

# 05 STATEMENT OF ENVIRONMENTAL EFFECTS

5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

DRAFT FOR REVIEW

STATEMENT OF ENVIRONMENTAL EFFECTS

PREPARED FOR KAPAU HOLDINGS PTY LTD

DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT  
BURWOOD GRAND - BELMORE STREET, CONDER STREET AND  
WYNNE AVENUE, BURWOOD

JULY 2016

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### 1. INTRODUCTION

#### 1.1 Introduction

This Statement of Environmental Effects (SEE) has been prepared for Kapau Holdings by DesignInc Sydney, to accompany a development application for the excavation of basement car parking and construction of a mixed use retail, commercial office and residential building on land bounded by Belmore Road, Conder Street and Wynne Ave, Burwood. The development application seeks approval for the following:

- provision of four basement car park levels;
- 2 storey podium including retail, commercial uses;
- 11 storey office/residential apartment building facing Conder Street (Building A);
- 22 storey residential apartment tower facing Belmore Street (Building B)
- 19 storey residential apartment building facing Wynne Ave (Building C);
- 491 residential apartments
- 679 basement car spaces
- 1,963m<sup>2</sup> retail/ 4,036m<sup>2</sup> commercial space

The SEE has been prepared with reference to the material drawings and reports contained in Appendix 1 to 19 and the accompanying Architectural Design Report.

The SEE provides an overview of the site and its context, a detailed description of the proposed development, the planning framework and an environmental assessment of the development.

#### 1.2 Background

On the 17th October 2013 Burwood Council granted conditional planning consent (DA No.311/2013) to Kapua Holdings on the subject site for a mixed use retail, commercial (serviced apartment) and residential building. The approved mixed use development comprising commercial and retail podium, 90 serviced apartments, 332 Residential Apartments in 3 towers and 530 basement car spaces, with an overall FSA of 41,800m<sup>2</sup> which equates to an FSR of 4.12:1

The current proposed urban form closely follows that of the approved DA in relation to the scale and position of the podium and the three towers above. The proposed building provides the following variations to the approved DA:

- Addition of 4,036m<sup>2</sup> of office space in Building A;
- Change of apartment use in Building A from approved serviced apartments to residential apartments;
- Addition of three office floors and one additional apartment floor to Building A (currently approved at 10 storey, proposed to be 11 storeys); four additional floors to Building B (currently approved at 18 storey proposed to be 22 storey) and one additional floor level to Building C (approved at 18 storeys proposed to be 19 storeys);

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- Increase the overall FSA to 48,461m<sup>2</sup> which equates to an FSR of 4.77:1
- It is noted that the overall increase in FSR is 0.65:1 a percentage increase of 15.7% (an increase in FSA of 6,661m<sup>2</sup>)

The proposed variations from the approved DA to the current application (office use, additional levels to Buildings A, B and C and resultant FSR increase, use change to residential apartments from serviced apartments) are the result of discussions between representatives of Kapau Holdings and Burwood Council in relation to the application of Burwood Council’s bonus floor space policy “Carrying out Bonus Development in Exchange for Public Benefits’ (Bonus Policy) adopted by Council on 27 April 2015 to the site.

The Bonus Policy allows developments a maximum bonus of up to 10% FSR for development in the Burwood Town Centre Commercial Core and Middle Ring areas. The eastern portion of the subject site is within the Middle Ring area of the Town Centre.

The Policy provides a list of items that can be voluntarily offered by the developer to satisfy the definition of ‘public interest’. In the case of the subject application the public interest is in the form of the public benefit of providing 4,036m<sup>2</sup> office space and 55 car spaces in Building A on Conder Street for the use of Council, as well as enhanced public domain to the forecourt of the office space and Masonic Temple and extension of the landscaped public walkway from Wynne Avenue to Conder Street.

A draft Voluntary Planning Agreement (VPA) has been prepared outlining the detail of providing this public benefit. The VPA is to be exhibited concurrently with this development application.

It is noted that while the overall increase in FSR is in excess of the 10% limit set by the Bonus Policy, the unique characteristics of the consolidated site and Council’s desire to locate their office space linked to the Council Library on Conder Street, requires the application of Clause 4.6 of the Burwood LEP 2012, to address the technical non-compliance in relation to the FSR and building height for the proposed development.

## 2. THE SITE

### 2.1 Site Description

The subject site represents an urban block in the Burwood Town Centre. It consists of 17 separate allotments. The allotments have been acquired by the owner Kapau Holdings Pty Ltd over a number of years to create the single consolidated site of 10,149m<sup>2</sup>.

The site comprises land bound by Belmore Street to the south, Conder Street to the west; Wynne Ave to the east and to the north, the site abuts the eastern section (cul de sac) of Hornsey Street opposite the vacant Burwood Council Building and the single storey car park serving the Telstra office Building fronting Railway Parade.

The site is essentially an island site consisting of 17 lots, comprising a 1.0149 hectare parcel of land. The site falls into two Areas under the Burwood DCP, the western portion of the site, bounded by Conder Street, Hornsey Street and the western section of Belmore road with an area of 2586m<sup>2</sup> is

defined as being within the ‘Perimeter Area’ (called ‘Site A’ in this proposal), The eastern portion of the site bounded by Wynne Ave and Belmore Street with an area of 7563m<sup>2</sup> is defined as land within the ‘Middle Ring Area’ of the DCP (called ‘Site B’ in this proposal)

**Site A** consists of five lots listed as Lots 1 to 5 DP27194.

**Site B** consists of 12 Lots as follows (refer to Figure 03 in the Architectural Design Report prepared by Kann Finch):

Lots 1 and 2 DP309715, Lots 1 and 3 DP203745, S.P. 3427, Lot A DP32257, Lots 12, 13 and 14 DP10184, Lot 11 DP790324, Pt1 DP1156877, Lot 2 DP11156877

The site has been largely cleared in preparation for redevelopment under the current approval. The heritage listed Masonic Temple at 47 Belmore Street on the subject site has been retained as it forms an integral part of the current approved DA for the site (DA No.3112013).

### 2.2 Site Context

The site sits on the south western periphery of the Burwood Town Centre on the southern side of the railway line and Burwood Station. The site has excellent access to the retail, entertainment and commercial precinct of Burwood Town Centre. In terms of the surrounding transport network, the site benefits from being located in close proximity to Burwood Railway Station which is approximately 500m, within a five minute walking distance.

A detailed description of the local context adjoining including the adjoining properties is provided in the Section 02 of the Design Report.

#### 2.2.1 Strategic Context

Burwood is situated in inner western metropolitan Sydney, approximately 11km west of the Sydney Central Business District (CBD). Burwood Local Government Area (LGA) forms part of the Inner West Subregion under the NSW Governments Metropolitan Plan for Sydney 2036 and is nominated as a major centre.

The site is located in the south western portion of the Burwood Town Centre. It has excellent access to the retail, entertainment and commercial precinct of Burwood. In terms of the surrounding transport network, the site benefits from being located in close proximity to Burwood Railway Station which is within approximately 500m of the site, a five minute walking distance;

By locating higher density development close to public transport nodes, metropolitan targets for the reduction of private vehicle usage and resultant greenhouse emissions can be achieved. The site offers the opportunity to provide higher densities with minimal environmental impact upon surrounding properties.

The strategic planning context recognises the opportunity to maximise urban consolidation and urban renewal objectives on infill sites by increasing the provision of additional high quality and

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affordable housing on a site, which is well connected to employment, public transport, shopping and entertainment and community facilities. The strategic policy objectives outlined in the Metropolitan Plan for Sydney 2036 encourage the location of new housing close to existing centres and public transport.

The site is well connected to the arterial road network including the Parramatta Road, Liverpool Road and the M4 Motorway. The site’s access to good transport links, both by rail and by motor vehicle means that it is approximately 20 minutes travelling time to the Sydney CBD and 30 minutes to Sydney Airport.

3. DESCRIPTION OF THE PROPOSAL

- provision of four basement car park levels;
- 2 storey podium including retail, commercial uses;
- 11 storey office/residential apartment building facing Conder Street (Building A);
- 22 storey residential apartment tower facing Belmore Street (Building B)
- 19 storey residential apartment building facing Wynne Ave (Building C);
- 491 residential apartments
- 679 basement car spaces
- 1,963m² retail/ 4,036 m² commercial space

A detailed breakdown of the proposed development is provided below (also refer to Architectural Drawings in Appendix 1).

SITE A

Building A (office and residential apartments)

- -three office levels and eight residential apartment levels; ( total 11 floors)
- -total office FSA 4,036m²
- -total apartment FSA 7,528m²
- - total retail area FSA 257 m²
- -total 88 apartments
- -requires 158 parking spaces (55 for office, 88 for residents and 15 for visitors)

SITE B

Building B ( residential apartments)

- -four additional floor levels ( total 22 floors)
- -total residential FSA 19,125m²
- -total retail FSA 555m²
- Total Masonic Temple FSA 168m²
- -revised total 218 residential apartments
- -requires 305 parking spaces ( 226 for residents, 38 visitors and 41 retail)

- **Building C (residential apartments)**
- -one additional floor level ( total 19 floors)
- -total residential FSA 15,809m²
- -total retail FSA 983 m²
- -revised total 185 residential apartments
- -requires 216 parking spaces (185 for residents and 31 visitors)

FSA/FSR calculations

SITE A

Site Area 2586m²	
• Residential FSA	7,528m²
• Commercial FSA	4,036m²
• Retail FSA	257m²
• <b>Total FSA</b>	<b>11,821m²</b>
• <b>Total FSR</b>	<b>4.57:1 (residential 2.91:1, office 1.56:1, retail 0.10:1)</b>

SITE B

Site Area 7563m²	
• Residential FSA	34,934m²
• Retail FSA	1538m²
• Masonic Temple FSA	168m²
• <b>Total FSA</b>	<b>36640m²</b>
• <b>Total FSR</b>	<b>4.84:1 (residential 4.62:1, retail 0.20:1, Masonic Temple 0.02:1)</b>

TOTAL SITE (Sites A and B)

Site Area 10149m²	
• Residential FSA	42,462m²
• Commercial FSA	4,036m²
• Retail FSA	1795m²
• Masonic FSA	168 m²
• <b>Total FSA</b>	<b>48,461m²</b>
• <b>Total FSR</b>	<b>4.77:1 (4.18:1 Residential, 0.59:1 non residential)</b>

Refer to the area summary table in **Appendix 5** and Architectural Design Report.

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A detailed description of the site, design response and the development proposal is provided under Sections 2 and 3 of the Architectural Design Report prepared by Kann Finch (Design Report).

## 4. ASSESSMENT UNDER S79C OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

### STATUTORY PLANNING FRAMEWORK AND ENVIRONMENTAL ASSESSMENT

In accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 (as amended) the following section provides an appraisal of the proposed development having regard to the statutory planning instruments that apply to this site.

#### 4.1 Environmental Planning Instruments

##### 4.1.1 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1) of the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that Council cannot consent to development on the land unless:

"(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."

#### Comment

In compliance with the requirements of SEPP 55 a Phase 1 Contamination Assessment of the site was carried out by Douglas Partners (**Appendix No.19**). The report concludes:

*The site history review indicated that potentially-contaminating commercial and industrial activities are unlikely to have been undertaken on the site in the past. The eastern and western portions of the site are currently used as carpark areas which has the potential to result in hydrocarbon contamination, although this would only be expected to occur on the surface and in the near-surface soils.*

*All soil samples from the current assessment were below the HILs adopted for the site apart from two samples which exhibited high concentrations of Benzo(a)pyrene. This contaminant was found to be non-leachable and likely to be due to the presence of ash/charcoal in the filling. Statistical analysis of the results indicate an average concentration of 0.9 mg/kg, a standard deviation of 1.7 mg/kg and a 95% upper confidence limit (UCL) of 2.8 mg/kg. On this basis the concentrations of Benzo(a)pyrene are considered acceptable for the proposed land use.*

*A large proportion of the site will be excavated into shale bedrock for the purposes of constructing a basement. The contaminant concentrations in the filling and soils are therefore somewhat irrelevant*

*from a land-use perspective in areas of the site in which excavation is proposed. The filling in the three locations in which heavy metal concentrations exceeded the PPILs should not be used to support plant growth and should be removed from proposed garden areas, if applicable.*

*The current buildings may contain asbestos materials and will probably contain lead-based paints. It will be important that demolition activities are undertaken in such away so as to avoid cross contamination of the underlying soils with these products. **On the basis of the current assessment, the soils on the site are considered suitable for the proposed development.***

##### 4.1.2 SEPP (Building Sustainability Index: Basix) 2004

This SEPP operates in conjunction with the Environmental Planning and Assessment Amendment (Building Sustainability Index BASIX) Regulations 2004 to ensure the effective introduction of Basix into NSW.

SEPP (Building Sustainability Index BASIX) 2004 ensures residential development is responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for houses and units.

The proposed development has been assessed in accordance with the relevant requirements under Basix with compliance certificates for each apartment building provided in **Appendix 14**.

##### 4.1.3 SEPP (INFRASTRUCTURE) 2007

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) requires referral of a Schedule 3 development to the Roads and Maritime Services (RMS, formerly the RTA) where the development is of a "relevant size or capacity". The subject development includes 491 residential apartments and thereby the development application is required to be referred to the RMS.

##### 4.1.4 State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 was amended on 17 July 2015. The SEPP applies to all residential apartment development of three storeys or more and with four or more dwellings. Pursuant to SEPP 65, an Architectural Design Verification Statement in relation to the proposed design has been prepared by Kann Finch and is provided in section 4.2 of the Design Report.

The proposed development has been assessed against the nine Design Quality Principles contained under SEPP 65 in Section 4.1 of the Design Report. **The assessment indicates that the proposed development maintains and supports the Design Quality Principles of the SEPP.**



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4.1.5 Burwood Local Environmental Plan 2012

The Burwood Local Environmental Plan 2012 (BLEP 2012) is the applicable planning instrument for the subject site.

Burwood LEP 2012

Control	Compliance	Comment
<b>Zone B4 Mixed Use</b> <b>1 Objectives of zone</b> <ul style="list-style-type: none"><li>To provide a mixture of compatible land uses.</li><li>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li><li>To encourage the provision of affordable housing.</li></ul> <b>2 Permitted without consent</b> Attached dwellings; Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Group homes; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4 <b>3 Permitted with consent</b> Agriculture; Air transport facilities; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Rural supplies; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water storage facilities; Water treatment facilities; Wharf or boating facilities; Wholesale supplies	Complies	The proposed development consists of residential, office and retail uses which are permissible under the B4 Mixed Use zoning and support the objectives of the zone.
<b>4.1 Minimum subdivision lot size</b> (1) The objectives of this clause are as follows: (a) to ensure lots are not smaller than a size that will adequately support development envisaged under this Plan, (b) to prevent the proliferation of small lots which might otherwise inhibit site consolidation, (c) to encourage the consolidation of lots, (d) to restrict opportunities for the creation of small isolated lots. (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.	Complies	The proposed development involves the consolidation of 17 lots in compliance with this clause (refer to site consolidation plan in Figure 3 of the Architectural Design Report).

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land. (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.		
<b>4.3 Height of buildings</b> (1) The objectives of this clause are as follows: (a) to establish the maximum height of buildings to encourage medium density development in specified areas and maintain Burwood’s low density character in other areas, (b) to control the potentially adverse impacts of building height on adjoining areas. (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	See Comment	<p>The LEP Height of Buildings Map indicates permissible heights of 60 metres above ground in zone ‘AA1’ (the western sector of the site – ‘Site B’) and 30 metres in the ‘U’ (eastern sector of the – Site ‘A’).</p> <p>‘Building A’ exceeds the 30m height plane control by between 6.4 and 7.0 metres measured to the roof parapet. However, it is noted that the building does not penetrate the 54 degree Building Height Plane (BHP) from Condor Street. This is due to increased setbacks and modelling of the building.</p> <p>‘Building B’ exceeds the 60 metre height plane control by 11.0 to 12.0 metres The building does not penetrate the 33 degree Building Height Plane (BHP) from Belmore Street due to the upper level setbacks and modelling of the building.</p> <p>‘Building C’ exceeds the 60 metre height plane control by 1.6 to 4.0 metres. The building does not penetrate the Belmore Street 33 degree Building Height Plane (BHP).</p> <p>The building heights have been developed and modelled based on an analysis of the most effective built form outcome for the Town Centre utilising the opportunities offered by the large consolidated site. It is noted that while the proposed design includes height non-compliances the overall design has been modelled to minimise potential adverse impacts in relation to the additional height on adjoining areas.</p> <p>In particular, it is noted that the shadow profile of the proposed buildings will have minimal additional impact on surrounding buildings compared to the permissible envelopes prescribed by the Burwood LEP and DCP (refer to the comparative shadow analysis in Section 3.7 of the Design Report).</p> <p>This technical non- compliance above is addressed under Clause 4.6 ‘Exceptions to Development standards’ below.</p>
<b>4.3A Exceptions to height of buildings</b> (1) The objectives of this clause are as follows: (a) to focus greater building height in the inner part of the Burwood Town Centre and to provide a transition in heights towards the edge of the Burwood Town Centre, (b) to mitigate any adverse effects on the amenity of existing and future residents living adjacent to the Burwood Town Centre, (c) to limit building heights to facilitate adequate solar access to	See comment	<p>The Height Plane Map identifies that the subject site is subject to compliance with Western ‘Building Height Plane’ (BHP) (Conder Street) and Southern Building BHP (property boundary between Belmore St and Livingstone St).</p> <p>The proposed buildings compliance with the relevant BHP’s are reviewed under section 3.8 of</p>

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land adjoining the Burwood Town Centre. (2) Despite clause 4.3, the height of a building on land marked “Area A” on the Height of Buildings Map is not to exceed the building height plane for that land. (3) In this clause: <b>building height plane</b> or <b>BHP</b> means a plane: (a) commencing at a building height plane line shown on the Building Height Plane Map and referred to in Column 1 of the Table to this clause and at the height above ground level (existing) as shown opposite in Column 2 of that Table, and (b) projected at the angle measured above the horizontal as shown opposite in Column 3 of that Table, and(c) having the general orientation as shown opposite in Column 4 of that Table. <b>Column 1 Column 2 Column 3 Column 4</b> <b>BHP line symbol BHP line height BHP projected angle</b> <b>BHP general orientation</b> A 1.0 metre 54 degrees East of BHP line B 1.8 metres 54 degrees East of BHP line C 1.0 metre 36 degrees West of BHP line D 1.0 metre 33 degrees North of BHP line E 1.8 metres 33 degrees North of BHP line		the Design Report. The review indicates the following: <b>Building A</b> on Conder Street is within the BHP control; <b>Buildings B</b> on Belmore Street is within the BHP control, <b>Building C</b> on Belmore Street is within the BHP control.  Given that the proposed design of all buildings complies with the BHP on Belmore and Conder Street, it is considered that the proposed development meets the primary objectives of this clause with the shadow analysis indicating that the proposed building heights will facilitate adequate solar access to land adjoining the Burwood Town Centre.
<b>4.4 Floor space ratio</b> (1) The objectives of this clause are as follows: (a) to enable development density and intensity of land use to achieve an appropriate urban form, (b) to focus higher development density and intensity of land use in the inner part of the Burwood Town Centre and to provide a transition in development density and intensity of land use towards the edge of the Burwood Town Centre. (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. (2A) For the purposes of calculating the floor space ratio of a building, any part of a building (whether located at, above or below ground level (existing)) that is used for public car parking, and was owned or was operated by or on behalf of the consent authority on 10 May 2010, is to be excluded from the building’s gross floor area.	See comment	The LEP Floor Space Ratio Map indicates that the western portion of the subject site, designated area ‘V’ has a permissible FSR of 3.0:1, The eastern portion designated ‘Y’ ‘Area 2’ has a maximum FSR of 4.5:1 with a maximum 3.0:1 residential use FSR.  The Area Summary table in <b>Appendix 05</b> provides a breakdown of the proposed FSR by use and by designated site.  The figures indicate that:  Site area ‘V’ has an area of 2,586m <sup>2</sup> . The proposed development (Tower A) in this site area provides a residential FSA of 7,528m <sup>2</sup> and commercial office FSA 4,293m <sup>2</sup> (retail, office). This represents a total FSR of 4.57:1, an exceedance of 1.57:1 (FSA 4,060m <sup>2</sup> ).  Site area ‘Y’ has an area of 7563m <sup>2</sup> . The proposed development (Towers B and C) in this site area provides a residential FSA of 34,934m <sup>2</sup> and retail area of 1,538m <sup>2</sup> office, 168m <sup>2</sup> Masonic Temple). This represents a total residential FSR of 4.62:1 and a non FSR of 0.22:1 representing a total FSR of 4.84:1 and exceedance of 0.34:1 (FSA 2571m <sup>2</sup> ).  It is noted that the overall consolidated site provides an FSR of 4.77:1 consisting of the following:  4.18:1 Residential 0.59:1 Non residential  The technical non- compliance above is addressed under Clause 4.6 ‘Exceptions to Development standards’ below.
<b>4.4A Maximum residential floor space ratio</b>	See Comment	The eastern portion of the subject site is located in

(1) The objective of this clause is to limit the density of residential development in certain business zones to ensure it does not dominate non-residential development in those zones. (2) Despite clause 4.4, the floor space ratio for a dwelling house on land in Zone R2 Low Density Residential with a site area of more than 500 square metres is not to exceed 0.52:1. (3) Despite clause 4.4, the ratio of the gross floor area of any part of a building used for the purpose of residential accommodation to the site area must not exceed: (a) 2.0:1—if the building is on land identified as “Area 1” on the Floor Space Ratio Map, (b) 3.0:1—if the building is on land identified as “Area 2” on the Floor Space Ratio Map, (c) 2.7:1—if the building is on land identified as “Area 3” on the Floor Space Ratio Map, (d) 2.3:1—if the building is on land identified as “Area 4” on the Floor Space Ratio Map, (e) 2.2:1—if the building is on land identified as “Area 5” on the Floor Space Ratio Map, (f) 1.4:1—if the building is on land identified as “Area 6” on the Floor Space Ratio Map, (g) 0.2:1—if the building is on land identified as “Area 7” on the Floor Space Ratio Map, (h) 1.8:1—if the building is on land identified as “Area 8” on the Floor Space Ratio Map.		“Area 2”. Under sub clause (3)(b) the maximum FSR for residential use in this area is 3.0:1. As discussed above the proposed residential FSR in this zone is 4.62:1 exceeding the permissible residential FSR by 1.62:1.  The technical non- compliance above is addressed under Clause 4.6 ‘Exceptions to Development standards’ below.
<b>4.5 Calculation of floor space ratio and site area</b> (1) <b>Objectives</b> The objectives of this clause are as follows: (a) to define <b>floor space ratio</b> , (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to: (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and (iii) require community land and public places to be dealt with separately. (2) <b>Definition of “floor space ratio”</b> The <b>floor space ratio</b> of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. (3) <b>Site area</b> In determining the site area of proposed development for the purpose of applying a floor space ratio, the <b>site area</b> is taken to be: (a) if the proposed development is to be carried out on only one lot, the area of that lot, or (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out. In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.	Noted	The FSR was calculated based on these requirements.



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<p>(4)</p> <p><b>Exclusions from site area</b></p> <p>The following land must be excluded from the site area:</p> <p>(a) land on which the proposed development is prohibited, whether under this Plan or any other law,</p> <p>(b) community land or a public place (except as provided by subclause (7)).</p> <p>subclause (7)).</p> <p>(5)</p> <p><b>Strata subdivisions</b></p> <p>The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.</p> <p>(6)</p> <p><b>Only significant development to be included</b></p> <p>The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.</p> <p>(7)</p> <p><b>Certain public land to be separately considered</b></p> <p>For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.</p> <p>(8)</p> <p><b>Existing buildings</b></p> <p>The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.</p> <p>(9)</p> <p><b>Covenants to prevent “double dipping”</b></p> <p>When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.</p> <p>(10)</p> <p><b>Covenants affect consolidated sites</b></p> <p>If:</p> <p>(a) a covenant of the kind referred to in subclause (9) applies to</p>	
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<p>any land (<b>affected land</b>), and  (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development, the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.  (11)  <b>Definition</b>  In this clause, <b>public place</b> has the same meaning as it has in the <i>Local Government Act 1993</i>.</p>		
<p><b>4.6 Exceptions to development standards</b>  (1) The objectives of this clause are:  (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and  (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.  (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.  However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.  (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:  (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and  (b) that there are sufficient environmental planning grounds to justify contravening the development standard.  (4) Consent must not be granted for development that contravenes a development standard unless:  (a) the consent authority is satisfied that:  (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and  (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and  (b) the concurrence of the Director-General has been obtained.  (5) In deciding whether to grant concurrence, the Director-General must consider:  (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and  (b) the public benefit of maintaining the development standard, and (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.  (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot</p>	<p>See Comment</p>	<p>A written request to vary the development standards contained under the following Clauses of the BLEP 2012:  Clause 4.3 Height of Buildings;  Clause 4.4 Floor Space Ratio;  Clause 4.4A Maximum Residential FSR.  The proposed non compliances are addressed under the relevant sub clauses under Clause 4.6 below in Section 4.1.6.</p>

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<p>Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p> <p><b>Note.</b> When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.</p> <p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).</p> <p>(8) This clause does not allow consent to be granted for development that would contravene any of the following:</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated,</p> <p>(c) clause 5.4.</p> <p>(ca) clause 4.3A (2).</p>		
<p><b>5.1 Relevant acquisition authority</b></p> <p>(1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the <i>Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)</i>.</p> <p><b>Note</b></p>	N/A	
<p><b>5.1A Development on land intended to be acquired for public purposes</b></p> <p>(1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.</p> <p>(2) This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the relevant authority of the State specified for the land in clause 5.1.</p> <p>(3) Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 2 of that Table.</p>	N/A	
<p><b>5.6 Architectural roof features</b></p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that development which will contribute to the aesthetic quality of the Burwood Town Centre is not restricted by the height controls of this Plan,</p> <p>(b) to create variety in the Burwood Town Centre skyline and urban environment,</p> <p>(c) to promote architectural design excellence.</p> <p>(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 or a building height plane under clause 4.3A may be</p>	Complies	The proposed towers incorporate architectural roof features designed to provide variety to the Burwood skyline and architectural interest to the individual towers. This is discussed in greater detail in Section 3 of the Architectural Design Report.

<p>carried out, but only with consent.</p> <p>(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:</p> <p>(a) the architectural roof feature:</p> <p>(i) comprises a decorative element on the uppermost portion of a building, and</p> <p>(ii) is not an advertising structure, and</p> <p>(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and</p> <p>(iv) will cause minimal overshadowing, and</p> <p>(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.</p>		
<p><b>5.9 Preservation of trees or vegetation</b></p> <p>(1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.</p> <p>(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.</p> <p><b>Note.</b> A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.</p> <p>(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:</p> <p>(a) development consent, or</p> <p>(b) a permit granted by the Council.</p> <p>(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.</p> <p>(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.</p> <p>(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.</p> <p>(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:</p> <p>(a) that is or forms part of a heritage item, or</p> <p>(b) that is within a heritage conservation area.</p> <p><b>Note.</b> As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.</p> <p>(8) This clause does not apply to or in respect of:</p> <p>(a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the <i>Native Vegetation Act 2003</i> or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or</p> <p>(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the <i>Native Vegetation Act 2003</i>) that is authorised by a development consent under the provisions of the <i>Native Vegetation Conservation Act 1997</i> as continued in force by that clause, or</p> <p>(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the <i>Forestry Act 1916</i>, or</p> <p>(d) action required or authorised to be done by or under the <i>Electricity Supply Act 1995</i>, the <i>Roads Act 1993</i> or the <i>Surveying</i></p>	Complies	A number of existing street trees on Conder Street, Belmore Street and within the site are to be removed as a result of the proposed development and public domain upgrade. The street trees are to be replaced as part of the Public Domain upgrade works with the replacement trees to Councils specification. Refer to the Landscape Architects Public Domain Plan in <b>Appendix 02</b> .

5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

<p>Act 2002, or (e) plants declared to be noxious weeds under the <i>Noxious Weeds Act 1993</i>.</p> <p><b>5.10 Heritage conservation</b> <b>Note.</b> Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.</p> <p>(1) <b>Objectives</b> The objectives of this clause are:</p> <p>(a) to conserve the environmental heritage of Burwood Town Centre, and (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and (c) to conserve archaeological sites, and (d) to conserve places of Aboriginal heritage significance.</p> <p>(2) <b>Requirement for consent</b> Development consent is required for any of the following:</p> <p>(a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior, (c) altering a heritage item that is a building by making structural changes to its interior, (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance, (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area, (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.</p> <p>(3) <b>When consent not required</b> However, consent under this clause is not required if:</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:</p> <p>(i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or (b) the development is in a cemetery or burial ground and the proposed development:</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or (d) the development is exempt development.</p> <p>(4) <b>Effect on heritage significance</b></p>	<p>Complies</p>	<p>The LEP Heritage Map and Schedule 5 list of Heritage Items indicates that the site includes General Item 18 – Masonic Temple, 47 Belmore Street.</p> <p>In compliance with the requirements of the LEP a Heritage Impact Statement in relation to the original proposed development was been prepared by NBRS +Ptnrs.</p> <p>In conclusion the original Report noted:</p> <p><i>the proposed development seeks to realise a changing context – a context that will be denser and higher. The design establishes a two storey podium at street level, integrates the retained part of the former Masonic Temple and sets it within an open landscape to mitigate potential impacts of this changing context.</i></p> <p><i>As certain mitigating measures such as material conservation of this retained element and interpretation of its significance are provided for in an earlier consent (DA/275/2007), those heritage conditions should also be built in to any approval for the subject development application so as to accommodate the situation where that earlier development is abandoned.</i></p> <p>The heritage consultants have provided a supplementary report in relation to the proposed additions to the original approved building form. The report is included at <b>Appendix 09</b>.</p> <p>In conclusion the heritage consultant states <b>that the additional levels to the buildings will result in little negative heritage impact.</b></p>
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<p>The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) <b>Heritage assessment</b> The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(6) <b>Heritage conservation management plans</b> The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p> <p>(7) <b>Archaeological sites</b> The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies):</p> <p>(a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(8) <b>Places of Aboriginal heritage significance</b> The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.</p> <p>(9) <b>Demolition of item of State significance</b> The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies):</p> <p>(a) notify the Heritage Council about the application, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(10) <b>Conservation incentives</b> The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:</p> <p>(a) the conservation of the heritage item is facilitated by the granting of consent, and (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and (c) the consent to the proposed development would require that</p>		
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5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

all necessary conservation work identified in the heritage conservation management plan is carried out, and (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area. (11) Despite any other provision of this Plan, a heritage item, a heritage conservation area or an archaeological site is validly identified for the purposes of this Plan if it is shown on the Heritage Map or described in Schedule 5.		
6.1 Acid Sulphate Soil	N/A	The BLEP Acid Sulphate Soils Map indicates that the entire LGA is classified 'Class 5'. Under Clause 6.1(2) of the BLEP development consent is required for Class 5 land if:  <i>Works within 500 metres of adjacent Class 1,2,3 or 4 land that is below 5 metres AHD and by which the water table is likely to be lowered below 1 metres AHD on adjacent Class 1,2,3 or 4 land.</i>  In this case the site is not within 500 metres of Class 1,2,3 or 4 land therefore this Clause is not considered applicable.
6.2 Flood Planning	N/A	Council's engineers have confirmed that the site is not subject to flooding issues.
6.3 Active street frontages (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B4 Mixed Use. (2) This clause applies to land identified as "Active street frontage" on the Active Street Frontages Map. (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use. (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following: (a) entrances and lobbies (including as part of mixed use development), (b) access for fire services, (c) vehicular access. (5) In this clause, a building has an <b>active street frontage</b> if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.	Complies	The LEP 'Active Street Frontages Map' does not include the street frontages of the subject site. Notwithstanding this point, the building has been designed to provide active street frontages to Conder Street, Belmore Street and Wynne Ave.

4.1.6 Overview of FSR Controls and Proposed Development

The maximum permissible FSR on the western portion of the site (2,586sqm) is **3:1** (Zone V in the FSR Map) and, on the eastern portion the site (7,563 sqm), is **4.5:1 with a maximum of 3:1 for Residential use** (Zone Y in the FSR map). The total site area is 10,149sqm.

The FSA of the proposed development is **48,461 sqm**; comprising:

- i. **42,462 sqm of residential apartments** (7,528 sqm in the 3:1 "V" FSR Zone and 34,934 sqm in the 4.5:1 "Y" FSR zone);
- ii. **1,963 sqm of retail** (257 sqm in the 3:1 "V" Zone and **1,706 sqm** in the 4.5:1 "Y" zone); and
- iii. **4,036 sqm of commercial floorspace** for Council use; as identified in the associated Voluntary Planning Agreement. This floorspace is located in the 3:1 "V" FSR zone.

The proposed FSR for the subject development, in association with a Voluntary Planning Agreement is **4.77:1** which represents an FSA= **48,461sqm**.

The maximum permissible FSA on the site under the current controls is as follow:

- **Residential** (Western portion of the site) at an FSR of **3:1 = 7,758sqm** (3 x 2586)
- **Residential** (Eastern portion of the Site) at a max. Residential FSR of **3:1 = 22,689sqm** (3 x 7,563)
- **Commercial** (Eastern portion of the site) at **1.5:1 =11,344.5sqm** (1.5 x 7563)

The total maximum FSA permissible on the site, in the absence of any Bonus FSR available under the current Council Policy or any imminent Planning Proposal recommending increases in Residential and Commercial FSR =**41,791sqm**.

The proposed development proposes an FSA of **48,461sqm** which exceeds the permissible FSA by **6,670sqm (15.9%)**

Council Policy on "Carrying Out Bonus Development In The Public Interest"

Under the provisions of Council's Policy **Carrying Out Bonus Development in the Public Interest (Attachment 01)**, effective as of 1 May 2015, a 10% FSR bonus may be granted for undertaking development in the public interest for sites in the Middle Ring and Town Centre.

The western portion of the site is within the Middle Ring. Consequently, bonus FSR applying to the FSR of 4.5:1 for that part of the site would be 0.45:1. The maximum FSR would rise to **4.95:1** on the western portion of the site while remaining at **3:1** on the western portion. An overall weighted average FSR over the entire site would equate to **4.453:1** [((3x2586)+(4.95x7563))/10,149].

The total maximum FSA permissible on the entire site would be **45,194.85 sqm**. The development represents an FSA exceedance of 3,266 sqm and an FSR exceedance of **0.32:1 (6.46 %)** which is considered to be a modest departure and will be addressed below in this report under the provisions of Cause 4.6 of the Burwood LEP.



## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

### Planning Proposals Relevant to the Subject Currently Development

In 2014, Burwood Council prepared a Planning Proposal which affects the subject development; namely:

(a) **Bonus Residential Floorspace within Part of Burwood Town Centre and Design Excellence in the Town Centre and Local Centres;**

The amendments to the Burwood LEP will assist in satisfying the demand for housing as well as promoting design excellence. The operative provisions will:

1. Provide for bonus Floor Space Ratio (FSR), up to **10 per cent** of the maximum FSR, for Residential development within the Commercial Core and Middle Ring of the Burwood Town Centre. The application of the bonus residential FSR may be subject to a Voluntary Planning Agreement between a developer and Council for a material public benefit;

2. Apply a design excellence clause for all new buildings, three or more storeys, across the Local Government Area (LGA).

3. The planning proposal also seeks to increase the maximum residential FSR to:

- 2.60:1 for Area 1 (the Commercial Core);
- **3.45:1 for Area 2 (the Middle Ring)**; and,
- No change for Area 3.

The eastern portion of the site is in Area 2 (Middle Ring) and will benefit from a higher Residential FSR of 3.45:1 and a further Bonus FSR of 10% of the Maximum 4.5:1 FSR; resulting in a total **Residential FSR of 3.9:1** (ie 3.45:1 + 0.45:1).

#### Status of Planning Proposal (PP):

The Planning Proposal was referred to Council and placed on public exhibition in August and September 2015. It has been referred to the Department of Planning and Environment and is currently with their Legal Branch. Officers of Council are awaiting the Department's advice as to any required further amendments and/or requirements. In this regard, the Department's assessment of the draft PP has identified an unintended consequence arising from the increase in Residential Floorspace by 10%; namely that effectively decreases the residual floorspace for Commercial development from 1.5:1 to **0.59:1** (ie 4.5:1-3.90:1).

In assessing the Draft PP against the s117 Direction the Department was concerned at an unintended consequence associated with the increase of Residential FSR resulted in a reduction of the permissible Commercial FSR which was inconsistent with this direction, **“as the direction requires that planning proposals are not to reduce potential maximum floor space for employment uses”**. The Department's full assessment report is at **Attachment 03**.

**The Department recommended that the 10% increase is to apply equally to Residential and Commercial development.** Below is an extract from the Department's assessment of the Draft Planning Proposal:

*“s.117 DIRECTIONS*

*The following section 117 directions have been identified as being relevant to this proposal:*

#### 1.1 Business and Industrial Zones

*The objectives of the direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres. The direction applies where a proposal affects land within an existing or proposed business or industrial zone.*

*The direction requires that a planning proposal must retain areas and locations of existing business and industrial zones and must not reduce the total potential floor space for employment uses and related public services in business zones.*

*While this direction was not addressed in the planning proposal, the direction is applicable as the proposed bonus mechanisms will alter development controls in a business zone - Burwood Town Centre is zoned B4 Mixed Use. Outside of Burwood Town Centre, there are approximately 17 small pockets of industrial or business zoned land to which the design excellence clause would apply .*

*Council has provided a study, Burwood Town Centre Urban Design Study (Tag F), which recommends a bonus mechanism to increase FSR in order to gain better design outcomes; the bonus mechanism supports Councils intent for more streamlined, taller and less bulky buildings in the town centre.*

*The Department is concerned the bonus FSR mechanism, as currently written, will erode potential commercial floor space in Burwood Town Centre.*

*At present, the maximum FSR within the Commercial Core is 6:1 and 4.5:1 for the Middle Ring. Clause 4.44 of the Burwood LEP 2012 restricts residential floor space to 2:1 in the Commercial Core and 3:1 in the Middle Ring. Should bonus residential FSR of 10 percent be provided, the additional residential FSR will eat into the total permissible FSR, thereby reducing the FSR available for other uses. The Department notes Council's argument the maximum FSR limit is often reached in Burwood Town Centre before the height limit.*

*By way of example, under the current provisions, if a development is part commercial and part residential (and the development uses FSR to the maximum permissible), the commercial component is limited to 4:1 which allows the residential component to reach 2:1, totalling the maximum 6:1.*

*Under the proposal (as written), the bonus residential FSR will eat into the permissible commercial floor space. Following on from the previous example, with the bonus FSR, the maximum permissible commercial floor space will be restricted to 3,4:1 to allow for a 2.6:1 residential FSR.*

***The Department is of the view that the bonus FSR mechanism should be expanded to provide bonus FSR of '10 percent for all permissible uses in the Commercial Core and***

## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

**Middle Ring.** This will allow for residential FSR to increase without reducing potential commercial floor space (a key consideration under A Plan for Growing Sydney).

The Department considers the planning proposal to be consistent with this direction insofar as the proposal does not alter or remove business zones. However, the proposal is inconsistent with this direction, as the direction requires that planning proposals are not to reduce potential maximum floor space for employment uses.

The proposal, as currently written, has the net effect of reducing employment (commercial) uses in Burwood Town Centre and is therefore unjustifiably inconsistent with this direction.”

The Department of Planning in its above comments on the Draft PP recommended that the 10% increase should apply to both the Residential and Commercial in which case the maximum **FSR for Residential on the eastern “Y” zone would increase from 3.45:1 to 3.9:1** (ie 3.45:1 + (4.5/10)) and **Commercial on the eastern “Y” FSR zone would increase from 1.5:1 to 1.65:1** (ie 1.5:1 + 1.5/10)).

The Planning Proposal is yet to be gazetted and therefore the above FSRs are, as at the preparation of this report, not development standards. However, it is considered that by the time this application is to be determined, the Planning Proposal together with the FSRs recommended by the Department of Planning & Environment will have been gazetted and the Floor Space ratios will have become development standards. This report therefore has been prepared in anticipation of the gazettal and the Residential FSR of **3.9:1** for Zone “Y” and Commercial FSR of **1.65:1** for Zone “Y” and have therefore been regarded as development standard for the purpose of assessment of the proposed development.

### Implications of differing FSRs on the Development Site

Unlike the majority of developments in which the site is within one FSR zone, the subject development spans two FSR zones. As a consequence, in addition to a global assessment of FSR compliance, an individual FSR assessment needs to be undertaken on both sites.

For ease of identification, the western portion of the site, attracting an FSR of 3:1, has been nominated as **Site A**; 2,586 sqm in area. The eastern portion of the site, with an FSR of 4.5:1 has been nominated as **Site B**; 7,563sq in area.

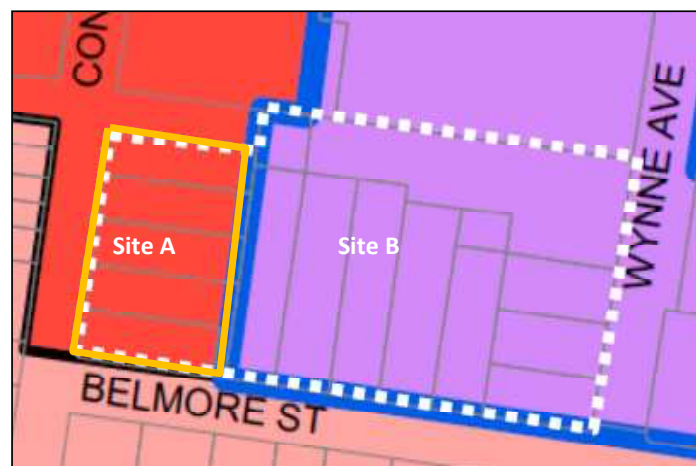


Figure XX – Identification of Site A and Site B

The architects, in developing the most appropriate massing of the development, gave particular regard to urban design considerations and have taken a global approach on the site in terms of distribution of FSA across the entire site. This approach was supported by Council and the Joint Regional Planning Panel (JRPP) in the assessment and subsequent approval of the original development application.

Consequently, there are FSR non-compliances with the current development standards because of the distribution of FSA across FSR zones. These will be addressed below under the provisions of Clause 4.6 of the Burwood LEP 2012.

The extent of non-compliance will be ameliorated by consideration of:

- the current Council Policy on the award of additional floorspace for **Carrying Out Bonus Development in the Public Interest** ; and
- the Planning Proposal for **Bonus Residential Floorspace within Part of Burwood Town Centre and Design Excellence in the Town Centre and Local Centres**;

### Global Assessment of FSR

As noted above, the proposed FSR for the subject development in association with a Voluntary Planning Agreement is **4.77:1 (FSA= 48,461sqm)**.

Under the provisions of Council’s Policy “Carrying out Bonus Development in the Public Interest” a 10% FSR bonus may be granted for undertaking development in the public interest for sites in the Middle Ring and Town Centre. The western portion of the site is within the Middle Ring (**Site B**). Applying the 10% FSR bonus to the FSR of 4.5:1, for **Site B**, gives rise to a revised Maximum FSR of **4.95:1** (4.5:1 +0.45:1).

The FSR of **3:1** on **Site A** remains unchanged. The total maximum FSA permissible on the entire site would be **45,194.85 sqm** ((3x2586)+(4.95x7563)). The development represents an FSA exceedance of **3,266 sqm** and an FSR exceedance of **0.32:1** (3266/10,149) or a 6.46% **variation** (ie 3,266/45,194.85)

**Under the provisions of Clause 4.6 of the Burwood LEP 2012** it is considered that strict compliance with the development standard, as adjusted by Council’s Bonus FSR Policy, is unreasonable for the following reasons:

- The extent of non-compliance is modest at 6.46%;
- The variation is associated with an increase in the residential component of the development. This in turn will assist in satisfying housing demand in the area and consequently will give rise to a social benefit and be in the public interest;
- There will be no significant detriment environmental impacts. In this regard a separate Clause 4.6 variation to the height development standard (Section 4.1.7 of this report) has established that strict compliance with that development standard is unreasonable ;
- Recent variations to FSR development standards varying ranging between 17.5% and 67% have been approved by Council at its meeting of 24 August 2015. Both the below developments were associated with a Voluntary Planning Agreement.



## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

- A development in Morwick St achieved a **67% variation to the height and 43.5% variation to the FSR standards.**
- A development Deane St achieved a variation of the height control by **17.49% and an FSR variation of 30%.**

It is submitted that the 6.20% in the FSR development standard is modest and satisfactory as it will have minimal, if any, detrimental environmental impact and is likely to have beneficial social impacts in terms of housing availability. It is therefore considered that strict compliance with the FSR development standard is unreasonable.

### ASSESSMENT OF FSR FOR SITES A & B INDIVIDUALLY

- **SITE A** (Site Area: 2,586sqm)

Development on Site A comprises **7,136 sqm of Residential** floorspace and **4,214 sqm of Commercial** floorspace (252 sqm of ground floor retail and 3,962 sqm of Office area) for Council use, as part of a Voluntary Planning agreement also incorporating the construction of 55 underground carparks and a bridge in Hornsey St linking the office floors to the existing Council Library.



The maximum FSA for all permissible uses on **Site A** =  $(3 \times 2,586) = 7,758$  sqm.  
The proposed Residential and Commercial FSA on Site A is 11, 821 sqm; representing an FSR of 4.57:1.

The exceedance in FSA is 4,063 sqm; representing a departure from the development standard of 3:1 by 1.57:1 (52.33%).

A submission supporting the flexible application of the FSR development Standard under Clause 4.6 of the Burwood LEP 2012 is presented below in **Section 4.17** of this report.

The existing Planning Controls affecting FSR on the entire site comprise the Burwood LEP and Council's Policy on "Carrying out Bonus Development in the Public Interest", effective as of 1 May

2015. However, the Policy only applies to sites in the Middle Ring and Town Centre. Site A is not within either area and therefore does not apply to this site.

- **SITE B** (Site Area 7563m<sup>2</sup>)

The maximum FSR for Site B under the Burwood LEP is 4.5:1; incorporating a maximum of **3:1 Residential** and **the residual FSR would be for commercial use.**

The maximum FSA for all permissible uses on Site B =  $(3 \times 7,563) + (1.5 \times 7,513) = 34,034$  sqm.

The proposed Residential and Commercial FSA on Site B is **36, 640 sqm**; representing an **FSR of 4.84:1**

The **exceedance in FSA is 2,606 sqm**; representing a departure from the development standard of 4.5:1 by **0.34:1** (7.55%). This represents substantial departure from the development standard.

A submission supporting the flexible application of the FSR development Standard under Clause 4.6 of the Burwood LEP 2012 is presented below.

### 4.1.7 Exceptions to Development Standards – Height and FSR

Burwood LEP 2012 (BLEP) Clause 4.6 'Exceptions to development standards' provides the opportunity to provide flexibility to certain development standards. Consequently, in response to non-compliances in relation to Burwood LEP 2012 Clause 4.3 Building Height, 4.3A Exceptions to height of buildings and Clause 4.4 Floor Space Ratio and 4.4A Exceptions to Floor Space Ratio, an application to vary the height and FSR standards in accordance with the relevant matters contained in Clause 4.6 of the Burwood LEP 2012 is provide below.

*(1) The objectives of this clause are:*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

### Comment

The proposed 'flexibility' in relation to non-compliances with the BLEP 2012 development standards relating to height and FSR are proposed to achieve a better development outcome for the large consolidated site. As noted in the LEP compliance table in section 4.1.6 the proposed development includes the following non-compliances:

### Height of Buildings (Clause 4.3 and 4.3A)

The submitted architectural plans prepared by Kann Finch (Section 3.6 of the Design Report) show the following:

## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

‘Building A’ exceeds the 30m height plane control by between 6.4 and 7.0 metres measured to the roof parapet. However, it is noted that the building does not penetrate the 54 degree Building Height Plane (BHP) from Condor Street. This is due to increased setbacks and modelling of the building.

‘Building B’ exceeds the 60 metre height plane control by 11.0 to 12.0 metres. The building does not penetrate the 33 degree Building Height Plane (BHP) from Belmore Street due to the upper level setbacks and modelling of the building.

‘Building C’ exceeds the 60 metre height plane control by 1.6 to 4.0 metres. The building does not penetrate the Belmore Street 33 degree Building Height Plane (BHP) due to upper level setbacks and modelling of the building.

The building heights have been developed and modelled based on an analysis of the most effective built form outcome for the Town Centre utilising the opportunities offered by the large consolidated site.

It is noted that while the proposed design includes minor height non-compliances the overall design the buildings have been modelled to minimise any adverse impacts in relation to the additional height on adjoining areas and mitigate potential adverse effects on the amenity of existing and future residents in the vicinity of the site.

In particular, it is noted that the shadow profile of the proposed building has a minor additional shadow impact than that generated by the permissible and currently approved building envelopes for the site (refer to the comparative shadow analysis in Section 3.7 of the Design Report). An analysis of this shadow impact in Section 3.7 of the Design Report indicates that the minor additional shadow will not have any significant adverse impacts on the surrounding buildings as it generally falls onto existing roofs or within existing building shadow profiles. In addition, it is noted that any minor additional overshadowing will impact for a limited period allowing good levels of solar access throughout the day in mid-winter.

### Floor Space Ratio (Clause 4.4 and 4.4A)

#### Comment:

It is considered that the exercising flexibility with the FSR development standard for the subject development will satisfy the objectives of Section 4.6 of the Burwood LEP by achieving social and economic benefits that are unable to be achieved in its absence by virtue of:

- the dedication, free of cost to Council, of 3 levels of office space, a pedestrian bridge linking the new offices to Council’s existing Library together with the construction of 55 basement car spaces; and

- an associated residential and retail development that will not give rise to any significant detrimental environmental effects.

***(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.***

#### Comment

Council officers have confirmed that the development standards relating to height and FSR are not expressly excluded from the operation of this clause.

***(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:***

***Clause 4.6 (3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,***

#### Comment

#### Building Height

Compliance with the development standard for height is considered unnecessary and unreasonable in the circumstances of this case on the following grounds:

Clause 4.3(1)(a)(b) of the BLEP 2012, set out the objectives for building height as;

- (a) To establish the maximum height of buildings to encourage medium density development in specific areas and maintain Burwood’s low density character in other areas,*
- (b) To control the potentially adverse impacts of building height on adjoining areas.*

The proposed design provides a medium density development in the Burwood Town Centre, one of the key areas medium density zones in the Burwood Council area. The large development site provides unique opportunities to master plan the site and model the proposed tower buildings to minimise potential impacts of overlooking and overshadowing.

Clause 4.3A(1)(a)(b) sets out the objectives for the clause as follows:

- (a) to focus greater building height in the inner part of the Burwood Town Centre and to provide a transition in heights towards the edge of the Burwood Town Centre,*
- (b) to mitigate any adverse effects on the amenity of existing and future residents living adjacent to the Burwood Town Centre,*
- (c) to limit building heights to facilitate adequate solar access to land adjoining the Burwood Town Centre.*

## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

As a result of the proposed additional setbacks from the boundary of Building A and Building B it is noted that while the buildings exceeds the permissible 30 and 60 metres height control, they do not encroach into the Building Height Plan (BHP) for Conder Street and Belmore Street.

The southern roof parapet of Building C does encroach into the BHP by approximately 3 metres. However, given the minor nature of the proposed non compliances in relation to the BHP for Building C on Belmore Street. It is considered that the proposed development meets the primary objectives of this clause with the shadow analysis indicating that the proposed building heights will facilitate adequate solar access to land adjoining the Burwood Town Centre.

### Floor Space Ratio

#### Comment:

It is considered that compliance with the FSR development standard is unreasonable in the circumstances associated with the subject development for the following reasons:

- i. The subject development site contains 2 FSR zones; one with a maximum FSR of 3:1 and a second with a maximum FSR of 4.5:1. The architects, in developing the most appropriate massing of the development with regard to urban design considerations, have taken a global approach on the site in terms of distribution of FSA across the entire site. This fluid distribution of FSA across FSR boundaries has given rise to the non-compliance with FSR development standard on Site A.

This global distribution of FSA across the site was supported by Council and the Joint Regional Planning Panel (JRPP) in the assessment and subsequent approval of the original development application.

A Voluntary Planning Agreement has been discussed with Council which provides at no cost to Council 3 floors of offices for Council use, 55 basement car spaces and a bridge connecting the offices to Council's Library; totalling 3,944 sqm of FSA which do not give rise to any ongoing financial return to the developer but contribute to the development's FSA.

The location of the proposed Council offices is best suited in its current location within the subject site as it is directly adjacent to Council's library; albeit that the site attracts the lowest FSR and height within the site.

Strict compliance with the development standard will require either the removal of the offices or removal of residential floorspace; the latter jeopardises the economic viability of the entire project.

- ii. The existing consent on the subject site achieved an FSR **on site A of 3.62:1**. This represents a departure of **20.67%**. It was supported by Council and approved by the Joint Regional Planning Panel. The subject development on Site A contains an additional **1,958 sqm yet it also incorporates 4,036 sqm of office floorspace for Council use**. As stated previously, this floorspace provides no return to the developer but must be calculated as floorspace for the purpose of FSR calculations.

- iii. Council has recently approved variations to development standards varying ranging between **17.5% and 67%** at its meeting of 24 August 2015. Both the below developments were associated with a Voluntary Planning Agreement.

- A development in Morwick St achieved a **67% variation to the height and 43.5% variation to the FSR standards**.
- A development Deane St achieved a variation of the height control by **17.49% and an FSR variation of 30%**.

The exceedance in FSA is 4,063 sqm; representing a departure from the development standard of 3:1 **by 1.57:1 (52.33%)**. It is submitted that the 46% departure from the FSR development standard is not insignificant but the build form will not give rise to any significant detrimental environmental impacts. As discussed above under 'Height' the siting, setbacks and modelling of 'Building A' minimises the potential additional overshadowing by the building and allows the building to comply with the Building Height Plane for Conder Street, satisfying the objectives for building height under the BLEP..

- iv. If the combined FSA of the entire development is distributed over the amalgamated site, the non-compliance reduces to 6.2%. A Clause 4.6 submission on this non-compliance with the development standard has been presented above and demonstrates that compliance with the development standard is unreasonable by virtue of:
  - The modest (6.46%) departure from the development standard; and
  - The proposed development will not give rise to any significant environmental impact.

Having regard to all the above rationale, it is considered that strict compliance with the development standard is unreasonable and that the flexible application to the FSR development standard would.

### Clause 4.6 (3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

#### Comment:

The proposed development in its uses, bulk and form is considered to give rise to no significant environmental impacts as detailed throughout this report. The master planning of this significant city block has been developed with buildings further modelled to minimise potential impacts in relation to building scale, visual impact, overlooking and environmental impacts related to overshadowing.

The additional FSA is largely due to the provision of works on Site A associated with a Voluntary Planning agreement which would provide Council with 3 levels of offices for its use, underground carparking for 55 cars and a pedestrian bridge. These works are considered to represent an ongoing public benefit which is necessary to support justification contravening the FSR development standard.

Moreover, the existing consent for the Site A incorporated Serviced apartments which would have generated a permanent worker population of approx 6-8 persons; whereas the proposed Council offices of 3,962 sqm will provide permanent employment for approx 300 persons which will give rise to social and economic benefits; as will the additional residential apartments in terms of providing housing in areas in the vicinity of transport hubs and employment opportunities.



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The offices and new residential units will also give rise to secondary employment opportunities associated with local retailing and professional services.

The proposed departure from the FSR development standard is therefore considered to be consistent with the Objectives of Clause 4.6 of the Burwood LEP 2012, provides an ongoing public benefit, and does not diminish the environmental quality of the area to any significant degree. It is consequently considered that approval of the departure is in the public interest and should be approved.

- **SITE B** (Site Area: 7,563 sqm)  
Development FSA on Site B is **36,640 sqm** comprising **34,934 sqm** of Residential floorspace and **1,706 sqm** of Retail floorspace. The FSR of development on site B is **4.845:1**

The maximum permissible FSR on Site B under Burwood LEP 2012 is **4.5:1** (Max 3:1 for Residential and the residual FSR for Commercial/Retail of 1.5:1 in conjunction with the max 3:1 for Residential use).

Under the provisions of Council's Policy "Carrying Out Bonus Development in the Public Interest", effective as of 1 May 2015, a **10% FSR bonus** on the Maximum FSR for the site may be applied to residential development for undertaking development in the public interest for sites in the Middle Ring and Town Centre.

Site B is within the Middle ring. Consequently, bonus FSR applying to the Maximum FSR of 4.5:1 for that part of the site would be 0.45:1. The maximum FSR would rise to **4.95:1**. The Residential FSR would also rise by 0.45:1 to **3.45:1** and the **commercial** FSR would be **1.5:1** (ie 4.95:1-3.45:1).

The maximum FSA for residential development = **26,092.35 sqm** (ie 3.45x 7563). The proposed development incorporates **34,934 sqm** of Residential floorspace.

The maximum FSA for commercial development = **11,344.5sqm** (ie 1.5 x 7563). The proposed FSA for commercial development is **1,706 sqm**.

Notwithstanding the existence of the above Bonus Development Policy, Council has prepared a Planning Proposal (PP) for "**Bonus Residential Floorspace within Part of Burwood Town Centre and Design Excellence in the Town Centre and Local Centres**". This PP provides for bonus Floor Space Ratio (FSR), up to **10 per cent of the maximum FSR**, for residential development within the Commercial Core and Middle Ring of the Burwood Town Centre. The PP has been exhibited and referred to the Department of Planning. The Department's report on the PP (**Attachment 02**) **recommends increasing the Commercial FSR as well as the Residential FSR in order to address an unintended consequence of reducing the Commercial FSR as a result of increasing the Residential FSR.**

Consequently **both the Residential and Commercial FSRs will be increased by 10%**. The application of the bonus residential FSR having regard to any Voluntary Planning Agreement between a developer and Council for a material public benefit. The subject development is accompanied by a Voluntary Planning Agreement for the dedication, free of cost to Council, of 3 levels of office space, a pedestrian bridge linking the new offices to Council's existing Library together with the construction of 55 basement car spaces as well as enhanced public domain to the forecourt of the office space and Masonic Temple and extension of the landscaped public walkway from Wynne Avenue to Conder Street. This is considered to satisfy the criterion for a public benefit.

In addition, the PP proposes to increase the Residential FSR from 3:1 to **3.45:1**

The Maximum FSR for Residential development would then be **3.90:1** (ie 3.45:1 plus 0.45:1). This would equate to a maximum permissible FSA of **29,495.7** (ie 3.9 x 7563). The proposed development incorporates **34,934 sqm** of Residential floorspace. The extent of non-compliance is **5,438.3 sqm**; equivalent to an FSR of **0.718:1 (18.43 % variation)** from the development standard)

The Maximum Commercial FSR would also increase by 10% from 1.5:1 to **1.65:1**. The maximum permissible FSA is **12,478 sqm**. The proposed Commercial FSA in Site B is only 1,706 sqm. Consequently the development, in this respect, complies.

Site B therefore requires a variation of the Residential FSR Development standard under Clause 4.6 of the Burwood LEP 2012. This is presented below.

**(4) Consent must not be granted for development that contravenes a development standard unless:**

**(a) the consent authority is satisfied that:**

**(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

**(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**

**(b) the concurrence of the Director-General has been obtained.**

### Comment

The matters under subclause (3) have been addressed in this section. The assessment of the proposed non-compliances in relation to Building height and FSR have included consistency with the objectives of the particular standards and the objectives of the B4 Zone. In all cases it is considered that the proposed development meets the objectives of the height and FSR standards and supports the objectives of the B4 Zone.

It is understood that concurrence of the Director General will be sought by Council as part of the DA assessment referral process. On the basis of the matters noted above it is considered that consent can be granted for the proposed development.

**(5) In deciding whether to grant concurrence, the Director-General must consider:**

**(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and**

**(b) the public benefit of maintaining the development standard, and (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.**

5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

<p><b>Comment</b></p> <p>The proposed minor variation to the height and FSR controls related to a large scale site that incorporates a city block in Burwood Town Centre are not considered to raises any matters of significance for State or regional environmental planning.</p> <p>As discussed above the proposed non compliances are considered to support a development outcome for a consolidated Town Centre development site that will provide a more efficient and effective use of land and support a range of outcomes in terms and land use and improvements to the public domain. On this basis it is considered that there is no public benefit of maintaining the development standards in this case.</p> <p><b>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:</b></p> <p><b>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard,</b></p> <p><b>or (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</b></p> <p><b>Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.</b></p> <p><b>Comment</b></p> <p>This clause is not applicable to this application.</p> <p><b>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).</b></p> <p><b>(8) This clause does not allow consent to be granted for development that would contravene any of the following:</b></p> <p><b>(a) a development standard for complying development,</b></p> <p><b>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated,</b></p>
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(c) clause 5.4.

(ca) clause 4.3A (2).

Comment

Noted

4.1.8 Burwood DCP 2012

Control	Compliance	Comment
<b>2.2 General Site Analysis</b>  All Development Applications should prepare and submit a site analysis, except Development Applications for the purposes of: <ul style="list-style-type: none"><li>• Change of use</li><li>• Minor alterations and additions, and</li><li>• Swimming pools.</li></ul>	Complies	A site analysis has been undertaken by Kann Finch as part of the design process. The analysis is included in Section 2 of the Architectural Design Report.
<b>2.3 Views and Vistas</b>  <b>P1</b> Development applications must identify existing views and vistas significant to the proposal, assess the impacts of the development and demonstrate how significant views and vistas are to be protected and enhanced  <b>P2</b> Development applications must demonstrate how building design, location and landscaping will encourage view sharing between properties.  <b>P3</b> Assessment of views and vistas must take account of other planning policies and development standards in this DCP and BLEP 2012, e.g. building height, setbacks.  <b>P4</b> Developments must have particular regard to high quality and priority views and vistas identified in other parts of this DCP, e.g. in relation to heritage items and heritage conservation areas.	Complies	<p>At the ground plane the building base has been set back from the street boundary in compliance with Councils controls to increase the street vistas. In addition, the introduction of a new laneway with the extension of Hornsey Street to Wynne Ave creates a new vista.</p> <p>The podium of the proposed building on Belmore Street has been set back and modelled to provide vistas of the heritage listed Masonic Building in response to council’s requirements.</p> <p>The tower buildings above podium has been sited and orientated north south to maximise vistas north south across the site.</p>
<b>2.4 Streetscapes</b>  <b>P1</b> Development applications must identify streetscape characteristics, assess the impacts of the development and demonstrate how significant streetscape qualities are to be protected and enhanced.  <b>P2</b> Development applications must demonstrate how building design, location and landscaping will encourage the protection and enhancements of streetscapes.  <b>P3</b> Developments must have particular regard to high quality streetscapes identified in	Complies	<p>The proposed podium of the building has been designed to reinforce the streetscape and provide activation to Belmore Street, Wynne Ave and the proposed new laneway along the northern boundary of the site. The scale of the podium is in keeping with the DCP requirements and relates to the height of the retained Masonic Temple heritage item on Belmore Street.</p> <p>In addition to the build form, the landscape plan for the streetscape will provide a high quality landscaped setting in keeping with Council’s landscape strategy. Refer to the</p>

## 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

other parts of this DCP, e.g. in relation to heritage items and conservation areas.		Landscape Plan in <b>Appendix 02</b> .
<b>3.2 General Building Design Controls in Centres and Corridors</b>		
<b>3.2.1 Design Excellence</b>  <b>P1</b> Building design must represent architectural design excellence in the following ways: <ul style="list-style-type: none"> <li>The form and external appearance of any development should significantly improve the quality and amenity of the public domain.</li> <li>An appropriate composition of building elements, textures, materials and colours should reflect the use, internal design and structure of the development.</li> <li>The development should respond positively to the environment and context.</li> <li>Appropriate consideration must be given to the existing or likely potential development of adjoining sites.</li> </ul>	Complies	<p>The proposed design provide an extended and upgraded public domain including widening existing footpaths, provision of a new laneway connection, all with new landscaping and the activation of all street and laneway frontages.</p> <p>The composition of the buildings includes a new podium designed to reflect the scale of buildings in the locality and in particular the scale of the retained heritage masonic temple. The building form above podium has been set back to reduce visual impact with the tower buildings orientated to maximise view sharing and solar access to the south.</p> <p>The site is an island site with three existing street frontages minimising the impact of adjoining development. The northern boundary of the site includes a new laneway providing a 9 metre setback to the podium retail and a 15 metre setback to the north façade of the towers (in excess of the RFDC requirements). Refer to the Design Report and Architectural Drawings in <b>Appendix 01</b>.</p>
<b>3.2.2 Materials and Finishes</b>  <b>P1</b> Building exteriors must be designed with regard to the following criteria: <ul style="list-style-type: none"> <li>Use of high quality finishes.</li> <li>Avoidance of extensive expanses of blank glass or solid walls.</li> <li>Encouragement of visually interesting building treatments.</li> <li>Integration of building elements to conceal from public view, areas and equipment such as aerials, antennae, clothes drying, instantaneous water heaters, washing machines, air conditioners, plant equipment or the like.</li> <li>Incorporation of external lighting where appropriate.</li> <li>Avoidance of excessive light spillage.</li> <li>Use of translucent or opaque materials for balustrades is encouraged. No clear glass balustrades will be permitted.</li> </ul> <b>P2</b> Building entrances must be visible from the street.  <b>P3</b> Painted finishes to materials are not desirable. Pre-coated factory applied finishes such as powder coating are encouraged.  <b>P4</b> Walls of development must be articulated and designed to provide visual	Generally Complies	<p>The building is a highly articulated combination of solid, punched window and balcony with a variety of balustrade treatments including glazing where appropriate.</p> <p>The podium, tower and roof form promotes the classical based middle and top language to the building. The public face podium is to be a high quality durable stone cladding with prefinished painted panels and framing, the towers are constructed from painted precast concrete panels.</p> <p>The building entries are visible from the street. Building A has a direct lobby entry from Conder Street. Buildings B and C have a shared entry from Belmore Street with a security gate ramping up to the central private courtyard and the entry lobbies. Refer to the Architectural Design Report and Architectural Drawings in <b>Appendix 01</b>.</p>

<p>interest when viewed from the street. Material selection, treatment, proportion and pattern of wall surfaces must be considered.</p> <p><b>P5</b> Low maintenance and graffiti resistant materials must be used wherever possible on surfaces susceptible to graffiti.</p>		
<b>3.2.3 Roofs and Roof Tops</b>  <b>P1</b> Roof designs must have regard for, and be integrated into the overall design of the development and its role in the skyline of the centre or corridor.  <b>P2</b> Roofs must respond to the orientation of the site. For example, the use of eaves and skillion roofs to facilitate to solar access.  <b>P3</b> The visual impact of service elements must be minimised by integrating them into the roof design. These elements include lift over-runs, service plant rooms, vent stacks, telecommunication infrastructures, gutters and downpipes.  <b>P4</b> Development must be designed with regard to how it is observed from the street, from adjacent development and as part of a larger skyline. Opportunities for sculptural expression to create a varied skyline must be considered.	Complies	<p>The roofs of the towers are designed to be integrated into the overall design of the buildings.</p> <p>The tower forms are stepped on the upper levels to articulate the tower forms and minimise overshadowing impacts. Refer to the Design Report and Architectural Drawings in <b>Appendix 01</b>.</p>
<b>3.2.4 Street-Front Activities and Building Access</b>  <b>P1</b> Where, as a result of the nature of the development, there are specific security requirements, security measures must form an integral part of the building design. Roller shutters are not permitted but retractable open security grilles may be considered.  <b>P2</b> Ground floor level development must: <ul style="list-style-type: none"> <li>Promote quality non-residential activities in accordance with the zone.</li> <li>Minimise the number of service doors.</li> <li>Encourage visual interest on service doors with displays etc.</li> <li>Provide access points to and from the public domain at not more than 20 metre intervals.</li> <li>Provide at grade access at entry points.</li> <li>Incorporate visually interesting streetscape frontages at ground level with attractive entries, clear glazed windows and window displays, artworks, articulated architecture and facade modulation.</li> </ul> <b>P3</b> Separate and clearly identifiable	Complies	<p>The proposed podium of the building has been designed to reinforce the streetscape and provide activation to the streets and new laneway.</p> <p>Retail uses are provided along three of the four site boundaries of Wynne Ave, Belmore Street and the new laneway. Conder Street is activated by a combination of retail, lobby and new Council offices uses.</p> <p>The retail shops on the street are accessible, on grade with clear glazed windows and displays.</p>



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<p>entrances must be provided from the street for pedestrians and cars, and different uses (residential and non-residential).</p> <p><b>P4</b> Building entrances must have a direct physical and visual connection with the street.</p> <p><b>P5</b> Residential component of any development must have a clear street address and a separate entry.</p> <p><b>P6</b> Outdoor dining is generally encouraged on the footpath of commercially active street frontages, subject to compliance with Council's Outdoor Eating Area Policy.</p> <p><b>P7</b> All commercial components must have a clear street address.</p> <p><b>P8</b> All mail box and postal facilities shall be incorporated into the building in accordance with the requirements of Australia Post. Mail boxes shall be sited and designed for attractive visual appearance and function, as well as to complement the architecture and environs. Where located externally in the case of a residential building, the mail boxes shall be located at right angles to the street boundary on either or both sides of the main access walkway. It is not permitted to locate mail boxes that are accessible only from the footpath outside a development.</p>		<p>The vehicle and lobby entries are clearly identified from the street.</p> <p>See above.</p> <p>See above.</p> <p>Ability to comply due to widening of footpaths.</p> <p>Building A has an apartment lobby accessed directly from the street.</p> <p>A mail room is provided for Residential Buildings B and C adjacent to the street entry.</p>
<p><b>3.2.5 Subdivision and Car Parking Spaces</b></p> <p><b>P1</b> An application for Strata Title or Community Title subdivision of land may include a car parking space only where the parking space is part of another lot.</p> <p><b>P2</b> Consent must not be granted to Strata Title or Community Title subdivision which results in the subdivision of car parking alone.</p>	Noted	
<p><b>3.2.6 Site Isolation</b></p> <p><b>P1</b> The creation of isolated sites is discouraged.</p> <p><b>P2</b> Where a development may result in the creation of an isolated site or sites, the applicant is required to demonstrate that negotiations between the owners of the properties commenced at an early stage that was prior to the lodgement of the Development Application. Where no satisfactory result is achieved, the Development Application must include evidence of negotiations with the owners of the properties. These details must include offers to such owners. Such offers are</p>	Complies	<p>The proposed development consolidates 17 separate lots in to a single site.</p>

<p>to be reasonable and are to be based on at least one recent independent valuation and include other reasonable expenses likely to be incurred in the sale of the process.</p> <p><b>P3</b> Where a development may result in the creation of an isolated site the applicant must demonstrate that orderly and economic use and development of the separate sites can be achieved that is consistent with the planning controls. Such demonstration is achieved by the applicant providing an envelope for that site, indicating height, setbacks, resultant site coverage (building and basement), sufficient to understand the relationship between the development and that site, the likely impacts the development will have on each other, such as solar access, visual and acoustic privacy, impacts for residential development and traffic impacts if that site is on a main road.</p> <p><b>P4</b> The development of an isolated site is not to detract from the character of the streetscape and is to achieve a satisfactory level of amenity, including solar access, visual and acoustic privacy.</p>		
<p><b>3.2.8 Apartment Mix and Minimum Dwelling Sizes</b></p> <p><b>P1</b> Residential development in excess of 20 dwellings must provide a mix of dwellings containing 1, 2 or more bedrooms.</p> <p><b>P2</b> All residential developments must provide the following minimum apartment sizes:</p> <ul style="list-style-type: none"> <li>• Studio apartments - 40 square metres.</li> <li>• 1 bedroom apartments - 50 square metres.</li> <li>• 2 bedroom apartments – 70 square metres.</li> <li>• 3+ bedroom apartments – 95 square metres.</li> </ul> <p><b>P3</b> Calculation of the apartment size must be the net area and is exclusive of the apartment's perimeter walls, balconies and excessive internal circulation of the dwellings. The storage areas required to be provided within each dwelling by Section 3.2.16 of this DCP section may be included in the calculation of the net.</p>	Complies	<p>The development provides the following mix of apartments;</p> <p>13% 1 bedroom 84% 2 bedroom 3% 3 bedroom</p> <p>The apartment sizes range from 1 bedroom 50-55m<sup>2</sup> 2 bedroom 75-81m<sup>2</sup> 3 bedroom 107m<sup>2</sup> Refer to Apartment Schedule prepared by Kann Finch in <b>Appendix 5</b>.</p>
<p><b>3.2.9 Building Depth</b></p> <p><b>P1</b> For development including multi dwelling housing refer to the building amenity provisions of the RFDC (RFDC)* which supplements SEPP 65 – Design Quality of Residential Flat Development. <b>*Note the RFDC has been replaced by the Apartment Design Guide (ADG)</b></p>	Generally Complies	<p>The ADG states that in general, an apartment depth of 10-18 metres is appropriate. Developments that are wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.</p> <p>The depth of the residential Buildings A, B and C vary between 12.5 to 21.5 metres. Those elements of the building that exceed 18 metres have been designed to maximise opportunities for daylight and natural</p>

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		ventilation through the apartment layouts. The effectiveness of this strategy is confirmed by the high percentage of cross flow apartments and apartments achieving more than 2 hours daylight in mid-winter (refer to Development Summary prepared by Kann Finch).
<b>3.2.10 Ceiling Height</b>  <b>P1</b> Development must provide the following minimum ceiling heights. Dimensions are expressed from finished floor levels to finished ceiling levels: <ul style="list-style-type: none"><li>• Ground level of all development (commercial and residential): 3.3 metres.</li><li>• Non-residential floors above ground level: 3.0 metres.</li><li>• Residential floors above ground level: 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms.</li></ul>	Complies	The ground level of the podium achieves a minimum 3.3metres to the ceiling. The apartments achieve a minimum 2.7 metres to all habitable rooms.
<b>3.2.11 Natural Ventilation</b>  <b>P1</b> For development including multi dwelling housing refer to the building amenity provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.	Complies	The SEPP 65 Apartment Design Guide (ADG) assessment by Kann Finch in Section 4.2 of the Design Report indicates that 73% of the apartments will be naturally ventilated (ADG minimum is 60%).
<b>3.2.12 Daylight Access</b>  <b>P1</b> For development including multi dwelling housing refer to the building amenity provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.	Complies	The SEPP 65 Apartment Design Guide (ADG) assessment by Kann Finch indicates that 70% of the apartments will receive a minimum of two hours direct sunlight between 9.00am and 3.00pm. The ADG requires a minimum of 70% of apartments to receive over two hours direct sunlight between 9.00am and 3.00pm.
<b>3.2.13 Visual and Acoustic Privacy</b>  <b>P1</b> Development must be located and orientated to maximise visual privacy between development on the site and adjacent development by: <ul style="list-style-type: none"><li>• Providing adequate rear and side setbacks.</li><li>• Utilising the site layout to increase building separation. For example, orientation of buildings on narrow sites to the front and rear of the lot, thereby utilising the street width and rear garden depth to increase the apparent building separation distance.</li></ul> <b>P2</b> Detailed site and building design elements may be incorporated to increase privacy without compromising access to light and air. Design detailing may include: <ul style="list-style-type: none"><li>• Solid or semi-solid balustrades to balconies.</li><li>• Offset windows of dwellings.</li><li>• Recessed balconies and/or vertical fins.</li><li>• Louvres or screen panels to windows and/or balconies.</li></ul>	Complies	Building A and B are separated by between 22 and 26 metres, Buildings B and C are separated by 25 metres. In addition Buildings B and C have setbacks between 12 and 14.5 metres from the northern boundary. The proposed building separation distances and setbacks comply with or exceed the requirements of the ADG.

<ul style="list-style-type: none"><li>• Fencing.</li><li>• Vegetation as a screen between spaces.</li><li>• Pergolas or shading devices to limit overlooking.</li></ul>		
<b>3.2.14 Private Open Space</b>  <b>P1</b> All dwellings must have direct access to one primary open space from the main living area.  <b>P2</b> The primary open space must be dimensioned to promote indoor/outdoor living. A dining table and two chairs (small apartment, i.e. 1 bedroom) or four chairs (large apartment, i.e. 2 or more bedrooms) should fit on the primary open space. The following minimum dimensions, clear of balustrades, must be achieved: <ul style="list-style-type: none"><li>• Minimum depth - 2 metres (up to 1 bedroom).</li><li>• Minimum depth - 2.5 metres (2 or more bedrooms).</li><li>• Minimum area - 8 sq metres (1 and 2 bedrooms).</li><li>• Minimum area - 10 sq metres (3 bedrooms or larger).</li></ul> <b>P3</b> Private open space must respond to site conditions including sun, noise, wind and privacy. Sun screens, pergolas, shutters and openable walls are to be used to increase amenity where appropriate.  <b>P4</b> Private open space must form an integral part of the development's design.	Generally Complies	Each dwelling has access to a secure private open space, such as a balcony, terrace or court, with a minimum area of 6m <sup>2</sup> for 1 bedroom, 8m <sup>2</sup> for 2 bedrooms and 12 m <sup>2</sup> for 3 bedrooms, and with a minimum depth of 2 metres. Many apartments have considerably more private open space than the minimum. All apartments have private balconies or garden terraces.
<b>3.2.15 Lobbies and Internal Circulation – All Development</b>  <b>P1</b> Entry lobbies must be designed to provide facilities for seating, mail delivery and collection, and supervising personnel wherever possible.  <b>P2</b> Lift lobbies must be naturally ventilated. Daylight is to enter all residential lift lobbies.  <b>P3</b> Common area corridors must be designed to facilitate easy movement of people and furniture. Corridors must incorporate varied surfaces, textured and materials, and clearly identified apartment numbers.  <b>P4</b> Common area corridors must be a minimum of 2 metres in width.  <b>P5</b> The name and number of a development must be clearly displayed at the entry outside the development. Suitable illumination for after-hours recognition must be provided.	Generally Complies	The residential lobbies provide seating and natural daylight and ventilation. The mail delivery is located adjacent to Belmore Street to comply with Australia Post access requirements.  The common area corridors are generally 1.65 metres wide. However this is increased to 2.1 metres in front of the lifts.
<b>3.2.16 Storage for Apartments</b>		

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<p><b>P1</b> For development including multi dwelling housing refer to the building configuration provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.</p> <p><b>P2</b> At least 50% of the storage area must be provided within the dwelling and 25% accessible from active areas.</p> <p><b>P3</b> Where the remaining 50% of the storage is located in the basement of the development it must be linked to its associated dwelling through its relevant strata title.</p>	Complies	67% of the required storage is provided within the apartments the remaining 33% is to be provided in the basement car park storage cages.
<p><b>3.2.17 Safety and Security</b></p> <p><b>P1</b> The routes between a development's entrance and its dwellings must be designed to maximise occupant safety. The routes from car parking areas to the lift lobby are particularly important in this regard. Clear sight lines and well-lit routes must be provided.</p> <p><b>P2</b> Development must comply with Council's Burwood Community Crime Prevention and Safety Plan.</p> <p><b>P3</b> Development must be provided with clearly defined site boundaries to strengthen the distinction between public and private space.</p> <p><b>P4</b> Facades at ground level must be activated by locating after hours uses so they are visible from the publicly accessible areas.</p> <p><b>P5</b> Development access must be controlled by:</p> <ul style="list-style-type: none"><li>Restricting access from balconies, roofs and windows of neighbouring development.</li><li>Providing separate access from public and common areas.</li><li>Providing separate access for residents in mixed-use developments.</li><li>Providing an audio or video intercom system at the pedestrian or vehicular entrance or in the lobby for visitors to communicate with residents.</li><li>Providing secure keyed or electronic access for residents</li></ul> <p><b>P6</b> Concealment opportunities must be minimised from development by:</p> <ul style="list-style-type: none"><li>Eliminating blind or dark alcoves near lifts and stairwells.</li><li>Providing clear sight lines and well lit routes throughout the development.</li><li>Providing appropriate levels of illumination for all common areas.</li></ul> <p><b>P7</b> Residential development must be oriented</p>	Complies	Refer to CPTED Statement prepared by Kann Finch in <b>Appendix 12</b> .

<p>so that primary windows and private open space address the street and publicly accessible areas.</p> <p><b>P8</b> Where, as a result of the nature of the development, there are specific security requirements, security measures must form an integral part of the building design. Roller shutters are not permitted but retractable open security grilles may be considered.</p>		
<p><b>3.2.18 Access and Mobility</b></p> <p><i>All Development</i></p> <p><b>P1</b> The main entry of development must be designed and identified for use by persons with a mobility impairment.</p> <p><b>P2</b> The main entry must be accessible from the street footpath in accordance with Australian Standard (AS) 1428: Design for Access and Mobility.</p> <p><b>P3</b> Safe and convenient access must be provided in all development, car parks and communal facilities.</p> <p><b>P4</b> Compliance with AS 1428.1 is required with respect to access requirements on new building work.</p> <p><b>P5</b> Tactile indicators must be provided on the ground immediately adjacent to the approach and departure sides of any changes in floor levels in the public domain which incorporate a step, ramp, stepped ramp or the like in accordance with AS1428.4.</p> <p><i>Residential Component of Development</i></p> <p><b>P6</b> At least 10% of dwellings in a development must be provided as adaptable housing to Adaptable House Class A or B standard to cater for ageing in place and mobility impaired residents, in accordance with AS 4299: Adaptable Housing.</p> <p><b>P7</b> At least one car parking space must be provided and allocated to each dwelling required to be provided as accessible or adaptable housing under this Section and the car parking space must be accessible in accordance with the provisions of AS1428.2 to facilitate automatic vehicular wheelchair loading and unloading.</p> <p><b>P8</b> For development providing between 20 to 79 dwellings, one accessible visitor car parking space must be provided on site must be accessible in accordance with the provisions of AS 1428.2 to facilitate automatic vehicular wheelchair loading and unloading.</p> <p><b>P9</b> For development providing 80 or more dwellings, additional accessible visitor car parking</p>	Complies	Refer to Accessibility Report in <b>Appendix 8</b> .

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spaces must be provided on-site which are accessible, as per P8 above, at the rate of one per each 60 dwellings or part thereof.		
<p><b>3.2.19 Awnings</b></p> <p><b>P1</b> Awnings must be provided above the public domain where development is built to the street boundary.</p> <p><b>P2</b> Awnings must be provided in residential development to contribute to the legibility of the developments entry.</p> <p><b>P3</b> No part of any awning may be constructed less than 3.2 metres or more than 5.5 metres from the finished ground level of the public domain.</p> <p><b>P4</b> Artificial lighting must be installed at no greater than 6 metres centres and enable face recognition.</p> <p><b>P5</b> Awnings must be set back a minimum 600mm from the kerb line.</p> <p><b>P6</b> Awnings must be cut out to facilitate the growth of street trees and placement of light poles.</p> <p><b>P7</b> Awnings must be regularly maintained to ensure ongoing structural adequacy and weather protection.</p> <p><b>P8</b> Awnings must have sufficient width to provide weather protection.</p>	See Comment	The proposed building podium is setback from the street boundary to provide additional public domain. Notwithstanding this point, the retail uses on ground floor are provided with separate canopies that will provide localised weather protection.
<p><b>3.3.2 Burwood Town Centre</b></p> <p><b>3.3.2.1 Building Height Plane</b></p> <p><b>P1</b> The height of buildings on land within the BTC is not to project above the BHP as identified in Clause 4.3A and on the map marked "Building Height Plane Map in the BLEP 2012.</p> <p><b>Advisory Note:</b> The BTC is not orientated true north which explains the difference of solar angles along different parts of the Town Centre boundary as illustrated in Figure 2.</p> <p><b>P2</b> For ease of reference the BHP particulars from the BLEP 2012 are set out in the map and table in Figure 2.</p> <p><b>P3</b> For the purposes of providing additional guidance, Figures 2 (a), (b), (c), (d) and (e) indicate the operation of the BHP in Conder Street and Wynne Avenue, Belmore Street, Clarence Street and Shaftesbury Road.</p> <p><b>P5</b> Neither the Building Height Plane nor the Maximum Building Height established under the Height of Building Map in the BLEP 2012 can be exceeded. All development proposals</p>	See Comment	Refer to BLEP table above.

<p>must comply with both standards which should be read in conjunction.</p>		
<p><b>3.3.2.2 Burwood Town Centre Areas</b></p> <p><b>Overview</b></p> <p>The BTC is divided into Areas known as the Commercial Core, Middle Ring, Perimeter and Transition Areas. These are shown in Figure 3 - Burwood Town Centre Areas map.</p> <p>For each of the four Areas, this section provides more detailed controls that aim to achieve the desired urban form in each area consistent with the development standards in the BLEP 2012.</p> <p>Burwood Road is the main street in the BTC. It has a distinct role and current and future built form, and is subject to specific building controls.</p>	Noted	
<p><b>3.3.2.3 Commercial Core and Middle Ring Areas</b></p> <p><b>Podium Height</b></p> <p><b>P1</b> Development in the Commercial Core and Middle Ring Areas built to the street front must not have a podium height greater than 15 metres.</p> <p><i>Burwood Road</i></p> <p><b>P2</b> Development along Burwood Road built to the street front must not be greater than 12 metres in height.</p> <p><b>P3</b> Street front development along Burwood Road must enhance the existing streetscape and be of a similar scale, form, bulk, placement and character to adjoining and nearby street front development.</p> <p><b>Street Front Setback</b></p> <p><b>P1</b> Development must be built to the street front boundary except where a minimum of 3 metre, 6 metre or 8 metre setback is required as indicated in Figure 4. These measurements are taken from the street boundary after any land acquisition required by BLEP 2012 has been completed.</p> <p><b>P2</b> Setback areas must be free of any projections or encroachments.</p> <p><b>P3</b> All ground level setbacks are to be finished at grade with Council's footpath and finished with materials to match Council's current public domain requirements.</p> <p><b>Secondary Setbacks</b></p> <p><b>P1</b> Where development in the Commercial Core and Middle Ring Areas exceed 15 metres</p>	<p>Complies</p> <p>N/A</p> <p>N/A</p> <p>Complies</p> <p>Complies</p>	<p>The maximum podium height is 10 metres on Belmore Street and Wynne Ave.</p> <p>The Design Report indicates a requirement for a 3 metre setback along the eastern portion of Belmore Street and a 0 metre setback on Wynne Ave. The proposed design complies with these setback requirements.</p> <p>The setbacks are free of any projects and encroachments.</p> <p>The ground level setbacks are to be at grade accessible to match Council's public domain requirements (refer to Architectural drawings in <b>Appendix 01</b> and Landscape Plans in <b>Appendix 02</b>).</p> <p>The tower elements of the proposed building are set back an average of 10 metres from the</p>

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<p>in height, the part of the development above 15 metres must be set back a minimum of 6 metres from the street front boundary, unless otherwise specified in P3 and Figure 6. Refer to Figures 5(a) and 5(b).</p> <p><b>P2</b> Setback areas must be free of any projections or encroachments.</p> <p><i>Burwood Road</i></p> <p><b>P3</b> Where development along Burwood Road exceeds 12 metres in height, the part of the development above 12 metres must be set back a minimum of 8 metres from the street front boundary. Refer to Figure 5(a).</p> <p><b>Side and Rear Setbacks</b></p> <p><b>P1</b> For residential development refer to the building separation setback provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.</p> <p><b>P2</b> Other street front development up to 15 metres in height must be built to the side boundary and may be built to the rear boundary. Refer to Figure 7.</p> <p><b>Building Separation/Frontage</b></p> <p><b>P1</b> For all development refer to the building separation provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.</p> <p><b>Advisory Note:</b> The same rules apply to residential and non-residential development in terms of building separation.</p> <p><b>P2</b> The building separation requirements established under P1 must be shared equally with adjoining development across a boundary (refer to Figure 8. The applicant must demonstrate that daylight access; urban form, open space and visual and acoustic privacy can be satisfactorily achieved.</p> <p><b>P3</b> The maximum length in any direction of any part of a building parallel to the street above 15 metres in height is 45m (refer to Figure 9). This portion of the building must be suitably articulated to alleviate building mass and improve building appearance.</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p> <p>Generally Complies</p>	<p>street boundary in compliance with this requirement.</p> <p>The design complies with the requirements of the ADG. Refer to the ADG Compliance table prepared by Kann Finch Section 4.2 of the Architectural Design Report.</p> <p>The design complies with the requirements of the ADG. Refer to the ADG Compliance table prepared by Kann Finch in the Architectural Design Report.</p> <p>The site has existing streets on three boundaries and part of the fourth (north west) boundary. Buildings B and C face an adjoining boundary to the north. Under the RFDC a building separation of 24 metres would be required shared on each site. Buildings B and C are set back in compliance with this requirement.</p> <p>The buildings above podium along Belmore Street comply with this requirement with a width of 19 metres.</p> <p>The apartment Building A fronting Conder Street complies with this control above 25 metres. Below 25 metres the building has a width of 56 metres, therefore 3 levels of the building do not comply. In this case it is noted that the building includes a significant (8-10 metre) street setback and a high level of</p>
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<p><b>Communal Open Space</b></p> <p><i>Podium Areas</i></p> <p><b>P1</b> Podium areas must be made accessible as communal open space.</p> <p><b>P2</b> Landscaping must be provided in communal open space. A minimum 0.6 metre soil depth must be provided over 50% of the area to support planting or soft landscaping.</p> <p><i>Roof Tops</i></p> <p><b>P3</b> Accessible communal open space may be provided on roof tops of development.</p> <p><b>P4</b> The design of roof top communal open space must also have regard to its visual and acoustic impact and effects of wind.</p> <p><b>P5</b> For residential development refer to the communal open space provisions of the RFDC which supplements SEPP 65 - Design Quality of Residential Flat Development.</p>	<p>Complies</p> <p>N/A</p>	<p>articulation which minimise the visual impact of the building on the streetscape.</p> <p>The residential Building C fronting Wynne Ave complies with this control above 22 metres (from the Belmore Street intersection) with a width of 42 metres. Below 22 metres the building has a width of 49 metres; therefore 3 levels of the building do not comply. To mitigate the impact of the 3 non complying levels of the building a high level of building articulation has been introduced including a significant 'vertical slot' which minimise the visual impact of the building on the streetscape.</p> <p>The podium area is utilised as private communal open landscaped space (refer to Appendix 02). The area has a minimum of 50% of area with a minimum of 0.6metres of soil.</p>
<p><b>3.7 Transport and Parking in Centres and Corridors</b></p>		
<p><b>3.7.2 Burwood Town Centre and Strathfield Town Centre</b></p> <p><b>Advisory Note:</b> All provisions apply to the Burwood Road North area zoned B4 Mixed Use as well as the BTC and STC.</p> <p><b>P1 Basic parking requirement:</b> Development in the B4 Mixed Use zone in the Burwood and Strathfield Town centres must provide parking spaces on site for each proposed land use in accordance with the Table 2.</p> <p><b>P2 Parking for visitors to the Burwood Town Centre:</b> Notwithstanding P1, in the B4 Mixed Use</p>	<p>Complies</p> <p>N/A</p>	<p>Parking spaces have been provides for each land use in compliance with councils requirements. Refer to Traffic Report in <b>Appendix 06.</b></p>



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<p>zone in the Burwood Town Centre Council may consider and accept an offer from an applicant of a monetary contribution for Visitors Parking in lieu of the provision on-site of all or part of the parking requirement. Such an offer is voluntary and subject to Council's agreement at its discretion. If approved, it will be administered through a Voluntary Planning Agreement under the Environmental Planning and Assessment Act 1979.</p> <p>For the purposes of this DCP sub-section <b>Visitors Parking</b> means:</p> <ul style="list-style-type: none"><li>• Parking demand generated by persons in vehicles making short-term visits to the residents of buildings comprising residential flat buildings or shop top housing in the B4 Mixed Use zones, as specified in Table 2;</li><li>• Parking demand generated by the short term needs of persons in vehicles making short-term visits to access commercial premises (comprising office, business and retail premises) and other defined land uses in the BTC, as specified in Table 2 below.</li></ul> <p>The reasons for adoption of this strategy are:</p> <ul style="list-style-type: none"><li>• Locating some spaces in consolidated public car parks that have extended opening hours, higher turnover and safe and secure access will provide better, more useable parking facilities being available to the general public.</li><li>• Locating some spaces in consolidated public parking areas means better use of resources and value for money for developers and the community.</li><li>• Locating some spaces in consolidated public parking areas supports greener and cleaner outcomes for the community. Business centres need adequate parking supply to meet the needs of users and to compete with other centres, balanced with encouragement of public transport use, walking and cycling that can help reduce on-street traffic congestion, and improve a centre's amenity and attractiveness to visitors.</li></ul> <p><b>P3 Other parking not provided on site:</b> In the B4 zone in the Burwood and Strathfield Town Centres, and along Burwood Road North, if an applicant for development is unable to provide the on-site parking spaces as determined under P1 from the Table (other than Visitors Parking spaces agreed in accordance with P2 above) because it is a difficult site, Council may consider an offer of a monetary contribution in lieu of the on-site provision of the parking spaces. Such an offer is voluntary and will be accepted solely at Council's discretion. If approved by Council, it will be administered through a Voluntary Planning Agreement under the Environmental Planning and</p>	N/A	
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<p>Assessment Act 1979.</p> <p>The characteristics that Council will take into account in determining if it is a difficult site include:</p> <ul style="list-style-type: none"><li>• The site is very small, i.e. less than the minimum subdivision lot size for the area in the BLEP 2012, and isolated with no opportunities for amalgamation; or</li><li>• The site is small, i.e. less than 600 sq m and there are limited options for on-site parking provision, e.g. the site is mostly occupied by existing buildings and involves only a change of use; or</li><li>• Vehicular access is severely constrained, e.g. the site only has frontage to Classified road.</li></ul> <p>It is the responsibility of the applicant to demonstrate that one or more of the above features applies and that redevelopment or the change of use is unlikely to be viable economically if parking requirements are applied strictly.</p> <p><b>This option does not apply to development of residential accommodation or serviced apartments in the B4 Mixed Use zone.</b></p> <p>The voluntary monetary contribution offered must be equal to the number of spaces not being provided on site, multiplied by the dollar amount of the cost of providing an on-site parking space (see above). <b>There is no discount in these cases.</b> The following formula applies, and the calculation is pro-rata, that is, the actual number to 1 decimal point, with no rounding up or down to a whole number:</p> <p><i>(Number of spaces not being provided on site X the cost of an on-site parking space) = Parking contribution in lieu offer.</i></p> <p><i>Example: (4.3 X \$45,000) = \$225,000</i></p> <p><b>P4 Parking space cost figures for formulas:</b> Calculations of the offer for a contribution in lieu of on-site parking provision through the formulas in P2 and P3 above are to use the cost figure per space applicable in the year the Development Application is made, as published in the Schedule of Fees and Charges on Council's website (Please note that the figure of \$45,000 used above is only an example.) The cost figure per parking space is updated annually in accordance with construction cost movements.</p> <p><b>P5 Parking for people with a disability:</b> Notwithstanding any voluntary monetary contribution made under P2 or P3 above, parking for people with a disability required under legislation or applicable Australian Standards must be provided on the site of the development where it is practicable to do so. This is the case even</p>	N/A	<p>Complies</p> <p>Parking for people with a disability is provided in compliance with the Australian Standard. Refer to Architectural Drawings in <b>Appendix 01</b> and Accessibility Report in <b>Appendix 08</b>.</p>
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where it amounts to an increased total provision of parking for a development.  <b>P6</b> <b>Change of use:</b> Where Table 2 indicates that additional parking is required for a land use that is a change of use of existing floor area the above opportunities for voluntary contributions in lieu of on-site provision of parking spaces may apply at Council’s discretion where the applicable criteria are met.  <b>P7</b> Use of funds received under Voluntary Planning Agreements (VPAs): Refer to Council’s adopted policy for expenditure of funds received under P3, which is an addendum to Council’s VPA policy.		
<b>3.8</b> <b>Heritage in Centres and Corridors</b>		
<b>3.8.1</b> <b>General Provisions</b>  <b>P1</b> Development Applications that propose works to, or demolition of, a heritage property are required to submit a heritage report, known as a Heritage Impact Statement (HIS), prepared by a qualified and recognised heritage professional as part of the application to Council. This report shall detail the impacts of the proposed development on the heritage significance of the property. Council may, at its discretion, require a Conservation Management Plan (CMP), instead of a HIS.  <b>P2</b> Where substantial demolition is proposed, the HIS is required to provide justification on heritage grounds and demonstrate that options for retention have been investigated. An assessment of significance must include a comparative analysis of the building in relation to others of its kind in the local area. Claims concerning physical condition are required to be supported by a Structural Engineer’s report. Conclusions should be based upon the heritage significance of the property, not on the development potential of the land it is situated upon.  <b>P3</b> Council will require the submission of a heritage statement, prepared in accordance with the NSW Heritage Branch guideline <i>Statements of Heritage Impact</i> , where development is proposed adjacent to a heritage property.  <b>P4</b> Major re-development of a heritage property shall have regard to the NSW Heritage Branch’s <i>Design in Context: Guidelines for Infill Development in the Historic Environment</i> .	Complies	Refer to Heritage Impact Statement in <b>Appendix 09</b> .
<b>3.8.2</b> <b>Building Design Considerations</b>  <b>P4</b> Development of a heritage property must: Provide a use that is compatible with its heritage significance. Be sympathetic in terms of its design, bulk, scale and character. Adopt materials/finishes, form, proportions and detailing that responds to the traditional style of the heritage property. Provide	Complies	Refer to Heritage Impact Statement in <b>Appendix 09</b> .

adequate setbacks around the heritage property to ensure the maintenance of its historic setting and facilitate interpretation.  <b>P5</b> Development in the vicinity of a heritage property must be designed to have regard to the heritage property’s: <ul style="list-style-type: none"><li>• Scale and character.</li><li>• Form and proportions.</li><li>• Materials, colours and finishes.</li><li>• Street alignment and established setbacks in the surrounding area.</li></ul> <b>P6</b> Development or adaptive re-use of a heritage property should seek to retain significant external and internal fabric. In particular, those public and community buildings (e.g. churches, schools, hospitals, community halls), pubs and hotels, or other buildings with high public visitation.  For example, significant external design details may include wall tiles, historic advertising, pressed metal awning soffits, balconies, doors and joinery. Significant internal design details may include staircases, plasterwork, joinery or fittings. The spatial qualities of a building will sometimes also be important.  <b>P7</b> Development should retain sufficient evidence of the significant internal layout to enable interpretation. Retaining evidence of former room layouts can be achieved by retaining evidence of the cellular pattern through joinery, ceilings, nibs and bulkheads.		
<b>3.8.3</b> <b>Incorporating Heritage Items into New Development</b>  <b>P8</b> Where a larger development proposes to incorporate a heritage item or significant place, the design must include appropriate measures to: <ul style="list-style-type: none"><li>• Retain an appropriate setting to allow for the continued appreciation and integrity of the heritage item.</li><li>• Ensure the heritage item is not visually obscured or adversely altered, particularly regarding sight lines from the public domain.</li></ul> <b>P9</b> Where a development involves subdivision, Council will generally require that repair or restorative work to the heritage property is undertaken prior to the subdivision. This approach seeks to ensure that the conservation of the heritage property is integral to the redevelopment.	Complies	Refer to Heritage Impact Statement in <b>Appendix 09</b> .
<b>3.8.4</b> <b>Sight Lines</b>  <b>P10</b> Development adjacent to a heritage property must incorporate front and/or side setbacks to achieve sight lines to the significant	Complies	Refer to Heritage Impact Statement in <b>Appendix 09</b> .

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building in accordance with Figure 22.		
<b>3.8.5 Views and Vistas</b>  <b>P11</b> Development of a heritage property, or development in its vicinity, must: <ul style="list-style-type: none"> <li>• Provide an adequate area of land around the development to allow interpretation of the significant building or place.</li> <li>• Not detract from the setting of the heritage property.</li> <li>• Retain and respect significant views/vistas from the public domain to a heritage property, as well as the views/vistas originating from the heritage property itself.</li> </ul>	Complies	Refer to Heritage Impact Statement in <b>Appendix 09</b> .
<b>3.8.7 Adaptive Re-Use</b>  <b>P13</b> The adaptive re-use of heritage properties is generally supported where Council is satisfied that such a use would contribute to the ongoing maintenance and viability of that item or place.  <b>P14</b> Adaptive re-use shall require that particular attention be given to original interior features of a building and the original layout of rooms, particularly where that building is proposed to be used for a business purpose and there would be some degree of public visitation.  <b>P15</b> Where a development relies on the conservation incentive provisions under clause 5.10 (10) of the BLEP 2012, consideration will be given to the extent of alteration proposed and operation matters in respect to that use, such as the location of parking. A CMP is required in proposals which rely on the incentive provisions.	Complies	The proposal seeks to reuse the remaining elements of the Masonic Temple as commercial space.
<b>3.8.8 Signage, Visual Presentation and Colour Schemes</b>  <b>P16</b> Signage proposed upon historic facades or exteriors shall not obscure significant architectural elements, nor detract from the character of the heritage property.  <b>P17</b> Signage shall be restricted upon historic facades. Where applicable, the signs should occupy the areas upon a building traditionally reserved for signage, such as the top hamper or awning fascia. Signage should be addressed as an overall scheme to avoid the accumulation of signs over time.  <b>P18</b> Projecting signs are not permitted upon heritage properties.  <b>P19</b> Roller shutters, security bars or similar devices shall not obscure significant architectural elements upon a heritage property, nor detract from the character of buildings. In	N/A	No signage to the heritage item is proposed.

general, sympathetic alternatives can be found to address the security of business/office/retail premises, such as anti-theft glass and internal locks.  <b>P20</b> Redevelopment shall be taken as an opportunity to remove unsympathetic work upon a heritage property, such as air conditioning units above shop awnings, or earlier signage. Redevelopment should also be used to reinstate lost building elements.  <b>P21</b> Exterior stonework and face brickwork of a heritage property shall not be painted or otherwise obscured. The cement rendering of masonry exteriors is generally not supported on heritage grounds.  <b>P22</b> Original and early landscaping that includes plantings with direct links or association to the heritage property must be retained.  <b>P23</b> New colour schemes should reflect the most significant design period of the heritage property. Corporate colours will not be permitted to dominate the architectural elements of a building or obscure building features.  <b>P34</b> New colour schemes for a building in the vicinity of a heritage property must not detract from the setting of the heritage property.		
<b>3.9 Public Domain and Amenity</b> <b>3.9.2 Public Squares and Forecourts</b>  <b>P1</b> The ground levels of developments that are adjacent to/have frontage to designated public squares and forecourts must provide active uses which address and define the edges of the squares and forecourts, and upper levels must enable casual surveillance.  <b>P2</b> Developments must provide access to designated public squares and forecourts that is suitable for people with mobility impairment.  <b>P3</b> The squares and forecourts must be unobstructed by buildings, open to the sky and have direct and physical linkages into and through the squares and forecourts.	Complies	The building front the proposed public space adjacent to the former Council Chambers building on the corner of Conder Ave and Hornsey Street. The ground level of the building in this location incorporates new Council front of house activities for activation. The upper levels provide apartments overlooking the space.
<b>3.9.3 Pedestrian Links</b>  <b>P1</b> Existing pedestrian links must be retained or replaced.  <b>P2</b> New pedestrian links are to be provided in the indicative locations illustrated in Figure 26. A pedestrian link can be in the form of an arcade or a pathway. The exact location and form of a pedestrian link in each case will be determined as part of detailed development planning.  <b>P3</b> Existing and new pedestrian links should	Complies   Complies	All existing footpaths have been widened and upgraded.  The podium of the building has been setback from the northern boundary to create an east west link from Wynne Ave to Hornsey Street as identified in Figure 26 of the BDCP 2012.  The pedestrian link is open 24 hours a day. It includes Council, retail uses at ground level for activation and generally provides width of

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<p>complement and link with each other to improve the pedestrian network.</p> <p><b>P4</b> Any pedestrian link must:</p> <ul style="list-style-type: none"> <li>Have interactive uses and provide casual visual surveillance.</li> <li>Be obvious and direct through-ways for pedestrians.</li> <li>Minimise barriers to mobility through the link.</li> <li>In the case of an arcade, provide public access from at least 6am to 10pm daily. If it is a pathway, provide and maintain uncontrolled (no gates, doors or the like) public access at all times (24 hours a day, 7 days a week).</li> <li>Have a minimum width of 4.5 metres, clear of all obstructions and where possible a width of 6 metres (except for the pedestrian link between Hornsey Street and Clarendon Place).</li> <li>Have signage at the street entries indicating public accessibility and the name of the street to which the connection links.</li> </ul>		<p>9 metres. This is reduced at the junction of Wynne Ave to address traffic/pedestrian safety issues.</p>
<p><b>3.9.4 Lanes</b></p> <p><b>P1</b> Existing lanes in the BTC should be retained (refer Figure 28).</p> <p><b>P2</b> Where development has a frontage to a lane that is also a pedestrian route, the environment of the lane must be improved by providing design details that create visual interest and improve public safety and amenity.</p>	N/A	
<p><b>3.9.5 Treatment of Street Front Setbacks</b></p> <p><b>P1</b> In the Commercial Core and Middle Ring Areas, where a street front setback of development is required in Figure 6, the setback area is to be treated and upgraded in a manner consistent with the requirements for the public domain immediately in front of the development. A right of pedestrian and vehicle movement by way of an easement in Council's favour in accordance with a Section 88B Instrument under the Conveyancing Act 1919 over the setback area is to be placed on the title of the land.</p> <p><b>P2</b> In the Perimeter and Transition Areas, where a street front setback is required in Figure 10:</p> <ul style="list-style-type: none"> <li>Where the development is wholly for residential purposes, the setback area remains part of the common property of the residential development and is to be landscaped and maintained accordingly.</li> <li>Where the development is for mixed use or non-residential purposes at street level, and the setback is 3m or</li> </ul>	Complies	Refer to landscape Plan in <b>Appendix 02</b> .

<p>more, the setback area is to be treated and upgraded in a manner consistent with the requirements for the public domain immediately in front of the development. A right of pedestrian and vehicle movement by way of an easement in Council's favour in accordance with a Section 88B Instrument under the Conveyancing Act 1919 over the setback area is to be placed on the title of the land.</p> <p><b>P3</b> Where a street front setback is required and the development is for non-residential purposes at ground level, the provision of cantilevered awnings over the setback area is encouraged. Such awnings must not extend more than 3m from the front facade of the setback building or beyond the street front boundary of the development site.</p>		
<p><b>3.9.6 Public Domain Finishes and Elements within Development</b></p> <p><b>P1</b> Appropriate lighting must be provided in publicly accessible areas of development that responds to a range of environmental factors such as location, scale and streetscape, to highlight architectural features, incorporate banners and art. These must be cost effective in power usage and maintenance. Solar powered lighting options are encouraged.</p> <p><b>P2</b> Where publicly accessible areas are provided within a development, all elements including paving, street furniture, planting, fences, kerbs and drainage must be provided to a standard not less than would be required in Council's Public Works Elements Manual (Final Draft June 2006).</p>	Complies	Refer to landscape Plan in <b>Appendix 02</b> .
<p><b>3.9.7 Solar Access to Burwood Park</b></p> <p><b>P1</b> Development must not cast shadows over Burwood Park between 10am and 2pm on 21 June.</p>	N/A	
<p><b>3.9.8 Acquisition of Land for Traffic Management and Open Space</b></p> <p><b>P1</b> The following parcels of land that are indicated by designation on Figure 29 are part of an acquisition strategy by Council for the purpose indicated:</p> <ul style="list-style-type: none"> <li>A, being part of Lot C in DP 411585 (47-47A Burwood Road) – road widening.</li> <li>C, being part of Lot 1 in DP 198 (118-120 Burwood Road) – road widening.</li> <li>F, being Lot 1 in DP 102952 (currently pedestrian walkway) – road widening.</li> <li>G, being Lot 1 in DP 330221 and Lot 1 in DP 71397 (49-51 Burwood Road) – road widening.</li> <li>H, being Lot 2 in DP 222750 (168 Burwood</li> </ul>	N/A	

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Road) – local public open space.		
<p><b>P2</b> The land parcels will be acquired at an opportune time agreed by both the landowner and Council, such as purchase by Council when a property is placed on the market, or via an agreement for dedication of the land to Council as part of a redevelopment application.</p>		
<p><b>3.9.9 Access and Mobility for the Public Domain</b></p> <p><b>P1</b> The public domain surrounding and/or immediately adjacent to any development proposal must be upgraded to Council's current standards at the applicant's cost.</p> <p><b>P2</b> Wherever a pedestrian way meets a roadway which facilitates pedestrians traversing the roadway, laybacks in the kerb must be provided at suitable gradients to allow access for persons with mobility impairment.</p> <p><b>P3</b> Tactile indicators must be provided on the ground immediately adjacent to the approach and departure sides of any changes in floor levels in the public domain which incorporate a step, ramp, stepped ramp or the like in accordance with AS1428.4.</p>	Complies	Refer to Landscape Plan in <b>Appendix 02</b> and Accessibility Report in <b>Appendix 08</b> .
<b>6.2.5 Waste Management</b>		
<p><b>6.2.5.4 Design of Waste Management Facilities in Mixed Use Development</b></p> <p><b>Application</b> This section applies to:</p> <ul style="list-style-type: none"> <li>Development applications for new mixed use development (e.g. developments includes both residential space and commercial space).</li> <li>Development applications (that affect waste management) for alterations/additions to existing mixed use development.</li> </ul> <p><b>Submission Requirements</b></p> <ul style="list-style-type: none"> <li>Development application must include a completed copy of Part 1 of the Waste management plan.</li> <li>Plans submitted with a Development Application which includes residential development must include information as required for residential development.</li> <li>Plans submitted with a Development Application which includes non-residential development must include information as required for non-residential development.</li> </ul> <p><b>Performance Criteria</b></p> <ul style="list-style-type: none"> <li>The controls listed in section 3.2.3 apply to the residential element of mixed use development.</li> </ul>	Complies	Refer to Waste Management Report in <b>Appendix 11</b> .

<ul style="list-style-type: none"> <li>The controls listed in section 3.3.3 apply to the non-residential element of mixed use development.</li> <li>Mixed use development must incorporate separate waste management systems for the residential and the non-residential component. There must be separate waste/recycling storage areas/rooms for the residential and non-residential elements.</li> <li>The residential waste management system and the non-residential waste management system must be designed to efficiently operate without conflict.</li> <li>The waste management system for the non-residential component must be designed to reduce the potential for adverse amenity impacts upon the residential element.</li> <li>Commercial tenants must be discouraged (through signage and other means) from using the residential waste/recycling bins.</li> </ul>		
<p><b>6.3 Acid Sulphate Soils</b></p> <p>The BLEP 2012 includes Clause 6.1 that requires development consent to be granted by Council for the carrying out of works specified in the Table to the Clause, on a class of land also specified in the Table. Only two classes apply to land in the Burwood LGA being:</p> <p>Class 4 Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.</p> <p>Class 5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p> <p>Council cannot grant consent under Clause 6.1 unless an acid sulphate soils plan has been prepared for the proposed works in accordance with the Acid Sulphate Soils Manual and has been provided to the consent authority. Clause 6.1 provides for certain exemptions from this requirement, and applicants should have full regard to the detailed provisions of the Clause.</p> <p>Where an acid sulphate soils plan must be prepared for the proposed works in accordance with the Acid Sulphate Soils Manual, the manual may be accessed at: <a href="http://www.environment.nsw.gov.au/mao/acidsulphatesoils.htm">http://www.environment.nsw.gov.au/mao/acidsulphatesoils.htm</a></p>	N/A	
<b>6.4 Flood Planning</b>		

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<p>Planning for the minimisation of flood risk to life and property, ensuring development is compatible with flood risk and avoiding significant adverse impacts on flood behaviour are addressed in the BLEP 2012 by Clause 6.2. Council’s approach to flooding has regard to and complies with the New South Wales Government’s Floodplain Development Manual (FDM 2005).</p> <p>Clause 6.2 establishes a flood planning level of 1:100 ARI (average recurrent interval) flood event plus 0.50m freeboard. Council is prevented from granting consent to development unless criteria in Clause 6.2 (3) are met.</p> <p>Council is not allowed to grant consent to development unless it is satisfied that various requirements elated to flood impacts are met.</p> <p>Council is about to undertake a floodplain management study for the Burwood LGA. When this is completed, the flood planning level is expected to be established with greater certainty.</p>	N/A	
<p><b>6.5 Stormwater Management</b></p> <p>Council has adopted a separate Stormwater Management Code that aims to:</p> <ul style="list-style-type: none"><li>To preserve and protect the amenity and property of existing residents, property owners and the community.</li><li>To ensure the safety of residents and the community.</li><li>To meet reasonable expectations and statutory requirements for the development of properties.</li><li>To protect the physical environment and receiving waters of catchments.</li></ul> <p>To meet these aims Council requires that all developments/building works within the Burwood LGA incorporate stormwater drainage facilities to collect and convey stormwater runoff to Council's system in accordance with the Code.</p> <p>The Stormwater Code does not form part of this DCP. It is available on Council’s website.</p>	Complies	Refer to Stormwater Concept Plans in <b>Appendix 16.</b>
<p><b>6.6 Landscaping for Development</b></p> <p>Council has adopted a separate Landscaping Code that aims to provide guidelines for the preparation of Landscape Plans as an integral component of new development in Burwood.</p> <p>The Landscaping Code has been prepared to raise awareness of the aesthetic, functional and environmental benefits of landscaping. It aims to maintain and enhance existing themes and elements of the BTC and streetscapes of Burwood. The guidelines in the Code provide scope for</p>	Noted	Refer to Landscape Plan in <b>Appendix 02.</b>

<p>creative design solutions for landscaping consistent with the intent of this Code.</p> <p>The Landscaping Code does not form part of this DCP. It is available on Council’s website.</p>		
<p><b>6.7 Energy Efficiency and Sustainability</b></p> <p><b>Aims</b> This BDCP section aims to:</p> <ul style="list-style-type: none"><li>Have regard for the principles of Ecologically Sustainable Development (ESD) by encouraging energy efficient buildings which use readily renewable resources or utilise sustainable materials.</li><li>Reduce energy consumption through choices in the design of development and use of materials.</li><li>Reduce energy consumption through choices in mechanical heating, cooling and artificial lighting.</li><li>Reduce reliance on fossil fuels and minimise greenhouse gas emissions.</li><li>Support and promote renewable energy initiatives.</li></ul> <p><b>Provisions</b></p> <p><i>Residential Development</i></p> <p><b>P1</b> Where applicable, development is to demonstrate compliance with the design principles embodied in the Building Sustainability Index (BASIX). All commitments listed on a BASIX certificate must be marked on all relevant plans and specifications.</p> <p><b>P2</b> The principles and properties of thermal mass, glazing, insulation and solar energy are to be recognised and incorporated into the design of residential development not subject to BASIX.</p> <p><i>Non-Residential Development</i></p> <p><b>P3</b> The non-residential component of any development must aim to achieve at least a minimum of a 4.5 star rating under the National Australian Built Environment Rating (NABERS) system.</p> <p><b>P4</b> Improve the control of mechanical space heating and cooling by designing heating/cooling systems to target only those spaces which require heating or cooling, not the whole building.</p> <p><b>P5</b> Improve the efficiency of hot water systems by:</p> <ul style="list-style-type: none"><li>Encouraging the use of solar powered hot water systems. Solar and heat pump systems must be eligible for at least 24 Renewable Energy Certificates (RECs) and domestic type.</li></ul>	Complies	Refer to Basix Report in <b>Appendix 14.</b>



5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

<ul style="list-style-type: none"><li>Gas systems must have a minimum 3.5 star energy efficiency rating.</li><li>Insulating hot water systems.</li><li>Installing water saving devices, such as flow regulators, 3 stars Water Efficiency Labelling and Standards Scheme (WELS Scheme) rated shower heads, dual flush toilets and tap aerators.</li></ul> <p><b>P6</b> Reduce reliance on artificial lighting and design lighting systems to target only those spaces which require lighting at any particular ‘off-peak’ time, not the whole building. Incorporate a timing system to automatically control the use of lighting throughout the building.</p> <p><b>P7</b> All non-residential development Class 5-9 will need to comply with the Building Code of Australia energy efficiency provisions.</p> <p><b>P8</b> An Energy Efficiency Report from a suitably qualified consultant that demonstrates a commitment to achieve no less than 4 stars under the Australian Building Greenhouse Rating Scheme or equivalent must be provided for all commercial and industrial development with a construction cost of over \$5 million.</p> <p><b>Advisory Note:</b> Consideration must be given to the requirements of the Building Sustainability Index Certificate known as BASIX. This certificate confirms that the development has passed State Government’s targets to reduce water and energy use. Information is readily available from the BASIX website at <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a> and the NABERS website at <a href="http://www.nabers.com.au">www.nabers.com.au</a>.</p>		
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5.0 ANY OTHER MATTERS

5.1 LIKELY IMPACTS

Pursuant to *Section 79C (B)* of the Act, ‘the likely impacts of that development’ are addressed in this report.

5.2 CONTEXT AND SETTING

The context and setting of the site have been assessed in the Architectural Design Report prepared by Kann Finch. The scale and use of the proposed development is considered to support the aims and objectives of the B4 Mixed Use zone. The use and building form supports the Council’s future vision for the Burwood Town Centre. Non-compliance with density and built form controls contained in the BLEP 2012 are addressed under Clause 4.6 ‘Exception to development standards’ of the LEP in the report.

5.3 ACCESS, TRANSPORT AND TRAFFIC

Access, transport and traffic are considered in the specialist Traffic Impact Assessment. The parking, servicing and external impacts resulting from the proposed mixed use development are discussed in Traffic Report at **Appendix 06**.

5.4 PUBLIC DOMAIN

The proposed public domain has been increase in size and upgrades as a result of this proposal. In compliance with the requirements of the DCP the building has been setback from the site boundary effectively widening the footpaths on the principal street frontages. In addition, the building podium has been setback 9 metres from the northern boundary to create a new activated east west laneway connecting Hornsey Street to Wynne Ave.

5.5 UTILITIES

The proposed development utilised existing utilities to the site. Separate reports addressing electricity supply requirements and stormwater plans are provided at **Appendix 16 and 17**.

5.6 HERITAGE

The proposed development retains the street elements of the Masonic Temple on Belmore Street which is listed as a heritage item under the BLEP 2012. Matters related to the retention of the item are addressed in the Heritage Impact Report at **Appendix 09**.

5.7 WATER

Likely impacts on water as a result of the proposed development are addressed in the Stormwater Concept plans at **Appendix 16**.

5.8 AIR AND MICROCLIMATE

Potential air or microclimate impacts and mitigating strategies as a result of the proposed development during construction are addressed in the Construction Management Report at **Appendix 10**.

5.9 FLORA AND FAUNA

There is no flora and fauna of significance within the site.

5.10 WASTE

A Waste Management Plan (**Appendix 11**) has been prepared for the proposed development. The waste management recommendations of the Plan have been accommodated for in the design of the storage areas in the basement.

5.11 ENERGY

Energy efficiency is an integral element of the proposed development. The BASIX Report provided in **Appendix 14** addresses this issue.

5.12 NOISE AND VIBRATION

Noise and vibration impacts during the construction of the proposed building are addressed in the Construction Management Report at **Appendix 10**.

5.13 NATURAL HAZARDS

There are no natural hazards that are known to be associated with this site.



# 5.0 STATEMENT OF ENVIRONMENTAL EFFECTS

## 5.14 SAFETY, SECURITY AND CRIME PREVENTION

Crime prevention through environmental design is an integral part of the overall design. Refer to the CPTED Statement at **Appendix 12**.

## 5.15 SOCIAL IMPACT IN THE LOCALITY

The social impact of the proposed development will be positive. The development converts an underdeveloped site consisting of temporary car park and vacant apartment buildings into a new mixed use residential development. The design includes upgraded and extended public domain with a highly activated street edge including retail and commercial uses. In addition it is proposed that Building A on Conder street will provide the public benefit of accommodating Council new offices with a bridge link to the Council library on Conder Street.

## 5.16 ECONOMIC IMPACT IN THE LOCALITY

The economic impact of the proposed development will be positive. In addition to the increased economic benefits during the construction period, the proposed development converts an underdeveloped site consisting of temporary car park and vacant apartment buildings into a new mixed use residential development. The inclusion of retail uses within the development provides employment opportunities in the area.

## 5.17 CUMULATIVE IMPACTS

The potential cumulative impacts of the proposed development have been assessed through this report and specialist reports in the Appendices. Potential impacts have been considered and assessed.

## 5.18 CONSTRUCTION ISSUES

There are no construction issues associated with the proposed modifications other than designing the basement to address existing services.

## 5.19 SITE SUITABILITY

The site is ideally located for a higher density mixed use development within the southern edge of a town centre, in close proximity to a railway station.

## 5.20 PUBLIC SUBMISSIONS AND THE PUBLIC INTEREST

Any public submissions received as a consequence of advertising would be considered by Burwood Council during their assessment process. Section 79C (D) and (E) of the Act require that any public submissions made in accordance with the Act or the public interest be considered in the development assessment process.

## 6. CONCLUSION

The submitted development proposal has been carefully resolved to give rise to a development outcome that will benefit the Burwood area in social, economic and environmental terms. The proposed development has been influenced by the site's context and the applicable planning framework, and results in a net community benefit for the area. The proposal also responds to the evolved market expectations, new strategic policy context and achieves the design excellence and urban design principles of SEPP65.

This assessment of the application has demonstrated that the development will have minimal adverse environmental impacts. In terms of bulk and scale the building envelopes are able to sit comfortably in the streetscape.

The building envelopes will not result in any unacceptable overshadowing and will not have a significant impact on the surrounding road network as a result of traffic generation levels.

In summary, the development:

1. Is environmentally sensitive, and minimises any impact on the environment and amenity of the locality;
2. Contributes to the diversity of retail, commercial and residential development in an established business zone on a site located at the edge of a major town centre;
3. Is consistent with the objectives of the BLEP 2012 and proposed amendments in relation to 'Bonus Floor Space' and 'Design Excellence' and the wider Strategic planning instruments for the area;
4. Will provide an appropriate planning and urban design response;
5. Improves the commercial viability and useability of area, associated retail and commercial areas and public transport;
6. Will provide a lively and dynamic mixed use urban outcome; and
7. Will contribute positively to the streetscape and public domain.

Given the environmental planning merits outlined above and significant public benefits of the modified development, we have no hesitation in recommending approval of the proposed development.

Ian Armstrong MPIA MAIA