

## 10.2. Planning Proposal 5/23: 115 - 125 Holt Avenue Cremorne

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<b>ATTACHMENTS</b>	Nil
<b>CSP LINK</b>	2. Our Built Infrastructure 2.2 Vibrant public domains and villages  3. Our Innovative City 3.3 Distinctive sense of place and design excellence  4. Our Social Vitality 4.3 North Sydney's history is preserved and recognised  5. Our Civic Leadership 5.1 Lead North Sydney's strategic direction 5.3 Community is engaged in what Council does

### PURPOSE:

The purpose of this report is to advise Council of the recommendations of the North Sydney Local Planning Panel (NSLPP) on Planning Proposal 5/23 applying to properties at 115 - 125 Holt Avenue Cremorne and to seek Council's endorsement of the Planning Proposal to progress it to Gateway Determination.

### EXECUTIVE SUMMARY:

- Planning Proposal 5/23 (PP 5/23) proposes to amend the North Sydney Local Environmental Plan (NSLEP) 2013 by identifying and listing six new local heritage items in Holt Avenue, Cremorne in Council's Heritage Schedule.
- The Planning Proposal is supported by a revised heritage assessment undertaken by an independent heritage consultant, GML Heritage. The assessment demonstrates that the subject sites meet the threshold for local heritage listing, consistent with the criteria set out by the NSW Heritage Office.
- The Planning Proposal is generally consistent with the applicable state and local plans and policies. A minor inconsistency with the Local Planning Direction- 6.1 Residential Zones (previously Ministerial Direction) is considered justified as detailed in the report considered by the NSLPP on 19 July 2023.
- The Planning Proposal appropriately responds to matters previously raised by the Department of Planning & Environment (DPE), the Independent Planning Commission, and (the Commission) the North Sydney Local Planning Panel (the Panel) in regard to a previous Planning Proposal (PP 7/22) applying to the subject sites.

- Having considered the detailed report prepared by GML on the heritage significance of the subject items, strategic merit consideration of the proposal, the response to the matters raised by the Commission, Gateway Determination, and the Panel on the previous PP, Council Officers are satisfied that the Planning Proposal has addressed all outstanding matters for it to progress to Gateway Determination.
- The Council-issued Interim Heritage Order (IHO) on the subject sites has already expired. The current IHO was issued by the Minister for Environment and Heritage on 2 March 2023. The IHO is effective for a period of 12 months from its issue date. In order to provide permanent protection, inclusion of these items within the NSLEP 2013 is required. The Planning Proposal is the appropriate process to achieve this.
- Council has been made aware that the owner of 115 - 119 Holt Avenue has lodged an appeal (Class 4 proceedings) within the Land and Environment Court against the IHO issued by the Minister. At the date of preparation of this report no hearing dates had been set.

**RECOMMENDATION:**

- 1. THAT** Council note the recommendations of the North Sydney Local Planning Panel Meeting of 19 July 2023 on Planning Proposal PP 5/23.
- 2. THAT** Council endorse the Planning Proposal to amend the North Sydney Local Environmental Plan 2013 such that the properties at 115, 117, 119, 121, 123 & 125 Holt Avenue, Cremorne are identified as local heritage items through their listing within Schedule 5 – Environmental Heritage and identification on the Heritage Map.
- 3. THAT** Council resolve to forward the Planning Proposal to the Department of Planning and Environment to seek a Gateway Determination.
- 4. THAT** upon receipt of a Gateway Determination, the Planning Proposal be publicly exhibited.
- 5. THAT** the outcomes of any public exhibition be reported to Council.

## **Background**

### **Advice Report of the Commission and the previous Gateway Determination**

In July 2022, Council submitted a Planning Proposal (PP 2022-2712) to identify and list properties at 115, 117, 119, 121, 123, 125, 131, and 133 Holt Avenue Cremorne as local heritage items in the NSLEP 2013. In October 2022, the DPE issued a Gateway Determination advising that the Planning Proposal should not proceed for the matters specified in the Gateway Determination.

On 11 October 2022, Council provided the DPE with a notice of intent that it will be seeking a Gateway Review from the Commission. Council submitted its formal Gateway Review Request to the DPE on 21 November 2022. The Commission received the request for advice on 8 February 2023. On 23 February 2023, a hearing was convened by the Commission and representations made by Council staff, the Mayor and Council's heritage specialists.

On 9 March 2023, the Commission's Advice Report, *Holt Avenue Cremorne Gateway Review PP-2022-2712/GR- 2022-22*, was released and recommended that the planning proposal, as submitted, should not proceed past Gateway Determination.

### **Interim Heritage Order (IHO) and Land and Environment Court Appeals**

On 2 March 2023, the Minister for Environment and Heritage imposed an Interim Heritage Order (IHO) applying to 115, 117, and 119 Holt Avenue Cremorne. An IHO was previously issued by Council (under delegation) applying to the properties at 115, 117, 119, 131, and 133 Holt Avenue that lapsed on 10 March 2023.

Appeals against the imposition of the Council-issued IHO were subsequently lodged by proponents of development of 131 - 133 Holt Avenue (DA 239/21) and 115 - 119 Holt Avenue (DA 243/21) respectively. On 6 and 7 June 2022, the Land and Environment Court heard the appeal for 131-133 Holt Avenue against the IHO. On 29 July 2022, the Court upheld the applicant's appeal. The properties at 131 and 133 Holt Avenue were subsequently demolished following the Court's decision. On 18 and 19 July 2022, the Land and Environment Court heard the appeal for 115-119 Holt Avenue against the IHO. On 17 August 2022, the Court dismissed the applicant's appeal.

Council has been made aware that the owner of 115 - 119 Holt Avenue has lodged an appeal (Class 4 proceedings) within the Land and Environment Court against the IHO issued by the Minister. At the date of preparation of this report no hearing dates had been set.

### **Active Development Applications**

DA 243/21 was lodged with Council on 9 August 2021, seeking the demolition of existing structures and construction of a residential flat building with basement parking at 115, 117, and 119 Holt Avenue Cremorne. This DA is currently the subject of a Court Appeal against Council's "deemed" refusal. The Court hearing of this DA is an ongoing matter.

On 4 April 2023, a new development application (DA 115/23) was lodged with Council seeking the demolition of three existing dwelling houses at 115, 117, and 119 Holt Avenue and ancillary works, and construction of a residential flat building of 16 dwellings, including basement parking, rooftop communal open space, landscaping, and associated works. This application is currently under assessment.

## Report

### 1. Planning Proposal

#### 1.1 Proponent

The Planning Proposal has been prepared by North Sydney Council.

#### 1.2 Site Description

The subject sites are located along the northern side of Holt Avenue, between Spofforth Street and Military Road in Cremorne. Access to the sites is directly via Holt Avenue. The legal property description of the sites is outlined in Table 1:

Address	Lot and DP
115 Holt Avenue, Cremorne	Lot 1 DP 929395
117 Holt Avenue, Cremorne	Lot 1 DP 980 449
119 Holt Avenue, Cremorne	Lot 1 DP 929074
121 Holt Avenue, Cremorne	Lots 1 and 2 DP 135515
123 Holt Avenue, Cremorne	Lot 1 DP 947542
125 Holt Avenue, Cremorne	SP 11200

Table 1



FIGURE 1: Subject sites

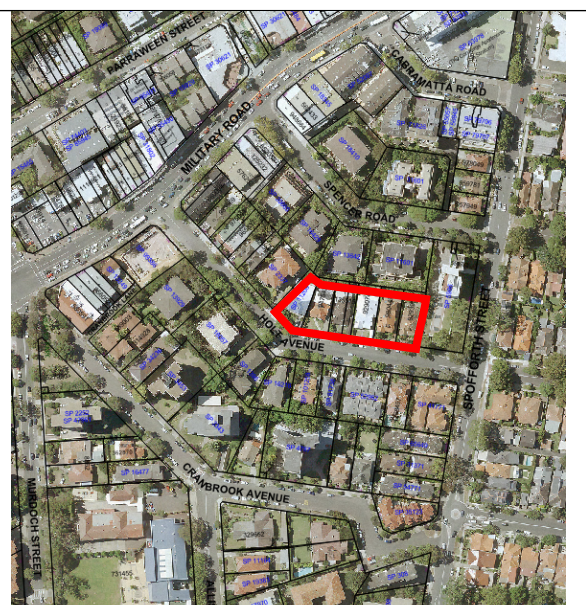


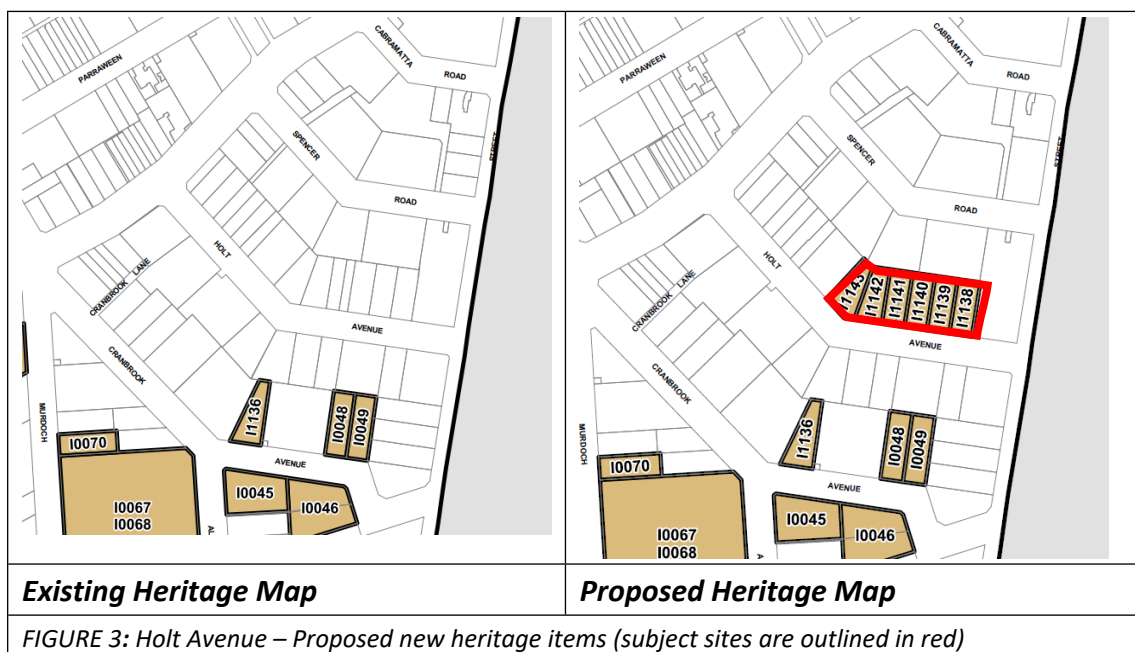
FIGURE 2: Aerial photo of subject sites

### 1.3 Proposed Instrument Amendment

The Planning Proposal (PP 5/23) seeks to amend NSLEP 2013 such that the properties at 115, 117, 119, 121, 123, and 125 Holt Avenue Cremorne are identified as heritage items of local significance through their listing within Schedule 5 - Environmental Heritage and identification on the Heritage Map.

The Planning Proposal seeks to achieve the intended objectives and outcomes by amending NSLEP 2013 as follows:

- amend the *Heritage Map* (ref: 5950\_COM\_HER\_003\_010\_20200810) to add 115, 117, 119, 121, 123, and 125 Holt Avenue Cremorne as local heritage items as indicated in Figure 3 below.
- Amend Schedule 5 - Environmental Heritage to include the properties at 115, 117, 119, 121, 123, and 125 Holt Avenue Cremorne as local heritage items as indicated in Table 2 below (blue underline represents an insertion):



Locality	Item Name	Address	Property description	Significance	Item No.
<u>Cremorne</u>	<u>House</u> <u>(Holt Avenue Group)</u>	<u>115 Holt Avenue</u>	<u>Lot 1 DP 929395</u>	<u>Local</u>	<u>11138*</u>
<u>Cremorne</u>	<u>House</u> <u>(Holt Avenue Group)</u>	<u>117 Holt Avenue</u>	<u>Lot 1 DP 980449</u>	<u>Local</u>	<u>11139*</u>
<u>Cremorne</u>	<u>House</u> <u>(Holt Avenue Group)</u>	<u>119 Holt Avenue</u>	<u>Lot 1 DP 929074</u>	<u>Local</u>	<u>11140*</u>
<u>Cremorne</u>	<u>House</u> <u>(Holt Avenue Group)</u>	<u>121 Holt Avenue</u>	<u>Lots 1 and 2 DP 135515</u>	<u>Local</u>	<u>11141*</u>
<u>Cremorne</u>	<u>House</u> <u>(Holt Avenue Group)</u>	<u>123 Holt Avenue</u>	<u>Lot 1 DP 947542</u>	<u>Local</u>	<u>11142*</u>

<b>Locality</b>	<b>Item Name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No.</b>
<a href="#"><u>Cremorne</u></a>	<a href="#"><u>"Carina"</u></a>	<a href="#"><u>125 Holt Avenue</u></a>	<a href="#"><u>SP 11200</u></a>	<a href="#"><u>Local</u></a>	<a href="#"><u>11143*</u></a>

Table 2: Proposed Schedule 5 Additions

**Note:** \*Heritage Item Nos. are indicative only at this stage and are to be confirmed at the finalisation stage.

## 2. Assessment

By Ministerial Direction, all Planning Proposals are required to be referred to the Local Planning Panel for advice prior to council determining whether the planning proposal should be forwarded to the DPE for the purposes of seeking a Gateway Determination.

A detailed assessment of the proposal is provided within the Assessment Report considered by the NSLPP on 19 July 2023:

<https://www.northsydney.nsw.gov.au/downloads/file/2636/pp02-115-125-holt-avenue-cremorne-pp523-19-july-2023>

## 3. Local Planning Panel

The NSLPP (the Panel) considered the Planning Proposal at its meeting on 19 July 2023, where it agreed with the recommendations of Council officer's detailed assessment report which recommended that the Planning Proposal be supported to proceed to Gateway Determination as the Planning Proposal demonstrated the necessary strategic and site-specific merit, including a response to the matters raised by the Commission, the DPE and the Panel in relation to the previous planning proposal applying to the subject sites.

The following is an extract from the Minutes of the NSLPP meeting of 19 July 2023 and can be accessed via <https://www.northsydney.nsw.gov.au/downloads/file/2660/nslpp-minutes-19-july>

The Panel recommendations:

*The Panel is satisfied the updated revised report addresses the issues raised by the IPC. In particular, the Panel notes that this is a new Planning Proposal and the heritage significance of the group (115-123 Holt Ave, Cremorne), requires an assessment that includes the cohesiveness and integrity of the external fabric of the group. In addition the individual listing of (125 Holt Avenue, Cremorne), as a local heritage item has been considered in the revised heritage report. Given the above defined criteria, the Panel is of the opinion the Planning Proposal should proceed to exhibition.*

*As such, the Panel, recommends to the Council that the Planning Proposal proceed to Gateway and any draft instrument should provide clear explanatory notes for the 'group listing'.*

*By way of comment the Panel is of the opinion that the Council continue to pursue with high priority a heritage review for the LGA.*

In coming to its recommendations, the Panel considered the written submissions received following the publication of the NSLPP report on Council's website. The applicant presented copies of the previous heritage reports (not supporting the proposed listing) to the Panel for its consideration. The Panel also heard from all those wishing to address the Panel at the meeting.

## **4. Key Issues**

### **4.1 Strategic Merit**

The Planning Proposal is generally consistent with both State and local plans and policies including the Greater Sydney Region Plan, North District Plan, Council's Local Strategic Planning Statement, Community Strategic Plan, and Local Housing Strategy.

The Planning Proposal is also consistent with the applicable State Environmental Planning Policies (SEPPs) and the Local Planning Directions (formerly Ministerial Directions), in particular Direction 3.2 Heritage Conservation and Direction 6.1 Residential Zones.

On the basis of the above, the Planning Proposal is considered to satisfy the strategic merit test as it does not contradict the ability to achieve the objectives and actions of high-level planning strategies; has been prepared in accordance with the requirements of s.3.33 of the Environmental Planning and Assessment Act 1979 and DPE's *A guide to preparing planning proposals, September 2022*, and will contribute to the preservation of the character and built heritage of the Cremorne Area.

### **4.2 Site-specific Merit**

#### **4.2.1. Matters raised by the Commission, the DPE and the Panel**

As noted in the detailed assessment report of the Planning Proposal, this Planning Proposal is a result of the recommendations of the Commission's Advice Report dated 9 March 2023, which was provided in response to Council's request for a Gateway Review in relation to a previous planning proposal (PP-2022-2712) applying to the subject sites.

Based on the recommendations of the Advice Report, the DPE subsequently advised Council on 15 March 2023 that it would be receptive to preparation of a new planning proposal that addresses the recommendations outlined in the Commission's advice.

The detailed assessment report considered by the Panel on 19 July 2023 includes Council's detailed response to the above matters. The Panel's recommendation confirms that the Planning Proposal has addressed the above matters to the Panel's satisfaction.

#### **4.2.2. Heritage Context and Justification**

A revised heritage assessment report prepared by GML Heritage (July 2023) formed an Appendix to the report considered by the Panel.

The report included an assessment of significance of the subject properties in accordance with the standard criteria established in the NSW Heritage Office guidelines. These guidelines provide the framework for heritage assessment and incorporate the seven types of cultural heritage values identified in the Burra Charter into a structured framework.

The detailed heritage assessment against this framework can be found in Section 7.2 (Pg 111-117) of the GML report for the Group item and in Section 7.3 (Pg 118-123) for the Individual item. The assessment of the properties concluded that the following group and individual items meet the threshold for heritage listing at a local level:

- The Holt Avenue group (115 - 123 Holt Avenue) meets the threshold for cultural significance under historic, associative, aesthetic, rarity, and representative values, as a rare group of Federation Bungalows constructed as part of a speculative housing development in Cremorne; and
- Individual Item, 125 Holt Avenue, meets the threshold for cultural significance for historic, associative, aesthetic, rarity, and representative values, as a rare extant two-storey Federation Bungalow in the Cremorne area.

Following are relevant excerpts from the revised GML (pages 124-126) report which establishes a detailed statement of heritage significance of the subject items:

**The 'Holt Avenue Group' - 115-123 Holt Avenue, Cremorne**

*The Holt Avenue Group has historic, associative, aesthetic, rarity and representative value to the Cremorne area as a rare, intact group of Federation Bungalows developed during a period of speculative housing development in the Cremorne area.*

*Originating from land that was owned by Daniel and John Cooper from Alfred Thrupp's grant, the properties formed part of the 1885 Longview Estate subdivision, which was advertised as an area soon to be the most fashionable in the locality. The properties maintain the subdivision pattern of the 1885 Longview Estate.*

*Constructed between 1907 and 1909, the dwellings present as a cohesive group of characteristic Federation Bungalow dwellings. Single-storey in scale, the properties demonstrate characteristic elements of the typology such as projecting gable bays with overhanging eaves, roughcast rendered chimneys, timber shingles (apart from 119), timber-framed casement windows, hipped roof with tiling (apart from 119), and timber joinery to the verandah. The group maintains its original scale, siting and setbacks, and displays a generally consistent building line. Although the properties have been modified, additions have been generally contained to the rear of the dwellings, concealed from the public domain. Works to the primary elevation are sympathetic to the character and materiality and do not detract from, nor obscure, the legibility of the design.*

*Although modified, the dwellings are good examples of their type, and provide an understanding of modest middle-class dwellings which were developed in*



*proximity to transport routes. They provide a counterpoint to the more ornate and substantial Federation housing stock created for more affluent dwellings towards the foreshore and communicate the varied social makeup of the suburb in the early twentieth century. The properties retain much of their original setting, maintaining pleasant front gardens, and collectively provide an understanding of the historic character of the Cremorne area in a significant period of expansion.*

*Significantly, the properties are also representative of the phenomenon of speculative building developments in Cremorne. Nos 115–121 were developed by Thomas Ross, with 123 constructed by Richard Henry Pearce. Archival documentation shows that these builders, along with the architect Edward Skelton Garton whose designs they often employed, owned several leases of land throughout the former Longview Estate which they developed for sale. Garton was a prolific and significant architect in the lower North Shore area, primarily for his work in Cremorne and Mosman. Nos 115–121 provide evidence of his design for modest homes in the Federation period. These developments established the residential character and scale in the area, and the Holt Avenue Group demonstrates the shared architectural character, consistent form and siting, typical of such a group with one subdivision of the era.*

*Later development and re-development has led to the loss of similar properties throughout the Cremorne area, and the Holt Avenue Group now provides a rare instance of what was once a widespread development. As such, while the properties have undergone some modification, they can be readily understood as a group, and provide a rare understanding of the early character of the northern area of Cremorne. They are particularly representative of a phase of development which at one time defined the character of the area, before the transition to the more intense residential development of the interwar period.*

*Although there are some extant groupings of Federation properties throughout the Cremorne and Cremorne Point areas, these groups are generally representative of grander housing designed for affluent residents, and were often constructed sporadically, rather than as part of an intentional group development. The Holt Avenue Group thus has a high degree of representative significance, providing evidence of middle-class housing and lifestyles in Cremorne in the twentieth century.*

**'Carina' - 125 Holt Avenue, Cremorne**

*The dwelling at No. 125 has historic, associative, aesthetic, rarity and representative value to the Cremorne area as a well-maintained, remnant example of a two-storey Federation Bungalow.*

*The property originates from the 1885 Longview Estate subdivision which created the street layout and lot forms of Holt Avenue. Although the property was not completed until November 1914, it retains its original lot. Much of the surrounding area within the Longview Estate was developed as part of a series of speculative building developments, with the south-eastern portion of Holt Avenue developed*

*by builders Thomas Ross and Richard Henry Pearce, largely to designs by Edward Skelton Garton. Although built by Pearce, likely to Garton's design, No. 125 is a rare instance of a two-storey dwelling constructed in the midst of these single-storey workers' dwellings, and would have been one of the grander residences in the streetscape. Garton was a prolific and significant architect in the lower North Shore area, notably in Cremorne and Mosman. No 125 provides evidence of his design for modest middle-class homes in the Federation period.*

*Although later development has eroded much of the surrounding Federation developments, No. 125 is largely externally intact, retaining much of its original form and fabric. Significantly, the property retains its setback and a manicured garden, and being located at a bend in the road on the downwards slope of the street, and surrounded by hedges, it retains much of its historic setting, providing an understanding of its late Federation character and presentation.*

*Aesthetically, the property demonstrates typical elements of the Federation Bungalow style including a projecting gable bay, wide wraparound verandah and decorative roughcast render and timber detailing. Although the property is modest and restrained compared to the homes of affluent residents towards the south of the suburb, it has rarity as a grander example of middle-class housing. It is particularly well maintained at its street-facing elevation, and compared to similarly restrained two-storey Federation dwellings it demonstrates a good degree of decorative detailing.*

*Historically, it is representative of a period of transition in Cremorne. While the building's ornamentation is typically Federation, its restrained rectangular form is an early example of the two-storey flat buildings that in the area following the Federation period. Having been converted to flats in the interwar period, the property is demonstrative of the built form response to the influx of workers in this period, and the concurrent intensification of residential development. As a rare example of this type, the property has a high degree of representative value in the Cremorne area.*

The final detailed report made the recommendation that Council prepare a planning proposal to amend Schedule 5 of the Heritage Maps of the NSLEP 2013 to include the following items of local significance:

1. The 'Holt Avenue Group', comprising property Nos. 115, 117, 119, 121, and 123 Holt Avenue, Cremorne as a group heritage item; and
2. 'Carina', No. 125 Holt Avenue, Cremorne as an individual item.

Having considered the detailed report prepared by GML on the heritage significance of the subject items, strategic merit consideration of the proposal and the response to the matters raised by the Commission, Gateway Determination, and the Panel on the previous PP, Council Officers are satisfied that the Planning Proposal has addressed all outstanding matters for it to progress to the next stage.

## 5. Submissions

There are no statutory requirements to publicly exhibit a planning proposal before the issuance of a Gateway Determination. However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination.

Following the publication of the NSLPP report on Council website, the Panel received the following submissions:

- 42 submissions supporting the proposed heritage listing; and
- seven submissions against the proposed heritage listing.

### Options

Council has the following options in relation to this matter:

1. Do nothing/take no action
2. Delaying the endorsement of the Planning Proposal
3. The recommended option

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Taking no action will have a negligible financial/resourcing impact.	<p>Not endorsing the Planning Proposal and abandoning it would mean that the temporary protection of the IHO would lapse (March 2024).</p> <p>Upon the expiry of the IHO, demolition of the subject sites can be sought via a new application under the Complying Development Code.</p> <p>Council has no authority to issue an IHO twice on the same property.</p>	Beyond this report, consultation would not be required should the Planning Proposal be abandoned.
2.	Delaying the endorsement of the Planning Proposal will not have a financial impact.	<p>Delaying the endorsement of the Planning Proposal for any reasons (such as pending court decision or other) will have the same risk as noted under Option 1.</p> <p>The IHO will expire 1 March 2024.</p>	Delaying the endorsement of the Planning Proposal would delay the formal exhibition of the Planning Proposal, a key milestone for a comprehensive community/ stakeholder consultation and engagement.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
		The Planning Proposal must be made prior to the IHO expiring on 1 March 2024.	
3.	Pursuing the recommended action will have negligible financial/resourcing impacts.	Endorsing the Planning Proposal to progress it to the DPE to seek Gateway Determination means Council could achieve key milestones as stipulated in Part 6: Project Timeline of the attached Planning Proposal, to ensure the subject items are listed in Council's LEP 2013 prior to expiry of the IHO.	A comprehensive community and stakeholder consultation and engagement would occur in accordance with the requirements set by the DPE in Gateway Determination to be issued.

Option 3 is recommended for the following reasons:

- Pursuing Option 3 will have negligible financial/resourcing impacts as the resourcing requirement is being met by an existing work program of the Strategic Planning Team.
- Option 3 is fundamentally a policy response to continue protection to the subject sites against demolition by listing them as heritage items in Council's LEP prior to expiry of the Ministerial issued IHO. Council has no authority to reissue another IHO after the expiry date. Failure to identify the subject sites as heritage items means a new application under the Complying Development Code can seek demolition of these items upon the expiry of the IHO.

### Consultation requirements

Should the Planning Proposal be supported, community engagement will be undertaken in accordance with Council's Community Engagement Protocol and the conditions of any Gateway Determination issued by the Department of Planning and Environment.

### Financial/Resource Implications

Progressing and finalising the plan making process for this Planning Proposal to amend NSLEP 2013 in the manner proposed represents a modest investment in Council resources. This can be accommodated within existing budget lines.

### Legislation

The legislative requirements associated with issuing of IHO are in accordance with the Heritage Act 1977. If the Planning Proposal is endorsed by Council to progress it to the DPE for a Gateway Determination, the LEP making process will proceed in accordance with the requirements of the Environmental Planning and Assessment Act 1979.