

DATE OF DETERMINATION	Thursday 21 December 2017
PANEL MEMBERS	Maria Atkinson (Chair), John Roseth and Sue Francis
APOLOGIES	None
DECLARATIONS OF INTEREST	

Public meeting held at Christie Conference Centre, 3 Spring Street Sydney on 21 December 2017, opened at 10.55am and closed at 2.15pm.

Meeting adjourned at 11.45am, to reconvene at 2pm at the Panel's request.

MATTER DETERMINED

2016SYE097 – Burwood – DA103/2016 at 180-186 Burwood Rd & 7-9 Burleigh St Burwood (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:




- The Panel accepts the assessment officer's opinion that the cl 4.6 variation requests in respect of FSR and height are well founded. It needs to be recorded that the variation requests appended to the assessment report were incorrect. To allow the applicant to correct this, and the assessment officer to consider the amended request, the Chair adjourned the meeting at 11.45 am and re-opened it at 2 pm. During this time, the applicant submitted an amended cl 4.6 request and the assessment officer provided an amended assessment. That assessment accepted the variations on the basis that the proposed building sits below the building height plane established by cl 4.3A of the Burwood Local Environmental Plan 2012 and that the design of the proposal as two separate towers with communal open space in-between facilitates solar access to its southern neighbour. The Panel's decision to accept the variations is therefore based on the correct requests and the correct assessments, which are both published on the Panel's website.
- The Panel considered the objection on behalf of the owner of the neighbouring site at 188-192 Burwood Road. The Panel notes that the proposal is now set back 6m from the common boundary, as against 3m in the application before the Panel at the previous meeting in October. The Panel notes also that the proposal, as conditioned, is required to provide for access across the site to 188-192 Burwood Road. The applicant has provided an example showing that 188-192 can be developed, without amalgamating with any other site, up to the existing planning controls. Consequently, the Panel is satisfied that the proposal's impact on the development potential of 188-192 Burwood Road is acceptable.

- The Panel also considered the objection of the representative of the nine-storey apartment building on the site adjoining to the south at 11-17 Burleigh Street, whose main concern related to overshadowing. The Panel notes that the northern facing apartments of that building will continue to receive sunlight to the living rooms for approximately two hours between 11.30 am and 1.30 pm at mid-winter. Given the zoning of the site, the significant difference in height between the existing and the proposed building and the fact that 11-17 Burleigh Street is very close to the common boundary, the Panel is satisfied that the impact is acceptable and commensurate with the impact anticipated by the planning controls for the Burwood City Centre.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Condition 14 is amended to read as follows:
An easement for right of access and servicing (including waste collection) benefitting 188-192 Burwood Road, Burwood is to be registered on title. The easement is to provide vehicular access to a future basement for 188-192 Burwood Road and includes access from the proposed truck-turnstile on the ground floor via double doors with an opening of at least 1840mm on both sides of the proposed through site link. A copy of the draft easement instrument is to be provided to and agreed in writing with Council prior to registration and the issue of any Construction Certificate.
- Conditions 15 and 21 are deleted.

PANEL MEMBERS	
 Maria Atkinson (Chair)	 Sue Francis
 John Roseth	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYE097 – Burwood – DA103/2016
2	PROPOSED DEVELOPMENT	Demolish existing structures and construct 1 x 21 storey commercial tower and 1 x 26 storey mixed use tower (comprising commercial floor space, serviced apartments and residential apartments) over 5 levels of basement parking for 106 spaces.
3	STREET ADDRESS	180-186 Burwood Rd & 7-9 Burleigh St Burwood
4	APPLICANT/OWNER	Owners: Farah Elias (Director), Giant Project Group Pty Ltd, The Greek Orthodox Parish & Community of Burwood & District St Nectarios Ltd Applicant: Tony Jreige, Urban Apartments
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development Burwood Local Environmental Plan 2012 Apartment Design Guidelines Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Burwood Development Control Plan 2012 Draft Voluntary Planning Agreement lodged pursuant to Council's Policy for Carrying Out Bonus Development in Exchange for Public Benefits Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 5 October 2017 Supplementary report: 6 December 2017 Clause 4.6 variation request (amended): 21 December 2017 Written submissions during public exhibition: 16 Verbal submissions at the public meeting 19 October 2017: <ul style="list-style-type: none"> Object – Melissa Neighbour on behalf of owners corporation 11-17 Burleigh Street Burwood, and Simon Alam managing agent of neighbouring site On behalf of the applicant – Tony Jreige, Benjamin Black, Mark Bowman Verbal submissions at the public meeting 21 December 2017: <ul style="list-style-type: none"> Object – Clara Wang and Tom Goode On behalf of the applicant – Jeff Mead and Tony Jreige
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 13 July 2017 Briefing meeting: 14 November 2016, 13 July 2017, 19 October 2017 Determination meeting: 19 October 2017 (application deferred) Final briefing meeting to discuss council's recommendation, Thursday, 21 December 2017 at 10am. Attendees:

		<ul style="list-style-type: none">○ <u>Panel members</u>: Maria Atkinson (Chair), John Roseth and Sue Francis○ <u>Council assessment staff</u>: Scott Barwick and Brian Olsen○ <u>In attendance as an observer</u>: Carl Scully○ <u>In attendance, trialing recording of the meeting</u>: Karl Brown, Planning Panels Secretariat
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report