

(Item 15/23) Post Exhibition - Planning Proposal to Heritage List Properties within the Appian Way Heritage Conservation Area

File No: 23/10136

Report by Director City Strategy

Summary

The planning proposal to group heritage list properties in the Appian Way Conservation Area was publically exhibited from 23 January - 24 February 2023. Twenty-three (23) submissions were received, largely in support of the Planning Proposal.

This report provides an overview of the submissions and recommends that the planning proposal be finalised. It also outlines further work that is proposed to be undertaken in relation to investigating the heritage listing of the Appian Way Recreation Club and significant landscape features (significant trees and vegetation) in the Appian Way Heritage Conservation Area.

Operational Plan Objective

A.16 Deliver initiatives that promote and improve access to local heritage
C.3 An urban environment that maintains and enhances our sense of identity and place
C.3.2 Protect our unique built heritage and maintain or enhance local character
P.13 Identify and plan for built heritage and local character

Background

Council at its meeting of 27 September 2022 considered a Mayoral Minute (MM12/22) and resolved the following:

That Council request the General Manager to investigate the listing of the properties in the Appian Way as heritage items and to further seek advice on the question of whether the Appian Way Conservation Area could be lifted to a State significant status.

The planning proposal for the group heritage listing is the first step in implementing this resolution.

A heritage assessment of each of the properties within the existing heritage conservation area was undertaken, and those that met the requirements were included in the planning proposal.

The Burwood Local Planning Panel (BLPP) at its meeting on 8 November 2022 resolved to:

- (a) support the Planning Proposal to amend Schedule 5 of Burwood Local Environmental Plan 2012 to group list those properties that demonstrate heritage significance and meet the threshold of local significance for the relevant criteria, as outlined in the Planning Proposal.*
- (b) provides advice to Council to proceed with the Planning Proposal at Attachment 1 to group list the relevant properties in the Appian Way Heritage Conservation Area as a local heritage item in the Burwood LEP 2012.*

Council, at its meeting of 22 November 2022, considered the planning proposal and resolved the following:

- 1. That Council support the group listing of the identified properties, as outlined in the Planning Proposal as a local heritage item on the heritage schedule of the Burwood Environmental Plan 2012 which contains the appropriate provisions for protecting and managing the listed properties.*

2. *That Council endorse the forwarding of the Planning Proposal to the NSW Department of Planning and Environment (DPE) to request a Gateway Determination under Section 3.33 of the Environmental Planning and Assessment Act 1979 for an amendment to the Burwood Local Environmental Plan 2012 by:*
 - i. *Group listing the properties as identified in the Planning Proposal as a heritage item in Schedule 5 Environmental heritage; and*
 - ii. *Mapping the properties as "Item – General" on the Heritage Map*
3. *That subject to the Gateway Determination, affected property owners be notified in writing.*
4. *That the results of the public exhibition and consultation be reported back to Council.*
5. *That Council supports the nomination of the Appian Way Heritage Conservation Area as State Heritage item and that engagement with NSW Government is authorised to commence this process. A further report should be provided to Council to outline a process and pathway to secure State Heritage Listing.*

On 23 December 2022, DPE issued a Gateway Determination allowing the planning proposal to be publically exhibited.

Public Exhibition

The public exhibition of the planning proposal was undertaken in accordance with the conditions of the Gateway Determination and also the requirements for public exhibition of planning proposals as set out in DPE's *Local Environmental Plan Making Guideline*.

The Gateway Determination for the planning proposal required that:

- The Planning Proposal be publicly exhibited for a minimum of 20 working days.
- Heritage NSW be consulted.

The planning proposal, included at Attachment 1 was placed on public exhibition from 23 January - 24 February 2023. Property owners, residents and surrounding properties were notified in writing of the public exhibition. The exhibition notice included a link to Participate Burwood and the NSW Planning Portal where the planning proposal and the supporting documentation were available for viewing.

Heritage NSW were consulted through the Planning Portal and made a submission.

Discussion of Submissions

A total of twenty-three (23) submissions were received during the exhibition period - 17 in support, 3 unclear or neutral and 3 in objection.

All of the submission received have been considered and the following themes have been identified:

- Positive comments about architecture, uniqueness and reasons for greater protection
- Inclusion of the Appian Way Recreation Club (central open space, tennis courts and pavilion) as a heritage item
- Removing non-residential land uses such as child care centres to retain the residential integrity of the conservation area
- Inclusion of all properties in the Appian Way Heritage Conservation Area
- Greater protection for streetscape and character of street
- Inclusion of street trees as heritage items

- Extension of Clause 6.8 of Burwood LEP to Appian Way and surrounding properties to allow greater development opportunities
- Introduce height limits on land adjoining heritage
- Suggestion for Council to take action on demolition by neglect
- Suggestion for Council to heritage list the Malvern Hill Heritage Conservation Area
- Comments about specific dwellings and justification for not meeting threshold for inclusion

An assessment of each of the submissions has been undertaken. A summary of the submissions with an officer's comment is included at Attachment 2.

Submission by Heritage NSW

Heritage NSW supports the identification and listing of this group item and raised no objection to the planning proposal.

Amendments in response to submissions

The points and matters raised in the submissions are noted and have been considered as outlined in Attachment 2 and do not necessitate any changes to the planning proposal.

It is considered that there is some merit in considering the preparation of a planning proposal to separately list the landscape features (significant trees and vegetation) and the Appian Way Recreation Club as a heritage item. This is noting that those items are also protected as they are included within the Heritage Conservation Area.

However, Council's Heritage Adviser will undertake a review and a further report will be brought back to Council.

Planning or Policy Implications

The properties have been afforded heritage protection (i.e. deemed a "draft heritage item") as soon as the planning proposal was placed on public exhibition. The planning proposal has been progressed in a timely manner thereby limiting the risk of alterations to the dwellings ahead of heritage listing.

DPE has delegated the making of the amendment to the Burwood LEP 2012 to Council.

Should Council resolve to finalise the planning proposal, Council staff will liaise with DPE and Parliamentary Counsel to draft the amendment, which will come into force from the date of being notified on the NSW Legislation website.

Financial Implications

There are no financial implications for Council other than staff time.

Conclusion

The planning proposal was placed on public exhibition in accordance with DPE's Gateway Determination and DPE's *Local Environmental Plan Making Guideline*, and Council's *Community Engagement Strategy 2023-2026*. All of the submissions have been considered and it is recommended that Council endorse the planning proposal as exhibited and progress finalisation.

It is also recommended that investigations be undertaken by Council's Heritage Adviser on the heritage significance of the landscape features (significant trees and vegetation) and the Appian Way Recreation Club and if appropriate prepare a planning proposal for the heritage listing of the items.

Recommendation(s)

1. That Council note the submissions and responses to feedback on the Planning Proposal for the heritage listing (group listing) of properties within the Appian Way Heritage Conservation Area.
2. That Council, pursuant to Section 3.36 of the *Environmental Planning & Assessment Act 1979* and in accordance with the Gateway Conditions, exercise its LEP making delegations to finalise and make the draft Local Environmental Plan.
3. That the affected property owners and those who made a submission be advised in writing of Council's decision.
4. That Council's Heritage Adviser undertake an investigation of the landscape features (significant trees and vegetation) and the Appian Way Recreation Club and if appropriate prepare a planning proposal for the heritage listing of the items.

Attachments

- 1 [↓](#) Attachment 1 - Planning Proposal - Appian Way Listing - Exhibition Version January 2023
- 2 [↓](#) Attachment 2 - Consideration and Analysis of Submissions - Appian Way Listing PP



Planning Proposal

Amendment of Schedule 5 of the Burwood LEP 2012 to heritage list (group listing) properties within the Appian Way Heritage Conservation Area

November 2022; As amended January 2023

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

Part 1 – Objectives and Intended Outcomes

The Planning Proposal (PP) proposes to heritage list, as a group listing under Schedule 5 of the Burwood Local Environmental Plan (BLEP) 2012, those dwellings within the Appian Way Heritage Conservation Area that are intact and representative Federation era dwellings and have been assessed to demonstrate heritage significance at the local level and meet the threshold of local significance for the relevant criteria.

Part 2 – Explanation of Provisions

The Burwood LEP 2012 is to be amended by:

1. Amending Schedule 5 of the Burwood LEP 2012 to amend Part 1 Heritage items to include the following properties as a group item of local significance (see Table 1 below).

Table 1: Properties included in planning proposal

Address	Lot Number	Deposited Plan Number
2 Appian Way Burwood	Lot102	DP592227
2A Appian Way Burwood	Lot40	DP12249
3 Appian Way Burwood	Lot1	DP984192
4 Appian Way Burwood	Lot18	DP12249
5 Appian Way Burwood	Lot37	DP166468
6 Appian Way Burwood	Lot1	DP953252
7 Appian Way Burwood	Lot36	DP12249
8 Appian Way Burwood	Lot20	DP12249
9 Appian Way Burwood	Lot1	DP167955
10 Appian Way Burwood	Lot21	DP12249
11 Appian Way Burwood	Lot1	DP304076
12 Appian Way Burwood	Lot22	DP12249
13 Appian Way Burwood	Lot33	DP12249
14 Appian Way Burwood	Lot1	DP945586
15 Appian Way Burwood	Lot32 and 32A	DP12249
16 Appian Way Burwood	LotB	DP406214
17 Appian Way Burwood	Lot31 and 31A	DP12249
18 Appian Way Burwood	Lot1	DP12249
19 Appian Way Burwood	Lot30	DP12249
21 Appian Way Burwood	Lot29	DP12249
23 Appian Way Burwood	Lot28	DP12249
25 Appian Way Burwood	Lot27	DP12249
304 Burwood Road Burwood	Lot1	DP945216
306 Burwood Road Burwood	Lot2	DP12249
308 Burwood Road Burwood	Lot3	DP12249
310 Burwood Road Burwood	Lot4	DP12249
312 Burwood Road Burwood	Lot5	DP12249
316 Burwood Road Burwood	Lot1	DP305311
318 Burwood Road Burwood	Lot8 and 1	DP12249 and DP311836
55 Liverpool Road Burwood	Lot43	DP12249
59 Liverpool Road Burwood	Lot15	DP12249

67 Liverpool Road Burwood	Lot12	DP12249
72 Liverpool Road Burwood Heights	Lot85	DP7371
74 Liverpool Road Burwood Heights	Lot84	DP7371
78 Liverpool Road Burwood Heights	Lot52	DP7371

The heritage listing would apply to the whole of the properties. Appendix 1 includes details of the proposed listing, which will be subject to review by Parliamentary Counsel.

- Amend the relevant Heritage Map (HER_001 & HER_002) as per Figure 1 and Figure 2 below.



Figure 1: Aerial Photograph of subject properties.
 Subject properties are shown outlined in red.

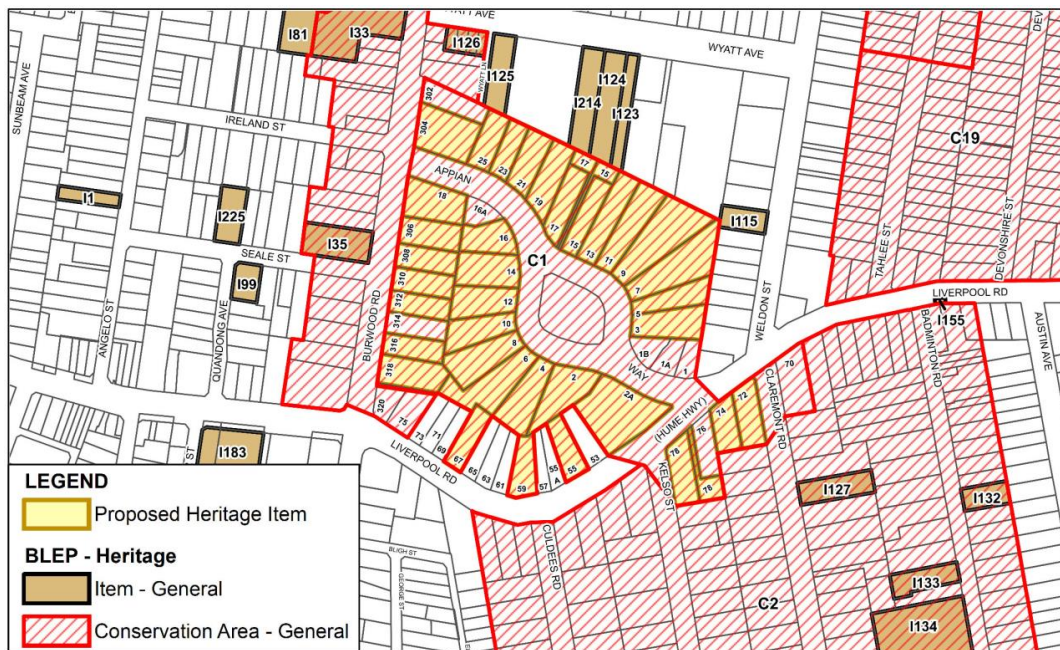


Figure 2: Existing BLEP Heritage Map of Appian Way Burwood with proposed group item.

Subject properties are shown in yellow.

Part 3 – Justification of strategic and site-specific merit

Section A – Need for the planning proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

This planning proposal has been prepared as a result of an assessment undertaken by Council's Heritage Advisor.

An independent external heritage consultant was not engaged to prepare a report or undertake an assessment due to these sites having previously been recognised as having heritage significance within the conservation area and the broadly known heritage significance of the Appian Way Conservation Area, its historic significance, its aesthetic significance and its rarity.

Council's Heritage Advisor has undertaken a heritage assessment of each of the properties within the existing heritage conservation area. The dwellings proposed to listed within the group listing have been assessed to demonstrate heritage significance at the local level and meet the threshold of local significance for the relevant criteria, as outlined below.

The properties were assessed against the seven criteria in the guidelines (see Table 2 below).

Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and

retains the integrity of its key attributes, it can be considered to have local heritage significance.

Table 2: NSW Heritage assessment criteria summary

Criteria	
(a) Historic significance	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
(b) Associational significance	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
(c) Aesthetic significance	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
(d) Social significance	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
(e) Technological significance/ research potential	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)
(f) Rarity	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
(g) Representativeness	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> - cultural or natural places; or - cultural or natural environments. - or a class of the local area's - cultural or natural places; or - cultural or natural environment

The heritage assessment report concludes that the subject properties demonstrate heritage significance at the local level for the following reasons:

- The group of dwellings are representative of an innovative approach to residential development that contains outstanding examples of Edwardian and Federation architecture in a garden setting.
- Each dwelling which remains intact from the original subdivision (Hoskins Estate) demonstrate the early 20th Century development of Burwood through a consistent, yet elaborate architectural forms.

- Each original dwelling within the group represent the historical 'garden city' planning movement influenced by the first 'Garden Suburbs' in England, but on a smaller scale and based on local Australian Architecture.
- The dwellings are all interpretations of Federation styles by prominent industrialist George Hoskins and builder/designer William Richards.
- Dwellings located within the Austinlee Estate facing the Appian Way are historically important due to their relationship with the Hoskins Estate (Appian Way), which demonstrate a similar style.
- The group consists of rare Federation Queen Anne (sometimes referred to as Edwardian Bungalow) precinct of architectural and constructional excellence. The group of dwellings represents an almost intact, complete Federation streetscape (though not strictly in Federation style) and is a unique part of the development of Burwood, and more broadly, Sydney with exceptionally generous landscaped settings of high quality.
- The dwellings demonstrate rare significance as part of a very unusual and discrete form of garden suburb incorporating the ideas of the builder and owner where no two houses are identical, yet are consistent in their overall Federation era form.
- Each of the dwellings as an individual dwelling and as part of the group of Federation era dwellings have minimal additions or alterations from the public domain with the majority of dwellings (to Council's knowledge) retaining significant internal heritage fabric.

The detailed Heritage Assessment and draft Heritage Inventory Sheet is included at Attachment 1 and 2, respectively

Properties within the Appian Way Conservation Area which have not met this threshold have been excluded from this planning proposal, but will continue to have heritage protection as part of the conservation area. No changes will be made to the Appian Way Conservation Area.

On 8 November 2022 the Burwood Local Planning Panel (BLPP) considered a report on the draft Planning Proposal and heritage investigation assessment report. The BLPP recommended to:

- a) *support the Planning Proposal to amend Schedule 5 of Burwood Local Environmental Plan 2012 to group list those properties that demonstrate heritage significance and meet the threshold of local significance for the relevant criteria, as outlined in the Planning Proposal.*
- b) *provides advice to Council to proceed with the Planning Proposal at Attachment 1 to group list the relevant properties in the Appian Way Heritage Conservation Area as a local heritage item in the Burwood LEP 2012.*

The BLPP advised:

The Panel supports the Planning Proposal to amend Schedule 5 of Burwood Local Environmental Plan 2012 to group list those properties that demonstrate heritage significance and meet the threshold of local significance for the relevant criteria, as outlined in the Planning Proposal.

The Panel advice is that the Planning Proposal satisfies the Strategic Merit and Site-Specific Merit tests and should be forwarded to the Department of Planning and Environment for Gateway consideration. The decision was unanimous.

On 22 November 2022, Council considered a report on the draft Planning Proposal, heritage investigation assessment report, and BLPP's advice. The Council resolved:

1. *That Council support the group listing of the identified properties, as outlined in the Planning Proposal as a local heritage item on the heritage schedule of the Burwood Environmental Plan 2012 which contains the appropriate provisions for protecting and managing the listed properties.*
2. *That Council endorse the forwarding of the Planning Proposal to the NSW Department of Planning and Environment (DPE) to request a Gateway Determination under Section 3.33 of the Environmental Planning and Assessment Act 1979 for an amendment to the Burwood Local Environmental Plan 2012 by:*
 - i. *Group listing the properties as identified in the Planning Proposal as a heritage item in Schedule 5 Environmental heritage; and*
 - ii. *Mapping the properties as "Item – General" on the Heritage Map*
3. *That subject to the Gateway Determination, affected property owners be notified in writing.*
4. *That the results of the public exhibition and consultation be reported back to Council.*
5. *That Council supports the nomination of the Appian Way Heritage Conservation Area as State Heritage item and that engagement with NSW Government is authorised to commence this process. A further report should be provided to Council to outline a process and pathway to secure State Heritage Listing.*

This Planning Proposal seeks to implement the BLPP recommendation and advice and Councils resolution and endorsement.

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

Yes. The planning proposal is the only means of listing the items as a group heritage item of local significance and ensuring the protection of those individual properties within the Appian Way Heritage Conservation Area that have been assessed to demonstrate heritage significance at the local level and meet the thresholds for significance.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy?*

Yes. The proposal is consistent with metropolitan, subregional and district strategies and plans.

The State Government has prepared the *Eastern City District Plan* (applicable to the Burwood LGA) to manage growth for the next 20 years in the context of economic, social and environmental matters at a district level, to contribute towards the 20-year vision for Greater Sydney. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan, *A Metropolis of Three Cities*, at a district level, and is a bridge between local and regional planning.

Objective 13 of *A Metropolis of Three Cities* states that '*environmental heritage is identified, conserved and enhanced*'. Meanwhile, Planning Priority E6 of the *Eastern City District Plan* relates to '*creating and renewing great places and local centres, and respecting the District's heritage*'. In addition, the *Eastern City District Plan* states:

Heritage and history are important components of local identity and great places. The District's rich Aboriginal, cultural and natural heritage reinforces its sense of place and identity...

Identifying, conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations.

By identifying the abovementioned properties as a group heritage listing of local significance, this planning proposal supports Objective 13 of the Region Plan, and Planning Priority E6 of the District Plan.

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

Yes. Burwood's Local Strategic Planning Statement (LSPS) was endorsed by the Greater Sydney Commission (GSC) in March 2020. The vision for Burwood makes reference to '*cherished heritage conservation areas, ...well designed buildings and... neighbourhoods filled with distinct character*'. One the LSPS's objectives include:

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

By identifying properties of local heritage significance, this planning proposal is in keeping with the vision and objectives of the LSPS.

Also, the Burwood 2036 Community Strategic Plan recognises the need to create places for people that are built around people while protecting the unique built heritage of Burwood. Community Outcome 2.1 aims to '*create an urban environment that maintains and enhances our sense of identity and place*'. Strategy 2.1.2 is to '*Protect our unique built heritage and maintain or enhance local character*'. This planning proposal is in keeping with this strategy.

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

Yes. The planning proposal is consistent with the Standard Instrument – Principal Local Environmental Plan and all other applicable State Environmental Planning Policies.

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

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

All SEPPs applicable to the Burwood local government area are set out in Table 3 below, together with a comment regarding the planning proposal's consistency:

Table 3: Consistency with State Environmental Planning Policies

SEPP	Comment
Housing (2021)	Not relevant. The subject properties are not known to contain affordable housing. The heritage listing of properties may alter whether development under the former ARH SEPP may be carried out on that site, but this planning proposal would not contravene the SEPP in any way.
No 65 – Design Quality of Residential Apartment Development	Not relevant.
Planning Systems (2021)	Not relevant.
Biodiversity and Conservation (2021)	Not relevant. This SEPP contains provisions in respect to heritage trees. The heritage listing of properties may alter whether development under the SEPP may be carried out on that site, but this planning proposal would not contravene the SEPP in any way.
Resilience and Hazards (2021)	Not relevant. There is no indication that previous uses at the subject sites would trigger site remediation requirements. The subject properties are not located within the coastal areas identified by this SEPP.
Transport and Infrastructure (2021)	Not relevant.
Industry and Employment (2021)	Not relevant.
Resources and Energy (2021)	Not relevant.
Primary Production (2021)	Not relevant.
Precincts – Eastern Harbour City (2021)	Not relevant.
Precincts – Central River City (2021)	Not relevant.

Precincts – Western Parkland City (2021)	Not relevant.
Precincts – Regional	Not relevant.
Exempt and Complying Development Codes (2008)	Not relevant. The heritage listing of properties may alter whether development under the Codes SEPP may be carried out on that site, but all properties are currently included in the heritage conservation area. This planning proposal would not contravene the SEPP in any way.
Building Sustainability Index: BASIX (2004)	Consistent and not contravened.

7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

Yes. Consistency with the list of Directions (under section 9.1(2) of the *Environmental Planning and Assessment Act 1979* issued by the Minister for Planning) is set out in Table 4 below.

Table 4: Consistency with Ministerial Directions

Direction		Comment
Focus area 1: Planning Systems		
1.1	Implementation of Regional Plans	Not relevant.
1.2	Development of Aboriginal Land Council	Not relevant.
1.3	Approval and Referral Requirements	The planning proposal will not contain provisions which require the concurrence, referral or consultation of other public authorities, nor identify any use as designated development.
1.4	Site Specific Provisions	Not relevant.
Focus area 1: Planning Systems – Place based		
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not relevant. The subject properties are not within the Parramatta Road corridor, nor undermine the achievement of that Strategy's vision or objectives.
1.6	Implementation of North West Priority Growth Area Land Use and	Not relevant.
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation	Not relevant.
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and	Not relevant.
1.9	Implementation of Glenfield to Macarthur Urban Renewal	Not relevant.
1.10	Implementation of the Western Sydney Aerotropolis Plan	Not relevant.
1.11	Implementation of Bayside West	Not relevant.

Direction		Comment
1.12	Implementation of Planning Principles for the Cooks Cove	Not relevant.
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not relevant.
1.14	Implementation of Greater Macarthur	Not relevant.
1.15	Implementation of the Pyrmont Peninsula Place Strategy	Not relevant.
1.16	North West Rail Link Corridor Strategy	Not relevant.
1.17	Implementation of the Bays West Place	Not relevant.
1.18	Implementation of the Macquarie Park Innovation Precinct	Not relevant.
1.19	Implementation of the Westmead Place Strategy	Not relevant.
Focus area 2: Design and Place		
Focus area 3: Biodiversity and Conservation		
3.1	Conservation zones	Not relevant.
3.2	Heritage Conservation	Refer to discussion below
3.3	Sydney Drinking Water Catchments	Not relevant.
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North	Not relevant.
3.5	Recreation Vehicle Areas	Not relevant.
3.6	Strategic Conservation Planning	Not relevant.
Focus area 4: Resilience and Hazards		
4.1	Flooding	Not relevant.
4.2	Coastal Management	Not relevant.
4.3	Planning for Bushfire Protection	Not relevant.
4.4	Remediation of Contaminated Land	Not relevant.
4.5	Acid Sulfate Soils	The properties have been identified as Class 5 on the Acid Sulfate Soils Map, representing the lowest probability of containing Acid Sulfate Soils.
4.6	Mine Subsidence and Unstable Land	Not relevant.
Focus area 5: Transport and Infrastructure		
5.1	Integrating Land Use and Transport	The planning proposal does not alter the land zoning, and as such, would not affect travel demand or the availability of transport options.
5.2	Reserving Land for Public Purposes	Not relevant.
5.3	Development Near Regulated Airports and Defence Airfields	Not relevant.
5.4	Shooting Ranges	Not relevant.
Focus area 6: Housing		
6.1	Residential Zones	The properties are zoned R2 – Low Density Residential. The planning proposal does not seek to amend the zoning or range of permissible uses on the sites. The sensitive development of heritage properties is supported by Council's Development Control Plan (DCP).
6.2	Caravan Parks and Manufactured Home	Not relevant.
Focus area 7: Industry and Employment		

Direction		Comment
7.1	Business and Industrial Zones	Not relevant.
7.2	Reduction in non-hosted short-term rental	Not relevant.
7.3	Commercial and Retail Development along the Pacific Highway, North	Not relevant.
Focus area 8: Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	Not relevant.
Focus area 9: Primary Production		
9.1	Rural Zones	Not relevant.
9.2	Rural Lands	Not relevant.
9.3	Oyster Aquaculture	Not relevant.
9.4	Farmland of State and Regional Significance on the NSW Far North	Not relevant.

3.2 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This Direction applies when a relevant planning authority prepares a planning proposal (see Table 5 below).

Table 5: Heritage Conservation Direction Assessment

Direction Requirement	Assessment
1) A planning proposal must contain provisions that facilitate the conservation of:	
a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area	<p>The accompanying assessment report prepared by Council's Heritage Advisor has examined each of the properties within the existing Appian Way Heritage Conservation Area and has identified 35 properties within the existing HCA that should be listed as heritage items, as part of the proposed group listing</p> <p>This PP seeks to list these properties as new items local heritage significance, as part of a group listing. Once listed the provisions of Clause 5.10 Heritage Conservation of the Burwood LEP would apply to these sites. The provisions of Clause 5.10 of the Burwood LEP seek to conserve the environmental heritage of Burwood.</p>
b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and	N/A.
c) Aboriginal areas, Aboriginal objects, Aboriginal places or	The assessment report prepared by Council's Heritage Advisor does not address Aboriginal cultural

landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	heritage values.
---	------------------

The planning proposal is consistent with this direction

Section C – Environmental, Social and Economic Impact

8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because 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.

9. *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.

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

The Planning Proposal is considered to have positive social effect for the community.

This will have positive social effects for the community as it will ensure the protection and retention of local heritage and that appropriate development controls and/or restrictions are in place to guide any future development. This will ensure best practice urban design and development that retains character and is sympathetic to adjoining heritage and/or the HCA.

Social heritage are the non-physical aspects of our culture in our society. By retaining items of cultural significance this has positive effects on restoring the social effects of heritage. The Planning Proposal is considered to have positive economic effect for the community. Amending the LEP to include new heritage items will have a positive effect on the community as it ensures that cultural heritage and local character will be protected.

The planning proposal is not expected to have any adverse social or economic effects.

Section D – Infrastructure (Local, State and Commonwealth)

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

The proposal seeks to list new heritage items, as a group listing in Schedule 5 of the Burwood LEP 2012 and therefore does not have the potential to increase the current demand on public infrastructure.

Section E – State and Commonwealth Interests

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Pre Gateway consultation

The proposal is minor in nature and as such, no State or Commonwealth authorities have been consulted as part of the preparation of this Planning Proposal.

Post Gateway consultation

Following the receipt of any Gateway Determination, Council proposes to seek the views of the following state and federal public authorities and government agencies:

- Heritage NSW

Part 4 – Maps

The planning proposal seeks to amend the following LEP Maps:

- Heritage Maps
 - Sheet HER_001
 - Sheet HER_002

The planning proposal does not seek to alter the zoning, height of buildings, floor space ratio, or any other BLEP maps.

Part 5 – Community Consultation

Burwood Council has not consulted with the affected property owners ahead of preparing this Planning Proposal. The properties are already identified within the Appian Way Heritage Conservation Area and this Planning Proposal is seeking to list the significant and intact buildings as part of a group listed heritage item, with the aim of ensuring that those buildings and their curtilage have greater protection.

It is proposed that affected and adjoining property owners will be consulted during the exhibition of the planning proposal in accordance with the timeframes identified in any Gateway Determination. The public exhibition will include:

- Electronic copy of all relevant information on Council's Participate Burwood page, as well as the DPE Planning Proposal tracker
- Letters to affected/neighbouring land owners
- Letters to relevant State agencies and other authorities/agencies nominated by the DPE as part of the Gateway Determination.

Part 6 – Project Timeline

The timeframe for the Planning Proposal is that, from date of Gateway determination to date of submission to the Department of Planning & Environment (DPE), to finalise the LEP is a period of 9 months.

Table 6: Project Timeframe

Submit to DPE seeking a Gateway Determination	December 2022
Receive Gateway Determination	January 2023
Consult with State/commonwealth agencies	February-March 2023
Timeframe for government agency consultation	February-March 2023
Commencement and completion dates for the public exhibition period	February-March 2023
Dates for public hearing	Not applicable
Review of Public Submissions and preparation of report to Council	April 2023
Report to Council for final endorsement	May 2023
Seek Parliamentary Counsel Office's (PCO) opinion	June 2023
Submit maps for DPE review	June 2023
Gazettal of LEP amendment	July 2023

Appendix One

- Proposed Amendment to Schedule 5

Appendix Two

- Delegation Checklist

Supporting Documentation

- List of supporting documents that are provided under separate cover.

Links to Supporting Material

- Links to Council meeting reports and resolutions to be added later.

Appendix One

Proposed Amendment to Schedule 5

The proposed heritage item would be inserted into Schedule 5 of the BLEP 2012. The proposed Item No will be confirmed by Parliamentary Counsel at the finalisation stage of the LEP amendment.

For the avoidance of doubt, the following table sets out the proposed new Schedule 5 text.

Suburb	Item name	Address	Property description	Significance	Item no
Burwood, Burwood Heights	Federation houses associated with the Appian Way Conservation Area	2, 2A, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 25 Appian Way Burwood, 304, 306, 308, 310, 312, 316, 318 Burwood Road Burwood, 55, 59, 67 Liverpool Road Burwood, 72, 74, 78 Liverpool Road Burwood Heights.	Lot 102, DP 592227; Lots, 1, 2, 3, 4, 5, 8, 12, 15, 18, 20, 21, 22, 27, 28, 29, 30, 31, 31A, 32, 32A, 33, 36, 40, 43, DP 12249; Lot 1, DP 984192; Lot 37, DP 166468; Lot 1, DP 953252; Lot 1, DP 167955; Lot 1, DP 304076; Lot 1, DP 945586; Lot B, DP406214; Lot 1, DP 945216; Lot 1, DP 305311; Lots, 52, 84, 85, DP 7371; Lot 1, DP311836.	Local	

The wording of any BLEP provisions will be subject to possible revision by the Parliamentary Counsel's Office.

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.
Name of draft LEP:
Amendment of Schedule 5 of the Burwood LEP 2012 to heritage list (group listing) properties within the Appian Way Heritage Conservation Area
Address of Land (if applicable):
2, 2A, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 25 Appian Way Burwood, 304, 306, 308, 310, 312, 316, 318 Burwood Road Burwood, 55, 59, 67 Liverpool Road Burwood, 72, 74, 78 Liverpool Road Burwood Heights.
Intent of draft LEP:
Group heritage listing of the subject properties.
Additional Supporting Points/Information:
Please refer to the PP.

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?	Y*			
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		

* It is proposed that the PP be submitted to the Heritage NSW during the consultation stage. Heritage assessments have been carried out in accordance with Heritage NSW guidelines.

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?	N			
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

Heritage assessments and other supporting documents are provided
under separate cover

Enclosure No.	Description
1	Heritage Assessment of the Appian Way Conservation Area, undertaken by Council's Heritage Advisor in October 2022.
2	Draft Inventory Sheet.

Mapping





Burwood

Local Environmental Plan 2012

Site Identification Map

- Sheet SIM_001

Subject Land

Cadastral 27/10/2022 © Burwood Council

001

002

N

0

250

500

Metres

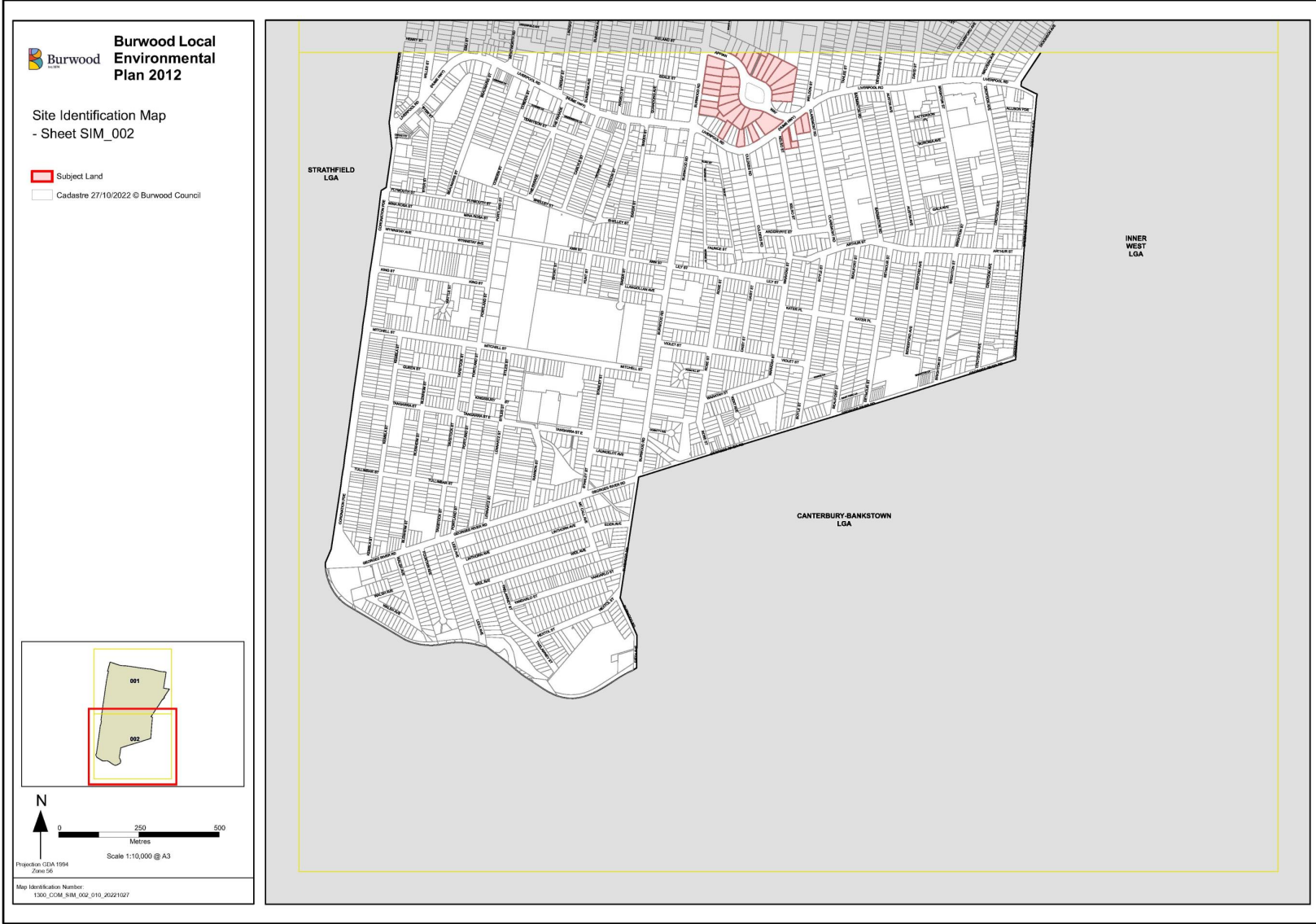
Projection: GDA 1984

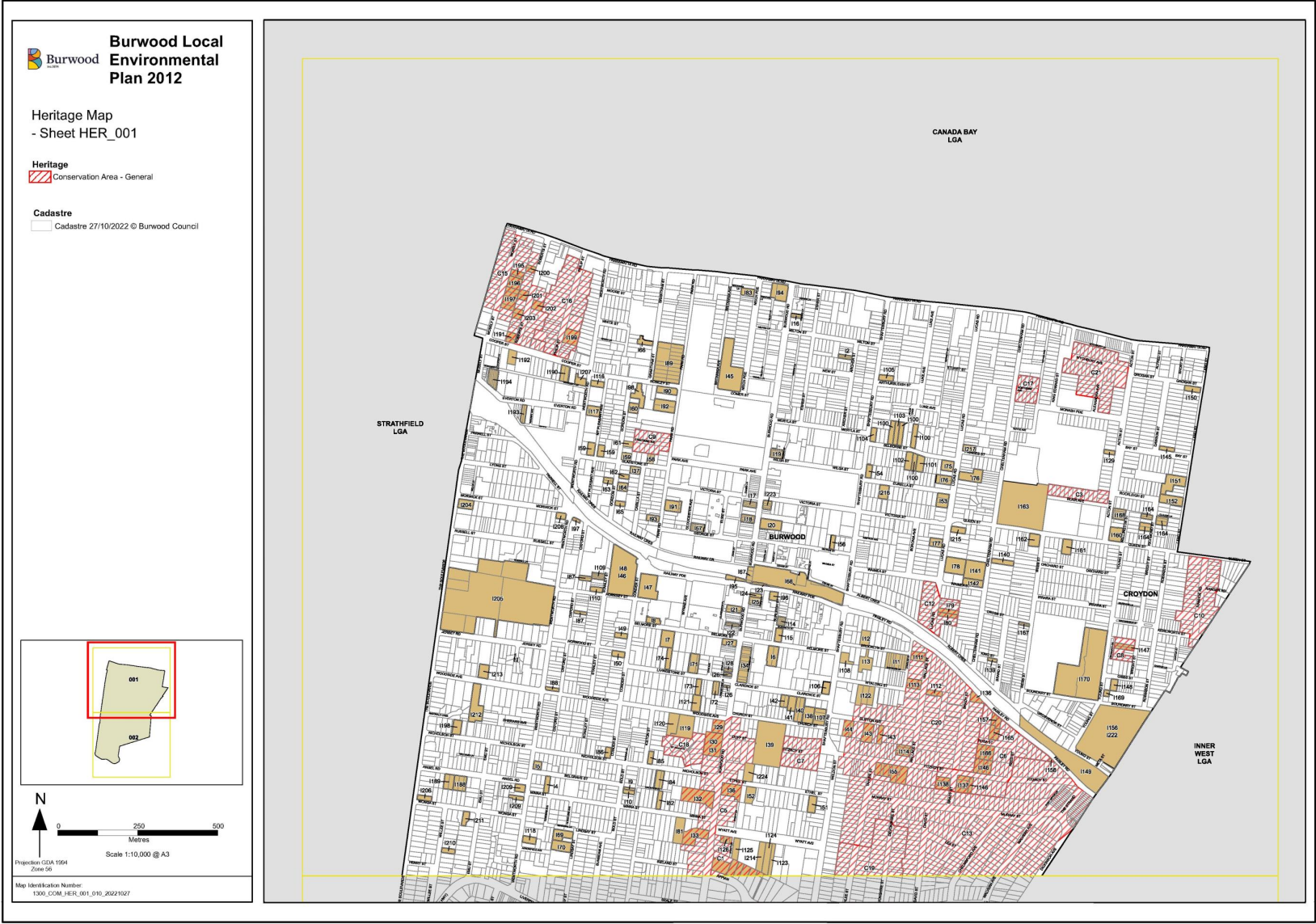
Zone 56

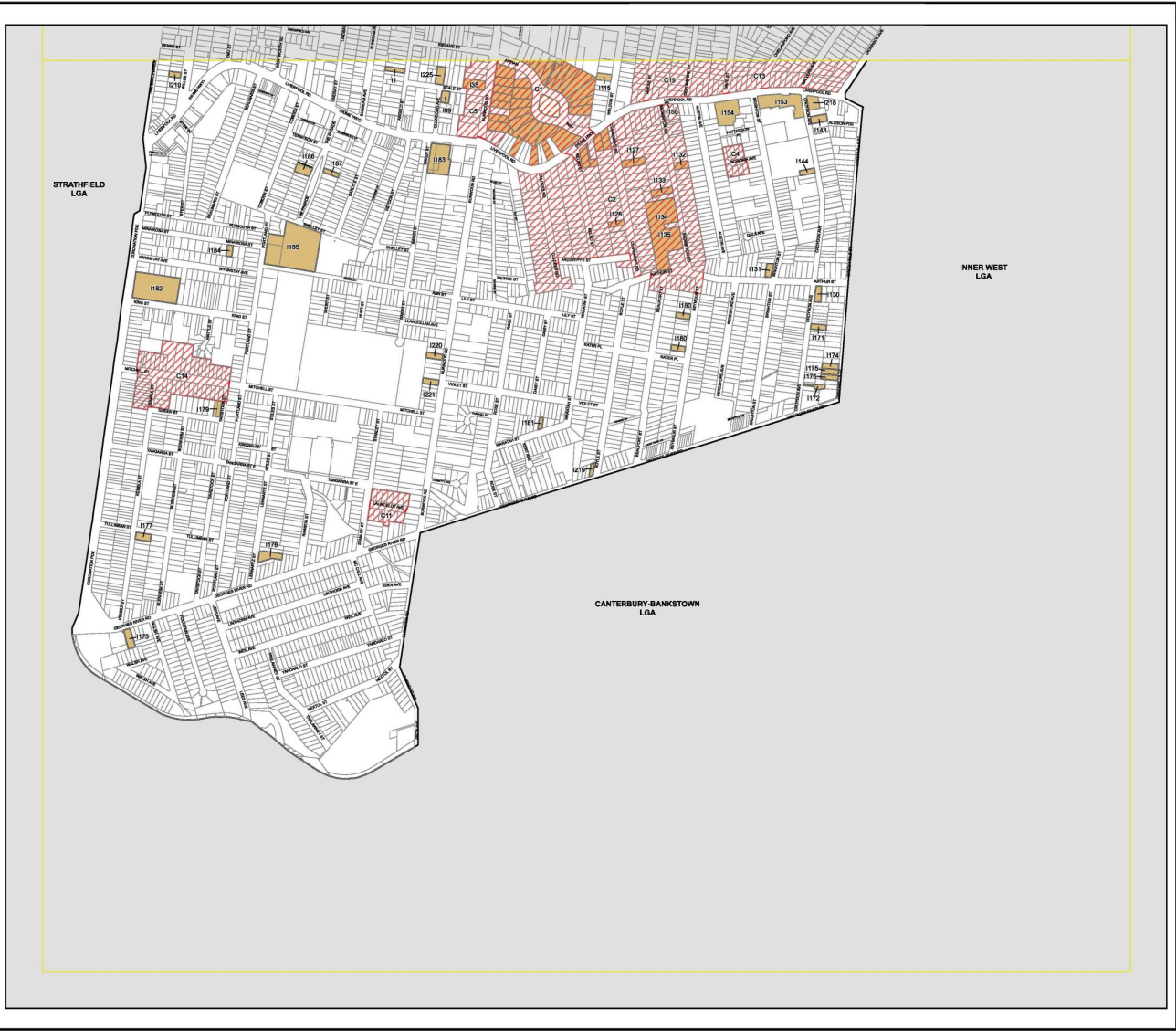
Scale: 1:10,000 @ A3

Map Identification Number

1300_COM_SIM_001_010_20221027









Burwood Local Environmental Plan 2012

Heritage Map
- Sheet HER_002

Heritage
Conservation Area - General
Item - General

Cadastral
Cadastral 27/10/2022 © Burwood Council



Projection: GDA 1984
Zone 56

Map Identification Number:
1300_COM_HER_002_010_20221027

N

0 250 500
Metres

Scale 1:10,000 @ A3

Attachment 2 - Consideration and Analysis of Submissions

Appian Way Listing Planning Proposal

Internal Reference	Submission Summary	Council Officer's Comments
E23/2996	Notes Appian Way is a gem and should have been listed long ago. Further notes may well be the single best site in Sydney to represent unique Federation architecture. Unrelated discussion about Fitzroy Street and suggestion for further heritage listings.	Support noted. Further heritage listings will be considered as required or as part of a future heritage review.
23/10074	Need for balance between the development in the Burwood Town Centre and preservation of heritage. Explains how the Appian Way is valuable to Australia's architectural history. Mentions how the area is worthy of preservation and protection envisioned for the LGA, equally modern and historical.	Support noted.
E23/3167	HNSW encourage the listing of Local heritage, however it is noted that the Heritage Council of NSW, and Heritage NSW as its Delegate, do not have a role in the approval of Local heritage listings to LEPs. As HNSW do not have a legislative role in the approval of Local heritage listings, no further referral or consultation on this planning proposal is required.	Comments noted.
E23/5296	Notes this is overdue and Appian Way has not been sufficiently protected. Understands Council needs to allow development to meet State government rules, but welcomes heritage. Notes court rulings and bypassing of Council. Discussion around 18 Appian Way and precedent set. Commends Council for trying to stop further loss of heritage.	Support noted.
E23/6201	Advocate for attention to heritage. Recommends extension to all properties to ensure consistent streetscape. Suggests inclusion of the tennis courts and pavilion.	Support noted. Each property in the Appian Way Heritage Conservation Area has been assessed for inclusion against the standard assessment criteria. Including properties that do not meet the criteria would not be supported by the

		<p>Department of Planning and Environment who would not have granted Gateway Determination or allowed this planning proposal to proceed.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal. It is recommended that Council investigate the listing of the Appian Way Recreation Club.</p>
E23/6292	In support due to heritage characteristics of the precinct. Notes the tennis club house and courts should be protected against future development.	<p>Support noted.</p> <p>Council is unable to protect the Appian Way Recreation Club against development. As part of the Appian Way Heritage Conservation Area any development would have to take into consideration the values of the conservation area and the inventory sheet. A heritage impact statement would have to justify how development is consistent with the values and inventory sheet, but may still be developed if sympathetic.</p> <p>It is recommended that Council investigate the listing of the Appian Way Recreation Club.</p>
E23/6338	Supports inclusion of all properties. Suggestion to add the central common area including tennis courts, clubhouse and grounds. Notes none of the common area buildings have heritage value but important to preserve ambience. Includes quote from National Trust to justify and support submission.	<p>Support noted.</p> <p>Each property in the Appian Way Heritage Conservation Area has been assessed for inclusion against the standard assessment criteria. Including properties that do not meet the criteria would not be supported by the Department of Planning and Environment who would not have granted Gateway Determination or allowed this planning proposal to proceed.</p> <p>The Appian Way Recreation Club is different to other</p>

		<p>dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p>
E23/6473	<p>Supportive of proposal. Recommends inclusion of tennis courts. Suggests rezoning to residential uses only to discourage developers of child care centres. Mentions if owners choose to list they should not be asked to take a financial loss.</p>	<p>Support noted.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>Suggestion to rezone to residential use only is not possible. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care facilities is a mandated use in the R2 zone and must be permitted with consent.</p> <p>As per <u>Heritage NSW's Factsheet</u>, there is no evidence to suggest that owning a heritage property has an adverse impact on property prices. Indeed property prices are generally increased with within a HCA or owning a heritage item.</p>
E23/6511	<p>Describes how precinct is unique and all have exceptional quality and beauty, even those that are rundown. Suggests Council consider appealing LEC approval for child care centre.</p>	<p>Support noted.</p> <p>Appealing the decision of the Land and Environment Court approval of child care centre was considered at the time and as per legal advice was decided not to be pursued.</p>
E23/6529	<p>Objects to the listing of the property as part of the group item</p> <p>Objection based on No 72 Liverpool Road not meeting the requirements for selected properties to be in original condition to the extent that they demonstrate continued integrity of their initial architectural design and presentation. Objects to property description in heritage assessment report. Physical examination</p>	<p>Council's Heritage Adviser has reviewed the submission and considers that the property meets the criteria for heritage listing as per the heritage significance threshold.</p> <p>Although altered, the circumstances of the approved alterations are largely in keeping within the character and values of the heritage features. Any unsympathetic</p>

	<p>undertaken by submitter who concludes the building has been extensively altered as per Council approvals.</p> <p>Mentions the cumulative impact of these alterations and additions have severely degraded the original authenticity and integrity such that the existing house does not meet the required criteria for selection in the group listing. Discusses objection due to physical relationship between the property and Hoskins Estate where there is no visual linkage. Suggestion to remove from planning proposal and retain in conservation area.</p>	<p>alterations are able to be removed at a later time and the property can be reverted and restored back similar to original condition.</p> <p>In relation to the first floor addition, the representation notes that it was completed sometime in the later 20th Century (suggesting the 1980s). This is clearly incorrect as it is visible within the 1943 Aerial image, making it either part of the original design or added shortly after construction. Regardless it is sympathetic and has been in situ for over 80 years.</p> <p>Based on this assessment it is recommended that No 72 Liverpool Road be retained within the Planning Proposal and included as part of the group heritage listing.</p> <p>The relationship between the Hoskins Estate and the Austinlee Estate is suitably justified in Council's assessment report. The intent of the planning proposal is to heritage list federation dwellings within the Appian Way Heritage Conservation Area. This dwelling at No 72 Liverpool Road is a representative example of a federation dwelling.</p>
E23/6530	<p>Mentions it is critical to change the land use table to prevent non-residential uses such as boarding houses, child care centres etc. LEC approval of childcare centre highlights urgency. Will be repeated if status quo remains.</p>	<p>Support noted.</p> <p>Suggestion to rezone to residential use only is not possible. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care facilities is a mandated use in the R2 zone and must be permitted with consent. Boarding houses are no longer permitted in the R2 zone.</p>
E23/6694	<p>Proposes amendments.</p>	<p>Support noted.</p> <p>75 Liverpool Road is part of the Burwood Road Heritage</p>

	<p>Recommends the inclusion of 75 Liverpool Road. Suggests central reserve and brush box street trees should be included within the group heritage listing.</p> <p>Makes reference to dwellings on the southern side of Liverpool Road and how they are part of the Austinlee Estate. Recommends a separate group heritage listing of Austinlee Estate to avoid confusion and complication.</p> <p>Suggests the inclusion of the whole Liverpool Road frontage adjacent to the Appian Way within the Appian Way Heritage Conservation Area.</p> <p>Supports nomination on the State Heritage Register. Included spreadsheet of information on dwellings.</p>	<p>Conservation Area. The intent of the planning proposal is to heritage list federation dwellings within the Appian Way Heritage Conservation Area.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>The brush box trees are protected as part of the Appian Way Heritage Conservation Area.</p> <p>Houses on the southern side of Liverpool Road part of the Austinlee Estate are included within the Appian Way Heritage Conservation Area. The relationship between the Hoskins Estate and the Austinlee Estate is suitably justified in Council's assessment report. Separate group listing is unnecessary and the differences are explained within the heritage inventory sheet.</p> <p>Properties with a frontage along Liverpool Road adjacent to Appian Way were previously investigated by Council and determined to not meet the heritage significance threshold against the standard assessment criteria. Properties that met the criteria were included in the conservation area. Including properties that do not meet the criteria would not be supported by the Department of Planning and Environment.</p> <p>Support for State listing is noted.</p>
E23/6737	<p>Encourages Council to implement listing as soon as possible. Suggestion to include all properties and that all properties which replaced originals should also be managed to stop unsympathetic degradation of precinct. Notes many modifications to properties have been undertaken, mostly sympathetic, and encourages Council to continue sympathetic</p>	<p>Support noted.</p> <p>Each property in the Appian Way Heritage Conservation Area has been assessed for inclusion against the standard assessment criteria. Including properties that do not meet the criteria would not be supported by the</p>

	<p>modifications and modernisation. Suggests Council pursue state listing under Heritage Act. Mentions it is unfortunate pavilion, tennis courts and gardens are not included as it is a linchpin to the character. Strongly advocates for including pavilion, tennis courts and gardens. Suggestion to extend BLEP clause 6.8 to lots adjoining Appian Way due to inadequate setbacks on recent developments. Suggestion to amend BLEP land use table to prevent non-residential uses on residential heritage properties. Suggestion to drive State government to address demolition by neglect. Suggestion to heritage list the Malvern Hill Heritage Conservation Area similar to this planning proposal.</p>	<p>Department of Planning and Environment who would not have granted Gateway Determination or allowed this planning proposal to proceed.</p> <p>Council will continue to allow sympathetic alterations as justified in a heritage impact statement to the satisfaction of Council.</p> <p>Council is currently in the process of including the Appian Way Heritage Conservation Area on the State Heritage Register.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>Extending the Burwood Local Environmental Plan Clause 6.8 to properties adjoining Appian Way is out of the scope of this planning proposal. This planning proposal is for heritage listing, and is not looking at other development standards. Making an amendment such as this at this stage would require further consultation with the Department of Planning and Environment who would advise if a new Gateway Determination is required. This may result in re-exhibiting this planning proposal, creating delays and increasing risk.</p> <p>Suggestion to amend the land use table to prevent non-residential uses is not possible. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care</p>
--	--	--

		<p>facilities are a mandated use in the R2 zone and must be permitted with consent.</p> <p>Council understands concerns regarding demolition by neglect, but has few powers to assist with this.</p> <p>Suggestion to heritage list the Malvern Hill Heritage Conservation Area similar to this planning proposal is noted.</p>
E23/8370	Discusses beautiful and unique houses of Appian Way and historic value. Lived there for 71 years. Explains strong community connections. Preference for family residential use only. Opposes subdivisions, preschools, commercial enterprises, boarding houses, removal of original heritage features or tennis court pavilion. Mentions future additions should be sympathetic. Discusses how older residents have moved on, houses have been sold, and are now neglected.	<p>Support noted.</p> <p>Preference for residential use only is not possible. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care facilities is a mandated use in the R2 zone and must be permitted with consent.</p> <p>Removal of original heritage features may be permitted where justified in a heritage impact statement to the satisfaction of Council. An application would be required to be submitted and assessed by Council.</p> <p>Removal of the Appian Way Recreation Club would require approval by Council and need to be suitably justified as it is protected as part of the Appian Way Heritage Conservation Area. Council would be unlikely to support removal unless in exceptional circumstances.</p>
E23/6857	Supports due to unique values and applauds Council. Has questions for clarification. Suggestion to include tennis courts.	<p>Support noted.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part</p>

		of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.
E23/6864 and E23/8334	<p>Supports with suggestion for further protections. Suggestion to include tennis courts and pavilion, listing of Malvern Hill houses, extend clause 6.8(2)(b) to properties adjoining Appian Way, introduce height limits on land adjoining heritage. Raises concern about demolition by neglect and suggests Council lobby State government. Believes land use tables should only permit residential uses in Malvern Hill and Appian Way.</p> <p>Addendum received 7/03/2023 specifying they only support on the understanding all of the identified properties would be included (including recreation club).</p>	<p>Support noted. Although note they might not support.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>Suggestion to heritage list the Malvern Hill Heritage Conservation Area similar to this planning proposal is noted.</p> <p>Extending the Burwood Local Environmental Plan Clause 6.8 to properties adjoining Appian Way is out of the scope of this planning proposal. This planning proposal is for heritage listing, and is not looking at other development standards. Making an amendment such as this as this stage would require further consultation with the Department of Planning and Environment who would advise if a new Gateway Determination is required. This may result in re-exhibiting this planning proposal, creating delays and increasing risk.</p> <p>Amending the Burwood Local Environmental Plan to introduce height limits on development on land adjoining heritage items is out of scope of this planning proposal. All properties adjoining Appian Way currently have height limit of 8.5m, the lowest in the BLEP.</p> <p>Council understands concerns regarding demolition by neglect, but has few powers to assist with this.</p> <p>Council has no powers to prevent commercial uses. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent</p>

		with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care facilities is a mandated use in the R2 zone and must be permitted with consent.
E23/6925	Suggests inclusion of tennis court to stop development. Raises concern about demolition by neglect, specifically 2A and 3 Appian Way. Mentions Appian Way was built as a residential street and there is no place for commercial enterprise such as preschools, boarding houses, sub divisions or unsympathetic renovations. Wants to keep character of houses, tennis court and street intact.	<p>Support noted.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>Council understands concerns regarding demolition by neglect, but has few powers to assist with this.</p> <p>Council has no powers to prevent commercial uses. Properties are currently zoned R2 Low Density Residential. Burwood LEP 2012 is must be consistent with the Standard Instrument Local Environment Plan, which includes uses which must be mandated in certain zones. Centre-based child care facilities is a mandated use in the R2 zone and must be permitted with consent.</p>
E23/7042	Specifies they believe the proposal may have adverse effects on the local community such as decrease in property value, economic losses to owners, reducing incentive to restore and repair properties. Explains how heritage has lower property value due to restrictions and maintenance costs. Discussion of personal experience in buying property. Explanation of cost of repairs exceeding estimates and how they are unable to do thorough repairs. Explains how increasing level of protection is counterproductive to upkeep and restoration and is a burden. Mentions they support heritage, and the Appian Way has ample protection currently and there is no evidence the current level of protection is insufficient. Suggests only some houses with special heritage significance be included. Alternate suggestion to exclude properties such as theirs that lack basis or need.	<p>As per <u>Heritage NSW's Factsheet</u>, there is no evidence to suggest that owning a heritage property has an adverse impact on property prices. Indeed, property prices are generally increased with within a HCA or owning a heritage item.</p> <p>There is no evidence to suggest there is an increased incentive to restore and repair heritage properties/items.</p> <p>No evidence to suggest that because the property is a heritage property that cost of repairs exceed estimates, this can occur for any property and requires the owner to get multiple quotes or seek other options. For example,</p>

	Suggestion for additional support to heritage properties to facilitate maintenance and restoration. Attached roof quote as evidence.	<p>the roof quote is considerably higher than other quotes Council has seen and approved.</p> <p>There is evidence to suggest the current level of protection is insufficient with multiple properties applying for subdivision, proposing unsympathetic alterations or additions and Land and Environment Court decisions such as approving an uncharacteristic and highly visible intrusive underground basement and child care centre within the conservation area.</p>
E23/7044	Duplicate submission. Only difference is email subject.	N/A
E23/7045	Suggestion to cover all properties to avoid a 'swiss cheese' approach which will diminish historical and cultural value. Suggestion to include tennis courts, trees and streetscape.	<p>Support noted.</p> <p>Each property in the Appian Way Heritage Conservation Area has been assessed for inclusion against the standard assessment criteria. Including properties that do not meet the criteria would not be supported by the Department of Planning and Environment who would not have granted Gateway Determination or allowed this planning proposal to proceed.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p> <p>The trees and streetscape are currently protected as part of the Appian Way Heritage Conservation Area.</p>
E23/7046	Unclear as to their position. Does not set out reasoning for submission and raises specific questions regarding their property that cannot be responded to in this report.	Comments noted.
E23/9935	In support of proposal for extant Hoskins Estate houses. Recommends inclusion of 75 Liverpool Road. Suggestion to include tennis court area and club house.	<p>Support noted.</p> <p>75 Liverpool Road is part of the Burwood Road Heritage Conservation Area. The intent of the planning proposal is</p>

		<p>to heritage list federation dwellings within the Appian Way Heritage Conservation Area.</p> <p>The Appian Way Recreation Club is different to other dwellings and is not similar enough to be included as part of the group listing. Heritage listing as an individual item is proposed separate to this planning proposal.</p>
--	--	--