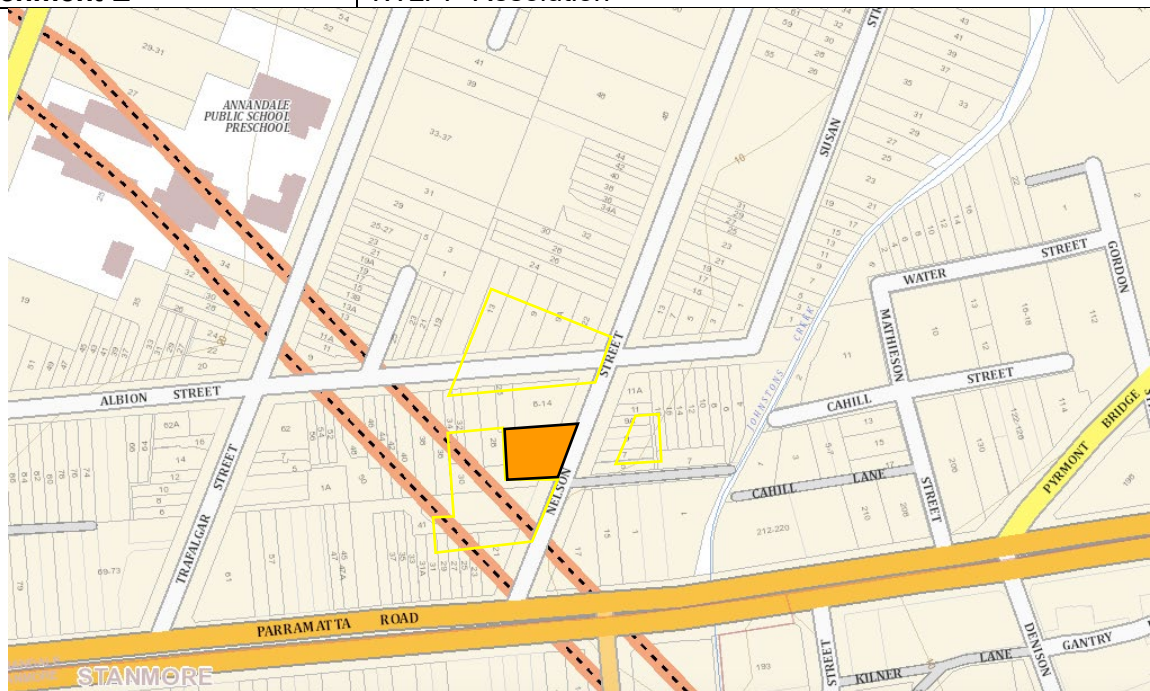







INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	MOD/2023/0102
Address	8-14 Nelson Street ANNANDALE
Proposal	Modify existing approval for fitness club by amending condition 19 to reduce required parking from 4 spaces to 2 spaces.
Date of Lodgement	26 April 2023
Applicant	OT Fitness Sydney Pty Ltd
Owner	MJB Group Pty Ltd
Number of Submissions	2 objections
Value of works	\$25,197.00
Reason for determination at Planning Panel	Modification to condition imposed by IWLPP
Main Issues	Parking
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent to be modified
Attachment B	Plan of proposed development
Attachment C	Notice of Determination DA/2020/0942
Attachment D	IWLPP Report DA/2020/0942
Attachment E	IWLPP Resolution



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

Note: Two objections were received however no address was provided

1. Executive Summary

This report is an assessment of the application submitted to Council to modify existing approval for fitness club by amending condition 19 to reduce required parking from 4 spaces to 2 spaces at 8-14 Nelson Street Annandale.

The application was notified to surrounding properties and 2 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Reduction in parking on site; and
- Deletion of an accessible car parking space.

The non-compliances are acceptable given the occupancy of the site is less than initially estimated as part of the original application and therefore the application is recommended for approval.

2. Proposal

The proposal seeks to modify the existing approval for the fitness club by amending condition 19 to reduce required parking from 4 spaces to 2 spaces.

On 13 April 2021 the IWLPP approved application DA/2020/0942 to use the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club. The IWLPP imposed a condition requiring 4 car parking spaces to be provided on site (including one accessible car parking space).

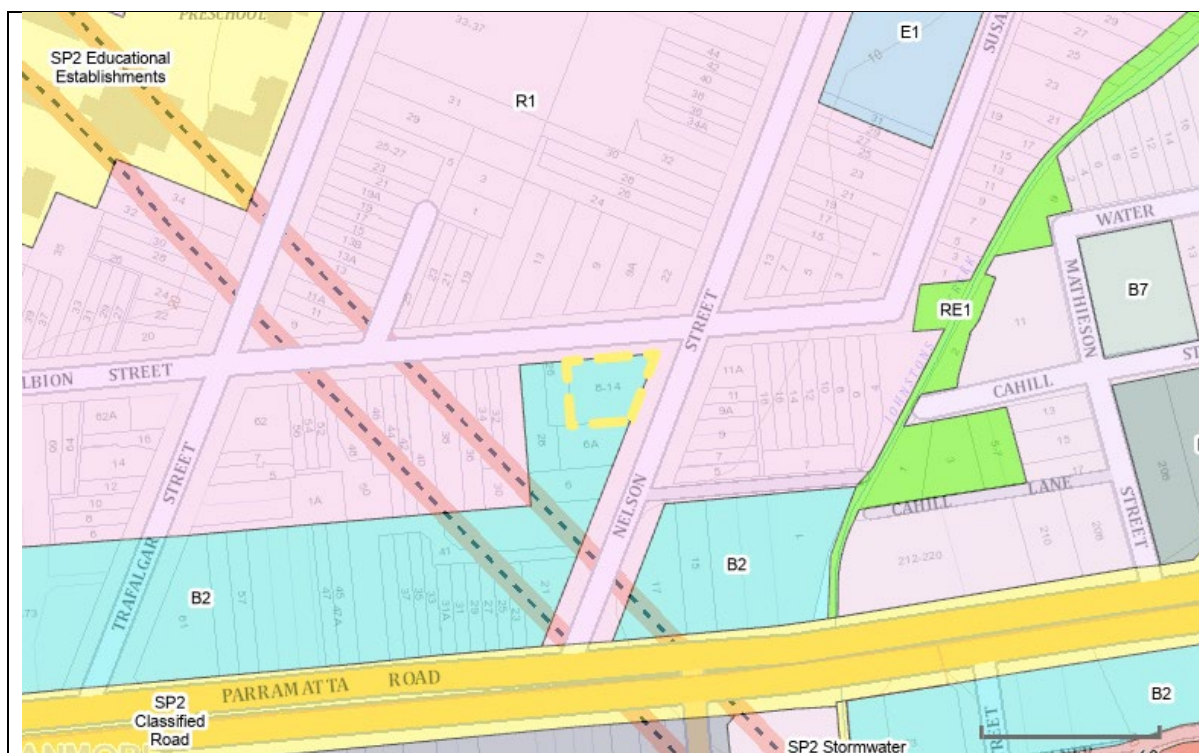
3. Site Description

The subject site is located on the corner of Nelson Street to the east and Albion Street to the north. The site consists of one allotment (Lot 21 in DP 1247954) and is generally rectangular in shape with a total area of approximately 509sqm.

The site has a frontage to Nelson Street of 23 metres and a secondary frontage of approximately 30 metres to Albion street.

The site supports an existing warehouse building with mezzanine level. The adjoining properties support predominantly converted warehousing to dwellings, attached and detached residential dwellings and, closer to Parramatta Road, commercial premises. (6a Nelson Street to the south of the site and 28 Albion Street to the west)

The property is located within a heritage conservation area. The property is identified as a flood prone lot.



Zoning map identifying subject site

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
DA/2020/0942	Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club.	Approved by IWLPP 13 April 2021

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
26 April 2023	Application lodged
1 June 2023	Request for additional information letter sent.
1 September 2023	Additional information submitted. The application was lodged initially proposing to amend the four car parking spaces to one accessible car parking space. The amended plans propose to amend the four car parking spaces to two general spaces.

5. Section 4.55 Modification of Consent

The following is a summary of the assessment of the application in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979 (EPA Act 1979).

Section 4.55(1A)

Section 4.55 (1A) of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, if:

- “(a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.”*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent;
- The environmental impacts are minimal subject to the imposition of appropriate conditions;
- The application was notified to persons who made a submission against the original application sought to be modified;
- Submissions received have been considered.

In consideration of Section 4.55(3) of the *EPA Act 1979* the development assessment report endorsed by the Inner West Local Planning Panel (IWLPP) concluded that the development was acceptable for the following reasons -

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 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.

It is considered that the modified proposal has taken into account those reasons that the original development consent was granted.

6. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

6(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

6(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

6(a)(ii) *State Environmental Planning Policy (Industry and Employment) 2021*

No amendment to the signage is proposed and the proposal does not alter compliance with this SEPP.

6(a)(iii) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

6(a)(iv) *Inner West Local Environment Plan 2022 (IWLEP 2022)*

The application was assessed against the following relevant clauses of *the Leichhardt Local Environmental Plan 2013*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 – Floor Space Ratio
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.3 - Flood Planning
- Clause 6.4 - Stormwater management

- (i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned B2 under the *IWLEP 2022*. The *IWLEP 2022* defines the development as:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B2 zone.

The following table provides an assessment of the application against the development standards:

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 512 sqm	1.27:1 or 651 sqm	139sqm or 27%	No

The development includes removing two car parking spaces that were required to be provided as per LDCP 2013 and the conditions of consent. As a result, the proposal results in an increase to the gross floor area of the proposal. There are no changes to the overall building form or building envelope as part of the proposal as the car parking is contained within the existing building. A departure from Floor Space Ratio was granted as part of the original application under Clause 4.6 of IWLEP 2023. Clause 4.6 does not apply to modification applications. As such, the proposal is considered acceptable with regard to Clause 4.4 of IWLEP 2023.

5(b) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
B3.2 Events and Activities in the Public Domain (Special Events)	N/A

Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes

C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes - see discussion
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.1.7 Parramatta Road Commercial Distinctive Neighbourhood	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes – see discussion
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	Yes - see discussion
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	

E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Yes
E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.10 Equity of Access and Mobility

C1.10 of Leichhardt Development Control Plan 2013 (LDGP 2013) contains the following objectives and controls relevant to the development:

*O10 To facilitate provision of sufficient accessible car parking.
 Car parking for people with a disability is to be provided for all new residential developments in accordance with Part C Section 1.11 of this Development Control Plan and the Building Code of Australia. (1 accessible space for every 50 car parking spaces or part thereof is required).*

Having regard to the above controls, the proposal does not trigger the requirement to provide accessible on-site parking. The IWLPP imposed this requirement as part of the previous determination. The parking demand estimated for the original determination was based on approximately 2040 visits per week based on 600 members visiting the gym 3.4 times per week. This modification application has included data recorded over the past 6 months of the subject gym, shown in Figure 3 which illustrates that the maximum visits have not exceeded 852 per week, which is considerably less than estimated in the original application.

Location	Month	Members	Total Visits	Average visits a Member makes per Month	Average visits a Member makes per week
Fernwood Annandale	March	613	3,661	5.97	1.39
Fernwood Annandale	April	608	3,110	5.12	1.19
Fernwood Annandale	May	620	3,589	5.79	1.35
Fernwood Annandale	June	611	3,283	5.37	1.25
Fernwood Annandale	July	611	2,896	4.74	1.10
Fernwood Annandale	August	608	3,098	5.07	1.18

Average Total Occupancy per day - March August 2023	
Monday	129
Tuesday	147
Wednesday	126
Thursday	116
Friday	103
Saturday	101
Sunday	75

Figure 3: Occupancy data for the past 6 months

Given the site will accommodate only two car parking spaces, provision of one accessible car parking space on the site will mean that only one parking space will be able to be provided due to required dimensions and clearance. Details have been submitted with the application noting that no users of the site have required use of the accessible car parking space that is located on the site as noted in email from the site operator dated 28 August 2023. It is considered that in the circumstances an accessible parking space is not required in this instance, given the existing accessible car parking space has not been used, the amount of parking on site and given the reduced occupancy of the site from what was proposed in the original application. It is therefore considered acceptable to remove the condition requiring the accessible car parking space.

The proposal is considered acceptable with regard to the objectives and controls contained in C1.10 of LDCP 2013.

C1.11 Parking

The original determination DA/2020/0942, approved by the IWLPP on 13 April 2021 estimated there will a maximum total parking demand for 20 vehicles in peak times and the proposal resulted in a shortfall of 16 parking spaces.

The parking demand for the original determination was based on an estimated 2040 visits per week from potentially 600 members visiting the Gym 3.4 times per week. This modification application has included data recorded over the past 6 months (See Figure 3 above) has shown that the maximum visits have not exceeded 852 per week, which is less than the estimate the original application was based on.

In addition, the operator of the premises has advised that peak occupancy is on a Tuesday night between 5pm-7pm where there are up to 25 patrons in the club. Based on the travel mode survey submitted with the application, 34% of people attending the gym drive to the site and the 2 spaces proposed are only for Staff, leaving a shortfall of 9 parking spaces during the evening peak period. This is an improvement on the shortfall estimated with the original DA where a shortfall of 16 spaces was estimated.

The on-street parking survey provided at Table 1 within the Traffic and Parking Statement by PTC Consulting (Dated 30/1/23) show that there is ample on street parking available during these peak times within 200m of the gym.

For the above reasons the proposed reduction of parking from 4 spaces to 2 is deemed acceptable based on the new parking layout submitted with the application. However, the following amendments will be required to the plan as follows:

- Deletion of the note that refers to the deletion of the roller doors and installation of stud walls. The roller doors must remain.
- Enclosing the proposed carparking spaces to separate them from the Gym area to isolate patrons from fumes and accidental conflict with vehicles. Pedestrian access must be provided from the enclosed carparking spaces to the Gym area.

Given the above, the proposal is considered acceptable with regard to the objectives and controls contained in C1.11 of LDCP 2013.

5(c) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(d) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. Two submissions were received in response to the initial notification raising concerns about parking which has been discussed in this report.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

<u>Issue:</u>	Premises operating outside approved hours
<u>Comment:</u>	This application does not seek to alter the approved operating hours. This matter is a compliance matter and is being investigated by Council's Compliance team.

5(f) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Engineering

7. Conclusion

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 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.

8. Recommendation

- A. That 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*, grant consent to approve Application No. MOD/2023/0102 under Section 4.55(1a) of the *Environmental Planning and Assessment Act 1979* to modify Determination No DA/2020/0942 dated 13 April 2021 so as to reduce required parking from 4 spaces to 2 spaces at 8-14 Nelson Street, ANNANDALE subject to the amended conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent to be modified

A. Modify the following Conditions to read as follows:

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2020105-03/05	Ground Floor Plan	October 2020	Nagy Khoury Design P/L
-	<i>Ground Floor Plan</i>	-	<i>Nagy Khoury Design P/L</i>
2020105-04/05	Ground Mezzanine Plan	October 2020	Nagy Khoury Design P/L
-	Plan of Management	-	-
-	Signage Plan	-	-
7030-1.1R Rev C	Noise & Vibration Impact Assessment	September 2020	Day Design P/L
2000369 Rev 2	BCA Compliance Capability Statement	October 2020	City Plan
200371 Rev 02	Accessibility Assessment Report	October 2020	City Plan

As amended by the conditions of consent.

Amended – MOD/2023/0102- 10 October 2023

13 Changes to Design

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

- a. ***Two (2) ~~Four (4)~~ parking spaces must be provided for staff carparking utilising the existing vehicular access to the 5700mm x 2.5 (length x width). in a Tandem parking arrangement for staff carparking utilising the existing vehicular access to the site with inclusion of one accessible parking space off Albion Street of appropriate dimensions. The parking spaces must have minimum clear internal dimensions of 11400 x 5400mm (length x width).*** The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004. ***Upright kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like as per Section 2.4.5.5 of AS/NZS2890.1:2004.***

- b. The main entrance to the gym is to be located off Nelson Street only, it must accommodate an accessible path of travel from this entry.

Amended – MOD/2023/0102- 10 October 2023

19 Parking Spaces- staff

Two (2) ~~Four (4)~~ parking spaces must be provided and maintained at all times for the purposes of staff car parking, ~~with inclusion of one accessible parking space off Albion Street of appropriate dimensions~~. Kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like.

Amended – MOD/2023/0102- 10 October 2023

- B. Add the following Condition to read as follows:

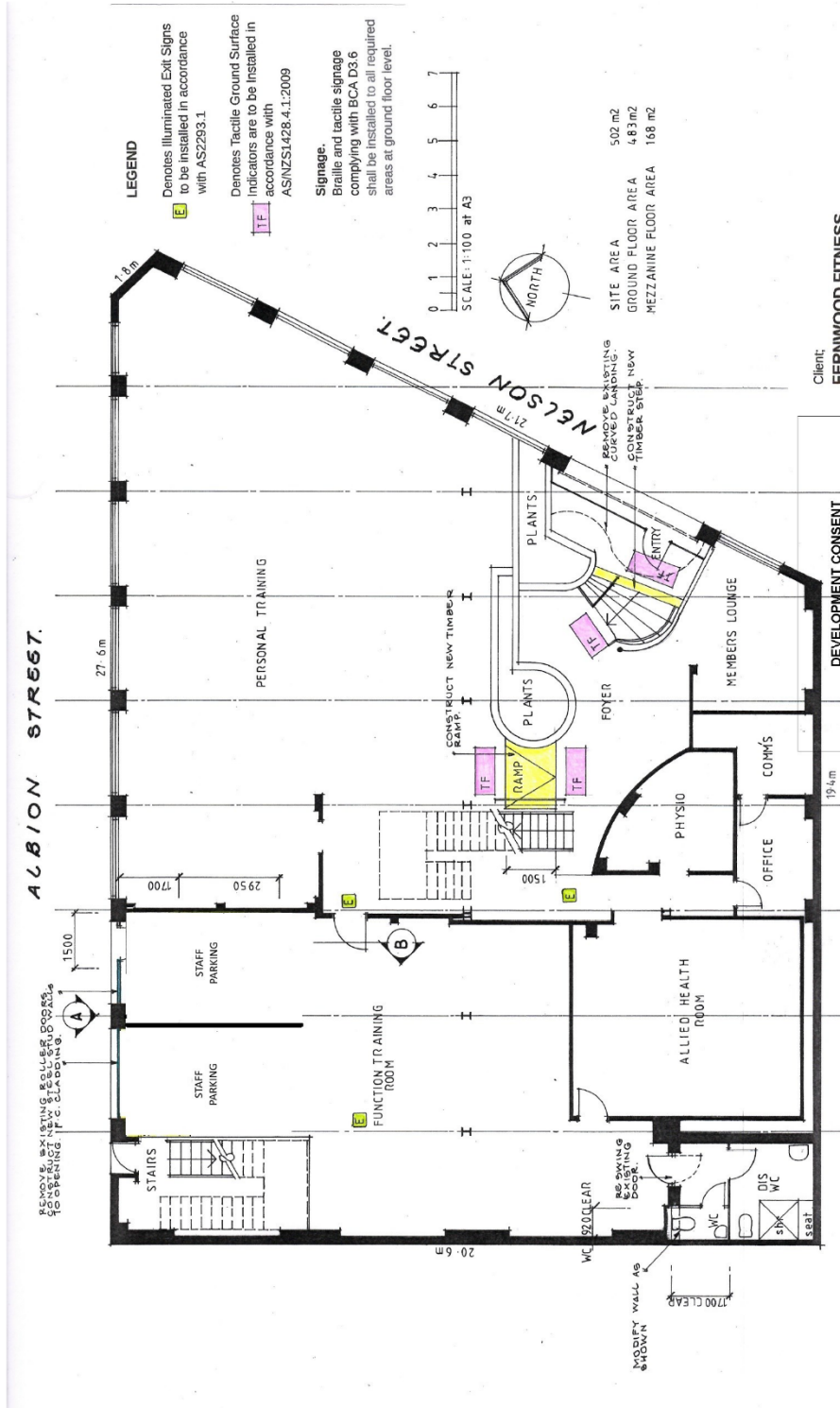
2C Car parking area

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

- a. ***The note on the ground floor plan that states “remove existing roller doors construct new steel to opening fc cladding” is to be deleted. The roller doors must remain.***
- b. ***The proposed carparking spaces must be enclosed so as to separate them from the Gym area to isolate patrons from fumes and accidental conflict with vehicles. Pedestrian access must be provided from the enclosed carparking spaces to the Gym area.***

Amended – MOD/2023/0102- 10 October 2023

Attachment B – Plans of proposed development



Attachment C – Notice of Determination DA/2020/0942

**NOTICE OF DETERMINATION - APPROVAL**

Issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	DA/2020/0942
Applicant	Sjb Planning
Land to be developed	8-14 Nelson Street ANNANDALE NSW 2038
Approved development	Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club.
Cost of development	\$25,197.00
Determination	The application was determined by Local Planning Panel and was granted consent subject to the conditions attached.
Other Approvals	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
Determination date	13 April 2021
Consent is to operate from	13 April 2021
Consent will lapse on	13 April 2026

Reasons for conditions

To protect the environmental amenity of the area and the public interest.

Right of appeal

Inner West Council
innerwest.nsw.gov.au
02 9392 5000

council@innerwest.nsw.gov.au
PO Box 14, Petersham NSW 2049

Document Set ID: 38114969
Version: 1, Version Date: 21/09/2023

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court in accordance with the timeframes set out in [Section 8.10](#) of the *Environmental Planning and Assessment Act 1979*. In addition to the above, third party appeal rights are set out in the *Environmental Planning and Assessment Act 1979* and may be applicable.

Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides that the applicant may request the Council to review the determination. Section 8.2 does not apply to complying development, designated development, a determination made by Council under Section 4.2 in respect of Crown applications, or a decision that is already subject to a Section 8.2 review.

For further information please contact **Christian Hemsley** on **02 9392 5706** or **christian.hemsley@innerwest.nsw.gov.au**.

Yours faithfully



Luke Murtas
Manager Development Assessment (South)

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2020105-03/05	Ground Floor Plan	October 2020	Nagy Khoury Design P/L
2020105-04/05	Ground Mezzanine Plan	October 2020	Nagy Khoury Design P/L
-	Plan of Management	-	-
-	Signage Plan	-	-
7030-1.1R Rev C	Noise & Vibration Impact Assessment	September 2020	Day Design P/L
2000369 Rev 2	BCA Compliance Capability Statement	October 2020	City Plan
200371 Rev 02	Accessibility Assessment Report	October 2020	City Plan

As amended by the conditions of consent.

DESIGN CHANGE

2. Green Travel Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Green Travel Plan certified by a suitably experienced Civil Engineer in the field of transport who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) addressing the following:

- a. A travel plan is a set of measures designed to reduce private car dependency for a development by encouraging use of more sustainable transport modes.
- b. Such a plan should contain a series of complementary measures which will act in unison to discourage private car dependency.
- c. transport choices including bus stops, light rail stops, cycleways and public transport timetables;
- d. site-specific bike facilities;
- e. management initiatives for employees including subsidised public transport
- f. on-site displays, or digital apps, as information for both staff and visitors.
- g. The travel plan must include:
 - a. targets including reductions in car trips and increased mode share for sustainable transport;
 - b. travel data including baseline travel demand and mode share estimates derived from experience with comparable developments;
 - c. action plan which outlines the measures to be implemented as part of the travel plan, associated promotional, information and education initiatives, and management mechanisms to be introduced as part of the travel plan;
 - d. commitment to the on-going maintenance and adaptation of the action plan to ensure its long term success.
 - e. There should also be a management mechanism introduced which will bind future owners or lessees of the development to the travel plan;
 - f. monitoring and review shall be conducted.

- 2A.** The submitted Plan of Management is to be amended and provided to Inner West Council for the approval of the Manager Development Assessment, including, but not limited to, revised –
- Safety and security measures
 - Accessibility, including the provision of an accessible car space
 - Noise abatement measures
 - Details of complaints handling processes including a complaint register
 - Contact details of the business operator
 - Car park management including loading, unloading and servicing/ waste disposal procedures
 - A lighting plan, both in terms of customer safety and in relation to reducing nuisance to residential neighbours.
- 2B.** No signage is approved as part of this application. A further application with plans and elevations is required to be submitted to show details of all proposed signage locations, dimensions, and hours and levels of illumination, noting that no signage is to be installed on the Albion Street frontage.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$8,266
Inspection Fee:	\$236.70

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

5. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Day Design Pty Ltd reference 7030-1.1R Rev C dated 25 September 2020 must be implemented, including the following:

Subject to the following conditions:

1. Acoustic report prior to CC – to address to AC plant selection
2. The northern roller doors, first floor operable windows, eastern (glazed) front entry doors shall remain closed during at all times.
3. That the dropping of weights is prohibited and the WHaFC are to enforce its restriction to ensure that the amenity of adjoining residential premises are maintained.
4. A Noise Management Plan be submitted to Council prior to the issue of the Occupation Certificate detailing the following:
 1. The plan to manage all staff and patrons leaving the building during the early morning and evenings.

2. The plan to manage all staff and patrons entering and exiting their vehicles so as not to disturb the adjoining residential properties.

6. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

7. Balcony

The meditation terrace can only operate between the hours of 9am and 5pm and must have no amplified music.

8. Car Parking

The development must provide and maintain within the site:

- a. 12 Bicycle spaces within the site

9. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

10. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

PRIOR TO CONSTRUCTION CERTIFICATE**11. Light Spill**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

12. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

13. Changes to Design

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

- a. Four (4) parking spaces must be provided in a Tandem parking arrangement for staff carparking utilising the existing vehicular access to the site with inclusion of one accessible parking space off Albion Street of appropriate dimensions. The parking spaces must have minimum clear internal dimensions of 11400 x 5400mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004. Upright kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like as per Section 2.4.5.5 of AS/NZS2890.1:2004.
- b. The main entrance to the gym is to be located off Nelson Street only, it must accommodate an accessible path of travel from this entry.

DURING DEMOLITION AND CONSTRUCTION**14. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);

- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

PRIOR TO OCCUPATION CERTIFICATE

15. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority’s Noise Policy for Industry and Noise Control Manual and conditions of Council’s approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

16. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

17. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

ON-GOING

18. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

19. parking spaces - staff

Four (4) parking spaces must be provided and maintained at all times for the purposes of staff car parking, with inclusion of one accessible parking space off Albion Street of appropriate dimensions. Kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like.

20. Green Travel Plan

The Green Travel Plan approved with the Construction Certificate must be implemented and kept in a suitable location on site at all times.

21. Hours of Operation

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Monday to Friday	6am till 9pm

Saturday to Sunday	8am till 5pm
Public holidays	9am till 4pm

Monday to Friday No programmed classes between 8am to 9.30am and 2.30pm to 4.30pm (School Days)

ADVISORY NOTES

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council’s Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig


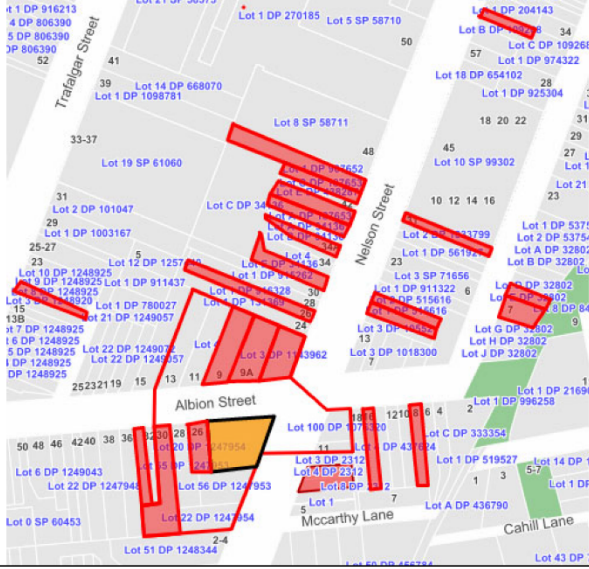




Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100

			www.dialprior.toyoudig.com.au
Landcom		9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments	131441	www.lspc.nsw.gov.au
NSW Food Authority		1300 552 406	www.foodnotify.nsw.gov.au
NSW Government			www.nsw.gov.au/fibro
			www.diysafe.nsw.gov.au
			Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555	www.environment.nsw.gov.au
Sydney Water		13 20 92	www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)			www.waterrating.gov.au
WorkCover Authority of NSW		13 10 50	www.workcover.nsw.gov.au
			Enquiries relating to work safety and asbestos removal and disposal.

Attachment D – IWLPP Report DA/2020/0942

 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0942
Address	8-14 Nelson Street ANNANDALE NSW 2038
Proposal	Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club, operating 7 days per week from 5.00am to 10.00pm
Date of Lodgement	02 November 2020
Applicant	SJB Planning
Owner	MJB Group Pty Ltd
Number of Submissions	31 in objection 2 in support
Value of works	\$25,197.00
Reason for determination at Planning Panel	Number of submissions – 33 FSR Breach
Main Issues	Parking Hours of operation Noise
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	
Note: Due to scale of map, not all objectors/submitters could be shown.	

1. Executive Summary

Inner West Local Planning Panel**ITEM 2**

This report is an assessment of the application submitted to Council for Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club, operating 7 days per week at 8-14 Nelson Street, Annandale.

The application was notified to surrounding properties and 33 submissions were received.

The main issues that have arisen from the application include:

- Cost of works
- Parking and traffic
- Hours of operation / Plan of management
- Noise
- Access

The non-compliances are acceptable given conditions are recommended to reduce the hours of operation and to provide parking on-site and therefore the application is recommended for approval.

2. Proposal

It is proposed to fit out and use an existing warehouse building located in a B2 Local Centre zone for the use of a women's only gym operating from 5am till 10pm 7 days a week. The proposed works include internal fit out and external signage.

3. Site Description

The subject site is located on the corner of Nelson Street to the East and Albion Street to the North. The site consists of one allotment (Lot 21 DP 1247954) and is generally rectangular in shape with a total area of approximately 509sqm.

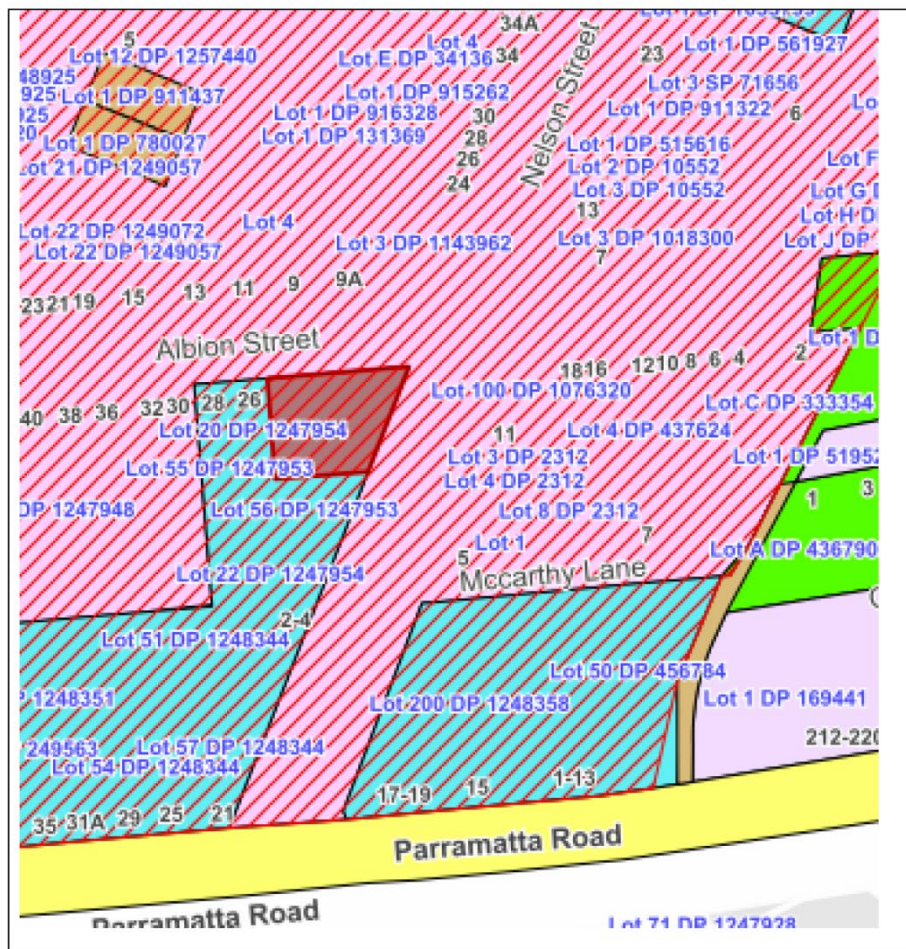
The site has a frontage to Nelson Street of 23 metres and a secondary frontage of approximately 30 metres to Albion street.

The site supports an existing warehouse building with mezzanine level. The adjoining properties support predominantly converted warehousing to dwellings, attached and detached residential dwellings and, closer to Parramatta Road, commercial premises. (6a Nelson Street to the south of the site and 28 Albion Street to the west)

The property is located within a conservation area. The property is identified as a flood prone lot.

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4. Background

4(a) Site history

The current site contains an existing warehouse building that has been refurbished for office space.

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
05/11/2020	Development application lodged
11/12/2020	Request for further information letter issued
15/01/2021	Response provided

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5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

5(a)(ii) *State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)*

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

SEPP 64 specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

Signs and Advertising Structures

The application seeks consent for the erection of the following signage:

- 1 wall sign measuring approximately 5720mm (width) by 850mm (height) fronting Albion Street being “business signage”
- 1 wall sign measuring approximately 600mm (width) by 800mm (height) fronting Albion Street being “business signage”
- 2 wall signs measuring approximately 1770mm (width – Both) by 2040mm (height – top) and 820mm (height – bottom) fronting the chamfer to Albion & Nelson Streets being “business signage”
- 1 x wall sign measuring approximately 10650mm (width) by 1200mm (height) fronting Nelson Street being “business signage”
- 1 wall sign measuring approximately 3930mm (width) by 600mm (height) fronting Nelson Street being “business signage”

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The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64, as it is consistent with the usual sign outcomes for businesses in such zones.

5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities for the following reasons:

- Existing warehouse building with no external alterations and additions. Proposal is internal fit-out of the use as an indoor recreational facility.

Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of *the Leichhardt Local Environmental Plan 2013*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 – Floor Space Ratio
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.3 - Flood Planning
- Clause 6.4 - Stormwater management

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned B2 under the *LLEP 2011*. The *LLEP 2013* defines the development as:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B2 zone.

The following table provides an assessment of the application against the development standards:

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 512sqm	1.27:1 or 651sqm	139sqm or 27%	No

Inner West Local Planning Panel

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Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard:

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt LEP by 27% or 139 sqm.

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the Leichhardt LEP below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Leichhardt LEP justifying the proposed contravention of the development standard which is summarised as follows:

- *The application proposes a gross floor area (GFA) of 651sqm which equates to a FSR of 1.27:1. This is the existing FSR and is not being changed as the development involves use of the existing GFA*

The applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the B2, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- *The objectives of the B2 Local Centre zone are:*
 - *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
 - *To encourage employment opportunities in accessible locations.*
 - *To maximise public transport patronage and encourage walking and cycling.*
 - *To ensure that development is appropriately designed to minimise amenity impacts.*
 - *To allow appropriate residential uses to support the vitality of local centres.*
 - *To ensure that uses support the viability of local centres.*
 - *To provide a mixture of compatible land uses.*
 - *To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.*
 - *To integrate suitable business, office, residential, retail and other development in accessible locations.*

The proposal is consistent with the objectives of the development standard as the Floor Space Ratio is unchanged. The bulk and scale is unchanged as the development is for change of use to an indoor recreational facility with minor internal changes.

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

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The objectives of Clause 4.4 are as follows:

- “(a) to ensure that residential accommodation—
 - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and
 - (ii) provides a suitable balance between landscaped areas and the built form, and (iii) minimises the impact of the bulk and scale of buildings,
- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.

The proposal is consistent with the development standard as the Floor Space Ratio is unchanged. The bulk and scale will not change as the development is for change of use with minor internal changes.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft IWLEP 2020 are not particularly relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes the BCA report suggests the

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	development can comply.
C1.11 Parking	Yes - see discussion
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	Yes - see discussion
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.1.7 Parramatta Road Commercial Distinctive Neighbourhood	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes – see discussion
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes – see discussion
C4.6 Shopfronts	N/A
C4.16 Recreational Facility	Yes - see discussion
Part D: Energy	
Section 1 – Energy Management	
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Yes

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E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.11 Parking

Comments:

Summary

The development is not supported by Council's Traffic Engineer as there is a shortfall of up to 16 off-street parking spaces (after applying a parking credit) in an area of existing high on-street parking occupancy and the proposal seeks to rely on on-street parking up to 200m from the site. Whilst this may be acceptable for the proposed use for the subject site, will impact the availability of on-street parking for a significant number of existing commercial and residential developments in the vicinity that may not be able to rely on on-street parking at such a significant distance from their properties.

Parking

A supplementary traffic and parking supplementary response prepared by pdc Consultants dated 14/01/2021 has been provided to support the development. It is noted that the report does not specifically address Council's concerns with the parking survey provided. The following assessment is provided based on this supplementary report.

Estimated Parking Demand generated by the site

Visitors/members

The report relies on the [applicant's] existing Broadway gym to estimate parking demand generated by members for the proposed site however it is unclear how the report has determined the number of occupants within the Broadway gym at any particular time as the traffic report figure 1 and 2 only identifies 'average visits' (i.e. members entering the site) rather than 'average occupants' (i.e. numbers of members in the gym at a certain time of day). Furthermore as the swipe card entry data has not been provided it is unclear if all weekdays are similar or if days of unusually low visitors e.g. public holidays, days with early close etc. have been included that would lower the average.

This is a concern as it is noted that the report states "absolute maximum average occupancy of 34 members was identified on Tuesday evenings between 5 – 6pm, with only four other one-hourly periods throughout the week averaging over 30 member visits". Based on the information provided it suggests that on average 34 members entered the site between 5-6pm on a Tuesday evening. Therefore assuming a members spend 1.5hours from parking a car to leaving the parking space (e.g. 60min session plus changing plus travel to/ from car etc), it could be assumed average member occupancy including crossover could be in the order of 50 members.

As this estimate is consistent with the proposed maximum patron capacity to 58 in the current proposal and this number of members could feasibly be reached given the overlap of pilates, yoga and personal training class times on weekday afternoons, it is considered it is reasonable to use 50 members as the estimation of car parking demand in peak periods.

Therefore based on 31% members driving (as per Broadway survey) and 50 members on the site, there is expected to be an on-street parking demand generated for 16 parking spaces during peak times for visitors.

Staff

The site has capacity for 4 off-street parking spaces in a tandem arrangement, which are proposed to be removed. The traffic report identified a maximum of 12 staff for the site at any particular time. If driving habits are the same as for members (roughly 1/3), this results in a parking demand of 4 parking spaces (resulting in a shortfall of 4 staff parking spaces).

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Total parking demand and shortfall

It is estimated there will a maximum total parking demand for 20 vehicles in peak times. Applying the parking credit as per the traffic report, there is an estimated shortfall of 16 parking spaces.

Impact to on street parking due to additional demand generated by the site

Concerns raised with the on-street parking survey in Council's previous advice have not been adequately addressed, particularly with respect to estimation of the number of existing parking spaces.

Regardless of the above, the development is not supported by Council's traffic engineers as there is a shortfall of up to 16 off-street parking spaces in an area of existing high on street parking occupancy and seeks to rely on on-street parking up to 200m from the site which will impact the availability of on-street parking for a significant number of existing commercial and residential developments in the vicinity that may not be able to rely on on-street parking at such a significant distance from their properties.

Additional comments

Whilst the proposal is not supported by Council's engineers as proposed, should the planning panel consider it acceptable, conditions have been provided and the following recommendations are made:

- 4x staff parking spaces be provided within the site in a tandem arrangement utilising the existing vehicular accesses. This will require reconfiguration of the internal layout and entry. NB: This will reduce estimated peak parking demand/shortfall to 16 spaces.
- The number of total members and number of patrons on the site at any one time be limited by condition of consent. This is achieved by the proposed reduction of and restrictions on programmed classes to alleviate conflict of required residential parking to nearby dwellings and peak pick-up and drop-off of the nearby school. The recommended conditions for hours are as follows:
 - a. The hours of operation of the premises must not exceed the following:

Day	Hours
Monday to Friday	6am till 9pm
Saturday and Sunday	8am till 5pm
Public holidays	9am till 4pm

And further,

Monday to Friday No programmed classes between 8am to 9.30am and 2.30pm to 4.30pm (School Days);

Monday to Friday No programmed classes between 5.30pm to 6.30pm

The restriction on programmed classes is intended to alleviate parking demand/conflict during high turnover times associated with school drop off and collection, and commuters returning home.

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The proposed signage has been assessed and considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64. It is noted that the signage is non-illuminous and non-reflective and is satisfactory as business identification signage.

C4.1 Objectives for Non-Residential Zones

Council has considered the public consultation feedback in terms of the environmental impacts for the intensification of the site from office space to indoor recreation facility and has proposed conditions to be imposed to minimise environmental impacts, address concerns and ensure the development meets the objectives of the clause.

C4.5 Interface Amenity

Council's Health Officer has supported the acoustic report and recommendations for the use of the site as an indoor recreation facility, in addition to conditions to reduce parking demand, the hours of operation will also alleviate environmental impacts of the site to adjoining residential dwellings. As the use is permissible in the zone, balance is required to ensure the proposal can meet the objectives of the clause pertaining to noise within the site and occupants entering and leaving the site.

C4.16 Recreational Facility

The proposed use for an indoor recreation facility at the subject site is considered to meet the objectives of the clause subject to conditions to provide on-site parking for staff cars and bicycles, reduce the operating hours to ensure sensitive transition to adjoining residential areas and limit the occupancy rate at peak demand for parking for pick-up and drop-off to the nearby school and allow for sufficient time for residents to park after work hours. Refer to C1.11 Parking.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. 33 submissions were received in response to the initial notification, two (2) in support and 31 in objection.

- Parking
- Hours of operation
- Noise
- Signage

The issues raised in submissions above have been discussed in this report under Section 5(d).

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5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest, subject to conditions.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Engineers - Not Supported, however conditions imposed
- Heritage – No Objections
- Health - No Objections subject to conditions
- Building Certification – No objections

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

8. Conclusion

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 to vary Clause 4.4 of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the variation is not inconsistent with the objectives of the standard or the zone in which the development is to be carried out.
- B. That 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*, grant consent Development Application No. DA/2020/0942 for Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club operating 7 days per week at 8-14 Nelson Street ANNANDALE NSW 2038 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2020105-03/05	Ground Floor Plan	October 2020	Nagy Khoury Design P/L
2020105-04/05	Ground Mezzanine Plan	October 2020	Nagy Khoury Design P/L
-	Plan of Management	-	-
-	Signage Plan	-	-
7030-1.1R Rev C	Noise & Vibration Impact Assessment	September 2020	Day Design P/L
2000369 Rev 2	BCA Compliance Capability Statement	October 2020	City Plan
200371 Rev 02	Accessibility Assessment Report	October 2020	City Plan

As amended by the conditions of consent.

DESIGN CHANGE

2. Green Travel Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Green Travel Plan certified by a suitably experienced Civil Engineer in the field of transport who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) addressing the following:

- a. A travel plan is a set of measures designed to reduce private car dependency for a development by encouraging use of more sustainable transport modes.
- b. Such a plan should contain a series of complementary measures which will act in unison to discourage private car dependency.
- c. transport choices including bus stops, light rail stops, cycleways and public transport timetables;
- d. site-specific bike facilities;
- e. management initiatives for employees including subsidised public transport
- f. on-site displays, or digital apps, as information for both staff and visitors.
- g. The travel plan must include:
 - a. targets including reductions in car trips and increased mode share for sustainable transport;
 - b. travel data including baseline travel demand and mode share estimates derived from experience with comparable developments;
 - c. action plan which outlines the measures to be implemented as part of the travel plan, associated promotional, information and education initiatives, and management mechanisms to be introduced as part of the travel plan;

- d. commitment to the on-going maintenance and adaptation of the action plan to ensure its long term success.
- e. There should also be a management mechanism introduced which will bind future owners or lessees of the development to the travel plan;
- f. monitoring and review shall be conducted.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$8,266
Inspection Fee:	\$236.70

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

5. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Day Design Pty Ltd reference 7030-1.1R Rev C dated 25 September 2020 must be implemented, including the following:

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Subject to the following conditions:

1. Acoustic report prior to CC – to address to AC plant selection
2. The northern roller doors, first floor operable windows, eastern (glazed) front entry doors shall remain closed during at all times.
3. That the dropping of weights is prohibited and the WHaFC are to enforce its restriction to ensure that the amenity of adjoining residential premises are maintained.
4. A Noise Management Plan be submitted to Council prior to the issue of the Occupation Certificate detailing the following:
 1. The plan to manage all staff and patrons leaving the building during the early morning and evenings.
 2. The plan to manage all staff and patrons entering and exiting their vehicles so as not to disturb the adjoining residential properties.

6. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

7. Balcony

The meditation terrace can only operate between the hours of 9am and 5pm and must have no amplified music.

8. Car Parking

The development must provide and maintain within the site:

- a. Four (4) staff car parking spaces must be paved and line marked;
- b. 12 Bicycle spaces within the site; and
- c. Loading docks/bays is to be made available when necessary off Albion Street when the four (4) allocated staff parking spaces are located.

9. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

10. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

PRIOR TO CONSTRUCTION CERTIFICATE

11. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

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12. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

13. Changes to Design

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

- a. Four (4) parking spaces must be provided in a Tandem parking arrangement for staff carparking utilising the existing vehicular access to the site. The parking spaces must have minimum clear internal dimensions of 11400 x 5400mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004. Upright kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like as per Section 2.4.5.5 of AS/NZS2890.1:2004.
- b. The main entrance to the gym is to be located off Nelson Street only, it must accommodate an accessible path of travel from this entry.
 1. The staff parking / loading dock is to be adequately separated from the gym to ensure recommendations from the acoustic report can be met.

DURING DEMOLITION AND CONSTRUCTION**14. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

PRIOR TO OCCUPATION CERTIFICATE

15. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of *the Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

16. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

17. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

ON-GOING

18. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

19. parking spaces - staff

Four (4) parking spaces must be provided and maintained at all times for the purposes of staff car parking. Kerb and/or Bollards must be provided to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like.

20. Green Travel Plan

The Green Travel Plan approved with the Construction Certificate must be implemented and kept in a suitable location on site at all times.

21. Hours of Operation

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Monday to Friday	6am till 9pm
Saturday to Sunday	8am till 5pm
Public holidays	9am till 4pm

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Monday to Friday No programmed classes between 8am to 9.30am and 2.30pm to 4.30pm (School Days)
Monday to Friday No programmed classes between 5.30pm to 6.30pm

ADVISORY NOTES**Permits**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones

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respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

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- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

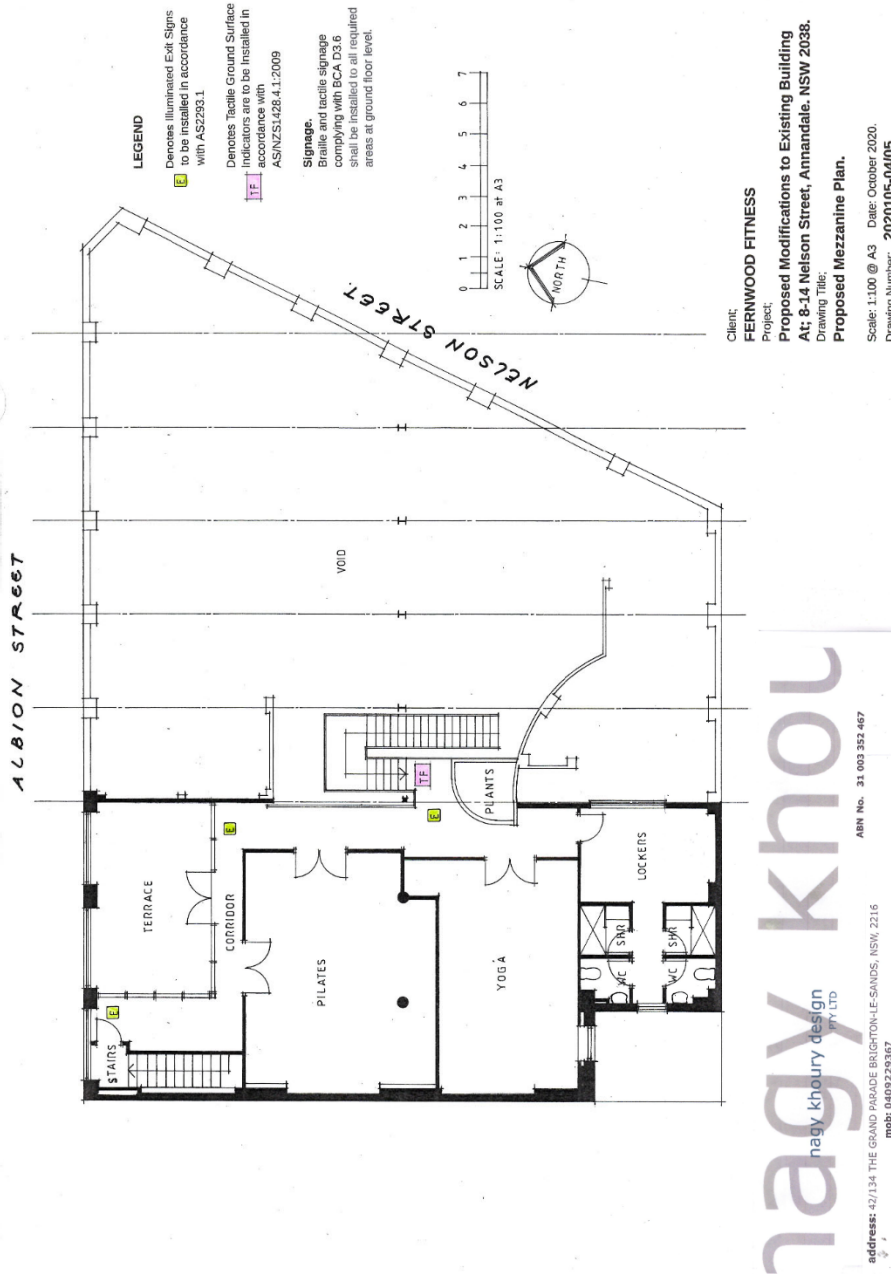
Dial before you dig

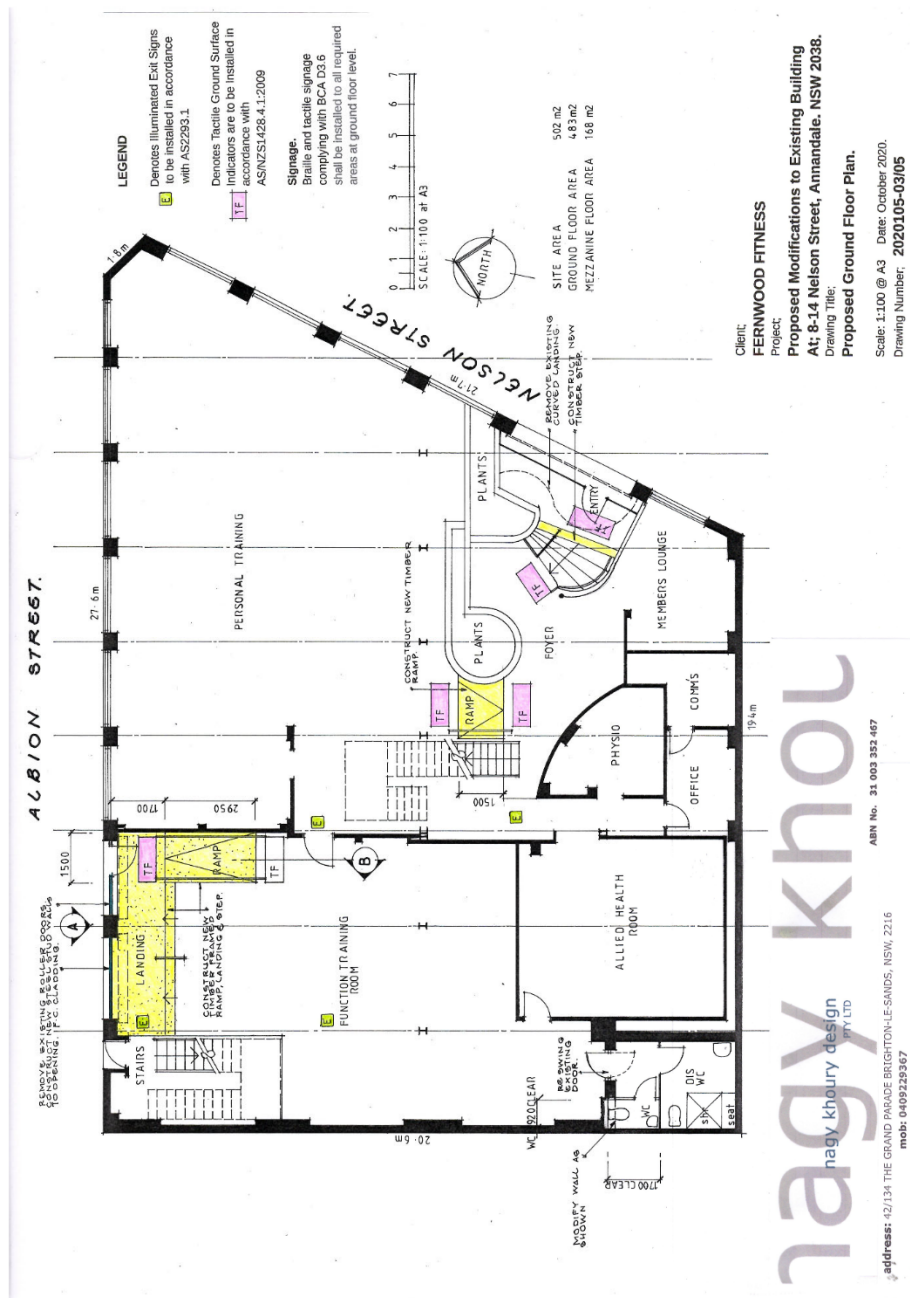
Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development





Attachment C- Clause 4.6 Exception to Development Standards

SJB Planning



Clause 4.6 – Exceptions to Development Standards
Request to Vary Clause 4.4 - Floor Space Ratio

Address: 8-14 Nelson Street, Annandale

Proposal: Use of an existing building as a recreation facility (indoor)

Date: 22 October 2020

1.0 Introduction

This is a written request to seek an exception to a development standard under Clause 4.6 – Exceptions to Development Standards of Leichhardt Local Environmental Plan (LLEP) 2013. The development standard for which the variation is sought is Clause 4.4 Floor Space Ratio under LLEP YEAR.

The following sections of this written request demonstrate that the proposed development addresses the principles identified in the above judgements.

2.0 Description of the planning instrument, development standard and proposed variation

2.1 What is the name of the environmental planning instrument that applies to the land?

The Leichhardt Local Environmental Plan (LLEP) 2013.

2.2 What is the zoning of the land?

The zoning of the land is B2 Local Centre.

2.3 What are the Objectives of the zone?

The objectives of the B2 Local Centre zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that development is appropriately designed to minimise amenity impacts.
- To allow appropriate residential uses to support the vitality of local centres.
- To ensure that uses support the viability of local centres.
- To provide a mixture of compatible land uses.
- To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.
- To integrate suitable business, office, residential, retail and other development in accessible locations.;

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L2/490 Crown St, Surry Hills planning@sjb.com.au T 61 2 9380 9911
Sydney NSW 2010 sjb.com.au

SJB Planning (NSW) Pty Ltd ACN 112 509 501

Inner West Local Planning Panel

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2.4 What is the development standard being varied?

The development standard being varied is the floor space ratio development standard.

2.5 Is the development standard a performance based control?

No, the floor space ratio development standard is a numerical control.

2.6 Under what Clause is the development standard listed in the environmental planning instrument?

The development standard is listed under Clause 4.4 of LLEP 2013.

2.7 What are the objectives of the development standard?

The objectives of Clause 4.4 are as follows:

- “(a) to ensure that residential accommodation—*
- (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
 - (ii) provides a suitable balance between landscaped areas and the built form, and*
 - (iii) minimises the impact of the bulk and scale of buildings,*
- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*

2.8 What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.4 establishes a maximum floor space ratio (FSR) of 1:1 for the site.

2.9 What is the proposed numeric value of the development standard in the development application?

The application proposes a gross floor area (GFA) of 651m², which equates to a FSR of 1.27:1. This is the existing FSR and is not being changed as the development involves use of the existing GFA.

2.10 What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposal exceeds the maximum FSR development standard of 1:1 by approximately 27% (139m²). This is the existing non-compliance and is not being changed as the development involves use of the existing GFA.

3.0 Assessment of the Proposed Variation**3.1 Overview**

Clause 4.6 Exceptions to Development Standards establishes the framework for varying development standards applying under a local environmental plan.

Objectives to Clause 4.6 at 4.6(1) are as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

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Inner West Local Planning Panel

ITEM 2

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*"

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

"(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.*"

Clause 4.6(4)(a)(i) and (ii) require that development consent must not be granted to a development that contravenes a development standard unless the:

"(a) *the consent authority is satisfied that:*

(i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

(ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*"

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained, and Clause 4.6(5) requires the Secretary in deciding whether to grant concurrence must consider:

"(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning;*

(b) *the public benefit of maintaining the development standard; and*

(c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*"

This application has been prepared in accordance with the NSW Department of Planning, Infrastructure and Environment (DPI&E) guideline *Varying Development Standards: A Guide*, August 2001, and has incorporated as relevant principles identified in the following judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* ("Four2Five No 1");
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* ("Four2Five No 2");
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 248* ("Four2Five No 3");
- *Micaul Holdings Pty Limited v Randwick City Council (2015) NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd (2016) NSW LEC7;*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;*
- *RebelMH Neutral Bay v North Sydney Council [2019] NSWCA 130;*
- *Baron Corporation v The Council of the City of Sydney [2019] NSWLEC 61; and*
- *Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245.*

3.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

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ITEM 2

3.2.1 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

A development that strictly complies with the FSR standard is unreasonable or unnecessary in this circumstance for the following reasons:

- The application is for a change of use to an existing building making no changes to the GFA and FSR of the building;
- Strict numerical compliance would require partial demolition of an existing building in a conservation area; and
- No work is proposed altering the exiting GFA of the building.

3.2.2 Would the underlying objective or purpose be defeated or thwarted if compliance was required?

Not relevant to be demonstrated.

3.2.3 Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

It is not contended that the standard has been abandoned by Council

3.2.4 Is the zoning of the land unreasonable or inappropriate?

The zoning is reasonable and appropriate.

3.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

No environmental planning ground would be served by requiring strict numerical compliance. Strict numerical compliance would thwart the use of the building for commercial purposes for which the land it occupies is zoned.

Environmental planning grounds to support the continued non-compliance include:

- The existing building will be occupied for a commercial use
- The use provides employment opportunities and services to the local community
- The height bulk and contribution of the building in the conservation area is unaltered as a result of the proposed use.

3.4 Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development in the zone?

3.4.1 Objectives of the FSR standard

The proposal remains consistent with the objectives of the FSR standard outlined in Clause 4.3 despite the non-compliance, as demonstrated below:

- “(a) to ensure that residential accommodation—
 - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and
 - (ii) provides a suitable balance between landscaped areas and the built form, and

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(iii) minimises the impact of the bulk and scale of buildings,

No residential accommodation as part of the proposed use as a recreation facility (indoor). As the objective relates to residential accommodation it is not relevant in the circumstance.

(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.

The non-residential development is compatible with the existing and future character of the area as this will remain unchanged. The application is for a land use change that does not alter the existing configuration of the building and its relationship to surrounding existing development.

3.4.2 Objectives of the zone

The objectives of the B2 Local Centre zone are addressed as follows:

Objective	Comment
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	The proposal is to operate a women's health and fitness studio providing a safe and non-judgemental environment. The use provides this and allied services to the women of the community and those who may visit the area due to its good access to regular public transport.
To encourage employment opportunities in accessible locations.	The proposal will provide direct and indirect employment opportunities in a site well served by public transport.
To maximise public transport patronage and encourage walking and cycling.	The proposal is a health and fitness use intended to service the surrounding residential population and those who may break up a public transport commute to utilise the facilities to be offered.
To ensure that development is appropriately designed to minimise amenity impacts.	All activities are indoor and quieter uses such as the yoga and Pilates studios located in the mezzanine area adjacent to the western boundary of the premises.
To allow appropriate residential uses to support the vitality of local centres.	No residential use is proposed.
To ensure that uses support the viability of local centres.	The premises will continue the use and occupation of commercial premises and potentially support other service uses in the vicinity.
To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.	The proposed use supports the function of the centre and will not detract from the function. The proposed use provides activity in the area for uses other than licensed premises adding to the vibrancy and diversity of uses in the area.
To integrate suitable business, office, residential, retail and other development in accessible locations.	The location is suitable and accessible for the proposed use.

3.5 Whether contravention of the development stand raises any matter of significance for the State or regional environmental planning?

The contravention of the development standard does not raise any matter of State or Regional significance.

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3.6 Is there public benefit in maintaining the development standard?

In general there is a public benefit in maintaining development standards. However specific circumstances must also be considered. In the circumstance of the case the application proposes the use of an existing building with an existing non-compliance. The public benefit of maintaining a development standard is not undermined as it will facilitate the use and occupation of an existing building zoned for non-residential commercial enterprises to be carried out.

3.7 Is the objection well founded?

The objection is considered to be well founded and has addressed the statutory requirements of clause 4.6.

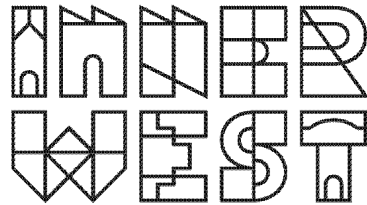
4.0 Conclusion

The non-compliance exists and is not proposed to be altered as a result of the land use application.

The support of the variation request is appropriate in the circumstance and should be supported.

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Attachment E – IWLPP Resolution



**INNER WEST LOCAL PLANNING PANEL
MEETING**

13 APRIL 2021

MINUTES

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held via teleconference on 13 April 2021.

Present: Mr Kevin Hoffman in the chair; Ms Jan Murrell; Ms Kath Roach, Ms Lindsey Dey.

Staff Present: Development Assessment Manager; Team Leader Corporate Support and Administration Officer.

Meeting commenced: 2:02 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.

This is Page No: 2 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP980/20 Agenda Item 1	Standing Item - Report in Accordance with Ministerial Direction: Pending Local Planning Panel Matters
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The Panel received the List of pending development applications and directs Council to forward it to the Co-Chair David Lloyd QC for consideration.

This is Page No: 3 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

Document Set ID: 38114972
Version: 1, Version Date: 21/09/2023

IWLPP981/20 Agenda Item 2	DA/2020/0942
Address:	8-14 Nelson Street, Annandale
Description:	Use of the premises as a Women's only Recreation Facility (indoor) to operate as women's health and fitness club, operating 7 days per week from 5.00am to 10.00pm.
Applicant:	SJB Planning

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

- Jonathan Newton
- Scott Barwick
- Ann Holzer
- Ben Midgley

DECISION OF THE PANEL

The Panel supports the findings contained in the Assessment Report and resolves that the application be approved as per the recommendation contained in that report, subject to the following changes:

1. That the following conditions be added:
 - 2A. The submitted Plan of Management is to be amended and provided to Inner West Council for the approval of the Manager Development Assessment, including, but not limited to, revised –
 - Safety and security measures
 - Accessibility, including the provision of an accessible car space
 - Noise abatement measures
 - Details of complaints handling processes including a complaint register
 - Contact details of the business operator
 - Car park management including loading, unloading and servicing/ waste disposal procedures
 - A lighting plan, both in terms of customer safety and in relation to reducing nuisance to residential neighbours.
 - 2B. No signage is approved as part of this application. A further application with plans and elevations is required to be submitted to show details of all proposed signage locations, dimensions, and hours and levels of illumination, noting that no signage is to be installed on the Albion Street frontage.
2. That conditions 8(a) and 8(c) be deleted.
3. That condition 21 be amended as follows:

Delete the final sentence "Monday to Friday No Programmed classes between 5.30pm and 6.30pm."

This is Page No: 4 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

4. That condition 13 be amended as follows:
 - Amend 13(a) to reflect the inclusion of one accessible parking space off Albion Street of appropriate dimensions.
 - Condition 13(b) to remain with b1 removed.
5. That condition 19 be amended to reflect the one accessible parking space off Albion St.

The decision of the panel was unanimous.

This is Page No: 5 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP982/20 Agenda Item 3	DA/2020/0461
Address:	17 Wharf Road, Birchgrove
Description:	Demolition of an existing single dwelling house, subdivision of the land into two lots and construction of a new dwelling house and pool on each new lot, with remediation of both lots.
Applicant:	ESNH Design Pty Ltd

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

- Stuart King
- Alex Pantazis
- Lyn Fowler
- Janette Sullivan
- Joanne McGuinness
- John Gobbo
- Lisa Bella Esposito
- Eugenia Harley

DECISION OF THE PANEL

The Panel is concerned about procedural fairness due to the Notice of this meeting being given at the start of the Easter holiday and the school holidays when objectors might be away, and due to the shortness of business days before lodgement of submissions, the objectors would have little time to absorb this long council report and obtain expert advice.

That the item be deferred to the next available Inner West Local Planning Panel meeting. The Panel is of the view that the matters raised by the objectors require further detailed consideration, particularly those regarding exceedance in Floor Space Ratio, heritage issues, view analysis, harbour foreshore scenic protection considerations, building envelope and building location zone (BLZ).

Further information is to be submitted by the Applicant, including:

- The proposed ramp below mean high water mark
- Any works to the natural rock seawall
- Structural advice to the potential impact to the natural rock seawall, particularly associated with the works involved with the construction of the pools and the proposed walkway deck connecting across both waterfronts as the drawing submitted show no visible supports.
- View Loss analysis

Additional submissions from the Applicant and the Objectors are to be submitted within 2 weeks of this decision being published.

The decision of the panel was unanimous.

This is Page No: 6 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP983/20 Agenda Item 4	REV/2020/0031
Address:	9 Jubilee Street, Lewisham
Description:	S8.2 Review Application of previous refusal of DA/2020/0584 for alterations and additions to a garage including the construction of a rooftop deck.
Applicant:	Outlook Planning and Development

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

- Jenny McGuirk
- John Do Poco

DECISION OF THE PANEL

The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report, subject to the following changes:

That the following additional reason for refusal be included:

- 3(c) - The application fails to adequately contribute to the desired future character of the Lewisham South precinct as set out in Part 9.5.2 of the Marrickville DCP 2011.

The decision of the panel was unanimous.

This is Page No: 7 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP984/20 Agenda Item 5	DA/2020/0959
Address:	322 Norton Street, Leichhardt
Description:	Retention of the facade of a two storey building located on the northern portion of the site and demolition of the remaining existing structures, excavation and construction of a mixed-use building comprising commercial use on the ground floor, and nine residential apartments over, plus basement car parking and associated works, including strata subdivision.
Applicant:	Desane Properties Pty Ltd

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

- Ian Cady

DECISION OF THE PANEL

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 Deferred Commencement Approval to Development Application No. DA/2020/0959 for retention of the facade of a two storey building located on the northern portion of the site and demolition of the remaining existing structures, excavation and construction of a mixed-use building comprising commercial use on the ground floor, and nine residential apartments over, plus basement car parking and associated works, including strata subdivision at 322 Norton Street Leichhardt subject to the conditions listed in Attachment A to the officer's report.

The decision of the panel was unanimous.

This is Page No: 8 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP985/20 Agenda Item 6	DA/2020/0839
Address:	323 King Street, Newtown
Description:	Alterations and additions to a pub and change in hours of operation and increase in patron numbers.
Applicant:	Kathryn Young (c/o Black Line Studio)

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

- Momo Romic
- Rob Burwell

DECISION OF THE PANEL

The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report, subject to the following changes:

That the following additional reason for refusal be included:

8. The documentation that was lodged with the application in relation to the Plan of Management was inadequate.

The decision of the panel was unanimous.

This is Page No: 9 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP986/20 Agenda Item 7	DA/2020/0676
Address:	4 King Lane, Balmain
Description:	Rear two storey addition and internal changes
Applicant:	Oikos Architects

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

- *Ray Stevens*

DECISION OF THE PANEL

- A. The applicant has made written requests pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013 to vary Clauses 4.3A(3) Landscaped areas for residential accommodation in Zone R1 and 4.4 Floor space ratio. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standards is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That 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, grant consent to Development Application No. DA/2020/0676 for a rear two storey addition and internal changes at 4 King Lane BALMAIN NSW 2041 subject to the conditions listed in Attachment A below, subject to the following changes:
1. Delete condition 2a. and condition 2c.

The decision of the panel was unanimous.

This is Page No: 10 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP987/20 Agenda Item 8	DA/2020/1124
Address:	109-111 Cambridge Street, Stanmore
Description:	Subdivision of the land into 2 Torrens title lots and to undertake fire safety upgrade works.
Applicant:	Ian Phillips

DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Clause 4.6 of the Marrickville Local Environmental Plan 2011 to vary Clause 4.4 of the LEP. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That 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, grant consent to Development Application No. DA/2020/1124 for subdivision of the land into 2 Torrens title lots and to undertake fire safety upgrade works at 109-111 Cambridge Street STANMORE NSW 2048 subject to the conditions listed in Attachment A.

Note: The Panel recommends that the applicant be encouraged to provide bicycle parking on the sites of the apartment building and the boarding house that is adequate for the clientele.

The decision of the panel was unanimous.

This is Page No: 11 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP988/20 Agenda Item 9	DA/2020/1157
Address:	279 Annandale Street, Annandale
Description:	Torrens title subdivision into two lots.
Applicant:	Pamela Freeman

DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Clause 4.6 of Leichhardt Local Environmental Plan 2013 to vary the minimum subdivision lot size development standard pursuant to Clause 4.1 of the Leichhardt Local Environmental Plan 2013. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the non-compliance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That 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, grant consent to Development Application No. DA/2020/1157 for Torrens title subdivision into two lots at 279 Annandale Street Annandale subject to the conditions listed in Attachment A.

The decision of the panel was unanimous.

This is Page No: 12 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

IWLPP989/20 Agenda Item 10	DA/2020/0735
Address:	44 Mullens Street, Balmain
Description:	Lower ground, ground and first floor alterations and additions to existing dwelling house, and associated works, including new double garage and open space above to Tobruk Avenue and raising of rear garden level.
Applicant:	Christopher Jordan Architecture & Design

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

- Christopher Jordan

DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Clause 4.6 to vary the Landscaped Area and Site Coverage development standards in Clause 4.3A of the Leichhardt Local Environmental Plan 2013. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standards is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That 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, grant consent to Development Application No. DA/2020/0735 for Alterations and Additions to existing dwelling house at 44 Mullens Street BALMAIN NSW 2041 subject to the conditions listed in Attachment A subject to the following changes:-
1. That condition 2a. be amended to read:

"The window to the bathroom (W11) in the west elevation of the first-floor addition must be vertically proportioned, employing traditional design (timer sash) and materials (timber frame).
 2. That condition 2b. be amended to the following to read:

"The first floors window and doors in the east elevation of the rear addition must be vertically proportioned."
 3. That condition 2d. be deleted.

The decision of the panel was unanimous.

This is Page No: 13 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021

The Inner West Planning Panel Public Meeting finished at 4:38pm.

The Inner West Planning Panel Closed Meeting commenced at 4:45pm

The Inner West Planning Panel Closed Session finished at 6:00pm.

CONFIRMED:

A handwritten signature in black ink, appearing to read 'K Hoffman', is written over a horizontal line.

Mr Kevin Hoffman
Chairperson
13 April 2021

This is Page No. 14 of the Minutes of the Inner West Local Planning Panel Meeting held on 13 April 2021