



Report to the Sydney City East Planning Panel

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2019ECI025
DA Number	DA-105/2019
LGA	Waverley Council
Proposed Development	Restoration and refurbishment of the Bondi Pavilion including Heritage Conservation Works, improve equitable access, quality of spaces and facilities and ancillary public domain works.
Street Address	Bondi Pavilion, Queen Elizabeth Drive, Bondi Beach NSW 2026
Applicant/Owner	Tonkin Zulaikha Greer Architects on behalf of Waverley Council, Project Waverley
Date of DA lodgement	3 April 2019
Number of Submissions	9
Recommendation	That the application be approved subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Council related development over \$5 Million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environment Protection and Biodiversity Conservation Act 1999 • Heritage Act 1977 • National Parks and Wildlife Act 1974 • Crown Land Management Act 2016 • Biodiversity Conservation Act 2016 • SEPP 55 – Remediation of Land • SEPP 64 – Advertising and Signage • Infrastructure SEPP 2007 • SEPP 71 (Coastal Protection) 2018 • State and Regional Development SEPP 2011 • Waverley Local Environmental Plan (WLEP) 2012 • Waverley Development Control Plan (WDGP) 2012
List all documents submitted with this report for the Panel's consideration	See attached document.
Report prepared by	Paul Judge, SJB Planning
Report date	5 December 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Applicable**

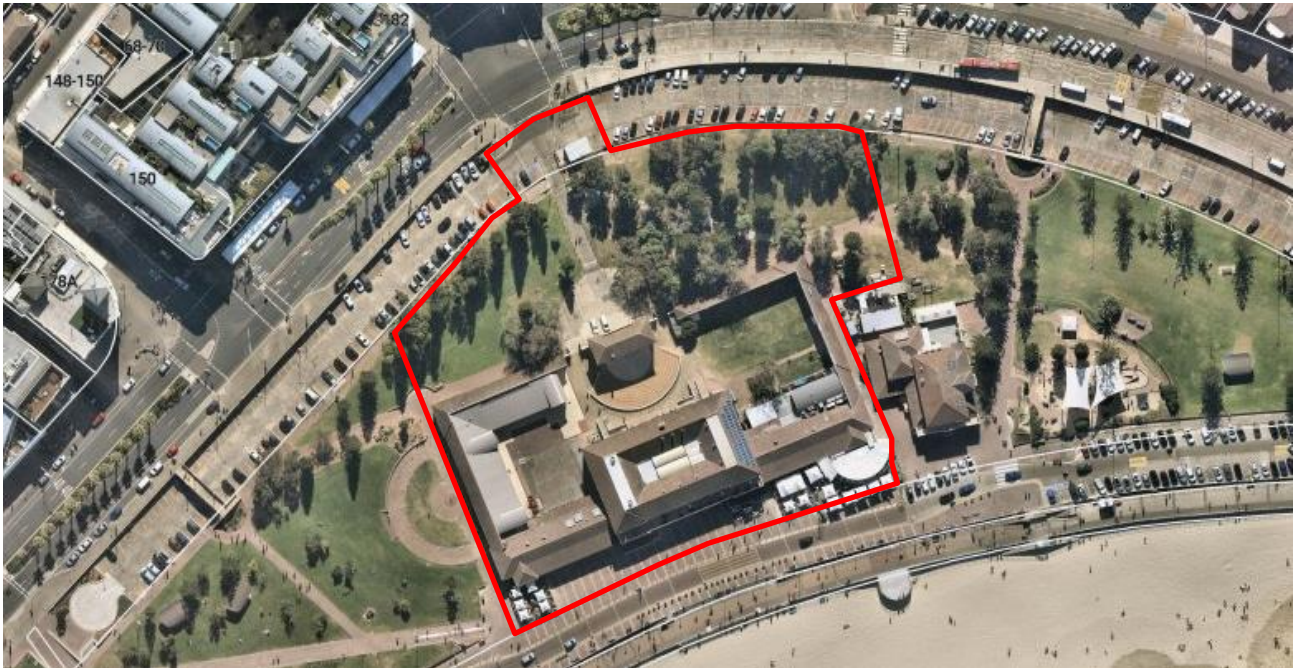
Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.

Application number	DA-105/2019
Site address	Bondi Pavilion, Queen Elizabeth Drive, BONDI BEACH NSW 2026
Proposal	Integrated Development for alterations and additions including heritage conversation works to the Bondi Pavilion.
Date of lodgement	03/04/2019
Owner	Waverley Council
Applicant	Project Waverley, Waverley Council
Assessor	SJB Planning
Submissions	Nine (9) submissions received
Cost of works	\$26,785,764
Issues	<ul style="list-style-type: none"> - Heritage - Waste Management - Tree Removal - Operational / land uses conditions
Recommendation	That the application be approved subject to conditions of consent.

Site Map



1. PREAMBLE

1.1 Executive Summary

The application proposes restoration and upgrade works to the heritage listed Bondi Pavilion. The works are to the existing building, internal courtyard and public domain. The works involve some minor demolition and excavation as well as landscaping and ancillary services and infrastructure works. The proposal is Integrated Development under the Heritage Act 1977.

The development complies with the relevant planning controls. The main issues for consideration are in regard to the site's heritage significance and use as a community facility. Issues raised have been addressed through amended plans and via recommended conditions of consent.

Nine (9) submissions were received for the proposal. It is understood that extensive consultation work was done by Waverley Council prior to this DA. The matters raised in the submissions have been addressed within this report. The matters raised do not warrant refusal of this application.

Overall, it is considered that the proposed works will improve the Bondi Pavilion structures through considerable restoration and upgrading works. The DA will help facilitate the continued use of the Pavilion for community facilities and will benefit the public via significant improvements to the highly regarded facility.

Accordingly, the application is recommended for approval.

1.2 Site and Surrounding Locality

A site visit was carried out on Friday 17 May 2019.

The Bondi Pavilion is located within Bondi Park and bounded by Campbell Parade to the north west and Queen Elizabeth Drive to the south east. The site is 3.1km from Bondi Junction and 8.5km from the Sydney CBD. The site is located within the grounds of Bondi Park, with landscaped areas to the north and west of the site. Further north is a carpark accessible from Campbell Parade. Uses along Campbell Parade include residential flat buildings, shop-top housing, retail and the Bondi Public School.

The site comprises the Bondi Pavilion, the existing forecourt and a small part of the Bondi Park grounds. The existing Pavilion building is comprised of a central two (2) storey building with single storey wings forming a central open-air courtyard. Within the courtyard is a small amphitheatre surrounded by grassed and paved areas.

Around the perimeter of the main building are pedestrian walkways and public seating and benches including picnic tables within loggias along the northern boundary. The western boundary is landscaped and adjoins Bondi Park, with the eastern side adjacent to the Bondi Surf Bathers Life Saving Club.

The Queen Elizabeth Drive frontage is tenanted by restaurants and retail premises. It serves as the main pedestrian entrance to the Pavilion. The first floor contains a theatre and function rooms used by community groups and private bookings. The east and west wing uses include art studios, music rooms and function rooms. The Campbell Parade frontage serves as the vehicular access for the site, with Waverley Council occupying office space above the northern gateway entrance. The entrance is serviced by a hard paved forecourt and path which connects the Pavilion and the Campbell Parade carpark.

The Bondi Pavilion is listed as a State significant heritage item and is located within the Bondi Beach locality, which is identified as place of significance on Australia's National Heritage List. The Bondi Pavilion is also located within the Bondi Beach Beachfront Scenic Protection Area (under Waverly Development Control Plan (WDGP) 2012).



Figure 1: View of existing Pavilion from Ben Buckler Point (Source: SJB Planning)



Figure 2: View of existing Pavilion from Queen Elizabeth Drive (Source: Google Maps)



Figure 3: View looking south from Campbell Parade vehicular access point, situated towards rear frontage of subject site. Roof tiles have been recently replaced as per HEC-29/2019 (Source: Council DA staff)



Figure 4: View of soft landscaping along eastern edge of internal courtyard (Source: SJB Planning)



Figure 5: View of existing bricked amphitheatre located centrally within inner courtyard (Source: SJB Planning)



Figure 6: View looking north west towards paved western portion of internal courtyard towards community rooms. Campbell Parade development in background (Source: SJB Planning)



Figure 7: Theatre foyer and bar area on first floor. Theatre entrance in background (Source: SJB Planning)



Figure 8: Interior of Theatre Space (Source: SJB Planning)



Figure 9: View of retail premises along south eastern frontage of site, facing Bondi Beach promenade (Queen Elizabeth Drive) (Source: SJB Planning)



Figure 10: Internal view of the central atrium area (Source: SJB Planning)

1.3 Relevant History

A search of Council records indicate a number of applications relating to this site, spanning over decades. Those of relevance to the subject application are shown below:

- DA-100/2017

A DA for the Stage 1 upgrade of Bondi Pavilion and conservation works was lodged by Waverley Council in March 2017. The DA attracted significant community feedback which primarily opposed the proposed works under DA-100-2017.

An initial assessment including comments by Council departments, external consultants and the NSW Office of Environment and Heritage (OEH) raised matters concerning heritage, design and proposed commercial uses.

Subsequently, DA-100/2017 was withdrawn in March 2018.

- HEC-29/2019

A Heritage Exemption Certificate was issued by Waverley Council on the 21/11/2019 to replace roof tiles and guttering to a section of the Bondi Pavilion (central section adjacent to vehicle access and amphitheatre). The roof tiles are consistent with those proposed in the subject application (see Figure 3).

- Change of use applications

Various applications relating to the change of uses for various tenancies within the building have been approved over the years. As part of the restoration of the building and specifically, the reconfiguration of these tenancies in some areas, conditions will be imposed to require new future development consent/s for these spaces that include details on use, discussed in further detail below.

- DA-312/2019

A development application has been lodged and is currently under assessment, seeking upgrades to facilities at Bondi Beach including the construction of a public toilet and shower facilities, upgrades to the lifeguard tower, and construction of new lifeguard and first aid facilities (Integrated Development).

1.4 Proposal

Development Application DA-105/2019 is for the restoration and upgrade of the Bondi Pavilion, including heritage conservation works, addressing access and amenity for users of the sites, refurbishment of the existing spaces and ancillary public domain and landscaping works.

The DA seeks approval for:

- Alteration and addition works to existing structures;
- New pedestrian thoroughfares and through-site link;
- New public amenities including bathrooms and change rooms;
- Demolition and excavation works;
- Roof replacement and façade maintenance works;
- Landscaping works;
- Tree removal;
- Public domain works;
- Category 1 remediation work;

- Two (2) building identification signage zones;
- Installation of photovoltaic solar panels at roof level;
- Augmentation of existing utilities and services connections as required;
- New vehicle access path, loading zones, storage and delivery area;
- Removal of 39 existing public vehicle parking spaces (10 to be dedicated to Council);
- Installation of lighting fixtures; and
- Installation of a 2.4m high hoarding around the work site boundary.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment (EP&A) Act 1979*.

2.1 Environment Protection and Biodiversity Conservation (EPBC) Act 1999

The site is within the 'Bondi Beach' precinct which is identified as a site of national heritage significance on the National Heritage List. Actions (e.g. development) that have or are likely to have a significant impact on a matter of national environmental significance require approval from the Australian Government Minister for the Environment ("Environment Minister").

A significant impact is considered to be an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts.

To obtain approval a proposed action has to be referred to the Environment Minister. A decision is then made by the Environment Minister as to whether approval under the *EPBC Act 1999* is required.

Referrals may be made by or on behalf of a person proposing to take an action, the Commonwealth or a Commonwealth agency, a State or territory government, or agency, provided that the relevant government or agency has administrative responsibilities relating to the action.

The works have been considered in the context of the 'Bondi Beach' precinct (between Mackenzies Point in the south and Ben Buckler in the north) and heritage assessment of the proposed works has been undertaken and it is concluded that the proposed works will not have a significant impact upon the heritage significance of the Bondi Beach Precinct. Works to the heritage fabric are primarily conservation and upgrade works with mitigation measures to minimise impact on the heritage item.

The application was referred to the Heritage Council of NSW (State government agency) who have not indicated referral to the Environment Minister is warranted.

2.2 Heritage Act 1977

The Bondi Pavilion is a State heritage item as well as being located within the catchment of the 'Bondi Beach Cultural Landscape'. The proposed works constitute Integrated Development

under Clause 4.46 of the *EP&A Act 1979* and require approval from the Heritage Council under Section 57 of the *Heritage Act 1977*. A separate Section 60 approval will also be required for the proposed works.

DA-105/2019 was referred to the Heritage Council of NSW with comments received from the Heritage Council Approvals Committee on their behalf on 12 September 2019. A deferral of approval was issued which outlined matters to be addressed. These matters included:

- The number of umbrellas located on the promenade;
- Extending the internal central Pavilion opening;
- A reduction in the extent of the removal of significant fabric for proposed openings when this fabric contributes to the overall significance of the building;
- That the architect develops a method statement to outline a general design approach to major new insertions of material or structure within the building; and
- The applicant to develop fit-out guidelines for future tenants to minimise impacts relating to services, internal partitions, kitchen requirements and signage.

The applicant provided a response and amended drawings on 18 September 2019, and further information on 11 November 2019 at the request of the Committee.

OEH provided a response on 3 December 2019 offering support for the proposed works subject to the applicant satisfying General Terms of Approval (GTAs) issued by OEH. The GTAs have been incorporated into the recommended conditions of consent.

2.3 National Parks and Wildlife (NP&W) Act 1974

Under Section 90 of the *NP&W Act 1974*, an Aboriginal Heritage Impact Permit (AHIP) is required due to the proximity to and the potential impacts of the proposed works to Aboriginal archaeological items at Bondi Pavilion and adjacent Bondi Park.

A condition has been recommended which requires the provision of an AHIP prior to the issue of any Construction Certificate (CC).

2.4 Crown Land Management Act 2016

The subject site is classified as Crown Land dedicated to Waverley Council. DA-105/2019 was referred to the former Department of Trade and Investment Crown Lands (now Department of Planning, Industry and Environment (DPI&E)) on Friday 3 May 2019 for comment.

No comment was received from the DPI&E Crown Lands relating to the proposed development of Crown Land.

Bondi Park, Beach and Pavilion Plan of Management 2014-2024

Under the *Crown Lands Act 2016* a Plan of Management (POM) is required for the site.

The Bondi Park, Beach and Pavilion (BPBP) POM was adopted by Waverley Council in 2014 to provide a strategic framework to guide use, management and maintenance of the wider site. The 2014 POM updates the previous 1995 POM for the recreation precinct. In addition to guiding use and management of the entire Bondi Beach area, the POM is tasked with

identifying the future vision and objectives for the upgrade and conservation works of Bondi Pavilion.

An assessment of the proposed works against the BPBP POM 2014 is included in Section 3 of this report.

2.5 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans (DCPs).

2.5.1 SEPP 55 Remediation of Land

The proposed works include Category 1 remediation works, and as such, consideration of the development application under Clause 7 of SEPP 55 is required. The site has a long history of being used as public open space, as a community facility with ancillary commercial uses. The proposed development does not seek to alter the current usage of the site or introduce new uses.

An Environmental Site Assessment commissioned by the applicant for the DA identified potential contamination risks on site which will need to be managed during the development stage. A detailed Remediation Action Plan (RAP) was also submitted as part of the DA application. The RAP outlines measures to be undertaken for the proposed development including the implementation of a long-term Environmental Management Plan (EMP). The detailed RAP concludes that subject to the implementation of the measures the site will be suitable for the proposed development.

A condition of consent has been recommended which requires the provision of an Environmental Management Plan (EMP) prior to remediation works and issuing of any CC.

Additionally, a condition of consent has been recommended which requires that upon completion of remedial work, and prior to the commencement of building works, a Site Audit Statement prepared by an accredited NSW EPA Site Auditor must be submitted clearly stating that the site is suitable for the intended use.

In accordance with Clause 7 of SEPP 55 it is considered that the site can be made suitable for the proposed uses.

2.5.2 SEPP 64 Advertising and Signage

The DA seeks consent for two (2) building identification signage zones illustrated below in Figures 11 and 12. The location of the southern entrance signage will replace existing building identification. The northern entrance zone is a relocation of the existing building identification signage zone.

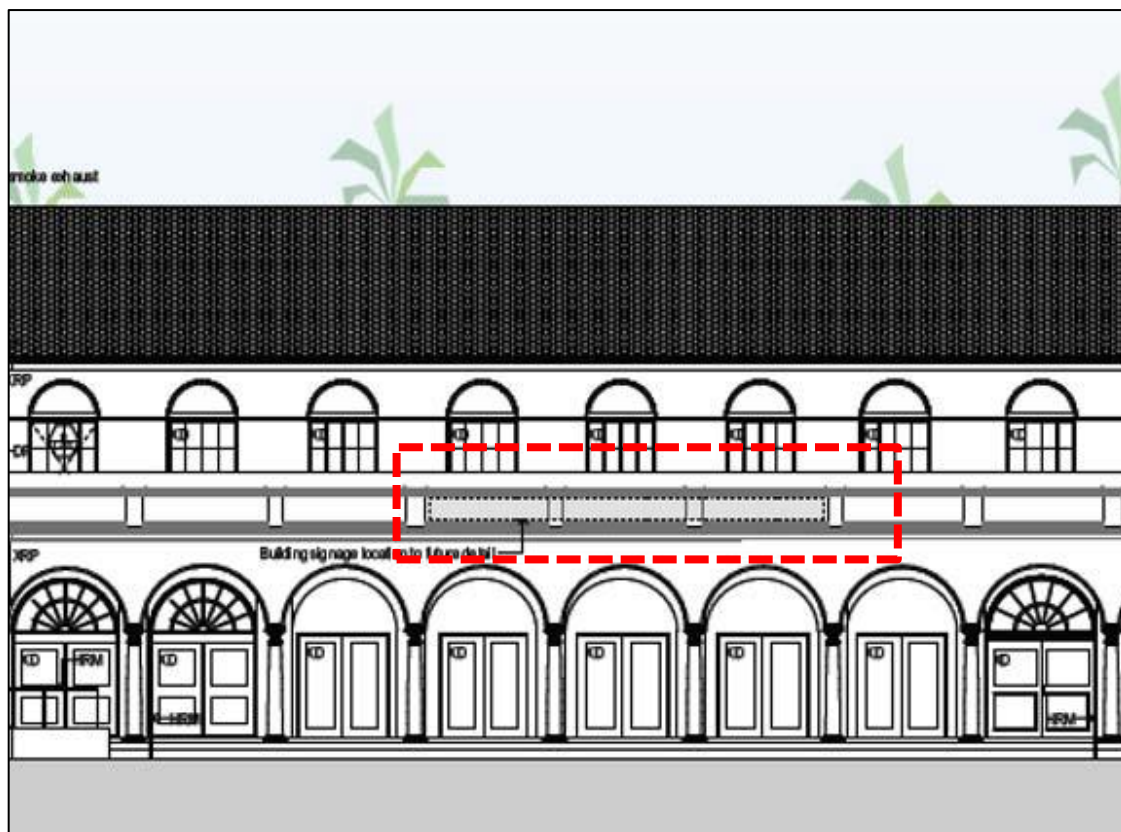


Figure 11: Proposed Building Identification zone on south east elevation

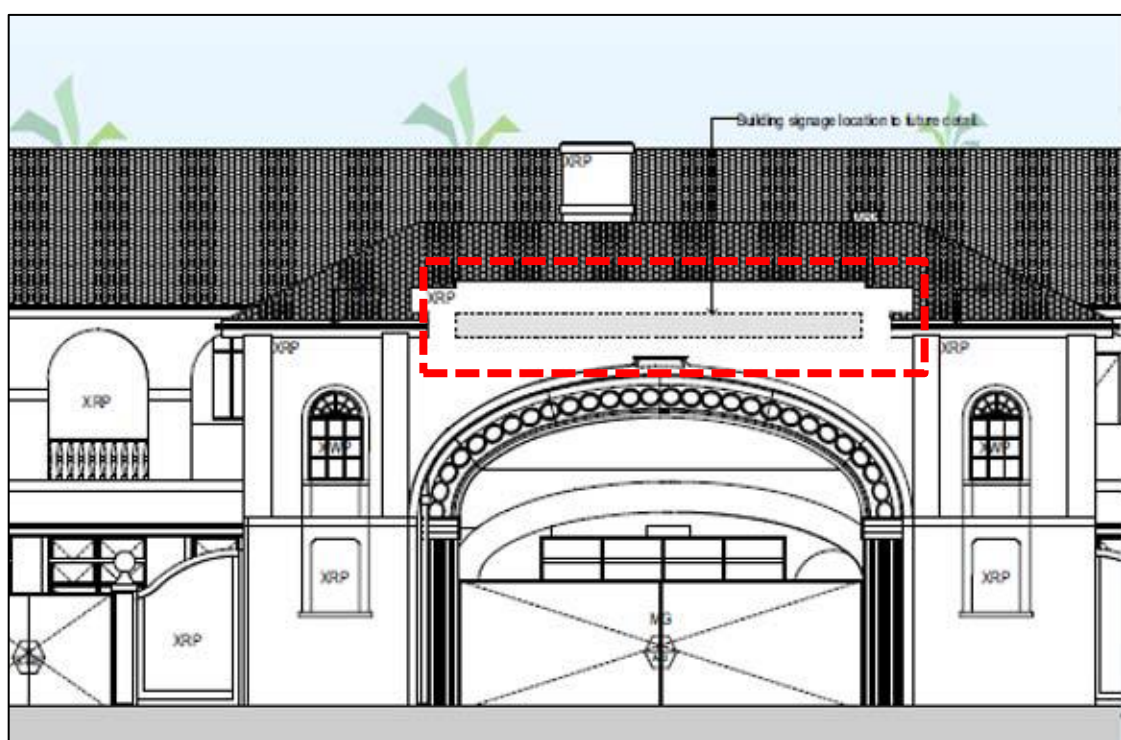


Figure 12: Proposed Building Identification zone on northern elevation

In accordance with clause 8 of SEPP 64, Council must not grant development consent unless it is satisfied that the proposed signage is consistent with the objectives of the SEPP and the assessment criteria set out under Schedule 1 of the SEPP.

It is noted that the proposed locations of the building identification signage zones are on building façade fabric rated as 'exceptional heritage significance' under the Bondi Pavilion Conservation Management Plan 2018 as illustrated below in Figure 12.

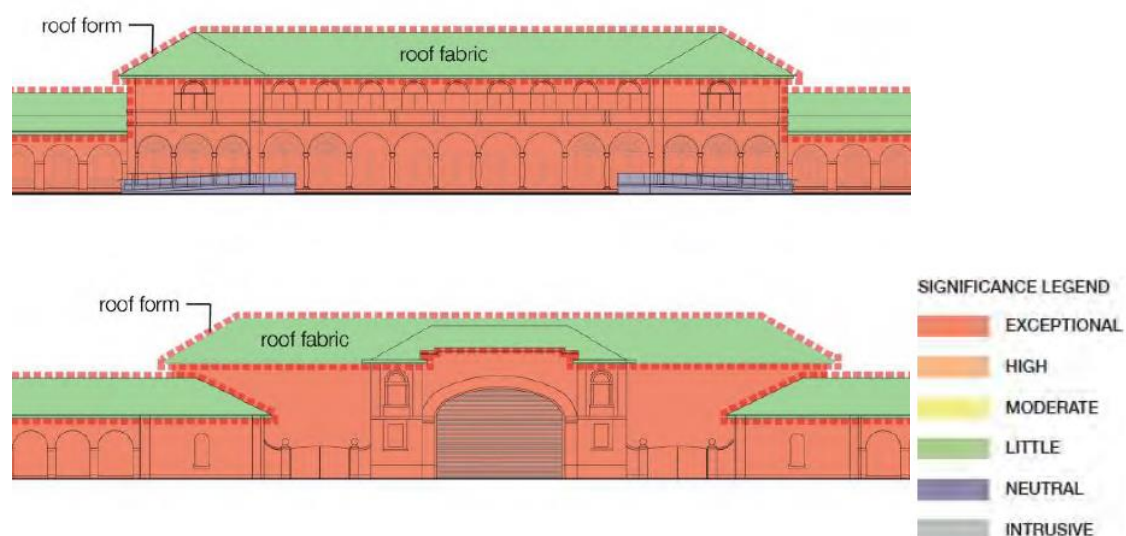


Figure 13: Relative levels of heritage significance on the south east and north west elevations of the Bondi Pavilion. The roof form has Exceptional significance (Source: TKD)

The DA only proposes building identification signage zones, no locations or specific details for future signage including retail tenancies, community information boards or wayfinding signage have been included. It is noted that Council's Heritage Advisor recommended that a specific signage policy would be required for the application. The proposed building identification zones are not considered to be a signage policy.

In the absence of specific details relating to proposed signage and given the potential impacts of future signage upon the heritage significance of the Pavilion, the proposed signage zones are not recommended for approval. A condition of consent has been recommended requiring the deletion of the proposed signage zones.

2.5.3 SEPP (Coastal Management) 2018

The subject site is located within a 'coastal use area' as identified by the Coastal Management SEPP 2018. Clause 14 of the SEPP identifies the matters for considering in assessing a development application within a coastal use area. The matters for consideration are listed below in Table 1.

Matters for consideration	Comment
Clause 14(a)	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	<ul style="list-style-type: none"> - The proposal will not adversely impact overall access to Bondi Beach upon completion. The proposal includes compliant pathways and connections through to the beach boardwalk. - The proposal is not expected to adversely impact views to the beach or create wind funnelling. Minor overshadowing within the internal

Matters for consideration	Comment
<ul style="list-style-type: none"> (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage, and 	<p>courtyards already occurs and does not impact Bondi Beach.</p> <ul style="list-style-type: none"> - The proposal is acceptable in relation to maintaining the visual amenity and scenic qualities of the site - Management of the heritage significance both Aboriginal and European of the site is informed by the Bondi Pavilion Conservation Management Plan 2018. A Heritage Impact Assessment was also prepared. - The proposal is unlikely to cause an adverse impact on the matters listed and therefore satisfies Clause 14(a) of the Coastal Management SEPP 2018.
Clause 14(b)	
<p>(b) is satisfied that:</p> <ul style="list-style-type: none"> (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and 	<ul style="list-style-type: none"> - The proposal satisfies Clause 14(b) of the Coastal Management SEPP 2018.
Clause 14(1) (c)	
<p>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>	<ul style="list-style-type: none"> - The proposed works to the Bondi Pavilion are consistent with the surrounding building and coastal environment. - The proposal satisfies Clause 14(c) of the Coastal Management SEPP 2018

Table 1: Matters for consideration under SEPP (Coastal Management) 2018

2.5.4 SEPP (Infrastructure) 2007

Division 12 of the Infrastructure SEPP 2007 pertains to certain works permitted in parks and public reserves permitted without development consent. This clause is not applicable as development consent is being sought under Part 4 of the *EP&A Act 1979*.

2.5.5 SEPP (State and Regional Development) 2011

The development is Council related development with a capital investment of more than \$5 million. It therefore is classified as regionally significant development under Schedule 7 of the State and Regional Development SEPP 2011. The application is referred to the Sydney Eastern City Planning Panel (SECPP) for determination.

2.5.6 Waverley Local Environmental Plan (WLEP) 2012

The relevant matters to be considered under WLEP 2012 for the proposed development are outlined below:

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is considered consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table RE1 Public Recreation Zone	Yes	The proposed uses are permitted with consent in a RE1 Public Recreation zone. See further discussion below.
2.7 Demolition requires development consent	Yes	The proposal seeks development consent for demolition in relation to works on the Bondi Pavilion. Clause 2.7 applies to this DA.
Part 4 Principle Development Standards		
4.3 Height of Buildings	N/A	There is no applicable height of building control for the site.
4.4 Floor Space Ratio	N/A	There is no applicable floor space ratio control for the site.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	A Heritage Impact Statement was included with the development application. The proposed development satisfies this clause.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is classified as containing Class 4 acid sulphate soils. See further discussion below.
6.2 Earthworks	Yes	A Geotechnical Report provided by the applicant notes that excavation on the site is expected to be limited to site re-grading, new footings and services. See further discussion below
6.9 Design Excellence	N/A	See further discussion below.

Table 2: WLEP 2012 Compliance Table

The following is a detailed discussion of the issues identified in the compliance table above in relation to WLEP 2012.

Land Uses

The primary categorisation of Bondi Pavilion is as community facility owned and operated by Waverley Council. The Pavilion also has tenancies including food and drink premises and retail premises.

These uses are permitted with consent in a RE1 Public Recreation zone. The development application does not propose the introduction of new uses to the Pavilion.

The first floor of the pavilion contains a theatre space which is owned and operated by Waverley Council. The theatre space has been operational since 1974. A theatre generally falls under the land use categorisation of an 'entertainment facility' under WLEP 2012. An 'entertainment facility' is a prohibited use in an RE1 Public Recreation zone.

The site also contains office space used by Waverley Council staff. Office premises are also a prohibited use in an RE1 Public Recreation zone.

Further clarification was sought from the applicant as to the primary use of the site and in particular the use of the theatre space. The applicant noted previous advice from Council that the theatre space was one of the multiple uses across the site that was operated by Council for the purpose of community use.

Overall, the theatre space and Council office space are ancillary uses and are incidental to the core use of the Bondi Pavilion as a community facility. In the instance of the office space it is recognised that these administrative areas support the functioning and management of the Bondi Pavilion as a community facility.

The theatre space is one of numerous elements which constitute the broader community facilities of the Pavilion including:

- Art studios and gallery;
- Community radio station;
- Pottery studio;
- Music rooms;
- Function rooms and community group space;
- Public open space;
- Public amenities;
- Community and visitor information services; and
- Information and education facilities.

It is considered that the theatre space and Council office space are ancillary to the core use, being a community facility and are permissible under WLEP 2012.

Heritage (Clause 5.10)

The Bondi Pavilion is a heritage item of State heritage significance under Schedule 5 of WLEP 2012 (Item Number I124). The Bondi Pavilion is situated within the 'Bondi Beach Cultural Landscape', which is a State item listed under the State Heritage Register (Listing Number 1786).

The site is also within the 'Bondi Beach and Park Landscape Conservation Area', labelled C25 on the Heritage Map, identified as having local heritage significance and listed under Schedule 5 of WLEP 2012.

The site has a number of relevant heritage documents applicable to development including a Conservation Management Plan prepared in 2018 and the BBPP POM 2014.

The application was assessed against the provisions of Clause 5.10 of WLEP 2012 and referred to Council's Heritage Adviser.

Council's Heritage Officer provided comments on the proposed works for matters including:

- Restoration works are supported subject to close matching of detailing and finishes;
- The overall design responds to the CMP;
- The use of the central courtyard appears to be unresolved particularly in respect to landscaping;
- Functional aspects of the Pavilion are to be resolved to avoid impact on heritage significance of the Pavilion;
- Umbrellas and shading devices are to be uniform along promenade;
- The proposed inner court roof construction is supported;
- The introduction of different style shading devices is to be avoided in the future;
- A specific signage policy needs to be provided; and
- Conditions should be imposed for the provision of an archaeological watching brief during construction.

Amended plans were submitted by the applicant in response to heritage matters on 12 September 2019. Further comments were provided by Council's Heritage Advisor. The Heritage Advisor is supportive of the proposal and recommendations relating to the requirement for an archaeological watching brief during construction and controls for the display and material of promenade shade structures have been included as recommended conditions of consent.

It is also noted that in the absence of a signage policy and information on the impact of the building identification zones on the heritage fabric, the signage zones are not recommended for approval.

It is considered that the development satisfies the provisions of Clause 5.10 of WLEP 2012.

Acid Sulfate Soils (Clause 6.1)

The site is classified as containing Class 4 acid sulfate soils.

The applicant is not seeking consent works more than 2m below existing ground level.

The Preliminary Site Investigation included with the application notes that the water table is likely 5m below the ground surface and is unlikely to be impacted by the development.

The proposed works are consistent with the requirements of a Class 4 Acid Sulfate Soil classified site.

Design Excellence (Clause 6.9)

The northern boundary of the site is located within a designated 'Key Sites' area under WLEP 2012. However, the development is not proposing a new building or works to an existing building greater than 15m in height and therefore is not subject to the provisions of Clause 6.9 of WLEP 2012.

Notwithstanding, the application was referred to the Waverley Design Excellence Panel on 20 May 2019. The panel provided commentary on the proposal in support of the development and indicated that a high architectural and sustainable development was deliverable at the site.

The proposal is considered to display design excellence and addresses the considerations required under Clause 6.9 of WLEP 2012.

Earthworks (Clause 6.2)

A Geotechnical Report provided by the applicant notes that excavation on the site is expected to be limited to site re-grading, new footings and services.

A Preliminary Site Investigation report also provided by the applicant noted that there is potential for soil contamination due to the possibility of ash within filling on the site and some site remediation may be required.

Conditions providing for a Site Audit Statement and the management of spoil have been included.

2.5.7 Waverley Development Control Plan 2012 – Amendment No. 6 (WDCP 2012)

The relevant matters to be considered under WDCP 2012 for the proposed development are outlined below:

Development Control	Compliance	Comment
Part B General Provisions		
1. Waste	Yes	The proposal was referred to Council's Sustainable Waste Officer who supported the development subject to conditions of consent including the provision of an amended Site Waste & Recycling Management Plan prior to the issue of any CC.
2. Ecologically sustainable Development	Yes	The proposal was referred to Council's Sustainable Waverley department who supported the development subject to conditions of consent including that the development achieve 5 Green Star certification.
3. Landscaping and Biodiversity	Yes	The proposal was referred to Council's Biodiversity and Open Space Planning departments who

Development Control	Compliance	Comment
		supported the development subject to conditions of consent including the provision of amended Landscape Plans prior to the issue of any CC.
5. Tree preservation	Yes	The proposal was referred to Council's Tree Management and Open Space Planning departments who supported the development subject to conditions of consent including the relocation of two (2) trees with high retention value that the applicant proposed for removal.
6. Stormwater	Yes	The proposal was referred to Council's Stormwater Engineer who supported the development subject to standard conditions of consent.

7. Accessibility and adaptability	Yes	The proposal was referred to Council's Access Committee who supported the development subject to conditions of consent including compliance with the BCA.
8. Transport	Yes	The proposal was referred to Council's Traffic & Development Manager who supported the development subject to conditions of consent.
9. Heritage	Yes	Council's Heritage Architect has reviewed the proposal and is supportive of the proposal, subject to minor amendments and conditions of consent.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
11. Design Excellence	N/A	The application was submitted to Waverley's Design Excellent Panel who supported the overall design and provided recommendations for design development.
14. Excavation	Yes	Minor excavation is proposed. Conditions have been recommended relating to excavation.
15. Advertising and Signage	No	The development seeks consent for building identification signage location zones. The proposed zones are not supported and a recommendation for deletion has been included as a condition.
16. Public Domain	Yes	The application was referred to Council's Urban Design and Heritage Teams who were supportive of the proposal subject to recommended conditions of consent.

Part D1 Commercial and Retail Development

The development proposes cold shell fit outs for two (2) large retail spaces to replace existing retail space. The fitout and use of these tenancies will be the subject of future DAs. A condition will be imposed requiring separate DAs for the fit-out and use of commercial premises.

Table 3: Waverley DCP 2012 Compliance Table

Vehicular and Servicing Access

New servicing arrangements for Bondi Pavilion were included as part of the proposed works. The works propose the inclusion of a separate vehicle access route for deliveries. Deliveries are currently received via the northern access path which is also a pedestrian route. The new vehicle access route will be managed by boom gate systems so as to control access into the site.

An additional loading area is proposed at the south west corner on Queen Elizabeth Drive. Figures 14 and 15 illustrate the locations of the proposed vehicle access areas.

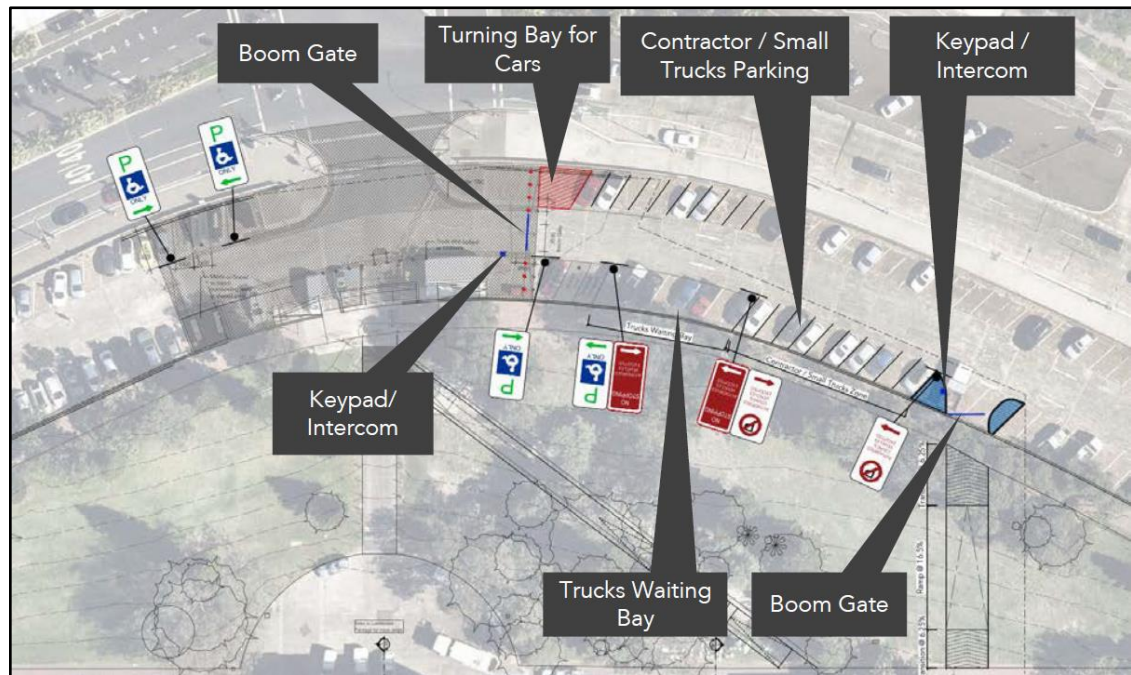


Figure 14: Proposed Servicing Arrangement (Source: PTC)

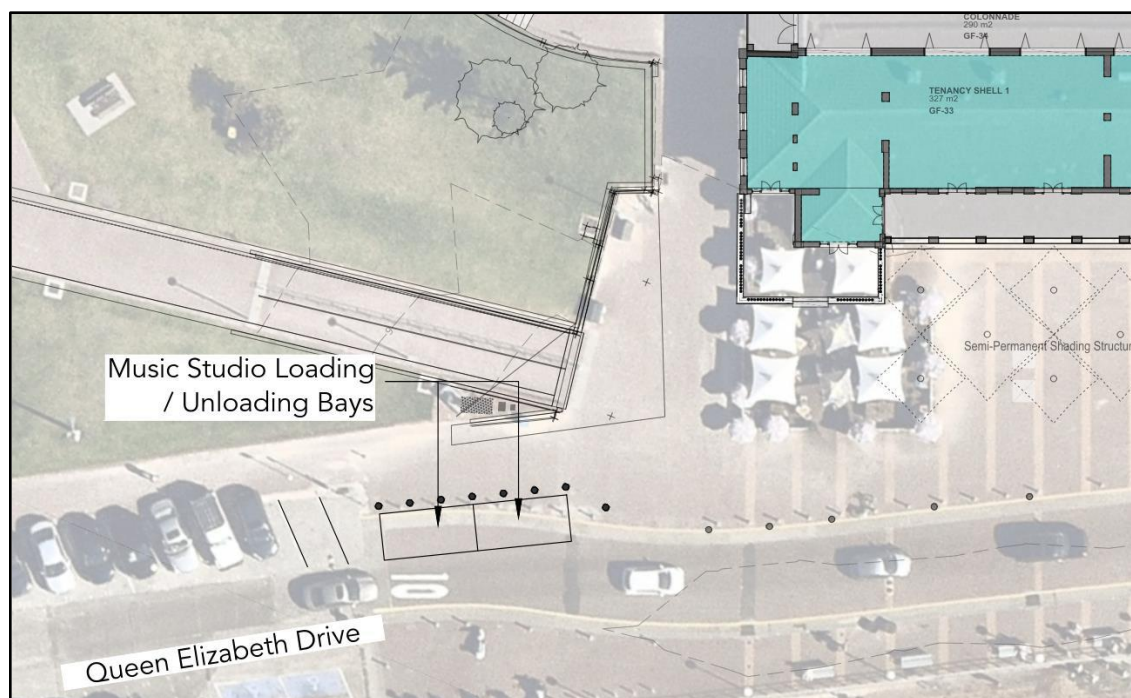


Figure 15: Proposed Loading Bay – Queen Elizabeth Drive (Source: PTC)

Bicycle Parking

Bicycle parking has been included in the southern forecourt adjacent to Queen Elizabeth Drive. Council engineers have supported the inclusion of bicycle parking as part of the development but commented that the location may need to be moved. The applicant has agreed to the investigation of relocation of the bicycle racks.

A condition has been recommended which requires that the relocation of bicycle parking must be agreed to by Council prior to the issue of any CC.

Traffic and Transport Management Plan

A Traffic Report was included with the DA application to assess the impacts of the proposed works including the new service areas and removal of existing vehicle parking. Council's Traffic Engineer reviewed the proposed development and did not raise any objections to the proposed development subject to conditions of consent.

It is considered a comprehensive Traffic and Transport Management Plan that addresses the requirements of Part B8, Section 8.6 of WDCP 2012 is required to set out procedures to mitigate and minimise the impacts of the development for both construction and operation.

A condition has been recommended that a Traffic and Transport Management Plan be prepared, and approved by Council prior to the issue of any CC.

Green Travel Plan

As the development proposes a removal of existing vehicle spaces within the site, a Green Travel Plan to outline an action to encourage sustainable travel options and reduce car dependency will be required.

A condition has been recommended that requires the preparation of a Green Travel Plan, and approval by Council prior to the issue of any CC.

Plan of Management

A Preliminary Plan of Management (POM) was submitted with the application. The Preliminary POM is an umbrella document identifying general factors (e.g. venue management, security etc) however a more detailed plan is required that addresses both management of the entire Pavilion site and of individual areas and uses.

A comprehensive Plan of Management approved by Council's Development Manager will be required to be in place prior to the issue of an Occupation Certificate.

Use and operation of uses on site

The main uses of the site can broadly be categorised between the retail uses and the community facility.

The fit-out and use including operational measures for the retail tenancies will be subject to individual development applications in the future when retail tenants are secured. Under this DA, consent is only sought for the cold shell retail spaces.

Regarding the community facility land use, this development application is an opportunity to address operational measures for the Pavilion. There appears to be a lack of existing operational conditions which creates ambiguity and permissibility issues for the use of the site.

Operational hours for community facilities or RE1 Public Recreation zones are not addressed in WDCP 2012. It is considered the adjacent B4 Mixed Use zone on Campbell Parade is an appropriate comparison for trading hours. The general base trading hours and extended trading hours for B4 Mixed Use premises are:

(a) General base trading hours:

- (i) Monday to Saturday: 7.00am to 11.00pm; and
- (ii) Sunday: 7.00am to 10.00pm.

(b) Extended trading hours on a 1-year trial basis will be considered up to: (i) Monday – Sunday: 7am to midnight.

The applicant has provided an Acoustic Report prepared by Acoustic Studio that supports the use of the Pavilion community facility areas until 1:00am. Having regard to the number and types of activities capable for use in this space, it is considered reasonable to limit the operations until midnight, particularly as this may set an undesirable precedent for retail spaces within the premises to follow suit. Furthermore, it is acknowledged that the site, its location and present uses encourage use early morning generally of a low intensity impact and therefore it is reasonable to support a 6am commencement.

This operational condition of consent includes the various uses of the community facility including the theatre space, function areas, art studios, music and recording studios and associated areas of the community facility.

Should Council wish to modify these operational hours, a s4.55 modification for specific areas or for the community facility land use can be lodged.

The use of the internal courtyard from an operational perspective has not been identified by the applicant. It is recommended that use of the courtyard is reflective of outdoor dining controls in the adjacent B4 Mixed Use zone which requires use of outdoor areas to cease at 10:00pm. Use of the courtyard as through-site link and access point until closure of the site is considered acceptable however, it is recommended that formal use of the courtyard cease by 10:00pm except for temporary events. Temporary annual events will be managed under Council's event policy and if required, subject to separate development applications.

Insufficient details have been provided regarding patron numbers for the whole Pavilion and individual areas having regard to the BCA and specifically aggregate exit widths, floor plan and sanitary facilities. Therefore, a condition is imposing patron capacity approval prior to operations commencing at the Pavilion has been recommended as a condition of consent.

2.6 Other Impacts of the Development

Construction Period Impact

It is noted that the proposed works will require the closing of the Bondi Pavilion site for an extended period up to three (3) years. During this construction period, it is recognised there will be an adverse impact on visitors and users of Bondi Beach. A Preliminary Construction

Management Plan was included with the application. A detailed Construction Management Plan will be required prior to the issue of a CC.

The applicant has not identified temporary amenity and visitor management measures during the construction period. The extended closure of the Pavilion will reduce visitor amenity including public bathrooms and changerooms for the period. It is considered that measures including temporary amenity blocks and marked access routes should be detailed as part of a comprehensive Construction Management Plan.

It is further recommended that Construction Management Plan identifies how access to the surrounding Bondi Park and to Bondi Beach will be managed during the construction period.

Subject to the implementation of the recommended conditions of consent, it is considered that the proposal is acceptable when considering environmental, social and economic impacts. The temporary impacts as a result of the construction period are considered reasonable to permit the upgrading and improvement of the site.

2.7 Suitability of the Site for the Development

The site has a long history of community use, and the proposed works seek to upgrade and maintain the existing facilities. The site is considered to be suitable for the proposed development. The uses of the Bondi Pavilion will be maintained and continue to be suitable within the context of the site.

2.8 Any Submissions

The application was advertised and notified for 30 days and a site notice erected on the site, in accordance with WDCP 2012, Part A – Advertised and Notified Development.

Nine (9) submissions were received. The issues raised in the submissions are summarised and discussed below.

Property/Organisation
170 Blair Street, North Bondi
3 Judges Lane, Waverley
Bondi Association of Arts and Music (BAAM)
Bondi Pavilion Stakeholders Committee
David Spicer Productions/Bondi Theatre Company
Friends of Bondi Pavilion
Lions Club of Bondi
The Bucket List (retail tenancy within existing building)

Table 4: Summary of property addresses/organisations that lodged a submission

Issue: Construction Period

- Request to permit retail tenancies to continue operating during construction period.
- Request for staged construction

Response:

- The management of retail leases is not a consideration for the DA assessment process.
- Staged construction is not a requirement for determination.

Issue: Courtyard Design

- *Objection to hard paving;*
- *Objection to removal of existing amphitheatre;*
- *Objection to use of northern gate as a pedestrian entrance;*
- *Objection to new service areas and loading docks;*
- *Parking within the courtyard;*
- *Request for no soft landscaping or grass in the southern courtyard; and*
- *Request for no trees in the courtyard.*

Response:

The proposed design and use of the courtyard have been assessed from Council's urban design, open space planning, biodiversity and heritage officers and found to be acceptable. The applicant will be required to produce an amended landscape plan for the approval of Council's Planning and Regulatory Division prior to the issue of CC, which amongst other matters requires greater detail on proposed finishes (including replacement of concrete with pavers), relocation of trees and a detailed plant schedule.

The amphitheatre is a contemporary addition and is not of heritage significance. The Office of Environment and Heritage (OEH) and Council's Heritage Adviser have raised no objection to its removal.

Council's Traffic Engineer, Access Committee and Waste Management Officer assessed the application in regard to vehicle movement, waste management and deliveries to the Pavilion. No objections were raised subject to conditions in relation to the proposed vehicle access areas and delivery processes for the Pavilion. Vehicle access within the courtyard will be restricted and it is understood parking will not be permitted beyond short-term drop offs.

Issue: Objection to removal of Pavilion additions

Response:

The glass bubble structure associated with the Bucket List venue is proposed to be removed and to the building restored to its original form. The contemporary structure has been identified as an 'intrusive' element and removal of it is consistent with the objectives of the CMP.

Issue: Environmental Sustainability

- *Objection to Site the Waste and Recycling Management Plan's (SWRPMP) recommendations;*
- *Objection to the Environmentally Sustainable Development (ESD) Report;*
- *Lack of Green Rating;*
- *Solar panels on roof do not have batteries;*
- *Location of Waste room and waste pickup;*

Response:

- The SWRMP was amended at Council's request with an updated version submitted on 12 September 2019. Further amendments have been recommended for conditions including the provision of an updated SWRMP prior to the issue of any CC.
- The ESD Report was assessed by Council's Sustainable Waverley department who raised no objections;
- The applicant has committed to achieving a Green Star Design and As-Built rating and 5 Star Green certifications;
- Conditions have been recommended requiring proof of registration for the relevant Green Star certifications; and
- The provision of solar panel batteries is not a consideration of the determination of this DA;
- Council's Waste Engineer has not objected to the location or access route of the waste and delivery room. Waste pickups are a consideration of Council.

Issue: Vehicle Access

- *Objection to vehicle access path;*
- *Objection to route of new vehicle path*

Response:

The location of the new vehicle path is considered to be in an appropriate location and will reduce conflict between pedestrians and vehicles. The removal of trees and grass areas has been subject to review by Council's Tree Management and Open Space Planning Officers and found to be acceptable subject to recommended conditions relating to the relocation of certain trees within Bondi Park.

Issue: Use of various rooms

Response:

The use and function of various rooms across the Pavilion including the Seagull function room, artist studio and server room (for IT servers) has been questioned. The design and layout of these rooms have been assessed and found to be acceptable from heritage and structural perspectives as previously discussed in this report. The land use and categorisation of the Pavilion as a community facility have previously been discussed in Section 2.5.6. The prescribed uses of the Pavilion are permissible. The introduction of new uses to the Pavilion would require a separate development application.

Issue: Pavilion Use

Request to incorporate kitchen area, storage and seating for 30-40 for community purposes.

Response:

The request for specific additional or new community facilities is not a consideration for the assessment of this DA.

Issue: Signage

- *Request for additional signage promoting theatre use*

Response:

Request for additional specific signage should be addressed to Council and is not a matter for the assessment of this DA. A separate development application will be required for future signage.

Issue: Aboriginal Mosaic

Protection of the existing Aboriginal mosaic in the Ground Floor foyer.

Response:

The applicant has proposed to temporarily remove the mosaic during construction and reinstall it as part of the finished development. The preservation of the mosaic has been supported by Council's Heritage Advisor and OEH.

Issue: Toilets

- *Location and number of new toilets questioned; and*
- *Fittings and design of toilets.*

Response:

The number and location of toilets has been assessed against BCA and access provisions and found to be acceptable. The fittings including clothing hooks and roll dispensers are to be addressed in more detailed designs during the construction period.

Furthermore, another development application, DA-312/2019 is currently under assessment and includes provision of additional public toilets to the Bondi Beach parklands area.

Issue: Use of Tunnels underneath the Pavilion

Request for reinstatement of tunnels from Pavilion to Bondi Beach.

Response:

The existing tunnels are currently closed and not suitable for use. They are not a consideration of this DA. It is understood the structural integrity of the tunnels are being considered in separate development applications.

2.9 Public Interest

The proposal relates to the upgrade of a Council owned and operated community facility which is also a State heritage item of State significance. The Pavilion is held in high regard within the Waverley LGA and also nationally. The proposed development includes heritage conservation works and a general upgrading of the existing facilities. It is noted that no additional retail area is proposed, and the use of the site will remain as community facilities.

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed. Instead it is considered the upgrading and conservation works to the pavilion will improve the community facility to the benefit of the public.

3. REFERRALS

3.1 Office and Environment Heritage (OEH)

DA-105/2019 was referred to OEH with comments received from the Heritage Council Approvals Committee on behalf of the Heritage Council of NSW on 12 September 2019.

A deferral of approval was issued to address matters raised by the Committee with further information requested from the applicant. The applicant who provided a response and amended drawings on 18 September 2019 and further information on 11 November 2019 at the request of the Committee.

The additional information was referred back to OEH for comment.

OEH provided a response on 3 December 2019 offering support for the proposed works subject to the applicant satisfying General Terms of Approval (GTAs) issued by OEH. The GTAs have been incorporated into the recommended conditions of consent.

3.2 NSW Police

DA-105/2019 was referred to NSW Police with comments received from the Licensing Division of the Eastern Suburbs Police Area Command on 05 December 2019.

Comments relating to CCTV, patron capacity, alcohol management and operational plan of managements have been incorporated as recommended conditions of consent.

3.3 Fire Safety Assessment Officer

The development was referred to Council's Fire Safety Assessment Officer. The Assessment Officer noted:

- It is reasonable for the existing building to be upgraded to fully comply with the provisions of BCA; and
- The applicant should nominate details proposed uses and patron numbers of the different areas of the Bondi Pavilion.
- A BCA report prepared by Blackett Maguire and Goldsmith was submitted with the DA. The report concluded that subject to implementation of the recommendations the relevant provisions of the BCA can be satisfied, however greater detail is provided to ensure compliance.
- Amended plans were submitted by the applicant illustrating patron numbers across the Bondi Pavilion. However, these fail to demonstrate compliance with the BCA with respect to aggregate exit widths, floor plan and sanitary facilities. Accordingly, patron numbers will require confirmation at a later stage (prior to the issue of an Occupation Certificate).

Standard conditions of consent relating to BCA and fire safety have been recommended.

3.4 Caring Waverley – Community Development

The application was referred to Council's Community Development Officer who subsequently requested that provisions be made for a bus drop off area for community buses and vehicles. The applicant amended the proposal to allow vehicle access to the southern courtyard for dropping off people with mobility issues. It is proposed that buses will be able to use the external access road for drop-off and pick-ups, and community buses are to have a designated parking area in Park Drive. Additionally, an accessible path will be provided to an access point at the rear of the Pavilion.

A condition has been recommended to address the above Community Development matters.

3.5 Creating Waverley – Stormwater, Traffic and Parking

Stormwater

Council's engineer has reviewed the application and concluded that the application does not require an On-Site Detention stormwater system.

Approval from Sydney Water is required since a sewer main runs through the site. A condition has been recommended which requires that the approval is received prior to the issue of a CC.

Council's standard conditions relating to stormwater management have also been recommended.

Traffic and Parking

Council's Traffic Engineer reviewed the proposed development and did not raise any objections to the removal of 39 public vehicle parking spaces to accommodate the works.

Appropriate conditions of consent will be imposed to address Council comments.

3.6 Shaping Waverley – Urban Design and Heritage

The application was referred to Council's Urban Design and Heritage teams. The following summary of comments is provided below:

Urban Design

Council's Urban Design team provided comments regarding:

- Built Form;
- Façade and interface;
- Streetscape; and
- Landscape.

The applicant addressed these comments in a response to Council received 12 September 2019. The response and amended documentation were provided to Council's Urban Design Team and no further comments were received.

Heritage

Council's Heritage Advisor provided comments regarding:

- Built Form;
- Façade and interface;
- Exhibition room;
- Inner courtyard;

- Interface between Bondi Pavilion and Bondi Surf Life Saving Club;
- Functionality; and
- Public amenities.

The applicant addressed these comments with amended plans submitted to Council on 12 September 2019. Further comment was provided by the Heritage Advisor. The comments support the application and the recommended conditions of consent address the additional heritage comments relating to sun shading devices at the beach side of the Pavilion and inclusion of an archaeological watching brief. It is also noted that the proposed signage zones are not recommended for approval.

3.7 Sustainable Waverley – Water and Energy Assessment

Green Infrastructure

An Ecologically Sustainable Development report was submitted with the application.

The report provided recommendations for achieving a five star 'Green Rating' by initiating sustainability measures during the development ongoing operations of the site and the applicant has noted they are committed to minimising energy consumption in line with Council's Environmental Action Plan 2018.

Conditions requiring proof of registration for a Green Star Design and As-built rating and 5 Star Green Certification have been incorporated into the recommended conditions of consent.

Biodiversity

The landscaping plan was referred to Council's Biodiversity Officer who commented that amended landscape plans with more detail regarding planting and layout were required.

An amended landscape plan was provided by the applicant on 12 September 2019. The amended plans were subsequently referred to the Council's Biodiversity Officer who commented that further information was required relating to a planting schedule for the new development.

A condition of consent has been recommended which requires a detailed landscape plan to be submitted and approved by Council's Biodiversity Officer prior to the issue of a CC.

3.8 Parks and Open Space – Tree Management

The application was referred to Council's Tree Officer and Open Space Planning Team.

The development includes the proposed removal of 19 trees. An Arborist Assessment Report was included with the DA package.

Initial comments by Council's Tree Management Officer that the removal of two (2) trees rated 'high landscape significance' value by the project Arborist was not supported and other options should be explored.

The applicant maintained that the removal of these trees was critical for the project and that the advice received from their project Arborist was that the trees could be relocated to a new location within the Bondi Park area.

Council's Tree Management Officer has subsequently prepared recommended conditions of consent dealing with the relocation of trees on-site and appropriate tree management conditions prior to the issue of a CC.

3.9 Environmental Sustainability

Council's Waste Officer supplied commentary that the overall waste management process for the development was not sufficient and an amended Site Waste & Recycling Management Plan (SWRMP) would be required to address outstanding matters.

An updated SWRMP was supplied by the applicant on 12 September 2019.

Council's Waste Officer provided commentary on the following matters still requiring clarification:

- The provision of grease traps to dispose 320L per day of waste oil must be approved by Sydney Water.
- The bulky waste storage area must meet the needs of future tenants. The applicant should provide an assessment of the number of items that would fit in the designated space. (For example, there is insufficient space to store the beer kegs generated at the property currently).
- The 5:1 compaction ratio for waste is sufficient, however the 5:1 compaction ratio for recycling is problematic as it is unclear whether a service provider would accept such a rate. Typically, a 2:1 compaction ratio is acceptable for recycling as anything higher crushes glass and leads to low recovery and marketability of end product.
- Currently the volumes and collection frequency options for recycling compacted at a 2:1 ratio only allow for 11,400L, which is short of the projected 17,080L at a summer maximum. The maximum scenario 2:1 compaction rate to achieve the summer maximum should be listed in Table 6 'Waste and recyclables capacity of compactor' of the SWRMP, in the instance that this is the highest permissible ratio.

It is considered that these matters can be dealt with as conditions of consent and subsequently conditions providing for waste management, including the provision of a SWRMP to be approved by Council's Waste Officer prior to the issue of a CC, have been included in the recommended conditions.

3.10 Access Advisory Committee

The DA was referred to Council's Access Advisory Committee who did not raise any objections to the development. The development involves an upgrading of accessibility across the site.

An Access Report was submitted by the applicant in relation to the proposed development. The report found overall that the proposed development can comply with the Australian Standard and BCA requirements for access and accessibility.

It is noted that the first-floor office above the northern entrance is not accessible. This space is to be used by Council employees. The report notes that due to the limited floor space of

64m² and restricted opportunity to install a lift, the development would rely on other accessible rooms where Council employees who use a wheelchair could be accommodated.

The non-compliance is considered acceptable due to it being restricted to a small section of the Pavilion which is not open to the public and there are alternative accessible working spaces within the Bondi Pavilion for Council employees. The requirement to make the northern office space accessible would have an adverse impact on the heritage fabric and is not considered reasonable.

Conditions of consent have been recommended to ensure that the proposed works comply with the access standards.

4. SUMMARY

The application proposes restoration and upgrade works to the heritage listed Bondi Pavilion. The works are to the existing building, internal courtyard and public domain. The works involve some minor demolition and excavation as well as landscaping and ancillary services and infrastructure works. The proposal is Integrated Development under the *Heritage Act 1977*.

The development complies with the relevant planning controls. The main issues for consideration are in regard to the site's heritage significance and use as a community facility. Issues raised have been addressed through amended plans and via recommended conditions of consent.

Nine (9) submissions were received for the proposal. It is understood that extensive consultation work was done by Waverley Council prior to this DA. The matters raised in the submissions have been addressed within this report. The matters raised do not warrant refusal of this application.

Overall, it is considered that the proposed works will improve the Bondi Pavilion structures through considerable restoration and upgrading works. The DA will help facilitate the continued use of the Pavilion for community facilities and will benefit the public via significant improvements to the highly regarded facility.

Accordingly, the application is recommended for approval.

5. RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL

That the Development Application be **APPROVED** by the Sydney Eastern City Planning Panel subject to the Conditions in Appendix A:

Report prepared by:

Paul Judge / Stuart Gordon
Consultant Planners
(SJB Planning)

Date: 3 December 2019

**Application reviewed and agreed on behalf
of the Development and Building Unit by:**

Angela Rossi
Manager, Development Assessment
(Central)

Date: 5 December 2019

Reason for referral:

- Council related development with a capital investment of more than \$5 million. It therefore is classified as regionally significant development under Schedule 7 of the State and Regional Development SEPP 2011.