

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL
MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 26 APRIL 2023**

Panel members present:

Jan Murrell (Chair)
Graham Brown
Peter Brennan
Penelope Mora (community representative)

Also present:

B Magistrale	Manager, Development Assessment
J Zancanaro	A/ Manager, Development Assessment
E Finnegan	A/ Executive Planner, Development Assessment

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

*At 1.02pm, the meeting was closed to the public.
At 1.45pm, the Panel reconvened in closed session.
At 3.08pm, the meeting closed.*

WLPP-2303.A

Apologies

There were no apologies.

WLPP-2303.DI


Declarations of Interest

The Chair called for declarations of interest and none were received:

WLPP-2303.R

Determinations

The Panel resolved to make the following determinations overleaf.



Jan Murrell
Chairperson

WLPP-2304.1

60 Military Road, DOVER HEIGHTS NSW 2030 - Demolition and construction of a new three storey dwelling with integrated double garage parking , car-stackers, roof terrace and new swimming pool at rear. (DA-404/2022)

Report dated 14 April 2023.

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 subject to the recommended conditions with the deletion of the Advisory Matter AD5 Alterations and Additions Only.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report. The Panel is satisfied that the landscaping that includes a Banksia and Blueberry Ash will provide the necessary screening when viewed from the adjoining properties. The Panel also notes the plans have been amended to address issues raised and are now considered worthy of approval.

L Kosnetter (on behalf of the applicant) and M Goodwin (objector) addressed the meeting.

WLPP-2304.2

20 Wentworth Street, DOVER HEIGHTS NSW 2030 - Modification to alter internal layout, windows, new bin enclosure with planter above, roof terrace with stair access, landscaping, and various other alterations. (DA-207/2021/A)

Report dated 11 April 2023 from the Development and Building Unit.

Council Recommendation: That the modification be approved for the reasons contained in the report.

RESOLUTION: The Panel approves the modification 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 EP&A Act.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report subject to the conditions. The Panel notes that the Applicant's representative accepted all conditions of consent.

S Koh and D Clift (on behalf of the applicant) addressed the meeting.

WLPP-2304.3

68 Gilbert Street, DOVER HEIGHTS NSW 2030 - Demolition of the existing dual occupancy and construction of a new attached dual occupancy including basement car parking, swimming pools, tree removal, landscaping, and strata subdivision. (DA-301/2022)

Report dated 12 April 2023 from the Development and Building Unit.

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

RESOLUTION: The Panel has determined to refuse the development application for the reasons set out in the Planning Officer's report as amended below.

Having regard to section 4.15 (1) of the *Environmental Planning and Assessment Act 1979* (the Act) the development application (the application) is refused for the following reasons:

1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it 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 8.5m 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 contrary to clause 4.3 (1) (d) of WLEP and does not preserve the environmental amenity of neighbouring properties.

b. *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 WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP.

Details: The proposal is considered an overdevelopment of the site and the proposed development is not compatible with the bulk and scale of the desired future character of the locality and does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under subclauses 4.4 (1) (c) and (d) of WLEP.

c. *Clause 6.2 Earthworks:*

Specifically the excavation and fill is inconsistent with the objectives expressed under sub-clause (1), and the considerations at sub-clause (3)(a), (d), and (h). The proposal is for excessive excavation resulting in unnecessary impacts on soil stability and neighbouring amenity.

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

Part B12 Design Excellence

- a. Section 12.1 objective (a) and controls (a), (b), (c), and (e)(iii), (iv), (v), (vi) and (viii), as the proposal does not contribute to the architectural design quality of Waverley, does not achieve a high standard of architectural design appropriate to the building type and location, has detrimental impacts on views, and does not sufficiently consider streetscape constraints, the relationship with neighbouring sites in terms of setbacks and amenity, the bulk and massing of buildings, and overshadowing.

Part B14 Excavation

- b. Objectives (b) and (h), and controls (d) and (l) as the proposal does not minimise excavation, includes excavation within 900mm of the boundary, and results in unnecessary impacts on soil stability and neighbouring amenity.
- c. Section 8.2.6 *Bicycle parking* objective (b) and (c), and control (a), as no bicycle parking is provided.

Part B16 Public Domain

- d. Objectives (c), (d), (f) and (g), and controls (f) and (i) as the proposal is not designed to address the street, contains significant areas of blank walls and excessive bulk, and does not contribute to the safety and activity of the public domain.

Part C2 Low Density Residential Development

- e. *General Objectives* (a), (b), (d) and (e) as the scale of development is not appropriate for the site and desired character of the area, as it detracts from neighbouring amenity, and as the proposal contravenes controls within section C2 as set out below.
- f. Section 2.1 *Height* objectives (a), (b), (c), (d) and control (b) as the proposal exceeds the 7.5m wall height control, is of an inappropriate height and scale, and has unreasonable view loss and solar access impacts.
- g. Section 2.2 *Setbacks* objectives (a), (b), (c), (d), (f), and (g), and controls 2.2.1 *Front and rear building lines* (a) and 2.2.2 *Side setbacks* (a), as the proposal does not comply with the predominant front building line, provides an inappropriate setback from the rear boundary, does not comply with the 1.2m side setback control, and is of an inappropriate bulk and scale which has unacceptable streetscape and amenity impacts.
- h. Section 2.3 *Streetscape and visual impact* objectives (a), (b), and (c), and control (a), as the proposal has an inappropriate height, bulk, and scale, and presents significant areas of inactive blank walls to the street.
- i. Section 2.4 *Fences* objectives (d) and (e), and controls (b) and (d) as the front gate exceeds 1.2m in height, the side fence exceeds 1.8m in height, and has inappropriate streetscape and amenity impacts.
- j. Section 2.5 *Visual and acoustic privacy* objectives (a) and (c), and controls (b) and (c) as the proposal unreasonably impacts on neighbouring residential privacy, as the proposal includes windows which directly face neighbouring windows, and as the proposed includes an external staircase.

- k. Section 2.6 *Solar access* objectives (a), (b), (c) and (d) and controls (a), (d) and (e) as the applicant has not demonstrated that the proposed private open spaces receive sufficient solar access, and as the proposed exceedance of the height of buildings and floor space ratio development standards result in unreasonable overshadowing of neighbouring properties.
 - l. Section 2.7 *Views* objective (b) and control (c) as the proposal does not enable a sharing of views.
 - m. Section 2.8 *Car parking* objectives (b) and (d) and controls 2.8.1(b) and (c), 2.8.3(a), and 2.8.4(a) and (b) as the proposed garage is excessive in height and bulk and inappropriately dominates the street.
 - n. Section 2.9 *Landscaping and open space* objectives (a) and (d), and control (g), as the proposal does not provide 50% of the front open space as landscaped area.
3. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the *Environmental Planning and Assessment Regulation 2021* (the Regulations), as insufficient documentation has been provided to properly assess the application with respect to clause 24 of the Regulations, including but not limited to:
- a. The Statement of Environmental Effects is insufficient, as it does not adequately document the environmental impacts of the development concerning solar access and view impacts.
 - b. The Statement of Environmental Effects is insufficient, as it does not accurately depict compliance with building height standard as marked on plans, sections and elevations.
 - c. The Statement of Environmental Effects is insufficient, as it does not provide accurate calculations of the proposed gross floor area and floor space ratio.
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)(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: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report. The numerous non-compliances are symptomatic of an overdevelopment of the site.

WLPP-2304.4

7 Portland Street, DOVER HEIGHTS NSW 2030 - Modification to extend each dwelling at the rear into the approved balconies at first floor level. (DA-243/2017/B)

Report dated 13 April 2023 from the Development and Building Unit.

Council Recommendation: That the modification be approved for the reasons contained in the report.

RESOLUTION: The Panel approves the modification 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 EP&A Act.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report. The Panel has considered objections received and is satisfied the modification will not create unreasonable impacts on adjoining properties and notes that the amended design facilitates greater levels of privacy protection to adjoining properties.

B Pupovac (on behalf of the applicant) and Y Haydar (objector) addressed the meeting.

WLPP-2304.5

5 Tamarama Street, TAMARAMA NSW 2026 - Torrens Title Subdivision into Two Lots.
(DA-505/2022)

Report dated 12 April 2023 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 minimum subdivision lot size 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 the recommended conditions, subject to an amendment to Condition 3 that requires an Occupation Certificate to be issued for semi-detached dwellings prior to the issue of the subdivision certificate as follows:

3. SUBDIVISION CERTIFICATE

A Subdivision Certificate will not be issued by Council until an Occupation Certificate has been granted for semi-detached dwellings on the site.

Consequently, the advice to the applicant is also amended as follows:

B. PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the recommendation in the Planning Officer's report subject to the amended Condition 3 above. This condition is to provide certainty to the final built form outcome for these small lots to be consistent with the existing character of the street .

K Ng and L Liu (on behalf of the applicant) addressed the meeting.

WLPP-2304.6

13 Dellview Street, TAMARAMA NSW 2026 - Alterations and additions to dwelling including new first floor addition and installation of solar panels. (DA-242/2022)

Report dated 19 July from the Development and Building Unit.

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

RESOLUTION: The Panel defers determination of the application to allow the applicant the opportunity to submit an amended plan and accompanying documentation including a new Clause 4.6.

The Applicant is to submit amended plans and all necessary documentation by 10 May 2023 and Council is to prepare a supplementary assessment report and refer it back to the Panel in a timely manner. The Panel will then determine the application electronically.

In the event the applicant fails to submit the above information, the Panel will proceed to determination on the basis of the information before it.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel defers the matter for further information, including a site inspection if considered necessary, before it makes an electronic determination.

J Cole (on behalf of the applicant) addressed the meeting.

WLPP-2304.7

27 Fletcher Street, TAMARAMA NSW 2026 - Alterations and additions to existing building including double car space and new roof terrace, and use as a single dwelling. (DA-420/2022)

Report dated 11 April 2023 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 the recommended conditions, subject to the following general modification condition being incorporated:

1A. GENERAL MODIFICATIONS

The privacy screen on the western side of the roof level terrace is to be reduced in height to a maximum of 1.5m high from finished floor level. (Reason: to reduce the bulk and improve the outlook of the adjoining residential flat building)

The amendments are to be approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report. The Panel has considered the written submissions received and is satisfied with the above amended condition the development is suitable for the site.

J Askin and S Motreff (on behalf of the applicant) addressed the meeting.

WLPP-2304.8

287 Birrell Street (AKA 28 Wolaroi Crescent) TAMARAMA NSW 2026 - Alterations and additions to dwelling including cellar to sub-basement level and new lift. (DA-371/2022)

Report dated 12 April 2023 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 subject to the recommended conditions.

For the RESOLUTION: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report. The Panel is satisfied the proposed development will not have adverse amenity impacts.

WLPP-2304.9

494 Bronte Road, BRONTE NSW 2024 - Alterations and additions to dwelling including construction of a double garage, skylight, new swimming pool and deck at rear. (DA-230/2022)

Report dated 14 April 2023 from the Development and Building Unit.

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

RESOLUTION: The Panel has determined to refuse the development application for the reasons set out in the Planning Officer's report as amended below.

Having regard to section 4.15 (1) of the *Environmental Planning and Assessment Act 1979 (the Act)* the development application (the application) is refused for the following reasons:

1. 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 B14 Excavation (Fill)

- a. Objectives (a), (b) and (c) and controls (a), (e), (g), (h), (i) and (l) under this Part, as the proposed development includes excess fill to currently existing front habitable rooms and the rear landscaped area, which results in a development that does not respond to the site topography.

Part C2 Low Density Residential Development

- b. *Section 2.1 Height*, specifically the proposed development has a wall height in excess of the maximum 7.5m.
 - c. *Section 2.8 Car Parking*, specifically objectives (a) and (c) and the following controls:
 - i. section 2.8.1 Design Approach control (b)
 - ii. Section 2.8.3 Location control (b)
 - iii. Section 2.8.4 Design controls (a), (b) and (c),as the proposed car parking structure dominates the streetscape and is contrary to the preferred parking hierarchy outlined under the WDCP.
 - d. *Section 2.9 Landscape and Open Space*, specifically as the proposed development does not meet the minimum requirement of 15% landscaping.
2. The application is contrary to section 4.15 (1)(c) of the Act due to the amount of fill proposed on the site.
 3. 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.

4. 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: Murrell, Brown, Brennan, Mora

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Planning Officer's report and considers the proposed development requires further modifications in particular the garaging element and extent of fill and as such is not worthy of approval.

By way of comment, it is noted the applicant has the opportunity to amend the plans under the EP&A Act 1979 Section 8.2.

THE MEETING CLOSED AT 3.08PM