



DATE OF DETERMINATION	Monday 6 August 2018
PANEL MEMBERS	John Roseth (Chair), Susan Budd, Peter Brennan
APOLOGIES	None
DECLARATIONS OF INTEREST	Sue Francis, Bruce MacDonnell, George Mannah

Public meeting held at Burwood Council Chambers on 6 August 2018, opened at 4pm and closed at 5.30pm.

MATTER DETERMINED

2017SCL060 – Burwood – DA124/2017 at 68-72 Railway Parade & 2-10 Oxford Street Burwood (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

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

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel believes that the main issue in this application is the minimisation of the shadow cast by the proposal over the open spaces of the adjoining Burwood Public School; in particular, the grassed areas and the multi-purpose courts. The critical time for the shadow assessment is between 10.30 am and 1.30 pm, ie during recess and lunchtime.

The Panel held a public meeting on the application on 3 July 2018, at which it heard the views of objectors. The applicant had submitted shadow diagrams at that meeting, which the assessment officer had not seen previously and which did not include shadows for 10 am and 11 am. Since the diagrams did not include these times and because they had not been assessed, the Panel could not make a decision at the meeting and deferred its decision for a further public meeting on 6 August 2018.

The Panel has now received a supplementary report, which more accurately assesses the shadow impact. The assessment finds that the majority of the school's open spaces are free of shadow between 10.30 am and 1.30 pm. The supplementary report recommends approval of the application and the Panel accepts this unanimously.

The Panel notes that the height control of 26m has been varied for the building at the northern end of the site following a submission by the applicant under cl 4.6 of the Burwood LEP 2012. The reason for this variation is to allow 10 storeys at the northern end of the site to compensate for 6 storeys near the school. The Panel approved the height variation because it has led to a design that casts less shadow on the school than one with a uniformly 8-storey building and has therefore resulted in a better planning outcome. The Panel is aware that there is strong community concern about the fact that a dense residential development will be constructed next to the school. The Panel notes that the site has been zoned for 8-storey apartments since 2012 and that a consent has been granted for 8-storey buildings on part of the site.

In the Panel's opinion this proposal is a reasonable response to the controls and constraints applying to the site.

Finally, the Panel notes that Condition 1 of the Health section of the conditions requires the applicant to prepare an Environmental Management Plan. Condition 19 of the Traffic and Parking section of the conditions requires the applicant to prepare a Construction Traffic Management Plan. Both these plan have to be approved by the council, and their purpose is to minimise the impact of the project's construction on the neighbouring school.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendment.

- Condition 19 of the Traffic and Parking section: the first line is changed to "A Construction Traffic Management Plan is to be submitted to Council for approval prior to the issue of a Construction Certificate..."

PANEL MEMBERS	
 John Roseth (Chair)	 Susan Budd
 Peter Brennan	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	2017SCL060 – Burwood – DA124/2017
2	PROPOSED DEVELOPMENT	Demolition and construction of a six to ten storey mixed use development comprising 124 apartments, one retail premises at ground floor, and three levels of basement car parking.
3	STREET ADDRESS	68-72 Railway Parade and 2-10 Oxford Street, Burwood
4	APPLICANT/OWNER	X-Sealant Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development ○ State Environmental Planning Policy No.65 Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy Vegetation 2017 ○ State Environmental Planning Policy BASIX ○ Burwood Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Burwood Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 1 June 2018 • Written submissions during public exhibition: 25 submissions and a petition with 608 signatories • Verbal submissions at the public meeting 3 July 2018: <ul style="list-style-type: none"> ○ Object – Angelina Sun, Alice Chen, Sally Bock (on behalf of Burwood Public School P&C, Susan Carveth, Cllr Lesley Furneaux-Cook, Paolo Rech ○ On behalf of the applicant – James Matthews, Matt Daniels, Anthony Georges • Verbal submissions at the public meeting 6 August 2018: <ul style="list-style-type: none"> ○ Object – Sally Bock (on behalf of Burwood Public School P&C, Jens Olschor, Ziaohua Liu, Terry Stephens ○ On behalf of the applicant – James Matthews, Matt Daniels, Anthony Georges
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing meeting 21 December 2018 • Site inspection by John Roseth 31 May 2018 • Site inspection by Peter Brennan and Susan Budd, 3 July 2018 • Final briefing meeting to discuss council's recommendation, 3 July 2018 at 4.15pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: John Roseth (Chair), Peter Brennan, Susan Budd ○ <u>Council assessment staff</u>: Robert Toohey, Phil Sarin,

		<ul style="list-style-type: none"> • Final briefing meeting to discuss council's recommendation, 6 August 2018, 3.30pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: John Roseth (Chair), Peter Brennan, Susan Budd ○ <u>Council assessment staff</u>: Robert Toohey, Phil Sarin, James Arnold (consultant planner for council), Simone Reebes
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report