



INNER WEST LOCAL PLANNING PANEL  
MEETING

**9 APRIL 2024**

MINUTES

**MINUTES** of **INNER WEST LOCAL PLANNING PANEL MEETING** held via teleconference on Tuesday 9 April 2024.

Present: Mr Adam Seton in the chair; Mr Brian Kirk; Ms Annelise Tuor; Ms Andrea Connell.

Staff Present: Ruba Osman, Development Assessment Manager; Conor Wilson, Development Assessment Team Leader; Selena Topich, Administration Officer; Clare Fitzpatrick-Clark; Senior Administration Officer.

Meeting commenced: 2.01 pm

**\*\* ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Gadigal and Wangal people of the Eora nation on whose Country we are meeting today, and their elders past and present.

**\*\* DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

There were no declarations of interest.

<b>IWLPP1218/24 Agenda Item 1</b>	<b>Standing Item - Report in Accordance with Ministerial Direction: Pending Local Planning Panel Matters</b>
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Matters pending were presented to the Panel Chairman and noted and will be presented to the next available Panel meeting.

<b>IWLPP1219/24 Agenda Item 2</b>	DA/2023/0777
<b>Address:</b>	38 Station Street, NEWTOWN
<b>Description:</b>	Alterations to rear façade of dwelling, refurbishment of existing courtyard, addition of a pool, external access stair and car lift with basement parking and associated turntable.
<b>Applicant:</b>	Ms Leanne Mitchell

The following people addressed the meeting in relation to this item:

- Leanne Mitchell

## DECISION OF THE PANEL

The Panel is satisfied that—

- (i) the Applicant’s written request to contravene the development standard in clause 4.4 of *Inner West Local Environmental Plan 2022* has adequately addressed the following matters that are required to be demonstrated:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* and the objectives for development within the zone in which the development is proposed to be carried out.
- (iii) the concurrence of the Planning Secretary to the granting of consent to a development that contravenes the development standard may be assumed in respect of the development.

B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/0777 for alterations to rear façade of dwelling, refurbishment of existing courtyard, addition of a pool, external access stair and car lift with basement parking and associated turntable at No. 38 Station Street, NEWTOWN subject to the conditions in the assessment report except for the following change to condition 2:

## 2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The proposed wall height extension to the northern side boundary wall is to be deleted;
- b. The proposed metal screen over the existing gate on the rear elevation of the subject site is to be deleted; and
- c. The proposed air-conditioning unit is to be deleted.

### REASONS FOR DECISION

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

A revised Clause 4.6 request and supplementary memo dated 9/4/24 were provided to the Panel that correctly addressed the extent of variation to the FSR standard. Subject to the imposition of a condition regarding the deletion of the boundary wall extension, the development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest. It was noted by the Panel that the wall height extension to the northern and eastern boundaries could not be approved due to the lack of owner's consent from the adjoining owner. Further the Panel did not consider that the extension of that wall to the rear boundary would be acceptable or that the relocation of the air conditioning unit to adjoin the first floor balcony would be appropriate. The proposed air conditioning unit and any screening could be the subject of a further application.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

The decision of the panel was unanimous

<b>IWLPP1220/24 Agenda Item 3</b>	DA/2023/0989
<b>Address:</b>	50 Glassop Street, BALMAIN
<b>Description:</b>	Installation of solar tiles on front roof plane. Remainder of roof to have existing tiles removed and replaced with standard tiles.
<b>Applicant:</b>	Mr Richard J Paoloni

The following people addressed the meeting in relation to this item:

- Richard Paoloni

## DECISION OF THE PANEL

- A. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuses Development Application No. DA/2023/0989 for the installation of solar tiles on the front roof plane and replacement of the rest of the roof cladding with standard tiles at 50 Glassop Street Balmain for the following reasons:
- Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following sections of *Inner West Local Environmental Plan 2022*:
    - Section 1.2 – Aims of the Plan*: the proposed development does not conserve the built heritage of the Inner West.
    - Section 5.10 – Heritage Conservation*: the proposed development would cause an adverse impact upon the heritage significance of the heritage item on the subject site, the heritage items on neighbouring sites, and the Iron Cove Heritage Conservation Area
  - Pursuant to section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following parts of Leichhardt Development Control Plan 2013:
    - C1.0 - General Provisions: Objective O6, as it does not respond to the existing and desired future character of the surrounding area.
    - C1.1 - Site and Context Analysis: Objectives O1 (c) and (f), as the existing site conditions on the site, adjoining properties, and heritage characteristics have not been adequately taken into consideration.
    - C1.3 - Alterations and Additions: Objectives O1 (a)-(c), (f) and (h) as it does not preserve the character of the streetscape, will not be compatible with its setting, nor the desired future character of the distinctive neighbourhood.
    - C1.4 - Heritage Conservation areas and Heritage Items – Objectives O1 (a), (b), (d)-(f), and (h), and Controls C2 (d) and (e), and C5, as the proposed development does not preserve the heritage features, significant to the site or propose materials and finishes which are typical of the heritage item or heritage conservation area.

- e. C2.2.2.6 - Birchgrove Distinctive Neighbourhood: Controls C5, C16, and C19, as the proposal is not considered to be consistent with the desired future character controls as it does not conserve the materials significant to the character of the neighbourhood or building typology, or confine the changes to the character and materiality to the rear of the dwelling.
  - f. C3.3 - Elevation and Materials: Objectives O1 (a), and controls C4 and C11, as proposed materials visible from the public domain do not complement the existing character of neighbouring dwellings as viewed from the streetscape.
3. The proposal has not demonstrated that it will not result in significant impacts on the built environment, particularly with respect to establishing an undesirable streetscape impact, pursuant to section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
  4. The proposal has not demonstrated that the site is suitable for the development pursuant to section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
  5. The application fails to take into consideration the concerns raised in the submissions that were received following the notification of the application, pursuant to section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
  6. In view of the extent of non-compliances with the planning provisions and the matters raised within the submissions, the proposal is not considered to be in the public interest, contrary to section 4.15(1)(e) Environmental Planning and Assessment Act 1979.

## **REASONS FOR DECISION**

The proposal generally does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development would result in significant adverse impacts to the heritage item, and to the adjoining properties and the streetscape diminishing the quality/aesthetic value of the heritage item/s and is not considered to be in the public interest.

The application is considered unsupportable and is therefore refused

The decision of the panel was unanimous

<b>IWLPP1221/24 Agenda Item 4</b>	DA/2023/0764
<b>Address:</b>	268 Trafalgar Street, ANNANDALE
<b>Description:</b>	Ground and first floor alterations and additions to dwelling
<b>Applicant:</b>	Jacqueline Grace C/O Kreis Grennan Architecture

The following people addressed the meeting in relation to this item:

- Christian Grennan

## DECISION OF THE PANEL

The Panel is satisfied that—

- (i) the Applicant’s written request to contravene the development standard in clauses 4.3C(3)(b) and 4.4 of *Inner West Local Environmental Plan 2011* has adequately addressed the following matters that are required to be demonstrated:
    - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
    - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the development standard in Clauses 4.3C(3)(b) and 4.4 of *Inner West Local Environmental Plan 2011* and the objectives for development within the zone in which the development is proposed to be carried out.
  - (iii) the concurrence of the Planning Secretary to the granting of consent to a development that contravenes the development standard may be assumed in respect of the development.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/0764 for ground and first floor alterations and additions to residential development at 268 Trafalgar Street ANNANDALE subject to the conditions listed in Attachment A of the officer’s report subject to the deletion of proposed condition 2.

## REASONS FOR DECISION

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and the *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.



The application is considered suitable for approval subject to the imposition of appropriate conditions. The Panel has deleted proposed condition 2 as it is considered that the rear addition as designed is differentiated from the existing building and in the Panel's opinion is compatible in terms of mass, materials and detail. Consequently, it would not adversely affect the significance of the heritage item or conservation area.

The decision of the panel was unanimous

<b>IWLPP1222/24 Agenda Item 5</b>	DA/2023/1079
<b>Address:</b>	17 Jane Street, BALMAIN
<b>Description:</b>	Alterations and additions to a dwelling, including demolition of existing rear addition, construction of a new rear addition and construction of an in-ground swimming pool with landscaping
<b>Applicant:</b>	Steven J McgGllivray

The following people addressed the meeting in relation to this item:

- Mabel Chow

## DECISION OF THE PANEL

The Panel is satisfied that—

- (i) the Applicant's written request to contravene the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* has adequately addressed the following matters that are required to be demonstrated:
    - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
    - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* and the objectives for development within the zone in which the development is proposed to be carried out.
  - (iii) the concurrence of the Planning Secretary to the granting of consent to a development that contravenes the development standard may be assumed in respect of the development."
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/1079 for alterations and additions to a dwelling, including demolition of existing rear addition, construction of a new rear addition and construction of an in-ground swimming pool with landscaping at 17 Jane Street, BALMAIN subject to the conditions listed in Attachment A of the officer's report.

## REASONS FOR DECISION

A revised Clause 4.6 request received 9 April 2024 was provided to the Panel that referred to the correct standard to be varied. The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

The decision of the panel was unanimous

<b>IWLPP1223/24 Agenda Item 6</b>	DA/2023/0819
<b>Address:</b>	110 Ferris Street, ANNANDALE
<b>Description:</b>	Ground, first and second floor alterations and additions to existing semi-detached dwelling
<b>Applicant:</b>	Mr Hugh P Harricks

No one spoke on this Item.

## DECISION OF THE PANEL

The Panel is satisfied that—

- (i) the Applicant's written request to contravene the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* has adequately addressed the following matters that are required to be demonstrated:
    - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
    - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* and the objectives for development within the zone in which the development is proposed to be carried out.
  - (iii) the concurrence of the Planning Secretary to the granting of consent to a development that contravenes the development standard may be assumed in respect of the development."
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/0819 for ground, first and second floor alterations and additions to existing semi-detached dwelling at 110 Ferris Street, ANNANDALE subject to the conditions contained in the assessment report with the exception of condition 2 which should be amended to read as follows:

## 2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The windows in the west elevation of the skillion dormer (W2.02) must be redesigned so they are vertically proportioned, employing traditional sash design and materials (timber frame).

- b. The planter box, associated pergola and privacy screen proposed to the first-floor rooftop are to be deleted and the planter bed replaced with roof i.e. a continuation of the existing skillion roof over the ground floor living room.
- c. A privacy screen to the northern and southern end of the first-floor rear balcony is to be provided. This privacy screening shall be fixed in place, be of timber or metal finishes, have a height of 1.6m above floor level of the balcony and have a minimum obscuration of 75%.

## **REASONS FOR DECISION**

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development, as proposed and as conditioned, will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest. Condition 2 was reworded to clarify the extent of the privacy screen.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

The decision of the panel was unanimous

<b>IWLPP1224/24 Agenda Item 7</b>	DA/2023/0555
<b>Address:</b>	102 Norton Street, LEICHHARDT
<b>Description:</b>	Alterations and additions to an existing commercial premises and provision of a three storey mixed use development comprising a ground floor café, co-living dwellings and basement parking.
<b>Applicant:</b>	Mr Joseph Panetta

The following people addressed the meeting in relation to this item:

- Meriana Hanna
- Joseph Panetta

## DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West LEP relating to the minimum lot size requirement in section 69 of State Environmental Planning Policy (Housing) 2021*. The Panel is not satisfied that it has been demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstance of the case or that there are sufficient environmental grounds to justify the contravention. The Panel is not satisfied that the proposed development will be in the public interest and in that regard is not satisfied that it is consistent with the objectives of the development standard in section 69 of State Environmental Planning Policy (Housing) 2021 and the objectives for development within the zone in which the development is proposed to be carried out.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuses Development Application No. DA/2023/0555 for alterations and additions to an existing commercial premises and provision of a 3 storey mixed use development comprising of ground floor café, co-living dwellings and 1 basement level of parking at 102 Norton Street, LEICHHARDT, for the following reasons;
1. The proposal is inconsistent with the Inner West Local Environmental Plan 2022 as follows:
    - i. Section 1.2 Aims of the Plan; Aims (b), (g) and (h), as it does not adequately conserve the built and cultural heritage of the Inner West, and (g) and (i), where it does not preserve the amenity of surrounding properties and the public domain and is of a poor design quality.
    - ii. Section 2.3 Zone Objectives for zone E1 Local Centre, as it does not ensure the new development provides diverse and active street frontages and does not enhance the unique sense of place of the local centre by displaying architectural and urban design quality.
    - iii. Section 4.4 Floor Space Ratio, as it does not comply with the maximum FSR and no Clause 4.6 request has been submitted to vary this standard.
    - iv. Section 5.21 Flooding, as the applicant has not demonstrated that the proposed development will not adversely affect flood behaviour.

2. The proposal is inconsistent with the *Housing SEPP* as follows:
  - i. Section 68(c), as there is insufficient communal living areas with no Clause 4.6 request provided.
  - ii. Section 69(1)(b)(ii), as there is insufficient lot size and the submitted Clause 4.6 request does not satisfy the legislative requirements.
  - iii. Section 69(2)(b), as there are insufficient minimum separation distances and no Clause 4.6 request has been provided.
  - iv. Section 69(2)(c), as there is insufficient information to demonstrate compliant solar access is provided to the communal living areas and no Clause 4.6 request has been provided.
  
3. The proposal is inconsistent with *SEPP Biodiversity* as follows:
  - i. Chapter 2 of the *SEPP*, as the proposed development does not protect vegetation on the subject site or neighbouring properties, rather seeks removal of considerable canopy coverage to accommodate the building.
  
4. The proposal is inconsistent with the Leichhardt Development Control Plan 2013 as follows:
  - i. Section C1.0 General Provisions, as the proposed development is contrary to objectives 5 (compatible) and 6 (connected).
  - ii. Section C1.1 Site and Context Analysis, as the proposed development is contrary to objectives 1b and 1d given the extent of impacts on neighbouring properties.
  - iii. Section 1.3 Alterations and Additions, as the proposal does not comply with Control C12, given the additions will dominate the retained existing built form.
  - iv. Section C1.14 Tree Management, as the proposal does not comply with Controls C13 and C14, given the extent of tree impacts proposed.
  - v. Section C2.2.3.5 Leichhardt Distinctive Neighbourhood, as the proposal does not comply with the desired future character controls, namely C12 and C13.
  - vi. Section C2.2.3.5(a) Entrata Sub Area, as the proposal does not comply with desired future character controls C1 and C3.
  - vii. Section C3.1 Residential General Provisions, as the proposal does not comply with Controls C1 and C2, given the extent of visual and amenity impacts on neighbouring properties and the streetscape.
  - viii. Section C3.2 Site Layout and Building Design, as the proposal does not comply with Controls C1, C7 and C17, relating to sufficient site capacity, building setbacks and maximum building heights.
  - ix. Section C3.3 Elevations and Materials, as the proposal does not comply with Control C7, relating to visual presentation.
  - x. Section C3.8 Private Open Space, as the proposal does not comply with Control C3.
  - xi. Section C3.9 Solar Access, as the proposal does not comply with Control C20 given the extent of solar impacts on the neighbouring property.
  - xii. Section C4.1 Objectives for Non-Residential Zones, as the proposal is contrary to objective 8, given the extent of amenity impacts.
  - xiii. Section C4.4 Elevation and Materials, as the proposal does not comply with Control C5 relating to visual presentation.
  - xiv. Section C4.16 Mixed Use, as the proposal does not comply with Controls C2 and C8 relating to residential amenity.

5. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the *EPA Act 1979*.
6. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the *EPA Act 1979*.
7. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *EPA Act 1979*.

## **REASONS FOR DECISION**

The proposal results in several non-compliances with the aims, objectives and standards contained in *Inner West Local Environmental Plan 2022*, the *Housing SEPP* and *Leichhardt Development Control Plan 2013*. As indicated, the applicant has not provided sufficient Clause 4.6 requests to address the non-compliances with the prescribed development standards.

The Panel notes the applicant's request to defer the application but considered that it was not appropriate to do so in the circumstances due to the need for Council to assess the volume of additional material and the time required to do so. The Panel also noted Cl 4.19 of the Panel guidelines require that the Panel must not defer an application determination to allow the applicant to submit amended plans.

The development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest. As demonstrated in this report, the site isolation of No. 96 Norton Street is an unacceptable outcome arising from the proposed development.

The application is considered unsupportable.

The decision of the panel was unanimous.



<b>IWLPP1225/24 Agenda Item 8</b>	DA/2023/0694
<b>Address:</b>	12 Crescent Street, ROZELLE
<b>Description:</b>	Demolition of the existing dwelling and associated outbuildings; Torrens title subdivision into two lots and construction of two x two storey semi-detached dwellings and associated landscaping and site works
<b>Applicant:</b>	Raymond Panetta Architects Pty Ltd

The following people addressed the meeting in relation to this item:

- Melissa Neighbour
- Lachlan Rodgers
- Graham Squires
- Raymond Panetta
- James Corry
- James Phillips

## DECISION OF THE PANEL

The Panel is satisfied that—

- (i) the Applicant's written request to contravene the development standard in clause 4.4 of *Inner West Local Environmental Plan 2022* has adequately addressed the following matters that are required to be demonstrated:
    - (b) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
    - (c) that there are sufficient environmental planning grounds to justify contravening the development standard.
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* and the objectives for development within the zone in which the development is proposed to be carried out.
  - (iii) the concurrence of the Planning Secretary to the granting of consent to a development that contravenes the development standard may be assumed in respect of the development."
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/0694 for the demolition of the existing dwelling and associated outbuildings; Torrens title subdivision into two lots and construction of two x two storey semi-detached dwellings and associated landscaping and site works at 12 Crescent Street ROZELLE subject to the conditions listed in Attachment A of the officer's report except for the addition of the following condition:

## **21A. Privacy**

Prior to the issue of a Construction Certificate amended plans being submitted to the satisfaction of the Certifying Authority illustrating that window WB7, to bedroom 2 on the southern elevation of Lot B is to be a double hung window with a fixed lower pane with obscure glazing to a height of 1.6 metres above FFL.

## **REASONS FOR DECISION**

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

Subject to the imposition of a condition relating to window WB7 to protect the privacy of adjoining residences to the south, the development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

The decision of the panel was unanimous

<b>IWLPP1226/24 Agenda Item 9</b>	DA/2023/0798
<b>Address:</b>	20A and 20B Hopetoun Street, PETERSHAM
<b>Description:</b>	Construction of a mezzanine level within the rear outbuilding, use the outbuilding as a garage and studio in association with 20B Hopetoun Street and carry out a subdivision boundary realignment of 20A and 20B Hopetoun Street to contain the outbuilding completely on 20B Hopetoun Street
<b>Applicant:</b>	Mr Darren Laybutt

The following people addressed the meeting in relation to this item:

- Darren Laybutt

## DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Section 4.6 – Exceptions to development standards of the *Inner West Local Environmental Plan 2022* to vary Section 4.4 – Floor Space Ratio. The Panel is not satisfied that it has been demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstance of the case and or that there are insufficient environmental grounds to support justify the contravention. The Panel is not satisfied that the proposed development will be in the public interest and in that regard is not satisfied that it is consistent with the objectives of the development standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2023/0798 for the construction of a mezzanine level within the rear outbuilding, to use the outbuilding as a garage and studio in association with 20B Hopetoun Street and carry out a subdivision boundary realignment of 20A and 20B Hopetoun Street to contain the outbuilding completely on 20B Hopetoun Street at 20A & 20B Hopetoun Street PETERSHAM for the following reasons:
1. The proposed development is inconsistent with, and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
    - a. Section 1.2(2)(h) and 1.2(2)(i) - Aims of Plan in that the proposal is not considered to prevent adverse social, economic and environmental planning impacts, including cumulative impacts, as the proposed boundary readjustment is not consistent with, and does not protect, the prevailing cadastral pattern of the streetscape, and will create adverse amenity impacts to no. 20A including a loss of development potential, visual bulk and overshadowing impacts. The proposed development will also result in internal amenity impacts to no. 20B given the lack of ventilation and light proposed at the mezzanine level, which is intended to be used as a habitable area.
    - b. Section 2.3 - Zone objectives and Land Use Table in that the proposal does not maintain the character of natural and built features in the surrounding area, as the proposed mezzanine level intensifies the use on the site and results in a significant breach to the Floor Space Ratio development standard.

Furthermore, the proposed boundary readjustment fails to reinforce or protect the prevailing subdivision pattern of the streetscape.

- c. Section 4.1 - Minimum subdivision lot size as the proposal will result in adverse amenity impacts to no. 20A Hopetoun Street, given the proposed benefit loss and subsequent visual bulk, overshadowing, and acoustic privacy impacts created, and the proposed subdivision is inconsistent with the desired future character of the area.
  - d. Section 4.4 - Floor space ratio as the proposal does not minimise adverse impacts on neighbouring amenity, given the proposed benefit loss and subsequent visual bulk, overshadowing, and acoustic privacy impacts to no. 20A Hopetoun Street. Further, while there is no change to the built form, the proposal does not enable an appropriate density, given the proposed intensification of the site as a result of the proposed mezzanine level, which is intended to be used as a habitable space.
2. The proposed development is inconsistent with, and has not demonstrated compliance with Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, including:
- a. Part 2.18 - Landscaping and Open Space, as the proposal does comply with C12(ii) and is inconsistent with the applicable objectives O1, O3, O4, and O5, as less than 20% of area was reserved for private open space, and hard paved area within the private open space have not been minimised. In addition, the proposal does not provide sufficient space for recreation given the intensification of the site.
  - b. Part 3.1.1.2 - Subdivision, Amalgamation and Movement Networks, as the application proposal does not comply with C5 and C7, and is inconsistent with the applicable objectives O3, O4 and O5, as the proposed subdivision pattern is inconsistent with the cadastral pattern of surrounding sites and will compromise the setting of the existing buildings on the site. In addition, the proposed boundary adjustment results in a significant variance to the Floor Space Ratio development standard (33.93%), and a shortfall in private open space and landscaped area.
  - c. Part 9.9 - Strategic context, the application is inconsistent with the desired future character of the Stanmore South Precinct (Precinct 9), as the proposed boundary adjustment fails to reinforce or protect the prevailing subdivision pattern.
3. The proposed development will result in adverse built environment impacts in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
4. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
5. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

## **REASONS FOR DECISION**

The proposal generally does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

The development would result in impacts on the amenity of the adjoining premises/properties and the subdivision would be inconsistent with the predominant cadastral pattern of the street and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

The decision of the panel was unanimous

<b>IWLPP1227/24 Agenda Item 10</b>	DA/2023/0651
<b>Address:</b>	323 Darling Street, BALMAIN
<b>Description:</b>	Alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking
<b>Applicant:</b>	M and B Maxwell Property Group Pty Ltd

The following people addressed the meeting in relation to this item:

- Fergus Kennedy
- Stephen Kitching

## DECISION OF THE PANEL

- A. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuses Development Application No. DA/2023/0651 for alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking at 323 Darling Street BALMAIN for the following reasons:
1. The proposed development is inconsistent with, and has not demonstrated compliance with the *State Environmental Planning Policy (Housing) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including being inconsistent with the following:
    - a. Clause 147(1)(a) - the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9.
    - b. Clause 147(1)(b) – non-compliant with the following elements in the Apartment Design Guide: Communal and Open Space, Deep Soil Zones, Visual Privacy/Building Separation, Solar and Daylight Access, Apartment Size, Apartment Layout.
    - c. Clause 147(1)(c) - any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.
  2. The proposed development is inconsistent with, and has not demonstrated compliance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
    - a. Clause 4.6 (2) – The application has failed to provide a preliminary site investigation of the land in accordance with the contaminated land planning guidelines as such the consent authority cannot be satisfied that the site is suitable for the proposed residential use.

3. The proposed development is inconsistent with, and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a. Section 1.2(2)(g)(h)(i) - *Aims of Plan*
  - b. Section 2.3 - *Zone Objectives and Land Use Table*
  - c. Section 4.4 – *Floor Space Ratio*
  - d. Section 4.4A – *Exception to Maximum Floor Space Ratio for Active Street Frontages*
  - e. Section 6.9(1), (3) and (4)(a), (e), (f)(i)(ii), (iii), (iv), (vii) and (xi) – *Design Excellence*
  - f. Section 6.13 - *Residential Accommodation in Zones E1, E2 and MU1*
  
4. The applicant has not submitted a request under Section 4.6 of *Inner West Local Environmental Plan 2022* to demonstrate sufficient environmental planning grounds to justify contravening the FSR development standard and the development is considered contrary to the objectives of the standards in its proposed form. In the absence of a valid and well-founded Section 4.6 Exceptions to Development Standards request, the consent authority cannot consider the proposed variation and is without power to approve such a development.
  
5. The proposed development is inconsistent with, and has not demonstrated compliance with the *Leichhardt Development Control Plan 2013*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a. C1.0 *General Provisions* - O2, O4 and O6
  - b. C1.3 *Alterations and additions* - O1(c) and O1(d)
  - c. C1.4 *Heritage Conservation Areas and Heritage Item* – O1(c) and (d)
  - d. C1.5 *Corner Sites* - C4 and C5
  - e. C1.11 *Parking* - O4, O6, and O10
  - f. C2.2.2.1 *Darling Street Distinctive Neighbourhood* - C4, C12 and C14
  - g. C3.13 *Conversion of Existing Non-Residential Buildings* - O1(c), O1(d), O1(e), O1(f), C1, C4, C5 and C6
  - h. C4.1 *Objectives for Non-Residential Zones* - O8, O9, and O10
  - i. C4.5 *Interface Amenity* - O1(a), O1(e), C4, C5, C6, C15(a), C15(b), and C15(c)
  - j. C4.6 *Shopfronts* - O1(b), O1(c), O1(d), C2(a), and C7
  - k. C4.15 *Mixed Use* - O1(a), O1(c), C5(b), C7(a), C7(b), C8(a), C8(b), C8(d) and C10

l. E1.2.2 *Managing Stormwater within the Site* - O1

m. E1.2.5 *Water Disposal* - O1

6. The proposed development will result in adverse built environment impacts in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
7. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
8. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

## **REASONS FOR DECISION**

The proposal does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development would result in unacceptable impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest and is therefore refused.

The decision of the panel was unanimous



**The Inner West Planning Panel Public Meeting finished at 3.17pm**

**The Inner West Planning Panel Closed Meeting started at 3.20pm**

**The Inner West Planning Panel Closed Meeting finished at 4.43pm**

**CONFIRMED:**

A handwritten signature in black ink, appearing to read 'Adam Seton', enclosed in a thin black rectangular border.

**Mr Adam Seton  
Chairperson  
9 April 2024**