

<b>DATE OF DETERMINATION</b>	11 November 2021
<b>DATE OF PANEL DECISION</b>	11 November 2021
<b>DATE OF PANEL MEETING</b>	11 November 2021
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Jan Murrell, Chris Wilson
<b>APOLOGIES</b>	George Mannah
<b>DECLARATIONS OF INTEREST</b>	John Faker declared a conflict of interest and did not participate in the Panel for this matter. Mr Faker declared that his family has had a business relationship with Mr Elias.

Briefing held by videoconference on 11 November 2021, opened at 2.30pm and closed at 4.10pm.

#### **MATTER DETERMINED**

PPSSEC-150 – Burwood – BD.2016.103 at 180-186 Burwood Road & 7-9 Burleigh 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 briefings and the matters listed at item 8 in Schedule 1.

#### **Modification application**

The Panel determined to approve the modification application in part only by: the deletion of Conditions 12 and 13; and an amendment to the recommended change to Condition 19, pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to approve the modification application in part only, for the reasons outlined in the Council Officer's assessment report and having regard to the provisions of section 4.55(3).

- The Panel accepts the reasoning for the deletion of Conditions 12 and 13.
- The Panel accepts the need for the modification of Condition 19 with the exception of the easement being registered prior to the Occupation Certificate (OC) and instead has determined this be done prior to the issuing of the next Construction Certificate (CC). The Panel considers that the registration of the easement is necessary prior to the issuing of the next CC.

The Panel notes that this provides greater certainty in achieving the anticipated planning outcome for access to number 188-192 Burwood Road, Burwood.

#### **CONDITIONS**

The modification application is approved subject to the conditions in the Council Officer's assessment report with the following amendments.




- Condition 19 is amended as requested in the modification application, with the exception of the words 'an Occupation' which is deleted and in its place the following words are inserted 'the next Construction Certificate'.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the one written submission made during public exhibition. The Panel notes that issues of concern included:

- Easement access
- Notification and exhibition period by Council

The Panel has noted and considered the submission received.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Chris Wilson	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-150 – Burwood – BD.2016.103
2	PROPOSED DEVELOPMENT	Section 4.55 Application to modify Development Consent No. 2016/103 to change Condition No.s 4, 5, 12, 13 & 19 relating to the provision of easement access to 188-192 Burwood Road.
3	STREET ADDRESS	180-186 Burwood Road & 7-9 Burleigh Street, Burwood
4	APPLICANT/OWNER	Mr P Elias C/o Urbanlink Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Burwood Local Environmental Plan (LEP) 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Burwood Development Control Plan (DCP) 2013</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 3 November 2021</li> <li>• Written submissions during public exhibition: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Panel members, where considered necessary, visited the site independently, prior to 11 November 2021</li> <li>• Final briefing to discuss Council's recommendation: 11 November 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Chris Wilson,</li> <li>○ <u>Council assessment staff</u>: Brian Olsen, Emma Buttress-Grove</li> <li>○ <u>Applicant representatives</u>: Patrick Elias, Tony Jriege, Aaron Gadiel, Stella Zhao</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report