

Item No: D2
Subject: **PLANNING PROPOSAL - REMOVAL OF LAND ACQUISITION RESERVATIONS IN EDGECLIFF COMMERCIAL CENTRE**
Author: Kelly McKellar, Team Leader Strategic Planning
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 21/175000
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to amend the Woollahra Local Environmental Plan 2014 by removing the land acquisition reservations from certain sites in the Edgecliff Commercial Centre.

Recommendation:

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.

1. Reason for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the proposed amendment to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to remove the land acquisition reservation from certain sites in the Edgecliff Commercial Centre.

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- *A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:*
 - a) *the correction of an obvious error in a local environmental plan*
 - b) *matters that are of a consequential, transitional, machinery or other minor nature, or*
 - c) *matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*
- *When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.*
- *A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).*

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

The 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 three 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 then summarised in **Table 1** below. This table also describes the significance of the properties affected (where applicable). 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, 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* consent can only be granted for the purpose of "Roads" on these properties.

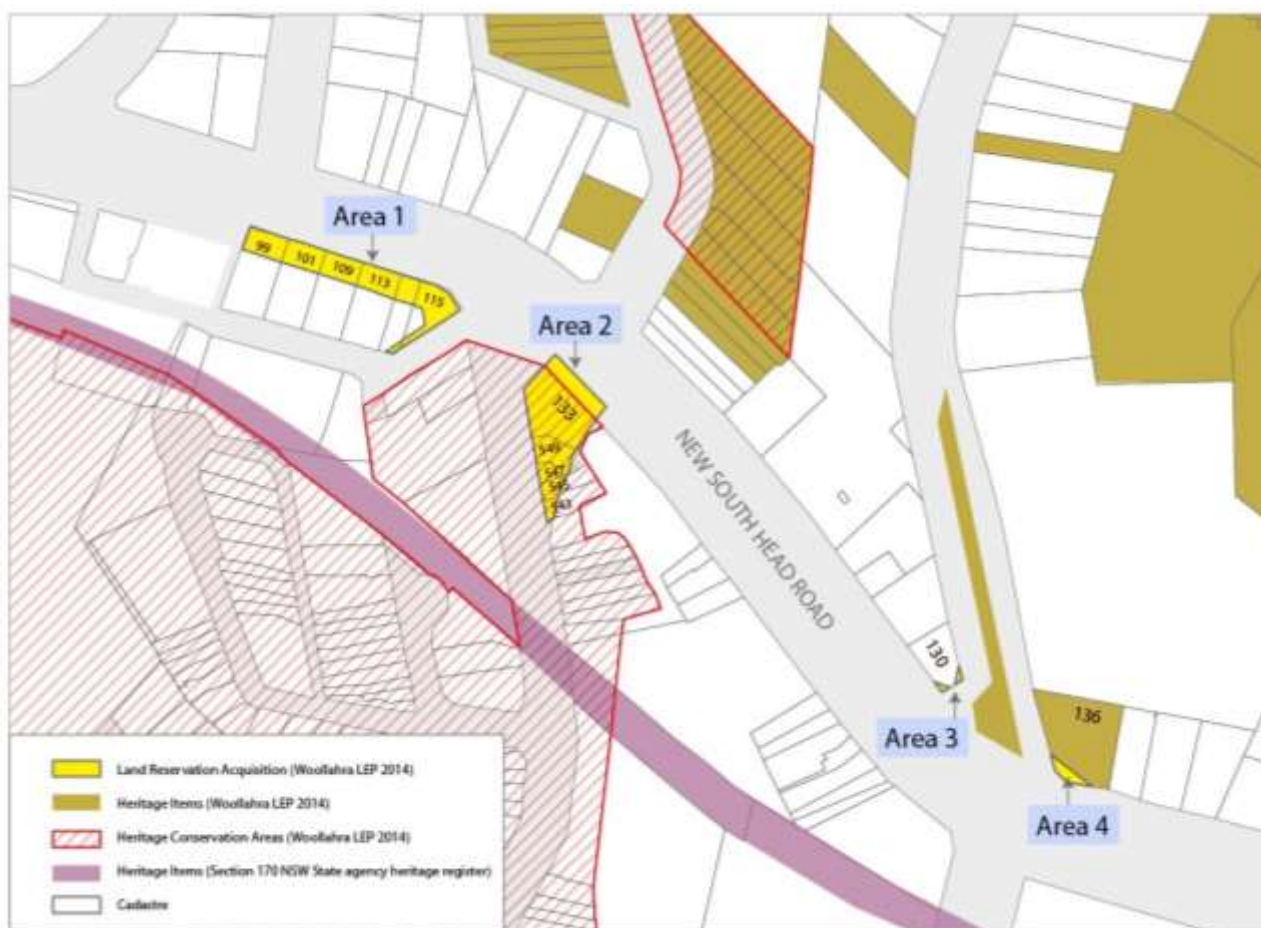


Figure 1: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

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**).



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



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

Table 2: Individual parcels affected by the land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

Area	Property details	Property Description	Significance
Area 1:	• Part 99 New South Head Rd	Four-storey Interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Rd	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Rd	Car service Centre	

<i>Area</i>	<i>Property details</i>	<i>Property Description</i>	<i>Significance</i>
<i>Area 2:</i>	<ul style="list-style-type: none"> • 133 New South Head Rd • 549 Glenmore Rd • Part 547 Glenmore Rd • Part 545 Glenmore Rd • Part 543 Glenmore Rd 	<p>Three-storey corner sandstone and masonry building “Cadry’s”</p> <p>Two-storey sandstone workers’ cottage</p> <p>Single storey brick workers’ cottage</p> <p>Single storey brick workers’ cottage</p> <p>Single storey brick workers’ cottage</p>	<p>Contributory item in Woollahra DCP 2015.</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p>
<i>Area 3:</i>	<ul style="list-style-type: none"> • 130 New South Head Rd 	<p>Three-storey corner shop-top housing building</p>	
<i>Area 4:¹</i>	<ul style="list-style-type: none"> • 136 New South Head Rd 	<p>Two-storey historic bank building and interiors</p>	<p>Local Heritage Item Woollahra LEP 2014</p>

3. Relevant acquisition authority

The relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS), which forms part of Transport for NSW. 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, we consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels 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.

4. 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 as a local heritage item, the land reservations at this site will be in direct contradiction to Council’s intention to protect the heritage significance of this building.

¹ The concrete balustrade and retaining wall located at the intersection of Darling Point Road and New South Head Road is a Local Heritage Item in Woollahra LEP 2014. Whilst it is not identified on the Land Reserved for Acquisition Map, given its location within the southernmost tip between Areas 3 and 4 as identified in **Figure 4** above, this item is also at risk from any road widening activities carried out in this part of New South Head Road.

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.

5. Consultation

Since the drafting and implementation of Woollahra LEP 2014, Council staff have continued to seek support from *Transport for NSW* (TfNSW) and the *Department of Planning, Industry and Environment* 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 1**).
- 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 2**).
- 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 3**).
- 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 4**)².

Council staff note that in this correspondence with TfNSW, they have failed to provide clear or compelling reasons that would prevent the removal of these land reservations.

6. Council decision

On 15 June 2021, this matter was presented to Council's Environmental Planning Committee (EPC) (**Annexure 5**) 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.*

² Council staff do not agree with this position. The removal of the land reservation affectations will provide certainty to the property owners that the buildings will not be subject to demolition (or development) in the future, and will ensure the heritage significance of these properties is recognised.

- 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.*

Further details about the subject sites, including site images and current applicable planning controls, are contained in the planning proposal at **Annexure 6**.

4. Planning proposal

Consistent with Council's resolution of 5 July 2021, a planning proposal has been prepared to amend the Woollahra LEP 2014 to remove the land acquisition reservations from the subject sites (see **Annexure 6**).

4.1 Planning proposal structure

The planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant guidelines prepared by the NSW Department of Planning, Industry and Environment, including *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans*.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- Justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Consistent with Council's resolution of 5 July 2021, a planning proposal has been prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.

4.2 Objective of the planning proposal

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.

4.3 Explanation of provisions

The planning proposal will amend the *Land Reservation Acquisition Map* (Sheet LRA_003) of the Woollahra LEP 2014 to remove the land reservations on New South Head Road and Glenmore Road in Edgecliff which are identified as Classified Road (B4). This will allow Council to provide ongoing protection and recognition of the heritage significance of the subject sites and implement public domain improvements in the ECC.

4.4 Relationship to strategic planning framework

The planning proposal has strategic merit. The planning proposal is broadly consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018) (refer to section 5.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal is consistent with Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces, particularly the follow strategy:

4.3 Protect local heritage, including significant architecture and the natural environment.

The planning proposal is also consistent with the *Woollahra Local Strategic Planning Statement 2020* (approved by Council 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

Planning Priority 5 Conserving our rich and diverse heritage.

The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies (refer to Schedule 1 of the planning proposal).

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

5. Conclusion:

This report seeks the advice of the Woollahra LPP on a 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.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

We recommend that the Woollahra LPP advise Council to proceed with the planning proposal at **Annexure 6**.

Annexures

1. Mayoral letter to Robert Stokes MP dated 16 January 2020 [↓](#) 
2. Letter from DPIE dated 4 February 2020 [↓](#) 
3. Mayoral letter to Andrew Constance MP dated 26 February 2020 [↓](#) 
4. Letter from Eleni Petinos MP dated 21 April 2020 [↓](#) 
5. Environmental Planning Committee Agenda Item 15 June 2021 (Annexures removed)
[↓](#) 
6. Planning Proposal - Removal of Land Acquisition Reservations in Edgecliff - August 2021 [↓](#) 