



INNER WEST LOCAL PLANNING PANEL
ELECTRONIC DETERMINATION

12 July 2023

MINUTES

MINUTES OF INNER WEST LOCAL PLANNING PANEL MEETING

Panel Members: Ms Heather Warton in the chair; Mr David Johnson; Mrs Mary-Lynne Taylor; Ms Silvia Correia

This was an electronic meeting to determine Item 10 of the Agenda of the Panel Meeting held on 9 May 2023, that had been deferred for additional information.

DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS

There were no conflicts declared by Panel members on this Item

Application No.	DA/2022/0898
Address	250 Liverpool Road ASHFIELD
Proposal	Alterations and additions to an existing mixed use building to facilitate an expanded ground floor tenancy. Amendments to approved strata subdivision
Date of Lodgement	24 October 2023
Applicant	Sanjay Halasagi
Owner	Owners of Strata Plan 97461
Number of Submissions	Thirty Three (33)
Value of works	\$195,000.00
Reason for determination at Planning Panel	Number of submissions
Main Issues	Owners Consent
Recommendation (amended)	Refusal
Attachment A	Letter – Solicitor Response to LPP Deferral
Attachment B	Letter – Surveyor Response to LPP Deferral
Attachment C	Letter – Applicant Response to Deferral

SUMMARY

The Supplementary Report concerns the submission to Council of additional information dated 24, 25 and 26 May 2023, regarding the strata plans for the subject site, in response to the resolution of the Inner West Local Planning Panel meeting on 9 May 2023 to defer consideration of the Application.

INITIAL DECISION OF THE PANEL

The Panel seeks the following information:

- 1. Identify and summarise the location of the Shared Facilities and easements that affect the retail strata. The location of the Shared Facilities and easements should also be cross-referenced/layered on the proposed architectural plans.*
- 2. Identify the Shared Facilities and easements that will be affected by the proposal, including the exhaust louvres and services under the floor.*

3. *Establish whether the existing terms of or location of any easement that is in the retail common property, but will now be within the new retail lot, will need to be amended as a result of the proposal, for example, to ensure access is maintained to shared or residential services. It is noted that the advice from CJ Boyd, Solicitor for the Applicant dated 23 March 2023 indicated that the proposal” does not obstruct access to the site of these services”, but it is unclear how this will be the case if the easement will now be within a shop within a retail lot.*

4. *Identify whether the works required in the proposal affect common property in the ownership of a lot other than the retail strata plan eg: works required to the external wall of the building for the relocated louvres.*

5. *Advise whether the extent of works to or changes to the Shared Facilities means that the consent of the owner, other than only the owner of the subject retail Strata lot and the Retail Owners Corporation, is needed for the DA.*

This information is to be sought from the Applicant’s Registered Survey and/or solicitor and shall be provided within two weeks. The response should then be reviewed by Council who may need to seek its own legal/surveying advice.

The Panel will consider the new information and Council’s response and determine the application electronically.

The decision was unanimous.

DETERMINATION

Following the submission of information by the Applicant and review by Council’s officers, a Supplementary Report was forwarded to the Chair of the Panel on 30 June 2023 for consideration and was circulated to Panel members.

FINAL DECISION

DA/2022/0898 for alterations and additions to an existing mixed use building to facilitate an expanded ground floor tenancy and amendments to the approved strata plan at 280 Liverpool Road Ashfield is **refused** for the following reason:

1. The application has not been lawfully made in accordance with section 23 (1) of the Environmental Planning and Assessment Regulation 2021, pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as the application proposes works that relate to common property/services which requires consent from the registered property owner/s of Residential Strata 97460, which has not been provided with the application.

The decision was unanimous.

REASONS FOR DECISION

The Panel has reviewed the Supplementary Report and the additional information submitted including material from the applicant; the letters from the surveyor and a solicitor provided by the applicant, plus the supporting plans. The Panel notes the advice of the Council that owner’s consent has not been provided, and in the absence of such consent there is no

power to grant consent to the application and that "... if consent is granted it would be ultra vires the power of the Council and therefore would be invalid."

A handwritten signature in blue ink, appearing to be 'HW', with a long, wavy horizontal line extending to the right.

**CONFIRMED:
Heather Warton
Chairperson
12 July 2023**