

STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED MIXED USE DEVELOPMENT

**17 DEANE STREET,
BURWOOD**

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TABLE OF CONTENTS

Executive Summary.....	6
Introduction	9
1.1. Overview	9
1.2. The subject site.....	9
1.3. Project Team.....	9
2. Site and Surrounding Context.....	11
2.1. The Site.....	11
2.2. Context.....	14
2.3. Surrounding Development	15
2.4. Transport and Accessibility	16
2.5. Open Space and Services	16
2.6. Utility Services	16
3. Background.....	17
3.1. Prelodgement Discussions	17
4. Proposal	23
4.1. Overview	23
4.2. Numerical overview.....	24
4.3. Proposed Uses	26
4.3.1. Retail Premises.....	27
4.3.2. Hotel Accommodation.....	27
4.3.3. Child Care Centre	28
4.3.4. Residential Units	29
4.4. Materials and Finishes	29
4.5. Open Space and Landscaping	30
4.5.1. Outdoor Child Care Facilities	30
4.5.2. Outdoor Hotel Seating	31
4.5.3. Outdoor Rooftop Bar.....	31
4.5.4. Residential Roof Garden and Courtyard.....	31
4.6. Demolition	32
4.7. Accessibility	32
5. Planning Assessment – Section 79C (1) (a).....	33
5.1. A Plan for Growing Sydney.....	33
5.2. Central Draft District Plan 2016	34
5.3. Burwood Community Strategic Plan 2010 – Burwood 2030.....	36
5.4. State Environmental Planning Policy (Infrastructure) 2007	36
5.5. SEPP 55 – Remediation of land	36
5.6. SEPP (Building Sustainability Index Basix) 2004	36
5.7. SEPP 65 and the Residential Flat Design Code (RFDC)	36
5.7.1. Communal and Public Open Space.....	42
5.7.2. Visual Privacy	42
5.8. Burwood Local Environmental Plan 2012.....	43
5.8.1. Height of Buildings	44
5.8.2. Floor Space Ratio	45
5.8.3. Residential Floor Space.....	46
5.9. Burwood Development Control Plan 2013 (BDCP 2013)	46
5.9.1. Deep soil planting on rooftops	46

5.9.2.	Common areas, min 2m widths – residential corridors 1.8m.....	46
5.9.3.	Side and rear setbacks	47
5.9.4.	Car parking	47
5.9.5.	Bike parking	47
5.9.6.	Vehicle access – 2-way (5.5m wide) required	47
5.9.7.	Secondary Setbacks.....	48
5.9.8.	Child care use on site used for residential purposes.....	48
5.10.	Section 93F Voluntary Planning Agreements.....	48
6.	Suitability of the Site for the Development – Section 79C (1)(c)	50
7.	Impact Assessment – Section 79C (1) (b)	51
7.1.	Likely Impacts on the Natural and Built Environment	51
7.1.1.	Urban Design	51
7.1.2.	Landscape	51
7.1.3.	Heritage	51
7.1.4.	Traffic and Access	52
7.1.5.	Privacy	52
7.1.6.	Noise and vibration	52
7.1.7.	Overshadowing	53
7.2.	Social Impacts in the Locality	55
7.2.1.	Crime Prevention	55
7.3.	Housing choice	55
7.4.	Economic impacts in the locality.....	55
7.4.1.	Employment Generation	55
8.	The Public Interest – Section 79C(1)(e)	56
9.	Clause 4.6 Variation Requests – Height and FSR	57
9.1.	Overview	57
9.2.	NSW Land and Environment Court: Case Law (Tests).....	57
9.3.	Consideration.....	59
9.3.1.	Clause 4.6(3)(a) – Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case	59
9.3.2.	Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?	60
9.3.3.	Clause 4.6(4)(A)(II) – Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone in which the development is proposed to be carried out?	61
9.3.4.	Would non-compliance raise any matter of significance for state or regional planning?	63
9.3.5.	Is there a public benefit of maintaining the planning control standard?	63
9.3.6.	Is the development standard a performance based control?	63
9.3.7.	Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act	63
9.3.8.	Is the objection well founded?	64
9.4.	Summary.....	64
10.	Conclusion	65
	Disclaimer	67

Appendix A	Architectural Package
Appendix B	Accessibility Review Report
Appendix C	Acoustic Assessment
Appendix D	BCA Design Compliance Report

Appendix E	Child Care Centre Statement
Appendix F	Compliance Table for BDCP 2013
Appendix G	Construction Management Plan
Appendix H	Construction and Operational Waste Management Plan
Appendix I	Cost Report prepared by QPC & C
Appendix J	Development Application Civil Report – Stormwater, Utilities & Access
Appendix K	Electrolysis Testing
Appendix L	Energy Efficiency Report and BASIX Certificate
Appendix M	Geotechnical Assessment
Appendix N	High-Level CPTED Recommendations
Appendix O	Landscape Architecture
Appendix P	SEPP 65 Design Verification Statement
Appendix Q	Site Survey
Appendix R	Stage 1 Preliminary Environmental Site Assessment
Appendix S	Statement of Heritage Impact
Appendix T	Traffic & Parking Assessment
Appendix U	Voluntary Planning Agreement Letter of Offer
Appendix V	Reflectivity Assessment Report
Appendix W	Wind Assessment Report
Appendix X	BCA Section J Analysis Report

EXECUTIVE SUMMARY

PURPOSE OF THIS REPORT

This Statement of Environmental Effects (SEE) has been prepared by Urbis Pty Ltd on behalf of Citypark Properties Pty Ltd (the Applicant) to support a development application (DA) submitted under Section 78A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the redevelopment of the site at 17 Deane Street, Burwood.

This report provides the following:

- A description of the site context, including identification of the subject site, existing development and structures on the site, and surrounding development.
- A description of the planning framework and the pre-lodgement consultation with Council and GMU.
- Detailed description of the proposed development.
- Assessment of the proposed development with the relevant environmental planning instruments and policies and relevant matters under Section 79C of the EP&A Act.
- Identification and assessment of the key issues relevant to the proposed development.
- Assessment of the proposal having regard to the public interest.

THE PROPOSED DEVELOPMENT

The intent of this proposal is to provide a high quality mixed use development that demonstrates design excellence, boosts an inviting and active pedestrian interface and offers a high level of amenity of the future occupants of the site.

The proposal is for the construction of a retail premises, 36 residential apartments, 101 hotel rooms and a child care centre located at 17 Deane Street, Burwood.

The development application seeks consent for the following works:

- Demolition of the existing building on the site and construction of a part 3 storey and part 23 storey building.
- Three levels of basement car parking to accommodate 55 car parking spaces, 20 bicycle spaces, storage, plant and servicing equipment, with access provided via the access provided from George Street.
- Retail tenancy on the ground floor fronting George Street and Mary Street.
- Three ground floor separate dedicated lobbies for services relating to residential units, hotel and child care.
- A child care centre on Level 2.
- 101 hotel rooms of varying configurations and sizes located on Level 1 and from Levels 5-12.
- 36 residential apartments of varying configurations and sizes located from Levels 14-23.

PLANNING ASSESSMENT

The proposed development has been assessed against the relevant environmental planning instruments and policies. The compelling reasons why a positive assessment and determination of the project should prevail are summarised below:

- **The proposal is consistent with strategic planning goals and priorities**

Burwood Town Centre is identified within metropolitan, district and local plans as having a future character defined by mixed use integrated development. At a metropolitan level, the proposal successfully achieves the goals of *A Plan for Growing Sydney* through; housing choice with the provision of different sized apartments, economic competition with hotel accommodation, and strengthening communities with the provision of a child care centre. At a district level, the proposal achieves the goals of the draft *Central District Plan* through; the development of large floorplate mixed use buildings, expanding the function and type of land uses within the centre, and activating the street through provision of a retail tenancy and a hotel bar. At a local level, the proposal successfully achieves the goals of the *Burwood Community Strategic Plan* through; creation of a vibrant and clean streetscape through a retail tenancy on the ground floor, increasing employment opportunities with numerous commercial uses, and supporting Burwood's major centre status through a mixed-use building.

- **The proposal incorporates a diversity of uses and satisfies the B4 Mixed Use zone objectives**

The proposal provides a range of uses in an accessible location. The proposal provides for a retail premises on the ground floor, 36 residential units, a child care centre and 101 hotel rooms. The provision of 36 apartments will assist Burwood Council in achieving their new housing targets and allow people to live closer to employment. These residents will be within walking distance of public transport and Burwood Town Centre which will encourage active transport. A ground floor active use will contribute to the vitality of George Street and the Burwood Town Centre.

- **The proposal is generally consistent with the BLEP 2012 standards**

Variation is proposed to the height, floor space ratio, and residential floor space ratio standards but the proposal is an appropriate contextual fit and will contribute positively to the Burwood Town Centre. Despite these minor numeric non-compliances, the development achieves the objectives of the standards.

- **The proposal is generally consistent with the BDCP 2013 standards**

The proposal seeks a variation to the secondary setback provision. Despite minor numeric non-compliances, the development achieves the objectives as set out in the BDCP 2013.

- **The proposal will offer a high standard of amenity to the occupants**

The apartments, hotel rooms and the development generally will offer residents a high standard of internal and external amenity. The proposal complies with the natural ventilation and solar access requirements.

- **Design excellence has been achieved**

The development incorporates high quality finishes to the façade and includes a composite of materials, colours and textures. The design incorporates an inviting frontage to Deane Street and promotes sightlines through the site with a secondary setback and

- **The proposal is in the public interest**

The proposal will make a positive contribution to the Burwood Town Centre (BTC) through the addition of a range of employment opportunities and an essential service in the provision child care centre. A Voluntary Planning Agreement is initiated between the applicant and Burwood Council to support the improvement of community facilities and space.

SUMMARY OF COMPLIANCE

A detailed assessment of the proposal against the applicable planning instruments and policies is provided in this document. **Table 1** summarises the proposals consistency with each of the relevant controls.

Table 1 – Summary of Compliance with Applicable Planning Instruments and Policies

INSTRUMENT/POLICY	COMMENTS
State Environmental Planning Policy No 55 — Remediation of Land (SEPP 55)	The site is not likely to be contaminated given its current and historic use as a commercial office building.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)	A Sustainable Design Report and BASIX assessment and certificate is included at Appendix L which confirms that the development will satisfy the requirements for BASIX.
State Environmental Planning Policy No 65— Design Quality of Residential Flat Development (SEPP 65)	As outlined in the SEPP 65 Design Statement at Appendix E , the proposal is generally consistent with the nine design principles and will offer the occupants a high standard of amenity. The proposal is also generally consistent with the objectives and design criteria specified in the Apartment Design Guidelines (ADG). Where variations are proposed, these are justified on the grounds of context, surrounding built form and lot orientation.
Burwood Local Environmental Plan 2012 (BLEP 2013)	The proposal seeks variation to the development standards of height and floor space ratio. These are justified on the grounds that the site is limited in size and width, and the proposal achieves design excellence which appropriately responds to the matters raised in Council's urban design review, in particularly the creation of a slender tower form, which is setback from all boundaries
Burwood Development Control Plan 2013 (BDCP 2013)	The proposal is generally consistent with the BDCP 2013. Variations to development controls for car parking, building setbacks, and vehicle access have been fully justified.

CONCLUSION

Having considered all the relevant matters, we conclude that the proposal represents a sound development outcome that upholds Council's vision for the Burwood Town Centre. The proposal is therefore considered well-worth of Council support and ultimately approval.

INTRODUCTION

1.1. OVERVIEW

This report accompanies a Development Application (DA) to Burwood Council for the redevelopment of the property at 17 Deane Street, Burwood (**subject site**) for a mixed use development. The proposed development seeks consent for the following:

- Demolition of the existing building on the site and construction of a part 3 storey and part 23 storey building.
- Three levels of basement car parking to accommodate 55 car parking spaces, 20 bicycle spaces, storage, plant and servicing equipment, with access provided via the access provided from George Street.
- Retail tenancy on the ground floor fronting George Street and Mary Street.
- Three ground floor separate dedicated lobbies for services relating to residential units, hotel and child care.
- A child care centre on Level 2.
- 101 hotel rooms of varying configurations and sizes located on Level 1 and from Levels 5-12.
- 36 residential apartments of varying configurations and sizes located from Levels 14-23.

1.2. THE SUBJECT SITE

The subject site is located at 17 Deane Street, Burwood, and is legally described as Lot 1 in DP 1215989.

The subject site is rectangular shaped allotment with an area of 1150sqm. It is currently developed with a one and two storey brick building that was previously used by the Police Citizens Youth Club (PCYC). The site has previously been used as a sporting club for boxing and fitness. The Police Citizens Youth Club (PCYC) has been on the site since 1944.

The site has street frontages to George Street to the north, Mary Street to the east Deane Street to the South and Youth Lane to the west. The sites topography slopes from Deane Street to George Street by approximately 2.9m. The northern boundary along George Street ranges from RL 17.69 at the northwest corner to RL 17.86 at the northeast corner. The southern boundary along Deane Street ranges from RL 20.58 at the southwest corner to RL 20.9 at the southeast corner.

1.3. PROJECT TEAM

This SEE has been prepared on behalf of Citypark Properties Pty Ltd (**Citypark**). It is based on plans prepared by Metropoint Group Architects which detail full demolition and construction works. This SEE is to be read in conjunction with the following supporting documents:

- Architectural Package prepared by MGA (**Appendix A**)
- Accessibility Review Report – DA Review prepared by ABE Consulting (**Appendix B**)
- Acoustic Assessment for Development Application prepared by Renzo Tonin & Associates (**Appendix C**)
- BCA Design Compliance Report prepared by MBC (**Appendix D**)
- Child Care Centre Statement prepared by LSA Design (**Appendix E**)
- Compliance Table for BDCP 2013 prepared by Urbis (**Appendix F**)

- Construction Management Plan prepared by MGA (**Appendix G**)
- Construction and Operational Waste Management Plan (**Appendix H**)
- Cost Report prepared by QPC & C (**Appendix I**)
- Development Application Civil Report – Stormwater, Utilities & Access prepared by Arcadis (**Appendix J**)
- Electrolysis Testing prepared by Corrosion Control Engineering (**Appendix K**)
- Energy Efficiency Report and BASIX Certificate prepared by WSP (**Appendix L**)
- Geotechnical Assessment prepared by JK Geotechnics (**Appendix M**)
- High-Level CPTED Recommendations prepared by Urbis (**Appendix N**)
- Landscape Architecture prepared by LSA Design (**Appendix O**)
- SEPP 65 Design Verification Statement prepared by MGA (**Appendix P**)
- Site Survey prepared by Rygate Surveyors (**Appendix Q**)
- Stage 1 Preliminary Environmental Site Assessment prepared by EIS (**Appendix R**)
- Statement of Heritage Impact prepared by Heritage 21 (**Appendix S**)
- Traffic & Parking Assessment prepared by Parking & Traffic Consultants (**Appendix T**)
- Voluntary Planning Agreement Letter of Offer (**Appendix U**)

2. SITE AND SURROUNDING CONTEXT

2.1. THE SITE

The site is located at 17 Deane Street, Burwood and is legally described as Lot 1 in DP1215989. The location of the site in the context of the broader metropolitan area is shown in **Figure 1**.

Figure 1 – Location Plan



As shown in **Figure 2**, the site is a rectangular shaped allotment with an area of 1150sqm. It is currently developed with a one and two storey brick building that was previously used by the Police Citizens Youth Club (PCYC).

The site has street frontages to George Street to the north, Mary Street to the east Deane Street to the South and Youth Lane to the west. The sites topography slopes from Deane Street to George Street by approximately 2.9m.

The northern boundary along George Street ranges from RL 17.69 at the northwest corner to RL 17.86 at the northeast corner. The southern boundary along Deane Street ranges from RL 20.58 at the southwest corner to RL 20.9 at the southeast corner.

Photographs of the site are included at **Figure 3**.

Figure 2 – Aerial photographs of the Subject Site



Source: Google Earth



Figure 3 – Photographs of the Site



Picture 1 – View of the Subject Site from Dean Street



Picture 2 – View of the Subject Site from Youth Lane



Picture 3 – View of the Subject Site from Mary Street



Picture 4 – View of the Subject Site from George Street

2.2. CONTEXT

The site is located to the east of Burwood Town Centre, an identified Strategic Centre with recognised potential to provide capacity for additional mixed use development including offices, retail, services and housing. Burwood Town Centre straddles both side of the railway line and includes Burwood Council, Burwood Police Station, Burwood Westfield, Burwood Plaza and a large array of other commercial uses.

Burwood Town Centre is being progressively redeveloped into a dense urban centre, with approval being granted for several significant mixed use developments, many of which are under construction. Significant developments within the immediate locality include:

- **9-15 Deane Street and 18-20 George Street:** Construction of a 22 storey mixed use development comprising 4.5 levels of basement car parking, 2,640sqm of retail, 3,447sqm of commercial office space, 76 serviced apartments and 103 residential apartments.
- **1-3 Marmaduke Street and 7 Deane Street:** Construction of a 22 storey mixed use development comprising 4 levels of basement car parking, ground floor retail, 112 serviced apartments and 34 residential apartments (under construction).
- **23 – 27 George Street:** Construction of a 21 storey mixed use development comprising 3 levels of basement car parking, retail at the ground floor, 2 levels of commercial office space, residential apartments on Levels 4 – 20 (under assessment).

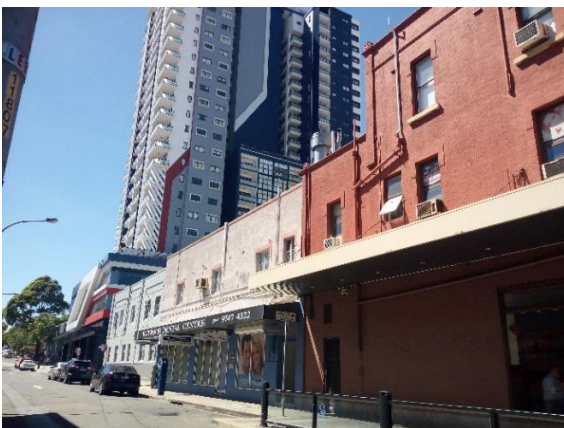
Figure 4 – Surrounding Development



Picture 5 – Burwood Railway Station as Viewed From Deane Street (Opposite Subject Site)



Picture 6 – Dwellings, Residential Flat Building and Shop Top Housing as Viewed From George Street (Opposite Subject Site)



Picture 7 – Mixed Use Development as Viewed From George Street



Picture 8 – Two Storey Shop Top Housing Fronting Burwood Road

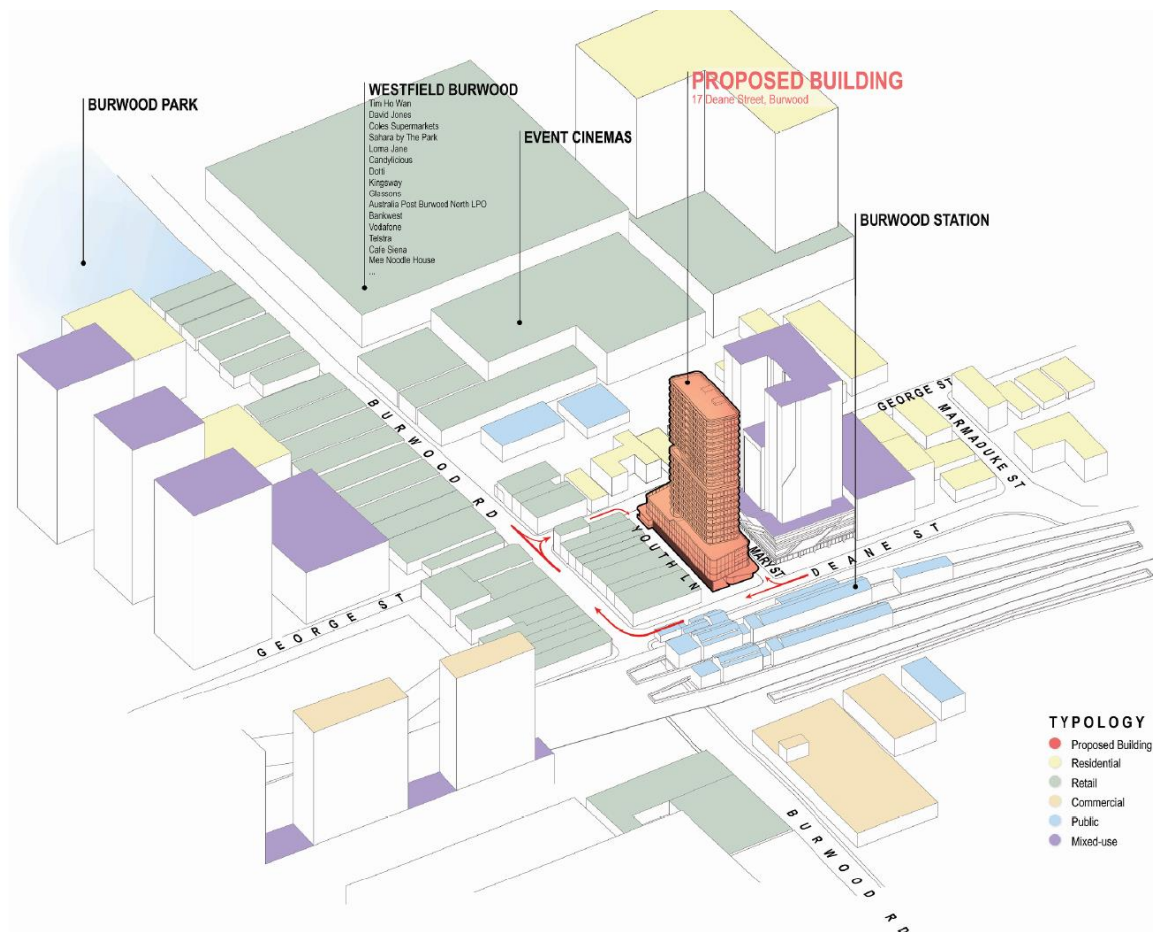
2.3. SURROUNDING DEVELOPMENT

Figure 5 provides an illustration of the local context. Development within the vicinity includes:

- **To the North** of the site are low to medium density residential buildings, comprising of single story detached dwellings and a three-storey 1970s residential flat building. Additionally, there are two storey developments comprising retail premises, fronting George Street.
- **To the East** of the site is The GM Tower at 9-15 Deane Street and 18-20 George Street - a 22 storey mixed use development building currently under construction.
- **To the South** of the site is a railway reservation and Burwood Railway Station.
- **To the West** of the site are a series of two storey developments comprising retail premises fronting Burwood Road. Individual pedestrian access for the purposes of servicing is provided from Youth Lane.

The proposed development is appropriate as the site is well located near Burwood Town Centre and other retail and commercial uses. The site is close to other mixed use developments which are similar in height and structure to the proposed development. Surrounding significant development is consistent with the proposed development and meets the needs of the Burwood Town Centre.

Figure 5 – Local context



2.4. TRANSPORT AND ACCESSIBILITY

The site is located near public transport networks and the Burwood Town Centre, as described below.

- **Rail:** Burwood Train Station is located 50m South of the site. The site is approximately 16 minutes travel time from Town Hall on the North Shore, Northern and Western railway line.
- **Vehicle:** The site is approximately 20 minutes travel time from Town Hall by vehicle via the A4.
- **Bus:** There are numerous buses servicing the Burwood Town Centre with direct connections to the Sydney CBD Parramatta and Bondi Junction. The site is within close proximity of stops along these routes.
- **Cycling:** Burwood Council identifies one cycle route that passes the site on Dean Street and Mary Street fronts. This links the site to:
 - Stations: Croydon and Strathfield.
 - Schools: Burwood Girls High, Croydon Primary, PLC, MLC, MLC Primary, Burwood Primary, and St. Josephs Catholic School.
 - Parks: Henley and Flockhart.
 - Other areas: Canterbury, Ashfield, Canada Bay, Concord, Strathfield, and Homebush Bay.

The site of the proposed development is highly accessible due to its proximity to the Burwood Town Centre and transport interchanges.

2.5. OPEN SPACE AND SERVICES

Approximately 500m north east of the site is Burwood park, containing war memorials, playgrounds, tennis courts, a cricket pitch, public toilets, a playing field, outdoor chess boards, a pond, a rotunda, barbecues and picnic shelters.

There are several child care centres close to the site, particularly directly to the north. Westfield Burwood is located to the North of the site and facilitates various retail tenancies.

2.6. UTILITY SERVICES

The site is located within an established urban area within which all utility services exist, and are capable of being augmented to accommodate the proposed development.

3. BACKGROUND

3.1. PRELODGE MENT DISCUSSIONS

A pre-lodgement application was submitted to Council on 29 June 2016. The pre-lodgement application was referred internally to Council staff and externally to GMU. Formal correspondence was received and a meeting was subsequently held with Council staff and GMU

A summary of the key matters identified by Council staff and GMU is provided in **Table 2** and **Table 3** respectively.

Table 2 – Council's Preliminary Assessment Summary

Issue/Comment	Response
Stormwater Drainage: A stormwater management plan and a sediment control plan shall be prepared by a qualified, practicing and professional engineer in accordance with Council's Stormwater Management Code. Property drainage connection must be made to Council's drainage pit or underground pipeline.	<ul style="list-style-type: none"> A Stormwater Concept Management Plan is provided with this application at Appendix J, prepared by a qualified civil engineer.
Damage Deposit: The applicant shall pay a damage deposit bond, to be retained in Council till the completion of the development under the DA. Should there be any damage caused to footpath, kerb gutter, drainage structure and road pavement etc. the money will be used to repair/rectify and restore the damages.	<ul style="list-style-type: none"> Noted, as a post-DA condition to be satisfied.
Public Domain Improvement: The applicant shall provide a high quality Public Domain and Streetscape Improvement elements and finishes on all publicly accessible areas at the property frontage in accordance with Council's DCP & Public Works Element Manual.	<ul style="list-style-type: none"> A Landscape Plan is provided with the development application for public domain areas.
<p>Protection of Assets and Services: The Applicant shall prepare detailed survey reports of all existing service authority assets in and around the areas of the proposed development. Surveys should include, but not be limited to, high and low voltage electricity, water, stormwater, sewer, gas, telecommunications, street lighting and drainage assets, etc.</p> <p>The Applicant shall liaise with all relevant service authorities to satisfy all requirements of the service authority providers in respect of protection, termination or relocation of existing assets. A written consent shall be required where a service authority asset will be affected</p>	<ul style="list-style-type: none"> Noted, as a post-DA condition to be satisfied.
An acoustic assessment for the proposed development is to be conducted in order to address the required noise reduction targets and levels as required by State Environmental Planning policy – (Infrastructure) 2007 in relation to Rail Related Noise and Vibration for Development	<ul style="list-style-type: none"> An acoustic impact assessment has been prepared for this DA and is provided at Appendix C.

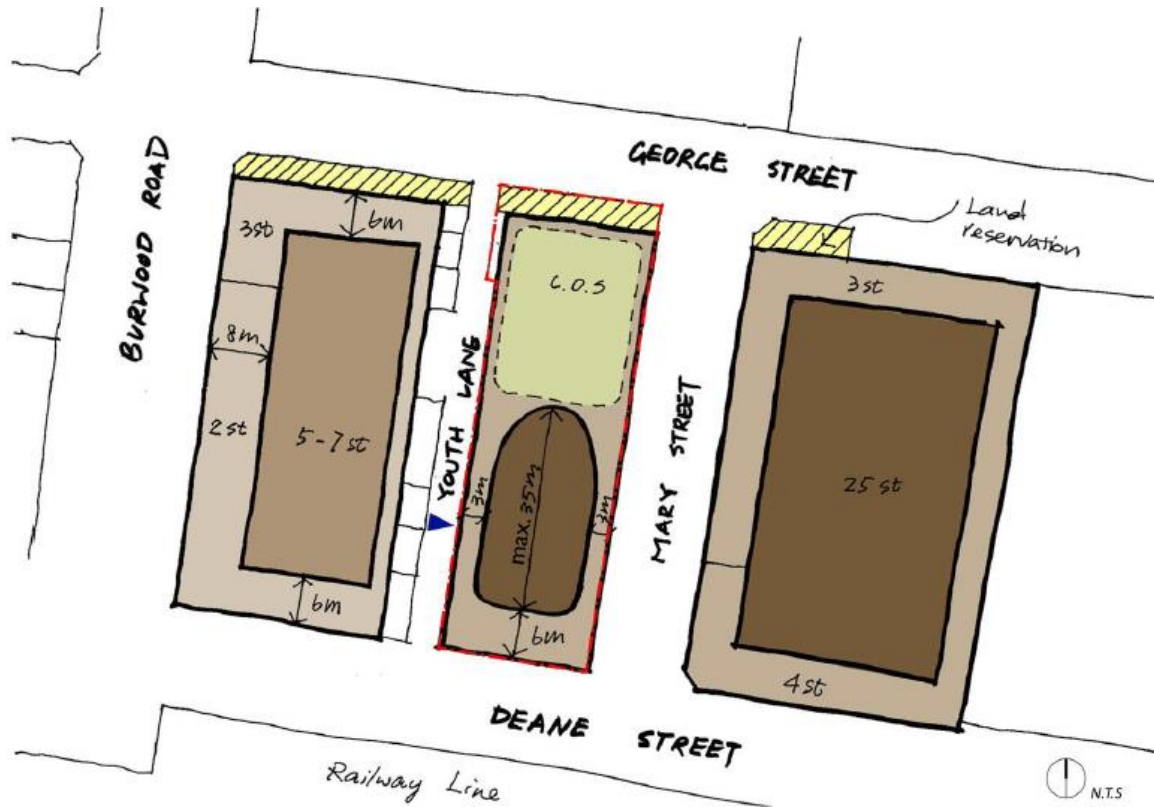
Issue/Comment	Response
Adjacent to the Rail corridor. The report is to be submitted to Council with the development application	
A car wash bay is to be provided within the basement level car park that is graded and drained to a waste disposal system in accordance with the requirements of Sydney Water.	<ul style="list-style-type: none"> • A car wash bay has been included in the basement for the proposed development.
<p>Waste Management:</p> <p>A Waste Management Plan, complying with the requirements of Burwood Council's Development Control Plan Part 6.2, is to be submitted with any Development application that is submitted. The Plan is to address waste management issues, with particular regard to the following:</p> <ul style="list-style-type: none"> • Demolition phase • On site waste management during construction phase • Ongoing waste management when facility operation 	<ul style="list-style-type: none"> • A Waste Management Plan has been provided with the development application, and an assessment of the proposed waste management and minimisation measures have been incorporated into the DCP Compliance Table at Appendix H.
<p>Specific Waste Management requirements:</p> <ol style="list-style-type: none"> 1. Separate waste and recycling storage rooms are to be provided for the commercial and residential portions of the development 2. A waste chute system is to be installed and accessible from each residential level to enable the transport of waste from each level to a central garbage collection area. 3. The garbage chute room at each level is to be of sufficient size to accommodate sufficient mobile bins (MGB'S) / crates to store recyclable material generated over the entire period between collection days. 4. The development is to be designed to enable waste collection to be conducted from within the site. The vehicular entry to the waste and recycling holding area is to be of sufficient size to enable access by a fully laden garbage truck. 5. A separate area is to be provided and nominated on the plans (minimum 15 square metres) as a holding area for large bulky household clean up material to be held until clean up collections are scheduled or organised through Council. 	<ul style="list-style-type: none"> • Separate waste rooms are provided for the commercial and residential portions of the development. • A waste chute system is to be installed and accessible from each residential level. • Waste collection is proposed within the site. • A separate area as a holding area for large bulky items is proposed in the basement.

Table 3 – GMU's Preliminary Assessment Summary

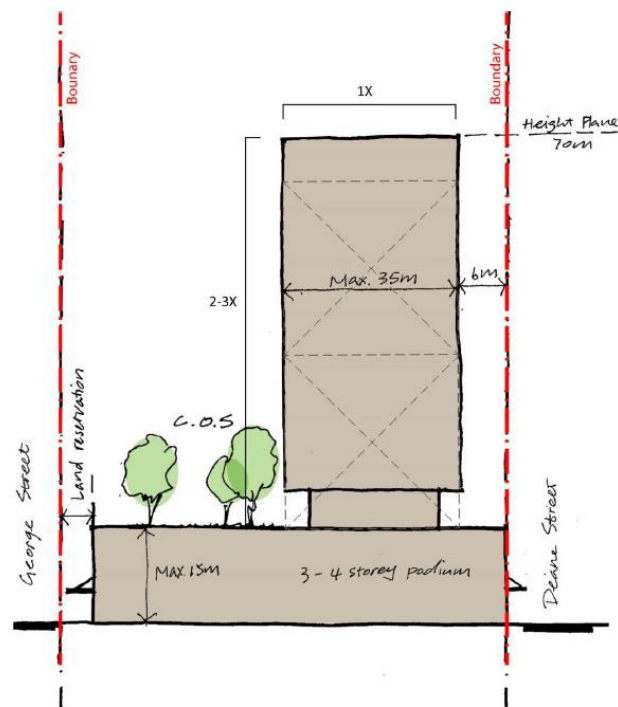
Issue/Comment	Response
<p>Bulk and Scale</p> <ul style="list-style-type: none"> The proposal does not dedicate the local road reservation area to Council as identified under the current LEP controls. This would hinder Council's intention to extend George Street and achieve the desired future streetscape for the area. It is questionable if the building straight up to the roof top with nil upper level setbacks to Youth Lane is an acceptable urban design outcome. It is believed that this approach is due to the basement parking layout design dictating the location of cores against that boundary. It might result in a compromised amenity and development potential for the neighbouring sites as well as increasing a 'sense of enclosure' to the existing lane way. Further investigation such as elevation and view impact studies should be carried out, especially since it is GMU's opinion that an additional upper level setback is required. The proposed tower has a tower length of up to 47m and would result in a bulky scale when viewed from the public domain. It is worth exploring a single slender tower for the subject development. The proposed podium height exceeds the DCP requirement (max. 15m) which should be redesigned. It is recommended to be aligned with the podium level of the neighbouring development at 11-15 Deane Street. 	<ul style="list-style-type: none"> The proposal seeks to dedicate the local road reservation to Council as identified in the LEP. The tower incorporates a 3 metre setback along Youth Lane and Mary Street, which responds to the concerns from GMU Urban Design Consultants and is considered acceptable on urban design grounds to clearly distinguish the podium and tower forms of the building. Screening element on the eastern and western elevations are proposed to provide additional privacy for hotel occupants. The proposed tower length is 33 metres. The tower is slender in width and length, and well setback from the northern and southern boundaries in response to the GMU's preferred tower form. The proposed form is considered to have slender proportions. The proposed podium height at 15 metres at the Deane Street and George Street frontages and generally aligns with the podium height of the adjoining 11-15 Deane Street.
<p>Pedestrian and vehicular entry and parking</p> <ul style="list-style-type: none"> The proposed vehicular entry and loading bay area along Mary Street creates an expansive blank wall façade and lengthy inactive street frontage, which is not acceptable. Vehicular and servicing entry is recommended to be relocated to Youth Lane subject to further traffic study. The proposed residential square and access to the residential entry foyer along George Street shows a deep configuration away from the street. It would result in an illegible residential entry from the public domain as well as having perceived safety and security issues for the future residents. The layout design should be reconsidered to ensure sufficient solar access to the common space area. The lift lobby closer to Deane Street is shared by the commercial/retail tenancies and student accommodation. A separate entry should be provided. 	<ul style="list-style-type: none"> The proposed vehicle entry is located from George Street and egresses to Deane Street. The Mary Street frontage has active uses at the street corners. The residential entries have been amended in response to GMU's comments. The residential lobby is located directly off the street from George Street. Useable common open space for the residential units is located at Level 13, which has a northerly aspect and will have excellent solar access. Separate entries are proposed for the residential units, hotel and child care centre within the building.
<p>Internal layout</p> <ul style="list-style-type: none"> The ground floor design is problematic. The proposed uses on the ground floor would result in poor activation and low levels of passive surveillance to the streets. It is questionable if the proposed swimming pool with an outdoor kiosk is a suitable use at ground level. It is recommended that the applicant reconsider the ground floor layout design with maximised commercial/retail uses to activate the street frontages. 	<ul style="list-style-type: none"> The proposed ground floor design addresses the concerns of GMU in relation to the degree of activation and passive surveillance provided. The initial concept for a swimming pool and kiosk on the ground floor has been re-considered, and no longer forms part of the proposal.

Issue/Comment	Response
<p>Recommended built form</p> <ul style="list-style-type: none"> Based on GMU's study of the site and surrounding context, it is noted that the site is constrained by its narrow nature of the allotment and close proximity to the lower scale shop-top terraces along Burwood Road. However, given that the strategic location of the site and the desired intensification around the transport node, GMU considers that a high-rise development with a single elegant tower form is worthy of exploration for the site. The proposed development presents an overdeveloped form with nearly no activation to the streets and a less-than-desirable interface response to the future context. 	<ul style="list-style-type: none"> The proposal for a single slender and elevate tower form appropriately responds to the GMU comments. Additional activation is proposed along George Street, Mary Street and Deane Street. Youth Lane is a rear service Lane for properties to the west of the subject site, and is expected to consider to provide this function in the foreseeable future. Activation is limited to an architectural screen to be of a high quality finish.
<p>Concluding comments</p> <p>To achieve a better design outcome, GMU suggests the following changes to the built form design:</p> <ul style="list-style-type: none"> Consider dedicating the required land reservation area to Council, facilitating the future extension of George Street; Propose a single elegant tower (max. length of 35m) over the 3-4 storey podium (max. height of 15m) on the subject site; Locate the tower closer to Deane Street with a provision of 6m upper level setback above the podium, allowing for a generous communal open space fronting George Street with good solar access; Provide 3m upper level side setbacks to Youth Lane and Mary Street, ensuring an improved amenity for the future residents on site and neighbouring sites; The lift core can be located to the side boundary, but preferably away from the edges ensuring an efficient basement parking layout but achieving adequate setbacks above street wall height; Relocate the vehicular entry to Youth Lane subject to further traffic analysis; Maximise commercial/retail uses on the ground floor to activate the street frontages; and GMU strongly recommends the proposal to achieve an elegant/slender building ratio to ensure clear tower proportions above podium. An example of a proportioned tower form is provided below, which is based on a 2-3:1 ratio. 	<p>In summary, the proposed appropriately responds to GMU's recommendations:</p> <ul style="list-style-type: none"> Land reservation is proposed to be dedicated to Council along the George Street frontage; The proposal includes a tower and podium element. The tower elevate is setback from all boundaries and the podium element is built to the street boundaries (except for the George Street frontage, which incorporates the proposed land reserve); The tower building has been sited closer to Deane Street with a generous and large setback from George Street, which provides usable outdoor open space for the child care centre; A 3m upper level setback for the tower is proposed from Youth Lane and Mary Street boundaries. The tower element is well setback from the northern and southern boundaries. The lift core is located in the centre of the site. Youth Lane is a very narrow laneway and does not provide adequate width to accommodate vehicle turning circulates. Instead to minimise impacts on the ground floor plane and impacts on street activation, ingress only is proposed from George Street and egress from Deane Street. Street activation is maximised to the corners of George and Mark and Mary and Deane Streets. Visual interest is proposed to Mary Street with the use of timber screens, as well as the inclusion of pedestrian entries to lobbies. Activation is optimised within the constraint of the narrowness of the site.

Figure 6 – Recommended Built Form for the Site, GMU Urban Design



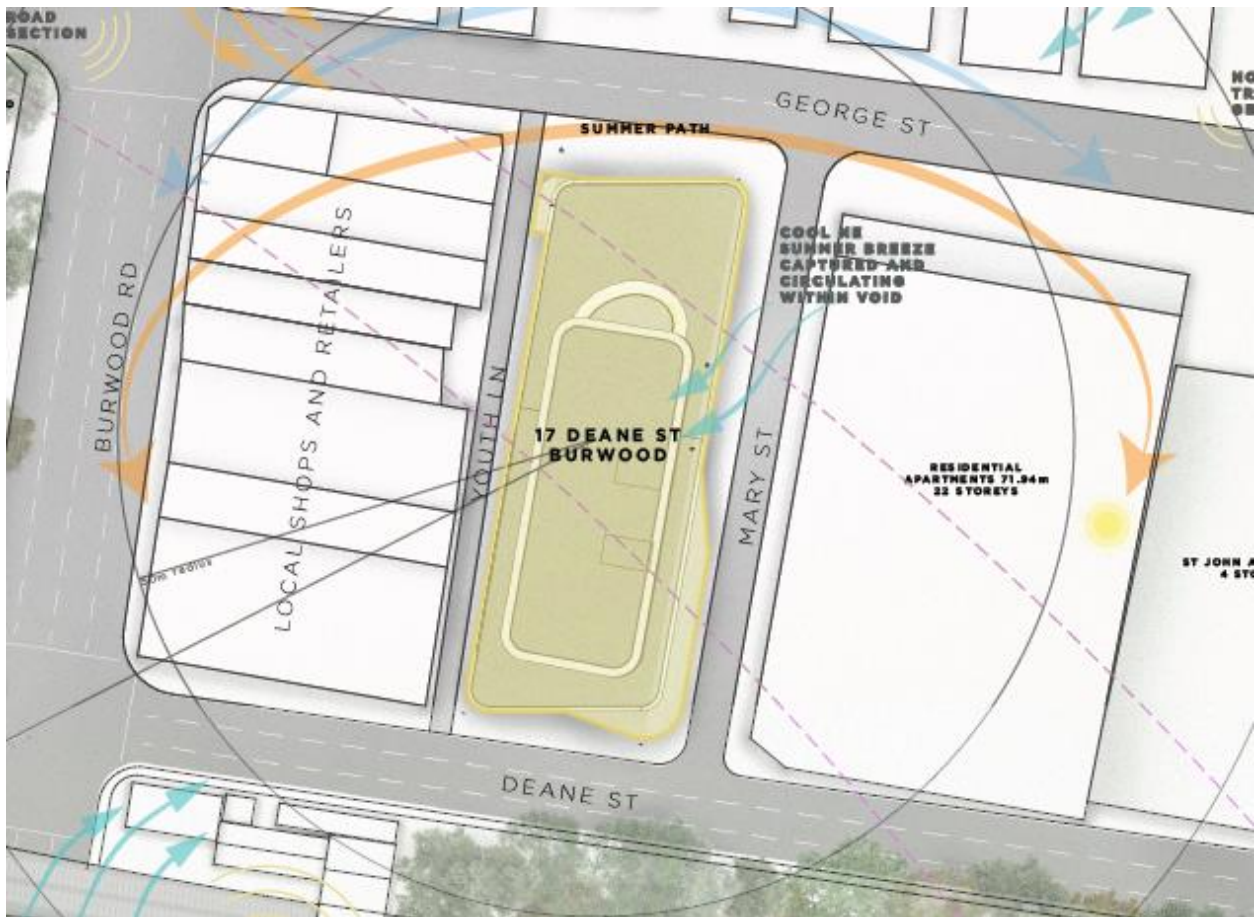
Picture 1 - Plan



Picture 2 – Elevation

Source: GMU Urban Design

Figure 7 – Proposed Built Form: Tall slender tower above podium



Picture 1 - Plan



Picture 2 – 3D perspective

Source: Metropoint Group Architects

4. PROPOSAL

4.1. OVERVIEW

The proposal is for the demolition of the existing building on the site and construction of a 23 storey mixed use development.

The development application seeks consent for the following works:

- Demolition of the existing building on the site and construction of a part 3 storey and part 23 storey mixed use development.
- Excavation associated with three levels of basement car parking to accommodate 55 car parking spaces, 20 bicycle spaces, storage, plant and servicing equipment, with vehicle access provided via the access provided from George Street.
- Retail tenancy at the front of the ground floor with pedestrian access provided via George Street.
- A child care centre lobby at the lower ground floor with pedestrian access provided via Mary Street and dedicated drop-off/pick-up vehicle access provided via a one-way driveway from George Street and exiting onto Deane Street.
- Ground floor residential lobby with pedestrian access provided from Mary Street.
- Ground floor hotel reception with pedestrian access provided from Deane Street.
- A child care centre on Level 2 with indoor and outdoor facilities.
- Hotel amenities on Levels 3-4, including restaurant, conference facilities, indoor gym and rooftop bar.
- 101 hotel rooms of varying configurations and sizes on Level 1 and Levels 5-12
- Communal open space for the residential component on Level 13
- 36 residential apartments, comprising 6 studios, 12 one-bedroom, 9 two-bedroom and 9 three-bedroom units on Levels 14-23.

Figure 6 includes a photomontage view from Burwood Road looking along east Deane Street.

4.2. NUMERICAL OVERVIEW

Key numeric aspects of the proposal are provided at **Table 3** and the various components of the proposed development are described in the following sections.

Table 3 – Numeric Overview of Proposal

Parameter	Proposed
Site Area	1151 sqm
Zoning	Mixed Use
Land Use	Child care centre, Hotel accommodation, Shop top housing and commercial premises
<u>Gross Floor Area</u>	7,596 sqm
• Retail	72 sqm
• Hotel	3870 sqm
• Child care	662 sqm
• Residential	2,992 sqm
Floor Space Ratio	6.6:1
Residential Floor Space Ratio	2.54:1
Building Height/ Storeys	79.60/ 23 storeys
Number of Hotel Rooms	101
<u>Number of Apartments</u>	
• Studio	6
• 1 bedroom	12
• 2 bedroom	9
• 3+ bedroom	9
Total	36
<u>Number of child care places</u>	60
<u>Car Parking</u>	
• Retail	1
• Residential	43 (35 residential and 8 visitor)
• Hotel Staff	3
• Child Care	7 (3 staff and 4 general)

Parameter	Proposed
<ul style="list-style-type: none"> General Visitor (adaptable) 	1
Total	55
<u>Bike Parking</u>	
<ul style="list-style-type: none"> Residential 	20
<ul style="list-style-type: none"> Public 	12
Total	22
<u>Landscaped and Built Area</u>	
<ul style="list-style-type: none"> Communal Open Space 	222 sqm

Figure 8 – Perspective of Development from Burwood Road

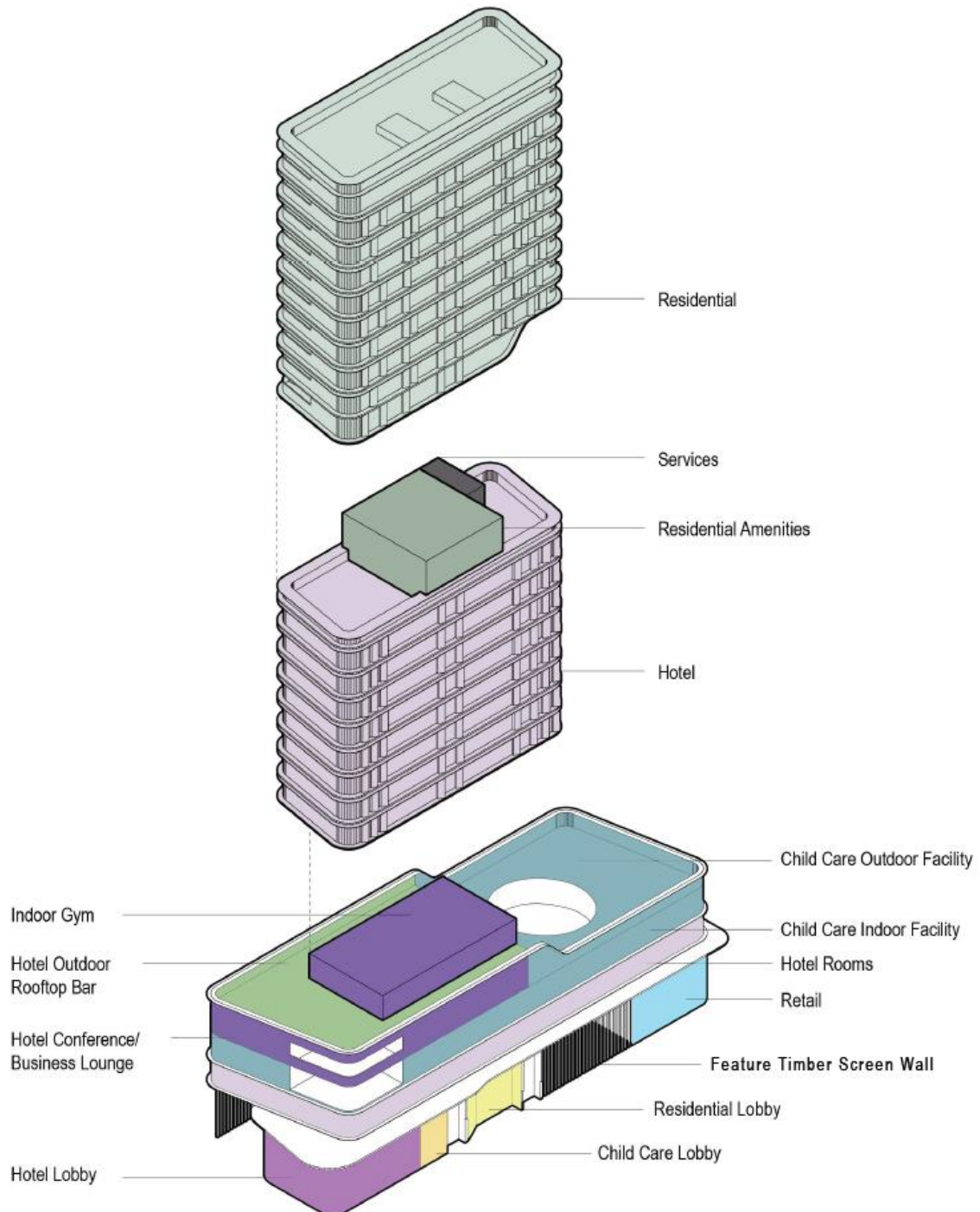


Source: Metropoint Group Architects

4.3. PROPOSED USES

The proposed development is characterised as *retail premises, shop top housing, hotel or motel accommodation* and *child care centre*, as defined under the Burwood LEP 2012

Figure 9 – Proposed mix of land uses



A description of each component is provided below.

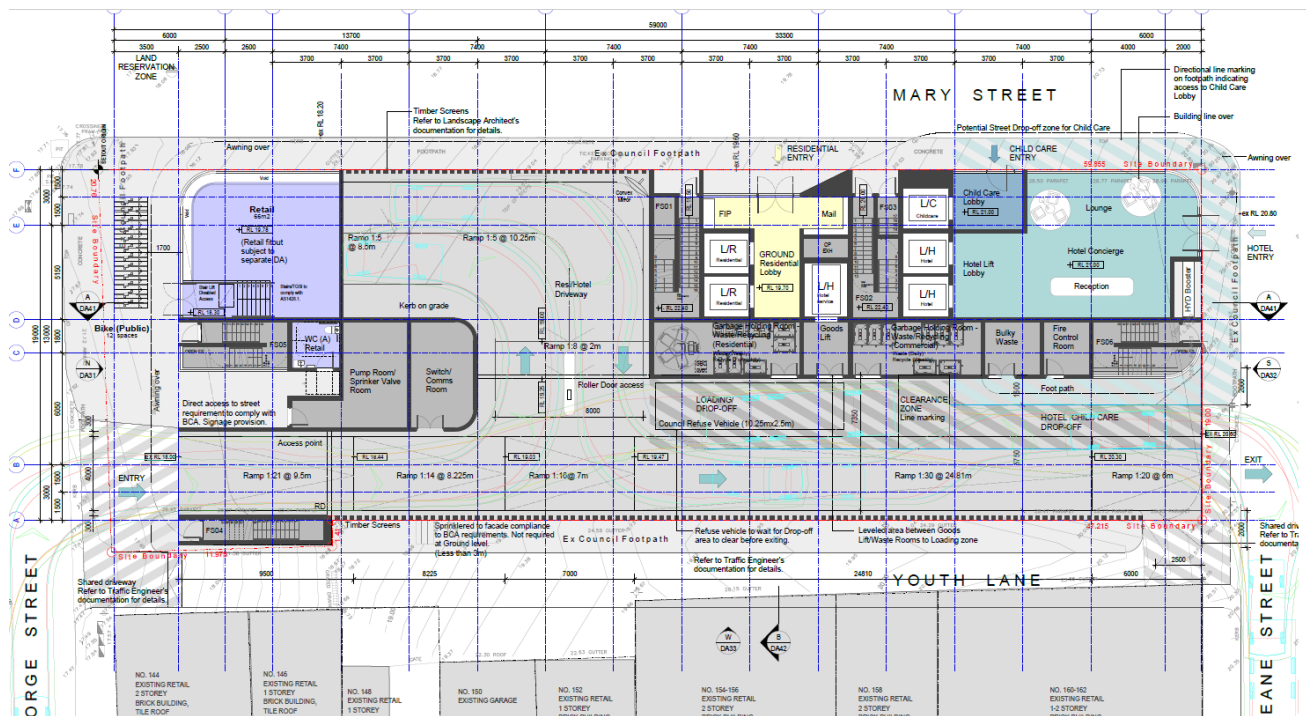
4.3.1. Retail Premises

As shown in **Figure 7** the proposed retail premises is located on the ground floor and comprises an area of 35sqm. The space has been designed to be flexible and contribute to the activation of George and Mary Streets.

The proposed hours of operation are as follows:

- Monday to Saturday: 8am – 11pm
- Sunday: 10am – 10pm
- Figure 7 – Ground Floor Retail Premises

Figure 10 – Proposed Ground Floor Level



Source: Metropoint Group Architects

4.3.2. Hotel Accommodation

The proposal includes the provision of 101 hotel rooms. This provides an opportunity to expand the role of Burwood Town Centre and take advantage of its excellent connection with Sydney and Parramatta CBDs. A typical hotel floor is shown in **Figure 8**.

In summary, the hotel accommodation component features:

- Service goods storage, linen and laundry, housekeeping storage and a luggage room store at Basement Level.
- A hotel reception and lobby at ground floor, with pedestrian access provided from Deane Street.
- 21 rooms are provided on Level 1.
- Business lounge, conference room, housekeeping amenities and outdoor seating on Level 3.
- Indoor gym and rooftop bar on Level 4.
- 80 rooms on Levels 5-12.

The hotel rooms range in size from 18sqm to 50sqm. Each room includes as a minimum a bathroom, fridge and storage for clothes.

[illegible]

4.3.3. Child Care Centre

The child centre includes:

- A separate lobby on the ground floor with pedestrian access provided from Mary Street.
- Indoor facilities on Level 2, totalling a gross floor area of 612sqm.
- Outdoor facilities, totalling a gross floor area of approximately 486sqm over Levels 2-3.
- A ramp will connect the outdoor facilities on Levels 2-3.

Figure 11 – Child Care Indoor and Outdoor Facilities on Level 2

[illegible]

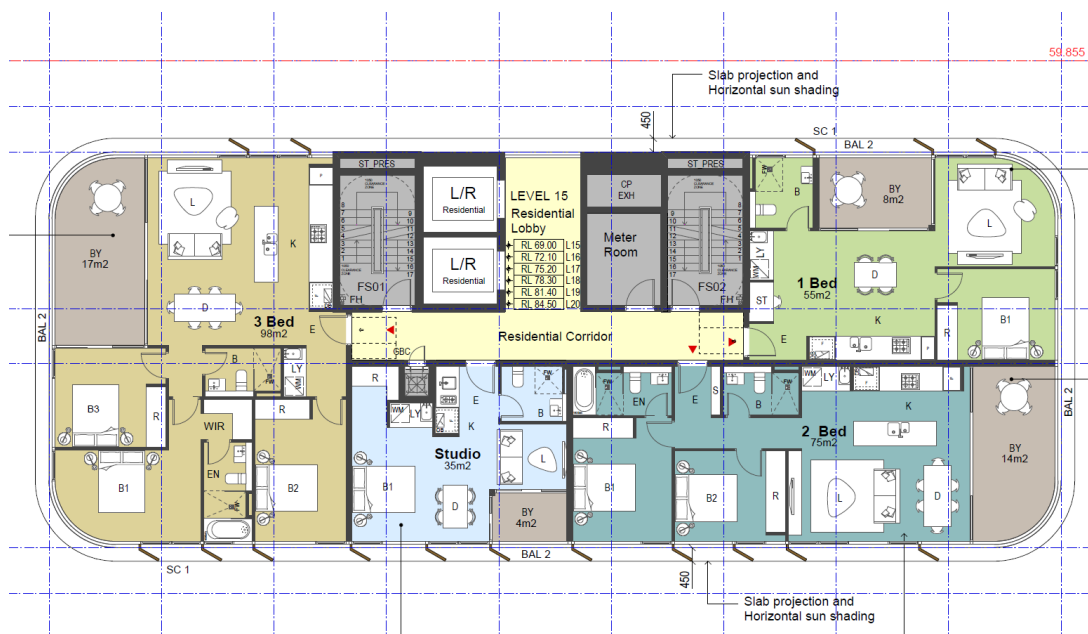
28 PROPOSAL

4.3.4. Residential Units

The proposal includes the provision of 36 residential units, comprising:

- 6 studios
- 12 one bedrooms
- 15 two bedrooms
- 3 three bedrooms
- Access to the apartments is provided via a residential lobby at the ground floor.
- Communal open space is provided in the form of a rooftop garden on Level 13

Figure 12 – Residential Units Levels 15-20



Source: Metropoint Group Architects

4.4. MATERIALS AND FINISHES

The building references the architectural context of the area and uses contemporary forms, materials and construction methods. The proposal incorporates a variety of high quality materials and finishes to the facades of the new building including neutral colours within rendered masonry, aluminium framed glazing and glass balustrades.

The building is divided into four distinct façade zones, being the base; the hotel and child care facilities levels; and the typical hotel and residential levels. There is a clearly distinguished character to each façade zone as described below:

- The base incorporates dark bronze and charcoal metal cladding and glasses with a blue tint, framed by a black finish. A feature green wall located on the eastern façade contributes to a natural feel for pedestrians.
- The façade of Levels 1-3 with child care facilities, hotel rooms and hotel facilities incorporates a bronze metal cladding lining the top and large glass windows with a bronze tint.
- Levels 4-12 with residential units and hotel rooms are designed with a variety of colours, textures and shapes. This includes blue and bronze tinted glasses defined by black powder coat frames. Long vertical strips of dark charcoal and charcoal coloured metal cladding are on the eastern façade. The top level is defined by semi-frameless bronze tinted balustrades with an aluminium black powder coat frame.

Figure 13 – West Elevation Façade



Source: Metropoint Group Architects

4.5. OPEN SPACE AND LANDSCAPING

A Landscape Plan has been prepared by LSA Design and included at **Appendix C**. The individual elements are discussed below.

4.5.1. Outdoor Child Care Facilities

Approximately 604sqm has been provided on Levels 2-3 for child care outdoor breakout space. On level 2 there are two separate open spaces. The first is designed with decorative pebbles and 'softfall' surfacing, movable coloured seating and lounges, and plant boxes. This is intended as an outdoor reading or gathering area. The second open space on this level is a large sand pit with a traversing wall and moveable coloured seating.

The outdoor child care facilities on Level 2 and 3 are connected via a ramp. The open space provided on Level 3 is comprised of a traversing wall, small and medium sized trees, 'softfall' surfacing, a cubby house, a water play zone, and raised vegetable beds. This open space will be the main outdoor play space for the child care facility. These open spaces will be appropriate for child play and will be quality open spaces for a variety of activities.

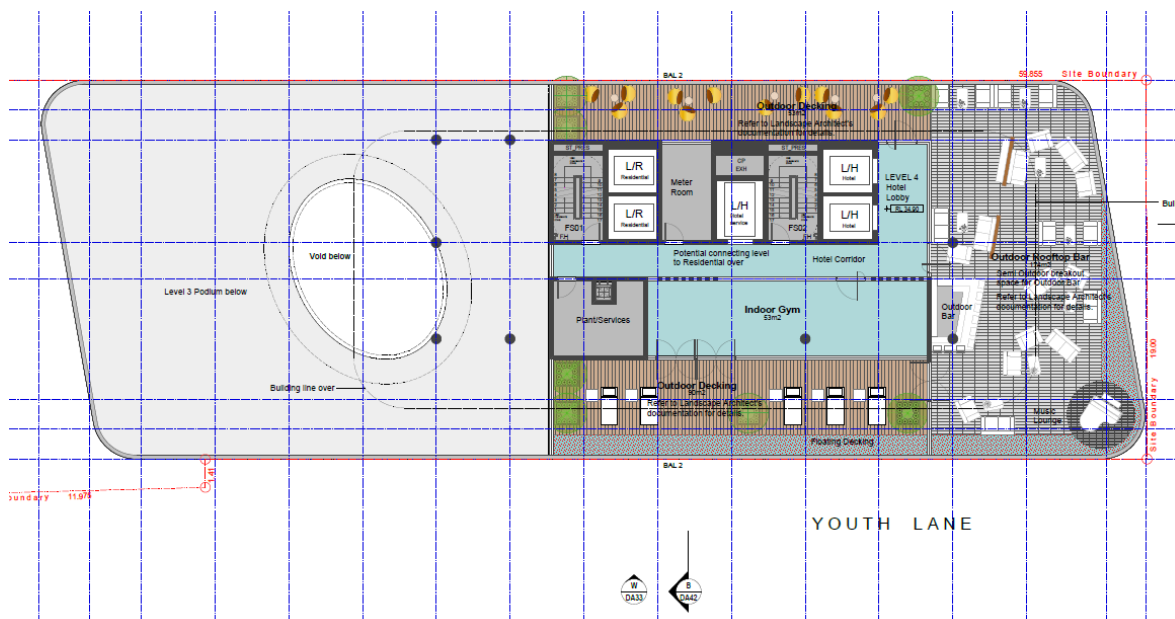
4.5.2. Outdoor Hotel Seating

This area is connected to the hotel conference and business lounge facilities and the hotel lobby on Level 3. The flooring consists of decorative pebbles and floating pavers. A green wall with shade tolerant plants is proposed aside outdoor lounges and tables, which will contribute to the amenity of the hotel facilities.

4.5.3. Outdoor Rooftop Bar

The rooftop bar on Level 4 will consist of a timber deck with shallow water along the south east edge of the building. Large cube pots with small to medium flowering evergreen trees will be distributed throughout the open space. Stone paving is proposed for the south end of the open space and outdoor lounges with tables will be available. This is a quality open space for the hotel facility and will contribute to the amenity.

Figure 14 – Hotel Amenities Level 4



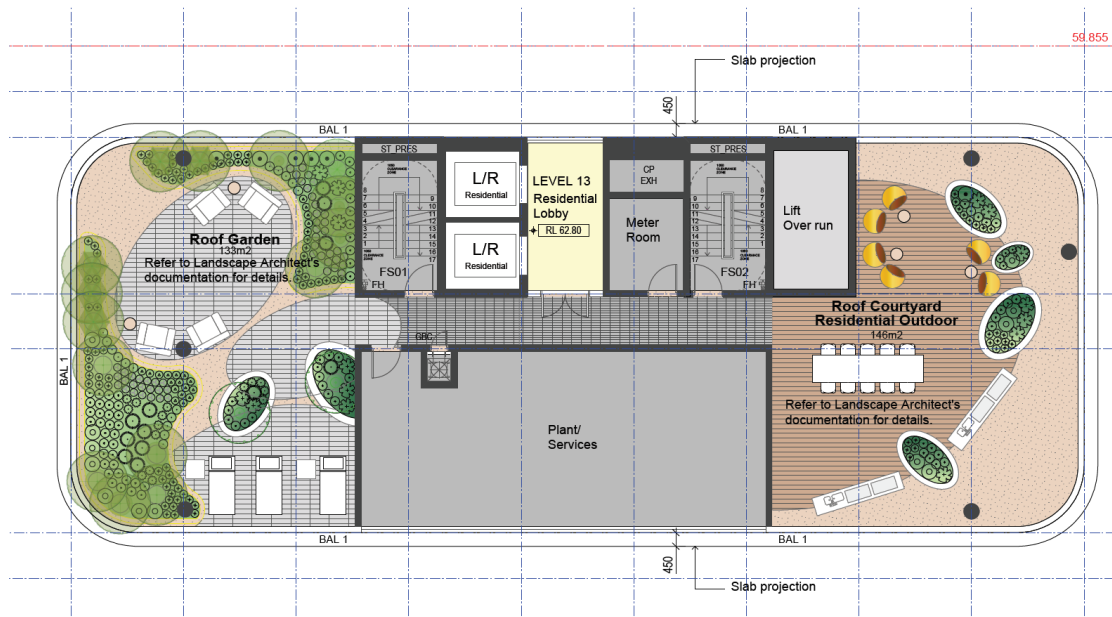
4.5.4. Residential Roof Garden and Courtyard

Level 13 consists of a residential roof garden being 133 sqm and a residential courtyard being 146 sqm. The garden space is proposed to have raised garden beds to the eastern and northern edge with lush planting, small and medium trees to the edge and raised planters with small and medium trees. This space is designed for privacy and shade.

The courtyard is comprised of timber decking, decorative pebbles, built in BBQ and outdoor kitchen, communal seating and raised planters with lush planting. This area is designed for residents to use for outdoor dining. These residential open spaces will contribute to the high amenity of the development. They are quality and private spaces for the residents.

This proposal includes the provision of several quality open spaces and landscaped areas which will contribute to improving the overall amenity and experience of those using and residing within the development. Each area is designed with its proposed use in mind and successfully provides unique quality spaces.

Figure 15 – Residential Amenities Level 13



Source: Metropoint Group Architects

4.6. DEMOLITION

To allow the proposed development to proceed it is necessary to demolish the existing commercial building on the site. The head contractor will be responsible for removal all construction-related wasted offsite in a manner that meets all authority requirements.

4.7. ACCESSIBILITY

A total of 4 adaptable two-bedroom residential units are provided within the development, with one unit on each level from Levels 15-18. Additionally, there are 9 adaptable hotel rooms within the development, with one room on Level 1 and one on each level from Levels 5-12.

An Accessibility Review Report by ABE Consulting is provided at **Appendix B**. This confirms that the development is capable of complying with the relevant requirements with minor design amendments/details.

5. PLANNING ASSESSMENT – SECTION 79C (1) (A)

This chapter provides an assessment of the proposal against matters for consideration under Section 79(C)(1)(a) of the EP&A Act 1979 including the following plans and legislation:

Strategic Planning Policy

- *A Plan for Growing Sydney* 2014
- *Draft Central District Plan* 2016
- *Burwood Community Strategic Plan* 2010

Environmental Planning Instruments

- *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55).
- *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development* (SEPP 65).
- *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure).
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (SEPP BASIX).
- *Burwood Local Environmental Plan 2012* (BLEP 2012).

Development Control Plans

- *Burwood Development Control Plan 2012* (BDCP 2012)

5.1. A PLAN FOR GROWING SYDNEY

A Plan for Growing Sydney (the Plan) (2014) outlines the strategic framework for managing growth in Sydney until 2031. Burwood is identified within the Plan as a 'strategic centre' and within the area identified as 'Global Sydney'.

The Plan sets four goals, which are supported by 22 directions and underpinned by 59 actions. The key goals relevant to this application include:

- **Goal 1:** *A competitive economic with world class services and transport.*
- **Goal 2:** *A city of housing choice, with homes that meet our needs and lifestyles.*
- **Goal 3:** *A great place to live with communities that are strong, healthy and well connected.*

The proposal is considered to assist in achieving these goals for the following reasons:

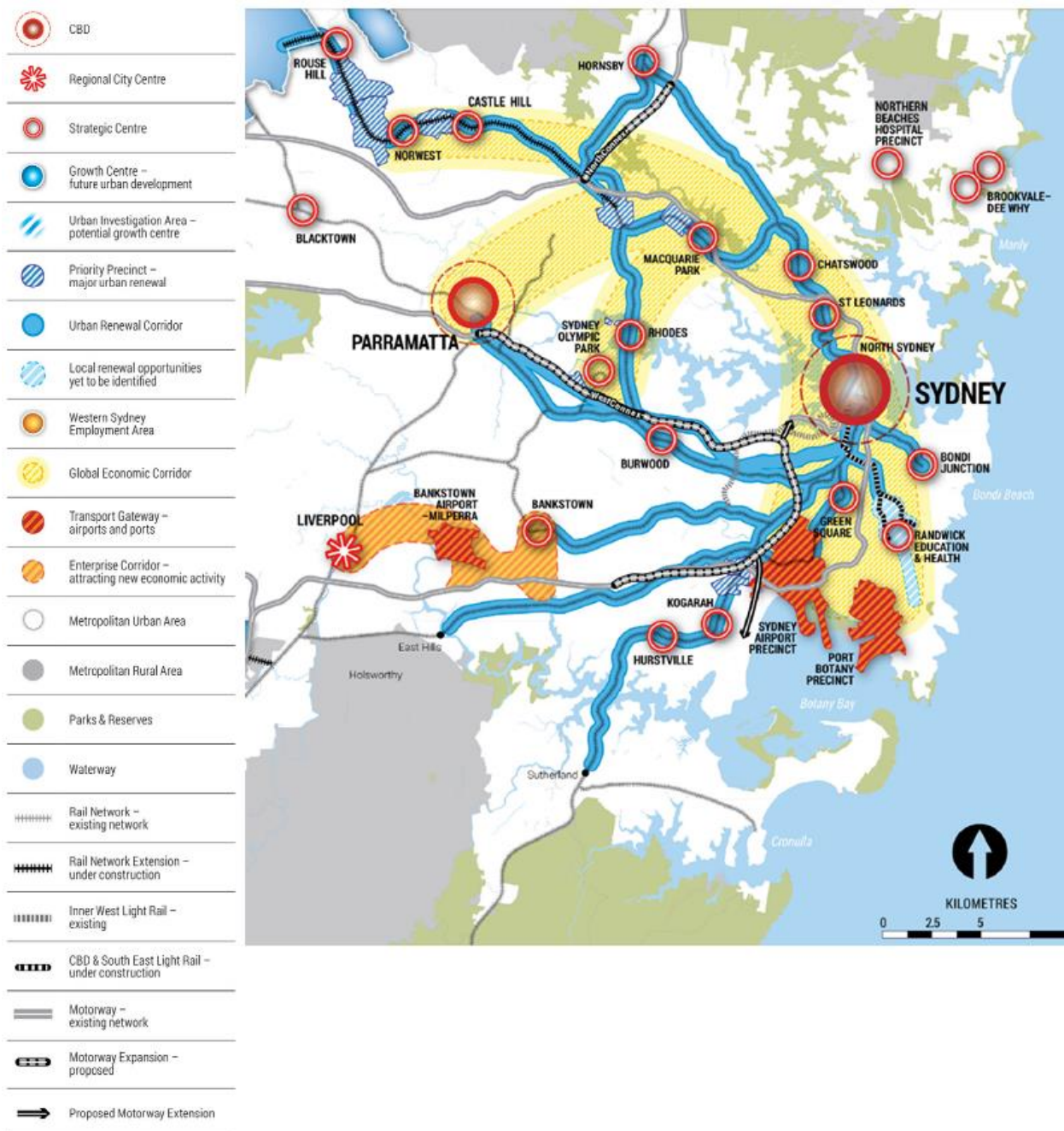
- The provision of hotel accommodation will support the economic function of Central Sydney and assist in growing a more intentionally competitive CBD through the provision of additional short term accommodation options which support business and tourist markets.
- The proposal will contribute to housing choice through the provision of studio, one, two and three bedroom units.
- The proposal will enhance the accessibility of an essential service, being through the provision of a child care centre.
- The proposal will accelerate housing supply and build great places to live within an established centre, with excellent access to employment, services and public transport.

The Plan also specifies priorities for Burwood which entail:

- Working with council to provide capacity for additional mixed use development within Burwood including offices, retail, services and housing.

The proposed mixed use development incorporates these priorities in delivery of a mixed-use building which includes a retail premises, child care services, hotel accommodation and housing. The proposal provides for a balance of employment and residential accommodation in a highly accessible location.

Figure 16 – A Plan For Growing Sydney - Centres



Source: A Plan for Growing Sydney – NSW Government

5.2. CENTRAL DRAFT DISTRICT PLAN 2016

The draft *Central District Plan*, released in November 2016, identifies Burwood as a district centre (Figure 13). It is identified as having a housing target of 2,600 by 2021. Its priorities include to:

- Review local planning instruments and consider development initiatives that encourage the development of large floorplate mixed use buildings.
- Expand the function and type of land uses within the centre.

- Investigate opportunities to enhance the night time economy.
- Improve connections across the centre over the rail line.

The proposed development is consistent with these priorities for the following reasons:

- The first three levels comprise large floorplates. There is a mixture of uses within the development including retail, child care, hotel accommodation and residential units.
- The hotel provides short stay accommodation which will enhance the offering of Burwood. Both Sydney and Parramatta CBDs are a short distance on the train. The retail space and child care facility contribute to the service and community offering in the locality.
- The proposal includes a rooftop bar within the hotel facility which will contribute to the night time economy. Additionally, the retail space provided on the ground floor will activate George and Mary Streets.
- The provision of residential units will contribute towards the housing target for Burwood. Additionally, these units are in a highly accessible location.

Figure 17 – Central District



Source: Draft Central District Plan - GSC

5.3. BURWOOD COMMUNITY STRATEGIC PLAN 2010 – BURWOOD 2030

Burwood 2030 was released in 2010 and was developed to reflect what the community saw as the vision for Burwood Local Government Area.

This plan sets five goals. The key goals relevant to this application include:

- **4.5 Vibrant and clean streetscape – activated streetscapes and aesthetically appealing buildings**

The proposal is consistent with this goal as it activates both George and Mary Streets with a retail tenancy on the ground floor. Architectural integrity is displayed with a unique and aesthetically appealing building design with high quality finishes and materials.

- **5.3 Increase employment and training opportunities**

The construction and future use of this building will result in the creation of new employment opportunities. The hotel has numerous facilities that will require a range of staff including the restaurant, bar, conference facilities and housekeeping. The child care centre and retail tenancy will also create new jobs in the town centre and adjacent Burwood train station.

- **5.1 Support and manage Burwood's major centre status – mixed use buildings**

There are a wide range of uses within the development including residential, retail, a hotel and a child care centre. The provision of commercial and residential uses support this goal.

5.4. STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The aim of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) is to facilitate the effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure such as classified roads and prescribing consultation requirements for certain development. Clause 85 of the ISEPP requires the consent authority to give written notice to Sydney Trains where development is located immediately adjacent to a rail corridor. Whilst the proposal does not comprise works within the rail corridor and is physically separated by Deane Street, given the excavation to accommodate the basement we anticipate that it will be referred to Sydney Trains for comment.

5.5. SEPP 55 – REMEDIATION OF LAND

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land (SEPP 55) was gazetted on 28 August 2005 and applies to the whole of the state. Clause 7(1) requires the consent authority to consider whether land is contaminated prior to consent of a development application. The site is not likely to be contaminated given its current and historic use as a community facility.

5.6. SEPP (BUILDING SUSTAINABILITY INDEX BASIX) 2004

The development is required to meet the provisions of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (SEPP BASIX). A BASIX assessment and certificate is included at **Appendix L** with the minimum energy and water efficiency target and thermal comfort criteria.

5.7. SEPP 65 AND THE RESIDENTIAL FLAT DESIGN CODE (RFDC)

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) applies to all developments which involve the construction of a residential flat building. SEPP 65 (as amended) and the Apartment Design Guidelines (ADG) provide the statutory framework for the assessment of residential flat buildings. The proposal has been designed with regard to building massing, separation, orientation, floor plate widths, solar access and natural cross ventilation in accordance with SEPP 65 and the accompanying ADG. Clauses 9-18 of SEPP 65 outline nine Design Quality Principles. A SEPP 65 Design Statement in respect to these principles has been prepared by Metropoint Group Architects at **Appendix P**. Further, an assessment of the proposal has been made against the objectives and design criteria contained in the ADG has been undertaken as part of this Statement of Environmental Effects.

The key areas of consideration are outlined in **Table 4** and justification for any variations to the design criteria is provided following this table.

Table 4 – Apartment Design Guidelines Compliance Assessment

Objective	Design Guidance / Criteria	Proposed	Compliance / Comment																			
PART 3: Siting the Development																						
3D Communal and Public Open Space Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	Design Criteria <ul style="list-style-type: none">Communal open space has a minimum area equal to 25% of the site.Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).	<p>The total communal open space provided is 19.3% of the site and does not meet this criteria.</p> <p>A communal open space area of at least 25% of the site is not considered appropriate on this site. The development proposal seeks to provide quality open space and enhance the diverse mix of uses within the development.</p>	<p>Variation</p> <p>Section 5.7.1.</p>																			
3F Visual Privacy Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room	Design Criteria <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from habitable rooms and balconies to the side and rear boundaries are as follows:</p> <ul style="list-style-type: none">Up to 12m/4 storeys: 6mUp to 25m/5-8 storeys: 9mOver 25m (9+storeys): 12m <p>Separation distances between buildings on the same site should combine required</p>	<p>The separation distances from the side and rear boundaries are summarised as follows:</p> <table><tr><th rowspan="2">Building Height</th><th colspan="4">Habitable Rooms and Balconies</th></tr><tr><th>North</th><th>East</th><th>South</th><th>West</th></tr><tr><td>4 storeys</td><td>N/A</td><td>N/A</td><td>N/A</td><td>N/A</td></tr><tr><td>5-8 storeys</td><td>N/A</td><td>N/A</td><td>N/A</td><td>N/A</td></tr></table>	Building Height	Habitable Rooms and Balconies				North	East	South	West	4 storeys	N/A	N/A	N/A	N/A	5-8 storeys	N/A	N/A	N/A	N/A	<p>Variation</p> <p>Section 5.7.2.</p>
Building Height	Habitable Rooms and Balconies																					
	North	East	South	West																		
4 storeys	N/A	N/A	N/A	N/A																		
5-8 storeys	N/A	N/A	N/A	N/A																		

Objective	Design Guidance / Criteria	Proposed					Compliance / Comment
	building separations depending on the type of room (see Figure 3F.2 in the ADG).	9+ storeys	19.7m	3m	6m	3m	
		Due to the allotment size, a mixed use residential development cannot reasonably comply with the numeric building separation criteria. The setbacks proposed are consistent with designs provided by Burwood Council’s Urban Design Advisor GMU.					
Part 4 – Designing the Building							
4A Solar and Daylight Access	Design Criteria	A total of 72% of apartments receive a minimum of 2 hours solar access between 9am and 3pm on June 21.					Complies
Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.						
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	All units receive sunlight between these times.					Complies
4B Natural Ventilation	Design Criteria	All units are cross ventilated					Complies
Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.						
	Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels						

Objective	Design Guidance / Criteria	Proposed	Compliance / Comment
	allows adequate natural ventilation and cannot be fully enclosed		
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Residential levels comply with this criteria.	Complies
4C Ceiling Heights Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access	Design Criteria Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> • Habitable: 2.7m • Non habitable: 2.4m • Ground/First Floors: 3.3m 	The floor to ceiling heights are from finished floor to floor as summarised below: <ul style="list-style-type: none"> • Ground: 3.5m • Hotel rooms: 2.4m-2.7m • Residential units: 2.7m 	Complies
4D Apartment Size and Layout Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	Design Criteria Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms	All apartments within the development satisfy the minimum internal areas outlined in the ADG.	Complies

Objective	Design Guidance / Criteria	Proposed	Compliance / Comment
	<p>increase the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>		
4E Private Open Space and Balconies Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	Design Criteria All apartments are required to have primary balconies as follows: Minimum area: <ul style="list-style-type: none"> • Studio: 4sqm • 1 bed: 8sqm • 2 bed: 10sqm • 3 bed: 12sqm Minimum depth: <ul style="list-style-type: none"> • Studio: - • 1 bed: 2m • 2 bed: 2m • 3 bed: 2.4m The minimum balcony depth to be counted as contributing to the balcony area is 1m	All apartments comply with the numeric requirements.	Complies

Objective	Design Guidance / Criteria	Proposed	Compliance / Comment
4F Common Circulation and Spaces			
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments	Design Criteria The maximum number of apartments off a circulation core on a single level is eight.	Each circulation core serves 3-4 apartments.	Complies
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The proposal consists of 36 apartments and one residential lift.	Complies
4G Storage Objective 4G-1 Adequate, well designed storage is provided in each apartment	Design Criteria In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ At least 50% of the required storage is to be located within the apartment.	The proposal provides for storage within the apartments and the basement levels.	Complies.

5.7.1. Communal and Public Open Space

The ADG encourages the provision of communal open space equivalent to 25% of the site. The provision of communal open space for the site is appropriate and for the reasons outlined below:

- As the site is relatively small, numeric compliance is not feasible. The building is slender to support the objectives of good design and secondary setback requirements which further limits the availability of space.
- The development provides space for a range of uses and the provision of more residential communal space would result in deficiencies in the availability of space for other uses.
- Notwithstanding the numeric non-compliance, the provision of open space is of high quality. There are two distinct open spaces provided including a lush green podium garden and a podium courtyard. The courtyard includes communal tables and chairs for outdoor dining and built in BBQ and kitchen areas.

5.7.2. Visual Privacy

The ADG encourages habitable rooms and balconies to be setback 9m from the boundary between 5 and 8 storeys and 12m over 9 stories. These separation distances are not appropriate for this site for the reasons outlined below:

- The site is relatively small and located within a future high density mixed use area.
- The site is relatively narrow, comprising a width of 19m as measured at the Deane Street boundary. The requirement for a 9m setback to habitable rooms from the site boundaries would reduce the building width to approximately 1m. Similarly, a 12m setback cannot be accommodated on the upper levels.
- The site is the entirety of a block and has additional separation from surrounding buildings with surrounding streets and lanes.

The proposed setbacks and resulting building separation are considered appropriate for the reasons outlined below:

East and West (Side) Setbacks

The proposed 3m setbacks for the tower element from Youth Lane and Mary Street are considered appropriate for the following reasons:

- The proposed development is further separated from buildings to the east and west by Youth Lane and Mary Street.
- Mary Street is approximately 8m wide making the proposed development approximately 12m from the building to the east.
- Youth Lane is between 1.5m and 2m making the proposed development approximately 3.5m-5.5m from buildings to the west.
- Youth Lane consists of 1 and 2 storey buildings fronting Burwood Road. This will contribute to visual privacy for west facing apartments.
- The proposed tower side setbacks satisfy Council's urban design comments.

South (Front) Setback

The residential units fronting Deane Street are setback 6m from the boundary. This is considered appropriate for the following reasons:

- Opposite the proposed development to the south is Burwood railway station which is setback further south from its site boundary. The design of the station is such that it faces inwards. This land use and design contribute to the added privacy of the residential apartments facing south.
- The proposed tower setbacks satisfy Council's urban design comments to site the tower closer to Deane Street to provide a generous setback from the northern boundary.

5.8. BURWOOD LOCAL ENVIRONMENTAL PLAN 2012

The *Burwood Local Environmental Plan 2012* (BLEP 2012) is the principle environmental planning instrument that applies to the site.

Under the land use table in the BLEP 2012 the subject site is zoned B4 Mixed Use. The proposed uses are defined as *retail premises*, *hotel or motel accommodation*, *child care centre* and *shop top housing*. These are permissible with development consent.

The relevant objectives of the B4 Mixed Use zone are:

- *'To provide a mixture of compatible land uses*
- *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.'*

The proposed development is consistent with these objectives for the following reasons:

- **Diversity of land uses:**

The proposed development provides for a retail premises, 101 hotel rooms, 36 residential units and a childcare facility. *Child care centres*, *Hotel or motel accommodation*, *Shop top housing* and *Commercial premises* are specifically identified as being permitted with consent in the Mixed Use zone.

- **Accessible location:**

The proposed development provides a range of permissible uses within close proximity to Burwood Park, Westfield Burwood and Burwood railway station. This integration results in high accessibility for the future residents, employees and visitors of this development.

A summary of the proposals' compliance against the BLEP 2012 is provided in **Table 5** and an assessment against the key considerations is contained in the sections following.

Table 5 – BLEP 2012 Compliance Assessment

Clause	Assessment	Reference
Clause 2.3 Zone objectives and land use table	<p>The site is zoned B4 "Mixed Use"</p> <p>The proposed development is characterised as 'retail premises', 'hotel or motel accommodation', 'shop top housing' and 'child care centre' under the BLEP 2012. All uses proposed are permissible with development consent.</p>	
Clause 4.3 Height of buildings	<p>A height standard of 70m applies to the site. The maximum height of the development is 79.6m (including lift over run).</p> <p>Notwithstanding this numerical non-compliance the proposal is considered to achieve the objectives of the standard and the B4 Mixed Use zone, and is fully justified in the Clause 4.6 variation provided at Section Error! Reference source not found..</p>	<p>Section 7.8.1</p> <p>Clause 4.6 Variation at Section 9</p>
Clause 4.4 Floor space ratio	The Floor Space Ratio (FSR) Map to Burwood LEP identifies the site as being	Section 7.8.2

Clause	Assessment	Reference
	<p>subject to a 6:1 FSR. With a GFA of 7596sqm, and a site area of 1150sqm, the proposed development has an FSR of 6.6:1, which does not comply with the 6:1 FSR standard.</p> <p>This is fully justified in the Clause 4.6 variation provided at Section 9.</p>	Clause 4.6 Variation at Section 9
Clause 4.4A Exceptions to floor space ratio	<p>The site is identified as being within "Area 1" on the FSR map and as such the ratio of the gross residential floor area to the area of the site may not exceed 2:1. The residential FSR is 2.6:1.</p> <p>This numerical non-compliance is justified in the Clause 4.6 variation provided at Section Error! Reference source not found.</p>	<p>Section 7.8.3</p> <p>Clause 4.6 Variation at Section 9</p>
Clause 5.10 Heritage Conservation	The site is not within a heritage conservation zone, nor is there a heritage listed item on the site. The proposed site is in the vicinity and visual catchment of items of environmental heritage.	A Statement of Heritage Impact report is provided at Appendix S . It reveals that the proposal will not have adverse effects on the surrounding heritage items.

5.8.1. Height of Buildings

The Height Map to BLEP 2012 identifies the site as being subject to a 70m height standard. The proposed development has a maximum height of 79.6m.

Justification to support the proposed variation to the building height control is provided in accordance with Clause 4.6 of the BLEP 2012. A request for an exception to the HOB standard is provided in accordance with Clause 4.6 of the BLEP 2012 at **Section 9**. The proposed variation to the standard is considered appropriate for the following reasons:

- **The objectives of BLEP 2012 B4 Mixed Use Zone are achieved**

- *To provide a mixture of compatible land uses.*

The proposed height variation does not undermine this objective.

- *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.*

The proposal is in an accessible location within the Burwood Town Centre. The proposal will support the use of public and active forms of transport between work, home and services.

- **The objectives of the BLEP 2012 *Height of building* standard are achieved non-withstanding the minor compliance.**

- *4.3(1)(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*

With a 70m height limit on the site and within the vicinity of the site, high density development has been encouraged. As discussed in Section 2.2 there are a number of existing and approved high

density mixed use developments within the Burwood Town Centre and the vicinity of the proposed site.

- *4.3(1)(b) to control the potentially adverse impacts of building height on adjoining areas*

The Burwood Town Centre is transitioning into a high density mixed use area as it is an accessible location. Sites surrounding the proposed site will inevitably undergo transition to higher density development similar to the proposed and surrounding buildings. This proposal is consistent with the desired future character of the area and therefore will not result in adverse effects.

- The area is located in the Burwood Town Centre where developments of a similar height have been approved.
- The height of the proposed building is an appropriate contextual fit with the adjacent multi-story building.
- The proposed height provides a transition from the core to the land adjacent the town centre.
- The height of the proposal is in response to the redistribution of the floor space from the lower levels and its reallocation to the upper levels.

5.8.2. Floor Space Ratio

The Floor Space Ratio (FSR) Map in the BLEP 2013 identifies the site as being subject to a 6:1 FSR standard. FSR refers to the ratio of the Gross Floor Area (GFA) of development to the site area. With a GFA of 7590sqm, and a site area of 1150sqm, the proposed development has an FSR of 6.6:1, which does not comply with the 6:1 FSR standard.

Justification to support the proposed variation to the building height control is provided in accordance with Clause 4.6 of the BLEP 2012. A request for an exception to the FSR standard is provided in accordance with Clause 4.6 of the BLEP 2012 at **Section 9**. The proposed variation to the standard is considered appropriate for the following reasons:

- **The objectives of BLEP 2012 B4 Mixed Use Zone are achieved**
 - *To provide a mixture of compatible land uses.*

A small increase in the FSR allows for a larger variety of uses

- *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.*

The proposal is in an accessible location within the Burwood Town Centre. A small increase in floor space increases the amount of employees and residents that can use public and active forms of transport between work, home and services.

- **The objectives of BLEP 2012 Floor space ratio standard are achieved despite the minor compliance.**
 - *4.4(1)(a) to enable development density and intensity of land use to achieve an appropriate urban form*

The urban form of the development is appropriate as it is similar to development that is existing and approved within the vicinity of the site.

- *4.4(1)(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.*

The proposed site is located within the inner part of Burwood Town Centre, with excellent access to transport and existing services. The slightly larger density within the proposal allows for more facilities and residential units. These will contribute to intensifying land uses within the Burwood Town Centre.

5.8.3. Residential Floor Space

The site is identified in the BLEP 2012 FSR Map as being within "Area 1". The ratio of the gross residential floor area to the area of the site may not exceed 2:1. With a residential GFA of 2992sqm, and a site area of 1150sqm, the proposed development as a residential FSR of 2.6:1, which does not comply with the 2:1 FSR standard.

Justification to support the proposed variation to the building height control is provided in accordance with Clause 4.6 of the BLEP 2012. A request for an exception to the maximum permitted residential FSR standard is provided in accordance with Clause 4.6 of the BLEP 2012 at **Section 9**. The proposed variation to the standard is considered appropriate for the following reasons:

- **The objectives of BLEP 2012 B4 Mixed Use Zone are achieved**
 - *To provide a mixture of compatible land uses.*

A small increase in the allowable residential floor space will be positive in the provision of more housing near public transport, existing services and employment. Residential units are compatible with the other uses within the development as well as surrounding land uses.

- *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.*

The proposal is in an accessible location within the Burwood Town Centre. A small increase in the allowable residential floor space increases the amount of employees and residents that can use public and active forms of transport between work, home and services.

- **The objectives of BLEP 2012 Floor space ratio standard are achieved despite the minor compliance.**
 - *4.4A(1)(a) to limit the density of residential development in certain business zones to ensure that it does not dominate non-residential development in those zones,*

The residential component of the development is not dominating. There are 36 residential units and 101 hotel rooms, indicating that with the small additional residential floor space, there is still a significant floor space allocated to commercial uses. This will not detract from the provision of commercial uses within the development.

 - *4.4A(1)(b) to limit the floor space of serviced apartments in certain business zones to ensure that they do not dominate service-providing and employment-generating commercial premises in those zones.*

The proposal does not include the provision of serviced apartments.

5.9. BURWOOD DEVELOPMENT CONTROL PLAN 2013 (BDCP 2013)

A table of compliance with the relevant controls of BDCP 2013 is included at **Appendix X**. As detailed in that table, the proposed development is generally consistent with relevant controls. The main areas of non-compliance are as follows:

5.9.1. Deep soil planting on rooftops

The BDCP 2013 requires a minimum area of 50% of roof tops are to be landscaped with 0.6m minimum soil depth. The proposed development includes 19% of the roof top area as landscaped in accordance with this control.

5.9.2. Common areas, min 2m widths – residential corridors 1.8m

The BDCP requires that common areas are to have a minimum dimension of 2 metres. It is noted that the residential corridors have widths of 1.8 metres. The proposed widths comply with the relevant Australian Standards in relation to the minimum widths of common circulation corridors. Given the short length and the small number of units served by the corridors the proposed widths are acceptable.

5.9.3. Side and rear setbacks

Under Clause 3.3.2.3 of the BDCP 2013 for residential development refer to the building separation setback provisions of the ADG which supplements SEPP 65 - Design Quality of Residential Apartment Development. The proposed setbacks vary from the ADG setbacks. Justification is provided having regard to the relevant design criteria for visual privacy under the ADG above.

5.9.4. Car parking

The DCP provides minimum car parking rates for development in the B4 Mixed Use zone in the Burwood and Strathfield Town Centres. Refer to Table 14 from the Traffic and Parking Impact Assessment at **Appendix T**.

Table 14 – Car Parking Provision Calculation

Use Type		Quantity		Minimum Parking Provision Rate	Minimum Spaces	Proposed Spaces
Residential	Studio	6	@	0.6 spaces/unit	3.6	36
	One-bedroom unit	12	@	0.6 space/unit	7.2	
	Two-bedroom unit	9	@	0.9 space/unit	8.1	
	Three-bedroom unit	9	@	1.4 spaces/unit	12.6	
	Residential Visitor	36	@	1 space/5 units	7.2	8
				Total Residential Spaces	39	44
Hotel	Room/Unit	101	@	1 space/unit	101	0
	Employees	-	@	2 spaces for employees	2	2
				Total Hotel Spaces	103	2
Retail	Retail space	66m ²	@	1 space for first 400m ² or part thereof	1	1
				Total Retail Spaces	1	1
Child Care	Children	60	@	1 space / 4 children	15	4
	Staff	4	@	1 space / staff member	4	4
				Total Child Care Centre Spaces	19	8
	TOTAL CAR PARKING SPACES				163	55

There is a significant shortfall in parking for the development being provided on-site. Justification is provided in the car parking assessment at **Appendix T**. As this is an accessible site, residents, employees and visitors will not generate the demand for the parking as set out in the DCP requirements and support the principles for a transit-oriented town centre. This will support the objectives within the BDCP 2013 including minimising congestion and increasing the use of public and active forms of transport. The hotel parking provisions and drop-off area is sufficient for hotel management as agreed with the operator.

5.9.5. Bike parking

The DCP requires commercial premises involving the construction of gross floor area in excess of 400 sqm or three dwellings must include facilities for parking of bicycles (racks and lockers) and showers/change rooms for use by bicycle riders. Separate end of trip facilities is not proposed to be provided for residential visitors. Given the small number of units proposed within the development, is not expected there will be demand for visitor bicycle end of trip facilities that are separate to the shower facilities within each unit.

5.9.6. Vehicle access – 2-way (5.5m wide) required

Clause 3.7.6 of the BDCP 2013 requires 2-way (5.4m wide) access for vehicles for new development. The proposal for separate one-way access points of 4m in width provides a practical and appropriate design response to the dimensions and size of the site and the desire to activate the street frontages with ground floor non-residential uses.

5.9.7. Secondary Setbacks

Part 3 Control 3.3.2.3 (Secondary Setbacks P1) of the BDCP 2013 requires that where development in the Commercial Core and Middle Ring Areas of Burwood exceed 15m in height, the part of the development above 15m must be set back a minimum of 6m from the street front boundary as identified in Figure 6. George, Mary and Deane Streets are identified as requiring the 6m setback.

The secondary setback on George Street is 16.2m (to the nearest boundary point) and on Deane Street is the required 6m. Mary Street has a secondary setback of 3m. Notwithstanding numeric non-compliance, the proposal is considered to achieve the intent of the control and is appropriate.

The site is approximately 19m in width, which will result in a significantly smaller floorplate if the secondary setback were more than the 3m proposed. The draft *Central District Plan* as discussed above in Section 7.2 encourages the development of large floorplate mixed use buildings. Additionally, this larger floorplate allows for the provision of more housing, which contributes to housing supply and meets the priorities of the relevant strategic plans as discussed in sections 7.1-7.3.

It is noted that Burwood Council's Urban Design Advisor GMU provided a concept to the proponent which included a minimum 3m secondary setback on Mary Street and Youth Lane.

5.9.8. Child care use on sites also used for residential purposes

Clause 5.3.4.4 of the DCP includes a control that child care centres are not permitted where residential uses are proposed. This is considered unreasonable as it would prohibit child care centres on most sites within the Burwood Town Centre. The site is an excellent location for child care, close to the public transport. The child care centre has been separated from the residential land use via the hotel and separate access ways. The child care centre is appropriate use for Burwood Centre within mixed use developments that include residential development.

5.10. SECTION 93F VOLUNTARY PLANNING AGREEMENTS

There are currently no existing voluntary planning agreements applying to the subject site, under Section 93 of the EP&A Act 1979. The applicant proposes to enter a VPA with Burwood Council for the provision of public benefits, associated with this development application.

Council's '*Carrying Out Bonus Development in the Public Interest*' Policy provides guidance on carrying out bonus development in certain areas of the Burwood Town Centre and applies to the subject site. The Policy refers to Council's *Open Space and Communities Facilities Study* (2014), which identifies that the following community facilities will be required by 2031:

- *An additional floor space of 2,169m² for community facilities*
- *Small meeting rooms*
- *405 child care places*
- *Two community gallery or exhibition spaces*
- *One creative arts space*
- *Multipurpose and flexible facilities*
- *One youth space and one seniors space which can be within multipurpose facilities*
- *Space in Burwood Park to support events*
- *Facilities especially in the south of the LGA*
- *Additional office space for public purposes*

As stated at Section 4 of the Policy, the public interest is considered to be met if the developer voluntary offers (through a VPA) to:

- Dedicate land free of costs; or
- Pay a monetary contribution to Council; or

- Provide any other public benefit; or
- Any combination of the above.

According to the Policy, Council at its meeting of 23 February 2016 resolved to adopt a monetary contribution rate of \$1,100 per square metre of additional floor space. Following discussions with Council, City Park understands that a monetary contribution for this DA is the preferred approach.

City Park proposes to prepare and submit for Council's consideration a VPA under the terms of Council's Policy. City Park invite as conditions of consent the following terms for the VPA with Council:

- A DA is submitted by the Developer to the Council for development consent for development to be carried out on the Land for the purpose of demolition of existing buildings and construction of a mixed-use hotel, retail, child care centre and residential building over basement car parking.
- As contemplated by section 93F of the Act, the Developer wishes to enter a Planning Agreement with respect to the 10% increase in FSR and the 14.3% increase in the height of building for the Land contemplated by the Development upon the Development Consent.
- The Developer will pay to the Council a Monetary Contribution of \$1,100 per square metre of residential floor space approved above the maximum permitted FSR under Clause 4.4 and Clause 4.4A of the BLEP 2012.
- The Monetary Contribution will be paid to Council after Development Consent has been granted and prior to the issue of the Construction Certificate for the Development. The payment of the Monetary Contribution will be by way of the delivery of a bank cheque to the Council.
- The Developer agrees not to make an application for the issue of any Construction Certificate until the Monetary Contribution required to be made to the Council has been paid.
- The Monetary Contribution paid by the Developer under this Planning Agreement will be used by the Council to develop and provide Public Amenities. The Public Amenities will not be required to coincide with the completion of the Development and will be available for the general public.
- This VPA letter of offer does not exclude the application of the following to the proposed DA:
 - (a) Section 94 or section 94A of the *Environmental Planning and Environment Act 1979*; and
 - (b) Any other monetary contributions; in connection with the Development Application.

6. SUITABILITY OF THE SITE FOR THE DEVELOPMENT – SECTION 79C (1)(C)

The following assessment has been structured in accordance with Section 79C(1)(c) of the EP&A Act. The site is suitable for the proposed development for the following reasons:

- The site is zoned B4 “Mixed Use” under the BLEP 2012, which permits child care centres, commercial premises, hotel accommodation and shop top housing. The zone accommodates the proposed form of development.
- The BDCP 2013 outlines controls for the redevelopment of the site. The proposal is generally consistent with the built form envisaged for the site.
- The site is located within Burwood Town Centre (as identified in the BLEP 2012) and is accessible to bus stops on Burwood Road and Burwood Railway Station.
- *A Plan for Growing Sydney* identifies Burwood as a ‘strategic centre’ and the *Draft Central District Plan* identifies Burwood as a ‘district centre’. The proposal is consistent with the intended future role of Burwood as identified within these strategic plans.
- This site is not likely to be contaminated based on its historic land use being for commercial purposes.
- The site is already serviced by the necessary utility infrastructure and existing services can be extended, augmented or amplified (if required) to accommodate increased demand from the development.

7. IMPACT ASSESSMENT – SECTION 79C (1) (B)

The following assessment has been structured in accordance with Section 79C(1)(b) of the EP&A Act – Likely Impacts.

7.1. LIKELY IMPACTS ON THE NATURAL AND BUILT ENVIRONMENT

7.1.1. Urban Design

The proposal responds to Council's urban design comments raised during the pre-lodgement stage, and proposes a high quality urban design response to the site and the context:

- It is proposed to dedicate land along George Street to Council for a future road widening and public domain embellishment;
- The proposal includes tower and podium elements. The tower element is setback from all boundaries and the podium element is built to the street boundaries (except for the George Street frontage, which incorporates the proposed land reserve);
- The tower building has been sited closer to Deane Street with a generous and large setback from George Street, which provides usable outdoor open space for the child care centre;
- A 3m upper level setback for the tower is proposed from Youth Lane and Mary Street boundaries. The tower element is well setback from the northern and southern boundaries;
- Youth Lane is a very narrow laneway and does not provide adequate width to accommodate vehicle turning circles. Instead to minimise impacts on the ground floor plane and impacts on street activation, ingress only is proposed from George Street and egress from Deane Street.
- Street activation is maximised to the corners of George and Mark and Mary and Deane Streets. Visual interest is proposed to Mary Street with the use of timber screens, as well as the inclusion of pedestrian entries to lobbies. Activation is optimised within the constraint of the narrowness of the site.
- High quality architectural design for the podium and tower facades with visually interesting materials, and finishes composed will deliver design excellence.
- The proposal reinforces Burwood as a Strategic Centre.

7.1.2. Landscape

The ADG encourages planting on structures to contribute to the quality and amenity of communal and public open spaces. It is identified as a way to create open space, in particular where opportunities for deep soil zones are restricted, which includes within multi storey developments.

There is no landscaping on the existing site with the existing structures built over the entire site. The proposal includes the addition of landscaped area on Levels 2, 3 and 13. The inclusion of raised planters, small and medium sized trees, a green wall and raised vegetable beds will provide amenity and improve air quality and the microclimate. This landscaping is appropriate for the development as deep soil planting is restricted within a high-density development.

A landscape plan made by LSA Design is provided at **Appendix O**.

7.1.3. Heritage

The subject site is not identified as a heritage item or located within a heritage conservation area pursuant to the BLP 2012. The site is not listed on the State Heritage Register, the National Heritage List, the Commonwealth Heritage List, the Register of the National Estate of the Heritage Register, or the National Trust of Australia (NSW.)

There are however a number of heritage items within the immediate vicinity of the subject site and its surrounds including the Burwood Railway Station and the Burwood Rail underbridge. A Statement of Environmental Heritage Impact report has been provided at **Appendix S** by Heritage 21 indicating that the

proposed development complies with pertinent heritage controls and would have a neutral impact on heritage items in the vicinity of the site.

7.1.4. Traffic and Access

A Parking & Traffic Assessment Report has been completed by Parking & Traffic Consultants and is attached at **Appendix T**. The report provides an assessment of the proposal against the relevant transport and parking policies and guidelines. The key considerations are as summarised below:

- Parking is provided within a two level basement car park, whereby parking in the lowest level (B2) is provided using an automated car stacking system.
- Vehicle access to the site shall be via a one-way driveway on George Street, located on the northern boundary of the site, with egress via a one-way driveway onto Deane Street, located on the southern site boundary.
- A review of the potential traffic generation of the site revealed that the development will lead to a new increase of eight trips in the peak hour, which is very minor and supports the use of public transport, being located immediately north of Burwood Train Station.
- There are anticipated higher levels of walking and cycling activity from the development for occupant's daily needs due to the location of the site.
- The total of 55 car parking spaces is considered appropriate based on hotel occupancy, its close proximity to public transport, and its proximity to commercial, entertainment and retail outlets.

7.1.5. Privacy

The ADG design criteria encourages habitable rooms and balconies to be setback 9m from the boundary between five and eight storeys and 12m over nine storeys. These separation distances are not achievable on this site for the reasons outlined below:

- The site is relatively small and located within a high density mixed use area.
- The site is relatively narrow, comprising a width of 19m as measured at the Deane Street boundary. The requirement for a 9m setback to habitable rooms from the side boundaries would reduce the building width to approximately 1m, which is not possible. Similarly, a 12m setback cannot be accommodated on the upper levels.
- The proposed site covers an entire block, meaning there are additional setbacks between the proposed development and surrounding development due to streets and lanes. There is approximately 11.5m between the Mary Street front and the adjacent building and 3.5m between the Youth Lane front and adjacent buildings. This will contribute to the distance between the proposed development and surrounding buildings.

The proposed building is separated from other buildings as the development is the size of an entire block. The streets and lanes surrounding contribute to building separation as encouraged in the ADG. For 9 storeys and above, a separation distance of 12-24m is encouraged. This is not met on the Youth Lane setback, but is not appropriate for reasons as mentioned above. These include the small width and area of the site.

7.1.6. Noise and vibration

An Acoustic Report has been prepared by Renzo Tonin & Associates and is attached at **Appendix Q** which considers the acoustic amenity of the proposed dwellings, as well as the acoustic impact on the surrounding development. The main potential noise and vibration issues identified include:

- Road traffic noise associated with the Dean Street, George Street and Burwood Road; and
- Rail noise and vibration associated with commuter trains operating on the T1 Northern & Western Line and T2 Inner West & South Line

Subject to implementation of the recommendation the proposed development is predicted to comply with the acoustic requirements.

7.1.7. Overshadowing

Shadow diagrams have been prepared for June 21 (mid-winter) and December 21 (mid-summer) to demonstrate the impact on solar access. As a result of the 23 storey mixed use tower, the proposal will cause additional overshadowing impacts on surrounding sites. As demonstrated in the shadow diagrams provided with the develop application and below, additional shadows are generally over the railway station and corridor to the south and non-residential properties on the southern side of the railway corridor.

The following observations are made:

June 21 - Mid-winter

- 9.00am - There is shadow on Burwood railway station and commercial property at 121-133 Burwood Road. This area is comprised mostly of local shops and a car park.
- 12.00pm - The development will overshadow Burwood railway station
- 3.00pm - The development will overshadow Burwood railway station and Mary Street

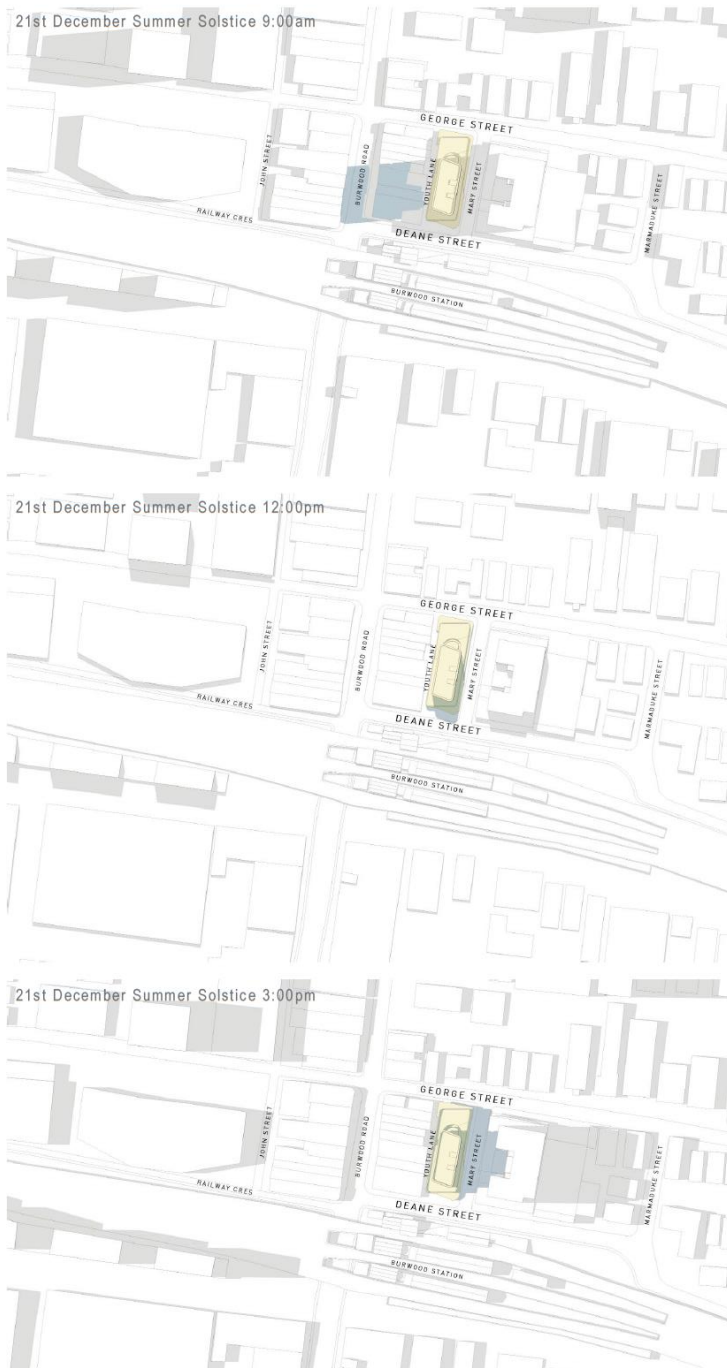
Figure 14 – Shadow Diagrams 21 June



December 21 – Mid-summer

- 9.00am - The development will overshadow the buildings to the west of the site and a section of Burwood Road;
- 12.00pm - The development will cast a minor shadow on the Deane Street footpath; and
- 3.00pm - The development will overshadow Mary Street and the development on 9-15 Deane Street.

Figure 15 – Shadow Diagrams 21 December



In summary, it is considered that the impacts of the proposed building envelope will maintain a complaint level of solar access to surrounding residential properties in accordance with the Burwood DCP 2012. The overshadowing caused by this development is predominantly over the Burwood railway station, local commercial premises and roads. Having regard to the above assessment, the overshadowing impacts as a result of the proposed building are considered to be acceptable and very similar to what would be expected for a development that strictly complies with the Height of Building and FSR standards.

7.2. SOCIAL IMPACTS IN THE LOCALITY

7.2.1. Crime Prevention

Urbis has been commissioned by City Park properties Pty Ltd, to undertake a Crime Prevention Through Environmental Prevention (CPTED) assessment for the redevelopment of the property at 17 Deane Street, Burwood. A Crime Prevention Through Environmental Design (CPTED) Assessment is an independent specialist study undertaken to identify and analyse potential improvements to design which may help to reduce crime and anti-social behaviour as per NSW Government best practice guidelines.

A series of recommendations have been made based on the CPTED principles for the following areas of the proposal development:

- Car parking
- Internal external layout
- Entry and exit points
- Lighting
- Landscaping
- Maintenance and management

With the implementation of recommendations, the proposed development will help to activate and improve the safety and security of the local area.

7.3. HOUSING CHOICE

A range of small and larger residential units are proposed. The inclusion of residential accommodation contributes positively to local housing needs, availability and affordability.

7.4. ECONOMIC IMPACTS IN THE LOCALITY

7.4.1. Employment Generation

The development will result in employment generation during construction and after construction. With 36 units, 101 hotel rooms, various hotel facilities and a child care centre, this proposal will generate employment in various sectors and positively impact on economics within Burwood and surrounding areas.

The provision of a high-quality hotel will strengthen the role and function of Burwood as a Major Centre.

8. THE PUBLIC INTEREST – SECTION 79C(1)(E)

The following assessment of the public interest is made in accordance with Section 79C(1)(e) of the EP&A Act 1979. The proposed development provides for a number of public benefits on the site for the use and benefit of future guests and residents of the site. The proposal is in the public interest for the following reasons:

- The proposal meets the objectives of the B4 “mixed use” zone;
- The proposal is generally compliant with the provisions as set out in the BDCP 2013;
- The proposal meets the objectives of the development standards within the BLEP 2012 and where it seeks variation from the numerical standards, full justification is provided.
- A Voluntary Planning Agreement is initiated between the applicant and Burwood Council to support the improvement of public amenities in the Burwood Town Centre.
- A land reservation zone has been provided on the George Street frontage to support the widening of the public domain and enhanced embellishment.
- The proposal supports a wide range of uses in an accessible location, which supports employment growth in Burwood Town Centre.
- The proposal includes the provision of a child care facility which is an essential service for the community that will support a growing employment and residential population.

9. CLAUSE 4.6 VARIATION REQUESTS – HEIGHT AND FSR

9.1. OVERVIEW

As highlighted in **Section 5** the proposal exceeds the applicable development standards as follows:

1. Clause 4.3: The Height of Building Map indicates the maximum permitted height is 70m. The maximum height of the proposed development is 79.6m. The exception to the standard is 13.7 per cent.
2. Clause 4.4 and Clause 4.4A: The Floor Space Ratio Map indicates a maximum FSR for the subject site of 4:1. In addition, Clause 4.4A permits additional FSR in Area 1 of 2.0:1 for residential accommodation. The proposed FSR of 6.6:1 exceeds the maximum permitted in combination of the Clause 4.4 and Clause 4.4A provisions by 10 per cent.

Clause 4.6 of the BLEP 2012 provides flexibility in the application of planning provisions by allowing the Consent Authority to approve a development application that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard Clause 4.6 requires that the Consent Authority consider a written request from the applicant, which demonstrates that:

- *Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- *There are sufficient environmental planning grounds to justify contravening the development standard.*

Furthermore, the Consent Authority must be satisfied that 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, and the concurrence of the Secretary has been obtained. In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

1. *Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
2. *The public benefit of maintaining the development standard, and*
3. *Any other matters required to be taken into consideration by the Secretary before granting concurrence.*

This section forms a Clause 4.6 written request to justify the contravention of the Building Height development standard in Clause 4.3 and FSR development standards Clause 4.4 and 4.4A.

Each issue is addressed in the following sections. The assessment of the proposed variation has been undertaken in accordance with the requirements of the BLEP 2012, Clause 4.6 Exceptions to Development Standards.

9.2. NSW LAND AND ENVIRONMENT COURT: CASE LAW (TESTS)

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

Winten v North Sydney Council

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated. Initially this applied to State Environmental Planning Policy – Development Standards (SEPP 1) and was subsequently updated to address Clause 4.6 of the *Standard Instrument templates*.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?;
- What is the underlying object or purpose of the standard?;
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?;
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?; and
- Is the objection well founded?

Wehbe v Pittwater [2007] NSW LEC 827

The decision of Justice Preston in *Wehbe v Pittwater [2007] NSW LEC 827* expanded on the findings in *Winten v North Sydney Council* and established the five (5) part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives;
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consents that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable.

Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC

More recently in the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs; and
- All three elements of Clause 4.6 have to be met and it is best to have different reasons for each but it is not essential.

In *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* Preston CJ noted at paragraph 7 that development consent cannot be granted for development that contravenes a development standard unless the consent authority:

- considers the Clause 4.6 objections (the requirement in Clause 4.6(3)); and
- was satisfied that, first, the Clause 4.6 objections adequately addressed the matters required to be demonstrated by Clause 4.6(3) (the requirement in Clause 4.6(4)(a)(i)) and, second, the development

will be in the public interest because it is consistent with the objectives of the height standard and the FSR standard and the objectives for development within the R3 zone in which the development is proposed to be carried out (the requirement in Clause 4.6(4)(a)(ii)).

The consent authority does not have to be directly satisfied that compliance with each development standard is unreasonable or unnecessary in the circumstances of case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matters in Clause 4.6(3)(a) and (b). In this respect he also noted that in assessing whether compliance with the development standards was unreasonable or unnecessary an established test is consistency with the objectives of the standard and the absence of environmental harm.

Moskovich v Waverley Council [2016] NSWLEC 1015

Commissioner Tour reflected on the recent *Four2Five* decisions and said:

- Clause 4.6(3)(a) is similar to Clause 6 of SEPP 1 and the *Wehbe* ways of establishing compliance are equally appropriate [at 50]. One of the most common ways is because the objectives of the development standard are achieved – as per Preston CJ in *Wehbe* at 42-43.
- Whereas Clause 4.6(4)(a)(ii) has different wording and is focused on consistency with objectives of a standard. One is achieving, the other is consistency. Consequently, a consideration of consistency with the objectives of the standard required under Clause 4.6(4)(a)(ii) to determine whether non-compliance with the standard would be in the public interest is different to consideration of achievement of the objectives of the standard under Clause 4.6(3). The latter being more onerous requires additional considerations such as the matters outlined in *Wehbe* at 70-76. Such as consideration of whether the proposed development would achieve the objectives of the standard to an equal or better degree than a development that complied with the standard.
- Establishing compliance with the standard is unnecessary or unreasonable in Clause 4.6(3)(a) may also be based on “tests” 2-5 in *Wehbe* either instead of achieving the objectives of the standard (*Wehbe* test 1) or in addition to that test. The list in *Wehbe* is not exhaustive but is a summary of the case law as to how “unreasonable or unnecessary” has been addressed to the meet the requirements of SEPP 1.
- It is best if the written request also addresses the considerations in the granting of concurrence under Clause 4.6(5).

The following section addresses the local provisions of Clause 4.6 of the BLEP 2012 together with principles of *Winten v North Sydney Council* as expanded by the five (5) part test established by *Wehbe V Pittwater [2007] NSW LEC 827* and refined by the judgement of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*.

As per the *Winten* decision, we consider that Clause 4.3, Clause 4.4 and Clause 4.4A of the BLEP 2012 are numerical controls of development standards that are capable of being varied under the provisions of Clause 4.6 of the BLEP 2012.

9.3. CONSIDERATION

9.3.1. Clause 4.6(3)(a) – Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Compliance with the height of building and FSR development standards are considered unreasonable and unnecessary in the circumstance of the application based on the following:

- The proposed variations to the maximum height of buildings and FSR development standards do not hinder the proposal's ability to achieve the objectives of the B4 Mixed Use Zone. In particular, the proposal provides for the integration of a range of land uses that will support the growth and revitalisation of a designated 'district centre'.
- This request seeks to support a better environmental planning outcome than a proposal that strictly complies with the development standards. The proposal involves a podium and tower arrangement to maximise the size and solar access to the outdoor space for the hotel and child care centre components.
- The increase in building height provides for a taller, slender tower element that has the effect of minimising the overall massing and building bulk of the development and results in shadows that move more quickly across the surrounding context.

In this instance, numerical compliance with the standards would not contribute to an improved outcome. As such it is considered that a complying development is neither, reasonable or necessary in circumstances of the case.

Tests 2-5 in *Wehbe* are addressed below:

2. **Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?**

Clause 4.3

The underlying objective of Clause 4.3 is to maintain Burwood's low density character by directing medium density development to specific areas. High density development is allowed and certainly encouraged in the Burwood Town Centre and therefore the underlying objective of the height of building standard is not specifically relevant to the proposed development.

Clauses 4.4

The underlying objectives of Clause 4.4 are relevant to the subject site. It is demonstrated in this report that the objectives of the FSR standard is achieved. As has been explained below, strict compliance with the numerical standards will not deliver the better environmental planning outcomes.

Clause 4.4A

The underlying objectives of Clause 4.4A are relevant to the subject site in terms of ensuring residential development does not dominate non-residential development in certain business zones. As discussed in more detail in **Section 10.3.3**, the FSR objectives are achieved as the proposed residential development forms part of a truly integrated, mixed use development of the site and represents less than half of the overall GFA.

3. **Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?**

Complying with the controls will not defect or thwart the objectives of the Standards, rather the underlying objectives of the development standards are further enhanced by the proposed development which seeks to vary the numerical development standards.

4. **Has Council by its own actions, abandoned or destroyed the development standard, by granting consents that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable.**

Council's document 'Carrying Out Bonus Development in the Public Interest' clearly allows Council to consider development that departs from the building height and FSR standards where they are carried out in the public interest and address demand for open space, community facilities or other public infrastructure. Adoption of this policy by Council degrades the overall importance of the development standards making compliance unnecessary and unreasonable.

At this stage, the more recent developments within this area of the Burwood Town Centre have generally complied with the height and FSR provisions. Nonetheless, further compliance by the proposal has the potential to result in homogenous building heights along Deane Street and therefore erodes the opportunity to create an interesting and diverse skyline.

5. **Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable.**

The B4 Mixed Use Zone in which the site is located is appropriate for the Burwood Town Centre.

9.3.2. Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient environmental planning grounds to justify the contravening development. These include:

- A high quality urban design outcome that aligns with the strategic importance of the Burwood Town Centre as a 'district centre'.
- An architectural design response that satisfies Council's design excellence provisions.
- The proposal provides for the efficient and viable redevelopment of a small, island site adjacent to the Burwood train station.
- The proposed variation delivers an elegant built form that aims to create a more diverse skyline and to mitigate building bulk and overshadowing to surrounding properties and the public domain.
- This report and the accompanying shadow analysis demonstrates that the proposed development will not result in any unreasonable overshadowing impacts, particularly given there are no significant solar access impacts on neighbouring properties or the public domain as a result of the additional height.
- The variation does not result in unreasonable amenity impacts on adjacent properties.
- The variation does not diminish the development potential of surrounding properties.
- Despite the additional building height and FSR, the scale of development is considered appropriate given the significance of the site as supporting the continued growth of the Burwood Town Centre.
- The inclusion of residential accommodation contributes positively to local housing needs, availability and affordability.
- The proposal replaces an existing commercial building with a mixed-use development that will better integrate with the desired future character of the Burwood Town Centre and provide improved activation of the surrounding streetscapes.

9.3.3. Clause 4.6(4)(A)(II) – Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone in which the development is proposed to be carried out?

The objectives of the development standards provided at Clauses 4.3(1), Clause 4.4(1) and Clause 4.4A(1) of the BLEP 2012 are set out in the following table and an assessment of the proposal's consistency is provided in **Table 5**.

Table 5 – Consistency of the Proposal with the Clause 4.3 Objectives

Objectives	Proposed Development
Clause 4.3	
(a) <i>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,</i>	Burwood Town Centre is being progressively redeveloped into a high-density district centre, with approval being granted for several significant mixed use developments, many of which are recently completed or under construction. The maximum permissible height limit of 70m supports this higher density development and therefore this objective is not specifically relevant to the proposed development.
(b) <i>to control the potentially adverse impacts of building height on adjoining areas.</i>	The proposed development has been informed by a detailed site context analysis and design impact assessment. The proposal involves a design that has identified, on balance, the most appropriate development response across the site. As discussed in more detail earlier in the SEE, the massing of the tower ameliorates the overall building bulk and ensures will not dominate or have an overbearing effect on the surrounding streetscapes. The slender built form also reduces the level of

Objectives	Proposed Development
	overshadowing, providing for longer shadows that move more quickly across the landscape.
Clause 4.4	
(c) <i>to enable development density and intensity of land use to achieve an appropriate urban form,</i>	The additional FSR is considered entirely appropriate for this strategic location and the desired intensification around public transport nodes, and reflects the constrained nature of the site in terms of the narrow allotment and close proximity to the lower scale buildings along Burwood Road. The proposed podium and tower arrangement will enable the development to sit comfortably within its context.
(d) <i>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.</i>	The 22 storey developments recently completed and under construction at 9-15 Deane Street and 18-20 George Street, and 1-3 Marmaduke Street and 7 Deane Street set the tone for the height and density of development that can be accommodated within the site. The site is located adjacent to the Burwood train station and a short distance to the town centre and it is therefore considered entirely appropriate to establish the level of density contemplated by the proposal.
Clause 4.4A	
(a) <i>to limit the density of residential development in certain business zones to ensure that it does not dominate non-residential development in those zones,</i>	The residential component has a GFA of 2,992sqm and accounts for less than half of the total GFA of 7,596sqm. The apartments will therefore not dominate the non-residential uses proposed, but rather integrate and contribute to the viability of the mix of uses within the site.
(b) <i>to limit the floor space of serviced apartments in certain business zones to ensure that they do not dominate service-providing and employment-generating commercial premises in those zones.</i>	Not applicable. The proposed development does not include the provision of serviced apartments.

Accordingly, despite the non-compliances with the numerical development standards, the proposal achieves all of the relevant LEP objectives of the height of buildings development standard and FSR development standards.

The site is located in the B4 Mixed Use Zone and the objectives are:

- *‘To provide a mixture of compatible land uses*
- *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.’*

The proposed variation to the maximum height of buildings and FSR development standards does not hinder the proposal’s ability to satisfy the objectives of the B4 Mixed Use zone because:

- The proposal incorporates a range of retail, hotel, child care and residential land uses integrated across the site, while allowing for the successful operation of each. The proposed land uses are consistent with the surrounding commercial and retail core of Burwood and the proposed residential component will

benefit from co-location with a vast amount of businesses and services, which are available within the subject site and immediately surrounding the site.

- The mix of uses proposed will take advantage of the existing public transport infrastructure, which includes the Burwood train station, 50m to the south, and various bus routes surrounding the site. These services together with the proximity to the Burwood Town Centre will encourage future residents, visitors and employees to use public transports, walking and cycling in favour of the private car.

9.3.4. Would non-compliance raise any matter of significance for state or regional planning?

The non-compliance will not raise any matter of state or regional Significance.

9.3.5. Is there a public benefit of maintaining the planning control standard?

The proposed development is not contrary to the public interest and accordingly there can be no quantifiable or perceived public benefit in maintaining the development standards. Given the nature of the proposed variations, which will deliver a high quality urban design outcome for the site, revitalise the area around the train station and deliver a balance of non-residential and residential floor space, there would be no public benefit in strictly applying the controls. Appropriate built form design elements support this:

- The range of non-residential uses will support the on-going role and function of the Burwood Town Centre, while the increase in residential population will provide economic support to the surrounding business and services.
- The site's redevelopment will contribute to the delivery of housing supply, choice and affordability in an identified district centre, within close proximity to public transport, retail, services and public amenities.
- The proposal will contribute to the revitalisation of the immediate area by activating and engaging with the surrounding streets and introducing visual interest in terms of the design, built form and use of materials and finishes.

9.3.6. Is the development standard a performance based control?

No. The development standard is not a performance based control.

9.3.7. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act

The objectives set down in section 5(a)(i) and (ii) of the EP&A Act are as follows:

“(a) to encourage

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land...”*

The development is consistent with the objectives of the Act, in respect to the following:

- The proposal is consistent with the significance of development envisaged for the site. The variation to the building height is proposed to achieve a better urban design outcome for the built form on the site than a compliant scheme. In this respect, the proposal delivers a slender built form that reduces the massing and visual impact of the development and provides greater areas of outdoor space for the child care centre, hotel and residential components.
- The variation in building height is also proposed to achieve an exemplary form of high quality amenity for future occupants by providing greater access to light, outlook and ventilation opportunities.

- The site is located within an established urban environment and is zoned for the intended use. The redevelopment of the site for higher density uses contributes to urban consolidation and may contribute to reducing demand to develop more environmentally sensitive lands.
- The delivery of new housing and jobs within an established urban environment located near public transport options without significant or unreasonable environmental impact is considered to be an both orderly and economic use of the land.

9.3.8. Is the objection well founded?

The objection is considered to be well founded given the motivation behind the variations to the development standards is to create a preferable urban design outcome for the site and the Burwood Town Centre more generally.

The proposed development does not result in any unreasonable or significant adverse environmental (social, economic or biophysical) impacts. In particular, the variations do not diminish the redevelopment potential or amenity of any adjoining land.

Compliance in this circumstance would not improve the outcome, with an inferior built form response that lacks identity for the Burwood Town Centre. Further, compliance has the potential to result in homogenous building heights along Deane Street, particularly given the 22 storey developments recently completed and under construction in the immediate vicinity of the site. The proposed variation in height provides an opportunity to create a more diverse skyline that will enhance visual interest.

9.4. SUMMARY

This request is made pursuant to Clause 4.6 of the BLEP 2012 and seeks to vary the development standards at Clauses 4.3, 4.4 and 4.4A as they relate to the subject site. The development exceeds the height of building standard by 8.5m, equating to a variation of 13.7 per cent. The development also exceeds to the combined FSR standard by 0.6:1, equating to a variation of 10 per cent.

As described in the preceding sections, taking into account the significance of the site and its context, strict compliance with the numerical standards in this instance is both unreasonable and unnecessary for the following reasons:

- The proposal is consistent with the objectives of the development standards as provided in Clauses 4.3(1), 4.4(1) and 4.4A(1) of the BLEP 2012.
- The non-compliances will not hinder the development's ability to satisfy the objectives of the B4 Mixed Use zone.
- The proposal achieves a high level of compliance with the built form controls in the BDCP 2013 and satisfies the building separation criteria contained within the ADG.
- The development represents a high-quality design outcome that will make a positive contribution to the strategic importance of the Burwood district centre.
- The additional height and FSR will not result in any unreasonable amenity impacts (overshadowing, views or privacy) to surrounding development when compared to a complying design. Nor will the extent of the non-compliance result in any adverse visual impact on the locality.

Based on the reasons outlined, it is concluded the request is well founded and the particular circumstances of the case warrant flexibility in the application of the maximum Height of Building and FSR standards.

10. CONCLUSION

The proposed development has been assessed against the relevant environmental planning instruments and policies. There are several compelling reasons why a positive assessment and determination of the project should prevail. These are summarised below:

- **The proposal is consistent with strategic planning goals and priorities**

Burwood Town Centre is identified within metropolitan, district and local plans as having a future character defined by mixed use development. At a metropolitan level, the proposal successfully achieves the goals of *A Plan for Growing Sydney* through; housing choice with the provision of different sized apartments, economic competition with hotel accommodation, and strengthening communities with the provision of a child care centre. At a district level, the proposal achieves the goals of the draft *Central District Plan* through; the development of large floorplate mixed use buildings, expanding the function and type of land uses within the centre, and activating the street through provision of a retail tenancy and a hotel bar. At a local level, the proposal successfully achieves the goals of the *Burwood Community Strategic Plan* through; creation of a vibrant and clean streetscape through a retail tenancy on the ground floor, increasing employment opportunities with a new hotel, and supporting Burwood's Major Centre status.

- **The proposal incorporates a diversity of uses and satisfies the B4 Mixed Use zone objectives**

The proposal provides a range of uses in an accessible location. The proposal provides for a retail premises on the ground floor, 101 hotel rooms, a child care centre and 36 residential units. The provision of 36 apartments will assist Burwood Council in achieving their new housing targets and allow people to live closer to employment. These residents will be within walking distance of public transport and Burwood Town Centre which will encourage active transport. As the residential use is not the dominant use, it will not undermine the Council's objectives for providing employment generating land uses in the centre. A ground floor active uses will contribute to the vitality of George Street and the Burwood Town Centre.

- **The proposal is generally consistent with the BLEP 2012 standards**

Variation is proposed to the height, floor space ratio, and residential floor space ratio standards but the proposal is an appropriate contextual fit and will contribute positively to the Burwood Town Centre. Despite these minor numerical non-compliances, the development achieves the objectives of the standards.

- **The proposal is generally consistent with the BDCP 2013 standards**

The proposal seeks a variation to the secondary setback provision. Despite minor numeric non-compliances, the development achieves the objectives as set out in the BDCP 2013.

- **The proposal will offer a high standard of amenity to the occupants**

The apartments, hotel rooms and the development generally will offer residents a high standard of internal and external amenity. The proposal complies with the natural ventilation and solar access requirements.

- **Design excellence has been achieved**

The development incorporates high quality finishes to the façade and includes a composite of materials, colours and textures. The design incorporates an inviting frontage to Deane Street and promotes sightlines through the site with a secondary setback from all site boundaries to the tower element.

- **The proposal is in the public interest**

The proposal will make a positive contribution to the Burwood Town Centre through the addition of a range of employment opportunities and an essential service in the provision child care centre. A Voluntary Planning Agreement is initiated between the applicant and Burwood Council to support the improvement of public amenities within Burwood Town Centre.

Having regard to the assessment of the proposal against the relevant matters for consideration under Section 79C of the EP&A Act 1979 provided in this Statement of Environmental Effects, the proposed development is recommended to Burwood Council for approval, subject to standard conditions of consent.

DISCLAIMER

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APPENDIX A ARCHITECTURAL PACKAGE

APPENDIX B

ACCESSIBILITY REVIEW REPORT

APPENDIX C ACOUSTIC ASSESSMENT

APPENDIX D

BCA DESIGN COMPLIANCE REPORT

APPENDIX E

CHILD CARE CENTRE STATEMENT

APPENDIX F

COMPLIANCE TABLE FOR BDCP 2013

APPENDIX G

CONSTRUCTION MANAGEMENT PLAN

APPENDIX H CONSTRUCTION AND OPERATIONAL WASTE MANAGEMENT PLAN

APPENDIX I COST REPORT PREPARED BY QPC & C

APPENDIX J DEVELOPMENT APPLICATION CIVIL REPORT – STORMWATER, UTILITIES & ACCESS

APPENDIX K ELECTROLYSIS TESTING

APPENDIX L ENERGY EFFICIENCY REPORT AND BASIX CERTIFICATE

APPENDIX M GEOTECHNICAL ASSESSMENT

APPENDIX N

HIGH-LEVEL CPTED RECOMMENDATIONS

APPENDIX O LANDSCAPE ARCHITECTURE

APPENDIX P SEPP 65 DESIGN VERIFICATION STATEMENT

APPENDIX Q SITE SURVEY

APPENDIX R STAGE 1 PRELIMINARY ENVIRONMENTAL SITE ASSESSMENT

APPENDIX S

STATEMENT OF HERITAGE IMPACT

APPENDIX T

TRAFFIC & PARKING ASSESSMENT

APPENDIX U VOLUNTARY PLANNING AGREEMENT LETTER OF OFFER

APPENDIX V

REFLECTIVITY ASSESSMENT REPORT

APPENDIX W WIND ASSESSMENT REPORT

APPENDIX X BCA SECTION J ANALYSIS REPORT



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