

INNER WEST LOCAL PLANNING PANEL
MEETING

14 JULY 2020

MINUTES

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held via teleconference on Tuesday, 14 July 2020.

Present: The Honourable Angus Talbot in the chair; Ms Jan Murrell; Ms Lindsey Dey, Ms Heather Warton.

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

Meeting commenced: 2:04 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**

The following declarations of interest were made:

Heather Warton declared a reasonably perceived conflict of interest in item 2 as a friend of hers made an objection. She was absent for any discussions and the vote for this item.

IWLPP877/20 Agenda Item 1	DA201900405
Address:	161 Princes Highway, St Peters
Description:	To carry out alterations and additions to an existing hotel (The Whitehorse Hotel), new signage and live music venue.
Applicant:	Matt Rule

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

- *Siobhan Bryson*
- *Jacqui Attard*
- *David Bruce*
- *Matthew Rule*

DECISION OF THE PANEL

- A. The Panel resolves that the application be approved as a Deferred Commencement Consent, as follows, with PART A of the Consent to read as follows:

The Inner West Planning Panel exercising the function of Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 19179, approve development application to DA201900405 to carry out alterations and additions to the existing hotel (The Whitehorse Hotel) at 161 Princes Highway St Peters, for new signage and use as a live music venue for a trial period. The preparation and service of food via a food truck is not approved. The approval is a Deferred Commencement Consent issued subject to the following terms and conditions:

PART A – DEFERRED COMMENCEMENT CONSENT

This part of the consent will not operate and it may not be acted upon until the Council is satisfied that the following requirements have been met:

1. The Applicant shall prepare and provide to Council for approval/certification the following:
 - a. Revised plans and documentation, including amendment to the drawings deleting all references to the service of food via a food truck, including the removal of the proposed servery window shown on drawing DA-02 Rev V. The preparation and service of food is to be from the existing kitchen only. Note: The kitchen must be upgraded meet all relevant AS and Council health and safety requirements.
 - b. Amending the car park layout shown in drawing DA-02 Rev V to show:
 - i) the deletion of the food truck car space (CP3);
 - ii) an area dedicated to on-site unloading and loading including of music equipment, food and drink supplies and for waste collection. Clause c24 in Section 2 of Marrickville DCP requires that this space be at least 7.5m x 3m. This is likely to require the deletion of all on-site car parking and the possible relocation of the new stairs (shown on the

- submitted drawings from the kitchen to the car park) in order to provide the necessary vehicle/truck manoeuvring area;
- iii) retention of a functional emergency access path from the rear of the building; and
 - iv) a temporary area for taxis and car ride share vehicles to stand on the site to drop off and pick up patrons.
- c. A service vehicular access report showing how the various types of service vehicles for each service use (music equipment, food supplies, drink supplies, waste removal) will be able to access the site, by entering and exiting in a forward direction only.
- d. An amended Plan of Management (POM) that:
- i) deletes all references to the provision of the preparation of food via a food truck, and refers to the preparation and service of all food from the internal kitchen;
 - ii) explains the management of the rear service area for the various types of deliveries including the size of the vehicle and the hours of loading and unloading, demonstrating that there will be no overlap and conflict between the various servicing requirements;
 - iii) outlines, including on signage within the premises, that taxis and car share ride vehicles should be directed to pick up on the site from the temporary car ride share/taxi space, and not to double park or use driveways of surrounding premises;
 - iv) refers to the approved hours of operation under the development consent as identified in Conditions 45 and 51 (separately to any annexed information of hours under the Liquor Licence);
 - v) provides for the establishment of a community liaison committee, that will meet regularly with representatives of the local community to deal with any issues and complaints affecting the amenity of the area. The Terms of Reference and the membership of the Committee are to be approved by Council and referred to in the POM;
 - vi) outlines how access to the premises for patrons and staff is ONLY possible by bicycle, public transport or taxi/car share; and indicates how this information will be conveyed to patrons when purchasing tickets for events and in any promotional material for live music; and
 - vii) amends the POM with regards to any other consequential changes to the deferred commencement conditions or the other conditions of the consent.

Evidence of the above matters must be produced to the consent authority or its delegate within 12 months of the date of this Determination otherwise the Consent will lapse. Once operative this part of the consent is subject to the following operational conditions in Part B.

B. The Conditions of Consent in the Officer's Report become PART B – CONDITIONS OF CONSENT, subject to the consequential changes required by the approval of Part A; and the following amendments:

1. Condition 6. Shall be amended to read:

The development must provide and maintain within the site:

- a. At least six bicycle spaces or in accordance with the relevant State standard; whichever is the greater in terms of number;
- b. A dedicated loading and unloading bay as shown on Drawing xxx. [reference approved drawing to satisfy DC consent Condition 1a. here.]

2. Condition 13 shall be amended to:

- i) delete the 3rd and 4th dot points that refers to the food truck
- ii) replace word “Operable” in the 6th dot point with the word “Openable”;
- iii) delete the 2nd, 5th, 7th and 10th dot points (there being no food truck approved);and
- iv) reword the 8th dot point to read:
“Loading or unloading of music equipment is to be from the rear service area and only during the hours of the operation of the hotel.”

3. Condition 19d. to be amended to add the words “and tiles” after the words “All original brickwork...”

4. Amend Condition 23d. to read as follows:

- d. “Acknowledge that due to the limitations of the site in terms of space available for loading and unloading an accessible car parking space cannot be provided on the site”.

5. Amend Condition 45 to read as follows:

45. Trial hours for live music

- a. For a period of not more than 12 months from the issue of the Occupation Certificate or the commencement of the use of the premises for live music, whichever is the later, live music is permitted, but must not exceed the following hours:

Day	Hours for live music
Thursday to Saturday	8 pm to 12 midnight
Monday to Wednesday and Sunday	12 midday to 8pm once per week only

- b. All performances/service is to cease 30 minutes before closing time.
- c. The provision of live music past the trial period and within the hours in a. above will require a further application to be submitted under the *Environmental Planning and Assessment Act 1979*.

6. Amend Condition 51 to read:

51. Hours of Operation

- a. The hours of operation of the premises, except for live music, must not exceed the following:

Day	Hours
Monday to Wednesday	10.00 am to 12 midnight
Thursday to Saturday	10.00 am to 12 midnight
Sunday	12 midday to 10 pm

- b. All service is to cease 30 minutes before closing time.
7. Amend Condition 57. to delete the reference to “7 am” and replace with “9 am”, and add “or as otherwise approved in the Plan of Management”; and delete the sentences “Garbage and recycling must not be placed on the street...” and “Garbage bins and containers are to be removed...” as all waste collection must be undertaken wholly within the site.
8. Delete the reference to requirements for “Food Trucks” in the Advisory Notes.

Reasons

1. The Panel supports the regeneration of the pub and the reactivation of the site and the proposed improvements including to the heritage features of the building.
2. The location within the B6 Enterprise Zone, on a heavily trafficked road is noted in terms of the general amenity of the area.
3. The Panel however, is of the view that the site is constrained, including its limited size, and whilst appreciating the business model and food service approach of the Applicant to provide food via a food truck, considers that there is insufficient space at the rear of the site to accommodate the number of uses proposed (a food truck, parking, sufficient loading and unloading area for the music equipment, plus space for other servicing). This is noting that it is intended that the premises will cater for up to 400 patrons, and use of the front of the site for vehicular access is not possible
4. The existing kitchen is to be maintained which will ensure that appropriate food preparation and service is able to be provided and will be contained within the building. In addition to the lack of space for the food truck, the noise emission from the machinery in the food truck was not assessed; and the acoustic assessment identifies that the target noise criteria will be exceeded, relying on the food servery window being closed.
5. The other additional conditions are proposed to also to address the other issues raised by residents in the submissions and as identified in the Assessment Report in terms of ensuring that the amenity of the adjoining residential areas is maintained.

The decision of the Panel was unanimous.

IWLPP878/20 Agenda Item 2	DA/2020/0273
Address:	37 Spencer Street, Summer Hill
Description:	Removal of street tree and construction of driveway.
Applicant:	Mr Zouhair Barakat

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

- Luke Turner
- Ian Moss
- Lynda Barakat

DECISION OF THE PANEL

Heather Warton was not present at the public meeting and did not vote on this item.

- A. The Panel supports the findings contained in the Assessment Report and resolves that the application be refused as per the recommendation contained in that report, subject to the following changes in Part B below.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to S4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2020/0273 for removal of street tree and construction of driveway at 37 Spencer Street SUMMER HILL NSW 2130 for the following reasons and amended as follows:
1. Removal of the street tree for the purpose of off-street parking and the proposed replacement planting is not considered acceptable and does not comply with State *Environmental Planning Policy (Vegetation in Non-Rural Areas) 201* and Chapter C, Part 4 & 6 and Chapter F, Part 1 of the Comprehensive Inner West Development Plan 2016.
 2. Construction of a driveway and hard stand parking space between the front boundary and forward building line will result in an unacceptable impact to the streetscape and loss of landscaped area and do not comply with Chapter F, Part 1 of the Comprehensive Inner West Development Control Plan 2016.
 3. It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 4. The proposal would have an adverse impact on the existing streetscape.
 5. The proposal is not compatible with the desired future character of the neighbourhood.

The panel recommends that the Council consider replacing the existing street tree as part of the Tree Management Plan.

The decision of the Panel was unanimous.

IWLPP879/20 Agenda Item 3	DA201900427
Address:	353 Marrickville Road, Marrickville
Description:	To carry out alterations and additions to existing dwelling. Construction of a first floor attached secondary dwelling.
Applicant:	Mr Robert Gsbn Studio

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

- *Henry Goodwin*
- *Patrick Lebon*

DECISION OF THE PANEL

- A. The Panel notes the findings contained in the Assessment Report and agrees with the Officer's calculation of GFA, however, the non-compliance with clause 5.4 (9) of Marrickville LEP cannot be addressed by a condition of consent (secondary dwellings that exceed the maximum size contained in the definition of 60 sqm are prohibited and can not be varied by a condition of consent or a clause 4.6 variation). For this reason, while the Panel agrees with the outcome to reduce the size of the secondary dwelling the application must be amended prior to determination, and as such this application is refused.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, refuse Development Application No. DA201900427 to carry out alterations and additions to existing dwelling. Construction of a first floor attached secondary dwelling at 353 Marrickville Road Marrickville NSW 2204 for the following reasons:
1. The Gross Floor Area of the proposed secondary dwelling exceeds the maximum permissible by Clause 5.4 (9) of Marrickville LEP.

The decision of the Panel was unanimous.

IWLPP880/20 Agenda Item 4	DA/2020/0155
Address:	49A New Canterbury Road, Petersham
Description:	Alterations and additions including fit-out and the use of tenancy 2 as a Registered Club (Spanish Club Limited) operating between the hours of 10.00am to midnight Monday to Saturday and 10.00am to 10.00pm on Sundays and public holidays.
Applicant:	Mr Steve Querin

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

- Steve Querin

DECISION OF THE PANEL

- A. 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:
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, hereby grants consent to Development Application No. DA/2020/0155 for alterations and additions including fit-out and the use of tenancy 2 as a Registered Club (Spanish Club Limited) operating between the hours of 10.00am to midnight Monday to Saturday and 10.00am to 10.00pm on Sundays and public holidays subject to time trial hours at 49A New Canterbury Road PETERSHAM NSW 2049 subject to the conditions listed in Attachment A to the officer's report amended as follows:
- Delete the word "operable" in Condition 12 (k) and insert "opening" instead

Reason

1. The Panel is satisfied the approval is in the public interest as it is consistent with the objectives of the standards and controls which apply under the Local Environmental Plan.

The decision of the panel was unanimous.

IWLPP881/20 Agenda Item 5	D/2019/503
Address:	F 1/1-15 Barr Street, Balmain
Description:	Change of use from commercial to a residential unit within an existing two and three storey commercial and residential building, and associated alterations and additions.
Applicant:	John Greenwood & Associates Pty Ltd

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

- *Ian Gibson*
- *John Greenwood*
- *Kara Simmonds*

DECISION OF THE PANEL

- A. The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report, subject to additional reasons for refusal.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, refuse the Development Application No. D/2019/503 for change of use from commercial to a residential unit within an existing two and three storey commercial and residential building, and associated alterations and additions at 1-15 Barr Street, Balmain for the following reasons.

Reasons for Refusal

1. The proposed development is inconsistent and / or has not demonstrated compliance with the Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a. Clause 2.3 – Zone Objectives and Land use Table;
 - b. Clause 4.4 – Floor Space Ratio;
 - c. Clause 4.6 – Exceptions to development standards;
 - d. Clause 5.10 – Heritage Conservation; and
 - e. Clause 6.11 – Adaptive Reuse of Existing Buildings in Zone R1
2. The proposed development does not meet the pre-conditions to granting of development consent for adaptive reuse under Clause 6.11 of Leichhardt Local Environmental Plan 2013.
3. The proposed development cannot be approved as it breaches the permitted Floor Space Ratio as stipulated by Clause 4.4. The Clause 4.6 request to vary this standard under Leichhardt Local Environmental Plan 2013 does not adequately demonstrate sufficient environmental planning grounds to justify contravention of the standard or that upholding the standard is unreasonable or unnecessary in the circumstances of the case.
4. The proposed development is inconsistent and / or has not demonstrated sufficient regard to the design quality principles of Context and Neighbourhood Character

(Principle 1), Density (Principle 3), Amenity (Principle 6) and Safety (Principle 7) given non-compliance with FSR and adaptive reuse provisions and adverse impacts in relation to heritage, internal amenity, safety and security and relevant objectives of the Apartment Design Guide under Clause 30 of State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979.

5. The proposed development is inconsistent and / or has not demonstrated compliance with the following provisions of Leichhardt Development Control Plan 2013, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a. Clause C1.0 – General Provisions;
 - b. Clause C1.1 – Site and Context Analysis;
 - c. Clause C1.3 – Alterations and Additions;
 - d. Clause C1.4 – Heritage Items and Heritage Conservations Areas;
 - e. Clause C2.2.2.4 – The Valley Distinctive Neighbourhood; and
 - f. Clause C3.13 – Conversion of Existing Non-Residential Buildings.
 - g. Clause E1.2.2 and E1.2.5 – Managing Stormwater within the site.
6. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.
7. The adverse environmental impacts of the proposal and concerns relating to the BCA and fire safety mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
8. The approval of this application is considered contrary to the public interest due to the adverse heritage and amenity impacts and fire safety concerns, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.

The decision of the Panel was unanimous.

IWLPP882/20 Agenda Item 6	DA201900419
Address:	13-55 Edinburgh Road, Marrickville
Description:	Fit out and use of a tenancy as a brewery themed food and drink premises.
Applicant:	AMP Capital Investors Limited

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

- Nik Wheeler

DECISION OF THE PANEL

- A. 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:
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, hereby grants consent to Development Application No. DA201900419 or Fit out and use of a tenancy as a brewery themed food and drink premises at 13-55 Edinburgh Road MARRICKVILLE NSW 2204 subject to the conditions listed in Attachment A to the officer's report amended as follows:
- Delete condition 31
 - Amend Condition 28 and delete the words: "entertainment being provided at" and instead insert: "the commencement of the operation of".

Reason

1. The Panel is satisfied the approval is in the public interest as it is consistent with the objectives of the standards and controls which apply under the Local Environmental Plan.

The decision of the Panel was unanimous.

IWLPP883/20 Agenda Item 7	D/2019/423
Address:	23-25 Mckell Street, Birchgrove
Description:	Alterations and additions to two existing terraces, combining them into one residence. Construction of new interior spaces, lift and roof top terrace.
Applicant:	Shayne Fergent C/- Those Architects

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

- *Ian Cady*

DECISION OF THE PANEL

- A. The Panel supports the findings contained in the Assessment Report and endorses the reasons for the approval contained in that Report.
- B. The applicant has made a written request pursuant to Clause 4.6 to contravene Clause 4.4 Floor Space Ratio 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 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.
- C. 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. D/2019/423 for Alterations and Additions to two existing terraces, combining them into one residence, with construction of new interior spaces, lift and roof top terrace to an existing dwelling at 23 and 25 McKell Street, Birchgrove subject to the conditions listed in Attachment A to the officer's report.
- D. The Panel is satisfied that approval of the proposal is in the public interest as the development satisfies the standards and controls which apply under Council's LEP and DCP (and any relevant State Plan) and is consistent with the objectives of these controls.

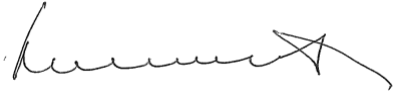
Reason

1. The Panel is satisfied the approval is in the public interest as it is consistent with the objectives of the standards and controls which apply under the Local Environmental Plan.

The decision of the Panel was unanimous.

The Inner West Planning Panel Meeting finished at 4:06pm.

CONFIRMED:

A handwritten signature in black ink, appearing to read 'Angus Talbot', with a stylized flourish at the end.

**The Honourable Angus Talbot
Chairperson
17 July 2020**