

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	23 September 2025
DATE OF PANEL DECISION	22 September 2025
DATE OF PANEL MEETING/BRIEFING	18 September 2025
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Susan Budd and Kevin Hoffman
APOLOGIES	None
DECLARATIONS OF INTEREST	George Mannah and John Faker have declared a Conflict of Interest as they are both Burwood Councillors and Council has entered into a voluntary planning agreement for the site. Paul Water declared a Conflict of Interest as he was a panelist on the Design Review Panel that considered the proposed development. They did not participate in the determination of this matter.

Papers circulated electronically on 10 September 2025.

MATTER DETERMINED

PPSSEC-344 - Burwood - 10.2021.44.5 - 42-50 and 52-60 Railway Parade and Wynne Avenue, Burwood - Modification of Development Consent No.44/2021 involving the reconfiguration of residential and retail components, introduction of a hawker's market, changes to landscaping, childcare centre use and public domain facilities, with extended operating hours to allow for 24 hours, 7 days a week trading for retail uses (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 the site inspection listed at item 8 in Schedule 1.

Application for modification of consent

The Panel is satisfied that the application is substantially the same development as the development originally approved and the reasons for the original approval have been taken into consideration for this determination.

The Panel determined to approve the modification application 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 application for the reasons outlined in the Council Assessment Report.

The proposed modification redistributes gross floor area (GFA) but does not result in any increase to the overall GFA for the project. The proposed development as modified remains compliant with the Burwood Local Environmental Plan (LEP) height and FSR controls and is generally compliant with the requirements introduced by the site specific Development Control Plan for the site.

The Panel is satisfied that the proposed modifications do not result in any unreasonable impacts.

CONDITIONS

The Development Application was approved subject to the amended conditions attached to the Council Assessment Report (uploaded to the portal on 17 September 2025) with the following amendments.

- Amend Condition 26 to read as follows:
 - 26. Design integrity:** The applicant shall provide documented evidence that the construction architectural and landscape drawings remain consistent with the Conceptual Architectural Design Statement dated September 2022, Design Excellence Statement and Landscape Report from *Place Design Studio dated June 2025*. This information is to be presented by the applicant in the form of a report to the Burwood Design Review Panel for comment and approved by Council's Manager City Development having regard to the Burwood Design Review Panel's feedback, **prior to the issue of the relevant Construction Certificate.**
- Delete Condition 38 and renumber the remaining conditions accordingly
- Amend now Condition 38 (former Condition 39) to read as follows:
 - 39.** Detailed landscape plans, drawn to scale, by a landscape architect, must be submitted to and approved by Council (Manager City Development) prior to the issue of a Construction Certificate for the above ground works *based on the Conceptual Plans prepared by Place Design Studio, dated June 2025*. The plans must include:
 - a. Location of proposed structures on the site including existing trees;
 - b. Details of planting on slab, earthworks including mounding and retaining walls and planter boxes (if applicable);
 - c. Details of soil depths and specification for landscape soil;
 - d. Details of proposed tree pits/bases, including grates;
 - e. Location, numbers and type of plant species, having regard to wind conditions and shade effects;
 - f. Details of planting procedure and maintenance;
 - g. Details of drainage and watering systems; and
 - h. Details of balustrades and wind protection measures (where applicable).

The Panel has requested that the following minor errors in the conditions be corrected:

- Amend all conditions that include the reference to Section 4.55(2) at the end of the condition, to read as '**Section 4.55(2) – DA2.021.44.5, Issued on 23 September 2025**'
- Insert the WaterNSW General Terms of Approval in Schedule 1.

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:

- Public domain interface and design
- Wynne Avenue traffic/ road changes
- ADG Compliance
- Urban Design Review
- Loss of landscaping
- Loss of splash play/ water feature
- Traffic arrangements

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. The Panel notes that in addressing these issues, appropriate conditions have been imposed.

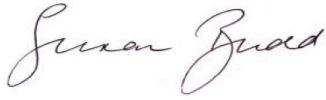
PANEL MEMBERS



Carl Scully (Chair)



Alice Spizzo



Susan Budd



Kevin Hoffman

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-344 - Burwood - 10.2021.44.5
2	PROPOSED DEVELOPMENT	Modification of Development Consent No.44/2021 involving the reconfiguration of residential and retail components, introduction of a hawker's market, changes to landscaping, childcare Centre use and public domain facilities, with extended operating hours are proposed to allow for 24 hours, 7 days a week trading for retail uses
3	STREET ADDRESS	42-50 and 52-60 Railway Parade and Wynne Avenue, Burwood
4	APPLICANT/OWNER	Applicant: Andrew Khoudeir Owner: Burwood Tower Holdings Pty Ltd and Burwood Council
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Housing) 2021 - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - Burwood Local Environmental Plan 2012 - Draft environmental planning instruments: Nil - Development control plans: - Burwood Development Control Plan 2013 - Planning agreements: Voluntary Planning Agreement entered into between Burwood Council, Burwood Tower Holdings Pty Ltd and Wynne Ave Property Pty Limited aft Wynne Ave Property Trust on 6 August 2020 - Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> - 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	- Council Assessment Report: 4 September 2025 - Written submissions during public exhibition: 3 - Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 30 January 2025 <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd <u>Council assessment staff</u>: Julian Sciarrone, Jai Reed, Robert Toohey, Erica Lacuna - Site inspection: 18 September 2025 <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Kevin Hoffman <u>Council assessment staff</u>: Julian Sciarrone, Jai Reed

		• Applicant Briefing: 18 September 2025 ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd and Kevin Hoffman ○ <u>Council assessment staff</u>: Julian Sciarrone, Jai Reed ○ <u>Applicant representatives</u>: Andrew Khoudeir, Edward Salib, Anthony Kazacos, Tim Field, Eliyah El Khoury ○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova • Final briefing to discuss Council's recommendation: 18 September 2025 ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Kevin Hoffman ○ <u>Council assessment staff</u>: Julian Sciarrone, Jai Reed ○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and amended on 17/09/2025