

1 July 2022

Mayor Paula Masselos
Waverley Mayor
PO Box 9,
Bondi Junction NSW 1355

Email | Paula.Masselos@waverley.nsw.gov.au

Dear Mayor Masselos.

We understand that Council initially supported our Planning Proposal for the Yeshiva synagogue to be zoned Residential R3. The Council staff advised that the Proposal has merit to warrant it progressing through the process as the current zoning is incorrect, directly contradicts the DPE's rules for such sites and can be considered outside Council's rules under its Local Strategic Planning Statement (LSPS).

Since then, Council's Local Planning Panel advised that the LSPS rules should apply and the Planning Proposal should not be supported. A significant reason for this opinion is that your staff advised there were no others like this. I have attached a letter from our town planners showing there are a number of sites that have these types of uses in the R3 zone which the Panel did not have available to them at the time.

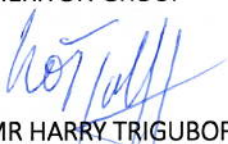
Unfortunately, we are now advised that Council staff will change its recommendation to stop the application from progressing which will be considered by the Councillors next Tuesday. If Council follows this recommendation, this means the Yeshiva has to stop for the correct zoning to be applied.

As you are aware, the Yeshiva Complex and its activities are primarily funded by the generous support of the Harry Triguboff Foundation gifting millions every year as well as providing the site rent-free as the landowner. The ongoing support for these uses is made easier if the site is zoned residential so we know the site has a future.

Accordingly, we seek that the Council and Councillors follow the initial views of council staff and allow the site to be zoned correctly which already occurs elsewhere in Waverley. This will allow this important institution to continue delivering education, and religious and community services to the local Jewish community.

Please let me know if you need anything else from Meriton and Matthew from my office will convey this at the meeting.

Kind regards,
MERITON GROUP


MR HARRY TRIGUBOFF AO
Managing Director

Cc –

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Our Ref: M220012 JM:SP

1 July 2022

Karimbla Properties (No.10) Pty Limited
c/- Mr. Matthew Lennartz

Dear Matthew,

**RE: APPLICATION FOR A PLANNING PROPOSAL
34 FLOOD STREET, BONDI (LOT 1 DP 1094020)**

As town planning consultants for the abovementioned application for a Planning Proposal, you have asked us to review the advice from the Waverley Local Planning Panel (WLPP) meeting of 25 May, 2022 regarding this application. In undertaking this review we make specific note that the statutory rules applying to the role of a Local Planning Panel in relation to a Planning Proposal are set out in the Ministerial Directions issued pursuant to Section 9.1 to the EP&A Act, 1979.

The Ministerial Direction titled '*Local Planning Panels Direction – Planning Proposals*' specifically states:

*"The objective of this direction is to identify the types of planning proposals that are **to be advised on** by local planning panels on behalf of councils in the Greater Sydney Region and Wollongong and to establish the procedures in relation to those matters."*

That is, the 'resolutions' of the WLPP are to be taken as advice and are not determinative. We note that the Council staff have changed the assessment report recommendation on the matter. The staff report to the WLPP recommended support for the application. However, the report to the Ordinary Council Agenda does not recommend support (see the attached emails).

While we note that Council staff may change their position and recommendation (although it is unusual), **we have demonstrated below that the WLPP were not correctly briefed regarding this application.**

Below are the points of advice provided by the Panel on 25 May, 2022 and our comments in response.

Local Panel Resolution #1. *The recommendations in the officer's report relating to this Planning Proposal are noted. However, the Panel does not support the Planning Proposal proceeding to a Gateway Determination for the purposes of exhibition.*

We are awaiting an application under the *Government Information (Public Access) Act, 2009* to view the officer's report but have been advised by Council staff the report made points aligned with the following (our emphasis added):

- The Waverley LSPS has a position regarding SP2 land, which is to **retain important public infrastructure** as SP2
- The subject site currently contains social infrastructure, however this site is not readily open to the public for use like others in the SP2 category

The Synagogue at 34 Flood Street is **NOT important public infrastructure**. Therefore the Waverley LSPS does not seek to retain SP2 Zone in this case.

Local Panel Resolution #2. *This Planning Proposal involves an anticipated change in long established policy by the Council in relation to SP2 Zones. The Council has specifically sought variation to the Practice Note 11-002 of 2011 to*



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allow private and public school sites and places of public worship to be zoned SP2 as opposed to reflecting the adjoining zone. It is noted that the 2020 Local Strategic Planning Statement adopted by Council and assured by the Greater Sydney Commission that the “retention of the SP2 Infrastructure Zone was identified as an action when undertaking any review of the Local Environmental Plan. The reason for this was that many of the sites currently zoned SP2 in Waverley provide crucial social infrastructure.”

We note that the WLSPS 2020 is a very recent strategy and it seeks to protect and retain Zone SP2 for “*crucial social and cultural infrastructure*” (Planning Priority 4). Council has undertaken a LEP amendment since the adoption of WLSPS 2020 to align the LEP with the WLSPS. At the WLPP meeting of 25/05/2022 Council advised the Panel that the practice of applying Zone SP2 to all social and cultural infrastructure had been strictly applied. We believe this advice given on the day was critical to the WLPP forming its position and advice.

This verbal advice provided to the WLPP on 25/5/2022 failed to identify many examples of educational establishments and child care facilities (private and public) and places of public worship in Waverley LGA that are NOT in Zone SP2. Examples include the following:

- Ways Secondary Bondi Junction Campus, Tiffany Plaza, 422 Oxford St, Bondi Junction NSW 2022 > **B3 Zone**
- Waverly Woollahra Art School, 138 Bondi Rd, Bondi NSW 2026 > **R3 Zone**
- Bondi Presbyterian Church, Castlefield St, Bondi NSW 2026 > **R3 Zone**
- Church in the Marketplace, 400 Oxford St, Bondi Junction NSW 2022 > **B3 Zone**
- Church of Christ, 31-33 Spring St, Bondi Junction NSW 2022 > **B4 Zone**
- Sydney's Shul, 55 Anglesea St, Bondi NSW 2026 > **R3 Zone**
- Bet Yosef (The Caro Synagogue), 243 Old South Head Rd, Bondi NSW 2026 > **R3 Zone**
- Nefesh Shul (Temporarily Closed), 1 Francis St, Bondi Beach NSW 2026 > **R3 Zone**
- Chabad-Lubavitch House, 25 O'Brien St, Bondi Beach NSW 2026 > **R3 Zone**

The scale and nature of the Synagogue at 34 Flood Street, Bondi is comparable to those uses listed above and should be treated the same in the WLEP.

Furthermore, the WLSPS fails to acknowledge that there are other mechanisms to deliver and maintain “crucial social and cultural infrastructure” than maintaining or applying SP2 zoning. The very purpose of State Environmental Planning Policy (Infrastructure) 2007 (now SEPP Transport and Infrastructure 2021) and Planning Practice Note PN10-001 are to increase the flexibility of land uses in a wide variety of zones to facilitate the delivery of all infrastructure types. The fact that places of public worship and educational establishments are permitted with consent in all residential zones and all business zones in Waverley LGA is sufficiently facilitative to remove the need to apply Zone SP2 to these uses where they currently exist. In fact, adding to the diversity of permitted uses supports the long term viability of uses such as smaller scale places of public worship, educational establishments and child care facilities.

Local Panel Resolution #3. The adjoining site of the Yeshiva College is zoned R3. It would appear that there is a mapping discrepancy in the LEP, however the Panel is not aware of the history as to how the zoning lines were determined at the relevant time.

The history of the zoning of the site is detailed in the application for a Planning Proposal. Zone SP2 has been previously applied in error. This is fundamentally the reason for the application.

In conclusion, this letter demonstrates that the advice of the WLPP was based on incorrect briefing information. There are established precedents for similar facilities in Waverley LGA that are not subject to Zone SP2 and have zoning consistent with the surrounding land as sought by the Planning Proposal application for 34 Flood Street, North Bondi.





Yours faithfully,
Planning Ingenuity Pty Ltd

Jeff Mead
MANAGING DIRECTOR

