

MINUTES OF THE WAVERLEY DEVELOPMENT  
ASSESSMENT PANEL MEETING HELD AT THE  
MARGERET WHITLAM CENTRE ON WEDNESDAY, 27 June 2018

**Panel members present:**

The Hon Paul Stein (Chair)  
Peter Brennan  
Jan Murrell  
Allyson Small

**Also present:**

Mr A Faruqi, Acting Executive Manager, Building Waverley  
Ms A Rossi, Manager, Development Assessment  
Ms R Siaosi Administration Officer

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*At the commencement of the public proceedings at 12.18pm, those panel members present were as listed above.*

*At 2.30pm, the meeting was closed to the public.*

*At 3.00pm, the Panel reconvened in closed session.*

*At 5.10pm the meeting closed.*

**WDAP-1806.A Apologies**

There were no apologies

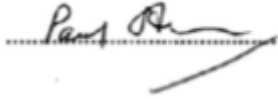
**WDAP-1806.DI Declarations of Interest**

The Chair called for declarations of interest and the following was received:

1. Mr P Brennan declared a less than significant non-pecuniary interest in item WDAP-1806(2).4 30 Tower Street, Vaucluse - Modification of approved alterations and additions to semi-detached dwelling to delete condition 2(a) and (b) regarding roof colour and front window and include changes to first floor window size (DA-118/2017/A). Mr Brennan informed the meeting that he is a former work colleague with one of the owners of the development application property, and advised that he would not be present for the site inspection, the public submissions, and the deliberations of the Panel and the determination of the item.

**WDAP-1806.R Determinations**

The Panel resolved to make the following determinations overleaf.

A handwritten signature in black ink, appearing to read "Paul Stein", is written over a horizontal dotted line. A long, sweeping underline stroke extends from the end of the signature to the right.

The Paul Stein  
Chairperson

**WDAP-1806(2).1**

**105 Wellington Street, Bondi - Demolition of tennis courts and ancillary buildings, construction of a place of public worship (POPW – in this case a synagogue), 2 x three storey residential flat buildings (containing 32 apartments) with roof terraces, basement car parking and landscaping (DA-413/2017)**

Report dated 14 June 2018 from the Development and Building Unit.

**DECISION:** This application be granted a Deferred commencement consent in accordance with the recommended conditions in the report and subject to the following amendments;

Conditions to be added/amended:

**DEFERRED COMMENCEMENT CONSENT**

1. (viii) The senior management nominee of the Place of Public Worship (synagogue) is to attend a Precinct meeting and/or and Bondi Beach Precinct or the Bondi Precinct when invited in writing by the convenor of the relevant committee. Written notice of any meeting shall be provided to the Synagogue no later than seven (7) days prior to the committee meeting. The representative should make themselves known at the meeting and their attendance should be recorded in the minutes. The minutes should be forwarded in writing to the Ward Councillors after every meeting.
- (ix) The Plan of Management shall be amended so that paragraph 6.6 sub paragraph 4 to require that the question of whether a complaint is justified should be decided by the board of the synagogue. Minutes of this board meeting shall be taken and made available to the local precinct.
- 2.(xii) The Landscape Plan is to be amended to reasonably maintain light and sun to 107 Wellington Street.
3. A Preliminary Environmental Site Assessment or a Detailed Environmental Site Assessment prepared by a suitably qualified consultant must be prepared and submitted to Council clearly stating that the site is suitable for the proposed use.

**CONDITIONS OF CONSENT**

129. (a) amendment to the activity:

Sukkah / Outdoor pergola evening use with roof that maybe open (maximum 8 day period occurring once per calendar year)	50 patrons at any one time/sitting
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130(c) Weekday, evening service 1 hour before sunset in summer or sunset in winter for a duration of 30 minutes.

132(b) Yizkor Service: 11.00am-2.00pm

141(d) No sound reproduction device shall be installed or used in the Foyer, outdoor pergola/ Sukkah or any other outdoor space.

*REASONS: The Panel generally agrees with the independent planning consultant's report. Having regard to the zoning of the site, both of the uses, place of public worship and residential flat building are permissible uses. The Panel noted the most recent security advice from the applicant, together with Councils experience with regard to other places of public worship in the local area, it is considered that a place of public worship in this location is an acceptable land use. The Panel is of the view that a deferred commencement consent is appropriate.*

**For the Decision: Stein, Murrell, Brennan, and Small**

**Against the Decision: Nil.**

*L Suttor, G Tobias, L Gondard, B Orgad, and B Orgad (on behalf of Z Grinberg), N Boaz, D Gravina (objectors) D Rabinowitz, M Nuestein, Rabbi Ullman (on behalf of the applicant) addressed the meeting.*

**WDAP-1806(2).2**

**14 Narelle Street, North Bondi - Alterations and additions including first floor addition and front hard stand parking space (DA-32/2018)**

Report dated 15 May 2018 from the Development and Building Unit.

**DECISION:** The Panel finds that the clause 4.6 variation is well founded and is approved subject to the recommended conditions in the report, as amended by the Panel.

The conditions shall be amended as follows:

1. GENERAL MODIFICATIONS

- (a) A mobile garbage bin storage enclosure is to be constructed on the hardstand car parking space, with the capacity to house three mobile garbage bins so as to preserve the streetscape amenity.
- (b) The hardstand carparking space area is to be reduced to 1 car width (maximum width 3.3m) located on the western side of the frontage and the remainder of the front yard area is to be suitably landscaped so as to maintain the streetscape amenity. The planting shall include a canopy tree.
- (c) The proposed new metal carport is to be deleted so as to minimize the visual impact on the streetscape.
- (d) The balcony of bedroom 3 located on the ground floor level shall be reduced to a depth of 1.5m from the face of the building.
- (e) The rear yard of the premises shall be suitably landscaped so as to provide a landscape setting and buffer for the visual privacy of adjoining properties.

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

*REASONS: The Panel generally agrees with the Planning officer's report and has refined some of the conditions of consent to improve amenity for neighbours and to enhance the streetscape.*

**For the Decision: Stein, Murrell, Brennan, and Small.**

**Against the Decision: Nil.**

*D P Baffsky (objector), T Johnston (applicant) N Savateev (on behalf of the applicant)*

**WDAP-1806(2).3**

**20 Loombah Road, Dover Heights - Demolition, excavation and construction of a new dwelling house with integrated garage and swimming pool (DA-94/2017/1)**

Report dated 3 May 2018 from the Development and Building Unit.

**DECISION:** The Panel considered the applicant's request for a further deferral and determined that the application shall not be deferred again. The Panel inquired of the applicant's legal representative as to whether the development application should be withdrawn by the applicant, but he had no instructions on this issue. Therefore, the application be refused for the following reasons:

**REASONS:**

1. *The proposed development is contrary to the aims and objectives of the State Environmental Planning Policy No. 19 - Bushland in Urban Areas with regards to preserving endangered species of *Acacia terminalis* subsp. *terminalis* and the adverse impacts on the continued survival of this habitat in this area.*
2. *The proposed development will result in adverse impact on an area identified as Biodiversity on the Terrestrial Biodiversity Map of Waverley LEP 2012 and it fails to comply with:*
  - a) *The objectives of cl.6.4(1)(a), (b) and (c) of Waverley LEP 2012;*
  - b) *The matters outlined under cl.6.4(3) (a)(i), (ii), (iii) and (iv) of WLEP;*
  - c) *Has failed to satisfy cl.6.4(4) of Waverley LEP 2012; and*
  - d) *The objectives and controls of Part B3 Biodiversity of Waverley DCP 2012.*
  - e) *The applicant has not provided a Species Impact Statement*
3. *The proposed development is excessive in height and fails to comply with:*
  - a) *The height of buildings development standard of 8.5m required by clause 4.3 of Waverley LEP 2012;*
  - b) *Objectives of the height of buildings development standard set out in clauses 4.3(1)(a) and (d) in Waverley LEP 2012;*
  - c) *Objectives (a), (b), (c), (d) and (f) set out in section 1.1 of Part C1 of Waverley DCP 2012; and*
  - d) *The external wall height control of 7m for pitched roof dwellings required by control (a) under section 1.1.2 of Part C1 of Waverley DCP 2012;*
  - e) *The clause 4.6 variation relating to height is not well founded.*

4. *The proposed development results in excessive bulk and scale and it fails to comply with:*
  - a) *The floor space ratio (FSR) development standard of 0.5:1 required by clause 4.4A(c) of Waverley LEP 2012; and*
  - b) *Objectives of the FSR development standard set out in clauses 4.4(1)(b), (c) and (d) of Waverley LEP 2012;*
  - c) *The clause 4.6 variation relating to floor space ratio is not well founded.*
  
5. *The proposed development results in detrimental impact on an environmentally sensitive area, the local environment, neighbouring properties and the streetscape, and it fails to comply with:*
  - a) *The objective of cl.6.2(1) of Waverley LEP 2012 ensuring that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land;*
  - b) *The matters outlined under cl.6.2(3) (a), (b), (d), (g) and (h) of Waverley LEP 2012; and*
  - c) *Part C1 Section 1.3 Excavation Waverley DCP 2012 including objectives (a), (b) and (c) and controls (d), (e), (f).*
  
6. *The proposed development results in adverse impact on an area identified as Biodiversity on the Terrestrial Biodiversity Map of Waverley LEP 2012 and it fails to comply with:*
  - a) *The objectives of cl.6.4(1)(a), (b) and (c) of Waverley LEP 2012;*
  - b) *The matters outlined under cl.6.4(3) (a)(i), (ii), (iii) and (iv) of Waverley LEP 2012;*
  - c) *Has failed to satisfy cl.6.4(4) of Waverley LEP 2012; and*
  - d) *The objectives and controls of Part B3 Biodiversity of Waverley DCP 2012.*
  
7. *The proposed development is inconsistent with regard to building setback controls and does not comply with:*
  - a) *Objectives (d) and (e) under section 1.2 of Part C1 of Waverley DCP 2012; and*
  - b) *Control (a) and (d) under section 1.2.1 of Part C1 of Waverley DCP 2012 that requires new buildings to be extend no further than the front predominant building line.*

8. *The proposed development is inconsistent streetscape and visual impact controls does not comply with:*
- a) *Control (a) under section 1.4 of Part C1 of Waverley DCP 2012 in relation to new development to be visually compatible with its streetscape context. It should contain or at least respond to essential elements that make up the character of the surrounding area;*
  - b) *Control (c) under section 1.4 of Part C1 of Waverley DCP 2012 in relation to the design of a development not dominating the streetscape, particularly when viewed from a public place such as a park or reserve; and*
  - c) *Control (d) under section 1.4 of Part C1 of Waverley DCP 2012 in relation to the design of a development to maintain the established character of the building in terms of significant landscaping. Existing ground levels and significant landscaping is to be maintained.*
  - d) *The proposed development does not comply with control (i) under Section 1.7 Fences of Part C1 of Waverley DCP 2012 requiring fences including footings to not encroach on the street alignment or adjoining properties.*
9. *The proposed development does not comply with visual and acoustic privacy controls as follows:*
- a) *Objective (a) under section 1.8 of Part C1 of Waverley DCP 2012 in relation to the impact on existing residential or other properties due to unacceptable loss of privacy or generation of noise;*
  - b) *Control (a) under section 1.8 of Part C1 of Waverley DCP 2012 in relation to the location of habitable room windows to not directly face windows to habitable rooms and/ or open space of neighbouring dwellings;*
  - c) *Controls (c) and (d) under section 1.8 of Part C1 of Waverley DCP 2012 in relation to the maximum size of elevated deck or balcony.*
10. *The proposed development does not comply with solar access and overshadowing controls as follows:*
- a) *Objective (c) under section 1.9 of Part C1 of Waverley DCP 2012.*
  - b) *Control (c) under section 1.9 of Part C1 of Waverley DCP 2012 that states that any reduction of sunlight as a result of a variation to FSR, maximum building and wall height or setback controls may be considered unacceptable.*
11. *The proposed development does not comply with regards to view sharing principles as given in the Waverley DCP 2012 as follows:*



- a) Objectives (a) and (b) under section 1.10 of Part C1 of WDCP.
  - b) Control (c) under section 1.10 of Part C1 of Waverley DCP 2012 that encourages development to be designed and sited to enable a sharing of views with surrounding dwellings.
12. The proposed development does not comply with landscaping and open space controls as given in the Waverley DCP 2012 as follows:
- a) Objectives (a) and (c) under section 1.12 of Part C1 of Waverley DCP 2012 that is to enhance the amenity and visual setting of the site, streetscape and surrounding neighbourhood;
  - b) Objective (c) under section 1.12 of Part C1 of Waverley DCP 2012 that requires the retention and increase in remnant populations of endemic flora and fauna; and
  - c) Control (i) under section 1.12 of Part C1 of Waverley DCP 2012 that requires existing natural features including sandstone and rock features to be retained and incorporated as landscape features on the site in order to maintain the natural character of the landscape.
13. The proposed development does not comply with swimming pools and spa pools controls as given in the Waverley DCP 2012 as follows:
- a) Objectives (b) under section 1.13 of Part C1 of Waverley DCP 2012 that seeks to retain visual and acoustic privacy of adjoining properties; and
  - b) Control (f) under section 1.13 of Part C1 of Waverley DCP 2012 that encourages exposed pool structures to be screened if visible above ground.
14. The application proposes the construction of a pedestrian access bridge from Loombah Road and traversing over the road reserve and Biodiversity area to access the subject site. The pedestrian access bridge is to be constructed of lightweight materials which is to be supported on the rock shelf. Limited information has been submitted to identify the impacts of the proposed bridge on the biodiversity area, endangered species, remnant vegetation and no approval has been granted for these works under the Roads Act 1993.
15. The proposal is contrary to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 in relation to the public interest as the proposal:
- a) Exceeds the relevant development standards and planning controls applying under Waverley LEP 2012 and Waverley DCP 2012, and will consequently undermine the integrity of these standards and controls in achieving the desired future character of the Waverley local government area;

- b) *Removes a substantial portion of the natural rock shelf escarpment which will be detrimental to the natural topography of the area, the existing landscape character including the natural sandstone features when viewed from public areas and surrounding locality;*
  - c) *Impacts on the identified Biodiversity area applying under Waverley LEP 2012 and Waverley DCP 2012;*
  - d) *Impacts on the identified endangered species on site in accordance with the Threatened Species Conservation Act 1995 (NSW) and the Environmental Protection and Biodiversity Conservation Act 1999 which will consequently undermine the integrity of these provisions in protecting the survival of this habitat in the Waverley local government area.*
16. *The photo montage and plans submitted show the location of a 1.6m high fence to Loombah Road outside of the property boundaries and within the road reserve. No approval has been obtained under the Roads Act 1993 for these works. The applicant in their Statement of Environmental Effects states that ‘the pedestrian access will not only provide access to the new development but will allow Council officers and experts to fully and safely survey the biodiversity remediation and any natural regeneration of the area’, however, the construction of a fence and gate to Loombah Road as is proposed will prohibit access to the pedestrian access bridge.*
17. *The proposed development includes the provision of guest bedroom, ensuite, theatre/ living room, wet bar and gym at Level 0 which can be separately accessed at garage level and used as a secondary dwelling, however, the development application fails to identify the use for this purpose.*

**For the Decision: Stein, Murrell, Brennan, and Small.**

**Against the Decision: Nil.**

*D Novick (objector), P Jayne (on behalf of the applicant) addressed the meeting.*

**WDAP-1806(2).4**

**30 Tower Street, Vaucluse - Modification of approved alterations and additions to semi-detached dwelling to delete condition 2(a) and (b) regarding roof colour and front window and include changes to first floor window size (DA-118/2017/A)**

*Mr P Brennan declared a less than significant non-pecuniary interest in item, Mr Brennan is a former work colleague with one of the owners of the development application property, and was not present for the site inspection, the public submissions, the deliberations of the Panel and the determination of the item.*

Report dated 4 June 2018 from the Development and Building Unit.

**DECISION:** The application for the modification be approved in part subject to the recommendations in the report and amended by the Panel.

Condition amended: General modification 2 (a) is not deleted and reads as:

2. (a) The roof of all parts of the dwelling and proposed works, including the front retained portion of the dwelling, must match the existing roof of the pair of semi-detached dwellings (including colour) to provide a uniform appearance within the streetscape.

*REASONS: Conditions 2 (a) and (b) have been retained by the Panel for the reasons of symmetry with the adjoining semi in accordance with Council's DCP.*

**For the Decision: Stein, Murrell, and Small**

**Against the Decision: Nil.**

*D Friske, N Saltman (applicant) addressed the meeting.*

**WDAP-1806(2).5**

**14 Wolaroi Crescent, Tamarama - Demolition of existing dwelling and construction of three storey dwelling house above garage and new pool (DA-378/2017)**

Report dated 5 June 2018 from the Development and Building Unit.

**DECISION:** The Panel finds the Clause 4.6 variations to the height and floor space ratio to be well founded and approves of the application as a deferred commencement consent subject to the conditions recommended in the report and as amended by the Panel, as follows:

Deferred Commencement

1. (c) The front first floor balcony shall be set back in alignment with the outer front (eastern) edge of the uppermost front balcony of the dwelling house to the north of the site at 16 Wolaroi Crescent (denoted on the site survey with a level of RL38.97), to provide a front building setback of 5.5m.
3. No lift overrun is approved.
4. (c) Existing sandstone blocks shall be salvaged and where possible reused for the new front fence.
7. (a) The Cabbage Tree Palms shall be replaced with an alternate tree species that has a mature height of no greater than 4m in order to minimise view impacts. Vegetation outside the kitchen and living room windows of 12 Wolaroi Crescent shall be maintained so as to be no higher than the 1.8m dividing fence.

The applicant is to have 18 months to comply with the deferred commencement conditions.

*REASONS: The Panel generally concurs with the Planning Officer's report and refined the Deferred commencement conditions to improve the amenity outcome for neighbours.*

**For the Decision: Stein, Murrell, Brennan and Small.**

**Against the Decision: Nil.**

*M Forstmann, M Davis (Objectors), T Fennell (applicant), A Betros (on behalf of the applicant) addressed the meeting.*

**WDAP-1806(2).6**

**34-36 Macpherson Street, Bronte - Alterations and additions to the existing shop top housing development including the addition of retail space, four residential units to create a total of eight units and strata subdivision (DA-467/2017)**

Report dated 12 June 2018 from the Development and Building Unit.

**DECISION:** The Panel finds the Clause 4.6 variation relating to floor space ratio to be well founded and approves of the application subject to the recommended conditions in the report.

*REASONS: The Panel concurs with the planning officer's report and finds that the development will result in a better planning outcome than the existing situation.*

**For the Decision: Stein, Murrell, Brennan and Small**

**Against the Decision: Nil.**

*J Askin (on behalf of the applicant)*

**WDAP-1806(2).7**

**14 Gibson Street, Bronte - Alterations and additions together with first floor addition to semidetached dwelling (DA-461/2017)**

Report dated 29 May 2018 from the Development and Building Unit.

**DECISION:** The Panel finds the clause 4.6 variation relating to height to be well founded and approves of the application subject to the recommended conditions within the planning officer's report.

*REASONS: The Panel agrees with the Planning Officer's report, noting that the design incorporates features to improve the privacy of adjoining premises.*

**For the Decision: Stein, Murrell, Brennan and Small**

**Against the Decision: Nil.**

*A Roth (on behalf of the applicant) addressed the meeting.*

**WDAP-1806(2).8**

**Footpath adjacent to 201-209 Old South Head Road Bondi Junction - Advertising signage associated with a relocated bus shelter (DA-85/2018)**

Report dated 14 June 2018 from the Development and Building Unit.

**DECISION:** This application be refused for the reasons outlined in the planning officer's report.

The Panel has no jurisdiction to determine the location of this or any other bus shelter.

**For the Decision: Stein, Murrell, Brennan and Small**

**Against the Decision: Nil.**

*H Lapidge, R Beazely, M Siano (objectors) addressed the meeting.*

**Meeting closed at 5.10pm**