

**MINUTES OF THE WAVERLEY LOCAL PLANNING
PANEL MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 28 OCTOBER 2020**

Panel members present:

Paul Stein (Chair)
Jan Murrell
Jocelyn Jackson
Penelope Mora (Community Rep)

Also present:

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| Ms B McNamara | Acting Executive Manager, Development Assessment |
| Ms A Rossi | Manager, Development Assessment (Central) |
| Ms E Finnegan | Manager, Development Assessment |
| Ms R Siasosi | Administration Officer |

At the commencement of the public proceedings at 12 noon those panel members present were as listed above.

At 1.45pm, the meeting was closed to the public.

At 2.15pm, the Panel reconvened in closed session.

At 4.15pm, the meeting closed.

WLPP-2010.A

Apologies

There were no apologies

WLPP-2010.DI

Declarations of Interest

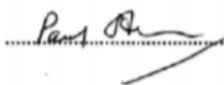
The Chair called for declarations of interest and the following were received:

J Murrell declared a non-pecuniary interest in item WLPP-2010.5 - 447 Bronte Road, Bronte, and informed the meeting that she would not take part in the public meeting or determination.

WLPP-2010.R

Determinations

The Panel resolved to make the following determinations overleaf.



Hon Paul Stein
Chairperson
WLPP-2010.1

427 Bronte Road, Bronte – Review of refusal for alterations and additions to a dwelling including enclosing existing garage boundary wall and constructing a new floor level within the existing dwelling (DA-92/2020/1)

Report dated 8 October 2020 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-92/2020 is affirmed.

The dwelling house was approved as complying development under a Complying Development Certificate and the proposed works can only be approved by a modification application pursuant to section 4.30 *Modification of complying development* of the Environmental Planning & Assessment Act 1979.

The Panel also considers in the event that a development application is considered the appropriate mechanism, then the Panel refuses the application for the following reasons:

1. Clause 4.6 of the Waverley Local Environmental Plan 2012 *Exceptions to development standards* (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant's clause 4.6 *Exceptions to development standards* fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the floor space ratio development standard. The proposed development is contrary to the objectives of the development standard and the proposal is not in the public interest.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
 - a) Clause 1.2 *Aims of Plan* (2)(f) as the proposal does not enhance and preserve the natural environment through appropriate planning.
 - b) Clause 4.4 *Floor space ratio* (1)(c) and (d), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The building will result in adverse impacts on the character of the locality and the amenity of adjoining properties.
3. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (c) and (g) as the proposal does not promote the orderly and economic use and development of land nor promote good design or amenity of the built environment.
4. 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 the proposed development results in a poor planning outcome and an overdevelopment of the subject site.
5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is not considered suitable for the subject site, with a built form

that is excessive in terms of bulk and scale, results in undesirable and unacceptable impacts on the streetscape, neighbouring properties and the locality.

6. 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, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

J McCarry, (objectors) L Fletcher (on behalf of the applicant) addressed the meeting

105 Military Road, Dover Heights – Modification to alter internal layout, including additional floor space to the rear, new gate, new bin area, and various other alterations. (DA-425/2018/A)

Report dated 8 October 2020 from the Development and Building Unit.

Council Recommendation: That the modification application be approved in accordance with the conditions contained in the report.

RESOLUTION: The Panel approves the modification application in accordance with the conditions contained in the Officer's report.

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel considered the clause 4.15 assessment in the Officer's report and was satisfied that the proposal is acceptable and warrants approval.

M O'Donnell (on behalf of the applicant) addressed the meeting

4 Forest Knoll Avenue, Bondi Beach – Review of decision seeking alterations and additions to existing garage including a first floor studio addition and entry portico (DA-70/2020/1)

Report dated 13 October 2020 from the Development and Building Unit.

Council Recommendation: That the 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-70/2020 is affirmed.

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

1. The proposal does not satisfy the objects of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design and amenity of the built environment.
2. The proposal does not satisfy Section 4.15 (1)(a)(iii) of the Act, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
 - a. Part B12 – *Design Excellence*, 12.1 *Design*, specifically objective (a) controls (b) and (e) and 12.2 *Context Analysis* objectives (b), (c) and (d), as the proposal does not improve the quality and amenity of the public domain and has failed to consider the suitability of the land for development in regards to 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 and the overall bulk and massing of the development.
 - b. Part C2 – Low Density Residential Development:
 - i. *Section 2.2 Setbacks, 2.2.1 Front and Rear Building Lines*, specifically objectives (a), (b) and (f) and control (a), as the proposal extends forward of the predominant front building line and would adversely impact on the rhythm and character of the residential street.
 - ii. *Section 2.3 Streetscape and Visual Impact* specifically objective (a) and control (a) as the proposal is not visually compatible with its streetscape context and would not correspond harmoniously with the surroundings.
 - iii. *Section 2.16 – Secondary Dwellings and Ancillary Buildings, 2.16.2 Ancillary Development*, specifically objectives (a), (b) and (e) and control (c) as the proposed games room would exceed the maximum building height control for ancillary development.
3. The proposed development does not satisfy Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal is excessive in terms of building height, bulk and scale, and consequently results in unreasonable impacts on the streetscape, the amenity of the locality and surrounding built environment.
4. The proposal is contrary to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, as it relies on being able to develop within the front setback, which is incompatible and inconsistent with the existing streetscape and surrounding built environment. The proposal is therefore considered unsuitable for the site.

5. 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, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel notes that the other garage roof forms relied on by the applicant are only utilised as outdoor space with simple pergola forms.

B DuBois and K Bartlett (on behalf of the applicant) addressed the meeting

8/3 Pacific Avenue, Tamarama – Alterations and additions to unit 8 including internal reconfiguration, conversion of the roof space into an attic level with installation of skylights and amendment to strata plan (DA-233/2020)

Report dated 13 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions 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 and height development standards. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning, Industry and Environment.

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

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Officer's report and recommended conditions.

K Hay (on behalf of the applicant) addressed the meeting

447 Bronte Road, Bronte – Demolition of existing dwelling, earthworks and construction of a part four, part five storey dwelling with integrated garage and swimming pool (DA-131/2020)

J Murrell declared an interest in this item and did not take part in the public meeting or determination.

Report dated 13 October 2020 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 in accordance with the reasons in the Officer's report.

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

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (c) and (g) as the proposal does not promote the orderly and economic use and development of land nor promote good design or amenity of the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
 - a. Clause 1.2 *Aims of Plan* (2)(f) as the proposal does not enhance and preserve the natural environment through appropriate planning.
 - b. Clause 4.4 *Floor space ratio* (1)(c) and (d), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the character of the locality and the amenity of adjoining properties, contrary to objective (c) and (d) of the development standard.
 - c. Clause 4.6 *Exceptions to development standards* (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant's clause 4.6 Exceptions to development standards fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the floor space ratio development standard. The proposed development is contrary to the objectives of the development standard and the proposal is not in the public interest.
 - d. Clause 6.2 *Earthworks* (1) as the proposed extensive earthworks may have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The submitted Geotechnical Report prepared by Ascent Geotechnical Consulting Group dated 12 March 2020 reference no. AG20041 is deficient in its assessment for the Consent Authority to adequately consider the matters identified under Clause 6.2(3) of the Waverley Local Environmental Plan 2012.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
 - a. Part B – General Provisions

- (i) Part B12 – *Design Excellence*, 12.1 *Design*, specifically objectives (a) and (d) control (e), and 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 acoustic privacy. 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.
 - (ii) Part B14 – *Excavation*, specifically objectives (a), (b), (c), (e), (g) and (h) and controls (a), (d), (h) and (l) as the proposal has not sought to minimise cut and fill to ensure the physical environment is preserved and enhanced through minimal site disturbance, with the application involving excessive excavation to accommodate the development which adds to the visual bulk and scale of the building.
- b. Part C2 – Low Density Residential Development:
- (i) Section 2.0 *General objectives*, in particular objectives (a), (b), (d) as the proposed development is not of a scale or density that is appropriate for the allotment or other dwellings in the locality, impacts on the amenity of the locality and is not sympathetic in bulk, scale and character with the desired future character of the area.
 - (ii) Section 2.1 *Height*, in particular objectives (a), (b), (d) and (f) and controls (b) and (d) as the proposed development exceeds the maximum wall height control of 7.5m at its southern elevation and the proposed building has not been designed to step down the site. The proposed height and scale of the development does not relate to the topography and street character.
 - (iii) Section 2.2 *Setbacks*, 2.2.2 *Side Setbacks*, in particular objective (a) and control (a) as the proposed south side stairs and its external walls are built to the south side boundary resulting in a non-compliance with the side setback control.
 - (iv) Section 2.3 *Streetscape*, in particular objectives (a) and (b) and controls (a), (d) and (e). The proposed built form dominates the streetscape as the visual appearance, particularly the bulk and scale, do not respond to the site context, its surrounds or the desired future character of the locality. The proposed development does not maintain the existing ground levels.
 - (v) Section 2.5 *Visual and Acoustic Privacy*, in particular objective (a) and (c) and control (e), in that the development may provide unacceptable acoustic privacy impacts due to the number, dimensions and size of terraces proposed.
 - (vi) Section 2.6 *Solar Access*, in particular objectives (a) and (b) and control (a) in that the proposed dwelling may not receive the required direct sunlight for a minimum of 3 hours to at least 50% of the living areas when measured between 9am and 3pm winter solstice (June 21).
 - (vii) Section 2.6 *Solar Access*, in particular objective (d) and control (c), in that the proposal results in unacceptable overshadowing impacts on the adjoining property to the south at 449 Bronte Road, Bronte. Overshadowing arising out of poor design

is unacceptable even if it satisfies numerical guidelines, which in this case it doesn't.

- (viii) Section 2.10 *Swimming Pools and Spa Pools*, in particular objectives (b) and (c) and control (a), in that the proposed location of the swimming pool and spa pool within the property frontage results in unreasonable impacts on the streetscape and the amenity of the adjoining properties.
4. 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 the extent of excavation to accommodate the proposed development results in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of the locality.
 5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is not considered suitable for the subject site, as the proposed excavation contributes to a poor planning outcome, providing for a built form that is excessive in terms of bulk and scale, results in undesirable and unacceptable impact on the streetscape, neighbouring properties and the locality.
 6. 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, Jackson and Mora

Against the RESOLUTION: Nil

S Bruns, K Harrison, J Batts (Bronte Beach Precinct), (objectors) L Kosnetter (on behalf of A Sparrow) provided a written submission. G Karavanas and W Barda (on behalf of the applicant) addressed the meeting.

5 Carlisle Street, Tamarama – Alterations and additions to the existing residential flat building including use of the garage as habitable space, and extension of the roof and balconies to the front and rear (DA-68/2020)

Report dated 15 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions 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 and height development standards. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning, Industry and Environment.

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

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel concurs with the recommendations in the Officer's report and recommended conditions.

No speakers addressed the meeting

3 Weonga Road, Dover Heights – Demolition of a dwelling and construction of a part two, part three storey dwelling with integrated parking and swimming pool to rear (DA-241/2020)

Report dated 16 September 2020 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 in accordance with the reasons in the Officer's report as amended by the Panel:

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

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design on amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
 - a. Clause 4.3 *Height of Building*, specifically objectives (1)(a) and (d) as the proposal will exceed the maximum height permitted for the site and will result in unacceptable impacts in terms of bulk and scale on neighbouring properties and the area in general.
 - b. Clause 4.4 *Floor Space Ratio*, specifically objectives (1) (c) and (d) as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the character of the locality and the amenity of adjoining properties, contrary to objectives (c) and (d) of the development standard.
 - c. Clause 4.6 *Exceptions to development standards*, specifically objectives (1)(b), 3(a) and (b) and 4(a) as the proposed building will not result in a better development outcome for the site. The applicant's clause 4.6 *Exceptions to development standards* fails to justify that compliance with the development standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breaches to the floor space ratio and height development standards. The proposed development is contrary to the objectives of the development standards and the zone and the proposal is not in the public interest.
 - d. Clause 6.2 *Earthworks*, specifically objective (1) as the amount of excavation is excessive, increasing the bulk and scale of the development.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:
 - a. Part B12 – *Design Excellence* - Clause 12.1 *Design*, specifically objectives (a) and (b) and controls (a) and (e)(i) and (v), as the proposal results in an over development of the site and is not suitable in terms of its relationship with neighbouring development in terms of setbacks, amenity, the overall bulk and massing of the development and environmental impacts such as privacy.

- b. Part B14 – *Excavation*, specifically objectives (a), (b), (c) (e) and controls (a) and (l) , as the amount of excavation is excessive, adding to the overall bulk and scale of the development and impacting neighbouring land uses through the close proximity of excavation to the lot boundaries.
 - c. Part C2 – *Low Density Residential Development*
 - i. Section 2.0 *General Objectives*, specifically objectives (a), (b), (d) and (e) as the proposed development is an overdevelopment of the site, will result in privacy impacts from the rear balcony and roof terrace and it contravenes the general objectives of this section of the WDCP.
 - ii. Section 2.1 *Height*, specifically objectives (a), (b) and (f) and control (b) as the flat roof dwelling exceeds a wall height of 7.5m, much of which is contributed from mass excavation and non-complaint setbacks.
 - iii. Section 2.2 *Setbacks* and 2.2.1 *Front and Rear Setbacks* and 2.3 *Side Setbacks* as the development results in non-compliant setbacks, resulting in a dwelling that is excessive in bulk and scale and dominates the streetscape in terms of visual appearance.
 - iv. Section 2.5 *Visual and Acoustic Privacy*, specifically objectives (a), (b) and (c) and control (d) as the rear balcony does not encompass privacy screens to the full length of either side of the balcony and control (f)(ii), (iii) and (iv) as the proposed roof terrace will exceed 15m², which may result in visual and acoustic privacy impacts. In addition, the roof terrace exceeds the height of building development standard.
4. The proposal does not satisfy section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy Schedule 1, Part 1 of the Environmental Planning and Assessment Regulation 2000, as insufficient documentation has been provided to properly assess the application, including but not limited to:
 - a. Fencing Plan; and
 - b. Location of neighbouring windows to be shown on the floor plans, corresponding to the relevant level.
 5. 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 overdevelopment of the subject site, is excessive in terms of bulk and scale, which would adversely impact upon the amenity of the locality.
 6. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is excessive in bulk and scale and is therefore considered unsuitable for the site.
 7. 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, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

R Garnett (on behalf of the applicant) addressed the meeting

62 Military Road, Dover Heights – Substantial demolition works and alterations to the existing dwelling, to form a part two, part three storey dwelling with integrated parking, and new swimming pool at rear (DA-212/2020)

Report dated 16 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions 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 and height development standards. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning, Industry and Environment.

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

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel considered the clause 4.15 assessment in the Officer's report and was satisfied that the proposal is acceptable and warrants approval. The Panel notes the conditions of consent relating to the retention of the remnant building and the need for care by the builder.

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

12 Blake Street, Rose Bay – Demolition of existing dwelling and construction of two semi-detached dwellings including integrated garage, swimming pools at rear and boundary adjustment (DA-247/2020)

Report dated 16 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions 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 and minimum sub-division lot size development standards. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning, Industry and Environment.

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

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel considered the clause 4.15 assessment in the Officer's report and was satisfied that the proposal is acceptable and warrants approval.

S Innes-Brown (objector) L Kosnetter (on behalf of the applicant) addressed the meeting

19 Darling Street, Bronte – Alterations and additions to semi-detached dwelling including substantial demolition works, rear extension, internal reconfiguration and first floor addition (DA-207/2020)

Report dated 16 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions contained in the report.

RESOLUTION: That the application be approved in accordance with the conditions contained in the report as amended by the Panel:

Amend **Condition 3– General Modification Privacy and articulation of the western wall**

- a) Windows labelled W13 and W14 to the first-floor level bathroom and master bedroom are to be fitted with translucent glazing to maintain adequate visual privacy for surrounding properties.
- b) The western wall of the proposal is to provide further articulation to add visual interest to break up the solid façade.

The amendments are to be approved by the **Executive 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.

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel considered the clause 4.15 assessment in the Officer's report and was generally satisfied that the proposal is acceptable and warrants approval. In order to add visual interest and break up the solid façade of the western wall at first floor level the Panel has added a condition 3(b).

D Epstein (on behalf of Strata SP13195), R Morgan (objectors) F Kakish (on behalf of the applicant) addressed the meeting

132 Hewlett Street, Bronte – Alterations and additions to the existing residential flat building including increase in roof height and pitch to accommodate ‘attic’ floor level (DA-205/2020)

Report dated 16 October 2020 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 in accordance with the reasons in the Officer’s report.

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (c) and (g) as the proposal does not promote the orderly and economic use and development of land nor promote good design and amenity of the built environment.
2. The proposal does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the provisions of the State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, in particular the following provisions:
 - b. Clause 2 Aim, objectives etc, subclauses (3)(a)(ii) and (iii), (b) and (d) as the proposed development fails to achieve the objectives of urban planning policies of the local context, fails to provide an appropriate built form and aesthetic qualities to positively contribute to the streetscape, and fails to maximise the amenity for future occupants and the wider community.
 - c. The proposed development is contrary to Part 4 *Application of Design Principles*, in particular Principles 1 *Context and Neighbourhood*, 2 *Built Form and Scale*, 3 *Density*, 6 *Amenity* and 9 *Aesthetics*.
3. The proposal does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
 - a. Clause 4.3 *Height of buildings* (1)(a) and (d), and (2) as the proposal significantly breaches the height development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the streetscape and amenity of adjoining properties, contrary to objectives (a) and (d) of the development standard.
 - b. Clause 4.4 *Floor space ratio* (1)(c) and (d), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the character of the locality and the amenity of adjoining properties, contrary to objectives (c) and (d) of the development standard.
 - c. Clause 4.6 *Exceptions to development standards* (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant’s clause 4.6 Exceptions to development standards fails to justify that compliance with the development standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the height and floor space ratio development standards. The proposed development is

contrary to the objectives of the development standards and the proposal is not in the public interest.

4. The proposal does not satisfy section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:

a. Part B – General Provisions

(i) Part B12 – *Design Excellence*, 12.1 *Design*, specifically objectives (a) and (d) controls (a), (b), (c) and (e), and 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, 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 view loss, overshadowing and visual and acoustic privacy. 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.

b. Part C4 – High Density Residential Development:

- (i) Section 4.1 *Site Scale and Frontage*, in particular objectives (c) and (d), control (b) as the proposed development is not of a scale or density that is appropriate for the allotment.
- (ii) Section 4.2 *Height*, in particular objectives (a), (b) and (c), control (a) as the proposed development exceeds the maximum height development standard of 8.5m as set by Clause 4.3 of Waverley LEP 2012.
- (iii) Section 4.4 *Streetscape*, in particular objectives (a), (e) and (g), controls (a) and (f) as the proposed new upper level front setback does not respond to the upper level setback of the adjoining property to the east.
- (iv) Section 4.5 *Building Design and Streetscape*, in particular objectives (a), (b), (c) and (d), controls (a), (b) and (e) as the proposed building design does not respond to the existing streetscape character and the proposed alterations and additions do not demonstrate compatibility with the existing building. The proposed changes to the roof form involves the removal of original architectural features which is not supported.
- (v) Section 4.10 *Views and View Sharing*, in particular objective (a), controls (a) and (b) as the proposal results in unreasonable view loss impacts to the adjacent property at Unit 1/1 Andrew Street, Bronte.
- (vi) Section 4.11 *Visual Privacy and Security*, in particular objective (a) and (b) and controls (d) and (f), in that the development may provide unacceptable visual privacy impacts to the adjoining property to the east due to the inadequate separation distance proposed between the new upper level balcony and windows to Unit 4.
- (vii) Section 4.12 *Acoustic Privacy*, in particular objective (a), in that the development may provide unacceptable acoustic privacy impacts to the adjoining property to

the east due to the inadequate separation distance proposed between the new upper level balcony and windows to Unit 4.

5. 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 as the proposed development results in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of the adjoining properties and the locality.
6. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is not considered suitable for the subject site as the proposal results in a poor planning outcome providing for a built form that is excessive in terms of bulk and scale, results in undesirable and unacceptable impact on the streetscape, neighbouring properties and the locality.
7. 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, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

A Rowan (on behalf of D Lewis) (objector) J Askin (on behalf of the applicant) addressed the meeting

Bondi Pavilion, Queen Elizabeth Drive, Bondi Beach – Modification including additional slab demolition, reconfiguration of plant and equipment, redesign of theatre, removal of solar panels, update to roof and various other alterations (DA-105/2019/A)

Report dated 19 October 2020 from the Development and Building Unit.

Council Recommendation: That the application be approved in accordance with the conditions contained in the report.

RESOLUTION: The Panel approves the modification application in accordance with the recommendations in the Officer’s report and recommended conditions as amended to include the Heritage Council’s General Terms of Approval, as follows:

A. Amended/Deleted Conditions

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural plans prepared by Tonkin Zulaikha Greer (TZG) Architects and received by Council on date 03 April 2019 and 12 September 2019 as listed below:

| Drawing Number | Rev | Plan Description | Date | Date Received by Council |
|----------------|-----|-----------------------------------|----------------|--------------------------|
| A-000 | | Cover Page | 29.03.19 | 03.04.19 |
| A-001 | | Location Plan | 29.03.19 | 03.04.19 |
| A-002 | | Site Analysis Plan | 29.03.19 | 03.04.19 |
| A-003 | | Photomontage 1 | 29.03.19 | 03.04.19 |
| A-004 | | Photomontage 2 | 29.03.19 | 03.04.19 |
| A-005 | | Photomontage 3 | 29.03.19 | 03.04.19 |
| A-006 | | Photomontage 4 | 29.03.19 | 03.04.19 |
| A-011 | A | Ground Floor Demolition Plan | 17.09.19 | 18.09.19 |
| A-012 | A | First Floor Demolition Plan | 17.09.19 | 18.09.19 |
| A-013 | A | Roof Demolition Plan | 29.03.19 | 03.04.19 |
| A-014 | A | Elevations Demolition | 29.03.19 | 03.04.19 |
| A-015 | A | Internal Elevations Demolition | 17.09.19 | 18.09.19 |
| A-101 | | Site Plan | 29.03.19 | 03.04.19 |
| A-102 | A | Ground Floor Plan | 17.09.19 | 18.09.19 |
| A-103 | A | First Floor Plan | 17.09.19 | 18.09.19 |
| A-104 | - | Roof Plan | September 2019 | 12.09.19 |
| A-201 | - | North-West Elevation | September 2019 | 12.09.19 |
| A-202 | - | South East Elevation | 29.03.19 | 03.04.19 |
| A-203 | - | North-East & South-West Elevation | September 2019 | 12.09.19 |
| A-204 | A | Internal Elevations | 17.09.19 | 18.09.19 |
| A-301 | | Sections A-A /B-B | 29.03.19 | 03.04.19 |
| A-302 | - | Sections C-C/D-D | September 2019 | 12.09.19 |
| A-401 | | Shadow Diagrams - June | 29.03.19 | 03.04.19 |
| A-501 | | Materials Schedule | 29.03.19 | 03.04.19 |

| | | | | |
|-------|--|--------------------------------------|------------|----------|
| A-601 | | GFA Diagrams | 29.03.19 | 03.04.19 |
| A-131 | | Projection Coordination Ground Floor | 11/09/2019 | 12.09.19 |
| A-132 | | Projection Coordination First Floor | 11/09/2019 | 12.09.19 |

- i. *As amended by the following plans prepared by Tonkin Zulaikha Greer (TZG) Architects:*

| Drawing Number | Rev | Plan Description | Date | Date Received by Council |
|----------------|-----|-----------------------------------|-----------|--------------------------|
| A-011 | B | Ground Floor Demolition Plan | 13.7.2020 | 23.07.2020 |
| A-012 | B | First Floor Demolition Plan | 13.7.2020 | 23.07.2020 |
| A-014 | A | Elevations Demolition | 13.7.2020 | 23.07.2020 |
| A-015 | B | Internal Elevations Demolition | 13.7.2020 | 23.07.2020 |
| A-102 | B | Ground Floor Plan | 13.7.2020 | 23.07.2020 |
| A-103 | B | First Floor Plan | 13.7.2020 | 23.07.2020 |
| A-104 | A | Roof Plan | 13.7.2020 | 23.07.2020 |
| A-203 | A | North-East & South-West Elevation | 13.7.2020 | 23.07.2020 |
| A-204 | B | Internal Elevations | 13.7.2020 | 23.07.2020 |
| A-301 | A | Sections A-A /B-B | 13.7.2020 | 23.07.2020 |

(AMENDED BY DA-105/2019/A)

- (b) Landscape Plans, prepared by JMD Design and received by Council on 12 September 2019 as listed below:

| Drawing Number | Rev | Plan Description | Date | Date Received by Council |
|----------------|-----|--------------------------------|----------|--------------------------|
| L01 | B | Title Sheet | 05.09.19 | 12.09.19 |
| L02 | B | Key Principles | 05.09.19 | 12.09.19 |
| L03 | B | Opportunities and Constraints | 05.09.19 | 12.09.19 |
| L04 | B | Design Response – Courtyard | 05.09.19 | 12.09.19 |
| L05 | B | Demolition Plan 1 | 05.09.19 | 12.09.19 |
| L06 | B | Demolition Plan 2 | 05.09.19 | 12.09.19 |
| L07 | B | External Landscape | 05.09.19 | 12.09.19 |
| L08 | B | Courtyard and Beachfront | 05.09.19 | 12.09.19 |
| L09 | B | Sketch – courtyard | 05.09.19 | 12.09.19 |
| L010 | B | Diagonal Path Regrading | 05.09.19 | 12.09.19 |
| L011 | B | Sections | 05.09.19 | 12.09.19 |
| L012 | B | Furniture and Material Palette | 05.09.19 | 12.09.19 |
| L013 | B | Indicative Planting Palette | 05.09.19 | 12.09.19 |

- (c) Bondi Pavilion Restoration and Conservation Project: Site Waste and Management Plan prepared by MRA Consulting Group on 6 September 2019 and received by Council on 6 September 2019;
- (d) Arborist Report prepared by L&Co dated 1 April 2019, and received by Council on 3 April 2019;
- (e) Lighting Strategy prepared by Electro Light on 28 March 2019;

- (f) Traffic and Parking Assessment prepared by PTC dated 29 March 2019 and received by Council on 3 April 2019;
- (g) Fire Safety and Upgrade Report prepared by WSP Engineering dated 27 March 2019 and received by Council on 3 April 2019;
- (h) Acoustic Report prepared by Acoustic Studio dated 29 March 2019 and received by Council on 3 April 2019; and
- (i) Access Report prepared by Accessibility Solutions dated 21 May 2019 and received by Council on 14 June 2019.
- (j) Letter 'Bondi Pavilion, Queen Elizabeth Drive, Bondi Beach - DA -105/2019 Response to Heritage Council Approvals Committee Comments, prepared by Tonkin Zulaikha Greer, dated 17 September 2019
- (k) Drawing titled 'Bondi Pavilion Restoration and Conservation Project' prepared by Tonkin Zulaikha Greer, dated 19 September 2019, and details of the proposed Tulip Umbrella as included in MDT-tex Architectural Line.
- (l) Letter 'Re: Bondi Pavilion Upgrade and Conservation Project' prepared by SDA Structures Pty Ltd, dated 5 September 2019;
- (m) Letter 'Bondi Pavilion Response to List of Heritage Issues', prepared by Tonkin Zulaikha Greer, dated 19 August 2019, as amended by revised drawings listed under (k) and (l) above;
- (n) Heritage Impact Statement prepared by Tonkin Zulaikha Greer Heritage dated 29 March 2019 and received by Council on 3 April 2019, as amended by Condition 1(a) above;

i. and letter Bondi Pavilion Restoration and Conservation Project Section 4.55 Application for Proposed Modifications to Approved Design, prepared by Tonkin Zulaikha Greer dated 14 July 2020.

(AMENDED BY DA-105/2019/A)

- (o) Aboriginal and non-Aboriginal Archaeological Assessment prepared by Dominic Steele Consulting Archaeology dated 29 March 2019, as amended by Condition 1 (a) as noted above;

i. and the Non-Aboriginal Archaeology Impact Assessment prepared by Dominic Steele Consulting Archaeology, dated 23 April 2020 and received by Council on 17 September 2020.

(AMENDED BY DA-105/2019/A)

- (p) Statement of Environmental Effects prepared by Ethos Urban dated 2 April 2019, as amended by Condition 1(a) above as noted above; and

i. letter, Section 4.55(1A) Modification Application to DA105/2019 Bondi Pavilion Conservation and Restoration Project prepared by Ethos Urban, dated 14 July 2020.

(AMENDED BY DA-105/2019/A)

- (q) Amphitheatre and Outdoor Performance report by TZG Architects dated November 2018, as amended by Condition 1(a) above as noted above.
- (r) A Council approved (by Council's Director, Planning, Environment and Regulatory or delegate) Plan of Management.
- (s) ***Letter, Bondi Pavilion Restoration and Conservation Project – Existing Ground Bearing Slabs prepared by SDA Structures Pty Ltd, dated 13 October 2020.***

(ADDED BY DA-105/2019/A)

- (t) ***Letter, Bondi Pavilion Upgrade and Conservation – Sufficiency of Structural Design prepared by SDA Structures Pty Ltd, dated 5 August 2020.***

(ADDED BY DA-105/2019/A)

Except where amended by the following conditions of consent.

3. HERITAGE COUNCIL OF NEW SOUTH WALES - GENERAL TERMS OF APPROVAL

A. DESIGN

- a) The Applicant must develop fit-out guidelines for future tenants to minimise impacts relating to services, internal partitions, removal of significant fabric and commercial kitchen requirements, outdoor seating areas and signage and submit these to Heritage Council of NSW (or delegate) for approval prior to the issue of any Occupation Certificate.

B. SPECIALIST TRADESPERSONS

- a) All work to, or affecting, significant fabric shall be carried out by suitably qualified
- b) tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

C. HERITAGE CONSULTANT

- a) A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

D. HERITAGE INTERPRETATION PLAN

- a) An interpretation plan must be prepared in accordance with the Department of Premier and Cabinet publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) **prior within 3 months from ~~to~~ the date of issue** of any Construction Certificate.
- b) The interpretation plan must detail how information on the history and significance of Bondi Pavilion as part of Bondi Beach Cultural Landscape will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
- c) The approved interpretation plan must be implemented prior to the issue of **any the final** Occupation Certificate.

Reason: Interpretation is an important part of every proposal for works at heritage places.

(AMENDED BY DA-105/2019/A)

E. SITE PROTECTION

- a) Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

F. PHOTOGRAPHIC ARCHIVAL RECORDING

- a) A photographic archival recording must be prepared prior to the commencement of works, during works and at the completion of works. This recording must be in accordance with the NSW Department of Premier and Cabinet publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to the Department of Premier and Cabinet Heritage.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

G. UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS

- a) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

H. ABORIGINAL OBJECTS

- a) Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage is to be informed in accordance with the National Parks and Wildlife Act 1974 (as amended). Works

affecting Aboriginal objects on the site must not continue until the Department of Premier and Cabinet has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

I. COMPLIANCE

- a) If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

J. SECTION ~~60~~ 65A APPLICATION

- a) An application under section ~~60~~ 65A of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements

- b) ***Proposed works involving removal, salvage and reinstallation of a small area of flooring within the Seagull Room is not approved.***

Reason: It is noted these works are no longer required by the applicant.

- c) ***Proposed creation of a new opening to the wall between the approved ground floor fire pump room and the High Tide Room must retain sufficient wall nibs and bulkhead above to adequately interpret the original layout.***

Reason: To mitigate impacts to significant fabric and layout.

(AMENDED BY DA-105/2019/A)

K. ADVICE

- a) Section 148 of the Heritage Act 1977 (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.
- b) Any questions regarding this condition should be directed to Heritage NSW, Department of Premier and Cabinet.

For the RESOLUTION: Stein, Jackson, Mora and Murrell

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the recommendations in the officer's report.

S Cassidy (on behalf of the applicant) addressed the meeting.

THE MEETING CLOSED AT 4.15 PM.