

North Sydney Council PP-2022-2712

Planning proposal to heritage list 8 properties on Holt Avenue, Cremorne

Metro Central and North
Department of Planning and Environment

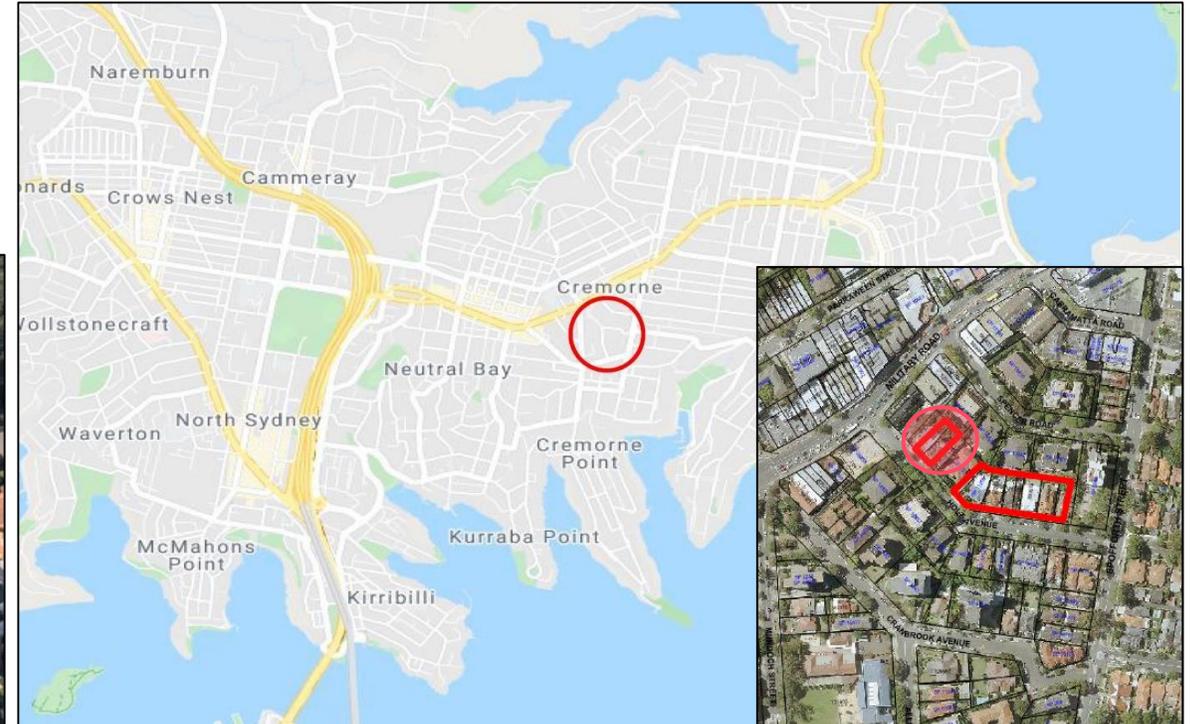
23 February 2023

Agenda

- Opening Statement (Panel Chair)
- Site and strategic context
- Department's justification
 - Delisting of 125 Holt Avenue
 - North Sydney Local Planning Panel recommendation
 - LEC Decisions
 - Section 9.1 Ministerial Direction 6.1
 - Expiration of IHO for 115-119 Holt Avenue
 - Need for further inquiry, research and justification
- Questions from the commission
- Other matters
- Meeting Close

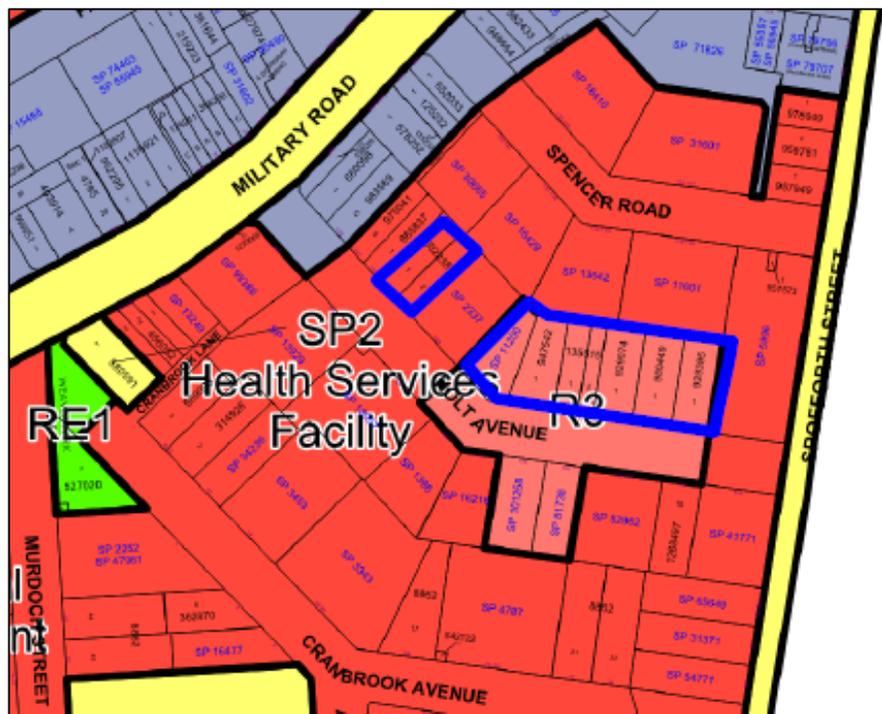
Planning Proposal Site

- The planning proposal sought to amend the North Sydney LEP 2013 by Inserting 8 new items as local heritage items.
- It is not explicitly clear if the proposal is to list individual items or grouped items.



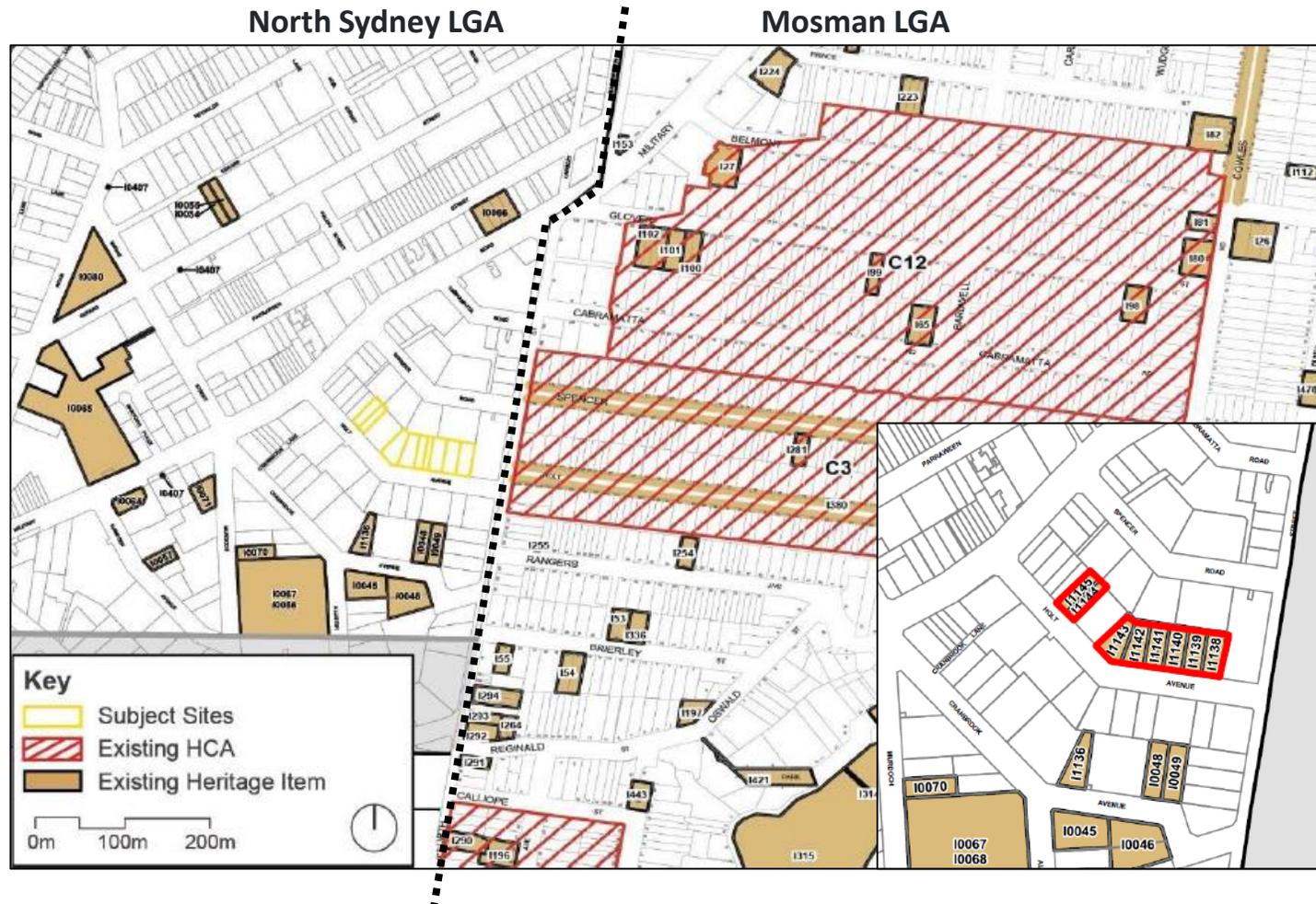
131-133 Holt Avenue have been demolished

Planning Proposal Strategic Context



Zone

R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential



DPE Opening Statement

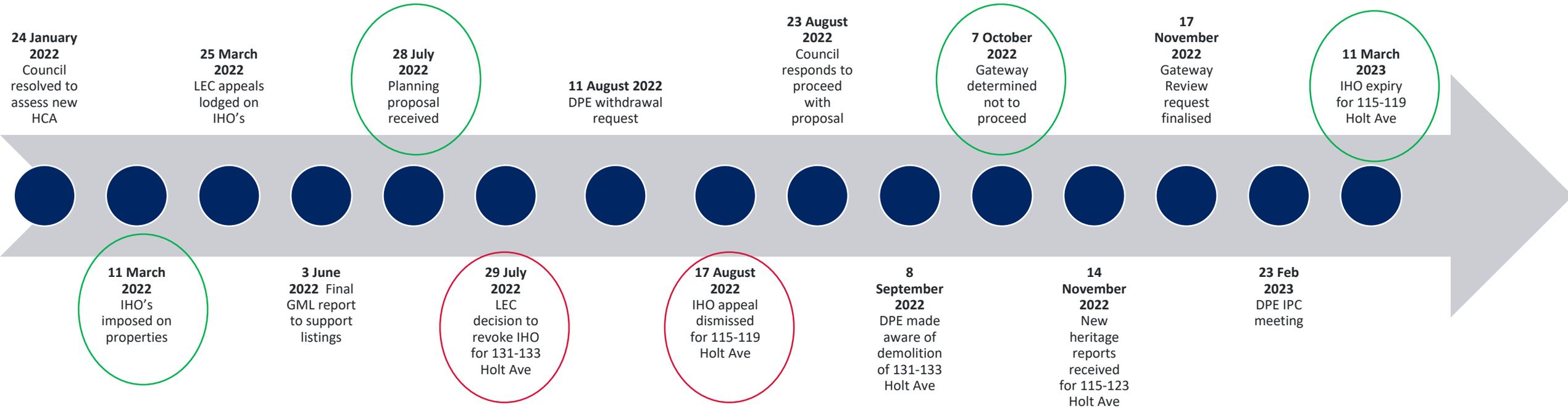


The Department recommended to Council the proposal was not suitable to proceed as submitted without further justification to support the heritage listings. It was requested that Council withdraw the proposal and update it:

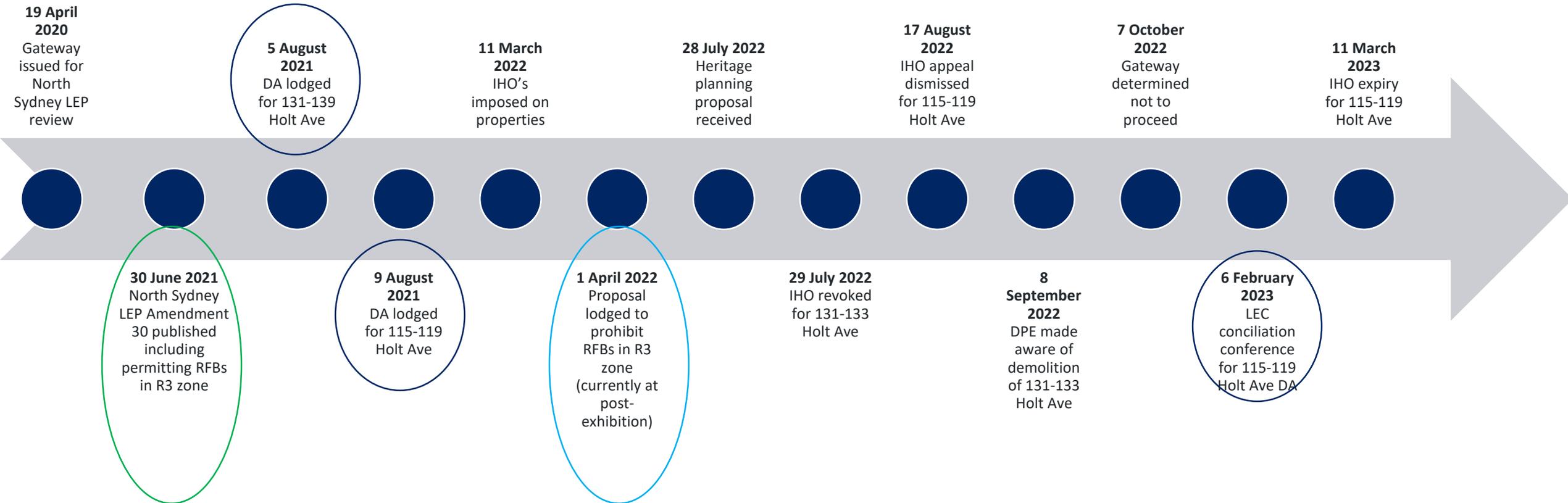
- in response to the LEC decision to revoke the IHO on 131-133 Holt Avenue,
- address the North Sydney Local Planning Panel's recommendations that the properties require a more thorough and lengthy inquiry finding the proposal lacked both site specific and strategic merit, and
- incorporate the LEC decision on 115-119 Holt Avenue when it became available.

The Department requests the Commission's advice on the viability of potential heritage listings for each of the remaining properties, and whether a new planning proposal should be submitted addressing the concerns raised in the Gateway decision, Gateway review and any additional relevant material. It is requested the Commission outline the recommended scope of work to be involved in any new proposal.

Planning Proposal Timeline



DA and other Planning Proposals Timeline



Department Recommendation

The Department provided Council the opportunity prior to Gateway to withdraw the proposal and respond to the recommendation of the LPP and Court decisions that highlighted a consistent opinion that further inquiry was required to support the heritage listing.

As this inquiry was not provided or undertaken, the Department recommended the planning proposal as submitted should not proceed.

An acceptable approach however would be for Council to address these concerns in the submission of a new planning proposal to be considered through the Gateway process.

The Department requests the Commission to recommend the scope of work prior to any submission of a new planning proposal, particularly the viability of each property's potential heritage listing, whether a group listing is warranted and whether all properties should form part of a new planning proposal.

Context - Prohibition of RFBs in the R3 Zone

- The land use “residential flat building” was included as a permissible land use for the R3 zone under North Sydney LEP Amendment 30 that commenced 30 June 2021 following an LEP review planning proposal.
- Council lodged a planning proposal on 1 April 2022 to prohibit RFBs within the R3 zone, reverting to the previously adopted zoning regime.
- Council was aware that RFB DA’s had been received within the zone.

Gateway Determination:

- Issued on 12 August 2022 with condition to include a savings provision that applies to the DA’s on Holt Avenue.

Gateway Determination

125 Holt Avenue was previously de-listed as a local heritage item due to lack of heritage significance



Council:

- Acknowledge this de-listing, stating heritage values and the community's approach change over time. Council state GML's report offered a more thorough and detailed analysis superseding previous LGA wide recommendations.

DPE:

- Also acknowledges heritage values may change over time
- Notes de-listing a heritage property is a deliberate and considered decision made by heritage experts and approved by Council in the current LEP.
- The justification of this de-listing is not available on Department records nor publicly and would add context to the current proposal.

Gateway Determination

The North Sydney Local Planning Panel did not support the planning proposal

Council:

- The Panel heard from six heritage experts representing landowners.
- The Panel did not have questions for Council's Heritage expert (GML).

LPP:

- The Panel was not persuaded based on “*extensive alterations and additions*”, that these properties warrant heritage listing.
- The subject properties require a more thorough and lengthy inquiry to fully reconcile whether the properties warrant heritage listing.
- The planning proposal lacks both site specific and strategic merit.

Gateway Determination

Land and Environment Court decision relating to the Interim Heritage Order imposed on 115-119 Holt Avenue



Council:

- The Court made a strong affirmation of Council’s position following the GML study, believing the Department misinterpreted this judgement.

DPE:

- Maintains its interpretation of Commissioner Horton’s decision *“I consider it a real chance, on the basis of the degree of research... that further inquiry may support a finding that the sites at Nos 115-119 Holt Avenue are of heritage significance”*.
- Council does not acknowledge the additional statement that reads *“On the basis of the 2022 GML Assessment, I am of the view that there may be further inquiry of investigation to be carried out, **after which** the sites may likely be found to be of heritage significance”*.
- Council did not take up the opportunity to address these events and include additional justification to support the proposal as requested.

Gateway Determination

Section 9.1 Ministerial Direction 6.1 Residential Zones has not been adequately addressed



Council:

- State the proposal is consistent with the direction as the remaining properties are zoned R3 Medium Density Residential with a minor reduction in development capacity expected should the properties be heritage listed.

DPE:

- The proposal did not adequately address the R3 Medium Density zoning in the context of RFBs being permissible.
- The proposal did not acknowledge any expected reduction in development capacity.
- The RFB DA on 115-119 is not impacted by the planning proposal to remove RFBs from being permissible in the R3 zone due to a savings provision.
- The proposal to remove RFBs has been exhibited and Council is preparing a post-exhibition report.

Gateway Determination

The Department does not support the local heritage listing of the properties without further inquiry, research and justification



Council:

- Acknowledges there is a degree of interpretation in assessing heritage values, noting the GML report was prepared by an independent heritage consultant.

DPE:

- The justification provided was not sufficient to support listing the properties as determined by LEC decisions, the LPP and landowner commissioned heritage studies, particularly John Oultram's assessment of the extensive alterations and additions to properties.
- GML itself stated "*few properties other than 125 are likely to meet the threshold for individual listing*". In the presented proposal, while it is recommended the items be listed as a group, each are awarded their own item number and it is therefore unclear if Council wishes to list the properties individually.

Ongoing Proceedings Post-Gateway

Additional Heritage Reports:

- On 14 November 2022 DPE received additional heritage reports covering 115-123 Holt Avenue. Most notably, John Oultram's assessment of each visually displays the extent of alterations to the properties.

Legal Proceedings:

- DPE has received correspondence throughout the process from legal representatives of the landowners with DA's.
- A conciliation conference with the LEC was held on 6 February for the DA at 115-119 Holt Avenue that was refused by Council.



Source: John Oultram Heritage

Blue = Alterations Red = Additions

Expiration of IHO for 115-119 Holt Avenue

IHO:

- IHO introduced 11 March 2022
- IHO expires 11 March 2023
- Heritage Council matter

Need for further inquiry, research and justification

Covered in presentation based on LPP and LEC advice

- The subject properties in the opinion of the Panel require a more thorough and lengthy inquiry to fully review and reconcile whether they warrant being listed as heritage items and meet the necessary threshold for listing.
- The Panel recognise numerous heritage studies have been undertaken over the years by both Council and heritage experts, noting the advice differs significantly.
- The Panel was not persuaded based on the extensive alterations and additions over decades, and in more recent years, that the properties would warrant listing as heritage items in their own right.
- Since the Gateway determination was issued, landowners of the properties have undertaken further heritage assessments, which have been provided to the IPC for consideration.

IPC questions
