



Planning,  
Industry &  
Environment

IRF 21/2151

## Gateway determination report – PP -2021-3311

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Amendments to Burwood Local Environmental Plan  
2012 (505 dwellings)

June 21



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**Table 1 Reports and plans supporting the proposal**

Attachment	Title
<b>REPORT</b>	Gateway Determination Report
<b>A</b>	Planning proposal
<b>B</b>	Gateway determination
<b>C</b>	Letter to Council
<b>D1</b>	Council resolution 27 April 2021
<b>D2</b>	Report to Council 27 April 2021 Council Meeting
<b>E1</b>	BLPP resolution 13 April 2021
<b>E2</b>	Report to 13 April 2021 Burwood Local Planning Panel meeting Burwood
<b>F1</b>	Council resolution 24 November 2020
<b>F2</b>	Report to 24 November 2020 Council Meeting

# 1 Planning Proposal

## 1.1 Overview of Planning Proposal

**Table 2 Planning proposal details**

LGA	LGA name
PPA	Burwood Council
NAME	Amendments to Burwood Local Environmental Plan 2012
NUMBER	PP-2021-3311
LEP TO BE AMENDED	Burwood Local Environmental Plan 2012
ADDRESS	Various – see site description below
DESCRIPTION	The planning proposal seeks various amendments to the Burwood LEP 2012, including rezoning land in Livingstone Street and Sym Avenue Burwood to: R1 General Residential and R3 Medium Density Residential including new development standards and additional local provisions, rezoning land on the northern side of Mitchell Street Enfield within the Mitchell and Kembla Streets Conservation Area to R2 Low Density Residential, and amending the heritage map and reference for a heritage item at 45 Belmore Street Burwood.
RECEIVED	30/04/2021
FILE NO.	IRF21/2151
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives and outcomes as stated in the planning proposal is to:

1. Rezone land in Livingstone Street and Sym Avenue 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.

The intended objectives of the planning proposal are to:

- Provide for additional housing choice and capacity by facilitating 505 new dwellings;
- Contribute towards the housing targets imposed by the State Government
- Manage impacts of new development on surrounding heritage items and Heritage Conservation Areas.
- Address past resolutions of Burwood Council; and
- Resolve a number of housekeeping anomalies and planning considerations

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved, subject to **Gateway Conditions**.

The planning proposal seeks to amend the Burwood LEP 2012 as per the changes in Table 3-7 below, which contains an outline of the proposed amendments.

**Table 3 Current and Proposed controls – Various properties Livingstone Street and Sym Avenue, Burwood.**

Properties subject to Amendments:	Nos. 1, 3, 5, 7, 2, 4, 6, 8, and 10 Sym Avenue, Burwood Nos. 5 - 25 Livingstone Street, Burwood	
Control	Current	Proposed
Zone	R2 Low Density Residential	R1 General residential
Maximum height of the building	8.5m	17m
Floor space ratio	0.55:1	1.8:1
Building Height Plane	Building height plane controls apply to 18 Condor Street, and a 1.8m building height plane control of 1.8m for BH Line B.	Remove the building height plane control for land next to 18 Condor Street and increase the building height plane control from 1.8m to 7.2m for BHP Line B (refer to <b>Figure 1</b> ).

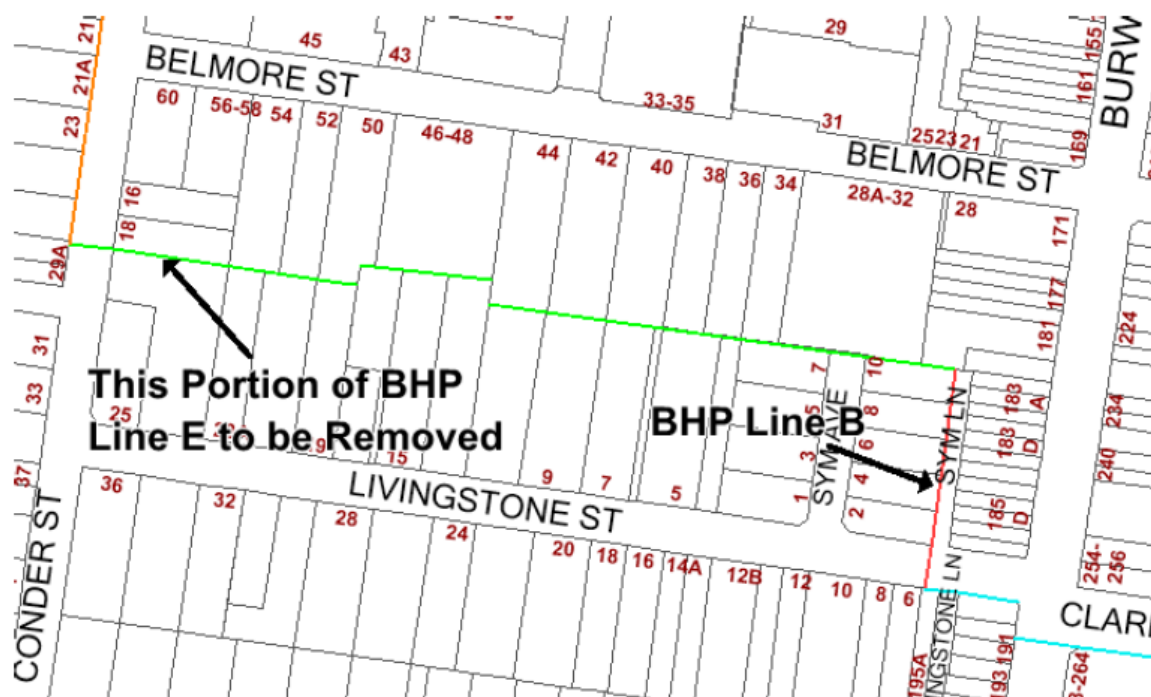


Figure 1 – Proposed amendment to the Building Height Plane (source: planning proposal)

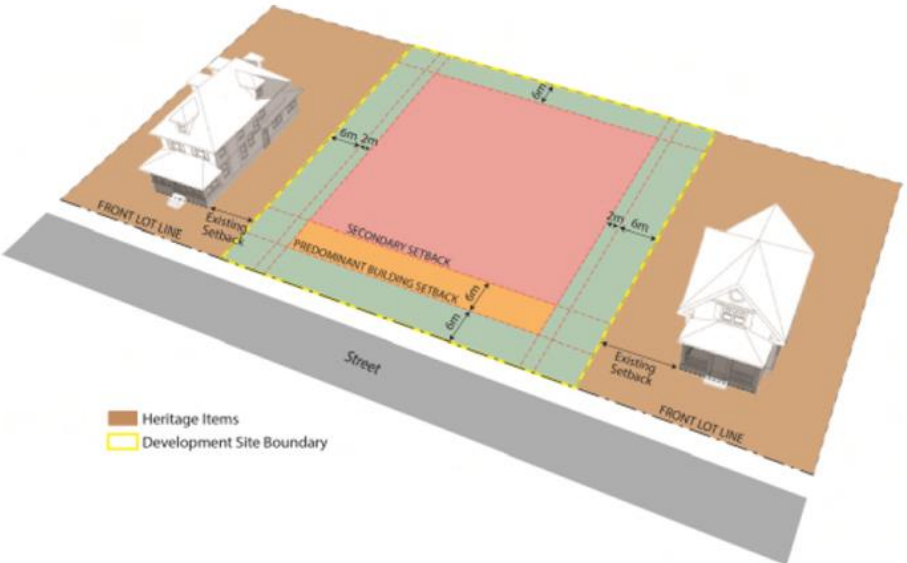
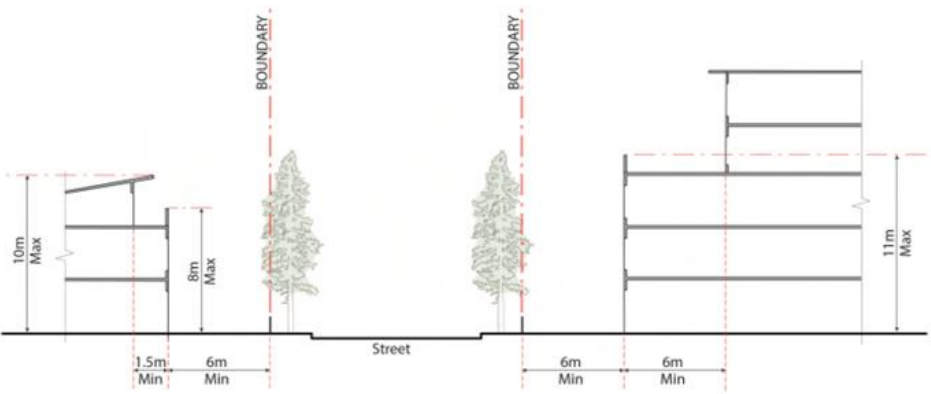
Table 4 Current and Proposed controls - Livingstone Street, Burwood.

Properties subject to Amendments:	6 – 36 Livingstone Street, Burwood	
Control	Current	Proposed
Zone	R2 Low Density Residential	R3 Medium Density Residential
Maximum height of the building	8.5m	10m
Floor space ratio	0.55:1	1.2:1

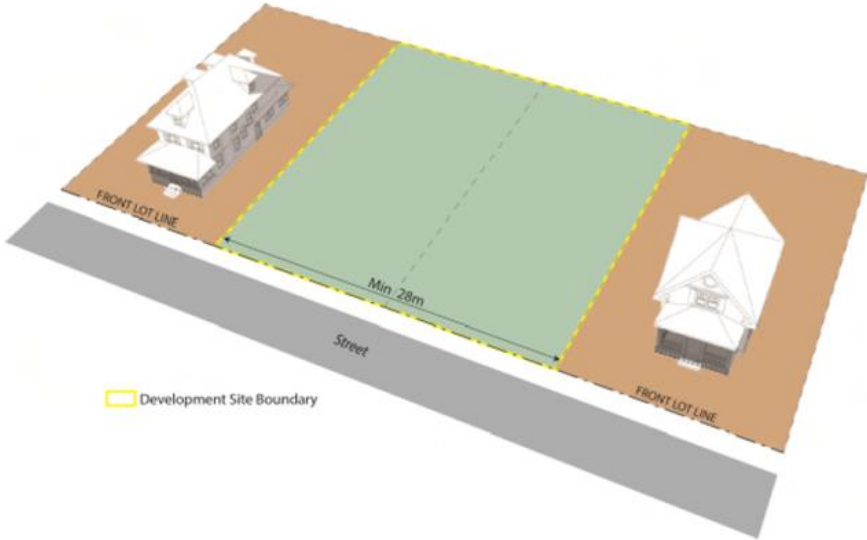
The proposal also includes the following additional local provisions for the Livingston and Sym Avenue Precinct:

Table 5 Proposed controls – Local Provisions for Livingstone Street and Sym Avenue Precinct

Properties subject to Amendments:	Livingstone Street and Sym Avenue Precinct	
Control	Proposed	
Building Setbacks	<ul style="list-style-type: none"> <li>Minimum 6m predominant building setback from any street frontage.</li> </ul>	

Properties subject to Amendments:	Livingstone Street and Sym Avenue Precinct
	<ul style="list-style-type: none"> <li>Minimum 2m extra setback from the boundary adjoining a heritage item, additional to the setback requirements in the Apartment Design Guide (ADG).</li> <li>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 (refer to <b>Figure 2</b>).</li> </ul>  <p><b>Figure 2 – Proposed building setbacks (source: planning proposal)</b></p>
Maximum Street Wall Height	<ul style="list-style-type: none"> <li>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 (refer to <b>Figure 3</b>).</li> </ul>  <p><b>Figure 3 – Proposed street wall height (source: planning proposal)</b></p>



Properties subject to Amendments:	Livingstone Street and Sym Avenue Precinct
Minimum Frontage	<ul style="list-style-type: none"> <li>A minimum frontage of 28m before development for residential apartments, terraces or townhouses can be carried out (refer to <b>Figure 4</b>).</li> </ul>  <p><b>Figure 4 – Proposed minimum frontage (source: planning proposal)</b></p>
Uninterrupted building frontage	<ul style="list-style-type: none"> <li>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.</li> </ul>
Minimum Site Area	<ul style="list-style-type: none"> <li>a minimum site area of 1500sqm for boarding house development and for sites including a heritage item.</li> </ul>
Footprint of Basement	<ul style="list-style-type: none"> <li>The footprint of basement levels is to generally follow or stay within the outline of the building above ground and not occupy more than 70% of the site.</li> </ul>

**Table 6 Current and Proposed controls - Mitchell and Kembla Streets Heritage Conservation Area (HCA).**

The planning proposal seeks to rezone the majority of properties to the north of Mitchell Street in the Mitchell and Kembla Street HCA. The proposal does not seek to rezone 104-106 Mitchell Street as this site is developed for medium density housing. Refer to **Figure 5**.

Properties subject to Amendments:	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.	
Control	Current	Proposed
Zone	R3 Medium Density Residential	R2 Low Density Residential
Maximum height of the building	8.5m	No Change
Floor space ratio	0.55:1	No Change

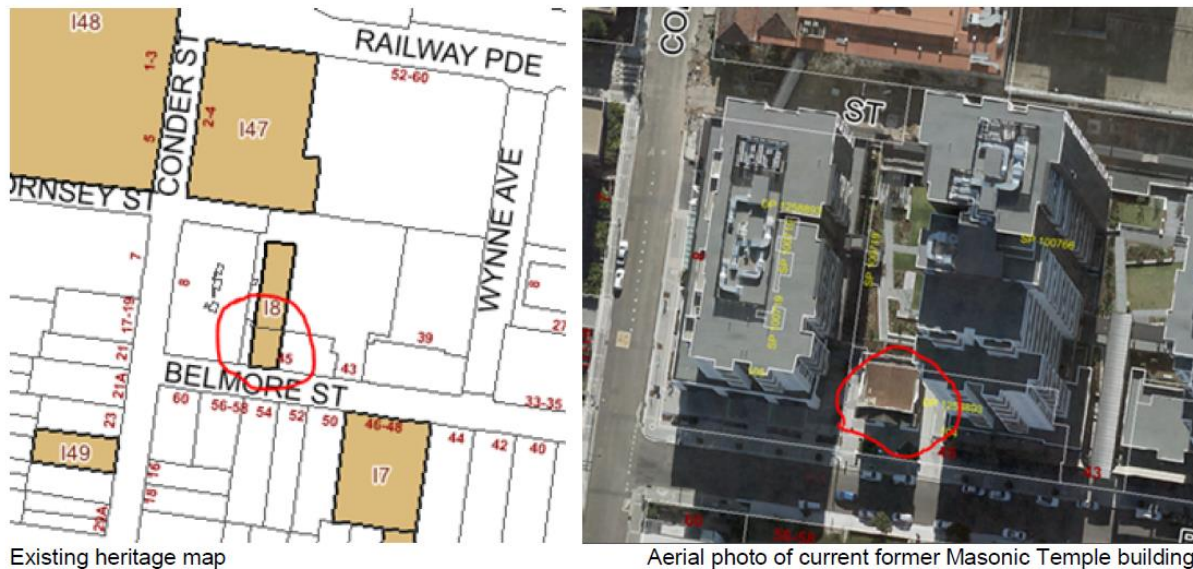


Figure 5 – Properties proposed to be rezoned outlined in red. HCA shown in red hatched area (source: planning proposal)

Table 7 Schedule 5 Amendment - former Masonic Temple building

The planning proposal seeks to update the Heritage Map and Schedule 5 of the Burwood LEP 2012 to correct the reference for the former Masonic Temple building following development approval and subdivision which provided the heritage item with a new address (refer to **Figure 6**).

BLEP – Schedule 5	Current Address	Proposed Address
Address	47 Belmore Street, Burwood (referred to as 43 & 45 Belmore Street, Burwood in the Planning proposal).	45 Belmore Street
Property Description	Lot 1, DP 309715	Part Lot 104, DP 1258893



**Figure 6 – Existing Heritage Map and current former Masonic Temple building post development (source: planning proposal)**

Department Comment:

*Local Provisions for Livingstone and Sym Avenue Precinct*

The planning proposal includes local provisions related to the Livingstone Street and Sym Avenue Precinct, comment is provided below on two of the local provisions:

Uninterrupted building frontage – The planning proposal includes a maximum length of uninterrupted building frontage for the precinct. The intention behind this control is unclear and inadequate justification has been provided as part of the planning proposal.

This is a control that is best suited to a DCP control and being included in the planning proposal is not the best means of achieving the desired outcome. A gateway condition is recommended to remove this control from the planning proposal.

- Minimum Site Area - The planning proposal includes the introduction of a minimum lot size requirement for the development of boarding houses and sites including a heritage item. The requirement for minimum site area for boarding houses is inconsistent with Ministerial Direction 3.1 for Residential zones and State Environmental Planning Policy (Affordable Rental Housing) (ARH SEPP), this is discussed in Section 3.4 and 3.5 of this report. A gateway condition is recommended to remove the proposed minimum lot size control for boarding houses.

*Former Masonic Temple Building*

The planning proposal refers to the existing address in the BLEP as 43 and 45 Belmore, however the Schedule 5 of the BLEP lists the existing address as 47 Belmore. A gateway condition is recommended to update the planning proposal to refer to the existing address in the BLEP as 47 Belmore St.

## 1.4 Site description and surrounding area

The Proposal involves amendments to various parcels of land within the Burwood Local Government Area (LGA) and has three specific locations for the key components of the planning proposal, being:

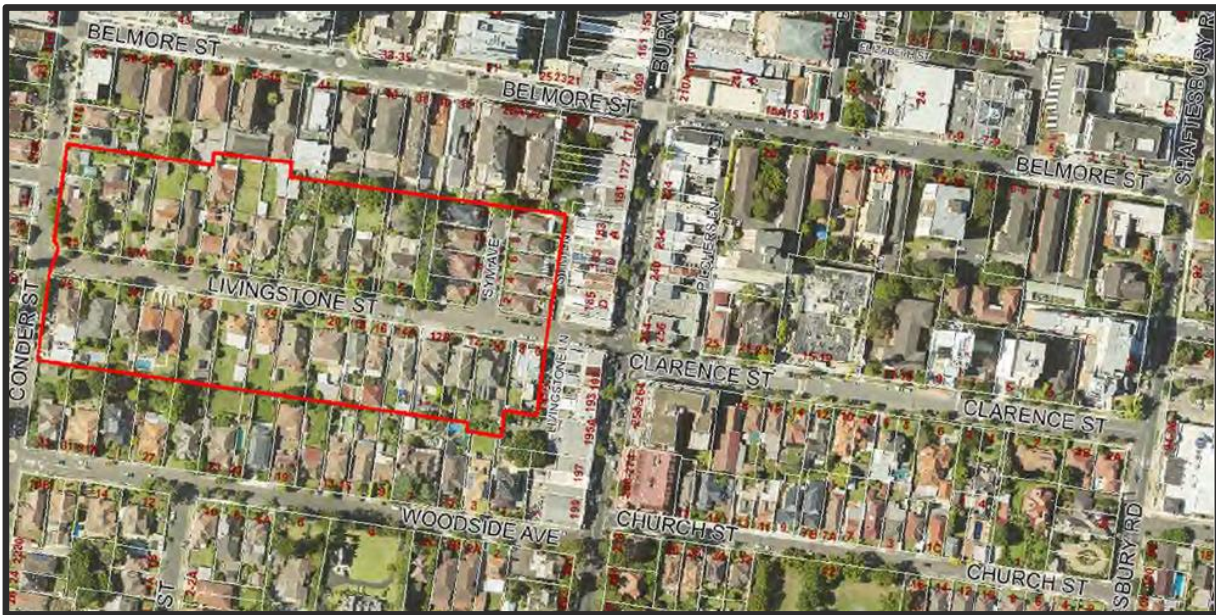


1. Rezoning of land and amendments to provisions in Livingstone Street and Sym Avenue Burwood.
2. Rezoning of properties within the Mitchell and Kembla Streets Heritage Conservation Area (HCA).
3. BLEP amendments associated with the former Masonic Temple building.

***Rezoning of land and amendments to provisions in Livingstone Street and Sym, Avenue Burwood.***

**Site Analysis**

The Livingstone Street and Sym Avenue Precinct (**Figure 6**) is located at the periphery of the Burwood Town Centre, to the west of Burwood Road and South of Belmore Street. Burwood is identified as a strategic centre in the Eastern City District Plan.



**Figure 6: Livingstone Street and Sym Avenue Precinct (source: Planning Proposal)**

The precinct is currently zoned R2 low density residential and is predominantly characterised by single and two storey detached dwelling houses of varying ages and architectural styles.

The northern side of Livingstone Road and Sym Avenue adjoin a B4 zone featuring high density development as demonstrated in **Figure 7**.



**Figure 7: Image looking west along Livingstone Street demonstrating existing character of development within the locality(source: Google Streetview)**





Figure 8: Image looking north along Sym Avenue demonstrating existing character of development within the locality (source: Google Streetview)



Figure 9: Image looking east along Livingstone Street towards Burwood Road (source: Google Streetview)

### ***Rezoning of properties within the Mitchell and Kembla Streets Heritage Conservation Area (HCA).***

The Mitchell and Kembla Street HCA is located in the suburb of Enfield. The parcels of land subject to this proposal are currently zoned R3 Medium Density Residential (**refer to Figure 10**). The area is characterised by low density residential development with the exception 104-106 Mitchell, which was developed as medium density housing in the late 1970s.





**Figure 10: Map of Mitchell and Kembla Streets Heritage Conservation Area (HCA) identifying land to be rezoned outlined in red .(source: Planning Proposal)**



**Figure 11: Image looking west along Mitchell Street source: Google Earth)**





## Rezoning of land and amendments to provisions in Livingstone Street and Sym, Avenue Burwood



Land Zoning (Map Sheet LZN\_001)

Existing: R2 Low Density Residential

Proposed: R1 General Residential and  
R3 Medium Density Residential

**Figure 13: Existing and Proposed Land Zoning Map (source planning proposal)**

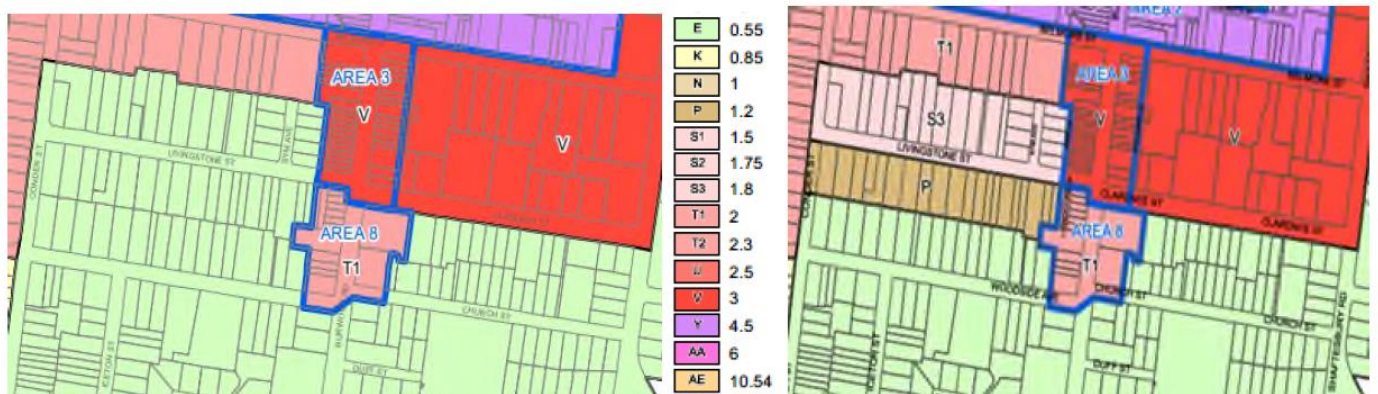


Height of Buildings (Map Sheet HOB\_001)

Existing: 8.5m

Proposed: 17m and 10m

**Figure 14: Existing and Proposed Height of Buildings Map (source planning proposal)**



Floor Space Ratio (Map Sheet FSR\_001)

Existing: 0.55:1

Proposed: 1.8:1 and 1.2:1

**Figure 15: Existing and Proposed Floor Space Ratio Map (source planning proposal)**





Building Height Plane (Map Sheet BHP\_001)

Existing: BHP lines as marked

Proposed: BHP lines as marked

**Figure 16: Existing and Proposed Building Height Plane Map (source planning proposal)**

**Rezoning of properties within the Mitchell and Kembla Streets Heritage Conservation Area (HCA).**



Land Zoning (Map Sheet LZN\_002)

Existing: R3 Medium Density Residential

Proposed: R2 Low Density Residential

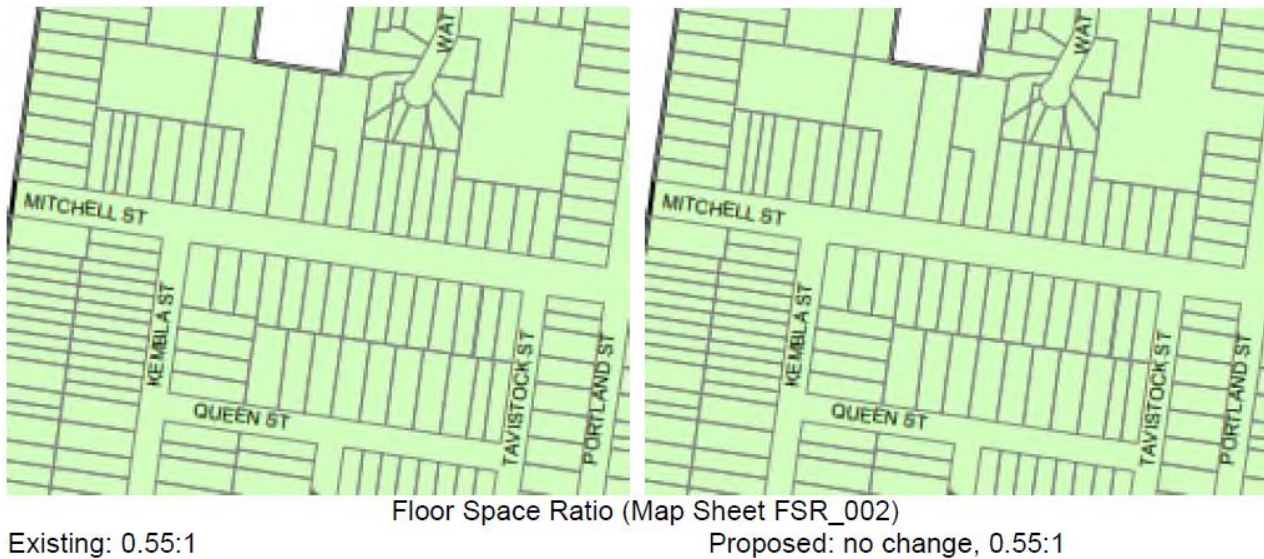
**Figure 17: Existing and Proposed zoning map (source planning proposal)**

Height of Buildings (Map Sheet HOB\_002)

Existing: 8.5m

Proposed: no change, 8.5m

**Figure 18: Existing and proposed height of building map (source planning proposal)**



**Figure 19: Current and proposed height of building map (Source Planning proposal)**

***Amendments related to the former Masonic Temple building.***



**Figure 20: Existing and proposed Heritage Map (source Planning Proposal)**

## 2 Need for the planning proposal

The planning proposal has been prepared in response to amendments to the Environmental Planning & Assessment Act which required all Councils to review their LEPs and prepare a Local Strategic Planning Statement (LSPS) to give effect to the relevant district plan.

This proposal is the first of two LEP amendments which will implement the Eastern City District Plan and Burwood's LSPS approved by the GSC.

This planning proposal is the best means of delivering the following intended objectives and outcomes.

A planning proposal is the best means to achieve the change in planning controls and zones proposed as it is the only mechanism by which the proposed provisions may be amended in the LEP. In relation to the local provisions proposed the planning proposal states that the proposed local provisions are best to be included as LEP provisions rather than a DCP control

as they have more legal weight and will protect streetscape characters, control built forms, address amenity concerns and minimise impacts on heritage items.

## 3 Strategic assessment

### 3.1 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 8 District Plan assessment**

District Plan Priorities	Justification
<i>Priority E1 - Planning for a city supported by infrastructure</i>	<p>This planning priority seeks to align future growth with infrastructure.</p> <p>The proposed rezoning of the Livingstone Street and Sym Avenue Precinct is consistent with this planning priority as it accommodates new housing:</p> <ul style="list-style-type: none"> <li>• Approximately 300m south west of Burwood Station and town centre;</li> <li>• Within 400m to local bus stops and Burwood bus interchanges including Bus routes 410, 415, 418, 464, 490, 492, 407, 466, 420, 420, M90</li> <li>• Approximately 1.25km south of Parramatta Road;</li> <li>• Within 200m of Burwood Public School, 230m of Woodstock Childcare Centre, 280m of Santa Sabina College;</li> <li>• In close proximity to open space (Approximately 150m to Sanders park and 190m to Woodstock Park); and</li> <li>• Within 250m of local shops and services including Burwood Plaza, Emerald Square, Burwood library, Burwood Police Station and Centrelink.</li> </ul>



District Plan Priorities	Justification
<p><i>Priority E5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport</i></p>	<p>This planning priority seeks to provide housing supply, choice and affordability, with access to jobs, services and transport.</p> <p>The proposed rezoning of the Livingstone Street and Sym Avenue Precinct is consistent with this planning priority as it:</p> <ul style="list-style-type: none"> <li>• Facilitates the delivery of both medium and high-density residential development types, providing choice, diversity and affordability;</li> <li>• New housing is provided near existing public transport with access to surrounding centres and the Sydney CBD; and</li> <li>• The rezoning adjoins the Burwood Town Centre which provides services for the local community, including medical and other professional services.</li> </ul>
<p><i>Priority E6</i></p> <p><i>Creating and renewing great places and local centres, and respecting the District's heritage</i></p>	<p>This planning priority aims to create great places which bring people together and where heritage is identified, conserved and enhanced.</p> <p>The proposal is consistent with this planning priority as it proposes to provide additional housing capacity adjoining Burwood Town Centre and protect local heritage.</p> <p>The planning proposal does seek any changes to existing heritage items in the Livingstone and Sym Avenue precinct and these items will continue to be protected under existing provisions in the Burwood LEP 2012. The planning proposal includes proposed additional local provisions to ensure heritage is considered in any future development in this precinct, including setbacks and minimum site area controls. Further justification is required to support these provisions and is included as condition of Gateway.</p> <p>The planning proposal states that the proposed rezoning of the Mitchell and Kembla Streets HCA will protect the heritage character of the HCA.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in Table 9 and 10 below:

**Table 9 Local Strategic Planning Statement**

Objectives, priorities and actions from the Burwood Local Strategic Planning Statement:	Justification
<i>Priority 3 – Provide housing supply, choice and affordability in close proximity to jobs, services and public transport.</i>	The rezoning of Livingstone and Sym Avenue Precinct will increase housing supply at the periphery of Burwood Town Centre which provides access to existing public transport, services and local jobs. The planning proposal seeks to increase medium density housing to improve housing choice close to the Burwood town centre and station.
<i>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 deliver additional new homes in the six to 10 year housing supply projections</i>	The proposed rezoning of the Livingstone and Sym Avenue precinct will support the delivery of Burwood's housing targets in the provision of an additional 505 dwellings.
<i>Priority 5 – Identify local character areas considering preservation, enhancement and desired future character.</i>	<p>The LSPS identifies the Livingstone Street precinct as a Local Character Investigation Area for its existing and emerging character. The planning proposal seeks to include additional local provisions in order to enhance and preserve the desired future character.</p> <p>The intent of these provisions is consistent with the LSPS.</p>
<i>Preserve local character by preventing extensive redevelopment in those parts of the LGA which have heritage significance or a significant local character.</i>	The rezoning of part of the Mitchell Street and Kembla Streets HCA from R3 Medium Density Residential to R2 Low Density achieves this objective.

Objectives, priorities and actions from the Burwood Local Strategic Planning Statement:	Justification
<i>Action 5.3 – Investigate rezoning land in the transition area around the Burwood Town Centre to the R3 zone.</i>	<p>The planning proposal helps to deliver this action by formalising past resolutions of Council involving the investigation of zone and transition surrounding the Burwood Town Centre. This has resulted in the following outcomes:</p> <p><b>Southern side of Livingstone Street:</b> R3 Medium Density Residential, with a maximum building height of 10m and a maximum FSR of 1.2:1:</p> <p><b>Sym Avenue and northern side of Livingstone Street:</b> R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8: and</p> <p><b>Clarence and Church Streets Precinct:</b> No rezoning to proceed.</p>

It should be noted that the Burwood Local Housing Strategy is currently under assessment by the Department and is yet to be endorsed.

**Table 10 Burwood Local Housing Strategy**

Local Housing Strategy	Justification
<p>The objectives for housing in the Burwood LGA:</p> <ul style="list-style-type: none"> <li>• Increase housing diversity</li> <li>• Make housing more affordable</li> <li>• Preserve local character</li> <li>• Plan for longer term housing needs</li> <li>• Support the vibrancy, vitality and activity of centres</li> </ul>	<p>The proposal is generally consistent with the objectives of the Local Housing Strategy.</p> <p>The proposal supports the vibrancy, vitality and activity of Burwood Town Centre by increasing density at its periphery.</p> <p>The introduction of the R1 and R3 zone will increase supply, enable greater housing choice and diversity in the area. The proposal also seeks to introduce greater density and height transition surrounding the Burwood Town Centre.</p> <p>The proposal also aims to preserve local character through the introduction of additional local provisions and the rezoning of land within the Mitchell and Kembla Street HCA. The intent of these amendments is consistent with the objectives of Burwood Local Housing Strategy.</p>

### 3.3 Local planning panel (LPP) recommendation

On 13 April 2021, the Burwood LPP considered the planning proposal and generally agreed with the rationale set out in the Council report. The planning proposal was recommended to proceed to Gateway.

On 27 April 2021, Council considered the advice and recommendation of the BLPP. Council resolved to support the planning proposal and submit it to the Department for Gateway Determination.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.Environment &Heritage		
2.3 Heritage Conservation	Further justification required; gateway condition recommended.	<p>This Direction aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>To be consistent with this Direction, a planning proposal must contain provisions that facilitate the conservation of a heritage items.</p> <p><i>Mitchell and Kembla Streets Heritage Conservation Area (HCA)</i></p> <p>The planning proposal seeks to formalise a past resolution of Council to rezone land along Mitchell street from R3 to R2. This will conserve the existing street scape and established character of the HCA and is considered consistent with this direction.</p> <p><i>Livingstone and Sym Ave Precinct</i></p> <p>The planning proposal seeks to rezone land in the Livingstone and Sym Ave Precinct from R2 to R1 and R3. This precinct contains 5 heritage items of local significance as identified in Schedule 5 BLEP 2012 and BLEP Map.</p> <p>Further justification is required to support rezoning of land containing local heritage items and why the proposed additional provisions are the best means to mitigate potential impacts of future development.</p> <p>The planning proposal does not seek any amendments to existing heritage items and existing heritage conservation provisions in the Burwood LEP 2012 will continue to provide protection to these items. While heritage impacts can largely be dealt with at the DA Stage, it is recommended that the proposal be updated to address heritage considerations of the proposal.</p>
2.6 Remediation of Contaminated Land	Further justification required; gateway condition recommended.	<p>This Direction aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by Planning Proposal authorities. This direction applies to the rezoning of land for residential purposes, such as intended by the Planning Proposal.</p> <p>This Direction requires that before including any land specified in paragraph (2) (of the Direction) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land</p>

		<p>carried out in accordance with the contaminated land planning guidelines.</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal is not considered to compromise the intent of this objective. However, the planning proposal has not addressed this ministerial direction in relation to the rezoning of the Livingstone and Sym Ave Precinct and Mitchell and Kembla Streets Heritage Conservation Area (HCA).</p>
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### 3.Housing Infrastructure and Urban Development

3.1 Residential Zones	No, Gateway Conditions recommended	<p>This Direction aims to encourage a variety and choice of housing types, make efficient use of infrastructure and services, and minimise the impact of residential development on the environment and resource lands. The Direction applies when a Planning Proposal will affect residential land.</p> <p>The proposed amendments in this planning proposal, demonstrate Council's intent to deliver the identified objectives and housing targets as required by the:</p> <ul style="list-style-type: none"> <li>• Eastern City District Plan;</li> <li>• Burwood LSPS; and</li> <li>• draft Burwood Local Housing Strategy (LHS).</li> </ul> <p>The proposal will make efficient use of existing infrastructure and services through the intensification of density at the periphery of Burwood Town Centre.</p> <p>The proposal seeks to manage future development and address transition, amenity and heritage conservation through zoning changes and the introduction of additional provisions.</p> <p>The planning proposal seeks to rezone properties in the Mitchell and Kembla Street HCA from R3 to R2; however, the proposal does not seek a change to the existing height and FSR controls. The rezoning only affects a small number of properties which have limited redevelopment opportunities due to</p> <p>However, this planning proposal also includes the introduction of a minimum lot size requirement for the development of boarding houses. The inconsistency with the direction arises as it has the potential to reduce housing types.</p> <p>The introduction of the provision is not considered to be of minor significance as it will reduce the number of lots available for boarding house development in the Livingstone Street and Sym Avenue precinct which is located near infrastructure and services. The inconsistency is not justified and a Gateway Condition is recommended.</p>
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3.4 Integrating Land Use and Transport	Yes	<p>This Direction aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts:</p> <ul style="list-style-type: none"> <li>• improve active and public transport access to homes and jobs;</li> <li>• increase transport choices and reduce car dependency;</li> <li>• reduce travel demand;</li> <li>• support the operation of public transport services; and</li> <li>• provide for the efficient movement of freight.</li> </ul> <p>This direction applies when a Planning Proposal seeks to create, alter or remove a zone or a provision relating to urban land.</p> <p>The proposed Livingstone and Sym Ave Precinct rezoning is consistent with this Direction as it seeks to appropriately increase residential density close to the Burwood Town Centre which is identified as a strategic centre.</p> <p>The proposal will increase housing supply:</p> <ul style="list-style-type: none"> <li>• within 300m of Burwood Station;</li> <li>• within 400m to local bus stops and Burwood bus interchanges including Bus routes 410, 415, 418, 464, 490,492,407,466,420,420, M90</li> <li>• within 200m of Burwood Public School, 230m of Woodstock Childcare Centre, 280m of Santa Sabina College;</li> <li>• in close proximity to open space (Aproximately150m to Sanders park and 190m to Woodstock Park ); and</li> <li>• Within 250m of local shops and services including Burwood Plaza, Emerald Square, Burwood library, Burwood Police Station and Centrelink.</li> </ul> <p>This provides for the efficient use of existing transport infrastructure, encourages walkability and improves access to jobs and services.</p>
4.1 Acid Sulfate Soils	No but justified.	<p>The subject site is identified as having Class 5 Acid Sulfate soils. Acid sulfate soils are not typically found in Class 5 areas and are classed as such if they are located within 500 metres on adjacent class 1,2,3 or 4 land.</p> <p>The proposal is not considered to compromise the intent of this objective and is also minor in nature.</p>

### 3.5 State environmental planning policies (SEPPs)

State Environmental Planning Policy No 65 - Design Quality of Residential Apartments (SEPP 65) State Environmental Planning Policy (Affordable Rental Housing) (ARH SEPP) is applicable to the Planning proposal and has been assessed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP - Exempt and Complying Development Codes (Codes SEPP)	Yes	<p>The Codes SEPP sets out approval pathways for exempt and complying development, this includes Part 3B Low Rise Housing Diversity Code for medium density dwelling types.</p> <p>Department Comment:</p> <p>The planning proposal relates to land zones where medium density development will be permitted as complying development under Part 3B.</p> <p>The planning proposal will not affect the operation of the SEPP because the proposed amendments typically relate to the DA process.</p>
SEPP 65	Yes	<p>This SEPP aims to improve the design quality of residential apartment development in NSW.</p> <p>The planning proposal introduces additional local provisions to be applied in addition to the ADG in the Livingstone and Sym Avenue Precinct.</p> <p><i>Department Comment:</i></p> <p>The planning proposal is supported by development scenarios for typical development sites. The planning proposal states that the development scenarios comply with the requirements of the ADG. The information provided is sufficient for the purposes of public exhibition, however, further urban design analysis may be required which demonstrates compliance with the ADG, taking into consideration the proposed Additional Local Provisions, setbacks, building heights and FSR controls as part of the finalisation of the proposal.</p>

Affordable Rental Housing SEPP	No, Gateway Conditions recommended	<p>The ARH SEPP sets out the permissibility and development standards for boarding house developments across the state.</p> <p>The proposal includes minimum site area for boarding house developments in the R1 and R3 zone for the Livingstone and Sym Avenue Precinct.</p> <p><i>Department Comment:</i></p> <p>The proposed boarding house provisions will not prohibit development but will reduce the potential for boarding house development.</p> <p>The introduction of the provision in the Livingstone and Sym Avenue Precinct within the R1 and R3 zones where boarding houses are permitted does not achieve the aims of the SEPP as it does not adopt a balanced approach to providing for, and mitigating the loss of and affordable rental housing.</p> <p>The proposal will limit diverse and affordable housing options in medium and higher density zones, which are typically in areas closer to centres and transport. The proposal is also contrary to the objectives of the zones which seek to provide a variety of housing types.</p> <p>It is recommended that a condition of gateway be applied to remove the proposed minimum lot size for boarding house developments in the Livingstone and Sym Avenue Precinct.</p>
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## 4 Site-specific assessment

### 4.1 Environmental

There are no known critical habitats, threatened species or ecological communities that would be impacted by the planning proposal. The land subject to this proposal has been previously disturbed to establish the existing development. Intensification of development within the Livingstone and Syn Avenue is not likely to result in the loss of key habitat.

### 4.2 Social and economic

This planning proposal seeks to provide greater housing capacity and choice, in response to a growing population and changing demographics. This will result in social economic benefits for the existing and future community, including,

- revitalisation of existing urban areas;
- greater housing choice and diversity;
- increased housing capacity;
- protecting heritage;
- more efficient use of existing infrastructure; and
- facilitating opportunities for improvement of infrastructure.

### 4.3 Infrastructure

This planning proposal provides additional housing supply and diversity in existing urban areas serviced by existing infrastructure, including:

- Commercial services;
- Public and private utilities;
- Schools;
- Public open space
- Community facilities;
- Major roads; and
- Public transport.

The planning proposal identifies that Burwood Council's Traffic and Transport team have assessed the impact of the proposal on the surrounding road network. The assessment concluded that the planning proposal would not result in traffic volumes exceeding the planned capacity of local roads.

The assessment indicated that intersection upgrades may be required for the Livingstone Street and Sym Avenue intersection should this proposal proceed.

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.

This area has been identified as a high pedestrian activity area and infrastructure improvements to this area will improve safety and efficiency for pedestrians and vehicles.

There is no applicable state infrastructure contribution applicable to the land that is subject to this planning proposal.

## 5 Consultation

### 5.1 Community

Council have previously undertaken preliminary community consultation regarding some of the proposed controls in the planning proposal, including the proposed amendments in Livingstone and Sym Avenue precinct.

Council proposes a formal exhibition period of 28 days. The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

### 5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

- NSW Heritage
- Transport for NSW
- Energy Australia
- Sydney Water
- NSW Department of Education

## 6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported

it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

## 7 Local plan-making authority

Council has not requested to excise its functions as a Local Plan-Making Authority, as such it is recommended that Council not be authorised to be the local plan-making authority for this proposal.

## 8 Assessment Summary

The planning proposal is considered to have strategic merit and is supported to proceed to exhibition with conditions for the following reasons:

- The planning proposal is generally consistent with the state, regional and local strategic planning framework, including the Regional Plan, Eastern City District Plan and the Burwood Local Strategic Planning Statement;
- It is consistent with the relevant State Environmental Planning Policies, except for the ARH SEPP which will be addressed by a Gateway Condition;
- It is consistent with most of the relevant section 9.1 Ministerial Directions with the exception of Direction 3.1 which is subject to a condition of gateway to resolve the inconsistency. Any inconsistencies or Directions which are not currently addressed, will be addressed by way of Gateway Conditions before public exhibition and during agency consultation;
- The planning proposal will support Burwood Council to achieve the Greater Sydney Commission's 6-10 year housing targets;
- It will ensure that diverse housing options can be facilitated within the LGA, subject to a Gateway Condition;
- It will facilitate management of local heritage and correct references to heritage items;
- The planning proposal is considered unlikely to result in any adverse environmental impacts, or impacts can adequately be managed through a DA process.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 2.3 and 2.6 is unresolved and will require justification.
- Note that inconsistency with section 9.1 Direction 4.1 is justified and a gateway condition is proposed to remove the inconsistency with Direction 3.1.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
  - a) Demonstrate consistency with section 9.1 Directions:
    - 2.3 Heritage conservation
    - 2.6 Remediation of contaminated land
  - b) Remove the following provision from the planning proposal:
 

*“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”.*

- c) Remove the reference to “boarding house development” from the following provision within the planning proposal:  
*“Site area: a minimum site area of 1500sqm (ie. > 28m x 48m = 1344sqm) for boarding house development and for sites including a heritage item”.*
- d) Provide further justification to support the proposed Additional Local Provisions proposed for the Livingstone and Sym Avenue Precinct as the best means to manage future development and impact to heritage items.
- e) Update the proposal to include the existing address of the Masonic Temple (47 Belmore St) as referenced in Schedule 5 BLEP 2012.
- f) Update Part 4 Mapping to include red highlight for proposed change locations to mapping.

2. Consultation is required with the following public authorities:

- NSW Heritage
- Transport for NSW
- Energy Australia
- Sydney Water Corporation
- NSW Department of Education

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

3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The planning proposal must be exhibited within 3 months from the date of the Gateway determination.
5. The planning proposal must be reported to council (or Planning Panel) for a final recommendation 7 months from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
7. Council did not request to be the local planning making authority and therefore is not authorised as the local plan-making authority.



Katrina Burley  
Manager, Place and Infrastructure



8 June 2021  
Laura Locke  
Director, Eastern and South District

Assessment officer

Courtney Armadoros

Senior Planning Officer, Agile Planning and Programs

02 95856446