



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 AUGUST 2018

A handwritten signature in grey ink, appearing to read 'R. B. McLeod'.

Ross McLeod
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*.

Live Streaming of Meetings

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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6. Urgent Business

7. Meeting Closure

CONFIRMATION OF MINUTES PD/4.1/18.08



Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 3 July 2018

TRIM No.: SF18/246

Author: Richard Coelho, Governance and Internal Ombudsman Officer

RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee meeting held on 3 July 2018 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 the Strategic Planning and Development Committee meeting must be submitted to Strategic Planning and Development Committee for confirmation, in accordance with clause 266 of the *Local Government (General) Regulation 2005*.

Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 3 July 2018



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 3 JULY 2018**

Present:

Councillor Paula Masselos (Chair)	Lawson Ward
Councillor John Wakefield (Mayor)	Bondi Ward
Councillor Dominic Wy Kanak (Deputy Mayor)	Bondi Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor George Copeland	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Elaine Keenan	Lawson Ward
Councillor Steven Lewis	Hunter Ward
Councillor Will Nemesh	Hunter Ward

Staff in attendance:

Ross McLeod	General Manager
Rachel Jenkin	Acting Director, Waverley Life
Peter Monks	Director, Waverley Futures
Emily Scott	Director, Waverley Renewal
Jane Worthy	Internal Ombudsman

There being no quorum at the scheduled start time of the 3 July 2018 meeting, the Chair adjourned the meeting to reconvene at 6.30 pm on Tuesday, 17 July 2018, in the Waverley Council Chambers.

At the commencement of the reconvened meeting at 6.30 pm on Tuesday, 17 July 2018, those present were as listed above.

Pursuant to clause 5.2(3) of Council's Code of Meeting Practice, the absence of quorum at the 3 July 2018 meeting was a consequence of Cr Keenan having been granted a leave of absence for the meeting, Crs Burrill and Kay having unforeseen personal commitments and Crs Betts, Goltsman and Nemesh having other meeting commitments. Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak were present.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

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

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

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

1. Apologies/Leaves of Absence

Apologies were received and accepted from Cr O'Neill.

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/4.1/18.07 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 5 June 2018 (SF18/246)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Wakefield

That the minutes of the Strategic Planning and Development Committee meeting held on 5 June 2018 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/18.07 Cities Power Partnership Pledges (A17/0645)

MOTION / UNANIMOUS DECISION

Mover: Cr Copeland
Seconder: Cr Wakefield

That Council endorses the following five pledges developed as part of our commitment to the Cities Power Partnership (CPP) and reviews the targets in 6 months' time:

1. Through the SSROC led bulk renewable energy Power Purchase Agreement, Waverley will procure renewable energy generated from a new off-site large scale solar or wind farm to meet at least 20% of our total electricity supply, with the view to scaling this amount up over time.
2. Through the Building Futures program, Waverley Council will provide financial and technical support to building owners of high rise residential buildings in Bondi Junction to help improve their energy efficiency and reduce their greenhouse gas emissions.
3. Waverley will seek to increase the uptake of rooftop solar for residential and commercial strata buildings, through the support of existing rooftop solar access models and the development of new innovative programs.
4. Council will increase awareness and engagement in the community on energy efficiency, renewable energy and sustainable transport through our Second Nature program. By developing and delivering digital and print communications, targeted behaviour change initiatives, workshops, events and collaboration with community groups and other stakeholders, Second Nature empowers our community to take sustainability actions in their everyday lives.
5. Waverley will deliver our 'Embedding Sustainability' project to ensure environmental sustainability is systemic across Council's day to day business, services, and operation. The program will involve refining our procurement processes, ensuring our projects are designed and delivered to high environmental sustainability standards, by skilled and engaged staff to increase resource efficiency within Council offices and venues.

PD/5.2/18.07 Waverley Cycling Advisory Committee (A18/0188)

MOTION / UNANIMOUS DECISION

Mover: Cr Keenan
Seconder: Cr Wakefield

That Council:

1. Adopts the Terms of Reference for the Waverley Cycling Advisory Committee attached to this report subject to the following amendments:
 - (a) In 'Meetings of the Committee' section 4th and 5th bullet points: change 'members' to 'members and all councillors'.
 - (b) In 'Media Protocol' section: delete 'without the Mayor or the Chairperson's approval'.
2. Appoints Councillor Lewis (Mayor's delegate), Councillor Copeland and Councillor Goltsman to the Committee.
3. Appoints the following BIKEast members to the Committee:
 - (a) Anish Bhasin.
 - (b) Tanya Bosch.
4. Appoints the following community members to the Committee:
 - (a) Bastien Wallace.

(b) Wil Meaden.

(c) Neil Lessem.

(d) Kate Marshall.

(e) Mina Nada.

5. Notifies unsuccessful candidates that they are welcome to attend the Committee as members of the public.

PD/5.3/18.07 Planning Agreement Policy 2014 - Review (A15/0046)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Lewis

That Council defers this matter, subject to:

1. Council officers further considering the issues associated with any proposed increase in the VPA funding split towards affordable housing.
2. A workshop with Councillors once this information has been prepared by Council officers.

6. Urgent Business

There were no items of urgent business

7. Meeting Closure

THE MEETING CLOSED AT 6.41 PM.

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SIGNED AND CONFIRMED
CHAIR
7 AUGUST 2018

REPORT
PD/5.1/18.08**Subject:** Waverley Cemetery - Land Use Management Plan**TRIM No:** A16/0668**Author:** Robert Sabato, Senior Project Manager**Director:** Emily Scott, Director, Waverley Renewal

RECOMMENDATION:

That Council:

1. Adopts the Waverley Cemetery Land Use Management Plan (LMP) attached to this report for the purposes of guiding future works within the Cemetery.
2. Publishes the LMP on Council's website.

1. Executive Summary

In response to the recent State Heritage listing, the Waverley Cemetery Conservation Management Plan (CMP) 2003 has been revised. The new Waverley Cemetery CMP adopted by Council has assisted the development of the Cemetery LMP which evaluates land use opportunities that remain within the Cemetery. The evaluation will assist Council in developing a business plan to determine the long term funding model for Waverley Cemetery.

The Waverley Cemetery LMP has been prepared by Group GSA and provides high level landscape concepts on potential land use opportunities. The document serves to guide the day-to-day business of Waverley Cemetery and assist in the overall experience and quality of service as well as allowing the cemetery to continue to operate as an active cemetery. The LMP sets the vision and framework for how the cemetery is to be developed to meet the present and future needs of the surrounding communities.

Following Council's adoption of the LMP, the document will be used by Waverley Cemetery as a working document to guide Business Model development.

2. Introduction/Background

Waverley Cemetery was gazetted to the State Heritage Register (SHR) of New South Wales on 28 October 2016, under the NSW Heritage Act (SHR no. 01975). The grounds of Waverley Cemetery are also listed as an item of local significance under Schedule 5 of the Waverley LEP 2012. In 1980, Waverley Cemetery was listed by the National Trust of Australia (NSW). Although this listing has no legal weight, it is a well-accepted measure of the heritage significance of a place. Council's submission that Waverley Cemetery be included on the National Heritage Register is now being considered.

Following on from the CMP, the LMP will further serve to encourage and strengthen the sense of place and heritage significance of the site. The Masterplan builds upon the vision and values outlined by Council and other stakeholders, utilising many of the existing elements to improve the long term beauty and amenity of the Cemetery.

The key objectives of the plan include:

- Identify relevant landscape, heritage and operational opportunities and constraints.
- Optimise the use of the land available within the site, through the enhancement of existing amenities, improvements to circulation and added points of interest.
- Protect and respect the environmental and cultural values through sensitive and sustainable outcomes and approaches.
- Provide strategic formwork for the enhancement and development that is realistic, achievable and within reasonable resources available.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 10 October 2017	CM/8.6/17.10	<p>That:</p> <ol style="list-style-type: none"> 1. A progress report be submitted to the November 2017 Council meeting on the work to date about the: <ol style="list-style-type: none"> (a) Development of the public register of significant graves and monuments of the Waverley Cemetery, which is to be incorporated into an app for visitors to the site. (b) Status of the investigation in to the establishment of a foundation to secure the financial future of the Waverley Cemetery. (c) Listing of Waverley Cemetery on the National Heritage Register. 2. An education and visitors program be developed in consultation with the Residents for Waverley Cemetery.
Council Meeting 20 September 2016	CM/7.12/16.09	<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes that the final engineering report for the Waverley Cemetery coastal walk and landslip restoration has identified that both projects must be constructed concurrently. 2. Notes that the current estimated cost of both projects is \$6 million. 3. Commits \$925,270 from the SAMP Cemetery Reserve to part fund the remediation program. 4. Commits \$700,000 from the Cemetery Operational Business Reserve to part fund the program. 5. Commits \$4,374,730 from the Centralised Reserve to fund the remaining project budget.

		<p>6. Notes that Council has commenced work on a Strategic Business Plan for Waverley Cemetery in 2016/2017 that will consider potential business models and income generating opportunities available to fund future cemetery work.</p> <p>7. Notes that Council will commence the preparation of a new Conservation Management Plan and Plan of Management for Waverley Cemetery, pending an announcement of State Heritage Listing.</p> <p>8. Notes advice from the Office of Local Government that has confirmed that the allocation of this funding is in accordance with the OLG Circular of 18th December 2015 Council decision making during merger proposal periods.</p> <p>9. Erects signs at both end of the Cemetery walkway updating the public about the project, including the timeline and works involved.</p>
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4. Discussion

The LMP is an important tool for a heritage item and provides a guide to future care and use. It sets out what design strategies are appropriate to enable the significance to be retained in its future use and development.

A LMP normally includes the following:

- An outlined history of the place.
- A thorough examination of its physical fabric.
- Concept development.
- Landscape master plan.

The LMP includes the above components and policy guidelines for the overall long-term conservation of the significant fabric and the retention of heritage significance of the site. It will guide Council when considering proposals for Waverley Cemetery and development in the vicinity.

The LMP analyses the surviving physical fabric and landscape elements of the cemetery. The document includes landscape concepts that explore specific areas on the site. The available land has been assessed and opportunities and considerations are identified for interments. A staged approach is outlined in the Masterplan. This will assist Council to evaluate current land use capacity and develop a business plan to determine the long term operation of Waverley Cemetery.

5. Financial impact statement/Timeframe/Consultation

The LMP total consultancy cost is \$7,850 (excluding GST), and is funded from the Waverley Cemetery Operational Budget, 34041.

6. Conclusion

As the Waverley Cemetery site has both state and local significance, it is necessary to have a LMP that can inform future strategy and development within Waverley Cemetery.

7. Attachments

1. Waverley Cemetery Master Plan (under separate cover) [⇒](#)

REPORT
PD/5.2/18.08

Subject: Bondi Surf Bathers Life Saving Club Conservation Management Plan

TRIM No: A17/0073

Author: Fleur Mellor, Acting Manager, Urban Design and Heritage

Director: Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council adopts the Bondi Surf Bathers Life Saving Club Conservation Management Plan attached to this report for the purposes of:

1. Guiding future works within the Bondi Surf Bathers Life Saving Club.
2. Submitting it to the NSW Heritage Division (Office of Environment and Heritage) for endorsement.

1. Executive Summary

A Conservation Management Plan (CMP) has been prepared for the Bondi Surf Bathers Life Saving Club (BSBLSC) outlining policies for its ongoing management based on the heritage significance of the place. The policy recommendations are based on thorough documentary and physical research and will provide guidance in relation to changes to the fabric, uses and future development.

The BSBLSC is not individually listed on any heritage list, but is located within the Bondi Beach Cultural Landscape State Heritage listed curtilage, and thus is captured as part of a State Heritage Listed curtilage. The CMP does however recommend that consideration be given to the individual listing of the BSBLSC on the State Heritage Register (SHR).

Bondi Beach inclusive of the BSBLSC is listed on the National Heritage List (NHL), State Heritage Register (SHR) and Schedule 5 of Waverley Local Environmental Plan 2012 (Waverley LEP 2012). The CMP focuses on the BSBLSC but provides consideration of the wider area and the contribution of the Club to this significant setting. The boundary of the CMP study area is shown in Figure 1. The Bondi Surf Bathers Life Saving Club Conservation Management Plan (BSBLSC CMP) has been prepared by Jean Rice Architects and is the first detailed and comprehensive study of the Club that has been completed.

The BSBLSC CMP is currently in its final draft form with a review carried out by the BSBLSC and Council Officers. The submission of the CMP to the NSW Heritage Division for review and finalisation is an important milestone for the conservation and evolution of the BSBLSC. Upon submission of the CMP for review, the NSW Heritage Division have indicated, if they are generally satisfied, that they will provide heritage advice in relation to a pre-DA for the BSBLSC. The incorporation of this information as appropriate will assist in gaining support for the proposal when submitted to the NSW Heritage Council for comment.



Figure 1. Boundary of the BSBLSC CMP Study Area (source: Waverley Council /Jean Rice Architect).

2. Introduction/Background

At its meeting on 2 March 2016, the NSW Heritage Council considered the Bondi Cultural Landscape with reference to a proposal for the Bondi Works Yard and the BSLSC. At the meeting, the Heritage Council communicated concerns in regards to the perceived bulk and scale of the scheme presented for the BSBLSC and in response requested that a CMP be prepared for the purposes of endorsement by the NSW Heritage Council. For a CMP to be endorsed a detailed review is required to be carried out by the NSW Heritage Office with a positive recommendation required by the NSW Heritage Division.

The CMP for the Club, and the CMP for the Bondi Pavilion, have regard to the Bondi Beach Cultural Landscape CMP which focuses on the setting and the SHR curtilage. The Bondi Beach Cultural Landscape CMP in turn sits within the umbrella of the Bondi Park, Beach and Pavilion Plan of Management and Masterplan. Notwithstanding of this relationship the NSW Heritage Division have stated that the CMP for the Club can be endorsed individually, in a similar process to the Bondi Pavilion CMP. The CMP for the Bondi Beach Cultural Landscape is yet to be endorsed.

Jean Rice Architects has prepared the BSBLSC CMP as well as the Bondi Beach Cultural Landscape CMP. The Bondi Pavilion CMP was prepared by TKD Architects. A diagrammatic summary of the relationship between the Plans is provided in Figure 2.

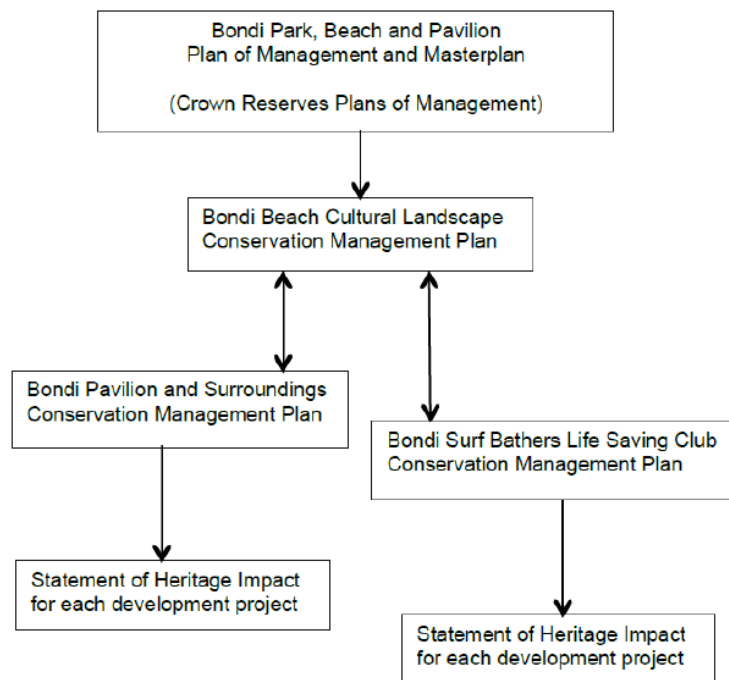


Figure 2. Relationship of the Bondi Park, Beach and Pavilion Plan of Management and Master Plan to the CMPs for Bondi Beach (source: TKD Architects, Bondi Pavilion CMP December 2016, p 3).

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 15 May 2018	CM/5.3/18.05	<p>That Council:</p> <ol style="list-style-type: none"> 1. Takes actions necessary to: <ol style="list-style-type: none"> (a) Have all Waverley surf club buildings at SAMP 2 minimum level of maintenance within five years. (b) Enable all surf clubs to be self-funding within five years. 2. Establishes discussions with clubs represented in the Surf Club Committee to achieve these goals, including negotiating template base leases under the Crown Lands Act. 3. Reports back to Council regarding development plans of each club, including current costings, with minimum six-monthly follow up reports until the end of 2020. 4. Completes as soon as possible all necessary planning instruments, particularly Conservation Management Plans, where required for each club facility.

		<ol style="list-style-type: none"> 5. Seeks State and Federal funding for each proposal additional and/or in co-operation with individual clubs. 6. Works with surf clubs on an ongoing basis to promote greater diversity and inclusion. 7. Prepares regular minutes of the Surf Club Committee to be submitted to Council.
Council Meeting 10 October 2017	CM/8.1/17.10	<p>That:</p> <ol style="list-style-type: none"> 1. Council acknowledges the community support for Bondi Pavilion to undergo a refurbishment that retains the Pavilion as a community and cultural centre, and that will not reduce community space. 2. Council receives a report on the current state of the development application for the refurbishment of the Bondi Pavilion and advice on how the current plans can be modified or whether the project of redevelopment of the Pavilion should be completely reassessed. 3. Council establishes an internal Bondi Pavilion Project Committee, including the three Bondi Ward Councillors, to thoroughly review current plans, Council's community research, business plan and public submissions, Council's project management record to date and its future capacity, and preferred stage options for refurbishment; and makes its recommendations public. 4. Council establishes a Bondi Pavilion Stakeholder Committee by public expression of interest tasked with articulating future cultural and community programs and artistic direction of the Pavilion; and that the selection of committee members and the chair of this committee be transparent and open. <ol style="list-style-type: none"> (a) The Bondi Pavilion Stakeholder Committee (BPSC) will comprise a maximum of 12 members consisting of a maximum of seven members appointed following the EOI campaign plus one delegate from the Bondi Beach Precinct and one delegate from the Friends of Bondi Pavilion, and all Bondi Ward Councillors. The Mayor and Deputy Mayor will be alternate chairs for the Committee.

		<ul style="list-style-type: none"> (b) The Expression of Interest campaign will commence 11 October 2017 and run for a period of four weeks. (c) The Mayor and Deputy Mayor, in consultation with the General Manager, will recommend membership of the BPSC consistent with the above clauses. (d) A report will come to Council on 21 November 2017 establishing membership and Terms of Reference of the BPSC for Council's approval, including a list of unsuccessful applicants. (e) The Terms of Reference will establish the necessary reporting outcome which must include the establishment by the BPSC of a matrix of recommended and desired uses and functions of the Pavilion. (f) The first meeting of the BPSC will be held on 25 November 2017 with two subsequent weekly meetings and, if necessary, a plenary meeting immediately thereafter. (g) A report will be prepared detailing the deliberations of the BPSC for the 6 February 2018 Council committee meeting. (h) The BPSC will reconvene after this initial phase to consider cultural and arts programming for the Pavilion on an ongoing basis. <p>5. Both the Bondi Pavilion Project Committee and the Bondi Pavilion Stakeholder Committee be supported by senior Council staff and appropriate managers supplying appropriate material on all matters relating to the Pavilion, and include a secretariat for accurate minute-taking.</p> <p>6. Council receives the Bondi Beach Cultural Landscape Conservation Management Plan prepared for Council in December 2016 by architect Jean Rice at the inaugural meeting of the Strategic Planning and Development Committee.</p> <p>7. Council notes that the following reports should be tabled at the same meeting as the report requested in clause 2 above:</p>
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		<p>(a) Fair Use Policy.</p> <p>(b) Additions to the Bondi Pavilion Cultural and Community Use Impact Assessment (adopted on 4 July 2017).</p>
Council Meeting 19 May 2015	CM/7.7/15.05	<p>That:</p> <ol style="list-style-type: none"> 1. Council adopts the Bondi Pavilion and Surroundings Conservation Management Plan for the purposes of: <ol style="list-style-type: none"> a) Guiding future works to Bondi Pavilion and the surrounding area. b) Submission to the NSW Heritage Branch (Office of Environment and Heritage) for endorsement. c) Publishing on the Waverley Council website. 2. On page 148 of the Bondi Pavilion and Surroundings Conservation Management Plan, the following amendment is inserted after Policy 7: <p>‘Policy 8: All physical works affecting Aboriginal heritage conservation to be undertaken in consultation with the La Perouse Local Aboriginal Land Council.’</p>

4. Discussion

The management of BSLSC wishes to proceed with proposed works to help ensure the BSLSC is fit for purpose and to ensure its longevity. The proposal will take into consideration feedback received from the NSW Heritage Council when the previous scheme was presented in 2016. To address issues raised in relation to a perceived excess in relation to bulk and scale a carefully sited small scale pavilion rather than one large structure is being considered.

It is important that the CMP, when submitted, is supported by the NSW Heritage Division. This support will help expedite the subsequent formal review and endorsement process by the NSW Heritage Council. A relationship between the CMP and the proposal is important to clarify that it is informed by sound heritage principles. If it can be demonstrated that a proposal is consistent with an endorsed CMP, this will help streamline the approval process. With this in mind a final draft of the CMP is required to be submitted to the NSW Heritage Division to enable pre-DA discussions and to initiate the process required for endorsement.

It is important that the policies included in the CMP provide appropriate guidance for the proposed works. A number of conservation policies have been developed based on the vision for the BSLSC's conservation:

- *Continue to contribute as an integral part of the Bondi Beach Cultural Landscape.*

- *Provide volunteer surf lifesaving and associated activities at the club and on Bondi Beach in accord with the rules of the club, assisting in making the place safe for ocean swimming, surfing and dewater sports for young and old.*
- *Conserve the original fabric of the 1934 surf club building, and if the opportunity arises remove intrusive additions, while providing adequate and up to date facilities and services for the club's activities.*
- *Preserve the collection and artwork at and associated with the club.*
- *Celebrate the history of the club through its activities and by interpreting the place and collection and through events and activities so people can learn about its heritage values (see BSBLSC CMP, p 306).*

The CMP also includes a consideration that the BSBLSC should be individually listed on the SHR as it is the oldest formally constituted surf lifesaving club. As the BSBLSC is already included in the curtilage of the Bondi Beach Cultural Landscape SHR the BSBLSC is already required to have regard to the NSW Heritage Act however the individual listing will further acknowledge the importance the history of the BSBLSC. An extract from the Statement of Significance is included below:

The BSBLSC and its club house are of cultural significance at state level as the home of Australia's oldest formally constitutes surf lifesaving club. The club has occupied several positions on Bondi Beach since its inception in the summer of 1906/07 and the organization is integral to the birth and development of the now internationally recognized practice of surf lifesaving. The sequence of club buildings from tent, to timber club house, to substantial [Mediterranean style] buildings reflect the growth and development of the movement and the club's activities on Bondi Beach for over a century.

The NSW Heritage Division has taken a conservative approach to the review of the CMPs for the Bondi Beach area. The other CMPs prepared for Bondi Beach have been subject to a prolonged period of review and feedback before the CMP is endorsed. Council officers have however been in discussions with the NSW Heritage Division to facilitate rapport and to gain a greater understanding of the NSW Heritage Divisions expectations for a CMP.

5. Financial impact statement/Timeframe/Consultation

The consultancy cost of \$29,760 (excluding GST) is being funded from the Bondi Pavilion Capital Works Budget, this includes a variation amount as a result of NSW Heritage Division feedback and requirements of the project.

Consultation has taken place with the BSBLSC management and advice from the NSW Heritage Division has also been received as part of the project to deliver CMPs for the Bondi Beach Cultural Landscape, Bondi Beach Pavilion and BSBLSC.

A pre-DA for the proposed work at the BSBLSC is planned for the end of August.

6. Conclusion

A CMP has been prepared for the BSBLSC. It is the first comprehensive management plan for this building and forms part of the wider Bondi Beach Cultural Landscape. It was prepared in response to the comments received from the NSW Heritage Council in regards to having a suite of CMPs for Bondi Beach including the Club, Bondi Pavilion and the broader Bondi Beach Cultural Landscape.

Following adoption of the document by Council, the BSBLSC CMP to guide future works in the area will be submitted to the NSW Heritage Division for its review and submission to the NSW Heritage Council for endorsement.

7. Attachments

1. Bondi SBLSC - Conservation Management Plan (under separate cover) [⇒](#)

REPORT
PD/5.3/18.08

Subject: Bondi Junction Evening, Culture and Entertainment Strategy

TRIM No: A16/0262

Author: Hugh Johnston, Urban Designer

Director: Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council adopts the Bondi Junction Evening, Culture and Entertainment Strategy attached to this report.

1. Executive Summary

The Bondi Junction Evening, Culture and Entertainment Strategy (the Strategy) provides the strategic means to develop Bondi Junction as an evening destination that is economically viable, culturally exciting and safe. The Strategy establishes the vision, objectives and actions for a co-ordinated approach to night time activation in Bondi Junction, which has the potential to be applied to the broader Waverley Local Government Area (LGA).

Following the deferral of the Strategy at the Strategic Planning and Development Committee meeting on 1 May 2018, further consultation and feedback was collected. These ideas, thoughts and concerns were considered and many were incorporated into the Strategy. The updated final Strategy attached to this report is a result of extensive community engagement and business collaboration. The Strategy reflects these diverse needs and requirements of the stakeholder groups whilst focusing efforts to foster the night-time economy in Bondi Junction.

The Strategy will provide the opportunity to coordinate events and cultural programs, economic development actions and urban design initiatives to help Bondi Junction evolve into an active, engaging and safe place for families, youth and the elderly in the evening.

2. Introduction/Background

The Bondi Junction Evening, Culture and Entertainment Strategy was created in response to previous strategic recommendations from both the Bondi Junction Complete Streets Project (2013) and the Waverley Economic Development Strategy (2015), as well as extensive community feedback from previous engagement processes including Bondi Junction Visioning 2030.

Since the draft Strategy was reported to Council on 12 April 2017, it was launched as part of the 'After Dark in the Junction'—a programme of activities and temporary physical installations focussing on food, live music and entertainment, outdoor fitness and lighting. JOC Consulting and Cred Consulting were engaged to develop and facilitate the events and community engagement. In collaboration with Waverley Council staff, the team developed the After Dark in the Junction programme consisting of four events and one installation. The demonstrations were targeted towards demographics and activities currently excluded from evening activities in Bondi Junction. This included families and children as well as al fresco dining, live

music and public art. The exhibition of the Strategy reached a total audience of 167 and received 14 direct responses whilst the demonstration events reached over 390 people and received 52 direct responses. The findings from the community engagement demonstrated significant support for the Strategy; there was no negative feedback from the community or questioning of the purpose and intention of the Strategy. Engagement further identified the need for, and support of, more activities and initiatives after dark. As such it is strongly supported by the community with interest from local businesses to help realise the objectives of the Strategy. Local business collaboration at each demonstration project was recognised and praised by the local community. Further engagement with local businesses is encouraged but longer lead-times for involvement in future demonstrations is recommended in the future.

Another favoured aspect of the strategy was the creation of a Place Curator, particularly at pop-up activities in Oxford Street Mall. Participants understood that the provision of this role would enhance the potential success and feasibility of programmed events and pop ups. One key component that was highlighted by the public was the need to provide seating and lighting as an opportunity to encourage people to pause and enjoy public space, and to offer passive surveillance.

On 1 May 2018, the Strategic Planning and Development Committee deferred the Strategy for further consultation. Amendments to the Strategy were made that focused on clarifying certain actions, incorporating residents and representatives from the Bondi Junction Precinct Committee into the stakeholders and trader groups, ensuring that residential amenity is not compromised as a result of the Strategy and including an action to investigate a Laneway Activation Strategy to enliven the existing network of laneways in Bondi Junction.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Strategic Planning and Development Committee Meeting 1 May 2018	PD/5.2/18.05	That the matter be deferred.
Council Meeting 12 April 2017	CM/7.8/17.04	That Council: <ol style="list-style-type: none"> Notes amendments to the draft Bondi Junction Evening, Culture and Entertainment Strategy, additional information provided and further stakeholder engagement undertaken, as per the Operations Committee resolution on 7 February 2017. Authorises the public exhibition of the Draft Bondi Junction Evening, Culture and Entertainment Strategy for a period of 28 days, subject to additional amendments to the Strategy. Approves that the public exhibition of the Draft Bondi Junction Evening, Culture and Entertainment Strategy will be launched with a pilot project titled 'After Dark in the Junction', subject to some conditions. Notes that a report will be presented to Council following the public exhibition period, which summarises the outcomes of the public exhibition and includes a revised Bondi Junction Evening, Culture and Entertainment Strategy for formal adoption.

Operations Committee Meeting 7 February 2017	OC/5.2/17.02	<p>That Council:</p> <ol style="list-style-type: none"> 1. Defers the public exhibition of the Draft Bondi Junction Evening, Culture and Entertainment Strategy pending a review of the draft Strategy. 2. Consults with the Bondi Junction Mill Hill Precinct and the Liquor Accord and Club Bondi Junction RSL about the overall themes of the Strategy at the next precinct meeting and their input be incorporated into the new report. 3. Officers prepare a very short project brief for each of the 'After Dark in the Junction' proposed launch events. 4. Officers prepare a report detailing the amendments made to the Draft Bondi Junction Evening, Culture and Entertainment Strategy, and presenting the additional details for the proposed "After Dark in the Junction" events, for Council to consider and endorse at a future Council meeting.
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4. Discussion

Strategic Context

Eastern City District Plan, Greater Sydney Commission

The Future of the Eastern City District is envisaged as becoming;

...more innovative and globally competitive, carving out a greater portion of knowledge intensive jobs from the Asia Pacific Region. The vision will improve the District's lifestyle and environmental assets.

The night-time economy is positioned as a key component in achieving this vision. The plan acknowledges the strengths of the district's existing night-time economies but highlights the need to stimulate and diversify the night-time offerings. The core principles for the night-time economy is to focus on a culturally rich and diverse range of activities that contribute to both the sense of place and the local economy. The Planning Priorities illustrate the various ways in which the night-time economy can contribute to the cultural vibrancy of the centre and enhance the social and recreational needs of the community. Importantly, one action raised in the plan specifically mentions the night-time economy of Bondi Junction and the need to improve and diversify the night-time offerings to achieve a strong, diverse, creative and engaging night-time economy.

Night-Time Economy Council Committee

In February 2018, the Night-Time Economy Council Committee was established with Waverley Council as a founding member. The purpose of the Committee is to encourage the ongoing development of the night-time economy across NSW local government areas. The objectives of the Committee include; the sharing of knowledge and information on best practice approaches and contemporary issues to build knowledge and Council capabilities to shape vibrant, safe and sustainable night-time economies; the establishment of a network of night-time economy policy practitioners across NSW councils; and to promote the value and benefits of taking a proactive approach to the development and management of the night-time economy and the work being done in this area.

Committee for Sydney

In March 2018, the Committee for Sydney released a report detailing the findings of their 10 month-long investigation into the night-time economy in Greater Sydney. The objective of the commission was to explore and define the economic, social, cultural and civic potential of Greater Sydney as a 24-hour city. The report acknowledges that a successful night-time economy requires the coordination of multiple agencies and actors, effective planning and good governance and regulation. The recommendations from the report focuses on: expanding the diversity of night-time activities; effective governance and regulation; an integrated approach to planning to transport; and promoting Sydney as a global 24-hour city. In many respects, these recommendations align with the vision, objectives and actions of the Strategy and demonstrates that Waverley Council is utilising contemporary best practice for the night-time economy. Nevertheless, it is also acknowledged that Waverley is significantly different to the CBD of Sydney and Waverley needs to be mindful of any negative impacts upon the residential amenity. For this reason there are no actions proposing a 24 hour city in Waverley.

Final report

Following the deferral of the Strategy at the Strategic Planning and Development Committee on 1 May 2018, the Strategy has been amended to incorporate feedback from additional consultation. The following changes were made to the document and are reflected in the attached version:

- Changes to the general actions were made to ensure residential amenity was maintained and that residents and precinct committee members were included in stakeholder and trader groups. Overall, the amendments included:
 - Ensuring that night time music events don't adversely impact the residential amenity in the surrounding areas.
 - Emphasising the creation of a distinct public art identity for Bondi Junction.
 - Replacing the reference to the 'Heartbeat of the East' Strategy with 'People, Movement and Places' Strategy in the Transport and Access Improvement action.
 - Incorporating residents or members from the Bondi Junction precinct committee into the key stakeholder and trader groups.
- Changes to the specific actions included clarifying some actions and focusing activity around Oxford Street Mall. Overall, the amendments included:
 - Emphasising Oxford Street Mall as a key focus for the Strategy. This involves concentrating activity and promoting more outdoor dining in the commercial core of Bondi Junction;
 - Include a laneway activation strategy for Bondi Junction.
 - Change the terminology of the 'block party' to 'street party'.
 - Clarify 'tailgate party/night markets' by ensuring such references are sensitive to local needs.

These amendments are highlighted in the marked up version of the Strategy attached to this report.

Next steps

Action Plan

An Action Plan has been developed as part of the Strategy. It details the key actions and implementation priorities needed to achieve the vision, objectives and actions outlined in the Strategy. It identifies indicative costs, timeframes and responsibilities for delivery of the Strategy's recommendations. It is split into two sections; general actions and site specific actions. The general actions are broad place making

projects and policy adjustments that will influence outcomes across the entire Bondi Junction precinct. The current status of the General Actions has been assessed and a proportion of them are underway. The Site Specific Actions will require a greater level of coordination and collaboration to achieve these outcomes.

During the preliminary stages of executing the Action Plan, there will be a degree of experimentation in the delivery of events, realisation of policies and development of relationships due to the complicated and interrelated nature of the night-time economy. This process will provide valuable feedback and potentially inform changes to the strategy, in a similar way by which the community engagement process informed the final Strategy.

Place Curator

Throughout the development of the strategy and process of engagement, it has become apparent that the role of the Place Curator for Bondi Junction is a vital component for the success of the night-time economy. The Place Curator would lead the strategy; coordinating and collaborating with internal and external stakeholders to realise the vision of the strategy. While delivery of many actions is underway, co-ordination of events and interventions has so far been co-ordinated by the Shaping Waverley Urban Design Team.

Application to wider LGA

In the future, it is envisaged that the strategy could be applied to the broader LGA to activate the neighbourhood centres in the evening and night-time. The process of analysis and investigation can be easily undertaken for broader LGA to provide the basis to formulate the strategy. A large majority of the General Actions are applicable to the neighbourhood centres, whilst the Specific Actions would relate to the unique conditions of the centres.

5. Financial impact statement/Timeframe/Consultation

An action plan has been developed as part of the Strategy. It is necessary that the action plan be reconsidered when work plans and budgets are being formulated for the coming years to fully realise the desired outcomes of the Strategy.

The role of the Place Curator for Bondi Junction or the wider LGA is a vital component for the success of the Bondi Junction night-time economy. The creation of this position will involve the consideration of the role in future organisational structures and the 2019–2020 budget.

6. Conclusion

The Strategy is consistent with state and local government aspirations and actively seeks to strengthen Bondi Junction by improving and diversifying the night-time offerings to achieve a strong, diverse, creative and engaging night-time economy.

Based on the discussion above, it is recommended that Council endorse the Bondi Junction Evening, Culture and Entertainment Strategy.

7. Attachments

1. Bondi Junction Evening Culture and Entertainment Strategy (marked up) (under separate cover) ➡

REPORT
PD/5.4/18.08

Subject: Sustainable Visitation Strategy

TRIM No: A16/0608

Author: Jessica Manifold, Tourism and Business Co-ordinator

Director: Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council:

1. Endorses the draft Waverley Sustainable Visitation Strategy and Summary Document attached to this report for the purposes of public exhibition and community consultation.
2. Publicly exhibits the draft Waverley Sustainable Visitation Strategy and Summary Document for a period of 28 days.

1. Executive Summary

The purpose of this report is to provide Council with a succinct overview of the draft Waverley Sustainable Visitation Strategy (SVS) and outline the evolution of this document over the past 18 months from the original Waverley Destination Management Plan (DMP). The amended plan reflects current Council priorities, whilst retaining some core project recommendations and research conducted by the Stafford Consultancy Group from 2016 to 2018.

The Waverley SVS prioritises the sustainability of Waverley's environment, culture and heritage as the cornerstones for tourism management within the LGA. All recommended projects within this plan now clearly contribute to one or all of the three pillars of sustainability, benefitting Waverley's economic, social or environmental goals.

The strategy objectives are to:

1. Develop a sustainable approach to tourism management that protects and maintains Waverley's environment, culture and heritage.
2. Integrate tourism effectively within the community and mitigate the negative impacts of tourism on local amenity.
3. Grow Waverley's share of higher-yielding visitor markets.
4. Support tourism product, which generates a sustainable commercial return.

Collaboration is emphasised within this plan, noting the urgency to form a new Tourism Working Group responsible for the management of tourism within the LGA. It is recommended this group be comprised of community, industry and government. This plan has been revised to reflect Waverley's new Community Strategic Plan, 2018–2029 (CSP), with each project linking to key community themes. Attached to this report is the SVS presented in its full form, utilising valuable research conducted from the former DMP document; and a summary document that provides a succinct overview of the approach and projects, which would be recommended for public consultation.

2. Background

In 2016, Council commissioned the Stafford Consultancy Group to develop a Destination Management Plan (DMP) for the Waverley LGA. This plan was researched and drafted over the course of 12 months. The strategy and accompanying reports were presented to Council throughout 2017 and 2018. Internal staff, Councillors, and external stakeholders were engaged during the preparation of the DMP, including neighbouring Councils, retailers, tourist operators, the Chamber of Commerce and Destination New South Wales, amongst others. Although some research and recommended projects were supported by Council, the DMP was seen to overemphasise economic development and tourism growth, which only represents one pillar of sustainability. The strategy also needed to emphasise how tourism could be managed collaboratively and holistically.

The Waverley SVS now addresses these requirements and recommends an action plan to maximise the benefits to all three pillars of sustainability. Throughout this process, relevant research, recommendations and ideas from the original DMP have been retained.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Strategic Planning and Development Committee 6 February 2018	PD/5.6/18.02	That this item be deferred.
Strategic Planning and Development Committee 1 May 2018	PD/5.1/18.05	That this item be deferred.

4. Discussion

Waverley LGA attracts approximately 2.5 million visitors each year, which contributes significantly to Waverley's economy. This figure does not include an additional 4.3 million local visits from residents and neighbouring LGAs within a 25 km radius. Economically, this is advantageous, however, the negative impacts from high visitation is possibly leading Waverley into a state of overtourism. Overtourism describes destinations where too many visitors negatively affect the quality of life in the area or the quality of the experience unacceptably.

In response to this concern, the SVS now looks to the Global Sustainable Tourism Council's Destination Criteria as a global benchmark for sustainable tourism practices. The initial step in this process to formulate an inclusive tourism working group that is responsible for rolling out the SVS and monitoring the success of its initiatives.

The SVS is a five-year plan that considers the uniqueness of Bondi, the requirements for Waverley and balancing community priorities to leverage from this high visitation. The Waverley SVS represents a framework that ensures opportunities across the Waverley economy for investment, job creation and potential income sources are well-managed and that key cultural and natural heritage assets are maintained and celebrated.

The SVS maintains the original project priorities included within the DMP, including; governance, infrastructure, marketing and product development. However, the projects and directions have changed in accordance with the emphasis on sustainability. In addition to this, the new Waverley Community Strategic Plan was adopted on 1 July 2018. This has provided accurate and current community feedback integrated within this SVS. It is now an appropriate time to present the amended SVS to the community for feedback.

Summary of changes

Due to significant amendments to the layout and content from the original Destination Management Plan, it is recommended that the draft Waverley Sustainable Visitation Strategy and Summary Document be treated as new documents for Council to review in full. The following points summarise the main amendments:

- **Structure:** the structure of this document has been segmented into; approach, research, evaluation and action plan, which differs slightly from the original DMP.
- **Strategy objectives:** the objectives of this strategy have been amended to reflect community needs and to note how tourism will be sustainably managed.
- **Sustainable tourism:** this plan introduces sustainable tourism and discusses how all proposed projects will need to be evaluated against their positive contribution to Waverley's environmental, social and economic needs.
- **Working group:** the original DMP suggested an 'industry working group' to manage tourism initiatives going forward. The SVS recommends a 'tourism working group' that is inclusive of all stakeholders, i.e. community members, government and local tourism industry.
- **Name change:** the SVS notes the concept of 'overtourism' and how this is negatively impacting the local community; it is important that sustainability is reinforced through the titling of the document.
- **Executive summary:** a separate summary document has been developed to replace this section presented in the original DMP. The new SVS summary document will support public consultation as a succinct overview of the tourism approach, project priorities and action plan.
- **Supporting documents:** an internal study into the impact of tourism on local amenity has been itemised within this section. Some ideas noted in this area have been included within the proposed action plan.

The following sections have been retained from the original Destination Management Plan:

- **Research section**
 - Waverley.
 - Comparative benchmarking.
 - Inventory.
- **Evaluation section** – the core priorities have been maintained across both the Challenges and Opportunities sections. However, some projects under each of these areas have been adjusted to align with the new Community Strategic Plan and the SVS strategy objectives.

5. Financial impact statement/Timeframe/Consultation

The original DMP was prepared by the Stafford Group, a specialist tourism consultant with considerable experience in preparing destination management plans. The consultant was appointed in October 2016. The fee for this work was approximately \$48,000. All changes and updates from this point onwards have been completed internally by Council Officers.

Timeframe

Short-term strategies are to be implemented within the next two years (2018–2020), medium-term within the following three years (2020–2023) and long-term includes those to be undertaken after five or more years (2023 onwards), but likely commence in the medium-term.

Consultation



6. Conclusion

The Sustainable Visitation Strategy reflects Council's requirement to have tourism sustainably managed and that community is central to the decision-making process. This plan retains relevant research and projects recommended within the original DMP and aligns with the new Waverley Community Strategic Plan 2018–2029.

7. Attachments

1. Draft Waverley Sustainable Visitation Strategy (under separate cover) ➡
2. Draft Sustainable Visitation Strategy Summary Document (under separate cover) ➡

REPORT
PD/5.5/18.08**Subject:** Probity Guidelines: Capital Projects Partnerships**TRIM No:** A18/0377**Author:** Genevieve Wilson, Senior Project Manager**Director:** Emily Scott, Director, Waverley Renewal

RECOMMENDATION:

That Council:

1. Notes that the General Manager has approved the Probity Guidelines: Capital Projects Partnerships attached to this report for use in project management of joint venture projects and other projects where they provide useful guidance.
2. Notes that the General Manager will refer the Probity Guidelines: Capital Projects Partnerships to the Audit Committee for review.
3. Will receive reports on direct negotiations for approval on a case-by-case basis.

1. Executive Summary

The Probity Guidelines: Capital Projects Partnerships (Guidelines) provide a good practice framework for maintaining the probity and integrity of Waverley Council (Council) in direct negotiations and in the delivery of Council buildings and/or infrastructure with external project partners—whether they contribute funding towards the project, or not. The guidelines are based on the legal framework that Council has to work within, and draws on good practice measures to augment the legal framework. The key to success in implementing the guidelines is taking an approach that is cognisant of the context and history of each particular project, and that ‘right sizes’ the practical implementation of measures under the guidelines with the scale and complexity of the project.

2. Introduction/Background

A capital projects business improvement opportunity was identified and as a result, the Guidelines were developed with independent probity and legal advisors. Council subsequently resolved to investigate options for delivering capital projects for the upgrade of Surf Club buildings. While these Guidelines may apply to capital project partnerships with surf life-saving clubs, the negotiations and arrangements between Council and each surf life-saving club will be the subject of a separate report to Council.

Council is asset owner and custodian, outright or Reserve Trust Manager, of 67 building assets and numerous infrastructure assets. Many of these assets are leased by not for profit entities, for profit entities and/or private individuals. The Guidelines apply where existing and/or potential lessees approach Council seeking improvements to the existing assets and/or the creation of new assets is proposed to enable improved delivery of services to our community. There may be circumstances in the future where Council opts for a ground lease with building ownership and associated responsibilities with the entity leasing the area of land. This is not the case currently. Depending on the nature of any development proposals in such

circumstances, the probity guidelines may or may not have application, although they would still provide useful principles for Council involvement.

The Guidelines provide a framework to comply with the:

- *Local Government Act* (the Act).
- Independent Commission Against Corruption (ICAC) Direct Negotiation Guidelines.
- Office of Local Government (OLG) Capital Expenditure Guidelines.
- OLG Public Private Partnership Guidelines.

Council has a responsibility to ensure that it complies with the Act in undertaking a procurement process, awarding of contracts, and establishing Public Private Partnerships (PPP). A procurement process must be undertaken in accordance with the Act. The Act does enable Council to outsource the procurement process to an external party to run this on Council's behalf however, the approval to enter into a contract can only be provided by Council, Council's Operations and Community Services Committee or those with delegated authority as outlined in Council's Purchasing Procedure.

The Act defines a PPP as an arrangement where private funding contributes towards providing public (Waverley Council) infrastructure or facilities. An 'arrangement includes a contract or understanding (whether or not involving the formation of an entity)'. Private funding is funding from anyone other than the Government (or agency) or a public or local authority.

Capital projects with a value in excess of 10 percent of Council's annual ordinary rate revenue are required to comply with OLG Capital Expenditure Guidelines including reporting to OLG. Where a public private partnership is proposed, Council is required to submit a Formal Project Proposal to the OLG before Council enters into an arrangement.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 17 April 2018	CM/7.12/18.04	<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes the report from Asset Technologies Pacific on the condition of the Waverley Surf Club buildings and the accompanying 10-year lifecycle expenditure cost plans, as detailed in Attachment 1 to this report. 2. Notes that the capital project funding for the upgrade to the four Waverley Surf Club buildings has been allocated in the 2018/19 draft budget, Long Term Financial Plan 5 and Strategic Asset Management Plan 5. 3. Officers investigate options for the best process for delivering the proposed capital projects for the upgrade of the Surf Club buildings, and report back to Council on the recommended delivery model.

4. Discussion

These Guidelines are intended to meet the probity plan requirements outlined in both the OLG Capital Expenditure Guidelines and the OLG Public Private Partnership Guidelines. Included in these Guidelines are provisions relating to:

- Justification for direct negotiations.
- Project partnership governance arrangements and management.
- Parties, roles and responsibilities including the: Commercial Negotiations, Project Control Group, Project Steering Committee and Project Executive Group.
- Probity principles.
- Probity issues.
- Negotiation protocols.
- Review and amendment of Probity Guidelines.

The Probity Guidelines also include the following templates for completion for each applicable project during the negotiation phase:

- Probity Risk Analysis.
- Governance Structure Diagram.
- Negotiation Protocol.
- Confidentiality Deed and conflict of Interest Declaration.

The capital project partnership governance structure diagram is illustrated in Annexure B of the Guidelines.

The steps and deliverables for the capital project partnership negotiation phase are summarised in Figure 1 below.

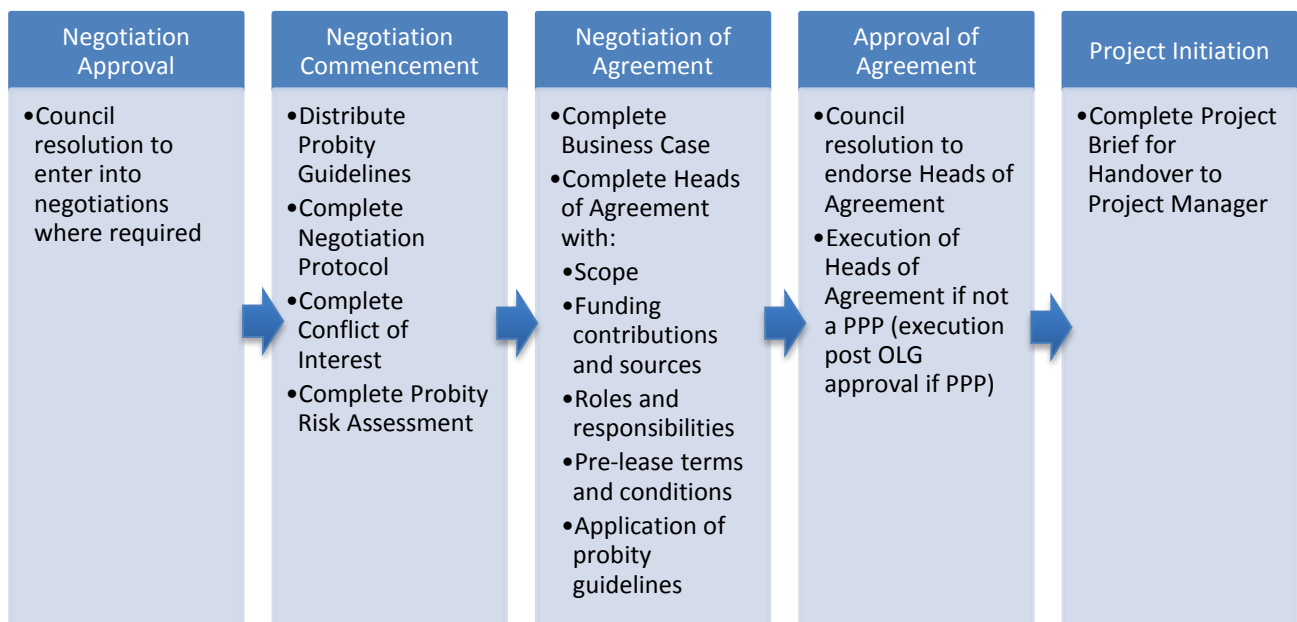


Figure 1. Capital project partnership negotiation phase diagram.

The steps and deliverables for the capital project partnership delivery phase are summarised in Figure 2 below.

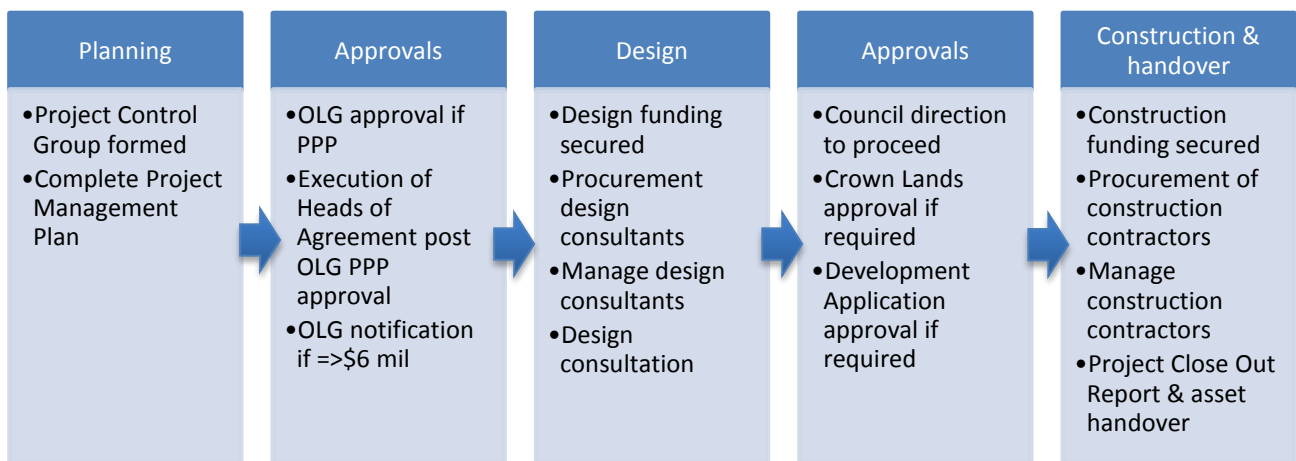


Figure 2. Capital project partnership delivery phase diagram.

It is important that the guidelines are adapted and applied to each project in a manner that recognises the scale of the project and the context in which it is taking place. Staff involved in each phase of the project will be determined by the General Manager based on the required skills and expertise, relationship history with the partner entity, and broader Council work load demands.

5. Financial impact statement/Timeframe/Consultation

The costs for independent legal advisors (and probity advisors if required) to develop the lease and/or Project Heads of Agreement will be covered by the operational budget of the Asset Custodian. Should independent legal or probity advice be required during project delivery, these costs will be covered by the capital project budget.

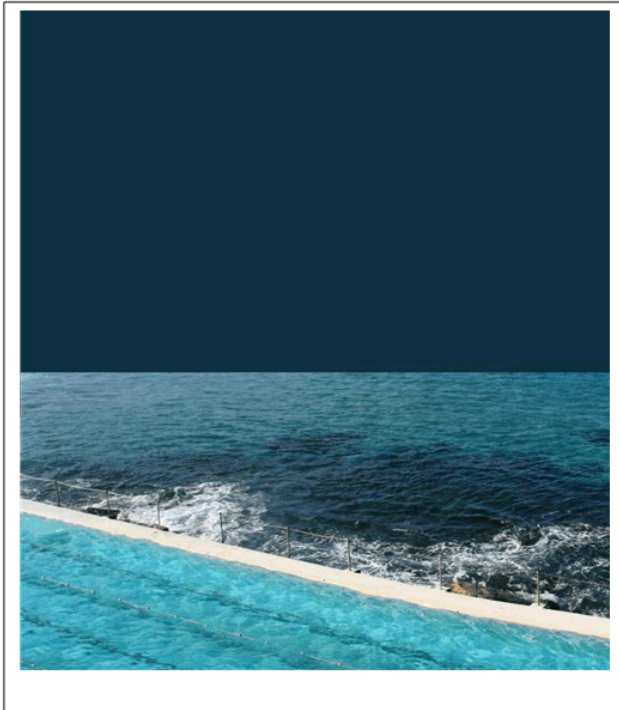
These Guidelines have been developed based on independent legal and probity advice. They have been developed by Project Waverley in consultation with Enriching Waverley, Caring Waverley, Internal Ombudsman, Building Waverley, Creating Waverley and Sustainable Waverley.

6. Conclusion

The Guidelines provide a capital projects business improvement and best practice framework for maintaining the probity and integrity of Waverley Council in direct negotiations and in the delivery of Council buildings and/or infrastructure with external project partners.

7. Attachments

1. Probity Guidelines: Capital Projects Partnerships [↓](#)



PROBITY GUIDELINES: CAPITAL PROJECTS PARTNERSHIPS



Document Control

Version	Date	Author	Approved by	Signature Initials
1.0	24/07/2018	Project Waverley	ELT	GW

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1. Objectives of the Probity Guidelines

These Probity Guidelines (Guidelines) provide a framework for maintaining the probity and integrity of the Waverley Council (Council) in direct negotiations with potential project partners and in the delivery of Council infrastructure and/or buildings with external project partners.

These Guidelines apply in the negotiation and/or delivery of capital projects where:

- Where changes may be required to leases of Waverley Council buildings or infrastructure OR
- Private funding is contributing towards Waverley Council buildings or infrastructure OR
- Public Authority funding is contributing (excluding grants) towards Waverley Council buildings or infrastructure.

The Local Government Act defines a public private partnership as:

Arrangement where private funding contributes towards 'providing public (Waverley Council) infrastructure or facilities'

'Arrangement includes a contract or understanding (whether or not involving the formation of an entity).'

Private funding is funding from anyone other than the Government (or agency) or a public or local authority.

The Local Government Act defines a public authority as follows:

'public authority means a public authority constituted by or under an Act, a government department or a statutory body representing the Crown, and includes a person exercising any function on behalf of the authority, department or body and any person prescribed by the regulations to be a public authority.'

These Guidelines apply whether the project partner is contributing funding or not. These Guidelines apply whether the project partner is defined as a Public Authority under the Act or not.

Therefore, a capital project partnership is any partnership for the provision of public infrastructure or facilities, in which council has an interest, liability or responsibility and is provided in part or in whole through Council and/or public authority financing, ownership or control.

Where the project partner is contributing funding and where the project partner is not identified as a Public Authority under the Act, the project will be delivered as a Public Private Partnership (PPP). A PPP is any partnership for the provision of public infrastructure or facilities in which council has an interest, liability or responsibility and is provided in part or in whole through financing from non-public authorities, ownership or control.

Excepted from these Guidelines are grant funding received by Council.

Excepted from these Guidelines are normal transactions carried out by Council that are otherwise regulated by the Local Government Act 1993 or related legislation. These exceptions are taken to include developer contributed public domain works undertaken as part of development conditions of consent and planning agreements.

The Office of Local Government (OLG) Capital Expenditure Guidelines and the OLG Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships require a probity plan to be developed for the project. These Guidelines form the probity plan for capital project partnerships and/or PPP's.

These Guidelines outline principles, processes, procedures, roles and responsibilities required to mitigate and manage probity risks associated



with the process in accordance with the five inter-related probity principles or 'fundamentals' identified by the Independent Commission Against Corruption (ICAC) as follows:

- Accountability of the participants and transparency of the process;
- Fairness, impartiality and honesty in carrying out the process;
- Management of actual, potential and perceived conflicts of interest;
- Maintenance of confidentiality and security of documentation and information; and
- Attaining best possible value for money under the prevailing circumstances.

These Guidelines apply to Council staff, partners and any external consultants or advisers connected with each project.

These Guidelines are not intended to contradict any of the requirements set out in:

- Waverley Local Environment Plan 2012
- Waverley Development Control Plan 2012
- Plans of Management
- Waverley Council Code of Conduct 2013
- Waverley Council Statement of Business Ethics 2014
- Council's Gifts and Benefits Policy 2013
- Waverley Council Interim Purchasing Procedure revised 2016
- Local Government Capital Expenditure Guidelines 2010
- Local Government Act 1993

- The Local Government Amendment (Public Private Partnerships) Act 2004
- Office of Local Government Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships 2005
- Office of Local Government Capital Expenditure Guidelines 2010
- Office of Local Government Tendering Guidelines for NSW Local Government 2009
- Any other documents, including policy and procedure documents, deemed applicable to the relevant project.



2. Justification for direct negotiations

2.1 General requirements

There is potential for direct negotiations when initiating a capital project and the associated lease arrangement with a potential project partner. The potential project partner may be a current or potential future lessee of infrastructure or a facility in which council has an interest, liability or responsibility.

Direct negotiations should be supported by a Council resolution, consistent with the requirements identified in Section 55 (3) of the Local Government Act 1993, to enter into direct negotiations in accordance with these Guidelines and a completed Negotiation/Discussion Protocol as per Annexure C.

Where direct negotiations are undertaken with project partners, there are also likely to be engagement of consultants and/or contractors for the project which Council would likely be required, under both the Local Government Act 1993 and the guidance material from ICAC, to put to tender or a competitive quotation process.

2.2 Statutory requirements

The Local Government Act 1993 identifies in section 55 the contracts whereby Council is required to undertake an open tender process.

Section 55 (3) identifies a number of circumstances where a tender process is not required including section 55 (3) (e) which states:

"a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A)"

Therefore, a tender process is not required for the negotiation of the lease and/or licence with a not for profit organisation. A tender process is required for the negotiation of a lease and/or licence with a for profit organisation. However, all potential leases and licences should be assessed on their merits on a case by case basis to determine the most appropriate strategy for entering into a lease or licence, and ensuring that a value for money outcome is attained (refer below).

It is important to consider the fairness and probity considerations of entering into a long-term lease and/or licence, without a competitive test of the market. The ICAC's Guidelines on direct negotiations state:

"The term 'direct negotiations' refers to exclusive negotiations between an agency and a proponent without first undergoing a genuine competitive process. Direct negotiations are sometimes referred to as directly sourced, single-invited or non-competed contracts."¹

The guidelines further state:

¹ ICAC, May 2006 p.10, 'Direct Negotiations; Guidelines for Managing Risk in Direct Negotiation'; Chapter 1: What are direct negotiations'



"Because of the risks that accompany the process, direct negotiations, as a general rule, should be avoided."

The ICAC guidance also states that when it is beyond doubt that there is only one proponent that can meet any agency's well-defined needs (and recent market testing supports this conclusion), direct negotiations can be justified. The guidance also states that where there is any doubt, or the agency has assumed rather than demonstrated that there is no competition, it should test the market. ICAC states that an agency should never rely on claims by a proponent that is the only provider in the market.

The NSW Government definition of uniqueness being:

"The uniqueness of a proposal needs to apply to both the proposal and proponent. The essential questions that need to be addressed regarding uniqueness are; can the proposal be readily delivered by competitors; does the proponent own something that would limit the Government from contracting with other parties if the opportunity went to tender; are other attributes which may not necessarily stand alone as unique but when combined create a unique proposal. For a proposal to be unique the answer must be yes to one or more of the criteria (modified from NSW Government Unsolicited Proposals, Guide for Submission and Assessment 2014)."

The ICAC Guidelines state that should a proposal to enter into direct negotiations violate any of the principles, as identified below, an alternative procurement method should be considered or risk mitigation strategies employed.

- Obtaining best value for money

"when it is known that there are other proponents who could feasibly compete for a contract, agreeing to direct negotiations with a single proponent increases the risk that the agency may not obtain best value for money. When a proponent does not have to compete for contracts there is a higher risk that the proponent may unjustifiably increase profit margins, exaggerate expenses or otherwise boost returns on the contract. Furthermore, when an agency restricts the number of parties with which it does business, it also limits the number of potentially useful ideas, solutions and options that it has access to."

- Providing a fair chance to do business with government

"direct negotiations can unfairly exclude capable firms from contracting with government."

- Demonstrating accountability and transparency

"demonstrating accountability and transparency gives proponents and taxpayers additional confidence in the decisions being made and also reduces the opportunities for corrupt conduct and fraud. The selective and closed nature of direct negotiations can create suspicions of favouritism and bias, consequently making it difficult for public agencies to justify the decisions they make. Exclusive negotiations that are underpinned by commercial-in-confidence provisions are more vulnerable still to perceptions of a lack of accountability and transparency."

- Dealing with conflicts of interest

"direct negotiations (or the possibility of direct negotiations) can create an environment where private interests could influence or be seen to influence the outcome of the contract."

3. Capital project partnership governance arrangements

Council has a responsibility to its community for the prudent management of community assets and finances. Local Government has responsibilities that go beyond the responsibilities of a private sector partner or project proponent due to the management of the public “good” and “interest.” Land owned and controlled by a Council is a public asset to be held, administered and used for the benefit of the public/local community and to assist the Council in providing the services and facilities it is charged to provide for the community.

3.1 Governance capital project partnership

Section 377 of the Local Government Act 1993 identifies the functions of Council which can be delegated to the General Manager or any other person or body. Section 377 also identifies the functions of Council which are unable to be delegated. Relevant to this advice, these exclusions include *“any function under this Act that is expressly required to be exercised by resolution of Council.”*

Section 55 of the Act refers to the tendering requirements for local government. Under the Act, Council is required to undertake a tender process (consistent with Part 7 of the Local Government (General) Regulation 2005) for a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the Council. Section 55 (1) (d) states that a tender process is required for *“a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body”*.

The Act does enable Council to outsource the procurement process to another party to run this on Council’s behalf however, the procurement

process must be undertaken in accordance with the Act. The approval to enter into a contract can only be provided by Council, Operations and Community Services Committee or those with delegated authority as outlined in Council’s Purchasing Procedure.

Section 1.2 of the Tendering Guidelines for Local Government refers to the Standards of Behaviour and Ethical Principles which are consistent with the requirements for the effective and efficient operation and conduct of councils under the Act. One of the Principles referred to in the Guidelines is the intention to proceed. The Guidelines state:

“Councils must not invite or submit tenders without a firm intention and capacity to proceed with a contract, including having funds available.”

The capital project partnership governance framework in Annexure B applies to capital project partnerships to ensure the procurement and contract approval is delivered in accordance with the Act.

3.2 Governance Public Private Partnership

In addition to the capital project partnership requirements, there are specific requirements in the Local Government Act 1993 (the Act), set out in Part 6, for Councils in relation to projects being undertaken as a PPP.

For all types of PPP’s, a council, having negotiated an arrangement and/or agreement with a non-public authority, may not proceed to sign a contract establishing a PPP entity without the prior approval of the Minister for Local Government under s.358 of the Act.

High level information on the role of each project group charged with governance responsibilities is included in Section 6 of this Plan.



Further information on PPP governance arrangements, including the additional arrangements required for “high risk” and “significant” projects, is also included in Section 6 of this Plan.

Therefore, the project governance framework in Annexure B also applies to PPP’s.

4. Parties, roles and responsibilities

4.1 The Project

Parties to the project

The parties to the project are Council and the: proposed funding partner(s), or; lessee where the lessee is the project partner and is not providing funding, including all directors, managers, employees and officers.

Under the requirements of the Local Government Act 1993, unless Council resolves extenuating circumstances under section 55 (3) (i), Council will manage any procurement process for the selection of the consultant(s) and/or contractor(s) for the Project in accordance with its Procurement Procedures. The lessee and/or project funding partner, will be a key stakeholder in this process.

To avoid potential or actual conflicts of interest, a procurement assessment panel will be utilised to recommend the award of contracts, subject to Council approval where required by Council's Procurement Procedures.

All persons involved in or exposed to project decision making are required to act in accordance with these Probity Guidelines.

Roles in the project

Council will be the asset owner, asset custodian, and project manager in the project.

The lessee and/or project funding partner will be represented on the project control group and project executive group.

Responsibilities in the project

The Council and the project funding partner will apply its funds as a contribution to the costs of developing the design and delivery of the public infrastructure or facility.

Council will be responsible for the building fabric and structure. Council will be responsible for the fit out of public areas and Council operated areas. The lessee will be responsible for the fitout of leased areas.

Under the Project Heads of Agreement, the Council will be responsible for the following:

- Funding the Project in part or in whole up to maximum amount
- Obtaining all necessary Crown Lands, development consent and Office of Local Government approvals
- Project management of design and delivery of the public infrastructure or facility in a form to be agreed for the lessee and/or project funding partner
- Invoicing the funding partner for contributions prior to tender for design and prior to tender for construction.
- Reviewing the budget and assessing whether the project is tracking to budget. If sufficient funding is not available, revising the scope of the project with the Project Control Group until estimated costs match the approved budget.
- Ensuring the design is agreed through the Project Control Group and appropriate use of consultants such as architects, engineers and quantity surveyors.

Under the Project Heads of Agreement, the funding partner will be responsible for the following:



- Paying invoices for 10 percent of contributed funding prior to tendering for design and for 90 percent of contributed funding prior to tendering for construction.

4.2 The lease

This part applies where a new lease agreement and/or revision of an existing lease agreement for use of a Council managed asset is required in relation to the capital project partnership and/or public private partnership. This will be assessed on a case by case basis by the Partnership Negotiation Team.

Parties to the lease

The parties to the lease or licence are Council and the proposed lessee, including all directors, managers, employees and officers.

To avoid potential or actual conflicts of interest, an independent registered valuer or valuers may carry out a valuation to determine the market rent for the Lease including the licences contained within it. The market rent and licence fee for infrastructure and/or facilities on Crown Lands may also require approval by the NSW Government in accordance with the *Crown Lands Act 1989*.

All persons involved in or exposed to negotiations to enter into a lease agreement are required to act in accordance with these Probity Guidelines.

Roles in the lease

The lessee, whether in its own capacity or that of its agent or custodian, will be the tenant in the lease agreement and/or licensee.

Council's role in the lease agreement (including the Licences contained therein) is that of asset owner and/or trustee of a reserve, landlord and licensor.

Responsibilities in the lease

The lease and/or licence identifies the allocation of individual responsibility between the lessee and the Council for:

- Payment for all gas, electricity, lighting, water and sewerage rates and charges in respect of the premises (the lessee)
- Maintenance of all internal fixtures and fittings and responsibility for all glass and windows which are not covered by building insurance (the lessee)
- Insurance of the building against fire and damage (Council)
- Timely repair and maintenance of the building fabric and structure including but not limited to structural cracks, concrete cancer and leaks (Council).

5. Probity principles

Council is the ultimate decision maker in relation to the nature, execution and process for the project. Within this framework Council will need to appropriately exercise its powers under any relevant Act, especially the Local Government Act 1993.

5.1 Summary of ICAC principles

Any procurement activities undertaken for the redevelopment of the asset, will be governed by the following principles from ICAC Guidelines:

- Accountability of the participants and transparency of the process
- Fairness, impartiality and honesty in carrying out the process
- Management of actual, potential and perceived conflicts of interest
- Maintenance of confidentiality and security of documentation and information
- Attaining best possible value for money under the prevailing circumstances.

5.2 Principles for local government

As a statutory body, Council is required to exercise its functions in accordance with all duties and obligations imposed upon it by statute and common law. Pursuant to section 8A of the *Local Government Act 1993*, the guiding principles for local governments includes the following:

- Guiding principles for councils
- Exercise of functions generally

General principles

The following general principles apply to the exercise of functions by Council:

- To provide strong and effective representation, leadership, planning and decision-making
- To carry out functions in a way that provides the best possible value for residents and ratepayers
- To plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community
- To apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements
- To work co-operatively with other councils and the State government to achieve desired outcomes for the local community
- To manage lands and other assets so that current and future local community needs can be met in an affordable way
- To work with others to secure appropriate services for local community needs
- To act fairly, ethically and without bias in the interests of the local community
- To be responsible employers and provide a consultative and supportive working environment for staff.

Decision-making

The following principles apply to decision-making by Council (subject to any other applicable law):



- To recognise diverse local community needs and interests
- To consider social justice principles
- To consider the long term and cumulative effects of actions on future generations
- To consider the principles of ecologically sustainable development.

Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions – to this end a Negotiation / Discussion Protocol will be used by the Council as a decision making reference tool.

A Negotiation / Discussion Protocol template is included in **Annexure C**.

Community participation

Council will actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures and the development of a Communications and Engagement Plan. The consultation approach and planning guidelines will be developed and adapted from the model developed by the International Association of Public Participation (IAP2).

Principles of sound financial management.

The following principles of sound financial management apply to Council:

- Spending should be responsible and sustainable, aligning general revenue and expenses.
- To invest in responsible and sustainable infrastructure for the benefit of the local community.
- To have effective financial and asset management, including sound policies and processes for the following:

- Performance management and reporting,
- Asset maintenance and enhancement,
- Funding decisions,
- Risk management practices.
- To have regard to achieving intergenerational equity, including ensuring the following:
 - Policy decisions are made after considering their financial effects on future generations,
 - The current generation funds the cost of its services.
- Integrated planning and reporting principles that apply to Council.

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by Council:

- To identify and prioritise key local community needs and aspirations and consider regional priorities
- To identify strategic goals to meet those needs and aspirations
- To develop activities, and prioritise actions, to work towards the strategic goals
- To ensure that the strategic goals and activities to work towards them may be achieved within council resources
- To regularly review and evaluate progress towards achieving strategic goals
- To maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals
- To collaborate with others to maximise achievement of strategic goals



- To manage risks to the local community or area or to the council effectively and proactively
- To make appropriate evidence-based adaptations to meet changing needs and circumstances.

5.3 Public Private Partnership

There are specific requirements in the Local Government Act 1993 (the Act), set out in Part 6, for Councils in relation to projects being undertaken as a PPP.

PPP arrangements should be fully assessed against Council's policies as well as project goals, objectives and desired outcomes, and be independently and rigorously appraised before contracts are signed or arrangements otherwise entered into and the relevant project carried out or implemented in any way. It is the primary role of Council, through the governance structures set up for this project, to ensure that this review process and transparency of the project is carried out in accordance with the relevant legislative and policy requirements.

In developing these Probity Guidelines, Council will adopt the key principles of the governance framework required under the Capital Expenditure Guidelines, as a minimum, as well as the PPP requirements for PPP projects. The governance framework will therefore meet the requirements of the Local Government *Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships* (PPP Guidelines), such that whatever mechanism Council resolves to use to progress the project, will cover all possibilities.

5.4 Waverley Council Code of Conduct

Council's Code of Conduct (Code) is a formally adopted corporate policy applicable to the Mayor, Councillors, employees, contractors and volunteers working for and on behalf of Council. It provides for ethical governance and appropriate conduct in relation to all of Council's activities. All aspects of the matter are to be carried out in full compliance with Council's Code and all other corporate policies.

In relation to general conduct obligations, the Code stipulates that certain conduct must be avoided including conduct that:

- Contravenes the Local Government Act 1993, associated regulations and Council's relevant administrative requirements and policies
- Is detrimental to the pursuit of the charter of the Council
- Is improper or unethical
- Is an abuse of power or otherwise amounts to misconduct
- Causes, compromises or involves prejudice in the provision of a service to the community.

In addition, the Code sets out certain obligations including the following:

- To consider issues consistently, promptly and fairly by dealing with matters in accordance with established procedures, in a non-discriminatory manner
- To take into consideration all relevant facts known or that should reasonably be known and have regard to the particular merits of each case
- To not take into consideration irrelevant matters or circumstances into consideration when making decisions



- To ensure development decisions are properly made and that parties involved in the development process are dealt with fairly and avoid any suspicion or appearance of improper conduct
- To appropriately resolve any conflict or incompatibility between private or personal interest and the impartial performance of public or professional duties and promptly disclose any interests fully and in writing
- To notify any outside work that relates to the business of the Council.

5.5 Principles of Crown Land management

Crown Land should be managed for the benefit of the people of New South Wales. Section 11 of the *Crown Lands Act 1989* provides that the principles for the management of Crown land are:

- That environmental protection principles be observed in relation to the management and administration of Crown land
- That the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible
- That public use and enjoyment of appropriate Crown land be encouraged
- That, where appropriate, multiple use of Crown land be encouraged
- That, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity
- That Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

5.6 Common law principles

In addition to its statutory requirements, and corporate policies, Council's functions are required to be exercised in accordance with common law principles relating to procedural fairness, decision-making within the scope of its jurisdiction or power, and probity. Broadly speaking, those principles include appropriately exercising discretionary decision-making powers conferred by statute by:

- Giving due consideration to matters required by statute and not acting under the dictation or instructions of others
- Not fettering the decision-making process by inflexibly adopting a policy without considering the merits of each matter, or by giving an undertaking as to the exercise of its powers, including by way of contract
- Taking into account only legally relevant matters, that is, matters bound to be taken into account and not taking into account irrelevant matters
- Acting in an objective and impartial manner without pre-judgement or predetermination of the matter
- Exercising all decision-making powers, whether discretionary or otherwise, in good faith and in accordance with the proper purpose for which the power was granted, and not for an improper purpose
- Acting in a manner that is undeniably rational, proportional and with sufficient probative evidence to justify the decision made
- Acting with due regard to the requirements of procedural fairness, that is, acting fairly in making administrative decisions which affect rights, interests and legitimate expectations, subject only to the manifestation of a clear statutory intention to the contrary.

6. Probity issues and recommendations

6.1 Key probity risks and management strategies

A number of potential probity risks associated with a potential Project have been identified which should be reviewed and amended where appropriate for each potential project. Set out in **Annexure A** is a table which provides a summary on:

- Key probity risks
- The likelihood of that risk occurring
- Management action to be taken to address the risk
- The committee who will be responsible for overseeing implementation of the management action.

An external Probity Advisor will also be appointed to provide advice at key stages throughout the Project.

6.2 Openness of opportunity to compete for government business

Although contracts to enter into a public-private partnership are specifically excluded from the requirement to carry out a tendering process by section 55 of the *Local Government Act 1993*, it should not be automatically assumed that direct negotiations are therefore permitted. A market testing and/or Expression of Interest process may be required under section 400 of the Act for a PPP.

While it has been identified that there is a clear justification for the direct negotiations with non-profit organisations for lease agreements, Council will be required to be transparent in the dealings with the community and

the market on the selection of any Project partners as well as consultants and/or contractors for the Project. This should be assessed by the Partnership Negotiation Team on a case by case basis.

Council retains an obligation under the Local Government Act 1993 to undertake a tender process for a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council, such as the maintenance obligations Council has under the lease and/or licence. This is unless Council resolves that due to “extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers...that a satisfactory result would not be achieved by inviting tenders”. However, there would need to be a clear justification for this, having regard to the fundamental principles of public sector work that ICAC raises in the direct negotiations guidance.

6.3 Transparency of the negotiation process

Where negotiations are undertaken then these are the general principles and guidelines which would apply.

Confirmation based on the ICAC guidance material that it is appropriate for Council and the lessee to directly negotiate in relation to the new lease agreement will not absolve either party from their responsibilities to ensure the negotiations for the new lease are carried out in an open and accountable manner.

If a method for negotiations is not established and maintained at the outset, the transparency of the negotiations process could be compromised and the potential arises for either party to depart from their intended positions.



The negotiation / discussion protocol (refer to **Annexure C**) will be applied and addresses:

- The identity of Council officers to be involved in the negotiations and their requisite authority at law to do so
- A procedure for the management of meetings, negotiations, staff liaison and progress reports
- The segregation of responsibilities and reporting requirements into separate committees as outlined in the Project Governance Framework, to ensure “arm’s length” separation between commercial negotiations and project delivery.
- The allocation of negotiation costs, if any
- A mechanism for dispute resolution which will be contained in the new lease; and
- A procedure whereby an auditable trail of documents recording the negotiations and progress of the matter is created.

All documentation in relation to the matter may be available for public scrutiny and that there be no “off the record” or “one on one” discussions between Councillors and Council officers on the one hand and lease and/or funding partner representatives on the other. Strict compliance with Council’s Record Management Policy is required.

In this respect, it is acknowledged that preliminary negotiations between Council and the lease and/or funding partner have already commenced mainly pertaining to scope and possible facility inclusions.

Minutes of meetings will be kept.

A Capital Project Partnership Governance Framework will be adopted (refer to **Annexure B**) with separate committees each having its own responsibilities and objectives. Membership of each committee will comprise relevant Council officers (including its consultants), representatives of the funding partner (including its consultants) and any relevant stakeholders. It is anticipated that the committees will be established, as set out below.

Committee structure

Partnership Negotiation Team

The Negotiation Team comprising Council’s Asset Owner and Asset Custodian as well as up to 2 representatives from the lessee and/or project funding partner will be responsible for:

- Obtaining a Council direction to undertake direct negotiations
- Completion of the Negotiation / Discussion Protocol in Annexure C
- Undertaking direct negotiations to agree a lease and/or licence and agree a Project Heads of Agreement outlining funding contributions, budget and high level scope for the Project
- Obtaining Council approval of the Project Heads of Agreement
- Completion of a project brief to initiate the project.

Project Steering Committee

The Project Steering Committee comprising Council’s Executive Leadership Team (ELT) including the General Manager and all Directors will provide oversight of the Project. The Project Steering Committee is accountable to the elected Council. As need be, it will seek advice from any of groups established for the project within Council in relation to any relevant matter.



Project Executive Group

Project Executive Group (PEG) comprising the Council's General Manager (subject to delegated authority) and the lease and/or project funding partner's Chief Executive Officer. The Project Executive Group will be responsible for monitoring and supporting the work of the Project Control Group and resolve any disputes referred to it by the Project Control Group. All other committees will be subject to the control of the Project Executive Group. Council will act as the principal for the Project, with Council having the casting votes.

Project Control Group

Project Control Group (PCG) comprising Council officers in the roles of Director of project delivery, Asset Custodian and Project Manager and up to 3 relevant funding lessee and/or project funding partner representatives. The PCG will be chaired by one of the Council officers. The chairperson will have the casting vote on the PCG. The PCG will be responsible for establishing and monitoring:

- Project objectives and outcomes
- Budget expenditure
- Program
- Procurement processes
- Quality and risk parameters.

Other roles

The Project Manager will have responsibility for the technical management of the Project on behalf of the PCG and to coordinate and provide supervision to consultants through design phases and construction contract.

The Head Consultant coordinates design consultants, quantity surveyors and other consultants required to complete the design documents. The Head Consultant will be responsible for providing advice in the construction phase of the Project. The Head Contractor coordinates construction contractors.

6.4 Accountability

In addition to the key roles and responsibilities identified above, the following additional roles and responsibilities arise for PPPs.

Minister and Office of Local Government:

The role of the Minister for Local Government will depend on the final form of the Project and whether it will be undertaken as a PPP. Specifically, if the Project is completed as a PPP the Minister has the power to call in any PPP project for review by the Project Review Committee (PRC) where a Council has not complied with the PPP Guidelines in relation to entering into the PPP or the carrying out of the project.

The Council's General Manager of the particular council involved must certify that the assessment is prepared in accordance with the PPP Guidelines. This will need to be attached to each proposed PPP project submission made to the OLG and supported by a Council resolution.

Under the PPP Guidelines, there is the ability for OLG to deem a project as high risk based on a number of factors, including "the possible inability of the council to discharge its Charter obligations to provide adequate, equitable and appropriate services and facilities for the community".



The process of assessment is different for projects that are significant and/or high risk, and for projects that are neither significant nor high risk. Significant projects (those with an estimated total cost >\$50M or where the Council's financial contribution is =>25% of available annual revenue for facilities/services to which project relates) are reviewed by the OLG Project Review Committee (refer below) on two occasions:

- Before the market testing phase to identify a funding partner
- At the pre-contract signing phase, where Council has gone through the appropriate competitive tendering process and selected a preferred partner.

Projects that are not significant or high risk may proceed to contract development without review by the PRC. This does not remove the obligation on councils to adopt the procedures and processes required of them in the PPP guidelines.

Once the Project Review Committee has reviewed the project, following the selection of the preferred project, and has provided endorsement that the project has been undertaken in accordance with the PPP Guidelines² the project is then referred to the Minister for Local Government for formal approval, under Section 358 of the Local Government Act, to establish the PPP entity.

Project Review Committee:

The Project Review Committee (PRC) is established under the Local Government Act. It is chaired by the Head of the Office of Local Government. The membership of the PRC is:

- The Head of the Office of Local Government (or an officer of the OLG who is nominated by the Head of the Office of Local Government - referred to as the Director General under the Act)
- The Secretary of the Treasury (or an officer of NSW Treasury nominated by the Secretary)
- The Secretary of the Department of Premier and Cabinet (or an officer of the Department nominated by the Secretary)
- The Secretary of the Department of Planning and Infrastructure (or an officer nominated by the Secretary).

Other members may be added to the PRC by the Head of OLG, if required for the purposes of enabling the PRC to exercise its functions.

It is the role of the PRC to review the submitted PPP project against the PPP guidelines. It remains the responsibility of Council to satisfy the PRC on any matter arising from its review, and it is particularly noted that there is no appeal against PRC decisions.

Waverley Council Elected Officials

Council must not enter into a PPP unless it has complied with the relevant requirements of the Local Government Act. The Act refers to the formation of a PPP through an arrangement. An arrangement is not limited to the signing of formal contractual legal documents, but it includes any contracts and/or understandings.

Councils must report to the OLG on the project. However, prior to formally notifying OLG, Council is to have developed the project to the phase where it has been formally approved, by resolution of the Council,

² Note: the Project Review Committee's role is not a decision maker but a review process to ensure the guidelines have been followed



and the broad concepts and principles have been formed, approved and settled. In the initial assessment phase, the dimensions of the project and its outcomes should be costed on the basis of expectations about responsibilities, risk management and anticipated or preferred sources of funding. Council should determine at any early stage what the project will deliver, and make a clear and unambiguous resolution to that effect.

As part of the initial assessment of the project, Council will need to provide the following information to OLG:

- Project description and relationship to Council's strategic and management plans including reasons why a PPP (where relevant) is the preferred method of delivery
- Clear statement of outcome and deliverables as agreed by a resolution of council
- Project timeframe for the project
- Estimated total project costs and sources of funding
- Preferred extent/value of Council contribution to project and / or equity proposed
- Preferred risk assessment/management plan
- Preferred management and governance structure as per this governance and probity framework.

Often these can take the form of a Business Case.

Council's dual roles

Council is the ultimate decision maker in relation to the nature, execution and process for the Project. Within this framework Council will need to appropriately exercise its powers under any relevant Act, especially the Local Government Act 1993.

Council may be the trustee for the use of the Crown Land of a Project site as well as having a significant interest in the planning controls and the land rezonings undertaken as part of this Project. Council as an elected corporate body has no private interest in this project. Council has two roles and both are legitimate *public* interest roles. ICAC's publication *Corruption risks in the development approval process (September 2007)* notes that in this type of situation there may be a "conflict of roles", that is, it is possible for the two roles to come into conflict. The relevant probity aim is to ensure that both roles are properly performed, that is, that they are carried out with due regard to probity principles.

In these instances, there are two key areas of concern – one relates to commercial outcomes and the other to planning outcomes:

1. Whether the approach being taken by Council will achieve the best price for the development rights and whether it will obtain the benefits it seeks for the best possible price (a "value for money" issue)
2. Whether the development will conform to planning controls and requirements for the area, or whether concessions will be given that would not be given were Council not a party to the project delivery agreement (an "impartiality" issue).

Where any development application for a Project meets the criteria of matters to be considered and decided by the *Sydney Planning Panel*, Council will not be the consent authority. Where any development application for a Project meets the criteria of matters to be considered and decided by the independent experts on the Waverley Development Assessment Panel, consent is decided independently of Council.

In light of this, it is considered that the strategies to be adopted for the management of the dual roles would not need to be as stringent as those



suggested by the ICAC in its position paper *Corruption Risks in the Development Approval Process*. However, Council recognises the need to ensure that there is no public perception of a conflict between its commercial objectives for the project and the planning instruments and requirements.

As such, the Director of development assessment activities will not be involved in the assessment of the proposals and will be available to proponents in the event that there are enquiries in relation to the planning aspects of their designs and/or proposals.

The planning aspects of the Project, including consultation in relation to development and planning matters, will be managed by an area manager of development assessment activities who will not be involved in the evaluation of submissions or proposals as part of any procurement process. Any matters discussed by Proponents with an area manager of development assessment activities will be kept confidential and will remain separate to procurement activities.

The Director of development assessment activities is a member of the Executive Leadership Team and will be removed from any discussions and consideration during the procurement evaluation process.

Key steps to be undertaken by the area manager of development assessment activities to manage the probity of any planning discussions with proponents include:

- Indicating to each proponent that the meeting is for information only, is not binding on Council and the proponent is reliant on their own enquiries

- Indicating that information discussed will be confidential unless it requires a change to the tender requirements, in which case all proponents may be informed (such as via Tenders Online)
- Indicating that each party is responsible for keeping its own records
- Involving more than one Council staff member in each meeting
- Asking proponents to confirm their agenda items prior to each meeting
- Including a statement at each meeting that any aspect of the procurement process, outside of planning discussions, will not be discussed
- Keeping a record of each contact, attendees at any meeting and the key outcomes achieved.

6.5 Management of conflicts of interest

A conflict of interest is a conflict between the public duty and private interests of a public official where the public official has private interests which could improperly influence their official duties and responsibilities. The community and potential proponents have a right to expect that public officials will make decisions that are not influenced by private interests. Similarly, when the private sector is engaged to perform public sector duties, there is an obligation to ensure that conflicts of interest are disclosed and effectively managed. Perceived or potential conflicts of interest can be as damaging as actual conflicts, and procedures should be implemented to mitigate the effect. It is important to note that a related interest does not in itself automatically preclude a person from participating in the direct negotiation process and their participation should be considered on a case by case basis.



Some of the key strategies that have been adopted by Council in relation to the direct negotiations include:

- Application of the Council Code of Conduct
- Provision for parties to the Negotiation / Discussion Protocol to identify and enable management of any actual or perceived conflicts of interest that may arise or exist during the course of the direct negotiations, including execution of a Confidentiality and Conflict of Interest Undertaking (refer to Annexure D)
- Involvement of the Internal Probity Advisor and external Probity Advisor (where required) in determining the appropriate management strategy for a conflict of interest, as applicable
- All members of tender assessment panel sign a declaration that they are not aware of any actual or potential conflict of interest prior to undertaking any role in relation to the matter.

6.6 Best value for public money

As custodian and trustee of public assets, Council is required to demonstrate that the lease and/or licence agreement are in the public interest and will, to the extent possible, represent a value for money commercial enterprise. Facts and information independently obtained or at least verified, will assist Council in establishing that the deal is beneficial to the public and commercially viable.

In addition, when entering into commercial transactions, Council should ensure that the exercise of its statutory functions are in no way fettered by the terms of the bargain.

6.7 Governance of Council's future conduct

Once the terms of the lease and/or licence agreement are entered into, the terms of those documents will govern the conduct between the parties going forward, along with Council's usual policies and procedures of Crown land management.

7. Negotiation protocols

These Probity Guidelines envisage that a Negotiation / Discussion Protocol will be executed between Council and the partner and that it may include the following elements:

- Confirmation of the negotiation teams
- An undertaking that all negotiations will be completed in good faith and an external probity advisor will be invited to attend (where relevant)
- A statement that no matters discussed at the meetings will be binding on parties
- Confirmation that the Council representatives participating in the negotiations do not have a conflict of interest
- The communication protocol to be applied during the negotiation period
- Decision making responsibilities applicable to the process, including that Council's General Manager will make the final decision on whether legal documentation will be entered into for the Project
- No liability clauses applicable to the negotiations, including in the event that the Council does not obtain the Minister's approval
- Circumstances in which the negotiations can be terminated by the Council
- The minimum commercial terms acceptable to the Council, including length of tenure.

8. Review and amendment of Probity Guidelines

These Probity Guidelines outlines the general approach to ensure probity is maintained. It is acknowledged that these Probity Guidelines have been developed at the initial stage of the process, which by necessity will be fluid and flexible. These Probity Guidelines must also provide a framework that is flexible.

These Guidelines may be amended if required. Reasons for amending the Probity Guidelines must be clearly documented.

Annexure A: Probity Risk Assessment and Management

Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring – <i>pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
Participants in the process are not accountable and transparent	High	Medium/High	<p>Council's General Manager, Project Steering Group, the Partnership Negotiation Team and advisors to be provided with copy of this plan and briefed on their roles and responsibilities in accordance with Council's Code of Conduct and these Probity Guidelines.</p> <p>Decision making processes relating to direct negotiations will be aligned with the appropriate delegated authority. To this end, Council's Partnership Negotiation Team members must clearly state only known, approved and documented positions.</p> <p>The duties of each committee are segregated in these Probity Guidelines. Council's internal Project Steering Committee and Partnership Negotiation Team has been established for negotiations with the lessee and/or project funding partner and the evaluation of the proposal. The Project Steering Committee will make a recommendation to the Council and therefore there is sufficient segregation of duties between the negotiation process, the evaluation of the value for money proposition and the approval by appropriate delegation officers of any decision to proceed or otherwise with the lessee and/or project funding partner.</p> <p>Council aims to execute a Negotiation Protocol with the lessee and/or project funding partner and refer to this throughout the negotiation process.</p> <p>Appropriate and well-documented records will be kept that leave a clear and easy to follow auditable trail. This will be stored in a manner that enables timely retrieval.</p> <p>Council will ensure that all staff are appropriately qualified and experienced to undertake their particular role in the Project.</p> <p>All key issues discussed and actions then agreed at any key meeting relating to the Project should be recorded including:</p>	Project Steering Committee



Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring <i>-pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
			<ul style="list-style-type: none"> Meeting details Attendance Confirmation that participants have no real, potential or perceived conflict of interest and/or probity status Decisions and recommendations made Actions agreed Responsibility and time frame. <p>The Chair (or their nominated representative) of each governance group will arrange for minutes to be documented and maintained.</p> <p>Council will put in place mechanisms to report on all aspects of the project, as part of its overall project management framework. Reporting to Council will include any issue or factor that may have some form of adverse impact on the project (this could include monetary and non-monetary issues/factors).</p> <p>All participants in the Project are to be accountable for their actions. Redress will be available, where anyone involved in the project does not perform their duties as expected, or meet their commitments as required.</p> <p>It is recommended that these Probity Guidelines be signed by both the Council and the leasee and/or project funding partner prior to entering into any direct negotiations.</p>	
The direct negotiation process lacks	High	Medium	The decision to enter into direct negotiations has been made or approved at a senior level within Council.	Project Steering Committee



Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring <i>-pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
fairness, impartiality and honesty			<p>The decision to enter into direct negotiations and the reasons for it will be publicly accessible. It will be made clear in the documentation of the direct negotiation process that the negotiations with the leasee and/or project funding partner are limited to the execution of a new lease agreement. Where direct negotiations are proposed for the selection of a consultant(s) or contractor(s), this will be the subject of a separate direct negotiation or other approval, consistent with the exemption requirements identified in section 55 (3) of the Local Government Act 1993.</p> <p>Conflict of interest declarations from all persons engaged or associated with the Project will be obtained prior to their project engagement.</p> <p>All documentation in relation to the matter be available for public scrutiny and that there be no “off the record” or “one on one” discussions between Councillors and Council officers on the one hand and Club representatives on the other.</p> <p>Strict compliance with Council’s Record Management Policy is required.</p> <p>Every Project meeting will be attended by at least 2 (two) Council officers.</p> <p>The Independent Probity Advisor is responsible for reviewing the application of the probity principles described in this Probity Plan and the provision of advice and reports as requested.</p>	



Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring <i>-pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
Actual, potential and perceived conflicts of interest are not well managed	High	Medium	<p>In conjunction with the obligations under Council's Code of Conduct, Councils and all members of the Project Team, and any member of any taskforce, group, committee as well as any individual, consultant, company or other group associated with the Project will undertake the following:</p> <p>Declaring a conflict by completing the Confidentiality and Conflict of Interest Deed Poll ("Deed Poll").</p> <p>Conflict of Interest register will be maintained by Council</p> <p>Decisions relating to the Managing of Interests will be documented and monitored by Council. Provision to update Interest Declarations will be included in Project meeting agenda</p> <p>In accordance with Council's Code of Conduct any member of the Project Control Group, and any member of any taskforce, group, committee as well as any individual, consultant, company or other group associated with the Project must not accept a gift or benefit that may be regarded by the public as likely to influence the performance of their public duties in relation to this Project.</p> <p>All Project participants to be given a copy of these Probity Guidelines, be provided with training or briefings about what may constitute a conflict of interest and how they can/should be handled, if they have not already undertaken such training.</p>	Project Steering Committee
Confidentiality and security of documentation and information is not well maintained	High	Medium	<p>A Register must be maintained by a designated Council Officer of signed confidentiality and conflict of interest deed polls, from all external and internal parties involved in the Project.</p> <p>Physical and electronic documents relating to the direct negotiations are secured and kept confidential. Council will ensure appropriately senior assurance of this is provided at key points.</p>	Project Steering Committee

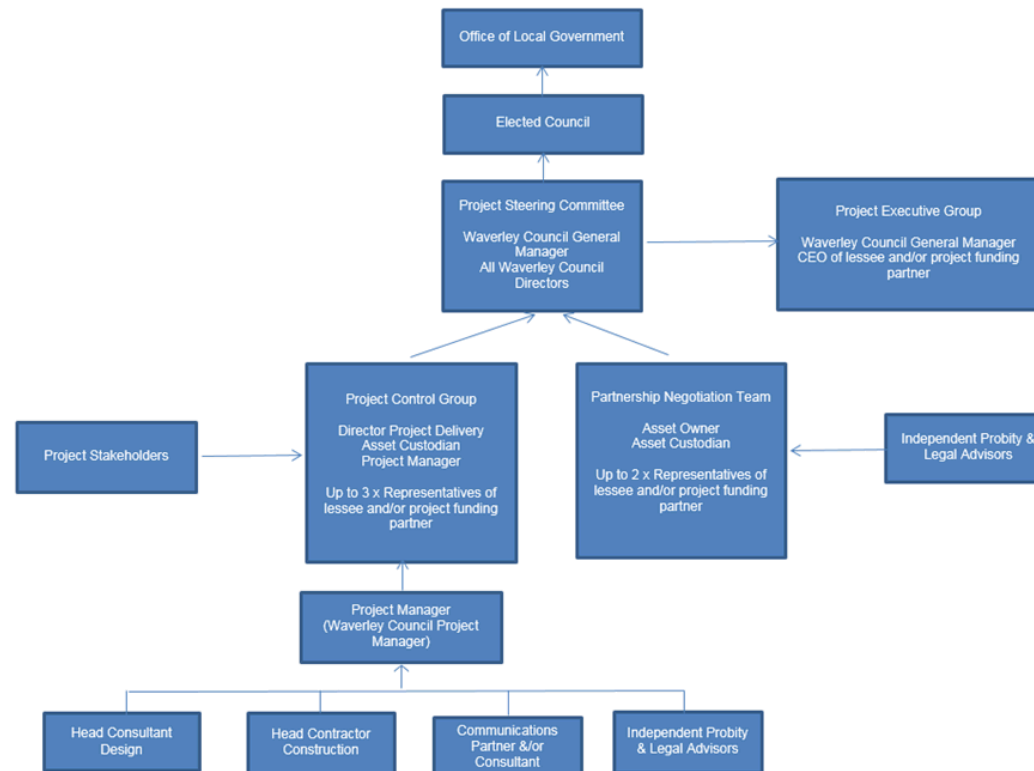


Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring <i>-pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
			<p>Council will ensure, wherever possible, equal opportunity and access to information is provided for all who need access to that information.</p> <p>Any information provided to stakeholders should be publicly available information or, where the information may not be in the public domain, approval should be obtained from the Project Director in terms of the release of this information. The reasons for the release of the information should be clearly documented.</p> <p>Communication with stakeholders should also be consistent with other Plans, such as any Communication Plan developed for the Project.</p>	
Value for money is not obtained as a result of direct negotiation	High	Medium/High	<p>Council will have regard to its obligations under section 55 of the Local Government Act 1995, Part 7 of the Local Government (General) Regulation 005 and the Local Government Tendering Guidelines in relation to any proposed contracts for the construction or redevelopment works.</p> <p>Council is committed to demonstrating that the lease agreement and associated licences are in the public interest and will, to the extent possible, represent a value for money commercial enterprise. Council will also undertake to demonstrate that the lease agreement is consistent with the obligations and undertakings in any relevant Plan of Management.</p> <p>Cost–benefit analysis or similar studies will be performed by Council to establish value for money benchmarks. Value for money analysis and benchmarks will include both financial and non-financial factors to ensure that these direct negotiations do not sacrifice value for money</p> <p>Value for money in this Project, such as appropriate benchmarks will be included in Council’s approved Business Case and other related project documentation.</p>	Project Steering Committee



Description of risk	Impact/Consequences – <i>pre-risk treatment</i>	Likelihood of risk occurring <i>-pre-risk treatment</i>	Management action to be taken to address risk	Committee with responsibility for oversight of management action
			<p>Appropriately qualified external parties will be engaged by Council to assist with this benchmarking process.</p> <p>Council and the leasee and/or project funding partner will appoint an independent, registered valuer to determine the market rent and licence fee at the date of commencement for the Lease. The outcome will be assessed against Council established value for money benchmarks and reported to Council prior to binding decisions being entered into.</p> <p>An Independent probity report will be prepared as part of the report to Council.</p> <p>Council will ensure that the exercise of its statutory functions are in no way fettered by the terms of the new lease agreement.</p>	

Annexure B: Capital Project Partnership Governance Structure Diagram



Annexure C: Negotiation / Discussion Protocol

1. Background

Waverley Council (Council) has resolved to enter into direct negotiations with *[insert organization name here]* for a new lease agreement associated with the proposed partnership for the *[insert project name]* Project on the public infrastructure and/or facility *[insert asset name]*.

This document sets out a protocol for Council and the proposed partner in undertaking these negotiations. These negotiations do not give rise to any form of exclusivity and do not extend to exclusivity arrangements in relation to any procurement activities Council is required to undertake on the upgrade project based on its obligations under section 55 of the Local Government Act 1993.

2. Negotiations and meetings

Negotiation teams

Council has appointed the following persons to undertake negotiations with the lease and/or project funding partner:

[insert names here]

The partner has appointed the following persons to undertake negotiations with Council:

[insert names here]

A party may change the persons comprising its negotiation team by notice in writing to the other party.

Negotiations may occur without all persons comprising a negotiation team being present.

Legal representation at these negotiations is permitted and legal representatives can be those parties from *[insert name advisors]* nominated at items 2.1(a) above or such other people as may be nominated from time to time, and may also include legal representatives nominated by the partner from time to time.

Undertakings

In conducting discussions and negotiations for the Project Heads of Agreement, the parties agree:

- That Council's Probity Advisor may be invited to attend key meetings, including where discussions may be held in relation to procurement activities associated with the upgrade project
- To act diligently and timely
- To negotiate in good faith and act with integrity and propriety
- To adequately resource the negotiations and to appoint technical advisers as the need arises in order to progress the negotiations in accordance with this protocol
- Nothing said at meetings will be binding on either party.

Subject to clause 2.2(c) and clause 7, the parties undertake to use all reasonable endeavours to conclude negotiations and if terms are agreed exchange executed contract documentation by *[insert sunset date]* or such later date as the parties agree. If negotiations have not concluded and if all documentation is not executed by *[insert sunset date]* then either party may notify the other party that the negotiations will cease.



Neither party may give a notice under clause 2.2(b), if Council has submitted the final documents for Office of Local Government Approval under clause 5.3.

Council undertakes that the representatives of Council conducting the negotiations do not have a conflict of interest.

Any issues of a probity nature arising as a result of negotiations may be raised directly with the Probity Advisor.

The timetable for discussions shall be as agreed between the parties.

3. Structure and Principles of the Commercial Negotiations Between the Parties

The structure and principles of the proposed satisfactory commercial outcome, which are included in this protocol, will form the foundations for the negotiation of the legal and commercial agreements between the parties.

- Council and the proposed partner have agreed the following principles relating to the negotiations
- The commercial and legal terms required as a minimum by Council will be set out in the Heads of Agreement.
- Council's preferred approach to risk sharing will be set out in the Heads of Agreement.

4. Communication Protocol

Correspondence between Council and the proposed partner for the purposes of these negotiations is to be communicated via any of the following methods:

- A document clearly marked as confidential to nominated email addresses
- Delivered by hand to the negotiating committee care of *[insert position title]* in the case of Council and to *[insert position title]* in the case of the lease and/or proposed funding partner; or
- Between the nominated legal representatives of Council and the lease and/or proposed funding partner.

No correspondence (or other documents) in respect of these discussions is to be removed from the premises of either Council or the proposed partner except where such correspondence is provided to the professional advisers of the parties or the Probity Advisor.

5. Decision-making

Council responsibilities

Subject to clause 5.3, the General Manager of Council (or the person who has been given decision making power within Council) will make the final decision whether or not to enter in formal legal documentation for the Project.

[Insert position] has been nominated to make decisions in relation to the final form of legal documentation for the Project, to be presented to the General Manager (or the person who has been given decision making power within Council) for approval.

The partner responsibilities

The board of the proposed lessee and/or project funding partner will make the final decision whether or not to enter in formal legal documentation for the Project.



[Insert position title] has been nominated to make decisions in relation to the final form of legal documentation for the Project, to be presented to the board of the partner for approval.

Office of Local Government Approval

The documentation may/will be conditional on the NSW Minister for Local Government approving the arrangements agreed between the parties (the OLG Approval) in accordance with the terms of the *NSW Local Government Act 1993*.

The documentation will include as a condition precedent, the receipt of the OLG Approval where required. The OLG Approval will be promptly sought by Council following agreement between the parties.

6. General Rules

No liability

In no circumstances will the lessee and/or proposed project funding partner have a claim against Council or any of its employees, agents, consultants or contractors (whether the proposed partner's proposal is successful or unsuccessful) arising out of or as a result of:

- The cessation of the negotiation period in accordance with clause 7 below
- Council's exercise, or failure to exercise, its rights and/ or its discretions under this protocol
- Any decision made by Council as part of its statutory obligations under the Act with regarding to tendering for contracts associated with the upgrade of the facility

- The failure to procure the OLG Approval, if sought
- The rejection of the partner's proposal.

Neither Council or any of its officers, employees, agents or consultants will be held liable to the partner or any third party under the laws of contract, tort or otherwise for any liability, loss, claim, damages, costs and expenses arising from or incurred in connection with anything contained in this deed or any information supplied by the Council or its officers, employees, agents or consultants.

No obligation to accept any Proposal

Council has no contractual or other legal obligation to the proposed partner with respect to the consideration, the evaluation, the acceptance or the rejection of any Proposal or the failure to consider, evaluate or accept any Proposal from the proposed lessee and/or project funding partner.

7. Voluntary termination

Council may terminate this deed by written notice to the proposed partner upon the occurrence of one or more of the following events:

- Council determines that the proposed partner is unlikely to be able to achieve a satisfactory commercial outcome resulting in executed transaction documents by the Closing Date
- Council determines to pursue negotiations or enter into binding documentation with another proponent for the Project
- The proposed lessee and/or project funding partner becomes Insolvent
- The proposed lessee and/or project funding partner defaults in a material manner under this protocol



- The proposed lessee and/or project funding partner breaches its confidentiality obligations
- The mutual agreement of the parties
- In any other circumstance, as determined by Waverley Council.

For the purposes of clause 7, **Insolvent** means:

- A "controller" (as defined in section 9 of the Corporations Act 2001 (Cth)), trustee, administrator or similar officer is appointed in respect of a person or any asset of a person;
- A liquidator or provisional liquidator is appointed in respect of a corporation;
- Any application (not being an application withdrawn or dismissed within 7 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
- Appointing a person referred to in paragraphs (a) or (b) other than under a solvent scheme of arrangement pursuant to Part 5.1 of the Corporations Act 2001 (Cth);
- Winding up a corporation; or
- Proposing or implementing a scheme of arrangement;
- Any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate under any insolvency provision;
- A moratorium of any debts of a person, a personal insolvency agreement or any other assignment, composition or arrangement (formal or informal) with a person's creditors or any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the

control of that person's creditors or a trustee, is ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days;

- A person becomes, or admits in writing that it is, or is declared to be, or is taken under any applicable law to be, insolvent or unable to pay its debts; or
- Any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person.

8. Costs

Each party will bear its own costs in connection with the negotiations contemplated by this protocol.

9. Confidentiality

The parties must keep all information relating to, or connected or associated with, the Project or the negotiations contemplated by this protocol, confidential.

10. Outcome

Each party accepts that there is a possibility that due to no fault of either party a "satisfactory commercial outcome" may not be achieved following the negotiation process. In the event that an agreed outcome cannot be reached then each party acknowledges that costs incurred during the negotiation process cannot and will not be recoverable from the other party.

**11. Name**

The parties agree and acknowledge that the public infrastructure and/or facility that is the subject of this negotiation is to be referenced as *[insert name]*.

This protocol is agreed and accepted with effect from *[insert date]*

Signed for and on behalf of)
WAVERLEY COUNCIL by its)
 authorised officer in the)
 presence of:)
)

 Signature of Witness

 Signature Authorised Officer

 Name of Witness (please
 print)

 Name of Authorised Officer

 Position of Authorised Officer

**Executed by the insert
 proposed partner name** in the
 presence of:

 Signature of Witness

 Signature Authorised Officer

 Name of Witness (please
 print)

 Name of Authorised Officer

 Position of Authorised Officer

Annexure D: Confidentiality Deed and Conflict of Interest Declaration

Confidentiality and Conflict of Interest Declaration

made on(date)

by:(" Recipient ")

in favour of :

Background

As a result of the Recipient's role in the [Project], the Recipient will become acquainted with Confidential Information.

Confidential Information

1. For the purposes of this deed "**Confidential Information**" is any information relating to the Project which has come to the knowledge of the Recipient by any means and which is given to the Recipient either directly or indirectly by Council or by a person on behalf of Council, but does not include:
 - (a) Information which, at the time of disclosure, was in the public domain; or
 - (b) Information which, subsequent to disclosure, enters the public domain except through breach of this deed or any other obligation of confidence.

Acknowledgements, warranties and covenants

2. The Recipient acknowledges and agrees that:
 - (a) The Confidential Information is of a secret and confidential nature;

- (b) It is requirement of the Recipient's role in relation to the Project that strict confidentiality as described below is maintained at all times; and
 - (c) Improper use or disclosure of any Confidential Information may be detrimental to Council in connection with the performance of its functions, and may cause harm to Council.
3. The Recipient undertakes to treat and keep the Confidential Information in the strictest of secrecy and confidentiality and not disclose the Confidential Information except as expressly authorised and permitted to do so under paragraph 5 below.
4. Further, the Recipient undertakes not to disclose to any person that the Confidential Information has been made available to the Recipient and undertakes:
 - (a) To protect and safeguard Confidential Information against unauthorised publication or disclosure; and
 - (b) Not to use, copy or reproduce Confidential Information for any reason or purpose as directed by Council or in the discharge of the Recipient's duties in connection with the role in the Selection Process; and
 - (c) Safeguard the physical security and storage of Confidential Information and comply with any specific security and storage measures in connection with Confidential Information that may be required by Council.

Authorised disclosure

5. The Recipient may disclose Confidential Information:
 - (a) If a duly authorised representative of Council approves in writing the disclosure of Confidential Information in accordance with the terms of that approval;



- (b) If required under a binding order of a government agency or any legal proceeding;
- (c) If required under any law or any administrative guideline, directive, request or policy having the force of law; and
- (d) To employees, consultants and other advisers of Council who have executed undertakings in favour of Council substantially the same as this one.

Return of Confidential Information

- 6. If Council requests it, the Recipient must:
 - (a) Promptly return to Council all documents and other physical records of Confidential Information in the Recipient's possession, custody, power or control except where the Recipient is required by law to retain them or such documents or records are required to be retained in accordance with any administrative guideline, directive, request or policy by which the Recipient is bound; and
 - (b) Provide a statutory declaration to Council confirming that all those records have been returned.

Conflict covenant

- 7. The Recipient confirms that:
 - (a) By indicating a "NIL" response on the **Conflict of Interest Declaration** form set out as Attachment 1, the Recipient does not have a conflict of interest in relation to its role in any Selection Process as part of the Project;
 - (b) Any interest of the Recipient that may create, or may be perceived to create, a conflict of interest as at the date of this deed is documented in the Declaration; and

- (c) It will promptly notify the Chair of the Evaluation Committee of any interest of the Recipient arising after the date of this deed that may create, or may be perceived to create, a conflict of interest in relation to its role in any Selection Process as part of the Project.

Non-waiver

- 8. The failure of Council to enforce any of the provision of this deed or the granting at any time of any other indulgence is not to be construed as a waiver of that provision or of the right of Council to enforce that or any other provision at a later date.

Continuing obligations

- 9. Each obligation of the Recipient under this deed is a continuing, perpetual obligation and survives any expiry, performance or termination of this deed.

Governing law

- 10. This deed is governed by and subject to the laws of New South Wales.

In signing this Deed Poll Recipients are confirming that they have read and understood their obligations as identified in the Probity Management Plan.

Recipient Signature

Witness Signature

Name of Recipient

Name of Witness



Attachment 1 – Conflict of Interest Declaration

Name: _____

Organisation: _____

Date: _____

Project: _____

Definition

Conflicts of interest arise when persons are influenced, or appear to be influenced by personal interest when doing their job. Conflicts of interest of persons involved in the evaluation or decision making process result in a lesser standard of independence than that required to maintain the integrity of the evaluation process.

Either section 1 or 2 must be completed.

Section 1

I do not have any related interest to declare that may create, or be perceived to create, a conflict of interest in relation to my role in the Project.

Tick here for NIL response ☐

Section 2

I have the following related interest(s) to declare.

Description of related interest:.....

.....

.....

.....

Description of possible conflict:.....

.....

.....

.....

Action to avoid Conflict of Interest the following action has been agreed:

.....

.....

.....

I hereby declare that the above details are correct to the best of my knowledge and I make this Declaration in good faith and commit to the implementation of any agreed management action.

Signature: _____

Name: _____

Date: _____

I (Panel Chair / Project Director) hereby declare that I have received and appropriately noted this Declaration and confirm the agreed management actions.

Signature: _____

Name: _____

Date: _____

REPORT
PD/5.6/18.08

Subject: Rowe Street Access to Bondi Junction Interchange

TRIM No: A13/0061

Author: Fleur Mellor, Acting Manager, Urban Design and Heritage

Director: Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council:

1. Adopts the Bondi Junction Interchange Access Project Plan attached to this report.
2. Supports ongoing negotiations with Transport for New South Wales in order to facilitate the new pedestrian access to the transport Interchange.
3. Officers proceed to engage external consultants to undertake the proposed investigations.

1. Executive Summary

Over the last decade, Council has reviewed options to improve access to the Bondi Junction Interchange. There are considerable public benefits to be gained from allowing for direct access between the interchange and Oxford Street Mall, such as improved pedestrian safety and greater pedestrian activity on Oxford Street Mall.

Following unsuccessful negotiations for a third party to develop the interchange access, Council completed the road closure process and created three development-ready strata lots. There are now several pathways Council could take to facilitate the interchange access.

In order to help Council assess the best way forward, it is recommended that Council seeks legal clarification on restrictions impacting the site and then engage economic and strategic experts to investigate the options further. It is also recommended that Council actively works with Transport for NSW (TfNSW) to obtain certainty regarding the new access.

This report requests Council to adopt the project plan attached to this report to undertake these investigations, with the aim of reporting back to Council at the end of the year with a recommended option.

2. Introduction/Background

The Bondi Junction Transport Interchange is among the busiest in Sydney with 85,000 customers per day, of which 70,000 arrive or leave the station on foot. Approximately 50% of these people (35,000 pedestrians per day) arrive or exit via Grosvenor Street. Approximately 1,000 buses per day also exit via Grosvenor Street via an uncontrolled intersection, and this conflict poses a significant safety risk to pedestrians.

Over the past decade Council and TfNSW have both reviewed options to improve access to the interchange. There are currently four alternative access points to the Interchange: two from Grafton Street to the rail ticket concourse; one from Newland Street to the bus concourse (which was closed due to bus

movements); and one via an escalator from the bus concourse up to Tiffany Plaza and then to Oxford Street via the Rowe Street ramp.

To address the issue, Council considers the best option to be a new principal access into the interchange from Oxford Street pedestrian mall at the Rowe Street ramp to provide safe, direct entry to both the bus and rail concourses via escalators and lifts.

The Rowe Street ramp links Tiffany Plaza and the Bus Rail Interchange with Oxford Street Mall and various arcades, such as Bronka Arcade, which provide pedestrian connectivity through to Spring Street and the Eastgate Carpark. The permeability of Oxford Street Mall and the role of Rowe Street to deliver commuters and pedestrians to this space means that the intersection of Rowe Street and Oxford Street Mall represents a significant pedestrian/commuter focal point.

The access would ideally form part of a site redevelopment to create seamless integration with the built form and commercial activities in the mall. As well as safety and convenience for customers, this would increase foot traffic in the pedestrian mall, providing much needed activation and economic stimulus.

The Rowe Street site and the study area (including surrounding properties and pedestrian links) is shown in Figure 1. An indicative layout for a new interchange access integrated with development is shown in Figure 2. Conceptual visualisations of the new access are shown in Figure 3.

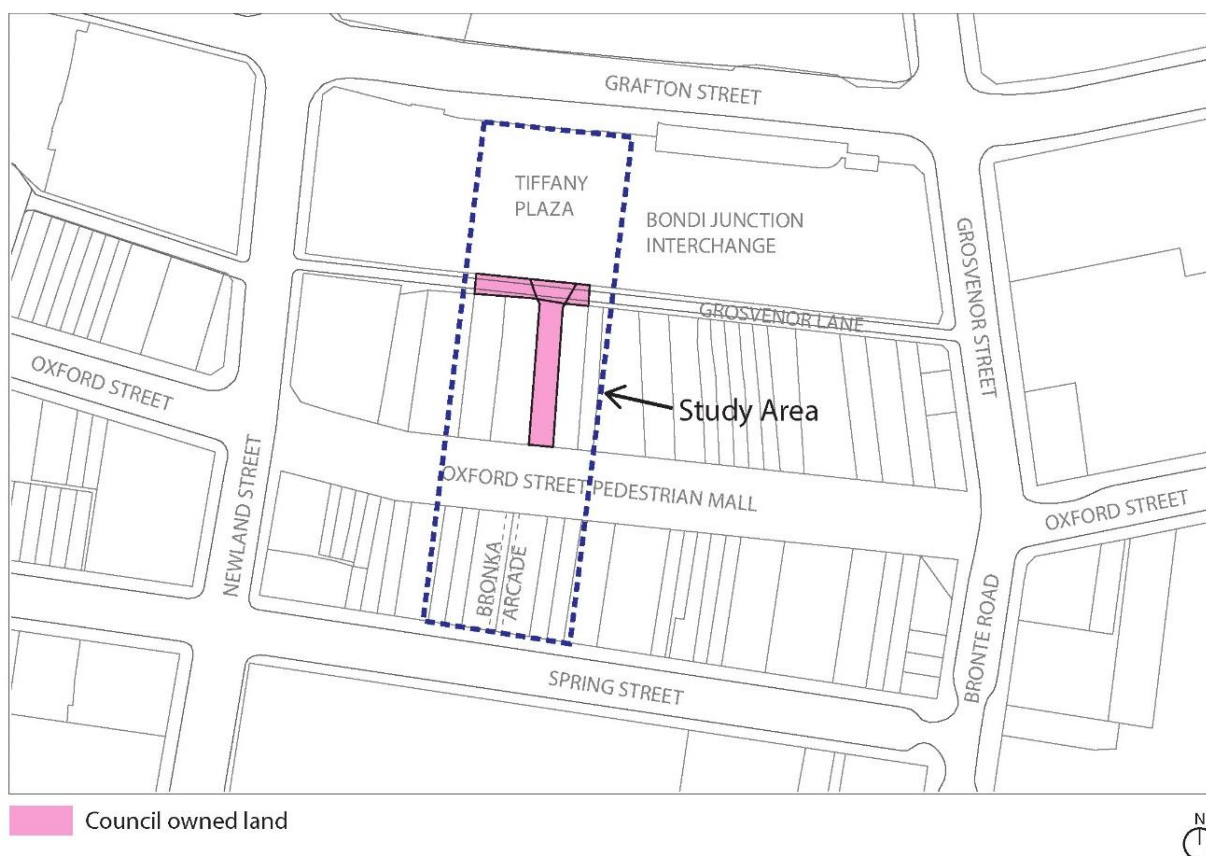


Figure 1. Subject site (pink) and study area (blue).

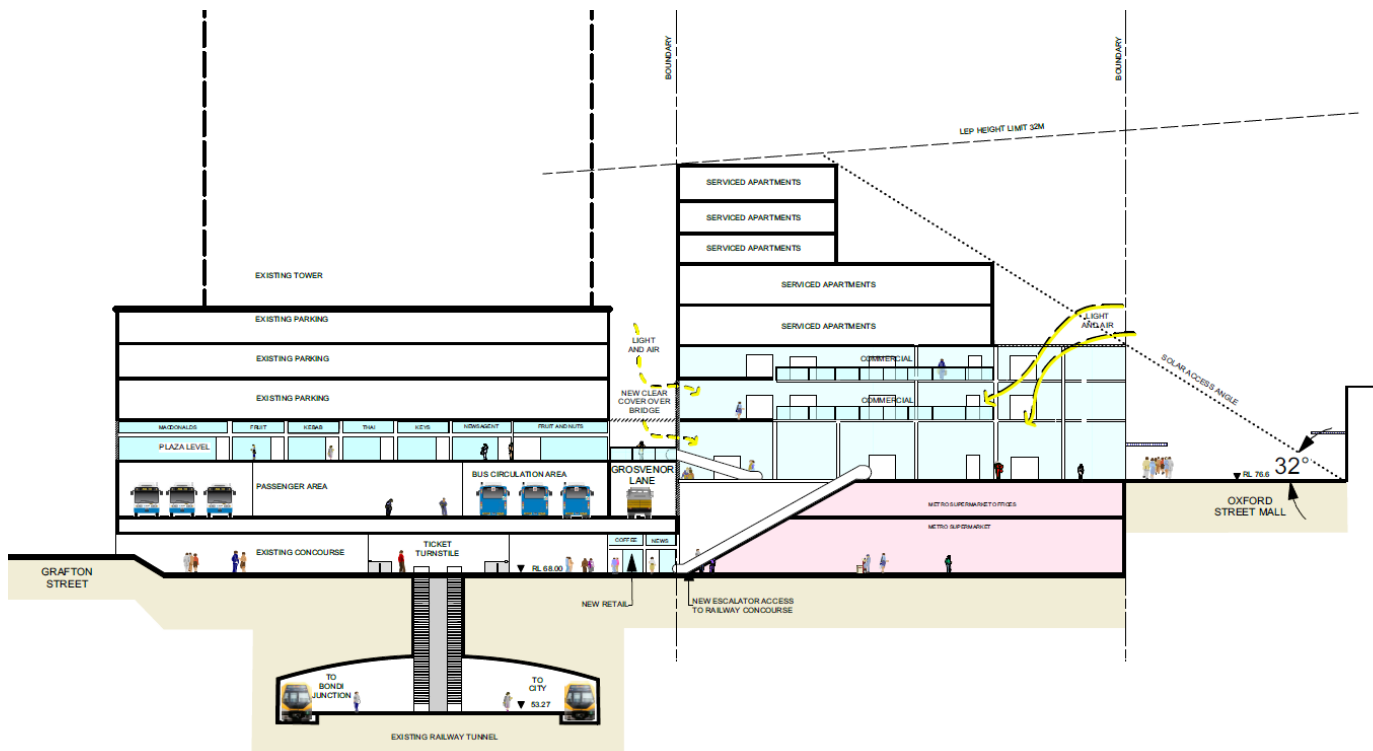


Figure 2. Indicative concept section of proposed new interchange access.



Figure 3. Conceptual visualisations of the new interchange access.

The recent project history is summarised below:

2013

Council issued an Expressions of Interest to purchase and develop the Council-owned site and create the new interchange access. One offer was received from Meriton involving a significant height increase.

2014

Refinement of Meriton concept plans, involving reductions in height but inclusion of residential.

In parallel, there was development of draft TfNSW Terms (tripartite agreement between TfNSW, Meriton and Council) and draft Head of Agreement (between Meriton and Council for purchase of land) to negotiate sale price and cost sharing for infrastructure.

Meriton ultimately withdrew from negotiations due to unsatisfactory resolution/ uncertainty with development potential and costs of site acquisition and infrastructure.

2014–17

Council amended the Local Environmental Plan (LEP) to remove Rowe Street ramp from the 'public places listed in Clause 6.7 – 'Solar access to public places in Bondi Junction,'.

Council completed the road closure process for Rowe Street and created three strata lots, including lots under and above Grosvenor Lane, for the purpose of providing access to the interchange.

Council adopted Waverley's People, Movement and Places report which outlines a sustainable transport strategy for the LGA. The third signature project is to deliver the new access to Bondi Junction Interchange via Rowe Street.

2018

Draft options for delivering the interchange access were developed by staff.

A Councillor workshop was held on 8 May 2018 to explain the options to Councillors and gain feedback. Council staff met with the two adjoining landowners separately to discuss the options and gain their feedback.

Council staff met with representatives from TfNSW (Finance and Investment Division) to discuss the project. Following this meeting, Council sent a written request to TfNSW to re-establish a working group for the project.

3. Relevant Council Resolutions

Council or Committee Meeting Date	Minute No.	Decision
Council Meeting 17 May 2016	CM/7.5/16.05	<p>That Council:</p> <ol style="list-style-type: none"> Endorses the Road Closure Application for Rowe Street and part of Grosvenor Lane and subsequently authorises the General Manager to sign off the final application, as well as any necessary easements on the land for infrastructure services, to enable the eventual upgrade of pedestrian access to Bondi Junction Transport Interchange. Endorses the final Road Closure Plan, once approved by NSW Department of Primary Industries - Lands, to be sent to NSW Land and Property Information to create the new lots. Officers enforce the DA approval for the ramp's construction.

<p>Council Meeting 19 May 2015</p>	<p>CM/7.10/15.05</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes the matters raised in the submissions during the public exhibition period relating to the planning proposal to amend Clause 6.7 – ‘Solar access to public places in Bondi Junction’ of the Waverley Local Environmental Plan 2012. 2. Supports the planning proposal for the following reasons: <ol style="list-style-type: none"> a) Significant solar access will be maintained for Norman Lee Place and Oxford Street Mall; and b) There will be no further overshadowing of Eora Park, Clementson Park, and Waverley Street Mall. c) It removes unintended constraints to development in key areas of Bondi Junction; d) New homes and jobs will be created in Bondi Junction; e) It allows for the development of Rowe Street and improved access to the Bondi Junction Transport Interchange; f) Consistency with local and State strategic policies including <i>Waverley Together 3</i> and <i>A Plan for Growing Sydney</i>. 3. Agrees to the following amendments to the planning proposal: <ol style="list-style-type: none"> a) Leave Norman Lee Place and Oxford Street Mall in subclause (2) of Clause 6.7 but qualify the amount of overshadowing of these places that is acceptable (to allow development up to LEP heights); and b) Adjust the building heights proposed for: <ul style="list-style-type: none"> • Spring Street as per the diagram ‘Section 1 – Exhibited/proposed building height limits for sites directly north of Norman Lee Place’; and • Rowe Street to reflect the most appropriate building envelope for the site (a maximum of three stepped heights) as per the diagram ‘Section 2 – Rowe Street Proposed Building Height Limits’. 4. Supports making the amendments to the Waverley Local Environmental Plan 2012 outlined in the planning proposal in conjunction with Parliamentary Counsel under the delegation received from the Department of Planning and Environment. 5. Notifies property owners of Council’s decision.
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Council Meeting 19 August 2014	CON.20/14	<p>That:</p> <ol style="list-style-type: none"> 1. The report titled Improvement of Access and Egress Rowe Street Bondi Junction Bus / Rail Interchange be treated as confidential in accordance with section 11(3) of the <i>Local Government Act 1993</i>, as it relates to a matter specified in section 10A(2) of the <i>Local Government Act 1993</i>. 2. Council supports continuing negotiations with Meriton based on the drawings received on 4 March 2014 as attached at <i>Attachment C</i>. 3. Council supports continuing negotiations with Meriton and Transport for NSW (TfNSW) in order to achieve public transport commuter benefits as outlined in the Expression of Interest Package . 4. Council adopts the following key objectives for further negotiations with Meriton and TfNSW: <ol style="list-style-type: none"> i. Compliance with existing LEP height and FSR controls. ii. Improved direct and safer access to the transport interchange for pedestrian commuters in accordance with specifications to be confirmed by TfNSW. iii. Design excellence. iv. Adoption of a Heads of Agreement as the delivery tool to progress the project to the next stage of consideration. 5. Council adopts the draft Heads of Agreement as attached at <i>Attachment G</i> for discussion with Meriton and TfNSW. 6. Council authorises Council's General Manager to sign the final Heads of Agreement. 7. Council notes that Meriton's offer is conditional on the freehold sale of the Rowe Street lot from Council, together with the acquisition of the two privately owned properties. It is further noted that it is feasible to retain clear and direct public access to the interchange through creating appropriate covenants as part of the sale of the Council owned land. 8. Commences the process to seek the closure of Rowe Street in order to create a freehold title for the purposes of the sale of the future lot to Meriton.

		<p>9. Council seeks advice on appropriate conditions of the sale to achieve Council's public benefit objectives in relation to access and development form.</p>
<p>Council Meeting 21 May 2013</p>	1305.8.1	<p>The following question was submitted by Cr Strewe:</p> <p>Could the General Manager please inform Council as to what is happening in relation to the re-opening of direct pedestrian access from the Mall to the rail concourse at the bus and rail interchange in Bondi Junction?</p> <p>The General Manager replied:</p> <p>In relation to the trial of the alternative access to Bondi Junction bus and rail interchange at Grosvenor Lane and Rowe Street, basically the refusal by Railcorp as a consequence to Meriton not agreeing to the proposed trial was reviewed by senior management at New South Wales Transport, RailCorp. They notified Council that as a consequence to the strata management's statement which prohibits building work that alters the appearance of the building when viewed from outside the building without the unanimous resolution of the committee that given that Meriton were refusing to agree to the trial, they could not progress with the trial.</p>
<p>Council Meeting 21 August 2012</p>	1208.18.2	<p>That:</p> <ol style="list-style-type: none"> 1. This report be treated as confidential in accordance with section 11(3) of the Local Government Act 1993, as it relates to a matter specified in section 10A(2) of the Local Government Act 1993. 2. The report be received and noted. 3. The scope of the above and below ground envelope under consideration be expanded to include the sub-stratum space. 4. A workshop with relevant officers and Councillors be held to: <ol style="list-style-type: none"> (a) Define the envelope and design of the above ground and the sub-stratum elements in preparation for going to market. (b) Consider pedestrian access and egress to the Interchange. (c) Consider legal requirements, in particular consideration and preparation of caveats required for full access into the Interchange.

		<p>(d) Define the public consultation process and include Council's Access Committee as a consulting body to the project.</p> <p>5. A new valuation be obtained subsequent to the workshop being held.</p> <p>6. Community consultation be undertaken.</p> <p>7. A report be prepared and submitted to Council for consideration following the completion of the Rowe Street doorway access trial period.</p>
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4. Discussion

Now that the road closure process has been completed and three development-ready strata lots have been created, there are several pathways Council could take to facilitate the interchange access.

The simplest option would be to sell Council's land as is. However, under this model the purchaser would need to:

- Acquire the adjoining lots in order to create a developable site.
- Obtain DA approval.
- Negotiate with TfNSW to design and build the new interchange access.
- Absorb the costs of building and maintaining the public infrastructure.

As Council experienced with the unsuccessful 2013/2014 EOI and negotiation process, these requirements collectively present too much risk to the purchaser in terms of the yield permitted under the existing planning controls.

Accordingly, four alternative approaches are being considered:

1. Option 1 – Council sells its landholding.
2. Option 2 – Council enters in Joint Venture with adjoining owners.
3. Option 3 – Council acquires adjoining sites.
4. Option 4 – Council builds interchange access independently.

Option 1

Council offers an option to purchase the land subject to the purchaser obtaining DA approval as well as compliance with conditions such as development outcomes, DA approval timeframe and construction timeframe. Prior to marketing the site, Council finalises the requirements and process for new interchange access with TfNSW to provide certainty to prospective purchaser and assist the preparation of DA.

Advantages

Enables buyer to confirm development potential and access arrangements to provide more certainty prior to purchasing and maximise Council's asset value.

Disadvantages

If the option is not exercised (DA unsuccessful/takes too long) the project is delayed.

Option 2

Council and adjoining landowners enter into Joint Venture (JV) or Private-Public Partnership (PPP) to prepare DA for a consolidated site and either develop or sell with DA approval.

Advantages

Enables a more integrated, master-planned outcome. Confirms development potential and access arrangements to provide more certainty and maximise Council's asset value. Depending on JV/ PPP arrangements Council can have more control over the design outcome.

Disadvantages

Requires legal framework adding cost. More stakeholders increases complexity. Potential negative community reaction and/or political issues with partnership/JV.

Option 3

Council acquires adjoining land, prepares DA for consolidated site and either sells with DA approval or develops and leases floor space.

Advantages

Council has complete control over design. No JV required. Council could use the development as its administrative centre or lease the floor space to generate revenue.

Disadvantages

Upfront capital cost of land purchase. Cost and resources involved in design and construction. Potential perceived conflict with Council as developer could have negative community reaction. Risk of unsatisfactory market price/ return on investment.

Option 4

Council builds the new interchange access on its landholding independently of adjoining sites.

Advantages

Access delivered in timely manner. Council completely controls the design.

Disadvantages

Net cost to Council. Does not achieve full potential in terms of urban form, employment and economic outcome. May not be technically feasible.

Additional steps

Prior to investigation of the options, Council requires legal clarification regarding the restrictions on the site created by the section 88b right of access; the strata management laws on the interchange building; and legal/transparency matters relating to the sales/acquisition/joint venture process.

Then, in order to help Council decide the most appropriate option to pursue, economic and strategic property experts are proposed to be engaged to investigate the options further. This would involve investigating the concept designs, detailing the process and risks, and estimating the costs and net financial

outcome for each option. An options assessment report would then be presented back to Council with a recommended option to pursue.

In parallel, it is proposed that Council establishes a working group with Transport for NSW (TfNSW) to progress the project. The working group would:

- Obtain relevant strategic advice and technical information from TfNSW including updated Business Requirements Specifications and details of services etc.
- Obtain input from relevant sections of TfNSW as needed.
- Review proposals and concepts.
- Facilitate the design, approval and delivery process within TfNSW.

A Project Plan has been prepared for this project incorporating the above scope of work, and is attached to this report. It is requested that Council adopts the Project Plan in order for the project to progress.

5. Financial impact statement/Timeframe/Consultation

Financial

The financial implications of each option will be clarified through the investigations and may range from a net financial gain to a net financial loss. These will need to be considered against the public benefits delivered. Funding for the project will be considered further when Council considers the preferred option and has more detailed financial information. A budget of \$80,000 is proposed in 2018–19 to cover the cost of consultant investigations.

Timeframe

The following program is proposed:

Task	Tentative Completion date
Commission consultants via RFQ	August 2018
Draft Options investigation report	October 2018
Councillor Workshop	November 2018
Report to Council – recommended option	December 2018
Project Plan and budget for implementation	April 2019
Implementation	2019 - 2021

Consultation

Preliminary consultation has been undertaken with adjoining landowners and TfNSW. It is proposed that communication with these parties will continue on an as-needs basis. Broader community consultation is not considered necessary until a preferred option is decided and a DA is submitted for the site and specific concepts can be viewed. Community engagement will be addressed in the Project Plan for the implementation of Council's preferred option.

6. Conclusion

There is considerable public benefit to be gained from allowing for direct access between Bondi Junction Transport Interchange and Oxford Street Mall. There are now several pathways Council could take to facilitate the interchange access.

It is recommended that Council adopts the Project Plan to enable consultants to be commissioned to investigate the options further and provide expert advice, and for Council to form a working group with Transport for NSW (TfNSW) to gain certainty around the design and approval process.

This will enable Council to make an informed decision on the most appropriate way forward to deliver the interchange access and ensure the public benefits are realised.

7. Attachments

1. Rowe Street Project Plan [↓](#)



BONDI JUNCTION INTERCHANGE ACCESS - PROJECT PLAN

Project Summary	Investigation into options for delivering a new major public access way into Bondi Junction Interchange directly from Oxford St pedestrian mall via the Council-owned land formally known as Rowe Street.					
Project Manager:	Sam George		Project Sponsor:		George Bramis	
TRIM:		A13/0061				
Project start and finish dates:		March 2018 – 2019				
Budget estimate:	Year 1 (17/18)	Nil	Year 2 (18/19)	80,000	Year 3 (19/20)	TBC
Funding sources for Year 1:	Operations Budget				TBC	
TOTAL					\$80,000	
Key Milestones				Timeframe		
Stage 1 – Project initiation				August 2018		
Stage 2 – Options investigation				October 2018		
Stage 3 – Option selection				December 2018/ February 2019		
Stage 4 - Implementation				2019-2021		
Key Stakeholders:						
Councillors, ELT, PCG, adjoining landowners (Meriton and Zondaro), Transport for NSW, Sydney Transit Authority, Sydney Trains.						



1 Report History

1.1 Document Location

This document is only valid on the day it was printed.

The source of the document will be found at TRIM A13/0061.

1.2 Revision History

Revision date	Author	Version	Summary of Changes	Changes Marked
18.06.2018	Sam George	A	Draft project plan	

1.3 Approvals

This document requires the following approvals (as needed):

Name	Title	Date Approved	Version
George Bramis	Executive Manager Shaping Waverley	26.06.18	A
Peter Monks	Director Waverley Futures		

1.4 Distribution

This document has additionally been distributed to:

Name	Title	Date of Issue	Status
Fleur Mellor	Manager Urban Design and Heritage	18.06.18	



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2 Introduction

2.1 Project Purpose

To further investigate and pursue options for a new pedestrian access to the Bondi Junction Interchange from Oxford Street pedestrian mall via the Council-owned land referred to as Rowe Street.

2.2 Background

The Bondi Junction Transport Interchange is among the busiest in Sydney with 85,000 customers per day, of which 70,000 arrive or leave the station on foot. Approximately 50% of these people (35,000 pedestrians per day) arrive or exit via Grosvenor Street, which also accommodates more than 1,000 buses per day. This conflict between buses and pedestrians poses a significant safety risk.

Over the past decade Council and TfNSW have both reviewed options to improve access to the interchange. There are currently 4 alternative access points to the Interchange – two from Grafton Street to the rail ticket concourse, one from Newland Street to the bus concourse (which was closed due to bus movements), and one via escalator from the bus concourse up to Tiffany Plaza and then to Oxford Street via the Rowe Street ramp.

To address the issue, Council considers the best option to be a new principal access into the interchange from Oxford St pedestrian mall at the Rowe St ramp to provide safe, direct entry to both the bus and rail concourses via escalators and lifts. The access would ideally form part of a site redevelopment to create seamless integration with the built form and commercial activities in the mall. An indicative layout for such a development is shown in Figure 1. As well as safety and convenience for customers, this would increase foot traffic in the pedestrian mall, providing much needed activation and economic stimulus.

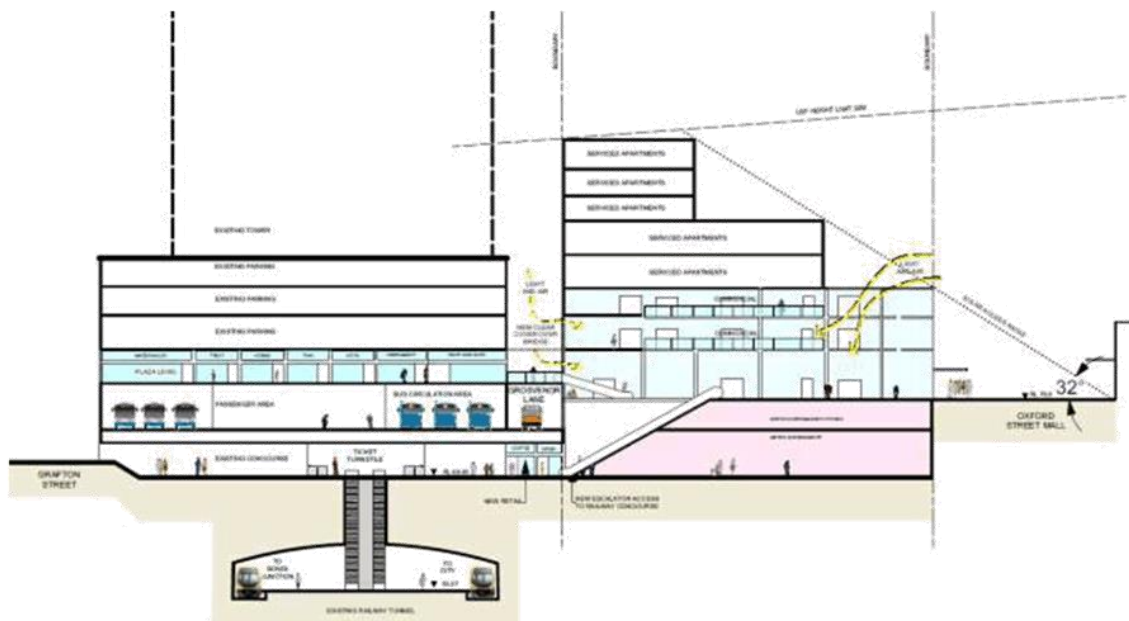


Figure 1. Indicative concept section of new interchange access.

The recent project history is summarised below:

2013

Council issued Expressions of Interest to purchase and develop the Council-owned site and create the new interchange access. One offer was received from Meriton involving a significant height increase.

A13/0061

Bondi Junction Interchange Access - Project Plan

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2014

Refinement of Meriton concept plans, involving reductions in height but inclusion of residential.

In parallel there was development of draft TfNSW Terms (tripartite agreement between TfNSW, Meriton and Council) and draft Head of Agreement (between Meriton and Council for purchase of land) to negotiate sale price and cost sharing for infrastructure.

Meriton ultimately withdraws from negotiations due to unsatisfactory resolution/ uncertainty with development potential and costs of site acquisition and infrastructure.

2014-17

Council amended the Local Environmental Plan (LEP) to remove Rowe Street ramp from the 'public places listed in Clause 6.7 – 'Solar access to public places in Bondi Junction,'.

Council completed the road closure process for Rowe Street and created 3 strata lots, including lots under and above Grosvenor Lane for the purpose of providing access to the interchange.

Council adopted *Waverley's People, Movement and Places* report which outlines a sustainable transport strategy. The third signature project is to deliver the new access to Bondi Junction Interchange via Rowe Street.

2.3 Study Area

The study area for the project is shown in Figure 2 below and comprises the Council owned sites (in pink) plus surrounding properties and pedestrian links (within blue line).

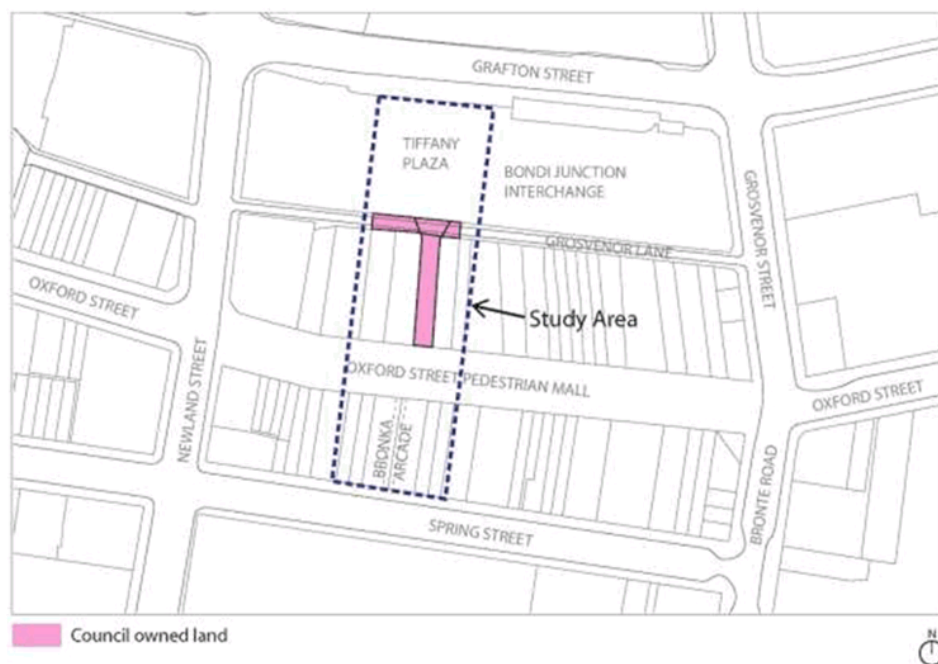


Figure 2. Study Area



2.4 Related Projects

- Strategic Property Audit (ongoing) - review of all Council properties will inform future decisions on sale/ lease/ acquisition strategy.

3 Project Definition

3.1 Objectives

1. Improve legibility, safety and convenience of access to and from the interchange.
2. Revitalise the pedestrian mall with increased pedestrian activity, a continuous urban fabric and physical upgrades to the public space.
3. Protect Oxford St pedestrian mall from the impacts of height and overshadowing of any new development.
4. Protect the commercial integrity of Bondi Junction with regards to employment and land uses.
5. Balance the optimisation of Council's asset with the broader public benefit derived.

3.2 Scope

The scope comprises the following:

Stage 1 – Initiation

- a. Obtain legal advice on the following:
 - Meriton's legal rights/ ability to veto development of a new interchange access via Rowe Street as a strata owner of the interchange building (including underground 'break-through' to rail concourse).
 - Whether Meriton is required to give landowner consent for a DA on the Council/ Zondaro site.
 - Whether the 88b Right of Public Access on Rowe St can be built above and below, and whether it has a minimum height and/or width requirement.
 - Whether transfer of FSR is permitted between sites and if so the conditions and process to do so.
 - Whether Council must use an open tender/ EOI process to sell the site, or whether Council can enter into negotiations with parties directly regarding sale of lots/ a Joint Venture or PPP, and/or another arrangements such as exchanging land in return for public infrastructure or stratum commercial floorspace. Also advise any requirements that must be followed for probity/ transparency reasons.
 - Outline the requirements and process for an unsolicited offer from adjoining landowner and any requirements in terms of probity/ transparency.
- b. Establish a working group with Transport for NSW (TfNSW) to:
 - Provide relevant strategic advice and technical information to Council including updated Business Requirements Specifications and details of services etc;
 - Liaise with relevant sections of TfNSW as needed;
 - Review proposals and concepts from Council and developers;
 - Facilitate the design, approval and delivery process;
- c. Obtain Council endorsement of project plan.



Stage 2. Options investigations

Undertake detailed investigations into the following options:

Option 1.

Council sells land under an option agreement subject to purchaser obtaining DA approval as well as compliance with conditions such as development outcomes, DA approval timeframe and construction timeframe. Prior to marketing site, Council finalises the requirements and process for new interchange access with TNSW to provide certainty to prospective purchaser and assist the preparation of DA.

Advantages: Enables buyer to confirm development potential and access arrangements which de-risks and maximises Council's asset value. Easiest/ lowest cost option to Council.

Disadvantages: Buyer may propose uplift beyond current planning controls which may not be acceptable to Council. If the option is not exercised (DA unsuccessful / takes too long) the project is delayed.

Information required:

- Appropriate conditions for an option agreement to achieve Council's interests (eg development outcomes, approval and construction timeframes) and mechanisms to restrict sale/ rezoning/ DA amendment after transfer of titles to protect Council's desired outcome.
- Further testing/ refinement of concept plan to ensure viability and maximum development outcome.
- Valuation for Council lots, taking into consideration the development potential under the existing planning controls and the requirement to build the interchange access.
- Assess potential alternatives to a cash sale eg. provision of infrastructure/ public benefits by developer and/or provision of quantity of commercial floorspace (ownership or lease).
- Set out the detailed process and indicative costs for Council to sell its landholdings or enter into another arrangement (such as exchanging its land in return for public infrastructure or stratum commercial floorspace) including whether an open tender or EOI process is mandatory.



Figure 3. Option 1 for investigation

**Option 2.**

Council and adjoining landowners enter into Joint Venture (JV) or Private-Public Partnership (PPP) to prepare DA for a consolidated site and either develop or sell with DA approval.

Advantages: Larger and more integrated/ master planned outcome. Confirms development potential and access arrangements which de-risks the project and maximise Council's asset value. Depending on JV/ PPP arrangements Council can have more control over the design outcome.

Disadvantages: Requires legal framework adding cost. More stakeholders increases complexity. Potential negative community reaction and/ or political issues with partnership/ JV.

Information required:

- Provide information on the way in which a JV/ PPP could be organised including the active/ passive role of Council and the advantages, disadvantages and risks associated with both JVs and PPPs.
- Set out detailed process and indicative costs for Council to either enter into a Joint Venture and Private-Public Partnership for the project including matters relating to transparency and probity.
- Further testing/ refinement of concept plan to ensure viability and maximum development outcome.
- Economic assessment including cost estimates for development and infrastructure, estimated yield and likely financial outcome to Council.

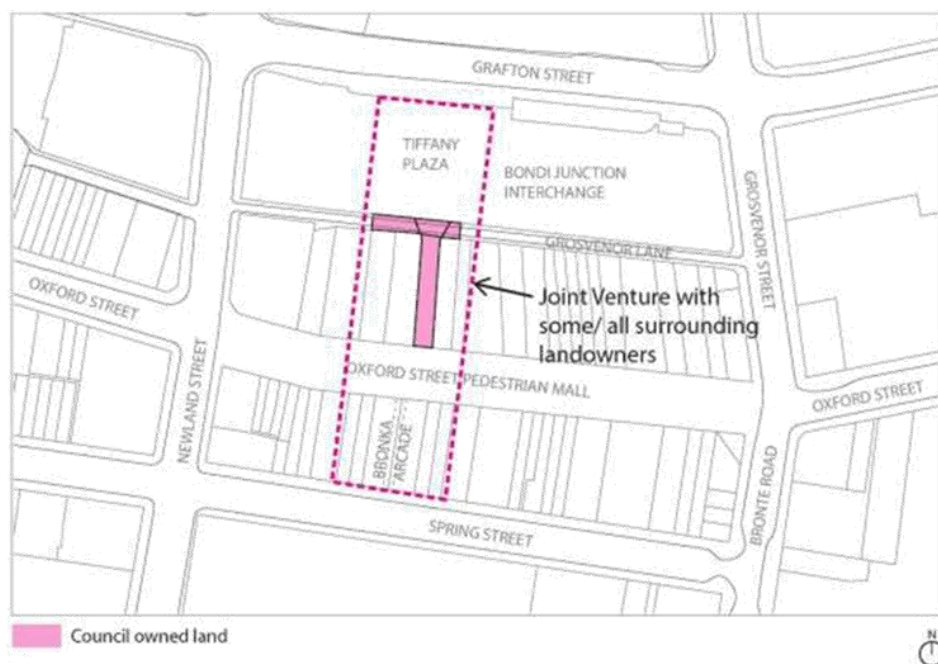


Figure 4. Option 2 for investigation

**Option 3.**

Council acquires adjoining land, prepares DA for consolidated site and either sells with DA approval or develops and leases floorspace.

Advantages: Confirms development potential and access arrangements which de-risks the project and maximise Council's asset value. Council has complete control over design. No JV required. Council could use for Accommodation or lease floorspace.

Disadvantages: Upfront capital cost of land purchase. Cost and resources of DA design and construction/ marketing. Potential perceived conflict with Council as developer could have negative community reaction. Risk of unsatisfactory market price/ return on investment.

Information required:

- Valuation of adjoining lots including portion of Tiffany Plaza.
- Set out detailed process and indicate costs for Council to acquire land and obtain development approval and then either sell or develop the site including matters relating to transparency and probity.
- Further testing and refinement of concept plan to ensure viability and maximum development outcome.
- Economic assessment including cost estimates for acquisitions, development approval, construction, and likely financial outcome to Council for selling with DA approval or leasing floorspace of new development.



Figure 5. Option 3 for investigation

**Option 4.**

Council builds the new interchange access on its landholding independently of adjoining sites.

Advantages: Access delivered in timely manner. Council completely controls the design.

Disadvantages: Net cost to Council. Does not achieve full potential in terms of urban form, employment and economic outcome.

Information required:

- Concept design investigation to confirm whether site has sufficient space to provide new interchange access and maintain existing access to Tiffany Plaza and bus concourse in accordance with the requirements of TfNSW.
- Review compliance of concept with S88b Right of Access.
- Cost estimates for construction of interchange access.

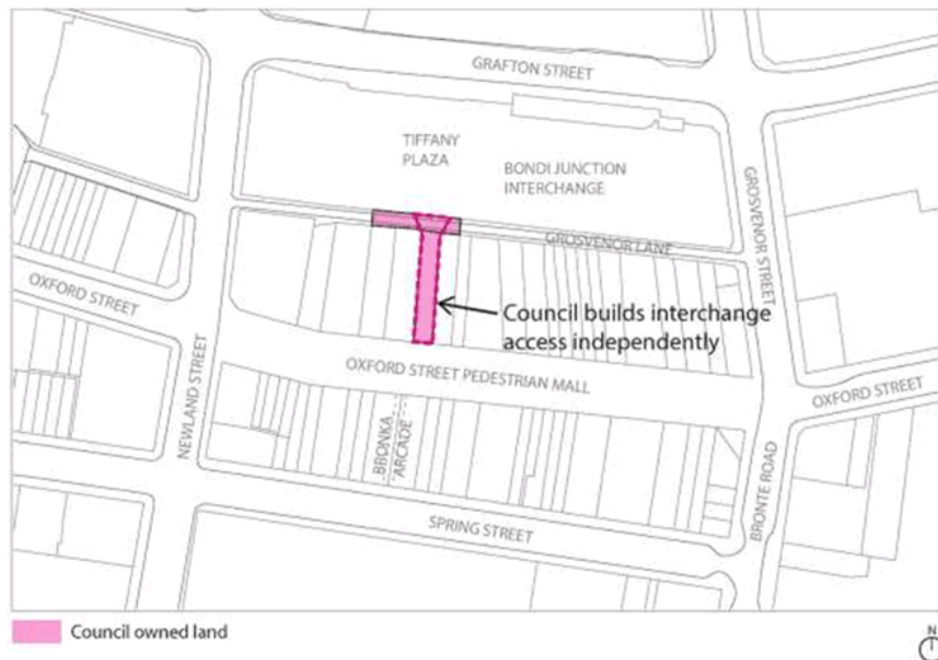


Figure 6. Option 4 for investigation

Stage 3. Option Selection

- Compile a comparison of the options including outcomes, timeframes, financial implications and risks.
- Present the findings of the investigations to a Councillor Workshop.
- Undertake any refinement/ further investigations as required by Councillors.
- Report to Council with a recommendation to proceed with preferred option, including next steps and budget.

Stage 4. Implementation

Undertake preferred option (subject to separate business case, project plan and budget).



3.3 Excluded from scope:

Option 5 (excluded).

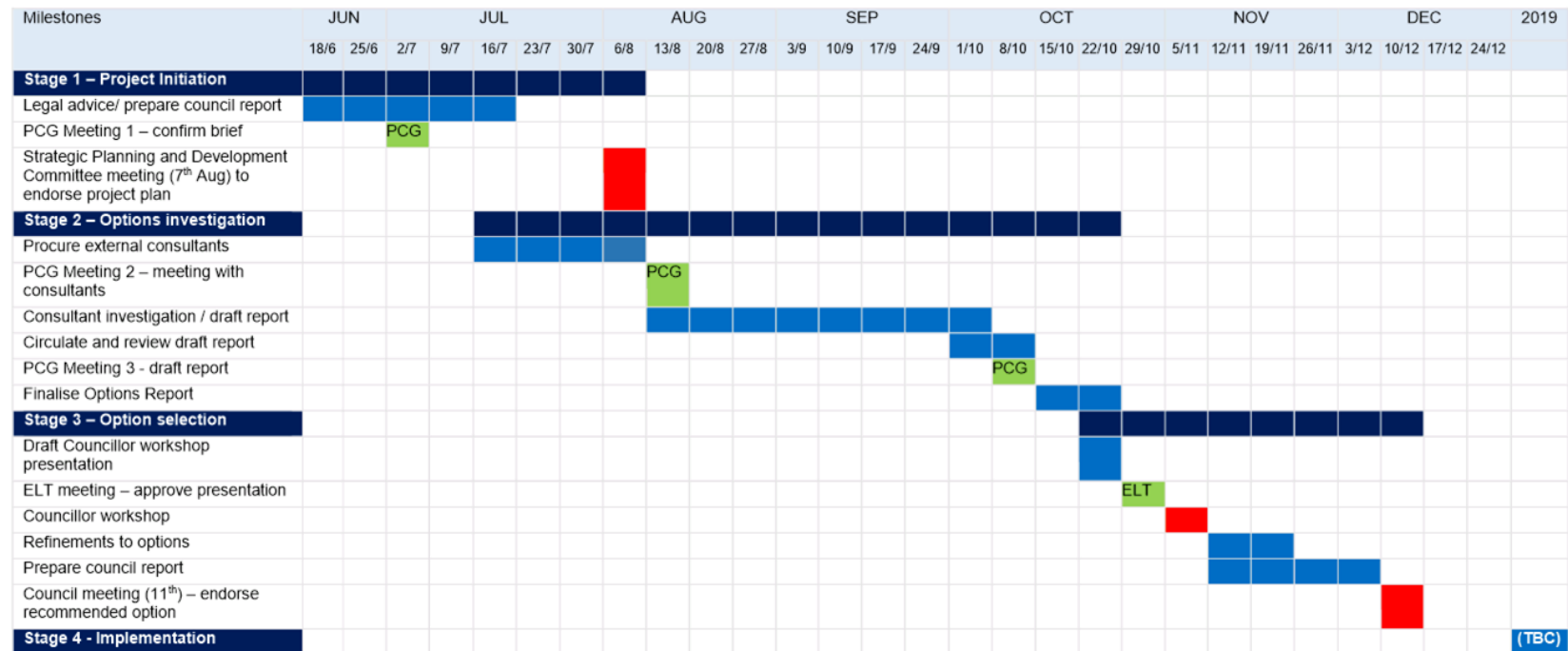
Council sells its landholding as-is with appropriate restrictions to ensure the future delivery of an interchange access.

Advantages: Simplest option for Council as no involvement with other entities. Allows the private sector to deliver the development.

Disadvantages: Similar EOI in 2013 was unsuccessful due to risks/ issues for purchaser including negotiating access arrangements with TfNSW, acquisition of sites and insufficient development uplift making the project unattractive.



3.4 Program



Internal meeting (PCG/ ELT)

Council meeting/ workshop



3.5 Deliverables

The key deliverables will be:

- a. *Options Report;*
- b. *Councillor Workshop Presentation;*
- c. *Report to Council.*

4 Project Management

4.1 Project Control Group

Project Role	Name	Title
Project Sponsor	Peter Monks	Director Waverley Futures
Project Director	George Bramis	Executive Manager Shaping Waverley
Project Manager	Fleur Mellor	Manager Urban Design and Heritage
PCG	Sara Stace	Manager Strategic Transport
PCG	Andrew Best	Manager Facilities
PCG	John Andrews	Leasing Manager

4.2 Monitoring and control

Reporting Cycle:

- PCG update – verbal at PCG meetings + circulate meeting minutes
- Project Sponsor update – verbal and email as needed
- ELT and Council – As needed.

Project Management:

- Progress review – monthly at PCG meeting
- Risk management review – monthly at PCG meeting
- Invoices from external advisors – monthly

4.3 Scope Change Management Plan

- Variations to the budget - Program Director approval, copy to Finance.
- Changes to the scope of work – PCG and Project Sponsor approval.
- Changes to the project timeline beyond 4 weeks - Project sponsor approval.

4.4 Procurement and resourcing

- In-house project management and report preparation.
- External consultants to provide property and design expertise via request for quotations.

4.5 Budget

Milestones/ Project Stages	Cost
Stage 1 Initiation	Nil
Stage 2 Options Investigations (consultants via RFQ)	\$80,000
Stage 3 Options selection	Nil
Stage 4 Implementation	(separate budget)



Total	\$80,000 excl GST
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4.6 Key Performance Indicators

Project Initiation

- Project sponsor authorises project scope.
- External consultants engaged.
- PCG established.
- Inception meeting with consultants.

Project Management

- Project progresses in accordance with Scope, Program and Budget.
- All deliverables submitted.

Implementation

- Options report approved by PCG and ELT.
- Council resolves to implement preferred option.

4.7 Constraints/ dependencies/ related projects

The following constraints/ dependencies/ related projects may impact the project:

- Council Accommodation Project impacts/ delays project.
- Strategic Property Audit impacts/ delays project.
- Implementation is dependent on approval of concepts and budget by Council.

4.8 Assumptions

- Sufficient resourcing from Shaping Waverley to manage project and undertake key tasks.
- External consultants produce deliverables to the desired quality and timeframe.
- PCG members attend meetings and provide input/ feedback as needed.
- Sufficient resourcing in Communications team to deliver Community Engagement Plan.

4.9 Key Stakeholders

- Councillors
- ELT
- PCG
- Landowners adjoining subject sites
- Transport for NSW
- Sydney Trains
- State Transit Authority

4.10 Change Management Considerations

The project will involve, affect and prepare people internal and external to Council:

Summary of changes to be achieved (WHAT)

To provide a new main access to the Bondi Junction Interchange directly from Oxford Mall.

Who the project will affect and in what way (WHO)

- Train and bus users – improved access and safety.
- Bus drivers – improved safety at Grosvenor Street with reduced pedestrian conflicts.
- Local businesses – increased foot traffic in Oxford Mall.
- Visitors – improved legibility and amenity.



- Government agencies – requires negotiation with TfNSW, STA and Sydney Trains.
- Adjoining landowners (Meriton and Zondaro) – impacts associated with development of sites.
- Tiffany Plaza businesses - temporary impacts to access during construction.

Work required to engage staff including any training needs, communication approach and transition planning (HOW)

- The project will be guided by an internal PCG and the project team will meet regularly to coordinate/ review progress.
- Council will establish a community engagement plan.
- The project will conclude with an action plan including next steps.

Impact assessment

- New interchange access would have positive benefits to public transport users, bus drivers, local businesses and visitors.
- The project should have an economic benefit to adjoining landowners.
- The project may have a short term negative impact on businesses in Tiffany Plaza during construction.

4.11 Communications and Engagement Plan

To be prepared by Communications Team - refer separate document.

4.12 Lessons Learned From Previous Projects

The following lessons have been incorporated into planning this project:

Previous Project	Issue	Applicable lesson
Bondi Junction Civic Heart	The scale and cost of development concepts was not supported by the current Council.	Concepts to remain within the existing planning controls and have a comprehensive financial assessment.
Strategic Property Review	No decisions were made on Council landholdings.	Reduce scope of sites being considered, limit the number of options, provide clear benefits and costs of each option. Report to Council for decision.
Rowe St	2013 EOI was unsuccessful	Council to help de-risk the project to attract private sector development of the site and maximise value.



4.13 Risk Management Plan

Risk Matrix:

		Consequence				
		Insignificant	Minor	Moderate	Significant	Severe
Probability	Very likely	Low	Medium	High	Very High	Very High
	Likely	Low	Medium	High	High	Very High
	Possible	Negligible	Low	Medium	High	High
	Unlikely	Negligible	Low	Low	Medium	High
	Very unlikely	Negligible	Negligible	Low	Low	Medium

Risk	Probability	Consequence	Risk Rating	Mitigation
Agreement cannot be reached with TfNSW regarding new access requirements	Possible	Significant	High	Establish working group with TfNSW. Consider media/ political strategy to raise profile of issue.
Disagreement between PCG on project recommendations	Possible	Significant	High	Encourage open discussion at PCG and stakeholder meetings to identify and resolve issues early. Obtain thorough information from reliable consultants.
No options supported by Council	Possible	Significant	High	Clearly articulate benefits and issues with each option including net costs/ return. Use community feedback and existing policy/ strategies/ plans to help justify project need.
Implementation budget not approved by Council.	Possible	Significant	High	Develop a strong business case for preferred option. Investigate supplementary funding eg. parking levy, grants, cost sharing proposals.



				Use community feedback and existing policy/ strategies/ plans to help justify project need.
Cannot overcome legal challenges or reach negotiation with Meriton	Possible	Significant	High	Initially pursue legal avenues. Consider planning incentive such as permitted uses. Consider financial incentives such as acquiring/ leasing land. Consider media/ political strategy to increase pressure.
No suitable offers made on sale	Possible	Moderate	Medium	Undertake as much 'de-risking' as possible prior to sale. Consider lower offers on the basis of public benefit.
Scale of development proposed by potential purchaser not supported	Possible	Moderate	Medium	Undertake shadow testing and visual analysis of proposed scheme. Undertake community consultation on the project outcome vs development form. Obtain expert design advice (eg. design excellence panel). Consider compromise between the various public benefits (access vs development form).

REPORT
PD/5.7/18.08

Subject: Bondi Park Additional Amenities - Central Option

TRIM No: SF18/114

Author: Robert Sabato, Senior Project Manager

Director: Emily Scott, Director, Waverley Renewal

RECOMMENDATION:

That Council:

1. Proceeds with detailed design and stakeholder consultation on the proposed Bondi Park Central Amenities and reports back to Council with the results of the consultation.
2. Proceeds with detailed design and stakeholder consultation to refurbish tunnel two (under the lifeguards tower) to provide storage for the lifeguards.
3. Notes that Options 1 and 3 are feasible for improved amenity capacity in Bondi Park and should be considered in the preparation of future Long Term Financial Plans.

1. Executive Summary

Council engaged Arup Consultants to provide a feasibility study to investigate opportunities for additional amenities at Bondi Beach. Multiple locations were evaluated and assessed according to the three overarching criteria; Place, Connectivity and Constructability. Further workshops revealed three key locations that can accommodate amenities buildings with minimal visual and heritage impact on Bondi Park. The options are:

1. South Bondi: building beneath Queen Elizabeth adjacent to the Skate Park, with direct access provided from the Promenade
2. Central Bondi: Repurposing the current lifeguard storage shed beneath the promenade (located on the northern end of the Pavilion adjacent to McDonalds Tunnel). Accessible access to these amenities shall be provided from the Promenade via the existing pedestrian lookout. Additional storage is to be created under the Lifeguard tower to replace storage lost as part of this option.
3. North Bondi: building within the existing hillside at the Biddigal Reserve in the location of the existing BBQ's (adjacent to the beach and pool access).

The following options have been further developed and brought to a level sufficient for costing.

2. Introduction/Background

The Bondi Park, Beach and Pavilion Plan of Management recognises the need for new facilities in Bondi Park including bathrooms, bike storage, bin storage, kiosks and showers. Some of these works have already been undertaken with the upgrade of the southern toilets and construction of the new northern amenities.

More recently, Bondi Pavilion is in the process of upgrading the existing amenities on lower and upper floors. However, this will not increase the capacity.

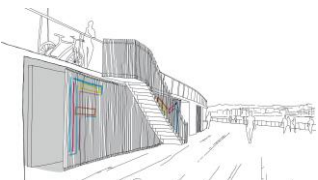
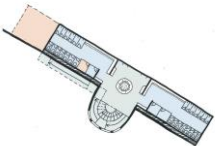
A recent study into the current amenity capacity at Bondi Park has focused attention on to existing facilities and their ability to cope with Bondi Park users during peak periods. In particular, Council's facilities team has undertaken a monitoring survey on Pavilion amenities users and the findings reveal that the Pavilion amenities are not coping with the influx of users during peak periods such as City 2 Surf and summer periods. There is a clear indication that amenity capacity in Central Bondi is inadequate.


3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 21 November 2018	CM/5.1/17.11	That Council Officers investigate the feasibility of additional toilet facilities within Bondi Park including, but not limited to: <ol style="list-style-type: none"> Underneath Queen Elizabeth Drive, facing out to the existing promenade to the south of Bondi Lifeguard Tower. Within the Biddigal Reserve embankment (noting the retaining wall requires a full replacement in the future).

4. Discussion

Waverley Council has been evaluating potential locations for additional amenities across Bondi Park. Arup Consultants investigated seven options and following workshops with Council three potential locations were advanced through to feasibility level. The three options were presented at a Councillor workshop with the Central option being highly prioritised. The following table is a brief outline on each option;

Option	Cost	Capacity	Need
1 South Bondi 	\$11 million	20 toilets 25 showers 2 accessible/family change rooms Wash down area	Low-medium
2 Central Bondi 	\$4.1 million	15 toilets 17 showers 2 accessible toilets 1 family change room Wash down area	High

<p>3 North Bondi</p> 	\$5.1 million	<p>9 toilets 4 showers 3 accessible toilets</p>	Medium
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The central option is located within the Bondi McDonald tunnels three and four. These tunnels were recently refurbished and converted into storage space for nearby Bondi Surf Life Saving Club (BSLSC) and the lifeguards. The tunnel structure sits beneath the existing esplanade in between the BSLSC and Bondi Pavilion. Entry to the tunnel is via doorways at beach level. The historic groin forms part of the tunnel structure with a pedestrian lookout above.

The proposal to construct a new amenities block within the tunnel structure aims to alleviate the pressure on Pavilion amenities during peak periods. By locating the amenities within the tunnel, it will have minimal visual and heritage impact on Bondi Park as per Bondi Beach Landscape Conservation Management Plan guidelines. In addition, there are multiple users in the vicinity due to its central location on Bondi Beach including the children's playground, tourists and beach goers. Therefore, the potential to alleviate congestion on Bondi Pavilion is substantial.

The proposal seeks to create access via the esplanade and groin lookout with a staircase with a separated disabled access ramp in front of the existing seawall. There will be limited excavation during construction as the existing tunnel fitout caters to the proposal in terms of head height requirements. The capacity of this option is limited by existing tunnel dimensions however it is still capable of including 15 toilets, 17 showers, two disabled access toilets and one family room.

Utilising the tunnel space for amenities does subtract from the BSLSC storage capacity. The feasibility study does cater for this loss by including an additional storage space as part of the central option. This would extend the budget by \$600,000. Consultation with BSLSC will be undertaken in the development of the detailed design.

The detail design will include design for refurbishment of tunnel two (under the lifeguards tower) to replace the storage lost. Consultation with the lifeguards will be undertaken in the development of the detailed design.

5. Financial impact statement/Timeframe/Consultation

Council has approved \$300,000 in the 2018–19 Capital Works Plan for detailed design of the preferred amenities option. It is anticipated that the Central Amenities project will cost \$4.1 million, including a storage room for BSLSC. It is anticipated the refurbishment of tunnel two (under the lifeguards tower) will cost \$1.0 million. The estimate allows for numerous constraints as the area is prone to sand inundation, flooding during extreme high tide events and mechanical-electrical-air quality systems. Further consultation is required to gauge the public's perception on safety due to the underground nature of the facility, although this is expected to be reduced by the large number of patrons that would enhance casual surveillance.

Option 1 (South Bondi) will cost \$11 million and Option 2 (North Bondi) will cost \$5.1 million. These costs are significantly high due to constructability issues such as air, light and fire egress. There are also major telecommunications and stormwater services in the vicinity of Option 1.

6. Conclusion

The upgrade of Bondi Pavilion will not include additional amenities and evidence shows that in peak use periods the Pavilion does not cope. As part of the process of re-configuring the existing amenities within Bondi Pavilion upgrade, this report seeks endorsement to proceed with further investigation for Option 2 (Central Amenities); i.e. additional amenities facility within the McDonald Tunnel in front of the Pavilion.

By approving further investigation into a Central Amenities option, Council will be ensuring the significant improvement of the overall amenities capacity across Bondi Beach. Options 1 and 3 are feasible, but not considered a high priority at this stage.

7. Attachments

Nil.

REPORT
PD/5.8/18.08**Subject:** Planning Proposal - 122 Bronte Road, Bondi Junction**TRIM No:** PP-1/2018**Author:** Jaime Hogan, Senior Strategic Planner**Director:** Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council:

1. Notes the submission of a planning proposal to amend the Waverley Local Environmental Plan 2012 (WLEP2012) lodged by Urbis on behalf of Rimon Field Pty Ltd on 12 January 2018.
2. Does not support the request to amend the WLEP2012 to:
 - (a) Increase the maximum permissible height from 15 m to 28 m.
 - (b) Increase the maximum permissible floor space ratio from 2:1 to 5:1.
3. Supports the planning proposal set out in Attachment 1 to this report to amend the WLEP2012 in respect of 122 Bronte Road, Bondi Junction, being submitted to the Department of Planning and Environment for a Gateway Determination to proceed to formal public exhibition, that proposes the following:
 - (a) The WLEP2012 is amended to change the zoning of the site from SP2 Infrastructure (Telecommunications) to B4 Mixed Use.
 - (b) The WLEP2012 Active Street Frontages Map is amended to apply to the Bronte Road frontage of the site.
4. Notes that a minimum non-residential floor space ratio is anticipated to be applied to the site in the future as part of a separate planning proposal process.
5. Places the planning proposal on public exhibition in accordance with any conditions of the Gateway Determination, should that be approved by the Department of Planning and Environment.
6. Accepts the role of the Relevant Planning Authority from the Department of Planning and Environment, if offered, to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* in relation to the making of the amendment.

1. Executive Summary

This report informs Council of the receipt of a planning proposal from Urbis on behalf of Rimon Field Pty Ltd (the proponent) for 122 Bronte Road, Bondi Junction. The proponent's planning proposal and associated documentation was submitted to Council on 12 January 2018.

The planning proposal sought to amend the Waverley Local Environmental Plan 2012 (WLEP2012) in relation to the subject site by:

- Rezoning the site from SP2 Infrastructure (Telecommunications) to B4 Mixed Use.
- Increasing the height of building standard from 15m to 28 m.
- Increasing the floor space ratio (FSR) standard from 2:1 to 5:1.

As part of the planning proposal, the proponent engaged consultants to prepare the following reports:

- Urban Design Report (2018), MHNDU.
- Heritage Impact Assessment (2018), Urbis.
- Planning Justification Report (2018), Urbis.

The proponent put forward no offer to provide public benefits associated with the redevelopment of the site. Council's policy position, as outlined in the Waverley Planning Agreement Policy 2014, is to ensure that any value uplift is shared with the community.

The proposed increase in height and FSR is not supported for the following reasons:

1. The proposed increase in height and FSR development standards would permit a built form that would:
 - (a) Be inconsistent with the current and desired future character of the area.
 - (b) Have a detrimental impact on the character of the heritage item.
 - (c) Have an adverse impact upon the character of the Botany Heritage Conservation Area.
 - (d) Have adverse amenity impacts upon the streetscape and nearby residential developments.
2. The submitted proposal is inconsistent with:
 - (a) The existing strategic framework for the area (WLEP2012).
 - (b) Aim Cl.1.2(2)(d) of WLEP2012.
 - (c) Aim Cl.1.2(2)(g) of WLEP2012.
 - (d) A strategic study commissioned and endorsed by Council for the Bondi Junction area (Bondi Junction Urban Design Review 2013).

Attachment 1 to this report outlines the planning proposal as assessed by Waverley Council officers, and has been prepared in accordance with the NSW Department of Planning and Environment's (DPE) *A Guide to preparing Planning Proposals* and *A Guide to preparing Local Environment Plans*.

In addition, this report seeks Council's endorsement to submit the rezoning component of the planning proposal (Attachment 1 to this report) to the Department of Planning and Environment (DPE) to be placed on public exhibition. The planning proposal requires endorsement from Council prior to submission to DPE for consideration at 'Gateway.' The DPE will determine whether the planning proposal has strategic merit and may issue a Gateway Determination. The Gateway Determination will set out the community consultation requirements.

In summary, the following amendments to WLEP2012 are supported to be drafted for the purposes of public exhibition:

- The WLEP2012 is amended to change the zoning of the site from SP2 Infrastructure (Telecommunications) to B4 Mixed Use.
- The WLEP2012 Active Street Frontages Map is amended to apply to the Bronte Road frontage of the site.

As part of the assessment process, the Waverley Development Assessment Panel (the Panel) was consulted on the planning proposal. The Panel's advice is set out in Attachment 2 to this report. The Panel was supportive of the planning proposal as prepared by Council to be submitted to DPE for Gateway determination.

2. Introduction/Background

The proponents met with Council officers on 11 April 2017. During this meeting the benefits of the adaptive re-use of the heritage item, and the provision of an activated street frontage were discussed and encouraged. Accordingly the rezoning to a B4 Mixed Use zone was considered appropriate to achieve these outcomes as the site is no longer utilized for Telecommunications purposes. Council officers however expressed concerns relating to the proposed increase in building height and FSR tabled at that meeting given the context of the area and the potential for significant impacts upon the character of the streetscape.

Subsequently, the proponents met with Department of Planning and Environment officers on 5 June 2017. On 2 August 2017, the proponent (Urbis on behalf of Rimon Field Pty Ltd) submitted a planning proposal to amend the WLEP2012 in relation to 122 Bronte Road, Bondi Junction.

The proposal aimed to enable the redevelopment of the subject site for the purposes of a mixed use development comprising ground level retail and serviced accommodation on the upper floors. To achieve this outcome, the following changes to the WLEP2012 were proposed:

- Change the land use zone from SP2 Infrastructure to B4 Mixed Use.
- Increase the height of buildings standard from 15 m to 43 m.
- Increase the floor space ratio standard from 2:1 to 7.1:1.

The planning proposal included the adaptive reuse of heritage item I246 comprising the previous Waverley Post Office at the corner of Birrell Street and Bronte Road.

Council officers sent a preliminary request for additional information to the proponent on 4 September 2017 regarding minor missing information (site area) and incorrect photomontage images used in the submitted planning report.

Council officers met with the proponent on 11 October 2017 to discuss the preliminary assessment of the proposal with advice that the proposal would not be supported at an officer level.

Council officers met with the proponent on 8 November 2017 to discuss a revised proposal with advice that a reduced height and floor space ratio may be a more appropriate proposal, however any proposal would continue to be subject to a complete assessment process.

Subsequently, the application was withdrawn by the proponents on 22 December 2017.

On 12 January 2018, the proponent (Urbis on behalf of Rimon Field Pty Ltd) submitted a new planning proposal with reduced development standards to amend the WLEP2012 in relation to 122 Bronte Road, Bondi Junction. The new planning proposal proposed the following changes to the WLEP2012:

- Rezone the site from SP2 Infrastructure (Telecommunications) to B4 Mixed Use.
- Increase the maximum permissible height from 15m to 28 m.
- Increase the maximum permissible floor space ratio from 2:1 to 5:1.

3. Relevant Council Resolutions

Nil.

4. Discussion

Site description

The subject site is a significant corner site located on the edge of the Bondi Junction Strategic Centre at the corner of Birrell Street and Bronte Road, and comprises lots 5–7 section 2 DP185, with a total site area of approximately 657.9m².

The site forms part of the Waverley Telephone Exchange operated by Telstra, which will continue to function solely in the immediately adjacent site at lots 3–4 Section 2 DP185. The remaining Telstra Exchange building immediately adjacent to the subject site is a utilitarian red brick building with a five-storey street wall presence, and is grossly out of character with the remainder of the streetscape (refer to Figure 3).

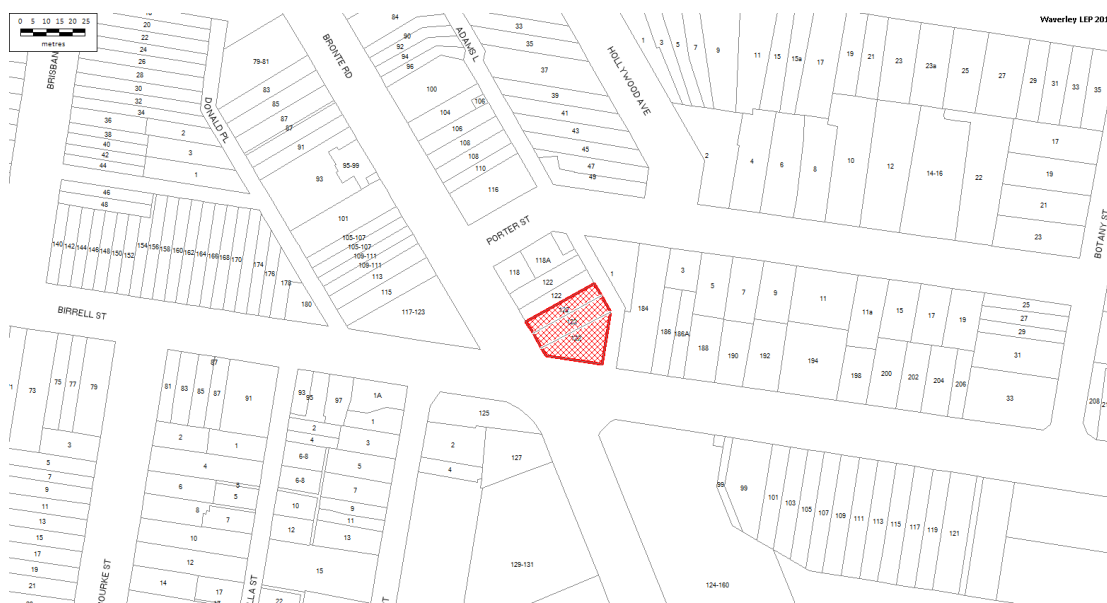


Figure 1. Site of the planning proposal, 122 Bronte Road Bondi Junction.



Figure 2. Aerial photograph of the site of the planning proposal, 122 Bronte Road Bondi Junction (2016).

Existing development on the site

The existing building on the site is a single storey corner building being the previous Waverley Post Office building. The building constitutes the listing for locally significant heritage item I246 (refer to Figures 4–6). The building has significance due to its fabric and contribution to the streetscape given the prominent location of the site, the building is a key landmark for the area.

The site was purchased in 1882 for the construction of the Waverley Post Office, which opened in 1887. The post office was moved in 1914, and the building was adapted to house the area's first telephone exchange. The building underwent major alterations in 1926 when the exchange was converted from manual to automatic.

Given further technological advances in telecommunications, the site is no longer required for the purposes of a telephone exchange as the operations will be consolidated into the adjoining building at lots 3–4 section 2 DP185.



Figure 3. Subject site showing both Waverley Telephone Exchange Buildings.



Figure 4. Waverley Telephone Exchange, 1926 (photo from Heritage Impact Statement; source: National Archives of Australia Image Number C4076, HN5666 Part A)



Figure 5. Waverley Telephone Exchange, 1926, showing the former entrance on the corner that has since been converted into a window (photo from Heritage Impact Statement; source: National Archives of Australia Image Number C4076, HN5666 Part B).



Figure 6. Waverley Telephone Exchange, 1946 (photo from Heritage Impact Statement; source: Waverley Library 000/000594).

Current planning controls for the site

The Waverley Local Environmental Plan 2012 (WLEP2012) applies to the subject site (see figures 7–11). The current development standards pertaining to the site are:

- Zone - SP2 Infrastructure (Telecommunications).
- Maximum permissible height of 15 m.
- Maximum permissible floor space ratio of 2:1.

The site contains Heritage Item I246, which comprises the previous Waverley Post Office (figures 4–6).

As specified in Clause 5.10 Heritage Conservation and Schedule 5 Environmental Heritage of the WLEP2012, development consent is required for any demolition or alteration to an item of environmental heritage and also for erecting a building on land on which a heritage item is located or that is within a heritage conservation area. Figure 10 indicates the location of heritage items and conservation areas in relation to the subject site.

The current provisions of the WLEP2012 and Waverley Development Control Plan 2012 (WDCP2012) permit the adaptive reuse of the heritage item with a range of uses that could provide an active street frontage, and strengthen and reinforce the existing corner condition of the site that terminates the Bronte Road high street section of Bondi Junction. The current development standards permit a suitably scaled development that is consistent with the surrounding context, adjacent heritage conservation area, and is able to be sympathetic to the heritage item.

Clause 5.10(10) – Conservation Incentives of the WLEP2012 states:

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan.

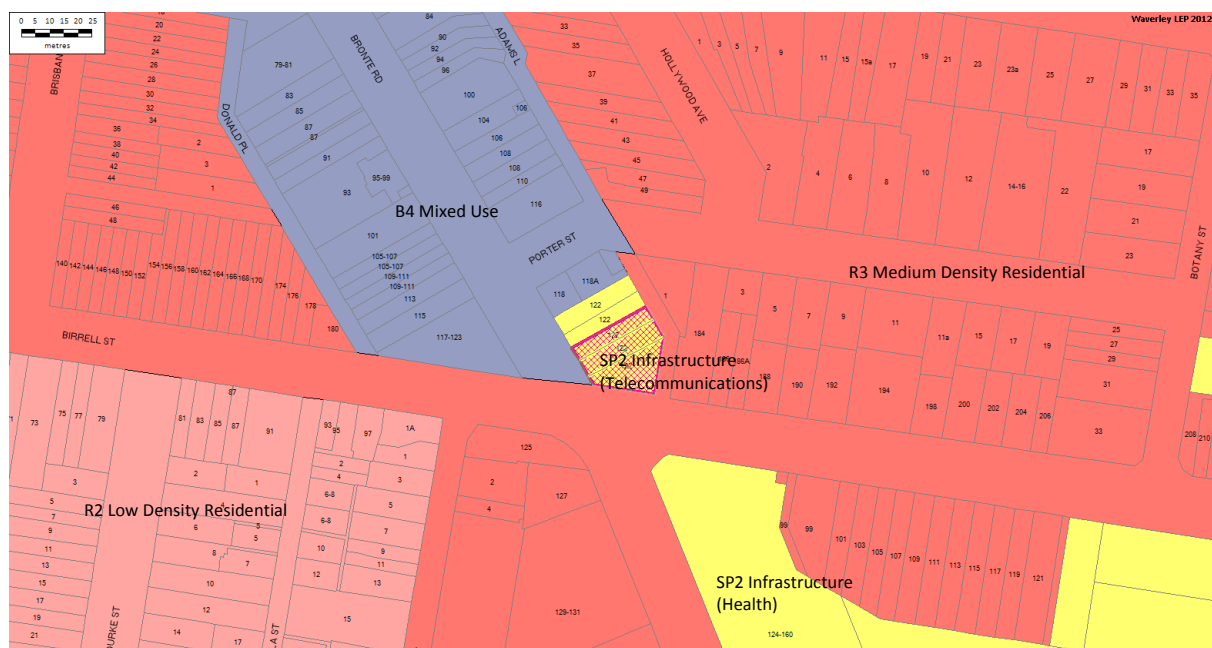


Figure 7. Excerpt from Zoning Map WLEP2012.

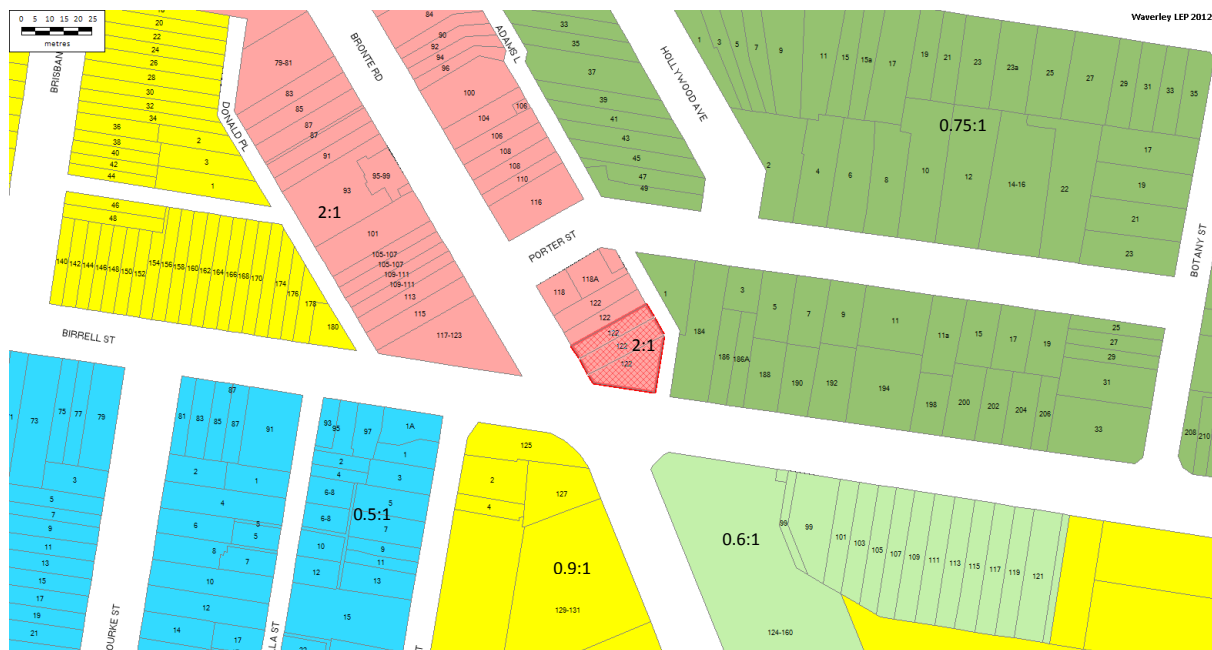


Figure 8. Excerpt from FSR Map WLEP2012.



Figure 9. Excerpt from Height of Buildings Map WLEP2012.



Figure 10. Excerpt from Heritage Map WLEP2012.



Figure 11. Excerpt from Active Street Frontages WLEP2012.

Surrounding development

A number of sites in the surrounding area have recently been developed or have approvals for development as outlined in Table 1 below.

Site	Status	FSR	Height	Streetwall (storeys)	DA number
125 Bronte Road	DA Approved	1.58:1	12.5m	4 to Birrell St Cnr Bronte Road 3 to Birrell Street	DA-621/2014
110-116 Bronte Road	DA Approved	2.44:1	20.5m	4 (part 5) Bronte Road	DA-419/2015 DA-512/2016

Table 1. Recently approved development.



Figure 12. Nearby recently approved development subject of LEC Appeals (DA-512/2016 and DA-621/2014).

As documented in Table 1, recently approved developments in the area have not significantly varied the existing LEP controls, and have provided a relatively consistent 4 storey street wall to Bronte Road. The development applications for 125 Bronte Road and 110–116 Bronte Road were both the subject of Land and Environment Court (LEC) appeals. The determinations for both appeals saw the LEC ensure compatibility with the current street character as well as the desired future street character as set by the WLEP2012 and the WDCP 2012.

The outcome of the appeal for 125 Bronte Road was to permit a four-storey street wall to the corner of Birrell Street and Bronte Road to mark the corner, and a three-storey street wall to Birrell Street. The original development application was for a part-four part-five-storey development, which was contested by the Council as being too tall and creating amenity impacts via overshadowing to the residences to the south. Amended plans were submitted with a part 3 part 4 storey development. In the appeal *Dryve Clean Pty Ltd v Waverley Council* - [2016] NSWLEC 1013 determined by Acting Commissioner Maston found that:

The agreed position paper provides in part 4 responses to all of the prior contentions raised by the council including the height issue. In particular it concludes that the amended proposal is compatible with the character of the local area and complies with clause 30 A of SEPP (ARH) and that the clause 4.6 request was well founded. The council's manager, development assessment, considered that the amended plans responded to all the council's contentions including ... the WLEP height control. I am satisfied, in accordance with clause 29 (4) of SEPP (ARH), that notwithstanding the non-compliance with the WLEP height of buildings standard, the proposed development is acceptable in this case.

The appeal for 110–116 Bronte Road was to permit a four-storey street wall to Bronte Road, with a fifth storey set back. The appeal for this site Bureau SRH Pty Ltd v Waverley Council (No 2) [2017] NSWLEC 1383 was determined on 16 June 2017 by Commissioner O'Neill. The reasons provided by C. O'Neill are outlined below:

- *An exceedance of the height of buildings development standard is not justifiable on the basis of the form and height of the nearby Waverley telephone exchange building; as a gradation in the scale of development along Bronte Road would be an inappropriate response to the distinct and unique form of this public building. If the Council considers such an approach is warranted, it would be appropriately addressed as part of a strategic planning exercise and reflected in development standards for the properties on the north-eastern side of Bronte Road.*
- *The proposal is not consistent with the desired future urban form of Bronte Road, which is for 4 storeys. The 2.5m setback of the uppermost fifth level of the proposal does not achieve the desired four storeys along Bronte Road.*
- *I do not accept the applicant's experts' evidence that this is a prominent corner site that warrants a non-compliance with the height of buildings development standard. This is not a significant corner site on Bronte Road. A desire for more prominent, higher buildings on corner sites is not reflected in the development standards in WLEP 2012.*

The determination crucially does not support the notion that the existing Telstra Exchange building can be used as a precedent to inform the built form of surrounding development.

The two LEC cases provide evidence that the current controls are appropriate for the area, and are delivering the desired character for the area that is being upheld in LEC determinations, with relatively minor clause 4.6 justifications. Therefore the request to amend the LEP for an increase in height and FSR is not supported.

Recommended component of the planning proposal

The component of the planning proposal that seeks to amend the zoning of the WLEP2012 to enable the redevelopment of the subject site for the purposes of a mixed use development is supported. To achieve this outcome, the following changes to the WLEP2012 are proposed:

- Amend WLEP2012 Zoning Map to rezone the site from SP2 Infrastructure (Telecommunications) to B4 Mixed Use.
- Amend WLEP2012 Active Street Frontages Map to extend along the complete length of Bronte Road to Birrell Street.

The recommended planning proposal also includes the adaptive reuse of Heritage Item I246 being the former Waverley Post Office building.

Waverley Council is currently developing evidence to support a planning proposal to implement a minimum non-residential floor space ratio within the Bondi Junction Strategic Centre. It is intended that the subject site would be included in this future planning proposal and accordingly would be subject to a minimum non-residential floor space ratio in the future.

5. Financial impact statement/Timeframe/Consultation

There are no financial implications for Council relating to this report.

Should GSC provide a Gateway determination to proceed, clause 3.34 of the EP&A Act requires the relevant planning authority (RPA) to consult with the community in accordance with the Gateway determination.

It is therefore anticipated that the planning proposal would be required to be publicly exhibited for 28 days in accordance with the requirements of the DPE guidelines *A Guide to Preparing Local Environmental Plans* and dependent on the outcome of the Gateway determination.

The public exhibition would be undertaken by Council by way of:

- A public notice in the local newspaper(s).
- A notice on the Council website.
- Written correspondence to adjoining and surrounding landowners.

The planning proposal would be publicly exhibited at Council's offices and any other locations considered appropriate to provide interested parties with the opportunity to view the submitted documentation.

The proponent, should they wish, may seek a review with the DPE. As part of this process, Council would be consulted accordingly.

6. Conclusion

The planning proposal aims to enable the redevelopment of part of the former Waverley Telephone Exchange at 122 Bronte Road. To achieve this, the following changes to the WLEP2012 were proposed by the proponent:

- Change the land use zone from SP2 Infrastructure to B4 Mixed Use.
- Increase the height of buildings standard from 15m to 28 m.
- Increase the floor space ratio standard from 2:1 to 5:1.

As outlined in this report, the adaptive reuse of the heritage item is supported, as well as the provision of an active street frontage. It is noted the adaptive reuse of the item is achievable through the existing standards for the site, and would result in a development that is more compatible with the surrounding context, however an active street frontage is not guaranteed in the current provisions. To encourage the effective redevelopment of the site, it is recommended that Council support the rezoning of the site and amend the Active Street Frontage Map to apply to the site.

The proposed rezoning to B4 Mixed Use is consistent with the predominant zoning along Bronte Road high street. The subsequent provision of an active street frontage is supported as this has strategic merit, aligns with the Region Plan and District Plan prepared by the State Government, and is consistent with the relevant Ministerial Directions (see Attachment 1). The proposed rezoning is also consistent with a number of the aims of the WLEP2012, and Council's community strategic plan Waverley Community Strategic Plan.

The concept design submitted by the proponent illustrated that the increased Height and FSR development standards would permit a development that is grossly out of character with the immediate context due to the height, bulk and scale of the development. Furthermore, the scale of the proposed height is inconsistent with the predominant current and desired future character of Bronte Road. The proposed increase in height and FSR standards of the LEP is not supported.

It is recommended that the amended planning proposal as contained in Attachment 1 be forwarded to the DPE for Gateway Determination.

If DPE is to give the proposal a Gateway Determination, the proposal as modified is to be placed on public exhibition for a minimum of 28 days and subject to any other conditions outlined by the DPE.

7. Attachments

1. Council's Modified Planning Proposal - 122 Bronte Road, Bondi Junction (under separate cover) ➡
2. WDAP advice (under separate cover) ➡

REPORT
PD/5.9/18.08

Subject: 27 and 29 Macpherson Street, Waverley - Heritage Assessment

TRIM No: A18/0030

Author: Fleur Mellor, Acting Manager, Urban Design and Heritage

Director: Peter Monks, Director, Waverley Futures

RECOMMENDATION:

That Council does not include 27 or 29 Macpherson Street, Waverley, as locally listed heritage items within the Waverley Local Environmental Plan.

1. Executive Summary

Due to the increasing acknowledgement of the importance of Inter-War flat buildings in Waverley, it was requested that a heritage assessment be carried out to ascertain if 29 Macpherson Street should be included as a locally listed heritage item in the Waverley Local Environmental Plan (LEP) as part of Schedule 5, Environmental Heritage.

This request was from a Strategic Planning and Development Committee resolution (CM/8.2/18.04) in April 2018, which was triggered by the submission of a development application in January 2018 for the demolition of dwellings at 27 and 29 Macpherson Street, and the construction of a boarding house. 29 Macpherson Street, also known as Pomona, built between 1926 and 1929, is a residential flat building of an Inter-War classical design. 27 Macpherson Street is a single-storey dwelling, built possibly in 1889, although substantially altered.

A preliminary heritage assessment was prepared by Council staff in March 2018, and a subsequent heritage assessment was carried out by an external heritage consultant John Oultram Heritage and Design in June 2018 (Attachments 2 and 3 to this report).

Heritage assessments were carried out in accordance with the NSW Heritage Manual *Assessing Heritage Significance Guidelines* and was guided by the Australia ICOMOS Burra Charter 2013. The process involved the understanding of the place through documentary and physical research, assessing the significance of the item using the NSW Heritage Division criteria which considers matters of aesthetic, social, historical and technical significance, and through identifying any changes to the property that would diminish the significance of the properties, for example if alterations have occurred which may result in a loss of integrity.

Both heritage assessments concluded that neither 27 nor 29 Macpherson Street should be listed as part of the LEP as items of local heritage significance. 29 Macpherson Street was not recommended for heritage listing because it is a typical example of Inter-War architecture that has been compromised through changes made to the building and because it does not have any special associations with any group or persons of importance. 27 Macpherson Street was not recommended for heritage listing because the building has been significantly altered.

2. Introduction/Background

A development application for the redevelopment at 27 and 29 Macpherson Street Waverley (DA 8/2018) was submitted to Waverley Council for determination in January 2018. The proposal includes the demolition of a single storey weatherboard dwelling (27 Macpherson Street) and the demolition of a part-three, part-four-storey residential flat building containing six apartments (29 Macpherson Street) and the construction of a new boarding house.

As 29 Macpherson Street is a building constructed in the Inter-War period, it was requested that a heritage assessment be carried out to ascertain if the building should be considered for listing on Schedule 5 Environmental Heritage of the Waverley Local Environmental Plan (LEP) as an item of local heritage significance.

27 and 29 Macpherson Street are not currently listed as heritage items nor are they located in a Heritage Conservation Area (HCA). There are heritage items located to the north, the east and the west of the two properties. There are also Landscape Conservation Areas located to the south and the east.

Understanding the place

Before undertaking a heritage assessment, it is essential to have an understanding of the item based on documentary and physical research.

Research carried out confirms that 27 and 29 Macpherson Street are situated on part of two land parcels situated along Nelson Road (now called Macpherson) purchased by John Wills in 1856. John Wills, who became a successful tailor, was born in 1824 in Yorkshire England, arrived in Sydney in 1832 and died in 1860 at the age of 36. John's wife, Elizabeth, took up residence in 1867 in Waverley where she stayed until her death, at the age of 83, in 1908.

When reviewing the Sands Directory, the two land parcels, remain largely intact until the late 1920s when the lots present to day start to be defined.

27 Macpherson Street

A plan of 1889 shows little development in the area but does include a cottage facing Macpherson Street in the location of the present dwelling – it is possible that this dwelling was occupied by Elizabeth Wills. Upon Elizabeth's death, the land was bequeathed to her son Albert Charles and then to her grandson George Horsley Wills. A Certificate of Title obtained for 29 Macpherson Street shows the cottage present in 1921. The parcel was sold several times before being sold to the 'Bloms' in 1971. A building approval indicates that the property was significantly altered in around 1972 by the Bloms.

27 Macpherson Street is single storey, weatherboard house set on an excavated site to the east side of the street. The house has a gabled section to the front and a long, skillion section to the rear. The house is in rendered brick and fibro weatherboards with a gabled, concrete tile roof to the front and a corrugated metal roof to the rear. There is a verandah to the front under the main roof supported on rendered masonry columns. The verandah has been infilled to the east with multi paned windows and a door.

29 Macpherson Street

In 1908, the site of the Pomona flats, 29 Macpherson Street, was sold by Elizabeth Wills to Monaca Wills (presumably a relative). In 1923, the property was subdivided with the subject site being sold to Henry Thomson, a builder of Waverley in 1926, with a building application for a block of apartments approved in 1926 with an 'H Thompson Esq' referenced. Thomson sold the property in 1927. The property was sold several times in the subsequent years.

29 Macpherson Street is an Inter-War period flat building named 'Pomona'. The site steps down from Macpherson Street and slopes away to the south, and as a result the ground floor entry is accessed via stairs from Macpherson Street. The building is symmetrical in its design with a small portico over the main entry. Bricks are a dark brown, with two separate courses of red brick. The windows have been altered with the original timber frames replaced with aluminium.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 17 April 2018	CM/8.2/18.04	That: <ol style="list-style-type: none"> Council appoints an independent external heritage consultant, with experience in inter-war buildings, to undertake a preliminary heritage assessment of the inter-war units at 29 Macpherson Street, Waverley, as a matter of urgency. If the assessment concludes that the block of units is likely to be found, on further inquiry and investigations, to be of local heritage significance, then an Interim Heritage Order be sought as a matter of urgency. A report come to Council detailing the report and steps taken.

4. Discussion

29 Macpherson Street did not address the requirements of any of the NSW Heritage Division criteria. The NSW Heritage criteria are set out in Attachment 2.

The assessment of 29 Macpherson Street has, however, reinforced the need to further research if there are any other Inter-War buildings that should be considered for heritage listing as part of the Waverley LEP. The heritage assessments have also emphasised the importance of Inter-War buildings to the historical development of Waverley.

The Inter-War years saw considerable growth in the Municipality of Waverley, and are an essential part of its fabric. This was the result of several factors, including the availability of public transport and other services, acute post-war housing shortages, and development opportunity. As a result, many of the Inter-War buildings included in the LGA add to the character of the streetscape in which they are located.

The revised Waverley Development Control Plan, now on public exhibition, responds to the growing awareness of Inter-War buildings in the LGA by including a new section that requires that the character of Inter-War buildings and how they relate to the streetscape be considered as part of any future development.

27 Macpherson Street did satisfy two of the NSW Heritage Division criteria in regards to Historical Development (the building is part of the early development of this part of Waverley) and Historical Associations (through associations with early residents of the LGA). This assessment however did not result in a recommendation for listing because of the significant alterations carried out and the compromise to the original setting of the cottage now flanked by apartment buildings on either side.

5. Financial impact statement/Timeframe/Consultation

No external consultation has been carried out.

6. Conclusion

Having assessed the significance of the buildings, and considered the changes made to the fabric and setting, it is recommended that neither 27 nor 29 Macpherson Street be listed.

It is, however, recommended that if a development application is approved that results in the demolition of these buildings, a condition of consent is included requiring for an archival photographic record to be undertaken. In addition, it should also be suggested that the landscape associated with the development consider ways to interpret the history and the development of the site.

7. Attachments

1. NSW Heritage Division Assessment Criteria [↓](#)
2. 27 Macpherson Street, Waverley - Heritage assessment [↓](#)
3. 29 Macpherson Street, Waverley - Heritage assessment [↓](#)

NSW Heritage Division Criteria

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

27 MACPHERSON STREET, WAVERLEY, NSW

HERITAGE ASSESSMENT



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Prepared for:

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June 2018

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1.0 INTRODUCTION

1.1 THE BRIEF

The following report has been prepared to provide a heritage assessment of the property at 27 Macpherson Street, Waverley, NSW. The report has been prepared on behalf of Waverley Municipal Council.

1.2 BACKGROUND

Waverley Council has received development application for the redevelopment of the properties at 27 and 29 Macpherson Street Waverley (DA8/2018) for a boarding house. Waverley Council has requested a heritage assessment of 29 Macpherson Street and, in particular, whether the property could be considered as a heritage item for inclusion in Schedule 5 Part 1 of the Waverley Local Environmental Plan.

The development site includes the property at 27 Macpherson Street that is the subject of this report.

1.3 THE STUDY AREA

The study area is Lot 1 in DP 551894 at Waverley, Parish of Alexandria and County of Cumberland (Figure 1.1).

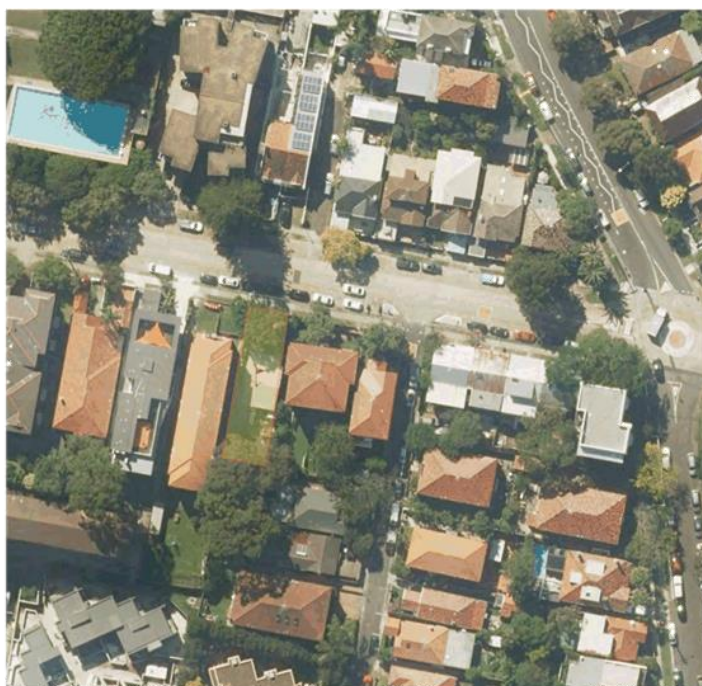


Figure 1.1 The Study Area

Source: Six Maps

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

1.4 LIMITATIONS AND TERMS

The report only addresses the European significance of the place. The terms *fabric, conservation, maintenance, preservation, restoration, reconstruction, adaptation, compatible use and cultural significance* used in this report are as defined in the Australia ICOMOS Burra Charter.

A history of the place was prepared by Council in their report *27 & 29 Macpherson Street, Bronte, Preliminary Heritage Assessment (PHA)* dated March 2018. The history of the place is taken from this report with some additional research by John Oultram.

1.5 METHODOLOGY

This report was prepared in accordance with the NSW *Heritage Manual* "Statements of Heritage Impact", "Assessing Heritage Significance Guidelines" and the Waverley Council guidelines for the preparation of heritage impact statements. The philosophy adopted is that guided by the Australia ICOMOS Burra Charter 2013.

1.6 AUTHORS AND ACKNOWLEDGMENTS

This report, including all diagrams and photographs, was prepared by John Oultram of John Oultram Heritage & Design, unless otherwise noted. John Oultram Heritage & Design was established in 1998 and is on the NSW Heritage Office list of heritage consultants.

2.0 HISTORICAL DEVELOPMENT

2.1 SUMMARY

Located within the 1856 grant to John Wills of 2 acres, 2 roods and 32 perches the house at 27 Macpherson Street appears to have been built c. 1889.

2.2 WAVERLEY CONTEXT

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. This contrasts with the neighbouring municipalities of Woollahra and Randwick where vast tracts of land were either locked up by the government for Sydney's water supply or in the instance of Woollahra by the Cooper family. With the exception of some crown grants gifted between 1828 and 1831, the majority of the land releases in Waverley took the form of public auctions of moderately sized parcels of land, generally between five and ten acres. These land purchases had frontage to the small number of public roads that followed the ridgelines such as present day Oxford Street, Bondi Road, Bronte Road, and Birrell Street.

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 distant Botany Bay. The first generation of residences included a small number of substantial villas set within large blocks of land inclusive of Levey's Waverley House and the extant and well-known Bronte House completed in the mid 1840s for Robert Lowe. The second generation of villas of the 1850s and 1860 were erected by the city's professional and merchant classes who had acquired wealth riding the wave of prosperity brought by the discovery of gold. An extant example of this development is Ebenezer Vickery's Edina in Carrington Road developed from 1864. However, most of the mid-nineteenth century villas have long since been demolished.

The remoteness of the area together with the natural advantages of the exposed elevated sites and constant water supply from springs and creeks provided favourable circumstances for industrial development such as brewing, soap works and tanneries. At Mill Hill in the early 1840s a post windmill was erected by Henry Hough for grinding flour.

Another more unique type of development that occurred in nineteenth century Waverley was the opening of the Cemetery in 1877. A general cemetery for the Eastern Suburbs had been under consideration since the 1860s, with Waverley Council having expressed an interest in the proposal from 1863.¹

¹ Dowd, BT (ed), *The History of the Waverley Municipal District*. Waverley Municipal Council, 1959, p.172 (Dowd 1959)

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

Over the 1880s the majority of the large estates in Waverley were subdivided to meet the demand for land for suburban development. By the mid 1880s the municipality was reported as developing faster than any other near Sydney.² 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 home owner. Another factor was the improvement of basic government services. The supply of reticulated water from the City Council's (Water Board from 1888) supply became available from 1880 with the completion of the Woollahra Reservoir (now within Centennial Park) servicing the western end of the municipality, and Waverley Reservoir (now within Waverley Park) at the eastern end from 1887.

The steam tram service from the city via Bondi to Charing Cross and along present day Oxford Street was approved for construction by the government in 1880 and was subsequently opened for traffic in April 1881. The tramline was extended to a terminus near Waverley Cemetery in 1890. Over 1902 the tramway was converted to the more convenient and speedier electric service and the Waverley Depot was completed at the corner of Oxford Street and Lang Road (now the government bus depot).

2.3 WILLS GRANT

In 1856 John Wills received a grant of land fronting Macpherson Street and Leichhardt Street consisting of 2 acres, 2 roods and 36 perches. He also received a grant of 2 acres and 2 roods to the west fronting Macpherson Street.

Wills, who became a successful tailor, was born in 1824 in Yorkshire England, arrived in Sydney in 1832 at the age of 8, and died in 1860 at the age of 36. John's wife, Elizabeth, took up residence in 1867 in Waverley where she stayed until her death, at the age of 83, in 1908³.

Early development appears to have been sparse and the plan of 1889 shows little development on the site apart from four houses fronting Leichhardt Street, the terrace of four houses to the corner of Macpherson Street and Leichhardt Street (extant) and two cottages to the west including one fronting Macpherson Street (see Figure 2.3). The boundary to the block of apartments 25 Macpherson Street appears to have been close to the boundary between the two grants (the title for this property indicates that it was part of both sections)⁴ and the cottage shown in the 1889 plan may be the subject house.

The Sands Directories for the period are a little unclear as no street numbers are identified but up till 1888 there does not appear to have been any development to the south side of the street (called Nelson Road till 1887) and the first listings indicating development in 1885 and 1888 list properties between Lugar Street and Leichhardt Street. Both Albert C Wills (greengrocer) and George Wills (carpenter) are listed in the street but it is unclear if this is in the relevant section.

² 'The Outskirts of Sydney - Waverley', *Illustrated Sydney News*, August 1884.

³ A more detailed biography is attached as Appendix A

⁴ NSW Land Registry Services, Vol. 6169, Fol. 101



Figure 2.1 Randwick, Waverley and Coogee, 1859

Source: PHA 9

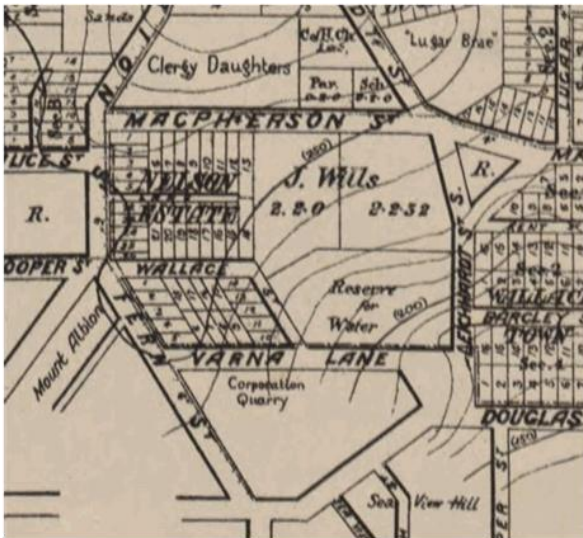


Figure 2.2 Waverley Map 1887 (Note: the two J. Wills parcels are still intact) Gibbs, Shallard & Co 1887

Source: PHA p. 10

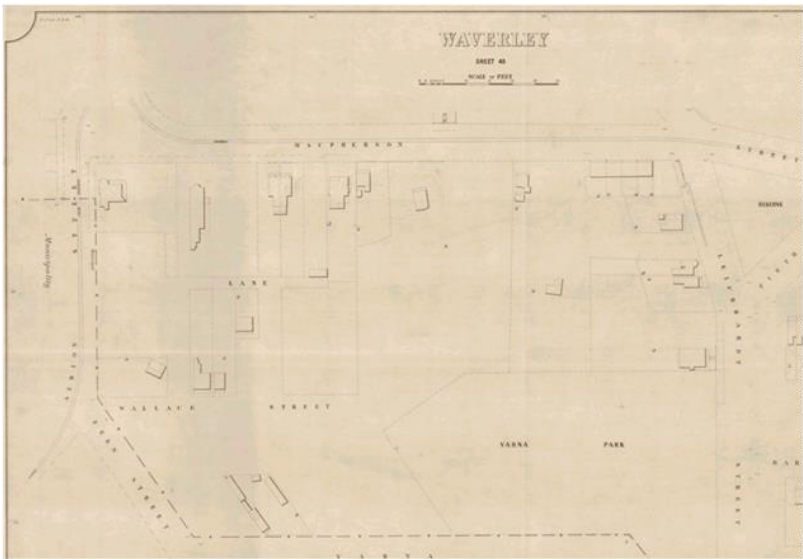


Figure 2.3 Detail from Waverley Sheet 48, dated 1889. The survey shows the sparse development on the land grant

Source: State Library of NSW (Z/ M Ser. 4 811.17/1)

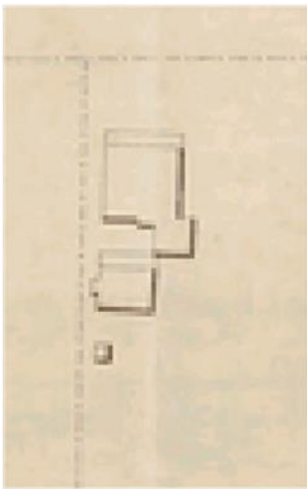


Figure 2.4 Detail from of the same showing the cottage fronting Macpherson Street that may be the current house on the property

Source: State Library of NSW

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

<p>Nelson road—North side <i>Leichhardt street to St. Thomas street</i> <i>Lugar street</i> Hammond, Thomas Evans, Mrs. M. A., black house Guinnery, W., warehouseman Harry, James, storekeeper Fraser, Alexander <i>Virgil street</i> Mills, George Tas, Wilson Gray, William, storekeeper Watkins, John R. Wood, George, vanproprietor Parkhill, Robert, monumental mason <i>St. Thomas street</i> South side Scott, Arthur <i>Carlton street</i></p>	<p>South side <i>Lugar street</i> Stewart David M., merchant, 'Sterling' Hibbard William, dray proprietor Stapleton Harry M. Wills Albert C., greengrocer Wills George, carpenter McNab John, accountant Roughley John, commission agent McCaffrey Francis engineer <i>Leichhardt street</i> Hawkins Rev. W. C. (C.E.), 'Aberdour' <i>St. Thomas street</i></p>
1885	1888

Figure 2.5 Sands Directories for 1885 and 1888

<p>South side Newling John Bonko John Sheridan Very Rev. John F., Dean, D.D. (R.C.) Stewart David M., merchant "Stirling" Bennett Joseph A., artist, "The Nest" Broughton Richard, dairy keeper Wills Mrs. E. Wills Albert C., greengrocer McNab John, accountant Roughley John, commission agent Ross Mrs. Jane</p>	<p>Abbott Thomas E., accountant, 'Trafalga' Wills Mrs. E. Wills Albert C., greengrocer Garriety Edward, van proprietor Wills George, carpenter Muir Robert, contractor <i>Leichhardt street</i> <i>Carlton street—Arden street</i> Quigg John, monumental mason <i>St. Thomas street</i></p>
1889	1890

Figure 2.6 Sands Directories for 1889 and 1890. Mrs E Wills is noted

The listings are suggestive that Mrs E Wills was occupying the cottage on the subject site with Albert C Wills occupying one of the four terrace houses close to Leichhardt Street.

The property was brought under Torrens Title in 1971 (PA48654) but the list of conveyances only goes back to 1918 when the property was passed from the Public Trustee to George Horsley Wills.⁵

It is noted in the Harris Family Tree that

Albert, along with his brothers James and George, all lived in Waverley close to their mother Elizabeth at some time up to the early 1890's. The three sons and Elizabeth lived in separate houses on the John Wills original land holding bounded by Macpherson Street and Leichhardt Street.

It is also noted that upon Elizabeth Wills death, land was bequeathed to her son Albert Charles, and upon his death, to her grandson George Horsley Wills and this is noted in the Primary Application for 27 Macpherson Street and aligns with records in regards to the Wills family history.

⁵ NSW Land Registry Services, Book 1129, No. 79 cited in PA 48654

The later Sands directories continue to show Mrs Wills in occupation and the 1930 Directory shows John C Elson in occupation of the cottage that is then listed as being adjacent to Ponoma Flats at 29 Macpherson Street. This tallies with the sale of the cottage in 1922 to Elson.

Macpherson Street Number	1905	1910	1915
19	McDougall Mrs E, 'Charlotte Cottage'	McDougall 'Miss Mary'	McDougall 'Miss Mary' 'Charlotte Cottage'
No Street Address	Mrs E Wills Wills Albert C Bennet Christopher	Doyle James, monumental mason, 'Clarenceville' Wills Albert C Bennett Mrs Annie	Doyle James, 'Clarenceville' Wills Albert C Harvey George, dairyman Bennett Mrs Annie
51	Smyth Walter	Monkhouse Mrs Ellen	Monkhouse Mrs Ellen

Source: PHA p. 11

⁷ NSW Land Registry Services cited in PA 48654

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

Macpherson Street	1925	Macpherson Street	1930
19	McDougall Miss Janet	19	William Williams
21	Ryan, Thomas	21	Roder Edwin
23	Johnson, Edwin	23	Doyle James
		25	Not Listed
		27	Elson, John C
		29 (other street numbers not listed)	'Pamona Flats' 'Canberra House' Spillane F T
49	Elson, John C		
51	Monkhouse Miss Clara	51 (the other side of Wills Avenue)	Folley Mrs E

Figure 2.8 Sands Directory 1925 to 1930 (NB: 1920 Sands sheet missing)

Source: PHA p. 11

The cottage is shown on the title plans for 29 Macpherson Street dating 1921.

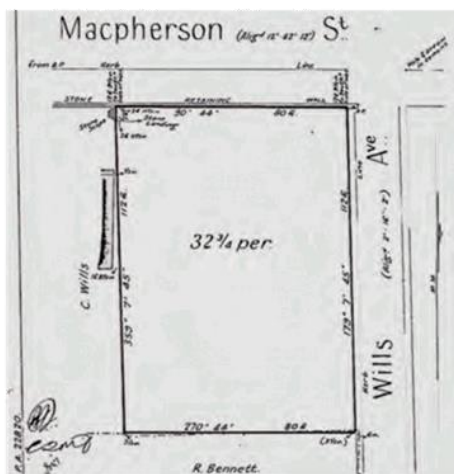


Figure 2.9 Plan of title for 29 Macpherson Street dated 1921 showing the cottage noted as C Wills who could potentially be Albert Charles Wills, the son of John Wills (died 1917)

Source: NSW Land Registry Services, Vol. 3200, Fol. 38

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

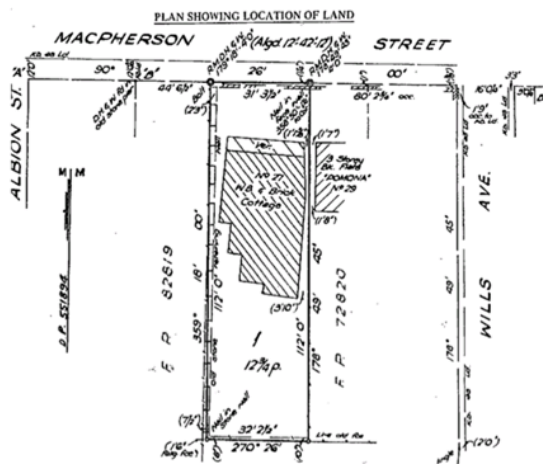


Figure 2.10 Plan of the cottage from the title in 1972 with Ponoma flats to the east. The plan shows a verandah across the whole front of the cottage

Source: NSW Land Registry Services Vol. 11806, Fol. 1

2.4 27 MACPHERSON STREET – LATER ALTERATIONS

Building approvals indicates that the property was altered in around 1972. This is supported by the Primary Application records that show the 'Bloms' owning the property, also noted on the Building Approval drawings, at this time.

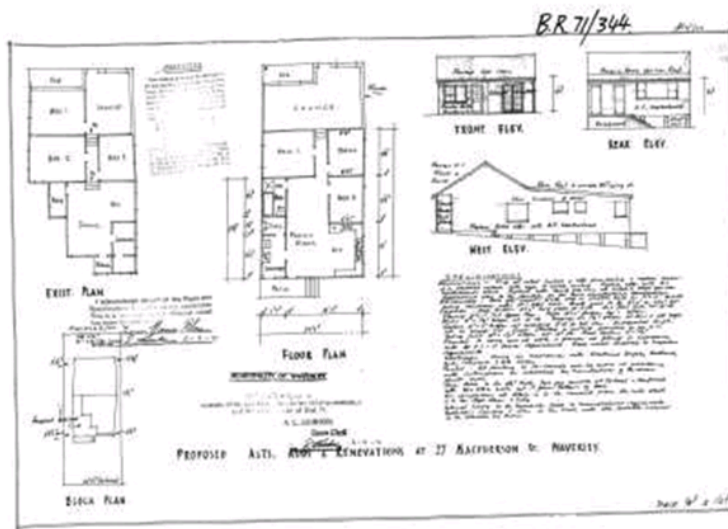


Figure 2.11 Building application for alterations to the cottage. The detail to the front is largely as per the current front elevation

Source: PHA p. 14 BR71/344

3.0 PHYSICAL DESCRIPTION

An inspection of the property was carried out by John Oultram in June 2018. The interior of the house was not inspected.

27 Macpherson Street is single storey, weatherboard house set on an excavated site to the east side of the street. The house has a gabled section to the front and a long, skillion section to the rear.

The house is in rendered brick and fibro weatherboards with a gabled, concrete tile roof to the front and a corrugated metal roof to the rear. There is a verandah to the front under the main roof supported on rendered masonry columns. The verandah has been infilled to the east with multi paned windows and a door.

The house has small garden to the front set below the footpath with a sandstone retaining wall and steps up to the street. There is a mature cypress to the front garden and an overgrown fence of indeterminate material. There is a large garden to the rear.

Macpherson Street is a largely residential street lined with a variety of single storey and multi storey buildings from the late Victorian period onwards with later infill development including Inter War and Post War apartments. To the west is a four storey block of Inter War apartments and to the east a three storey block of Inter War apartments.

Figures 3.1 - 3.3



Figure 3.1 27 Macpherson Street, Waverley
Front elevation



Figure 3.2 27 Macpherson Street, Waverley
Front elevation



Figure 3.3 27 Macpherson Street, Waverley
Front elevation

4.0 HERITAGE LISTINGS & CONTROLS

4.1 NATIONAL TRUST

The property is not classified on the Register of the National Trust of Australia (NSW).

4.2 HERITAGE DIVISION OF THE NSW OFFICE OF ENVIRONMENT & HERITAGE

4.2.1 State Heritage Register

Under the Heritage Act 1977 (as amended), the NSW Heritage Council, administered by the Heritage Division of the NSW Office of Environment & Heritage administers and maintains the State Heritage Register (SHR), a register of items and places that are considered to have heritage significance at a state level. The subject property is not listed on the Register.

4.2.2 State Heritage Inventory

The Heritage Division also compiles the State Heritage Inventory (SHI), a collated database of all places listed on statutory heritage lists, including Local Environmental Plans. The subject property is not listed on the Inventory.

4.3 LOCAL AUTHORITY

The local authority for the area is Waverley Council. The property is not listed as a heritage item in Schedule 5 Part 1 of the *Waverley Local Environmental Plan 2012* (WLEP) and is not within a heritage conservation area.

The property is in the vicinity of the Simpson Park Landscape Conservation Area (C58) and the Charing Cross Heritage Conservation Area (C7) and is in the vicinity of heritage items at:

REF	ADDRESS	ITEM	RANKING
I444	26 Albion Street	Georgian style stone building St Johns, St Catherine's Girls School	Local
I521	Macpherson Street	St Catherine's School and grounds	Local
I488	13-15 Leichhardt Street	Inter War Free Classical style flat building	Local
I489	19 Leichhardt Street	Federation house	Local
I491	51-57 Macpherson Street	Late eighteenth century houses	Local

The heritage provisions in the WLEP relating to development within the vicinity of a heritage item and in the vicinity of a conservation area would apply to development at the place.

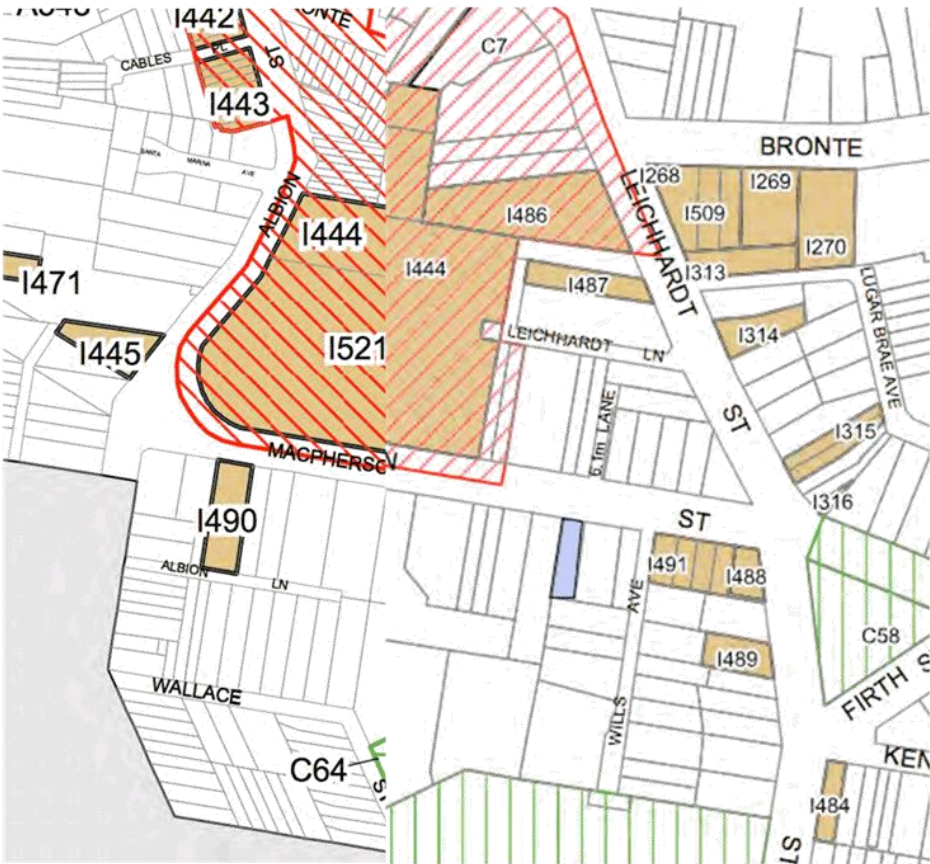


Figure 4.1 Waverley Local Environmental Plan 2012 - Heritage Maps HER_001 and HER_004B

Heritage items are coloured brown

Subject site highlighted by author

5.0 DISCUSSION AND ASSESSMENT OF SIGNIFICANCE

5.1 CRITERIA FOR ASSESSMENT

The Heritage Office of New South Wales has issued guidelines as part of the NSW Heritage Manual regarding the assessment of heritage significance. The Manual is a well-regarded methodology for the assessment of cultural significance and is appropriate for application to the subject property.

An item will be considered to be of State (or) local significance if, in the opinion of the Heritage Council of NSW, it meets one or more of the following criteria.

5.2 HISTORIC SIGNIFICANCE

5.2.1 Historical Development

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)
---------------	---

27 Macpherson Street is an example of a late Victorian cottage possibly built c. 1889 for Elizabeth Wills, the wife of John Wills who was the original grantee (1856) of a large parcel of land on which the cottage was situated.

The cottage remained in the Wills family till 1922 when the property was sold to John Christopher Elson. The cottage may have been occupied by family members till its sale though the Sand Listings are a little unclear.

The cottage, along with other surviving houses in the street (the terrace at the corner of Leichhardt Street) from the same period, is part of the earliest development of this section of the southern side of Macpherson Street and is emblematic of the early development of the grant to John Wills that covered a large portion of the local area and is closely associated with the Wills family.

Local Significance.

5.2.2 Historical Associations

Criterion (b)	An item has strong or special associations 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 place is most closely associated with John Wills (1824-1860) and his wife Elizabeth Wills (d. 1908) for whom the house was built. John Wills was a tailor but received two large grants in the area but did not develop or subdivide the land. Though they might not be considered persons of note the extant cottage provides built evidence (though in a heavily modified form) their ownership and occupation of the grant that is of some historical interest.

Local Significance.

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

5.3 AESTHETIC SIGNIFICANCE

Criterion (c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
---------------	--

27 Macpherson Street is a modest example of a single storey, late Victorian cottage that retains part of its primary form but which has been very heavily modified to the point where its original detail is not discernible.

No architect appears to have been involved in the design and the house is not a major work by an important designer and has lost some of its integrity. The house has no landmark qualities and could not be seen as a creative or technical achievement. The building is not of sufficient quality, uniqueness or rarity to warrant individual listing. The setting of the house has been heavily compromised by the apartment developments both sides.

Does not meet the criterion.

5.4 SOCIAL SIGNIFICANCE

Criterion (d)	The item has strong or special association with a particular community or cultural group in NSW (or the local area) for social or spiritual reasons
---------------	---

The house has no special associations with any particular group.

Does not meet the criterion.

5.5 TECHNICAL/SCIENTIFIC SIGNIFICANCE

Criterion (e)	An item has the 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)
---------------	---

There is no evidence of any prior buildings on the site and the place has no archaeological potential.

Does not meet the criterion.

5.6 RARITY

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 house type is common in the area. Not rare.

Does not meet the criterion.

5.7 REPRESENTATIVENESS

Criterion (g)	An item is important in demonstrating the principal characteristics of a class of NSW's Cultural or natural places; or Cultural or natural environments (or a class of the local area's: Cultural or natural places; or Cultural or natural environments)
---------------	---

The house is a modest example of its type and has lost much of its original characteristics. It does not represent well the characteristic that make up the type.

Does not meet the criterion.

5.8 INTACTNESS

The house is partly intact in form and when built was likely a four room cottage and rear skillion with a verandah to the front. The cottage has been extended to the rear and the verandah partly infilled with the original posts removed.

The roof has been replaced in concrete tiles and the weatherboarding overlaid or replaced in fibro boards. The interior was not inspected. The only plan available dates from 1972 and this shows a four room arrangement to the front with steps to the rear rooms. It is not clear if this layout is extant, but the level of external change would suggest that there have been extensive, internal alterations.

5.9 SUMMARY OF SIGNIFICANCE

Based on the above we consider that the house would meet criteria (a) and (b) (historical) of the Heritage Manual for identification as a place of local significance.

6.0 SUMMARY & RECOMMENDATIONS

6.1 SUMMARY

We consider that the property at 27 Macpherson Street:

- Meets two of the Heritage Manual criteria for identification as a place of local significance

However we also consider that:

- It is not worthy of listing as a heritage item in Schedule 5 Part 1 of the Waverley Local Environmental Plan.

The reasoning for this is discussed below.

6.2 ASSESSMENT OF SIGNIFICANCE & POTENTIAL LISTING

The consideration of the cottage for heritage listing is a difficult issue and is not straightforward. A place need only meet one of the Heritage Manual criteria for identification for listing though two is preferred and, in this instance, both criteria relate to the historical significance of the place.

The associations with the Wills family are strong and their landholdings were of some importance in the early development of the area. However, they did not develop or meaningfully subdivided their holdings and the grant appears to have been developed piecemeal as sections were sold and development largely did not occur till the Inter War period.

It is also questionable whether they could be considered persons of note.

It is axiomatic that the significance of the place is largely embodied in its extant, original fabric and in this instance the extent of this externally appears very limited and the cottage is likely to have been altered internally. In its current state it no longer signals its origins and the historic connections are apparent only through research.

Aesthetically the cottage now presents as a very heavily modified building of indeterminate age and style and gives few clues as to its early origins. Its setting has been very heavily compromised by the apartment developments both sides. It is doubtful if any owner would seek to make alterations that would recover its former detail that would have to be based on conjecture as there are no early plans or photographs of the cottage.

6.3 RECOMMENDATIONS

If approval is given for demolition then we would recommend:

6.3.1 Archival Recording

The building be archivally recorded using digital capture in line with the Heritage Division guidelines.

6.3.2 Salvaged Materials

The stonework to the retaining wall to the front of the building (that may date for the early development of the place) be salvaged for reuse in the development.

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

6.3.3 Interpretation

The history and development of the site be interpreted by introduced devices such as plaques that detail the layout and history of the site and its historical associations outlined above.



JOHN OULTRAM

JOHN OULTRAM HERITAGE & DESIGN

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7.0 APPENDIX A – JOHN WILLS BIOGRAPHY BY ANN HARRIS

Source: Personal Ancestry Website

2. **John Wills (Ann)** was born on 18 Jan 1824 in Braithwell, Yorkshire. He died on 2 Jun 1860 in Sydney. He was buried in CoE cemetery, Camperdown.

John Wills (possibly Willis) was born in England in 1824. While various NSW birth and death certificates record John's birthplace as London, it is believed he may have been born in Braithwell, Yorkshire. Following a search of UK records by Ann Bain (a descendent of Albert Charles Wills) the best fitting records for the family are of a John Willis marrying Ann Harris in 1820 at Newbury, Berkshire and the baptism of two sons John Willis and George Willis in 1823 and 1826, respectively at Braithwell, Yorkshire. It is possible that Ann's name was recorded as Wills by the UK penal system and she accepted it as her name. All records of the family in Australia are under 'Wills'.

John Wills came to Sydney in 1832, at age 8, with his mother who was transported on the "Burrell". On arrival, John and his younger brother George, aged about 7, were placed in the Male Orphan School at Liverpool, Sydney as Ann Harris was given a domestic service placement with no provision for children. When Ann Harris was subsequently assigned as housekeeper to William Middleton at Bow Bow Creek in the Manning Valley on the mid-north coast of NSW, George was able to accompany his mother while John remained at the Orphan School.

John would seem to have been a good student as he became a School monitor, a role which provided him with a stipend of £4 per year. In 1836 at age 12, John was apprenticed to an ex-convict tailor John Stephen. In addition to allowing John to learn a trade, it also allowed him to live with the Stephen family in Erskine St, Sydney. It appears that John was able to maintain contact with his biological family as he is recorded as a witness to the wedding in the Manning River district of his half-sister Annie in 1854 and was an equal beneficiary in the will of William Middleton with his full brother, George and half sister, Annie. Thus William Middleton would seem to have accepted John Wills as an integral part of his family.

In 1847 John married Elizabeth Porter in the Presbyterian St Andrews Scots Church, Sydney. He fathered 8 children, 6 boys and 2 girls, of whom only 4 sons survived to adulthood. John and Elizabeth only spent 13 years together as John died in 1860 aged 36. He died from influenza in his tailoring premises in George St which probably had a residential section in an upper floor. He was buried at the CoE Church cemetery, Camperdown.

John would seem to have been quite a successful tailor. He is listed in the 1858 1st edition of the Sands Directory, an annual commercial publication that listed property owners and businesses in Sydney, with a business address of 484 George St and a residence, Primrose Cottage at Woollahra (near today's Oxford St). John also accumulated other property around Sydney although it is considered that Elizabeth Porter and possibly an inheritance from William Middleton, contributed to this success (discussed under these persons).

In 1851 John purchased land in the Riley Estate Woolloomooloo for £125 and in 1856 bought two 1 ha parcels of land in Nelson St (now Macpherson St), Waverley for £86 and £82. In 1857, John transferred the Riley Estate & Waverley land into a trust with Elizabeth the beneficiary. It is not clear whether this was established to protect the family from any business debts or whether John was then in ill health. A measure of their substantial financial position and community standing was John's will which bequeathed Elizabeth with goods to the value of £1500, a large sum at that time and that in 1858 a renowned colonial artist and ex-convict forger, Joseph Backler, was commissioned to produce separate oil paintings of John and Elizabeth; (the paintings are currently held by Colin Wills, a great grandson of James Porter Wills, who had them restored).

John married ¹ **Elizabeth Porter** daughter of Thomas Porter and Sarah Ward on 5 Apr 1847 in St Andrews Scots Church Sydney. Elizabeth was born on 7 Feb 1825 in Sydney. She died on 12 Aug 1908 in Waverley. She was buried in CoE section, Waverley Cemetery.

Elizabeth Porter was born in 1825 in Sydney. She was the 7th of 9 children born to Thomas Porter and Sarah (nee Ward) who were convicts transported separately to New South Wales in 1819 and 1818, respectively, for forgery offences (discussed under their names). Nothing is known of her early life apart from the family being allowed to freely exist in the community.

When John died in June 1860, Elizabeth must have had a harrowing time. Her youngest son George Edmund Joiner was only 5 weeks old, she had three other surviving young sons, William Henry aged 11, Albert Charles aged 9 and James Porter aged 7 and her only surviving daughter Amelia Cordelia, aged 2 years, died 2 months later.

Elizabeth was obviously left well enough endowed to continue owning Primrose Cottage in Woollahra as she became listed in the Sands Directory from 1863 in her own right. She seems to have sold the tailoring business as a new owner, Charles Brown, is listed as a tailor and draper at the premises in the 1861 Sands Directory.

Elizabeth takes up residence in 1867 at the Waverley landholding in Valley Cottage where she stays until her death in 1908. The land covering 2 ha had frontage to Nelson St and Leichhardt St meeting at the junction of Nelson Rd with the rear being Wills St.

The pioneering nature of the move to Waverley in 1867 is indicated by Elizabeth being the only resident listed in Nelson St (about 500 m long). Wills St was established in 1879 and the Sands Directory indicates that it ran from Albion St to Nelson St, and would seem to have serviced the Wills land holding. The street was named by Waverley Council after Elizabeth who was its only resident. However, in 1886 Wills St appears to have been re-routed to run to Leichhardt St, in which case it would have followed the southern border of the Wills land holding.

Even in 1900, when street numbers were common in Macpherson St, Elizabeth and son Albert lived in unnumbered residences with only 5 houses between #23 and #51, suggesting they were still living on a larger than normal land holding but Waverley Council had allowed street numbering for future sub-division. By 1888, Wills St has disappeared as a street as the Council did not want to pay for its grading and maintenance. The Wills family land holding seems to be still mostly intact in 1888 by the close grouping houses owned by Elizabeth, Albert (both listed in Macpherson St), James and George (both listed in Leichhardt St).

Elizabeth died in 1908 aged 83. The cause of death is given as heart failure and Bright's disease and that her illness had been treated for 3 years. She is buried at the Church of England section of Waverley Cemetery in a plot between family members of her sons Albert Charles and George Edmund Joiner. A family plot of James Porter is in an adjoining row.

During her lifetime, Elizabeth appears to have been adept at managing her financial affairs. She sold various portions of the Waverley land holding in sub-divisions, and also acquired a property, 'Hillside', at Cecil St, Blackheath close to land holdings by other members of the Porter family. In her will she meticulously distributes her assets to those who are seemingly in her favour. Two parcels, including her house at 27 Macpherson St, and land bordering an unnamed lane of the eastern side in a trust to her grandson George Horsely Wills on the death of her son and his father, Albert Charles. One parcel adjoining the unnamed lane was bequeathed to her granddaughter Annie Rose Wills (then Mrs Bennett) and one parcel in a trust for Sarah Jane Anderson, wife of her eldest son William Henry Wills on his death. In 1922, the lane was formally named as 'Wills Ave' and exists today. The 3 parcels of bequeathed land became #1, #3 and #5 Wills Ave. Her son James Porter Wills was the only son to be given a parcel in his own right - the remaining land bordering Macpherson St..

They had the following children:

- 5 M i **John Thomas Wills** was born on 24 Apr 1848 in Surry Hills. He died on 10 Jan 1849.
- + 6 M ii [William Henry Wills](#)
- + 7 M iii [Albert Charles Wills](#)
- 8 M iv **John Wills** was born on 6 Jan 1853. He died on 6 Feb 1853.
- + 9 M v [James Porter Wills](#)
- 10 F vi **Elizabeth Ann Jones Wills** was born on 20 Apr 1856 in Paddington. She died on 1 Mar 1857 in Sydney.
- 11 F vii **Amelia Cordelia Wills** was born on 9 Apr 1858 in Paddington. She died on 7 Aug 1860 in Waverley.
- + 12 M viii [George Edmund Joiner Wills](#)

POMONA FLATS

**29 MACPHERSON STREET,
WAVERLEY, NSW**

HERITAGE ASSESSMENT



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June 2018

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1.0 INTRODUCTION

1.1 THE BRIEF

The following report has been prepared to provide a heritage assessment of the apartment building Pomona at 29 Macpherson Street, Waverley, NSW. The report has been prepared on behalf of Waverley Municipal Council.

1.2 BACKGROUND

Waverley Council has received a development application for the redevelopment of the properties at 27 and 29 Macpherson Street Waverley (DA8/2018) for a boarding house. Council has requested a heritage assessment of the property at 29 Macpherson Street and, in particular, whether the property could be considered as a heritage item for inclusion in Schedule 5 Part 1 of the Waverley Local Environmental Plan.

The property at 27 Macpherson Street, that is included in the development site, has been assessed in a separate report.

1.3 THE STUDY AREA

The study area is Lot 1 in DP 510442 at Waverley, Parish of Alexandria and County of Cumberland (Figure 1.1).

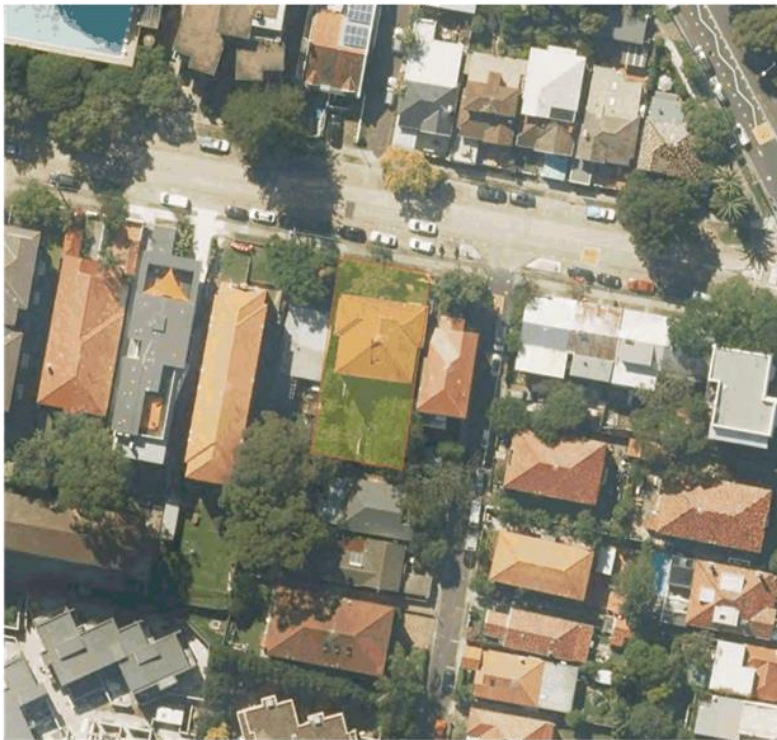


Figure 1.1 The Study Area

Source: Six Maps

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

1.4 LIMITATIONS AND TERMS

The report only addresses the European significance of the place. The terms *fabric, conservation, maintenance, preservation, restoration, reconstruction, adaptation, compatible use and cultural significance* used in this report are as defined in the Australia ICOMOS Burra Charter.

A history of the place was prepared by Council in their report *27 & 29 Macpherson Street, Bronte, Preliminary Heritage Assessment (PHA)* dated March 2018. The history of the place is taken from this report with additional research by John Oultram.

1.5 METHODOLOGY

This report was prepared in accordance with the NSW *Heritage Manual* "Statements of Heritage Impact", "Assessing Heritage Significance Guidelines" and the Waverley Council guidelines for the preparation of heritage impact statements. The philosophy adopted is that guided by the Australia ICOMOS Burra Charter 2013.

1.6 AUTHORS AND ACKNOWLEDGMENTS

This report, including all diagrams and photographs, was prepared by John Oultram of John Oultram Heritage & Design, unless otherwise noted. John Oultram Heritage & Design was established in 1998 and is on the NSW Heritage Office list of heritage consultants.

2.0 HISTORICAL DEVELOPMENT

2.1 SUMMARY

Located within the 1856 grant to John Wills of 2 acres, 2 roods and 32 perches the apartment building at 29 Macpherson Street appears to have been built c. 1926.

2.2 WAVERLEY CONTEXT

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 glebe¹.

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. This contrasts with the neighbouring municipalities of Woollahra and Randwick where vast tracts of land were either locked up by the government for Sydney's water supply or in the instance of Woollahra by the Cooper family. With the exception of some crown grants gifted between 1828 and 1831, the majority of the land releases in Waverley took the form of public auctions of moderately sized parcels of land, generally between five and ten acres. These land purchases had frontage to the small number of public roads that followed the ridgelines such as present day Oxford Street, Bondi Road, Bronte Road, and Birrell Street.

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 distant Botany Bay. The first generation of residences included a small number of substantial villas set within large blocks of land inclusive of Levey's Waverley House and the extant and well-known Bronte House completed in the mid 1840s for Robert Lowe. The second generation of villas of the 1850s and 1860 were erected by the city's professional and merchant classes who had acquired wealth riding the wave of prosperity brought by the discovery of gold. An extant example of this development is Ebenezer Vickery's Edina in Carrington Road developed from 1864. However, most of the mid-nineteenth century villas have long since been demolished.

The remoteness of the area together with the natural advantages of the exposed elevated sites and constant water supply from springs and creeks provided favourable circumstances for industrial development such as brewing, soap works and tanneries. At Mill Hill in the early 1840s a post windmill was erected by Henry Hough for grinding flour.

Another more unique type of development that occurred in nineteenth century Waverley was the opening of the Cemetery in 1877. A general cemetery for the Eastern Suburbs had been under consideration since the 1860s, with Waverley Council having expressed an interest in the proposal from 1863.²

¹ A 'glebe' is land set aside for the support of the Church through leases for use or development

² Dowd, BT (ed), *The History of the Waverley Municipal District*. Waverley Municipal Council, 1959, p.172 (Dowd 1959)

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

Over the 1880s the majority of the large estates in Waverley were subdivided to meet the demand for land for suburban development. By the mid 1880s the municipality was reported as developing faster than any other near Sydney.³ 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 home owner. Another factor was the improvement of basic government services. The supply of reticulated water from the City Council's (Water Board from 1888) supply became available from 1880 with the completion of the Woollahra Reservoir (now within Centennial Park) servicing the western end of the municipality, and Waverley Reservoir (now within Waverley Park) at the eastern end from 1887.

The steam tram service from the city via Bondi to Charing Cross and along present day Oxford Street was approved for construction by the government in 1880 and was subsequently opened for traffic in April 1881. The tramline was extended to a terminus near Waverley Cemetery in 1890. Over 1902 the tramway was converted to the more convenient and speedier electric service and the Waverley Depot was completed at the corner of Oxford Street and Lang Road (now the government bus depot).

2.3 WILLS GRANT

In 1856 John Wills received a grant of land fronting Macpherson Street and Leichhardt Street consisting of 2 acres, 2 roods and 36 perches. He also received a grant of 2 acres and 2 roods to the west fronting Macpherson Street.

Wills, who became a successful tailor, was born in 1824 in Yorkshire England, arrived in Sydney in 1832 at the age of 8, and died in 1860 at the age of 36. John's wife, Elizabeth, took up residence in 1867 in Waverley where she stayed until her death, at the age of 83, in 1908.

Early development appears to have been sparse and the plan of 1889 shows little development on the site apart from four houses fronting Leichhardt Street, the terrace of four houses to the corner of Macpherson Street and Leichhardt Street (extant) and two cottages to the west including one fronting Macpherson Street (see Figure 2.3).

The Sands Directories for the period are a little unclear as no street numbers are identified but up till 1888 there does not appear to have been any development to the south side of the street (called Nelson Road till 1887) and the first listings indicating development in 1885 and 1888 list properties between Lugal Street and Leichhardt Street. Both Albert C Wills (greengrocer) and George Wills (carpenter) are listed in the street but it is unclear if this is in the relevant section of the street.

It is noted in the Harris Family Tree that

Albert, along with his brothers James and George, all lived in Waverley close to their mother Elizabeth at some time up to the early 1890's. The three sons and Elizabeth lived in separate houses on the John Wills original land holding bounded by Macpherson Street and Leichhardt Street.

³ 'The Outskirts of Sydney - Waverley', *Illustrated Sydney News*, August 1884.



Figure 2.1 Randwick, Waverley and Coogee, 1859

Source: PHA 9

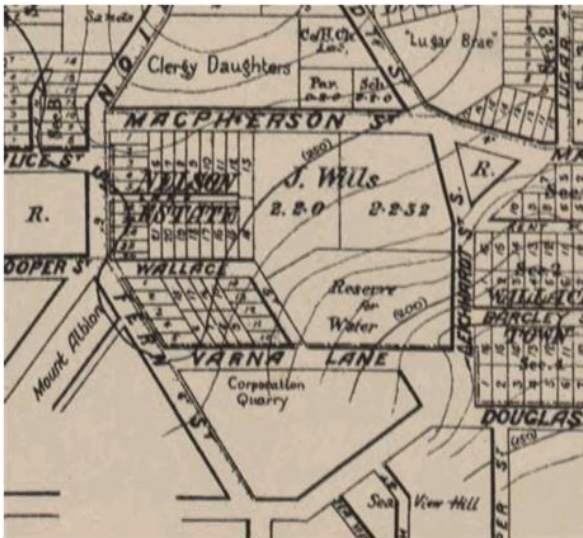


Figure 2.2 Waverley Map 1887 (Note: the two J. Wills parcels are still intact) Gibbs, Shallard & Co 1887

Source: PHA p. 10

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

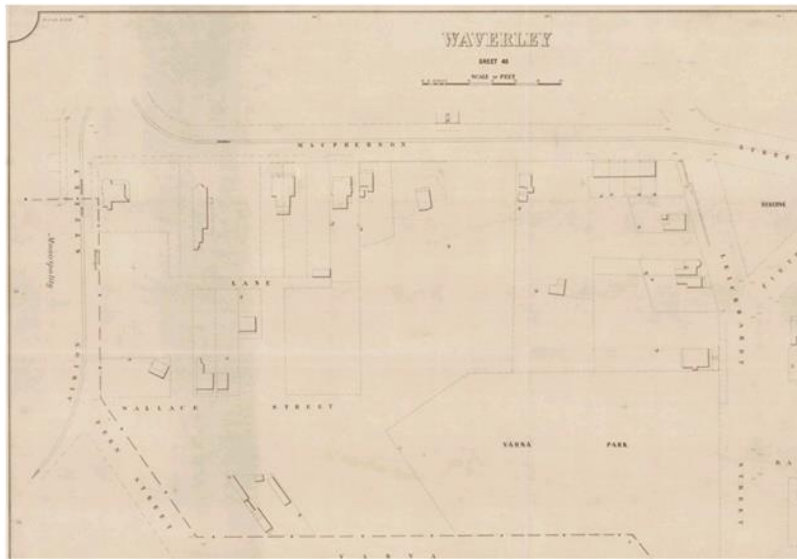


Figure 2.3 Detail from Waverley Sheet 48, dated 1889. The survey shows the sparse development on the land grant

Source: State Library of NSW (Z/ M Ser. 4 811.17/1)

2.4 29 MACPHERSON STREET

In 1908 the site of the Pomona flats was sold by Elizabeth Wills to Monaca Wills⁴ (presumably a relative) who re-conveyed the property to John Nicholls Boone in the following year. She also took out a mortgage on the property to Boone and on repayment the property reverted to her⁵. In 1918 she sold the property to Frederick Searle and EW Thompson⁶.

The pair only held the property till 1920 when it was sold to Martha Mary Lawrence, wife of Samuel Bonfield Lawrence, a federal civil servant, and Ada Skinner, wife of Frederick Skinner a draper of Waverley⁷. Lawrence and Skinner brought the property under Torrens title in 1921. The land is noted as *unoccupied* and it is interesting to note that the PA notes C Wills as the owner and occupier of the cottage to the west.

⁴ NSW Land and Property Information Book 858, No. 778 cited in PA 22820

⁵ NSW Land and Property Information Book 882, No. 611 cited in PA 22820

⁶ NSW Land and Property Information Book 1140, No. 171 cited in PA 22820

⁷ NSW Land and Property Information Book 1177, No. 154 cited in PA 22820

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT



Figure 2.4 Plan of title for 29 Macpherson Street dated 1921

Source: NSW Land Registry Services, Vol. 3200, Fol. 38

In 1923 the property was subdivided and part transferred to Samuel Bonfield Lawrence and the residue, including the subject site, sold to Henry Thomson, a builder of Waverley, in 1926⁸.

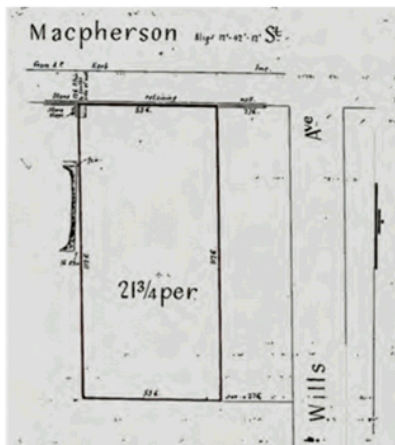


Figure 2.5 Plan of title for 29 Macpherson Street dated 1926 showing the subdivided lot that was owned by Henry Thomson

Source: NSW Land Registry Services, Vol. 3855, Fol. 60

Thomson submitted a building application for a block of apartments on the site that was approved in 1926 with an 'H Thompson Esq' referenced.⁹ The apartments were three storey over an undercroft with two flats per floor off a central stair with a second stair to the rear (Figure 2.6).

⁸ NSW Land and Property Information Vol. 3200, Fol. 38

⁹ Waverley Council records

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

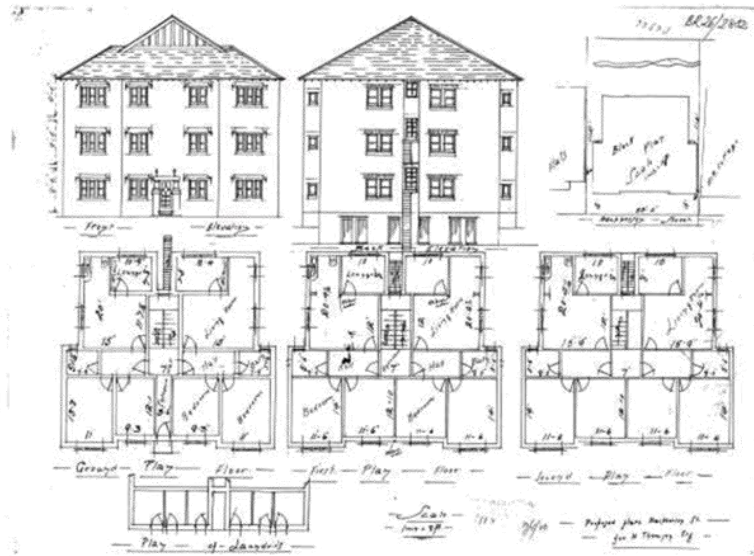


Figure 2.6 Building application plans for the flats at 29 Macpherson Street BR26/2882

Source: Waverley Council records

Thomson sold the property in 1927 to Francis Belfield who took out mortgages with Bertram Norman Seibel and Thomson in the same year¹⁰. A New South Wales Government Gazette, dated 1929, notes the forced sale of the property between a Bertram Norman Seibel and the defendant Henry Thompson of Waverley, the builder of 'Pomona Flats'. Seibel is noted as the owner in a transfer dated 1930 when the property was sold to Elizabeth Ida Sutherland, a widow of Rose Bay¹¹.

The apartments passed through numerous hands over the following years.

¹⁰ NSW Land and Property Services, Vol. 3855, Fol. 60

¹¹ Ibid

3.0 PHYSICAL DESCRIPTION

An inspection of the property was carried out by John Oultram in June 2018. The interiors of the apartments were not inspected.

29 Macpherson Street is three storey (with undercroft) block of Inter War apartments set on a large, excavated site to the south side of the street. The apartments sit below the footpath with the upper floors visible from the street.

The building has rectangular plan with a symmetrical front elevation with projecting wings each side and a hipped roof section at the rear inset from the front. The main entrance is to the front at the ground level with an Inter War style porch with a concrete hood supported on concrete stub columns on decorated brick piers with brick flank walls.

The building is in dark, face brick with red brick banding at the floor levels and a hipped, terracotta tile roof with a gable to the front over the front ridge. The gable is faced in timber weatherboards with a circular vent at the apex. The rear section of the building is in common bricks. The central section to the front has decorated brick panels with the lower panel inscribed with POMONA.

All windows have been replaced in aluminium but the concrete hoods to the front remain. The building has a central hall with a tessellated tile floor and a concrete stair with terrazzo goings and risers with square, polished timber newel posts and balusters. There is a second stair to the rear with steps down to the rear garden.

The building has small garden to the front set below the footpath with a sandstone retaining wall and tiled steps up to the street. There is a low, decorated brick fence to the street with a modern, metal gate. The garden is laid to lawn with some perimeter shrub plantings. There is a large garden to the rear laid to lawn.

Macpherson Street is a largely residential street lined with a variety of single storey and multi storey buildings from the late Victorian period onwards with later infill development including Inter War and Post War apartments. To the east is a two storey block of Inter War apartments and to the west a single storey, weatherboard cottage (27 Macpherson Street).

Figures 3.1 - 3.6



Figure 3.1 29 Macpherson Street, Waverley
Front elevation



Figure 3.2 29 Macpherson Street, Waverley
Rear elevation



Figure 3.3 29 Macpherson Street, Waverley
Front entry porch



Figure 3.4 29 Macpherson Street, Waverley
Front garden

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT



Figure 3.5 29 Macpherson Street, Waverley
Typical window to front



Figure 3.6 29 Macpherson Street, Waverley
Front fence and gate

4.0 HERITAGE LISTINGS AND CONTROLS

4.1 NATIONAL TRUST

The property is not classified on the Register of the National Trust of Australia (NSW).

4.2 HERITAGE DIVISION OF THE NSW OFFICE OF ENVIRONMENT & HERITAGE

4.2.1 State Heritage Register

Under the Heritage Act 1977 (as amended), the NSW Heritage Council, administered by the Heritage Division of the NSW Office of Environment & Heritage administers and maintains the State Heritage Register (SHR), a register of items and places that are considered to have heritage significance at a state level. The subject property is not listed on the Register.

4.2.2 State Heritage Inventory

The Heritage Division also compiles the State Heritage Inventory (SHI), a collated database of all places listed on statutory heritage lists, including Local Environmental Plans. The subject property is not listed on the Inventory.

4.3 LOCAL AUTHORITY

The local authority for the area is Waverley Council. The property is not listed as a heritage item in Schedule 5 Part 1 of the *Waverley Local Environmental Plan 2012* (WLEP) and is not within a heritage conservation area.

The property is in the vicinity of the Simpson Park Landscape Conservation Area (C58) and the Charing Cross Heritage Conservation Area (C7) and is in the vicinity of heritage items at:

REF	ADDRESS	ITEM	RANKING
I444	26 Albion Street	Georgian style stone building St Johns, St Catherine's Girls School	Local
I521	Macpherson Street	St Catherine's School and grounds	Local
I488	13-15 Leichhardt Street	Inter War Free Classical style flat building	Local
I489	19 Leichhardt Street	Federation house	Local
I491	51-57 Macpherson Street	Late eighteenth century houses	Local

The heritage provisions in the WLEP relating to development within the vicinity of a heritage item and in the vicinity of a conservation area would apply to development at the place.

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

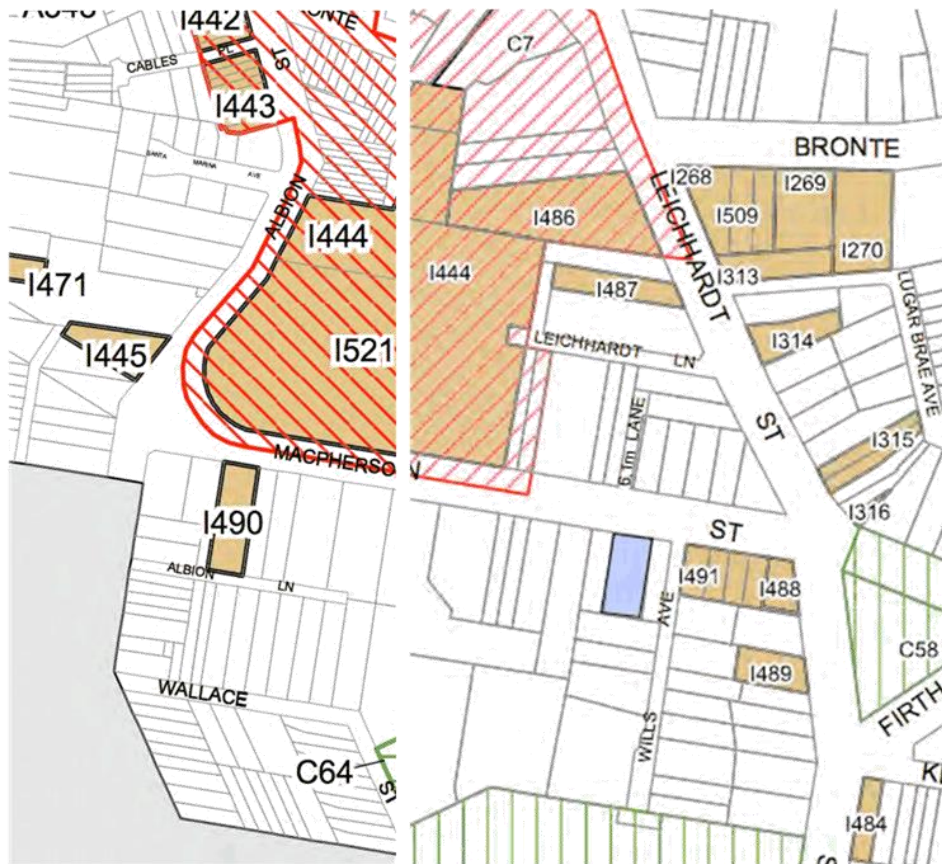


Figure 4.1 Waverley Local Environmental Plan 2012 - Heritage Maps HER_001 and HER_004B

Heritage items are coloured brown

Subject site highlighted by author

5.0 DISCUSSION AND ASSESSMENT OF SIGNIFICANCE

5.1 CRITERIA FOR ASSESSMENT

The Heritage Office of New South Wales has issued guidelines as part of the NSW Heritage Manual regarding the assessment of heritage significance. The Manual is a well-regarded methodology for the assessment of cultural significance and is appropriate for application to the subject property.

An item will be considered to be of State (or) local significance if, in the opinion of the Heritage Council of NSW, it meets one or more of the following criteria.

5.2 HISTORIC SIGNIFICANCE

5.2.1 Historical Development

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)
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Pomona at 29 Macpherson Street is an example of a three storey, Inter War apartment building built c. 1926 by builder, Henry Thomson. The apartments appear to have been a speculative development for sale. Thomson had purchased the site in 1923 from Martha Mary Lawrence and Ada Skinner.

The site was originally part of the large land grant to John Wills (1856) that, following his death in 1860, came into possession of his wife Elizabeth who may have resided at the timber cottage at 27 Macpherson Street. The grant appears to have been relatively undeveloped till the Inter War period when parcels were sold piecemeal by members of the Wills family.

The development was part of the trend for apartments in the Inter War years. There was rapid economic growth in Sydney in the 1920's but this almost came to a halt in the great depression in the 1930's. During this time residential flat building became a popular development option partly as a result of the Fair Rent legislation of 1916 that controlled the rental returns.

There was a marked increase in apartment building in the 1920's which accelerated after the Depression as developers sought to make up lost time. For example, in 1938 70 % of the building applications in Rose Bay and Double Bay were for residential apartments. The design of the buildings was largely uncontrolled apart from the requirement for separate lavatories and fire stairs and there was often considerable council and local objection. It was not until 1940 that some limited regulation came into force with the Local Government (Regulation of Flats) Act. This divided flats into four categories depending on site position, site coverage and height.¹²

The Inter-War years saw considerable growth in the Municipality of Waverley as a result of several factors, including the availability of public transport and other services, acute post-war housing shortages, and development opportunity. The apartment developments were larger than previous developments and changed the character of the suburbs in the areas where they were constructed, a character that is still evident today.

¹² Broomham, Rosemary, *The Urban Garden*, 2002. A study of Inter War development in Rose Bay and Double Bay for Woollahra Library

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Pomona is part of the Inter War development of the grant to John Wills that saw several such buildings constructed along Macpherson Street and Leichhardt Street and that was part of a development pattern seen across the suburb. However it is not a good representative example of the type and is quite typical of the period.

Does not meet the criterion.

5.2.2 Historical Associations

Criterion (b)	<i>An item has strong or special associations 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)</i>
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The place is most closely associated with Henry Thomson the builder of the apartments but no biographical information was available.

The place is also associated John Wills (1824-1860) and his wife Elizabeth Wills (d. 1908). John Wills was a tailor and received two large grants in the area but did not develop or subdivide the land. The association would cover a large portion the local area and is incidental.

Does not meet the criterion.

5.3 AESTHETIC SIGNIFICANCE

Criterion (c)	<i>An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)</i>
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29 Macpherson Street is a modest example of a three storey, Inter War apartment building that retains its primary form but which has been modified externally with windows replaced in aluminium and the front gable reclad.

The building has few features of note with only the entry porch (that is more akin to that found on domestic development in the same period) and the interior hall finishes and stair giving clues to its Inter War style. The building could not be said to be of any particular style and has none of the decorative characteristic of say the Inter Art Deco, Georgian Revival, Mediterranean or Spanish Mission styles that were popular for such developments. The plan is of the most basic layout and the building displays no design excellence.

No architect appears to have been involved in the design and the building is not a major work by an important designer and has lost some of its integrity. The building has no landmark qualities and could not be seen as a creative or technical achievement. The building is not of sufficient quality, uniqueness or rarity to warrant individual listing.

Does not meet the criterion.

5.4 SOCIAL SIGNIFICANCE

Criterion (d)	<i>The item has strong or special association with a particular community or cultural group in NSW (or the local area) for social or spiritual reasons</i>
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The house has no special associations with any particular group.

Does not meet the criterion.

27 MACPHERSON STREET, WAVERLEY

HERITAGE IMPACT STATEMENT

5.5 TECHNICAL/SCIENTIFIC SIGNIFICANCE

Criterion (e)	An item has the 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)
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There is no evidence of any prior buildings on the site and the place has no archaeological potential. The date of construction of the stone retaining wall to the front of the property is not known though it may date from earlier development of the cottage to the west.

Does not meet the criterion.

5.6 RARITY

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)
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The building type is common in the area. Not rare.

Does not meet the criterion.

5.7 REPRESENTATIVENESS

Criterion (g)	An item is important in demonstrating the principal characteristics of a class of NSW's Cultural or natural places; or Cultural or natural environments (or a class of the local area's: Cultural or natural places; or Cultural or natural environments)
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The building is a modest example of its type and has lost some of its original characteristics. It does not represent well the characteristic that make up the type.

Does not meet the criterion.

5.8 INTACTNESS

The building is partly intact in form but has been altered to all elevations with the windows replaced and the front gable reclad. The building retains its original porch and window hoods, roof tiling and the original stair and tiling to the hall are extant.



Figure 5.1 The original design for the front elevation showing the original window pattern

Source: Waverley Council Records BR26/2882

The interior was not inspected and the original plan shows a two apartment per floor layout that appears to be extant.

5.9 COMPARATIVE ANALYSIS

Waverley has 46 Inter War apartment buildings listed in Schedule 5 Part 1 of the Waverley Local Environmental Plan as heritage items. The range and quality of buildings is quite diverse with both modest and more elaborate examples of the type. Some occur in groupings with Palmerston Avenue, Bronte and Campbell Parade, Bondi Beach providing notable examples.



Figure 5.2 5 Palmerston Avenue, Bronte

The building displays an interesting plan form and well resolved elevations and retains its original form and detail

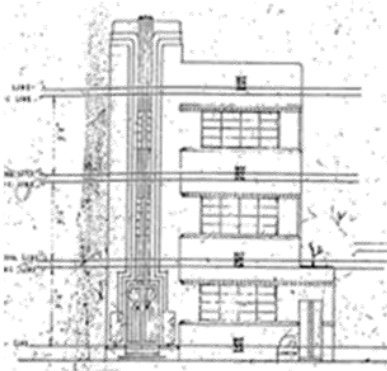


Figure 5.3 246-248 Campbell Parade, Bondi Beach

The original design had strong Art Deco features but these have been removed



Figure 5.4 13 Leichardt Street, Waverley close to the subject site

The building has strong, Inter War Free Classical detailing



Figure 5.5 28 Francis Street, Bondi Beach

A nicely detailed and distinctive Spanish Mission style building

The subject building displays no features of note and no design excellence and is a very modest example compared to the listed heritage items.

5.10 SUMMARY OF SIGNIFICANCE

Based on the above we consider that the apartment building at 29 Macpherson Street would meet none of the criteria in the Heritage Manual for identification as a place of local significance.

6.0 SUMMARY & RECOMMENDATIONS

6.1 ASSESSMENT OF SIGNIFICANCE & POTENTIAL LISTING

We consider that the property at 29 Macpherson Street:

- Meets none of the Heritage Manual criteria for identification as a place of local significance
- Is not worthy of listing as a heritage item in Schedule 5 Part 1 of the Waverley Local Environmental Plan.

6.2 RECOMMENDATIONS

6.2.1 Development Control Plan

The Inter War period was a significant development period for many suburbs in Sydney both at a domestic level and for infill apartment development in established suburbs such as Waverley. The stylistic change for both types of development provides much of the character of suburbs such as Concord where there was wholesale development of large tracts of land for single storey, Inter War houses that saw the introduction of the ubiquitous Californian bungalow that has become the signature for such suburbs.

The same would also apply to the more developed suburbs such as Waverley where there was both domestic development and apartment development on infill and undeveloped sites.

Depending on the quality of the buildings, the protection of Inter War apartments is important and has been dealt with by other Councils in specific policies in Developments Control Plans that provide objectives and controls for alterations and additions to such buildings.

A notable example is the Woollahra Development Control Plan 2015 (WDCP). Section B3.8.7 of the DCP provides controls for Inter War flat buildings that are recognised as an important part of the development pattern for the LGA. The controls are shown in Appendix A. While not preventing demolition of Inter War apartments, the DCP promotes their retention, identification their significant aspects and policies aimed at maintaining their important characteristics.

Waverley Council could consider similar controls in their DCP to promote an assessment of the heritage values of the Inter War building stock that is not recognised in the LEP Heritage Schedules and not located in heritage conservation areas.

6.2.2 Archival Recording

If approval is given for demolition then we would recommend that the building be archivally recorded using digital capture in line with the Heritage Division recommendations.

27 MACPHERSON STREET, WAVERLEY

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6.2.3 Salvaged Materials

If approval is given for demolition then we would recommend that the stonework to the retaining wall to the front of the building (that may date for the early development of the place) be salvaged for reuse in the development.



JOHN OULTRAM

JOHN OULTRAM HERITAGE & DESIGN

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7.0 APPENDIX A WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

Section B3.8.7 Inter War Flat Buildings

B3.8.7 Inter-War flat buildings

Inter-War flat buildings were constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of areas and to the historical development of the area.

Inter-War flat buildings are defined as two storeys or more and containing two or more dwellings, constructed in the period circa 1918 to circa 1950.

This definition includes years outside the recognised 'Inter-War period' of 1918 to 1939. This is to recognise a building type and not exclusively buildings constructed between certain years. This building type is distinguishable by common characteristics and styles. There are many examples of residential flat buildings with these characteristics that were constructed after 1939.

There are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flat buildings across the LGA were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson.

Externally, many buildings and their settings are substantially intact. Modern day renovation trends that include rendering or bagging face brick, altering window patterns and enclosing balconies have detrimental impacts on the character of these buildings, particularly their aesthetic values, and also on the general streetscape.

Streetscape

The streetscape is the connection between the private and public domain. The character of the Inter-War flat building streetscapes is their consistency in architectural style, scale, form, front and side setbacks, finishes and materials. In streets characterised by Inter-War residential building development, the subdivision pattern and regular separation of buildings often provides public views to surrounding areas and landmarks.

Landscaped area

The landscaped garden setting is an important element of Inter-War flat buildings and contributes to the character of the building and its setting. The garden setting usually comprises perimeter planting in narrow strips along the front of the buildings and along the side boundary fences framing a small lawn area in front of the buildings.

Building form

The predominant plan form of principal buildings is of a stepped nature with bays, indents, verandahs, balconies and other elements to break up the mass of the building and in particular the street front elevation.

Highly characteristic detailing defines each style within the Inter-War period and contributes to the building's character. Each style can be characterised by the following elements:

- ▶ Art Deco: Face brickwork, vertical and horizontal brick fins, decorative stepped parapets, symmetry, three dimensional massing, geometric curves.

- ▶ Mediterranean: Rendered and lime washed walls, round or Marseille tiles, accents of classical detail such as round arches, timber shutter, ornate fine ironwork railings.
- ▶ Georgian Revival: Symmetry, fine face brickwork, 12 pane windows, repetitive fenestration, semi-circular headed windows, classical columns and pediments.
- ▶ Spanish Mission: Plain rendered or textured stucco with concentrations of ornament, gabled roofs with curved parapets, half-round terra cotta tiles, triple arch windows, 'barley-sugar' columns.
- ▶ Skyscraper Gothic: Medieval motifs, tall tower elements, vertical fins, stepped parapets.
- ▶ Functionalist: Asymmetrical massing of simple geometric shapes, steel-framed windows, contrasting horizontal and vertical motifs, large areas of glass.

Building height

The height of Inter-War flat buildings is generally consistent within the streetscape. The buildings are usually 2 or 3 storeys, but may be up to 10 or 12 storeys.

Materials

Materials characteristic of Inter-War flat buildings are:

- ▶ walls—brick, render/stucco;
- ▶ windows—timber double hung or casement; and
- ▶ roofs—glazed terracotta tile.

Alterations, additions and repairs

Alterations and additions to Inter-War flat buildings should have regard to the existing character of the building and its setting.

Where external elevations and internal common areas are intact, applicants are encouraged to confine alterations to internal areas of individual apartments.

Services and fire upgrades must be carefully planned and detailed. To avoid damage to characteristic internal and external details, repairs to building elements are to retain existing detailing and be equal to the original quality and design of material finishes, fixtures and fittings.

Roofscapes and chimneys

The roof is an important characteristic of Inter-War flat buildings and is generally a hipped or gabled form with a tiled roof structure and decorative parapet features. It contributes strongly to the overall form, proportions and character of the building.

Chimneys are an important characteristic of pre-1950 residential flat buildings and add to the character of the overall building form and area. For example, chimneys may relate to a centralised incinerator system, reflecting a previous technology that is of historic interest.

Dormer windows to the existing roof forms are inappropriate and out of character with Inter-War flat buildings and are intrusive in the roof form. Skylights are intrusive in roof forms and are restricted to areas that are not visibly prominent.

Fences, gates and mailboxes

The front fences of Inter-War flat buildings are usually low scale and constructed of masonry, often incorporating or repeating details used in the building. Gates are generally wrought iron with fine craftsmanship in a design appropriate to the character of the building, and also match external balcony balustrades.

Mailboxes are often timber in a masonry enclosure and located at or near the front fence, or within or near the main entrance to the building.

Ancillary structures

Ancillary structures for Inter-War flat buildings are those buildings that are not the principal building and include, but are not limited to: carports, garages, garbage areas and laundries.

External materials, details and finishes

External materials, details and finishes and the way they in which these are used are important elements that contribute to the overall character of a building. Face brickwork is a key characteristic of Inter-War flat buildings. The use of masonry patterns including two-tone brickwork, squints (corner bricks), textured bricks and herringbone brickwork can contribute to aesthetic value to an Inter-War flat building.

Verandahs and balconies

Existing verandahs and balconies are an important characteristic of Inter-War flat buildings, in addition to being functional and adding visual interest to the exterior by creating shadows. The addition of new balconies can have a highly negative visual impact on the character of the building. Where external elevations are intact and the building displays distinctive characteristic detailing, verandah additions should be limited to building elevations that are not highly visible from the street.

Security devices

In some cases the original door and window hardware does not provide the necessary level of security for contemporary requirements. Additional security devices can be provided sympathetically whilst retaining original hardware and the character of the building.

Fire protection upgrading

To comply with BCA and other requirements, it is sometimes necessary to upgrade the building with additional fire protection equipment or measures. Where characteristic internal and external detailing exists, fire protection upgrading should be sympathetically incorporated to minimise adverse impacts to original fabric and characteristic features of the building, such as doors and fireplaces.

Objectives and controls for alterations and additions to Inter-War flat buildings

Note: The controls below apply in addition to the general residential controls in this chapter. Where there is an inconsistency, the controls below take precedence.

B3.8 Additional controls for development other than dwelling houses**▶ 3.8.7 Inter-War flat buildings**

Objectives		Controls	
Streetscape			
O1	To ensure that the significant characteristics of Inter-War flat buildings, in regard to their presentation to the street, are retained and protected.	C1	For Inter-War flat buildings that are heritage items or located in a HCA—No alterations or additions to the significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations, except for restoration or reconstruction.
O2	To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area.	C2	For Inter-War flat buildings that contribute to the character of the area, are not heritage items or located in a HCA—Alterations or additions to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building, and do not dominate the building.
O3	To ensure that the architectural character of Inter-War flat buildings that contribute to the character of the area is not compromised.	C3	The articulated, stepped and faceted plan form of the building is not altered or obscured, particularly at the street elevation.
O4	To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.	C4	Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
O5	To ensure that alterations and additions to the roofs are discrete and do not detract from the original character, proportions or key elements.	C5	The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
		C6	Dormer windows or skylights are not visually prominent from the public domain or the principal elevations of the building.
		C7	Skylights are flush with the roof surface.

B3.8 Additional controls for development other than dwelling houses	
3.8.7 Inter-War flat buildings	
Objectives	Controls
	C8 Original chimneys and their details are retained.
O6 To conserve the established garden settings, including significant elements and features.	C9 Characteristic front gardens, and their elements, are retained with minimal alteration.
	C10 Structures are not erected in the front garden that detract from the feeling of openness, or restrict or impact on the principal elevations of the building (including secondary fences and hedges).
	C11 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.
O7 To ensure that parking does not detract from the character of the streetscape.	C12 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
O8 To ensure that external alterations, additions and repairs do not detract from the original character and form of the building.	C13 External alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.
	C14 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.
	C15 Privacy screens are discreet and do not impact on the overall character of the building, and are visible from the street.
	C16 Shade structures, including awnings and canopies, are not located on the principal building elevations.
	C17 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and landscape areas.

B3.8 Additional controls for development other than dwelling houses**▶ 3.8.7 Inter-War flat buildings**

Objectives	Controls
O9 To ensure that external materials, details and finishes respect and complement the original building.	C18 Materials are similar in type and finish to those on the original building and sympathetically integrate with the fabric of the building.
	C19 Individual materials do not dominate the original materials of the building.
	C20 Original face brickwork is not painted, rendered or coated.
	C21 Windows are timber double hung or casement with the glazing pane size to be conserved and match the original windows.
	C22 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.
O10 To ensure that works to balconies and verandahs do not detract from the character and form of Inter-War flat buildings.	C23 Original verandas and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.
	C24 New verandahs and balconies: a) respect the character of the existing building; and b) are sympathetically integrated with the character and form of the building.
O11 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.	C25 Original fencing, gates and mailboxes are retained and conserved.
	C26 Fences to the front building alignment are a height of between 400mm and 900mm. The height, style, form, materials and finishes match the principal building and the streetscape.
	C27 Gates are constructed in a height, style, form, materials and finishes to match the

B3.8 Additional controls for development other than dwelling houses**▶ 3.8.7 Inter-War flat buildings**

Objectives	Controls
	principal building and streetscape. Aluminium gates are avoided.
	C28 Fencing to side and rear boundaries is in the form of a timber paling fence.
	C29 Mailboxes are constructed in style, form, materials and finishes to match the principal building and streetscape.
	C30 Mailboxes are discreetly located and do not impact on the character of the building.
O12 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.	C31 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, carpets, wall details, light fittings, internal doors and the like.
O13 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.	C32 Original door and window hardware is retained, where practical. New additional security elements are in character with the building.
	C33 Security bars are: a) fitted internally; b) respect the existing glazing patterns; and c) painted in a dark recessive colour.
	C34 Security intercom systems are discreetly located and in a style and materials complimentary to the character of the building.
	C35 Alarm bell boxes and the like, are not attached to the principal building elevations.

B3.8 Additional controls for development other than dwelling houses**3.8.7 Inter-War flat buildings**

Objectives	Controls
O14 To ensure that additions and alterations for fire upgrading and safety are discrete, and retain and respect the original and significant building fabric.	C36 New or upgraded services are discreetly and sensitively located to minimise visual impact.
	C37 New or upgraded services, such as rising mains and wiring, are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent.
	C38 Wiring or other services are housed in concealed conduits.
	C39 Original timber staircases are retained and smoke isolated, if necessary.
	C40 Where the height of the original stair balustrades is modified for fire safety—the modification is discreet and sympathetically integrated with the existing stair balustrade.
	C41 Stair treads applied to existing stairs are discrete.
	C42 New lifts are designed and located so that the addition: <ul style="list-style-type: none"> a) is located outside the principal building form, if practical; and b) does not require significant alterations to existing common areas.
	C43 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.
	C44 Existing original fanlights and other openings are retained and sealed from behind, if necessary.
	C45 Emergency and exit lighting is incorporated into existing original light fittings, where practical.
	C46 Smoke and/or thermal detectors are

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	discreetly located and do not impact on decorative plaster cornices and ceilings.
O15 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.	C47 Ancillary development, such as garages and laundries, constructed at the same time as the building are retained. Any modifications are sympathetic to the original building.
	C48 New ancillary development: <ul style="list-style-type: none"> a) is smaller in scale than the principal building; b) is not located between the principal building and the street front, and generally located at the rear behind the principal building; c) is constructed in a style, form, materials and finishes that match the principal building; d) is single storey with a maximum clear internal height of 2.4m; and e) is sympathetic in scale and style to traditional forms of ancillary structures.
O16 To promote restoration and reconstruction works to restore significance.	C49 Unsympathetic additions and modifications to the building, and its grounds, are removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.