

Gateway Determination

Planning Proposal (Department Ref: PP_2019_BURWO_002_00): to prohibit the subdivision of dual occupancy development in the R2 Low Density Residential zone, except where each resulting lot would comply with existing Council controls for the subdivision of land under the Burwood Local Environmental Plan 2012.

I, the Acting Director, Eastern and South Districts at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under 3.34(2) of the Environmental Planning and Assessment Act 1979 (the Act) that an amendment to the Burwood Local Environmental Plan (LEP) 2012 to prohibit the subdivision of dual occupancy development in the R2 Low Density Residential zone, except where each resulting lot would comply with existing Council controls for the subdivision of land should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated as follows:
 - (a) update the planning proposal with the latest figures of number of dual occupancies approved over the last 5 years – including those approved with and without subdivision;
 - (b) ensure the indicative development figures within the planning proposal accurately reflect the Codes SEPP minimum lot size controls;
 - (c) update the planning proposal to also allow the Strata and Community Title subdivision of a dual occupancy subject to meeting the specified subdivision requirements;
 - (d) update the planning proposal to correctly compare the existing planning controls in the Burwood LEP 2012 and Burwood DCP 2012 with those in Part 3B and Part 6 of the Codes SEPP;
 - (e) update the planning proposal to include discussion about the process for Council's Local Housing Strategy;
 - (f) include a new savings transition clause to ensure that proposed amendments do not affect any development applications or appeals processes;
 - (g) remove reference to agency consultation; and
 - (h) update the project timeline.
2. Community consultation is required under 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days;
 - (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 local environmental plans* (Department of Planning and Environment 2016); and
- (c) Council is to write to all affected landowners providing notice of the proposal and public exhibition, explaining the effect of the proposed changes.
3. Consultation is not required with any public authorities/organisations under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

Dated 24 day of January 2020.



Zoi Flannery
Acting Director,
Eastern and South Districts
Place, Design and Public Spaces
Department of Planning, Industry and
Environment

**Delegate of the Minister for Planning and
Public Spaces**