



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 Conference Room, 2 Conder Street, Burwood on Tuesday 20 August 2024 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 20 August 2024 immediately after the Public Forum commencing at 6.00pm.

Welcome to the meeting of the Burwood Local Planning Panel

I declare the Meeting opened at

1. Acknowledgement of Country

I would like to acknowledge the Wangal people of the Eora Nation who are the traditional custodians of this land. I would also like to pay respect to their elders, both past and present, and extend that respect to other First Nations People who may be 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 DA7/24) Site amalgamation, tree removal, part demolition of existing building, site excavation and construction of a mixed use building with retail uses and a child care centre..... 3

(Item DA8/24) DA.2024.14 - 19 Stanley Street, Burwood - Modifications to the heritage item at No.25 Stanley Street, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development with 3 levels of basement parking..... 27

Development Applications

(Item DA7/24) Site amalgamation, tree removal, part demolition of existing building, site excavation and construction of a mixed use building with retail uses and a child care centre

File No: 24/26867

Report by Manager City Development; Senior Town Planner

PREVIOUS ITEMS: DA1/24 - DA.2023.65 - 40-44 Claremont Road, Burwood Heights - Site Amalgamation, Tree Removal, Partial Demolition of Existing Building, Site Excavation and Construction of a Part 2 and Part 4 Mixed Use Building comprising retail uses and a child care centre - Burwood Local Planning Panel Meeting - 14 May 2024 6:00 PM

Owner: Mabella Park Pty Ltd
Applicant: Michael Semaan
Location: 40-44 Claremont Road Burwood Heights
Zoning: E1 Local Centre pursuant to the Burwood LEP 2012

Proposal

The application proposes the amalgamation of 3 adjoining lots, partial demolition of existing buildings, excavation works and construction of a part 2, part 3 storey mixed use development comprising a basement Pilates studio, retail uses on the ground floor, florist workshop on the first floor, and a childcare centre for 60 children across 2 floors and associated parking and landscaping.

BLPP Referral Criteria

The application was first referred to the Burwood Local Planning Panel 14 May 2024 as Council received over 10 unique submissions during the initial notification period. The Panel deferred determination of proposal to a later meeting to allow the applicant to amend the application in order to address the issues identified in Council's assessment. The amended application has been assessed and recommended for approval (Deferred Commencement).

Background

28/07/2023 – The subject application was lodged with Council

14/11/2023- A request for additional information (RFI) letter was issued to the Applicant and identified issues of non-compliant Floor Space Ratio and Outdoor Play Areas

28/11/2023 – Responses were received from the Applicant regarding Council's RFI letter

08/02/2024 – Amended plans were submitted by the Applicant

14/05/2024 - The application was heard by the Burwood Local Planning Panel. The matter was deferred to allow the applicant to amend the development and address the issues identified by Council, particularly bulk and scale, built form, height and FSR.

31/05/2024 - amended plans received

19/06/2024 – The application was renotified between 19 June 2024 and 19 July 2024 to address the provisions of Schedule 1 Part 1 Division 2 Section 9a of the Environmental Planning and Assessment Act 1979.

Locality

The subject site is legally described as Lots A, B and C in DP358791 and is located at No.40-44 Claremont Road, Burwood Heights. The site is located at the intersection of Claremont Road and Arthur Street. The amalgamated site will result in an irregular shaped corner land parcel with a frontage of approximately 19.7m to Claremont Road along its western boundary and a frontage of approximately 45.45m to Arthur Street along its southern boundary with a total site area of 872.7m².

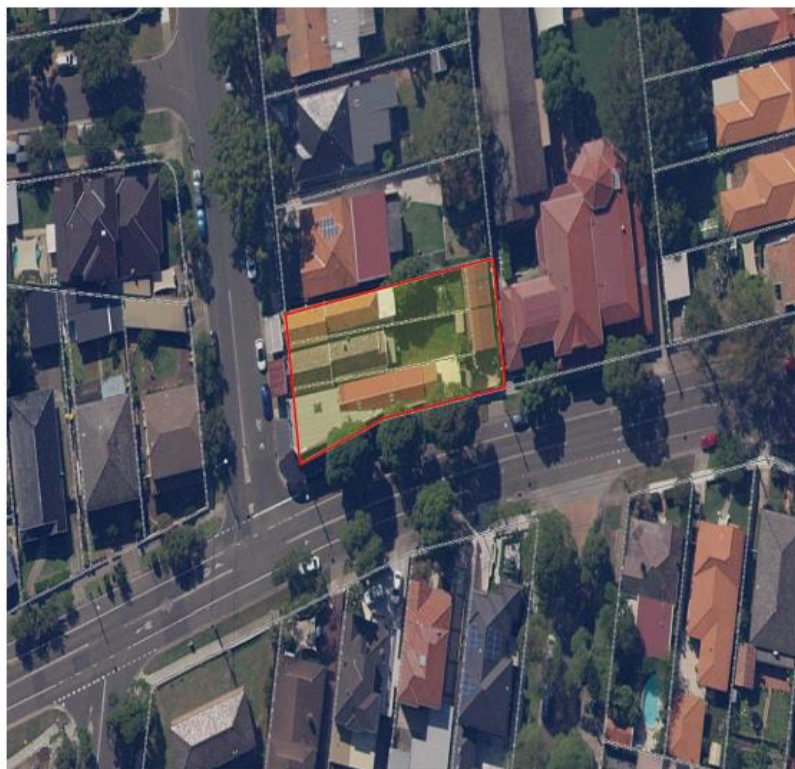
Currently, the site accommodates 3 buildings with ground level shops fronting Claremont Road with residential dwellings behind.

The development site has a cross-fall from the north-western portion of the site falling towards the south-eastern portion of the site, a fall of approximately 3.13m.

No off-street parking or vehicular connectivity is provided to 40 to 42 Claremont Road. No. 44 Claremont Road is serviced by a single informal off-street parking space, connecting to Arthur Street via combined ingress / egress driveway situated in the south-eastern corner of the site.

The development site bounded by low density housing to its northern, boundary and the Sydney Missionary and Bible College to its eastern boundary with Claremont Road separating the site from low density housing to the west and Arthur Street separating the site from low density housing to the south.

The Arborist Report identifies 2 trees at the rear of the site, an American Yucca (clump) *Agave americana* and a Bangalow Palm *Archontophoenix cunninghamiana*. Both of which are proposed to be removed to facilitate the basement.



 - Subject Site

Figure 1: Aerial image of subject site (Source: Six Maps).



Figure 2: Zoning Map of subject site (Source: e spatial planning viewer).



Figure 3: Existing southern façade facing Arthur Street (Source: Google Maps).



Figure 4: Existing western façade facing Claremont Road (Source: Google Maps).



Figure 5: Corner of subject site, at the intersection of Claremont Road and Arthur Street (Source: Google Maps).



Figure 6: Adjoining properties zoned R2 to the north on Claremont Road (Source: Google Maps).



Figure 7: Properties zoned R2 across the road on Claremont Road (Source: Google Maps).



Figure 8: Properties zoned R2 across the road on Arthur Street (Source: Google Maps).

Proposed Development

The application proposes the amalgamation of 3 adjoining lots, partial demolition of existing building, excavation works and construction of a part 2, part 3 storey mixed use development comprising a basement Pilates studio, retail uses on the ground floor, florist workshop on the first floor, and a childcare centre for 60 children across 2 floors and associated parking and landscaping. Submitted plans can be found at Attachment 2 and Attachment 3.

Demolition Works

The development will retain the 3 existing façades of the retail and commercial buildings fronting Claremont Road and will demolish the remainder of the buildings.

Tree Removal

The 2 trees located at the rear of the property are proposed to be removed.

Basement Parking

The proposal has provided a total of 20 car parking spaces on-site within the basement level and within the lower ground floor with the following breakdown:

- 5 x retail car parking spaces for the shops and Pilates studio
- 8 x staff car parking spaces
- 7 x parents' car parking space including an accessible car parking space
- 4 bicycle parking spaces

Commercial Uses

The submitted SoEE states that the development will retain the retail element via maintaining the use of No. 42 and 44 as a cafe and florist. A separate application will be required for the use of shops No. 42 and 44 as well as the Pilates studio located in the basement and the florist workshop on the first floor.

Childcare Centre

The proposal will operate with a maximum capacity of 60 places with the following age groups:

- 0-2 years: 12 places
- 2-3 years: 19 places
- 3-5 years: 29 places

The internal areas will consist of 3 separate indoor play rooms and 2 separate outdoor play areas over 2 levels

The hours of operation will be 7:00am to 6:00pm Monday to Friday with a total of 10 educators

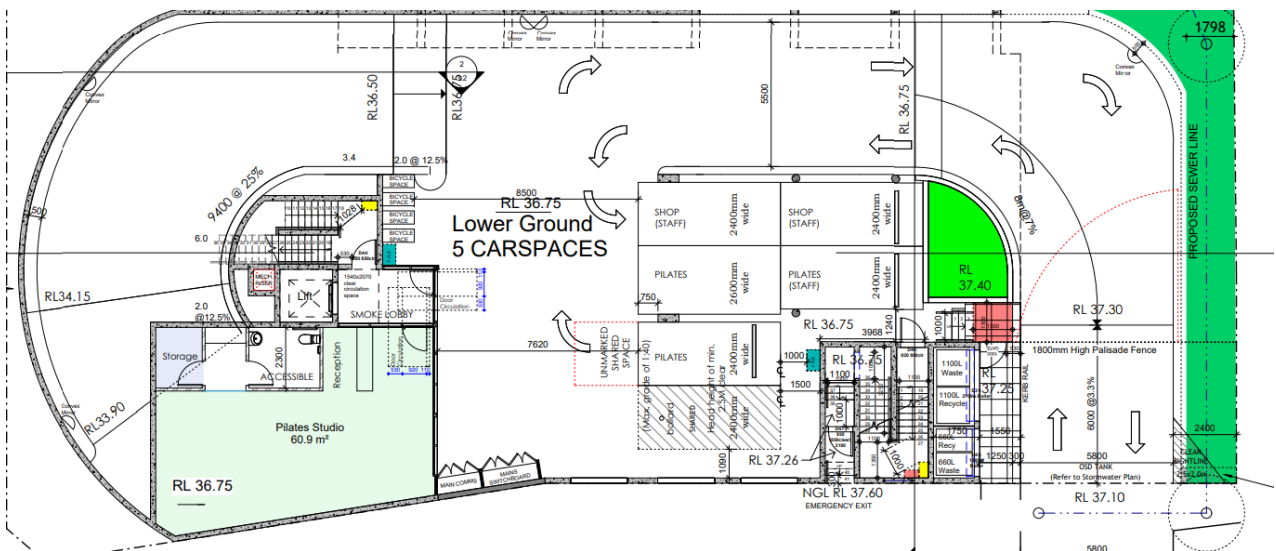


Figure 9 – Proposed Lower Ground Plan

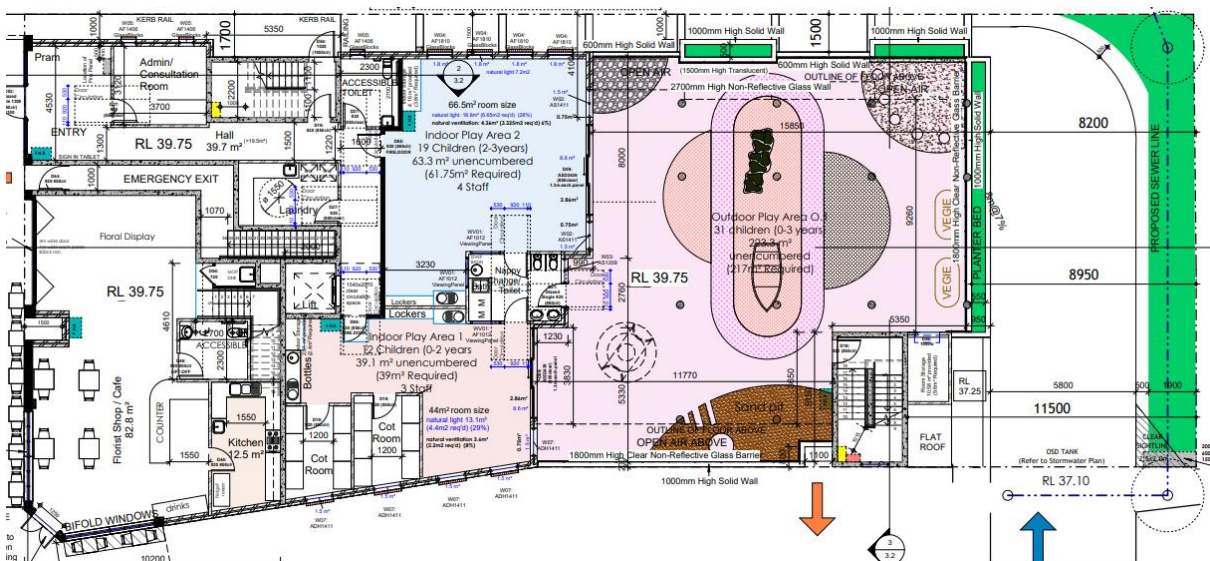


Figure 10 – Proposed Ground Floor Layout

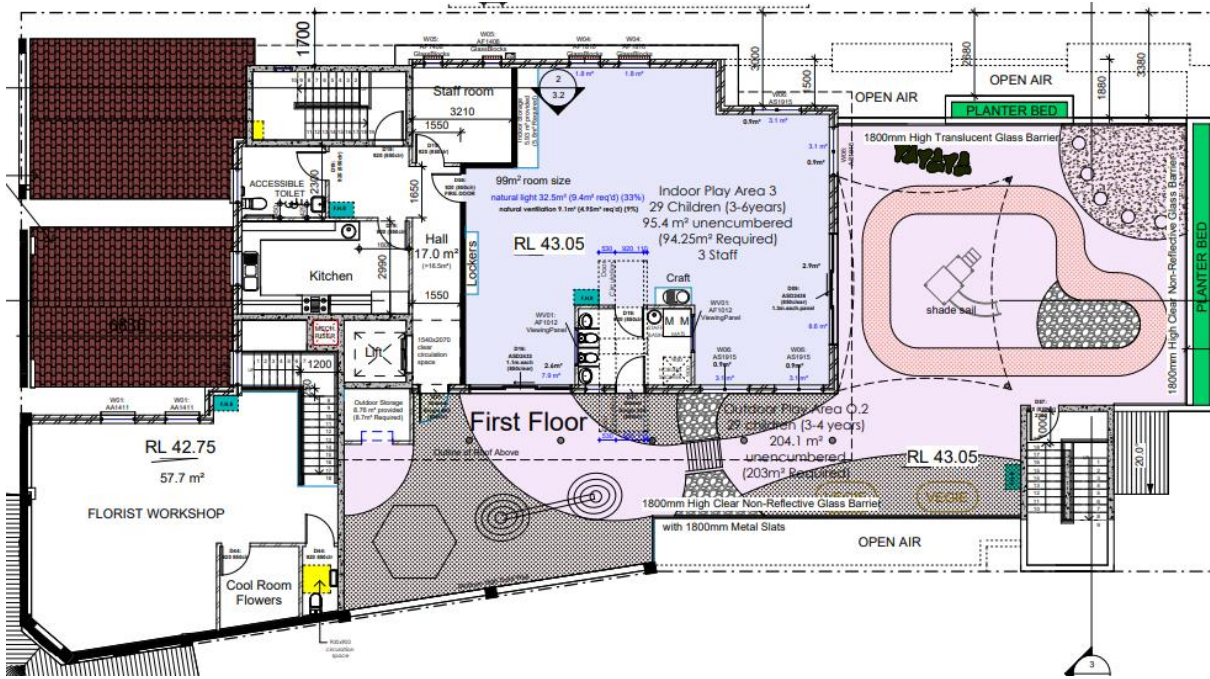


Figure 11 – Proposed First Floor Layout



Figure 12 - Proposed West Elevation (Claremont Road)

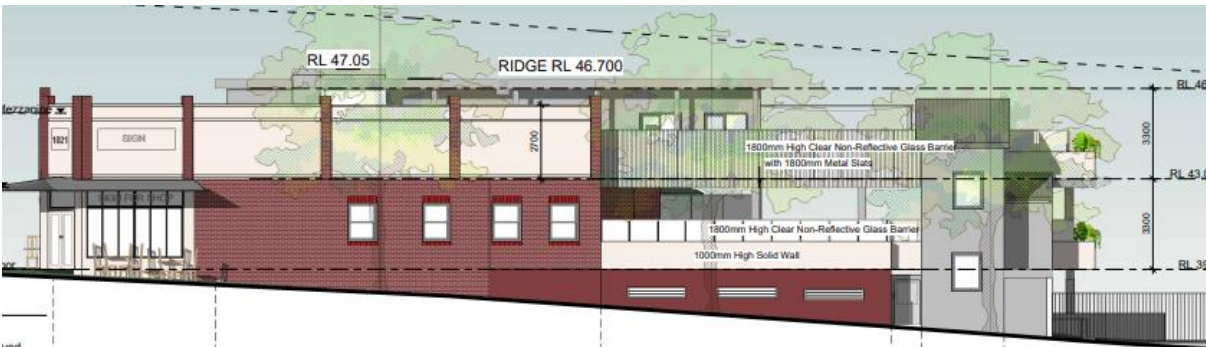


Figure 13 - Proposed South Elevation (Arthur Street)

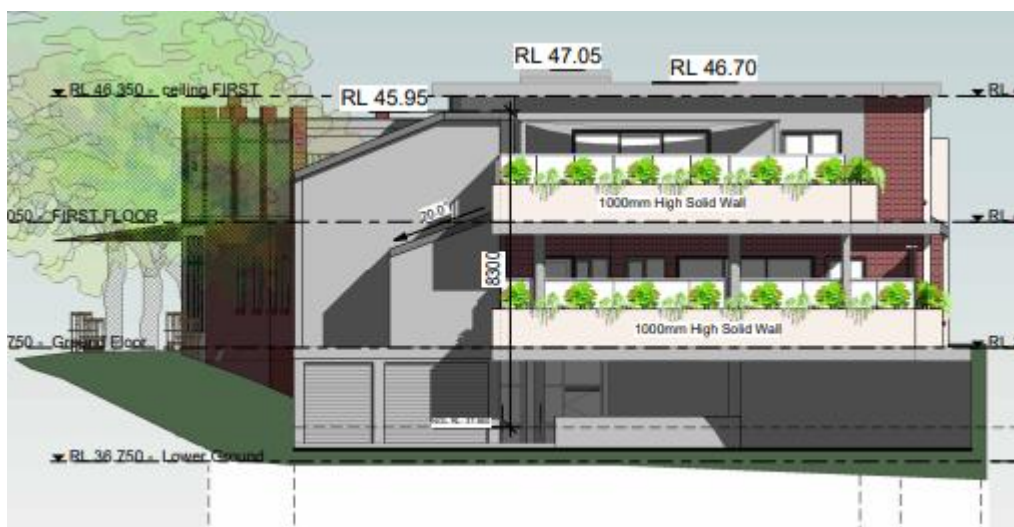


Figure 14 - Proposed East Elevation (facing Kerr Library site)



Figure 15 - Proposed Northern Elevation (facing residential development on Claremont Road)



Figure 16 – 3D Perspective indicating the proposed development from the Arthur Street and Claremont Road intersection



Figure 17 – 3D Perspective indicating the proposed development from Claremont Road



Figure 18 – 3D Perspective indicating the proposed development from Arthur Street

Site History

On the 20th of March 2024, Council approved Development Application No. 2023.23 for Use of existing commercial premises for the purpose of a florist at No. 42 Claremont Road Burwood Heights. The approved hours of operation are between 9:00am and 5:00pm Monday to Sunday.

On the 25th of March 2024, Council refused Development Application No. 2023.29 for use of existing commercial premises for the purpose of a food and drink premises (café) at No. 44 Claremont Road Burwood Heights.

On the 2nd of April 2024, Council issued a Deferred Commencement for Development Application No. 2023.24 for use of existing commercial premises for the purpose of a beauty salon at No. 40 Claremont Road Burwood Heights.

The subject application seeks to continue the café and florist use on the ground floor shops. The submitted SoEE states that there will be no change to the operation of the café and florist shop in terms of its hours of operation and staff numbers. Given that the café was refused under Development Application No. 2023.29, there is no consent that allows the use of the ground floor shop as a café.

Furthermore, the application proposes a florist workshop on the first floor. There are no floor plans or written details relating to the activities undertaken within the workshop to enable a complete assessment of the proposal.

Statutory Planning Framework

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

- SEPP (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Education and Care Services National Regulations
- Burwood Local Environmental Plan (LEP) 2012
- Burwood Development Control Plan (DCP) 2013
- The likely social, environmental and economic impacts of the development
- The suitability of the site for the development
- The Public Interest
- Submissions made under the Act and Regulations

These matters are considered in this report.

SEPP (Biodiversity and Conservation) 2021

The proposal involves the removal of two trees as per the submitted Arborist Report. Landscape Plans have been submitted to Council as part of the DA. Council's Tree Management Officer has raised no objections to the proposal.

State Environmental Planning Policy (Resilience and Hazards) 2021

A Preliminary Site Investigation was submitted in support of the application. The investigation found that there is asbestos on site and recommended that a Detailed Site Investigation be undertaken to ascertain the extent of asbestos contamination. Following the Detailed Site Investigation, further works including remedial works will be required and is to be determined by the Detailed Site Investigation.

A Preliminary Site Investigation (PSI), Detailed Site Investigation (DSI) and Remediation Action Plan (RAP) were submitted in support of the application. The investigations found asbestos fibres located at sporadic locations in fill material at the rear of the site. It is noted that the site will be sealed by the proposed building and most of the asbestos impacted soil will be removed to accommodate the proposed basement and this will prevent any exposure pathway and risk to future users of the site. However, the asbestos in the fill soils will pose a risk to workers undertaking the proposed construction, demolition and earthworks. Accordingly, a Remedial Action Plan (RAP) has been prepared detailing the proposed remediation methodology.

Given that the proposal is for a sensitive land use and the site is identified as being contaminated, it is recommended that any approval given be subject to a Deferred Commencement requiring a Site Audit Statement be provided to Council.

Burwood Local Environmental Plan (LEP) 2012

The following is a summary of the relevant clauses under Burwood LEP 2012 applicable to the development.

Burwood LEP 2012	Proposal	Compliance
Zoning		
Zone E1 Local Centre	The development proposes to use the site for the purpose of a Centre-based child care facility and commercial premises	Both uses are permitted in the E1 zone, subject to development consent.
4.3(2) Height		
10m	The proposed building height is 9.05m.	Compliant
4.4(2) FSR		
1:1	1.23:1, (Clause 4.6 Written Request submitted)	Variation supported by Council as discussed below
Heritage Conservation		
(1) Objectives The objectives of this clause are as follows— (a) to conserve the environmental heritage of Burwood, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	<p>The subject site is located within a Heritage Conservation Area and the proposal involves demolition of the building with the exception of the front facades which are to be retained. Concern was raised for the ability of the facades to withstand the impact of the demolition and excavation works.</p> <p>The amended application was referred to Council's Heritage Advisor for assessment. No issues were raised in relation to the design and appearance of the building.</p> <p>With regards to the protection and maintenance of the building, particularly during demolition, excavation and construction, the applicant's Heritage Consultant (Graham Hall and Partners) recommended methodologies to retain and protect the building facade. The method involves the footings of the street-facing walls to be underpinned and the provision of a temporary steel framework from inside the boundary.</p>	Yes

Non-compliance with Clause 4.3 – Height of Buildings and Clause 4.6 Exception to Development Standards

Clause 4.4(2) of BLEP 2012 prescribes the maximum FSR for the site and refers to the Floor Space Ratio Map. The relevant map identifies the subject site as having a maximum permitted FSR of 1:1. However, the proposed development has been calculated to have a maximum FSR of 1.23:1. This exceeds the 1:1 FSR development standard by 200.7m², which is equivalent to a variation of 23%. The non-compliance arises from the inclusion of the rear outdoor play areas as gross floor area in the FSR calculation. The outdoor play areas on the ground and first floors are provided with acoustic and anti-fall barriers that are over 1.4m in height and are located around the perimeter of the play areas.



Figure 19 – Extract of applicant's 3D photomontages showing the outdoor play areas at the rear of the site.

The Burwood LEP 2012 defines gross floor areas as:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

(i) terraces and balconies with outer walls less than 1.4 metres high

The outdoor play areas on the ground and first floor levels are provided with a 1m high solid balustrade which would not ordinarily result in the enclosed areas being constituted as floor area, as per the BLEP 2012 definition. Notwithstanding, the applicant proposes to install a 1.8m-2.7m high glass acoustic barriers behind the balustrades to protect children from falling and mitigate noise emission. Accordingly, the play area behind the acoustic barriers constitute as floor area and is required to be included in the FSR calculation. This results in a total FSR of 1.23:1 for the development.

This structural arrangement is shown in the figure below:

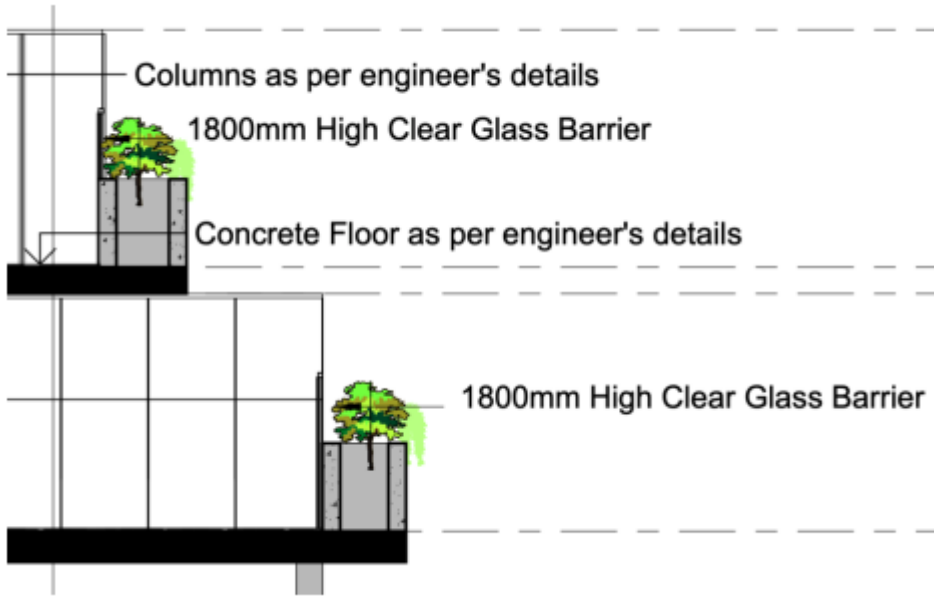


Figure 20 – Proposed acoustic and anti-fall barriers

The amended design is considered to be an improvement from the previous proposal which comprised a part 2 and part 4 storey building with a childcare centre for 88 children spanning across 3 floors. The previous proposal also required the inclusion of acoustic and anti-fall barriers on all 3 floors where the outdoor play areas are located. This resulted in an FSR of 1.49:1, exceeding the FSR standard by 427.62m². A number of issues were identified in relation to the previous proposal including excessive bulk and scale, excessive building height, large expanse of glass on the facades, inappropriate presentation to the public domain and adverse visual impacts. In this regard, the previous proposal was considered to be an overdevelopment of the site.

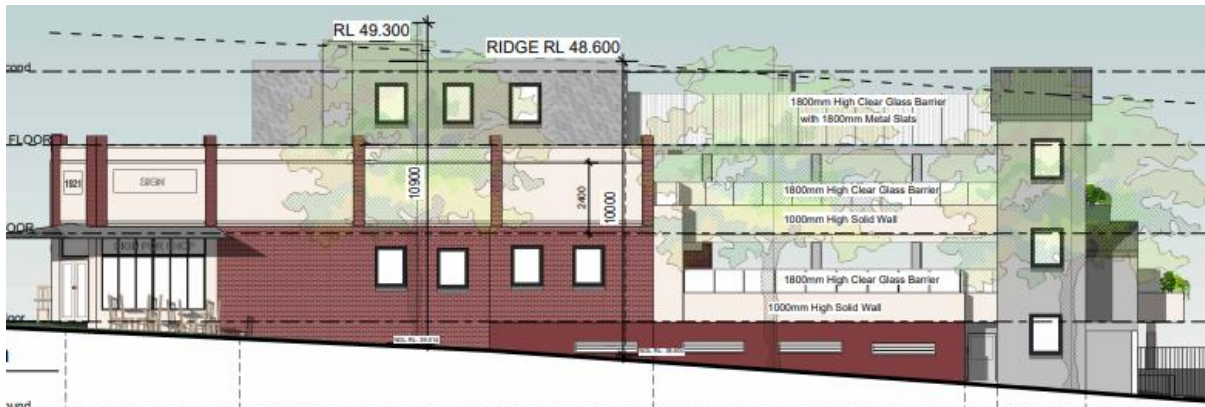


Figure 21 - Southern Elevation Plan depicting the appearance of the previous proposal from Arthur Street with an FSR of 1.49:1



Figure 22- Southern Elevation Plan depicting the appearance of the current amended proposal from Arthur Street with an FSR of 1.23:1

The applicant has submitted a written request to vary the BLEP 2012 FSR development standard. Clause 4.6 of the BLEP 2012 provides authority and procedures for consent authorities to consider, and where appropriate grant consent to, development even though the development would contravene a particular development standard. The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards, and to provide better outcomes for and from development by allowing flexibility. The provisions of Clause 4.6 may be applied to the maximum FSR development standard of BLEP 2012 pursuant to Clause 4.6(6) and (8).

In accordance with Clause 4.6(3), for Council to consent to an exception to a development standard it must have considered a written request from the applicant that seeks to demonstrate that:

- a. *that 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."*

Clause 4.6(3)(a) Strict Compliance is Unreasonable or Unnecessary

The applicant provided the following justification in their written request:

- *The extent of 'enclosed' FSR arising from the internal areas of the building is less than the permissible FSR- being 0.72:1 as compared to the 1:1. The noncompliance arises from the inclusion of GFA to the play areas on balconies owing the height of the acoustic barrier- that are set back behind a balustrade and planter at the lower levels and then stepped in to the top most floor given the greater setback.*

- *The development density and intensity as proposed exhibits an appropriate urban form given:*

- a. *Compliant setbacks*
- b. *Compliant height (other than for point encroachments to the lift and stairs);*
- c. *Suitable design response to the heritage items on the site noting retention of façade on the primary frontage/corner location;*
- d. *The uses and density proposed, notwithstanding the breach, provide an appropriate urban form for the site particularly given the heritage context and the relationships to adjoining properties which has been achieved through considered setbacks and the spatial configuration of the built form noting the elements of the breach are relatively 'open' elements being the balconies which are situated in proximity to the transition point to lower density forms to the east.*

- *The perceived bulk of the development is primarily from the area of the built.*

- *Whilst the FSR is non-compliant the extent of development proposed is consistent with the contemplated built form and massing when considering the GFA when excluding the barriers is below the 1:1. If the acoustic barriers were lowered to 1.39m (reduced by 401mm to the majority of the barriers) then no GFA or FSR issue arises and there is no discernible difference in the way in which the proposal is perceived in terms of 'bulk' given the barriers are set in behind a planter at the more prominent lower levels.*

- *The barriers are necessary for visual and acoustic privacy and safety to the children.*

- *Therefore a 'compliant' FSR would be perceived in a similar way to this scheme- but the acoustic impacts would be greater because of a lack of acoustic attenuation and also generate greater privacy impacts from overlooking.*
- *Therefore the bulk of the development is entirely in line with what is contemplated for the site and the area of non-compliance has no meaningful impact on the bulk of the development.*
- *The extent of development across the sites is appropriate, notwithstanding the numerical departure. This is because the development is compliant with the maximum permitted GFA in the areas that are internal in nature and the area of the breach is derived through the inclusion outdoor play areas with acoustic barriers around the perimeter that are greater than 1.4m and therefore must be excluded.*
- *Therefore a 'compliant' FSR enables a comparable level of development to this scheme- but the acoustic impacts would be greater because of a lack of acoustic attenuation and also generate greater privacy impacts from overlooking.*
- *The intensity of the use arising from the proposed GFA must also be considered in relation to this objective and in that regard the traffic impacts are considered to be acceptable as set out in the report by Stanbury Traffic Planning. In addition the amenity impacts of noise and other privacy impacts are avoided due to the use of the acoustic barriers as proposed- i.e. they provide a benefit to the scheme.*

Council's Assessment

The applicant has amended their proposal to delete the entire fourth floor and now proposes a part 2 – part 3 storey development which is considered a significant reduction in the bulk and scale of the development. The issue of overdevelopment, bulk and scale and the large expanse of glass along the side and rear facades that was associated with the previous design has now been reduced in order to minimise associated environmental impacts. The previous issues emanated from the excessive number of floors and floor area and has now been appropriately addressed.

The surrounding area is characterised by single and double storey buildings. The proposed development appears as a 2 storey building when viewed from the western, southern and northern elevation. Accordingly, it is considered that the built form and scale of the development appropriately integrates with the surrounding residential environment.

Despite the exceedance in allowable FSR, the development complies with the applicable building height and setback controls and therefore comprises a scale and appearance that would ordinarily be expected for this site and is sympathetic to the surrounding residential developments.

With regard to the above, the FSR exceedance is not considered unreasonable or unnecessary in this circumstance.

Clause 4.6(3)(b) Sufficient Environmental Planning Grounds

The applicant provided the following justification in their written request:

- *When including the outdoor play areas that are in a balcony configuration the FSR is non-compliant but the extent of development proposed is consistent with the contemplated built form and massing when considering the GFA when excluding the barriers is below the 1:1- being 0.72:1. If the acoustic barriers were lowered to 1.39m (reduced by 401mm to the majority) then no GFA/FSR issue arises and there is no discernible difference in the way in which the proposal is perceived given the barriers are set in behind a planter.*

- Therefore a 'compliant' FSR would be perceived in a similar way to this scheme- but the acoustic impacts would be greater because of a lack of acoustic attenuation and also generate greater privacy impacts from overlooking from educators using this area. There would also be potential safety risks to the children noting the need for a 1.8m barrier under the NCC.
- The breach to the FSR standard arises to protect acoustic amenity of adjoining properties in accordance with the acoustic report- as well as visual amenity through mitigating cross-viewing given the design of the barrier also serves as a privacy screen given the design incorporates the planter and at the upper level the batten treatment.
- The visual presentation of the barrier to neighbours is also mitigated by the landscape planting proposed in front of it on the sensitive edge to the east. This is reflected on the figure below and therefore the barrier treatment improves visual and acoustic privacy outcomes but generates a technical noncompliance with FSR owing to its height
- The acoustic attenuation and visual privacy mitigation afforded by the height of the acoustic barriers demonstrates suitable environmental planning grounds to vary the development standard- because absent the increased height the acoustic and visual privacy impacts are not adequately addressed.
- The safety to the children is also a factor for a development of this type with a 1.8m non climbable barrier mitigating fall risk.
- The proposal provides for the retention of the heritage façade and its restoration, which is predicated on a suitable development intensity being achieved noting the substantive expense of remedial works to the heritage façade. Therefore the quantum of development, including the technical breach to the FSR, will facilitate the remedial works to retain/restore the heritage façade that can only be achieved at a development of the scale that is proposed. Whilst the proposal does not rely on Clause 5.10 the same principles are relevant in that the redevelopment facilitates the remedial façade works and restoration of heritage items.
- There is demand for child care in the Burwood LGA and the provision of a child care centre co-located with other commercial uses is desirable noting that the child care centre necessitates outdoor play areas and the heights of the barriers to the outdoor play areas generate the breach but mitigate acoustic privacy impacts, visual privacy impacts, and also enable safety for the children using those spaces.
- This design approach and breach of the FSR associated within the outdoor play areas enables a suitable design outcome on the site and is consistent with the following Objects of the Environmental Planning and Assessment Act 1979 as has been established under the prior discussion of environmental planning grounds:
 - (c) to promote the orderly and economic use and development of land,
 - (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
 - (g) to promote good design and amenity of the built environment,
 - (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- The departure to the FSR standard also does not generate any adverse amenity impacts to adjoining properties with regard to visual privacy or overshadowing given the lot orientation and careful design of the development.

Council's Assessment

The purpose of the barriers is to essentially mitigate adverse environmental impacts through attenuating noise emission and preventing children from falling. In the event that the childcare centre did not require the barriers, the built form and scale of the development is considered to be sympathetic with the surrounding residential environment and can appropriately integrate with the existing streetscape that is characterised by single to double storey buildings.

The open play areas enclosed by the barriers that are characterised as additional gross floor area do not result in an intensification of the proposed use and are only used sporadically during weekdays.

Furthermore, the development comprises perimeter landscaping in the form of planter boxes along the northern and eastern building elevations to soften the development and provide an appropriate presentation to the neighbouring sites.

With regard to the above, it is considered that there are sufficient environmental planning grounds to support the variation and the requirements of Clause 4.6(3) have been satisfied.

State Environmental Planning Policy (Transport and Infrastructure) 2021: Part 3– Early Education and Care Facilities – Specific Development Controls

The proposed centre based child care facility is subject to the provisions of the above SEPP.

3.22 Centre-based child care facility concurrence of Regulatory Authority required for certain development

This provision applies to development for the purpose of a centrebased child care facility if:

- the floor area of the premises does not comply with the indoor unencumbered space requirements of the Education and Care Services National Regulations (the Regulations), or
- the outdoor space for the premises do not comply with the outdoor unencumbered space requirements specified in the Regulations.

The proposed development is to accommodate 60 children.

The unencumbered indoor space requirement is 3.25sqm per child, 195 sqm in total. The proposed development will provide 197.8sqm of unencumbered indoor space and complies with the Regulations in this regard.

The unencumbered outdoor space requirement is 7sqm per child, 420sqm in total. The proposed development will provide 427.4sqm of unencumbered outdoor space and complies with the Regulations in this regard.

As the proposal complies with indoor and outdoor unencumbered space requirements specified in the Regulations this SEPP provision does not apply.

Child Care Planning Guideline: Section 3 Matters for Consideration

Provision	Compliance	Comment
3.1 Site selection and location	Can comply	Site contamination can be addressed by a RAP and a submission of a site audit statement as part of a deferred commencement.

		<p>Acoustic privacy impacts are addressed by provision of acoustic barriers and a management plan.</p> <p>The proposal addresses setbacks and streetscape constraints. Traffic impacts have been assessed and are acceptable.</p> <p>For these reasons the proposal is suitable for the site.</p>
3.2 Local character, streetscape and the public domain interface	Yes	<p>The new building is of contemporary design with materials consistent with the streetscape.</p> <p>The subject site is not a Heritage Listed Item but is located within the Badminton Road to Culdees Road Conservation Area. The existing buildings have a historic facade which will be retained as part of the development. Council's Heritage Advisor has assessed the application and raised no concerns.</p>
3.3 Building orientation, envelope and design	Yes	<p>The proposal complies with the height and setback controls that apply to the site. It has been designed to minimise adverse impacts in terms of solar access, privacy and to the streetscape.</p> <p>The proposal adequately addresses these requirements.</p>
3.4 Landscaping	Yes	<p>The proposed landscape design provides for outdoor play spaces, a suitable interface with the streetscape and adjacent properties while coordinating the planting of new trees. For these reasons, the proposed landscape design is supported.</p>
3.5 Visual and acoustic privacy	Yes	<p>The proposed development has been sited and designed to incorporate fences and landscaping to prevent direct views in to and out of the indoor rooms and outdoor play spaces.</p> <p>An Acoustic Report has been submitted and which recommends suitable measures such as acoustic barriers and a management plan to minimise adverse impacts to privacy of neighbouring residences.</p>
3.6 Noise and air pollution	Yes	<p>The site is located in a residential locale and is unlikely to be impacted by noise or air pollution.</p>
3.7 Hours of operation	Yes	<p>The subject application seeks standard child care centre trading hours which are consistent with the permissible use.</p>
3.8 Traffic, parking and pedestrian circulation	Yes	<p>As is outlined elsewhere in this report, the proposed parking arrangements have been assessed and are acceptable.</p>

In addition to the matters of consideration under Section 3 of the Guidelines, Section 4 of the Guidelines requires developments to be considered against the provisions of the Education and Care Services National Regulation. These considerations are outlined below.

Child Care Planning Guideline: Section 4 Applying the National Regulations

Provision	Compliance	Comment
104 Fencing or barrier that encloses outdoor space.	Yes	Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children of preschool age or under cannot go through, over or under.
106 Laundry and hygiene facilities	Yes	The proposed development includes onsite laundry facilities and which are located where they do not pose a risk to children.
107 Unencumbered indoor space	Yes	The unencumbered indoor space requirement is 3.25sqm per child, 195 sqm in total. The proposed development will provide 197.8sqm of unencumbered indoor space and complies with the Regulations in this regard.
108 Unencumbered outdoor space	Yes	The unencumbered outdoor space requirement is 7sqm per child, 420sqm in total. The proposed development will provide 427.4sqm of unencumbered outdoor space and complies with the Regulations in this regard.
109 Toilet and hygiene facilities	Yes	The proposed development includes adequate and age appropriate toilet, washing and drying facilities for use by children. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.
110 Ventilation and natural light	Yes	The proposed development includes indoor spaces to be used by children that will be well ventilated; will have adequate natural light; and can be maintained at a temperature that ensures the safety and well-being of children.
111 Administrative space	Yes	The proposed development includes an adequate area for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.
112 Nappy change	Yes	The proposed development includes an adequate area for construction of appropriate nappy changing

facilities		facilities including a nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.
113 Outdoor space - natural environment	Yes	The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.
114 Outdoor space - shade	Yes	The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.
115 Premises designed to facilitate supervision	Yes	The proposed development (including toilets and nappy change facilities) are designed to facilitate supervision of children at all times.

Burwood Local Environmental Plan (LEP) 2012

The following is a summary of the relevant clauses under Burwood LEP 2012 applicable to the development.

Provision	Compliance	Comment
Zoning	Yes	Centre based child care centres and commercial premises are permissible within the E1 Local Centre zone.
Height	Yes	A maximum height of 10m is permitted. The proposed development is to a height of approximately 9.05m to the ridge which complies with the control.
FSR	Clause 4.6 Written Request submitted and supported	A maximum floor space ratio of 1:1 or 872.7m ² GFA is permitted. A floor space ratio of 1.23:1 is proposed.
Heritage conservation	Yes	The subject site is not a Heritage Listed Item but is located within the Badminton Road to Culdees Road Conservation Area. The existing buildings have a historic facade which will be retained as part of the development. Council's Heritage Advisor has assessed the application and raised no concerns.
Flood planning	Yes	Council's Development Engineers have assessed the application and raised no concerns.
Soil	Yes	The proposed works are not likely to lower the water table and therefore an Acid Sulphate Soils Management Plan is not required.

Burwood Development Control Plan (DCP) 2012

An assessment of the proposed development against the relevant provisions within the Burwood Development Control Plan 2012 is provided in the following sections.

Provision	Compliance	Comment
Compatibility with surrounding land uses	Yes	The site is surrounded by residential development and is not within 100m / sight line of a sex services premises or restricted premises.
Site responsive design	Yes	The design will have minimal impact on the amenity of neighbouring properties as assessed within this report.
Accessibility	Yes	Bus stops with services to Rockdale, Hurstville and Drummoyne are located within a 650m radius from the subject site. A lift is provided to allow access for people with a disability from the car park to the main entrance to the building and onto the street.
Acoustic report	Yes	An acoustic report has been provided
Landscape report	Yes	A landscape plan has been provided and assessed by Council's Tree Preservation Officer who raised no concerns.
Environmental site contamination assessment	Yes, subject to conditions	A DSI and RAP have been prepared. A Deferred Commencement consent is recommended requiring a site audit to be completed
Environmental Hazards	Yes	Not located within 30m of a 132kv power line Not within 300m of a mobile phone tower
Heritage	Yes	The subject site is not a Heritage Listed Item but is located within the Badminton Road to Culdees Road Conservation Area. The existing buildings have a historic facade which will be retained as part of the development. Council's Heritage Advisor has assessed the application and raised no concerns.
Fire safety	Can be conditioned	A fire safety and evacuation plan is recommended as a condition of consent prior to the issue of an Occupation Certificate.

Special provisions for sites within Residential Zones

Please note that the site is zoned E1 Local Centre and is surrounded by existing residential developments within residential zones and therefore the following DCP development controls are required to be considered as part of the assessment.

Provision	Compliance	Comment
Compatibility with surrounding land uses	Yes	The applicant has submitted an acoustic report to demonstrate that the proposed uses can comply with the applicable acoustic criteria and will not cause unacceptable amenity impacts upon the surrounding residential neighbours. In addition, 3D perspectives have been prepared to demonstrate the appearance of the development and how it will contribute to the streetscape.

		The surrounding land uses are limited to residential and are unlikely by way of their use to impact on the amenity of children, staff or other occupants of the child care centre.
Mixed uses	Yes	The site does not contain residential uses
First floor outdoor open space	Considered acceptable	The childcare centre comprises an outdoor play area on the first floor which has been appropriately designed to be screened from residential neighbours.
Minimum site area and frontage	Not applicable to the development	The site meets the minimum 600sqm site area and 15m frontage provisions
Built area	Not applicable to the development	Given that the site is located in a commercial zone, the built area control is not considered relevant in this circumstance.
Setback controls	Not applicable to the development	The development involves the retention of the existing historic building facades and is located on a corner site. Accordingly, it is considered that the nil setback is appropriate in this context. Furthermore, the existing pedestrian footpaths will be retained for pedestrian access.
Car parking	Yes	The proposal meets the minimum car park requirements. All cars are to enter and exit the site in a forward direction via the double driveway.

Community Consultation

The DA was placed on public notification from 9 August 2023 to 24 August 2023. In response to the notification of the DA, 12 unique submission letters were received, one of which was a petition (containing 63 signatures) which supported the proposed childcare centre). These concerns have been considered by Council in the assessment of the previous application and referred to the Panel for review and consideration at the Panel meeting held on 14 May 2024.

The amended application subject of this report was placed on public notification from 19 June 2024 and 19 July 2024. In response to the notification of the amended DA, 5 unique submission letters, one of which was a petition (containing 5 names) were received.

The following table summarises the concerns raised by the objectors regarding the amended design and Council's comments on the issues raised.

Issue Raised	Council Response
The 3 storey childcare is considered to be an overdevelopment and is of a magnitude that is incompatible with a residential environment	The applicant has amended their application to remove a whole floor (fourth floor) from the development. Accordingly, the development now comprises a part 2, part 3 building and the childcare centre. only spans across 2 floors. As a result, the number of children has been reduced from 88 to 60. To protect the amenity of neighbouring residents, the building has been designed to incorporate appropriate screening elements such as planter

	beds and solid walls around the perimeter of the outdoor play areas.
The development will increase traffic congestion on the existing road network and does not contain sufficient parking	The development complies with the DCP car parking requirements. Furthermore, Council's Traffic Engineers assessed the application and raised no concerns, subject to development consent.
The existing operator is currently using the pathway to store shelves and displays that encumber the corner and blocks access.	The subject application does not seek consent for the use of the ground floor shops and the Pilates studio located in the basement. These uses will be subject of separate applications. Conditions of consent will be imposed requiring separate development consent for the use of these shops.
The driveway should be relocated to the Arthur Street frontage as there are currently no residents on this side of the site.	The Arthur Street frontage contains historic facades which have been retained to maintain the historic character of the area. Council's Traffic Engineers assessed the location of the driveway and the traffic impacts of the development and raised no concerns, subject to conditions of consent.
No trading hours for the Pilates studio have been provided	The use of the room within the basement as a Pilates Studio is subject of a separate application.
There is an existing child care facility located only 600 metres from the proposed site and therefore the proposed childcare at this site is not required.	Proximity to existing childcare centres is not a matter of consideration under the State Environmental Planning Policy (Transport and Infrastructure) 2021. A merit assessment of the application revealed that the site is suitable for the proposed development and can accommodate the size and scale of the proposed development without resulting in adverse amenity impacts upon the surrounding locality.
The development seeks to build above the ten (10) metre maximum height allowed by the Local Environmental Plan (LEP) which would damage the character and appearance of the neighbourhood.	The revised design involves the deletion of the fourth floor, resulting in a maximum height of 9.05m when measured from the lift overrun. The revised application therefore complies with the BLEP 2012 maximum building height.

REFERRALS

Branch / agency	Comments Received/ Resolution
Environment and Health	Council's Environment and Health Branch raised no concerns to the proposal.
Engineering Assessment Branch	Council's Engineering Assessment Branch raised no concerns to the proposal.
Waste Management Branch	Council's Waste Management Branch raised no concerns to the proposal.
Traffic Branch	Council's Traffic Branch raised no concerns to the proposal.
Tree Management Officer	Council's Tree Management Officer raised no concerns to the proposal.
Heritage Officer	Council's Heritage Officer raised no concerns to the proposal.

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 considered satisfactory and in the public interest. Therefore, it is recommended that the application be approved subject to a DEFERRED COMMENCEMENT approval.

Recommendation(s)

It is recommended that the Burwood Local Planning Panel approve Development Application No. DA.2023.65 which proposes amalgamation of 3 adjoining lots, partial demolition of existing building, excavation works and construction of a part 2, part 3 storey mixed use development comprising a basement Pilates studio, retail uses on the ground floor, florist workshop on the first floor, and a childcare centre for 60 children with basement parking at No.40-44 Claremont Road Burwood Heights on the basis of a "Deferred Commencement Consent" subject to the requirements of Schedules A & B below: The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

SCHEDULE A – DEFERRED COMMENCEMENT CONDITIONS

The consent is not to operate until the following condition is satisfied, with 24 months of the date of this determination:

- 1) A site audit statement and a site audit report are to be prepared by an auditor accredited by the Environmental Protection Authority (EPA). The statement is to review the contaminated land consultant reports to ensure the methods and interpretation of the data are consistent with the *Managing Land Contamination – Planning Guidelines*, the *Guidelines for the NSW site auditor scheme* and the *Contaminated Land Management Act 1997*. The site audit statement is also to confirm the suitability and appropriateness of the plan of management.

Evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6A) of the Environmental Planning and Assessment Act 1979. The consent will not operate until such time that the Council notified the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied. Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of the written notification, subject to the conditions of consent, as detailed in Schedule B - Conditions of Consent.

Attachments

- 1 40-44 Claremont Road Burwood - Recommended Conditions of Consent
- 2 40-44 Claremont Road Burwood - Draft Plans

(Item DA8/24) DA.2024.14 - 19 Stanley Street, Burwood - Modifications to the heritage item at No.25 Stanley Street, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development with 3 levels of basement parking

File No: 24/31444

Report by Senior Town Planner

Owner: Mr Onny Khouw, Mrs Carol Chun Shan Lam, Mrs Patricia Darmon, Mr Angelo Darmon
Applicant: Mr Anthony Mitchell
Location: 19 Stanley Street, Burwood
Zoning: **R1 General Residential**

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 proposal is development to which *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* applies.

Proposal

The application seeks consent for removal of the contemporary rear addition and modifications to the ground floor to conserve the Heritage Item at No.25 Stanley Street as a dwelling, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development comprising 49 apartments (7 x 1 bedroom), (32 x 2 bedroom), (10 x 3 bedroom) apartments, 3 levels of basement car parking on land at No.19 Stanley Street, Burwood.

The specifics of the proposal are as follows:

Basement Level 3

Contains 18 residential car parking spaces, 1 accessible parking space, 10 bicycle parking spaces, and 21 storage compartments. (Refer to **Figure 1** below).

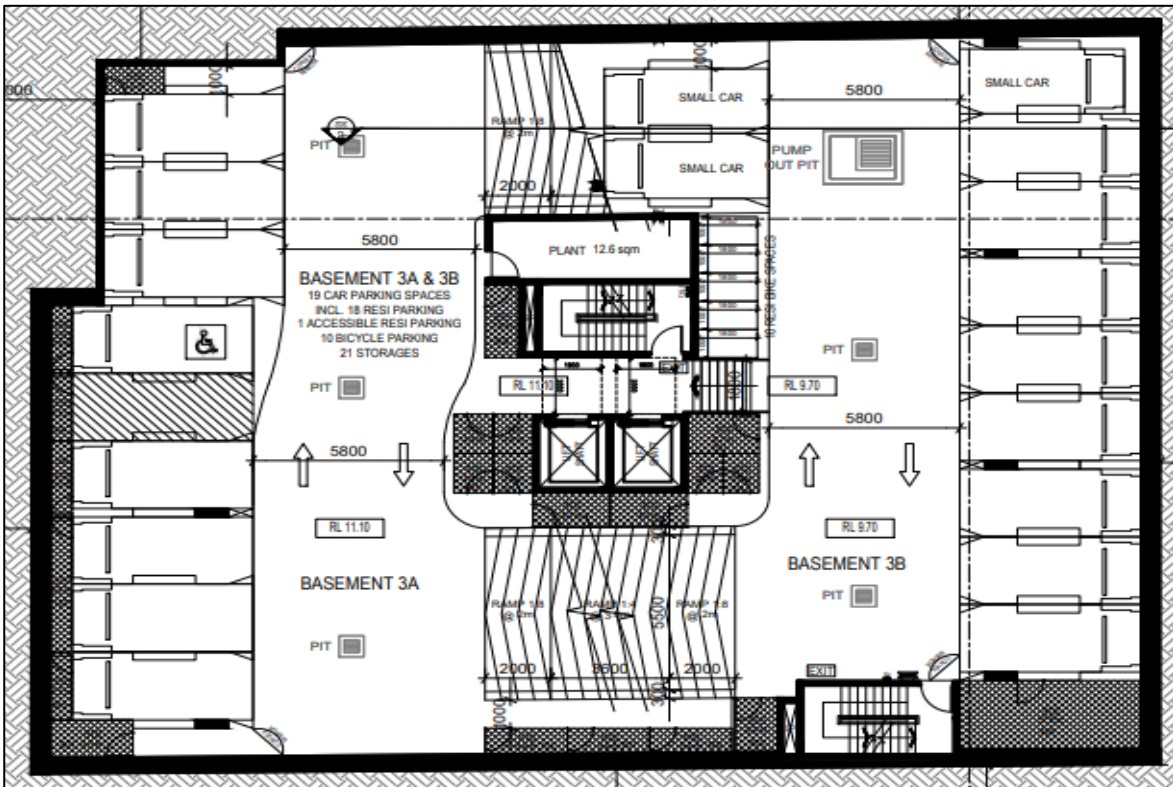


Figure 1 – Extract of applicants submitted Basement Level 3 Plan.
 (Source: Tony Owen & Partners)

Basement Level 2

Contains 18 residential car parking spaces, 10 bicycle parking spaces, and 21 storage compartments. (Refer to **Figure 2** below).

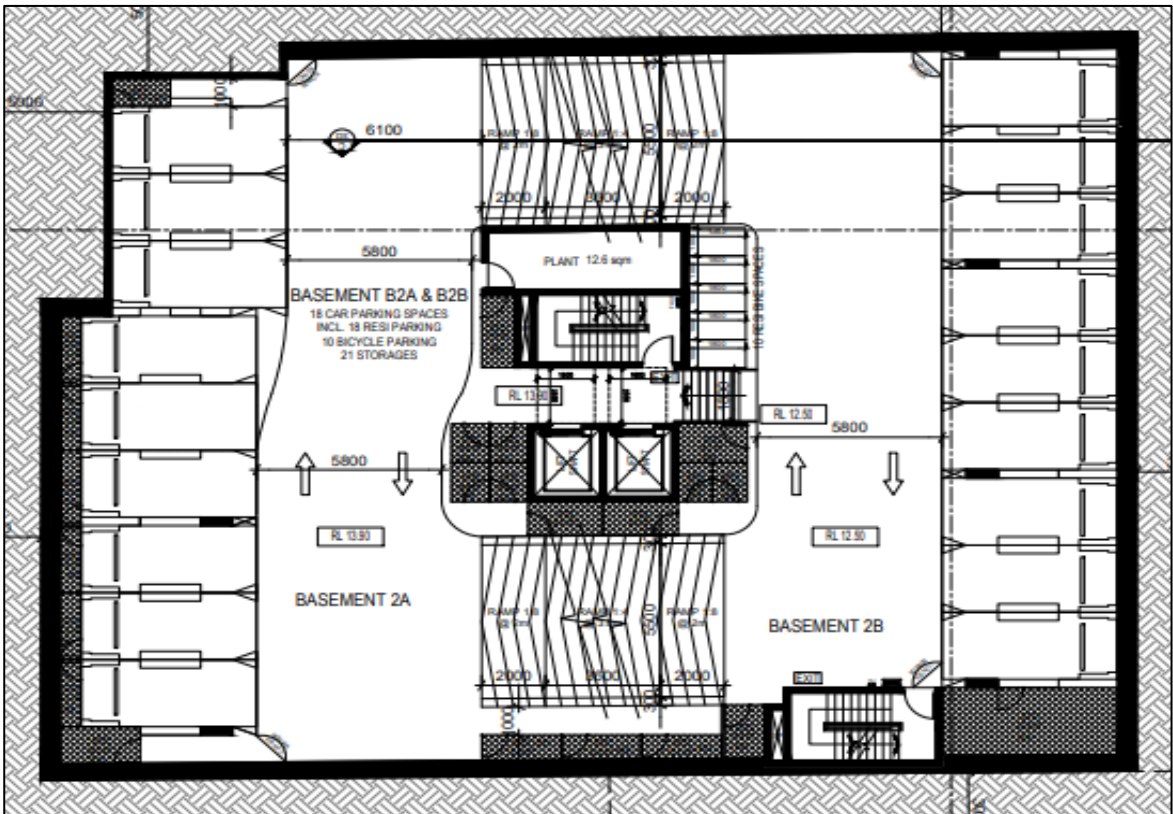


Figure 2 – Extract of applicants submitted Basement Level 2 Plan.
 (Source: Tony Owen & Partners)

Basement Level 1

Contains 9 residential car parking spaces, 4 residential accessible parking spaces, and 15 storage compartments. (Refer to **Figure 3** below).

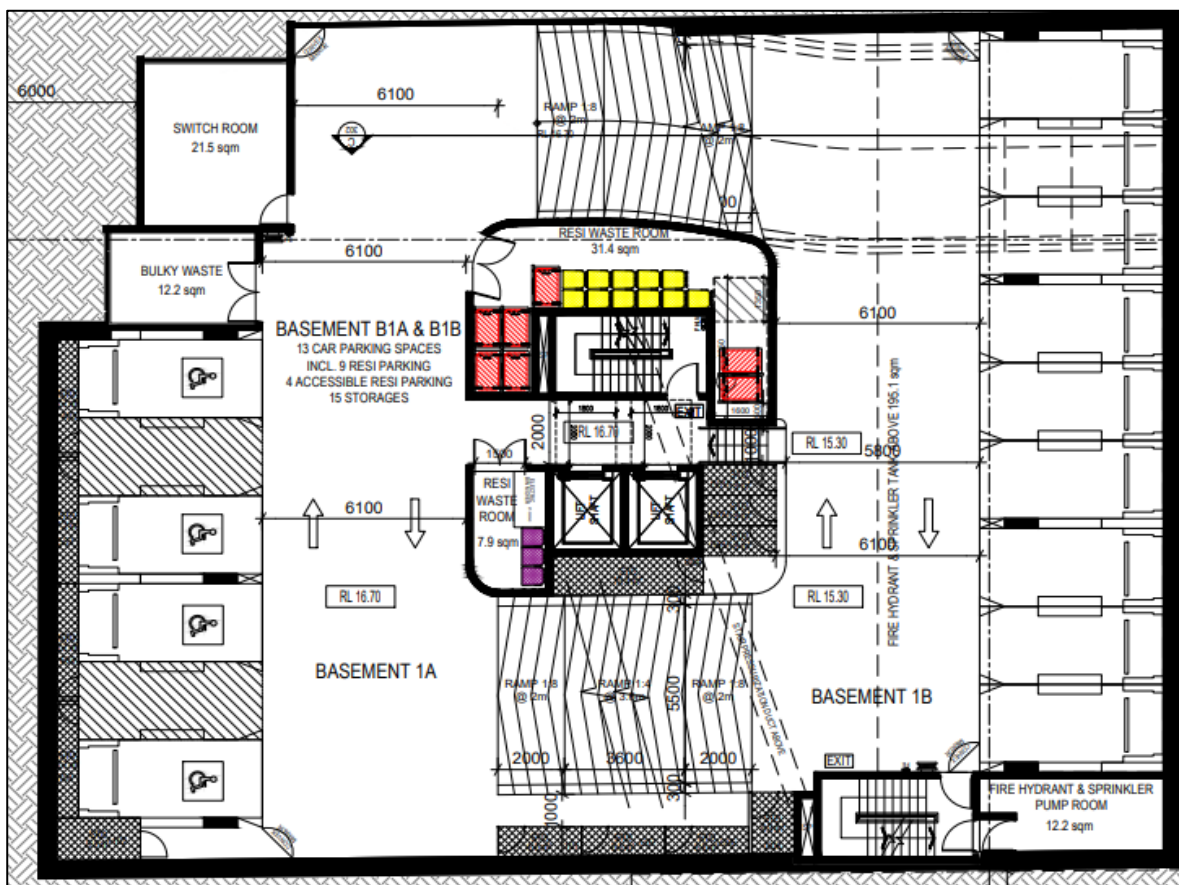


Figure 3 – Extract of applicants submitted Basement Level 1 Plan.
 (Source: Tony Owen & Partners)

Ground Floor Plan RFB and Ground Floor of Heritage Item at No 25 Stanley Street.

The ground floor comprises seven residential units (5 x 3 bed), (1 x 2 bed) and (1 x 1 bed). The central lobby includes access to the lifts and stairs, providing access to the upper and lower levels of the building. Each dwelling includes access to a private open space balcony area. The curtilage areas surrounding the building comprise soft landscaping treatments and an access pathway. Notably, the bin storage area is located within the northern side setback (Refer to **Figure 4** below).

The existing Heritage Item at No. 25 Stanley street comprises a two (2) storey dwelling house. The ground floor comprises a home office, family room and kitchen with attached laundry room located on the ground floor. The rear laundry room provides direct access to the rear courtyard (Refer to **Figure 4** below). Adjacent to the courtyard is a kiosk substation. Beyond the kiosk substation is a common lawn area and seating area with BBQ facilities and a pergola structure above.

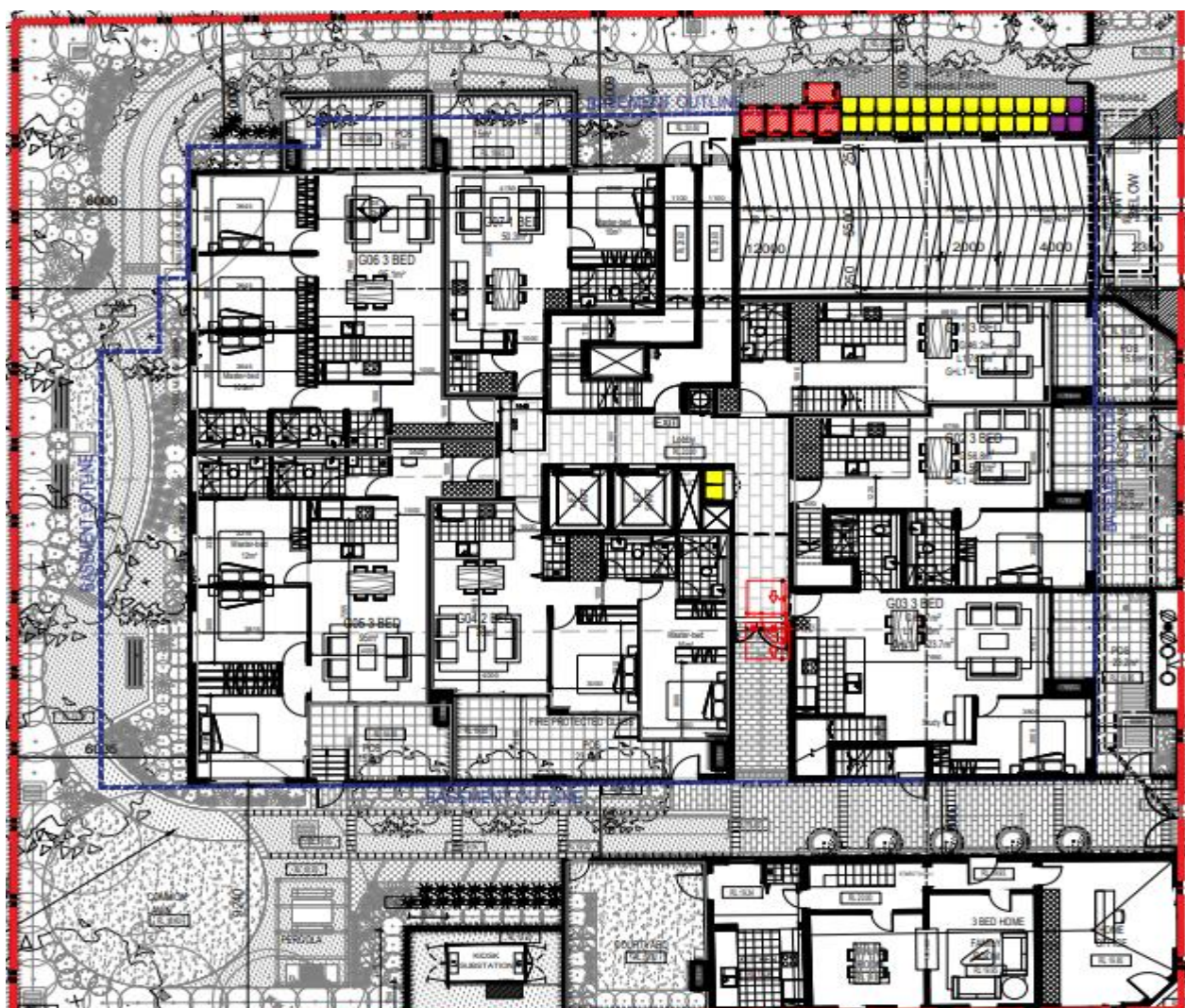


Figure 4 – Extract of applicants submitted Ground Floor Plan.
 (Source: Tony Owen & Partners)

Level 1 Floor Plan and First Floor of Heritage Item at No.25 Stanley Street

The first floor comprises eight residential units (4 x 3 bed), (2 x 2 bed) and (2 x 1 bed). Each dwelling includes access to a private open space balcony area. One unit (No. 103) has been nominated as the accessible unit. The central core lobby includes access to the stairs and (2) lift shafts connecting to the upper and lower levels of the building.

The first floor of the Heritage listed dwelling house comprises three (3) bedrooms and a separate study room (Refer to **Figure 5** below).

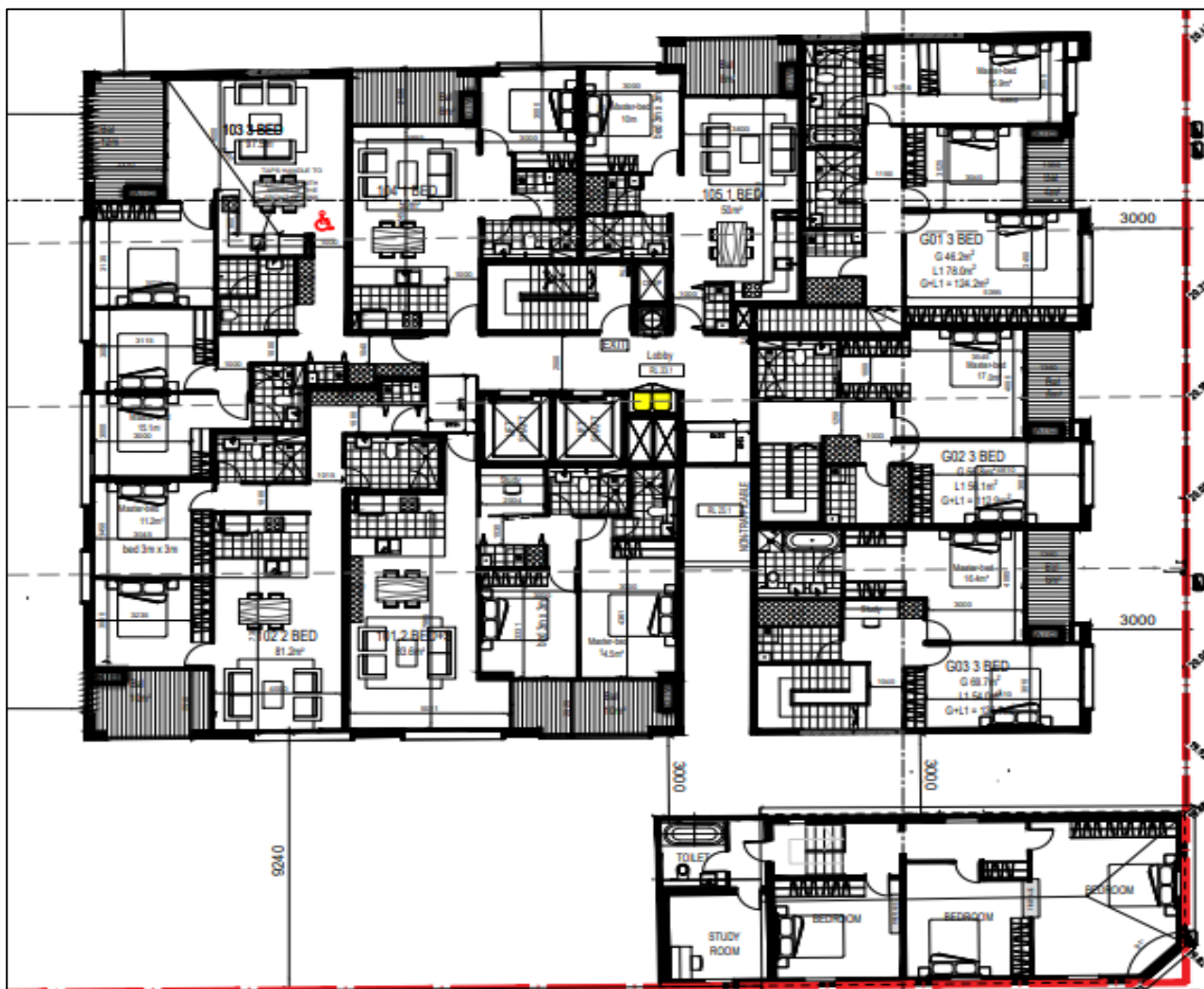


Figure 5 – Extract of applicants submitted Level 1 Floor Plan.
 (Source: Tony Owen & Partners)

Level 2 Floor Plan

The second floor comprises six residential units (2 x 3 bed) and (4 x 2 bed). Each dwelling includes access to a private open space balcony area. Perimeter landscaping in the form of planter boxes have been provided along the Stanley Street (eastern) building elevation and the north eastern corner elevation, adjacent to the balconies. (Refer to **Figure 6** below). The central core lobby includes access to the lifts and stairs providing access to the upper and lower levels of the building.

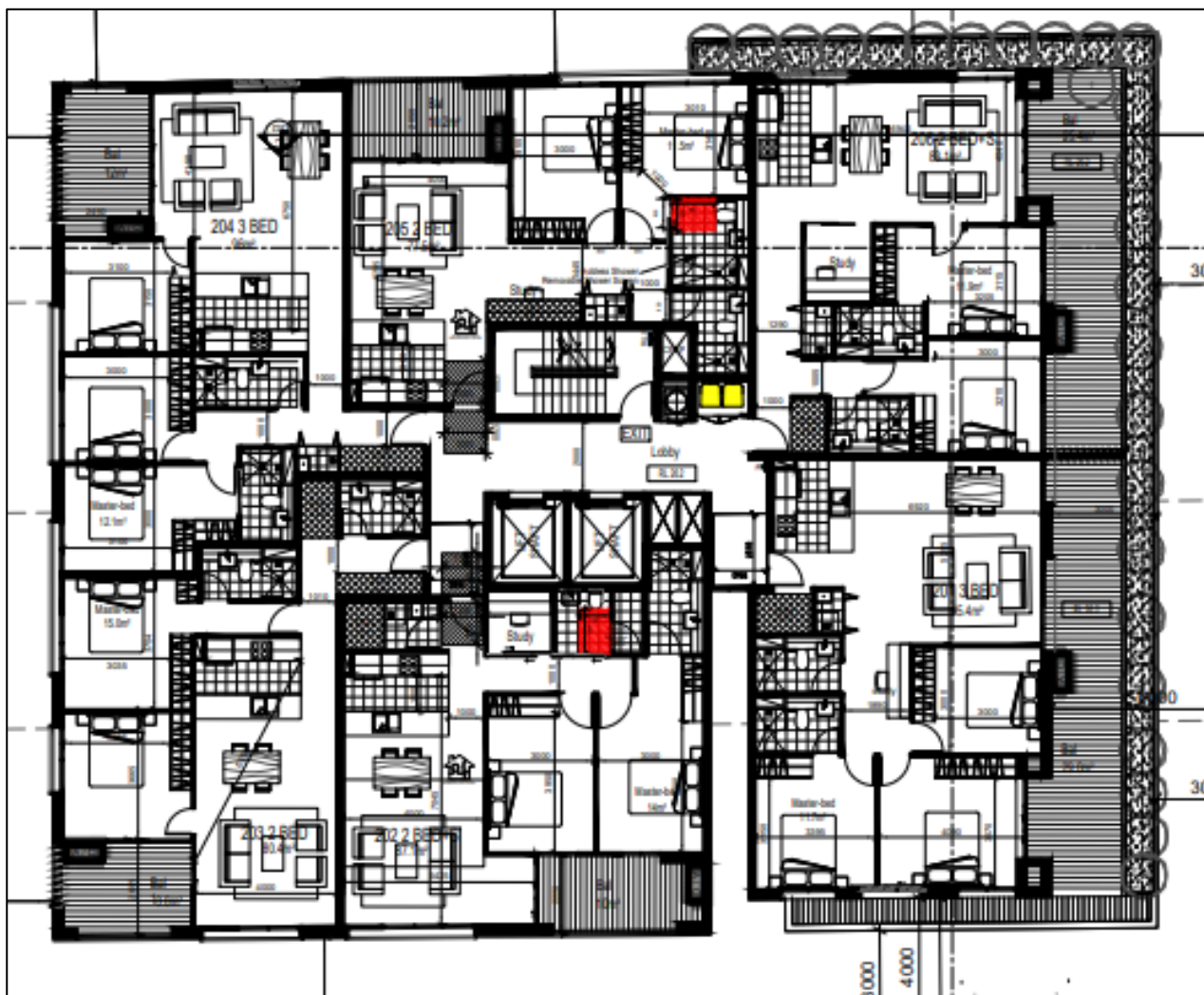


Figure 6 – Extract of applicants submitted Level 2 Floor Plan.
 (Source: Tony Owen & Partners)

Level 3 Floor Plan

The third floor comprises six residential units (1 x 3 bed) and (5 x 2 bed). Each dwelling includes access to a private open space balcony area. (Refer to **Figure 7** below). The central core lobby includes access to the lifts and stairs providing access to the upper and lower levels of the building.

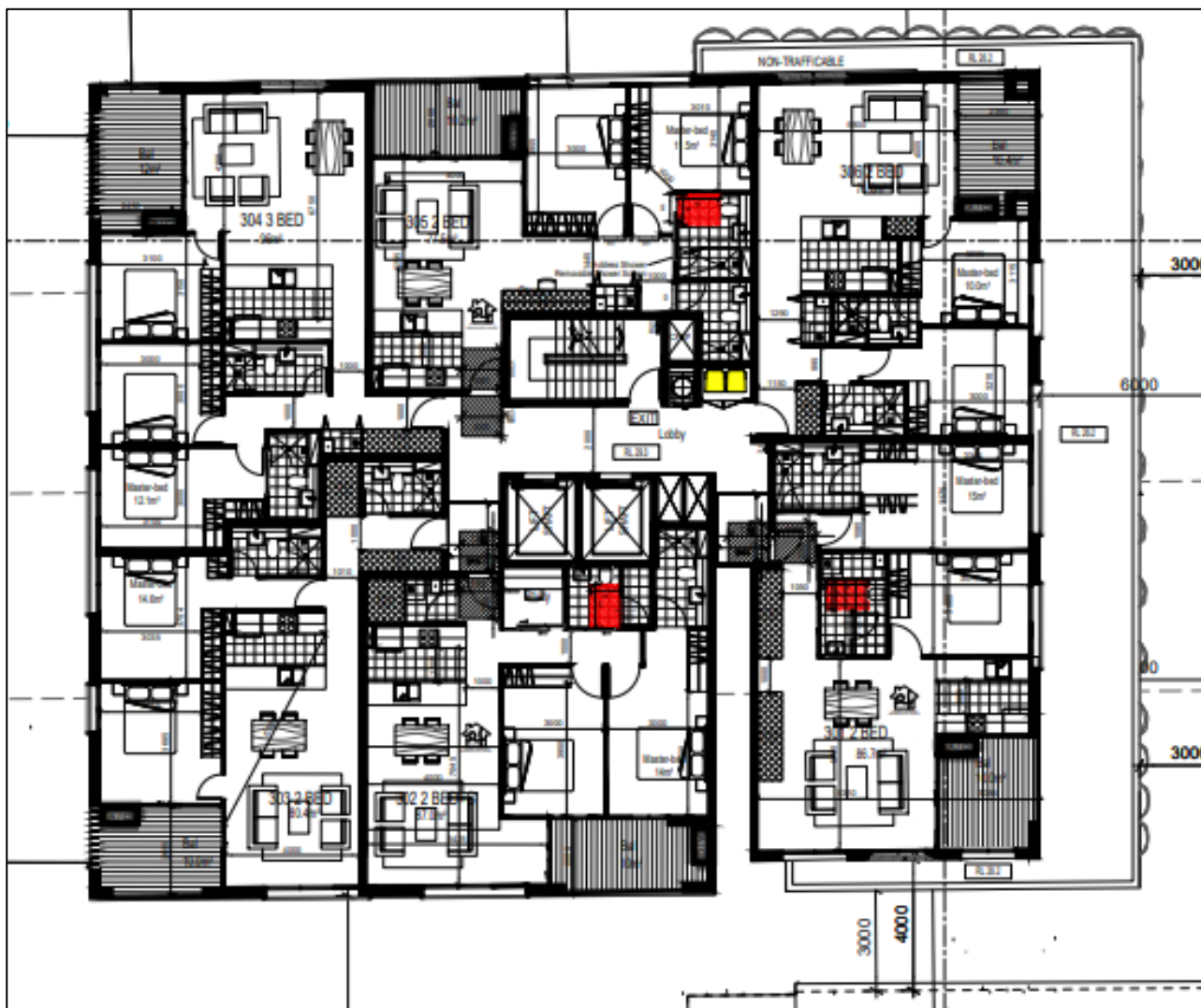


Figure 7 – Extract of applicants submitted Level 3 Floor Plan.
 (Source: Tony Owen & Partners)

Level 4 Floor Plan

The fourth floor comprises five residential units (4 x 2 bed) and (1 x 1 bed). Each dwelling includes access to a private open space balcony area. (Refer to **Figure 8** below). The central core lobby includes access to the lifts and stairs providing access to the upper and lower levels of the building.

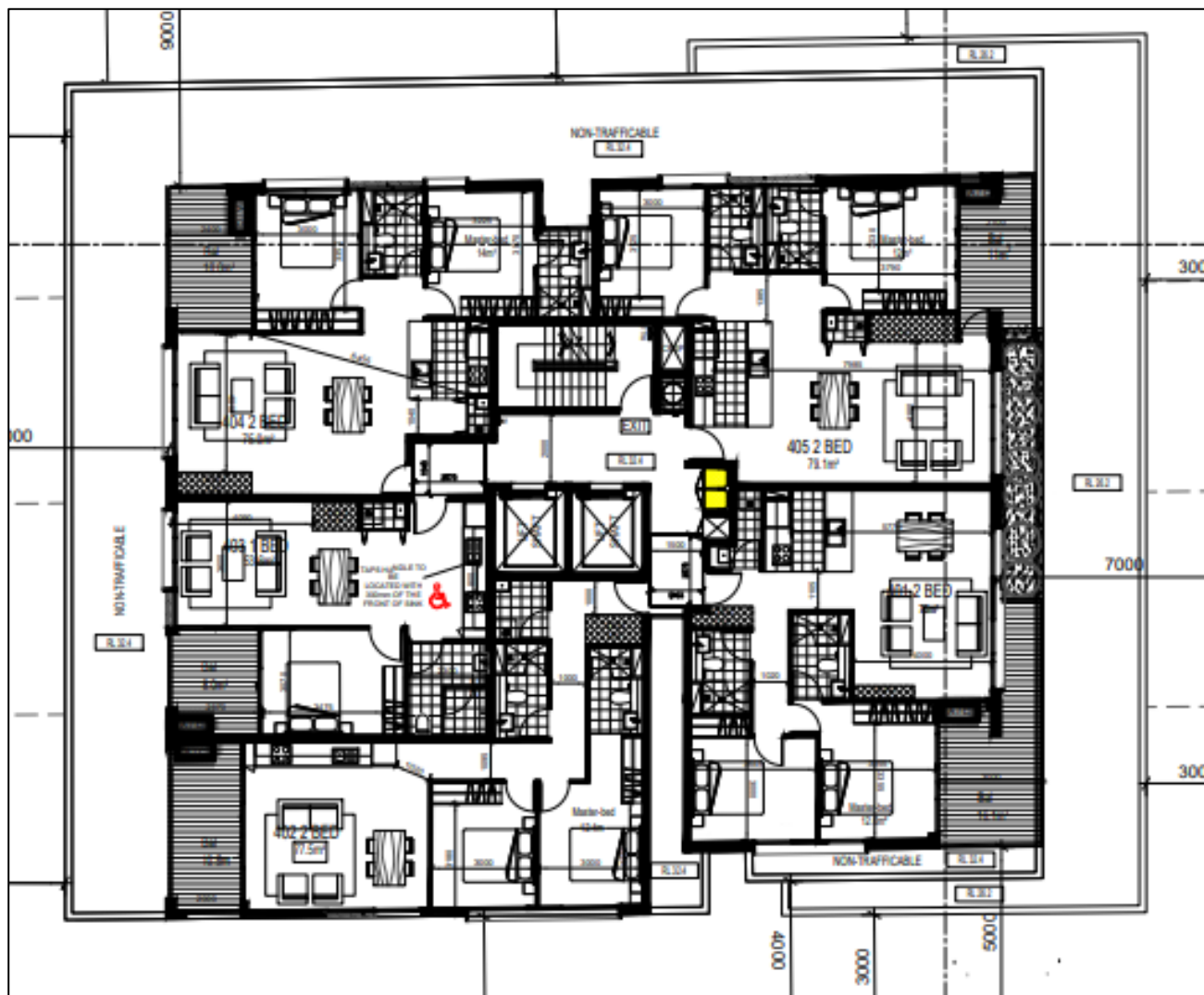


Figure 8 – Extract of applicants submitted Level 4 Floor Plan.
 (Source: Tony Owen & Partners)

Level 5-7 Floor Plan

Levels five to seven comprises five residential units on each floor (4 x 2 bed) and (1 x 1 bed). Each dwelling includes access to a private open space balcony area. (Refer to **Figure 9** below). The central core lobby includes access to the lifts and stairs providing access to the upper and lower levels of the building.

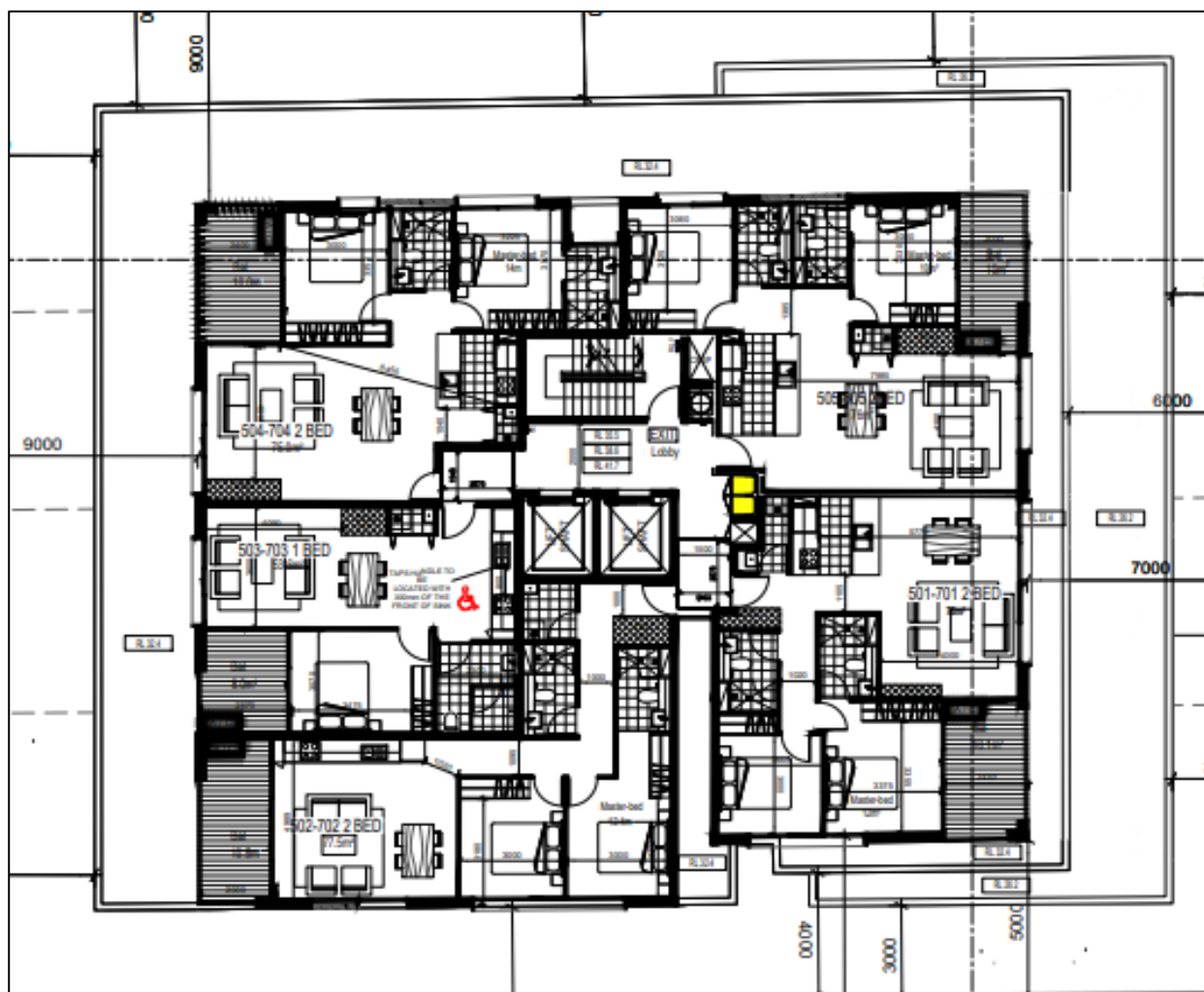


Figure 9 – Extract of applicants submitted Level 5-7 Floor Plan.
 (Source: Tony Owen & Partners)

Level 8 Floor Plan

The fourth floor comprises four residential units, all of which are 2 bedroom units. Each dwelling includes access to a private open space balcony area. (Refer to **Figure 10** below). The central core lobby includes access to the lifts and stairs providing access to the upper and lower levels of the building.

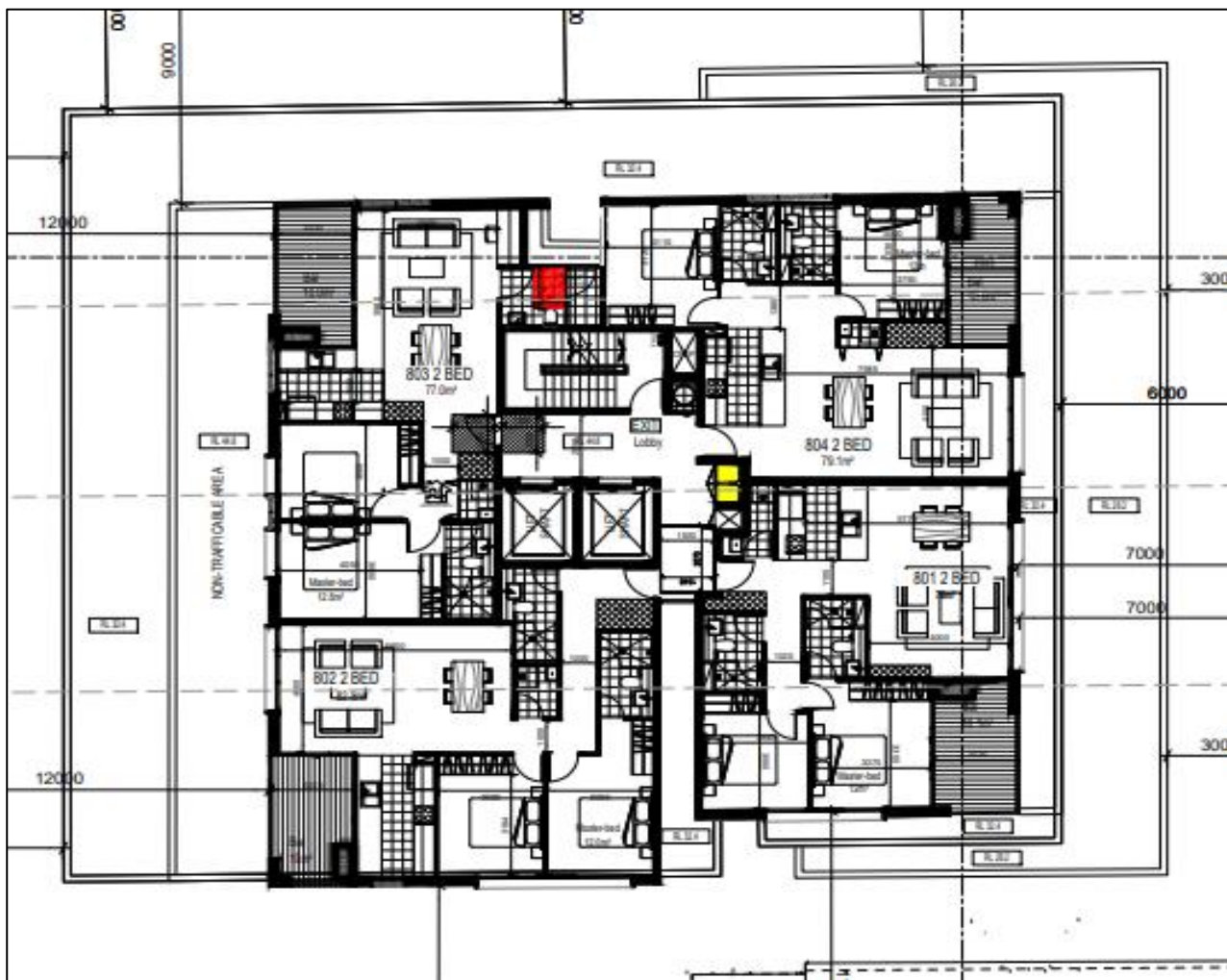


Figure 10 – Extract of applicants submitted Level 8 Floor Plan.
(Source: Tony Owen & Partners)

Roof Plan

The roof will be a non-trafficable area and will comprise 34 solar panels and the lift overrun (Refer to **Figure 11** below).

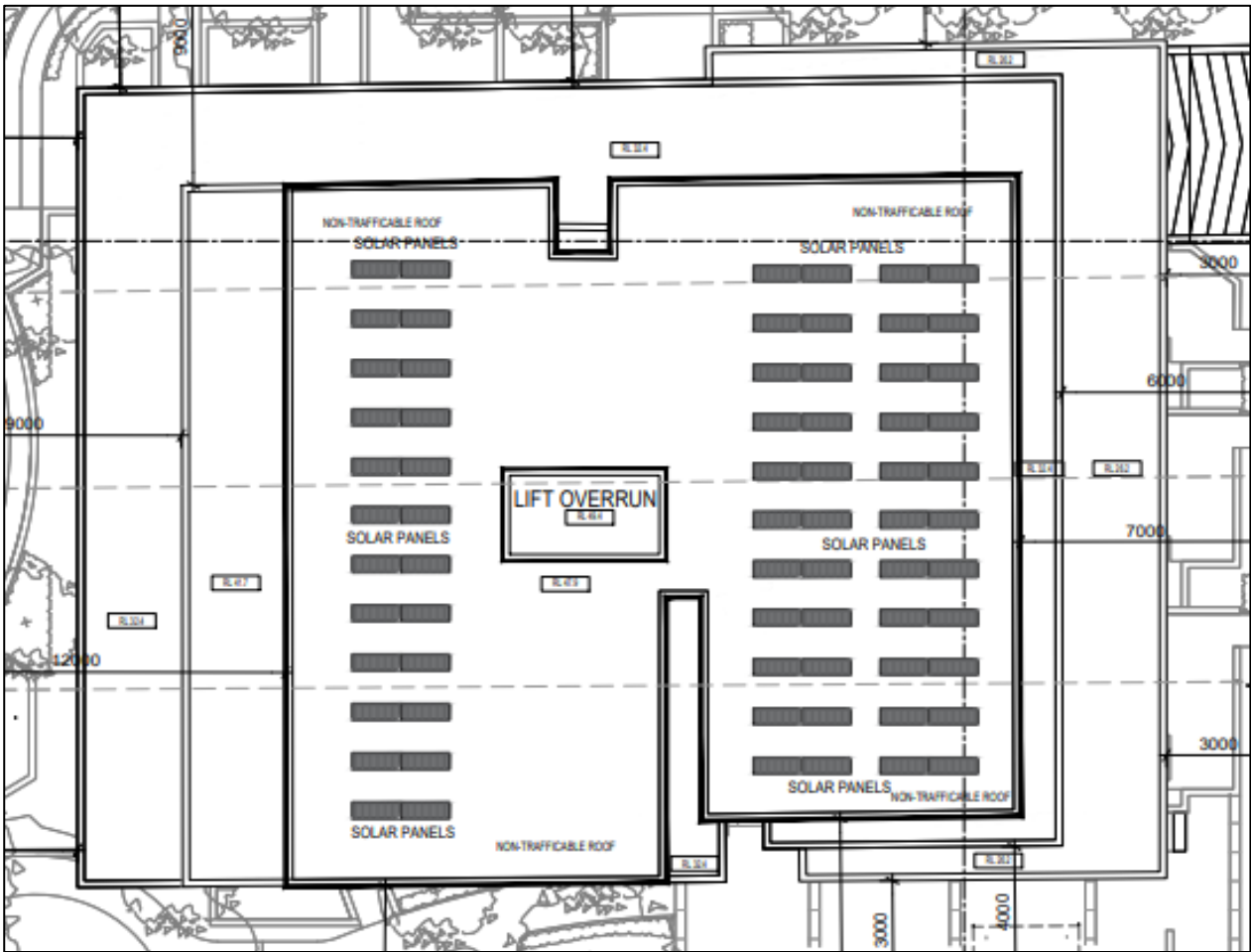


Figure 11 – Extract of applicants submitted Roof Plan.
(Source: Tony Owen & Partners)

Alterations and Additions to the Heritage Item at No.25 Stanley Street

The proposal seeks to undertake the following alterations and additions to the ground floor level:

- Removal of the verandah and external laundry
- Removal of the living room and introduction of a new courtyard area,
- Renovation of the kitchen and laundry within the dwelling.

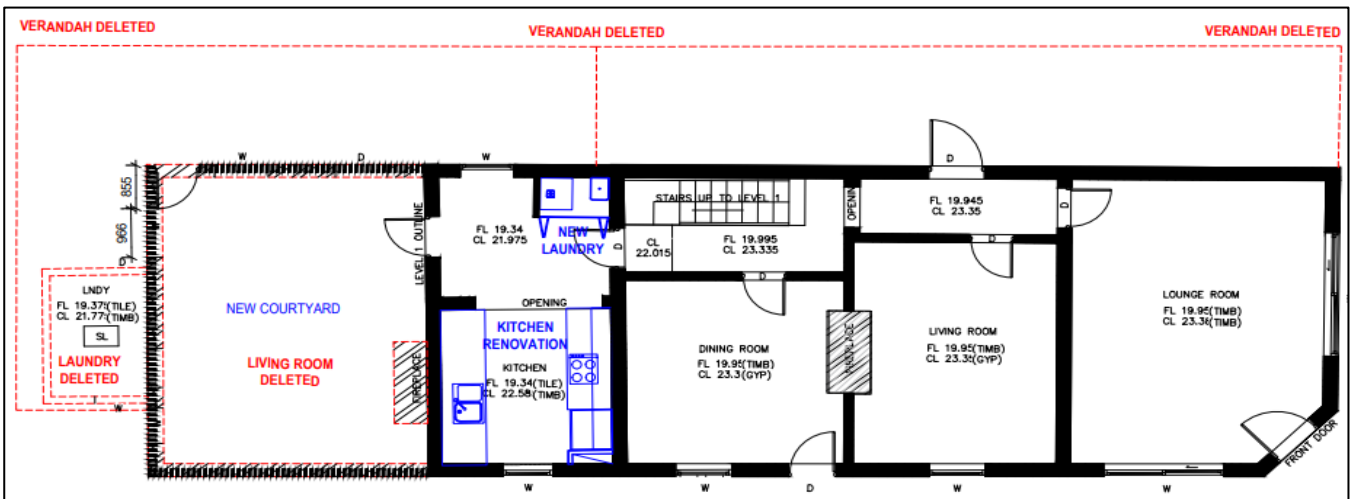


Figure 12 – Extract of applicants submitted No.25 Stanley Street – Ground Floor Plan.
(Source: Tony Owen & Partners)

The proposal seeks to undertake the following alterations and additions to the first floor level:

- Removal of the balcony on the northern elevation first floor.
- Door to balcony, replaced with a window.
- Installation of new built-in wardrobes to each room

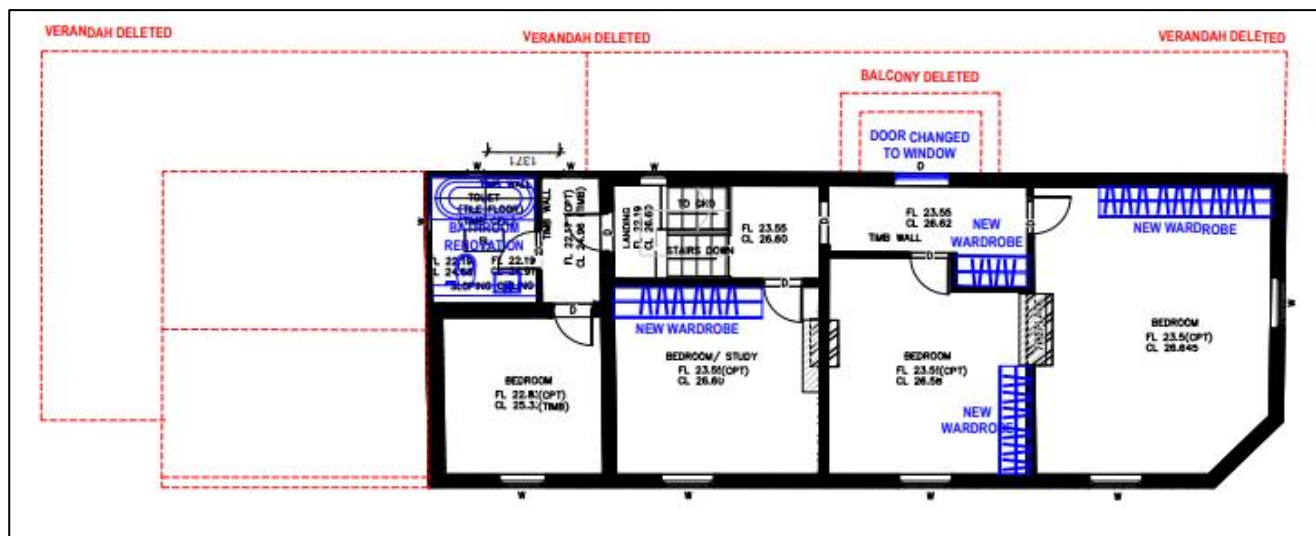


Figure 13 – Extract of applicants submitted No.25 Stanley Street – First Floor Plan.
(Source: Tony Owen & Partners)

Built Form

The proposed new residential apartment building is contemporary in style and will read as a clear and appropriate contrast to the more ornate and detailed Victoria Georgian style of the former corner shop. The proposed development establishes a two-storey podium height to Stanley Street that is in keeping with the ridge height of the adjacent terrace row and retained Heritage Item upon the site, and has similar setbacks and courtyards to the attached houses at No.11-17 Stanley Street. (Refer to **Figure 14** below).

Materials and Finishes

The use of masonry is sympathetic to and in keeping with the context of the site by directly relating to the brickwork of the retained Heritage Item at No.25 Stanley Street. The use of brick patterns will assist to reduce the massing of the proposed development. The proposed use of contemporary materials such as brick work, aluminium framed windows and metal are simple, which reduces the visual impact of the proposed form. The proposed design is suggested by the Heritage Impact Assessment to be in 'keeping in style, scale and form with other recent and contemporary developments in the context of the site'. (Refer to **Figure 14** below).



Figure 13 – Extract of applicants submitted photomontage of the proposed development.
(Source: Tony Owen & Partners)

Background

Application History

On 6 July 2023, Development Application DA.2023.60 was lodged, seeking consent for alterations and additions to conserve the Heritage Item at No.25 Stanley Street as a dwelling, and to demolish all remaining improvements upon the site, and to construct an 8 storey residential flat building comprising 40 apartments, and three levels of basement parking.

Following a preliminary assessment of the subject DA, the applicant was advised to withdraw the development application based upon the cumulative nature of non-compliances associated with the proposal.

On 8 March 2024, the applicant withdrew the application from the NSW Planning Portal in line with Council's advice.

Current Application History

On 18 April 2024, the development application (DA.2024.14) was lodged.

The application was referred to the following internal Council departments:

- Development Engineer;
- Traffic Engineer;
- Tree Management Officer,

- Heritage,
- Waste Management Officer,
- Burwood Design Review Panel.

The application was referred not required to be referred externally.

In accordance with the Burwood Community Participation Plan, the owners of surrounding properties were given notice of the application on 29 April 2024, with the notification period for submissions closing on 21 May 2024. In response to the public notification of the DA, five (5) submissions were received. Issues raised within the submissions, are detailed later within this report under Community Consultation.

On 5 June 2024, the applicant filed a Class 1 appeal with the Land and Environment Court of NSW, with a first directions hearing on 4 July 2024.

Due to technical difficulties in relation to Council's notification system, the application was re-notified on 1 July 2024, with the notification period for submissions closing on 17 July 2024. In response to the re-notification of the development application, two (2) submissions were received. Issues raised within the submissions, are detailed later within this report under Community Consultation.

On 4 July the application was referred to the Burwood Design Review Panel for comment. The Design Review Panel raised some minor concerns which were agreed to be resolved by the applicant through the submission of amended plans. The issues raised by the Design Review Panel were incorporated into the RFI letter issued to the applicant as detailed below.

On 15 July 2024, following a preliminary assessment of the subject DA, a request for information (RFI) was issued to the applicant indicating the following issues to be rectified before the submissions of amended plans:

Waste Officer – Council's Waste Officer advised that it is not suitable for bins to be presented to kerbside for collection as proposed, for a property of this size. Bins presented to kerbside impact on amenity from visual and odour impacts, and pedestrian and traffic movements. The applicant was also advised to adjust the waste management collection to one of the following:

- On-site collection for Council waste collection vehicles, where design allows for the collection vehicle to enter and exit the property in a forward direction and service bins from a designated collection point within the property boundary;
- Collect and return collection (sometimes referred to as wheel-in wheel-out collection, where bins are presented within an enclosed area of the building located close to a designated kerbside vehicle parking location. Collection staff will enter the bin storage area on foot, wheel bins to the rear of the vehicle to be emptied, and then return bins to the bin storage area. The following design elements must be achieved for this to be approved:
 - Sufficient space in the bin storage area sufficient to present all bins for collection,
 - Access pathway for wheeling bins between the bin storage area and kerbside collection point is to be level and free of steps,
 - The maximum manual handling distance between bin storage area and kerbside collection point is 15m.
- Updated architectural plans and waste management plans were requested.

Heritage – The proposal was generally supported. Additional details regarding the works to the heritage item and materials were sought.

Burwood Design Review Panel (BDRP) – the BDRP advised of the following:

- The proposed arrangement of storing bins on the street was not ideal and it was suggested that alternative solutions be sought.
- Landscape planters and window placement should prioritise privacy considerations.
- It was advised that the placement of air conditioners be revised on balconies to improve the useability of balconies and minimise visual impact.
- Several of the 3 bedroom units would need their balconies revised to ensure a minimum width of 2.5m is achieved for functionality.
- The Panel emphasised the need to comply with the 2.7m floor to ceiling height requirement to provide adequate amenity for the intended occupancy.
- The applicant was requested to confirm all gross floor area calculations on the submitted architectural plans.
- The Panel also advised that to ensure the integrity of the scheme, references to 'or similar' and 'or the like' are to be removed from the materials schedules.

On 17 July 2024, the applicant submitted amended plans and documentation in response to Council's RFI letter. The amended plans were assessed, and all previous issues raised had been rectified. The application is now recommended for approval.

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;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- 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 13 in Deposited Plan 72901, Lot 1 in Deposited Plan 205678, Lot 2 in Deposited Plan 205678 and Lot 1 in Deposited Plan 73875 and is known as No. 19, 21-23, and 25 Stanley Street, Burwood. The subject site is a rectangular shaped allotment with an overall site area of 1597m². The subject site presently accommodates a two storey former corner shop at No. 25 Stanley Street, a pair of two storey semi-detached Victorian period dwellings at No.21-23 Stanley Street, and a single Victoria period dwelling at No.19 Stanley Street. (Refer to **Figure 18**, **Figure 19** and **Figure 20**).

The site has an eastern frontage to Stanley Street and southern frontage to Hornsey Street. Vehicular access is provided to the subject site via four (4) existing single width driveway and crossovers from Stanley Street. Topography of the site generally slopes down from east to west, away from Stanley Street. The subject site is zoned R1 General Residential in accordance with the Burwood Local Environmental Plan 2012 (BLEP 2012). (Refer to **Figure 14** below).

It is to be noted, that No.25 Stanley Street is identified as Heritage Item No.110 listed within Schedule 5 of the BLEP 2012. The adjoining properties to the west of the subject site at No. 34-36 Oxford Street, are identified as Heritage Item No.87 listed within Schedule 5 of the BLEP 2012. In addition, the properties to the north of the subject site at No.11, 13, 15 and 17 Stanley Street, are listed as Heritage Item No.109 listed with Schedule 5 of the BLEP 2012. Furthermore, the adjoining buildings across Stanley Street, to the east of the subject site at Burwood Public School are listed as Heritage Item No. 47 listed within Schedule 5 of the BLEP 2012. (Refer to **Figure 16** below).

It is also to be noted, No.25 Stanley Street (part of the subject site), and the adjoining properties at No. 34-36 Oxford Street, and 11-17 Stanley Street are subject to the building appearance and streetscape provisions contained within Section 4.5 of the Burwood Development Control Plan 2013 (BDCP 2013). (Refer to **Figure 17** below).

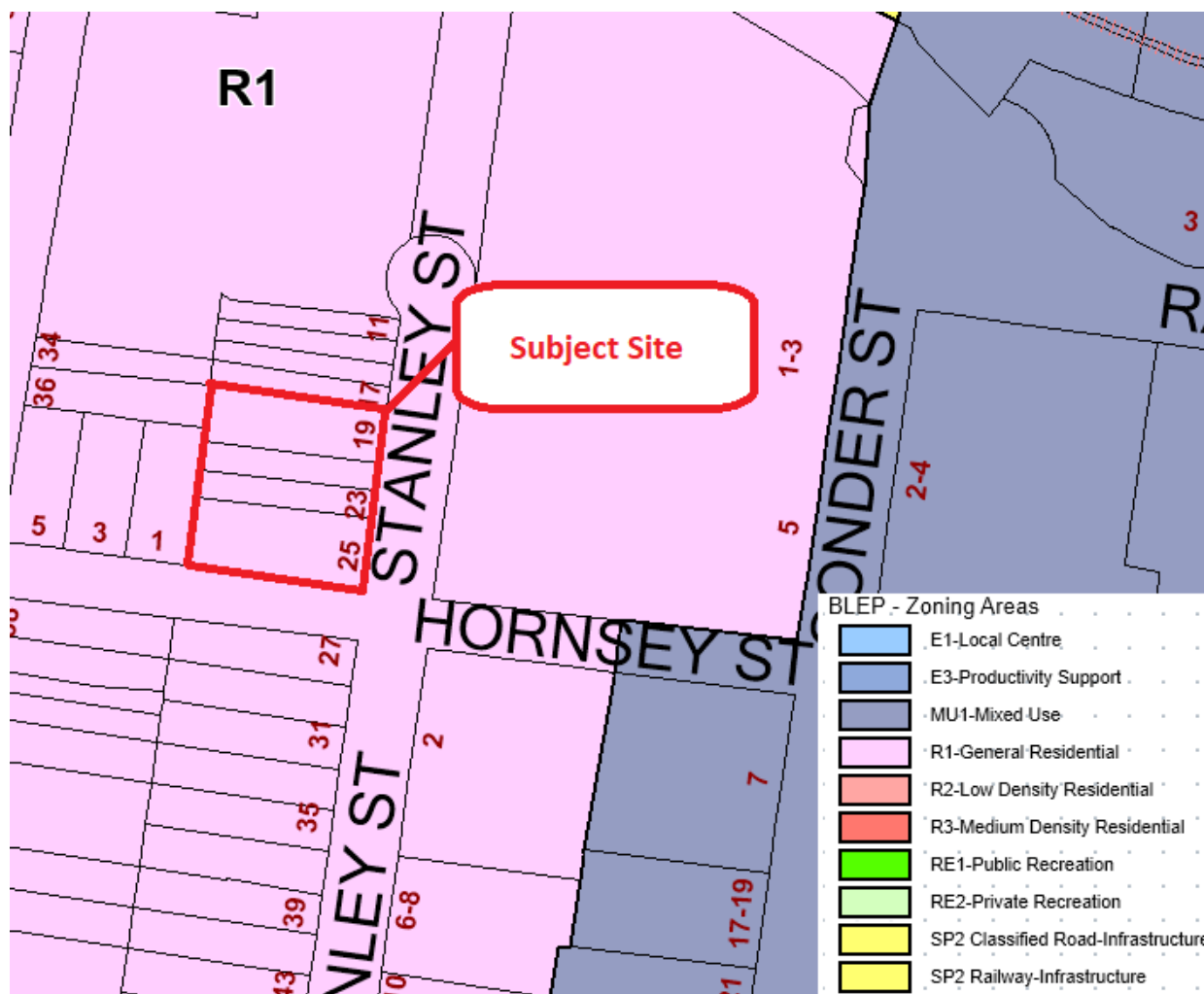


Figure 14 – Subject site located within the R1 General Residential Zone.
 Source: (Council MapInfo)



Figure 15 – Aerial Image of the Subject Site and Surrounds.
Source: (Council MapInfo)

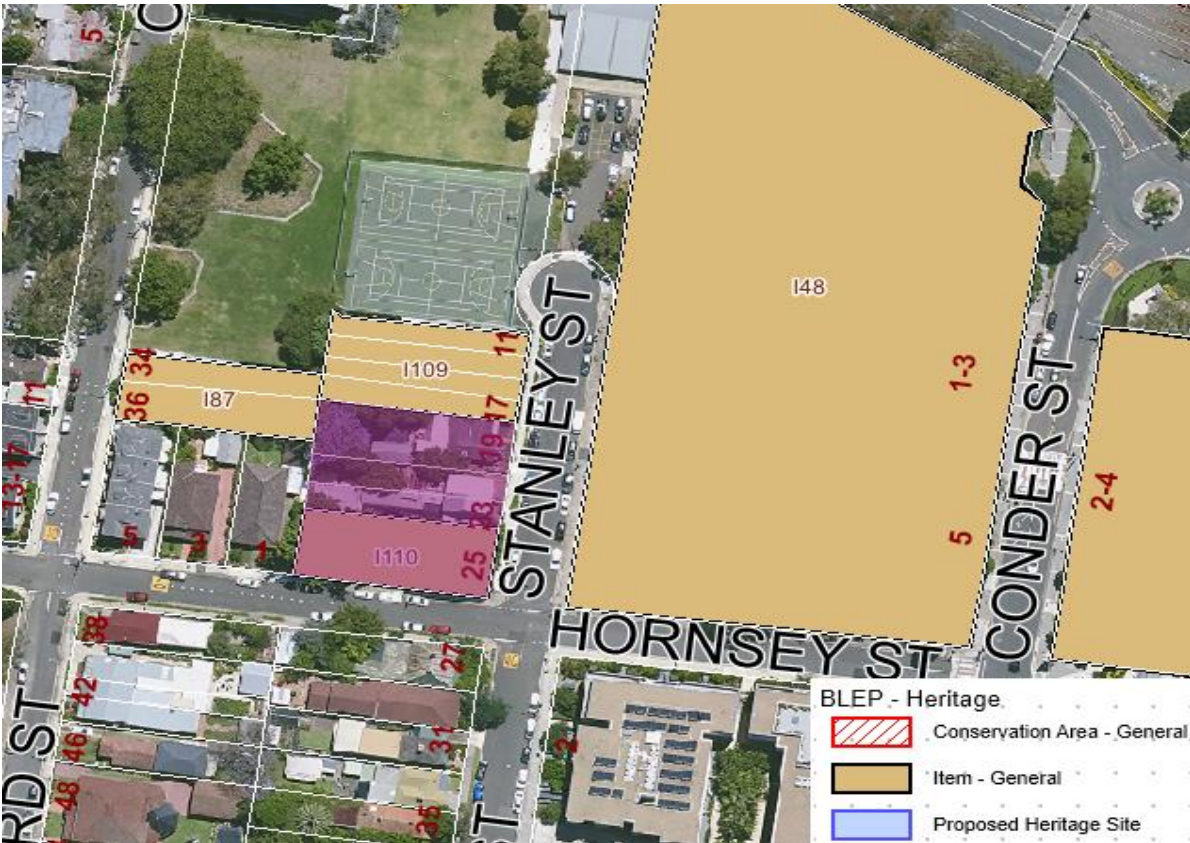


Figure 16 – Subject site located within close proximity to numerous items of environmental heritage listed within Schedule 5 of the BLEP 2012. Notably, No.25 Stanley, is nominated as an item of environmental heritage.
Source: (Council MapInfo)

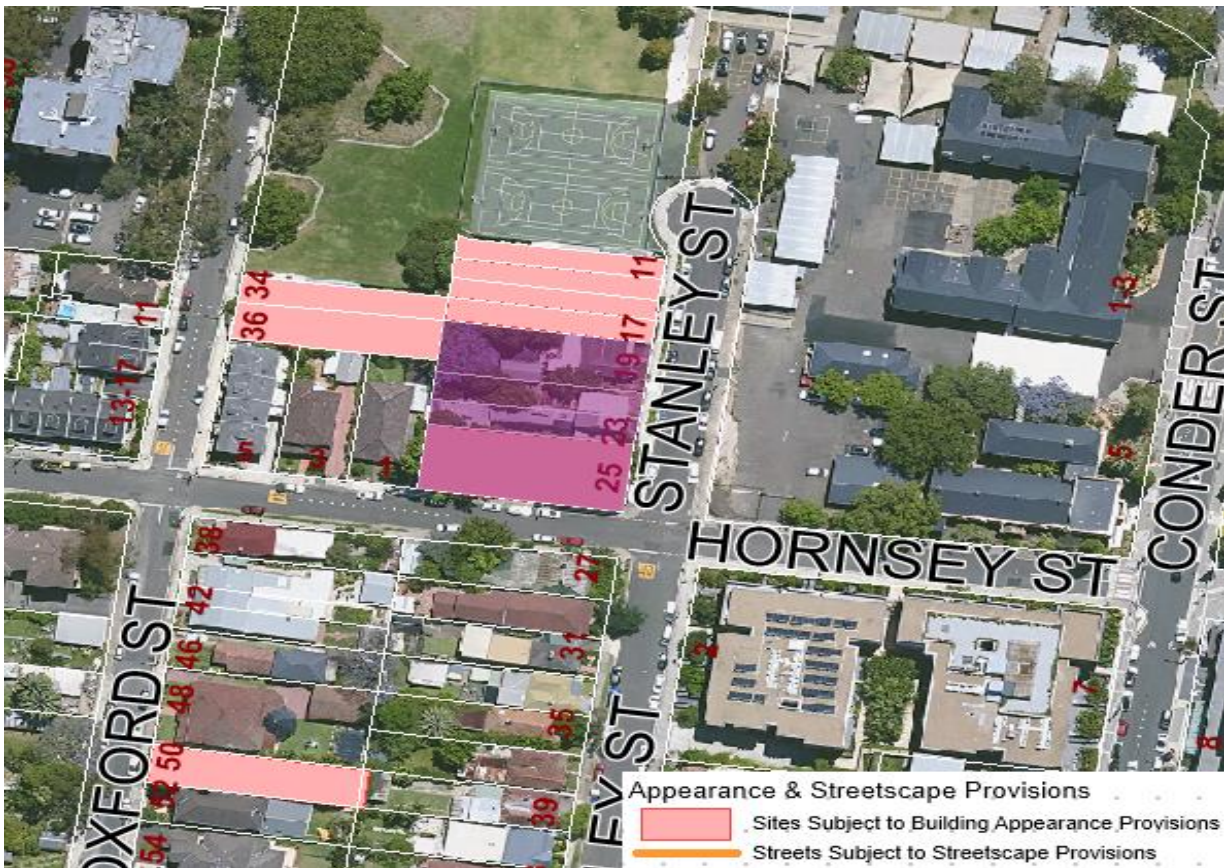


Figure 17 – Site (No.25 Stanley), and select adjoining properties are subject to the building Appearance and Streetscape Provisions.
Source: (Council MapInfo)



Figure 18 - Existing Heritage item (No.110) on the site at No.25 Stanley Street, Burwood.
(Source: Google Maps)



Figure 19 - Existing development located on the subject site at No.21-23 Stanley Street, Burwood.
(Source: Google Maps)



Figure 20 - Existing development located on the subject site at No.19 Stanley Street, Burwood.
(Source: Google Maps)

Surrounding Development

To the immediate east of the site at No.1 Conder Street, is Burwood Public School. (Refer to **Figure 21** below). To the immediate south of the site is No. 27, Stanley Street which comprise a single storey Victorian era dwelling house with a metal roof and detached garage at the rear of the allotment. (refer to **Figure 22** below). To the immediate west of the site is No. 1 Hornsey Street which comprises a single storey brick dwelling house with a tile roof. (Refer to **Figure 23** below). Also to the west of the subject site is No.34-36 Oxford Street which comprises a pair of two storey semi-detached Victorian period dwellings. (Refer to **Figure 24** below). To the north of the subject site is No.11,13-15 and 17 Stanley Street which comprise four (4) single storey semi-detached terrace style dwellings.

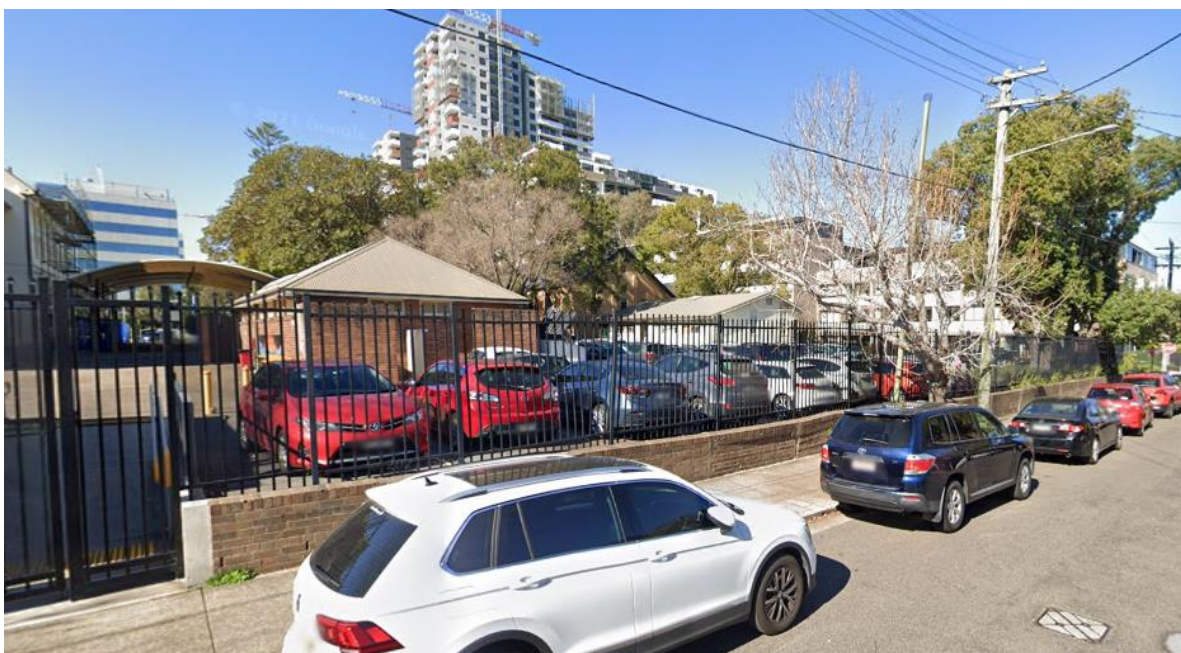


Figure 21 - Burwood Public School grounds east of the site on the opposite side of Stanley Street.

(Source: Google Maps)



Figure 22 – No.27 Stanley Street, located to the south of the subject site.

(Source: Google Maps)



Figure 23 – No.1 Hornsey Street, located to the immediate west of the subject site.
(Source: Google Maps)



Figure 24 – No.34-36 Oxford Street, located to the west of the subject site.
(Source: Google Maps)



Figure 25 – No. 11,13-15 and 17 Stanley Street, located to the north of the subject site.
(Source: Google Maps)

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 of the contamination is required to be remediated before the land is used for that purpose.

The existing long standing use of the property for residential purposes within an established general residential zone, and the site inspection which revealed no obvious contamination, indicate that a land contamination assessment is not considered to be necessary.

State Environmental Planning Policy (Sustainable Buildings) 2022

The aims of the SEPP encourage design and construction of more sustainable buildings across NSW. Chapter 2 prescribes standards for residential development that is considered BASIX development.

The proposed development includes BASIX affected buildings. A compliant BASIX Certificate No 1400839M_02 has been submitted with the application. The environmentally sustainable commitments within the BASIX certificate will be required to be fulfilled as a prescribed condition of consent. Accordingly, it is proposed to include the BASIX Certificate in the approval documents.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of BLEP 2012, which related to the preservation of trees and vegetation. 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 proposal seeks the removal of twenty-six (26) trees on the subject site. As part of the assessment of the subject DA, the proposal was referred to Council's Tree Management Officer for comment. In their latest referral response issued on 24 April 2024, no objections were raised, subject to the imposition of consent conditions.

State Environmental Planning Policy (Housing) 2021

Part 2 of State Environmental Planning Policy (Housing) 2021 relates to development for affordable housing. In December 2023, the NSW Government implemented in-fill affordable housing reforms to encourage private developers to boost affordable housing and deliver more market housing. The objective of the new provisions is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing	Proposed	Compliance
15C Development to which division applies		
<p>(1) This division applies to development that includes residential development if</p> <p>(a) The development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and</p> <p>(b) The affordable housing component is at least 10%, and</p> <p>(c) All or part of the development is carried out</p> <p>(i) For development on land in the Six Cities Region, other than in the City Shoalhaven local government area, in an accessible area, or</p> <p>(ii) For development on other land – within 800m walking distance of land in a relevant zone or an equivalent land use zone.</p> <p>(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.</p> <p>(3) In this Section, relevant zone means the following:</p>	<p>The development is permitted with consent.</p> <p>The affordable housing component equates to 10%</p> <p>The subject site is located within 800m (approx. 610m) of the entry to Burwood Train Station.</p> <p>As above.</p> <p>Noted. No affordable housing is provided as part of another requirement under another chapter of this policy.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing	Proposed	Compliance
(a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre (e) Zone B4 Mixed Use.		
16 Affordable Housing Requirements for additional floor space ratio.		
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio of the land plus an additional floor space ratio of up to 30% based on the minimum affordable housing component calculated in accordance with subsection (2).	The proposed development does not utilise the provisions of this clause.	N/A
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio} + 2}{(\text{as a percentage})}$	As above.	N/A
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	As above.	N/A
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	As above.	N/A
17 Additional floor space ratio for relevant authorities and registered community housing providers.		
(1) This section applies to residential development to which this division applies that is carried out		
(a) by or on behalf of a relevant authority or registered community housing provider, and	The application is not made on behalf of a relevant authority or community housing provider.	N/A
(b) on land with a maximum permissible floor space ratio of 2:1 or less.	As above.	N/A
(2) The maximum floor space ratio for the development is		

<p>State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing</p>	<p>Proposed</p>	<p>Compliance</p>
<p>(a) the maximum floor space ratio calculated in accordance with section 16, or</p> <p>(b) the maximum floor space ratio calculated in accordance with subsection (3).</p> <p>(3) The maximum floor space ratio for subsection (2)(b) is the maximum permissible floor space ratio for the land plus an additional floor space ratio of</p> <p>(a) if the affordable housing component is at least 50%—0.5:1, or</p> <p>(b) if the affordable housing component is between 20% and 50%—Y:1,</p> <p>Where AH is the affordable housing component</p> <p>Y is $AH \div 100$</p> <p>(4) If development to which this section applies uses the maximum floor space ratio under subsection (2)(a), section 16(3) also applies to the development.</p>	<p>As above.</p> <p>As above.</p> <p>As above.</p> <p>As above.</p> <p>As above.</p> <p>As above.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>18 Affordable housing requirements for additional building height</p>		
<p>(1) This section applies to development that includes residential development to which this division applies if the development</p> <p>(a) includes residential flat buildings or shop top housing, and</p> <p>(b) does not use the additional floor space ratio permitted under section 16.</p> <p>(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).</p>	<p>The proposal includes the construction of a 9 storey residential flat building.</p> <p>The proposal does not use the additional floor space ratio permitted under Section 16.</p> <p>The subject site is prescribed a maximum building height of 26m. 20% of 26m is 5.2m, therefore the maximum building height increases to 31.2m. The maximum height of the building is 29.9m. This has been calculated from the top of the Lift Overrun at RL:49.4, and existing ground level directly beneath at RL:19.41.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing	Proposed	Compliance
<p>(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows</p> $\text{affordable housing component} = \frac{\text{additional building height}}{\text{(as a percentage)}} \div 2$	<p>Noted and applied.</p>	<p>Yes</p>
<p>19 Non-discretionary development standards – the Act, S4.15</p>		
<p>(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</p> <p>(2) The following are non-discretionary development standards in relation to the residential development to which this division applies</p> <p>(a) a minimum site area of 450m²</p> <p>(b) a minimum landscaped area that is the lesser of</p> <p>(i) 35m² per dwelling or</p> <p>(ii) 30% of the site area</p> <p>(c) a deep soil zone on at least 15% of the site area, where</p> <p>(i) each deep soil zone has minimum dimensions of 3m, and</p> <p>(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,</p> <p>(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter</p> <p>(e) the following number of parking spaces for dwellings used for</p>	<p>Noted.</p> <p>The subject site has a total area of 1,597m²</p> <p>Does not apply. 524.1m² (32.8%) of the site is landscaped.</p> <p>Deep Soil – 294.9m² – (18.5%)</p> <p>A large portion of the deep soil area is located to the rear of the site.</p> <p>70% of living rooms and private open space receive at least 3 hours of direct solar access between 9am and 3pm mid-winter.</p> <p>(4 x 1 bed) -1.6 spaces</p> <p>(3 x 2 bed) – 1.5 spaces</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing</p>	<p>Proposed</p>	<p>Compliance</p>
<p>affordable housing</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,</p> <p>(iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space</p> <p>(f) the following number of parking spaces for dwellings not used for affordable housing:</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 1 parking space</p> <p>(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,</p> <p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development</p> <p>(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,</p> <p>(i) if paragraphs (g) and (h) do not apply, the following minimum floor area</p> <p>(i) for each dwelling containing 1 bedroom—65m²,</p>	<p>Total Provided – 3.1 (4) spaces provided.</p> <p>No affordable units proposed including 3 bedrooms.</p> <p>(3 x 1 bed) – 1.5 spaces required.</p> <p>(3 x 2 bed) – 25 spaces required.</p> <p>(10 x 3 bed) – 15 spaces required</p> <p>Total Provided – 35.6 (36) – provided.</p> <p>All 1 bedroom units are >50m². All 2 bedroom units are >70m² (+5m² per additional bathroom). All 3 bedroom units are > 90m² (+ 5m² per additional bathroom).</p> <p>The proposal seeks the construction of a residential flat building.</p> <p>Refer above.</p> <p>Noted. Subsection 2(c) and (d) therefore do not apply.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing	Proposed	Compliance
<p>(ii) for each dwelling containing 2 bedrooms—90m²,</p> <p>(iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedroom</p> <p>(3) Subsection (2)(c) and (d) do not apply to developments to which Chapter 4 applies.</p>		
20 Design Requirements		
<p>(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy</p> <p>(2) Subsection (1) does not apply to development to which Chapter 4 applies.</p> <p>(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition—the desired future character of the precinct.</p>	<p>The proposed development is for a residential flat building.</p> <p>Noted. Chapter 4 applies.</p> <p>The proposed development is consistent with the character of the area and has been supported by Council's Design Review Panel and Heritage Officer.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>
21 Must be used for affordable housing for at least 15 years		
<p>(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development</p> <p>(a) the development will include the</p>	<p>Condition to be imposed to</p>	<p>Yes</p>

State Environmental Planning Policy (Housing) 2021 Chapter 2, Division 1 In-Fill Affordable Housing	Proposed	Compliance
<p>affordable housing component required for the development under section 16, 17 or 18, and</p> <p>(b) the affordable housing component will be managed by a registered community housing provider.</p> <p>(2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.</p>	<p>ensure compliance.</p> <p>Condition to be imposed to ensure compliance.</p>	<p>Yes</p>
22 Subdivision permitted with consent		
<p>(1) Land on which development has been carried out under this division may be subdivided with development consent.</p>	<p>Subdivision is not proposed as part of this development application.</p>	<p>N/A</p>

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP 65 applies to the proposed development as it is characterised as ‘residential flat building’ and is three or more storeys and contains four or more dwellings. Clause 28(2) stipulates that the consent authority is to take into consideration the advice of a design review panel (if any), the design quality principles, and the Apartment Design Guide (ADG).

As part of the assessment of the subject DA, the application was referred to the Burwood Design Review Panel for comment on 4 July 2024. The Design Review Panel raised some minor concerns which were agreed to be resolved by the applicant through the submission of amended plans. The issues raised by the Design Review Panel are detailed below:

- The proposed arrangement of storing bins on the street was not ideal and it was suggested that alternative solutions be sought.
- Landscape planters and window placement should prioritise privacy considerations.
- It was advised that the placement of air conditioners be revised on balconies to improve the useability of balconies and minimise visual impact.
- Several of the 3 bedroom units would need their balconies revised to ensure a minimum width of 2.5m is achieved for functionality.
- The Panel emphasised the need to comply with the 2.7m floor to ceiling height requirement to provide adequate amenity for the intended occupancy.
- The applicant was requested to confirm all gross floor area calculations on the submitted architectural plans.
- The Panel also advised that to ensure the integrity of the scheme, references to ‘or similar’ and ‘or the like’ are to be removed from the materials schedules.

On 17 July 2024, the applicant submitted amended plans and documentation. The amended plans were assessed, and all previous issues raised by the Design Review Panel had been addressed.

Design Quality Principles

The amended proposal has been assessed against the Design Quality Principles. The proposal is considered to be consistent with the following 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.

Response: The proposal is considered to respond appropriately to its context. The proposal is of a bulk and scale that is consistent with surrounding development. In addition, the design is of an appropriate built form with compliant setbacks.

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.

Response: The proposed development complies with both the building height and floor space ratio development standards prescribed for the subject site in accordance with the BLEP 2012. The proposal exhibits a built form that contributes to the character of the streetscape and surrounding development. In addition, the proposal incorporates a high level architectural design aesthetic through articulations and modulations that aid in reducing the overall bulk and scale of the development.

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.

Response: The proposal is considered to be well designed. The proposal is of an appropriate built form, when having regard to the compliant building height and FSR. In addition, the proposal provides compliant setbacks to the respective boundaries, thus providing a respective building alignment to the surrounding lower density residential development.

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.

Response: Each respective floor level throughout the proposed development, has been well designed to ensure the orientation and location of units with maximise levels of cross ventilation and sunlight access.

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

Response: The proposal includes a good landscape design that optimises useability, privacy and opportunities for social interaction. The common lawn area is well located, is surrounded by low level shrubs and screen planting that enhances the developments environmental performance.

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.

Response: The proposal has been well designed to ensure that all units have maximised solar access and amenity. Specifically, all units have been well designed with compliant room dimensions and orientated to maximise cross ventilation.

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.

Response: The proposal has optimised safety and security within the proposed development. The proposed development provides clear sightlines between the proposed building and the public domain, with no opportunities for concealment or entrapment.

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: The proposal includes a mix of studio, 1 bedroom, 2 bedroom and 3 bedroom apartments, providing housing choice for different demographics, living needs and house hold budgets.

The open common lawn area and seating area with BBQ facilities at ground level is considered to provide opportunity for social interaction amongst residents.

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: The proposal is of a bulk and scale that is commensurate amongst adjoining development. In addition, the proposal includes a high degree of articulation and modulation to create visual relief to all elevations of the building. The use of brick patterns will assist to reduce the massing of the proposed development. The proposed use of contemporary materials such as brick work, aluminium framed windows and metal are simple, which reduces the visual impact of the proposed form.

Apartment Design Guide (ADG)

As the proposed development contains a residential flat building of three or more storeys and four or more dwellings, the provisions of the Apartment Design Guide (ADG) are applicable. 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.	25% of the site area equates to 399.2m ² . 543.4m ² of communal open space is proposed to the curtilage surrounds of the ground floor level.	Yes
3E Deep Soil Zones	On sites with areas greater than 1,500m ² , 7% of the site area is to be deep soil with a minimum 3m dimension.	The subject site has a total area of 1597m ² . As such, the site is greater than 1500m ² , and therefore 7% of the site is required to be deep soil. In addition, only areas which achieve a minimum dimension of 6m can be included in the calculation.	Yes

Objective	Requirement	Proposed	Compliance
		Proposed: 294.9m² (as indicated on the deep soil plan) which equates to 18.5% of the site area of 1597m ² .	
3F Visual Privacy	<p>The ADG prescribes minimum separation distances between buildings:</p> <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>As part of the assessment of the subject DA, the proposal was referred to the Burwood Design Review Panel. No objections were raised with regard to the proposed setbacks.</p> <p>It is to be noted, the proposal is generally consistent with the design criteria with the exception of the north eastern corner of the developments separation to the northern side boundary for Ground Level and Level 1 (i.e. 6m required to boundary, however, noting the blank wall of the adjacent at No.17 Stanley Street. No objections were raised by the Design Review Panel with regard to the building separation proposed.</p> <p>In addition, the minimum 5m separation is consistent with the setback required by the BDCP to a heritage item. Screening will be incorporated to ensure any visual privacy implications are minimised.</p> <p>Furthermore, the 3m internal building separation is consistent with the visual privacy requirements of the ADG because blank walls, or non-habitable rooms are proposed to the northern facade of the heritage item.</p>	Yes
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>	The proposed development provides an attractive pedestrian entrance to the street, and is of a width that would allow for smooth pedestrian circulation into and throughout the building.	Yes
3J Bicycle and car parking	<p>1. For development in the following locations:</p> <ul style="list-style-type: none"> ▪ on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan 	As part of the assessment of the subject DA, the proposal was referred to Council's Manager of Traffic and Transport. In their referral response issued on 1 May 2024, it was confirmed that the proposed car parking and bicycle parking	Yes

Objective	Requirement	Proposed	Compliance
	<p>Area</p> <p><u>GTTGD rates</u></p> <ul style="list-style-type: none"> ▪ 0.6 spaces per 1 bedroom unit. ▪ 0.9 spaces per 2 bedroom unit. ▪ 1.40 spaces per 3 bedroom unit. ▪ 1 space per 5 units (visitor parking). 	arrangements satisfied the relevant provisions.	
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.	38 of 49 dwellings (77.5% of apartments) receive 2 hours direct sunlight between 9am and 3pm 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	35 of 49 dwellings (71.4% of apartments) are naturally cross ventilated.	Yes
4C Ceiling Heights	<p>Habitable rooms: 2.7m.</p> <p>Non-habitable: 2.4m.</p> <p>If located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use.</p>	<p>Minimum 2.7m floor to ceiling heights have been proposed to all units within the proposed development. This was reinforced as part of the comments provided by the Burwood Design Review Panel.</p> <p>The subject sits is not located within a mixed use area.</p>	<p>Yes</p> <p>N/A</p>
4D Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studios: 35m² 1 bedroom: 50m² 2 bedroom: 70m² 3 bedroom: 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the</p>	<p>The proposed development consists of 1, 2 and 3 bedroom units.</p> <p>1 bedroom units achieve the minimum 50m². 2 bedroom units achieve the minimum 70m² 3 bedroom units achieve the minimum 90m².</p> <p>Additional bathrooms have been taken into account. All units achieve the minimum areas for apartment sizes</p>	<p>Yes</p> <p>Yes</p>

Objective	Requirement	Proposed	Compliance
	<p>minimum internal area by 5m².</p> <p>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.</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 10m² and other bedrooms 9m² (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>under the ADG.</p> <p>Each habitable room has a window that complies with this requirement.</p> <p>The proposal does not include any apartments which exceed 8m in depth from a window.</p> <p>All master bedrooms achieve compliance with the 10m² minimum area, excluding wardrobe space.</p> <p>All apartments comply with the minimum requirements.</p> <p>The minimum 4m width dimension of cross through apartments has been achieved.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4E Private Open Space and Balconies</p>	<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:</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>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

Objective	Requirement	Proposed	Compliance
	<p>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>Refer above.</p> <p>Refer above.</p>	<p>Yes</p> <p>Yes</p>
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 units off a circulation core is 7. The proposal includes one circulation core servicing the proposed development.</p> <p>The subject building is not over 10 storeys.</p>	<p>Yes</p> <p>N/A</p>
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>Studio: 4m³ 1 bedroom: 6m³ 2 bedroom: 8m³ 3+ bedroom: 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Sufficient storage space has been provided within each unit.</p>	<p>Yes</p>
4K Apartment Mix	<p>A variety of apartment types are provided.</p>	<p>A mixture of 1, 2 and 3 bedrooms are proposed as follows:</p> <ul style="list-style-type: none"> ▪ 7 x 1 bed apartments ▪ 32 x 2 bedroom apartments; and ▪ 10 x 3 bedroom apartments. 	<p>Yes</p>
4M Facades	<p>Building facades provide visual interest along the street while respecting the character of the local area</p>	<p>As part of the assessment of the subject DA, the proposal was referred to the Burwood Council Design Review Panel (BDRP) for comment. The BDRP raised no objections with regard to the building facades and advised that they include a high degree of articulation providing visual interest, while respecting the character of the local area.</p>	<p>Yes</p>
4W Waste	<p>Waste storage facilities</p>	<p>As part of the assessment of the</p>	<p>Yes</p>

Objective	Requirement	Proposed	Compliance
<p>Management</p>	<p>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>subject DA, the proposal was referred to Council’s Waste Management Officer for comment. In their referral response issued on 13 May 2024, the following was advised</p> <p>It is not suitable for bins to be presented to kerbside for collection as proposed, for a property of this size. Bins presented to kerbside impact on amenity from visual and odour impacts, and pedestrian and traffic movements. This is of particular concern given the proximity of this development to Burwood Public School.</p> <p>The applicant was also advised to adjust the waste management collection to one of the following:</p> <ul style="list-style-type: none"> • On-site collection for Council waste collection vehicles, where design allows for the collection vehicle to enter and exit the property in a forward direction and service bins from a designated collection point within the property boundary; or • Collect and return collection (sometime referred to as wheel-in wheel-out collection, where bins are presented within an enclosed area of the building located close to a designated kerbside vehicle parking location. Collection staff will enter the bin storage area on foot, wheel bins to the rear of the vehicle to be emptied, and then return bins to the bin storage area. The following design elements must be achieved for this to be approved: <ul style="list-style-type: none"> ○ Sufficient space in the bin storage area sufficient to present all bins for collection. ○ Access pathway for wheeling bins between the bin storage area and kerbside collection point is to be level and free of steps. ○ The maximum manual handling distance between bin storage 	

Objective	Requirement	Proposed	Compliance
		<p>area and kerbside collection point is 15.</p> <p>On 17 July 2024, the applicant submitted amended plans and a revised operational waste management plan which was referred back to Council's Waste Officer for comment. In their latest referral response, no objections were raised, subject to the imposition of consent conditions.</p>	

Burwood Local Environmental Plan 2012

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 3 below.

Burwood LEP 2012	Proposal	Compliance
4.1 Minimum Subdivision Size		
400m ²	No subdivision proposed.	N/A
4.1A(1) & (2) Minimum lot sizes for dual occupancies		
Dual Oc (attached) – Zone R1 – 500m ² Dual Oc (attached) – Zone R2 – 500m ² Dual Oc (attached) – Zone R3 – 500m ² Dual Oc (detached) – Zone R1 – 600m ² Dual Oc (detached) – Zone R2 – 600m ² Dual Oc (detached) – Zone R3 – 600m ²	The proposal seeks consent for removal of the contemporary rear addition and modifications to the ground floor to conserve the Heritage Item at No.25 Stanley Street as a dwelling, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development comprising 49 apartments (7 x 1 bedroom), (32 x 2 bedroom), (10 x 3 bedroom) apartments, 3 levels of basement car parking on land at No.19 Stanley Street, Burwood.	N/A
4.3(2) Height		
26m Note: 31.2m – bonus provisions under Housing SEPP 2021 – Infill Affordable Housing.	The subject site is prescribed a maximum building height of 26m. 20% of 26m is 5.2m, therefore the maximum building height increases to 31.2m. The maximum height of the building is 29.9m. This has been calculated from the top of the Lift Overrun at RL:49.4, and existing ground level directly beneath at RL:19.41.	Yes

Burwood LEP 2012	Proposal	Compliance
4.3A(2) Exceptions to height of buildings		
Despite clause 4.3, the height of a building on land marked "Area A" on the Height of Buildings Map is not to exceed the building height plane for that land.	The subject site is not marked "Area A" on the height of buildings map.	N/A
4.4(2) FSR		
3:1	<p>Heritage Dwelling Ground Floor – 90.10m² First Floor – 85.10m²</p> <p>RFB Ground Floor – 541.30m² Level 1 – 600.50m² Level 2 – 566.30m² Level 3 – 552.50m² Level 4 – 393.10m² Level 5 – 386.60m² Level 6 – 386.60m² Level 7 – 386.60m² Level 8 - 341.50m²</p> <p>Total – 4330.20m² Site Area: 1597m² FSR: 2.7:1.</p>	Yes
4.4A(3) FSR		
<p>Despite clause 4.4, the ratio of the gross floor area of any part of a building used for the purpose of residential accommodation to the site area must not exceed:</p> <p>(a) 2.0:1 – if the building is on land in Area 1, (b) 3.0:1 if the building is on land in Area 2, (c) 2.7:1 – if the building is on land in Area 3, (d) 2.3:1 – if the building is on land in Area 4, (e) 2.2:1 – if the building is on land in Area 5, (f) 1.4:1 – if the building is on land in Area 6. (g) 0.2:1 – if the building is on land in Area 7. (h) 1.8:1 – if the building is on land in Area 8. (i) 7.16:1 – if the building is on land in Area 9.</p>	The site is not subject to any of the area based controls under Clause 4.4A(3).	N/A
4.6 Exceptions to Development Standards		
(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	The proposal does not seek any variations to development standards.	N/A

Burwood LEP 2012	Proposal	Compliance
<p>contravention of the development standard by demonstrating –</p> <p>(a) the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and,</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>		
5.10 Heritage Conservation		
<p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Burwood,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>As part of the assessment of the subject DA, the proposal was referred to Council's Heritage Officer for comment. In their latest referral response, no objections were raised, subject to conditions.</p>	<p>Yes</p>
6.1 Acid Sulfate Soils		
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>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 1 metre Australian height Datum.</p>	<p>Yes</p>
6.2 Flood Planning		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p>	<p>The subject site is not affected by flooding.</p>	<p>N/A</p>
6.3 Active street frontages		
<p>The objectives of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B4 Mixed Use.</p>	<p>The subject site is not identified as "Active street frontage" on the Active Street Frontages Map.</p>	<p>N/A</p>

Burwood Development Control Plan 2013

The Burwood Development Control Plan 2013 (BDCP) applies to the proposed development. A summary of the assessment of the application against the relevant planning controls and objectives within BDCP is shown in Table 4 below

Burwood DCP 2013	Proposed	Compl
Part 2 Site and Environmental Planning		
2.2 General Site Analysis		
- To be provided with a Development Application.	A site analysis has been prepared and accompanies the application.	Yes
2.3 Views and Vistas		
- Development applications must identify existing views and vistas significant to the proposal, assess the impacts of the development and demonstrate how significant views and vistas area to be protected and enhanced;	The development does not obscure any important views or vistas.	Yes
- Developments must have particular regard to high quality and priority views and vistas identified in other parts of this DCP, e.g. In relation to heritage items and heritage conservation areas.	Complies, please refer to Heritage Assessment within this report.	Yes
2.4 Streetscapes		
- Development Applications must identify streetscape characteristics, assess the impacts of the development and demonstrate how significant streetscape qualities are to be protected and enhanced;	The appearance of the proposed building is considered to be compatible with surrounding development. The proposal is of a bulk and scale that is sympathetic to the surrounding locality.	Yes
- Development Applications must demonstrate how building design, location and landscaping will encourage the protection and enhancements of streetscape;	The development typology proposed is considered appropriate in response to the proposed use and the emerging streetscape character.	Yes
- Development must have particular regard to high quality streetscapes identified in other parts of this DCP e.g. in relation to heritage items and conservation areas	The development will not adversely impact on the setting of nearby heritage items, as discussed in the LEP compliance table within this report.	Yes

Burwood DCP 2013	Proposed	Compl
Part 3 Development in Centres and Corridors		
<p>3.2.1 Building Design</p> <p>O1 to ensure that new buildings:</p> <ul style="list-style-type: none"> - Represent architectural and urban design excellence. - Provide cohesive and visually interesting building appearance. - Respond to surrounding notable buildings and enhances the streetscape. - Integrate roof design with the building character and enhances the skyline. - Encourage rooftop gardens and planting on structures that enhance the quality and amenity of open space. 	<p>The proposal has demonstrated a commitment to design excellence.</p> <p>As part of the assessment of the subject DA, the proposal was referred to Council’s Design Review Panel. In their latest referral response, the following was advised:</p> <ul style="list-style-type: none"> - The proposed arrangement of storing bins on the street was not ideal and it was suggested that alternative solutions be sought. - Landscape planters and window placement should prioritise privacy considerations. - It was advised that the placement of air conditioners be revised on balconies to improve the useability of balconies and minimise visual impact. - Several of the 3 bedroom units would need their balconies revised to ensure a minimum width of 2.5m is achieved for functionality. - The Panel emphasised the need to comply with the 2.7m floor to ceiling height requirement to provide adequate amenity for the intended occupancy. - The applicant was requested to confirm all gross floor area calculations on the submitted architectural plans. - The Panel also advised that to ensure the integrity of the scheme, references to ‘or similar’ and ‘or the like’ are to be removed from the materials schedules. <p>On 17 July 2024, the applicant submitted amended plans and documentation in response to</p>	<p>Yes</p>

Burwood DCP 2013	Proposed	Compl
	Council's RFI letter. The amended plans were assessed, and all previous issues raised had been rectified. The application is now recommended for approval.	
<p><i>3.2.2 Materials and Finishes</i></p> <p>O1 To ensure that the use of superior quality external materials and finishes:</p> <ul style="list-style-type: none"> - Contributes to architectural and urban design excellence. - Provides cohesive and visually interesting building appearance. - Responds to surrounding notable buildings and enhances the streetscape. - Provides longevity in external materials and finishes that are of superior quality. 	It is considered that the materials and finishes selected are appropriate and are supported by Council's Design Review Panel.	Yes
<p><i>3.2.3 Lighting and Signage</i></p> <p>O1 to ensure that that building lighting and signage:</p> <ul style="list-style-type: none"> - Contribute to architectural and urban design excellence. - Provide cohesive and visually interesting building appearance. 	A condition of consent is recommended specifying details of lighting to be provided to ensure consistency with the relevant BDCP provisions, including for public domain lighting.	Yes,subject to ondition.
<p><i>3.2.5 Subdivision and Car Parking Spaces</i></p>	No subdivision proposed.	N/A
<p><i>3.2.6 Site Isolation</i></p> <p>P1 The creation of isolated sites is discouraged.</p>	The development will not result in the creation of an isolated site.	Yes
<p><i>3.2.8 Apartment Mix and Minimum Dwelling Sizes</i></p> <p>P1 Residential development in excess of 20 dwellings must provide a mix of dwellings containing one, two or more bedrooms.</p>	A range of 1, 2 and 3 bedroom units are proposed to respond to and provide for market demands.	Yes
<p><i>3.2.11 Ceiling Height</i></p> <p>P1 Development must provide the following minimum ceiling heights. Dimensions are expressed from finished floor levels to finished ceiling levels:</p> <ul style="list-style-type: none"> - • Ground level of all 		

Burwood DCP 2013	Proposed	Compl
<p>development (commercial and residential): 3.3 metres.</p> <ul style="list-style-type: none"> - Non-residential floors above ground level: 3.0 metres. - Residential floors above ground level: 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms. 	<p>The ceiling height complies with the ADG requirements.</p>	<p>Yes</p>
<p><i>3.2.14 Visual and Acoustic Privacy</i> O1 To provide adequate amenity.</p>	<p>Noise transfer is minimised through the siting of buildings and building layout.</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments recommended by the Acoustic Consultant.</p>	<p>Yes</p>
<p><i>3.2.16 Lobbies and Internal Circulation – All Development</i> O1 To provide communal spaces which contribute to the overall design, experience and performance of the development.</p>	<p>The proposed access, internal circulation and parking arrangements will be appropriate to AS design criteria.</p>	<p>Yes</p>
<p><i>3.2.18 Safety and Security</i> O1 To ensure development is safe and secure for occupant's visitors and other users at all times.</p>	<p>The development will incorporate the following measures to maximise safety and security of residents and visitors:</p> <ul style="list-style-type: none"> • External lighting quality to meet ANZ standards; • Lighting maintenance policy be established for this development; • Sufficient security measures be put into place in relation to preventing possible theft during construction; • Traffic control and safety messages be incorporated throughout the construction process to increase safety to motorists and minimise risk and 	<p>Yes</p>

Burwood DCP 2013	Proposed	Compl
	theft.	
<p>3.2.19 Access and Mobility</p> <p>O1 To ensure development is designed to facilitate access by the whole community including those with mobility impairment.</p> <p>P6 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>P7 At least one car parking space must be provided and allocated to each dwelling required to be provided as accessible or adaptable housing under this Section and the car parking space must be accessible in accordance with the provisions of AS 1428.2 to facilitate automatic vehicular wheelchair loading and unloading.</p>	<p>The proposal has been designed in accordance with AS 1428.1: Design for access and mobility.</p> <p>A variety of apartments with adaptable designs are provided.</p> <p>Accessible car spaces:4 spaces located on level 1. The parking spaces have been assessed by Council's engineers and found to be satisfactory.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Part 3.7 Transport and Parking in Centres and Corridors		
3.7.3 Local Centres		
<p>P1) Basic parking requirement: Development in the B2 Local Centres zone must provide parking spaces on site for each proposed land use in accordance with the Table 2.</p>	<p>Given that the development comprises affordable housing units, reference is made to the SEPP 2021, Part 2 Development for affordable housing under clause 19 (e) & (f) – the number of parking spaces used for affordable housing and dwelling not used for affordable spacing that is required is 49 spaces.</p> <p>The development provides 50 spaces and therefore complies.</p> <p>Furthermore, Council's Traffic Engineers have assessed the application and raised no concerns.</p>	<p>Yes</p>

Burwood DCP 2013	Proposed	Compl
3.8 Heritage in Centres and Corridors		
O3 To ensure that development located in the vicinity of a Heritage Item is designed and sited in a manner sympathetic to the significance of the heritage property and its setting.	No. 25 Stanley Street is identified as a former corner shop with local heritage significance. The site also adjoins attached houses of heritage significance as Nos. 11 – 17 Stanley Street, and ‘Victorian houses’ at Nos. 34, 36 and 50 Oxford Street, which are also of local heritage significance. The site is not however located within a heritage conservation area. Council’s Heritage Advisor has assessed the proposal and raised no concerns.	Yes
Part 3.9 Public Domain and Amenity		
3.9.3 Pedestrian Links Council’s Public Domain Strategy identifies a north-south pedestrian link between Deane Street and Victoria Street East and an east- west connection from Elsie Street to Burwood Road	The proposed development is not located between Deane Street and Victoria Street East.	N/A
3.9.6 Public Domain Finishes and Elements within Development P1) Appropriate lighting must be provided in publicly accessible areas of development. P2) Where publicly accessible areas are provided within a development, all elements including paving, street furniture, planting, fences, kerbs and drainage must be provided to a standard not less than would be required in Council’s Public Works Elements Manual (Final Draft June 2006).	Conditions of consent will be imposed requiring the provision of appropriate lighting on site.	Yes
3.9.7 Solar Access to Burwood Park P1 Development must not cast shadows over Burwood Park between 10.00am and 2.00pm on 21 June	The proposed development is not located within close proximity to Burwood Park.	N/A
3.9.9 Access and Mobility for the Public Domain O1 To ensure the public domain is designed and constructed to facilitate access by the community including those with mobility impairment.	The proposal has been designed to ensure accessibility for people with mobility issues.	Yes

Burwood DCP 2013	Proposed	Compl
Section 4.1 Residential Flat Buildings in R1 Zone		
<p>Height and Floor Space Ratio</p> <p>The development standards in the BLEP 2012 apply.</p>	<p>The development complies with the BLEP 2012.</p>	<p>Yes</p>
<p>Setbacks</p> <p>The front setback of a building is to be a minimum of 6m.</p> <p>and rear setbacks must comply with the following numerical standards:</p> <ul style="list-style-type: none"> • Ground floor – 2.0 metres minimum setback from side and rear boundaries • First floor – 3.5 metres minimum setback from side and rear boundaries • Second floor – 5.0 metres and comply with ADG building separation requirements • Third floor and above – 1.0 metres additional per floor above second floor and comply with ADG building separation requirements 	<p>The ground floor to Level 3 is setback a minimum of 6 meters to all boundaries with the exception of the north east corner of the development that is setback 5 meters from the side boundary for Ground and Level 1.</p>	<p>Yes</p>
<p>Length of Building Facades</p> <p>The maximum frontage length of a building facing a street is 45 metres.</p> <p>The side façades of buildings are to include articulation elements at least every 10 metres.</p> <p>Breaks between buildings are to be aligned with streets, lanes or regional views where possible</p>	<p>The development has been assessed and found to be compliant.</p>	<p>Yes</p>
<p>Minimum Site Frontage</p> <p>A residential flat building shall not be erected on an allotment of land having a frontage of less than 20 metres.</p> <p>Site consolidation is encouraged to promote efficient use of land.</p>	<p>Sit amalgamation is proposed in order to achieve compliance with this control.</p>	<p>Yes</p>
<p>Minimum Site Area</p> <p>Any development with a height over 9 metres is generally required to have a minimum site area of 500 square metres. Council will only consider a development with a minimum site area below 500 square</p>	<p>The development has been assessed and found to be compliant.</p>	<p>Yes</p>

Burwood DCP 2013	Proposed	Compl
<p>metres where the Council is satisfied that:</p> <ul style="list-style-type: none"> • The development demonstrates design excellence. • The development provides a good response to the streetscape and surrounding development (in terms of both existing and future development). • The development provides full compliance with parking requirements without the use of automated or mechanical car parking systems 		
<p>Site Isolation</p> <p>The creation of isolated sites (i.e. with less than 20 metre frontage) is discouraged.</p>	<p>Sit amalgamation is proposed in order to achieve compliance with this control.</p>	<p>Yes</p>
<p>Building Facades and General Guidelines</p> <p>Building Base, middle and roof controls</p> <p>Material and finishes</p> <p>Lightning and signage</p>	<p>The development has been designed to achieve a high quality urban design outcome and has been reviewed by Council's Design Review Panel who are in support of the proposal.</p>	<p>Yes</p>
<p>Private Open Space</p> <p>Private open space may be in the form of courtyards, decks or balconies and is to be provided for every dwelling in a development.</p>	<p>Private open space has been provided to each unit in accordance with the requirements of the ADG.</p>	<p>Yes</p>
<p>Communal Open Space</p> <p>A minimum of 25% of the site area must be allocated for communal open space. It must have a minimum dimension of 6 metres and 50% of communal open space must be unpaved soft landscaped area.</p>	<p>The proposed COS is compliant with this control.</p>	<p>Yes</p>
<p>Landscaping</p> <p>A minimum of 10% of the site area is to be deep soil and have a minimum dimension of 4 meters.</p>	<p>18.6% of the site area is used for landscaping with a minimum 4 meters in width.</p>	<p>Yes</p>
<p>Solar Access and Natural Ventilation</p> <p>DAs are to include diagrams in plan and elevation that shows sun access to proposed apartments and the shadow impact on neighbouring dwellings from the proposal at 9.00am, 12.00pm and 3.00pm</p>	<p>The development is compliant with this control. 38 of 49 apartments (77.5%) receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm on June 21,</p>	<p>Yes</p>

Burwood DCP 2013	Proposed	Compl
on March 21 and June 21.	consistent with the requirements of the ADG.	
<p>Visual Privacy</p> <p>Provide adequate building separation in accordance with the building separation requirements in the ADG.</p>	The development has been assessed and found to be compliant with the ADG.	Yes
<p>Acoustic Amenity</p> <p>The internal layout of buildings is to be designed to reduce the effects of noise transmission through building materials and locating noise generating areas together.</p>	An Acoustic Report has been submitted demonstrating compliance with the applicable acoustic criteria.	Yes
<p>Safety and Security</p> <p>Design of developments must provide personal and property security for residents and visitors and enhance perceptions of community safety.</p>	The development has been designed in accordance with the CTPED principles.	Yes
<p>Fences and Walls</p> <p>The design and materials of fences and walls must be sympathetic to the streetscape, visually attractive and complement landscape elements</p>	The building design has been reviewed by Council's Design Review Panel who are in support of the proposal.	Yes
<p>Facilities and Amenities</p> <p>The size, capacity and location of garbage bin areas and storage facilities, and the provision of waste chutes in residential flat buildings shall be in accordance with the Waste Management section of this DCP, which seek to encourage waste minimization.</p>	Council's Waste Management Section has assessed the application and raised no concerns, subject to conditions of consent.	Yes
<p>Mailbox and Postal Facilities</p> <p>Mail box and postal facilities to be included and to comply with provisions P8, P9 and P10 under Section 3.2.4 Street-Front Activities and Building Access.</p>	Compliant	Yes
<p>Fire Safety and Power Supply Equipment</p> <p>Fire safety and power supply utilities are to comply with provision P12 under Section 3.2.4 Street-Front Activities and Building Access.</p>	Conditions to be imposed to ensure compliance.	Yes

Burwood DCP 2013	Proposed	Compl
Mechanical and Ventilation Equipment Mechanical and Ventilation Equipment are to comply with Provisions 15, 16, 17, 18 under Section 3.2.4 Street-Front Activities and Building Access	Compliant	Yes
Adaptable Housing All development for residential flat buildings in the R1 zone must provide 10% of dwellings for adaptable housing to cater for ageing in place and/or mobility impaired residents	Compliant. The applicant has submitted a Statement of Compliance Access for People with a Disability.	Yes
Car Parking and Ground Level Basement car parking is to be located fully below natural ground level.	Compliant. Council's Traffic Engineers have assessed the application and raised no concerns.	Yes

Community Consultation

Internal Referrals

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

Senior Development Engineer – As part of the assessment of the subject DA, the proposal was referred to Council's Senior Development Engineer for comment. In their latest referral response issued on 30 May 2024, no objections were raised, subject to conditions.

Traffic and Transport Engineer – As part of the assessment of the subject DA, the proposal was referred to Council's Manager of Traffic and Transport for comment. In their latest referral response issued on 1 May 2024, it was advised that the proposed development satisfied the relevant parking provisions. No objections were raised, subject to the imposition of consent conditions.

Waste Management Officer: As part of the assessment of the subject DA, the proposal was referred to Council's Waste Officer for comment. In their referral response issued on 13 May 2024, the following was advised:

It is not suitable for bins to be presented to kerbside for collection as proposed, for a property of this size. Bins presented to kerbside impact on amenity from visual and odour impacts, and pedestrian and traffic movements. The applicant was also advised to adjust the waste management collection to one of the following:

- On-site collection for Council waste collection vehicles, where design allows for the collection vehicle to enter and exit the property in a forward direction and service bins from a designated collection point within the property boundary;

- Collect and return collection (sometime referred to as wheel-in wheel-out collection, where bins are presented within an enclosed area of the building located close to a designated kerbside vehicle parking location. Collection staff will enter the bin storage area on foot, wheel bins to the rear of the vehicle to be emptied, and then return bins to the bin storage area. The following design elements must be achieved for this to be approved:
 - Sufficient space in the bin storage area sufficient to present all bins for collection,
 - Access pathway for wheeling bins between the bin storage area and kerbside collection point is to be level and free of steps,
 - The maximum manual handling distance between bin storage area and kerbside collection point is 15m.
- Updated architectural plans and waste management plans were requested.

On 17 July 2024, the applicant submitted amended plans and documentation, including a revised operational waste management plan which was referred back to Council's Waste Officer for comment. In their latest referral response issued on 12 August 2024, no objections were raised, subject to conditions.

Heritage Officer – As part of the assessment of the subject DA, the proposal was referred to Council's Heritage Officer for comment. In their initial referral response, the following was advised:

- Access was requested to the Heritage Item at 25 Stanley Street to assess the areas of the house to be removed and the appropriateness of the proposed curtilage.
- Subject to the acceptability of the works to the Heritage Item and proposed curtilage, I do not have any in-principle objections to the proposed development.
- Amendments to the facade treatment and materials of Levels 3 and 4 were requested such that they are more distinct from the podium and appear as part of the tower. It was also requested that the podium be distinct from the levels above as it relates to the scale and character of the streetscape and adjacent heritage items.

On 17 July 2024, the applicant submitted amended plans, which were referred back to Council's Heritage Officer for comment. In their latest referral response, no objections were raised, subject to conditions.

Tree Management Officer – As part of the assessment of the subject DA, the proposal was referred to Council's Tree Management Officer for comment, given the proposal seeks to removal twelve (12) trees on the subject site. In their referral response issued on 17 June 2014, no objections were raised, subject to conditions.

Burwood Design Review Panel (BDRP) – As part of the assessment of the subject DA, the proposal was referred to the Burwood Design Review Panel for comment. The BDRP advised of the following:

- The proposed arrangement of storing bins on the street was not ideal and it was suggested that alternative solutions be sought.
- Landscape planters and window placement should prioritise privacy considerations.
- It was advised that the placement of air conditioners be revised on balconies to improve the useability of balconies and minimise visual impact.
- Several of the 3 bedroom units would need their balconies revised to ensure a minimum width of 2.5m is achieved for functionality.
- The Panel emphasised the need to comply with the 2.7m floor to ceiling height requirement to provide adequate amenity for the intended occupancy.
- The applicant was requested to confirm all gross floor area calculations on the submitted architectural plans.
- The Panel also advised that to ensure the integrity of the scheme, references to 'or similar' and 'or the like' are to be removed from the materials schedules.

On 17 July 2024, the applicant submitted amended plans and documentation in response to Council's RFI letter. The amended plans were assessed, and all previous issues raised had been rectified. The application is now recommended for approval.

Neighbour Notification

In accordance with the Burwood Community Participation Plan, the owners of surrounding properties were given notice of the application on 29 April 2024, with the notification period for submissions closing on 21 May 2024. In response to the public notification of the DA, five (5) submissions were received.

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

- The height of the proposed development is disproportionate to the surrounding developments.

Planner Comment: The subject site is prescribed a maximum building height of 26m. However, the application has been lodged pursuant to State Environmental Planning Policy (Housing) 2021, Division 1, Infill Affordable Housing. Clause 18(2) of SEPP Housing 2021, which prescribes the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component.

The proposal provides an affordable housing component of 10%. The bonus increases the maximum building height to 31.2m. The maximum height of the building is 29.9m. This has been calculated from the top of the Lift Overrun to existing ground level directly beneath and therefore complies.

- Concerns regarding that the proposed development may be unsympathetic to the surrounding heritage items.

Planner Comment: As part of the assessment of the subject DA, the proposal was referred to Council's Heritage Officer for comment. In their latest referral response, no objections were raised, subject to conditions.

- Concerns regarding the increase in traffic on Stanley Street and the safety of the students from the increased traffic.

Planner Comment: As part of the assessment of the subject DA, the proposal was referred to Council's Manager of Traffic and Transport for comment. In their referral response issued on 1 May 2024, no objections were raised with regard to traffic and parking, subject to conditions.

- Concerns regarding the shadow cast by the proposed development on neighbouring properties.

Planner Comment: The proposed development complies with the maximum building height, and achieves compliance with the maximum FSR prescribed for the site. The bulk and scale of the proposed development is commensurate with adjoining development and consistent with other similar RFB's in the locality. Accordingly, the shadows cast by the proposed development are not considered to result in any unacceptable amenity impacts to neighbouring properties.

- Concerns regarding the overlooking of neighbouring properties by the proposed development

Planner Comment: The proposed development is not considered to result in any unacceptable overlooking or visual privacy impacts to adjoining properties. The proposal has provided adequate setbacks which have been supported by the Burwood Design Review Panel.

- Concerns regarding the impact on the structural integrity of the neighbouring properties from the proposed basement

Planner Comment: Conditions of consent, such as Dilapidation Surveys will be imposed to ensure the structural integrity of neighbouring properties.

- Concerns regarding the impact on the future development potential of the neighbouring properties from the setbacks of the proposed development

Planner Comment: The proposal has provided adequate setbacks which have been supported by the Burwood Design Review Panel

- Concerns regarding the impact on the Heritage Item located on the site.

Planner Comment: Alterations and additions are proposed to the Heritage Item at No.25 Stanley Street. The nature of the alterations and additions proposed have been supported by Council's Heritage Officer, subject to conditions.

- Concerns regarding the impact of the noise emission from the construction site.

Planner Comment: Conditions of consent will be imposed to ensure compliance regarding noise during the construction phase. All feasible and reasonable measures must be implemented to minimise the emissions of noise from construction work.

- Concerns regarding the reduction of the street parking spaces.

Planner Comment: There is not anticipated to be a reduction in street parking. The proposal has provided adequate vehicle parking within the three (3) level basement car park. Council's Manager of Traffic and Transport has raised no objection to the traffic and parking associated with the proposed development.

Due to technical difficulties in relation to Council's notification system, the application was re-notified on 1 July 2024, with the notification period for submissions closing on 17 July 2024. In response to the re-notification of the development application, two (2) submissions were received.

The two submissions received were already submitted in response to the first public notification of the DA. As such, all matters raised within these two submissions have been addressed above.

Conclusion

The application seeks consent for removal of the contemporary rear addition and modifications to the ground floor to conserve the Heritage Item at No.25 Stanley Street as a dwelling, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development comprising 49 apartments (7 x 1 bedroom), (32 x 2 bedroom), (10 x 3 bedroom) apartments, 3 levels of basement car parking on land at No.19 Stanley Street, Burwood.

The applicant had undertaken the relevant changes stipulated within Council's RFI letter and commentary provided by Council's Design Review Panel. The proposed development complies with the relevant SEPP provisions and the provisions of the Burwood Local Environmental Plan 2012 and Burwood Development Control Plan 2013. It is considered that the proposal is consistent with the desired future character of the area, and is of a bulk and scale that is commensurate amongst adjoining development.

Given the above, the proposal is recommended for approval:

Recommendation(s)

The Development Application (DA.2024.14) for removal of the contemporary rear addition and modifications to the ground floor to conserve the Heritage Item at No.25 Stanley Street as a dwelling, to demolish all remaining improvements upon the site, and to construct a 9 storey residential flat development comprising 49 apartments (7 x 1 bedroom), (32 x 2 bedroom), (10 x 3 bedroom) apartments, 3 levels of basement car parking on land at No.19 Stanley Street, Burwood be approved, subject to the conditions provided within **Attachment 1** of this report.

Attachments

- 1 19-25 Stanley Street Burwood - Recommended Conditions of Consent
- 2 19-25 Stanley Street Burwood - Plans