



ATTACHMENT D - EXCAVATION MINUTES AND AGENDA

Waverley Local Environmental Plan 2022

Local Strategic Planning Statement Implementation



W A V E R L E Y
C O U N C I L

COUNCIL MEETING

A meeting of WAVERLEY COUNCIL will be held by video conference/at Waverley Council Chambers,
Cnr Paul Street and Bondi Road, Bondi Junction at:

7.00 PM, TUESDAY 16 MARCH 2021

A handwritten signature in black ink, appearing to read 'Emily Scott'.

Emily Scott
Acting General Manager

Waverley Council
PO Box 9
Bondi Junction NSW 1355
DX 12006 Bondi Junction
Tel. 9083 8000
E-mail: info@waverley.nsw.gov.au

NOTICE OF MOTION CM/8.3/21.03



Subject: Bondi Sand Body Excavation

TRIM No: A02/0787-02

Submitted by: Councillor Wy Kanak
Councillor Keenan

MOTION:

That Council:

1. Notes the repeated problems of building collapses following excavation on adjacent sites.
2. Includes provisions in the Waverley Local Environmental Plan that consider the structural integrity of adjoining buildings.
3. Reviews its conditions of consent relating to excavation.

Background

Over many years, excavation for underground car parking on construction sites in the Bondi sand body has resulted in damage to adjacent property. There are multiple examples of the problem in the unconsolidated sands, from the recent Curlewis Street and Gilgandra Road, North Bondi, collapses in December 2020, to the Monster in Lamrock Avenue in the early 2000s. In Lamrock Avenue, a beautiful original neighbouring Art Deco residential flat building had to be demolished following extreme cracking caused by the Monster. In Curlewis Street, a neighbour awoke to blue sky, and in Gilgandra Road a worker was seriously injured by a collapsing wall. Poor building practices are largely responsible for these accidents, but the fundamental problem is one of natural sand movement.

Bondi sand body excavation also impacts and potentially damages Aboriginal archaeological remains high within the Bondi sand body. Historically, the Bondi Basin's freshwater lagoons, sandy soils and tea trees supported Aboriginal occupation over many millennia. The famous Bondi Points were produced nearby.

Residents are concerned there could be more instances like Mascot Towers and Opal Tower due to the lack of control and supervision surrounding building work.

Waverley and other councils have less control due to the State planning law, which has created a private certification system that excludes council regulatory officers from the capacity to oversee standards.

And it's not the big buildings that have come under the spotlight. The recent partial collapse of a home in Curlewis Street, Bondi, highlighted the lack of supervision on the site, as there was no effective support on the existing building prior to excavation.

There were also incidents on sites in nearby Lamrock Avenue and Gilgandra Road.

We seek Council in its forthcoming revision of the Local Environmental Plan (LEP) to prohibit basement excavation in the sands of the Bondi Basin.

There have been many too many collapses of buildings adjacent to excavations.

There are no mandatory qualifications for certifiers or engineers and Council can only intervene at a site when safety issues are involved.

Prohibiting excavation in dangerous grounds is the only solution until certification is independent, preferably public, and there is a rigorous professional standards body that can hear complaints without the expense of legal action.

The NSW Government Public Accountability Committee inquiry into the regulation of building standards, quality and disputes had amended its terms of reference including case studies on Mascot Towers and Opal Tower.

There was a recommendation that the State Government establish a Professional Engineers Registration Scheme for the building industry, which resulted from community, local council and expert submissions to the Committee about unregulated building practices.

The Committee also recommended the NSW Government speed up its response to the recommendations about refining the building and construction practices.

Problems resulting for the house collapse in Curlewis Street may well have been avoided if the Parliamentary Committee's safeguarding recommendations were in place sooner.

The land on which the Curlewis Street house stands is part of the original sand belt that ran from Bondi through to Rose Bay before the suburb had literally emerged for the sand hills. And most of the original houses on the sand belt have stood the test of time mainly due to the strict building practices Council had in place at the time of construction.

The Curlewis Street location is also on the border of the Bondi-Rose Bay sand body identified in the 2009 Waverley Aboriginal Heritage Study as having the potential to unearth significant artefacts and even remains, as Aboriginal burials have been found on nearby Royal Sydney Golf Course.

General Manager's comment

Council has provided several submissions to relevant government departments noting the deficiencies with privately certified developments. It is anticipated with the introduction of the Design and Building Practitioners Regulation from July 1 2021 that the registration of key practitioners will assist with improving building compliance.

Both the current and draft Waverley Local Environmental Plan consider excavation and the disruption or detrimental effect on adjoining premises. Conditions of consent have recently been reviewed and are also applied to protect adjoining premises.

Recent building collapses are in part due to inappropriate shoring practices that are currently under full investigation by SafeWork NSW.

Tony Pavlovic
Director, Planning, Environment and Regulatory



**MINUTES OF THE WAVERLEY COUNCIL MEETING
HELD BY VIDEO CONFERENCE/AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD,
BONDI JUNCTION ON TUESDAY, 16 MARCH 2021**

Present:

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

Staff in attendance:

Emily Scott	Acting General Manager
John Clark	Director, Customer Service and Organisation Improvement
Tony Pavlovic	Director, Planning, Environment and Regulatory
Shane Smith	Acting Director, Community, Assets and Operations
Darren Smith	Chief Financial Officer
Evan Hutchings	Executive Manager, Governance and Risk

At the commencement of proceedings at 7.02 pm, those present were as listed above, with the exception of Cr Wakefield, who arrived at 7.21 pm, during addresses by members of the public, Cr O'Neill, who arrived at 8.24 pm during item CM/6.1/21.03 and Cr Kay, who arrived at 8.37 pm during item CM/7.2/21.03.

At 10.39 pm, Cr Burrill left the meeting and did not return.

At 11.00 pm, Cr Kay left the meeting and did not return.

show leadership in our commitment to reduce carbon emissions in our local government area.

7. Develops fact sheets and other materials to promote EV use to the community.
8. Investigates amending the Waverley Local Environmental Plan and/or Waverley Development Control Plan to include the requirement to provide charging stations in new strata buildings (80% of current charging is done at home).
9. Investigates reducing the staff vehicle selection list from 22 options by at least 50% (with electric/hybrid vehicles being given priority within the new list) and incentivising electric/hybrid vehicles as the preferred staff option, and undertakes consultation with senior staff to determine how this might be achieved without negative impacts to Council.
10. Officers report every six months, as per current practice, on the overall fuel efficiency of the passenger fleet as measured in average CO₂ (g/km) per vehicle as defined by the Australian Government green vehicle guide.

Division

For the Motion: Crs Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

Against the Motion: Crs Betts and Burrill.

At 10.39 pm, during the consideration of this item, Cr Burrill left the meeting and did not return.

R Mellon addressed the meeting.

CM/8.3/21.03 Bondi Sand Body Excavation (A02/0787-02)

MOTION

Mover: Cr Wy Kanak
Seconder: Cr Keenan

That Council:

1. Notes the repeated problems of building collapses in the Waverley local government area following excavation on adjacent sites and includes enhanced provisions in the next Local Environmental Plan (LEP) that consider the structural integrity of adjoining buildings.
2. Notes the inappropriate shoring practices that featured in the recent 21 Curlewis Street, Bondi, sand slide related to the building collapse at 19 Curlewis Street, Bondi.
3. Reviews the LEP to produce standard conditions of consent relating to excavation that prohibit Bondi-Rose Bay sand body excavation deeper than the currently allowed state complying development certificate 3 m depth.
4. Reviews the LEP to produce standard conditions of consent that are consistent with the introduction of the Design and Building Practitioners Regulation from 1 July 2021.

THE MOVER OF THE MOTION THEN ACCEPTED AMENDMENTS TO CLAUSES 3 AND 4.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION:

That Council:

1. Notes the repeated problems of building collapses in the Waverley local government area following excavation on adjacent sites and includes enhanced provisions in the next Local Environmental Plan (LEP) that consider the structural integrity of adjoining buildings.
2. Notes the inappropriate shoring practices that featured in the recent 21 Curlewis Street, Bondi, sand slide related to the building collapse at 19 Curlewis Street, Bondi.
3. Reviews section 6.2(3) of the LEP to strengthen the development consent for earthworks relating to excavation that prohibit Bondi-Rose Bay sand body excavation deeper than the currently allowed state complying development certificate 3 m depth.
4. Reviews the WLEP and DCP to produce standard conditions of consent that are consistent with the introduction of the Design and Building Practitioners Regulation from July 1, 2021.

Cr Burrill was not present for the consideration and vote on this item.

N Mattock, D Goldberg and D Burgess addressed the meeting.

At 10.57 pm, following the vote on this item, the meeting adjourned for a short break.

At 11.00 pm, Cr Kay left the meeting and did not return.

At 11.01 pm, the meeting resumed.

9. Questions with Notice

There were no questions with notice.

10. Urgent Business

CM/10.1/21.03 Remote Attendance by Councillors at Council Meetings (SF20/3852)

The Chair ruled that this matter was urgent.

MOTION / DECISION

Mover: Cr Masselos
Seconder: Cr Goltsman

That Council deals with this matter as an item of urgent business

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Keenan

That Council:

1. Permits Councillors to attend meetings of Council and Committees of Council remotely by audio-visual link in exceptional circumstances.