



Burwood Inc.1874

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BURWOOD LOCAL PLANNING PANEL MEETING

MINUTES OF THE MEETING OF THE BURWOOD LOCAL PLANNING PANEL held ELECTRONICALLY on Thursday 27 June 2024 commencing at 6:00 PM.

Attendance

Stephen Kerr - Chair
Linda Kelly
Schandel Fortu
Tom Morgan

Ryan Cole, Director City Strategy
Jai Reid, Manager City Development
Robert Toohey, Executive Planner
Tanya Whitmarsh, Manager Governance & Risk
Michelle Butler, Coordinator Governance
Simon Hoffman, Student Planner

Opening of meeting

The meeting opened at 6:01pm

The Chair opened the meeting with Acknowledgement of Country.

There were no members of the public to address the meeting, although one of the owner's, John Georges, and the architect, George Jreige, were present and answered questions from the Panel.

The meeting moved into closed session at 6.07pm to deliberate and determine the matter.

Apologies

There were no apologies.

Declarations of Interest

There were no declarations of interests by Panel Members.

Development Applications

(Item DA2/24) DA No. 2023/45, 3-7 Lyons Street & 18 Parnell Street, Strathfield. Proposed Alterations and Additions to a Previously Approved Nine Storey Mixed Use Building to Create an Additional Two Levels (6 Residential Units) Producing an Overall Total of 77 Residential Units. Adjustments to Carparking Arrangements on Basement Level 3 are also Proposed.

File No: 24/20327

Owner:	Joseph Georges, Michael Tannous, Milan Kalina & John Georges
Applicant:	Georges Jreige C/- Urbanlink
Location:	Northern Side of Lyons Street and Southern side of Parnell Street
Zoning:	MU1 – Mixed Use, Burwood Local Environmental Plan (LEP) 2012

Proposal

The Development Application (DA) seeks consent for alterations and additions to an approved DA (DA2021.79).

DA 2021.79 was approved by the Sydney Eastern City Planning Panel (SECPP) on 28 June 2022. The DA approved the following:

- demolition of all existing structures
- construction of 1 x three (3) and 1 x nine (9) storey residential flat building comprising a total of seventy-one (71) apartments and two (2) retail tenancies with three (3) levels of basement parking, communal open spaces and associated landscaping

The proposed DA seeks consent for alterations and additions to the approved DA to create an additional two (2) levels to the larger mixed use building fronting Lyons Street. The DA would result in a total of 77 residential units on the site (comprising 12 x studios, 18 x 1 bedroom units, 39 x 2 bedroom units and 8 x 3 bedroom units) and 90m² of retail premises floor space at ground level.

The DA also involves consequential amendments to other levels of the approved development including changes to Basement Level 3 to provide an additional 9 car parking spaces, 1 motorcycle parking space and 2 bicycle parking spaces, such that the proposal would result in a total of 93 car parking spaces at the site, 6 motorcycle spaces and 20 bicycle spaces.

No change is proposed to the smaller 3 storey building, which has frontage to Parnell Street, or the location of the vehicular and pedestrian access to the site as approved.

The proposed DA would require the modification of DA 2021.79 in accordance with the provisions of Section 4.17(b) of the *Environmental Planning and Assessment Act 1979*.

It is noted that the applicant has proposed a monetary contribution be made to Council through a formal Voluntary Planning Agreement (VPA) as permitted by the provisions of Council's Policy entitled 'Carrying out Bonus Development in the Public Interest'.

The Policy applies to the Commercial Core and Perimeter and Transition areas of the Burwood Town Centre, as well as land within the MU1 Mixed use zone in the Burwood Road North and Strathfield Town Centre and Land in the E1 Local Centre zone on the northern side of Liverpool Road, Burwood and Strathfield.

The subject site is within the MU1 Mixed Use zone in the Strathfield Town Centre and therefore the Policy applies to development at the site.

The VPA seeks an additional 557m² of floor space (total proposed 6,128m² and FSR of 3.3:1) which equates to 10% of the allowable gross floor area / floor space ratio for the site, as prescribed by Clause 4.4 of BLEP 2012.

A draft Planning Agreement and Explanatory Note have been submitted by the Applicant as part of the Development Application process. The letter to Council detailing the proposed terms of the agreement and total value of the monetary contribution were placed on Public Exhibition for the period 05/06/24 to 04/07/24. At the time of preparing this report no submissions had been received. Council is responsible for progressing the VPA which requires referral to a Council meeting for determination. The Panel does not play a role in the determination of the VPA rather it is mentioned here for information purposes and for the Panel to be aware that one has been lodged.

BLPP Referral Criteria

This application is referred to the BLPP in response to a number of “criteria” as stated below:

- Development which contravenes a Development Standard by more than 10%
- Development to which SEPP 65 – Design Quality of Residential Apartments, the provisions of which are now incorporated under SEPP (Housing) 2021, and
- Applications where the Developer has offered to enter into a Planning Agreement

The Panel members independently inspected the development site and familiarised itself with the environment.

**LPP4/
24**

RESOLVED

The Panel determined to APPROVE Development Application No. DA.2023.45, which proposes alterations and additions to a mixed use development (which was approved under DA2021.79) at 3-7 Lyons Street & 18 Parnell Street, Strathfield, on the basis of a “Deferred Commencement Consent” subject to the following conditions:

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

SCHEDULE A –DEFERRED COMMENCEMENT CONDITIONS

The consent is not to operate until the following condition is satisfied, with **24 months** of the date of this determination:

- 1) This consent is subject to a Voluntary Planning Agreement (VPA) with Council. The VPA shall be executed, and the monetary contribution paid to Council on or before the date of execution of the VPA, prior to the commencement of any work on site including demolition, excavation or site works and **prior to the issue of any Construction Certificate** for the development.

Evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6A) of the *Environmental Planning and Assessment Act 1979*.

The consent will not operate until such time that the Council notified the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied.

Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of the written notification, subject to the conditions of consent, as detailed in **Schedule B - Conditions of Consent**.

SCHEDULE B – CONDITIONS OF CONSENT

1. The development to be carried out in accordance with following plans prepared by UrbanLink (Project No. 2018.099) and documentation submitted to Council as set out in the table below, except where amended by conditions of this consent.

Drawing No.	Drawing Title	Rev No.	Dat
DA-002	Site-Project Information	G	31/0
DA-003	Site-Context Plan	G	31/0
DA-004	Site-Location Analysis	G	31/0
DA-101	Ground Floor Plans	G	31/0
DA-102	Floor Plans – Level 1	G	31/0
DA-103	Floor Plans – Level 2	G	31/0
DA-104	Floor Plans – Level 3	G	31/0
DA-105	Floor Plans – Levels 4-8	G	31/0
DA-106	Floor Plans – Level 9	G	31/0
DA-107	Floor Plans – Level 10	G	31/0
DA-108	Floor Plans – Roof Plan	G	31/0
DA-109	Floor Plans – Basement 01	G	31/0
DA-110	Floor Plans – Basement 02	G	31/0
DA-111	Floor Plans – Basement 03	G	31/0
DA-201	Elevations – South Elevation	G	31/0
DA-202	Elevations – West Elevation	G	31/0
DA-203	Elevations – North Internal Elevation	G	31/0
DA-204	Elevations – East Elevation	G	31/0
DA-205	Elevations – North Elevation	G	31/0
DA-206	Elevations – South Internal Elevation	G	31/0
DA-207	Elevations – Streetscape Lyons Street	G	31/0
DA-208	Elevations - Streetscape Parnell Street	G	31/0
DA-301	Sections – Section AA	G	31/0
DA-302	Sections – Section BB	G	31/0
DA-303	Sections – Section CC	G	31/0
DA-901	External Finishes – Finishes Schedule	G	31/0
DA-902	External Finishes - Photomontage	G	31/0

2. The development approved under this Development Consent (No. 45/2023) shall be carried out in accordance with all conditions of the “parent” Development Consent No. 79/2021 issued on 12 July, 2022 which approved *“Demolition of all existing structures and construction of 1 x three (3) storey and 1 x nine (9) storey residential flat building comprising a total of seventy-one (71) apartments and two (2) retail tenancies with three (3) levels of basement parking, communal open spaces and associated landscaping”*.

3. The conditions applied under this Development Consent No. 045/2023 are additional to those imposed under DC No. 79/2021 and both sets of conditions shall be complied with fully prior to the issuing of an Occupation Certificate.
4. The fees and/or bonds shown in the Table of Fees, are to be paid to Council or another approved collection agency (the Long Service Levy Corporation and its agents and an approved insurer under the *Home Building Act 1989*) and suitable evidence of payment is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate.**

TABLE OF FEES

FEES/BONDS TO BE PAID TO COUNCIL OR TO THE NOMINATED BODY PRIOR TO ISSUING A CONSTRUCTION CERTIFICATE

5. Building and Construction Industry Long Service Corporation levy **\$ 5,825.89 (Payment to be made to Council, the Corporation or its Agent)**
6. Section 7.12 Contribution: **\$93,214.36 (Payment to be made to Council).**

Note: the contribution amount will be adjusted at the time of payment. **See Planning Condition 7 below** for more details.

PLANNING

7. Pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Section 7.12 Contributions Plan for the Burwood Local Government Area the following monetary contribution towards public services and amenities is required:

Contribution Element		Contribution
A levy of 4% of the cost of carrying out the development, where the cost calculated and agreed by Council is \$2,330,350.00		\$93,214.36
Index Period	Dec 2023	CP ₁
		136.4

Office Use: T56

The above contribution will be adjusted at the time of payment. Applicants are advised to contact Council for the adjusted amount immediately prior to arranging payment.

The contribution will be adjusted in accordance with the following formula:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPI}_2}{\text{CPI}_1}$$

Where:

- C: the original contributions amount as shown in the development consent
- CPI₂ the Consumer Price Index: All Groups Index for Sydney, for the immediate past quarter (available from the Australian Bureau of Statistics at the time of payment)

CPI₁ the Consumer Price Index: All Groups Index for Sydney, applied at the time of granting the development consent as shown on the development consent.

Note: The minimum payment will not be less than the contribution amount stated on the consent.

The contribution is to be paid to Council, or evidence that payment has been made is to be submitted to the Principal Certifying Authority, **prior to the issuing of a Construction Certificate.**

Council may accept works in kind or other material public benefits in lieu of the contribution required by this condition subject to and in accordance with the requirements specified in the Section 7.12 Contributions Plan for the Burwood Local Government Area.

Note: The payment of a Section 7.12 contribution over an amount of \$5,000.00 may only be paid by Bank Cheque (i.e. personal or company cheques will not be accepted). Contributions of \$5,000.00 or less may be paid by cash, EFTPOS, cheque or credit card. Payments by credit card may be subject to a surcharge.

8. Glazed balcony balustrades shall be constructed of opaque materials in lieu of clear glazing.
9. External gas water heaters are to be located in recessed enclosures within external walls and are to be located so as to be not visible from a public road or place or adjoining property. Similarly, air conditioning units and plant are to be located so as not to be visible from a public road or place or adjoining property.
10. A separate application shall be lodged for any proposed subdivision of the site. Such subdivision shall designate all car parking spaces attached to a lot with the exception of visitor parking which shall be designated as common property. No car parking spaces shall be created as a separate lot. The drainage system for the site including basement pit and pumps and on site detention shall be designated as common property.
11. Lockable Mail boxes shall be provided which comply with the requirements of Australia Post. Details to be submitted **prior to the issue of a Construction Certificate** for above ground works.
12. Clothes drying areas or facilities shall be provided within an area of communal open space or provided within each residential unit. If provided on the balconies of individual units, the drying facilities must be screened from exterior view, and be designed in such a way that they do not detract from the building's appearance from the public domain.
13. Provision of storage space in each unit and in the basement is to comply with the recommendations of the Apartment Design Guide. A schedule shall be submitted to the Principal Certifying Authority demonstrating compliance are to be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate for above ground works.
14. All external lighting is to be designed and installed in a manner which prevents glare and/or spillage having an adverse impact on occupants of adjacent

properties.

BUILDING

15. Where residential building work (within the meaning of the *Home Building Act 1989*) is proposed to be carried out, either of the following is to be provided to the Principal Certifier **prior to the issuing of a Construction Certificate**:-
- a. Where work is carried out by a Principal Contractor:
- (i) written advice of the Principal Contractor's name and licence number, and
 - (ii) a certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a person is the holder of an insurance contract issued for the purposes of that Part.
- OR
- b. Where work is carried out by an owner-builder:-
- (i) written advice of the person's name and Owner-Builder Permit number, or
 - (ii) a signed declaration from the owner of the land that states the reasonable market cost of the labour and materials involved in the work is not high enough for the owner to need an Owner-Builder's Permit to do the work.
16. Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:
- a. must be a standard flushing toilet, and
- b. must be connected:
- (i) to a public sewer, or
 - (ii) to an approved chemical closet facility.
- The toilet facilities are to be completed before any other work is commenced.
17. Hours of work shall be from 7:00am to 7:00pm Mondays to Fridays inclusive (**during daylight savings period**), 7:00am to 6:00pm Mondays to Fridays inclusive (**outside daylight savings period**) and from 7:00am to 4:00pm on Saturdays. No work shall be carried out on Sundays or Public Holidays. The owner/builder shall be responsible for the compliance of this condition by all sub-contractors, including demolishers.
- This condition may be modified by an approval of an application to Council in accordance with Council's Out of Hours Construction Policy.
18. The approved structure shall not be used or occupied unless an Occupation

Certificate as referred to in Section 6.4 (c) of the *Environmental Planning & Assessment Act 1979* has been issued.

(Vide Section 6.9 *Environmental Planning & Assessment Act 1979*)

19. An application for a Construction Certificate is to be made to Council or an Accredited Certifier. The NSW Planning Portal is to be used. A Construction Certificate must be obtained **prior to the commencement of any building work**.
20. The noise emitted by any air-conditioning equipment being inaudible in your neighbours' homes between 10:00pm and 7:00am weekdays and 10:00pm and 8:00am on weekends and public holidays. Council is to be consulted prior to the installation of any air-conditioning equipment.
21. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
22. Prior to the commencement of any works, the following is to be carried out: -
 - a. Submit to Council a "Notice of Intention to Commence Building Work and Appointment of a Principal Certifier" via the NSW Planning Portal. The NSW Planning Portal is to be used.
 - b. Ensure detailed plans and specifications of the building are endorsed with a Construction Certificate by Council or an Accredited Certifier. The NSW Planning Portal is to be used.

(Vide Section 6.6 *Environmental Planning & Assessment Act 1979*)

23. A Fire Safety Certificate is to be given to the Principal Certifier prior to applying for an Occupation Certificate and thereafter once in every 12 month period an Annual Fire Safety Statement is to be given to Council. The certificate and statement attest to both the inspection of all essential fire safety measures by a suitably qualified person and to the regular maintenance of the fire safety measures. A copy of the Fire Safety Certificate and the Fire Safety Schedule are to be given to the Commissioner of Fire and Rescue NSW **by the building owner** and copies of these documents are to be prominently displayed in the building. Similarly copies of Annual Fire Safety Statements are also to be given to the Commissioner and displayed in the building.

(Vide Clause 84 & Part 11 of the *Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021*)

24. Noise transmission and insulation ratings for building elements being in accordance with Specification 28 of the Building Code of Australia.

Details of the method of satisfying this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.
25. Mechanical ventilation and or air conditioning systems and equipment are to be designed and installed in locations that do not cause any visual impacts from the public domain, noise nuisance or disturbance to near-by residential or commercial premises. Details of the type of equipment locations and any noise attenuation treatment are to be submitted to Principal Certifying Authority **prior**

to the issue of the Construction Certificate.**WASTE MANAGEMENT**

26. All building work, construction and demolition activities are to be conducted in accordance with the approved Waste Management Plan
27. Upon disposal of any waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:
- The contact details of the person(s) who removed the waste
 - The waste carrier vehicle registration
 - The date and time of waste collection
 - A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
 - The address of the disposal location(s) where the waste was taken
 - The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

28. All operational and ongoing waste management is to be conducted in accordance with the approved Waste Management Plan
29. All waste collection vehicle approaches are to provide for a minimum clearance height of 3.5m, including clearance of all roller door equipment, fittings and pipes.
30. A waste cupboard or other storage area is to be provided within each dwelling which is of sufficient size to hold a single day's waste and to enable source separation of general waste, recyclables and compostable materials.
31. All waste shall be stored in the designated areas only.
32. Suitable signage is to be installed in each level of the chute waste service rooms encouraging the separation of recyclables from the general waste stream.
33. Waste and recycling bins shall be kept in a clean and hygienic condition. Bins are to be washed regularly within the garbage storage room with any waste water being discharged to the sewer by way of the grated drain
34. The following matters shall apply to the damage deposit listed in the Table of Fees:
- a. This deposit is refundable if no damage occurs. Any damage caused will be repaired at Council's restoration rates, at the applicant's expense. All or part of the deposit will be forfeited to cover damage to Council's property during the course of demolition and/or construction.

- b. Council will carry out two inspections of the Council's footpath, kerb and gutter, stormwater drainage system and roadway, prior to works commencing and at the completion of all work covered by this consent. Council is aware that damage may be caused by individual contractors that culminate in the damage inspected at Council's final inspection. The applicant is responsible for attributing any part of the damage to their individual contractors. Council will not refund any part of a damage deposit until the completion of the work covered by this consent.
- c. The applicant shall lodge an application to Council for refund of damage deposit after obtaining an occupation certificate (OC). The OC must be formally submitted to Council prior to lodging the application for refund of damage deposit.

TRAFFIC AND PARKING

35. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes.
36. Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must **be permanently displayed and located** in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to an Occupation Certificate being issued and must be maintained in good order at all times **by the Owners Corporation**.
37. A total of 93 off-street car parking spaces, 6 Motorbike parking spaces and 32 bicycle parking spaces must be provided on-site. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities.
38. The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate. If the development is to be strata subdivided, the car park layout must respect the required allocation:
 - (a) 75 residential parking spaces.
 - (b) 15 residential Visitor parking Spaces (including 1 Car Wash Bay)
 - (c) 2 retail parking spaces
 - (d) 6 motorcycle spaces
39. Of the required car parking spaces, at least 8 must be designed and provided for accessible car parking for people with mobility impairment in accordance with Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking. Accessible car parking spaces must have a minimum headroom of 2.5m and must be clearly marked and appropriately located as accessible parking for people with mobility impairment. The car park must respect the following allocation:

- (a) 8 Residential Spaces
- (b) 1 Visitor Space

Panel Members	
For	Against
Stephen Kerr	Linda Kelly
Schandel Fortu	
Tom Morgan	

Reasons for the decision

In reaching its decision the Panel considered the following:

- That the VPA was a consideration under section 4.15 but was irrelevant to the consideration of the clause 4.6 requests.
- That in the opinion of the panel the proposed development would cause no adverse environmental impacts.
- That the proposed development would be consistent with the scale of other recent developments in the locality and the likely future character.
- That the proposal provides additional housing that is well located in respect of access to transport, shops and services.

The meeting closed at 6.42 pm.