

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL
MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 25 MAY 2022**

Panel members present:

The Hon Paul Stein (Chair)
Jan Murrell
Sharon Veale
Allyson Small (Community representative)

Also present:

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 12.35pm, the meeting was closed to the public.
At 1.00pm, the Panel reconvened in closed session.
At 2.57pm, the meeting closed.*

WLPP-2205.A

Apologies

There were no apologies

WLPP-2205.DI

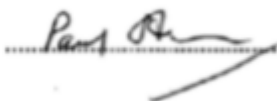
Declarations of Interest

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

WLPP-2205.R

Determinations

The Panel resolved to make the following determinations overleaf.



The Hon Paul Stein
Chairperson

179 Military Road Dover Heights NSW Alterations and additions to dwelling including new swimming pool at rear (DA -23/2022)

Report dated 11 May 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 as amended by the Panel as follows:

Additional Condition 2(b)

2 General Modifications

(b) The western front of the terrace, including the balustrade, must be set back 2 metres from the inside face of the parapet and the southern and northern sides of the terrace, including the balustrade, must be set back 1 metre from the inside face of the parapet.

For the Resolution STEIN, MURRELL, SMALL AND VEALE

Against the Resolution: NIL

REASON: The Panel generally concurs with the recommendations in the Planning Officer's report but has added a condition to mitigate privacy and overlooking impacts, and to reduce the size of the rooftop terrace to a more reasonable square metreage.

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

2/21 William Street Rose Bay NSW 2029 Alterations and additions to attached dwelling including, second floor addition (DA-15/2022)

Report dated 11 May 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.

APPENDIX A – REASONS FOR REFUSAL

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 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 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 (WLEP), in particular the following provisions:
 - a. Clause 4.3 *Height of Buildings*, as the proposal is considered an overdevelopment of the subject 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)(a) of WLEP.
 - b. Clause 4.4 *Floor Space Ratio* as the proposal is considered an overdevelopment of the subject site and the proposed development does not provide an appropriate correlation with the maximum building height development standard and does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clauses 4.4 (1)(b) and (d) of WLEP.
 - c. Clause 4.6 *Exceptions to development standards* (1) and (3) as the applicant has failed to demonstrate that the proposed development will result in a better outcome for the site and a compliant development is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the breach to the floor space ratio and height of buildings development standards. The proposal is not considered to be in the public interest.
3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:

- a. Part B12 – *Design Excellence*
 - i. Section 12.1 *Design* specifically objectives (a), (c) and (d), controls (a) and (e) and 12.2 *Context Analysis* objectives (a), (b) and (d) as the proposal has failed to consider the suitability of the land for development given the relationship of the development to other development on neighbouring sites and the result of additional amenity impacts particularly additional overshadowing of adjoining properties.
 - b. Part C3 – *Other Residential Development*
 - i. Section 3.2 *Height*, specifically objectives (b) and (c), controls (a) to (c) as the proposed development is not of a scale or density that is appropriate for the allotment, does not provide a compliant building or building wall height resulting in additional building bulk and impacts on the amenity of adjoining properties.
 - ii. Section 3.13 *Solar access and overshadowing*, specifically objectives (a) to (d), as the proposal results in additional amenity impacts on surrounding properties specifically, the reduction of direct sunlight received to habitable rooms and private open space of adjoining properties where the windows and private open spaces do not currently receive a minimum of 3 hours of direct sunlight between 9am and 3pm on 21 June.
 - iii. Section 3.17 *Ceiling heights*, specifically objectives (a) to (d) and control (a), as the second floor addition does not achieve a minimum floor to ceiling height of 2.7m for a habitable room and will not provide adequate amenity within the dwelling.
4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development in terms of the additional building bulk results in unacceptable amenity impacts on adjoining properties.
 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. The scope of the development exceeds the floor space ratio and height of building development standards resulting in additional amenity impacts on adjoining properties and is an over development of the site.
 6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as the variation sought to the floor space ratio and height of buildings development standards have not been adequately justified by a Clause 4.6 written requests demonstrating that compliance with the development standards is unnecessary or unreasonable and that there are sufficient environmental planning grounds to contravene the standards.

For the RESOLUTION: STEIN, MURRELL, SMALL AND VEALE

Against the RESOLUTION: NIL

REASON: The Panel concurs with the recommendations for refusal for the reasons set out in the Planning Officer's report.

D Harvey (on behalf of the applicant) addressed the meeting.

169 Old South Head Road Bondi Junction NSW 2026 Construction of a double garage with studio above the rear facing Barnett Lane (DA- 42/2022)

Report dated 10 May 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.

For the Resolution: STEIN, MURRELL, SMALL AND VEALE

Against the Resolution: NIL

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

T Quinton and Y Shuchat (on behalf of the applicant) addressed the meeting.

107 Ramsgate Avenue North Bondi NSW 2026 Alteration and additions to the building concurrently with ongoing construction of the approved balconies, approved rectification work and approved heritage exemption works (DA- 403/2021)

Report dated 10 May 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 and height 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 as amended by the Panel as follows:

AMEND CONDITION 41

41 CAR PARKING

Car parking spaces are to be allocated with the rates specified in the DCP, with no more than 2 spaces allocated to any residential unit. All car spaces are to be appropriately signposted and parked. Unit 1 is to be allocated a maximum of 2 car parking spaces. ***The third car parking space is to be part of the common area and allocated for visitors to the site.***

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

For the Resolution: STEIN, MURRELL, SMALL AND VEALE

Against the Resolution: NIL

REASON: The Panel concurs with the recommendations in the Planning Officer's report and congratulates the applicant and experts as well as all of the Council Officers involved in the assessment.

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

60 O'Donnell Street North Bondi NSW 2026 Use of subfloor area of existing residential flat building as storage areas with proposed alterations (DA-544/2021)

Report dated 4 May 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:

AMEND CONDITION 8 (PREVIOUSLY 7)

8. BASEMENT STORAGE

The basement level/s are to provide separate and secure storage areas (in the form of lockable storage cages or the like), allocated to each apartment in the development for larger bulkier items (surfboards, boxes, camping equipment etc.) which are not suited to be stored within each individual apartment. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012.

The basement is to only be used for storage and is not to be used for habitable purposes at any time.

For the Resolution: STEIN, MURRELL, SMALL AND VEALE

Against the Resolution: NIL

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

No speakers addressed the meeting.

140-142 Curlew Street Bondi Beach NSW 2026 AMENDED: Demolition of buildings and construction of a new 4-storey shop top housing building with retail at ground, residential units above, basement parking and a Voluntary Planning Agreement (DA- 355/2021)

Report dated 4 May 2022 from the Development and Building Unit.

Council Recommendation: That the application be granted DEFERRED COMMENCEMENT CONSENT 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 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 and Environment.

The Panel approves the development application as a **deferred commencement consent** in accordance with the recommendations in the Planning Officer's report and in accordance with the conditions recommended in the report.

DEFERRED COMMENCEMENT

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

1. The plans shall be amended to comply with the floor space ratio (FSR) development standard of 2:1 in the following manner:
 - (a) Apartments 301 and 302 shall be deleted from the proposal and replaced with a single apartment at the rear at Level 3. The replacement apartment shall not make the development exceed the FSR development standard and shall have side and rear setbacks of at least 6m. This apartment shall provide a terrace no larger than 12m².
 - (b) All balconies are required to comply with both the depth and area requirements of the Apartment Design Guide.
 - (c) Structures on the roof shall be amended to reflect the amended plans detailed in deferred commencement condition 1(c) and shall be set back from the building edges to ensure minimal visibility from the public domain and surrounding properties.

This development consent does not operate until the applicant satisfies Waverley Council, the Executive Manager or delegate in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

These conditions must be satisfied within 1 year of the date of this consent.

For the Resolution: STEIN, MURRELL, SMALL AND VEALE

Against the Resolution: NIL

REASONS: The Panel considered the clause 4.15 assessment in the assessment officer's report and was satisfied that the proposal is acceptable and warrants deferred commencement approval.

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

THE MEETING CLOSED AT 2.57PM