Property: Nos. 2-14 Elsie Street Burwood

Application: Development Application 36/2015 – retention of existing 7 storey commercial office building and on the northern part of the site erection of a 15 storey building comprising primarily residential apartments over ground floor/street level commercial premises and access foyer, all utilising existing basement car parking levels

Applicant: Shallowbridge Pty Ltd

Location: Corner of Elsie Street, Victoria Street (West) and John Street Burwood

Zoning: B4 Mixed Use – Burwood Local Environmental Plan (BLEP) 2012

Proposal

The application site comprises 1 lot known as Nos. 2-14 Elsie Street bounded by Elsie Street, Victoria Street (West), an un-named pedestrian lane and John Street Burwood. It contains 3 existing basement levels used mainly for car parking that occupy most of the site dimensions below ground level and partly protrude above ground level; a 7 storey commercial office building on the southern part of the site; and a terraced landscaped/paved open space "forecourt" area on the northern part of the site.

The proposal is to retain the existing commercial office building, demolish existing structures in the current open space forecourt and erect the new building in this area, and retain the basement levels for car parking, with some reconfiguration to accommodate the new building where it is located above the basement levels. The relevant parts of the development comprise:

- Basement level 2.5 containing 37 residential occupant parking spaces, storage spaces, and vehicular and pedestrian access.
- Basement level 2 containing 28 residential occupant parking spaces and level 1.5 containing 34 commercial parking spaces; these levels also contain bicycle parking racks for 24 bikes, storage areas and pedestrian and vehicular access.
- Basement level 1 containing 29 commercial parking spaces and 2 residential visitors spaces; and level 0.5 containing 7 commercial and 11 residential visitors car spaces, 8 bicycle spaces, garbage and waste rooms, facilities rooms, pedestrian and vehicular access, the latter from John Street.
- The ground floor level on the Elsie Street/Victoria Street frontages comprising a large paved forecourt area (building above) that includes seating, landscaping and a café premises space. The ground level also contains the entrance foyer and lobby with lifts to the residential levels. A "kiosk" space faces Victoria Street at ground level, and there are large void areas on the eastern part of this level.
- Levels 1 containing 2 apartments (1 x 1-bedroom and 1 x 2-bedroom) each with balconies, a "utility room" for the 2 bedroom unit only, garden and planter areas, all located towards the John Street side of the site.
- Levels 2 containing 2 x 2 bedroom apartments, each with utility rooms and balconies, and access, located towards the John Street side.
- Level 3 containing 5 apartments (3 x 2 bedroom and 2 x 1 bedroom), a balcony for each apartment and a utility room in each apartment, and access.

- Levels 4, 6, 8, 10 and 12 each containing 5 apartments (3 x 2 bedroom and 2 x 1 bedroom), a balcony for each apartment and a utility room in each, and access.
- Levels 5, 7, 9, 11 and 13 containing 5 apartments (3 x 2 bedroom and 2 x 1 bedroom), a balcony for each apartment and a utility room in each apartment, and access.
- Level 14 containing 4 apartments (2 x 3 bedroom, 1 x 2 bedroom and 1 x 1 bedroom) a balcony for each apartment and a utility rooms in each apartment, and access.
- A lower roof area containing access, building facilities and the communal open space area including landscaping.
- An upper roof area comprising a roof structure.
- An atrium that links the proposed new building with the existing building on the southern part of the site; the atrium has a glass roof at level 5 of the new building and is glass-walled from level 1 to level 5 on its east and west elevations; it is open at the ground floor level.
- In all 63 apartments comprising 24 x 1-bedroom, 37 x 2-bedroom and 2 x 3-bedroom. All 63 apartments have "utility rooms" of various sizes and configurations.
- On the site there are 6693 sq m of commercial premises in the existing 7 storey building, and in the new building 75 sq m of commercial premises (kiosk and café) and 5173 sq m of residential apartments. The total floor space on the site (existing and new) is 11,941 sq m.
- Parking provision involves 65 residential occupant spaces, 70 commercial spaces and 13 residential visitors spaces, a total of 148 car parking spaces. Bicycle parking totals 32 spaces.

Background

Development application (DA) 36/2015 was lodged on 4 March 2015. It was accompanied by architectural, civil engineering and landscaping plans; a Statement of Environmental Effects (SEE), a Traffic Impact Assessment; an Access Report; an Adaptable Housing Report; a BCA Compliance Report; a Waste Management Plan; a SEPP 65 Design Verification Statement; a BASIX Assessment; an Acoustic Assessment Report; a Statement of Heritage Impact; and a Cost Summary Report.

The application was notified to adjoining land owners in accordance with the BDCP 2013 on 31 March 2015, closing on 27 April 2015.

Council briefed GM Urban Design & Architecture (GMU) to provide an Urban Design Assessment Report on the proposal that was received in final form on 1 June 2015.

Council subsequently on 10 June 2015 wrote to the applicant to provide the GMU report and other assessments that had identified concerns with the application. Following a meeting to discuss these matters revised plans and a written response was lodged with Council on 7 August 2015. GMU was briefed to provide updated advice on these plans and details.

On 1 July the Sydney East Region Joint Regional Planning Panel meeting was briefed on the application. Based on the scale of the proposal the JRPP will be the determining authority.

The amended plans and details for the application received on 7 August 2015 were re-notified to adjoining property owners on 26 August 2015, closing on 16 September.

The GMU report on the revised plans and details was received on 21 September 2015 and forwarded to the applicants.

In response further revised architectural and landscape plans and a letter of advice were lodged by the applicants with Council on 30 September 15. An additional plan received by email on 22 October made a minor correction to the calculation of basement parking space numbers. These plans are the subject of this report.

Statutory Requirements

Heads of Consideration

The application is assessed under the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*, as amended, which include:

- The provisions of the Burwood Local Environmental Plan (BLEP) 2012
- State Environmental Planning Policy (SEPP) No. 55 – Design Quality of Residential Flat Buildings
- The provisions of Burwood Development Control Plan – BDCP 2013
- The impact of the development in relation to:
  - The context and setting of the development
  - The impact on the natural built environment
  - Shadowing of adjoining properties
  - Traffic impact
  - Streetscape and urban design issues
  - Crime prevention through environmental design
- The suitability of the site for development
- The public interest
- Social and economic impact
- Submissions made under the Act and Regulations.

These matters are considered in this report.

Locality

The site's location is indicated in Figure 1.

Site and surrounding area

The site comprises one lot that has a rectangular shape with minor splay corners. Street frontages are 59.505 m, 36.215 m, 59.36 m and 42.735 m respectively. The site area is 2,641.5 sq m. The site is more or less level however the street level falls to the north and east of the site.

The site is located in the Middle Ring of the Burwood Centre which is undergoing substantial transition to higher densities and building heights under the B4 Mixed Use zone and development standards that have provided increased development capability.

At present the site is surrounded by a variety of development formats and scales. Immediately to the west across Elsie Street the entire block has been redeveloped recently with a 15 storey mixed residential and commercial building. An older 6/7 storey commercial office building is located on the site to the south. To the east across John Street and fronting Burwood Road the development comprises older-style mainly 1-2 storey shop and office buildings. To the north across Victoria Street and west of Dunns Lane there are residential flat buildings of 4 - 8 storeys.

Figure 1 – Site location and zoning

Planning Assessment

Development permissibility

BLEP 2012

The B4 Mixed Use zone permits with consent residential flat buildings and commercial premises. The proposal complies with the definitions for these forms of development as a mixed use development.

The proposal is consistent with the aims of the B4 zone, in that it provides and adds to a mixture of compatible land uses, and it integrates residential development with the Burwood Town Centre's mix of retail, business and commercial premises and other development in an accessible location that will encourage public transport use, walking and cycling.

The site does not contain a Heritage Item and is not located within or near a Heritage Conservation Area under the BLEP 2012. However there are several Heritage Items nearby (I17 and I18 to the east across John Street and extending through to Burwood Road). These items relate to the building facades fronting Burwood Road and do not raise significant heritage impacts under the BLEP 2012.

None of the site's frontage is designated in the Active Street Frontages Map referred to in Clause 6.3 of the BLEP 2012. No part of the site is designated in the BLEP for acquisition for any purpose. There are no flooding issues identified with the site. The land is included in Level 5 on the Acid Sulfate Soils (ASS) Map of the BLEP with no Class 4 land in the vicinity and therefore no ASS issues pertain to the site.

Development standards and other requirements

Issue	Requirement/standard	Proposal	Compliance
BLEP 2012			
Building height	Maximum 60 m – Clause 4.3 and Building height map	Height 50 m - below maximum	Yes
Floor space ratio	Maximum 4.5:1 – Clause 4.4 and Floor Space Ratio map	Total on site 11,886.75 sq m allowed; 11,941 sq m proposed - 4.52:1 - minor exceedance of maximum	No - condition required
Maximum residential floor space ratio	Maximum 3:1 – Clause 4.4A and Floor Space Ratio map	5173 sq m proposed - 1.96:1; below maximum	Yes
Building Height Plane (BHP)	Clause 4.3A and the BHP Map	No constraint imposed on proposed building on this site	
BDCP 2013			
Section 3.3.2.3 – Area Based Controls in BTC Middle Ring Area			
Setbacks and podium height	Street front setback – 3 m minimum, podium height maximum 15 m	Open forecourt to Elsie St & part Victoria St (building above); 0 m to part Victoria & John Sts	No but satisfactory - see comments below
	Secondary setback minimum 6 m above podium	**Elsie St:** level 3 & above setback minimum 3.5 m. **Victoria St:** level 3 & above setback min'm 1 m except roof protrusion **John St:** minimum 4.5 m setback	No but satisfactory – see comments below
	Building separation (new building to existing) to have regard to RFDC; at least 6 m	Mostly 4 m & 4.2 m, minimum 2.6 m	Satisfactory – see below
	Side and rear setbacks to have regard to RFDC; non-residential must be built to side boundary and may be built to rear boundary	Various setbacks on triple street frontage site	Satisfactory – see below
Communal open space and landscaping	Minimum 25-30% site area (RFDC). 25% of landscaping to be deep soil zones. 50% soft landscaping with minimum 0.6 m soil depth.	207 sq m roof top communal open space exceeds 25% of effective building site area (822 sq m); additional landscaping on ground floor & level 1; SEE indicates 52 sq m deep soil planting which is 25% of total	Yes - conditions required
Section 3.2 General Building Design Controls in Centres and Corridors			
Minimum site area	Minimum 500 sq m and isolated site	Site exceeds 500	Yes

and site isolation	formation discouraged	sq m; no isolated sites created	
Building design, materials and finishes	Design excellence encouraged; high quality materials and finishes; roof design to contribute to overall design and performance outcomes; apartment depth max. 18 m	Articulated design all elevations; limited blank wall space. Schedule of finishes provided for all elevations - satisfactory use of pre-finished panels. Roof design is low profile & integrated into building. No apartments exceed 18 m depth	Yes - subject to conditions
Building access, safety and security	Security measures to form integral part of building; ground floor integrated with streetscape; appropriate building entrances and clear street address; appropriate mail box provision; casual surveillance to be provided by design	Ground floor design and streetscape integration departs from usual approach. Clear access/address for residential foyer. Activated space in business hours. Lighting, planting must support security	Yes - conditions required
Private open space (POS)	All dwellings must have private open space; integrated into building design; respond to site conditions; meet minimum dimensions	All apartments have balconies; all accessible from living areas; adequately meet minimum areas and depths given irregular shapes	Yes
Ceiling heights	Ground floor residential 3.0 m; other residential above ground 2.4 m and 2.7 m	3.1 m floor to floor all levels	Yes - accepted
Daylight access and natural ventilation	70% of residential living rooms and private open space to meet minimum sunlight standards; provide adequate natural ventilation (RFDC requirements)	Overall high level of solar access to most bedrooms and living areas; several utility rooms and some bedrooms on south side have restricted solar access; all units are dual aspect and have adequate natural cross ventilation	Yes - see additional comment below
Acoustic privacy	Design development to reduce noise transmission internally and from adjoining sites	Acoustic report provided. Looks at noise emissions, construction noise and external noise impacts on units. Recommends	Yes - condition

		control measures as necessary	
Visual privacy	Building separation as per RFDC; avoid overlooking	Only significant visual privacy issues is with units close to adjacent building; acceptable with use of translucent glass and awning windows	Yes - see comments below
Lobbies and internal circulation	Lobbies must be designed for natural ventilation and natural lighting; common area corridors must be minimum of 2m width	Residential lobby adequate within whole ground floor design. Internal corridors 2 m	Yes - subject to conditions
Storage for apartments	At least 50% of storage to be provided in apartments and 25% accessible from active areas	Storage provided in each unit and basement cages. All units have utility rooms with storage	Yes - condition
Access and mobility	Compliance with Australian Standards for adaptable units and car parking accessibility	Adaptable Housing Report submitted; accessible parking spaces provided	Yes - conditions
Apartment mix	Provide mix of apartment sizes and formats	1, 2 and 3 bedroom apartments provided	Yes
Awnings	Required for any development built to the street front boundary in the B4 zone	Awnings not necessary or appropriate in context of design at ground level	N/A
Section 3.7.6 – Transport and parking in centres and corridors			
Number of parking spaces	Office: 1 per 1st 400 sq m then 1/120 sq m - 53 spaces required Retail/food & drink premises: 1 per first 400 sq m - 1 required Residential: 1/1 or 2 br unit; 1.5/3 br unit - 64 required Residential visitors: 1/5 units - 13 required TOTAL: 131	Proposed: Office: 70 Retail/food & drink premises: 0 Residential: 65 Residential visitors: 13 TOTAL: 148	Yes – see comment below - conditions required

Comment on BLEP 2012 matters

There is minor non-compliance with the development standard for maximum FSR in the BLEP 2012 (4.52:1 proposed, 4.5:1 maximum). This can be dealt with by consent condition to implement a small reduction in the proposed floor space. The new building is significantly below the maximum building height and the maximum residential FSR.

The heritage items on the eastern side of John Street are not regarded as having sufficient proximity to be affected by the proposal as their heritage significance relates to their Burwood Road facades. In this context the applicant's Statement of Heritage Impacts has concluded that there are no detrimental impacts on the Heritage Items.

SEPP No. 65 – Design Quality of Residential Flat Development

The SEE includes an assessment against the guidelines of the Residential Flat Design Code. The reports by GMU have assessed the proposed building's relationship to the RFDC guidelines. The applicant has submitted an assessment regarding the Design Quality Principles contained in Part 2 of SEPP No. 65. This assessment is accepted as satisfactory.

Overall Comment on the Proposed Development

The proposal is unusual in that it will be an in-fill development adding substantial residential floor space to a site while retaining a large commercial floor space building on the same site. The development standards in the BLEP 2012 facilitate this increased building density. It is supported in planning terms as it is consistent with the objective of the B4 Mixed Use zone to provide a mixture of compatible uses in the Burwood Town Centre and it makes more economic use of available land.

In addition the proposal involves a reduction and re-allocation of the substantial existing basement parking area on the site to satisfy the requirements of both the existing commercial and proposed residential floor space using the parking standards of the BDCP 2013. This is facilitated by the parking requirements in the BDCP for commercial floor space being less than in previous codes. Currently parking is provided at 1/38 sq m of the existing commercial floor space whereas the BDCP requires 1 space for the first 400 sq m then 1 space per 120 sq m in the Middle Ring area of the Burwood Town Centre.

The proposal departs from the usual urban design approach embodied in the BDCP for the Burwood Town Centre's Middle Ring area which envisages buildings at ground level having 0 m or minimal setbacks so that they address the street and add to streetscape activation. The recently constructed building of similar scale on the opposite side of Elsie Street and many other new buildings in the Burwood Town Centre represent the usual design approach.

Extensive negotiations involving Council's urban design advisors GMU and subsequent plan revisions have led to endorsement of the proposed design approach. The forecourt includes landscaping and seating, a café to boost activation and identifiable access to the residential foyer. Also the forecourt is part of an overall building design that has architectural merit. Nonetheless it is important that after-hours use of the forecourt for residential access is safe and secure. The SEE includes a basic review of the proposal against CPTED (Crime Prevention Through Environmental Design) principles however a consent condition is appropriate to ensure the proposed security measures in the SEE review (eg addressing lighting, landscaping and access control) are implemented for the development.

Comments on key BDCP matters

Boundary Setbacks and Building Separation

Definitions of appropriate boundary setbacks for the new building and its separation from the existing office building on the site have been central issues in the assessment of the proposal. Relevant factors include the ground level forecourt design, the development being an infill with the retention of an existing substantial building, and the site's three street frontages.

The proposed setbacks and building separation in the revised plans of 30 September 2015 result from negotiations with the applicant and advice from GMU. They also take into account the overall merit of the proposed development and the different characters and roles of the three street frontages.

Elsie Street is the main street frontage of the site. The ground level forecourt provides a substantial open area with the residential foyer being set back 13.5 m, effectively providing a deep, open setback which is reinforced by the 3 storey void above. The supporting columns for the floors above and planter boxes at ground level are sited and dimensioned to maintain the open impression of the forecourt. Level 3 commences at a height of 9.3 m above ground level which is within the podium height limit. From level 3 and above, the setback to Elsie Street is a minimum of 3.6 m up to 4.6 m. This is half the minimum secondary setback however it is considered satisfactory in the context of the lesser setback (2.8 m) of the existing building and the proposal having to accommodate the site's 3 street frontages.

The open forecourt also extends 15 m along the **Victoria Street** boundary. Further to the east, the building has a 0 m setback at ground level and a 1 m setback for levels 1 and 2 along a 12.7 m facade. From level 3 and above the façade has a length of 32.5 m and a setback of 1.0 m minimum (except for an encroachment of the roof level), up to 1.6 m. If this was a side boundary and not a street frontage, the BDCP would require a 0 m setback for the non-residential levels, and allow flexible setbacks for the residential levels taking into account building separation. In this context the proposed setbacks are considered satisfactory given the substantial separation from the existing building across Victoria Street (about 25 m), the 3 street frontages and the highly articulated design of the north façade.

John Street serves as an access laneway to the rear to this site and to properties with their main frontages to Burwood Road and Elsie Street. As such it is effectively the site's rear boundary. Existing structures that are to be retained (part of the upper parking level) have a 0 m setback at street level to John Street which is satisfactory. From level 1 and above, the the proposed setbacks are satisfactory taking into account the "rear lane" status of John Street and the design constraints of the site.

A key issue in assessment of the new building has been achieving appropriate **building separation** between the proposed and the existing commercial building to be retained. An advantageous design relationship needs to be achieved between the two buildings and the privacy of residents of the new building protected. The proposed design solution is the inclusion of a glass-walled atrium linking the two buildings. It extends from level 1 to just below level 6 where a glass roof to the atrium is provided. The atrium is open at ground level and is set back 14.5 m from the Elsie Street boundary. The atrium's northern wall (the southern wall of the proposed building) is proposed to have vertical landscaping for the full height and width of the atrium.

The atrium concept was suggested by GMU to achieve the appearance of a single development on the site rather than two, while maintaining each building's distinctiveness. It also aimed to create a useable space at ground level. The application has adopted the concept in the revised plans and it is broadly supported. Based on GMU's further advice it would be appropriate to extend the atrium's western wall an additional 1-1.5 m to the west so as to improve its function as a quality central space. In addition the height of the atrium should be raised to the top of level 7 of the new building (level 6 of the existing building) to provide the optimum linkage effect between the two buildings. These matters can be dealt with by consent conditions.

With regard to privacy for residents of the new building, the applicant has agreed that all south facing windows in the new building (up to the height of the existing building) will be top-hung awning windows with translucent glass. Such will ensure adequate ventilation while minimising in-looking to rooms in the new building.

Communal Open Space

For a development of this type in this location the provision of communal open space on the roof top and the other proposed landscaped areas is satisfactory. However this is subject to access being available for maintenance of the planter boxes and roof garden on level 1, and improvements to the facilities in the roof top communal open space area. Consent conditions can deal with these matters.

Car Parking

In the retained basement parking levels, the existing 175 spaces are reduced to 148 and reallocated to accommodate the new building. The residential parking provision is satisfactory however the existing commercial office floor space requires only 53 while 70 are proposed. This is acceptable on the basis of the large reduction in total spaces, however 1 space needs to be allocated and marked for use by the commercial premises (café and kiosk) in the new building. As the existing parking was provided in accordance with previous Council policy, it is considered unnecessary to count the surplus commercial parking spaces as part of the floor space of the building as per the definition of gross floor area in the BLEP 2012.

All of the apartments in the development include a "utility room". These have various sizes and configurations and include storage space. There is no objection to the utility rooms as such as many homes now have a need for a study or home office. However many of the utility rooms may be convertible for habitation as bedrooms and where this occurred with 2 bedroom apartments there would be a need for additional parking provision under the BDCP. For this reason a consent condition is appropriate to re-enforce non-habitable use of the rooms and to require where possible a design that maintains an open relationship with the living area of the apartments.

Referrals

The Manager Environment & Health has provided consent conditions.

The Manager Traffic and Transport has provided consent conditions.

The Senior Development Engineer has provided standard consent conditions.

Building conditions have been supplied.

The Tree Management Officer has advised that alternative species should replace the proposed *Metrosideros excelsa* species due to potential plant disease risks. This can be dealt with by consent condition.

Community Consultation

The public notification of the application twice has resulted in 44 submissions being received, all objecting to the proposal. The submissions are categorized as follows:

- 16 individual submissions.
- Form letters:
  - 20 submissions of 1 form letter.
  - 4 submissions of another form letter.
  - 3 submissions of another form letter.
- 1 petition with 53 signatures with no reasons cited.

The great majority of individual and form submissions and all the signatories of the petition are from residents/owners of apartments in the 1-17 Elsie Street buildings.

The main issues raised in submissions and comments on each are provided below.

- Overdevelopment in the vicinity and Burwood Town Centre generally. Too many tall buildings in close proximity. The poor aesthetics of the proposed new building located on a small area and close to the existing building. Public transport (trains) inadequate to handle existing population and more development will make it worse.

Comment: State Government strategic planning for Sydney emphasizes the development of strong regional centres with increased population and employment. The BLEP 2012 and the BDCP were developed within this framework and included extensive public consultation. The proposed building accords with the main development standards of maximum height and density in the BLEP 2012. Its design has been subject to a lengthy process of negotiation involving substantial input from Council's urban design advisors and it is considered to have adequate architectural merit. It is agreed that public transport availability needs to improve as the Burwood Town Centre grows.

- The existing landscaping at Elsie Street-Victoria Street corner will be lost. There will be a general reduction in environmental quality.

Comment: The loss of existing planting is acknowledged however the proposed building's design will create a landscaped forecourt in much of the same area. It will help provide street level amenity and improve the general environmental quality of the streetscape.

- The development will cause increased traffic congestion and decreased road safety. John Street is too narrow to provide access to the development. Other streets and intersections are too narrow to handle the traffic impacts of all the existing and proposed buildings. Inadequate parking is provided for the proposed development and there is already frequent illegal street parking. Construction impacts will reduce access to existing parking.

Comment: The planning for the Burwood Town Centre leading to the BLEP 2012 included traffic investigations that took account of expected growth and identified new road and intersection works to accommodate growth. The Manager Traffic and Transport has not identified excessive traffic generation or impacts on nearby roads and intersections as critical factors for the proposed development. Parking provision satisfies the requirements of the BDCP. Construction traffic impacts are managed by consent conditions and enforced by Council officers. Officers also enforce on street parking regulations.

- There will be adverse impacts on the existing residential apartment buildings in close proximity: loss of privacy, overshadowing, loss of views especially to the east, reduced property values, noise impacts, more crowding of buildings, loss of natural ventilation, loss of natural light, increased fire risks, increased dust.

Comment: Existing views and solar access of buildings cannot all be protected as a regional centre develops in accordance with its planning controls. Planning for the Burwood Town Centre established the development standards for maximum height and density having regard to street widths and the proximity of buildings. Separation of the proposed building from existing residential buildings existing is considered adequate for privacy. It is acknowledged that the new building will cause shadowing on existing buildings (and on sites that will be redeveloped in the future) however such impacts are bound to occur as development proceeds in a dense urban environment. Changes to boundary setbacks of the

proposed building would not substantially reduce perceived impacts such as shadowing, views or noise.

- Increased impacts on the residential building at corner of Victoria Street and Dunns Lane (2-8 Park Avenue) resulting from pedestrian taking access through site to Burwood Park; illegal parking on this site; loss of views; inadequate setback from Victoria Street, loss of privacy.

Comment: Pedestrian trespassing and illegal parking impacts on this building are matters for the management of the building. The proposed building's setback from Victoria Street has been assessed as satisfactory within the overall building design and the two buildings will have adequate building separation of about 25 m. Perceived losses of privacy are likely to be minimal and some loss of views is going to occur as the town centre develops.

- Proposal is contrary to approval of existing building on 2-14 Elsie Street which was based on provision of open space and landscaping, adequate parking and setbacks.

Comment: The statutory plans establishing the zoning and applicable development standards for the site have changed substantially over the last 30 years. The development must be considered under the current zoning, development standards and other planning guidelines. The BLEP 2012 and BDCP 2013 are the result of an integrated planning approach to facilitate a stronger Burwood Town Centre that houses more people and creates more local jobs in keeping with State Government strategies. The current proposal is permitted by and supports this planning framework.

- Proposal does not comply with RFDC building separation.

Comment: The RFDC guidelines are not mandatory. The proposal as considered in this report has been assessed as satisfactory (in terms of boundary setbacks and building separation) based on advice from Council's urban design advisors.

Conclusion

The proposed development achieves adequate compliance with the requirements of the BLEP 2012, the BDCP 2013 and the RFDC, and therefore is recommended for development consent subject to conditions.

Recommendation

That Development Application 36/2015 which proposes retention of the existing 7 storey commercial office building and on the northern part of the site erection of a 15 storey building comprising primarily residential apartments over ground floor/street level commercial premises and access foyer, all utilising existing basement car parking levels, be granted consent subject to the following conditions:

(1) The development is to be carried out in accordance with the following plans and documentation except as amended by other conditions of this consent:

- Architectural plans prepared by Turner received by Council on 30 September 2015: DA_000-001 Rev E; DA_110-009 Rev L (received 22 October 2015); DA_110-010 Rev I; DA_110-011 Rev I; DA_110-012 Rev H; DA_110-013 Rev H; DA_110-014 Rev H; DA_110-015 Rev H; DA_110-024 Rev A; DA_110-025 Rev G; DA_110-026 Rev C; DA_250-001 Rev D; DA_250-002 Rev D. Plans

DA_110-001 Rev D; DA_700-002 Rev C and DA_900-003 Rev A, all received by Council on 7 August 2015.

- Landscape Plans by Oculus: DA_L-300 Rev 01; DA_L-201 Rev 02; DA_L-000 Rev 01; DA_L-000 Rev 01; DA_L-001 Rev 01; DA_L100 Rev 02 (all received on 4 March 2015). DA-L-0010 Issue 01, DA-L-115 Issue 01 (both received on 4 March 2015). DA_L-115 Rev 04 (received on 30 September 2015);
- Engineering plans by Meinhardt Infrastructure & Environment received by Council on 4 March 2015 MIE000 Rev B; MIE100 Rev A; and MIE101 Rev B.

FEES

(2) 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

(3) Building and Construction Industry Long Service Corporation levy **$85,470.00 (Payment to be made to Council, the Corporation or its Agent)**

(4) Damage Deposit - security deposit against damage occurring to Council's assets (footpath, road, stormwater drainage system, kerb and gutter, etc) during building work **$55,780 (Payment to be made to Council as a bond prior to issue of a Construction Certificate and/or commencement of demolition/bulk excavation)**

NOTE: This deposit is refundable if no damage occurs.

(5) Construction by the Applicant/Council the stormwater drainage works **$2,000 (Payment to be made to Council as a bond)**

(6) Section 94A Contribution: **$273,900.00 (Payment to be made to Council).**

Note: the contribution amount will be adjusted at the time of payment. **See Planning Condition 8** for more details.

PLANNING

(7) Compliance with and implementation of the recommendations of the Acoustic Assessment Report by Renzo Tonin & Associates dated 23 December 2014 and received by Council on 4 March 2015.

(8) Pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979* and the Section 94A Contributions Plan for the Burwood Local Government Area (Excluding Burwood Town Centre), the following monetary contribution towards public services and amenities is required:

Contribution Element	Contribution
A levy of 1% of the cost of carrying out the development, where the cost calculated and agreed by Council is **$27,390,000.00** (including GST)	**$273,900.00**

Index Period	Sept 2014	**CPI_1**	106.6

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:

Contribution (at time of payment) = $\frac{C \times CPI_2}{CPI_1}$

Where:

C: the original contributions amount as shown in the development consent;

CPI_2 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)

CPI_1 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 94A Contributions Plan for the Burwood Local Government Area (Excluding Burwood Town Centre).

Note: Credit cards and personal cheques are not accepted for the payment of Section 94A Contributions in excess of $5,000.

(9) Glazed balcony balustrades shall be constructed of opaque materials in lieu of clear glazing.

(10) 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.

(11) 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.

(12) Mail boxes for the apartments shall be provided inside the residential foyer, details to be approved **prior to the issue of a Construction Certificate**.

(13) Clothes drying areas or facilities shall be 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.

(14) The new building at ground level is to comply with CPTED (Crime Prevention Through Environmental Design) principles including the provision of appropriate lighting, landscaping and surveillance cameras. Access to the basement car park is to be controlled by an appropriate security door and to the levels containing residential parking it is to be restricted to residents of the building by an additional appropriate security door. Access to the residential foyer is to be security controlled and include an intercom system for use by visitors to the apartments. Details of these matters are to be submitted and approved **prior to the issue of a Construction Certificate**.

(15) The height of the roof of the atrium linking the new building with the existing building is to be raised to the top of level 7 of the new building (level 6 of the existing building). The atrium's western wall at all levels is to be relocated to align with the eastern wall of the utility room in Apartment 3.01. Details of these matters are to be submitted and approved **prior to the issue of a Construction Certificate**.

(16) The utility room where included an apartments is to be used for non-habitable purposes only and where necessary the walls of the utility room is to be amended so that each room maintains an open relationship with the living area of the apartments.

(17) Compliance with the Schedule of Materials and Finishes contained in Plans DA_250-001 and 002 both Revision D referred to in Condition 1.

(18) Provision of storage space in each unit and in the basement is to comply with the recommendations of the Residential Flat Design Code. A schedule shall be submitted to the Principal Certifying Authority demonstrating compliance and approved **prior to the issue of a Construction Certificate.**

(19) Provision of accessible/adaptable residential apartments and accessible parking spaces is to comply with the applicable Australian Standards as indicated in Section 3.2.19 of the Burwood Development Control Plan 2013.

(20) The total gross floor area of all buildings on the site is to be reduced so as not to exceed 11,886.75 sq m and comply with the maximum Floor Space Ratio for the site 4.5:1, details to be submitted and approved **prior to the issue of a Construction Certificate.**

(21) The Landscape Plan is to be be amended to indicate the location of each proposed species for the ground level and roof level plantings, and the proposed species of Metrosideros is to be replaced by an alternate species, to be included in the revised Landscape Plan **details to be submitted and approved prior to the issue of a Construction Certificate**.

(22) The landscaping provide at level 1 is to be accessible for maintenance purposes, details to be submitted and approved **prior to the issue of a Construction Certificate.**

BUILDING

(23) 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 Certifying Authority **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.

(24) 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.

(25) Any excavations and backfilling associated with the erection or demolition of a building shall be carried out in a safe and careful manner and in accordance with appropriate professional standards. All necessary planking and strutting shall be of sufficient strength to retain the sides of excavations. A Certificate verifying the suitability of structural details for any proposed shoring is to be submitted to the Principal Certifying Authority before excavating.

(26) All excavations associated with the erection or demolition of the building are to be properly guarded and protected to prevent them from being dangerous to life or property.

(27) Where soil conditions require it:

a. retaining walls must be provided so as to prevent soil movement; and

b. adequate provision must be made for drainage.

(28) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

a. must preserve and protect the building from damage, and

b. if necessary, must underpin and support the building in an approved manner, and

c. must, at least 7 days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Allotment of land includes a public road and any other public place.

(29) If the work involved in the erection or demolition of a building:

a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

b. building involves the enclosure of a public place.

A hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

(30) Your attention is directed to the following:-

WARNING

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped and a copy is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate**.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details – see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Developing then Building and Renovating

or telephone 13 20 92.

(31) The builder is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property. Pedestrian access across the footpath must be maintained at all times. Any damage caused will be made good by Council at Council's restoration rates, at the builder's expense.

(32) No materials are to be stored on Council's roads, footpaths or parks.

(33) No opening is to be made in any road or footpath, nor is any hoarding to be erected without the prior consent of Council. The builder is to obtain the relevant permit for which fees will be charged in accordance with Council's current Schedule of Fees and Charges.

(34) The builder shall erect and maintain in good order all necessary hoardings, barricades and warning signs required to provide adequate public safety. Night warning lamps are to be provided where necessary.

(35) Hours of work shall be from 7:00am to 5:30pm Mondays to Fridays inclusive, and from 7:00am to 4:00pm 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.

(36) The approved structure shall not be used or occupied unless an Occupation Certificate (being a Final Certificate or an Interim Certificate) as referred to in section 109C(1)(c) of the *Environmental Planning & Assessment Act 1979* has been issued.

(Vide Section 109M *Environmental Planning & Assessment Act 1979*)

(37) The building works are to be inspected during construction by the Principal Certifying Authority or an appropriate Accredited Certifier authorised by the Principal Certifying Authority at the stages of construction listed in the following schedule. The Principal Certifying Authority must be satisfied that the construction satisfies the standards specified in the Building Code of Australia or in this approval before proceeding beyond the relevant stage of construction.

SCHEDULE OF CONSTRUCTION STAGES REQUIRING INSPECTION

- ✸ After the commencement of the excavation for, and before the placement of, the first footing;
- ✸ Prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building;
- ✸ Prior to covering any stormwater drainage connections; and

- ✸ After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

(38) An application for a Construction Certificate is to be made to Council or an Accredited Certifier. Council's "Construction Certificate Application" form is to be used where application is made to Council. Copies are available upon request. A Construction Certificate must be obtained **prior to the commencement of any building work**.

(39) Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday – electricity, gas, communications and water.

Before you dig call "Dial Before You Dig" on 1100 (listen to the prompts) or register on line at www.1100.com.au for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a backyard renovator, an individual tradesman or a professional excavator, the potential for injury, personal liability and even death exists everyday. Obtaining accurate information about your work site significantly minimises these risks.

Reason: To ensure that essential services such as electricity, gas, communications and water are not affected by excavation or construction works.

(40) All building works being erected wholly within the boundaries of the property.

(41) All sanitary plumbing being concealed in suitably enclosed ducts. Such ducts are to be constructed internally (i.e. not on the outside face of an external wall) and are to be adequately sound-proofed.

(42) All plumbing and drainage work being carried out by licensed tradesmen and in accordance with the requirements of the Plumbing Code of Australia.

(43) The floor of the wet areas being of a material impervious to moisture and graded and drained to the sewers of Sydney Water.

(44) 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.

(45) All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(46) Safety glazing complying with B1.4 of the Building Code of Australia used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with Australian Standard AS 1288–2006: Glass in Buildings - Selection and Installation. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(47) Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with Australian Standard AS 1288-2006, Table 4.5 SAA Glass Installation Code (Human Impact Considerations) and B1.4 of the Building Code of Australia. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(48) Treatment for the protection of the building from subterranean termites must be carried out in accordance with Australian Standard AS 3660.1-2014 “Termite management - New building Work.”

If the method of protection is to be by way of a chemical barrier, it becomes the responsibility of the owner to maintain a suitable maintenance procedure in accordance with the manufacturer's requirements. Such responsibility is placed solely upon the owner.

After treatment the following is to be carried out:-

a. A durable notice must be permanently fixed to the building in a prominent location, such as the meter box, indicating:-

(i) The method of protection.
(ii) The date of installation of the system.
(iii) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label.
(iv) The installer's or manufacturer's recommendation for the scope and frequency of future inspection for termite activity.

b. Provide the Principal Certifying Authority with a Certificate which verifies that termite protection has been provided in accordance with Australian Standard AS 3660.1-2014. In the case of Reinforced Concrete Slab construction the Certificate is to verify that the protection incorporates both beneath slab (Part A) and slab penetrations (Part B) treatment.

Details showing compliance with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(49) A registered surveyor's certificate being submitted to the Principal Certifying Authority, **prior to the issue of an Occupation Certificate**, as follows:-

a. Before pouring of concrete slab on every level to indicate the height of the finished floor level and to show boundary clearances; and

b. On completion of the building to indicate the height of the finished floor levels, the height of the roof ridge/parapet and to show boundary clearances and areas of the site occupied by the building.

(50) Prior to the commencement of building work, the following is to be carried out:-

a. Submit to Council a “Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority” form. Council's “Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority” form is to be used where application is made to Council.

b. Ensure detailed plans and specifications of the building are endorsed with a Construction Certificate by Council or an Accredited Certifier. Council's "Construction Certificate Application" form is to be used where application is made to Council. Copies are available on request.

(Vide Section 81A *Environmental Planning & Assessment Act 1979*)

(51) A "Section 73 Compliance Certificate" under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority **prior to the issuing of an Occupation Certificate**.

(52) Structural engineer's details prepared and certified by a practicing Structural Engineer for all reinforced concrete and structural members being submitted to the Principal Certifying Authority for approval **prior to the issuing of a Construction Certificate**.

(53) The Principal Certifying Authority **or** Structural Engineer is to also supervise the construction. All Certificates from the supervising Structural Engineer are to be submitted to the Principal Certifying Authority before an Occupation Certificate is issued stating that all reinforced concrete and/or structural members have been erected in accordance with his/her requirements and the relevant SAA Codes.

(54) Timber sizes and the framework in general are to conform with the requirements of Australian Standard AS 1684 "Residential timber-framed construction."

(55) Mechanical ventilation/air conditioning details are to be submitted to the Principal Certifying Authority for approval **prior to the issuing of a Construction Certificate** and must include the following:-

a. The location and size of proposed ductwork.

b. The location of equipment.

c. The performance characteristics of the proposed motor/s and fan/s.

d. The air flow characteristics of the system.

At the completion of work a Certificate from an Accredited Certifier, Mechanical Engineer or other suitably qualified person, to the effect that the ventilation system has been installed and performs in accordance with the provisions of Part F4 of the Building Code of Australia, Australian Standard AS 1668 "SAA Mechanical Ventilation and Air Conditioning Code", Part 1 and Part 2, Australian Standard AS 3666-1989 and the *Noise Control Act 1975*, must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

(56) Fire Resistance Levels of all structural members, including external and internal walls, spandrels, external and internal columns, lift shafts and stair shafts, ventilation,

pipe and like shafts, floors and roofs shall comply with the requirements of Specification C1.1 of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(57) All materials used in the building must comply with early fire hazard criteria of Specification C1.10 of the Building Code of Australia.

(58) Means of access and egress complying with Section D of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

(59) The building being provided with both access and sanitary facilities (where required) for people with disabilities. The sanitary facilities are to be provided in accordance with F2.4 of the Building Code of Australia and are to comply with the requirements of Clause 10 of AS 1428.1-2009. Access is to be provided to and within the building so as to comply with all the requirements of Part D3 of the BCA and the relevant provisions of AS 1428.1-2009. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(60) The *Commonwealth Disability Discrimination Act 1992* may apply to this particular proposal. Submissions and/or approval of the application does not imply or confer compliance with this Act. Applicants should satisfy themselves and make their inquiries to the Human Rights and Equal Opportunity Commission.

(61) Continuous balustrades shall be provided along the side/s of any stairway or ramp, any corridor, hallway, balcony, access bridge or the like, any path of access to a building if:-

a. It is not bounded by a wall; and

b. The change in level is more than one (1) metre, or five (5) risers in the case of a stairway, from the floor or ground surface beneath;

except where specific exemptions are provided in the Building Code of Australia.

Balustrades shall prevent as far as practicable:

a. Children climbing over or through it; and

b. Persons accidentally falling from the floor; and

c. Objects which might strike a person at a lower level falling from the floor surface.

Balustrade heights and designs shall comply with Part D2.16 of the Building Code of Australia and Australian Standard AS/NZS 1170 Part 1 – Structural design actions. Height above nosings of stair treads, landing, corridors and the like shall generally be not less than 865mm.

Details of the method of satisfying these requirements must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.

(62) The building being equipped with a smoke alarm system as required by Table E2.2a of the Building Code of Australia. The system is to satisfy the requirements of Specification E2.2a of the Building Code of Australia and in particular is to comply with the relevant parts of AS 3786-2014 and AS 1670.1-2004. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

(63) Protection of openings is to be in accordance with Part C3.2 and C3.4 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**.

(64) Protection of openable windows is to be in accordance with Part D2.24 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**.

(65) A Fire Safety Certificate (copies available from Council) is to be given to the Principal Certifying Authority prior to applying for an Occupation Certificate or Interim 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 properly 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 New South Wales Fire and Rescue **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 153 & Division 3 of the *Environmental Planning & Assessment Regulation 2000*)

(66) Noise transmission and insulation ratings for building elements being in accordance with Specification Part F5 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**.

DEMOLITION

(67) Demolition of the building is to be carried out in accordance with the requirements of Australian Standard AS 2601 – 2001, where applicable.

(68) Hours of demolition work shall be from 7:00am to 5:30pm Mondays to Fridays inclusive, and from 7:00am to 4:00pm Saturdays. No demolition 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.

(69) Access to the site is to be restricted and the site is to be secured when demolition work is not in progress or the site is otherwise occupied.

(70) The demolition site is to be provided with measures to mitigate against dust nuisances arising on adjoining sites and roadways. To achieve this, a fence or barrier is to be erected around the site. The construction may be steel mesh which is

covered with a suitable filtering medium or such other construction acceptable to Council. An effective program of watering the site is also required to be maintained.

(71) All demolition and excavation materials are to be removed from the site or disposed of on site using methods that comply with relevant environmental protection legislation.

(72) When demolition of any existing building is involved, burning of any demolition materials on the site is prohibited.

HEALTH

Environmental Management:

(73) An Environmental Management Plan is to be submitted to Council for approval, prior to the commencement of any works, detailing the control and management methods to be implemented in addressing the following issues during the demolition, excavation and construction phases of the project::

- Noise and vibration control
- Dust and odour suppression and control
- Storm water control and discharge
- Erosion control
- Waste storage and recycling control
- Litter control
- Construction material storage
- Truck cleaning methods on site so as to prevent spread of soil and like materials onto Council's roadways

(74) The construction of windows / sliders, doors, external walls and roofs are to be comply with the assessment and recommendations listed in Parts 4 and 5 of the Acoustic Report (Ref: TH122-01F02 dated 23 December 2014) prepared by Renzo Tonin and associates in order to achieve the required noise reduction targets and levels as specified in AS/NZS 2107:2000 'Acoustics-Recommended Design sound pressure levels and reverberation times for building interiors'

(75) Mechanical plant, ventilation and or air conditioning systems and equipment are to be selected, designed and installed in accordance with recommendations contained in Part 6.2 of the Acoustic Report (Ref: TH122-01F02 dated 23 December 2014) prepared by Renzo Tonin and Associates so that they do not cause any noise nuisance or disturbance to near-by residential or commercial premises.

(76) A car wash area / bay is to be provided at the basement car park level and be graded and drained to a waste water disposal system in accordance with the requirements of Sydney Water.

Waste Management:

(77) All garbage shall be stored in the designated garbage areas, which includes provision for the storage of all putrescible waste and recyclable material emanating from the premises. Adequate natural or mechanical ventilation is required where bins are stored in an enclosed area and meet fire safety standards in accordance with the Building Code of Australia.

(78) 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.

(79) Both residential and commercial garbage and recycling storage areas are to be:

a. Supplied with both **hot and cold** water;
b. Paved with impervious floor materials;
c. Coved at the intersection of the floor and the walls;
d. Graded and drained to a floor waste which is connected to the sewer in accordance with the requirements of Sydney Water;
e. Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
f. Fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

(80) A waste chute system is to be installed in the development for the transport of waste from each residential level of the development to the central waste collection room located at the ground floor level.

(81) Manufactures details and specifications for the installation, fire suppression and health and odour control measures for the garbage chute are to be submitted to Council for approval prior to the issue of the Construction Certificate.

(82) Certification is to be provided by the installer of the chute system prior to the occupation of the building certifying that the chute has been installed in accordance with the manufacturer's specification.

(83) The garbage chute room at each level is to be of sufficient size to accommodate sufficient mobile bins (MGB'S) / crates to store recyclable material generated over the entire period between collection days.

(84) 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.

(85) A Caretaker is to be appointed for the development who will have ongoing responsibility for the proper management of the waste and recycling services.

(86) A separate area (minimum 15 square meters) is to be nominated at the ground floor level within the development for the holding of large bulky waste material which is to be collected as part of Council's clean up service.

(87) All waste collections are to be carried out from within the building (not from the kerb side). The caretaker is to wheel the waste and recycling bins to the nominated bin holding area for collection.

(88) The applicant shall provide to Council a legally drafted agreement at their own expense in the form approved by Council which gives right of access and absolves Council and / or any of its waste collection contractors from any damage or injury that may arise from the onsite collection of waste and recyclables.

(89) The building access road and loading dock is to be designed to enable a fully laden waste collection vehicle to be able to access the site and carry out collections within the building.

(90) Residential and commercial waste and recycling collections are to be carried out in a manner and at times which do not cause a noise nuisance to the immediate or nearby residents.

Note; Council reserves the right to issue a direction under the Protection of the Environment Operations Act to address any noise or other nuisance complaints.

(91) 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.

(92) Prior to the issue of the Occupation Certificate, the applicant is to arrange with Council's Environment and Health Section the issue of the appropriate number of garbage and recycling bins and payment of the necessary fees to enable commencement of the waste and recycling service.

ENGINEERING

(93) A detailed drainage design shall be submitted to the Principal Certifying Authority.

a. The design and calculations shall indicate the details of the proposed method of stormwater disposal and shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code.

b. Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.

c. Overflow paths shall be provided to allow for flows in excess of the capacity of the pipe/drainage system draining the site, as well as from any on-site stormwater detention storage.

d. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering **prior to the issuing of a Construction Certificate.**

(94) Details and calculations shall be prepared by a competent practicing Hydraulic/Civil Engineer. They shall include:

a. a catchment plan

b. plans showing proposed and existing floor, ground and pavement levels to Australian Height Datum (AHD)

c. details of pipelines/channels showing calculated flows, velocity, size, materials, grade, invert and surface levels

d. details and dimensions of pits and drainage structures

e. hydrologic and hydraulic calculations

f. details of any services near to or affected by any proposed drainage line

g. any calculations necessary to demonstrate the functioning of any proposed drainage facility is in accordance with Council's requirements

h. the depth and location of any existing stormwater pipeline and/or channel being connected to shall be confirmed by the applicant on site. Certification of such is to be provided to Council prior to the release of the construction certificate

The details and calculations are to be reviewed by Council or an Accredited Certifier - Civil Engineering**, prior to the issuing of a Construction Certificate**.

(95) On-site stormwater detention storage shall be provided in conjunction with the stormwater disposal system.

a. This storage shall be designed by a competent practicing Hydraulic/Civil Engineer in accordance with Council's Stormwater Management Code and submitted to the Principal Certifying Authority.

b. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering, **prior to the issuing of a Construction Certificate.**

(96) A Positive Covenant under section 88E of the *Conveyancing Act* shall be created on the title of the property(s) detailing the

i) On-site Stormwater Detention system
ii) Pump and rising main system

incorporated in the development. The wording of the Instrument shall include but not be limited to the following:

a. The proprietor of the property agrees to be responsible for keeping clear and the maintenance of the facilities consisting of:

i) On-site Stormwater Detention system
ii) *Pump and rising main system*

b. The proprietor agrees to have the facilities inspected annually by a competent practicing Hydraulic/Civil Engineer.

c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean repair and maintain in good working order the facilities in or upon the said land; and recover the costs of any such works from the proprietor.

d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from failure of any component of the facilities.

The applicant shall bear all costs associated with the preparation of the 88E Instrument. The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at the Land and Property Information office. Evidence that the Instrument has been registered at the Land and Property Information office shall be submitted to Council, **prior to issuing of an Occupation Certificate**.

(97) The pump system is only permitted for the drainage of the basement areas where the finished slab is below the ground level. The following conditions are to be satisfied:

a. A pump and rising main design shall be submitted to the Principal Certifying Authority and shall satisfy the following conditions:

(i) The holding tank for the pump shall be capable of storing runoff from a one hour, 1 in 100 year ARI storm event.

(ii) The pump system shall consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the lower of the allowable on site detention discharge rate, or the rate of inflow for the one hour duration storm.

(iii) An overflow, flashing light and audible alarm are to be provided, to warn of pump failure.

(iv) Full details of the holding tank, pump type, discharge rate and the delivery line size are to be documented.

(v) Any drainage disposal to the street gutter, from a pump system must have a stilling sump provided at the property line, and connected to the street gutter by a suitable gravity line.

(vi) The capacity of the stilling sump and outlet pump shall be determined and verified by calculations which are to be documented.

b. Pumping system details shall be submitted to Council or an Accredited Certifier - Civil Engineering, **prior to the issuing of a Construction Certificate.**

c. The applicant shall submit written evidence to the Principal Certifying Authority that a contract has been let for the regular maintenance of the pumping system for a minimum period of 12 months. Information to be submitted to the Principal Certifying Authority **prior to issuing of an Occupation Certificate**.

(98) All activities and works external to the site, or that affect public roads, are to be carried out in accordance with Council's Policies including but not limited to the Works on Council's Road Reserve Assets Policy, Rubbish Skips Policy, Work Zone Policy and Temporary Road Closure (Including Standing Plant) Policy.

(99) A road-opening permit shall be obtained for all works carried out on public or Council controlled lands. Restoration of landscaping, roads and paths shall be carried out by Council at the applicant's expense in accordance with Council's **Schedule of Fees and Charges**. The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of $20 million, and shall provide proof of such cover to the Principal Certifying Authority prior to carrying out the works. **Please see Burwood Council's web site www.burwood.nsw.gov.au - Go to Development/Working on Footpaths or Roadways?/Works on Council Property (Application Form)**.

(100) Spoil and building materials shall not be placed, stored, thrown or caused to fall on any public roadway or footpath. Waste containers shall be placed in accordance with Council's Rubbish Skips Policy. Contact Council for a list of approved skip bin suppliers.

(101) The builder is to ensure footpaths and roads affected by construction works are kept safe and prevent any damage to Council property. The builder shall erect and

maintain where necessary approved hoardings, barricades, warning signs and night warning lamps to ensure public safety. Pedestrian access across the footpath must be maintained at all times.

(102) 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.

(103)

a. Temporary measures shall be provided during demolition, excavation and/or construction to prevent sediment and polluted waters discharging from the site.

b. An erosion and sediment control plan showing such measures shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Supplement 10 of Council's Stormwater Management Code.

(104) All demolition and excavation materials are to be removed from the site or disposed off site using methods that comply with relevant environmental protection legislation.

(105) Vehicles removing demolished materials from the site shall access and depart from the site through Dunns Lane and Burwood Road to Parramatta Road. Vehicles involved in removing materials from the site shall be limited to an 8 tonne gross weight per axle.

(106) Flood Mitigation:
Council's Hydraulic Study report indicates that significant overland flow can occur in 100 year ARI and PMF storm events from Elsie Street into Victoria Street East across the existing building site. There appears to be a flood risk at the point where the pipe passes from Elsie Street to John Street and where it runs under the existing low vehicle entrance. <u>The Applicant is required to install humps on vehicle entrances to give clearance of 150mm above expected 100 yrs ARI water levels</u>

(107) Stormwater Drainage:
Reference is made to the above DA and the stormwater drainage plan no. 111841-00-MIE000, 100,101 rev. B submitted by the applicant.

The applicant shall address the following and submit to Council updated plans **prior to issue of the construction certificate.**

- The discharge control pit of the OSD system shall be designed to control outflow for all storm events from 2, to 100 years ARI. Detailed calculations shall be provided for orifices (at different levels) for lower and higher discharges.

- The applicant shall pay Council a stormwater works bond as listed in the Table of Fees for stormwater connection to Council's pit. The bond shall be refunded after completion of the stormwater connection works done to Council's satisfaction.

- An erosion and sediment control plan shall be prepared by a qualified practicing civil/hydraulic engineer in accordance with supplement 10 of Council's stormwater Code in order to prevent sediment and polluted water discharging from the development site.

Engineering drawings addressing the above issues shall be provided for Council's review **prior to issuing of the Construction Certificate.**

TRANSPORT, TRAFFIC AND PARKING

(108) All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes.

(109) 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***.

(110) A minimum of 131 off-street car 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.

(111) 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) 64 residential parking spaces.
(b) 13 visitor parking spaces.
(c) 70 commercial parking spaces (1 space to be marked as allocated for use by the café and kiosk premises).

(112) No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or trailers.

(113) Visitor parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors.

(114) All visitor parking spaces must be grouped together, and located at the most convenient location to the car parking entrance. All spaces must be clearly marked 'visitor' prior to the issue of an Occupation Certificate. All signs must be maintained in

good order at all times. The accessible visitor parking spaces are to be relocated closer to the residential lifts.

(115) Where a boomgate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry and at least 6m clear of the property boundary, wired to all units. The intercom must comply with '*Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23*'.

(116) Of the required car parking spaces, at least 9 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.

(117) Where a car park is serviced by lifts, accessible spaces for people with mobility impairment are to be located close to lifts. Where a car park is not serviced by lifts, accessible spaces for people with mobility impairment are to be located at ground level, or accessible to ground level by a continually accessible path of travel, preferably under cover.

(118) 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.

(119) The site must be configured to allow a vehicle to be driven onto and off the site in a forward direction.

(120) A system of traffic mirrors must be installed at the ends of any ramp, to indicate traffic movement on the ramp.

(121) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

(122) At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(123) Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Traffic Committee prior to any work commencing on site.

(124) All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with any relevant Australian Standards, Austroads Guides and RMS Technical Directions.

(125) All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

(126) Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

(a) A plan view of the entire site and frontage roadways indicating:

i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
iii) The proposed locations of work zones where it is not possible for loading/unloading to occur on the site in the frontage roadways (which will require separate approval by Council).
iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site (which will require separate approval by Council).
v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
vi) Details of vertical and horizontal material handling and deliveries.
vii) Any on-site parking area for employees, tradespersons and construction vehicles where possible.
viii) Traffic routes to and from the site from the closest atrial road in all directions.

(b) Traffic control plan(s) for the site must be in accordance with the Roads and Maritime Services publication “Traffic Control Worksite Manual” and prepared by a suitably qualified person. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

(127) Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)

i) Work zone.
ii) Temporary closure of roadway/footpath.
iii) Mobile crane or any standing plant
iv) Scaffolding/Hoardings (fencing on public land)
v) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc.
vi) Installation or replacement of private stormwater drain, utility service or water supply