

Woollahra Local Planning Panel (Public Meeting)

Thursday 17 August 2023
1.00pm

Agenda



Item No:	D1
Subject:	PLANNING PROPOSAL - HERITAGE LISTING - LAPIN HOUSE AT 2C DUMARESQ ROAD, ROSE BAY
Authors:	Tristan Ryan, Senior Strategic Heritage Officer Kristy Welfare, Acting Team Leader Heritage
Approvers:	Anne White, Manager Strategic Planning & Place Scott Pedder, Director Planning & Place
File No:	23/128149
Purpose of the Report:	To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to list 2C Dumaresq Road, Rose Bay as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014
Alignment to Delivery Program:	Strategy 4.2 Conserving our rich and diverse heritage.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council 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.

Executive Summary:

The purpose of this report is to seek the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the listing of Lapin House, including its 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* (Woollahra LEP 2014):

We recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 3**.

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.

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 -5** below).

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.

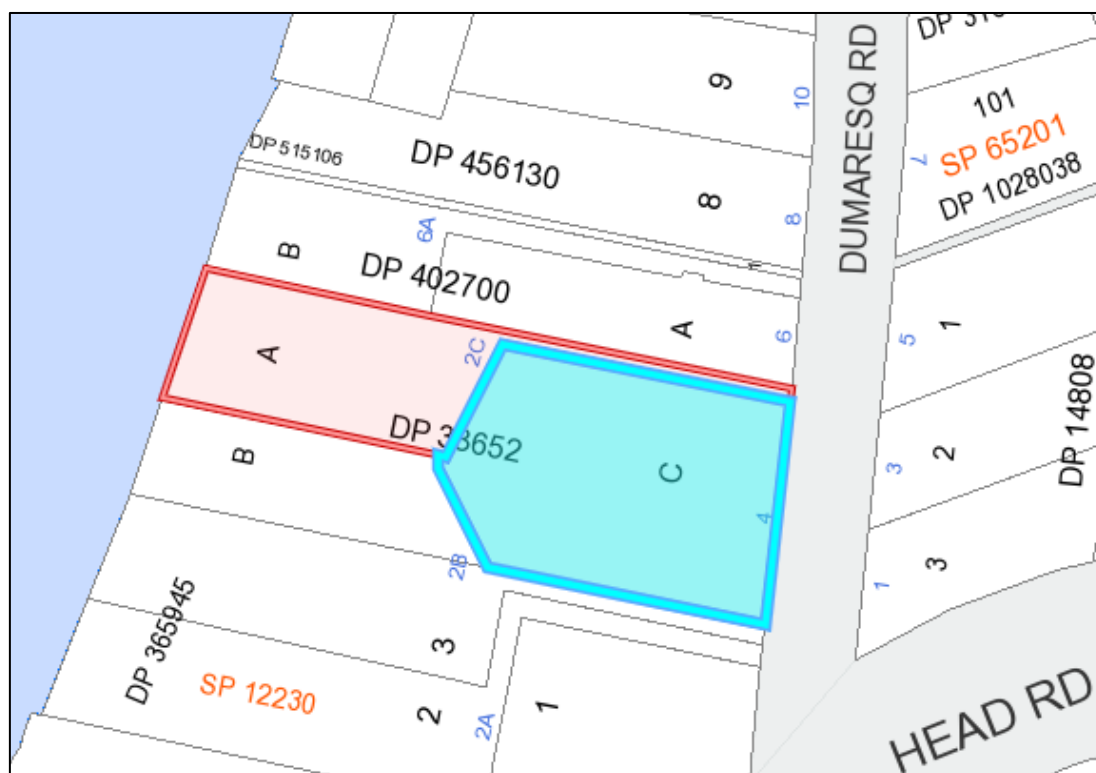


Figure 1: Current cadastral map, with 2C Dumaresq Road, Rose Bay, Woollahra (highlighted red) and 4 Dumaresq Road, Rose Bay (highlighted blue). (Source: Woollahra MAPS, 2023)



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)



Figure 4: Lapin House, 2C Dumaresq Road, Rose Bay, 12 July 2023. The pool, foreground, has had a cover placed over the top. (Source: Woollahra Council staff)

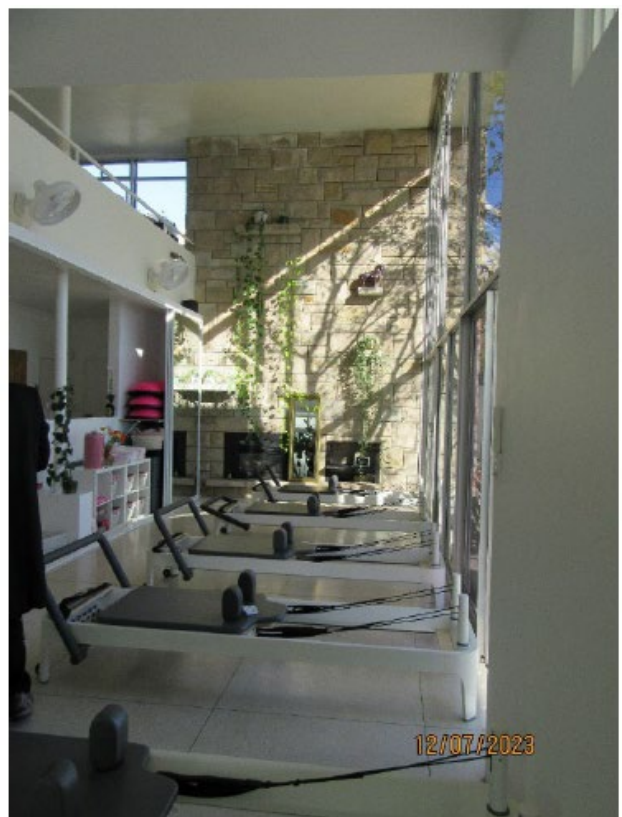


Figure 5: Interior of 2C Dumaresq Road, Rose Bay, looking south. Left by Max Dupain, 1954, right by TKD Architects, 2023. TKD Architects notes that “Notwithstanding the installation of tracks and sliding doors [at left, background] (which can be removed), the space has retained much of its original character.” (Source: ‘Heritage Assessment’, August 2023, by TKD Architects, p. 32, Dupain photograph 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 (see **Table 1** below). 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.

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)	Historical association	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/creative/technical achievement	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, cultural and spiritual 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)	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)	Rare	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)	Representative	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. • or a class of the local area's • cultural or natural places; or • cultural or natural environments.

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 are 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. Additionally, TKD Architects' assessment is very thorough, particularly the comparative analysis, and it is unlikely that a peer review assessment would find differently in terms of the other criteria.

As such, it is not recommended that a nomination for listing on the State Heritage Register be pursued at this time.

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.*

Planning Proposal

Consistent with the recommendations of the assessment of heritage significance report, a planning proposal has been prepared to list 'Lapin House – House and interiors' at 2C Dumaresq Road, Rose Bay 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 (at **Attachment 3**) 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 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.

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 Lapin House, including its interiors, at 2C Dumaresq Road, Rose Bay 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:

On 24 July 2023, Council staff sent a letter to the owner of 2C Dumaresq Road, Rose Bay informing them that an IHO had been published in the NSW Government Gazette.

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:

As the assessment has been prepared by an independent external consultant, there are financial implications. However, these are considered appropriate considering the specialist nature of the heritage assessment required.

Resourcing Implications:

Should Council resolve to progress a planning proposal staff resources will be associated with progressing the matter including managing the public exhibition process 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 “Lapin House” – house and interiors’, at 2C Dumaresq Road, Rose Bay as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra Environmental Plan 2014. Council staff recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 3**.

Attachments

1. 2C Dumaresq Road Rose Bay - Heritage Significance Assessment - TKD Architects
2. Lapin House - 2C Dumaresq Road Rose Bay - Heritage Inventory Sheet - August 2023
3. Planning Proposal - 2C Dumaresq Road Rose Bay - Local Heritage Listing - August 2023