



APPLICATION FOR A PLANNING PROPOSAL

Amendment to Waverley Local Environmental Plan 2012 to change the land use zone from Zone SP2 Educational Establishment to Zone R3 Medium Density Residential

34 Flood Street, BONDI
Lot 1 in DP 1094020

Prepared for: Karimbla Properties (No.10) Pty Limited

REF: M220012

Date: 28 February 2022





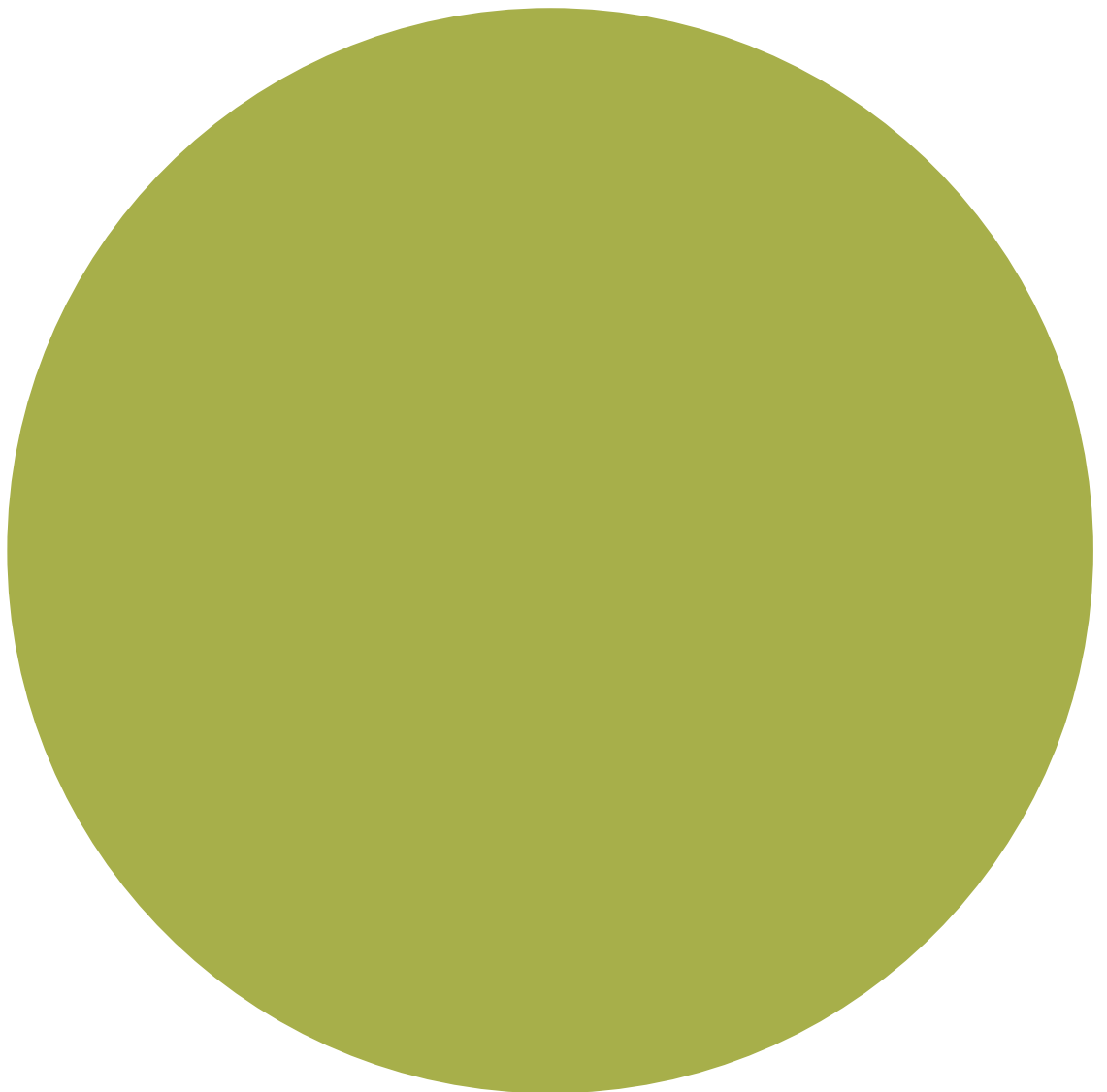
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Acknowledgement of Country: *Planning Ingenuity acknowledges the Traditional Custodians of the land and pays respect to Elders past, present and future. We recognise First Nations peoples' unique cultural and spiritual relationships to place and their rich contribution to society.*





1. Introduction

This application is submitted on behalf of the Karimbla Properties (No.10) Pty Limited. The purpose of the application is to initiate a Planning Proposal process to amend *Waverley Local Environmental Plan 2012* (WLEP 2012) to change the land use zone that applies to No.34 Flood Street, Bondi. It is proposed to change the land use zone from Zone SP2 Educational Establishment to Zone R3 Medium Density Residential. No other changes are sought to the LEP provisions,

The current zoning of the land is an anomaly as the use of the site is not an educational establishment. This means that the zoning is contrary to the guidelines and directions in Planning Practice Note PN10-001 and Planning Practice Note PN11-002. If the current zone is not rectified, existing use rights provisions do not facilitate feasible alterations or significant new work to the existing Synagogue building nor do they facilitate other forms of compatible development which would enhance the feasibility of improving the Synagogue. The current zoning does not facilitate the most desirable future use of the site within the context of the streetscape and neighbourhood character and within the setting of surrounding medium density residential development.

The current planning provisions for No.34 Flood Street do not provide a feasible incentive for substantial redevelopment. The land use controls to WLEP 2012 only permits an educational establishment with consent. No uses are permitted without consent. The provisions for existing use right that may apply to the site only permit minor alterations for the purposes of an educational establishment. The building would require more than minor alterations in order to be used as an educational establishment that would meet contemporary standards.

The building at No.34 has no feasible future development potential as an educational establishment under the current land use zoning and planning provisions.

While there are no immediate intentions to redevelop the site, the broader LEP review process initiated a review of the site and clarified the anomaly. Representations were made to Council to address this matter as part of the LEP review by Council, however, Council advised a separate site-specific Planning Proposal was necessary.

Accordingly, this application for a planning proposal has been prepared in accordance with Division 3.5 of the *Environmental Planning and Assessment Act 1979* as well as the NSW Department of Planning, Industry and Environment publication "*Local Environmental Plan Making Guideline*" (December 2021) (DPIE Guideline). It explains the intended effect of the proposed amendment to WLEP 2012 and sets out the justification for making the amendment to that Plan.

This application demonstrates that the proposed LEP amendment has strategic and site specific merit. It is aligned with the relevant matters for consideration set out in Waverley Council's Local Strategic Planning Statement. Planning Practice Note PN10-001 provides guidance for the application of Zone SP2 with standard instrument Local Environmental Plans (LEPs). Planning Practice Note PN11-002 provides guidance on the application of zones for Standard Instrument LEPs. The existing zoning does not meet the guidelines and principles set out in PN10-001 and PN11-002. If the current LEP review correctly applies the guidance of these Practice Notes, the site clearly must be zoned R3 without the need for a site-specific Planning Proposal.

The proposed zoning change is consistent with the local and neighbourhood character and does not prevent the future use of the site for a wide range of land use opportunities including contemporary multi-use facilities for education, public worship and community purposes. By contrast the current zoning prevents the feasible replacement of buildings that are reaching the end of their useful life and precludes any significant enhancement, alteration or reconstruction under existing use rights provisions.



An initial submission and pre-lodgement meeting was discussed with Waverley Council's Strategic Planning staff on 14 December 2021. Feedback from the pre-lodgement meeting was supportive of the preparation and lodgement of this application noting that particular reference is to be made to the Key Themes and Planning Priorities, Strategic Merit Tests and the public benefits identified in Council's Local Strategic Planning Statement. No specialist studies were identified by Council as necessary to support the application. In accordance with the DPIE Guideline a copy of Council's Pre-lodgement Advice is included in Annexure A.

This report is divided into sections including a locality and site analysis, discussion of future development schemes, the existing planning provisions, the proposed amendments, justification for the proposal and project timeline. This planning proposal application demonstrates with evidence that there will be positive outcomes from the proposed change to the land use zone and that change is aligned with the guidance and instruction applicable to all Standard Instrument LEPs as contained in PN10-001 and PN11-002.





2. Locality and Site Analysis

2.1 REGIONAL CONTEXT

The Waverley Local Government Area (LGA) and the metropolitan Sydney coastal areas are the traditional lands of the Bidjigal and Gadigal people. Indigenous people were dispossessed of this land with European occupation over 200 years ago. The ongoing connection to Country and the protection and recognition of items, places and cultural interpretation can continue to be valued and protected. There are no items, places or cultural connections of significance to Indigenous people that are specific to the site the subject of this application for a Planning Proposal.

Bondi is an iconic place within the Waverley LGA. It includes the world-famous Bondi beach and foreshore, the regionally significant Bondi Junction strategic centre and a variety of housing all well connected by road and rail to the Sydney CBD (refer Figure 1).

Key planning and infrastructure issues at a Regional Scale include:

- Protecting and improving the scenic, recreation and cultural assets of the locality that are important to the greater metropolitan area
- Providing employment, housing and recreation for the second highest population density in the Sydney metropolitan area
- Upgrading infrastructure standards and capacity
- Promoting housing diversity and improve housing affordability
- Creating opportunities for more active transport
- Encouraging “village” hubs surrounded by “leafy” suburbs and streetscapes with local character



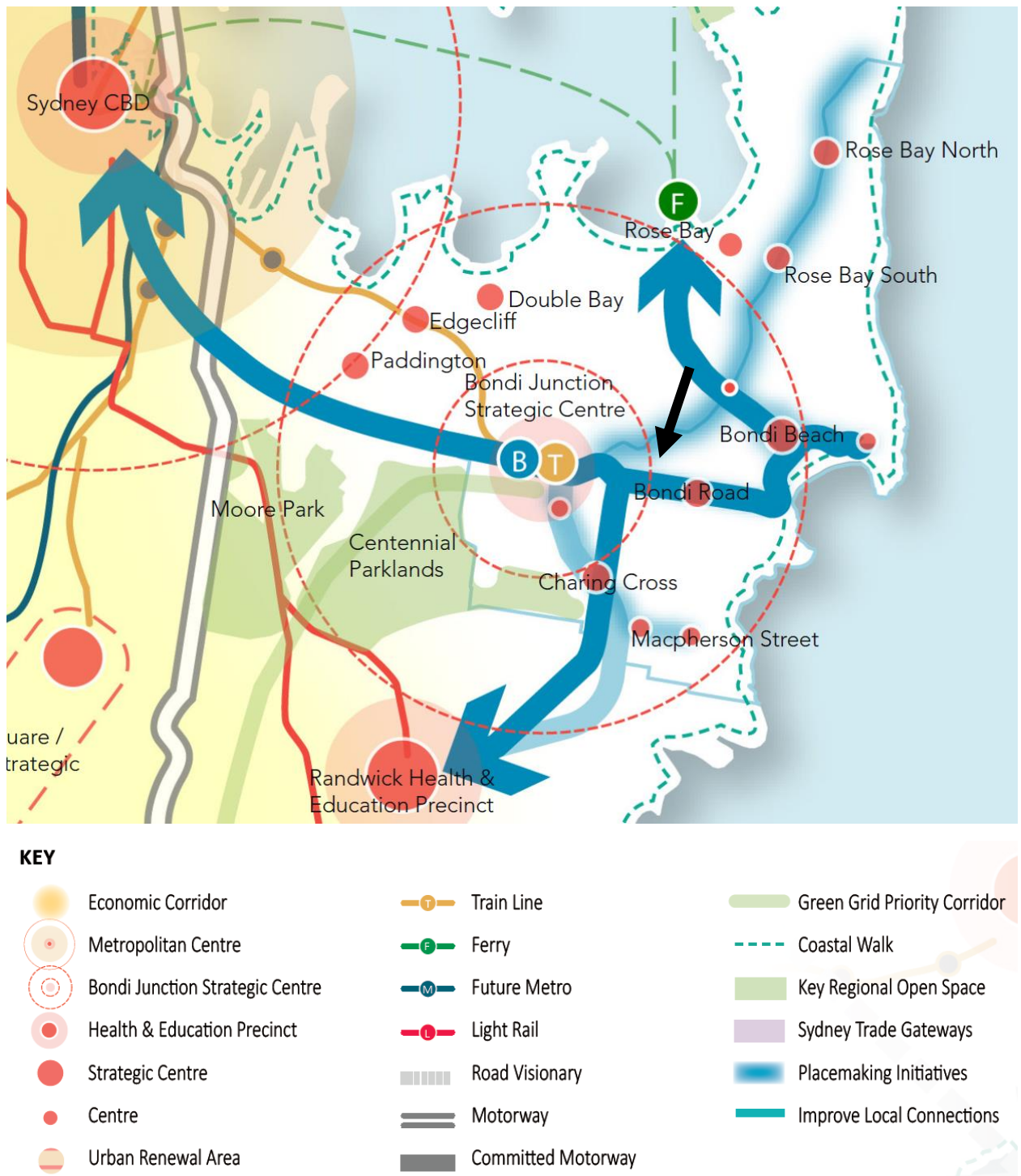


Figure 1 Bondi regional context (Source: Waverley LSPS) (subject site approximate location indicated by black arrow)

2.2 THE SITE

The address of the subject site is No. 34 Flood Street, Bondi. It is located on the eastern side of Flood Street and extends through to Anglesea Street. The site is legally identified as Lot 1 in DP 1094020. The total area of the site is 1,327m². The site is shown in the aerial photo in Figure 2.



Figure 2 Aerial photo of site (outlined yellow) (Source: www.maps.six.nsw.gov.au)

The site has its primary frontage to Flood Street. The frontage is 18m. The secondary frontage to Anglesea Street is 7m.

The site contains a Synagogue with pedestrian access direct to Flood Street. There is a not-for-profit community kitchen at the rear of the Synagogue accessed via a shared driveway and path located on the adjoining property to the north.

The eastern portion of the site contains a two storey detached dwelling with frontage and vehicle access to Anglesea Street.

The site has been used and developed in conjunction with the adjoining land to the south (No.36 Flood Street) which is under the same ownership as described in Section 2.3. This development history means the buildings and land uses at No 34 Flood Street are connected with the buildings and uses of adjoining sites.

The site is connected to all essential services.

No.34 Flood Street does not have an independent vehicle crossing to Flood Street. The vehicle access is shared with the adjoining Seniors Housing development to the north (as shown in Figure 3).

The road shoulder fronting No.34 has time restricted parking coinciding with the drop off and pick up times of the adjoining college.

The street frontage to No.34 Flood Street is concrete paved with planter beds also functioning as bollards (see Figure 4). High concrete and block stone walls define the front boundary. The entry to the Synagogue is via steps as shown in Figure 5. Originally established in 1956 the Synagogue building was used for worship, events and as a learning centre. Since its commencement the Synagogue has included outreach services for education and observance, refugee support programs and future leadership training.

The Synagogue has a single storey façade to Flood Street and is three storeys at the rear (see Figure 6). The rear of the Synagogue is used as a community kitchen known as “Our Big Kitchen” (<https://www.obk.org.au/>). The kitchen is a registered charity working with ‘food rescue’ organisations such as SecondBite and Foodbank to prepare and distribute meals to charities, shelters/refuges and individual households in need. Our Big Kitchen accepts group and individual volunteer assistance, provides catering for functions and conducts school programs.

There is a separate two storey building with frontage to Anglesea Street suitable for residential use.



Figure 3: North west corner of No.34 Flood Street showing the entry to the Synagogue building and the vehicle access shared with the northern neighbouring site.



Figure 4: Front footpath, planter bollards and front fence to No.36 (foreground) and No.34 looking north along Flood Street



Figure 5: Entry to Synagogue from Flood Street



Figure 6: Northern façade of the Synagogue building at No 34 Flood Street on the right of the photo. Community kitchen at rear.



Figure 7: Entry to community kitchen to right of photo



Figure 8: Community kitchen and outdoor space at rear of Synagogue building

2.3 SURROUNDING DEVELOPMENT

No.34 Flood Street has a long history of development and use in conjunction with the adjoining properties to the north and south. As a result, the multi storey Seniors Housing development to the north of No.34 shares a vehicle access with No.34 as shown in Figures 3, 6 and 7. There are multiple basement access points extending from the shared driveway and pedestrian pathway access to the rear of No.34 from Flood Street along this common driveway. The adjoining Seniors Housing development extends through to Anglesea Street. Photos of the neighbouring Seniors Housing development known as 'Lifestyle Manor' are included in Figures 9 to 12.



Figure 9: Adjoining Seniors Housing development 'Lifestyle Manor' as viewed from Flood Street



Figure 10: Centre of Seniors Housing development 'Lifestyle Manor' as viewed from the vehicle access shared with the site



Figure 11: Adjoining Seniors Housing "Lifestyle Manor" looking north along Flood Street frontage





Figure 12: Adjoining Seniors Housing 'Lifestyle Manor' as viewed from Anglesea Street looking south

The Yeshiva College is located at No.36 Flood Street and adjoins the southern side of the site (see Figure 13). The college entry is via Flood Street as shown in Figures 13 and 14. The college has a two storey façade to Flood Street and is two and three storeys at the rear. An outdoor play space ancillary to the college is located at the rear of the site. The college shares vehicle access with the adjoining residential apartments to the south as shown in Figure 15.



Figure 13: View of the Synagogue and College from Flood Street looking south east



Figure 14: Entry to Yeshiva College from Flood Street



Figure 15: Vehicle access to Yashiva College shared with adjoining neighbour to the south as viewed from Flood Street

The streetscape of Flood Street is notable for its mature canopy trees and diversity of housing forms, building age and architectural styles. Photos of the streetscape are included in Table 1 and the location of each photo is referenced in Figure 16. The road connects two high volume traffic routes being Old South Head Road to the north and Bondi Road





to the south. A raised pedestrian crossing is located in Flood Street immediately north of the subject site. There are concrete pedestrian pathways on both sides of Flood Street. The road is painted to indicate the carriageway is shared by vehicles and bicycles.

The diversity of housing includes:

- Multi-storey residential flat buildings
- Post-war walk up brick flats
- Two and three storey terrace rows
- Single storey attached and detached bungalows
- New attached dual occupancies, manor houses and attached townhouses
- Heritage-listed residential buildings

There is no consistent pattern to building height, setbacks, built form and character, architectural style or density. The surrounding neighbourhood is almost exclusively residential.



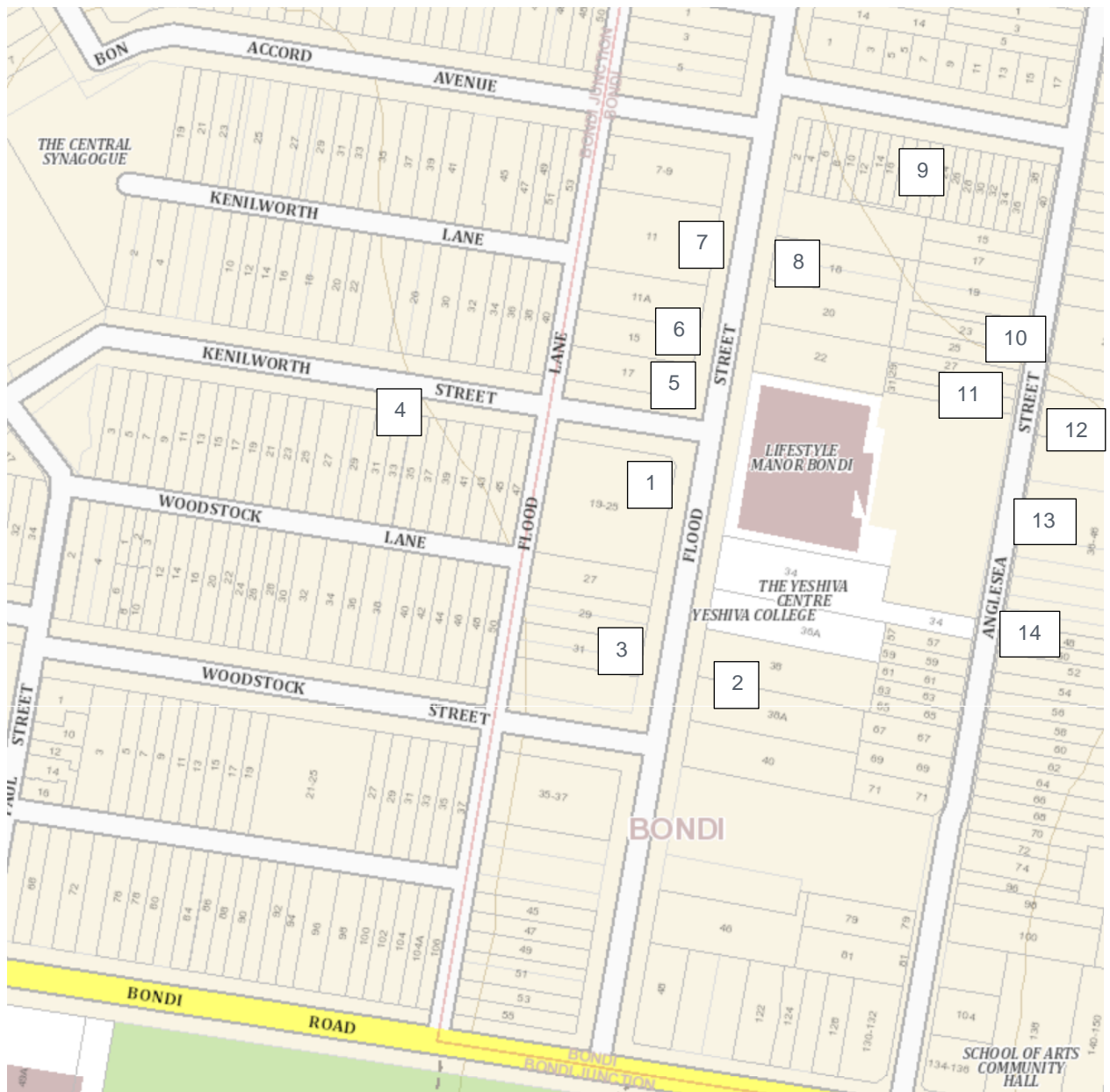



Figure 16: Reference map for location of photos in Table 1



Table 1: Photos of diversity of residential buildings surrounding the site

<p>1.</p> <p>No.19 – 25 Flood Street.</p> <p>9 storey residential flat building</p>	
<p>2.</p> <p>No.36 and No.38A Flood Street</p> <p>3 and 4 storey walk up post-war residential flats</p>	
<p>3.</p> <p>31 Flood Street</p> <p>Detached dwelling</p>	
<p>4.</p> <p>Streetscape southern side of Kenilworth Street</p>	





<p>5.</p> <p>17 Flood Street</p> <p>Heritage listed detached dwelling</p>	
<p>6.</p> <p>15 Flood Street</p> <p>Detached dwelling</p>	
<p>7.</p> <p>11 Flood Street</p> <p>3 storey Residential apartment building</p>	
<p>8.</p> <p>No.16 Flood Street</p> <p>2 and 3 storey walk up apartment building</p>	





<p>9.</p> <p>Southern side of Watkins Street</p> <p>2 storey attached terraces with loft space</p>	
<p>10.</p> <p>No.23-25 Anglesea Street</p> <p>Detached single storey bungalows</p>	
<p>11.</p> <p>No. 27-31 Anglesea Street</p> <p>Attached single storey bungalows</p>	
<p>12.</p> <p>No.32 Anglesea Street</p> <p>3 storey walk up apartments</p>	





<p>13.</p> <p>No.36 – 40 Anglesea Street</p> <p>Waverley Zone Electricity substation No.36800</p>	
<p>14.</p> <p>No.48 – 50 Anglesea Street</p> <p>Single and two storey detached dwellings</p>	

Further beyond the site are non-residential uses including recreational spaces and facilities, places of public worship and schools.

Less than 200m walking distance south of the site are accessible bus stops in Bondi Road which are part of State Transit busline Route 333 connecting Circular Quay with Bondi Junction and North Bondi. These bus stops are used by three (3) other state bus routes connecting to local destinations within the LGA.

There are dedicated on-road and off-road cycle routes within 200m of the site connecting to high visitation destinations as shown in Waverley Council's Cycle Route Map Brochure (https://www.waverley.nsw.gov.au/data/assets/pdf_file/0018/7524/CycleRouteMapBrochure.pdf).

The Margaret Whitlam Recreation Centre, former Waverley Council Administration Building, Waverley Park and Waverley Oval are a cluster of publicly accessible indoor and outdoor social and recreational spaces all within 200m to 400m walking distance south of the site. The variety of services and facilities available to the community at these locations is described in Section 5.3.

Other community facilities within 2km radius of the site are:

- Mill Hill Centre
- Burnie Park Community Centre

The following schools are located within a 2km radius of the site:

- Bellevue Hill Public School
- Bondi Public School
- Bronte Public School
- Waverley Public School
- Bondi Beach Public School



- 
- 
- Clovelly Public School
 - Woollahra Public School
 - Holy Cross School
 - Reddam House School
 - Waverley College
 - St Clare's College
 - St Charles Primary School
 - Scot's College

There are more than twelve (12) places of public worship within 2km radius of the site.

2.4 INFRASTRUCTURE AND SERVICES

The proposed zoning change will not increase demand for local or regional scale infrastructure and services beyond the current level of provision.

The proposal will facilitate feasible options for future uses of the site.



3. Future Development Options

3.1 OVERVIEW

The purpose of the planning proposal is to amend WLEP 2012 to apply Zone R3 Medium Density Residential Zone to No.34 Flood Street, Bondi.

The site is currently in Zone SP2 Education Facility as shown in the extract to the WLEP 2012 Land Zoning Map in Figure 19 (see Section 4.1). As explained above, the site is not an education facility. The site has been used as a Synagogue since 1956 and remains substantially in the same built form today. The College building on the adjoining site is of a similar age to the Synagogue building and there are features and uses of both buildings that span the site boundaries. Both the Synagogue and College buildings are aged and would require major alterations to meet contemporary requirements and the needs of the community and users such as:

- Accessibility and features for people with mobility, sight and hearing challenges
- Vehicle access and parking for staff and visitors, loading/unloading, service and emergency vehicle access
- Colocation and multi-function / multipurpose activities
- Environmental performance
- Integration with the streetscape
- Indoor, outdoor and transition spaces
- Landscaped areas and deep soil zones

The current planning provisions for No.34 Flood Street do not provide a feasible incentive for substantial redevelopment. The land use controls to WLEP 2012 only permits an educational establishment with consent. No uses are permitted without consent. The provisions for existing use right that may apply to the site only permit minor alterations for the purposes of an educational establishment. The building would require more than minor alterations in order to be used as an educational establishment that would meet contemporary standards.

The building at No.34 has no feasible future development potential as an educational establishment under the current land use zoning and planning provisions.

The current planning provisions that apply to No.36 Flood Street when considered in conjunction with those for No.34 Flood Street also prevent feasible future development of No.36 Flood Street. No.36 has been used as a College since the 1950's. The College relies on vehicle access via a driveway on the neighbouring site to the south and pedestrian access from Flood Street is via No.34 Flood Street. No.36 has a width of 14m. Zone R3 Medium Density Residential applies to No.36 Flood Street. The existing FSR of the College building is close to the maximum permitted FSR of 0.9:1. Expansion or intensification of the College is limited in scale by the site constraints, by the LEP controls and by the limitations for expansion and intensification in State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017. The narrow lot width and vehicle access constraints make it unfeasible for redevelopment for residential uses in isolation.

3.2 FUTURE DEVELOPMENT OPTIONS

Notwithstanding the above, there are no immediate intentions to redevelop the site and it will continue to provide a range of religious, educational and community services. However, to substantiate the planning proposal some schematic designs have been prepared in order to demonstrate that the LEP amendments proposed by this application can facilitate future development of the site in a manner that:



- Is consistent with adopted key planning strategies
- Is compatible with the context and setting of the site
- Does not require additional local or state infrastructure and services; and
- Delivers future social, environmental, cultural and economic benefits.

Following the amendment of the LEP, the proposed future development of the site would be subject to a detailed development application to be prepared in accordance with the relevant objectives, development standards and controls of WLEP 2012 and Council's Development Control Plan.

A new development application will need to demonstrate, amongst other things:

- connectivity to all essential services and contemporary energy and water efficiency performance standards;
- safe means of pedestrian and vehicle access, loading and unloading, waste management and service vehicle access;
- consistency with the streetscape; and
- no significant detrimental impacts to the heritage significance of the adjoining Heritage Conservation Area C16 Woodstock Street and the Flood Street Landscape Conservation Area C42.

The current land use zone does not facilitate the potential for new development to achieve the above.

The future development scenario options most suited to the context and setting are described below. They are based on amalgamation of the subject site with No.36 Flood Street to avoid site isolation and to achieve the following positive outcomes:

- Site-specific at-grade vehicle access to Anglesea Street which is dedicated to the site (that is, not shared by other properties and reliant on legal agreements with neighbours as is the current situation);
- Onsite parking, waste management, plant and equipment in a concealed basement to protect visual and acoustic amenity;
- Built form that complies with Council's development standards and objectives
- Boundary setbacks compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity
- Deep soil planting throughout the site including mid-block where it will be of greatest benefit within the site and for residential neighbours
- A greater percentage of the site provided as landscaped open spaces
- Reconstruction of the footpath reserve in Flood Street and an increased front setback with opportunities for street tree planting and landscaping compatible with the Flood Street Landscape Conservation Area C42;
- Improved quality of the interface with Flood Street by removing high concrete walls and creating opportunities for passive surveillance and active private spaces adjoining the public footpath;
- Improved environmental performance of the land use.

Both future development scenarios are compliant with the existing WLEP 2012 development standards that currently apply to both No.34 and No.36 Flood Street being:

- Floor Space Ratio (FSR) of 0.9:1
- Height of Buildings Control of 12.5m



3.3 FUTURE OPTION 1

Future Development Scenario 1 is included in Annexure B and a basic block perspective drawing is included in Figure 17.

Future Development Scenario 1 proposes:

- A residential flat building
- A mix of apartment sizes and accessible common circulation and open space areas
- Height of Flood Street elevation 8.9m (3 storey façade to Flood Street, 4 storeys mid-block)
- Basement car parking for 30 cars (25 resident vehicles and 5 visitors)
- At-grade vehicle access to Anglesea Street
- Deep soil zone mid block
- Green roof

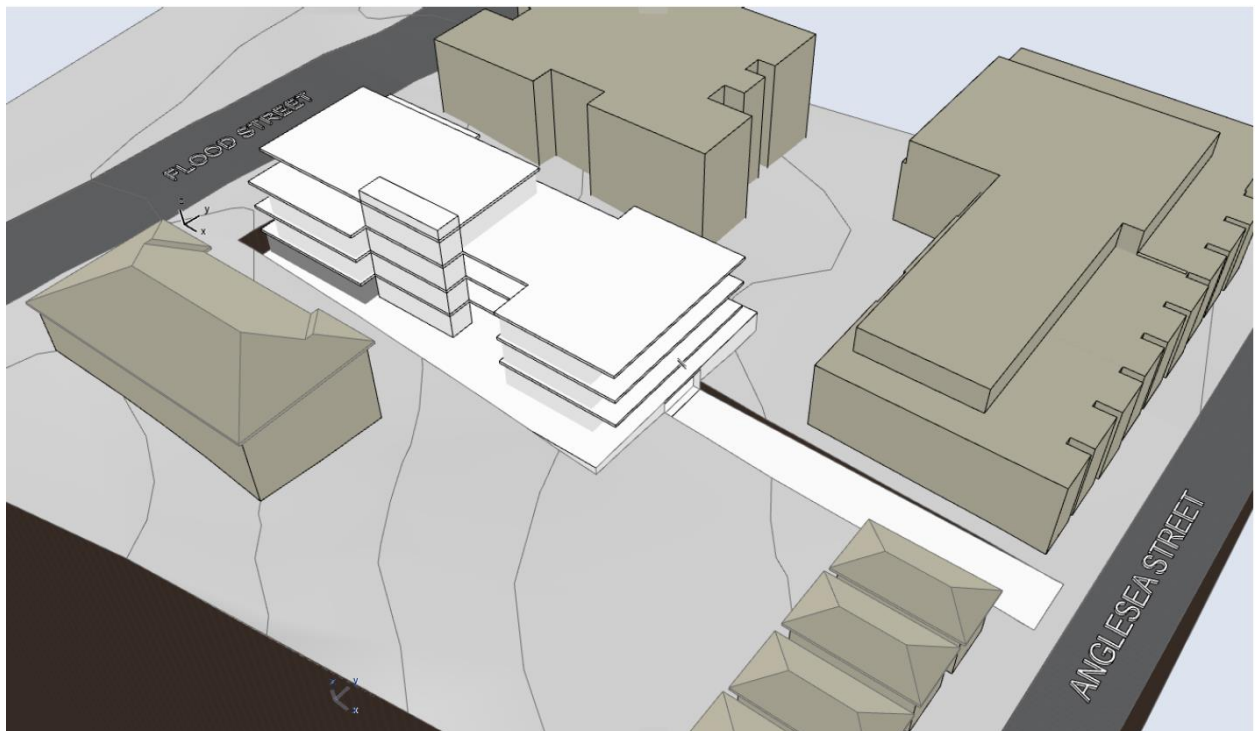


Figure 17: Perspective drawing for Future Development Scenario 1

3.4 FUTURE OPTION 2

Future Development Scenario 2 is included in Annexure B and a basic block perspective drawing is included in Figure 18.

Future Development Scenario 2 proposes:

- Attached multi-storey terraces in two (2) blocks
- Height of Flood Street elevation 8.9m (3 storey façade to Flood Street, 4 storeys mid-block)
- Basement car parking for resident and visitor cars



- At-grade vehicle access to Anglesea Street
- Deep soil zone mid block

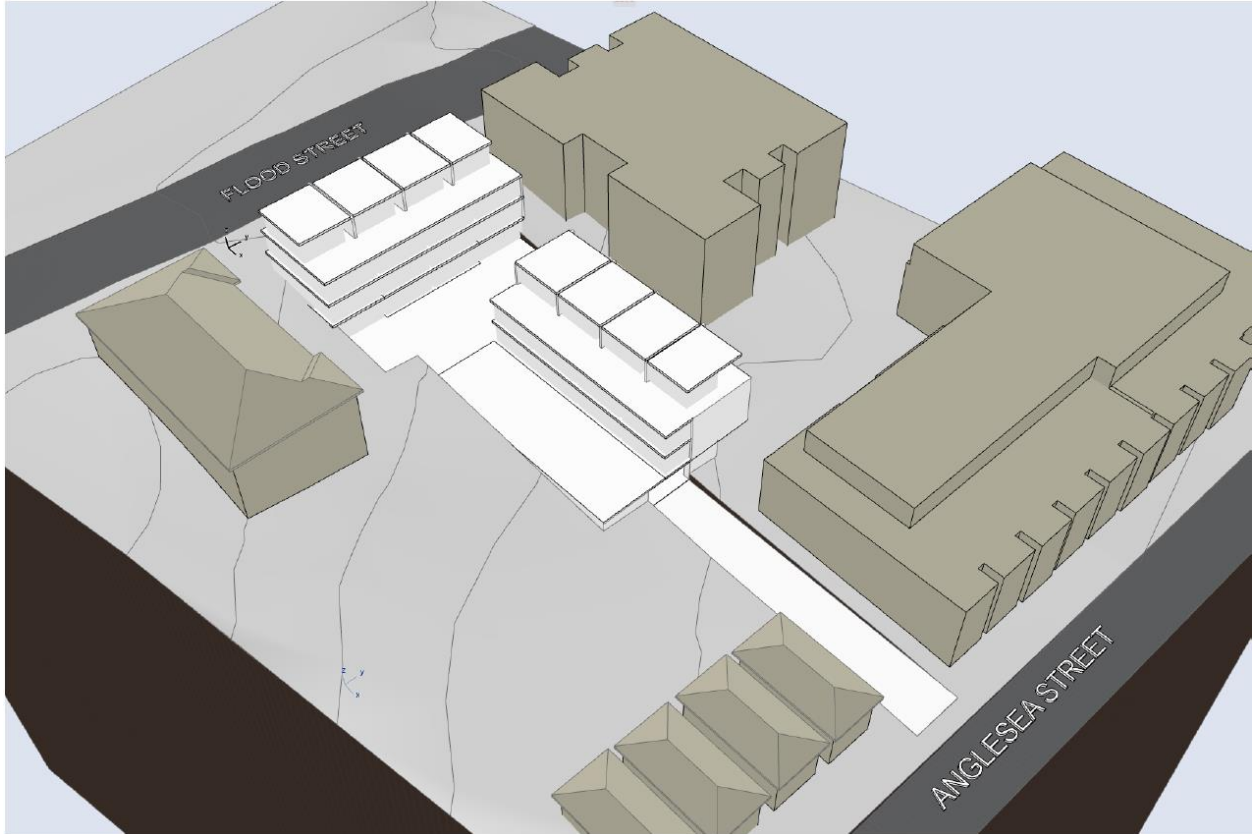


Figure 18: Perspective drawing for Future Development Scenario 2



4. Existing Planning Provisions

4.1 WAVERLEY LOCAL ENVIRONMENTAL PLAN 2012

The overall aims of the WLEP 2012 are:

- “(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to promote and co-ordinate a range of commercial, retail, residential, tourism, entertainment, cultural and community uses to service the local and wider community,*
- (b) to maintain and reinforce Bondi Junction as the primary commercial and cultural centre in Sydney’s eastern suburbs,*
- (c) to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community,*
- (d) to provide an appropriate transition in building scale around the edge of the commercial centres to protect the amenity of surrounding residential areas,*
- (e) to protect, maintain and accommodate a range of open space uses, recreational opportunities, community facilities and services available to the community,*
- (f) to enhance and preserve the natural environment through appropriate planning, protecting the integrity of natural systems and by protecting existing trees,*
- (g) to identify and conserve the cultural, environmental, natural, aesthetic, social and built heritage of Waverley.”*

The ways in which the zoning change aligns with the aims of the LEP are detailed in Section 5.3.

The provisions of the LEP that currently apply to the site are as follows:

Table 2 Summary of Current Planning Controls that apply to No.34 Flood Street under WLEP 2012

Control	Existing Requirement
Zone	SP2 Infrastructure (Education Facility)
Height of Buildings	12.5m
Floor Space Ratio	0.9:1
Minimum Lot Size	None
Heritage	None



4.1.1 Existing Zoning

An extract of the land use zoning map to WLEP 2012 is shown in Figure 19 with the site indicated by a white arrow.

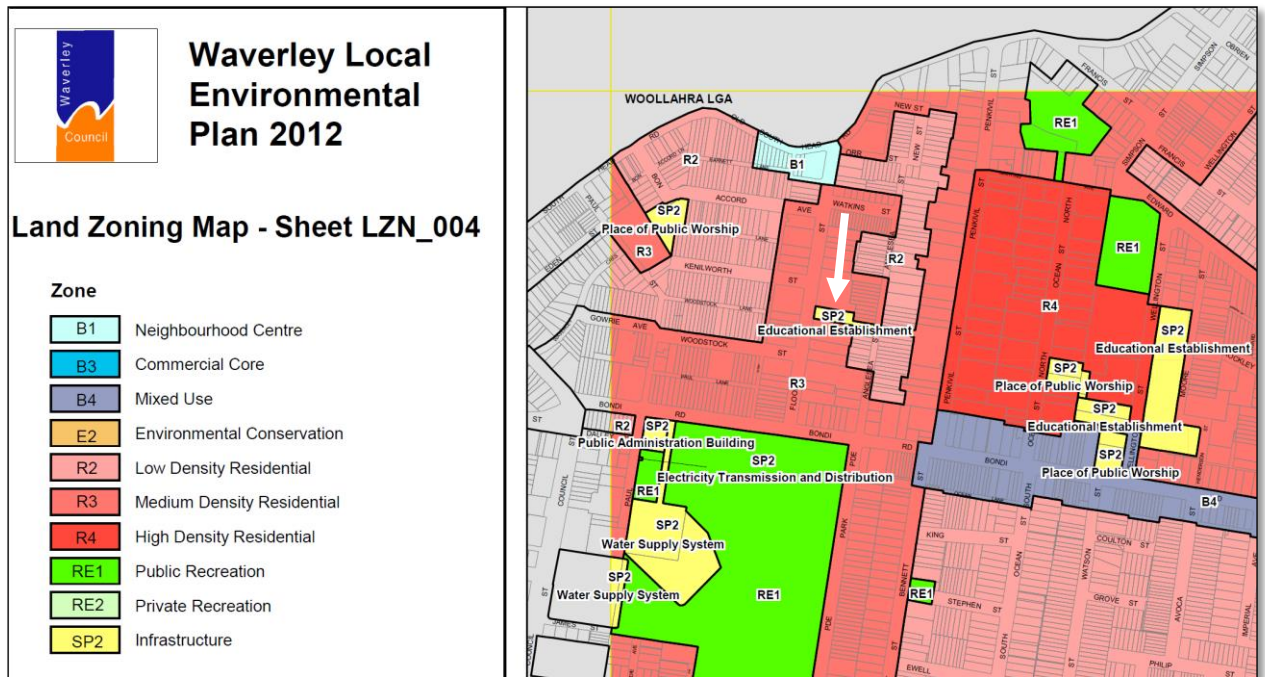


Figure 19: Extract from Land Zoning Map to WLEP 2012 with subject site indicated by white arrow

The objectives for development in Zone SP2 are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure."*

The land use table for Zone SP2 states as follows:

"2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3"

As explained above, the zoning of the site:

- does not match the existing use of the site that has continued since 1956;
- does not facilitate redevelopment of the site in a manner that would suit the existing aged building and ancillary features.



5. Planning Proposal

5.1 PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to amend WLEP 2012 to change the zoning Lot 1 DP 1094020 from Zone SP2 Infrastructure (Educational Establishment) to Zone R3 Medium Density Residential.

The objectives for development in Zone R3 and the land use control table for Zone R3 are intended to apply to Lot 1 DP 1094020.

The intended outcome is to apply a land use zoning category that corrects the current anomaly and that is consistent with the zoning of surrounding land. Applying Zone R3 will facilitate feasible future development and use of the site and prevent isolation of the adjoining land to the south whereas current planning provisions create an impasse for any feasible future development of these lots either separately or as an amalgamated site.

5.2 PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by amending the WLEP 2012 Land Zoning Map Sheet LZN_004 to change the land use zoning to Zone R3 Medium Density Residential for Lot 1 DP 1094020.

All other provisions of WLEP 2012 are to remain unchanged.

5.3 PART 3 – JUSTIFICATION

This section details the reasons for the proposed LEP amendment and is based on a series of questions and matters for consideration as outlined in the DPIE Guideline (December 2021). The matters to be addressed include the strategic planning context of the amendments, strategic merits, site-specific merits, potential State and Commonwealth agency interests, environmental, social and economic impacts.

In summary the proposed amendment to the land use zoning for Lot 1 DP 1094020 is:

- Aligned with the relevant key priorities and strategic merit matters in the Greater Sydney Regional Plan and Eastern City District Plan;
- consistent with the relevant key planning priorities and strategic and site-specific merit matters contained in the Waverley Local Strategic Planning Statement (LSPS);
- a response to circumstances that are not recognized by the existing planning framework (in that the site is not, and has never been, an educational facility and has no feasible redevelopment potential under the current Zone SP2);
- facilitating opportunities for future use of the site and adjoining land more compatible with the surrounding residential development and will result in improvements to the heritage-listed streetscape, deep soil landscaping, traffic, parking, vehicle and pedestrian access, street surveillance and ESG performance.



5.3.1 Section A - Need for the Planning Proposal

Q1. Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

No. The LEP amendment is an applicant-initiated, site specific planning proposal. It is not a result or recommended outcome from a strategic study or report. However, it is required due to an oversight or error made in the application of land use zoning to the site. Specifically the site is in Zone SP2 Infrastructure (Educational Establishment) however the site has been used as a Synagogue since the 1950's and is not an educational establishment.

As explained in Section 3, due to the incorrect zoning, the current planning provisions prevent any feasible future redevelopment of the site and create an impasse which prevents any feasible works to the ageing building which does not meet contemporary design and user standards for a publicly and universally accessible building used for congregations and related activities.

Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the only means by which the zoning anomaly can be corrected and this has been confirmed by Council in pre-lodgement meetings.

The Planning Proposal is also necessary because there are no feasible future development options for the site under the current planning provisions and the building is reaching the end of its useful and appropriate life as a Synagogue due to the major works needed to bring the building and ancillary features up to contemporary standards with respect to:

- Accessibility and features for people with mobility, sight and hearing challenges
- Vehicle access and parking for staff and visitors, loading/unloading, service and emergency vehicle access
- Colocation and multi-function / multipurpose activities
- Environmental performance
- Integration with the streetscape and heritage conservation areas
- Indoor, outdoor and transition spaces
- Landscaped areas and deep soil zones.

The Planning Proposal also has benefits for the adjoining land No.36 Flood Street as explained in Section 3. Without the zoning amendment, No.36 Flood Street is an isolated site with no feasible potential for expansion or increase in intensity of use due to constraints including site width, lack of vehicle and pedestrian access, being close to the maximum FSR and the need to be responsive to the amenity of neighbouring residential uses.

The proposal LEP Amendment fits the category of a 'Standard' planning proposal described in the DPIE Guideline as follows:

Standard

A standard planning proposal refers to any one or more of the following proposed LEP amendment types, including an amendment:

- To change the land use zone where the proposal is consistent with the objectives identified in the LEP for that proposed zone
- That relates to altering the principal development standards of the LEP
- That relates to the addition of a permissible land use or uses and/or any conditional arrangements under Schedule 1 Additional Permitted Uses of the LEP
- That is consistent with an endorsed District/Regional Strategic Plan and/or LSPS
- Relating to classification or reclassification of public land through the LEP

The objectives for all development in Zone R3 in WLEP 2012 are as follows:

“Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.”*

All land surrounding the site is within Zone R3. The proposed land use zone change will result in future development and use of the site in a manner entirely consistent with the character and objectives that apply to the neighbourhood. These objectives are more suited to the site and its context than the objectives for land in Zone SP2 which seek only to preserve land for infrastructure and do not consider compatibility with the broader neighbourhood context and setting. Applying Zone R3 to the site will provide opportunities for future development which is compatible with its broader environment.

The land use table for Zone R3 in WLEP 2012 are as follows (our emphasis added):

“2 Permitted without consent

Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Group homes; Home industries; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Shop top housing; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies”

The land use table for Zone SP2 allows only for an educational establishment. The planning framework for existing use rights allows only for minor alterations to an existing use. Given that the ageing Synagogue would need major works to bring it up to contemporary standards, the current planning framework prevents feasible future development opportunities.

By comparison, the land use table for Zone R3 allows a variety of future uses and development opportunities. Furthermore it does not preclude a future development scheme that may include a community facility and place of public worship. However, as explained below, a future development scenario which did not replace the Synagogue



with a comparable facility would not result in a detrimental social or cultural outcome as there are a variety of alternative comparable facilities and more suitable sites for a new / replacement facility. Furthermore, as explained below, the people who currently use the Synagogue and Charity Kitchen have been consulted regarding this amendment and are fully supportive.

Planning Practice Note PN10-001 Zoning for Infrastructure in LEPs (PN10-001) is a guideline for the application of Zone SP1 and Zone SP2 in standard instrument LEPs. PN10-001 lists the 25 types of infrastructure to be considered for the application of SP zones. The list does not include places of public worship.

PN10-001 lists the matters to be considered in deciding whether to apply Zone SP to any land. The first consideration is whether the type of infrastructure is covered in the Infrastructure SEPP. Places of public worship are not covered in the Infrastructure SEPP.

PN10-001 lists six (6) sequential principles for zoning infrastructure. These principles are listed below along with comments specific to the subject site (with the exception of Principles 2, 5 and 6 which do not apply to the circumstances):

Principle (1): If the infrastructure type is permitted on all land under the Infrastructure SEPP, then “*existing ‘special use’ zones should be rezoned the same as the adjacent zone*”. If PN10-001 had been applied correctly in applying land use zones under WLEP 2012, the site would have been zoned as Zone R3 (not Zone SP2).

Principle (3): if the land is currently zoned for ‘special use’, only the following should remain zoned for ‘special purpose’:

- Special purposes such as cemeteries, sewage treatment plants, waste disposal or landfill sites (to be Zone SP2);
- Strategic sites (to be Zone SP2)
- Large complexes (to be SP1).

The site does not meet any of the above criteria or descriptions in Principle (3).

Principle (4): Where land is to be zoned SP1 or SP2 it should include flexible zone boundary provisions where appropriate and use generic land use map annotations. The current zoning does not match with Principle 4.

PN10-001 should be used as a reference tool in assessment of this application for a Planning Proposal. It is clear from the directions in PN10-001 that the current land use zone is incorrect and should not have been applied to the site.

Planning Practice Note PN11-002 Preparing LEPs using the Standard Instrument: Standard Zones (PN11-002) provides instruction and guidance on the application of all land use zones used in Standard Instrument LEPs. PN11-002 states:

“Councils must give effect to any relevant State or regional planning guidance when determining permitted and prohibited land uses. In addition, where the permissibility of certain land uses is provided for under a relevant SEPP (eg. Infrastructure SEPP), there is no need to include these types of development in Standard Instrument LEPs.”

As noted above, a place of public worship is not considered by DPIE to be infrastructure. Educational establishments are addressed in State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. Therefore, based on the instruction in PN11-002 quoted above, there is no need to apply Zone SP2 to educational establishments unless they are large sites of strategic importance as explained in PN10-001.



PN11-002 also gives the following instructions on the application of all standard instrument zones:

“SP2 Infrastructure

Infrastructure land that is highly unlikely to be used for a different purpose in the future should be zoned SP2, for example ‘cemeteries’ and major ‘sewage treatment plants’.

It may also be appropriate for major state infrastructure or strategic sites such as major ‘hospitals’, large campus universities/TAFEs, major dams, power stations, landfill or waste disposal sites, ‘correctional centres’, and ‘airports’. Areas of Commonwealth land used for Defence purposes should be zoned SP2 (Defence). A small minority of ‘schools’ across NSW may also be considered a strategic site.

The use of clause 5.3 Development near zone boundaries is suggested when adopting SP1 or SP2 zones. This would enable development permitted on the adjoining land to be permitted if deemed compatible.”

With consideration to the above instruction in PN11-002, the subject site is not:

- major state infrastructure; nor
- a strategic site.

It is practical and reasonable that the site could be used for different purposes in the future.

Applying Zone SP2 to the subject site is not consistent with the guidance and instruction that applies to all Standard Instrument LEPs and in particular is not consistent with PN10-001 and PN11-002.

Furthermore, if the current Waverley LEP review is consistent with Planning Practice Notes (as it should be) this zoning anomaly should be rectified without the need for a site-specific Planning Proposal. Note that the DPIE strategic planning tool kit makes reference to all Standard Instrument LEP amendments being guided by a collection of documents published by DPIE including Planning Practice Notes.

5.3.2 Section B – Relationship to Strategic Planning Framework

Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

5.3.2.1 Greater Sydney Region Plan – A Metropolis of Three Cities (GSRP)

The GSRP produced by the NSW Government sets out strategic priorities for 2016 to 2036. The following Directions and Objectives of the GSRP are relevant for consideration in demonstrating that this application for a Planning Proposal is aligned:

Direction 1: A City supported by infrastructure

As confirmed by PN10-001 and PN11-002, a place of public worship is not a form of infrastructure to which Zone SP1 or SP2 should be applied in a standard instrument LEP.

Direction 3: A city for people

Objective 6: Services and infrastructure meeting communities’ changing needs

Objective 7: Communities are healthy, resilient and socially connected.

As noted in Section 3 and 5.3.1 above, the existing building on the site increasingly inadequate to meets the contemporary needs of the community, its neighbours and its users. Constraints which cannot be addressed by the limits of the current zoning include:

- A lack of accessibility and features for people with mobility, sight and hearing challenges

- No independent vehicle access and parking for staff and visitors, loading/unloading, service and emergency vehicle access
- Lack of space and design features that would support colocation and multi-function / multipurpose activities
- Poor environmental performance
- Lack of integration with the streetscape
- Limited indoor, outdoor and transition spaces
- No landscaped areas and deep soil zones.

An amendment to the land use zone to Zone R3 will facilitate the potential for changes to both the existing uses and/or future redevelopment options which would address the current features that do not meet contemporary expectations and needs of the community.

Direction 4: Housing in the city

Objective 10: Greater housing supply

Objective 11: Housing is more diverse and affordable

Applying Zone R3 to the site will facilitate more options for future uses including housing(adding to the existing supply) and at the same time it does not preclude the including of community facilities and places of public worship from future development options.

Direction 5: A city of great places

Objective 12: Great places that bring people together

Objective 13: Environmental heritage is conserved and enhanced

The change will not put at risk the future options for current users of the site to come together in the variety of ways that are currently facilitated by the Synagogue and community kitchen. It will enable the range of options permitted in Zone R3 for enhancement of the facilities in conjunction with other feasible and mutually supportive options. Such options are not available under the SP2 zoning.

While there are no immediate plans, future residential and mixed use redevelopment options must also consider new works which will be compatible with the environmental heritage and landscape values of the Woodstock Street Heritage Conservation Area C16 and the Flood Street Landscape Conservation Area C42. The zoning change allows opportunities for the future use of the site to enhance the environmental heritage of the site and its setting.

Direction 8: A city in its landscape

Objective 30: Urban Tree canopy cover is increased.

Currently there is no landscaped area or deep soil planting within the site. Increasing redevelopment opportunities by changing the zoning will facilitate new development scenarios that must achieve compliance with current landscaping requirements. This would include the provision of canopy street trees in Flood Street and deep soil zones within the site.

Direction 9: An efficient city

Objective 33: A low carbon city to net zero emissions by 2050

Objective 34: Capture and reuse of energy and water

Objective 35: Waste is reduced and recycled



The zoning change will provide options for redevelopment of the site where currently there are none. The current Synagogue building does not include features for energy and water re-use and is limited in the use of natural ventilation and lighting. Any redevelopment will be required to achieve higher standards of ESG performance and contribute to achieving the objectives of Direction 9.

In summary, the proposed zoning change will assist in achieving the Directions and Objectives identified above.

5.3.2.2 Eastern City District Plan (ECDP)

The ECDP adopts the Directions of the GSRP and lists the following Planning Priorities relevant for consideration in demonstrating that this application for a Planning Proposal is aligned:

Direction: A city supported by infrastructure

The zoning change will not generate the need for additional or new infrastructure and will not preclude the aim to achieve a movement network that delivers a 30-minute city.

Direction: A collaborative city

The zoning change may lead to future scenarios where the current Synagogue and community kitchen can be substantially upgraded or redeveloped to provide new, contemporary premises on the site which can be designed for multi-purpose uses and with indoor and outdoor spaces universally accessible. This is aligned with the ECDP performance indicator of increasing the use of community facilities.

Direction: A city for People – Livability

The zoning change is aligned with increasing quality of life through implementing a planning framework that gives options for feasible future uses of the site. Future use options will better facilitate the renovation, rebuilding and creation of new places, buildings and activities that enhance the site for users and neighbours. Improvements that can be anticipated include:

- Safe and independent vehicle access, parking, loading/unloading, and access for service and emergency vehicles
- ESG performance
- Integration with the streetscape and passive surveillance, landscaped setbacks and street trees
- Landscaped areas and deep soil zones throughout the site
- connectivity to all essential services and contemporary energy and water efficiency performance standards;
- enhancement to the heritage significance of the adjoining Heritage Conservation Area C16 Woodstock Street and the Flood Street Landscape Conservation Area C42.
- Built form that complies with Council's development standards and objectives
- Boundary setbacks compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity
- Prevention of site isolation for No.36 Flood Street

Direction: Housing in the City – Housing choice and affordability

The zoning change allows residential accommodation with consent. Any future development proposal for housing will be assessed with consideration to this matter. The Future Development Options in Section 3 demonstrate that the zoning change can facilitate a range of housing options.

Direction: A city of great places – giving effect to Objectives 12 and 13 in the GSRP

See Objectives 12 and 13 above.





Also the ECDP seeks:

- A well designed built environment
- Social infrastructure and opportunities
- Fine grain urban form

The above points can only be feasibly achieved for this site if the options for future development are expanded by changing the land use zone to Zone R3.

Direction: Sustainability – a city in its landscape

The ECDP specifically identifies the following Planning Priorities to achieve sustainability that are relevant to this application:

- Planning Priority E16
Protecting and enhancing scenic and cultural landscapes
- Planning Priority E17
Increasing urban tree canopy cover and delivering Green Grid connections

Increasing future redevelopment options for the site will facilitate new development more in keeping with the scenic values of the Woodstock Street Heritage Conservation Area C16 and the Flood Street Landscape Conservation Area C42 and would create opportunities for deep soil planting and canopy street trees within the site.

In summary, the proposed zoning change will assist in achieving the Directions and Planning Priorities identified above.

5.3.2.3 Strategic Merit

In addressing Question 3, the DPIE Guideline requires an application for a Planning Proposal to address the assessment criteria for strategic merit. The DPIE Guideline provides assessment criteria to determine if a planning proposal has strategic and site-specific planning merit. Accordingly, the planning proposal is considered against the assessment criteria below.

Strategic Merit

The assessment criteria to determine if a Planning Proposal has strategic planning merit is addressed in Table 3 below (known as the 'strategic merit test').

Table 3 Strategic Merit Test	
Assessment Criteria	Comment
Will the proposal "give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment"	<p>The applicable strategic plan is the Eastern City District Plan (ECDP) prepared by the Greater Sydney Commission.</p> <p>Alignment with the relevant Planning Priorities of the ECDP has been demonstrated in Section 5.3.2.2.</p> <p>The planning proposal is considered to give effect to the Eastern City District Plan.</p>



Table 3 Strategic Merit Test

Will the proposal “give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement”	<p>Consideration of the proposal against Waverley Local Strategic Planning Statement (LSPS) is addressed in detail under ‘Question 4’ below.</p> <p>In summary, the proposal will give effect to the LSPS by being aligned with the relevant themes and Planning Priorities and the potential public benefits that can be realised by facilitating new development options for the site.</p>
Is the proposal “responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans”	<p>The proposal is a response to the incorrect zoning of the site. The ongoing use of the site as a Synagogue since the 1950’s has not been correctly accounted for by the application of Zone SP2 as explained in Section 5.3.1.</p> <p>The current and future use of the site is at an impasse as a result of the incorrect zoning.</p> <p>A change is needed to correct the error.</p>

Site-Specific Merit

The planning proposal has site-specific merit given the following:

- the site is surrounded by medium density residential land uses and the change in zoning will apply land use objectives and land use opportunities more consistent with, and respectful of the context and setting of the site than the current Zone SP2;
- the amendment will prevent the long term isolation of No.36 Flood Street as well as facilitate future development options which will be expected to achieve improvements in:
 - vehicle access, parking, loading/unloading, and access for service and emergency vehicles
 - ESG performance
 - Integration with the streetscape, passive surveillance, landscaped setbacks and street trees
 - Landscaped areas and deep soil zones throughout the site
 - connectivity to essential services;
 - enhancement to the heritage significance of the adjoining Heritage Conservation Area C16 Woodstock Street and the Flood Street Landscape Conservation Area C42.
 - Built form that complies with Council’s development standards and objectives
 - Boundary setbacks compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity
- it will not result in any significant adverse environmental impacts.

The assessment criteria outlined in the DPIE Guideline to determine if a planning proposal has site-specific planning merit is addressed in Table 4.

Table 4 Site-Specific Merit Test

Site-Specific Merit Test	Comment
<i>Does the proposal have site-specific merit, having regard to the following:</i>	
<i>the natural environment (including known significant environmental values, resources or hazards)</i>	The site is not subject to any hazards or risks. The site does not contain items or features that have significant natural or environmental values. A change to the zoning will establish planning provisions with objectives and controls to enhance landscaping, deep soil planting, canopy street trees and buildings and uses with improved ESG performance in comparison to the limitations of the current zone.
<i>the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal</i>	The change to the zoning will facilitate options for future development more compatible with the context and setting of a medium density residential environment and the adjoining heritage and landscape conservation areas..
<i>the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision</i>	The zoning change will not generate demand for additional essential services. Redevelopment options will facilitate improvements to vehicle and pedestrian access and traffic-related infrastructure in particular.

As demonstrated in the above assessment, the planning proposal has both strategic and site-specific merit and is suitable to be progressed to a Gateway determination.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

5.3.2.4 Waverley Local Strategic Planning Statement (WLSPS)

Waverley LSPS adopts the Directions and Planning Priorities of the GSRP and ECDP as identified above. In addition the LSPS lists principles for change that must be considered with any LEP amendment and requires any LEP amendment to demonstrate public benefit.

Strategic Principles

Table 5 lists the local strategic principles for change in the LSPS that are relevant to the planning proposal and includes comments specific to the proposed zoning change.

Table 5: Local Strategic Principles for change in WLSPS

Local Strategic Principle for change	How it applies to the proposed change in land use zone to Zone R3 Medium Density Residential	Consistency? (Yes/No)
Proposals should be consistent with the Greater Sydney Region Plan and Eastern City District Plan	Consistency is demonstrated in Sections 5.3.2.2 and 5.3.2.3 above.	Yes
Proposals should be consistent with the relevant directions, objectives and actions of the Waverley Community Strategic Plan	Consistency is demonstrated in Section 5.3.2.5	Yes
Proposals should be consistent with the aims of the WLEP 2012	<p>Consistency is demonstrated in Section 4.1 with the exception of Aim (aa). Given that the application of Zone SP2 has been made in error (as explained in Section 5.3.2.1) the site should not have been subject to Zone SP2.</p> <p>The site is not and has not been used for an infrastructure purposes. The change in zoning will not result in a loss of community infrastructure that would be detrimental to the quality of life of existing and future community members as explained in response to Question 9.</p>	Yes
Proposals should be consistent with the relevant liveability, productivity, infrastructure and sustainability priorities, objectives and actions in this Local Strategic Planning Statement	Consistency is demonstrated with consideration to the relevant Planning Priorities of the LSPS below.	Yes
Proposals should be consistent with the relevant priorities, objectives and actions of any relevant strategies	<p>There are no specific strategies for places of public worship land uses.</p> <p>The proposed zoning change will allow for a variety of future development options which have potential to deliver improvements to the uses and activities on the site with regard to vehicle and pedestrian access, accessibility, landscaping, deep soil planting, street tree provision, built form that considers neighbour amenity, microclimate and ESG performance.</p>	Yes
Proposals should support the strategic objectives in Council's adopted strategies and action plans	As above.	Yes



<p>Proposals should give consideration to strategically valuable land uses that are under-provided by the market, such as but not limited to hotels, cultural space (including performance and production space), medical and health-related uses, education uses and childcare centres, and urban services such as mechanics and bulky goods retailers, and have regard to the appropriateness of the use for the context.</p>	<p>The Synagogue and Community Kitchen are socially valuable but not strategically valuable in the specific location. It is not essential to be maintained on this specific site.</p> <p>They are uses that can be accommodated on other sites.</p> <p>They are uses better suited to sites on major transport and movement routes, co-located for multipurpose visits and activities and where the built form, traffic and pedestrian activity will not detract from residential amenity.</p>	Yes
<i>Local site-specific principles for change</i>		
<p>Proposals should locate development within reasonable walking distance of public transport that has capacity (assuming development capacity will be delivered) and is frequent and reliable</p>	<p>As noted in Section 2.3 the site is within 200m walking distance of the major, multi-modal and multi-networked transport route along Bondi Road.</p>	Yes
<p>Proposals should meet high sustainability standards, improve urban resilience, and mitigate negative externalities. Proposals can satisfy these high standards by committing all development on the subject site to achieve a 5+ Green Star rating with the Green Building Council of Australia, or a Core Green Building Certification or Zero Carbon Certification with the Living Futures Institute of Australia, or equivalent</p>	<p>The proposed zoning change allows the consideration of future development options for the subject site and for the adjoining No.36 Flood Street that could achieve higher ESG performance and reduce current externalities of shared vehicle and pedestrian access, time limited on-street parking, a lack of landscaped and deep soil areas and a lack of canopy street trees and poor passive surveillance which are all legacies of aged building stock.</p>	Yes
<p>Proposals should include an amount and type of non-residential floor space appropriate to the site's strategic location and proximity to, or location within, a centre or activity street</p>	<p>The site is not within a centre.</p> <p>Flood Street has been identified as part of the Green Grid Movement Network (see below).</p> <p>A portion of non-residential floor space could be incorporated into a future development scheme. However this could only be achieved with a change of land use zoning because the current zoning prevents any major work on the site and limits that work to an educational establishment. Under the current zoning and site conditions such work would be unfeasible as explained in Section 3.</p>	Yes





	The change in zoning is needed to expand the redevelopment options to achieve any change to the current built form and land use.	
Proposals should create demonstrable public benefit.	<p>The zoning change can facilitate new development options which can include the following public benefits:</p> <ul style="list-style-type: none">• Safe vehicle access, parking, loading/unloading, and access for service and emergency vehicles contained within the site rather than reliant upon adjoining land and time limited parking restrictions in Flood Street. This will make the street safer for pedestrians, cyclists and drivers and increase on-street parking availability• ESG performance with new buildings better designed and fitted out for efficient capture and re-use of energy and water, natural ventilation and natural lighting, reduced heat retention and the inclusion of landscaping• Integration with the streetscape, passive surveillance, landscaped setbacks and canopy street trees with microclimate and CPTED benefits and improved compatibility with the heritage and aesthetic values of the Flood Street Landscape Conservation Area C42 and the Woodstock Street Heritage Conservation Area C16• Landscaped areas and deep soil zones throughout the site to improve microclimatic conditions and enhance the separation distances to neighbours• Boundary setbacks and building separation compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity.	Yes
Proposals should be supported by an infrastructure assessment and demonstrate any demand for infrastructure generated can be satisfied, assuming existing development capacity in the area will be delivered	The change to land use zone will not create an increased demand for infrastructure.	N/A
Proposals should make a positive contribution to the built environment and	The existing zoning isolates the site and limits future development to an educational establishment. Any such works would require major changes to the site which are	Yes





result in an overall better urban design outcome than existing planning controls.	<p>not consistent with the existing use rights provisions of the EP&A Act and would require continued reliance on vehicle access and parking requirements that rely on impacts to neighbours and the street.</p> <p>The objectives of the current SP2 Zone require only that the site be preserved for infrastructure purposes and do not require design integration with the context and setting of surrounding development.</p> <p>The change in zoning introduces new land use objectives which seek development compatible with the surrounding medium density residential environment.</p>	
Proposals should result in high amenity for occupants or users	<p>The aging Synagogue building does not match contemporary expectations for its user group.</p> <p>Amenity could be improved for future users and for neighbours if the zoning change is applied and a range of future development options are made available.</p>	Yes
Proposals should optimise the provision and improvement of public space and public connections	<p>Flood Street is part of the Green Movement Grid (see below).</p> <p>Redevelopment options can result in improvements to the street frontage and adjoining public footpath and street as follows:</p> <ul style="list-style-type: none">• Canopy street trees to match the well established avenue of trees on both sides of Flood Street• Time restricted kerb side parking can be removed, freeing up space for the community• New landscaping and front setbacks can be established to achieve passive surveillance and integration with the streetscape• Vehicle movements for loading/unloading and servicing can be relocated to Anglesea Street to improve prioritisation and safety of pedestrians and cyclists in Flood Street	Yes

Planning Priorities

The Planning Priorities of the LSPS relevant to this proposed LEP amendment are listed below along with comments specific to the proposal and site.

Planning Priority 4 – Ensure the community is well serviced by crucial social and cultural infrastructure

Specifically the LSPS states as follows (our emphasis added):

“When Waverley Council moved to the Standard Instrument LEP, Council chose to retain all land zoned ‘SP2 – Infrastructure’ for the purposes of retaining these crucial pieces of infrastructure in our area. This has meant



that despite increasing pressures for residential development, Council has largely been able to protect these facilities for the community. Council will seek to retain and protect existing social infrastructure uses, and will not allow the deterioration of this land to other uses preferred by the current market such as residential, or tourist and visitor accommodation.”

As explained in the response to Question 2 above, Zone SP2 has been applied to the site in error. The site has been used as a Synagogue since the 1950's (not an Educational Establishment). In accordance with PN10-001 and PN11-002 the current land use zone is incorrect and should not have been applied to the site. Furthermore PN10-001 does not list places of public worship as “*crucial pieces of infrastructure*”.

There are more appropriate and contemporary means by which Council can achieve the retention and improvement of community facilities rather than “locking down” and restricting future development options for existing land in Zone SP1 and Zone SP2. Best practice in planning for community facilities is increasingly shifting to multi-purpose facilities such as the nearby Margaret Whitlam Centre and surrounding open spaces. Sites should be located on major, multimodal transport routes. Facilities should be useable day and night, 7 days a week without those use times being detrimental to neighbourhood amenity. Facilities need to be fitted out as universally accessible. These attributes cannot be readily achieved at the subject site under the current zoning and the amenity of the medium density residential neighbourhood is sensitive to the need for safe parking, vehicle access, shared pedestrian and cycling paths, safety lighting and hours of operation of non-residential uses. Community facilities can be more feasibly supported when delivered in coordination with a mix of land uses and increasing the flexibility of zoning and land use tables is key to achieving this.

Notwithstanding, the proposed zoning change facilitates the retention, enhancement and redevelopment of the Synagogue as compared to the current zoning which prevents feasible improvements.

For these reasons the subject site must be considered an exception to the abovementioned quotation from the LSPS.

Planning Priority 6 – Facilitate a range of housing opportunities in the right places to support and retain a diverse community

As demonstrated in Section 3, the change in zoning can increase options for redevelopment of No.34 Flood Street as well as avoid site isolation for No.36 Flood Street. There are a potentially a variety of redevelopment options for an amalgamated site and some of the benefits of those options are identified in Section 3 including:

- Built form compatible with the context and setting of the site within a medium density residential neighbourhood
- contemporary energy and water efficiency performance standards
- safe means of pedestrian and vehicle access, loading and unloading, waste management and service vehicle access
- consistency with the streetscape
- enhancement of the interface with the adjoining Heritage Conservation Area C16 Woodstock Street and the Flood Street Landscape Conservation Area C42
- Site-specific at-grade vehicle access to Anglesea Street which is dedicated to the site (that is, not shared by other properties or reliant on legal agreements with neighbours as is the current situation);
- Onsite parking, waste management, plant and equipment concealed basement to protect visual and acoustic amenity
- Boundary setbacks compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity
- Deep soil planting including mid-block where it will be of greatest benefit within the site and for residential neighbours
- A greater percentage of the site provided as landscaped open spaces
- Reconstruction of the footpath reserve in Flood Street and an increased front setback with opportunities for street tree planting and landscaping compatible with the Flood Street Landscape Conservation Area C42

- Improved quality of the interface with Flood Street by removing high concrete walls and creating opportunities for passive surveillance and active private spaces adjoining the public footpath;
- Improved environmental performance of the land use.

Planning Priority 7 – Recognise and celebrate Waverley's unique place in the Australian contemporary cultural landscape

As stated above, a change to the zoning can facilitate a redevelopment of the site (and No.36 Flood Street) in a manner more compatible with the adjoining Flood Street Landscape Conservation Area C42 and the Woodstock Street Heritage Conservation Area C16.

Planning Priority 13 – Protect and grow our areas of biodiversity and connect people to nature

As noted below, Flood Street is identified in the LSPS as part of the Green Grid Movement Network and the established tree canopy is a green corridor.

Planning Priority 14 – Achieve net zero carbon emissions in the built environment

The current planning framework prevents feasible major works on the site which would be needed to make the buildings energy and water efficient and utilise natural lighting and ventilation. By comparison, future development options enabled by Zone R3 increase the potential for delivery of a high performing new development on the site or enhancement, revitalisation and major upgrades of the existing Synagogue.

Local Implementation

Local implementation projects relevant to the site as identified in the LSPS are:

- Urban greening
- Green grid link along Flood Street
- Urban Street tree canopy

Figure 20 is an extract from the Sustainability graphic in the LSPS that shows Flood Street is identified as part of the Green Grid Connection and as a biodiversity corridor (related to the established urban tree canopy). As already noted in this report, the zoning change is needed if the site features are to be substantially changed. These changes can include:

- new landscape and deep soil zones within the site
- frontage works for canopy street tree planting and landscaping
- relocation of vehicle access to Anglesea Street
- removing time-limited parking.

All of the abovelisted changes will enhance the function of Flood Street as a green link and contribute to urban greening.



Figure 20: Extract from Local Implementation Sustainability graphic in Waverley LSPS

Q5. Is the planning proposal consistent with applicable state and regional studies or strategies?

Under the current Zone SP2 the planning framework does not require future development to improve ESG performance.

Under Zone R3 future development of the site will be assessed against Council's Development Control Plan and may require elements which align with ESG performance.

There are no other state and regional studies or strategies to which the proposed LEP amendment is required to align.

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposed zoning change does not impact the way in which current and draft State Environmental Planning Policies (SEPPs) operate.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

The proposal is consistent with all applicable Ministerial Directions under Section 9.1 of the *Environmental Planning and Assessment Act 1979* as outlined in the below table.

Table 6 Section 9.1 Ministerial Directions

Ministerial Direction	Relevance	Consistency	Comments
2. Environmental and Heritage			
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the protection and conservation of heritage significance and Indigenous heritage significance	Yes	<p>The subject site is adjacent to the Woodstock Road Heritage Conservation Area C16 and the Flood Street Landscape Conservation Area C42.</p> <p>The proposed future development of the site will provide opportunities for changes within the site that may be more compatible with the context and setting created by these heritage areas such as the provision of canopy street trees and landscaping within the setback to Flood Street.</p> <p>The change in zoning will have no physical impact to the significance of these heritage and landscape conservation areas.</p> <p>A full assessment of potential heritage impacts would be required as part of the future detailed development application and would address any potential impacts, including visual impacts.</p> <p>The proposed LEP amendment is consistent with Direction 2.3..</p>
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>The objectives of this Direction are to:</p> <ul style="list-style-type: none">(a) encourage variety and choice of housing types to meet needs(b) make efficient use of existing infrastructure and services(c) minimise impacts on environment and resource lands. <p>A planning proposal must align with the objectives and include provision for good design, essential services connections and not reduce residential density.</p>	Yes	<p>The planning proposal seeks to apply Zone R3 to the site which permits a wide variety of residential accommodation with consent. The site is connected to all essential services and is within the established urban footprint.</p> <p>WLEP 2012 already contains provisions for essential services and good design. The planning proposal does not seek to change the existing FSR control of 0.9:1.</p> <p>The proposed LEP amendment is consistent with Direction 3.1.</p>
3.4 Integrating Land Use and Transport	A planning proposal must locate zones for urban purposes and include provisions that give effect to and are	Yes	The planning proposal will facilitate development options that can continue to take advantage of the wide variety of

Table 6 Section 9.1 Ministerial Directions

	<p>consistent with the aims, objectives and principles of:</p> <p>(1) <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p>(2) <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p>		<p>transport and movement options available in the neighbourhood.</p> <p>The proposed LEP amendment is consistent with Direction 3.4.</p>
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, not identify development as designated development unless the relevant planning authority has obtained the approval of the Director-General of the Department of Planning 	Yes	The planning proposal does not introduce any additional concurrence requirements or identify the development as designated development.
6.3 Site Specific Provisions	<p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p>	Yes	The planning proposal is consistent with this Direction. It does not allow a particular development proposal.
7. Metropolitan Planning			
7.1 Implementation of A Plan for Growing Sydney	This Direction applies to all Planning Proposals in nominated Local Government Areas including Waverley and seeks to give legal effect to the	Yes	The relevant strategic planning documents are the GSRP and the ECDP prepared by the Greater Sydney Commission. The planning proposal is

Table 6 Section 9.1 Ministerial Directions

planning principles, directions and priorities for subregions, strategic centres and transport gateways contained in *GSRP*.
A Planning Proposal must be consistent with the Plan unless the inconsistency is of minor significance and the planning proposal achieves the overall intent of the Plan.

considered to give effect to these Plans and will assist in achieving the Planning Priorities and Indicators relevant to the site and the proposal - refer to discussions at Part 5.3.2 of this report.

5.3.3 Section C – Environmental, Social and Economic Impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is part of an urban environment and does not contain habitat for threatened species, populations or ecological communities.

Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The change in land use zone will not result in any unacceptable detrimental environmental effects. The potential environmental impacts are considered below and would be specifically investigated with any future development application.

Social and Cultural Impacts

The neighbourhood is well provided with recreational, cultural, spiritual and educational facilities and places. As detailed in Section 2.3 there are a variety of publicly accessible open spaces, community facilities, schools and places of public worship within a 2km radius of the site.

The closest community facilities and services are located 200m to 300m walking distance south of the site and include the Margaret Whitlam Recreation Centre, Waverley Oval, Waverley Park and the Memorial Gardens. These facilities are located along a major movement route of Bondi Road serviced by buses and including dedicated cycling and pedestrian pathways.

The Margaret Whitlam Recreation Centre includes multi purpose indoor sports courts (basketball, netball, volley ball, indoor soccer, table tennis Tai Chi, Pilates, Yoga and other group classes), 170m² function room with seated capacity of 120 with commercial kitchen available for hire Sunday-Wednesday 7am-10pm, Thursday-Saturday 7am-12am, 250-seat grandstand overlooking the oval, club rooms with kitchen facilities suitable for small meetings available for hire Monday to Friday 9am to 10pm, a commercially leased café (Waverley Park Kiosk) which can cater for functions on and off the premises and is open 7.30am to 3pm daily. There are also change rooms and store rooms for sports participants. The indoor sports facilities are available for bookings and are open from 7am to 10pm daily. All facilities at the Margaret Whitlam Centre are fully accessible.

Waverley Park is a district-scale sport and recreation facility. It was the first public park in Waverley having been dedicated in 1880. It has cultural, heritage, recreational, aesthetic and community significance. Waverley Oval includes a cricket pitch and grandstand, synthetic athletics field, netball courts, multi-purpose courts, fitness stations and walking/running tracks. Most of the sports facilities have lighting and can be used after daylight hours. All facilities are available for hire and a free of charge if the use is less than 1 hour.

There are a wide variety of indoor and outdoor spaces for community gathering in a formal or informal manner which are readily accessible from the subject site.

The change in land use zone will not result in a loss of service or facility that would be detrimental to the quality of life of existing and future community members.

The current users of the Synagogue and the Charity Kitchen have been consulted with regard to the proposed change in land use zone. The current users are fully supportive of the proposed LEP amendment.

Heritage Impacts

The site is adjacent to Woodstock Street Heritage Conservation Area C16 and the Flood Street Landscape Conservation Area C42. As noted throughout this report, the change in land use zone will enable consideration of a range of future redevelopment opportunities all of which would need to comply with the requirements of Clause 5.10 to WLEP 2012 and demonstrate compatibility with the heritage and landscape significance of C16 and C42.

Traffic Impacts

The site currently relies upon shared pedestrian and vehicle access with the neighbouring property to the north as explained in Section 2.2. A change to the land use zone will enable a variety of future redevelopment options and avoid future site isolation for No.36 Flood Street. The anticipated outcome from the change in land use zone is the potential for a site amalgamation of No.34 and No.36 Flood Street to achieve a development site with safe vehicle and pedestrian access which does not rely on access shared with neighbouring properties.

Q10. Has the planning proposal adequately addressed any social and economic effects?

Economic Impacts

The change in zoning will correct an error in WLEP 2012 and is consistent with PN10-001 and PN11-002. This site has a long history of use as Synagogue and the Community Kitchen is a more recent additional use. However, the building does not meet contemporary standards for a place of public worship particularly with regard to:

- Accessibility and features for people with mobility, sight and hearing challenges
- Vehicle access and parking for staff and visitors, loading/unloading, service and emergency vehicle access
- Colocation and multi-function / multipurpose activities
- Environmental performance
- Integration with the streetscape
- Indoor, outdoor and transition spaces
- Landscaped areas and deep soil zones

The current planning framework does not make major works required to address these inadequacies feasible. The building would require major re-work or redevelopment to be upgraded. It is a better option to provide a range of alternatives for the redevelopment of the site and the financial benefits of new development options to be factored into the provision of new facilities either at the site or elsewhere.

The current land use zone prevents any consideration of economically feasible options for a better Synagogue building.

Social Impacts

The Synagogue currently hosts a variety of small scale community-based activities and the current users are fully supportive of the potential for the land use zoning change to facilitate more options for their future needs.

As described in response to Question 9 above, there are a wide variety of community facilities and services available for free and for hire that can accommodate the variety of activities currently conducted on the site.

5.3.4 Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

The site is within an established area well serviced by infrastructure, utilities, public transport and a variety of social, educational, cultural and recreational facilities as described throughout this report. The zoning amendment will not trigger requirements for local or regional scale amplification or introduction of new infrastructure, services or facilities.

Future development of the site may trigger contributions in accordance with Council's adopted Contributions Plans and standard approvals for utilities and services provisions that are conditional with specific development consents. These contributions and works would be tailored to the specific future development of the site.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The proposed LEP amendment does not trigger any changes to:

- Infrastructure and services provided by State agencies and public authorities;
- Resources managed by State agencies and public authorities.

The proposal does not trigger the referral criteria in Attachment B to the DPIE Guideline. For these reasons no referrals or consultation with State agencies and authorities are considered necessary.

A future Gateway determination will specify agencies and public authorities to be consulted and the methods and timing of such consultation if these are considered necessary.

5.4 PART 4 – MAPPING

The planning proposal will require amendment to WLEP 2012 Land Use Zoning Map LZN_004 to replace Zone SP2 with Zone R3 for the subject site only.

5.5 PART 5 – COMMUNITY CONSULTATION

Consistent with the requirements for a Standard LEP amendment and the DPIE Guidelines, it is anticipated the draft planning proposal would be publicly exhibited for a period of 28 days. The exhibition material will be specified in the Gateway determination and will include a copy of the planning proposal, an explanation of provisions, the draft LEP maps and an indication of the timeframes for completion of the process as estimated by Council.

Anticipated community consultation methods will include notice of public exhibition in a local newspaper and on Waverley Council's website, copies of exhibition material in electronic and hard copy at local government premises and letters of notification to nearby and adjoining land owners. Government agency referrals are considered unnecessary.

5.6 PART 6 – PROJECT TIMELINE

The proposed LEP amendment fits the category of a 'Standard' amendment as defined in the DPIE Guidelines and therefore is expected to take 320 days (225 working days) from the date of positive Gateway determination.

Notwithstanding, given the clear inconsistency with PN10-001 and PN11-002 we would anticipate an expedited resolution of this matter as a correction of an error to the current LEP.



6. Conclusion

This planning proposal seeks to amend *Waverley Local Environmental Plan 2012* (WLEP 2012) to apply Zone R3 Medium Density Residential Zone to Lot 1 DP 1094020 to replace the existing Zone SP2 Educational Establishment. The amendment will correct an anomaly to the current zoning as the site does not contain an Education Facility.

This application for a planning proposal has been prepared in accordance with Division 3.5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as well as the NSW DPIE "*Local Environmental Plan Making Guideline*" (December 2021).

The application demonstrates the proposed LEP amendment has strategic and site specific merit. The amendment is consistent with the Greater Sydney Regional Plan, the Eastern City District Plan, the majority of key priorities of Waverley Local Strategic Planning Statement, applicable State Environmental Planning Policies and Ministerial Directions as prescribed by Section 9.1 of the EP&A Act. The proposed LEP amendment is consistent with the Planning Practice Note PN10-001 which provides specific guidance in the application of zones SP1 and SP2. The proposal is consistent with the Planning Practice Note PN11-002 in that the site is not major infrastructure, is not a large education facility in a strategic location and could reasonably be expected to support a variety of uses in the future (including community facilities and a place of public worship coordinated with other compatible land uses).

The planning proposal will enable the feasible renewal of No.34 Flood Street and will prevent isolation of the adjoining No.36 Flood Street because:

- the existing buildings no longer meet contemporary requirements for their existing uses; and
- future development options are not possible under the current zoning.

The planning proposal will not result in unacceptable environmental effects or demands for new or augmented local and regional infrastructure and services. The amendment will facilitate future development options on the site that:

- are consistent with adopted key planning strategies
- are compatible with the context and setting including the heritage-listed conservation areas and streetscape; and
- can deliver future social, environmental, cultural and economic benefits.

The change to the land use zoning will facilitate feasible development options for major improvements to the existing Synagogue (and potentially also the adjoining college at No.36 Flood Street) that can be expected to make improvements to the following:

- vehicle access, parking, loading/unloading, and access for service and emergency vehicles
- ESG performance
- Integration with the streetscape, passive surveillance, landscaped setbacks and canopy street trees
- Landscaped areas and deep soil zones throughout the site
- Enhancement to the heritage significance of the adjoining Heritage Conservation Area C16 Woodstock Street and the Flood Street Landscape Conservation Area C42.
- Built form that complies with Council's development standards and objectives
- Boundary setbacks compatible with the separation requirements between residential buildings with associated benefits to solar access, privacy, streetscape, landscape opportunities and amenity.

Accordingly, this application for a Planning Proposal is entirely worthy of Council's support and forwarding to the Department for a positive Gateway determination.

ANNEXURE A

Pre-lodgement advice from Waverley Council



ANNEXURE B

Future Development Scenarios

