

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL
MEETING HELD BY VIDEO CONFERENCE ON
WEDNESDAY, 21 SEPTEMBER 2022**

Panel members present:

Jacqueline Townsend (Chair)
Graham Brown
Jan Murrell
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 12.05 pm, those panel members present were as listed above.

*At 1.08pm, the meeting was closed to the public.
At 1.10pm, the Panel reconvened in closed session.
At 2.55pm, the meeting closed.*

WLPP-2209.A

Apologies

There were no apologies

WLPP-2209.DI

Declarations of Interest

The Chair called for declarations of interest and none were received

WLPP-2209.R

Determinations

The Panel resolved to make the following determinations overleaf.



Jacqueline Townsend
Chairperson

39 Glenayr Avenue, NORTH BONDI NSW 2026- Demolition of existing buildings and construction of two semi-detached dwellings and Torrens title subdivision into 2 lots . (DA-144/2022)

Report dated 8 September 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.

Reasons for refusal:

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 4.1 Minimum Subdivision Lot Size*

The application does not achieve the minimum lot size development standard of 325sqm 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 subdivision does not minimise the likely impact on the amenity of neighbouring properties contrary to clause 4.1 (1) (b) of WLEP.

- b. *Clause 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.6278:1 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 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)(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. *Section 8.2.1 Vehicular Access*, specifically objective (c) and control (a) as the two proposed vehicular crossings will affect the streetscape and reduce the availability of on-street car parking.

Part C2 Low Density Residential Development

- b. *Section 2.2 Setbacks*, specifically objectives (a) and (f) and control (a) and (b) as the proposed development has front and rear setbacks that are inconsistent with the predominant building lines of the streetscape.

- c. *Section 2.3 Streetscape and visual impact*, specifically objectives (a) and (b) and control (a) and (d) as the proposed development does not facilitate a high architectural and aesthetic standard that acknowledges and responds to the architectural style, scale, materials and character of the existing built environment. Furthermore, the proposal is not visually compatible with the streetscape context and does not respond to the essential elements that make up the character of the surrounding area and the development dominates and erodes the character of the streetscape.
 - d. *Section 2.5 Visual and acoustic privacy*, specifically objectives (a) and (c) and control (b) as the proposed development has windows to habitable rooms that directly face windows to habitable rooms or open space at neighbouring dwellings.
 - e. *Section 2.6 Solar Access*, specifically objectives (a), (b) and (d) and controls 2.8.1 (a) to (d) and controls 2.8.3 (a) and (d) as the proposed car parking is located forward of the building line and exceeds 45% of the width of the site frontage; control 2.8.4 (d) as the proposed car parking is not sympathetically integrated into the design of the dwellings; and control 2.8.6 as the proposed driveways are not perpendicular to the street.
 - f. *Section 2.8 Car Parking*, specifically objectives (c) and (d) under section 2.8.1 *Design Approach*, control (a) under section 2.8.3, control (b) under section 2.8.4 *Design* and control (b) under section 2.8.6 *Driveways* as the proposed car parking is forward of the front building line and not integrated into the design of the proposed development and the proposed two vehicular crossings will affect the supply of on-street car parking.
 - g. *Section 2.15 Dual Occupancy Development*, specifically objectives (a) and (b) and controls (a) and (b) as the proposed size and bulk of the dual occupancy development is not in character with the surrounding development and streetscape, the allotment area is less than 450sqm which is undersized for an attached dual occupancy development, and the appearance from the street is not of a single dwelling.
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: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

A Quayle (Objector), A (Adam) Levy (on behalf of the applicant) addressed the meeting.

3 Portland Street, DOVER HEIGHTS NSW 2030 - Alterations and additions to existing dwelling including a new rear attic level. (DA-119/2022)

Report dated 8 September 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 and floor space ratio development standards. 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: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

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

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

35-37 Hall Street, BONDI BEACH NSW 2026 - Demolition of building and construction of a new four storey shop top housing building with basement level services, retail on the ground floor and residential units above. (DA-306/2021)

Report dated 12 September 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 Panel decided to defer this matter to allow the applicant the opportunity to submit the necessary documentation confirming that the site is or can be made suitable for the intended use. On receipt of the information, Council is to prepare in a timely manner, a supplementary report for the Panel, including advice from the Council's Environmental Health Officer. The matter is to be referred to this Panel for an electronic determination.

The applicant has 28 days to submit the necessary documents. In the absence of receipt, the Panel may determine on the information before it.

For the RESOLUTION: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

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

22-24 Birrell Street, BONDI JUNCTION NSW 2022 - Alterations and additions to semi-detached dwelling at 24 Birrell Street including first floor addition, and boundary adjustment to the boundary of 22 and 24 Birrell Street. (DA-123/2022)

Report dated 8 September 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 minimum lot size development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

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

For the RESOLUTION: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

REASON: The Panel concurs with the Planning Officer's report and notes that the amended plans and shadow diagrams demonstrate the reduction of solar access complies with Council's Development Control Plan (DCP).

L Poulos (Objectors), C Kreis (on behalf of the applicant) addressed the meeting.

B Harvey (Objector) provided a written submission to the Panel.

4/81-83 O'Brien Street, BONDI BEACH NSW 2026 - Alterations and additions to Unit 4, including rear balcony, new second floor roof addition and rear terrace. (DA-180/2022)

Report dated 8 September 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.

Reasons for refusal

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 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* and the *apartment Design Guide*, in particular the following provisions:
 - a. Clause 2 *Aims, objectives etc*, subclauses (3)(a)(ii) and (iii), (b) and (d), as the proposed development does not meet the objectives of the urban planning policies of the local context, does not achieve a better built form outcome for the streetscape and does not maximise amenity for the wider community.
 - b. The proposal is inconsistent with Part 4 *Application of Design Principles*, in particular Principle 1 *Context and Neighbourhood*, Principle 2 *Built Form and Scale*, Principle 3 *Density*, Principle 6 *Amenity* and, Principle 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 following provisions of the *Waverley Local Environmental Plan 2012*:
 - a. Clause 4.4 *Floor space ratio* (1)(b), (c) and (d), because the proposal breaches the floor space ratio development standard, seeking to maximise the height of the building whilst increasing the density to well over the permissible FSR which would give rise to a development with excessive bulk and scale that is not compatible with the desired future character of the locality, contrary to objectives (b) and (c). The proposal will reduce the environmental amenity of neighbouring properties, including other occupants of the RFB and locality, contrary to objective (d).
 - b. Clause 4.6 *Exceptions to development standards* (1)(b), (3)(a) and (b) and (4)(a), because the proposed development will not result in a better outcome for the site. The applicant's *Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)* fails to adequately justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the significant breach to the already exceeded floor space ratio development standard. The proposed development is

inconsistent with the objectives of the development standard and 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 the following provisions of the Waverley Development Control Plan 2012:

- a. Part B – *General Provisions*

- i. Part B12 – *Design Excellence*, 12.1 *Design*, specifically objectives (a) and (d) and controls (a) and (e), and 12.2 *Context Analysis* specifically objectives (a), (b), (c) and (d) because the proposal fails to achieve a high standard of architectural design and detailing appropriate to the inter-war residential building. The proposal fails 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 and does not consider bulk, massing, and modulation of the building. The development does not demonstrate an understanding of an appropriate response to the specific conditions, nor does it identify the key contextual; features and characteristics of the surrounding urban form to which the design should respond.
- ii. Part B17 – *Inter war buildings*, specifically objectives (b) and (d) and controls (b), (c), (f), (g), (k), (l) and (o), as the proposal fails to identify the RFB and its historical features as an inter-war building and fails to demonstrate how the design maintains and enhances the key design elements. The proposal does not preserve the integrity of the building and the extent of alterations and additions are not considered minimal. The proposal does not preserve the building’s contribution to, and relationship with the streetscape and the alterations and additions are not complementary to the existing building design.

- b. Part C3 – *Other Residential Development*

- i. Section 3.5 *Building Design and Streetscape*, specifically objectives (a), (c), (d) and controls (a), (c) and (d), as the proposal does not respond to the streetscape character of the area and the proposed alterations and additions do not demonstrate architectural compatibility with the existing building.
 - ii. Section 3.6 *Attic and Roof Design*, specifically objective (c) and control (a) and (b), because the proposed skillion roof design does not contribute to the architectural design of the development, nor does it respond to the streetscape character of the area.
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 an unacceptable planning outcome because the proposal is an overdevelopment of the site and is only achievable with a significant exceedance of the FSR development standard and would adversely impact upon the amenity of neighbouring 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 amenity of 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: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

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

3 Ormond Street, BONDI BEACH NSW 2026 - Alterations and additions to existing three storey dwelling including rear additions, demolition of existing garage and carport, excavation for construction of a new garage with turn table, replacement of existing swimming pool and associated landscape works. (DA-494/2021)

Report dated 9 September 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 and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standards are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

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

Insert new Condition 37A:

37A. TREE REMOVAL AND PROTECTION AND PLANTING

- (a) The following trees are permitted to be retained or removed or transplanted as identified in the Arborist Report prepared by Jackson Nature Works dated 4 November 2021:

Tree No.	Species	Location	Action
T 1	<i>Citharexylum spinosum</i>	On-site	Remove as per Arborist report.
T 2	<i>Citharexylum spinosum</i>	On-site	Remove as per Arborist report.
T 3	<i>Citharexylum spinosum</i>	On-site	Remove as per Arborist report.
T 4	<i>Araucaria heterophylla</i>	On-site	Retain and protect as per Arborist report.
T 5	<i>Eucalyptus robusta</i>	On-site	Retain and protect as per Arborist report.
T 6	<i>Howea forsteriana</i>	On-site	Transplant as per Arborist report.
T 7	<i>Howea forsteriana</i>	On-site	Transplant as per Arborist report.
T 8	<i>Howea forsteriana</i>	On-site	Transplant as per Arborist report.
T 9	<i>Cinnamomum camphora</i>	Neighbours tree.	Retain and protect as per Arborist report.

T 10	<i>Eriobotrya japonica</i>	On-site	Retain and protect as per Arborist report.
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- (b) In addition to the above, prior to the issue of any Construction Certificate, the applicant must amend the landscape plan to the satisfaction of Waverley's Tree Management officer, to include additional native canopy trees.
- (c) Prior to the issue of any Occupation Certificate the trees and landscape plan must be completed on site.

For the RESOLUTION: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

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

D Burgess (Objectors), K Doyle and Y Gao (on behalf of the applicant) addressed the meeting.

362-384 Oxford Street, BONDI JUNCTION NSW 2024 - Demolition of the existing buildings and construction of a 14 storey shop top housing development including basement carparking, 39 apartments, swimming pool and childcare centre. The proposal includes modifications to the approved shop top housing development at 362-374 Oxford Street Bondi Junction (DA-89/2016). (DA-157/2022)

Report dated 12 September 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.

Reasons for refusal

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 38m 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 and does not preserve the environmental amenity of neighbouring properties by causing view loss and overshadowing contrary to clause 4.3 (1) (a) and (d) of WLEP.

- b. *Clause 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 5:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: 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. *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 standard under *Waverley Local Environment Plan (WLEP) 2012*, 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 significantly greater than what can be suitably and reasonably achieved based on the site’s area and dimensions and not all units will be afforded with a high level of amenity for future occupants of the development.
- b. *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004* as the application fails to provide a valid BASIX certificate.
 - c. *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 expressed under clause 1.2(2).
 - ii. *Clause 6.9 Design Excellence* as the proposed development fails to exhibit design excellence.
 - iii. *Clause 6.12 Development on certain land in Bondi Junction* as the proposed development fails to maintain the amount of non-residential floor space on site
3. 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. Section 8.2.2 *Car Parking Provision rates*, specifically objectives (a)-(c) and controls (g) and (h), as the proposed development provides excessive off-street car parking spaces.

Part B12 Design Excellence

- a. Section 12.1 *Design*, specifically objectives (a)-(d) and controls (b) to (e), as the proposed development does not improve the quality and amenity of the public domain. The development has a poor presentation to Oxford Mall and Newland Street and has an impact on view corridors. The proposal is inconsistent with control (e)(iv) in that the relationship of the development to other development on the same site and neighbouring sites is not considered satisfactory in terms of separation, setbacks, amenity and urban form.

Part C3 Other Residential Development

- a. Section 3.1 *Setbacks*, specifically objective (a) and control (a) as the proposed development is set back 3m from the Oxford Street boundary and has nil setback to the Newland Street boundary, which falls short of the minimum setback requirement of 6m.

- b. *Section 3.5 Building Design and Streetscape*, specifically objective (a) and (b) and control (a) and (b) as the proposed development does not respond to the existing streetscape character of the area.
- c. *Section 3.13 Solar Access and Overshadowing*, specifically objective (d) as the proposed development does not minimise impacts of development on surrounding properties.

Part E1 Site Specific Development Bondi Junction

- a. *Section 1.2 Urban Form*, specifically objective (d) to (h) and control (a) and (c) as the proposed development is not sensitive to the streetscape character and views, and the tower form is not setback from the street edge sufficiently.
 - b. *Section 1.6 Heritage and buildings of historic character*, specifically objective (b) and (c) and control (c) to (g) as the proposed development does not provide a façade that is sympathetic to the proportions or predominant pattern of the streetscape.
 - c. *Section 1.7 Active Street Frontages*, specifically control (a) as the building does not provide an active frontage to Newland Street.
 - d. *Section 1.9 Street Alignment*, specifically objective (f) and control (a), (f) and (h) as the proposed development does not provide a 6m setback to the levels above the podium.
 - e. *Section 1.10 Separation Distances*, specifically objectives (a) to (d) and control (a) as the proposed development does not provide adequate separation distances between the approved building and the proposed building.
 - f. *Section 1.13 Number of Storeys*, specifically objectives (a) and control (c) as the proposed development exceeds 12 storeys in height.
4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
 5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
 6. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to 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: Townsend, Brown, Murrell and Small

Against the RESOLUTION: NIL

P Lynch (Objector), O Page (on behalf of the applicant) addressed the meeting.

THE MEETING CLOSED AT 2.55PM