

Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site, 27 Mitchell Street, Croydon Park

Proposal Title : Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site, 27 Mitchell Street, Croydon Park

Proposal Summary : The proposal aims to:

1. Rezone the site from part R2 Low Density Residential and part IN2 Light Industrial to R1 General Residential;
2. Provide for a maximum building height of 11 metres;
3. Provide for a maximum FSR of 1.2:1

at the Flower Power site, 27 Mitchell Street, Croydon Park, within Burwood Local Government Area.

The planning proposal also states that an area of the site covering approximately 1,650sqm and an existing dwelling will be dedicated for use as a community facility, by way of a Voluntary Planning Agreement (VPA).

PP Number : PP_2013_BURWO_003_00 **Dop File No :** 13/19850

Proposal Details

Date Planning Proposal Received :	17-Jan-2014	LGA covered :	Burwood
Region :	Sydney Region East	RPA :	Burwood Council
State Electorate :	STRATHFIELD	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	27 Mitchell Street		
Suburb :	Croydon Park	City :	Sydney
		Postcode :	2133
Land Parcel :	Lot 101 DP 737342, Lot 23 DP 774159		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Sandy Shewell**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro Inner West subregion	Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	239
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment : **The Department of Planning and Infrastructure's Code of Conduct has been complied with.
Metropolitan Delivery (CBD) has not met with any lobbyist in relation to this planning
proposal.**

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes : **1. The site is currently occupied by the 'Flower Power' nursery, fruit shop, pet shop, cafe
and a dwelling which fronts Mitchell Street.**

The current controls relating to the site under the Burwood LEP 2012 are:

- Zoning:- part R2 Low Density Residential (northern part of subject site) and part IN2 Light Industrial (southern part);**
- Floor Space Ratio (FSR):- 0.55:1 (northern part) and 1:1 (southern part);**
- Height:- 8.2m (northern part) and 10m (southern part).**

**Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site,
27 Mitchell Street, Croydon Park**

The planning proposal seeks to rezone the site to R1 (General Residential) and to increase the FSR to 1.2:1 and height control to 11m across the entire site.

2. During exhibition of the then draft Burwood LEP 2012, the proponent requested that the site's zoning, FSR and height controls be amended as above in order to provide an incentive to remove existing non-compatible non-residential uses; to redevelop the site to a higher residential density consistent with adjoining development and to assist in achieving housing targets, improving amenity and reducing truck movements.

Whilst Council agreed that the request had merit, it was not prepared to amend the controls without consideration of land contamination, or justification of an inconsistency with section 117 Direction 1.1 concerning the loss of industrial land. Council also considered that further consideration of the proposed R1 zone for the northern part of the site was required. Furthermore, it was considered that a separate planning proposal would allow for public comment.

3. Enfield Residents Committee submission:

A 300+ signature petition and covering letter were received by the Department, expressing strong objection to the proposal on the following grounds:

- over-intensive population density;
- 3-storey development would be inconsistent with existing building heights in the surrounding areas;
- loss of privacy at neighbouring properties;
- inadequate existing infrastructure;
- existing bus routes are at near capacity;
- traffic generation and parking issues, and associated adverse impacts;
- the site is the only light industrial zone in the area serving the local and wider community;
- the site provides local employment and is a conveniently located shopping location;
- the site currently provides a venue for days out for various disability groups;
- loss of heritage and natural landscape;
- no further community centre is required.

A copy of the petition's covering letter is attached as Tag A in the 'Documents' tab of this report. The planning proposal has been referred to the LEP Panel given the level of public interest.

4. Delegation:

Council has accepted the general delegation of the Minister's plan-making functions under the EP&A Act and has confirmed its intention to exercise the delegation in this instance.

The planning proposal is considered to relate to routine matters of local planning significance. Therefore, it is recommended that the finalisation of the planning proposal be delegated back to Council.

External Supporting
Notes :

Council supports the planning proposal, and considers:

- the planning proposal is compatible with the surrounding (predominantly residential) land uses;
- replacement of the existing light industrial/commercial use with medium density residential development should have reduced amenity impacts in terms of traffic (especially heavy vehicles) and noise;
- the applicant's justification of the loss of industrial/employment land is valid;
- Council and the local community will benefit from the provision of a community facility to be provided/dedicated to Council; and
- detailed matters of design and management of local impacts can be dealt with at the DA stage.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of the planning proposal is to amend the zoning, height and FSR controls for the subject site in order to enable medium density residential development.

The planning proposal also aims to assist in:

- achieving sub-regional housing targets;
- encouraging excellence in design;
- encouraging minimal overshadowing of adjoining properties;
- enhancing the local environment by improving built form;
- maximising the use of public transport;
- providing a more appropriate land use;
- removing potential conflict between industrial and residential land uses; and
- providing for the orderly and economic development of land.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal amends Burwood LEP 2012 zoning, FSR and height of building maps to show, respectively, R1 General Residential zoning, a maximum FSR of 1.2:1 and a maximum building height of 11 metres in relation to the subject site.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 1—Development Standards**
- SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**
- SEPP No 55—Remediation of Land**
- SEPP No 64—Advertising and Signage**
- SEPP No 65—Design Quality of Residential Flat Development**
- SEPP No 70—Affordable Housing (Revised Schemes)**
- SEPP (Building Sustainability Index: BASIX) 2004**
- SEPP (Exempt and Complying Development Codes) 2008**
- SEPP (Infrastructure) 2007**

e) List any other matters that need to be considered :

Council, as RPA, has also identified the following SEPPs:
SEPP (State and Regional Development) 2011;
SEPP (Urban Renewal) 2010, and
SEPP (Affordable Rental Housing) 2009.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

1. Council's assessment of the planning proposal's consistency with the SEPPs which it considers are applicable is at Tag C. The planning proposal is considered consistent with applicable SEPPs, except for SEPP 55 - Remediation of Land.

The planning proposal, as submitted, is not consistent with SEPP 55 in that Council has not indicated whether the land will be remediated before the land is developed.

However, a contamination report has been submitted which indicates that the land can be developed for residential purposes. Given the findings of the report, the inconsistency is considered justifiable. A condition has been included to require the exhibition of the report with the planning proposal.

2. Section 117 Direction 1.1 Business and Industrial Zones:

The planning proposal is inconsistent with this Direction because it rezones industrial land.

This inconsistency requires the approval of the Director General (or an officer of the Department nominated by the Director General). Approval of this inconsistency is recommended, for the following reasons:

- the site (0.6ha) represents less than 1% of the total employment lands in the Inner West subregion;
- the site is small and located in a predominantly low density residential area, with some medium density residential development nearby;
- the site is not part of a significant industry cluster;
- the current operation of the site is generally a commercial/retail function as opposed to an industrial function, and employs a relatively small number (18) of people;
- the site will be better used by contributing to the Burwood LGA housing target; and,
- the proposal will remove the potential for conflict between industrial and residential land uses.

The inconsistency is therefore justified.

3. Section 117 Direction 3.1 Residential Zones:

The planning proposal is inconsistent with this Direction as it does not require the provision of adequate services (or for arrangements to service the land to have been made) prior to residential development.

However, a condition has been included which requires consultation with relevant agencies. The inconsistency is therefore considered of minor significance.

The planning proposal is considered to be consistent with all other applicable s117 Directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal contains an extract of each of the current Burwood LEP Land Zoning, FSR and Height of Building maps, and the corresponding proposed maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal indicates that it will be publicly exhibited for 28 days. This is considered reasonable.

Project Time Line:

The planning proposal contains a project time line for completion within 7 months.

Given the gateway process does not provide for a 7 month timeframe for completion, it is considered that a 9 month timeframe for completion is appropriate. This means that the planning proposal will be completed in September 2014.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

**Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site,
27 Mitchell Street, Croydon Park**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **November 2012**

Comments in
relation to Principal
LEP :

Burwood LEP 2012 was notified on 9 November 2012.

During exhibition of the then draft Burwood LEP 2012, the proponent requested that the site's zoning, FSR and height controls be amended as above in order to provide an incentive to remove existing non-compatible non-residential uses; to redevelop the site to a higher residential density consistent with adjoining development and to assist in achieving housing targets, improving amenity and reducing truck movements.

Whilst Council agreed that the request had merit, it was not prepared to amend the controls without consideration of land contamination or justification of an inconsistency with section 117 Direction 1.1 concerning the loss of industrial land. Council also considered that further consideration of the proposed R1 zone for the northern part of the site was required. It was also considered that a separate planning proposal would allow for public comment.

Assessment Criteria

Need for planning
proposal :

The planning proposal is not the result of a strategic study, but is a result of Council's May 2012 resolution to invite a planning proposal from the site owners.

The planning proposal indicates that it is needed to address amenity issues relating to existing incompatible non-residential land uses on the site. The planning proposal will enable the residential redevelopment of the site which is considered more appropriate with adjoining development and will assist in achieving housing targets.

Consistency with
strategic planning
framework :

1. Metropolitan Plan for Sydney 2036 (Metro Plan)

The planning proposal is considered consistent with the objectives of the Metro Plan. The site is within walking distance of the Tangarra Street neighbourhood centre and bus routes which have connections to Burwood Major Centre and Strathfield Town Centre.

2. Draft Metropolitan Strategy for Sydney to 2031 (draft Metro Strategy)

The planning proposal is considered to be generally consistent with the strategic directions of the draft Metro Strategy by contributing to the housing supply, and by being located in an area close to existing public transport connections.

3. Draft Inner West Subregional Strategy (draft Subregional Strategy)

The draft Subregional Strategy identifies Burwood LGA to provide 7,700 additional dwellings by 2031. The planning proposal is considered consistent with the draft Subregional Strategy as it has the potential to contribute 239 new dwellings towards the provision of improved housing choice and affordability.

Environmental social
economic impacts :

1. Traffic

The Traffic and Parking Assessment (TPA) Report, dated 19 November 2013, concludes that at a density of 239 dwellings, there would be a likely "significant reduction" in traffic generation during morning, afternoon and Saturday peak periods. The TPA Report also concludes, that under the projected density, there will be no unacceptable traffic implications in terms of road network capacity.

Council has confirmed that its Traffic and Transport Team considers the traffic generated

by the planning proposal would be acceptable in terms of impact upon the existing road network.

A copy of the TPA Report is attached at Tag D.

It is recommended that a gateway determination condition requires the traffic study to be exhibited with the planning proposal.

2. The proposed residential zone will be compatible with the surrounding zones and have the potential to facilitate improved local amenity.

3. Building heights and increased density (residential):

The planning proposal indicates that maximum building height controls will allow increases of 2.8m and 1m in relation to existing height controls at the northern and south-eastern parts of the site, respectively. This will result in a height limit of 11m across the whole site. Whilst increased building heights and densities create potential for adverse amenity impacts, such as overshadowing, any final proposed building forms will be subject to compliance with Council's DCP, SEPP 65 - Design Quality of Residential Flat Buildings, and detailed consideration at the development application stage. The planning proposal also indicates that building forms can be modulated and stepped to respect adjoining and nearby single and two-storey residential development.

4. Social and economic impacts:

The net reduction in employment land is less than 1% (see advice from the Department's Metropolitan Development Program Team, attached at Tag B) which is considered of minor significance.

It is considered that the proposal will have a positive social and economic impact by facilitating the provision of new dwellings which in itself will contribute to improving housing supply, choice and affordability within the LGA.

By contributing to the accommodation of Sydney's increasing population and changing demographics, the planning proposal will also contribute to the potential patronage, and therefore viability, of local businesses and services.

The provision of new residential accommodation creates the potential for increased demand for child care, educational and health care facilities. In this regard, it is recommended that the relevant planning authority should consult the NSW Department of Education and Communities (DoEC) and NSW Health (NSWH). A condition to this effect is recommended.

The planning proposal also states that approximately 1650sqm of land will be provided for a community facility at the site. The proponent has confirmed, in writing, it's willingness to enter into a Voluntary Planning Agreement in order to dedicate the land to Council for this purpose. The objectives of the R1 zone in Burwood LEP 2012 include enabling other land uses that provide facilities or services to meet the day to day needs of residents. "Community facilities" are permitted with consent in the R1 zone.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	Department of Education and Communities Energy Australia Department of Health Transport for NSW - Roads and Maritime Services Sydney Water		

**Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site,
27 Mitchell Street, Croydon Park**

Adjoining LGAs

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Tag B Flower power site MDP Team comments.pdf	Study	Yes
Tag A Enfield Residents Committee submission.pdf	Study	Yes
Tag C - Addendum to Planning Proposal - SEPPs.pdf	Proposal	Yes
Tag D - Updated Traffic Report - Flower Power Croydon Park.pdf	Study	Yes
Burwood Flower Power Maps4558_001.pdf	Map	Yes
Concept master plan4559_001.pdf	Proposal	Yes
Flower Power setback letter4560_001.pdf	Proposal	Yes
Planning Proposal covering letter and supporting documents4561_001.pdf	Proposal	Yes
Flower Power site Planning Proposal4561_001.pdf	Proposal	Yes
Contamination Report Planning Proposal for Flower Power Site - 27 Mitchell Street Enfieldt.pdf1.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended the planning proposal proceeds subject to the following conditions:**

1. The planning proposal be exhibited for 28 days
2. The Contamination Assessment Report, dated October 2012, is to be exhibited with the planning proposal during the public exhibition period.

**Amendment of Burwood LEP 2012 zoning, height and FSR controls for Flower Power Site,
27 Mitchell Street, Croydon Park**

3. The Traffic and Parking Assessment Report, dated 19 November 2013, prepared by Varga Traffic Planning Pty Ltd, is to be exhibited with the planning proposal.

4. Consultation is to occur with the following public authorities under section 56(2) of the EP&A Act:

- Sydney Water;
- Energy Australia;
- NSW Department of Education and Communities;
- Transport for NSW - Roads and Maritime Services;
- NSW Department of Health and Ageing/NSW Health;
- Adjoining LGAs.

Each public authority is to be provided with a copy of the planning proposal and the studies/assessments specified, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act.

6. The planning proposal be completed within 9 months from the week following the date of the Gateway Determination.

7. A written authorisation to exercise delegation under section 59 of the Environmental Planning and Assessment Act 1979 is issued to Council in relation to the planning proposal.

Supporting Reasons :

The planning proposal should be approved for the following reasons:

1. It has strategic merit and offers a number of community benefits including increased housing choice, and the dedication of a 1650sqm portion of the site to use as a community facility.
2. It is considered that the planning proposal will facilitate development that can be consistent and compatible with the surrounding residential development, and subsequently will also facilitate improvements to local amenity.

Signature:



Printed Name:

Sandy Shewell

Date:

24.1.14

