



INNER WEST LOCAL PLANNING PANEL
ELECTRONIC MEETING

Friday, 2 May 2025

MINUTES

MINUTES of Electronic INNER WEST LOCAL PLANNING PANEL MEETING held via Microsoft Teams on Friday, 2 May 2025

Present: Mr John Brunton in the chair; Mr Steven Layman; Ms Silvia Correia.
(Ms Sharon Veale was not present for the electronic determination meeting)

Staff Present: Ruba Osman, Development Assessment Manager; Tom Irons, Team Leader Development Assessment; Iris Rojas, Administration Officer.

Meeting commenced: 1:04 pm

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| IWLPP1307/25 <i>Agenda Item 7</i> | DA/2024/0526 |
| Address: | 10 Victoria Street, Lewisham |
| Description: | Alterations and additions to an existing building, including retention of the building façade and construction of a mixed-use building containing a single storey commercial premises and four storey residential dwelling with garage and removal of trees. |
| Applicant: | Susan Yap |

BACKGROUND

DA/2024/0526 seeks consent to carry out Alterations and additions to an existing building, including retention of the building façade and construction of a mixed-use building containing a single storey commercial premises and four storey residential dwelling with garage and removal of trees.

At its meeting of 8 April 2025, the Inner West Local Planning Panel considered a report for the subject application, material listed at item No.7 and the material presented at the meeting and resolved to defer determination of the application, as follows:

The Panel defers determination of DA/2024/0526 to enable Council officers to obtain a legal opinion regarding the permissibility of the proposed development at 10 Victoria Street Lewisham. The development is described as ‘alterations and additions to an existing building, including retention of the building façade and construction of a mixed-use building containing a single storey commercial premises and four storey residential dwelling with garage, and removal of trees.’

The Council officers are requested to engage an experienced environmental lawyer who will:

- a. review the legal opinion submitted by the applicant,*
- b. consider the relevant provisions of the Land Use Table, Schedule 1, and clause 6.13 of the Inner West Local Environmental Plan 2022,*
- c. consider any case law related to the definition of “dwelling house,”*
- d. provide an opinion as to the characterisation of the development, and*
- e. provide an opinion as to the permissibility of the proposed development*

The Panel requests that the additional information be provided within 2 weeks. The Panel will convene to consider the new information and determine the application electronically

CURRENT POSITION

Legal advice was received and forwarded to the Panel for consideration.

A supplementary memo was also prepared by Council and sent to the Panel for consideration.

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*, refuses Development Application No. DA/2024/0526 which seeks alterations and additions to an existing building, including retention of the building façade and construction of a mixed use building containing a single storey commercial premises and four storey residential dwelling with garage and removal of trees at 10 Victoria Street Lewisham for the following reasons:

1. The proposed development has not demonstrated compliance with the Inner West Local Environmental Plan 2022, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, including:
 - a. Clause 2.3(2) – Zone objectives and Land Use Table, in that the location, form and dominance of the proposed residential accommodation (dwelling house) has not adequately demonstrated consistency with the following objectives of the E1 – Local Centre Zone:
 - Objective 3: To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.
 - Objective 4: To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
 - Objective 9: To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.
 - b. Clause 6.13(1) – Residential accommodation in Zones E1, E2 and MU1, in that the proposed location of the residential accommodation at street level has not adequately demonstrated consistency with the objective of supporting the vitality of the Lewisham centre by controlling residential accommodation so that active land uses are located at ground level.
 - c. Clause 6.13(3)(c) – Residential accommodation in Zones E1, E2 and MU1 in that the majority of the proposed building is to be used for residential accommodation, and the Panel is not satisfied that the uses and form of the proposed development are compatible with the desired character of the area as depicted in the Marrickville Development Control Plan 2011.
2. The proposed development has not adequately demonstrated consistency with Part 5.1.5 and Precinct-specific Planning Controls C22, C23, C24, C26, C27 and C28 of Part 9.5.5.2 of the Marrickville Development Control Plan 2011, pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*. One adverse outcome of these non-

compliances would be unreasonable privacy and overbearing impacts arising from the length of the building and the splayed western elevation.

3. The proposal in its current form has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
4. The proposal in its current form is not in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as it would create an undesirable precedent because the proposed building's form and uses would not be compatible with the strategic context and desired future character of the area as required by the provisions of Part 9.5 of the Marrickville Development Control Plan 2011.
5. The proposal in its current form is not in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as approval of the development would prejudice implementation of the Lewisham South Master Plan by enabling a development which fails to achieve the objectives of the E1 Local Centre Zone because it is predominantly residential accommodation with minimal business, retail, community and other non-residential land uses on the ground floor.

REASONS FOR DECISION

Determination of this development application was deferred to allow the Panel to receive a legal opinion regarding the categorisation of the residential component of the proposal. The Panel accepts the opinion's conclusion that it can be categorised as a dwelling house. In accordance with clause 6.13(3)(a) of the Inner West Local Environmental Plan 2022, the Panel is satisfied that the proposal is mixed use development.

The Panel noted that the objectives of the Local Centre Zone in the Local Environmental Plan for this site and the adjoining land encourage investment in local commercial development which will facilitate the creation of a vibrant and active local centre. However, at this time there is little evidence that the outcome anticipated by those objectives is likely to be achieved.

The Panel observed that the controls applicable to this portion of Lewisham South appear to inhibit investment and unreasonably constrain redevelopment. The Panel believes it would be prudent for Council to review its strategic intent for the Lewisham South centre and consider the appropriateness and reasonableness of the current controls.

Although the proposed development achieves several zone objectives and its design has individual merit, the Panel concluded that clause 6.13 of the Inner West Local Environmental Plan 2022 lacks sufficient flexibility for the proposal to be approved. The test applied by clause 6.13(3)(c) necessitates that development consent must not be granted unless the Panel is satisfied that the development is compatible with the desired character of the area.

Marrickville Development Control Plan 2022 (DCP) describes the desired character and through clause 6.13(3)(c) establishes limits on the form of any building and uses of the land.

As the proposal deviates from the controls in several ways the Panel was not satisfied that it is compatible with the desired character.

In accordance with clause 6.13(3)(b) the Panel was satisfied that an active street frontage is presented to Victoria Street as required by the Marrickville DCP.

The Panel observed that several of the deviations from the current development controls could be overcome through design amendments. These controls require the eastern building edge to be set on the property boundary to Victoria Street with a height of 3 storeys. This façade should respond to the street elevation of the existing buildings to the north. The current proposal's street wall to Victoria Street could establish a precedent which could undermine achieving the strategic intent for the block.

It is noted that the proposal reduces the floor space currently utilised for commercial use, resulting in insufficient active non-residential land uses being located at ground level. The objectives for Zone E1 Local Centre, and clause C28 of Part 9.5.5.2 of the Marrickville Development Control Plan 2011 seek to encourage business, retail and community uses at ground level rather than residential accommodation. Relocation of the garage to the west would enable the commercial space to be extended thereby increasing the area available for ground level commercial use.

The valid concerns of adjacent residents regarding loss of privacy could be addressed if the design was in accordance with the development controls. The building depth would be 18 metres from the Victoria Street frontage and the western elevation would be parallel with that frontage.

In its current form the application cannot be supported and is refused.

The decision of the Panel was unanimous.

The Inner West Planning Panel Meeting finished at 2:23pm.

CONFIRMED:

A handwritten signature in black ink, appearing to read 'John Brunton', with a long horizontal flourish extending to the right.

**Mr John Brunton
Chairperson
5 May 2025**