



Planning & Environment

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Our ref: PP_2015_BURWO_001_00 (15/12336)

Mr Michael McMahon
General Manager
Burwood Council
PO Box 240
BURWOOD NSW 1805

Dear Mr McMahon

Planning proposal to amend Burwood Local Environmental Plan 2012

I am writing in response to your Council's letter dated 6 July 2014 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend the Burwood Local Environmental Plan 2012 (LEP) relating to: a) serviced apartments in B2 Local Centre, B4 Mixed Use and B6 Enterprise Corridor zones; b) rectification of anomalies in the LEP; and c) amendment of the LEP Land Use Table to permit residential flat buildings in the B2 Local Centre zone.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In relation to the proposed amendment to permit residential flat buildings in the B2 Local Centre zone, the inconsistencies with section 117 Direction 1.1 Business and Industrial Zones, have not yet been approved. Once the work required to further justify these inconsistencies has been completed, Council should make a submission to the Department's Metropolitan (CBD) branch seeking this approval.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan is to be finalised within **9 months** of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to the Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Mr Andrew Watkins, of the Metropolitan (CBD) branch on (02) 9228 6558.

Yours sincerely,


Lee Mulvey 7/9/15
Director, Metropolitan (CBD)
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Template



Gateway Determination

Planning proposal (Department Ref: PP_2015_BURWO_001_00): to amend the Burwood Local Environmental Plan 2012 (LEP) relating to: a) serviced apartments in B2 Local Centre, B4 Mixed Use and B6 Enterprise Corridor zones; b) rectification of anomalies in the LEP; and c) amendment of the LEP Land Use Table to permit residential flat buildings in the B2 Local Centre zone.

I, the Director, Metropolitan (CBD), at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the Burwood Local Environmental Plan 2012, as specified above, should proceed subject to the following conditions:

1. In relation to the proposed amendment to controls applying to serviced apartments in the B2 Local Centre, B4 Mixed Use and B6 Enterprise Corridor zones, prior to public exhibition Council is to update the planning proposal to provide an economic assessment of the current and projected demand for serviced apartments in Burwood, including an assessment of the potential impact of the proposed controls.
2. In relation to the proposed amendment of the LEP Land Use Table to permit residential flat buildings in the B2 Local Centre Zone, prior to public exhibition Council is to update the planning proposal to provide further justification for its inconsistency with:
 - a) s.117 Direction 1.1 Business and Industrial Zones;
 - b) the Department's LEP Practice Note PN 11-002 'Preparing LEPs using the Standard Instrument: Standard Zones'; and
 - c) Strategic Goals 5.1, 5.2, 5.3 and 5.4 of Council's Community Strategic Plan 'Burwood 2030'.

Council is also to update the planning proposal prior to public exhibition to demonstrate how ground floor activation and the management of potential amenity impacts at the ground floor, particularly along roads subject to high traffic volumes, will continue to be achieved in the B2 zone.

3. Copies of the relevant current Burwood Local Environmental Plan 2012 Floor Space Ratio, Height of Buildings, Minimum Lot Size, Land Zoning and Land Reservation Acquisition Maps are to be publicly exhibited as part of the planning proposal alongside the corresponding proposed maps.

4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- (a) NSW Department of Education and Communities;
- (b) Destination NSW;
- (c) NSW Roads and Maritime Services; and
- (d) Urban Growth NSW.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as follows:

- (a) the planning proposal is considered to be routine as described in *A Guide to Preparing LEPs* (Department of Planning and Environment 2013) and must be made publicly available for a minimum of **28 days**; and

- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2013).

6. 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. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 7th day of September 2015.


Lee Mulvey
Director, Metropolitan (CBD)
Planning Services

Department of Planning and
Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Burwood Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_BURWO_001_00	To amend the Burwood Local Environmental Plan 2012 (the LEP) relating to: a) serviced apartments in B2 Local Centre, B4 Mixed Use and B6 Enterprise Corridor zones; b) rectification of anomalies in the LEP; and c) amendment of the LEP Land Use Table to permit residential flat buildings in the B2 Local Centre zone.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 7th September 2015


Lee Mulvey
Director, Metropolitan (CBD)
Planning Services
Department of Planning and Environment

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_BURWO_001_00
Date Sent to DPE under s56	6 July 2015 (4 August 2015)
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DPE requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: