Department of Premier and Cabinet
 - the National Trust of Australia (NSW)
 - the Rose Bay Residents Association.

Submissions

A redacted copy of all submissions is attached at **Annexure 2**. Five submissions were received in response to the public exhibition from the following:

Local Residents

- Claire Mulder
- David Feldman
- Paula Reilly
- Trudy Weil

Government Agency

- Heritage NSW

All submissions received were in support of the proposal to amend the Woollahra LEP 2014 to list Hillcrest, including interiors and gardens as a local heritage item. In summary, the submissions highlighted the importance of the building's history, architectural features, mature gardens and public views of the harbour from the street and supported Council's initiative to list this property, its interiors and gardens as a local heritage item.

Additionally, the submission from Paula Reilly supported the inclusion of the interiors in the proposed local heritage listing, noting specific internal features including the fireplaces in flats 1 and 2, the staff moulds and treatments of the internal walls, the fanlights, and ceilings as important elements to conserve.

Council staff recommend that Council finalise the planning proposal and give effect to it by drafting and making a local environmental plan to list Hillcrest, including interiors and gardens, at 780-786 New South Head Road, Rose Bay as a local heritage item under Schedule 5 and the Heritage Map of the Woollahra LEP 2014.

Making an LEP under delegated authority

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for certain matters. In this case, the Gateway Determination issued on 9 June 2021 (see **Annexure 3**) authorises Council to make the local environmental plan under section 3.36(2) of the Act, exercising the functions of the local plan making authority.

Should Council resolve to proceed, Council staff will request that the Parliamentary Counsel (PC) prepare a draft LEP. Once the draft LEP has been prepared, PC will issue an opinion that it can be made. The amendment to the Woollahra LEP 2014 will come into effect when it is notified on the NSW Legislation website.

Alternatively, if Council decides not to finalise the planning proposal, Council should resolve to write to the Minister requesting that the planning proposal not proceed, under section 3.35(4) of the Act.

6. Conclusion



The heritage significance of Hillcrest, including interiors and gardens, at 780-786 New South Head Road, Rose Bay has been established through a detailed assessment of heritage significance. The planning proposal will facilitate the listing of Hillcrest as a local heritage item, thereby providing statutory recognition of the site's heritage significance.

Preparation and exhibition of the planning proposal has been undertaken consistent with the relevant provisions of the Act, the Regulation, DPIE guidelines, Council policies, and the Gateway Determination.

Five submissions were received during the public exhibition. All submissions supported the proposal to amend the Woollahra LEP 2014 to list Hillcrest, including interiors and gardens, as a local heritage item.

Council staff recommend that Council resolve to proceed to the next step and make the LEP to list Hillcrest, including interiors and gardens, at 780-786 New South Head Road, Rose Bay (SP 30455) as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra LEP 2014.

Annexures

1. Hillcrest Planning Proposal (supporting documents not included) [↓](#) 
2. Hillcrest redacted copy of submissions [↓](#) 
3. Hillcrest Gateway Determination, 9 June 2021 [↓](#) 