



## **NOTICE OF BURWOOD LOCAL PLANNING PANEL MEETING**

The meeting of the Burwood Local Planning Panel will be held at the Conference Room at 2 Conder Street, Burwood on Thursday 18 September 2025 at 6:00 PM to consider the matters contained in the attached Agenda.

Tommaso Briscese  
**General Manager**

# Agenda

**For a Notice of Burwood Local Planning Panel Meeting of Burwood Council to be held in the Conference Room, Level 1, 2 Conder Street, Burwood on Thursday 18 September 2025 at 6.00pm.**

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

**I declare the Meeting opened at**

## **1. Acknowledgement of Country**

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

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

## **3. Recording of Meeting**

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

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

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

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

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

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

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

## **8. Development Applications**

(Item DA11/25)	DA.2025.48 - Alterations and additions to an existing sex services premises, including demolition of existing unauthorised outbuildings and construction of a new single-storey extension containing an office, staff room and kitchenette, and new carport awning roof and gate.....	3
(Item DA12/25)	DA.2024.76 - Alterations and additions to a dwelling including a basement, pool, cabana, and new fencing - 4 Woodside Ave BURWOOD.....	21
(Item DA13/25)	DA.2021.88 - Section 4.55 Modification - alterations and additions to an existing dwelling for childcare centre - 18 Appian Way BURWOOD.....	79

**(Item DA11/25) DA.2025.48 - Alterations and additions to an existing sex services premises, including demolition of existing unauthorised outbuildings and construction of a new single-storey extension containing an office, staff room and kitchenette, and new carport awning roof and gate.**

File No: 25/43195

**Owner:** Tamara and Michael Doong  
**Applicant:** Jason Chun  
**Location:** 10 Elizabeth Street, Burwood  
**Zoning:** **MU1 Mixed Use**

**The development application seeks consent for the following:**

- Alterations and additions to an existing sex services premises (brothel), which include:

- Demolition of unauthorised awning roof and three (3) unauthorised outbuildings at the rear of the site, which contain offices and a kitchenette.
- Demolition of an existing carport awning roof attached to the east façade of the main building on the site.

- Construction of a new carport awning colourbond roof attached to the east façade of the main building on the site.
- Construction of a new single-storey extension with colourbond roof at the rear of the main building containing an office, staff room and kitchenette for the use of staff only.
- Construction of a new external staircase and entry gate associated with the new additions.

**EXISTING MAIN BUILDING**

Roof Ridge RL: 29.60

Ceiling Height RL: 28.90

Ground Floor RL: 26.50

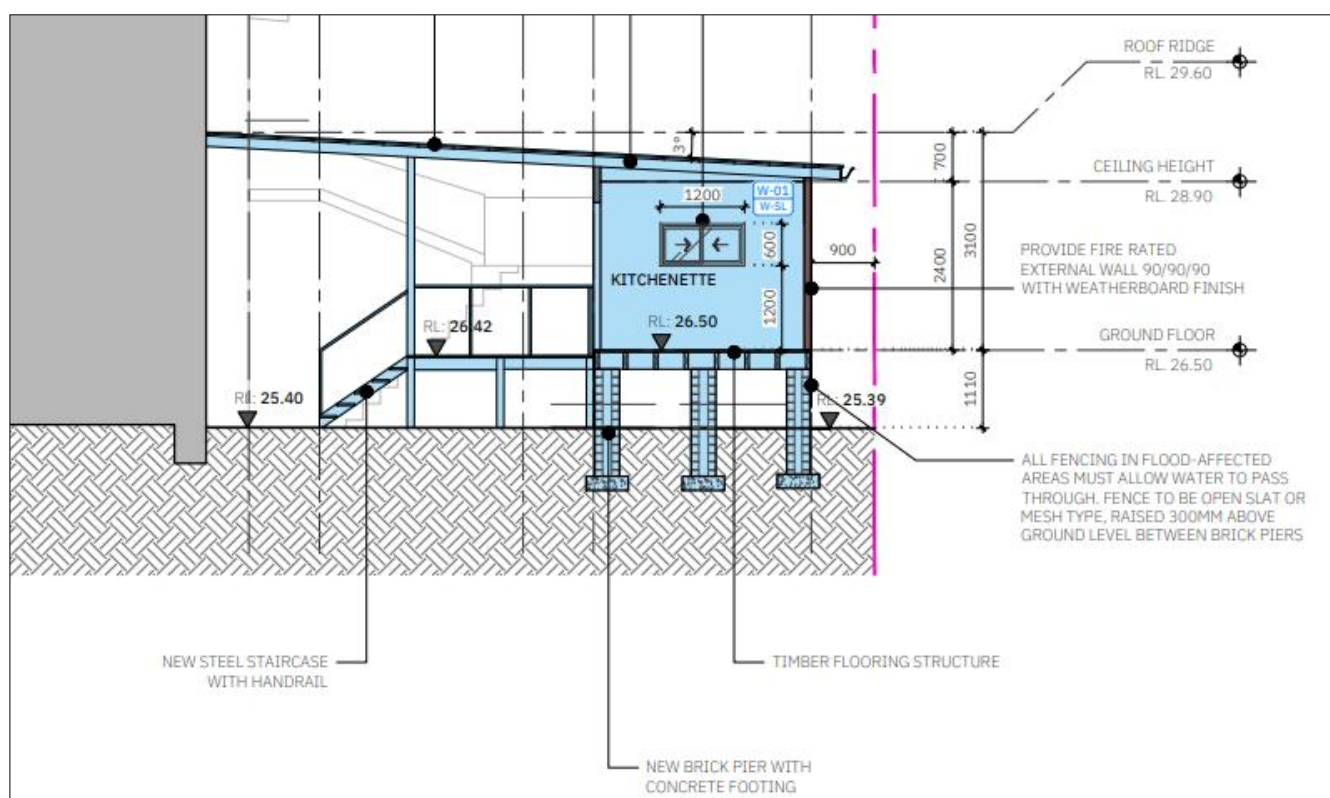
Dimensions:

- Horizontal: 1200, 900, 2000
- Vertical: 700, 2400, 3100
- Slope: 3%

Labels:

- W-02
- W-SL
- RL: 26.50
- RL: 25.26
- RL: 25.29

**Figure 1: (above)** Excerpt from the East Elevation Plan submitted by the applicant. Source: Space Up (2025).



**Figure 2: (above)** Excerpt from the Section Plan submitted by the applicant. Source: Space Up (2025).

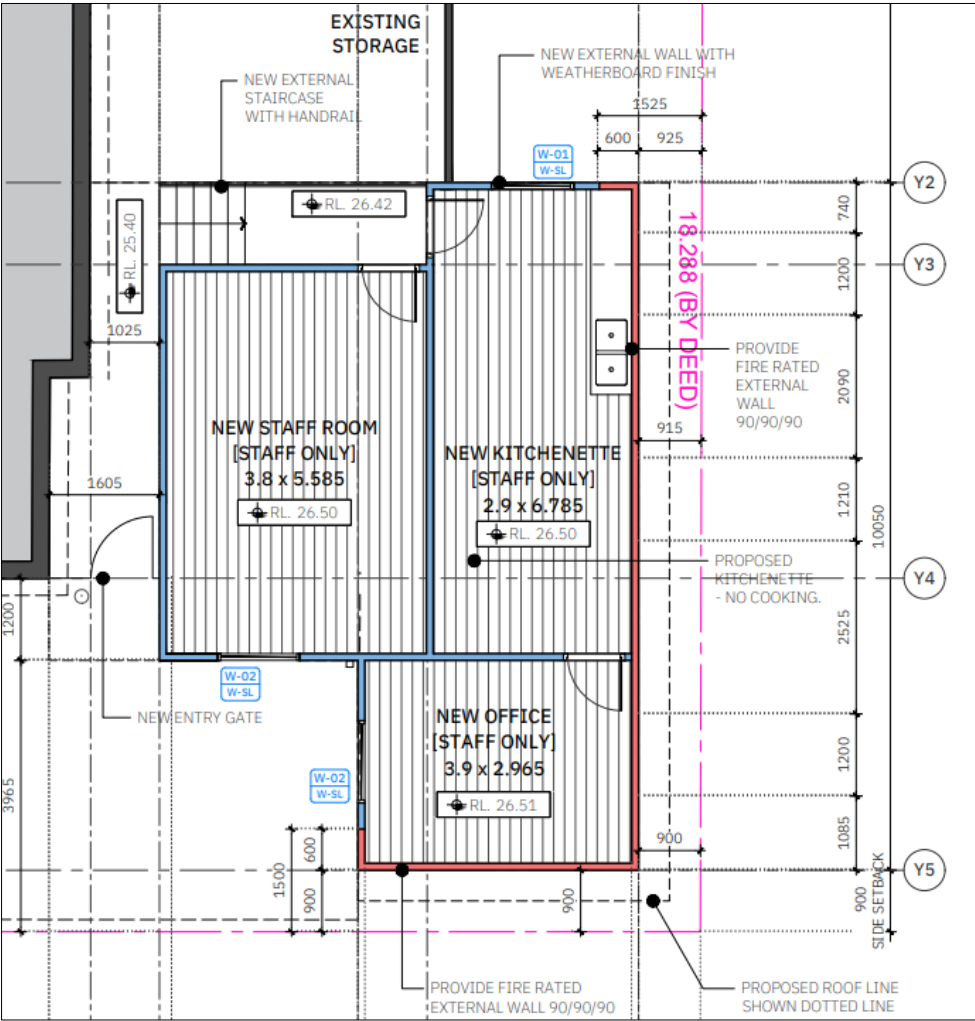


Figure 3: (above) Excerpt from the Proposed Ground Floor Plan submitted by the applicant. Source: Space Up (2025).

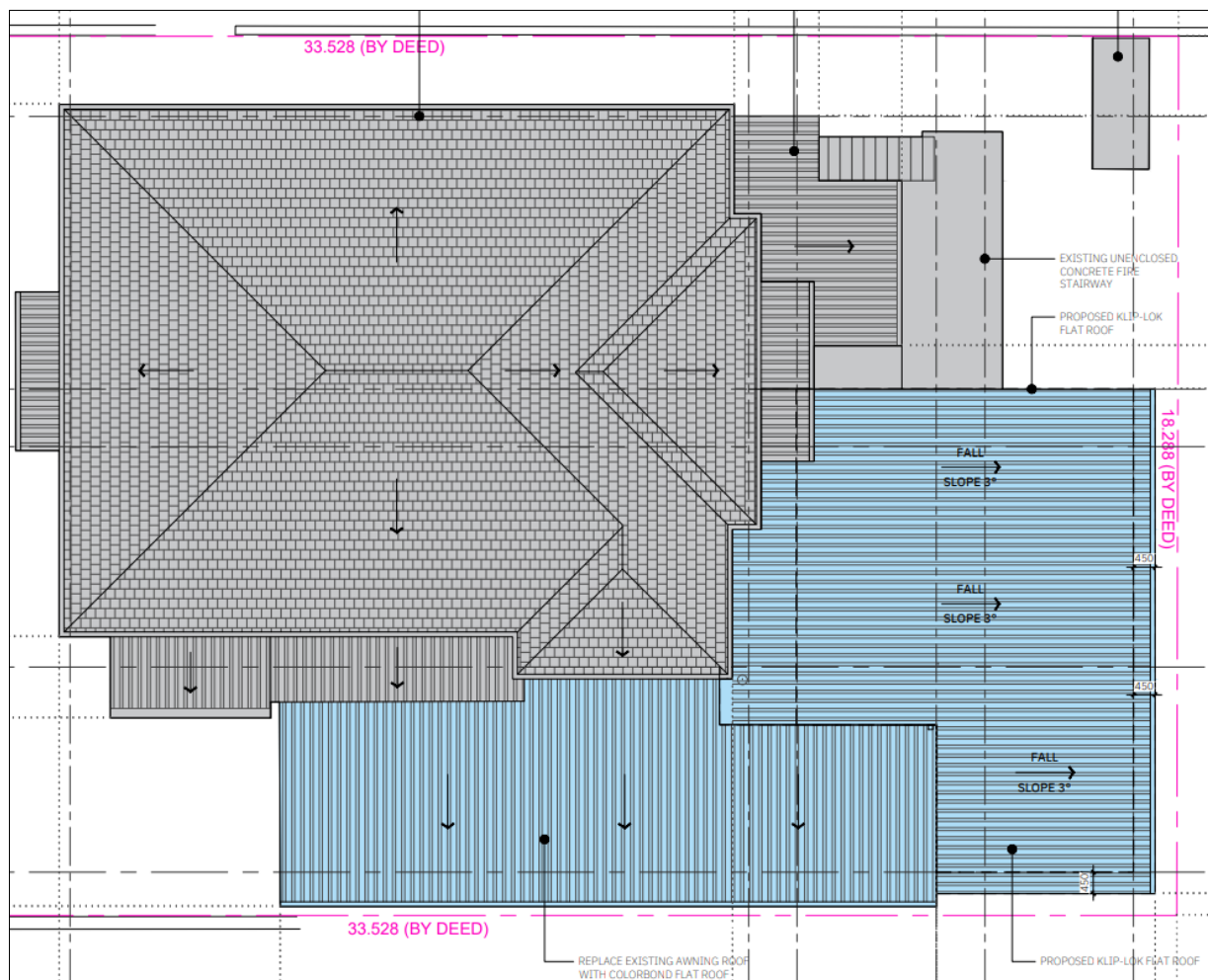


Figure 4: (above) Excerpt from the Roof Plan submitted by the applicant. Source: Space Up (2025).

Please refer to the attached set of architectural plans and supporting documentation submitted by the applicant for a full representation of the proposed development.

### **BLPP Referral Criteria**

Pursuant to the Ministerial direction dated 6 May 2024, under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (the Act), the application is to be determined by the local planning panel for the following reasons:

1. The development is specified as being 'sensitive development' as it is for the purpose of a sex services premises.

### **Development Background - Timeline**

- 1) 31 October 2002, Development Application no. DA.2001.322 at 10 Elizabeth Street, Burwood was approved by the Land and Environment Court of NSW (Appeal no. 10151 of 2002) to use the existing building at 10 Elizabeth Street, Burwood, as a brothel.
- 2) 28 April 2025, Council issued written Pre-DA advice to the applicant in relation to the proposed development.
- 3) On 21 July 2025, this development application (DA.2025.48) was lodged with Council.

## **Statutory Requirements**

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

- The provisions of State Environmental Planning Policy (Resilience and Hazards) 2021.
- The provisions of the Burwood Local Environmental Plan (BLEP) 2012.
- The provisions of the Burwood Development Control Plan (BDGP) 2013.
- The regulations (of the EP&A Act).
- The likely social, environmental and economic impacts of the development.
- The suitability of the site for development.
- Submissions made under the Act and Regulations, and
- The public interest.

NOTE: The development relates to an 'existing use' (as defined in Division 4.11 Existing uses of the EP&A Act). Therefore, Division 4.11 of the EP&A Act, as well as Part 7 of the Environmental Planning and Assessment Regulation 2021, have been considered in the assessment of this application.

## **Locality**

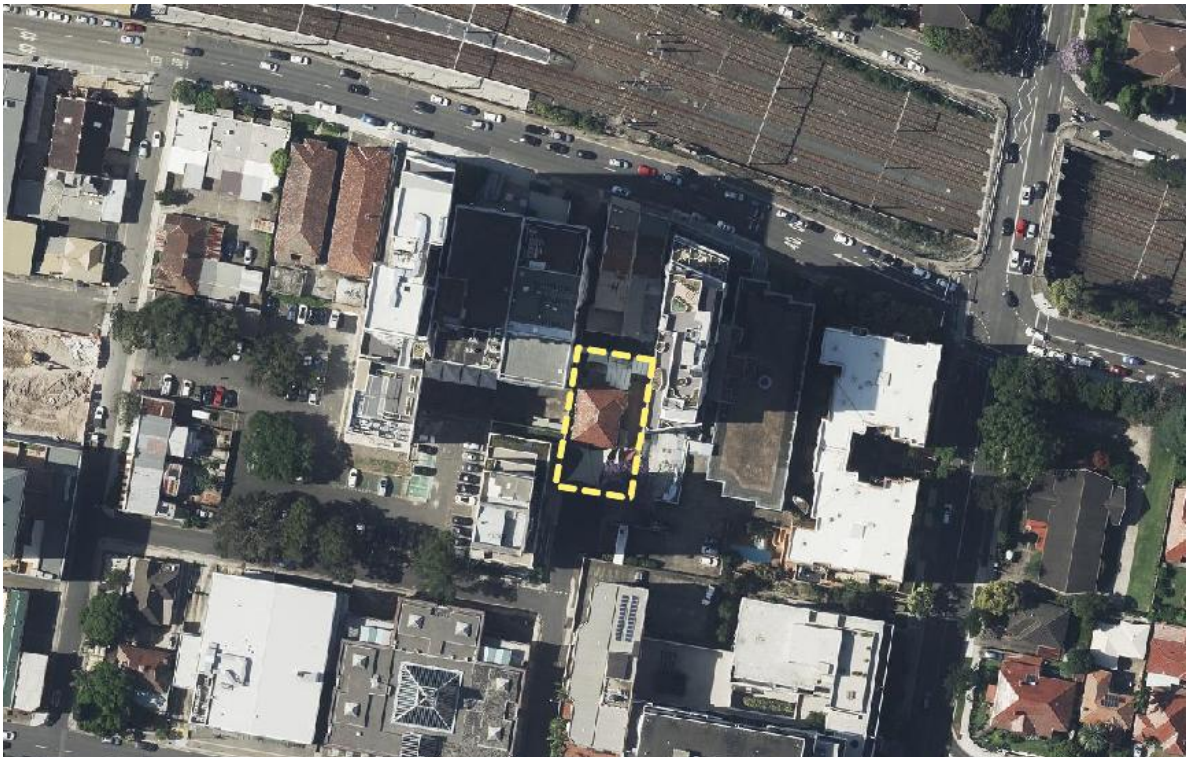
The subject site is legally described as B/-/DP345497, and is known as No. 10 Elizabeth Street, Burwood NSW 2134. The site is a rectangular shaped lot and has a total area of 613.40sqm. It is zoned MU1 Mixed Use zone under the provisions of the BLEP and has a single south-facing street frontage (to Elizabeth Street). The site is centrally located within the Burwood Town Centre, and to the south of the railway line. Burwood railway station is located approximately 100m to the north-west of the site.

Currently occupying the site is a two-storey brick building containing an approved sex services premises (brothel), and three (3) unauthorised single storey outbuildings at the rear of the site containing offices and a kitchenette. Attached to the rear of the main building is a roofed storage area and external staircase. There is also a metal shed in the north-western corner of the site, an attached carport along the eastern façade of the main building, a fence and gate along the front street boundary, and shade sails spanning over a hardstand carparking area in the front setback of the site. The remainder of the site consists of hardstand surfaces, aside from a garden bed and medium sized tree near the front boundary.

Vehicular access is provided via an existing driveway crossover from Elizabeth Street. The site is identified as a flood affected property under Council's flood mapping. The site is not affected by heritage controls.

Noting that the site is located within the MU1 Mixed Use zone and the Burwood Town Centre, the site is surrounded by a mix of older commercial buildings ranging from approximately two to ten storeys in height, and modern high-rise mixed-use buildings up to approximately twenty storeys in height, reflecting the current transitional character of the town centre.





**Figure 5: (above)** Aerial view of the subject site 10 Elizabeth Street, Burwood (identified with yellow dashed lines). Source: NSW Planning Portal Spatial Viewer (2025).



**Figure 6: (above)** Road map showing the location of the subject site 10 Elizabeth Street, Burwood (identified with purple marker). Source: Council mapping system (2025).





**Figure 7: (above)** View of the subject site (in the centre of the picture) facing north, showing the two storey building containing the sex services premises and entrance from Elizabeth Street. Source: Sim (2025).



**Figure 8: (above)** View of the front fence and entrance of the subject site looking and showing adjacent commercial and mixed use developments, looking north-west. Source: Sim (2025).





**Figure 9: (above)** View of adjacent commercial and mixed use developments, looking north-east. Source: Sim (2025).

## **Planning Assessment**

### **DIVISION 4.11 EXISTING USES - ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.**

#### **4.65 Definition of “existing use”**

(cf previous s 106)

In this Division, **existing use** means—

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and
- (b) the use of a building, work or land—
  - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
  - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

#### **4.67 Regulations respecting existing use** (cf previous s 108)

- (1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—
  - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and
  - (b) the change of an existing use to another use, and
  - (c) the enlargement or expansion or intensification of an existing use.

(d) (Repealed)

(2) The provisions (in this section referred to as *the incorporated provisions*) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.

(3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.

(4) Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.

**Comment:** The proposal is for alterations and additions to an existing, approved sex services premises (brothel). Whilst *sex services premises* are prohibited in the MU1 Mixed Use zone, the premises is a lawful use of the land as it was approved prior to *sex services premises* becoming prohibited in the zone.

The premises was approved under Development Application no. DA.2001.322, approved by the Land and Environment Court of NSW on 31 October 2002 (Appeal no. 10151 of 2002) to use the existing building at 10 Elizabeth Street, Burwood, as a brothel.

The *sex services premises* (brothel) has remained in use since it was approved, and remains in use at the current time, and is therefore considered to be a lawful “existing use” in accordance with Division 4.11 of the *Environmental Planning and Assessment Act 1979*.

## **PART 7 EXISTING USES—THE ACT, DIV 4.11 - ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021**

### **162 Application of Part**

(1) The provisions of this Part are provisions in force for the purposes of the Act, section 4.67(1).

**Note—**

The Act, section 4.67(2) provides that the provisions in force for the purposes of the Act, section 4.67(1) are taken to be incorporated in every environmental planning instrument.

(2) In this Part—

**relevant day** means—

(a) in relation to an existing use referred to in the Act, section 4.65(a)—the day on which an environmental planning instrument having the effect of prohibiting the existing use first comes into force, or

(b) in relation to an existing use referred to in the Act, section 4.65(b)—the day on which the building, work or land being used for the existing use was first erected, carried out or used.

### **163 Certain development allowed**

(1) An existing use may, subject to this Part—

(a) be enlarged, expanded or intensified, or

(b) be altered or extended, or

(c) be rebuilt, or

(d) be changed to another use, but only if the other use is a use that may be carried out with or without development consent under the Act, or

- (e) if it is a commercial use—be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or
- (f) if it is a light industrial use—be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.

(2) However, an existing use must not be changed under subsection (1)(e) or (f) unless the change—

- (a) involves only minor alterations, and
- (b) does not involve an increase of more than 10% in the gross floor area of the premises associated with the existing use, and
- (c) does not involve the rebuilding of the premises associated with the existing use, and
- (d) does not involve a significant intensification of the existing use.

(3) In this section—

**commercial use** means the use of a building, work or land for the purposes of commercial premises.

**light industrial use** means the use of a building, work or land for the purposes of light industry.

**Comment:** Clause 163(1)(a)-(d) provides that certain development is allowed to be carried out to an existing use. A *sex services premises* is not defined as a *commercial use* or *light industrial use* under the Burwood LEP 2012, and no change of use is proposed. The proposal seeks to carry out development consistent with Clause 163(1)(a)-(d) of the Environmental Planning and Assessment Regulation 2021.

#### **164 Enlargement, expansion and intensification of existing uses**

- (1) Development consent is required for any enlargement, expansion or intensification of an existing use.
- (2) The enlargement, expansion or intensification must be—
  - (a) for the existing use and for no other use, and
  - (b) carried out only on the land on which the existing use was carried out immediately before the relevant day.

#### **165 Alteration of buildings and works**

- (1) Development consent is required for an alteration of a building or work used for an existing use.
- (2) The alteration must be—
  - (a) for the existing use of the building or work and for no other use, and
  - (b) erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.

#### **166 Rebuilding of buildings and works**

- (1) Development consent is required for any rebuilding of a building or work used for an existing use.
- (2) The rebuilding must be—
  - (a) for the existing use of the building or work and for no other use, and
  - (b) carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.

**Comment:** This application seeks consent for development consistent with Clauses 164, 165 & 166 of the Environmental Planning and Assessment Regulation 2021, as listed above.

## SECTION 4.15 EVALUATION

**(1) Matters for consideration-general** In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application-

**(a)** the provisions of-

**(i) Any environmental planning instrument:**

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land

The object of [Chapter 4 of the SEPP] of is to provide for a Statewide planning approach to the remediation of contaminated land. In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—

(a) by specifying when consent is required, and when it is not required, for a remediation work, and

(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and

(c) by requiring that a remediation work meet certain standards and notification requirements.

**Comments:** Considering the longstanding use of the site as a *sex services premises* (brothel) and its central location within the 'Middle Ring Area' of the Burwood Town Centre (defined in the BDCP), the land on which the proposed development is located is unlikely to be contaminated. Furthermore, a search of Council's records, and referral comments from Council's Community Safety (Compliance) section, suggest no evidence of any land contamination on the site. Furthermore, a site inspection carried out by Council staff on 20 August 2025 revealed no obvious contamination. The land is therefore considered suitable for the proposed development.

Burwood Local Environmental Plan 2012 (BLEP)

### Permissibility

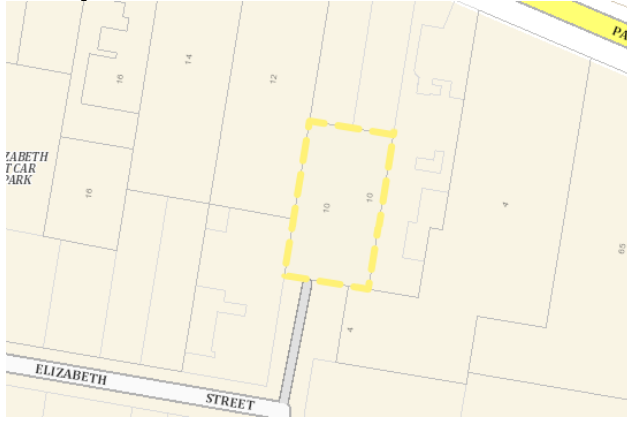
Under the provisions of BLEP, the property is zoned MU1 Mixed Use, where *sex services premises* are **prohibited**. The BLEP defines a *sex services premises* as a brothel, but does not include home occupation (sex services).

**Comment:** Despite *sex services premises* being prohibited in the zone, the proposal relates to an approved "existing use". The proposal seeks to make use of existing use rights under Division 4.11 Existing uses of the *Environmental Planning and Assessment Act 1979*.



**Figure 10: (above)** Zoning Map from the BLEP, showing the subject site (indicated with yellow dashed lines) and adjoining sites zoned as MU1 Mixed Use. Source: NSW Planning Portal (2025).

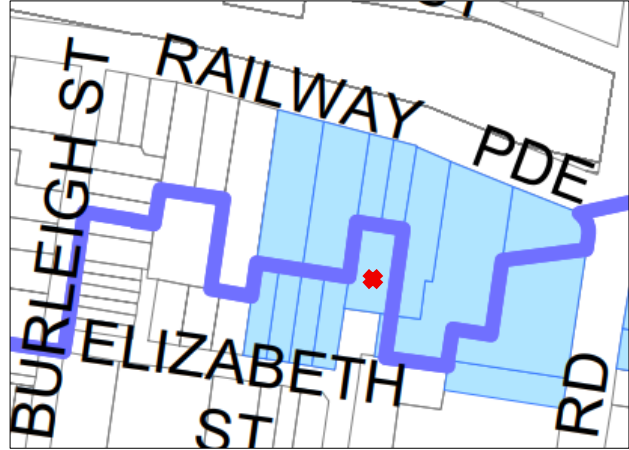
### Compliance with relevant BLEP development standards

BURWOOD LEP 2012 – COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO/NA	COMMENTS
4.3 Height of Buildings	✓		<b>Maximum permitted Height of Buildings:</b> 60m. <b>Proposal:</b> The proposal is for a single-storey extension, with all proposed building works below 5 metres in height measured above existing ground level.
4.4 Floor Space Ratio (FSR)	✓		<b>Maximum permitted FSR:</b> 4.5:1. <b>Proposal:</b> The proposed FSR of 0.58:1 is well below 4.5:1.
5.10 Heritage Conservation		✓	<p>Is the proposal affected by heritage provisions?</p> <p><b>Comment:</b> The site does not contain a heritage item and is not within a heritage conservation areas. There are no heritage items or heritage conservation areas within the vicinity of the site.</p>  <p>The map shows a rectangular area outlined with yellow dashed lines, labeled '10' in the center. The map is a grayscale aerial-style image with some colored overlays. The area is labeled 'ELIZABETH STREET' and 'ZABETH PARK'.</p>

**Figure 11: (above)** Heritage map from the BLEP, showing no heritage items or heritage conservation areas within the vicinity of the site. Source: NSW Planning Portal (2025).



BURWOOD LEP 2012 – COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO/NA	COMMENTS
6.1 Acid Sulfate Soils	✓		<p>Is the proposal affected by acid sulfate soils?</p> <p><b>Comment:</b> The land is classed as having Class 5 acid sulfate soils - meaning there is low chance of acid sulfate within the soil which can impact development.</p> <p>No basements or significant excavation are proposed.</p> <p>The proposed building floor levels are raised above ground level due to the site being flood affected.</p> <p>An acid sulfate soil management report is not required with this modification application as excavation has already been carried out.</p>
6.2 Flood Planning	✓		<p>Is the site identified as a flood affected site in Council's flood planning mapping?</p> <p><b>Comment:</b> Yes, the site is flood affected. The applicant obtained the required 'Response to Flood-Level Enquiry' report from Council's Engineering section, and has submitted it within the application.</p> <p>Accordingly, the application was referred to Council's Engineers for review and comment, who did not object to the proposal provided that appropriate conditions of approval be imposed, including but not limited to the following condition:</p> <p><i>Flood Control: As per Burwood Council draft flood study report, the land at 10 Elizabeth Street is identified as flood affected. The following flood control measures must be adhered to:</i></p> <ul style="list-style-type: none"> <li>a) <i>Minimum floor level adopted for any habitable room must not be below Flood Plain Level (FPL), 1% AEP plus 300mm freeboard, 26.50 AHD, as obtained from Council by lodging an 'Application for Flood Enquiry' shall be implemented.</i></li> <li>b) <i>Any part of the proposed development built below Flood Plain level shall be constructed of flood compatible materials.</i></li> <li>c) <i>The proposed development must not result in increased flooding elsewhere in the floodplain.</i></li> </ul>

BURWOOD LEP 2012 – COMPLIANCE WITH DEVELOPMENT STANDARDS	YES	NO/NA	COMMENTS
			 <p><i>Figure 12: (above) Flood affected properties map showing the subject site (identified with the red marker) shaded in blue, which means that it is flood affected. Source: Council's Draft Consolidated Flood Identification Map.</i></p>
6.4 Location of sex services premises	✓		<p>The objective of this clause is to minimise land use conflict and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.</p> <p><b>Comment:</b> The sex services premises is already approved and existing. It is not located within or adjacent to any residential or public recreation zones.</p> <p>No changes are proposed to the interior of the main building which contains the service rooms, and that the proposal does not include any additional service rooms. No changes to the number of sex workers or other staff working at the premises are proposed. No changes to existing car parking arrangements are proposed. The proposal does not include any signage. No changes to hours of operation are proposed.</p> <p>Proposed building works consist only of a new roofed single-storey extension containing an office, staff room and kitchenette, and new carport awning roof and gate.</p> <p>Based on the above, it is considered that the proposal will not have any detrimental impacts on any nearby centre-based child care facility, community facility, school, place of public worship, or place frequented by children.</p>

**(ii) Any proposed instrument (Draft LEP etc.)**

There are no draft planning instruments for consideration.

**(iii) Any development control plan**Burwood Development Control Plan 2013 (BDCP)

Does the development comply with following parts of the BDCP?	Yes	No	N/A
Part 2 – Site and Environmental Planning	✓		
Part 3 – Development in Centres and Corridors	✓		
Part 3.9 – Transport and Parking in Centres and Corridors	✓		
Part 5.7 – Sex Services Premises	✓		
Part 6.1 – Tree Preservation			✓
Part 6.2 - Waste Management	✓		
Part 6.3 – Acid Sulfate Soils			✓
Part 6.4 – Flood Planning	✓		
Part 6.5 – Stormwater Management	✓		
Part 6.6 – Landscaping for Development			✓
Part 6.7 – Energy Efficiency and Sustainability			✓

**Discussion**

The proposed development is subject to the parts of the BDCP specified in the table above, and is consistent with the relevant aims and objectives. Importantly, the proposal is of a scale and nature consistent with Part 3 – Development in Centres and Corridors the BDCP, particularly considering the proposal does not affect any sex service rooms. This is discussed in further detail below. Additionally, the proposed works do not contravene any of the objectives specified in Part 2 – Site and Environmental Planning.

***Part 3 – Development in Centres and Corridors***

The aims of this section are:

- To reinforce and support the different identities, functions and character of the centres and corridor.
- To ensure development achieves the stated desired future character of each of the centres and corridor.
- To minimise the potential negative impacts of development on neighbouring low density residential properties.
- To encourage a safe and human scale environment at street level within centres and corridor.

**Comment:** The specific provisions contained in Part 3 of the BDCP generally apply to major new developments such as multi-level mixed-use buildings, rather than to relatively minor alteration and additions to existing premises. The proposed development is therefore assessed based on merit, with consideration of the listed aims of Part 3 and the likely impacts of the development.

The placement, height, bulk and scale of the proposal is considered acceptable, noting that the site is flood affected and is located within a business zone. Proposed floor levels are raised on piers due to the site being flood affected.

Proposed material and finishes are considered acceptable, subject to appropriate conditions of approval to ensure compliance with the National Construction Code (NCC / BCA) 2022. No concerns are raised with regard to privacy, excessive overshadowing or building separation (setbacks). The works are located within the side and rear setback areas of the site and will have minimal adverse streetscape impacts, considering the character of the surrounding area.

Overall, the proposed works are consistent with the aims set out in Part 3 – Development in Centres and Corridors of the BDCP.

### ***Part 3.9 Transport and Parking in Centres and Corridors***

#### **Minimum required car parking:**

Sex services premises	<ul style="list-style-type: none"> <li>▪ 2 spaces per sex worker and</li> <li>▪ 1 space per non-sex worker (e.g. manager and security).</li> </ul>	
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**Figure 13: (above) Table 2 – BDCP Part 3.9 Transport and Parking in Centres and Corridors.**

**Comment:** The proposal does not include any changes to the number of sex workers or other staff working at the premises. Therefore, no additional on-site car parking is required.

### ***Part 5.7 Sex Services Premises***

The BLEP defines a 'sex services premises' as meaning a brothel.

#### **Objectives**

**O1** To provide more certainty in the development assessment process and assist the community and applicants to understand Council's requirements relating to sex services premises.

**O2** To specify additional planning requirements that will be used by Council to appropriately regulate and control sex services premises so that they do not cause offence in the wider community or result in adverse environment impacts.

**O3** To ensure that sex services premises are operated in accordance with acceptable health and building standards.

**Comment:** The proposal is for alterations and additions to an existing, approved sex services premises (brothel). Not all provisions in Part 5.7 of the BDCP are relevant to the proposal, particularly considering that no works are proposed to the interior of the main building which contains the service rooms, and that the proposal does not include any additional sex service rooms.

No changes to the entrance of the premises, or general layout or size of the main building containing the service rooms is proposed. The site is not located within a residential zone. No changes to existing car parking arrangement are proposed. The proposal does not include any signage. No changes to hours of operation are proposed. The proposal is not inconsistent with the aims set out in Part 5.7 of the BDCP.

## **Part 6.2 – Waste Management**

### **Objective**

- 1) To reduce the demand for waste disposal through waste separation and resource recovery in demolition, design, construction and operation of buildings and land use activities.

**Comment:** The applicant has submitted a waste management plan covering demolition, construction and the ongoing use of the premises.

Subject to appropriate conditions of approval to contain any waste and pollution during demolition (including but not limited to any asbestos removal), and construction of the proposal, the development will be consistent with Part 6.2 of the BDCP. Conditions will also be imposed to ensure that waste is appropriately managed in accordance with Council's requirements.

## **Part 6.4 – Flood Planning**

Is the site identified as a flood affected site in Council's flood planning mapping?

**Comment:** The site is identified as flood affected. Please refer to BLEP Clause 6.2 assessment above regarding flood planning.

## **Part 6.5 – Stormwater Management**

Does the application need to be referred to Council's Engineering section to assess stormwater management?

**Comment:** Considering that new buildings are proposed and since the site is flood affected, the application was referred to Council's Engineers for review and comment, who did not object to the proposal provided that appropriate conditions of approval be imposed.

### **(iv) The Regulations**

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. The proposal is not inconsistent with the Regulations (including those pertaining to the development of existing uses).

#### **(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The likely impacts of the development, as conditioned, are acceptable considering the sex services premises is existing, located within a business zone, and is not adjacent to any residential zones. Furthermore, no additional sex service rooms, changes to staff numbers, or changes to hours of operation are proposed. Moreover, the proposal is permitted with consent under existing uses provisions set out in the EP&A Act 1979 and the EP&A Regulation 2021.

#### **(c) The suitability of the site for the development**

The site is identified as No. 10 Elizabeth Street, Burwood NSW 2134 (B/-/DP345497). The application has been reviewed by Council's Engineers, who have considered the flood affectation of the site and stormwater management. Moreover, Council's Executive Building Surveyor has reviewed the proposal against relevant requirements of the National Construction Code (NCC / BCA) 2022. The proposal is generally consistent with the relevant planning controls, as demonstrated in this report. The site is considered suitable for the proposed development subject to appropriate conditions of approval.

**(d) Any submissions made in accordance with this Act or the regulations**

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

**(e) The public interest**

The development is considered to be in the public interest. To ensure the development is carried out in a proper and orderly manner, appropriate conditions of approval shall be imposed.

**Community Consultation**

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

**Conclusion**

After consideration of the development against section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is satisfactory for the site and in the public interest. No objections are raised to the approval of this development application, subject to appropriate conditions of approval.

***Recommendation(s)***

It is recommended that development application no. DA.2025.48, at No. 10 Elizabeth Street, Burwood NSW 2134, proposing alterations and additions to an existing sex services premises, including demolition of existing unauthorised outbuildings and construction of a new single-storey extension containing an office, staff room and kitchenette, and new carport awning roof and gate, be approved subject to the recommended conditions of approval contained in **Attachment 1**.

**Attachments**

- 1 Attachment 1 - Recommended Conditions and Reasons for Approval - 10 Elizabeth Street Burwood - DA.2025.48 (*Excluded from agenda*)
- 2 Attachment 2 - Architectural Plans (*Excluded from agenda*)
- 3 Attachment 3 - Land & Environment Court Approval dated 31 October 2002 (*Excluded from agenda*)



**(Item DA12/25) DA.2024.76 - Alterations and additions to a dwelling including a basement, pool, cabana, and new fencing - 4 Woodside Ave BURWOOD**

File No: 25/45334

Report by Manager City Development

**Owner:** Ms Cindy Ghaleb  
**Applicant:** Sarkis Boufrancis  
**Location:** 4 Woodside Avenue BURWOOD NSW 2134  
**Zoning:** **R2 Low Density Residential under Burwood Local Environmental Plan 2012**

**Proposal**

Development Application (DA) for alterations and additions to a dwelling house.

The Site is listed as a Heritage Item under Burwood LEP 2012, and contains 2 x 2-storey dwelling houses and several outbuildings. The larger of the 2 dwellings, known as “*Wellings*”, is located to the rear of the site and is the subject of the works proposed in this DA. There is another smaller dwelling towards the front (western side) which is known as “*the Gatehouse*” – no development or building works are proposed to this dwelling.

The proposed works to the “*Wellings*” dwelling house includes:

- Demolition (of existing swimming pool, retaining walls, and internal/external walls at the rear of and inside the dwelling, and the front fence);
- Construction of a rear 2-storey addition, new basement parking level for 3 vehicles, a new in-ground swimming pool at the rear;
- Construction of a new front fence with sandstone base and timber pickets (including reuse of the existing gates, signage and letterbox), and;
- Tree/vegetation removal.

Full details will be provided in the body of the report.

The DA has been referred to several officers within Council, and notified to neighbours. Full details of the outcomes of these processes will be discussed in the report.

The DA has been assessed in terms of the heads of consideration listed in Section 4.15 (s.4.15) of the Environmental Planning & Assessment (EP&A) Act 1979. The proposal as submitted raises significant concerns regarding impacts on the heritage significance of the dwelling house, and regarding the size and extent of the proposed new basement parking area (to be built to the rear boundary), and also the removal of existing landscaping and impacts on the ability to provide appropriate replacement or future landscaping.

Overall, the proposal is considered unsatisfactory when assessed under s.4.15 of the EP&A Act 1979 and refusal is recommended for the reasons stated in the Recommendation.

**BLPP Referral Criteria**

Development involves “*Sensitive Development*” - ie (part) demolition of a heritage item.

**Summary Recommendation**

Refusal for reasons specified below.

## The Site

The subject site has a legal description of Lot 1 DP231995, and a street address of No 4 Woodside Ave, Burwood. It is a mid-block site on the southern side of the street, between Burwood Rd (to the east) and Icceton St (to the west), immediately to the south of the Burwood town centre and approx. 500m south of Burwood railway station.

The site is an irregular-shaped lot with frontage of 48.1m to Woodside Ave, and total site area of 3686m<sup>2</sup> (by DP231995) or 3689.7m<sup>2</sup> (by survey).

The site is listed as a Heritage Item under Burwood LEP 2012, and there are numerous other heritage items in Woodside Ave (including the site immediately to the west). The site abuts (but is not itself within) a Heritage Conservation Area (St Pauls Close HCA) immediately to the south and south-east.

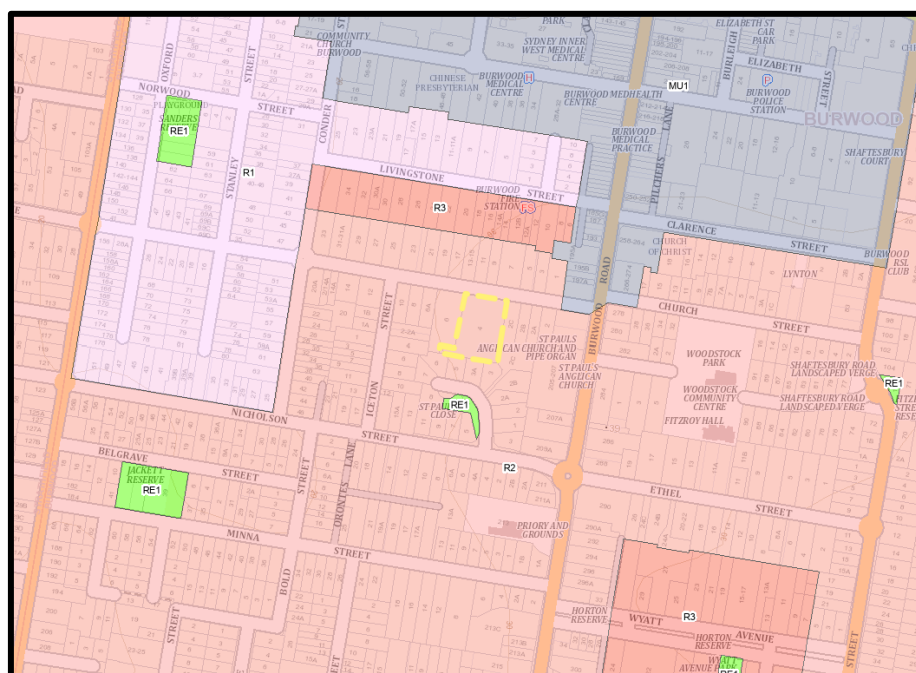
The site contains a larger 2-storey weatherboard house, generally in the rear half (subject to the works proposed in this DA); another smaller 2-storey weatherboard house at the front (western side); a brick building with alfresco in the “handle” at the south-western side; a carport and 2 small outbuildings at the rear; and a swimming pool at the south-eastern corner.

The site also is extensively landscaped, comprising turfed areas, formal gardens, and significant tree and shrub plantings along all site boundaries, and a bitumen driveway served by 2 vehicle crossings in Woodside Ave. There is a painted timber fence along the front boundary.

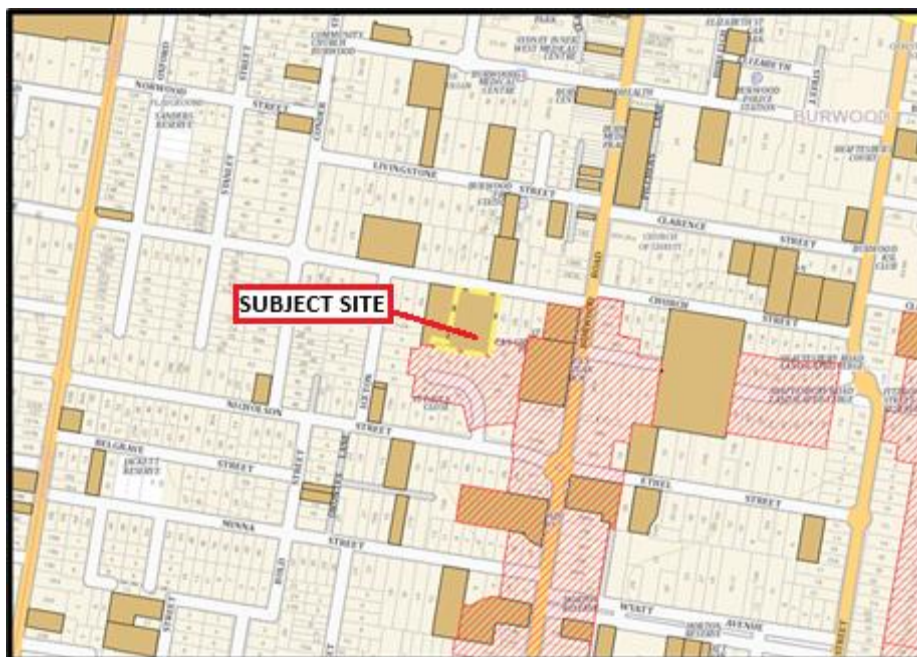
The site has a cross-fall sloping down from the eastern side (approx. RL37) towards the western side (RL34.8) with a gentle and even gradient.

Surrounding development consists of mostly detached dwelling houses (1-2 storeys in height), consistent with the R2 Low Density Residential zoning of this location under Burwood LEP 2012.

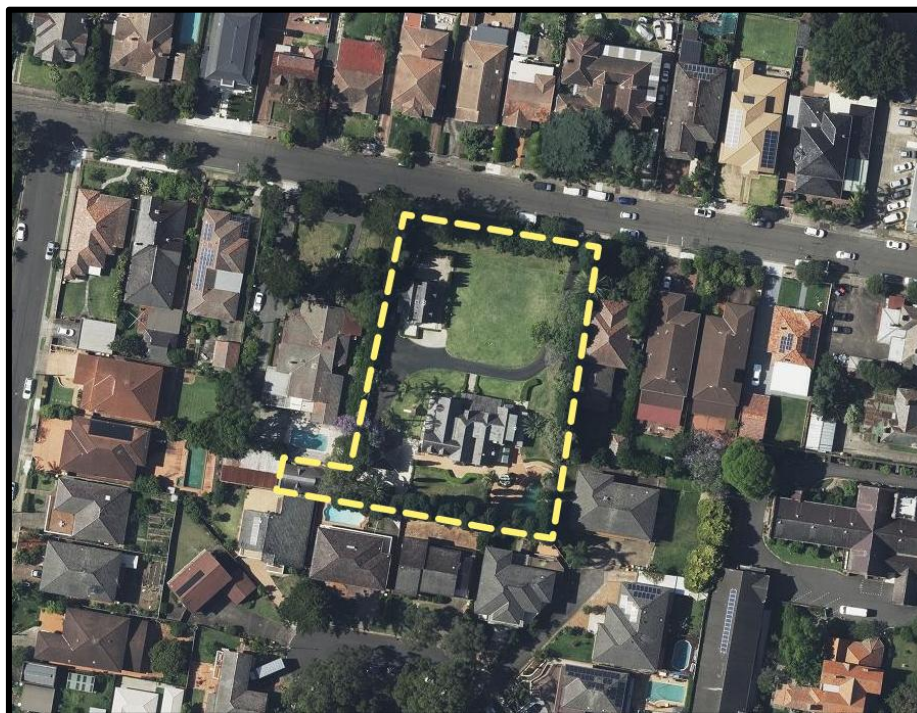
The following is a visual presentation of the site and it's surrounds – including the Burwood LEP 2012 Zoning and Heritage Maps, air photo, and street-view images of the Site.



**Burwood LEP 2012 Zoning Map. Subject Site No 4 Woodside Ave Burwood shown by yellow outline (Source: NSW Planning Portal Spatial Viewer)**



**Burwood LEP 2012 Heritage Map. Subject Site No 4 Woodside Ave Burwood shown by yellow outline; Heritage Items shown coloured brown, Heritage Conservation Areas shown with diagonal red lines  
(Source: NSW Planning Portal Spatial Viewer)**



**Air Photo - No 4 Woodside Ave Burwood (shown with red tag)  
(Source: google.com.au)**





Subject Site No 4 Woodside Ave Burwood  
(Source: Google Street View)

### **Full Details of Proposed Development**

This DA proposes various works at the site, including demolition works (part of, and immediately adjoining, the “*Wellings*” dwelling house at the rear) and construction works. These are described below.

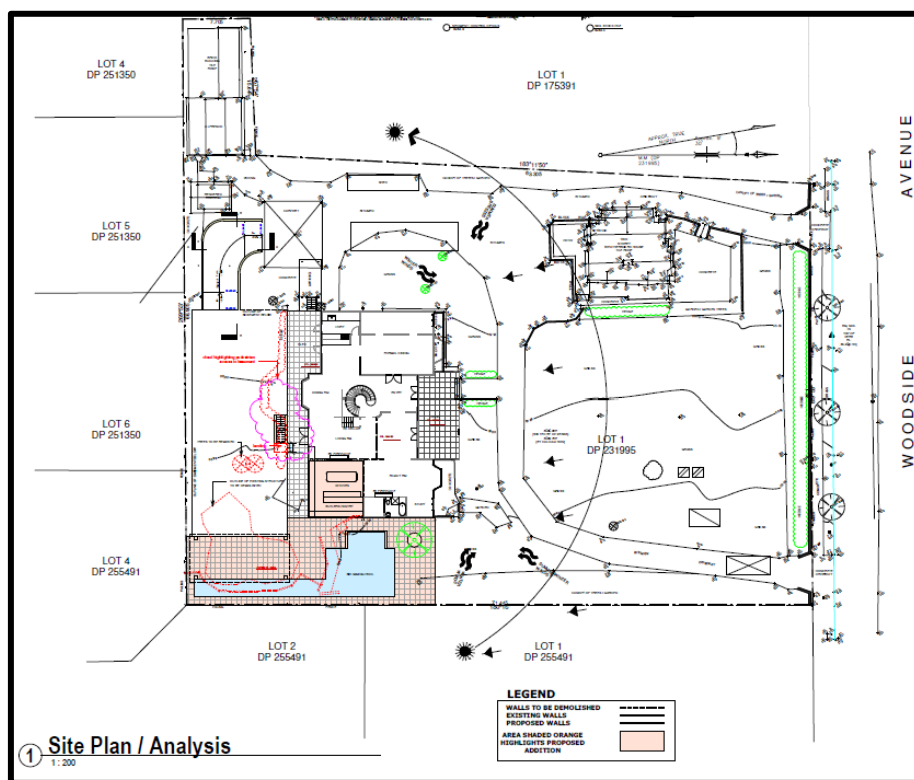
#### **Demolition works**

- Demolish existing in-ground swimming pool, and associated retaining walls in the south-east corner of the site.
- Demolish internal and external ground floor walls at the rear of the “*Wellings*” dwelling house.
- Demolish existing front fence along Woodside Avenue (existing gates, signage and letterbox to be re-used in a front new fence).
- Removal of two (2) existing trees in the rear setback area, and also shrub hedge plantings.

#### **Construction works**

- Reconfiguration of ground floor rooms and construction of a new butlers’ pantry and kitchen at the rear of the dwelling.
- Construction of an addition to the first floor including an ensuite and walk in robe.
- Construction of a new in-ground swimming pool and associated pool barrier in the south-east corner of the site
- Construction of an unenclosed cabana structure within the swimming pool area.
- Construction of an underground basement carpark beneath the yard area south of the dwelling with vehicular access ramp and pedestrian access stairs.
- Construction of a new front fence with sandstone base and timber pickets (including reuse of the existing gates, signage and letterbox).

An extract of the DA Site Plan showing the location and nature of the proposed works is provided below.



DA Site Plan: No 4 Woodside Ave Burwood

## Background

### Subject Site and Existing Development

The NSW State Heritage Inventory listings for this Site (Item No I119) provide the following descriptions of the heritage buildings on-site:

*The property comprises two significant buildings - being "Wellings" and "The Gatehouse".*

*"Wellings" is historically significant as a rare surviving residence associated with the early rural holdings of the Burwood district. Built in c. 1830s it was originally a single storeyed timber cottage designed in the Colonial Georgian style of c. 1820s. Much alterations and additions have seen it evolve into a two storey Victorian Gothic style weatherboard house. The house has aesthetic significance with its steeply pitched first storey attic with gabled wing, asymmetrical elevation, 'traciated bargeboards, decorative finials, steeply pitched roof, gabled dormers, and rusticated finishes such as timber shingles.*

*The Gatehouse is an excellent rare example of an early prefabricated cottage that remains substantially intact in the Sydney region. It was transported from Hamburg to Sydney and was originally built in c. 1851. It was exhibited at the Paris industrial exhibition of c. 1854 and is associated with Monsieur Leonardo Etienne Bordier, the French Consulate General to Australia who imported it from France to become the Gatehouse at the residence for "Passy" a large sandstone stately home in Hunter's Hill. The Gatehouse has aesthetic significance with a symmetrical façade with vertical weatherboard cladding, decorative or 'traciated bargeboards, decorative finials, steeply pitched roof, redwood shingles, gabled dormers and bay windows.*

*'Wellings' and the 'Gatehouse' are highly ornate timber buildings set well back from the street with a large garden with significant mature plantings of high ornamental quality. The landscape retains elements from various phases of development. The front fence, brick edged gravel circular driveway and some plantings relate to the early c. 1910s period.*

Generally, the buildings on the site have been subject to various alterations and additions over time, and there have also been numerous additional buildings (eg carport, sheds, swimming pool) constructed.

#### Current Application – DA2024.76

The key dates and events regarding this application are summarised as follows (further details also provided throughout this report):

1. 18 December 2024 – Current DA2024.76 lodged.
2. 7 January 2025 – Internal Referrals sent to Council officers (Heritage Advisor, Development Engineer and Tree Management Officer), and DA was notified to neighbours (for a minimum period until 24 January 2025).
3. 28 February 2025 – Following initial assessment including the Internal Referrals, a Request for Information (RFI) letter was sent to the applicant, raising the following issues of concern (summarised):
  - (a) Heritage: Concern was raised regarding both the quality of documentation information, the detail on the architectural drawings, and the impacts of the proposed works on the heritage significance of the “Wellings” dwelling house. The following issues were raised:
    - Documentation Information and Accuracy: the documentation provided with the application lacks the necessary detail and accuracy to enable a detailed assessment of the application. The architectural drawings are inaccurate and lack detail and are of a scale unsuitable for the scale of development.
    - Design Concerns:
      - The rear addition is not subservient to the main house and has not been designed to be read as new work. It will confuse the original design. This element should be reduced in scale and separated from the house in a pavilion style addition.
      - The basement garage and its driveway will alter the topography of the site and the historic layout of the site. The excavation may impact the structural stability of the house and no engineering details have been provided. As there is sufficient room for car parking at grade, the basement car park is not supported.
      - The proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained.
      - The proposed front fence is not based on historical evidence. Any new fence should be based on historical evidence and must be constructed with traditional materials.
      - The Statement of Significance notes that the garden and plantings are significant. It would appear that the proposed basement and addition may impact significant plantings and further details are to be provided to ensure the retention of all significant plantings.
  - (b) Landscaping and Tree Management: Concern was raised that the current plans require significant tree removal on the eastern boundary currently providing privacy amenity and associated with the heritage character of the property. The hard surface around the phoenix palm up to 16% of the Tree Protection Zone is unacceptable and should be reconfigured to have less impact.

It is suggested the pool and pool area be redesigned to have less impact to the site trees. In addition, less hard surface. Trees adjacent to the rear boundary have not been indicated on the survey plans.



Revised landscape plans were requested to address these issues.

- (c) Height of Buildings – Clause 4.3 Burwood LEP 2012: The development proposes works that exceed the maximum building height specified under the Burwood LEP 2012 Height of Building Maps (8.5m for this Site).

The DA is not supported by a request for variation under Clause 4.6 of Burwood LEP 2012.

The RFI requested that either a sufficient Clause 4.6 request for variation be submitted, or the proposal amended to ensure compliance with the 8.5m maximum height requirement.

(**Note:** the height of the proposed alterations and additions has since been assessed to comply with the maximum height requirement under Burwood LEP 2012, see assessment below).

- (d) Swimming Pool Setback: The southern (rear) setback of the swimming pool water is only 900mm, which does not comply with the 1m minimum setback requirement specified in the Burwood DCP.
- (e) Issues regarding Swimming Pool and Cabana: Issues regarding compliance with the Building Code of Australia (BCA) were identified in terms of the swimming pool fencing and pool gate.
- (f) Revised Plans and Support Documents: The RFI letter requested submission of amended plans addressing the above issues, and a Schedule of External Finishes, Revised BASIX Certificate, Stormwater Plans, and a Statement of Environmental Effects.

4. Council's RFI letter dated 28 February 2025 requested a satisfactory response by 17 March 2025. To date, Council has not received a suitable response to address the issues raised.
5. 22 May 2025 – a meeting was held between the applicant and Council officers (Manager City Development, Heritage Advisor and Consultant Town Planner) to discuss the issues of concern with the DA, and the nature of the design amendments and additional information that Council would require to support the development.

Council officers stated that the proposal is unsatisfactory and cannot be supported. The outcome of this meeting was that Council officers would defer it's assessment of the DA to allow the applicant to provide amended plans/additional information to address the issues of concern previously raised.

Council officers have not received any response following the May 2025 meeting.

In terms of processing timeframes and opportunities for the applicant to address Requests for Information (RFI) and issues of concern, the requirements of the EP&A (Statement of Expectations) Order 2024 in relation to DA assessment and performance are noted.

As the applicant has been advised of Council's issues of concern and has not satisfied those issues despite being given adequate opportunity, it is appropriate to proceed to determine the DA.

### **Statutory Requirements**

This application is assessed under the provisions of s.4.15 of the Environmental Planning & Assessment Act 1979, as amended, including:

- Various State Environmental Planning Policies (SEPPs) – see below.
- 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
- Submissions received from the neighbour notification/advertising process
- The Public Interest

These matters are considered in this report as follows.

### **Planning Assessment**

The DA is assessed as required under the heads of consideration listed in s.4.15(1) of the EP&A Act 1979 as follows:

#### **Section 4.15 (1) (a) – The provisions of any *environmental planning instrument (SEPPs, LEPs) and any development control plan (DCP)***

##### **State Environmental Planning Policies (SEPPs)**

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

###### ***Chapter 4 – Remediation of Land***

This chapter requires the consent authority to be satisfied that the land is not contaminated or that no remediation is required to make the site suitable for the proposed use.

The Site is located in an established residential area of Burwood. The site is a Heritage Item, the dwellings on the site have existed since the 1830s, and the site itself has been used for residential purposes since that time. In terms of potential contamination, this development only seeks to continue the use of this site for residential purposes.

The site does not show any evidence of contamination (eg odours, discolouration, areas where vegetation does not grow etc), and generally there is no reason to suspect any contamination issues.

The development therefore satisfies Chapter 4 of SEPP (Resilience & Hazards) 2021.

##### **State Environmental Planning Policy (Sustainable Buildings) 2022**

This SEPP replaces the former SEPP (BASIX) 2004.

The DA submission includes a BASIX certificate dated 6 November 2024 (Ref A1771878) covering both the dwelling alterations and additions, and also the new swimming pool, and which demonstrates how the various features of the development satisfies the energy and water targets identified in the BASIX certificate. These commitments and the required fixtures in the development are also shown on the DA plans.

The Development is satisfactory under SEPP (Sustainable Buildings) 2022.

##### **State Environmental Planning Policy (Biodiversity & Conservation) 2021**

The chapters of this SEPP relevant to the Site/Development are addressed as follows:

###### ***Chapter 2 – Vegetation in Non-Rural Areas***

This Chapter of the Biodiversity & Conservation SEPP aims to protect the value of trees and other vegetation in non-rural areas or the State; and to preserve the amenity of non-rural areas through preservation of trees and vegetation.

The development proposes significant impacts in terms of site vegetation. Firstly, the DA plans show the removal of 2 trees and hedge plantings from the rear of the “Wellings” dwelling house. In

addition, the development would also involve removal of existing trees/vegetation along the southern boundary, and which has not been accurately represented on the DA plans.

This vegetation current provides significant privacy and amenity between the site and neighbouring properties, and more importantly it also contributes significantly to the heritage character and significance of the Site.

The nature and extent of the works proposed along the rear boundary will mean that it is not possible to provide adequate and appropriate replacement landscaping. In particular, the development proposes significant bulk excavation for the basement car park (25.407m x 10.439m), and significant hard surfaces of the swimming pool and it's terrace (dimensions not provided – approx. 25m x 10m).

Having regard to the above considerations and the heritage significance of the Site, the development is unsatisfactory having regard to the provisions of SEPP (Biodiversity & Conservation) 2021.

### Local Environmental Plans

#### Burwood Local Environmental Plan (LEP) 2012

Burwood LEP 2012 took effect on 9 November 2012 and is the local environmental planning instrument applying to the Site/Development. The applicable clauses in Burwood LEP 2012 are discussed as follows:

##### *(a) Clause 2.3 Zone Objectives and Land Use Table*

The subject site is zoned R2 Low Density Residential under Burwood LEP 2012. In summary, the proposal is permitted with consent under the R2 zone, however it is unsatisfactory when assessed under the Zone Objectives.

The Development falls within the definition of a *dwelling house* – which is listed as being permitted with consent in the R2 zone.

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment – Zone Objectives: In terms of the “housing needs of the community”, one of the most important local considerations is to preserve and protect the Environmental Heritage of Burwood.

The development proposes significant adverse impacts on the heritage significance of the dwelling house on the site (which is a Heritage Item), both through the proposed alterations and additions to the dwelling house and removal of existing landscaping for the construction of a large basement car park and swimming pool (and terrace) without appropriate replacement landscaping

The 2<sup>nd</sup> objective is not relevant, as this development does not involve any “other land uses” (other than a residential dwelling).

The development is therefore unsatisfactory in terms of the objectives of the R2 Low Density Residential zone.

(b) Principal Development Standards

Burwood LEP 2012 also contains several *development standards* applicable to the Development and Site. The relevant clauses are assessed and discussed in the following table:

The relevant clauses are outlined in the Table below.

LEP Clause	Requirement	Proposal	Compliance
<b>2.7 – Demolition requires development consent</b>	Demolition requires development consent	Consent is sought for the demolition works as part of this DA	Yes
<b>Pt 3 – Exempt and Complying Development</b>	Burwood LEP 2012 contains provisions for exempt and complying development.	The Development is not included in the list of <i>exempt and complying development</i> (under Burwood LEP 2012), so consent is required.	Yes (DA required)
<b>4.1 – Minimum Subdivision Lot Size</b>	400m <sup>2</sup>	No subdivision proposed	NA
<b>4.1A – Minimum Lot Sizes for Dual Occupancies</b>	This clause provides minimum lot sizes for attached or detached dual occupancies in the R1, R2 and R3 zones (either 500m <sup>2</sup> or 600m <sup>2</sup> required)	Development does not propose either form of dual occupancy	NA
<b>4.3 – Height of Buildings</b>	The <i>Height of Buildings Map</i> prescribes a height limit of <b>8.5m</b> for this site.	<p>The architectural plans do not accurately indicate the height of the proposed 2-storey additions.</p> <p>The Statement of Environmental Effects (SEE) states “Max. Ridge Height achieved: existing”.</p> <p>In this regard, the submitted survey plan shows the ridge (eastern side of dwelling) to be RL42.69.</p> <p>The height of the proposed additions will therefore be:</p> <p>New ridge height: RL42.69 EGL under (interpreted): RL36.13</p> <p><b>Overall Height (of new additions): 6.56m</b></p>	Yes
<b>4.3A – Exceptions to Height of Buildings</b>	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	The site is not marked as “Area A” on the height of buildings map	NA

LEP Clause	Requirement	Proposal	Compliance
	height plane for that land.		
<b>4.4 – Floor Space Ratio</b>	The <i>FSR Map</i> prescribes a FSR limit of 0.55:1 for this site.	Refer to Clause 4.4A below – as the site exceeds 500m <sup>2</sup> site area	See Clause 4.4A
<b>4.4A Exceptions to Floor Space Ratio</b>	Sub-clause (2) states that <i>“Despite clause 4.4, the floor space ratio for a dwelling house on land in Zone R2 Low Density Residential with a site area of more than 500 square metres is not to exceed 0.52:1”.</i>  (Site area = 3686m <sup>2</sup> – Max 0.52:1 FSR applies)	Existing GFA: 497.96m <sup>2</sup>  Proposed GFA: 38.95m <sup>2</sup> (GF) + 41.88m <sup>2</sup> (1 <sup>st</sup> F) = 80.83m <sup>2</sup>  Total GFA of development: 578.59m <sup>2</sup>  FSR: 0.157:1	
<b>4.6 – Variations to Development Standards</b>	This clause prescribes various objectives and requirements where variations to an LEP <i>development standard</i> is required.	Development does not require submission of a Clause 4.6 request for variation.	Yes
<b>5.10 – Heritage Conservation</b>	This clause prescribes a range of objectives and controls for Heritage Conservation.  See detailed assessment below.	The Site IS listed as a heritage item but is not in a heritage conservation area.  See detailed assessment below.	<b>No</b>
<b>5.21 – Flood Planning</b>	This clause prescribes a range of objectives and controls for Flood Planning.	Site is not shown on Council’s mapping as being flood affected.	NA
<b>6.1 – Acid Sulfate Soils</b>	Prescribes that development consent is required for the carrying out of works described in the Table in sub-clause (2)  For Class 5 Land – the works for which consent is required is <i>“Works within 500 metres 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 on adjacent Class 1, 2, 3 or 4 land.</i>	The land is not below 5m AHD and is not likely to lower the water table below 1m AHD on adjacent Class 1-4 Land	NA

Detailed Assessment: Clause 5.10 – Heritage Conservation

The Site is listed as a Heritage Item under Burwood LEP 2012 (refer to Heritage Map, earlier in this report).

As the proposal involves both alterations and additions to the “Wellings” dwelling house on the site, as well as significant works in the curtilage of this dwelling (namely a new basement car park, and swimming pool/terrace), a detailed assessment of the requirements in Clause 5.10 – Heritage Conservation under Burwood LEP 2012 is warranted.

Such assessment is undertaken as follows:

*Clause 5.10 (1) – Objectives:*

The objectives of Clause 5.10 are:

- (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.*

Comments: The development is unsatisfactory in terms of objectives (a) and (b) above. The proposal includes a significant basement car park (25.407m x 10.439m) with additional excavation for access to this car park. The basement car park will involve removal of existing trees and vegetation which contributes significantly to the setting of the heritage dwellings and their curtilage.

Further, the development also includes a significant swimming pool and terrace (overall dimensions of terrace approx. 25m x 10m) which will include a cabana over part of the terrace area which would further remove the existing landscaped area at the rear of the heritage dwelling.

The proposed alterations and additions are also not supported (by Council’s Heritage Advisor) as they are not subservient to the main house and have not been designed to be read as new work. It will confuse the original design. This element should be reduced in scale and separated from the house in a pavilion style addition or through other suitable mechanisms.

Overall the proposal is unsatisfactory and it conflicts with the objectives of Clause 5.10(1).

*Clause 5.10(2) – Requirement for Development Consent*

Comments: Sub-clause (2) requires development consent for various works, including those proposed in this application. The submission of this DA would satisfy the requirement to obtain development consent.

*Clause 5.10(3) – When Consent is Not Required*

Comments: Not applicable, consent is required for the proposed works.

*Clause 5.10(4) – Effect of Proposed Development on Heritage Significance*

Comments: This clause requires the consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned.

As discussed throughout this report, the development will have an unsatisfactory impact on the heritage significance of the “Wellings” dwelling house on the site, and its curtilage/setting.



*Clause 5.10(5) – Heritage Assessment*

Comments: This clause states that the consent authority may require submission of a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

A Heritage Impact Assessment has been submitted as part of the DA documents.

*Clause 5.10(6) – Heritage Conservation Management Plans*

Comments: This clause states that the consent authority may require the submission of a heritage conservation management plan before granting consent under this clause.

The nature of the proposed development would not require such a heritage conservation management plan to be submitted.

*Clause 5.10 (7) – Archaeological Sites*

Comments: Not applicable, as the site does not contain any known archaeological sites.

*Clause 5.10 (8) – Aboriginal Places of Heritage Significance*

Comments: Not applicable, as the site does not contain any known Aboriginal places of heritage significance.

*Clause 5.10 (9) – Demolition of Nominated State Heritage Items*

Comments: Not applicable, as the site does not contain any Nominated State Heritage Items.

*Clause 5.10 (10) – Conservation Incentives*

Comments: This clause allows the consent authority to grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan – if it is satisfied of various matters including that the conservation of the Item would be facilitated by granting of such consent.

The development does not seek to rely on the provisions of Clause 5.10(10).

The provisions of any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments that apply to the subject site/proposed development.

Burwood Development Control Plan 2013

Burwood Development Control Plan (DCP) 2013 contains the detailed development controls applicable this Development/Site.

The applicable controls are contained in Chapter 4 – Development in Residential Areas; Chapter 4.5 – Dwelling Houses, Attached Dwellings, Semi-Detached Dwellings and Ancillary Structures.

An assessment in terms of the relevant requirements of Burwood DCP 2013 is undertaken in the Table below.

Burwood DCP 2013 Requirement	Development	Compliance
<b>Chapter 4 – Development in Residential Areas</b>		
<b>Chapter 4.5 Dwelling Houses, Attached Dwellings, Semi-Detached Dwellings and Ancillary Structures</b>		
<b>4.5.2 – Development Controls – Building Appearance (Applies to Land Identified on Map in Section 8.2 – The Subject Site IS identified in this Map)</b>		
<i>Design</i>		
<p>P1 The design of the single dwelling must aim to match or compliment the best design and detailing of development in the area, as well as, be of high architectural quality.</p> <p>P2 Care must be given to the design of building forms and to all elevations, roof forms, windows, door openings and building features generally to ensure that the single dwelling is compatible with and complementary to its neighbours and the streetscape.</p> <p>P3 Building heights must relate to the general character of the houses in the immediate locality and in the street.</p> <p>P4 Overall massing of building volumes must be articulated or modulated to avoid a bulky appearance. Articulation must be reflected in the building and roof forms.</p> <p>P5 Wide and/or long elevations must be treated to provide for visual relief in the form of setbacks, recesses and articulations.</p> <p>P6 The front entry of the single dwelling must be clearly visible and obvious from the street. An exception to this provision is side entrances to Californian Bungalow and Interwar designs.</p> <p>P7 Where there is a side entrance, it must be clearly identified by design and detailing such as paths, planting, fencing or side porches.</p>	<p>These controls need to be considered in the context of the Heritage Significance of the Site.</p> <p>The Site is listed as a Heritage Item under Burwood LEP 2012.</p> <p>The rear addition is not subservient to the main house and has not been designed to be read as new work. It will confuse the original design. This element should be reduced in scale and separated from the house in a pavilion style addition or through other suitable mechanisms.</p> <p>The building height of the new additions is to be the same as the existing dwelling height.</p> <p>As above (P2)</p> <p>As above (P2)</p> <p>The new additions are to the rear and do not alter the arrangements re the front entry</p> <p>No side entry proposed.</p>	<b>No</b>
<i>Materials, Workmanship and Finishes</i>		
<p>P8 Materials and workmanship must be of high quality and compatible with the style of the single dwelling and with the best of surrounding development.</p> <p>P9 Appropriate materials and</p>	<p>The proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and conserved.</p> <p>As above (P8)</p>	<b>No</b>

Burwood DCP 2013 Requirement	Development	Compliance
<p>finishes must complement the architectural style of the single dwelling.</p> <p>P10 Samples of finished surface materials such as bricks, tiles, ridge capping, windows, doors and a schedule of paint colours must be submitted to Council as part of the Development Application.</p> <p>P11 An orderly pattern of door and window treatment is required to compliment the style of the single dwelling. Window and door openings must be finished with appropriate lintels and sills. Window panels must be of vertical proportions and must be set in solid reveals and provide for consistency in appearance.</p>	<p>No details of samples of external finishes and materials have been provided.</p> <p>Design of window/door treatment is generally acceptable.</p>	
<b>Building Elements</b>		
<p>P12 Ancillary structures such as garages, carports and outbuildings must be designed to reflect the style of the single dwelling in relation to height, roof form, architecture, materials and the like. These should conform to relevant DCP controls and compliment the character of the residential area.</p> <p>P13 Window treatments such as hoods, bay window design and/or timber framing in appropriate situations may be required to enhance the building appearance.</p> <p>P14 The location or size of verandahs and balconies adjacent to garden areas and rooms within the house must be carefully designed and take into consideration the orientation for sun/shade and privacy for surrounding properties.</p> <p>P15 Balconies and first floor verandahs must be of modest dimensions so as not to facilitate excessive use and impact upon the amenity and privacy of adjoining premises.</p> <p>P16 External stairways are not permitted to the first floor level of the single dwelling or to balconies and first floor verandahs.</p>	<p>The basement garage will alter the topography of the site and the historic layout of the site. The excavation may impact the structural stability of the house and no engineering details have been provided. As there is sufficient room for carparking at grade, the basement car park is not supported.</p> <p>Window treatments generally acceptable.</p> <p>No new verandahs or balconies proposed.</p> <p>As above, no new balconies/verandahs proposed</p> <p>No external stairways proposed.</p>	<b>No</b>
<b>Streetscape</b>		

Burwood DCP 2013 Requirement	Development	Compliance
<i>Site Planning and Design</i>		
<p>P1 Single dwelling design must preserve existing characteristics of neighbouring houses and enhance the existing built form and streetscape values. New single dwellings must be of similar scale, form, bulk, placement and character to adjoining and nearby single dwellings in the street.</p> <p>P2 The building line must be consistent with the adjacent single dwellings.</p> <p>P3 Building height at the street frontage must not exceed the height and scale of adjoining development.</p> <p>P4 Roof design, materials and detailing must be complementary to the streetscape character.</p>	<p>The development proposes works only to the rear of the existing dwelling ("Wellings").</p> <p>The proposed works do not preserve the existing characteristics of the existing dwelling.</p> <p>Building line unchanged.</p> <p>Building height at street frontage is unchanged.</p> <p>Roof materials are unacceptable, see comments for Design (P8) above.</p>	No
<i>Major Alterations and New Single Dwellings</i>		
<p>P5 New attached dwellings and semi-detached dwellings will generally not be permitted on land subject to the Building Appearance and Streetscape provisions, nor within heritage conservation areas, unless the attached or semi-detached form can be established as the predominant building form in the existing locality, and the design of the new structures is sympathetic to those existing structures.</p> <p>P6 The design of major alterations must retain characteristic features prevalent in houses in the street. For example, design features such as a verandah, front gable, window awning, bay window, face brickwork or stone details should be retained or re-instated to retain and reinforce the prevailing streetscape character.</p> <p>P7 The design of new single dwellings or alterations must incorporate characteristic features prevalent in houses in the street. For example, design features such as verandah, bay window, gable or main entry must be sympathetic and contribute to the prevailing streetscape character.</p>	<p>Proposal relates to an existing single detached dwelling.</p> <p>Proposal unacceptable in terms of roof materials – see comments for design (P8) above.</p> <p>As above, although proposal is for mostly works to the rear, the proposal is unacceptable in terms of roof finishes.</p>	No

Burwood DCP 2013 Requirement	Development	Compliance
<b>Two Storey Development</b>		
<p>P8 A full two storey single dwelling would not be considered appropriate where surrounding single dwellings are mostly single storey. However, a part two storey single dwelling may be considered if the first floor is setback a minimum of 9m behind the front building line of the ground floor and located behind the main roof form of the building.</p> <p>P9 To better integrate a new first floor level into a single storey area, its height and bulk can be kept to a minimum by reducing the floor to ceiling heights, together with the use of raked ceilings and attic type rooms with suitably proportioned dormer windows, where appropriate. The style of dormer windows should be compatible with the style of the house.</p>	<p>Development proposes additions to an existing 2-storey dwelling.</p> <p>Not applicable</p>	NA
<b>Gardens, Landscaping and Fences</b>		
<p>P10 Front and side gardens, driveway entries and paths must use similar materials and methods to reinforce existing streetscape character. Planting and landscaping methods should follow existing patterns of development to reinforce the contribution of front and side gardens to the prevailing character of the streetscape.</p> <p>P11 Front and side return fences must be of similar height, material and style to be in character and scale with existing fences or those of adjoining houses and in the street generally and in conformity with the <i>Front and Side Fences</i> section of this DCP Part.</p>	<p>The proposed basement carpark and swimming pool (and it's terrace) will occupy a significant portion of the rear of the "<i>Wellings</i>" dwelling house – and involves removal of existing landscaping which significantly contributes to the heritage significance of the Site. The additional hard-stand areas created by these components will also mean it is not possible to provide suitable/adequate replacement landscaping.</p> <p>The proposed replacement front fence will not use traditional fencing materials and is also unsatisfactory.</p> <p>The submitted landscape plan is unsatisfactory.</p>	No
<b>Location of Vehicle Access, Garaging and Car Parking</b>		
<p>P12 Where there is suitable side access for new garages and outbuildings they should be located to the rear of the property.</p> <p>P13 New carports may be located along a side driveway providing these are setback from the building frontage and back from any front or side verandah.</p>	<p>Not applicable – the new driveway access to the basement car park is proposed off an existing driveway (to the rear of the location of the existing carport).</p> <p>Not applicable – no new carport proposed.</p>	Yes/Not Applicable

Burwood DCP 2013 Requirement	Development	Compliance
<p>P14 Garage door openings including intermediate piers must not exceed 40% of the entire width of the front elevation of the single dwelling.</p> <p>P15 Any paved car parking spaces and carport structures must be located behind the front building line. Access driveways are not precluded.</p> <p>P16 New driveways, paved turning areas and paths visible from the street must not dominate the front garden or impact on the streetscape values. Paving materials must be compatible with general streetscape character in terms of materials, colour, texture and extent.</p>	<p>No new garage with openings facing the street – basement parking proposed.</p> <p>New parking structure (basement parking) is proposed behind the building line.</p> <p>New driveway and access to the basement car park is generally in the rear yard and will not be visible from the street.</p>	
<b>Sunlight</b>		
<p>P1 All building work must minimise overshadowing to adjoining properties, particularly to the south.</p> <p>P2 Two storey single dwellings must not eliminate solar access on adjacent smaller dwellings.</p> <p>P3 The street configuration of certain lots in the Burwood LGA does not allow shadowing to be prevented. There will be some instances where dwellings may lose sunlight on narrow lots with an east to west axis this is notwithstanding that Council makes every effort to ensure reasonable solar access.</p> <p>P4 Maximum use must be made of north facing areas for windows, outdoor recreation and clothes drying, etc.</p> <p>P5 During the summer season, the sun is not to cause overheating in living areas of the single dwelling. This overheating can be reduced through effective methods such as insulation, reflective barriers and shading.</p> <p>P6 The floor to ceiling height for the first floor level of the proposed single dwelling is not to exceed 2.6m, and the ground floor level is not to</p>	<p>The development is located on the southern side of the existing dwelling ("Wellings") and will cause minor additional overshadowing to the properties to the south and south east.</p> <p>As above</p> <p>Noted.</p> <p>North-facing windows of the development are unaffected.</p> <p>Noted</p> <p>Floor to ceiling height in the new additions will be 3.31m (ground floor) and 2.78m (1<sup>st</sup> floor) to match existing.</p>	Yes

Burwood DCP 2013 Requirement	Development	Compliance
<p>exceed 2.7m. However, the floor to ceiling height for the first floor level is required to be 2.4m in respect to a single dwelling in a Conservation Area or in respect to additions to a heritage item.</p> <p>P7 Building floor levels must not be raised, where there is a slope to the site. Building heights are to be minimised by cutting of a site rather than filling.</p> <p>P8 The southern elevation of the first floor building on the minimum setback is not to exceed 10m in length. Council will permit further extension if the wall is inset a further 2 metres as shown in Figure 74.</p>	<p>Existing levels (of the site and relative to the existing dwelling) are maintained.</p> <p>The southern elevation (of the proposed additions) is 6.37m in length</p>	
<b>Privacy</b>		
<p>P1 Detailed site and building design elements should be incorporated to increase privacy without compromising access to natural light and air. Design detailing may include:</p> <ul style="list-style-type: none"> <li>(i) Solid or semi-solid balustrades to balconies</li> <li>(ii) Offset windows of dwellings</li> <li>(iii) Recessed balconies and/or vertical fins</li> <li>(iv) Louvres or screen panels to windows and/or balconies to minimise overlooking and maintain privacy between living areas and open recreation areas</li> <li>(v) Fencing</li> <li>(vi) Vegetation as a screen between spaces</li> <li>(vii) Pergolas or shading devices to limit overlooking</li> </ul> <p>P2 Living areas, including studies, at the first floor must have raised sill heights and/or translucent glazing of windows to minimise loss of privacy to adjoining single dwellings.</p> <p>P3 Translucent or opaque windows must be provided to all bathrooms, en-suites, water closets (i.e. toilet), and stairwells.</p> <p>P4 Building layouts must be designed in relation to window placement, sill heights and doors to maximise privacy and minimise</p>	<p>The development proposes a new kitchen (ground floor) and ensuite/WIR to master bedroom (1<sup>st</sup> floor).</p> <p>The potential privacy impacts will be worsened by the removal of the existing landscaping to the site boundaries, and the inability to provide adequate replacement landscaping (due to the proposed basement parking and swimming pool/terrace).</p> <p>As above</p> <p>As above</p> <p>As above</p>	<p>Yes</p>



Burwood DCP 2013 Requirement	Development	Compliance
noise effects.		
P5 To provide sufficient privacy there must be adequate building separation.	As above	
<b>Balconies</b>		
P6 Balconies are not to be located at first floor level where they overlook neighbour's outdoor living areas, unless adequate screening is implemented.	No new balconies in the proposed alterations/additions	NA
P7 Balconies are not permitted on the side elevation, with the exception of single dwellings located on corner blocks, i.e. the elevation facing the secondary street frontage.	As above	
P8 First floor balconies will not be permitted off living areas (bedroom access only) and must be of minimal dimensions. These balconies must not exceed a maximum width of 1.5 metres.	As above	
<b>Height</b>		
P1 Single dwellings must not exceed 8.5 metres in height from the natural ground level to the ridge as measured vertically at any point.	Proposal complies with the 8.5m height limit under Burwood LEP 2012.	Yes
P2 Notwithstanding P1 above, in particular circumstances there may be exceptions granted for steeper pitched roofs that do not detract from the aesthetics of the single dwelling.	Not applicable. Proposal does however seek to maintain the height of the existing dwelling.	
P3 Single dwellings must not exceed two stories in height above the natural ground level. However, consideration may be given to a basement where such area has a ceiling height not exceeding 2.3 metres from the underside of the edge beam and is below existing ground level as described in P5 below.	Proposal is 2-storeys.	
P4 The basement area must not be used as a habitable room.	Basement proposed, but it is for carparking only (and vehicle access) with no habitable space.	
P5 Basement areas must not exceed existing natural ground level by more than 750mm when measured to the top of the ground floor slab above the existing ground level.	Basement does not exceed EGL by more than 750mm.	

Burwood DCP 2013 Requirement	Development	Compliance
<p>P6 The basement wall must be designed so as to form an integral part of the building and not look like a basement wall from the external elevation.</p> <p>P7 The basement shall be wholly within the footprint of the dwelling above.</p> <p>P8 The floor to ceiling height of the first floor level is not to exceed 2.6 metres to minimise overshadowing and excessive height.</p> <p>P9 The floor to ceiling height of the ground level of new development is not to exceed 2.7 metres.</p> <p>P10 The ceiling height for attic rooms, rooms with a sloping ceiling or projections below ceiling lines, non-habitable rooms or the like must not interfere with the room or space's intended purpose.</p> <p>P11 The floor to ceiling height of rooms must satisfy the requirements of the Building Code of Australia Housing Provisions Part 3.8.2.2 "Ceiling Height", and must ensure that the room or space is used for its intended purpose, and that the level of fire safety, health and amenity is not reduced.</p> <p>P12 Building heights must relate to the general character of houses in the immediate locality and in the street.</p>	<p>Basement wall is entirely below ground and is not visible externally.</p> <p>The basement is outside the building footprint of the dwelling above – it is to the south of the existing dwelling.</p> <p>Floor to ceiling height of the 1<sup>st</sup> floor level is 2.78m</p> <p>Floor to ceiling height of the ground floor level is 3.31m</p> <p>No attic (or similar) room proposed</p> <p>Can comply with the BCA</p> <p>Building heights will relate to the character of the existing dwelling</p>	
<b>Storage</b>		
P13 Storage areas in roofs of single dwellings are permitted as long as there are no permanent stairs and no dormer windows within the roof so as to ensure it does not appear as a habitable room. The roof may contain ventilated skylight windows.	No storage areas proposed.	NA
<b>Setbacks</b>		
P1 Single dwellings must comply with the minimum setback requirements as set out in the table below:	<p>The front setback remains unchanged and compliant with the DCP.</p> <p>The side and rear setbacks of the ground floor and first floor</p>	Yes

Burwood DCP 2013 Requirement	Development	Compliance																												
<p>Table 3. Setback Requirements for Single Dwelling Houses</p> <table><tr><td colspan="2">Front Setback</td></tr><tr><td>(i) Two storey (second storey component of the dwelling only)</td><td>9m</td></tr><tr><td>(ii) Single storey</td><td>Average of localised existing building line</td></tr><tr><td colspan="2">Side Setback</td></tr><tr><td>(i) Two storey (second storey component of the dwelling only)</td><td>1.5m</td></tr><tr><td>(ii) Single storey</td><td>900mm</td></tr><tr><td colspan="2">Except for the common wall of an attached dwelling or semi-detached dwelling</td></tr><tr><td colspan="2">Rear Setback</td></tr><tr><td>(i) Two storey (second storey component of the dwelling only)</td><td>6m</td></tr><tr><td>(ii) Single storey</td><td>3m</td></tr><tr><td colspan="2">Corner Property Setbacks</td></tr><tr><td>(i) Main Street Setback</td><td>As per front setback for street to which property is rated, or the street with the narrower frontage.</td></tr><tr><td>(ii) Side Street Setback</td><td>As per side setback</td></tr><tr><td>(iii) Other two (2) boundaries</td><td>As per side and rear setback</td></tr></table> <p>P2 All single dwellings must provide an eave overhang. The minimum width of the eave including the gutter must be 450mm.</p> <p>P3 Council may consider a variation to reduce the eave heights, provided that there is no increased overshadowing.</p> <p>P4 Single dwellings must provide setbacks that are consistent with the existing setback.</p> <p>P5 A reduced setback which utilises existing foundations may be acceptable for single storey dwellings.</p> <p>P6 An increased front setback may be required for new building works that are bulkier than the existing single dwellings on the adjoining sites.</p> <p>P7 The maximum length of a first floor elevation of a single dwelling is 10m along its southern elevation where it is provided as one continuous and uniform elevation (Refer to Figure 74).</p> <p>P8 Where a first floor elevation is greater than 10m along the southern elevation, that part of the first floor elevation greater than 10m must be setback a further 2m from the side</p>	Front Setback		(i) Two storey (second storey component of the dwelling only)	9m	(ii) Single storey	Average of localised existing building line	Side Setback		(i) Two storey (second storey component of the dwelling only)	1.5m	(ii) Single storey	900mm	Except for the common wall of an attached dwelling or semi-detached dwelling		Rear Setback		(i) Two storey (second storey component of the dwelling only)	6m	(ii) Single storey	3m	Corner Property Setbacks		(i) Main Street Setback	As per front setback for street to which property is rated, or the street with the narrower frontage.	(ii) Side Street Setback	As per side setback	(iii) Other two (2) boundaries	As per side and rear setback	<p>components also remain unchanged as these additions involve filling in the space at the rear/side of the existing dwelling structure.</p> <p>Eave overhangs provided.</p> <p>Noted. Not applicable</p> <p>Setbacks of the additions will be consistent with those of the existing dwelling.</p> <p>Not applicable</p> <p>Not applicable – no works proposed at the front of the dwelling.</p> <p>The length of the proposed additions will be 6.37m – making the total overall length at 1<sup>st</sup> floor level approx. 25m</p>	
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Burwood DCP 2013 Requirement	Development	Compliance
<p>building line (Refer to Figure 74).</p> <p>P9 Encroachments of up to 1.5m into the 9m front setback of the first floor level of a single dwelling may be approved for architectural elements such as bay windows, balconies, decorative timber and brick subject to the following:</p> <ul style="list-style-type: none"> <li>(i) Minimal adverse impact on surrounding properties in terms of overshadowing and privacy</li> <li>(ii) High quality architectural design</li> <li>(iii) Variation to the front setback not to exceed 50% of the width and height of the first floor front elevation</li> </ul> <p>P10 Ancillary structures such as garages, sheds and the like, that are attached to the dwelling on a site must be setback 900mm from the respective side boundary. Exceptions may be given for open structures such as carports, awnings and pergolas, subject to compliance with the Building Code of Australia requirements.</p>	<p>Rear setback of the dwelling will be over 10m which is sufficient.</p> <p>Not applicable – no works proposed to front of the dwelling</p> <p>A new ancillary structure is proposed – namely the cabana at the southern end of the swimming pool/terrace, with an approximate setback of 1m from the southern boundary.</p>	
Floor Space Ratio and Built Area		
<p>P1 The maximum Floor Space Ratio (FSR) is set out in the Floor Space Ratio Map. FSR and its calculation are defined in the BLEP 2012.</p> <p>P2 The maximum Built Area is 67%. Built Area is determined to be the total floor area of all buildings relative to the area of the allotment of land, expressed as a percentage. The calculation of Built Area shall be taken from the external face of walls (i.e. includes wall thickness) and includes the area of each floor or storey balconies, verandahs and the like, whether covered or uncovered, open or enclosed garages, carports and covered parking (except basement car parking) and outbuildings. Built Area excludes outdoor swimming pools, paths and exterior driveways.</p> <p>P3 Irrespective of the allotment size, Council does not generally favour single dwellings exceeding 450 sqm Built Area. Applicants should submit written justification in support of</p>	<p>FSR = 0.157:1 – complies</p> <p>The combined Built Area of the site is approx. 500m<sup>2</sup> (of building footprint) = 13.5% of the site area (3686m<sup>2</sup>)</p> <p>The existing dwelling has a built area of approx. 350m<sup>2</sup> building footprint (including existing terraces etc)</p>	<p>Yes</p>

Burwood DCP 2013 Requirement	Development	Compliance
<p>larger dwellings. Buildings above this size will generally only be allowed where the allotment size and the character of the existing development in the area so warrants.</p> <p>P4 In an R1 and R3 zone, a maximum Built Area of over 67% may be considered having regard to the predominant land uses in the vicinity, their scale, the streetscape and the impact of the proposal on surrounding development.</p>	Not applicable – site is in the R2 zone.	
<b>Landscaped Areas</b>		
<p>P1 A minimum 30% of the front setback (i.e. front yard) is to consist of soft landscaping.</p> <p>P2 Rear yards will not be permitted to be dominated by hard landscaping. A minimum of 70% of the rear yard shall be soft landscaping.</p> <p>P3 Paved or hard surfaces shall incorporate appropriate drainage to control water runoff and avoid nuisance to adjoining properties. Paving materials must be selected to blend with both building materials and plantings.</p> <p>P4 Where practical, new structures must be positioned to provide for the retention and protection of existing significant trees and other natural features. Where removal of existing trees is proposed, details of suitable replacement trees are to be provided. These must be replaced at a rate of one new tree for each tree removed, or as otherwise specified by Council's Landscape Code.</p> <p>P5 Cutting and filling is to be minimised as far as practicable. Fill material must be clean fill only and placed in such a manner so as not to disturb existing trees that are to be retained. The maximum permitted depth of fill on a site is 500mm.</p> <p>P6 All Development Applications for new dwellings must be accompanied with a Landscape Plan as part of the</p>	<p>Existing landscaped areas in front of the existing dwellings will be unchanged.</p> <p>Most of the area at the rear of the dwelling house ("Wellings") will be hard-stand area comprising the existing driveway (concrete surface), the basement parking area and swimming pool and it's terrace.</p> <p>Stormwater concept plan submitted to show how stormwater will be disposed of.</p> <p>The development proposes the removal of a significant amount of the existing landscaping to the site boundaries for the basement carpark and the swimming pool/terrace. It will not be possible to provide adequate replacement landscaping.</p> <p>Development proposes significant excavation for the basement car park</p> <p>Whilst a landscape plan has been submitted, it is inadequate the assessment purposes.</p>	<p>▪ <b>No</b></p>

Burwood DCP 2013 Requirement	Development	Compliance
<p>application submission.</p> <p>P7 All planting beds and mounds must be mulched to a depth of 50-75mm using coarse textured mulch.</p> <p>P8 Plants that are declared priority under the Biosecurity Act 2015 must be identified and removed.</p> <p>P9 The siting of new buildings, structures, driveways and other hard surface areas must take into consideration impacts on the root zone of existing trees.</p> <p>P10 Tree species must be considered that provide shading in summer and solar access in winter.</p> <p>P11 Plant species should be chosen which have low water requirements.</p> <p>P12 New plantings must be complementary to the existing streetscape.</p> <p>P13 Aboveground rainwater tanks must not be installed in the front setback. Consideration will be given to underground rainwater tanks in the front setback.</p>	<p>This level of detail would be required on the landscape plan and could be imposed via a consent condition.</p> <p>Noted</p> <p>Development proposes removal of 2 existing trees and significant amounts of landscaping along the southern and eastern sides.</p> <p>This level of detail would be required on the landscape plan and could be imposed via a consent condition.</p> <p>As above</p> <p>As above</p> <p>No rainwater tanks proposed.</p>	
<b>Utility Service</b>		
<p>P1 All water and sewerage pipes and duct work must not be visible from a public place and must meet Sydney Water's requirements.</p> <p>P2 Electricity power poles placed within the front yard of the house must be treated in colours that match the existing single dwelling and be to Council's satisfaction.</p>	<p>New drainage pipes could comply with these requirements.</p> <p>No new electricity power poles proposed.</p>	Yes
<b>Drainage</b>		
<p>P1 All drainage works must comply with Council's Stormwater Management Code.</p> <p>P2 Existing natural overland stormwater flow paths must not be diverted by fencing, retaining walls, buildings, paved areas or any other form of construction.</p> <p>P3 New hard paved surfaces must be kept to a minimum to prevent stormwater runoff.</p>	<p>Generally, the proposal is acceptable in terms of these Drainage and Engineering considerations. See Referral Comments section of this report (below).</p>	Yes



Burwood DCP 2013 Requirement	Development	Compliance
<p>P4 Stormwater runoff from roofs, hard surfaces, swimming pools and the like must be collected, piped and drained to the kerb or an inter-allotment drainage system. Charged lines are permitted, however these must be designed by a practicing Hydraulic Engineer.</p> <p>P5 Pits and pumps are generally not permitted, except within basement garages.</p> <p>P6 Absorption trenches are generally not permitted.</p> <p>P7 Ground floor levels must be sufficiently elevated so as not to be subject to flooding.</p> <p>P8 Soft landscaping and pervious surfaces must be maximised on the site.</p> <p>P9 A stormwater concept plan is required to be submitted to Council in accordance with Council's Stormwater Management Code.</p>		
<b>Swimming Pools</b>		
<p>P1 The private open space must be useable and reasonably sized to incorporate a swimming pool. The pool area must not utilise the remaining private open space.</p> <p>P2 Pool equipment must be located so as to minimise excessive noise impacts.</p> <p>P3 The siting of the pool must minimise noise impacts and water splash on neighbouring properties.</p> <p>P4 The landscape design must provide summer shade for pool users.</p> <p>P5 The swimming pool area shall be fenced in conformity with the Swimming Pools Act 1992, the Building Code of Australia (BCA) and Australian Standards AS 1926-2007 Part 1 and 2 – Swimming Pool Safety.</p>	<p>The POS is generally of sufficient size to accommodate a swimming pool.</p> <p>Could be addressed via consent condition.</p> <p>The pool is located close to the eastern boundary which could have noise impacts, however it is also in the same location as an existing pool (to be demolished).</p> <p>No summer shade provided by the landscape design.</p> <p>Council has raised concerns regarding these issues, as part of the RFI request. Have not been addressed, however they could be resolved via amended plans.</p>	<p><b>No</b></p>

Burwood DCP 2013 Requirement	Development	Compliance
<p>P6 Swimming pool fencing shall separate the pool from the dwelling, outbuildings, structures and any adjoining premises or public place.</p> <p>P7 A minimum setback of 1m must be provided from the water edge of the pool to the boundary.</p> <p>P8 Pools are not permitted in the front yard of a property.</p> <p>P9 No ancillary or other structures are permitted within the fenced pool area, except for diving boards or pool filter equipment.</p>	<p>As above</p> <p>Does not comply, waters edge is within 1m (southern and eastern sides).</p> <p>Pool is to be in the rear yard.</p> <p>None proposed in pool area.</p>	
<b>Fire Safety</b>		
<p>P1 External walls of single dwellings and other structures must be of fire resistant construction, and comply with the relevant provisions of the Building Code of Australia.</p> <p>P2 Approved smoke alarms must be installed in accordance with the Building Code of Australia and Australian Standard AS 3786-1993 - Smoke Alarms.</p> <p>P3 Effective setback and/or protection of structures from fire source features must be in accordance with the Building Code of Australia.</p>	<p>These matters could be addressed via consent condition/s</p>	<p>Conditions</p>
<b>Demolition</b>		
<p>P1 All demolition must be carried out in accordance with Australian Standard AS 2601-2001- The Demolition of Structures.</p> <p>P2 All building materials containing asbestos must be carefully handled and removed from the site in accordance with WorkCover requirements.</p> <p>P3 To minimise dust and debris that cause an unnecessary hazard and/or damage to surrounding properties, appropriate protective measures must be taken.</p> <p>P4 To minimise sediment movement and water pollution due to surface run off, protective environmental site management measures must be</p>	<p>These matters could be addressed via consent condition/s</p>	<p>Conditions</p>

Burwood DCP 2013 Requirement	Development	Compliance
<p>employed on site.</p> <p>P5 To minimise damage to street trees, footpaths, kerbing and road pavements, protective measures must be employed.</p>		
<b>Earthworks</b>		
<p>P1 Adequate sedimentation control measures must be provided around sites to prevent polluted surface run off reaching water course or adjoining land, prior to the commencement of any work.</p> <p>P2 To prevent earthworks from becoming dangerous to life or property, excavation must be adequately shored and guarded.</p> <p>P3 Batters or underpinning of excavation is required to protect structures on adjacent properties from ground surface movement.</p> <p>P4 The details of excavation or filling of land must be included in the Development Application.</p> <p>P5 A dilapidation survey may be required to be carried out for excavations.</p> <p>P6 In excavated areas after rain periods, seepage, or the ponding of water must be collected and disposed of in an appropriate manner.</p> <p>P7 The maximum permitted depth of fill on a site is 500mm. Cutting and filling is to be minimised as far as practicable. Fill materials must be clean fill only and placed in such a manner so as not to disturb existing trees that are to be retained.</p>	<p>The development proposes significant excavation on the site (for the basement parking level).</p> <p>Although generally the level of information is sufficient, and many of these items could be addressed via consent conditions, concerns are raised regarding the merits of the application as discussed throughout this report.</p>	<b>No</b>
<b>Ancillary Structures</b>		
<b>Garages</b>		
<p>P1 Garages must not be erected within the established dwelling setbacks and the street alignment.</p> <p>P2 Garage floor to ceiling height must not exceed 2.5m.</p> <p>P3 The height of the garage door must not exceed 2.1m.</p>	<p>None proposed within front setback</p> <p>Basement floor to ceiling height 2.9m</p> <p>NA – no door proposed to basement parking area</p>	

Burwood DCP 2013 Requirement	Development	Compliance
P4 The external wall height must not exceed 2.7m above natural ground level.	NA – basement with no external wall above EGL	
P5 The slope of the roof of a garage must not exceed 25 degrees to the horizontal.	NA	
P6 Where the proposed detached garage is given special permission to be closer than 450mm to the rear or side boundaries, a peg out survey showing the footprint of the building must be undertaken prior to the pouring of the footings/slab, and a final survey report showing the exact location of eaves and gutters to the boundaries must be submitted to Council or the Principal Certifying Authority upon completion.	NA	
P7 Garage door openings including intermediate piers must not exceed 40% of the entire width of the front elevation of the single dwelling.	NA	
P8 To prevent domination of the front elevation, attached garages must be setback further from the single dwelling.	NA	
P9 Where a double garage is proposed forward, or within the front, of a single dwelling, the double garage doors must face the side boundary and have an adequate turning circle for safe entry and exit to the garage. Garage wall facades facing the street must incorporate residential architectural features such as windows.	NA	
P10 A minimum 900mm side and 3m rear boundary setback is required for garage walls attached to a single dwelling.	NA	
P11 Council will not require written concurrence from an adjoining property owner to erect a garage adjacent to a boundary where the proposed garage is of masonry construction and is set back a minimum distance of 150mm from the respective side or rear boundary so as to enable the erection of a dividing fence.	NA	

Burwood DCP 2013 Requirement	Development	Compliance
P12 Clad walls must be set back a minimum of 450mm from the side and rear boundaries to enable maintenance to be carried out.	NA	
P13 Notwithstanding P11 and P12 above, any garage or outbuilding with a floor area of 60 sqm or more, or a continuous wall length of 8m or more, must be a minimum of 900mm off all side and rear boundaries.	NA	
P14 Where a garage constructed of brick is located adjacent to the boundary, no openings will be permitted on the wall located on the boundary for privacy and acoustic reasons.	NA	
P15 Garages must be designed to be sympathetic to the existing character and design of the single dwelling in terms of roof pitch, materials and finishes.	NA	
P16 Cladding must consist of masonry, sheet metal (e.g. Colorbond), painted Zinalume or similar non reflective material. These materials must be compatible with the single dwelling on the site and consistent with the character of the immediate environment.	NA	
P17 Roof cladding must consist of tiles, slates, sheet metal (e.g. Colorbond), painted zinalume, metal or other approved non-reflective roof material. These materials must be compatible with the single dwelling on the site and be consistent with the character of the immediate environment.	NA	
P18 The colours of roof and wall cladding must generally be of neutral tones, compatible with the single dwelling on the site and environmentally sensitive so as to minimise visual impact on the area.	NA	
P19 Garages are subject to a stormwater concept plan and stormwater must be collected, piped and drained to the kerb or inter – allotment drainage system in accordance with the Stormwater	Stormwater concept plan submitted, which includes provision for drainage from the basement parking area	

Burwood DCP 2013 Requirement	Development	Compliance
<p>Management Code. A Stormwater Concept Plan in accordance with Council's Stormwater Management Code is to be submitted with DA's for any ancillary structures.</p> <p>P20 Garages with vehicular access from side or rear lanes and streets must have a minimum front, rear or both boundary setback of 1.4m. Any fencing between the garage and the alignment on this boundary must be splayed at a 45° angle.</p> <p>P21 Basement garages must be confined to the building envelope. Adequate provision must be made for a deep soil zone and landscaped area.</p> <p>P22 Garages must not be used or adapted for residential, industrial or commercial purposes without prior Council approval.</p> <p>P23 Amenities such as a shower, toilet or hand wash basin will only be permitted to be installed within a garage under specific circumstances, and at Council's discretion. Access to these amenities shall be by an externally-accessed door (e.g. opening onto the rear yard), as opposed to being accessed from the interior garage space, such to discourage use of the structure as a separate dwelling.</p> <p>P24 Studios or habitable rooms will not be permitted above a detached garage or outbuilding. The use of the roof space for storage may be permitted subject to the provision of non-permanent access (e.g. pull-down ladder) and Council's satisfaction that the storage space does not contribute to the scale or bulk of the structure, nor adversely affect the amenity of neighbouring properties.</p>	<p>Access to the basement parking area will be via an extension from the existing internal driveway.</p> <p>Basement parking area is proposed and is NOT confined to the building envelope.</p> <p>This could be addressed via consent condition.</p> <p>No such amenities proposed.</p> <p>No studio/habitable rooms proposed to the new basement.</p>	
<b>Carports</b>		
Various Controls are prescribed for Carports behind the building line; Carports in front of the building line; Carport Dimensions; Vehicular Access via Side or Rear Lanes; Design; and Levels	No new carport proposed	NA



Burwood DCP 2013 Requirement	Development	Compliance
<i>Other Ancillary Structures</i>		
P1 Any garage or outbuilding with a floor area of 60 square metres more, or a continuous wall length of 8 metres or more, must be setback a minimum of 900mm from all side and rear boundaries. This control seeks to limit the impact of substantial outbuildings on adjoining properties, and discourages outbuildings which are in close proximity to multiple boundaries. This control will also be applied to any new work where the combined floor area of all outbuildings exceeds 60 square metres.	No new garage or (enclosed) outbuilding structure proposed. There is an open cabana over the pool area with approximate dimensions of 10m x 5m; and approximate setback of 1m from the southern boundary.	▪ Yes
P2 Where multiple ancillary structures are proposed upon a property, combining these uses within a single structure is encouraged.	Not possible to combine all such uses into a single structure.	
P3 The controls applying to garages will generally be applied to other ancillary structures, such as sheds, studios, cabanas and the like.	Noted.	
P4 Amenities such as a shower, toilet or hand wash basin will only be permitted to be installed within an outbuilding under specific circumstances, and at Council's discretion. Access to these amenities shall be by an externally-accessed door (e.g. opening onto the rear yard), as opposed to being accessed from the interior space, such to discourage use of the structure as a separate dwelling.	No such amenities proposed.	
<i>Front and Side Fences</i>		
<i>Consideration of Development Applications Generally</i>		
In dealing with a Development Application for a front and/or side fence, Council must consider the following before making its decision: (i) the general appearance (ii) its likely effect on adjoining properties (iii) its likely effect on the streetscape (iv) its likely effect on traffic (v) whether the design of the fence is consistent with the external appearance of the house (vi) the need for splays where vehicular entrances are involved	The DA includes demolition of the existing front fence, and replacement with a new front fence.  The proposed new fence is to replace the existing fence with a new sandstone base and timber picket top section. It will involve re-use of existing gates, signage and letterbox.  Generally, Council's Heritage Advisor does not support the design of the new front fence, and states that it is	No

Burwood DCP 2013 Requirement	Development	Compliance
<p>P2 Material and finishes must complement the style of the single dwelling.</p> <p>P3 Demolition of fences is allowed without the approval of Council except for heritage properties (i.e. heritage conservation areas and heritage items).</p> <p>P4 Fencing is not to impinge upon pedestrian and vehicular sightlines.</p> <p>P5 Where a Development Application relates to a corner allotment, the corner must be splayed to the satisfaction of Council's Traffic and Transport section. A fence in such a position will not be permitted if its erection will create a traffic hazard.</p>	<p>not based on historical evidence and must be constructed of traditional materials.</p> <p>Front fence design not supported, as above.</p> <p>Noted, proposed demolition forms part of consideration of this DA.</p> <p>Generally acceptable in terms of sight lines.</p> <p>NA – not a corner lot.</p>	
<b>Height</b>		
<p>P6 The height of front fencing measured from existing ground level and taken from the public footpath side, shall satisfy the following:</p> <p>(i) The maximum height of a picket or other similar open style fencing is 1.2m.</p> <p>(ii) The maximum height of masonry or solid form fencing is 900mm. This includes courtyard fences where the courtyard is on or near the street alignment and not constructed or setback as provided in items (iii) and (iv) below.</p> <p>(iii) 1.8m front fencing is permitted provided that this fencing is of a design where brickwork does not exceed 900mm in height and the remaining height is open style construction. Exceptions may be granted on arterial roads such as Liverpool Road, The Boulevard, Coronation Parade, Burwood Road, Georges River Road and Parramatta Road.</p> <p>(iv) A straight flush 1.8m high fence is not acceptable. Notwithstanding P6 (iii) 1.8m high fences may be permitted subject to articulation above or the provision of</p>	<p>Height not accurately specified on the architectural plans. However the SEE states that the height is proposed to be the same as the existing ridge height.</p>	

Burwood DCP 2013 Requirement	Development	Compliance
landscaping to provide visual relief. Alternatively, the fence is set back at least 1.5m from the street alignment.		
<i>Materials</i>		
P7 The external face of the fence must be of a good quality, with a low maintenance finish.	As above, Council's Heritage Advisor does not support the proposed front fence in terms of its materials.	No
<i>Landscaping</i>		
P8 The area between a fence and the street alignment must be suitably landscaped with low maintenance landscaping.	No provision made for landscaping.	No
<i>Levels</i>		
P9 Footings for front fencing must be constructed at or below footpath alignment levels and must not encroach on the footpath as set out by Council's Assets, Design and Contracts section.	Fencing generally to be constructed at the footpath alignment levels and will not encroach the footpath.	Yes
<i>Side Boundary Fences</i>		
P10 Side boundary fences must taper (reduce) in height where they are located forward of the front building line to the point where they meet the front boundary fencing.	No new fencing proposed within the front setback of the existing dwellings	NA
P11 Side boundary fences forward of the building line may be of low ornamental type fences, open style fences or fencing of the same height and design of those approved for the front property boundary.		
P12 Side boundary fences are not to exceed 1.8m in height behind the single dwelling and must not be constructed of pressed metal or exposed concrete block work.		
<i>Attached and Semi-Detached Dwellings</i>		
P13 Common walls on the boundary will only be permitted where proposed in connection with an attached dwelling or semi-detached dwelling development, and where the DA comprises redevelopment of both sides of the shared boundary.	NA – not an attached or semi-detached dwelling	NA
P14 Council encourages fence designs which apply to all frontages within an attached and semi-detached dwelling development.		
P15 Cross easements for support and stormwater drainage must be		

Burwood DCP 2013 Requirement	Development	Compliance
<p>created where necessary and be in place prior to the issue of an Occupation Certificate.</p> <p>P16 Fire rating and sound transmission characteristics of common walls must comply with the BCA/NCC.</p>		
<b>Security</b>		
<p>P17 Front gates must be on, or close to, the front boundary or the front of the building. They must also be visible from front windows.</p> <p>P18 Fence design must avoid creating entrapment spots.</p> <p>P19 Surface treatment of fences must use vandal resistant treatments such as paint and stain resistant finishes.</p> <p>P20 Double glazing must be considered as an alternative to a high solid fence to achieve noise insulation.</p>	Front gates will be on the front boundary	Yes
<b>4.6 Transport and Parking in Residential Developments</b>		
<b>Basic Parking Requirement</b>		
<p><b>Basic parking requirement:</b> Development in the R1, R2 and R3 zones must provide parking spaces on site for each proposed land use in accordance with Table 4. All parking generated by the development is to be provided on site, including any visitors parking. Contributions in lieu of onsite provision of parking will not be accepted in residential zones.</p> <p>Table 4 Requirement: Dwelling houses, attached dwellings, semi-detached dwellings, secondary dwellings, dual occupancies. One (1) space per dwelling</p> <p><b>P2 Compliance with Australian Standards:</b> The design and construction of on-site:</p> <ul style="list-style-type: none"> <li>• Parking areas and parking spaces</li> <li>• Service and loading/unloading areas</li> <li>• Access to, from and within these facilities</li> </ul>	<p>3 spaces proposed in basement car parking area Complies with the numerical requirement.</p> <p>Car parking area is designed to comply with the Australian Standards.</p>	Yes

Burwood DCP 2013 Requirement	Development	Compliance
<p>are to comply with the applicable Australian Standards. These Standards cover a range of technical requirements including design elements, dimensions, gradients, headroom, curves, delivery and service areas, and special requirements for people with disabilities.</p> <p>The applicable standards are the most recent versions (at the time of the application) of:</p> <ul style="list-style-type: none"> <li>• AS 2890.1 Part 1: Off-street car parking.</li> <li>• AS 2890.2 Part 2: Off-street commercial vehicle facilities.</li> <li>• AS 2890.3 Part 3: Bicycle parking facilities.</li> <li>• AS 2890.5 Part 5: On-street parking.</li> <li>• AS 2890.6 Part 6: Off-street parking for people with disabilities.</li> <li>• AS 1428.1: Design for access and mobility.</li> <li>• AS 1735.12: Lifts, escalators and moving walks - Facilities for persons with disabilities.</li> </ul> <p><b>P3 Other requirements for single dwelling houses and development involving two dwellings on one allotment in Residential zones:</b></p> <ul style="list-style-type: none"> <li>• Generally only one driveway per property is permitted.</li> <li>• Circular driveways will be permitted on large lots that have a minimum site area of 900m<sup>2</sup> and have a minimum street frontage of 20m. The circular driveway where appropriate must also address controls within the BDCP such as Building Appearance, Streetscape, Heritage, Landscaped Areas, Vehicle Footpath Crossing, Garages and Carports.</li> <li>• Paving of vehicular access ways and car parking spaces must be kept to a minimum to maximise soft landscaping and minimise stormwater runoff.</li> <li>• Excavations for basement garage must be limited to the perimeter of the proposed</li> </ul>	<p>New access to the basement parking area will be connected to the existing internal driveway.</p>	

Burwood DCP 2013 Requirement	Development	Compliance
dwelling(s). Exceptions may be given to narrow sites (less than 11m in width).		
<b>P4 Other requirements for residential flat buildings, multi dwelling housing and shop top housing in Residential zones:</b>	Not applicable	
<b>P5 Vehicular Access and Footpath Crossings</b>	Satisfactory in terms of vehicular access and footpath crossings.	
<ul style="list-style-type: none"> <li>Vehicular access for development must be provided from lanes and minor or secondary streets where available, rather than major streets or Classified Roads.</li> <li>Vehicular access and footpath crossings must be minimised where provided the safety of pedestrians and cyclists must be maintained and there should be no more impacts on bus operations.</li> <li>Vehicular access must have a nominal width of 2.7 metres over the footpath, and be perpendicular to the kerb alignment.</li> </ul>		
<b>P6 Automated or Mechanical Car Stacking</b>	Not applicable	
<b>P7 Plans and reports on transport, traffic and parking to support Development Applications:</b>	None required.	
<b>P8 Cycling</b>	Not applicable	
<b>P9 Active Travel Demand Management</b>	Not applicable	
<b>4.7 – Heritage In Residential Precincts</b>		
<b>4.7.2 Heritage Controls – General Provisions</b>		
<i>General</i>		
<b>P1</b> Development Applications that propose alterations or additions to, or demolition of, a heritage property are required to submit a heritage report, known as a Heritage Impact Statement (HIS), prepared by a qualified and recognised heritage professional as part of the application to Council. This report shall detail the impacts of the proposed development on the heritage significance of the property.	Heritage Impact Assessment submitted as part of the DA documents.	Yes



Burwood DCP 2013 Requirement	Development	Compliance
<p>Council may, at its discretion, require a Conservation Management Plan (CMP), instead of a HIS.</p> <p><b>P2</b> Where substantial demolition is proposed, the HIS would be required to provide justification on heritage grounds and demonstrate that options for retention have been investigated. An assessment of significance must include a comparative analysis of the building in relation to others of its kind in the local area. Claims concerning physical condition are required to be supported by a Structural Engineer's report. Conclusions should be based upon the heritage significance of the property, not on the development potential of the land it is situated upon.</p> <p><b>P3</b> Council will require the submission of a heritage statement, prepared in accordance with the NSW Heritage Branch guideline <i>Statements of Heritage Impact</i>, where development is proposed adjacent to a heritage property.</p> <p><b>P4</b> Major re-development of a heritage property shall have regard to the NSW Heritage Branch's <i>Design in Context: Guidelines for Infill Development in the Historic Environment</i>.</p> <p><b>P5</b> Where demolition is proposed of a non-contributory structure within a heritage conservation area, Council may require that the proposed replacement structure be submitted as part of the same Development Application in order to ensure sympathetic outcomes.</p>		
<b>Building Design Considerations</b>		
<p><b>P6</b> Development of a heritage property must:</p> <ul style="list-style-type: none"> <li>(i) Be sympathetic in terms of its scale and character</li> <li>(ii) Employ materials and detailing that responds to the traditional form and style of the existing structure</li> <li>(iii) Provide adequate setbacks, and maintain a setting around the heritage property, to facilitate the item's interpretation.</li> </ul>	<p>The development as proposed will not be sympathetic to the scale and character of the heritage item on the site. Specifically, the construction of a basement parking will alter the topography and historic layout of the site. Further, the proposed excavation may adversely impact the structural stability of the house.</p>	<p><b>No</b></p>

Burwood DCP 2013 Requirement	Development	Compliance
<p><b>P7</b> A heritage property that forms part of a group of similar buildings or is located in a heritage conservation area must be designed with strict regard to the predominant characteristics of the area in terms of building height, building and street alignment, building form, scale and architectural character.</p> <p><b>P8</b> Alterations and additions to a heritage property must not dominate the character of the existing structure, nor be of excessive scale relative to the original building.</p> <p><b>P9</b> Redevelopment shall be taken as an opportunity to remove unsympathetic work upon a heritage property, such as air conditioning units, or repair significant architectural elements. Redevelopment should also be used to reinstate lost building elements.</p> <p><b>P10</b> New architectural elements, such as turrets, spires, domes and towers, should not be introduced into an existing building if such elements would dominate, or change the character of, the existing building.</p>	<p>Noted</p> <p>The proposed alterations and additions to the dwelling are not subservient to the main house and has not been designed to be read as new work. It will confuse the original design.</p> <p>Noted</p> <p>The proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and conserved.</p>	
<b>Roofs</b>		
<p><b>P11</b> The main roof form of the existing dwelling should be maintained. Alterations and additions should be located behind the existing main roof form. In cases of rear additions, it is usually appropriate that the roof is set lower than the existing roof ridge and marries-in to the existing roof form.</p> <p><b>P12</b> In some instances it will be appropriate for new roofs or roof additions to match the existing roof pitch upon the heritage property. However in other cases, particularly Federation period houses, additions and ancillary buildings should provide a roof set at a lower pitch than the predominant roof form, in order to avoid dominating the main roof form and to provide differentiation from the original.</p>	<p>As noted above - the proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and conserved.</p>	<p><b>No</b></p>

Burwood DCP 2013 Requirement	Development	Compliance
<p><b>P13</b> The gable width of a roof pertaining to a detached garage or carport shall not be wider than the most prominent gable end pertaining to the existing house or building. It may be necessary to provide a broken roof form to limit the dominance of the ancillary structure.</p> <p><b>P14</b> The introduction of new features in the street front elevation of the roof of a heritage property such as satellite dishes, air conditioners, rooftop antennae, solar water heaters, roof lights and skylights are not permitted.</p> <p><b>P15</b> Original roof materials such as slate and Marseille terracotta tiles and key roof features such as chimneys should be retained or reinstated.</p>		
<b>Roof Replacement</b>		
<p><b>P16</b> Where it can be demonstrated that an existing original roof covering requires replacement due to significant deterioration and that repair is not practical, the replacement with “like-for-like” materials is encouraged.</p> <p>Generally, terracotta tiled houses of the Federation and early Inter-War period will be required to replace the roof with <i>unglazed</i> terracotta tiles in a Marseille profile and natural “terracotta” colour.</p> <p>Slate roofed houses should seek to retain the existing roof by transferring good slates from side and rear elevations to the front elevation, or through the use of second-hand materials with a similar aging pattern to the original material. Where replacement is inevitable, use of Welsh slates is encouraged, but consideration may also be given to the aforementioned terracotta tiles, or a suitable modern composite slate alternative where the change of materials can be justified on heritage grounds, and attention has been given to the profile, size, colour, finish and appearance of the replacement material.</p>	<p>As noted above – the proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and conserved.</p>	<p><b>No</b></p>

Burwood DCP 2013 Requirement	Development	Compliance
<p><b>P17</b> Replacement roofing shall be based on evidence of the period, style, traditional form and materials of the existing building.</p> <p><b>P18</b> Roof details, such as finials and ridge capping, are to be maintained where possible, or replaced with matching elements.</p>		
<i>Attic-Style and First Floor Additions</i>		
<p><b>P19</b> 'Rooms in roof' additions are permissible in the roof spaces of heritage properties subject to retaining the existing roof pitch and where the space is sufficient to accommodate attic rooms. Attention must be given to the style, size and location of roof windows. Such works are also required to meet the relevant height controls and habitation requirements set out in this DCP and the BCA.</p> <p><b>P20</b> First floor additions are only permitted where these would not affect the single storey character of the existing structure.</p> <p><b>P21</b> First floor additions must not dominate the existing structure as viewed from the street be setback as far as possible, and shall be designed to be visually recessive.</p>	<p>Development does not propose an attic-style addition.</p> <p>The development includes 2-storey additions to the existing dwelling (which is also 2 storeys in height).</p> <p>The proposed 2 storey additions would not dominate the existing structure when viewed from the street, as the additions are to the rear of the existing dwelling.</p>	Yes
<i>Floor to Ceiling Height</i>		
<p><b>P22</b> The floor to ceiling height of the first floor level within a dwelling house, attached dwelling or semi-detached dwelling is not to exceed 2.4m to minimise the visual bulk and dominance of first floor additions.</p>	Floor to ceiling height = 2.78m (to match existing)	No
<i>Dormer Windows</i>		
<p><b>P23</b> Dormer windows that are proposed in the roofs of heritage properties must be a traditional architectural feature of the style of dwelling house and must be designed so that the size, proportion, shape, design, location and finishes of the dormer windows are in harmony with the main roof of the dwelling house. Generally, dormer windows should be avoided on the street façade.</p> <p><b>P24</b> Flush 'Velux-style' roof windows are often a more sympathetic alternative to a dormer window.</p>	No dormer windows proposed	NA

Burwood DCP 2013 Requirement	Development	Compliance
<i>Street Fronted Facades</i>		
<p><b>P25</b> The principal or street front façade of a heritage property must not be altered in any way other than to restore original features of the building or to remove previous unsympathetic alterations and additions.</p> <p><b>P26</b> Original windows and doors must be retained or reinstated.</p> <p><b>P27</b> New windows and doors, especially where visible from the street, must match the proportions, style and materials of existing window and door features that correspond to the architectural style of the dwelling house.</p> <p><b>P28</b> The external wall finishes and treatments of the heritage property must match the architectural style of the dwelling house.</p> <p><b>P29</b> Cement render of existing face brick walls is not permitted.</p> <p><b>P30</b> Exterior fixtures, such as roller shutters, security bars, aluminium awnings, satellite dishes and air conditioning units, or similar devices shall not obscure significant architectural elements upon a heritage property's facade, nor detract from the character of buildings. Roller shutters and security bars will generally not be permitted.</p> <p><b>P31</b> The landscaped front setting is an important component of a heritage property, especially where it retains existing contributory trees, plants, garden layouts and garden features such as tessellated tiled entrance paths. These features must be retained.</p>	Not applicable – the proposed alterations and additions to the dwelling house are located at the rear and will not be visible from the street	NA
<i>Verandahs</i>		
<p><b>P32</b> The enclosure of original open verandahs is not permitted.</p> <p><b>P33</b> The reinstatement of verandahs, whether simple or elaborate in decoration, must match the architectural style of the dwelling house.</p>	Not applicable – development does not involve enclosure of an existing verandah or any new verandah as part of the works.	NA

Burwood DCP 2013 Requirement	Development	Compliance
<i>Landscaping</i>		
<b>P34</b> The front setback (i.e. front yard) of a heritage property shall provide minimal hardstand and/or hard surfaces in order to preserve its setting and visual appearance.	No change to existing landscaping or driveway arrangements to the front of the existing dwelling	NA / Yes
<i>Views and Vistas</i>		
<b>P35</b> Development of a heritage property, or development in its vicinity, must: - Provide an adequate area of land around the development to allow interpretation of the significant building or place - Not detract from the setting of the heritage property - Retain and respect significant views/vistas from the public domain to a heritage property, as well as the views/vistas originating from the heritage property itself.	The basement parking and driveway will alter the topography and historic layout of the site.	No
<i>Terrace Buildings</i>		
<b>P36</b> Development within a terrace group is to be designed with strict regard to the overall group in terms of height, alignment, form, scale, materials and architectural character.	The site is not part of a terrace group (individual buildings on a Heritage Site)	NA
<i>New Development</i>		
<b>P37</b> There are instances where new development may be built on the site of a heritage item, or within a heritage conservation area. Where this occurs, the new development must ensure it respects and interprets the predominant heritage character of that particular site or precinct.	As noted throughout this report, the rear addition is not subservient to the main house and has not been designed to be read as new work. It will confuse the original design. This element should be reduced in scale and separated from the house in a pavilion style addition	No
<b>P38</b> New development in an existing heritage conservation area must be compatible with and reflect the predominant stylistic features of properties in the heritage conservation area with respect to: Building bulk, height and proportion Scale and architectural style Integration into the streetscape and relationship with adjoining buildings Reflecting the building and street alignments Interpreting the materials and architectural detailing of the heritage conservation area.	The basement garage and its driveway will alter the topography of the site and the historic layout of the site. The excavation may impact the structural stability of the house and no engineering details have been provided. As there is sufficient room for carparking at grade, the basement car park is not supported.  The proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or  Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and	
<b>P39</b> Where a garage is to be integrated into a new building, it		

Burwood DCP 2013 Requirement	Development	Compliance
must be setback from the front elevation so that it is a recessive component in the design.	conserved	
<i>Development in the Vicinity of a Heritage Property.</i>		
<p><b>P40</b> New development, or alterations and additions to existing development, that is located in the vicinity of a heritage property, must be designed and sited to:</p> <p>Have regard for, and be compatible with, the significance of the heritage property</p> <p>Reflect the bulk, scale, height and proportion of the heritage property</p> <p>Respect the front garden setting, any established setbacks, and views and vistas of the heritage property</p> <p>Be recessive in character and not dominate the heritage property</p> <p>Interpret the materials and architectural detailing of the heritage property</p> <p>Respond to the building alignment of the heritage property.</p> <p><b>P40A</b> Any development having three storeys or more which is contiguous to a heritage property will be expected to observe a 5m minimum setback from the heritage property's boundary (and 4m minimum setback for any below-ground excavation/basement).</p> <p>The purpose of this setback is to:</p> <ul style="list-style-type: none"> <li>- Provide for a sensitive separation of buildings and maintenance of a heritage item's setting, particularly the "open garden setting" and generous setbacks typical of heritage-listed houses. A setback will be required irrespective of the setback of the heritage building from its boundary.</li> <li>- Enable deep soil landscaping and substantial trees to be accommodated on the development site to provide a landscape buffer. This requirement applies irrespective of whether there is existing landscaping on the heritage property.</li> <li>- Limit the potential for excavation and construction works to negatively affect the structural stability of the heritage item, or affect established trees/landscaping within the heritage property.</li> <li>- Not prejudice the future</li> </ul>	<p>In summary, the proposal is unsatisfactory in terms of the additions to the dwelling house, and the basement carpark and driveway. The proposed replacement of the roof is also unacceptable.</p>	<b>No</b>

Burwood DCP 2013 Requirement	Development	Compliance
<p>development of heritage properties, particularly extensions. It is important that heritage places remain viable into the future.</p> <p>- Limit the opportunity for negative impacts upon the amenity (especially noise and visual privacy) enjoyed by the residents/occupants of the heritage property.</p> <p><b>P40B</b> Any development located on a site contiguous with a heritage property, shall have regard to the following:</p> <ul style="list-style-type: none"> <li>The front setback area of the development is to maintain an open setting for the heritage item such as by way of a lower front fence height, sensitive location of the pedestrian access path/entrance, and landscaping. The “privatisation” of the front setback – characterised by courtyards, fences dividing private open space, multiple entries, and high walls – should be avoided. Structures (e.g. bin enclosures, covered letterboxes, fire stairs) should be avoided in the front setback.</li> <li>The location of driveways in close proximity to the heritage item’s boundary is to be avoided. Driveways have the potential to adversely impact the amenity of the heritage property, its setting, cause excavation impacts, and reduce landscaping of the new development.</li> <li>The location of multiple courtyards or private open spaces along the boundary of the heritage item is to be avoided. This densification of use has the potential to impact the amenity of the heritage property’s residents/occupants.</li> </ul>		
<b>Subdivision</b>		
<b>P41 – P48</b>	No subdivision proposed	NA
<b>Paint and Colour Schemes</b>		
<b>P47</b> Painting over unpainted features such as external stonework and face brickwork of a heritage property is not permitted.	Proposal does not involve painting over unpainted features	Yes



Burwood DCP 2013 Requirement	Development	Compliance
<p><b>P48</b> New paint and heritage colour schemes must reflect the most significant design period of the heritage property.</p>		
<i>Ancillary Structures and Vehicle Parking</i>		
<p><b>P49</b> Carports and garages may be located on a heritage property in the following order: Where rear lane or secondary street access exists, the garage or carport must be accessed from the rear lane or secondary street.</p> <p>Where clause (i) above does not exist or is not achievable, the garage or carport must be sited to the rear of the property using the front entrance access.</p> <p>Where site constraints exist and only where it can be demonstrated that the garage or carport is unable to be located in accordance with clause (ii) above, as it may have insufficient width, the structure may be sited to the side of the dwelling house.</p> <p><b>P50</b> Where a garage or carport is to be located to the side of an existing dwelling house, the structure must be located a minimum of 1m behind the front building line of the dwelling house. Where the house's façade features a front verandah, the verandah's depth is to be added to the aforementioned setback. The garage or carport should not result in the removal of original architectural features such as windows, window hoods or porches. Preference is for a carport, given its more open appearance, where the structure would be highly visible from the street.</p> <p><b>P51</b> Garages, carports, garden sheds or similar structures shall not be permitted to be located forward of the building line by virtue of their negative impact on the character of the heritage property and/or the streetscape.</p> <p><b>P52</b> In most instances, hardstand parking spaces that are proposed to be located forward of the building line shall not be permitted by virtue</p>	<p>No new ancillary structures proposed.</p>	<p>NA</p>

Burwood DCP 2013 Requirement	Development	Compliance
<p>of their negative impact on the character of the heritage property and/or the streetscape. Hardstand parking spaces located forward of the building line will not be permitted where:</p> <ul style="list-style-type: none"> <li>i. The potential for alternative on-site vehicle parking is available</li> <li>ii. The existing house is setback 7m or less from the front boundary</li> <li>iii. The property has a width at the street frontage of 15m or less</li> <li>iv. The existing house has a side boundary setback of 2.4m or more, or</li> <li>v. The combined area of all hardstand surfaces (e.g. paths, paving, driveway etc.) within the front yard would account for 50% or more of the front yard.</li> </ul> <p>In exceptional circumstances, and at the exclusion of properties subject to above items (i) - (v), consideration may be given to a visually discreet and simple parallel strip hardstand area of minimum dimensions, with soft landscape treatment, where Council is satisfied that the hardstand area does not negatively impact upon the front setting of the heritage property and surrounding streetscape.</p> <p><b>P53</b> Ancillary structures such as garages, carports, garden sheds and the like must complement the heritage property in terms of design and detailing, particularly where the structure is visible from the street.</p> <p><b>P54</b> Garages and carports must use design detailing, materials and paint schemes that refer to and are compatible with the heritage property. Simply designed structures using lightweight materials, comprising of a simple form and using appropriate materials are preferable.</p> <p><b>P55</b> The roofs of garages and carports must be simple in form and must not dominate or unduly contrast with the roof form of the heritage property. Ornate detailing and complex roof forms are</p>		

Burwood DCP 2013 Requirement	Development	Compliance
generally inappropriate.		
<b>P56</b> Driveways shall not have a stencilled concrete finish. Pavers, plain or single- coloured concrete finishes are preferable in achieving a recessive appearance.		
<i>Rainwater Tanks</i>		
<b>P57 – P60</b>	No rainwater tanks proposed	NA
<b>4.7.3 Fences on Heritage Properties</b>		
<i>Fence Character and Design</i>		
<p><b>P1</b> The removal of any fencing on a heritage property is not permitted without prior Council consent, unless it is exempt development.</p> <p><b>P2</b> Original fences must be retained and repaired.</p> <p><b>P3</b> Where it can be demonstrated that P2 above cannot be achieved and the original fence must be replaced, this fencing must be reconstructed with matching materials to match the original fencing.</p> <p><b>P4</b> In the first instance, the design of new fencing should relate to the period and style of the building upon that property.</p> <p><b>P5</b> Where new fencing is proposed in an established or heritage streetscape, the fencing must reflect the character, materials, height, rhythm of bays and openings, design and colour of the predominant fence design.</p> <p><b>P6</b> Fencing details (including the plinth wall, pedestrian gates, support piers, driveways, gates and metal railings) must be compatible with the overall character and design of the fence.</p> <p><b>P7</b> Where a site is sloped, the height of the fence shall comply with the maximum fence heights when measured perpendicular to the ground.</p> <p><b>P8</b> Electric lights or light mechanisms are not permitted on any part of a heritage fence as they are not traditional features. Up lights</p>	<p>The development proposes the replacement of the existing timber picket fence and construction of a new front fence with a sandstone base and timber pickets above (existing gates, signage and letterbox to be re-used in new fencing).</p> <p>The development therefore does not comply with the requirements that original fences must be retained and repaired, and that any new fencing must be reconstructed with matching materials to match the original fencing.</p>	<b>No</b>

Burwood DCP 2013 Requirement	Development	Compliance
and down lights, where appropriately positioned and concealed from public view, may be considered as an acceptable alternative for lighting a fence structure.		
<b>Height of Front Boundary Fences</b>		
<p><b>P9</b> The maximum height of open-style (e.g. timber picket) front boundary fencing is 1.2m above the adjacent footpath level. Where a fence is to be provided with a base course, this solid portion of the fence should not exceed a third of the overall fence height.</p> <p><b>P10</b> The maximum height of solid or masonry front boundary fencing is 900mm above the adjacent footpath level.</p> <p><b>P11</b> Only where associated with a Victorian period house, the maximum height of picket / railing style front boundary fencing is 1.7m above the adjacent footpath level. For the avoidance of doubt, fences upon non-Victorian properties are generally restricted to 1.2m in height, and the use of metal bars or picket / railing style fencing is not supported.</p> <p><b>P12</b> Proposals to exceed the height limits (including piers) as outlined in P9, P10 and P11 above, must prove that the fence height corresponds and accords with the architectural style of the heritage property and/or continues an established pattern of heritage fences of a similar height.</p>	<p>The height of the proposed new fence is not specified on the DA architectural plans – but is stated to be 2.1m (in the supporting Heritage Impact Assessment).</p> <p>The solid component of the fence (ie the sandstone base) is approx. 1.5m with the timber pickets being 600mm.</p> <p>The proposed front fencing does not comply with the DCP requirements for Height of Front Boundary Fences and is therefore unsatisfactory.</p>	
<b>Fence Materials</b>		
<p><b>P13</b> Heritage properties of the Federation or Inter-War period should adopt timber and/or masonry materials which are characteristic of that period.</p> <p><b>P14</b> Where new masonry front boundary fencing is proposed, the materials and design should match the colour and pattern of brickwork upon the existing building.</p> <p><b>P15</b> The following materials are not permitted on a heritage property: Arc Mesh, metal pool-type bars or modern tubular bars/pickets. Concrete block.</p>	<p>As above, the proposed front fencing does not comply with the DCP requirements for Fence Character and Design – and is therefore unsatisfactory.</p>	

Burwood DCP 2013 Requirement	Development	Compliance
<p>Sheet metal – flat or corrugated and/or coloured. Pressed metal coloured sections (e.g. Colorbond). Sheet material including plywood, chipboard, fibre cement and glass fibre.</p> <p><b>P16</b> The painting or rendering of original masonry fencing is not supported.</p>		
<i>Side and Rear Boundary Fences</i>		
<b>P17 – P20</b>	No new side/rear boundary fences proposed	NA
<i>Lych Gates</i>		
<b>P21</b>	No Lych Gate proposed	NA
<b>6. Environmental Management</b>		
<i>6.1 Preservation of Trees and Vegetation</i>		
<p>This Part of the DCP contains a broad range of objectives and controls regarding Preservation of Trees and Vegetation.</p>	<p>The DA plans require significant tree removal on the eastern boundary currently providing privacy amenity and associated with the heritage character of the property. The hard surface around the phoenix palm up to 16% of the Tree Protection Zone is unacceptable and should be reconfigured to have less impact.</p> <p>The proposed vegetation removal is unsatisfactory having regard to the heritage significance of this site.</p>	<b>No</b>
<i>6.2 Waste Management</i>		
<p>The objectives of this BDCP section are:</p> <ul style="list-style-type: none"> <li>To reduce the demand for waste disposal through waste separation and resource recovery in demolition, design, construction and operation of buildings and land use activities.</li> <li>To achieve the design of waste and recycling storage systems in buildings and land use activities which are hygienic, accessible, quiet to operate, adequate size and visually compatible with their surroundings.</li> </ul>	A Waste Management Plan has been submitted as part of the DA documentation	Yes
<i>6.3 Acid Sulfate Soils</i>		
Refer to Clause 6.1 of BLEP 2012	<p>The subject site is affected by Class 5 Acid Sulfate Soils. However, there are no works proposed within 500m</p> <ul style="list-style-type: none"> <li>of adjacent Class 1, 2, 3 or 4</li> </ul>	Yes

Burwood DCP 2013 Requirement	Development	Compliance
	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.	
<b>6.5 – Stormwater Management</b>		
<p>Council has adopted a separate Stormwater Management Code that aims to:</p> <ul style="list-style-type: none"> <li>• To preserve and protect the amenity and property of existing residents, property owners and the community.</li> <li>• To ensure the safety of residents and the community.</li> <li>• To meet reasonable expectations and statutory requirements for the development of properties.</li> <li>• To protect the physical environment and receiving waters of catchments.</li> </ul>	Council's Development Engineer has reviewed the proposal and advised it is satisfactory from their perspective, subject to consent conditions	Yes
<b>6.6 Landscaping for Development</b>		
Council has adopted a separate Landscaping Code that aims to provide guidelines for the preparation of Landscape Plans as an integral component of new development in Burwood	<p>The submitted landscape plan generally complies with the requirements for landscaping for development.</p> <p>However, the nature and extent of the proposed tree/vegetation removal is unsatisfactory as discussed throughout this report.</p>	Yes
<b>6.7 – Energy Efficiency and Sustainability (Residential Development)</b>		
<p><b>P1</b> Where applicable, development is to demonstrate compliance with the design principles embodied in the Building Sustainability Index (BASIX). All commitments listed on a BASIX certificate must be marked on all relevant plans and specifications.</p> <p><b>P2</b> The principles and properties of thermal mass, glazing, insulation and solar energy are to be recognised and incorporated into the design of residential development not subject to BASIX.</p>	<p>BASIX Certificate No. A1771878 dated 6 November 2024, has been submitted.</p> <p>Water and Energy commitments achieved.</p> <p>Plans are consistent with the submitted BASIX Certificate.</p>	

#### Section 4.15(1)(b) – The Likely Impacts of the development

Section 4.15(1)(b) requires the Consent Authority to consider “the likely impacts of the development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality”.

Overall, the development will have unsatisfactory impacts, in particular on the built environment of Burwood in terms of its adverse impacts on the heritage significance of this site and its dwellings.

The Likely Impacts are considered in more detail as follows:

*A. Natural environment:*

The development will have potential impacts (resulting from demolition, tree removal, construction, etc), on the natural environment. However, these could generally be addressed via standard consent conditions including hours of construction, noise controls, soil erosion and sediment controls, shoring/support for adjoining properties etc.

*B. Built environment:*

The impacts of the proposed development on the Built Environment are the key issue of concern in relation to this application. In summary, as discussed throughout this report, the development will have significant and unacceptable impacts on the heritage significance of the dwelling house, regarding the size and extent of the proposed new basement parking area (to be built to the rear boundary), and also the removal of existing landscaping and impacts on the ability to provide appropriate replacement or future landscaping

*C. Social impacts:*

Although concerns are raised regarding various aspects in terms of the built form of the proposed development, it is considered that the development would have minimal social impacts.

*D. Economic impacts:*

The proposal would have minimal adverse economic impacts.

### Section 4.15(1)(c) – The suitability of the site for the proposed development

The development is not subject to any natural constraints that would render it unsuitable for the proposed development (eg bush fire, land slip, flooding, acid sulfate soils etc).

The site contains a Heritage Item listed under Burwood LEP 2012, and this represents a site constraint needing careful consideration as part of any development proposal. As discussed throughout this report, the proposal as currently submitted is an unsatisfactory design response to the heritage significance of the site.

### Section 4.15(1)(d) – Any Submissions made in accordance with this Act or Regulations

#### Community Consultation

The DA was notified to neighbours for a (minimum) period of 7 to 24 January 2025. In response, two (2) submissions were received.

The issues of concern raised in the submissions are summarised and discussed in the following table:

Concern	Response
<p><b>1. Leaning Boundary Wall.</b> An adjoining owner (address unspecified) has raised the following concerns:</p> <p><i>Our shared boundary wall is currently in a leaning state. We suspect that this issue might have been caused by the previous 4 Woodside Avenue, Burwood NSW owner's tree plantings or potential water seepage from their swimming pool. We kindly request that, as part of the new development process, this wall be repaired or rebuilt to ensure its safety and structural integrity.</i></p>	<p>There is no proposal to alter any existing side/rear boundary fencing.</p> <p>Concerns regarding the state of the shared boundary wall are noted, however this is a civil matter that needs to be resolved between the respective property owners.</p>
<p><b>2. Height of the New Fence.</b> The adjoining owner (as above) has also raised the following concerns:</p> <p><i>The neighbouring property owners have recently installed a new fence that is approximately half a meter taller than the original one. This increased height significantly obstructs sunlight and has negatively impacted our quality of life.</i></p>	<p>As above, there is no proposal to alter any existing side/rear boundary fencing.</p> <p>Concerns regarding the height of the existing fencing, and potential unapproved works to the fencing are noted, however this is also a civil matter that needs to be resolved between the respective property owners.</p> <p>In relation to the legality of the potential unapproved works, Council officers can investigate and undertake enforcement actions as a separate matter, as required.</p>



Concern	Response
<i>We would like to request that the height of the fence be reduced to a reasonable level in line with local regulations and to maintain our access to natural light.</i>	
<b>3. Construction Impacts.</b> An adjoining owner has raised concerns regarding past construction impacts including dust, noise and general nuisance – and the potential for additional impacts from the proposed development.	If it is decided to approve the DA, there are standard consent conditions to address construction impacts on neighbouring properties, including regarding construction hours and noise.
<b>4. Water Leakage from (existing) swimming pool</b> <b>1.</b> Concern is regarding past nuisances of water leakage from the existing swimming pool.	These concerns are noted, however these are also civil matters to be resolved between the respective property owners.  The DA includes demolition of the existing swimming pool, and construction of a new pool, so (if the DA is to be approved) construction of a new pool in accordance with the relevant Australian Standards and standard building practices would ensure that no future nuisance is caused.

#### Section 4.15(1)(e) – The Public Interest

Approval of the development as proposed in this application is not in the public interest having regard to the circumstances of the case, as discussed throughout this report.

#### Referral Comments

The application was referred to the following Internal Referral Officers:

Heritage Advisor: Council's Heritage Advisor has provided detailed referral comments in respect of this DA. The following is the *Conclusion and Recommendations* of the Heritage Advisor's assessment:

*The proposal is not supported in its current form.*

*The documentation provided with the application lacks the necessary detail and accuracy to enable a detailed assessment of the application. The architectural drawings are inaccurate and lack detail and are of a scale unsuitable for the scale of development. The Heritage Impact Statement provided with the Application does not follow the relevant guidelines, contains inaccurate information and insufficient detail. For example, it assessed the proposal against the Randwick planning controls and references drawings from a site in St Mary's.*

*In order to properly assess the application, the Applicant is to provide:*

- fully detailed plans, sections and elevations, and a detailed site survey, that accurately and comprehensively detail the existing condition of the site and the proposed works. These should be at 1:100 scale at A3.*

- *A new and comprehensive Heritage Impact Statement is to be provided, prepared by a suitably qualified and highly experienced heritage consultant. The Statement is to follow the Heritage NSW Guidelines for preparing a heritage impact assessment, published by the Department of Planning and Environment in 2023.*

*In addition, concerns are raised about a number of elements of the proposal which are likely to have an unacceptable level of adverse heritage impact. The design must be guided by the management policies in the State Heritage Inventory Datasheet for the property (attached). The application should be amended to address the following concerns:*

- *The rear addition is not subservient to the main house and has not been designed to be read as new work. It will confuse the original design. This element should be reduced in scale and separated from the house in a pavilion style addition*
- *The basement garage and its driveway will alter the topography of the site and the historic layout of the site. The excavation may impact the structural stability of the house and no engineering details have been provided. As there is sufficient room for carparking at grade, the basement car park is not supported.*
- *The proposal to replace the timber shingled roof with concrete tiles (as noted on the drawings) or Welsh Slate (as stated in the HIS) is not supported and the shingle roof must be retained and conserved.*
- *The proposed front fence is not based on historical evidence. Any new fence should be based on historical evidence and must be constructed with traditional materials.*
- *The Statement of Significance notes that the garden and plantings are significant. It would appear that the proposed basement and addition may impact significant plantings and further details are to be provided to ensure the retention of all significant plantings.*

*Please note that this list of concerns is preliminary only and further issues may be raised on receipt of accurate documentation.*

Tree Management Officer: Has provided the following comments.

*The current plans require significant tree removal on the eastern boundary currently providing privacy amenity and associated with the heritage character of the property. The hard surface around the phoenix palm up to 16% of the Tree Protection Zone is unacceptable and should be reconfigured to have less impact.*

*It is suggested the pool and pool area be redesigned to have less impact to the site trees. In addition, less hard surface.*

*Bulk excavation for the underground car park will impact trees adjacent to the rear boundary. The trees have not been indicated on the survey plans.*

*The landscape plan will be required. The landscape plan shall show a replacement tree of the same or similar species for each tree removed.*

Design Engineer: Has reviewed the application and raised no objection from an engineering perspective. Consent conditions have been provided.

## **Conclusion**

The proposed modifications have been assessed against the heads of consideration listed in s.4.15 of the Environmental Planning & Assessment Act 1979.

Overall, the proposed development is unsatisfactory and it raises significant concerns regarding impacts on the heritage significance of the dwelling house, and regarding the size and extent of the proposed new basement parking area (to be built to the rear boundary), and also the removal of

existing landscaping and impacts on the ability to provide appropriate replacement or future landscaping.

On balance, the proposal is considered unacceptable and refusal of this DA is recommended for the reasons in the Recommendation below.

### **Recommendation(s)**

That DA.2024.76 for alterations and additions to a dwelling house at Lot 1 DP231995, 4 Woodside Avenue BURWOOD NSW 2134 be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the of the Environmental Planning & Assessment Act 1979, the proposed development is unsatisfactory when assessed in terms of the *environmental planning instruments* that apply to the Site.

#### Particulars:

- (a) The proposed development is unsatisfactory in terms of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, particularly Chapter 2 – Vegetation in Non-Rural Areas – having regard to the nature and extent of vegetation removal at the site.

The existing site vegetation strongly contributes to the heritage significance of the Site. The development proposes significant vegetation removal at the rear of the site to accommodate the proposed development. The size of the basement parking area, and it's amount of excavation proposed, together with the proposed swimming pool and pool deck, will require the removal of existing landscaping and impact on the ability to provide appropriate replacement or future landscaping.

- (b) The proposed development is unsatisfactory in terms of *Burwood Local Environmental Plan 2012*, particularly Clause 2.3 – Zone Objectives and Land Use Table, and Clause 5.10 – Heritage Conservation.

In terms of Clause 2.3 of Burwood LEP 2012: The proposed development does not suitably provide for the housing needs of the community within a low density residential environment – as it is unacceptable in terms of the heritage significance of the Site.

In terms of Clause 5.10 of Burwood LEP 2012: The proposed development is unsatisfactory having regard to the heritage significance of the Site, for the following reasons:

- (i) The alterations and additions have not been designed to read as new work, and this design approach will confuse the original design. Any new floor space for the existing house should be in a pavilion style building, not an addition to the house.
- (ii) The works to the rear (ie the basement garage, new pool and terrace) will impact the curtilage/setting of *Wellings*.
- (iii) No engineering/structural details provided in terms of structural stability of the house.
- (iv) The extent of tree/vegetation removal (resulting from the rear works) is unacceptable in terms of impacts on the curtilage/setting of *Wellings*.
- (v) The replacement of timber-shingled roof with concrete tiles as per the architectural plans (or Welsh Slate as per the Heritage Impact Assessment) is not acceptable and would adversely impact the heritage significance.
- (vi) The proposed front fencing, involving the use of a sandstone base with timber pickets on top, is unacceptable and would adversely affect the heritage significance of the Site when viewed from the street. Any new/replacement front fence should be constructed of traditional materials.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development is unsatisfactory when assessed in terms of *any development control plan* that applies to the Site.

Particulars:

- (a) The proposed development is unsatisfactory in terms of the following Chapters/Parts of *Burwood Development Control Plan 2013*:
- (i) Chapter 4; Part 4.5; Part 4.5.2 Development Controls:
    - Building Appearance
      - Design – P1
      - Materials, Workmanship & Finishes – P8
      - Building Elements – P12
    - Streetscape
      - Site Planning & Design – P1
      - Major Alterations and New Dwellings – P5-6
      - Gardens Landscaping & Fences – P10
    - Landscaped Areas
    - Swimming Pools
    - Earthworks
    - Front & Side Fences
    - Materials
    - Landscaping (of front fencing)
  - (ii) Chapter 4; Part 4.7 Heritage In Residential Precincts; 4.7.2 Heritage Controls, General Provisions:
    - Building Design Considerations – P6, P8, P10
    - Roofs – P11
    - Roof Replacement – P16
    - Floor to Ceiling Height – P22
    - Views and Vistas – P35
    - New Development – P37
    - Development in the Vicinity of a Heritage Property – P40
  - (iii) Chapter 4; Part 4.7 Heritage In Residential Precincts; 4.7.3 – Fences on Heritage Properties:
    - Fence Character & Design
  - (iv) Chapter 6 Environmental Management
    - Protection of Trees and Vegetation

3. Pursuant to Section 4.15(1)(b) of the Environmental Planning & Assessment Act 1979, the likely impacts of the development are unsatisfactory.

Particulars:

- (a) The development will have unacceptable impacts in terms of the built environment, specifically in terms of the heritage significance of the Site.

4. Pursuant to Section 4.15(1)(c) of the Environmental Planning & Assessment Act 1979, the Site is unsuitable for the development in the manner currently proposed.

Particulars:

The proposed development, in the manner submitted in this development application is an unsatisfactory design response to the heritage significance of the site.

5. Pursuant to Section 4.15(1)(d) and (e) of the Environmental Planning & Assessment Act 1979, in the circumstances of the case, approval of the proposed modifications would not be in the Public Interest.

Particulars:

This is demonstrated in the number of submissions received from adjoining/nearby neighbours, and the nature of issues of concern raised in those submissions.

**Attachments**

- 1 Statement of Environmental Effects - 4 Woodside Avenue Burwood - DA.2024.76 (*Excluded from agenda*)
- 2 Architectural Plans - 4 Woodside Avenue Burwood - DA.2024.76 (*Excluded from agenda*)
- 3 Heritage Impact Statement - 4 Woodside Avenue Burwood - DA.2024.76 (*Excluded from agenda*)
- 4 Heritage Referral Comments - 4 Woodside Avenue Burwood - DA.2024.76 (*Excluded from agenda*)

**(Item DA13/25) DA.2021.88 - Section 4.55 Modification - alterations and additions to an existing dwelling for childcare centre - 18 Appian Way BURWOOD**

File No: 25/45598

Report by Manager City Development

**Owner:** Appian CCC Pty Ltd  
**Applicant:** Tony Geagea  
**Location:** 18 Appian Way BURWOOD 2134  
**Zoning:** R2 Low Density Residential under Burwood Local Environmental Plan 2012

**Further Report to Local Planning Panel****Introduction and Summary**

At their meeting on 28 May 2025, the Local Planning Panel (LPP) considered the subject modification application (under s.4.56 of the Environmental Planning & Assessment Act 1979), and resolved to defer the application to enable the applicant to submit amended plans and additional information (full details in the body of this report).

In summary, additional detail was required in terms of:

- inconsistencies from the original design and proposed drawings;
- additional detail and justification for the proposed landscape amendments (e.g. new ramps, steps, paving etc);
- architectural detail (basement setouts, deep soil adjacent to boundaries, reductions to setbacks);
- further justification for the electrical substation (i.e. the proposal to retain it in its current location) – including robust design options and analysis to determine the best location for the substation;
- an updated traffic report – to consider implications for moving the driveway for traffic and pedestrian safety, and the potential need for a median strip in Appian Way;
- BCA and Access Reports;
- an updated heritage impact statement with a robust options analysis and recommendations to minimise impact on the streetscape.

The applicant provided their amended plan/additional information response as required by the LPP resolution. This information was referred to various specialist officers within and external to Council.

This report will therefore consider the applicant's amended plans/additional information submission.

The outcome of the assessment is that the proposal remains unsatisfactory in terms of heritage and streetscape considerations.

Firstly, the design changes to the building and it's surrounds include several features which are unacceptable in terms of impacts on the heritage significance of the building (which is a Heritage Item under Burwood LEP 2012). These include a significant amount of paved areas and steps at the front of the building facing Appian Way; and also extensive ramps and paths in the front setback area as part of the amended landscape design (also facing Appian Way). Both components have significantly increased compared to the original DA approval and are unsatisfactory in terms of impacts on the heritage significance of the existing building and on the streetscape character of Appian Way.

Secondly, the amended details still include the removal of one tree to accommodate the amended driveway design. In summary, the driveway has been designed to enable the retention of an existing electricity substation in the footpath area.

The removal of this tree (a *Lophostemon confertus* “Brush Box” identified as “Tree No 5” in application documents and throughout this report) is not supported from a heritage perspective, as the existing trees strongly contribute to the streetscape of Appian Way, and therefore the heritage significance of this Heritage Conservation Area. Council’s Tree Management Officer, and also the applicant’s Arboricultural Assessment, have noted that this tree is in fair-good condition, therefore removal of this tree could not be supported based on its health, and the tree contributes to the aesthetic appeal and character of Appian Way.

Although the removal of Tree No 5 is not supported on heritage grounds, it is acknowledged that the removal of this one tree may be the best outcome in terms of impacts on all trees in the Appian Way/Burwood Road road reserve – compared to other options identified for potentially relocating the substation.

In particular, the current DA approval involves relocating the substation to the south-west corner of the site. According to the Electrical Consultant commissioned by the applicant (AA Power Engineering), the physical works involved in undertaking this relocation would involve extensive excavation and trenching (over 100m for cabling and other infrastructure) that would significantly impact the critical root zones of all street trees (i.e. 11 trees in total) – which would therefore impact their long-term survival.

A sensible compromise outcome could therefore be to allow the removal of Tree No 5 to enable the amended driveway design – subject to compensatory planting of 2-3 (advanced) replacement Brush Box trees in the road reserve in Appian Way.

### **Summary Recommendation**

Refusal, for the reasons outlined in the Recommendation to this Report.

### **Background**

The report to the LPP Meeting on 28 May 2025 provides the background to the Site and the Application, and a Planning Assessment of the proposed modifications up until that point in time.

The LPP considered the application and made the following resolution at the 28 May 2025 meeting:

*That Application No 2021.88.02 for modifications to an approved Child Care Centre at Lot 1 DP12249, No 18 Appian Way be deferred to enable sufficient information to make a complete assessment. The applicant is to provide the required information as referred to in the reasons for decision and any additional supporting documentation within two (2) months from the date of this deferral.*

### ***Reasons for the decision***

*The Panel inspected the development site and familiarised itself with the environment, the Planning Assessment Report prepared by the independent planner, the Land and Environment court approval documents, submissions received during notification and the application documents; including supplementary information supplied by the applicant on the morning of 28 May 2025.*

*The Panel noted inconsistencies with changes from the approved design and proposed drawings and a lack of clarity regarding justification for the proposed amendments and impact upon the heritage values. The following information is required:*

1. *Identify clearly, describe and justify landscape amendments proposed including:*
  - *New ramps*
  - *Steps*
  - *Pavings*
  - *Turf areas and deck*
  - *Balustrades and handrails location and construction detail*
  - *Neighbour interfaces including planter beds and acoustic and privacy outcomes*
  - *Fencing detail and acoustic properties*
  - *Ancillary equipment and storage*
  - *Excavation and levels*
2. *Identify clearly, describe and justify dimensional amendment proposed including:*
  - *Basement set outs*
  - *Reduced deep soil adjacent boundaries*
  - *Amended boundary /basement construction and impact upon neighbours, east and south boundaries*
  - *First floor reductions to boundary setbacks generally*
3. *Provide justification for the Electrical Substation location including:*
  - *Sufficient information to determine best location for the electrical substation and driveway access, this should include design options and analysis with implications for all options to be assessed against: cabling, size and excavation methods, safety for both pedestrians and motorists, landscaping, impact on trees and integrity of the heritage item and conservation area.*
  - *Suppliers' requirements for access and maintenance, setbacks and protective screening including written approval from Ausgrid.*
4. *An updated traffic report including but not limited to driveway implications for moving the driveway from both traffic and pedestrian safety points of view, including investigating the need for a median on Appian Way if the driveway moved to the proposed location.*
5. *BCA and Access Reports demonstrating compliance of the proposal.*
6. *An updated heritage impact assessment demonstrating a robust options analysis with recommendations to minimise impacts to the streetscape.*

### **Assessment of the Additional Information Submission**

The applicant's Additional Information package in response to the LPP resolution from 28 May 2025 contains the following documents (these are provided as Attachments to this report):

- Amended Architectural Plans from Nicholas Day Architects (Revision 2), dated 18 July 2025.
- *Statement of Changes* letter from Nicholas Day Architects dated 18 July 2025 – outlining the design changes in their Architectural Plans.
- Letter from Ms Emma Ziegenfusz, Senior Town Planner at Planning Ingenuity (Consultant Town Planners) dated 28 July 2025 – providing a response to the Deferral Items.
- Letter from Weir Phillips Heritage dated 18 July 2025 – providing an updated heritage assessment.
- Amended Landscape Plans by Site Image Landscape Architects (Revision H) dated 28 July 2025.
- Letter from AA Power Engineering dated 16 July 2025 – providing an Options analysis from an operational perspective (e.g. considering physical installation issues of each option, costs, practicality etc)
- Plans by AA Power Engineering – to illustrate the Options discussed in their letter (as above).
- Updated Arboricultural Assessment by TALC (Tree and Landscape Consultants) dated 22 July 2025.



- Supplementary Traffic Advice letter from McLaren Traffic Engineering dated 28 July 2025.
- Letter from Ausgrid – “*Site Selection and Preparation for Kiosk Substations*” (Revision 5, dated 18 June 2024).
- Letter from Incode Solutions dated 28 July 2025 – Titled “*Preliminary Building Code of Australia Advice*”.
- Access Report from Vista Access Architects (Revision A) dated 29 July 2025.

### Assessment

The items listed in the Reasons for Deferral from the LPP Meeting on 28 May 2025 are outlined and discussed as follows.

#### 1. Landscape Amendments

Compared to the original DA approval, the landscape plans in the current modifications propose various changes to the landscape design. These changes are the result of internal design changes to the building (discussed in 2. below), or responses to the operator’s request in terms of functionality, or other considerations such as use of ramping for disability access.

The landscape plan also provides details of the acoustic fencing both along the front boundaries (Appian Way and Burwood Rd) and also to adjoining properties.

In terms of the level of detail (as requested by the LPP – see dot points in Item No 1 of the LPP resolution above), it is considered that the amended plans/information submission provides the required level of information to make an assessment.

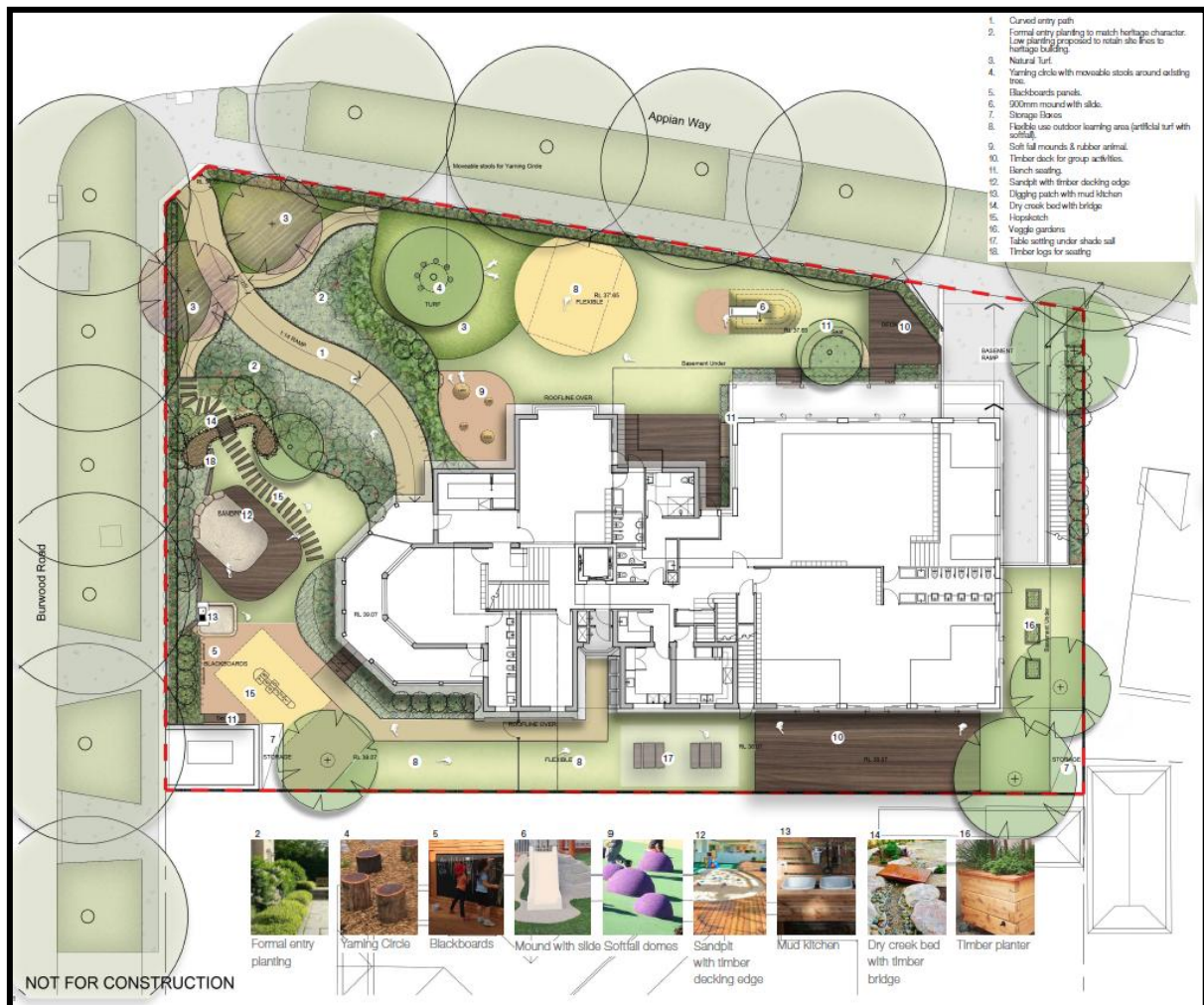
The Landscape Amendments raise various issues, and these are discussed below:

##### **(a) Comparison between original DA and current modifications:**

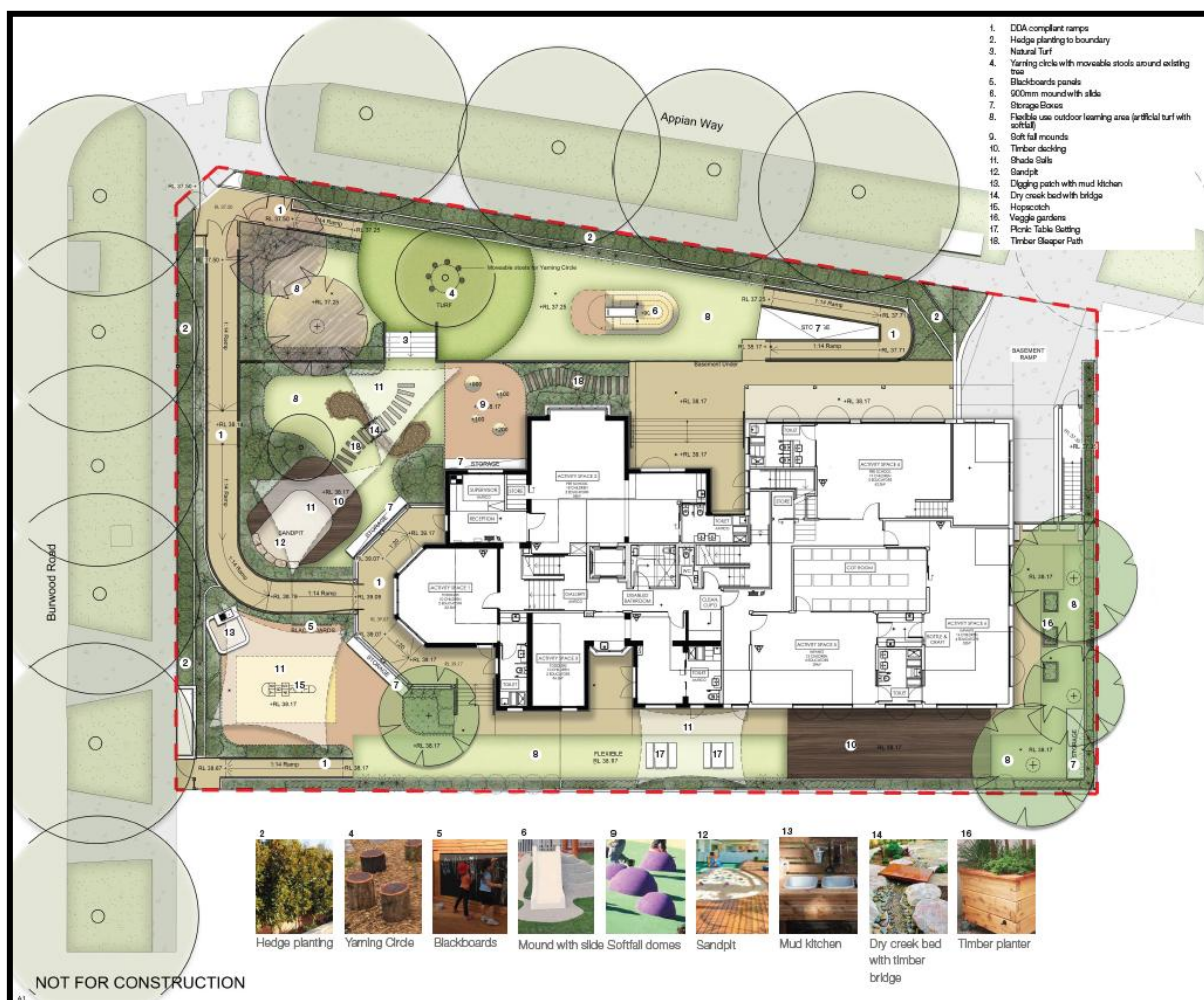
The applicant has advised that the changes to the landscape design have been made for several reasons including greater functionality and usability of outdoor play areas (requested by operator), in response to BCA issues for the provision of access ramps, and also in response to internal layout changes.

The applicant has noted that the main ramp access (original DA approval) cut through the front outdoor play area, dividing the area into multiple pockets of play spaces, with some of these offering a poor outcome for future use. The proposal amends this ramp to provide it along the boundary instead. As a result, the front play space presents as a single outdoor play area which improves supervision and maximises future use.

The following drawings are extracts of the original approved landscape plan, and the current proposed landscape plan to enable comparison to be made.



Approved Landscape Plan – No 18 Appian Way Burwood (Source: Approved Plans, Sheet 101F)



**Current Proposed Landscape Plan – No 18 Appian Way Burwood (Source: Proposed Landscape Plan Sheet 101H)**

### (b) Extent of ramps/paths:

One of the most significant changes to the landscape design is the amount of ramps and paths have significantly increased. The above plans enable comparison to be made, and it can be seen that longer ramps have been provided along the Burwood Rd frontage, and also to the Appian Way frontage (where the ramp has been provided in two sections with a curve transition).

There is also a greater number of stairs and terrace areas to the northern frontage of the building, facing Appian Way.

The proposed amendments to the landscape plans in regard to the ramps and paths are not supported as these will have a significant adverse impact on the curtilage/setting of the house, and therefore it's heritage significance.

These concerns have been noted in referral comments from Council's Heritage Advisor (see Referral comments below).

### (c) Acoustic Fencing:

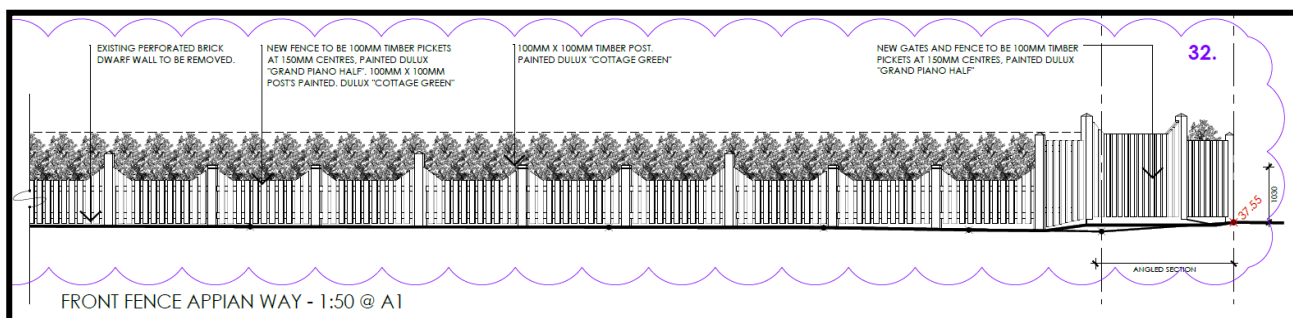
Detail has been provided regarding the Acoustic Fencing, as requested in the LPP resolution.

The architectural plans contain notations (on Drawing No PD09/2) for 1500mm high and 2200mm high acoustic non-reflective glass fence along the front boundary to Appian Way and

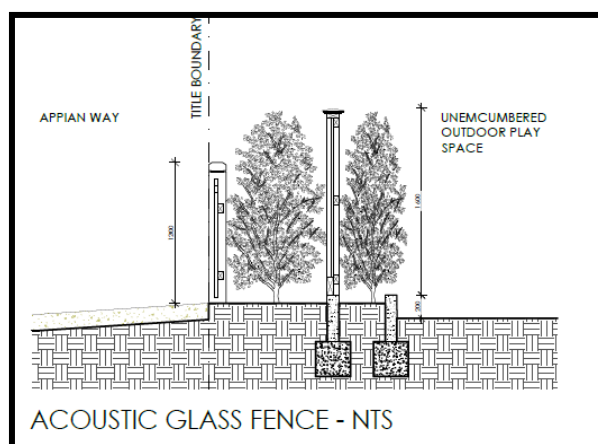
Burwood Rd, which is to be set back from the boundary by (approx.) 1m with screen hedge planting of Photinia "Red Robin" between the fence and the boundary.

Front fence details are provided on Drawing No PD16/2 and PD17/2, and these details are provided below.

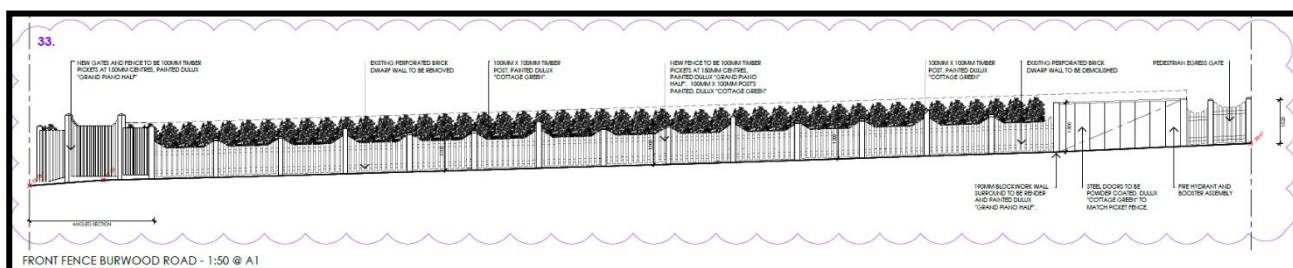
In addition, the amended architectural plans confirm details of the boundary fencing (to the residential properties to the south and east). In this regard, notations are provided (on Drawing No 09/2) for 2000mm and 2200mm panelled timber fence, however full details (e.g. elevation etc) are not provided. It should be noted that this fencing detail to the adjoining residential properties is as per the original DA plans approved in the NSW Land and Environment Court.



**Front Fence – Appian Way frontage (Source: Amended Architectural Plan – extract of Sheet PD16/2)**



**Detail of Acoustic Fence (Source: Amended Architectural Plan – extract of Sheet PD16/2)**



**Front Fence – Burwood Rd frontage (Source: Amended Architectural Plan – extract of Sheet PD17/2)**

#### (d) General Comments:

Overall, the proposed changes to the landscape plans are unsatisfactory. They propose a significant increase in the amount of ramps and stairs, which will have a detrimental impact on the appearance and setting of the building, particularly when viewed from Appian Way.

The original DA plans proposed to retain much of the existing front verandah to the northern side (facing Appian Way). However, the current amended plans submitted with the current



application propose to delete this verandah and replace it with paved area, terrace and steps, connected by the ramp in front of the building. This will have an unsatisfactory external appearance when viewed from Appian Way.

## 2. Dimensional Amendments

The amended architectural plans detail the design changes at various levels of the building. Refer to the “*Statement of Changes*” document, and notations on the Plans, by Nicholas Day Architects.

These various changes are proposed for the Lower Basement Level (sheet PD08), Basement Plan (PD08), Ground Floor Plan (PD09), First Floor Plan (PD10), Elevations (PD12 and PD13) and Sections (PD14 and PD15).

The level of detail in the amended plan submission (as requested by the LPP – see dot points in Item No 2 of the LPP resolution above), provides the required level of information to make an assessment.

The modifications include various design changes to the basement parking layout – such as mechanical plant and exhaust room, relocated plant room (fire pumpsets), widened bin room and storage area, and secondary exit stairs. The design changes to the basement are also to ensure that it complies with parking spaces and aisles comply with AS2890 and the BCA.

Generally, there are no planning objections to the design changes at the Basement levels. Such changes would normally be provided as part of the Construction Certificate drawings, however given the timing and nature of the current application (involving changes to the substation and driveway), the proponents have included the changes in the current application.

The architectural plans also include a range of changes to Ground Floor and First Floor Levels. Many of these are minor in nature and include relocating rooms (e.g. Infant Rooms to ground floor, administration rooms to first floor), and minor reduction in the first-floor boundary setbacks. These will still comply with the minimum overall setback (to southern and eastern boundaries) and no planning objections are raised.

As noted in terms of landscape design changes (see No 1 above), the more significant modifications include changes to the pedestrian entrance path, and driveway and entrance ramp design. This will involve replacing the “verandah/shaded area” with a wider paved area and entrance stairs connected to the access ramps within the front setback area.

These will have a significant adverse impact on the appearance of the building when viewed from the front, facing Appian Way, and are unsatisfactory.

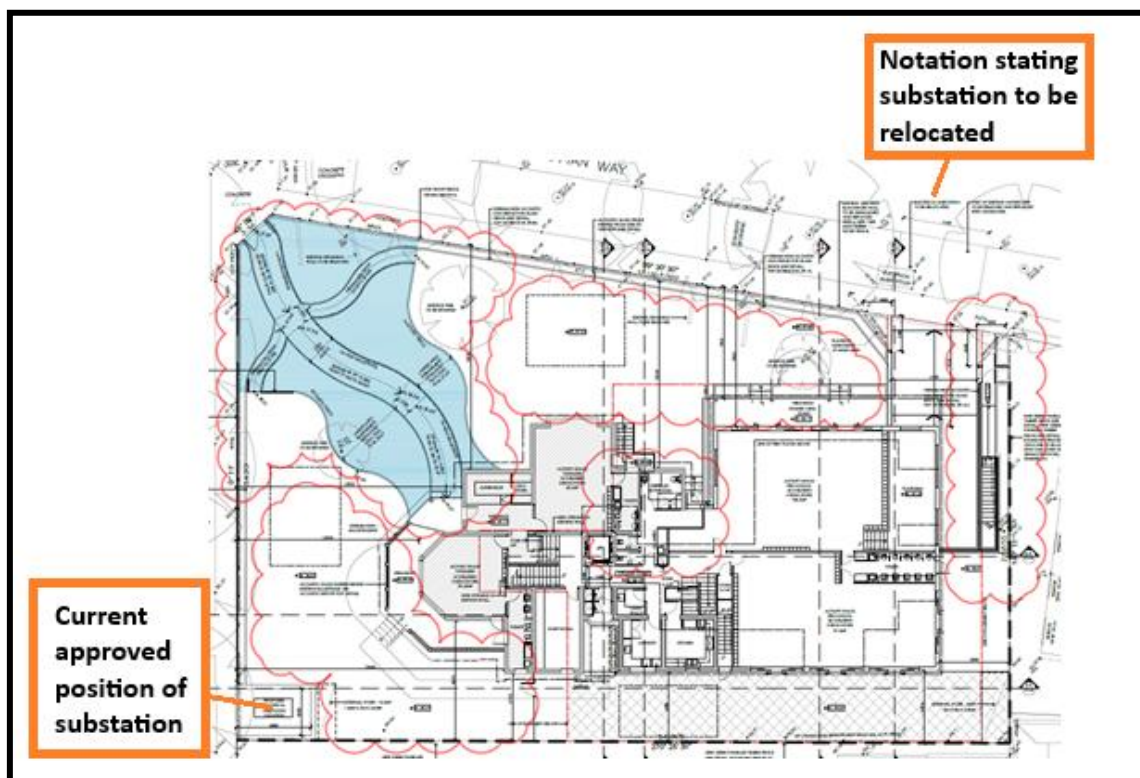
## 3. Electrical Substation Justification

The additional information package includes further justification/reasoning for the best position of the electrical substation. This is in the form of a letter (and accompanying plan) from AA Power Engineering (AAPE) dated 16 July 2025.

The AAPE letter provides 3 options for the location of the substation – the Burwood Rd frontage (Option 1); a minor relocation north along Appian Way (Option 2); and retaining the existing substation (Option 3). For each option, AAPE have provided comments in terms of:

- compliance with Ausgrid Network Standards;
- the physical works required in relocating/re-installing a new substation – e.g. including excavation for cabling and other support infrastructure;
- arboricultural impacts (e.g. potential issues and risks to the street tree/s in terms of the required works);
- cost implications.

The AAPE letter provides new/additional detail in terms of what would be involved in relocating the substation to the Burwood Rd frontage (i.e. as per the original approval). In this regard, below is the approved Ground Floor Plan showing the approved (new) position of the substation:



In summary, AAPE states that relocating the substation to the Burwood Rd frontage (i.e. as per the approved DA plans) would have significant impacts on all street trees in the Appian Way and Burwood Rd frontages, resulting from the trenching required for the underground cabling infrastructure (over 100m in length). The excavation would be “major”, close to critical root zones of the street trees, and include retaining wall structures.

The extensive nature of the excavation required would render non-destructive digging techniques ineffective, therefore it is “inevitable” that there would be significant impacts to the street trees if the development proceeds as per the approved plans.

Overall, AAPE advise that relocating the substation to the location on the current approved plans would “require substantial financial investment while delivering minimal practical improvement to the existing arrangement”.

The conclusion of the AAPE letter is that “Option 3” (i.e. retention of the existing substation) is preferred. This is on the basis that retaining the existing substation would involve impacting only 1 tree in Appian Way (Tree No 5), instead of multiple trees associated with relocating the substation as per the current consent/approved plans.

Considering the AAPE letter in the context of the Appian Way streetscape, and the significant contribution that the street trees make to this streetscape – although the removal of Tree No 5 is not supported on heritage grounds, it is acknowledged that the removal of this one tree may be the best outcome in terms of impacts on all trees in the Appian Way/Burwood Road road reserve – compared to other options identified for potentially relocating the substation.

In particular, the physical works involved in undertaking this relocation would involve extensive excavation and trenching (over 100m for cabling and other infrastructure) that would significantly impact the critical root zones of all street trees (i.e. 11 trees in total) – which would therefore impact their long-term survival.

A sensible compromise outcome could therefore be to allow the removal of Tree No 5 to enable the amended driveway design – subject to compensatory planting of 2-3 (advanced) replacement Brush Box trees in the road reserve in Appian Way.

#### 4. Updated Traffic Report

The additional information package includes Supplementary Traffic Advice from McLaren Engineering.

McLaren Engineering advises that the proposed driveway satisfies the Austroads Guidelines (even though the driveway will be at an 81° angle with Appian Way instead of the standard 90° angle), and in particular McLaren notes that this angle is required to provide sufficient clearance from the substation.

McLaren also notes that the new driveway profile will be acceptable in terms of pedestrian and vehicular sight distances, and that there is no need for a median strip in Appian Way.

McLaren also notes that although the driveway would involve removal of one tree (Tree No 5) from the street frontage, there is no location along the frontage that would not require tree removal (and multiple tree removal if the substation is to be relocated).

#### 5. BCA and Access Reports

Updated BCA and Access Reports have been submitted as part of the additional information package.

The BCA Report (by Incode Solutions) advises that the amended plans achieve full compliance with the BCA, having been amended with the express purpose of such compliance.

Access Architects have also assessed the proposal in terms of accessibility requirements and advised that the proposal fully complies. It is noted, given that the site contains a heritage building, that some of the accessibility requirements will need to be satisfied via “performance solutions”.

#### 6. Updated Heritage Impact Assessment

An updated Heritage Impact Assessment has been provided by Weir Phillips Heritage dated 18 July 2025, as part of the additional information package.

The Weir Phillips Statement provides background (e.g. location, site history, description of the site, the setting, statement of heritage significance, and description of the heritage conservation area and individual heritage items).

Weir Phillips have provided a detailed consideration of the various works to the building, in terms of their impact on the heritage significance. They have also considered the proposal in terms of the substation removal, and considered the options presented for either the retention of the substation in its current location (i.e. the current modification proposal) or relocating it as per the current approved DA plans.

In summary, Weir Phillips conclude that the proposal is acceptable both in terms of the works to the building, and also the tree removal (Tree No 5) within the Appian Way road reserve.

The Weir Phillips Statement has been referred to various Council officers (as discussed in the Referrals section of this report, below).

In terms of the impacts on the existing building, these are not supported in terms of heritage impacts. The changes to the verandahs, steps and paths would have an unacceptable impact on the heritage significance of the building.

Also, the removal of Tree No 5 is not supported from a heritage perspective, as the existing trees strongly contribute to the streetscape of Appian Way, and therefore the heritage significance of this Heritage Conservation Area. Council's Tree Management Officer, and the applicant's Arboricultural Assessment, have noted that this tree is in fair-good condition, therefore removal of this tree could not be supported based on its health, and the tree contributes to the aesthetic appeal and character of Appian Way.

Although the removal of Tree No 5 is not supported on heritage grounds, it is acknowledged that the removal of this one tree may be the best outcome in terms of impacts on all trees in the Appian Way/Burwood Road road reserve – compared to other options identified for potentially relocating the substation.

In particular, the physical works involved in undertaking this relocation would involve extensive excavation and trenching (over 100m for cabling and other infrastructure) that would significantly impact the critical root zones of all street trees (i.e. 11 trees in total) – which would therefore impact their long-term survival.

A sensible compromise outcome could therefore be to allow the removal of Tree No 5 to enable the amended driveway design – subject to compensatory planting of 2-3 (advanced) replacement Brush Box trees in the road reserve in Appian Way.

### **Community Consultation**

The Section 4.56 application has been notified to neighbours, and submissions were received as discussed in the previous report to the LPP on 28 May 2025. The application was not formally re-notified to neighbours,

Further to the LPP resolution, the objecting neighbours have been advised of the outcome of the LPP meeting, and advised that further information as provided by the applicant will be available and that they will be able to make further submission/s. There have been no further submissions received following the applicant's re-submission of amended plans/additional information.

### **Referral Comments**

The amended plans/additional information was referred to the following Internal Referral Officers:

Executive Building Surveyor: Has reviewed the amended information and provided the following comments:

*The usual BCA report was presented – with the usual conclusions that the DA proposal will comply with the NCC 2022. It appears that modifications are sought as the DA initially made and approved – cannot be constructed. There remain some issues with the amended drawings and information as supplied by the very BCA report. I do advise that those issues are minor, however design detailed assessment must be completed before a Construction Certificate.*

*Conditions of DA have been added from Building Surveyor in the community interest, and public safety perspectives. Particularly those of adjoining buildings – highlight again in this addendum in red colour. Adequate monitoring must occur during the excavation of basement parking areas and construction – as any deep excavation beyond 6m will need time to settle-ground movement (note that a geotechnical report has never been observed throughout the referral process and it is expected that a certifier will do so before accepting a structural engineering design for the basement parking levels.*

Heritage Advisor: Has reviewed the amended information, and provided the following comments:

*A number of issues were raised in the initial heritage referral for this MOD. These issues have not been adequately addressed in the revised proposal.*



*Of concern is the proposal for the ramps and paths and landscaping. The extent of ramps shown is much more extensive than in the approved proposal. As noted in the initial heritage referral for this MOD, the changes to the verandahs, steps and paths are not supported and have an unacceptable impact on the property. Revision of the landscaping proposal is sought to reduce the impact of the ramps on the setting of the house and on the verandah.*

*The removal of trees from the nature reserve is not supported. The street trees are a key feature of the Appian Way and Burwood Road. This tree removal is associated with the construction of a new driveway crossing, which is not supported. The existing driveway crossing should be retained, as this appears to be the historic location of this element (refer to the 1943 aerial photograph).*

**Recommendation**

*It is recommended that a revised landscaping proposal be developed that reduces the scale of the ramps and retains more of the character of the front verandah.*

*The proposal should be revised so that no street trees are removed and the historic driveway crossing should be retained.*

Tree Management Officer: Has provided the following comments on the amended information:

*Of particular note are the *Lophostemon confertus* (Brush Box) trees, which are a dominant species along the avenue. These trees are not only ecologically valuable native species but also culturally and historically significant. The trees contribute to the aesthetic appeal and character of Appian Way, offering visual continuity.*

*The Brush Box trees are a key element in the avenue's heritage streetscape. Appian Way has a landscape design, integrating street trees as a central component of its layout. The Brush Box trees, in particular, help frame the roadway, unify the streetscape, and enhance the formal presentation of the houses—many of which are Federation-era homes with individual heritage value.*

*Preserving these trees maintains its historical authenticity and heritage value. The continuity of these plantings over time provides a living link to the original design intent of Appian Way and contributes to the broader heritage significance of the area as a rare and intact example of coordinated early residential planning.*

*Any loss or removal of these trees would result in an undesirable impact to the character and cultural landscape of Appian Way. Therefore, their retention is essential to uphold the historical, aesthetic, and community values that this iconic street embodies.*

*It is noted that some of the trees particularly near to the subject site are in decline however Council seeks to manage their tree assets according to the above. Any approval should also seek to safely retain trees and replace any losses with large, advanced trees with a minimum of 200L pot size.*

**Conclusion**

The proposed modifications have been assessed against the requirements of s.4.56, and the heads of consideration in s.4.15 of the Environmental Planning & Assessment Act 1979.

Strong concerns are raised regarding the modifications that involve retention of the substation in Appian Way (i.e. associated with the amended driveway design). This would involve removal of a tree (Tree No 5) from the footpath/road reserve area in Appian Way and would cause significant streetscape impacts.

The landscaped setting and the corridor of trees within the footpath area is one of the key characteristics which define the Appian Way HCA. The proposed tree removal would have significant unacceptable streetscape impacts and is therefore not supported.

### **Recommendation(s)**

That DA.2021.88.2 for modifications to an approved Child Care Centre at Lot 1 DP12249, 18 Appian Way be *refused* for the following reasons:

1. Pursuant to Section 4.56 and 4.15(1)(a)(i) and (iii) of the Environmental Planning & Assessment Act 1979, the proposed modifications are unsatisfactory when assessed in terms of the environmental planning instrument (Burwood LEP 2012) and development control plan (Burwood DCP 2013) which apply to the Site.

In particular, the proposal is unsatisfactory when assessed under Burwood LEP 2012 Clause 5.10 (Heritage Conservation); and also Burwood DCP 2013 (Part 4.8 – Special Development Precincts, Part 4.8.1 Appian Way Area.

2. Pursuant to Section 4.56 and 4.15(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed modifications will have excessive and unacceptable impacts on the amenity of the neighbourhood.

In particular, the proposed modifications to the driveway design would require removal of a tree from the footpath/road reserve area (i.e. Tree No 5, a *Lophostemon confertus* “Brush Box) – which will cause significant street impacts.

This is one of many trees in the footpath/road reserve area in Appian Way, and this avenue of trees makes a significant contribution to the streetscape. The proposed removal of Tree No 5 is unacceptable.

3. Pursuant to Section 4.56 and 4.15(1)(d) and (e) of the Environmental Planning & Assessment Act 1979, in the circumstances of the case, approval of the proposed modifications would not be in the Public Interest.

In particular, this is demonstrated in the number of submissions received from adjoining/nearby neighbours, and the nature of issues of concern raised in those submissions.

### **Attachments**

- 1 Additional Information - DA.2021.88.2 - 18 Appian Way - Response to RFI from applicant (*Excluded from agenda*)
- 2 Additional Information - DA.2021.88.2 - 18 Appian Way - Statement of Changes (*Excluded from agenda*)
- 3 Additional Information - DA.2021.88.2 - 18 Appian Way - Amended Architectural Plans (*Excluded from agenda*)
- 4 Additional Information - DA.2021.88.2 - 18 Appian Way - Amended Landscape Plan (*Excluded from agenda*)
- 5 Additional Information - DA.2021.88.2 - 18 Appian Way - AUSGRID Requirements (*Excluded from agenda*)
- 6 Additional Information - DA.2021.88.2 - 18 Appian Way - Substation Relocation Letter (*Excluded from agenda*)
- 7 Additional Information - DA.2021.88.2 - 18 Appian Way - Substation Relocation Plan Options (*Excluded from agenda*)

- 8 Additional Information - DA.2021.88.2 - 18 Appian Way - Amended Traffic Report (*Excluded from agenda*)
- 9 Additional Information - DA.2021.88.2 - 18 Appian Way - BCA Statement (*Excluded from agenda*)
- 10 Additional Information - DA.2021.88.2 - 18 Appian Way - Access Report (*Excluded from agenda*)
- 11 Additional Information - DA.2021.88.2 - 18 Appian Way - Amended Heritage Impact Statement (*Excluded from agenda*)
- 12 Additional Information - DA.2021.88.2 - 18 Appian Way - Amended Arboricultural Impact Assessment (*Excluded from agenda*)