

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL
MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 30 NOVEMBER 2022**

Panel members present:

The Hon Paul Stein (Chair)
Peter Brennan
Jan Murrell
Allyson Small (community representative)

Also present:

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

At the commencement of the public proceedings at 12.05 pm, those panel members present were as listed above.

*At 1.03pm, the meeting was closed to the public.
At 1.30pm, the Panel reconvened in closed session.
At 3.00pm, the meeting closed.*

WLPP-22112.A

Apologies

WLPP-22112.DI

Declarations of Interest

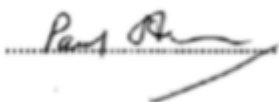
The Chair will call for any declarations of interest.

The Chair called for declarations of interest and none were received

WLPP-22112.R

Determinations

The Panel resolved to make the following determinations overleaf.



The Hon Paul Stein
Chairperson

8-10 Sir Thomas Mitchell Road, BONDI BEACH NSW 2026 - Demolition of the existing pair of semi-detached dwellings and construction of a four-storey residential flat building containing four residential apartments and associated basement car parking (DA-308/2022)

Report dated 14 November 2022 from the Development and Building Unit.

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

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

1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - a. *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP 65) as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. *Principle 1 – Context and neighbourhood* in that the proposed development does not achieve the desired urban form and built form quality envisaged for the area.
 - ii. *Principle 2 - Built form and scale* as the proposed development is out of scale with the desired future character for the area. The scale and bulk of the proposed development exceed that envisaged for the site.
 - iii. *Principle 6 – Amenity* as the proposed development results in unreasonable impacts on the amenity of neighbouring properties in regards to solar access, visual and acoustic privacy and view impacts.
 - iv. *Principle 9 – Aesthetics* as the visual appearance, particularly the bulk and scale, do not respond to the existing or future local context or desired future character.
2. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:

Part B8 Transport

 - a. Objective (d) under this the Part and control 8.2.1 (m), as the proposed driveway access ramp does not comply with the Australian Standards AS2890.1.

Part B12 – Design Excellence

 - b. 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 separation, amenity and urban form, the overall bulk and massing of the development and environmental impacts such as view impacts, 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.

Part B14 Excavation

- c. Objectives (a), (b), (d) and controls (d) and (n) under this Part, given the enlarged basement car park that provides non-compliant setbacks from boundaries of the site, thereby resulting in a lack of deep soil planting along side boundaries.

Part C3 – Other Residential Development

- d. Section 3.1 *Site Scale and Frontage*, in particular objectives (a), (b) and (c) controls (a), (b) and (c) as the proposed lot does not satisfy the minimum street frontage requirements resulting in a development that is not of a scale or density that is appropriate for the allotment.
 - e. Section 3.4 *Length and Depth of Buildings*, specifically objectives (b) and (c) and control (c), as the proposal exceeds the maximum depth of the building permitted and does not respond to the desired scale and character of the street and area or provide good residential amenity for dwellings.
 - f. Section 3.5 *Building Design and Streetscape*, specifically objectives (a), (b) and (c) and controls (a) and (b), in that the proposed residential flat building is not of a scale and appearance in keeping with the emerging character of the area.
 - g. Section 3.13 *Solar Access and Overshadowing*, specifically objective (d) and control (c) as the proposed development results in unreasonable overshadowing to the neighbouring property to the south-east.
 - h. Section 3.15 *Visual Privacy and Security*, specifically objectives (a) and (b) and controls (d) and (e) in that the proposed development provides inadequate separation distances to development on the adjoining properties resulting in unreasonable visual privacy impacts. The proposal also results in unreasonable visual privacy impacts between units within the development itself.
 - i. Clause 3.19 *Acoustic Privacy*, specifically objective (a) and control (b) in that the proposal results in unreasonable acoustic privacy impacts between units within the development itself given the location of kitchen windows directly opposite and above bedroom windows that overlook the proposed central void area.
3. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
4. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.

5. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

Panel comments: The Panel noted that the height standard complies, and that a Clause 4.6 is not required.

S Wilmot (Objector) addressed the meeting.

180 Wellington Street, BONDI BEACH NSW 2026 - Alterations and additions to existing residential flat building including additional storey, internal reconfiguration, reconfiguration of open spaces, and new swimming pool. (DA-300/2022)

Report dated 17 November 2022 from the Development and Building Unit.

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

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

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

The application exceeds the maximum allowable height of 9.5m and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

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

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.6:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP.

Details: The proposal is considered an overdevelopment of the site and the proposed development is not compatible with the bulk and scale of the desired future character of the locality and does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under subclauses 4.4 (1) (c) and (d) of WLEP.
2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - a. *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)* as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. *Principle 1 – Context and neighbourhood* as the proposed development exceeds the height of buildings and floor space ratio development standards under WLEP, contrary to the existing and desired urban form and built form qualities of the surrounding neighbourhood.
 - ii. *Principle 2 - Built form and scale* as the proposed building bulk and height is excessive.

- iii. *Principle 3 – Density* as the density of the proposed development is greater than what can be suitably and reasonably achieved based on the site’s area and dimensions, and results in unacceptable amenity impacts on neighbouring sites.
 - iv. *Principle 5 – Landscape* as a lack of landscaped area and deep soil planting is provided.
 - v. *Principle 6 – Amenity* as the proposed development does not afford acceptable residential amenity for neighbours in terms of solar access and visual and acoustic privacy.
 - vi. *Principle 8 – Housing Diversity and Social Interaction* as the proposal does not include communal open space and does not provide opportunities for social interaction.
 - vii. *Principle 9 – Aesthetics* as the proposal does not achieve a built form with good proportions or respect the character of the existing inter-war building and does not respond to the existing or future desirable local context.
- b. *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)* subclauses 30(2)(a) and (b), as adequate regard has not been given to the SEPP 65 design quality principles nor the objectives specified in the Apartment Design Guide (ADG) for relevant design criteria.
- c. WLEP as the application is contrary to the following provisions:
- i. *Clause 1.2 Aims of Plan*, specifically the aims expressed under clause 1.2(2)(f) and (m), as the proposal provides insufficient deep soil area and does not maintain amenity for neighbours.
 - ii. *Clause 5.10 Earthworks*, specifically subclauses (3)(a), (d) and (h) as the applicant has provided insufficient information to enable a consideration of impacts on soil stability and structural integrity.
3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCCP) 2012, in respect to the following provisions:
- Part B12 Design excellence*
- a. 12.1 objective (a) and controls (a) and (e)(iii), (iv), (v), and (viii), as the proposal does not contribute to the architectural design quality of Waverley, does not achieve a high standard of architectural design appropriate to the building type and location, and does not sufficiently consider streetscape constraints, the relationship with neighbouring sites in terms of setbacks and amenity, the bulk and massing of buildings, and overshadowing.
- Part B17 Inter War Buildings*
- b. Objectives (c) and (d) and controls (c), (d), (f), (g), (k), (l), (n), (o), and (q) the proposal does not preserve the integrity of the building, and is not complementary to the existing building, does not minimise visibility of new additions, and does not demonstrate a high standard of design excellence.

Part C3 Other Residential Development

- c. Section 3.5 *Building design and streetscape* objectives (a), (b), (c), (d), and (e), and controls (a), (b), and (c) as the proposal does not respond to the existing streetscape character, is not compatible with the existing building.
 - d. Section 3.6 *Attic and roof design* objectives (b) and (c), and controls (b) and (d) as the proposed additional storey is not contained within a pitched roof form.
 - e. Section 3.8 *Pedestrian access and entry* objective (a), and controls (b) and (c), as an accessible path of travel from the street to ground floor dwellings is not provided and the provision of lifts has not been considered.
 - f. Section 3.9 *Landscaping* objective (e) and control (c) as less than 50% of the proposed landscaped area is deep soil.
 - g. Section 3.10 *Communal space* objectives (a), (b) and (d), and controls (a) and (c) as no communal open space is provided.
 - h. Section 3.15 *Visual privacy and security* objective (a) and controls (d) and (f) as the proposed above ground open spaces overlook adjoining properties and as it has not been demonstrated that windows and balconies of upper level dwellings overlook no more than 50% of lower level private open spaces.
 - i. Section 3.19 *Acoustic privacy* objective (a) and control (a) as the proposal does not include sound proofing to reduce noise impacts on neighbours from the proposed upper level private open spaces.
4. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the *Environmental Planning and Assessment Regulation 2021* (the Regulations), as insufficient documentation has been provided to properly assess the application with respect to clause 24 of the Regulations, including but not limited to:
- a. The Statement of Environmental Effects is insufficient, as it does not adequately document the environmental impacts of the development concerning overlooking and excavation impacts.
 - b. The Statement of Environmental Effects is insufficient, as it does not accurately depict compliance with building height standard as marked on plans, sections and elevations.
 - c. The Statement of Environmental Effects is insufficient, as it does not provide accurate drawings of the proposed landscape area.
5. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
6. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.

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

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

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

97 Glenayr Avenue, BONDI BEACH NSW 2026 - Modifications including internal reconfiguration, additional studio apartments, conversion of a two-bedroom unit to an adaptable unit and various other alterations. (DA-296/2019/B)

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

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

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

AMEND CONDITION 38

38. CAR PARKING ALLOCATIONS

A total of 7 car vehicle parking spaces are to be provided, and allocated as follows:

- (a) 4 resident parking spaces*
- (b) 2 resident visitor parking spaces, 1 of which is to include an EV charging point.*
- (c) 1 retail/commercial parking spaces*

Two of the spaces are to be accessible spaces with adjacent shared zone.

Accessible parking spaces are to be designed in accordance with Australian Standard as2890.6 - 2009 Off Street Parking for People with Disabilities.

The residential and retail car parking spaces shall not be independent lots, but rather part lots attached to units or retail commercial floorspace.

[AMENDED BY DA-296/2019/B]

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report as amended by the Panel in relation to condition 38.

Y Middleton and G Karavanas (on behalf of the applicant) addressed the meeting.

226 Military Road, DOVER HEIGHTS NSW 2030 - Demolition and construction of a new part two to three storey dwelling with integrated garage parking and swimming pool. (DA-282/2022)

Report dated 17 November 2022 from the Development and Building Unit.

Council Recommendation: That the application be deferred commencement consent 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 that consent may be granted to the development application that contravenes the floor space ratio development standard. 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 as amended by the Panel

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:

- (a) The dwelling must provide windows to the front elevation to improve casual surveillance of the street and to better articulate the street façade of the dwelling.
- (b) A more detailed materials and finishes schedule is to be provided for the development. This is to also include more detail of the finishes of the garage.
- (c) A privacy screen with a height of 1.8m above the finished floor level of the balcony is to be erected to the northern side of the second floor rear balcony between the western facing glass line of the kitchen/dining area and the western facing glass line of the living room. This is to protect the visual privacy of neighbouring properties.
- (d) Excavation is to be set back at least 0.9m from the southern side boundary so as to maintain existing ground levels within this setback area.
- (e) The garage roof is to be a non-trafficable green roof.
- (f) The minimum length of the garage is to be 5.4m for a compliant parking space. The lift may be deleted or pushed further to the west. Minor amendments to the internal layout of each level may be permitted. However, no increase to the bulk and scale of the approved development is permitted.

- (g) Bedroom 3 is to be increased in size to at least 9m² (excluding wardrobe). The bathroom, store room, walk-in-robe or primary bedroom may be reduced in size. No increase to the bulk and scale of the approved development is permitted to achieve this requirement.
- (h) The window proposed to the wall between bedroom 3 and the garage is to be deleted.
- (i) The windows to the northern elevation are to reflect the windows shown on the floor plan.
- (j) The submission of an amended landscape plan to filter and suitably screen the development for the Military Road presentation to provide an improved landscape setting.

The amendments are to be approved by the Executive Manager, Development Assessment, or delegate.

This development consent does not operate until the applicant satisfies Waverley Council, 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, Brennan, Murrell and Small

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 approval.

J Handoko (Objector), G Karavanas (on behalf of the applicant) addressed the meeting.

Unit 1, 4-12 Cadigal Place, DOVER HEIGHTS NSW 2030 - Alterations and additions to an existing seniors living unit to enclose a section of the terrace and extend the internal living area. (DA-321/2022)

Report dated 16 November 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.

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

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

No speakers addressed the meeting.

154 Brighton Boulevard, NORTH BONDI NSW 2026 - Substantial demolition and alterations and additions to a Residential Flat Building (RFB) including internal reconfiguration, new lift and two basement parking levels. (DA-335/2022)

Report dated 15 November 2022 from the Development and Building Unit.

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

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

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

The application exceeds the maximum allowable height of 9.5m and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposed height is not considered compatible with the height, bulk and scale of the desired future character of the locality as it increases the bulk and scale to a building that has already reached its maximum development potential contrary to clause 4.3 (1)(d) of WLEP.
 - b. *Clause 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.6:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP

Details: The proposed FSR is not considered compatible with the height, bulk and scale of the desired future character of the locality as it increases the bulk and scale to a building that has already reached its maximum development potential contrary to clause 4.4 (1)(c) of WLEP
2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - a. *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)* as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. *Principle 1 – Context and neighbourhood* as the proposed development exceeds the height of buildings and FSR development standards under WLEP, contrary to the existing and desired urban form and built form qualities of the surrounding neighbourhood.
 - ii. *Principle 2 - Built form and scale* as the building envelope of the proposed development is excessive and constitutes overdevelopment of the site.

- iii. *Principle 3 – Density* as the density of the proposed development is greater than what can be suitably and reasonably achieved based on the site’s area and dimensions.
- iv. *Principle 6 – Amenity* as the proposed development does not afford optimal and adequate residential amenity for future occupants of the development, given it does not adequately meet the design criteria of the Apartment Design Guide (ADG) for the following aspects:
 - Lack of communal open space in Part 3D;
 - Lack of adequate floor-to-ceiling heights outlined in Part 4C; and
 - Non-compliant apartment widths outlined in Part 4D.
- v. *Principle 9 – Aesthetics* as the proposed materials and finishes are unsatisfactory.

- b. *State Environmental Planning Policy (Biodiversity and Conservation) 2021* as the application fails to satisfy Part B3, Section 3.2, control (a) of the Waverley Development Control Plan 2012 (WDCP). as it does not meet the minimum requirement of 90% of the proposed trees, 90% of the shrubs and 90% of the grasses and groundcovers (not including turfed areas) to be indigenous local native plants that are listed in Annexure B2-1 of the WDCP.

State Environmental Planning Policy (Resilience and Hazards) 2021 as the application fails to satisfy Division 4, Clause (c). As the bulk and scale of the proposed development is not appropriate.

- c. *WLEP* as the application is contrary to the following provisions:
 - i. *Clause 1.2 Aims of Plan*, specifically the aims expressed under clause 1.2(2)(f) as it does not preserve the natural environment through appropriate planning.

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

Part B8 Transport

- j. *Section 8.2.2 Car Parking Provision rates, Section 8.2.5 Motorcycle Parking and Section 8.2.6 Bicycle Parking* as the proposed development provides insufficient bicycle visitor parking and excessive off-street car and motorcycle parking spaces.

Part B12 Design Excellence

- a. *Section 12.1 Design*, specifically controls (c) and (e)(v) as the proposed development does not achieve design excellence as it does not retain view corridors and increases bulk and scale to a building that has reached its current development capacity.

Part B14 Excavation

- a. Specifically objectives (a), (b), (f) and control (d) as the two levels of excavation for the basement are excessive.

Part C1 Special Character Areas

- a. *Section 1.3 Ben Buckler*, specifically objectives (c) and (e) and control (b) as the increased bulk and scale to the building will reduce view sharing.

Part C3 Other Residential Development

- b. *Section 3.1 Site, scale and frontage*, specifically objectives (a) and (d), as the proposed FSR cannot be accommodated on the site.
 - c. *Section 3.2 Height*, specifically control (a) and (b) as the proposed development exceeds the maximum building height and maximum wall height permitted.
 - d. *Section 3.3.1 Street Setbacks*, specifically (a) as the proposed enlarged balconies extend beyond the existing balconies at 152 Brighton Boulevard, impacting their views.
 - e. *Section 3.3.2 Side and Rear Setbacks*, specifically objective (b) and control (a) as the proposed side and rear setbacks impacts views enjoyed by 152 Brighton Boulevard.
 - f. *Section 3.4 Length and Depth of Buildings*, specifically objective (a) as the proposal does not respond to the existing subdivision pattern and the scale of surrounding buildings.
 - g. *Section 3.5 Building Design and Streetscape*, specifically objective (a) as the scale of the development is too large.
 - h. *Section 3.11 Private Open Space*, specifically objective (d) as the proposed balconies add unreasonable bulk and scale to a building that already exceeds its current development capacity.
 - i. *Section 3.13 Solar access and overshadowing*, specifically objective (c) and (d) as the proposed enlarged balconies create unreasonable additional shadowing to the private open space of 156 Brighton Boulevard.
 - j. *Section 3.14 Views and view sharing*, specifically objective (a) and control (a) as the increased bulk of the development impacts views enjoyed by 152 Brighton Boulevard.
 - k. *Section 3.21 Building Services*, specifically control (a) as the building services are not integrated into the design of the building.
4. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the *Environmental Planning and Assessment Regulation 2021* (the Regulations), as insufficient documentation has been provided to properly assess the application with respect to the Regulations, including but not limited to:
- a. The proposed method of demolition and retention of existing fabric is unclear.
 - b. Solar and daylight access plans for the internal amenity need to be shown to undertake an assessment against *Part 4A Natural Ventilation* of the Apartment Design Guide.
 - c. Cross Ventilation plans for the internal amenity need to be shown to undertake an assessment against *Part 4B Natural ventilation* of the Apartment Design Guide.
 - d. Storage calculations need to be shown to undertake an assessment against *Part 4G Storage* of the Apartment Design Guide.
 - e. The Site Waste and Recycling Management Plan is not sufficient.

- f. Window locations of adjoining buildings need to be shown on the architectural plans to adequately assess visual privacy.
 - g. The approved dwelling at 156 Brighton Boulevard needs to be shown on the architectural plans.
 - h. A Fire Safety Upgrade and Building Code of Australia Report is required.
5. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
 6. 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 standalone redevelopment of the subject site (to the scale and density proposed) could consequently affect orderly future redevelopment of adjoining sites.
 7. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
 8. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

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

M Baker (Objector) addressed the meeting.

35 Chesterfield Parade, BRONTE NSW 2024 - Alterations and additions to dwelling house including new double garage and studio above facing Busby Lane, swimming pool and associated landscaping works. (DA-179/2022)

Report dated 15 November 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.

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

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

J O'Grady (on behalf of the applicant) addressed the meeting.

395 Bronte Road, BRONTE NSW 2024 - Demolition of existing structures, and construction of a part two/three storey dwelling house with a basement garage, new swimming pool and a terrace at the rear. (DA-251/2022)

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

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

The Panel notes that the request for deferral by the applicant of this matter is declined.

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

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

- a. *Clause 4.3 Height of Buildings*

The application exceeds the 8.5m development standard and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

The proposed height is not considered compatible with the height, bulk and scale of the desired future character of the locality and does not preserve the environmental amenity of neighbouring properties as it would result in overshadowing and is contrary to clause 4.3 (1) (a) and (d) of WLEP.

- b. *Clause 4.4 Floor Space Ratio*

The application exceeds the 0.558:1 Floor Space Ratio (FSR) development standard and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP

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

2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:

- a. *Waverley Local Environmental Plan 2012* (or WLEP) as the application is contrary to the following provisions:

- i. *Clause 1.2 Aims of Plan*, specifically the aims under clause 1.2(2)(f) as the proposal would not enhance or preserve the natural environment through appropriate planning, or demonstrate that it would protect existing trees.

- ii. *R2 Low Density Residential zone objectives* as the proposal as it would result in impacts on the amenity of the neighbouring properties and would not provide for the housing needs of the community.
 - iii. *Clause 5.6 Architectural Roof Features*, specifically objective (d) as the roof feature would not have minimal visual and amenity impacts, in particular with regard to solar access.
 - iv. *Clause 6.2 Earthworks*, specifically clause (3)(a),(d) and (h) as the proposal would not demonstrate a satisfactory design response in order to prevent disruption and/or detrimental effects on drainage patterns, soil stability, and the structural integrity of the adjoining properties, and has not demonstrated that appropriate measure would be implemented to avoid or minimise impacts as a result of the proposed works.
3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCCP) 2012, in respect to the following provisions:

Part B3 Landscaping and Biodiversity

- a. Objective (d) and controls (e), (f), and (i) under this part as the proposal would not comply with the minimum landscaped area requirement and would not maximise on site stormwater infiltration or minimise hard surfaces and stormwater runoff. Insufficient information has been provided to demonstrate that the proposal would not result in impacts on existing mature vegetation within the vicinity.

Part B6 Stormwater

- b. Objectives (f), (k) and control (d) under this Part, as proposal does not comply with the minimum landscaped area requirement and would not provide sufficient permeable area in order to minimise stormwater run-off, or minimise disturbance of natural drainage systems.

Part B12 Design Excellence

- c. Objectives (b), (c), and (d), and controls (e)(iv), (v), (vi), (vii), and (x) under this Part, as the proposal has not demonstrated that adequate consideration has been given to amenity of the neighbouring properties or the visual dominance of the street wall, and insufficient information has been provided to demonstrate that adequate consideration has been given to the site constraints.

Part B14 Excavation

- d. Objectives (b), (c), (g), (h) and control (d) as the proposal would not minimise excavation or site disturbance, and insufficient information has been provided to demonstrate that the proposal would not result in adverse impacts.

Part C2 Low Density Residential Development

- e. *Section 2.0 General Objectives* as the proposal would not satisfy objectives (a), (b), (d) and (e), as the proposal would not satisfy a number of planning controls and objectives or be of a scale which is appropriate to the size of the allotment, and would result in impacts on the amenity of the neighbouring properties. The proposal would and would not be in keeping with the desired future character of the locality.
- f. *Section 2.1 Height* as the proposal would not satisfy control (b) as it comprises a wall height of 10.43m and 10.72m on the northern elevation and part of the eastern elevation and exceeds the 7.5m wall height control by 2.93m (39.06%) 3.23m (43.06%) respectively.
- g. *Section 2.2.1 Setbacks* as the proposal would not satisfy objectives (f) and (h) or controls (a) and (b) as the proposal would not provide a greater rear setback at the upper level in order to minimise impacts on the neighbouring properties, or demonstrate compatibility with neighbouring properties.
- h. *Section 2.2.2 Side Setbacks* as the proposal would not satisfy control (a) as the proposal would not comply with the minimum side setback requirements.
- i. *Section 2.3 Streetscape and Visual Impact* as the proposal would not satisfy control (d) as the proposal would not minimise the visual bulk and scale or dominance of the proposal within the streetscape.
- j. *Section 2.4 Fences* as the proposal would not satisfy objective (b) or controls (a), (d), (i), and (m) as the proposal would not minimise the visual impact of structures within the streetscape, a setback has not been provided for the pedestrian entry and insufficient information has been provided in relation to external finishes and side boundary fencing to demonstrate compliance.
- k. *Section 2.6 Solar Access* as the proposal would not satisfy objectives (a), (c) and (d), and control (e) as the development exceeds the building height and FSR development standards and would result in overshadowing of the neighbouring property at 393 Bronte Road.
- l. *Section 2.8.4 Car Parking – Design* as insufficient information has been provided to demonstrate that controls (a), (b), and (i) would be satisfied.
- m. *Section 2.9 Landscaping and Open Space* as the proposal would not satisfy objective (d) or control (c) as it would not comply with the 15% minimum landscaped area requirement and would not maximise on site stormwater infiltration in order to minimise stormwater runoff.

4. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the *Environmental Planning and Assessment Regulation 2000* (the Regulations), as insufficient documentation has been provided to properly assess the application.
5. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
6. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
7. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
8. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

For the RESOLUTION: Stein, Brennan, Murrell and Small

Against the RESOLUTION: Nil

G Lake and R Stalley (Objectors), M Fortunato (on behalf of the applicant) addressed the meeting.

Panel comments: The Panel notes that the request for deferral by the applicant of this matter is declined.

THE MEETING CLOSED AT 3.00PM