

(ITEM 23/21) PLANNING PROPOSAL FOR HOUSEKEEPING AMENDMENTS TO BURWOOD LOCAL ENVIRONMENTAL PLAN 2012

File No: 21/13279

REPORT BY SENIOR STRATEGIC PLANNER

Summary

A Planning Proposal has been prepared to make three amendments to the Burwood Local Environmental Plan (BLEP) 2012:

- (1) Rezone properties in Livingstone Street, Sym Avenue, and part of Clarence and Church Streets Burwood from R2 Low Density Residential to R1 General Residential or R3 Medium Density Residential with corresponding development standards and controls.
- (2) Rezone a majority of properties on the northern side of Mitchell Street Enfield within the Mitchell and Kembla Streets Heritage Conservation Area from R3 to R2.
- (3) Update the Heritage Schedule and Map in the BLEP for the former Masonic Temple building at 45 Belmore Street Burwood.

The Planning Proposal has been considered and supported unanimously by the Burwood Local Planning Panel (BLPP). It is recommended that the Planning Proposal be submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.

Operational Plan Objective

- 1.2.1 Inform the community of Council's activities, facilities and services using accessible communication
- 2.1.3 Ensure transparency and accountability in decision making

Background

A review of the BLEP was conducted in order to implement the Eastern City District Plan developed by the Greater Sydney Commission (GSC) and to give effect to the Burwood Local Strategic Planning Statement (LSPS) approved by the GSC.

A report was presented to the Council meeting of 24 November 2020 on the review of the BLEP. It was resolved in part that:

2. *Council provide endorsement to proceed with the preparation of a housekeeping LEP amendment that considers the following items:*
 - a. *Livingstone Street, Sym Avenue, Clarence and Church Streets, Burwood*
 - b. *Former Masonic Temple building*
 - c. *Mitchell and Kembla Streets Conservation Area*
3. *Council endorse the preparation of a consultation strategy noting the commitment to undertake direct consultation in response to the nature of the BLEP amendment being proposed.*
4. *Council note the overall timeframe to complete this housekeeping Planning Proposal currently programed to be endorsed by mid-2022.*
5. *This housekeeping Planning Proposal be reported to Council for endorsement after it has been reported to the BLPP and before it is submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.*

In accordance with the Council resolution, a consultation strategy, specific to the Livingstone Street and Sym Avenue, Clarence Street and Church Street Precincts, was developed, engagement with the land owners, residents and/or occupiers was carried out, and a Planning Proposal was prepared, which was reported to the BLPP on 13 April 2021.

The Planning Proposal seeks to make the first of two tranches of amendments to the BLEP. The main change proposed in this Planning Proposal serves as a pilot scheme for rezoning and setting development standards and controls for suitable urban infill locations across the LGA. The proposed amendment along with the methodology used, if endorsed by DPIE, will provide a framework which could be implemented across other potential urban infill areas of the Burwood Local Government Area (LGA) for further BLEP amendments.

Planning Proposal

1. Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct

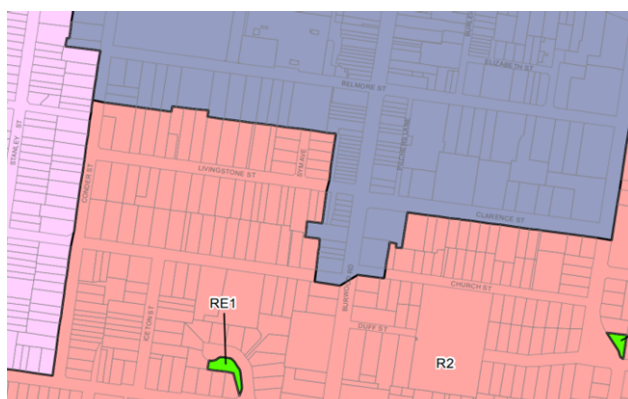
Objective

The Planning Proposal seeks to rezone land in Livingstone Street, Sym Avenue, Clarence and Church Streets with corresponding building height and floor space ratio (FSR) standards and additional local provisions.

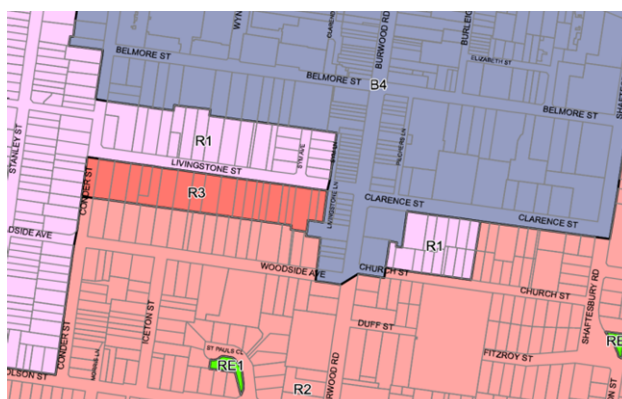
Explanation

The proposal is to:

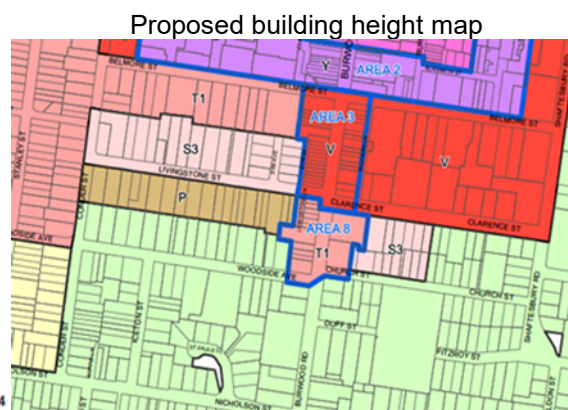
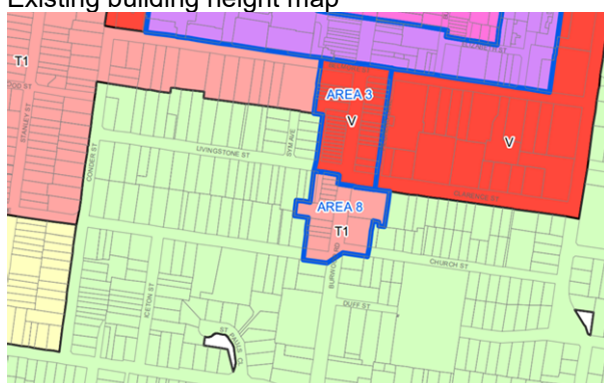
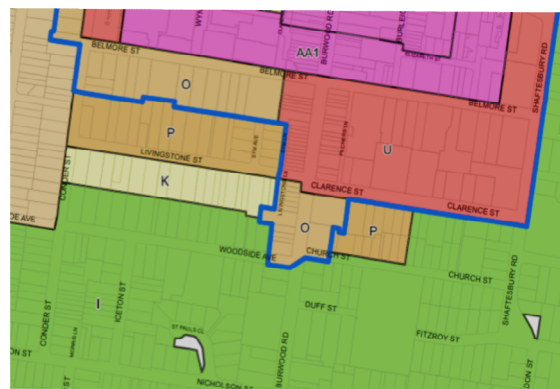
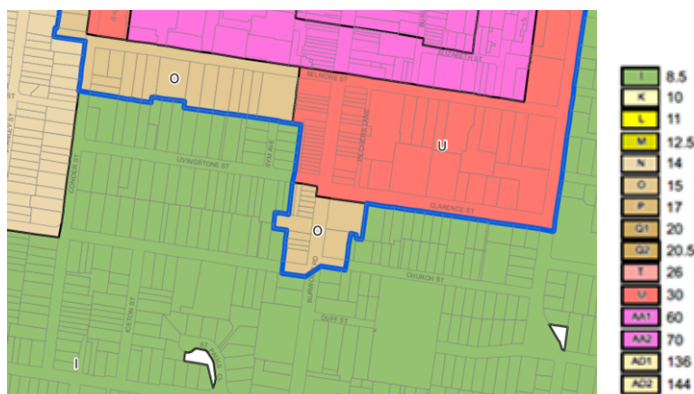
- Rezone the northern side of Livingstone Street, Sym Avenue, 10 – 18 Clarence Street and 7-17 Church Street Burwood from R2 Low Density Residential to R1 General Residential, and increase the maximum building height from 8.5m to 17m and the maximum FSR from 0.55:1 to 1.8:1.
- Rezone the southern side of Livingstone Street Burwood from R2 Low Density Residential to R3 Medium Density Residential, and increase the maximum building height from 8.5m to 10m and the maximum FSR from 0.55:1 to 1.2:1.



Existing zoning map



Proposed zoning map



- Remove part of the Building Height Plane (BHP) Line E next to 18 Conder Street Burwood, and lift the BHP Line B height from 1.8m to 7.2m.



Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
	1.8m	54°	East of BHP line

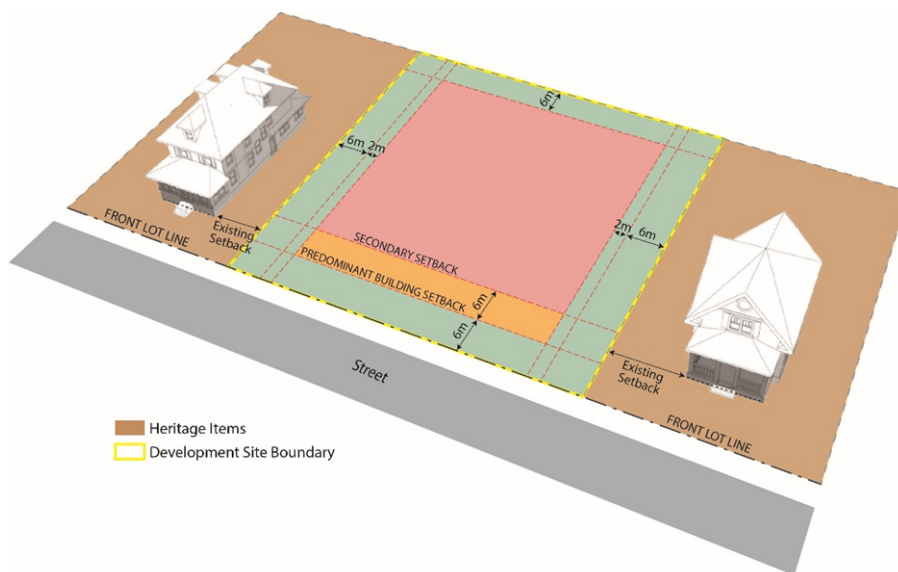
Existing BHP Line B height

Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
	7.2m	54°	East of BHP line

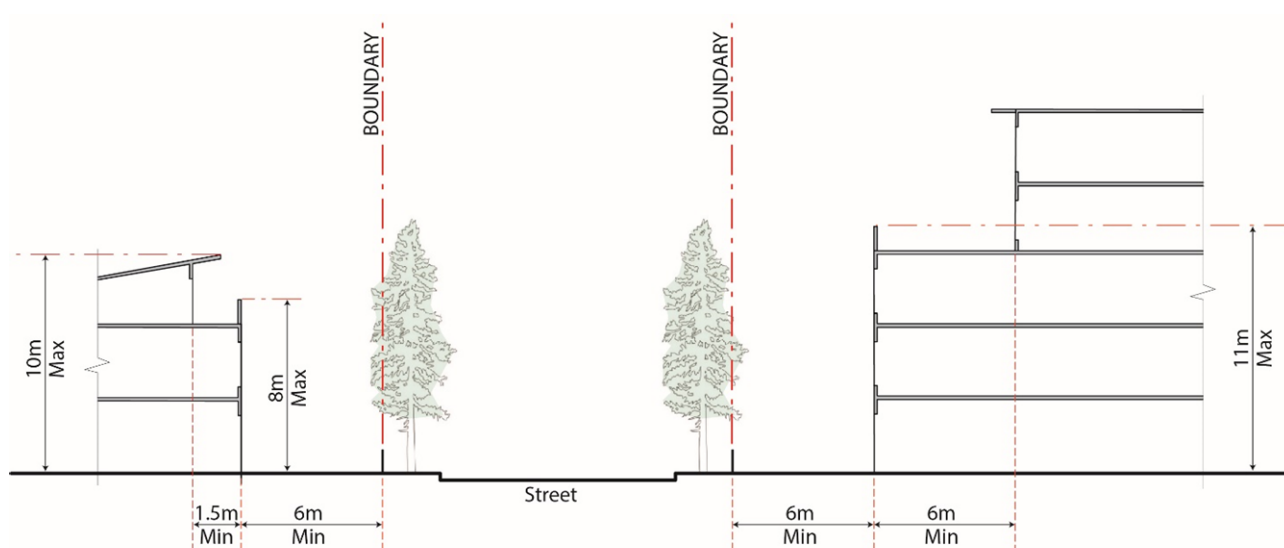
Proposed BHP Line B height

- Introduce additional local provisions on:
 - Setback, including:
 - Minimum 6m predominant building setback from any street frontage.
 - Minimum 2m extra setback from a boundary adjoining a heritage item, in addition to the setback requirements in the Apartment Design Guide (ADG) or equivalent guide once State Environmental Planning Policy No. 65 and the ADG are superseded.

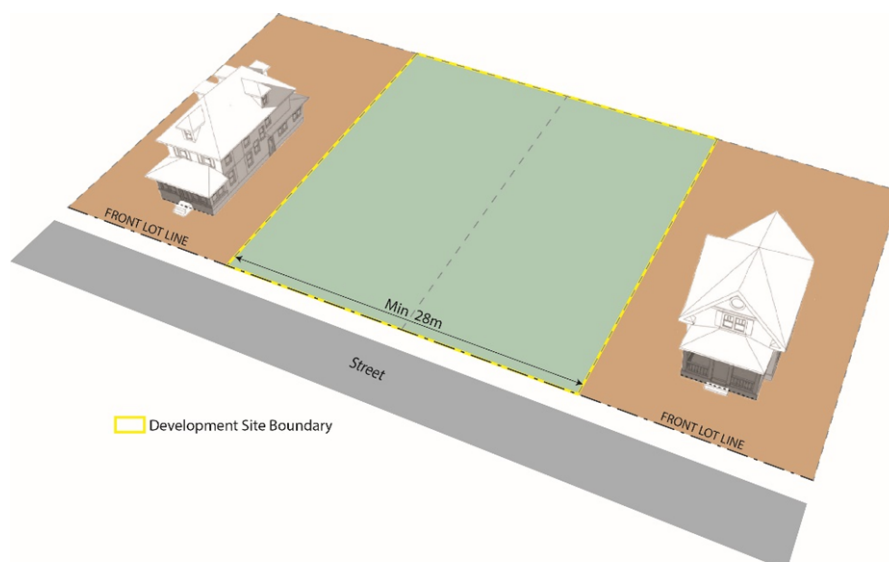
- Minimum secondary setback of 6m for all streets except for the southern side of Livingstone Street, which is to have a minimum secondary setback of 1.5m, and Sym Avenue, which is to have a minimum secondary setback of 3m.



- Wall height: a maximum street wall height of 11m for all streets except for the southern side of Livingstone Street which is to have a maximum street wall height of 8m.



- Frontage: a minimum frontage of 28m before development for residential apartments, terraces or townhouses can be carried out.



- Site area: a minimum site area of 1500sqm (i.e. $> 28\text{m} \times 48\text{m} = 1344\text{sqm}$) for boarding house development and for sites including a heritage item.
- Building frontage: a maximum length of uninterrupted building frontage of 12m for terrace or townhouse development in order to achieve substantial articulation in the form of an indent, recess or physical break along the length of the front elevation.
- Landscaped area: a minimum landscaped area of 40% of the site including a substantial provision of deep soil planting for residential apartment, terrace or townhouse development, to be provided at ground floor.

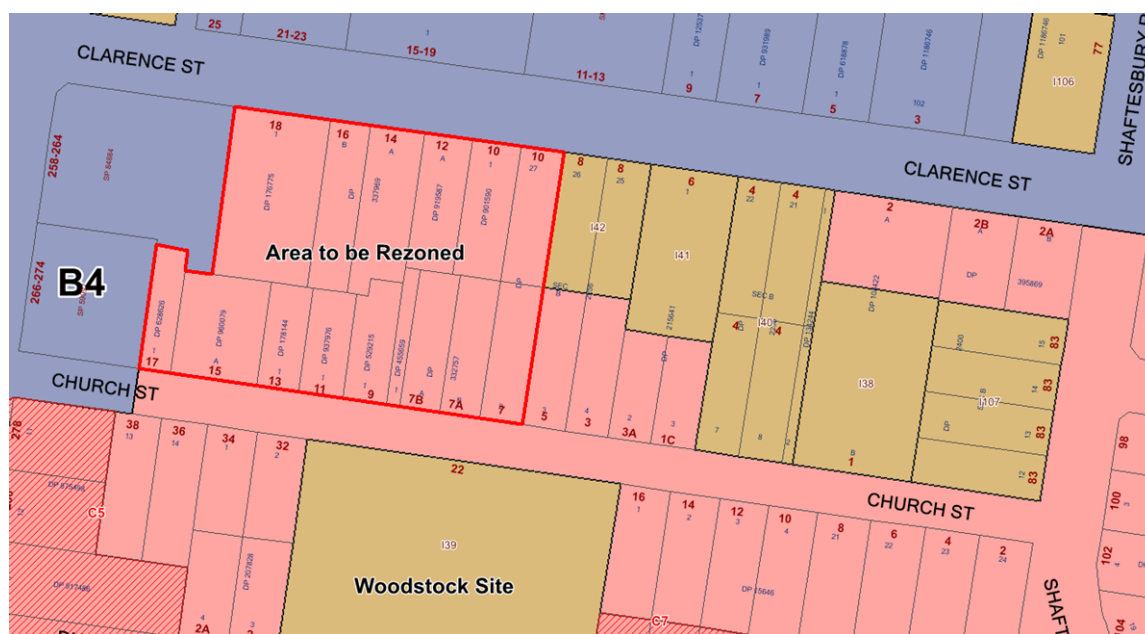
Rationale

The proposal is based on the following rationale:

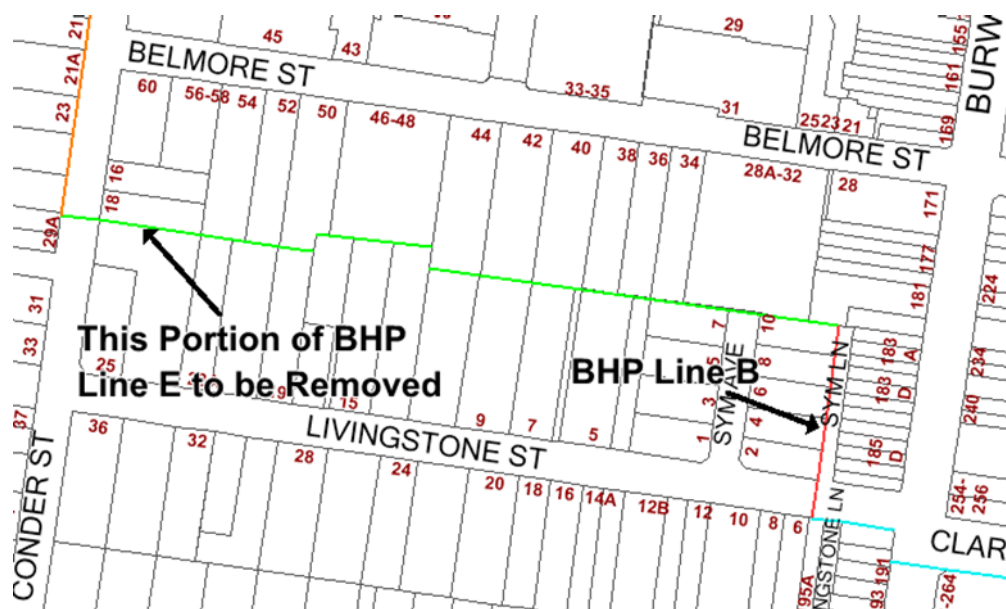
- The two precincts are located in close proximity to the Burwood Town Centre, with easy access to available retail, commercial and public transport services.
- The Burwood LSPS identifies the precincts as two of the eight Local Character Investigation Areas, with the aim in part of providing a transition between the higher density development in the Burwood Town Centre and the low rise buildings outside of the town centre, conserving heritage buildings as well as addressing amenity issues.
- The community consultation outcome is that 61% of the survey respondents had a preference for four to five storey residential apartment developments therein.
- The proposed rezoning as described is supported by land use economic viability testing.
- Council's Traffic and Transport team has advised that intersection upgrades would be required to accommodate the development generated from the rezoning, the team however, has raised no objection to the proposal.
- Development controls on setback, street wall height, frontage, site area, building length and landscaped area etc will be included in the LEP in order to protect streetscape character, achieve acceptable design outcomes, address amenity concerns and minimise impacts on heritage items. LEP provisions also carry more weight than provisions in a Development Control Plan (DCP) hence adoption of this approach.
- Allowing three storey terrace or townhouse development for the southern side of Livingstone Street is aimed at providing a degree of transition between the five storey building height for the northern side of the street and the two storey residences further south, without causing

amenity issues for the interface, as well as achieving a more balanced streetscape appearance.

- A group of five heritage items occupy the majority of the eastern part of the Clarence and Church Streets Precinct. This area has been excluded from the proposed rezoning to ensure the significance of existing heritage items will not be undermined by development of the non-heritage items in this part of the precinct. The impact of development in the western part of the precinct on Heritage Item No. 142 (i.e. 8 Clarence Street) will be managed through additional local provisions in the LEP. Refer to map below.



- Although three storey only developments for the northern side of Church Street would provide a better transition between the higher rise buildings in the Burwood Town Centre and the two storey residences on the southern side of Church Street. The economic testing has shown that a three storey development outcome would not be viable. This is due to the limited yield which is restricted by the small size and shallow depth of those lots. This option has therefore been discounted.
- All properties within the red outline above will be rezoned to R1 to allow for five storey apartment development. This outcome is supported by the economic testing and the proposed design controls in relation to heritage, secondary setbacks and built form will mitigate the impacts associated with the relationship to two storey dwellings on the southern side of Church Street.
- The proposed density is in keeping with the objective of locating housing close to open space and community facilities. In this case, the Woodstock building and open space, owned by Council, are accessible off Church Street. Refer to the map above.
- The portion of the existing BHP Line E next to 18 Conder Street will be removed to help allow for orderly development at 18 Conder Street. The rest of the BHP Line E along the Belmore and Livingstone Streets' interface is to remain in order to prevent development in Belmore Street from being built to the southern boundary, which would result in poor building, landscaping and amenity outcomes along the zone change. The existing BHP Line B along the western side of Sym Lane will have its BHP line height increased to help allow for orderly development in Burwood Road while ensuring the eastern elevation of development in Sym Avenue will not be overshadowed by development in Burwood Road. Refer to map below.



2. Mitchell and Kembla Streets Heritage Conservation Area (HCA)

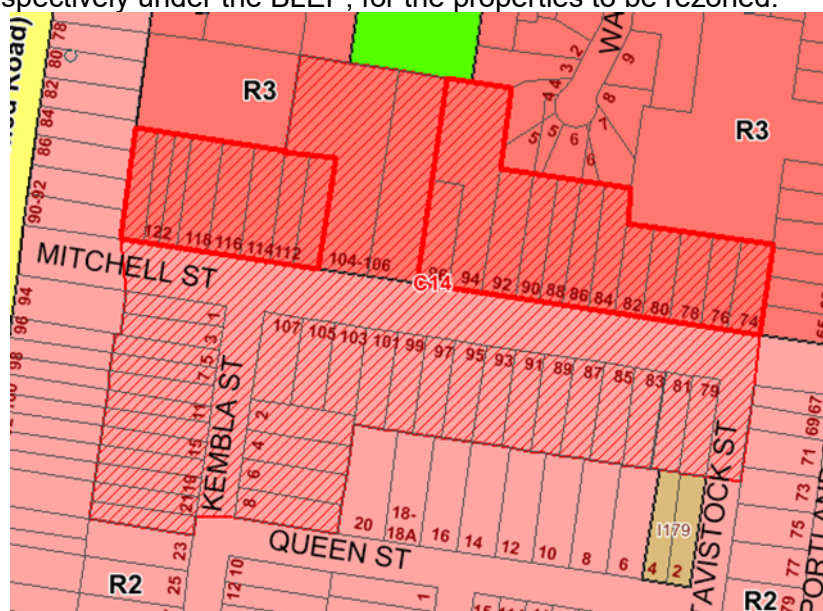
Objective

The Planning Proposal seeks to apply R2 Low Density Residential zone to all properties within the Mitchell and Kembla Streets Heritage Conservation Area (HCA), except for 104-106 Mitchell Street Enfield, which has already been developed with medium density housing.

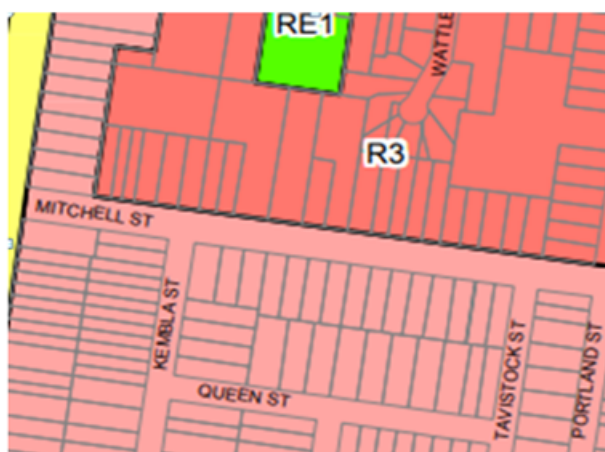
Explanation

The proposal is to:

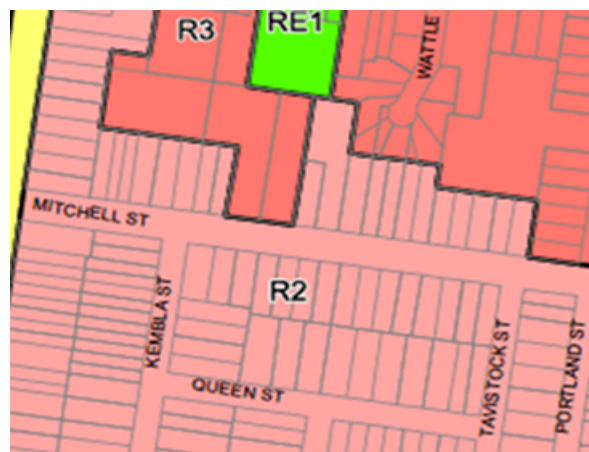
- Rezone the northern side of Mitchell Street Enfield in the Mitchell and Kembla Streets HCA from R3 Medium Density Residential to R2 Low Density Residential to match the zoning of the southern side of Mitchell Street Croydon Park, with the exception of 104-106 Mitchell Street Enfield, which contains existing medium density housing.
- Make no change to the maximum building height and maximum FSR standards, being 8.5m and 0.55:1 respectively under the BLEP, for the properties to be rezoned.



Existing zoning of Mitchell and Kembla Streets HCA.
The hatching denotes the HCA. The thick red outlines denote properties to be rezoned.



Existing zoning map



Proposed zoning map

Rationale

A petition was received in May 2020 with signatures from 28 house addresses (out of 36 land parcels) in Mitchell Street Enfield and Croydon Park. It was stated in the petition that the residents in the HCA were alarmed by the zoning of the northern side of Mitchell Street being R3 Medium Density Residential, and that the type of housing allowed in the R3 zone would contravene the conservation area status and would go against the streetscape of the area. The petition requested Council to change the northern side of Mitchell Street to R2 Low Density Residential.

It is stated in the report to the 24 November 2020 Council meeting that:

- The R3 zoning is incongruous to the properties zoned R2 in the HCA.
- Properties in HCA could be rezoned to either R2 or R3 so that only one type of zoning applies.
- An R2 Low Density Residential zone is considered more appropriate to protect the character of the conservation area.

The report to Council further states that this matter requires further investigation to determine the implications of the two zonings upon the long term preservation of the conservation area, and that this matter be included as part of this Planning Proposal.

In this regard, given an R2 zone mainly allows one to two storey dwelling houses while an R3 zone allows two storey townhouses or two storey plus attic terraces, the inconsistent zoning could lead to incompatible streetscape character between the two sides of Mitchell Street.

Hence this Planning Proposal seeks to rezone the northern side of Mitchell Street, Enfield in the HCA from R3 Medium Density Residential to R2 Low Density Residential. The property at 104-106 Mitchell Street Enfield will be excluded from the rezoning as it has already been developed with medium density housing in approximately late 1970s.

The R2 and R3 zones are currently subject to the same maximum building height and FSR standards under the BLEP. Rezoning the northern side of Mitchell Street Enfield in the HCA from R3 to R2 would not affect the development potential of the properties concerned.

3. Former Masonic Temple Building

Objective

The Planning Proposal seeks to update the Heritage Schedule and Heritage Map in the BLEP to reflect the correct street address, lot and deposited plan numbers and land parcel shape for the heritage item of the former Masonic Temple building.

Explanation

Schedule 5 Environmental heritage would be amended to show the following details for Heritage Item No. 18:

Suburb	Item name	Address	Property description	Significance	Item no
Burwood	Masonic Temple	45 Belmore Street	Part Lot 104, DP 1258893	Local	18

The Heritage Map of the BLEP 2012 would be amended to include the land parcel at 45 Belmore Street only as the Heritage Item.



The heritage listing would apply to the whole of the land parcel (i.e., part Lot 104 in DP 1258893) containing the former Masonic Temple building, as is the usual case for listings under Schedule 5 and the Heritage Map.

Rationale

The former Masonic Temple used to occupy two parcels of land, at 43 and 45 Belmore Street Burwood. The building is a heritage item listed in the Heritage Schedule and on the Heritage Map of the BLEP.



Existing heritage map



Aerial photo of current former Masonic Temple building

Consent for Development Application No. 193/2015 was granted for the construction of a mixed use development comprising a commercial podium, three residential towers and commercial floor space with multi-storey basement parking at 39 - 47 Belmore Street Burwood. The development involved partial demolition of the former Masonic Temple building.

The development has been completed and new subdivision plans have been registered with NSW Land Registry Services. The heritage building after completion of the development has been given a new street address and lot and deposited plan numbers.

Council therefore takes this opportunity to update the Heritage Schedule and the Heritage Map in the BLEP to reflect the current street address, lot and deposited plan numbers for this heritage building.

The existing Heritage Map in the BLEP shows the footprint of the heritage building before the partial demolition (see the excerpt above), while the heritage items nearby and in the rest of the LGA are shown as having their whole land parcels identified, which is the usual case for listings under Schedule 5 and the Heritage Map.

Therefore the updated Heritage Map would see the part lot containing the heritage building being identified like all other heritage items.

BLPP's Consideration

The BLPP considered the Planning Proposal at its meeting on 13 April 2021. It was resolved:

*That the Burwood Local Planning Panel **SUPPORT** the Planning Proposal for housekeeping amendments to the Burwood Local Environmental Plan 2012.*

Further that any detailed planning documents prepared by the Council be exhibited with the Planning Proposal, if granted a Gateway Determination. The decision was unanimous.

Reasons for the decision

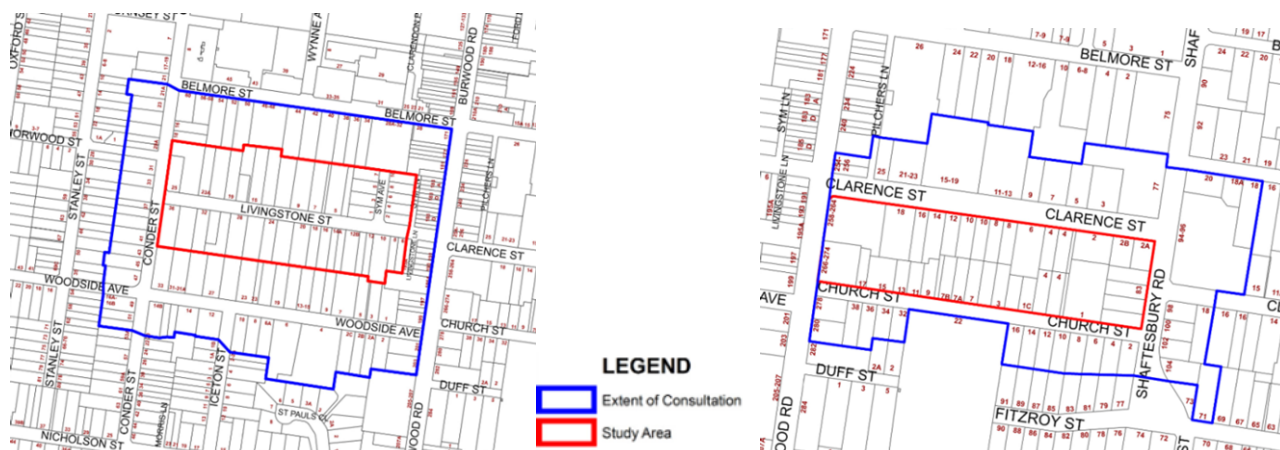
It was noted in the BLPP meeting minutes that in reaching its decision the Panel generally agreed with the rationale and conclusions set out in Council's report, and that the Panel also considered that residents would have a greater understanding of the changes proposed if the Planning Proposal was accompanied by more detailed planning documents.

In view of the BLPP's resolution, it is recommended that Council endorse the Planning Proposal and submit it to DPIE for a Gateway Determination.

Consultation

1. Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct

Prior to preparation of this Planning Proposal, community consultation was undertaken with residents, land owners and/or occupiers in these two precincts, as outlined below.



The consultation included:

- Online survey, by way of 'SurveyMonkey', between 20 January and 12 February 2021.
- Three drop-in information sessions in the week commencing 1 February 2021.
- Hard copies of 'SurveyMonkey' made available at all drop-in consultation sessions for completion.
- One-on-one sessions with planning staff upon request from those who were not be able to attend the drop-in sessions (total of three completed with summary records of meeting issued to attendees via email).
- Planning staff were available to answer any phone or face to face enquiries.

Arrangements for the consultation included:

- A Mayoral letter and an information brochure.
- The letter and brochure were sent to all residents, owners or occupiers of properties in and around the study areas (properties having a common boundary, having made prior submissions or within the visual catchment of the study area).
- Council's planning staff hand delivered the letter and brochure where the addresses were within or around the study areas.
- Information on the 'Have your say' section of Council's website.
- Six presentation boards for the information drop in sessions.
- On-going updates to the website content as a response to community requests/feedback.
- Social media updates and reminders on key deadlines and dates.
- Extension of deadlines for submission of 'SurveyMonkey' for community members who experienced technical difficulties accessing online portals.
- Professional submissions considered as part of the community input received.

As a result, 85 responses to 'SurveyMonkey' were received through the on-line portal. One was completed manually during a drop-in session. One hard copy was mailed to Council and five submissions were received by the Strategic team via e-mail. This is a total of 92. Key findings of the survey can be summarised below:

- 45% of the respondents were from Livingstone Street, 10-12% from Church Street, Sym Avenue, elsewhere or nearby, and 5% from Clarence Street.

- 51% of the respondents strongly disagreed with the option of terrace/ townhouse development while 13% disagreed with this option.
- 48.7% of the respondents disagreed with the option of three storey apartment buildings while 7.5% agreed with this option.
- 61% of the respondents agreed (including 51% who strongly agreed) with the option of four to five storey apartment buildings while 30% strongly disagreed with this option.
- 46% of the respondents would like to see more intensive development while 25% would like to remain as is.
- 48 respondents supported rezoning while 22 were against.

The table below contains a summary of opinions expressed in the survey returns and Council staff's comments.

Issues and/or Concerns	Council Staff's Comments
<p>Support rezoning and want to see more intensive form of development.</p> <p>Burwood is becoming the hub of the Inner West and needs the higher density developments as well as more retail accessibility and options to meet the demand.</p>	<p>The opinions are noted.</p>
<p>Request an extension of B4 zone to cover both precincts.</p>	<p>This is discussed under the 'Options' section of this report.</p>
<p>Would like no further developments in the area due to congestion, over development and rubbish dumping on footpaths, noise, parking and traffic issues, over shadowing, wind tunnels no greenery, safety, privacy and quality of life impacts.</p> <p>Further development needs to be balanced with maintaining the character of residences in the area.</p> <p>This suburb is fast becoming an ugly soulless concrete forest with no place for families to relax or any green space for children to play.</p> <p>The boarding house in Church Street is poorly maintained and untidy. Front yard is overgrown and garbage is always a problem. Drainage is an issue too.</p> <p>Older buildings need preservation and should not be dwarfed by high rise.</p> <p>Livingstone, Church and Clarence Streets are filled with beautiful heritage houses and should not be spoilt with new developments that would permanently alter the character of these streets and further diminish the heritage value that can</p>	<p>The opinions are noted.</p> <p>The proposed rezoning has been based on the results of the community consultation, site analysis and economic viability testing.</p> <p>The proposed rezoning would help meet the housing target for the Burwood LGA, give effect to the Burwood LSPS, which has identified Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct as Local Character Investigation Areas.</p> <p>The Planning Proposal is unlikely to receive the State Government's endorsement if no rezoning is proposed.</p> <p>Council acknowledges any visual, character and amenity impacts and impacts on heritage items that the rezoning could cause, and would mitigate these impacts through the introduction of local additional provisions in the LEP.</p>

<p>never be replaced. The constant destruction of the suburb's unique heritage and horrific over development must stop.</p> <p>The centre of Burwood is fine to develop - centering on the Railway corridor and the street front of Burwood Road. But keep the historical markers, and make them shine.</p>	
<p>There is already many high rises around the area. Church Street is narrow. It is not wise to rezone just one side of the street. So if the rezoning is to take place, both sides of the street should be considered.</p>	<p>Rezoning both sides of Church Street would have flow-on effects for properties further south.</p> <p>Development controls on setback, street wall height, frontage, site area, building length and landscaped area will be included in the LEP in order to improve the streetscape character of Church Street.</p>
<p>OK to have buildings as high as north side of Clarence Street.</p> <p>Being opposite to Woodstock Park, the side closer to Burwood Road can sustain a higher level of development.</p>	<p>The rezoning and development standards proposed are based on site analysis and economic testing.</p> <p>It is the staff's view that any development greater than the density proposed in the Planning Proposal would not lead to good design outcomes.</p>
<p>Want R1 or R3 zone to apply from Livingstone Street to Nicholson Street.</p> <p>Want to address the unsightly hotchpotch appearance of Conder Street.</p> <p>Have met with the Mayor at February 2020 Council meeting about the problem and asked for the whole length of Conder Street through to Nicholson Street to be reviewed.</p> <p>Conder Street is currently unbalanced in that different zones apply to different side of the street and needs urban renewal.</p> <p>Conder Street is perfect for medium and high density development given its level topography and close proximity to Burwood Town Centre.</p> <p>The entire length of Conder Street should be zoned to medium/high density with a minimum height limit of 12m to Nicholson Street.</p> <p>Refer to a submission made on behalf of some land owners by a planning consultant.</p>	<p>The submission made on behalf of the land owners by the planning consultant is discussed under 'Options' section of this report.</p>
<p>Would like to see more intensive and higher density development in the main town centre area and very clearly defined low density housing area outside the town centre.</p>	<p>The Burwood LSPS recommends the application of a transition zone for these precincts.</p> <p>The economic viability testing has revealed that</p>

<p>It is pointless if land can only be built up to 10m in the town centre, since manor houses and townhouses etc medium density housing pop up in all zones under the State Government policy. The supply of medium density housing will be self-fulfilling based on market demand.</p> <p>Lifts for prams, walkers, wheel chairs etc facilities are needed due to the demographic of Burwood being older people and young families. Three storey apartments serve no purpose.</p>	<p>development would be viable if at a (maximum) building height of 17m and FSR of 1.8:1 standards are adopted for most parts of these precincts.</p> <p>A 10m or three storey building height and a FSR of 1.2:1 are assigned to the southern side of Livingstone Street in order to provide transition, as some sites therein, with amalgamation, could achieve sufficient frontage and land size to allow for viable development, according to the economic viability testing.</p>
<p>The northern side of Livingstone Street was meant to be part of the Burwood Town Centre. Council decided to defer including Livingstone Street in the Burwood Town Centre pending a heritage study.</p> <p>Livingstone Street is the only street where the town centre boundary finishes on the back fence between B4 and R2 zoned properties. There is no backyard privacy, not to mention loss on maximum resale potential.</p>	<p>A search of Council records reveals that Council has never committed itself to including the Livingstone Street in the Burwood Town Centre. The genesis of the residents' impression regarding the inclusion of Livingstone Street as part of the town centre stems from the boundary of a deferred area in 'The Vision Document' dated March 2004. However, the boundary of the deferred area did not mean consideration for B4 at that time.</p> <p>The heritage study referred to was undertaken. The heritage consultant did not recommend listing more properties as heritage items or listing the area as a Heritage Conservation Area.</p> <p>The proposed rezoning should help address the concerns raised.</p>
<p>A heritage property owner would like to have their property delisted, or no zoning change should take place for the Clarence and Church Streets Precinct. Concerned with privacy.</p>	<p>A heritage item could not be delisted without an investigation and justification by the property owner and assessment by Council.</p> <p>It is proposed to rezone the western part of the Clarence and Church Streets Precinct in order to preserve the heritage items within the eastern part of the precinct.</p>

Councillor Workshops were held on 16 and 23 March 2021 concerning outcomes of the consultation, the proposed changes to the planning controls as well as details of economic viability testing for these precincts. A further Councillor Workshop has been scheduled for 20 April 2021, i.e., prior to the Planning Proposal going to this Council meeting.

A letter was sent out, advising all land owners, residents and/or occupiers who were invited to participate the consultation in February 2021, of the BLPP meeting of 13 April 2021 and this Council meeting, as well as the availability of viewing the reports on Council's website.

2. Mitchell and Kembla Streets Heritage Conservation Area (HCA)

Council's Heritage Advisor had a conversation with the head petitioner prior to the petition being submitted to Council in May 2020. No further consultation has been carried out since. A letter was sent out, advising the owners and residents of the properties affected and adjacent, of the BLPP

meeting of 13 April 2021 and this Council meeting, as well as the availability of viewing the reports on Council's website.

3. Former Masonic Temple Building at 45 Belmore Street Burwood

No consultation has been carried out, due to the housekeeping nature of the proposal. The property owner has been notified of the BLPP meeting of 13 April 2021 and this Council meeting.

Statutory community consultation will be carried out in accordance with the requirements of the Gateway Determination to be issued by DPIE.

Planning or Policy Implications

As mentioned before, this Planning Proposal seeks to make the first of two tranches of amendments to the BLEP. The main change proposed in this Planning Proposal, for the Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct, serves as a pilot scheme for further BLEP amendments for the rest of the Burwood LGA.

According to the Burwood Local Housing Strategy, there is substantial development in the pipeline to meet all of the housing targets for the LGA and no planning intervention is required. The six to 10 year (2021 to 2026) housing target has been identified as 2,030 dwellings while a pipeline supply of approximately 3,000 dwellings has also been identified for the same period.

The proposed LEP house-keeping amendment will assist in addressing any shortfall between 2016 - 2021. The proposed change to planning controls for the two precincts has the capacity for approximately 670 dwellings, or 620 additional dwellings (as approximately 50 dwellings exist on the properties to be rezoned), assuming 100% take up, which should help meet the six to 10 year housing target established in the Burwood Local Housing Strategy. This could potentially increase overall pipeline supply to approximately 3,620 dwellings.

The advice of the BLPP has been sought in respect to the Planning Proposal, as required. The BLPP has unanimously supported the proposal.

Should Council then resolve to progress the Planning Proposal, the general steps would be as follows:

- The Planning Proposal is submitted to DPIE for a Gateway Determination.
- Public exhibition and consultation with relevant State agencies are undertaken.
- The outcomes of exhibition and consultation are reported back to Council. The Council will decide whether to endorse the Planning Proposal in full or with amendments or not support.
- The Planning Proposal if endorsed by Council, will proceed to plan-making.
- Council staff liaises with the DPIE to draft the LEP amendment.
- The amendment to the BLEP will come into force from the date of publishing on the NSW legislation website.

The above process would take in the order of nine to 12 months to complete all steps outlined above.

Financial Implications

All works associated with preparing the Planning Proposal have been undertaken in house by Council staff, except for the economic testing, which was conducted by HillPDA engaged by Council's Strategic Planning team.

Options

Extending the B4 Mixed Use zone

Some land owners requested that the B4 Mixed Use zone be extended to apply to properties in both precincts.

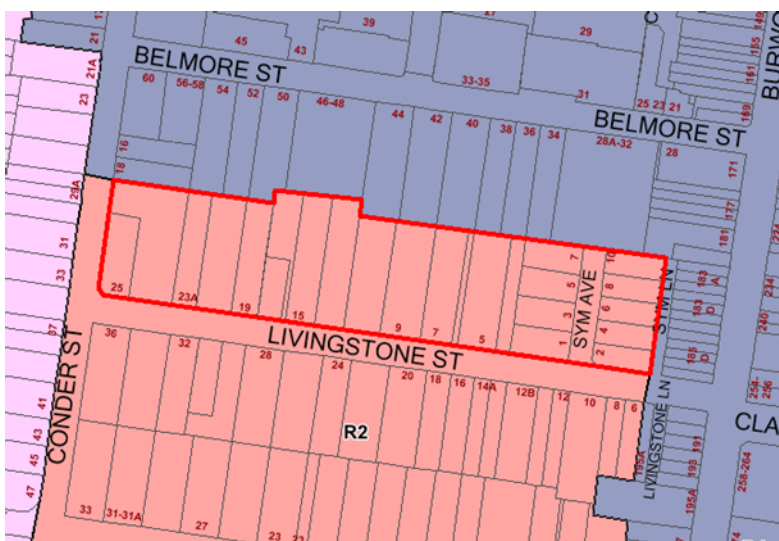
This option is not supported, since:

- Mixed use development, including commercial premises and other non residential type of land uses permitted in the B4 zone would have the potential to change the streetscape character completely.
- Podiums for mixed use development could be built from boundary to boundary, hence preventing open space, deep soil planting or landscaped areas at street level and between buildings. Any landscaped areas would be provided above podia.
- Redefining the Burwood Town Centre boundary would have flow-on impacts on the low rise residences to the south.

Submission by planning consultant

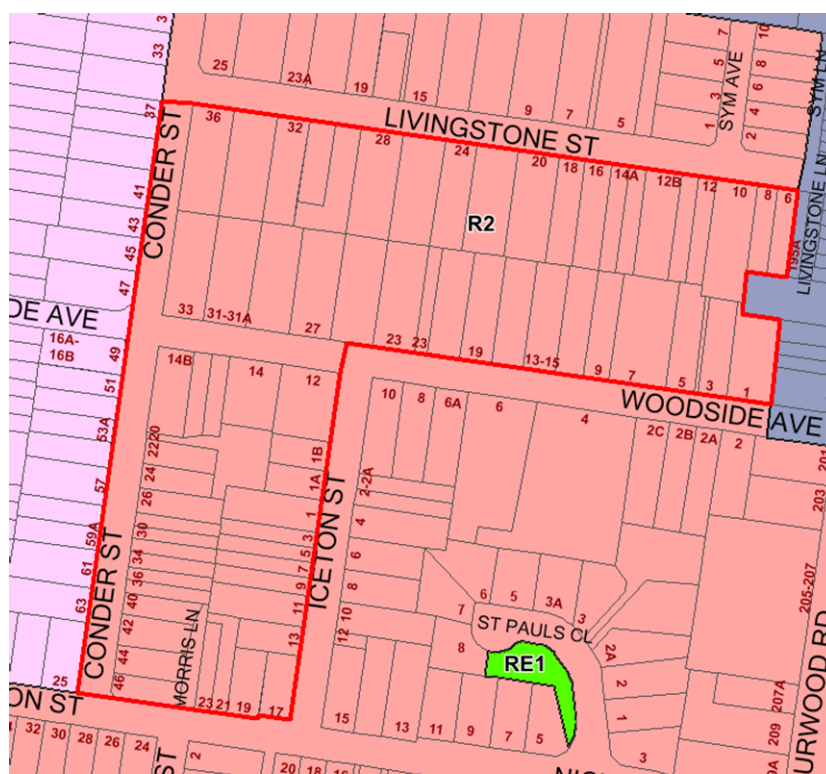
A submission by a planning consultant on behalf of some land owners requested Council to consider:

- Rezoning the northern side of Livingstone Street and Sym Avenue from R2 to R1, with a maximum building height of 14m and a maximum FSR of 2:1.



Existing zoning map. The red outline denotes the area in question.

- Rezoning the area within the outline on the map below from R2 to R1 or equivalent, with a maximum building height of 10m and a maximum FSR of 0.85:1. Refer to the map below.



Existing zoning map. The red outline denotes the area in question.

These suggestions are not supported, since:

- The suggested maximum building height and FSR standards have not been based on site testing and economic viability testing.
- There will be the flow-on impacts on the low rise residences adjacent and further south.
- Some properties especially those in the southern part are small in frontage and land size, making viable development impossible even with site amalgamations.

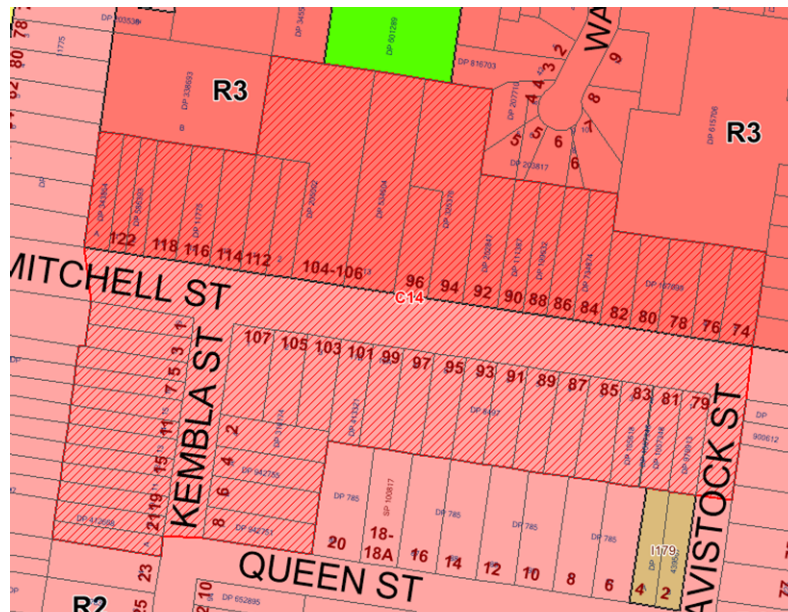
Clarence and Church Streets Precinct

One option is to do nothing for this precinct, on the basis that the owners of properties within the eastern part of the precinct had lobbied Council to upzone land. Upzoning the western portion of the precinct may be perceived as having the potential to create disparity. However, the latest round of consultation suggests that a number of owners within the eastern portion of the precinct do not support development.

Therefore, this 'do nothing' option is not recommended, since:

- Council is seeking to further supplement the dwelling supply and address any interim shortfall to comfortably meet the six to 10 year housing target. The do nothing option would risk DPIE not granting Gateway Determination for the entire Planning Proposal.
- The proposed local additional provisions on setback, wall height, frontage, land size and landscaped area etc would facilitate orderly development of good design while protecting the streetscape and mitigating any amenity impacts.

Mitchell and Kembla Streets Heritage Conservation Area



Existing zoning and boundary of the Mitchell and Kembla Streets HCA

One option would be to zone properties on the southern side of Mitchell Street and both sides of Kembla Street within the HCA to R3 Medium Density Residential to be consistent with the R3 zoning on the northern side of Mitchell Street.

This option is not recommended, given an R2 zone mainly allows one to two storey dwelling houses, which are the predominant character in the HCA while an R3 zone allows townhouses or terraces, rezoning to R3 would alter, rather than preserve, the character of the HCA.

Conclusion

The main part of this Planning Proposal has been prepared based on a rigorous process of community consultation, site analysis and economic viability testing. It will help meet the six to 10 year housing target and make up the shortfall in the 2016 – 2021 five year housing provision.

The Planning Proposal will help preserve the heritage character of the Mitchell and Kembla Streets HCA by addressing the zoning differences therein.

The Planning Proposal will also help keep the Heritage Schedule and Map in the BLEP updated through updating the property detail of the former Masonic Temple building.

Council's endorsement is sought for progressing the Planning Proposal to a Gateway Determination.

Recommendation(s)

1. That Council endorse the Planning Proposal for housekeeping amendments to BLEP 2012.
2. That Council submit the Planning Proposal to DPIE for a Gateway Determination.
3. That subject to the Gateway Determination, the Planning Proposal be publicly exhibited and consultation with affected property owners and relevant public authorities be undertaken.
4. That the results of the public exhibition and consultation be reported back to Council.

Attachments

- 1 Planning Proposal for housekeeping amendments to the Burwood Local Environmental Plan 2012



Burwood
Inc.1874

Planning Proposal

Amendment to Burwood Local Environmental Plan 2012

March 2021
File No.: 21/8177

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 NSW Department of Planning, Industry and Environment (DPIE) for its consideration, referred to as the Gateway Determination, and is also made available to the public as part of the community consultation process.

Introduction

Burwood Council is conducting a review of the Burwood Local Environmental Plan 2012 (BLEP) to help implement the Eastern City District Plan developed by the Greater Sydney Commission (GSC) and give effect to the Burwood Local Strategic Planning Statement (LSPS) approved by the GSC.

The Planning Proposal seeks to make the first of two tranches of amendments to the BLEP. The main change proposed in this Planning Proposal serves as a pilot scheme for rezoning and setting development standards and controls. The change, along with the methodology used, if endorsed by DPIE and proceeds to finalisation, would be advocated for or introduced to other areas of the Burwood Local Government Area (LGA) for further BLEP amendments.

Part 1 – Objectives or Intended Outcomes

This Planning Proposal seeks to:

1. Rezone land in Livingstone Street, Sym Avenue, Clarence and Church Streets Burwood with corresponding building height and floor space ratio (FSR) standards and additional local provisions.
2. Apply R2 Low Density Residential zone to a majority of properties on the northern side of Mitchell Street Enfield within the Mitchell and Kembla Streets Heritage Conservation Area (HCA).
3. Update the Heritage Schedule and Heritage Map in the BLEP to reflect the correct street address, lot and deposited plan numbers and land parcel for the heritage item of the former Masonic Temple building at 45 Belmore Street Burwood.

Part 2 – Explanation of the Provisions

1. Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct

Proposal

- 1) The following properties would be rezoned to R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8:1:

- Nos. 1, 3, 5, 7, 2, 4, 6, 8, and 10 Sym Avenue, Burwood
- Nos. 5 - 25 Livingstone Street, Burwood

The above properties are henceforth referred to as the Livingstone Street north and Sym Avenue sites.

The following properties would be rezoned to R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8:1:

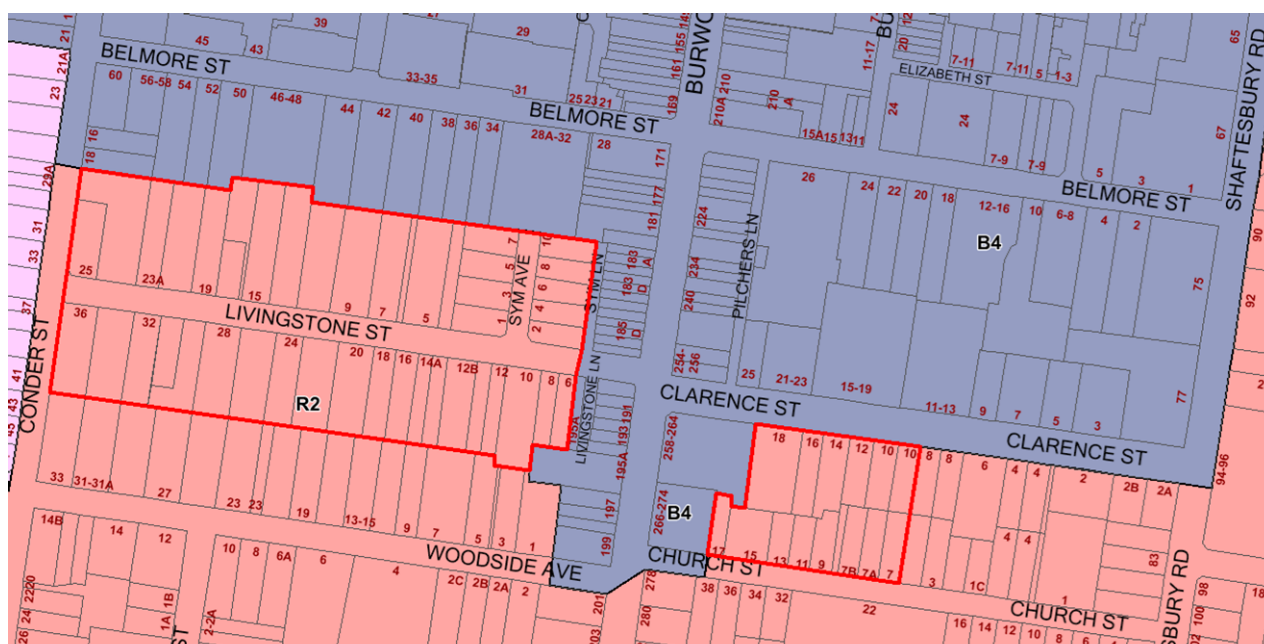
- Nos. 10 - 18 Clarence Street, Burwood
- Nos. 7 - 17 Church Street, Burwood

The above properties are henceforth referred to as the Clarence Street and Church Street sites.

The following properties would be rezoned to R3 Medium Density Residential, with a maximum building height of 10m and a maximum FSR of 1.2:1:

- 6 – 36 Livingstone Street, Burwood

These properties are henceforth referred to as the Livingstone Street south sites.



Existing land zoning map showing properties to be rezoned


- 2) Remove part of the Building Height Plane (BHP) Line E next to 18 Conder Street Burwood, and lift the BHP Line B height from 1.8m to 7.2m.




Existing: BHP lines as marked



Proposed: BHP lines as marked

Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
	1.8m	54°	East of BHP line

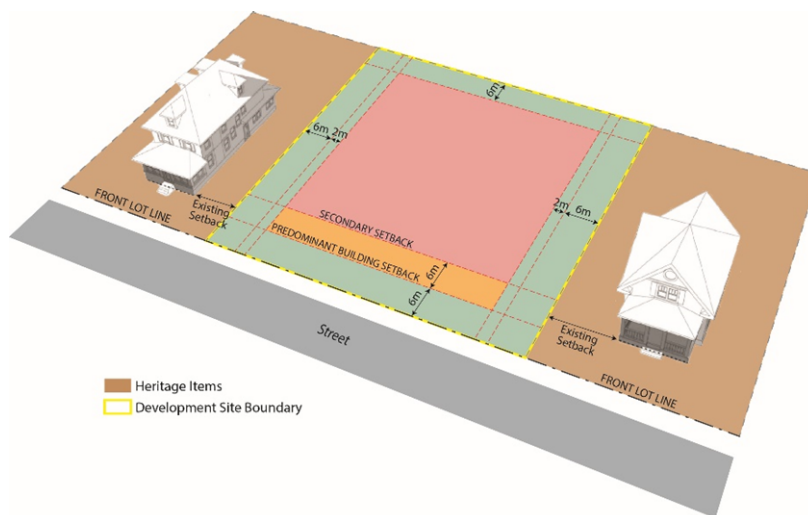
Existing BHP Line B height

Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
	7.2m	54°	East of BHP line

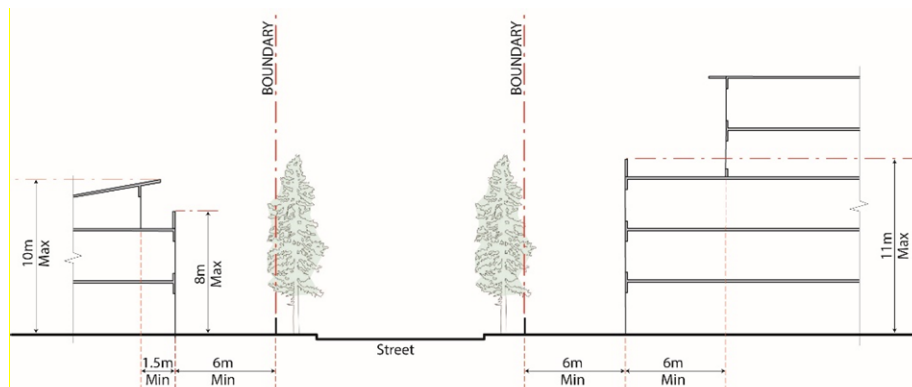
Proposed BHP Line B height

- 3) Introduce additional local provisions on:

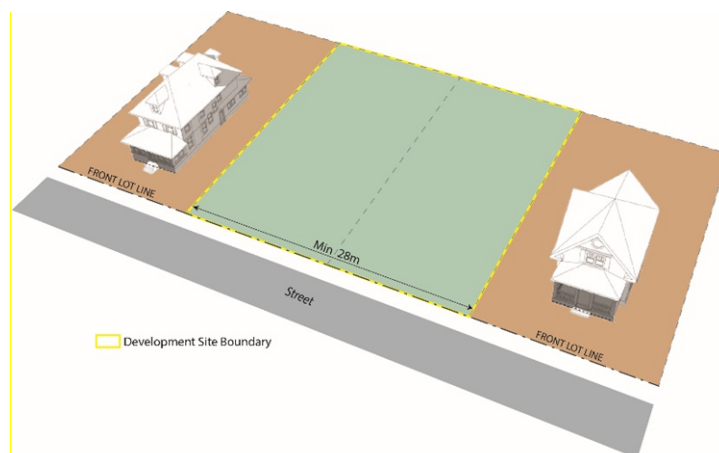
- Setback, including:
 - Minimum 6m predominant building setback from any street frontage.
 - Minimum 2m extra setback from the boundary adjoining a heritage item, additional to the setback requirements in the Apartment Design Guide (ADG).
 - Minimum secondary setback of 6m for sites in all streets except for the southern side of Livingstone Street, which is to have a minimum secondary setback of 1.5m, and Sym Avenue, which is to have a minimum secondary setback of 3m.



- Wall height: a maximum street wall height of 11m for all streets except for the southern side of Livingstone Street which is to have a maximum street wall height of 8m.



- Frontage: a minimum frontage of 28m before development for residential apartments, terraces or townhouses can be carried out.



- Site area: a minimum site area of 1500sqm (ie. $> 28m \times 48m = 1344sqm$) for boarding house development and for sites including a heritage item.
- Uninterrupted building frontage: a maximum length of uninterrupted building frontage of 12m for terrace or townhouse development in order to achieve substantial articulation in the form of an indent, recess or physical break along the length of the elevation.
- Landscaped area: a minimum landscaped area of 40% of the site including a substantial provision of deep soil planting for residential apartment, terrace or townhouse development.

Background and Rationale

Burwood LSPS

The Burwood LSPS was endorsed by Council on 11 February 2020 and approved by the Greater Sydney Commission on 12 March 2020.

The LSPS identifies eight Local Character Investigation Areas, including:

- Livingstone Street Precinct (consisting of all properties on the northern side of Livingstone Street and on both sides of Sym Avenue, and the average front building line of properties on the southern side of Livingstone Street).

Livingstone Street Precinct

Direction: Enhance and cultivate character

Indicative location



Source: Burwood LSPS

- Clarence and Church Streets Precinct (consisting of all properties bounded by Clarence Street, Shaftesbury Road, Church Street and Burwood Road).

Clarence and Church Streets Precinct

Direction: Enhance and cultivate character

Indicative location



Source: Burwood LSPS

The aims identified in the LSPS for these precincts are:

- *Ensure a suitable transition between the higher density development to the north and the low rise buildings to the south.*
- *Address the amenity issues at the interface between the Burwood Town Centre boundary and the land on the northern side of Livingstone Street.*
- *Investigate potential for two storeys terrace style housing with lofts or dormer windows (for Livingstone Street Precinct only).*
- *Protect solar access and amenity for properties within the precincts and to the south.*
- *Conserve significant heritage buildings and ensure future redevelopment responds sensitively to heritage items.*
- *Increase street trees and provide for a green, leafy character, with provision for gardens and an urban street canopy.*
- *Ensure a high quality standard for new buildings.*
- *Ensure a safe and pleasant street for pedestrians, emphasising the precinct's walkability to the Burwood Town Centre.*

Report to 24 November 2020 Council Meeting

A report on BLEP review was presented to Council meeting on 24 November 2020, when Council resolved to prepare a planning proposal to amend the BLEP by considering the possible rezoning of properties in Livingstone Street, Sym Avenue, Clarence and Church Streets Burwood.

Council also resolved to undertake direct consultation with local residents and land owners prior to the preparation of this Planning Proposal.

Community Consultation

Prior to writing up this Planning Proposal, community consultation was undertaken for residents, land owners and/or occupiers for the study areas outlined below.



The consultation included:

- Online survey, by way of 'SurveyMonkey', between 20 January and 12 February 2021.
- Three drop-in information sessions in the week commencing 1 February 2021.
- Hard copies of 'SurveyMonkey' made available at all drop-in consultation sessions for completion if required.

- One-on-one sessions with planning staff upon request from those who would not be able to attend the drop-in sessions (total of three completed with summary records of meeting issued to attendees via email).
- Planning staff were available to answer any phone or face to face enquiries.

Arrangements for the consultation included:

- A Mayoral letter and an information brochure.
- The letter and brochure were sent to all residents, owners or occupiers of properties in and around the study areas (properties having a common boundary, having made prior submissions or within the visual catchment of the study area).
- Council's planning staff hand delivered the letter and brochure where the addresses were within or around the study areas.
- Information on the 'Have your say' section of Council's website.
- Six presentation boards for the information drop in sessions.
- On-going updates to the website content as a response to community requests/feedback.
- Social media updates and reminders on key deadlines and dates.
- Extension of deadlines for submission of 'SurveyMonkey' for community members who experienced technical difficulties accessing online portals.
- Professional submissions considered as part of the community input received.

As a result, 85 responses to 'SurveyMonkey' were received through the on-line portal. One was completed manually during a drop-in session. One hard copy was mailed to Council and five submissions were received by the Strategic team via e-mail. This is a total of 92.

Key findings of the survey can be summarised below:

- 45% of the respondents were from Livingstone Street, 10-12% from Church Street, Sym Avenue, elsewhere or nearby, and 5% from Clarence Street.
- 51% of the respondents strongly disagreed with the option of terrace/ townhouse development while 13% disagreed with this option.
- 48.7% of the respondents disagreed with the option of three storey apartment buildings while 7.5% agreed with this option.
- 61% of the respondents agreed (including 51% who strongly agreed) with the option of four to five storey apartment buildings while 30% strongly disagreed with this option.
- 46% of the respondents would like to see more intensive development while 25% would like to remain as is.
- 48 respondents supported rezoning while 22 were against. Locations of the respondents are mapped but will not be shown in the Planning Proposal for privacy reasons.

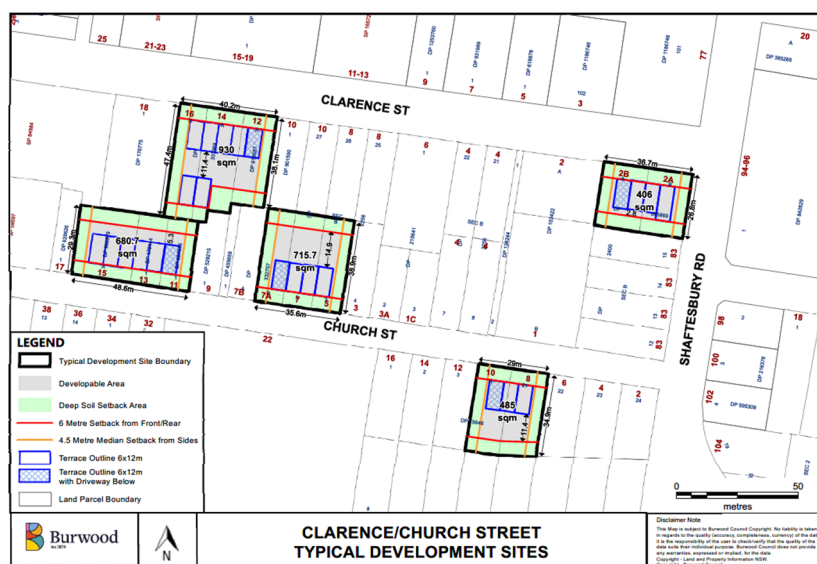
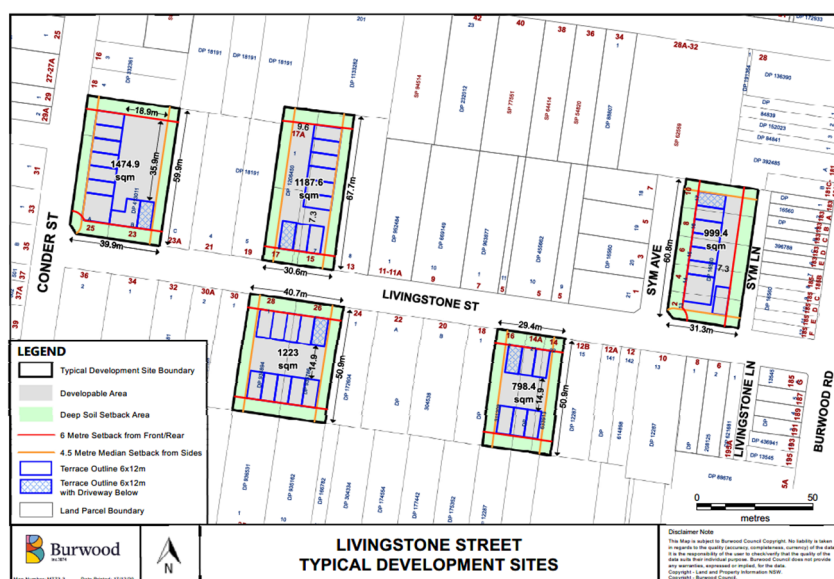
Economic Testing

Council staff inspected all properties in the study areas and identified 10 typical sites, each of which had three scenarios of development, being:

- Up to 10m high, or two storey plus attic space terraces/ townhouses.
- Up to 10m high, or three storey apartment buildings.
- Up to 14m high, or four to five storey apartment buildings.

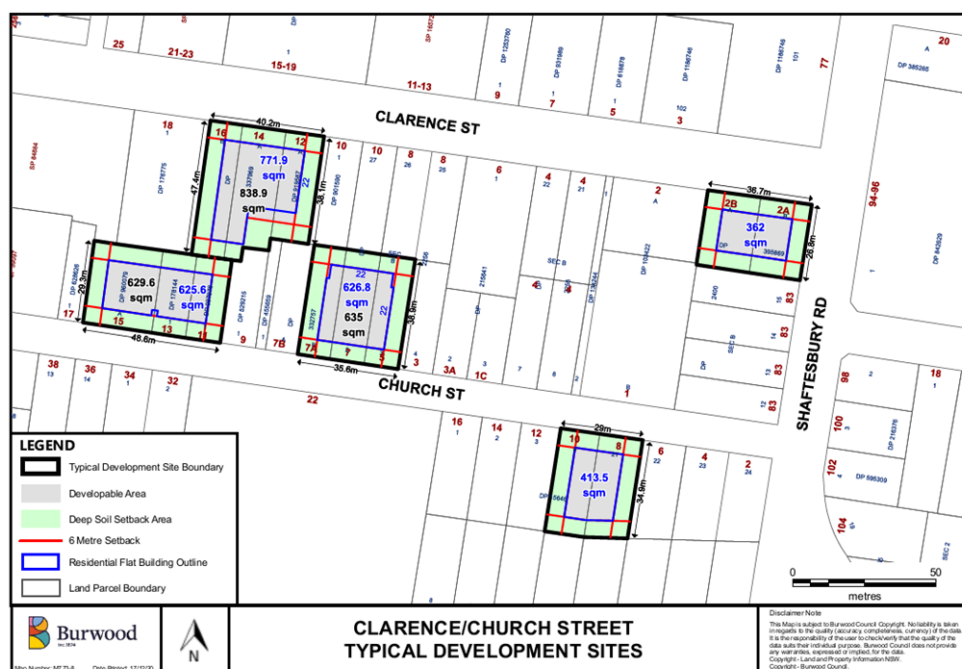
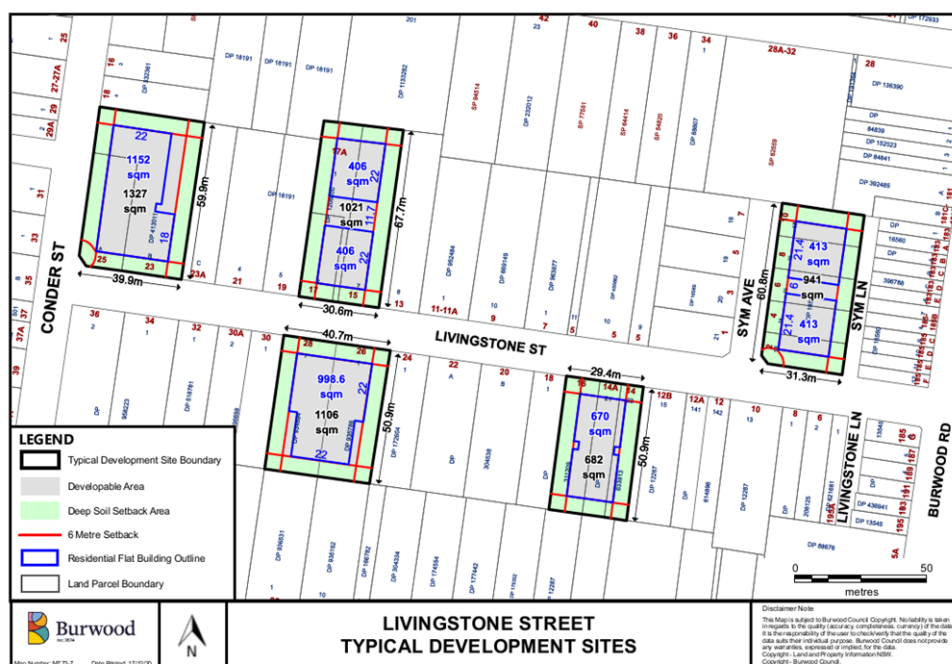
For the terrace/ townhouse scenario, the proposed building layouts and typical footprints comply with Council controls i.e. side and front setback and best practice building separation provisions.

See below the typical sites with building layouts and footprints for the terrace/townhouse development scenario.



For the apartment building scenarios, the proposed building layouts and typical footprints comply with applicable Council controls, the minimum setback and building separation provisions in State Environmental Planning Policy (SEPP) 65 - Design Quality of Residential Apartment Development and the ADG.

See below the typical sites with building layouts and footprints for 10m and 14m apartment development scenarios.



Dwelling yields, building heights, FSRs and parking requirements under the various scenarios were tabulated and provided to an economic consultant for viability testing.

Three representative sites were finally selected to test the three development scenarios. Council selected external consultant HillPDA to complete land use economic testing.

HillPDA used the following methodology:

- Calculating development profits, by inputting revenues less costs in a bespoke Excel model to derive a development profit then dividing profit by total project costs to derive a development or profit/risk margin.
- Assumed that a development margin of 16% to 17% would be required for a developer to purchase the site without development consent, and a lower margin of 12% to 14% might be acceptable if the site is sold with development consent.

- Testing each development scenario by starting with revenue then deducting GST and other sales costs, deducting construction and other development costs including interest, and deducting a required profit margin to derive a residual land value. This is the value of the land as a redevelopment site. By comparing it to the 'as is' value of the land (the value of the land assuming no change in zoning in perpetuity) the feasibility of each development scenario is revealed.

The results of the economic testing are:

- Five storey residential apartments, with a FSR of 1.8:1 are economically viable if two to three sites are consolidated.
- Three storey terraces or townhouses, with a FSR of 1.2:1 may be economically viable provided two sites are consolidated achieving a minimum frontage of approximately 40m and depth of 48m.

Traffic and Transport Considerations

Council's Traffic and Transport team has been consulted on the proposed zoning described earlier. The team considered the additional traffic to be generated and the potential road network impacts if the above viable scenarios were to be considered as changes to the applicable controls. The general comments by Council's Traffic and Transport team are:

- The additional traffic will not result in the traffic volumes exceeding the planned capacity of the local roads.
- The additional traffic generation in the Clarence Street and Church Street precinct (some 17 trips/hr) is low and therefore unlikely to impact the surrounding intersection performance.
- The additional traffic in the Livingstone Street and Sym Avenue precinct (some 104 trips/hr) is more significant and is likely to negatively impact on the intersection performance. Further detailed SIDRA intersection assessment is required on the impacted intersections to determine whether any upgrades are required.
- Both streets are within a 450m catchment of the existing Burwood Train Station providing future residents with the opportunity to use public transport services with accessibility to both Sydney and Parramatta CBDs.
- Both streets are directly adjoining the Burwood Town Centre. This provides direct, walkable access to a range of retail and professional services, community facilities and employment opportunities.
- The streets occupy a highly connected location which will promote active travel options as an alternative to private vehicle use.

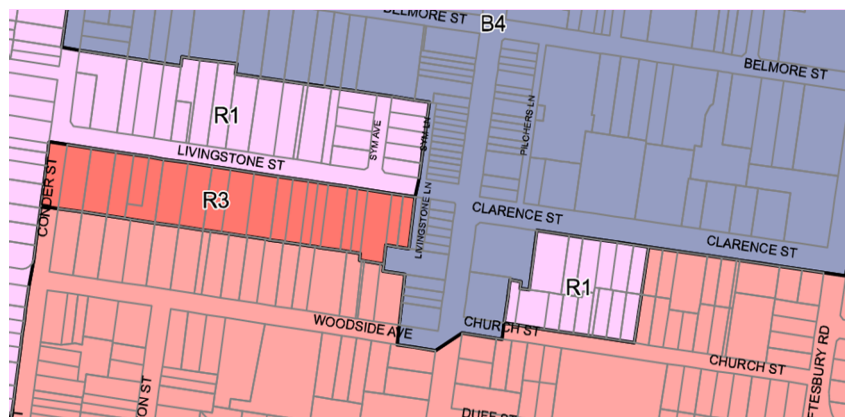
Council's Traffic and Transport team has raised no objection to the proposed rezoning on traffic grounds.

Summary of Rationale

The proposed rezoning is:

- The Livingstone Street North and Sym Avenue properties would be rezoned to R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8:1.
- The Livingstone Street South properties would be rezoned to R3 Medium Density Residential, with a maximum building height of 10m and a maximum FSR of 1.2:1.

- The Clarence and Church Street sites would be rezoned to R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8:1.



Map showing the proposed rezoning

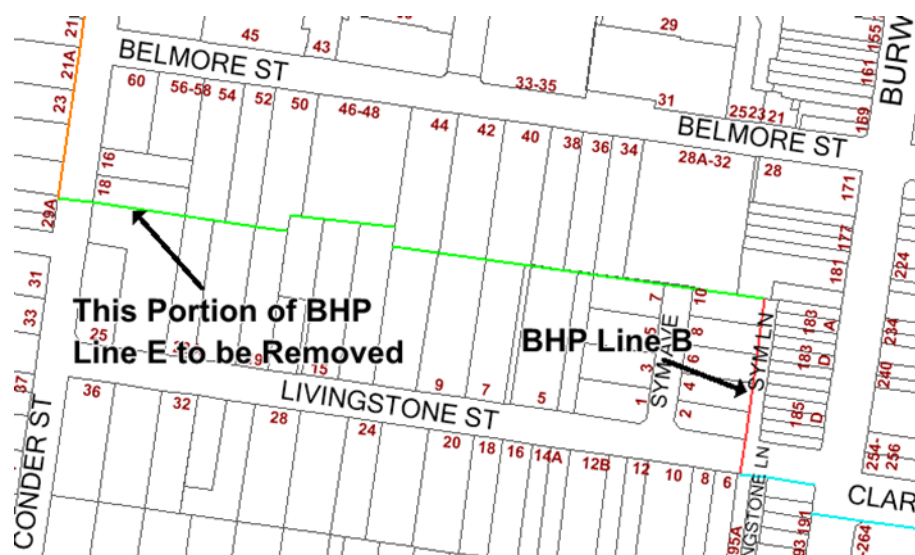
The above proposed rezoning is based on the following rationale:

- The two precincts are located right next to the Burwood Town Centre, therefore enjoying close proximity to existing available retail and commercial facilities and public transport services.
- The Burwood LSPS identifies the precincts as Local Character Investigation Areas, with the aim in part of providing a transition between the higher density development in the Burwood Town Centre and the low rise buildings outside of the town centre, conserving heritage buildings as well as addressing amenity issues.
- The community consultation outcome is that 61% of the survey respondents had a preference for four to five storey residential apartment developments therein.
- The proposed rezoning as described is supported by the land use economic viability testing.
- Although the proposed rezoning could trigger the requirements for intersections upgrade, Council's Traffic and Transport team raised no objection to the proposal.
- The proposed rezoning occupies a highly connected location that will support the role and function of the Burwood Town Centre as a regional strategic centre and offer convenient access to public transport services.

More detailed considerations or substantiation are provided below:

- Additional local provisions on setback, street wall height, lot size, frontage, and length etc will be included in the BLEP amendment in order to protect streetscape characters, control built forms, address amenity concerns and minimise impacts on heritage items, since LEP provisions have more weight than DCP controls.
- Allowing three storey terrace or townhouse development for the southern side of Livingstone Street is aimed at providing a degree of transition between the five storey building height for the northern side of the street and the two storey residences further south, without causing amenity issues for the interface, as well as achieving a more balanced streetscape appearance.
- Five heritage items (within a consolidated group) occupy the majority of the eastern part of the Clarence and Church Streets precinct. This part has been excluded from the proposed rezoning to ensure the significance of existing heritage items will not be undermined by development of the non-heritage items in this part of the precinct. Again, the impact of development in the eastern part of the precinct on Heritage Item No. 142 (i.e. 8 Clarence Street) will be assessed and managed through additional local provisions in the BLEP amendment.

- Although three storey only developments for the northern side of Church Street would provide a better transition between the higher rise buildings in the Burwood Town Centre and the two storey residences on the southern side of Church Street, such developments would not be viable due to a reduced yield taking into account the smaller size and depths of the properties therein, based on the economic testing.
- The proposed density is in keeping with the objective of locating housing close to open space and community facilities. In this case, the Woodstock building and open space, owned by Council, are accessible in Church Street.
- The portion of the existing BHP Line E next to 18 Conder Street will be removed to help allow for orderly development at 18 Conder Street. The rest of the BHP Line E along the Belmore and Livingstone Streets interface is to remain in order to prevent development in Belmore Street from being built to the southern boundary, which would result in poor building, landscaping and amenity outcomes. The existing BHP Line B along the western side of Sym Lane will have its BHP line height increased to help allow for orderly development in Burwood Road while ensuring the eastern elevation of development in Sym Avenue will not be overshadowed by development in Burwood Road. Refer to map below.

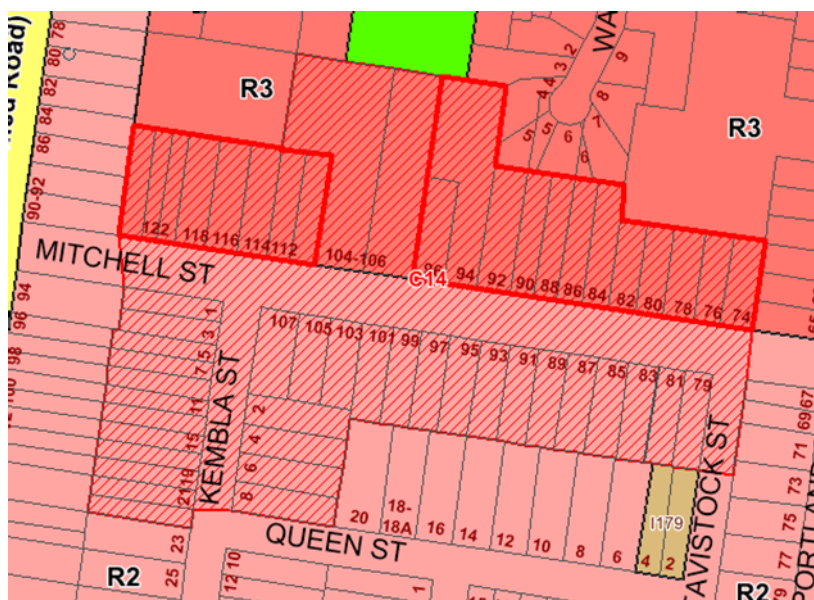


2. Mitchell and Kembla Streets Heritage Conservation Area (HCA)

Proposal

The following properties in the Mitchell and Kembla Streets HCA would be rezoned to R2 Low Density Residential, with a maximum building height of 8.5m and a maximum FSR of 0.55:1:

- Nos. 74, 76, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 110, 112, 114, 116, 118, 120, 122 and 124 Mitchell Street, Enfield



Existing zoning of Mitchell and Kembla Streets HCA.

The hatching denotes the HCA. The thick red outlines denote properties to be rezoned.

The property at 104-106 Mitchell Street Enfield is excluded from the rezoning, as it has already been developed with medium density housing in late 1970s.

Background and Rationale

A petition was received in May 2020 with signatures from 28 house addresses (out of 36 land parcels) in Mitchell Street Enfield and Croydon Park. It was stated in the petition that the residents in the HCA were alarmed by the zoning of the northern side of Mitchell Street being R3 Medium Density Residential, and that the type of housing allowed in the R3 zone would contravene the conservation area status and would go against the streetscape of the area. The petition requested Council to change the northern side of Mitchell Street to R2 Low Density Residential.

It is stated in the report to the 24 November 2020 Council meeting that:

- The R3 zoning is incongruous to the properties zoned R2 in the HCA.
- Properties in HCA could be rezoned to either R2 or R3 so that only one type of zoning applies.
- An R2 Low Density Residential zone is considered more appropriate to protect the character of the conservation area.

The report to Council further states that this matter requires further investigation to determine the implications of the two zonings upon the long term preservation of the conservation area, and that this matter be included as part of this Planning Proposal.

In this regard, given an R2 zone mainly allows one to two storey dwelling houses while an R3 zone allows two storey townhouses or two storey plus attic terraces, the inconsistent zoning could lead to incompatible streetscape character between the two sides of Mitchell Street.

Hence this Planning Proposal seeks to rezone the northern side of Mitchell Street, Enfield in the HCA from R3 Medium Density Residential to R2 Low Density Residential, with the exception for 104-106 Mitchell Street, which contains existing medium density housing development.

The R2 and R3 zones are currently subject to the same maximum building height and FSR standards under the BLP. Rezoning the northern side of Mitchell Street Enfield (with the exception of 104-106 Mitchell Street) in the HCA from R3 to R2 would not affect the development potential of the properties concerned.

3. Former Masonic Temple Building

Proposal

Schedule 5 Environmental heritage would be amended to show the following details for Heritage Item No. I8:

Suburb	Item name	Address	Property description	Significance	Item no
Burwood	Masonic Temple	45 Belmore Street	Part Lot 104, DP 1258893	Local	i8

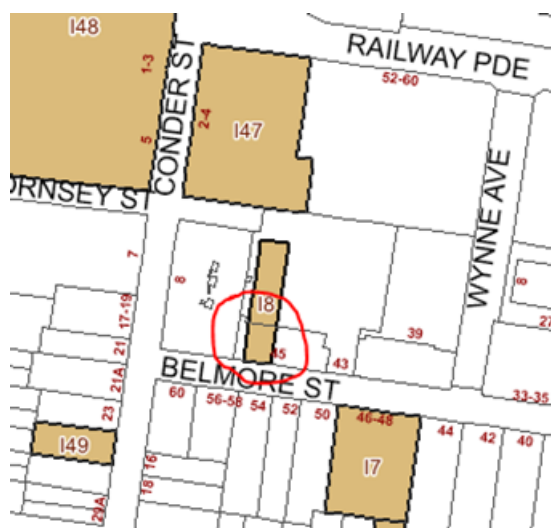
The Heritage Map of the BLEP 2012 would be amended to include the land parcel at 45 Belmore Street only as the Heritage Item.



The heritage listing would apply to the whole of the land parcel (i.e., part Lot 104 in DP 1258893) containing the former Masonic Temple building, as is the usual case for listings under Schedule 5 and the Heritage Map.

Background and Rationale

The former Masonic Temple used to occupy two parcels of land, at 43 and 45 Belmore Street Burwood. The building is a heritage item listed in the Heritage Schedule and on the Heritage Map of the BLEP.



Map showing the heritage item covers two parcels Aerial photo of current heritage building

Consent for Development Application No. 193/2015 was granted for the construction of a mixed use development comprising a commercial podium, three residential towers and commercial floor space with multi-storey basement parking at 39 - 47 Belmore Street Burwood. The development involved partial demolition of the former Masonic Temple building.

The development has been completed and new subdivision plans have been registered with NSW Land Registry Services. The heritage building after completion of the development has been given a new street address and lot and deposited plan numbers.

Council therefore take the opportunity of preparing this Planning Proposal to update the Heritage Schedule and the Heritage Map in the BLEP to reflect the current street address, lot and deposited plan numbers for this heritage building.

The existing Heritage Map in the BLEP shows the foot print of the heritage building before the partial demolition (see the excerpt above), while the heritage items nearby and in the rest of the LGA are shown as covering their whole land parcels, which is the usual case for listings under Schedule 5 and the Heritage Map.

Therefore the updated Heritage Map would see the whole of 45 Belmore Street being identified consistently with other heritage items.

Part 3 – Justification

Section A – Need for the Planning Proposal

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

On 24 November 2020, Council considered a report on BLEP review, and resolved, in part:

2. *That Council provide endorsement to proceed with the preparation of a housekeeping LEP amendment that considers the following items:*
 - a. *Livingstone Street, Sym Avenue, Clarence and Church Streets Precinct, Burwood*
 - b. *Former Masonic Temple Building*
 - c. *Mitchell and Kembla Street Conservation Area*

This Planning Proposal seeks to implement the above Council resolution.

The proposal is consequential to Council's LSPS and the Local Housing Strategy (LHS).

The Burwood LSPS was adopted by Council on 11 February 2020 and approved by the Greater Sydney Commission on 12 March 2020. The Burwood LHS was also adopted by Council on 11 February 2020 and has been under assessment by DPIE.

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 only means to achieve the intended outcomes as identified in Part 1 of this proposal. Any change to zoning and/or update to a schedule in a LEP requires the preparation of a planning proposal.

Section B – Relationship to Strategic Planning Framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

Assessment Criteria

a) *Does the proposal have strategic merit? Will it:*

- *give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
- *give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or*
- *responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans.*

The Planning Proposal is considered to have strategic merit.

Greater Sydney Region Plan

The Planning Proposal is consistent with the Greater Sydney Region Plan in that it will:

- Promote Greater Sydney's communities as "*culturally rich with diverse neighbourhoods*" (Objective 8).
- "*Incorporate cultural and linguistic diversity in strategic planning and engagement*" (Strategy 8.1).
- Provide "*greater housing supply*" (Objective 10).
- Make housing "*more diverse and affordable*" (Objective 11).
- Identify, conserve and enhance environmental heritage (Objective 13).

Eastern City District Plan

The Planning Proposal is consistent with the Eastern City District Plan in that it will:

- *Provide housing supply, choice and affordability, with access to jobs, services and public transport (Planning Priority E5).*
- *Create and renew great places and local centres, and respect the District's heritage (Planning Priority E6).*

Burwood LSPS

The Planning Proposal is consistent with the Burwood LSPS.

Item 1 of the proposal concerning the rezoning of properties in Livingstone Street, Sym Avenue, Clarence and Church Streets Burwood will address the following priorities and action under the Liveability Theme in the Burwood LSPS:

- *Priority 3 – Provide housing supply, choice and affordability in close proximity to jobs, services and public transport.*
 - *Action 3.2 - Deliver housing supply with the aim of meeting housing targets of 2,600 new homes in 2016-2021. If there is a shortfall in the target (which is true for the Burwood LGA), deliver additional new homes in the six to 10 year housing supply projections.*
- *Priority 5 – Identify local character areas considering preservation, enhancement and desired future character.*

Item 2 of the proposal concerning the rezoning of the northern side of Mitchell Street Enfield within the Mitchell and Kembla Streets HCA will address the following objective identified in the Burwood LSPS:

- *Preserve local character by preventing extensive redevelopment in those parts of the LGA which have heritage significance or a significant local character.*

Responding to Changes in Circumstances

This Planning Proposal has not been triggered by any investment in new infrastructure or a change in demographic trends. It responds to a change in circumstances as follows:

The Burwood LSPS contains under *Priority 5 – Identify local character areas considering preservation, enhancement and desired future character* an action, which states:

- *Action 5.3 – Investigate rezoning land in the transition area around the Burwood Town Centre to the R3 zone.*

In this case, the economic viability testing has revealed that rezoning land on the Livingstone Street north and Sym Avenue sites as well as the Clarence and Church Street sites to R3 Medium Density Residential would not be viable. It is therefore necessary for the proposal to be adjusted accordingly, by seeking a R1 zoning, instead of a R3 zoning, for the study areas concerned.

b) Does the proposal have site specific merit, having regard to the following?

- ***The natural environment (including known significant environmental values, resources or hazards) and***
- ***The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and***
- ***The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.***

The Planning Proposal is considered to have site specific merit. It may not specifically address the natural environment, but it does have regard to land uses and likely future development of land in the vicinity of proposal.

As described in Part 2 of this proposal, Council's Traffic and Transport team assessed the impact of development on the road network, if the rezoning were to be adopted. The team advised that the development in Livingstone Street and Sym Avenue north and south sites is likely to impact on the intersection performance, requiring intersection upgrades.

The introduction of traffic signals at Burwood Road/ Livingstone Street /Clarence Street and upgrade of existing traffic signals at Burwood Road/ Belmore Street are already listed in Council's Local Infrastructure Contributions Plan. Any further works when determined would be included in

the Contributions Plan. These works are expected to be funded through local infrastructure contributions.

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

In addition to consistency with Council's LSPS, which has been discussed above, the Planning Proposal is consistent with the following plans of Council:

Burwood 2030 Community Strategic Plan (CSP)

The CSP recognises the challenge of balancing growth with maintaining lifestyles, preserving heritage and protecting the environment, while ensuring progress and innovation.

The Planning Proposal is consistent with the following strategic goals identified in the CSP:

- 1.2 *A well informed, supported and engaged community*
 - 1.2.3 *Communication and community engagement through innovation solutions*
- 2.1 *Community confidence in Council's decision making*
 - 2.1.1 *Provide opportunities for discussions and report decisions back to the community*
 - 2.1.3 *Ensure transparency and accountability in decision making*
- 4.3 *Burwood's existing heritage integrated with high quality urban design*
 - 4.3.2 *Preserved heritage through relevant planning strategies*
- 5.4 *Activated village precincts and preserve the distinct characters of surrounding residential areas*
 - 5.4.1 *Local heritage is preserved through relevant planning strategies and initiatives*

Burwood Local Housing Strategy (LHS)

The Planning Proposal aims to address the following objectives for housing in the Burwood LGA as identified in the Burwood LHS:

- *Increase housing diversity and choice to meet the community's changing needs (by Item 1 of the proposal).*
- *Plan for longer term housing needs, preserving opportunities for medium and high density housing development beyond 2036 near centres and public transport (by Item 1 of the proposal).*
- *Support the vibrancy, vitality and activity of centres, including the Burwood Town Centre, local centres and neighbourhood centres (by Item 1 of the proposal).*
- *Preserve local character by preventing extensive redevelopment in those parts of the LGA which have heritage significance or a significant local character (by Item 2 of the proposal).*

The Planning Proposal is consistent with the following key element as identified in the housing structure plan in the Burwood LHS:

- *More medium density development to increase housing diversity around local and neighbourhood centres and in the potential density gradient area creating a built form transition from Burwood Town Centre to surrounding lower-density suburbs.*

As mentioned before, the lack of economic viability of medium density development in two of the precincts suggests the need for an adjustment to this key element.

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

There are no State Environmental Planning Policies (SEPPs) which would be contravened by the amendments proposed in the Planning Proposal.

All SEPPs that are in force are set out in the table below, together with a comment regarding the Planning Proposal's consistency:

SEPP	Comment
SEPP No. 19 – Bushland in Urban Areas	Not relevant.
SEPP No. 21 – Caravan Parks	Not relevant.
SEPP No. 33 – Hazardous and Offensive Development	Not relevant.
SEPP No. 36 – Manufactured Home Estates	Not relevant.
SEPP No. 47 - Moore Park Showground	Not relevant.
SEPP No. 50 – Canal Estate Development	Not relevant.
SEPP No. 55 – Remediation of Land	Not relevant. There is no indication that previous uses at the subject sites would trigger site remediation requirements.
SEPP No. 64 – Advertising and Signage	Not relevant.
SEPP No. 65 – Design Quality of Residential Apartment Development	The Planning Proposal would not contravene SEPP 65 in any way. The building envelopes developed in Item 1 of the proposal for economic viability testing comply with key provisions of the Apartment Design Guide.
SEPP No. 70 – Affordable Housing (Revised Schemes)	Not relevant. This SEPP applies only to certain development applications. It does not apply to a planning proposal.
SEPP (Aboriginal Land) 2019	Not relevant.
SEPP (Activation Precincts) 2020	Not relevant.
SEPP (Affordable Rental Housing) 2009	The Planning Proposal would not contravene this SEPP in any way.
SEPP (Building Sustainability Index: BASIX) 2004	Not relevant.
SEPP (Coastal Management) 2018	Not relevant.
SEPP (Concurrences and Consents) 2018	The Planning Proposal would not contravene this SEPP in any way.
SEPP (Educational Establishments and Child Care Facilities) 2017	Not relevant.
SEPP (Exempt and Complying Development Codes) 2008	The Planning Proposal would not contravene this SEPP in any way.
SEPP (Gosford City Centre) 2018	Not relevant.
SEPP (Housing for Seniors or People with a Disability) 2004	Not relevant.
SEPP (Infrastructure) 2007	Not relevant.
SEPP (Koala Habitat Protection) 2020	Not relevant.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not relevant.
SEPP (Kurnell Peninsula) 1989	Not relevant.
SEPP (Major Infrastructure Corridors) 2020	Not relevant.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not relevant.
SEPP (Penrith Lakes Scheme) 1989	Not relevant.
SEPP (Primary Production and Rural	Not relevant.

Development) 2019	
SEPP (State and Regional Development) 2011	Not relevant.
SEPP (State Significant Precincts)	Not relevant.
SEPP (Sydney Drinking Water Catchment) 2011	Not relevant.
SEPP (Sydney Region Growth Centres) 2006	Not relevant.
SEPP (Three Ports) 2013	Not relevant.
SEPP (Urban Renewal) 2010	Not relevant.
SEPP (Vegetation in Non-Rural Areas) 2017	The Planning Proposal would not contravene this SEPP in any way.
SEPP (Western Sydney Aerotropolis) 2020	Not relevant.
SEPP (Western Sydney Employment Area) 2009	Not relevant.
SEPP (Western Sydney Parklands) 2009	Not relevant.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?*

No s.9.1 directions would be contravened by the amendments proposed in the Planning Proposal.

All current s.9.1 directions are set out in the table below, together with a comment regarding the Planning Proposal's consistency:

Direction	Issue Date / Date Effective	Comment
1. Employment and Resources	1 July 2009 (Except for New Direction 1.2 effective 14 April 2016; Direction 1.1 effective 1 May 2017; New Direction 1.5 effective 28 February 2019)	
1.1 Business and Industrial Zones		Not relevant.
1.2 Rural Zones		Not relevant.
1.3 Mining, Petroleum Production and Extractive Industries		Not relevant.
1.4 Oyster Aquaculture		Not relevant.
1.5 Rural Lands		Not relevant.
2. Environment and Heritage	1 July 2009 (Except for new Direction 2.5 effective 2 March 2016, Direction 2.1 and 2.4 effective 14 April 2016; Direction 2.2 effective 3 April 2018)	
2.1 Environment Protection Zones		Not relevant.
2.2 Coastal Management		Not relevant.
2.3 Heritage Conservation		The Planning Proposal is consistent with this direction by seeking to apply a unified R2 zone to all properties within the Mitchell and Kembla Streets HCA, in order to better conserve the housing and streetscape characters therein.
2.4 Recreation Vehicle Areas		Not relevant.

2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs		Not relevant.
2.6 Remediation of Contaminated Land		Not relevant.
3. Housing, Infrastructure and Urban Development	1 July 2009 (Except for new Direction 3.6 effective 16 February 2011, Direction 3.1, 3.2, 3.4 and 3.5 effective 14 April 2016, Direction 3.7 effective 15 February 2019)	
3.1 Residential Zones		<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> 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, c) to minimise the impact of residential development on the environment and resource lands. <p>The direction requires a planning proposal to (among other provisions):</p> <ul style="list-style-type: none"> ▪ broaden the choice of building types and locations available in the housing market, ▪ make more efficient use of existing infrastructure and services, ▪ be of good design. <p>The Planning Proposal is consistent with this direction by upzoning lands in the Livingstone Street, Sym Avenue, Clarence Street and Church Street, following a building footprint study and an economic viability testing.</p>
3.2 Caravan Parks and Manufactured Home Estates		Not relevant.
3.3 Home Occupations		The Planning Proposal would not alter the permissibility of home occupations at the subject sites under the Exempt and Complying Development Codes SEPP, nor the BLEP.
3.4 Integrating Land Use and Transport		<p>The objective of this direction is to ensure that future development (after rezoning) will:</p> <ul style="list-style-type: none"> a) improve access to housing, jobs and services by walking, cycling and public transport, b) increase the choice of available transport and reducing dependence on cars, c) reduce travel demand including the number of trips generated by development and the distances travelled, especially by car, d) support the efficient and viable operation of public transport services. <p>The Planning Proposal is consistent with this</p>

		<p>direction by upzoning lands in Livingstone Street, Sym Avenue, Clarence Street and Church Street, which adjoin the Burwood Town Centre, and as such would enjoy easy access to jobs, retail and commercial premises, open space and public transport services available.</p> <p>This rezoning is not expected to adversely affect mode of travel, choice of transport or dependence on cars. It should help support the efficient and viable operation of public transport by upzoning of land right next to the Burwood Town Centre.</p> <p>Council's Traffic and Transport team has advised the additional traffic generation will not result in the traffic volumes exceeding the environmental capacity of the local roads. The additional traffic generation in the Clarence and Church Streets Precinct (some 17 trips/hour) is low and therefore unlikely to impact the surrounding intersection performance. The additional traffic in the Livingstone Street and Sym Avenue north and south sides (some 104 trips/hour) is significant and is likely to impact on the intersection performance. Further detailed SIDRA intersection assessment is required on the impacted intersections to determine whether any upgrades are required.</p>
3.5 Development Near Regulated Airports and Defence Airfields		Not relevant.
3.6 Shooting Ranges		Not relevant.
3.7 Reduction in non-hosted short term rental accommodation period		Not relevant.
4. Hazard and Risk	1 July 2009 (Except for new Direction 4.2 effective 14 April 2016; Direction 4.4 effective 19 February 2020)	
4.1 Acid Sulfate Soils		The Planning Proposal will not contravene this direction, as all properties that are included in the proposal are identified as Class 5 on the Acid Sulfate Soils Map, representing the lowest probability of containing Acid Sulfate Soils.
4.2 Mine Subsidence and Unstable Land		Not relevant.
4.3 Flood Prone Land		The Planning Proposal will not contravene this direction, as none of the properties that are included in the proposal have been identified as being flood prone, based on the flood studies undertaken for Council.
4.4 Planning for Bushfire Protection		Not relevant.
5. Regional Planning	1 July 2009 (Except For new Direction 5.2 effective 3 March 2011, Direction 5.4	

	effective 21 August 2015; Direction 5.9 effective 30 September 2013; Direction 5.10 effective 14 April 2016; Direction 5.3 effective 1 May 2017; Direction 5.11 effective 6 February 2019)	
5.1 (Revoked 17 October 2017)		
5.2 Sydney Drinking Water Catchments		Not relevant.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast		Not relevant.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast		Not relevant.
5.5 (Revoked 18 June 2010)		
5.6 (Revoked 10 July 2008)		
5.7 (Revoked 10 July 2008)		
5.8 (Revoked 20 August 2018)		
5.9 North West Rail Link Corridor Strategy		Not relevant.
5.10 Implementation of Regional Plans		Not relevant.
5.11 Development of Aboriginal Land Council Land		Not relevant.
6. Local Plan Making	1 July 2009	
6.1 Approval and Referral Requirements		The Planning Proposal will not contain provisions which require the concurrence, referral or consultation of other public authorities on development applications, nor identify any land use or development as designated development.
6.2 Reserving Land for Public Purposes		Not relevant.
6.3 Site Specific Provisions		Not relevant.
7. Metropolitan Planning	1 February 2010 (Except for Direction 7.2 effective 22 September 2015)	
7.1 Implementation of A Plan for Growing Sydney		The Planning Proposal is not inconsistent with the intent of the NSW Government's <i>A Metropolis of Three Cities and the Eastern City District Plan</i> , and does not undermine the achievement of their vision, policies, outcomes or actions. Section B, 3 of this Planning Proposal assesses its consistency with those plans.
7.2 (Revoked 28 November 2019)		
7.3 Parramatta Road Corridor Urban Transformation Strategy	9 December 2016	Not relevant. The subject properties are not within the Parramatta Road corridor, nor undermine the achievement of that Strategy's vision or objectives.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	15 May 2017	Not relevant.

7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	25 July 2017	Not relevant.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	5 August 2017	Not relevant.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	22 December 2017	Not relevant.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	20 August 2018	Not relevant.
7.9 Implementation of Bayside West Precincts 2036 Plan	25 September 2018	Not relevant.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	25 September 2018	Not relevant.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	27 August 2020	Not relevant.
7.12 Implementation of Greater Macarthur 2040	28 November 2019	Not relevant.
7.13 Implementation of the Pyrmont Peninsula Place Strategy	11 December 2020	Not relevant.

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 is no known critical habitat or threatened species, populations or ecological communities, or their habitats affected by the Planning Proposal.

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. *How has the planning proposal adequately addressed any social and economic effects?*

The Planning Proposal is not expected to have any adverse social or economic effects. Council believes there to be social benefits, particularly to the local community, to be gained from enabling additional housing development, housing supply and the conservation of properties in a HCA.

Section D – State and Commonwealth Interests

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

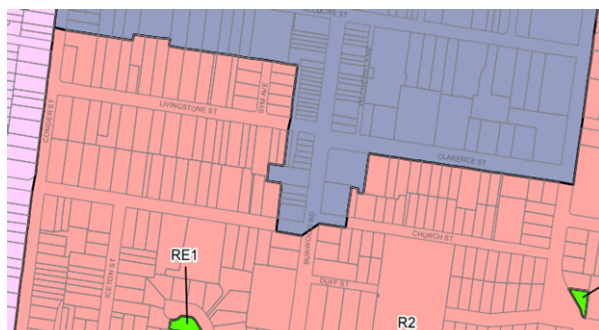
This proposal is unlikely to have any impacts on State's or Commonwealth's infrastructure provision.

11. What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?

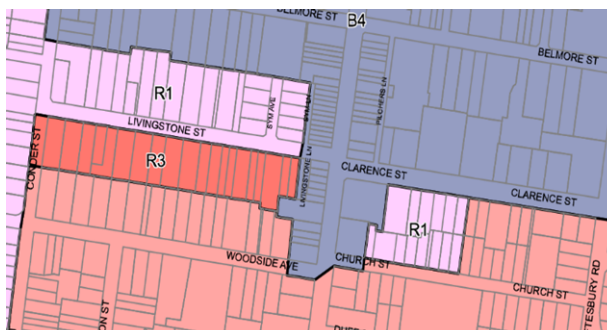
The views of any relevant State and Commonwealth authorities will be sought through consultation following receipt of a positive Gateway Determination, which is expected to confirm and specify any consultation required on the Planning Proposal.

Part 4 – Mapping

Lands in Livingstone Street, Sym Avenue, Clarence Street and Church Street Burwood

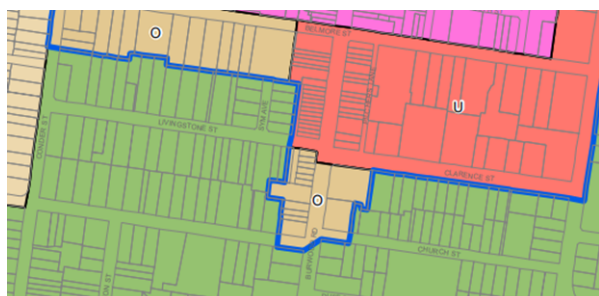


Existing: R2 Low Density Residential

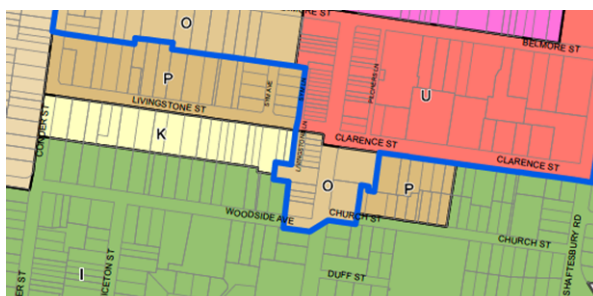


Land Zoning (Map Sheet LZN_001)

Proposed: R1 General Residential and
R3 Medium Density Residential

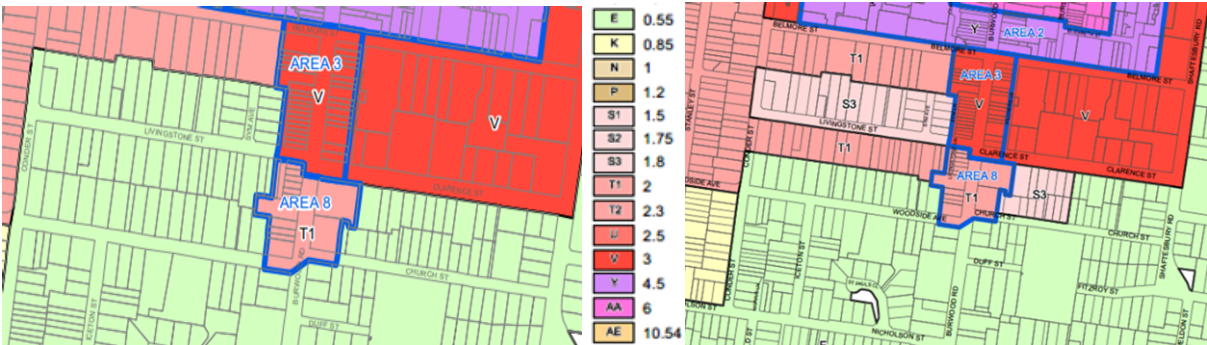


Existing: 8.5m



Height of Buildings (Map Sheet HOB_001)

Proposed: 17m and 10m



Floor Space Ratio (Map Sheet FSR_001)

Existing: 0.55:1

Proposed: 1.8:1 and 1.2:1



Building Height Plane (Map Sheet BHP_001)

Existing: BHP lines as marked

Proposed: BHP lines as marked

Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
B	1.8m	54°	East of BHP line

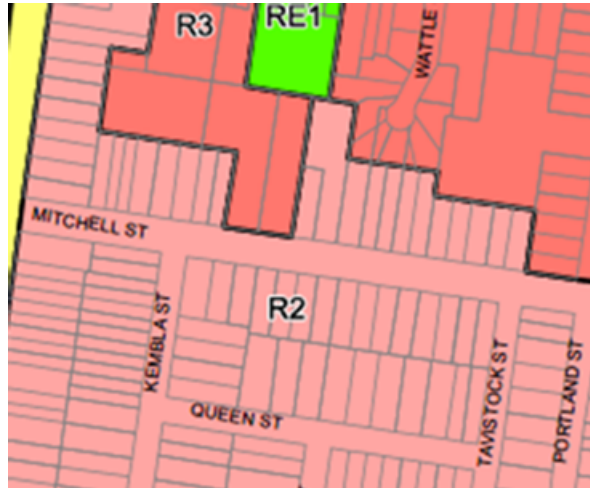
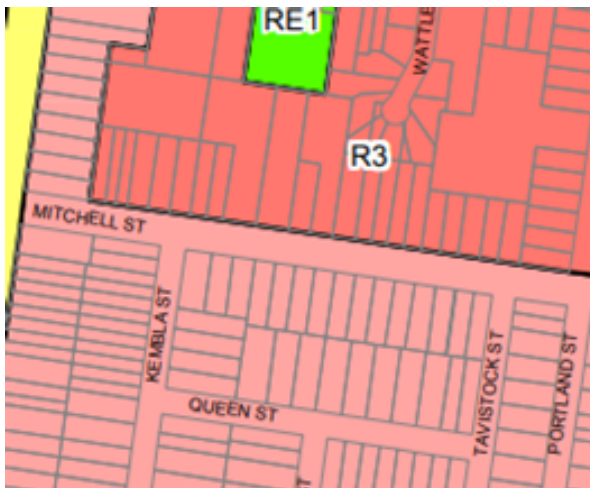
Existing BHP Line B height

Building Height Plane			
BHP Line	BHP Line	BHP Projected	BHP General
Symbol	Height	Angle	Orientation
B	7.2m	54°	East of BHP line

Proposed BHP Line B height

Lands within the Mitchell and Kembla Streets Heritage Conservation Area





Land Zoning (Map Sheet LZN_002)

Existing: R3 Medium Density Residential

Proposed: R2 Low Density Residential



Height of Buildings (Map Sheet HOB_002)

Existing: 8.5m

Proposed: no change, 8.5m



Floor Space Ratio (Map Sheet FSR_002)

Existing: 0.55:1

Proposed: no change, 0.55:1

45 Belmore Street, Burwood (Lot 104 in DP1258893)

Existing: Heritage Item 18

Heritage (Map Sheet HER_001)
Proposed: Heritage Item 18

Part 5 – Community Consultation

Burwood Council has consulted the property owners and residents concerning land in Livingstone Street, Sym Avenue, Clarence and Church Streets Burwood, ahead of preparing this Planning Proposal. Details of this consultation are described in Part 2 - Explanation of the Provisions.

Council intends to publicly exhibit this Planning Proposal for a period of 28 days.

It is expected that Council would be required to consult with the following agencies in respect of the Planning Proposal:

- Office of Environment and Heritage
- Transport for NSW
- Roads and Maritime Services
- Energy Australia
- Sydney Water
- NSW Department of Education

The Gateway Determination will 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 June 2021
Anticipated timeframe for the completion of required technical information	End of July 2021
Timeframe for government agency consultation	August 2021
Commencement and completion dates for the public exhibition period	August 2021
Dates for public hearing	Not applicable
Timeframe for consideration of submissions	September and October 2021
Timeframe for the consideration of a proposal post exhibition	23 November 2021 (due to local government election)
Date of submission to the Department to finalise the LEP	By 7 December 2021
Anticipated date the local plan-making authority will make the plan (if authorised)	December 2021 and January 2022
Anticipated date the local plan-making authority will forward the final draft plan for publication	February or March 2022

Appendix One

Information Checklist

MATTERS — CONSIDERED ON A CASE BY CASE BASIS
(Depending on complexity of planning proposal and nature of issues)

Planning Matters or Issues	To be considered	N/A		To be considered	N/A
Strategic Planning Context			Environmental Considerations		
Consistent with the relevant regional, district or corridor/precinct plans applying to the site, including any draft regional/district or corridor/precinct plans released or public comment; or	Y		Flooding		X
			Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)		X
			Sea level rise		X
Consistent with a relevant local council strategy that has been endorsed by the Department; or	Y		Urban design Considerations		
			Existing site plan (buildings, vegetation, roads, etc)	Y	
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or	Y		Existing site plan (buildings, vegetation, roads, etc)	Y	
			Building mass/block diagram study (changes in building height and FSR)	Y	
			Lighting impact		X
Seeking to update the current planning controls if they have not been amended in the last 5 years	Y		Development yield analysis (potential yield of lots, houses, employment generation)	Y	
Site Description / Context			Economic Considerations		
Aerial photographs	Y		Economic impact assessment		X
Site photos / photomontage	Y		Retail centres hierarchy		X
Traffic and Transport Considerations			Employment land		X
Local traffic and transport	Y		Social and Cultural Considerations		
TMAP	Y		Heritage impact	Y	
Public transport	Y		Aboriginal archaeology		X
Cycle and pedestrian movement	Y		Open space management		X
Environmental Considerations			European archaeology		X
Bushfire Hazard		X	Social and cultural impacts	Y	
Acid sulphate Soil		X	Stakeholder engagement	Y	
Noise impact		X	Infrastructure Considerations		
Flora and/or fauna		X	Infrastructure servicing and potential funding arrangements	Y	
Soil stability, erosion, sediment, landslip assessment and subsidence		X	Miscellaneous / Additional Considerations		
Water quality		X	List any additional studies that should be undertaken post Gateway determination	Y*	
Stormwater management	Y				

* SIDRA intersection assessment is required for the impacted intersections to determine upgrade requirements.

Appendix Two

Delegation Checklist and Evaluation Criteria

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Burwood Council

Name of draft LEP:

Housekeeping Amendments to Burwood Local Environmental Plan 2012

Address of Land (if applicable):

1. Livingstone Street and Sym Avenue Precinct and Clarence and Church Streets Precinct
2. Properties on northern side of Mitchell Street Enfield, in Mitchell and Kembla Streets Heritage Conservation Area
3. 45 Belmore Street Burwood (Lot 104 in DP1258893)

Intent of draft LEP:

1. Rezone northern side of Livingstone Street, both sides of Sym Avenue, 10 - 18 Clarence Street and 7 - 17 Church Street Burwood to R1 with a maximum building height of 17m and a maximum FSR of 1.8:1.
2. Rezone southern side of Livingstone Street Burwood to R3 with a maximum building height of 10m and a maximum FSR of 1.2:1.
3. Remove identified segment of BHP Line E and increase BHP Line B height.
4. Rezone 74 – 124 (except for 104-106) Mitchell Street Enfield to R2.
5. Update heritage map and heritage schedule for 45 Belmore Street Burwood (104/1258893).

Additional Supporting Points/Information:

1. Report to Council meeting of 24 November 2020.
2. Report to Burwood Local Planning Panel meeting of 13 April 2021.
3. Report to Council meeting of 27 April 2021.

Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		N/A		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		N/A		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		N/A		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		N		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the planning proposal create an exception to a mapped development standard?		N/A		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).		N/A		
NOTES <ul style="list-style-type: none"> Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department. 				

Supporting Documentation

- **Report to Council meeting of 24 November 2020**
- **Report to Burwood Local Planning Panel meeting of 13 April 2021**
- **Report to Council meeting of 27 April 2021**

Mapping

Proposed LZN_001, LZN_002, HOB_001, HOB_002 (no change), FSR_001, FSR_002 (no change), BHP_001 and HER_001.