



W A V E R L E Y
C O U N C I L

STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING

A meeting of the STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE will be held at Waverley Council Chambers, Cnr Paul Street and Bondi Road, Bondi Junction at:

7.30 PM, TUESDAY 7 FEBRUARY 2023

Emily Scott
General Manager

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Delegations of the Waverley Strategic Planning and Development Committee

On 10 October 2017, Waverley Council delegated to the Waverley Strategic Planning and Development Committee the authority to determine any matter **other than**:

1. Those activities designated under s 377(1) of the *Local Government Act* which are as follows:
 - (a) The appointment of a general manager.
 - (b) The making of a rate.
 - (c) A determination under section 549 as to the levying of a rate.
 - (d) The making of a charge.
 - (e) The fixing of a fee
 - (f) The borrowing of money.
 - (g) The voting of money for expenditure on its works, services or operations.
 - (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
 - (i) The acceptance of tenders to provide services currently provided by members of staff of the council.
 - (j) The adoption of an operational plan under section 405.
 - (k) The adoption of a financial statement included in an annual financial report.
 - (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
 - (m) The fixing of an amount or rate for the carrying out by the council of work on private land.
 - (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
 - (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*.
 - (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
 - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) A decision under section 234 to grant leave of absence to the holder of a civic office.
 - (s) The making of an application, or the giving of a notice, to the Governor or Minister.
 - (t) This power of delegation.
 - (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.
2. Despite clause 1(i) above, the Waverley Strategic Planning and Development Committee does not have delegated authority to accept any tenders.
3. The adoption of a Community Strategic Plan, Resourcing Strategy and Delivery Program as defined under sections 402, 403, and 404 of the *Local Government Act*.

Statement of Ethical Obligations

Councillors are reminded of their oath or affirmation of office made under section 233A of the Act and their obligations under Council's code of conduct to disclose and appropriately manage conflicts of interest.

Live Streaming of Meeting

This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.

By attending this meeting, you consent to your image and/or voice being live streamed and publicly available.

AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair will read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

2. Declarations of Pecuniary and Non-Pecuniary Interests

3. Addresses by Members of the Public

4. Confirmation of Minutes

PD/4.1/23.02 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 6 December 20225

5. Reports

PD/5.1/23.02 34-36 Flood Street, Bondi - Interim Heritage Order17

6. Urgent Business

7. Meeting Closure

**CONFIRMATION OF MINUTES
PD/4.1/23.02**

Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 6 December 2022

TRIM No: SF21/6065

Author: Natalie Kirkup, Governance Officer

RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee meeting held on 6 December 2022 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

Introduction/Background

The minutes of committee meetings must be confirmed at a subsequent meeting of the committee, in accordance with clause 20.23 of the Code of Meeting Practice.

Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 6 December 2022 .



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 6 DECEMBER 2022**

Present:

Councillor Steven Lewis (Chair)	Hunter Ward
Councillor Paula Masselos (Mayor)	Lawson Ward
Councillor Elaine Keenan (Deputy Mayor)	Lawson Ward
Councillor Angela Burrill	Lawson Ward
Councillor Ludovico Fabiano	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Michelle Gray	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Tim Murray	Waverley Ward
Councillor Will Nemes	Hunter Ward
Councillor Dominic Wy Kanak	Bondi Ward

Staff in attendance:

Emily Scott	General Manager
Sharon Cassidy	Director, Assets and Operations
Tara Czinner	Director, Corporate Services
Fletcher Rayner	Director, Planning Sustainability and Compliance
Ben Thompson	Director, Community, Culture and Customer Experience

At the commencement of proceedings at 7.59 pm, those present were as listed above.

Crs Goltsman, Kay, Keenan, and Murray attended the meeting by audio-visual link.

At 9.11 pm, following the vote on item PD/5.3/22.12, the meeting adjourned for a short break.

At 9.16 pm, the meeting resumed.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The General Manager read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

Apologies were received from Cr Sally Betts.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and none were received.

3. Addresses by Members of the Public

There were no addresses by members of the public.

4. Confirmation of Minutes

PD/4.1/22.12 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 6 September 2022 (SF21/6065)

MOTION / UNANIMOUS DECISION

Mover: Cr Lewis

Seconder: Cr Masselos

That the minutes of the Strategic Planning and Development Committee meeting held on 6 September 2022 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/22.12 Waverley Development Control Plan 2022 - Adoption (A22/0091)

MOTION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Adopts the Waverley Development Control Plan 2022 attached to the report (Attachment 1), subject to the following amendment:

- (a) Page 152 of the attachments under separate cover, part B17, Social Impact Assessment – Amend control (a) to read as follows:

‘A Social Impact Statement (SIS) should be prepared if the proposed development is one of the following:

- Loss of low-rental dwellings (see State Environmental Planning Policy Housing 2021 for definition).
- Strata subdivision of 4 or more lots.
- \$10,000,000 or greater construction cost.
- Gross floor Area of 3,000 sqm or greater (see Waverley Local Environmental Plan for definition).
- Reduction in dwelling numbers on site.

Council officers may request a SIS for development not included within the Guidelines at their discretion.’

2. Adopts the Inter-War Building Design Guidelines attached to the report (Attachment 4).
3. Investigates mitigation strategies for the reduction of heat island effects of residential and commercial buildings within a future update to Council’s LEP and DCP.

AT THIS STAGE IN THE PROCEEDINGS, A PROCEDURAL MOTION TO LAY THE ITEM ON THE TABLE TO CONSIDER ITEM CM/5.4/22.12 – TREE MANAGEMENT POLICY AND GUIDELINES – ADOPTION, MOVED BY CR BURRILL AND SECONDED BY CR NEMESH, WAS PUT AND DECLARED LOST.

THE MOVER OF THE MOTION THEN ACCEPTED THE ADDITION OF NEW CLAUSES 1(b) AND (c) SUCH THAT MOTION NOW READS AS FOLLOWS:

That Council:

1. Adopts the Waverley Development Control Plan 2022 attached to the report (Attachment 1), subject to the following amendments:

- (a) Page 152 of the attachments under separate cover, part B17, Social Impact Assessment – Amend control (a) to read as follows:

‘A Social Impact Statement (SIS) should be prepared if the proposed development is one of the following:

- Loss of low-rental dwellings (see State Environmental Planning Policy Housing 2021 for

definition).

- Strata subdivision of 4 or more lots.
- \$10,000,000 or greater construction cost.
- Gross floor Area of 3,000 sqm or greater (see Waverley Local Environmental Plan for definition.
- Reduction in dwelling numbers on site.

Council officers may request a SIS for development not included within the Guidelines at their discretion.'

- (b) Page 46 of the attachments under separate cover, part B3, Landscaping, Biodiversity and Vegetation Preservation – Amend the section on tree replacement to read as follows:

'To maintain urban tree canopy cover, when a Vegetation Clearing Permit is granted to clear vegetation, the applicant may be required to replace the vegetation with an advanced approved species which is to be established on their property and maintained to maturity. Where there is insufficient space for replanting advanced vegetation the applicant may provide offset planting on public land. This may be undertaken by entering into a deed of agreement with Council. Generally, for every tree removed, the replacement of three (3) off-site trees will be required with pot size dependent on the canopy spread of the tree(s) to be removed as assessed by Council. Audit checks of replacement planting will be carried out by Council. Refer to Part 3.2.4.'

- (c) Page 44 of the attachments under separate cover, section 3.1.1, Exempt Vegetation – Amend clause (i) to read as follows:

'Despite any other provisions in this DCP, clearing of vegetation is exempt from the requirement to obtain a Vegetation Clearing Permit in the following circumstances:

(i) Pruning of a hedge (hedge being defined as a group of two or more trees whether planted in the ground or otherwise, so as to form a hedge and rise to a height of at least 2.5 metres above existing ground level) by no more than 20 per cent of its height and width in any 12-month period.'

2. Adopts the Inter-War Building Design Guidelines attached to the report (Attachment 4).
3. Investigates mitigation strategies for the reduction of heat island effects of residential and commercial buildings within a future update to Council's LEP and DCP.

AMENDMENT

Mover: Cr Wy Kanak
 Seconder: Cr Fabiano

That the following clause 1(d) be added to the motion:

'Include private properties on Bennett Street, between Bondi Road and Birrell Street, in the Biodiversity Habitat Corridor Map.'

THE AMENDMENT WAS PUT AND DECLARED LOST.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Adopts the Waverley Development Control Plan 2022 attached to the report (Attachment 1), subject to the following amendments:

(a) Page 152 of the attachments under separate cover, part B17, Social Impact Assessment – Amend control (a) to read as follows:

‘A Social Impact Statement (SIS) should be prepared if the proposed development is one of the following:

- Loss of low-rental dwellings (see State Environmental Planning Policy Housing 2021 for definition).
- Strata subdivision of 4 or more lots.
- \$10,000,000 or greater construction cost.
- Gross floor Area of 3,000 sqm or greater (see Waverley Local Environmental Plan for definition).
- Reduction in dwelling numbers on site.

Council officers may request a SIS for development not included within the Guidelines at their discretion.’

(b) Page 46 of the attachments under separate cover, part B3, Landscaping, Biodiversity and Vegetation Preservation – Amend the section on tree replacement to read as follows:

‘To maintain urban tree canopy cover, when a Vegetation Clearing Permit is granted to clear vegetation, the applicant may be required to replace the vegetation with an advanced approved species which is to be established on their property and maintained to maturity. Where there is insufficient space for replanting advanced vegetation the applicant may provide offset planting on public land. This may be undertaken by entering into a deed of agreement with Council. Generally, for every tree removed, the replacement of three (3) off-site trees will be required with pot size dependent on the canopy spread of the tree(s) to be removed as assessed by Council. Audit checks of replacement planting will be carried out by Council. Refer to Part 3.2.4.’

(c) Page 44 of the attachments under separate cover, section 3.1.1, Exempt Vegetation – Amend clause (i) to read as follows:

‘Despite any other provisions in this DCP, clearing of vegetation is exempt from the requirement to obtain a Vegetation Clearing Permit in the following circumstances:

(i) Pruning of a hedge (hedge being defined as a group of two or more trees whether planted in the ground or otherwise, so as to form a hedge and rise to a height of at least 2.5 metres above existing ground level) by no more than 20 per cent of its height and width in any 12-month period.’

2. Adopts the Inter-War Building Design Guidelines attached to the report (Attachment 4).

3. Investigates mitigation strategies for the reduction of heat island effects of residential and commercial buildings within a future update to Council’s LEP and DCP

Division

For the Motion: Crs Burrill, Fabiano, Goltsman, Gray, Keenan, Lewis, Masselos, Murray and Wy Kanak.

Against the Motion: Crs Kay and Nemesh.

PD/5.2/22.12 Innovation Roadmap 2025 - Exhibition (A21/0514)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Publicly exhibits the draft Innovation Roadmap 2025 attached to the report for a minimum of 28 days.
2. Officers prepare a report to Council following the exhibition period.

PD/5.3/22.12 Water Consumption and Greenhouse Gas Emissions - 2021-22 (A20/0266)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Keenan

That Council notes the achievement of Council's emission reduction and water conservation targets for the 2021–2022 financial year as set out in the report, including:

1. An 11.8% reduction in greenhouse gas emissions from 2020–21 to 2021–22 to 3,511 tonnes of CO₂e.
2. Council's mains water usage increased by only 4% from 2020–21 to 2021–22 to 54,738 kL and this was less than the 2030 target of 62,000 kL.

PD/5.4/22.12 Tree Management Policy and Guidelines - Adoption (A22/0383)**MOTION**

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

1. Adopts the Tree Management Policy attached to the report (Attachment 1), subject to the following amendments:
 - (a) Page 47 of the agenda, clause 5.5.1, Pruning and Maintenance – Add the following paragraph at the end of the clause:

‘Council will consider tree pruning to retain a previously established view and there is a history of the identified tree(s) being pruned to restore pre-existing views.’
 - (b) Page 48 of the agenda – Add a new clause 5.6.4, Dead Trees, to read as follows:

‘Generally, where a tree has died, it will be removed and replaced with a tree of similar or suitable species.’
2. Adopts the Tree Management Guidelines attached to the report (Attachment 2), subject to the following amendments:

- (a) Page 67 of the agenda, Exempt Vegetation – In the last paragraph, delete ‘DCP’ and add ‘Guideline’.
- (b) Page 67 of the agenda, Exempt Vegetation – In the second dot point of the last paragraph, delete ‘5m’ and add ‘five (5) metres’.

THE MOVER OF THE MOTION ACCEPTED THE ADDITION OF NEW CLAUSES 1(c) AND 2(c)–(e) SUCH THAT THE MOTION NOW READS AS FOLLOWS:

That Council:

1. Adopts the Tree Management Policy attached to the report (Attachment 1), subject to the following amendments:
 - (a) Page 47 of the agenda, clause 5.5.1, Pruning and Maintenance – Add the following paragraph at the end of the clause:

‘Council will consider tree pruning to retain a previously established view and there is a history of the identified tree(s) being pruned to restore pre-existing views.’
 - (b) Page 48 of the agenda – Add a new clause 5.6.4, Dead Trees, to read as follows:

‘Generally, where a tree has died, it will be removed and replaced with a tree of similar or suitable species.’
 - (c) Page 48 of the agenda, clause 5.7.2, Offset Planting – Amend to read as follows:

‘When permission is granted to remove a tree or trees on private land and there is insufficient planting space on site to accommodate a mature tree(s) of similar dimensions, the applicant will be asked to contribute to offset tree planting on public land in accordance with the Pricing Policy, Fees and Charges. Refer to the Tree Management Guidelines, Section 5 “Trees on Private Land”, sub-section “Offset tree planting” for further details.’
2. Adopts the Tree Management Guidelines attached to the report (Attachment 2), subject to the following amendments:
 - (a) Page 67 of the agenda, Exempt Vegetation – In the last paragraph, delete ‘DCP’ and add ‘Guideline’.
 - (b) Page 67 of the agenda, Exempt Vegetation – In the second dot point of the last paragraph, delete ‘5m’ and add ‘five (5) metres’.
 - (c) Page 67 of the agenda, Exempt Vegetation – In the last paragraph, amend the first dot point to read as follows:

‘Pruning of a hedge (refer to Definitions) by no more than 20 per cent of its height and width in any 12-month period.’
 - (d) Page 69 of the agenda, Offset Tree Planting – In the paragraph at the top of page, amend the second sentence to read as follows:

‘Generally, for every tree removed, the replacement of three (3) off-site trees will be required with pot size dependent on the canopy spread of the tree(s) to be removed as assessed by Council.’

- (e) Page 69 of the agenda, Offset Tree Planting – In the paragraph at the top of the page, delete the last two sentences and add:

‘The applicant will be charged an offset planting fee that includes the purchase, supply, planting and a 12-month maintenance program for the tree(s) as per Council’s Pricing Policy, Fees and Charges.’

AMENDMENT 1

Mover: Cr Kay
Seconder: Cr Burrill

That the following clause 3 be added to the motion:

‘Publicly exhibits the following changes to the Pricing Policy, Fees and Charges for 28 days with officers preparing a report to Council following the exhibition period:

- (a) Section 31, Trees – Add a new entry to read as follows:

‘Pensioner concession of 75% discount for Offset Tree Planting’.

- (b) Section 31, Trees – Amend the ‘Offset Tree Planting’ entry to read as follows:

‘Offset Tree Planting Private Trees/Tree Permits, including purchase, supply, planting and a 12-month maintenance program’.

THE AMENDMENT WAS PUT AND DECLARED CARRIED UNANIMOUSLY.

Division

For the Amendment: Crs Burrill, Fabiano, Goltsman, Gray, Kay, Keenan, Lewis, Masselos, Murray, Nemesh and Wy Kanak.

Against the Amendment: Nil.

AMENDMENT 2

Mover: Cr Nemesh
Seconder: Cr Kay

That the following clause 1(d) be added to the motion:

‘Page 47 of the agenda, clause 5.5.1, Pruning and Maintenance – At the end of the last sentence, add:

“Council will consider tree pruning to retain a previously established view.”’

THE AMENDMENT WAS PUT AND DECLARED LOST.

AMENDMENT 3

Mover: Cr Nemesh
Seconder: Cr Goltsman

That the following clause 1(d) be added to the motion:

‘Page 48 of the agenda, clause 5.6, Public Domain Tree Removal and Replacement – At the end of the last paragraph, add:

“Tree removal will be allowed if a Council-planted trees grows to block a pre-existing view. Pre-existing iconic views of the ocean and harbour will be prioritised.”’

THE AMENDMENT WAS PUT AND DECLARED LOST.

AMENDMENT 4 (LAPSED)

Mover: Cr Nemesh

That the following clause 2(g) be added to the motion:

‘Page 57 of the agenda, clause 3.2, Tree Assessment – In the additional criteria, add the following dot point:

“Whether a Council-planted street tree or public domain tree should be replaced with a more suitable species given that the tree has grown to block a pre-existing view.”

AMENDMENT 5

Mover: Cr Nemesh

Second: Cr Kay

That the following clause 2(g) be added to the motion:

‘Page 59 of the agenda, clause 3.5, Trees and Views – Amend the second paragraph to read as follows:

“Tree Officers will not prune a tree to facilitate a view. View pruning will only be considered where it is requested to retain a previously established view and there is a history of an attempt of the identified tree(s) being pruned to restore the pre-existing view.”

THE AMENDMENT WAS PUT AND DECLARED LOST.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Adopts the Tree Management Policy attached to the report (Attachment 1), subject to the following amendments:
 - (a) Page 47 of the agenda, clause 5.5.1, Pruning and Maintenance – Add the following paragraph at the end of the clause:

‘Council will consider tree pruning to retain a previously established view and there is a history of the identified tree(s) being pruned to restore pre-existing views.’
 - (b) Page 48 of the agenda – Add a new clause 5.6.4, Dead Trees, to read as follows:

‘Generally, where a tree has died, it will be removed and replaced with a tree of similar or suitable species.’
 - (c) Page 48 of the agenda, clause 5.7.2, Offset Planting – Amend to read as follows:

‘When permission is granted to remove a tree or trees on private land and there is insufficient planting space on site to accommodate a mature tree(s) of similar dimensions, the applicant will be asked to contribute to offset tree planting on public land in accordance with the Pricing Policy, Fees and Charges. Refer to the Tree Management Guidelines, Section 5 “Trees on Private Land”, sub-section “Offset tree planting” for further details.’
2. Adopts the Tree Management Guidelines attached to the report (Attachment 2), subject to the following amendments:

- (a) Page 67 of the agenda, Exempt Vegetation – In the last paragraph, delete ‘DCP’ and add ‘Guideline’.
- (b) Page 67 of the agenda, Exempt Vegetation – In the second dot point of the last paragraph, delete ‘5m’ and add ‘five (5) metres’.
- (c) Page 67 of the agenda, Exempt Vegetation – In the last paragraph, amend the first dot point to read as follows:

‘Pruning of a hedge (refer to Definitions) by no more than 20 per cent of its height and width in any 12-month period.’

- (d) Page 69 of the agenda, Offset Tree Planting – In the paragraph at the top of page, amend the second sentence to read as follows:

‘Generally, for every tree removed, the replacement of three (3) off-site trees will be required with pot size dependent on the canopy spread of the tree(s) to be removed as assessed by Council.’

- (e) Page 69 of the agenda, Offset Tree Planting – In the paragraph at the top of the page, delete the last two sentences and add:

‘The applicant will be charged an offset planting fee that includes the purchase, supply, planting and a 12-month maintenance program for the tree(s) as per Council’s Pricing Policy, Fees and Charges.’

- 3. Publicly exhibits the following changes to the Pricing Policy, Fees and Charges for 28 days with officers preparing a report to Council following the exhibition period:

- (b) Section 31, Trees – Add a new entry to read as follows:

‘Pensioner concession of 75% discount for Offset Tree Planting’.

- (b) Section 31, Trees – Amend the ‘Offset Tree Planting’ entry to read as follows:

‘Offset Tree Planting Private Trees/Tree Permits, including purchase, supply, planting and a 12-month maintenance program’.

6. Urgent Business

There was no urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 10.15 PM.

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SIGNED AND CONFIRMED
CHAIR
7 FEBRUARY 2023

REPORT
PD/5.1/23.02

Subject: 34-36 Flood Street, Bondi - Interim Heritage Order

TRIM No: A23/0045

Author: Timothy Williams, Manager, Urban Design and Heritage

Director: Fletcher Rayner, Director, Planning, Sustainability and Compliance

RECOMMENDATION:

That Council:

1. Approves the submission on the planning proposal for 34–36 Flood Street, Bondi, attached to the report (Attachment 1) to the Department of Planning and Environment.
2. Lodges the interim heritage order attached to the report (Attachment 2) for 34–36 Flood Street with Heritage NSW.
3. Engages an independent heritage expert to undertake a heritage assessment of the site’s synagogue, which was designed by Harry Seidler.
4. Officers prepare a report to Council on whether the building should be nominated for inclusion in schedule 5 (heritage items) of the Waverley Local Environmental Plan 2012 and the State Heritage Register.

1. Executive Summary

On 9 March 2022, a spot rezoning request was submitted to Council for 34-36 Flood Street, Bondi (planning proposal PP-1/2022) by the landowner, Karimbla Properties, seeking to amend the *Waverley Local Environmental Plan 2012* (LEP) to rezone the site from SP2 Infrastructure to R3 Medium Density Residential.

The site is important to the Jewish Community as a school, community centre and meeting place, as well as a place of worship. The site also contains the Sydney Talmudical College building which retains the core form and detail of the design by Modernist architect Harry Seidler.

On 5 July 2022, Council refused the rezoning request. However, following a rezoning review the Department of Planning and Environment (DPE) provided provisional Gateway approval and public exhibition of the planning proposal.

On 23 January 2023, a draft submission to the exhibition of the planning proposal was made to the DPE by Council officers. This report seeks Council endorsement for the draft submission at Attachment 1.

On 22 December 2022, Council officers were contacted by the Seidler family regarding the planning proposal. The family fears any rezoning would place the Harry-Seidler-designed synagogue, opened in 1961, at risk of demolition. The family have requested that Council seek an interim heritage order on the building. Based on this request and other interested parties such as DOCOMOMO, the Institute of Architects and members of the Jewish community, Council officers prepared a preliminary heritage

assessment which is included at Attachment 2. This assessment found that the building and curtilage has aesthetic and social significance.

As a result, this report also seeks endorsement by Council to submit an interim heritage order (IHO) to the NSW Heritage office regarding 34-36 Flood Street, Bondi, site of the synagogue and Talmudical College designed by Australia's pre-eminent Modernist architect Harry Seidler.

2. Introduction/Background

Site description

The subject site (Lot 1 DP 1094020) is currently zoned SP2 Infrastructure (Educational Establishment), and the surrounding area is zoned R3 Medium Density Residential and R2 Low Density Residential in accordance with the LEP. The site has a total area 1,327 m². The primary frontage is Flood Street and the secondary frontage is Anglesea Street.



Figure 1. Aerial view of the subject site (source: Karimbla Properties 2022).

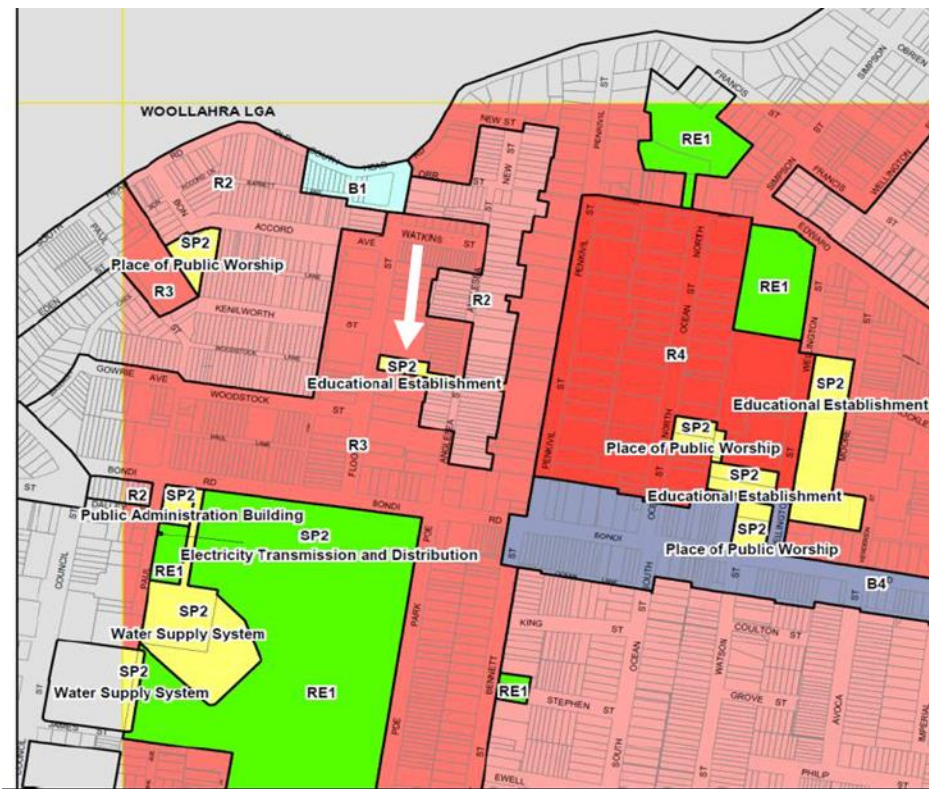


Figure 2. Subject site and associated zoning (source: Waverley Local Environmental Plan 2012 LZN map).

The site contains a synagogue, kitchen at the rear with a shared driveway and path. The site is surrounded by medium-density residential buildings, with the eastern portion of the site containing two storey detached dwellings. The north of the site contains a multi-storey seniors housing development that shares vehicle access with 34-36 Flood Street. On the southern side is 36A Flood Street, housing Yeshiva College, a school serving years K-10.

The subject site is also known as Harry O. Triguboff Centre, a Hasidic Jewish synagogue, learning centre and library of the Chabad-Lubavitch nusach.

The site has been important to the Jewish community for over 70 years. Waverley has one of the highest concentrations of residents with the Jewish faith and the immediate neighbourhood surrounding Flood Street includes approximately 1200 Jewish residents. The site is also home to Our Big Kitchen, which distributes more than 250,000 meals to vulnerable people across Sydney each year and supports over 33 charities.

History of the site

The Seidler-designed synagogue at 34-36 Flood Street was approved by Council in 1959 and opened in 1961 by Australia's one-time Foreign Minister Dr Herbert Evatt who, as president of the United Nations Assembly in 1946-47, drove the critical vote that recognised the state of Israel. The site remained a school of religious education as Yeshiva College until the 1980s. As it expanded, the school moved into the adjacent site at 36A Flood Street, and the subject site continued to be utilised as a synagogue attached to the school.

Despite later alterations and additions, the Sydney Talmudical College building at 34-36 Flood Street retains the core form and detail of the Modernist design by Harry Seidler of 1958-62. The building demonstrates the integration of structure and aesthetic clarity characteristic of Seidler's works and in its form demonstrates Seidler's integration of influences experienced in his initial career tempering these with the refinement of structure by his collaborative structural engineer Peter Miller.

Externally, the building is partly screened by later works including additions to the rear and southern sides and a recent obtrusive 'blast wall' and fire sprinkler installation. The core form and expression of the building remain evident through oblique views from Flood Street.

On 16 August 2022, *The Sydney Morning Herald* reported that a decision by the NSW Civil and Administrative Tribunal backed a recommendation to cancel Bondi's Yeshiva College registration (located at 36A Flood Street), after an inspection found the school did not comply with curriculum, teaching, and governance rules. NSW Education Standards Authority (NESA) found Yeshiva College was non-compliant across multiple areas, including teachers having necessary experience and qualifications, meeting minimum primary and high school curriculum requirements, and providing a 'safe and supportive environment' for students. The school lodged an appeal of the decision after multiple inspections by NESA in 2019 and 2020 raised concerns relating to the school's compliance with curriculum and teaching rules. However, the tribunal confirmed the recommendation to cancel the school's registration.

On 9 March 2022, a spot rezoning request for 34-36 Flood Street (planning proposal PP-1/2022) was submitted to Council by the landowner, Karimbla Properties, seeking to amend the *Waverley Local Environmental Plan 2012* zoning from the current zoning of SP2 Infrastructure (Educational Establishment) to a proposed R3 Medium Density Residential Zone.

On 5 July 2022, Council refused the rezoning request. However, following a rezoning review the DPE provided provisional Gateway approval and public exhibition of the planning proposal.

Council officers were contacted by the Seidler family on 22 December 2022 regarding the planning proposal who raised concern any rezoning would place the Harry Seidler-designed synagogue, opened in 1961, at risk of demolition. They have requested that Council seek an interim heritage order on the building.

DOCOMOMO, the international organisation that documents and advocates for the conservation of buildings of the Modern movement, has also expressed concern for the future of the building if rezoned. The Synagogue's architectural importance is recognised by the Royal Australian Institute of Architects (RAIA) placing it on the Register of Significant 20th Century Buildings.

Council officers have made two previous attempts to list the building on Waverley's LEP as a heritage item but have been discouraged on both occasions by the building's previous owners and pending security alterations to the building. Subsequent alterations, namely the current blast wall and external window changes, further impacted on the assessment of significance. However, these changes are capable of reversal, which would make the building more visible from the street and more easily assessed.

The clear-span nature of the existing building lends itself to adaptive reuse in the event of any discontinuance of the current use as a synagogue.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 5 July 2022	PD/5.1/22.07	That Council: <ol style="list-style-type: none"> 1. Does not support the planning proposal set out in the report to amend the <i>Waverley Local Environmental Plan 2012</i> in respect of 34–36 Flood Street, Bondi, Lot 1 DP 1094020, as the proposal lacks strategic merit and involves a change in Council's long-established policy in relation to SP2 Infrastructure Zones. 2. Investigates the strategic merit of amending the

		current zoning of SP2 Infrastructure 'Educational Establishment' to a more appropriate zoning that represents the existing uses and considers potential future uses on the site in a future housekeeping planning proposal.
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4. Discussion

The planning proposal

The proposal seeks to amend the LEP for the subject site from the current zoning of SP2 Infrastructure (Educational Establishment) to R3 Medium Density Residential Zone. The proposal does not seek to change the height or FSR applicable to the site currently.

On 5 July 2022, Council unanimously refused the proposal on strategic grounds as the rezoning would involve a change in Council's long-established policy in relation to protecting SP2 Infrastructure zones for social infrastructure. The retention of this social infrastructure is important to continue the maintenance of a resilient community through the provision of spaces in which people can gather and form relationships within the community.

On 13 October 2022, the landowner appealed this decision to the NSW Government's Sydney Eastern City Planning Panel via a rezoning review. They were successful in their appeal. On 18 November 2022, the DPE gave the spot rezoning conditional approval (known as a Gateway Determination) to proceed to public exhibition and then finalisation. Public exhibition finished on 24 January 2023. Council is no longer the decision-maker, with the DPE appointing themselves as the final decision-maker.

On 23 January 2022, Council officers made a draft submission to the DPE objecting to the rezoning application, citing strategic merit and heritage concerns, pending endorsement of the objection from Council at this meeting. A copy of the submission is included at Attachment 1 to this report. This report seeks a formal resolution of support for the submission which would be resubmitted to DPE with Council endorsement.

Interim heritage order

Based on the request by the Seidler Family and other interested parties such as DOCOMOMO, the RAI and members of the Jewish community to seek an interim heritage order, this report also seeks endorsement by Council to submit an IHO to NSW Heritage regarding 34-36 Flood Street.

The process of initiating an IHO in accordance with the *Heritage Act 1977* (NSW) involves completing the required form with supporting evidence.

The IHO is a temporary 12-month measure that prevents the demolition of a building on the identified land and enables Council to undertake a detailed heritage assessment of the property and determine if it should be listed as a heritage item (local or state). It is proposed that State heritage listing may be appropriate subject to independent heritage assessment.

An IHO provides a signal of intent to commence a heritage process and provide immediate protection from demolition. As no development application for demolition has been received, there is no immediate threat to the building and demolition could not occur under *State Environmental Planning Policy (Exempt and Complying Development) 2008* due to the current SP2 zone. An IHO would not impact the proponent-led planning proposal to rezone the land from SP2 to R3 zone.

Council's heritage officers have conducted a preliminary assessment of the building (Attachment 2) and have prepared the following draft statement of heritage significance:

It is concluded that the former Sydney Talmudical College building at 34-36 Flood Street is of State and Local historic, aesthetic, and social significance. The Modernist-style building exemplifies the works of architect Harry Seidler, widely acknowledged as Australia's foremost practitioner in Modernist architecture from the mid-20th to early 21st centuries.

Seidler brought to Australia his experience as a student and later architect working with world leaders in Modernism including Walter Gropius, Marcel Breuer, Joseph Albers and Oscar Niemeyer. Seidler's design is enhanced by the collaborative input of structural engineer Peter Miller, of the firm Miller, Milston and Ferris, whose refinement of building structure would provide a key aspect of Seidler's designs through much of his career.

The building represents the expansion of the Orthodox Jewish community in Sydney's East following World War II. The community's commissioning of Harry Seidler and acceptance of his Modernist design marks a significant change from the use of historicist reference in Jewish liturgical buildings, this being a transition likely based upon engagement of noted contemporary architects for comparable buildings [synagogues] in North America.

Subsequent additions and change of interiors to the building have served to maintain its historic function and role in the Orthodox community. Recent unsympathetic additions to the street frontage detract from the buildings aesthetic and streetscape qualities but are at distance from the core building and able to be removed.

The clarity and clear-span form of the original building serve to facilitate ongoing and potential adaptation of use by the established community.

The demolition and-or substantial alteration of early buildings by Harry Seidler have added to the rarity of the Flood Street building. The building's ongoing retention will maintain the ability to inspect and interpret the aesthetic, structural and historic significance of the building and its relationship to the evolving careers of Internationally significant architect Harry Seidler and Structural Engineer Peter Miller.

Separate to the interim heritage order, it is also proposed that an independent heritage consultant be appointed to advise whether the building should be nominated for inclusion in schedule 5 (heritage items) of the LEP as a local item and on the State Heritage Register as an item of State significance if the heritage consultant advice supports such a nomination. The process would require the commencement of a planning proposal. Access to the land for the purpose of the preparation of a detailed photographic inventory may also be required. Should Councillors support an IHO, a further report to Council would be prepared detailing whether to progress a planning proposal.

5. Financial impact statement/Time frame/Consultation

The risk to Council from seeking an IHO is the potential for an appeal from the landowner. Section 30(1) of the *Heritage Act 1977* enables a property owner or occupier to appeal the making of a IHO by Council within 28 days of the property being published in the Government Gazette. When determining such an appeal, the court has all the functions and discretions of the council that issued the IHO. The court determines whether the IHO should remain in force or be revoked. The court can receive fresh evidence in addition to, or in place of, the material originally submitted when the IHO was made.

No funding is required to prepare the IHO, as the supporting documentation would be prepared in-house. However, upon gazettal of the IHO, resources would be required for subsequent research and justification to support the IHO involving a heritage assessment by an independent heritage architect with specific

knowledge of Harry Seidler's buildings. Although no specific funds are allocated for this work, this could be accommodated within a future budget review.

Consultation

If an IHO is endorsed by Council, any future planning proposal that may seek heritage listing resulting from research conducted by an independent heritage consultant would proceed to public exhibition in accordance with any conditions imposed by the NSW Government.

6. Conclusion

Council officers lodged a draft submission on the planning proposal to satisfy the DPE's exhibition deadline of 23 January 2023. This report seeks Council endorsement of the submission at Attachment 1.

Based on a preliminary in-house assessment, the building at 34-36 Flood Street known as Sydney Talmudical College building displays considerable architectural, engineering and social significance that warrants an interim heritage order and a subsequent independent analysis of heritage significance.

It is recommended that Council supports the submission of an interim heritage order and that an assessment of heritage significance is commenced. Should the NSW Heritage Office support the IHO and if there is sufficient evidence to support a local and/or state heritage listing by an independent heritage expert, a future report would be prepared for Council seeking to amend to the LEP.

7. Attachments

1. Submission on planning proposal [↓](#)
2. Draft interim heritage order [↓](#) .



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23 January 2023

Douglas Cunningham
Senior Planning Officer
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Our ref: PP-1/2022

Waverley Council Submission to the Planning Proposal at 34-36 Flood Street, Bondi

Thank you for the opportunity to comment on the Planning Proposal for the subject site.

As you would be aware, Council has previously resolved not to support the proposal which seeks to amend the Waverley Local Environmental Plan 2012 by changing the zone of the site from SP2 Educational Establishment to R3 Medium Density Residential.

Strategic Merit Concerns

Many sites currently zoned SP2 within the Waverley LGA provide crucial social infrastructure. The retention of this social infrastructure is important to support a resilient community through the provision of spaces in which people can gather and form relationships within the community. Moreover, these places often provide safe spaces where people can partake in public life and low-cost community activities, which is important for maintaining mental well-being in high-density areas. For these reasons, during the preparation of the *Waverley Local Strategic Planning Statement 2020*, the retention of the SP2 Infrastructure zone was identified as an important action.

The Planning Proposal was reported to the Waverley Local Planning Panel (WLPP) on 25 May 2022 and was not supported by the Panel. Subsequently, the Proposal was reported to Council's SPDC meeting on 5 July 2022 and unanimously was not supported to proceed to Gateway Determination as the rezoning was determined to lack Strategic Merit and involved a change in Council's long-established policy in relation to the SP2 Infrastructure zone.

Please refer to the attached 5 July 2022 SPDC Agenda and Minutes for further detail.

Heritage Concerns

As you may be aware, the Synagogue and Talmudical College on site was designed by Australia's pre-eminent Modernist architect Harry Seidler.

Seidler's family have contacted Council to express their concern that the rezoning places the Synagogue, opened at Flood Street in 1961, at risk of demolition. DOCOMOMO, the International organisation that documents and advocates for the conservation of buildings of the Modern Movement, has also expressed its concern for the future of the building if the site is rezoned. The Synagogue's architectural importance is recognised by the RAI A placing it on the Register of Significant 20th Buildings.

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Council's Heritage Officers have conducted a preliminary assessment of the building and prepared a draft Statement of Heritage Significance:

It is concluded that the former Sydney Talmudical College building at 34-36 Flood Street is of State and Local historic, aesthetic, and social significance. The Modernist-style building exemplifies the works of architect Harry Seidler, widely acknowledged as Australia's foremost practitioner in Modernist architecture from the mid-20th to early 21st centuries.

Seidler brought to Australia his experience as a student and later architect working with world leaders in Modernism including Walter Gropius, Marcel Breuer, Joseph Albers and Oscar Niemeyer. Seidler's design is enhanced by the collaborative input of structural engineer Peter Miller, of the firm Miller, Milston and Ferris, whose refinement of building structure would provide a key aspect of Seidler's designs through much of his career.

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The site has been important to the Jewish community for over 70 years. Waverley has one of the highest concentrations of residents with the Jewish faith and the immediate neighbourhood surrounding Flood Street includes approximately 1200 Jewish residents. The site is also home to Our Big Kitchen, which distributes more than 250,000 meals to vulnerable people across Sydney each year and supports over 33 charities.

Not only does the rezoning proposal place a significant 20th Century building at risk, it also lacks Strategic Merit and is contrary to actions in Council's overarching strategic plan the *Waverley Local Strategic Planning Statement 2020* to retain the 'SP2 Infrastructure' zone.

Rezoning the site would also undermine the Eastern City District Plan Planning Priorities E4: Fostering healthy, creative, culturally rich and socially connected communities; and E6: Creating and renewing great places and local centres, and respecting the district's heritage.

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