

<b>Item No:</b>	D1
<b>Subject:</b>	<b>PLANNING PROPOSAL - HERITAGE LISTING - 364 EDGECLIFF ROAD, WOOLLAHRA</b>
<b>Author:</b>	Kristy Wellfare, Strategic Heritage Officer
<b>Approver:</b>	Anne White, Manager - Strategic Planning
<b>File No:</b>	22/68068
<b>Purpose of the Report:</b>	To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to list 364 Edgecliff Road, Woollahra as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014
<b>Alignment to Delivery Program:</b>	Strategy 4.3: Protect our heritage, including significant architecture and the natural environment.

### Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list *The Corner House (house (including interiors), garage, and garden sandstone fence base)* at 364 Edgecliff Road, Woollahra as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Environmental Plan 2014:

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### Executive Summary:

The purpose of this report is to seek the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the listing of *The Corner House (house (including interiors), garage, and garden sandstone fence base)* at 364 Edgecliff Road, Woollahra (Lot 1, DP 224367) as a local heritage item in Schedule 5 and on the Heritage Map of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014):

We recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 4**.

### Discussion:

#### Reason for report to the Woollahra Local Planning Panel

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.

## Background

On 13 October 2021, a development application (DA) was lodged with Woollahra Council for both 364 and 364A Edgecliff Road, Woollahra (DA2021/455/1). The DA proposes the amalgamation of the two sites and substantial alterations and additions to the building at 364 Edgecliff Road, and the demolition of the existing building at 364A Edgecliff Road, and the construction of a residential flat building.

As part of the notification of the above DA, Council received a submission from LSJ Architects (Lucas Stapleton Johnston) dated 9 November 2021 that included a preliminary assessment of the potential heritage significance of the site (**Attachment 1**). The submission identified that the Corner House at 364 Edgecliff Road was of potential heritage significance, and requested that an Interim Heritage Order (IHO) be placed on the property to allow for Council to undertake an assessment of the heritage significance of the site.

Schedule 2, Clause (2)(a)(ii) of the Ministerial Order dated 12 July 2013, identifies the circumstances in which a Local Council can make an IHO over a property. Under this Ministerial Order, a Council can only make an IHO where the potential heritage item does not already have statutory heritage protection under the *Environmental Planning and Assessment Act 1979* or the *Heritage Act 1977*. As this site is located in the Woollahra Heritage Conservation Area, it is currently afforded a level of heritage protection, and accordingly Council does not have the authority to issue an IHO.

At its meeting of 22 November 2021, Council considered a Notice of Motion relating to the subject site and subsequently resolved:

*THAT Council:*

- A. *Notes that the property – 364 Edgecliff Road, Woollahra - is identified as a contributory item (being part of the heritage conservation area of West Woollahra in the C2.1.2 of the Woollahra DCP 2015).*
- B. *Requests staff to undertake, as a matter of urgency:*
  - i) *a report to investigate the potential heritage significance of the building in order to identify whether the site warrants a listing as:*
    - *a local heritage item in the Woollahra Local Environmental Plan 2014 (WLEP); and/or*
    - *an item on the State Heritage Register under the Heritage Act 1977.*
- C. *Writes to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts to request that an IHO is placed on the property under section 24(1) of the Heritage Act 1977.*

In response to this Council decision, on 6 December 2021 the *Director of Planning and Place* sent correspondence to the (then) *Special Minister of State, Minister for the Public Service & Employee Relations, Aboriginal Affairs* (the Minister), and the Arts requesting that an IHO be placed onto 364 Edgecliff Road under Section 24 of the Heritage Act.

Concurrently, Council staff engaged an external independent heritage consultant, Dr. Scott Robertson of *Robertson & Hindmarsh Pty Ltd* to undertake a preliminary heritage significance assessment of the site at 364 Edgecliff Road.

This assessment was prepared in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001 and *Investigating heritage significance: A guide to identifying and examining heritage items in NSW*, published by Heritage NSW in 2021.

The property was assessed against the seven criteria in the guidelines (see **Table 1** below). Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

**Table 1: NSW Heritage assessment criteria summary**

Criteria		
(a)	Historic significance	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
(b)	Associational significance	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
(c)	Aesthetic significance	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
(d)	Social significance	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
(e)	Technological significance/research potential	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)
(f)	Rarity	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
(g)	Representativeness	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> <li>• or a class of the local area's</li> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> </ul>

To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed. The preliminary assessment concluded that the site is likely to fulfil the following criteria for listing as a heritage item of local significance:

- ✓ Criterion (a): Historical significance
- ✓ Criterion (b): Associative significance
- ✓ Criterion (c): Aesthetic significance
- ✓ Criterion (f): Rarity
- ✓ Criterion (g): Representativeness

This assessment also included a preliminary assessment of the neighbouring site at 364A Edgecliff Road and found that this site would be unlikely to fulfil the criteria for listing as a heritage item. A copy of the preliminary heritage assessment is at **Attachment 2**, and a copy was forwarded to the Minister and Heritage NSW.

### The Interim Heritage Order

The Minister authorised the making of an IHO under section 24 of the *Heritage Act 1977* and notice of the IHO was published in the NSW Government Gazette No. 88 of 4 March 2022. The IHO included both the site at 364 Edgecliff Road and the adjacent site at 364A Edgecliff Road that was the subject of development application DA2021/455/1.

Under section 57 of the *Heritage Act 1977*, when an IHO applies to a place or building a person must not, among other things, demolish, damage or carry out development except in pursuance of an approval granted by the approval body, i.e. Heritage NSW.

The IHO will remain in place for an initial period of six months, until 4 September 2022, which gives Council the opportunity to fully assess the heritage significance of the sites and identify whether they should be listed as State and/or local heritage items. If within these six months Council resolves to proceed with the listing of the items, the orders remain in place for an additional six months to 4 March 2023.

It is noted that the assessment of DA2021/455/1 is ongoing, and, at the time of writing, the DA is yet to be determined. On 5 May 2022, an appeal against the deemed refusal of the DA was lodged with the NSW Land and Environment Court and a Directions Hearing is scheduled for 3 June 2022.

### The sites

The land at 364 Edgecliff Road, Woollahra at Lot 1, DP 224367, is a two storey Arts and Crafts style house designed by Waterhouse & Lake for Alan Lee Holt in 1919. The garage onsite was designed by the same architect in 1920 (see **Figure 1, 2, 3 & 4** below).

The land at 364A Edgecliff Road, Woollahra at Lot 2, DP 224367, is a two storey post-World War 2 house designed by Thompson, Spooner & Dixon for Mrs A.A. Marks in 1964/65.

The property at 364 Edgecliff Road is identified as a contributory item (being part of the heritage conservation area of West Woollahra in C2.1.2 of the Woollahra DCP 2015). 364A Edgecliff Road is not identified as a contributory item in the Woollahra DCP.



**Figure 1: Cadastral map, with 364 Edgecliff Road, Woollahra (highlighted red) and 364A Edgecliff Road, Woollahra (highlighted blue). (Source: Woollahra MAPS, 2022)**





**Figure 2: Current aerial photo, with 364 Edgecliff Road, Woollahra highlighted in red and 364A Edgecliff Road, Woollahra highlighted in blue.  
(Source: Woollahra MAPS, 2022)**



**Figure 3: 364 Edgecliff Road, Woollahra viewed from south-east in March 2022.  
Source: Robertson and Hindmarsh**



**Figure 4: 364 Edgecliff Road, Woollahra – northern façade.**  
**Source: Art in Australia – 1 May 2022 – Taken from *Robertson and Hindmarsh***

#### Assessment of Significance

Having carried out the preliminary heritage assessment, and further to the IHO, a comprehensive assessment of heritage significance was carried out for both 364 & 364A Edgecliff Road, Woollahra by Scott Robertson of Robertson & Hindmarsh. Informed by a site inspection on 9 March 2022 and the documents that were lodged to accompany the DA, these assessments were prepared in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001 and *Investigating heritage significance: A guide to identifying and examining heritage items in NSW*, published by Heritage NSW in 2021.

The two properties were again assessed against the seven criteria in the guidelines. The Draft Heritage Assessment Report for the sites at 364 and 364A Edgecliff Road, Woollahra was received by Council on 7 April 2022 (**Attachment 3**), with the recommendation that “The Corner House” at 364 Edgecliff Road, Woollahra, should be listed as a heritage item of local significance in Schedule 5 and on the Heritage Map of the Woollahra LEP 2014.

The Draft Heritage Assessment concluded that 364 Edgecliff Road was of **local** significance under the following heritage criteria:

- ✓ Criterion (a): Historical significance
- ✓ Criterion (b): Associative significance
- ✓ Criterion (c): Aesthetic significance
- ✓ Criterion (f): Rarity
- ✓ Criterion (g): Representativeness

A copy of the heritage inventory sheet, including an assessment against all criteria, forms part of **Attachment 3**.



This report also considered the potential heritage significance of the site at 364A Edgecliff Road that is also subject to the IHO. The report confirmed that the site at 364A Edgecliff Road did not fulfil the criteria for listing as a heritage item at either a local or a state level.

It should be noted that the Draft Heritage Assessment recommended an expanded curtilage for the proposed heritage item at 364 Edgecliff Road, and that this curtilage should be extended over the neighbouring site at 364A Edgecliff Road. This expanded curtilage is not reflective of the significance of the site at 364A, but rather sought to preserve the northern aspect of the proposed heritage item at 364 Edgecliff Road which formed part of its original design intent.

In the discussion of the recommended curtilage for the proposed heritage item at 364 Edgecliff Road, the Draft Heritage Assessment Report identifies:

*“The design of the house emphasised the main living areas of the house facing the rear, private garden and facing the sun for comfortable living conditions, especially in winter. The subdivision of the allotment into two lots preserved the solar access into the north-facing living rooms of the house but cut off access to the former rear, private garden.”*  
(Draft Heritage Assessment Report – 364 Edgecliff Road Woollahra, p.61)

The report addresses the use of an expanded heritage curtilage for the proposed heritage item at 364 Edgecliff Road, and the report contains the following two paragraphs:

*“The reduction of the original site means that a heritage curtilage that encompasses the rear allotment, 364A Edgecliff Road would require an Expanded Heritage Curtilage. This would impose restrictions on the redevelopment of the rear allotment regarding overlooking and overshadowing the house and garden at 364 Edgecliff Road. Whilst this might seem onerous to any owner of the rear allotment it should be noted that the proponents of the current redevelopment of both sites propose to consolidate the allotments back into one lot. It should be noted also that the proponent of the construction of the current house at 364A Edgecliff Road placed the new house at the far north end of the site to minimise overshadowing of the house and garden at 364 Edgecliff Road.*

*An alternative to an Expanded Heritage Curtilage covering both allotments would be to restrict the heritage curtilage to the site of 364 Edgecliff Road in a Lot Boundary Heritage Curtilage and rely on the LEP controls regarding development near a heritage item to protect both the amenity and the heritage significance of the extant house and garden.”* (p.61-62)

Council staff considered both options regarding the curtilage of the proposed item at 364 Edgecliff Road. On balance, given the identified significance of the site, it was considered appropriate to recommend the curtilage remain with the current allotment boundary of 364 Edgecliff Road only. Under this option, any DA on a neighbouring site would require an assessment against the provisions of *Clause 5.10 Heritage Conservation* of the Woollahra LEP 2014. In this regard, any development in the vicinity of a listed heritage item should protect the heritage significance and the amenity of the house and garden at 364 Edgecliff Road.

### Planning Proposal

Consistent with the recommendations of the assessment of heritage significance report, a planning proposal has been prepared to list *The Corner House* (house (including interiors), garage, and garden sandstone fence base) at 364 Edgecliff Road, Woollahra as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra LEP 2014. The planning proposal has been prepared in accordance with section 3.33 of the *NSW Environment Planning and Assessment Act 1979* and the document prepared by the NSW Department of Planning and Environment titled *Local Environmental Plan Making* (December 2021).

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.

#### Objective of the planning proposal

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of 364 Edgecliff Road, Woollahra and provide the site with the appropriate level of statutory heritage protection consistent with its identified significance. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site.

#### Relationship to strategic planning framework

The planning proposal has strategic and site specific merit. The planning proposal is 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).

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 meets the following strategy within Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces:

- 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 (approved by Council on 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 and applicable section 9.1 directions.

#### **Options:**

As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with a planning proposal to list 364 Edgecliff Road, Woollahra as a heritage item in the Woollahra LEP 2014.

Alternatively, the Woollahra LPP may provide advice not to support the preparation of a planning proposal or recommend staff make amendments.

#### **Community Engagement and / or Internal Consultation:**

The notification of the IHO to the owners of the site would have been undertaken by Heritage NSW who were responsible for issuing the IHO.

No other community engagement has been undertaken to date. Public exhibition of the planning proposal will be undertaken in due course and in accordance with the Gateway Determination conditions and the *NSW Environment Planning and Assessment Act 1979*.



### Policy Implications:

Should Council resolve to progress a planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there will be policy implications by listing the property as a heritage item in the Woollahra LEP 2014.

### Financial Implications:

NIL

### Resourcing Implications:

Staff resource implications will be associated with progressing a planning proposal which will include managing the public exhibition and preparing a post exhibition report to a meeting of Council.

### Conclusion:




This report seeks the advice of the Woollahra LPP on a planning proposal to list *The Corner House (house (including interiors), garage, and garden sandstone fence base)* at 364 Edgecliff Road, Woollahra as a local heritage item in Schedule 5 and on the Heritage Map of Woollahra LEP 2014.

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 provides advice to Council to proceed with the planning proposal at **Attachment 4** to list 364 Edgecliff Road, Woollahra as a local heritage item in the Woollahra LEP 2014.

### Attachments

1. Lucas Stapleton Johnson Architects submission - Request for IHO - 364 Edgecliff Road, Woollahra [↓](#) 
2. Preliminary Assessment of Heritage Significance - 364 Edgecliff Road, Woollahra [↓](#) 
3. Draft Heritage Assessment Report - 364 Edgecliff Road, Woollahra (7 April 2022) [↓](#) 
4. Planning Proposal - Heritage Listing - 364 Edgecliff Road, Woollahra (May 2022) [↓](#) 