



# Burwood Council

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## BURWOOD LOCAL PLANNING PANEL MEETING

MINUTES OF THE MEETING OF THE BURWOOD LOCAL PLANNING PANEL held at the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Tuesday 14 August 2018 commencing at 6.03pm.

### ATTENDANCE

Mr Graham Brown (Chair)  
Ms Marjorie Ferguson  
Mr Wayne Carter  
Ms Cathryn Callaghan

Mr Bruce Macdonnell, General Manager  
Mr Robert Toohey, Acting Manager Building and Development  
Ms Jennifer Cosentino, Administration Assistant, Building and Development  
Mrs Diwei Luo, Manager Strategic Planning  
Mr Roberto Di Federico, Manager Traffic and Transport

### OPENING OF MEETING

The Chair opened the meeting with Acknowledgement of Country.

### APOLOGIES

That there were no apologies.

### DECLARATIONS OF INTEREST

There were no declarations of interests by Panel Members.

### ADDRESS BY THE PUBLIC ON AGENDA ITEMS

Name	Item
Ms Nadine Uremovic	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Ms Lina De Marco	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Gerry Graham	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Ms Nicole Smeulders and Mr Paul Beynon	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Michael Cogavin	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Alan Cheung	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Andrew Harvey	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)

Ms Dianne Knott	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Richard Huxley	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mr Jackson Aan	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)
Mrs Win McCluskie	(Item GB11/18) 4 Mitchell Street, Enfield - Planning Proposal for (former Vision Australia Site)

## DEVELOPMENT APPLICATIONS

### (ITEM GB11/18) PLANNING PROPOSAL FOR 4 MITCHELL STREET ENFIELD (FORMER VISION AUSTRALIA SITE)

File No: 18/25746

#### Summary

The Planning Proposal (PP) for 4 Mitchell Street Enfield relates to the former Vision Australia site. The PP seeks to increase the maximum permitted building height from 8.5 metres to 18 metres and the maximum permitted floor space ratio (FSR) from 0.85:1 to 1.4:1, to facilitate a residential unit development. Additional permitted uses are also proposed to facilitate some business activities on the site. An assessment of the PP undertaken by Cardno (on Council's behalf) found that the PP could generally be supported. The recommendations of the Panel are sought ahead of reporting this matter to the Elected Council.

#### **LPP8/18 RESOLVED - CARRIED**

That the Burwood Local Planning Panel considers the Planning Proposal for 4 Mitchell Street Enfield and provides its recommendation on the application.

## PANEL CONSIDERATION AND DECISION

The Panel had a site inspection of the development site and familiarised itself with the environment.

The Panel adjourned during the meeting to deliberate on the matter and formulated advice to the Council on the Planning Proposal as follows:

PANEL MEMBERS	
For	Against
Mr Graham Brown (Chair)	Ms Cathryn Callaghan
Ms Marjorie Ferguson	
Mr Wayne Carter	

## REASONS FOR THE DECISION

In reaching its decision the Panel considered the following:

By majority, the Panel supports the Planning Proposal subject to:

1. The assessment under SEPP 65 and LEP 2012 being correct, as the Panel is not in a position to determine the accuracy of such assessment.
2. The preparation of a site specific DCP that reflects the principal design parameters in the hypothetical design. The Panel acknowledges that future development may occur, however any variation would be subject to consideration of the relevant planning controls.
3. The inclusion of a significant proportion of units between 5%-10% for affordable rental housing consistent with Metropolis of Three Cities by the Greater Sydney Commission.





The Panel does not support the inclusion of the additional uses in Schedule 1 to LEP 2012 that are prohibited in the R1 zone. The Panel accepts that sufficient flexibility is provided through permissible uses in the R1 zone such as "Neighbourhood Shops".

The Panel does not support the exclusion of the proposed non-residential areas from the calculation of "gross floor area" given that any floor area adds to the bulk of any development.

The Panel does not fully accept the conclusions of the Traffic Assessment in relation to:

1. The ingress/egress from Baker Street and the impact on the limited available capacity of nearby local streets.
2. The cumulative impact on Mitchell Road from the development of the Flower Power Site.

#### SIGNED:

Panel Members	
Mr Graham Brown (Chair)	
Ms Marjorie Ferguson	
Mr Wayne Carter	
Ms Cathryn Callaghan	

#### ADDRESS BY THE PUBLIC ON AGENDA ITEMS

Name	Item
Mr Chris King	(Item DA8/18) BD.2017.066 17 Gordon Street, Burwood - Proposed Torrens Title Subdivision of an existing single allotment containing a detached dual occupancy into two separate allotments with a dwelling on each
Tony Avati	(Item DA8/18) BD.2017.066 17 Gordon Street, Burwood - Proposed Torrens Title Subdivision of an existing single allotment containing a detached dual occupancy into two separate allotments with a dwelling on each

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**(ITEM DA8/18) PROPOSED TORRENS TITLE SUBDIVISION OF AN EXISTING SINGLE ALLOTMENT CONTAINING A DETACHED DUAL OCCUPANCY INTO TWO SEPARATE ALLOTMENTS WITH A DWELLING ON EACH - 17 GORDON STREET BURWOOD**

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File No: 18/25907

**Owner:** Antonio and Maria Avati  
**Applicant:** Antonio and Maria Avati  
**Location:** 17 Gordon Street Burwood  
**Zoning:** R2 Low Density – Burwood Local Environmental Plan 2012

**Proposal**

The applicant seeks consent to create a two lot Torrens Title subdivision of an existing single allotment containing a detached dual occupancy into two separate allotments such that, each allotment will contain a single dwelling. Proposed Lot 1, with an area measuring 347.7 square metres, will have frontage to Mt Pleasant Avenue, whilst Proposed Lot 2 measuring 544.3 square metres will have frontage to Gordon Street Burwood. The area of the existing site measures 893.1 square metres.

**BLPP Referral Criteria**

The application was previously referred to the then Independent Hearing and Assessment Panel (later renamed the Burwood Local Planning Panel) meeting on 8 May 2018 as the proposal sought to vary the development standard of minimum lot size in the *Burwood Local Environmental Plan 2012* (BLEP) by more than 10 per cent.

The application is again referred to the Burwood Local Planning Panel (the Panel) for consideration as the Panel requested the Applicant to submit additional information in terms of "a more compliant proposal in terms of the minimum allotment size" for further consideration.

**Recommendation(s)**

That the Burwood Local Planning Panel refuse Development Application BD.2017.066 for the proposed Torrens Title Subdivision of an existing single allotment containing a detached dual occupancy into two separate allotments with a dwelling on each for the following reasons:

- a. The proposal is unsatisfactory according to the provisions of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and the provisions of Clause 50(1)(a) of the *Environmental Planning and Assessment Regulation 2000* in that the applicant has failed to submit sufficient information regarding Floor Space Ratio, setbacks, privacy and amenity impacts for each of the dwellings on the proposed allotments.
- b. The proposal is unsatisfactory according to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that the subject site is not suitable for the proposed development given that inadequate information has been submitted to enable a full and proper assessment of the application.
- c. The proposal is unsatisfactory according to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposed plans do not clearly show full details of the proposed development to enable a full and proper assessment which is contrary to the public interest.
- d. The applicant was requested to provide a compliance table for the proposal pursuant to the provisions of Part 4.5 of the BDCP 2013; *Dwelling Houses, Attached Dwellings, Semi-Detached Dwellings and Ancillary Structures*. The applicant failed to provide an accurate and comprehensive table of compliance to enable proper assessment of the proposal.
- e. Pursuant to Clause 4.6(3)(b) of the BLEP 2012, the proposal provided insufficient

environmental planning grounds for the IHAP to formally justify the proposed variation to the Minimum Lot Size development standard of the BLEP 2012.

Approval of the subdivision in its current form will create a harmful precedent for future development in the Burwood Local Government Area.

## PANEL CONSIDERATION AND DECISION

The Panel had a site inspection of the development site and familiarised itself with the environment. There were no objections to the subdivision and dual occupancy.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

## MATTER REFUSED

The Panel determined to refuse the development application pursuant the *Environmental Planning and Assessment Act 1979* as the S4.6 written request was not sufficient to justify a variation to the minimum lot development standard. The decision was unanimous.

PANEL MEMBERS	
For	Against
Mr Graham Brown (Chair)	
Ms Marjorie Ferguson	
Mr Wayne Carter	
Ms Cathryn Callaghan	


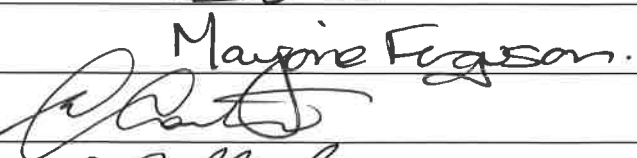
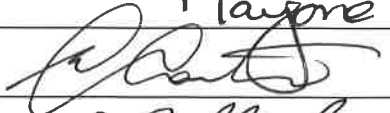
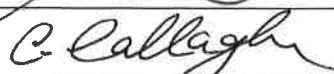
## REASONS FOR THE DECISION

In reaching its decision the Panel considered the following:

The minimum lot size could be achieved by a small adjustment to the proposed lot boundary. However, importantly the 400m<sup>2</sup> lot size variation can only be supported if there is a Clause 4.6 written request that provides sufficient justification for the variation. The Clause 4.6 written request provided for the application does not achieve this.

In the circumstances the Panel was not persuaded that the Applicant's arguments were sufficient to counter the assessment of the Council Officer. That Development Application No. 2017.066 for the Subdivision of 17 Gordon Street, Burwood be **REFUSED** for the reasons previously stated.

## SIGNED:

Panel Members	
Mr Graham Brown (Chair)	
Ms Marjorie Ferguson	
Mr Wayne Carter	
Ms Cathryn Callaghan	

This concluded the business of the meeting at 8.15 pm.