



New South Wales Government
Independent Planning Commission

34 Flood Street, Bondi **Advice on local heritage listing** **(PP-2023-1224)**

Advice Report

Terry Bailey (Chair)

13 March 2024



New South Wales Government
Independent Planning Commission

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Executive Summary

In February 2024, the Independent Planning Commission was requested to provide advice to the Department of Planning, Housing and Infrastructure on whether to finalise a Planning Proposal for the local heritage listing for 34 Flood Street Bondi in the Waverley Local Government Area. The Site includes a synagogue designed by prominent Austrian-Australian architect Harry Seidler AC OBE (1923-2006) and ancillary buildings, and was recently rezoned to allow for medium density residential development.

In preparing its advice the Commission has considered relevant heritage criteria and thresholds, the impact of later building works on the original fabric and integrity of the building, prior regard for the heritage value of the Site and contemporary advice from heritage experts engaged by both Council and the landowner.

The Commission provided opportunity for Council (which supports the heritage listing) and the landowner (who opposes the listing) to present their view on the proposal in transcribed stakeholder meetings and written responses. The Commission also considered the 48 submissions received by Council in its public exhibition of the Planning Proposal.

As a Seidler design – and his only religious building – the heritage value of the site has been periodically considered over time by multiple authorities, but this has not previously led to recommendations for either State or local listing, nor has it precluded significant alterations and additions to the site. The rezoning of the site for residential development appears to be the catalyst for the Planning Proposal and a consideration in the NSW State Heritage Register Committee's decision to undertake a full assessment of the site for potential State heritage listing within the next 18 months.

The Commission acknowledges the history of the site and recognises its remaining heritage value, most specifically with respect to the technical and architectural feature of its thin concrete shell roof, as well as its association with Seidler and the local Jewish community.

However, the heritage significance of the synagogue has been compromised over an extended period through alterations and additions to the building that have a significant degree of intrusiveness on the original fabric. These include concrete rendering of the exterior brick, cladding or demolition of building elements, the removal of original glazing, interiors and interior layouts, and the loss of visual access to a side façade showing the vaulted roof line and loss of the front streetscape. Although a level of intrusiveness over time, where a building retains active function, is not uncommon in items with heritage value, in this case the reversibility of the changes is not considered to be practical.

The thin concrete shell vaulted roof of the synagogue is the remaining (and most prominent) largely intact item of heritage value. However, the condition of the roof has deteriorated, and ongoing maintenance and remedial measures would be required to retain the item. A local listing would not – on its own – require such management arrangements to be implemented. Any such listing would also require further information to satisfactorily confirm that there are reasonable prospects of enhancing the current condition and/or restoring the site at a feasible cost. No such evidence is before the Commission.

The Commission notes that there is a pathway for sensitive development of the site subject to consideration of heritage values through the planning approval process by the relevant consent authority. In the Commission's view, the Planning Proposal to list the subject site as an item of local heritage significance in the WLEP2012 should not be finalised at this time.

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1. Introduction

1. On 7 February 2024, the NSW Independent Planning Commission (Commission) took receipt of a referral from the NSW Department of Planning, Housing and Infrastructure (Department) requesting advice pursuant to section 2.9(1)(c) of the Environmental Planning and Assessment Act 1979 (EP&A Act) in relation to a planning proposal and gateway determination for the local heritage listing of 34 Flood Street, Bondi (the Site), within the Waverley Local Government Area (LGA).
2. The Site includes a synagogue designed by prominent Austrian-Australian architect Harry Seidler AC OBE (1923-2006) that was constructed between 1959 and 1961 with a distinct roof form of repeating thin shell concrete vaults. The synagogue is the only religious building by Seidler. It currently adjoins another building, most recently used as an educational establishment known as Yeshiva College. The synagogue building has been subject to numerous alterations and additions over time and the interior of the building is considered to be significantly altered.
3. The Site was previously zoned SP2 Educational Establishment but is now zoned R3 Medium Density Residential, after a rezoning Planning Proposal was approved in 2022 (PP-2022-676). Its primary current use is as a synagogue, as well as providing space for a Community Outreach Program, an out of school hours care program and several other religious learning and ancillary uses.
4. Waverley Council (Council) submitted the subject Planning Proposal (PP-2023-1224) and considers the Site to be of both local and State heritage significance. The landowner (Karimbla Properties Pty Ltd (Meriton Group), a trustee of the Harry Triguboff Foundation) does not consider the Site to be of either local or State significance. Both parties have undertaken expert heritage assessments of the Site that support their conclusions.
5. In preparing this advice, the Commission has taken the relevant criteria and thresholds for assessing local heritage significance of places to be those developed by the Heritage Council of NSW and set out in the Department of Planning and Environment's 2023 *Assessing heritage significance guidelines*. The Commission has considered the relevant heritage criteria and thresholds, the intrusiveness and reversibility of later works on the original fabric and architectural integrity, its observations at the site inspection, prior regard for the heritage values of the Site by Council, and the heritage experts' assessments.

1.1 Scope of request for advice

6. The Department's request for advice sought the following from the Commission:
 - a review of the final planning proposal and supporting documentation;
 - provision of the opportunity for Council and the landowners to present their view on the proposal;
 - consideration of the submissions received by Council during the public exhibition period; and
 - provision of advice, including a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the planning proposal to list the subject site as an item of local heritage significance in the WLEP2012 should be finalised (with or without amendment) and whether any further information is required.

7. Professor Mary O’Kane AC, Chair of the Commission, determined that Terry Bailey (Panel Chair) would constitute the Commission Panel for the purpose of exercising its functions with respect to this request.

2. Planning Proposal

2.1 Site and Locality

8. The Site is located at 34 Flood Street, Bondi (part of Lot 1 DP 1094020), approximately 5km south-east of Sydney CBD and approximately 1.5km west of Bondi town centre.
9. The Site is currently operating as a synagogue (closer to the Flood Street frontage) with a detached ancillary structure (closer to the Anglesea Street frontage). The adjoining site to the south at 36A Flood Street is currently used as an educational establishment known as the Yeshiva College. To the south the Site also adjoins a dwelling house (57 Anglesea Street) and to the north is a multi-storey seniors housing development (24-32 Flood Street) which shares vehicle access with the Site.

2.2 Background

10. Prior to the subject Planning Proposal:
 - Council conducted an LGA-wide heritage assessment in 2020 that did not feature the site as a candidate for local heritage listing among 750 other sites that were identified.
 - The landowner lodged a Planning Proposal (PP-2022-676) to Council on 9 March 2022 seeking to change the zoning of the Site from SP2 Educational Establishment to R3 Medium Density Residential. Council’s Strategic Planning and Development Committee (SPDC) resolved not to support the rezoning and in August 2022 the landowner lodged a rezoning review. On 13 October 2022, the Sydney Eastern Planning Panel considered the rezoning review and recommended the proposal be submitted for Gateway. On 18 November 2022, the Gateway determination for PP-2022-676 was issued and on 28 July 2023 the LEP was made to rezone the Site.
 - On 10 February 2023 Council lodged an Interim Heritage Order (IHO) for the Site. It was valid for 12 months and expired on 10 February 2024.
 - On 29 June 2023 Council submitted a State Heritage Register nomination for the Site. This was considered by the State Heritage Register Committee on 1 August 2023, which resolved to progress the nomination to full assessment. At the time of writing the full assessment had not yet commenced and a determination of State Heritage significance had not been made.
11. On 8 June 2023 Council submitted the subject Planning Proposal (PP-2023-1224) to the Department for Gateway assessment. As delegate of the Minister for Planning and Public Spaces (Minister), on 2 August 2023 the Department issued a Gateway Determination (the **Gateway Determination**) that the subject Planning Proposal should proceed subject to conditions, including public exhibition and consultation with the landowner. The Gateway determination did not authorise Council to exercise the functions of local plan making authority.
12. After consultation with the landowner on 24 October 2023, Council’s Strategic Planning and Development Committee (**SPDC**) on 7 November 2023 resolved to forward the

Planning Proposal to the Department with a recommendation to proceed to finalisation and gazettal.

13. On 16 November 2023, Waverley Council (**Council**) submitted the subject Planning Proposal to the Department for finalisation, with additional information submitted on 5 December 2023.

2.3 Planning Proposal

14. The subject Planning Proposal seeks to list the Site at 34 Flood Street, Bondi as a local heritage item under the WLEP 2012 by amending Schedule 5, Part 1 of the WLEP 2012 and the Heritage Map of WLEP 2012 to identify the Site as a local heritage item as per Table 1.

Table 1 – Summary of Planning Proposal proposed changes to WLEP 2012

WLEP 2012 Provision	Existing	Proposed amendment
Heritage Map	34 Flood Street, Bondi is not shown as a Heritage Item	34 Flood Street, Bondi is to be shown as a local Heritage Item
Schedule 5 Part 1 Heritage Items	34 Flood Street, Bondi is not listed in Schedule 5 Part as a Heritage Item	34 Flood Street, Bondi is to be listed as a local Heritage Item, with Lot 1 DP 1094020 referenced and a written description of ‘Harry Seidler designed Synagogue building, interiors and exteriors’.

15. The subject Planning Proposal was informed by a detailed Heritage Assessment of 34 Flood Street prepared by Hector Abrahams, of Hector Abrahams Architects, in May 2023. This assessment concluded that the synagogue building has heritage significance rendering it worthy of local heritage listing under the WLEP 2012 and state heritage listing in the NSW State Heritage Register.
16. The landowner subsequently made submissions to the Department to object to the Planning Proposal.

3. The Commission’s process

3.1 Material considered

17. In undertaking its review and preparing advice, the Commission has considered the following material (**Material**):
 - the Department’s case referral documentation including:
 - Request for advice letter dated 31 January 2024;
 - Attachment A1 – 34 Flood Street, Bondi Heritage Listing Planning Proposal dated 20 June 2023;
 - Attachment A2 – Local Inventory Form
 - Attachment A3 – Council’s Heritage Advice prepared by Hector Abrahams Architects dated 15 November 2023;

- Attachment A4 – Community Submissions;
- Attachment A5 – Landowner Submission dated 14 September 2023, Landowner Heritage Advice prepared by Weir Phillips Heritage and Planning dated September 2023 and Landowner Heritage Advice prepared by Extent Heritage dated 13 September 2023;
- Attachment A6 – Waverley Council SPDC Meeting Agenda 7 November 2023;
- Attachment A7 – Waverley Council SPDC Meeting Minutes 7 November 2023;
- Landowner Submission to Council dated 14 September 2023;
- Letter from Managing Director, Meriton Group to Council dated 15 November 2023;
- Letter from General Counsel, Meriton Group to Council dated 27 October 2023;
- Letter from General Counsel, Meriton Group to Department dated 15 November 2023;
- Letter from Department to Meriton Group dated 31 January 2024;
- Letter from Department to Council dated 31 January 2024;
- Letter from Department to NSW Heritage dated 31 January 2024;
- Letter from Managing Director, Meriton Group to Waverley Council General Manager dated 23 August 2023;
- Letter from Council to landowner dated 4 August 2023;
- 34, 36 and 36a Flood Street, Bondi NSW Planning Report dated 7 August 2023;
- the Department’s correspondence to the Commission dated 16 February 2024.
- comments and presentation material at meetings with the Department, landowner, Waverley Council and Heritage NSW, as referenced in Table 2 below;
- Council’s submission to the Commission dated 27 February 2024;
- Councillor WY Kanak’s submission to the Commission dated 28 February 2024;
- the landowner’s submission to the Commission dated 28 February 2024;
- Heritage NSW’s submission to the Commission dated 29 February 2024 and correspondence dated 8 March 2024;
- Heritage NSW’s *Assessing heritage significance guideline* (Department of Planning and Environment, 2023).

3.2 Meetings

18. The Commission provided opportunities for Council and the landowner to present their views on the proposal, through stakeholder meetings and follow up questions in writing. As part of its process, the Commission met with the stakeholders set out in Table 2. All meeting transcripts and site inspection notes are available on the Commission’s website.

Table 2 – Commission’s meetings

Meeting	Date	Transcript/notes available on
Department	15 February 2024	21 February 2024
Landowner	20 February 2024	27 February 2024
Council	20 February 2024	27 February 2024
Heritage NSW	21 February 2024	27 February 2024
Site inspection	20 February 2024	26 February 2024

3.3 Heritage assessments of the Site to date

Assessing heritage

19. The *Assessing Heritage Significance Guideline* provides guidance on the different levels of significance from local to international. The threshold for local significance is that the listing recognises the place has significance to a local area and/or community. The threshold for State significant is that the listing recognises a place or object as significant for all of NSW and is assessed and recommended by the Heritage Council of NSW.
20. The guideline includes nine steps to assess significance; summarising what is known, describing its evolution; conducting a comparative analysis, assessing against the criteria, considering the integrity and condition, determining the level of heritage significance, preparing a statement of significance, seeking feedback and writing up the information. The steps most relevant to the Commission's advice and consideration of the Materials are assessing against the criteria (Step 4) and considering the integrity and condition (Step 5).
21. Step 4 sets out seven (7) criteria for determining heritage significance, with differing thresholds for meeting state or local significance (see Table 3). Step 5 assesses the current integrity, condition and authenticity of the place or object as impacted by alterations, additions, their level of intrusiveness, their reversibility and the current context of the item.

Listing heritage

22. Local and State heritage listings are intended to provide protection and ensure conservation of items with heritage value, however they have different consequences for listed sites. A local listing, in and of itself, does not provide any immediate tools for the management of the listed site except through any future development application affecting the site. A State listing, on the other hand, can – among other matters – provide for proactive requirements on the owners of listed sites to maintain minimum standards of maintenance and repair.
23. The assessment of heritage significance in response to a perceived threat is considered to be an appropriate catalyst for heritage listings.
24. In its submissions to the Department, the landowner stated that there is no immediate threat of the Site being developed, noting, however that they wished to retain the ability to change the use of the rezoned Site in the future.
25. In its meeting with the Commission, Council noted that the rezoning from SP2 to R3 zoning is a clear indication of plans for the Site's development. Concern about this threat to the Site was also reflected in the record of the State Heritage Register Committee's consideration of the preliminary assessment of the Site.

3.3.1 Expert assessments against the criteria

26. The Site was assessed against the heritage criteria by Hector Abrahams Architects for Council and the landowner's heritage experts (Extent Heritage and Weir Phillips Heritage and Planning). The findings of these assessments are summarised overleaf.

Table 3 Overview of expert heritage assessments

Criteria	Summary of assessments
<p>Criterion (a) An item is locally significant if it is important in the course, or pattern, of the cultural or natural history of the local area</p>	<p>Council's expert Hector Abrahams states that the item is important to the history of the Waverley area as it was one of seven areas of Sydney where new synagogues were built and signifies the start of a significant Jewish community in Waverley.</p> <p>One of the landowner's experts, Extent Heritage states that there is no evidence of why the period cited represents a distinct period of synagogue construction, and the other, Weir Phillips, states that the Site has no more significance to the Jewish community than any other synagogue in the area.</p>
<p>Criterion (b) An item is locally significant if it has strong or special association with a life or works of a person, or group of persons, of importance in the cultural or natural history of the local area</p>	<p>Hector Abrahams considers the site to be significant due to the direct association with Harry Seidler, the Jewish leader Abraham Rabinovitch and the fact that it has been visited by other eminent Australians including H V Evatt, Malcolm Fraser and Kevin Rudd.</p> <p>Weir Phillips considers the Site not to be a significant work of Harry Seidler as it is not cited as a project he is well known for in the <i>Australian Institute of Architects - Biography: Harry Seidler</i>, and the building is no longer regarded as a local landmark or good example of the Modernist style or Seidler's work due to extensive changes to the external detailing and the condition of the building.</p>
<p>Criterion (c) An item is locally significant if it is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area</p>	<p>Hector Abrahams considers the Site to contain a seminal and excellent work of civic and religious architecture with technological significance as the largest thin concrete shell structure in the municipality.</p> <p>Weir Phillips notes that the roof is the largest and best example of thin concrete shell technology of the 1950s in NSW, but has widespread concrete cancer, timber rot and water ingress, which when combined with the degree of intervention to the Site, have diminished the aesthetic significance of the building.</p> <p>Extent Heritage considers that the barrel vaulting and thin shell concrete techniques were not new or innovative at the time of construction and were widespread in history and well-established in other jurisdictions, although not commonly used in the Australian context.</p>
<p>Criterion (d) An item is locally significant if it has a strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons</p>	<p>Hector Abrahams emphasises the Site's strong and special associations with the Jewish community in Bondi from its ongoing uses as a civic and religious building.</p> <p>Weir Phillips considers that the Site is no more significant to the Jewish community than other synagogues in the area, all of which were associated with the growth and expansion of the local Jewish community during the post-war period of migration.</p>

Criteria	Summary of assessments
<p>Criterion (e) An item is locally significant if has potential to yield information that will contribute to an understanding of the cultural or natural history of the local area</p>	<p>Hector Abrahams states that the building has potential to yield information about thin concrete shell construction which informs the history of technological development of Waverley.</p> <p>Extent Heritage note that the roof technique, although not commonly used in Australia, was in widespread use in the 1920s in other jurisdictions, and regard the building as a late example of a well-established construction technique.</p> <p>Additionally, Weir Phillips notes that due to the condition of the roof structure, the Site is unlikely to yield new information regarding the performance of thin shell concrete over time.</p>
<p>Criterion (f) An item is locally significant if it possesses uncommon, rare or endangered aspects of the cultural or natural history of the local area.</p>	<p>Hector Abrahams considers the Site to be uncommon for its period due to the roof system and rare due to it being the only religious building by Seidler and it being an example of a post war Modernist synagogue.</p> <p>Extent Heritage consider it to be a minor work by Seidler and that rarity of post war Modernist synagogues has not been demonstrated.</p>
<p>Criterion (g) An item is locally significant if it is important in demonstrating the principal characteristics of a class of the local area's cultural or natural places or environments.</p>	<p>Hector Abrahams considers the Site to demonstrate the principal characteristics of its class as a post war Modernist synagogue designed by a migrant architect.</p> <p>Weir Phillips considers the extensive changes to the external detailing to have significantly distorted the architectural style for which Seidler is primarily recognised.</p> <p>Extent Heritage considers the building to lack heritage integrity as it has been fundamentally altered from its original design intent.</p>

State Heritage Register Committee (SHRC) - preliminary assessment

27. The Preliminary Assessment of the nomination of the Site for listing on the State Heritage Register provided to the SHRC was based on the documentary record and did not include a site visit. It identified that the Site:
- may meet the threshold for State heritage significance;
 - did not fit a current Heritage Council priority area;
 - has not been nominated by or with support of the owner;
 - did not present a current strategic or important opportunity for listing because:
 - the SHRC had previously chosen other Seidler works to prioritise for assessment/SHR listing based on an expert heritage report by Hericon Consulting on Seidler buildings in NSW (see Table 5); and
 - there was likely to be strong owner objection
 - however, it would broaden the representativeness of the SHR and warranted discussion and consideration of the SHRC.
28. The Preliminary Assessment also noted that the IHO in force at that time offered only interim protection for the item. The minutes of the SHRC meeting where it resolved to progress the Site to full assessment indicate that this outcome was partly informed by the perceived threat to the Site from future development.

29. Heritage NSW advised the Commission that a full assessment of the Site would potentially be added to the work plan for next financial year, for completion by 30 June 2025. Heritage NSW also noted that the listing of an item as a local heritage item can impact on the prioritisation of the State Heritage assessment in the work plan, as it can be considered to have a lower level of threat if it is listed on a LEP.
30. In response to questions from the Commission, Heritage NSW advised that in the past three calendar years, 21 of 43 nominations have progressed to full assessment. Of the 21, nine were subsequently recommended to the Minister for State Heritage listing and 12 remain under assessment.

3.3.2 Prior Council consideration of the Site's heritage values

31. The potential heritage significance of the Seidler-designed synagogue on the Site had previously been considered or had opportunity to be considered over an extended period by Council as outlined in Table 4. During this time significant alterations and additions to the Site were granted planning approval and the Site was rezoned through a landowner-led Planning Proposal to permit medium density residential.

Table 4 Summary of Council's prior consideration of heritage

Year	Event	Outcome
c. 1989	<i>Unknown planning approval pathway</i>	Construction of the Adler Building adjacent to the site, which is internally joined to the synagogue building via a covered walkway
2004	Request made by the then landowners (the Gutnick family) for the local heritage listing of the Site	The listing was subsequently requested by the landowner not to proceed for financial hardship reasons and was not progressed further by Council.
2013	Historical research conducted on the Site by Council officers with a view to local listing	No formal study was reported to Council. This was reported as being due to ownership changes and the blast wall construction.
2013	Development application (DA-158/2013) granted consent by Council for new windows, front fence and alterations to the existing building. Council imposed a condition relating to heritage conservation that did not allow for demolition of the front stairs or construction of the blast wall	A modification to this DA appears to have been made in 2014 to modify conditions to allow for fence changes including the blast wall and bollards, window changes and the deletion of s94 contributions.
2020	LGA-wide Council Heritage Assessment (draft)	The Site was not identified in the study, which was acknowledged as an oversight by Council in their meeting with the Commission. 750 sites were considered, including 38 Flood Street, a residential flat building adjoining the Site that was identified in the study and considered for listing (though not recommended) and 40 Flood Street, another residential flat building, which was recommended for local listing.

Year	Event	Outcome
2022	Council did not support the landowner-led Planning Proposal (PP-2022-676) seeking the spot rezoning of the land	Council's assessment did not include the impact on heritage values to be a factor contributing to Council's objection to the Planning Proposal.

3.3.3 Conclusions of expert heritage reviews

32. Further to Council's considerations in Table 4 above, the high level conclusions of the reviews of the Site that are known to the Commission and are referred to earlier in this section are summarised in Table 5.

Table 5 Overview of heritage reviews of the Site

Date	Assessment	Expert	Outcome
2017	Thematic Heritage Study of Seidler's Work prepared for the Heritage Council	Hericon Consulting	The Site was mentioned in the study but not selected as one of the places recommended for further assessment for potential SHR listing.
2019	Review of 2017 Thematic Study to identify a representative sample of Seidler's work to prioritise for SHR listing assessment	SHRC and its subject matter expert working group	The Site was not selected during this process.
2020	LGA-wide Council Heritage Assessment (draft)	Council (internal)	Council did not include the Site in the assessment which identified 750 items using precinct committees and Council survey and resulted in 59 items being recommended for local listing.
1 August 2023	SHRC Preliminary Assessment	SHRC	Resolved to progress the nomination of the Site for State heritage significance to full assessment.
September 2023	Landowner commissioned independent advice	Weir Phillips Heritage and Planning	Concluded that "the degree of intervention to the site has diminished the aesthetic significance of the building and the public's ability to understand it" and that "heritage listing of the subject site should not occur because reconstruction and reinstatement of a known earlier state is not a realistic proposition." (pp 45-46)

Date	Assessment	Expert	Outcome
13 September 2023	Landowner commissioned independent advice	Extent Heritage	Concluded the Site “lacks sufficient merit against the other heritage significance criteria due to the level of compromise of the original fabric and the lack of wider social or historical importance beyond its immediate congregation” (p (i))
15 November 2023	Council-commissioned independent advice to inform PP-2023-1224	Hector Abrahams	Concluded the Site has state and local heritage significance and “[t]he Seidler-designed building should be retained and conserved” and listed as a heritage item in the WLEP 2012.

3.3.4 Other heritage considerations

33. The Commission notes that the IHO made by Council on the Site expired on 10 February 2024, and a nomination by Council to Heritage NSW to assess the Site’s State heritage significance had not been finalised at the time of writing. The Commission further notes that there is an ancillary building on the Site fronting Anglesea Street which was also designed by Harry Seidler, which has not been identified in the material before the Commission as having heritage significance and is not part of the Planning Proposal.

3.4 Key themes

34. The Commission has reviewed the Material, including submissions, and in this section of the report sets out its considerations under key themes relevant to the heritage listing requirements.

3.4.1 Architectural value

35. The criteria considered in this advice regarding architectural value under the Assessing heritage significance guideline are (b), (c), (e), (f) and (g) (see criteria in Table 3).
36. The building is a work by the renowned architect Harry Seidler and although examples of his works are listed as local and/or State heritage items, there are other Seidler buildings within NSW which are not listed or under consideration to be listed. The subject Seidler work has been examined by experts on several occasions and there are contrary expert views as to whether the site has local heritage significance. The Commission considers that the building’s association with a specific highly regarded architect may but does not necessarily make it an item worthy of local heritage listing, however its historical association with other eminent visitors to the Site does not.
37. The Commission acknowledges the status and contribution of Harry Seidler to architecture as one of the leading representatives of Modernism in Australia, noting the application of the Bauhaus principles for which he is particularly known. The Commission also acknowledges the Seidler family’s submissions to Council during the exhibition period in support of the listing of the Site due to its architectural importance.

38. Council's view and expert assessment that the Site is architecturally significant as a Seidler work and his only religious building must be weighed against other assessments of the Site as not meeting the criteria for listing, including the Thematic Study of Seidler works commissioned by the Heritage Council, the LGA-wide assessment of local heritage undertaken earlier by Council, the prior opportunities that Council had to progress a listing (see Table 4), and the conclusions of the heritage assessments undertaken on behalf of the landowner.
39. The Commission specifically accepts that the roof system of the synagogue is a significant example of the techniques of barrel vaulting and thin concrete shell structures, and considers that while this technique may be more common in other locations, it remains rare locally. Other architectural features – including the front elevation, cream brick walls, internal furniture and finishes, roof facades as seen from various elevations and the curved stair wall – have been either demolished over time or altered (on occasion, with Council approval or through complying development) to a degree that they compromise the architectural significance of the building. The impact of these alterations and additions on the heritage value is further considered in sections 3.4.3 and 3.4.4.
40. The Commission finds that, given the impact of alterations and additions, the nine-bay vaulted concrete shell roof of the building is the primary remaining element of heritage value and this element retains heritage significance. Its current value with respect to its condition, however, is discussed further in sections 3.4.3 and 3.4.4.

3.4.2 Social value

41. The criteria considered in this advice regarding social value under the Assessing heritage significance guideline are (a), (d), (e), (f) and (g) (see criteria in Table 3).
42. During exhibition of the Planning Proposal, Council received 48 submissions, 41 in support and 7 against the proposed listing. The majority of public submitters in support of the listing have a connection to the building because of an interest in architecture or because they reside close by. Several submitters in support have a connection to the building through previous (e.g., attendance as a child) or periodic (e.g., holiday or occasional) use of the synagogue or because they are part of the local Jewish community.
43. One submitter who currently uses the synagogue did not support the local heritage listing because of the potential resulting difficulties in making changes to the building to cater for changing needs. No other submissions specified that they were a current congregation member or regular user of the building.
44. The Commission notes that Hector Abrahams considers the Site to be important to the local Bondi Jewish community and special for its purpose and function as an educational and religious institution, meeting criteria (d) of the Assessing heritage significance guidelines.
45. Criteria (d) is subject to inclusion and exclusion guidelines. The exclusion guidelines are that the item is only important to the community for amenity reasons and the item is retained only in preference to a proposed alternative. The guidelines in the section relating thresholds for to Criteria (d) notes that a locally significant place is one "...in which a local community or cultural group gathers for rituals or ceremonies".
46. In its meeting with the Commission, the landowner reported that there are approximately 13 other places of Jewish worship within the Bondi area. The Commission notes that the Australian Bureau of Statistics (ABS) 2021 census data shows, 16% of the population of the Waverley LGA identified as affiliated with Judaism.

47. The Commission notes the Site is likely to retain a heritage significance with respect to its congregation, which is not unusual as there are a number of places of worship for the community within the Bondi area that are also likely to hold significance for their congregations.

3.4.3 Alterations and additions

48. Step 5 in the *Assessing heritage significance guidelines* is to consider the impact of alterations and additions on the heritage value of the Site. It follows the assessment of heritage significance against the criteria (Step 4) on the basis that significance can be affected by the authenticity of a place or object, as well as the extent to which alterations, demolition of fabric and additions have impacted on readability of a place or object, including level of intrusiveness and reversibility of such alterations.
49. On its website, Heritage NSW define reversibility as follows:
Reversibility or the requirement to be reversible refers to the ability of any new fabric installation or item adaptation to be removed in the future without damage to the heritage item's significance, and, without damage to significant fabric¹.
50. Weir Phillips assessment notes that many of the alterations to the Site are not reversible and have diminished the spatial qualities of the synagogue.
51. The letter from DOCOMOMO dated 23 January 2023 states that the alterations to the building could be reversed to reinstate the original presentation of the building. In the landowner's meeting with the Commission, Dr North (Extent Heritage) reiterated the view that damage to the original fabric, impacts on authenticity and high costs would arise from any efforts to reverse the extensive alterations to this Site.
52. The Commission notes that significant alterations and additions have been made to the exterior of the Site, as observed during its site inspection, including substantial changes to the front façade (Figure 1 and Figure 2), rendering and painting of original brickwork, changes to and additions of windows, cladding and demolition of the rear stairway, the covered walkway linking the synagogue to the Adler Building, and an extension to the rear of the Site covering approximately half of the original rear elevation.

¹ Heritage NSW 2024, *Standard exemptions*. Glossary of Terms. <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/state-heritage-register-items/standard-exemptions>. Accessed 1 March 2024.



*Figure 2 View of Flood Street frontage (1961)
(Source: Weir Phillips Heritage & Planning 34-36 Flood Street Heritage Assessment, 2023)*



*Figure 1 View of Flood Street frontage (Current)
(Source: Weir Phillips Heritage & Planning 34-36 Flood Street Heritage Assessment, 2023)*

53. The interior of the building has undergone significant alteration, with the layout of the seating and arc of the synagogue altered, rendering and/or painting of walls, modern air conditioning bulkheads, lighting, seating and fittings, the replacement of the original parquet floor with tiles, and the floor plan of the lower levels altered.
54. Although a level of intrusiveness over time is not uncommon in buildings of this age and often buildings with heritage value, the Commission considers the alterations and additions to the building not to be reversible without damaging the item's significant fabric. This includes:
- removal of the rendering over the original valuable face cream brick and the underside of the concrete vaulted roof;
 - removal of tiles from the courtyard stair unit;
 - reversal of window additions on the northern façade; and
 - demolition of the rear extension.
55. The Commission notes that the Planning Proposal specifically seeks to amend Schedule 5 of the LEP 2012 to include a written description of 'Harry Seidler designed synagogue building, interiors and exteriors'. The Commission considers the extent of alterations and additions to both the interior and exterior have significantly altered the original context of the synagogue and have compromised the heritage value of the building.

3.4.4 Condition

56. Step 5 in the *Assessing heritage significance guidelines* also includes that significance can be affected by the integrity, nature and/or condition of a place or object.
57. Weir Phillips' assessment notes that:
- the roof is considered the largest and best example of thin concrete shell technology of the 1950s in NSW. However there is widespread concrete cancer, timber rot, and water ingress.*
58. At the Commission's request, the landowner provided a Structural Condition Report, prepared by Moubarak & Partners Consulting Engineers dated 21 March 2023. The report concludes (in relation to the roof of the building) that:
- the significant and widespread cracking, spalling and corrosion of exposed reinforcement indicates the apparent onset of "concrete cancer" to the arch roof structure and may lead to further damage and possibly more structural damage if remedial measures are not implemented;
 - the structural integrity of the synagogue building at the time of the inspection still appeared to be satisfactory;
 - there is a chance of a spread of the "concrete cancer" throughout the roof arch structure due to its proximity to the coastal seawater and susceptibility of corrosion;
 - the concrete roof arch structure appears to have reached the end of its design life and ongoing maintenance and remedial measures are now required to extend the life of the building for its current use; and
 - waterproofing remedial works also appear to be required as water ingress paths were identified between the top of the concrete arch and the timber slats supporting the roof membrane and the slates have weathered and rotted and require removal and replacement.

59. In conjunction with the Commission's observations at the site inspection, the Commission acknowledges the findings of this report and finds that the condition of the roof system, which otherwise retains heritage value, is diminished to the point where its protection and conservation is not likely in the long-term. A local listing would not, on its own, require such arrangements to be implemented.
60. If further information regarding the future of the building, including maintenance plans, financial viability of the necessary repairs and ongoing maintenance and/or plans for the adaptive reuse of the building in an improved state of repair, was to become available, further assessment of its heritage value should be considered.

3.4.5 Implications of local listing

61. In its submission to the Commission, Council argued that the proposed local heritage listing does not inherently prevent additional land uses or further development of the Site, advising that it is unlikely to create additional financial burden as it would not prevent sensitive development and adaptive reuse of the Site.
62. However, the Commission notes that if the Site remains unlisted any development application affecting the Site would, to the extent relevant, still be required to consider impacts on heritage under section 4.15 of the EP&A Act. At the time of determining any future DA, the consent authority would have the opportunity to review any heritage assessment and, if the DA is approved, impose any appropriate conditions of consent, including in consideration of the matters raised in paragraph 60.

4. Conclusions

63. The Commission has undertaken a review of the final planning proposal PP-2023-1224 and supporting documentation as requested by the Department (para 16). In doing so, the Commission has considered the Material (see section 3.1 above) including submissions by the landowner, Council, Heritage NSW and the Department.
64. The Commission acknowledges the history of the Site and recognises that it does have heritage value, specifically with respect to the technical and architectural features of the thin concrete shell roof, as well as through its association with Seidler and the local Jewish community. However, the integrity of the heritage significance of the roof and associations has been significantly compromised by the intrusiveness of the later additions and alterations, the absence of a practically or financially feasible option for reversibility of these alterations and additions, and the declining condition of the roof.
65. Any consideration for a local heritage listing of the Site would require further information to satisfactorily confirm that the Site has reasonable prospects of enhancing the current condition and/or restoring the site at a feasible cost. No such evidence is before the Commission.
66. Should the Department elect to progress the Planning Proposal, the extent of the impact of alterations and additions on the integrity of the heritage significance are such that the Commission would recommend the interiors of the building be excluded from any listing.

67. The Commission considers that the Site should not be subject to a local heritage listing unless and until there is sufficient detail regarding the prospect of enhancing the current condition and/or restoring the Site. In making this recommendation, the Commission notes that the heritage value of the Site, taking into account its current state of conservation, should be considered and appropriate conservation measures taken into account at the time of any future development application for the Site, and such measures should be achieved through the provisions of the EP&A Act and relevant EPIs.
68. Accordingly, the Commission advises that the Department should not finalise Planning Proposal (PP-2023-1224) at this time.



Terry Bailey (Chair)
Member of the Commission



New South Wales Government
Independent Planning Commission

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