



# Environmental Planning Committee

Monday 4 September 2023  
6.30pm

## Agenda



**Item No:** R5 Recommendation to Council  
**Subject:** **CHARACTER BUILDINGS IN THE WOOLLAHRA LOCAL GOVERNMENT AREA**  
**Author:** Anne White, Manager Strategic Planning & Place  
**Approver:** Scott Pedder, Director Planning & Place  
**File No:** 23/105614  
**Purpose of the Report:** To respond to a Council resolution to investigate avenues to strengthen protection for character buildings in the Woollahra LGA.  
**Alignment to Delivery Program:** Strategy 4.2 Conserving our rich and diverse heritage.

**Recommendation:**

THAT Council:

- A. Notes the report to the Environmental Planning Committee of 3 July 2023 which addresses the current planning controls applying to character buildings in the Woollahra Local Government Area.
- B. Resolves to remove the controls relating to character buildings from *Chapter D5 Double Bay Centre*, as part of a future amendment to the *Woollahra Development Control Plan 2015*.
- C. Resolves:
  - i. To initiate a heritage study for the Rose Bay Centre,
  - ii. To identify the Rose Bay Centre heritage study as a new medium priority in the Heritage Action Plan under the Woollahra Heritage Gap Analysis, and
  - iii. That the Rose Bay Centre heritage study be included as an action in the 23/24 Operational Plan/Budget.
- D. Notes the Council resolution (initiated by a Notice of Motion) is now closed.

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**Executive Summary:**

This report has been prepared in response to a Council resolution (initiated by a Notice of Motion) from 14 February 2022, requesting staff prepare a report on any avenues that may be available to strengthen protections for character buildings in the Woollahra municipality. Character buildings are only found in the Double Bay and Rose Bay Centres under the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015)

In response, Council staff do not support the current controls for character buildings which have been an ineffective tool to protect buildings from alteration and/or demolition. Heritage listing under the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) is the most effective pathway to protect properties with heritage significance by elevating the protection to a statutory level.

For the Double Bay Centre, this issue has already been addressed as a comprehensive heritage study has been prepared to assess whether the character buildings in the Centre should be elevated to heritage items.

However, no such assessment for the Rose Bay Centre has been prepared and Council staff recommend progressing a similar study for the Centre. Once both heritage assessments have been prepared and finalised, the use of the character building controls in the Woollahra DCP 2015 should be removed.

## Discussion:

### Background

On 14 February 2022 Council considered a Notice of Motion (NOM 16.16) regarding strengthening protections for character buildings and at this meeting it was resolved:

*THAT staff prepare a report on any avenues that may be available to strengthen protections for Character buildings in the Woollahra municipality and in Double Bay in particular.*

### Character buildings under the Woollahra Development Control Plan 2015

Currently over 50% of the Woollahra municipality is either located within a heritage conservation area (HCA) or afforded individual heritage item status under the Woollahra Local Environmental Plan 2015 (Woollahra LEP 2014). Statutory heritage listing safeguards our important places and buildings for future generations. Statutory heritage listing aims to protect the significant values of a place as it grows into the future, and any development application (DA) would be considered and assessed on its merits against the values of the place.

When the controls in the Woollahra LEP 2014 are applied to a DA they aim to manage changes to a building so that they appropriately conserve the significance of a place. This means that alterations, upgrades, and new developments like additions and extensions are guided and considered in their design to be more sensitive to the heritage building.

The controls relating to character buildings are contained in the Woollahra DCP 2015. Under the Woollahra DCP 2015 these controls are not statutory, and are therefore a guide only.

Currently the use of the term “character building” is in two places in the Woollahra DCP 2015: Chapter D5 Double Bay Centre and Chapter D6 Rose Bay Centre.

### Chapter D5: Double Bay Centre

There are currently 12 buildings in the Double Bay Centre that are identified as Character buildings under the Woollahra DCP 2015. These are identified in **Figure 1** below. This map shows the Double Bay Centre boundary, the character buildings, and also identifies the buildings which have statutory or proposed statutory heritage listing under the Woollahra LEP 2014 (including the Transvaal Avenue heritage conservation area).

The relevant information relating to character buildings in the Double Bay Centre are located in part 5.6.3.8 Heritage items and character buildings. Regarding the character buildings it is noted that the DCP includes the following information:

*In addition, a number of buildings have been identified as character buildings. These have high streetscape value because of their strong architectural character and the way in which they address the street.*

The relevant objectives and controls that relate to heritage conservation, and in particular character buildings are summarised below in **Table 1**.

**Table 1: Character Building Controls in Chapter D5 of the Woollahra DCP**

Objectives	Relevant Controls
O1 Protect and enhance heritage items and conservation areas.	C1 All new developments and works to existing developments are to be designed to be compatible with the significance of listed heritage items, conservation areas and nominated character buildings.
O2 Encourage the sensitive adaptation or reuse of buildings that contribute to the spatial definition of the urban spaces they address.	C3 Development to a character building or heritage item is to respect the building and complement and enhance the key characteristics of the building including: <ul style="list-style-type: none"> <li>a) street edge definition;</li> <li>b) its material, detailing and character;</li> <li>c) its holistic building character related to articulation, massing, and patterns and distribution of wall opening.</li> </ul>
	C5 Where a character building is proposed to be replaced, the architectural quality and streetscape contribution of the proposed building must be at least equal to the quality of the building's material, character and detailing
	C6 Modifications to character buildings must retain or enhance the architectural streetscape value of the existing building.



**Figure 1: Character buildings in the Double Bay Centre, identified in Chapter D5 of the Woollahra DCP 2015**

Whilst the controls in **Table 1** above appear robust and strong in principle, it is relevant to identify that the controls in the Woollahra DCP 2015 are a guide only, and are not binding to a DA. In particular we note that C5 identifies that where a character building is proposed to be replaced, the proposed building must only be at least equal to the quality of the building's material, character and detailing. The controls are unable to preclude or prevent demolition.

Accordingly, it is difficult for Council to uphold these controls and mandate the protection and preservation of these character buildings. Particularly, when an application for demolition is considered by the Land and Environment Court. For example, the existing character building at 14 Bay Street (JA Hair & Beauty), received approval in May 2022 from the Land and Environment Court, which involves the demolition of the existing building and construction of a new shop top housing development consisting of five storeys.

#### Double Bay Centre Heritage Study

On 26 April 2021 Council considered a Notice of Motion (NOM 16.5) regarding the potential heritage significance of properties located in the Double Bay centre, and resolved:

*THAT Council:*

- A. *Notes the following properties in the Double Bay Centre are identified as character buildings in Chapter D5 Double Bay: Section 5.6.3.8 Heritage items and character buildings of the Woollahra DCP 2015 and that those buildings have a positive contribution to the streetscape and architectural character of the area:*
- 37 Bay Street
  - 35 Bay Street
  - 29-33 Bay Street
  - 9 Bay Street
  - 11 Bay Street
  - 13 Bay Street
  - 15 Bay Street
  - 21-25 Knox Street.
- B. *Notes the following additional character buildings which are considered to positively contribute to the streetscape and architectural character of the Double Bay Centre:*
- 39-43 Bay Street and 17-19 Bay Street: the existing terraces on the eastern side of Bay Street between Short Street and New South Head Road
  - 28 Bay Street: Royal Oak Hotel
  - 12 Bay Street: the existing two storey terrace.
- C. *Requests staff to undertake, as a matter of urgency, a report to investigate the potential heritage significance of the buildings identified in paragraphs A and B above in order to identify whether these sites warrant listing as:*
- (a) *a local heritage item in the Woollahra Local Environmental Plan 2014 (WLEP);*  
*and/or*
  - (b) *an item on the State Heritage Register under the Heritage Act 1977 and/or;*
  - (c) *part of a heritage conservation area in the WLEP.*

In response, in February 2022, Council staff engaged Lucas Stapleton Johnston & Partners Pty Ltd (LSJ Architects) to prepare the *Double Bay Centre Heritage Review of Character Buildings* (Double Bay Heritage Study). The Double Bay Heritage Study was prepared in accordance with the then guideline 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. LSJ reviewed a shortlist of buildings in the Centre in order to identify individual items of potential heritage significance and possible HCAs.

Having finalised the study, the Double Bay Heritage Study recommended that four further sites should be included in Schedule 5 of the Woollahra LEP 2014 as local heritage items. Three of these buildings are currently character buildings, and one of these buildings is not currently a character building (the Royal Oak Hotel).

- i. (former) InShoppe building, 45A Bay Street (Lot 1 DP 208325)
- ii. Cooper's Corner, 475-479 New South Head Road, Double Bay (Lot 1 DP13051)
- iii. Royal Oak Hotel, 28 Bay Street (Lot 1 DP 60445)
- iv. Shopping and building arcade, 21-25 Knox Street (Lot 1 DP 208922)

On 6 March 2023, the Environmental Planning Committee (EPC) considered a report on the heritage listing of four sites in Double Bay, and on 27 March 2023, Council resolved (in part)

**B. THAT Council endorse the planning proposal as contained at **Attachment 2** of the report to the Environmental Planning Committee to list the following four sites as local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014 and resolve to forward this to the Department of Planning and Environment with a request for Gateway Determination to allow public exhibition:**

- i. (former) InShoppe building, 45A Bay Street (Lot 1 DP 208325)
- ii. Cooper's Corner, 475-479 New South Head Road, Double Bay (Lot 1 DP13051)
- iii. Royal Oak Hotel, 28 Bay Street (Lot 1 DP 60445)
- iv. Shopping building and arcade, 21-25 Knox Street (Lot 1 DP 208922)<sup>1</sup>

The character building at 24-26 Bay Street (Gaden House) was already listed as a heritage item on 6 September 2019 and on 27 March 2023 Council also resolved to progress a nomination of the building to the State Heritage Register.

The LSJ Double Bay Heritage Study had considered the remaining character buildings and considered whether they would meet the criteria for heritage listing. However, it concluded that eight of the buildings would not meet the relevant criteria for listing at the local level.

A summary of the character buildings in Double Bay, their current heritage status and whether there is an approval for demolition is summarised in **Table 2** below.

**Table 2: List of character buildings in Double Bay and their current heritage Status**

Address	Common name (where known)	Current heritage status
14 Bay Street	JA Hair & Beauty	Not recommended for heritage listing. DA approved in May 2022 for the demolition of existing building and construction of a new top shop housing development of 5 storeys.
24-26 Bay Street	Gaden House	Gaden House was listed as a heritage item on 6 September 2019. On 27 March 2023, Council resolved to progress a nomination to the State Heritage Register.
9 Bay Street	Dr A N Rastogi Medical facility	Not recommended for heritage listing.
11 Bay Street	Christophe Living	Not recommended for heritage listing.
13 Bay Street	Lloyd Lomas	Not recommended for heritage listing.
15 Bay Street	De Moyer Architecture	Not recommended for heritage listing.
29-33 Bay Street	Matteo & Inca Beauty	Not recommended for heritage listing.
35 Bay Street	Coco & Lola	Not recommended for heritage listing.
37 Bay Street	(former) Mrs. Sippy	Not recommended for heritage listing.
45A Bay Street	(former) InShoppe building,	On 27 March 2023 Council resolved to endorse a planning proposal to list this property as a local heritage item in Schedule 5 and on the Heritage Map of the <i>Woollahra Local Environmental Plan 2014</i> .

<sup>1</sup> At the time of preparing this report, the planning proposal to list four buildings in Double Bay as heritage items had been lodged with the Department of Planning and Environment. However, no Gateway determination to facilitate public exhibition has been received.

Address	Common name (where known)	Current heritage status
21-25 Knox Street	Shopping building and arcade	On 27 March 2023 Council resolved to endorse a planning proposal to list this property as a local heritage item in Schedule 5 and on the Heritage Map of the <i>Woollahra Local Environmental Plan 2014</i>
475-479 New South Head Road	Coopers Corner	On 27 March 2023 Council resolved to endorse a planning proposal to list this property as a local heritage item in Schedule 5 and on the Heritage Map of the <i>Woollahra Local Environmental Plan 2014</i> .

Each of the character buildings has been considered to determine whether they would meet the threshold for individual heritage listing (or via a HCA). However, the independent report prepared by LSJ concluded that they would not meet the threshold. Council staff recommend that the existing controls relating to character buildings in Chapter D 5 are removed as these controls can't be enforced and it is misleading to our community to imply that they can be and are worthy of heritage listing.

#### Chapter D6: Character buildings in the Rose Bay Centre

There are currently seven buildings in the Rose Bay Centre that are identified as Character buildings under the Woollahra DCP 2015. These are identified in **Figure 2** below. This map shows the Rose Bay Centre boundary, the character buildings, and also identifies the buildings which have statutory or heritage listing under the Woollahra LEP 2014.





**Figure 2: Character buildings in the Rose Bay Centre, identified in Chapter D6 of the Woollahra DCP 2015**



The following table contains a list of each of the character buildings in the Rose Bay Centre, including an image and identifies whether the property has been afforded statutory heritage status.

**Table 3: List of character buildings in Rose Bay**

Address	Common name	Current status	Image
757 New South Head Road	Post Office and interiors	The former Rose Bay Post Office (now Woolworths) is listed as a heritage item in the Woollahra LEP 2014.	
23 Newcastle Street	Daynesbury	No statutory heritage affectation.	
8 Newcastle Street	Rose Bay Vet Hospital	No statutory heritage affectation.	
10 Newcastle Street	The Roaming Vet	No statutory heritage affectation.	
797 New South Head Road	Lilac and Willow Flowers	No statutory heritage affectation.	
801 New South Head Road	Sushi Train Rose Bay	No statutory heritage affectation.	
10 Dover Road	Rose Cafe	No statutory heritage affectation.	



The relevant information relating to character buildings in Chapter D6 Rose Bay Centre is located in part 6.6.3.4 Heritage and conservation.

Regarding character buildings it is noted that the Woollahra DCP 2015 includes the following information:

*The Rose Bay Hotel, the former Rose Bay Post Office and two pines in Vickery Avenue are the only listed heritage items in the Rose Bay Centre. The Rose Bay Centre Urban Design Study 1998 identified an additional five character buildings which are shown in Figure 16. These buildings have high streetscape value because of their strong architectural character and the way in which they address the street. There are no heritage conservation areas in the Rose Bay Centre.*

The relevant objectives and controls that relate to heritage conservation and character buildings are summarised below in **Table 4**.

**Table 4: Character Building Controls in Chapter D6 of the Woollahra DCP**

Objectives	Relevant Controls
O1 Protect and enhance items of environmental and heritage significance and character buildings (see Figure 16 Character buildings).	C2 Development proposals on sites containing character buildings or heritage items must demonstrate that the architectural and streetscape value of the building would be retained or enhanced by the proposal
O2 All new developments and works to existing developments are to be designed to be compatible with the heritage significance of listed heritage items and nominated character buildings.	C3 Development to a character building or heritage item is to respect the building and complement and enhance the key characteristics of the building including: <ul style="list-style-type: none"> <li>a) street edge definition;</li> <li>b) its material, detailing and character;</li> <li>c) its holistic building character related to articulation, massing, and patterns and distribution of wall opening.</li> </ul>

Whilst these controls for character buildings in the Rose Bay Centre are stronger than the equivalent controls in the Double Bay Centre, it is again relevant to identify that the controls in the Woollahra DCP 2015 are a guide only, and are not binding to a DA. As these controls are a guide, they are unable to preclude or prevent demolition.

Similar to the approach that was recently taken for the Double Bay Centre, staff recommend that Council resolves to progress a heritage study for the Rose Bay Centre (including a review of the existing character buildings). This study would then recommend which of these building should be progressed as individual heritage items (or as a HCA).

Heritage listing at the local (or State) level is the most appropriate response to strengthen the protection for those character buildings which meet the relevant heritage assessment criteria. Heritage listing under the Woollahra LEP 2014 elevates the properties to have statutory heritage protection and provides a stronger level of heritage protection.

Council staff recommend that the existing controls relating to character buildings in Chapter D6 are retained until the heritage study is progressed so that the existing character buildings are afforded some (limited) protection whilst the study is being progressed.

#### Local Character Overlay

In the background to the NOM which led to the Council resolution from 26 April 2021, it was requested that in preparing this report, staff are to provide an update on the *Departments of Planning & Environment's* (DPE) initiative regarding a means to elevate local character in NSW, and an associated map layer and clause identifying character areas.

In response staff can advise that in recent years, various investigations have been made by the DPE and Council into mechanisms to protect local character. In February 2019, the then DPIE released a *Local Character and Place Guideline and Discussion Paper – Local Character Overlays* which aimed to provide a standardised approach to integrating local character into the standard instrument LEP. Council's planning staff were supportive of the intent of this proposed reform which would have strengthened local character provisions by elevating them into LEPs and therefore giving them statutory weight.

However, more recently Council's planning staff consulted with the DPE, numerous Sydney metropolitan councils, and the Southern Sydney Regional Organisation of Councils (SSROC) to discuss the future of the local character framework and overlay

The consultation has confirmed that the DPE no longer supports the inclusion of local character provisions in an LEP and has no current plans to progress a statutory pathway or policy to enable this. The DPE recommend that councils continue to rely on DCP provisions to ensure local character is considered as part of the design and development assessment process.

Furthermore, the DPE does not support local character as a basis to exclude areas from the application of the Low Rise Housing Diversity Code, under the Codes SEPP, which facilitates dual occupancies, manor houses and terraces as complying development in residential zones.

The DPE's position has been formally provided to a number of Sydney metropolitan councils, including Randwick Council, Canada Bay Council and Woollahra Council, through Gateway determinations or conditions imposed on the approval of a Council's Local Housing Strategy. Council staff are not aware of any pathway available to integrate local character or desired future character provisions into the Woollahra LEP 2014 in the absence of a State-endorsed framework.

Accordingly, on 4 October 2022, the EPC considered a report on an update on the planning proposal to facilitate the interpretation of desired future character and the DPEs position on local character. Subsequently on 31 October 2022, Council resolved (in part)

*B. THAT Council take no further action with regards to Local Character, as there is currently no statutory pathway or policy to include local character in a Local Environmental Plan.*

#### **Options:**

Council may resolve in line with the recommendation of this report, or Council may choose to resolve in another manner.

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

There are no Community Engagement and / or Internal Consultation as a result of this report.

#### **Policy Implications:**

Should Council resolve in line with the recommendations of this report, there will be policy implications should amendments to the Woollahra LEP 2014 and Woollahra DCP 2015 be progressed.

The Woollahra Heritage Gap Analysis was adopted by Council in November 2021, and contains an ongoing Action Plan with short, medium and long term priorities. Should Council resolve to progress a heritage study for the Rose Bay Centre, it is recommended that this project is included as a medium priority under the Heritage Gap Analysis.

**Financial Implications:**

Should Council resolve to progress with a study of the Rose Bay Centre, there will be financial implications in order to appoint a heritage consultant to progress the study. It is recommended that this study be included as an action in the 23/24 Operational Plan/Budget.

**Resourcing Implications:**

Should Council resolve to progress with amendments to the Woollahra DCP 2015 and a heritage study for the Rose Bay Centre, there will be staff resources associated with progressing the amendment and carrying out a heritage study.

**Conclusion:**

In the Woollahra LGA character buildings are located in the Double Bay and Rose Bay Centre and the applicable controls are contained in the Woollahra DCP 2015. Whilst the controls appear robust in nature, as they are located in the Woollahra DCP 2015 they are a guide only. These controls are unable to preclude or prevent demolition. Statutory heritage listing at the local (or State) level is the most appropriate response to strengthen the protection for those character buildings (where they meet the relevant heritage criteria).

Council has progressed a heritage study for the Double Bay Centre and identified which of the character buildings should be individually listed in the Woollahra LEP 2014. The remaining character buildings did not meet the threshold for heritage listing. It is therefore appropriate that as part of a future amendment to the Woollahra DCP 2015, the existing controls relating to character buildings in Chapter D5 are removed.

However, Council has not progressed a heritage study for the Rose Bay Centre, and it is recommended that Council resolves to do this as a medium priority under the Woollahra Heritage Gap Analysis.

**Attachments**

Nil

**Item No:** R6 Recommendation to Council  
**Subject:** **HERITAGE LISTING OF LAPIN HOUSE, 2C DUMARESQ ROAD, ROSE BAY, IN SCHEDULE 5 OF THE WOOLLAHRA LEP 2014**

**Authors:** Tristan Ryan, Senior Strategic Heritage Officer  
Kristy Wellfare, Acting Team Leader Heritage

**Approvers:** Anne White, Manager Strategic Planning & Place  
Scott Pedder, Director Planning & Place

**File No:** 23/154047

**Purpose of the Report:** To provide Council with the advice of the Woollahra Local Planning Panel.  
To obtain Council's approval to proceed with the planning proposal to list "Lapin House" – house and interiors as a local heritage item in Schedule 5 and on the Heritage Maps of the Woollahra LEP 2014.  
To obtain Council's approval to proceed with further heritage investigations of both Bursill House and Lapin House, and to request the owner of Lapin House prepare a Conservation Management document.

**Alignment to Delivery Program:** Strategy 4.2 Conserving our rich and diverse heritage.

**Recommendation:**

THAT Council:

- A. Notes the advice provided by the Woollahra Local Planning Panel from 17 August 2023 regarding the planning proposal to list "Lapin House" as a local heritage item.
- B. Endorses the planning proposal as contained at **Attachment 3** of the report to the Environmental Planning Committee of 4 September 2023 to list "*Lapin House*" – *house and interiors* at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the *Woollahra Local Environmental Plan 2014*, and resolves to forward this to the Department of Planning and Environment with a request for Gateway Determination to allow public exhibition.
- C. Requests 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*.
- D. Requests from the owner of Lapin House, a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site.
- E. As part of the Significant Architects Study further assesses whether *Lapin House* – *house and interiors* at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) merits state listing and whether 2B Dumaresq Road, Rose Bay, "Bursill House" (Lot B DP 33652, Lot 3 DP 365945) merits local or state heritage listing.

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**Executive Summary:**

The purpose of this report is to provide Council with the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the listing of "*Lapin House*" – *house and interiors*, at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the *Woollahra Environmental Plan 2014*.

In summary, we recommend that Council resolve to endorse the planning proposal as contained in **Attachment 3** of the report to the Environmental Planning Committee, and resolve to forward this to the Department of Planning and Environment (DPE) with a request for gateway determination to allow public exhibition.

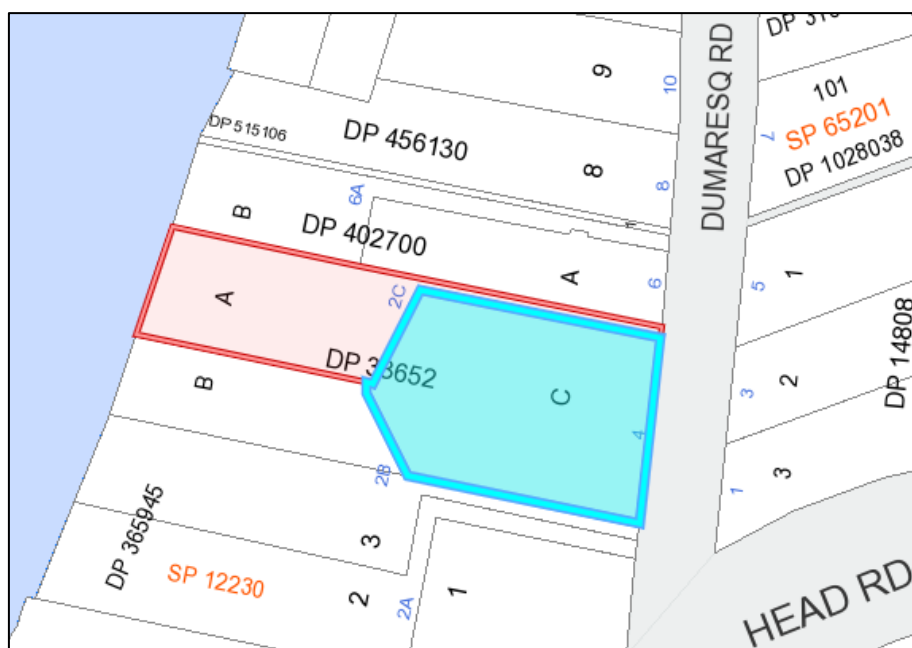
Following the advice from the Woollahra LPP, staff also recommend that Council resolves:

- To request the owner of the property prepare a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site, and;
- That as part of the Significant Architects Study (which is identified as a high priority in Council's Heritage Gap Analysis Action Plan), assess whether 2B Dumaresq Road, Rose Bay, "Bursill House", merits local or state heritage listing, in light of its relationship with Lapin House.

### Discussion:

#### The site

The land at 2C Dumaresq Road, Rose Bay sits on Lot A, DP 33652, and contains Lapin House. Completed in 1952 the building is a two storey Modern movement house designed by Neville Gruzman on the commission of his aunt, prominent medical practitioner Dr Mollie Lapin (see **Figures 1 -3** below).



**Figure 1: Current cadastral map, with 2C Dumaresq Road, Rose Bay, Woollahra (highlighted red) and 4 Dumaresq Road, Rose Bay (highlighted blue). (Source: Woollahra MAPS, 2023)**

The house sits on a battle axe allotment, accessed by a drive leading down a steep hill, elevated above the level of the adjoining beach. It faces directly west, with views over the foreshore and wider harbour, toward the Harbour Bridge. The building is of white rendered brick and concrete, with steel supports. The central part of the house is a full height atrium and living space completely glazed to the west, with a striking sandstone wall to the south. An upstairs volume containing the master bedroom cantilevers over the yard area, with a single full height window facing west to the view and more glazing to the north. The other rooms of the house face a garden at the rear. Between the house and the beach there is an irregularly shaped pool.

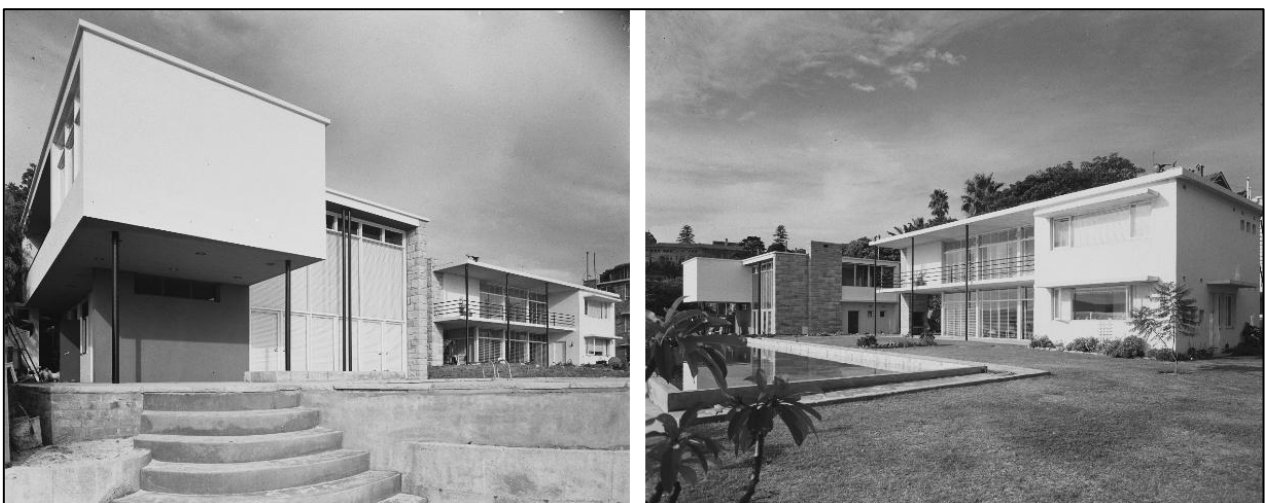


The land at 4 Dumaresq Road at Lot C, DP 33652, currently contains a former house, since subdivided into six flats. The building appears to date from before 1943, and may be the 'Villa Rose' that was on the site in 1921. This property is not considered to be significant, but is subject to the same development application (DA 23/204/01).

Neither property is listed on the LEP, nor located within a Heritage Conservation Area.



**Figure 2: Current aerial photo, with 2C Dumaresq Road, Rose Bay, Woollahra (highlighted red) and 4 Dumaresq Road, Rose Bay (highlighted blue)(Source: Woollahra MAPS, 2023)**



**Figure 3: Left: The western side of Lapin House showing the original configuration and close relationship with Bursill House. Right: Bursill House, viewed from the south, with Lapin House beyond (Source: Heritage Assessment by TKD Architects, August 2023, pp. 16-17, from SLNSW ON 558/Box 3/nos. 416-422, Max Dupain photographs)**



### Interim Heritage Order (IHO)

On 8 June 2023, development application (DA 23/204/01) was lodged with Woollahra Council for the following:

*Alterations and additions to the existing dwelling at 2C Dumaresq Road; demolition of all existing structures at 4 Dumaresq Road and construction of a new dwelling; amalgamation of the two properties resulting in a single dwelling across the consolidated site; swimming pool and landscaping works.*

Council's Heritage Officer considered the works proposed by the DA, and identified that due to the connection with architect Neville Gruzman, the site may meet the criteria for listing as a heritage item.

On 6 July 2023, Dr Roy Lumby of TKD Architects was appointed to provide Council staff with advice on the potential heritage significance of the property under the Heritage NSW criteria. Dr Lumby is well-known as an expert in the interwar and modern movement periods and is co-author of the book *A Spirit of Progress: Art Deco Architecture in Australia* and the essay 'The Modern Movement in NSW: a thematic history' (in association with Colleen Morris and Professor Peter Spearritt). As part of the assessment of the DA, Dr Roy Lumby and Council's Senior Strategic Heritage Officer attended the site for an internal site inspection on 12 July 2023. This preliminary assessment was prepared in accordance with the NSW Department of Planning and Environment's guidelines, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria*, published 2023.

The property was assessed against the seven criteria in the guidelines. Each criterion includes 'significance indicator' and 'significance threshold' 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.

To be assessed for State significance an item will need to 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.

On 30 June 2023, Dr Roy Lumby provided staff with "preliminary heritage advice" which concluded that Lapin House "has sufficient historical, aesthetic and technical significance, along with sufficient integrity (not withstanding modifications undertaken to it in the past) to warrant inclusion in the Woollahra LEP".

Under a Ministerial Order, the *Authorisation for Local Councils to make Interim Heritage Orders*, published in the Government Gazette on 12 July 2013 and under a sub-delegation to the Director of Planning they may, on behalf of Council, make an IHO. An IHO can be made if, among other things, the following pre-conditions are in place:

- "(b) *it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the Council and considers that:*
- (i) *The item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;*
  - (ii) *The item is being or is likely to be harmed;*
  - (iii) *The IHO is confined to the item determined to be under threat."*

Given DA2023/204/01 proposed the partial demolition of structures on the site, and that the site is potentially of local heritage significance, the *Director of Planning & Place* formed the opinion that the above circumstances were in place.

Subsequently, the Director of Planning & Place authorised the making of an IHO. The IHO was issued under section 25 of the *Heritage Act 1977* (IHO No. LC-10) and this was published in the NSW Government Gazette No. 151 of 21 July 2023.

The IHO will remain in place for an initial period of six months which gives Council the opportunity to fully assess the heritage significance of the building and identify whether the building should be listed as a State and/or local heritage item. If within these six months Council resolves to proceed with the listing of the item, the order remains in place for an additional six months.

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. Council.

### 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 2C Dumaresq Road, Rose Bay by Dr. Roy Lumby. Informed by the site inspection on 12 July 2023 and the documents that were lodged to accompany the DA, this assessment was again prepared in accordance the NSW Department of Planning and Environment's revised guideline, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria*, published 2023

The final version of the Heritage Assessment Report for the 2C Dumaresq Road, Rose Bay was received by Council on 7 August 2023 (**Attachment 1**), with the recommendation that Lapin House and its interiors should be listed as a heritage item of local significance in Schedule 5 and on the Heritage Map of the Woollahra LEP 2014. A heritage inventory sheet was prepared based on the Heritage Assessment Report, including an assessment against all criteria, and this is provided at **Attachment 2**.

The Heritage Assessment concluded that Lapin House, including interiors, is of **local** significance under the following heritage criteria:

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

The Heritage Assessment report also considered the site having regard to whether it fulfilled the seven significance criteria at a **State** level, and concluded that Lapin House fulfilled the criterion for **State** significance for its historical association with Neville Gruzman, being an important work in the career of this prominent and influential architect.

However, in order to progress a nomination for listing in the State Heritage Register, an item is required to fulfil at least two of the seven significance criteria at a State level, or, if the item only meets one criterion, the Heritage Council must consider it to be of such particular significance that it should be listed. TKD's Assessment report recommends that Council make consideration as to whether the place should be listed on the State Heritage Register.

Council staff were of the view that, while a listing on the State Heritage Register has at least some prospect of being successful owing to the importance of Gruzman as an architect and the importance of Lapin House in his career, pursuing the listing of the property on the State Heritage Register under only one criterion is not certain to succeed.

### Recommendations by TKD Architects

TKD Architects make the following recommendations (among others), regarding the place:

- *The property should be added to Schedule 5 of the Woollahra Local Environmental Plan 2014 as 'Lapin House - house and interiors,' with the curtilage defined as the land contained within Lot A Deposited Plan 33652.*
- *The residence should be retained and conserved.*
- *The surviving original external form, interior configuration and original spaces, fabric and finishes including original timber framed windows, doors and door hardware should be retained and conserved in any future development.*
- *External features including the swimming pool, barbecue, original or early external paving including terrazzo paving and the paving in the rear yard spaces, and the sandstone rock face at the rear of the site should be retained and conserved. The pattern of landscaping should also be retained.*

### Advice of the Woollahra Local Planning Panel

Based on the recommendations from TKD Architects, a planning proposal was prepared. The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of Lapin House at 2C Dumaresq Road, Rose Bay, including its interiors and provide the site with statutory heritage protection consistent with its identified significance. Heritage listing aims to provide the ongoing protection and recognition of the heritage significance of the site.

The planning proposal was referred to the Woollahra LPP on 17 August 2023 (see **Attachment 4**). Having considered the matter, the Woollahra LPP provided the following unanimous advice to Council:

*THAT the Woollahra Local Planning Panel advises Council:*

1. *To proceed with the planning proposal to list "Lapin House" – house and interiors, at 2C Dumaresq Road, Rose Bay (Lot A DP 33652) as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Environmental Plan 2014.*
2. *To request that the applicant prepare and submit to Council a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site.*
3. *To investigate whether the house at 2B Dumaresq Road, Rose Bay, "Bursill House", (Lot B DP 33652, Lot 3 DP 365945) is worthy of local or state heritage listing, including its relationship with Lapin House.*

It is noted that the Woollahra LPP provided the following **reasons for its decision**:

- *The Heritage Assessment of Lapin House prepared by TKD Architects was considered by the panel to be a comprehensive, well-considered and thorough report, with appropriate recommendations aiming to conserve the building.*
- *The Heritage Assessment demonstrates that Lapin House has strong associations with the prominent architect Neville Gruzman, and is an important and uncommon European Modernist house in Woollahra.*
- *The panel noted that the building is generally intact but that repairs and maintenance will be required and that there are current proposals to further develop the site. For long-term conservation, these works should be guided by a Conservation Management Plan or Conservation Management Strategy*

The Woollahra LPP also included in their advice the following:

*The panel notes the Heritage Assessment recommendation stating that consideration should be given for nominating Lapin House for inclusion on the State Heritage Register. The panel notes that further work would be required to support such a nomination.*

Should Council resolve to proceed with the staff recommendation, this further assessment of both Lapin House and Bursill House will be incorporated into the study of Significant architects in the LGA (which Council resolved to support in 2019). This study forms a key part of Council's adopted Heritage Gap Analysis Action Plan, and is therefore identified as a high priority action.

### **Options:**

Subject to Council's decision, the planning proposal (with updates to make reference to the Council decision) will be referred to the DPE seeking a Gateway determination. This will allow the planning proposal to be placed on public exhibition. The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2021* and the Gateway determination issued by the Department as delegate for the Minister.

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 a meeting of Council.

Alternatively, Council may decide to note the advice of the Woollahra LPP and not progress the planning proposal. In this case, the Interim Heritage Order on the property would be revoked.

Council may also resolve not to

- proceed with a request to the owner of Lapin House to prepare a Conservation Management Plan or Conservation Management Strategy to inform the assessment of any development application relevant to the site.
- further assesses whether *Lapin House* – house and interiors at 2C Dumaresq Road, Rose Bay merits state listing and whether 2B Dumaresq Road, Rose Bay, "Bursill House" merits local or state heritage listing in light of its relationship with Lapin House.

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

Following the gazettal of the IHO, Council staff notified the owner, residents, and applicant for the current DA 2023/204/1 of the decision in writing. A notice of the Interim Heritage Order was placed in the *Sydney Morning Herald* and in the *Wentworth Courier*, as well as on Council's website.

The owner, residents and applicant were subsequently informed in writing of the planning proposal and that a report was being presented to a meeting of the Woollahra LPP. A representative of the applicant met the members of the Woollahra LPP on the site.

No submissions have been received regarding this matter, and no one registered to address the members of the Woollahra LPP.

### **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 site as a local heritage item in the Woollahra LEP 2014.

### **Financial Implications:**

Council staff engaged TKD Architects to prepare a Heritage Significance Assessment to inform the decision to make an Interim Heritage Order and, subsequently, to inform the Planning Proposal.

Should Council resolve to proceed with the further assessment of Lapin House and an investigation of Bursill House, this will require the further engagement of a consultant with budget available as part of Council's ongoing Heritage work program.

### **Resourcing Implications:**

Staff resources 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. Staff resource implications will also be associated with progressing the additional investigation of Bursill House and a further investigation of Lapin House.

### **Conclusion:**

A planning proposal to list "*Lapin House*" – *house an interiors* as a local heritage item in Schedule 5 and on the Heritage Maps of the Woollahra LEP 2014 was considered by the Woollahra LPP on 17 August 2023. Council staff note the support from the Woollahra LPP to progress the local listing of the site, the advice that the owner of the place should be requested to prepare a Conservation Management Plan or Strategy to assist with determination of any development application associated with the place, and the advice that Council further assess the significance of Lapin House and to assess the heritage significance of the neighbouring property Bursill House.

Given the Woollahra LPP endorsement, Council staff recommend that Council endorses the planning proposal at **Attachment 3**.

### **Attachments**

1. Heritage Significance Assessment - 2C Dumaresq Road Rose Bay by TKD Architects
2. Heritage Inventory Sheet - Lapin House, 2C Dumaresq Road Rose Bay - August 2023
3. Planning Proposal - Lapin House - September 2023
4. Report to the Woollahra LPP 17 August 2023 - Heritage Listing - Lapin House at 2C Dumaresq Road, Rose Bay (attachments removed)