



Burwood Council

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Planning Proposal

Bonus Residential Floor Space within Part of the Burwood Town Centre and Design Excellence in the Burwood Local Government Area

Updated October 2014

A Planning Proposal is the first step in proposing amendments to Council's principle environmental planning instrument, known as the Burwood Local Environmental Plan (BLEP) 2012. A Planning Proposal explains the intended effect of the proposed amendment and also sets out the justification for making the change. The Planning Proposal is submitted to the Department of Planning & Environment (DPE) for its consideration, referred to as the Gateway Determination, and is also made available to the public as part of the community consultation process.

Part 1 – Objectives or Intended Outcomes

The objectives of this Planning Proposal are to:

- Provide a planning mechanism to allow for bonus residential floor space in return for a public benefit. The bonus would apply to the Commercial Core and Middle Ring areas of the Burwood Town Centre (BTC), shown on Map 1 in Part 4 – Mapping of this proposal.
- Require design excellence in development involving the erection of a new building comprising three storeys or more. The requirement would apply to the entire Burwood Local Government Area (LGA).

The bonus residential floor space would result in an increased housing supply, which would help Council meet the housing target set out by the State Government.

Council's initial resolution at its meeting of 25 August 2014 referred specifically to development involving a podium and tower form. During the course of preparing this Planning Proposal, it was determined that the design excellence provisions would be better applied to all new buildings, comprising three storeys or more (excluding underground levels), whether or not having a podium and tower form. This approach would cover a wider range of development types and would coincide with the State Environmental Planning Policy No. 65 and the Residential Flat Design Code.

Part 2 – Explanation of the Provisions

The objectives of this Planning Proposal will be achieved by amending the BLEP 2012 through the insertion of two new clauses, being clause 6.5 and clause 6.6 under Part 6 Additional local provisions:

Clause 6.5 aims to allow additional floor space for residential accommodation on certain land, where the developer provides a public benefit that is acceptable to Council and is over and above any section 94A contributions. This clause will apply to the Commercial Core and Middle Ring Areas of the BTC, identified as Area 1 and Area 2 on the Floor Space Ratio (FSR) map of the BLEP 2012. The clause will allow the maximum Residential FSRs specified in Clause 4.4A (3) to be increased by 10% (of the maximum FSRs).

Clause 6.6 aims to deliver the highest standard of design for buildings and public spaces. This clause will apply to all new buildings comprising three storeys or more on land in the Burwood LGA. The clause will require the consent authority to consider a list of matters, such as building form, modulation, streetscape, casual surveillance and etc, before granting consent.

The proposed clause 6.5 and clause 6.6 are included at Appendix 1.

Part 3 – Justification

Burwood Council recently commissioned a Burwood Town Centre Urban Design Study and a Burwood Community Facilities and Open Space Study.

Burwood Town Centre Urban Design Study

This study provides a review of the current height and FSR controls in the BLEP 2012 and associated controls in the BDCP, and identifies opportunities for additional floor space and/or height for future development in the BTC. The study concludes:

- The current BLEP, in conjunction with the BDCP provisions, presents mismatches between the FSR and height development standards. Development generally reaches the maximum FSR well before reaching the height limit. This would result in lower and bulkier buildings that do not display good design and have greater impacts on the streetscape and the amenity of adjoining properties than the taller and slender buildings.
- The BLEP and BDCP could be amended to strengthen design quality, by encouraging taller and slender buildings that would make a positive contribution to the streetscape and cast fast moving shadows with less impact on the adjoining properties.
- Following the 3D testing of nine sites selected by the consultants in consultation with Council, two options of a bonus scheme were suggested:
 - Option 1 – a maximum FSR bonus of 5% within the Commercial Core and 15% within the Middle Ring, and no bonus for the rest of the BTC.
 - Option 2 – a maximum FSR bonus of 10% for both the Commercial Core and Middle Ring, and no bonus for the rest of the BTC. This is the option later adopted by Council.

- Any bonuses should be for residential purposes that would help increase the tower height of buildings and for sites that exhibit design excellence.

The bonus scheme and design excellence provisions in this Planning Proposal have stemmed from the BTC Urban Design Study.

Burwood Community Facilities and Open Space Study

This study identifies the community facilities and open space needs of the current and future population in the Burwood LGA. The needs identified include certain number, type and location of additional community facilities and open space.

The study also identifies the strategies for funding the provision of the additional community facilities and open space. One of the strategies identified is the sale of bonus floor space. In this regard, Hill PDA, the Economic Consultant who was co-commissioned to undertake the study, recommends that:

- Both the developer and Council share equally the financial benefit for the bonus scheme.
- A sale price be set at \$800 per sqm bonus floor space for the BTC in the current market.
- The sale price be subject to periodic reviews by a suitably qualified firm.

The bonus scheme in return for public benefits as part of this Planning Proposal has been informed by the Burwood Community Facilities and Open Space Study.

Planning Mechanism for Bonus Development and Design Excellence

No mechanism or provision is currently available in the BLEP 2012 and the BDCP for any bonus scheme. Legal advice has confirmed that an amendment to the BLEP is required, if Council wishes to allow for bonus development to be implemented in return for a developer providing a monetary contribution or public benefit.

No provisions currently exist in the BLEP 2012 that specifically require new development to exhibit design excellence. Instead, some general design excellence provisions are contained in the BDCP. It is considered that a provision in the BLEP would carry more statutory weight than in the BDCP and allow more rigorous assessment.

Council Resolution

Council, at its meeting of 25 August 2014, considered a report titled "Variation of Development Standards in Return for a Public Benefit and Design Excellence" (attached at Appendix 2). This report identified the key findings of the BTC Urban Design Study and the Burwood Community Facilities and Open Space Study. It was resolved (in part) that a Planning Proposal be initiated to amend the BLEP in order to allow for bonus residential floor space in part of the BTC and require design excellence in the Burwood LGA, as stated in Part 1 of this proposal.

Section A – Need for the Planning Proposal

1. *Is the planning proposal a result of any strategic study or report?*

Yes. Council commissioned the BTC Urban Design Study and the Burwood Community Facilities and Open Space Study. Subsequently a report titled “Variation of Development Standards in Return for a Public Benefit and Design Excellence” was considered by Council at its meeting of 25 August 2014. It was resolved in part that:

A Planning Proposal be initiated to amend the BLEP to be lodged by 30 September 2014 to allow for a maximum FSR bonus of 10% for development in return for public benefits in the Commercial Core (Area 1) and Middle Ring (Area 2) areas of the Burwood Town Centre (BTC), and impose requirements for achieving design excellence for all development involving a podium and tower form in the Local Government Area (LGA).

The Planning Proposal has been prepared in response to the above Council resolution. As clarified in Part 1 of this proposal, the design excellence provisions are now intended to apply to all new buildings of three storeys or more, whether or not having a podium and tower form.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal is the best means of achieving the intended outcomes. Council sought legal advice concerning the bonus scheme matter. The legal advice received states that if Council wishes to allow for a bonus scheme in return for a developer providing a monetary contribution or material public benefit, it would need to seek an amendment to the BLEP to include provisions to that effect.

Design excellence provisions, if included in the BLEP, would carry more statutory weight than in the BDCP. This Planning Proposal includes bonus development as well as design excellence provisions, in order to achieve the highest quality urban design outcomes.

Section B – Relationship to Strategic Planning Framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes. The Burwood Town Centre has been identified as a Major Centre since the 2005 Metropolitan Strategy for Sydney.

Metropolitan Plan for Sydney 2036

This Plan integrates land use and transport planning, providing a framework for growth and development across Sydney to 2036. It establishes nine strategic directions for Sydney, including:

- A. Strengthening a city of cities
- B. Growing and renewing centres
- D. Housing Sydney's population

Appendix 5 of the Plan sets out the future directions for centres. The future directions for the Burwood Major Centre are:

- Support intensification of mixed use redevelopment
- Accommodate a growing residential population

Most land in the Burwood Town Centre is zoned B4 Mixed Use with up to 6:1 FSR and up to 70m height, to support intensification of mixed use redevelopment. A bonus scheme will allow for additional floor space for residential purposes, which will result in an increased housing supply to accommodate a growing residential population. Design excellence provisions would help deliver high quality developments that are pleasant to live in, make positive contributions to the streetscape, while mitigating the impacts of development on the adjoining properties.

Draft Metropolitan Strategy for Sydney to 2031

The current Draft Metropolitan Strategy for Sydney sets the framework for Sydney's growth and prosperity to 2031 and beyond. It lays a strategic planning foundation for all 41 councils in the metropolitan region, including Burwood. The Draft Metropolitan Strategy is built around achieving five key outcomes for Sydney:

- Balanced growth
- A liveable city
- Productivity and prosperity
- Healthy and resilient environment
- Accessibility and connectivity.

Objective 2 of balanced growth is to strengthen and grow Sydney's centres. To support this objective, a series of policies are provided, including:

- a. Plan for housing growth in centres of all sizes.
- b. Strategic Centres will be the focus of medium and high density housing and business and commercial growth, with supporting infrastructure.
- d. Mixed use development will be encouraged in all centres, including central commercial core areas, where there is market demand and complementary land uses.

A bonus scheme will allow developers to provide additional medium to high density housing within the BTC, while providing public benefits towards the provision or improvements of local infrastructure, which will in turn support the additional growth and complement the commercial land use. Design excellence provisions, combined with floor space incentives, may act as a catalyst for investment by the private sector with a commitment to high quality urban renewal.

Inner West Subregion – Draft Subregional Strategy

The Draft Subregional Strategy sets the key directions for the Inner West Subregion, where the Burwood LGA belongs under the Metropolitan Plan for Sydney 2036. The most relevant directions include:

- Support and differentiate the role of strategic centres.
- Plan for 12,500 new jobs and provide 30,000 new homes in the Inner West
- Focus housing in and around existing strategic and local centres

The Burwood Town Centre is the only Major Centre within the subregion and has a strategic role in servicing the wider resident population. It is identified as one of the primary growth areas for job and dwellings given its close proximity to major transport nodes and existing infrastructure

The Draft Subregional Strategy directs Burwood to provide an extra 4,000 jobs and 7,700 dwellings by 2031.

The Planning Proposal, which seeks an amendment to the BLEP to allow for bonus residential floor space within the BTC, will enhance Burwood's ability to achieve its housing targets set out in the Draft Subregional Strategy.

The Planning Proposal does not intend to alter the B4 Mixed Use zone of the BTC. While it is proposed to increase the maximum Residential FSR within the central areas of the BTC, the ability of the BTC to provide commercial floor space to meet the job targets will not be affected.

4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

The Burwood 2030 Community Strategic Plan, last adopted by Council in December 2013, identifies the challenges of balancing growth, preserving heritage while ensuring progress, innovation and protection of the environment. The following strategic goals and actions are particularly relevant:

- Strategic Goal 3.1 seeks to maintain and enhance open spaces and streetscapes. One of the actions identified to achieve this goal is to implement strong planning controls to provide open space. The Planning Proposal will strengthen planning controls for the provision of open space and the improvement of streetscapes, through inserting design excellence provisions within the BLEP.
- Strategic Goal 4.5 seeks to provide vibrant and clean streetscapes. One of the actions identified to achieve this goal is to encourage architectural integrity and aesthetically appealing buildings. Again, the Planning Proposal will help this action and achieve the strategic goal, through the insertion of design excellence provisions within the BLEP.
- Strategic Goal 5.1 seeks to support and manage Burwood's major centre status. One of the actions identified to achieve this goal include pursuing funding for infrastructure that supports commercial activities. The Planning Proposal will introduce a planning mechanism to allow for bonus development in return for a monetary contribution and/or a material public benefit, which will be over and above the Section 94A contribution requirements. This approach provides a further funding opportunity for infrastructure to support activities in the BTC, thereby implementing the action and meeting the strategic goal.

Also, the amendment to the BLEP resulting from the Planning Proposal will be consistent with the following principles adopted by Council on 12 October 2010, in the preparation and consideration of the BLEP 2012:

- Create an overall compact urban structure with greater housing choice.
- Improve the design and quality of the built environment by using appropriate development standards to facilitate good urban design.
- Allow and encourage the economic development of land.

5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

There are no State Environmental Planning Policies which the Planning Proposal would contravene.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?*

Consistency with the applicable Directions (under section 117(2) of the Environmental Planning and Assessment Act 1979) issued by the Minister for Planning for planning proposals lodged with the DPE, on or after the date the particular direction was issued, is assessed below:

Direction	Objectives	Consistency
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes. The Planning Proposal is to amend the BLEP by inserting design excellence provisions, part of which requires the consent authority to have regard to how the proposed development addresses any heritage issues and streetscape constraints. The Planning Proposal will not seek to alter the Heritage Schedule in the BLEP.
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Yes. The Planning Proposal is to introduce a planning mechanism to allow for bonus development. The bonus development is to be for residential purposes, based on the current market conditions, thereby providing additional medium to high density housing to address the demand and supply. The bonus development is proposed to be permitted within the Burwood Town Centre, which is a Major Centre of the Inner West, with good access to public transport, retail and commercial activities and services.

		Council has been cautious and conservative by limiting the bonus development to a maximum 10% of the permitted FSRs in the Commercial Core and Middle Ring Areas within the BTC, so as to minimise the impact of this additional residential development on the environment and the adjoining lands. The Planning Proposal is to introduce additional planning controls to seek design excellence in new development including residential buildings.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services	Yes. The Planning Proposal is consistent with the objectives of this direction, as it provides for additional development in the BTC, which has good access to public transport, housing, jobs and services.
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Yes. The Planning Proposal does not introduce any concurrence, consultation or referral requirements.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. This direction provides that a planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any	The Planning Proposal may be inconsistent with Provision (c) (stated in the left column) of this direction, in that it proposes to amend the BLEP to allow for bonus development while setting a limit for such bonus to a maximum 10% of the permitted FSRs in the B4 Mixed Use zone, and to require design excellence by imposing additional controls on new development. As stated above, Council has been conservative in applying this bonus floor space limit, in order to minimise the impact of bonus development on

	development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	the amenity of adjoining lands. The bonus limit stems from findings of the BTC Urban Design Study, undertaken for Council by the urban design consultants. The proposed additional controls on design excellence are similar to the provisions found in some other councils' LEPs. Any inconsistency with this direction is therefore considered justified.
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Yes. This Planning Proposal meets the objectives and actions of the Metropolitan Plan for Sydney 2036.

Section C – Environmental, Social and Economic Impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. There are no known critical habitats or threatened species, populations or ecological communities, or their habitats which would be expected to be affected.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. There are no other likely environmental effects as a result of the Planning Proposal, such as flooding, landslip, bushfire hazard and the like.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The Planning Proposal seeks to amend the BLEP by inserting design excellence provisions, part of which requires the consent authority to have regard to how the proposed development addresses any heritage issues and streetscape constraints. It will not alter the Heritage Schedule in the BLEP. As such, the Planning Proposal will not have any adverse effect on the existing heritage items in the BTC.

The Planning Proposal also seeks to introduce a planning mechanism to allow for bonus development to take advantage of good access to public transport and retail and commercial activities and services in the BTC. The bonus development will be in return for a monetary contribution and/or a material public benefit over and above the Section 94A contributions, which a developer may be willing to provide. Such an approach offers a new funding opportunity to improve the local infrastructure. It will generate additional housing and population, which will in turn stimulate retail and service activities within the BTC.

School and hospital land uses are already permitted in the B4 Mixed Use zone. It is expected that the population demand together with the market conditions would influence the supply of social infrastructure.

The community and public authority consultation of this Planning Proposal, in accordance with the conditions stipulated in the future Gateway Determination, will also investigate social and economic effects, and explore options for their management.

Section D – State and Commonwealth Interests

10. *Is there adequate public infrastructure for the planning proposal?*

Additional housing would be generated by the 10% bonus FSRs within the Commercial Core and Middle Ring areas of the BTC, as proposed under this Planning Proposal. It is difficult to forecast the precise number of additional housing. However, it is considered to be within the capacity of the existing, and future planned upgrades of, public infrastructure.

Council undertakes progressive upgrades of local infrastructure such as footpaths, roads and traffic management in accordance with a capital works program, which is updated and endorsed by Council on an annual basis.

The community and public authority consultation of this Planning Proposal, in accordance with the conditions set out in the future Gateway Determination, will inform any impacts of the proposal on the public infrastructure including rail and bus services, and explore options for their management.

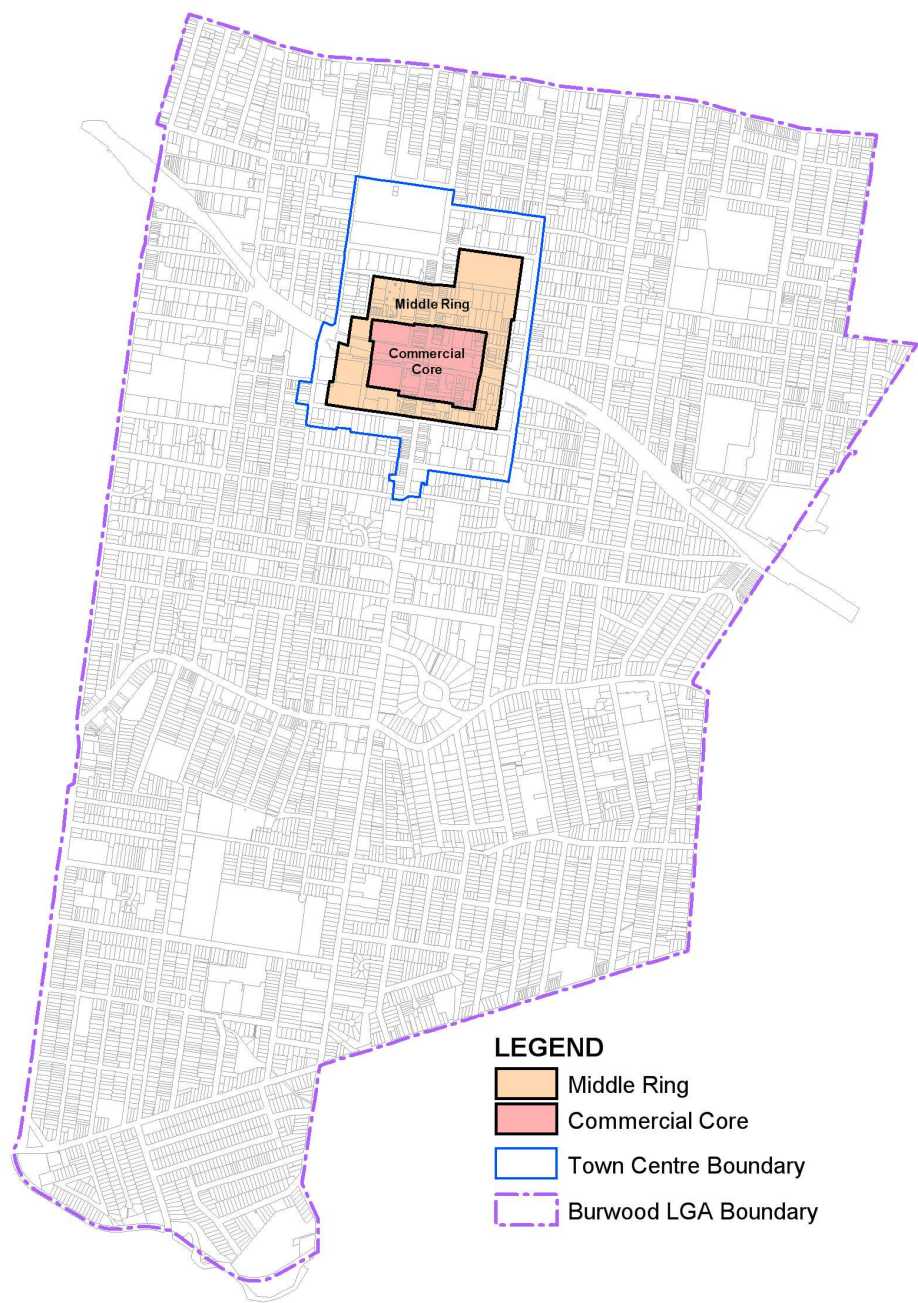
11. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?*

Given the additional housing to be generated by the 10% bonus FSRs within the BTC is considered to be minor, the pre-lodgement consultation is not warranted. It is expected that RailCorp, Transport for NSW, Sydney Buses, State Transit Authority and Roads and Maritime Services would be consulted to ascertain impacts of the Planning Proposal on the State infrastructure.

The Gateway Determination can confirm any consultation required with State and Commonwealth authorities on the Planning Proposal.

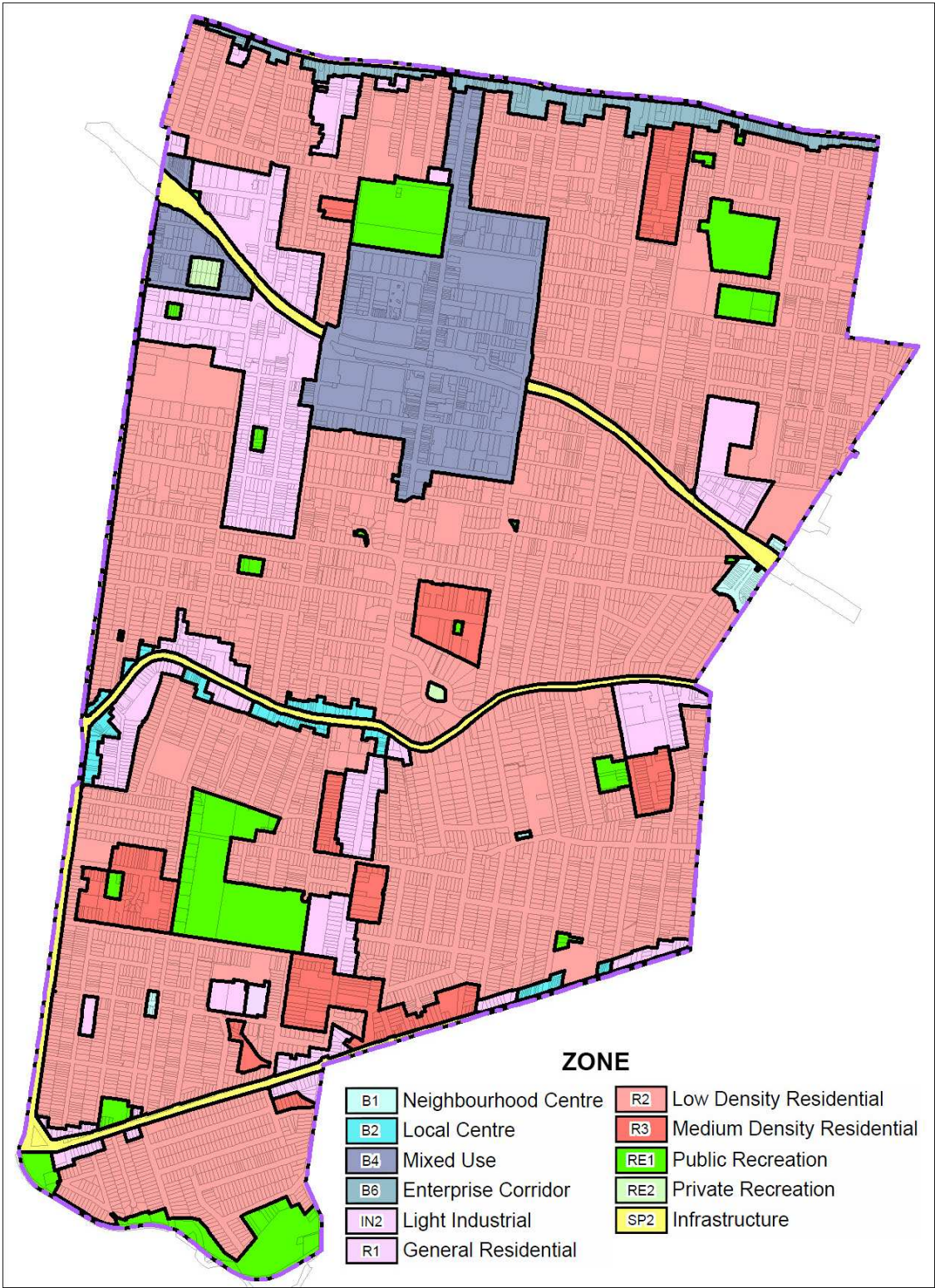
Part 4 – Mapping

Map 1: Land Subject to the Planning Proposal



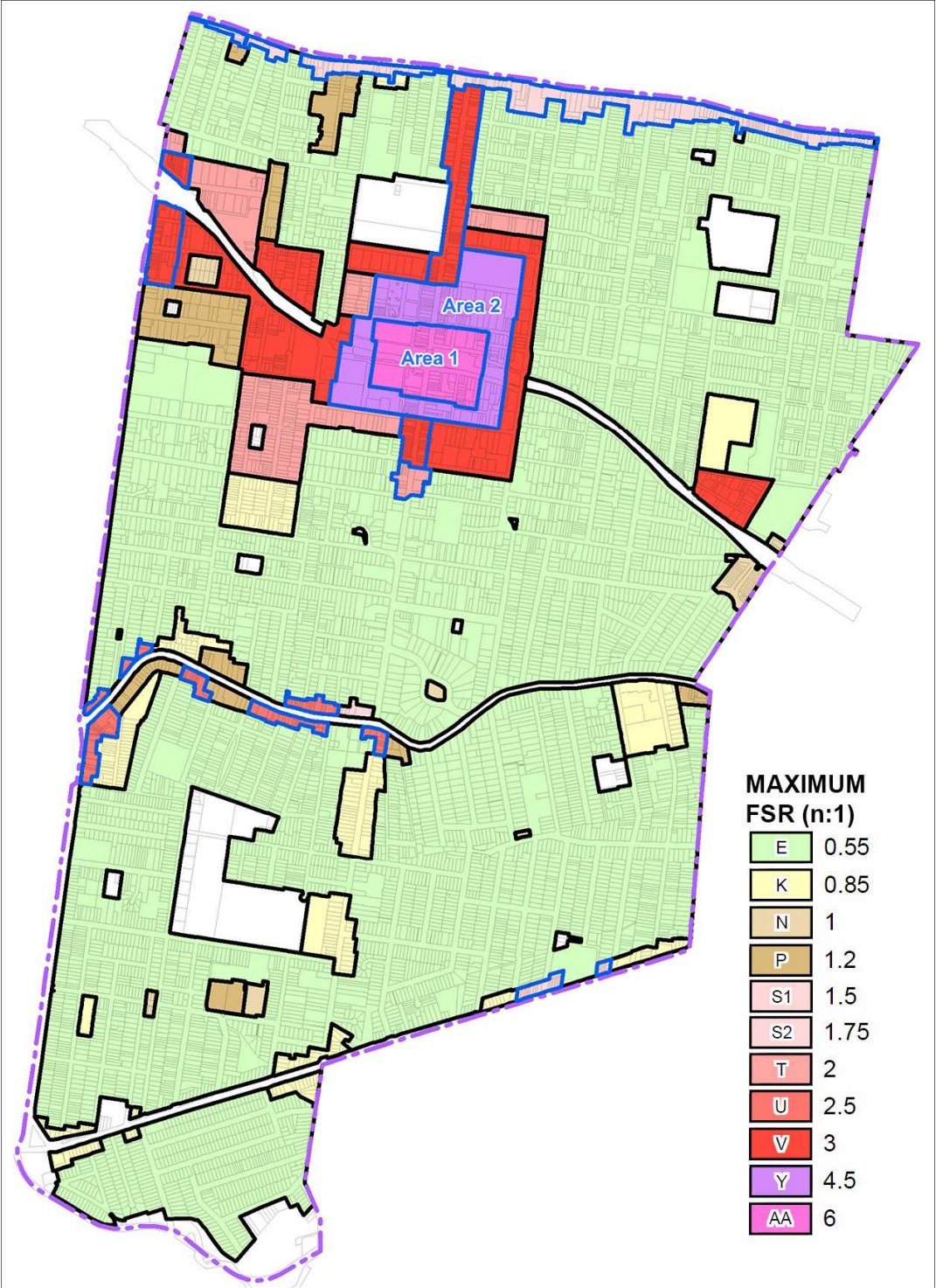
The proposed planning controls relating to design excellence will apply to all land in the Burwood LGA. The proposed controls relating to bonus residential floor space will apply only to the Commercial Core and Middle Ring areas of the Burwood Town Centre.

Map 2: Current Land Zoning Map



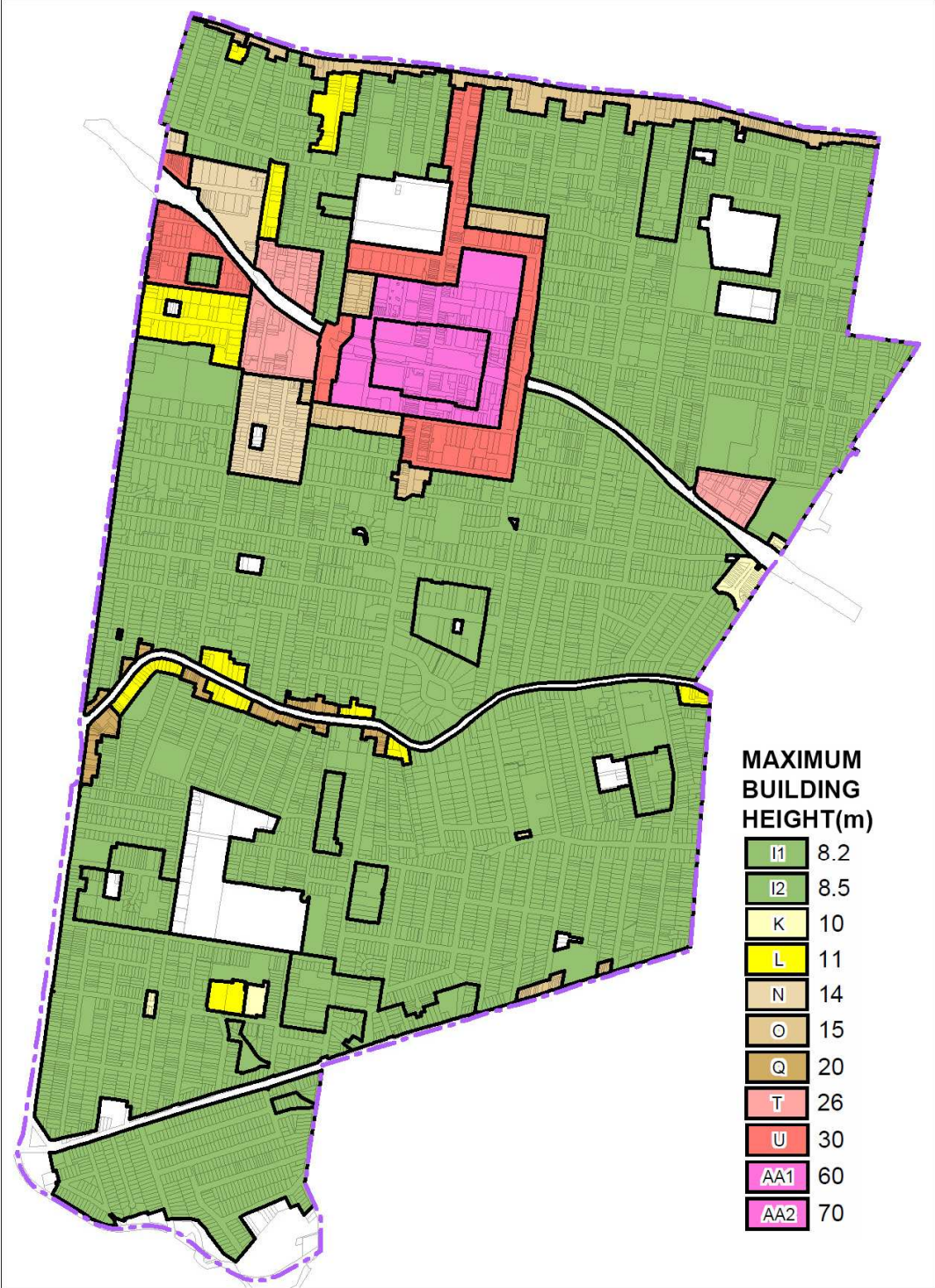
The Planning Proposal will not alter the Land Zoning Map.

Map 3: Current Floor Space Ratio Map



The Planning Proposal will not alter the Floor Space Ratio Map.

Map 4: Current Height of Building Map



The Planning Proposal will not alter the Height of Building Map.

Part 5 – Community Consultation

The Planning Proposal is considered to be of low impact. As such, it is proposed to be placed on public exhibition, following the Gateway Determination, for 14 days. A notice of exhibition of the Planning Proposal will be published in a local newspaper. All relevant documentation will be made available for inspection at Council's Customer Service Counter, in Burwood Library and on Council's website.

The Gateway Determination can confirm and specify the community consultation that must be undertaken on the Planning Proposal.

Part 6 – Project Timeline

Anticipated date of Gateway Determination	By end of October 2014
Anticipated timeframe for the completion of required technical information	Mid November 2014
Timeframe for government agency consultation	Mid November to early December 2014
Commencement and completion dates for the public exhibition period	Mid November to early December 2014
Dates for public hearing	Not Applicable
Timeframe for consideration of submissions	December 2014 to January 2015
Timeframe for the consideration of a proposal post exhibition	February 2015
Anticipated date RPA will make the plan (if delegated)	End of February 2015
Anticipated date RPA will forward to the department for notification (if delegated)	March 2015