

MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL

MEETING HELD BY VIDEO CONFERENCE ON WEDNESDAY, 25 September 2024

Panel members present:

David Ryan (Chair)
Elizabeth Kinkade
Sharon Veale
Jesse Lockhart-Krause (Community Representative)

Also present:

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

At the commencement of the public proceedings at 11.00 am, those panel members present were as listed above.

*At 11.44 am the meeting was closed to the public.
At 12.30 pm, the Panel reconvened in closed session.
At 2.12 pm, the meeting closed.*

WLPP-2409.A

Apologies

There were no apologies.

WLPP-2409.DI

Declarations of Interest

The Chair called for declarations of interest – Ryan - DA-336/2022/A and DA-296/2023/C (Kinkade was Chair).

WDAP-2409.AR - Annual returns disclosing interests

The chair tabled the annual returns of panellists disclosing interests, in accordance with the Local Planning Panels Code of Conduct.



David Ryan
Chairperson

122 Bronte Road TAMARAMA NSW 2026 - Section 4.55(2) Modification including alterations to the ground floor entry and internal layout of commercial tenancies, installation of ceiling fans to each apartment and construction of a new floor level comprising 8 serviced apartments. **(DA-336/2022/A)**

Report dated 17 September 2024 from the Managers of Development Assessment (MoDA).

Council Recommendation: That the modification application be APPROVED by the Waverley Local Planning Panel subject to the 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 subject to the following amendments:

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments:

- ~~(a)~~ Privacy screens are to be provided to the east facing balconies of Unit Types A2 and C on Level 1 of the subject building to mitigate overlooking to the adjacent property. The privacy screens are to be of a lightweight material (such as timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the balcony. **(Satisfied by DA-336/2022/A)**

 - ~~(b)~~ Details are to be provided of the proposed screening to the roof plant including type and materiality. **(Satisfied by DA-336/2022/A)**

 - ~~(c)~~ Modification to the main serviced apartment entry foyer off the Bronte Road/ Birrell Street corner to create a more amenable arrival space for guests and visitors, is to be provided with the entry foyer being redesigned to follow the profile of the proposed skylight above. **(Satisfied by DA-336/2022/A)**

 - ~~(d)~~ A ceiling fan is to be provided to each serviced apartment within the development. **(Satisfied by DA-336/2022/A)**

 - (e) Detailed sections and elevation drawings are to be provided to clearly show design and construction details of the interface between the new building materials and the existing heritage façade on the first floor east elevation. Any required conservation and restoration works to the existing heritage façade including the parapet must be identified in a conservation and restoration works schedule for the approval of Council's Heritage Advisor.
(Amended by DA-336/2022/A)*

 - (f) The automatic pivot pedestrian entry door on the corner of the ground floor level of the building must not extend beyond the façade of the building.
(Amended by DA-336/2022/A)*
- Condition reason: To not cause a hazard or obstruct pedestrian movement in the public domain.**

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. 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.

For the RESOLUTION: Kinkade, Veale, Lockhart-Krause – Ryan declared a conflict of interest – Kinkade was Chair

Against the RESOLUTION: Nil

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

A Betros (on behalf of the applicant) addressed the meeting. Objectors registered to speak did not attend the meeting.

5 Tamarama Street TAMARAMA NSW 2026 - Construction of a pair of semi-detached dwellings with a new swimming pool and landscape works. (DA-230/2024)

Report 13 September 2024 from MoDA.

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

RESOLUTION: The Panel refuses the development application in accordance with the recommendations in the Planning Officer's report and reasons for refusal.

1. *The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following provisions of Waverley Local Environmental Plan 2012 (Waverley LEP 2012):*
 - a. *Clause 4.4/Clause 4.4A – Floor Space Ratio*
The proposal exceeds the maximum allowable Floor Space Ratio of 0.69:1 and the applicant's written request under clause 4.6 of Waverley LEP 2012 has failed to adequately detail the applicable controls, the method of calculation and the extent of variation proposed. The written request also fails to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP 2012.
The proposal would furthermore be contrary to Clause 4.4 (1) (c) and (d) of Waverley LEP 2012 as it would not be of a bulk and scale which is compatible with the existing or future desired character of the locality and would not preserve the environmental amenity of neighbouring properties and the surrounding locality.
 2. *The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following provisions of Waverley Local Environmental Plan 2012 (Waverley LEP 2012):*
 - a. *Clause 1.2 Aims of Plan*
The proposal would not satisfy aim (m) of Waverley LEP 2012 as it would result in adverse impacts on the amenity of the streetscape and neighbouring properties and therefore would not enhance amenity.
 - b. *Land Use Table - R2 Low Density Residential Zone*
The proposal would not satisfy the objectives of the R2 zone as it would not ensure that amenity or streetscape/dwelling character along Tamarama Street is maintained or enhanced.
 - c. *Clause 5.21 Flood Planning*
The proposal would not satisfy objectives (a), (b), (c), or (d) as insufficient information has been provided to demonstrate that the proposal would provide for an adequate level of safety in a flood event, be compatible with the flood function and behaviour of the land, and that it would minimise flood risks and adverse cumulative impacts on flood behaviour and the environment.
 - d. *Clause 6.2 Earthworks*
The proposal would not satisfy the matters for consideration under (3)(a), (d), and (h) as the extent of excavation has not been adequately minimised or set back an ample distance from the property boundaries, and insufficient information has been provided to demonstrate that the proposal would not result in adverse impacts on existing stormwater drainage patterns.
3. *The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan 2022 (Waverley DCP 2022), in respect to the following provisions:*

B2 Ecologically Sustainable Development

- a. *Control (c)(ii) under Section 2.1 Passive Design and Thermal Safety, and control (c) under Section 2.3 Indoor Air Quality are not satisfied as the proposal does not detail that gas cooking and services are proposed, and the plans do not detail the inclusion of ceiling fans as required by the BASIX Certificate.*

B3 Landscaping, Biodiversity and Vegetation Preservation

- b. *Control (a) under section 3.3.2 Habitat Corridors and Recognised Habitat is not satisfied as the landscape plan does not demonstrate that a minimum of 50% of the landscaping throughout the site would be of native species.*

B5 Water Management

- c. *Objectives (b), (d), and (l), and controls (d) and (f) under section 5.1 Stormwater Management and SWUD, and objectives (a), (b) and (c) and the controls under section 5.2 Flood Planning are not satisfied as insufficient information has been provided to determine whether adequate consideration has been given to flood impacts, and whether the proposal would result in adverse impacts on the subject site, natural drainage patterns or neighbouring properties as a result of stormwater. The proposal also seeks to build structures over an easement which is not supported by Council.*

B7 Transport

- d. *Control (a), (d) and (e) under Section 7.2 On-Site Parking, and objective (a) and control (b) under Section 7.6 Traffic and Transport Management Plans are not satisfied as the proposal does not comply with the Australian Standard requirement, has not been designed to maximise the area available for soft landscaping, and has not provided sufficient information in relation to the car stackers to demonstrate that they would not result in any adverse impacts on traffic and pedestrian safety.*

B11 Design Excellence

- e. *Controls (a), (b), (e)(iv), (v), (vi), (viii), and (x) under section 11.1 Design, or objectives (b), (c), (d) and controls (ii), (iv), (vi), (vii), and (viii) under 11.2 Context Analysis are not satisfied as the proposal would not appropriately respond to the consistent character presented within the street or demonstrate that adequate consideration has been given to the surrounding context. The proposal would result in adverse impacts on the amenity of neighbouring properties and the streetscape and would not demonstrate design excellence.*

B13 Excavation

- f. *Objectives (b) and (i), and controls (a)(i) and(iv), (b), (f), (m), (n) and (o) under section B13 Excavation are not satisfied as the basement level would not comply with the minimum setback or the maximum floor to ceiling requirements, and would not incorporate the rainwater tanks or be fully below ground. The proposal has not been designed to minimise excavation and insufficient flooding information has been provided to determine the appropriateness of the basement.*

C1 Low Density Residential

- g. *Section 1.0 General Objectives – Objectives (a), (b), (d), and (e) are not satisfied as the proposal does not appropriately respond to the character of the streetscape, would result in adverse amenity impacts, would not be in keeping with the desired future character of the locality and*

does not satisfy the objectives and controls under Part C1 Low Density Residential Development.

- h. Section 1.2 Setbacks - Objectives (a), (b), and (f), and controls (a), (d)(i)(iv) and (vii) are not satisfied as the proposal would be incompatible with the predominant front building line, would not be of a bulk and appearance which is compatible with the rhythm and character of the streetscape, it would be visually dominant and would result in adverse impacts on the amenity of the streetscape and neighbouring properties.*
 - i. Section 1.3 Streetscape and Visual Impact - Objectives (a) and (b), and controls (a) and (d) are not satisfied as the proposal would not be visually compatible with the streetscape context, would not adequately respond to the essential elements that make up the character of the street, and would erode the established character.*
 - j. Section 1.5 Visual and Acoustic Privacy - Objectives (a) and (c), and controls (b) and (e) are not satisfied as the proposal exceeds the maximum area and width requirements for elevated terraces and would not maintain an adequate level of privacy for the neighbouring properties.*
 - k. Section 1.6 Solar Access - Objectives (a), (b), (c) and (d), and control (b), (c) and (e) are not satisfied as the proposal would result in adverse overshadowing impacts on the neighbouring property.*
 - l. Section 1.8 Car Parking - Objective (c) under section 1.8 Car Parking, controls (a) and (b) under section 1.8.1 Design Approach, and control (b) under section 1.8.4 Design are not satisfied as insufficient information has been provided to determine whether providing a car lift is appropriate for the site conditions and whether it would complement the design of the building and the streetscape.*
 - m. Section 1.9 Landscaping and Open Space - Control (g) is not satisfied as the proposal would not comply with the 50% minimum landscaped area requirement forward of the building.*
 - n. Section 1.13 Semi-detached Dwellings and Terrace Style Development - Objective (d) and controls (f), (g), (h) and (i) under section 1.13.2 First Floor additions to Semi-Detached Dwellings, and control (c) under section 1.13.3 Materials Finishes and Detail for Semi-detached Dwellings are not satisfied as the proposal would not demonstrate consistency with the character of the streetscape, would not located the bulk of the first floor at the rear, includes an uncharacteristic roof form fronting the street, and would result in an adverse bulk and scale outcome.*
- 4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development would result in unacceptable impacts on amenity.*
 - 5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable for 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 the proposed would result in adverse amenity impacts and would not be compatible with the desired future character of the locality.*

For the RESOLUTION: Ryan, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report and reasons for refusal.

No speakers addressed the meeting.

WLPP-2409.3

38A and 38B O'Donnell Street NORTH BONDI NSW 2026- Demolition of existing structures and construction of two, three-storey semi-detached dwellings with integrated carparking and swimming pool at rear over two lots. (DA-39/2024)

Report dated 13 September 2024 from 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 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, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

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

A Levin (objector) and J Askin (on behalf of the applicant) addressed the meeting.

WLPP-2409.4

19 Napier Street DOVER HEIGHTS NSW 2030 - Modification to alter internal layout, windows and roof terrace garden. (DA-296/2023/C)

Report dated 13 September 2024 from MoDA

Council Recommendation: That the modification application be **APPROVED** by the Waverley Local Planning Panel 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: Kinkade, Veale, Lockhart-Krause - Ryan declared a conflict of interest – Kinkade was Chair.

Against the RESOLUTION: Nil

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

T Mencinsky (on behalf of the applicant) addressed the meeting.

34-38 Hall Street BONDI BEACH NSW 2026 - Section 4.56 Modification for alterations and additions to internal layout to accommodate a second car lift, reconfiguration of ground floor commercial tenancies, increase floor to floor heights, air conditioning units to the roof and alterations to external façade. (DA-271/2022/B)

Report dated 16 September 2024 from MoDA

Council Recommendation: That the modification application be APPROVED by the Waverley Local Planning Panel 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 as amended by the Panel.

Amendment to Condition 3:

3 ARCHAEOLOGICAL ASSESSMENT

Prior to carrying out of any excavation works, an archaeological assessment is to be undertaken by a suitably qualified consultant and an Archaeological watching brief is to be established to determine and manage any findings of Aboriginal artifacts **Objects under the National Parks and Wildlife Act 1974, and historical relics related to** European activities post 1788 in accordance with the provisions within the NSW Heritage Act **1977**.

For the RESOLUTION: Ryan, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report. The Panel considers that the issues raised by the objectors were adequately addressed in the Planning Assessment report and plans.

A Findlay (objector) and A Findlay on behalf of P Paech (objector) and E Doumanis (on behalf of the applicant) addressed the meeting.

WLPP-2409.6

Unit 7/133 Hastings Parade NORTH BONDI NSW 2026 – Alterations and additions to Unit 7, including new attic within the existing roof space, with new dormer windows and two terraces. (DA-59/2024)

Report dated 16 September 2024 from 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 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, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

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

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

WLPP-2409.7

8 Wonderland Avenue TAMARAMA NSW 2026 - Alterations and additions to a dwelling, being the extension of the laundry at Lower Ground Level. (DA-218/2024)

Report dated 13 September 2024 from 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 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, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

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

B Boss (on behalf of the applicant) addressed the meeting.

WLPP-2409.8

168-170 Hastings Parade NORTH BONDI NSW 2026 – Modification to the façade, internal layout, entry, increase to the first floor ensuite and various other changes. (369/2021/B)

Report dated 12 September 2024 from MoDA.

Council Recommendation: That the modification application be APPROVED by the Waverley Local Planning Panel 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: Ryan, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

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

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

WLPP-2409.9

9 Rodney Street DOVER HEIGHTS NSW 2030 - Change of use from dual occupancy to dwelling house and various other alterations. (DA-212/2024)

Report dated 12 September 2024 from 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 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, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

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

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

73-79 Penkivil Street BONDI NSW 2026 - Enclose existing balconies of Units 1 to 16 located along the south-western façade. (DA-185/2024)

Report dated 13 September 2024 from 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 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 as amended by the Panel.

Amendment to Condition 12:

12 CERTIFICATE OF ADEQUACY

~~The existing building which will not be affected from the building works will need to achieve the required fire resistance level (FRL) and structural adequacy along with the proposed new works.~~ A Certificate of Adequacy prepared by a practicing Structural Engineer, certifying the adequacy of the ~~existing building structure~~ **proposed works** is to be provided to Council or the Accredited Certifier prior to the issue of a Construction Certificate.

Condition reason: To ensure the ~~existing building~~ **proposed works** meets fire safety and structural adequacy requirements.

For the RESOLUTION: Ryan, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report except in relation to Condition 12, where the Panel was persuaded by the applicant's representative's argument that it should only apply to the proposed works not the whole building.

G Lloyd (on behalf of the applicant) addressed the meeting.

WLPP-2409.11

44 Bennett Street WAVERLEY NSW 2024 - Alterations and additions to the existing residential flat building to replace balcony doors and existing balustrades with new glass balustrades. The proposed works also include the reconstruction of the balcony slab to unit No. 7. (DA-381/2024)

Report dated 13 September 2024 from 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 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 as amended by the Panel.

Insert new Condition 2:

2.GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) That the balustrade framing of all balconies is to be powder coated aluminium in silver or white.*

*The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.*

For the RESOLUTION: Ryan, Kinkade, Veale, Lockhart-Krause

Against the RESOLUTION: Nil

REASON: The Panel concurs with the Planning Officer's report. The additional condition addresses the lack of detail in the application in relation to material colours.

No speakers addressed the meeting.