



Burwood Inc.1874

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NOTICE OF BURWOOD LOCAL PLANNING PANEL MEETING

The meeting of the Burwood Local Planning Panel will be held at on Thursday 27 March 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 Thursday 27 March 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. Development Applications

(Item DA4/25)	Section 4.55(2) Modification to BD.2016.021 at 199 Burwood Road, Burwood.	3
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Development Applications

(Item DA4/25) Section 4.55(2) Modification to BD.2016.021 at 199 Burwood Road, Burwood.

File No: 25/12327

Report by Development Assessment Planner

Owner: AFAR INVESTMENTS PTY LTD
Applicant: Mr John Khouri
Location: Burwood
Zoning: MU1 Mixed Use

Proposal

Section 4.55(2) Modification to an approved four storey mixed-use development comprising of 15 units, 3 commercial tenancies, basement car park and rooftop communal open space, located at No. 199 Burwood Road, Burwood.



Figure 1: Artists impression of the proposed development viewed from the intersection of Burwood Road and Woodside Avenue, looking north-west. The adjoining approved boarding house development at 197-197A Burwood Road is also shown. Source: Urban Link Architects (2024).

The modification seeks to increase the height of the building by 1.1 metres, and make a range of other amendments, as detailed below:

Basement level

- Increase the width of the vehicle ramp to achieve swept path compliance with Australian Standard AS2890.1 and ensure compatibility with the basement of the adjoining approved boarding house development to the south at 197-197A Burwood Road.
- Adjustments to the position of fire stairs and lift core to improve the design of residential lobby.
- Commercial car space relocated from at-grade ground floor level to basement.
- Basement floor level increased by 200mm to match the access ramp and connectivity with the adjoining approved boarding house development to the south at 197-197A Burwood Road.

Ground Floor

- Inclusion of an electrical substation based on services load demand calculations and approvals sought from the electricity provider. Due to the corner location of the site and with no vehicle access for maintenance from the Burwood Road, the substation must be located within the south-west corner of the building.
- Rationalising of accessible ramps.
- Accessible threshold to the residential lobby requires adjustment to RLs.
- Improvements to the design and layout of residential entry lobby with inclusion of glazing for direct line of sight to the street, adjustments to the position of the fire stair and lift core which will setback the lift overrun and stair access from the southern edge of the building at roof level.
- Increased the size of the above-footpath awning to improve weather protection to the residential lobby entrance.
- Essential services added.
- Ground floor floor-to-floor height increased by 1100mm to account for additional concrete slab thickness as recommended by detailed engineering design.

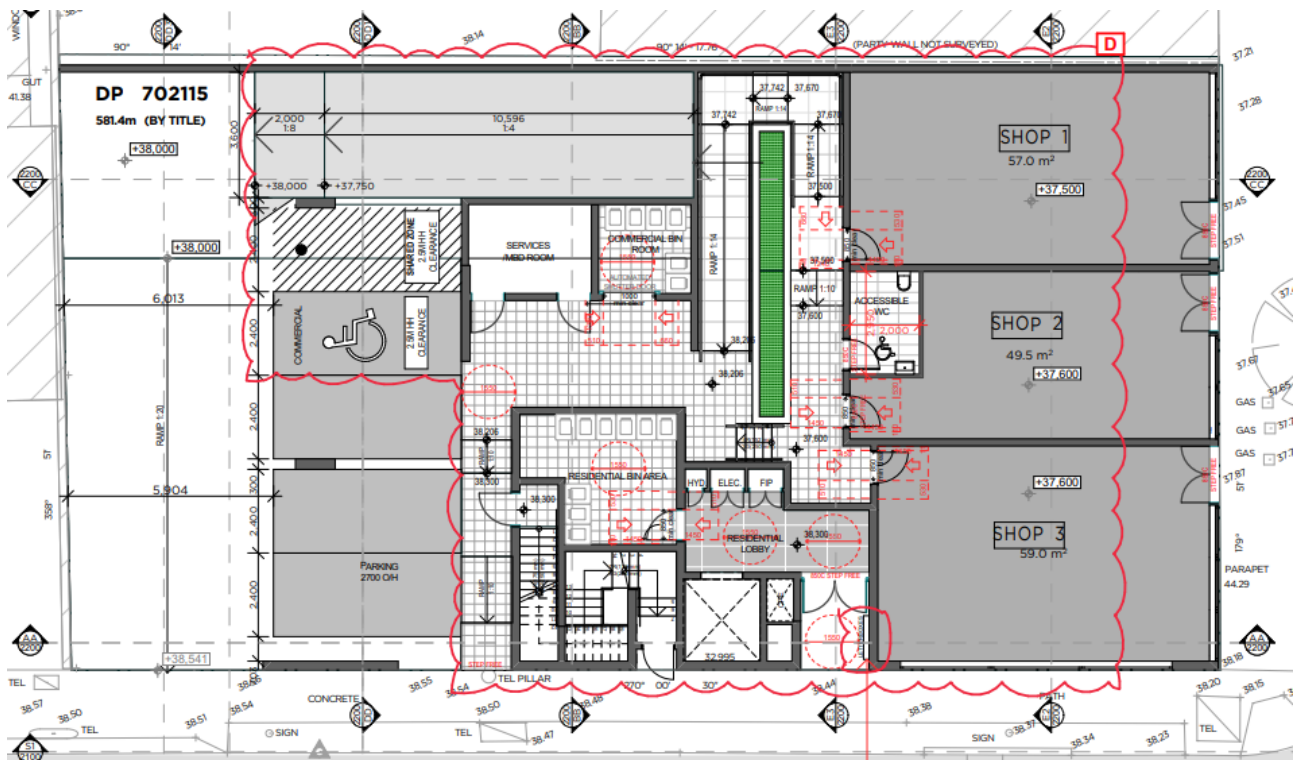


Figure 2: Ground floor plan of the development, as currently approved. Source: Urban Link Architects.

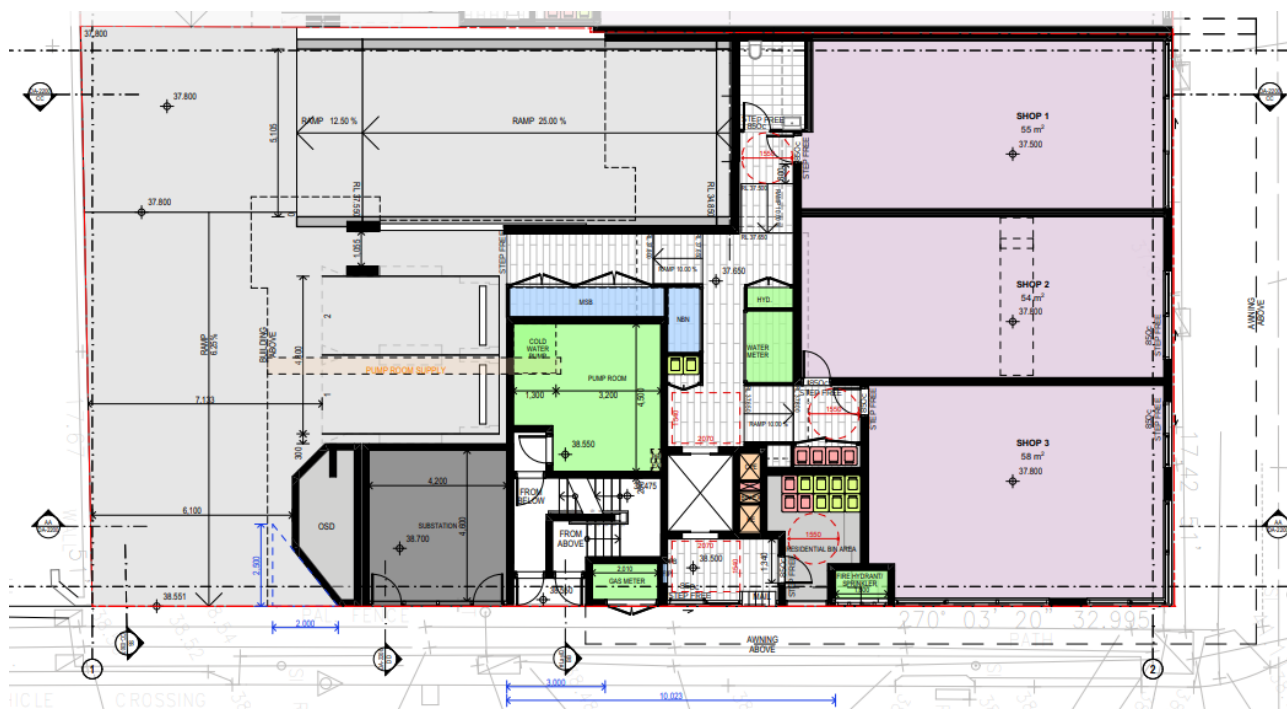


Figure 3: Ground floor plan of the development, as proposed by this modification application. Source: Urban Link Architects (2024).

Level 1

- Support columns added as required by engineering design detail.
- Essential services added.
- Minor façade changes.
- Stair and lift core moved northward (related to improvements in the residential lobby design).
- Minor adjustments to layout of Units 101 and 102 to accommodate for lift and stair core relocation.
- Increased depth of balcony for Unit 104.
- Adjustment to layout of Unit 105 to achieve adaptable / accessible design requirements

Level 2

- Support columns added as required by engineering design detail.
- Essential services added.
- Minor façade changes.
- Stair and lift core moved northward (related to improvements in the residential lobby design).
- Minor adjustments to layout of Units 201 and 202 to accommodate for lift and stair core relocation.
- Increase depth of balcony for Unit 204.
- Adjustment to layout of Unit 205 to achieve adaptable/accessible design requirements.

Level 3

- Support columns added as required by engineering design detail.
- Essential services added.
- Minor façade changes.
- Stair and lift core moved northward (related to improvements in the residential lobby design).

Minor adjustments to layout of Units 301 and 302 to accommodate for lift and stair core relocation.

- Increase depth of balcony for Unit 304.
- Adjustment to layout of Unit 305 to achieve adaptable/accessible design requirements.

Rooftop

- Stair and lift core moved northward (related to improvements in the residential lobby design), and lift overrun and stair access to be less visible above the roofline.
- Essential services added.
- Additional glazing to protect lift opening from exposure to the weather.



Figure 4: Rooftop plan of the development, as currently approved. Source: Urban Link Architects.

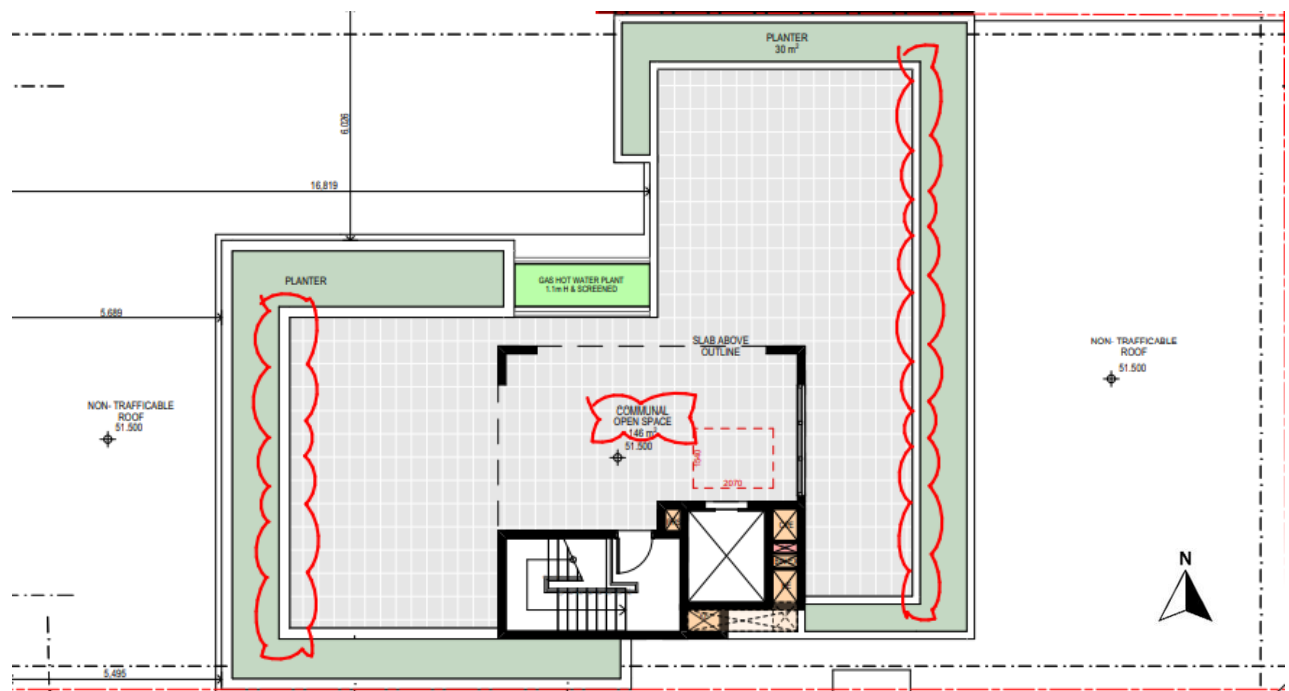


Figure 5: Rooftop plan of the development, as proposed by this modification application. Source: Urban Link Architects (2024).

Miscellaneous Changes - Summary

- Change to RLs on all levels above ground floor to accommodate increase in slab thickness as recommended by detailed engineering design.
- Units 105 and 205 made adaptable (instead of Unit 102) to accommodate for adjustments to the lift and stair core.
- Liveable Unit 101 bathroom door opening changed to achieve accessibility standards.
- Lift and stair core adjusted.
- Façade improvements including improvements to residential lobby design.
- Window adjustments responding to changes in unit internal layouts (as a result of accommodating for the adjustment of the lift and stair core).
- Lift and stair core moved northward to improve the design of residential lobby.
- 1100mm increase in overall building height.

Modification of Conditions of Consent

- Modification of condition no. 4 to reflect updated approved plans and documentation as a result of this modification application.
- Traffic and Transport conditions have been updated to reflect modified parking arrangements.
- An additional condition of approval is recommended to require that ceiling fans be installed within all living rooms and bedrooms of the residential apartments where practicable to improve the sustainability of the development and achieve design excellence.
- An additional condition of approval requiring a modified landscape plan (inclusive of specifications and details) be submitted for the rooftop communal open space. 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 and the amenity of the rooftop.
- Additional conditions of approval are recommended requiring the substation to be appropriately screened and provided with artwork to improve its appearance, that doors to the gas meter and fire hydrant/sprinkler/booster not open over the public domain, and that the external finish of the ground floor residential entry to Woodside Avenue be updated to visually distinguish its appearance from other ground floor doorways.
- Additional conditions of approval are recommended requiring the east-facing door at rooftop communal open space level adjacent to the lift entrance be deleted so that is not an enclosing wall.
- Additional conditions of approval requiring the stormwater drawings, waste management plan and accessibility compliance report be amended to reflect the modified proposal.
- Minors amendments to hours of demolition and construction conditions.

The resultant modified development summary is shown below:

Development Summary – Site Area 581.40sqm				
Item	Control	Approved	Proposed	Compliance
Gross Floor Area (LEP)	Max. 1162.8sqm	1160.5sqm	1162sqm	Yes
Floor Space Ratio (LEP)	Max. 2:1	1.99:1	2:1	Yes
Residential Floor Space Ratio (LEP)	Max. 1.8:1	1.68:1	1.68:1	Yes
Height of Buildings (LEP)	Max. 15m	15.735m	16.835m	No, but satisfactory

Solar Access (ADG)	Min. 70% (11 units)	12/15 units	No change	Yes
Cross Ventilation (ADG)	Min. 60% (9 units)	9/15 units	No change	Yes
Communal Open Space (ADG)	Min. 25% of site area (145.35sqm)	152sqm	146sqm	Yes
Deep Soil Landscape Area (ADG)	Min. 10% of site area	0	No change	No, but satisfactory

No changes are proposed to the approved car parking arrangements, which remain as 14x residential spaces (including 3x visitor spaces and 11x spaces allocated to units) and 1x commercial space = total of 15 car parking spaces.

No changes are proposed to the approved number of general waste or recycling bins.

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; and
2. The development contravenes the Height of Buildings development standard imposed by the Burwood Local Environmental Plan by 10%.

Background

Application History and Context

1. Development consent no. BD.2016.021 was approved by Council on 22 November 2016 for *Demolition and Erection of a Four Storey Mixed Development comprising 15 units, 3 Commercial Tenancies and basement Car Park.*
2. Section 4.55(1A) modification to development consent no. BD.2016.021 was approved by Council on 14 May 2020 *to include a new condition for an easement (right of way) ensuring unencumbered access over 199 Burwood Road, by No. 197-197A Burwood Road, which shall be registered with evidence provided to Council.*
3. Section 4.55(2) modification to development consent no. BD.2016.021 was approved by Council on 20 June 2022 *to increase the floor to floor height to 3.1m on levels 1 to 3 and increase the height of fire stairs and lift overrun on the roof top terrace and to modify material and finishes.*
4. Section 4.55(1A) modification to development consent no. BD.2016.021 was approved by Council on 21 November 2023 *to modify Condition 7 of Development Consent No 21/2016 relating to timing of the creation of an easement for access for the adjoining development.*

Directly adjoining the site to the north at 197-197A Burwood Road is an approved five storey mixed use development with ground floor commercial and a boarding house above containing 25 rooms including managers' room, and basement and ground level parking for 14 vehicles. The basement of the adjoining boarding house will be connected to and accessed via the basement of the subject development.

Current Application History

The subject Section 4.55(2) modification application was lodged with Council on 7 August 2024.

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

- Development Engineering.
- Traffic Department
- Waste Department

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.

Additional Information

The Statement of Environmental Effects (SEE) submitted with the application prepared by Planning Ingenuity dated 5 June, 2024 on page 7 states:

“Ground floor level floor to floor height increased by 1100mm to account for additional concrete slab thickness recommended by detailed engineering design”

During the assessment of this modification application Council requested information from the applicant’s engineer and architect to justify the proposed 1100mm increase in building height. The applicant subsequently provided the requested information to Council, including:

- Letter to Council in response to request for additional information, prepared by Georges Jreije, dated 13.01.2025 (*attached*).
- Substation Requirements, prepared by Ali Alaouie, dated 17.12.2024 (*attached*).
- Preliminary Structural Concept Plans (*attached*).

Council also requested further additional information from the applicant to rectify a shortfall of rooftop communal open space. Clarification was also sought regarding the purpose of the rooftop screen surrounding the lift and stair overrun. The applicant subsequently provided the additional information and rectified all outstanding issues via the submission of amended plans.

In summary, the applicant has provided all additional information requested by Council to enable a planning assessment of the proposal to be carried out.

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 (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.

These matters are considered in this report.

Locality

The location of the subject site is depicted in **Figures 6 and 7** below:

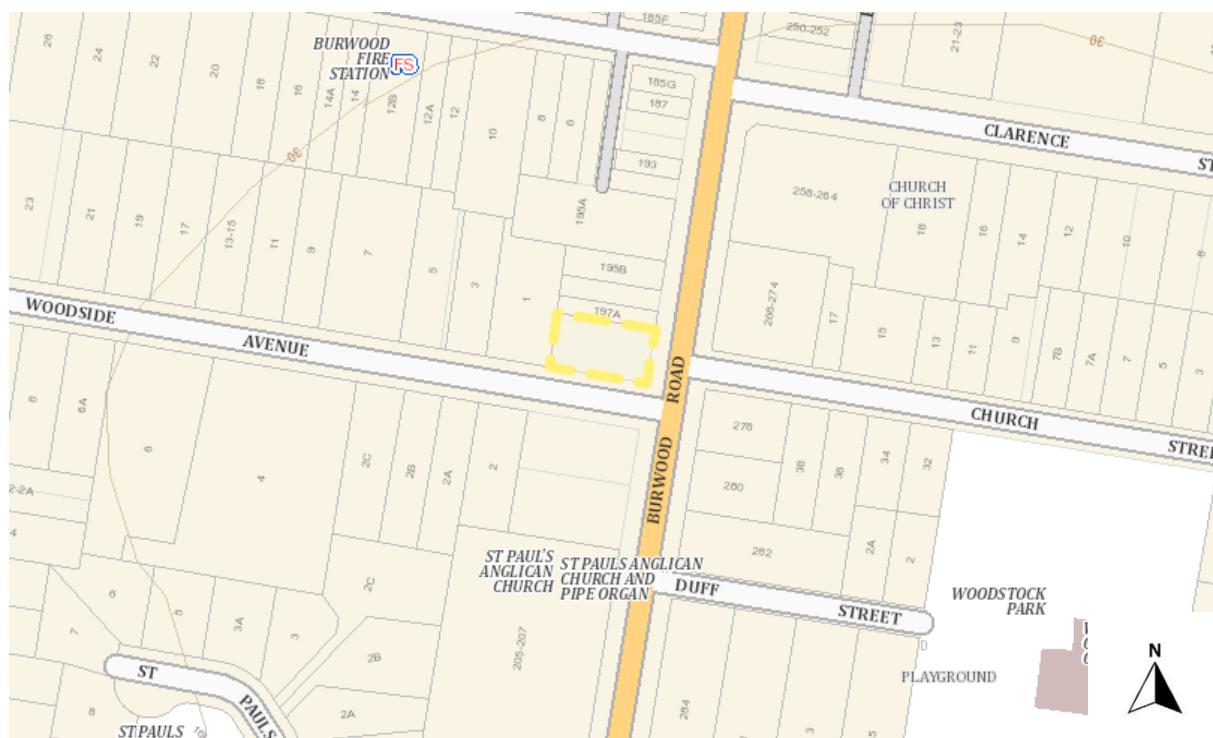


Figure 6: (above) Street map showing the subject site, 199 Burwood Road Burwood, indicated with yellow dashed lines. Source: NSW Planning Portal (2025).



Figure 7: (above) Aerial view showing the subject site, 199 Burwood Road Burwood, indicated with yellow dashed lines. Source: NSW Planning Portal (2025).

The site comprises one allotment occupied by single storey building separated into three shop tenancies fronting Burwood Road. There is a 3.5 metre wide right of carriageway adjacent to the western boundary which provides access to neighbouring properties to the north from Woodside Avenue. Together, the properties have a rectangular shape with a street frontage of 17.42 metres to Burwood Road, the rear western boundary has a length of 17.67 metres, the northern side boundary measures 33.305 metres and the southern side boundary to Woodside Avenue has a length of 32.995 metres. The total area is 581.4m². The site is relatively flat.

The subject site is located at the southern end of the Burwood Commercial Centre (transitional area). Adjoining to the north is a single storey shop and further north are two storey buildings containing ground floor commercial premises and first floor offices and shop-top housing. Opposite to the east is Church Street.

North east of the site is No. 266-274 Burwood Road which contains a four storey mixed use building with the uppermost level having the appearance of an attic with dormer windows. Further north is No. 258-264 Burwood Road, which contains a six (6) storey mixed use building.

The south east is No. 278 Burwood which comprises a two storey dwelling located within the St Paul's Close Heritage Conservation Area. South of the site on the opposite alignment of Woodside Avenue are Nos. 201 and 203 Burwood Road, which contains a two storey building. This building is heritage item 129, which is described as Victorian Villas of local significance under BLEP 2012. The building comprises rooms at ground floor level and two apartments on the first floor.



Figure 8: View of the subject site, situated on the corner of Woodside Avenue and Burwood Road, as seen from the eastern side of Burwood Road looking north. Source: Alastair Sim 2025.



Figure 9: View of the front of the subject site and adjacent development, as seen from the western side of Burwood Road looking north. Source: Alastair Sim 2025.



Figure 10: View of the rear of the subject site as viewed from Woodside Avenue looking east towards Burwood Road. Source: Alastair Sim 2025.



Figure 11: View of the rear of the subject site and adjacent development on the northern side of Woodside Avenue looking east. Source: Alastair Sim 2025.



Figure 12: View of the front of the subject site and adjacent development to the south on Burwood Road. Source: Alastair Sim 2025.

Planning Assessment

Section 4.55(2) of the Environmental Planning and Assessment Act 1979

In order to modify the consent, the consent authority must be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

Comment: Council is satisfied, based on a quantitative and qualitative assessment provided by the applicant in the attached Statement of Environmental Effects, that this proposed modification to development application no. BD.2016.021 is substantially the same development as already approved. The application can therefore be assessed and determined as a Section 4.55(2) modification.

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 of an approved development. Considering the longstanding previous use of the site for commercial purposes and that the building is already approved, a land contamination assessment with this modification is not required. In addition, a search of Council's digital records and mapping, and a site inspection, revealed no 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 BASIX certificate with this modification, prepared by Gradwell Consulting, certificate no. 1754281M, dated 04 July 2024.

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 development, as approved, provides no deep soil areas as the Burwood DCP requires nil setbacks and street wall buildings to Burwood Road within the Burwood Town Centre. Rooftop landscaping is proposed which is considered satisfactory given the site's location.

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.

Determination of development applications and modification applications for residential apartment development

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 following—

- a) 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];

Comment: An assessment against Schedule 9 of the SEPP is provided below.

- b) the Apartment Design Guide;

Comment: An assessment against the ADG is provided below.

- c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Comment: The modification application is not required to be referred to Council's Design Review Panel, given the relatively minor nature and scope of the proposed changes. Furthermore, the development, as approved, was not referred to the Design Review Panel

Non-discretionary development standards for residential apartment development—the Act, s 4.15

The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The following are non-discretionary development standards—

- a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide;
- b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide;
- c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment: Please refer to ADG assessment below.

Apartment Design Guide prevails over development control plans

A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter—

- a) visual privacy,
- b) solar and daylight access,
- c) common circulation and spaces,
- d) apartment size and layout,
- e) ceiling heights,
- f) private open space and balconies,
- g) natural ventilation,
- h) storage.

Comment: Please refer to ADG assessment below.

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.

Comment: The proposed modification does not significantly alter the approved development's character, considering its location within the town centre. Minor adjustments to the overall building height, the location of the lift shaft, stairwell and façade are proposed. Importantly, the relocation of the lift shaft and stair overrun away from the street frontage will improve the building's overall design and impact on the streetscape.

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.

Comment: The overall height of the building is being increased by 1100m. However, the visual bulk is not significantly increased compared to what is already approved, when taking into account the improved design and siting of the lift shaft and stairs overrun. The overall design and built form is similar to as approved and does not detract from the streetscape or views and vistas.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities are sustained by the following—

- (a) existing or proposed infrastructure,*
- (b) public transport,*
- (c) access to jobs,*
- (d) community facilities,*
- (e) the environment.*

Comment: The modification does not alter the density of the approved development. The number of apartments and apartment mix remains the same as approved with very minor changes to gross floor area.

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.

Comment: A condition of approval is recommended to require that ceiling fans be installed within all living rooms and bedrooms of the residential apartments where practicable to improve the sustainability of the development and achieve design excellence.

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

Comment: The proposal retains usable rooftop communal open space accompanied by landscaping for the recreation of residents. Rooftop landscaping is considered an appropriate alternative to ground level landscaping given the development's location within the Burwood Town Centre.

A modified landscape plan (inclusive of specifications and details must be submitted for the rooftop communal open space. 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 and the amenity of the rooftop. The landscape plan must be submitted to the Principal Certifier, prior to the issue of a Construction Certificate.

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.

Comment: The modification is not expected to create any additional adverse amenity impacts to residents of the development or to surrounding properties. The modified proposal has been considered against relevant guidelines of the ADG and Council's DCP and it will not produce an inferior outcome compared to the development as currently approved.

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.

Comment: The modification will improve the way the residential building entrance presents to the public domain by raising the height of the above-footpath awning and improving the design of the residential lobby via provision of additional glazing and improved sightlines between the street and the lift. The rooftop communal open space is not significantly altered compared to the development as currently approved.

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.

Response: A mixture of 1 and 2 a bedroom apartments are proposed. The apartment mix will remain as approved. Aside from the rooftop communal open space, the central location of the development within the town centre provides opportunities for social interaction.

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.

Response: Whilst façade colours, textures and materials are not being significantly altered, the relocation of the lift shaft and stairs away from the street frontage will improve the appearance of the building when viewed from Woodside Avenue. The building is considered to respond satisfactorily to its local context on the edge of the town centre and facing Burwood Road.

Conclusion

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

Apartment Design Guide (ADG) assessment

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 581.40sqm. 25% of the site area equates to 145.35sqm. A total of 146sqm of communal open space is proposed, which just exceeds the minimum requirement. Communal open space is positioned on the rooftop and is expected to receive ample sunlight on June 21.	Yes
3E Deep Soil Zones	On sites with areas less than 650sqm, 7% of the site area is to be deep soil with a minimum 3m dimension.	No changes to deep soil provision are proposed as part of this modification application. The development provides no deep soil areas as Council's DCP requires nil setbacks and street wall buildings to Burwood Road.	No, but satisfactory
3F Visual Privacy	The ADG prescribes minimum separation distances between buildings:	No changes to minimum separation distances between buildings are proposed as part of this modification application.	Yes

Objective	Requirement	Proposed	Compliance																			
	<ul style="list-style-type: none"> Up to 12m (4 storeys) - 6m (habitable) / 3m (non-habitable) Up to 25m (5-8 storeys) - 9m (Habitable) / 4.5m (non-habitable) Over 25m (9+ storeys) - 12m (Habitable) / 6m (non-habitable) <p>No separation is required between blank walls.</p>	<p>The ADG requires no separation between blank walls. A nil setback is proposed to northern side boundary which is consistent with the existing built form and that promoted by Council's DCP within the Burwood Town Centre. Separation distances are appropriate and are consistent with the ADG.</p>																				
<p>3G Pedestrian Access and Entries</p>	<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>The proposed modification improves how residential building entrance presents to the public domain by providing additional glazing and improving sightlines between the street and the lift.</p> <p>In addition, the design and layout of residential entry lobby is also improved by moving the lift and stair overrun and pushing the main entrance door out to the street frontage. The above footpath awning is also increased in size to increase weather protection of the building entrance.</p> <p>Building entries and pedestrian access are connected to the public domain. Access, entries and pathways are accessible and easy to identify.</p>	<p>Yes</p>																			
<p>3J Bicycle and car parking</p>	<p>As per the 'Guide to Traffic Generating Developments', car parking rates are determined based on proximity to public transport in metropolitan Sydney and centres in regional areas, including:</p> <ul style="list-style-type: none"> sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>The proposed car parking for residents and visitors as set out in the 'Guide to Traffic Generating Developments', is provided in Table 1 below:</p> <table border="1" data-bbox="408 1809 1394 2083"> <thead> <tr> <th colspan="2"></th> <th>Rate</th> <th>Requirement</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Retail</td> <td>167 m²</td> <td>1 for first 400m² 1 space per 40m²</td> <td>1</td> <td>1</td> </tr> <tr> <td></td> <td>9 x 1 bed</td> <td>0.4 per unit</td> <td>4</td> <td rowspan="2">11</td> </tr> <tr> <td></td> <td>6 x 2 bed</td> <td>0.7 per unit</td> <td>4</td> </tr> </tbody> </table>					Rate	Requirement	Proposed	Retail	167 m ²	1 for first 400m ² 1 space per 40m ²	1	1		9 x 1 bed	0.4 per unit	4	11		6 x 2 bed	0.7 per unit	4
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	<p>The development's proposed parking provision therefore complies with the 'Guide to Traffic Generating Developments' requirements and is considered adequate.</p> <p>Mobility parking requirements – required by Council's DCP:</p> <table border="1"> <thead> <tr> <th></th> <th>Rate</th> <th>Requirement</th> <th>Provided</th> </tr> </thead> <tbody> <tr> <td>Residential</td> <td>10% to be provided as adaptable housing, with one mobility parking space to be provided per unit</td> <td>1.5 (2)</td> <td>2</td> </tr> <tr> <td>Retail</td> <td>For developments with retail and/or commercial parking one space per 50 spaces provided.</td> <td>1</td> <td>1</td> </tr> <tr> <td colspan="2" style="text-align: right;">TOTAL</td> <td>3</td> <td>3</td> </tr> </tbody> </table> <p>The proposed mobility parking complies with the requirements of Council's DCP.</p> <p>Bicycle parking requirements – required by Council's DCP:</p> <p>Council's DCP requires bicycle parking to be provided in line with the provisions within Cycling Aspects of Austroad Guides for any development with a gross floor area in excess of 400 sq. m or three dwellings.</p> <table border="1"> <thead> <tr> <th></th> <th>Rate</th> <th>Requirement</th> <th>Provided</th> </tr> </thead> <tbody> <tr> <td>Retail</td> <td>167 m²</td> <td>1 per 300m²</td> <td rowspan="3">8</td> </tr> <tr> <td>Residential</td> <td>15 units</td> <td>1 per 3 units</td> </tr> <tr> <td>Visitor</td> <td>15 units</td> <td>1 per 12 units</td> </tr> <tr> <td colspan="2" style="text-align: right;">TOTAL</td> <td>7</td> <td>8</td> </tr> </tbody> </table> <p>The proposed bicycle parking complies with the requirements of Council's DCP.</p> <p>Summary</p> <p>The overall proposed parking provision is adequate.</p>				Rate	Requirement	Provided	Residential	10% to be provided as adaptable housing, with one mobility parking space to be provided per unit	1.5 (2)	2	Retail	For developments with retail and/or commercial parking one space per 50 spaces provided.	1	1	TOTAL		3	3		Rate	Requirement	Provided	Retail	167 m ²	1 per 300m ²	8	Residential	15 units	1 per 3 units	Visitor	15 units	1 per 12 units	TOTAL		7	8		
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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.	80% or 12/15 of the proposed units will continue to receive in excess of 2 hours of winter. No change proposed.	Yes																																				

Objective	Requirement	Proposed	Compliance
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.	60% or 9/15 of the proposed units will continue to be cross ventilated. No change proposed.	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.	This modification application does not propose any reduction of approved ceiling heights. All floor levels will continue to comply with the minimum ceiling height requirements of the ADG.	Yes
4D Apartment Size and Layout	Apartments are required to have the following minimum internal areas: Studios: 35m ² 1 bedroom: 50m ² 2 bedroom: 70m ² 3 bedroom: 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² . Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. Habitable room depths are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe	The proposed development consists of 1 and 2 bedroom units. All 1 bedroom units achieve the minimum 50m ² . All 2 bedroom units achieve the minimum 70m ² Additional bathrooms have been taken into account. All units achieve the minimum areas for apartment sizes under the ADG. Each habitable room has a sufficiently sized window/s for solar access and ventilation. Dimensions of rooms remain compliant with the ADG. Room depths remain generally compliant with the ADG. Each bedroom remain generally compliant with the ADG. No cross-over units are proposed.	Yes

Objective	Requirement	Proposed	Compliance
	<p>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>		
4E Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>Studios: 4m² minimum area.</p> <p>1 bedroom apartments: 8m² minimum area, 2m minimum depth.</p> <p>2 bedroom apartments: 10m² minimum area, 2m minimum depth.</p> <p>3+ bedroom apartments: 12m² minimum area, 2.4m minimum depth.</p> <p>Ground level or podium apartments are to have a minimum POS area of 15m² and minimum depth of 3m.</p>	<p>Each unit remains provided with an area of private open space in the form of a balcony accessible from a living area and compliant with minimum area and depth.</p> <p>No ground level apartments are proposed.</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 apartments sharing a single lift is 40.</p>	<p>The maximum number of apartments off a circulation core is five (5). The proposal includes one circulation/lift core servicing the proposed development.</p> <p>The building is not over 10 storeys.</p>	Yes
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p>	<p>Sufficient storage space has been provided within each unit, with consideration of the overall size of each unit.</p>	Yes

Objective	Requirement	Proposed	Compliance
	Studio: 4m ³ 1 bedroom: 6m ³ 2 bedroom: 8m ³ 3+ bedroom: 10m ³ At least 50% of the required storage is to be located within the apartment.		
4H Acoustic privacy	Adequate building separation is provided within development and from neighbouring buildings/west & adjacent uses	Building setbacks and separation generally remain as approved. The development has, where possible, ensured that internal like rooms are located adjacent to each other. Conditions of consent have been imposed to address noise transmission from each individual unit and from external sources such traffic, mechanical ventilation systems (and its implementation as to AS standards) having regard to the requirements of the NCC and Australian Standards.	Yes
4J Noise and pollution	Developments are to address possible impacts from noise and pollution sources.	The site is located within the MU1 Mixed Use zone and on the corner Burwood Road and Woodside Avenue. The building is of solid construction and will need to comply with the relevant provisions of the NCC/BCA in terms of addressing external noise sources to provide internal apartment amenity.	Yes
4K Apartment Mix	The apartment mix is appropriate, taking into consideration: <ul style="list-style-type: none"> ▪ The distance to public transport, employment and education centres ▪ The current market demands and projected future demographic trends ▪ The demand for social and affordable housing Different cultural and socioeconomic groups	A mixture of 1 and 2 bedroom apartments are proposed. The proposed apartment mix remains as approved.	Yes
4L Ground floor apartments	Direct street access should be provided to ground floor apartments.	No ground floor apartments are proposed.	N/A
4M Facades	Building facades should provide visual interest	The proposed facade treatment, including its elements and colour	Yes

Objective	Requirement	Proposed	Compliance
	along the street while respecting the character of the local area. Building functions are expressed by the facade	scheme, has compatible bulk and scale with the surrounding residential and mixed-use buildings.	
4N Roof Design	Roof treatments are integrated into the building design and positively respond to the street	The modified roof is considered a better outcome in terms of design compared with the approved development, in that the lift shaft and service stair overrun is less ad hoc in appearance and is better located and more integrated into the overall design of the building.	Yes
4O Landscape design	Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: <ul style="list-style-type: none"> • diverse and appropriate planting • bio-filtration gardens • appropriately planted shading trees • areas for residents to plant vegetables and herbs • composting • green roofs or walls 	The proposal retains usable rooftop communal open space accompanied by rooftop landscaping for the recreation of residents. Rooftop landscaping is considered an appropriate alternative to ground level landscaping considering the development is located within the Burwood Town Centre. Condition of approval shall be imposed requiring a modified landscape plan (inclusive of specifications and details) be submitted for the rooftop communal open space.	Yes
4U – Energy Efficiency	Adequate natural light is provided to habitable rooms	The majority of units have access to natural light from a north and or west orientation.	Yes
4W Waste Management	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.	The modified proposal retains the same number of bins to the development as approved. Bins are housed internally within a dedicated bin storage room that is screened by a door and separated from the main residential entrance.	Yes

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: MU1 Mixed Use.

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 MU1 Mixed Use zone with consent. The proposed combined development form is permitted in the zone.



Figure 13: Zoning extract showing the subject site 199 Burwood Road, Burwood (indicated with yellow dashed lines) within the MU1 Mixed Use zone. Source: NSW Planning Portal (2025).

Compliance with relevant BLEP development standards

COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO	N/A	COMMENTS
4.1 Minimum Lot Size			✓	No subdivision of land proposed.
4.3 Height of Buildings		✓		<p><u>Maximum Height of Buildings under BLEP: 15m.</u> <u>Proposed building height: 16.835m</u></p> <p>The proposed building exceeds the maximum building height under Clause 4.3 of the BLEP. However, Council has no objections to the proposed variation to the development standard in the circumstances. 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>
4.4 Floor Space Ratio (FSR)	✓			<p>Clause 4.4 of BLEP Development Standard: Maximum FSR of 2:1 (1162.80sqm of gross floor area)</p> <p><u>Total FSR as approved:</u> 1.99:1 (1160.50sqm of gross floor area)</p> <p><u>Total Proposed FSR:</u> 2:1 (1162sqm of gross floor area)</p>

COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO	N/A	COMMENTS
4.4A Exceptions to floor space ratio	✓			Clause 4.4A(3)(h) – maximum residential FSR: Maximum FSR of 1.8:1 (1046.52sqm of gross floor area) in 'Area 8'. <u>Proposed Residential FSR:</u> 1.68:1 (976.752sqm).
5.10 Heritage Conservation	✓			Is the development affected by heritage provisions? Comment: In the BLEP the site is not designated as a Heritage item nor is it located in a Heritage Conservation Area (HCA). The site is opposite a heritage item 201-205 Burwood Road (129) – Victorian Villas, consideration has been given to the items in contrast to the development proposal and due to the distance from this item, the development proposal will not impose any detrimental impact on their local significance.
5.21 Flood Planning			✓	Is the site identified as a flood identified site in Council's flood planning mapping? Comment: No, the site is not subject to flood planning controls.
6.1 Acid Sulfate Soils			✓	Is the proposal affected by acid sulfate soils? Comment: The land is in Class 5 and is not within 500 metres of land in Class 1 to 4, confirming that no action is required on this matter.
6.3 Active Street Frontages	✓			Do BLEP Active Street Frontages provisions apply to the site? Comment: Yes, The site's frontage is designated in the Active Street Frontages Map referred to in Clause 6.3 of the BLEP. All three (3) commercial tenancies direct pedestrian access to Burwood Road, thus satisfying the objectives of Clause 6.3 of the BLEP.

6.5 Design excellence in Zones E1 and MU1

NOTE: The original development application was not assessed in relation to Clause 6.5 of the BLEP, as the clause did not exist in the BLEP at the time of that assessment.

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

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.

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.

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: The modified proposal is not an inferior outcome in terms of architectural, landscape and urban design compared with the development as approved.

- (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: Minor adjustments to building height, the location of the lift shaft, stairwell and façade are proposed. The design of the residential entry lobby is improved by moving the lift and stair overrun and by pushing the main entrance door out to the street frontage. The above footpath awning is also increased in size to provide weather protection of the building entrance. Furthermore, a condition of approval is recommended to require the external finish of the ground floor residential entry to Woodside Avenue be updated to visually distinguish its appearance from other ground floor doorways.

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

Comment: The relocation of the lift shaft away and stair overrun away from the street frontage will improve the building's overall design and impact on the streetscape. The site is opposite a heritage item 201-205 Burwood Road (129) – Victorian Villas, consideration has been given to the items in contrast to the development proposal and due to the distance from this item, the development proposal will not impose any detrimental impact on their local significance.

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

Comment: The proposed modifications are relatively minor in terms of environmental impact and do not detract from or impede any important view corridors, vistas or landmark locations.

- (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 (Burwood Road) within the Burwood Town Centre. The modification, including parking and vehicle access arrangements, has been reviewed by Council's Traffic team who have indicated that they are consistent with the requirements for mixed-use developments on sites that are within 800 metres of a railway station.

- (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 pedestrian access is provided to bus stops located nearby on Burwood Road, which provide frequent public transport services. Burwood railway station is also situated less than 800m from the development.

- (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 modified proposal retains an integrated land use mix of ground floor commercial premises which provide an active street frontage to Burwood Road, and residential units above. This form of combined land uses is desirable within the Burwood Town Centre and is consistent with the objectives of the MU1 Mixed Use zone.

- (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: The height of the building is being increased by 1100m. However, the visual bulk is not significantly increased compared to what is approved, when taking into account the improved design and siting of the lift and stairs overrun. Building setbacks and separation generally remain as approved.

- (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 BASIX certificate with the modified proposal in accordance with State Environmental Planning Policy (Sustainable Buildings) 2022 - Chapter 2 Standards for residential development—BASIX. Proposed external materials, colours and finishes 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.

Proposed variation to Clause 4.3 Height of Buildings development standard

The development as approved

The development, as approved, already exceeds the development standard by 4.9% or 0.735m, standing at a total height of 15.735m. The applicant submitted written request with the original development application to exceed the development standard pursuant to Clause 4.6 of the BLEP. The written request was supported by Council on the following grounds

- The departure from the development standard arises solely from the roof top lift over-run. This is reasonably required to provide lift access to the building.
- The breach is minor (450mm or equivalent to a 3% variation) and all other building elements with the exception of the pergola, comply with the height limit.
- As it is positioned generally in the centre and towards the rear (west) of the building, involves only a small proportion of the roof area, being 3.0 m in length along the Woodside Ave elevation and 2.5 m wide, the structures will not be a dominate feature when viewed from Burwood Road or from Woodville Avenue. There are no apparent adverse impacts on adjoining areas arising from the departure from the height limit and there are no environmental issues associated with the proposed building height.
- As such strict compliance with the height limit would serve no practical purpose and is unnecessary and unreasonable.
- The proposal is not contrary to the objectives of Clause 4.3 Height of Buildings and falls within the parameters of Clause 4.6.
- The proposed development is in the public interest as it is consistent with the objectives of the B4 Mixed Use zone and facilitates the orderly and economic use of land.

Proposed Modification

This modification application proposes to add an additional 1.1m in height to the approved building, meaning the building will exceed the 15m Height of Buildings development standard by 12.23% or 1.835m, bringing the total building height to 16.835m.

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, the applicant's Statement of Environmental Effects provides the following justification for the increase in building height on the following grounds:

- 1) The 1.1m height increase is primarily the result of design refinements to engineered slabs and columns and provision of services including the requirement for an electrical substation. The applicant has stated that no height allowance for a substation was provided for the approved development. Changes to the ground floor level (including an increase in height) have been made to accommodate the engineered slab, accommodate the new substation, and to improve the design of the residential entrance and lobby.

As a result, the presentation of the residential entrance and lobby to the street frontage will improve, considering that the approved head clearance to enter the residential lobby is less than 2.3m. The clearance of the above-footpath awning at the entry will also increase.

- 2) The section of the lift overrun and stair access at rooftop level which exceeds the 15m Height of Buildings development standard will have no adverse effects on adjoining areas. The minor increase in shadow cast only affects a property to the south which is used as an orthodontics surgery and is not dependent on solar access for amenity.
- 3) The proposed building height is 16.835m and applies only to the lift overrun and fire stair access. A Clause 4.6 variation for a minor non-compliance related to these same building features was supported with the original development application. This modification moves the lift shaft and stair core further northward away from the edge of the southern façade of the building. This amendment reduces the visibility of the lift and stair overrun at rooftop level and lessens the visual impact of the small section of non-compliant building. The design change also improves the layout, function and amenity of the ground floor residential entrance and lobby.

The Statement of Environmental Effects and supporting letters provided by the applicant to justify the proposed height variation are attached to this report.

Council has considered the 4.6 Clause variation written request that was supported in relation to the original DA, as well as the justification the applicant has provided with this modification, and is of the view that the proposed 1.1m increase in building height can be supported for the following reasons:

- 1) Despite the increase in height by 1.1m, the modification will improve the overall appearance and streetscape presentation of the building by moving the lift and stair overrun back away from the street frontage. The southern façade will appear less imposing and more coherent as a result of this change, along with improvements to the residential entrance and lobby and above footpath awning.
- 2) The modified lift shaft and service stair overrun is less ad hoc in appearance and is better located and integrated into the overall design of the building.
- 3) The increase in height is in relation to design refinements to engineered slabs and columns and provision of services including the requirement for an electrical substation, and is not as a result of an additional building storey or additional gross floor area or an increase apartment numbers. The applicant has provided sufficient justification for the increase in building height.

- 4) Shadow diagrams submitted with the modification application indicate that any increase in overshadowing will be minor, and will primarily be directed onto Burwood Road and over the side setback area and car parking area of an adjacent orthodontic practice.
- 5) The proposal is not contrary to the objectives of Clause 4.3 Height of Buildings.
- 6) The proposed development is in the public interest as it is consistent with the objectives of the MU1 Mixed Use zone and facilitates the orderly and economic use of land.

For these reasons, it is agreed that the departure from the maximum height development standard as proposed should be granted consent.

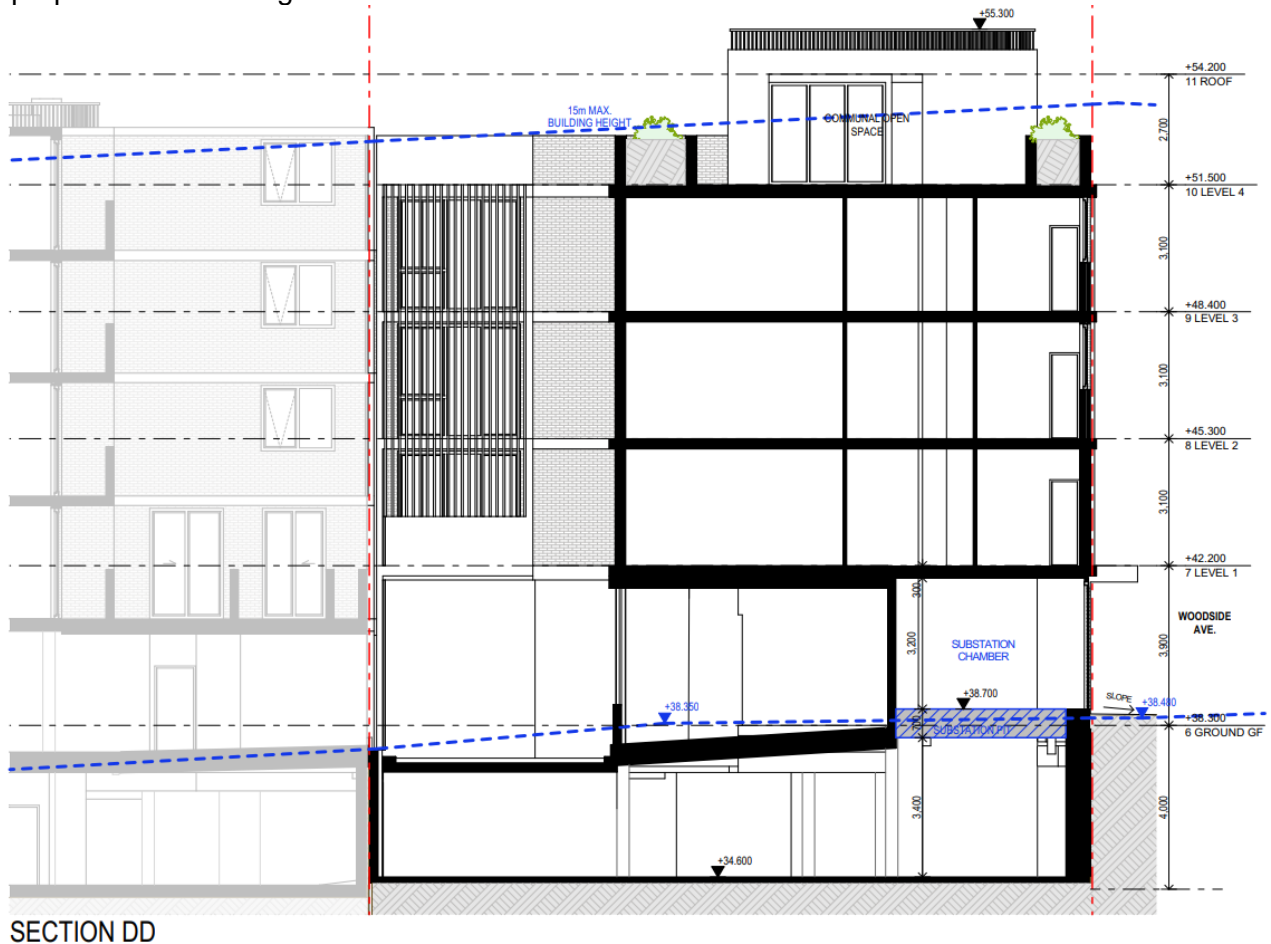
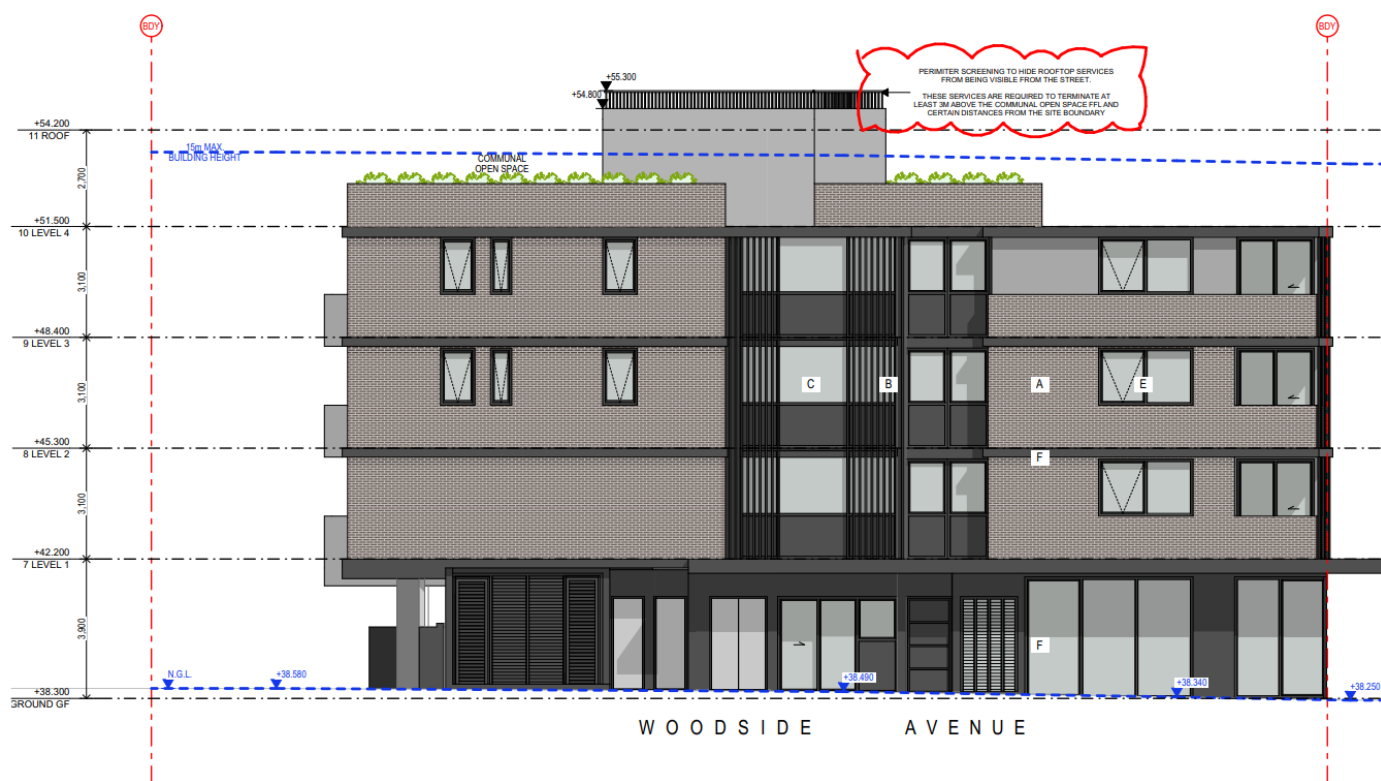


Figure 14: Section plan of the development as proposed by this modification application, showing the increased building height including the provision of a substation. Source: Urban Link Architects (2024).



SOUTH ELEVATION

Figure 15: South Elevation plan of the development as proposed by this modification application, showing the changes to the rooftop. Source: Urban Link Architects (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 in the table below:

Section 3.2 General Building Design Controls in Centres and Corridors			
Issue	Requirement/standard	Proposal	Compliance
Building design, roofs and roof tops	Design excellence encouraged; high quality materials and finishes; roof design to contribute to overall design and performance outcomes;	The modified roof is considered a better outcome in terms of design compared with the development as approved, in that the lift shaft and service stair overrun is less ad hoc in appearance and is better located and more integrated into the overall design of the building.	Yes
Street front activities, building access, safety and security	Security measures to form integral part of building; ground floor integrated with streetscape; appropriate building entrances and clear street address; appropriate mail box provision; casual surveillance to be provided by design	Active street frontage to the ground floor commercial tenancies facing Burwood Road is provided. Residential access from Woodside Avenue is integrated with and is considered appropriate for the streetscape. Building entrances	Yes

		<p>(including the entrance to the residential lobby) are clearly defined and obvious when viewed from the public domain.</p> <p>Condition of approval has been imposed so that the street address number is displayed on the ground floor façade near to the mailboxes and entrance to the residential lobby from Woodside Ave.</p> <p>Secured access to the residential component of the building will be controlled via intercom. Gated access controls will be provided at the vehicular entry to the basement and at the residential entrance. Basement access is to be linked to the intercom system for each apartment.</p> <p>The entrance driveway for access to the basement parking level is to be provided with a security door that ensures the personal safety and security of the residents of the building.</p> <p>Secured access to the commercial tenancies will be controlled with lockable doors to the rear of each premises.</p> <p>CCTV cameras shall be installed at the building so that they can survey the pedestrian entrance walkway from Woodside Avenue, the residential lobby, the entrance to the rear communal area and the entrance driveway to the basement level.</p> <p>A condition of approval is recommended requiring the external finish of the ground floor residential entry to Woodside Avenue be</p>	
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		updated to visually distinguish its appearance from other ground floor doorways.	
Lobbies and internal circulation	Lobbies must be designed for natural ventilation and natural lighting; common area corridors must be minimum of 2m width	The residential lobby is accessed at ground floor level from Woodside Avenue and faces south. It will receive natural ventilation and lighting via the main entrance door. The lobby is more than 2 metres wide.	Yes
Access and mobility	Compliance with Australian Standards for adaptable units and car parking accessibility	The modified residential lobby to Woodside Avenue footpath remains accessible and at-grade with the public footpath. The rear entries to commercial tenancies are accessible. At least 10% (2 units / 15 units) designated as adaptable; 1 accessible residential parking space provided in the basement.	Yes
Awnings	Required for any development built to the street front boundary in the MU1 Mixed Use zone	A continuous awning provided along Burwood Road & Woodside Ave frontage. Min. 3.2m in height above footpath level.	Yes

Section 3.3 Area Based Controls – Burwood Town Centre and Burwood Road North - 3.3.2.4 Perimeter and Transition Areas

Issue	Requirement/standard	Proposal	Compliance
Front building/podium setbacks	All development on Burwood Road must be built to the street front boundary and that located on a corner site.	The proposed building is built to the front Burwood Road and Woodside Avenue boundary.	Yes
Secondary setbacks	Development along Burwood Road to the street front must not be greater than 13 metres in height. Where development exceeds 13 metres in height, the part of the development above 13 metres must be set back a minimum of 8 metres from the street front boundary in Burwood Road, and minimum 6 metres from the street boundary in side streets.	The podium of the building at the Burwood Road frontage marginally exceeds 13 metres in height – ranging from 13.7m to 14.2m in height. However, no objections are raised to this non-compliance for the following reasons: 1) The overall building height is being increased by 1100mm to accommodate a substation, services and engineered slab requirements - which is a	

<p>Side and rear setbacks</p>	<p>Minimum secondary setbacks – 6 m to Woodside Ave above 13 m podium</p>	<p>key aspect of the modification application, 2) the land slopes downwards to the north and a degree of variation in height is therefore expected from south to north, and 3) the building does not visually appear as a podium ‘base’ as there are no additional storeys or tower above podium level, with the rooftop being primarily occupied by communal open space maximum height of the building being 16.835m.</p> <p>The development, as currently approved, marginally exceeds the 13m max. podium height control at the Woodside Avenue (southern) elevation in relation to a section of rooftop parapet and lift and stair overrun at the perimeter of the rooftop communal open space. The modified proposal seeks to increase the podium height by 1100mm, bringing the podium to a height of 14m. However, no objections are raised to this non-compliance for the following reasons: 1) The overall building height is being increased by 1100mm to accommodate a substation, services and engineered slab requirements - which is a key aspect of the modification application, 2) the land slopes downwards to the north and a degree of variation in height is therefore expected from south to north, and 3) the building does not visually appear as a podium ‘base’ as there are no additional storeys or tower above podium level, with the rooftop being primarily occupied by communal open space maximum</p>	
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	<p>Side setbacks: non-residential up to 11 m height must have 0m setback; residential guided by SEPP 65/ADG</p> <p>Rear setback - non-residential may be built to rear boundary; residential building separation residential guided by SEPP 65/ADG</p> <p>Building separation north and west (rear) boundary</p>	<p>height of the building being 16.835m, and 3) the relocation of the lift shaft and stairs away from the street frontage will soften the appearance of the southern elevation of the building when viewed from Woodside Avenue.</p> <p>No changes are proposed to the approved side setbacks, which remain consistent with the ADG.</p> <p>No changes are proposed to the approved side setbacks, which remain consistent with the ADG.</p> <p>Building separation remains as approved and consistent with the ADG.</p>	
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Community Consultation

The development application was notified to surrounding residents/land owners on 11 September 2024 closing on 27 September 2024.

One (1) unique submission was received, which included an attached petition containing twelve (12) signatures.

The concerns raised are set out below with a planning comment in response:

Concern raised: *The proposed building at 199 Burwood Road will cause direct overlooking and significantly compromise privacy [of nearby properties].*

Comment: The modified proposal does not create any adverse additional overlooking impacts, compared to what is already approved. The location and form of apartment balconies remains generally as approved. The rear setback of the rooftop communal open space remains unchanged and the space is screened and separated by perimeter plantings.

Concern raised: *The building will significantly block sunlight [to adjacent properties], and affect enjoyment of private open spaces and negatively affect quality of life.*

Comment: It is acknowledged that some overshadowing will occur, however, it is generally over the south-eastern area towards Burwood Road and south-west along Woodside Avenue. The properties at 201 Burwood Road and 2 Woodside Avenue will have overshadowing but will maintain a minimum 2 hours of winter sunlight between 9am and 3pm. The modified proposal does not significantly increase overshadowing compared to the approved development.

Concern raised: *The development at 199 Burwood Road will significantly increase traffic volume, especially with all vehicles entering via Woodside Avenue. This will exacerbate the current congestion and parking issues in the area. As it stands, residents and visitors often struggle to find parking on the street, and occasionally, cars block driveways. With the addition of more vehicles from the new development, this problem will only worsen.*

Comment: The modified proposal does not alter the amount of approved car parking spaces and does not significantly alter approved vehicle access arrangements from Woodside Avenue. The modification has been reviewed by Council's traffic engineers and has been deemed satisfactory in terms of parking provision and traffic management.

Concern raised: *The proposed development is likely to create additional safety risks, particularly for children and seniors who live in the area. Woodside Avenue is a quiet residential street, and an increase in traffic will reduce its safety for pedestrians. There are already concerns regarding truck traffic, especially after the shop at 197 Burwood Road was converted into a container recycling facility [via a Complying Development Certificate]. Since May this year the brick fence adjacent to the car park driveway has been damaged twice by trucks. This highlights the risks posed by increased traffic to both public safety and private property.*

Comment: As noted above, the modified proposal does not alter the amount of approved car parking spaces and does not significantly alter approved vehicle access arrangements from Woodside Avenue. The modification has been reviewed by Council's traffic engineers and has been deemed satisfactory in terms of parking provision and traffic management. Furthermore, the adjoining property at 197-197A Burwood Road has development consent to construct a five storey mixed use development with ground floor commercial and a boarding house above containing 25 rooms including managers' room, and basement and ground level parking for 14 vehicles. If or when the boarding house development is constructed it is unlikely that the container recycling facility will remain in operation. Traffic management has been considered by Council's Traffic engineers as part of the assessment of this modification and the adjacent boarding house development.

Concern raised: *The development will increase noise and stormwater runoff, potentially harming the local ecosystem and the area's quality of life. The conversion of a nearby shop into a container recycling facility [via a Complying Development Certificate] earlier in 2024 has already caused significant daytime noise, particularly from bottle dumping. Now, with the added noise from cars entering and exiting the new development, I am concerned about the impact and the potential negative effects on well-being and health.*

Comment: Noise and stormwater runoff impacts were considered as part of the assessment of the approved development. The proposed modification will not cause any increase in noise compared to the development as approved. Council's development engineer has advised that the modification will not affect previous [stormwater drainage] engineering assessments.

Concern raised: *The development will have unacceptable heritage impacts.*

Comment: The subject site is not listed as a heritage item nor located within a heritage conservation area. The heritage item located to the south of the site at No. 201 Burwood Road (corner Woodside Avenue) – Victorian Villa and the south eastern property No. 278 Burwood Road, which contains a two storey dwelling located within the Burwood Road Conservation Area has been considered and will not be impacted on by the development proposal.

Concern raised: *The proposed development is likely to have a negative impact on the character and amenity of the neighbourhood.*

Comment: The modified proposal is not expected to increase any negative impacts on the character and amenity of the neighbourhood compared to the development as approved. Council has carefully considered this modification and the proposed changes are of a scope and nature that will not compromise the amenity of surrounding properties.

Referrals

Traffic Engineering

The modification application was referred to Council's Traffic Engineering team for review and comment. No objections were raised. Traffic and Transport conditions of approval have been updated to reflect the modified proposal.

Development Engineering

The modification application was referred to Council's Development (Stormwater and Drainage) Engineers for review and comment. No objections were raised and no changes are required to existing development engineering conditions of approval.

Waste and Cleansing

The modification application was referred to Council's Waste and Cleansing team for review and comment. No objections were raised, as the modified proposal retains the same number of bins as the approved development. No changes are required to existing waste management 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 4.55(2) modification to development application no. BD.2016.021, which proposes to increase the height of the building by 1.1 metres, as well make as a range of other amendments, to an approved four storey mixed-use development comprising of 15 units, 3 commercial tenancies, basement car park and rooftop communal open space, at 199 Burwood Road, Burwood, be approved subject to the conditions of approval contained in **Attachment 1**.

Attachments

- 1 Recommended Conditions of Approval (*Excluded from agenda*)
- 2 Architectural Plans (*Excluded from agenda*)
- 3 Statement of Environmental Effects (*Excluded from agenda*)
- 4 Supporting information provided by the applicant, including substation details (*Excluded from agenda*)
- 5 Plans of the development as currently approved (*Excluded from agenda*)