



## **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**

**2. Declarations of Pecuniary and Non-Pecuniary Interests**

**3. Addresses by Members of the Public**

**4. Confirmation of Minutes**

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**5. Reports**

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**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

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### 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 Nemesh	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 CO<sub>2</sub>e.
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  
Seconded: 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  
Seconded: 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  
Seconded: 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.**

.....  
**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

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**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 m<sup>2</sup>. 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).

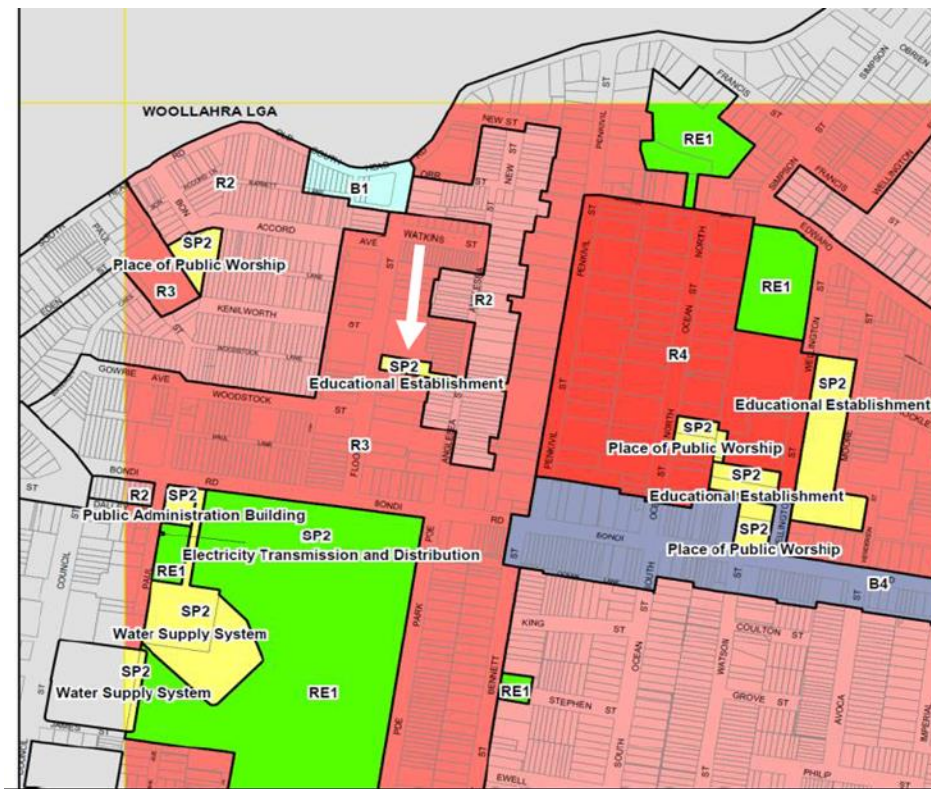


Figure 2. Subject site and associated zoning (source: Waverley Local Environmental Plan 2012 LZN map).

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	<p>That Council:</p> <ol style="list-style-type: none"> <li>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.</li> <li>Investigates the strategic merit of amending the</li> </ol>

		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 RAIA 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.

### **4. 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 propoosal 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 RAIA 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.*

*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.*

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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Council Officers believe the Seidler building at 34-36 Flood Street has significant heritage value at a Local and State level and will be seeking Councillor support to submit an Interim Heritage Order to Heritage NSW and to commence a planning proposal for the heritage listing of the building.

Should you have any questions about the contents of this submission please do not hesitate to contact Jaime Hogan, Principal Strategic Planner on [jaime.hogan@waverley.nsw.gov.au](mailto:jaime.hogan@waverley.nsw.gov.au).

Yours faithfully,

A handwritten signature in black ink, appearing to read "Fletcher Rayner", with a long horizontal line extending to the right.

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

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**REPORT**  
**PD/5.1/22.07**

**Subject:** Planning Proposal - 34-36 Flood Street, Bondi

**TRIM No:** PP-1/2022

**Author:** Shima Niavarani, Strategic Planner

**Director:** Mitchell Reid, Acting Director, Planning, Sustainability and Compliance

**RECOMMENDATION:**

That Council:

1. Does not support the planning proposal set out in the report to amend the *Waverley Local Environmental Plan 2012* in respect of 34–36 Flood Street, Bondi, as the proposal lacks strategic merit and involves a change in the 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 SP2 Infrastructure 'Place of Public Worship' in a future housekeeping planning proposal.

**1. Executive Summary**

This report informs Council of the receipt of a planning proposal from Karimbla Properties (the Proponent) for 34-36 Flood Street, Bondi (the subject site). The Proponent-led planning proposal (the Proposal) and associated documentation were submitted to Council on 9 March 2022.

The Proposal seeks to amend the *Waverley Local Environmental Plan 2012* (WLEP2012) in relation to the subject site by changing the land use zone from SP2 Special Infrastructure 'Educational Establishment' to R3 Medium Density Residential. The Proposal does not seek to change the height or floor space ratio (FSR) of the site.

The site to the south of the subject site, 36A Flood Street, is an educational establishment (Yeshiva College), and is zoned R3 Medium Density Residential instead of SP2 Infrastructure (Educational Establishment). Both sites are under the same ownership.

The Proposal was reported to the Waverley Local Planning Panel (WLPP) on 25 May 2022 and was not supported by the Panel.

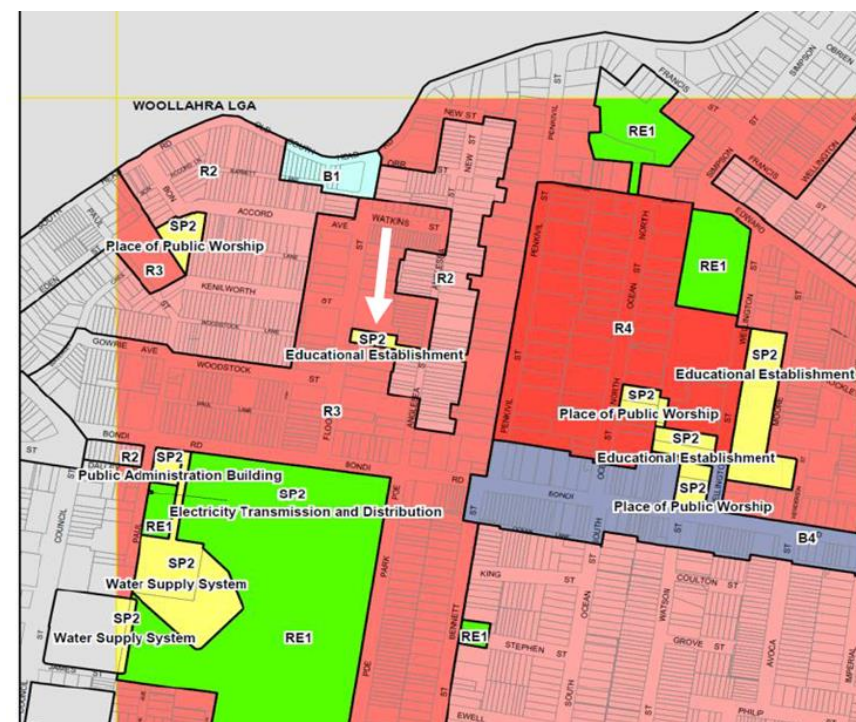


Figure 1. Subject site and associated zoning.

## 2. Background

The subject site is located at 34-36 Flood Street, Bondi (Lot 1 DP 1094020). The total area of the site is 1,327 m<sup>2</sup>. The primary frontage of the site is Flood Street, and the secondary frontage is Anglesea Street.

The site contains a Synagogue (Place of Public Worship), and a commercial-type community rear kitchen at the rear of the Synagogue with a shared driveway and path. The site is surrounded by medium density residential buildings, with two-storey of detached dwellings at the rear. On the north of the site, there is a multi-storey Seniors Housing development that shares vehicle access with 34-36 Flood Street. Located on the southern side of the site is 36A Flood Street, housing Yeshiva College, a school serving years K-10.

The site is currently zoned SP2 Infrastructure (Educational Establishment), and the surrounding area is R3 zone Medium Density Residential and R2 Zone Low-Density Residential.

The Proponent has prepared a planning proposal to amend WLEP2012 to change the land use zone from SP2 Special Infrastructure 'Educational Establishment' to R3 Medium Density Residential. To support this proposal, the Proponent has provided the following documentation as in Attachments 1-3:

- Planning proposal.
- Future development advice.
- Pre-lodgement advice.

### History of the site

The subject site was utilised from the late 1950s to the 1980s as a school, Yeshiva College. As the school expanded it moved into the adjacent site at 36A Flood Street. Following the relocation of the school, the site was then utilised as a synagogue attached to the school.

In 2010, Council adopted the *Waverley Local Environmental Plan 2011*, which would go on to become the WLEP2012, and requested to enable the draft plan to be publicly exhibited. The public exhibition of the draft WLEP2012 identified the site as R3 Medium Residential in accordance with the Practice Note provided by the NSW Government, which required that all educational establishments and places of worship sites be zoned as the adjacent zone.

When the WLEP2012 was reported to Council post-exhibition and subsequently adopted by Council, it was done so with the condition that all schools within the Waverley local government area (LGA) instead be zoned Infrastructure SP2 Educational Establishment. As a result, the original Infrastructure Zoning was carried over from the WLEP1996 into the WLEP2012 for the subject site so the land remained zoned SP2 'Education Establishment', despite the site being utilised as a synagogue.

The position adopted by Council was contrary to a Practice Note prepared by the NSW Government in relation to Infrastructure zoning, however this position was upheld by the NSW Government in the drafting of the legal instrument. Further discussion relating to this matter is provided later in the report. The incongruity of the adjoining land located at 36A Flood Street being rezoned zoned R3 Medium Density Residential, rather than as Special Infrastructure 'Educational Establishment' was not identified during the drafting of the WLEP2012, despite the site at that time housing the Yeshiva College.

This anomaly was, however, identified in 2013 when a housekeeping planning proposal was reported to Council which included a proposal to amend the zoning of 36A Flood Street, from R3 Medium Density Residential to SP2 Infrastructure 'Educational Establishment' to better reflect the actual use of the land. During the exhibition process, the owner of the site made an objection to this rezoning and subsequent to this, Council did not support the rezoning, and the site at 36A Flood Street remained R3 Medium Density Residential.

This has resulted in an anomaly where the subject site (34-36 Flood Street) is zoned SP2 – Educational Establishment but contains a Place of Public Worship and associated community facilities, and the adjacent site (36A Flood Street) is zoned R3 Medium Density Residential but contains an Educational Establishment.

### 3. Relevant Council Resolutions

See Attachment 4.

### 4. Discussion

#### The planning proposal

The table below outlines the LEP controls applicable to the site and what is proposed by the Proposal.

Table 2. LEP controls and planning proposal.

WLEP 2012 Provision	Current planning controls	Planning proposal
<b>Zone</b>	SP2 Infrastructure	R3 Medium Density Residential
<b>Permitted Use</b>	Aquaculture; Roads; The purpose shown on the <a href="#">Land Zoning Map</a> (Educational Establishment), including any development that is ordinarily incidental or ancillary to development for that purpose	Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Group homes; Home industries; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors

		housing; Tank-based aquaculture; Any other development not specified in item 2 or 4
<b>FSR</b>	0.9:1	0.9:1
<b>Height</b>	12.5m	12.5m
<b>Heritage</b>	No	No

The Proposal seeks to amend the WLEP2012 for the subject site from the current zoning of SP2 Infrastructure (Educational Establishment), which provides for uses for educational purposes only. The Proposal seeks to amend the zoning to R3 Medium Density Residential Zone. The Proposal does not seek to change the height or FSR of the site.

The proposed zone change is not out of character with the surrounding area of Flood Street, which is predominantly R3 medium density residential as identified in Figure 1. Whilst not identified as the expressed purpose of the Proposal, the resulting zone would enable residential development on the site to the same height and FSR as the surrounding properties.

To demonstrate what a potential redevelopment of the site may allow, at the request of Council officers, the Proponent provided a document that outlined the potential future development (Attachment 2). This document provides a demonstration of two compliant development possibilities to demonstrate overshadowing and character, should the site be redeveloped in the future.

Under the current land use controls of the WLEP2012, the existing use on the site (Place of Public Worship) is not a permissible use – though as it is an existing use, it may remain. Furthermore, it is likely that the ‘existing use’ provisions under the *Environmental Planning and Assessment Act* and Regulation would apply in respect to any future proposal involving:

- (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
- (b) the change of an existing use to another use, and*
- (c) the enlargement or expansion or intensification of an existing use.*

This means that there is an ability to further develop the land subject to meeting the relevant requirements under the Act.

A summary of the reasons for the rezoning of the site from SP2 Educational Establishment to R3 Medium Density Residential provided by the Proponent:

- 1. The current zone does not facilitate feasible alterations or significant new work to the existing Synagogue building nor do they facilitate other forms of compatible development which would enhance the feasibility of improving the Synagogue. The current zoning does not facilitate the most desirable future use of the site within the context of the streetscape and neighbourhood character and within the setting of surrounding medium density residential development. The provisions for existing use right that may apply to the site only permit minor alterations for the purposes of an educational establishment. The building would require more than minor alterations in order to be used as an educational establishment that would meet contemporary standards.*
- 2. It is a better option to provide a range of alternatives for the redevelopment of the site and the financial benefits of new development options to be factored into the provision of new facilities either at the site or elsewhere.*

**Assessment process**

As part of the criteria in the NSW Department of Planning and Environment *Local Environmental Plan Making Guidelines*, Council is required to report the Proposal to Council for a decision on whether the Proposal should proceed to Gateway Determination within 90 days, otherwise, the Proponent can seek to lodge a Rezoning Review which would result in the matter being referred to the Sydney Eastern City Planning Panel. Due to the schedule of WLPP, Council and Committee Meetings, the Proposal is being reported to Council outside of the 90-day requirement.

*Waverley Local Planning Panel (WLPP)*

Council is required to report planning proposals of this nature to the Waverley Local Planning Panel (WLPP) for advice. The planning proposal was reported to the WLPP on 25 May 2022 for advice with the view of proceeding the Proposal to a Gateway Determination for the purposes of exhibition, in order to receive public feedback on the Proposal.

The Proponent was present at the WLPP to address questions from panel members about the proposal, including concerns in relation to the change of the SP2 Infrastructure zone in contradiction with Council policy.

At the meeting, the WLPP unanimously resolved that:

- The recommendations in the officer's report relating to this planning proposal are noted. However, the Panel does not support the planning proposal proceeding to a Gateway Determination for the purposes of exhibition.
- This planning proposal involves an anticipated change in long-established policy by the Council in relation to SP2 Zones. The Council has specifically sought variation to the Practice Note 11-002 of 2011 to allow private and public-school sites and places of public worship to be zoned SP2 as opposed to reflecting the adjoining zone. It is noted that the 2020 Local Strategic Planning Statement was adopted by Council and assured by the Greater Sydney Commission that the 'retention of the SP2 Infrastructure Zone was identified as an action when undertaking any review of the Local Environmental Plan. The reason for this was that many of the sites currently zoned SP2 in Waverley provide crucial social infrastructure.'
- The adjoining site of Yeshiva College is zoned R3. It would appear that there is a mapping discrepancy in the LEP, however, the Panel is not aware of the history of how the zoning lines were determined at the relevant time.

Following the WLPP Meeting, officers considered the concerns raised and advice provided by the Panel and have subsequently recommended that the Proposal does not have sufficient merit to proceed to Gateway Determination for the reasons discussed in this report.

**Strategic merit of the Proposal**

The Proponent is of the view that the proposed LEP amendment has strategic merit which is aligned with the relevant matters for consideration set out in Council's Local Strategic Planning Statement (WLSPS). The strategic merit test, which is part of the assessment criteria to determine the Proposal, is addressed in the attached planning proposal (Attachment 1, Table 3, p. 38).

In the preparation of the WLSPS, the retention of the SP2 Infrastructure zone was identified as an action when undertaking any review of the WLEP2012. The reason for this is that many of the sites currently zoned SP2 around the Waverley LGA provide crucial social infrastructure.

The retention of this social infrastructure is important to continue to support a resilient community through the provision of spaces in which people can gather, and form relationships within the community. In addition, these places often provide safe spaces where people can partake in public life and low-cost community activities, which is important for maintaining mental wellbeing in high-density areas. The following Planning Priorities and Actions from the WLSPS are relevant to the proposal:

- Planning Priority 4 (PP4) – Ensure the community is well serviced by crucial social and cultural infrastructure.
- PP4, Action 4 – Review and strengthen existing planning controls in the WLEP to continue to provide crucial social and cultural infrastructure for the area.
- PP4, Action 8 – Investigate and implement planning mechanisms to identify and protect crucial cultural and social infrastructure for the community.

On the matter of the SP2 zoning, the WLSPS states:

*When Waverley Council moved to the Standard Instrument LEP, Council chose to retain all land zoned 'SP2 – Infrastructure' for the purposes of retaining these crucial pieces of infrastructure in our area. This has meant that despite increasing pressures for residential development, Council has largely been able to protect these facilities for the community. Council will seek to retain and protect existing social infrastructure uses and will not allow the deterioration of this land to other uses preferred by the current market such as residential, or tourist and visitor accommodation.*

It is considered that the Proposal is not in keeping with the Planning Priority or Actions of the WLSPS and does not demonstrate strategic merit for the following reasons:

1. In the preparation of the WLSPS, the retention of the SP2 Infrastructure zone was identified as an action when undertaking any review of the WLEP 2012. The reason for this is that many of the sites currently zoned SP2 around the Waverley LGA provide crucial social infrastructure. The retention of this social infrastructure is important to continue to support a resilient community through the provision of spaces in which people can gather, and form relationships within the community.
2. The amendment to WLEP2012 to change the zoning from SP2 Infrastructure to R3 Medium Density Residential will involve a departure from the policy that was adopted by the Council in 2012 and supported by the NSW Government at the time. Any changes to the policy may have a significant impact on similar SP2 Infrastructure sites in Waverley Council by creating a precedent.

The Proponent raises an issue regarding the inability to undertake alterations or additions to the current building on site due to the site being for the purpose of 'Educational Establishment' rather than 'Place of Public Worship'. As has been previously indicated, this is not correct as the existing use including the built form could be expanded under the existing use provisions in the Act. Notwithstanding this, the existing zoning anomaly will be investigated by officers in a future housekeeping amendment.

#### *Site-specific merit*

The site is surrounded by medium density residential land uses and the change in zoning will not change the character of the area, however it may result in the loss of the existing use as a Place of Public Worship. The assessment criteria outlined in the DPE Guideline to determine if a planning proposal has site-specific planning merit is addressed in Table 4 on page 40 of the planning proposal Report prepared by the Proponent provided in Attachment 1.



*Traffic, parking and road safety*

The proposed change in the zone may facilitate a future redevelopment or the intensification of the current development, which may result in an increase in traffic. It is noted that there is no increase in density (height and floor space ratio) proposed under this Proposal, however different uses will place different pressures on the road network and parking availability. Traffic and parking impacts would be assessed in conjunction with any future development application.

*Overshadowing*

Overshadowing from any future redevelopment of the site may have an impact on the surrounding properties, which the Proponent has demonstrated in two Scenarios of design which are available in section 3.3 in the planning proposal. Overshadowing impacts would be assessed in conjunction with any future development application.

*Character*

The land uses surrounding the site are predominantly characterised by residential flat buildings and the properties immediately north and south of the site are zoned R3 Medium Density Residential. The residential purpose is generally consistent with the character of the locality.

**5. Financial impact statement/Time frame/Consultation***Financial impact statement*

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with the administration, assessment and exhibition of the Proposal and these have been budgeted.

*Consultation*

This Proposal is not recommended to proceed to public exhibition. If the Proposal was to proceed to public exhibition it would be done so in accordance with any Gateway Conditions.

**6. Conclusion**

An amendment to WLEP2012 to change the zoning from SP2 Infrastructure to R3 Medium Density Residential will be inconsistent with the policy that was adopted by the Council and supported by the Department of Planning due to the character and density of the LGA and any changes to this Social Infrastructure will have an impact on the area.

In the preparation of the WLSPS, the retention of the SP2 Infrastructure zone was identified as an action when undertaking any review of the WLEP2012. The basis for this is that many of the sites currently zoned SP2 around the Waverley LGA provide crucial social infrastructure.

The retention of this social infrastructure is an important strategic planning outcome to continue to support a resilient community through the provision of spaces in which people can gather, and form relationships within the community.

**7. Attachments**

1. Planning proposal
2. Future development scenarios
3. Pre-lodgement advice
4. Minute Extract - Finance, Ethics and Strategic Planning Committee - 6 March 2012 - Item F-06.12 - Waverley Planning Review 2011 .



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING  
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON  
TUESDAY, 5 JULY 2022**

**Present:**

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

**Staff in attendance:**

Emily Scott	General Manager
Sharon Cassidy	Acting Director, Assets and Operations
Meredith Graham	Acting Director, Community, Culture and Customer Experience
Mitchell Reid	Acting Director, Planning, Sustainability and Compliance
Richard Sheridan	Acting Director, Corporate Services

*At the commencement of proceedings at 8.21 pm, those present were as listed above.*

*Crs Fabiano, Goltsman, Kay, Keenan and Nemesh attended the meeting by audio-visual link.*

## 5. Reports

### PD/5.1/22.07 Planning Proposal - 34-36 Flood Street, Bondi (PP-1/2022)

*Cr Lewis declared a less than significant non-pecuniary interest in this item and informed the meeting that his firm has previously provided legal advice to Meriton on matters unrelated to the planning proposal.*

#### MOTION

Mover: Cr Lewis  
Seconder: Cr Masselos

That Council:

1. Does not support the planning proposal set out in the report to amend the *Waverley Local Environmental Plan 2012* 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 use on the site in a future housekeeping planning proposal.

THE MOVER OF THE MOTION THEN ACCEPTED AN AMENDMENT TO CLAUSE 2.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED UNANIMOUSLY.

#### UNANIMOUS DECISION

That Council:

1. Does not support the planning proposal set out in the report to amend the *Waverley Local Environmental Plan 2012* 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.

#### Division

**For the Motion:** Crs Betts, Burrill, Fabiano, Goltsman, Kay, Keenan, Lewis, Masselos, Murray, Nemesh and Wy Kanak.

**Against the Motion:** Nil.

*M Lennartz (on behalf of the proponent, Karimbla Properties (No. 10) Pty Ltd), addressed the meeting.*

**DRAFT****HERITAGE ACT 1977  
INTERIM HERITAGE ORDER NO.**

Under Section 25 of the *Heritage Act* 1977 Waverley Council does by this order:

- I. Make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule 'A'; and
- II. Declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Annexure 'B'.

This Interim Heritage Order will lapse 12 months from the date that it is made unless the local council has passed a resolution before that date either:

1. in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
2. in the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

**Delegated Person**  
General Manager

Emily Scott  
Waverley Council

Sydney  
8 February 2023

## Delegated decision for General Manager's signature

Schedule 'A'	
<b>Name &amp; address of property or issue:</b>	Talmudical College aka Yeshiva College or Harry Triguboff Centre 34-36 Flood Street, Bondi Lot 1 DP 1094020 Parish of Alexandria, County of Cumberland
<b>Item Description:</b>	Synagogue and Jewish learning centre
<b>Type of application or issue:</b>	IHO in relation to application for spot rezoning (Planning Proposal PP-1/2022) requiring a WLEP amendment from SP2 Educational Establishment to R3 Medium Density. This is likely to lead to demolition of the Harry Seidler-designed synagogue onsite.
<b>Applicant:</b> <b>Owner:</b>	Waverley Council Kanimbla Properties
<b>Proposal:</b>	Rezoning for residential use is unlikely to retain the existing building in adaptive or current form
<b>Approximate cost of works:</b>	Not applicable
<b>Statutory Listings</b>	Nil
<b>Non Statutory Listings</b>	RAIA, Register of Significant Buildings in NSW
<b>Other items affected by proposal</b>	Unknown
<b>Previous Heritage Council determinations:</b>	Not applicable
<b>Notifications</b>	Not at this date. In the process of notification
<b>Information for consideration:</b>	<p>Annexure A:</p> <ol style="list-style-type: none"> <li>1. Drawings prepared by Harry Seidler (architect)</li> <li>2. Miller, Milson Ferris (structural engineers)</li> <li>3. Harry Seidler, Synagogue floor plans, from <i>Art and Architecture</i> (US Modernist magazine) June 1964, p 11</li> </ol> <p>Annexure B:</p> <p>Site Plan showing curtilage of item</p> <p>Annexure C:</p> <p>Draft SHR Listing</p> <p>Annexure D: Submissions received:</p> <ol style="list-style-type: none"> <li>1. Penelope and Poppy Seidler</li> <li>2. DOCOMOMO President, Dr Scott Robertson</li> <li>3. Geoffrey R. Danks (former Seidler office architect)</li> <li>4. [REDACTED] (child of Holocaust survivor)</li> <li>5. Royal Australian Institute of Architects</li> </ol>

File no.		HRL no.		Application no.	IDA/DA/S60 no.
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Date received		Date decision required	
Date further info requested		Date further info received	

### **Statement of 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-20<sup>th</sup> to early 21<sup>st</sup> 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.*

*The building's sophisticated barrel-vaulted roof, comprising a series of parallel 75mm thick concrete semi-cylinders spanning the 50' (15m) width of the building (plus eaves overhangs on the north and south façades to provide protection to the glazed semi-circular windows closing off the vaults), was structurally engineered by Miller, Milston & Ferris (established in 1957 in offices in Caltex House). Structural engineer Alan Milston (1922-2012) was an active member of Sydney's Jewish community. Harry Seidler (also working from an office in Caltex House) wrote that the use of these barrel vaults allowed for the construction of the building in two stages; stage 1 comprising 5 vaults and stage 2 the remaining 4 vaults. The synagogue and Talmudical College building is the only religious building designed by Harry Seidler.*

*Dr Paolo Stracchi, of the University of Sydney, following a literature survey of Constructional Review (1955-1975), considers that the synagogue is the earliest surviving building employing the use of linked, parallel thin-shell concrete barrel vaults in NSW or possibly even in Australia. Such a significant use of structural technology is of paramount importance in understanding the development of architecture and building technology in Australia and its use by Seidler is evidence of Seidler's personal connection to Modernism in the USA and Brazil, rather than an adoption of a process as seen in journals or magazines. The clarity and clear-span form of the original building serve to facilitate ongoing and potential adaptation of use by the established community.*

*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.*

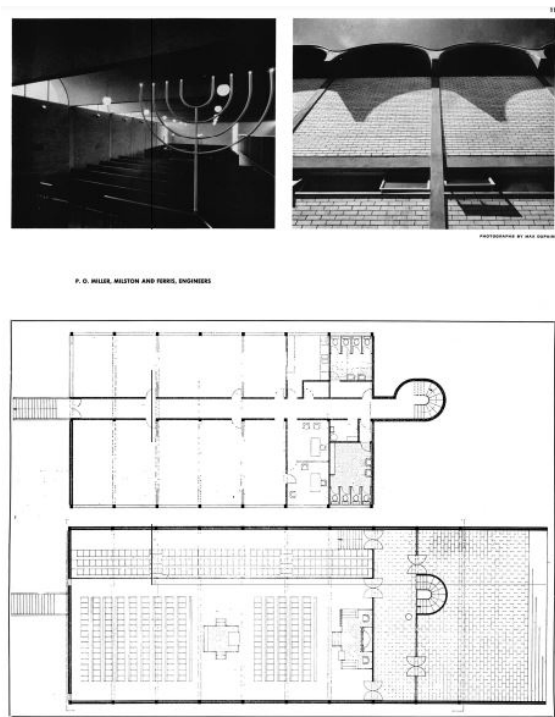
*The demolition and-or substantial alteration of early buildings by Harry Seidler have added to the rarity of the Flood Street building. The building's ongoing retention will maintain the ability to inspect and interpret the aesthetic, structural and historic significance of the building and its relationship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

**Reference:** Not on the SHR

**Date:** February 2023



Harry Seidler, Synagogue floor plans, in *Art and Architecture* (US Modernist magazine) June 1964



Annexure 'B' – Site Plan showing curtilage of item



Source: Kanimbla Properties



<b>Annexure 'C' – Draft SHR Listing</b>
<b>Annexure 'D' – Submissions received</b>

**Letters of objection to rezoning and support for heritage listing from:**

1. Penelope and Poppy Seidler
2. DOCOMOMO President, Dr Scott Robertson
3. Geoffrey R. Danks (former Seidler office architect)
4. [REDACTED] (child of Holocaust survivor)
5. Royal Australian Institute of Architects

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23 January 2023

General Manager  
Waverley Municipal Council  
PO Box 9  
BONDI JUNCTION NSW 1355

Dear Sir

**34 Flood Street, Bondi Junction  
Former Sydney Talmudical College and Synagogue, designed by Harry Seidler  
Request for Interim Heritage Order and assessment of significance**

Docomomo Australia is aware that a Proponent-led Planning Proposal has been submitted to the NSW Government regarding the rezoning of 34 Flood Street, Bondi Junction from SP2 Infrastructure – Educational Establishment to R3 Medium Density Residential. The former Sydney Talmudical College at 34 Flood Street (Lot 1 DP 1094020) is currently used as a synagogue as an adjunct to the adjacent Yeshiva College at 36 Flood Street (Lot A DP 340445) which is currently zoned R3. Whilst the proposed rezoning of 34 Flood Street would still permit a Place of Public Worship and an Educational Establishment, the Planning Proposal is accompanied by a future development scenarios document “36A Flood Street Bondi,” prepared by Meriton that indicates proposals for the redevelopment of the combined site of 34 & 36 Flood Street (ie Lot 1 DP 10940420 combined with Lot A DP 340445) for medium density housing. This document indicates that neither a Place of Public Worship nor an Educational Establishment are proposed after the rezoning is approved.

None of the Planning Proposal documents, or the assessment by the Department of Planning & Environment (November 2022), or the submission by Waverley Council regarding the Planning Proposal have assessed any possible heritage significance of the subject properties of 34 or 36 Flood Street. However, the Waverley Council submission of 8 September 2022 does touch tangentially on social significance in that, in Council’s opinion, the SP2 Infrastructure zone was instituted over the site of 34 Flood Street to encompass a site of “crucial social infrastructure”.

The two-storey building on the sloping site at 34 Flood Street was designed and constructed as the Sydney Talmudical College (a college of religious instruction) on the lower level and the College Synagogue located on the upper floor, level with Flood Street. The building was designed by one of Australia’s most significant architects, Harry Seidler (1923-2006), in 1958. The building was approved by Waverley Council in June 1959 and construction was completed, in two stages, by 1961. The building’s sophisticated barrel-vaulted roof, comprising a series of parallel 75mm thick concrete semi-cylinders spanning the 50’ (15m) width of the building (plus eaves overhangs on the north and south façades to provide protection to the glazed semi-circular windows closing off the vaults), was structurally engineered by Miller, Milston & Ferris (established in 1957 in offices in Caltex House). Structural engineer Alan Milston (1922-2012) was an active member of Sydney’s Jewish community. Harry Seidler (also working from an office in Caltex House) wrote that the use of these barrel vaults allowed for the construction of the building in two stages; stage 1 comprising 5 vaults and stage 2 the remaining 4 vaults. The synagogue and Talmudical College building is the only religious building designed by Harry Seidler.

Dr Paolo Stracchi, of the University of Sydney, following a literature survey of *Constructional Review* (1955-1975), considers that the synagogue is the earliest surviving building employing the use of linked, parallel thin-shell concrete barrel vaults in NSW or possibly even in Australia. Such a significant use of structural technology is of paramount importance in understanding the development of architecture and building technology in Australia and its use by Seidler is evidence of Seidler’s personal connection to Modernism in the USA and Brazil, rather than an adoption of a process as seen in journals or magazines.

Given the significance of the building as a rare religious building by Harry Seidler, the pioneering nature of the concrete barrel roof structure, and the possibility of it being the earliest surviving example of such an innovative construction system in Australia, an independent assessment of its significance as a building of aesthetic and technical significance should be undertaken. In addition, because of the importance of the building to the local

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Jewish community the social significance of the building should be assessed as a part of that independent assessment of significance.

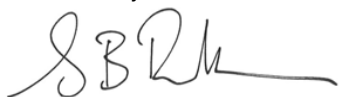
**In order to facilitate an independent assessment of the building's significance Docomomo Australia urges Waverley Council to make an Independent Heritage Order (IHO) under Section 25(2) the NSW Heritage Act 1977**, as, in the opinion of Docomomo Australia, the building "may, on further inquiry or investigation, be found to be of local heritage significance" and that, the building could be harmed, as defined by Section 25(2) of the Act, because the document accompanying the Planning Proposal indicates that the future use of the site, once rezoned, would involve the demolition of the building to enable the construction of medium density housing.

Whilst Docomomo Australia understands that the building has undergone alterations since its completion, the basic building, the important barrel vaults of the roof, the north façade, and the front façade (with its arched sheltering portico, and the white curved stair drum) remain intact and that the alterations to the building could be reversed to reinstate the original presentation of the building as an important work of architecture, to be a social representation of post-war Australia, and to demonstrate the development of Jewish educational establishments in post-war Sydney.

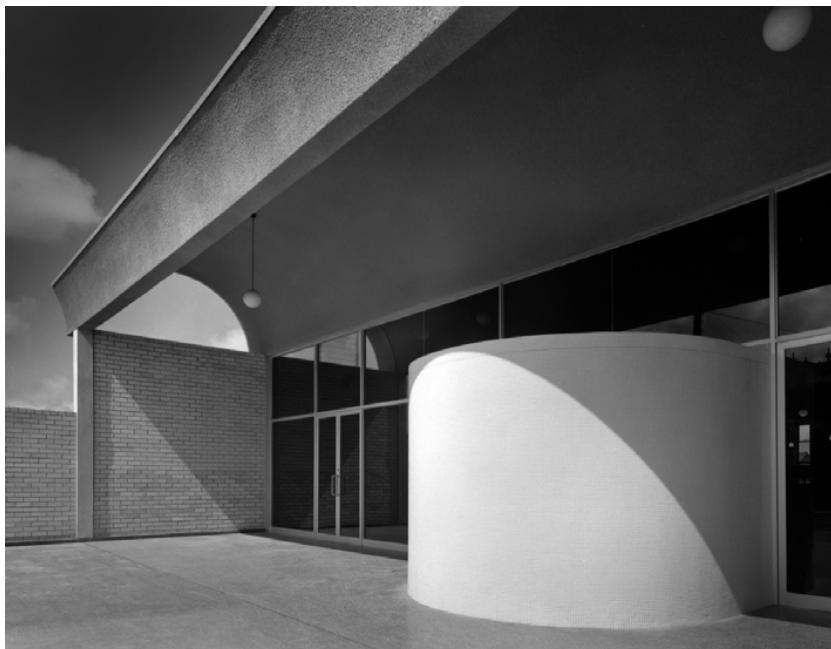
We have appended a number of photographs of the building taken during its construction and soon after its completion that indicate the quality of the design and the innovative structural system employed for the roof. It is worth noting the subtle use of colour in the interior of the building that contemporary black and white photographs could not depict.

We have been given approval by the copyright-holder of the photographs to include them in this submission but not for any further reproduction or use in other documents.

Yours faithfully



Dr Scott Robertson,  
BSc (Arch), BArch (Hons), M Built Env (Blg Cons), PhD  
President  
Docomomo Australia Incorporated



Photographer Max Dupain (commissioned by Harry Seidler)  
Copyright Penelope Seidler  
Year 1962

Architect Harry Seidler  
Digitised by Eric Sierins

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(holder of Power of Attorney for copyright owner Penelope Seidler).

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Year 1961

Architect Harry Seidler

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PP1-2022

**Geoffrey R Danks**  
**Architect**  
**5 Warruga Place,**  
**Riverview**  
**NSW. 2066**

Chief Executive Officer  
Waverley Council  
PO Box 9  
BONDI JUNCTION 1355  
Attn: Ms A.McGoverne

Dear Ms McGoverne,

Re: Synagogue and College, 34-36 Flood St Bondi.

I have been advised that it is proposed to rezone the above site from "Special Uses /Community" to "Residential", thereby permitting the demolition of the existing building and the replacement with residential apartments. I was involved in the construction of this building during my period of association with the office of Harry Seidler, the architect for the project.

I would hope you might reconsider this matter and agree to the placement of a Local Heritage Conservation Order to the building and the site. The reason for this being that the building was designed by one of Australia's leading architects, Harry Seidler, and has considerable aesthetic, social and historical attributes which should be protected, including its relationship to the local community.

In addition it has rare technical attributes, by reason of the barrel vaulted structure, the barrel vaults being 75mm thick. The structural engineer was P.O. Miller.

Seidler arrived in Australia in 1948, having studied under Walter Gropius at Harvard University; worked with Marcel Breuer in New York and importantly spent time in the office of leading Brazilian Architect Oscar Niemeyer in Rio de Janeiro. Whilst with Niemeyer, Seidler was exposed to many different forms of thin shell concrete roof constructions, from pavilions, clubs, churches etc, one of the most important being The St Francis of Assisi Church in the district of Pampulha in the southern city of Belo Horizonte, which was "World Heritage Listed" in 2016

Niemeyer was considering the use of shell concrete structures, the ultimate perfection of which, was the design of the Government Buildings at the new Brazilian capital, Brasilia, founded in 1960.

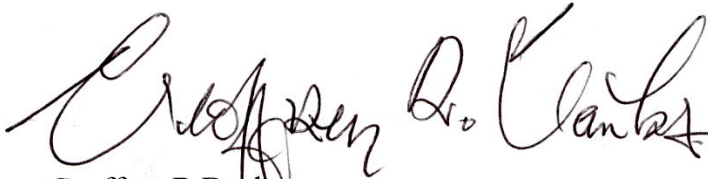
Apart from the Academy of Science Building in Canberra (Architect- Roy Grounds) the Synagogue Building remains I believe the only building of its type in NSW/ ACT and possibly Australia.

Finally I would request you carefully consider the matter of rezoning, for the reasons that the vaulted roofs are capable of large spans with minimum thickness of concrete, the building is a link with Seidler's early career and as summarised above, it represents, if somewhat indirectly, a significant association with three (3) of the most important modernist architects of the twentieth century.

I do hope you may consider this matter as, including the items set out above, the building is also listed on the Royal Australian Institute of Architects Register of "Significant Buildings of the Twentieth Century".

To lose this building is to lose something that may never be replaced, and it is hoped Council may establish a Heritage Conservation Order over the entire site.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Geoffrey R Danks', written in a cursive style.

Geoffrey R Danks  
B.Arch. (Hons), ARAIA, ARIBA. Dip. H & N P

17 January, 2023

Penelope Seidler AM + Polly Seidler

Level 5, 2 Glen St

Milsons Point NSW 2061

[Polly.personal@gmail.com](mailto:Polly.personal@gmail.com)

Tel 9922 1388

### **34 Flood St Bondi – application to rezone to residential use**

Dear Dept of Planning

I am Polly Seidler and I write also as holder of Power of Attorney for my architect mother Penelope Seidler AM. **My late father was the architect Harry Seidler AC OBE designed the building** that is on the site of 34-36 Flood St Bondi designed in 1958 and completed in 1961.

I ask that there be a public hearing into the rezoning.

The site should not be rezoned.

The building **should be heritage listed** both at local and state levels – **not demolished** for the owner's plans for residential use (as shown by Annexure B Future Development Scenarios).

The proposed residential use would be inconsistent with retaining the current building and upholding its heritage significance - both its technical and aesthetic significance.

### **ERRORS + clarifications IN THE SUBMITTED DOCUMENTS**

1. The building is known as 24-36 Flood St Bondi even though the street number 36 is out the front and the charity Our Big Kitchen Ltd (in basement level) and the jewish after school care and day camps run by Centre of Jewish Life Incorporated aka Jewish Education Matters ([jems.org.au](http://jems.org.au)) note their activities as being 36 Flood St -in reality they occupy the building of 34-36 Flood St.
2. Planning Ingenuity's claim (in its 220816\_cover letter (justifications) Pre Gateway Review) that the site has not been used as an educational establishment is not true.



The building dates to 1961 and was designed for and used by the Sydney Talmudical College (later named Yeshiva) an orthodox jewish school in the lower level – this was used until late 1980s until it relocated to the new south “Adler” building at 36A Flood St. And currently there is activity by a charitable group called “Jewish Education Matters. the upper level has always been used as a synagogue.

3. Harry Triguboff claims that “the current (religious, charity and educational) uses are protected” but there is no legal mechanism to protect such use without the planning zoning. Which is why the current zoning should remain to ensure these uses remain.
4. The current owner is the (non-profit) private ancillary fund known as the Harry Triguboff Foundation. The full name of the owner is Karimbla Properties (No 10) Pty Ltd acting as trustee for the Harry Triguboff Foundation (whose accounts on the ACNC charity register online) record as owning the asset called 34-36 Flood St Bondi. The owner foundation as a Private ancillary funds can only donate to DGR item 1 public charities.

As a non-profit entity, the foundation accounts shows it pays no land tax or income tax thus no capital gains tax would be paid if the land value increased and was then sold.

While Mr Triguboff speaks of being “a private property owner” (on Meriton letterhead) in his letter of 5 Sept 2022 to Waverley Council mayor– he obscures the fact that the owner is a private ancillary fund foundation which pays no land tax or capital gains tax like other “private property owners” who want to develop residential units.

Mr Triguboff’s claim (in his “Correspondence from Proponent to Council - 1 July 2022”) that the charity Our Big Kitchen Ltd would not survive without his foundation’s donations is contradicted by the particular charity’s data on the ACNC charity portal website saying 45.19% of its revenue comes from government and 8.56% from selling goods and services. ie only 46.25% comes from donations and bequests and there is no evidence that the Triguboff Foundation is the only donor to Our Big Kitchen charity. Even so, the foundation’s planner claims the foundation does provide the space gratis to Our Big Kitchen.

There is no evidence that Harry Triguboff’s Foundation is struggling to maintain its donations to Our Big Kitchen given the total annual donations the charity receives is less than 1/12<sup>th</sup> of the funds donated in total by the Triguboff foundation. And there is no evidence that the free licence to use the space is a burden for the Triguboff Foundation (which pays no land tax).

5. As for **the political donations disclosure**, the trustee company (Karimbla Properties (No 10) Pty Ltd ) two directors signing under seal - do not disclose that its third director is Harry Triguboff - and that the company is acting as trustee of a private ancillary fund foundation of Harry Triguboff who heads Meriton developments. Indeed - Mr Triguboff’s letter of 5 Sept 2022 to Waverley mayor calling himself as a “private property owner” so I think Triguboff (and his company Meriton) has a “financial interest in the planning application” or is a “person associated” with the application.

## HERITAGE

The planner's submissions ignores the heritage significance of the existing Harry Seidler designed building. This is the only religious building Harry Seidler ever designed. The later Seidler-designed Rookwood cemetery is not a building.

### Heritage Significance

The significant aspects of the building are the

1. Entry forecourt - both the barrel vault roof and the semi-circular drum surrounding downward stair and the side walls. (aesthetic value + designed by Harry Seidler)
2. Roof of 9 bays of long, cylindrical barrel vault shells.  
le interior spanning huge column free space.  
15.24m wide. The thickness of the semi-circular roof beams is only 3 inches thick  
And the structural frame that holds up the beams.

This barrel vault roof structure was the earliest design of its type and is the only one remaining in NSW.

(tecnological value + aesthetic value + designed by architect Harry Seidler AC OBE + engineer Alan Milston OAM of engineer firm P.O. Miller Milston and Ferris).

3. The north façade to see the play of shadow from the arched beams.

Rezoning the site to residential would be inconsistent with the architectural heritage wide spanned space which is designed for communal gathering and will be ruined if the space is chopped up into smaller suites. Indeed the *the Annexure B\_Future Development Scenarios- 34 Flood St Bondi - Karimbla Properties No. 10 PL* shows layout having demolished the significant Harry Seidler building.

Below are images to show the building on the site.

These images are subject to copyright and copyright must be cleared with me before any GIPA application reproduction.

**Photos: (b+w) Max Dupain (commissioned by architect Harry Seidler)**

**Colour photos by Harry Seidler.**

**Copyright Penelope Seidler**

**Year 1962**

**Architect Harry Seidler**

**Allowed for this pro-heritage submission/report only and is not to be reproduced without consent of Polly Seidler (at Harry Seidler & Associates, Milsons Point). any GIPA application requires prior copyright clearance of the images**



Entry forcourt today January 2022 by Polly Seidler

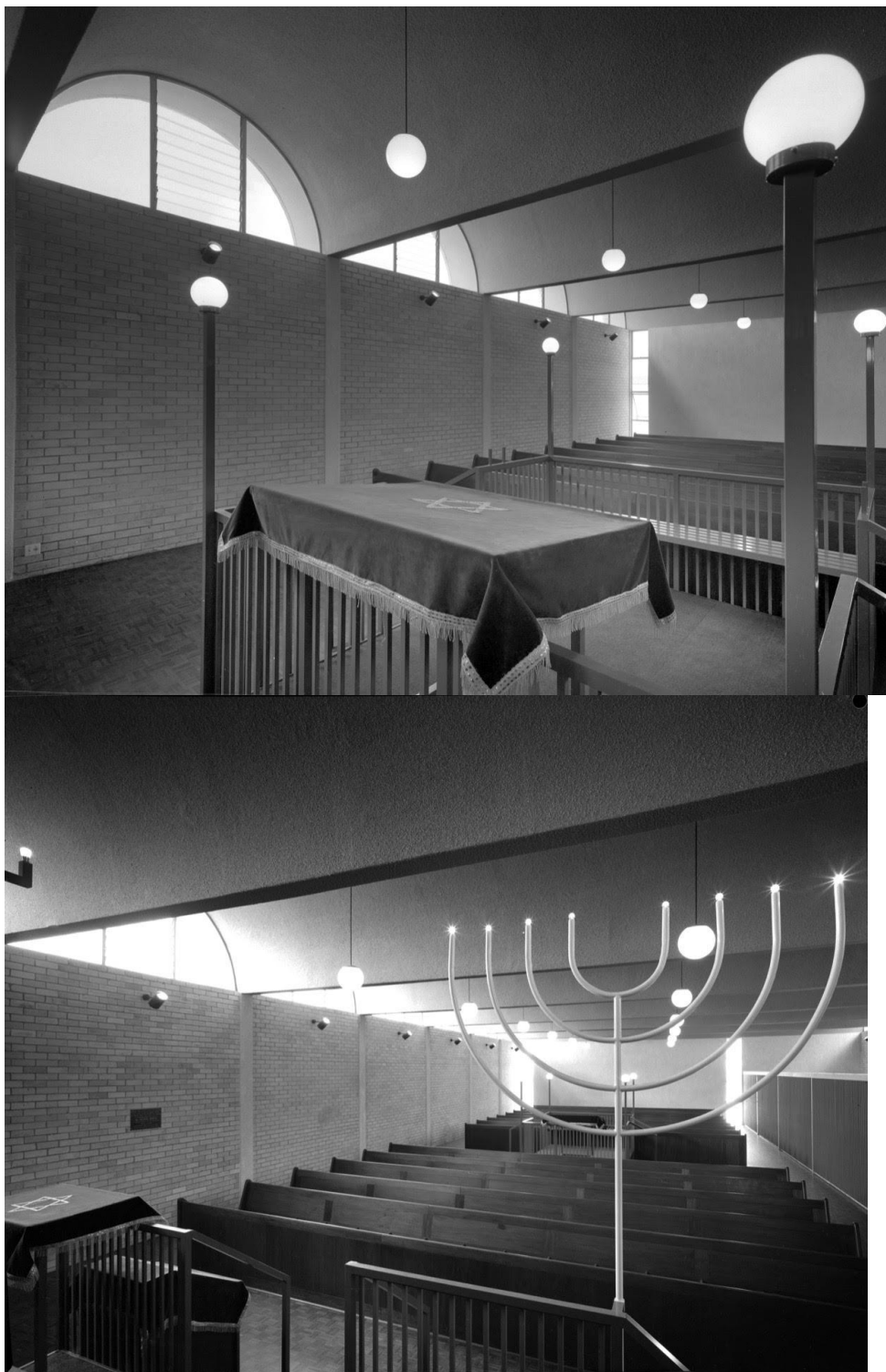


Photos of entry court – other than lose of blue paint the entry court is the same today.

Colour photos by Harry Seidler, 1962

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Images showing the circular barrel vaults with light coming from side. Interior furniture since changed. Photos by Max Dupain commissioned by Harry Seidler Copyright Penelope Seidler. May not be shared under GIPA without copyright clearance.





=circular barrel vaults with light coming from side. Interior furniture since changed.  
Colour image by Harry Seidler, 1962 Copyright Penelope Seidler.  
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Beams January 2022 by Polly Seidler



North façade shadows Polly Seidler 25 December 2022





Shadows on north façade. From roof arches.

Photo Max Dupain 1962 commissioned by architect Harry Seidler

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19<sup>th</sup> January 2023

The General Manager  
Ms. Emily Scott  
Waverley Council  
PO Box 21  
Hunters Hill, NSW 2110

**Via email:** [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au)

Dear Ms Scott,

**Re: Talmudical College, 34-36 Flood Street, Bondi**

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It has been brought to our attention that a rezoning application for the above site, previously rejected by Waverley Council on strategic planning grounds is now being assessed by the NSW Government.

The site contains the only religious building to be designed by the eminent Australian architect Harry Seidler. It dates from 1961 and is listed on the Institutes register of significant buildings (item 4702711). It is recorded as being an outstanding building of post war international style due to its unique multiple barrel vault shell concrete roof.

Whilst there is substantial information available in relation to the building it appears that no heritage assessment has ever been carried out and the buildings are not listed on the council's heritage register.

We therefore ask that council issue an interim heritage order for this site until a thorough and independent heritage assessment has been undertaken.

Sincerely

**Laura Cockburn**  
**NSW Chapter President**  
**Australian Institute of Architects**

*We respectfully acknowledge the Traditional Custodians of the lands on which we work and pay respect to their Elders past, present and emerging.*

**From:** [Jaime Hogan](#)  
**To:** [Emma Rogerson](#); [Anne McGoverne](#); [Timothy Williams](#); [Colin Brady](#); [Shima Niavarani](#)  
**Subject:** Fwd: [EXTERNAL]  
**Date:** Wednesday, 25 January 2023 6:54:19 AM  
**Attachments:** [1674560650700blob.jpg](#)

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FYI

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**From:** [REDACTED]  
**Sent:** Tuesday, January 24, 2023 11:08 pm  
**To:** Paula Masselos <Paula.Masselos@waverley.nsw.gov.au>; Sally Betts <Sally.Betts@waverley.nsw.gov.au>; vaocluse@parliament.nsw.gov.au <vaocluse@parliament.nsw.gov.au>; brianna.cheeseman@planning.nsw.gov.au <brianna.cheeseman@planning.nsw.gov.au>; Jaime Hogan <Jaime.Hogan@waverley.nsw.gov.au>; Shima Niavarani <shima.niavarani@waverley.nsw.gov.au>  
**Cc:** matthewl@meriton.com.au <matthewl@meriton.com.au>  
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Thankyou to those who support the middle and lower class of the Jewish community who will be most affected by the demolition of communal zoned land to make way for residential units.

The loss of the synagogue at 36 Flood Street would be a great loss to the community.

It was built by Holocaust survivors. I used to attend that synagogue as a boy and I still remember the faces of those who lost everything and came to these shores to rebuild their lives. My dad who is a child Holocaust survivor would speak to these men in Hungarian. They will never be forgotten. One of them cried one Sabbath to my dad. I will never forgot that. Never. Let a million Meritons be built there I will remember. Many of them died childless. Some of the women had gone through Mengeles experiments. I will remember them. That site is a shrine to their memories. Mr Triguboff placed management in that facility. Why should the community suffer for management.

Mr Triguboff is not stuck with communal land. He can sell it at community infrastructure prices. Let the community buy it.

Thankyou to those who have the decency and humanity to protect and preserve communal infrastructure at a time that the masses are facing increased cost of living.

Thankyou to those who stand up to threats.

Other  
220811 Meriton Letter to Planning Panel

which would ensure the current uses are protected as being permissible with consent but provide opportunities for a greater diversification of uses that are not permitted under the current zoning (including child-minding services or other uses), but should something happen in the future, allows for a residential development like everything around it.

**MERITON GROUP**

Level 11 Meriton Tower  
528 Kent Street, Sydney NSW 2000  
Tel (02) 9287 2888  
Fax (02) 9287 2777  
[meriton.com.au](http://meriton.com.au)

This correct zoning means that I can continue to fund the Yeshiva Complex with confidence. Otherwise, if the wrong zoning stays, it would encourage me to stop giving money so it stops and then get the correct zoning.

The correct zoning will ensure that we can continue the good work of the current uses but have certainty of future uses that are compatible with the surrounding area.

Please let me know how this can be done and please contact Matthew of my office should you require anything further on 0478 473 297.

Kind regards,  
**MERITON GROUP**

