

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL
MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 2 NOVEMBER 2022**

Panel members present:

The Hon Paul Stein (Chair)
Stuart MacDonald
Jan Murrell
Sandra Robinson (Community Representative)

Also present:

Ms A Rossi	Manager, Development Assessment (Area 1)
Ms B McNamara	Manager, Development Assessment (Area 3)
Mr B Magistrale	Manager, Development Assessment (Area 2)
Ms R Siaoosi	Administration Officer

At the commencement of the public proceedings at 12.00 pm, those panel members present were as listed above.

*At 1.05pm, the meeting was closed to the public.
At 1.30pm, the Panel reconvened in closed session.
At 2.55pm, the meeting closed.*

WLPP-2211.A

Apologies

There were no apologies

WLPP-2211.DI

Declarations of Interest

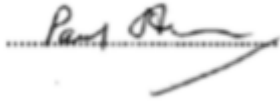
The Chair called for declarations of interest and two were received:

S Robinson advised a conflict of interest and did not participate in the public meeting or determination for item WLPP-2211.1 7 Thompson Street, TAMARAMA NSW 2026

S McDonald advised a conflict of interest and did not participate in the public meeting or determination for item WLPP-2211.3 - 66 Fletcher Street, BONDI NSW 2026

WLPP-2211.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.

The Hon Paul Stein
Chairperson

7 Thompson Street, TAMARAMA NSW 2026 - Alterations and additions to dwelling house (DA-110/2022)

Report dated 20 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the floor space ratio development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions as amended by the Panel as follows

Additional Condition – Add after Condition 1, before Condition 2 and renumber accordingly.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The eastern wall of the garage is to be setback a minimum of 500mm from the eastern boundary shared with 9 Thompson Street. Consequentially, the width of the garage and its opening will be reduced accordingly.
- (b) A Hydraulic Engineers report for the approved works must be prepared in consultation with Sydney Water and submitted to Council for review and approval. The Report shall include the construction of the slab of the garage and the need for piers to allow water to safely flow underneath the slab and not further impact on the adjoining property.
- (c) The 'bulk storage and garden equipment store' shown on Drawing DA-03 issue A is not approved. This area is to be deleted and the associated excavation, including window W1 is to be removed from the plans. Reason: unnecessary excavation contrary to *Part B14 Excavation of Waverley DCP 2012*.

The amendments are to be approved by the **Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

Amend Condition 12(c) to read as follows:

12. c) Seepage water must not be directly or indirectly discharged to adjoining properties.

For the Resolution: Stein, McDonald and Murrell

Against the Resolution: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report and has added conditions relating to drainage of the subject site.

M Fennessy (Objectors), L Rosselli (on behalf of the applicant) addressed the meeting.

Panel member - S Robinson advised a conflict of interest and did not participate in the public meeting or determination for item WLPP-2211.1 - 7 Thompson Street, TAMARAMA NSW 2026

422 Bronte Road, BRONTE NSW 2024 - Alterations and additions to existing dwelling including additional level to the rear (DA-160/2022)

Report dated 20 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment. The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

For the Resolution: Stein, McDonald, Murrell and Robinson

Against the Resolution: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

A Betros (on behalf of the applicant) addressed the meeting.

66 Fletcher Street, BONDI NSW 2026 - Modification including internal reconfiguration, lower-level excavation, window changes, extended screen, and solar panels. (DA-348/2018/C)

Report dated 20 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Panel approves the Modification application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

For the RESOLUTION: Stein, Murrell and Robinson

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

L Kosnetter (on behalf of the applicant) addressed the meeting.

Panel member - S McDonald advised a conflict of interest and did not participate in the public meeting or determination for item WLPP-2211.3 - 66 Fletcher Street, BONDI NSW 2026

74 Victoria Street, WAVERLEY NSW 2024 - Alterations and additions to an existing heritage listed dwelling. (DA-165/2022)

Report dated 20 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

Darren Naftal (on behalf of the applicant) addressed the meeting.

3 Military Road, NORTH BONDI NSW 2026 - Modifications to the approved boarding house with neighbourhood shop on garage level. (DA-203/2021/A)

Report dated 21 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Panel approves the modification application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

The Panel is satisfied that: the modification application is substantially the same development; has been notified appropriately; and the Panel has considered the submissions and taken into account the reasons the consent authority granted consent that is sought to be modified in accordance with the EPA Act.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

No speakers addressed the meeting.

103 Dover Road, ROSE BAY NSW 2029 - Demolition, tree removal, excavation and construction of a new two storey dwelling with integrated garage. (DA-292/2022)

Report dated 19 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Refused for the reasons contained in the report.

RESOLUTION: This development application is refused for the reasons set out in the Planning Officer's report.

1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following provisions of *Waverley Local Environmental Plan (LEP) 2012*:

- a. *Clause 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.5:1 and the applicant's written request under clause 4.6 of Waverley LEP 2012 has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP 2012.

Details: The proposal is considered an overdevelopment of the site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1) (d) of Waverley LEP 2012.

2. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (DCP) 2012, in respect to the following provisions:

Part B12 Design Excellence

- a. *Section 12.1 Design*, specifically objectives (a) and (d) control (e), and *Section 12.2 Context Analysis* specifically objectives (a), (b), (c) and (d), as the proposal has failed to consider the suitability of the land for development given the extent of excavation required, the relationship of the development to other development (existing or proposed) on the same site or on neighbouring sites in terms of setbacks, amenity and urban form, the overall bulk and massing of the development and environmental impacts such as overshadowing, solar access and view loss. The development does not demonstrate an understanding of an appropriate response to the specific conditions of the site nor ensure that the opportunities and constraints of a site are fully considered and incorporated into the design proposal.

Part B14 Excavation

- b. Objectives (b) and (f) and controls (d) under this Part, given the extensive basement car park proposed which is capable of accommodating car parking which exceeds the maximum car parking controls of Waverley DCP 2012.

Part C2 Low Density Residential Development

- c. *Section 2.2 Setbacks*, specifically objectives (d), (f) and (g) and controls (a) and (b) as the proposed development has a rear setback that is inconsistent with the predominant rear building line.
 - d. *Section 2.6 Solar Access*, specifically objectives (a), (b), (c) and (d) and controls (c) and (e) as the proposed development results in unacceptable overshadowing impacts on the adjoining properties to the east. Overshadowing arising out of poor design is unacceptable especially where it does not satisfy numerical guidelines.
 - e. *Section 2.7 Views*, specifically objectives (a) and (b) and controls (c) and (d) as the proposed development results in unacceptable view loss impacts on the adjoining property to the east at No.105 Dover Road, Rose Bay.
3. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity impacts upon the locality and surrounding built environment.
 4. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
 5. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
 6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

A Turner (Objector) Maurice Beraldo (on behalf of the applicant) addressed the meeting.

Mill Hill Centre, 27-33 Spring Street, BONDI JUNCTION NSW 2022 - Modification to install a retractable awning; an external seating area within Norman Lee Place; an increase in cafe patrons; and an extension to café hours of operation for the Mill Hill Centre. (DA-150/2021/A)

Report dated 20 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Panel approves the modification application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

The Panel is satisfied that the modification application is substantially the same development; has been notified appropriately; and the Panel has considered the submissions and taken into account the reasons the consent authority granted consent that is sought to be modified in accordance with the EPA Act.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

R Sabato (on behalf of the applicant) addressed the meeting.

104-106 Bronte Road, BONDI JUNCTION NSW 2022 – Demolition of the existing buildings and construction of a new part four and part five storey shop top housing building with basement car parking. (DA-327/2022)

Report dated 24 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Refused for the reasons contained in the report.

RESOLUTION: This development application is refused for the reasons set out in the Planning Officer's report as amended by the Panel, as follows:

1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following provisions of *Waverley Local Environmental Plan (WLEP) 2012*:
 - a. *Clause 4.3 Height of Buildings*

The application exceeds the maximum allowable height of 15m and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposed height is not considered compatible with the height, bulk and scale of the desired future character of the locality and does not preserve the environmental amenity of neighbouring properties by causing overshadowing contrary to clause 4.3 (1) (a) and (d) of WLEP.
 - b. *Clause 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 2:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposal is considered an overdevelopment of the site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1) (d) of WLEP.
 - c. *Clause 1.2 Aims of Plan*, specifically the aims expressed under clause 1.2(2).
 - d. *Clause 6.9 Design Excellence* as the proposed development fails to exhibit design excellence.
 - e. *Clause 6.12 Development on certain land in Bondi Junction* as it is not clear whether the development maintains the amount of non-residential floor space on site.
2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - a. *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)* as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. *Principle 1 – Context and neighbourhood* as the proposed development exceeds the height of buildings and floor space ratio development standard

under *Waverley Local Environment Plan (WLEP) 2012*, contrary to the existing and desired urban form and built form qualities of the surrounding neighbourhood.

- ii. *Principle 2 - Built form and scale* as the building envelope of the proposed development is excessive and constitutes overdevelopment of the site.
- iii. *Principle 3 – Density* as the density of the proposed development is significantly greater than what can be suitably and reasonably achieved based on the site’s area and dimensions and not all units will be afforded with a high level of amenity for future occupants of the development.

- b. *State Environmental Planning Policy (Resilience and Hazards) 2021* as a Preliminary Environmental Site Assessment (Stage 1) has not been provided. As such, an assessment in accordance with Clause 4.6 cannot be made to determine whether the site is contaminated or can be made suitable for the proposed use.

- 3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to *Waverley Development Control Plan (WDCP) 2012*, in respect to the following provisions:

Part B1 Waste

- a. General Control (a), as the submitted waste plan is unsatisfactory.

Part B5 Vegetation Preservation

- a. As the documentation submitted refers to removal of, or impact on, trees within the neighbouring property at 100 Bronte Road, Bondi Junction. Owner’s Consent has not been provided relating to any work impacting on the neighbouring site.

Part B12 Design Excellence

- a. Section 12.1 *Design*, specifically objectives (a) to (d) and controls (b) to (e), as the proposed development does not improve the quality and amenity of the public domain. The proposal is inconsistent with control (e)(iv) in that the relationship of the development to neighbouring sites is not considered satisfactory in terms of separation, setbacks, amenity and urban form.

Part C3 Other Residential Development

- a. Section 3.1 *Setbacks*, specifically objective (a) and control (a) as the proposal does not meet the site and building design controls.
- b. Section 3.5 *Building Design and Streetscape*, specifically objectives (a) and (b) and controls (a) and (b) as the proposed development does not respond to the existing streetscape character of the area.
- c. Section 3.10 *Communal Open Space*, specifically objectives (a) to (e) and controls (c), (g) and (h) as the proposed development does not provide adequate communal open space that is useable, receives solar access or accessible to all dwellings within the development.

- d. Section 3.15 *Visual Privacy and Security*, specifically objective (a) and control (d) as the proposed development does not minimise visual privacy impacts on surrounding properties.
- e. Section 3.19 *Acoustic Privacy*, specifically objective (a) and control (b) as the proposed development does minimise noise transmission within the development.

Part E1 Site Specific Development Bondi Junction

- a. Section 1.2 *Urban Form*, specifically objective (b) and controls (a) and (b) as the proposed development does not provide a 2/3 storey shop front façade to Bronte Road.
 - b. Section 1.3 *Building Use*, specifically objectives (c) and (f) and control (c) as the first floor must be designed and used for commercial purposes.
 - c. Section 1.5 *Subdivision*, specifically objectives (a) to (f) and controls (b) and (c) as the proposed building does not provide a design that interprets the small lot subdivision pattern along the street frontage.
 - d. Section 1.6 *Heritage and buildings of historic character*, specifically Clause 1.6.2 *Streets with heritage and buildings of historic character*, objectives (a) and (c) and control (a) as the proposed development does not provide a 2-3 storey façade along the street.
 - e. *Section 1.9 Street Alignment*, specifically objectives (d) to (f) and controls (a) and (f) as the proposed development does not provide a 2/3 storey street wall.
 - f. *Section 1.10 Separation Distances*, specifically objectives (a) to (d) and controls (a) to (c) as the proposed development does not provide adequate separation distances between the proposed building and neighbouring buildings.
 - g. *Section 1.11 Side and rear boundary setbacks*, specifically objectives (a) and (b) and control (e) as the proposed development does not provide adequate separation distance across Adams Lane.
 - h. *Section 1.13 Number of Storeys*, specifically objective (a) and control (c) as the proposed development exceeds 4 storeys in height.
4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
 5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
 6. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.

7. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

M Silver, I Serebrianyi (Objectors), addressed the meeting.

57 Francis Street, BONDI BEACH NSW 2026 - Substantial demolition and alterations and additions to the existing semi-detached dwelling. (DA-270/2022).

Report dated 18 October 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standards are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report.

G Karavanas, R Meyerson (on behalf of the applicant) addressed the meeting.

3 Rickard Avenue, BONDI BEACH NSW 2026 - Review of refusal seeking alterations to semi-detached dwelling for conservation of subfloor into a new garage (DA-257/2021/1)

Report dated 19 October 2022 from the Development and Building Unit.

Council Recommendation: That the Review application be Refused for the reasons contained in the report.

RESOLUTION: The Review application is refused and the original decision to refuse the development application DA-257/2021/1 is affirmed for the reasons recommended by the Officer's report as amended by the Panel as follows

1. The proposed development is contrary to Waverley Development Control Plan 2012, having regard to section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* and in respect to the following provisions:
 - a. *Part B8 – Transport*
 - i. General Objectives (d), (f) and (k), objectives (a) and (b) and control (b) as set out in clause 8.1 – *Streetscape* and controls (a) and (d) as set out in clause 8.2.2 as the proposal will detrimentally impact on the streetscape and availability of on-street car parking.
 - b. *Part B12 – Design Excellence*
 - i. **Section 12.1 Design, specifically objectives (a) and (d) and control (e), and Section 12.2 Context Analysis specifically objective (b), as the proposal, as the design is inconsistent with the appearance of the matching semi-detached pair and it has not been adequately demonstrated that it won't impact on the existing front verandah.**
 - c. *Part C2 – Low Density Residential Development*
 - i. Clause 2.0 *General Objectives*, specifically objective (d), as the proposal has not adequately demonstrated that access to the garage can be achieved without a detrimental impact to the front verandah of the dwelling.
 - ii. **Clause 2.3 Streetscape and Visual Impact, specifically objective (b) and controls (d) and (e) as the provision of a vehicle crossover and garage to the front of the dwelling is inconsistent with the character of the semi-detached dwelling and adjoining properties and will erode the character of the immediate streetscape.**
 - iii. Clause 2.8 *Car Parking*, specifically objectives (b) and (d) and controls (a), (b) and (d) as set out in clause 2.8.1 and control (a) and (c) as set out in clause 2.8.4, as provision of vehicle access to the site and garage impacts the existing semi-detached dwelling, detracts from the streetscape and does not minimise the loss of on street parking.
 - iv. Clause 2.8.6, specifically control (d) as the proposed vehicle crossover will result in the loss of two standard car spaces that are currently available adjacent to the site on Rickard Avenue, with the remaining car space limited to accommodating one small car.
 - v. Clause 2.9 *Landscaping and Open Space*, specifically objective (a) and control (g) as the proposal reduces landscaping within the front setback and is inconsistent with the established landscaped character within the streetscape.

2. **The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact in the locality as it represents an undesirable and unacceptable impact on the immediate streetscape.**
3. **The proposal has not adequately demonstrated how the 2.5m wide gate will slide open to provide unobstructed vehicular access to the garage, as the remaining width of the northern boundary to the east of the proposed gate measures 1.6m and 0.7m to the west and does not provide sufficient clearance for the operation of the proposed gate.**
4. The proposal is not considered to be in the public interest for the reasons outlined above, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.

For the RESOLUTION: Stein, McDonald, Murrell and Robinson

Against the RESOLUTION: Nil

A Kavka, C Kavka, (the applicants) addressed the meeting.

THE MEETING CLOSED AT 2.55PM