



**W A V E R L E Y**  
COUNCIL

## **COUNCIL MEETING**

## **URGENT BUSINESS**

**7.00 PM, TUESDAY 19 MARCH 2024**

Waverley Council  
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**URGENT BUSINESS**

**10. Reports**

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**REPORT**  
**CM/10.1/24.03**

**Subject:** Planning Proposal - 34 Flood Street, Bondi - Heritage Listing

**TRIM No:** PP-1/2023

**Manager:** George Bramis, Executive Manager, Urban Planning

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

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**RECOMMENDATION:**

That Council:

1. Writes to the NSW Minister for Planning and Public Spaces, Paul Scully, and the Minister for Heritage and Environment, Penny Sharpe, seeking a second Interim Heritage Order (IHO) to delay the finalisation of planning proposal 2023-1224 so that the ongoing State Heritage Register (SHR) assessment process for the Harry-Seidler-designed synagogue at 34 Flood Street, Bondi, can be properly completed before the Department of Planning, Housing and Infrastructure (DPHI) finalises its decision on the local heritage listing of 34 Flood Street based on the Independent Planning Commission's (IPC) recommendation attached to the report.
2. Publishes a media release, e-newsletter post and social media posts to inform the community and the synagogue's heritage advocates of the IPC's recommendation, the likely next steps and the options available to the community to advocate further for the heritage listing of the site.

**1. Executive Summary**

The Independent Planning Commission (IPC) has recommended to the Department of Planning, Housing and Infrastructure (DPHI) that the Harry-Seidler-designed synagogue at 34 Flood Street, Bondi, should not be heritage listed as a local heritage item in the *Waverley Local Environmental Plan (WLEP) 2012* in its Advice Report dated 13 March 2024 (Attachment 1).

The IPC's recommendation is highly concerning as Council (informed by the findings of an independent heritage expert) has found that the site does meet numerous categories of heritage significance under the Heritage NSW Guideline, rendering the site worthy of heritage listing. There was also an overwhelmingly positive community and industry response received during the August and September 2023 public exhibition period, with 41 of 48 submissions strongly supporting the listing.

If DPHI agrees with the IPC's recommendation and does not list the site as a local heritage item, the Harry-Seidler-designed synagogue is at risk of demolition under complying development legislation. Council's Interim Heritage Order (IHO) on the site is no longer in valid, having a one-year time limit which expired in early February. Council is not able to seek a second IHO, but can apply to the Minister for another IHO to allow the SHR assessment process to be completed.

Currently, there is a very brief window of opportunity for both Council and the community to advocate to DPHI on this matter, raising concerns regarding IPC's Advice Report and reiterating the heritage merits of the site. DPHI has until 5 April 2024 to make their final decision; however, they may determine the planning proposal before this deadline, leaving the synagogue at risk of demolition.

## 2. Introduction/Background

34 Flood Street, Bondi, contains a building currently used as a synagogue closer to the Flood Street frontage, and a detached structure ancillary to the synagogue closer to the Anglesea Street frontage.

A recent heritage assessment commissioned in response to a Council resolution has found that the building fronting Flood Street at 34 Flood Street meets the following Heritage NSW categories of heritage significance, rendering the site worthy of listing as a local heritage Item in the WLEP.

- *Criterion (a) An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)*
- *Criterion (b) An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)*
- *Criterion (c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or in local area)*
- *Criterion (d) An item has strong or special association with a particular community or cultural group in NSW (or local area) for social, cultural or spiritual reasons*
- *Criterion (e) An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)*
- *Criterion (f) An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)*
- *Criterion (g) An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or environments (or a class of the local area's cultural or natural places or environments)*

The following Statement of Significance for 34 Flood Street was prepared:

*The building fronting Flood Street at 34 Flood Street, Bondi is significant as [it is]:*

- *A seminal work in the development of the civic and sculptural concrete architecture of the pre-eminent Australian Modern architect Harry Seidler, displaying the application of Bauhaus principles for which he is known.*
- *The largest and best example of thin concrete shell technology of the 1950s in NSW.*
- *One of the most architecturally distinguished religious chambers of the immediate post-war period in New South Wales and one of the finest synagogues of the period.*
- *A historically important place in the development of Jewish religion in New South Wales in the post-war migration period and the first Talmudical school with integral synagogue.*
- *Highly representative of the history of post-war migration in New South Wales, behind the establishment of a new religious building and educational institution by a migrant community.*
- *A place held in high esteem by the Jewish community of Waverley and broader afield.*

Subsequently, Council lodged a planning proposal with DPHI seeking to heritage list the site by making changes to the WLEP as per Table 1 and Figure 1 in June 2023.

Subsequent to the finalisation of the Statement of Significance (above), Hector Abrahams Architects (HAA) has been made aware that the Canberra Bowling Club has been demolished. This means that the Talmudical School and Synagogue is now the earliest surviving civic building by Harry Seidler.

Table 1. Summary of proposed changes to the WLEP2012.

WLEP 2012 Provision	Existing	Proposed
Heritage map	34 Flood Street, Bondi is not shown as a Heritage Item on the Heritage Map	34 Flood Street, Bondi is to be shown as a local Heritage Item on the Heritage Map. Refer to Figures 1 and 2.
Schedule 5, part 1 Heritage Items	34 Flood Street, Bondi is not listed in schedule 5 part 1 as a Heritage Item	34 Flood Street, Bondi is to be listed in schedule 5 part 1 as a Heritage Item



Figure 1. Proposed change to Heritage Map (WLEP 2012, Heritage Map - Sheet HER\_004A , showing 34 Flood Street as a Heritage Item).

DPHI granted permission for the planning proposal to proceed to public exhibition with a Gateway determination dated 2 August 2023.

Public exhibition was held for six weeks in August and September 2023, with 41 of 48 submissions supporting the local heritage listing.

The exhibition results were reported back to Council in November 2023, at a Strategic Planning and Development Committee meeting where Council unanimously resolved to support the planning proposal being sent back to DPHI with a recommendation to proceed with the listing.

Before making their final determination, DPHI referred the planning proposal to the IPC for advice in February 2023.

The Independent Planning Commission (IPC) is a body that was established under the NSW Environmental Planning and Assessment Act 1979 (EP&A Act) on 1 March 2018. It performs the following key functions under the Act:

- Provide independent expert advice on any planning matter, when requested by the Minister of Planning and Public Spaces or the Planning Secretary.
- Determine State significant development applications in certain circumstances.
- Conduct public hearings for development applications and other planning and development matters.

Regarding the 34 Flood Street planning proposal, the IPC was requested to provide independent expert advice on the local heritage listing of the site. Attachment 1 contains the IPC's Advice Report, which resolves to not support the listing despite strong Council and community support for the listing.

DPHI is now considering IPC's advice and must make its final decision on whether to list 34 Flood Street as a local heritage item or not before 5 April 2024.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 7 November 2023	PD/5.2/23.11	That Council: <ol style="list-style-type: none"> <li>1. Forwards the planning proposal attached to the report (Attachment 1) to list 34 Flood Street, Bondi (Lot 1 DP 1094020), as a local heritage item in the <i>Waverley Local Environmental Plan 2012</i> (WLEP), subject to officers considering the emails and attachments referred to in the representations from members of the public, and the submissions received during public exhibition, to the Department of Planning and Environment (DPE) with a recommendation to proceed to finalisation and gazettal.</li> <li>2. Requests the DPE to exercise the delegations issued by the Minister under section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i> to amend the WLEP.</li> <li>3. Notifies the owner of 34 Flood Street of Council's decision.</li> </ol>
Strategic Planning and Development Committee 6 June 2023	PD/5.2/23.06	That Council: <ol style="list-style-type: none"> <li>1. Forwards the planning proposal seeking to list 34–36 Flood Street, Bondi (Lot 1 DP 1094020), as a local Heritage Item in the <i>Waverley Local Environmental Plan 2012</i> (LEP) to the Department of Planning and Environment (DPE) for Gateway determination for the purposes of public exhibition.</li> <li>2. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination</li> </ol>

		<p>that may be issued by the DPE.</p> <ol style="list-style-type: none"> <li>3. Requests and accepts, if offered, the role of the planning proposal authority from the DPE to exercise the delegations issued by the Minister under section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the making of the amendment.</li> <li>4. Submits an application to NSW Heritage to nominate 34–36 Flood Street for State Heritage Item listing on the State Heritage Register.</li> <li>5. Writes to the NSW Minister for Heritage seeking support to urgently process Council’s application for State Heritage Listing of 34–36 Flood Street.</li> <li>6. Writes to the NSW Minister for Planning and Public Spaces in respect of the rezoning of 34–36 Flood Street from SP2 Infrastructure to R3 Medium Density Residential, seeking an urgent meeting for the Mayor and senior Council officers to request that: <ol style="list-style-type: none"> <li>(a) The rezoning be refused by the Department of Planning and Environment, or</li> <li>(b) Should the Minister or his delegate decide to finalise the rezoning, the LEP amendment includes a site-specific provision to protect the existing community/educational/religious facilities at basement and ground levels as per the advice of the Sydney Eastern City Planning Panel and in consultation with Council officers.</li> </ol> </li> </ol>
<p>Strategic Planning and Development Committee 7 February 2023</p>	<p>PD/5.1/23.02</p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Notes that on 5 July 2022, Council refused a spot rezoning request for 34-36 Flood Street, Bondi to rezone the site from SP2 Infrastructure to R3 Medium Density Residential.</li> <li>2. Notes that the NSW Department of Planning and Environment provided provisional Gateway approval for the spot rezoning of the site, in spite of Council’s refusal.</li> <li>3. 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, subject to the following amendment: <ol style="list-style-type: none"> <li>(a) Page 25 of the agenda – Amend the statement of significance to read as per the statement on page 38 of the agenda, incorporating the</li> </ol> </li> </ol>

		<p style="text-align: center;">amendment in clause 4 below.</p> <p>4. Lodges the interim heritage order attached to the report (Attachment 2) for 34–36 Flood Street with Heritage NSW, subject to the following amendment:</p> <p>(a) Page 38 of the agenda, paragraph 6 of the statement of significance – Amend to read as follows:</p> <p style="padding-left: 40px;">‘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, should the use of the buildings change in the future and the security blast wall not be required.’</p> <p>5. Engages an independent heritage expert to undertake a heritage assessment of the site’s synagogue, which was designed by Harry Seidler.</p> <p>6. 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.</p> <p>7. Officers note the information presented by Emeritus Professor James Weirick in his address to the meeting in the report referred to in clause 6 above.</p>
<p>Strategic Planning and Development Committee 5 July 2022</p>	<p>PD/5.1/22.07</p>	<p>That Council:</p> <p>1. Does not support the planning proposal set out in the report to amend the <i>Waverley Local Environmental Plan 2012</i> in respect of 34–36 Flood Street, Bondi, Lot 1 DP 1094020, as the proposal lacks strategic merit and involves a change in Council's long-established policy in relation to SP2 Infrastructure Zones.</p> <p>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.</p>

## 4. Discussion

### Issues with the IPC Advice Report

Serious concerns have been identified with IPC's Advice Report, which are expected to jeopardise the likelihood of DPHI deciding to list 34 Flood Street as a heritage item. The key issues are detailed as follows:

- Paragraph 7 on page 2 and paragraph 60 on page 18 suggests that the site cannot be listed unless repairing the vaulted roof can be shown to be economically and physically feasible. The report continues to suggest that even if the repair works were undertaken, the impact of the upgrades would leave the building without any heritage fabric worth listing. This opinion has been founded on the advice of a structural report commissioned by the applicant, which has not been peer reviewed or independently verified. It also conflicts with the advice of independent heritage expert, Hector Abrahams, who inspected the building in person and has stated in his assessment that repairs to the vaulted roof are possible and will not detract from the heritage significance of the roof and wider site. It is noted that the structural report of 2023, commissioned by the owner, states that the roof is not repairable, but this should be verified independently before it can be used to justify refusal to heritage list the building. It is noted that the building remains occupied and is therefore safe. Advice provided by HAA and DOCOMOMO during the assessment process was that the changes to the front of the building are reversible, and changes to finishes and liturgical layout do not impinge on its key architectural merit—contrary to the assessment of the Commissioner that the building is too far changed.
- Paragraph 29 on page 11 states that 'the listing of an item as a local heritage item can impact on the prioritisation of the State Heritage assessment work plan, as it can be considered to have a lower level of threat if it is listed on a LEP'. Heritage NSW's workplan is not a consideration for locally listing a site.
- Paragraph 46 on page 16 raises that there are 13 other places of Jewish worship in Waverley and that only 16% of the local government area is Jewish. This incorrectly surmises that all people who identify as Jewish on the ABS Census are of the same sect and will feel the same connection to and value for a synagogue of any type.
- Paragraph 62 on page 18 suggests that heritage would still be a consideration for any future DA on the site even if it remains unlisted. This is incorrect, as the DA team cannot raise heritage as a consideration for a site that is not an item or in a heritage conservation area as they would have no legislative grounds to do so.
- Paragraph 64 on page 18 recognises that the association with Seidler and the local Jewish community does provide the site with heritage value. As only one heritage criterion needs to be met to make the item suitable for local listing, the IPC should therefore still support the synagogue for listing on association and historical grounds, despite their opinions on the value of the vaulted roof.

### State Heritage listing

34 Flood Street was found to meet criteria for both local and state heritage listing by Council's independent heritage assessment. In July 2023, Council submitted an application to Heritage NSW to nominate 34 Flood Street for listing on the State Heritage Register. In August 2023, the Heritage Council advised Council that the State Heritage Register Committee (SHRC) considers that the Seidler Synagogue on Flood Street may be of heritage significance at a State level and will progress to full assessment for listing on the State Heritage Register.

The Heritage Council will continue their assessment of the site as a possible State Heritage item regardless of the outcome of the local listing. However, recent correspondence from Heritage NSW has indicated that the assessment is unlikely to be completed until 30 June 2025. Council officers have asked that this timeline be expedited in light of the IPC report.

If Council's planning proposal does not receive support from DPHI, the site will have no protection while the Heritage Council assesses it for possible listing on the SHR, leaving it at risk of significant alteration or complete demolition because Council's IHO is no longer active.

### **Next steps and further advocacy**

If DPHI agrees with the IPC's recommendation and does not list the site as a local heritage item, the Harry-Seidler-designed synagogue is at risk of demolition. There is still opportunity for Council and the community to advocate for the heritage listing of 34 Flood Street between now and the time of DPHI making their final determination (which must be made at the latest by 5 April 2024).

This could include:

- Contacting the NSW Minister for Planning and Public Spaces, Paul Scully, and the Minister for Heritage and Environment, Penny Sharpe, seeking urgent intervention in the finalisation of PP-2023-1224 relating to the local heritage listing of 34 Flood Street and urging the Minister/s to place a second IHO on the site until the SHR assessment process is completed.
- Writing to DPHI to highlight the issues with the IPC recommendation and reiterate the heritage merits of the site.
- Writing to the Jewish Board of Deputies seeking their support for the heritage listing of the synagogue and their advocacy with State Government ministers.
- Seeking further support from the Australian Institute of Architects and DOCOMOMO in advocating for the synagogue's future and conservation.
- A social media campaign requesting interested members of the wider community to contact the State Ministers expressing their concern for the synagogue's future. Council officers can provide wording that might assist the public in advocating for the building based on the independently assessed heritage significance.
- Writing to the Heritage Council expressing concern about the IPC's failure to recommend local heritage listing and the anomalies in its report related to the established grounds for listing items with identified heritage significance.
- Press releases to media who have covered this heritage process, spelling out Council's concerns about the synagogue's future and the IPC report's findings.
- Seeking the independent opinion of Professor Philip Goad on the synagogue's significance, to be given to the Heritage Council independently of Council review or input. Professor Goad is internationally known as an authority on modern Australian architecture. He has worked extensively as an architect, conservation consultant and curator and is currently serving as Professor of Architecture in the Faculty of Architecture, Building and Planning at the University of Melbourne. He is a former president of the Victorian Chapter of the Royal Australian Institute of Architects.

## Community engagement

Further community engagement is proposed under this report to inform the community of IPC's recommendation, outline next steps and detail what further advocacy can be done to support the heritage listing of 34 Flood Street. This engagement may include but not be limited to a media release on Council's website and a feature in Council's e-newsletters and social media platforms.

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

#### Financial impact

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with the administration and assessment of the planning proposal, and the fees associated with the heritage assessment by Hector Abrahams Architects (HAA), which has informed the WLEP amendment. HAA also attended the IPC hearing at Council's request and has provided ongoing advice on this process.

#### Time frame

In order to comply with the time frames provided in the Gateway determination for this planning proposal, DPPI must make its final decision before 5 April 2024. If the listing is approved, the proposed change would come into effect shortly after the date of determination.

#### Consultation

Consultation during a six-week public exhibition period between August and September 2023 revealed strong support for the local listing from:

- Local community members including both Jewish and non-Jewish-identifying persons.
- The North Bondi and Bondi Beach Precincts.
- Numerous architects including the Australian Institute of Architects, architectural scholars (adjunct Professor James Weirick), and architectural and construction historians including DOCOMOMO and the Head of the School of Architecture at the University of Technology Sydney (UTS).

Forty-one out of the 48 submissions received were in strong support of the listing.

Further community engagement is proposed under this report, to inform the community of IPC's recommendation, outline next steps and detail what further advocacy can be done to support the heritage listing of 34 Flood Street.

### 6. Conclusion

The building that fronts Flood Street at 34 Flood Street, Bondi, has been found by Council's independent heritage assessment to meet the criteria for listing as a local Heritage Item in the *Waverley Local Environmental Plan 2012* and as a State Heritage item in the State Heritage Register.

It is recommended that further action is taken to advocate for the listing of the site as a local heritage item, given the issues found with the Independent Planning Commission's Advice Report which recommends to not support the listing.

### 7. Attachments

1. IPC - 34 Flood Street, Bondi - Advice on Local Heritage Listing - 13 March 2024 [↓](#) .



**New South Wales Government**  
Independent Planning Commission

ipon.nsw.gov.au

# 34 Flood Street, Bondi Advice on local heritage listing (PP-2023-1224)

## Advice Report

Terry Bailey (Chair)

13 March 2024



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**New South Wales Government**  
Independent Planning Commission

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## Executive Summary

In February 2024, the Independent Planning Commission was requested to provide advice to the Department of Planning, Housing and Infrastructure on whether to finalise a Planning Proposal for the local heritage listing for 34 Flood Street Bondi in the Waverley Local Government Area. The Site includes a synagogue designed by prominent Austrian-Australian architect Harry Seidler AC OBE (1923-2006) and ancillary buildings, and was recently rezoned to allow for medium density residential development.

In preparing its advice the Commission has considered relevant heritage criteria and thresholds, the impact of later building works on the original fabric and integrity of the building, prior regard for the heritage value of the Site and contemporary advice from heritage experts engaged by both Council and the landowner.

The Commission provided opportunity for Council (which supports the heritage listing) and the landowner (who opposes the listing) to present their view on the proposal in transcribed stakeholder meetings and written responses. The Commission also considered the 48 submissions received by Council in its public exhibition of the Planning Proposal.

As a Seidler design – and his only religious building – the heritage value of the site has been periodically considered over time by multiple authorities, but this has not previously led to recommendations for either State or local listing, nor has it precluded significant alterations and additions to the site. The rezoning of the site for residential development appears to be the catalyst for the Planning Proposal and a consideration in the NSW State Heritage Register Committee's decision to undertake a full assessment of the site for potential State heritage listing within the next 18 months.

The Commission acknowledges the history of the site and recognises its remaining heritage value, most specifically with respect to the technical and architectural feature of its thin concrete shell roof, as well as its association with Seidler and the local Jewish community.

However, the heritage significance of the synagogue has been compromised over an extended period through alterations and additions to the building that have a significant degree of intrusiveness on the original fabric. These include concrete rendering of the exterior brick, cladding or demolition of building elements, the removal of original glazing, interiors and interior layouts, and the loss of visual access to a side façade showing the vaulted roof line and loss of the front streetscape. Although a level of intrusiveness over time, where a building retains active function, is not uncommon in items with heritage value, in this case the reversibility of the changes is not considered to be practical.

The thin concrete shell vaulted roof of the synagogue is the remaining (and most prominent) largely intact item of heritage value. However, the condition of the roof has deteriorated, and ongoing maintenance and remedial measures would be required to retain the item. A local listing would not – on its own – require such management arrangements to be implemented. Any such listing would also require further information to satisfactorily confirm that there are reasonable prospects of enhancing the current condition and/or restoring the site at a feasible cost. No such evidence is before the Commission.

The Commission notes that there is a pathway for sensitive development of the site subject to consideration of heritage values through the planning approval process by the relevant consent authority. In the Commission's view, the Planning Proposal to list the subject site as an item of local heritage significance in the WLEP2012 should not be finalised at this time.

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# 1. Introduction

1. On 7 February 2024, the NSW Independent Planning Commission (Commission) took receipt of a referral from the NSW Department of Planning, Housing and Infrastructure (Department) requesting advice pursuant to section 2.9(1)(c) of the Environmental Planning and Assessment Act 1979 (EP&A Act) in relation to a planning proposal and gateway determination for the local heritage listing of 34 Flood Street, Bondi (the Site), within the Waverley Local Government Area (LGA).
2. The Site includes a synagogue designed by prominent Austrian-Australian architect Harry Seidler AC OBE (1923-2006) that was constructed between 1959 and 1961 with a distinct roof form of repeating thin shell concrete vaults. The synagogue is the only religious building by Seidler. It currently adjoins another building, most recently used as an educational establishment known as Yeshiva College. The synagogue building has been subject to numerous alterations and additions over time and the interior of the building is considered to be significantly altered.
3. The Site was previously zoned SP2 Educational Establishment but is now zoned R3 Medium Density Residential, after a rezoning Planning Proposal was approved in 2022 (PP-2022-676). Its primary current use is as a synagogue, as well as providing space for a Community Outreach Program, an out of school hours care program and several other religious learning and ancillary uses.
4. Waverley Council (Council) submitted the subject Planning Proposal (PP-2023-1224) and considers the Site to be of both local and State heritage significance. The landowner (Karimbla Properties Pty Ltd (Meriton Group), a trustee of the Harry Triguboff Foundation) does not consider the Site to be of either local or State significance. Both parties have undertaken expert heritage assessments of the Site that support their conclusions.
5. In preparing this advice, the Commission has taken the relevant criteria and thresholds for assessing local heritage significance of places to be those developed by the Heritage Council of NSW and set out in the Department of Planning and Environment's 2023 *Assessing heritage significance guidelines*. The Commission has considered the relevant heritage criteria and thresholds, the intrusiveness and reversibility of later works on the original fabric and architectural integrity, its observations at the site inspection, prior regard for the heritage values of the Site by Council, and the heritage experts' assessments.

## 1.1 Scope of request for advice

6. The Department's request for advice sought the following from the Commission:
  - a review of the final planning proposal and supporting documentation;
  - provision of the opportunity for Council and the landowners to present their view on the proposal;
  - consideration of the submissions received by Council during the public exhibition period; and
  - provision of advice, including a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the planning proposal to list the subject site as an item of local heritage significance in the WLEP2012 should be finalised (with or without amendment) and whether any further information is required.

7. Professor Mary O’Kane AC, Chair of the Commission, determined that Terry Bailey (Panel Chair) would constitute the Commission Panel for the purpose of exercising its functions with respect to this request.

## 2. Planning Proposal

### 2.1 Site and Locality

8. The Site is located at 34 Flood Street, Bondi (part of Lot 1 DP 1094020), approximately 5km south-east of Sydney CBD and approximately 1.5km west of Bondi town centre.
9. The Site is currently operating as a synagogue (closer to the Flood Street frontage) with a detached ancillary structure (closer to the Anglesea Street frontage). The adjoining site to the south at 36A Flood Street is currently used as an educational establishment known as the Yeshiva College. To the south the Site also adjoins a dwelling house (57 Anglesea Street) and to the north is a multi-storey seniors housing development (24-32 Flood Street) which shares vehicle access with the Site.

### 2.2 Background

10. Prior to the subject Planning Proposal:
- Council conducted an LGA-wide heritage assessment in 2020 that did not feature the site as a candidate for local heritage listing among 750 other sites that were identified.
  - The landowner lodged a Planning Proposal (PP-2022-676) to Council on 9 March 2022 seeking to change the zoning of the Site from SP2 Educational Establishment to R3 Medium Density Residential. Council’s Strategic Planning and Development Committee (SPDC) resolved not to support the rezoning and in August 2022 the landowner lodged a rezoning review. On 13 October 2022, the Sydney Eastern Planning Panel considered the rezoning review and recommended the proposal be submitted for Gateway. On 18 November 2022, the Gateway determination for PP-2022-676 was issued and on 28 July 2023 the LEP was made to rezone the Site.
  - On 10 February 2023 Council lodged an Interim Heritage Order (IHO) for the Site. It was valid for 12 months and expired on 10 February 2024.
  - On 29 June 2023 Council submitted a State Heritage Register nomination for the Site. This was considered by the State Heritage Register Committee on 1 August 2023, which resolved to progress the nomination to full assessment. At the time of writing the full assessment had not yet commenced and a determination of State Heritage significance had not been made.
11. On 8 June 2023 Council submitted the subject Planning Proposal (PP-2023-1224) to the Department for Gateway assessment. As delegate of the Minister for Planning and Public Spaces (Minister), on 2 August 2023 the Department issued a Gateway Determination (the **Gateway Determination**) that the subject Planning Proposal should proceed subject to conditions, including public exhibition and consultation with the landowner. The Gateway determination did not authorise Council to exercise the functions of local plan making authority.
12. After consultation with the landowner on 24 October 2023, Council’s Strategic Planning and Development Committee (**SPDC**) on 7 November 2023 resolved to forward the

- Planning Proposal to the Department with a recommendation to proceed to finalisation and gazettal.
13. On 16 November 2023, Waverley Council (**Council**) submitted the subject Planning Proposal to the Department for finalisation, with additional information submitted on 5 December 2023.

## 2.3 Planning Proposal

14. The subject Planning Proposal seeks to list the Site at 34 Flood Street, Bondi as a local heritage item under the WLEP 2012 by amending Schedule 5, Part 1 of the WLEP 2012 and the Heritage Map of WLEP 2012 to identify the Site as a local heritage item as per Table 1.

*Table 1 – Summary of Planning Proposal proposed changes to WLEP 2012*

WLEP 2012 Provision	Existing	Proposed amendment
<b>Heritage Map</b>	34 Flood Street, Bondi is not shown as a Heritage Item	34 Flood Street, Bondi is to be shown as a local Heritage Item
<b>Schedule 5 Part 1 Heritage Items</b>	34 Flood Street, Bondi is not listed in Schedule 5 Part as a Heritage Item	34 Flood Street, Bondi is to be listed as a local Heritage Item, with Lot 1 DP 1094020 referenced and a written description of 'Harry Seidler designed Synagogue building, interiors and exteriors'.

15. The subject Planning Proposal was informed by a detailed Heritage Assessment of 34 Flood Street prepared by Hector Abrahams, of Hector Abrahams Architects, in May 2023. This assessment concluded that the synagogue building has heritage significance rendering it worthy of local heritage listing under the WLEP 2012 and state heritage listing in the NSW State Heritage Register.
16. The landowner subsequently made submissions to the Department to object to the Planning Proposal.

## 3. The Commission's process

### 3.1 Material considered

17. In undertaking its review and preparing advice, the Commission has considered the following material (**Material**):
- the Department's case referral documentation including:
    - Request for advice letter dated 31 January 2024;
    - Attachment A1 – 34 Flood Street, Bondi Heritage Listing Planning Proposal dated 20 June 2023;
    - Attachment A2 – Local Inventory Form
    - Attachment A3 – Council's Heritage Advice prepared by Hector Abrahams Architects dated 15 November 2023;

- Attachment A4 – Community Submissions;
- Attachment A5 – Landowner Submission dated 14 September 2023, Landowner Heritage Advice prepared by Weir Phillips Heritage and Planning dated September 2023 and Landowner Heritage Advice prepared by Extent Heritage dated 13 September 2023;
- Attachment A6 – Waverley Council SPDC Meeting Agenda 7 November 2023;
- Attachment A7 – Waverley Council SPDC Meeting Minutes 7 November 2023;
- Landowner Submission to Council dated 14 September 2023;
- Letter from Managing Director, Meriton Group to Council dated 15 November 2023;
- Letter from General Counsel, Meriton Group to Council dated 27 October 2023;
- Letter from General Counsel, Meriton Group to Department dated 15 November 2023;
- Letter from Department to Meriton Group dated 31 January 2024;
- Letter from Department to Council dated 31 January 2024;
- Letter from Department to NSW Heritage dated 31 January 2024;
- Letter from Managing Director, Meriton Group to Waverley Council General Manager dated 23 August 2023;
- Letter from Council to landowner dated 4 August 2023;
- 34, 36 and 36a Flood Street, Bondi NSW Planning Report dated 7 August 2023;
- the Department’s correspondence to the Commission dated 16 February 2024.
- comments and presentation material at meetings with the Department, landowner, Waverley Council and Heritage NSW, as referenced in Table 2 below;
- Council’s submission to the Commission dated 27 February 2024;
- Councillor WY Kanak’s submission to the Commission dated 28 February 2024;
- the landowner’s submission to the Commission dated 28 February 2024;
- Heritage NSW’s submission to the Commission dated 29 February 2024 and correspondence dated 8 March 2024;
- Heritage NSW’s *Assessing heritage significance guideline* (Department of Planning and Environment, 2023).

### 3.2 Meetings

18. The Commission provided opportunities for Council and the landowner to present their views on the proposal, through stakeholder meetings and follow up questions in writing. As part of its process, the Commission met with the stakeholders set out in Table 2. All meeting transcripts and site inspection notes are available on the Commission’s website.

*Table 2 – Commission’s meetings*

Meeting	Date	Transcript/notes available on
Department	15 February 2024	21 February 2024
Landowner	20 February 2024	27 February 2024
Council	20 February 2024	27 February 2024
Heritage NSW	21 February 2024	27 February 2024
Site inspection	20 February 2024	26 February 2024

### 3.3 Heritage assessments of the Site to date

#### *Assessing heritage*

19. The *Assessing Heritage Significance Guideline* provides guidance on the different levels of significance from local to international. The threshold for local significance is that the listing recognises the place has significance to a local area and/or community. The threshold for State significant is that the listing recognises a place or object as significant for all of NSW and is assessed and recommended by the Heritage Council of NSW.
20. The guideline includes nine steps to assess significance; summarising what is known, describing its evolution; conducting a comparative analysis, assessing against the criteria, considering the integrity and condition, determining the level of heritage significance, preparing a statement of significance, seeking feedback and writing up the information. The steps most relevant to the Commission's advice and consideration of the Materials are assessing against the criteria (Step 4) and considering the integrity and condition (Step 5).
21. Step 4 sets out seven (7) criteria for determining heritage significance, with differing thresholds for meeting state or local significance (see Table 3). Step 5 assesses the current integrity, condition and authenticity of the place or object as impacted by alterations, additions, their level of intrusiveness, their reversibility and the current context of the item.

#### *Listing heritage*

22. Local and State heritage listings are intended to provide protection and ensure conservation of items with heritage value, however they have different consequences for listed sites. A local listing, in and of itself, does not provide any immediate tools for the management of the listed site except through any future development application affecting the site. A State listing, on the other hand, can – among other matters – provide for proactive requirements on the owners of listed sites to maintain minimum standards of maintenance and repair.
23. The assessment of heritage significance in response to a perceived threat is considered to be an appropriate catalyst for heritage listings.
24. In its submissions to the Department, the landowner stated that there is no immediate threat of the Site being developed, noting, however that they wished to retain the ability to change the use of the rezoned Site in the future.
25. In its meeting with the Commission, Council noted that the rezoning from SP2 to R3 zoning is a clear indication of plans for the Site's development. Concern about this threat to the Site was also reflected in the record of the State Heritage Register Committee's consideration of the preliminary assessment of the Site.

#### **3.3.1 Expert assessments against the criteria**

26. The Site was assessed against the heritage criteria by Hector Abrahams Architects for Council and the landowner's heritage experts (Extent Heritage and Weir Phillips Heritage and Planning). The findings of these assessments are summarised overleaf.

Table 3 Overview of expert heritage assessments

Criteria	Summary of assessments
<p><b>Criterion (a)</b>  <b>An item is locally significant if it is important in the course, or pattern, of the cultural or natural history of the local area</b></p>	<p>Council's expert Hector Abrahams states that the item is important to the history of the Waverley area as it was one of seven areas of Sydney where new synagogues were built and signifies the start of a significant Jewish community in Waverley.</p> <p>One of the landowner's experts, Extent Heritage states that there is no evidence of why the period cited represents a distinct period of synagogue construction, and the other, Weir Phillips, states that the Site has no more significance to the Jewish community than any other synagogue in the area.</p>
<p><b>Criterion (b)</b>  <b>An item is locally significant if it has strong or special association with a life or works of a person, or group of persons, of importance in the cultural or natural history of the local area</b></p>	<p>Hector Abrahams considers the site to be significant due to the direct association with Harry Seidler, the Jewish leader Abraham Rabinovitch and the fact that it has been visited by other eminent Australians including H V Evatt, Malcolm Fraser and Kevin Rudd.</p> <p>Weir Phillips considers the Site not to be a significant work of Harry Seidler as it is not cited as a project he is well known for in the <i>Australian Institute of Architects - Biography: Harry Seidler</i>, and the building is no longer regarded as a local landmark or good example of the Modernist style or Seidler's work due to extensive changes to the external detailing and the condition of the building.</p>
<p><b>Criterion (c)</b>  <b>An item is locally significant if it is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area</b></p>	<p>Hector Abrahams considers the Site to contain a seminal and excellent work of civic and religious architecture with technological significance as the largest thin concrete shell structure in the municipality.</p> <p>Weir Phillips notes that the roof is the largest and best example of thin concrete shell technology of the 1950s in NSW, but has widespread concrete cancer, timber rot and water ingress, which when combined with the degree of intervention to the Site, have diminished the aesthetic significance of the building.</p> <p>Extent Heritage considers that the barrel vaulting and thin shell concrete techniques were not new or innovative at the time of construction and were widespread in history and well-established in other jurisdictions, although not commonly used in the Australian context.</p>
<p><b>Criterion (d)</b>  <b>An item is locally significant if it has a strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons</b></p>	<p>Hector Abrahams emphasises the Site's strong and special associations with the Jewish community in Bondi from its ongoing uses as a civic and religious building.</p> <p>Weir Phillips considers that the Site is no more significant to the Jewish community than other synagogues in the area, all of which were associated with the growth and expansion of the local Jewish community during the post-war period of migration.</p>

Criteria	Summary of assessments
<p><b>Criterion (e)</b>  <b>An item is locally significant if has potential to yield information that will contribute to an understanding of the cultural or natural history of the local area</b></p>	<p>Hector Abrahams states that the building has potential to yield information about thin concrete shell construction which informs the history of technological development of Waverley.</p> <p>Extent Heritage note that the roof technique, although not commonly used in Australia, was in widespread use in the 1920s in other jurisdictions, and regard the building as a late example of a well-established construction technique.</p> <p>Additionally, Weir Phillips notes that due to the condition of the roof structure, the Site is unlikely to yield new information regarding the performance of thin shell concrete over time.</p>
<p><b>Criterion (f)</b>  <b>An item is locally significant if it possesses uncommon, rare or endangered aspects of the cultural or natural history of the local area.</b></p>	<p>Hector Abrahams considers the Site to be uncommon for its period due to the roof system and rare due to it being the only religious building by Seidler and it being an example of a post war Modernist synagogue.</p> <p>Extent Heritage consider it to be a minor work by Seidler and that rarity of post war Modernist synagogues has not been demonstrated.</p>
<p><b>Criterion (g)</b>  <b>An item is locally significant if it is important in demonstrating the principal characteristics of a class of the local area's cultural or natural places or environments.</b></p>	<p>Hector Abrahams considers the Site to demonstrate the principal characteristics of its class as a post war Modernist synagogue designed by a migrant architect.</p> <p>Weir Phillips considers the extensive changes to the external detailing to have significantly distorted the architectural style for which Seidler is primarily recognised.</p> <p>Extent Heritage considers the building to lack heritage integrity as it has been fundamentally altered from its original design intent.</p>

*State Heritage Register Committee (SHRC) - preliminary assessment*

27. The Preliminary Assessment of the nomination of the Site for listing on the State Heritage Register provided to the SHRC was based on the documentary record and did not include a site visit. It identified that the Site:
  - may meet the threshold for State heritage significance;
  - did not fit a current Heritage Council priority area;
  - has not been nominated by or with support of the owner;
  - did not present a current strategic or important opportunity for listing because:
    - the SHRC had previously chosen other Seidler works to prioritise for assessment/SHR listing based on an expert heritage report by Hericon Consulting on Seidler buildings in NSW (see Table 5); and
    - there was likely to be strong owner objection
  - however, it would broaden the representativeness of the SHR and warranted discussion and consideration of the SHRC.
28. The Preliminary Assessment also noted that the IHO in force at that time offered only interim protection for the item. The minutes of the SHRC meeting where it resolved to progress the Site to full assessment indicate that this outcome was partly informed by the perceived threat to the Site from future development.

29. Heritage NSW advised the Commission that a full assessment of the Site would potentially be added to the work plan for next financial year, for completion by 30 June 2025. Heritage NSW also noted that the listing of an item as a local heritage item can impact on the prioritisation of the State Heritage assessment in the work plan, as it can be considered to have a lower level of threat if it is listed on a LEP.
30. In response to questions from the Commission, Heritage NSW advised that in the past three calendar years, 21 of 43 nominations have progressed to full assessment. Of the 21, nine were subsequently recommended to the Minister for State Heritage listing and 12 remain under assessment.

### 3.3.2 Prior Council consideration of the Site's heritage values

31. The potential heritage significance of the Seidler-designed synagogue on the Site had previously been considered or had opportunity to be considered over an extended period by Council as outlined in Table 4. During this time significant alterations and additions to the Site were granted planning approval and the Site was rezoned through a landowner-led Planning Proposal to permit medium density residential.

Table 4 Summary of Council's prior consideration of heritage

Year	Event	Outcome
c. 1989	<i>Unknown planning approval pathway</i>	Construction of the Adler Building adjacent to the site, which is internally joined to the synagogue building via a covered walkway
2004	Request made by the then landowners (the Gutnick family) for the local heritage listing of the Site	The listing was subsequently requested by the landowner not to proceed for financial hardship reasons and was not progressed further by Council.
2013	Historical research conducted on the Site by Council officers with a view to local listing	No formal study was reported to Council. This was reported as being due to ownership changes and the blast wall construction.
2013	Development application (DA-158/2013) granted consent by Council for new windows, front fence and alterations to the existing building. Council imposed a condition relating to heritage conservation that did not allow for demolition of the front stairs or construction of the blast wall	A modification to this DA appears to have been made in 2014 to modify conditions to allow for fence changes including the blast wall and bollards, window changes and the deletion of s94 contributions.
2020	LGA-wide Council Heritage Assessment (draft)	The Site was not identified in the study, which was acknowledged as an oversight by Council in their meeting with the Commission. 750 sites were considered, including 38 Flood Street, a residential flat building adjoining the Site that was identified in the study and considered for listing (though not recommended) and 40 Flood Street, another residential flat building, which was recommended for local listing.

Year	Event	Outcome
2022	Council did not support the landowner-led Planning Proposal (PP-2022-676) seeking the spot rezoning of the land	Council's assessment did not include the impact on heritage values to be a factor contributing to Council's objection to the Planning Proposal.

### 3.3.3 Conclusions of expert heritage reviews

32. Further to Council's considerations in Table 4 above, the high level conclusions of the reviews of the Site that are known to the Commission and are referred to earlier in this section are summarised in Table 5.

*Table 5 Overview of heritage reviews of the Site*

Date	Assessment	Expert	Outcome
2017	Thematic Heritage Study of Seidler's Work prepared for the Heritage Council	Hericon Consulting	The Site was mentioned in the study but not selected as one of the places recommended for further assessment for potential SHR listing.
2019	Review of 2017 Thematic Study to identify a representative sample of Seidler's work to prioritise for SHR listing assessment	SHRC and its subject matter expert working group	The Site was not selected during this process.
2020	LGA-wide Council Heritage Assessment (draft)	Council (internal)	Council did not include the Site in the assessment which identified 750 items using precinct committees and Council survey and resulted in 59 items being recommended for local listing.
1 August 2023	SHRC Preliminary Assessment	SHRC	Resolved to progress the nomination of the Site for State heritage significance to full assessment.
September 2023	Landowner commissioned independent advice	Weir Phillips Heritage and Planning	Concluded that "the degree of intervention to the site has diminished the aesthetic significance of the building and the public's ability to understand it" and that "heritage listing of the subject site should not occur because reconstruction and reinstatement of a known earlier state is not a realistic proposition." (pp 45-46)

Date	Assessment	Expert	Outcome
13 September 2023	Landowner commissioned independent advice	Extent Heritage	Concluded the Site “lacks sufficient merit against the other heritage significance criteria due to the level of compromise of the original fabric and the lack of wider social or historical importance beyond its immediate congregation” (p (i))
15 November 2023	Council-commissioned independent advice to inform PP-2023-1224	Hector Abrahams	Concluded the Site has state and local heritage significance and “[t]he Seidler-designed building should be retained and conserved” and listed as a heritage item in the WLEP 2012.

**3.3.4 Other heritage considerations**

33. The Commission notes that the IHO made by Council on the Site expired on 10 February 2024, and a nomination by Council to Heritage NSW to assess the Site’s State heritage significance had not been finalised at the time of writing. The Commission further notes that there is an ancillary building on the Site fronting Anglesea Street which was also designed by Harry Seidler, which has not been identified in the material before the Commission as having heritage significance and is not part of the Planning Proposal.

**3.4 Key themes**

34. The Commission has reviewed the Material, including submissions, and in this section of the report sets out its considerations under key themes relevant to the heritage listing requirements.

**3.4.1 Architectural value**

35. The criteria considered in this advice regarding architectural value under the Assessing heritage significance guideline are (b), (c), (e), (f) and (g) (see criteria in Table 3).

36. The building is a work by the renowned architect Harry Seidler and although examples of his works are listed as local and/or State heritage items, there are other Seidler buildings within NSW which are not listed or under consideration to be listed. The subject Seidler work has been examined by experts on several occasions and there are contrary expert views as to whether the site has local heritage significance. The Commission considers that the building’s association with a specific highly regarded architect may but does not necessarily make it an item worthy of local heritage listing, however its historical association with other eminent visitors to the Site does not.

37. The Commission acknowledges the status and contribution of Harry Seidler to architecture as one of the leading representatives of Modernism in Australia, noting the application of the Bauhaus principles for which he is particularly known. The Commission also acknowledges the Seidler family’s submissions to Council during the exhibition period in support of the listing of the Site due to its architectural importance.

38. Council's view and expert assessment that the Site is architecturally significant as a Seidler work and his only religious building must be weighed against other assessments of the Site as not meeting the criteria for listing, including the Thematic Study of Seidler works commissioned by the Heritage Council, the LGA-wide assessment of local heritage undertaken earlier by Council, the prior opportunities that Council had to progress a listing (see Table 4), and the conclusions of the heritage assessments undertaken on behalf of the landowner.
39. The Commission specifically accepts that the roof system of the synagogue is a significant example of the techniques of barrel vaulting and thin concrete shell structures, and considers that while this technique may be more common in other locations, it remains rare locally. Other architectural features – including the front elevation, cream brick walls, internal furniture and finishes, roof facades as seen from various elevations and the curved stair wall – have been either demolished over time or altered (on occasion, with Council approval or through complying development) to a degree that they compromise the architectural significance of the building. The impact of these alterations and additions on the heritage value is further considered in sections 3.4.3 and 3.4.4.
40. The Commission finds that, given the impact of alterations and additions, the nine-bay vaulted concrete shell roof of the building is the primary remaining element of heritage value and this element retains heritage significance. Its current value with respect to its condition, however, is discussed further in sections 3.4.3 and 3.4.4.

### 3.4.2 Social value

41. The criteria considered in this advice regarding social value under the Assessing heritage significance guideline are (a), (d), (e), (f) and (g) (see criteria in Table 3).
42. During exhibition of the Planning Proposal, Council received 48 submissions, 41 in support and 7 against the proposed listing. The majority of public submitters in support of the listing have a connection to the building because of an interest in architecture or because they reside close by. Several submitters in support have a connection to the building through previous (e.g., attendance as a child) or periodic (e.g., holiday or occasional) use of the synagogue or because they are part of the local Jewish community.
43. One submitter who currently uses the synagogue did not support the local heritage listing because of the potential resulting difficulties in making changes to the building to cater for changing needs. No other submissions specified that they were a current congregation member or regular user of the building.
44. The Commission notes that Hector Abrahams considers the Site to be important to the local Bondi Jewish community and special for its purpose and function as an educational and religious institution, meeting criteria (d) of the Assessing heritage significance guidelines.
45. Criteria (d) is subject to inclusion and exclusion guidelines. The exclusion guidelines are that the item is only important to the community for amenity reasons and the item is retained only in preference to a proposed alternative. The guidelines in the section relating thresholds for to Criteria (d) notes that a locally significant place is one "...in which a local community or cultural group gathers for rituals or ceremonies".
46. In its meeting with the Commission, the landowner reported that there are approximately 13 other places of Jewish worship within the Bondi area. The Commission notes that the Australian Bureau of Statistics (ABS) 2021 census data shows, 16% of the population of the Waverley LGA identified as affiliated with Judaism.

47. The Commission notes the Site is likely to retain a heritage significance with respect to its congregation, which is not unusual as there are a number of places of worship for the community within the Bondi area that are also likely to hold significance for their congregations.

### 3.4.3 Alterations and additions

48. Step 5 in the *Assessing heritage significance guidelines* is to consider the impact of alterations and additions on the heritage value of the Site. It follows the assessment of heritage significance against the criteria (Step 4) on the basis that significance can be affected by the authenticity of a place or object, as well as the extent to which alterations, demolition of fabric and additions have impacted on readability of a place or object, including level of intrusiveness and reversibility of such alterations.
49. On its website, Heritage NSW define reversibility as follows:  
*Reversibility or the requirement to be reversible refers to the ability of any new fabric installation or item adaptation to be removed in the future without damage to the heritage item's significance, and, without damage to significant fabric<sup>1</sup>.*
50. Weir Phillips assessment notes that many of the alterations to the Site are not reversible and have diminished the spatial qualities of the synagogue.
51. The letter from DOCOMOMO dated 23 January 2023 states that the alterations to the building could be reversed to reinstate the original presentation of the building. In the landowner's meeting with the Commission, Dr North (Extent Heritage) reiterated the view that damage to the original fabric, impacts on authenticity and high costs would arise from any efforts to reverse the extensive alterations to this Site.
52. The Commission notes that significant alterations and additions have been made to the exterior of the Site, as observed during its site inspection, including substantial changes to the front façade (Figure 1 and Figure 2), rendering and painting of original brickwork, changes to and additions of windows, cladding and demolition of the rear stairway, the covered walkway linking the synagogue to the Adler Building, and an extension to the rear of the Site covering approximately half of the original rear elevation.

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<sup>1</sup> Heritage NSW 2024, *Standard exemptions*. Glossary of Terms. <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/state-heritage-register-items/standard-exemptions>. Accessed 1 March 2024.



*Figure 2 View of Flood Street frontage (1961)  
(Source: Weir Phillips Heritage & Planning 34-36 Flood Street Heritage Assessment, 2023)*



*Figure 1 View of Flood Street frontage (Current)  
(Source: Weir Phillips Heritage & Planning 34-36 Flood Street Heritage Assessment, 2023)*

53. The interior of the building has undergone significant alteration, with the layout of the seating and arc of the synagogue altered, rendering and/or painting of walls, modern air conditioning bulkheads, lighting, seating and fittings, the replacement of the original parquet floor with tiles, and the floor plan of the lower levels altered.
54. Although a level of intrusiveness over time is not uncommon in buildings of this age and often buildings with heritage value, the Commission considers the alterations and additions to the building not to be reversible without damaging the item's significant fabric. This includes:
- removal of the rendering over the original valuable face cream brick and the underside of the concrete vaulted roof;
  - removal of tiles from the courtyard stair unit;
  - reversal of window additions on the northern façade; and
  - demolition of the rear extension.
55. The Commission notes that the Planning Proposal specifically seeks to amend Schedule 5 of the LEP 2012 to include a written description of 'Harry Seidler designed synagogue building, interiors and exteriors'. The Commission considers the extent of alterations and additions to both the interior and exterior have significantly altered the original context of the synagogue and have compromised the heritage value of the building.

#### 3.4.4 Condition

56. Step 5 in the *Assessing heritage significance guidelines* also includes that significance can be affected by the integrity, nature and/or condition of a place or object.
57. Weir Phillips' assessment notes that:
- the roof is considered the largest and best example of thin concrete shell technology of the 1950s in NSW. However there is widespread concrete cancer, timber rot, and water ingress.*
58. At the Commission's request, the landowner provided a Structural Condition Report, prepared by Moubarak & Partners Consulting Engineers dated 21 March 2023. The report concludes (in relation to the roof of the building) that:
- the significant and widespread cracking, spalling and corrosion of exposed reinforcement indicates the apparent onset of "concrete cancer" to the arch roof structure and may lead to further damage and possibly more structural damage if remedial measures are not implemented;
  - the structural integrity of the synagogue building at the time of the inspection still appeared to be satisfactory;
  - there is a chance of a spread of the "concrete cancer" throughout the roof arch structure due to its proximity to the coastal seawater and susceptibility of corrosion;
  - the concrete roof arch structure appears to have reached the end of its design life and ongoing maintenance and remedial measures are now required to extend the life of the building for its current use; and
  - waterproofing remedial works also appear to be required as water ingress paths were identified between the top of the concrete arch and the timber slats supporting the roof membrane and the slates have weathered and rotted and require removal and replacement.

59. In conjunction with the Commission's observations at the site inspection, the Commission acknowledges the findings of this report and finds that the condition of the roof system, which otherwise retains heritage value, is diminished to the point where its protection and conservation is not likely in the long-term. A local listing would not, on its own, require such arrangements to be implemented.
60. If further information regarding the future of the building, including maintenance plans, financial viability of the necessary repairs and ongoing maintenance and/or plans for the adaptive reuse of the building in an improved state of repair, was to become available, further assessment of its heritage value should be considered.

### 3.4.5 Implications of local listing

61. In its submission to the Commission, Council argued that the proposed local heritage listing does not inherently prevent additional land uses or further development of the Site, advising that it is unlikely to create additional financial burden as it would not prevent sensitive development and adaptive reuse of the Site.
62. However, the Commission notes that if the Site remains unlisted any development application affecting the Site would, to the extent relevant, still be required to consider impacts on heritage under section 4.15 of the EP&A Act. At the time of determining any future DA, the consent authority would have the opportunity to review any heritage assessment and, if the DA is approved, impose any appropriate conditions of consent, including in consideration of the matters raised in paragraph 60.

## 4. Conclusions

63. The Commission has undertaken a review of the final planning proposal PP-2023-1224 and supporting documentation as requested by the Department (para 16). In doing so, the Commission has considered the Material (see section 3.1 above) including submissions by the landowner, Council, Heritage NSW and the Department.
64. The Commission acknowledges the history of the Site and recognises that it does have heritage value, specifically with respect to the technical and architectural features of the thin concrete shell roof, as well as through its association with Seidler and the local Jewish community. However, the integrity of the heritage significance of the roof and associations has been significantly compromised by the intrusiveness of the later additions and alterations, the absence of a practically or financially feasible option for reversibility of these alterations and additions, and the declining condition of the roof.
65. Any consideration for a local heritage listing of the Site would require further information to satisfactorily confirm that the Site has reasonable prospects of enhancing the current condition and/or restoring the site at a feasible cost. No such evidence is before the Commission.
66. Should the Department elect to progress the Planning Proposal, the extent of the impact of alterations and additions on the integrity of the heritage significance are such that the Commission would recommend the interiors of the building be excluded from any listing.

67. The Commission considers that the Site should not be subject to a local heritage listing unless and until there is sufficient detail regarding the prospect of enhancing the current condition and/or restoring the Site. In making this recommendation, the Commission notes that the heritage value of the Site, taking into account its current state of conservation, should be considered and appropriate conservation measures taken into account at the time of any future development application for the Site, and such measures should be achieved through the provisions of the EP&A Act and relevant EPIs.
68. Accordingly, the Commission advises that the Department should not finalise Planning Proposal (PP-2023-1224) at this time.



Terry Bailey (Chair)  
Member of the Commission



**New South Wales Government**  
Independent Planning Commission

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