

MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL

MEETING HELD BY VIDEO CONFERENCE ON WEDNESDAY, 23 October 2024

Panel members present:

David Ryan (Chair)
Stuart McDonald
Kate Bartlett
Claire Edwards (Community Representative)

Also present:

A Rossi, Executive Manager Development Assessment
B McNamara, Manager Development Assessment
B Magistrale, Manager Development Assessment
J Zancanaro, A/Manager, Development Assessment
N Calvisi, Administration Officer

At the commencement of the public proceedings at 11.02am, those panel members present were as listed above.

*At 11.46 am, the meeting was closed to the public.
At 12.20 pm, the Panel reconvened in closed session.
At 1.30 pm, the meeting closed.*

WLPP-2410.A

Apologies

There were no apologies.

WLPP-2410.DI

Declarations of Interest

The Chair called for declarations of interest - Kate Bartlett – Item 1 – DA-306/2021/B



David Ryan
Chairperson

WLPP-2410.1

35-37 Hall Street BONDI BEACH NSW 2026 – Modification to alter internal layout, increase height of floor levels, landscaping and various other changes. (DA-306/2021/B)

Report 11 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified and new conditions in Appendices A and B.

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

For the RESOLUTION: Ryan, McDonald, Edwards

Against the RESOLUTION: Nil

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

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

K Bartlett did not partake in deliberation.

WLPP-2410.2

14 and 15/232-234 Campbell Parade BONDI BEACH NSW 2026 - Modification to DA-373/2023 for replacement of approved steel roof with concrete and amended Reduced Level to amalgamated units 14 & 15. **(DA-373/2023/D)**

Report dated 14 October 2024 from MoDA

Council Recommendation: That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified conditions in Appendices A and B.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

WLPP-2410.3

5/9 Beach Road BONDI BEACH NSW 2026 - Alterations and additions to Unit 5 with an enlarged addition to the third floor, amendments to Strata Subdivision to allow Unit 5 exclusive use of the third floor addition and construction of a new fence. **(DA-289/2024)**

Report dated 11 October 2024 from MoDA

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height of buildings and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standards are satisfied.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

H Halliwell (on behalf of the applicant) addressed the meeting.

WLPP-2410.4

28 Watkins Street BONDI BEACH NSW 2026 - Alterations and additions to attached two storey terrace dwelling including rear extension at ground and first floors, new attic level with front and rear dormer windows and landscape works. **(DA-164/2024)**

Report 14 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) 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.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report. The Panel notes the objector's concern regarding accuracy of the building length shown in the DA drawings. The Panel has confirmed with Council officers that the building envelope is correct when viewed against the accepted survey.

The Panel considers that the conditions recommended by the Council and adopted by the Panel, adequately address the neighbours' concerns in relation to impacts of the development on their properties.

N Condylis and B Nicolaou (objectors) addressed the meeting.

WLPP-2410.5

93 Hardy Street DOVER HEIGHTS NSW 2030 - Reduce the size of an unauthorised roof terrace and modify its location and seek consent for the use of an unauthorised planter box to the roof of a dwelling house. **(DA-425/2024)**

Report 14 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height of buildings development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

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

WLPP-2410.6

3 and 4/46 Allens Parade BONDI JUNCTION NSW 2022 – Alterations and additions to Units 3 & 4, including the construction of a new attic addition with associated dormer windows.
(DA-130/2024)

Report 14 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

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 4.4 Floor Space Ratio*

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.75:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately demonstrate 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 due to the overshadowing of neighbouring windows caused by the proposed dormers.

2. 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 B11 Design Excellence

- a. Objective (a) - (d) and Controls (a), (e) under this Part as the proposed dormers fail to preserve the environmental amenity of neighbouring dwellings, specifically in terms of overshadowing caused by the additional bulk of the proposal.

Part C3 Other Residential Development

- b. *Section 2.13 Solar Access and Overshadowing*, specifically objective (d), as the proposed development reduces solar access of neighbouring windows.

3. The application does not satisfy section 4.15 (1)(b) of the Act as the proposal results in unacceptable amenity impacts upon the locality and surrounding built environment.
4. 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: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

R Dunn (on behalf of applicant) addressed the meeting.

WLPP-2410.7

9/42 - 44 MacPherson Street BRONTE NSW 2024 - Alterations and additions to Unit 9 within an existing shop top housing development. (DA-106/2024)

Report 15 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height of buildings development and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standards are satisfied.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

WLPP-2410.8

24 and 26 Nancy Street NORTH BONDI NSW 2026 – Demolition of the existing semi-detached dwellings and construction of new two storey semi-detached dwellings with single carports, boundary adjustment of the existing Torrens Title lots and associated works. **(DA-431/2024)**

Report 11 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) 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.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

J McMillan and P Calarco (on behalf of the applicant) addressed the meeting.

WLPP-2410.9

6/88 Beach Road BONDI BEACH NSW 2026 - Alterations and additions to Unit 6 within existing residential flat building. (DA-325/2024)

Report 11 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

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(3) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height of buildings development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied.

The Panel approves the development application in accordance with the recommended ordinary conditions of consent (Appendix A).

For the RESOLUTION: Bartlett, Ryan, Edwards

Against the RESOLUTION: McDonald

Mr McDonald concurs with the Planning Officer's report and recommendations.

REASON:

- The majority of the Panel considers that the particular circumstances of this case, relating largely to procedural matters, support its approval, notwithstanding a technical breach of the building height development standard, as follows.
- When consent was originally granted to DA-618/2014 for the subject building, the portion of the site that is the subject of this application was deemed to have complied with the maximum building height control.
- Since DA-618/2014 was granted, the Land and Environment Court (LEC) has established new principles for the methodology of calculating "ground floor (existing)" and consequently the "maximum building height" of development. In the circumstances of this site, the existing ground level has now been measured at the underside of the slab of the basement floor (consistent with the *Mermen* decision of the LEC), not by averaging the site levels at the site boundaries (per the *Bettar* decision), which was the reason the development previously complied with the building height control.
- This has resulted in a circumstance where a portion of the building that was previously approved on the basis of complying with the maximum building height, now is deemed to breach that height control despite there being no change to its built form (beyond that now proposed by this application which would itself comply if calculated in accordance with the original application).
- The majority of the Panel considered these circumstances to be material to its consideration of the environmental planning grounds required to justify the proposed variation to the maximum building height development standard.
- The majority of the Panel has assessed the potential impacts of the proposal in the light of these particular circumstances, noting that they are somewhat unusual and should not be considered as a precedent in other, different circumstances.

- In briefing the Panel, Council staff advised that overshadowing was the key impact of concern. The development has a modest additional overshadowing impact on the parking and driveway of properties in Curlewis Street in the morning, but these do not form private open space.
- Whilst the development creates some small additional overshadowing in the yards of 86 and 84 Beach Road on June 21, The Council’s report does accept that these *“properties would maintain solar access for a minimum of 3 hours between 9am and 3pm on 21 June (winter solstice) in accordance with control (c).”*
- For these reasons, its acceptability in relation to other controls and the lack of other unreasonable impacts, the majority of Panel supports the approval of the application.

E Gescheit, S O’Toole and K Powell (on behalf of the applicant) addressed the meeting.

WLPP-2410.10

18/2-4 Notts Avenue BONDI BEACH NSW 2026 - Enclosure of existing rear balcony facing private common courtyard areas. Associated demolition, new windows, internal and external finishes. **(DA-295/2024)**

Report 11 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) 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.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

WLPP-2410.11

13/2-4 Notts Avenue BONDI BEACH NSW 2026 - Enclosure of existing rear balcony facing private common courtyard areas including associated demolition, new windows, internal and external finishes. **(DA-296/2024)**

Report 11 October 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

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(3) 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.

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

For the RESOLUTION: Ryan, McDonald, Bartlett, Edwards

Against the RESOLUTION: Nil

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

The meeting closed at 1.30pm

APPENDIX A

WLPP-2410.9 - 6/88 Beach Road BONDI BEACH NSW 2026 - Alterations and additions to Unit 6 within existing residential flat building. (DA-325/2024)

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

	Condition																												
1.	<p>APPROVED PLANS AND DOCUMENTATION</p> <p>The development must be in accordance with:</p> <p>(a) Architectural Plans prepared by Ken Powell Architect of Project No: 2126 including the following:</p> <table border="1"> <thead> <tr> <th>Plan Number and Revision</th> <th>Plan description</th> <th>Plan Date</th> <th>Date received by Council</th> </tr> </thead> <tbody> <tr> <td>DA.01 Rev B</td> <td>Cover Page and BASIX Notes</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> <tr> <td>DA.06 Rev B</td> <td>Demolition Plans Level 2 and Level 3</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> <tr> <td>DA.07 Rev B</td> <td>New Plans Level 2 and Level 3</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> <tr> <td>DA.08 Rev B</td> <td>New Plans Roof</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> <tr> <td>DA.09 Rev B</td> <td>New Sections</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> <tr> <td>DA.10 Rev B</td> <td>New Elevations</td> <td>23 July 2024</td> <td>7 August 2024</td> </tr> </tbody> </table> <p>(b) BASIX Certificate (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 11 July 2024.</p> <p>Except where amended by the following conditions of consent.</p> <p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Plan Number and Revision	Plan description	Plan Date	Date received by Council	DA.01 Rev B	Cover Page and BASIX Notes	23 July 2024	7 August 2024	DA.06 Rev B	Demolition Plans Level 2 and Level 3	23 July 2024	7 August 2024	DA.07 Rev B	New Plans Level 2 and Level 3	23 July 2024	7 August 2024	DA.08 Rev B	New Plans Roof	23 July 2024	7 August 2024	DA.09 Rev B	New Sections	23 July 2024	7 August 2024	DA.10 Rev B	New Elevations	23 July 2024	7 August 2024
Plan Number and Revision	Plan description	Plan Date	Date received by Council																										
DA.01 Rev B	Cover Page and BASIX Notes	23 July 2024	7 August 2024																										
DA.06 Rev B	Demolition Plans Level 2 and Level 3	23 July 2024	7 August 2024																										
DA.07 Rev B	New Plans Level 2 and Level 3	23 July 2024	7 August 2024																										
DA.08 Rev B	New Plans Roof	23 July 2024	7 August 2024																										
DA.09 Rev B	New Sections	23 July 2024	7 August 2024																										
DA.10 Rev B	New Elevations	23 July 2024	7 August 2024																										
2.	<p>GENERAL MODIFICATIONS</p> <p>The application is approved subject to the following plan amendments;</p> <p>(a) The works to the laundry and bathroom detailed on DA.06 and DA.07 revision B are not approved and are to be deleted from the plans.</p> <p>Condition reason: Council cannot legally grant retrospective approval for works already undertaken.</p> <p>The amendments are to be approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.</p>																												

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
3.	<p>NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE</p> <p>The building work, or demolition work, must not be commenced until:</p> <ul style="list-style-type: none"> (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the <i>Environmental Planning and Assessment Act 1979</i>; (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulation 2021</i>; and (c) Council is given at least two days' notice in writing of the intention to commence the building works. <p>Condition reason: To ensure a Construction Certificate is obtained prior to work commencing.</p>
4.	<p>SECTION 7.12 CONTRIBUTION</p> <p>A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the <i>Environmental Planning and Assessment Act 1979</i> and the Waverley Council Development Contributions Plan in accordance with the following:</p> <ul style="list-style-type: none"> (a) Where the total development cost is \$500,000 or less: <ul style="list-style-type: none"> (i) a Cost Summary Report or Building Contract (dated within 12 months) or similar is to be submitted to Council's Customer Service Centre to process payment. (b) Where the total development cost is more than \$500,000 but less than \$1,000,000: <ul style="list-style-type: none"> (i) a Detailed Cost Report (dated within 12 months) prepared by a registered Quantity Surveyor, Building Contract, or similar is to be submitted to Council's Customer Service Centre to process payment. (c) Where the total development cost is \$1,000,000 or more: <ul style="list-style-type: none"> (i) a Detailed Cost Report (dated within 12 months) prepared by a registered Quantity Surveyor, Building Contract, or similar is to be submitted to and approved by Council's Executive Manager, Urban Planning, Policy and Strategy (or delegate). <ul style="list-style-type: none"> - Please forward documents to info@waverley.nsw.gov.au attentioned to Strategic Planning, and reference the relevant application number, address and condition number to satisfy.

	<p>(ii) Upon confirmation of the contribution amount by Council’s Executive Manager, Urban Planning, Policy and Strategy (or delegate), payment is to be processed via the Customer Service Centre.</p> <p>(iii) Should there be a discrepancy between the cost of works approved in subclause (b)(i) and the DA fee nominated in the original DA, then additional DA Fees may be payable prior to the issue of a Construction Certificate.</p> <p>A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan, available on Council’s website.</p> <p>(d) As legislated in section 209 of the Environmental Planning and Assessment Regulation 2021, the levy must be paid in accordance with the following;</p> <p>(i) A development valued at \$100,000 or less will be exempt from the levy;</p> <p>(ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the <u>full</u> cost of the development; or</p> <p>(iii) A development valued at more than \$200,000 will attract a levy of 1% of the <u>full</u> cost of the development.</p> <p>Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.</p> <p>Condition reason: To ensure the Section 7.12 Contributions are paid.</p>
<p>5.</p>	<p>SECURITY DEPOSIT</p> <p>A deposit (cash or cheque) for the amount of \$6,505.00 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.</p> <p>This deposit (cash or cheque) must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.</p> <p>Condition reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
<p>6.</p>	<p>LONG SERVICE LEVY</p> <p>A long service levy, as required under section 34 of the <i>Building and Construction Industry Long Service Payments Act, 1986</i>, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.</p> <p><u>Note:</u> Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.25% of building work costing \$250,000 or more.</p>

	Condition reason: To ensure the long service levy is paid.
7.	<p>ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES</p> <p>The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council’s Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.</p> <p>An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.</p> <p>Condition reason: To ensure Council assessment fees are paid.</p>
8.	<p>HOARDING</p> <p>To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council’s Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.</p> <p>Condition reason: To ensure safety to the general public.</p>
9.	<p>EROSION & SEDIMENT CONTROL</p> <p>A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council’s Water Management Technical Manual.</p> <p>The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.</p> <p>The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
10.	<p>ENGINEERING DETAILS</p> <p>Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.</p> <p>Condition reason: To ensure structural stability of work on site.</p>
11.	<p>STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT</p> <p>To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development’s stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.</p>

A stormwater management plan wasn't submitted with the development application

The applicant must submit amended plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans must be prepared by a suitably qualified and practising Civil Engineer and comply with the following conditions:

- (a) Specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (b) Boundary silt arrestor pit (min 0.45m x 0.45m) wholly contained within property boundary for all stormwater discharge from site
- (c) Piped drainage within Council land min. 1% gravity fed.
- (d) Any proposed pipeline within the footpath verge of Beach Road must be hot dipped galvanised steel hollow section with the size of 125mm x 75mm x 4mm (w x h x t). Note a minimum width of 1m of concrete kerb and gutter must be replaced surrounding this connection with 10mm thick mastic expansion joints installed on both sides (full depth) and with a 600mm asphalt adjustment and liquid crack sealing if the asphalt is damaged as part of the works or in a deteriorated state).
- (e) Detail the proposed pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location.
- (f) Provide calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event.
- (g) Pits and inspection openings are to be provided at all junctions, change in gradient, change in direction, and change in diameter for access and maintenance purposes.
- (h) Any new downpipes are to be located wholly within the property's boundary.
- (i) The design must provide for the natural flow of stormwater runoff from uphill/upstream properties/lands. If no overland flow path is provided, the design must include the collection of such waters and discharge to the Council drainage system.
- (j) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works will be replaced as per Waverley Council Public Domain Technical Manual. All associated costs will be borne by the applicant.

Notes:

- i. The checklist as set out on pages 68-76 in Council's Water Management Technical Manual (October 2021) available online must be completed and submitted with any revision of Construction Certificate Plan Submission.
- ii. Since a sewer main runs through the property, plans must also be presented to Sydney Water for their approval.

	<p>iii. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.</p> <p>iv. Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block must not be replicated.</p> <p>v. Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.</p> <p>vi. Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8655 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.</p> <p>Condition reason: Ensure design is in accordance with the Waverley Water Management Technical Manual (2021) and appropriate for the proposed works and site layout.</p>
<p>12.</p>	<p>BASIX</p> <p>All requirements of the BASIX Certificate documentation are to be shown on the Construction Certificate plans and documentation.</p> <p>Condition reason: To ensure BASIX requirements are met.</p>
<p>13.</p>	<p>SITE WASTE AND RECYCLING MANAGEMENT PLAN</p> <p>A <i>Site Waste and Recycling Management Plan (SWRMP) - Part 2</i> is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the <i>SWRMP Part 2</i> is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.</p> <p>Condition reason: To ensure resource recovery is promoted and the local amenity is protected during construction.</p>
<p>14.</p>	<p>RENEWABLE ENERGY AND ENERGY EFFICIENCY</p> <p>To enable all development to contribute to net zero greenhouse emissions by 2035, the following shall apply:</p> <ul style="list-style-type: none"> (a) An electric hot water system is strongly encouraged in all developments. Recommended systems include electric heat pump, solar thermal with electric boost or electric storage. (b) No gas cooktops, gas ovens and gas heating systems are permitted. Alternate options must be used (such as electric, induction). (c) Recommended lighting systems to include LEDs with controls, such as motion sensors, step-dim controls and daylight sensors. (d) Providing ceiling fans in all habitable rooms is strongly encouraged.

	The architectural plans shall be updated to notate the above and submitted to the Principal Certifying Authority for approval, prior to the issue of a Construction Certificate.
	Condition reason: To reduce community greenhouse emissions to net zero by 2035 and ensure all new (or altered) homes have future capacity to be an all-electric building, powered by renewable energy.

BEFORE BUILDING WORK COMMENCES

	Condition
15.	<p>CONSTRUCTION SIGNS</p> <p>Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.</p> <p>Condition reason: To ensure the general public are afforded the Principal Certifying Authority and principal contractor’s (the coordinator of the building works) contact details.</p>
16.	<p>TREE PROTECTION</p> <p>All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.</p> <p>Condition reason: To protect and retain trees.</p>
17.	<p>STREET TREES TO BE RETAINED/TREE PROTECTION</p> <p>No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:</p> <ul style="list-style-type: none"> (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 in accordance with AS4970-2009 “Protection of trees on construction sites. <p>Condition reason: To protect trees during the carrying out of site work.</p>

DURING BUILDING WORK

	Condition
18.	<p>CONTROL OF DUST ON CONSTRUCTION SITES</p> <p>The following requirements apply to demolition and construction works on site:</p> <p>(a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.</p> <p>(b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.</p> <p>Condition reason: To ensure the safety of workers and the general public.</p>
19.	<p>CONSTRUCTION HOURS</p> <p>Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.</p> <p>Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.</p> <p>Noise from construction activities shall comply with the <i>Protection of the Environmental Operations (Noise Control) Regulation 2017</i>.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
20.	<p>STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS</p> <p>All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.</p> <p>Condition reason: To ensure building material is stored in an appropriate location.</p>
21.	<p>CONSTRUCTION INSPECTIONS</p> <p>The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the <i>Building Legislation Amendment (Quality of Construction) Act 2002, Part 8 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> and the requirements of any other applicable legislation or instruments.</p>

	Condition reason: To ensure regular inspections occur throughout the construction process.
22.	WORK OUTSIDE PROPERTY BOUNDARY
	This consent does not authorise any work outside the property boundary.
	Condition reason: To ensure buildings are sited and positioned in the approved location.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
23.	FINAL OCCUPATION CERTIFICATE
	Prior to occupation or use of the development, an Occupation Certificate must be obtained.
	The Principal Certifying Authority must be satisfied that the requirements of the <i>Environmental Planning & Assessment Act 1979</i> have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.
	Condition reason: To ensure an Occupation Certificate is issued prior to occupation or use of the development.
24.	CERTIFICATION OF BASIX COMMITMENTS
	The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.
	Condition reason: To ensure all the undertakings in the approved BASIX certificate have been completed.
25.	CERTIFICATION OF NEWLY CONSTRUCTED AND RETAINED STORMWATER DRAINAGE SYSTEM
	Certification is to be provided from a suitably qualified and practicing Engineer or Plumber, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards, and good engineering practice.
	Certification is to be provided from a suitably qualified and practicing Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order, and has been repaired or replaced in accordance with Council’s Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the certification must be submitted to Council.
	Condition reason: Ensure stormwater drainage system has been constructed or retained as per the approved stormwater management plans.

GENERAL ADVISORY NOTES

	Condition
1.	<p>DEVELOPMENT IS TO COMPLY WITH LEGISLATION</p> <p>This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.</p>
2.	<p>DEVELOPMENT MUST MEET CONDITIONS OF CONSENT</p> <p>The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.</p>
3.	<p>POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT</p> <p>Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:</p> <ul style="list-style-type: none"> • Please read your conditions carefully. • Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au , in person (at Council’s Customer Service Centre) or via post service. • Attention the documentation to the relevant officer/position of Council (where known/specified in condition) • Include DA reference number • Include condition number/s seeking to be addressed • Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example). • Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected. • Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information. • Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required. • Council’s standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner. • Any queries, please contact Council’s Duty Planner on duty.planner@waverley.nsw.gov.au
4.	<p>SYDNEY WATER REQUIREMENTS</p> <p>You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.</p> <p>If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.</p> <p>Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the</p>

	Coordinator , since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
5.	DIAL BEFORE YOU DIG Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
6.	ALTERATIONS AND ADDITIONS ONLY This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.
7.	TREE REMOVAL/PRESERVATION Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.
8.	WORK OUTSIDE PROPERTY BOUNDARY This consent does not authorise any work outside the property boundary.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Waverley Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Waverley Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney Eastern City Planning Panel.

Suitably qualified acoustic consultant means a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.