



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 NOVEMBER 2023

A handwritten signature in black ink, appearing to read 'Emily Scott'.

Emily Scott
General Manager

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Delegations of the Waverley Strategic Planning and Development Committee

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

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

Statement of Ethical Obligations

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

Live Streaming of Meeting

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

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

AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

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

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

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

1. Apologies/Leaves of Absence

2. Declarations of Pecuniary and Non-Pecuniary Interests

3. Addresses by Members of the Public

4. Confirmation of Minutes

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5. Reports

PD/5.1/23.11	Draft Planning Agreement Policy (Amendment No. 5) - Exhibition.....	10
PD/5.2/23.11	Planning Proposal - 34 Flood Street, Bondi - Post-Exhibition	72
PD/5.3/23.11	Housing State Environmental Planning Policy - Submission	205
PD/5.4/23.11	Eastern Suburbs Electric Vehicle Infrastructure Strategy - Adoption	263
PD/5.5/23.11	Waverley Park Plan of Management - Adoption	307

6. Urgent Business

7. Closed Session 317

The following matter is proposed to be dealt with in Closed Session and has been distributed to Councillors separately with the Agenda:

PD/7.1/23.11	CONFIDENTIAL REPORT - Boot Factory and Mill Hill Community Centre and Tamarama Surf Life Saving Club - Project Update
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8. Resuming Open Session 319

9. Meeting Closure

CONFIRMATION OF MINUTES PD/4.1/23.11



Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 5 September 2023

TRIM No: SF23/18

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee meeting held on 5 September 2023 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 - 5 September 2023 .



**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 SEPTEMBER 2023**

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 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 8.09 pm, those present were as listed above.

Crs Keenan, Nemesh and Wy Kanak attended the meeting by audio-visual link.

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

Apologies were received from Cr Sally Betts and Cr Tony Kay.

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/4.1/23.09 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 1 August 2023 (SF23/18)

MOTION / UNANIMOUS DECISION

Mover: Cr Lewis
Seconder: Cr Keenan

That the minutes of the Strategic Planning and Development Committee meeting held on 1 August 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/23.09 Sustainability Expert Advisory Panel Meeting - 19 July 2023 - Minutes (A22/0310)

MOTION / UNANIMOUS DECISION

Mover: Cr Keenan
Seconder: Cr Masselos

That Council notes the minutes of the Sustainability Expert Advisory Panel meeting held on 19 July 2023 attached to the report.

PD/5.2/23.09 Development Assessment Review (A23/0566)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Keenan

That Council notes the findings of the development assessment review attached to the report.

PD/5.3/23.09 Bike Plan Review - Communications and Engagement Plan (A11/0612)**MOTION / UNANIMOUS DECISION**

Mover: Cr Murray

Seconder: Cr Goltsman

That Council:

1. Approves the Communications and Engagement Plan for the Waverley Bike Plan review attached to the report.
2. Notes that Transport for NSW grant funding has been received to facilitate the development of a revised Bike Plan.
3. Officers present the Bike Plan and Strategy to Council for approval in April 2024.

PD/5.4/23.09 Walking Strategy - Communications and Engagement Plan (SF23/2123)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Approves the Communications and Engagement Plan for the Waverley Walking Strategy attached to the report.
2. Notes that Transport for NSW grant funding has been received to facilitate the development of the Walking Strategy, which will be delivered by an external consultant.

PD/5.5/23.09 Bondi Bounce Parklets (A23/0561)**MOTION / UNANIMOUS DECISION**

Mover: Cr Gray

Seconder: Cr Goltsman

That Council:

1. Notes the positive feedback on the Streets as Shares Spaces parklet trial along the route of Bondi Junction to Bondi Beach ('Bondi Bounce').
2. Retains the parklets in Wairoa Avenue and Watson Street for a further six months.
3. Moves the parklets in Waverley Street, Boonara Avenue and Ocean Street to new trial locations

based on expressions of interest and appropriate assessment and approval by the Waverley Traffic Committee.

4. Officers prepare a further report to Council on:

- (a) Arrangements to support the leasing of parklets to business owners.
- (b) Required amendments to the Waverley Development Control Plan to broaden the opportunity for businesses to seek footpath seating.
- (c) Opportunities to implement a verge program for kerb extensions or verge upgrades based on successful parklet trials.

PD/5.6/23.09 Draft Urban Greening and Cooling Strategy - Exhibition (A23/0489)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

- 1. Publicly exhibits the draft Urban Greening and Cooling Strategy attached to the report for 28 days.
- 2. Officers prepare a report to Council following the exhibition period.

6. Urgent Business

There was no urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 8.39 PM.

.....
SIGNED AND CONFIRMED
CHAIR
7 NOVEMBER 2023

REPORT

PD/5.1/23.11



Subject: Draft Planning Agreement Policy (Amendment No. 5) - Exhibition

TRIM No: SF23/1066

Manager: George Bramis, Executive Manager, Urban Planning

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

RECOMMENDATION:

That Council:

1. Publicly exhibits the draft Planning Agreement Policy (Amendment No. 5) attached to the report.
2. Officers prepare a report to Council following the exhibition period.

1. Executive Summary

Draft Amendment 5 to the Planning Agreement Policy 2014 is a housekeeping amendment that proposes:

- Updates to the standardised residential voluntary planning agreement (VPA) benchmark rates applied to development applications in line with current market conditions; and
- Housekeeping amendments relating to process improvement.

2. Introduction/Background

The Planning Agreement Policy 2014 has been successfully utilised to negotiate and draft planning agreements accompanying development applications seeking a clause 4.6 variation to clause 4.4 Floor space ratio of the Waverley Local Environmental Plan 2012 (WLEP), and planning proposals seeking an increase in maximum permissible floor space.

The Planning Agreement Policy 2014 is based on the principle of value sharing, or value capture, where it is an expectation that a developer gaining a value uplift would share some of this uplift with the community. Where development exceeds the established planning controls, and can do so without having an unacceptable impact, then value sharing can provide the community a net benefit from the development in terms of additional infrastructure and amenity.

Success of the Planning Agreement Policy 2014

Since 1 July 2018, close to \$14 million has been raised. To place this number into context, the section 7.12 developer contributions provided by all development across the Waverley local government area for the same period was \$15 million.

Contributions have been dedicated towards several public domain upgrades including Waverley's Complete Streets program in Bondi Junction (for development relating to Bondi Junction) and upgrades to local parks nearby developments. There have been instances where parks directly adjacent to a subject development have been upgraded because of VPA contributions such as Seven Ways at Glenayr Avenue.

To this extent, the policy aims to ensure increases in density are associated with an increase in liveability.

3. Relevant Council Resolutions

Meeting and Date	Item No.	Resolution
Strategic Planning and Development Committee 5 July 2022	PD/5.2/22.07	<p>That Council adopts the Planning Agreement Policy 2014 (Amendment No. 4) and Public Benefit Register attached to the report, subject to the following amendments:</p> <ol style="list-style-type: none"> 1. The removal of all proposed amendments within the Planning Agreement Policy 2014 (Amendment No.4) relating to the General Manager exercising their delegation to endorse planning agreements so that VPAs continue to be endorsed by the elected Council post-exhibition. 2. Adjusting the Public Benefit Register to include suitable works subject to overview and approval by the elected Council. 3. Mandated VPA payments associated with planning proposals continue to be paid by developers at gazettal.
Council 15 February 2022	CM/7.13/22.02	<p>That Council:</p> <ol style="list-style-type: none"> 1. Publicly exhibits the draft Planning Agreement Policy 2014 (Amendment No. 4) and the draft Public Benefit Register attached to the report for a minimum period of 28 days. 2. Officers prepare a report to Council following the exhibition period. 3. Notes that the policy includes updated benchmark rates, housekeeping amendments and the introduction of a Public Benefit Register.

4. Discussion

The draft policy is attached to the report, with amendments marked-up.

Updated benchmarks

Standardised benchmark rates were introduced in Amendment 2 of the policy and have been in place since August 2018. Since then, the benchmarks have been applied to at least 20 VPAs. For applicants, the benchmark rates provide certainty and for Council officers, reduces the administrative burden of negotiating voluntary planning agreements that can take up to three months. It also provides certainty to the community as to how benefits are negotiated.

The benchmark rates were introduced on the basis that they would be regularly updated to reflect current market conditions. Attachment 1 outlines the new rates, which vary from no change, a 2% decrease to a 37% increase from the previous benchmarks for different suburbs. Detailed market research was undertaken using Realestate.com, NSW Valuer General and the Housing NSW Rent and Sales Report. Recent sales were taken from the July 2022 – October 2023 time period. The methodology is the same as that used to update the benchmark rates actioned under Amendment 5 of the Policy.

The benchmarks under Amendment 4 of the Policy considered 20/21 financial year sales data, which is no longer an accurate reflection of Waverley's real estate market and hence the level of value uplift that developers are receiving from exceedances to floor space ratio.

Housekeeping amendments

Housekeeping amendments include:

- Update of the residential benchmark rates in accordance with market trends.
- Clarification of processes surrounding the percentage of monetary contribution dedicated towards Waverley's Affordable Housing Program, and when funds within the Program can be used for the significant renewal of Council's existing affordable and social housing stock rather than solely for the purchase of new stock.
- Deletion of Appendix 7 which contains a copy of Council's Statement of Business Ethics, as the 2014 version included in Amendment 4 of the Policy is outdated and a current version is now provided online.

The proposed changes are not expected to change the way that VPA funds are currently allocated, but rather provide additional clarity in relation to the circumstances where a higher than 25% allocation towards affordable housing is considered, and matters for consideration when deciding whether any portion of the Program funds are spent on significant renewal of existing affordable housing stock rather than investment in acquiring new stock.

Allocation of contribution to affordable housing

The following will be taken into consideration when determining on a case-by-case basis whether to allocate 100% of the total contribution to the Affordable Housing Contributions Fund:

- The associated DA results in a likely reduction of affordable housing.
- A development originally seeking a bonus under the Housing State Environmental Planning Policy (SEPP) (which required affordable housing contributions) changes the development to seek an exceedance under Council controls only.
- There are no obvious infrastructure upgrades in the vicinity of a development or where these are already being funded as part of the Long Term Financial Plan.
- If there is a need to support a particular affordable housing project or priority.
- Community feedback supports greater funds being used for affordable housing.

Since the adoption of Amendment 3 of the policy (which introduced the ability to dedicate more than 25% of the VPA contribution towards affordable housing) in December 2020, 2 VPAs have been endorsed with more than 25%. This includes the VPA for DA-187/2020/A at 278-282 Birrell Street, Bondi, which dedicated 100% of the VPA contribution to affordable housing because the DA involved the demolition of affordable housing (boarding house), being replaced with luxury units. The other is the VPA for DA-400/2021 at 194-214 Oxford Street, and 2 Nelson Street, Bondi Junction, where 55% of the contribution is dedicated to affordable housing due to the community support and strong need for such, and adequacy of the remaining 45% contribution for nearby infrastructure upgrades.

Acquisition or development of new affordable housing stock

It is proposed that Contribution Reserve funds (typically used to fund the acquisition of new stock) should only be eligible to be used for the significant refurbishment of existing affordable or social housing stock where there is no Council endorsed project that is underway that intends to use the Contribution Reserve to increase affordable or social housing stock.

At present there is \$8.4 million available in the Affordable Housing Contribution Fund (including funds collected through VPA's and for the loss of low rental dwellings under the Affordable Rental Housing SEPP and Housing SEPP), which has been collected over approximately the last 10 years. This amount is relatively low in the context of purchasing and/or developing new affordable or social housing stock in the Eastern Suburbs, so it is important to prioritise the expenditure of all these funds for acquisition in order to be competitive in the market where there is a Council endorsed project intending to increase affordable or social housing stock.

5. Financial impact statement/Time frame/Consultation

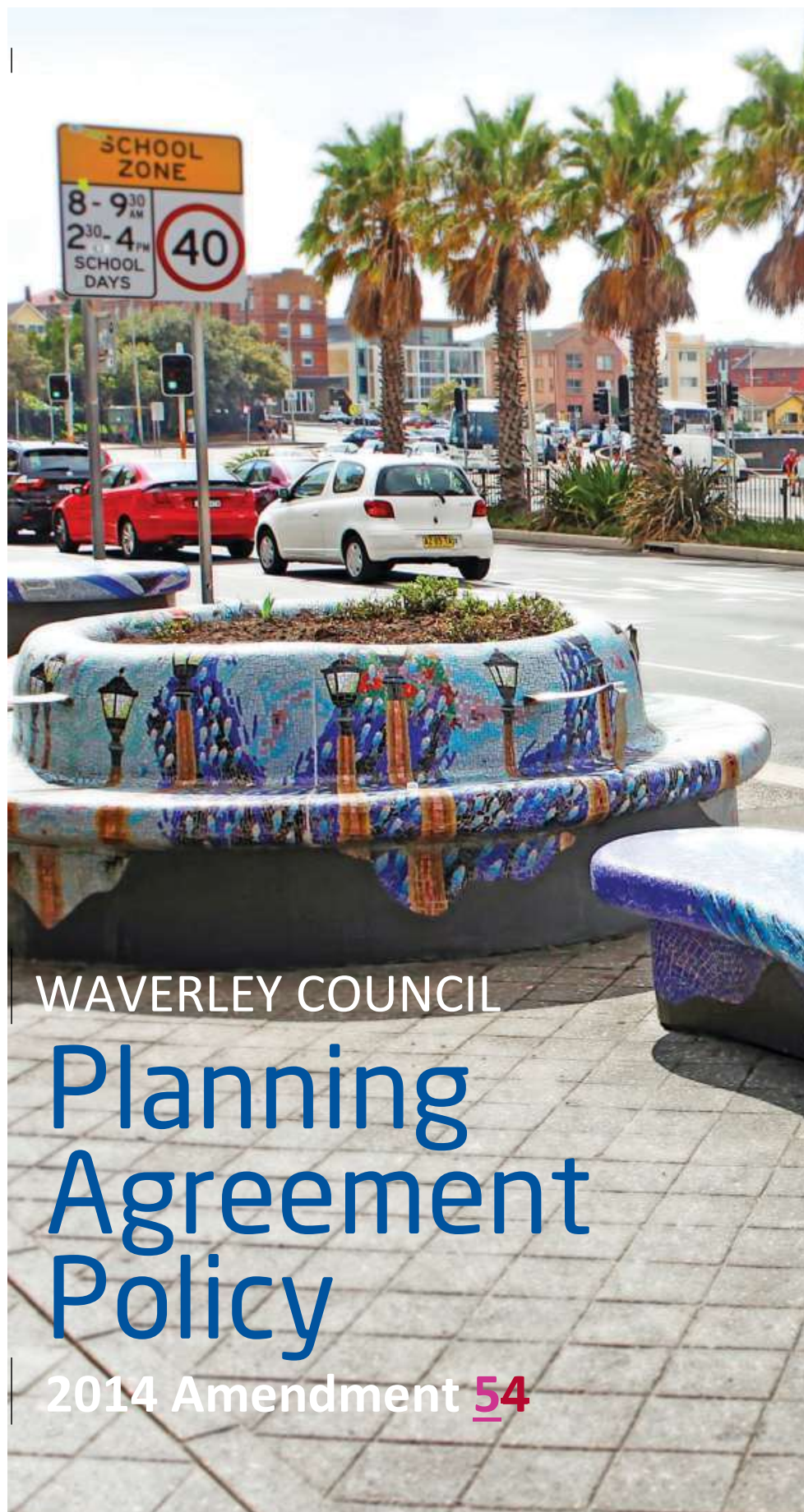
The draft Planning Agreement Policy 2014 (Amendment 5) will go on public exhibition should the recommendations from this Council report be adopted. A post-exhibition report would come back to Council in early 2024 for Council to adopt the amended policy.

6. Conclusion

The draft Planning Agreement Policy 2014 (Amendment 5) has been drafted in accordance with the relevant legislation, and Council's policies, plans and strategies. Subject to Council approval, it proposes to update benchmarks to reflect current housing market conditions and provide housekeeping amendments to ensure the policy remains up to date.

7. Attachments

1. Draft Planning Agreement Policy 2014 (Amendment No. 5) [↓](#) .



WAVERLEY
COUNCIL

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Planning Agreement Policy 2014
(Amendment No. 54)

Document Control

Version	Adopted	Effective
Planning Agreement Policy 2014	7 October 2014	21 October 2014
Amendment 1	20 October 2015	20 October 2015
Amendment 2	21 August 2018	21 August 2018
Amendment 3	1 December 2020	1 December 2020
Amendment 4	5 July 2022	11 July 2022
<u>Amendment 5</u>	<u>7 November 2023</u>	<u>8 November 2023</u>

DRAFT

TERMS AND DEFINITIONS USED IN THIS POLICY

In this Policy, the following terminology is used:

Act means the *Environmental Planning and Assessment Act 1979*.

Council means Waverley Council.

developer is a person who has sought a change to an environmental planning instrument (which includes the making, amendment or repeal of an instrument (s7.4(11)), or who has made or proposes to make a development application, or who has entered into an agreement with or is otherwise associated with such a person.

development application has the same meaning as in the Act.

development contribution means the kind of provision made by a developer under a Planning Agreement, being a monetary contribution, the dedication of land free of cost or the provision of any other material public benefit.

explanatory note means a written statement that provides details of the objectives, nature, effect and merits of a Planning Agreement, or an amendment to or revocation of a Planning Agreement.

instrument change means a change to an environmental planning instrument to facilitate a development the subject of a Planning Agreement.

planning benefit means a development contribution that confers a net public benefit.

public facilities means public infrastructure, facilities, amenities and services.

planning obligation means an obligation imposed by a Planning Agreement on a developer requiring the developer to make a development contribution.

planning proposal means an application to amend the Waverley Local Environmental Plan 2012

proponent means the party that is responsible for lodging a planning proposal with Council.

Practice Note means the *Planning Agreement Practice Note* (February 2021) published by the Department of Planning, Industry and Environment.

public includes a section of the public.

public benefit is the benefit enjoyed by the public as a consequence of a development contribution.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

WLEP 2012 means the *Waverley Local Environmental Plan 2012*.

PART 1 – POLICY FRAMEWORK

1.1 Name of this Policy

This Policy is known as the *Waverley Council Planning Agreement Policy 2014* (“the Policy”). It sets out Waverley Council’s policy and procedures relating to Planning Agreements under the *Environmental Planning and Assessment Act 1979*.

1.2 Application of the Policy and commencement

This Policy applies to development applications lodged pursuant to ~~the Waverley Local Environmental Plan 2012~~ (“WLEP-2012”) and planning proposals seeking a change to WLEP-2012 for land and development within the local government area of Waverley Council (“Council”). This policy generally applies to all forms of development with the exception of dwelling houses (a building containing only one dwelling), employment generating development only (i.e. retail and commercial floorspace) and alterations and additions to a single strata subdivided property. A VPA can be provided to offset the loss of affordable housing in lieu of a payment under Part 3 ‘Retention of existing affordable rental housing’ of the Housing SEPP.

This Policy was adopted by resolution of the Council on ~~5 July 2022~~ 7 November 2023. The Policy is effective from ~~11 July 2022~~ 8 November 2023.

1.3 Objectives of this Policy

The objectives of this Policy are:

- (a) to establish a fair, transparent and accountable framework governing the use of Planning Agreements by the Council;
- (b) to explore the range and extent of development contributions made by development towards public facilities and other public benefits in the Council’s area;
- (c) to set out the Council’s specific policies and procedures relating to the use of Planning Agreements ~~within the Council’s area~~;
- (d) to give all stakeholders in development greater involvement in determining the type, standard and location of public facilities and other public benefits; ~~and~~
- (e) to facilitate public participation and to allow the community to gain an understanding of the benefits of appropriate Planning Agreements for the provision of public benefits; ~~and~~ ~~and~~;
- (f) to enhance the understanding ~~within Council’s area~~ as to possibilities for development and associated public benefits and planning benefits facilitated by Planning Agreements.

1.4 What does the Policy set out?

This Policy sets out the Council’s approach to the use of Planning Agreements through negotiation when considering development applications and planning proposals associated with changes to ~~WLEP 2012~~ the *Waverley Local Environmental Plan* in the Waverley area. Council is guided by the policy approach set out in the Department of Planning’s Practice Note titled *Planning Agreements* (19 July 2005) (“the Practice Note”) and ~~also~~ considers the *Planning Agreement Practice Note* (February 2021). It should be noted Council must give regard to the Practice Note but is not bound by it.

In particular, this Policy sets out

- timing considerations in respect to Planning Agreements and procedures for negotiating and entering into Planning Agreements;
- the circumstances in which the Council may consider entering into a Planning Agreement;
- the matters ordinarily covered by a Planning Agreement, the form of development contributions which may be sought under a Planning Agreement. Unless otherwise agreed in a particular case, development contributions negotiated as part of a development application or as part of a planning proposal will be valued or calculated as set out in in Appendix 1 and Appendix 2;
- examples of the kinds of public benefits which may be sought and, in relation to each kind of benefit, whether it involves a planning benefit;
- the method for determining the value of public benefits;
- whether money paid under different Planning Agreements is to be pooled and progressively applied towards the provision of public benefits to which the different agreements relate;
- when, how and where public benefits may be provided in line with strategic priorities as identified in Council's strategies and plans probity measures; and
- the Council's policies on other matters relating to Planning Agreements, such as their review and modification, the discharging of the developer's obligations under agreements, the circumstances, if any, in which refunds may be given, dispute resolution and enforcement mechanisms, and the payment of costs relating to the preparation, negotiation, execution, monitoring and other administration of agreements.

1.5 Statutory framework

The current legal and procedural framework for Planning Agreements is set in Subdivision 2 of Division 7.1 of the *Environmental Planning and Assessment Act 1979*. Council is also bound by the provisions of Division 1A of Part 4 of the *Environmental Planning and Assessment Regulation ~~2021~~ 2000*.

Section 7.4 sets out the circumstances under which a Planning Agreement may be entered into. It provides a Planning Agreement may be made between a planning authority (or two or more planning authorities) and a person (developer):

- a) who has sought a change to an environment planning instrument (such as a rezoning application); or
- b) who has made or proposes to make a development application; or
- c) who has entered into an agreement with or is otherwise associated with a person in one of the above two categories.

1.6 Land use and strategic infrastructure planning

Land use planning should occur concurrently with strategic infrastructure planning to ensure that built form provisions and infrastructure contributions deliver both appropriate urban forms and contributions related to the development. Strategic infrastructure planning should be undertaken regularly and address expected growth, infrastructure demand resulting from this growth, and the apportioned cost of these infrastructure provisions. Planning Agreements should be used towards public benefits that are in accordance with the council's infrastructure planning and funding policies and strategies, including this Policy.

1.7 What are the mandatory requirements of a Planning Agreement?

Section 7.4(3) of the Act requires Planning Agreements to include provisions specifying:

- (a) a description of the land to which the agreement applies,
- (b) a description of:
 - (i) the change to the environmental planning instrument to which the agreement applies, or
 - (ii) the development to which the agreement applies,
- (c) the nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made,
- (d) in the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of section 7.11 or 7.12 to the development,
- (e) if the agreement does not exclude the application of section 7.11 to the development, whether benefits under the agreement are or are not to be taken into consideration in determining a development contribution under section 7.11,
- (f) a mechanism for the resolution of disputes under the agreement,
- (g) the enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the developer

The Act does not preclude a Planning Agreement containing other provisions that may be necessary or desirable in particular cases, except as provided by law. However, Council has prepared a template agreement that will form the basis for a Planning Agreement and this may be used as the basis for any agreement. This is attached as Appendix 3.

Clause 25E(1) of the Regulation requires that an explanatory note must accompany a Planning Agreement that:

- summarises the objectives, nature and effect of the proposed agreement, amendment or revocation, and
- contains an assessment of the merits of the proposed agreement, amendment or revocation, including the impact (positive or negative) on the public or any relevant section of the public.

1.8 Guiding principles

The Practice Note sets out guidelines and safeguards in the application of Planning Agreements. These include determining the Planning Agreements acceptability and reasonableness. As such attention will be directed towards:

- a) proper or legitimate planning purposes, ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development;
- b) providing for public benefits that bear a relationship to development that are not wholly unrelated to the development and are located in the vicinity of where the development is located;
- c) producing outcomes that meet the general values and expectations of the public and protect the overall public interest;
- d) providing for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits; and
- e) protecting the community against planning harm.

Generally, negotiations of a Planning Agreement should commence before lodgment of a development application/submission of a planning proposal to the Gateway so as to ensure a practical outcome for public notification. In most cases, by way of safeguard, a Planning Agreement should be entered into before a planning proposal is submitted to the Gateway.

In addition, by way of safeguard, Council will seek to ensure probity of its processes involving Planning Agreements by ensuring applications involving Planning Agreements which involve Council land, or development applications made by or on behalf of Council, are independently assessed by an external planning consultant.

PART 2 – PRINCIPLES FOR PLANNING AGREEMENTS

2.1 Purposes of Planning Agreements

Section 7.4(1) of the Act provides that a Planning Agreement is a voluntary agreement or other arrangement between one or more planning authorities and a developer under which the developer agrees to make development contributions towards a public purpose. Planning Agreements are negotiated between planning authorities and developers in the context of applications for changes to environmental planning instruments (planning proposals) or for consent to carry out development (development applications).

The Council's approach to the negotiation of Planning Agreements is based on the planning purpose of furthering the Council's planning vision ~~for the area~~ as set out in the Waverley Community Strategic Plan (CSP), Local Strategic Planning Statement (LSPS) and supporting environmental strategies (as amended from time to time). It is also informed by the mission and values of the Corporate Plan.

When negotiating planning obligations the Council will generally take into account Council's vision and mission statement, the [Community](#) Strategic Plan's general priorities set out in the programs to that Plan, the site circumstances and also the obligation preferences of the developer.

As an incentive towards the provision of development contributions to be applied towards public benefits and planning benefits, Council may consider, subject to its statutory obligations and other matters set out in this Policy or any other relevant Council policies, plans or procedures:

- a) **applications for development exceeding the maximum gross floor area permitted under clause 4.4 of WLEP 2012.**

In circumstances where significant variation of applicable development standards is proposed consideration should be given to the preparation of a planning proposal to amend ~~WLEP 2012~~ [the Waverley Local Environmental Plan](#).

The Council may negotiate a Planning Agreement with a developer/proponent in connection with any proposed application by the developer/proponent for an instrument change (e.g. rezoning application) or for development consent relating to any land in the Council's area. The Council may also negotiate a Planning Agreement in association with another Council or another authority where relevant. The negotiation of a Planning Agreement is at the absolute discretion of the Council.

Council will not enter a Planning Agreement unless it is satisfied that the proposed development is acceptable on planning grounds having regard to the general heads of consideration set out in Section 4.15 of the Act. Development that is unacceptable on planning grounds will not be given consent because of benefits offered by a developer. It is noted that any exceptions to relevant development standards will be assessed in accordance with the provisions set out in cl.4.6 of WLEP 2012.

2.2 Principles underlying the use of Planning Agreements

The Council's use of Planning Agreements will be governed by the following principles:

- a) Planning decisions will not be bought or sold through Planning Agreements.
- b) The Council will not allow Planning Agreements to improperly fetter the exercise of its functions under the act, regulation or any other act or law.
- c) The Council will not use Planning Agreements for any purpose other than a proper planning purpose.
- d) Development that is unacceptable on planning grounds will not be permitted because of planning benefits offered by developers that do not make the development acceptable in planning terms.
- e) The Council will not seek benefits under a Planning Agreement that are wholly unrelated to a particular development.
- e)f) Monetary contributions obtained from Planning Agreements will be spent within the vicinity of the development they relate to.
- f)g) ~~The Council will not take into consideration Planning Agreements that are wholly unrelated to an application, nor will it~~ The Council will not give undue weight to a Planning Agreement.
- g)h) The Council will not allow the interests of individuals or interest groups to outweigh the public interest when considering a proposed Planning Agreement.
- h)i) The Council will not improperly rely on its position in order to extract unreasonable public benefits from developers under Planning Agreements.
- i)j) Planning Agreements should not be used as a means of general revenue raising or to overcome revenue shortfalls.
- j)k) Planning Agreements must be underpinned by proper strategic land use and infrastructure planning carried out on a regular basis and must address expected growth and the associated infrastructure demand.
- k)l) Strategic planning should ensure that development is supported by the infrastructure needed to meet the needs of the growing population.

The progression of a planning proposal or the approval of a development application should never be contingent on entering into a Planning Agreement.

2.3 What matters will the Council consider?

The matters that the Council may consider in any such negotiation may include, but not be limited to, the following:

- (a) Whether the Planning Agreement(s) meets the demands created by the development for new public infrastructure, amenities and services.
- (b) If inclusions in the development meet specific planning objectives of the Council.
- (c) If compensation is required for the loss of, or damage to, a public amenity, service, resource or asset caused by the development through its replacement, substitution, repair or regeneration.

- (d) Rectification of an existing deficiency in the existing provision of public facilities in the Council's area is made.
- (e) Whether recurrent funding of public facilities and/or public benefit is required or provided.
- (f) The extent to which the Council needs to monitor the planning impacts of development.
- (g) Whether planning benefits for the wider community accrue from the Planning Agreement.

The most important factor in deciding what planning obligations might be required as part of a Planning Agreement is the size of the development or resulting increase in land value from an amendment to the Waverley Local Environmental Plan ~~2012~~. However, other factors such as the location or the resulting type of development may be relevant. These will establish core information such as likely increases in population and demand for particular public services.

This information will help Council with the determination of the development application/planning proposal and to prepare the Planning Agreement.

2.4 Strategic planning context

An important role for Planning Agreements is achieving specific land use planning outcomes with strategic and/or site-specific merit. A Planning Agreement should facilitate the provision of public facilities and amenity outcomes that advance the delivery of Council's corporate and strategic planning objectives and deliver valuable community benefits where appropriate. Long-term strategies including Waverley's Local Strategic Planning Statement (LSPS) and ~~Waverley's~~ Community Strategic Plan ~~(2018-2029)~~ (CSP) and delivery program are based on the outcomes of engagement with the community. The implementation of key aspects of some of these goals, the broader strategic directions and the delivery of key infrastructure areas can be directly or indirectly achieved through Planning Agreements.

The vision and goals established within Council's long-term strategic plans such as the CSP and LSPS flow through to supporting plans that guide Council's medium and short-term priorities:

- Long Term Financial Plan (10 years)
- Delivery Program (4 years)
- Operational Plan (Annual)

Council's ~~Local Strategic Planning Statement, supported by a number of environmental strategies and LSPS~~ considers planning for growth in Waverley, ~~including relevant supporting and is supported by environmental~~ strategies which seek to identify the community's needs for infrastructure such as community facilities, transport, open space, public domain and recreation infrastructure, capital works and infrastructure.

2.5 Types of public benefits to be delivered under Planning Agreements

Public benefits received through Planning Agreements contribute to Council's ability to deliver:

- a) infrastructure identified within existing development contributions plans (s7.12 contributions plan);
- b) infrastructure identified within Greater Cities Commission (GCC) and Council's Strategic plans, e.g. commercial floor space in village centres, affordable housing, and open space acquisition;
- c) infrastructure required directly as a result of density increases experienced or

- expected from the redevelopment of a site. e.g. due to changes in development controls arising from a Planning Proposal⁷ and
- d) ~~Land~~ identified in a strategic plan, policy, planning instrument, development control plan or contributions plan for a public purpose, dedication or acquisition.

Examples of public benefits described above are provided at Appendix 5. It is recognised that development contributions that facilitate works in addition to the works listed in Appendix 5 may be appropriate because negotiations for each proposed development will reflect the circumstances of each case and the needs created by the scale of proposed change. Consequently, Appendix 5 does not prevent development contributions being negotiated on a case by case basis, particularly where planning benefits are also involved.

In some instances, a particular public benefit may be considered most suitable and supported by the community during public exhibition, however, it may not have been adequately investigated or designed yet due to issues with resourcing and/or preliminary funding by Council. Generally, VPA contribution money cannot be dedicated towards preliminary investigative and design processes because these processes may find that the particular process cannot be delivered after all, and therefore would not actually deliver a public benefit. Despite this, there is opportunity for Council to dedicate funding from elsewhere for the preliminary and feasibility works. The VPA contribution can be held aside and quarantined for a specified period of time and used for the construction of that project if found to be suitable for delivery. If found to be unsuitable/unfeasible, the VPA contribution can be used towards a different project that has been adequately investigated and designed, determined at the same as the first idea is supported as a backup.

This policy allows for in-kind contributions to be made to Council in lieu of monetary contributions provided that these are consistent with the calculation methods outlined in Appendix 1 and 2. In-kind contributions could include for example affordable housing, commercial floor space dedicated in perpetuity to Council or public domain upgrades.

Allocation of VPA to affordable housing

It is to be noted that at a minimum 25% of all Planning Agreement contributions will form a monetary contribution to generally go towards Waverley's Affordable Housing Contributions Reserve fund to expand Council's affordable housing portfolio by acquiring or developing new stock. Some of this 25% could be used to go towards the Waverley Affordable Housing Program Reserve for the maintenance of properties and. Contribution Reserve funds should only be eligible to be used for the significant refurbishment of existing affordable or social housing stock where there is no Council endorsed project that is underway that intends to use the Contribution Reserve to increase affordable or social housing stock.

There may be some circumstances where Council will allocate up to 100% of the monetary contribution to ~~Waverley's Affordable Housing Program fund~~ affordable housing. This would be generally examined on a case by case basis, but and be informed by a number of factors including but not limited to:

- When the associated DA results in a likely reduction of AH,
- In instances where a developer was originally seeking a bonus under the Housing SEPP (which required affordable housing contributions) but change their development to seek an exceedance under Council controls only,
- When there are no obvious infrastructure upgrades in the vicinity of a development or where these are already being funded as part of the LTFP,
- To support a particular affordable housing project or priority, and/or
- When a developer or community feedback supports greater funds being used for AH.

2.6 Recurrent charges

The Council may request developers/proponents, through a Planning Agreement, to make development contributions towards the recurrent costs of public facilities. Where the public facility primarily serves the development to which the Planning Agreement relates or neighbouring development, the arrangement for recurrent funding may be in perpetuity.

Where the public facility or public benefit is intended to serve the wider community, the Planning Agreement may, where appropriate, only require the developer/proponent to make contributions towards the recurrent costs of the facility for a set period which will be negotiated according to the impact of the development.

2.7 Pooling of development contributions

Where a proposed Planning Agreement provides for a monetary contribution by the developer/proponent, the Council may seek to include a provision permitting money paid under the agreement to be pooled with money paid under other Planning Agreements and applied progressively for the different purposes under those agreements.

Pooling may be appropriate to allow public benefits, particularly essential infrastructure, to be provided in a fair and equitable way.

2.8 Do other development contributions apply?

Generally, the Council will not enter a Planning Agreement that excludes the application of s7.11 or s7.12 of the Act to development to which the agreement relates. This, however, is a matter for negotiation between the Council and a developer having regard to the particular circumstances of the case.

However, where the application of s7.11 of the Act to development is not excluded by a Planning Agreement, the Council will generally not agree to a provision allowing benefits under the agreement to be taken into consideration in determining a development contribution under section 7.11.

PART 3 – NEGOTIATION PROCEDURES AND PROBITY

3.1 Introduction

The Council's negotiation system for Planning Agreements aims to be efficient, predictable, transparent and accountable. Council will seek to ensure that the final negotiation of Planning Agreements runs in parallel with applications for instrument changes or development applications so as not to unduly delay the approval.

Where possible Council will publicly notify a Planning Agreement in the same manner and at the same time as the application for the instrument change or the development application to which it relates.

Council's preference is therefore to have the Planning Agreement negotiated and documented before it is publicly notified as required by the Act and Regulation. It is also preferable that a Planning Agreement is negotiated before lodgement of the relevant application and that it accompanies the application on lodgement.

3.2 Steps in the negotiation process

The negotiation of a Planning Agreement will generally involve the following key steps which are outlined in Appendix 1 and 2:

Planning Proposals

1. Prior to the lodgement of the relevant planning proposal, the Council and proponent (and any other relevant person) will decide whether to negotiate a Planning Agreement.
2. The parties will decide whether to appoint an independent person to facilitate or otherwise participate in the negotiations or aspects of it, and appoint such person.
3. A timetable for negotiations and the protocols and work practices governing their negotiations will be agreed between the parties.
4. The key issues for negotiation will be identified by the parties, and the negotiations over these issues will take place.
5. If agreement is reached, the Council (and any other relevant party) will prepare the proposed Planning Agreement including the explanatory note, and provide a copy of it to the proponent.
6. The parties may undertake further negotiation on the specific terms of the proposed Planning Agreement as necessary.
7. Once agreement is reached on the terms of the proposed Planning Agreement, the proponent may then make the development application/planning proposal to the Council accompanied by an offer to enter into such an agreement with specifics of the agreement set out in detail.
8. The Council will publicly exhibit the planning proposal and Planning Agreement in accordance with the Act. The Council may approve the planning proposal and set out the conditions for the agreement or, if an agreement has been executed, set out in the consent/determination the terms of the agreement.

Development applications

1. Prior to the lodgement of the relevant development application, the applicant will decide whether to offer a Planning Agreement. The applicant should contact Council about how the benchmark rates (Appendix 1) apply to the subject development.
2. The applicant submits the development application with a letter of offer to enter into a Planning Agreement.
3. Development assessment staff independently undertake their assessment of the application.
4. Should the development application be approved, Council officers will prepare the Planning Agreement for notification, reporting to Council and execution.

The parties may be required to undertake further negotiations and, hence, a number of the abovementioned steps mentioned may need to be repeated as a result of the public notification process or its formal consideration by the Council in connection with the relevant application.

Note that all costs associated with the negotiation of a Planning Agreement, including the appointment of an independent person, are to be borne by the developer.

It is also noted that where the value of the development exceeds \$20 million the development application will be dealt with by the independent Sydney Planning Panel (SPP) or any other relevant planning authority.

3.3 Probity

Public probity is important to Waverley Council and it will ensure that the negotiation of any Planning Agreements is fair, transparent and is directed at achieving public benefits in an appropriate manner free of corruption.

In this regard, Council will:

- a) Inform any applicant about Council values and business ethics - specifically, about ethical behaviour appropriate to business dealings. A copy of Council's Statement of [Business Ethics Policy](#) (as amended from time to time) ~~is attached at Appendix 8 and available on Council's website~~.
- b) Ensure that its communities understand the system and the Council's role – specifically, how the Planning Agreements system operates and how Council will deal with developments/ planning proposals objectively.
- c) Notify Planning Agreements to ensure they are open and transparent – specifically, achieving maximum public awareness of the matters contained in a Planning Agreement(s) and the potential benefits of an agreement.
- d) Ensure appropriate delegations and separation of responsibilities in considering development applications/planning proposals that involve Planning Agreements – specifically, the need to ensure processes adequately

address the level of risk of corruption of a process while at the same time being appropriate to the likely level of risk.

- e) Ensure that modifications to approved development should be subject to the same scrutiny as the original development application.
- f) Ensure that Councillors and Council staff understand their varied roles, some of which have potential to conflict.
- g) Complete negotiations via written correspondence, rather than face-to-face meetings, to ensure that all discussions are clearly documented to ensure the highest level of transparency, accountability and record-keeping. This also allows timely consideration and resolution of any issues raised and facilitates carefully considered decision making by all parties.
- h) Take every step to ensure that conflicts of interest are ameliorated to the greatest extent possible – specifically, independent assessment by third parties where Council has an interest and not entering into any contractual arrangement which purport to guarantee outcomes that are subject to separate regulatory processes.

Apart from the above procedures, further procedures that will be implemented to address these matters may also include, but not be limited by, the following procedures:

- a) The Councillors will not be involved in the face-to-face negotiation of the agreement but will ultimately execute the Planning Agreement – as part of their duties as Councillors.
- b) A Council officer with appropriate delegated authority will negotiate a Planning Agreement on behalf of the Council in accordance with this Policy.
- c) The Council will, in all cases, ensure that Council staff with key responsibility for providing advice on approvals, approving applications or ensuring compliance, do not have a role in the assessment of the commercial aspects of the agreement nor on the conditions of the Planning Agreement except where advice is required on matters relating to the conditions of consent for a particular proposal.
- d) The Council may involve an independent person(s) to facilitate or otherwise participate in the negotiations or aspects of it, particularly where this will lead to a better planning outcome.
- e) The Council will ensure that all negotiations with a developer/proponent and their consultants are sufficiently separated and documented.
- f) Where the Council has a commercial stake in development the subject of an agreement, it will take appropriate steps to ensure that it avoids a conflict of interest between its role as a planning authority and its commercial interest in the development.
- g) Where Council is the consent authority and an applicant has proposed to enter into a Planning Agreement, the development application must be determined by the Waverley Local Planning Panel (WLPP), the Sydney Planning Panel, or any other relevant planning authority.

PART 4 – NOTIFICATION AND EXHIBITION

4.1 Public notification of Planning Agreements

In accordance with the Act, a Planning Agreement must be publicly notified and available for public inspection for a minimum period of 28 days. Notification generally involves a public notice in the Wentworth Courier, online at <https://haveyoursay.waverley.nsw.gov.au/> and directly to the relevant precinct committee. The Council may decide to notify a Planning Agreement for a longer period or shorter period as permitted by the Act.

The Council will also notify the application to which a Planning Agreement relates in accordance with the Act.

4.2 Re-notification

The Council may publicly re-notify and make available for public inspection a proposed Planning Agreement and the application to which it relates if, in the Council's opinion, a material change is made to the terms of the agreement or the application after it has been previously publicly notified and inspected. Such a change may arise as a consequence of public submissions made in respect of the previous public notification and inspection of the agreement or the application, or their formal consideration by the Council, or for any other reason.

4.3 Public comment on Planning Agreements

The Council encourages the public to make submissions on Planning Agreements. This will allow the Council to better understand local needs and permit fine tuning of the planning obligations set out in any Planning Agreement.

In the case of development applications, whilst Council aims to advertise the Planning Agreement at the same time as the development application it may be advertised separately to the development application depending upon when an outcome is reached following negotiation.

In the case of planning proposals, it would be expected that the proponent would provide a detailed offer which would incorporate specifics as to the public benefit and an undertaking to pursue and enter into a negotiated Planning Agreement prior to gazettal notification.

PART 5 – IMPLEMENTATION AND CONDITIONS

5.1 Preparation of the Planning Agreement

The Council will prepare a Planning Agreement relating to a particular application for an instrument change or development application. The Council uses a standard form of Planning Agreement on which every Planning Agreement is based which reflects the policies and procedures set out in this document (refer Appendix 3). This Planning Agreement will include an explanatory note (refer Appendix 4).

The Council will require a Planning Agreement to make provision for payment by the developer of the Council's costs of and incidental to negotiating, preparing and entering into the agreement as well as administering and enforcing the agreement.

5.2 When is a Planning Agreement required to be entered into?

A Planning Agreement is entered into when it is signed by all of the parties. The Council will usually require a Planning Agreement to be entered into as a condition of granting development consent to the development to which the agreement relates or as part of the Gateway process for a planning proposal. However, a Planning Agreement can be entered into at any time after the agreement is publicly notified in accordance with the Act and Regulation.

5.3 When will planning obligations arise?

5.3.1 Development Applications

The Council will generally require a Planning Agreement to provide that the developer's obligations in relation to securing the delivery of development contributions must be met prior to the issuing of any construction certificate related to the subject development application. Delivery of the development contribution may be prior to occupation certificate.

5.3.2 Planning Proposals

There are a number of possible scenarios which are to be detailed in the terms of the Planning Agreement to ensure that the obligations of the agreement are fulfilled by the proponent of the planning proposal.

- a) Generally, the developer's obligations in relation to the execution of a Planning Agreement must be met as soon as possible after gateway determination and prior to gazettal notice. A clause is to be included within the Planning Agreement indicating that the obligations under the Planning Agreement are only required to be met in the event of the associated Planning Proposal being successfully gazetted. The delivery of the contribution (e.g. payment of any monetary contribution) must be paid at gazettal. The Letter of Offer issued by the developer in relation to a Planning Proposal should reflect the above process.
- b) Generally, the developer's obligations in relation to the execution of a Planning Agreement associated with a Planning Proposal should not be linked to any current or future Development Application for the site.
- c) If the proponent of the planning proposal intends to sell the site it must immediately notify Council in writing. Generally, the proponent must meet the obligations of the Planning Agreement, particularly the delivery of developer contributions (e.g. payment of any monetary contribution), on or before settlement of the sale of the land. Generally, this is to be secured through

registration of the Planning Agreement, caveat against the title of the land and provision of bank guarantee as required under (a).

5.4 Implementation agreements

The Council may require an implementation agreement that provides for matters such as:

- (a) The timetable for provision of planning obligations under the Planning Agreement.
- (b) The design, technical specification and standard of any work required by the Planning Agreement to be undertaken by the developer.
- (c) The manner in which a work is to be handed over to the council. The manner in which a material public benefit is to be made available for its public purpose in accordance with the Planning Agreement.

5.5 Monitoring and review of a Planning Agreement

The Council will continuously monitor the performance of the developer's/proponent's obligations under a Planning Agreement and report them in accordance with the Act.

5.6 Modification or discharge of obligations

The Council may agree to a provision in a Planning Agreement permitting the developer's/proponent's obligations under the agreement to be modified or discharged in the following circumstances:

- a) The developer's/proponent's obligations have been fully carried out in accordance with the agreement, or
- b) The development consent to which the agreement relates has lapsed, or
- c) The development consent to which the agreement relates has been modified to such an extent that the planning obligations may not be appropriate, or
- d) The performance of the Planning Agreement has been frustrated by an event or events beyond the reasonable control of the parties, or
- e) The developer/proponent has fully and completely assigned the developer's/proponent's interest under the agreement in accordance with its terms, or
- f) Other material changes affecting the operation of the Planning Agreement have occurred, or
- g) The Council and the developer/proponent otherwise agree to the modification or discharge of the agreement.

Such a provision will require the modification or revocation of the Planning Agreement in accordance with the Act and Regulation.

5.7 Assignment and dealings by the developer/proponent

The Council will not generally permit the assignment of any or all of the developer's/proponent's rights or obligations under the agreement, nor will the Council permit any dealing in relation to any part or the whole of the land the subject of the agreement. However the Council may agree to an assignment when:

- a) The developer/proponent has, at no cost to the Council, first procured the execution by the person with whom it is dealing of all necessary documents in favour of the Council by which that person agrees to be bound by the agreement as if they were a party to the original agreement, and
- b) If the proposed dealing involves a mortgage, charge or other encumbrance in relation to the party's right, title and interest in the land, such documents provide for an agreement by the person to the effect that they, and any receiver appointed by them, will not enjoy rights greater than those of that party, and
- c) The party is not in breach of the Agreement.

This does not affect the operation of any of other requirements of the agreement.

5.8 Provision of security under a Planning Agreement

The Council will generally require a Planning Agreement to make provision for security to cover the developer's/proponent's obligations under the agreement. A form of security will generally be an unconditional bank guarantee from an Australian Bank in favour of the Council to the full value of the developer's/proponent's obligations under the Agreement and on terms otherwise acceptable to the Council. An insurance bond may also be deemed acceptable. Other security will generally be required.

5.9 Registration of Planning Agreements

The Council may require a Planning Agreement to contain a provision requiring the developer/proponent to agree to registration of the agreement pursuant to s93H of the Act if the requirements of that section are satisfied.

5.10 Dispute resolution

The Council will require a Planning Agreement to provide for mediation of disputes between the parties to the agreement before the parties may exercise any other legal rights in relation to the dispute.

5.11 Methodology for valuing public benefits under a Planning Agreement

Subject to section 2.4, unless otherwise agreed in a particular case, public benefits will be valued as follows:

5.11.1 Provision of land or units for a public purpose

Where the benefit under a Planning Agreement is the provision of land for a public purpose, or units given to Council in perpetuity, the value of the benefit will be determined by an independent valuer who is experienced in valuing land in New South Wales (and who is acceptable to Council), on the basis of a scope of work which is prepared by Council. All costs of the independent valuer in carrying out such a valuation will be borne by the developer/proponent.

5.11.2 Carrying out of works for a public purpose

Where the benefit under a Planning Agreement is the carrying out of works for a public purpose, the value of the benefit will be determined by an independent quantity surveyor (who is acceptable to Council), on the basis of the estimated value of the completed works being determined using the method that would ordinarily be adopted by a quantity surveyor. Council will prepare the scope of work for the independent quantity surveyor. All costs of the independent quantity surveyor in carrying out the work will be borne by the developer/proponent.

5.11.3 Other public benefit

Where the benefit under a Planning Agreement is the provision of public benefit other than under 5.11.1 or 5.11.2, Council and the Developer/proponent will negotiate the manner in which the benefit is to be valued for the purposes of the agreement.

5.12 How will the Council seek to determine the amount of Monetary Contribution that may be payable for Developments with FSR above clause 4.4 of WLEP (the WLEP Provisions)

Generally, the value of 50% of the increase in net value to the development arising from an increase in FSR beyond WLEP 2012 provisions in clause 4.4 may be considered an appropriate contribution. A series of standardised development contribution rates have been developed to streamline negotiations and provide fairness, predictability and certainty to the community, Council and developers. These pre-scheduled development contribution rates apply to different suburbs in the Waverley LGA. These rates are located in Appendix 1 and will be applied to Development Applications. These rates will be updated annually.

5.13 How will the Council seek to determine the amount of Monetary Contribution that may be payable for an amendment to the Waverley Local Environmental Plan 2012

Generally, the value of 50% of the net value from the planning proposal may be considered an appropriate contribution. The net value will be determined by an independent valuer who is experienced in valuing land in New South Wales (and who is acceptable to Council). All costs of the independent valuer in carrying out such a valuation will be borne by the proponent. The methodology used to determine the net value will generally be calculated by determining the Residual Land Value resulting from the planning proposal less the Base Case.

APPENDIX 1 – VPA PAYABLE RATES

The VPA payable rates per square metre for residential floor space are outlined in the following table. VPA payable rates have not been calculated for Bronte, Tamarama, Waverley or Queens Park as there have been few VPAs offered in these areas. If a VPA is offered in these suburbs, then it should be calculated based on the ‘Average LGA’ rate. For mixed use developments commercial office and retail benchmark rates should be used.


If the existing building already exceeds the maximum FSR permitted on the site, the VPA will be calculated using the additional GFA above the existing non-compliance. For example, for a site with a max FSR of 0.9:1, an existing FSR of 1:1 and a proposed FSR of 1.2:1, the VPA will only be calculated on the GFA between 1:1 and 1.2:1.

Note: These rates will be updated on an annual basis based on sales prices.

BENCHMARK RATES FOR RESIDENTIAL

Area and type	Rate \$/sqm
Bondi Junction	\$4,000 4,400
Bondi	\$4,000 4,000
Bondi Beach	\$4,300 4,800
North Bondi	\$4,400 4,500
Dover Heights	\$3,200 3,100
Rose Bay	\$3,300 4,100
Vaucluse	\$3,100 3,200
Other Suburbs (Average)	\$3,800 4,000

BENCHMARK RATES FOR NON-RESIDENTIAL

Area and type	Rate \$/sqm	Location it applies
Bondi Road Centre	\$2,400	
Bondi Junction retail core	\$2,800	

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Bondi Junction retail fringe	\$2,600	
Bondi Junction office	\$2,600	
Campbell Pde, Bondi	\$4,100	
Hall Street, Bondi	\$3,600	
Fringe	\$3,000	All other areas for non-residential development not specified in this table.

PRO RATA BENCHMARKS

Where a Development Application including any modification or amendment offering a Voluntary Planning Agreement contains both residential and non-residential floor space, generally a pro rata approach is to be taken and both benchmark rates should be used proportionately to their percentage of gross floor area within the entire development.

For example, if 20% of the total gross floor area of a development is non-residential and 80% of a total gross floor area of a development is residential, then the non-residential benchmark rate should be used for 20% of the gross floor area exceedance above the maximum permitted under the maximum Floor Space Ratio, and the residential benchmark rate for 80%. If the gross floor area exceedance were 50 square metres, then 40sqm would be multiplied by the residential rate and 10sqm against the non-residential rate.

This approach may be varied where additions to an existing building (which contains both residential and non-residential uses) are proposed, and the new works only add gross floor area of one of the uses. For example, an additional floor containing residential floor space only is being added above a shop top housing development and the ground floor commercial space is not being reduced or increased. In this instance it would be appropriate to use only the residential benchmark rate.

ALTERNATE VALUATION METHODOLOGY

There are two components that will make up the valuation. These are:

1. The valuation (end sale value) of the bonus (marginal) floor space; and
2. Assessment of the marginal costs (to be deducted from the marginal revenue in order to calculate marginal profit);

Component 1 must be done by fully qualified Valuers. It is recommended that two Valuers are appointed, one on behalf of Council and the other on behalf of the applicant. The adopted valuation figures is to be the average of the two valuations, where these valuations are reasonably close.

Component 2 must be done by fully qualified quantity surveyors (QS). It is recommended that two consultants are appointed, one on behalf of Council and the other on behalf of the applicant. The adopted cost estimates is to be the average of the two QS estimates, where these valuations are reasonably close.

The principles of valuation of the two components are detailed below:

1. Component 1 – Value of Floor Space Bonus

- 1.1. The Valuer is to provide the end sale value of the bonus floor space. This refers to the additional apartments plus their ancillary car parking spaces.
- 1.2. Where there was a bonus on the height of the building then the bonus apartments will be on the upper most levels of the building. Alternatively it may be on the levels immediately below the penthouse and sub-penthouse levels (given that a premium may be attached to the penthouse and sub-penthouse levels – refer to example in Paragraph 1.6 below).
- 1.3. The marginal value (or value of the bonus floor space measured in dollars per square metre) should not be less than average value (the building's total value divided by total floor area).
- 1.4. The bonus floor space does not necessarily have to be identified in "whole" apartments. It can be identified in fractions of apartments or even in square metres.
- 1.5. The valuation is to take into consideration the specification and quality of finish of the bonus apartments.
- 1.6. An acceptable method of measure is the difference between the total value of the apartments without the bonus floor space and the total value of the apartments with the bonus floor space.

In the example below a bonus floor space provides an additional increase in the internal leasable area of 14.9% through an increase of building height (one additional floor) plus a slight widening of the building. The result is an increase in the end value by 15.8%.

Building Without Bonus Floor Space					Building With Bonus Floor Space					
Level	Sqm	\$/sqm	\$m		Level	Sqm	\$/sqm	\$m		
	11		300	12,000	3.6	12		300	12,000	3.6
	10		400	11,000	4.4	11		425	11,000	4.7
	9		500	10,000	5.0	10		525	10,200	5.4
	8		500	9,800	4.9	9		525	10,000	5.3
	7		500	9,600	4.8	8		525	9,800	5.1
	6		500	9,400	4.7	7		525	9,600	5.0
	5		500	9,200	4.6	6		525	9,400	4.9
	4		500	9,000	4.5	5		525	9,200	4.8
	3		500	8,500	4.3	4		525	9,000	4.7
	2		500	8,000	4.0	3		525	8,500	4.5
	1		500	7,500	3.8	2		525	8,000	4.2
	1		500	7,500	3.8	1		525	7,500	3.9
	TOTAL		5,200	48.5		TOTAL	5,975	56.2		
						Margin	775	7.7		
						% Increase	14.9%	15.8%		

- 1.7. The marginal value shall be the actual price exchanged. Where the apartments have not been exchanged then the market value should be the listed or asking price. If there are no listed or asking prices then the value shall be estimated by the Valuer based on market evidence.
- 1.8. Market evidence should include any pre-sales in the building and/or recent sales and pre-sales of comparable apartments in other buildings in the locality.
- 1.9. The Valuer shall deduct (from the end value of the bonus floor space) GST at one eleventh of the gross end sale value and any other costs on sale such as sales commission and legal costs. Generally these costs will be no more than 3.0% of gross end sale value.
- 1.10. The result is the expected marginal net sale proceeds from the bonus floor space.

2. Component 2 – Marginal Cost to Design and Construct

- 2.1. The QS shall provide an estimate of the marginal cost of construction relating to the bonus floor space and bonus car parking spaces. Generally, Council will not accept exaggerated costs that are significantly higher than the development cost indicated on the submitted DA.
- 2.2. This simplest method to calculate marginal cost is the pro-rata of the total building cost based on bonus floor space divided by total GFA plus a pro-rata of the car parking cost based on number of parking spaces allocated to the bonus units divided by total car parking spaces.
- 2.3. Various site costs including, but not limited to, landscaping, driveways, fencing and external works shall be excluded since these costs are not marginal.
- 2.4. The QS and/or Valuer shall then add the marginal design costs, application fees, marketing and advertising costs and other ancillary costs. Again this would be a pro-rata of total costs. Evidence of these costs should be provided.

- 2.5. The QS and/or Valuer shall then add the monetary contributions under Section 94A in relation to the bonus floorspace (if paid or is to be paid).
- 2.6. The QS and/or Valuer can then add finance and interest costs again using the pro-rata method. The method for showing interest calculation must be provided using cash flow or other appropriate method of calculation.
- 2.7. Land cost and profit margins are not to be included as these are not marginal costs.
- 2.8. GST on costs is to be excluded since this will be returned to the developer in the form of input credits.
- 2.9. The result is the total estimated cost in delivering the marginal floor space.

The formula for calculating the profit from the bonus floor space is:
Marginal net sale proceeds less Marginal cost to Construct

50% of the profit from the bonus floor space is to be provided as a negotiated form of public benefit through a Planning Agreement.

APPENDIX 2 – VALUATION METHODOLOGY FOR PLANNING PROPOSALS ~~under Waverley Council's Planning Agreement Policy 2014~~

There are two components that will make up the valuation. These are:

1. The Base Case; and
2. Residual Land Value.

Both components must be done by suitably qualified Valuers. It is recommended that two Valuers are appointed, one on behalf of Council and the other on behalf of the applicant. The costs of commissioning the Valuers should be shared between Council and the applicant. The adopted valuation figure is to be the average of the two valuations.

The principles of valuation of the two components are detailed below:

1. Component 1 – Base Case

- 1.1. The Base Case is the value of the land under the current zoning (assuming in perpetuity). The value under the base case should be assessed on the site's highest and best use permissible under the current zoning. The highest and best use may, or may not be, the current use of the land.
- 1.2. The Valuer is required to test and determine the highest and best use of the land. The base case is to assume that the current zoning on the land and the development standards under the current instruments will remain in perpetuity. The planning proposal itself must not affect the base case.
- 1.3. Standard valuation practices shall apply and at least two methods of valuation should be used. Comparable sales should be one of the methods applied unless there is insufficient evidence. When using comparable sales evidence the Valuer must ensure that the sale prices are not affected by planning proposals or draft instruments that are not related to the base case – or at least make reasonable allowances / adjustments.
- 1.4. If the subject site was sold recently then the purchase price can be adopted provided that the price was not inflated as a result of the planning proposal.

2. Component 2 – Residual Land Value

- 2.1. The Valuer shall estimate the value of the land under the planning proposal using the residual land valuation (RLV) method. The preferred method for calculating the RLV is discounted cash flow modelling using proprietary software like Estate Master DF or similar. A simple developer's profit model may be acceptable for small-scale single-staged developments.
- 2.2. The assumptions in the RLV calculations must be reasonable and based on industry averages.
- 2.3. If there are no listed or asking prices then the end sale values shall be estimated by the Valuer based on comparable market evidence.

- 2.4. Market evidence should include any recent pre-sales in the building and/or recent sales and pre-sales of comparable apartments in other buildings in the locality.
- 2.5. Estimated construction costs must be supported by a Quantity Surveyor's report. Construction contingency should be no greater than 5%. Soft costs may be included such as design costs, application fees, authority fees, development management, marketing and advertising and finance establishment costs.
- 2.6. In calculating the RLV the project start date should assume the land is zoned appropriately (i.e. the zone that is being proposed).
- 2.7. The RLV should exclude any discounting during the rezoning period as the payment under the VPA will not be made until occupation certificate. A typical development program should be assumed that allows reasonable time for development approval, certification and construction. Council will not accept a program that appears conservative or pessimistic. The table below provides a suggested range of project lives for a single stage project. Any significant departure in project life requires supporting evidence.

Construction Cost	Approvals and Documentation (months)	Construction (months)
Under \$20m	8-9	10-14
\$20m to \$40m	9-11	14-17
Above \$40m	10-12	18-20

- 2.8. It is recognised that these timeframes can vary and are impacted by building height and number of basement levels.
- 2.9. For a short single staged development a developer's profit or "back of envelope" method rather than a cash flow model may be acceptable. Using this method the RLV will be derived from the target profit/risk margin. If this method is used the interest should be calculated as follows:
- $$\text{Interest Cost} = (\text{Total Project Costs excluding land \& GST}) \times (\text{Interest Rate} / 12) \times (\text{Months of Construction}) \times 50\%.$$
- 2.10. The RLV model should preferably show both the development margin and Project Internal Rate of Return (IRR) on the cash flow before interest. Reasonable industry standard hurdle rates should be applied. Generally a target margin (on project costs) of 15% to 25% and a target IRR of 16% to 20% should apply but this depends upon the levels of market risk and other project risks.

The formula for calculating the net value from the planning proposal is:
Residual Land Value minus the Base Case

50% of the net value from the planning proposal is to be provided as a negotiated form of public benefit through a Planning Agreement.

APPENDIX 3 – (CLAUSE 1.6) PLANNING AGREEMENT TEMPLATE

PLANNING AGREEMENT NO. _____

Section 7.4 of the Environmental Planning and Assessment Act, 1979

THIS AGREEMENT is made on DATE THAT AGREEMENT IS ENTERED INTO

PARTIES

WAVERLEY COUNCIL of Cnr Paul Street and Bondi Road, Bondi Junction NSW 2022 ABN 12 502 583 608 (“**Council**”)

AND

DEVELOPER NAME (ACN #) of Address (“**Developer**”)

BACKGROUND/RECITALS

- A.** The Developer is the registered proprietor of the Land.
- B.** The Council is the local authority constituted under the Local Government Act 1993 and the planning and consent authority constituted under the Act.
- C.** On DATE the Developer made (or caused to be made) the Development Application to Council for Development Consent to carry out the Development on the Land.
- D.** The Development Application was accompanied by an offer dated DATE by the Developer to enter into this Agreement to make the Development Contribution to be applied towards a public purpose in accordance with Council’s Planning Agreement Policy if development consent was granted.
- E.** The Development Consent was granted on DATE.
- F.** This Agreement is consistent with the Developer’s offer referred to in Recital D.

OPERATIVE PROVISIONS:

1 PLANNING AGREEMENT UNDER THE ACT

The parties agree that this Agreement is a Planning Agreement governed by Section 7.4 and Subdivision 2 of Division 7.1 of Part 7 of the Act.

2 APPLICATION OF THIS AGREEMENT

This Agreement applies to the Land and to the Development proposed in the Development Application, as may be modified.

3 OPERATION OF THIS AGREEMENT

This Agreement shall take effect on and from the date of this Agreement. The parties must execute and enter into this Agreement as soon as possible after the Development Consent is grant and prior to any Construction Certificate issuing for the Development.

4 DEFINITIONS AND INTERPRETATION

4.1 Definitions

In this Agreement unless the context otherwise requires:

“Act” means the *Environmental Planning and Assessment Act 1979* (NSW);

“Agreement” means this agreement;

“Bank Guarantee” means an irrevocable and unconditional undertaking by a trading bank approved by the Council to pay the Development Contribution amount on demand without an expiry or end date and containing terms and conditions acceptable to Council and in accordance with clause 9 of this Agreement;

“Business Day” means a day that is not a Saturday, Sunday or public holiday, on which banks are open for general services in Sydney, New South Wales;

“Caveat Form” means an irrevocable authority to Waverley Council to register and maintain a caveat on the Land, in a form acceptable to Council and executed by the owner of the Land, or such other form of owner’s consent to caveat as may be required by Council; **“Certifying Authority”** means any accredited private certifier including where appropriate, a Principal Certifying Authority (PCA) appointed or to be appointed to certify the Development or any aspect of it;

“Council” means Waverley Council and herein includes any local government authority with which that Waverley Council may merge or any other local government authority responsible for a local government area that the Land is located within; **“Construction Certificate”** means any construction certificate as referred to in s 6.4 of the Act in respect of the Development Consent;

“Development” means the development the subject of the Development Application described in item 4 of the Schedule;

“Development Application” means the development application referred to in item 3 of the Schedule;

“Development Consent” means the development consent granted in respect of the Development Application described in item 3 of the Schedule;

“Development Contribution” means the amount of money referred to in item 5 of the Schedule; [NOTE: For monetary contributions]

“Development Contribution Date” means the time the Development Contribution is to be paid as specified to in item 7 of the Schedule; [NOTE: For monetary contributions] **“GST”** has the same meaning as in the GST Law;

“GST Law” has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST;

“Land” means the land described in item 2 of the Schedule;

“Occupation Certificate” means any occupation certificate as referred to in s 6.4 of the Act in respect of the Development Consent;

“Party” means a party to this Agreement including their successors and assigns;

“Public Purpose” for the purpose of this Agreement means the public purpose described in item 6 of the Schedule;

“Registration Application” means an application for registration of this Agreement as a Planning Agreement on the title of the Land pursuant to Section 7.6 of the Act in a form approved by the Registrar General;

“Schedule” means the schedule to this Agreement.

4.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney, New South Wales;
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day;
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (f) A reference in this Agreement to any agreement, Agreement or document is to that agreement, Agreement or document as amended, novated, supplemented or replaced;
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement;
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders;
- (k) References to the word 'include' or 'including' are to be construed without limitation;
- (l) A reference to this Agreement includes the agreement recorded in this Agreement;
- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns; and
- (n) Any schedules and attachments form part of this Agreement.

5 DEVELOPMENT CONTRIBUTION TO BE MADE UNDER THIS AGREEMENT

- 5.1 The Developer agrees to make, and the Council agrees to accept, the Development Contribution to be applied for the Public Purpose.
- 5.2 The Developer must pay the Development Contribution to the Council by bank cheque on or before the Development Contribution Date and time is essential in this respect. [NOTE: For monetary contributions]

6 APPLICATION OF THE DEVELOPMENT CONTRIBUTION

- 6.1 The Council will apply the Development Contribution towards the Public Purpose as soon as practicable.

7 APPLICATION OF S7.11 AND S7.12 OF THE ACT TO THE DEVELOPMENT

- 7.1 This Agreement does not exclude the application of Sections 7.11, 7.12 or 7.24 of the Act to the

Development.

- 7.2 The Development Contribution provided by the Developer will not be taken into consideration in determining any development contribution under Section 7.11 or 7.12 of the Act.

8 REGISTRATION OF THIS AGREEMENT

- 8.1 The Parties agree this Agreement is to be registered by the Registrar-General as provided for in section 7.6 of the Act.
- 8.2 The Developer warrants that they have done everything necessary to enable this Agreement to be registered under section 7.6 of the Act.
- 8.3 Without limiting clause 8.2, the Developer warrants that they have obtained the express written consent to the registration of this Agreement under section 7.6 of the Act from:
- (a) If this Agreement relates to land under the *Real Property Act 1900*, each person who has an estate or interest in the Land registered under that Act; or
 - (b) If this Agreement relates to land not under the *Real Property Act 1900*, each person who is seized or in possession of an estate or interest in the Land.
- 8.4 As soon as possible after entering into this Agreement and in any event prior to the issue of a Construction Certificate, the Developer will at their cost arrange and effect registration of this Agreement under s7.6 upon the title to the Land and as soon as possible will:
- (a) deliver to the Council the Registration Application in registrable form noting the Council as applicant and executed by the owner of the Land and any other person the subject of the warranty in clause 8.3;
 - (b) produce or cause to be produced the title deed with NSW Land Registry Services and advise Council of the production number or provide a copy of the CoRD Holder Consent as may be applicable;
 - (c) provide the Council with a cheque in favour of NSW Land Registry Services, NSW for the registration fees for registration of this Agreement, or deliver funds electronically as Council may direct; and
 - (d) provide the Council with a cheque in favour of the Council for its reasonable costs, expenses and fees incurred or to be incurred in connection with the preparation of this Agreement and any documents, form or instrument created or to be created in accordance with the provisions of this Agreement.
 - (e) and take any other necessary action so as to ensure this Agreement is registered on the title to the Land prior to the issue of any Construction Certificate.
- 8.5 Upon compliance with clause 8.4 by the Developer the Council will promptly lodge the Registration Application with the Registrar General.
- 8.6 The Parties will co-operate with each other to ensure that the Agreement is registered by the Registrar General.
- 8.7 Upon payment of the Development Contribution or surrender of the Development Consent, the Developer may request in writing the removal of the dealing created by registration of the Agreement from the title to the Land. The Council will not withhold its consent to such removal, provided the Developer pays all reasonable costs, expenses and fees of the Council relating to such removal.
- 8.8 Should payment of the Development Contribution or surrender of the Development Consent occur upon the date of this Agreement and prior to issue of a Construction Certificate, then there will be no obligation to register this Agreement in accordance with this clause nor provide the Bank Guarantee in accordance with clause 9.1.

- 8.9 Upon registration of this Agreement by the Registrar General, this Agreement is binding on, and is enforceable against the owner of the Land from time to time as if each owner for the time being had entered into this Agreement.

9 BANK GUARANTEE

9.1 Provision of Bank Guarantee

- (a) Subject to clause 8.8, prior to the issue of a Construction Certificate, the Developer must deliver to the Council a Bank Guarantee, which must be:
- (i) in a form and from an institution approved by the Council;
 - (ii) irrevocable and unconditional;
 - (iii) with no expiry date;
 - (iv) issued in favour of the Council;
 - (v) for an amount equivalent to the Development Contribution set out in Item 6 of the Schedule;
 - (vi) drafted to cover all of the Developer's obligations under this Agreement; and
 - (vii) on the terms otherwise satisfactory to the Council.
- (b) The Developer acknowledges that the Council enters into this Agreement in consideration of the Developer providing the Bank Guarantee as a security for the performance of all of the Developer's obligations under this Agreement, including without limitation the delivery of the Development Contribution to Council in accordance with this Agreement.

9.2 Calling on Bank Guarantee

- (a) The Council may call on the Bank Guarantee in the event that the Developer:
- (i) fails to make a payment of any part of the Development Contribution in accordance with this Agreement or any other amount payable under this Agreement by its due date for payment; or
 - (ii) breaches any other term or condition of this Agreement,
- and fails to remedy the relevant failure or breach within 7 days after the Council's notice.
- (b) If the Council calls on the Bank Guarantee as a result of the Developer's failure to pay any amount due under this Agreement, then the Council will apply the amount received pursuant to its claim on the Bank Guarantee towards the Developer's obligation to pay the relevant amount and will deduct that amount from the total amount payable under this Agreement. In those circumstances, the Developer will be required to pay to the Council any outstanding balance of the Development Contribution and other amounts payable under this Agreement.

9.3 Return of Bank Guarantee

Subject to clause 9.2, provided that the Developer has complied with its obligations under this Agreement, to pay the Development Contribution or any other amount payable under this Agreement, the Council will return the Bank Guarantee to the Developer.

10 REVIEW OF THE AGREEMENT

Any amendment or review of this Agreement shall be by agreement in writing and in compliance with section 7.5 of the Act.

11 DISPUTE RESOLUTION

11.1 Notice of dispute

If a Party claims that a dispute has arisen under this Agreement ("Claimant"), it must give written notice to the other Party ("Respondent") stating the matters in dispute and designating as its representative a person to negotiate the dispute ("Claim Notice").

No Party may start Court proceedings (except for proceedings seeking interlocutory relief) in respect of a dispute unless it has first complied with this clause.

11.2 Response to notice

Within ten business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

11.3 The nominated representative must:

- (i) Meet to discuss the matter in good faith within five business days after services by the Respondent of notice of its representatives;
- (ii) Use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

11.4 Further notice if not settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either Party may give to the other a written notice calling for determination of the dispute ("Dispute Notice") by mediation under clause 11.5 or by expert determination under clause 11.6.

11.5 Mediation

If a Party gives a Dispute Notice calling for the dispute to be mediated:

- (i) The Parties must agree to the terms of reference of the mediation within five business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules and the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (ii) The mediator will be agreed between the Parties, or failing agreement within five business days of receipt of the Dispute Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (iii) The mediator appointed pursuant to this Clause 11.5 must:
 - (a) Have reasonable qualifications and practical experience in the area of disputes; and
 - (b) Have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (iv) The mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (v) The Parties must within five business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation.
- (vi) The Parties agree to be bound by a mediation settlement and may only initiate

- judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement.
- (vii) In relation to costs and expenses
- (a) Each Party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (b) The cost for the mediator will be shared equally by the Parties unless the mediator determines a Party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full cost of the mediation to be borne by that Party.

11.6 Expert Determination

If the dispute is not resolved under clause 11.3 or 11.5 the dispute may, by agreement between the Parties, both acting reasonably having regard to the nature of the dispute, be resolved by expert determination, in which event:

- (i) The dispute must be determined by an independent expert in the relevant field:
 - (a) Agreed upon and appointed jointly by the Council and the Developer; or
 - (b) In the event that no agreement is reached or appointment made within 30 business days, appointed on application of a Party by the then current President of the Law Society of New South Wales;
- (ii) The expert must be appointed in writing and terms of the appointment must not be inconsistent with this clause;
- (iii) The determination of the dispute by such expert will be made as an expert and not as an arbitrator and will be in writing and containing reasons for the determination;
- (iv) The expert will determine the rules of the conduct for the process, but must conduct the process in accordance with the rules of natural justice;
- (v) Each Party will bear its own costs in connection with the process and the determination by the expert together with an equal proportion of the expert's fees and costs; and
- (vi) Any determination made by an expert pursuant to this clause is final and binding upon the Parties except where the determination is in respect of, or relates to, termination or purported termination of this Agreement by any Party, in which event the expert is deemed to be giving a non-binding appraisal and any Party may commence litigation in relation to the dispute if it has not been resolved within 20 business days of the expert giving his or her decision.

11.7 Litigation

If the dispute is not finally resolved in accordance with this clause 11, either Party is at liberty to litigate the dispute.

11.8 Continue to Perform Obligations

Each Party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

12 ENFORCEMENT

- 12.1 Nothing in this Agreement prevents the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement (including the breach of this Agreement by the Developer) or any matter to which this Agreement relates.

- 12.2 Until such time as the Development Contribution has been paid in full, an Occupation Certificate must not be issued and the Developer must:
- (a) notify the Council in writing of the name and contact details of any Certifying Authority to which it has applied for an Occupation Certificate at the same time that such application is made;
 - (b) at the time it lodges any application for an Occupation Certificate notify the Certifying Authority in writing of the existence and terms of this Agreement; and
 - (c) procure and provide to Council a written acknowledgement from the Certifying Authority addressed to Council confirming that the Certifying Authority will not issue an Occupation Certificate until Council provides written confirmation that the Development Contribution has been paid;
 - (d) not rely on any Occupation Certificate in respect to the Development.
- 12.3 The Developer acknowledges and agrees that:
- (a) the Land is charged with the payment to Council of the Development Contribution until the Development Contribution is paid in full to Council; [NOTE for monetary contributions]
 - (b) Council has a caveatable interest in the Land from the later of the date of the Development Consent and this Agreement until the Development Contribution and any other monies due to Council under this Agreement are paid in full to Council;
 - (c) Council has the right to lodge and maintain a caveat against the title to the Land to notify of and protect its interest created by this Agreement (including the charge in (a), until the Development Contribution and any other monies due to Council under this Agreement are paid in full to Council;
 - (d) unless the Development Contribution is paid to Council by the Developer upon entering into this Agreement, the Developer shall provide Council with the Caveat Form; and
 - (e) Upon payment of the Development Contribution or surrender of the Development Consent, the Developer may request in writing the removal of the caveat from the title to the Land. The Council will not withhold its consent to such removal, provided the Developer pays all reasonable costs, expenses and fees of the Council relating to such removal and has complied with all its obligations under this Agreement.
- 13 NOTICES**
- 13.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- (a) delivered or posted to that Party at its address set out below in Item 8 of the Schedule;
 - (b) faxed to that Party at its fax number set out below in Item 8 of the Schedule;
 - (c) emailed to that Party at its email address set out below in Item 8 of the Schedule.
- 13.2 If a Party gives the other Party 3 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 13.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.

- (b) If it is sent by post, 2 business days after it is posted.
- (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct faxnumber.
- 13.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.
- 14 APPROVALS AND CONSENT**
Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.
- 15 ASSIGNMENT AND DEALINGS**
Until the Development Contribution is paid in full, the Developer cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Land or attempt or purport to do so.
- 16 COSTS**
Council's costs of and incidental to the preparation and execution of this Agreement and any related documents and registration of same shall be borne by the Developer. The Developer shall be responsible to pay its own costs and any stamp duty arising from this Agreement or its preparation.
- 17 ENTIRE AGREEMENT**
This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.
- 18 FURTHER ACTS**
Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.
- 19 GOVERNING LAW AND JURISDICTION**
This Agreement is governed by the law of New South Wales. The Parties submit to the nonexclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.
- 20 JOINT AND INDIVIDUAL LIABILITY AND BENEFITS**
Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

21 NON FETTER

The Developer acknowledges and agrees that:

- (a) in addition to its obligations under this Agreement the Council is also responsible for the conduct and administration of local government in the Waverley Local Government Area;
- (b) this Agreement in no way affects Council's statutory obligations, functions or powers, including without limitation, its obligations, functions or powers in respect of the Development Application, Development Consent and any other approvals required in respect of the works to be carried out under the Development Consent;
- (c) nothing which the Council does or fails to do under this Agreement will limit or otherwise affect the Developer's obligations under the Development Consent; and
- (d) nothing which the Council does, fails to do or purports to do in performing the Council's statutory functions or powers will constitute or amount to a breach of this Agreement.

22 REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

23 SEVERABILITY

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

24 MODIFICATION

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

25 WAIVER

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

26 GOODS & SERVICES TAX

- 26.1 The Parties agree and acknowledge, all amounts payable by one party to the other party in relation to a supply under this Agreement have been calculated exclusive of GST which may be imposed on the supply.
- 26.2 If any supply made under this Agreement is, or becomes, subject to GST, the party to whom the supply is made ("**Recipient**") must pay to the party making the supply ("**Supplier**"), as consideration, in addition to any consideration payable or to be provided

elsewhere in this Agreement, subject to issuing a Valid Tax Invoice, an additional amount on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST.

- 26.3 Any amount in respect of GST payable under clause 26.2 must be paid to the Supplier immediately on receipt of the Valid Tax Invoice.
- 26.4 If any party is required to reimburse or indemnify the other party for a cost or expense ("**Cost**") incurred by the other party, the amount of that Cost for the purpose of this Agreement is the amount of the Cost incurred, less the amount of any credit for, or refund of, GST, which the party incurring the Cost is entitled to claim in respect of the Cost.

27 EXECUTION IN TRIPLICATE

The Parties shall execute this Agreement in triplicate so as to provide one original signed by both parties and a further copy for registration of the Agreement under s7.6 of the Act. This Agreement will be dated on the day of execution by all Parties.

DRAFT

SCHEDULE

<u>Item Number</u>	<u>Particulars</u>	<u>Description</u>
1	Developer	NAME (ACN #)
2	Land	Street Address (Lot & DP)
3	Development Application	DA #
4	Development (description)	
5	Development Contribution	
6	Public Purpose	
7	Development Contribution Date (Payment date for the Development Contribution)	
8	Developer Address	
	Developer Fax	
	Developer Email	
	Council Address	CORNER PAUL STREET AND BONDI ROAD, BONDI JUNCTION NSW 2022
	Council Fax	(02) 9387 1820
	Council Email	info@waverley.nsw.gov.au

**EXECUTED by WAVERLEY COUNCIL with Common Seal of Waverley Council affixed
pursuant to a resolution of Waverley Council on**

EMILY SCOTT

General Manager

CLR PAULA MASSELOS

Mayor

EXECUTED by

NAME

(ACN #)

In accordance with section 127 of the
Corporations Act 2001

NAME

Director/Secretary

NAME

Director

APPENDIX 4 – EXPLANATORY NOTE TEMPLATE

Explanatory Note

(Clause 205E of the Environmental Planning and Assessment Regulation 2021~~00~~)

Draft Planning Agreement

The purpose of this explanatory note is to provide a summary of the proposed Planning Agreement (PA) prepared jointly between Waverley Council and the Developer under s7.4 of the *Environmental Planning and Assessment Act 1979* (the Act).

This explanatory note has been prepared as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

This explanatory note is not to be used to assist in construing the Planning Agreement

1 Parties:

Waverley Council (Council) and

Developer (ACN #) of Address (Developer)

2 Description of subject land:

3 Description of Development:

4 Background:

5 Summary of Objectives, Nature and Effect of the Draft Planning Agreement:

6 Assessment of the merits of the Draft Planning Agreement:

The Planning Purposes served by the Draft Planning Agreement

How the Draft Planning Agreement promotes the Public Interest

How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act, 1979 (EP&A Act)

How the Draft Planning Agreement promotes elements of the Council's charter under section 8 of the Local Government Act, 1993

Conformity with the Council's Capital Works Program

Whether the Agreement specifies that certain requirements of the Agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

APPENDIX 5 – TYPES OF PUBLIC BENEFITS DELIVERED BY PLANNING AGREEMENTS

Public benefits delivered by Planning Agreements must be consistent with the *Planning Agreement Practice Note (February 2021)* publication and Part 2 of the *Waverley Planning Agreement Policy 2014*.

Examples of public benefits include, but are not limited to:

- Affordable housing
- Transfer of land identified on the WLEP 2012 Land Reservation Acquisition Map to Council at no cost to Council for a public purpose
- Dedicated land or floorspace for a public purpose
- Publicly accessible through site links
- Amenity upgrades in parks
- Public E-bike infrastructure (parking hubs/ev charging points)
- Publicly accessible recreation (e.g. tennis courts, indoor play, swimming) and youth facilities
- Publicly accessible play space
- Cultural Infrastructure - music performance space / gallery / exhibition space / artist run initiative (ARI) space / spaces for artist residencies
- Open space acquisition opportunities identified in the Open Space and Recreation Strategy
- Temporary or permanent creative urban interventions
- [Streetscape upgrades as outlined in the Our Liveable Places Centres Strategy.](#)
- [Works funded by the 7.12 Contribution where there are no obvious infrastructure upgrades in the vicinity of the development.](#)

To assist in delivering public benefits that are expected to be most useful at the time of Planning Agreement drafting, Council officers will consider the *Waverley Public Benefit Register* available for public viewing on Council's website.

The *Waverley Public Benefit Register* is an iterative and non-exhaustive list of possible specific public benefits which includes items presented by both members of the community and Council officers, subject to meeting listing criteria, and being overviewed and approved by the elected Council. The *Waverley Public Benefit Register* and the assessment of proposed items against the listing criteria is managed by Waverley Council's Strategic Town Planning team. The *Waverley Public Benefit Register* is available on Council's website.

The listing criteria includes, but is not limited to items:

- Currently unfunded by the Long Term Financial Plan (LTFP) or grant funding;
- Provides a clear public benefit and/or response to a community need; and
- Related to a Council-endorsed strategy or plan

APPENDIX 6 – LETTER OF OFFER TEMPLATE

[Developer letterhead]

The General Manager
Waverley Council
Cnr Bondi Road & Paul Street
BONDI JUNCTION NSW 2125

Dear General Manager

Development Application No. _____ for
Property and full title particulars: _____

_____ Pty Limited ("Developer") has made the above development application in respect of the above property.

This letter constitutes an offer by the Developer to enter into a voluntary Planning Agreement (VPA) with Waverley Council in connection with the above development application ("DA") which has been made by the Developer.

The Developer offers the following to be implemented by way of voluntary Planning Agreement:

1. The parties to the VPA will be the Developer, the registered owner of the Land and the Council.
2. The VPA will apply to the above property and will be registered on title within 14 days of the VPA being executed by all parties.
3. The VPA will apply to the development the subject of any consent granted to the DA including any modification, alteration, or extension to that development whether it be via a construction certificate, a modification to the consent or consent to a further development application ("Development").
4. The provision to be made under the VPA will be the payment of a monetary contribution to Council at the rate of \$ _____ per sqm of gross floor area proposed by the Development which exceeds the specified floor space ratio for the property under Waverley LEP 2012.
5. For the avoidance of doubt the Development proposes an additional _____ sqm of gross floor area which equates to a contribution of _____.
6. The monetary contribution would be payable prior to the issue of any occupation certificate in respect of the Development.
7. (a) In the event that the gross floor area of the Development increases from that in the DA consent via any construction certificate, then an additional monetary contribution shall be made to the Council calculated at the rate of \$ _____ per sqm of gross floor area which exceeds the gross floor area of the DA consent and such contribution will be payable on or before the issue of any occupation certificate in respect of the Development.

(b) In the event that the gross floor area of the Development increases from that in the DA consent via any modification to the DA consent or a consent to amend the DA consent, then the Developer further offers in accordance with this paragraph 7(b), to enter into a new Planning Agreement in accordance with Council's Planning Agreement Policy 2014 Amendment No. 4 and make an additional monetary contribution to the Council calculated at the rate of \$ _____ per sqm of gross floor area which exceeds the gross floor area of the DA consent. Such contribution will be payable on or before the issue of any occupation certificate in respect of the Development. The Developer will repeat the offer in accordance with this paragraph 7(b) in writing at the time it lodges any application for modification or amendment of the DA consent

which would result in an increase in the gross floor area.

8. The VPA shall not exclude the application of section 7.11, 7.12 or 7.24 of the EP&A Act.
9. The monetary contribution shall not be taken into consideration in determining a development contribution under section 7.11.
10. The monetary contribution shall be used for the provision of (or the recoupment of the cost of providing) affordable housing or any other public purpose agreed by the Developer and Waverley Council.
11. The VPA will provide for security in the form of the provision to Council prior to the issue of any construction certificate for the Development of a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development which is:
 - In a form acceptable to Council and from an institution acceptable to Council,
 - Irrevocable,
 - Unconditional, and
 - With no end date.
12. The VPA will be otherwise in accordance with Council's Planning Agreement Policy 2014 Amendment No. 54.

Yours faithfully

[Developer signature]



Statement of Business Ethics

LINKS TO COMMUNITY STRATEGIC PLAN & DELIVERY PROGRAM
Direction G1 – Inspiring community leadership is achieved through decision making processes that are open, transparent, corruption resistant and based on sound integrated planning.
Strategy G1a – Develop and maintain a framework of plans and policies that ensures open and transparent operations that facilitate equitable benefit sharing and progress towards sustainability.
AUTHOR: Michael Simmons
DEPARTMENT: Governance & Integrated Planning
DATE CREATED: August 2006
DATE REVISED: April 2014
DATE APPROVED BY EXECUTIVE TEAM:
DATE ADOPTED BY COUNCIL: 6 May 2014
NEXT REVIEW DATE: April 2016
TRIM FILE REF: A06/1397

Statement of Business Ethics

How we do business at Waverley

Our community expects high ethical standards in the provision of Council services and in everything else we do. How we manage our relationships is key to maintaining the community's trust and confidence. Council has set out an ethical framework in which it operates and what we expect from staff.

Our Statement of Business Ethics provides clear guidelines on what to expect from Waverley Council, our obligations and expected behaviours. These standards comply with the NSW Government guidelines for procurement and contracting.

Our principles and policies are an integral part of good business practice.

If at any time you feel that Council is not meeting its standards, please contact my office.

I encourage you to become familiar with our policies, and trust that this Statement helps you in your interactions with Council.



Athanasios (Arthur) Kyron
General Manager

1. Who does this Business Ethics Statement refer to?

We, us, our	Council's staff, councillors, contractors, subcontractors, consultants, delegates and (to the extent practicable) volunteers, as appropriate to the context
Council's staff	Council's staff, contractors, subcontractors, consultants, delegates and (to the extent practicable) volunteers
You, your	People or organisations that deal or wish to deal with Council in business matters
Code of Conduct	Council's Code of Conduct and the Code of Conduct Procedure for Councillors & General Manager and the Code of Conduct Procedure for Staff, Delegates & Volunteers as it applies to Councillors, council staff, consultants, delegates and volunteers

2. Why comply with a Business Ethics Statement?

When you comply with this Statement, you will find that doing business with Council is easier and more effective. You can be sure that you are not disadvantaged because we require others who deal with us to do the same.

By doing business ethically, you will also find it easier to deal with other government bodies because they have similar policies. Ethical practice makes good business sense.

On the other hand, corrupt or unethical behaviour can lead to significant legal, financial and reputational consequences for yourself and Council.

3. What are our Values?

Our values are set out in our Delivery Program and Operational Plan and apply to everything we do. We pride ourselves on bringing the following values alive in our daily activities:

Great Leadership

Great leadership is having the courage to make difficult decisions when they are for the benefit of the whole community and having the skills to engage our teams in providing quality service.

Great Customer Service

Great Customer Service is the willingness and ability to give priority to customers, delivering high quality services which meet their needs.

Respect for All

Respect for all is; treating each other and all members of the community in a friendly, fair and equitable way.

Working Ethically

Ethical behaviour is acting in ways that are consistent with the expectation of the organisation to be corruption free and transparent.

Working Together

Working Together is about everyone working in partnership (internally and with the community) to achieve common or shared goals.

Getting the Job Done Safely, Sustainably and On-Time

Getting the job done means providing a service efficiently, effectively and in the safest possible manner within agreed timeframes and due regard for the environment.

4. What are our Key Business Principles?

Our Key Business Principles overlap with our Values, and target our relationships with suppliers.

Ethics

We have to comply with Council's *Code of Conduct*. This means we need to uphold high standards of conduct and ethics in everything we do for Council. We expect the private sector to apply similarly high standards when dealing with Council.

We will:

- act with integrity;
- avoid personal and professional conflicts;
- respect and follow the letter and spirit of Council's policies and procedures;
- use public resources effectively and efficiently;
- make decisions solely on merit; and
- give reasons for decisions (where appropriate).

Value for Money

We will always try to obtain the best possible value for money in any business arrangement. This does not simply mean the lowest or highest price.

Apart from initial and ongoing costs, we will normally consider other aspects such as your ability to provide suitable goods or services, quality, safety, environmental sustainability, reliability and timely performance.

~~The lowest or highest bid may be the 'best value' if it meets the requirements we believe are needed.~~

Fairness

~~We will be fair by being objective, reasonable and even-handed. This does not mean that we will always ask for competitive bids or that we will ask for bids from suppliers that have performed poorly in the past.~~

~~On the other hand, we will rarely deal exclusively with a particular supplier, and then only where we have strong reasons to do so.~~

~~Sometimes our decision will have a negative effect on a person or organisation, but that does not necessarily mean it is unfair.~~

~~We will only request business proposals (by tender or any other method) if we intend to award a contract. If we make a change to our request, we will advise all the affected bidders so that they can respond before a decision is made.~~

~~All of our business dealings are open and transparent, where legally appropriate, including the surrounding process. The exception is where we need to maintain confidentiality or protect privacy.~~

5. What should you expect from Council?

~~Council will ensure that all policies, procedures and practices related to approvals, tendering, contracting and the procurement of goods and services are consistent with best practice and the highest standards of ethical conduct. You should expect Council's staff and councillors to:~~

- ~~▪ act honestly, openly, fairly and ethically in all their dealings with you;~~
- ~~▪ be friendly, courteous, respectful and professional in their dealings with you;~~
- ~~▪ respect confidentiality of commercial information and privacy of individuals;~~
- ~~▪ prevent actual, potential or perceived conflicts of interest;~~
- ~~▪ comply with the law including legislation and regulations;~~
- ~~▪ comply with Council's policies and procedures including the Code of Conduct and purchasing policies;~~

- assess all business proposals objectively by considering only relevant factors;
- seek value for money;
- promote fair and open competition;
- protect privilege, confidentiality and privacy;
- respond promptly to reasonable requests for information;
- never request gifts or other benefits;
- decline gifts or other benefits for doing their job unless the gifts or benefits are nominal or token, or otherwise allowed under the Council's *Code of Conduct*. Please note that Waverley Council staff who have a financial delegation are prohibited from receiving gifts of any value; and
- clear probity standards are established.

6.—What does Council expect from you?

We expect you to:

- act honestly, openly, fairly and ethically in all your dealings with Council and in all your dealings on behalf of Council;
- treat our customers in a friendly, courteous, respectful and professional way in all your dealings on behalf of Council;
- ensure that environmental sustainability is a key element of your business practice;
- respect confidentiality of commercial and Council information and privacy of individuals;
- prevent actual, potential or perceived conflicts of interest and declare these as soon as possible if they occur;
- comply with the law including legislation and regulations;
- provide working conditions for your employees that comply with industrial relations laws and regulations;
- not be involved in the exploitation of child labour;
- uphold Equal Employment Opportunity principals;
- comply with this Statement and Council's other policies and procedures including the *Code of Conduct*, purchasing policies, secondary employment and post-separation employment policies;
- provide value for money;
- protect privilege, confidentiality and privacy;
- respond promptly to reasonable requests for information;

- ~~respect the fact that Council's staff and councillors must comply with this Statement and Council's other policies and procedures;~~
- ~~ensure that you do not offer, and refuse requests for, gifts or benefits to Council's staff or councillors for doing their job, unless you are offering gifts or benefits that are nominal or token or otherwise allowed under the Code of Conduct;~~
- ~~ensure that you do not lobby or seek to influence Council's staff or councillors while business proposals are being considered;~~
- ~~ensure that you are not involved in collusive practices including attempting to influence or pressure Council's staff or councillors to perform their public duties improperly;~~
- ~~obtain Council's consent before discussing Council's business with the media;~~
- ~~assist Council to prevent unethical practices in our business relationships;~~
- ~~advise the General Manager if you believe any person has breached the law, this Statement or Council's other policies and procedures.~~

~~If you are employed/contracted by us, you must ensure that in your dealings with members of the public, you:~~

- ~~comply with the values and meet the standards set out in this Statement and in council's codes and policies;~~
- ~~act reasonably and professionally at all times;~~
- ~~provide information about how they can make a complaint about you or your operations and how their complaint will be dealt with including how we will be advised of the complaint and its resolution.~~

~~7. Why you need to comply~~

~~All of Council's providers of goods and services are required to comply with this statement. The principles of this Statement are consistent with the ethical requirements of other public sector agencies. Therefore you must be careful when you deal with us, because we are public officials.~~

~~Council will not tolerate corrupt conduct in any form, such as trying to influence the outcome of a tender. Council's standard tendering invitations, for example, state that any action or contact that may be considered as an attempt to~~

influence a decision of Council's staff or councillors will automatically disqualify the relevant tender.

People and businesses who engage in corrupt conduct are committing a crime. Penalties for certain acts under the *Independent Commission Against Corruption Act 1988* and the *Crimes Act 1900* can include imprisonment.

Non-compliance with the requirements of this Statement resulting in demonstrated corrupt or unethical conduct could lead to:

- Termination of contracts
- Loss of future work
- Loss of reputation
- Investigation for corruption
- Matters being referred for criminal investigation
- Disqualification of tender

8. Additional information to assist you

Gifts or other benefits

Council awards contracts and determines applications based solely on merit. Gifts must NOT be given in connection with any prospective business dealings and Council officials are not permitted to ask for any reward or incentive for doing their job.

The acceptance of gifts of a token value by Councillors and staff is permitted in certain circumstances. All gifts accepted and all offers of gifts whether token or not are required to be disclosed and are required to be recorded in Council's Gift Register. Waverley Council staff that have a financial delegation are prohibited from receiving gifts of any value.

References to 'gifts' normally include other benefits or cash. Gifts or benefits to Council's staff and Councillors that have a nominal or token value and do not create a sense of obligation, may be acceptable. Cash is never acceptable. All gifts must be declared and entered in Council's gift register.

Council's *Code of Conduct* contains further information.

Communication

You must communicate with us clearly and directly at all times, and account for all communications. This will ensure

~~that there is a minimal risk of appearing to influence Council's staff or councillors inappropriately.~~

Confidentiality

~~All Council information is considered confidential and cannot be disclosed unless Council has agreed otherwise in writing, or the information is public knowledge, or the law requires it to be disclosed.~~

Conflict of Interest

~~Council's staff and councillors must disclose any actual, potential or perceived conflict between their personal interests and their professional duties. This includes both pecuniary and non-pecuniary interests and is equally important.~~

Sponsorship

~~From time to time, Council seeks financial or in-kind sponsorship from the private sector to support Council's activities or events. Council also regularly provides sponsorships or grants to community organisations for their activities or events.~~

~~Council has a *Sponsorships, Grants and Donations Policy* that sets out the procedures and considerations that apply in these situations. Sponsorships, grants or donations must not interfere with Council's ability to carry out its functions, and the process of seeking and providing sponsorships, grants and donations must be open and transparent.~~

Contractors, Sub-Contractors, Consultants and Delegates

~~You must ensure that any person who is engaged in your work for Council complies with this Statement. This applies to all delegates including your staff, contractors, sub-contractors, consultants and any other persons or organisations. We must ensure that any person who acts for Council complies with this Statement.~~

~~All delegates of Council must also comply with Council's Code of Conduct for Staff, Delegates and Volunteers.~~

Secondary and Post-Separation Employment

~~Council's staff members have a duty to maintain public trust.~~

~~If a Council staff member works as an employee outside Council, this is called 'secondary employment'. Running a business or acting as a consultant is also considered 'secondary employment', even if the staff member is not strictly an employee in the other business.~~

~~The General Manager can prohibit Council's staff from secondary employment where there is, or might be, a conflict of interest.~~

~~Council's staff must apply for the General Manager's approval of secondary employment if there is a risk of conflict of interest.~~

~~Council's staff must not use their access to commercially sensitive information they gain at Council to assist them into secondary employment or into new employment, business or consultancy after they leave Council. This includes detailed knowledge of Council policies, procedures, practices and information unless these are public knowledge.~~

~~Council's staff must also not allow themselves or their work to be influenced by plans for, or offers of, new employment, business or consultancy.~~

~~Council's Code of Conduct contains further information.~~

Intellectual Property

~~You must respect Council's intellectual property and Council must respect your intellectual property. Access, licence or use must be agreed in writing.~~

Use of Resources

~~Council's resources must only be used for official purposes.~~

~~Council's Code of Conduct contains further information.~~

Political Donations

~~The law requires that persons who have a financial interest in, or have made a submission in relation to a Development application or a planning instrument, must disclose certain information about political donations and other gifts. This is a mandatory requirement if a donation or gift has been made to a Councillor or council employee within the previous two years of the application or submission.~~

Reporting Unethical Behaviour

~~Council is committed to promoting ethical behaviour. Reports of unethical behaviour, fraud, corruption, maladministration or waste can be made to the General Manager or Council's Public Officer on 02 9369 8000.~~

~~External reports can be made to the:~~

Independent Commission Against Corruption	02 8281 5999
NSW Ombudsman	02 9286 1000
NSW Department of Local Government	02 4428 4100

~~Public officials, including Council's staff and councillors, who report corrupt conduct, maladministration or serious waste of public funds can be protected by the *Protected Disclosures Act 1994*. This Act protects public officials disclosing corruption related matters from reprisal or detrimental action and ensures that disclosures are properly investigated and dealt with.~~

~~9. Who should you contact?~~

~~If you have questions or comments concerning this Statement, or have information on suspected corruption, maladministration or serious waste of funds, please contact the General Manager's office by letter, phone, fax or email. The details are below.~~

~~If you would like a copy of Council's *Code of Conduct for Staff, Code of Conduct for Councillors or Sponsorships, Grants and Donations Policy*, visit www.waverley.nsw.gov.au or contact our Public Officer.~~

FOR MORE INFORMATION OR TO OBTAIN COUNCIL POLICIES...	TO REPORT CORRUPTION, MALADMINISTRATION OR WASTE...
CONTACT The Public Officer, Waverley Council	CONTACT The General Manager, Waverley Council
PHONE 9369 8000	PHONE 9369 8000
FAX 9369 1820	FAX 9369 1820
ONLINE www.waverley.nsw.gov.au	ADDRESS PO BOX 9, BONDI JUNCTION NSW 1355
EMAIL info@waverley.nsw.gov.au	EMAIL info@waverley.nsw.gov.au

REPORT

PD/5.2/23.11



Subject: Planning Proposal - 34 Flood Street, Bondi - Post-Exhibition

TRIM No: PP-1/2023

Manager: George Bramis, Executive Manager, Urban Planning

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

RECOMMENDATION:

That Council:

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 *Waverley Local Environmental Plan 2012* (WLEP), and the submissions received during public exhibition, to the Department of Planning and Environment (DPE) with a recommendation to proceed to finalisation and gazettal.
2. Requests the DPE to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* to amend the WLEP.
3. Notifies the owner of 34 Flood Street of Council's decision.

1. Executive Summary

Council is required to maintain a list of heritage items and heritage conservation areas that are significant to the local area under the *Waverley Local Environmental Plan 2012* (WLEP).

Recent investigations commissioned in response to a Council resolution have found that the building fronting Flood Street at 34 Flood Street, Bondi, meets six out of the seven categories of heritage significance from the Burra Charter, rendering the site worthy of listing as a local heritage item in the WLEP. The attached Planning Proposal seeks to implement the local listing, with the following changes:

Table 1. Summary of proposed changes to the WLEP2012.

WLEP2012 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

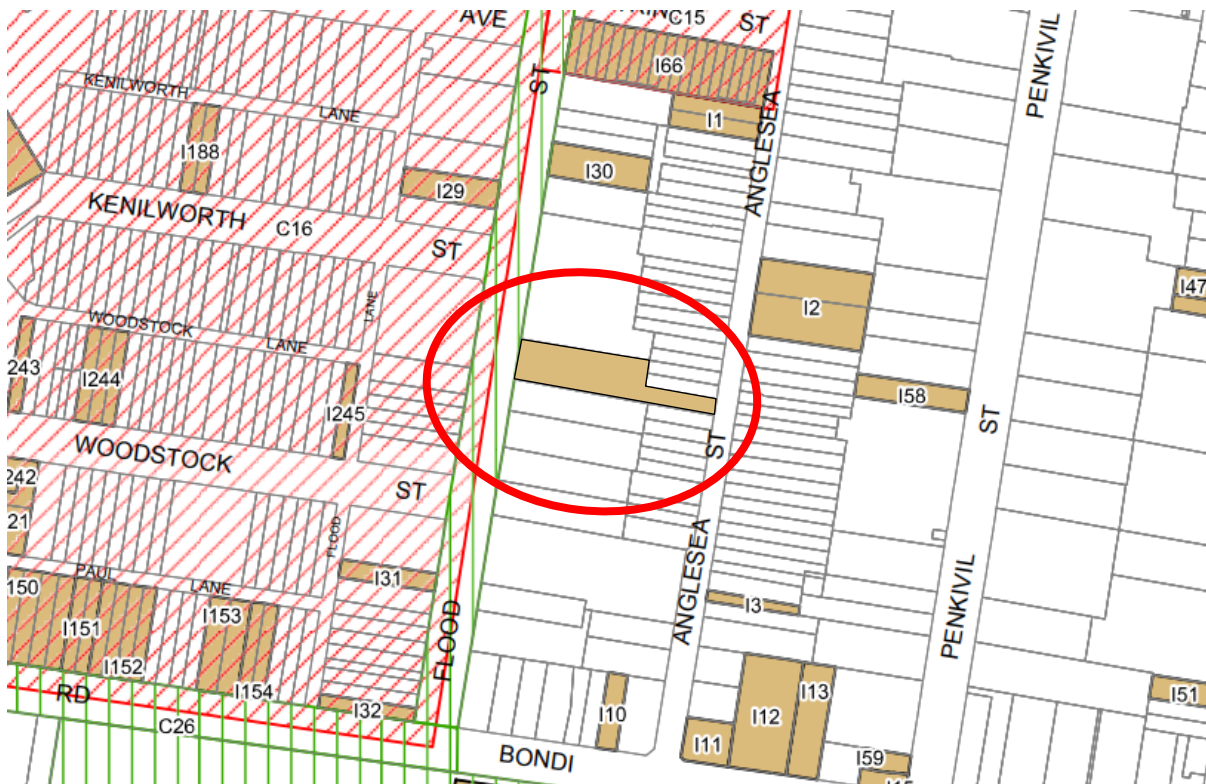


Figure 1. Proposed change to heritage map (WLEP 2012, Heritage Map - Sheet HER_004A , showing 34 Flood Street as a heritage item).

Consultation during a six-week public exhibition period between 3 August and 14 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, architectural scholars, and architectural and construction historians including the Head of the School of Architecture at the University of Technology Sydney (UTS).

2. Introduction/Background

The site subject of the Proposal is located at 34 Flood Street, Bondi (Lot 1 DP 1094020), and has a site area of approximately 1,319 sqm. The site has a primary frontage to Flood Street and a secondary frontage to Anglesea Street.

34 Flood Street 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. The building closer to the Flood Street frontage has been identified to have heritage significance.

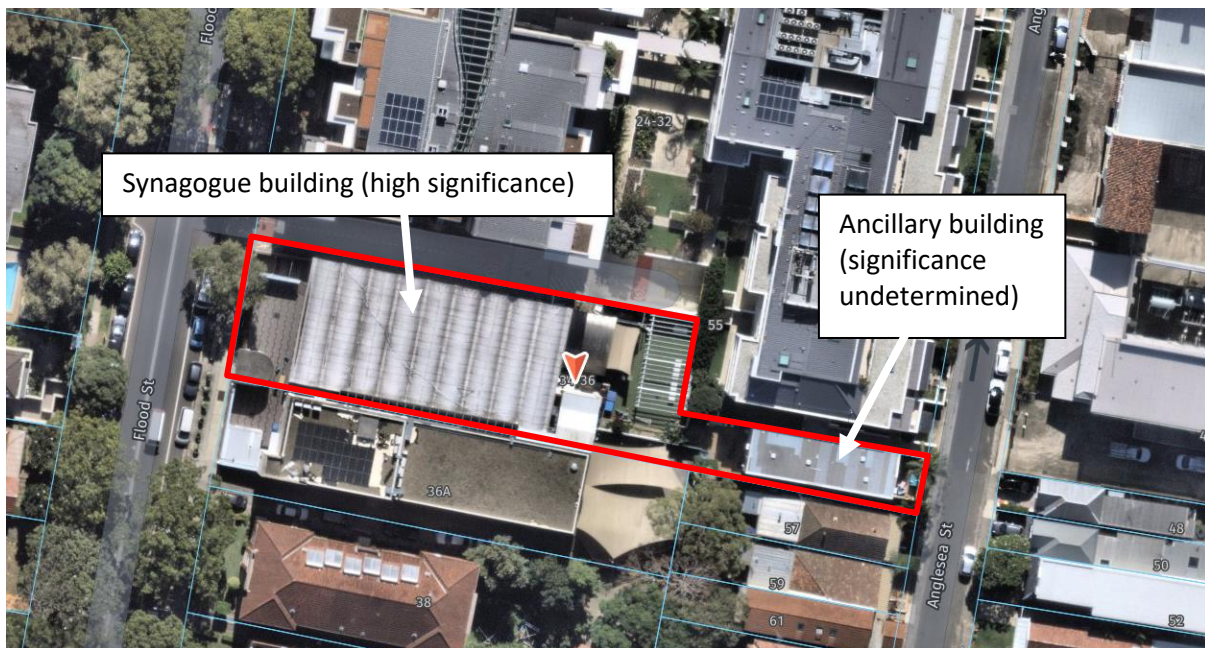


Figure 2. Site of the planning proposal, 34 Flood Street, Bondi (NearMap, 2023).

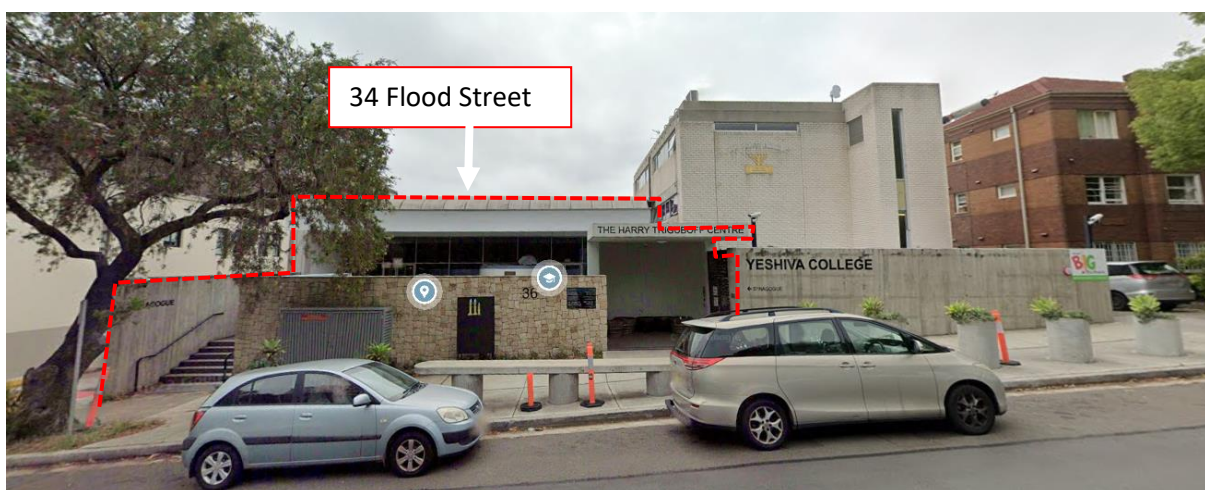


Figure 3. Site of the planning proposal, 34 Flood Street, Bondi (Google Maps, 2020).

A proponent-led planning proposal seeking to change the land zone of 34 Flood Street, Bondi (PP-2022-676) from SP2 Infrastructure to R3 Medium Density Residential was lodged with Council in 2022. During the assessment of PP-2022-676, the building at 34 Flood Street was identified by both Council and the community to have potential heritage significance. PP-2022-676 was finalised by the NSW Department of Planning and Environment (DPE) in July 2023, with the WLEP map change from SP2 to R3 formally published on 28 July 2023.

A detailed heritage assessment of 34 Flood Street was prepared in May 2023 by Hector Abrahams Architects, finding that the synagogue building towards the Flood Street frontage has heritage significance rendering it worthy of local heritage listing in the WLEP (heritage items in schedule 5 and on the heritage map) and State Heritage listing in the NSW State Heritage Register.

The building at the rear of the site, currently used as a structure ancillary to the synagogue, and historically a rabbi's home, was not thoroughly investigated as part of the heritage assessment, so its heritage significance is unknown at this stage. Future investigations would be undertaken to assess its significance,

and if found to be of significance a separate future planning proposal would be prepared seeking to alter the listing and inventory sheet for the site.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 6 June 2023	PD/5.2/23.06	<p>That Council:</p> <ol style="list-style-type: none"> 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. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination that may be issued by the DPE. 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. Submits an application to NSW Heritage to nominate 34–36 Flood Street for State Heritage Item listing on the State Heritage Register. Writes to the NSW Minister for Heritage seeking support to urgently process Council's application for State Heritage Listing of 34–36 Flood Street. 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"> The rezoning be refused by the Department of Planning and Environment, or 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.
Strategic Planning and Development Committee	PD/5.1/23.02	<p>That Council:</p> <ol style="list-style-type: none"> Notes that on 5 July 2022, Council refused a spot

7 February 2023		<p>rezoning request for 34-36 Flood Street, Bondi to rezone the site from SP2 Infrastructure to R3 Medium Density Residential.</p> <ol style="list-style-type: none"> 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. 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"> (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 amendment in clause 4 below. 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: <ol style="list-style-type: none"> (a) Page 38 of the agenda, paragraph 6 of the statement of significance – Amend to read as follows: <p>'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> 5. Engages an independent heritage expert to undertake a heritage assessment of the site's synagogue, which was designed by Harry Seidler. 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. 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.
Strategic Planning and Development Committee 5 July 2022	PD/5.1/22.07	<p>That Council:</p> <ol style="list-style-type: none"> 1. Does not support the planning proposal set out in the report to amend the <i>Waverley Local Environmental Plan</i>

		<p>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.</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>
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4. Discussion

The Heritage Assessment by Hector Abrahams Architects found the building at 34 Flood Street to meet the following NSW heritage assessment criteria:

- *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 heritage assessment has provided the following statement of significance for 34 Flood Street, Bondi:

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.*

Refer to the planning proposal and heritage assessment attached to this report for further detail.

Strategic merit

The planning proposal is considered to have strategic merit because it gives effect to the findings of a heritage assessment prepared by Hector Abrahams Architects, dated May 2023, which was commissioned in response to a Council resolution.

Site-specific merit

This planning proposal is considered to have site-specific merit as it gives regard to and is expected to have a positive impact on the natural and built environment, and on the existing uses, approved uses and likely future uses of the land affected.

Waverley Local Planning Panel

The Planning Proposal was referred to the Waverley Local Planning Panel (WLPP) for advice on 24 May 2023, where the Panel unanimously supported the planning proposal to proceed to Gateway Determination and public exhibition subject to minor changes.

State Heritage listing

In July 2023, Council applied to NSW Heritage to nominate 34 Flood Street for State Heritage listing on the State Heritage Register. In August 2023, NSW Heritage 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 that it is to progress to full assessment for listing on the State Heritage Register.

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, which has informed the WLEP amendment.

Time frame

It is estimated that this amendment to the WLEP would be completed by early 2024 as detailed in Table 2 below.

Table 2. Indicative project timeline.

Tasks	Time frame and/or date
Submission to the Department for finalisation	November 2023
Gazettal of LEP amendment	January 2024

Community consultation

The planning proposal was publicly exhibited between 3 August and 14 September 2023, which included:

- Have Your Say page including a feedback survey.
- Waverley website media release.
- Council e-newsletters.
- Letters mailed to the landowner and residents within an approximate 400 m radius of the site.

41 out of the 48 submissions received were in support of the listing, and were submitted by a diverse range of respondents including:

- Local community members including both Jewish and non-Jewish identifying persons.
- The North Bondi and Bondi Beach Precincts.
- Penelope Seidler, the widow of the late Harry Seidler.
- Numerous architects, architectural scholars, and architectural and construction historians including the Head of the School of Architecture at the University of Technology Sydney (UTS).

Key messages submitted in the supportive submissions are detailed in Table 3.

Table 3. Key messages received during public exhibition.

Key message/theme	No. of submissions which raised this
The site is significant for its unique architectural style and/or construction.	26
The site is significant for its historic and present-day importance for the Jewish community. Its demolition would result in the loss of social infrastructure.	23
The site is significant for its association with Harry Seidler.	19
The demolition of a functional building leads to the loss of embodied carbon energy, a bad outcome in light of the climate crisis.	1

Strong messages received during public exhibition included:

- *'This is an incredibly valuable heritage building, designed by one of the most important Australian architects. Its loss would be felt globally. Seidler's legacy is essential to preserve.'*
- *'It would be a major Loss and hurt so many people to see their beloved synagogue rezoned & destroyed. It would trigger many emotions of loss and trauma to this migrant community who already suffered so much in Europe and watched their beloved synagogues destroyed & finally rebuilt in the 50s in Bondi.'*
- *'It is an iconic building with an important history in the building of a Jewish community in Australia. I do not believe there is an architecturally similar synagogue in the world.'*

This feedback complements supporting the heritage significance of the site from the following groups and individuals received in response to the recent Rezoning Review relating to the separate proponent-led Planning Proposal seeking to change the land zone of 34 Flood Street from SP2 Infrastructure to R3 Medium Density Residential:

- Docomomo Australia, the Australian working party for the documentation and conservation of buildings, sites and neighborhoods of the modern movement.
- The Royal Australian Institute of Architects.
- Emeritus Professor James Weirick of the School of Built Environment at the University of New South Wales.
- Architect Geoffrey R Danks, who was involved in the construction of the building within the office of Harry Seidler.

Seven out of the 48 submissions were not in support of the heritage listing, including two respondents who identified themselves as being part of the Jewish community and one respondent who did not provide any reasoning as to why they were not in support. Table 4 details the key messages included in those submissions.

Table 4. Response to key matters raised in the submissions not in support of the heritage listing.

Submission	Waverley Response
The synagogue does not have religious significance anymore due to the reduced use of the site for Jewish services and events.	14 submitters who have identified themselves as members of the Jewish community state that the site still has religious significance for them. Further, the proposed listing extends further than the association with the Jewish community and the latest synagogue use – the history, construction method and association with Harry Seidler provides the site with significance.
The synagogue does not have significance anymore due to the modern physical alterations over time.	Despite alterations since original construction, the building continues to feature clearly identifiable architecturally and historically significant elements and original fabric, which can be seen from the public domain despite the security wall, and from within the site.
The value of the façade is diminished by the high security wall.	
It is one of the least special designs compared to The Great Synagogue, Emanuel Synagogue and Central Synagogue.	The unique design of the synagogue building at 34 Flood Street contributes to its significance.
The site should not be heritage listed because a seniors housing (independent living units) development should be constructed alongside the synagogue on the site.	The proposed synagogue building listing does not inherently prevent additional land uses and buildings to be developed on the site, including seniors housing (independent living units) and residential flat building development.
The site should not be heritage listed because more housing is needed in the area.	
The site should not be heritage listed because it will inhibit changes required to meet the needs of the 'Our Big Kitchen' use on site.	
I am aware that the council did a heritage study years ago and it was not found to be heritage-worthy at the time, so I am suspicious of why suddenly now it is being looked at again.	Investigation of the heritage significance of the site commenced as a result of a Council resolution and an independent expert was engaged as a part of this process.

Landowner consultation

The owner of 34 Flood Street, Bondi was consulted with in accordance with the conditions of the Gateway Determination, which stated 'consultation with the landowner is required. Council should consider any information provided in its post exhibition assessment and reporting.' The consultation included an invitation to view the planning proposal and provide feedback. The invitation was sent as a letter via email and hardcopy. A meeting between representatives of Council and representatives of the landowner was held on Thursday, 26 October 2023.

The landowner provided feedback during the exhibition period, in a written submission (which included two attachments from heritage consultants) and verbally during the meeting with Council representatives.

The feedback has been considered and does not change the recommendation to support the heritage listing of the subject site. Table 5 details the key messages included in the submission.

Table 5. Key messages received from the landowner of 34 Flood Street, Bondi during public exhibition.

Submission	Waverley response
<p>The Site is not a significant work of Harry Seidler, architect and it is most likely that Harry Seidler himself would not consider this work to be of heritage significance.</p>	<p>The family of Harry Seidler (including Penelope Seidler, an architect) have been a key driving force in the process for heritage listing the Flood Street Synagogue site.</p> <p>Expert evidence, including that of Professor James Weirick and Hector Abrahams, DOCOMOMO and the Institute of Architects, concurs that the Synagogue is of heritage significance.</p> <p>The Heritage Council has also advised that one of the key aspects of significance is the association with Harry Seidler.</p> <p>Harry Seidler was clearly proud of his synagogue building. He had it photographed by Max Dupain who photographed his most important buildings.</p>
<p>The Synagogue building, which was constructed in 1961, has since been materially changed with the majority of the interior being redone and contemporary extensions being constructed on and around the Synagogue building.</p> <p>Furthermore, the Site is not of wide social or Jewish religious value, particularly within the Bondi area. It has relatively low attendance levels and only the HOT Foundation makes financial contributions to its maintenance and operation.</p>	<p>Despite some alterations since original construction, the building continues to feature clearly identifiable architecturally and historically significant elements and original fabric, which can be seen from the public domain despite the security wall, and from within the site.</p> <p>14 submitters who have identified themselves as members of the Jewish community state that the site still has religious significance for them. Further, the proposed listing extends further than the association with the Jewish community and the latest synagogue use – the history, construction method and association with Harry Seidler provides the site with significance. Discussions with the Heritage Council on progressing the potential listing of the building on the State Heritage Register suggest that the Synagogue’s social and cultural significance to a migrant religious community will form a key part of its research.</p>
<p>The report prepared by Hector Abrams (which is relied on by the Council in support of the listing) does not make any real assessment of the Synagogue building as it currently stands today and fails to consider the contemporary changes which have occurred on the Site</p>	<p>Architectural significance is only one of the criteria that makes a building worthy of heritage significance. Not only does the synagogue meet the criteria for heritage listing for technical, aesthetic, historical and association as a rare building of a renowned Modernist architect, it</p>

<p>and to the Synagogue itself.</p> <p>Council does not appear to have properly considered and indeed assessed the heritage reports provided by the landowner, which include detailed analysis of the internal fabric.</p>	<p>holds social and cultural heritage significance of at least local level and quite possibly a State level.</p> <p>Pages 16-20 of the Hector Abrams report provide a detailed assessment of original and adapted fabric of the synagogue. Heritage listing does not require that the original fabric be unaltered; it required that what is significant about the building is still identifiable. In this case the most significant early fabric is still evident, in good condition and can be seen from the public domain.</p>
<p>Council did not recognise the Site as worthy of heritage retention in its 2020 local government wide heritage assessment report.</p> <p>Furthermore, the Council officers were supportive of the proposed re-zoning of part of the Site from SP2 to R3 (to make the whole Site R3). Despite the Councillors ultimately refusing to support that planning proposal (without any mention of heritage) the NSW Department of Planning and Environment gave Gateway approval for the planning proposal and the rezoning was gazetted on 28 July 2023.</p>	<p>As reported to Council in January, Heritage officers had made two previous attempts to heritage list the building. The first followed a request from a previous owner, the Gutnick family, who later withdrew their request and the site was sold. Another attempt was made when the blast wall at the front of the building was being constructed but building works prevented a thorough inspection.</p> <p>While the site's zoning was SP2 Infrastructure, the synagogue was safe from demolition. When Meriton lodged a planning proposal to change the zoning to R3, the synagogue was placed at risk of demolition.</p> <p>Council officers were not supportive of the proposed re-zoning of part of the Site from SP2 to R3, recommending that Council do not support the proposal.</p> <p>The rezoning was assessed on its strategic merit, not on heritage grounds. Council later refused the rezoning request, as did the Waverley Local Planning Panel.</p>
<p>It therefore appears that Council has now formed a view that the Site is of heritage value, this is following an undated submission prepared and submitted to the Department of Planning by Penelope and Polly Seidler. Curiously the Council has also issued an Interim Heritage Order in respect of the Site (dated 8 February 2023), despite numerous assurances being provided by the owner of the Site that it was not intended to be developed in the immediate future.</p> <p>Council (through its Councillors) is weaponising the Heritage Act 1977 in order to appease a very small number of its constituents.</p>	<p>The reasons for Council issuing the IHO dated February 2023 are detailed in the 7 February 2023 Strategic Planning and Development Committee Agenda and associated attachments.</p> <p>There is no guarantee that the subject site will remain in the same ownership indefinitely.</p> <p>A request for a rezoning to R3 Medium Density Residential provides a clear indication that some form of site development is planned, especially when the request is made by one of Australia's largest apartment construction and property development companies.</p>

<p>The imposition of a heritage listing on the Site would impose an unnecessary management and financial burden on the owner of the Site, without any real proper heritage justification. Currently the Site is utilised for the purposes of Our Big Kitchen (charity kitchen) and also 'JEMs', an after-school care program, at a considerable cost to the HOT Foundation. The cost of repair and maintenance of the Site has equated to \$millions and this will only continue into the future, at a much greater cost if the Site is listed as heritage. The on-going contributions to maintain the building (and its associated uses) have been made on the notion that the Site was capable of future expansion or redevelopment, and this was resolved by the R3 zoning change. The heritage listing would inevitably cause the HOT Foundation to reconsider its ongoing support.</p>	<p>The proposed synagogue building listing does not inherently prevent additional land uses and buildings to be developed or expanded on the site.</p> <p>The proposed R3 zoning would make the Site more valuable for apartment development. Heritage listing of the synagogue is unlikely to create a financial burden, especially since it does not prevent sensitive development of the site.</p> <p>The site would have been purchased on the grounds it is a non-profit generating community use and that maintenance would be required.</p> <p>Historical media reports suggest the purchase of the site in 2012 was a philanthropic gesture for the Jewish community and the social services it provides. Such services are in even greater demand today.</p> <p>The synagogue's heritage significance has been assessed and justified by a highly respected, independent heritage consultant and was found to be of local and State heritage significance for multiple reasons.</p>
<p>Over the years the Site has been eroded and sold off to fund its survival. Only the HOT Foundation has protected and prolonged its use. Otherwise, it would have been sold off to developers and redeveloped like the other portions of the original parcel of land. The HOT Foundation has made it clear to the Council that it has no intention to redevelop the Site in the immediate future but wants to ensure that the Site is not unreasonably constrained by incorrect or inappropriate planning controls.</p>	<p>The proposed synagogue heritage listing does not inherently prevent additional land uses or buildings to be developed or expanded on the site.</p> <p>There is no guarantee that the subject site will remain in the same ownership indefinitely, so assurances by the current owner are not relevant.</p>
<p>At no stage has Council made any attempt to consult with the landowner, despite a formal request by the managing director of the HOT Foundation to Council to discuss a possible solution for the Site. Council has therefore failed to comply with its obligations of the Gateway Approval.</p>	<p>Consultation with the landowner included an invitation to view the Planning Proposal and provide feedback. The invitation was sent as a letter via email and by hardcopy via Australia Post.</p> <p>A meeting was also held between representatives of the landowner and Council on Thursday 26th October 2023, where the PP was verbally discussed.</p>
<p>The Council has also failed to provide the landowner with any procedural fairness throughout the Planning Proposal process. Council's heritage significance report,</p>	<p>The subject GIPA was processed in October 2023, resulting in the Colin Brady report being issued to the GIPA applicant (the landowners heritage expert) on 17 October 2023.</p>

<p>references that it relies on a report prepared by Council's heritage advisor Colin Brady. This report was requested from Council by our heritage expert on 24 August 2023 under the provisions of the Government Information (Public Access) Act 2009. The closing date for submissions was 14 September 2023. As the report has not been provided to date, our expert was forced to finalise his report without the benefit of all information which was available to the Council's heritage expert.</p>	<p>This has allowed the landowner 3 weeks (counted 17 October to the SPDC meeting on 7 November) to consider its contents and provide feedback to Council staff or Councillors before or at the 7 November SPDC meeting. Late submissions have been considered in Council officers' final consideration of this matter.</p> <p>Further, the contents of the Colin Brady report are not critical to the understanding of the criteria for heritage listing the subject site, as it largely discusses historical information for the wider area, and largely duplicates information included in the Hector Abrahams report. It is the officers' view that the Colin Brady report does not have a significant bearing on the heritage listing.</p>
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In addition to the written submission from the landowner on this specific planning proposal, the landowner also submitted a planning report dated 7 August 2023 to Council during the public exhibition period showing a scheme for the possible redevelopment of the property. The report contains conceptual architectural drawings, solar analysis and 3D massing diagrams of a building on 34, 36 and 36A Flood Street with a proposed height of 25 metres (12 storeys) and proposed floor space ratio of 2.35:1 (5,191sqm of gross floor area). Figure 4 illustrates this proposed envelope.

The redevelopment shown in the planning report dated 7 August 2023 represents a significant variation to the current maximum permissible building height of 12.5 m and floor space ratio of 0.9:1. For this matter to be considered, the applicant should lodge a formal pre-planning proposal or full planning proposal with Council to assess the site specific and strategic merit of the uplift, following the August 2023 Local Environmental Plan Making Guideline.



Figure 4. Excerpt from Planning Report from landowner showing a 12-storey proposal at 34, 36 and 36A Flood Street, Bondi (Meriton Properties Pty Ltd, August 2023)

Agency referral

In accordance with the Gateway Determination, the planning proposal was forwarded to the Environment and Heritage Group, NSW Department of Planning and Environment for consultation. They provided the following feedback:

'Heritage NSW supports and encourages local Councils in the updating of their heritage schedules to include items that have been assessed as having heritage significance. As local heritage is protected under the Environmental Planning and Assessment Act 1979, the determination for listing of Local heritage items rests with Council. As such, the Heritage Council of NSW and Heritage NSW as its Delegate do not require further referral or consultation on this planning proposal.'

6. Conclusion

The building that fronts Flood Street at 34 Flood Street, Bondi has been found to meet the assessment criteria for listing as a local heritage item in the WLEP and as a State Heritage item in the State Heritage Register. Feedback received during public exhibition revealed strong support for the listing of the site.

To provide the building with statutory protection due to its heritage significance, it is recommended that the attached Planning Proposal and community feedback be submitted to NSW DPE with a recommendation to proceed to finalisation and gazettal.

7. Attachments

1. Planning proposal [↓](#)
2. Heritage assessment [↓](#) .



PLANNING PROPOSAL

34 Flood Street, Bondi - Heritage Listing

Amendment to Schedule 5 and the Heritage Map of the Waverley Local Environmental Plan 2012

Planning Proposal Information

Council versions:

No.	Date	Version
1	18 May 2023	For the Waverley Local Planning Panel
2	24 May 2023	For the 6 June 2023 Council SPDC Meeting
3	8 June 2023	For submission to DPE seeking Gateway Determination, minor housekeeping changes
4	20 June 2023	Updated to rectify address and listing description

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

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EXECUTIVE SUMMARY

Waverley Council is required to maintain a list of Heritage Items and Heritage Conservation Areas that are significant to the local area under the Waverley Local Environmental Plan (WLEP) 2012.

A detailed Heritage Assessment of 34 Flood Street was prepared in May 2023 by Hector Abrahams Architects, finding that the Synagogue building towards the Flood Street frontage has heritage significance rendering it worthy of local heritage listing in the WLEP (Heritage Items in Schedule 5 and on the Heritage Map) and state heritage listing in the NSW State Heritage Register.

Specifically, the building fronting Flood Street at 34 Flood Street, Bondi meets 6 out of the 7 categories of heritage significance from the Burra Charter for listing on the State Register.

This Planning Proposal seeks to implement this listing, with the following changes:

Table 1 – Summary of Proposed Changes to the WLEP2012		
WLEP2012 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
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 local Heritage Item, with Lot 1 DP 1094020 referenced and a written description of ‘Harry Seidler designed Synagogue building, interiors and exteriors’.

The building at the rear of the site, currently used ancillary to the Synagogue, and historically a rabbi’s home, was not thoroughly investigated as part of the Heritage Assessment, so its heritage significance is unknown at this stage. Future investigations will be undertaken to assess its significance, and if found to be of significance a separate future Planning Proposal will be prepared seeking to alter the listing and inventory sheet for the site.

INTRODUCTION

Affected Land and Existing Development

The site subject of the Proposal is located at 34 Flood Street, Bondi (Lot 1 DP 1094020) and has an area of approximately 1,319.03m². The site has a primary frontage to Flood Street, and a secondary frontage to Anglesea Street.

34 Flood Street 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. The building closer to the Flood Street frontage has been identified to have heritage significance.

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

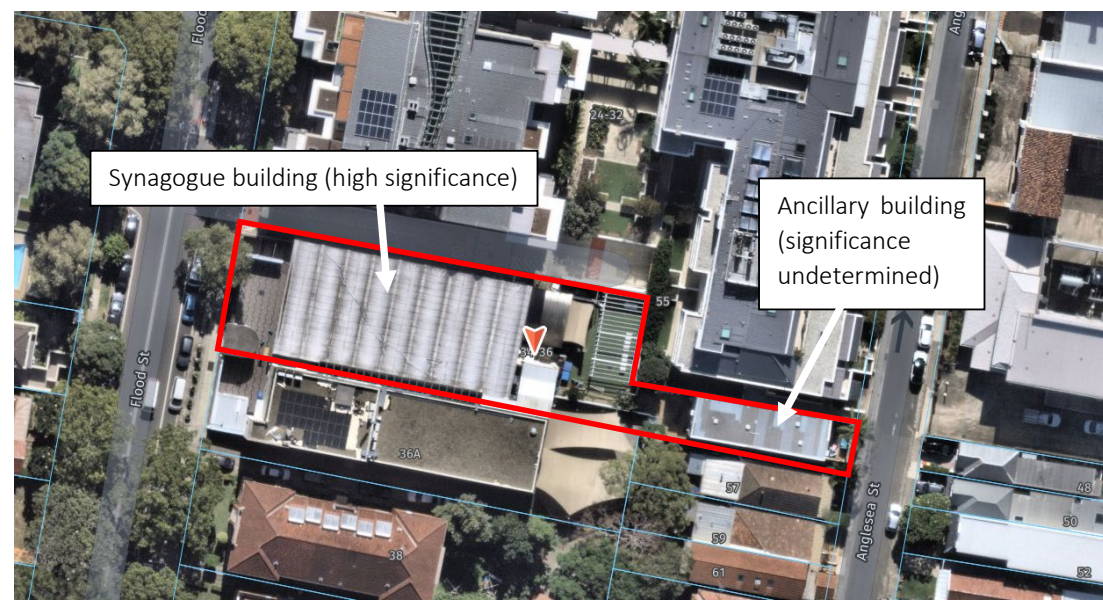


Figure 1 –Site of the Planning Proposal, 34 Flood Street, Bondi (NearMap, 2023)



Figure 2 –Site of the Planning Proposal, 34 Flood Street, Bondi (SixMaps, 2023)

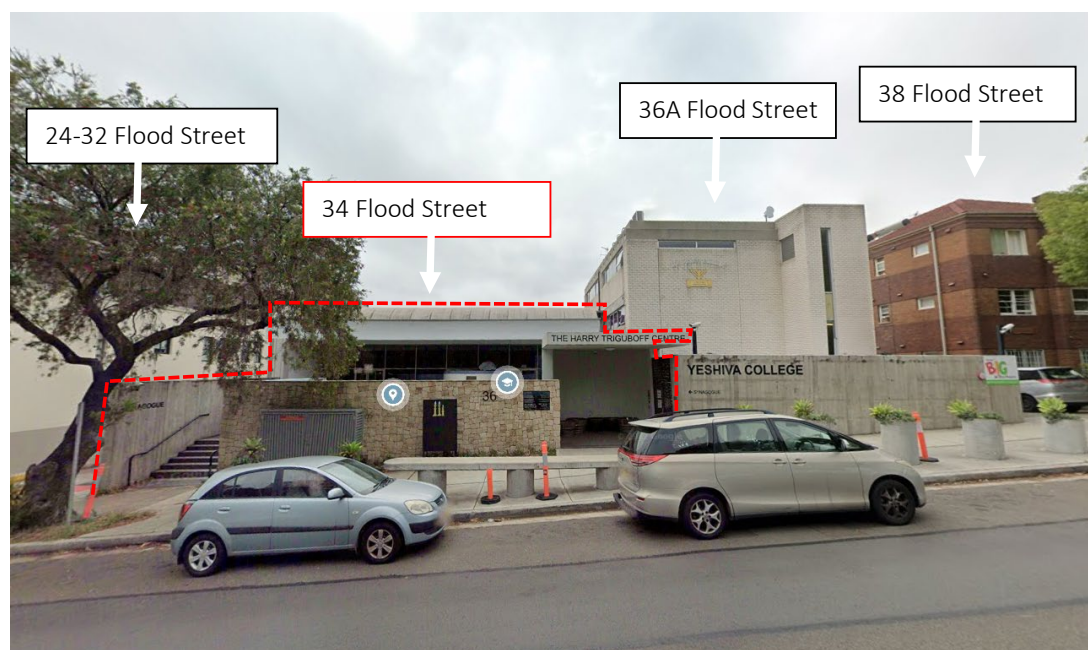
Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

Figure 3 – Site of the Planning Proposal, 34 Flood Street, Bondi (Google Maps, 2020)

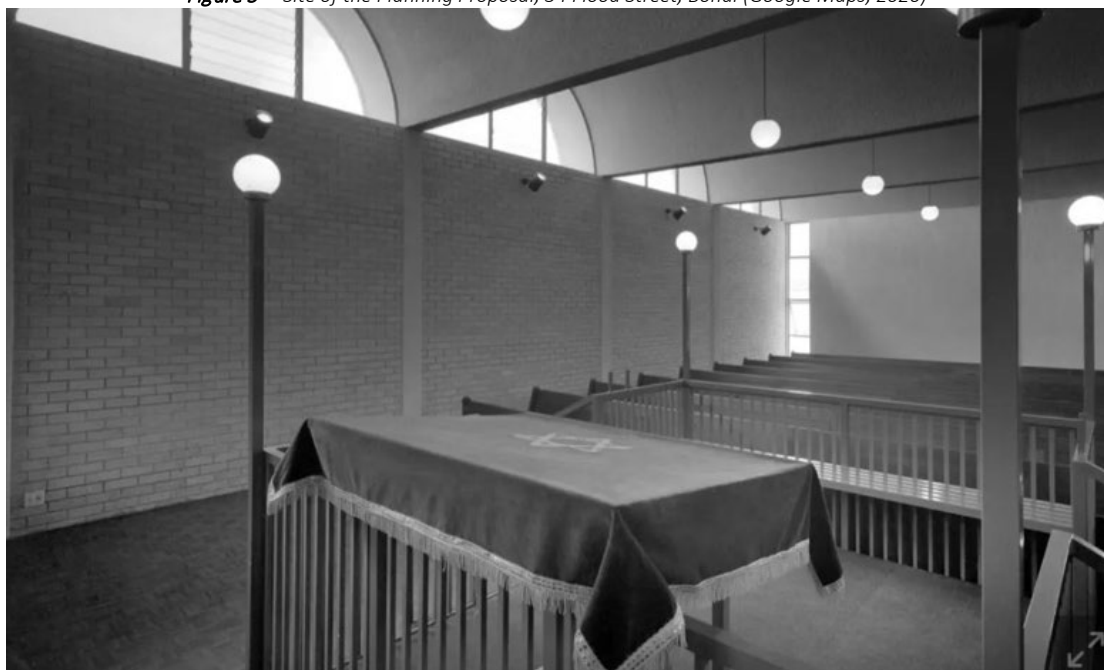


Figure 4 – Historic photo of Synagogue interior at 34 Flood Street, Bondi (Photo by Max Dupain)

Site Context

The site adjoins a building that was most recently used as an educational establishment, currently known as the Yeshiva College at 36A Flood Street to the south. A dwelling house at 57 Anglesea Street also abuts the site to its south. A multi-storey seniors housing development that shares vehicle access with 34 Flood Street to the north at 24-32 Flood Street.

Current Planning Controls

The site is currently not subject to any Heritage Item and Heritage Conservation Area listing but is adjacent to the Woodstock Heritage Conservation Area.

Background to this Planning Proposal

A proponent-led Planning Proposal seeking to change the land zone of 34 Flood Street, Bondi (PP-2022-676) was lodged with Waverley Council in 2022. During the assessment of PP-2022-676, the building at 34 Flood Street was identified by both Council and the community to have potential heritage significance.

A detailed Heritage Assessment of 34 Flood Street was prepared in May 2023 by Hector Abrahams Architects, finding that the Synagogue building towards the Flood Street frontage has heritage significance rendering it worthy of local heritage listing in the WLEP (Heritage Items in Schedule 5 and on the Heritage Map) and state heritage listing in the NSW State Heritage Register.

The Waverley Local Planning Panel (WLPP) considered the Planning Proposal on 24 May 2023 and supported the recommendation to list the subject building subject to minor changes which have since been addressed.

The building at the rear of the site, currently used as a structure ancillary to the Synagogue, and historically a rabbi's home, was not thoroughly investigated as part of the Heritage Assessment, so its heritage significance is unknown at this stage. Future investigations will be undertaken to assess its significance, and if found to be of significance a separate future Planning Proposal will be prepared seeking to alter the listing and inventory sheet for the site.

The Heritage Assessment found the building along the Flood Street frontage of 34 Flood Street to meet the NSW heritage assessment criteria in the following ways:

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)

The building at 34 Flood St is historically significant as it evidences part of a distinct period for synagogue construction within NSW (c1957-60). The synagogue is associated with the post-war period of synagogue building and demonstrates a distinct phase of enlargement migration of the Jewish faith and culture within NSW. The establishment of the Talmudic College is part of the development of a distinctive locality of Jewish immigrants within the Waverley Local Government Area and facilitated the training of rabbis in Sydney reflecting the growth of the Jewish faith diaspora following World War II. Also, the construction of the synagogue is part of a historical pattern demonstrating the arrival of Jewish architects to NSW.

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)

The original building at 34 Flood Street and its later development is evidence of the ongoing use of the place as a religious and civic site. The synagogue and 1979 school building addition reflects the broadening of institutions available to the Jewish faith community in NSW and the Waverley LGA; responding to migration patterns after World War II. The place maintains ongoing institutional associations with similar Jewish faith institutions in Brooklyn (New York) and Israel. As an institution the synagogue has an ongoing association with the broader Jewish community, by the training of Rabbis who engage with communities that are not congregants of the Orthodox 'Habad' philosophy.

The place is primarily associated with eminent modern architect Harry Seidler as the original design is his only religious building, although he did design Jewish sites, and demonstrates an important stage in Seidler's output and career as an early work of Civic architecture. The distinct roof form of the synagogue with its repeating thin shell concrete vaults is stylistically associated with principles of

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

Bauhaus design and Modernism with which Seidler is particularly associated. It is an outstanding example of the Modernist building forms produced and constructed by Seidler in collaboration with structural engineer Peter Owen Miller, of Miller, Milston and Ferris. This association began with c1950 Meller House (LEP item no. 1995), 37 The Bulwark, Castlecrag, and continued with the Igloo House c1951 (Williamson House, SHR item no. 01652) at Mosman. The Synagogue and Talmudical College is associated with this collaboration and is an important work which demonstrates their innovative achievement.

Notably, Allen Milston, also of Miller, Milston and Ferris, donated his time to the construction of the adjacent school building (the Malka Brender Building) and other synagogue projects in NSW. The Malka Brender building was constructed to the design of Mirvac founder Henry Pollack. Pollack was born in Poland to Russian parents and fled in 1939 to Lithuania. At the time of construction, 10% of enrolments at the Talmudical College were Russian Jewish migrants. The buildings educational and civic functions is evidence of the development of a diverse Jewish faith community in the Waverley LGA, and NSW more broadly, and its continued use as a school and place of worship continues to demonstrate this historical association.

The Synagogue and Talmudical College is associated with Abraham Rabinovitch. Rabinovitch, a businessman and philanthropist, was instrumental in the Jewish day school movement, which initiated the construction of similar Jewish institutions such as the North Bondi Hebrew School and Kindergarten (c1942-43) and Moriah College (c1952) in Sydney. Rabinovitch was the founder and chair of Sydney Talmudical College (now called Yeshiva College Bondi) who purchased the site on Flood Street in 1955 and commissioned Seidler to design the original college buildings. The ongoing use of the place for educational and worship purposes continue this significant associations.

The connection to the place with former Prime Minister Malcolm Fraser and prominent politician and judge Dr H.V. Evatt's is acknowledged as significant to the importance of the building but incidental as an association. In 1961, Dr Evatt attended opened the Sydney Talmudical College with buildings designed by Seidler.

Fraser opened the primary school building (Malka Brender Building) at Yeshiva College Bondi in 1980 while elected Prime Minister. Dr Evatt, paternal uncle of architect Penelope Seidler nee Evatt (married to Harry Seidler), acted as Foreign Minister in the Chifley and Curtin governments circa 1940s and contributed to the establishment of the United Nations and drafting of the Universal Declaration of Human Rights. In 1947, Dr Evatt chaired a special committee on Palestine which engendered the partition of Palestine. In 1949 as President of the UN General Assembly Dr Evatt oversaw the historic vote which admitted Israel as the 59th member of the United Nations. While these notable figures demonstrate the importance of the place as a Jewish institution their associations are merely incidental as they were not directly involved with the construction or design of the place.

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)

The place is an important work of eminent architect Harry Seidler who the historian Jennifer Taylor regards as "one of the major talents of Australian Architectural History". It is significant to Seidler's architectural output, firstly as probably his first civic building, incorporating a civic external plaza space. Seidler went on to create plaza spaces of great importance in cities of the eastern coast.

Also, the building is significant for its technical and creative achievement using thin shell concrete. It is among the largest and most ambitious thin shell structure built in NSW in the immediate post-war period.

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

The distinctive roof form is significant as an architectural sculptural form, along with the curved stair, both of which are identified as indicative of the mastery of Harry Seidler by the eminent historian of Australian Modernism Philip Goad.

The shells are a technical innovation, in collaboration with structural engineer Peter Owen Miller (Miller, Milston, and Ferris). Particularly, the geometric configuration of the roof form is important in demonstrating Seidler's Bauhaus-inspired Modernist design. It is possible that the vaulted roof system was the largest in NSW from the same period. Seidler's design for the Igloo House (Williamson House) earlier in 1951, which is considered an influential example in Australia of innovative domestic design and construction, featured a smaller two-vault garage roof. Despite later alteration to finishes, and noting a fine complementary addition, the place retains the original form and characteristics of its pure spatial and structural concept.

The place also demonstrates in an early work, the Bauhaus principles for which Seidler is particularly identified, being the pupil, assistant and collaborator of Marcel Breuer. In this case the principles are clear to see in the abstract planning, and devising of pure space sculpted by structural form.

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

The Synagogue and Talmudical College has been the focus of Jewish communal worship and education in Bondi since its construction in 1959. The place has strong and special associations with the Jewish faith community in Bondi for its ongoing use as a civic and religious building. The worship, educational and civic functions of the building demonstrate the continued use of the place for community in association with the Jewish community in Bondi. The place has social significance for its ongoing associations and continued use for Jewish educational purposes with the migrant Jewish in Bondi and Waverley.

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)

It is possible that the vaulted roof system was the largest in NSW from the same period and has the potential to yield information regarding its construction and the performance of thin shell concrete over time.

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)

The building is uncommon for the period due to its large thin shell concrete vaulted roof form. The place has rarity value as the only religious building by Seidler and as a surviving intact example of a post-war Modernist synagogue, which were once common across NSW particularly Eastern Sydney but are now smaller in number.

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 place demonstrates the principal characteristics of its class as a post-war Modernist synagogue designed by a migrant architect. It is part of a small but important group of distinctive Modernist-style synagogues designed by migrant architects who established practice in NSW. The place is a relatively intact and surviving example of a post-war Modernist synagogue which is rare for its class.

Statement of Significance

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

The Heritage Assessment has provided the following Statement of Significance for 34 Flood Street, Bondi:

The building fronting Flood Street at 34 Flood Street, Bondi is significant as:

- *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.*

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

This Planning Proposal intends to provide statutory protection to a site of heritage significance (34 Flood Street) by amending Schedule 5 of the WLEP 2012 and associated Heritage Map to show the site as a local Heritage Item.

PART 2 – EXPLANATION OF PROVISIONS

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

- Add 34 Flood Street, Bondi as a Heritage Item on the Heritage Map
- Add 34 Flood Street, Bondi as a Heritage Item in Schedule 5 Part 1

A detailed Heritage Assessment of 34 Flood Street was prepared in May 2023 by Hector Abrahams Architects, finding that the Synagogue building towards the Flood Street frontage has heritage significance rendering it worthy of local heritage listing in the WLEP (Heritage Items in Schedule 5 and on the Heritage Map) and state heritage listing in the NSW State Heritage Register.

The building at the rear of the site, currently used ancillary to the Synagogue, and historically a rabbi's home, was not thoroughly investigated as part of the Heritage Assessment, so its heritage significance is unknown at this stage. Future investigations will be undertaken to assess its significance, and if found to be of significance a separate future Planning Proposal will be prepared seeking to alter the listing and inventory sheet for the site.

It is important to clarify that the Yeshiva College has operated at both 34 and 36A Flood Street at different points in time. Currently the Yeshiva College is only operating at 36A Flood Street, a site that is not included in this heritage listing.

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

3.1 Strategic Merit

The proposal is considered to have strategic merit because it gives effect to the findings of a Heritage Assessment prepared by Hector Abrahams Architects, dated May 2023 which was commissioned in response to a Council resolution.

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

Section A – Need for the planning proposal (Strategic Merit)

This section establishes the need for a Planning Proposal in achieving the key outcomes and objectives. The set questions address the strategic origins of the proposal and whether amending the WLEP is the best mechanism to achieve the aims of the proposal.

1. Is the planning proposal a result of any strategic study or report?

Yes, the Planning Proposal is a result a Heritage Assessment prepared by Hector Abrahams Architects, dated May 2023.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This Planning Proposal is the only means of achieving the objectives and intended outcomes – a local heritage listing in the WLEP 2012.

Section B – Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal aligns with the objectives and actions of the Region Plan A *Metropolis of Three Cities* and the *Eastern City District Plan*.

A Metropolis of Three Cities

The Planning Proposal has strategic merit and is consistent with the Greater Sydney Region Plan in that it will help to implement the following Objective:

- Environmental heritage is identified, conserved and enhanced (Objective 13)

Eastern City District Plan

The Planning Proposal has Strategic Merit and is consistent with the *Eastern Sydney District Plan* in that it will help to implement the following Planning Priority:

- Creating and renewing great places and local centres, and respecting the District's heritage (Planning Priority E6)

Guide to preparing Planning Proposals

The Planning Proposal meets the Strategic Merit Test, the assessment is presented in Table 2.

Table 1 – Assessment of Proposal against Strategic Merit Test

Strategic Merit Test	
a) Does the proposal have strategic merit? Is it:	
Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or	Yes, it is consistent with Objective 13 of the Region Plan A Metropolis of Three Cities. It also aligns with Planning Priority E6 of the Eastern City District Plan.
Consistent with a relevant local council strategy that has been endorsed by the Department; or	It is not inconsistent with any local Council strategy that has been endorsed by DPE.

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.	It responds to the findings of a recent Heritage Assessment, commissioned in response to attention brought to the site due to a recent Planning Proposal seeking to change its zone.
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4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Waverley Local Environmental Plan 2012

The Waverley LEP has fifteen main aims that all Planning Proposals and development should be consistent with where applicable. This Planning Proposal is consistent with aim (g) of the Waverley LEP:

“To identify, conserve and enhance the cultural, environmental, natural, aesthetic, social and built heritage, and existing scenic and cultural landscapes of Waverley, including the curtilage of Centennial Park, for current and future generations.”

Waverley Local Strategic Planning Statement (March 2020)

Table 3 assessed the Planning Proposal against the relevant Planning Priority and actions.

Table 3 – Assessment of the Proposal against the Local Strategic Planning Statement

Direction: A city of great places	
Planning Priority 7: Recognise and celebrate Waverley’s unique place in the Australian contemporary cultural landscape	
1. Implement the recommendations of the Waverley Heritage Review into Council’s LEP and DCP, including stronger enforcements for curtilage and protecting the context of existing items	<p>This Proposal is the mechanism for implementing the recommendations of a Heritage Assessment by Hector Abrahams Architects into Council’s LEP, an assessment that is ancillary to the wider Heritage Review.</p> <p>It is to be noted that the Waverley Heritage Review is a “live” and iterative document.</p>
8. Develop strategies and programs that celebrate and share the local heritage and cultural stories of the Waverley area	The statutory listing of the 34 Flood Street as a heritage item will celebrate and share the sites local heritage and cultural story.

Waverley Community Strategic Plan 2018-2029

This Planning Proposal aligns with the community vision which is:

“A welcoming and cohesive community that celebrates and enhances our spectacular coastline, vibrant places, and rich cultural heritage”.

The Planning Proposal also aligns with the strategies presented in Table 5 below:

Table 4 – Assessment of Proposal against Waverley Community Strategic Plan

Goal 1.2: Preserve and interpret the unique cultural heritage of Waverley	
Strategies	Consistency
1.2.1 Maintain the unique cultural value and heritage	This Proposal will provide the mechanism that will ensure that local heritage is conserved and celebrated. By listing 34 Flood Street as a heritage item in

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

significance of key landmarks	the WLEP, the heritage significance of key landmarks in Waverley LGA will be protected.
Goal 5.2: Value and embrace Waverley's heritage items and places	
Strategies	Consistency
5.2.1 Protect, respect and conserve items and places of heritage significance within Waverley	This Proposal will provide the mechanism that will ensure that local heritage is conserved and celebrated. By listing 34 Flood Street as a heritage item in the WLEP, the heritage significance of key landmarks in Waverley LGA will be protected.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State or regional studies or strategies.

6. Is the planning proposal consistent with applicable SEPPs?

This Planning Proposal is consistent with applicable State Environmental Planning Policies. Table 5 assessed the Planning Proposal against the State Environmental Planning Policies (SEPPs).

Table 5 – Assessment of Proposal against the SEPPs

Title	Applicable	Consistent
Housing SEPP	N/A	Not inconsistent
Transport and Infrastructure SEPP	N/A	Not inconsistent
Primary Production SEPP	N/A	Not inconsistent
Biodiversity and Conservation SEPP	N/A	Not inconsistent
Resilience and Hazards SEPP	N/A	Not inconsistent
Industry and Employment SEPP	N/A	Not inconsistent
Resources and Energy SEPP	N/A	Not inconsistent
Planning Systems SEPP	N/A	Not inconsistent
Precincts SEPPs: Eastern Harbour City SEPP, Western Parkland City SEPP, Central River City SEPP and Regional SEPP	N/A	Not inconsistent
Codes SEPP	N/A	Not inconsistent

7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

Ministerial Direction 3.2 Heritage Conservation

The Ministerial Direction 3.2 applies to this Planning Proposal. The Planning Proposal must contain provisions that facilitate the conservation of:

(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,

(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

3.2 Site Specific Merit

This Planning Proposal is considered to have site-specific merit as it gives regard to and is expected to have a positive impact on the natural and built environment, and on the existing uses, approved uses and likely future uses of the land affected.

Guide to preparing Planning Proposals

The Planning Proposal meets the Site-specific Merit Test, the assessment is presented in Table 6.

Table 6 – Assessment of Proposal against Site Specific Merit Test

Site-specific Merit Test	
b) Does the proposal have site-specific merit, having regard to the following:	
The natural environment (including known significant environmental values, resources or hazards); and	This Proposal will not have any impacts on the natural environment.
The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and	This Proposal will not inhibit development within Waverley. The Proposal will ensure the effective conservation of important heritage values of the LGA, and will allow reasonable development that supports and retains the heritage.
The services and infrastructure that are or will be available to meet the demands arising from the proposal; and	Not applicable as this Proposal will not result in the increase of infrastructure demand.
Any proposed financial arrangements for infrastructure provision.	Not applicable as this Proposal will not result in the increase of infrastructure demand.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

This Planning Proposal does not propose any physical development and therefore the proposal would not have any adverse impacts on threatened species, populations or ecological communities.

9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are unlikely to be any other environmental effects as a result of the Planning Proposal.

10. Has the planning proposal adequately addressed any social and economic effects?

No adverse economic or social impact is anticipated. Local communities value local heritage as it contributes to an area's identity, sense of place and amenity. Local heritage usually relates more closely to people's personal heritage too when compared with national icons.

While heritage listing can sometimes raise concerns around adverse economic or financial impacts to residents, the empirical evidence demonstrates that the protection of local heritage results in net positive economic impacts for local communities and councils. Heritage can encourage visitation and

Planning Proposal – 34 Flood Street, Bondi – Heritage Listing

tourism by shaping a place that makes for a desirable temporary visit, or permanent home or workplace.

Section D – Infrastructure (Local, State and Commonwealth)

11. Is there adequate public infrastructure for the planning proposal?

This consideration is not applicable to the Planning Proposal.

Section E – State and Commonwealth Interests

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Not applicable at this stage.

PART 4 – MAPPING

The Planning Proposal intends to alter the WLEP Heritage Map to show 34 Flood Street, Bondi as a Heritage Item.



Figure 5 – Excerpt from existing Heritage Map (WLEP 2012, Heritage Map - Sheet HER_004A)

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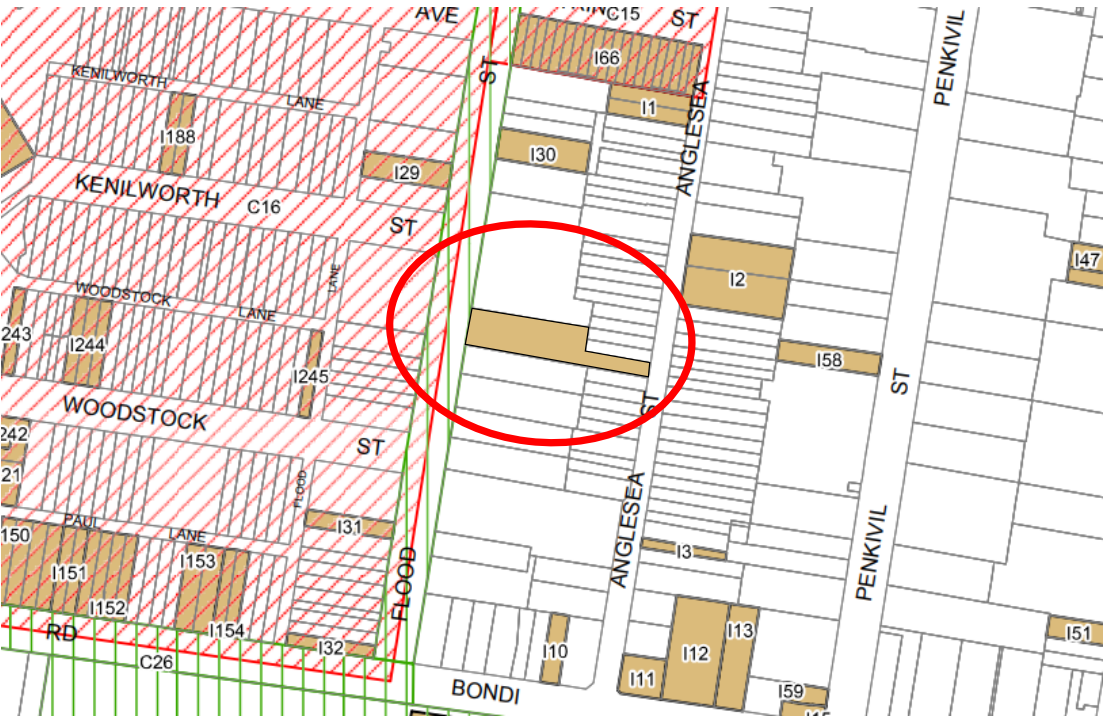


Figure 6 – Proposed change, showing 34 Flood Street as a Heritage Item

PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include a display on the Council’s Have Your Say website and written notification to landowners. The Gateway Determination will specify the level of public consultation that must be undertaken in relation to the Planning Proposal.

Pursuant to Division 3.4 of the Act, a Planning Proposal must be placed on public exhibition for a minimum of 28 days, or as specified in the Gateway Determination for the proposal. The Planning Proposal Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing (if required).

PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the Planning Proposal through its various stages of consultation and approval. It is estimated that this amendment to the WLEP will be completed by October 2023.

The detail around the project timeline is expected to be prepared following the referral to DPE for a Gateway Determination.

Table 7 – Indicative Project Timeline

Tasks	Timeframe and/or date
Consideration by Council	June 2023
Gateway Determination	July 2023
Pre-exhibition	July 2023
Public Exhibition	August 2023

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Consideration of submissions	August 2023
Post-exhibition Review	September 2023
Submission to the Department for finalisation (where applicable)	September 2023
Gazettal of LEP amendment	October 2023

APPENDIX A – DRAFT INVENTORY SHEET

Item Details	
Name of Item	Synagogue and former Sydney Talmudical College premises building including interiors
Other Names/Former Names	Yeshiva College The Harry Triguboff Centre
Item Type	Built
Item Group	Synagogue and school
Item category	Education facility and religious building
Street Number	34
Street Name	Flood Street
Suburb/Town	Bondi
Local Government Area	Waverley
Property description	Lot 1 DP 1094020
Location	-33.891637 (Latitude) and 151.259096 (Longitude)
Current Use	Religious education
Former Use	Religious worship and education
Statement of Significance	<p>The synagogue and former Sydney Talmudical College premises building located at 34 Flood St Bondi satisfies significance thresholds for historic, associational, aesthetic, scientific, rarity and representative values at the State level. Additionally, it satisfies threshold for social significance at the local level.</p> <p>The synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi is significant as:</p> <ul style="list-style-type: none"> • 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 most 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. • An historically important place in the development of; Jewish religion in New South Wales, the post war migration period, as the first Talmudical school with integral synagogue. • Highly representative of the history of post war migration in New South Wales, being 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.
Level of Significance	State AND Local

Designer	Harry Seidler, architect, and Alan Milston, of P. O. Miller, Milston and Ferris, structural engineers																	
Builder/maker	Not known																	
Physical Description	The place is a rectangular modernist building located on a narrow allotment. It has a repetitive curved roof form. For detailed description see heritage assessment																	
Physical Condition and Archaeological Potential	There is no known archaeological significance.																	
Construction Years	1959-1961																	
Modifications	See heritage assessment																	
History	See heritage assessment																	
Themes	<p>Guidelines from the NSW Heritage Office emphasise the role of history in the heritage assessment process. A list of state historical themes has been developed by the NSW Heritage Council, in <i>New South Wales Historical Themes Table showing correlation of national, state and local themes, with annotations Dated 4 October 2001</i>.</p> <p>The table below identifies fabric, spaces and visual relationships that demonstrate the relevant historic themes in evidence at the synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi.</p> <table><tr><th>Australian Theme</th><th>NSW Theme</th><th>Notes</th></tr><tr><td>Peopling Australia</td><td>Ethnic influences</td><td>The building at 34 Flood St, Bondi and its later development is evidence of the influences of Jewish culture within NSW.</td></tr><tr><td>Peopling Australia</td><td>Migration</td><td>The building at 34 Flood St, Bondi and its later development is evidence of the pattern of synagogue construction by migrant architects in the 1950-1960s.</td></tr><tr><td>Building settlements, towns and cities</td><td>Town, suburbs and villages</td><td>The land that the building at 34 Flood St occupies is evidence of subdivision patterns in Bondi and the Waverley LGA more broadly.</td></tr><tr><td>Educating</td><td>Education</td><td>The building at 34 Flood St is evidence of the development of Jewish education across NSW.</td></tr></table>			Australian Theme	NSW Theme	Notes	Peopling Australia	Ethnic influences	The building at 34 Flood St, Bondi and its later development is evidence of the influences of Jewish culture within NSW.	Peopling Australia	Migration	The building at 34 Flood St, Bondi and its later development is evidence of the pattern of synagogue construction by migrant architects in the 1950-1960s.	Building settlements, towns and cities	Town, suburbs and villages	The land that the building at 34 Flood St occupies is evidence of subdivision patterns in Bondi and the Waverley LGA more broadly.	Educating	Education	The building at 34 Flood St is evidence of the development of Jewish education across NSW.
Australian Theme	NSW Theme	Notes																
Peopling Australia	Ethnic influences	The building at 34 Flood St, Bondi and its later development is evidence of the influences of Jewish culture within NSW.																
Peopling Australia	Migration	The building at 34 Flood St, Bondi and its later development is evidence of the pattern of synagogue construction by migrant architects in the 1950-1960s.																
Building settlements, towns and cities	Town, suburbs and villages	The land that the building at 34 Flood St occupies is evidence of subdivision patterns in Bondi and the Waverley LGA more broadly.																
Educating	Education	The building at 34 Flood St is evidence of the development of Jewish education across NSW.																
Application of Criteria	The assessment criteria have prepared and applied in the form prescribed by the NSW Heritage Manual <i>assessing heritage</i>																	

	<p><i>significance guideline</i> (2022) and Australia ICOMOS, <i>The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance</i> (2013)</p> <p>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)</p> <p>The building at 34 Flood St is historically significant as one of seven surviving works from a distinct period for synagogue construction within NSW (c1957-60). The synagogue is associated with the post war period enlargement of migration of Jewish faith and culture within NSW. The establishment of the Talmudic College is part of the development of a distinctive locale of Jewish immigrants within the Waverley Local Government Area. It also facilitated the training of rabbis in Sydney reflecting the growth of the Jewish faith diaspora following World War II. Finally, the construction of the synagogue is part of a historical pattern demonstrating the arrival of Jewish architects to NSW, all of whom were modernists; Hugh Buhrich, Hans Peter Oser and Harry Seidler.</p> <table border="1"> <tr> <th>Inclusion Guidelines</th><th>Check</th></tr> <tr> <td>Shows evidence of a significant human activity</td><td>Yes</td></tr> <tr> <td>Is associated with a significant activity or historical phase</td><td>Yes</td></tr> <tr> <td>Maintains or shows the continuity of a historical process or activity</td><td>Yes</td></tr> <tr> <th>Exclusion Guidelines</th><th></th></tr> <tr> <td>Has incidental or unsubstantiated connections with historically important activities or processes</td><td>No, the connections with Jewish migration to NSW and synagogue building are substantial.</td></tr> <tr> <td>Provides evidence of activities or processes that are of dubious historical importance</td><td>No, migration and the development of the Jewish faith and community within Australia following World War II is not dubious historical importance.</td></tr> <tr> <td>Has been so altered that it can no longer provide evidence of a particular association</td><td>No, still a synagogue and school and has been retained as a work of a migrant architect.</td></tr> </table> <p>Level of Significance: State</p> <p>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)</p> <p>The synagogue and former Sydney Talmudical College premises building and its later development is evidence of the ongoing use of the place as a religious and civic site. The building and its later</p>	Inclusion Guidelines	Check	Shows evidence of a significant human activity	Yes	Is associated with a significant activity or historical phase	Yes	Maintains or shows the continuity of a historical process or activity	Yes	Exclusion Guidelines		Has incidental or unsubstantiated connections with historically important activities or processes	No, the connections with Jewish migration to NSW and synagogue building are substantial.	Provides evidence of activities or processes that are of dubious historical importance	No, migration and the development of the Jewish faith and community within Australia following World War II is not dubious historical importance.	Has been so altered that it can no longer provide evidence of a particular association	No, still a synagogue and school and has been retained as a work of a migrant architect.
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Provides evidence of activities or processes that are of dubious historical importance	No, migration and the development of the Jewish faith and community within Australia following World War II is not dubious historical importance.																
Has been so altered that it can no longer provide evidence of a particular association	No, still a synagogue and school and has been retained as a work of a migrant architect.																

	<p>development addition reflects the broadening of institutions available to the Jewish faith community in NSW and the Waverley LGA; responding to migration patterns after World War II. The place maintains ongoing institutional associations with similar Jewish faith institutions in Brooklyn; New York, and Israel. As an institution the synagogue has an ongoing association with the broader Jewish community, by the training of Rabbis who engage with communities which are not congregants of the Orthodox 'Habad' philosophy.</p> <p>The place is primarily associated with eminent modern architect Harry Seidler as the original design is his only religious building, although he did design Jewish sites, and demonstrates an important stage in Seidler's output and career as an early work of Civic architecture. The distinct roof form of the synagogue with its repeating thin shell concrete vaults is stylistically associated with principles of Bauhaus design and Modernism with which Seidler is particularly associated. It is an outstanding example of the modernist building forms produced and constructed by Seidler in collaboration with structural engineer Alan Milston, of Miller, Milston and Ferris. This association began with c1950 Meller House (LEP item no. 1995), 37 The Bulwark, Castlecrag, and continued with the Igloo House c1951 (Williamson House, SHR item no. 01652) at Mossman. The synagogue and former Sydney Talmudical College premises building is associated with this collaboration and is an important work which demonstrates their innovative achievement.</p> <p>The synagogue and former Sydney Talmudical College premises building is associated with Abraham Rabinovitch. Rabinovitch, a businessman and philanthropist, who was instrumental in the Jewish day school movement, which initiated the construction of similar Jewish institutions such as the North Bondi Hebrew School and Kindergarten (c1942-43) and Moriah College (c1952) in Sydney. Rabinovitch was the founder and chair of Sydney Talmudical College (now called Yeshiva College Bondi) who purchased the site on Flood Street in 1955 and commissioned Seidler to design the original college buildings. The ongoing use of the place for educational and worship purposes continue this significant associations.</p> <p>The connection to the place with former Prime Minister Malcolm Fraser and prominent politician and judge Dr H.V. Evatt's is acknowledged as significant to the importance of the building but incidental as an association. In 1961, Dr Evatt attended opened the Sydney Talmudical College with buildings designed by Seidler.¹ Fraser opened the primary school building (Malka Brender Building) at Yeshiva College Bondi in 1980 while elected Prime Minister. ² Dr Evatt, paternal uncle of architect Penelope Seidler nee Evatt (married to Harry Seidler), acted as Foreign Minister in the Chifley and Curtin governments circa 1940s and contributed to the establishment of the United Nations and drafting of the Universal Declaration of Human Rights. In 1947, Dr Evatt chaired a special committee on Palestine which engendered the partition of</p>
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¹ Dr. EVATT OPENS COLLEGE FOR JEWISH STUDY (1961, September 1). *The Australian Jewish Herald* (Melbourne, Vic. : 1935 - 1968), p. 7. Retrieved May 10, 2023, from <http://nla.gov.au/nla.news-article265731010>

² P.M. OPENS NEW BUILDING AT YESHIVA (1980, May 8). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 10, 2023, from <http://nla.gov.au/nla.news-article263286530>

	<p>Palestine.³ In 1949 as President of the UN General Assembly Dr Evatt oversaw the historic vote which admitted Israel as the 59th member of the United Nations. While these notable figures demonstrate the importance of the place as a Jewish institution their associations are merely incidental as they were not directly involved with the construction or design of the place.</p>	
	Inclusion Guidelines	Check
	Shows evidence of a significant human occupation	Yes, as a synagogue building and school and is evidence of an ongoing use.
	Is associated with a significant event, person, or group of persons	Yes, with Seidler and his office; structural engineer Alan Milston of Miller, Milston, and Ferris; Abraham Rabinovitch; Henry Pollack (Pollack and Associates later Mirvac); the Jewish migrant community within NSW including Russian Jewish migrants.
	Exclusion Guidelines	
	Has incidental or unsubstantiated connections with historically important people or events	No, the connections direct and well documented.
	Provides evidence of people or events that are of dubious historical importance	No, the persons and events are significant to the cultural history of both NSW and the Waverley locality.
	Has been so altered that it can no longer provide evidence of a particular association	No, additions to the building are evidence of continued use as a synagogue which continue these associations.
	<p>Level of Significance: State</p> <p><i>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)</i></p> <p>The building located at 34 Flood St, Bondi is an important work of the eminent Australian architect Harry Seidler who the historian Jennifer Taylor regards as “one of the major talents of Australian architectural History”.⁴ It is significant to Seidler’s architectural output, firstly as probably his first civic building, incorporating a civic external plaza space. Seidler went on to create plaza spaces of great importance in cities of the eastern coast, preeminent among them is the Australia Square development (c.1962-1967).</p> <p>Also, the synagogue is important in Seidler’s work for its technical and creative emphasis using thin shell concrete vaulting. It is among the largest and most ambitious thin shell structure built in NSW in the</p>	

³ “Evatt Herbert”, *Australian Dictionary of Biography*, accessed May 8, 2023, <https://adb.anu.edu.au/biography/evatt-herbert-vere-bert-10131>

⁴ Jennifer Taylor, “Harry Seidler”, 623-624.

	<p>immediate post war period in collaboration with structural engineer Alan Milston (Miller, Milston, and Ferris).</p> <p>The distinctive roof form is significant as architectural sculptural form, along with the curved stair, both of which are identified as indicative of the mastery of Harry Seidler by the eminent historian of Australian Modernism Philip Goad. Particularly, the geometric configuration of the roof form is important in demonstrating Seidler's application of Bauhaus principles and Oscar Neimeyer's influence. Notwithstanding, later alteration to finishes, and noting a fine complimentary addition, the place retains the original form and characteristics of its pure spatial and structural conception.</p> <p>The place also demonstrates in an early non-domestic work, the Bauhaus architectural principles for which Seidler is particularly identified, being the pupil, assistant and collaborator of Marcel Breuer. In this case the principals are clear to see in the abstract planning, and devising of pure space sculpted by structural form.</p> <p>Finally, it is also a leading surviving example of a post war modernist synagogue within NSW. It is one of the finest religious architectural works of its period.</p>	
	Inclusion Guidelines	Check
	Shows or is associated with, creative or technical innovation or achievement	Yes
	Is the inspiration for a creative or technical innovation or achievement	Yes
	Is aesthetically distinctive	Yes
	Has landmark qualities	No, while the original forecourt design may have possibly had landmark value this has been compromised by later changes to the finishes and arrangement.
	Exemplifies a particular taste, style or technology	Yes, the place is a good example of Seidler's post war Modernist design with large vaulted thin shell concrete roof form and abstract modernism planning.
	Exclusion Guidelines	
	Is not a major work by an important designer or artist	No, the place is a good example of eminent architect Harry Seidler and demonstrates a key technical development as structure with refined thin shell concrete vaulted roof.
	Has lost its design or technical integrity	No, although the finishes have changed, and the liturgical layout, the Bauhaus design principles are not missing.
	Its positive visual or sensory appeal or landmark and scenic	No, the landmark and scenic qualities have been degraded by

	qualities have been more than temporarily degraded	later changes to the forecourt finishes but these are not permanent.
	Has only a loose association with a creative or technical achievement	No, the association with structural engineer Alan Milston and the technical achievement of the large thin shell concrete vaulted roof system are direct and well documented.
	Level of Significance: State	
	<i>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</i>	
	<p>The building located at 34 Flood St, Bondi has been the focus of Jewish communal worship and education in Bondi since its construction in 1959. The place has strong and special associations with the Jewish faith community in Bondi for its ongoing use as a civic and religious building. The worship, educational and civic functions of the building demonstrate the continued use of the place for community in association with the Jewish community in Bondi. The place has social significance for its ongoing associations and continued use for Jewish educational purposes with the migrant Jewish in Bondi and Waverley.</p>	
	Inclusion Guidelines	Check
	Is important for its associations with an identifiable group	Yes, the place is important to the local Bondi Jewish community.
	Is important to a community's sense of place	Yes, the place has a strongly held association with the Jewish faith community in Bondi who largely migrated to Australia following WWII. The place is special for its purpose and function as a educational and religious institution.
	Exclusion Guidelines	
	Is only important to the community for amenity reasons.	No, the place demonstrates a strong association with the Jewish faith community of the Waverley LGA.
	Is retained only in preference to a proposed alternative	No, the place is not preferred to be retained due to a proposed alternative.
	Level of Significance: Local	



	<p><i>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)</i></p> <p>It is possible that the vaulted roof system of the 1959 designed synagogue and former Sydney Talmudical College premises building was the largest in NSW from the same period. It has the potential to yield information regarding its construction and the performance of thin shell concrete over time. The roof form of the synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi meets the threshold for state significance.</p>	
	Inclusion Guidelines	Check
	Has the potential to yield new or further substantial scientific and/or archaeological information	Yes, there is potential that the shell form concrete roof could yield regarding its construction and performance.
	Is an important benchmark or reference site or type	Yes, the thin shell concrete vaulted roof form is an important benchmark for technical and creative achievements.
	Provides evidence of past human cultures that is unavailable elsewhere	No, evidence of Jewish faith cultures are available elsewhere in NSW.
	Exclusion Guidelines	
	The knowledge gained would be irrelevant to research on science, human history or culture	No. The place has potential to inform about the human history and culture of the Jewish community in NSW.
	Has little archaeological or research potential	Yes. The site has been disturbed and there is little archaeological potential.
	Only contains information that is readily available from other resources or archaeological sites	No. The thin shell concrete roof was likely the largest at the time of its construction.
	<p>Level of Significance: State</p> <p><i>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)</i></p> <p>The synagogue and former Sydney Talmudical College premises building at 34 Flood St, Bondi is uncommon for the period due to its large thin shell concrete vaulted roof form. The place has rarity value as the only religious building by Seidler and as a surviving intact example of a post war modernist synagogue, which were once common across NSW particularly Eastern Sydney however are now smaller in number.</p>	
	Inclusion Guidelines	Check

	Provides evidence of a defunct custom, way of life or process	No.
	Demonstrates a process, custom or other human activity that is in danger of being lost	No.
	Shows unusually accurate evidence of a significant human activity	No.
	Is the only example of its type	No. It is not the only modern synagogue in NSW.
	Demonstrates designs or techniques of exceptional interest	Yes, it is one of only three Jewish related works by Seidler and the only building, the other two being garden and memorial structures. It is one of Seidler's earliest civic works and the abstract modernist plan form and thin shell concrete roof form is of exceptional interest.
	Shows rare evidence of a significant human activity important to a community	Yes, it is rare surviving post-war synagogue, many synagogues built after WWII particularly in the late 1950s to mid-1960s have been demolished.
	Exclusion Guidelines	
	Is not rare	No, is a rare surviving post-war modernist synagogue.
	Is numerous but under threat	Yes, it is rare surviving post-war synagogue, many synagogues built after WWII particularly in the late 1950s to mid-1960s have been demolished.
	<p>Level of significance: State</p> <p><i>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)</i></p> <p>The synagogue and former Sydney Talmudical College premises building located at 34 Flood St demonstrates the principal characteristics of its class as a post war modernist synagogue designed by a migrant architect. It is part of a small but important group of distinctive modernist style synagogues designed by migrant architects who established practice in NSW. The place is a relatively intact and surviving example of a post war modernist synagogue which is rare for its class.</p>	
	Inclusion Guidelines	Check
	Is a fine example of its type	Yes, fine example of a Post War Modernist synagogue.

	Has the principal characteristics of an important class or group of items	Yes, demonstrates the principal characteristics of an abstract modernism plan form and as a post war synagogue with its arrangement (forecourts etc) and the ongoing use of the building for educational and worship purposes.
	Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity	Yes, the place demonstrates attributes typical to an Orthodox synagogue including the menorah, bimah, ark, seating arrangement and partition of male and female congregants. The abstract modernist planning demonstrates a church plan typical of Bauhaus influence. The construction technique is an outstanding example of post war modernist design.
	Is a significant variation to a class of items	No. The place is a notable example in a group of post war synagogues designed by migrant architects.
	Is part of a group which collectively illustrates a representative type	Yes, part of a group of synagogues which collectively illustrates the characteristics of post war modernist design. The structure is representative of a synagogue designed a migrant architect within the post war period.
	Is outstanding because of its setting, condition or size	No, the setting, condition or size of the place is not considered outstanding. However, the barrel-vaulted roof form is likely to be the largest in size in NSW at the time of construction.
	Is outstanding because of its integrity or the esteem in which it is held	No, the place is outstanding for its integrity, which has been changed by later alterations and additions.
	Exclusion Guidelines	
	Is a poor example of its type	No, the place is not a poor example of its type as a synagogue.
	Does not include or has lost the range of characteristics of a type	No, while some later changes to the forecourt have lost the ability to demonstrate a religious and civic building the form and post war Modernist characteristics have largely been retained.

	Does not represent well the characteristics that make up a significant variation of a type	Yes, it does have the characteristics that make it a variation of post war synagogues in Sydney, including, distinctive modernist elements such as the systems-based plan form and vaulted thin shell concrete roof.
	Level of Significance: State	
Integrity	Largely intact	
Current Listings	Australian Institute of Architects (NSW Chapter), Register of Significant Buildings in NSW, Item No 4702711	
Comparative analysis	Due to the nature of the architecture and history of the synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi a number of comparisons can be drawn. Each of the schedules and lists stated below have been considered and discussed to some extent in the application of criteria. See below of all comparative schedules and lists.	

1.1. Relevant works by Harry Seidler



Jewish Architecture by Seidler			
Name of work	Location	Year	Significance/Description
Australia-Israel Friendship Forest Memorial  Figure 1 Australia-Israel Friendship Forest (Source: Shalom Crafter) ⁵  Figure 2 (Source: Harry Seidler: Four Decades of Architecture) ⁶	Israel	1990	<p>An assembly place, and tribute to the at the time 40-year friendship between Australia and Israel.</p> <p>It is notable for commemorating the ongoing relationship between Australia and Israel.</p> <p>Description: Two stone paved plazas set in the foothills of the surrounding valley landscape addressing the southern panorama. The assembly point is accessed via an opening with concrete lintel and stonewalls, leading to steps down to a monument on the eastern wall. The western portion wall bears gold coloured metal lettering of the names of sponsors and patrons. The plazas are bounded by opposing retaining walls; one straight and the other curved.</p>
Jewish Holocaust Memorial (Formerly Martyrs Memorial) in Rookwood Cemetery and Necropolis	East Street, Lidcombe, NSW 2141. (SHR #00718)	1969-1972	A monument commemorating the victims of the Nazi Holocaust of World War II. It was the first memorial monument of its kind erected by the NSW Jewry.

⁵ "Vision for the Wilderness Leadership Academy in Shorashim," *Shalom Crafter*, accessed May 17, 2023, https://shalomcrafter.weebly.com/wilderness-leadership-academy_old/category/all.

⁶ Kenneth Frampton and Phillip Drew, "Harry Seidler: Four Decades of Architecture," (London: Thames & Hudson Ltd 1992), 184.

<div data-bbox="315 266 618 496"></div> <div data-bbox="315 499 723 571"><p>Figure 3 Jewish Holocaust Memorial (Martyrs Memorial) Source: Heather Stevens 2019, Monument Australia.</p></div> <div data-bbox="315 592 627 890"></div> <div data-bbox="315 893 745 965"><p>Figure 4 Jewish Holocaust Memorial (Martyrs Memorial) (Source: Gary Heap 2021, Monument Australia).</p></div>			<p>For the monument Seidler worked with engineers Miller, Milston and Ferris.⁷</p>
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⁷ Martyrs memorial to be built at Rookwood, Sydney (1969, August 21). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 17, 2023, from <http://nla.gov.au/nla.news-article263156299>

Relevant domestic architecture by Seidler			
<p>Meller House</p>  <p>Figure 5 Meller House (Source: State Heritage Inventory)</p>	<p>37 The Bulwark, Castlecrag NSW 2068 LEP #1995</p>	<p>1950</p>	<p>“37 The Bulwark is an excellent example of the early work of Australia's most eminent modern architect, Harry Seidler, AC. The house, with its level of integrity and with its position on the highest point of Castlecrag, overlooking Sailor's Bay is of a high level of aesthetic significance. It is a rare example of the architect's work in the area.”⁸ For this house Seidler worked with the engineers Miller, Milston and Ferris</p>
<p>Igloo House (Williamson House)</p>  <p>Figure 6 The Igloo House (Source: State Heritage Inventory)</p>	<p>65 Parriwi Road, Mosman NSW 2088 SHR #01652</p>	<p>1951</p>	<p>“Igloo House, dating from 1951, is of State aesthetic significance as an important early example of modern house design in Australia, which is innovative in its use of structural technology. It is significant for its association with its designer, leading Australian architect Harry Seidler, who had been a teenage refugee from Nazi oppression in the 1930s and who had trained as an architect in Canada before coming to Australia in 1948 to design a house for his immigrant parents. Igloo House is thus also a demonstration of the contribution of immigrant culture to Australia.”⁹</p>

⁸ “House (including original interiors) - Meller House,” State Heritage Inventory, accessed May 8, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2660244>

⁹ “Igloo House, The,” State Heritage Inventory, accessed 8 May, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5045139>.




1.2. A survey of Synagogues and Jewish Schools outside NSW

Synagogue	Location	Architect and construction	Significance/Description
Adelaide			
Beit Shalom Synagogue  Figure 7 Beit Shalom, Hackney Road Source: Adelaide Jewish Museum. ¹⁰	Hackney Road Adelaide	Architect unknown c. 1970 - 1979	Significant as a Liberal synagogue in Adelaide with the congregation forming in 1963. The synagogue was converted from a house. The synagogue has stained glass windows but is otherwise unremarkable.
Adelaide Hebrew Congregation in Glenside  Figure 8 Adelaide Hebrew Congregation Source: Adelaide Jewish Museum. ¹¹	13 Flemington St, Glenside SA 5065	Old synagogue built in 1850 (the building is no longer used as a synagogue) New synagogue at Glenside built c1989.	The old Adelaide Hebrew Congregation synagogue (located at 5-9 Synagogue Pl, Adelaide) was the first synagogue built in Adelaide and was the 'longest continuously used synagogue in the southern hemisphere'. ¹² A new synagogue was constructed in Glenside (pictured) in 1989 following the sale of the old synagogue. The new synagogue is of concrete construction with a curved wall to part of the principal façade.
Victoria			

¹⁰ "Beit Shalom Synagogue", Adelaide Jewish Museum, accessed May 17 2023, <https://adelaidejewishmuseum.org/features/beit-shalom-synagogue/>.


¹¹ "Adelaide Hebrew Congregation," Adelaide Jewish Museum, accessed May 17, 2023, <https://adelaidejewishmuseum.org/features/adelaide-hebrew-congregation/>.

¹² "History," Adelaide Hebrew Congregation, accessed May 17, 2023, <https://adelaidehebrew.com/about#block-ddb233bc420c0495b91c>

<p>Brighton Hebrew Congregation Synagogue</p>  <p>Figure 9 Brighton Hebrew Congregation Synagogue Source heritage ALLIANCE.</p>	<p>132 Marriage Road BRIGHTON EAST</p>	<p>Built 1950-53; 1965-66 Herbert Tisher (1950) Abraham Weinstock (1965-66).</p>	<p>The synagogue at 132 Marriage Road in Brighton East is a local item of historic, architectural, and aesthetic significance. Constructed in 1950-53, it was one of the first new synagogues built in Melbourne following WWII. The principal building was designed by Herbert Tisher, in 1950 (c1950-53). Abraham Weinstock added the substantial extension (c 1965-66). It has rarity value as the only example of a bold 1960s synagogue with its locality. It has aesthetic significance for its contemporary use of the bold hexagonal form as an expression of the star of David.¹³</p>
<p>Kew Jewish Centre (Bet Nachman Synagogue)</p>  <p>Figure 10 Kew Jewish Centre Source: Melbourne Photos Australia.¹⁴</p> 	<p>53 Walpole Street, Kew, Boroondara City Local Item (Place ID 199790)</p>	<p>Louis Kahan c. 1963- 1965</p>	<p>Known for the site of the Kew Hebrew Congregation is has local historic significance for its ability to demonstrate the development of Jewish worship and culture in the City of Boroondara from 1949. As a collection of buildings including the Bet Nacham Synagogue (c1963-65) Norman Smorgon House which building envelope encompasses the remnant core of a brick residence (c1886) only with other associated buildings represent the development of a cohesive social, religious and cultural centre of the Jewish community (also of social significance) of Kew during the postwar period. It has rarity value as postwar example of a synagogue in the city of Boroondara and within Victoria. It is representative of a postwar Internationalist synagogue designed by émigré architects (Anthony A Hayden) and has local aesthetic significance of its distinctive use of pre-cast concrete, form composition, flat roof and expansive use of glazing.</p>


¹³ David Wixted and Simon Reeves, *City of Bayside Inter-War & Post-War Heritage Study, Volume 2 of 2* (North Melbourne: heritage ALLIANCE, 2010), 68, https://www.bayside.vic.gov.au/sites/default/files/2021-09/Volume%202_0.pdf.

¹⁴ "Kew Synagogue," Melbourne Photos Australia, accessed May 17 2023, <http://melbournedaily.blogspot.com/2014/03/kew-synagogue.html>.

Figure 11 Figure 10 Kew Jewish Centre Source: Boroondara Planning Scheme. ¹⁵			
<p>St Kilda Hebrew Congregation Synagogue</p>  <p>Figure 12 St Kilda Hebrew Congregation Synagogue Source: Victorian Heritage Database.</p>	<p>10-12 Charnwood Grove, St Kilda, Port Phillip City. VHR H1968 Place ID 3467</p>	<p>Joseph Plottel c. 1926</p>	<p>"The St Kilda Hebrew Congregation synagogue is of state significance for architectural, aesthetic and historic reasons. It is architecturally and aesthetically significant as a highly distinctive stylistic representation of the Byzantine style. The scale and quality of the building and finishes are demonstrative of the development of the local Jewish community during the inter war period. The synagogue has historic significance primarily for its association with Rabbi Jacob Danglow who served the congregation 1905-1957. Is socially significant to the Jewish community of St Kilda from the inception of the congregation in 1871."¹⁶</p>
Former Mickveh Yisrael Synagogue and School	<p>275-285 Exhibition Street Melbourne VHR H0766</p>	<p>Knight and Keer</p>	<p>"The City Free Kindergarten is a simple brick structure with pedimented gables, brick pilasters and arched windows with brick dressings. It was constructed in 1859-60 as a Jewish School for the Michveh Yisrael Synagogue. The architects were Knight and Keer who also designed Parliament House, Melbourne. The building was used for worship until 1877 and since then has served several uses. It became a kindergarten in 1920.</p>



¹⁵ "Kew Hebrew Congregation, 53 Walpole Street, Kew Statement of Significance," Boroondara Planning Scheme, accessed May 17, 2023, <https://www.boroondara.vic.gov.au/media/59831/download?inline>.

¹⁶ "St Kilda Hebrew Congregation Synagogue", Victorian Heritage Database, accessed April 19, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/3467>

 <p>Figure 13 Former Mickveh Yisrael Synagogue and School (Source: Victorian Heritage Database)</p>			<p>This was one of the earliest synagogues in Melbourne and a surviving example of early building in the C.B.D. It is an interesting example of the conservative classical style and of the small scale work of Knight and Kerr. The projecting pediments with trapezoidal brackets are a distinctive and important motif and can be compared, with the same usage at 'D Estaville' in Kew, also by Knight and Kerr and erected in 1857. The building is essential to the character and historic quality of the neighbouring area. Windows on the Exhibition and Little Lonsdale Street facades have been deepened; windows down the other side remain intact. From an 1870 photo it seems that part of the pedimented end to Exhibition Street facade has been removed. The brickwork has been painted.”¹⁷</p>
<p>Synagogue, Melbourne Hebrew Congregation</p>	<p>Melbourne city 2-8 Toorak Road (Corner St Kilda Road), South Yarra</p>	<p>Nahum Barnet 1928- 1930</p>	<p>“Victoria's most prominent synagogue, in a style of twentieth century Baroque classicism with a Corinthian portico and striking copper dome suggestive of the composition of Palladio's Villa Capra. It was built in 1928-30 to the design of Nahum Barnet and is in very intact condition, with a richly designed interior in traditional form, including a women's gallery.”¹⁸</p>

¹⁷ “FORMER MICKVEH YISRAEL SYNAGOGUE AND SCHOOL,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/747>


¹⁸ “Synagogue - Melbourne Hebrew Congregation,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/65737>

 <p>Figure 14 Synagogue, Melbourne Hebrew Congregation Source: Victorian Heritage Database.</p>			
<p>Former Residence</p>  <p>Figure 15 32 Lord St Brunswick Source Victorian Heritage Database.</p>	Melbourne City 32 Lord Street Brunswick	James Dolphin c 1911-1912	<p>“A most unusual brick building, erected as a home for James Dolphin in 1911-12 but used as a synagogue and Sabbath School by the Brunswick Talmun Torah from 1942 until its closure in 1987, during which time it was the only synagogue north of the City of Melbourne.</p> <p>The building is notable for its extraordinary portico (of timber?) with oversized entablature supported on paired ionic columns, its keyhole-shaped front door and windows giving a somewhat Moresque character; and elaborate joinery in the hall and principal rooms. The use of very large terracotta ventilating panels is also of interest.”¹⁹</p>
East Melbourne Synagogue (Mickva Yisrael)	Melbourne City 494-500 Albert Street East Melbourne	Crough and Wilson c. 1877 - 1883	<p>“Victoria's largest nineteenth century synagogue, containing a Bema, Tabernacle and other features in a highly intact state and of architectural interest especially for the interior of 1877, designed by Crough & Wilson. The space is surrounded on three sides by a Gallery carried on iron columns, each surmounted by an unusual arrangement of an impost block flanked by consoles (in the manner of the Badia at Fiesole, Italy); the face of the gallery is treated as a classical entablature with dentillation and the</p>

¹⁹ “Former Residence,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/66212>.

			<p>balustrade is of swag-bellied cast iron. The main ceiling is panelled, with a dentillated and modillionated cornice and with a row of large and unusual ventilators marking the location of former suspended gas lights. The facade, completed in 1883 to the design of T J Crouch, is an imposing but not especially remarkable renaissance design with a pedimented centre panel projecting slightly and with dome-like hexagonal mansard roofs to either side.”²⁰</p>
<p>Figure 16 East Melbourne Synagogue Source: Victorian Heritage Database.</p>			<p>Former Mickveh Yisrael Synagogue and School</p> <p>Melbourne City 275-285 Exhibition Street, Melbourne</p> <p>Knight and Kerr 1859</p> <p>“The Former Mickveh Yisrael Synagogue and Hebrew School was constructed in 1859 to a design by the architects Knight and Kerr. It was used as such until 1877 when a new Synagogue was built in Albert Street, East Melbourne. It then became State School No 2030 until 1892, and subsequently had a number of educational, social welfare and child care uses. The building is a simple single storey brick structure on a basalt plinth, with</p>

²⁰ “EAST MELBOURNE SYNAGOGUE,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/353>.

 <p>Figure 17 Former Mickveh Yisrael Synagogue and School (Source: Victorian Heritage Database).</p>			<p>pedimented gables, brick pilasters and arched windows with brick dressings.”²¹</p>
<p>Synagogue</p>  <p>Figure 18 2-4 Barkly St Ballarat East (Source: Victorian Heritage Database).</p>	<p>Ballarat City 2-4 Barkly Street, Ballarat East</p>	<p>T. B. Cameron 1861</p>	<p>“The Jewish Synagogue in Barkly Street, Ballarat was built in 1861 and designed by the local architect, T. B. Cameron for the Ballarat Hebrew congregation. The first Jewish service was held in the Clarendon Hotel, Lydiard Street, in 1853 as the Jewish community began to establish itself in Ballarat, two years after gold was discovered in the area. The growth of this community in the township of Ballarat resulted in the need for a permanent synagogue. Constructed in Barkly Street and consecrated in 1855, the first synagogue in Ballarat was a large, timber building, designed to accommodate a congregation of about two hundred. Two years later, about three hundred Jews were recorded as residing in Ballarat and the surrounding areas, with similar numbers in Bendigo and fewer in such towns as Geelong, Avoca and Castlemaine. In 1859 the Ballarat East Town Council requisitioned the land in Barkly Street and granted the congregation a replacement site at the corner of Barkly and Princess Streets. Private homes were used for religious services until the new synagogue, designed to</p>

²¹ “FORMER MICKVEH YISRAEL SYNAGOGUE AND SCHOOL,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/747>.

			<p>accommodate about three hundred and fifty people, was built, and consecrated in 1861.</p> <p>The Synagogue is a single storey rectangular building designed in a simple Renaissance Revival style with pedimented portico fronting a parapeted main hall. Paired Tuscan squared columns and pilasters support the portico, the tympanum of which contains the name of the congregation, Remnant of Israel(?) in Hebrew characters. Tuscan pilasters support the deep cornice of the main parapet and divide the side facades into bays. Simple, tall round-headed window openings flank the front portico and are positioned along the sides of the main hall. Remodelling was undertaken in 1878, including the extension of the women's gallery along the sides of the hall, and the addition of a second staircase to the gallery and ante-rooms towards the front of the building. Externally the latter are in a style consistent with that of the building. The Synagogue was originally constructed in face brickwork, with contrast provided by rendered pilasters, columns, pediment, window reveals and cornice. The entire building has since been rendered. The building was renovated in the 1960s and 1970s and is still in use as a synagogue."²²</p>
Former Synagogue	Geelong City 74 McKillip Street, Corner Yarra Stret, Geelong	Jones and Halpin 1861	<p>"The former Synagogue at Geelong was built in 1861 by builders Jones and Halpin to a design by Geelong architect John Young. The stucco rendered brick structure in classical revival style replaced an earlier structure constructed in 1854. The building is now used as an office."²³</p>

²² Synagogue," Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/58>.



²³ Former Synagogue," Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/68316>.



Figure 19 Former Synagogue
(Source: Victorian Heritage Database).

1.3. Synagogues and other notable Jewish architecture in New South Wales, in chronological order



Minor synagogues or those of no known designer are not included.



Building Name	Location	Architect	Significance or Description
Great Synagogue  <p>Figure 20 Great Synagogue (Source: State Heritage Inventory).</p>	Castlereagh St SHR #01710	Thomas Rowe (1872); 1957 basement deepened and reconstructed as War Memorial Hall. 'Some intrusion, although the previous basement area appears to have been of little significance.' ²⁴	Significant as likely the earliest surviving synagogue in New south Wales still in use. Built in the Victorian style it is elaborately decorated both internally and externally. It has excellent decorative mouldings, carved sandstone, metalwork, tiling and stained glass.
Newcastle Synagogue ²⁵  <p>Figure 21 February 2023 (Source: Raynardthan Pontoh; Google Images).</p>	122 Tyrrell St, The Hill NSW 2300 LEP #I608	Messrs Pepper & Jeater ²⁶ 1927	Constructed in the At Deo style with dome, the stretcher bond brick contrasts against the white moulding. There is a circular stained-glass window decorated with the Star of David to the principal façade. The first floor entry has a porch which is flanked by two columns with lintel bearing Hebrew text.

²⁴ "Great Synagogue," State Heritage Inventory, accessed May 8, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5051584>

²⁵ "Newcastle Synagogue," State Heritage Inventory, accessed May 8 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2173970>



²⁶ "Newcastle Synagogue," State Heritage Inventory; "History," Newcastle Hebrew Congregation, accessed May 8, 2023, <https://www.newcastlehebrewcongregation.org/history.html>

<p>Emanuel Synagogue <i>Formerly Temple Emanuel Synagogue</i></p>  <p>Figure 22 Lippmann Partnership restoration (Source: Brett Boardman & Willem Rethmeier 2018, Lippman.com.au)</p>  <p>Figure 23 Emanuel Synagogue (Source: Dictionary of Sydney)</p>	<p>7 Ocean St, Woollahra</p> <p>LEP #519</p>	<p>1941 Principal synagogue by Lipson c1966 Second synagogue added by Bolot; Neuewg Synagogue (former chapel) 2018 Restoration of interior by Lippmann Partnership</p>	<p>Emmanuel Synagogue is of local historic significance as the first of only two Liberal Synagogues established in Sydney and shows the expansion of Liberal Judaism in Australia in the mid-20th century. Both synagogues on the site are associated with émigré architects Lipson and Bolot as examples of their respective works. The composition and materials of the forecourt are of local aesthetic significance. Emanuel Synagogue contributes to a group of Inter-War buildings on Ocean and Wallis Street. Emanuel Synagogue is of local social significance for its ongoing ability to meet the needs of its congregation. The Emmanuel Synagogue has rarity value as the only surviving early example of a Liberal Judaism synagogue in Australia and as intact surviving example of Lipson's work.</p>
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<p>Chevra Kadisha</p>  <p>Figure 24 Source: Sydney Chevra Kadisha.²⁷</p>	<p>172 Oxford St, Woollahra</p>	<p>Lipson & Kaad (Samuel Lipson) 1949-52</p>	<p>Notable as place of Jewish burial and funeral services. It was renovated c. 1949 – 1952 to the design of Samuel Lipson of Lipson and Kaad.</p>
<p>Nefresh Shul <i>Formerly Roscoe St Synagogue</i></p>  <p>Figure 25 Source: Nefesh Library and Community Centre.²⁸</p>	<p>54 Roscoe Street, Bondi</p>	<p>Unknown Possibly c1955-57</p>	<p>The original single storey synagogue was demolished to erect a three storied synagogue and community hub in 2021.</p>

²⁷ "Gallery," *Sydney Chevra Kadisha*, accessed May 17, 2023, <https://sydney-chevra-kadisha.business.site/>.

²⁸ "New Building Images – June 2021," *Nefesh Library & Community Centre*, accessed May 8, 2023, https://www.nefesh.org.au/templates/photogallery_cdo/aid/5154717/jewish/New-Building-Images-June-2021.htm.

<p>North Shore Synagogue <i>Formerly the Garden Synagogue</i> 29</p>  <p>Figure 26 North Shore Synagogue (Source: Wikipedia, 2015).</p>  <p>Figure 27 Max Dupain (Source: "Unloved Modern", Rebecca Hawcroft, Migrant Architects).</p>	<p>Treatts Road, Lindfield</p>	<p>Hans Peter Oser 1957</p>	<p>A modernist synagogue with skillion roof form, constructed with concrete besser blocks and cladding to principal northern façade. Northern façade is ornamented with menorah and Star of David.</p>
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²⁹ Undated extensions alterations and additions to synagogue building Killara, HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 21 November 1951: 11. Web. 8 May 2023 <http://nla.gov.au/nla.news-article222887670>; Undated extension alteration and additions to building in Lindfield for North Synagogue – plans etc HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 30 April 1952: 13. Web. 8 May 2023 <http://nla.gov.au/nla.news-article223548112>; Undated extensions additions and alterations to building Lindfield for North Shore synagogue, HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 7 May 1952: 10. Web. 8 May 2023 <<http://nla.gov.au/nla.news-article223548193>>.

 <p>Figure 28 Max Dupain (Source: "Unloved Modern", Rebecca Hawcroft, Migrant Architects).</p>			
<p>South Head Synagogue, at dover Heights <i>Closed in 2017 now Kehillat Kadimah</i> ³⁰</p>  <p>Figure 29 Source: Architecture and Arts 1962 ³¹</p>	<p>626-666 Old South Head Road, Rose Bay</p>	<p>Neville Gruzman 1957-58 Gruzman building now demolished (demolition date unknown)</p>	<p>Gruzman's original design has since been demolished (date unknown), photographic evidence from that time shows curved stairs with balustrade and columns to. what appears, the roof form eaves. It was described as 'ultra-modern'.³³</p>

³⁰ SOUTH HEAD & DISTRICT SYNAGOGUE (1950, November 16). *The Hebrew Standard of Australasia* (Sydney, NSW : 1895 - 1953), p. 4. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article131103411>; "Sydney Synagogue prevented from sacking Rabbi to close on Friday," Sydney Morning Herald, 2017, accessed May 5, 2023, <https://www.smh.com.au/national/nsw/sydney-synagogue-prevented-from-sacking-rabbi-to-close-on-friday-20170629-gx1c8d.html>; New Rose Bay Synagogue (1958, November 21). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article263068389>

³¹ Jennifer Hill and Elizabeth Gibson, *1480 – Strathfield Synagogue heritage Assessment* (Sydney: Architectural Projects, 2014), 184, <http://jewsofnsw.info/heritagelists/StrathfieldHeritageAssesment.pdf>.



³³ New Rose Bay Synagogue (1958, November 21). *The Australian Jewish Times* (Sydney, NSW : 1953 – 1990).

 <p>Figure 30 Max Dupain (Source: Series 31 - Religious - Synagogues, University of Melbourne)³².</p>			
<p>Strathfield Synagogue³⁴ <i>Formerly Holocaust and War Memorial Synagogue, no longer used as a synagogue.</i></p>  <p>Figure 31 Source: Strathfield Schule.³⁵</p>	<p>19 Florence St, Strathfield LEP #1232</p>	<p>Hans Peter Oser 1959</p>	<p>The Strathfield Synagogue congregation was established on the site in 1949 and has local historic significance as it demonstrated the development of the Jewish population into Sydney suburban areas in the post war period. It is notable for associations with the Conference on Jewish Material Claims Against Germany and education in the growing Jewish Community in Strathfield in the mid-20th century. It has local aesthetic significance as a good example of well-known modernist émigré architect HP Oser. It is sustainably intact despite additions retaining synagogue elements including pendant lamps and plywood doors decorative with copper pulls and Menorah symbol. It has rarity value for its architectural style (in Strathfield) as the only surviving purpose-built synagogue from the post war period in the western suburbs of Sydney. It is representative of its class as an International Style synagogue designed by emigrant architect in the post war period.</p>



³² "Series 31 – Religious – Synagogues," *University of Melbourne*, accessed May 8 2023, https://www.csec.esrc.unimelb.edu.au/image_viewer.htm?CSEC00900,4.

³⁴ "Strathfield Synagogue," *State Heritage Inventory*, accessed May 5, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2451115>.



³⁵ "The Synagogue – Past and Present," *Strathfield Schule*, accessed May 5, 2023, <https://strathfieldschule.weebly.com/the-synagogue---past-and-present.html>.

 <p>Figure 32 Source: Strathfield Schule ³⁶</p>			
<p>Cremorne Synagogue</p>  <p>Figure 33 Source: onthefhouse.com</p>	12A Yeo St Neutral Bay	Hugh Buhrich 1958	A rectangular structure erected to the tabernacle plan form, Cremorne synagogue has a curved wall to centre of principal façade flanked by cladded terminating ends. It is decorated with the Star of David.
New Central Synagogue	Bon Accord Av, Bondi Junction	Samuel Lipson and Peter Kaad of Lipson & Kaad	The original design was a synagogue constructed from brick with two curved concrete lintels over the principal entrance



³⁶ "The Synagogue – Past and Present," *Strathfield Schule*.

<p>Formerly Central Synagogue and War Memorial³⁷</p>  <p>Figure 34 Source: The Australian Jewish Times 1969.</p>  <p>Figure 35 Source: Central Synagogue (Sydney), Wikipedia.</p>		<p>1959; destroyed by fire in 1994</p>	<p>accessed via stair from street level. The original synagogue was demolished and rebuilt following a fire in 1994.</p>
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³⁷ Donors visit new synagogue (1969, August 7). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 7. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article263155980>; NEW SYNAGOGUE IS "LARGEST IN AUSTRALIA" (1960, September 2). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 11. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263139279>; 1951 'Synagogue Meetings', *The Australian Jewish Herald* (Melbourne, Vic. : 1935 - 1968), 21 September, p. 2. , viewed 14 Apr 2023, <http://nla.gov.au/nla.news-article261423057>; New Site for Central Synagogue (1952, February 15). *The Hebrew Standard of Australasia* (Sydney, NSW : 1895 - 1953), p. 2. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article130949924>; ³⁷ CENTRAL SYNAGOGUE SUPPLEMENT Why They Built The "New Central" (1960, September 2). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 7. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263139306>; CENTRAL SYNAGOGUE IN NEW HOME (1960, September 30). *The Australian Jewish News* (Melbourne, Vic. : 1935 - 1999), p. 3. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article262395125>; "Architecture, our collection," *Jewish Heritage New South Wales*, accessed April 14, 2023, <http://www.jewsofnsw.info/architecture/>



<p>North Shore Temple Emanuel</p>  <p>Figure 36 Source: North shore Temple Emanuel³⁸</p>  <p>Figure 37 Source: Google Street view, accessed May 8 2023.</p>	<p>Chatswood Av, Chatswood</p>	<p>Unknown 1960</p>	<p>Original synagogue was constructed in 1960 and its designer is unknown. The existing North Shore Temple Emanuel Synagogue has likely been largely altered.</p>
<p>Bankstown Hebrew Synagogue</p>	<p>Meredith St, Bankstown</p>	<p>Harry Harold Smith</p>	<p>The second synagogue in Bankstown. Designed by Harold Harry Smith and completed in 1957. It was destroyed by fire in 1991. It</p>

³⁸ "Who are We?," *North Shore Temple Emanuel*, accessed May 8 2023, <https://www.nste.org.au/about-us>


<p>Formerly Jewish Martyrs War Memorial Synagogue³⁹</p>  <p>Figure 38 Source: Canterbury Bankstown Local Studies Collection.</p>		<p>1957, destroyed by fire 1991.</p>	<p>is distinctive for its hexagonal form representative of the Star of David. It's entry way covered with concrete awning. Quite possibly the boldest post-war synagogue design in NSW had it survived. Its form exemplifies the expression of post war modernist émigré architects.</p>
<p>Coogee Synagogue</p>  <p>Figure 39 https://images.shulcloud.com/852/81116_large.jpg</p>	<p>121 Brook St, Coogee</p>	<p>Unknown 1960 rebuilt 2006</p>	<p>The architect of the original design is unknown, the synagogue was rebuilt in 2006.</p>
<p>Sephardi Synagogue</p>	<p>40 Fletcher St, Woollahra</p>	<p>Hugh Buhrich 1961, additions in 1962</p>	<p>Significant as the oldest Sephardi synagogue in Australia. The original design appears to be largely altered.</p>

³⁹ MODERN HOUSE OF WORSHIP Bankstown Synagogue (1960, March 25). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 8. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263136673>; "Architect of new ideas and much of Sydney," *Sydney Morning Herald*, 2009, accessed April 14, 2023, <https://www.smh.com.au/national/architect-of-new-ideas-and-much-of-sydney-20080716-qdsmd.html>.

 <p>Figure 40 Source:</p>			
 <p>Figure 41 Source: The Sephardi Synagogue, sephardi.org.au</p>			
<p>Wolper Jewish Hospital</p>  <p>Figure 42 Source: Wolper Hospital, Facebook.</p>	Woollahra	Harold Harry Smith 1961	Smith's 1961 design was part of a major expansion for the existing hospital and there have been alterations and additions since this time.
<p>Offices at the National Council of Jewish Women</p>	Woollahra	Harold Harry Smith 1963	Unable to locate image of Smith's 1963 design.

 <p>Figure 43 Hall Source: National Council of Jewish Women NSW.</p>			
<p>Cyril Rosenbaum Synagogue, Montefiore Home <i>On premises of aged care residence</i></p>	<p>Hunters Hill</p>	<p>Aaron Bolot 1964</p>	<p>Significant as the synagogue located at Montefiore Home which has provided aged care services to Jewish communities since 1889. Unable to locate image of Bolot's 1964 design.</p>
 <p>Figure 44 Source: Maroubra Synagogue. 40</p>	<p>635 Anzac Parade, Maroubra NSW 2035</p>	<p>Hugh Buhrich 1965</p>	<p>The original design has likely been altered. The existing synagogue has covered courtyard with roof supported by columns.</p>

⁴⁰ "About," *Maroubra Synagogue*, accessed April 17, 2023, <https://www.maroubrasynagogue.org.au/slide/about/>.

 <p>Figure 45 Source: Maroubra Synagogue.</p>			
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1.4. Architecturally distinguished Places of Worship of the 1950s and 1960s in New South Wales

St Bernard's Catholic Church at Botany

Designed by Kevin Curtin in 1954

Caringbah Uniting Church

Loder and Dunphy c. 1959

St Andrews Presbyterian Church, Gosford NSW

Loder and Dunphy c.1960 demolished 2022

Polish War Memorial Chapel, Blacktown NSW

Michael Dysart 1967

Holy Trinity Memorial Church Canberra Act

Frederick Romberg of Grounds, Romberg and Boyd (1961)

Our Lady of Fatima Kingsgrove

Wentworth Memorial Church, Vacluse

Don Gazzard and Partners

St Anthony's RC Church Marsfield,

Enrico Taglietti 1968

Six Churches by B Smith of McConnell Smith and Johnson

Chapel of St Pauls College, University of Sydney

Jim Kell, of Foyle Mansfield Jervis and McLurcan 1964

1.5. Concrete Shell Structures of the 1950s

Igloo House

Sydney Opera House Utzon and Anderson (unbuilt shell structure)

Kevin Borland House, Victoria

St Mary's Star of the Sea Darwin
1955-1962

Holy Family War memorial Church Queensland
1960-63

St Kevin’s Dee Why
1959-61

1.6. Religious places built by migrant groups in NSW after World War II (a selection)

St Mina and St Minas Coptic Church Sydenham

The Gallipoli Mosque Granville

Polish War Memorial Chapel Blacktown

Sources	<p>See footnotes and heritage assessment for all sources including:</p> <p>Brady, Colin. <i>Talmudical College Heritage Study</i>. (Sydney: Waverley Council, 2023).</p> <p>Frampton, Kenneth and Phillip Drew. <i>Harry Seidler: Four Decades of Architecture</i>. (London: Thames & Hudson Ltd 1992).</p> <p>Nearmap. <i>34 Flood St, Bondi NSW 2026</i>. March 16, 2023. Nearmap.com . https://apps.nearmap.com/maps/#/@-33.8917100,151.2595700,18.00z,0d/V/20230316?locationMarker.</p> <p>SIX Maps. <i>Sydney 1943 Imagery: 34 Flood St, Bondi</i>. 1943. SIX Maps. https://maps.six.nsw.gov.au/.</p> <p><i>Environmental Planning and Assessment Act 1979 No 203 (NSW) Sch. 5 Pt. 2</i>. Waverley Council Local Environmental Plan 2012. https://legislation.nsw.gov.au/view/html/inforce/current/epi-2015-0020#sch.5-pt.2.</p> <p>McGinness, Mark. “He needed both wisdom and wits.” <i>Sydney Morning Herald</i>, February 4, 2005. https://www.smh.com.au/national/he-needed-both-wisdom-and-wits-20050204-gdkmin.html</p>
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Yeshiva College within the Harry O Triguboff Centre
formerly the Sydney Talmudical School
34 Flood Street, Bondi

Heritage Assessment
Version V1.5
7th June 2023



for
Waverley Council
by
Hector Abrahams Architects

Version	Authors	Status	Date
Version 1.0	HAA	Preliminary Draft	12 th May
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1. Introduction

This Heritage Assessment to assess the significance of the 1959 Harry Seidler designed Sydney Talmudical College and synagogue was commissioned by Waverley Council after its own assessment led to the letting of an Interim Heritage Order for the place under the NSW Heritage Act 1977.

This assessment includes a description of the site, history, physical analysis, comparative analysis, significance assessment, listing recommendations and management recommendations.

This report was prepared by Hector Abrahams, Georgia Holloway, Sioned Lavery, and Tristan Ryan. The place was inspected by Hector Abrahams, Sioned Lavery and Tristan Ryan who inspected the place on 24 March 2023. The report has been prepared in the form prescribed by the NSW Heritage Manual *assessing heritage significance guideline* (2022) and Australia ICOMOS, *The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance* (2013)

2. Description of the place in title and Heritage Planning Status

The place is located at 34 Flood Street, Bondi NSW 2026 with the following real property description; Lot 1 Deposited Plan 1094020 (containing two buildings; synagogue and former Sydney Talmudical College premises building and the separate Rabbi's residence).

As to boundaries, synagogue and former Sydney Talmudical College premises building fronts Flood St to the west, the Rabbi's residence also located at 34 Flood St fronts Anglesea St. The place is marked in red on the figures one and two below.

The place is not currently listed as a heritage item on the NSW Heritage Register. However, the western perimeter is opposite to the eastern boundary of the Woodstock Heritage Conservation Area and abuts the Waverley Park Landscape Conservation Area on Flood St; listed as items C16 and C67, respectively, on Schedule 5 of the Waverley Council Local Environmental Plan (LEP).¹

¹ *Environmental Planning and Assessment Act 1979 No 203 (NSW) sch. 5 pt. 2*, Waverley Council Local Environmental Plan 2012, accessed April 28, 2023, <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2012-0540#sch.5-pt.2>.

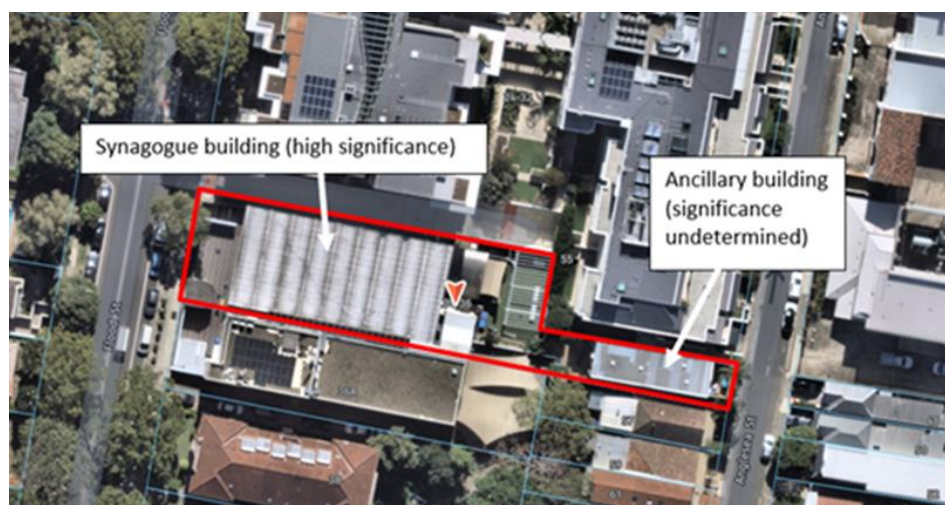


Figure 1 Aerial Photograph showing 34 Flood Street Bondi marked in red.
(Source: Nearmap with HAA overlay)²



Figure 2 1943 aerial with 34 Flood St, Bondi site marked in red (Source SixMaps with HAA overlay).³

² Nearmap, 34 Flood St, Bondi NSW 2026, March 16, 2023, Nearmap, accessed April 27, 2-2023, https://apps.nearmap.com/maps/#/@-33.8917100,151.2595700,18.00z,0d/V/20230316?locationMarker_

³ SIX Maps, Sydney 1943 Imagery: 34 Flood St, Bondi, 1943, SIX Maps, Accessed April 27, 2023, <https://maps.six.nsw.gov.au/>.

3. History

The following historical aspects of the site is reproduced from Waverley Council: *Talmudical College Heritage Study* (2023)⁴

Pre- European Occupation

Early European accounts dating from 1788 indicate at least 1500 people lived in the area between Botany Bay and Broken Bay. The region was made up of 29 clans, forming the Eora nation, with the Waverley area being the traditional land of the Bidjigal, Birrabirragal and Gadigal people. There was some interaction between tribal groups with the women moving to the country of their husband, while maintaining ties with the country of their birth.

For the first 40 years after the establishment of the penal colony at Sydney Cove, the Waverley area, as with most of the Eastern Suburbs, was an isolated and largely uninhabited locale. The land was initially retained by the Crown and then released in a piecemeal manner from the late 1820s after an abortive attempt in 1828 to reserve the area as church glebe. By 1870 most of the crown land within the present day municipality of Waverley had been released through land sales undertaken predominantly in the decades of the 1830s, 1850s and 1860s. After 1831 the land releases in Waverley were by public auction, generally of moderately sized parcels of land between five and ten acres.

19th Century development at Flood Street, Bondi

The site has evolved from the early settlement pattern of purchase grants in Waverley of the period 1838-50, serving to fund assisted migration. The subject sites form part of 11 ½ acres purchased by Michael Woolley for 161 pounds, the grant being issued on 2 February 1839.

These crown land purchases had frontage to the small number of public roads that followed the ridgelines such as present-day Bondi Road, Bronte Road and Birrell Street. Bondi Road is one of the oldest public rights of way in the Waverley LGA. Known for some years as Waverley Street, the road was put through prior to 1840 and over the following decades the neighbouring land was cut up into crown grants of between five and fourteen acres.

With the gradual release of the crown land the residential population of the Waverley area grew but remained relatively small. With few exceptions, the early occupation was confined to the elevated, airy plateau lands that offered views of the coast, the harbour and Botany Bay. The first generation of residences included a small number of substantial villas set within large blocks of land inclusive of Barnett Levey's Waverley House that stood to the west of Flood Street, opposite today's Talmudical College. The villa lands now form the eastern boundary of Waverley Council's Woodstock Heritage Conservation Area (HCA). This encompasses lands originally within and adjacent to William Foreman's grant acquired by the Jewish free settler Levey in 1826. Levey, who built the colony's first theatre, quickly set about building a substantial villa named

⁴ Colin Brady, *Talmudical College Heritage Study*, (Sydney: Waverley Council, 2023), 5-10.

‘Waverley’. In 1859, the house gave the Waverley LGA its name, becoming Sydney’s second municipality.

The early land grants of the 1820s and 1830s established the current street pattern of the area. Two early residences identified as Wairoa and Anglesea erected on estate lands on which the Talmudical College now stands typified the isolated villas occupying the Waverley landscape prior to establishment of Waverley municipality in 1859.

Lands immediately east of the Levey Estate were sold in 1838 to John B Jones and Edward Flood. Their land, along with grants east to Bondi Beach, were of regular size, establishing the current grid pattern. Flood was one of NSW’s most successful pastoralists. In 1868 the entrepreneur established the Waverley Crescent Extension Estate bringing into being Geirstein [now Bon Accord Avenue], Kenilworth and Woodstock Streets. Flood continued Levey’s reference to Sir Walter Scott’s Waverley novels, the streets being named after the Scott’s novels Kenilworth (published in 1821), Woodstock (published in 1826) and Anne of Geirstein (published in 1829).

Over the 1880s the majority of the large estates were subdivided to meet the demand for land for suburban development, and by the mid-1880s the municipality was reported as developing faster than any other area near Sydney. This frenzy of land speculation was driven by a number of factors inclusive of a maturing economy with banks and other financial institutions willing to lend money to both developers to buy and subdivide the estates and also to the prospective homeowner.

A sale of lots on the Waverley Extension Estate held on 6 February 1886 established much of the current streetscape of late Victorian Italianate and Federation style residences of the area surrounding today’s College site. The broad parallel street formations provided one of the first locations for superior suburban housing in the area. It is still dominated by isolated grand villas and small vernacular cottages.

Detail of S Pollitzer’s ‘Plan of the Borough of Waverley’ published in 1887 showing the area of the then recently Anglesea Estate. Source: Mitchell Library

Subdivision of purchased grants and the grounds of established villas accelerated during the land boom of the 1880s, Woolley’s Anglesea lands were subdivided and marketed as the Anglesea Estate prior to 1887, with the northern areas of the original grant about Anglesea House separately marketed as the Williams Estate.

Subdivision saw development of residential sites as freestanding and semi-detached residences of the later 19th and early 20th Centuries. Sites later occupied by the current buildings were identified as Lots 49 and 50, purchased by Aitkins, in the Anglesea Estate.

Expansion of Sydney’s steam and electric tram system provided an impetus for late Federation housing within the established Victorian streetscapes. Another factor was the improvement of basic government services. The supply of reticulated water from the City Council’s Botany Swamps became available from 1883 with the completion of the Waverley Reservoir. The steam tram service from the city via Bondi to Waverley (Charing Cross) was approved for construction by the government in 1880 and was subsequently completed in 1884. The demand for ready access to the beaches resulted

in the extensions of the tramlines from the city to the eastern beaches. In 1894 the steam tram service from the city to Waverley was extended to Bondi Beach with the junction being established at Bondi Junction. During 1902 the tramway was converted to the more convenient and speedier electric service.

20th Century Development

1948

As Australia's external affairs minister, Dr H.V. Evatt [uncle of Penelope (Evatt) Seidler] sat on the U.N. Security Council. At the second session of the General Assembly, he chaired a special committee on Palestine and attained a cherished ambition with his election as president of the third session (September 1948 to May 1949). Australia's mediatory role during these years helped to bring about the partition in Palestine, which was approved by the required two-thirds majority. Australia was the first country to vote 'Yes' to partition. The Australian Government under Prime Minister Ben Chifley recognition to the new State of Israel on 29 January 1949. After being elected President of the General Assembly, Dr Evatt presided over the vote at which Israel was admitted as a member of the United Nations in May 1949.

1950

Rose Seidler House is completed on a former pottery clay mining site on Clissold Road, Wahroonga. "It was a sensation, the most talked about house in Sydney," architect Penelope Seidler, Harry's widow and director of Seidler & Associates, [said]. It made such a splash that Mrs Seidler recalled hearing about it as a 12-year-old from her father Clive Evatt, the then-housing minister. It was nothing like the surrounding brick homes and bungalows, including the nearby heritage-listed Georgian home "Parklands" where Penelope grew up.

Harry Seidler, the 'great disruptor' of modern Australian architecture, The Sydney Morning Herald, Julie Power, 11 January, 2021

1950

The Minister for Housing, Clive Evatt [father of Penelope Evatt Seidler], has over-ridden Willoughby Council's decision disallowing a Canadian architect, Mr Harry Seidler, from erecting a modernistic house at The Bulwark, Castlecrag. This follows a story published in "The Sunday Herald" on March 26. The architect approached the Minister, who decided to sponsor the dwelling as a "demonstration" home.

In a letter of approval, Mr Evatt said that Mr Seidler was taking one step towards releasing architecture in NSW from shackles that bind it. The house will have three levels, connected by inside ramps. There will be a full-height glass wall in every room.

Modernistic House Ban Overruled, The Sunday Herald, 23 April 1950 (page 6)

1955

The board of management of the Sydney Talmudical College announces the embarkation of Rabbi G. Here and family at Naples by the SS "Otranto", due in Sydney on August 3, 1955. The Rabbi has been invited to establish a Talmudical College (Yeshiva) and to accept the position as Rosh Yeshiva, first principal of the Institution.

The chairman, Abraham Rabinovitch, said the board aimed to establish and foster higher Jewish education but not overlook secular education for children. The building recently acquired by the board at Flood Street.

“The Sydney Talmudical College”, The Australian Jewish Times, 15 July 1955, Page 6

August 1955

The Maccabean Hall was packed last Wednesday week, when the executive of the Sydney Talmudical College gave a reception in honour of Rabbi G. Herc (Rosh Yeshiva), Dean of the College. Over 400 persons attended the reception, including Rabbi Porush, Rabbi Abramson, Rabbi Frampton, Mr. S. D. Einfeld, Mr. D. J. Benjamin. Mr. Rabinovitch was chair. All spoke on the necessity of a Yeshiva in Sydney. Rabbi Herc said that, even in the short time he had been in Sydney, he felt confident that the Yeshiva would be a success ...At present there are seven pupils enrolled in the temporary building in Flood Street, Bondi.

“Support For Yeshiva”, The Australian Jewish Times, 26 August 1955, Page 7

1956

About 50 people were invited to a meeting on 29 January 1956, at Flood Street, at which it was unanimously resolved to form a congregation to be known as “Knesset Israel”. It was resolved that Rabbi G. Herc, Dean of the Sydney Talmudical College, be invited to be the Rabbi of the Congregation. The Rabbi consented to accept the position in addition to the position that he now holds at the College.

“New Congregation in Bondi”, The Australian Jewish Times, 10 February 1956, Page 8

1957

Seidler enters an Architectural Competition to design Waverley Council’s new Chambers building on Bondi Road, near Flood Street. The competition was won by the Sydney architects Ancher, Mortlock and Murray, who received £500 prize money. The second prize was awarded to the firm of P. B. Hall, G. P. Webber, A. L. Craig, and K. Woolley. Seidler took third prize. Fourth prize went to the firm of Peter Priestley, Lyle Dunlop and K. G. McLaren. The second, third and fourth prizes were £200 each. Three other designs were given special mention. There were 87 entries in all.

1958

The Knesset Yisroel congregation is planning a new Talmudical College with facilities to train ministers of religion. The new college, expected to cost £50,000, will be built on the site of the present Sydney Talmudical College, in Flood Street, Bondi.

A Knesset Yisroel supporter last week said the old college would be pulled down; the new institution would be a two-storey building. He said that “more than 25 per cent” of the total cost of the new building already had been pledged by individual congregants. Tenders were being called now that plans by architect Mr. H. Seidler, had been approved by the college authorities. The new building which will house, six classrooms for pupils, aged 6-13, is to be completed in time for the High Holydays. At present, there are 60 students working under Rabbi, G. Herc.

“New Talmud College next year”, The Australian Jewish Times, 12 December 1958, Page 3.

1961

The completed Talmudical College opened by special guest Dr H.V. Evatt [uncle of Penelope (Evatt) Seidler] in 1961. Dr H.V. Evatt served as a judge of the High Court from 1930 to 1940, Attorney-General and Minister for External Affairs from 1941 to 1949, and leader of the Australian Labor Party and Leader of the Opposition from 1951 to 1960.

As external affairs minister, Evatt sat on the U.N. Security Council. At the second session of the General Assembly, he chaired a special committee on Palestine and attained a cherished ambition with his election as president of the third session (September 1948 to May 1949). Australia's mediatory role during these years helped to bring about the partition in Palestine, which led to the creation of the Jewish state of Israel.

In 1960, Evatt later received a UN medal for his presidency of the third General Assembly, which he later gave to Moriah College (now in Queens Park, Waverley), the school that provided secular education to the children attending religious classes at the Talmudical College in Flood Street.

September 1961

Police made additional security patrols of the Bondi area following last Thursday's shattering of the glass entrance doors to the new £60,000 Sydney Talmudical College in Flood Street. Three large rocks were hurled through the plate glass doors of the Yeshiva building causing damage estimated at more than £150. It was the second time this month that glass in the new building has been broken. On September 2, Yeshiva officials reported that a stone had damaged one window. Police said they did not consider the incidents to be anti-Jewish actions. They suggest it was the work of a group of hooligans. Special patrols have been alerted to watch the Yeshiva building during darkness. Police say that damage to other religious buildings in the area has also been reported. Yeshiva president (Mr. A. Rabinovitch) said he had written to the NSW Police Commissioner (Mr. C. J. Delaney), the NSW Minister for Housing (Mr. A. Landa) and the Board of Deputies' Public Relations Chairman (Mr G. Falk) urging strongest possible action to apprehend the culprits.

“Police probing into damage”, The Australian Jewish News, 22 September 1961, Page 1

May 1965

Newspapers reported that Moriah College and the Sydney Talmudical College at Flood Street, Bondi, will benefit from the almost £300,000 estate of the late Mr and Mrs Abraham Rabinovitch. The estate will be invested by the Trustees, the Permanent Trustee Company of NSW Limited with the income to go to the two institutions. The proportion of the income would be decided by the trustee. Ultimately, the capital is for the University of Jerusalem in Israel. Mr. Rabinovitch, founder of both Moriah and Sydney Talmudical College died July 1964 and his wife early 1965.

“Schools get rich estate”, The Australian Jewish Times, 21 May 1965, Page 3

November 1965

A sixth-generation sabba, Rabbi Ezra Barzel, is the new head of Sydney Talmudical College and minister of the Flood Street, Bondi, congregation. Rabbi Barzel, 51, was officially welcomed by the congregation last Saturday night. He arrived from Israel with his wife five weeks ago and already conducted Yom Kippur services at the synagogue. Their two married daughters and two sons were left behind in Israel. The former head of the college, Rabbi Herc, is now heading a Yeshiva in Tel Aviv.

“Sabba head for Yeshiva”, The Australian Jewish Times, 12 November 1965

1979

The Yeshiva, in Flood Street, Bondi, was last week described as “the centre of Yiddishkeit in Sydney”. Rabbi Yehoshva Karlinsky, head of the Institute for Higher Learning in Jerusalem, said this at a Melave Malkah to commemorate the 15th anniversary of the death of Yeshiva founder Abraham Rabinovitch. “We are sitting here tonight in the centre of Yiddishkeit in Sydney,” the rabbi said. “Orthodox people are always small, but this does not matter. “What is important is that the education you give is pure”, he said.

“Melave Malkah in memory of Yeshiva founder”, The Australian Jewish Times, 16 August 1979, Page 4

1992

A 50-member Australian mission unveiled the Australia Israel Friendship Forest dedicatory centre and monument near Moshav Shorashim in Galil. The dedication was part of festivities marking the Jewish National Fund’s 90th anniversary. Sydney architect Harry Seidler designed the dedicatory centre and monument, which features two white interlocking plazas. They blend into the mountain landscape of the Forest established three years ago to mark the twin occasions of Australia’s Bicentenary and Israel’s 40th anniversary -1948 and 1988. A separate plaque marks the specific contribution to the creation of the State of Israel by Australia’s one-time Foreign Minister Dr Herbert Evatt who was president of the United Nations Assembly when the critical vote recognising the state of Israel was taken.

“Australians celebrate JNF’s 90th”, The Australian Jewish News, 19 June 1992, P7

1994

Seminal Australian architectural history and heritage book *A Pictorial Guide to Identifying Australian Architecture: Styles and Terms from 1788 to the Present* (Richard Apperly, Robert Irving and Peter Reynolds) states that: ‘From the early 1950s onwards, the steady stream of uniformly high-quality work from [Harry] Seidler’s office set a standard against which the work of other Modernists has tended to be judged’.

2003

Two Sydney properties owned by the Yeshiva group will be sold to repay debts to Australian mining identity Joe Gutnick.

“Inquiries pour in for Flood Street”, The Australian Financial Review, 24 July 2003

2011

Harry's Park honouring the memory of renowned Australian architect Harry Seidler opened on 10 November 2011. The park is adjacent to the Seidler Office. Penelope [Evatt] Seidler, the wife of the late Harry Seidler, was invited to officially open the park. Overlooking Luna Park and with a 180-degree view of west Sydney Harbour, the park commemorates Seidler's life and significant contribution made to architecture internationally and at home. John Curro, project architect and partner from Harry Seidler & Associates, designed the park using a palette of elements and materials common to Harry's work. "We have used contrasts which Harry favoured, including straight and curved elements, smooth white and textured grey finishes, strong geometric forms and soft irregular planting. Harry also liked to craft shifting voids in solid forms as seen in the curved wall with its viewing slot framing Luna Park and Lavender Bay." The park's location also has a special personal family connection for Penelope Seidler as her father, the late Clive R. Evatt QC, grew up in Kirribilli, and with his brothers attended the local church (St John's Anglican Kirribilli) where they sang in the choir. Their house was demolished for the construction of the Harbour Bridge. The park is a gift from Penelope Seidler to the people of Sydney.

"Harry Seidler Park opens in Milson's Point", Architecture and Design, 11 November, 2011, <https://www.architectureanddesign.com.au/news/industry-news/harry-seidler-park-opens-in-milsons-point-sydney>

The following historical aspects have been prepared by HAA.

The Alder Building.

Historical aerial images show that the Alder Building (adjacent to the south of the Sydney Talmudical College and synagogue) was likely constructed c. 1987 – 1989.

The Malka Brender Building.

The Malka Brender Building (north of 34 Flood St, Bondi) was constructed as a primary school associated with the Sydney Talmudical College, necessitated by growing enrolments, many of whom were Russian migrants.⁵ Construction was commenced and completed in 1979. The principal architect was Bruce Vote of Henry Pollack and Associates and the engineer Allen Milston of Miller, Milston and Ferris.⁶ W.M Shipton and Co. won the building contract with a tender price of \$250,000.⁷ The Malka Brender Building opened on Sunday 4 May 1980 and the opening event was attended by numerous politicians including the then Prime Minister Malcolm Fraser.⁸ It was named after the Mrs Malka Brender the mother of benefactor Jospeh Brender whose donation was instrumental in funding the completion construction.⁹ Funding for the building was raised from a Commonwealth government grant via the Schools Commission and private donations.¹⁰ The building displays a plaque dedicated to Mr S D Einfeld, to the memory of Yeshiva founders; Mr and Mrs A Rabinovitch.¹¹ In 1989 a third floor was added to the Malka Brender building the designer of which is unknown.¹² The

⁵ NON-RELIGIOUS ATTRACTED TO THE YESHIVA (1979, March 15). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 6. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263240539>; Turning cherished hope into reality (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 15. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286082>

⁶ Turning cherished hope into reality (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990); 1980 'Schools to support Russian children', *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), 5 June, p. 5. , viewed 18 May 2023, <http://nla.gov.au/nla.news-article263287671>

⁷ Turning cherished hope into reality (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 15.

⁸ YESHIVA SPECIAL FEATURE TO MARK THE OFFICIAL OPENING OF THE MALKA BENDER BUILDING GREAT OCCASION, SOURCE OF PRIDE (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 13. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286093>; P.M. OPENS NEW BUILDING AT YESHIVA (1980, May 8). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286530>; "MAYOR WANTS TO DO MORE FOR RUSSIANS" *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990) 24 April 1980, accessed April 27, 2023 <<http://nla.gov.au/nla.news-article263285768>>.

⁹ SCHOOL IS AN ENDURING TRIBUTE TO SPONSORS (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 14. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286078>; P.M. WILL OPEN YESHIVA CENTRE (1980, April 17). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 33. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263285363>

¹⁰ FLOWERS MAJOR DONORS PAY FOR NEW YESHIVA BUILDING (1979, November 15). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 5. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263248169>; SCHOOL IS AN ENDURING TRIBUTE TO SPONSORS (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 14. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286078>;

¹¹ Turning cherished hope into reality (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 15. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263286082>

¹² Major Yeshiva development (1989, February 17). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 5. Retrieved April 27, 2023, from <http://nla.gov.au/nla.news-article263274327>

addition is described alongside other proposed changes considered a major development in February 1989.

“Six houses facing Anglesea Street which currently operate as offices and classrooms. They will be demolished and replaced with a multipurpose centre. When development is complete, a building facing Bondi Road will comprise classrooms, a theatre, canteen, balconies and a synagogue. This will be connected to the Malka Brender building with a building containing administration facilities and a library. Underground parking will be developed and a courtyard built on top. The recreational area will be renovated and enlarged and situated adjacent the multi-purpose centre.”¹³

Henry Pollack, the Jewish refugee who later founded Mirvac, donated his firm’s architectural advice to the Malka Brender Building.¹⁴ This is perhaps notable as, according to his obituary, the Pollack family lived in tsarist Russia until 1919 and later fled from communist rule to Łódź, Poland. Pollack left his parents in Łódź when he moved to Vilnius, Lithuania in 1939.¹⁵ At the outbreak of World War Two, Pollack returned to Łódź to locate his parents, however they had already travelled to Warsaw. In 1941 Pollack obtained a passport from Dutch consul travelling to Japan to escape Germany’s advance, and was relocated to Shanghai, Hong Kong, and later Indonesia before reaching Australia (via boat) on Saturday 13 December 1941.¹⁶

Pollack graduated from the University of NSW in 1964 and entered into private practice in 1966. He designed an apartment block in Lakemba, flats in Drummoyne and terraces in Paddington before beginning property development company Mirvac in 1972.¹⁷

Judaism in NSW

Jewish people have been present in Australia since the arrival of the First Fleet which included Jewish convicts. Whilst this constituted a presence it wasn’t until much later that Jewish communal structures were erected.

In 1832 the Jewish community in Sydney was formally established ensuing from the arrival of free Jewish settlers in greater numbers throughout the 1820s.¹⁸ As most Jewish migrants of this period were of British origin it was an English pattern of Jewish religious practice that first came to Australia.

In 1844 the first purpose-built synagogue was constructed on York Street in Sydney.¹⁹ The gold rush during the 1850s attracted larger numbers of Jewish settlers to Australia

¹³ Major Yeshiva development (1989, February 17). The Australian Jewish Times (Sydney, NSW : 1953 - 1990).

¹⁴ Turning cherished hope into reality (1980, May 1). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 15.

¹⁵ Mark McGinness, “He needed both wisdom and wits”, *Sydney Morning Herald*, February 4, 2005, accessed April 27, 2023, <https://www.smh.com.au/national/he-needed-both-wisdom-and-wits-20050204-gdkmin.html>

¹⁶ Mark McGinness, “He needed both wisdom and wits”.

¹⁷ Mark McGinness, “He needed both wisdom and wits”.

¹⁸ Suzanne D Rutland, “Jews,” *Dictionary of Sydney*, 2008, accessed May 17, 2023, <https://dictionaryofsydney.org/entry/jews>;

¹⁹ Laila Ellmoos, “Great Synagogue,” *Dictionary of Sydney*, 2008, accessed May 17, 2023, https://dictionaryofsydney.org/entry/great_synagogue#ref-uuid=b1c1c47f-20cf-1d32-5355-5b8cf83949c0

and the Sydney Jewish congregation separated engendering a second synagogue in a former Baptist Church on Macquarie Street.²⁰ In the mid nineteenth century 40 per cent of the then existing Jewish migrants in Australia lived throughout rural NSW.²¹ Many either moved to Sydney or assimilated due to the difficulty observing Jewish customs. By the 1870s the two congregations were unified with the construction of the Great Synagogue beginning 1875.²²

The persecution of Jewish people led to the arrival of Jewish refugees before and following World War II. However, the Jewish population of Sydney almost doubled from postwar migration throughout the 1950s when at this time almost 60 percent of Sydney's Jewry were foreign born.²³ During the postwar period Sydney's Jewish community was invigorated by new ideas about Judaism influenced new refugee migrants. While some Orthodox synagogues were strengthened other forms of Judaism such as Reform (Progressive) Judaism were introduced, resulting in the erection of Temple Emmanuel c1938. This led to a period of construction of some 21 synagogues and educational institutions across Sydney in the 1950s. More recently the construction of new synagogues has been focused primarily in the eastern suburbs of Sydney.

²⁰ Suzanne D Rutland, "Jews,"; "Great Synagogue," State Heritage Inventory, accessed May 17, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5051584>

²¹ Suzanne D Rutland, "Jews".

²² "Great Synagogue," State Heritage Inventory.

²³ Suzanne D Rutland, "Jews,"; "History of NSW Jewry," New South Wales Jewish Board of Deputies, accessed May 17, 2023, <https://www.nswjbd.org/history-of-nsw-jewry/>

Harry Seidler (1923 – 2006)

The following is a precis of Jennifer Taylor's Harry Seidler entry within the Encyclopedia of Australian Architecture.²⁴

Harry Seidler was born in Vienna, Austria in 1923 to Jewish parents. In 1938 following the Nazi occupation of Austria Seidler fled to England where he continued his education at Cambridge Polytechnic. In May 1940 Seidler was deported to Canada as an interned enemy alien. Throughout 1941-44 Seidler attended 1944 the University of Manitoba in Winnipeg while on study release parole. He obtained a Bachelor of Architecture in 1944. While attending graduate school at the University of Harvard, Cambridge (1945-46) Seidler was educated by Marcel Breuer and Walter Gropius who instructed the principles of Bauhaus design. This education was highly influential and Seidler continued to uphold Bauhaus principles throughout his career and design output. Other notable associations during Seidler's education and training include Josef Albers who he studied under at Black Mountain College and Oscar Niemeyer. In 1948 Seidler spent four months in Niemeyer's office in Rio De Janeiro, Brazil. The influence of Niemeyer is evident in the sculptural form expression of concrete in Seidler's output. In 1948 Seidler joined his family in Australia and established his practice in 1949 with immediate success. Seidler's offices went on to become one of the most important architectural practices in Australia known in particular for large works as well as houses. His life and work are discussed in published histories of Australian architecture as well as monographs about him. For instance, in Jennifer Taylors view Seidler is

*"One of the major talents in Australian architectural history. He was a leading figure throughout his career, and the first architect in Australia to fully comprehend the lessons handed down from the Bauhaus, from which he remained a steadfast exponent."*²⁵

In the opinion of Professor Barry Bergdoll Seidler is regarded as having designed "some of the most spatially compelling designs of twentieth century architecture".²⁶

²⁴ Jennifer Taylor, "Harry Seidler", in *The Encyclopedia of Australian Architecture*, eds. Hannah Lewi and Phillip Goad, (Cambridge University Press: Port Melbourne, Victoria 2012), 622-624.

²⁵ Jennifer Taylor, "Harry Seidler", 623-624.

²⁶ B Bergdoll, "Australian idiom," in *Modern Australia*, eds. Hannah Lewi and Phillip Goad (Thames & Hudson: Port Melbourne, Victoria 2019), 13.

4. Physical Analysis

The place is a modernist building with a simple rectangular form with windows that repeat across the same panes of northern façade, it is located on a narrow allotment. It has distinctive repetitive curved roof form. For detailed assessment see schedule below.

The following schedule of elements describes each component of the 1959 designed synagogue and former Sydney Talmudical College premises building, noting fabric which is original as adjudged by examination of original plans and photographs, and informed by general knowledge of history of building in New South Wales.

Element	Description	Period	Notes
Synagogue building			
Interior	Seven interior semicircular vaults finished with set plaster and painted.	Vaults and render are original. It is unclear if the existing painting is original.	Earlier photographs of the synagogue show light fittings that are suspended from the apex of the interior vaults. There is no visible evidence of these original features.
Ceiling	The finish of interior of vaulted ceiling is set plaster and painted. Appears to have some finish/trim with downlights on centre of the ribs of the vaults.	It is unclear if the existing painting to ceiling finish is original. The finish to ribs of vaults is recent.	Earlier photographic evidence shows the interior finish to vaulted ceiling as rendered concrete or similar.
Bulkhead	Sheet material cantilevered from all interior walls containing air-conditioning and other services, with downlights on the soffit	Recent	This element is not shown in earlier photographic evidence of synagogue interior.
Synagogue Interior Walls			
East	Finished with plasterboard, or similar, painted and set square to the bulkhead.	Recent	<p>Earlier photograph evidence of eastern wall shows the interior finished with plasterboard or face brick rendered</p> <p>Earlier photograph evidence of eastern wall shows large panel (wood in appearance) to centre with double doors either side there are large square glass panels</p>

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			above the lintel of each double door.
West	Plasterboard or similar.	Recent	
North	Plasterboard, or similar panels, with expressed joint at the centre of the ribs of the vaults.	Recent	1962 photograph taken by Harry Seidler shows the interior finish to northern wall as face brick with concrete columns expressed.
South	Plasterboard or similar panels with expressed joint at the centre of the ribs of the vaults	Recent	1962 photograph taken by Harry Seidler shows the interior finish of the former division partition wall as ribs or curtains with the joins expressed like posts.
Synagogue Floor			
Skirting	15 x 100 stone tile matching that on the floor.	Recent	Earlier photographic evidence shows no visible skirting boards to interior finish of walls.
Finish to floor	Floor 500 x 500 mm stone with fine joints	Recent	Earlier photographic evidence shows parquetry floor finish; the original fabric of flooring finish is unclear.
Liturgical Furniture and Fittings			
Bema placed centrally	Raised plinth in oak with large laser cut metal grey, balustrade and oak corner posts appears to be sitting on wheels.	Recent	Earlier photographic evidence shows bema at west end, on a raised plinth with stairs accessing ends to north and south. A large balustrade forms the edging of Bema with light fixtures to each corner; finish appears to be metal and painted blue.
Reading desk and Torah	Sheet veneered in oak with aluminium trim and fitted seats matching the pews, with one step adjoining base accessing lectern at the northern/southern end	Recent	1962 photograph taken by Harry Seidler shows reading desk as wood? with metal painted in blue balustrade on eastern end. No visible step accessing lectern is shown.
Ark	Ark cabinet adjoins interior of northern wall finished with stone and wood panels. Hebrew text is engraved on lintel of Ark cabinet. Ark is	Recent	Earlier photographic evidence shows the Ark cabinet adjoining the interior of the east/west wall. A 1962 photograph taken by Harry Seidler

	concealed behind fabric decorated with Hebrew text and flags.		show the Ark cabinet abutting a large wood(?) panel and reveal framed in wood(?). There is a decorative element above the lintel of ark cabinet; possibly a light fixture. Ark is concealed behind dark panels/curtains with possible material/fabric finish decorated with Star of David.
Menorah	Menorah is placed to east/west end of Ark cabinet on northern wall. The menorah branches are straight and of angled less than 90 degrees from body of menorah base; the design appears to be metal in finish	Recent	Earlier photographic evidence shows the Menorah placed in front of Ark cabinet affixed to metal balustrade of reading desk. The menorah branches are curved toward ceiling its design appears to be metal in finish painted white.
Pews	Oak (?) veneer linear units of seven and 14 seats respectively, with fitted receptacles, folding lids sit on solid bleachers of stone	Recent	A 1962 photograph taken by Harry Seidler shows second hand pews as long benches constructed from timber with open backs
Doors, West wall	Two sets of painted pre-painted aluminium doors with frosted laminated glass set in rubber with a transom and fixed glass fan light	Recent	
Doors south	Two sets of solid fire doors painted the door in the West, has two steps in the floor, stone material	Recent	
Windows East	Two fixed pre-painted aluminium windows with frosted and clear glass set with rubber gaskets	Recent	
Windows North	Glazed infill to the hemi, circular vault, factory, painted aluminium with frosted glass fix on the side and top panel and a	Recent	

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	awning hung centre panel		
Exterior			
South	Adjacent to the eastern wall is a panel of approximately three lineal metres face brick painted with semicircular, right joints and unexpressed concrete plinth with DPC	Original?	
	The majority of the exterior is now inside in addition, and is a beam on the floor supporting a plasterboard block of boxes with doors in it	Recent	
West	Concrete vault number eight finished in sprayed textured render	Original?	
	South wall render and painted masonry wall	Original?	At the centre of the wall is the foundation stone bears, the following text in English "this foundation stone was laid by Mr A Rabinovitch JP, founder and president of the Sydney Talmudical College in the presence of The Rosh Yeshiva Rabbi G Herc 27th of August 1961", and in Hebrew as well.
	North wall rendered masonry painted	Original?	
	The pier at the west end of the wall is faced out in a sheet material	Recent	
	Skirting	One 50 x 15 stone to match the floor	Recent
	Floor 500 x 500. Approximately stone tiles with narrow joints.	Recent	
East	Aluminium frame, glass partition in the configuration of the original	Recent	
Courtyard	Stair unit	2.2 approximately	The wall form is original. The tiling is recent. The

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		curved wall with mosaic tiles and brass plaque.	brass plaque is the incised image of the menorah, the Torah and in English Rabinovich Yeshiva college, Sydney
	Wall north and south	Or form concrete to face	Original?
	West rendered concrete with applied stone facing to the exterior	Recent	
	Entry porch, concrete, curved walls, concrete, cantilevered roof rendered and painted with factory painted steel, grill, large gates	Recent	
	Floor patterned ceramic or porcelain tiles with a square stainless steel drainage grill in the middle	Recent	
Lower ground floor	Ceilings plasterboard set square	Recent	
	Walls plaster board	Recent	
	Doors pre painted metal frame and glazed sidelight. Solid fire door	Recent	
	Window painted aluminium framing	The heavy beam across the middle may indicate an earlier configuration. It's a little bit unexpected.	
	Floor strip carpet and tiles	Recent	
	Stair to lobby concrete form original	Stone tiled steps and stainless-steel handrail recent	



5. Comparative analysis

Preparatory to a discussion of cultural significance in the following section, lists have been prepared of relevant places for comparative purposes. Unless otherwise noted notes on significance and descriptions are by HAA, drawn from secondary sources in the main.



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5.1. Relevant works by Harry Seidler



Jewish Architecture by Seidler			
Name of work	Location	Year	Significance/Description
Australia-Israel Friendship Forest Memorial  Figure 3 Australia-Israel Friendship Forest (Source: Shalom Crafter) ²⁷  Figure 4 Source: Harry Seidler: Four Decades of Architecture ²⁸	Israel	1990	<p>An assembly place, and tribute to the at the time 40-year friendship between Australia and Israel.</p> <p>It is notable for commemorating the ongoing relationship between Australia and Israel.</p> <p>Description: Two stone paved plazas set in the foothills of the surrounding valley landscape addressing the southern panorama. The assembly point is accessed via an opening with concrete lintel and stonewalls, leading to steps down to a monument on the eastern wall. The western portion wall bears gold coloured metal lettering of the names of sponsors and patrons. The plazas are bounded by opposing retaining walls; one straight and the other curved.</p>

²⁷ "Vision for the Wilderness Leadership Academy in Shorashim," *Shalom Crafter*, accessed May 17, 2023, https://shalomcrafter.weebly.com/wilderness-leadership-academy_old/category/all.

²⁸ Kenneth Frampton and Phillip Drew, "Harry Seidler: Four Decades of Architecture," (London: Thames & Hudson Ltd 1992), 184.

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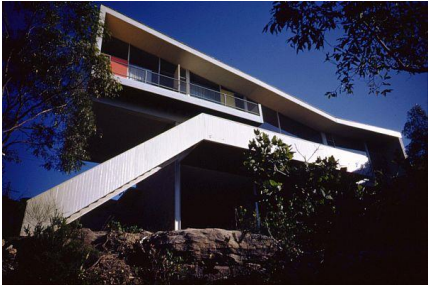

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<p>Jewish Holocaust Memorial <i>Formerly Martyrs Memorial in Rookwood Cemetery and Necropolis</i></p>  <p>Figure 5 Jewish Holocaust Memorial Source: Heather Stevens 2019, Monument Australia.</p>  <p>Figure 6 Jewish Holocaust Memorial (Source: Gary Heap 2021, Monument Australia).</p>	<p>East Street, Lidcombe, NSW 2141. (SHR #00718)</p>	<p>1969- 1972</p>	<p>A monument commemorating the victims of the Nazi Holocaust of World War II. It was the first memorial monument of its kind erected by the NSW Jewry.</p> <p>For the monument Seidler worked with engineers Miller, Milston and Ferris.²⁹</p>
Relevant domestic architecture by Seidler			

²⁹ Martyrs memorial to be built at Rookwood, Sydney (1969, August 21). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 17, 2023, from <http://nla.gov.au/nla.news-article263156299>

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<p>Meller House</p>  <p>Figure 7 Meller House Source: Max Dupain, 1953, copyright Penelope Seidler. Accessed via Seidler and Associates.³⁰</p>	<p>37 The Bulwark, Castlecrag NSW 2068 LEP #1995</p>	<p>1950</p>	<p>“37 The Bulwark is an excellent example of the early work of Australia's most eminent modern architect, Harry Seidler, AC. The house, with its level of integrity and with its position on the highest point of Castlecrag, overlooking Sailor's Bay is of a high level of aesthetic significance. It is a rare example of the architect's work in the area.”³¹ For this house Seidler worked with the engineers Miller, Milston and Ferris</p>
<p>Igloo House (Williamson House)</p>  <p>Figure 8 The Igloo House</p>	<p>65 Parriwi Road, Mosman NSW 2088 SHR #01652</p>	<p>1951</p>	<p>“Igloo House, dating from 1951, is of State aesthetic significance as an important early example of modern house design in Australia, which is innovative in its use of structural technology. It is significant for its association with its designer, leading Australian architect Harry Seidler, who had been a teenage refugee from Nazi oppression in the 1930s and who had trained as an architect in Canada before coming to Australia in 1948 to design a house for his immigrant parents. Igloo House is thus also a demonstration of the contribution of immigrant culture to Australia.”³³</p>

³⁰ Max Dupain, *Meller House view from below*, 1953, photograph, copyright Penelope Seidler, Seidler and Associates, <https://www.seidler.net.au/?id=3>.

³¹ “House (including original interiors) - Meller House,” State Heritage Inventory, accessed May 8, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2660244>

³³ “Igloo House, The,” State Heritage Inventory, accessed 8 May, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5045139>.


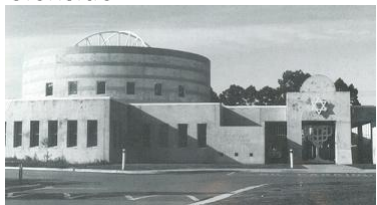
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Source: Max Dupain, 1962, copyright Penelope Seidler. Accessed via State Heritage Inventory. ³²			
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³² Max Dupain, *Igloo House, The*, 1962, photograph, copyright Penelope Seidler, State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5045139>.

5.2. A survey of Synagogues and Jewish Schools outside NSW

Synagogue	Location	Architect and construction	Significance/Description
Adelaide			
Beit Shalom Synagogue  Figure 9 Beit Shalom, Hackney Road Source: Adelaide Jewish Museum. ³⁴	Hackney Road Adelaide	Architect unknown c. 1970 - 1979	Significant as a Liberal synagogue in Adelaide with the congregation forming in 1963. The synagogue was converted from a house. The synagogue has stained glass windows but is otherwise unremarkable.
Adelaide Hebrew Congregation in Glenside  Figure 10 Adelaide Hebrew Congregation Source: Adelaide Jewish Museum. ³⁵	13 Flemington St, Glenside SA 5065	Old synagogue built in 1850 (the building is no longer used as a synagogue) New synagogue at Glenside built c1989.	The old Adelaide Hebrew Congregation synagogue (located at 5-9 Synagogue Pl, Adelaide) was the first synagogue built in Adelaide and was the 'longest continuously used synagogue in the southern hemisphere'. ³⁶ A new synagogue was constructed in Glenside (pictured) in 1989 following the sale of the old synagogue. The new synagogue is of concrete construction with a curved wall to part of the principal façade.
Victoria			


³⁴ "Beit Shalom Synagogue", Adelaide Jewish Museum, accessed May 17 2023, <https://adelaidejewishmuseum.org/features/beit-shalom-synagogue/>.

³⁵ "Adelaide Hebrew Congregation," Adelaide Jewish Museum, accessed May 17, 2023, <https://adelaidejewishmuseum.org/features/adelaide-hebrew-congregation/>.

³⁶ "History," Adelaide Hebrew Congregation, accessed May 17, 2023, <https://adelaidehebrew.com/about#block-ddb233bc420c0495b91c>

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<p>Brighton Hebrew Congregation Synagogue</p>  <p>Figure 11 Brighton Hebrew Congregation Synagogue Source heritage ALLIANCE.</p>	<p>132 Marriage Road BRIGHTON EAST</p>	<p>Built 1950-53; 1965-66 Herbert Tisher (1950) Abraham Weinstock (1965- 66).</p>	<p>The synagogue at 132 Marriage Road in Brighton East is a local item of historic, architectural, and aesthetic significance. Constructed in 1950-53, it was one of the first new synagogues built in Melbourne following WWII. The principal building was designed by Herbert Tisher, in 1950 (c1950-53). Abraham Weinstock added the substantial extension (c 1965-66). It has rarity value as the only example of a bold 1960s synagogue with its locality. It has aesthetic significance for its contemporary use of the bold hexagonal form as an expression of the star of David.³⁷</p>
<p>Kew Jewish Centre (Bet Nachman Synagogue)</p>  <p>Figure 12 Kew Jewish Centre Source: Melbourne Photos Australia.³⁸</p>	<p>53 Walpole Street, Kew, Boroondara City Local Item (Place ID 199790)</p>	<p>Louis Kahan c. 1963- 1965</p>	<p>Known for the site of the Kew Hebrew Congregation is has local historic significance for its ability to demonstrate the development of Jewish worship and culture in the City of Boroondara from 1949. As a collection of buildings including the Bet Nachman Synagogue (c1963-65) Norman Smorgon House which building envelope encompasses the remnant core of a brick residence (c1886) only with other associated buildings represent the development of a cohesive social, religious and cultural centre of the Jewish community (also of social significance) of Kew during the postwar period. It has rarity value as postwar example of a synagogue in the city of Boroondara and within Victoria. It is representative of a postwar Internationalist synagogue designed by émigré architects (Anthony A Hayden) and has local</p>

³⁷ David Wixted and Simon Reeves, *City of Bayside Inter-War & Post-War Heritage Study, Volume 2 of 2* (North Melbourne: heritage ALLIANCE, 2010), 68, https://www.bayside.vic.gov.au/sites/default/files/2021-09/Volume%202_0.pdf.

³⁸ "Kew Synagogue," Melbourne Photos Australia, accessed May 17 2023, <http://melbournedaily.blogspot.com/2014/03/kew-synagogue.html>.

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 <p>Figure 13 Figure 10 Kew Jewish Centre Source: Boroondara Planning Scheme. ³⁹</p>			aesthetic significance of its distinctive use of pre-cast concrete, form composition, flat roof and expansive use of glazing.
<p>St Kilda Hebrew Congregation Synagogue</p>  <p>Figure 14 St Kilda Hebrew Congregation Synagogue Source: Victorian Heritage Database.</p>	<p>10-12 Charnwood Grove, St Kilda, Port Phillip City. VHR H1968 Place ID 3467</p>	<p>Joseph Plottel c. 1926</p>	<p>“The St Kilda Hebrew Congregation synagogue is of state significance for architectural, aesthetic and historic reasons. It is architecturally and aesthetically significant as a highly distinctive stylistic representation of the Byzantine style. The scale and quality of the building and finishes are demonstrative of the development of the local Jewish community during the inter war period. The synagogue has historic significance primarily for its association with Rabbi Jacob Danglow who served the congregation 1905-1957. Is socially significant to the Jewish community of St Kilda from the inception of the congregation in 1871.” ⁴⁰</p>
<p>Former Mickveh Yisrael Synagogue and School</p>	<p>275-285 Exhibition Street Melbourne VHR H0766</p>	<p>Knight and Keer</p>	<p>“The City Free Kindergarten is a simple brick structure with pedimented gables, brick pilasters and arched windows with brick dressings. It was constructed in 1859-60 as a Jewish School for the</p>

³⁹ “Kew Hebrew Congregation, 53 Walpole Street, Kew Statement of Significance,” Boroondara Planning Scheme, accessed May 17, 2023, <https://www.boroondara.vic.gov.au/media/59831/download?inline>.

⁴⁰ “St Kilda Hebrew Congregation Synagogue”, Victorian Heritage Database, accessed April 19, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/3467>

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 <p>Figure 15 Former Mickveh Yisrael Synagogue and School (Source: Victorian Heritage Database)</p>			<p>Michveh Yisrael Synagogue. The architects were Knight and Keer who also designed Parliament House, Melbourne. The building was used for worship until 1877 and since then has served several uses. It became a kindergarten in 1920. This was one of the earliest synagogues in Melbourne and a surviving example of early building in the C.B.D. It is an interesting example of the conservative classical style and of the small scale work of Knight and Kerr. The projecting pediments with trapezoidal brackets are a distinctive and important motif and can be compared, with the same usage at 'D Estaville' in Kew, also by Knight and Kerr and erected in 1857. The building is essential to the character and historic quality of the neighbouring area. Windows on the Exhibition and Little Lonsdale Street facades have been deepened; windows down the other side remain intact. From an 1870 photo it seems that part of the pedimented end to Exhibition Street facade has been removed. The brickwork has been painted.”⁴¹</p>
<p>Synagogue, Melbourne Hebrew Congregation</p>	<p>Melbourne city 2-8 Toorak Road (Corner St Kilda Road), South Yarra</p>	<p>Nahum Barnet 1928- 1930</p>	<p>“Victoria's most prominent synagogue, in a style of twentieth century Baroque classicism with a Corinthian portico and striking copper dome suggestive of the composition of Palladio's Villa Capra. It was built in 1928-30 to the design of Nahum Barnet and is in very intact condition, with a</p>

⁴¹ “FORMER MICKVEH YISRAEL SYNAGOGUE AND SCHOOL,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/747>

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 <p>Figure 16 Synagogue, Melbourne Hebrew Congregation Source: Victorian Heritage Database.</p>			<p>richly designed interior in traditional form, including a women's gallery.”⁴²</p>
<p>Former Residence</p>  <p>Figure 17 32 Lord St Brunswick Source Victorian Heritage Database.</p>	<p>Melbourne City 32 Lord Street Brunswick</p>	<p>James Dolphin c 1911-1912</p>	<p>“A most unusual brick building, erected as a home for James Dolphin in 1911-12 but used as a synagogue and Sabbath School by the Brunswick Talmun Torah from 1942 until its closure in 1987, during which time it was the only synagogue north of the City of Melbourne. The building is notable for its extraordinary portico (of timber?) with oversized entablature supported on paired Ionic columns, its keyhole-shaped front door and windows giving a somewhat Moresque character; and elaborate joinery in the hall and principal rooms. The use of very large terracotta ventilating panels is also of interest.”⁴³</p>
<p>East Melbourne Synagogue (Mickva Yisrael)</p>	<p>Melbourne City 494-500 Albert Street East Melbourne</p>	<p>Crough and Wilson c. 1877 - 1883</p>	<p>“Victoria's largest nineteenth century synagogue, containing a Bema, Tabernacle and other features in a highly intact state and of architectural interest especially for the interior of 1877, designed by Crough & Wilson. The space is surrounded on three sides by a Gallery carried on iron columns, each</p>

⁴² “Synagogue - Melbourne Hebrew Congregation,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/65737>

⁴³ “Former Residence,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/66212>.

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 <p>Figure 18 East Melbourne Synagogue Source: Victorian Heritage Database.</p>			<p>surmounted by an unusual arrangement of an impost block flanked by consoles (in the manner of the Badia at Fiesole, Italy); the face of the gallery is treated as a classical entablature with dentillation and the balustrade is of swag-bellied cast iron. The main ceiling is panelled, with a dentillated and modillionated cornice and with a row of large and unusual ventilators marking the location of former suspended gas lights. The facade, completed in 1883 to the design of T J Crouch, is an imposing but not especially remarkable renaissance design with a pedimented centre panel projecting slightly and with dome-like hexagonal mansard roofs to either side.”⁴⁴</p>
<p>Former Mickveh Yisrael Synagogue and School</p>	<p>Melbourne City 275-285 Exhibition Street, Melbourne</p>	<p>Knight and Kerr 1859</p>	<p>“The Former Mickveh Yisrael Synagogue and Hebrew School was constructed in 1859 to a design by the architects Knight and Kerr. It was used as such until 1877 when a new Synagogue was built in Albert Street, East Melbourne. It then became State School No 2030 until 1892, and subsequently had a number of educational, social welfare and child care uses. The building is a simple single storey brick</p>

⁴⁴ “EAST MELBOURNE SYNAGOGUE,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/353>.

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 <p>Figure 19 Former Mickveh Yisrael Synagogue and School (Source: Victorian Heritage Database).</p>			<p>structure on a basalt plinth, with pedimented gables, brick pilasters and arched windows with brick dressings.”⁴⁵</p>
<p>Synagogue</p>  <p>Figure 20 2-4 Barkly St Ballarat East (Source: Victorian Heritage Database).</p>	<p>Ballarat City 2-4 Barkly Street, Ballarat East</p>	<p>T. B. Cameron 1861</p>	<p>“The Jewish Synagogue in Barkly Street, Ballarat was built in 1861 and designed by the local architect, T. B. Cameron for the Ballarat Hebrew congregation. The first Jewish service was held in the Clarendon Hotel, Lydiard Street, in 1853 as the Jewish community began to establish itself in Ballarat, two years after gold was discovered in the area. The growth of this community in the township of Ballarat resulted in the need for a permanent synagogue. Constructed in Barkly Street and consecrated in 1855, the first synagogue in Ballarat was a large, timber building, designed to accommodate a congregation of about two hundred. Two years later, about three hundred Jews were recorded as residing in Ballarat and the surrounding areas, with similar numbers in Bendigo and fewer in such towns as Geelong, Avoca and Castlemaine. In 1859 the Ballarat East Town Council requisitioned the land in Barkly Street and granted the congregation a</p>

⁴⁵ “FORMER MICKVEH YISRAEL SYNAGOGUE AND SCHOOL,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/747>.

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			<p>replacement site at the corner of Barkly and Princess Streets. Private homes were used for religious services until the new synagogue, designed to accommodate about three hundred and fifty people, was built, and consecrated in 1861. The Synagogue is a single storey rectangular building designed in a simple Renaissance Revival style with pedimented portico fronting a parapeted main hall. Paired Tuscan squared columns and pilasters support the portico, the tympanum of which contains the name of the congregation, Remnant of Israel(?) in Hebrew characters. Tuscan pilasters support the deep cornice of the main parapet and divide the side facades into bays. Simple, tall round-headed window openings flank the front portico and are positioned along the sides of the main hall. Remodelling was undertaken in 1878, including the extension of the women's gallery along the sides of the hall, and the addition of a second staircase to the gallery and ante-rooms towards the front of the building. Externally the latter are in a style consistent with that of the building. The Synagogue was originally constructed in face brickwork, with contrast provided by rendered pilasters, columns, pediment, window reveals and cornice. The entire building has since been rendered. The building was renovated in the 1960s and 1970s and is still in use as a synagogue."⁴⁶</p>
Former Synagogue	Geelong City 74 McKillip Street, Corner	Jones and Halpin 1861	"The former Synagogue at Geelong was built in 1861 by builders Jones and Halpin to a design by Geelong architect John Young. The stucco

⁴⁶ Synagogue," Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/58>.

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 <p>Figure 21 Former Synagogue (Source: Victorian Heritage Database).</p>	Yarra Stret, Geelong		rendered brick structure in classical revival style replaced an earlier structure constructed in 1854. The building is now used as an office.” ⁴⁷
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⁴⁷ Former Synagogue,” Victorian Heritage Database, accessed May 17, 2023, <https://vhd.heritagecouncil.vic.gov.au/places/68316>.

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5.3. Synagogues and other notable Jewish architecture in New South Wales, in chronological order

Minor synagogues or those of no known designer are not included.

Building Name	Location	Architect	Significance or Description
Great Synagogue  <p>Figure 22 Great Synagogue (Source: State Heritage Inventory).</p>	Castlereagh St SHR #01710	Thomas Rowe (1872); 1957 basement deepened and reconstructed as War Memorial Hall. 'Some intrusion, although the previous basement area appears to have been of little significance.' ⁴⁸	Significant as likely the earliest surviving synagogue in New south Wales still in use. Built in the Victorian style it is elaborately decorated both internally and externally. It has excellent decorative mouldings, carved sandstone, metalwork, tiling and stained glass.
Newcastle Synagogue ⁴⁹  <p>Figure 23 February 2023 (Source: Raynardthan Pontoh; Google Images).</p>	122 Tyrrell St, The Hill NSW 2300 LEP #1608	Messrs Pepper & Jeater ⁵⁰ 1927	Constructed in the At Deo style with dome, the stretcher bond brick contrasts against the white moulding. There is a circular stained-glass window decorated with the Star of David to the principal façade. The first floor entry has a porch which is flanked by two columns with lintel bearing Hebrew text.



⁴⁸ "Great Synagogue," State Heritage Inventory, accessed May 8, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5051584>

⁴⁹ "Newcastle Synagogue," State Heritage Inventory, accessed May 8 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2173970>

⁵⁰ "Newcastle Synagogue," State Heritage Inventory; "History," Newcastle Hebrew Congregation, accessed May 8, 2023, <https://www.newcastlehebrewcongregation.org/history.html>



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<p>Emanuel Synagogue <i>Formerly Temple Emanuel Synagogue</i></p>  <p>Figure 24 Lippmann Partnership restoration (Source: Brett Boardman & Willem Rethmeier 2018, Lippman.com.au)</p>  <p>Figure 25 Emanuel Synagogue (Source: Dictionary of Sydney)</p>	<p>7 Ocean St, Woollahra</p> <p>LEP #519</p>	<p>1941 Principal synagogue by Lipson c1966 Second synagogue added by Bolot; Neuewg Synagogue (former chapel) 2018 Restoration of interior by Lippmann Partnership</p>	<p>Emmanuel Synagogue is of local historic significance as the first of only two Liberal Synagogues established in Sydney and shows the expansion of Liberal Judaism in Australia in the mid-20th century. Both synagogues on the site are associated with émigré architects Lipson and Bolot as examples of their respective works. The composition and materials of the forecourt are of local aesthetic significance. Emanuel Synagogue contributes to a group of Inter-War buildings on Ocean and Wallis Street. Emanuel Synagogue is of local social significance for its ongoing ability to meet the needs of its congregation. The Emmanuel Synagogue has rarity value as the only surviving early example of a Liberal Judaism synagogue in Australia and as intact surviving example of Lipson's work.</p>
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<p>Chevra Kadisha</p>  <p>Figure 26 Source: Sydney Chevra Kadisha.⁵¹</p>	<p>172 Oxford St, Woollahra</p>	<p>Lipson & Kaad (Samuel Lipson) 1949-52</p>	<p>Notable as place of Jewish burial and funeral services. It was renovated c. 1949 – 1952 to the design of Samuel Lipson of Lipson and Kaad.</p>
<p>Nefesh Shul <i>Formerly Roscoe St Synagogue</i></p>  <p>Figure 27 Source: Nefesh Library and Community Centre.⁵²</p>	<p>54 Roscoe Street, Bondi</p>	<p>Unknown Possibly c1955-57</p>	<p>The original single storey synagogue was demolished to erect a three storied synagogue and community hub in 2021.</p>

⁵¹ "Gallery," *Sydney Chevra Kadisha*, accessed May 17, 2023, <https://sydney-chevra-kadisha.business.site/>.

⁵² "New Building Images – June 2021," *Nefesh Library & Community Centre*, accessed May 8, 2023, https://www.nefesh.org.au/templates/photogallery_cdo/aid/5154717/jewish/New-Building-Images-June-2021.htm.

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<p>North Shore Synagogue <i>Formerly the Garden Synagogue</i> 53</p>  <p>Figure 28 North Shore Synagogue (Source: Wikipedia, 2015).</p>  <p>Figure 29 Max Dupain (Source: "Unloved Modern", Rebecca Hawcroft, Migrant Architects).</p>	<p>Treatts Road, Lindfield</p>	<p>Hans Peter Oser 1957</p>	<p>A modernist synagogue with skillion roof form, constructed with concrete besser blocks and cladding to principal northern façade. Northern façade is ornamented with menorah and Star of David.</p>
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⁵³ Undated extensions alterations and additions to synagogue building Killara, HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 21 November 1951: 11. Web. 8 May 2023 <http://nla.gov.au/nla.news-article222887670>; Undated extension alteration and additions to building in Lindfield for North Synagogue – plans etc HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 30 April 1952: 13. Web. 8 May 2023 <http://nla.gov.au/nla.news-article223548112>; Undated extensions additions and alterations to building Lindfield for North Shore synagogue, HP Oser. "TENDERS CALLED" Construction (Sydney, NSW : 1938 - 1954) 7 May 1952: 10. Web. 8 May 2023 <<http://nla.gov.au/nla.news-article223548193>>.

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 <p>Figure 30 Max Dupain (Source: "Unloved Modern", Rebecca Hawcroft, Migrant Architects).</p>			
<p>South Head Synagogue, at Dover Heights <i>Closed in 2017 now Kehillat Kadimah</i> ⁵⁴</p>  <p>Figure 31 Source: Architecture and Arts 1962 ⁵⁵</p>	<p>626-666 Old South Head Road, Rose Bay</p>	<p>Neville Gruzman 1957-58 Gruzman building now demolished (demolition date unknown)</p>	<p>Gruzman's original design has since been demolished (date unknown), photographic evidence from that time shows curved stairs with balustrade and columns to what appears, the roof form eaves. It was described as 'ultra-modern'.⁵⁷</p>



⁵⁴ SOUTH HEAD & DISTRICT SYNAGOGUE (1950, November 16). *The Hebrew Standard of Australasia* (Sydney, NSW : 1895 - 1953), p. 4. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article131103411>; "Sydney Synagogue prevented from sacking Rabbi to close on Friday," Sydney Morning Herald, 2017, accessed May 5, 2023, <https://www.smh.com.au/national/nsw/sydney-synagogue-prevented-from-sacking-rabbi-to-close-on-friday-20170629-gx1c8d.html>; New Rose Bay Synagogue (1958, November 21). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article263068389>

⁵⁵ Jennifer Hill and Elizabeth Gibson, *1480 – Strathfield Synagogue heritage Assessment* (Sydney: Architectural Projects, 2014), 184, <http://jewsofnsw.info/heritagelists/StrathfieldHeritageAssesment.pdf>.

⁵⁷ New Rose Bay Synagogue (1958, November 21). *The Australian Jewish Times* (Sydney, NSW : 1953 – 1990).

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 <p>Figure 32 Max Dupain (Source: Series 31 - Religious - Synagogues, University of Melbourne)⁵⁶.</p>			
<p>Strathfield Synagogue⁵⁸ <i>Formerly Holocaust and War Memorial Synagogue, no longer used as a synagogue.</i></p>  <p>Figure 33 Source: Strathfield Schule.⁵⁹</p>	<p>19 Florence St, Strathfield LEP #1232</p>	<p>Hans Peter Oser 1959</p>	<p>The Strathfield Synagogue congregation was established on the site in 1949 and has local historic significance as it demonstrated the development of the Jewish population into Sydney suburban areas in the post war period. It is notable for associations with the Conference on Jewish Material Claims Against Germany and education in the growing Jewish Community in Strathfield in the mid-20th century. It has local aesthetic significance as a good example of well-known modernist émigré architect HP Oser. It is sustainably intact despite additions retaining synagogue elements including pendant lamps and plywood doors decorative with copper pulls and Menorah symbol. It has rarity value for its architectural style (in Strathfield) as the only surviving purpose-built synagogue from the post war period in the western suburbs of Sydney. It is representative of its class as an International Style synagogue designed by emigrant architect in the post war period.</p>



⁵⁶ "Series 31 – Religious – Synagogues," *University of Melbourne*, accessed May 8 2023, https://www.csec.esrc.unimelb.edu.au/image_viewer.htm?CSEC00900,4.

⁵⁸ "Strathfield Synagogue," *State Heritage Inventory*, accessed May 5, 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2451115>.

⁵⁹ "The Synagogue – Past and Present," *Strathfield Schule*, accessed May 5, 2023, <https://strathfieldschule.weebly.com/the-synagogue---past-and-present.html>.

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 <p>Figure 34 Source: Strathfield Schule ⁶⁰</p>			
<p>Cremorne Synagogue</p>  <p>Figure 35 Source: onthefhouse.com</p>	<p>12A Yeo St Neutral Bay</p>	<p>Hugh Buhrich 1958</p>	<p>A rectangular structure erected to the tabernacle plan form, Cremorne synagogue has a curved wall to centre of principal façade flanked by cladded terminating ends. It is decorated with the Star of David.</p>

⁶⁰ "The Synagogue – Past and Present," *Strathfield Schule*.

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<p>New Central Synagogue <i>Formerly Central Synagogue and War Memorial</i>⁶¹</p>  <p>Figure 36 Source: The Australian Jewish Times 1969.</p>  <p>Figure 37 Source: Central Synagogue (Sydney), Wikipedia.</p>	<p>Bon Accord Av, Bondi Junction</p>	<p>Samuel Lipson and Peter Kaad of Lipson & Kaad 1959; destroyed by fire in 1994</p>	<p>The original design was a synagogue constructed from brick with two curved concrete lintels over the principal entrance accessed via stair from street level. The original synagogue was demolished and rebuilt following a fire in 1994.</p>
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⁶¹ Donors visit new synagogue (1969, August 7). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 7. Retrieved May 5, 2023, from <http://nla.gov.au/nla.news-article263155980>; NEW SYNAGOGUE IS "LARGEST IN AUSTRALIA" (1960, September 2). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 11. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263139279>; 1951 'Synagogue Meetings', *The Australian Jewish Herald* (Melbourne, Vic. : 1935 - 1968), 21 September, p. 2. , viewed 14 Apr 2023, <http://nla.gov.au/nla.news-article261423057>; New Site for Central Synagogue (1952, February 15). *The Hebrew Standard of Australasia* (Sydney, NSW : 1895 - 1953), p. 2. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article130949924>; 61 CENTRAL SYNAGOGUE SUPPLEMENT Why They Built The "New Central" (1960, September 2). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 7. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263139306>; CENTRAL SYNAGOGUE IN NEW HOME (1960, September 30). *The Australian Jewish News* (Melbourne, Vic. : 1935 - 1999), p. 3. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article262395125>; "Architecture, our collection," *Jewish Heritage New South Wales*, accessed April 14, 2023, <http://www.jewsofnsw.info/architecture/>

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<p>North Shore Temple Emanuel</p>  <p>Figure 38 Source: North shore Temple Emanuel ⁶²</p>  <p>Figure 39 Source: Google Street view, accessed May 8 2023.</p>	<p>Chatswood Av, Chatswood</p>	<p>Unknown 1960</p>	<p>Original synagogue was constructed in 1960 and its designer is unknown. The existing North Shore Temple Emanuel Synagogue has likely been largely altered.</p>
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⁶² “Who are We?,” *North Shore Temple Emanuel*, accessed May 8 2023, <https://www.nste.org.au/about-us>

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<p>Bankstown Hebrew Synagogue <i>Formerly Jewish Martyrs War Memorial Synagogue</i>⁶³</p>  <p>Figure 40 Source: Canterbury Bankstown Local Studies Collection.</p>	<p>Meredith St, Bankstown</p>	<p>Harry Harold Smith 1957, destroyed by fire 1991.</p>	<p>The second synagogue in Bankstown. Designed by Harold Harry Smith and completed in 1957. It was destroyed by fire in 1991. It is distinctive for its hexagonal form representative of the Star of David. It's entry way covered with concrete awning. Quite possibly the boldest post-war synagogue design in NSW had it survived. Its form exemplifies the expression of post war modernist émigré architects.</p>
<p>Coogee Synagogue</p>  <p>Figure 41 https://images.shulcloud.com/852/81116_image.jpg</p>	<p>121 Brook St, Coogee</p>	<p>Unknown 1960 rebuilt 2006</p>	<p>The architect of the original design is unknown, the synagogue was rebuilt in 2006.</p>
<p>Sephardi Synagogue</p>	<p>40 Fletcher St, Woollahra</p>	<p>Hugh Buhrich 1961, additions in 1962</p>	<p>Significant as the oldest Sephardi synagogue in Australia. The original design appears to be largely altered.</p>

⁶³ MODERN HOUSE OF WORSHIP Bankstown Synagogue (1960, March 25). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 8. Retrieved April 14, 2023, from <http://nla.gov.au/nla.news-article263136673>; "Architect of new ideas and much of Sydney," *Sydney Morning Herald*, 2009, accessed April 14, 2023, <https://www.smh.com.au/national/architect-of-new-ideas-and-much-of-sydney-20080716-gdsmad.html>.



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 <p>Figure 42 Source:</p>  <p>Figure 43 Source: The Sephardi Synagogue, sephardi.org.au</p>			
<p>Wolper Jewish Hospital</p>  <p>Figure 44 Source: Wolper Hospital, Facebook.</p>	Woollahra	Harold Harry Smith 1961	Smith's 1961 design was part of a major expansion for the existing hospital and there have been alterations and additions since this time.
<p>Offices at the National Council of Jewish Women</p>	Woollahra	Harold Harry Smith 1963	Unable to locate image of Smith's 1963 design.

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 <p>Figure 45 Hall Source: National Council of Jewish Women NSW.</p>			
<p>Cyril Rosenbaum Synagogue, Montefiore Home <i>On premises of aged care residence</i></p>	Hunters Hill	Aaron Bolot 1964	Significant as the synagogue located at Montefiore Home which has provided aged care services to Jewish communities since 1889. Unable to locate image of Bolot's 1964 design.
 <p>Figure 46 Source: Maroubra Synagogue. 64</p>	635 Anzac Parade, Maroubra NSW 2035	Hugh Buhrich 1965	The original design has likely been altered. The existing synagogue has covered courtyard with roof supported by columns.

⁶⁴ "About," *Maroubra Synagogue*, accessed April 17, 2023, <https://www.maroubrasynagogue.org.au/slide/about/>.

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 <p>Figure 47 Source: Maroubra Synagogue.</p>			
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5.4. Architecturally distinguished Places of Worship of the 1950s and 1960s in New South Wales

St Bernard's Catholic Church at Botany
Designed by Kevin Curtin in 1954

Caringbah Uniting Church
Loder and Dunphy c. 1959

St Andrews Presbyterian Church, Gosford NSW
Loder and Dunphy c.1960 demolished 2022

Polish War Memorial Chapel, Blacktown NSW
Michael Dysart 1967

Holy Trinity Memorial Church Canberra Act
Frederick Romberg of Grounds, Romberg and Boyd (1961)

Our Lady of Fatima Kingsgrove

Wentworth Memorial Church, Vaucluse
Don Gazzard and Partners

St Anthony's RC Church Marsfield,
Enrico Taglietti 1968

Six Churches by B Smith of McConnell Smith and Johnson

Chapel of St Pauls College, University of Sydney
Jim Kell, of Foyle Mansfield Jervis and McLurcan 1964

5.5. Concrete Shell Structures of the 1950s

Igloo House

Sydney Opera House Utzon and Anderson (unbuilt shell structure)

Kevin Borland House, Victoria

St Mary's Star of the Sea Darwin
1955-1962

Holy Family War memorial Church Queensland
1960-63

St Kevin's Dee Why
1959-61

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5.6. Religious places built by migrant groups in NSW after World War II (a selection)

St Mina and St Minas Coptic Church Sydenham

The Gallipoli Mosque Granville

Polish War Memorial Chapel Blacktown

6. Assessment of Significance

6.1. Ability to demonstrate

Guidelines from the NSW Heritage Office emphasise the role of history in the heritage assessment process. A list of state historical themes has been developed by the NSW Heritage Council, in *New South Wales Historical Themes Table showing correlation of national, state and local themes, with annotations Dated 4 October 2001*.

The table below identifies fabric, spaces and visual relationships that demonstrate the relevant historic themes in evidence at the synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi.

Australian Theme	NSW Theme	Notes
Peopling Australia	Ethnic influences	The building at 34 Flood St, Bondi and its later development is evidence of the influences of Jewish culture within NSW.
Peopling Australia	Migration	The building at 34 Flood St, Bondi and its later development is evidence of the pattern of synagogue construction by migrant architects in the 1950-1960s.
Building settlements, towns and cities	Town, suburbs and villages	The land that the building at 34 Flood St occupies is evidence of subdivision patterns in Bondi and the Waverley LGA more broadly.
Educating	Education	The building at 34 Flood St is evidence of the development of Jewish education across NSW.

6.2. Assessment against NSW heritage assessment criteria

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)

The building at 34 Flood St is historically significant as one of seven surviving works from a distinct period for synagogue construction within NSW (c1957-60). The synagogue is associated with the post war period enlargement of migration of Jewish faith and culture within NSW. The establishment of the Talmudic College is part of the development of a distinctive locale of Jewish immigrants within the Waverley Local Government Area. It also facilitated the training of rabbis in Sydney reflecting the growth of the Jewish faith diaspora following World War II. Finally, the construction of the synagogue is part of a historical pattern demonstrating the arrival of Jewish architects to NSW, all of whom were modernists; Hugh Buhrich, Hans Peter Oser and Harry Seidler.

Inclusion Guidelines	Check
Shows evidence of a significant human activity	Yes
Is associated with a significant activity or historical phase	Yes
Maintains or shows the continuity of a historical process or activity	Yes
Exclusion Guidelines	
Has incidental or unsubstantiated connections with historically important activities or processes	No, the connections with Jewish migration to NSW and synagogue building are substantial.
Provides evidence of activities or processes that are of dubious historical importance	No, migration and the development of the Jewish faith and community within Australia following World War II is not dubious historical importance.
Has been so altered that it can no longer provide evidence of a particular association	No, still a synagogue and school and has been retained as a work of a migrant architect.

Level of Significance: State

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)

The synagogue and former Sydney Talmudical College premises building, located at 34 Flood St, Bondi, and its later development is evidence of the ongoing use of the place as a religious and civic site. The building and its later development addition reflects the broadening of institutions available to the Jewish faith community in NSW and the Waverley LGA; responding to migration patterns after World War II. The place maintains ongoing institutional associations with similar Jewish faith institutions in Brooklyn; New York, and Israel. As an institution the synagogue has an ongoing association with the broader Jewish community, by the training of Rabbis who engage with communities which are not congregants of the Orthodox 'Habad' philosophy.

The place is primarily associated with eminent modern architect Harry Seidler as the original design is his only religious building, although he did design Jewish sites, and demonstrates an important stage in Seidler's output and career as an early work of Civic architecture. The distinct roof form of the synagogue with its repeating thin shell concrete vaults is stylistically associated with principles of Bauhaus design and Modernism with which Seidler is particularly associated. It is an outstanding example of the modernist building forms produced and constructed by Seidler in collaboration with structural engineer Alan Milston, of Miller, Milston and Ferris. This association began with c1950 Meller House (LEP item no. 1995), 37 The Bulwark, Castlecrag, and continued with the Igloo House c1951 (Williamson House, SHR item no. 01652) at Mossman. The synagogue and former Sydney Talmudical College premises building is associated with this collaboration and is an important work which demonstrates their innovative achievement.

The synagogue and former Sydney Talmudical College premises building is associated with Abraham Rabinovitch. Rabinovitch, a businessman and philanthropist, who was instrumental in the Jewish day school movement, which initiated the construction of similar Jewish institutions such as the North Bondi Hebrew School and Kindergarten (c1942-43) and Moriah College (c1952) in Sydney. Rabinovitch was the founder and chair of Sydney Talmudical College (now called Yeshiva College Bondi) who purchased the site on Flood Street in 1955 and commissioned Seidler to design the original college buildings. The ongoing use of the place for educational and worship purposes continue this significant associations.

The connection to the place with former Prime Minister Malcolm Fraser and prominent politician and judge Dr H.V. Evatt's is acknowledged as significant to the importance of the building but incidental as an association. In 1961, Dr Evatt attended opened the Sydney Talmudical College with buildings designed by Seidler.⁶⁵ Fraser opened the primary school building (Malka Brender Building) at Yeshiva College Bondi in 1980 while elected Prime Minister.⁶⁶ Dr Evatt, paternal uncle of architect Penelope Seidler nee Evatt (married to Harry Seidler), acted as Foreign Minister in the Chifley and Curtin

⁶⁵ Dr. EVATT OPENS COLLEGE FOR JEWISH STUDY (1961, September 1). *The Australian Jewish Herald* (Melbourne, Vic. : 1935 - 1968), p. 7. Retrieved May 10, 2023, from <http://nla.gov.au/nla.news-article265731010>

⁶⁶ P.M. OPENS NEW BUILDING AT YESHIVA (1980, May 8). *The Australian Jewish Times* (Sydney, NSW : 1953 - 1990), p. 1. Retrieved May 10, 2023, from <http://nla.gov.au/nla.news-article263286530>

governments circa 1940s and contributed to the establishment of the United Nations and drafting of the Universal Declaration of Human Rights. In 1947, Dr Evatt chaired a special committee on Palestine which engendered the partition of Palestine.⁶⁷ In 1949 as President of the UN General Assembly Dr Evatt oversaw the historic vote which admitted Israel as the 59th member of the United Nations. While these notable figures demonstrate the importance of the place as a Jewish institution their associations are merely incidental as they were not directly involved with the construction or design of the place.

Inclusion Guidelines	Check
Shows evidence of a significant human occupation	Yes, as a synagogue building and school and is evidence of an ongoing use.
Is associated with a significant event, person, or group of persons	Yes, with Seidler and his office; structural engineer Alan Milston of Miller, Milston, and Ferris; Abraham Rabinovitch; Henry Pollack (Pollack and Associates later Mirvac); the Jewish migrant community within NSW including Russian Jewish migrants.
Exclusion Guidelines	
Has incidental or unsubstantiated connections with historically important people or events	No, the connections direct and well documented.
Provides evidence of people or events that are of dubious historical importance	No, the persons and events are significant to the cultural history of both NSW and the Waverley locality.
Has been so altered that it can no longer provide evidence of a particular association	No, additions to the building are evidence of continued use as a synagogue which continue these associations.

Level of Significance: State

⁶⁷ "Evatt Herbert", *Australian Dictionary of Biography*, accessed May 8, 2023, <https://adb.anu.edu.au/biography/evatt-herbert-ver-e-bert-10131>

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)

The building located at 34 Flood St, Bondi is an important work of the eminent Australian architect Harry Seidler who the historian Jennifer Taylor regards as “one of the major talents of Australian architectural History”.⁶⁸ It is significant to Seidler’s architectural output, firstly as probably his first civic building, incorporating a civic external plaza space. Seidler went on to create plaza spaces of great importance in cities of the eastern coast, preeminent among them is the Australia Square development (c.1962-1967).

Also, the synagogue is important in Seidler’s work for its technical and creative emphasis using thin shell concrete vaulting. It is among the largest and most ambitious thin shell structure built in NSW in the immediate post war period in collaboration with structural engineer Alan Milston (Miller, Milston, and Ferris).

The distinctive roof form is significant as architectural sculptural form, along with the curved stair, both of which are identified as indicative of the mastery of Harry Seidler by the eminent historian of Australian Modernism Philip Goad. Particularly, the geometric configuration of the roof form is important in demonstrating Seidler’s application of Bauhaus principles and Oscar Neimeyer’s influence. Notwithstanding, later alteration to finishes, and noting a fine complimentary addition, the place retains the original form and characteristics of its pure spatial and structural conception.

The place also demonstrates in an early non-domestic work, the Bauhaus architectural principles for which Seidler is particularly identified, being the pupil, assistant and collaborator of Marcel Breuer. In this case the principals are clear to see in the abstract planning, and devising of pure space sculpted by structural form.

Finally, it is also a leading surviving example of a post war modernist synagogue within NSW. It is one of the finest religious architectural works of its period.

Inclusion Guidelines	Check
Shows or is associated with, creative or technical innovation or achievement	Yes
Is the inspiration for a creative or technical innovation or achievement	Yes
Is aesthetically distinctive	Yes
Has landmark qualities	No, while the original forecourt design may have possibly had landmark value this has been compromised by later changes to the finishes and arrangement.
Exemplifies a particular taste, style or technology	Yes, the place is a good example of Seidler’s post war Modernist design with large vaulted thin shell concrete roof form and abstract modernism planning.
Exclusion Guidelines	

⁶⁸ Jennifer Taylor, “Harry Seidler”, 623-624.

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Is not a major work by an important designer or artist	No, the place is a good example of eminent architect Harry Seidler and demonstrates a key technical development as structure with refined thin shell concrete vaulted roof.
Has lost its design or technical integrity	No, although the finishes have changed, and the liturgical layout, the Bauhaus design principles are not missing.
Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded	No, the landmark and scenic qualities have been degraded by later changes to the forecourt finishes but these are not permanent.
Has only a loose association with a creative or technical achievement	No, the association with structural engineer Alan Milston and the technical achievement of the large thin shell concrete vaulted roof system are direct and well documented.

Level of Significance: State

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

The building located at 34 Flood St, Bondi has been the focus of Jewish communal worship and education in Bondi since its construction in 1959. The place has strong and special associations with the Jewish faith community in Bondi for its ongoing use as a civic and religious building. The worship, educational and civic functions of the building demonstrate the continued use of the place for community in association with the Jewish community in Bondi. The place has social significance for its ongoing associations and continued use for Jewish educational purposes with the migrant Jewish in Bondi and Waverley.

Inclusion Guidelines	Check
Is important for its associations with an identifiable group	Yes, the place is important to the local Bondi Jewish community.
Is important to a community's sense of place	Yes, the place has a strongly held association with the Jewish faith community in Bondi who largely migrated to Australia following WWII. The place is special for its purpose and function as a educational and religious institution.
Exclusion Guidelines	
Is only important to the community for amenity reasons.	No, the place demonstrates a strong association with the Jewish faith community of the Waverley LGA.
Is retained only in preference to a proposed alternative	No, the place is not preferred to be retained due to a proposed alternative.

Level of Significance: Local

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)

It is possible that the vaulted roof system of the 1959 designed synagogue and former Sydney Talmudical College premises building was the largest in NSW from the same period. It has the potential to yield information regarding its construction and the performance of thin shell concrete over time. The roof form of the synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi meets the threshold for state significance.

Inclusion Guidelines	Check
Has the potential to yield new or further substantial scientific and/or archaeological information	Yes, there is potential that the shell form concrete roof could yield regarding its construction and performance.
Is an important benchmark or reference site or type	Yes, the thin shell concrete vaulted roof form is an important benchmark for technical and creative achievements.
Provides evidence of past human cultures that is unavailable elsewhere	No, evidence of Jewish faith cultures are available elsewhere in NSW.
Exclusion Guidelines	
The knowledge gained would be irrelevant to research on science, human history or culture	No. The place has potential to inform about the human history and culture of the Jewish community in NSW.
Has little archaeological or research potential	Yes. The site has been disturbed and there is little archaeological potential.
Only contains information that is readily available from other resources or archaeological sites	No. The thin shell concrete roof was likely the largest at the time of its construction.

Level of Significance: State

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)

The synagogue and former Sydney Talmudical College premises building at 34 Flood St, Bondi is uncommon for the period due to its large thin shell concrete vaulted roof form. The place has rarity value as the only religious building by Seidler and as a surviving intact example of a post war modernist synagogue, which were once common across NSW particularly Eastern Sydney however are now smaller in number.

Inclusion Guidelines	Check
Provides evidence of a defunct custom, way of life or process	No.
Demonstrates a process, custom or other human activity that is in danger of being lost	No.
Shows unusually accurate evidence of a significant human activity	No.
Is the only example of its type	No. It is not the only modern synagogue in NSW.
Demonstrates designs or techniques of exceptional interest	Yes, it is one of only three Jewish related works by Seidler and the only building, the other two being garden and memorial structures. It is one of Seidler's earliest civic works and the abstract modernist plan form and thin shell concrete roof form is of exceptional interest.
Shows rare evidence of a significant human activity important to a community	Yes. it is rare surviving post-war synagogue, many synagogues built after WWII particularly in the late 1950s to mid-1960s have been demolished.
Exclusion Guidelines	
Is not rare	No, is a rare surviving post-war modernist synagogue.
Is numerous but under threat	Yes, it is rare surviving post-war synagogue, many synagogues built after WWII particularly in the late 1950s to mid-1960s have been demolished.

Level of significance: State

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 synagogue and former Sydney Talmudical College premises building located at 34 Flood St demonstrates the principal characteristics of its class as a post war modernist synagogue designed by a migrant architect. It is part of a small but important group of distinctive modernist style synagogues designed by migrant architects who established practice in NSW. The place is a relatively intact and surviving example of a post war modernist synagogue which is rare for its class.

Inclusion Guidelines	Check
Is a fine example of its type	Yes, fine example of a Post War Modernist synagogue.
Has the principal characteristics of an important class or group of items	Yes, demonstrates the principal characteristics of an abstract modernism plan form and as a post war synagogue with its arrangement (forecourts etc) and the ongoing use of the building for educational and worship purposes.
Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity	Yes, the place demonstrates attributes typical to an Orthodox synagogue including the menorah, bimah, ark, seating arrangement and partition of male and female congregants. The abstract modernist planning demonstrates a church plan typical of Bauhaus influence. The construction technique is an outstanding example of post war modernist design.
Is a significant variation to a class of items	No. The place is a notable example in a group of post war synagogues designed by migrant architects.
Is part of a group which collectively illustrates a representative type	Yes, part of a group of synagogues which collectively illustrates the characteristics of post war modernist design. The structure is representative of a synagogue designed a migrant architect within the post war period.
Is outstanding because of its setting, condition or size	No, the setting, condition or size of the place is not considered outstanding. However, the barrel-vaulted roof form is likely to be the largest in size in NSW at the time of construction.
Is outstanding because of its integrity or the esteem in which it is held	No, the place is outstanding for its integrity, which has been changed by later alterations and additions.
Exclusion Guidelines	

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Is a poor example of its type	No, the place is not a poor example of its type as a synagogue.
Does not include or has lost the range of characteristics of a type	No, while some later changes to the forecourt have lost the ability to demonstrate a religious and civic building the form and post war Modernist characteristics have largely been retained.
Does not represent well the characteristics that make up a significant variation of a type	Yes, it does have the characteristics that make it a variation of post war synagogues in Sydney, including, distinctive modernist elements such as the systems-based plan form and vaulted thin shell concrete roof.

Level of Significance: State

7. Statement of Significance

The synagogue and former Sydney Talmudical College premises building located at 34 Flood St, Bondi is significant as:

- 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 most 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.
- An historically important place in the development of; Jewish religion in New South Wales, the post war migration period, as the first Talmudical school with integral synagogue.
- Highly representative of the history of post war migration in New South Wales, being 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.

8. Listing Recommendations

The Seidler-designed synagogue and former Sydney Talmudical College premises building is nominated for inclusion as a heritage item under NSW Heritage Act and Part 1 (Heritage items) of Schedule 5 attached to Waverley Local Environmental Plan 2012.

The mapping for Lot and DP for 34 Flood Street, Bondi, is to be amended to recognizing the heritage listing of the site.

The Seidler-designed building should be retained and conserved.

A Heritage Assessment and Heritage Impact Statement should be prepared for the building prior to any major works being undertaken.

9. Management Recommendations

The below recommendations are drawn solely from a consideration of the significance of the place. They do not consider, as similar recommendations in a Conservation Management Plan would, the owner's requirements or other factors such as financial implications.

9.1. Obligations arising from significance

The high cultural significance of the place identified in the statement of significance obliges its conservation and good management (Burra Charter Article 2).

The significance is embodied in the place. Place means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views. Place also includes fabric, setting, use, associations, meanings, records, related places, and related objects. (Burra Charter Article 1).

9.2. Conservation of fabric

All original external and internal elements contributing to the significance of the place as a Jewish civic and educational building with abstract modern planning principles and strong civic presence, should be retained and conserved.

The spatial planning arrangement of the synagogue and former Sydney Talmudical College premises building is a fine example of Bauhaus systems-based construction modular planning, this should be retained. Additionally, the thin shell vaulted concrete roof form and ceiling is a significant element and part of a seminal work by Seidler and should be conserved and retained, meaning: not enclosed by infill and later alterations to finishes should be detectable and sympathetic.

All original joinery and other interior elements should be conserved. Where the opportunity arises the non-significant later addition plasterboard and should be removed to reveal the original face brick.

The existing relationship between the interior and exterior spaces should be retained and conserved. Where the opportunity arises the non-significant later addition 2014 blast wall should be removed to recover to reinstate Seidler's original principal street elevation and civic address.

Adjacent buildings, the existing spatial relationship between the synagogue and former Sydney Talmudical College premises building and the adjacent Alder building contributes to the social significance of the place. This interface should be retained and conserved.

Where original interior or exterior fabric is to be demolished, they should be replaced with similar or sympathetic material. Demolition to the original vaulted roof form and internal ceiling of the synagogue and former Sydney Talmudical College premises building should be avoided.

9.3. Tolerance for change

Given the place has undergone later alterations and additions there is some scope for change.

However, the surviving original elements are highly significant and intact, i.e., plan and vault roof form, and therefore have a low tolerance for change.

The thin shell concrete vaulted roof form and ceiling is of high significance and therefore has a low tolerance to change. It should be conserved and retained.

The forecourt is of high significance and has a moderate tolerance for changes that restore the historical civic forecourt. The 2014 blast wall addition is intrusive and there is an opportunity for change. Consideration should be given to remove this intrusive element and fully restore the historical civic forecourt.

Non original fabric should as the synagogue worship elements have neutral heritage significance and therefore high tolerance for change (assuming the proposed changes are sympathetic and suited for Jewish customs and uses).

9.4. Future use

In the opinion of the authors ongoing use of the place as a synagogue is not essential for conserving significance. However, future use of the place should remain consistent with the needs for Jewish customs and practices.

Naming conventions

The naming of the buildings at the place on 34 Flood St should retain or reinstate the original names given. Original names are of historical and social significance as it is evidence of the history of the place including, historical associations among the migrant Jewish of Waverley and Bondi and the funding of construction of the building. This practice is demonstrated by the naming of the former Malka Brender educational building located to the north of the subject place.

10. Appendices

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REPORT
PD/5.3/23.11

Subject: Housing State Environmental Planning Policy - Submission

TRIM No: SF23/4362

Manager: George Bramis, Executive Manager, Urban Planning

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

RECOMMENDATION:

That Council approves the submission to the NSW Department of Planning and Environment attached to the report (Attachment 4) on proposed amendments to the Housing State Environmental Planning Policy relating to in-fill affordable housing.

1. Executive Summary

The NSW State Government has proposed a 30% floor space ratio (FSR) and height bonus in the Housing State Environmental Planning Policy for developments containing 15% affordable housing bonuses for 15 years. These reforms aim to encourage the provision of affordable housing in new developments by offering a development bonus for developers if they provide 15% of affordable housing for a period 15 years within the development. This includes but is not limited to:

- Access to the State Significant Development (SSD) pathway for projects with a capital investment value (CIV) exceeding \$75 million.
- 30% floor space ratio and 30% height bonuses above Council's Local Environmental Plan standards for any development considered to be within 'accessible area'—covering most of Greater Sydney.

In response to the proposed reform, a submission has been prepared for Council to consider. The submission largely objects to the proposed incentives and offers constructive feedback should the NSW Government proceed with the changes.

The deadline for submissions was 17 October 2023. Consequently, the draft submission has been provided to the NSW Department of Planning and Environment (DPE), with a final submission to be resubmitted if approved by Council.

2. Introduction/Background

In June 2023, the NSW State Government announced planning reform to incentivise the provision of more affordable housing in new developments. The announcement initially flagged:

- Housing developments with a capital investment value (CIV) over \$75 million, which allocate a minimum of 15 per cent of the total gross floor area to affordable housing, will gain access to the State Significant Development planning approval pathway.
- These developments will also gain access to a 30 per cent floor space ratio boost, and a height bonus of 30 per cent above local environment plans.

On 27 September 2023, Council received the draft instrument with associated practise note as part of the consultation process.

The draft instrument allows for expanded eligibility for developments that provide the relevant affordable housing component, rather than just those with a CIV above \$75 million being eligible for the 30% height and FSR bonuses. Those with a CIV above \$75 million will be eligible for the SSD pathway as previously outlined.

3. Relevant Council Resolutions

Nil.

4. Discussion

In response to the proposed changes a submission has been prepared. The key changes proposed are summarised as follows:

- Retention of the provisions that allow developers to access between a 0.2:1 and 0.5:1 floor space ratio bonus if they dedicate between 20%-50% of their eligible developments to affordable housing for 15 years.
- Introduction of alternative bonus of 30% FSR bonus and 30% height bonus for 15% affordable housing (for 15 years managed by a community housing provider). This bonus applies to any residential component of a development and the capital investment value (CIV) has no minimum requirement if they are in an 'accessible area' which all of the Waverley local government area would qualify.
- Introduction of eligibility for the State Significant Development (SSD) pathway for developments with a residential component of more than \$75 million CIV who provide 15% affordable housing.
- The bonus can be used on a sliding scale if the entirety of the bonus cannot be fulfilled due to constraints (such as feasibility or impacts on neighbouring properties). The sliding scale works for example that if a development provides for 12% affordable housing, they can only utilise 24% height and FSR bonuses.
- Developments with a CIV of less than a \$75 million, the residential CIV component does not qualify for SSD nor do developments who don't provide the full 15% affordable housing component as explained above.
- Other housekeeping changes such as integrating State Environmental Planning Policy No 65— Design Quality of Residential Apartment Development (SEPP 65) into the Housing SEPP.

The practice note and proposed changes to the Housing SEPP and Planning Systems SEPP are provided in Attachments 1, 2 and 3 of the report and the draft submission is provided in Attachment 4.

The key issues objected to in the draft submission as provided as follows:

- Concern with the 30% bonus as it significantly exceeds local standards which have been consulted on with the community.
- Concern to the SSD pathway for developments over \$75 million as this removes Council largely from the process. In addition, Development Control Plans do not apply to SSDs, further eroding the application of Council's local controls.
- Concern with the affordable housing component only needing to be provided for 15 years, rather than in perpetuity.
- Concern with bonuses and CIV component only applying to the residential component of a building (for example a mixed-use development) as this will incentivise developers to provide less commercial space.
- Concern that the reform will increase land value for sites not yet under the control of developers, further reducing affordability and feasibility of redevelopment.

Alternatives to the above concerns are listed below should the government wish to implement the reform:

- Any affordable housing components should be provided in perpetuity.
- Any sites that have recently undergone a planning proposal process (i.e. in the last five years) should be excluded from the application of the bonuses.
- If the SSD pathway remains, the Planning Systems SEPP should include a provision that Development Control Plans apply for developments over \$75 million CIV which qualify for the SSD process.
- Consideration of bonuses and CIV should apply to the commercial components of a development as well as residential. This would incentivise developers to provide adequate commercial spaces.
- Reconsideration of the criteria for an 'accessible area'. The weakest level of public transport accessibility under this definition, a development being within 400 m walking distance of 1 bus per hour during daytime hours is not a good standard of public transport access.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

Should the uptake of the bonus provisions be high, the changes could result in a reduction in revenue generated received through voluntary planning agreements.

Time frame

Consultation closed on 17 October 2023. The attached draft submission was provided to the DPE, with a final submission to be submitted to the DPE if approved by Council.

Consultation

No community consultation was undertaken by Council or the DPE. The consultation period for Council to provide feedback ran for a short period of between 27 September to 17 October 2023.

If the changes proceed as planned, a communications plan would be developed to explain the changes to residents.

6. Conclusion

The NSW State Government's proposed planning reforms, announced in June 2023 seek to increase the supply of affordable housing in New South Wales. The announcement initially only included projects with a capital investment value over \$75 million. However the exhibited draft expands the eligibility to effectively apply to all residential development in Waverley.

In response to the proposal, a submission has been prepared that raises concern with many of the key initiatives which have the potential to undermine Council's carefully considered strategic plans, for affordable housing that would only be provided for a 15-year period. Accordingly, it is recommended that Council approve the attached submission.

7. Attachments

1. Draft Practice Note - In-fill Affordable Housing [📄](#)
2. Draft Housing SEPP changes [📄](#)
3. Draft Planning Systems SEPP changes [📄](#)
4. Draft submission [📄](#) .

Department of Planning and Environment

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In-fill affordable housing

PRACTICE NOTE

XX 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

In-fill affordable housing – practice note

First published: <Add Month and Year>

Department reference number: <insert>

More information

Local Infrastructure Funding Policy team. Contact us on:

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DRAFT

In-fill affordable housing

Issued XXXX 2023

The purpose of this practice note is to provide guidance for consent authorities and applicants on the application and assessment of the in-fill affordable housing floor space ratio (FSR) bonus and maximum building height bonus under Chapter 2, Part 2, Division 1 of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

Introduction

The NSW Government recognises the need to build more homes for our growing population, boost housing supply and improve housing affordability.

Under the National Housing Accord (Accord), New South Wales is tasked with delivering approximately 376,000 new well-located dwellings, including approximately 15,800 social and affordable dwellings, by 2029.

Historically there has been a low-uptake of the in-fill affordable housing provisions under the Housing SEPP. The new in-fill affordable housing provisions will incentivise and support the delivery of affordable housing under the Housing SEPP. This is achieved by increasing the available FSR bonus, introducing a new building height bonus and introducing a new State significant development pathway for large-scale residential developments over \$75 million that include in-fill affordable housing.

This policy initiative aligns with the Accord, which brings together all levels of government, investors, and the residential development, building and construction sector to unlock quality, affordable housing supply over the medium term. In addition to the aspirational dwelling target, the Accord brings with it immediate and longer-term actions for all parties to support the delivery of more affordable homes.

The NSW Government believes that the planning system can have a positive impact in supporting the delivery of new homes, allowing all people in NSW to access affordable and well-designed housing, no matter their income or circumstances.

Existing in-fill affordable housing bonuses

A scaled FSR bonus, which allows developers delivering more affordable housing to access a larger FSR bonus been available under the former *State Environmental Planning Policy (Affordable Rental*

Housing) 2009 and Housing SEPP for residential development that includes at least 20 per cent of GFA as affordable housing and is located on land in an accessible area in Greater Sydney, Wollongong, Newcastle and land in regional NSW within 800 m of nominated business zones.

There has been low uptake of these in-fill affordable housing provisions. This has been attributed to:

- difficulty in accommodating the full FSR bonus while complying with development standards and other local planning controls (for example, height of building, setbacks and landscaping), and
- inadequacy of the FSR bonus to overcome the cost of delivering and retaining affordable housing for 15 years.

Under some development scenarios, the existing FSR bonuses will still provide a more favourable outcome for residential development carried out by NSW Land and Housing Corporation (LAHC), Aboriginal Housing Office (AHO) and registered community housing providers (CHPs).

On this basis, the scaled FSR bonus continues to apply but only for development carried out by, or on behalf of LAHC, AHO or a registered community housing provider (CHP) on land with a maximum permissible FSR for residential accommodation of 2:1 or less. These agencies and CHPs are now able to apply the greater of either the existing FSR bonus provision or the proposed new FSR bonus.

What are the new in-fill affordable housing provisions?

The new in-fill affordable housing provisions increase the FSR bonus to 30% and introduce a new residential flat building and shop top housing building height bonus of 30% (in-fill affordable housing bonuses) for projects that include at least 15% of the residential development gross floor area (GFA) as affordable housing for a minimum of 15 years.

The new in-fill affordable housing bonuses apply to development by LAHC, AHO and registered CHPs, as well as all other developers.

In-fill affordable housing development valued at more than \$75 million will be eligible for a new State significant development (SSD) pathway provided at least 15% of the residential component of the development, will be used as affordable housing for a minimum 15 years.

Division 1 In-fill affordable housing provisions

Section 16 Development to which Division applies

This clause identifies that in-fill affordable housing provisions apply to residential development if:

- the development is permitted with consent under another environmental planning instrument (EPI),
- at least 15% of the residential GFA will be used for the purposes of affordable housing, not including any other affordable housing required to be provided in the building under another provision of another EPI.

Residential development is defined under Chapter 2, Part 2, Division 1 of the Housing SEPP to mean development for the following purposes:

- a) attached dwellings,
- b) dual occupancies,
- c) dwelling houses,
- d) manor houses,
- e) multi dwelling housing,
- f) multi dwelling housing (terraces),
- g) residential flat buildings,
- h) semi-detached dwellings,
- i) shop top housing.

Where do the provisions apply?

The in-fill affordable housing provisions apply to all or part of a development that is:

- within an accessible area in the Greater Sydney region, Newcastle region, Wollongong region. 'Accessible area' means land within:
 - a) 800m walking distance of –
 - i) a public entrance to a railway, metro or light rail station, or
 - ii) for a light rail station with no entrance – a platform of the light rail station, or
 - iii) a public entrance to a wharf from which a Sydney Ferries ferry service operates, or
 - b) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between –
 - i) 6am and 9pm each day from Monday to Friday, both days inclusive, and
 - ii) 8am and 6pm on each Saturday and Sunday.
- for development on other land (e.g., regional NSW) – all or part of the development is within 800m walking distance of land within one or more of the following or an equivalent land use zone:
 - a) Zone B1 Neighbourhood Centre,
 - b) Zone B2 Local Centre,
 - a) Zone B4 Mixed Use.

Section 17 Additional floor space ratio

This provision operates by providing an FSR bonus in addition to the maximum permissible FSR for the residential accommodation component of the development (including any bonus available under a local environmental plan).

The maximum permissible FSR for in-fill affordable housing development is 130% of the maximum permitted FSR for residential accommodation on the land. The bonus does not apply to any non-residential floor space. For example, a shop top housing development would include ground level

commercial floor space. In this scenario, the in-fill bonus would not apply to the commercial floor space.

To determine whether 15% of the development is used for the purposes of affordable housing, the amount of gross floor area used for the purposes of affordable house needs to be divided by the total gross floor area used for the purpose of residential accommodation, including the additional residential gross floor area that is generated by the FSR bonus

Using a hypothetical site with an area of 1,000m² that includes a residential development seeking to incorporate affordable housing, the table below describes GFA and FSR outcomes across a range of base FSR controls.

Base FSR :1	30% FSR bonus	New FSR	Additional GFA	Total GFA	15% AH	Market GFA
1.00	0.30	1.3	300 m ²	1,300 m ²	195 m ²	1,105 m ²
1.5	0.45	1.95	450 m ²	1,950 m ²	292.5 m ²	1,657.5 m ²
2	0.60	2.6	6,00 m ²	2,600 m ²	390 m ²	2,210 m ²
2.5	0.75	3.25	7,50 m ²	3,250 m ²	487.5 m ²	2,762.5 m ²
3.50	1.05	4.55	1,050 m ²	4,550 m ²	682.5 m ²	3,867.5 m ²
4.5	1.35	5.85	1,350 m ²	5,850 m ²	877.5 m ²	4,972.5 m ²
6	1.80	7.8	1,800 m ²	7,800 m ²	1,170 m ²	6,630 m ²

Affordable housing dwellings delivered under the in-fill affordable housing provisions must be used for the purpose of affordable housing and managed by a registered CHP for a minimum 15 years.

The FSR bonus can be applied separately or together with the available building height bonus.

Section 18 Additional building height

This provision operates by providing a building height that will only apply to a building that meets both of the following requirements:

- the building contains the affordable housing component required under section 16, and
- it is used for the purposes of residential flat buildings or shop top housing.

The maximum height for such a building is 130% of the maximum permissible building height for the land (including any bonus available under a local environmental plan).

The building height bonus can be applied separately or together with the FSR bonus.

The introduction of the building height bonus in November 2023 allows sites that are not subject to an FSR standard to benefit from the in-fill affordable housing incentives. It also provides greater flexibility in accommodating bonus FSR.

Application of the in-fill affordable housing bonuses

What is affordable housing?

Affordable housing means housing for very low income households, low income households or moderate income households.

The Housing SEPP establishes the following income eligibility limits for very low, low and moderate income households:

- i) households that have a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW:
 - a. very low income household – less than 50%,
 - b. low income household – 50–less than 80%,
 - c. moderate income household – 80–120%, andpays no more than 30% of the gross income in rent, or,
- ii) households that are eligible to occupy rental accommodation under the National Rental Affordability Scheme are also eligible for affordable housing under the Housing SEPP.

Further obligations for in-fill affordable housing development exist under the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation). In-fill affordable housing delivered under the Housing SEPP must include a condition of consent requiring the following:

- a) registration of a restriction against the title of the property in accordance with section 88E of the Conveyancing Act 1919, relating to the development, to ensure the affordable housing component is:
 - o used for affordable housing, and
 - o managed by a registered CHP.
- b) evidence of an agreement with a registered CHP for the management of the affordable housing component to be given to the Registrar of Community Housing, including the name of the registered community housing provider, and
- c) evidence that the requirements of a) and b) above have been satisfied provided to the consent authority.

The registered CHP who manages the affordable housing component must also apply the NSW Affordable Housing Ministerial Guidelines.

The restrictions listed above do not apply to development carried out by, or on land owned by Land and Housing Corporation or the Aboriginal Housing Office.

Local requirements for affordable housing

Any local requirement for affordable housing needs to be met in addition to the 15% affordable housing requirement to qualify for the in-fill affordable housing bonuses under the Housing SEPP. That is, the minimum percentage of in-fill affordable housing would need to be proposed in addition

to any requirement specified under a local council requirement or any planning agreement with a public authority.

What other provisions apply?

The Housing SEPP includes non-discretionary development standards for in-fill affordable housing addressing minimum site area, minimum landscaped areas, a deep soil zone requirement, solar access requirements, parking requirements and minimum floor areas. In scenarios where the Apartment Design Guide (ADG) applies to a project, the flexible guidance in the ADG applies in place of the Housing SEPP standards for deep soil zones and solar access.

Relationship with other bonuses available under the Housing SEPP

The Housing SEPP includes a provision to cap the maximum FSR bonuses available across the Housing SEPP at 130% of the maximum permissible FSR under the local EPI.

This means that where a development includes multiple housing types under the Housing SEPP, the bonuses available for each housing type cannot be added together to exceed 130% of the maximum permissible FSR.

For example, a mixed-use development that includes in-fill affordable housing and co-living housing development would not be able to achieve a 40% FSR bonus. The maximum bonus would be capped at 30%.

Relationship with other bonuses available under other EPIs

Site specific or even project specific FSR and/or height bonuses under another EPI may exist. In these circumstances, the in-fill affordable housing bonuses apply in addition to those bonuses.

The FSR and building height bonuses are calculated as 130% of the maximum permissible FSR for residential accommodation on the land.

Maximum permissible FSR is defined under the Housing SEPP to mean the maximum FSR permitted on the land under an EPI other than this Policy, or a development control plan. That is, the maximum FSR or building height achievable under another EPI, inclusive of any other site or project specific bonuses, should be determined first. A 30% bonus is then applied in addition to determine the project specific FSR and building height development standard for the in-fill affordable housing development.

Relationship with existing concept consents or master plans

Where development consent has been granted to a concept development application, the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that any further development application (DA) cannot be inconsistent with that consent.

This means that if a site has a concept or master plan DA consent, any DA for in-fill affordable housing which seeks to apply the in-fill affordable housing bonuses, cannot be granted unless it is consistent with that consent.

In-fill affordable housing State significant development

Thresholds for State significant development (SSD)

To be declared SSD, the in-fill affordable housing development capital investment value (CIV) must exceed \$75 million and the proposal must include at least 15% of the residential component of the development as affordable housing.

The CIV for SSD applications is based on the part of the development that is residential development.

Projects that do not meet the CIV and affordable housing thresholds will be assessed through a local DA pathway.

How are SSD-eligible DAs that have been lodged with Council but not determined dealt with?

The relevant council, Sydney district or regional planning panel remain as the consent authority for DAs that were lodged, but not determined before 1 November 2023.

Refer to section 2.21 of Part 2.5 of the Planning Systems SEPP for further information.

Applicants interested in understanding more about SSD for a potential project can review the Department's State Significant Development Guidelines.

Flexible application of in-fill affordable housing provisions

Responding to local standards

The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority. The application of the bonuses does not affect a consent authority's responsibility to consider the requirements of relevant EPIs, a development's likely impacts or the suitability of the site for the development. In applying the in-fill affordable housing bonuses, applicants and consent authorities should be flexible in the design response of the development having regard to:

- the government's clear policy intent to deliver more affordable housing through the infill provisions of the Housing SEPP
- the impact of the development on the amenity of the site and adjoining land, taking into account the building's height, scale and bulk,
- the impact of the development on view corridors,
- overshadowing of open spaces and adjoining land, and
- any other relevant consideration.

The in-fill affordable housing bonuses do not override any provision in any local environmental plan or other EPI. However, local development standards should be applied flexibly and need to be balanced against the Government's policy intent to realise more affordable housing.

- For example – Solar access controls –
 - The objective of preserving solar access to existing dwellings and open space needs to be considered whilst balancing the need for affordable housing.
 - The height and FSR bonus may not be achieved in full where the development would cause additional overshadowing or would result in a dwelling receiving less than the required direct sunlight during mid-winter.
 - For example, an LEP contains a sun access control that development consent must not be granted to development that would cause additional overshadowing to a public open space between set hours at mid-winter. Sites in the vicinity of the public open space may not be able to accommodate the full height bonus whilst complying with the local overshadowing controls. A portion of the height bonus may be able to be accommodated, up until the point where overshadowing would occur.

In-fill affordable housing development standard

The 15% minimum affordable housing requirement under the Housing SEPP is a development standard that is accompanied by incentives, to support its application.

In circumstances where the full extent of the in-fill affordable housing bonuses cannot be achieved, the delivery of the minimum 15% affordable housing may not be viable.

Clause 4.6 of the Standard Instrument Local Environmental Plan (clause 4.6) allows a consent authority to grant consent to a DA that contravenes the minimum 15% affordable housing requirement and provides the necessary flexibility in the application of the development standard.

Where an applicant wishes to lodge a DA proposing to vary a development standard, they must do so with a clause 4.6 written request. It is the applicant's responsibility to justify any variation.

To support an applicant's written request with regards to clause 4.6(3)(a) and a consent authority's consideration of that request, the in-fill affordable housing provisions of the Housing SEPP are supported by an objective that reads as follows:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

When addressing clause 4.6(3)(b) in a written request, applicants must identify environmental planning grounds sufficient to justify the contravention of the minimum 15% affordable housing standard, and demonstrate why compliance with the standard is unreasonable and unnecessary in the circumstances.

For example, an applicant provides evidence to the consent authority that 15% affordable housing is not economically viable due to the inability to accommodate the full FSR bonus, and seeks instead to deliver 12% affordable housing where a bonus of approximately 24% can be successfully achieved. The applicant lodges a clause 4.6 request which demonstrates why compliance with the standard is unreasonable and unnecessary in the circumstances and that there are sufficient

environmental planning grounds to justify the contravention. This could include consideration of the environmental planning reasons that the full FSR bonus cannot be achieved.

Applications that propose less than 15% affordable housing will not be State significant development.

Variations to non-discretionary development standards

Section 19 of the Housing SEPP includes several non-discretionary development standards for in-fill affordable housing projects.

Non-discretionary development standards are standards that if complied with, prevent consent authorities from:

- taking the non-discretionary development standard into further consideration in determining the DA
- refusing the DA on the grounds that the development does not comply with those standards
- imposing a condition of consent that has the same, or substantially the same, effect as the standard but is more onerous than the standard.

If a development does not comply with a non-discretionary development standard, section 4.15(3) of the EP&A Act allows the consent authority to apply clause 4.6 (or an equivalent provision) when considering and determining the development.

Amendment of development applications

Section 37 of the EP&A Regulation outlines that at any time before a DA is determined, an applicant may apply to the consent authority for an amendment to the DA.

A consent authority may approve or reject an application for an amendment to a development application.

If the amendment will result in a change to the development, an applicant must provide the relevant details required under the EP&A Regulation.

This pathway is separate to and distinct from a modification. An amendment application is made prior to the determination of a DA, whereas a modification is to a development consent.

Modification applications

A development consent may be modified by written notice to the consent authority.

Who determines modification applications that meet the new SSD criteria?

Existing rules under the EP&A Regulation outline that the original consent authority for a DA remains the relevant consent authority for any subsequent modification application.

There will therefore be no scope for modification applications becoming State significant development, even if the development, as modified, meets the relevant SSD thresholds.

How will modifications to existing approved developments which seek to take advantage of the new bonus provisions be assessed?

The EP&A Act provides various pathways for modifying a development consent. A modification that aims to access the in-fill affordable housing bonuses is no different from any other modification and must show that the modified development is substantially the same as the original, unmodified development.

If this cannot be satisfied, an applicant could still potentially access the in-fill affordable housing bonuses by obtaining a new development consent.

Further information

A copy of this practice note can be accessed on the Department of Planning's website www.planning.nsw.gov.au.

Links to the Standard Instrument can be found on the NSW Legislation website at: www.legislation.nsw.gov.au

Authorised by

- xxx
xxx
NSW Department of Planning and Environment

Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

draft



New South Wales

State Environmental Planning Policy Amendment (Housing) 2023

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

e2023-153.d06

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]

State Environmental Planning Policy Amendment (Housing) 2023

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy Amendment (Housing) 2023*.

2 Commencement

This policy commences on 1 November 2023 and is required to be published on the NSW legislation website.

3 Repeal of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development is repealed.

4 Repeal of policy

This policy is repealed at the beginning of the day following the day on which this policy commences.

draft

State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

[1] Section 4 Interpretation—general

Insert “in Schedule 10” after “Dictionary”.

[2] Section 5 Interpretation—references to equivalent land use zones

Omit “relevant authority” wherever occurring in section 5(1)(b) and (2)(a).

Insert instead “relevant public authority”.

[3] Section 5(4), definition of “relevant authority”

Omit “*relevant authority*”. Insert instead “*relevant public authority*”.

[4] Section 8 Relationship with other environmental planning instruments

Insert at the end of the section—

- (2) *State Environmental Planning Policy (Sustainable Buildings) 2022*, Chapter 2 prevails to the extent of an inconsistency between that chapter and this policy, Chapter 4.

[5] Section 12A

Insert after section 12—

12A Limitation on additional floor space ratio

- (1) This section applies to development involving more than one of the following—
 - (a) development for the purposes of in-fill affordable housing under Chapter 2, Part 2, Division 1,
 - (b) development for the purposes of boarding houses under Chapter 2, Part 2, Division 2,
 - (c) development for the purposes of co-living housing under Chapter 3, Part 3,
 - (d) development for the purposes of seniors housing under Chapter 3, Part 5.
- (2) If the development proposes to use the additional floor space ratio permitted under more than one relevant provision, the maximum floor space ratio must not exceed 130% of the maximum permissible floor space ratio for residential accommodation on the land.
- (3) In this section—
relevant provision means section 17(1) and (2), 24(2)(a)(ii), 68(2)(a)(ii) or 87(2)(b).

[6] Section 13A

Omit the section. Insert instead—

13A Application of Chapter 4 to affordable housing

Development to which this chapter, Part 2, Division 1, 5 or 6 applies may also be residential apartment development under Chapter 4.

Note. See section 144(6).

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[7] Chapter 2, Part 2, Division 1

Omit the Division. Insert instead—

Division 1 In-fill affordable housing

15A Objective of division

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

15B Definition

In this division—

residential development means development for the following purposes—

- (a) attached dwellings,
- (b) dual occupancies,
- (c) dwelling houses,
- (d) manor houses,
- (e) multi dwelling housing,
- (f) multi dwelling housing (terraces),
- (g) residential flat buildings,
- (h) semi-detached dwellings,
- (i) shop top housing.

16 Development to which division applies

- (1) This division applies to residential development if—
 - (a) the development is permitted with consent under another environmental planning instrument, and
 - (b) at least 15% of the gross floor area of the part of the building resulting from the development that is used for residential development will be used for the purposes of affordable housing, not including any other affordable housing required to be provided in the building under another provision of another environmental planning instrument, and
 - (c) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and
 - (d) for development on other land—all or part of the development is within 800m walking distance of land within 1 or more of the following zones or an equivalent land use zone—
 - (i) Zone B1 Neighbourhood Centre,
 - (ii) Zone B2 Local Centre,
 - (iii) Zone B4 Mixed Use.
- (2) In this division, residential development carried out by, or on land owned by, the Aboriginal Housing Office or the Land and Housing Corporation is taken to be used for the purposes of affordable housing.
- (3) In this section—

Newcastle region means the City of Cessnock, City of Lake Macquarie, City of Maitland, City of Newcastle and Port Stephens local government areas.

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Wollongong region means the Kiama, City of Shellharbour and City of Wollongong local government areas.

17 Additional floor space ratio

- (1) The maximum floor space ratio for development to which this division applies is 130% of the maximum permissible floor space ratio for residential accommodation on the land.
- (2) Despite subsection (1), the maximum floor space ratio for nominated development is the greater of—
 - (a) 130% of the maximum permissible floor space ratio for residential accommodation on the land, or
 - (b) the maximum permissible floor space ratio for residential accommodation on the land plus—
 - (i) if the affordable housing component is at least 50%—0.5:1, or
 - (ii) otherwise—affordable housing component:1.
- (3) In this section—

affordable housing component, of a building, means the percentage of the gross floor area of the part of the building used for residential development that will be used for affordable housing.

nominated development means development to which this division applies that is carried out—

 - (a) by or on behalf of, or on land owned by, a relevant authority or a registered community housing provider, and
 - (b) on land with a maximum permissible floor space ratio for residential accommodation of 2:1 or less.

18 Additional building height

The maximum height of a building resulting from development to which this division applies is 130% of the maximum permissible building height for the land if the building is used for residential flat buildings or shop top housing.

19 Non-discretionary development standards—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of in-fill affordable housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of development to which this division applies—
 - (a) a minimum site area of 450m²,
 - (b) for a development application made by a social housing provider or Landcom—at least 35m² of landscaped area per dwelling,
 - (c) if paragraph (b) does not apply—at least 30% of the site area is landscaped area,
 - (d) a deep soil zone on at least 15% of the site area, where—
 - (i) each deep soil zone has minimum dimensions of 3m, and
 - (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,

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- (e) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,
- (f) for a development application made by a social housing provider or Landcom for development on land in an accessible area—
 - (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or
 - (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or
 - (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,
- (g) if paragraph (f) does not apply—
 - (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, or
 - (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, or
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,
- (h) for development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment,
- (i) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,
- (j) if paragraphs (h) and (i) do not apply, the following minimum floor areas—
 - (i) for each dwelling containing 1 bedroom—65m², or
 - (ii) for each dwelling containing 2 bedrooms—90m², or
 - (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.
- (3) Subsection (2)(d) and (e) do not apply to development to which Chapter 4 applies.

20 Design requirements

- (1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) to which this division applies unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the Guide is not inconsistent with this Policy.
- (2) Subsection (1) does not apply to development to which Chapter 4 applies.
- (3) Development consent must not be granted to development to which this division applies unless the consent authority has considered whether the design of the residential development is compatible with—
 - (a) the desirable elements of the character of the local area, or
 - (b) for precincts undergoing transition—the desired future character of the precinct

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21 Must be used for affordable housing for at least 15 years

- (1) Development consent must not be granted under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued—
 - (a) the affordable housing component of the residential development will be used for affordable housing, and
 - (b) the affordable housing component will be managed by a registered community housing provider.
- (2) Subsection (1) does not apply to development on land owned by the Aboriginal Housing Office or the Land and Housing Corporation.
- (3) In this section—
affordable housing component, in relation to development to which this division applies, means the dwellings used for the purposes of affordable housing in accordance with section 16(1)(b).

22 Subdivision permitted with consent

Land on which development has been carried out under this division may be subdivided with development consent.

[8] Sections 23(2)(b) and 28(2)(b)

Omit “400m” wherever occurring. Insert instead “800m”.

[9] Sections 23(2)(b) and 28(2)(b)

Insert “Zone B1 Neighbourhood Centre,” after “Zone MU1 Mixed Use,” wherever occurring.

[10] Section 24 Non-discretionary development standards—the Act, s 4.15

Insert “or shop top housing” after “buildings” in section 24(2)(a).

[11] Section 24(2)(a)(ii)

Omit “25%”. Insert instead “30%”.

[12] Section 26 Must be used for affordable housing in perpetuity

Omit section 26(2). Insert instead—

- (2) Subsection (1) does not apply to development on land owned by the Aboriginal Housing Office or the Land and Housing Corporation.

[13] Chapter 2, Part 2, Division 3, heading

Omit “Aboriginal Housing Office and Land and Housing Corporation”.

Insert instead “relevant authorities”.

[14] Section 30

Omit the section. Insert instead—

30 Requirements before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
 - (a) request the council nominate a person or persons who must, in the council’s opinion, be notified of the development,

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- (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) the person or persons nominated by the council, and
 - (iii) the occupiers of adjoining land,
- (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) Before carrying out development to which this division applies, the relevant authority must also consider the following—
 - (a) if the relevant authority is the Aboriginal Housing Office—the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020,
 - (b) if the relevant authority is the Land and Housing Corporation—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023,
 - (c) if the relevant authority is Landcom—the [insert title] published by Landcom in [insert month] 2023.
- (3) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

[15] Section 40 Must be used for affordable housing for at least 15 years

Omit section 40(2). Insert instead—

- (2) Subsection (1) does not apply to development on land owned by the Aboriginal Housing Office or the Land and Housing Corporation.

[16] Section 41 Continued application of SEPP 65

Omit the section.

[17] Chapter 2, Part 2, Division 6

Omit the division. Insert instead—

Division 6 Residential development—relevant authorities

42 Development may be carried out without consent

- (1) Development for the purposes of residential development may be carried out without consent by or on behalf of—
 - (a) a relevant authority, other than Landcom, and
 - (b) Landcom, if all dwellings resulting from the residential development are used for affordable housing.
- (2) This division applies only if—
 - (a) the development is permitted with development consent on the land under another environmental planning instrument, and
 - (b) all buildings will have a height of not more than the higher of—
 - (i) 11m, or
 - (ii) the maximum permissible building height, and

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- (c) all buildings will have a floor space ratio of not more than the greater of—
 - (i) 0:65:1, or
 - (ii) the maximum permissible floor space ratio, and
- (d) the development will result in 75 dwellings or less on a single site, and
- (e) for development on land in an accessible area—the development will result in at least the following—
 - (i) for each dwelling containing 1 bedroom—0.4 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—0.5 parking spaces,
 - (iii) for each dwelling containing at least 3 bedrooms—1 parking space, and
- (f) for development on land that is not in an accessible area—the development will result in at least the following—
 - (i) for each dwelling containing 1 bedroom—0.5 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—1 parking space,
 - (iii) for each dwelling containing at least 3 bedrooms—1.5 parking spaces, and
- (3) This division also applies to the following development if the development is permitted on the land under another environmental planning instrument—
 - (a) the demolition of buildings and associated structures if the building or structure is on land that—
 - (i) is non-heritage land, and
 - (ii) is not identified in an environmental planning instrument as being within a heritage conservation area,
 - (b) the subdivision of land and subdivision works.
- (4) This division does not apply to—
 - (a) development to which Chapter 2, Part 2, Division 5 applies, or
 - (b) development that is part of a project, or part of a stage of a project, that the Minister determined under the Act, former section 75P to be subject to the Act, Part 4.
- (5) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17 apply to the development and, in the application of the sections—
 - (a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and
 - (b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.
- (6) In this section—

former section 75P means the Act, section 75P, as in force immediately before its repeal by the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011*.

non-heritage land means land that—

 - (a) does not contain a heritage item, and
 - (b) is not the subject of an interim heritage order under the *Heritage Act 1977*, and
 - (c) is not listed on the State Heritage Register.

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43 Requirements before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
 - (a) request the council nominate a person or persons who must, in the council's opinion, be notified of the development,
 - (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) the person or persons nominated by the council, and
 - (iii) the occupiers of adjoining land,
 - (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) Before carrying out development to which this division applies, the relevant authority must also consider the following—
 - (a) if the relevant authority is the Aboriginal Housing Office—the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020,
 - (b) if the relevant authority is the Land and Housing Corporation—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023,
 - (c) if the relevant authority is Landcom—the [insert title] published by Landcom in [insert month] 2023.
- (3) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

44 Landcom must obtain concurrence of Secretary of Department of Communities and Justice

- (1) Before carrying out development under this division, Landcom must obtain the concurrence of the Secretary of the Department of Communities and Justice.
- (2) The Secretary of the Department of Communities and Justice may grant concurrence only if satisfied there are appropriate arrangements for the ongoing management of the affordable housing.

44A Exempt development

- (1) Development for the purposes of landscaping and gardening carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation in relation to residential development to which this division applies is exempt development.
- (2) Development for the purposes of repairs and maintenance work and non-structural renovations and building alterations carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation in relation to housing is exempt development.
- (3) Subsection (2) does not apply to development involving the use of external combustible cladding within the meaning of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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[18] Section 45, heading

Omit the heading. Insert instead—

45 Definitions**[19] Section 45, definition of “guidelines”**

Omit the definition.

[20] Section 45, definition of “low-rental dwelling”

Omit “, as specified in the Rent and Sales Report,”.

[21] Section 45, definition of “median rental level”

Insert in alphabetical order—

median rental level for a relevant period means the average of all the median rental levels specified for the relevant period in the Rent and Sales Report.

[22] Section 45, definition of “Rent and Sales Report”

Omit the definition. Insert instead—

Rent and Sales Report means the report comprised of rent tables and sales tables published by the Department of Communities and Justice in March, June, September and December each year.

[23] Section 46 Buildings to which Part applies

Omit “Newcastle” from section 46(1)(b). Insert instead “City of Newcastle”.

[24] Section 46(1)(c)

Omit “Wollongong”. Insert instead “City of Wollongong”.

[25] Sections 47(2) and 48(4), definition of “rental yield”

Omit “guidelines” wherever occurring.

Insert instead “*Guidelines for the Retention of Existing Affordable Rental Housing*, published by the Department in October 2009”.

[26] Section 57 Development standards for bush fire prone land

Omit “and the requirements of relevant authorities” from section 57(2)(g).

[27] Section 71

Omit the section.

[28] Section 73 Conditions of build-to-rent housing to apply for at least 15 years

Omit section 73(1). Insert instead—

- (1) Development consent must not be granted to the erection or use of a building for development to which this Part applies unless the consent authority is satisfied that, during the relevant period, the tenanted component of the building—
 - (a) will not be subdivided into separate lots, and
 - (b) will be owned and controlled by 1 person, and
 - (c) will be operated by 1 managing agent, who provides on-site management.

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- [29] Section 73(3), definition of “relevant period”, paragraph (a)**
Omit “or Zone B3 Commercial Core”.
Insert instead “, Zone B3 Commercial Core or Zone SP5 Metropolitan Centre”.
- [30] Section 74 Non-discretionary development standards—the Act, s 4.15**
Omit “Greater Sydney Region” from section 74(2)(d).
Insert instead “Eastern Harbour City, Central River City or Western Parkland City under the *Greater Cities Commission Act 2022*”.
- [31] Section 75 Design requirements**
Omit “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*” from section 75(1).
Insert instead “Chapter 4”.
- [32] Section 82 Definitions**
Omit the definition of *serviced self-care housing*.
- [33] Section 84 Development standards—general**
Omit section 84(4). Insert instead—
(4) Subsections (2)(a) and (b) do not apply to development if the development application is made by a social housing provider or Landcom.
- [34] Section 85 Development standards for hostels and independent living units**
Omit “7–13” from section 85(2). Insert “6–13”.
- [35] Section 85(2)**
Insert “or Landcom,” after “provider”.
- [36] Chapter 3, Part 5, Division 4**
Omit “of Planning, Industry and Environment” from the note to the division.
- [37] Section 95 Water and sewer**
Omit “relevant authority” from section 95(2)(b). Insert instead “responsible authority”.
- [38] Section 95(3)**
Omit “*relevant*”. Insert instead “*responsible*”.
- [39] Section 96 Bush fire prone land**
Insert “relevant” before “bush fire prone land” wherever occurring in section 96(1) and (2).
- [40] Section 96(3), definition of “bush fire prone land”**
Omit “*bush fire prone land* means land”.
Insert instead “*relevant bush fire prone land* means bush fire prone land”.
- [41] Section 97**
Omit sections 97 and 98. Insert instead—

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97 Design of seniors housing

- (1) In determining a development application for development for the purposes of seniors housing, a consent authority must consider the *Seniors Housing Design Guide*, published by the Department in [insert month] 2023.
- (2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.

[42] Chapter 3, Part 5, Division 6

Omit the Division.

[43] Section 104 Accessibility

Omit “attractive, yet safe,” from paragraph (b). Insert instead “safe”.

[44] Section 106

Omit the section. Insert instead—

106 Application of design principles for seniors housing

Nothing in this division affects the operation of section 97(2).

[45] Section 108 Non-discretionary development standards for independent living units—the Act, s 4.15

Insert “or Landcom,” after “provider” wherever occurring in section 108(2)(d) and (j).

[46] Chapter 3, Part 5, Division 8, heading

Omit “Aboriginal Housing Office and Land and Housing Corporation”.

Insert instead “relevant authorities”.

[47] Section 108AA Definition

Omit the section.

[48] Section 108C

Omit the section. Insert instead—

108C Requirements before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
 - (a) request the council nominate a person or persons who must, in the council’s opinion, be notified of the development,
 - (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) the person or persons nominated by the council, and
 - (iii) the occupiers of adjoining land,
 - (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) Before carrying out development to which this division applies, the relevant authority must also consider the following—

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- (a) the *Seniors Housing Design Guide*, published by the Department in [insert Month] 2023,
 - (b) if the relevant authority is the Aboriginal Housing Office—the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020,
 - (c) if the relevant authority is the Land and Housing Corporation—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023,
 - (d) if the relevant authority is Landcom—the [insert title] published by Landcom in [insert month], 2023,
 - (e) the design principles for seniors housing set out in Schedule 8.
- (3) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

[49] Section 112 Exempt development—non-hosted short-term rental accommodation

Omit section 112(3), definition of *prescribed area*, paragraph (a). Insert instead—

- (a) the Eastern Harbour City, Central River City or Western Parkland City under the *Greater Cities Commission Act 2022*,

[50] Section 113 General requirements

Omit “within the meaning of Part 4” from section 113(b).

[51] Section 136 Definitions

Omit the definitions of *bush fire prone land* and *Planning for Bush Fire Protection*.

[52] Section 141 Issue of site compatibility certificate

Omit “Planning for Bush Fire Protection” from section 141(3)(h).

Insert instead “*Planning for Bush Fire Protection*”.

[53] Chapter 4

Insert after Chapter 3—

Chapter 4 Design of residential apartment development

142 Aims of chapter

- (1) The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes—
 - (a) to ensure residential apartment development contributes to the sustainable development of New South Wales by—
 - (i) providing socially and environmentally sustainable housing, and
 - (ii) being a long-term asset to the neighbourhood, and
 - (iii) achieving the urban planning policies for the local and regional areas,

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- (b) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,
 - (c) to better satisfy the increasing demand for residential apartment development, considering the following—
 - (i) the changing social and demographic profile of the community,
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,
 - (d) to maximise the amenity, safety and security of the residents of residential apartment development and the community,
 - (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,
 - (f) to contribute to the provision of a variety of dwelling types to meet population growth,
 - (g) to support housing affordability,
 - (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.
- (2) This chapter recognises that the design of residential apartment development is significant because of the economic, environmental, cultural and social benefits of high quality design.

143 Land to which chapter applies

This chapter applies to the whole of the State, other than land to which *State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 4 applies.

144 Application of chapter

- (1) In this policy, development to which this chapter applies is referred to as ***residential apartment development***.
- (2) This chapter applies to the following—
 - (a) development for the purposes of residential flat buildings,
 - (b) development for the purposes of shop top housing,
 - (c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.
- (3) This chapter applies to development only if—
 - (a) the development consists of—
 - (i) the erection of a new building, or
 - (ii) the substantial redevelopment or refurbishment of an existing building, or
 - (iii) the conversion of an existing building, and
 - (b) the building is at least 3 storeys, not including underground car parking storeys, and
 - (c) the building contains at least 4 dwellings.
- (4) If particular development comprises development used for purposes specified in subsection (2) and development used for other purposes, this chapter applies

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to the part of the development used for purposes specified in subsection (2) only.

- (5) This chapter does not apply to development that involves a class 1a or 1b building within the meaning of the *Building Code of Australia* only.
- (6) To avoid doubt, development to which Chapter 2, Part 2, Division 1, 5 or 6 applies may also be residential apartment development under this chapter.
- (7) In this section—
underground car parking storey means a storey that provides for car parking that is—
 - (a) below ground level (existing), or
 - (b) less than 1.2m above ground level (existing).

145 Design review panel to give advice on design quality of residential apartment development

- (1) Before determining a development application or modification application for residential apartment development, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.
- (2) Subsection (1) does not apply if—
 - (a) a design review panel has not been constituted for the local government area in which the development will be carried out, or
 - (b) a competitive design process has been held.
- (3) This section does not apply to State significant development.
- (4) In this section—
competitive design process means a design competition held in accordance with the *2023 Design Competition Guidelines* published by the Department in [insert month] 2023.

146 Determination of development applications and modification applications for residential apartment development

- (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
 - (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
 - (b) the Apartment Design Guide,
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.
- (2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.
- (3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with any development standards specified in the Apartment Design Guide.

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- (4) This section does not apply to State significant development.

147 Non-discretionary development standards for residential apartment development—the Act, s 4.15

- (1) This section identifies particular development standards for residential apartment development.
- (2) If the standards are complied with, the consent authority cannot require more onerous standards for the matters.
- (3) The following are non-discretionary development standards—
 - (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
 - (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
 - (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

148 Apartment Design Guide prevails over development control plans

- (1) This section applies if a development control plan and the Apartment Design Guide both specify a requirement, standard or control in relation to the following for residential apartment development—
 - (a) visual privacy,
 - (b) solar and daylight access,
 - (c) common circulation and spaces,
 - (d) apartment size and layout,
 - (e) ceiling heights,
 - (f) private open space and balconies,
 - (g) natural ventilation,
 - (h) storage.
- (2) A requirement, standard or control in the Apartment Design Guide prevails to the extent of an inconsistency.
- (3) This section applies regardless of when the development control plan was made.

[54] Schedule 3 Environmentally sensitive land

Omit paragraph (a) from the matter relating to “Land identified in another environmental planning instrument as follows”.

[55] Schedule 7A Savings and transitional provisions

Insert at the end of the Schedule, with appropriate section numbering—

State Environmental Planning Policy Amendment (Housing) 2023

Drafting note 2.1 *Any required savings and transitional provisions to be added later.*

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

[56] Schedules 8 and 9

Insert after Schedule 7A—

Schedule 8 Design principles for seniors housing

section 97

1 Neighbourhood amenity and streetscape

Seniors housing should be designed as follows—

- (a) to recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation,
- (b) to recognise the desirable elements of—
 - (i) the location's current character, or
 - (ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area,
- (c) to complement heritage conservation areas and heritage items in the area,
- (d) to maintain reasonable neighbourhood amenity and appropriate residential character by—
 - (i) providing building setbacks to reduce bulk and overshadowing, and
 - (ii) using building form and siting that relates to the site's land form, and
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours,
- (e) to set back the front building on the site generally in line with the existing building line,
- (f) to include plants reasonably similar to other plants in the street,
- (g) to retain, wherever reasonable, significant trees,
- (h) to prevent the construction of a building in a riparian zone.

2 Visual and acoustic privacy

Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by—

- (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

3 Solar access and design for climate

The design of seniors housing should—

- (a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
 Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.

4 Stormwater

The design of seniors housing should aim to—

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.

5 Crime prevention

Seniors housing should—

- (a) be designed in accordance with environmental design principles relating to crime prevention, and
- (b) provide personal property security for residents and visitors, and
- (c) encourage crime prevention by—
 - (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and
 - (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and
 - (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

6 Accessibility

Seniors housing should—

- (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and
- (b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.

7 Waste management

Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.

Schedule 9 Design principles for residential apartment development

section 146

1 Context and neighbourhood character

- (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.

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Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

- (2) Responding to context involves identifying the desirable elements of an area's existing or future character.
- (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.
- (4) Consideration of local context is important for all sites, including sites in—
 - (a) established areas,
 - (b) areas undergoing change,
 - (c) areas identified for change.

2 Built form and scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.
- (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—
 - (a) building alignments and proportions,
 - (b) building type,
 - (c) building articulation,
 - (d) the manipulation of building elements.
- (3) Appropriate built form—
 - (a) defines the public domain, and
 - (b) contributes to the character of streetscapes and parks, including their views and vistas, and
 - (c) provides internal amenity and outlook.

3 Density

- (1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.
- (2) Appropriate densities are consistent with the area's existing or projected population.
- (3) Appropriate densities can be sustained by the following—
 - (a) existing or proposed infrastructure,
 - (b) public transport,
 - (c) access to jobs,
 - (d) community facilities,
 - (e) the environment.

4 Sustainability

- (1) Good design combines positive environmental, social and economic outcomes.
- (2) Good sustainable design includes the following—
 - (a) use of natural cross ventilation and sunlight for the amenity and liveability of residents,
 - (b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.
- (3) Good sustainable design also includes the following—

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- (a) recycling and reuse of materials and waste,
- (b) use of sustainable materials,
- (c) deep soil zones for groundwater recharge and vegetation.

5 Landscape

- (1) Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in development with good amenity.
- (2) A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.
- (3) Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—
 - (a) the local context,
 - (b) co-ordinating water and soil management,
 - (c) solar access,
 - (d) micro-climate,
 - (e) tree canopy,
 - (f) habitat values,
 - (g) preserving green networks.
- (4) Good landscape design optimises the following—
 - (a) usability,
 - (b) privacy and opportunities for social interaction,
 - (c) equitable access,
 - (d) respect for neighbours' amenity.
- (5) Good landscape design provides for practical establishment and long term management.

6 Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.
- (2) Good amenity contributes to positive living environments and resident well being.
- (3) Good amenity combines the following—
 - (a) appropriate room dimensions and shapes,
 - (b) access to sunlight,
 - (c) natural ventilation,
 - (d) outlook,
 - (e) visual and acoustic privacy,
 - (f) storage,
 - (g) indoor and outdoor space,
 - (h) efficient layouts and service areas,
 - (i) ease of access for all age groups and degrees of mobility.

draft

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7 Safety

- (1) Good design optimises safety and security within the development and the public domain.
- (2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.
- (3) Opportunities to maximise passive surveillance of public and communal areas promote safety.
- (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

8 Housing diversity and social interaction

- (1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.
- (2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.
- (3) Good design involves practical and flexible features, including—
 - (a) different types of communal spaces for a broad range of people, and
 - (b) opportunities for social interaction among residents.

9 Aesthetics

- (1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.
- (2) Good design uses a variety of materials, colours and textures.
- (3) The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

[57] Dictionary

Omit the heading. Insert instead—

Schedule 10 Dictionary

section 4

[58] Schedule 10 Dictionary

Omit the definition of *accessible area*, paragraphs (a) and (b). Insert instead—

- (a) 800m walking distance of—
 - (i) a public entrance to a railway, metro or light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station, or
 - (iii) a public entrance to a wharf from which a Sydney Ferries ferry service operates, or

[59] Schedule 10 Dictionary

Omit the definition of *Apartment Design Guide, Greater Sydney region, non-heritage land, relevant authority, serviced self-care housing* and *tenanted component*.

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Insert in alphabetical order—

Apartment Design Guide means the *Apartment Design Guide* published by the Department in July 2015.

bush fire prone land means land identified on a bush fire prone land map certified under the Act, section 10.3.

design principles for residential apartment development means the principles set out in Schedule 9.

design principles for seniors housing means the principles set out in Schedule 8.

design review panel means a panel constituted by the Minister under the *Environmental Planning and Assessment Regulation 2021*, section 288A.

Greater Sydney region means the Eastern Harbour City, Central River City, Central Coast City and Western Parkland City under the *Greater Cities Commission Act 2022*.

modification application has the same meaning as in the *Environmental Planning and Assessment Regulation 2021*.

relevant authority means the following—

- (a) the Aboriginal Housing Office,
- (b) the Land and Housing Corporation,
- (c) Landcom.

residential apartment development—see section 144.

tenanted component of a building means the dwellings referred to in section 72(3)(a), including the common spaces and shared facilities provided for the use of the residents of the dwellings.

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
Schedule 2 Amendment of other environmental planning instruments

Schedule 2 Amendment of other environmental planning instruments

2.1 Bayside Local Environmental Plan 2013

Clause 6.13 Converting serviced apartments to residential flat buildings

Omit clause 6.13(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.2 Blacktown Local Environmental Plan 2015

[1] Clause 7.6, heading

Omit “**building**”. Insert “**buildings**”.

[2] Clause 7.6(2)

Omit the subclause. Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.3 Campbelltown Local Environmental Plan 2015

Clause 7.12 Converting serviced apartments to residential flat buildings or shop top housing

Omit subclause (2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building or shop top housing unless the consent authority has considered the following in relation to the residential flat building or shop top housing—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.4 Georges River Local Environmental Plan 2021

Clause 6.12 Landscaped areas in certain residential and conservation zones

Omit “development referred to in *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*, clause 4” from clause 6.12(3).

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
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Insert instead “residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*”.

2.5 Great Lakes Local Environmental Plan 2014

Clause 7.12 Converting serviced apartments to residential flat buildings

Omit clause 7.12(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.6 Kiama Local Environmental Plan 2011

[1] Clause 6.9 Serviced apartments

Omit “subdivision, under a strata scheme, of a building or part of a building that is being, or has ever been, used for serviced apartments” from clause 6.9(2).

Insert instead “strata subdivision of a building that is or has been used for serviced apartments”.

[2] Clause 6.9(2)(a)

Omit the paragraph. Insert instead—

- (a) the consent authority has considered the following in relation to the development—
 - (i) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (ii) the Apartment Design Guide within the meaning of that policy, and

[3] Clause 6.9(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

2.7 Liverpool Local Environmental Plan 2008

[1] Clause 7.19 Serviced apartments

Omit clause 7.19(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
Schedule 2 Amendment of other environmental planning instruments

2.8 Newcastle Local Environmental Plan 2012

[1] Clause 6.3 Serviced apartments

Omit clause 6.3(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

[2] Clause 6.3(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

2.9 North Sydney Local Environmental Plan 2013

Clause 6.11 Converting serviced apartments to residential flat buildings

Omit clause 6.11(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.10 Parramatta Local Environmental Plan 2023

Clause 7.8 Serviced apartments

Omit clause 7.8(2). Insert instead—

- (2) Development consent must not be granted to the strata subdivision of a building on land in Zone MU1 Mixed Use that is or has been used for serviced apartments unless the consent authority has considered the following—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.11 Penrith Local Environmental Plan 2010

Clause 7.26

Omit clause 7.26. Insert instead—

7.26 Serviced apartments

Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
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- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

2.12 Pittwater Local Environmental Plan 2013

Clause 7.11 Converting serviced apartments to residential flat buildings

Omit clause 7.11(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.13 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Clause 3B.8 Lot requirements

Insert after clause 3B.8(1)—

- (1A) Despite subclause (1), the area of the parent lot in development carried out by or on behalf of the Aboriginal Housing Office, the Land and Housing Corporation or a registered community housing provider, within the meaning of *State Environmental Planning Policy (Housing) 2021*, must not be less than 400m².

2.14 State Environmental Planning Policy (Planning Systems) 2021

[1] Schedule 1 State significant development—general

Omit section 26. Insert instead—

26 Housing development carried out by certain public authorities

- (1) Development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation if the development—
 - (a) has a capital investment value of more than \$30 million, or
 - (b) will result in more than 75 dwellings.
- (2) Development carried out by or on behalf of Landcom if—
 - (a) the development—
 - (i) has a capital investment value of more than \$30 million, or
 - (ii) will result in more than 75 dwellings, and
 - (b) at least 50% of the gross floor area of the development will be used for the purposes of affordable housing.

26A In-fill affordable housing

- (1) Development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 applies if—
 - (a) the part of the development that is residential development has a capital investment value of more than \$75 million, and

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- (b) the development does not involve development prohibited under an environmental planning instrument applying to the land.
- (2) This section does not apply to—
 - (a) development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 4 applies, or
 - (b) a development application made, but not finally determined, before the commencement of this section.
- (3) In this section—
residential development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*, section 15B.

2.15 State Environmental Planning Policy (Precincts—Regional) 2021

Section 4.6

Omit the section. Insert instead—

4.6 Application of other environmental planning instruments

The following environmental planning instruments do not apply to land to which this Chapter applies—

- (a) *Snowy River Local Environmental Plan 2013*,
- (b) *Tumut Local Environmental Plan 2012*,
- (c) *State Environmental Planning Policy (Housing) 2021*, Chapter 4,
- (d) *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3.

[1] Section 5.50 Converting serviced apartments to a residential flat building

Omit section 5.50(2). Insert instead—

- (2) Development consent must not be granted for the subdivision under a strata scheme of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

2.16 Strathfield Local Environmental Plan 2012

Clause 6.5 Converting serviced apartments to residential flat building

Omit clause 6.5(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

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2.17 Sydney Local Environmental Plan 2005

Clause 117A Serviced apartments

Omit clause 117A(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

2.18 Sydney Local Environmental Plan 2012

Clause 7.28 Serviced apartments

Omit clause 7.28(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

2.19 Sydney Local Environmental Plan (Green Square Town Centre) 2013

Clause 6.12 Serviced apartments

Omit clause 6.12(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

2.20 Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013

Clause 6.12 Serviced apartments

Omit clause 6.12(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

2.21 The Hills Local Environmental Plan 2019

[1] Clause 7.19 Development in Zones MU1 and SP4 for purposes of serviced apartments

Omit clause 7.19(5)(a) and (b).

[2] Clause 7.19(6)

Omit the subclause. Insert instead—

- (6) Development consent must not be granted under subclause (4) unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

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State Environmental Planning Policy Amendment (Housing) 2023 [NSW]
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2.22 Tweed City Centre Local Environmental Plan 2012

[1] Clause 6.7 Serviced apartments

Omit clause 6.7(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

[2] Clause 6.7(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

2.23 Willoughby Local Environmental Plan 2012

Clause 6.9 Serviced apartments

Omit clause 6.9(3) and the note. Insert instead—

- (3) Development consent must not be granted for the change of use from serviced apartments to a residential flat building, with or without strata subdivision, unless the consent authority has considered the Apartment Design Guide, within the meaning of *State Environmental Planning Policy (Housing) 2021*, in relation to the residential flat building.

2.24 Wollongong Local Environmental Plan 2009

Clause 7.12 Serviced apartments

Omit clause 7.12(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

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New South Wales

Environmental Planning and Assessment Amendment (Housing) Regulation 2023

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

Explanatory note

The object of this regulation is to amend the *Environmental Planning and Assessment Regulation 2021* in relation to residential apartment development under *State Environmental Planning Policy (Housing) 2021*, Chapter 4, including by providing for design review panels.

This regulation also makes consequential amendments to the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]

Environmental Planning and Assessment Amendment (Housing) Regulation 2023

under the

Environmental Planning and Assessment Act 1979

1 Name of regulation

This regulation is the *Environmental Planning and Assessment Amendment (Housing) Regulation 2023*.

2 Commencement

This regulation commences on 1 November 2023.

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Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

[1] Section 15 Approval of development control plans for residential apartment development

Omit section 15(1)(b)(i). Insert instead—

- (i) advice received from the design review panel about the provisions,

[2] Section 29 Residential apartment development

Omit “design quality principles” from section 29(2)(b)(i) and (3) wherever occurring.

Insert instead “design principles for residential apartment development”.

[3] Section 29(4)

Omit “the relevant design review panel”. Insert instead “a design review panel”.

[4] Section 80 Definitions

Insert in alphabetical order—

Aboriginal Housing Office means the Aboriginal Housing Office constituted by the *Aboriginal Housing Act 1998*.

[5] Section 81 Build-to rent housing

Omit section 81(2)(b) and (c). Insert instead—

- (b) the tenanted component of the buildings to which the development consent relates must not be subdivided into separate lots, and

[6] Section 81(3), definition of “tenanted component”.

Omit “, section 71”.

[7] Section 82 In-fill affordable housing

Omit section 82(1). Insert instead—

- (1) This section applies to development permitted under *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1, other than development on land owned by the Aboriginal Housing Corporation or the Land and Housing Corporation.

[8] Section 84 Residential flat buildings—social housing providers, public authorities and joint ventures

Omit section 84(1). Insert instead—

- (1) This section applies to development permitted under *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 5, other than development on land owned by the Aboriginal Housing Corporation or the Land and Housing Corporation.

[9] Section 102 Modification applications for residential apartment development

Omit “design quality principles” from section 102(2)(c)(i) and (3) wherever occurring.

Insert instead “design principles for residential apartment development”.

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Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

[10] Section 102(4) and (6)

Omit “the relevant design review panel” wherever occurring.

Insert instead “a design review panel”.

[11] Section 102(5) and (8)

Omit “relevant” wherever occurring.

[12] Section 197 Definitions

Insert “for ARTC” after “approved” in the definition of *ARTC Code*.

[13] Section 197, definition of “Landcom Code”

Insert in alphabetical order—

Landcom Code means a Code approved for Landcom under section 200(1).

[14] Section 198 Approved Codes

Insert after section 198(1)(c)—

- (d) the exercise by Landcom of its functions under the Act, section 5.5 in relation to activities, including activities for the purposes of development carried out without consent under *State Environmental Planning Policy (Housing) 2021*.

[15] Sections 199, heading and 200, heading

Insert “and Landcom Code” after “ARTC Code” wherever occurring.

[16] Section 199

Insert “and the Landcom Code” after “ARTC Code”.

[17] Section 200(1)

Omit “ARTC must”. Insert instead “ARTC and Landcom must each”.

[18] Section 200(3) and (4)

Insert “or Landcom” after “ARTC” wherever occurring.

[19] Section 201 Approval of other Codes

Insert “or Landcom Code” after “ARTC Code” in section 201(5).

[20] Part 15 Miscellaneous

Insert after Division 4—

Division 4A Design review panels—the Act, s 4.64(1)

288A Constitution of design review panels

- (1) The Minister may constitute a design review panel for—
 - (a) a local government area, or
 - (b) 2 or more local government areas.
- (2) Before constituting a design review panel for a local government area, the Minister must consult with the council for the local government area, including in relation to the members of the panel.

draft

Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

- (3) The Minister may abolish a design review panel at any time and for any reason.
- (4) The Minister may make arrangements with the council for which a design review panel is constituted for the council to provide staff and facilities for the panel.
- (5) Schedule 5A contains provisions relating to the members and procedures of a design review panel.

288B Membership of design review panels

- (1) A design review panel must consist of 3 or more persons appointed by the Minister.
- (2) One of the members must be appointed as chairperson of the panel.
- (3) A person may be appointed as a member of a panel only if the person has expertise in architecture, landscape architecture or urban design.
- (4) In appointing members of a design review panel, the Minister must ensure that, as far as practicable, the panel consists of persons with expertise in architecture, landscape architecture and urban design.
- (5) A person may not be appointed as a member of a panel if the person is an officer or employee of a council to which the panel gives advice.

288C Advice about design quality of residential apartment development

- (1) The function of a design review panel is to review and give independent advice about the quality of the design of residential apartment development, including by evaluating residential apartment development in accordance with—
 - (a) the design principles for residential apartment development, and
 - (b) the Apartment Design Guide.
- (2) A design review panel may review and give advice on the request of—
 - (a) a consent authority, or
 - (b) a person making or proposed to make a development application or modification application.
- (3) A design review panel may review and give advice before or after a development application or modification application for residential apartment development is made.
- (4) A design review panel must give the review and advice to a consent authority within 14 days of the consent authority's request under subsection (2)(a).
- (5) This section does not apply to State significant development.

288D Other functions of design review panels

- (1) A design review panel may also review and give independent advice to a council about provisions of the following that relate to the quality of the design of residential apartment development—
 - (a) an in force or draft local environmental plan or development control plan,
 - (b) an in force or draft master plan or other planning policy document.
- (2) A design review panel may advise a council whether it endorses provisions reviewed under subsection (1).

draft

Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

- (3) A design review panel also has the following functions—
 - (a) to give independent advice to councils on mechanisms and initiatives to improve the implementation of the design quality principles for residential apartment development,
 - (b) to contribute to the co-ordination of quality of the design of residential apartment development across boundaries of local government areas.
- (4) A design review panel may make public a review or advice under subsection (1) or (3)(a) for the purposes of improving—
 - (a) the understanding of design quality, and
 - (b) the implementation of the design quality principles for residential apartment development.

[21] Schedule 5A

Insert after Schedule 5—

Schedule 5A Members and procedures of design review panels

section 288A

1 Term and conditions of office

- (1) A member of a design review panel holds office for the term determined by the Minister, which must be at least 2 years.
- (2) A member may be re-appointed.
- (3) A member ceases to hold office if—
 - (a) the panel is abolished by the Minister, or
 - (b) the member completes a term of office and is not re-appointed, or
 - (c) the member dies or resigns, or
 - (d) the member is removed by the Minister under subsection (6).
- (4) A member is entitled to be paid remuneration and expenses as determined by the Minister.
- (5) A member holds office subject to the conditions determined by the Minister
- (6) The Minister may remove a member from office at any time.

2 Alternate members

- (1) The Minister may appoint one or more alternate members for a design review panel.
- (2) An alternate member may act in the place of a member of the panel during the absence or illness of the member.
- (3) An alternate member must have expertise in architecture, landscape architecture or urban design.
- (4) An alternate member is not required to have expertise in the same area as the member for whom the alternate member acts.
- (5) While acting in the place of a member, the alternate member has all the functions of the member and is taken to be a member.

draft

Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

3 Pecuniary interests

- (1) This section applies to a member of a design review panel who has a pecuniary interest in a matter that is the subject of advice by the panel.
- (2) If the member is present at a panel meeting at which the matter is being considered, the member—
 - (a) must disclose the interest to the meeting as soon as practicable, and
 - (b) must not take part in the consideration or discussion of the matter, and
 - (c) must not vote on a question relating to the matter.
- (3) In this section—
pecuniary interest has the same meaning as in the *Local Government Act 1993*, Chapter 14.

4 Procedure at meetings

The procedure for the conduct of design review panel meetings is to be determined by the Minister in consultation with the members of the panel, taking into account Part 5 of the Apartment Design Guide.

5 Quorum

The quorum at a design review panel meeting is 3 members of the panel.

6 Presiding member

- (1) The chairperson is to preside at a design review panel meeting.
- (2) In the absence of the chairperson, a person elected by the members is to preside at the panel meeting.
- (3) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

7 Existing design review panels

- (1) On the commencement of this schedule, a design review panel constituted under *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* that existed immediately before the commencement of this schedule is taken to be a design review panel under this regulation.
- (2) The quorum specified in section 5 does not apply to a design review panel for the 6 months following the commencement of this schedule.

[22] Schedule 7 Dictionary

Omit the definitions of *Apartment Design Guide*, *design quality principles*, *design review panel* and *relevant design review panel* and *residential apartment development*.

Insert in alphabetical order—

Apartment Design Guide means the *Apartment Design Guide* published by the Department in July 2015.

design principles for residential apartment development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*.

design review panel means a panel constituted by the Minister under section 288A.

Landcom Code, for Part 8, Division 6—see section 197.

draft

Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2021

residential apartment development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*.

DRAFT

draft

Environmental Planning and Assessment Amendment (Housing) Regulation 2023 [NSW]
Schedule 2 Amendment of Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

Schedule 2 Amendment of Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

[1] Sections 15(2) and (3) and 43(3) and (4), definition of “design statement”

Omit “design quality principles” wherever occurring.

Insert instead “design principles for residential apartment development”.

[2] Schedule 2 Dictionary

Omit the definitions of *design quality principles* and *residential apartment development*.

Insert in alphabetical order—

design principles for residential apartment development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*.

residential apartment development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*.



Waverley Council
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Customer Service Centre
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ABN: 12 502 583 608

Waverley Council Submission – Social and affordable housing planning reform

1. GENERAL FEEDBACK

A one-size-fits-all approach to solving the affordable housing crisis does not work for Waverley. Sydney's east already has much higher density than other parts of Sydney, with Waverley already achieving a density of 7,486 persons per square km.

This is 350% of Sydney's average density of 2,135 persons per square km. In other words, many other areas in Sydney would have to increase their density by 350% to equal Waverley's. As a global comparison, Waverley's density is 180% of Berlin's density of 4,127 persons per square km, and equal to London's density of 7,490 persons per square km.

Waverley Council is proud to declare our own commitment to affordable housing, with work currently underway to investigate how to increase affordable housing stock and funding in the eastern Sydney region. Currently, we have 22 affordable housing units and 40 social housing units within our local government area that are owned by Council, with many more owned privately or by or in partnership with Community Housing Providers (CHPs). Waverley also has a longstanding commitment to the provision of affordable housing where we allocate a minimum of 25% of all Voluntary Planning Agreement (VPA) contributions specifically to our affordable housing programs.

A challenge that the Eastern Sydney region faces in terms of affordable housing relates to high property prices. Despite actively trying to do so, it is increasingly difficult for Waverley Council to compete in the market and purchase housing stock to offer as affordable housing as the funding available is often inadequate. There is clearly a need to investigate strengthening affordable housing mechanisms, however, the model to do so must be carefully considered.

Whilst Waverley Council support the intent to increase affordable housing across the State, concern is raised regarding the details of the latest proposal that seeks to incentivise developers. The proposed model is not expected to result in a positive planning outcome and would undermine the strategic plan-led approach to housing delivery in NSW – where the Greater Cities Commission strategies, along with Council's Local Housing Strategy and Local Strategic Planning Statement – which are established in partnership with the community – work in concert to deliver the required housing capacity for industry to deliver housing. The proposed reforms, which gift new apartment development significant and arbitrary bonuses, work to further undermine trust in our planning system.

A 30% floor space ratio (FSR) and building height bonus above what is currently permitted under the controls set by corresponding Local Environmental Plans and a "fast tracked" approval pathway for developments over \$75 million being considered as State Significant Development would likely result in adverse built form outcomes.

As part of the Planning Proposal process, increased FSR and building heights are heavily scrutinised by Council, the community and the NSW Department of Planning and Environment (DPE). The determined standards reflect a figure that is considered to be most suitable for the particular site and in the public interest. Allowing for such a significant arbitrary and untested exceedance is likely going to negatively impact on residential amenity and allow development that is incongruous with its surrounds.

Furthermore, the availability of the proposed bonus has the potential to increase the land value of apartment development sites and would only provide a temporary stimulus to land currently held by developers. This could consequently have a flow on effect to further worsen housing affordability. The requirement that eligible developments only need to provide a proportion of their units as affordable housing for 15 years also fails to address the long-term requirements for such housing.

The *State Environmental Planning Policy (Housing) 2021* currently includes provisions that allow developers to access between a 0.2:1 and 0.5:1 floor space ratio bonus if they dedicate between 20% - 50% of their eligible developments to affordable housing for 15 years. To date there has been positive uptake of this mechanism in the Waverley LGA, and the reasonable floor space ratio bonus has not resulted in buildings that are drastically unfit for its surrounds. Offering a much greater bonus for a lesser contribution of affordable housing under the proposed scheme would increase the negative impacts while reducing the benefits of such development, resulting in an inferior public interest outcome.

To guarantee the delivery of social and affordable housing, the State Government should instead seek to deliver social and affordable housing by renewing and existing stock and intensifying housing on landholdings via the Land and Housing Corporation.

2. DRAFT INSTRUMENTS

Despite our concerns listed above, should the NSW DPE proceed with the changes, our specific feedback on the draft instrument is provided as follows.

Exclusion of recently gazetted Planning Proposals including up-lift

- Any sites that have received FSR or height uplift within the 5 years preceding the introduction of the proposed change should be excluded from the application of the available bonuses.
- Recent uplift Planning Proposals have gone through a robust process of assessment and consultation and changing the rules further to provide for even greater uplift undermines the strategic planning process.

Qualification for bonus

- As per the initial announcement in June, the bonus was to only apply to developments with a CIV of over \$75 million. The draft changes provided for feedback now present as the bonuses are available for any sized development.
- Concern is raised that no rationale for the increased eligibility has been provided and it is not supported. It can only be assumed this is due to feedback provided from the development industry, in which councils were not consulted.

CIV >\$75m qualification for State Significant Development Pathway (SEPP Planning Systems 2021)

- Concern is raised with the application of the State Significant Development (SSD) pathway, as Development Control Plans do not apply to SSDs. This means that there is a further disregard to local controls which have been consulted and agreed with the community. It is recommended the Planning Systems SEPP is updated to include that DCPs apply for development seeking to use the in-fill affordable housing bonus provisions.

- In addition, if an 'industry specific' SEARs (Secretary's Environmental Assessment Requirements) is produced for developments using the in-fill affordable housing bonuses, it should include a requirement for Council's DCP to be responded to as part of the Environmental Impact Assessment.
- We note the CIV threshold only applies to the residential component of the development. The threshold should apply to the development cost as a whole, otherwise developers would be incentivised to provide less commercial floor space in order to increase the value of the residential components to apply under the SSD pathway.

Length of time for affordable housing

- Such large bonuses for such small periods of time for affordable housing is insufficient. Developers gain the height and FSR bonuses for perpetuity but only have to provide affordable housing for 15 years. This does not guarantee a long-term outcome.
- Any affordable housing should be provided in perpetuity.

Size of bonus

- As previously outlined, concern is raised with the large bonuses of 30% height and FSR.
- The existing bonus is more reasonable and has resulted in positive uptake in Waverley, with developers able to refine their proposals to result in acceptable built form outcomes with minimal impacts.

Application of bonuses to commercial components of the site

- We note that the bonuses only apply to a residential component of a building. Council's already have difficulty in gaining more than a tokenistic amount of ground floor retail / commercial floorspace in developments, where developers seek to maximise GFA in the upper levels. This has implications for functional / usable ground floor retail spaces and street level activation, which is important in centres. Therefore, the bonus should instead apply to the site as a whole, otherwise it will incentivise less delivery of commercial space as developers will only seek to provide residential in order to achieve greater increases in floor space and subsequent profits.

Definition of accessible area

- We note that the application of the bonuses related to areas defined as 'accessible areas'. The definition of an accessible area should be reconsidered as the current minimum requirement of public transport access to be 1 bus per hour during normal weekday hours is not supported.
- The proposed density bonuses based on a frequency of a bus of 1 bus per hour is not appropriate, nor accessible and will place further strains on infrastructure (particularly road infrastructure).
- The definition should be reconsidered based on Transport for New South Wales approach to public transport accessibility as part of its Movement and Place framework and ideally only be available in areas with a high level of public transport access (such as rail, metro, light rail or high frequency bus or ferry services).

REPORT
PD/5.4/23.11

Subject: Eastern Suburbs Electric Vehicle Infrastructure Strategy - Adoption

TRIM No: A11/0853

Manager: Sam McGuinness, Executive Manager, Environmental Sustainability

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

RECOMMENDATION:

That Council:

1. Adopts the Eastern Suburbs Electric Vehicle Infrastructure Strategy attached to the report.
2. Notes that the strategy will also be reported to Randwick City Council and Woollahra Municipal Council for approval.

1. Executive Summary

This report proposes to adopt the draft Leading the Charge - Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023. This strategy has been prepared by the Randwick, Waverley and Woollahra Regional Environment Program and was on community consultation for 28 days between 30 August and 27 September 2023. During this period, 222 submissions were received, resulting in a significant number of amendments to the draft strategy as outlined in this report.

The amended strategy outlines a pathway to actively support and accelerate the transition to Electric Vehicles (EVs) in the Eastern Suburbs. The strategy has been drafted with extensive community consultation, analysis of the existing market and peer review by industry experts.

2. Introduction/Background

Council, through the Electric Vehicle Transportation Policy adopted in 2021 and the Environmental Action Plan 2022-2032 adopted in June 2022, actively supports the electrification of transport in the Waverley local government area (LGA) to enable Council to reach net zero by 2035. The Regional Environment Program has set up the Eastern Suburbs Charging Network consisting of 24 charging locations, with capacity for 39 cars to charge.

The strategy provides an analysis of how many electric vehicles are expected, how many chargers will be needed, what type of chargers should be deployed and in what locations across both Waverley and the Eastern Suburbs.

The strategy acknowledges that access to charging stations is a significant impediment to EV adoption, with over 60% of Eastern Suburbs residents living in apartments or townhouses, and more than 50% renting. While most EV charging occurs at home or work, a significant portion of dwellings lack off-street parking, and thus public charging stations will serve as their primary charging method.

By 2025, the strategy estimates that approximately 450 publicly accessible charging ports will be needed - 230 in Randwick, 120 in Waverley, and 100 in Woollahra LGAs.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 1 August 2023	PD/5.2/23.08	That Council: <ol style="list-style-type: none"> Publicly exhibits the draft Eastern Suburbs Electric Vehicle Infrastructure Strategy attached to the report for a minimum of 28 days. Officers prepare a report to Council following the exhibition period. Notes that Randwick City Council and Woollahra Municipal Council will also be exhibiting the strategy.
Council 21 June 2022	CM/8.2/22.06	That Council: <ol style="list-style-type: none"> Notes that: <ol style="list-style-type: none"> An Electric Vehicle Transportation Policy was approved in February 2022, which covers the installation of electric vehicle (EV) charging stations in Waverley. There will be approximately 13 public EV charging stations by the end of 2022. A Federal Labor Government was elected in May with a mandate to increase EV ownership and a policy for increasing public EV charging stations. Work has already been undertaken in collaboration with Randwick and Woollahra councils to roll out EV charging stations. Officers prepare a report that investigates: <ol style="list-style-type: none"> The State and Federal government policy for EV charging stations and any schemes or subsidies available to Council to build or support the building of a network of EV charging stations. How there was a successful roll-out of EV charging stations in countries with dense urban populations that face similar challenges as Council. The siting of strategic locations for EV charging stations with a roll-out to 2030 that includes estimated numbers of charging stations, timeline and financing options.

Operations and Community Services Committee 12 October 2021	OC/5.1/21.10	That Council: <ol style="list-style-type: none"> Publicly exhibits the draft Electric Vehicle Transportation Policy attached to the report for 28 days. Officers prepare a report to Council following the exhibition period.
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Community consultation

Community consultation on the draft strategy was undertaken for 28 days between 30 August and 27 September 2023. The consultation took place via an online survey on the Have Your Say page (hosted by Council). The survey asked the respondent which LGA they lived in, if they supported the strategy and action plan, and if they had additional comments. Council also received three written submissions from key stakeholders: Ausgrid, Allegra Spender (Wentworth MP) and Parking Australia.

The following table summarises the Have Your Say submissions by each LGA.

Table 1. Have Your Say Submissions.

LGA	Have Your Say Submissions
Waverley	53
Randwick	122
Woollahra	28
Other	16
Total	219

Figure 1 shows the results of the Have Your Say survey. There was significant community support for the draft Strategy across the three councils, with 82% of residents generally in support, and 80% in support of the objectives and action plan. For Waverley's 53 submissions, 89% of residents were generally in support and 89% supported the objectives and action plans.

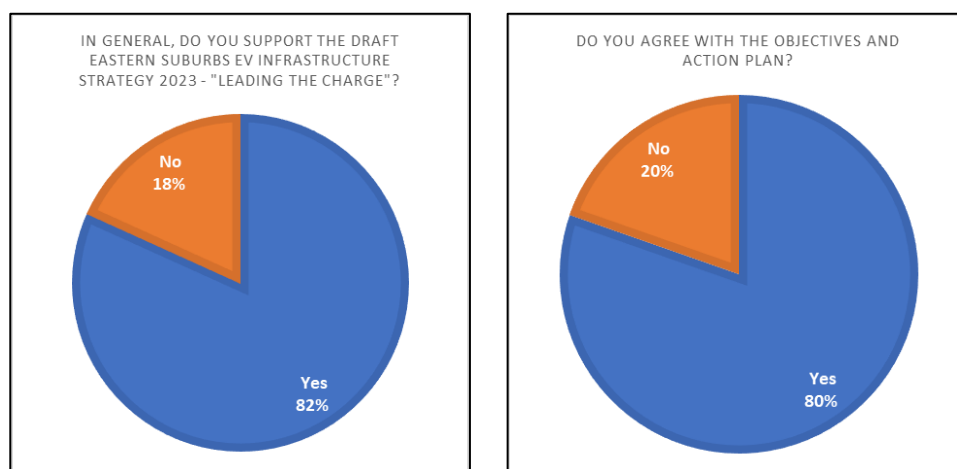


Figure 1. Support for strategy, objectives and action plan across three councils.

4. Discussion

Several key issues emerged from the 219 Have Your Say survey submissions and three stakeholder submissions which have provided insightful feedback for the development of the draft strategy. Table 2 below summarises these issues into themes, outlines if or how the draft strategy addresses them, and provides comments and a response to how this was responded to in the amended strategy.

Table 2. Summary of submission and comment.

Submission Issues and themes	Draft Strategy	Comment and response
Strategy should include electric vehicle (EV) uptake as a percentage of cars on road.	Not included.	Figure 5 on p.24 amended to include this data.
Investigate a pathway for residents or streets to request public chargers in their preferred locations.	Not included.	The strategy has been amended to include this as an action on p.33.
Include a preference for chargers to be hosted on street pole due to their reduced their impact on streetscapes.	The draft included detail around street pole chargers but did not prioritise or preference this.	An action has been amended to facilitate the installation of street pole electric vehicle chargers on p.34.
Emphasise use of renewable energy and require (where possible) for all future public chargers.	Included in the draft.	Clarified in an action on p.36 of the amended strategy that all new public EV charging stations to be powered by 100% renewable electricity.
The EV transition needs to be more ambitious and Council should roll out more on-street chargers, faster.	Strategy includes targets for 2025 and an objective for at least 1 kW of public charging capacity per EV.	Noted. The targets and objectives in the draft are minimums and subject to resourcing the charging roll out has the potential to occur faster.
More fast chargers in petrol stations and shopping centres.	Strategy includes targets for 2025 include fast chargers, and 'Council's Role' include facilitation of fast chargers.	Noted. Actions on p.34 relate to Council facilitating the uptake of fast chargers by private organisations.
Provide more assistance for apartments.	Strategy discusses challenges for apartments and targets high density areas. Action on p.34 proposed to pilot a program to assist apartments install EV chargers.	Noted. Included action to pilot a program to assist apartment seeks to address this issue.
Active and public transport should be a priority.	Strategy includes a Mode Shift Principle: 'Mode shift is prioritised	This is noted and acknowledged in the strategy principles. The strategy aims to actively enable the shift from internal

	over private vehicle transport. The provision of charging stations must not encourage traveling by car for non-essential trips.'	combustion engines to electric vehicles, while not prioritising vehicular transport over active transport modes. Council has other strategies and actions which prioritise active transport such as People, Places, Movement.
Provide a pathway for residents to install kerbside chargers outside their homes.	Strategy includes the action: The State Environmental Planning Policy (Transport and Infrastructure) allows for residents to submit a development application for residents to install a charger outside their residence.	Added to this action: Assess suitability of these chargers for the Eastern Suburbs based on learnings from other councils.
Increase parking patrolling and update signage and EV charging locations.	Actions are already included to increase patrolling and update signage.	Noted.
Include trial of unmarked charging stations to address limited parking concerns.	Not included	Included as an amended action on p. 34.
Include details about plans for fast charging hubs.	Not included.	Action on p. 34 relating to facilitating fast charging hubs has been amended to provide information on upcoming fast charging hubs in the Eastern Suburbs.
Charging infrastructure should be undertaken on private property or in individuals' garages.	Private charging is included in the Draft Strategy.	Noted. As outlined in the draft strategy, a mix of charging types are required. In Waverley many car owners do not have off-street parking.
The strategy and actions should not be a Council responsibility but be undertaken by the private sector.	The strategy outlines a range of stakeholders involved in the provision of charging infrastructure.	Noted. Council is responsible for the road reserve where a significant amount of charging infrastructure is likely to be located.
<ul style="list-style-type: none"> Net zero should not be a Council priority. The electricity grid is fossil fuelled. Electric vehicles are more environmentally damaging than petrol cars. EVs are not able to replace petrol cars and have issues such as fire and unable to tow. 	The strategy outlines the role of transport and emissions reduction.	<p>Noted. Waverley Council has an ambitious net zero by 2035 target and the electrification of transport is an essential and feasible pathway to net zero as the electricity grid rapidly moves towards being 100% renewable.</p> <p>It is acknowledged that electric vehicles may not suit all user needs. However, with technological improvement and greater vehicle choice, usage will expand over time. No amendments are proposed to the</p>

		strategy in response to these submissions.
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The strategy outlines the different types of charging available and importance to match the type of charger to the location. An ultra-fast charger can charge an EV in as little as 15 minutes, while a slow wall-mounted charging may take 18 hours. The site selection for EV charging has been set up to consider a variety of stakeholders including capital cost of the charger, electricity cost, impact on the grid, parking needs and public domain requirements.

The strategy proposes that the three councils continue to 'lead the charge' and trial a range of new and innovative implementation models and charging technologies. It aims to do this through:

- Direct deployment of Council owned chargers in the public domain.
- Facilitating the installation of privately owned charging stations on public and private land.
- Licensing of Council land/carparks to private charge station operators.
- Education and awareness for local residents, businesses, tourists and charge station providers.
- Developing plans and regulation to increase the availability and accessibility of electric vehicle charging infrastructure in the community.

Deployment of EV charge points is where Council can have a significant impact. The strategy includes a map of where the chargers should be located, drilling down into the different charging types. The strategy also outlines the guiding principles that should be followed when locating chargers. This included the principles of equity, accessibility, impact on streetscape, strategic placement, support for mode shift (active transport) and finally economic development benefits.

5. Financial impact statement/Time frame/Consultation

Council has a budget allocation of \$5.6 million in the Waverley Long Term Financial Plan to facilitate the provision of a public domain EV chargers. This strategy will enable Council to seek external funding for the on-ground deployment of additional chargers. It is expected that a funding package from the State Government for kerbside charging will be released in late 2023.

The draft strategy was exhibited and promoted across Randwick, Waverley and Woollahra and received 222 responses during the exhibition period.

The amended strategy includes a number of short-, medium- and long-term actions. Many of these have already commenced or are in process, including the provision of EV chargers on street, and the facilitation of street pole chargers and EV fast chargers. As outlined in the strategy, the Eastern Suburbs has one of the most progressed public EV charging networks in Australia and the proposed amended strategy outlines a pathway for the East to maintain and accelerate this situation.

6. Conclusion

The draft Eastern Suburbs Electric Vehicle Infrastructure Strategy received significant feedback from the community with over 200 submissions from residents and businesses. In the Waverley LGA, 89% of residents generally supported the draft strategy and a number of amendments have been made in response to community input. This report proposes that the amended strategy be adopted.

7. Attachments

1. Leading the Charge - Eastern Suburbs Electric Vehicle Infrastructure Strategy [📄](#) .



Leading the Charge

Eastern Suburbs Electric Vehicle
Infrastructure Strategy 2023



Published October 2023

Review Date: TBC (and every 5 years thereafter)
Version: 2 – Final for Council Approval
Division: 3-Council Regional Environment Program
Authors: Anthony Weinberg and Sam Kelley
HPE CM Record Number: TBC

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Executive Summary

The adoption of electric vehicles (EVs) will bring about significant societal, environmental, and economic benefits¹. Most importantly, the transition to EVs is the single largest change toward achieving net-zero emissions in the Eastern Suburbs, with the potential to decrease emissions by 33% by 2050 (excluding grid emission reductions)².

This strategy outlines our vision, evaluates the required infrastructure through to 2030, and determines where and how to implement such infrastructure. The proposal illustrates how Council, in partnership with the private sector, as well as Federal and State Governments, can spearhead the adoption of EVs by accelerating the rollout of public EV charging infrastructure. Although electrification is also taking place for other modes of transportation such as Council fleet, garbage trucks, buses, and e-bikes, the focus of this strategy is primarily on passenger vehicles.

EV uptake in the Eastern Suburbs is rapidly growing, with the number of vehicles doubling year on year. It is anticipated that this exponential growth will continue as more EV models become available and reach lifecycle cost parity. As of March 2023, there

were 702, 671, and 724 battery electric vehicles in Randwick, Waverley, and Woollahra LGAs, respectively, equating to a total of 2,097 across the three councils. By 2025, it is projected that there will be roughly 10,000 EVs on local roads, and more than 35,000 by 2030, excluding EV drivers visiting from other LGAs.

The Strategy acknowledges that access to charging stations is a significant impediment to EV adoption, with over 60% of Eastern Suburbs residents living in apartments or townhouses, and more than 50% renting. The NSW Government estimates that the proportion of residents which require access to on-street charging is 82% in Waverley, 52% in Woollahra and 42% in Randwick LGAs - so whilst most EV charging occurs at home or work, this is not an option for a significant portion of the Eastern Suburbs.

Based on international and Australian research, we evaluated various approaches to determining the number and types of public EV chargers required. By 2025, we estimated that approximately 450 public charging ports would be needed - 230 in Randwick, 120 in Waverley, and 100 in Woollahra LGAs. The Strategy advocates for a place-based approach to determine appropriate locations and the installation of different types of charging stations in regional centres, local centres, and neighborhood centres. The type of charging should match the average length of stay and



surrounding urban form. Thus, rapid to ultra-fast charging should be the focus for regional centres, medium to fast charging at key destinations where people stay for up to four hours, and slower charging near high-density areas to facilitate long-stay and overnight charging.

The demand for charging stations should be met through a combination of government, residential, and private sector investment. The use of public resources and spaces to support EV users must be balanced against the public benefit and other competing land uses. Councils should play a primary role in ensuring that the rollout of charging infrastructure is strategic, efficient, and equitable by identifying suitable sites and guiding investment from the private sector and funding from Federal and State government.

Although refuelling of vehicles is a private matter, the Council plays a crucial role in facilitating the deployment of kerbside/ on-street charging around local and neighbourhood centers as well as high-density

residential areas, where there is a shortage of private investment and space for larger EV charging hubs. In 2019, the 3-Councils were the first in New South Wales to establish Charging the East, a network of Council owned public charging stations powered by 100% renewable electricity, which currently consists of 12 chargers. The Charging the East network is currently operationally cost-neutral, but the strategy aims to achieve full cost recovery by 2024 within a 10-year period.

The Strategy proposes that the 3-Councils continue to 'lead the charge' and innovate and trial new implementation models and charging technologies, such as retrofitting EV chargers on wooden street poles, incorporating charging stations into multi-function poles during streetscape upgrades, and partnering with the private sector to set up charging hubs in Council carparks.

Our Vision





Vision

All residents and visitors of the Eastern Suburbs have access to electric vehicle charging infrastructure.

In the 3-Council region, transport is responsible for approximately 20% of all community emissions. Modelling from the Resilient Sydney platform² also shows that emission reductions from EVs is the largest council 'intervention' that can be taken to reduce community emissions, and that the transition to EVs is predicted to reduce the emissions of the Eastern Suburbs by 33% by 2050 (excluding emission reductions from grid renewables).

The 3-Councils' approach continues to prioritise pedestrians first, followed by people riding bicycles, using public transport, service vehicles, shared mobility and private motor vehicles. However, as passenger vehicles are the most popular form of travel, representing 80% of all residential travel (in km per year), reducing the emissions intensity of this travel has a significant and direct impact on the region's total emissions.

Our path to net zero

The 3-Councils are actively seeking to reduce community greenhouse gas emissions through a range of emissions reduction projects and activities. For the last 10 years, the 3-Councils have each set ambitious greenhouse gas emission targets for their communities and in 2019 each Council declared a state of climate emergency which aimed to accelerate action on climate change.

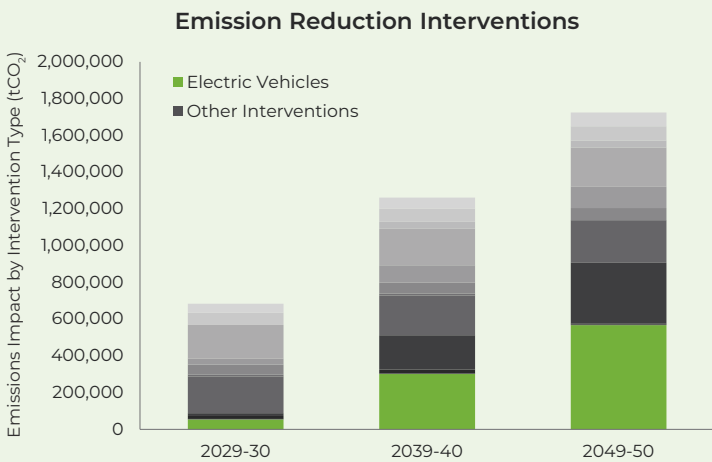
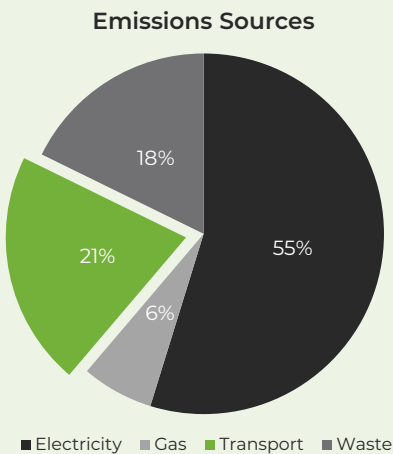



Figure 1: 3-Council Greenhouse Gas Emissions and Emissions Reduction Potential of EVs

Guiding principles


Increasing electric vehicle uptake leads to lower running costs, cleaner air and health benefits, quieter roads and lower greenhouse gas emissions¹.

Access to high quality EV charging infrastructure at home and in the community is essential for EV uptake. As the number of EVs continues to increase in the Eastern Suburbs, the following principles guide the 3-Councils’ role and actions in the sector.




Equity

Electric chargers are accessible for all residents, particularly those living in apartments or townhouses. The installation of charging should be based on the principle of full cost recovery so that residents without EVs aren't subsidising those with EVs.




Accessibility

Electric vehicle chargers are safe, reliable, easy to use and readily available. Charging/ parking restrictions are enforced, and good charging etiquette is encouraged.




Urban form

On-street chargers should complement the street environment and ensure streets are highly accessible/ prioritised for pedestrians and cyclists.




Strategic

Strategic and data led decisions are made around the installation and management of charging locations and types.



Mode shift

Mode shift is prioritised over private vehicle transport. The provision of charging stations must not encourage traveling by car for non-essential trips.




Economic development



The provision of electric vehicle chargers encourages visitors and tourists to local popular destinations, including world renowned beaches and parks.



The challenges ahead

From recent consultation with stakeholders, we have identified a number of key challenges specific to the Eastern Suburbs which are outlined in the table below.

 Land availability	
Limited access to offstreet parking	<p>High land values, unfavourable lease arrangements and the limited availability of suitable sites in appropriate locations can be prohibitive to offstreet charger investment.</p> <p>With more than 60% of Eastern Suburbs residents living in apartments or townhouses and more than 50% renting, many residents are expected to rely on public charging infrastructure.</p>
Ability to secure suitable charge station locations given competing demands and limited land availability	<p>Space for private vehicles on streets is already in high demand and much of it is required for bus lanes, cycle lanes, parking facilities, loading/unloading or access.</p> <p>Many streets are unsuited to current charging equipment due to narrowness, traffic restrictions and the size of the charger and cables. Onstreet charging can increase conflict between drivers and pedestrians by adding to street clutter.</p>
Installing new charge points can be a long and complex process	<p>The installation of a new electric vehicle charger requires site suitability assessments, planning approval, Ausgrid approval and Traffic Committee approval (for kerbside chargers).</p>
Cost of energy grid upgrades	<p>The peak demand for many sites is already at capacity in many locations and upgrades to the electrical supply can be costly. Alternative solutions, including the role of smart charging in the longer term, will need to be considered.</p>

<div> Investment uncertainty</div>	
Lack of confidence in the availability of convenient charge points	<p>There is a fear that chargers would not be available, either through already being in use or being out of service (concerns raised particularly by taxi drivers).</p> <p>As coverage across the Eastern Suburbs is not currently consistent, drivers in some areas will have concerns over supply of infrastructure.</p>
Drivers find the experience of charging confusing and complicated	<p>Customers' experience of using different charge stations (and operators) can vary considerably from poor to excellent.</p> <p>There is poor interoperability between charge points and charge point providers, creating confusion around which chargers drivers can use and how much they can expect to pay.</p>
<div> Operational/Users</div>	
Uncertainty about what type of charge points are needed and concerns about obsolescence	<p>Reluctance to invest until there is more confidence in the charging model.</p> <p>Ongoing advances in technology raise concerns that what is installed now will become quickly obsolete.</p> <p>Upfront capital costs and initial low numbers of users mean that it can take a number of years before charging is profitable, which is compounded if the type and location are not effective.</p>







The ideal future charging network

Research conducted in countries with high adoption rates of electric vehicles, such as Norway and Austria, as well as in emerging markets in the United Kingdom, United States, and Canada⁵, reveals that approximately 80 to 90 percent of electric vehicle users choose to charge their vehicles at home. However, not all electric vehicle users have access to at-home

charging due to various factors such as limited off-street parking, space availability, and energy supply distribution.

The ideal charging network matches the types of chargers with the use case of the drivers. Slow chargers are in areas where cars park for long durations, and fast chargers are in locations where motorists stop for short periods of time. The table below summarises these types of scenarios.

	Description	Type	Parking Time	Use Case Example	Responsibility
Home & Workplace 	Chargers in home garages/driveways and in workplace carparks	Slow 7 – 22 kW AC	5+ hours	Local residents with off-street parking or employees who drive to work	Homeowner and businesses
On-Street 	Chargers on kerbside and street carparks	Slow 7 – 22 kW AC	2+ hours	Local residents without off-street parking	Council or private installers
Destination 	Chargers in destinations with carparks, e.g. shopping centres	Slow to Medium 7 – 22 kW AC or 25 – 50 kW DC	1 to 4 hours	Shoppers or gym members charging whilst parked	Council or private installers
Hubs 	Chargers on highways and service stations	Fast 50 – 350 kW DC	10 – 30 mins	Motorists recharging to get to a destination	Council, State/Federal Government, private installers



Based on the latest industry data and insights, as well as knowledge gathered from more developed markets such as the UK⁸, there remains a considerable amount of uncertainty surrounding the requirements for electric vehicle (EV) infrastructure.

It is possible that user preferences for charging may evolve in either of the following directions:

1. Emulating current petrol station refuelling behaviour, where faster public charging is preferred, with more on-the-go, top-up charging, and a mix of charging speeds, while still demanding slow chargers in residential areas.
2. Prioritizing on-street, slower residential-based charging, with some demand for faster charging and a slightly higher proportion of private, at-home charging on driveways.

Our preference is to prioritize faster charging in carparks as it is more efficient and convenient. Where fast charging is not possible due to electrical or locational issues, then our preference is for slow chargers to be installed via kerbside chargers or powerpoles to minimise impact on streetscapes.

The Strategy proposes that the 3-Councils continue to 'lead the charge' and trial a range of new and innovative implementation models and charging technologies.

02

Our Current Situation



Where is the public charging in the Eastern Suburbs?

As of March 2023, there are a total of 45 individual charging ports located at 25 different locations across the Eastern Suburbs, which can deliver a total capacity of 457kW.

All of these chargers are classified as public chargers and are accessible to the public for a fee. Out of the 25 locations, 21 are AC chargers capable of delivering 50-150km of range per hour.

However, the current distribution of chargers is quite patchy, with existing chargers

concentrated in specific locations and significant gaps between major centres, particularly in the suburbs of Woollahra, Paddington, Waverley, Bronte and Maroubra. This uneven distribution can cause range anxiety for some EV drivers, leading to reluctance in adopting electric vehicles.

To address this issue, the 3-Councils Charging the East network has been expanded, accounting for 12 out of the 25 locations and making up approximately 50% of all publicly available charging facilities. This network is focused on filling in some of these gaps in the Eastern Suburbs to make it easier for EV drivers to find charging stations in more convenient locations. Usage of this network has grown exponentially since 2019 in line with greater EV uptake.

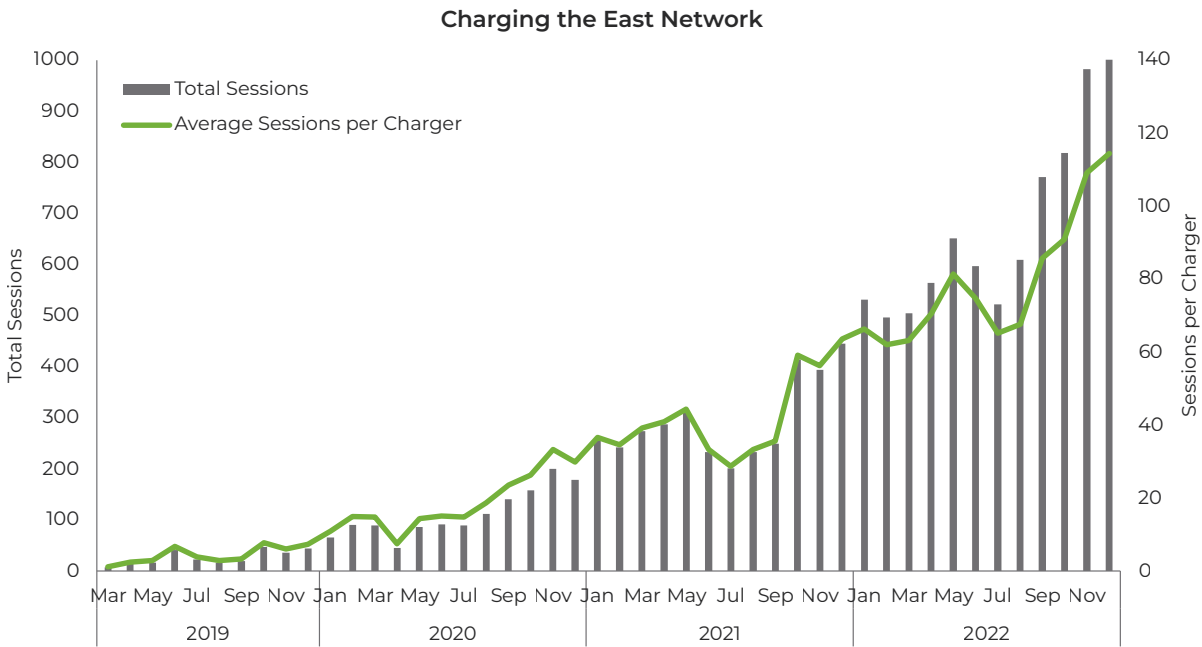


Figure 2: Monthly Charging Sessions

What new charging initiatives are coming?

A range of council owned and private electric vehicle charging networks are already operating across the region and are rapidly being expanded. In addition, there are a number of new charging initiative due to launch in 2023.


	Charging the East	Multi-Function Poles	EV Street Side Charging Trial	JOLT	Future Fuels Fund	Supercharging Hub
Type	Slow 7 – 22 kW AC	Slow 7 kW AC	Slow 22 kW AC	Medium 25 kW DC	Fast 50 kW DC	Ultra-Fast 250 kW DC
Summary	Destination charging net-work	Integrated EV chargers on new multi-function poles	Installation of chargers on wooden street poles	Electrical kiosks retrofitted with chargers and advertisement	Installation of chargers supported by the Federal Government	Installation of six or more chargers accessible to all vehicle types
Owner	3-Councils	3-Councils	ARENA / Intelli-hub (1 year trial)	JOLT	Evie Networks & other private operators	Tesla
Current Chargers (Mar 2023)	12	5 (Waverley)	-	2 (Randwick)	2 (Waverley) 2 (Randwick)	-
Planned Chargers (Dec 2023)	20	10	20-30	4 (Randwick)	2 (Woollahra)	6 (Waverley)
Image						

Table 3: Current and Future Charging Network Providers in the Eastern Suburbs

03

Our Role





Recognizing the importance of promoting sustainable transportation, it is essential to have adequate infrastructure in place to support the use of electric vehicles as the most environmentally friendly mode of transportation for making vehicle trips.

The recent NSW Electric Vehicle Strategy¹ and State of Electric Vehicles Report⁶ recognises 'local governments around Australia as having several important roles in the transition to EVs', namely:

- Direct deployment of local government owned regular EV charging infrastructure (below 24kW)
- Deployment of public charging infrastructure in partnership with charging station operators
- Community education
- Planning requirements

These findings, as well as the 3-Councils' ongoing work in this sector, have informed the roles outlined in the following tables.



Federal Government

The Australian Government through the National Electric Vehicle Strategy is responsible for:

- 1
- 2
- 3
- Increasing the supply of affordable and accessible EVs by introducing a Fuel Efficiency Standard
- Establishing the resources, systems and infrastructure to enable rapid EV uptake by building a National EV Charging Network
- Encourage increase in EV Demand through the Electric Car Discount



State Government

The NSW Government through the NSW Electric Vehicle Strategy & Drive Electric EV Kerbside Charging Grants is responsible for:

- 1
- 2
- 3
- 4
- 5
- Helping drivers buy an electric vehicle by removing stamp duty and offering rebates/incentives
- Building a world-class electric vehicle charging network with funding for charging in commuter corridors, destinations and roadside locations
- Making it easier to drive an EV by allowing drivers to use transit lanes
- Creating jobs and growing the economy from growing EV uptake
- Keeping road funding fair and sustainable by phasing out stamp duty

Local Government



1

Direct Deployment

Installation of Council owned charging stations in the public domain.

Direct Deployment allows councils to strategically select sites based on uptake and equality, co-ordinate and prioritise specific locations, and match the speed of the rollout of charging station with local EV uptake.

Existing local examples:

- Charging the East - Eastern Suburbs Public Electric Vehicle Charging Station Network
- Council owned multi-function street poles with integrated chargers

2

Facilitation

Facilitating the installation of privately owned charging stations on public and private land.

Identify suitable sites, facilitate and stimulate investment from the private sector and funding from Federal and State government for installation of EV charging in the public and private domain.

Assisting local facilities and clubs to install publicly accessible charging stations on their properties.

Existing local examples:

- ARENA funded EV Street Side Charging Project for chargers on existing green light/power poles
- Installation of JOLT chargers on Ausgrid green kiosk substations in Randwick LGA
- Supported Brigidine College (charger at Wilson's carpark at The Spot, Randwick)
- Assisting Australian Jockey Club with scoping

3 Land Access

Licensing of Council land/carparks to private charge station operators.

Where the private sector is active, in fast and super/ultra-fast market, the most appropriate role for Council is as a site host to license Council carparks and land. Council receives licensing revenue and sets terms and conditions.

Existing local examples:

- Australian Government Future Fuel Fund installation in Eastgate Bondi Junction and in Dorhauer Lane, Woollahra
- Tesla Supercharging Hub at Waverley Library

4 Education and Advocacy

Education and awareness for local residents, businesses, tourists and charge station providers.

Advocate for economic incentives, standards and partnerships with the State and Federal Governments and industry stakeholders.

Existing local examples:

- Webinars, case studies, events, and educational material on EVs and charging stations
- Advocating for changes to TfNSW signage and planning approvals pathways
- Collaboration with EV Council, NSW and Federal Government, SSROC and LG NSW
- Transitioning Council fleet vehicles to electric

5 Planning and Regulation

Developing plans and regulation to increase the availability and accessibility of electric vehicle charging infrastructure in the community.

Existing local examples:

- DCP requirements for electric vehicle charging infrastructure in new developments
- Enforcement of electric vehicle parking rules



Whilst, vehicle refuelling is a private undertaking, Council has a key role in enabling market facilitation of kerbside/on-street charging around local and neighbourhood centres and high-density residential areas where there is a lack of private investment and limited space for larger EV charging hubs.

04

Our Analysis





How many electric vehicles are we anticipating?

The number of EVs in the Eastern Suburbs is currently doubling year-on-year and the exponential growth is forecast to continue as more EV models become available and reach lifecycle cost parity.

As of March 2023, the number of battery electric vehicles garaged in Randwick, Waverley and Woollahra LGAs are 702, 671 and 724 respectively, or 2,097 across the 3 councils³.

Given the uncertainty in EV forecasts, three electric vehicle uptake scenarios have been modelled for the Eastern Suburbs:

1. Slow uptake (provided by CarLoop)
2. Fast uptake (provided by CarLoop)
3. CSIRO Rapid Decarbonisation pathway (provided by Institute for Sensible Transport)⁴

There is little variability in either of the scenarios up to 2025, with estimates that by 2025, there are expected to be around 10,000 EVs on the local roads.

Using the CSIRO Rapid Decarbonisation pathway, we estimate that there will be more than 35,000 EVs in the Eastern Suburbs by 2030⁴. This number excludes EV drivers visiting from other LGAs.

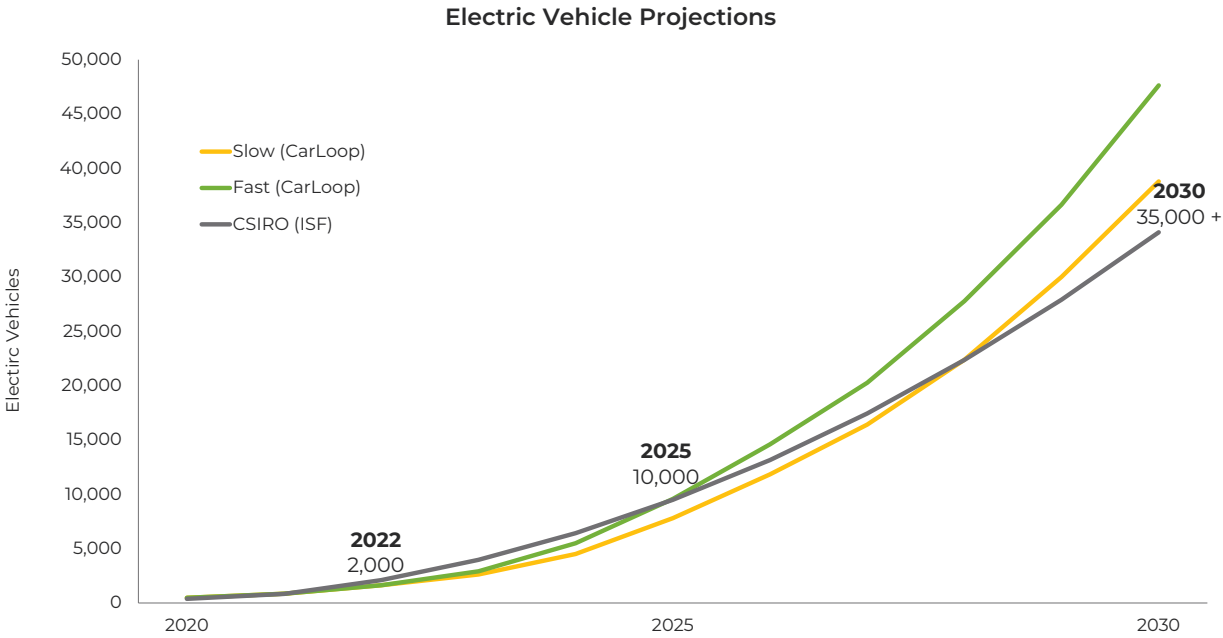


Figure 4: Electric Vehicle Projections Scenarios (CarLoop and CSIRO)

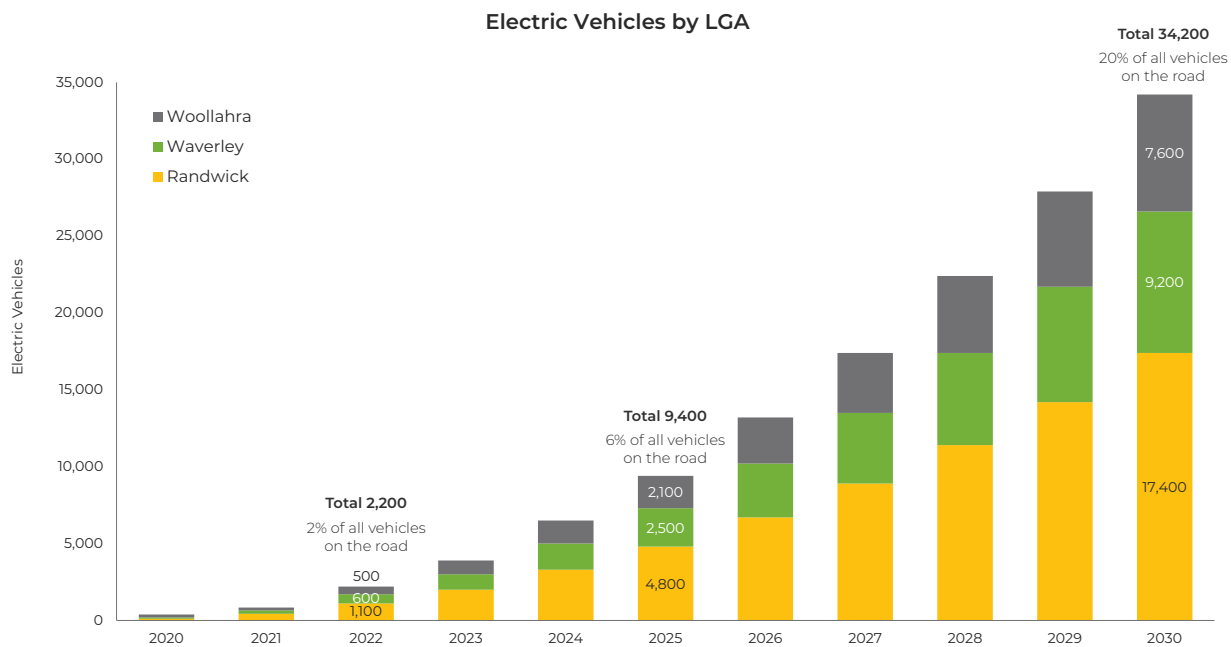


Figure 5: Electric Vehicle Projections (CSIRO)

How many chargers do we need?

Determining the number of public charging stations required to cater for the growing demand is a complex task dependent on several factors, such as: the number of EVs on the roads and their distance travelled; the power (kW) of the charging stations; the availability of off-street parking; and population density.

To calculate the chargers required we adopted the internationally recognised ‘kW-per-EV ratio’ of 1:1, meaning there is 1 kW of publicly accessible charging capacity (kW) per EV on

the road. For reference, the 3-Council region currently has around 0.65 kW of charging available per EV in the area, significantly below the target ratio of 1. To keep pace with the growing demand for EVs, significant investment is required from government and the private sector to install more charging stations.

This same international research⁷ suggests that around 1 in 3 public charging stations is a fast charger, hence a third of the projected chargers are assumed to be 50 kW DC charging ports, with two-thirds assumed to be 7 kW AC charging ports.

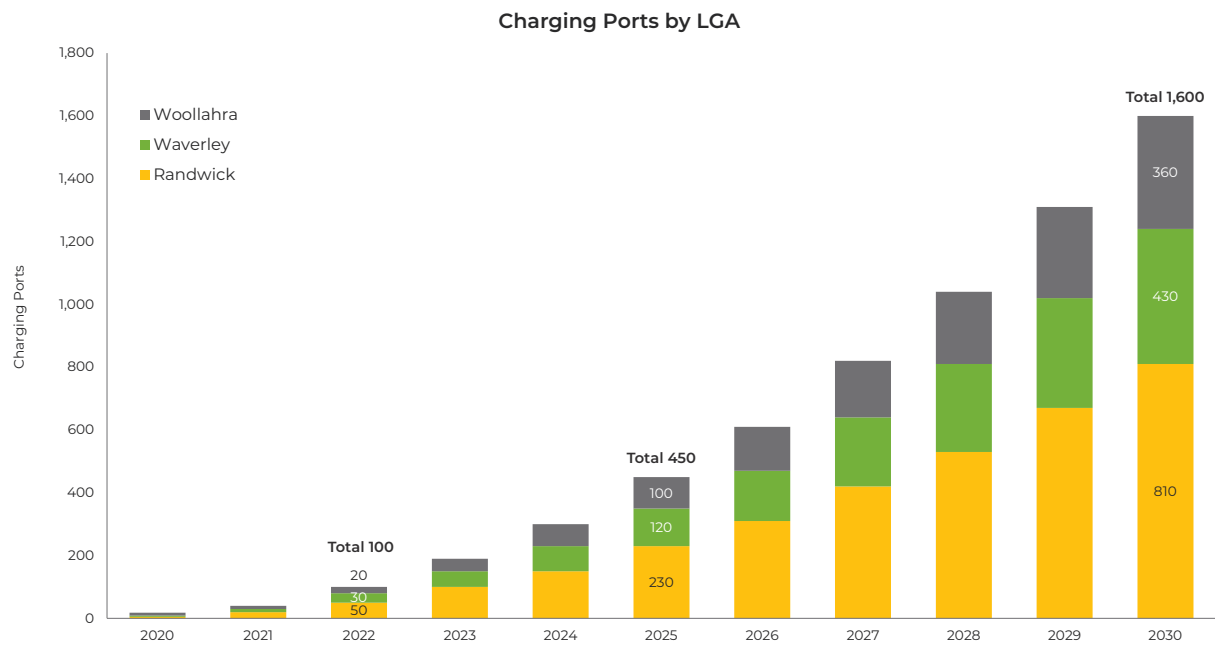
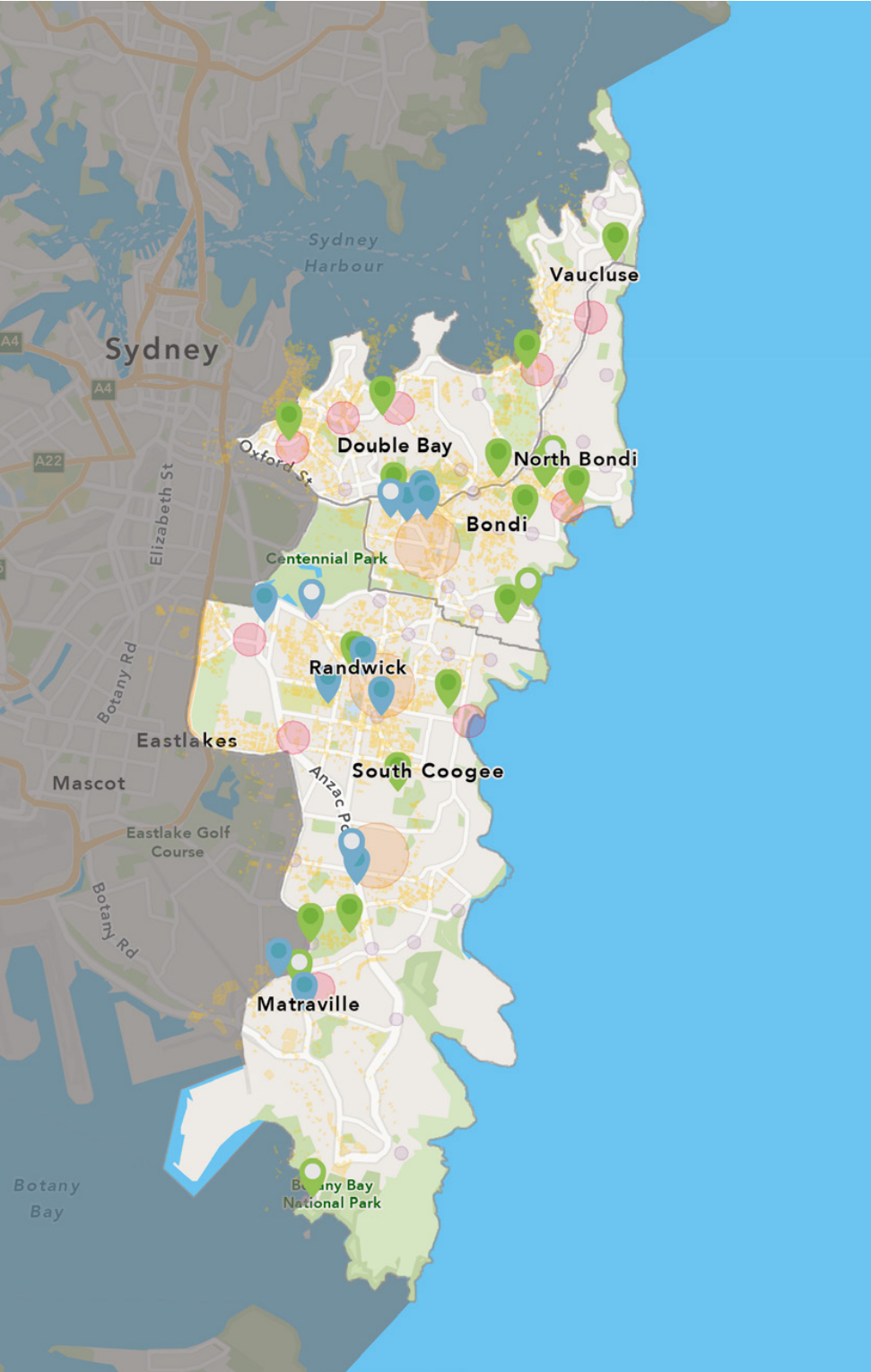


Figure 6: Charging Ports Projections (CSIRO)

In 2025, the total number of charging ports required is around 450 comprising of 230 in Randwick, 120 in Waverley and 100 in Woollahra LGAs. By 2030, a total of 1,600 charging ports are required.

It is essential to monitor the exact number of public chargers needed by considering the overall increase or decrease in the number of vehicles in the Eastern Suburbs, user trends for charging speeds, improvements in charging technologies and the installation of chargers in residential areas, offices, and privately-owned destinations such as department stores and supermarkets.



Charging Station Locations – Eastern Suburbs

Legends

Electric Vehicle Installations

- Council – Installed
- Council – Awaiting Install
- Private – Installed
- Private – Awaiting Install

Centres

- Neighbourhood Centre
2025 Target: minimum 1 slow charging port
- Local Centre
2025 Target: minimum 4 slow charging ports or 2 fast charging ports
- Regional Centre
2025 Target: minimum 4 fast charging ports

Apartments

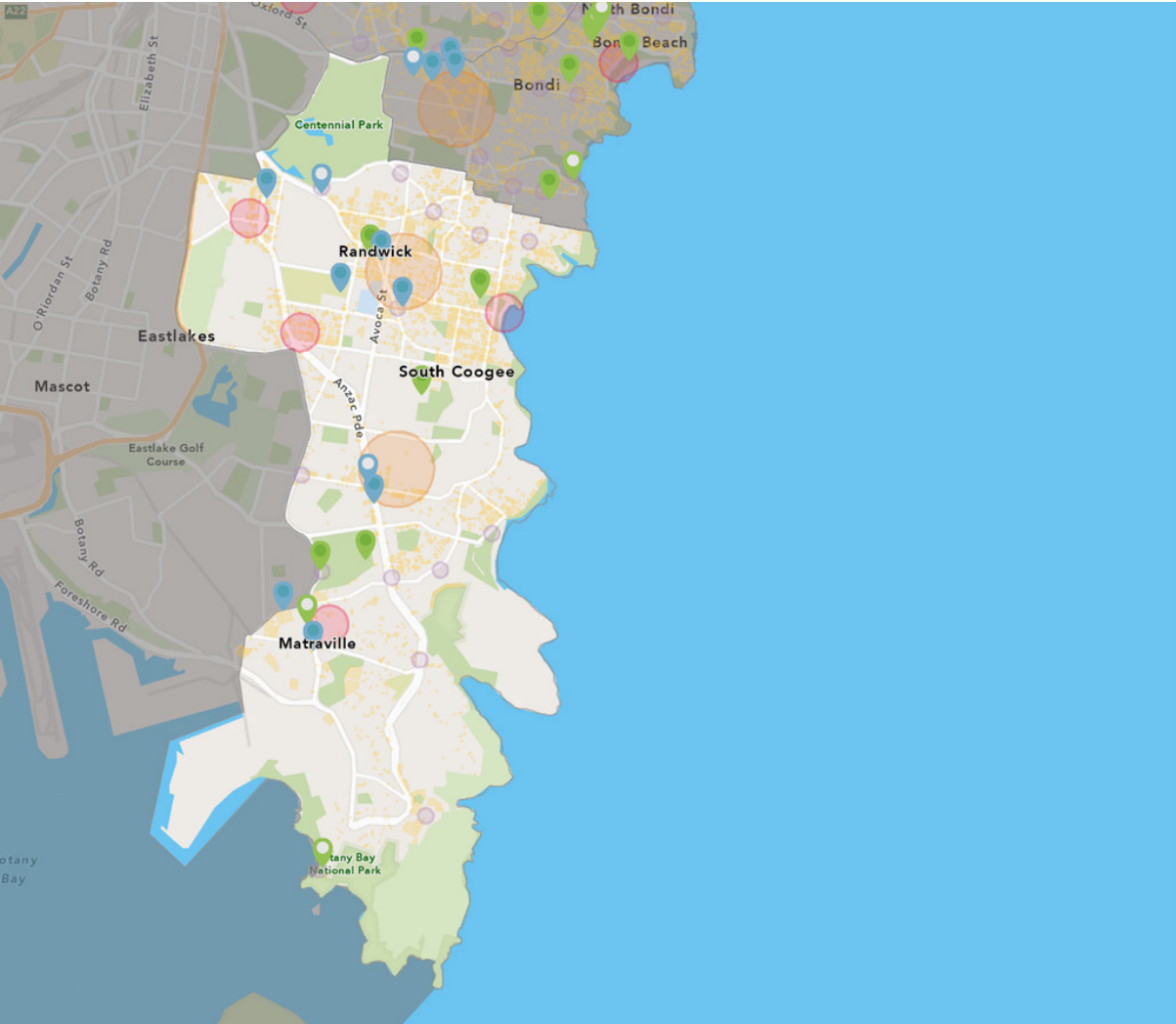
- High Density Residential Areas
2025 Target: minimum 10 additional slow charging ports per LGA*

Where should the chargers be located?

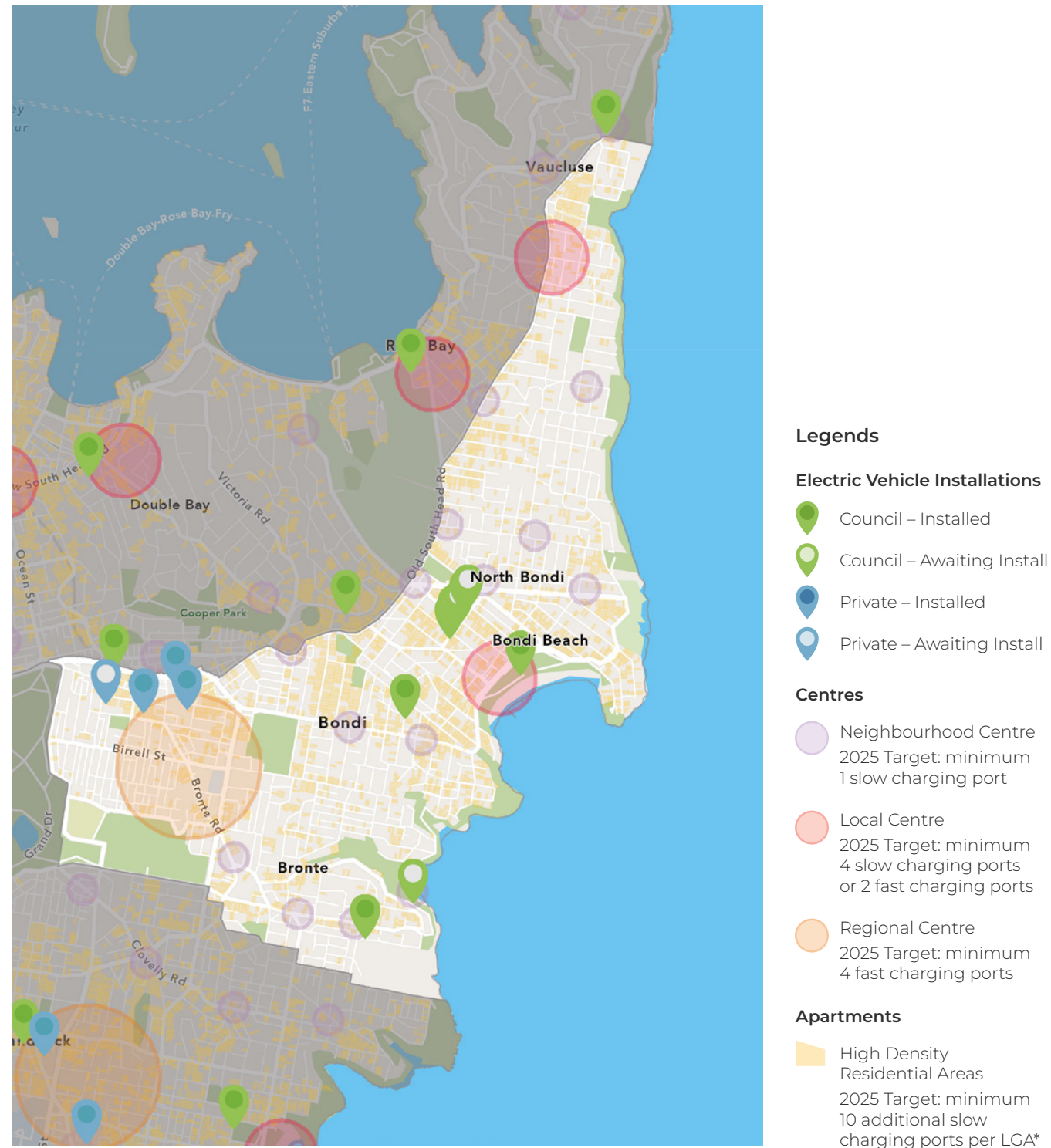
The Strategy proposes a place-based approach to selecting suitable locations with different types of charging stations installed in regional centres, local centres, and neighbourhood centres.

The type of charging is designed to match the average duration of stay and surrounding urban form. This means that fast to ultra-fast charging should be the focus for regional centres, medium to fast charging at key destinations where people stay for up to 4 hours and slower charging near high density areas to facilitate long-stay and overnight charging. The maps in this section summarise the suggested locations for various types of chargers, as well as targets for 2025.

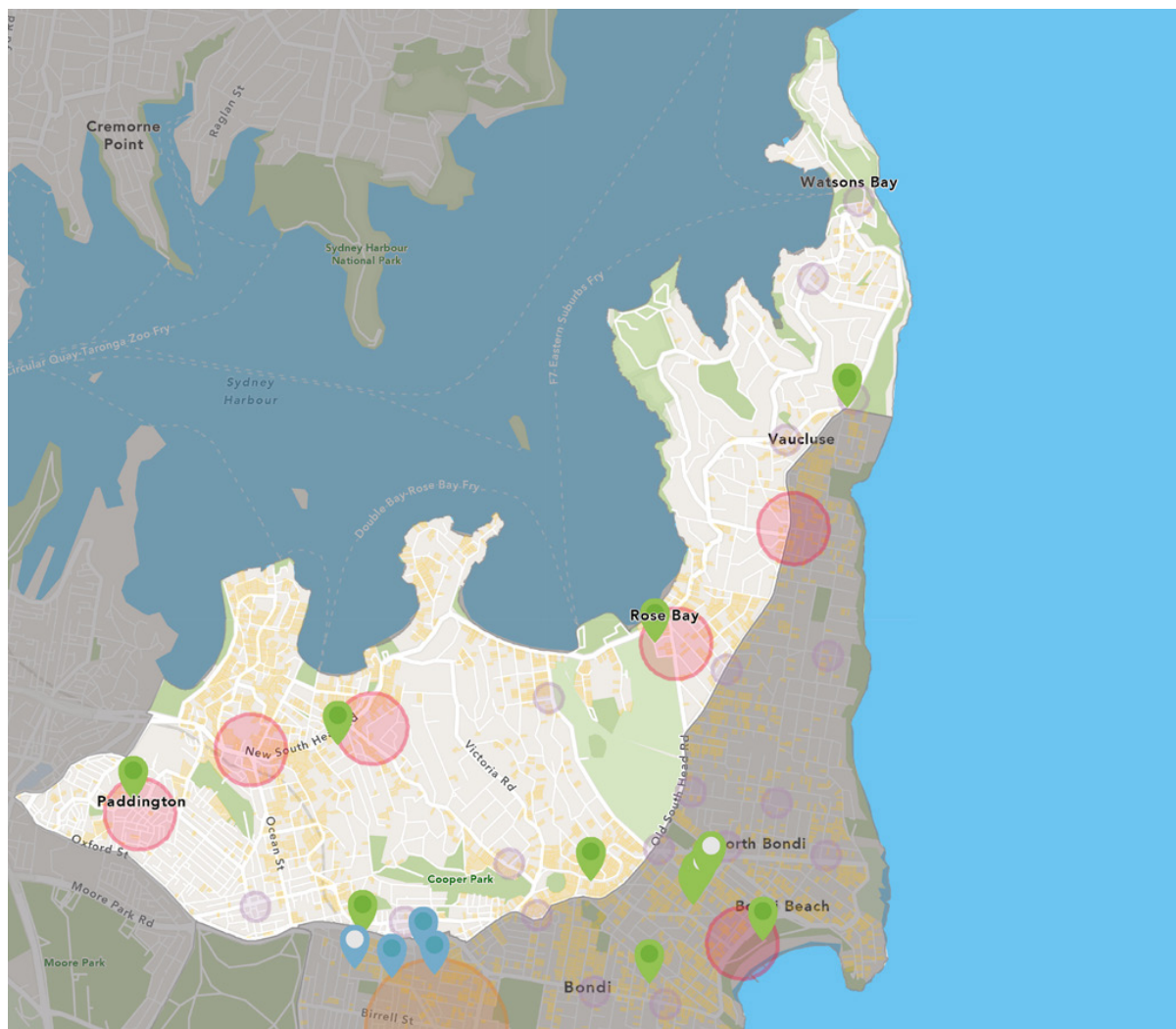
Charging Stations Locations – Randwick LGA



Charging Station Locations – Waverley LGA



Charging Station Locations – Woollahra LGA



What about fast charging hubs?

Three fast charging hubs in the Eastern Suburbs have received [funding from the NSW Government](#). These are:

- Waverley Library, 32-48 Denison St, Bondi Junction NSW 2022
- Ampol Australia Energy, 2 Alison Rd, Randwick NSW 2031, Australia

- Ampol Australia Energy, 737 Anzac Pde, Maroubra NSW 2035, Australia

The 'Private - Awaiting Install' icons on the map show these locations. These NSW Government funded stations will have a minimum of 2 charging bays with 175kW chargers and 2 with 350kW chargers, and all stations are expected to be constructed by September 2024.

05

Our Objectives and Actions



Our objectives

The following objectives are set for the Public Electric Vehicle Charging Strategy.

1



Reduce 3-Councils’ transport sector community emissions year on year

Metric: tCO2

Source: Resilient Sydney Platform



2



Maintain 3-Councils’ electric vehicle ownership above State and Federal average

Metric: % EV ownership

Source: Carloop & National Map

3



Maintain a minimum of 1 kW of public charging capacity per 1 EV registered in the 3-Councils’ LGAs

Metric: Ratio of capacity (kW) to EVs

Source: Carloop and PlugShare

4



Ensure users are more than 80% satisfied with the experience of Council owned chargers via a yearly survey

Metric: % user satisfaction

Source: Annual Survey

5



Ensure Council charging stations is online for more than 99% of each year

Metric: % downtime

Source: ChargeFox

6



Install or facilitate the following installations by 2025:

- High Density Residential Areas: minimum 10 additional slow charging ports per LGA*
- Neighbourhood Centre: minimum 1 slow charging port
- Local Centre: minimum 4 slow charging ports or 2 fast charging ports
- Regional Centre: minimum 4 fast charging ports

Metric: Number and types of chargers

Source: Plugshare

* High Density Residential Areas are identified as per the NSW EV Kerbside Charging Grants Map



Action plan

An action plan has been prepared to achieve the Vision and Principles outlined above. Approximate time frames have also been included as a guide.

Action	Description	Stakeholder(s)	Timeframe
Direct Deployment			
Expand the <i>Charging the East</i> network	Continue to expand the Charging the East Network in the Eastern Suburbs. Select sites using special analysis and the Site Selection Criteria (provided in Supporting Documentation). Use a consistent consultation and rollout process for installations. Develop a website showing uptake, numbers of chargers and frequently asked questions.	Regional Environment Program	Current
Seek funding for charging installations	Seek funding from Federal and State government (such as the NSW Government's Kerbside Charging Grants) for charging installations in carparks and kerbside.	NSW Treasury DCCEEW ARENA	0 – 12 months
Integrate charging infrastructure into redevelopments and streetscape upgrades	Where practicable, include charging stations in new developments of Council land and streetscape upgrades. Develop guidance documents as appropriate.	Major Project Teams Multi-function pole providers	0 – 12 months
Trial a Council owned DC charger	Trial at least one DC charger in the Charging the East network and assess its usage, performance and maintenance requirements.	Regional Environment Program	0 – 12 months
Develop a pathway to request public EV chargers	Develop a pathway for residents to request public EV chargers in their preferred locations.	Regional Environment Program	0 – 12 months
Develop tourism and economic opportunities	Undertake research on the impacts of EV chargers on tourism and economic development of neighbourhood, local and regional centres.	Economic Development Teams LGNSW	0 – 12 months
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	0 – 12 months

Leading the Charge – Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023

Action	Description	Stakeholder(s)	Timeframe
Continue reporting	Report back to councils on Action Plan progress, EV uptake and EV charger usage on a quarterly basis. Review EV Strategy after 5 years.	Governance	0 – 12 months
Undertake surveys	Undertake a survey of residents and charger users to gauge their attitudes and knowledge about the charging stations to inform future installations.	Regional Environment Program	1 – 2 years
Pursue cost recovery	Council's Charging the East network, which is currently cost neutral operationally, should by 2024 aim to achieve full cost recovery within a 10-year period. Prices should be updated annually in line with market rates.	Regional Environment Program	1 – 2 years
Facilitation			
Facilitate EV chargers in apartments	Pilot a program to assist apartments to install EV chargers. Assess the feasibility of rebates or grants, information resources and project management assistance.	Regional Environment Program	Current
Facilitate fast charging hubs on Council land	Identify Council owned sites that would be appropriate for fast charging and add them to the NSW Government's Fast Charging Grants website as a site host. Seek offers from private sector and charge station operators for licensing Council land. Run an EOI process to compare bids on a transparent basis.	NSW Treasury Private charging station operators	0 – 12 months
Facilitate installations of street pole electric vehicle charger	Facilitate installations of street pole electric vehicle charger. Trial and assess feasibility of unmarked parking spaces.	Regional Environment Program Ausgrid Charge Station Operators	0 – 12 months
Pilot a facilitation model for private organisations to install public EV chargers	Organisations like Brigidine College who own Wilson's carpark in The Spot, and AJC in Randwick have sought the assistance of the 3-Councils on how best to install and procure charging stations. The 3-Councils to pilot a facilitation model to assist these organisations using a similar model to Solar my School .	Clubs and community organisations Shopping centres Private businesses	1 – 2 years



Action	Description	Stakeholder(s)	Timeframe
Land Access			
Develop a consistent approach to proposals from third-party charging providers (rental, licence fee, etc)	Council frequently receives unsolicited proposals from third-party charging providers. Some of these are backed by grant funding through the Federal and State government. There is a need to develop a transparent and consistent approach to dealing with these offers e.g. via an EOI process.	Third-party providers Governance team	0 – 12 months
Standardise internal financial processes	Develop an internal financial process to account for costs and revenue related to the operation and licensing of chargers.	Various council teams	1 – 2 years
Education and Advocacy			
Explore payment via a single app	Advocate for a single access and payment application across all charging stations.	Charge Station Operators NSW Treasury	0 – 12 months
Investigate smart charging software	Investigate the potential for charging software reporting and payment platform (currently ChargeFox for Charging the East) to stop sessions, charge an 'overstaying fee' and provide real-time status of charging session.	CSO	0 – 12 months
Contact local businesses	Contact local businesses with private carparking to encourage and facilitate EV charger installations.	Regional Environment Program Local businesses	0 – 12 months
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	2 – 4 years

Leading the Charge – Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023

Action	Description	Stakeholder(s)	Timeframe
Planning Requirements			
Adopt new signage and parking arrangements	New signage and parking signage and restrictions have been issued by TfNSW and should be used except in specific circumstances (i.e. heritage areas).	Traffic and Transport Teams	Current
Align Eastern Suburbs EV Strategy with neighbouring Councils and SSROC	It is important to have a consistent approach across geographical boundaries. Implementation of the Strategy should occur with consultation with neighbouring Councils and SSROC to develop regional guidelines, policies and collateral.	Bayside, CoS, Inner West Council and SSROC	Current
Contribute to the NSW's technical guidance documents for charger installations in the public domain	Development of technical guidelines for on-street charging looking at site micro-alignment issues, cable runs, parking, and electrical.	Traffic and Transport Teams Asset teams	Current
Require 100% renewable electricity	Require all new public EV charging stations to be powered by 100% renewable electricity.	Regional Environment Program Charge Station Operators	Current
Align DCP and planning approvals, NCC, performance standards across councils	Align Council's DCP conditions for new developments to ensure they are consistent with any guidance from the NCC and NSW Government.	Planning teams	0 – 12 months
Investigate EV parking permits	Investigate the potential to issue an EV parking permit which allows residents shared use of EV only parking spots.	Planning	1 – 2 years
Develop compliance guidance	Provide training and guidance for PPO on enforcing new EV signage rules.	Council's Parking Patrol Officers	1 – 2 years
Develop DA conditions for private electric vehicle charging on public land	The State Environmental Planning Policy (Transport and Infrastructure) allows for residents to submit a DA for residents to install a charger outside their residence. Assess suitability of these chargers for the Eastern Suburbs based on learnings from other councils.	Planning	2 – 4 years

Abbreviations

Term	Definition
3-Councils	Randwick, Waverley, and Woollahra Councils
AC	Alternating Current
BEV	Battery Electric Vehicle
DC	Direct Current
EV	Electric Vehicle
kW	Kilowatt
kWh	Kilowatt-hours
PHEV	Plug-in Hybrid Electric Vehicle
REP	Regional Environment Program

References

¹ NSW Government, Electric Vehicle Strategy (2022)

² Resilient Sydney, Kinesis Platform (2023)

³ NSW Government, Registration Snapshot Report (2023)

⁴ CarLoop and Institute for Sensible Transport, Electric Vehicle Modelling for Eastern Suburbs (2023)

⁵ Electric Vehicle Charging: A review of consumer preferences and behaviours. University of Melbourne, 2020

⁶ Electric Vehicle Council, State of Electric Vehicles Report (2022)

⁷ IEA, Trends in Charging Infrastructure (2022)

⁸ London’s 2030 electric vehicle infrastructure strategy Executive summary December 2021



REPORT PD/5.5/23.11



Subject: Waverley Park Plan of Management - Adoption

TRIM No: SF23/3536

Manager: Nikolaos Zervos, Executive Manager, Infrastructure Services

Director: Sharon Cassidy, Director, Assets and Operations

RECOMMENDATION:

That Council:

1. Notes the feedback on the draft Waverley Park Plan of Management received during public exhibition, as set out in the report, and that no substantial changes have been required to the draft Plan of Management as a result of the consultation.
2. Adopts the Waverley Park Plan of Management attached to the report (Attachment 1) in accordance with section 40 of the *Local Government Act 1993* and section 3.23(6) of the *Crown Lands Management Act 2016*.

1. Executive Summary

A plan of management is a document that defines the value, use, management practices and intent for the broad public purpose for which the land has been reserved. On 20 October 2020, Council resolved (CM/7.6/20.10) to update the Waverley Park Plan of Management (PoM) for in response to changes made in 2018 to the *Crown Land Management Act 2016* (CLM Act).

On the 25 November 2022, in accordance with section 70B of the *Crown Land Management Regulation 2018*, the Minister for Lands and Property (the Minister) provided written consent for Council to adopt the Waverley PoM, following a successful public exhibition process, subject to inclusion of amendments requested by Crown Lands in Attachment 3.

The plan was publicly exhibited for 42 days from 20 March to 1 May 2023 to provide the community with the opportunity to review the Draft and provide further feedback. A summary of consultation findings is attached to this report (Attachment 2).

Community feedback and ideas received were in line with what the community told us in early rounds of consultation and are reflected in the draft PoM and Masterplan. Feedback received has not required any substantive changes to the PoM.

The PoM, with non-substantial amendments highlighted, is attached to the report (Attachment 1).

Should Council wish to substantially amend the PoM following exhibition, it will need to be resubmitted to the Minister for review and written consent to re-exhibit and adopt the amended PoM.

The community have expressed their support for the plan and it is therefore recommended that and requests that Council adopt the PoM attached to this report in accordance with section 40 of the *Local*

Government Act 1993 and lodge a copy of the adopted PoM with the NSW Department of Planning and Environment – Crown lands.

2. Introduction/Background

The Waverley Park Plan of Management (WP PoM 2012) was adopted by Council in 2012. Over the last decade the Action Plan contained within the WP PoM 2012 has been implemented, with new multi-purpose courts, amenities building, synthetic cricket training nets, St Marys Avenue parking, cricket site screens, synthetic field, lighting, path and landscape upgrades.

Since Council's adoption of the WP PoM 2012, Crown Lands updated the CLM Act, which came into effect in June 2018. In October 2020, Council resolved to update a priority list of Plans of Management (PoM) to comply with the new CLM Act. To meet Council's obligations for Crown Land, the Waverley Park PoM must be updated.

In line with the Council resolution, a draft plan was prepared, based on community consultation held from 25 October to 22 November 2021. Further consultation was then undertaken to gauge community feedback on the play space and fitness station upgrades before the plan was endorsed by both Council and Crown Lands to proceed to public exhibition, subject to amendments outlined in Attachment 3.

The plan was placed on public exhibition from 20 March to 1 May 2023 and was supported in the majority. A summary of consultation findings is attached to this report (Attachment 2).

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 3 May 2022	PD/5.1/22.05	<p>That Council:</p> <ol style="list-style-type: none"> 1. Endorses the draft Waverley Park Plan of Management attached to the report subject to the following amendments: <ol style="list-style-type: none"> (a) The inclusion of an overarching statement that turfed playing fields will remain turfed and not considered for synthetic turf replacement. (b) The inclusion of an overarching statement that the laying of additional concrete throughout the park be kept to a minimum. (c) Cars and parking (page 43 of the attachments under separate cover) – Amend the third line of the first paragraph to read: 'The whole car park, with the exception of the Mayor and General Manager reserved car spaces, is available to park users after hours and on weekends, with the exception of Tuesday nights until 8 pm.' (d) Disc golf – Remove all reference to disc golf and associated facilities (for example, on pages 49 and 90 of the attachments under separate cover).

		<p>(e) Action Plan (page 80 of the attachments under separate cover) – Replace action item B1.1vii ('Provide an accessible car space at the MWRC') with 'Provide an accessible car space in the car park behind Waverley Council Chambers.'</p> <p>(f) Action Plan (page 80 of the attachments under separate cover) – Replace action item B1.1iv ('Move existing sandstone wall on boundary of Field #1 and continue pathway around field') with 'Continue pathway around Field #1, minimising damage to the sandstone wall.'</p> <p>(g) Action Plan (page 88 of the attachments under separate cover) – Delete the word 'complete' from action item C1.4 such that it now reads: 'Waverley Park will provide a fitness experience for the community and will include the following...'</p> <p>2. Seeks approval of the draft Plan of Management from the NSW Minister for Planning in accordance with the <i>Crown Land Management Act 2016</i>.</p> <p>3. Authorises the Acting Director, Community, Assets and Operations to make changes to the draft Plan of Management as directed by the NSW Minister for Planning.</p> <p>4. Publicly exhibits the draft Plan of Management, as amended following feedback from the NSW Minister for Planning, for 42 days.</p> <p>5. Officers prepare a report to Council following the exhibition period.</p>
Council 15 March 2022	CM/7.11/22.03	<p>That Council:</p> <p>1. Notes the results and recommendations from initial Waverley Park Plan of Management community consultation.</p> <p>2. Proceeds to second stage community consultation to confirm fitness station concept design.</p> <p>3. Notes that the playspace and intergenerational fitness designs will be reported to Council at the May 2022 Council meeting.</p> <p>4. Notes the feedback received on the proposed Indoor Cricket Nets Facility concept design.</p>

		<ol style="list-style-type: none"> 5. Does not include provision for an Indoor Cricket Net Facility in the draft Waverley Park Management Plan 6. Collaborates with Eastern Suburbs Cricket Club Cricket to address shortfalls in indoor training facilities, including consideration of appropriate existing facilities across the local government area. 7. Notes that Council officers will present a report to Council on the draft Waverley Park Management Plan for endorsement and approval for community consultation in April 2022, which will also include sending the draft to the Minister for Planning for approval.
<p>Operations and Community Services Committee</p> <p>12 October 2021</p>	OC/5.2/21.10	<p>That Council:</p> <ol style="list-style-type: none"> 1. Continues with stage 1 consultation on the Waverley Park Plan of Management for a minimum 28 days, including specific consultation on the play space, fitness station (excluding the smaller fitness pods) and indoor cricket nets training facility: <ol style="list-style-type: none"> (a) Noting that additional information will be provided on Council's website to support the Have Your Say website survey, including elements from Council resolution PD/5.3/20.11 concerning the indoor cricket nets training facility, provision of amenities and layout and location of the commercial café (b) Subject to not considering alternative surfaces such as hybrids or synthetics. 2. Notes that an email update on consultation outcomes for the Waverley Park Plan of Management, play space, fitness station and indoor cricket nets training facility will be provided to Councillors in November 2021. 3. Subject to consultation outcomes, prepares a concept design for the play space and fitness station, with a report to Council in February 2022. 4. Officers prepare a report to Council following the stage 1 consultation, summarising the consultation outcomes and presenting the draft Plan of Management for public exhibition.

		<p>5. Notes that the time frame for endorsing a new Waverley Park Plan of Management has been extended and the expected timing for commencing construction of the indoor cricket nets is 2023 at the earliest.</p> <p>6. Investigates options to prioritise the following works, with a report to be prepared to Council detailing the scope and funding required:</p> <p>(a) Combining and better configuring the two change rooms (Sports Court and Away Team/Visitors) to the immediate south of the centre stairwell of the Margaret Whitlam Recreation Centre at the level of the playing field, subject to consultation with the Eastern Suburbs Cricket Club and other regular users of the facility.</p> <p>(b) Removing the non-structural blade wall at the northern end of the Margaret Whitlam Recreation Centre on the eastern side of Waverley Oval at the level of the playing field to provide much improved amenity and line of sight to the playing area.</p>
<p>Council 20 October 2020</p>	<p>CM/7.6/20.10</p>	<p>That Council:</p> <p>1. Pursuant to section 3.23 of the <i>Crown Lands Management Act 2016</i>, gives notice to the Minister administering the <i>Crown Lands Management Act 2016</i> of the initial categorisation of Bondi, Bronte, Tamarama and Waverley Parks Crown Reserves as detailed in Attachment 1 of the report.</p> <p>2. Authorises the General Manager to approve any minor amendments to the initial categorisations that may be required by Crown Lands.</p> <p>3. Notes that plans of management prepared prior to 2018 are required to be updated to comply with the new <i>Crown Lands Management Act 2016</i>.</p> <p>4. Updates the plans of management as prioritised in the report.</p> <p>5. Notes that the plans of management listed as a priority will be updated concurrently, and that the General Manager may reprioritise plans of management to respond to Crown Lands requirements if they change.</p> <p>6. Writes to the Crown Lands Area Manager requesting them to:</p>

		<p>(a) Appoint Council as Crown Land Manager for Gaerloch Reserve, Eastern Reserve, Raleigh Reserve and Clarke Reserve, which are devolved lands.</p> <p>(b) Formally confirm the earliest permissible time for the lodgement/assessment of the development applications for the Bondi Surf Life Saving Club and Bronte Surf Life Saving Club.</p> <p>7. Notes that there are capacity issues in completing all the requirements by the current deadline and that there are discussions underway with Crown Lands in relation to a possible extension of deadline and programming of work.</p> <p>8. Investigates options for recognising the cultural significance of land to First Nations people in NSW within plans of management.</p>
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4. Discussion

Council's open spaces are planned for, and managed through, the Open Space and Recreation Strategy (OSRS) and parks plans of management. A plan of management is a document that defines the value, use, management practices, and intent for the public purpose for which the land has been reserved.

The OSRS helps to understand the priorities for our parks to deliver quality greenspace and community recreation outcomes, as well as provide direction in their management. In addition, the Inclusive Play Study further defines how Council plans and upgrades play spaces.

All the preliminary ideas presented in Stage 1 of the Waverley Park PoM consultation were identified through these existing Council strategies. The strategies are based on community feedback and independent expert advice. The ideas presented in Stage 1 were tested and affirmed through the consultation process, which was extensive in reach and engagement, with the initial consultation seeing around 4300 interactions with the public. The findings showed support for the playground and fitness station upgrades, and opportunities to improve lighting, accessibility, parking, seating and hard court bookings.

Further consultation was undertaken between 5 August and 4 September 2022 to gauge community feedback on the play space and fitness station upgrades, prior to commencement of construction works in February 2023. These works are scheduled for completion in November 2023.

Public exhibition

The draft plan was provided to Crown Lands for approval on 5 May 2022. On 25 November 2022, the draft plan was approved by Crown Lands to proceed to public exhibition, subject to completion of the amendments listed in Attachment 3 which was issued via email notification to Councillors on 14 March 2023, prior to public exhibition.

The plan was publicly exhibited for 42 days from 20 March to 1 May 2023 to provide the community with the opportunity to review the Draft and provide further feedback. A summary of consultation findings is attached to this report (Attachment 2).

A range of engagement methods were used to maximise the opportunity for community participation. The methods used align with the IAP2 model for community engagement which has been adopted by Waverley Council including:

- Have Your Say website - 1079 page views, 712 visitors, 21 project followers.
- Media release via Council's website.
- Online survey - 25 submissions.
- On-site poster – 15 posters displayed at each park entrance.
- Flyer drop with QR code link to project - Issued to approximately 6,723 properties, and received 160 QR code scans.
- Social media posts - Facebook reach 2347, likes = 55 and Instagram reach 1472, likes = 6.
- Email notifications – Stakeholders, precincts and contributors to earlier rounds of consultation.
- Have Your Say engagement e-newsletter - 9,487 recipients, 52.2% open rate.
- Waverley Weekly e-newsletter - 6,946 recipients, 76 clicks through to PoM page, 6,501 recipients, 124 clicks through to PoM page

The aim of the public exhibition was to inform the public of the draft plan of management, including the vision, directions, master plan and action plan.

Respondents were asked to confirm whether they had read the draft plan, whether they support the draft plan and whether the master plan and action plan achieve the key objectives of the draft POM.

Respondents were then asked to provide any additional comments, feedback or areas of improvement and concern. The open format of this question allowed respondents to comment on a range of issues, many of which had already been addressed in the plan.

Summary of feedback and key ideas

There was general community support for the overarching vision of the plan and the key ideas, with 68% (17) of survey respondents supportive of the plan and 56% (14) of survey respondents believing that the master plan and action plan achieve the key objectives of the plan.

Email responses were accepted and included in the results as part of the public exhibition process, however, the free form nature of email submissions meant that not all respondents addressed the survey questions directly. 34% (four) of email respondents explicitly stated their support for the plan, while 8% (one) stated that they did not support the plan. 58% of email respondents did not provide a clear indication of their support for the plan, however, their feedback has been included in the consultation results.

Survey and email responses were categorised to align with the existing themes of the draft POM: Design and Setting; Getting to and Around; Playing and Relaxing; Enhancing the Environment; Community Culture and Heritage; and Management and Maintenance.

The key ideas that arose from the received responses were:

- Accessibility through improving and rationalising pathways and seating (eight mentions).
- Improved dog off-leash facilities (seven mentions).
- Pedestrian lighting – particularly with regard to safety (six mentions).
- Improving landscaped elements through increased tree planting (five mentions).
- Dedicated pick up and drop off zone (four mentions).

- Increasing opportunities for passive recreation (four mentions).

These ideas were in line with what the community told us in Stage 1 of consultation and are reflected in the Draft PoM and Masterplan.

Despite broad support for the plan, there continues to be a small cohort within the community that is resistant to any development of the Park, particularly that which benefits sporting user groups.

Previous consultation has indicated that the community recognises that the Waverley population is slowly changing, that older people are going to become a major visitor cohort to the park in the future and that new infrastructure will need to take this into account to support the passive recreation activities which the community wishes to undertake in the park.

This feedback was noted and weighed up against the ongoing challenge Council faces in balancing the needs of the community and the activities that they wish to participate in. The Waverley area is deficient in quality, contemporary and fit for purpose open space – specifically sports facilities, compared to other Sydney LGA's and as demand for space increases so too does the demand for more and enhanced facilities.

Council also has a responsibility to manage our open spaces for all of our community. There will be situations where the needs for new facilities may not be as important as the need to protect quality open space for the whole community. Residents and visitors who come to Waverley Park for passive recreation make up the park's largest user group. This is reflective of the fact that 67% of the park is set aside for passive recreation. These users enjoy activities such as walking, cycling, jogging, yoga, picnicking, playing, dog walking, relaxing and watching sport.

Figure 1 illustrates some of the key ideas derived from community feedback and how they have been incorporated into the plan.



Figure 6.1 Design and setting: The Masterplan

Figure 1. Key ideas from community feedback.

5. Financial impact statement/Time frame/Consultation

The ongoing preparation of PoMs is funded annually under the Capital Works program. This project is within budget.

It is intended that the implementation of the Plan of Management will be included in the Long Term Financial Plan with ongoing maintenance from the Operational Plan and major upgrades funded from future Capital Works Programs.

Council is currently co-funding upgrades to the playground, fitness station and park lighting through the Capital Works Program and State Government Public Legacy Grant Program.

Once the PoM is formally adopted by Council, officers will update the community and respond directly to residents and stakeholders who have provided feedback through the course of the PoM development.

6. Conclusion

Council resolved to draft a Plan of Management for Waverley Park. The Plan of Management has now been prepared drawing on three rounds of community engagement. The community have expressed their support for the plan and it is therefore recommended that the Waverley Park Plan of Management be adopted by Council. On adoption of the Plan, a copy will be issued to the Minister for Lands and Property and Department of Planning and Environment – Crown Lands.

7. Attachments

1. Waverley Park Plan of Management (under separate cover) [⇒](#)
2. Public Exhibition Summary Report (under separate cover) [⇒](#)
3. Table of Amendments (under separate cover) [⇒](#) .

CLOSED SESSION
PD/7/23.11

Subject: Moving into Closed Session

Author: Emily Scott, General Manager

**RECOMMENDATION:**

That:

1. Council moves into closed session to deal with the matters listed below, which are classified as confidential under section 10A(2) of the *Local Government Act* for the reasons specified:

PD/7.1/23.11 CONFIDENTIAL REPORT - Boot Factory and Mill Hill Community Centre and
Tamarama Surf Life Saving Club - Project Update

This matter is considered to be confidential in accordance with Section 10A(2)(d)(i) of the *Local Government Act*, and the Committee is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

2. Pursuant to section 10A(1), 10(2) and 10A(3) of the *Local Government Act*, the media and public be excluded from the meeting on the basis that the business to be considered is classified as confidential under section 10A(2) of the *Local Government Act*.
3. The correspondence and reports relevant to the subject business be withheld from the media and public as provided by section 11(2) of the *Local Government Act*.

Introduction/Background

In accordance with section 10A(2) of the Act, Council may close part of its meeting to deal with business of the following kind:

- (a) Personnel matters concerning particular individuals (other than councillors).
- (b) Personal hardship of any resident or ratepayer.
- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
- (d) Commercial information of a confidential nature that would, if disclosed:
 - (i) Prejudice the commercial position of a person who supplied it: or
 - (ii) Confer a commercial advantage on a competitor of Council;
 - (iii) Reveal a trade secret.
- (e) Information that would, if disclosed, prejudice the maintenance of law.
- (f) Matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
- (h) Information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) Alleged contraventions of any Code of Conduct requirements applicable under section 440.

It is my opinion that the business listed in the recommendation is of a kind referred to in section 10A(2) of the *Local Government Act 1993* and, under the provisions of the Act and the *Local Government (General) Regulation 2021*, should be dealt with in a part of the meeting that is closed to members of the public and the media.

Pursuant to section 10A(4) of the Act and clauses 14.9–14.10 of the Waverley Code of Meeting Practice, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

RESUMING IN OPEN SESSION PD/8/23.11

Subject: Resuming in Open Session
Author: Emily Scott, General Manager



RECOMMENDATION:

That Council resumes in open session.

Introduction/Background

In accordance with clause 14.21 of the Waverley Code of Meeting Practice, when the meeting resumes in open session the chair will announce the resolutions made by Council while the meeting was closed to members of the public and the media.