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**Sent:** Thursday, 24 November 2016 5:16 PM  
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**Cc:** Bruce Macdonnell <[Bruce.Macdonnell@burwood.nsw.gov.au](mailto:Bruce.Macdonnell@burwood.nsw.gov.au)>  
**Subject:** MLC Burwood - Section 96(2) modification - SSD 6484

Robin

I refer to our recent conversation and the documentation received by Council on 1 November 2016 regarding a proposed s96 modification to the above development approved on 3 March 2015. Council has noted the proposed modifications and the Statement of Environmental Effects prepared by JBA Urban Planning consultants in support of the modification application.

Council notes that the modification application proposes to:

- delete the proposed additions to the Middle School building fronting Grantham St and as a consequence retain the building area proposed to be demolished.
- Add an additional storey to the new development on Park Rd which creates a 4 storey building in lieu of the previously approved 3 storeys.
- An overall increase of 862m<sup>2</sup>
- An increase in height of 3.9m (from 15.263m to 19.163m)
- An increase in FSR for the whole of the site from 0.87:1 to 0.94:1 and increase of 0.7:1.

The land is zoned R2 Low Density Residential pursuant to Burwood Local Environmental Plan 2012 (BLEP 2012) which has a Floor Space Ratio maximum of 0.55:1 and a height maximum of 8.2m in the zone. Council acknowledges that the development as approved departs from those standards.

Council has perused the plans & documentation submitted in support of the development and in particular the sections relating to the "Substantially the Same Development" contained in the Statement of Environmental Effects. Council is of the view that the development is not substantially the same development for the following reasons:

1. The building envelope on both the Grantham St and Park Rd elevations are substantially different to that as originally approved. The result is a radical change in appearance when viewed from both streets and which is considered to transforms the proposal to a development that is considerably different to that as originally approved. While the façade of the additional storey to the main building fronting Park Rd is similar in materials and expression to that of the building as approved, the impact of that storey from a streetscape point of view is considered to be substantially different to the building as approved. This is particularly relevant given the narrow setback of the building to Park Rd.
2. The increase in floor space (of 862m<sup>2</sup>) and height (3.9m) are not considered to be minor increases and are considered to substantially alter the form of the development. The increase in height of 3.9m (25.5%) will substantially increase the scale of the development both from a visual and quantitative sense. The increase of the height of the building cannot be concealed, and with the minimal setback from Park Rd this results in a development substantially larger in scale, form and appearance.

3. The impacts from the development are considered different given the substantial increase in floor space and height of the building fronting Park Rd and the substantial changes to the building envelope of the development fronting Grantham St. The impacts from a 4 storey building are considered to be substantially different to a 3 storey building by increase in shadow and increase in scale of the building. The development proposes additional outdoor learning areas on upper level similar to the lower levels on the northern elevation. This additional external area while it has been provided with a privacy screen, has the potential to considerably impact upon the loss of aural privacy by subsequent noise generation arising from a number of students that would congregate in this area.
4. Council has not been provided with details of student or staff numbers so it is not able to gauge any additional impacts arising from this aspect, however given the substantial increase in floor area and the growth of the school over a long period it is considered that such an increase would generate increases to student numbers and thereby an increase in staff.

It is noted that the documentation submitted by the applicant in support of the modification application has provided justification for the contravention of the development standards of height & FSR as a measurement against the provisions of Clause 4.6 of BLEP 2012 even though a Clause 4.6 objection is not required for a S96 modification application. It is considered that the applicant has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances. The objectives of the R2 Low Density Residential zone are:

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

Council is of the view that the objectives of the zone are not achieved as:

- The additional FSR and height will create a building form that is not compatible with the low density height and scale of the zone. Notwithstanding the original height of the building as approved, the increase in height will result in a building 19m in height which is a radical change to the maximum height of a building of 8.2m permitted in the zone. Similarly, further increases in FSR to propose a development of 0.94:1 where the standard of 0.55:1, increase of approx. 60%, is not considered to promote a bulk and scale that is compatible with low scale residential development. Given that this development is proposed close to the street alignment, adjacent to low scale residential development is particularly relevant and a comparison in scales shows that there is no similarity between the two. Any decrease in the scale of the Grantham street buildings by deleting the proposed additions to those buildings, is not seen in the same context as the Park Rd building when viewed from Park Rd, these building will not be seen from Park Rd and therefore cannot be seen as a counterbalance to the Park Rd development.
- The increase in height, bulk and scale of the Park Rd building will have a substantial impact upon Park Rd streetscape, the height of a building cannot be increased by 25% without some impact. In this case given the proximity of the building to Park Rd, the impact of the increase proposed will be substantial. To say that Park Rd is a defacto school Rd and is predominantly used by school related pedestrian and vehicular traffic is not correct. Park Rd between Rowley and Parramatta Rd is used as an access to and from Parramatta Rd to Burwood Town centre to escape traffic

on Burwood Rd/ Wentworth Rd and by pass build ups on Parramatta Rd heading west.

- The zoning of the land as R2 Low Density Residential was required by the Department of Planning at the time of the formulation of BLEP 2012. Council was not given an option to consider a different zoning as the protocol was to rezone former special use zoned land to the zone of the predominant adjacent land. The school has not made any request to Council for the land to be re-zoned since the making of BLEP 2012 and therefore it is necessary to consider development of the land in the context of the zoning. It is considered that further erosion of the development standards of the zone only decreases the importance of the standards in the zone and it would be more appropriate for the applicant to seek either a re-zoning of the land or a change to the development standards contained in the zone for that area.
- The increase in height and density is not considered in the public interest as the increased scale is not compatible with the low density scale of the zone and the development adjacent to the development and as such will undermine the validity of the standards of the zone.

Please call me if you wish to discuss or any further clarification is required.

Thanks

Brian Olsen

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