

**MINUTES OF THE WAVERLEY LOCAL  
PLANNING PANEL MEETING HELD AT THE  
WAVERLEY COUNCIL CHAMBER ON  
WEDNESDAY, 28 AUGUST 2019**

**Panel members present:**

The Hon Paul Stein (Chair)  
Graham Brown  
Jocelyn Jackson  
Penelope Mora (community representative)

**Also present:**

Ms A Rossi	Manager, Development Assessment (Central)
Ms B McNamara	Manager, Development Assessment (North/South)
Ms R Siaoisi	Administration Officer

---

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

*At 1.25pm, the meeting was closed to the public.*

*At 2.05pm, the Panel reconvened in closed session.*

*At 3.34pm, the meeting closed.*

**WLPP-1908.A**

**Apologies**

There were no apologies

**WLPP-1908.DI**

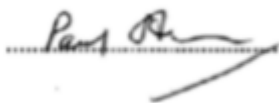
**Declarations of Interest**

The Chair called for declarations of interest and none were received

**WLPP-1908.R**

**Determinations**

The Panel resolved to make the following determinations overleaf.



The Hon Paul Stein  
**Chairperson**

**WLPP-1908.1**

**104A and 104B Bondi Road, Bondi Junction (Formerly 104 Bondi Road) - Construction of attics over approved garages to rear lane (DA-454/2018)**

Report dated 16 August 2019 from the Development and Building Unit.

**Recommendation:** That the application be refused in accordance with the reasons contained in the report.

**DECISION:** That the application be refused for the reasons recommended in the Officer's report as amended by the Panel.

The development application is refused for the following reasons:

1. The Panel is unable to support the applicant's written clause 4.6 variation in relation to the FSR development standard and as such the application must be refused.
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 (WLEP) 2012, in particular, the following provisions:
  - a. Clause 4.4(1)(b) to (d) and (2) as the proposal will exceed the maximum FSR permitted for the site and have unacceptable impacts. .
  - b. Clause 4.6(4)(a)(i) and (ii) as the proposal would be inconsistent with the objectives of the floor space ratio development standards.
3. 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.
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. Amended plans and documentation as requested 14 March 2019.
5. 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.
6. The proposal is ambiguous as the BASIX certificate is for single dwellings and the application seeks approval for attics over garages.
7. The proposal is not considered to be in the public interest for the reasons outlined above and for the reasons outlined in the public submission, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*No Speakers addressed the meeting.*

**WLPP-1908.2**

**3 St Thomas Street, Bronte - Demolition of existing dwelling and construction of a pair of semi-detached dwellings (one on each lot) (DA-1/2019)**

Report dated 18 August 2019 from the Development and Building Unit.

**Recommendation:** That the application be granted deferred commencement consent in accordance with the conditions contained in the report.

**DECISION:** That the Panel finds the clause 4.6 variations to be well founded and approves the application as a deferred commencement consent in accordance with the conditions contained in the officer's report.

Deferred Commencement conditions:

**1) DESIGN CHANGES AND AMENDED PLANS**

- (a) Level 4 to Lot B as nominated on the plans shall be deleted from the proposal. The roof level of the dwelling on Lot B shall not exceed RL 63.51. The only structures permitted on the roof are solar panels in the position indicated on the plans and shall be flush with the roof.
- (b) The rooflight nominated as 'light well void over stairs' and 'A/C and Services' at the roof level of Lot C are not approved and shall be deleted from the proposal. The roof level of the dwelling on Lot C shall not exceed RL 63.51. The only structures permitted on the roof are solar panels in the position indicated on the plans and shall be flush with the roof.
- (c) A maximum of one parking space shall be provided for the northern dwelling (Lot C) and two parking spaces for the southern dwelling (Lot B) shall be provided. The plans shall be redesigned to accommodate this provision.
- (d) The height of the top of the garage on Lot C shall be lowered to RL55.41 forming a step across the front elevation to reduce the bulk of the garage at the street front.
- (e) The louvres to windows on the southern elevation at Level 3 shall be fixed at an angle to inhibit overlooking of the adjoining property to the south (ie, angled to allow views toward the front of the site rather than allowing views directly into windows opposite).
- (f) The full height glazed panels/windows on the northern elevation at Levels 2 and 3 shall be fitted with external fixed louvres angled away from windows on the adjoining property to the north, 1 St Thomas Street.
- (g) No screening shall be erected on the southern side boundary of the front balcony and the balustrading shall be transparent glazing to mitigate view loss from 3A St Thomas Street.

**REASONS:** The Panel is in agreement with the Planning Officer's report.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*C Seton, G Tomaszuk, V Milson (on behalf of Bronte Beach Precinct) (Objectors), and L Breed (on behalf of the applicant) addressed the meeting.*

### **WLPP-1908.3**

#### **435 Bronte Road, Bronte - Demolition of existing dwelling and construction of a part two, part three storey dwelling with rear garage building and swimming pool (DA-480/2018)**

Report dated 9 August 2019 from the Development and Building Unit.

**Recommendation:** That the application be granted deferred commencement consent in accordance with the conditions contained in the report.

**DECISION:** That the Panel finds the clause 4.6 variation to be well founded and approves the application as a deferred commencement consent subject to the conditions contained in the officer's report.

Deferred Commencement conditions:

#### **1. SIDE SETBACK**

To reduce the visual bulk and scale impacts when viewed from the adjoining property to the east, the dwelling is to be setback a minimum of 900mm from the eastern side boundary in accordance with Part C2 Clause 2.2.2 Side Setbacks of Waverley Development Control Plan 2012.

#### **2. WALKWAY BRIDGE**

To prevent overlooking of the adjoining properties to the east and west in accordance with Part C2 Clause 2.5 of Waverley DCP 2012, the proposed elevated walkway bridge connecting Level 1 of the main dwelling to the rear garage building is to be deleted.

#### **3. DETAILED ENGINEERING DRAWINGS - VEHICLE CROSSING**

Detailed engineering drawings of the works proposed to be undertaken in the Council's road reserve to provide vehicular access to the garage shall be:

1. Be prepared by a suitably qualified and experienced structural or civil engineering consultant.
2. Show the driveway slab between the road and the garage being a single span, suspended slab.
3. Show details of, but not be limited to the following:
  - a. Handrailing proposed along both sides of the suspended slab
  - b. Adjustments required to Councils Arris type handrailing
  - c. Modifications to be carried out to the existing southern sandstone block retaining wall and how it is proposed to support that retaining wall whilst excavation is carried out adjacent to and below it.  
NOTE: Prior to preparing drawings relating to the support of the existing sandstone block wall, contact should be made with Council's Asset Manager on telephone 9083 8625 for discussions on replacing the block wall.
  - d. The location and line of all public utility authority services in the vicinity of the proposed works.
4. Fully detail the connection of the vehicle crossing slab to Council's kerb and gutter showing jointing that will allow for the kerb and gutter to be replaced in the future without the need to remove/ adjust any part of the suspended vehicle crossing slab.

5. Show details at the interface of the suspended vehicle crossing slab at the garage entry. NOTE: the vehicle crossing slab shall be discontinuous at the property boundary and not cast integrally with the garage floor slab.
6. The grated drain in the vehicular crossing at the back of the layback is to be deleted.
7. Show any trees within the Council's road reserve being removed.
8. Show the vehicle crossing being provided with a Council standard layback / gutter crossing.
9. Include long sections drawn along both edges of the driveway. The long sections shall:
  - a. Be drawn at a scale of 1:25
  - b. Include reduced levels (RLs) of the road centreline, kerb and gutter, vehicle crossing slab and garage floor slab
  - c. Include existing and proposed levels
  - d. Include ground clearances of the B85 standard design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
10. Include swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of vehicles entering and exiting both car spaces in the proposed garage. The swept wheel path drawings shall:
  - a. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking
  - b. Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Gardyne Street both opposite and to the immediate east and west of the proposed driveway.
  - c. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garage.
  - d. Accurately show the length of the Council's kerb and gutter remaining between the eastern side wing of the existing driveway at No.433 and the western side wing of the proposed driveway at No.435.

**REASONS:** The Panel is in agreement with the Planning Officer's report.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*D Maxwell, V Milson (on behalf of Bronte Beach Precinct) (Objectors), H Tribe and H Rubenstein (on behalf of the applicant) addressed the meeting.*

#### **WLPP-1908.4**

#### **262 Campbell Parade, Bondi Beach - Demolition of existing shop top housing and construction of a new shop top housing containing shops, residential units and basement parking (DA-381/2018)**

Report dated 12 August 2019 from the Development and Building Unit.

**Recommendation:** That the application be granted deferred commencement consent in accordance with the conditions contained in the report.

**DECISION:** The application is approved as a deferred commencement consent subject to the conditions contained in the officer's report as amended by the Panel:

Deferred Commencement conditions:

#### **1) DESIGN CHANGES AND AMENDED PLANS**

- a. The roof terraces are not approved and shall be deleted from the proposal. The building (including height of the street wall of the proposal and the roof level) shall not extend above RL 19.3. Only the roof plant/services, including the lift overrun and mechanical risers as indicated on the plans shall be permitted to extend above RL 19.3 but no higher than RL 20.3. The skylights and solar panels shall be flush with the roof or extend no higher than RL 19.3.
- b. Further to 1(a) above, Apartment 3.1 (as nominated on the plans) shall be provided with a skylight over the living area to provide solar access. The skylight shall be flush with the roof or shall extend no higher than RL 19.3.
- c. The amended roof level shall not be used as a trafficable area and may only be accessed for maintenance purposes only. In this regard, no decking or open space area shall be shown on the plans and as required in 1(a) above, the lift shall not extend to the roof level. An amended roof plan shall be provided.
- d. Apartments 3.1 and 3.2 shall be provided with balconies on the southern side of the building directly accessed from the living areas of each apartment. Each balcony shall be a minimum size of 12m<sup>2</sup> in area with a minimum depth of 2.4m. The floor plan of Level 03 shall be altered to be consistent with Level 02 below. The balconies shall also be provided with skylights for solar access. The skylight shall be flush with the roof or shall extend no higher than RL 19.3.
- e. The glass line at the retail frontage shall align with the front boundary along Campbell Parade to eliminate the pedestrian hazard of the soffit at the street level. In this regard, the retail level (including glazing) shall be built up to the Campbell Parade frontage boundary with no setback.
- f. Provide further detailed design of the return corner at the junction of Campbell Parade and Ramsgate Avenue, showing proposed surface treatment, detailing of sun hoods in response to the curved wall and design and detail of any external signage and lighting.
- g. Provide colour schedules for the building including guidelines for signage and treatment of awnings.
- h. Retail Shop 2 shall provide bin storage within the shop to ensure ease of access and to inhibit the use of the residential lobby by the shop.

## 2) BASIX CERTIFICATE

An updated BASIX certificate reflecting the changes required in deferred commencement condition 1.

## 3) PLANNING AGREEMENT

- (a) The owner/applicant is to enter into a Planning Agreement with Waverley Council under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (formerly S93F) in accordance with the letter of offer dated 22 July 2019 and Waverley Council's *Planning Agreement Policy* for the development that relates to works contained in DA-381/2018 and as amended by the Deferred Commencement matters).
- (b) In this regard, the applicant shall engage a suitable qualified surveyor to calculate the gross floor area (GFA) (as per the *Waverley Local Environmental Plan 2012* definition) of the existing buildings and the proposed building (as amended by the Deferred Commencement matters). Certified floor plans of existing buildings will be required in this instance.

### Conditions for Consent:

36 (b) - ~~12~~ 1 visitor parking spaces

46. ~~2664-268~~ 264-268 Campbell Parade, Bondi Beach

92. Delete 92 (j)

~~Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.~~

96. No. ~~252~~ 262 Campbell Parade.

**REASONS:** The Panel is in agreement with the Planning Officer's report.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*L Doran, H Deegan (City Plan Strategy & Development on behalf of J Rubenstein), M & J Hughes, (Objectors), L Kosnetter, J Leis and E Leis (on behalf of the applicant) addressed the meeting.*

**WLPP-1908.5**

**25 – 27 Curlewis Street, Bondi Beach - Alterations and additions to residential flat building, including internal modifications and attic level additions associated with Units 3 and 4 (DA-52/2018)**

Report dated 14 August 2019 from the Development and Building Unit.

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

**DECISION:** That the Panel finds the clause 4.6 variation to be well founded and approves the application subject to the conditions contained in the officer's report as amended by the Panel.

Addition of condition 2 (e)

2. (e) A schedule of external finishes shall be submitted for Council's consideration and approval prior to the issue of the Construction Certificate. The schedule shall include details of proposed external walls and roofing materials in the form of either trade brochures or building samples. Where specified, the schedule shall also include window fenestration and window frame colour details, as well as fencing, paving and balustrading details and guttering colour and profile.

**REASONS:** The Panel generally agrees with the Planning Officer's report.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*No speakers addressed the meeting.*



## **WLPP-1908.6**

### **21 Curlewis Street, Bondi Beach - Demolition of existing commercial building and construction of a four-storey commercial building (DA-320/2018)**

Report dated 16 August 2019 from the Development and Building Unit.

**Recommendation:** That the application be refused in accordance with the reasons contained in the report.

**DECISION:** The Panel declined to receive amended plans from the applicant. The Panel declined to defer this application as requested by the applicant. The application is refused for the reasons recommended in the Officer's report as amended by the Panel.

#### **REASONS:**

1. The Panel is unable to support the applicant's written clause 4.6 variation in relation to the FSR development standard and as such the application must be refused.
2. The proposal is in breach of section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in particular the following provisions:
  - a. Clause 4.4(1) of the WLEP 2012 as the proposed is inconsistent with Objectives (b)-(d) as the proposal does not provide appropriate correlation between maximum building height and density controls; the proposal building is not compatible with the height, bulk, streetscape and desired future character of the locality; and the proposal does not preserve the environmental amenity of neighbouring properties.
  - b. Clause 4.6(3)(a) of the WLEP 2012 as the applicant has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, as the proposal is inconsistent with Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.
  - c. Clause 4.6(3)(b) of the WLEP 2012 as the applicant has not demonstrated that there are sufficient environmental planning grounds to justify contravening the floor space ratio development standard as the proposal will result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality.
  - d. Clause 4.6(4)(a)(ii) of the WLEP 2012, as the consent authority is not satisfied that the request is in the public interest as the proposal is not consistent with the Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.
3. 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 and amenity in the built environment.
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 D1 – Commercial and Retail Development.
    - i. Section 1.2 Noise, specifically controls (d), as the location of the air conditioner units on the rear facing terraces will likely result in adverse acoustic privacy impacts.

b. Part E3 – Local Village Centres

- i. Section 3.1.6 Old South Head Road Neighbourhood Centre, specifically, control (a), as the proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.
  - ii. Section 3.2.3 Built Form, specifically Objective (a), as the proposed building is not of an appropriate scale and does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.
  - iii. Section 3.2.3 Built Form, specifically Control (d), as the proposal does not provide a 2m deep soil zone within the rear setback.
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 and has an undesirable and unacceptable impact on surrounding residential properties.
  6. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the proposal is considered an overdevelopment of the site 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 and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*C Pitharoulis, C Dwyer, N Boaz (Objectors), B Meyerson, J Askin (on behalf of the applicant) addressed the meeting.*

**WLPP-1908.7**

**11 Hardy Street, North Bondi - Demolition of existing dwelling and construction of attached dual occupancy, basement parking and rear swimming pool with strata subdivision (DA-20/2019).**

Report dated 8 August 2019 from the Development and Building Unit.

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

**DECISION:** The Panel approves the application subject to the conditions contained in the officer's report as amended by the Panel.

Amended Conditions:

- 1 (a) Landscape Plan No. LP01-03 Rev E and documentation prepared by R+M Landscape Architecture dated 20/06/2019, and received by Council on 2/7/2019 as amended by condition 2 (b);
- 2 (b) The Frangipani tree to the south of the proposed driveway is to be retained, and the landscape plan is to be amended accordingly.

Additional Condition:

**55A TREE PROTECTION**

Precautions shall be taken when working near the frangipani tree to be retained, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

**REASONS:** The Panel agrees with the Planning Officer's report and has added conditions to retain and protect the Frangipani tree to the south of the proposed driveway.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*J Francis (on behalf of the applicant) addressed the meeting.*

**WLPP-1908.8**

**591 Old South Head Road, Rose Bay - Conversion of two storage rooms and a portion of the internal common property into a new residential studio apartment (DA-326/2018)**

Report dated 18 August 2019 from the Development and Building Unit.

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

**DECISION:** That the Panel finds the clause 4.6 variation to be well founded and approves the application subject to the conditions contained in the officer's report.

**REASONS:** The Panel agrees with the Planning Officer's report.

**For the Decision:** Stein, Brown, Jackson and Mora

**Against the Decision:** Nil

*No Speakers addressed the meeting.*

**THE MEETING CLOSED AT 3.34 PM.**