

DATE OF DETERMINATION	15 September 2020
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, John Faker, George Mannah
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Meeting held via Microsoft Teams on 15 September 2020, opened at 11.30am and closed at 12.40pm.

MATTER DETERMINED

2019ECI028 – Burwood – BD.2018.125 at 134A-134C Burwood Road, and 29A-33A George 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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Burwood Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.6 of the LEP and the objectives for development in the B4 zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined, pursuant to section 4.22 of the *Environmental Planning and Assessment Act 1979*, that the Concept Plan be approved subject to an amendment to the envelope for Building 2 to delete the second top floor (being level 4, drawing number DA-110-007, revision J) and replace it with the top floor (being level 5, drawing number DA-110-008, revision J). This is required to reduce the height of the building by one level while at the same time retaining the setback for the upper new level 4 as shown in the lodged plans.

The decision was unanimous.

REASONS FOR THE DECISION

- The Panel, having considered the submissions, the assessment report and with the benefit of a site inspection, is of the opinion in the immediate context the heritage item, in particular the Church Tower and Spire should be respected as the dominant element and as such the deletion of the second top level is necessary. This will have the benefit of reducing the height and bulk of Building 2 to provide more space for the appreciation of the heritage item when viewed from Burwood Road. This will also provide guidance as to the development for other sites in the vicinity of this heritage item.
- With the amendment to the envelope above, the Panel is satisfied that the height and configuration of the various buildings will provide a satisfactory built form outcome while providing conservation of the heritage item.
- The development potential of the site is consistent with the Burwood LEP 2012 to provide: employment opportunities in a mixed-use environment; and activation of the Town Centre.
- The Panel notes the positive contribution the public through-site pedestrian link will provide for the Town Centre and the Stage 2 application will require an easement to be given to achieve this.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments:

- The Panel delegates to the Director of City Strategy, Burwood Council the drafting of suitable Conditions to be imposed to carry out the intent of the Panel's amendment to the envelope of Building 2.
- Amend Condition 1 to read as follows

(1) APPROVED DEVELOPMENT

Development must be in accordance with Development Application No. DA.2018.125 and the following drawings:

Plan/Document	Author	Date/Received
Architectural Plans: ISSUE J DA-100-001; DA-100-002; DA-110-001; DA-110-002; DA-110-003; DA-110-004; DA-110-005; DA-110-006; DA-110-007; DA-110-008; DA-110-009; DA-110-010; DA-110-011; DA-110-012; DA-110-013; DA-110-014; DA-110-015; DA-110-016; DA-250-001; DA-250-003; DA-250-003;	TURNER	14 August 2020

DA-350-001; DA-350-002; DA-350-003; DA-350-004; DA-350-005; DA-710-001; DA-710-002; DA-710-003; DA-710-004; DA-710-005; DA-710-006; DA-710-007; DA-710-008; DA-820-001; DA-820-002; DA-820-003; DA-820-004; DA-820-005; DA-820-006; DA-820-007; DA-820-008; DA-820-009; DA-820-010; DA-820-011; DA-820-012.		
Survey Plans – Revision F	TURNER	18 October 2018
Architectural Design Report – Issue J	TURNER	14 August 2020
Streetview Analysis Burwood Road, Drawing Set	TURNER	14 August 2020
Supplementary Statement of Heritage Impact	GBA Heritage	13 August 2020
Statement of Environmental Effects Amended Application Statement Clause 4.6 Submission ADG Assessment	URBIS	October 2018 17 August 2020
Conceptual Sewer Deviation Plan	Warren Smith & Partners Pty Ltd	7 February 2020
Traffic and Parking Impact Assessment – Issue E	TTPA	February 2020
Civil Engineering Report	TTW	6 August 2019
Schedule of Conservation Works/Amended	GBA Heritage	July 2019
Landscape Concept Report	Place Design Group	August 2019
BCA Report	McKenzie Group	October 2018
Noise Impact Assessment	Acoustic Logic	27 September 2018
Access Review	MGAC	25 September 2018
Geotechnical Investigation and Waste Classification Assessment	Douglas Partners	October 2018
Aboricultural Impact Assessment	Tree IQ	9 October 2018
Preliminary Site Investigation for Contamination	Douglas Partners	September 2018

- Amend Condition 6 to read as follows:






(6) CONTAMINATION

That the Report on Preliminary Site Investigation for Contamination prepared by Douglas Partners dated September 2018 as referenced in Condition No. 1, be used to inform any Stage 2 Development Application and its preparation/submission to Council.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included; view loss from adjoining properties to the church; solar access/ privacy impacts; traffic and parking impacts; building height, bulk and scale; tower roof design; and impacts on the heritage item.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and the Panel’s decision to reduce the permissible envelope, height and bulk, of building 2. The Panel notes that appropriate conditions have also been imposed to address concerns.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 George Mannah
 John Faker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019ECI028 – Burwood – BD.2018.125
2	PROPOSED DEVELOPMENT	Concept Development Application for the amalgamation of 9 lots to create 1 lot, retention of the existing Burwood Uniting Church and associated school hall building, construct 3 new buildings consisting of Building 1 – a 26 storey mixed-use building containing, commercial uses on the lower levels, and a residential apartment with 124 apartments, Building 2 – a 5 storey mixed use building containing retail uses at ground level and student housing (boarding house) on the upper levels, and Building 3 – a 1.5 storey building containing Church gathering and administration offices, the adaptive reuse of the school hall building to a restaurant, basement level car parking over 5 levels, associated site landscaping and a site access/through link
3	STREET ADDRESS	134A-134C Burwood Road, and 29A-33A George Street, Burwood
4	APPLICANT/OWNER	The Uniting Church Property Trust (NSW)
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 (Building Sustainability Index: BASIX) 2004 ○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 ○ State Environmental Planning Policy (Affordable Rental Housing) 2009 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development <ul style="list-style-type: none"> ○ Burwood Local Environmental Plan (BLEP) 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Burwood Development Control Plan (BDGP) 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 September 2020 • Clause 4.6 variation request – Building Height • Written submissions during public exhibition: 6 • Verbal submissions at the meeting: <ul style="list-style-type: none"> ○ Council assessment officer: Brian Olsen, Emma Buttress-Grove ○ On behalf of the applicant – Jocelyn McDowall, Patrick Wright, Dov Midalia, Annraoi Morris, Jennifer Cooper, Rees Graham, Ian Gray, Rev Stephen Matthews
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 11 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, John Faker, George Mannah ○ <u>Council assessment staff</u>: Emma Buttress-Grove • Site inspection: 26 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell ○ <u>Council assessment staff</u>: Brian Olsen <p>Roberta Ryan, John Faker and George Mannah visited the site independently, prior to 15 September 2020</p> • Final briefing to discuss Council's recommendation, 15 September 2020, 11.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, John Faker, George Mannah ○ <u>Council assessment staff</u>: Emma Buttress-Grove, Brian Olsen
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report