

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	7 August 2024
<b>DATE OF PANEL DECISION</b>	6 August 2024
<b>DATE OF PANEL MEETING</b>	1 August 2024
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Alice Spizzo, Susan Budd and John Faker
<b>APOLOGIES</b>	George Mannah
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 1 August 2024, opened at 2.32pm and closed at 3.05pm.

#### MATTER DETERMINED

PPSSEC-295 – Burwood – DA2023.79 – 5 Belmore Street, Burwood – Demolition of the existing building and construction of an 18 storey mixed use development containing 49 residential units, 9 serviced apartments, 9 commercial tenancies and 2 retail tenancies, above basement parking and landscaping and site works (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.

#### 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 (Height of Buildings) 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. 4.3 (Height of Buildings) of the LEP and the objectives for development in the MU1 Mixed Use zone; and
- c) the concurrence of the Secretary has been assumed.

#### Development application

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 determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined in the Council Assessment Report.

## CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Amend Part A – Deferred Commencement Condition Schedule 1, A1(c) to read as follows:
  - (c) The payment of the monetary contributions must be provided to Council in accordance with the Voluntary Planning Agreements.  
The two (2) specific Voluntary Planning Agreements are in relation to:
    - A monetary contribution to Burwood Council to deliver community infrastructure in exchange for an additional 567.36m<sup>2</sup> floor area as permitted under Clause 4.4A of the Burwood Local Environmental Plan 2012, as detailed in the Draft Letter of Offer dated 16 September 2023 prepared by Daniel Barber, and as publicly exhibited between 1 July and 31 July 2024.
    - A monetary contribution in lieu of the provision of five (5) car parking spaces, as publicly exhibited between 1 July and 31 July 2024.
- Insert new Conditions 28 and 29 and renumber the remaining conditions according:
  - 28. **Prior to the issue of a construction certificate for above ground works**, a Public Art Plan (PAP) is to be submitted to and approved by the Council's Manager City Development. The location of the artwork is to include at minimum the identified public art space on the Belmore Street elevation and can include the rooftop plant area. The plan must include the following as a minimum:
    - (a) Information about the artist and the proposed artwork/s, such as the form, dimensions and materials.
    - (b) Public art concept/s and a statement explaining the rationale behind the artwork and how it will relate to the proposed development.
    - (c) The value of the artworks to be installed is to be generally consistent with Council's Public Art Policy.
    - (d) The placement of the artworks within the site.
    - (e) Timing for installation.
    - (f) The ongoing management requirements.
    - (g) A commitment to the ongoing maintenance of the works in the public sphere.
  - 29. **Prior to the issue of a construction certificate for above ground works**, the detailed design of the screening around the perimeter of the plant area on the roof is to be provided and approved by Council's Manager City Development or their delegate.
- Amend now Condition 162 (former Condition 160) to read as follows:
  - 162. Provision for EV charging in accordance with the below requirements;
    - (i) All residential car parking spaces must be 'EV-Ready'. An 'EV-Ready' car space requires the provision of a backbone cable tray and a dedicated spare 15A circuit within an EV Distribution Board enabling future installation of a smart EV charger and cabling to the EV Distribution Board.
    - (ii) Provide EV Distribution Boards of sufficient size to allow connection of all 'EV-Ready' car spaces.
    - (iii) Locate EV Distribution board(s) so that no future 'EV-Ready' car space will require a cable run greater than 55m from the parking bay to an EV distribution board and, ensure that no cables will obstruct vehicular circulation aisles. The development shall provide cable trays, electrical cabinets, and conduits sufficient to accommodate the electric circuitry to each 'EV-Ready' and 'EV Equipped' car space.
    - (iv) EV Distribution Boards are to be dedicated to EV charging that is capable of supplying not less than 50% of EV connections at full power (full power being each individual connection being provided with not less than 2kW power and preferably 7kW power) at any one time during off-peak periods, to minimize impacts to maximum demand loads. To deliver this, an EV Load Management System and an active suitably sized connection to the main switchboard is required.
    - (v) EV Load Management System is to be capable of:

- i. Reading real time current and energy from the EV chargers under management via ethernet connection;
- ii. Determining, based on known installation parameters and real time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are fully recharged;
- iii. Scale for residents to engage an EV Load Management provider to provide additional smart chargers to residential car spots over time.
- iv. Ensuring each multi-unit residential 'EV-Ready' car parking spaces be metered separately to their individual account as part of the 'EV-Ready' system.





The new substation to be erected on the site must have the electrical/load capacity to facilitate every residential space having an EV charging point.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Impact on 1-3 Belmore Street (visual and acoustic privacy, overshadowing).
- Building separation
- Inconsistency with the DCP setbacks
- Safety regarding serviced apartment uses
- Structural integrity of adjoining development
- Traffic impacts (congestion, noise)
- Density and height

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Susan Budd
 Alice Spizzo	 John Faker

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-295 – Burwood – DA2023.79
2	PROPOSED DEVELOPMENT	Demolition of the existing building and construction of an 18 storey mixed use development containing 49 residential units, 9 serviced apartments, 9 commercial tenancies and 2 retail tenancies, above basement parking and landscaping and site works
3	STREET ADDRESS	5 Belmore Street, Burwood
4	APPLICANT/OWNER	Daniel Barber Australia International Properties Holdings Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Housing) 2021 – Chapter 4 Design of Residential Apartment Development</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Burwood Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Draft Remediation of Land SEPP, Draft SEPP (Environment), Sustainable Buildings SEPP</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Burwood Development Control Plan</li> </ul> </li> <li>Planning agreements: Two (2) Voluntary Planning Agreements between the Burwood Council and Australian International Properties Holdings Pty Ltd</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 25 July 2024</li> <li>Clause 4.6 variation: Cl.4.3 Height of Buildings</li> <li>Written submissions during public exhibition: 27</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Consultant Planner – Darren Laybutt</li> <li>Council assessment officer – Jai Reid, Ryan Cole</li> <li>On behalf of the applicant – Daniel Barber, Karla Castellanos, Siobhan McInerney, David Johnson, Basil Lim</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 16</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 16 November 2023 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair)</li> <li>Council assessment staff: Robert Toohey</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Applicant Representatives</u>: Daniel Barber, Karla Castellanos, Siobhan McInerney, Josh Milston, David Johnson, Basil Lim, Eric Yang</li> <li>○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis</li> </ul> <ul style="list-style-type: none"> <li>● Briefing: 27 February 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, John Faker, George Mannah</li> <li>○ <u>Council assessment staff</u>: Robert Toohey and Ryan Cole</li> <li>○ <u>Independent Planning Consultant</u>: Darren Laybutt</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>● Site inspection: 01 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair) and Susan Budd</li> <li>○ <u>Council assessment staff</u>: Jai Reid</li> <li>○ <u>Independent Planning Consultant</u>: Darren Laybutt</li> </ul> </li> <li>● Final briefing to discuss Council's recommendation: 01 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd and John Faker</li> <li>○ <u>Council assessment staff</u>: Jai Reid, Ryan Cole</li> <li>○ <u>Independent Planning Consultant</u>: Darren Laybutt</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report