



## NOTICE OF BURWOOD LOCAL PLANNING PANEL MEETING

The meeting of the Burwood Local Planning Panel will be held at on Tuesday 25 February 2025 at 6:00 PM to consider the matters contained in the attached Agenda.

Tommaso Briscese  
**General Manager**

# Agenda

**For a Notice of Burwood Local Planning Panel Meeting of Burwood Council to be held in the Conference Room, Level 1, 2 Conder Street, Burwood on Tuesday 25 February 2025 at 6.00pm.**

**Welcome to the meeting of the Burwood Local Planning Panel**

**I declare the Meeting opened at**

## **1. Acknowledgement of Country**

*Burwood Council acknowledges the Wangal Peoples who are the traditional custodians of the area. We pay our respects to their elders past and present.*

## **2. Introduction of Panel Members**

## **3. Recording of Meeting**

*Members of the public are advised that Meetings of the Panel are audio recorded for the purpose of assisting with the preparation of Minutes and the recording of the public part of the meeting will be published on Council's website.*

## **4. Explanation of how the panel will operate**

*The Panel has undertaken site investigations and we have before us reports provided by Burwood Council officers on the matters for consideration.*

*The Panel will make determinations on the matters before it. Each determination will include reasons for the determination, and all such details will be included in the official record of the meeting.*

## **5. Apologies/Leave of Absences**

## **6. Declarations of Interest by Panel Members**

## **7. Chair introduction of Agenda Item**

## **8. Council Officer Overview**

## **9. General Business**

(Item GB1/25) Planning Proposal for 166-204 Parramatta Road and 1-1A  
Cheltenham Road Croydon..... 3

## **10. Development Applications**

(Item DA1/25) DA.2024.51 - 60 Burwood Road, Burwood - Use of the rooftop of  
an existing hotel development as a licensed premises (Sky  
Lounge)..... 47

(Item DA2/25) BD.2018.048 - 4.56 modification of 319-321 Liverpool Road,  
Strathfield..... 64

## General Business

### (Item GB1/25) Planning Proposal for 166-204 Parramatta Road and 1-1A Cheltenham Road Croydon

File No: 24/51022

Report by Executive Urban Designer

**Proponent:** LSH Property Alexandria Pty Ltd  
**Address:** 166- 204 Parramatta Road and 1-1A Cheltenham Road, Croydon  
**Zoning:** E3 Productivity Support

#### **BLPP Referral Criteria**

Pursuant to the Ministerial direction under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, dated 27 September 2018, a Planning Proposal is to be referred to the Local Planning Panel, unless it meets any of the following exemptions:

- *the correction of an obvious error in a local environmental plan;*
- *matters that are of a consequential, transitional, machinery or other minor nature; or*
- *matters that council's general manager considers will not have any significant adverse impact on the environment or adjacent land.*

The subject Planning Proposal does not meet any of the above exemption criteria and is therefore being referred to the Burwood Local Planning Panel (BLPP) for advice before submitting to Council for consideration.

#### **Planning Proposal**

On 30 June 2023, a proponent led Planning Proposal was submitted through the NSW DPHI Planning Portal, seeking to amend *Burwood Local Environmental Plan 2012* (BLEP 2012) as it relates to land at 166-204 Parramatta Road and 1-1A Cheltenham Road, Croydon (*the site*). The site is approximately 10,449m<sup>2</sup> in area and located within the Kings Bay Precinct under the *Parramatta Road Urban Transformation Strategy 2016* (PRCUTS). It is accompanied by a s9.1 Ministerial Direction which requires planning proposals be made consistent with the Plan.

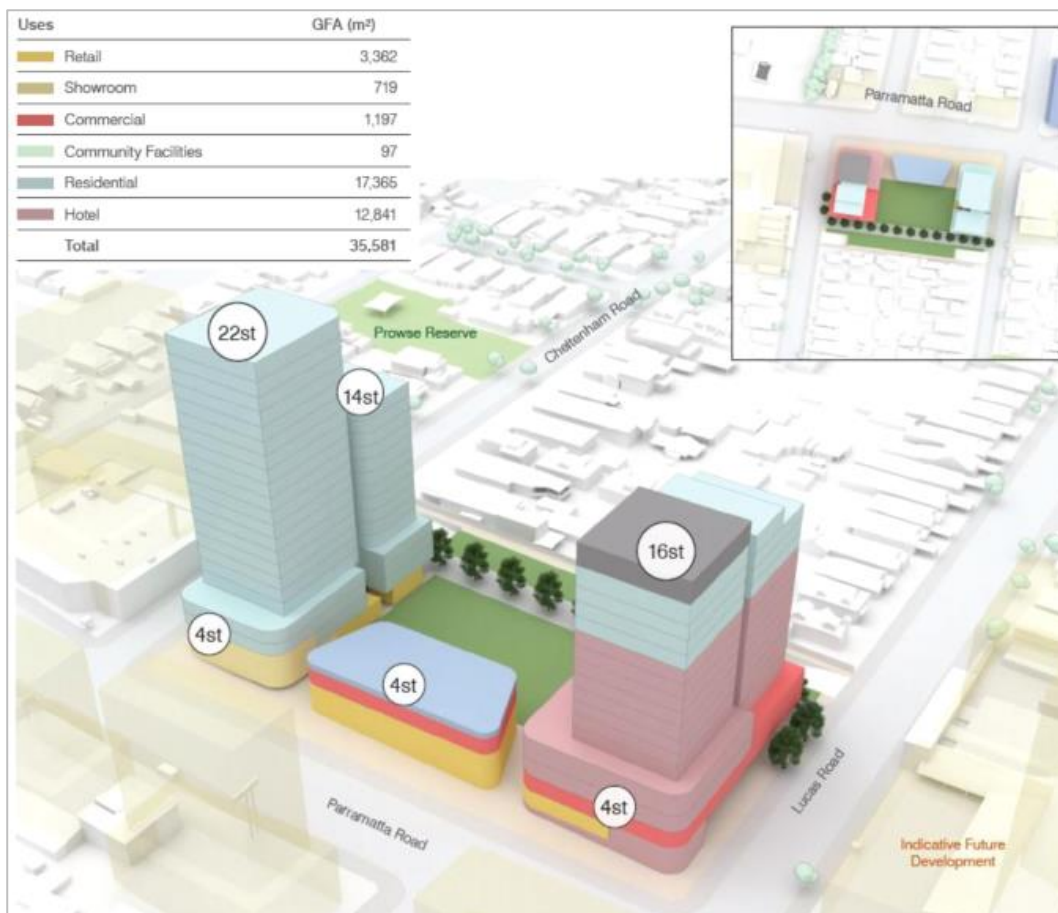
The Planning Proposal seeks to amend the Burwood Local Environmental Plan 2012 (BLEP 2012) as it relates to the site as follows:

- Rezone the land from E3 Productivity Support to MU1 Mixed Use under BLEP 2012 (including a range of land uses);
- Increase the maximum FSR from 1.75 to 3.4:1 through a new Alternate Floor Space Ratio (FSR) Map under BLEP 2012;
- Increase the maximum allowable building height from 8.5m to 72.5m (maximum 22 storeys) through a new alternate Height of Buildings Map under BLEP 2012 (to allow for maximum building height under proposed concept development scheme);
- Include additional local provisions applicable to the site, which require that community infrastructure is provided for any development that seeks to use the alternate controls, including elements such as publicly accessible open space in quantum, and location relative to built form (approximately 2,700m<sup>2</sup>) and community facilities (approximately 100m<sup>2</sup>);
- Identification as a Key Site and requirements for Design Excellence to be included in the BLEP 2012; and
- Incorporate site-specific provisions relating to the mix of land uses (FSR maximum and/or minimum), built form controls and other requirements.

The Planning Proposal also seeks support (as separate Development Application post rezoning would be submitted) for the following concept development scheme:

- 2 x towers of 16 and 14 storeys to the western boundary (Lucas Road);
- 2 x towers of 22 and 14 storeys to the eastern boundary (Cheltenham Road) to a maximum height of 72.5m;
- 4 storey podium wall height to all street frontages, broken up to present as three building forms to Parramatta Road;
- Landscaped setbacks of between 3-6m to Parramatta Road and Lucas Road;
- East-West through-site link in southern portion of the site to facilitate permeability, servicing, and connectivity;
- Large activated publicly accessible open space (2,700sqm+) at the centre of the site;
- Mix of land uses across the site including:
  - Residential
  - Hotel
  - Retail
  - Commercial
  - Community
- Basement car parking across the site, with entry and exit from Lucas Road and Cheltenham Road (no access from Parramatta Road);
- Approximately 193 residential apartments with 17,365m<sup>2</sup> of Gross Floor Area (GFA)
- Approximately 18,216m<sup>2</sup> of non-residential GFA.
- Total GFA of 35,581m<sup>2</sup>

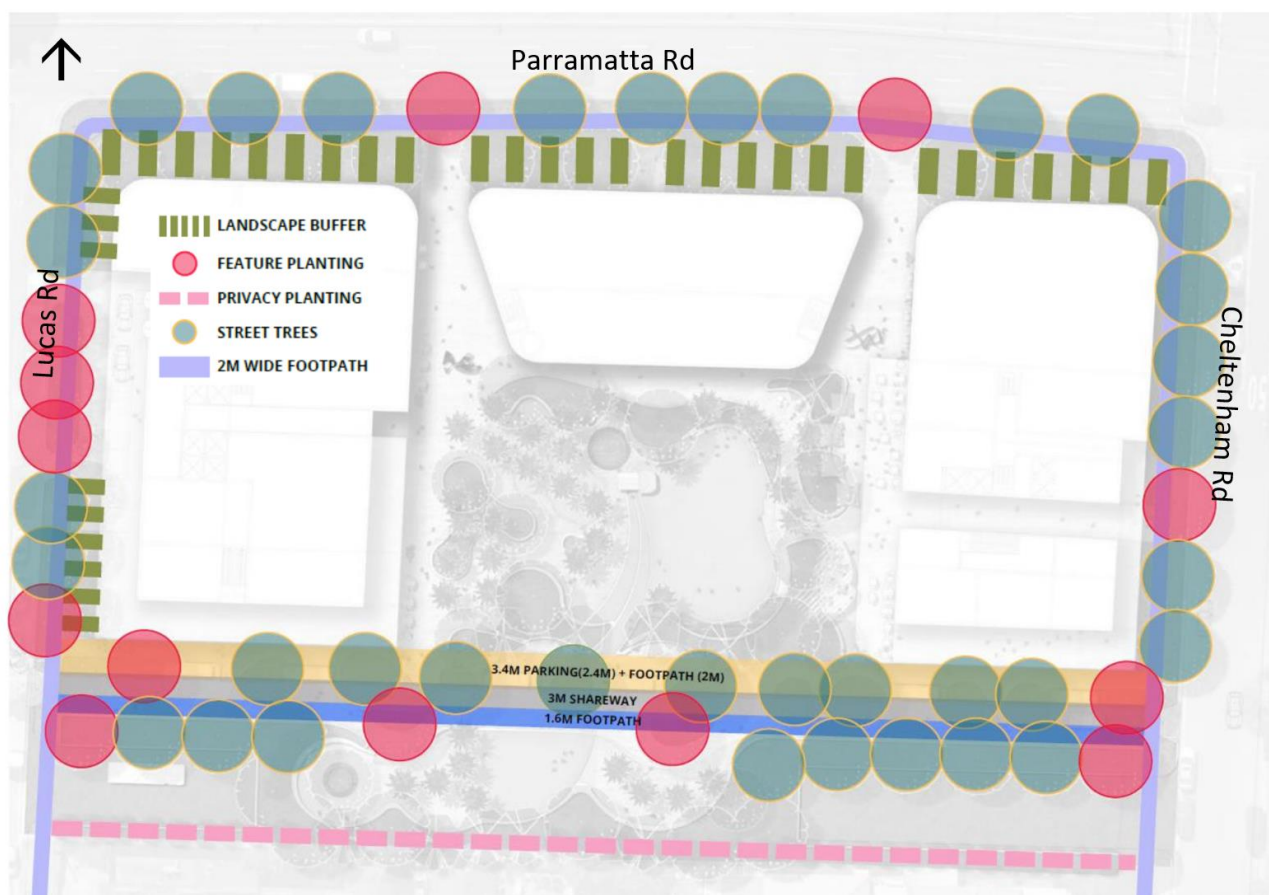
A visual representation of the proposed scheme is shown from the applicants submission bundle below:



**Figure 1:** The proposed development – view southwards from Parramatta Rd. (Source: Architectus)



**Figure 2:** Proposed publicly accessible open space – view north towards Parramatta Rd. (Artist impression – Source: Architectus)



**Figure 3:** Proposed public domain plan (Source: Arcadia)

The applicants supporting Planning Proposal documentation and Urban Design reports are at **Attachment 1** and **Attachment 2**, respectively.

### **Application Timeline**

<b>Timeline</b>	<b>Activity</b>
<b>1 June 2022</b>	Scoping proposal submitted to Council
<b>2 August 2022</b>	Council comments on scoping report issued to Proponent
<b>October – November 2022</b>	Community engagement by Proponent
<b>(December 2022)</b>	Parramatta Road Corridor Urban Transformation Strategy published by DPHI
	Planning Proposal received by Council through Planning Portal
<b>23 February 2023</b>	Presentation by proponent and project team to Burwood Design Review Panel (DRP).
<b>22 March 2023</b>	DRP written comments provided to the proponent with matters to be address in the Planning Proposal.
<b>30 June 2023</b>	Updated Planning Proposal resubmitted through Planning Portal. Lodgement of the Planning Proposal: PP-2023-1046.
<b>August 2023</b>	The updated Planning Proposal was referred to Council's DRP; comments provided to proponent.
<b>December 2023</b>	Updated response to Council's DRP comments provided by proponent. Eextent of proposal not revised, but additional clarification provided to support the proposed layout and design in response to DRP comments.
<b>16 September – 28 October 2024</b>	Public exhibition of Planning Proposal
<b>August - December 2024</b>	Two Meetings held with proponent and Council to discuss progression and next steps.

**Table 1:** High-level summary of project background.

### **Site and surrounds**

#### **Site Description**

The site is located at 166-204 Parramatta Road and 1-1A Cheltenham Road, Croydon and is legally described as Lot 1 DP206411, Lot 1 DP86926, Lots A-C DP84812, Lot 1 DP 86033, Lots 100-101 DP850953 and Lot 1 DP 817488 (the site).

The site is bounded by Parramatta Road on its northern boundary, Cheltenham Road on its eastern boundary, Lucas Road on its western boundary, and R3 Medium Density Residential zoned properties along the southern boundary.

The site is one of the few consolidated land parcels in the locality with an approximate total site area of 10,449m<sup>2</sup>. Key attributes of the site are as follows:

- Eight (8) amalgamated lots which have previously primarily accommodated commercial land uses.
- The majority of the site is currently vacant and is excavated to basement level, excluding the Salvation Army site at the eastern edge of the site.
- The majority of the subject site is identified within the Kings Bay Precinct under PRCUTs, with the exception of the lot at 1-1A Cheltenham Road, Croydon (see Figure 4).

It is noted that the site is not listed as a heritage item or within or adjacent to a heritage conservation area.



**Figure 4:** The site (identified in yellow). The boundary of Kings Bay Precinct defined with a red outline.



**Figure 5:** Salvation Army Site (left), Hoarding to Parramatta (right). (Source: Ethos Urban)



**Figure 6:** Parramatta Rd Frontage (left), Existing site excavation as viewed from southern boundary (right). (Source: Ethos Urban)



**Figure 7:** View north towards the site from Cheltenham Rd (Left), view north towards the site from Lucas Rd (right). The site is highlighted with a red arrow.



**Figure 8:** View looking east along Parramatta Road towards the site showing existing characteristics of the road in the vicinity of the subject site. The site is highlighted with a red arrow.

## Local Context

Key features of the site's local context are highlighted in Figure 9 and detailed as follows:

- **Parramatta Road:** The site is within the PRCUTS area in the south west end of Kings Bay Precinct which is intended to undergo significant uplift in future.
- **Burwood North Metro Station:** Located 600m to the west of the site, the new Burwood North Metro station will facilitate city-shaping integrated land use and transport outcomes.
- **Burwood North Precinct Masterplan (adopted May 2024 as amended by Council resolution January 2025):** Proposes approximately 9,073 additional dwelling uplift around and in proximity to the new Burwood North Metro station.
- **Westconnex:** The site is within proximity Westconnex access points, which facilitates faster access to Sydney International Airport and the Sydney CBD.
- **Built form context:** The character of the site's immediate context includes large bulky goods retail, showrooms and light industrial sites (Figures 7 & 8). Immediately to the south of the site is land zoned Medium Density Residential under BLEP (Figures 10 & 11).
- **Open space amenity:** There are a range of open space amenities within a 400-800m catchment of the site, including Concord Oval, St Lukes Park, Cintra Park Tennis and Sports Centre, Charles Heath reserve, Five Dock sure Centre, Prowse Reserve, Wangal Park, and Blair Park.

A visual representation of the site and its surroundings is shown below:



**Figure 9:** The site within its surrounding context. (Source: Group GSA)



**Figure 10:** Existing medium density dwellings on Lucas Rd, immediately adjoining the site's southern boundary. (Source: Google maps)



**Figure 11:** Existing dwellings in R3 Medium Density Residential zone, immediately adjoining the site to the south along Cheltenham Rd. (Source: Google maps)

### **Strategic Planning Context**

The following is a summary of the key strategic plans and policies which are intended to guide future growth and the desired future character of the surrounding locality in the context of the subject site and implications for future development considerations:

#### **A. Greater Sydney Region Plan 2018**

The Greater Sydney Region Plan: A Metropolis of Three Cities provides a 40-year vision of Sydney for a city where people will live within 30 minutes of jobs, education and health facilities, services and great places. A particular focus of the Plan is providing housing diversity around centres and transit nodes.

The Plan's most relevant objectives include:

- *Objective 6: Services and infrastructure meet communities changing needs.*
- *Objective 7: Communities are healthy, resilient and socially connected*
- *Objective 10: Greater housing supply.*
- *Objective 11: Housing is more diverse and affordable.*
- *Objective 14: Integrated land use and transport creates walkable and 30 minute cities*

The Greater Sydney Commission's recent Discussion Paper for the Six Cities Region (September 2022), which is a precursor to the updated *Greater Sydney Region Plan* (2018), states:

- Priority housing to be proximate to future transport hubs
- It will set targets for housing within 800m of transport hubs
- It also introduces a new priority for 15 minute neighbourhoods

#### **B. Eastern City District Plan**

The Eastern District Plan is the sub-regional strategic planning layer that translates the outcomes and actions of the Greater Sydney Region Plan into the six districts that make up the Greater Sydney Region. The site is located within the Eastern Harbour City. The District Plan establishes a number of planning priorities and actions to manage growth to support the vision for Greater Sydney.

Burwood forms part of the vision for the Eastern Harbour City as a strategic centre. The most relevant Planning Priorities are:

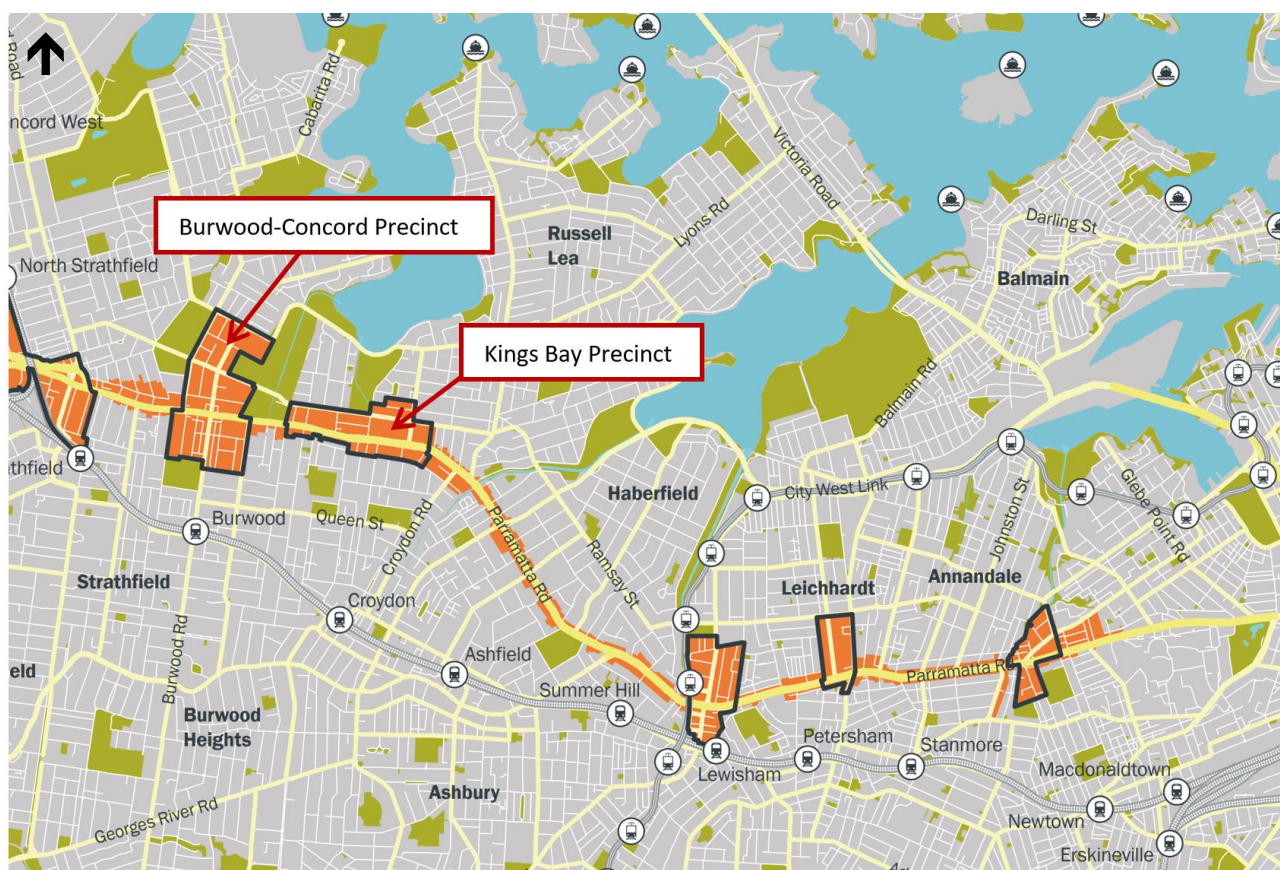
- Planning Priority E3: *Providing services and social infrastructure to meet people's changing needs*
- Planning Priority E5: *Providing housing supply, choice and affordability, with access to jobs, services and public transport*
- Planning Priority E6: *Creating and renewing great places and local centres, and respecting the District's heritage*

A 20-year housing target up to 157,500 dwellings is set under the Eastern City District Plan (2016-2036). To achieve this target, each Council is required to formulate its own 20-year target following preparation of a housing strategy. The housing target set for Burwood Council from 2016-2021 is 2,600.

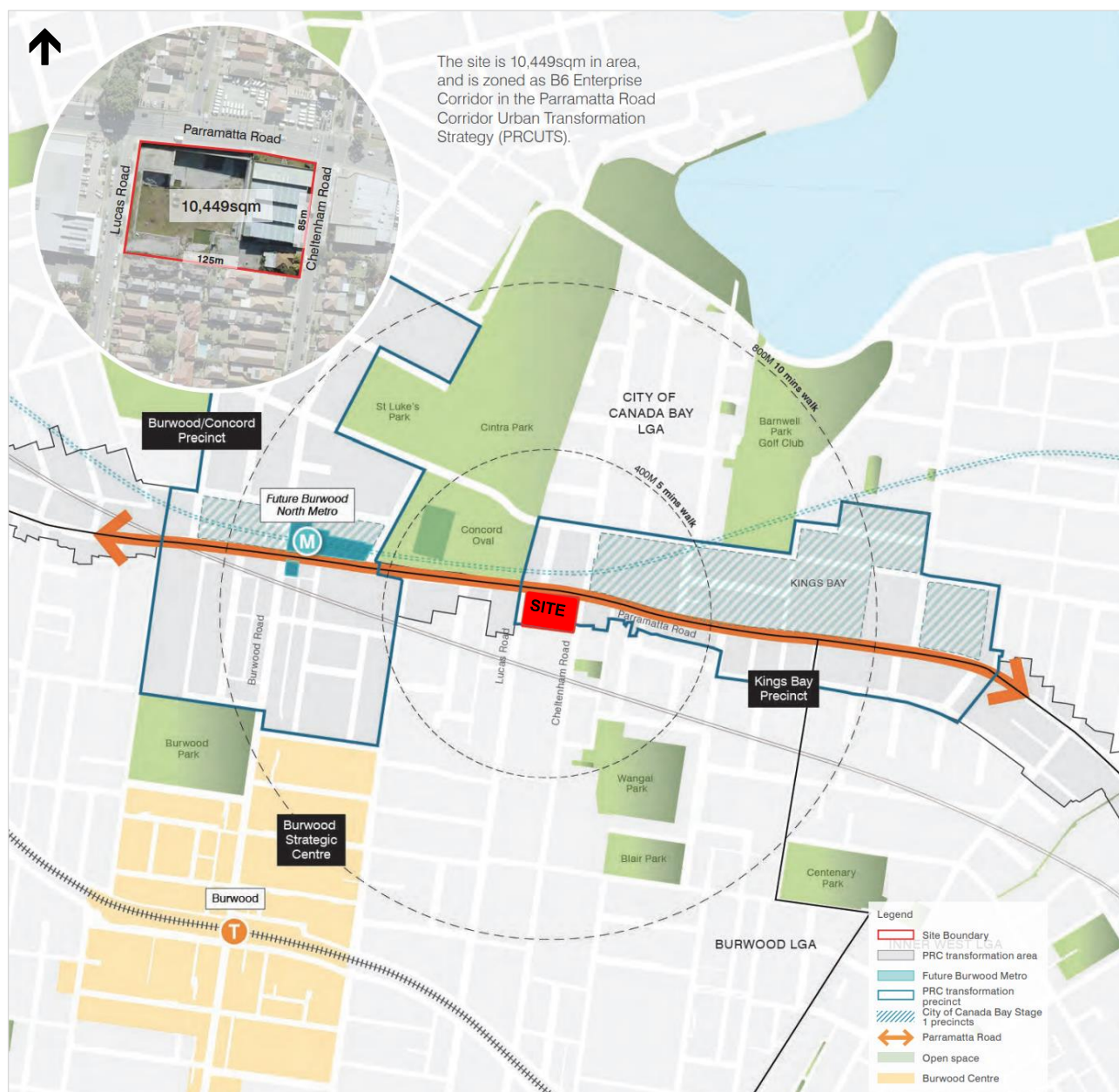
### C. Parramatta Road Corridor Urban Transformation Strategy (PRCUTS)

In November 2016, Urban Growth NSW released the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) together with a package of implementation and reference documents. The Strategy has been adopted by the NSW Government and is given statutory force by a Ministerial Direction under section 117 of the Environmental Planning and Assessment Act 1979 (NSW) (known as a Section 117 Ministerial Direction).

A total of eight (8) urban renewal precincts are identified for transformation under PRCUTS – two of these precincts, **The Kings Bay Precinct** and the **Burwood-Concord Precinct**, have direct relevance in the consideration of the subject Planning Proposal (see **Figure 12** and **Figure 13**).



**Figure 12:** Two urban renewal precincts in PRCUTS to be considered for outcomes on the subject site.



**Figure 13:** Detailed context of the subject site's location relative to The Kings Bay Precinct and Burwood-Concord Precinct under PRCUTS. (Source: Architectus, May 2023)

PRCUTS proposes to rezone the majority of land adjoining the corridor from B6 Enterprise Corridor to the former identified B4 Mixed Use, now MU1 Mixed use under the DPHI equivalent land use zone matrix. There is a portion of land to the east of the site retained as B6 Enterprise Corridor.



**Figure 14:** Proposed land use zoning under PRCUTS. (Source: PRCUTS Planning and Design Guidelines, Nov 2016)

Under PRCUTS, the FSR on the site is proposed to be increased to 1.8:1 (from 1.75:1 under BLEP 2012), while adjacent land identified to be rezoned B4 Mixed Use now MU1 is proposed for a FSR between 1.8:1 to 4:1; the highest floor space ratios reflecting sites around proposed new centres at Kings Bay and Burwood North at and around the site of the planned metro station.



**Figure 15:** Proposed floor space ratio under PRCUTS. (Source: PRCUTS Planning and Design Guidelines, Nov 2016)

PRCUTS proposes the maximum building height on the subject site to be increased to 21m or approximately 6 storeys. Land within the corridor identified to be rezoned B4 Mixed Use now MU1 proposes a maximum building height between 21m and 42m. Similar to the proposed FSR control, greater buildings heights are proposed around future centres and transit nodes.



**Figure 16:** Proposed building heights under PRCUTS. (Source: PRCUTS Planning and Design Guidelines, Nov 2016)

A comparative illustration of height limits is shown in **Figure 17**, further re-emphasising the importance given at a strategic level to the hierarchy of centres and their functions.



**Figure 17:** The maximum height for the subject site is 21m, transitioning up to 32m and 80m to the east along Parramatta Rd, and up to 32m and 42m to the west along Parramatta Rd (Burwood-Concord Precinct). (Source: PRCUTS Planning and Design Guidelines, Nov 2016).

The PRCUTS sets a vision to accommodate an additional 56,000 residents in 27,000 new dwellings, and is supported by the following guiding principles:

*Principle 1: Housing choice and affordability*

*Principle 2: Diverse and resilient economy*

*Principle 3: Accessible and connected*

*Principle 4: Vibrant communities and places*

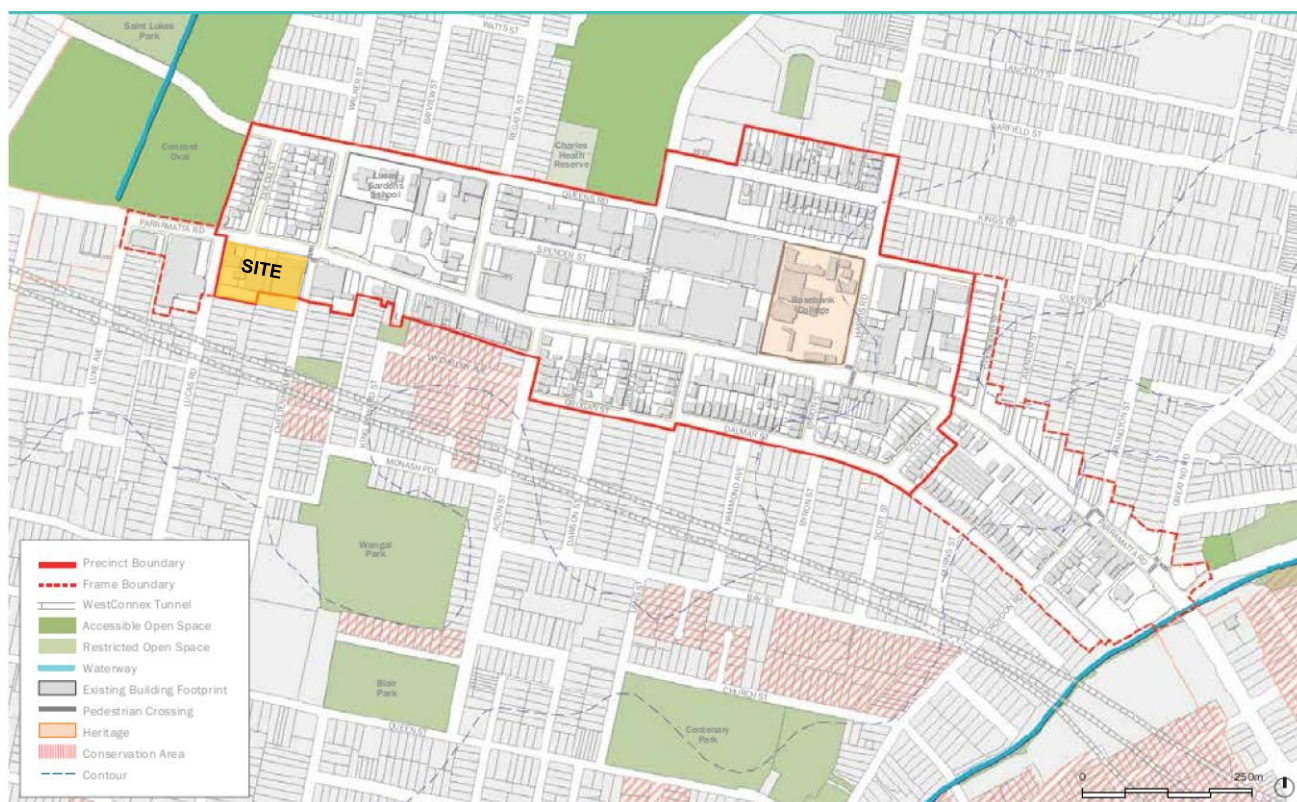
*Principle 5: Green spaces and links*

*Principle 6: Sustainability and resilience*

*Principle 7: Delivery*

## The Kings Bay Precinct

The Kings Bay Precinct is located between the established activity centres of Burwood (located approximately 1km to the south west) and Five Dock (1km to the east). It spans both sides of Parramatta Road to the north and south, and is bounded to the north by Queens Road and Kings Road, and Dalmar Street, Grogan Street and Wychbury Avenue to the south. Courland Street and Concord Oval bound the site to the east and west respectively. The subject site is located within the PRCUTS Kings Bay Precinct as shown in **Figure 18**.



**Figure 18:** The subject site is within the PRCUTS Kings Bay Precinct (Source: Kings Bay Guidelines, PRCUTS, Nov 2016)

The site is located at the south-western corner of the Kings Bay Precinct and within walking distance to the Burwood North Metro Station to the west. Under the PRCUTS development implementation planning and design guidelines (November 2016) the subject site has been identified for mixed uses, with a height of 21m and a FSR of 1.8:1. The subject site's development controls under PRCUTS is detailed in **Figure 15** and **Figure 16**.

## D. Kings Bay Precinct Stage One Masterplan

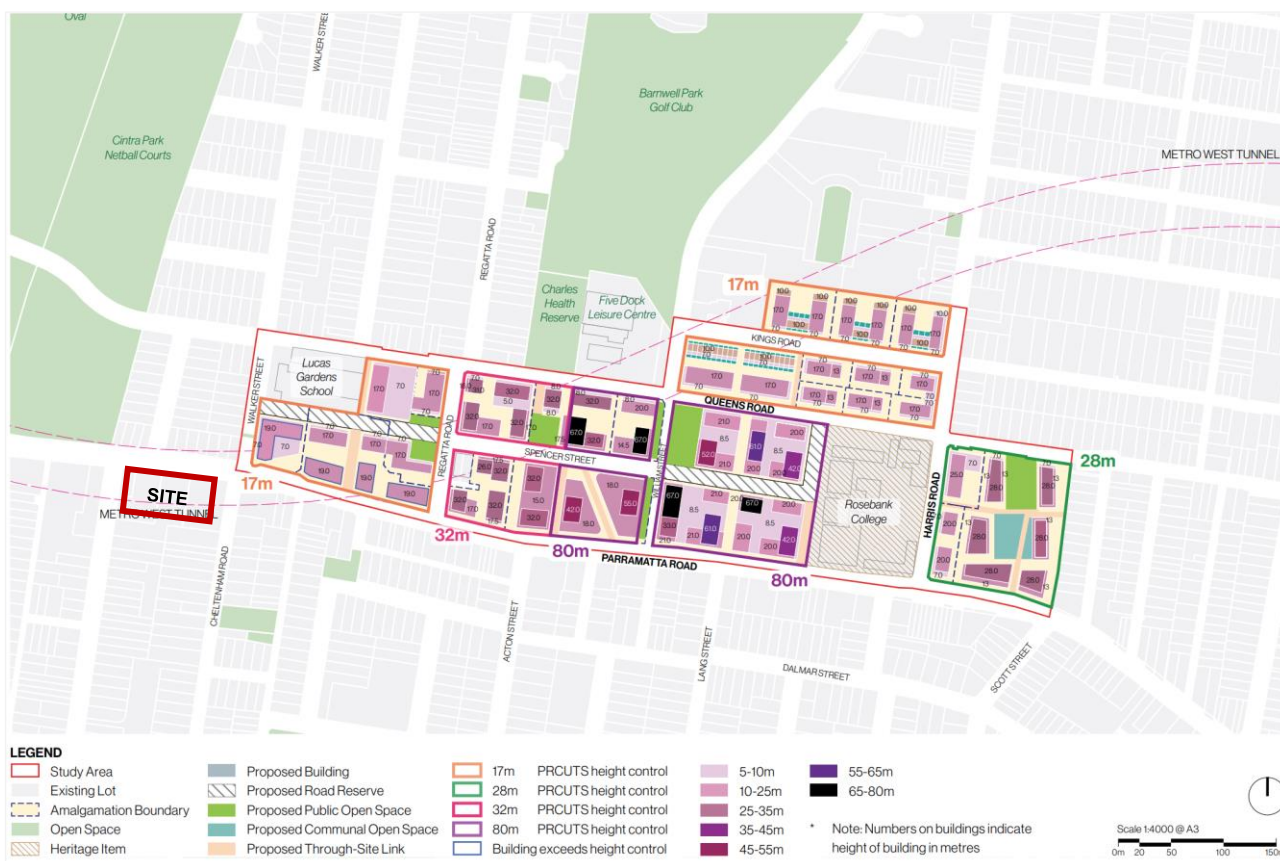
Kings Bay Precinct is one of the eight renewal precincts identified under PRCUTS. The PRCUTS Implementation Strategy 2016-2023 identifies implementation stages within each precinct. The City of Canada Bay Council prepared a Stage One masterplan for the Kings Bay Precinct and Burwood Precinct, between the future Burwood North and Five Dock Metro stations. The extent of these masterplan areas are shown in **Figure 19** and **Figure 21**.

The Stage One Kings Bay Precinct masterplan responds to height and density as follows:

- **Height:** Concentrated within the precinct's centre are heights to a maximum of 20 storeys/65-80m fronting Spencer Street, and maximum heights along the Parramatta Road frontage ranging predominantly 5-9 storeys/19-33m with one block proposed to be 18 storeys/61m. Towards the precinct's eastern, western, and northern boundaries, heights taper down to between 2-8 storeys/7-28m.
- **Density:** Proposed FSR ranges from 1.3:1 – 3:1 across the precinct, and aligns with the PRCUTS Planning and Design Guidelines for The Kings Bay Precinct.



**Figure 19:** Kings Bay Precinct Stage One Masterplan area – City of Canada Bay. (Source: Group GSA, 15 April 2021)



**Figure 20: Stage One Kings Bay Precinct Masterplan – City of Canada Bay, building height strategy consistent with PRCUTS controls. (Source: Group GSA, 15 April 2021)**

The proposed zoning, building heights and FSRs under the City of Canada Bay Stage One Kings Bay Precinct Masterplan are generally consistent with PRCUTS with minor variations, and respond to the renewal and transformation vision proposed under PRCUTS.

The subject site is not included in Stage One Precinct Masterplan. It is noted that, the updated PRCUTS Implementation Plan (July 2021) provides that planning proposals on individual sites and in Frame Areas can still be considered for progression responding to the relevant Section 9.1 Ministerial Direction.



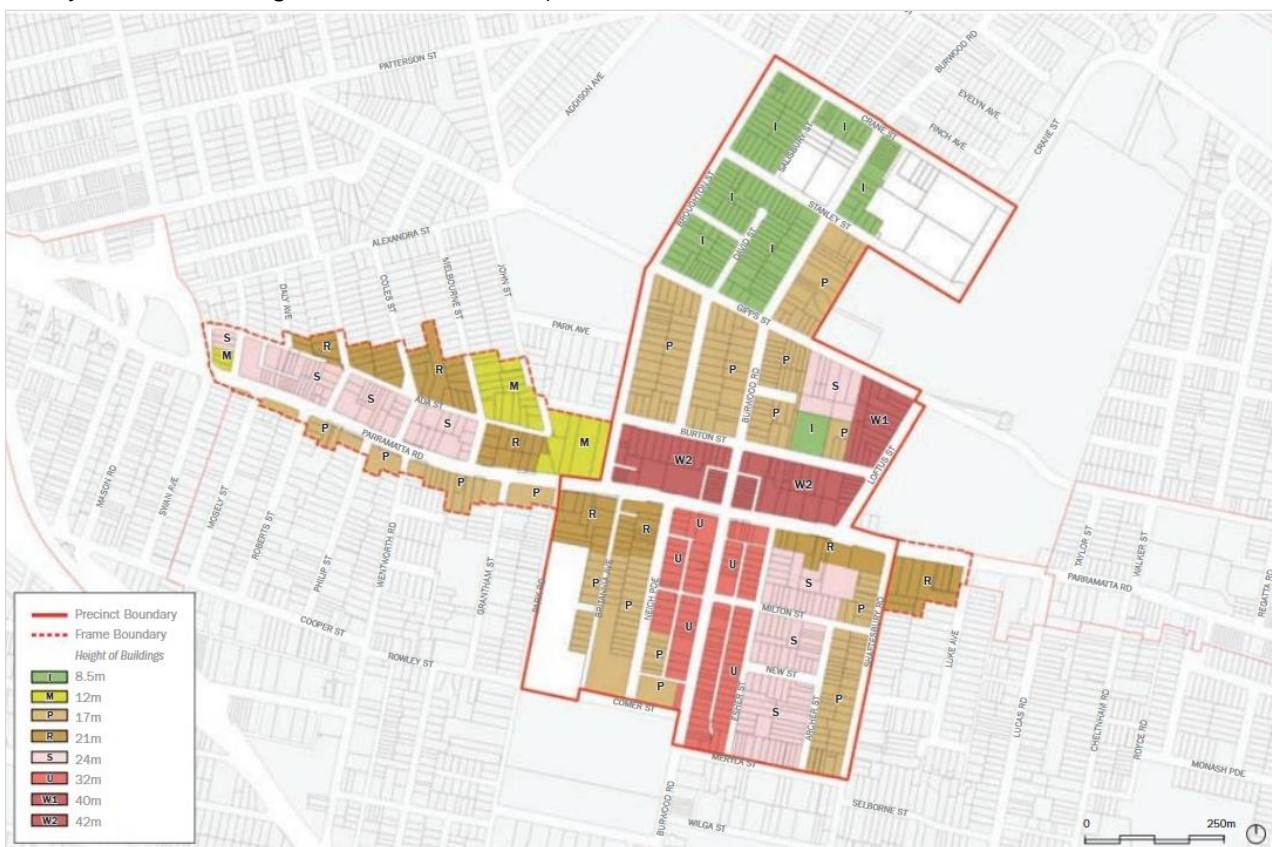
**Figure 20: Stage One Kings Bay Precinct Masterplan – City of Canada Bay, showing subject site in relation to future built form vision. (Source: Group GSA, 15 April 2021)**

## E. Burwood-Concord Precinct & Stage One Masterplan

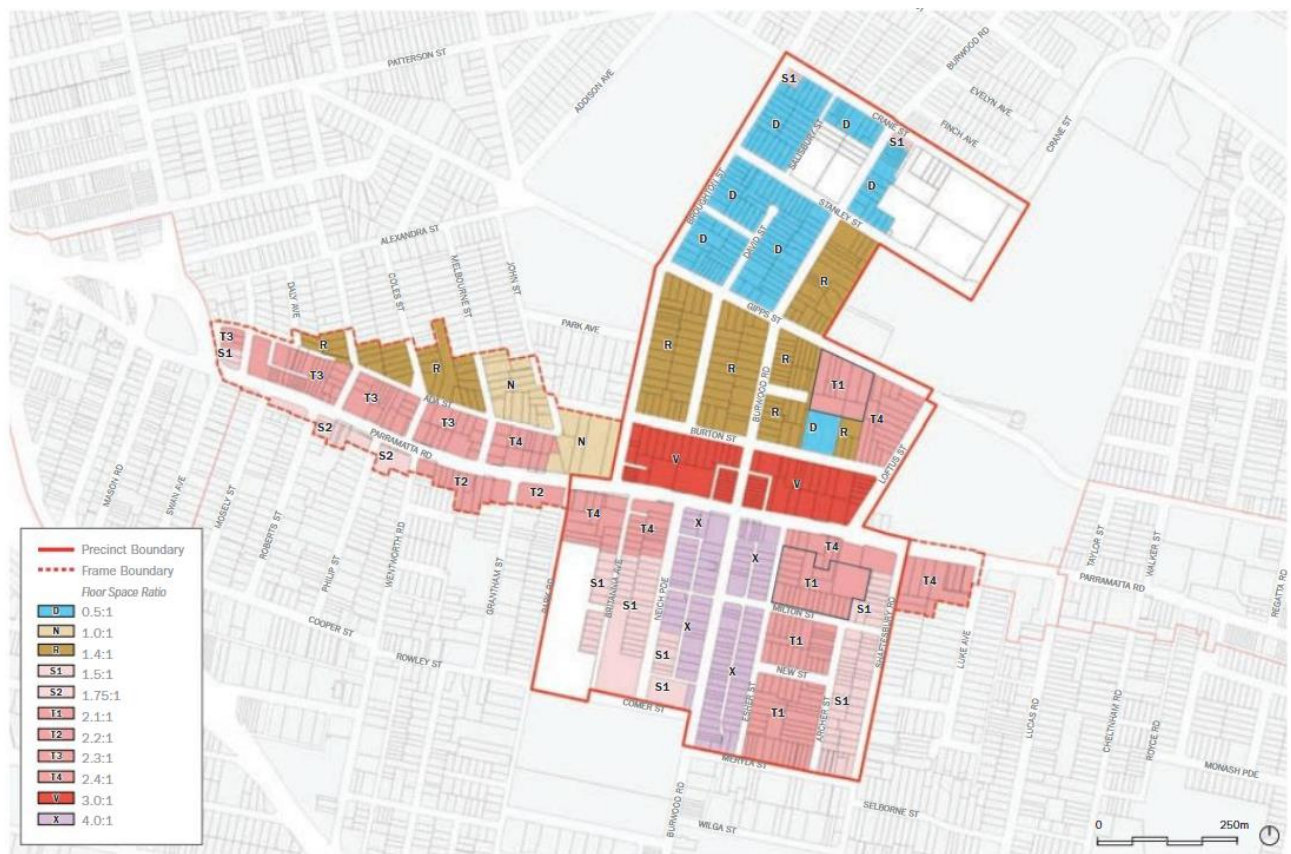
The Burwood-Concord Precinct is one of eight centres identified for renewal under PRCUTS and comprises the new Burwood North Metro Station. This precinct is located further west and in proximity to the subject site, along the northern side of Parramatta Road, at the intersection of Burwood Road (see **Figure 13**). The Stage One Masterplan has been developed by the City of Canada Bay as a first phase in responding to the PRCUTS strategic vision.

Under PRCUTS, proposed building heights range from 8.5m – 42m and building density ranges from 0.5:1 – 4:1, the latter height and density controls being for blocks surrounding the new metro station (see **Figure 21** and **Figure 22**).

The Stage One Masterplan proposes building heights across the study area from 5m – 75m/3-30 storeys and FSR ranges from 0.9:1 – 3:1 (see



**Figure 21:** Proposed building heights for Burwood-Concord Precinct under PRCUTS. (Source: PRCUTS Planning and Design Guidelines, Nov 2016)



**Figure 22:** Proposed FSR for Burwood-Concord Precinct under PRCUTS. (Source: PRCUTS Planning and Design Guidelines, Nov 2016)



**Figure 23:** Burwood-Concord Study Area – City of Canada Bay. (Source: Group GSA, 3 May 2021)



**Figure 24:** Burwood-Concord Stage One Masterplan Area – City of Canada Bay, building height strategy in response to PRCUTS. (Source: Group GSA, 3 May 2021)



**Figure 25:** Burwood-Concord Masterplan Area – City of Canada Bay, building height and density strategy in response to PRCUTS. (Source: Group GSA, 3 May 2021)

## F. Burwood Local Strategic Planning Statement (LSPS) 2020

The Burwood LSPS sets out the Burwood community's economic, social and environmental land use needs up to 2040. Key elements of the LSPS Planning Priorities that align with the aspirations of this project include:

- *P3 (Liveability). Provide housing supply, choice and affordability in close proximity to jobs, services and public transport.*
- *P4 (Liveability). Provide high quality planning and urban design outcomes for key sites and precincts.*
- *P10 (Sustainability). Deliver high quality open space and recreation facilities.*

Regarding PRCUTS, the LSPS states:

*'A precinct wide approach to the planning of the corridor is being pursued to enable development to occur in a coordinated manner, where a range of apartment types can be provided and where there is access to infrastructure and public transport'.*

*The planning for higher density development along the Corridor will need to mitigate the impact on residents' health as a result of traffic noise, vehicle emissions and traffic crashes.*

The LSPS expects that the Burwood North Metro Station will also support urban renewal along the Parramatta Road Corridor.

## G. Burwood Housing Strategy 2020

The LSPS is supported by Burwood Housing Strategy 2020 (BHS) that informs the housing outcomes of the LSPS. The BHS outlines a plan for medium density housing development to be focused on the LGA's centres, supplemented by the continued development of high-density housing around the Burwood and Strathfield Town Centres. The redevelopment of Burwood North will also respond to housing outcomes, leveraging from the new Burwood North Metro Station and extension of the Burwood Town Centre northwards. The BHS states the following objectives and actions:

- *Rezone land near the Burwood North Metro Station to facilitate higher-density housing development, including large apartments and ground floor apartments which cater to families and larger households.*
- *(Part 8.3) The Parramatta Road Corridor is proposed to be redeveloped and will benefit from the Burwood North Metro Station. This area will host additional medium and high density housing, with rezoning to occur shortly before the completion of Sydney Metro West.*

The subject site is identified within the BHS Parramatta Road Corridor housing growth area. As can be ascertained from **Figure 26**, the density gradient is greatest around the Burwood North Metro Station precinct and Burwood North precinct and lowers to the east and west of these areas to one block south of Parramatta Road, aligning with the PRCUTS vision.



**Figure 26:** Housing Structure Plan. (Source: Burwood Housing Strategy 2020). The subject site is highlighted in red.

## H. Burwood North Precinct Masterplan

To the south of Burwood-Concord Stage One Masterplan is Council's recently approved Burwood North Masterplan Precinct which proposes uplift to accommodate building heights up to approximately 8000 new dwellings, in response to the arrival of metro rail services at Burwood North.

The Burwood North Precinct Masterplan provides a framework that articulates a clear vision to ensure that the Burwood North Precinct becomes a liveable, vibrant place for people, which leverages from key regional transport infrastructure investments. It will guide the future urban renewal of the Precinct to deliver a people-focused place, offering high amenity, liveability and sustainability, centred around a major transport node. The Masterplan was adopted by Council at the 21 May 2024. Below is a summary of the proposed height and density controls under the Burwood North Masterplan:

- **Height:** A maximum proposed height of 36 storeys within the precinct, reducing to 8-15 storeys on Shaftesbury Road, and 15 storeys along Parramatta Road east of Esher Street.
- **Density:** The proposed FSR aligns with Burwood's status as a Strategic Centre under the Eastern City District Plan. FSRs between 4.5:1 to 6.5:1 is proposed along Parramatta Road around the new Burwood North Metro Station to facilitate transit-oriented development, transitioning down to 3:1 to the west of Burwood Road and along Shaftesbury Road in the east.

2.



Figure 27: Proposed FSR controls under Burwood North Precinct Masterplan. (Source: Burwood Council)



Figure 28: Proposed height controls under Burwood North Precinct Masterplan. (Source: Burwood Council)

### NSW Housing Targets for Burwood LGA

The NSW Government recently released [local housing targets](#) for the period from 1 July 2024 to 30 June 2029. Burwood's new target is set at 3,300 new homes to be delivered by 2029. These targets refer to the actual construction of dwellings by 2029. While the planning proposal or any alternative planning response could contribute to housing delivery, its primary aim is to provide future capacity within the planning framework for housing development.

### LOCAL PLANNING CONTEXT

A summary of key land use and development controls applicable to the subject site under the current Burwood LEP compared with land used development controls under PRCUTS and those proposed under the subject planning proposal is highlighted in **Table 2**. This comparison demonstrates the extent of uplift sought by the planning proposal and is necessary to assess its impacts relative to existing planning strategies and development controls established for future development within proximity to and surrounding the subject site.

CONTROL	BLEP	PRCUTS	PLANNING PROPOSAL
<b>ZONING</b>	E3 Productivity Support	B4 Mixed Use	MU1 Mixed Use
			
<b>HOB</b>	12.5-15m	21m	72.5m
			
<b>FSR</b>	1.5:1 – 1.75:1	1.8:1	3.4:1



**Table 2:** Existing planning controls compared with that proposed under subject Planning Proposal

### **Community Consultation**

The planning proposal and supporting documentations were placed on public exhibition from 16 September to 21 October 2024. A total of 21 submissions were received.

**Table 3** below provides a summary of the key issues raised during public exhibition:

ISSUE	TALLY	%	SUMMARY OF CONCERNS
<b>Traffic, parking, congestion, overdevelopment</b>	15	71	- Over development, traffic and existing road and neighborhood congestion
<b>Height, Scale, Character</b>	14	67	- The Proposed Development is out of keeping with the nature and character of Croydon - Multiple tall buildings, a hotel, and commercial spaces will disrupt the visual harmony and character of the street.
<b>Strategic Alignment</b>	12	57	- Proposal is inconsistent with the vision within PRCUTs. - Competition with surrounding centres and other plans, including Burwood North and isolated nature of the site
<b>Overshadowing/Solar Access</b>	6	28	- Impacts to surrounding residential as a result of the proposed development
<b>Amenity and Noise</b>	6	28	- Impact on the amenity of existing character and quiet neighborhood from a change in the nature of the site.
<b>Privacy</b>	4	19	- Concerns regarding privacy and overlooking from the height of the proposed development
<b>Community Engagement</b>	4	19	- Lack of engagement and notice, along with timing of proposal
<b>Community Benefits</b>	4	19	- The benefits provided to the community from the proposal.
<b>Design</b>	3	14	- The design of the proposal and its physical appearance and presentation
<b>Construction Related Matters (including Soil Erosion)</b>	3	14	- How the construction process will be managed including risks such as erosion, construction vehicles, noise and dust
<b>Waste Management</b>	1	5	- Unmanaged waste and dumping on street from residents
<b>Stormwater</b>	1	5	- Ongoing stormwater issues that may be exacerbated by the proposal

<b>Currency of Documentation</b>	1	5	- The currency of the documentation provided in the Planning proposal and the progression of surrounding strategic plans
<b>Heritage</b>	1	5	- Impacts to heritage areas and particular dwellings nearby
<b>General</b>	1	5	- Other miscellaneous items such as vermin management

**Table 3:** Summary of the key issues raised during public exhibition.

Traffic, the proposed bulk and scale, overshadowing impacts and alignment with the strategic plans and policies are the top concerns raised by community.

Responses to the key submission themes are outlined below:

### Theme 1: Traffic and parking

Submissions raised the following concerns:

- Introduction of a 22 storey building with increased residential, hotel and business activities will greatly worsen the current traffic conditions along Cheltenham Road.
- There is not much parking around the area. Parking needs from the increased residential, hotel and business activities will overflow to the adjoining residential streets.
- The proposed development will increase the strain on existing rail and bus networks as well add a significant number of private cars to the area.
- Having the entrance and exit to the site on Cheltenham Road will create further traffic congestion.

**Council response:** In reviewing the concerns raised in relations to the traffic and parking, this assessment summarises that:

- The proposed development leverages its proximity to Burwood Metro Station, accessibility to the public transport along Parramatta Road and improving active transport to reduce car dependency. However, this analysis recommends reduction in the proposed density on the site which would further minimises impacts on vehicle trip generation.
- Concerns regarding impacts on the local characteristics of both Lucas and Cheltenham Roads due to vehicle movements have been raised in this report for the proponent to address.
- In terms of traffic generation, the assessment by Council's traffic team demonstrates no significant impacts on the traffic generation in surrounding area.
- Council Traffic team have also provided recommendations regarding the arrangement of vehicle egress and entrances from/to Cheltenham and Lucas Roads to minimise the impacts.

### Theme 2: Height, Scale, Character

Submissions raised the following concerns in relations to the overall bulk and scale of the proposed development:

- The Proposed Development is not consistent with the nature and character of Croydon. Buildings around the area do not exceed 8 storeys.
- Multiple tall buildings, a hotel, and commercial spaces will disrupt the visual harmony and character of the area.
- The development's proposed heights of between 16 and 22 storeys far exceeds any other development on Parramatta Rd and will significantly impact adjoining residential properties in both Lucas Street and Cheltenham Road.
- The proposed development will negatively impact on low density development.
- The development should avoid competing with the Burwood North redevelopment precinct located at the Burwood North Metro Station in terms of retail hierarchy, entertainment areas and residential density in the immediate vicinity of the metro station.

**Council response:** In reviewing the concerns raised in relations to the proposed height and density, considering Council's detailed analysis of the existing and the desired future character of the area, this assessment summarises that:

- At a strategic and conceptual level, the planning proposal is consistent with the high level objectives of the Greater Sydney Region plan and Eastern City District Plan, especially as it responds to achieving outcomes for a 30-Minute City by concentrating development within close proximity to major transport hubs.
- The site's surrounding area is undergoing a significant change considering Burwood North Masterplan, Kings Bay Masterplan, and PRCUTS principles for Parramatta Road. However, as stated in this report, the proposed height and density of the site should consider the relationships of the site with its surrounding context and its response to established principles regarding hierarchy of centres.
- Compared to the proposed density for Burwood North and Kings Bay Precincts, the proposed density on the site is to be reduced.
- This assessment also refers to the significance of the site in setting a precedent on a site adjacent to existing low to medium-density development and the requirement to provide a sensitive response/transition to its residential neighbours to the south.

### Theme 3: Strategic Alignment

Submissions raised the following concerns with regards to the site's alignment with the strategic plans and policies:

- Proposal is inconsistent with the vision and the proposed density within PRCUTS.
- Competition with surrounding centres and other plans, including Burwood North and isolated nature of the site.

**Council response:** In reviewing the concerns raised, this assessment summarises that:

- Response to the proposed height and density of the site's surrounding context have been discussed in this report and recommendations provided.
- Considering that PRCUTS did not taking into account the metro, there is an opportunity to increase the proposed building height and density beyond that described in PRCUTS if additional amenities and best-practice response to context is achieved. According to the *Local Planning Directions Focus area 1.5 - consistency (March 2022)*, a planning proposal may propose variations to PRCUTS.
- However, as this assessment states, the proposed height and density exceeds the maximum potential of the site in relations to the existing and the desired character of the site.

### Theme 4: Overshadowing/Solar Access

Submissions raised the following concerns about the potential overshadowing impacts of the proposed bulk and scale on its surrounding context:

- Undesirability of the proposed open space due to overshadowing.
- The height and scale of the proposed development, particularly with multiple buildings of significant height, will result in considerable overshadowing of nearby properties.
- The tallest building, at 72.5 meters, will drastically reduce natural light to homes and outdoor areas, particularly in the mornings and afternoons, leading to a less comfortable living environment and potential increases in energy costs due to the need for artificial lighting and heating.

**Council response:** In reviewing the concerns raised, this assessment summarises that:

- The proposed overshadowing impacts on the central open space within the site as well as the adjacent low density residential is excessive.
- Additional analysis needs to be provided to demonstrate consistency with the applicable controls with regards to achieving adequate level of solar access to the site and its surroundings.

### **Theme 5: Amenity and Noise**

Submissions raised the following concerns about negative impacts on the quality and amenity of the surrounding local context:

- Impact on the amenity of existing low density neighbourhood character.
- The Burwood precinct currently has a lack of green space and sporting facilities, and the proposed development will exacerbate this problem.
- Impact on the amenity of Cheltenham Road as a key local road supporting the local access and including two schools with families, kids and parents during the day.
- Concerned about the construction noise, which will likely persist over an extended period, and the long-term noise from increased foot traffic, deliveries, and vehicles in what is currently a quiet residential area. Restaurants and retail spaces may also operate late into the night, further exacerbating the issue.

**Council response:** In reviewing the concerns raised, this assessment summarises that:

- Progressing to the DA stage, the development need to provide additional mitigation measures to minimise any adverse impacts during the construction period.
- This assessment also recommends reconfiguration of the proposed vehicle entrances to minimise impacts on the surrounding context. The proposed development is to demonstrate no additional noise issues from the proposed uses.

### **Theme 6: Privacy**

Submissions raised the following concern regarding potential loss of visual privacy:

- The large number of occupants and visitors, combined with the height of the buildings, will create opportunities for overlooking into surrounding homes and gardens, further diminishing our enjoyment and privacy.

**Council response:** In reviewing the concern raised, this assessment summarises that:

- The proposed development provides sufficient setbacks and separation distances in response to the applicable controls. It should be noted that the nature of a higher density development adjacent to lower density context inevitably changes the characteristics of the context from privacy aspects; however, additional mitigation measures such as landscape buffer and reorientation of the windows and habitable areas are to be provided (at the development application stage) to mitigate any adverse impacts. It should also be noted that this is a first example of development that might form the desired future characteristics of Parramatta Road.
- As this assessment states, reduced height and density in response to the context, will minimise the potential privacy impacts.

### **Theme 7: Community Engagement**

Submissions raised the following concern:

- Lack of engagement and notice, along with timing of proposal.

**Council response:** In reviewing the concern raised, this assessment summarises that:

- The Proponent undertook community consultation with the immediate and wider community, prior to lodgement of the Planning Proposal. The applicant has advised the engagement activities included:

**Letterbox Drops**

- 36 immediate neighbours surrounding the site to provide further information about the planning proposal and the invitation to book a one-on-one meeting with the project team to discuss the proposal in more detail.
- 219 wider community members within 200m+ of the site

**In Person Information Sessions** (held at Concord Oval) - 2 x 2 hours in person sessions at Concord Oval (5:30pm to 7:30pm) with 27 registration and 19 groups attending

**Community Webinar Session** – 1 x 1.5 online webinar with 20 registrations and 15 attendees

**Dedicated Project Email Address** – to field and response to any enquiries

**Dedicated 1800 Phone line** – to field any enquiries. Further details of the community consultation by proponent is provided in **Attachment 18**.

- Council placed the planning proposal and supporting documentations on public exhibition from 16 September to 21 October 2024 on Council's *Participate Burwood* web page. A total of 21 submissions were received, reviewed and responded.

**Theme 8: Community Benefits**

Submissions raised the following concern:

- People in the area would not prefer to use the proposed open spaces at this location. They more likely to go to Wangal Park or the existing Croydon Village Shops.

**Council response:** Considering the existing characteristics of Parramatta Road with lack of high amenity outdoor areas, and the desired future character of the area in attracting more residential density, the proposed open space on the site is a positive addition to the existing open space network in the local area.

**Theme 9: Design**

Submissions raised the following concerns:

- The design of the proposal and its physical appearance and presentation.
- It will tower over the existing residential houses and will dominate the sky line.
- Setting up an inconsistent precedent in the area.
- Such a building on Parramatta Road will draw in more applications of poor design and Parramatta Road will enter a new phase of poor design, traffic congestion and general ugliness.

**Council response:** In reviewing the concerns raised, this assessment summarises that:

- As stated above, this report provides detail recommendations regarding a reduction of the proposed height and density in response to the site's existing and desired future character.
- Also, considering that this is a Planning Proposal Stage, the proposed design may change when progressing to the DA stage. At DA stage, the proposed design will be assessed in detail. However, the critical aspects of the design such as height and density, interface with the public

domain and the relationships with surrounding context have been reviewed and relevant comments provided in this assessment report.

### **Theme 10: Construction Related Matters (including Soil Erosion)**

Submissions raised the following concerns:

- How the construction process will be managed including risks such as erosion, construction vehicles, noise and dust
- What are the proposed traffic flow and local commuter interruptions to be experienced during construction?

**Council response:** Considering that this is a Planning Proposal stage, considerable mitigation measures are to be provided at the construction phase to minimise any adverse impact on the surrounding context.

### **Theme 11: Waste Management**

Submissions raised the following concern:

- Unmanaged waste and dumping on street from residents.

**Council response:** the planning proposal report states that the waste management for the site will take place within the site and not the street. Suitable mitigation measures are to be in place at DA, construction and post construction stage to minimise any adverse impacts.

### **Theme 12: Stormwater**

Submissions raised the following concern:

- Street has historically struggled with stormwater management issues, and we are concerned that a large-scale development of this nature will exacerbate these problems.

**Council response:** In reviewing the concerns raised, this assessment summarises that:

- The Planning Proposal is accompanied by a Flood Risk and Stormwater report that considered the impacts of the proposed on surrounding land, as well as the ability for the proposed development to comply (regarding flood levels).
- The necessary technical details, assessment and infrastructure is to be provided on site, detailing in a future development application (DA), to appropriately manage stormwater.

### **Theme 13: Currency of Documentation**

Submissions raised the following concern:

- The currency of the documentation provided in the Planning proposal and the progression of surrounding strategic plans.

**Council response:** this assessment has requested the Urban Design and Strategic Planning Analysis to be updated particularly with regard to the updated Burwood North Masterplan endorsed by Council in May 2024.

### **Theme 14: Heritage**

Submissions raised the following concern:

- Impacts to heritage areas in particular Rostherne Avenue Heritage Conversation area.

**Council response:** Urban Design analysis provided by the proponent does not show any direct impact on the heritage conservation area. However, reducing the proposed height and density as recommended by this assessment, will mitigate impacts on the surrounding context including Rostherene Avenue HCA.

### Theme 15: General

Submissions raised the following concerns:

- Vermin management.
- There is potential for the proposed development to create a wind corridors between the buildings which will significantly affect adjoining neighbouring properties.
- the development has indicated that a Brewery is part of the mix which is totally without merit and should be rejected immediately.
- The new structures will block natural breezes and potentially create wind tunnels, leading to increased reliance on air conditioning in nearby homes.

**Council response:** Majority of the issues at this section can be responded at DA stage by providing appropriate studies/justifications. Additional information is to be provided in response to the general issues above to demonstrate the proposal's response in satisfying the above issues.

**Attachment 8** provides a summary of the community consultation held by the proponent.

**Attachment 18** provides proponent's response to the issues raised within the submissions.

## **PLANNING ASSESSMENT**

Division 3.4 of the Environmental Planning and Assessment Act (1979) (EP&A Act) prescribes the LEP making process. The then NSW Department of Planning and Environment's '*LEP Making Guideline*' (the "Guideline") sets out specific requirements for the preparation of a planning proposal as issued by the Planning Secretary under section 3.33(3) of the EP&A Act. The assessment of this planning proposal has been undertaken in accordance with the Guideline. For a Planning Proposal to be supported to proceed to a Gateway Determination, it must demonstrate:

- A. **Strategic merit** – alignment with the NSW strategic planning framework and government priority.
- B. **Site-specific merit** – identify potential environmental, social and economic impacts and proposed mitigation measures and justification.

This section provides a detailed assessment of the proposal's strategic and site specific merits to determine if the Planning Proposal should be supported. In assessing the proposal, Council has followed the requirements under the *Local Environmental Plan Making Guidelines - Part 3: Justification of Strategic and Site-specific Merit*.

Although the Planning Proposal responds in-principle to the strategic vision for the subject site pursuant to keys policies, plans, and strategies, assessment reveals that the Planning Proposal be reconsidered and additional justification be provided to satisfy/respond to the following requirements/considerations:

- **Question 6)** *Is the planning proposal consistent with applicable SEPPs?*

**This assessment:** The PP should include detailed information regarding its consistency with relevant requirements in various SEPPs. This in particular relates to the response to SEPP Housing 2021 principles (Schedule 9) and ADG requirements which directly impact the proposed bulk and scale of the proposed concept development scheme, as well as SEPP Transport and Infrastructure 2021 in response to TfNSW comments.

- **Question 7)** *Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?*

**This assessment:** This is in particular response to the following:

- *Focus Area 6.1 Objective (c) minimise the impact of residential development on the environment and resource lands.*
- *Focus area 1.5 Consistency (b), departure from PRCUTS.*
- **Question 9)** *Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?*

**This assessment:** This is in particular related to the overshadowing impacts of the proposal on the surrounding context.

## A. STRATEGIC MERIT

In general, the Planning Proposal is consistent with the high level strategic objectives of the greater Sydney Region plan and Eastern City District Plan, and support meeting Councils housing target delivery, particularly in relation to contributing to achieving the *30-Minute City*, by concentrating development within close proximity to major transport hubs. It would also, assist in the much needed revitalisation of Parramatta Road corridor.

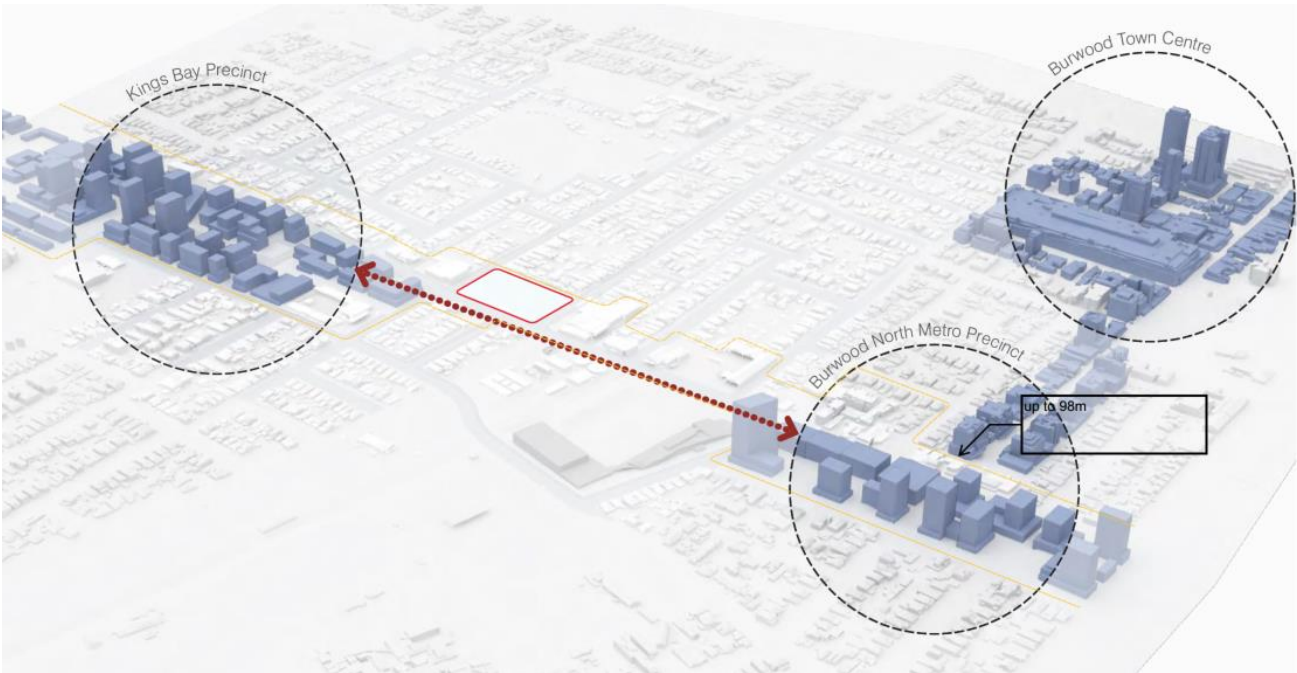
It is also consistent with the planning vision and principles under PRCUTS, Burwood LSPS 2020, and BHS 2020 which aim to provide housing supply, choice and affordability in close proximity to jobs, services and public transport, and responds to the future transformational vision for Parramatta Road to deliver additional medium and high density housing.

Notwithstanding the Planning Proposal's strategic merits as it relates to broader aims and objectives across the various layers of strategic policy, Council's assessment raises the following issues and concerns:

### Proposed height

The strategic plans and policies discussed above establish a hierarchy of centres and focus on delivering high-density development in key town centres, and within proximity to transport hubs and corridors. These strategic visions are proposed to be achieved as follows:

- Council's Burwood North Masterplan (west of the subject site) proposes a height range between 15 - 32 storeys along Parramatta Road on sites within less than a 300m walking distance of the future Burwood North metro station.
- The City of Canada Bay's PRCUTS Kings Bay Precinct Masterplan, (north-east of the subject site) proposes a height range between 5 - 20 storeys, along the northern side of Parramatta Road and core areas respectively, and within the same proximity of distance to the future Burwood and Five Dock Metro Stations (from eastern and western ends of the precinct).
- The City of Canada Bay's PRCUTS Burwood-Concord Precinct Masterplan (west of the subject site) proposes a height range between 3 – 30 storeys in response to its doorstep location at Burwood North Metro Station.



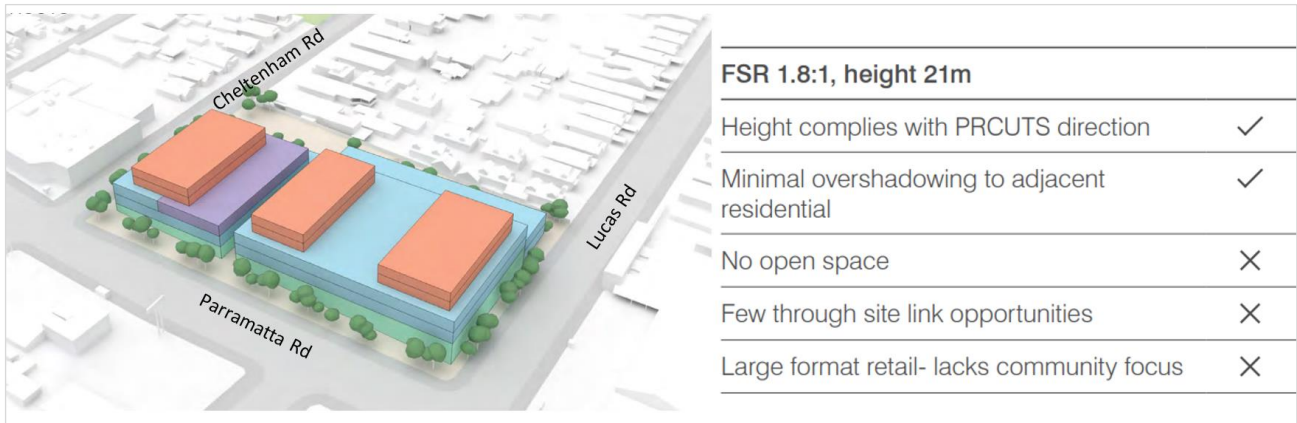
**Figure 29:** The subject site (red boundary) in relation to nearby centres around transport nodes. (Source: Architectus)

The City of Canada Bay’s response to the important transport hub at the intersection of Parramatta Road and Burwood Road, through the Burwood-Concord Precinct Stage One Masterplan, combined with Burwood Council’s development response through the Burwood North Precinct Masterplan’s increased heights and densities, augments the importance of higher densities within proximity to public transport and centres of activity.

Although the subject site is not within Burwood North Masterplan Precinct, the proposed development offers a height that is aligned with heights closer to the Burwood North Metro Station. The proposed 72.5m height on the subject site (within 600 catchment of the future metro station) is greater than:

- The proposed 50m height on the eastern boundary of Burwood North Masterplan Precinct along Parramatta Road (within 300m catchment to the Burwood North Metro station); and
- The proposed 20 storey height at the core of Kings Bay Precinct.

The proponent’s urban design analysis considers a PRCUTS compliant scheme would deliver a poor urban outcome as shown in **Figure 30**:



**Figure 30:** Proponent’s testing of current PRCUTS controls resulting in rationale for increasing height and FSR (Source: Architectus)

The Proponent's urban design analysis further tests development outcomes for the requested increased FSR of 3.4:1 under this Planning Proposal. It is noted that the proposed urban design report lacks sufficient strategic design justification in arriving at the proposed FSR.



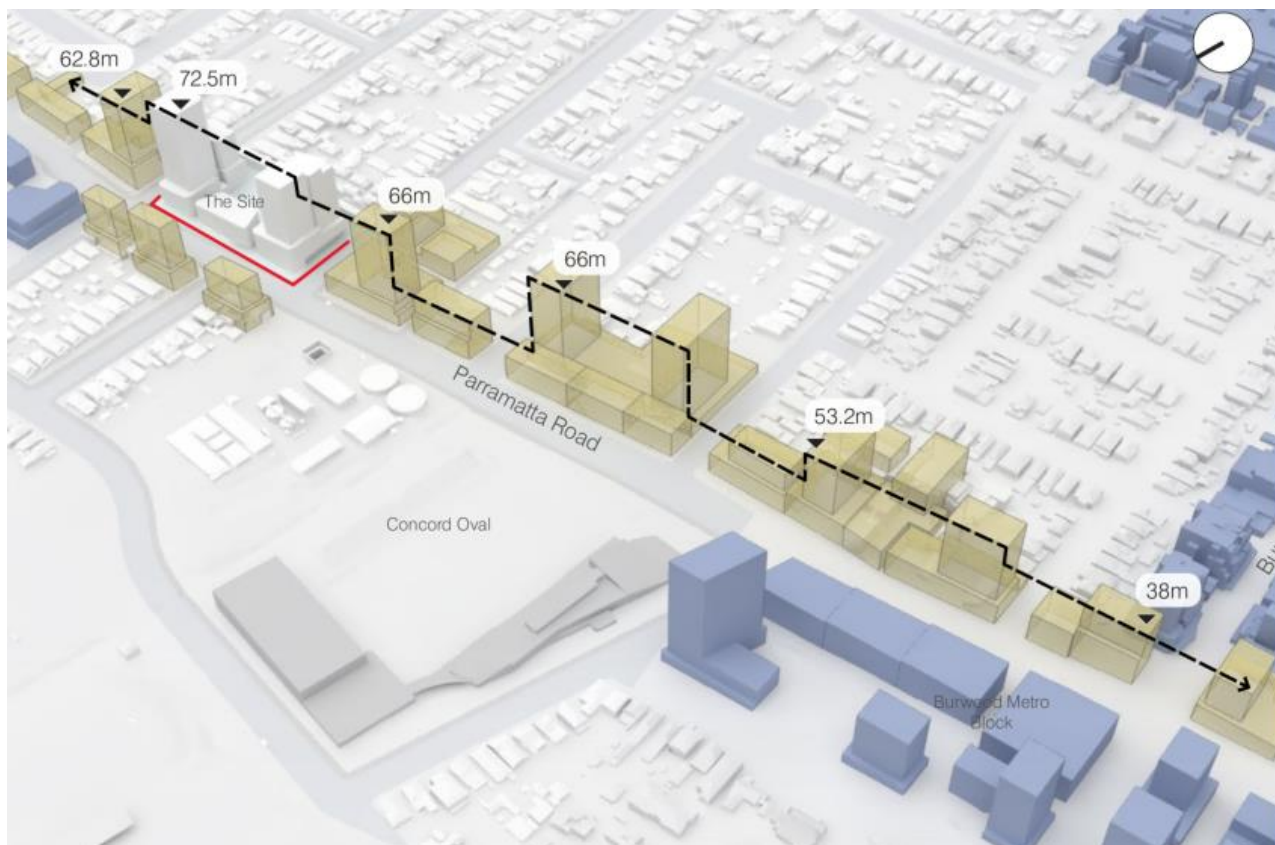
**Figure 31:** Proponent's testing of increased FSR of 3.4:1 under current PRCUTS controls, noting that adjoining sites along Parramatta Rd also assume increased densities to that permitted under PRCUTS controls. (Source: Architectus)

Through testing for increased FSR, PRCUTS guiding principles are applied to arrive at what the Proponent considers to be a balanced outcome/preferred scheme, maintaining a 3.4:1 FSR – the subject of this planning proposal:



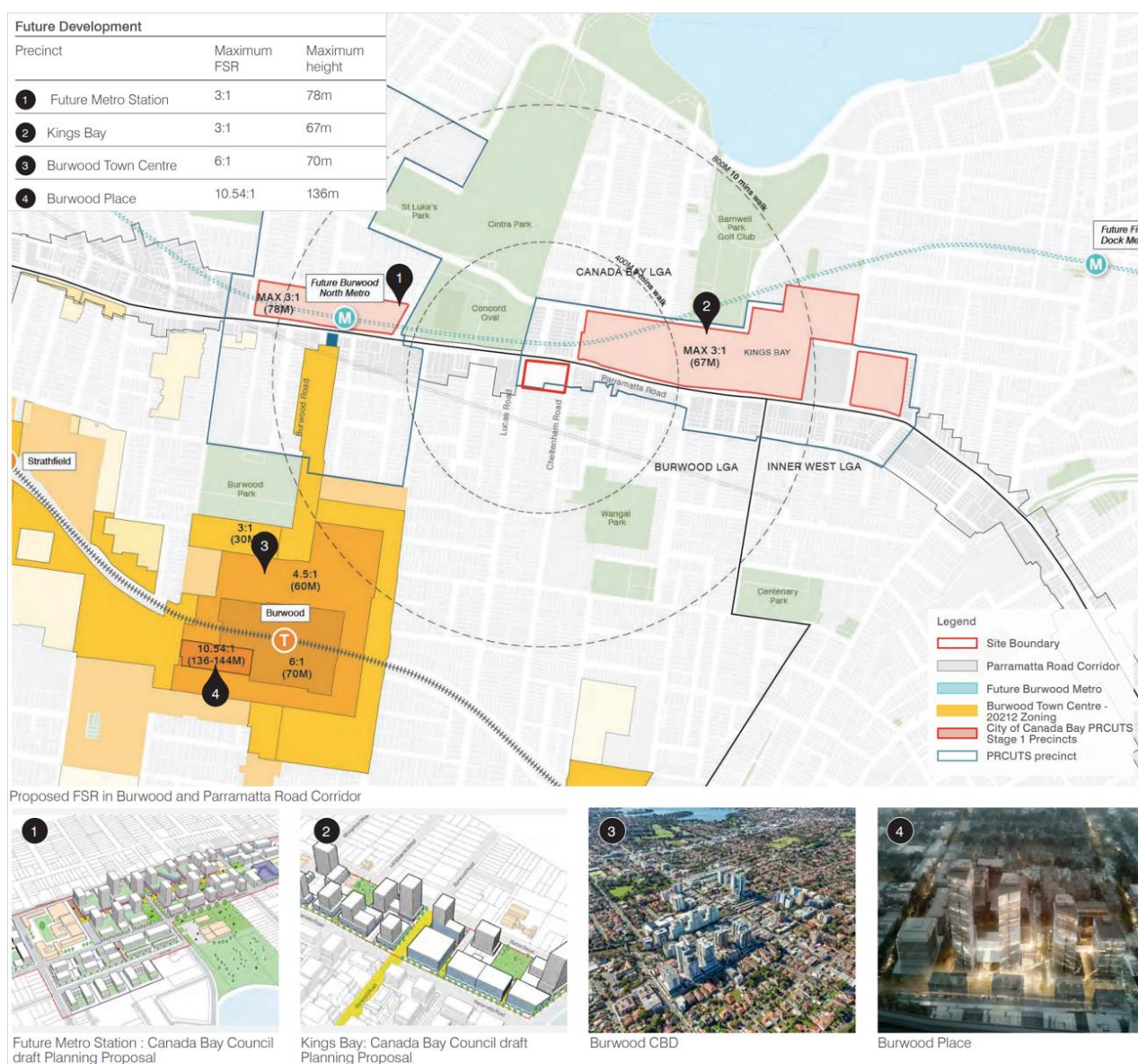
**Figure 32:** Proponent's proposed site outcome resulting from testing of increased FSR of 3.4:1 designed through PRCUTS guiding principles. (Source: Architectus)

The Proponent also illustrates a '*bridging the gap*' vision for Parramatta Road between Burwood North and Kings Bay Precincts (**Figure 33**), proposing a much higher density for this area compared to the maximum density proposed under PRCUTS. However, there is insufficient information provided by the proponent on this vision and/or justification of the specific 66m height shown in **Figure 33**, as well as no contextual justification for the 72.5m height proposed for the subject site.



**Figure 33:** Anticipated uplifts along Parramatta Road alongside proposed height uplift for the subject site, as suggested by the Proponent. (Source: Architectus)

The Proponent demonstrates the proposed built form outcomes on the subject site as a contextual response to urban renewal taking place in the immediate locality (**Figure 34**), further re-enforcing the hierarchy of centres and the importance of concentrated densities around transport nodes and centres of activity.



**Figure 34: Hierarchy of centres in relation to the subject site. (Source: Architectus)**

Council considers that the height of the proposal is excessive and does not respond to the role and location of the site in relation to the context of proposed heights for future development along Parramatta Road or around Metro West station precincts, as envisioned by approved key strategic plans.

### Proposed density

Considering the hierarchy of centres and their respective densities, within proximity to the subject site, including Burwood Town Centre, Burwood North and Kings Bay Precincts, the proposed density for the subject site does not adequately respond relationally. Key comments and recommendations are as follows:

- In arriving at the proposed 3.4:1 density, the proponent provides a comparative analysis between Burwood and other strategic centres within the Sydney Metropolitan area located in a similar catchment of a train station and/or Metro Station. Council however recommends that the final outcome on the site should respond to and be driven by the site's contextual location along Parramatta Road, between two key centres identified for strategic uplift, as well as adjoining low to medium densities immediately adjoining the site to the south reducing height and redistributing density.

- The proposed higher densities under PRCUTS are generally concentrated within local centres with transition of lower densities towards edges of precincts adjacent to low-scale residential density.
- The Burwood North Masterplan recommends a FSR of 3.5:1 along its precinct boundaries within approximately 300m catchment of the future Burwood North Metro station.
- The subject site is not situated immediately adjacent to any future local centre, being a 10 minute walk from both Burwood Town Centre, and the future Kings Bay Town Centre.
- The proponent has used the October 2022 version of the Burwood North Masterplan in the urban context and height analysis. It should consider the latest analysis and outcome of Burwood North Precinct Masterplan endorsed by Council in May 2024 as amended by Council in the Croydon TOD report of January 2025.

The proposed 3.4:1 density is not supported in terms of:

- Building heights which are not contextually responsive to strategies that establish a hierarchy of centres;
- Building heights will create adverse impacts to residential amenity to adjoining properties to the south/south-east/south-west, and this has been raised as major concerns through submissions received during public exhibition (see **Table 3**).
- In the recently adopted Croydon Masterplan prepared in response to the NSW TOD program, similar densities of 3.5:1 were capped at 10 storeys which transitioned building heights to 6 then 4 storeys as the development met the low density areas. It is noted the R3 zone immediately to the south of the site is likely to be impacted the NSW Government Low and Mid Rise housing reforms, any transitional built forms should take into account the likely future urban form of this area under the Mid Rise provisions.

### Visual assessment

The proposed Urban Design Report provides a visual impact assessment including before and after images comparing the existing context and the proposed development.

Compared to the outcome of PRCUTS, the impacts of the proposed bulk and scale when viewed from the low density residential streets (i.e. Lucas and Cheltenham Roads) are significant. The visual impacts of the proposed bulk and scale have been one of the key concerns raised by the residents during the community consultation period (refer to **Table 3**).



**Figure 35:** Comparative view impacts from Cheltenham Rd looking north towards subject site. (Source: Architectus)



**Figure 36:** Comparative view impacts from Lucas Rd looking north towards subject site. (Source: Architectus)

The sites along Parramatta Road will undergo a significant transformation under key strategies discussed earlier, however it is imperative that development on the subject site achieves a balanced outcome to mitigate the impacts on the lower density context to the immediate south.

**Attachment 2** Urban Design report demonstrates the visual impact assessment in further details.

### Social and Economic assessment

Ethos Urban provided technical assessment regarding both social and economic impacts of the proposed development. The key impacts of the development in benefitting the current and future communities have been summarised in the following areas:

- Catalysing renewal and activation of the Parramatta Road Corridor into an accessible live, work and play destination as an early precedent for the future development along the road including placemaking objectives.
- Contribution to the 30-minute city priority of the Greater Sydney Commission and an opportunity for residential to live and work close to the public transport corridors.
- Improving community infrastructure for local residents through providing multipurpose community facility, a publicly accessible open space and public plaza, and provision of a through-site link.
- Supporting local socio-economic development through creating service based jobs, creating co-working spaces and new employment opportunities. Also the delivery of affordable spaces for artists to support creative economy, which can be catalysts for new jobs.
- Contribution towards affordable housing of 5%.

Notwithstanding of the positive social and economic outcome of the site on its surrounding context, Council's assessment demonstrates that the proposed height and density is excessive.

**Attachments 5 and 12** demonstrate the economic and social impacts in further details.

### Traffic and transport assessment

The traffic and transport assessment provided by JMT Consulting summarises that:

- Traffic movements expected to be generated under the Planning Proposal would be lower (in the AM peak hour) and comparable (in the PM peak hour) when compared to a development scenario under current planning controls for the site due to its permissible commercial use under the current planning controls.
- The proposal would not significantly impact the operation of the adjoining road network, with all intersections forecast to operate at Level of Service D or better.
- The planning proposal promotes walking and cycling considering its proximity to the key public transport nodes. **Attachment 6** provides Transport Assessment of the planning proposal in further details.

Below is the summary of the key comments and concerns raised by TfNSW. The planning proposal needs to provide additional technical justification/response to each comment in detail.

- *Proposed non-residential uses*
  - Limitations for potential FSR for retail uses due to their impacts on generating high trip levels.
  - Considering the retail capacity of the centres close to the site including Kings Bay and Burwood North in recommending additional retail uses within the site.
- *Freight and servicing demand* – the requirement to consider the freight and servicing demand for high density development according to *Last Mile Toolkit*.
- *Proposed shared zone* – collaboration with TfNSW to ensure a positive road function.
- *Active transport*
  - maximise connectivity with the existing and future active transport routes.
  - The proposal is inconsistent with the Planning and Design Guidelines in terms of providing additional or alternative active transport solutions as outlines in PRCUTS.
- *Car Parking* – where possible, the consideration of Section 3.8 of the PRCUTS Planning and Design Guidelines regarding car parking to support the transition of future communities in Kings Bay Precinct to low car dependency.
- *Transport Impact Assessment* – The proposal should make reference to the cumulative impacts, where appropriate, as identified in the wider precinct traffic and transport study by Bitzios Consulting that has been undertaken for Stage 1 Precincts located along the broader corridor. It is recommended that Council or proponent submits the SIDRA Modelling files to TfNSW for verification and comment prior to lodgement.
- *Proposed Green Edge Setback* – TfNSW notes that a proposed 6m green edge setback is applied on the frontage of the site. TfNSW considers that some of the 6m wide area could potentially be utilised to accommodate road widening necessary to support future public transport and active transport plans. Alternatively, if Council prefers to maintain the 6m wide area exclusively for public domain enhancement then additional land for the necessary road widening may be needed in addition to the 6m green edge setback.
- *Funding and Implementation* – TfNSW recommends DPE or Council to consider the appropriate funding mechanism pathway for regional/state infrastructure for the proposed site and for the broader Kings Bay precinct plan that is consistent with the PRCUTS Infrastructure Schedule List (2016). **Attachment 17** provides the referral response from TfNSW.

## B. SITE-SPECIFIC MERIT

The subject site presents an opportunity to contribute to the housing growth in the area given its accessible distance from the Burwood North Metro Station and unique consolidated land offering. Development of the site would set an early precedent in the area for high-density development and an example for potential future built-form outcomes as part of the urban transformation along Parramatta Road.

### Bulk and scale

- *Overall height distribution* – In addition to the comments provided in the 'Strategic Merit' Section, below are site specific comments and questions:
  - The proposed development results in a 14 storey bulk and scale on the southern portion of the site at the interface with existing low density development. A more gradual transition towards the site's southern interface is recommended to better integrate the proposal into Croydon's residential suburbs.

- Additional justification is required to clarify the reason for height difference between towers along Parramatta Road. In considering the height difference, it is recommended to also respond to the height transition from future Burwood North Station as the pick point.
- *Proposed tower GFA* – PRCUTS recommends a maximum GFA of 750sqm for tower elements above eight storeys to promote slender towers and avoid bulky development. Further clarification required regarding the proposed development's maximum GFA in response to this matter.
- *Response to 9 principles under SEPP Housing 2021 (Schedule 9) and the ADG Principles* – ADG compliance table is to be provided to justify the proposal's ability to meet the requirements. It appears that the proposed development is unable to meet the minimum 60% cross ventilation requirements under the ADG. Concerns are also raised in relation to:
  - Depth of podium, particularly for the residential component
  - Internalised corridor
  - Number of units per single core
  - Building and length depth
  - Accessibility of the proposed COS for all residents
  - Solar access for the proposed COS

As previously noted, for reference, in the recently adopted Croydon Masterplan prepared in response to the NSW TOD program, similar densities of 3.5:1 we capped at 10 storeys which transitioned building heights to 6 then 4 storeys as the development met the low density areas. It is noted the R3 zone immediately to the south of the site is likely to be impacted the NSW Government Low and Mid Rise housing reforms, any transitional built forms should take into account the likely future urban form of this area under the Mid Rise provisions.

## Landscape

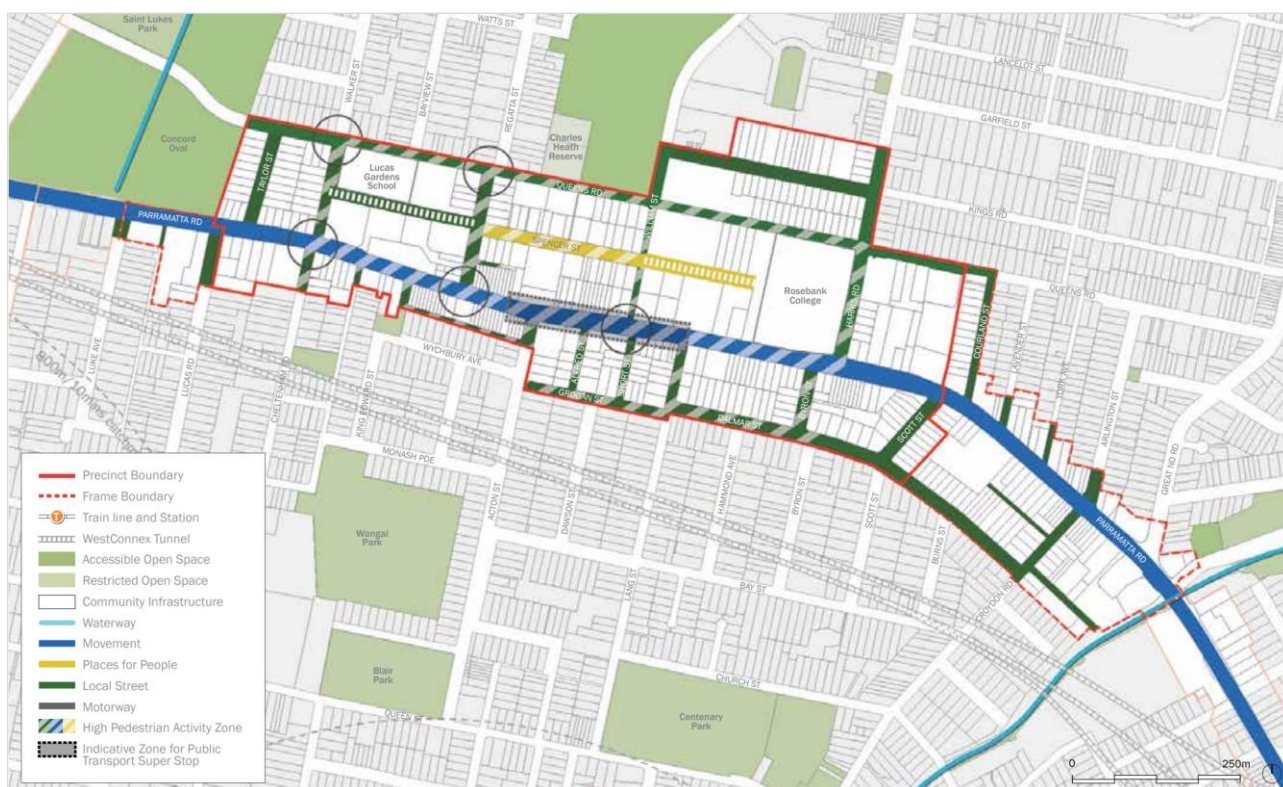
- *The central open space* - By dividing the internal open space into two, the accessibility of the 'Commons' is compromised, requiring pedestrians to cross a vehicular laneway to access it.
- *Deep Soil area* - Minimum deep soil area provided which shows the volume of the development. There are opportunities for additional deep soil areas towards the back or along local roads.
- *Access to the proposed rooftop communal open space* – it appears that the access for the western tower is from the hotel lobby, which would not be preferred. Clarification is required to justify an independent access from all residents to the area. The landscape concept and public art plan reports are at **Attachment 3** and **Attachment 4** respectively.

## Traffic and transport

- *Impacts to Lucas and Cheltenham Roads* – both streets are identified as local roads and Cheltenham Road is considered as a high pedestrian activity zones under PRCUTS (**Figure 37**). The inclusion of the porte cochere, a vehicle through-site street, and two vehicle entrances to the basement parking are considered as detracting elements to the desired future character of the streets. Lucas Road is also an existing Cycle Link as highlighted in PRCUTS Planning and Design Guidelines.
- Carpark ramp are expected to be incorporated within the building rather having in open area due to less visual impacts.
- The interface between a two-way laneway option and residences to the site's south will need to provide ample verge landscaping to setback from existing residences and to allow for future development of southern lots.
- Minimising the vehicle presence and enhancing pedestrian priority would be preferred.

Council's Traffic Team has provided the following questions/feedback:

- **Parking** - the rationale for reduced parking for the hotel component considering the Burwood North Metro Station is approximately 700m west of the site, and Croydon Station is approximately 1.7km to the south east. These public transport facilities are not easily accessed by hotel patrons with baggage.
- **Cycling Provisions and Parramatta Road Setback** – Parramatta Road shared footpath need to be retained as part of the public domain plan take into consideration road widening and green setback requirements which will be set by Transport for NSW to support
- **Traffic Generation** – no significant impact.
- **New Shared Zone Road** - the new one way eastbound road should still meet all the requirements of a category 1 Shared Zone as outlined in TfNSW's Design and implementation of shared zones including provision for parking Technical Direction TTD2014/003.
- **Vehicle entrances** - Further consideration could be given to having Cheltenham Road being the primary access egress and with service vehicles constrained to this side only, and keep Lucas Road to egress only. This would allow exiting traffic to turn left onto Parramatta Road without having to use the traffic signals on Cheltenham Road.
- **Transport infrastructure upgrade** – Under PRCUTS, there are no Urban Amenity Improvement Plan (UAIP) works identified on the site or surrounds. Therefore, if any transport infrastructure needs to be updated because of the proposed uplift, it needs to be accommodated by this PP. The planning proposal needs to provide further explanation regarding this matter.



**Figure 37:** Street functions relative to subject site in PRCUTS (Source: PRCUTS Planning and Design Guidelines, Nov 2016)

## Environmental and Amenity impacts

- **Overshadowing:** Below is the list of key questions and concerns regarding the solar access and overshadowing impacts of the proposed development:
  - The proposed bulk and scale results in an extensive level of overshadowing on the surrounding context. Approximately 30% of submissions received through the public exhibition raised similar concerns about the overshadowing impacts of the proposal.
  - The proposed central open space appears to be subject to considerable overshadowing from built form. It appears that approximately two third of its total area receives less than two hours solar access on winter solstice - further clarification required from the

Proponent. PRCUTS recommends a minimum of 3 hours solar access in mid-winter for at least 50% of new open spaces.

- The Proponent states that the proposed development concept scheme can provide a minimum of 2 hours solar access to living areas and open spaces in adjoining properties to the south. However according to the ADG 3B- 2, A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings - additional analysis is to be provided by the Proponent.

- **Geotechnical and contamination:** The technical report provided by Douglas Partners states that:

*‘Comprehensive geotechnical assessment by a NSW Government – registered geotechnical engineer would be required as part of the planning and design processes of the project, in particular to demonstrably reduce the risk of adverse impacts on the adjacent buildings, utilities and transport infrastructure to levels acceptable to the relevant approval authorities.’*

- With regard to contamination, the technical report is provided based on reviewing the previous investigations for portions of the site; *therefore the comments on the actual contamination status of the site as a whole could not be provided. An intrusive investigation is required to obtain quantitative data on the contamination status of the soil.*
- According to the technical report, the site can be made suitable, from a contamination perspective, subject to further technical work during the demolition stage of the development.

**Attachment 10** and **Attachment 13** provide contamination and geotechnical assessment of the subject site, respectively

- **Noise and privacy impacts:** There is concern regarding the impacts to adjoining neighbours to the south from the proposed ramp and through-site vehicle road on the southern portion of the site, due to its proximity to neighbouring properties and volume of traffic generated. Alternative solutions are to be considered to minimise the impacts.

### **Burwood DRP feedback**

The proposed development was referred to the Burwood Design Review Panel (DRP) in February and August 2023. In response to the DRP's comments in February 2023, a revised planning proposal lodged with Council on 27 July 2023. The revised planning proposal was referred to the DRP in August 2023.

The Urban Design report (**Attachment 2**) provides a response to Council's DRP comments from the February 2023 DRP session. However, a response is not provided to the DRP comments provided to the Proponent in August 2023.

Below is the summary of the DRP comments and recommendations dated 31 August 2023 against Council's assessment of the Planning Proposal the subject of this report:

Burwood DRP recommendations: 31 August 2023	Council's response
Strategic planning context <ul style="list-style-type: none"> <li>- lack of coherence in reviewing the design concept and proposed height and density within the existing and proposed strategic planning context, the vision for the Parramatta Road corridor, the proposed Sydney Metro West line and the impending draft Burwood North Masterplan.</li> </ul>	This report provides a detailed assessment on the role of the site within its strategic and local context and the need to reduce the proposed height and density in response to both existing and the desired future character of the area.
Access and Laneway <ul style="list-style-type: none"> <li>- minimising traffic generation in surrounding</li> </ul>	DRP's recommendations are consistent with Council assessment provided in this

<p>streets</p> <ul style="list-style-type: none"> <li>- creating a safe activated space for the community, particularly young children and families</li> <li>- accommodating swept paths for service vehicles</li> <li>- the queuing at the intersection of Cheltenham Road and Parramatta Road</li> <li>- concern regarding the multiple vehicular access points along the western boundary (Lucas Road) interrupting the pedestrian experience and the incorporation of open vehicle ramps on street frontages adjacent southern neighbours.</li> <li>- how much potential traffic is being generated and the trade-offs between loading docks and car parking access.</li> <li>- Investigate further options to achieve the best design solution for vehicular access/ shared lane within the site. The aim being to remove/reduce the amount of vehicular entries/exits from the Lucas and Cheltenham Roads and consolidate site access from the new east/ west street/laneway.</li> <li>- Review the detailed traffic generation for the site and breakdown into components including service, loading, residential, retail, vehicle size and volumes to assist in detail assessments of lane/street options and the accessibility into the local traffic network.</li> <li>- Revisit the role of the East- West access, including its ideal location on site, and as a street vs a laneway. This study should include review of appropriate widths of street and verges together with landscape for separation to south neighbours and the detail analysis of the fall east west across the site.</li> <li>- Investigate a design solution of access to actively engage with the natural level changes within the site to see whether it unlocks part of the design.</li> <li>- Revisit the TfNSW comments with respect to traffic generation and potential reduced parking rates.</li> </ul>	<p>report and the referral response provided by TfNSW and Council's Traffic Officer.</p> <ul style="list-style-type: none"> <li>- Section 4 of the Traffic Assessment report provided by the proponent discusses the traffic generation for each potential use. The report Assessment demonstrates that the traffic movement under this proposal is expected to be lower compared to a compliant scenario due to its permissible us.</li> <li>- Council's Traffic Officer assessment shows no significant impact in terms of traffic generation.</li> <li>- Concerns regarding the multiple vehicle entrances have been raised in this report and the impacts on the characteristics of Lucas and Cheltenham Roads.</li> <li>- This report also recommends a more sensitive interface between the shared laneway and the existing residents to the south.</li> <li>- TfNSW comments and key recommendations have been provided in this report.</li> <li>- Further clarification is required to demonstrate response to the DRP comments regarding providing a swept paths for service vehicles.</li> </ul>
<p>Transition and Interface to the South</p> <ul style="list-style-type: none"> <li>- The Panel considers the proposal's transition to the south has not been fully resolved. The previous design concept with terrace housing was considered as a suitable transition.</li> <li>- Consideration of the future built form and scale relationships within the same block on the adjoining sites and those further south.</li> <li>- Investigate the design of the southern blocks on both Lucas and Cheltenham Roads of the proposed development in massing and elevations to deliver a façade/frontage to this new street /laneway.</li> <li>- The purpose is to understand the consequences</li> </ul>	<ul style="list-style-type: none"> <li>- This assessment requires a more gradual height transition to the south towards the existing low density development.</li> <li>- The proposed urban design report lacks sufficient analysis to demonstrate the potential desired future character of low density context to the south of the site and its relationship with the proposed development on the site. Further analysis is to be provided.</li> </ul>

for the development potential of sites to the south.	
<b>Concept Design</b> <ul style="list-style-type: none"> <li>- keeping the central podium building separate from the two towers. It could maintain a small scale, boutique architectural style without locking into the bridge connections as shown.</li> <li>- The floorplate for both buildings is quite deep, with 28m building width. The residential tower at 28 metres depth is exacerbated with internalised corridor with no access to daylight and natural ventilation. The Panel notes, the 28m relates to the podium and the towers would be 22m deep.</li> </ul>	<ul style="list-style-type: none"> <li>- The assessment of this report has raised a similar concern regarding the proposal's response to the AGD principles particularly about building depth which impacts the overall bulk and scale and the overshadowing impacts on the surrounding context.</li> <li>- Further analysis is to be provided to demonstrate consistency with the Housing 2021 (Schedule 9) principles and ADG.</li> </ul>
The Panel recommends that an independent urban design consultant be engaged to undertake a peer review of the urban design approach put forward in the proposal.	Council undertook a separate assessment of the proposed development.

**Table 4:** *DRP comments on the Planning Proposal and Council's assessment response*

The concerns raised by the DRP were focused on considering the role of the site within its strategic and local context, minimising the traffic impacts on the existing local roads, maximising pedestrian movement and achieving design excellence. All the above matters have been raised and discussed in this report.

### **Voluntary Planning Agreement (VPA)**

Any discussion regarding VPA agreement will be separate to this report subject to the agreement on the planning matters.

### **Options**

Council has undertaken its own testing of a refined site-responsive outcome taking into consideration the strategic visioning for growth and development under the layers of State and Local strategic plans and policies, local masterplans within proximity to the site, assessment of traffic and visual impacts, and key issues raised through public submissions. This process has been guided by the following strategic and urban design principles:

- A. Hierarchy of centres
- B. Reduced building heights
- C. Reduced impacts on adjoining low to mid-rise residential development

### **Planning or Policy Implications**

The proposed Planning Proposal provides greater density than proposed under PRCUTS planning and design guidelines, seeking much higher heights and FSR than what is envisaged under the strategy. This site is the first to be developed in response to PRCUTS and will likely set a precedent for following developments in the future. The Planning Proposal deviates from the importance of the hierarchy of centres and concentrated densities around transport nodes and centres of activity, established under The Greater Sydney Region Plan, Eastern City District Plan, and PRCUTS.

### **Financial Implications**

N/A

### **Conclusion**

The Planning Proposal is consistent with broader strategic objectives of the following key strategic planning strategies:

- The Greater Sydney Region Plan
- The Eastern City District Plan, particularly as it responds to achieving outcomes for a *30-Minute City* by concentrating development within close proximity to major transport hubs.
- PRCUTs
- *Burwood LSPS*: the planning priorities under Burwood LSPS aim to provide housing supply, choice and affordability in close proximity to jobs, services and public transport.
- *Burwood Housing Strategy*: The BHS prioritises high density around Burwood and Strathfield Town Centres, and redevelopment at Burwood North, taking advantage of the new Metro Station to extend the Burwood Town Centre to the north. Under BHS, Parramatta Road has been identified with opportunities for additional medium and high density housing.

The proposal would also contribute to the needed revitalisation of Parramatta Road, and a desire for future transport networks including light rail along the corridor.

Whilst the planning proposal is capitalising on significant existing and future transport infrastructure investments, proximity to jobs and centres of activity hubs by proposing increased density, it does not adequately demonstrate satisfactory strategic and site-specific merit in relation to proposed height and density distribution as detailed in this report. The key reasons are summarised below:

- **Height and density:** This assessment supports an increase of the subject site's maximum height and density beyond that proposed in PRCUTS due to its location and consistency with State and Council's strategic plans and policies. However, as this assessment demonstrates, the proposed bulk and scale on the site is excessive and should be reduced. The key reasons are summarised below:
  - The proposed FSR of 3.4:1 is proposed based on a high level comparative analysis between Burwood and other strategic centres. Whilst this level of analysis is beneficial at this scale, the optimum density of the site needs to be determined based on the existing and desired future character of its immediate surrounding context.
  - The location of the site being within proximity to centres and not within centres and its relationship with the proposed uplift in Burwood North and Kings Bay Precincts should be reconsidered with sufficient justification to arrive at the most suitable height and density for the subject site.
  - A more gradual height/built form transition is to be considered towards the existing low density development to the immediate south of the site. Noting that in the recently adopted Croydon Masterplan prepared in response to the NSW TOD program, similar densities of 3.5:1 we capped at 10 storeys which transitioned building heights to 6 then 4 storeys as the development met the low density areas. It is noted the R3 zone immediately to the south of the site is likely to be impacted the NSW Government Low and Mid Rise housing reforms, any transitional built forms should take into account the likely future urban form of this area under the Mid Rise provisions.

It is recommended that the Planning Proposal be considered with an equivalent maximum height up to 10-12 storeys, with bulk and massing designed and transitioned to the lower density areas in accordance with PRCUTS planning and design guidelines.

- **Re-evaluate strategic justification:** It should also be noted that the latest outcome for Burwood North Precinct (Council's resolution on 29 January 2025) should be taken into account in the Urban Design Analysis provided by Architectus to re-evaluate the proposed height and density.

- **Environmental impacts on the surrounding context:** The proposed bulk and scale results in significant environmental impacts on the surrounding context including overshadowing, visual and traffic impacts on local streets.
- **Additional information/technical report:** Further technical justification to be provided in the areas listed in the report to support the planning proposal.

### **Recommendation(s)**

#### **That the Burwood Local Planning Panel:**

1. Notes the applicant's Planning Proposal submission, the community submissions, and the assessment undertaken.
2. In principle, supports the Planning Proposal's intent to provide uplift to the site and rezone it, as the proposal aligns with the strategic directions of Regional, District, and Local plans, policies, and strategies. The proposal would contribute to the revitalisation of Parramatta Road while supporting housing provision within the Local Government Area (LGA).
3. Advises the applicant and Council that the Planning Proposal should be amended to align with the assessment contained in the report. Specifically, the urban design modelling and proposed planning control changes should allow for a maximum height of 10–12 storeys, with bulk and massing appropriately designed to transition to the lower-density area while maintaining a suitable level of publicly accessible private open space at ground level. The proposal should generally align with the PRCUTS planning and design guidelines, and the applicant must specifically address potential impacts related to the following:
  - The proposed height and distribution of building massing across the site;
  - Amenity impacts, particularly visual impact and overshadowing;
  - The proposed location, quantity, and quality of publicly accessible privately owned open space;
  - Vehicular access points, the through-site vehicle link, and potential impacts on local roads, including Lucas Road and Cheltenham Road;
  - Community submissions.
4. Following amendments, require the applicant to update the submission in accordance with Part 3 of the *LEP Making Guideline* (August 2023), with a focus on the planning proposal's strategic and site-specific merits, as well as a review and assessment of key issues.
5. Supports the Planning Proposal proceeding to Gateway Determination, subject to the applicant addressing the above matters.

### **Attachments**

- 1⇒ Attachment 1 - Planning Proposal Report (*Excluded from agenda*)
- 2⇒ Attachment 2 - Urban Design Report (*Excluded from agenda*)
- 3⇒ Attachment 3 - Landscape Concept Report (*Excluded from agenda*)

- 4 ➡ Attachment 4 - Public Art Plan (*Excluded from agenda*)
- 5 ➡ Attachment 5 - Social and Economic Impact Assessment (*Excluded from agenda*)
- 6 ➡ Attachment 6 - Transport Assessment (*Excluded from agenda*)
- 7 ➡ Attachment 8 - Consultation Outcomes Report (*Excluded from agenda*)
- 8 ➡ Attachment 9 - ESD Report (*Excluded from agenda*)
- 9 ➡ Attachment 10 - Contamination Investigation (*Excluded from agenda*)
- 10 ➡ Attachment 11 - Flood Risk and Drainage Statement (*Excluded from agenda*)
- 11 ➡ Attachment 12 - Economic Impact Assessment - Retail (*Excluded from agenda*)
- 12 ➡ Attachment 13 - Geotechnical Assessment (*Excluded from agenda*)
- 13 ➡ Attachment 14 - Draft Development Control Plan (*Excluded from agenda*)
- 14 ➡ Attachment 15 - Proposed LEP Mapping (*Excluded from agenda*)
- 15 ➡ Attachment 16 - Staging Plan (*Excluded from agenda*)
- 16 ➡ Attachment 17 - TfNSW Referral Response (*Excluded from agenda*)
- 17 ➡ Attachment 18 - Submission Summary - Community Feedback provided by Ethos Urban (*Excluded from agenda*)

## Development Applications

### (Item DA1/25) DA.2024.51 - 60 Burwood Road, Burwood - Use of the rooftop of an existing hotel development as a licensed premises (Sky Lounge).

File No: 25/480

Report by Senior Assessment Planner

**Owner:** Goldberg International Holdings Pty Ltd  
**Applicant:** Planning Ingenuity  
**Location:** 60 Burwood Road, Burwood  
**Zoning:** MU1 Mixed Use

#### BLPP Referral Criteria

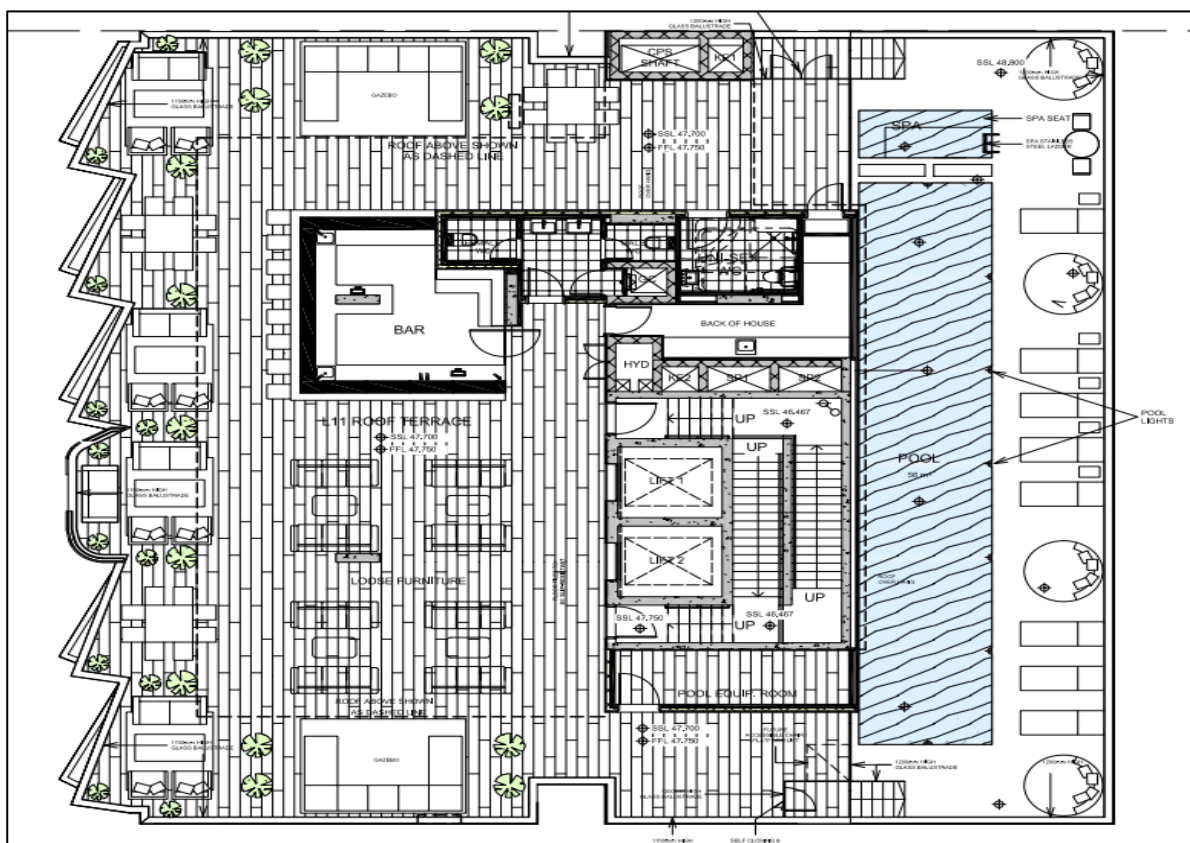
Pursuant to the Ministerial direction dated 30 June 2020, under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, the DA is to be determined by the Burwood Local Planning Panel for the following reasons:

1. The application is considered to be in the public interest to be heard in a public forum by an independent body and determined by the Burwood Local Planning Panel in accordance with the delegations issued 14 May 2024.

#### Proposal

Use of the rooftop of an existing hotel development as a licensed premises, (known as Sky Lounge), inclusive of bar facilities.

The proposal does not involve any physical works and is for the use only of the rooftop within the Crowne Plaza Hotel.



**Figure 1** – Extract of applicants existing rooftop plan as a licensed premises (known as Sky lounge), inclusive of bar facilities.

Source: (Design Team – Builtcom Constructions Pty Ltd)



**Figure 2** – Existing Development at the subject site (Crown Plaza Hotel).

Source: (Planning Ingenuity – SEE)

## **Operation**

The proposed operating hours of the Sky lounge will be as follows:

- Monday to Saturday – 2:00pm to 12:00am,
- Sunday – 2:00pm to 10:00pm.

The use of the space will be consistent with the general use of a lounge bar, including the responsible service of alcohol, in accordance with the current on-premises liquor licence that covers the entirety of the site and all development on it. In addition, the rooftop area will have a maximum capacity of 180 patrons.

## **Background**

### **Application History**

**BD.2015.92** – Demolition of existing structures and construction of a 9 storey mixed use building above 2 basement levels, containing commercial premises at the ground floor and 42 residential apartments above – approved on 25 November 2016.

The application was subsequently modified by the following:

**S.4.55 - BD.2015.92.2** – Addition of two (2) basement levels – approved on 28 March 2018.

**S.4.55 – BD.2025.92.4** – to amend conditions and modify the use of Level 1 from residential to commercial tenancies, reduce the number of residential units from 42 – 36 as well as internal and external alterations.

**DA.2019.17** – change of use of the existing development to provide a hotel with 91 rooms, with alterations and additions including the provision of two (2) additional storeys.

The development approved under DA.2019.17 has been constructed and the approved hotel use is currently operational.

On 27 November 2023, the applicant received a notification letter from Burwood Council, regarding complaints being received in relation to the use of the rooftop level as a bar.

On 1 February 2024, a meeting was undertaken between Council and the applicant to discuss the existing use of the rooftop level. At the meeting Council did not raise any issues in principle with the use, however, it was requested that a Development Application be submitted to formalise the use of the rooftop as a bar.

### **Current Application History**

On 5 September 2024, the development application (DA.2024.51) was lodged.

The application was referred to the following internal Council departments:

- Traffic Engineer;

The application was referred to the following external bodies:

- NSW Police – Burwood Local Area Command.

In accordance with the Burwood Community Participation Plan, the owners of surrounding properties were given notice of the application on 27 September 2024, with the notification period for submissions closing on 11 October 2024. In response to the public notification of the DA, seven (7) submissions were received, objecting to the proposed development. Issues raised within the submissions, are detailed later within this report under Community Consultation.

In addition to the above, the applicant has lodged an application to Liquor and Gaming NSW for an on premises liquor license.

The application details are as follows:

**Liquor licence:** Burwood Hotel Sydney Pty Ltd

**Suburb:** BURWOOD

**Application:** Liquor - on-premises licence

**Application number:** 1-9346203911

**Application date:** 15/01/2025

**Proposed Licensee:** SAMIR FAKIH

**Premises Address:** 60 Burwood Road, BURWOOD, NSW 2134 AUSTRALIA

**Request type:** Liquor Amendment

**Request sub-type:** Primary Service Authorisation

### **Statutory Requirements**

The application is assessed under the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as amended, which include:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Burwood Local Environmental Plan 2012 (BLEP 2012);

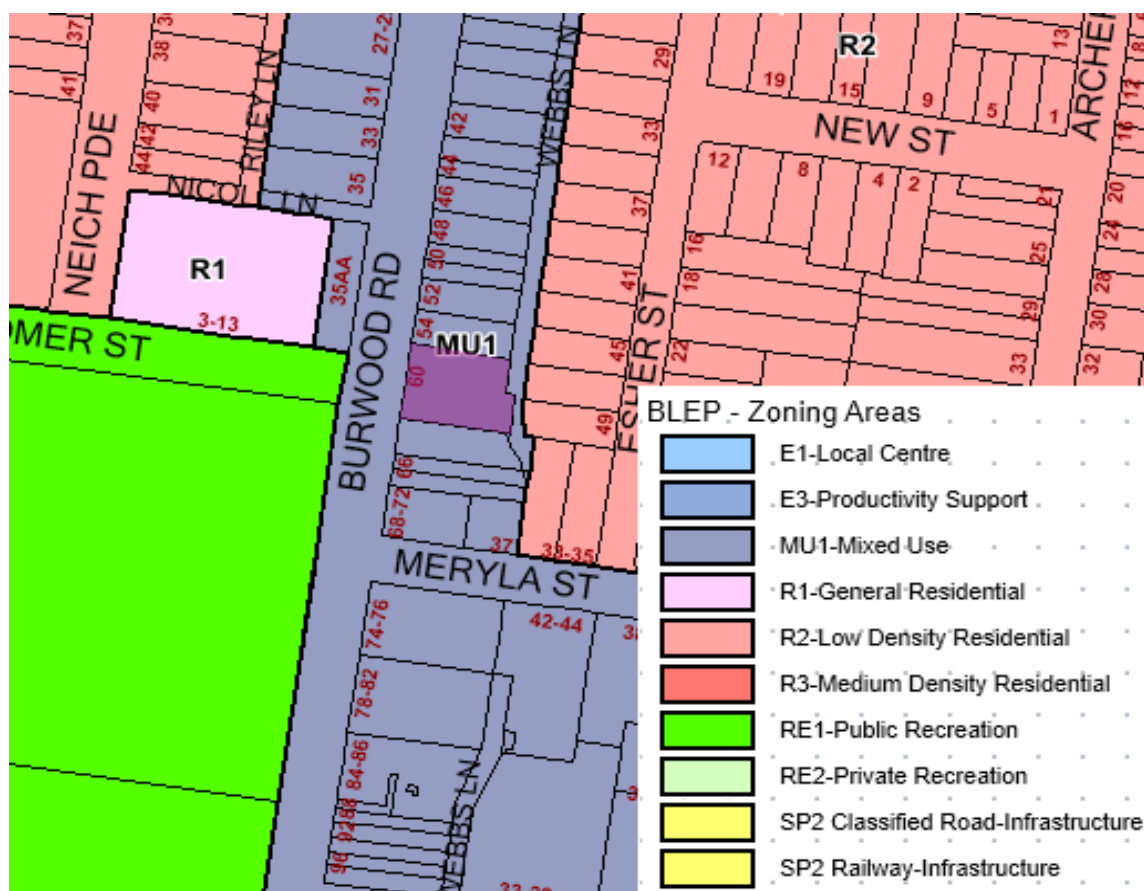
- Burwood Development Control Plan 2013 (BDCP 2013);
- The likely social, environmental and economic impacts of the development;
- The suitability of the site for the development;
- The public interest, and
- Submissions made under the Act and Regulations.

These matters are considered in this report.

### Locality

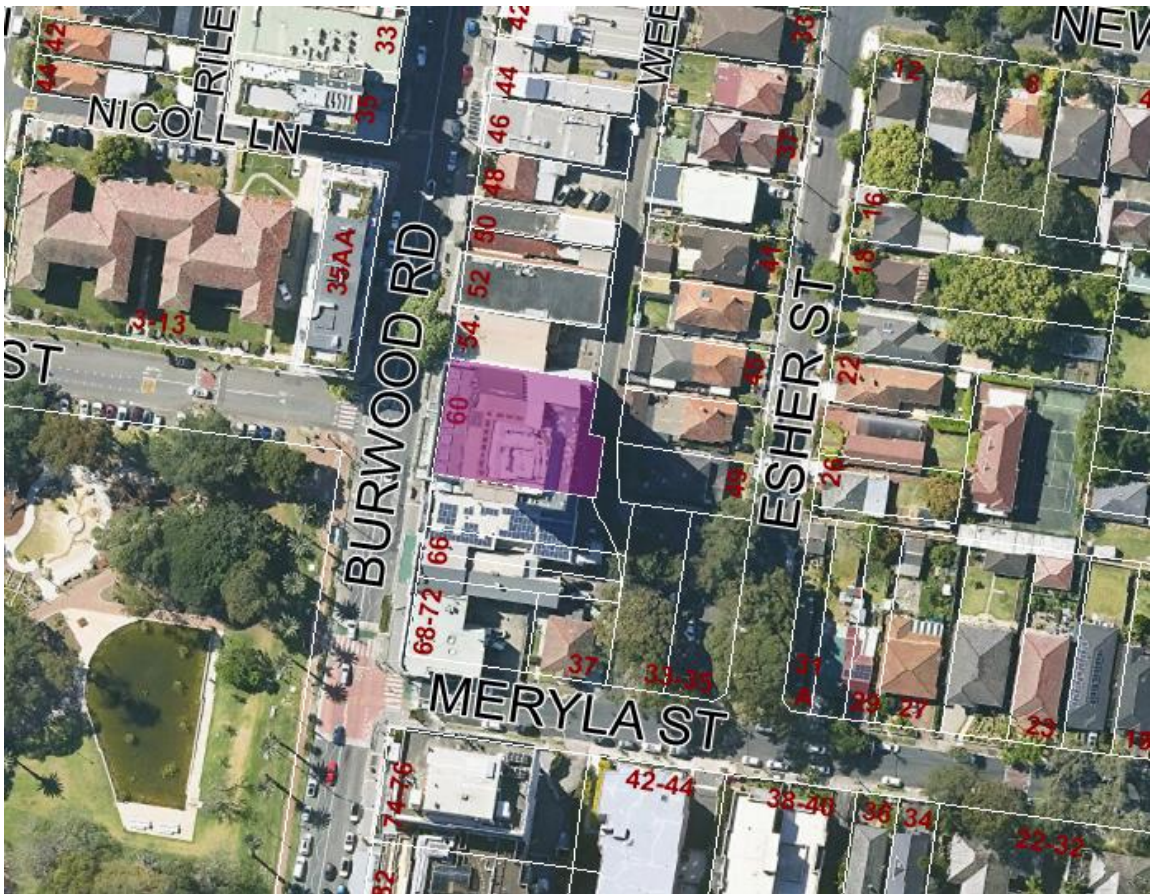
The site is legally described as Lot 333 in DP1243533 and is known as No. 60 Burwood Road, Burwood. The site is an irregular shaped allotment with a total site area of 894m<sup>2</sup>. The site presently accommodates an eleven (11) storey building that is utilised as a hotel, namely the Crowne Plaza Burwood, above four (4) levels of basement parking and storage. At the ground floor level there is an existing restaurant and café in addition to the hotel reception and lobby. There is also an existing restaurant and Level 1 of the hotel. The hotel contains 91 rooms across Level 1 to Level 10, where a penthouse is located at Level 10. The rooftop area, which the current application pertains to, includes a swimming pool, bathrooms, BBQ facilities, various seating areas and bar facilities.

The subject site is located within the MU1 Mixed Use Zone, in accordance with BLEP 2012. (Refer to **Figure 3** below). Notably, the subject site is also identified as being affected by overland flow on Council's Flood Maps. (Refer to **Figure 5** below).

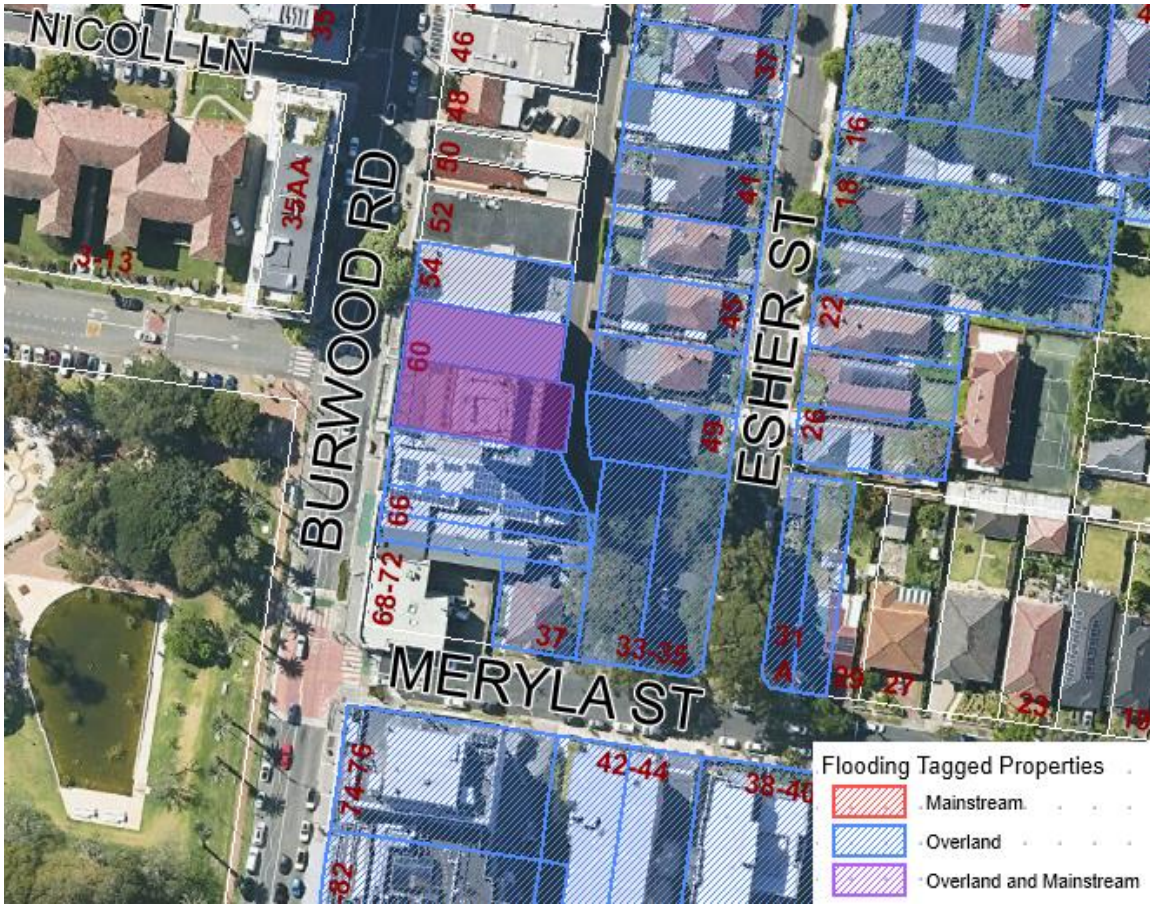


**Figure 3 – Subject site located within the MU1 Mixed Use Zone.**

Source: (Council MapInfo)



**Figure 4 – Aerial Image of the Subject Site and Surrounds.**  
Source: (Council MapInfo)



**Figure 5 – Subject site is affected by overland flow.**  
Source: (Council MapInfo)

### Surrounding Development

The site is located within a large mixed use zoned area and therefore the context of the surrounding area is characterised by a mix of low to medium rise shop top housing developments, with significant retail activity, restaurants and cafes, located within the immediate locality. To the south, immediately adjoining the subject site, is No.62-64 Burwood Road, which comprises a two storey building occupied by business premises. (Refer to **Figure 6** below). To the north, also adjoining the subject site, is No.54 Burwood Road, which comprises a two storey building occupied by business premises. (Refer to **Figure 7** below). Directly opposite the subject site, across the road, is No. 351 Burwood Road, which comprises a five storey mixed use development. (refer to **Figure 8** below).

Notably, the subject site directly adjoins an R2 Low Density Residential Zone immediately to the east. To the east of the subject site, across Webbs Lane is No. 49 Esher Street, which comprises a two storey dwelling house with a tile roof and detached garage at the rear of the site. Refer to **Figure 9** below). Also to the east of the subject site, across Webbs Lane is No. 47 Esher Street, which comprises a single storey brick dwelling house with a tile roof, and detached double garage located at the rear of the site. (Refer to **Figure 10** below). Similarly, across Webbs Lane to the immediate east is No.45 Esher Street, which comprises a single storey brick dwelling house with a tile roof and detached double garage located at the rear of the site. (Refer to **Figure 11** below).



**Figure 6** – No.62-64 Burwood Road, located to the immediate south of the subject site.

Source: (Council Site Inspection)



**Figure 7** – No.54 Burwood Road, located to the immediate north of the subject site.  
Source: (Council Site Inspection)



**Figure 8** – No.351 Burwood Road, located across Burwood Road, to the west of the subject site.  
Source: (Council Site Inspection)



**Figure 9** – No.49 Esher Street, located to the east of the subject site.  
*Source: (Council Site Inspection)*



**Figure 10** – No.47 Esher Street, located to the east of the subject site.  
*Source: (Council Site Inspection)*



**Figure 11** – No.45 Esher Street, located to the east of the subject site.

Source: (Council Site Inspection)

## **Planning Assessment**

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

The provisions of SEPP (Resilience and Hazards) 2021 are required to be considered for any development application. Consideration must be made if the land is suitable for the proposed development, if it is contaminated, if it is suitable for the proposed use, and/or if the contamination is required to be remediated before the land is used for that purpose.

The subject site has been historically used for commercial and residential purposes. No excavation or ground disturbance is proposed as part of this application. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

### **Burwood Local Environmental Plan 2012**

Under Burwood LEP 2012, the property is zoned MU1 Mixed Use, and the proposed use of the existing rooftop level as a licensed premises, (known as Sky Lounge) is permissible with consent within the zone as a food and drink premises.

#### **Objectives of the MU1 Mixed Use Zone**

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.

- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

The proposed development will continue to provide a hotel with food and drink premises associated with the hotel use to serve the needs of hotel guests and their visitors and the general public in a way that does not have any significant impacts on the surrounding development, which is a mix of commercial, retail and residential uses. Accordingly the proposal satisfies the relevant objectives of the MU1 Mixed Use Zone.

The Burwood Local Environmental Plan 2012 came into effect on 9 November 2012. Burwood LEP 2012 contains a number of controls including some numerical development standards which apply to the proposed development. A summary of the assessment of the application against the relevant planning controls within LEP 2012 is shown in **Table 1** below.

**Table 1:** Assessment of the proposed development against Burwood LEP 2012

Burwood LEP 2012	Proposal	Compliance
<b>4.3(2) Height</b>		
30m	No change proposed to the existing building height.	N/A
<b>4.4(2) FSR</b>		
3:1	No change proposed to the existing FSR.	N/A
<b>4.6 Exceptions to Development Standards</b>		
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating –  (a) the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and,  (b) that there are sufficient environmental planning grounds to justify contravening the development standard.	The proposal does not seek any variations to development standards.	N/A
<b>5.10 Heritage Conservation</b>		
(1) The objectives of this clause are as follows—  (a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,  (b) to conserve the heritage significance of heritage items and heritage	The subject site does not contain a heritage item and is not located within a heritage conservation area.	N/A

Burwood LEP 2012	Proposal	Compliance
conservation areas, including associated fabric, setting and views,  (c) To conserve archaeological sites,  (d) to conserve Aboriginal objects and Aboriginal places of heritage significance		
<b>6.1 Acid Sulfate Soils</b>		
(1) The objectives of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The subject site is affected by Class 5 Acid Sulfate Soils. However, there are no works proposed within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1m.	Yes
<b>6.2 Flood Planning</b>		
(1) The objectives of this clause are as follows:  (a) to minimise the flood risk to life and property associated with the use of land,  (b) to allow development on land that is compatible with the land's flood hazard, taking into account project damages as a result of climate change,  (c) to avoid significant adverse impacts on flood behaviour and the environment.	The subject site is affected by overland flow. However, consideration of the flood impacts upon the proposed development would have been considered in the original approval of the application under both BD.2015.92 and DA.2019.17. The use of the rooftop of the existing hotel development as Sky Lounge (inclusive of bar facilities) would not have any flood implications upon the building.	N/A
<b>Clause 6.3 Active street frontages</b>		
(1) The objectives of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B4 Mixed Use. (2) This clause applies to land identified as "Active street frontage" on the Active Street Frontages Map" (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.  (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—  (a) entrances and lobbies (including as	The subject site is identified as "Active street frontage" on the Active Street Frontages Map. However the proposal only seeks use of the rooftop of the building as Sky Lounge (inclusive of bar facilities). The existing building at the ground floor level retains its street front activation.	Yes

Burwood LEP 2012	Proposal	Compliance
part of mixed use development), (b) access for fire services, (c) vehicular access.  (5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.		

### Burwood Development Control Plan 2013 (BDCP 2013)

The Burwood Development Control Plan applies to the subject site. However, BDCP 2013 does not contain any specific controls, which apply to the proposed use of the rooftop bar as a licensed premises (known as Sky Lounge), (inclusive of bar facilities).

### Community Consultation

#### Internal Referrals

The application was referred to the following internal Council departments. The below summaries their referral comments on the latest plans:

**Traffic Engineer** - As part of the assessment of the subject DA, the proposal was referred to Council's Senior Traffic Engineer for comment. In their referral response issued on 19 February 2025, no objections were raised, subject to conditions.

#### External Referrals

The application was referred to the following external bodies:

**NSW Police (Burwood Local Area Command)** – As part of the assessment of the subject DA, the proposal was referred to NSW Police, Burwood Local Area Command for comment. In their referral response issued on 27 November 2024, NSW Police advised of the following:

The subject premises currently holds an on-Premises Liquor License (LIQO660035158) with sub types of accommodation, catering services, reduced trading hours and restaurant. The license was obtained on 19 August 2019 in the name of "Marsdens Hotel" – the previous name of the hotel.

The original liquor licence application stated: "The proposed licensed premises (known as Sky lounge) will operate as either:- (a) an accommodation premises where guests will be staying at the Premises; or (b) restaurant, where meals will be provided to the public; or (c) catering services, where the Premises will be catering to a function, occasion or event."

During the initial application stage, Police met with the proposed licensee, Ms Louise Beecroft. She advised the rooftop area would only be accessible for residents of the hotel ie guests staying in accommodation. It was not to be open to the general public. However, it is now understood that the rooftop bar area is open to the general public.

Furthermore, Police object to the development application seeking to formalise the use of the rooftop as Sky Lounge. Police make this objection due to the high volume of noise related complaints received, and the impact this has had on local residents.

History of Incidents at the location:

- Noise Complaints,
- Anti-social behaviour,
- Intoxicated persons,
- Licensing Infringements,
- Police Officer Assaulted,
- Drink Spiking incidents,

However, it is to be noted, that the most recent incidents occurred between May 2021 to February 2023, with no further incidents recorded by Police. The absence of incidents within the past 22 months, has indicated that the premises is taking responsibility in improving the management of patrons utilising the rooftop bar (Sky Lounge), preventing further incidents from occurring.

Despite, the above, NSW Police (Burwood Local Area Command) have indicated that if Council are to approve this application, the following conditions are to be placed upon the Development Consent:

1. **POM** - The premises is to be operated at all times in accordance with the Plan of Management and may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
2. **SECURITY** – The licensee must ensure that from 8:00pm, every Friday, Saturday and every day preceding a public holiday, at least two (2) uniformed licensed security guards are employed at the premises. Uniformed licensed security officers must have direct contact with the duty manager via portable radio or mobile phone. One (1) uniformed licensed security officer is to patrol the vicinity until (30) thirty minutes after closing.
3. **CRIME SCENE PRESERVATION** - Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must: (a) take all practical steps to preserve and keep intact the area where the act of violence occurred, (b) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police, as published from time to time on the Liquor & Gaming NSW website, (c) make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and (d) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred. In this condition, "staff member" means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.
4. **CCTV** - The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements: 1) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times), a) recordings must be in digital format and at a minimum of six (6) frames per second, b) any recorded image must specify the time and date of the recorded image, c) the system's cameras must cover the following areas: i) all entry and exit points on the premises, ii) the footpath immediately adjacent to the premises, and iii) all publicly accessible areas (other than toilets) within the premises. 2) The licensee must also: a) keep all recordings made by the CCTV system for at least 30 days, b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and c) provide any recordings made by the system to a police officer or

- Liquor & Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
5. No person is to be permitted to take glass receptacles or open containers of liquid off the premises.
  6. Signs shall be displayed in the hotel requiring patrons to depart in a manner that respects nearby residents.
  7. The licensee or its representative must join and be an active participant in the local liquor accord.
  8. The licensee must keep a complaints register for any complaints made directly to the Hotel's management or staff regarding the operation of the Hotel or the behaviour of its patrons. The Complaints Register must record the following information: i) complaint time and date ii) name, contact details and address of the person/s making the complaint iii) details of the nature of the complaint iv) name of the staff member recording the complaint v) Details of the action taken by the Hotel to resolve the complaint vi) Details of follow up - time, date, and method of communication vii) Any outcome achieved The licensee (or in the licensee's absence, the duty manager) must contact the complainant within 72 hours of the receipt of the complaint and notify the complainant of the result of the inquiries made and any outcomes as a result of the complaint being made. The Hotel's website must disclose the relevant contact telephone number that can be called at any time to register a complaint regarding the Hotel's operation, and which is to be answered either in person or by the ability to leave a message.
  9. An Incident Register will be maintained at the premises. The incident register shall be used at all times the premises is trading and be readily available for inspection at any time the premises are trading by NSW Police and Inspectors of Liquor and Gaming NSW. The Incident Register shall record the occurrence, at any time of the day, of: a) any incident involving violence or anti-social behaviour occurring on the licensed premises; b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the licensed premises and that involves a person who has recently left, or been refused admission to, the premises; c) any incident that results in a person being turned out of the licensed premises under section 77; d) any other incident of a kind prescribed by the Liquor Regulation 2018 with regard to requirements for the maintenance of an Incident Register; e) any third-party disturbance complaint received by the premises in relation to the premises; and f) any malfunction of breath analysis equipment, CCTV or noise limitation equipment, and the action taken in relation to all such matters.

### Neighbour Notification

In accordance with the Burwood Community Participation Plan, the owners of surrounding properties were given notice of the application on 27 September 2024, with the notification period for submissions closing on 11 October 2024. In response to the public notification of the DA, seven (7) submissions were received, objecting to the proposed development.

The matters raised within the submissions are summarised below, followed by a comment from the assessing planner:

- Concerns over the negative impact of noise from music and patrons inside the venue for neighbouring properties to the north, east and south of the venue.

**Planner Comment:** An Acoustic Report, prepared by ANVAS Acoustic Noise and Vibration Solutions was submitted with the application and provides the following recommendations, which are included in the draft conditions of consent:

- A sound Limiter to be used to control music sound levels from all speakers. The combined noise levels from all lounge speakers are not to exceed 82dB(A) – Total Sound Power.
- Hotel personnel are to ensure that people leaving the club do not congregate at the front of the building, and that they disperse in an orderly manner.
- Signs are to be placed around the rooftop area, asking patrons to be mindful of the residential receivers during the night period.
- A Noise Management will need to be implemented to include the following
  - o Install a contact number at the front of the hotel so that complaints regarding the station operation can be made.
  - o Implement a complaint handling procedure. If a noise complaint is received the complaint should be recorded on a Complaint Form, containing the following: - -
    - -Name and address of the complainant
    - -Time and date the complaint was received
    - -The nature of the complaint and the time/date the noise was heard
    - -The name of the employee that received the complaint
    - -Actions taken to investigate the complaint.
    - -Indication of what was occurring at the time the noise was happening
    - -Required remedial action (if applicable)
    - -Validation of the remedial action - Summary of feedback to the complaint
- Concerns over the submitted Acoustic Report in its scope and accuracy in reporting on the impacts of noise on affected properties, along with its validity and accuracy.

**Planner Comment:** The Acoustic Report has been prepared by ANVAS Acoustic Noise and Vibration Solutions. The authors of the report are Dmoeniki Tsagaris and Moussa Zaioor, both of which are members of the Australia Acoustical Society, with the relevant tertiary qualifications.

The submitted Acoustic Report was referred to an independent acoustic consultant for review. The review identified several matters which require further clarification. It is recommended the Panel confirm the planning merits of the subject proposal and pursuant to Section 2.20 (8) of the *Environmental Planning and Assessment Act 1979* delegate the determination of the application to the Manager City Development subject to the submission of an additional acoustic technical report to satisfy these technical matters.

- Concerns over the venue's ongoing unauthorised use as a commercial bar.

**Planner Comment:** The current development application has been lodged to formalise the use of the rooftop bar as a licensed premises, inclusive of bar facilities. The subject site is located within the MU1 Mixed Use Zone which identifies Licensed Premises as development that is permitted with Council consent.

- Concerns over the impact of noise on mental well-being and physical health.

**Planner Comment:** These concerns are outside the scope of planning matters for consideration. Notwithstanding this, the proposal is not expected to impact on the amenity of the surrounding area subject to conditions of consent including acoustic and management conditions.

- Concerns regarding the proposed patron capacity of the venue.

**Planner Comment:** There are no set requirements for patron capacity. However, the submitted Plan of Management, indicates a maximum patron capacity at level 11 (Sky Lounge) of 180 people.

- Concerns regarding the management of the venue, particularly the management of crowds and patrons under the influence of alcohol. Safety Concerns regarding anti-social behaviour.

**Planner Comment:** The submitted Plan of Management indicates the following security and safety measures to be carried out:

- a) Licensed security personnel will be engaged on Friday and Saturday nights to ensure a secure environment during peak periods.
- b) Body cameras will be worn by venue Security Guards and the Venue Manager to enhance security measures and provide an additional layer of surveillance to monitor and address potential incidents effectively.
- c) Security guards will be present in front of the hotel, promoting public transport options (as required) including services like Uber and other private companies, to ensure patrons leave quietly.
- d) A comprehensive digital and log compliance program will be implemented, to maintain a high level of compliance and to ensure that all operational aspects adhere to established standards and regulations.
- e) A Compliance Committee will take part in monthly compliance meetings and conduct regular reviews, to foster continuous improvement through regular reviews of safety and security protocols and procedures

Notably, a condition is recommended to ensure compliance with the plan of management.

- Concerns over excessive proposed operating hours, where operation until 12am nightly is inconsistent with neighbouring residential zones.

**Planner Comment:** The subject site is located within the MU1 mixed use zone, along Burwood Road. The use of the rooftop bar is permitted within the zone, and the operation hours are similar to that of the Burwood Town Centre, and align with Council's vision of the Burwood night-time economy, which includes late night trading hours.

- Concerns over potential and existing instances of damage and littering to neighbouring properties resulting from the operation of the venue.

**Planner Comment:** Damage and littering to neighbouring properties is not a planning matter for consideration. However, as per the Plan of Management licensed security personnel will be present at the rooftop bar to ensure a secure environment.

## **Conclusion**

After consideration of the development against section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is satisfactory for the site and in the public interest subject to the submission of an additional satisfactory acoustic technical report and any subsequent associated technical management conditions. Therefore it is recommended the Burwood Local Planning Panel support the planning merits of the proposed use of the rooftop of an existing hotel development as a licensed premises, (known as Sky Lounge), inclusive of bar facilities.

## **Recommendation(s)**

That the Burwood Local Planning Panel support the planning merits of the use of the rooftop of an existing hotel development as a licensed premises, (known as Sky Lounge), inclusive of bar facilities on land at No.60 Burwood Road, Burwood and pursuant to Section 2.20 (8) of the *Environmental Planning and Assessment Act 1979* delegate the determination of the application to the Manager City Development subject to the submission of an additional satisfactory acoustic

technical report and any subsequent associated technical management conditions subject to the draft conditions provided within **Attachment 1** of this report:

### **Attachments**

- 1 ➡ Attachment 1 - Plan of Management (*Excluded from agenda*)
- 2 ➡ Attachment 2 - Rooftop Plan (*Excluded from agenda*)
- 3 ➡ Attachment 3 - Acoustic Report (*Excluded from agenda*)
- 4 ➡ Attachment 4 - Draft Conditions of Consent (*Excluded from agenda*)

**(Item DA2/25) BD.2018.048 - 4.56 modification of 319-321 Liverpool Road, Strathfield.**

File No: 25/8609

Report by Development Assessment Planner

**Owner:** O and E Developments  
**Applicant:** Ghazi Al Architect  
**Location:** 319-321 Liverpool Road, Strathfield  
**Zoning:** E1: Local Centre

**Proposal**

**Section 4.56 modification to an approved 6 storey mixed-use building containing seventeen (17) residential units and (2) commercial premises above two levels of basement parking and building services.**

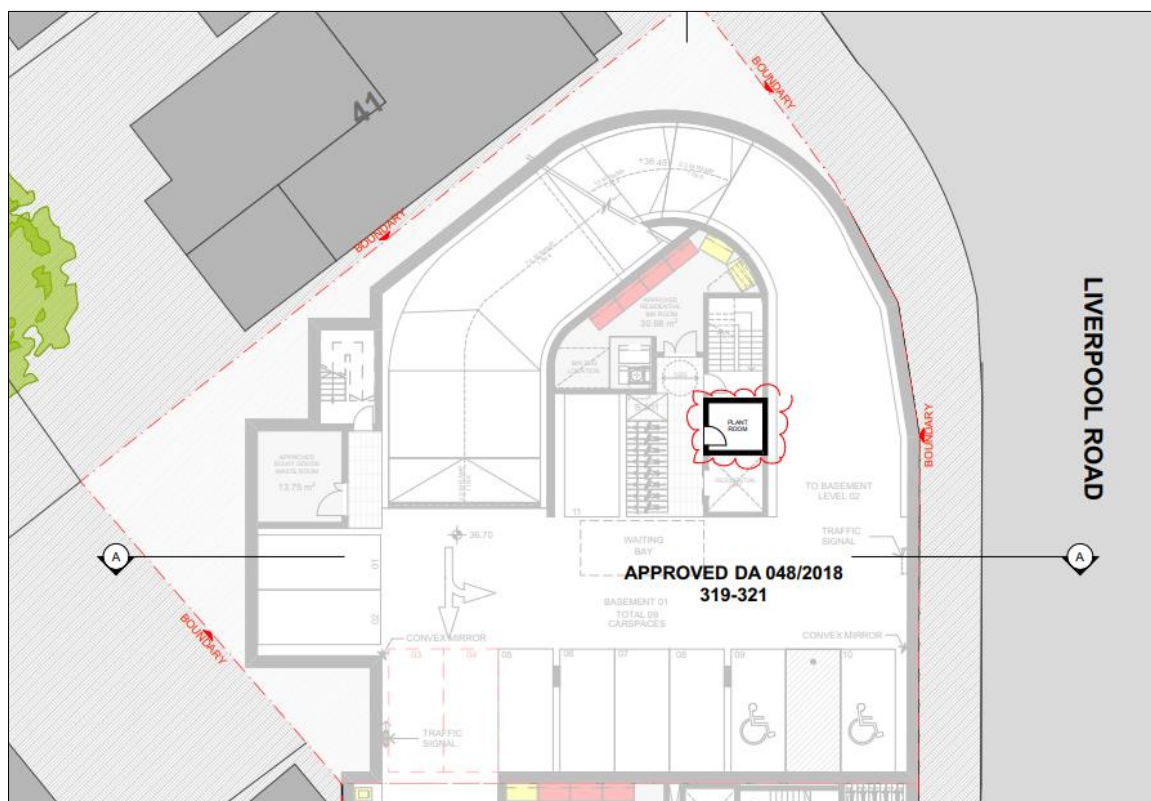
**This modification application seeks to add two (2) additional residential units, as well a range of other amendments, as detailed below:**

**Basement 2**

No changes are proposed to Basement 2 level. This level contains car parking spaces, a cleaner's room, pump / hydrant room, storage cages for residential units, and stair and lift access.

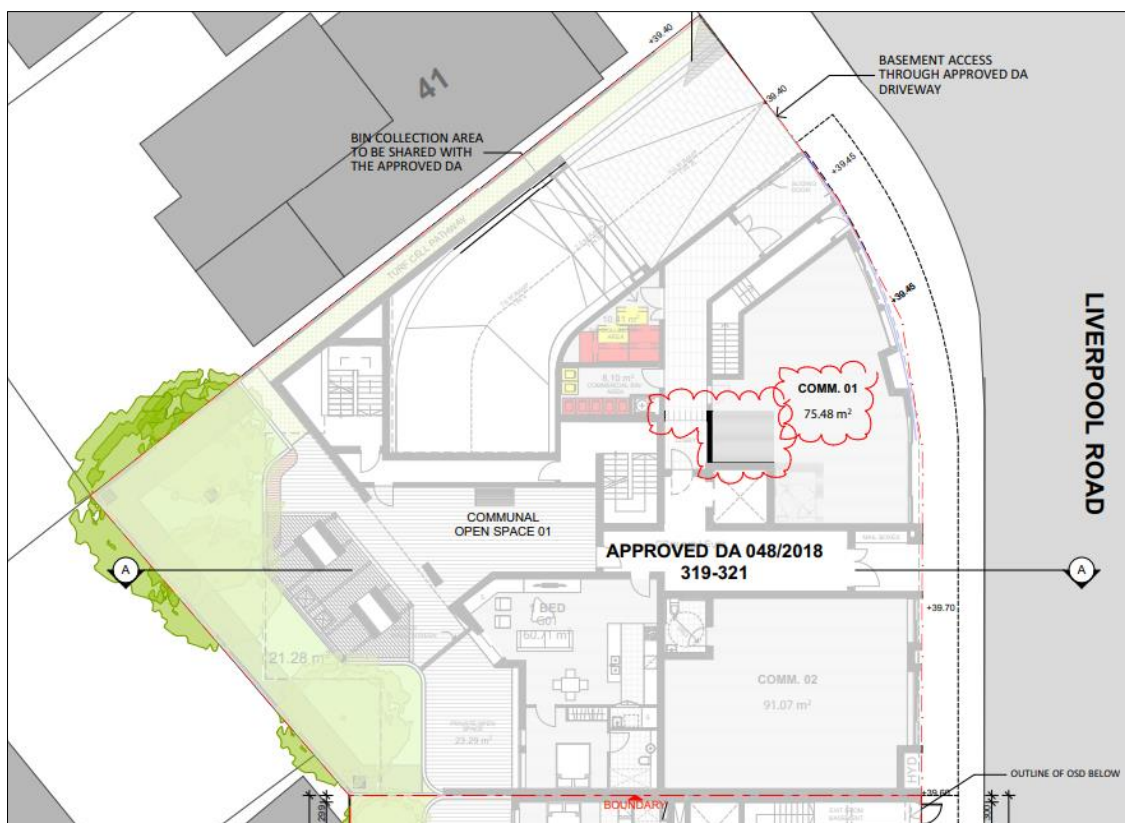
**Basement 1**

Internal amendments are proposed to Basement 1 level, including the deletion of a commercial lift and its replacement with a plant room. This level contains car parking spaces, bicycle parking spaces, bulky goods waste room, residential bin room and bin tug, plant room, and stair and lift access.



**Figure 1: Basement level 1 floor plan. Source: Ghazi Al Architect (2024).**

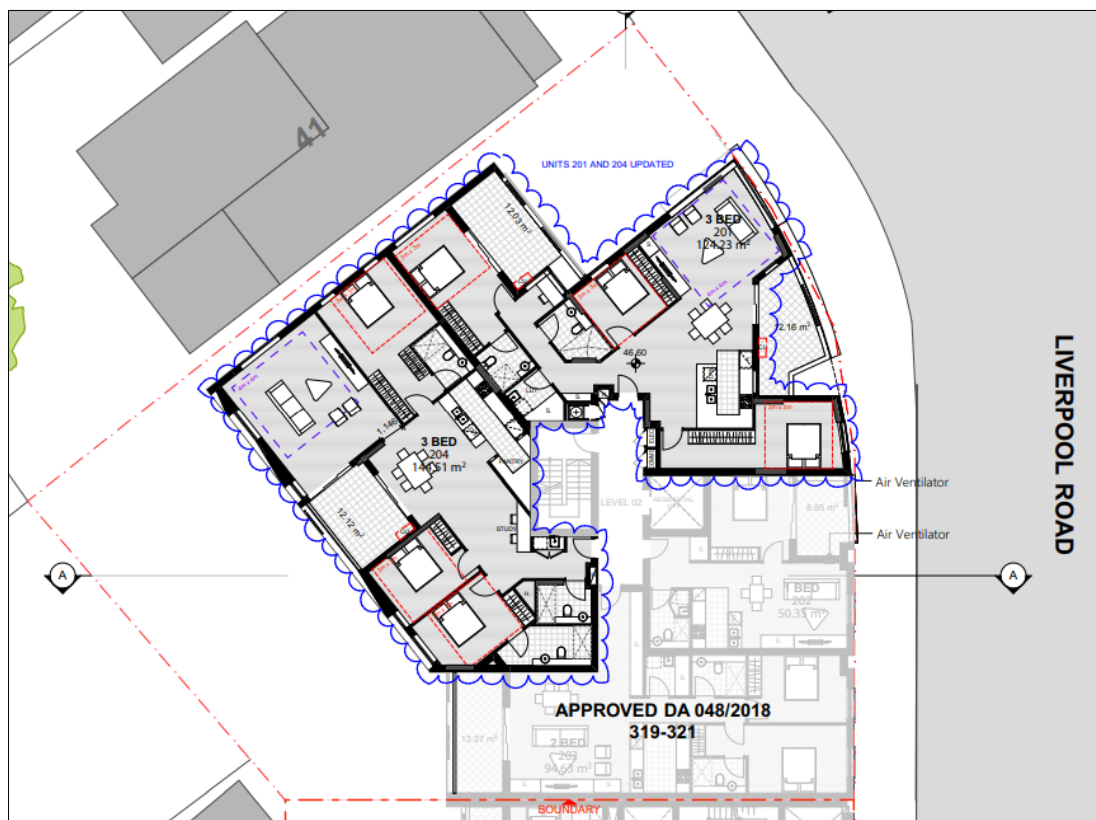
Internal amendments to the Ground Floor level including the deletion of a commercial lift. Minor amendments to the main building pedestrian entrance, and the expansion of a Ground Floor commercial premises in place of the commercial lift. This level provides the main pedestrian entry to the residential component of the development and will contain two commercial premises fronting Liverpool Road and one 1-bedroom residential unit at the rear. Furthermore, this level will contain a commercial bin room, bin collection area, residential communal open space in the rear setback area, and lift and stair access. Driveway access to the basement is provided from the Willee Street frontage.



**Figure 2:** Ground Floor plan. Source: Ghazi Al Architect (2024).

No changes are proposed as part of this modification application. This level will contain three 2-bedroom residential units, one 1-bedroom residential unit, one 3-bedroom residential unit, and lift and stair access.

Redesigning and enlargement of Level 2 units 201 and 204 from 2 bedroom to 3 bedroom units. Inclusion of an addition to Level 2 over the approved development in the northern portion of the site adjacent to 41 Willée Street, including redesigning and enlarging Units 204 and 201. This level will contain two 3-bedroom residential units, one 2-bedroom residential unit, one 1-bedroom residential unit, and lift and stair access.



**Figure 3:** Level 2 floor plan. Source: Ghazi Al Architect (2024).

### Level 3

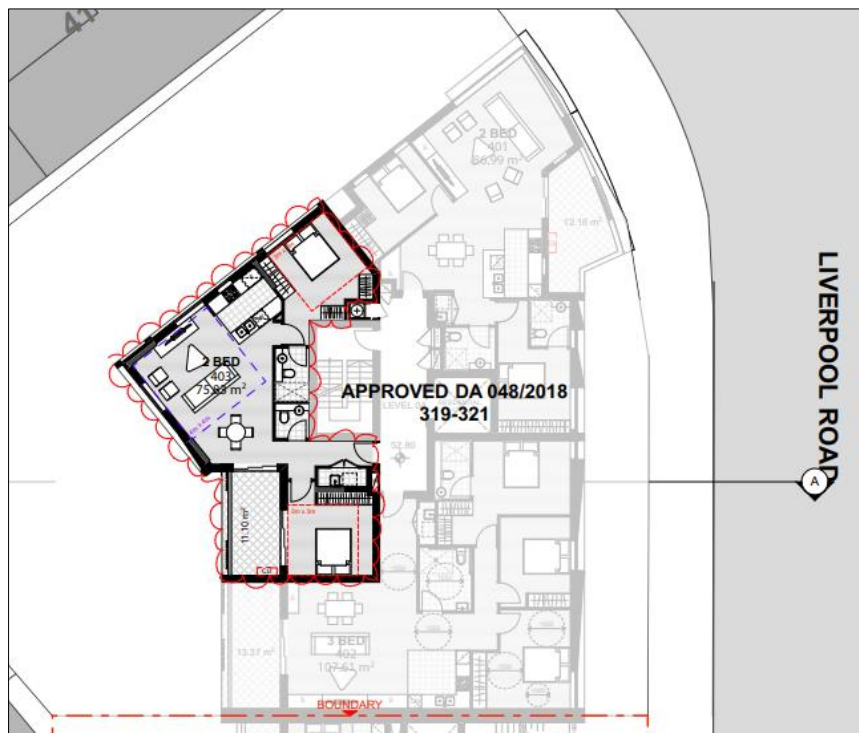
Relocation of communal rooftop open space from Level 5 to Level 3, above residential units 204 and 201 on the northern side of the building, Redesign of Level 3 residential units 301 and 303, in consideration of relocation of communal rooftop open space from Level 5 to Level 3. This level will contain two 2-bedroom residential units, one 3-bedroom residential unit, rooftop communal open space, and lift and stair access.



**Figure 4:** Level 3 floor plan. Source: Ghazi Al Architect (2024).

Level 4

Redesign of Level 4 residential unit 403 from 1 bedroom to 2 bedroom unit. This level will contain two 2-bedroom residential apartments, one 3-bedroom residential apartment, and lift and stair access.



**Figure 5:** Level 4 floor plan. Source: Source: Ghazi Al Architect (2024).

Level 5

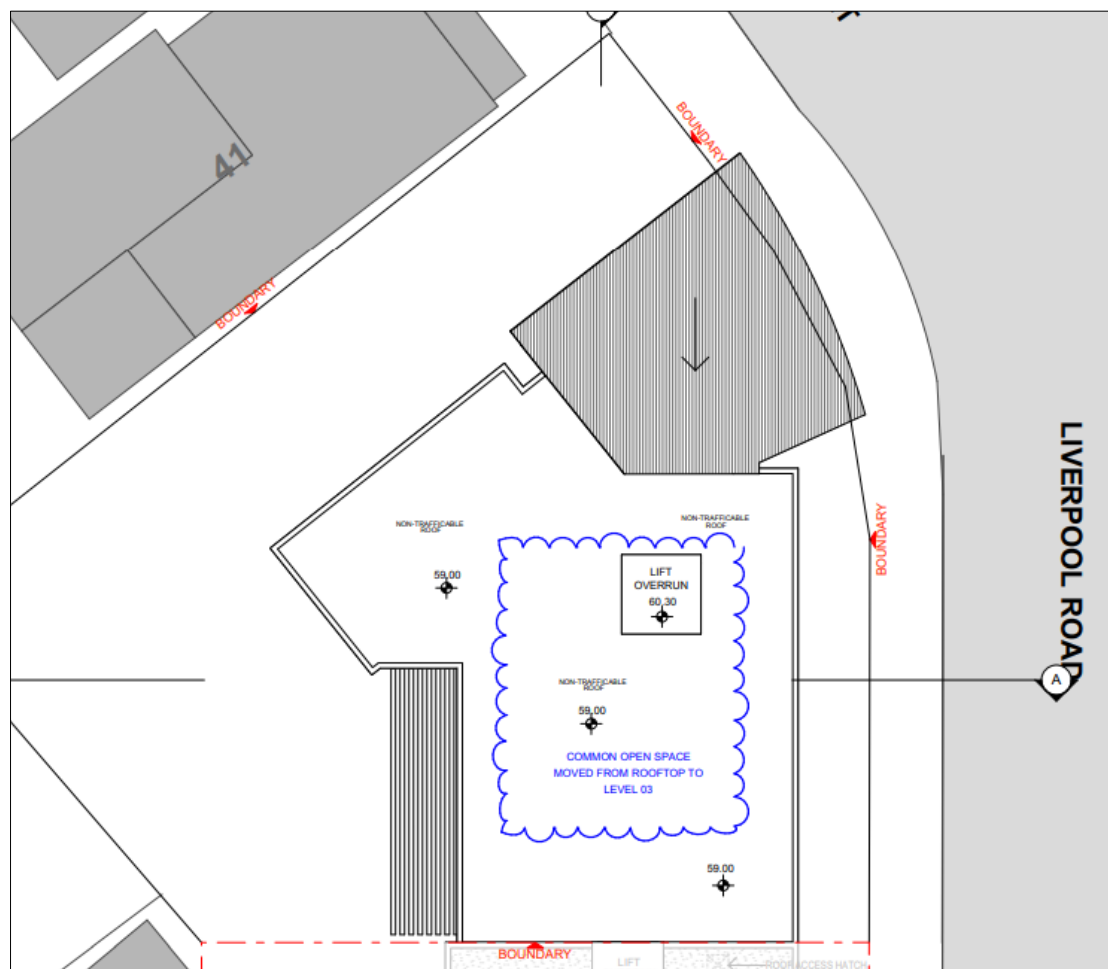
Redesign of and 'infill' of the 5th floor with two (2) additional residential units, including relocation of rooftop open space from Level 5 to Level 3. Rooftop communal open space is being relocated from Level 5 to Level 3. This level will contain two 3-bedroom residential units, one 1-bedroom residential unit, and stair and lift access.



**Figure 6:** Level 5 floor plan. Source: Source: Ghazi Al Architect (2024).

### Rooftop

Provision of a lift overrun to the rooftop to a level of 1.3m above the height of the roof, which is 0.73m above the 20m Burwood LEP maximum building height development standard.



**Figure 7: Roof plan.** Source: Source: Ghazi Al Architect (2024).

### Changes to building facades

The proposal also includes amendments to building facades achieved via changes to proposed external colours, finishes and materials (refer to Material Schedules 1 & 2 below in **Figures 8 & 9**) and redesign of the building façade including changes to window size, type and placement in order to provide a degree of continuity and interrelatedness in façade expression with the adjoining boarding house development at 325-239 Liverpool Road, and to increase solar access to the interior of residential units.



Figure 8: Materials Schedule 1. Source: Source: Ghazi Al Architect (2024).

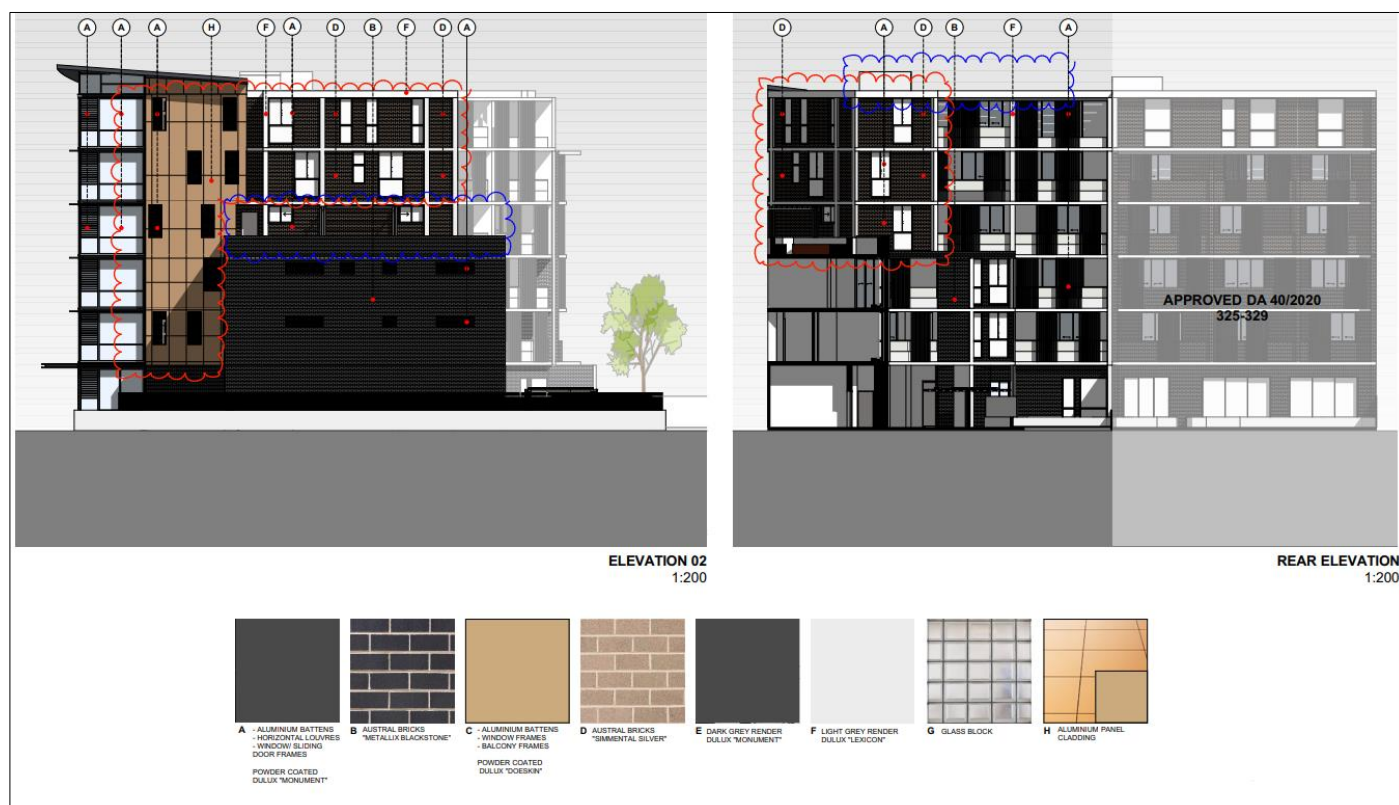


Figure 9: Materials Schedule 2. Source: Source: Ghazi Al Architect (2024).

The resultant modified development summary is shown below:

Development Summary		
Item	Approved	Proposed
<b>Proposed Use</b>	Residential flat building Commercial premises	Residential flat building Commercial premises
<b>Storeys</b>	6	6
<b>Gross floor area (GFA)</b>	Total 1724.75sqm of GFA or Floor Space Ratio of 2.065:1.	Total 2056.52sqm of GFA or Floor Space Ratio of 2.46:1.  Residential gross floor area of 1831.252sqm or Floor Space Ratio of 2.19:1.
<b>Residential units</b>	1 bedroom = 4 2 bedroom = 10 3 bedroom = 3  Total = 17 residential units.	1 bedroom = 4 2 bedroom = 8 3 bedroom = 7  Total = 19 residential units.
<b>Commercial Units</b>	2	2
<b>Parking</b>	25 car parking spaces, 8 bicycle spaces	25 car parking spaces, 8 bicycle spaces

### BLPP Referral Criteria

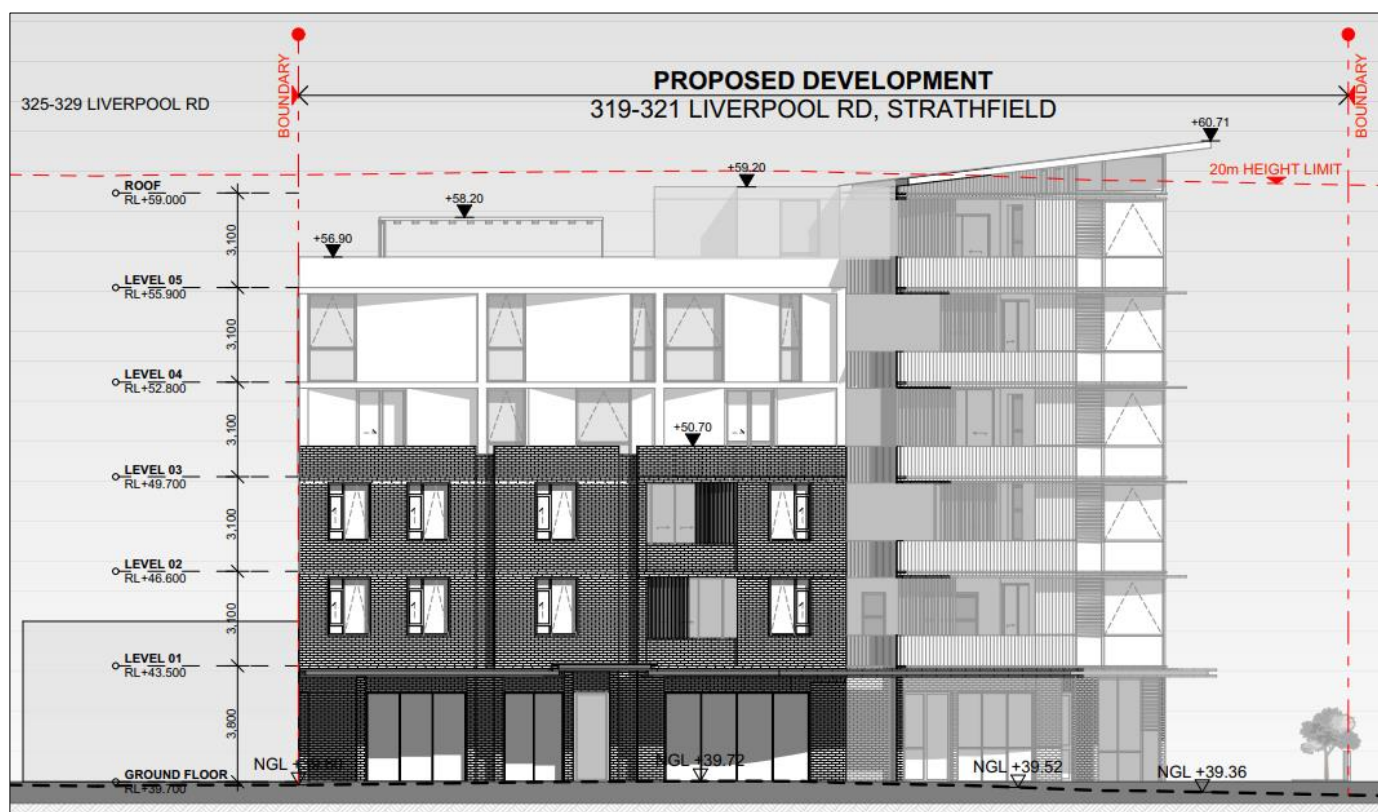
Pursuant to the Ministerial direction dated 6 May 2024, under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, the DA is to be determined by the BLPP for the following reasons:

1. The proposal is 'sensitive development' to which *State Environmental Planning Policy (Housing) 2021* – Chapter 4 (Design of residential apartment development) applies.

## Background

### Application History

- Development consent no. BD.2018.048 was **approved** by the LEC on 15 October 2019 (ordered issued on 11 November 2019) for the *demolition of existing structures and construction of a six storey mixed use development comprising two commercial premises at ground floor, 17 apartments and two levels of basement car parking for 25 cars & 8 bicycles.*
- Section 4.56 application to modify development consent no. BD.2018.48 was **approved** by Council on 12 August 2020 to *modify approved basement layouts on Level 2, 1 and Ground Level to facilitate vehicular access through No. 319-321 Liverpool Road to the adjoining development at No. 325-329 Liverpool Road, Strathfield, by establishing an easement (right of way) and the relocation of 3 car parking spaces of No. 319-321 Liverpool Road, to the adjoining basement car parking level at No. 325-329 Liverpool Road.*
- Section 4.56 application to modify development consent no. BD.2018.048 was **refused** by the LEC on 3 March 2022 to modify the approved development including increasing the approved building envelope.



**Figure 10:** Liverpool Road elevation of the development as **currently approved**. Note the adjoining boarding house development to the left at 325-329 Liverpool Road is not shown. Source: Ghazi Al Architect (2019).

## Current Application History

The subject Section 4.56 modification to BD.2018.048 was lodged with Council via the NSW Planning Portal on 30 August 2024.

The application was internally referred for review and comment to the following Council departments and advisory panels:

- Development Engineering.
- Council's Design Review Panel (DRP) on 12 November 2024

The application was not required to be referred externally.

Referral comments are provided in this report below.

In accordance with the Burwood Community Participation Plan, the modification application was publicly notified for at least fourteen (14) days. No submissions were received.

## Amended Plans

The applicant submitted amended architectural plans to Council in response to a request for additional information that included DRP comments and feedback. The applicant submitted the amended architectural plans to Council via the NSW Planning Portal on 12 December 2024.

### **Artist's impression of the initial plans submitted to Council in August 2024:**



**Figure 11:** Artist's impression of the proposed modification, as initially submitted to Council in August 2024, viewed from Liverpool Road. The adjoining boarding house development to the left at 325-329 Liverpool Road is also shown. Source: Ghazi Al Architect (2024).



**Figure 12:** Artist's impression of the proposed modification, as initially submitted to Council in August 2024, viewed from the corner of Willee Street and Liverpool Road. The adjoining boarding house development at 325-329 Liverpool Road is also shown. Source: Ghazi Al Architect (2024). Source: Ghazi Al Architect (2024).

**Artist's impression of the amended proposal submitted to Council on 12 December 2024**



**Figure 13:** Artists impression of the proposed development, as amended in December 2024, viewed from Liverpool Road. The adjoining boarding house development to the left at 325-329 Liverpool Road is also shown. Source: Ghazi Al Architect (2024). Source: Ghazi Al Architect (2024).



**Figure 14:** Artists impression of the proposed development, as amended in December 2024, viewed from the corner of Willee Street and Liverpool Road. The adjoining boarding house development at 325-329 Liverpool Road is also shown. Source: Ghazi Al Architect (2024). Source: Ghazi Al Architect (2024).

## **Statutory Requirements**

### **Heads of Consideration**

The application is assessed under the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as amended, which include:

- State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land.
  - State Environmental Planning Policy (Sustainable Buildings) 2022 - Chapter 2 Standards for residential development—BASIX.
  - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in non-rural areas.
  - State Environmental Planning Policy (Transport and Infrastructure) 2021.
  - State Environmental Planning Policy (Housing) 2021 - Chapter 4 Design of residential apartment development
  - The provisions of the Burwood Local Environmental Plan (BLEP) 2012.
  - The provisions of the Burwood Development Control Plan (BDGP) 2013.
  - The regulations (of the EP&A Act).
  - The likely social, environmental and economic impacts of the development.
  - The suitability of the site for development.
  - Submissions made under the Act and Regulations, and
  - The public interest.
- 1.

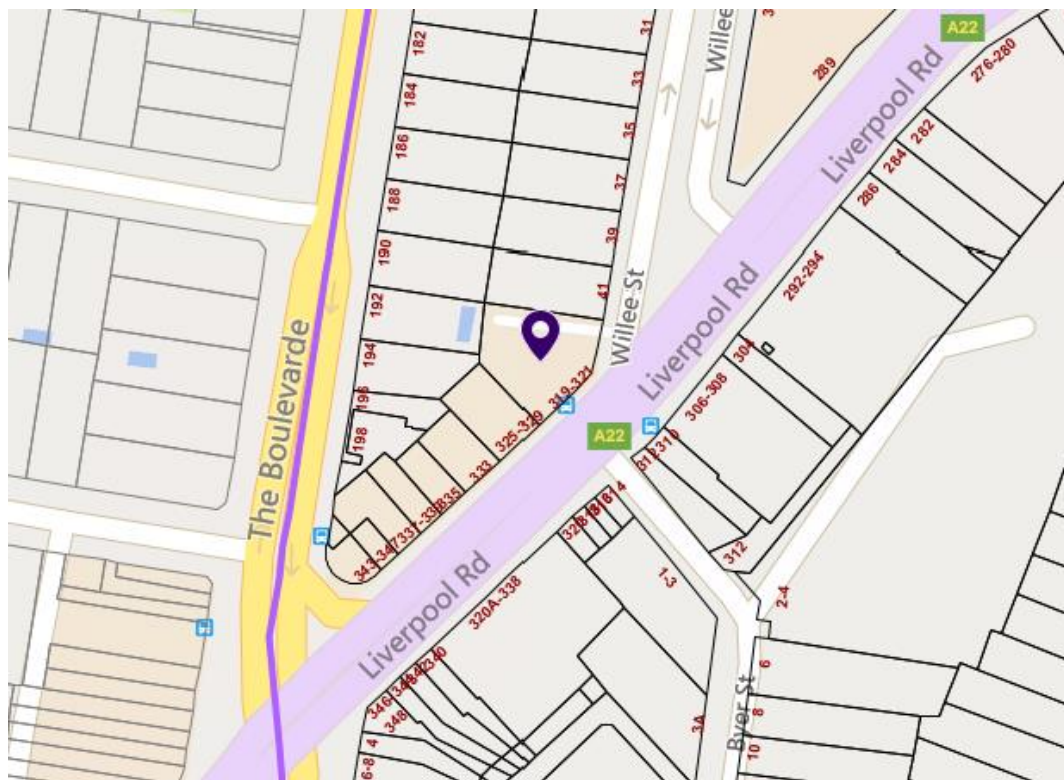
These matters are considered in this report.

## Locality

The location of the subject site is depicted in **Figures 14 and 15** below:



**Figure 15:** Aerial view of the subject site 319-321 Liverpool Road, Strathfield (indicated with the yellow dashed lines). Source: NSW Planning Portal (2025).



**Figure 16:** Street map showing the subject site, indicated with the purple marker. Source: Council mapping system (2025).

The subject site is identified as No. 319-321 Liverpool Road (Hume Highway), Strathfield NSW 2135 (Lot DP236134). The site is corner allotment on the north-western side of Liverpool Road and western side of Willee Street. It is situated within the Enfield local shopping centre approximately 100m north-east of the major intersection of Liverpool Road and The Boulevarde. Being a corner lot, the site has two street frontages – a primary frontage to Liverpool Road and a secondary frontage to Willee Street. The site has a total area of 835sqm. Vehicular access is provided via a driveway crossover from Willee Street. In terms of topography the site is relatively flat. The site is currently devoid of any vegetation.

Currently occupying the site is a partially built mixed-use building that was approved under development consent no. BD.2018.048 and a subsequent modification application. The development is being constructed concurrently with an adjoining approved six storey boarding house development at 325-329 Liverpool Road, Strathfield, that was approved under a separate development application. The subject development shares basement access with this adjoining site via a breakaway basement wall. For the purposes of construction both developments constitute in-effect one development site.

The site is not a flood-affected property. The site does not contain a heritage item and is not within a heritage conservation areas. There are no heritage items or heritage conservation areas within the vicinity of the site. The land use zoning for the site is E1: Local Centre under the provisions of the Burwood Local Environmental Plan 2012.

As mentioned, adjoining the site is an approved six storey boarding house development to the south-west that is also partially built. To the north and west of the site, the land is zoned R2: Low Density Residential and contains detached residential dwellings and a child care centre (at 41 Willee Street). On the opposite side of Willee Street to the north-east is a contemporary six-storey mixed use building containing commercial premises on the ground floor with residential units above. To the south-east on the opposite side of Liverpool Road are commercial, residential and mixed use buildings (including an old theatre) of different time periods ranging from one to six storeys in height, which is typical of the current character of the Enfield local shopping centre.



**Figure 17:** View of the subject site from the opposite side of Liverpool Road, looking west. The adjoining boarding house development at 325-329 Liverpool Road can be seen on the left covered by blue mesh and is under construction concurrently with the subject development.



**Figure 18:** View of the subject site from the opposite side of Liverpool Road, looking north-west. The adjoining boarding house development at 325-329 Liverpool Road can be seen on the left covered by blue mesh and is under construction concurrently with the subject development.



**Figure 19:** View of the subject site and adjoining development, looking south-west from the corner of Liverpool Road and Willee Street.



**Figure 20:** Existing development looking north from the subject site along Willee Street.



**Figure 21:** Existing development opposite the subject site on the south-eastern side of Liverpool Road.



**Figure 22:** Existing development on The Boulevard, located to the rear of the subject site.



**Figure 23:** Existing development looking north-east along Liverpool Road from opposite the subject site.



**Figure 24:** Existing development looking south-west along Liverpool Road from opposite the subject site.

## **Planning Assessment**

### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of land**

The provisions of SEPP (Resilience and Hazards) 2021 are required to be considered for any development application. Consideration must be made if the land is suitable for the proposed development, if it is contaminated, if it is suitable for the proposed use, and/or if the contamination is required to be remediated before the land is used for that purpose.

It is noted that this application is a modification and the development is already partially constructed. Considering the longstanding previous use of the site for commercial purposes and that the development is approved and is currently partially built / under construction, given the nature of the proposal a land contamination assessment is not considered necessary. In addition, a search of Council's digital records and mapping, and a site inspection revealed no obvious land contamination.

### **State Environmental Planning Policy (Sustainable Buildings) 2022 - Chapter 2 Standards for residential development—BASIX**

BASIX stands for Building Sustainability Index. It is a sustainability assessment tool for residential buildings in NSW. BASIX aims to reduce the environmental impact of new homes by requiring them to meet certain minimum standards (for water and energy efficiency, and thermal performance) and to report on construction materials being used so their embodied energy can be calculated. The applicant has submitted a revised BASIX certificate consistent with the amended plans, prepared by Sustainable Thermal Solutions, certificate no. 914803M\_05, dated 17.02.2025.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in non-rural areas.**

Chapter 2 Vegetation in Non-Rural Areas of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 sets the rules for the clearing of vegetation in NSW on land zoned for urban and environmental purposes. The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

The site is currently devoid of vegetation. No existing trees or vegetation are proposed to be trimmed or removed as part of this modification application. The application seeks to relocate an approved rooftop garden from Level 5 to Level 3, and no objections are raised.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The site is located on a classified road (Liverpool Road). The SEPP does not require the modification application to be referred to or receive concurrence from Transport for NSW. However, 'Clause 2.119 Development with frontage to classified road' of SEPP applies to the development and provides the following:

#### ***2.119 Development with frontage to classified road***

*(1) The objectives of this section are—*

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Council has considered the impact of the proposed modification against objectives (1)(a)- (b) of the clause and is satisfied that it is consistent with the requirements (2)(a)-(c), and that consent can be granted for the following reasons:

- Vehicular access to the site is to remain as approved, with access provided from the secondary street frontage (Willee Street) and not the classified road.
- The modification application does not propose any changes to the already approved vehicle access and parking arrangements.
- The following condition of approval will apply to the proposal as modified:

**2.**

*Construction of windows / sliders, doors, external walls and roofs are to comply with the recommendations listed in Part 7 of the Acoustic Assessment prepared by Acoustic Consulting Engineers (ref: 180962-01L-DD dated 20 February 2018) in order to achieve the required noise reduction targets and levels as required by Clause 102 of the State Environmental Planning Policy– (Infrastructure) 2008 and NSW Department of Planning’s ‘Development near Rail Corridors and Busy Roads – Interim Guideline.*

Furthermore, ‘Clause 2.120 Impact of road noise or vibration on non-road development’ of the SEPP applies to the SEPP and provides the following:

*(1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—*

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

*(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.*

*(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

*(3A) Subsection (3) does not apply to a building to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 7 applies.*

(4) In this section, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.

The site is adjacent to a classified road and the proposal includes residential accommodation. Council must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette. Therefore, the condition of approval provide above relating to construction of windows / sliders, doors, external walls in accordance with noise reduction targets and levels will apply to the proposal as modified.

**NOTE:** The noise reduction targets and levels required by Clause 2.120 of State Environmental Planning Policy (Transport and Infrastructure) 2021 are the same as those provided by Clause 102 of the [now repealed] State Environmental Planning Policy – (Infrastructure) 2007

#### **State Environmental Planning Policy (Housing) 2021 - Chapter 4 Design of residential apartment development**

State Environmental Planning Policy (Housing) 2021 - Chapter 4 Design of residential apartment development applies to the proposal as it is a mixed use development with a residential component that does not include boarding houses or co-living housing, it is three or more storeys and contains four or more dwellings.

The consent authority may refer a modification application for residential apartment development to the relevant design review panel for advice before determining the modification application.

A development consent for residential apartment development must not be modified unless the consent authority has considered the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9 of the SEPP, and, any advice received from a design review panel.

The modification application was referred to the Burwood Design Review Panel (DRP) for comment on 12 November 2024. The issues raised by the Design Review Panel, and a response to how each issue has since been addressed, are considered below against the Design Quality Principles contained in Schedule 9 of the SEPP:

#### **Design Quality Principles**

##### **Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

**Design Review Panel Comments:** The proposal involves the addition of gross floor area to the previously approved design, however in the Panel's view, the proposal does not achieve design excellence expected from a contemporary residential apartment development within Burwood local government area.

**Response:** Amended plans submitted by the applicant in response to DRP comments are considered to respond satisfactorily to the development's context and character of the neighbourhood. Revised material schedules (Material Schedules 01 & 02) and the redesign of the building façade, including changes to window size, type and placement in order to provide some

continuity and interrelatedness in façade expression with the adjoining boarding house development at 325-239 Liverpool Road has been provided. The 'infill' of the 5th floor with two (2) additional residential units provided the opportunity to create a degree cohesiveness and continuity of streetscape presentation with adjoining development and throughout the development itself.

## **Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

### Design Review Panel Comments:

1. The Panel expressed concern that the proposed built form appears clumsy as it reads as four distinct and unrelated buildings joined together. The Panel recognises there is a much greater need for improvement of the overall built form presentation and architectural expression to make it cohesive, given the prominent corner location along the Liverpool Road streetscape.
2. The applicant, in this instance only seeks gross floor area benefits without considering other design improvements, and the strategy is not supported by the Panel.
3. The Panel reviewed the dominance of the lift overrun within the streetscape and considers the visual impact to be unacceptable, contrary to good urban design practice. The Panel supports the top level addition of massing, however, the overall built form strategy requires a much greater rigour to make this project successful.

Response: Amended plans provided by the applicant provide revised material schedules (**Figures 8 & 9**), as well a redesigned building façade including changes to window size, type and placement that improves the interrelatedness of the development and with adjoining boarding house development. Unlike the initial plans submitted by the applicant (**see Figures 10 & 11**), the amended plans are considered a significant improvement in terms of façade treatment when viewed from the streetscape, and it now generally appears as a cohesive development inclusive of the adjoining boarding house development to the south-west.

The height of the lift overrun has been significantly reduced (a reduction in height of 2.50m compared with the initial plans), which is considered reasonable and is complemented by the removal of the ad-hoc, unintegrated rooftop structures associated with the removed communal open space. Amended plans provide a less cluttered more orderly appearance of the rooftop when viewed from the streetscape.

## **Principle 3: Density**

*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

Design Review Panel Comments: No issues were raised by the Panel.

#### Principle 4: Sustainability

*Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.*

Design Review Panel Comments: Council should satisfy itself that the following sustainability recommendations for delivering beyond the minimum BASIX requirements are incorporated by the applicant:

- a. Ceiling fans to all living rooms and bedrooms as a low energy alternative.
- b. Rainwater tank for water storage and reuse on the site.
- c. Inclusion of an appropriate photovoltaic system to power common areas within the building.
- d. Full electrification including provision for EV charging points within the basement

Response: Condition of approval shall be imposed to require that ceiling fans be installed within all living rooms and bedrooms of the residential apartments where practicable.

Considering that the application is a modification application to a building that is already partially constructed, and which proposes no changes to approved car parking arrangements within the basement, Council's ability to require the upgrade or revision of the parking facilities to provide full electrification including provision for EV charging points is limited. However, Council will add an advisory note to the consent to encourage the installation of EV charging points where practicable.

Furthermore, the stormwater management design of the development, including for this modification application, has been reviewed by Council's development engineer and is considered to be satisfactory and in accordance with Council's requirements.

The development, as approved, does not contain a photovoltaic system. Council's Development Control Plan currently has no provision to require the development install a photovoltaic system to power common areas within the building. Council's ability to force the applicant to install such a system as part of a modification application is not reinforced by the current planning controls that apply to the development.

#### Principle 5: Landscape

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.*

*Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management*

Design Review Panel Comments: No issues were raised by the Panel.

**Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.*

**Design Review Panel Comments:**

1. The Panel notes that there will be limited direct solar access in mid-winter to the living areas of the newly added apartments. The applicant should consider reconfiguration strategies to ensure direct solar access to both living areas and balconies, to achieve consistency with Part 4A Solar and daylight access of the NSW Apartment Design Guide (ADG).
2. Additionally, Council should be satisfied that the proposal achieves consistency with the minimum number of apartments with natural cross ventilation in line with Part 4B of the NSW ADG.
3. The internal configuration of the newly added apartments was discussed at the meeting and the Panel recognises greater resolution is required with the space planning. For example, the circulation within the apartments appear to be convoluted, some of the bedrooms directly open into the living areas and directly align with the apartment entry doors (unit 201), heavily internalised kitchens would lack daylight and natural ventilation (unit 204).

**Response:** Amended plans provided by the applicant have reconfigured the internal layout of the newly added apartment on Level 02 so that living areas, instead of bedrooms, are generally oriented towards the northern elevation of the building. The newly added apartments on Level 05 will receive sunlight from a north-westerly direction to their balconies and living areas. Additional north-facing windows have been added to the north elevation of the building to allow extra sunlight into the interior of apartments.

Council is satisfied that the proposal achieves consistency with the minimum number of apartments with natural cross ventilation in line with Part 4B of the NSW ADG, as provided in the ADG assessment below in this report.

Amended plans provided by the applicant have reconfigured the internal layout of units 201 and 204 in response to the Panel's concerns regarding daylight and natural ventilation to kitchens.

**Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.*

**Design Review Panel Comments:** The ground floor pedestrian entry door should be pulled out to street alignment, to avoid potential CPTED (Crime Prevention through Environmental Design) issues.

Response: Amended plans provided by the applicant have amended the ground floor level to push the mailboxes out to the street alignment which has reduced the possibility for entrapment between doors. The ground floor pedestrian entry door adjacent to the basement ramp is pushed back from the street alignment to allow for a sliding door to the basement ramp to facilitate a shorter circulation path to and from the bin holding room in the basement which will remain as approved.

Conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.

### **Principle 8: Housing Diversity and Social Interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.*

Design Review Panel Comments: Revised architectural drawings should confirm layouts of both – pre and post adaptable layouts. The applicant should ensure that the extent of changes between pre and post adaptation avoid structural and plumbing amendments.

Response: The applicant has provided a pre and post adaptable layout for residential unit 502. Council imposed a condition of approval on the original DA requiring two (2) dwellings shall be provided as Adaptable Housing Class A or B standard to cater for ageing in place and mobility impaired residents, in accordance with Australian Standard (AS) 4299: Adaptable Housing. This condition of approval shall remain in force.

### **Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Design Review Panel Comments:

1. Refer to the recommendations included above for 'Principle 2 Built Form and Scale'.
2. In order for the project to be successful the applicant should reconsider significant redesign of the façades, to allow a cohesive and uplifting architectural expression at this prominent corner location, and with clear nomination of materials and avoid 'or similar' tags.
3. The architectural expression of the proposal does not need to be exactly similar to the adjoining boarding house, but needs to show some continuity and interrelatedness.
4. Building services elements such as lifts and fire stairs should be carefully planned to minimise visual impact on the adjoining public domain.
5. Revised architectural drawings should confirm location of A/C condenser units, and these should not be located within the balconies (unless thoughtfully screened) or anywhere apparent from the public domain.

Response: Discussion of the proposal in regard to 'Principle 2 Built Form and Scale', and in respect to the architectural changes made to building facades via the amended plans, is provided above and has been considered in relation to the aesthetics of the building and its context.

Proposed external materials, colours and finishes (as shown in **Figures 8 & 9**) are not accompanied by 'or similar' tags.

Building service elements including the position of the residential lift, and of fire escape egress, were considered and approved as part of the original DA. Further revision of these elements is not required as part of this modification application, considering that the location of the fire escape egress was carefully considered as part of the assessment of the original DA.

Condition of approval was imposed on the original DA requiring that air conditioning units and plant are to be located so as not to be visible from a public road or place or adjoining property. This condition will remain in force. Balcony balustrades shall be of solid construction or of opaque glazing which will assist concealing air conditioning units.

**Conclusion:** Council has evaluated the proposal in accordance with the design principles (1-9) for residential apartment development above and it is generally considered satisfactory.

### **Apartment Design Guide (ADG)**

Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the Apartment Design Guide (ADG)

The ADG contains objectives, design criteria and design guidelines for residential apartment development. The development has been assessed against the relevant key design criteria within Parts 3 and 4 of the ADG in Table 2 below:

Objective	Requirement	Proposed	Compliance
3D Communal Open Space	Communal open space has a minimum area equal to 25% of the site.	The site area is 835sqm.  25% of the site area equates to 208.75sqm.  A total of 280.52sqm of communal open space is proposed, which exceeds the minimum requirement.  Communal open space has a northern orientation and is expected to receive ample sunlight on June 21.	Yes
3E Deep Soil Zones	On sites with areas between 650sqm and 1500sqm, 7% of the site area is to be deep soil with a minimum 3m dimension.	No changes to existing approved deep soil zones are proposed as part of this modification application.  The proposal will retain 11.78% of the site area as deep soil zones.	Yes
3F Visual Privacy	The ADG prescribes minimum separation distances between buildings:  <ul style="list-style-type: none"> <li>Up to 12m (4 storeys) - 6m (habitable) / 3m (non-habitable)</li> <li>Up to 25m (5-8 storeys) - 9m (Habitable) / 4.5m (non-habitable)</li> <li>Over 25m (9+ storeys) - 12m</li> </ul>	The modification was referred to the DRP. No objections were raised in regard to setbacks or building separation.  The modification application does not propose any changes to approved building setbacks	Yes

Objective	Requirement	Proposed	Compliance																			
	(Habitable) / 6m (non-habitable) No separation is required between blank walls.	<p>or building separation.</p> <p>The side setback to 41 Willee Street, as approved, does not meet the ADG minimum separation distance. However, highlight and opaque windows will be provided up to Level 2 to ensure that visual privacy implications are minimised.</p> <p>The proposed modifications are not expected to create any additional privacy implications.</p> <p>The south-west elevation of the building that directly adjoins the neighbouring site at 325-329 Liverpool Road is a blank wall that faces a blank wall. No objections are raised to the zero setback.</p>																				
3G Pedestrian Access and Entries	<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Building entries and pedestrian access remains connected to the public domain.</p> <p>Access, entries and pathways remain accessible and easy to identify.</p> <p>Conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.</p>	Yes																			
3J Bicycle and car parking	<p><u>Section 3.9 of Council's DCP – minimum car parking Rates in Centres and Corridors</u></p> <table border="1"> <thead> <tr> <th>Resid.</th><th></th><th>Rate</th><th>Req.</th></tr> </thead> <tbody> <tr> <td></td><td>4 x 1 bed</td><td rowspan="2">1 per unit</td><td>4</td></tr> <tr> <td></td><td>8 x 2 bed</td><td>8</td></tr> <tr> <td></td><td>7 x 3 bed</td><td>1.5 per unit</td><td>11</td></tr> <tr> <td></td><td>Visitors</td><td>1 per 5 units</td><td>4</td></tr> </tbody> </table>	Resid.		Rate	Req.		4 x 1 bed	1 per unit	4		8 x 2 bed	8		7 x 3 bed	1.5 per unit	11		Visitors	1 per 5 units	4	<p>The proposal provides a total of twenty-five (25) off-street car parking spaces plus eight (8) bicycle parking spaces, all located within the two basement levels – which is unchanged from the approved development. This represents a shortfall of five (5) spaces from the Burwood DCP minimum requirement, and is the</p>	Considered acceptable
Resid.		Rate	Req.																			
	4 x 1 bed	1 per unit	4																			
	8 x 2 bed		8																			
	7 x 3 bed	1.5 per unit	11																			
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Objective	Requirement	Proposed	Compliance								
	<table border="1"> <tr> <td>Comm.</td><td>167m2</td><td>1 per 50 m2</td><td>3</td></tr> <tr> <td><b>TOTAL</b></td><td></td><td></td><td><b>30</b></td></tr> </table>	Comm.	167m2	1 per 50 m2	3	<b>TOTAL</b>			<b>30</b>	<p>result of changes to the apartment mix and the addition of two apartments.</p> <p>No objection is raised to the proposed shortfall in this instance considering that all residential apartments and commercial premises will be provided with at least one (1) parking space. Parking spaces are to be allocated as follows:</p> <ul style="list-style-type: none"> <li>- 2 spaces allocated to the commercial premises (1 space for each premises).</li> <li><b>3.</b></li> <li>- 2 visitor spaces (to be designated as common property).</li> <li><b>4.</b></li> <li>- 21 spaces allocated to the 19 residential apartments.</li> <li><b>5.</b></li> <li>- 8 bicycle spaces.</li> <li><b>6.</b></li> </ul> <p>= a total of 25 car spaces and 8 bicycle spaces provided.</p> <p>Bus stops are located in front of the development on Liverpool Road that provide public transport access towards the City, Burwood and Ashfield. Additional bus stops are located on The Boulevard approximately 100m from the site to south-west, which provide public transport access towards Belmore and Strathfield.</p> <p>Even though the development will maintain at least one (1) off-street car parking space of each residential apartment and commercial premises on site, limiting excess on-site parking has benefits such as reducing car use within</p>	
Comm.	167m2	1 per 50 m2	3								
<b>TOTAL</b>			<b>30</b>								

Objective	Requirement	Proposed	Compliance
		local centres and corridors, and encouraging the use of public transport, walking and cycling.	
4A Solar and Daylight Access	Living rooms and private open space areas of at least 70% of apartments receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	70% of nineteen (19) apartments = 13.3 (13) apartments require a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.  Living rooms and private open space areas of 16 apartments (84%) are expected to receive a minimum of 2 hours of direct sunlight between 9am and 3pm at mid-winter.	Yes
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated.	15 out of 19 (79%) apartments are considered to be naturally cross ventilated.	Yes
4C Ceiling Heights	Habitable rooms: 2.7m.  Non-habitable: 2.4m.  If located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use.	Proposed minimum floor to ceiling heights remain unchanged compared with the approved development, and are at least 2.7m for habitable rooms.  The ground floor commercial premises provide a ceiling height of at least 3.3m.	Yes
4D Apartment Size and Layout	Apartments are required to have the following minimum internal areas:  Studios: 35m <sup>2</sup> 1 bedroom: 50m <sup>2</sup> 2 bedroom: 70m <sup>2</sup> 3 bedroom: 90m <sup>2</sup>  The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> .  Every habitable room must have a window in an external wall with a total minimum glass area of not less	The proposed development consists of 1, 2 and 3 bedroom units.  All 1 bedroom units achieve the minimum 50m <sup>2</sup> . All 2 bedroom units achieve the minimum 70m <sup>2</sup> . All 3 bedroom units achieve the minimum 90m <sup>2</sup> .  Additional bathrooms have been taken into account. All units achieve the minimum areas for apartment sizes under the ADG.  Habitable rooms have windows that complies with this requirement, other than	Yes

Objective	Requirement	Proposed	Compliance
	<p>than 10% of the floor area of the room.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.</p> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space). Bedrooms are to have a minimum dimension of 3m.</p> <p>Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments, 4m for 2 and 3 bedroom apartments.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>bedrooms at the northern elevation of Levels 1 and 2. These windows are restricted in size to reduce overlooking of adjoining properties. No objections are raised as these windows are not to living areas and face directly north.</p> <p>The proposal does not include any modified apartments with open plan layouts which exceed 8m in depth from a window.</p> <p>All master bedrooms of modified apartments achieve compliance with the 10m<sup>2</sup> minimum area, excluding wardrobe space.</p> <p>All modified apartments comply with the minimum width requirements.</p> <p>The minimum 4m width dimension of cross through apartments has been achieved.</p>	
4E Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>Studios: 4m<sup>2</sup> minimum area.</p> <p>1 bedroom apartments: 8m<sup>2</sup> minimum area, 2m minimum depth.</p> <p>2 bedroom apartments: 10m<sup>2</sup> minimum area, 2m minimum depth.</p> <p>3+ bedroom apartments: 12m<sup>2</sup> minimum area, 2.4m minimum depth.</p> <p>Ground level or podium apartments are to have a minimum POS area of 15m<sup>2</sup> and minimum depth of 3m.</p>	<p>All units within the proposed development provide sufficient compliant private open space and balcony areas.</p> <p>No studios proposed.</p> <p>Refer above.</p> <p>Refer above.</p> <p>Refer above.</p> <p>Refer above.</p>	Yes
4F Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of</p>	<p>The maximum number of apartments off a circulation core is 4. The proposal includes one circulation core servicing the proposed development.</p>	Yes

Objective	Requirement	Proposed	Compliance
	apartments sharing a single lift is 40.	The building is not over 10 storeys.	
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>Studio: 4m<sup>3</sup>  1 bedroom: 6m<sup>3</sup>  2 bedroom: 8m<sup>3</sup>  3+ bedroom: 10m<sup>3</sup></p> <p>At least 50% of the required storage is to be located within the apartment.</p>	Sufficient storage space has been provided within each unit, with consideration of the overall size of each unit.	Yes
4K Apartment Mix	A variety of apartment types are provided.	<p>A mixture of 1, 2 and 3 bedrooms are proposed as follows:</p> <ul style="list-style-type: none"> <li>▪ 4 x 1 bed apartments</li> <li>▪ 8 x 2 bedroom apartments; and</li> <li>▪ 7 x 3 bedroom apartments.</li> </ul>	Yes
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area	<p>The issues raised by the DRP, and a response to how each issue has been addressed, is explained above against the Design Quality Principles contained in Schedule 9 of the SEPP.</p> <p>As a result of amendments made by the applicant the proposed building facades are considered to provide visual interest along the street while respecting the character of the local area.</p>	Yes
4W Waste Management	<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimized by providing safe and convenient source separation and recycling.</p>	<p>Waste storage facilities are provided in the basement and are not accessed via the main pedestrian entry to the building, thereby providing a physical separation which will maintain the amenity of residents and visitors accessing the building.</p> <p>According to the approved waste management plan an apartment is expected to generate 120L of garbage and 60L of recycling per</p>	Yes

Objective	Requirement	Proposed	Compliance
		<p>week according to the approved waste management plan.</p> <p><u>Amount of waste expected to be generated:</u></p> <p>120L garbage x 19 apartments = 2280L/week. 60L recycling x 19 apartments = 1140L/week.</p> <p><u>Proposed number of bins:</u></p> <p>4 x garbage bins (660L each) = 2,640L capacity. 2 x recycling bins (660L each) = 1,320L capacity.</p> <p>Based on the above calculations the number of bins provided in the basement waste storage facilities remains adequate.</p>	

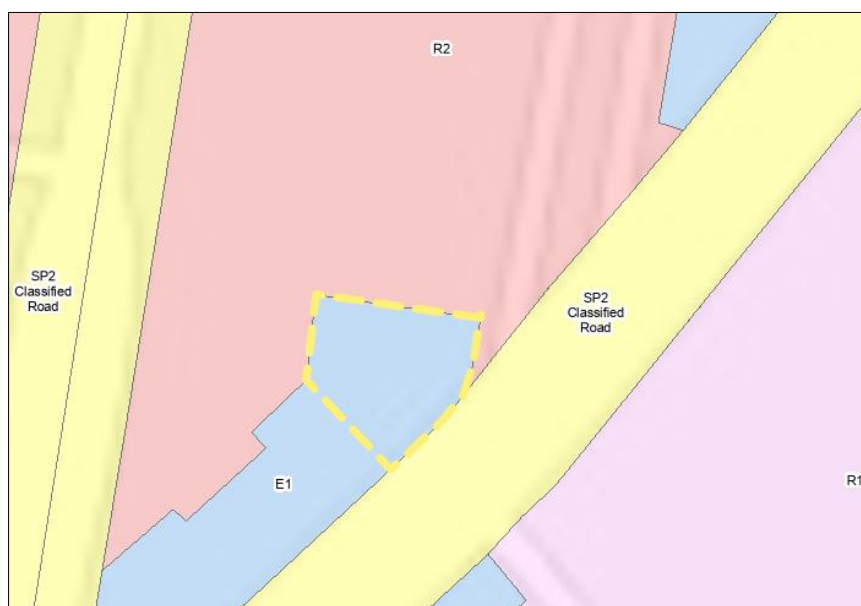
### **Burwood Local Environmental Plan (BLEP) 2012**

The BLEP 2012 came into effect on 9 November 2012 and contains a number of controls including development standards which apply to the proposed development. A summary of the assessment of the application against the relevant planning controls within the BLEP 2012 is shown below.

#### **Permissibility of the development in the zone**

**Land Use Zone:** E1: Local Centre.

**Proposal:** The development is a mixed-use building that is part *residential flat building* and part *commercial premises*, both which are permissible land uses in the E1: Local Centre zone with consent.



**Figure 23:** Zoning extract showing the subject site (indicated with yellow dashed lines) within the E1: Local Centre zone. Source: NSW Planning Portal (2025).

#### Compliance with relevant BLEP development standards

BURWOOD LEP 2012 – COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO/NA	COMMENTS
4.1 Minimum Lot Size		✓	No subdivision of land proposed. N/A
4.3 Height of Buildings		✓	<p><u>Maximum Height of Buildings under BLEP:</u> 20m.  <u>Height of the proposed works:</u> 20.73m (60.30 AHD), to the top of the lift overrun. The proposed works exceed 20m by 0.73m, which is a variation to the development standard of 3.65%.</p> <p>Council has no objections to the proposed variation to the development standard in this instance. Despite a written request pursuant to clause 4.6 of the BLEP not being required for the contravention of a development standard arising as a result of a modification application, justification of Council's support for the variation is provided below in this report.</p> <p><b>NOTE:</b> The approved 'architectural roof feature' at the north-eastern corner of the site remains unchanged from the original approval at a height of 21.14m (60.71 AHD). Although the top of the architectural roof feature is above 20m in height, it was supported by Council pursuant to 'Clause 5.6 Architectural roof features' of the BLEP.</p>
4.4 Floor Space Ratio (FSR) and	✓		<u>Clause 4.4 of LEP Development Standard:</u>

BURWOOD LEP 2012 – COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO/NA	COMMENTS
4.4A Exceptions to floor space ratio			<p>Maximum FSR of 2.5:1 (2087.5m<sup>2</sup> of gross floor area)</p> <p><u>Total Approved FSR:</u> 2.065:1 (1724.75m<sup>2</sup> of gross floor area)</p> <p><u>Total Proposed FSR:</u> 2.46:1 (2057.13m<sup>2</sup> of gross floor area)</p> <p><u>Clause 4.4A(3)(e) – maximum residential FSR:</u> 2.20:1 (1837m<sup>2</sup> of gross floor area) in 'Area 5'.</p> <p><u>Proposed Residential gross floor area:</u> 1831.25m<sup>2</sup> or 2.19:1.</p> <p>The proposal is compliant with applicable maximum FSR requirements.</p>
5.10 Heritage Conservation		✓	The site does not contain a heritage item and is not within a heritage conservation areas. There are no heritage items or heritage conservation areas within the vicinity of the site.
5.6 Architectural roof features	✓		The approved 'architectural roof feature' at the north-eastern corner of the site remains unchanged from the original approval at a height of 21.14m (60.71 AHD). Although the top of the architectural roof feature is above 20m in height, it was supported by Council pursuant to 'Clause 5.6 Architectural roof features' of the BLEP.
6.1 Acid Sulfate Soils		✓	<p>Is the proposal affected by acid sulfate soils?</p> <p><b>Comment:</b> The land is classed as having Class 5 acid sulfate soils - meaning there is low chance of acid sulfate within the soil which can impact development.</p> <p>Excavation of the basement has already been carried out, considering that the building is partially constructed.</p> <p>An acid sulfate soil management report is not required with this modification application as excavation has already been carried out.</p>
6.2 Flood Planning		✓	<p>Is the site identified as a flood identified site in Council's flood planning mapping?</p> <p><b>Comment:</b> No.</p>
6.3 Active Street Frontages		✓	<p>Do BLEP 2012 Active Street Frontages provisions apply to the site?</p> <p><b>Comment:</b> No.</p>

6.5 Design excellence in Zones E1 and MU1

The objective of this clause is to deliver the highest standard of architectural, landscape and urban design.

**7.**

This clause applies to development involving the erection of a new building of 3 or more storeys on land in Zone E1 Local Centre or Zone MU1 Mixed Use.

**8.**

Development consent must not be granted for development to which this clause applies unless the consent authority is satisfied that the development exhibits design excellence.

**9.**

As noted, the application was referred to Council's Design Review Panel (DRP) for comment.

**10.**

In deciding whether the development exhibits design excellence, the consent authority must have regard to the following matters—

- (a) whether a high standard of architectural, landscape and urban design has been achieved (including in the materials used and in detailing appropriate to the location, building type and surrounding buildings),

**Comment:** Amended plans submitted by the applicant are considered to provide a high standard of architectural, landscape and urban design, which has been achieved via the submission of amended material schedules (shown in **Figures 8 & 9**), redesign of the building façade that includes changes to window size, type and placement in order to provide a degree of continuity and interrelatedness in façade expression with the adjoining boarding house development at 325-239 Liverpool Road.

The corner 'architectural roof feature' at the north-eastern corner of the site will remain unchanged, and will remain as the highest point of the building.

The removal of ad-hoc, unintegrated rooftop structures associated with the removed Level 5 communal open space will result in a less cluttered and more orderly appearance for the rooftop when viewed from the streetscape.

No changes are proposed to ground floor landscaping. In order to achieve a high standard of landscape design to the new Level 3 communal open space, Council will impose a condition of approval requiring that a landscape plan (inclusive of specifications and details) be submitted. The plan must be prepared by a qualified landscape architect and incorporate a diverse range of plant species suitable for a rooftop garden and include perimeter plantings to enhance privacy, particularly between the communal open space and adjoining properties to the north. The landscape plan must be approved in writing by Council's Manager of City Development, prior to the issue of a Construction Certificate.

The key objections raised by Council's Design Review Panel (DRP) in relation to architectural and urban design have generally been addressed by the applicant and the proposal is now considered satisfactory.

- (b) whether the form and external appearance of the proposed building, and ground level detailing, will significantly improve the quality and amenity of the public domain,

**Comment:** No significant changes are proposed to the approved ground floor facades, however, the redesign of the building facades and improvements to façade architectural expression are considered to improve the quality and amenity of the public domain.

- (c) how any streetscape and heritage issues have been addressed,

**Comment:** Streetscape impacts of the proposal have been discussed in this report as part of the assessment against relevant provisions of the Housing SEPP 2021 and Council's DCP. The site is

not a flood-affected property. The site does not contain a heritage item and is not within a heritage conservation area. There are no heritage items or heritage conservation areas within the vicinity of the site.

- (d) whether the amenity of the surrounding area, including any view corridors, vistas or landmark locations, will be adversely affected,

**Comment:** The proposal does not interfere with or compromise any significant views or vistas. The 'architectural roof feature' at the north-eastern corner of the site will remain unchanged, and will remain as the highest and most distinct feature of the building when viewed externally. Overshadowing is generally cast towards Liverpool Road, rather than over adjoining residences. The proposed modifications are not expected to increase any adverse amenity impacts on the surrounding area.

- (e) how traffic circulation and vehicular access will be addressed and whether the proposed development supports the provision of high quality pedestrian, cycle and service access,

**Comment:** The site is located on a well-connected transport corridor within the Enfield local shopping centre. No changes are proposed to the approved basement parking and access arrangements, which will provide eight (8) dedicated bicycle spaces. The proposed modifications do not detract from or reduce the quality of pedestrian, cycle and service access within the approved development.

- (f) whether any adverse effect on pedestrian movement and experience will be avoided (and whether the public transport interchange as the focal point for pedestrian movement in the surrounding area will be reinforced and the ease of pedestrian access to and from that interchange will be facilitated),

**Comment:** At-grade and unimpeded pedestrian access is provided to public bus stops located in front of the development on Liverpool Road, which provide access towards the City, Burwood and Ashfield, Strathfield and Belmore.

- (g) whether the development supports an integrated land use mix in Zones E1 and MU1, including a diversity of public open spaces at the ground level, as well as the roof and other levels of buildings,

**Comment:** The proposal provides an integrated mix of land uses appropriate for the E1 zone. Commercial premises with active street frontages are provided at ground level fronting Liverpool Road, and residential uses are provided in the rest of the building. Communal open space is provided both at ground level in the rear setback area and on the Level 3 rooftop. Communal open space on both on levels will take advantage of a northerly aspect and will be appropriately landscaped.

- (h) how the bulk, mass, modulation, separation, setback and height of buildings have been addressed and whether they are appropriate in the context of existing and proposed buildings,

**Comment:** These matters have been discussed above in this report as part of the assessment against the provisions of the ADG, and in the discussion of referral comments from Council's DRP.

- (i) whether a high standard of ecologically sustainable design (including low-energy or passive design) will be achieved and overshadowing, wind effects and reflectivity will be minimised.

**Comment:** The applicant has submitted a valid revised BASIX certificate with the proposal in accordance with State Environmental Planning Policy (Sustainable Buildings) 2022 - Chapter 2 Standards for residential development—BASIX.

Proposed external materials, colours and finishes (shown in **Figures 8 & 9**) are not expected to result in excessive reflectivity.

Condition of approval shall be imposed to require that ceiling fans be installed within all living rooms and bedrooms of residential apartments where practicable.

**Conclusion:** Based on the responses to points (a) – (i) above the proposal is considered to satisfy the relevant considerations of 'Clause 6.5 Design excellence in Zones E1 and MU1' of the BLEP and exhibits design excellence.

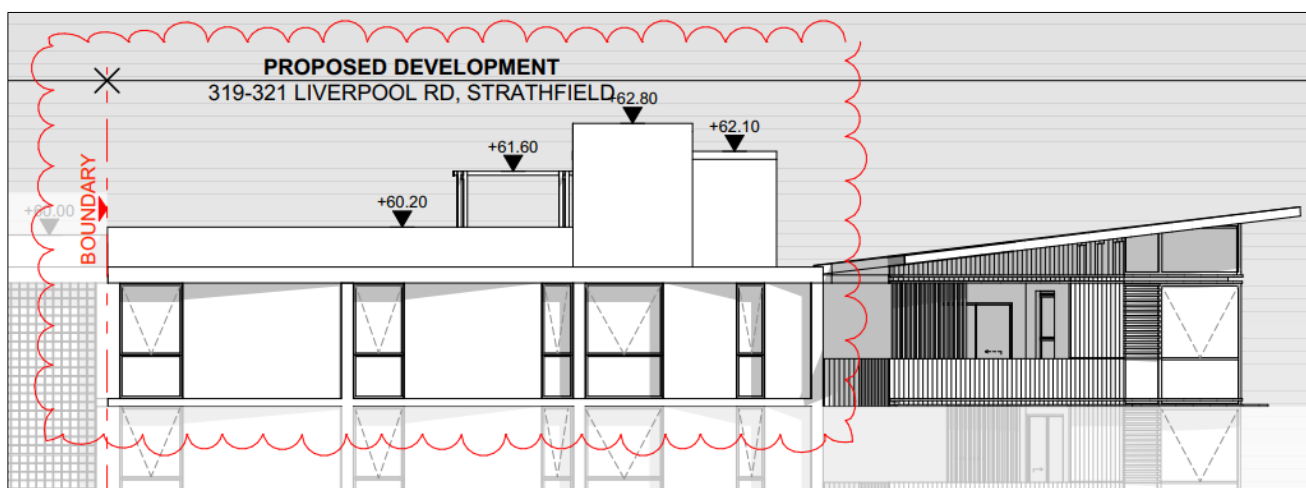
#### Proposed variation to Clause 4.3 Height of Buildings development standard

##### *Initial plans submitted by the applicant in August 2024*

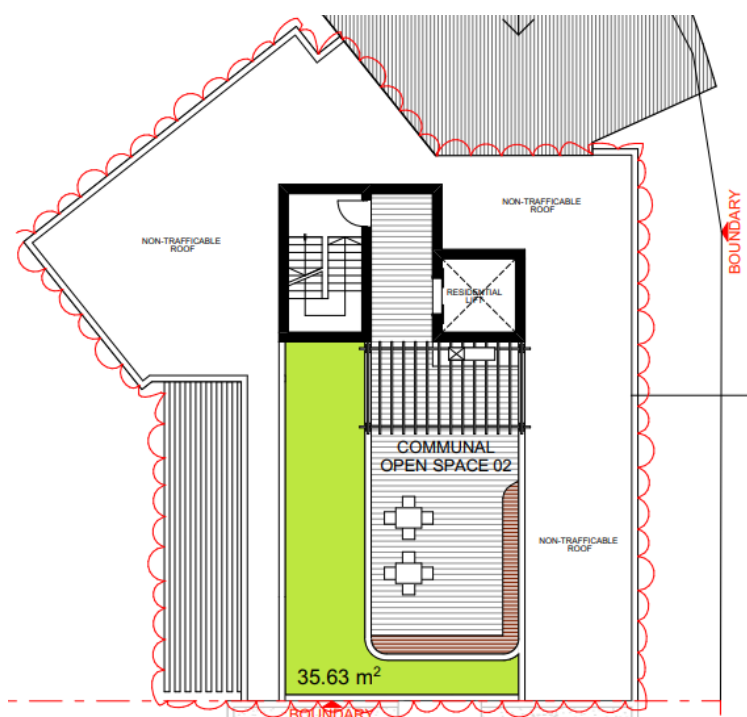
Initial plans submitted by the applicant with this modification application provided a lift overrun extending up to a height of 62.80 AHD (23.23m above ground level), which represented a variation to the development standard of 3.23m or 16%. This initial proposal was not supported by Council (including the DRP) due to the dominance of the lift overrun within the streetscape, and considered its visual impact to be unacceptable and contrary to good urban design practice. The lift overrun, extending 3.80m above the height of the building roof which stands at 59.00 AHD, detracted from the architectural presentation of the building, was not designed to be a recessive feature or integrated into the roof form of the building. The presentation of the lift overrun, and accompanying ad-hoc rooftop structures associated with the rooftop communal open space, together created a cluttered and unintegrated appearance when viewed from the public domain. The applicant sought to justify the height of the lift overrun on the following grounds:

- *The lift overrun would be set back from Liverpool Road and Willee Street, and would be viewed minimally from the streetscape.*
- *The proposal would not materially alter the exposure to sky or daylight for existing buildings or public areas. The small amount of additional shadow would generally be cast over Liverpool Road and not impact the neighbouring properties.*
- *The proposal would not alter solar access to adjacent buildings, or any significant public space given that any additional overshadowing would primarily be cast upon Liverpool Road.*

Council did not agree with the applicant's justification. Council therefore requested amended plans from the applicant to resolve the issue.



**Figure 25:** Elevation view of the initial proposal that is not supported by Council. Source: Ghazi Al Architect (2024).



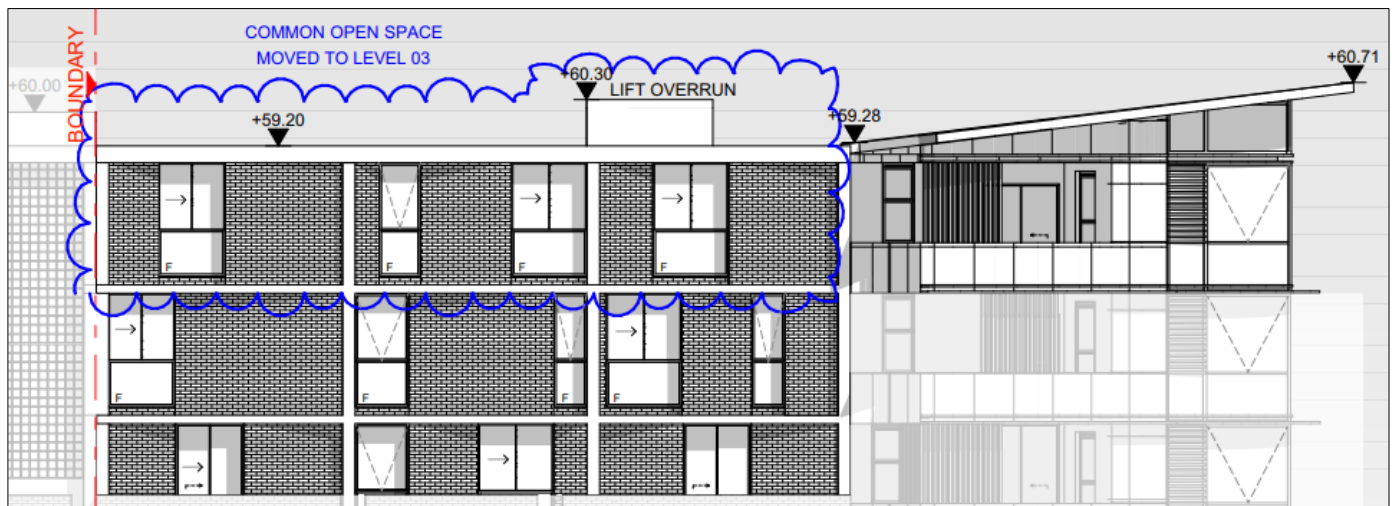
**Figure 26:** Rooftop view of the initial proposal that is not supported by Council. Source: Ghazi Al Architect (2024).

#### *Amended plans submitted by the applicant in December 2024*

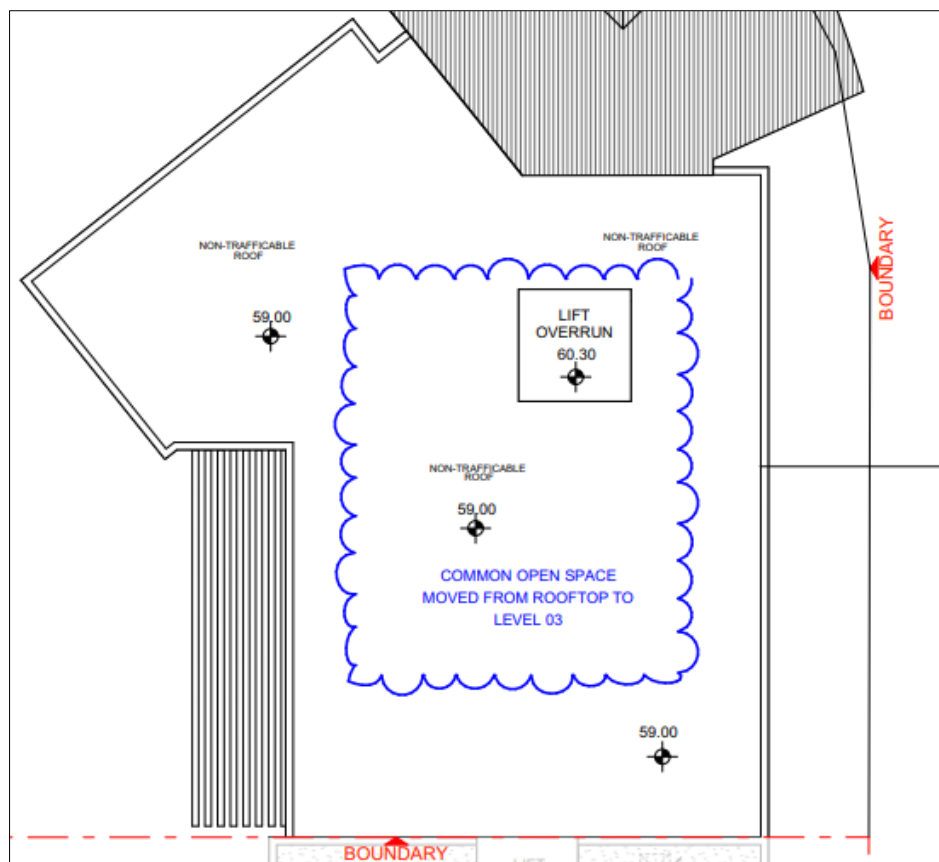
The amended plans submitted by the applicant seek to exceed the 20m height of buildings development standard by 0.73m (a variation to the development standard of 3.65%), a reduction from the 16% variation proposed by the initial plans. The extent of the variation is limited to the lift overrun which will have a maximum height of 20.73m (60.30 AHD), which is 1.30m above the height of the roof which stands at 59.00 AHD. It is noted that the lift overrun will not be the highest part of the building, with the highest part of the building being the approved 'architectural roof feature' at the north-eastern corner of the site. Council is of the view that variation to the development standard of 3.65% in relation to the lift overrun can be supported for the following reasons:

- The amended plans reduce the height of the lift overrun from 62.80 AHD to 60.30 AHD (a reduction in height of 2.50m. This will significantly reduce the visual prominence when viewed from the streetscape.

- The Level 5 rooftop communal open space has been relocated to Level 3. This includes the removal of stair and lift access to the rooftop, as well as the removal of unintegrated pergola and stairwell structures that would be visible from the streetscape. This will result in a less cluttered more orderly appearance of the rooftop when viewed from the public domain.
- The lift overrun is setback from the front building façade and the small amount of additional shadow would be cast predominately towards Liverpool Road and not over adjacent residences.



**Figure 27:** Elevation view of the amended proposal that is supported by Council. Source: Ghazi Al Architect (2024).



**Figure 28:** Rooftop view of the initial proposal that is supported by Council. Source: Ghazi Al Architect (2024).

**Burwood Development Control Plan (BDCP)**

The Burwood Development Control Plan (BDCP) applies to the proposed development. A summary of the assessment of the application against the relevant objectives and provisions within the BDCP is shown below.

<b>BURWOOD DCP – COMPLIANCE WITH OBJECTIVES &amp; PROVISIONS</b>	<b>YES</b>	<b>NO</b>	<b>COMMENTS</b>
<b>Part 2</b> Site & Environmental Planning	✓		<p><b>Part 2.2 Site Analysis:</b> Detailed site analysis provided as part of the original approved development application. Important considerations such as pedestrian and vehicle access, building orientation, solar access and privacy remain generally consistent with the original DA.</p> <p><b>Part 2.3 Views and Vistas:</b> The proposal does not interfere or compromise any significant views of vistas.</p> <p><b>Part 2.4 Streetscape:</b> The proposal is considered to be an improvement in terms of presentation to the streetscape as outlined explained above in this report.</p>
<b>Part 3.2</b> General Building Design Controls in Centres and Corridors	✓		<p><b><u>3.2.1 Building Design</u></b></p> <p><u>Objective</u></p> <p><b>O1</b> To ensure that new buildings:</p> <ul style="list-style-type: none"> <li>• Represent architectural and urban design excellence.</li> <li>• Provide cohesive and visually interesting building appearance.</li> <li>• Respond to surrounding notable buildings and enhances the streetscape.</li> <li>• Integrate roof design with the building character and enhances the skyline.</li> <li>• Encourage rooftop gardens and planting on structures that enhance the quality and amenity of open space.</li> </ul> <p><b>Comments:</b></p> <p>These matters are discussed in detail above in this report as part of the assessment of the proposal against the relevant Design Quality Principles in Schedule 9 of the Housing SEPP 2021 and the ADG. Furthermore, an assessment of the proposal against 6.5 Design excellence in Zones E1 and MU1 has been carried out. The proposal is considered to satisfy the objective.</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<p><b><u>3.2.2 Materials and Finishes</u></b></p> <p><u>Objectives</u></p> <p><b>O1</b> To ensure that the use of superior quality external materials and finishes:</p> <ul style="list-style-type: none"> <li>• Contributes to architectural and urban design excellence.</li> <li>• Provides cohesive and visually interesting building appearance.</li> <li>• Responds to surrounding notable buildings and enhances the streetscape.</li> <li>• Provides longevity in external materials and finishes that are of superior quality.</li> </ul> <p><b>Comments:</b> These matters are discussed in detail above in this report as part of the assessment of the proposal against the relevant Design Quality Principles in Schedule 9 of the Housing SEPP 2021 and the ADG. Furthermore, an assessment of the proposal against 6.5 Design excellence in Zones E1 and MU1 has been carried out. The proposal is considered to satisfy the objective.</p> <p><b><u>3.2.3 Lighting and Signage</u></b></p> <p><b>O1</b> To ensure that that building lighting and signage:</p> <ul style="list-style-type: none"> <li>• Contribute to architectural and urban design excellence.</li> <li>• Provide cohesive and visually interesting building appearance.</li> </ul> <p><b>Comments:</b> No signage is proposed as part of this application. Future signage can be erected as exempt development or via a separate development consent.</p> <p>Conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.</p> <p><b><u>3.2.4 Street-Front Activities and Building Access</u></b></p> <p><u>Objectives</u></p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<ul style="list-style-type: none"> <li>• <b>O1</b> To encourage pedestrian safety, visual interest and activity at street level.</li> <li>• <b>O2</b> To promote street front activities, especially along streets of high pedestrian use.</li> <li>• <b>O3</b> To create building entrances that are safe and contribute positively to the streetscape and building façade design.</li> <li>• <b>O4</b> To further strengthen activity along classified roads in centres such as Burwood Road, Liverpool Road, Georges River Road and Parramatta Road.</li> </ul> <p><b>Comments:</b></p> <p>The proposal is located within the Enfield local shopping centre and will have two (2) commercial premises at ground floor level facing the primary. The intention of the BLEP is to limit the density of residential development in certain employment zones to ensure that it does not dominate non-residential development. The ground floor commercial premises are consistent with this requirement and are intended to provide an active street frontage within a local centre and strengthen street-front activity on Liverpool Road.</p> <p>Conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.</p> <p>Condition of approval has been imposed to ensure that the building number (street address) is provided in a prominent location visible from the primary street frontage.</p> <p><b><u>3.2.7 Residential Flat Buildings and Shop Top Housing</u></b></p> <p><u>Provisions</u></p> <p><b>P2</b> In the E1 Local Centre zone only shop top housing is permitted. In this zone the residential component of a mixed development comprising one or more dwellings is regarded as shop top housing, and the use of the ground floor is</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<p>restricted to retail or business premises.</p> <p><b>Comment:</b> No significant changes are proposed to the approved commercial element of the development, other than the removal of a commercial lift and a corresponding increase to the commercial floor area. No residential apartments occupy the ground floor street frontage. The ground floor remains consistent with the intention of this provision which is to provide an active street frontage within a local centre and strengthen street-front activity on Liverpool Road.</p> <p><b><u>3.2.18 Safety and Security</u></b></p> <p><u>Provisions</u></p> <p><b>P1</b> The routes between a development's entrance and its dwellings must be designed to maximise occupant safety. The routes from car parking areas to the lift lobby are particularly important in this regard. Clear sight lines and well-lit routes must be provided.</p> <p><b>Comment:</b> No changes are proposed to car parking or vehicle access arrangements as part of this modification application. Amended plans provided by the applicant have amended the ground floor level to push the mailboxes out to the street alignment which has reduced the possibility for entrapment between doors.</p> <p>As noted, conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.</p> <p><b>P3</b> Development must be provided with clearly defined site boundaries to strengthen the distinction between public and private space.</p> <p><b>Comment:</b> The distinction between the private development and adjoining public domain is clearly defined, considering that the building is built up to the street frontage.</p> <p><b>P4</b> Facades at ground level must be activated by locating after hours uses so</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<p>they are visible from the publicly accessible areas.</p> <p><b>Comment:</b> The pedestrian entries to the building remain clearly visible from public areas.</p> <p><b>P5</b> Development access must be controlled by:</p> <ul style="list-style-type: none"> <li>• Restricting access from balconies, roofs and windows of neighbouring development.</li> <li>• Providing separate access from public and common areas.</li> <li>• Providing separate access for residents in mixed-use developments.</li> <li>• Providing an audio or video intercom system at the pedestrian or vehicular entrance or in the lobby for visitors to communicate with residents.</li> <li>• Providing secure keyed or electronic access for residents. P6 Concealment opportunities must be minimised from development by:</li> <li>• Eliminating blind or dark alcoves near lifts and stairwells.</li> <li>• Providing clear sight lines and well lit routes throughout the development.</li> <li>• Providing appropriate levels of illumination for all common areas.</li> </ul> <p><b>Comments:</b></p> <p>The two (2) additional apartments, as well as modified apartments, do not raise concern regarding inappropriate or unauthorised access from neighbouring buildings.</p> <p>Common areas / communal open space is not directly accessible from the public domain. No changes are proposed to the approved ground floor communal open space.</p> <p>Conditions of approval has been imposed requiring the doors of the residential entry foyer to the building are to be security grade features and are to be appropriately security keyed to ensure the personal safety and security of residents of the development. An intercom system linked</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<p>to each apartment is to be included in these security arrangements. Details on these matters are to be submitted and approved prior to the issue of a Construction Certificate.</p> <p>Condition of approval shall be imposed to limit access to the Level 3 rooftop communal open space between the hours of 10pm and 7am, in order to maintain residential amenity at night for occupants of the development and of nearby properties.</p> <p>Conditions of approval requiring the installation of safety and security night lighting were imposed on the original development application and will remain in force.</p> <p>The development is located on a high traffic classified road (Liverpool Road / Hume Hwy) within a local centre. Members of the public will be passing the development throughout all hours of the day including past the pedestrian entries.</p> <p><b>P7</b> Residential development must be oriented so that primary windows and private open space address the street and publicly accessible areas.</p> <p><b>Comment:</b> The majority of primary windows and private open space areas of the two (2) additional apartments, as well as modified apartments, face either the ground level communal open space in the north-west of the site or towards the street frontages. The orientation of the building remains as approved.</p> <p><b>P8</b> Where, as a result of the nature of the development, there are specific security requirements, security measures must form an integral part of the building design.</p> <p><b>Comment:</b> There are no specific or exceptional security requirements for the building.</p> <p><b>P9</b> Fully enclosed roller shutters are not permitted to shop fronts or other business premises. Retractable open security grilles may be considered.</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			<p><b>Comment:</b> No roller shutters are provided and will not be permitted.</p> <p><b>P10</b> Security bars, roller shutters or fixed grilles visible from the public domain on any commercial, retail or business premises are prohibited.</p> <p><b>Comment:</b> No roller shutters are provided and will not be permitted.</p> <p><b><u>3.2.19 Access and Mobility</u></b></p> <p><u>Provisions</u></p> <p><b>P1</b> The main entry of development must be designed and identified for use by persons with a mobility impairment.</p> <p><b>Comment:</b> The main pedestrian entry of development remains at-grade.</p> <p><b>P2</b> The main entry must be accessible from the street footpath in accordance with Australian Standard (AS) 1428: Design for Access and Mobility.</p> <p><b>Comment:</b> The main pedestrian entry of development remains at-grade.</p> <p><b>P3</b> Safe and convenient access must be provided in all development, car parks and communal facilities.</p> <p><b>Comment:</b> No changes are proposed to the ground floor communal open space or basement car parking arrangements, which will remain as approved.</p> <p>New communal open space on Level 3 will be able to be accessed via the common residential lift and will be at-grade with internal common corridors of the building.</p> <p><i>Residential Component of Development</i></p> <p><b>P6</b> At least 10% of dwellings in a development must be provided as adaptable housing to Adaptable House Class A or B standard to cater for ageing in place and mobility impaired residents, in accordance with AS 4299: Adaptable Housing.</p> <p><b>Comment:</b> Council imposed a condition of</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			approval on the original DA requiring two (2) dwellings shall be provided as Adaptable Housing Class A or B standard to cater for ageing in place and mobility impaired residents, in accordance with Australian Standard (AS) 4299: Adaptable Housing. This condition of approval shall remain in force.
<b>Part 3.5</b> Area Based Controls – Local and Neighbourhood Centres – 3.5.2 Enfield Local Centre	✓		<p><u>Provisions</u></p> <p><b>P1</b> Development must be built to the street front boundary.</p> <p><b>Comment:</b> The development will remain built to the street boundary.</p> <p><b>P2</b> All development located on a corner site must be built to the street front boundary except the area required for any rear setback.</p> <p><b>Comment:</b> The site is located at the corner of Liverpool Road and Willee Street and will remain built to the street boundary at all frontages.</p> <p><b>P3</b> All ground level setbacks are to be finished at-grade with the Council footpath and finished with footpath materials to match Council's current public domain requirements.</p> <p><b>Comment:</b> No changes are proposed to ground level setbacks which are finished at-grade with Council's footpath as approved.</p> <p><b>P4</b> Development at ground level must have an active street frontage (entrances, shop front, glazing) at the same general level as the footpath, and be accessible directly from the street.</p> <p><b>Comment:</b> The ground floor remains consistent with the intention of this provision which is to provide at-grade direct access from the street to street facing commercial premises.</p> <p><b>P5</b> The front setback area must be free of projections or encroachments, except for approved awnings and at-grade landscaping.</p> <p><b>Comments:</b> The modification application</p>

BURWOOD DCP – COMPLIANCE WITH OBJECTIVES & PROVISIONS	YES	NO	COMMENTS
			does not include proposed any new projections or encroachments.
<b>Part 3.9</b> Transport and Parking in Centres and Corridors		✓	Car Parking has been assessed as part of the Apartment Design Guide assessment above in this report
<b>Part 6.2</b> Waste Management	✓		Waste management has been assessed as part of the Apartment Design Guide assessment above in this report
<b>Part 6.5</b> Stormwater Management	✓		<b>Comment:</b> The modification application was referred to Council's development engineers for review and comment. No objections were raised. No changes are required to existing conditions of approval.
<b>Part 6.6</b> Landscaping for Development	✓		<b>Comment:</b> Council will impose a condition of approval requiring that a landscape plan (inclusive of specifications and details) be submitted. The plan must be prepared by a qualified landscape architect and incorporate a diverse range of plant species suitable for a rooftop garden and include perimeter plantings to enhance privacy, particularly between the communal open space and adjoining properties to the north. The landscape plan must be approved in writing by Council's Manager of City Development, prior to the issue of a Construction Certificate.

### **The regulations (of the EP&A Act)**

The *Environmental Planning and Assessment Regulation 2021* requires the consent authority to consider the provisions of the Building Code of Australia (BCA) and impose prescribed conditions for development approvals. A standard condition of approval shall be imposed to ensure that all works are carried out in accordance with the Building Code of Australia. Furthermore, the application shall be conditioned so that a Construction Certificate must be issued for the approved building works prior to the commencement of any building works.

### **The likely social, environmental and economic impacts of the development**

The impacts of the development will be those associated with the construction and ongoing occupation of a six storey mixed-use building on a busy road within an important local centre and well connected transport corridor. The application complies with relevant development standards contained in applicable state environmental planning policies and the local environmental plan and conditions of approval have been imposed on the development to ensure that any environmental, social and economic impacts are properly managed during development works and on an ongoing basis.

### **The suitability of the site for development**

The proposal is a permissible form of development in the E1 Local Centre and generally satisfies the key planning controls for the site as detailed above, and is considered to be suitable for the site.

**The public interest**

It is considered that the proposed development is generally in the public interest provided that appropriate conditions of approval are imposed to mitigate any adverse environmental impacts.

**Submissions made under the Act and Regulations**

The application was publicly notified in accordance with Council's Burwood Community Engagement Strategy 2023-2026. No submissions were received.

**Community Consultation**

The application was publicly notified in accordance with Council's Burwood Community Engagement Strategy 2023-2026. No submissions were received.

**Referrals****Burwood Design Review Panel (DRP)**

The application was referred to Council's DRP. DRP comments are provided in detail above in this report.

**Development Engineering**

The modification application was referred to Council's development engineers for review and comment. No objections were raised. No changes are required to existing conditions of approval.

**Conclusion**

The proposed development is consistent with the relevant matters for consideration under Clause 4.15 of the Environmental Planning & Assessment Act 1979, as detailed above in this report. Therefore, the proposal is recommended for approval.

**Recommendation(s)**

That this Section 4.56 modification to development application no. BD.2018.048, which proposes to add two (2) additional residential units, as well as make other amendments as detailed above in this report, to an approved six storey mixed-use building at 319-321 Liverpool Road, Strathfield NSW 2135, be approved subject to the conditions of approval contained in **Attachment 1**.

**Attachments**

- 1⇒ Attachment 1 - Recommended Conditions of Approval (*Excluded from agenda*)
- 2⇒ Attachment 2 - Architectural Plans (*Excluded from agenda*)
- 3⇒ Attachment 3 - Statement of Environmental Effects (*Excluded from agenda*)