

MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL

MEETING HELD BY VIDEO CONFERENCE ON WEDNESDAY, 28 AUGUST 2024

Panel members present:

Professor Helen Lochhead AO(Chair)
Julie Walsh
Oliver Klein
Sam Marshall (Community Representative)

Also present:

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

At the commencement of the public proceedings at 11.08 am, those panel members present were as listed above.

*At 12.20 pm, the meeting was closed to the public.
At 12.45 pm, the Panel reconvened in closed session.
At 14.32 pm, the meeting closed.*

WLPP-2408.A

Apologies

There were no apologies.

WLPP-2408.DI

Declarations of Interest

The Chair called for declarations of interest and two were received-
Item 4 – Klein and Item 5 – Marshall



Professor Helen Lochhead AO
Chairperson

194-214 Oxford Street and 2 Nelson Street BONDI JUNCTION NSW 2022 - Amending DA for alterations and additions to the basement and ground floor levels of an approved shop top housing development associated with DA-400/2021, including consolidation of basement car parks. (DA-360/2023)

Report 16 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED subject to the conditions contained in the report.

RESOLUTION:

The Panel approves the development application in accordance with the recommendations in the Planning Officer’s report and recommended conditions subject to the following amendments:

1. Renumbering of certain conditions so that all conditions are in numerical order.
2. Delete condition 2 as follows:

2.	GENERAL MODIFICATIONS
	The application is approved subject to the following plan amendments;
	(a) An awning overhanging the footpath of Oxford Street must be provided to retail unit C01. The awning must extend from the boundary with 216 Oxford Street at the east of the site to the western-most extent of the Oxford Street frontage of retail unit C01. The awning must align with the height and depth of the adjoining awning at 216 Oxford Street, and must be designed to provide continuous weather protection for pedestrians walking along Oxford Street.
	Condition reason: To provide continuous weather protection for pedestrians walking along Oxford Street.
	The amendments are to be approved by the Executive Manager, Development Assessment or delegate prior to the issue of any Construction Certificate for works above ground level (finished). An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

Reason for deletion: An awning to unit C01 is inconsistent with the design of the development and will provide limited additional pedestrian weather protection and amenity in this location, at the end of Oxford Street, where there are fewer pedestrians.

3. Amendment to condition 16 as follows:

16.	<p>LANDSCAPE WORKS IN A HABITAT CORRIDOR</p> <p>A landscape plan is to be submitted to and approved by Council’s Executive Manager, Environmental Sustainability (or delegate) prior to the issue of any Construction Certificate <i>for works above ground level (finished)</i>, with a plant species list having a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B3-1 of the Waverley Development Control Plan 2022.</p> <p>Cultivars or hybrids of listed plant species are not to be counted towards this requirement. Landscape plans must include a planting schedule that lists all plant species proposed, the number of plants of each species proposed, and indicate whether each plant species proposed is listed in Annexure B3-1</p> <p>Three strata of vegetation are required to be included in landscape design, e.g. (i) tree or tall shrub canopy, (ii) mid-storey and (ii) groundcover layer.</p> <p>Note: This condition takes precedence over condition 44 of the parent consent.</p> <p>Condition reason: To protect and enhance the biodiversity habitat corridor by ensuring indigenous and local native plants are provided for local biodiversity.</p>
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4. Insert new condition 32 as follows:

32.	<p>OSMUND LANE PUBLIC ACCESS AREA</p> <p>The following requirements apply to the areas identified by the approved plans marked-up by Council’s public domain team titled “Vehicle Access Movements to be maintained in the highlighted area 24/7” and “Pedestrian Access to be maintained to all areas highlighted” (the marked-up approved public domain access plans) dated 19/03/2024 identified in condition 1(c) of this consent (as amended by any future modification application):-</p> <p>(a) The areas identified in marked-up public domain plans shall be accessible to the public 24 hours a day, 7 days a week in perpetuity.</p> <p>(b) Signage identifying the area being accessible to the public shall be provided to each entry.</p> <p>(c) Any future subdivision/strata plan for the site shall be modified to identify a right of carriageway in respect to (a) prior to the issue of any Occupation Certificate or Subdivision Certificate for the development.</p> <p>(d) The public access area is to be maintained in a clean and safe condition by the Body Corporate of the site at all times.</p>
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	<p>(e) The public access area shall be designed to allow for fire egress from the buildings in accordance with the provision of the Building Code of Australia/National Construction Code.</p> <p>(f) Closure of the public access area to the public requires Council's consent.</p> <p>(g) Closed Circuit Television (CCTV) in the public access area shall be provided to assist with Crime Prevention.</p> <p>(h) Adequate lighting shall be provided to the public access area to assist with Crime Prevention.</p> <p>A s88B instrument shall be submitted and approved by Council and registered on title prior to the issue of any Occupation Certificate or Subdivision Certificate that includes details on the above matters. All costs associated with review of this instrument are to be wholly borne by the applicant.</p>
	<p>Condition reason: To ensure adequate public access is maintained through the site, in perpetuity.</p>

For the RESOLUTION: Lochhead, Walsh, Klein, Marshall

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the Planning Officer's report and conditions as amended by the Panel for the reasons outlined above.

WLPP-2408.2

18 Tamarama Marine Drive BRONTE NSW 2024 - Demolition of dwelling and construction of a new two-storey dwelling with basement garage and a pool. (DA-38/2024)

Report 19 August 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 contained in the report.

RESOLUTION:

The Panel approves the development application in accordance with the recommendations in the Planning Officer’s report and recommended conditions subject to the following amendment to condition 2:

2	GENERAL MODIFICATIONS
	The application is approved subject to the following plan amendments; (a) The landscape plan is to be amended to replace the Syzygium Australe (Lilly Pilly) plants within the front planter with a low growing species with a maximum mature height of 500mm.
	Condition reason: To retain views across the front of the site from adjoining properties.
	(b) All fencing within the front setback is to be frameless glass.
	Condition reason: To reduce the bulk of the garage structure on the streetscape frontage.
The amendments are to be approved by the Principal Certifying Authority Council’s Executive Manager, Development Assessment (or delegate) prior to the issue of any Construction Certificate.	

For the RESOLUTION: Lochhead, Walsh, Klein, Marshall

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the Planning Officer’s report as amended, noting that the location of the swimming pool will minimise unnecessary excavation of deep soil on the site and have acceptable impacts on views, adjoining properties and the public domain.

W Livingstone(objector) and A Betros and A Caruso (on behalf of the applicant) addressed the meeting.

118-122 Campbell Parade BONDI BEACH NSW 2026 - Increase capacity of Hotel Ravesis patrons. (DA-92/2024)

Report 19 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED subject to the conditions contained in the report.

RESOLUTION: 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.

It is also to be noted that there was an error in the condition numbering and this has been rectified.

2.	<p>MODIFICATIONS TO PLAN OF MANAGEMENT</p> <p>The application is approved subject to the following amendments to the Plan of Management:</p> <p>(a) The maximum patron capacity is to be limited to no more than 540 persons (including staff/entertainers) with the following sub-limits:</p> <ul style="list-style-type: none"> i. 220 persons for the ground floor level as follows: <ul style="list-style-type: none"> a. 20 persons for the gaming room b. 200 persons for the bar ii. 320 persons for the first floor level as follows: <ul style="list-style-type: none"> a. 80 persons for the balcony b. a. 150 persons for the bar/restaurant c. b. 120 90 persons for the function room. <p>(b) The use of the Level 1 balcony is to cease at 12.00am (midnight) Monday to Saturday and 11.00pm on Sunday.</p>
	<p>Condition reason: To protect the amenity of the surrounding area.</p>
	<p>The amended Plan of Management is to be approved by the Executive Manager, Development Assessment or delegate prior to commencement of additional patrons as per this consent. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.</p> <p>Once the Plan of Management has been approved by Council, a copy is to be provided to the Licensing Police of the Local Area Command prior to the commencement of additional patrons.</p>

<p>27 5.</p>	<p>MAXIMUM PATRON CAPACITY</p> <p>The approved patron capacity for the premises is limited to:</p> <p>(a) Total of 540 persons (including staff/entertainers) with the following sub-limits:</p> <ul style="list-style-type: none"> i. 220 persons for the ground floor level as follows: <ul style="list-style-type: none"> a. 20 persons for the gaming room b. 200 persons for the bar ii. 320 persons for the first floor level as follows: <ul style="list-style-type: none"> a. 80 persons for the balcony b. a. 150 persons for the bar/restaurant c. b. 120 90 persons for the function room. <p>(b) Any person/s attending the premises for the purpose of 'takeaway' products / services will not be considered a 'patron' for the purposes of subclause (a), provided no food and or drink is consumed by those persons on the premises.</p> <p>(c) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).</p>
	<p>Condition reason: To provide patrons with details of the operator and maximum number of persons permitted on the premises.</p>

<p>32 10.</p>	<p>SIGNAGE TO BE DISPLAYED</p> <p>(a) Signage (in lettering not less than 25mm in height on a contrasting background) is to be erected in a prominent position near the main entry to the premises. The signage shall state:</p> <p><i>Approved hours of operation - Indoor Area</i> <i>Monday to Saturday: 8.00am to 1.00am with no entry or re-entry after 12 midnight</i> <i>Sunday: 8.00am to 12 midnight with no entry or re-entry after 11.00 pm.</i></p> <p><i>Approved patron capacity</i> <i>540 persons</i></p> <p>(b) Signage (in lettering not less than 25mm in height on a contrasting background) is to be erected near the main entry to the premises, in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:</p> <p><i>Upon leaving please respect local residents by minimising noise</i></p>
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	<p>(c) Signage (in lettering not less than 15-25mm in height on a contrasting background) is to be erected in a prominent position near the main entrance of any room / area where a specific patron capacity is stipulated. Wording must include the name of the room / area and the applicable patron capacity authorised, including.</p> <ul style="list-style-type: none"> i. 220 persons for the ground floor level as follows: <ul style="list-style-type: none"> a. 20 persons for the gaming room b. 200 persons for the bar ii. 320 persons for the first floor level as follows: <ul style="list-style-type: none"> a. 80 persons for the balcony b. a. 150 persons for the bar/restaurant c. b. 120 90 persons for the function room. <p>(d) The Plan of Management shall further detail signage requirements that promote safe transport options. This signage will direct both patrons and drivers of taxis and ride sharing services (Uber etc) of pick up / drop off points, standby locations and practices in place to egress patrons quickly and quietly from the licensed premises.</p> <p>Signage specified in sub clauses (a) to (d) is to be erected prior to the commencement of increased patron capacity.</p> <p>Condition reason: To protect the amenity of the local area.</p>
<p>37 15.</p>	<p>CLOSURE OF WINDOW/DOOR OPENINGS</p> <p>To minimise the transmission of noise from the premises to nearby residential buildings:</p> <ul style="list-style-type: none"> (a) The windows and bi-fold doors facing the street shall be closed by 9.30pm each day. (b) Access doors from the function room to the Level 1 Balcony shall be closed by 11.00pm each day. <p>Condition reason: To protect the amenity of the local area as per acoustic report.</p>

For the RESOLUTION: Lochhead, Walsh, Klein, Marshall

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the Planning Officer’s report and conditions as amended by the Panel for the reasons outlined above.

H Pearce (objector) and B Chambers and A Larkin (on behalf of the applicant) addressed the meeting.

1 Sir Thomas Mitchell Road BONDI BEACH NSW 2026 - Change of use to a food and drink premises (restaurant) and associated fitout. (DA-307/2024)

Report 16 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED subject to the conditions contained in the report.

RESOLUTION: 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.

16.	<p>NOISE – ACOUSTIC REPORT</p> <p>An Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council’s Executive Manager, Compliance (or delegate).</p> <p>Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.</p> <p>For further information on the requirements, refer to Council’s website: https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent</p> <p>Condition reason: To control acoustic noise impacts to surrounding land uses and protect the amenity of the surrounding area.</p>
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41	<p>HOURS OF OPERATION WITH ONE YEAR TRIAL FOR EXTENDED HOURS</p> <p>This consent allows for a one (1) year trial period as follows:</p> <p>Friday to Saturday: 11pm – 12 midnight</p> <p>The trial period starts from the date of the Occupation Certificate and ceases on the anniversary of that date. A further application may be lodged before the expiration date for Council's consideration for the continuation of the trial hours.</p>
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	<p>Council's consideration of any further application will take into account matters including but not limited to:</p> <ul style="list-style-type: none"> (a) compliance of the premises in terms of security and its general management; (b) number and nature of substantiated complaints regarding the operation of the premises; (c) compliance with conditions of consent.
	<p>Condition reason: To protect the amenity of the local area.</p>

Reason for deletion: To maintain the residential amenity of the local area, extended hours are not supported by the Panel.

For the RESOLUTION: Lochhead, Marshall. (Klein did not participate)

Against the RESOLUTION: Walsh

REASON: The Panel generally concurs with the Planning Officer's report and conditions as amended by the Panel for the reasons outlined above.

It is noted that Julie Walsh disagreed with the majority decision considering that the potential noise impacts had not been adequately addressed.

P Lalich, J Grayce, A Gigliotti (objectors) and J E Morris (applicant) and C Ho (on behalf of the applicant) addressed the meeting.

WLPP-2408.5

64 Boundary Street BRONTE NSW 2024 - Construction of a new three storey dwelling with basement level garage, rumpus room, internal lift and balconies. (DA-137/2024)

Report 19 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED subject to the conditions contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated 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 and therefore it is in the public interest. The Panel concurs on behalf of and as the delegate of the Secretary, *Department of Planning, Housing and Infrastructure*.

For the RESOLUTION: Lochhead, Walsh, Klein. (Marshall did not participate)

Against the RESOLUTION: Nil

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

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

14 Ashley Street TAMARAMA NSW 2026 – Alterations and additions to a dwelling across multiple levels. (DA-281/2024)

Report 16 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the development application be APPROVED subject to the conditions contained in the report.

RESOLUTION: The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height of buildings development and floor space ratio 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, Housing and Infrastructure*.

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.

16.	<p>DILAPIDATION REPORT</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land to the satisfaction of the Principal Certifying Authority. At minimum, the following properties are to be included:</p> <ul style="list-style-type: none"> (a) 14A Ashley Street, Bronte (b) 16 Ashley Street, Tamarama (c) 281 Birrell Street, Bronte <p>Where access has not been granted to an adjoining property to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Principal Certifying Authority that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.</p> <p>No less than 14 days before any site work commences, adjoining property owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to council (where council is not the principal certifier) at the same time.</p> <p>Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.</p>
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	Condition reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.
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Reason for deletion: Due to the limited scope of building works the requirement for preparation of dilapidation reports is not considered necessary by the Panel.

For the RESOLUTION: Lochhead, Walsh, Klein, Marshall

Against the RESOLUTION: Nil

REASON: The Panel generally concurs with the Planning Officer's report as amended, for the reasons outlined above

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

WLPP-2408.7

150-152 Glenayr Avenue BONDI BEACH NSW 2026 - Section 4.56 Modification to alter internal layout of basement levels including reconfiguration to convert storage space into a health and wellness area for the residential units, car and bike parking arrangement, storage cages in a stacker arrangement, various other changes and an amended offer to enter into a Planning Agreement. (DA-169/2022/C)

Report 16 August 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the modification application be APPROVED subject to modified and new conditions contained in the report.

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

For the RESOLUTION: Lochhead, Walsh, Klein, Marshall

Against the RESOLUTION: Nil

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

O Payne (on behalf of the applicant) addressed the meeting.