



Burwood Inc.1874
Burwood . Burwood Heights . Croydon . Croydon Park . Enfield . Strathfield

ORDINARY MEETING

Notice is hereby given that a meeting of the Council of Burwood will be held electronically on Tuesday 28 September 2021 at 6:00pm to consider the matters contained in the attached Agenda.

In the overriding interests of public health and safety during the current COVID-19 pandemic, Council will be conducting its meeting electronically as per provisions under the *Local Government Act 1993*. The customary face-to-face public participation opportunity has been replaced with the opportunity to speak via teleconference link. Written submissions on agenda items will also be accepted. The written submissions will be acknowledged at the meeting and referenced in the minutes.

Tommaso Briscese
GENERAL MANAGER

Our Mission

**Burwood Council will create a quality lifestyle for its citizens
by promoting harmony and excellence in the delivery of its services**

AGENDA

FOR AN ORDINARY MEETING OF BURWOOD COUNCIL
TO BE HELD ELECTRONICALLY ON TUESDAY 28 SEPTEMBER 2021 AT 6.00PM.

1. I DECLARE THE MEETING OPEN AT [TIME AS SHOWN ON COMPUTER] (ANNOUNCED BY CHAIR)

2. ACKNOWLEDGEMENT OF COUNTRY (READ BY CHAIR AS FOLLOWS)

I would like to acknowledge the Wangal people of the Eora Nation who are the traditional custodians of this land. I would also like to pay respect to their elders, both past and present, and extend that respect to other First Nations People who may be present.

3. PRAYER (READ BY CHAIR)

Lord, we humbly beseech thee to vouchsafe thy blessing on this Council, direct and prosper its deliberations for the advancement of this area and the true welfare of its people. Amen.

4. RECORDING OF MEETING (ADVICE READ BY CHAIR AS FOLLOWS)

Please note that meetings of Council and Council Committees are audio recorded for the purpose of assisting with the preparation of meeting minutes and promoting public transparency. The recordings are subject to the provisions of the Government Information (Public Access) Act 2009 and are promptly made available for public review via the Council website.

5. APOLOGIES/LEAVES OF ABSENCE (CALLED FOR BY CHAIR)

6. DECLARATIONS OF INTERESTS BY COUNCILLORS (CALLED FOR BY CHAIR)

7. DECLARATION OF POLITICAL DONATIONS (ANNOUNCEMENT READ BY CHAIR AS FOLLOWS)

A person who makes a development application to Council (or any person with a financial interest in the application) must disclose any reportable political donation or gift made to any councillor or officer of Council. This statutory requirement for disclosure is highlighted on forms for submission of development applications to Council.

Council is also obliged by law to publish details of all reportable political donations or gifts on its website.

Any person present having business before Council today as an applicant (or other party with a financial interest in such application), and has not yet made an appropriate disclosure about a political donation, is now invited to approach the General Manager to make their statutory disclosure.

8. RECORDING OF COUNCILLORS VOTING ON PLANNING DECISIONS (ANNOUNCEMENT READ BY CHAIR AS FOLLOWS)

In accordance with Section 375A of the Local Government Act 1993, a division must be called for and taken on each planning decision made under the Environmental Planning & Assessment Act 1979. Details of voting for and against the resolutions will be recorded in the meeting minutes and in the statutory register of such voting.

9. CONFIRMATION OF MINUTES (RECOMMENDATION ANNOUNCED AS FOLLOWS)

I move that the minutes of the Council Meetings held on 24 August 2021 and 9 September 2021, copies of which were previously circulated to all councillors be hereby confirmed as a true and correct record of the proceedings of that meeting.

**10. ANNOUNCEMENT OF PUBLIC FORUM – OPEN FORUM THENCE ADDRESSES BY THE PUBLIC ON ITEMS LISTED IN THE AGENDA
(CHAIR TO ANNOUNCE THE FOLLOWING THEN CALL FOR SPEAKERS AS PER REGISTRATION DETAILS PROVIDED WHERE APPLICABLE)**

Participation by speakers is subject to them confirming they have read and accepted the guidelines about addressing the Council meeting. They also acknowledge that the meeting is being recorded and this forms part of records which are retained by Council and made publicly accessible. Speakers must refrain from providing personal information unless it is central to the subject being discussed, particularly where the personal information relates to anyone not present at the meeting. Council accepts no responsibility for any defamatory comments made.

OPTIONAL STATEMENT WHERE WRITTEN SUBMISSIONS HAVE BEEN LODGED

Written submissions have been submitted for this meeting and copies circulated directly to all councillors. The following submissions are acknowledged [details of the submissions as appropriate] and will be referenced in the minutes of the meeting.

11. OPEN FORUM

(CHAIR INVITES SPEAKERS TO BE HEARD AS PER REGISTRATION DETAILS)

12. ADDRESSES BY THE PUBLIC ON AGENDA ITEMS

(CHAIR INVITES SPEAKERS TO BE HEARD AS PER REGISTRATION DETAILS)

13. AGENDA ITEMS AS LISTED IN THE BUSINESS PAPER

(CHAIR MOVES THROUGH ITEMS OF BUSINESS AS PER CODE OF MEETING PRACTICE)

14.1 DECLARE THE MEETING CLOSED AT [TIME AS SHOWN ON COMPUTER]

(ANNOUNCED BY CHAIR)

OPEN FORUM COMMENCES

ADDRESS BY THE PUBLIC ON AGENDA ITEMS COMMENCES

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CONFIDENTIAL ITEMS

(ITEM 72/21) AUDIT, RISK AND IMPROVEMENT COMMITTEE - APPOINTMENT OF
INDEPENDENT MEMBER AND CHAIR

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (a) of the Local Government Act, 1993, as the matter involves personnel matters concerning particular individuals.

(ITEM 64/21) PUBLIC EXHIBITION OF PLANNING PROPOSAL FOR HOUSEKEEPING AMENDMENTS TO BURWOOD LOCAL ENVIRONMENTAL PLAN 2012

File No: 21/38695

REPORT BY DIRECTOR CITY STRATEGY

Summary

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

- 1) Rezone properties in Sym Avenue Burwood and on the northern side of Livingstone Street Burwood from R2 Low Density Residential to R1 General Residential, with a maximum floor space ratio (FSR) of 1.8:1, maximum building height of 17m, amended Building Height Plane controls and additional local provisions; and rezone properties on the southern side of Livingstone Street Burwood from R2 Low Density Residential to R3 Medium Density Residential, with a maximum FSR of 1.2:1, maximum building height of 10m and also additional local provisions.
- 2) Rezone the northern side of Mitchell Street Enfield in the Mitchell and Kembla Streets Heritage Conservation Area (HCA) from R3 Medium Density Residential to R2 Low Density Residential to match the zoning of the southern side of Mitchell Street Croydon Park, with the exception of 104-106 Mitchell Street Enfield, which already contains existing medium density housing.
- 3) Update the Heritage Schedule and Map in the BLEP for the former Masonic Temple building at 45 Belmore Street Burwood.

The PP was publicly exhibited from 30 June 2021 to 28 July 2021. This report discusses the submissions received and recommends that the PP, with a further change, be progressed to finalisation. This further change involves adding multi dwelling housing at the rear of 94 Mitchell Street Enfield to Schedule 1 Additional Permitted Use of the BLEP.

Operational Plan Objective

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

Background

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

On 24 November 2020, Council considered a BLEP review issues report, and resolved to prepare a Planning Proposal for a housekeeping BLEP amendment that considers the following items:

- Livingstone Street, Sym Avenue, Clarence and Church Streets, Burwood.
- Mitchell and Kembla Streets HCA.
- Former Masonic Temple building at 45 Belmore Street Burwood.

A PP was prepared following built form analysis and economic viability testing, as well as consultation with land owners and residents in and near Livingstone Street, Sym Avenue, Clarence and Church Streets.

On 13 April 2021, the Burwood Local Planning Panel (BLPP) considered the PP, and resolved to recommend Council to endorse and progress the PP.

On 27 April 2021, Council considered the PP and the BLPP's advice, and resolved:

1. *That Council endorse the Planning Proposal for housekeeping amendments to BLEP 2012 on the basis that the proposed rezoning for land within the western part of the Clarence and Church Streets Precinct be removed from the Planning Proposal.*
2. *That Council submit the Planning Proposal as amended, that is, with the deletion of the rezoning for land in the Clarence and Church Streets Precinct, to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.*
3. *In response to submissions made by residents in Mitchell Street, Enfield, that Council staff investigate options for protecting height levels within the conservation area.*

On 8 June 2021, DPIE issued a Gateway Determination, which determined that the PP should proceed subject to conditions.

Planning Proposal

The PP seeks to make three amendments to the BLEP as follows:

- (1) Rezone properties in Sym Avenue Burwood and on the northern side of Livingstone Street Burwood from R2 Low Density Residential to R1 General Residential, with a maximum floor space ratio (FSR) of 1.8:1, maximum building height of 17m, amended Building Height Plane controls and additional local provisions; and rezone properties on the southern side of Livingstone Street Burwood from R2 Low Density Residential to R3 Medium Density Residential, with a maximum FSR of 1.2:1, maximum building height of 10m and also additional local provisions.
- (2) Rezone the northern side of Mitchell Street Enfield in the Mitchell and Kembla Streets HCA from R3 Medium Density Residential to R2 Low Density Residential to match the zoning of the southern side of Mitchell Street Croydon Park, with the exception of 104-106 Mitchell Street Enfield, which already contains existing medium density housing.
- (3) Update the Heritage Schedule and Map in the BLEP for the former Masonic Temple building at 45 Belmore Street, Burwood.

The Gateway Determination issued by DPIE requires the PP to be updated, prior to community consultation, to:

- a) Demonstrate consistency with section 9.1 Ministerial Directions, being Direction 2.3 - Heritage conservation and Direction 2.6 - Remediation of contaminated land in particular.
- b) Remove the proposed additional local provisions on uninterrupted building frontage on Livingstone Street and Sym Avenue.
- c) Remove the proposed additional local provision on minimum site area for boarding house development on Livingstone Street and Sym Avenue.
- d) Justify the proposed additional local provisions for Livingstone Street and Sym Avenue as the best means to manage future development and impact to heritage items.
- e) Include the existing address of the Masonic Temple as referenced in Schedule 5 of the BLEP.
- f) Update mapping.

The PP was updated in accordance with the above requirements prior to consultation.

A report was prepared by Council's Heritage Advisor to address Requirement d) on development and impact to heritage items in Livingstone Street and Sym Avenue. This report was exhibited concurrently with the PP.

Consultation

The Gateway Determination for the PP stipulates that:

- The PP be publicly exhibited for a minimum of 28 days.
- The following agencies be consulted and given at least 21 days to comment:
 - NSW Heritage
 - Transport for NSW
 - Energy Australia
 - Sydney Water Corporation
 - NSW Department of Education

Public Exhibition and Agency Consultation

The PP (provided as **Attachment 1**), the report prepared by Council's Heritage Advisor (provided as **Attachment 2**) and supporting documents were placed on public exhibition from 30 June 2021 to 28 July 2021.

Approximately 550 letters were sent to land owners and residents within and adjacent to Livingstone Street, Sym Avenue, Clarence and Church Streets, as well as the Mitchell and Kembla Streets HCA, advising them of the PP exhibition. These addresses have been consistently used for all notifications of BLPP and Council meetings regarding the housekeeping LEP amendments.

Those who made email submissions to Council earlier concerning this project were also advised via email of the PP exhibition.

An exhibition notice and the exhibition material were placed on Council's website. The exhibition notice included a link to the NSW Planning Portal where the PP and supporting documentation were also available for viewing.

This exhibition arrangement was in line with the requirements of:

- The conditions of the Gateway Determination as set out above.
- DPIE's *A Guide to Preparing Local Environmental Plans*.
- Council's *Community Participation Plan*, adopted on 26 November 2019.
- NSW Government's emergency measures as a result of the COVID-19 pandemic.


The five agencies listed in the Gateway Determination were consulted and were provided with a full set of the PP and supporting documentation.

Discussion of Submissions

Submissions from property owners

A total of 11 submissions were received, four of which, including one submission by a planning consultant, were in relation to 94 Mitchell Street, Enfield. The submission by the planning consultant enclosed a letter from the owner of 96 Mitchell Street, Enfield.

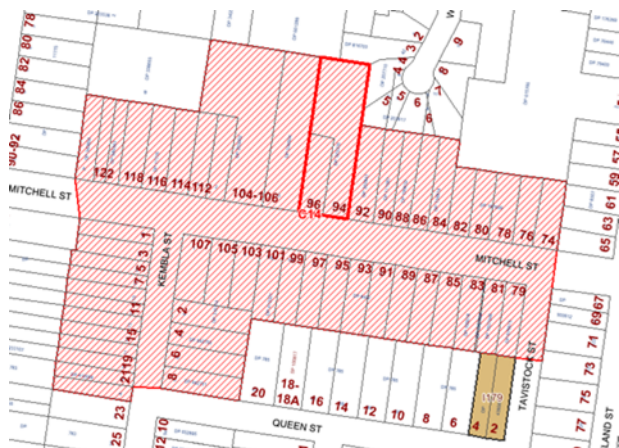
The table below presents a summary of the submissions received and Council staff's comments.

Summary of Submissions	Council Staff's Comments
<p>Three submissions from the northern side of Livingstone Street support the proposed R1 zone, with 1.8:1 FSR and 17m building height.</p>	<p>The support is noted.</p>
<p>Three submissions from the northern side of Livingstone Street:</p> <ul style="list-style-type: none"> ▪ Support proposed R1 zone with 1.8:1 FSR and 17m building height, but prefer strongly a B4 zone for the northern side of Livingstone Street. ▪ The northern side of Livingstone Street has backyards backing onto the B4 zone in the Burwood Town Centre (BTC). The side setback requirement of 6m to 8m is unfair compared to BTC zero setbacks. The BTC B4 zone always runs along a street, except for Livingstone Street, which adjoins the B4 zone at the rear. ▪ The Vision Document of Council in 2004 identified the northern side of Livingstone Street to be part of the BTC. ▪ Council staff dismissed the request for B4 zoning but never provided reason. 	<p>The option of rezoning the northern side of Livingstone Street to B4, i.e., to extend the BTC boundary to include this side of the street, was discussed in the report to the 27 April 2021 Council meeting.</p> <p>This option is not supported because:</p> <ul style="list-style-type: none"> ▪ Mixed use development, including commercial premises and other non residential type of land uses permitted in the B4 zone would have the potential to change the streetscape character completely. ▪ Podiums for mixed use development could be built from boundary to boundary, hence preventing open space, deep soil planting or landscaped areas at street level and between buildings. Any landscaped areas would only be provided above podium. ▪ Redefining the Burwood Town Centre boundary would have flow-on impacts on the low rise residences to the south. <p>The Vision Document 2004 refers to the northern side of Livingstone Street as 'Deferred pending finalisation of Livingstone Street heritage review'.</p>  <p>The heritage review was completed subsequently, without recommending additional heritage items in, or a heritage conservation area for, the street. Council has called for investigations, but has not resolved to include this side of the street in the BTC.</p>
<p>A submission from the southern side of Livingstone Street objects to the proposal:</p> <ul style="list-style-type: none"> ▪ Overdevelopment concerns and notes Council has surpassed government consolidation requirements. ▪ Transition zone already in place at Belmore Street, no need for another. 	<p>The opinions are noted.</p> <p>The housing supply delivery in the Burwood LGA for 2016-2021 presents a shortfall from the target set in the Eastern City District Plan for 2600 dwellings over this period. The shortfall forecast is further discussed under the <i>Planning or Policy Implications</i> section.</p> <p>The proposal as exhibited is based on the following rationale:</p>

<ul style="list-style-type: none"> ▪ There are other opportunities to create more housing, e.g., at the rear of shops in Burwood Road. ▪ Livingstone Street and Sym Avenue have been maintained as residential streets despite attempts in the past to change the LEP. ▪ Proposal has adverse impacts on existing heritage items in Livingstone Street. ▪ Medium density development will destroy ambience of street by a completely different type of architecture. ▪ Livingstone Street is narrower than Clarence Street. Concerns with impact to amenity and livability. ▪ Safety concerns with passage of fire truck from the Fire Station during construction. 	<ul style="list-style-type: none"> ▪ The Livingstone Street and Sym Avenue Precinct is close to the BTC, with easy access to available retail, commercial and public transport services. ▪ The Burwood LSPS identifies the precinct as a Local Character Investigation Area, with the objectives of providing a transition between the higher density development in the BTC and the low rise buildings outside, conserving heritage buildings as well as addressing amenity issues. ▪ The community consultation outcome suggested that a majority of participants preferred residential apartment developments in the precinct. ▪ The proposal is supported by built form, traffic and economic viability analyses. ▪ Development controls on setback, street wall height, frontage, site area and building footprint will be included in the LEP, which will be elaborated in more detail and supplemented by controls on site planning, response to character, landscaping, built form, parking, servicing, waste management, mailing and utilities in the Burwood Development Control Plan (BDGP). These measures aim to protect streetscape character, achieve acceptable design outcomes, address amenity concerns and minimise impacts on heritage items. ▪ The abovementioned development controls include the following, which specifically relate to properties adjoining a heritage item and development sites containing a heritage item after amalgamation: <ul style="list-style-type: none"> - Minimum 2m extra setback from the boundary adjoining a heritage item, additional to the setback requirements in the Apartment Design Guide. - Minimum Site area of 1500sqm for sites including a heritage item. <p>Council's Heritage Advisor supports these provisions on heritage grounds.</p> ▪ Allowing three storey terrace or townhouse development for the southern side of Livingstone Street would provide a degree of transition between the five storey building height on the northern side of the street and the two storey residences further south, without causing amenity issues for the interface, as well as achieving a more balanced streetscape appearance. ▪ Introducing maximum street wall height provisions also ensures a balanced streetscape and a 'human scale' pedestrian experience on both sides of the Livingstone Street.
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One submission is from a planning consultant on behalf of the family of 94 Mitchell Street:

- Long held intention to retain land for gifting to children to redevelop.
- PP is downzoning and will reduce redevelopment potential.
- Existing medium density housing in the street was built within the maximum 8.5m building height and 0.55:1 FSR controls, which the subject PP will not alter.
- Mitchell Street has a mixed streetscape character with a number of existing dwellings having been altered and/or redeveloped.
- Majority of properties in Mitchell Street are single house lots, with < 13m frontage and < 600sqm area, as such are unlikely to be redeveloped for medium density housing without amalgamation. No. 94 is approximately 1700sqm and can be redeveloped in its own right, or could be combined with No. 96 to achieve a better outcome and avoid isolation.



- A letter from 96 Mitchell Street lodged with the submission, supported the submission by No. 94 and objected to rezoning to R2.
- Two storey redevelopments and an inconsistent streetscape in Mitchell Street could happen anyway.
- Zoning change is not the tool to protect HCA. Any redevelopment would have to consider heritage and streetscape provisions regardless.
- There are examples of medium density developments in HCA.
- Prefers to keep the current R3 zone.
- Alternative approach is to rezone to R2, but to allow multi dwelling housing as an additional permitted use under Schedule 1 of the BLEP for Nos. 94 and 96.

The sentiments expressed in these submissions are acknowledged.

A memo has been prepared by Council’s Heritage Advisor (**Attachment 3**) in addressing these submissions.

This memo is paraphrased below:



Street view of 94 (right) and 96 (left) Mitchell Street

- The dwellings at 94 and 96 Mitchell Street are located within the Mitchell and Kembla Street HCA (C14). Both dwellings are generic but intact examples of Interwar Bungalows. The statement of significance for the HCA is as follows:

This precinct is of local significance as containing housing that is representative of the late 19th and early 20th century development in the Enfield district.

- The Inventory Sheet for the HCA does not specifically mention 94 and 96 Mitchell Street, however they fall into the same category (albeit isolated from) Nos.110-124 which are described as:

Nos. 110-124 are located at the north side of the street and are simple, brick Californian bungalows featuring stone sills and gables.

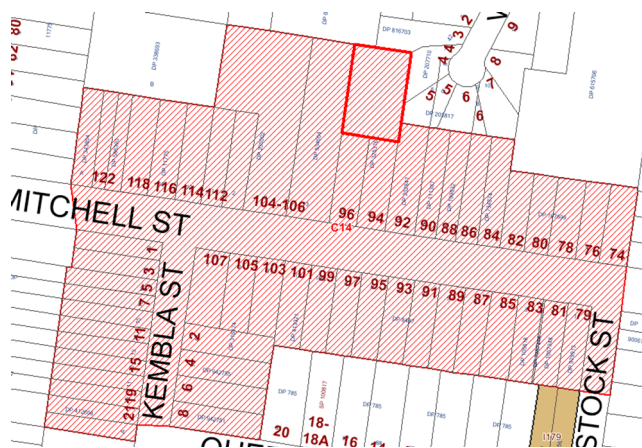
- Both Nos. 94 and 96 are considered contributory buildings within the HCA. The owner’s family raised concerns regarding the decline in property value in relation to potential future development if the rezoning goes ahead. However, as these two dwellings are contributory buildings, Council would not support the demolition or substantial alteration of them or of their surrounds. Sympathetic development behind the bungalows may be supported, which would be subject to merit consideration and would be required to meet the heritage controls within the BLEP and BDCP in particular relating to design, scale (including height), form and character.
- The BDCP stipulates that rear additions (including new buildings) are generally required to be lower than the roof ridge of the existing dwelling and should not be overtly visible from the public domain.

Three further submissions were received from family members of 94 Mitchell Street:

- Object to the proposed rezoning to R2.
- Discuss property size and request 94 and 96 Mitchell Street be excluded from the rezoning like 104-106 Mitchell Street.
- Made aware of proposal only in June 2021. Went through a freedom of information process to find out what measures Council took to inform residents of this proposal.
- Strong personal and emotional impacts.
- Proposal will go against the wishes of the owners upon their passing for sale or redevelopment by their children, and will significantly reduce development potential of the land.
- Development since the 70s has occurred within the HCA and surrounds with no regard to heritage.
- The southern side of Mitchell Street has greater uniformity in heritage façade and block size; it should be preserved.
- There are sufficient heritage controls by Council to maintain streetscape in future development within the HCA.
- Unreasonable for Council to only consider heritage conservation. Proposal would curtail the dreams, hopes and expectations of hard working immigrants. Whom Council lauds itself for supporting and encouraging.
- Proposal will affect Council’s Local Housing Strategy (LHS) which states:
 - Increase housing diversity and choice to meet the community’s changing needs
 - Plan for longer term housing needs, preserving opportunities for medium and high-density housing development beyond 2036 near centres and public transport.
- Proposal contradicts the Greater Sydney Region Plan which states:
 - Provide ‘greater housing supply’.
 - Make housing ‘more diverse and affordable’.
- The petition received by Council earlier claimed that all owners in Mitchell Street signed the petition and that there is a lack of examples of R3 zones nearby. These statements are incorrect.

- An R3 zoning may have encouraged multiple townhouse developments within the curtilage of heritage and historic homes in Wyatt Avenue Burwood. This may have reduced the amenity and setting of a number of heritage dwellings and is not considered to be a good heritage outcome.
- The rezoning to R2 will therefore add to and support the heritage controls which encourage the retention of heritage properties within the Mitchell and Kembla HCA.

In view of the Heritage Advisor’s memo, it is reasonable to consider on merit multi dwelling housing development as an additional permitted use under *Schedule 1 – Additional Permitted Uses* of the BLEP for the rear of 94 Mitchell Street, while continuing with the proposed rezoning to R2.



This balanced approach would address heritage conservation while allowing for a degree of flexibility for 94 Mitchell Street.

The concentration of the additional permitted use at the rear of 94 Mitchell Street preserves the existing streetscape character, and it addresses Council’s resolution of 27 April 2021, for “Council staff to investigate options for protecting height levels within the conservation area”.

Notwithstanding increasing housing diversity and supply, Council’s LSPS, LHS, the Eastern City District Plan and Greater Sydney Region Plan all require consideration of heritage conservation.

The Livingstone Street and Sym Avenue Precinct adjoining the BTC is considered to be in a better location to provide higher-density housing.

The petition received earlier could be interpreted as:

- All those who signed the petition were from the owners in Mitchell Street.
- There is a lack of examples of R3 zones nearby, with similar street character, frontage and heritage status.

	In any case, the decision to rezone the northern side of Mitchell Street was not entirely based on the petition.
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Submissions from Agencies

Agency	Issues and/or Concerns	Council Staff's Comments
Sydney Water	<ul style="list-style-type: none"> ▪ Requires the following information to plan for growth: <ul style="list-style-type: none"> - Proposed staging and/or timescales of development. - Any maps or staging plans to assist in visualising spatial distribution of projected growth. ▪ Enclosed a template for providing the information, which can be submitted as a feasibility application through a Water Servicing Coordinator. 	The required information can be provided to Sydney Water as soon as Council has endorsed this PP.
Heritage NSW	<ul style="list-style-type: none"> ▪ Not opposed to the PP and no impacts to state heritage items. ▪ Proposed rezoning of Mitchell Street properties and updating the Heritage Schedule and Map for the former Masonic Temple building would have a positive heritage outcome. ▪ Proposed rezoning of Livingstone Street and Sym Avenue has potential impacts on the four local heritage items in Livingstone Street. ▪ Ultimately, Council is responsible for the heritage assessment and consideration of any impacts on local heritage properties. ▪ Prior to PP finalisation, Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed. 	<p>These comments are noted.</p> <p>Council staff have undertaken heritage assessments and endeavoured to address any heritage impacts in preparing the PP.</p>
Transport for NSW	<ul style="list-style-type: none"> ▪ Several key bus stops are located near the Burwood Road/ Livingstone Street/ Clarence Street intersection. ▪ Prefers to retain these bus stops as close as possible to their current location. ▪ Council should firstly consult with Transport for NSW for future signalisation works if they would result in any impact or the relocation of bus stops. 	These comments are noted.

Protecting Height Levels within HCA

Part of the Council resolution of 27 April 2021 states:

3. *In response to submissions made by residents in Mitchell Street, Enfield, that Council staff investigate options for protecting height levels within the conservation area.*

It is understood this Council resolution was reached in view of the resident's concern that future redevelopment for medium density housing at 104-106 Mitchell Street, which is excluded from the proposed rezoning, could potentially have a completely different architectural presentation to the

street through increased building height in order to add attic spaces and/or to have roofs with a different form to the rest of the street.

In this regard, the R3 zone is subject to a maximum building height of 8.5m under the BLEP. Building height is defined under the BLEP as the vertical distance from ground level (existing) to the highest point of the building. Such height potentially allows for the inclusion of attic spaces.

The BDCP contains the following heritage provisions:

Attic-Style and First Floor Additions

P19 *'Rooms in roof' additions are permissible in the roof spaces of heritage properties (including sites in a HCA) subject to retaining the existing roof pitch and where the space is sufficient to accommodate attic rooms. Attention must be given to the style, size and location of roof windows. Such works are also required to meet the relevant height controls and habitation requirements set out in this DCP and the Building Code of Australia.*

New Development

P37 *There are instances where new development may be built on the site of a heritage item, or within a HCA. Where this occurs, the new development must ensure it respects and interprets the predominant heritage character of that particular site or precinct.*

P38 *New development in an existing HCA must be compatible with and reflect the predominant stylistic features of properties in the HCA with respect to:*

- Building bulk, height and proportion.*
- Scale and architectural style.*
- Integration into the streetscape and relationship with adjoining buildings.*
- Reflecting the building and street alignments.*
- Interpreting the materials and architectural detailing of the heritage conservation area.*

The options or the ways to protect height levels within the conservation area can therefore be summarised below and additional controls are not considered to be warranted:

1. By the maximum building height control set in the BLEP.
2. Through the heritage controls stipulated in the BDCP.

Planning or Policy Implications

This PP seeks to make three changes to the BLEP. The main change proposed, for Livingstone Street and Sym Avenue Burwood, serves as a pilot scheme for further BLEP amendments for the rest of the Burwood Local Government Area (LGA).

The Eastern City District Plan identified the zero to five year (2016-2021) housing target for the Burwood LGA as 2,600 dwellings. According to the Burwood Local Housing Strategy approved by DPIE, dwelling production within the Burwood LGA could not meet this 2016-2021 housing target, with 42% of the target met in 63% of the timeframe between July 2016 and August 2019 (when the LHS was prepared).

The proposed change to planning controls for Livingstone Street and Sym Avenue has the capacity for approximately 287 additional apartments and 84 additional terraces, assuming 100% take up, which should help address the 2016-2021 housing supply shortfall.

The PP also seeks to apply a unified R2 zone to all properties (except for the site containing existing medium density housing) within the Mitchell and Kembla Streets HCA, in order to better conserve the housing and streetscape characters therein. In response to the submissions received during the public exhibition, the PP should be amended to insert in Schedule 1 of the BLEP multi dwelling housing as a permissible development at the rear of 94 Mitchell Street, Enfield.

Should Council resolve to progress the PP with the suggested further change, the PP will be updated and submitted to DPIE for final determination. DPIE will then liaise with Council staff and the Parliamentary Counsel Office to draft the BLEP amendment, which will come into force from the date of being notified on the NSW legislation website.

Financial Implications

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

Conclusion

The PP was updated and placed on public exhibition in accordance with the relevant requirements of Council and the State Government. This report discusses the submissions received and recommends that Council endorse the PP as exhibited, with a further change, which is to permit medium density housing development at the rear of 94 Mitchell Street Enfield, and progress the PP to the making of a BLEP amendment and subsequent notification.

Recommendation(s)

- 1) With regards to rezoning of properties in Sym Avenue Burwood and Livingstone Street Burwood:**
 - a. That Council note the findings of the review of submissions from the public exhibition.
 - b. That those who have made a submission be advised of Council's resolution.
 - c. That Council authorise the General Manager to amend the Planning Proposal for submission to DPIE for final determination and plan making.
- 2) With regards to rezoning of the northern side of Mitchell Street Enfield in the Mitchell and Kembla Streets Conservation Area:**
 - a. That Council note the findings of the review of submissions from the public exhibition.
 - b. That Council authorise the General Manager to amend the Planning Proposal by including in Schedule 1 of the Burwood Local Environmental Plan 2012 to permit multi dwelling housing development at the rear of 94 Mitchell Street, and to submit the Planning Proposal to DPIE for final determination and plan making.
 - c. That those who have made a submission be advised of Council's resolution.
- 3) With regards to updating of the Heritage Schedule and Map in the BLEP for the former Masonic Temple building:**
 - a. That Council note the findings of the review of submissions from the public exhibition.
 - b. That Council authorise the General Manager to amend the Planning Proposal for submission to DPIE for final determination and plan making.

Attachments

- 1 Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited
- 2 Report by Council's Heritage Advisor regarding proposed heritage provisions in the Planning Proposal
- 3 Memo by Council's Heritage Advisor regarding 94 and 96 Mitchell Street Enfield



Planning Proposal

Amendment to Burwood Local Environmental Plan 2012

30 June 2021
File No.: 21/28505

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

Introduction

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

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

Part 1 – Objectives or Intended Outcomes

This Planning Proposal seeks to:

1. Rezone land in Livingstone Street 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 Kembbla Streets Heritage Conservation Area (HCA).
3. Update the Heritage Schedule and Heritage Map in the BLEP to reflect the correct street address, lot and deposited plan numbers and land parcel for the heritage item of the former Masonic Temple building at 45 Belmore Street Burwood.

Part 2 – Explanation of the Provisions

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

Proposal

- 1) The following properties would be rezoned to R1 General Residential, with a maximum building height of 17m and a maximum FSR of 1.8:1:
 - Nos. 1, 3, 5, 7, 2, 4, 6, 8, and 10 Sym Avenue, Burwood
 - Nos. 5 - 25 Livingstone Street, Burwood

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

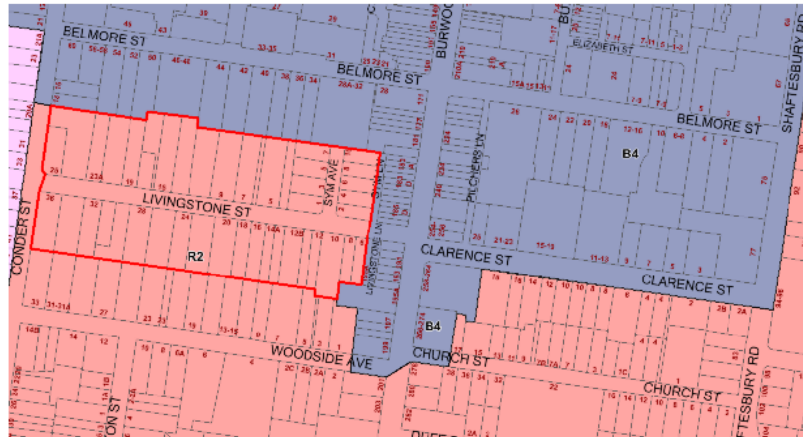
The following properties would be rezoned to R3 Medium Density Residential, with a maximum building height of 10m and a maximum FSR of 1.2:1:

- 6 – 36 Livingstone Street, Burwood

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

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Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited



Existing land zoning map showing properties to be rezoned

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



Existing: BHP lines as marked



Proposed: BHP lines as marked

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

Existing BHP Line B height

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

Proposed BHP Line B height

- 3) Introduce additional local provisions on:

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

- 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.

Background and Rationale

Burwood LSPS

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

The LSPS identifies eight Local Character Investigation Areas, including:

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



Source: Burwood LSPS

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



Source: Burwood LSPS

The aims identified in the LSPS for these precincts are:

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

Report to 24 November 2020 Council Meeting

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

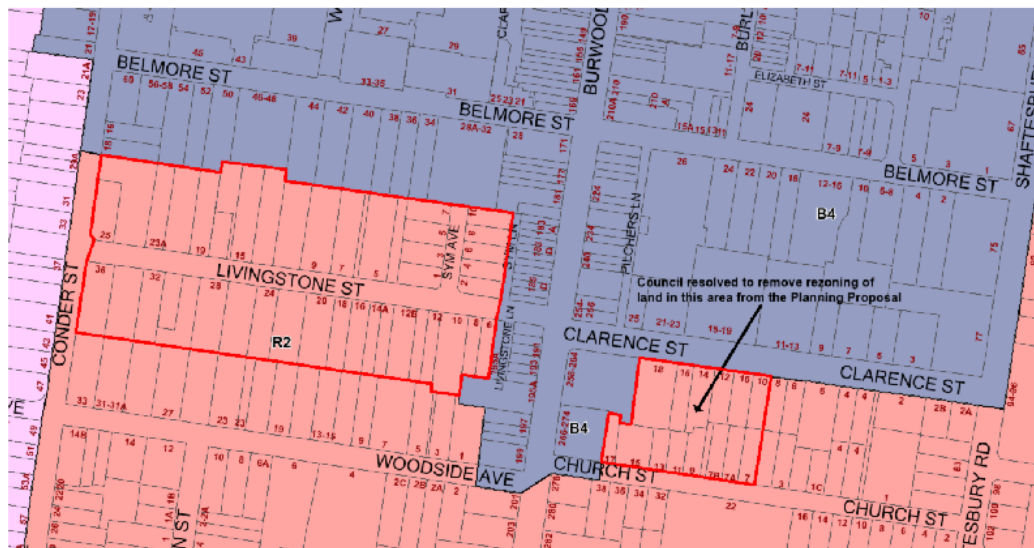
Council also resolved to undertake direct consultation with local residents and land owners prior to the preparation of this Planning Proposal.

Report to 27 April 2021 Council Meeting

A report titled '*Planning Proposal for Housekeeping Amendments to Burwood Local Environmental Plan 2012*' was considered by Council at its meeting of 27 April 2021, when it was resolved (in part):

1. *That Council endorse the Planning Proposal for housekeeping amendments to BLEP 2012 on the basis that the proposed rezoning for land within the western part of the Clarence and Church Streets Precinct be removed from the Planning Proposal.*
2. *That Council submit the Planning Proposal as amended, that is, with the deletion of the rezoning for land in the Clarence and Church Streets Precinct, to DPIE for a Gateway Determination.*

Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited



Existing land zoning map. Land within red outlines was reported to Council. However Council resolved to remove the rezoning of the Clarence and Church Streets Precinct from the Planning Proposal.

Community Consultation

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



The consultation included:

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

Arrangements for the consultation included:

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

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

Key findings of the survey can be summarised below:

- 45% of the respondents were from Livingstone Street, 10-12% from Church Street, Sym Avenue, elsewhere or nearby, and 5% from Clarence Street. The remaining respondents were from multiple other locations.
- 51% of the respondents strongly disagreed with the option of terrace/ townhouse development while 13% disagreed with this option. The remaining respondents offered varied views.
- 48.7% of the respondents disagreed with the option of three storey apartment buildings while 7.5% agreed with this option. The remaining respondents skipped the question, had varying or no views.
- 61% of the respondents agreed (including 51% who strongly agreed) with the option of four to five storey apartment buildings while 30% strongly disagreed with this option. The remaining respondents skipped the question, had varying or no views.
- 46% of the respondents would like to see more intensive development while 25% would like to remain as is. The remaining respondents skipped the question, had varying or no views.
- 48 respondents out of 70 within the study area supported rezoning while 22 were against. Locations of the respondents are mapped but will not be shown in the Planning Proposal for privacy reasons.

Economic Testing

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

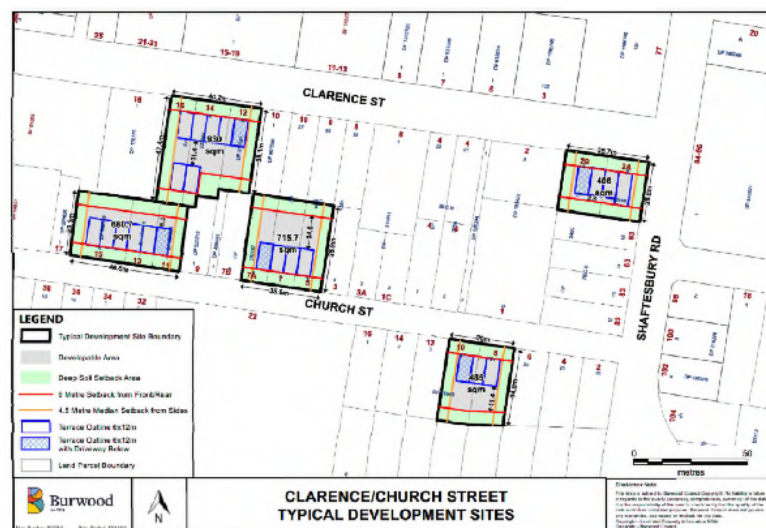
ITEM NUMBER 64/21 - ATTACHMENT 1

Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

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

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

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

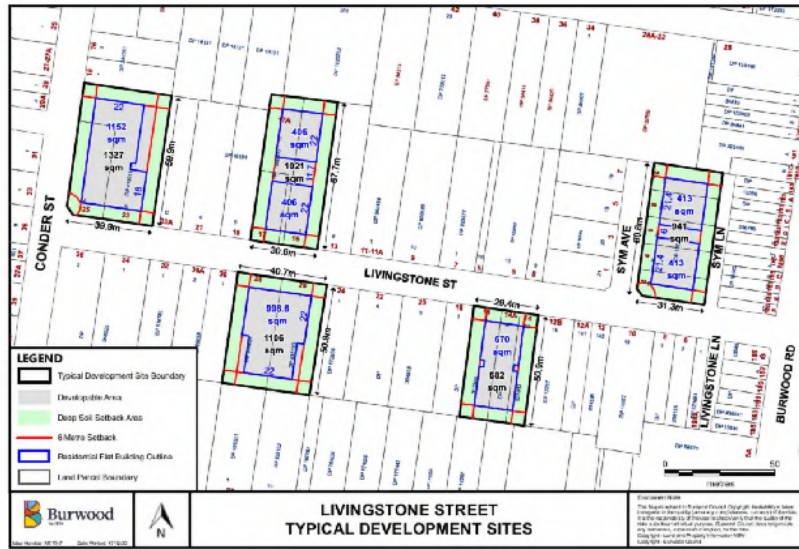


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Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

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

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



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

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

HillPDA used the following methodology:

- Calculating development profits, by inputting revenues less costs in a bespoke Excel model to derive a development profit then dividing profit by total project costs to derive a development or profit/risk margin.
- Assumed that a development margin of 16% to 17% would be required for a developer to purchase the site without development consent, and a lower margin of 12% to 14% might be acceptable if the site is sold with development consent.
- Testing each development scenario by starting with revenue then deducting GST and other sales costs, deducting construction and other development costs including interest, and deducting a required profit margin to derive a residual land value. This is the value of the land as a redevelopment site. By comparing it to the 'as is' value of the land (the value of the land assuming no change in zoning in perpetuity) the feasibility of each development scenario is revealed.

The results of the economic testing are:

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

Traffic and Transport Considerations

Council's Traffic and Transport team has been consulted on the proposed zoning described earlier. The team considered the additional traffic to be generated and the potential road network impacts if the abovementioned FSRs (i.e., a maximum FSR of 1.8:1 for the northern side of Livingstone Street, both sides of Sym Avenue and the western portion of the Clarence and Church Streets Precinct, and a maximum FSR of 1.2:1 for the southern side of Livingstone Street) were to be adopted in this Planning Proposal. The team conducted a trip analysis as follows.

Existing Land Use Scenario

Livingstone Street and Sym Avenue Precinct:

- 39 houses x 1 trip/dwelling = 39 trips
- Fire station (assumed 3 trips/hour including staff and emergency = 3 trips
- Emergency accommodation 8 spaces assuming 0.25 trips/space = 2 trips

Total Livingstone Street and Sym Avenue Precinct = $39+3+2 = 44$ trips/hour

Western portion of Clarence Street:

- 4 houses x 1 trip/dwelling = 4 trips
- 1 child care centre of 26 spaces x 0.8 trips/child = 21 trips
- 1 church (assume 2 staff trips) = 2 trips

Total western portion of Clarence Street = $4+21+2 = 27$ trips/hour

Western portion of Church Street:

- 6 houses x 1 trip/dwelling = 6 trips
- 1 property with 25 units x 0.2 trip/unit = 13 trips

Total western portion of Church Street = $6+13 = 19$ trips/hour

Total western portion of Clarence and Church Streets Precinct = $27+19 = 46$ trips/hour

Rezoning 100% Uptake Scenario

Livingstone Street and Sym Avenue Precinct:

- 345 apartments x 0.2 trip/dwelling = 69 trips
- 160 townhouses x 0.5 trip/dwelling = 80 trips

Total Livingstone Street and Sym Avenue Precinct = 149 trips/hour

Taking into consideration the existing traffic generation, there would be an additional 105 trips/hour in Livingstone Street associated with the rezoning.

Western portion of Clarence and Church Streets Precinct:

- 172 apartments x 0.2 trip/dwelling = 35 trips/hour

Taking into consideration the existing traffic generation, there would be no additional traffic load in this part of the precinct associated with the rezoning.

Rezoning 35% Uptake in 5 Years Scenario

Livingstone Street and Sym Avenue Precinct:

- 345 apartments x 0.2 trip/dwelling x 35% = 24 trips
- 160 townhouses x 0.5 trip/dwelling x 35% = 28 trips

Total Livingstone Street and Sym Avenue Precinct = 52 trips/hour

Western portion of Clarence and Church Streets Precinct:

- 172 apartments x 0.2 trip/dwelling x 35% = 12 trips/hour

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Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

Taking into consideration the existing traffic generation, there would be negligible additional traffic in the Livingstone Street and Sym Avenue Precinct and no additional traffic in the Clarence and Church Streets Precinct associated with the rezoning.

Rezoning 70% Uptake in 10 Years Scenario

Livingstone Street and Sym Avenue Precinct:

- 345 apartments x 0.2 trip/dwelling x 70% = 48 trips
- 160 townhouses x 0.5/dwelling x 70% = 56 trips

Total Livingstone Street and Sym Avenue = 104 trips/hour

Western portion of Clarence and Church Streets Precinct:

- 172 apartments x 0.2 trip/dwelling x 70% = 24 trips/hour

Taking into consideration the existing traffic generation, there would be some 60 additional trips in the Livingstone Street and Sym Avenue Precinct and no additional traffic in the Clarence and Church Streets Precinct associated with the rezoning.

Summary

Precinct	Existing Traffic	35% Uptake – 5 Year Rezoning	Increase or Decrease	70% Uptake - 10 Year Rezoning	Increase or Decrease	100% Uptake Rezoning	Increase or Decrease
Livingstone & Sym	44 trips/hr	52 trips/hr	+8	104 trips/hr	+60	149 trips/hr	+105
Western Portion Clarence & Church	46 trips/hr	12 trips/hr	-34	24 trips/hr	-22	35 trips/hr	-11

Based on the assessment detailed above, in the 5 year scenario it is unlikely that any additional intersection upgrades will be required; in the 10 year scenario, intersection upgrades may be required at the Livingstone Street/Burwood Road/Clarence Street and Livingstone Street/Conder Street intersections.

The general comments by Council’s Traffic and Transport team are:

- The additional traffic will not result in the traffic volumes exceeding the planned capacity of the local roads.
- As the proposal no longer includes the western part of Clarence and Church Streets Precinct after the Council resolution of April 27 2021, the planned capacity of the existing roads is more than adequate to support the proposed/potential traffic volumes.
- Both streets are within a 450m catchment of the existing Burwood Train Station providing future residents with the opportunity to use public transport services with accessibility to both Sydney and Parramatta CBDs.

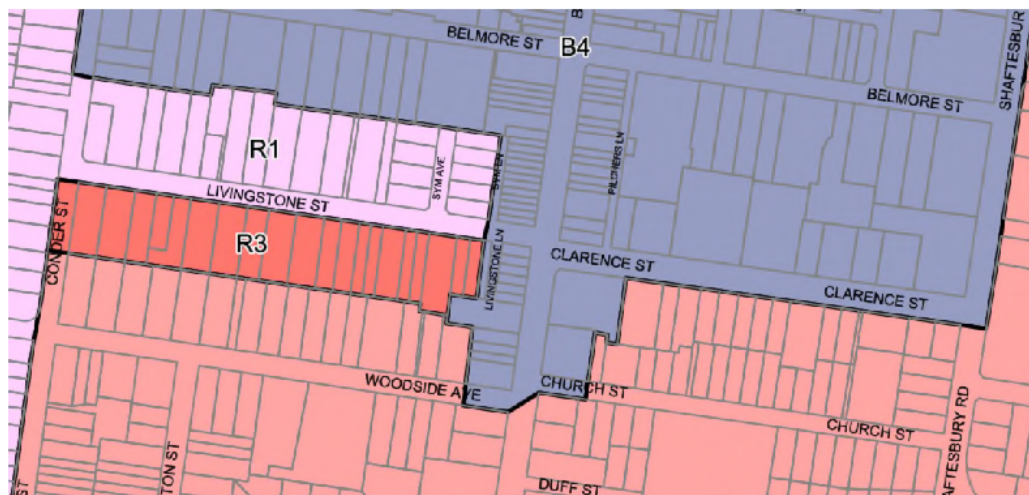
- Both streets are directly adjoining the Burwood Town Centre. This provides direct, walkable access to a range of retail and professional services, community facilities and employment opportunities.
- The streets occupy a highly connected location which will promote active travel options as an alternative to private vehicle use.

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

Summary of Rationale

The proposed rezoning after the Council meeting of 27 April is:

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



Map showing the proposed rezoning

The above proposed rezoning is based on the following rationale:

- Both precincts are located right next to the Burwood Town Centre, therefore enjoying close proximity to existing available retail and commercial facilities and public transport services.
- The Burwood LSPS identifies the precincts as Local Character Investigation Areas, with the aim in part of providing a transition between the higher density development in the Burwood Town Centre and the low rise buildings outside of the town centre, conserving heritage buildings as well as addressing amenity issues.

- The community consultation outcome is that 61% of the survey respondents had a preference for four to five storey residential apartment developments therein.
- The proposed rezoning as described is supported by the land use economic viability testing.
- Although the proposed rezoning could trigger the requirements for intersections upgrade, Council's Traffic and Transport team raised no objection to the proposal.
- The proposed rezoning occupies a highly connected location that will support the role and function of the Burwood Town Centre as a regional strategic centre and offer convenient access to public transport services.
- One of the key findings of the (draft) Burwood Local Employment and Investment Strategy, prepared by SGS Economic & Planning consultants for Council, is that employment growth projections imply a moderate increase in non-retail commercial floorspace demand in the Burwood Town Centre, and that there is sufficient employment floor space capacity in the Burwood Town Centre to meet the expected demand. This finding justifies the proposed rezoning to a residential zone of higher density as opposed to rezoning to a business zone.
- Council resolved on 27 April 2021 to remove the proposed rezoning of land within the western portion of the Clarence and Church Streets Precinct from the Planning Proposal, due to the concern that rezoning only a part of the precinct might create disparity.

More detailed considerations or substantiation are provided below:

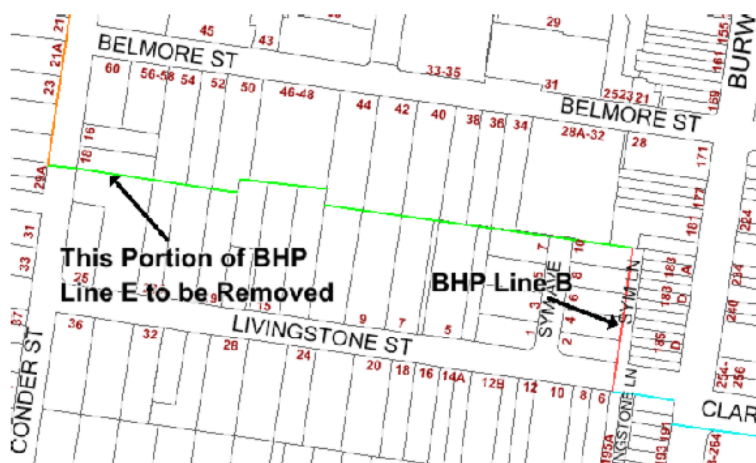
- Additional local provisions on setback, street wall height, frontage, site area (for sites containing a heritage item) and footprint will be included in the BLEP amendment in order to protect streetscape character, control built forms, address amenity concerns and minimise impacts on heritage items, since LEP provisions have more weight than DCP controls.
- Council's Heritage Advisor has prepared a heritage report in support of the proposed additional local provisions on added distance for side setbacks for development adjacent to a heritage item and on the minimum site area for sites containing a heritage item. This heritage report is exhibited concurrently with this Planning Proposal.
- Allowing three storey terrace or townhouse development for the southern side of Livingstone Street is aimed at providing a degree of transition between the five storey building height for the northern side of the street and the two storey residences further south, without causing amenity issues for the interface, as well as achieving a more balanced streetscape appearance.
- Five heritage items (in close proximity to each other) occupy the majority of the eastern part of the Clarence and Church Streets precinct. This part had been excluded from the proposed rezoning to ensure the significance of existing heritage items will not be undermined. The development potential of other non-heritage items on this (eastern) part of the precinct would also be retained as per current controls in order to avoid environmental impacts to the heritage items. However, Council at its meeting of 27 April

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Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

2021 resolved to remove the rezoning of the western part of the precinct from the Planning Proposal on the basis that rezoning only a part of the precinct might create disparity.

- The portion of the existing BHP Line E next to 18 Conder Street will be removed to allow for orderly development at 18 Conder Street. The rest of the BHP Line E along the Belmore and Livingstone Streets interface is to remain 'as is' in order to prevent development in Belmore Street from being built to the southern boundary, which would result in poor building, landscaping and amenity outcomes. The existing BHP Line B along the western side of Sym Lane will have its BHP line height increased to help allow for orderly development in Burwood Road while ensuring the eastern elevation of development facing Sym Avenue will not be overshadowed by development in Burwood Road. Refer to map below.



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

Proposal

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

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



Existing zoning of Mitchell and Kembla Streets HCA.

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

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

Background and Rationale

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

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

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

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

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

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

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

Comments by Council's Heritage Advisor

Council's Heritage Advisor supports the proposed R2 Low Density Residential zoning of the northern side of Mitchell Street.

The Mitchell and Kembla Streets HCA represents a locally significant collection of housing that is representative of the late nineteenth and early twentieth century in the Enfield district. The existing dwelling houses within the HCA are predominately single storey in scale and exhibit a distinctly low-density character. The properties typically feature landscaped front yards, generous rear gardens, and modest building sizes. The character and scale of the existing contributory houses is commensurate with a R2 zoning.

Council's Heritage Advisor has raised a concern that potential future redevelopment of the entire northern side in the R3 zoning – with its typical two storey townhouse appearance – poses a risk to the character of the conservation area. In addition, the R3 zone sets an expectation amongst owners of a development scale and bulk that is unlikely to be realised under conservation area controls, with the exception of 104-106 Mitchell Street, which already display a medium density character.

Council Meeting of 27 April 2021

Council at its meeting of 27 April 2021 considered the Planning Proposal, which includes the proposed rezoning of properties on the northern side of Mitchell Street within the HCA. Council endorsed this rezoning, with the following further resolution:

3. *In response to submissions made by residents in Mitchell Street, Enfield, that Council staff investigate options for protecting height levels within the conservation area.*

This resolution stemmed from the head petitioner speaking at the Council meeting, urging Council to rezone all properties within the HCA, i.e., including 104-106 Mitchell Street, which contains existing medium density housing, to R2 in order to preserve the heritage integrity of the HCA.

Under the BLEP, R2 and R3 zones are subject to the same maximum building height of 8.5m, which allows two storeys plus an attic space at most. The existing development at 104-106 Mitchell Street, consisting of two storey townhouses built in 1970s, could not be built higher

than 8.5m in any redevelopment. No change to building height controls would be required in this regard.

3. Former Masonic Temple Building

Proposal

Schedule 5 Environmental heritage currently shows the following details for Heritage Item No. 18:

Suburb	Item name	Address	Property description	Significance	Item no
Burwood	Masonic Temple	47 Belmore Street	Lot 1, DP 309715	Local	i8

The schedule would be amended to show the following details for the heritage item:

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

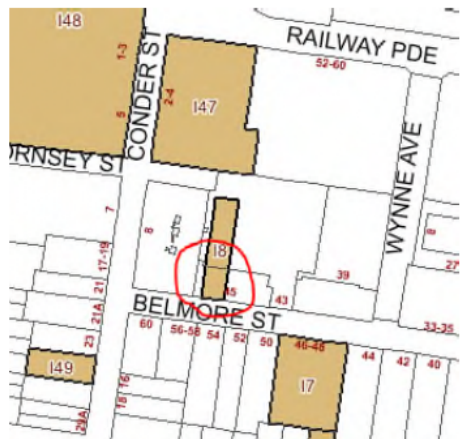
The Heritage Map of the BLEP 2012 would be amended to include the land parcel at 45 Belmore Street only as the Heritage Item.



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

Background and Rationale

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



Map showing the heritage item covers two parcels



Aerial photo of current heritage building

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

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

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

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

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

Part 3 – Justification

Section A – Need for the Planning Proposal

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

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

2. That Council provide endorsement to proceed with the preparation of a housekeeping LEP amendment that considers the following items:

- a. *Livingstone Street, Sym Avenue, Clarence and Church Streets Precinct, Burwood*
- b. *Former Masonic Temple Building*
- c. *Mitchell and Kembla Street Conservation Area*

This Planning Proposal seeks to implement the above Council resolution.

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

The Burwood LSPS was adopted by Council on 11 February 2020 and approved by the Greater Sydney Commission on 12 March 2020. The Burwood LHS was also adopted by Council on 11 February 2020 and was approved by DPIE on 31 May 2021.

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

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

Section B – Relationship to Strategic Planning Framework

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

Assessment Criteria

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

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

The Planning Proposal is considered to have strategic merit.

Greater Sydney Region Plan

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

- Promote Greater Sydney's communities as "*culturally rich with diverse neighbourhoods*" (Objective 8).

- *“Incorporate cultural and linguistic diversity in strategic planning and engagement” (Strategy 8.1).*
- Provide *“greater housing supply” (Objective 10).*
- Make housing *“more diverse and affordable” (Objective 11).*
- Identify, conserve and enhance environmental heritage (Objective 13).

Eastern City District Plan

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

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

Burwood LSPS

The Planning Proposal is consistent with the Burwood LSPS.

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

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

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

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

Responding to Changes in Circumstances

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

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

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

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

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

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

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

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

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

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

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

Burwood 2030 Community Strategic Plan (CSP)

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

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

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

Burwood Local Housing Strategy (LHS)

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

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

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

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

As mentioned before, the lack of economic viability of medium density development for the northern side of Livingstone Street and both sides of Sym Avenue (as well as the western part of Clarence and Church Streets, which Council resolved not to rezone) suggests the need for an adjustment to this key element.

It should be noted that the economic viability testing has revealed that medium density development for the southern side of Livingstone Street is more viable than for the northern side due to lot configuration, lot areas and frontage dimensions.

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

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

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

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

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SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not relevant.
SEPP (Penrith Lakes Scheme) 1989	Not relevant.
SEPP (Primary Production and Rural Development) 2019	Not relevant.
SEPP (State and Regional Development) 2011	Not relevant.
SEPP (State Significant Precincts)	Not relevant.
SEPP (Sydney Drinking Water Catchment) 2011	Not relevant.
SEPP (Sydney Region Growth Centres) 2006	Not relevant.
SEPP (Three Ports) 2013	Not relevant.
SEPP (Urban Renewal) 2010	Not relevant.
SEPP (Vegetation in Non-Rural Areas) 2017	The Planning Proposal would not contravene this SEPP in any way.
SEPP (Western Sydney Aerotropolis) 2020	Not relevant.
SEPP (Western Sydney Employment Area) 2009	Not relevant.
SEPP (Western Sydney Parklands) 2009	Not relevant.

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


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

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

Direction	Issue Date / Date Effective	Comment
1. Employment and Resources	1 July 2009 (Except for New Direction 1.2 effective 14 April 2016; Direction 1.1 effective 1 May 2017; New Direction 1.5 effective 28 February 2019)	
1.1 Business and Industrial Zones		Not relevant.
1.2 Rural Zones		Not relevant.
1.3 Mining, Petroleum Production and Extractive Industries		Not relevant.
1.4 Oyster Aquaculture		Not relevant.
1.5 Rural Lands		Not relevant.
2. Environment and Heritage	1 July 2009 (Except for new	

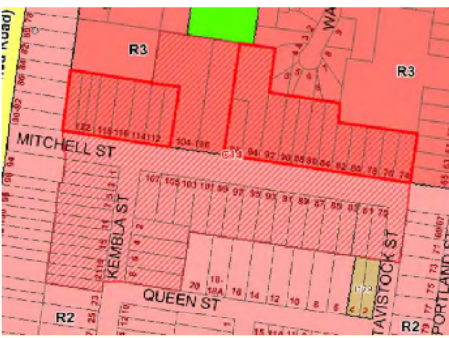
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	Direction 2.5 effective 2 March 2016, Direction 2.1 and 2.4 effective 14 April 2016; Direction 2.2 effective 3 April 2018)	
2.1 Environment Protection Zones		Not relevant.
2.2 Coastal Management		Not relevant.
2.3 Heritage Conservation		<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The direction requires that an applicable planning proposal must contain provisions that facilitate the conservation of existing heritage items identified in a study of the environmental heritage of the area.</p> <p>For the Livingstone Street and Sym Avenue precinct, there are 4 groups of heritage items within the precinct, 2 heritage items adjoining the precinct, and several heritage items near the precinct.</p>  <p>The Planning Proposal is consistent with this direction by:</p> <p>Introducing additional local provisions on:</p> <ul style="list-style-type: none"> - A minimum 2m extra setback from the boundary adjoining a heritage item, additional to the setback requirements in the Apartment Design Guide (ADG). - A minimum site area of 1500sqm for a development site containing a heritage item. - Other setback, wall height, frontage and footprint provisions, which, although are aimed at achieving desirable streetscape and building appearance outcomes, will

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		<p>complement the above heritage controls to preserve the prominence of existing heritage items within and outside of the precinct.</p> <p>The Planning Proposal does not seek any amendments to existing heritage items and existing heritage conservation provisions in the BLEP will continue to provide protection to these items.</p> <p>For Mitchell and Kembla Streets HCA, currently properties on the northern side of Mitchell Street are zoned R3 while lands to the south are zoned R2.</p>  <p>The Planning Proposal is consistent with this direction by seeking to apply a unified R2 zone to all properties (except for the site containing existing medium density housing) within the HCA, in order to better conserve the housing and streetscape characters therein.</p>
2.4 Recreation Vehicle Areas		Not relevant.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs		Not relevant.
2.6 Remediation of Contaminated Land		<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. The direction applies to the rezoning of land for residential purposes, such as intended by the Planning Proposal.</p> <p>This direction requires that before rezoning any land for residential or childcare purposes, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the</p>

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		<p>contaminated land planning guidelines.</p> <p>In this regard, the Livingstone Street and Sym Avenue precinct and Mitchell and Kembla Streets HCA are already zoned for residential purposes currently. The Planning Proposal seeks to rezone land therein from one residential zone to another residential zone. The only non-residential building therein is the Burwood Fire Station at 12B Livingstone Street Burwood, which is also a heritage item, unlikely to be demolished.</p> <p>The Planning Proposal therefore does not compromise the intent of this direction. A preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines is not considered warranted.</p>
3. Housing, Infrastructure and Urban Development	1 July 2009 (Except for new Direction 3.6 effective 16 February 2011, Direction 3.1, 3.2, 3.4 and 3.5 effective 14 April 2016, Direction 3.7 effective 15 February 2019)	
3.1 Residential Zones		<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> a) to encourage a variety and choice of housing types to provide for existing and future housing needs, b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, c) to minimise the impact of residential development on the environment and resource lands. <p>The direction requires a planning proposal to (among other provisions):</p> <ul style="list-style-type: none"> ▪ broaden the choice of building types and locations available in the housing market, ▪ make more efficient use of existing infrastructure and services, ▪ be of good design. <p>The Planning Proposal is consistent with this direction by upzoning lands in Livingstone Street and Sym Avenue Burwood, following a building footprint study and an economic viability testing.</p>
3.2 Caravan Parks and Manufactured Home Estates		Not relevant.
3.3 Home Occupations		The Planning Proposal would not alter the permissibility of home occupations at the

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		subject sites under the Exempt and Complying Development Codes SEPP, nor the BLEP.
3.4 Integrating Land Use and Transport		<p>The objective of this direction is to ensure that future development (after rezoning) will:</p> <ul style="list-style-type: none"> a) improve access to housing, jobs and services by walking, cycling and public transport, b) increase the choice of available transport and reducing dependence on cars, c) reduce travel demand including the number of trips generated by development and the distances travelled, especially by car, d) support the efficient and viable operation of public transport services. <p>The Planning Proposal is consistent with this direction by upzoning lands in Livingstone Street and Sym Avenue Burwood, which adjoin the Burwood Town Centre, and as such would enjoy easy access to jobs, retail and commercial premises, open space and public transport services available.</p> <p>This rezoning is not expected to adversely affect mode of travel, choice of transport or dependence on cars. It should help support the efficient and viable operation of public transport by upzoning of land right next to the Burwood Town Centre.</p> <p>Council's Traffic and Transport team has advised the additional traffic generation will not result in the traffic volumes exceeding the environmental capacity of the local roads, although the additional traffic in the Livingstone Street and Sym Avenue is likely to impact on the intersection performance in the longer term (10 years and over), however, only requiring intersection upgrades at that point.</p>
3.5 Development Near Regulated Airports and Defence Airfields		Not relevant.
3.6 Shooting Ranges		Not relevant.
3.7 Reduction in non-hosted short term rental accommodation period		Not relevant.
4. Hazard and Risk	1 July 2009 (Except for new Direction 4.2 effective 14 April 2016; Direction 4.4 effective 19 February	

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	2020)	
4.1 Acid Sulfate Soils		The Planning Proposal will not contravene this direction, as all properties that are included in the proposal are identified as Class 5 on the Acid Sulfate Soils Map, representing the lowest probability of containing Acid Sulfate Soils.
4.2 Mine Subsidence and Unstable Land		Not relevant.
4.3 Flood Prone Land		The Planning Proposal will not contravene this direction, as none of the properties that are included in the proposal have been identified as being flood prone, based on the flood studies undertaken for Council.
4.4 Planning for Bushfire Protection		Not relevant.
5. Regional Planning	1 July 2009 (Except For new Direction 5.2 effective 3 March 2011, Direction 5.4 effective 21 August 2015; Direction 5.9 effective 30 September 2013; Direction 5.10 effective 14 April 2016; Direction 5.3 effective 1 May 2017; Direction 5.11 effective 6 February 2019)	
5.1 (Revoked 17 October 2017)		
5.2 Sydney Drinking Water Catchments		Not relevant.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast		Not relevant.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast		Not relevant.
5.5 (Revoked 18 June 2010)		
5.6 (Revoked 10 July 2008)		
5.7 (Revoked 10 July 2008)		
5.8 (Revoked 20 August 2018)		
5.9 North West Rail Link Corridor Strategy		Not relevant.
5.10 Implementation of Regional Plans		Not relevant.
5.11 Development of Aboriginal Land Council Land		Not relevant.

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6. Local Plan Making	1 July 2009	
6.1 Approval and Referral Requirements		The Planning Proposal will not contain provisions which require the concurrence, referral or consultation of other public authorities on development applications, nor identify any land use or development as designated development.
6.2 Reserving Land for Public Purposes		Not relevant.
6.3 Site Specific Provisions		Not relevant.
7. Metropolitan Planning	1 February 2010 (Except for Direction 7.2 effective 22 September 2015)	
7.1 Implementation of A Plan for Growing Sydney		The Planning Proposal is not inconsistent with the intent of the NSW Government's <i>A Metropolis of Three Cities and the Eastern City District Plan</i> , and does not undermine the achievement of their vision, policies, outcomes or actions. Section B, 3 of this Planning Proposal assesses its consistency with those plans.
7.2 (Revoked 28 November 2019)		
7.3 Parramatta Road Corridor Urban Transformation Strategy	9 December 2016	Not relevant. The subject properties are not within the Parramatta Road corridor, nor undermine the achievement of that Strategy's vision or objectives.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	15 May 2017	Not relevant.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	25 July 2017	Not relevant.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	5 August 2017	Not relevant.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	22 December 2017	Not relevant.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	20 August 2018	Not relevant.
7.9 Implementation of Bayside West Precincts 2036 Plan	25 September 2018	Not relevant.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	25 September 2018	Not relevant.

7.11 Implementation of St Leonards and Crows Nest 2036 Plan	27 August 2020	Not relevant.
7.12 Implementation of Greater Macarthur 2040	28 November 2019	Not relevant.
7.13 Implementation of the Pymont Peninsula Place Strategy	11 December 2020	Not relevant.

Section C – Environmental, Social and Economic Impact

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

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

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

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

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

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

Section D – State and Commonwealth Interests

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

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

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

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

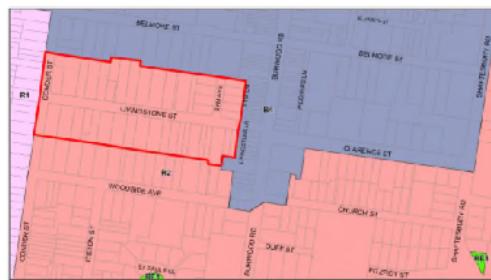
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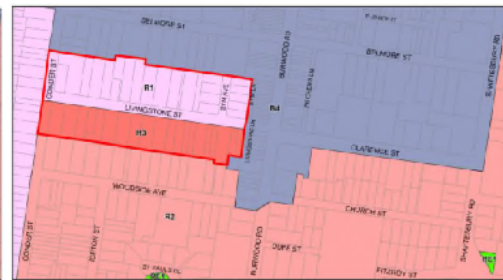
Part 4 – Mapping

Lands in Livingstone Street and Sym Avenue, Burwood

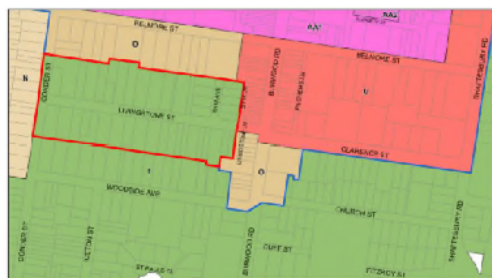
Note: The red outline has been adjusted to include the adjoining section of Conder Street.



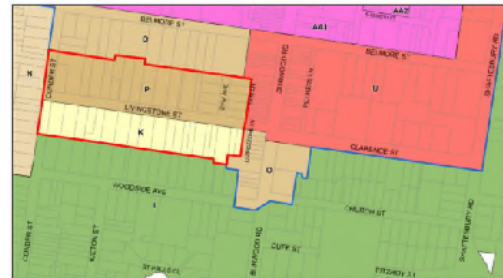
Existing: R2 Low Density Residential



Proposed: R1 General Residential and R3 Medium Density Residential



Existing: 8.5m

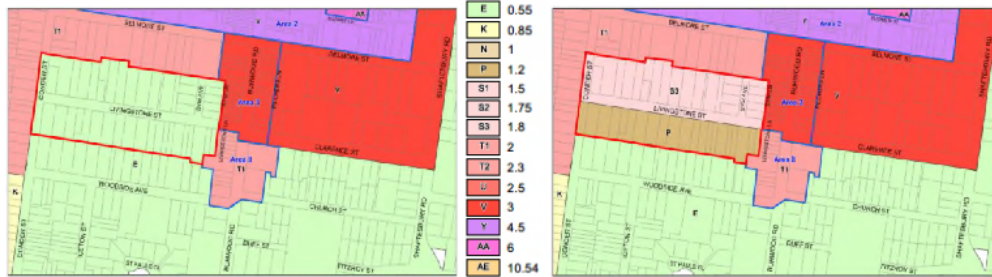


Proposed: 17m and 10m

Height of Buildings (Map Sheet HOB_001)

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Floor Space Ratio (Map Sheet FSR_001)

Existing: 0.55:1

Proposed: 1.8:1 and 1.2:1



Building Height Plane (Map Sheet BHP_001)

Existing: BHP lines as marked

Proposed: BHP lines as marked

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

Existing BHP Line B height

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

Proposed BHP Line B height

Lands within the Mitchell and Kembla Streets Heritage Conservation Area



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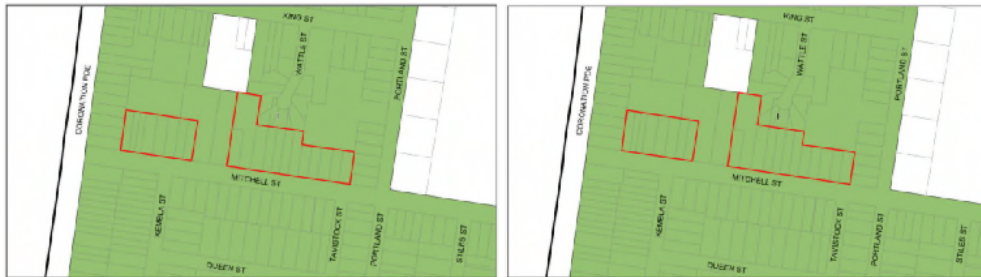
Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited



Land Zoning (Map Sheet LZN_002)

Existing: R3 Medium Density Residential

Proposed: R2 Low Density Residential



Height of Buildings (Map Sheet HOB_002)

Existing: 8.5m

Proposed: no change, 8.5m



Floor Space Ratio (Map Sheet FSR_002)

Existing: 0.55:1

Proposed: no change, 0.55:1

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45 Belmore Street, Burwood (Lot 104 in DP1258893)



Existing: Heritage Item 18

Heritage (Map Sheet HER_001)

Proposed: Heritage Item 18

Part 5 – Community Consultation

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

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

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

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

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

Part 6 – Project Timeline

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

Appendix One

Information Checklist

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

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

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

Appendix Two

Delegation Checklist and Evaluation Criteria

Checklist for the review of a request for delegation of plan making functions to councils	
Local Government Area:	Burwood Council
Name of draft LEP:	Housekeeping Amendments to Burwood Local Environmental Plan 2012
Address of Land (if applicable):	<ol style="list-style-type: none"> 1. Properties in Livingstone Street and Sym Avenue Burwood 2. Properties (except for one site) on northern side of Mitchell Street Enfield, in Mitchell and Kembla Streets Heritage Conservation Area 3. 45 Belmore Street Burwood (Lot 104 in DP1258893)
Intent of draft LEP:	<ol style="list-style-type: none"> 1. Rezone northern side of Livingstone Street and both sides of Sym Avenue Burwood to R1 with a maximum building height of 17m and a maximum FSR of 1.8:1. 2. Rezone southern side of Livingstone Street Burwood to R3 with a maximum building height of 10m and a maximum FSR of 1.2:1. 3. Remove identified segment of BHP Line E and increase BHP Line B height. 4. Rezone 74 – 124 (except for 104-106) Mitchell Street Enfield to R2. 5. Update heritage map and heritage schedule for 45 Belmore Street Burwood (104/1258893).
Additional Supporting Points/Information:	<ol style="list-style-type: none"> 1. Report to Council meeting of 24 November 2020. 2. Report to Burwood Local Planning Panel meeting of 13 April 2021. 3. Report to Council meeting of 27 April 2021.

ITEM NUMBER 64/21 - ATTACHMENT 1

Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

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

ITEM NUMBER 64/21 - ATTACHMENT 1

Planning Proposal for housekeeping amendments to Burwood Local Environmental Plan 2012, as exhibited

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

Supporting Documentation

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

Mapping

- Map Cover Sheet
- SIM_001 and SIM_002
- Proposed LZN_001, LZN_002, HOB_001, FSR_001, BHP_001 and HER_001



MEMORANDUM

TO: Karla Castellanos, Group Manager, Strategic Planning, Heritage and Place Planning

FROM: Gavin Patton – Heritage Advisor

SUBJECT: Planning Proposal – Livingstone Street and Sym Avenue Precinct – Heritage Provisions

DATE: 25 June 2021

REF. NO: 21/28507

Background

Council has prepared a Planning Proposal (PP) to make amendments to the *Burwood Local Environmental Plan 2012* (LEP). One substantial element of the proposed amendments concerns the Livingstone Street and Sym Avenue Precinct, being:

1. Rezoning:
 - a. Rezone properties in Sym Avenue and on the northern side of Livingstone Street from R2 to R1, with a maximum building height of 17m and maximum FSR of 1.8:1;
 - b. Rezone properties on the southern side of Livingstone Street from R2 to R3, with a maximum building height of 10m and maximum FSR of 1.2:1; and
 - c. Introduce additional local provisions.
2. Removing part of the Building Height Plane (BHP) Line E next to 18 Conder Street Burwood, and lift the BHP Line B height from 1.8m to 7.2m.

The proposed additional local provisions mentioned in 1.c, include the following which specifically relate to properties adjoining a heritage item and development sites containing a heritage item after amalgamation:

- Minimum 2m extra setback from the boundary adjoining a heritage item, additional to the setback requirements in the *Apartment Design Guide* (ADG), that is, 8m in total (see Figure 2).
- Minimum site area of 1500sqm for sites including a heritage item.

There are four heritage items/heritage groups within the precinct and three heritage items adjoining the precinct (see Figure 1).

Heritage Context

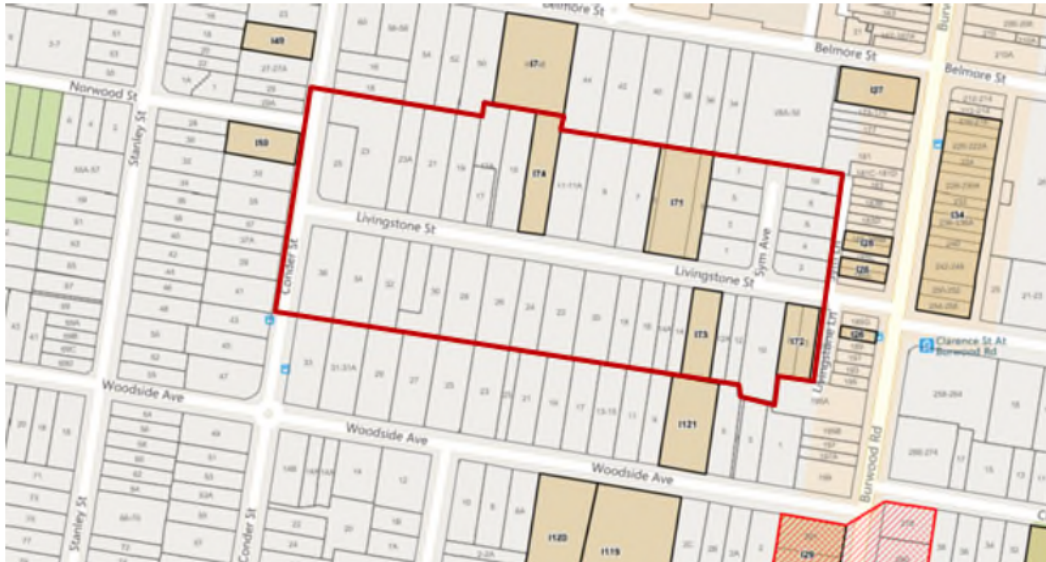


Figure 1 – Heritage Context of Livingstone Street and Sym Avenue Precinct

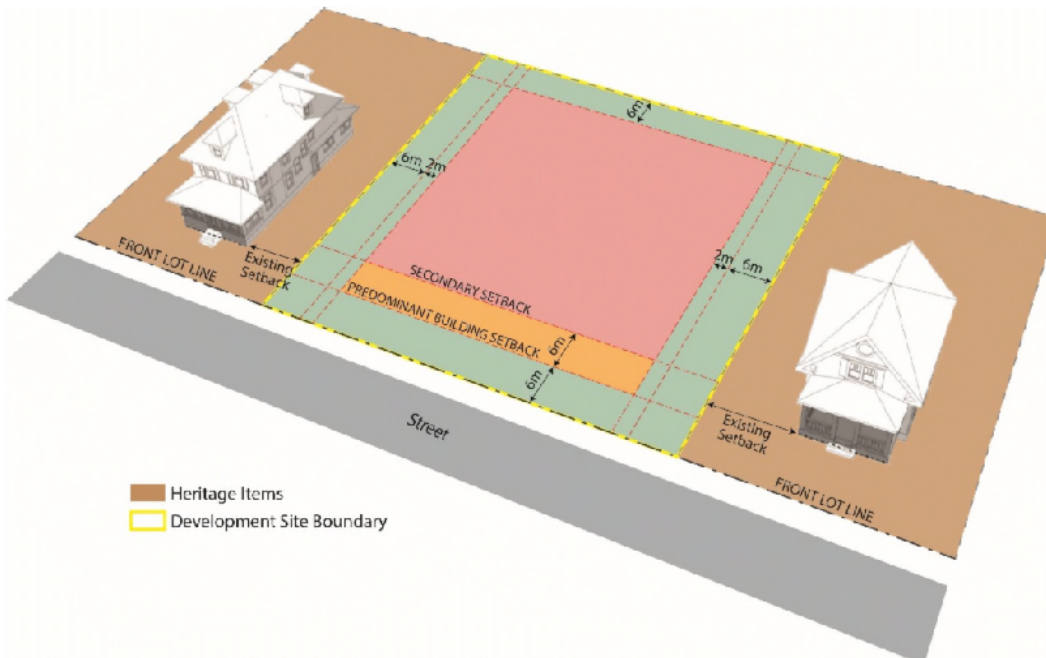


Figure 2 – Additional setbacks for development adjoining a heritage item

The heritage items within the precinct are:

- 171 – “Orissa”, 5 Livingstone Street, Burwood
- 172 – “Victorian Semi-detached houses”, 6 & 8 Livingstone Street, Burwood
- 173 – “Burwood Fire Station”, 12B Livingstone Street, Burwood
- 174 – “Ocean Liner Style House, 13 Livingstone Street, Burwood

Additional Measures and Heritage Impact

The proposed rezoning, building height amendments and FSR amendments, along with the additional setbacks for development adjoining a heritage item as well as minimum site area for a development site containing a heritage item, provide the following benefits in strengthening the protection of the heritage items while allowing change:

- A number of the heritage items, including the “Burwood Fire Station”, “Victorian Semi-detached houses” and “Ocean Liner Style House”, are constructed to their boundary. Increasing the setback to possible future development and imposing minimum site area if a heritage item were to be included within a development site would help protect heritage fabric and retain the existing visibility of the heritage items side elevations, a number of which are significant.
- The extended setbacks, minimum site area and height amendments provide the opportunity for the heritage items to retain dominance within the streetscape through their visual and physical curtilage, design and materiality. This is important as Livingstone Street and Sym Avenue are currently low density and retain a 20th Century residential aesthetic and scale. While this may change, the additional setbacks and minimum site area requirement in particular, provide and enable a buffer to possible future impact on their heritage significance.
- The rezoning of the North side to R1 with maximum height 17m, while rezoning the South side to R3 with maximum height 10m, provides a stepped approach in terms of maximum height. While this allows for an increase from the current height of 8.5m, the additional setbacks and minimum site area requirement would allow for the increase in building scale, while retaining a sympathetic visual curtilage.
- The rezoning, additional setbacks and minimum site area requirement will set a clear vision on how Council views this precinct and what the desired future character is. This is beneficial for both Council and for prospective buyers and developers. It also provides more certainty and clarity for the owners or prospective buyers of the heritage items.
- The extended setbacks and minimum site area requirement will improve the landscape setting and provide an appropriate level of solar access, in particular where damp issues have the potential to deteriorate and damage significant heritage fabric and building longevity.

Overall, the proposed additional local provisions are supported on heritage grounds.



Gavin Patton
Heritage Advisor
Strategic Planning, Heritage and Place Planning



MEMORANDUM

TO: Diwei Luo, Senior Strategic Planner

FROM: Gavin Patton – Heritage Advisor

SUBJECT: Rezoning Planning Proposal - 94 and 96 Mitchell Street Enfield

DATE: 27 August 2021

Background:

Council has proposed to rezone areas within the LGA, including the northern side of Mitchell Street, Enfield. The proposal is to rezone the existing R3 to R2.

As part of the consultation process, objections were received from the family of 94 Mitchell Street and the planning consultant on behalf of the family, which were subsequently supported and extended by the owner of 96 Mitchell Street.

This memo relates to the heritage significance of 94 and 96 Mitchell Street.

Heritage Significance:



Figure 1 - Location and Heritage Context of Nos. 94 (L Shaped Lot) and 96 (Smaller Lot) outlined in blue.



Figure 2 – Street view of Mitchell Street showing 94 (R) and 96 (L).

The dwellings are located within the Mitchell and Kembla Street HCA (C14). Both dwellings are generic but intact examples of Interwar Bungalows. The statement of significance for the HCA is as follows:

This precinct is of local significance as containing housing that is representative of the late nineteenth and early twentieth century development in the Enfield district.

The Inventory Sheet for the HCA does not specifically mention No. 94 and No. 96 Mitchell Street, however they fall into the same category (albeit isolated from) Nos.110-124 which are described as:

Nos. 110-124 are located at the north side of the street and are simple, brick Californian bungalows featuring stone sills and gables.

In my opinion, both No.94 and No.96 are considered contributory buildings within the HCA. I note the owners have raised concerns regarding the decline in value of their properties in relation to potential future development if the rezoning goes ahead. As these two dwellings ARE contributory buildings, Council would not support the demolition or substantial alteration of them or of their surrounds. Sympathetic development behind the bungalows may be supported; however this would be on a case by case basis and would be required to meet the heritage controls within the Burwood LEP 2012 and Burwood DCP 2013, in particular relating to design, scale (including height), form and character.

Of particular note is that current heritage provisions within the Burwood DCP 2013

stipulate that rear additions (including new buildings) are generally required to be lower than the roof ridge of the existing dwelling and should not be overtly visible from the public domain.

Nevertheless, I note that R3 zoning may have encouraged multiple townhouse developments within the curtilage of heritage and historic homes in Wyatt Avenue, Burwood. This, in my opinion, has reduced the amenity and setting of a number of heritage dwellings and is generally not a good heritage outcome.

The rezoning to R2 will therefore add to and support the heritage controls which encourage the retention of heritage properties within the Mitchell and Kembla HCA.



Figure 3 – Street view of Mitchell Street showing Nos. 110-114 (R to L).

Handwritten signature of Gavin Patton.

Gavin Patton
Heritage Advisor
Strategic Planning, Heritage and Place Planning

(ITEM 65/21) DRAFT VOLUNTARY PLANNING AGREEMENT FOR 21-23 BELMORE STREET BURWOOD

File No: 21/42112

REPORT BY DIRECTOR CITY STRATEGY

Applicant: Blairgrove Pty Ltd
Developer: Blairgrove Pty Ltd
Company Director: Mr Peter Thomas John Whitfield

Operational Plan Objective

1.2.1 Inform the community of Council's activities, facilities and services using accessible communication.

Summary

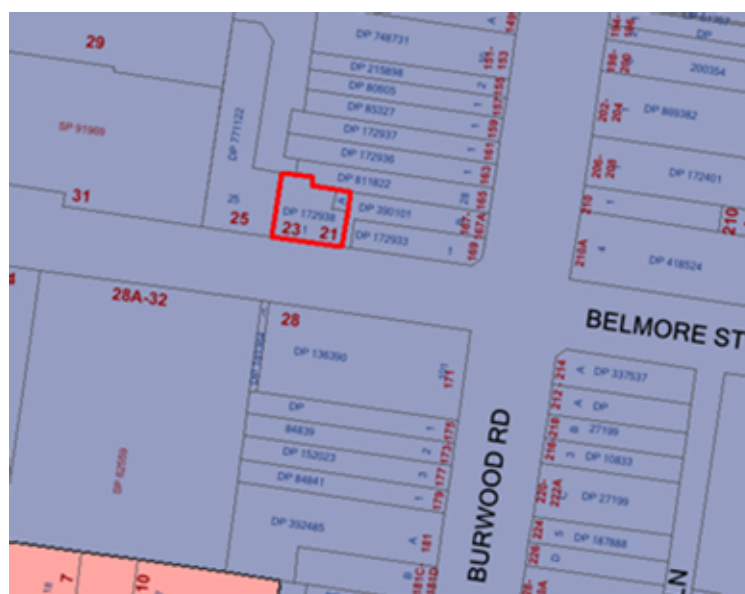
A draft Voluntary Planning Agreement (VPA) and Explanatory Note (EN) for 21-23 Belmore Street Burwood were submitted to Council in conjunction with Development Application (DA) 41/2017, which involves a change of use of an existing three-level building to a pub/hotel and associated building alterations.

The DA was granted approval by the NSW Land and Environment Court in March 2019. The approval is subject to a VPA for a monetary contribution in lieu of 38 on-site visitor parking spaces being provided. The developer paid Council \$1,581,104 for the 38 parking spaces on 30 June 2021 to avoid the contribution rates' increase in the new financial year.

The draft VPA and EN were publicly notified between 9 August 2021 and 6 September 2021. Council's endorsement is sought to enter into the VPA prior to the issue of any Construction Certificate.

Background

The subject site is located within the Burwood Town Centre on the northern side of Belmore Street, Burwood near the intersection with Burwood Road.



Zoning (B4 Mixed Use) and Location of Subject Site

A draft VPA and EN were submitted in conjunction with DA 41/2017, involving a change of use of an existing three-level building to a pub/hotel and associated building alterations. The DA was granted approval by the NSW Land and Environment Court in March 2019. The approval is subject to a condition requiring the developer to enter into a VPA with Council.

Under the VPA, the developer would pay Council a monetary contribution in lieu of 38 on-site visitor parking spaces. The amount of monetary contribution is calculated as \$52,010 per parking space x 38 parking spaces x 0.8 (i.e., a 20% discount for visitor parking) in accordance with Council's Fees and Charges Schedule 2020-21 and the relevant provisions in the Burwood Development Control Plan (BDGP). The total amount is \$1,581,104 excluding GST.

The developer paid the monetary contribution on 30 June 2021 in order to beat the contribution rates increase in the new financial year.

The draft VPA and EN (enclosed as **Attachments 1 and 2**) were referred to Council's lawyer for legal vetting and were subsequently adjusted in negotiation with the applicant before public notification.

Consultation

The draft VPA and EN were publicly notified for a period of 28 days from 9 August 2021 to 6 September 2021. The notice and materials were exhibited on Council's website. This exhibition arrangement was in line with the NSW Government's emergency measures as a result of the COVID-19 pandemic. No submission has been received.

Planning or Policy Implications

Council has a *Planning Agreements Policy*. The Policy stipulates the matters that Council should consider when determining whether or not to enter into a VPA. The draft VPA is assessed against these matters, as outlined below:

1. The VPA is directed towards a proper planning purpose. The planning purpose of the VPA is to provide funds to Council to provide additional car parking to redress the parking shortfall within the development. The VPA is generally consistent with Council's DCP in allowing monetary contributions in lieu of the on-site visitor parking provision for the Burwood Town Centre.
2. The VPA would result in a public benefit. The VPA would seek to provide public car parking, being made available to the general public, in place of parking within a private development.
3. The VPA provides a reasonable means of achieving the relevant purpose. The VPA provides for the monetary contribution in exchange for visitor parking within the development. Council will utilise the funds provided for public car parking that will ultimately be more beneficial to the community.
4. The VPA would produce outcomes that meet the general values and expectations of the community, and protect the overall public interest. The provision of safe and practical public parking by Council is an expectation of the community. The VPA provides Council with the financial resources to assist in this provision.
5. The VPA would help achieve the outcomes sought by Council from the use of planning agreements, which are:
 - (a) Provide an enhanced and more flexible system of contributions by developments towards the provision of public benefits, related to the impacts of development.
 - (b) Enable community awareness of and input to the public benefits of particular developments, related to the impacts of the developments.

6. The VPA conforms to the fundamental principles governing the Council's use of planning agreements as set out in Clause 2.1 of the *Planning Agreements Policy*, particularly:
- *Principle 'a' – planning decisions may not be bought or sold through planning agreements.* Council is not obliged to support the modification application and instead, each application must be considered on its merits.
 - *Principle 'e' – Council will not use planning agreements for any purpose other than a proper planning purpose.* The manner in which the VPA is proposed to be used is generally in accordance with Council's DCP.

Financial Implications

The VPA provides for a monetary contribution of \$1,581,104 to Council towards the provision of public car parking within the Burwood Town Centre. Council would be obliged under legislation to allocate the contribution and any return on its investment to the provision of, or the recoupment of the cost of providing public car parking.

The provision of public parking by Council would not coincide with the completion of the subject development and would be undertaken at a time determined by Council at its discretion.

Conclusion

Council's endorsement is now sought to enter into the VPA for 21-23 Belmore Street Burwood. The VPA provides Council a monetary contribution of \$1,581,104 towards additional public car parking within the Burwood Town Centre. It is recommended that arrangements be made for the execution of the VPA by Council authorising the signing of the agreement prior to the issue of any Construction Certificate for the site.

Recommendation(s)

1. That Council enter into the VPA for 21-23 Belmore Street Burwood for the provision of a monetary contribution of \$1,581,104 towards public car parking prior to the issuing of any Construction Certificate for the site.
2. That Council authorise the General Manager to sign the VPA under his Power of Attorney.

Attachments

- 1 Draft VPA for 21-23 Belmore Street Burwood as exhibited
- 2 Explanatory Note for 21-23 Belmore Street Burwood as exhibited

PLANNING AGREEMENT

DATED

PARTIES

Burwood Council of 2 Conder Street Burwood in the State of New South Wales (**Council**).

and

Blairgrove Pty Ltd ACN: 003 914 305 of 121 Burwood Road, Burwood in the State of New South Wales (**Owner/Developer**).

BACKGROUND:

1. The Land is situated at 21-23 Belmore Street Burwood in the State of New South Wales.
2. The Owner/Developer is the registered proprietor of the Land.
3. The Owner/Developer lodged a Development Application, being DA 41/2017, which proposes a change of use from retail and office use to hotel use. The DA was approved with conditions by the NSW Land and Environment Court by judgment *Blairgrove Pty Ltd v Burwood Council* [2019] NSW LEC 1027 dated 31 January 2019. The DA includes a planning agreement for monetary contribution to be paid by the Owner/Developer to Council in lieu of providing 38 onsite parking spaces.
4. The Development Application was accompanied by an offer by the Owner/Developer to enter into this Agreement to make Development Contributions towards the Public Facilities if the Development Consent is granted.

OPERATIVE PROVISIONS

1. Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

2. Application of this Agreement

This Agreement applies to the:

- a) the Development; and
- b) the Land.

3. Operation of this Agreement

- 3.1 The parties are to execute this Agreement following the grant by the Land and Environment Court of the Development Application.

3.2 This Agreement shall operate from the date of execution of this Agreement.

4. Definitions and interpretation

4.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*

Agreement has the same meaning as Planning Agreement

Approval means any approvals, consents, section 4.55 modifications, Part 6 certificates or approvals under the Act, certificates, construction certificates, occupation certificates, complying development certificates, permits, endorsements, licences, conditions or requirements (and any variation to them) which may be required by this Agreement or the Development Consent.

Authority means any government, local government, statutory, public, ministerial, administrative, fiscal or other authority or body, and includes the Joint Regional Planning Panel or such other consent authority as may be lawfully appointed and authorised to grant an Approval, including an accredited certifier defined under the Act.

Business Day means any day except Saturday or Sunday or a day which is a public holiday in Sydney.

Burwood Town Centre means Burwood Town Centre as defined in the Burwood Local Environmental Plan 2012

Consent Authority means the Land and Environment Court of New South Wales.

Construction Certificate means a certificate issued under Part 6 of the Act approving building work to be carried out on the Land for the whole or part of the work consented to under the Development Consent on the Land.

Dealing in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Development means development consent DA 41/2017 issued by the Consent Authority in respect of the Land.

Development Application means a development application made under Part 4 of the Act.

Development Consent means development consent granted under Part 4 of the Act.

Development Contributions means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

GST has the meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any other Act or regulation relating to the imposition or administration of GST.

Land means Lot 1 in DP 172938 and Lot A in DP 390101 situated at and known as 21-23 Belmore Street Burwood NSW.

Law means:

- a) the common law including principles of equity; and
- b) the requirement of all statutes, rules, ordinances, codes, instruments, regulations, proclamations, by-laws or consent by an Authority, that presently apply or that may apply in the future.

Monetary Contribution means \$1,581,104 (one million, five hundred and eighty-one thousand, one hundred and four dollars) excluding GST representing the sum of 38 car spaces x \$52,010.00 x 0.8.

Party means a party to this Agreement, including their successors and assigns.

Agreement means this Voluntary Planning Agreement.

Public Facilities means the augmentation or improving of open space, community facilities or other public facilities as determined by the Council .

Regulation means the *Environmental Planning and Assessment Regulation 2000 (NSW)*.

4.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person including any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and reference to any gender denotes the other genders.
- (k) References to the word 'include' or 'including' are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.

5. Development Contributions to be made under this Agreement

5.1 Payment

- (a) The Owner/Developer will pay to Council the Monetary Contribution on the date of the execution of this Agreement and prior to the issue of any Construction Certificate for the Development.
- (b) The payment of the Monetary Contribution will be by way of the delivery of a bank cheque to Council which must be:
 - (i) for the amount of the Monetary Contribution;
 - (ii) made payable to Council; and
 - (iii) in a form acceptable to Council.
- (c) The Monetary Contribution will be taken to have been made when Council notifies the Owner/Developer in writing that the bank cheque has been received and cleared funds have been deposited in Council's nominated bank account.
- (d) The Owner/Developer covenants and agrees not to make an application for the issue of any Construction Certificate until the payments required to be made to Council hereunder have been paid.

5.2 Public Purpose

The Monetary Contribution is required for the funding of the provision of new car parking infrastructure and improvements, as determined by the General Manager of Council from time to time and Council will apply the Monetary Contribution for those purposes. Council may, at its full discretion, apply the Monetary Contribution towards any works (or land acquisition) for a public purpose which it deems appropriate to meet the parking needs of the Local Government Area population.

6. Application of the Development Contributions

- 6.1 The Monetary Contribution paid by the Owner/Developer under this Agreement will be used by the Council to provide Public Facilities.

- 6.2 The Public Facilities will:
 - (a) not be provided to coincide with the conduct or completion of the development;
 - (b) be constructed at a time determined by the Council at its absolute discretion;
 - (c) be available for use by the general public and will not be restricted for use by patrons of the Development.
- 6.3 The Monetary Contribution paid by the Owner/Developer under this Agreement may be pooled by the Council with other moneys and applied progressively toward the provision of the Public Facilities.

7. Application of section 7.11 and section 7.12 of the Act to the development

7.1 This Agreement does not exclude the application of:

- (a) section 7.11 or section 7.12 of the Act;
- (b) any Affordable Housing Levy;
- (c) any other monetary contributions;

in connection with the Development Application DA 41/2017. Benefits under the Agreement are not to be taken into account in determining a development contribution under section 7.11 or section 7.12 of the Act.

8. Registration of this Agreement

8.1 The Owner/Developer further covenants with the Council:

- (a) that prior to the issue of any Construction Certificate for the Development, or within such further time as the parties hereto agree, it shall do all things reasonably necessary to obtain the consent to the registration of this Agreement over the title to the Land pursuant to section 7.6 of the Act from all persons who have an interest in the Land;
- (b) that forthwith after receiving the consents specified in subclause (a) hereof it shall cause this Agreement to be registered on the title of the Land;
- (c) that if this Agreement is not registered on the title to the Land, and if the Owner/Developer should propose to sell the Land or any part thereof then it shall:
 - (i) within seven (7) days of listing the Land or any part thereof for sale, either through an agent or privately, notify the Council of such intention;
 - (ii) as a condition of any sale, require that the incoming purchaser enter into with Council a like agreement to this present Agreement in which substantially the same covenants as set out herein shall apply;

- (iii) within seven (7) days of exchange of contracts for the sale, notify the Council of the sale and provide the Council with a copy of the contract;
 - (iv) within twenty one (21) days of receipt from the Council of a replacement agreement between the Council and the purchaser substantially in the form of this Agreement, have it executed by the purchaser and return it to the Council;
 - (d) that if this Agreement is not registered on the title to the Land, and if the Owner/Developer should propose otherwise than by sale to transfer or assign its interest in the Land or any part thereof to a transferee or assignee, then it shall before effecting such assignment or transfer have the incoming transferee or assignee enter into an agreement with the Council substantially in the form of this Agreement insofar as concerns the interest assigned or transferred and shall provide same to the Council.
- 8.2 The Owner/Developer further covenants and agrees with the Council that pending the registration of this Agreement on the title of the Land as required by clause 8.1, the Council shall be entitled to register a caveat at Land & Property Information over the title to the Land to protect its interest therein pursuant to this Agreement

9. Acknowledgements

- 9.1 The Owner/Developer acknowledges that the Council may include a notation on Planning Certificates under section 10.7(5) of the Act in relation to this Agreement.
- 9.2 The parties acknowledge that the Council is a consent authority with statutory rights and obligations pursuant to the terms of the Act and other legislation.

10. Dispute resolution

- 10.1 If a party believes that there is a dispute in respect of this Agreement then:
 - (a) the party must give notice in writing to the other party stating that there is a dispute (the Dispute Notice); and
 - (b) the Dispute Notice must outline:
 - (i) what the party believes the dispute to be;
 - (ii) what the party wants to achieve;
 - (iii) what the party believes will settle the dispute; and
 - (iv) who will be the party's representative to negotiate the dispute.
- 10.2 Within fifteen (15) business days of a Dispute Notice being served, the representatives of each of the parties must meet in order to resolve the dispute.
- 10.3 Both parties must adhere to the dispute resolution procedure set out in this Agreement. The only time that either party may depart from the dispute resolution procedure set out in this clause is when urgent interlocutory relief is required to restrain a breach or threatened breach of this Agreement.

10.4 If the parties cannot resolve the dispute after adhering to the dispute resolution procedure set out in this Agreement then either party may seek any other avenues available to it in order to resolve the dispute.

11. Enforcement

11.1 This Agreement may be otherwise enforced by either party in any court of competent jurisdiction.

11.2 For the avoidance of doubt, nothing in this Agreement prevents:

- (a) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and
- (b) the Council from exercising any function under the Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

11.3 The rights of the Council expressly provided for herein are cumulative and in addition to and not exclusive of the rights of the Council existing at law or which the Council would otherwise have available to it.

12. Notices

12.1 Any notice, consent, information, application or request that must or may be given or made to a party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that party at its address set out below.
- (b) Faxed to that party at its fax number set out below.
- (c) Emailed to that party at its email address set out below.

Council

Attention: The General Manager
 Address: 2 Conder Street Burwood 2134
 Post: PO Box 240, Burwood NSW 1805
 Fax Number: (02) 9911 9900
 Email: council@burwood.nsw.gov.au

Owner/Developer

Attention: Richard Whitfield

Address: 121 Burwood Road, Burwood NSW 2134

Post: PO Box 1306, Burwood NSW 1805

Fax Number: (02) 9744 8880

Email: richardwhitfield@95norton.com

- 12.2 If a party gives the other party three (3) business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or faxed to the latest address or fax number.
- 12.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
 - (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, two (2) business days after it is posted.
 - (d) If it is sent by fax, as soon as the sender receives from the sender's fax machines a report of an error-free transmission to the correct fax number.
 - (e) If it sent by email, at the time it is sent.
- 12.4 If any notice, consent, information, application or request is delivered, or an error-free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5:00pm on that day on the place of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

13. Approvals and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this Agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

14. Assignment and dealings

The Owner/Developer agrees that this Agreement shall be binding upon the Owner/Developer and upon their respective transferees, assignees or successors.

15. Costs

- 15.1 The Owner/Developer will pay its costs directly related, and incidental to negotiating, preparing, executing, stamping and registering the Agreement, including any costs of lodging/removing caveats on the title to the Land.
- 15.2 The Owner/Developer will pay Council's reasonable legal costs directly related, and incidental to Council's costs in its negotiating, legal vetting, executing, stamping and

registering and the Agreement and of drafting, registering and removing caveats on the title to the Land.

16. Entire Agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this Agreement was executed, except as permitted by law.

17. Further acts

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

18. Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

19. Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by two (2) or more persons binds them jointly and each of them individually, and any benefit in favour of two (2) or more persons is for the benefit of them jointly and each of them individually.

20. No fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be constructed as limiting or fettering in any way the exercise of any statutory discretion or duty.

21. Representations and warranties

The parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

22. Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid,

that clause or part is to be treated as removed from this Agreement, but the rest of this Planning is not affected.

23. Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.

24. Waiver

The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement, does not amount to a waiver of any obligations of, or breach of obligations by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

25. Explanatory note

The explanatory note put on exhibition with this Agreement is not to be used in construing the terms of this Agreement.

26. GST

26.1 All words in this clause which are also defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ("the GST Act") have a corresponding meaning to that in the GST Act.

26.2 The consideration for any supply under this Agreement excludes GST.

26.3 Where a party to this Agreement is taken to have made a supply to another party, the recipient of that supply must, in addition to the consideration payable for the supply and when paying the consideration for the supply, also pay to the maker of the supply an amount equal to the GST payable in respect of that supply. The recipient of a supply must also pay the GST payable in respect of a supply for which no monetary consideration is payable when the maker of the supply demands payment.

26.4 The maker of a supply must give the recipient a tax invoice in the form required by the GST Act at the same time it receives payment from the recipient of the GST payable for that supply.

26.5 Despite any other provision of this Agreement, any amount payable under this Agreement, which is calculated by reference to an amount paid or incurred by a party to this Agreement, is reduced by the amount of any input tax credit to which that party or a member of its GST Group is entitled in respect of that amount.

27. Confidentiality

The terms of this Agreement are not confidential and this Agreement may be treated as a public document and exhibited or reported without restriction by any party.

28. Release from Agreement

Once the Council is satisfied that the Owner/Developer has fully complied with all of its obligations under this Agreement, the Council agrees to provide a full release and discharge of this Agreement with respect of the whole of the Land. In such circumstances the Council will do all things reasonably necessary, including the execution of any documents to enable the Owner/Developer to remove any caveat and the notation of this Agreement on the title to the Land.

29. Jurisdiction

Any legal action or proceedings with respect to this Agreement against any party or any of its property and assets may be brought in the Courts of the State of New South Wales and, by execution and delivery of this Agreement that party accepts, for itself and in respect of its property and assets, generally and unconditionally the jurisdiction of the Courts of that State.

DRAFT

EXECUTED AS AN AGREEMENT

Signed for and on behalf of **Burwood Council** by its attorney, **Tommaso Briscese**, under power of attorney dated 29 May 2019 registered book 4760 number 381, in the presence of:

.....
Signature of Witness

.....
Signature of Attorney

.....
(Print) Name of Witness

.....
Tommaso Briscese
.....
(Print) Full Name of Attorney

.....
Date

.....
2 Conder Street, Burwood, New South Wales,
2134
.....
(Print) Address

By executing this document, the attorney certifies that he has not received notification of revocation of the power of attorney.

Signed for and on behalf of **Blairgrove Pty Ltd** ACN 003 914 305 executed this agreement pursuant to section 127 of the *Corporations Act 2001* (Cth) by:

.....
Signature of Director/Secretary

.....
Signature of Director

.....
Print Full Name of Director/Secretary

.....
Print Name of Director

PLANNING AGREEMENT - Explanatory Note

Environmental Planning and Assessment Regulation 2000 (NSW) (EP&A Regulation 2000)

Planning Agreement for the provision of monetary contribution in lieu of onsite parking at 21-23 Belmore Street, Burwood.

Under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act)*

1. Parties

The parties to the Planning Agreement are:

- (1) Burwood Council (**Council**)
- (2) Blairgrove Pty Ltd (ACN 003 914 305) (**Owner/Developer**)

2. Description of Subject Land

The land to which the Planning Agreement relates is as follows:

Folio Identifiers: Lot 1 in DP 172938 and Lot A in DP 390101
Location: 21-23 Belmore Street, Burwood NSW

3. Description of Proposed Development

The Owner/Developer lodged a Development Application (DA), being DA 41/2017, which proposes a change of use from retail and office use to hotel use. The DA was approved with conditions by the NSW Land and Environment Court by judgment *Blairgrove Pty Ltd v Burwood Council* [2019] NSW LEC 1027 dated 31 January 2019. The DA includes a planning agreement for monetary contribution to be paid by the **Owner/Developer** to **Council** in lieu of providing 38 onsite parking spaces.

4. Summary of Objectives, Nature and Effect of the Planning Agreement

[Clause 25E(1)(a) of EP&A Regulation 2000]

The offer made by the **Owner/Developer** as set out in the Planning Agreement is based on the parking provisions of Burwood Council's Development Control Plan and is consistent with that provision.

The intent of the Planning Agreement is to ensure that the parking needs of the incoming population into the Burwood local government area are met.

The monetary contributions to be provided by the **Owner/Developer** under the Planning Agreement is an amount of \$1,581,104, equating to 38 car spaces x \$52,010 x 0.8, payable on the date of execution of the agreement and before issue of any Construction Certificate.

5. Assessment of the Merits of the Planning Agreement and Impact on the Public

[Clause 25E(1)(b)& (2) of the EP&A Regulation 2000]

5.1 Identification of the planning purpose served by the proposed Planning Agreement and whether the agreement provides for a reasonable means of achieving that purpose

The Planning Agreement serves the following planning purpose.

The monetary contributions paid by the **Owner/Developer** under this Planning Agreement will be used by **Council** to develop public carparking facilities within the Burwood Town Centre.

The Planning Agreement provides for a reasonable means of achieving that purpose.

The planning provision enabling monetary contributions in lieu of parking on-site is contained within Burwood Development Control Plan, a publically exhibited document which was initially adopted by Council on 12 February 2013. The mechanism allows the aggregation of funds by Council for the provision of efficient and sensitively located public carparking facilities.

5.2 Identification of how the proposed Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by ensuring the orderly use and development of land by ensuring that the location and design of public carparking facilities function effectively and safely. The Planning Agreement provides for the provision of public carparking in lieu of private-use parking.

The Planning Agreement promotes one or more of the objects of the EP&A Act as follows:

- i. The proper management and development of land for the purpose of promoting the social and economic welfare of the community and a better environment;
- ii. The provision and co-ordination of community services and facilities; and
- iii. Opportunities for public involvement and participation in environmental planning and assessment.

6. Identification of whether the Planning Agreement conforms with Council's Capital Works Program

[Clause 25E(2) of the EP&A Regulation 2000]

Council has in place a capital works program, but the program does not, to date, identify additional public carparking facilities within the Burwood Town Centre. The capital works program is subject to annual review and any proposal for additional public carparking would be initiated where sufficient funds are available.

7. Identification as to whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate is issued

[Clause 25E(2) of the EP&A Regulation 2000]

The Planning Agreement provides that the monetary contribution must be paid prior to the issue of any Construction Certificate to which the DA relates for the proposed development.

8. Timing of Delivery

[Clause 25E(2) of the EP&A Regulation 2000]

The expected timing of development is 2025.

DRAFT

(ITEM 66/21) ELECTION OF DEPUTY MAYOR

File No: 21/27875

REPORT BY DIRECTOR CORPORATE SERVICES

Summary

Section 231 of the *NSW Local Government Act 1993* outlines options for the election of a Deputy Mayor should Council deem it appropriate at any time to elect one. Council needs to determine whether it will proceed with the election of a Deputy Mayor to cover the extra three months added to the current term of Council which has arisen from further delay of the general local government elections in NSW. If it proceeds with such an election, Council will need to determine the method by which voting will occur.

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
- 2.1.3 Ensure transparency and accountability in decision making

Background

Under the Section 231 (1) of the *NSW Local Government Act 1993* (the Act), following an ordinary local government election and the election of the Mayor, Council may decide to nominate a Deputy Mayor from among the councillors. There is also some flexibility under the Act with respect to the length of term for the position of Deputy Mayor.

It has been customary for Burwood Council to conduct an election via open ballot for the position of Deputy Mayor each September. Section 231 (2) of the Act has provision for the election of a Deputy Mayor to serve for the same period as the Mayor or for a shorter term.

Burwood councillors may wish to consider conducting the election of Deputy Mayor on the basis of a term of three months to cover the balance of extended term of Council arising from the deferral of the local government general elections in NSW to 4 December 2021.

The Deputy Mayor may, under Section 231(3) of the Act, exercise any function of the Mayor for any of the following reasons:

1. at the request of the Mayor
2. if the Mayor is prevented by illness, absence or otherwise from exercising the function
3. if there is a casual vacancy in the office of the Mayor.

If councillors do not proceed with the election of a Deputy Mayor at this meeting they reserve the right to elect a Deputy Mayor at another time if the Mayor is prevented by illness, absence or otherwise prevented from exercising their role. In the event that the Deputy Mayor is elected and is subsequently prevented by illness, absence or otherwise from exercising their role the councillors may elect another councillor from within their ranks to act as the Deputy Mayor for the relevant period.

Nomination Process

The General Manager has invited nominations on the basis that the Council is likely to have an interest in proceeding with the election of a Deputy Mayor to cover the recent three month extension to current term of Council. He has been designated as the Returning Officer for the election of a Deputy Mayor accordingly. His role as Returning Officer is in accordance with

statutory obligations under Schedule 7 of the *NSW Local Government (General) Regulation 2005* – see [Attachment 1](#) of this report.

Nominations for the position of Deputy Mayor must be in writing and signed by two or more councillors, one of whom may be the nominee. A standard nomination form has been prepared for this purpose and circulated to all councillors – see copy appearing as [Attachment 2](#) of this report.

Each nominee must confirm their consent to their nomination in writing. Nominations are to be forwarded to the General Manager before or at the meeting of Council at which the proposed election is to be conducted. The General Manager will announce details of any nominations at that meeting then assist with conduct of polling as per the agreed method.

If Council proceeds with the election of a Deputy Mayor and there is only one nominee, that nominee is to be declared elected. If there is more than one nominee for election, Council is to confirm the preferred method of voting and proceed accordingly.

Voting Options

The methods of voting available are:

1. Ordinary ballot
2. Open ballot
3. Preferential ballot

Details of the three methods of voting are outlined in Schedule 7 of the *NSW Local Government (General) Regulation 2005* – see [Attachment 1](#) to this report for more information.

Recommendations

That the Council

1. determine at its meeting of 28 September 2021 whether to immediately proceed with the election of a Deputy Mayor;
2. agree on the period of appointment for the position of Deputy Mayor before proceeding with any candidate voting;
3. confirm nomination status of potential candidates immediately before any voting proceeds to the election of a councillor to the position of Deputy Mayor;
4. pursue any agreement to proceed with the election of a Deputy Mayor by
 - a. means of open ballot if more than a single nomination is received for the position; or
 - b. in the event that only a single nomination for the position is received, declare the single nominee elected as Deputy Mayor for the agreed period of service.

Attachments

- 1 Local Government (General) Regulation 2021 - Schedule 7 - accessed 14-9-21
- 2 Nomination Form - Election of Deputy Mayor - September 2021



Local Government (General) Regulation 2021

Current version for 20 August 2021 to date (accessed 14 September 2021 at 16:33)

Schedule 7

Schedule 7 Election of mayor by councillors

(Section 394)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this section—

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with section 345 of this Regulation as if it were a ballot-paper referred to in that section.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subsection (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Section 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subsection (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot**8 Application of Part**

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with section 345 of this Regulation as if it were a ballot-paper referred to in that section.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter’s preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.

- (4) In this section, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is—

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Secretary and the Chief Executive Officer of Local Government NSW.



NOMINATION FORM

ELECTION OF DEPUTY MAYOR - FOR TERM COMMENCING SEPTEMBER 2021

*To be delivered to the General Manager any time before the conduct of the election
mooted for the ordinary meeting of Council on 28 September 2021*

- Please use block letters to print name details in relevant sections below -

We the undersigned nominate

.....
(name of councillor being nominated)

for election to the position of Deputy Mayor of Burwood Council for a period to be confirmed at the ordinary meeting of Council scheduled for 28 September 2021.

Nominating Councillor #1

.....
(name and signature)

.....
(date of nomination)

Nominating Councillor #2

.....
(name and signature)

.....
(date of nomination)

NOMINEE CONSENT TO NOMINATION

I agree to the nomination for the election of Deputy Mayor.

.....
(Nominee signature and date)

(ITEM 67/21) REFERRAL OF THE ANNUAL FINANCIAL REPORTS FOR 2020-2021 TO COUNCIL'S AUDITOR

File No: 21/35943

REPORT BY DIRECTOR CORPORATE SERVICES

Summary

Council's Financial Reports must be in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), the Australian Accounting Standards, the Local Government Code of Accounting Practice and Financial Reporting and the Local Government Asset Accounting Manual. This is to ensure that the Financial Reports for each year fairly present the Council's operating result and financial position for the year.

In accordance with Section 413 of the Act, Council's Annual Financial Reports must be authorised for referral to the Auditor for audit.

Operational Plan Objective

2.3.1 - Identify and maintain additional revenue sources to ensure financial sustainability

Background

Sections 413, 415 and 416 of the Act require Council's Annual Financial Reports for 2020-2021 to be prepared, referred to audit and audited by 31 October 2021.

In relation to this process, Council is required to authorise the referral of the Annual Financial Reports to Council's External Auditor (NSW Audit Office).

Section 413 of the Act states that the Annual Financial Reports must be accompanied by a Statement of Council's opinion on the general purpose financial report (Attachment 1) made pursuant to a resolution of Council and signed by the:

- Mayor
- Deputy Mayor
- General Manager
- Responsible Accounting Officer (Chief Finance Officer)

The Annual Financial Reports for 2020-2021 are subject to review by the External Auditor (NSW Audit Office) before they can be finalised.

Proposal

The 2020-2021 Annual Financial Reports are required to be completed by 31 August 2021 and provide a signed "Statement by Councillors and Management for the General Purpose Financial Reports and the Special Purpose Financial Reports for the year ended 30 June 2021" signed by the Mayor, Deputy Mayor, General Manager and Chief Finance Officer (Responsible Accounting Officer).

The commencement of the audit will take place during September 2021. The attached draft Annual Financial Reports for 2020-2021 will be provided to the Auditors for audit.

Consultation

The audited Annual Financial Reports will be presented to the Audit, Risk and Improvement Committee during October 2021 prior to completion of the external audit process. The Committee's

comments will be included as part of the report to Council for the presentation of Council's Audited Annual Financial Reports for 2020-2021.

Conclusion

The Annual Financial Reports provide a snapshot of Council's operating performance and its financial position at a point in time and their completion and presentation is a statutory requirement under the Act and the Regulation.

Recommendation(s)

That in accordance with Section 413(2)(c) of the *Local Government Act 1993* and Clause 215 of the *Local Government (General) Regulation 2005*, Council resolve the following:

1. That authority is granted to the Mayor, the Deputy Mayor, the General Manager and Responsible Accounting Officer to sign the Statements by Councillors and Management for the General Purpose Financial Reports and the Special Purpose Financial Reports for the Year Ended 30 June 2021.
2. That the signed statement be attached to the 2020-2021 Unaudited Annual Financial Reports and presented to Council's Auditor (NSW Audit Office) for the completion of the audit.
3. That the Auditor is invited to attend the Audit, Risk and Improvement Committee Meeting in October 2021 that will review the Annual Financial Reports and also to attend the Council Meeting that is to adopt the audited Annual Financial Reports.

Attachments

- 1 Draft Annual Primary Financial Statements - 2020-21
- 2 Statement by Councillors and Management

Draft - Burwood Council

GENERAL PURPOSE FINANCIAL STATEMENTS
for the year ended 30 June 2021

*A well connected, sustainable and safe community that
embraces and celebrates its culture and diversity.*



ITEM NUMBER 67/21 - ATTACHMENT 1

Draft Annual Primary Financial Statements - 2020-21

Burwood Council | Income Statement | For the year ended 30 June 2021

Burwood Council

Income Statement

for the year ended 30 June 2021

Original unaudited budget 2021	\$ '000	Notes	Actual 2021	Actual 2020
	Income from continuing operations			
32,233	Rates and annual charges	B2-1	32,400	30,448
8,990	User charges and fees	B2-2	8,245	8,453
4,131	Other revenue	B2-3	5,122	4,949
2,581	Grants and contributions provided for operating purposes	B2-4	2,760	3,250
5,892	Grants and contributions provided for capital purposes	B2-4	7,768	34,980
1,048	Interest and investment income	B2-5	635	1,398
2,175	Other income	B2-6	1,657	1,704
<u>57,050</u>	Total income from continuing operations		<u>58,587</u>	<u>85,182</u>
	Expenses from continuing operations			
22,709	Employee benefits and on-costs	B3-1	20,459	20,403
22,037	Materials and services	B3-2	22,188	24,883
351	Borrowing costs	B3-3	344	378
7,986	Depreciation and amortisation of intangible assets and IPP&E	B3-4	10,234	8,058
1,427	Other expenses	B3-5	1,417	851
-	Net losses from the disposal of assets	B4-1	1,686	1,672
<u>54,510</u>	Total expenses from continuing operations		<u>56,328</u>	<u>56,245</u>
<u>2,540</u>	Operating result from continuing operations		<u>2,259</u>	<u>28,937</u>
<u>2,540</u>	Net operating result for the year attributable to Council		<u>2,259</u>	<u>28,937</u>
<u>(3,352)</u>	Net operating result for the year before grants and contributions provided for capital purposes		<u>(5,509)</u>	<u>(6,043)</u>

The above Income Statement should be read in conjunction with the accompanying notes.

ITEM NUMBER 67/21 - ATTACHMENT 1

Draft Annual Primary Financial Statements - 2020-21

Burwood Council | Statement of Comprehensive Income | For the year ended 30 June 2021

Burwood Council

Statement of Comprehensive Income

for the year ended 30 June 2021

\$ '000	Notes	2021	2020
Net operating result for the year – from Income Statement		2,259	28,937
Other comprehensive income:			
Amounts which will not be reclassified subsequently to the operating result			
Gain (loss) on revaluation of infrastructure, property, plant and equipment	C1-7	7,714	(13,472)
Other comprehensive income – joint ventures and associates	D1-1	(15)	(108)
Total items which will not be reclassified subsequently to the operating result		7,699	(13,580)
Amounts which will be reclassified subsequently to the operating result when specific conditions are met			
Other movements		15	–
Total items which will be reclassified subsequently to the operating result when specific conditions are met		15	–
Total other comprehensive income for the year		7,714	(13,580)
Total comprehensive income for the year attributable to Council		9,973	15,357

The above Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

ITEM NUMBER 67/21 - ATTACHMENT 1

Draft Annual Primary Financial Statements - 2020-21

Burwood Council | Statement of Financial Position | For the year ended 30 June 2021

Burwood Council

Statement of Financial Position

as at 30 June 2021

\$ '000	Notes	2021	2020
ASSETS			
Current assets			
Cash and cash equivalents	C1-1	20,551	10,781
Investments	C1-2	27,250	47,250
Receivables	C1-4	4,175	3,461
Contract assets and contract cost assets	C1-6	612	539
Other		756	680
Total current assets		53,344	62,711
Non-current assets			
Investments	C1-2	101	-
Infrastructure, property, plant and equipment	C1-7	505,547	489,027
Investment property	C1-8	4,700	4,340
Intangible Assets	C1-9	379	330
Right of use assets	C2-1	1,078	1,296
Investments accounted for using the equity method	D1-1	-	15
Total non-current assets		511,805	495,008
Total assets		565,149	557,719
LIABILITIES			
Current liabilities			
Payables	C3-1	10,464	11,069
Contract liabilities	C3-2	2,415	3,671
Lease liabilities	C2-1	212	206
Borrowings	C3-3	684	721
Employee benefit provisions	C3-4	7,215	6,976
Total current liabilities		20,990	22,643
Non-current liabilities			
Lease liabilities	C2-1	895	1,107
Borrowings	C3-3	4,802	5,487
Employee benefit provisions	C3-4	186	179
Total non-current liabilities		5,883	6,773
Total liabilities		26,873	29,416
Net assets		538,276	528,303
EQUITY			
Accumulated surplus	C4-1	252,822	250,563
IPPE revaluation reserve	C4-1	285,454	277,740
Council equity interest		538,276	528,303
Total equity		538,276	528,303

The above Statement of Financial Position should be read in conjunction with the accompanying notes.

Burwood Council | Statement of Changes in Equity | For the year ended 30 June 2021

Burwood Council**Statement of Changes in Equity**

for the year ended 30 June 2021

	as at 30/06/21			as at 30/06/20		
	Accumulated surplus	IPPE revaluation reserve	Total equity	Accumulated surplus	IPPE revaluation reserve	Total equity
\$ '000						
Opening balance at 1 July	250,563	277,740	528,303	224,709	291,212	515,921
Changes due to AASB 1058, AASB 15 and AASB 16 adoption	-	-	-	(2,975)	-	(2,975)
Restated opening balance	250,563	277,740	528,303	221,734	291,212	512,946
Net operating result for the year	2,259	-	2,259	28,937	-	28,937
Restated net operating result for the period	2,259	-	2,259	28,937	-	28,937
Other comprehensive income						
Gain (loss) on revaluation of infrastructure, property, plant and equipment	-	7,714	7,714	-	(13,472)	(13,472)
Joint ventures and associates	-	-	-	(108)	-	(108)
Other comprehensive income	-	7,714	7,714	(108)	(13,472)	(13,580)
Total comprehensive income	2,259	7,714	9,973	28,829	(13,472)	15,357
Closing balance at 30 June	252,822	285,454	538,276	250,563	277,740	528,303

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

ITEM NUMBER 67/21 - ATTACHMENT 1

Draft Annual Primary Financial Statements - 2020-21

Burwood Council | Statement of Cash Flows | For the year ended 30 June 2021

Burwood Council

Statement of Cash Flows

for the year ended 30 June 2021

Original unaudited budget 2021	\$ '000	Notes	Actual 2021	Actual 2020
Cash flows from operating activities				
<i>Receipts:</i>				
32,189	Rates and annual charges		32,180	30,315
9,282	User charges and fees		8,563	9,477
1,097	Investment and interest revenue received		678	1,698
9,369	Grants and contributions		9,167	16,283
1,500	Bonds, deposits and retention amounts received		1,282	1,502
5,098	Other		9,602	10,410
<i>Payments:</i>				
(22,616)	Employee benefits and on-costs		(21,332)	(19,868)
(21,075)	Materials and services		(26,853)	(20,724)
(320)	Borrowing costs		(344)	(378)
(1,000)	Bonds, deposits and retention amounts refunded		(808)	(1,429)
(2,780)	Other		(1,815)	(9,616)
10,744	Net cash flows from operating activities	G1-1a	10,320	17,670
Cash flows from investing activities				
<i>Receipts:</i>				
50,000	Sale of investment securities		43,000	70,000
900	Sale of infrastructure, property, plant and equipment		200	401
<i>Payments:</i>				
(50,000)	Purchase of investment securities		(23,015)	(54,000)
(17,199)	Purchase of infrastructure, property, plant and equipment		(19,627)	(24,180)
(200)	Purchase of intangible assets		(195)	(160)
–	Contributions paid to joint ventures and associates		15	–
(16,499)	Net cash flows from investing activities		378	(7,939)
Cash flows from financing activities				
<i>Payments:</i>				
(720)	Repayment of borrowings		(722)	(690)
–	Principal component of lease payments		(206)	(201)
(720)	Net cash flows from financing activities		(928)	(891)
(6,475)	Net change in cash and cash equivalents		9,770	8,840
6,540	Cash and cash equivalents at beginning of year		10,781	1,941
65	Cash and cash equivalents at end of year	C1-1	20,551	10,781
53,087	plus: Investments on hand at end of year	C1-2	27,351	47,250
53,152	Total cash, cash equivalents and investments		47,902	58,031

The above Statement of Cash Flows should be read in conjunction with the accompanying notes.

Statement by Councillors and Management

Burwood Council

General Purpose Financial Statements

for the year ended 30 June 2021

Statement by Councillors and Management

Statement by Councillors and Management made pursuant to Section 413(2)(c) of the Local Government Act 1993 (NSW) (as amended)

The attached General Purpose Financial Statements have been prepared in accordance with:

- the *Local Government Act 1993* (NSW) (as amended) and the regulations made thereunder,
- the Australian Accounting Standards and professional pronouncements, and
- the *Local Government Code of Accounting Practice and Financial Reporting*.

To the best of our knowledge and belief, these statements:

- present fairly the Council's operating result and financial position for the year
- accord with Council's accounting and other records.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 28 September 2021

Councillor Faker
Mayor
28 September 2021

Councillor Chan
Councillor
28 September 2021

Tommaso Briscese
General Manager
28 September 2021

Wayne Armitage
Responsible Accounting Officer
28 September 2021

(ITEM 68/21) INVESTMENT REPORT AS AT 31 AUGUST 2021

File No: 21/39738

REPORT BY DIRECTOR CORPORATE SERVICES

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

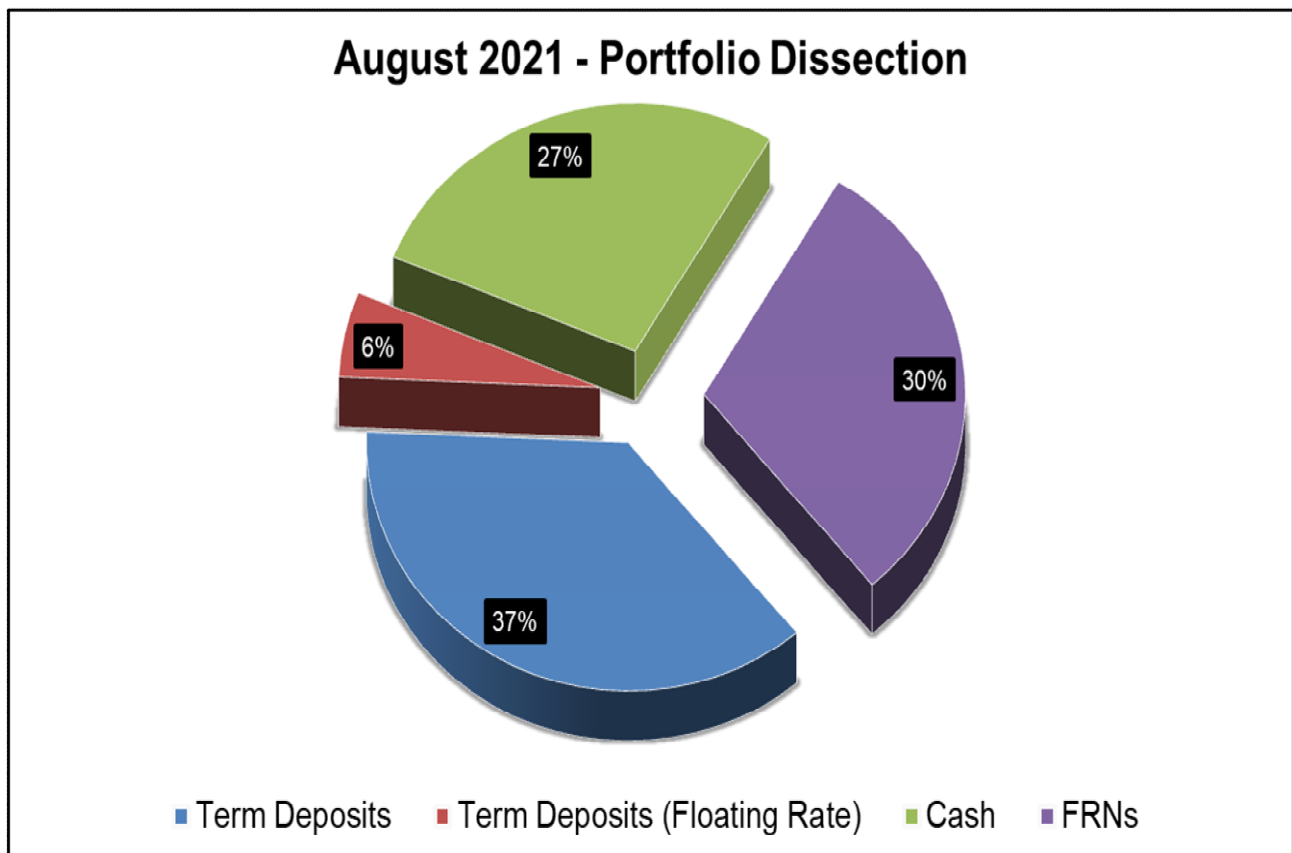
Background

As provided for in Clause 212 of the *Local Government (General) Regulation 2005*, a report listing Council's investments must be presented to Council.

Council's investments are made up of a number of direct investments some of which are managed or advised by external agencies.

Investment Portfolio

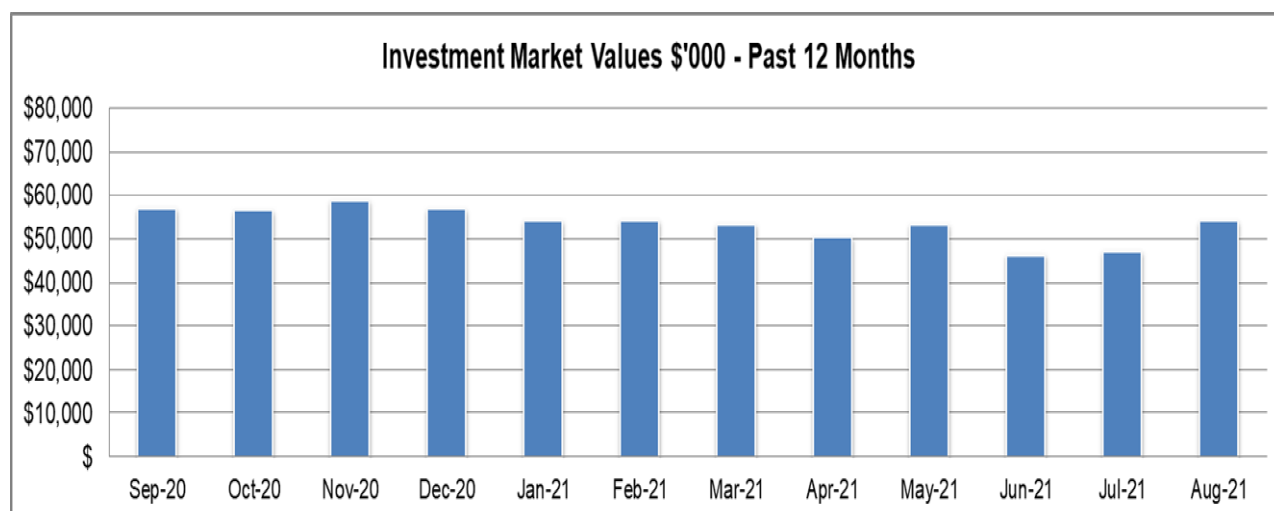
Council has a diversified investment portfolio and has a number of direct investments in term deposits. Its investment portfolio as at 31 August 2021 is:



As at 31 August 2021 Council held the following term deposits:

Purchase Date	Financial Institution	Principal Amount	Interest Rate	Investment Days	Maturity Date
14 Jul 20	Westpac	4,000,000	0.89%	730	14 Jul 22
14 Jul 20	National Australia Bank	4,000,000	0.90%	730	14 Jul 22
31 Aug 20	Westpac	4,000,000	0.83%	543	25 Feb 22
31 Aug 21	National Australia Bank	3,000,000	0.80%	1,095	30 Aug 24
31 Aug 21	Westpac	3,000,000	0.75%	1,095	30 Aug 24
07 Jun 21	Commonwealth Bank	2,000,000	0.29%	92	07 Sep 21
Total		20,000,000			

The following graph highlights Council's investment balances for the past 12 months:



Council's investment portfolio is recognised at market value and some of its investments are based on the midpoint valuations of the underlying assets and are subject to market conditions that occur over the month.

Council's investment balances as at reporting date and for the previous two months are detailed in Attachment 1. Definitions on the types of investments are detailed in Attachment 2.

Investment Performance and Market Commentary

At the Reserve Bank of Australia (RBA) meeting on the 7 September 2021, the Board decided to maintain the official cash rate at 0.10 per cent. According to the RBA Governor "...The Board took this decision stating that prior to the Delta outbreak the Australian economy had considerable momentum. GDP increased by 0.7 per cent in the June quarter and by nearly 10 per cent over the year. Business investment was picking up and the labour market had strengthened. The unemployment rate had fallen below 5 per cent and job vacancies were at a high level.

The recovery in the Australian economy has, however, been interrupted by the Delta outbreak and the associated restrictions on activity. GDP is expected to decline materially in the September quarter and the unemployment rate will move higher over coming months. While the outbreak is affecting most parts of the economy, the impact is uneven, with some areas facing very difficult conditions while others are continuing to grow strongly.

This setback to the economic expansion is expected to be only temporary. The Delta outbreak is expected to delay, but not derail, the recovery. As vaccination rates increase further and restrictions are eased, the economy should bounce back. There is, however, uncertainty about the timing and pace of this bounce-back and it is likely to be slower than that earlier in the year. Much

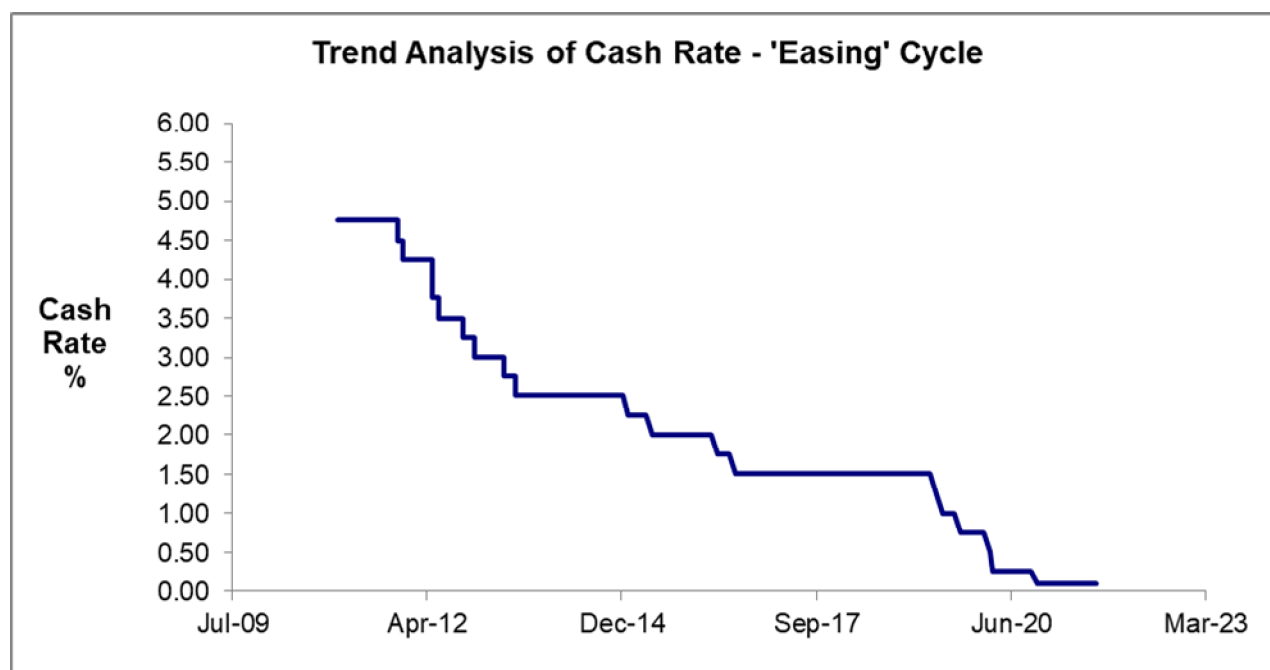
will depend on the health situation and the easing of restrictions on activity. In our central scenario, the economy will be growing again in the December quarter and is expected to be back around its pre-Delta path in the second half of next year.

Notwithstanding the strong economic and labour market outcomes pre-Delta, wage and price pressures remain subdued. Over the year to the June quarter, the Wage Price Index increased by just 1.7 per cent.

Housing prices are continuing to rise, although turnover in some markets has declined following the virus outbreak. Housing credit growth has picked up due to stronger demand for credit by both owner-occupiers and investors. Given the environment of rising housing prices and low interest rates, the Bank is monitoring trends in housing borrowing carefully and it is important that lending standards are maintained.

The Board remains committed to maintaining highly supportive monetary conditions to support a return to full employment in Australia and inflation consistent with the target. It will not increase the cash rate until actual inflation is sustainably within the 2 to 3 per cent target range. The Bank's central scenario for the economy is that this condition will not be met before 2024. Meeting it will require the labour market to be tight enough to generate wages growth that is materially higher than it is currently." Statement by Philip Lowe, Governor: Monetary Policy Decision – 7 September 2021".

The following graph provides information on the current RBA monetary policy:



Recommendations(s)

1. That the investment report for 31 August 2021 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

Attachments

- 1 Investment Register - August 2021
- 2 Investment Types

Investment Register - August 2021

BURWOOD COUNCIL
INVESTMENT PORTFOLIO
as at 31 August 2021

Investment Adviser	Issuer	ADI or N-ADI	Investment Name	Type	Rating S&P	Invested Amount	Market Value as at 30/06/2021	Market Value as at 31/07/2021	Market Value as at Reporting Date	% of Total Invested
Cash										
Council	Commonwealth Bank	ADI	Operating Account	Cash	AA-	5,988,167	302,891	3,023,382	5,988,167	27.40
Council	Commonwealth Bank	ADI	Cash Deposit Account	At Call	AA-	10,024	10,024	10,024	10,024	11.02
Council	Commonwealth Bank	ADI	Online Saver	At Call	AA-	888,026	888,108	888,613	888,026	0.02
Council	Macquarie Bank	ADI	Accelerator Account	At Call	AA-	8,003,420	4,000,438	4,001,797	8,003,420	1.63
Council	AMP Bank Limited	ADI	AMP Business Saver	At Call	BBB-	1,295	1,294	1,295	1,295	14.72
Council	AMP Bank Limited	ADI	AMP Notice Account	Notice 30 days	BBB-	3,440	3,437	3,438	3,440	0.00
Term Deposits										
Council	Commonwealth Bank	ADI	Commonwealth Bank	Term Deposit	AA-	2,000,000	2,000,000	2,000,858	2,001,351	36.81
Council	Westpac	ADI	Westpac	Term Deposit	AA-	4,000,000	4,000,000	4,001,958	4,004,982	3.88
Council	AMP Bank (Imperium)	ADI	AMP Bank	Term Deposit	BBB+	-	2,000,000	-	-	7.37
Council	National Australia Bank	ADI	National Australia Bank	Term Deposit	AA-	4,000,000	4,000,000	4,001,877	4,004,734	0.00
Council	Westpac	ADI	Westpac	Term Deposit	AA-	4,000,000	4,000,000	4,008,094	4,000,091	7.37
Council	Westpac	ADI	Westpac	Term Deposit	AA-	3,000,000	-	-	3,000,000	7.36
Council	National Australia Bank	ADI	National Australia Bank	Term Deposit	AA-	3,000,000	-	-	3,000,000	5.52
Council	Westpac	ADI	Westpac	Term Deposit	AA-	-	3,000,000	3,003,911	-	5.52
Council	National Australia Bank	ADI	National Australia Bank	Term Deposit	AA-	-	3,000,000	3,021,982	-	0.00
Term Deposits - Fixed & Floating Rates										
Council	Westpac	ADI	Westpac	Coupon Select Deposit 2 Yr Fixed plus 3 Yr (90day BBSW + 1.05 bps)	AA-	3,000,000	3,000,000	3,015,431	3,000,490	5.52
Floating Rate Notes										
Council	Suncorp-Metway Limited	ADI	Suncorp-Metway Limited	Floating Rate Notes (90 day BBSW mid +94 bps)	A+	1,500,000	1,514,165	1,516,890	1,513,305	2.78
Council	Bendigo-Adelaide	ADI	Bendigo Bank & Adelaide Bank	Floating Rate Notes (90 day BBSW mid + 105 bps)	BBB+	1,500,000	1,518,965	1,519,365	1,520,070	2.80
Council	ANZ Group	ADI	ANZ Group	Floating Rate Notes (90 day BBSW mid + 77 bps)	AA-	2,000,000	2,020,384	2,021,080	2,021,220	3.72
Council	Newcastle Permanent Building Society	ADI	Newcastle Permanent Building Soco	Floating Rate Notes (90 day BBSW +140 bps)	BBB	1,250,000	1,267,825	1,272,183	1,268,938	2.33
Council	Bank Australia Ltd	ADI	Bank Australia Ltd	Floating Rate Notes (90 day BBSW +130 bps)	BBB	-	1,502,537	1,504,965	-	0.00
Council	National Australia Bank	ADI	National Australia Bank	Floating Rate Notes (90 day BBSW +41 bps)	AA-	1,500,000	-	-	1,501,975	2.78
Council	MyState Bank Ltd	ADI	MyState Bank Ltd	Floating Rate Notes (90 day BBSW +65 bps)	BBB	2,500,000	2,500,465	2,502,100	2,503,500	4.61
Council	Commonwealth Bank of Australia	ADI	Commonwealth Bank of Australia	Floating Rate Notes (90 day BBSW +93 bps)	AA-	2,000,000	2,033,004	2,037,520	2,032,680	3.74
Council	Commonwealth Bank of Australia	ADI	Commonwealth Bank of Australia	Floating Rate Notes (90 day BBSW +113 bps)	AA-	4,000,000	4,084,300	4,098,980	4,097,560	7.54
Grand Total						54,143,272	46,655,956	47,449,342	54,363,647	100.00

Credit Ratings	Extremely strong capacity to meet financial commitments
AAA	Highest Rating
AA	Very strong capacity to meet financial commitments.
A	Strong capacity to meet financial commitments but somewhat susceptible to adverse economic conditions and changes in circumstances.
BBB	Adequate capacity to meet financial commitments, but more subject to adverse economic conditions.
CCC	Currently vulnerable and dependent on favourable business, financial and economic conditions to meet financial commitments
D	Payment default on financial commitments
+	Means that a rating may be raised
-	Means that a rating may be lowered

Certificate of Responsible Accounting Officer

I hereby certify that the investments listed have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policies at the time of their placement

W. Armitage

Wayne Armitage
Chief Finance Officer

Investment Types

Types of Investments

Council's investment portfolio consists of the following types of investment:

1. **Cash and Deposits at Call** – Cash and Deposits at Call accounts are a flexible savings facility providing a competitive rate of interest for funds which are at call (available within 24hours). These accounts enable us to control Council's cashflows along with council's General Fund Bank account. Interest rates are updated in accordance with movements in market rates.

The following investments are classified as Cash and Deposits at Call:

- Commonwealth Bank of Australia – Operating Bank Account AA-
- Commonwealth Bank of Australia – Online Saver AA-
- AMP Business Saver and Notice – At Call/Notice A

2. **Floating Rate Notes (FRN)** - FRNs are a contractual obligation whereby the issuer has an obligation to pay the investor an interest coupon payment which is based on a margin above bank bill. The risk to the investor is the ability of the issuer to meet the obligation.

FRNs are either sub-debt or senior-debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

- a. Term Deposits
- b. Global Fixed Income Deposits
- c. Senior Debt
- d. Subordinated Debt
- e. Hybrids
- f. Preference shares
- g. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

(ITEM 70/21) PARTNERSHIP AGREEMENT - SERVICE NSW FOR BUSINESS

File No: 21/38460

REPORT BY GENERAL MANAGER

Summary

The purpose of this report is to provide background information and seek support to re-enter into a non-financial contract with Service NSW to deliver the 'Service NSW for Business' program.

Operational Plan Objective

- 1.1.1 Provide a diverse range of strategies and initiatives that meet the needs of the community
- 2.2.2 Develop strategic partnerships that will benefit the area and the community
- 2.2.2.1 Maintain and establish relationships with State and Federal agencies, service providers and not for profits

Background

Council currently has an agreement in place with Service NSW to promote and provide access to NSW Government information and services to better assist business owners and to support the local economy.

Service NSW for Business (formally referred to as the Easy to do Business Program) provides free, personalised support to small business owners, to help them understand industry regulations, to guide them through transactions, and to access support.

The services provided to business owners include:

- Business Concierges offering over-the-phone, email and face-to-face support and case management.
- An online Business Profile to make it faster and easier for business owners to transact with NSW Government.
- Guidance and support for small business owners impacted by natural disasters or emerging issues to access a range of Government stimulus, support and information.
- Online business information hubs including how-to guides to help business owners understand key tasks and the support available when starting and running a business in NSW.

Benefits including increased efficiency and customer experience have been evidenced since entering into an agreement in 2019. Prior to Council's partnership with Service NSW, people establishing new businesses such as cafes or restaurants would have to deal with multiple agencies, regulations, phone number and forms, often taking up to 18 months. Now most businesses have been able to open in 90 days with significantly less red tape.

The service has also helped to improve the quality of business submissions and reduced the time Council has spent responding to enquiries.

Importantly, the service has also significantly increased the provision of support for businesses impacted by the pandemic supporting business access to financial relief, educational material and COVID-19 information resources.

By maintaining this partnership, the local business community and potential business investors can have confidence that Burwood Council is supportive of small business and is actively trying to reduce the costs associated with small business startup.

Proposal

A new Partnership Agreement has been developed to provide consistency across all councils, reflect the broader focus of Service NSW for Business and provide the opportunity for Burwood Council to engage with all services across Service NSW now and into the future.

The new Partnership Agreement includes further detail and clarity about the roles and responsibilities of all agencies in relation to the collection, storage and security of personal information.

The intention of the Partnership Agreement is to build awareness of specialist advice services available, ensure Council staff can direct enquiries to these services and provide applicants with the skills to be better informed and researched prior to lodging any applications.

Consultation

Consultation continues to be undertaken with our business community via chambers of commerce, surveys and face to face consultation on business needs which has evidenced the success of the program. Council also liaises with Service NSW Business Concierge on their engagement with our business community and the level of support provided.

Planning or Policy Implications

The program has a number of strategic links to Council planning priorities including:

- Encouragement of sustainable economic development in Burwood.
- Strengthened relationships with key stakeholders to enhance economic development activities within Burwood Council.
- Promotion of Burwood as a tourist destination.
- Encourage retail and commercial business to locate and prosper within Burwood
- Encourage and support innovative industry and a diversity of businesses that provide a range of services and employment opportunities for current and future generations.

Financial Implications

This program is at no cost to Council. Support material, training and advice is also provided by Service NSW for Business at no cost. Implementation of the program should lead to reduced processing times and costs relating to applications to Council.

Conclusion

A partnership with Service NSW is important and will support the creation of new businesses in Burwood.

Recommendation(s)

1. Council delegates authority to the General Manager to enter into an agreement with Service NSW; and
2. Any necessary documents be authorised for execution under the Common Seal of Council.

Attachments

- 1 Service NSW Local Government Partnership Agreement - 2021

PARTNERSHIP AGREEMENT

Between **Service NSW** (ABN 37 552 837 401) and the Burwood Council (the '**Council**)
(the '**Parties**')

Last Updated: 27 July 2021

1. Purpose

1.1. The purpose of this Agreement is to:

- A. Provide the services of Service NSW for Business, which is a division of Service NSW with a mandate of being the one front door for businesses in NSW to access government information and services.
- B. Provide the framework within which Services will be delivered.
- C. Document the responsibilities of Service NSW and the Council on the provision of Services.
- D. Provide mechanisms to manage the relationship between the Parties.
- E. Promote a collaborative approach to working together in a timely and effective manner and to act in good faith.

This Agreement is not legally binding.

2. Background

- 1) Service NSW is a Division of the Government Service established under the Service Act. The functions of Service NSW include the exercise of customer service functions, within the meaning of the Service Act; other functions conferred by statute; and other functions relating to the delivery of Government services, as directed by the Minister responsible for Service NSW.
- 2) Section 7 of the Service Act makes provision for customer service functions to be delegated by other NSW Government agencies to the Chief Executive Officer ('**CEO**').
- 3) The functions of the CEO are exercised by the staff of Service NSW.
- 4) Section 8 of the Service Act enables the CEO to enter into Agreements with local government agencies for the exercise of a non-statutory customer service function of the agency; or with respect to the exercise of a customer service function delegated to the CEO.
- 5) Subsection 8(4) of the Service Act provides that an Agreement with a council, a county council or a joint organisation within the meaning of the *Local Government Act 1993* must be approved by a resolution of the council, county council or joint organisation, must be approved before it is entered into.
- 6) Service NSW partners with the Council to promote and deliver the services of Service NSW for Business to businesses across NSW.
- 7) the purpose of this collaboration is to ensure awareness and access to Government services to all businesses in NSW.

8) the Services of Service NSW for Business are free for the Council and for customers.

9) The PPIP Act and the HRIP Act set out information handling principles that apply to public sector agencies (as defined in section 3 of the PPIP Act). As public sector agencies, the parties must not do anything, or engage in any practice, that contravenes a privacy principle that applies to them.

10) Section 14 of the Service Act makes provision for the disclosure and use of information, including personal information, for the purposes of the exercise of customer service functions by the CEO. Section 14 has effect despite the provisions of any other Act, including the PPIP Act and the HRIP Act.

11) Section 15 of the Service Act makes provision for the collection of personal information for the purposes of the PPIP Act and the HRIP Act, by Service NSW.

12) Section 16 of the Service Act enables an Agreement made under the Service Act, or a delegation of a customer service function by an agency to the CEO, to provide for the exercise by Service NSW of functions relating to access to information under the Government information (Public Access) Act 2009 and functions relating to the State Records Act 1998, in connection with the functions of the council concerned. The responsibilities of Agencies under the *State Records Act 1998* include making and keeping full and accurate records of their office.

13) The Parties have agreed to enter into an Agreement under section 8 of the Service Act, incorporating the terms on this Agreement.

3. Guiding Principles

3.1. The Parties will:

- A. Work collaboratively and in good faith in a timely and effective manner, with open communication to achieve shared objectives;
- B. Facilitate a partnership relationship that promotes and achieves continuous improvement and accountability;
- C. Ensure that each of its Personnel complies with this Agreement and all applicable laws and policies relating to the Services, including the *Work Health and Safety Act 2011*;
- D. Comply with the agreed timelines for meeting obligations to ensure efficient and effective delivery of Services;
- E. Work together to identify and manage shared risks;
- F. Work together to prioritise initiatives and enhancements, particularly where there are limitations on time and resources; and
- G. Work together to respond to the media, advise Ministers, and consult each other when developing communications that impact on Services.

4. Roles and Responsibilities

4.1. Service NSW will:

- A. Provide the Services in accordance with the terms of this Agreement, subject to any Change Request;
- B. Exercise the required standard of skill, care and diligence in its performance of the Services and ensure that its Personnel have appropriate qualifications and skills to provide the Services;

- C. Take responsibility for the management of records it creates or holds as a result of the exercise of a customer service function, where required; and
- D. Take responsibility for performing necessary maintenance of its systems and data managing the impact on customers from Service NSW system outages and working in conjunction with the Council.

4.2. The Council will:

- A. Provide Service NSW with all information, inputs, resources and subject matter expertise in a timely manner as required to enable Service NSW to provide the Services as set out in the Agreement;
- B. Take responsibility for the management of records it receives or holds following the exercise of a customer service function by Service NSW.

4.3. The Parties undertake to maintain open channels of communication by:

- A. Making available Personnel, data, reports and computer systems for the purposes of resolving customer issues;
- B. Appointing a Relationship Manager with responsibility for managing the contractual and operational aspects of the Services. The Relationship Manager may be varied.

5. Services

A. Service NSW will:

- (i) provide the relevant information and contacts to Council to ensure its local businesses are aware and can access the Service NSW for Business services
- (ii) provide a single point of contact for Council to ensure it can access Service NSW for Business services.

B. the Council will:

- (i) refer eligible customers to the Program;
- (ii) provide guidance to Service NSW staff to assist in responding to inquiries;
- (iii) inform customers and Service NSW of the outcome of relevant applications in line with privacy requirements
- (iv) provide updates on changes to local government policies, guidelines or other matters which may affect the Program;
- (v) identify local opportunities to inform customers of the program;
- (vi) provide Service NSW with feedback on the effectiveness and performance of the Program.

6. Liability

- 6.1. To the full extent permitted by law, neither Council or Service NSW will be liable to the customer for the customer's actions or responsible for any liability, loss or cost suffered directly or indirectly by the business in connection with the Service NSW for Business service.

7. Data and Data Security

7.1. Each party retains ownership of its Data.

7.2. Except as required by law, neither party must, and must ensure that its Personnel will not:

- A. use the Data belonging to the other party for any purpose other than the performance of its obligations under this Agreement; or
- B. sell, commercially exploit, let for hire, assign rights in or otherwise dispose of any Data. or
- C. Make the other party's Data available to a third party including another government agency or body, other than an approved Subcontractor, and only to the extent required under this Agreement.

- 7.3 Each party must establish and maintain safeguards against the destruction, loss or alteration of either party's Data in the possession or control of that party which are consistent with and no less rigorous than those maintained by either party to secure its own data; and comply with all applicable laws and policies.
- 7.4 In particular, the Parties will ensure the secure transmission and storage of data, at standards no less than those recommended by Cyber Security NSW.

8. Confidential Information

8.1. The Parties must, in respect of any Confidential Information:

- A. Keep the Confidential Information confidential and not disclose that information to any person without the prior written consent of the disclosing party, other than to its Personnel, professional advisors or contractors requiring access to the Confidential Information in connection with providing the Services;
- B. Use the Confidential Information solely for the purpose of carrying out its obligations;
- C. Not permit the Confidential Information to be reproduced except to the extent reasonably required to carry out its obligations;
- D. Not do anything that would cause the disclosing party or its Personnel to breach their obligations under Privacy Law; and
- E. Notify the other party as soon as possible upon becoming aware of any breach of this clause.

9. Privacy

9.1 Each party and its Personnel must:

- A. Comply with Privacy Laws; and
- B. Do all that is reasonably necessary to enable the other party to comply with Privacy Laws, including the development of documentation to demonstrate compliance with Privacy Laws, as agreed between the parties;

9.2. In particular, Service NSW acknowledges that:

- A. The collection of personal or health information will take place in compliance with the Privacy Laws, as modified by section 15 of the Service Act; and
- B. the use, disclosure, storage and retention of such information will be in accordance with the Privacy Laws, and in accordance with applicable policies.

Schedule 3 documents the respective responsibilities of Service NSW and the Council in relation to the collection, storage, use, retention and disclosure of personal information.

- 9.4 Personal and health Information collected, used, disclosed or retained between the parties will be managed and retained by the parties in accordance with the *State Records Act 1998* (NSW) and all other applicable laws, including Privacy Laws.
- 9.5 Once either of the Parties has reasonable grounds to believe there has been unauthorised access to, unauthorised disclosure of, or a loss of Personal or Health Information, dealt with in connection with this Agreement (**'Data Incident'**):
- A. The party must immediately (but in any event, no later than 72 hours of becoming aware of the Data Incident) notify the other party of that contravention together with all relevant information relating to the contravention;
 - B. Consult with the other party as to which party should have primary responsibility for investigating and dealing with the breach or possible breach;
 - C. Consider, having regard to the scope of the Data Incident and the nature of the personal or health information involved, together with any other relevant factors, whether the Data Incident is serious.
 - D. The party with primary responsibility for the breach must notify the Privacy Commissioner as soon as practicable that a serious Data Incident has occurred; and
 - E. The parties must co-operate and collaborate in relation to assessment and investigation of the Data Incident, and action required to prevent future Data Incidents.
- 9.6 If either of the Parties receives a complaint or request for an internal review of conduct in relation to a breach or alleged breach of a Privacy Law, including under section 53 of the PPIP Act, (a **'Complaint'**), the following will apply:
- A. It is the responsibility of the party that receives the Complaint to perform a preliminary investigation to determine the party responsible for the conduct;
 - B. If responsibility lies wholly with the party that received the Complaint, then that party is responsible for responding to the complaint or conducting the internal review of conduct;
 - C. If, after performing the investigation, the relevant party reasonably considers that the Complaint should be transferred to the other party, it will (after obtaining the consent of the customer) promptly transfer the Complaint and any further information obtained by the party from its preliminary investigation, to the other party, no later than 20 days after receipt of the original Complaint;
 - D. If the Complaint relates jointly to the conduct of both parties, then the party that received the Complaint will (after obtaining the consent of the Customer) notify the other party no later than 20 days after its receipt of the original Complaint and provide any further information obtained by that party from its preliminary investigation. The parties will then work together to coordinate a joint response from the parties within 60 days of receipt of the Complaint. This response may include an internal review of conduct.

10. Intellectual Property

- 10.1 Each party will retain the Intellectual Property Rights in its Existing Material.
- 10.2 Each party agrees to grant to the other party a non-exclusive and royalty free licence to use, sublicense, adapt, or reproduce:
- A. Their Existing Material; and
 - B. All methodologies, processes, techniques, ideas, concepts and know-how embodied in their Existing Material,

C. To the extent their Existing Material is required for use by the other party, solely in connection with provision of the Services.

- 10.3 Each party represents and warrants to the other party that it has all required rights and consents for its Existing Material to be used for the Services.
- 10.4 Intellectual Property Rights in all New Contract Material will vest in the Council.
- 10.5 The Council grants a perpetual, worldwide, irrevocable and royalty free licence to the Intellectual Property Rights in all New Contract Material to Service NSW for the purpose of performing the Services.
- 10.6 Subject to clauses 10.1 and 10.4, Service NSW will own all Intellectual Property Rights in the provision of the Services, including any solution and service design.

11. Performance Management and Continuous Improvement

- 11.1 Service NSW for Business does not require any provisions in relation to performance management
- 11.2 Service NSW for Business will work collaboratively with Council to ensure continuous improvement of its services to Council.
- 11.3 Any future extension of this Agreement by Service NSW with Council will specify the relevant performance management and continuous improvement provisions required.

12. Reporting

- 12.1 Service NSW for Business does not require any reporting arrangements
- 12.2 Any future arrangements that require reporting will be outlined in a Schedule to this Agreement.

13. Change Management

- 13.1 Each party will comply with the Change Management Process set out in Schedule 4.
- 13.2 The parties agree to complete a Change Request in the form set out in Schedule 4 to add to or vary the Services.

14. Governance

- 14.1 The parties agree to comply with the Governance Framework.

15. Business Continuity and Disaster Recovery

- 15.1 Each party will maintain Business Continuity and Disaster Recovery Plan arrangements to ensure that each party is able to continue to perform its obligations under this Agreement, or where performance is not possible, resume performance as soon as reasonably practicable in the event of a Disaster.

16. Dispute Resolution

16.1 In the event of a dispute between the parties, a party will:

- Raise the dispute with the other party's Relationship Manager and use best efforts to resolve the dispute;
- If the dispute is not resolved within a reasonable period, the Chief Executive of the Council or their delegate will meet with the Chief Executive Officer of Service NSW (or their delegate) with a view to resolving the dispute.
- If the dispute is not resolved under clauses 16.1(b) within a reasonable period, attempt to resolve any dispute in accordance with the Premier's Memorandum M1997-26.

16.2 Despite the existence of a dispute, each party must continue to perform its obligations.

17. Termination

17.1 Either party may terminate this Agreement in whole or in part by giving the other party 90 days written notice or as otherwise agreed.

17.2 On notice of termination or where Service NSW is otherwise required to cease to perform some or all of the Program, the parties will work together in good faith to finalise and agree a transition out plan to facilitate smooth and orderly transition of the relevant Program to the Council or the Council's nominated third party. Where the parties cannot agree, the dispute resolution provisions in clause 16 will apply.

17.3 Upon termination, each party agrees to return all Data and property belonging to the other party within 30 days of the termination date and comply with the transition out plan agreed under clause 17.2.

18. Miscellaneous

18.1 Entire Agreement

This Agreement supersedes all previous Agreements, understandings, negotiations, representations and warranties and embodies the entire Agreement between the Parties about its subject matter.

18.2 Survival

The following clauses survive termination or expiry of the Agreement: Clauses 4, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19 and any other clause which by its nature is intended to survive termination or expiry of the Agreement.

18.3 Notices

A notice under this Agreement must be in writing and delivered to the address or email address of the recipient party.

18.4 Variation

All variations to this Agreement and all consents, approvals and waivers made under this Agreement must be evidenced in writing and variations signed by both parties.

18.5 Waiver

If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

18.6. Applicable law

The Agreement is governed by, and is to be construed in accordance with, the laws in force in NSW.

18.7 Counterparts

The Agreement may consist of a number of counterparts and if so, the counterparts taken together constitute one and the same instrument.

19. Execution

Burwood Council has reviewed and accepts this Agreement

Signed for and on behalf of Burwood Council by its authorised signatory	Signed for and on behalf of Service NSW by its authorised signatory
Name:	Name:
Title:	Title:
Date:	Date:
Signature:	Signature:
Witness:	Witness:
Signature:	Signature:

Schedules

Schedule 1 - Definitions

In these Partnership Agreement, except where a contrary intention appears:

Business Continuity and Disaster Recovery Plan means a business continuity and disaster recovery plan which documents the back-up and response actions each of the parties will take to continue its obligations if a Disaster occurs;

Change Request means the request for a change to the scope of Services in the form set out in Schedule 4;

Commencement Date means the date of start of this Agreement.

Confidential Information of a party means any written or oral information of a technical, business or financial nature disclosed to the other party, including its employees or agents, by the disclosing Party (whether orally or in writing) whether before or after the Commencement Date, that:

- A. is by its nature confidential; or
- B. is designated as confidential; or
- C. the other party knows or ought to know is confidential,
- D. but does not include information which:
 - a. is or becomes public knowledge other than by breach of this Agreement; or
 - b. is in the lawful possession of the Party without restriction in relation to disclosure before the date of receipt of the information; or
 - c. is required to be disclosed by Law, government policy or legal process.

Contact Centre has the meaning set out in Schedule 2;

Continuous Improvement Principles have the meaning set out in Schedule 2;

Continuous Improvement Process has the meaning set out in Schedule 2;

Data means the data of each party and all data and information relating to their operations, Personnel, assets, customers and systems in whatever form that may exist, including Confidential Information;

Disaster means an event that causes, or is likely to cause, a material adverse effect on the provision of the Services that cannot be managed within the context of normal operating procedures including interruption, destruction or other loss of operational capacity;

Existing Material means any material that is developed prior to entering into a Partnership Agreement, or developed independently of a Partnership Agreement, and includes any enhancements and modifications to its Existing Material created as part of a Partnership Agreement;

HRIP Act means the *Health Records and Information Privacy Act 2002* (NSW);

Instrument of Delegation means the instruments of delegation (including its terms and conditions) made by the Council in relation to the Delegated Functions.

Intellectual Property Rights includes patent, knowhow, copyright, moral right, design, semi-conductor, or circuit layout rights, trademark, trade, business or company names or other proprietary rights and any rights to registration of such rights, whether created before or after the Commencement Date, in Australia or elsewhere;

Middle Office has the meaning set out in Schedule 2;

Moral Rights means the right of integrity of authorship and the right not to have authorship falsely

attributed, as confined by the *Copyright Act 1968* (Cth) and the rights of similar nature anywhere in the world, whether in existence before or after the Commencement Date;

New Contract Material means new data created, other than the solution or service design;

Partnership Agreement means these terms and conditions and includes Schedules 1, 2, 3 and 4.

Personal Information has the meaning given to it in the Privacy Laws, as amended from time to time;

Personnel means the person or persons employed or otherwise contracted by either party under this Agreement, as the context requires;

PPIP Act means the *Privacy and Personal Information Protection Act 1998* (NSW);

Privacy Law means any law that applies to either or both of the parties which affect privacy or any personal information or any health information (including its collection, storage, use or processing) including:

- A. the PPIP Act; and
- B. the HRIP Act.

Program means the Easy to do Business program;

Quarterly Forecast has the meaning set out in Schedule 2;

Relationship Manager means the nominated relationship managers of either party, as set out in the Service Agreement, or as otherwise nominated by a party from time to time;

Service Act means the *Service NSW (One-stop Access to Government Services) Act 2013* (NSW);

Service Centre has the meaning set out in Schedule 2;

Service NSW Standard Operating Conditions means the standard operating conditions met by Service NSW in the usual course of its performance of the Services set out in Schedule 2;

Subcontractor means a third party to which Service NSW has subcontracted the performance or supply of any Services;

Schedule 2

1. Service NSW Standard Operating Conditions

In addition to the Partnership Agreement this section covers the standard omnichannel service inclusions.

1.1. Service Centre

Similar services as those available at Service Centres may be offered through Mobile Service Centres. The Mobile Service Centre timetable is published regularly on the Service NSW website.

Inclusion	Description
Concierge and digital assisted services	A Service NSW Concierge will greet and direct customers to the appropriate channel and dispense a ticket where applicable. If the transaction can be completed online, a Digital Service Representative will assist the customer to complete the transaction
Customer sentiment surveys	Before leaving the centre, customers will be offered the option of leaving feedback via a digital terminal

1.2. Contact Centre

Similar services (to that of phone-based) may be offered through a web chat feature accessible via the Service NSW website.

Inclusion	Description
Virtual hold call back system	During high volume periods, customers will be offered the option of leaving their details with an Interactive Voice Response (IVR) auto attendant. Customers can hang up while holding their place in the queue. Their call will be returned by the next available operator
Inbound number	Service NSW will answer all inbound enquiries on 13 77 88 as 'Service NSW'
Call coding	A Customer Service Representative will record the customer's reason for calls and the outcome
Customer sentiment surveys	Once the call is complete, customers will be offered the option of leaving feedback via an automated IVR system

1.3. Middle Office

Inclusion	Description
Enquiry triage	Service NSW will triage enquiries received to info@service.nsw.gov.au or via Service NSW website 'Contact Us' page and <ul style="list-style-type: none"> - Resolve these enquiries or; - Refer it to the appropriate business area at the Council
Enquiry coding	A Customer Service Representative will record the customer's reason for enquiring and the outcome

1.4. Service NSW Website and Mobile App

Inclusion	Description
Scheduled maintenance and planned outages	Service NSW will conduct regularly scheduled maintenance of the website and mobile app. 10 business days of notice will be provided regarding outages from planned and scheduled maintenance Maintenance activities with negligible impact or outage, such as enhancements to optimise for cybersecurity or performance, may occur without notification to the Council

1.5. Service NSW for Business

Service NSW for Business provides a multi-channel service including digital, phone and face-to-face services for metro and regional businesses in NSW and develops relationships with councils and business associations to promote the offering to local businesses.

Inclusion	Description
Relationship management	Business Customer Service staff initiate and maintain relationships with councils and business associations to promote awareness and use of the service offering by such stakeholders and their local business community. It may include, but is not limited to, information sharing, regular liaison at events and stakeholder premises and issue of surveys.
Scheduled Maintenance and Planned Outages	Digital products controlled by Service NSW for Business will be regularly updated, upgraded and maintained without any outages.

1.6. Training

Service NSW will provide appropriately trained Personnel to deliver the Services.

1.7. Language

Service NSW will provide services in English and may arrange translation and interpreter services for customers from non-English speaking backgrounds if required.

1.8. Branding

Unless otherwise set out in the Partnership Agreement, Service NSW channels are singularly branded. Marketing communication is limited to Service NSW led or co-led campaigns and programs.

1.9. Contractors and Agents

Service NSW may use contractors and agents in connection with the delivery of Services. Such agents and contractors are approved persons under Part 2 Section 12 of the Service Act.

1.10. Out of Scope Services

Any item, service or deliverable that is not specified in a Partnership Agreement is deemed to be out of scope for Service NSW.

2. Operational Framework

Service NSW operational framework outlines how operations are managed on a day-to-day basis.

Operational Support	Description
Knowledge Management	Service NSW creates and maintains support material (knowledge articles) for serving customers. These will be sent to the Council for endorsement of content accuracy bi-annually
Complaints Management	Service NSW will record complaints and its supporting information unless resolved at the outset. Service NSW will contact the Council where assistance is required
Issues Management	<p>Issues relating to existing products and services should be raised via partnerships@service.nsw.gov.au or directly with the Relationship Manager</p> <p>The Relationship Manager will assess the issue and facilitate a resolution within Service NSW, providing regular updates</p>
Quality control framework/ compliance	<p>Service NSW has a quality control framework that governs transactional activities in line with risk assessment at the time of onboarding</p> <p>The framework includes:</p> <ul style="list-style-type: none"> - Regular review of contact centre calls, including being assessed against procedure and process used by the agent during the call - Daily quality checks of transactions undertaken by the service centre - Quarterly compliance reviews and certifications provided by all service delivery channels

2.1. IT Operations & Support

Service NSW runs a 24/7, 365 days a year service desk. Unplanned interruptions or degradations in quality of service should be raised to the Service NSW Service Desk on 1300 697 679 (option 2) or servicedesk@service.nsw.gov.au

Incident response times in our production environment are prioritised based upon urgency and impact, with associated response and resolution times.

Priority Code	Service Level Target Response/Resolution Time
P1 - Critical	Response: Immediate response, action/update within 15 minutes Resolution: 2 hours
P2 - High	Response: Immediate response, action/update within 30 minutes Resolution: 4 hours
P3 - Medium	Response: 8 hours Target Resolution: 10 working days
P4 - Low	Response: Email notification of call being logged within 2 days. Response by email or phone within 2 working days Target Resolution: 20 working days

Where vendors or other government platforms are involved, Service NSW utilises a best practice vendor governance framework for service level Agreements and for priority 1 and 2 incidents.

2.2. System and Security Maintenance

Service NSW complies with the NSW Government Cyber Security Policy and operates an information security management system that is certified against ISO 27001. These engagement Terms do not extend the certification scope to the Council's specific activities.

3. Customer Payments

Service NSW will collect payments from customers for transactions set out in the Service Agreement. Cash, cheque, money order, credit or debit card may be accepted and merchant fees plus GST will be recovered.

Service NSW will provide remittances and reconciliation files to the Council which include:

- A. Credit T+2 value for cash, cheques* and bank card payments
- B. Credit T+2 value for AMEX payments
- C. Debit any cheques dishonoured
- D. Debit any card payment chargebacks
- E. Debit any refunds processed on behalf of the Council

Cheque payments received over \$50,000 will be remitted back to the Council once the funds clear the Service NSW remitting bank account.

4. Business Continuity and Disaster Recovery

Service NSW will maintain an Enterprise Risk Management Framework focused on managing risks to Service NSW, including mitigation of the likelihood and impact of an adverse event occurring. As a function of risk management, business continuity management will enable Service NSW to minimise disruptive risks and restore and recover its business-critical services within acceptable predefined timeframes should an adverse event or other major business disruption occur.

Recovery and timeframes may be impacted when events or disruptions are related to dependencies on partner Agencies. The Parties will agree on Recovery Point Objectives and Recovery Time Objectives and associated charges prior to designing the system and will periodically review these objectives.

All systems and technology provided by Service NSW internally and through third-party vendors, operate through multiple data centres to achieve high availability. Service NSW systems are architected, where practicable and possible, to ensure continuity of service in the event of a data centre disruption or outage.

Definitions

Recovery Point Objectives means the age of files that must be recovered from backup storage for normal operations to resume if a computer, system, or network goes down as a result of a hardware, program, or communications failure.

Recovery Time Objectives means the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity.

5. Continuous Improvement

Service NSW regularly reviews improvement ideas from employees and customers. We will provide you with any ideas relevant to your agency for consideration.

'Continuous Improvement' refers to identifying a process, system or policy opportunities that will deliver a benefit for our people, our customers or the NSW government. These improvements may be delivered in house where possible or by engaging our partnering agencies where further input or decisions are required under policy or legislation. A Continuous Improvement:

- A. Puts the customer first
- B. Makes the customer service job easier
- C. Improves a step in a process
- D. Changes the way a task is completed so that it doesn't take as long
- E. Reduces handling time and is cost effective
- F. Allows others to benefit from best practices
- G. Allows us to do things better locally, regionally or organisation-wide
- H. Is a low-investment process change and not a policy change
- I. Improves accountability within the various stages of the process
- J. Removes steps that don't add any value to a process

Service NSW will consider several factors such as cost to implement, cost savings, customer experience, team member experience and operational efficiency in prioritising continuous improvements.

5.1. Continuous Improvement Process

The parties will identify new continuous improvement initiatives on an annual basis, with a 6-monthly check-in on ongoing continuous improvement initiatives.

When establishing a new continuous improvement initiative, the parties will classify the initiative based on whether it can be implemented as:

- A. part of the ongoing 'business as usual' services (cost and resourcing to be absorbed by Service NSW; or
- B. a new project initiative (cost and resourcing to be agreed by the parties).

A prioritisation process will be agreed upon between the parties to prioritise initiatives (for Service NSW, this will be performed by the Partnerships team).

The Council may be required to effect policy, system or regulatory changes to assist in delivering the service process improvement, as agreed with Service NSW. Where a review of Council policy, system or regulatory changes is requested by Service NSW from the Council, these should be conducted within timeframes agreed between the respective Relationship Managers.

Schedule 3 – Privacy and Data Security

(a) General

- (i) Service NSW may collect, use, disclose, store and retain personal information when exercising functions for the Council:
- (ii) Where Service NSW exercises functions for the Council, Service NSW can share information it obtains with the Council without separately requesting the customer's consent. Service NSW can also share the information it obtains with any person that the Council is authorised or required to disclose the information to in accordance with the Service Act.

(b) Access to Agency Systems

- (i) The Parties agree that Service NSW will not have access to the Council's information system.

(c) Collection of information

- (i) Service NSW may incidentally collect Personal Information via call recordings in the course of answering queries on behalf of Council or referring customers to Council. Personal Information collected may include: full name, address, contact number or email address.
- (ii) Service NSW will take reasonable steps to ensure that the Personal or Health Information it collects on behalf of the Council is, relevant, accurate, up-to-date and complete.
- (iii) Service NSW will provide a privacy collection notice to customers whenever it collects their information.
- (iv) If Service NSW collects personal information for its own internal purposes, when exercising functions for the Council, it will ensure that the privacy collection notice meets the requirements of section 10 of the *PIPA Act* in light of section 15(3) of the *Service Act*.
- (v) The notice will address each of the matters that a privacy collection notice is, by law, required to address. Service NSW will develop the content of the notice in consultation with Council.

(d) Internal records maintained by Service NSW

- (i) Under the *Service Act*, Service NSW is permitted to collect, maintain and use the following records for its internal administrative purposes, including for the purposes of its interactions with customers for whom functions are exercised:
 - Details of transactions between customers and Service NSW
 - The preferences of customers for transacting matters with Service NSW and Burwood Council, and
 - Other information about customers.
- (ii) Service NSW collects, maintains and uses the following information for its internal administrative purposes:
 - Details of transactions between customers and Service NSW
 - The preferences of customers for transacting matters with Service NSW and Burwood Council and

- Other information about customers.

(e) Use of information

- Service NSW can use information in accordance with the *Service Act*, PPIP Act and HRIP Act.
- Service NSW uses Personal Information for the purposes of assisting customers in directing queries to Council, training and quality purposes.

(f) Disclosure

- Service NSW can disclose information in accordance with the *Service Act*, PPIP Act and HRIP Act.
- Where Service NSW performs a transaction for a customer, when exercising functions for the Council, it will ask the customer for consent before sharing that information with a different agency,

(g) Retention

- Personal Information collected via call recordings is stored in Genesys. The length of data retention will be directly related to the purpose for which it was collected and retained. Data is maintained for the minimum period required. Call recordings are available for 3 months and subsequently archived. **(h)**

(h) Data Security

- Personal Information stored in Genesys follows a comprehensive User Access Matrix controlled by Government Technology Platforms Virtual Contact Centre Team. Role based access to the system is granted to users at the minimum level required to perform their duties and to protect against unauthorised access, use, modification or disclosure. Access vi SSO with dfsi.okta.com. The Genesys PureCloud environment is whitelisted and only users on the corporate network or VPN can access the platform. The User Access Matrix is reviewed monthly and a detailed review is conducted every 6 months. The User Access Matrix is a comprehensive document that shows details such as the time of last login, date the account was disabled, date of termination, date of extension, date of role review, name of the reviewer.

(i) Privacy Management plans

The parties agree to update and periodically review their privacy management plans or other relevant policy documents so that any person can ascertain whether Service NSW or the Council holds personal information relating to that person and if so, the nature of the information, the main purposes for which it is used and the person's entitlement to access the information, in relation to the services covered by this Agreement.

(j) Access to and amendment of Personal Information

- Service NSW agrees that it will provide any individual who requests it with access to their own personal information without excessive delay and without any expense, in relation to information it holds as a result of exercising functions for the Council.

(k) Privacy Officer

The parties have nominated a Privacy Officer who is the point of contact for dealing with complaints, applications for internal reviews, data breaches, employee education and other privacy matters.

Privacy Officers can be contacted as follows:

Service NSW:

Privacy Officer

Service NSW

2-24 Rawson Place, Sydney NSW 2000

Phone: 13 77 88

Email: privacy@service.nsw.gov.au

Burwood Council:

Schedule 4 - Change Management

1. Change Management Process

Change is defined as any alteration to services, process, technology or product. Changes may be initiated by Service NSW or the Council. Where a change to the Services is requested by a party, set out below is the following process:

- 1.1. The party requesting the change will notify the other party's Relationship Manager as soon as possible;
- 1.2. The Relationship Managers will meet within 5 days to discuss the requested change;
- 1.3. The Relationship Managers will work collaboratively to conduct a high-level change assessment of the change, and agree and draft a Change Request, considering the following factors:
 - A. Current state and desired future state outcomes;
 - B. Impacts on customers and both parties informed by end-to-end customer journey;
 - C. Additional resource effort; potential cost and timing of implementation;
 - D. Implementation and testing requirements;
 - E. Legislation/policy that may be required;
 - F. Whether variation to the Partnership Agreement will be required; and
 - G. Continuous Improvement Principles
- 1.4. The parties will sign the Change Request, which will be incorporated into this Agreement.

Where a change relates to Service NSW's IT systems, the Council will notify Service NSW within a reasonable period to outline the proposed change and requested timeframes. Service NSW will consider the change and advise whether an increased cost to implement the change is required.

Service NSW will assess the results and implement corrective action to ensure sustainability of the change to the Services. Changes to the Services will be reported on in the monthly management meeting between Relationship Managers.

2. Change Request Template

This Change Request is created in accordance with the Partnership Agreement	
Date of Change Request	
Originator of Change Request	
Proposed Implementation Date	
Cost	<Cost>
Summary and scope:	
Service NSW responsibilities:	

Council responsibilities:
Change plan:
Change impact (Including the effect on service levels):
Assumptions and exclusions:
List of documents forming part of this change request:
Clauses affected by this change request:

(ITEM 71/21) LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2021

File No: 21/43776

REPORT BY GENERAL MANAGER

Summary

The postponement of local government elections in NSW has resulted in the LGNSW Annual Conference being split into two components. Council can nominate three voting delegates to vote on the motions and, as customary, observers to attend the Conference.

Operational Plan Objective

2.5.1 Provide strong leadership and advocacy on behalf of the community

Background

This year the Local Government NSW Annual Conference was scheduled to take place at the Hyatt Regency Sydney from 28-30 November. The postponement of local government elections in NSW has had a significant flow-on effect for LGNSW's Annual Conference and as a result, the annual event has been split into two components:

- A one-hour Annual Conference to present the annual report and financial reports, which will be conducted online from 9.30am on Monday 29 November 2021; and
- A Special Conference – including the debate and resolution of motions setting the advocacy agenda for 2022, to be held in-person at the Hyatt Regency Sydney from Monday 28 February to Wednesday 2 March 2022.

Council can nominate three voting delegates to vote on the motions and, as customary, observers to attend the Conference.

Early Bird registrations close on Friday 29 October 2021. LGNSW have confirmed that Council is able to purchase early bird registrations now and change the names of attendees following the elections in early December, at no cost to Council.

Any cancellations received prior to 11 February 2022 will incur a \$220.00 administration fee, no refunds will be given after this time.

In previous years Council has sent five Councillors (three of which were voting delegates), plus the General Manager. Voting delegates are entitled to vote on motions at the Conference as well as participating in the election of office bearers as per the election notice and ballot paper appearing as **Attachment 1** to this report.

Financial Implications

Funds for Councillors and Council Officers attending the Conference have been provided for in the 2021-2022 Budget.

This year, there will only be one cost for each attendee as the Conference is being held in the Sydney area.

Cost of Early Bird Registration	\$979.00 per person <i>(\$1094.50 standard registration rate, if purchased after 29 October 2021)</i>
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Recommendation(s)

1. That Council consider purchasing five early bird registration tickets for the Special Conference on Monday 28 February to Wednesday 2 March 2022 for three voting delegates and two observers, with names of attendees to be updated following the Council elections in December 2021. Additional tickets can be purchased at the standard rate if required.
2. That the General Manager and other Observers be authorised to attend, and that the nominated Observers confirm their attendance by Monday 4 October 2021 to the General Manager.

Attachments

- 1 Election Notice - 05102021 - Local Government NSW

Received by RECORDS

10 SEP 2021

Doc No
BURWOOD COUNCIL

Local Government NSW

ELECTION NOTICE - E2021/98

Scheduled Election

Fair Work (Registered Organisations) Act 2009

Nominations are called for:

- **President (1)**
- **Vice President (Metropolitan/Urban) (1)**
- **Vice President (Rural/ Regional) (1)**
- **Treasurer (1)**
- **Directors (Metropolitan/Urban) (7)**
- **Directors ((Rural/ Regional) (7)**

Nominations, which must be in writing and comply with the registered rules of the Organisation, may be made at any time from 07/09/2021.

A nomination form is available for electronic completion on the AEC Portal, www.aec.gov.au/ieb/. However, the nomination form must then be lodged in accordance with the Organisation's rules (see below). Additional forms are available from the Returning Officer.

Prospective candidates and nominators should verify their financial status and any other qualifications required by the Organisation's rules prior to lodging nominations.

Nominations must reach the Returning Officer via the lodgement method(s) stipulated below **not later than** 12:00pm Australian Eastern Daylight Time (AEDT) on 05/10/2021.

How to lodge nominations, nominations must be lodged via the following method(s):

By Portal: Australian Electoral Commission Portal, www.aec.gov.au/ieb/

By Email: A properly completed nomination form including all necessary signatures and attachments may be scanned and submitted as a pdf file to IEBnominations@aec.gov.au

PLEASE NOTE:

1. Emails to the AEC inbox that appear to be spam may be blocked. It is the responsibility of senders to ensure that their email reaches the AEC before the deadline for nominations.
2. In order to be able to be received by the AEC, emails (including attachments) should be no greater than 6 MB in size.
3. You may call 02 9375 6331 to enquire about the status of your nomination.

Withdrawing Nominations

Nominations cannot be withdrawn after 12:00pm Australian Eastern Daylight Time (AEDT) on 12/10/2021.

Voting Period

The ballot, if required, will open on 27/10/2021 and close at 10:00am Australian Eastern Daylight Time (AEDT) on 24/11/2021.

Absentee Voting

If a delegate of a member or a member of the board is away from their current address and unable to receive ballot materials, they need to complete the Absentee application form with an alternate address and return it to the Returning Officer via email or AEC portal by 12:00pm Australian Eastern Daylight Time (AEDT) on 12/10/2021.

Scrutineers

The appointment of scrutineers must be informed to the Returning Officer in writing. A form is available from the Returning Officer for the purposes of appointing Scrutineers.

Other Information

Changed Address? Advise the Organisation now.

Please Note: A copy of the AEC's election report can be obtained from the Organisation or from the Returning Officer after the completion of the election.

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEBevents@aec.gov.au
7/09/2021



Local Government NSW

Scheduled Election – E2021/98

APPLICATION FOR ABSENT VOTING MATERIAL

I, _____
(Full Name Block Letters)

shall be away from my current address during the ballot period. Please forward Voting Material to me at the following address

_____ Postcode _____

NOTE: THIS APPLICATION MUST REACH THE OFFICE OF THE RETURNING OFFICER NOT LATER THAN 12:00 PM AUSTRALIAN EASTERN DAYLIGHT TIME (AEDT) ON 12/10/2021.

Signature _____ Date _____

HOW TO LODGE APPLICATION

By Email: A properly completed form duly signed may be scanned and submitted as a pdf file to IEBnominations@aec.gov.au

PLEASE NOTE:

1. Emails to the AEC inbox that appear to be spam may be blocked. It is the responsibility of senders to ensure that their email reaches the AEC before the deadline for nominations.
2. In order to be able to be received by the AEC, emails (including attachments) should be no greater than 6 MB in size.
3. You may call 02 9375 6331 to enquire about the status of your nomination.

Ishtiaq Ahmed
Returning Officer
Tel: 02-93756331





Nomination Form

**Local Government NSW
Scheduled Election
E2021/98**

CANDIDATE:

Full Name (Print clearly)

Membership Number and Council Name:

(Print clearly)

For the office of:

(Print name of office as shown in the Election Notice)

Council Type:

(Metropolitan/Urban or Rural/Regional)

Name for ballot paper:

Print your name as you wish it to appear on the ballot paper

Nominator/s (2 required)

(Must be elected members of any Council, as defined in Rule 3, which is an ordinary member of the Association).

I/We, the undersigned members of the Local Government NSW, nominate the person named above:

NOMINATORS Full Name (Print clearly)	MEMBERSHIP NUMBER AND COUNCIL NAME	SIGNATURE	DATE
			__/__/__
			__/__/__
			__/__/__

CANDIDATE'S CONSENT

I, _____

Consent to nomination for the above office for which I am eligible under the rules and am not disqualified from being a candidate (see Chapter 7, Part 4 of the *Fair Work (Registered Organisations) Act 2009*). I am a Councillor / Board member of the Council / ALC named above, which is a financial Ordinary Member of the Association and I accept the above nomination. I declare I am a current member of the registered political party named below.

Current Registered Political Party Membership Name: Must be the Registered Political Party Name www.aec.gov.au/parties or http://www.elections.nsw.gov.au/candidates_and_parties/registered_political_parties

Please indicate preferred title e.g. Mr, Mrs, Miss, Ms _____

Personal email: _____
(AECs' preferred method of communication)

Postal Address: _____

Phone: _____

Signed: _____

Please see instructions on the next page

Lodging Nominations

Nominations open on 07/09/2021 and must reach the Returning Officer, Ishtiaq Ahmed not later than 12:00pm Australian Eastern Daylight Time (AEDT) on 05/10/2021.

Nominations cannot be withdrawn after 12:00pm Australian Eastern Daylight Time (AEDT) on 12/10/2021.

Prospective candidates and nominators should verify their financial status and any other qualifications required by the Organisation's rules prior to lodging nominations.

Nominations must be lodged via the following method(s):

By Portal: www.aec.gov.au/ieb/

By Email: A properly completed nomination form including all necessary signatures and attachments may be scanned and submitted as a pdf file to IEBnominations@aec.gov.au

PLEASE NOTE:

1. Emails to the AEC inbox that appear to be spam may be blocked. It is the responsibility of senders to ensure that their email reaches the AEC before the deadline for nominations.
2. In order to be able to be received by the AEC, emails (including attachments) should be no greater than 6 MB in size.
3. You may call 02 9375 6331 to enquire about the status of your nomination.

Acknowledgment

You will be sent an acknowledgment of receipt of your nomination by email.

Scrutineers

The appointment of scrutineers must be informed to the Returning Officer in writing. A form is available from the Returning Officer for the purposes of appointing Scrutineers.

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEBevents@aec.gov.au

PLEASE NOTE: It is your responsibility to ensure that your nomination is received by the Returning Officer **BEFORE** nominations close.

(ITEM RC7/21) BURWOOD LOCAL TRAFFIC COMMITTEE - SEPTEMBER 2021

File No: 21/42282

REPORT BY DIRECTOR CITY ASSETS

Summary

Attached are the Minutes of the Burwood Local Traffic Committee from its meeting of September 2021. The Minutes are hereby submitted to the Ordinary Council Meeting for consideration and adoption by Council.

Operational Plan Objective

4.1.5 - Work with RMS and Transport NSW in the development of integrated transport plans.

Recommendations

That the minutes of the Burwood Local Traffic Committee of September 2021 be noted and the recommendations of the Committee as detailed below be adopted as a resolution of the Council.

(ITEM LTC18/21) 2021-2022 AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM SUBMISSIONS

Recommendation

That Council approve the construction of the two successful Black Spot Program projects, as per the approved plans included in the report, including investigation into additional landscaping in the final designs.

(ITEM LTC19/21) CAR SHARE BAYS - VARIOUS LOCATIONS APPLIED FOR BY GOGET

Recommendation

That Council approve the installation of three 'No Parking - Authorised Car Share Vehicles Excepted' in the following locations as shown on the plan in the report:

- Neich Parade, Burwood
- Waimea Street, Burwood
- Woodside Avenue, Burwood

(ITEM LTC20/21) CORONATION PARADE, ENFIELD - IMPROVEMENT TO PARKING LAYOUT AND RESTRICTIONS

Recommendations

1. That Council approve the installation of a 'Disabled Parking' space with associated signage and line marking on the eastern side of Coronation Parade, Enfield, south of Liverpool Road.
2. That Council approve the construction of two concrete kerb ramps as outlined in Australian Standard 2890.5 Parking Facilities Part 5: On-street parking.
3. That Council approve the realignment of the existing kerb line in Coronation Parade, Enfield.
4. That Council approve the remaining on street parking on the eastern side of Coronation Parade be signposted as '1/2P 8.00am – 6.00pm Mon – Fri and 8.00am – 1.00pm Sat'.

(ITEM LTC21/21) GRANTHAM STREET BURWOOD - PROPOSED 2P PARKING RESTRICTIONS

Recommendation

That Council approve the proposed installation of '2P - 8.00am – 6.00pm Monday to Friday and 8.00am – 12.30pm Saturday, Permit holders excepted Area 2' fronting #8 to #26A and #9 to #9A Grantham Street Burwood per the plan in the report.

(ITEM LTC22/21) PORTLAND ST, ENFIELD - PROPOSED RAISED CONCRETE THRESHOLDS***Recommendations***

1. That Council approve the construction of two new raised concrete thresholds with all associated signs and line marking outside No.23 and No.39 Portland Street, Enfield, as per the plan in the report, subject to the height of the thresholds reduced to 75mm above the road surface.
2. That Council approve landscaping on both sides of Portland Street at each of the raised thresholds to avoid the facilities being misunderstood as pedestrian crossings.

(ITEM LTC23/21) BURWOOD ROAD, CROYDON PARK - PROPOSED CONCRETE SPEED CUSHION***Recommendations***

1. That Council approve the installation of a 1.8m wide Concrete Speed Cushion on Burwood Road, Croydon Park, as per the drawings in the report, including additional speed hump and speed warning signs.
2. That Council approve the installation of the required E1 edge lines on Burwood Rd, Croydon Park, as per the drawings in the report.

(ITEM LTC24/21) WENTWORTH ROAD, BURWOOD - NO PARKING RESTRICTIONS***Recommendations***

1. That Council approve the extension the existing afternoon 'No Parking' restrictions on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent to include '7.00am – 10.00am and 3.00pm – 7.00pm Monday to Friday'.
2. That Council approve the parking area on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent become unrestricted parking between the hours of 10.00am and 3.00pm Monday to Friday.

(ITEM LTC25/21) SHAFTESBURY ROAD, BURWOOD - CHANGES TO PARKING RESTRICTIONS***Recommendation***

That Council approve the installation of 'No Parking' restrictions on the western side of Shaftesbury Road between Milton Street and Parramatta Road as per the plan in the report.

(ITEM LTC26/21) 31 WILGA STREET BURWOOD - PROPOSED NO PARKING RESTRICTIONS***Recommendation***

That Council approve the installation of 'No Parking' restrictions for a total length of 18m fronting 31 Wilga Street Burwood.

Attachments

- 1 Burwood Local Traffic Committee Agenda - September 2021
- 2 Burwood Local Traffic Committee Minutes - September 2021



NOTICE OF BURWOOD LOCAL TRAFFIC COMMITTEE MEETING

The September 2021 meeting of the Burwood Local Traffic Committee will be held electronically on Thursday 2 September 2021 at 9.30am to consider the reports contained in the attached Agenda.

Tommaso Briscese
GENERAL MANAGER

Our Mission

**Burwood Council will create a quality lifestyle for its citizens
by promoting harmony and excellence in the delivery of its services**

2 Conder Street, Burwood NSW 2134, PO Box 240 Burwood NSW 1805
phone: 9911 9911 facsimile: 9911 9900
email: council@burwood.nsw.gov.au
website: www.burwood.nsw.gov.au

AGENDA

APOLOGIES/LEAVE OF ABSENCES

CONFIRMATION OF MINUTES

Recommendation

That the Minutes of the July 2021 Meeting of Burwood Local Traffic Committee as typed and circulated, be confirmed and signed as a true record of the proceedings of that meeting.

GENERAL BUSINESS

(ITEM LTC18/21)	2021-2022 AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM SUBMISSIONS	3
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(ITEM LTC18/21) 2021-2022 AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM SUBMISSIONS

File No: 21/37784

REPORT BY ENGINEER TRAFFIC & DESIGN

Summary

This is a report concerning the outcome of Council's submission of projects for the 2021-2022 Australian Government Black Spot Program.

Background

The Australian Government's Black Spot Program targets specific road locations where crashes are occurring by funding measures such as traffic signals, roundabouts, raised thresholds and concrete kerb blisters to reduce the risk of further crashes occurring.

The Black Spot Program makes an important contribution in reducing the national road toll under the National Road Safety Strategy and Action Plan.

For a project to be eligible for consideration, it needs to meet the following criteria:

- a) For Black Spot Sites (e.g. an intersection, mid-block or short road section) the minimum eligibility criterion is at least three casualty (injury) crashes over the past five-year period;
- b) For Black Length Sites (a length of road that is longer than 3 km) the minimum eligibility criterion is an average of 0.2 casualty (injury) crashes per kilometre per annum over the length in question, measured over five years;
- c) Works are to have a benefit / cost ratio (BCR) of greater than 2.0;
- d) Projects can receive up to a maximum of \$2.0 million with local governments able to contribute additional funds (the BCR calculations must be based on the total project cost including any additional funds provided by Council).

Proposal

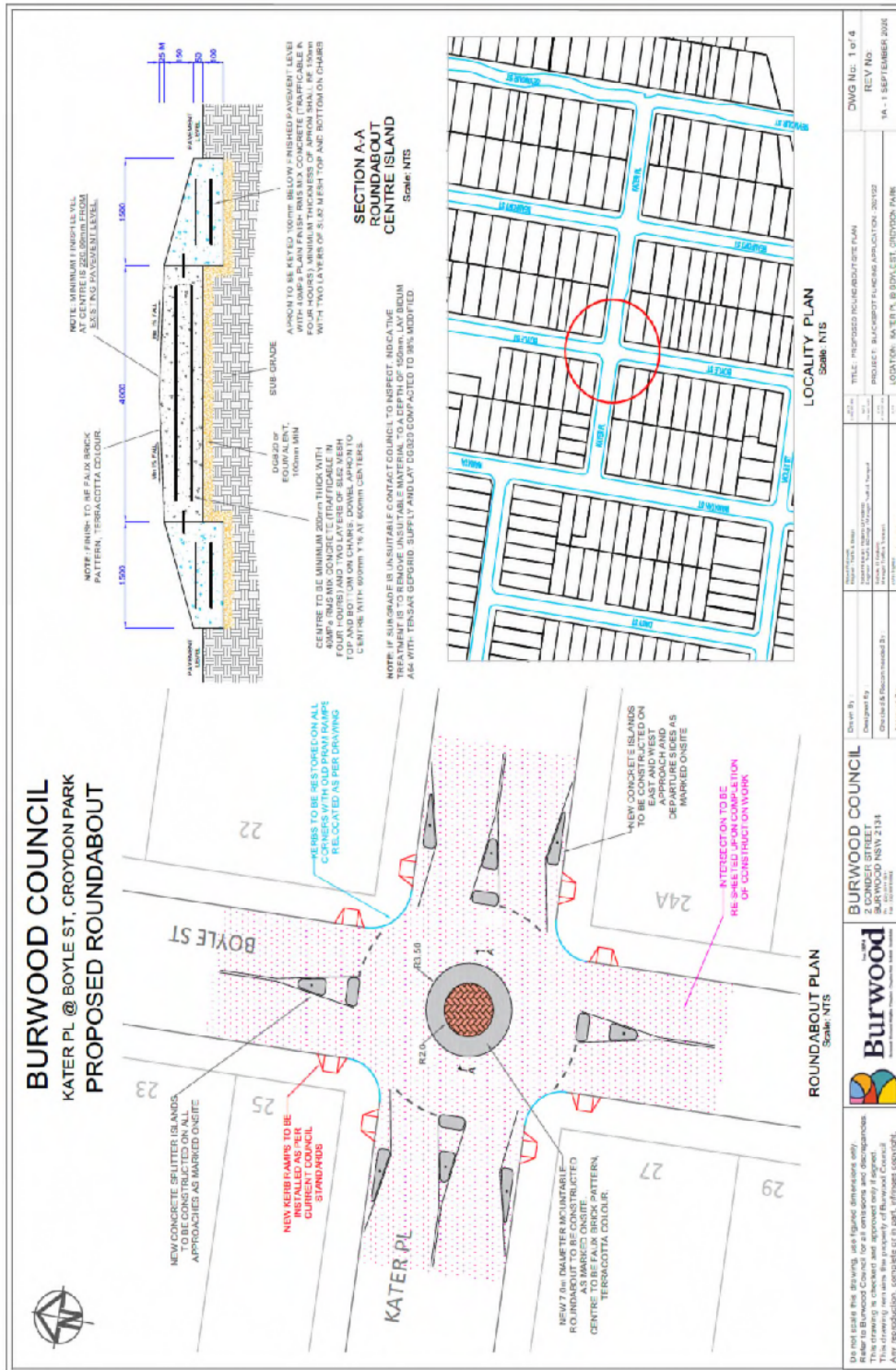
Council nominated two locations that met the programs eligibility criterion under its Black Spot Site benchmark and submitted the required applications through the online management portal. The online portal is managed by Transport for New South Wales (TfNSW) who is administering the program on behalf of the Australian Government.

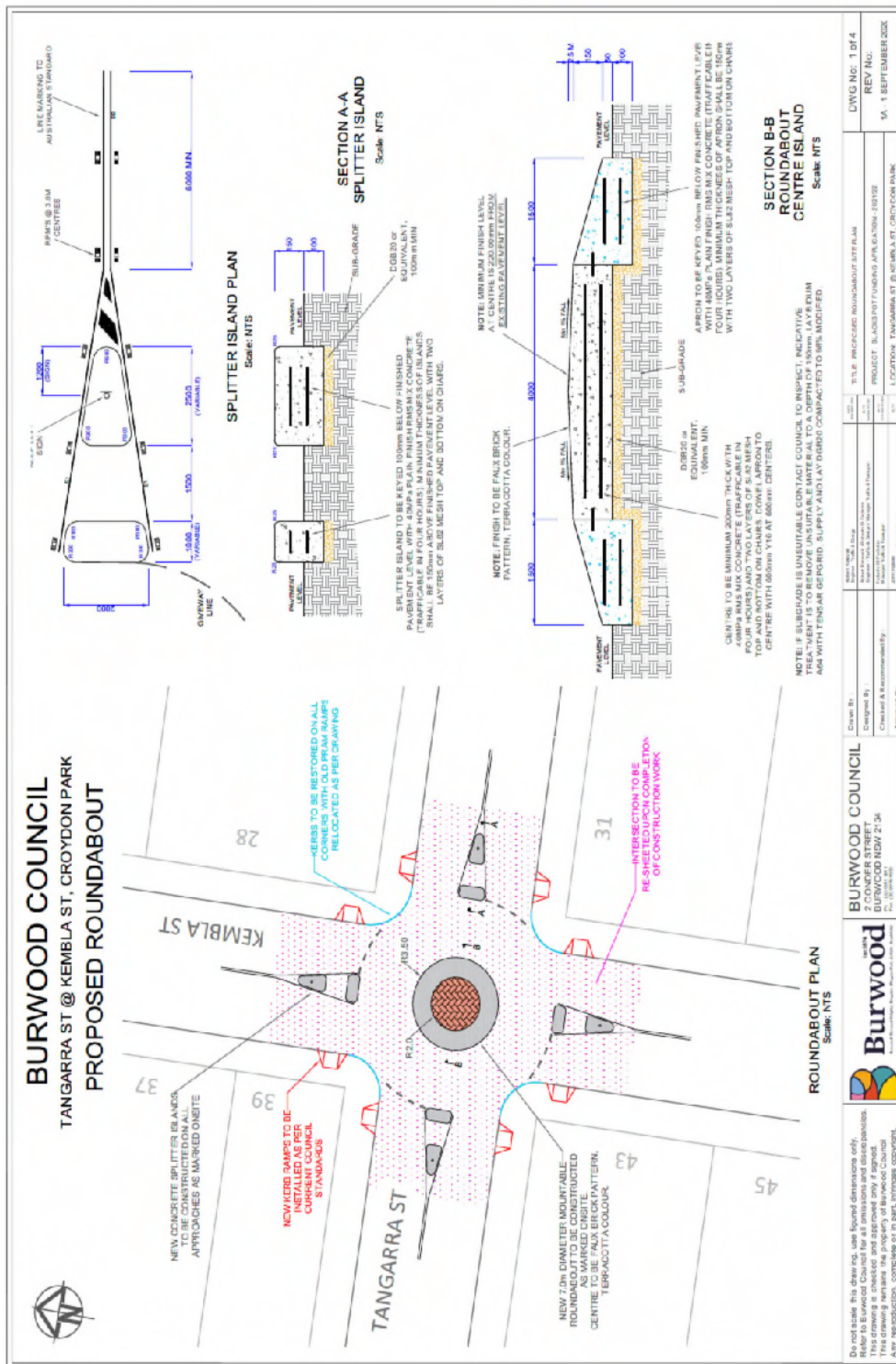
The locations submitted by Council for potential funding were:

1. Kater Place / Boyle Street, Croydon Park
2. Tangarra Street / Kembla Street, Croydon Park

On 23 July 2021 Council received confirmation that both nominated projects were successful in obtaining 100% funding.

Below is a copy of each projects design and a table that summarises the funding approvals for the projects nominated as part of the 2021-2022 submissions.





2021-2022 BLACK SPOT PROGRAM PROJECTS					
PROJECT LOCATION	TREATMENT	TREATMENT OBJECTIVE	BENEFIT-COST RATIO	FUNDING AMOUNT	FUNDING SUCCESSFUL
Kater Place / Boyle Street, Croydon Park	Install one lane roundabout	To reduce the current 'cross traffic' accidents by encouraging vehicles to slow down and navigate the intersection in two stages	5.47	\$192,550	YES (100% funded)
Tangarra Street / Kembla Street, Croydon Park	Install one lane roundabout	To reduce the current 'cross traffic' accidents by encouraging vehicles to slow down and navigate the intersection in two stages	6.07	\$186,300	YES (100% funded)
TOTAL COST				\$378,850	(100% Government Funded)

Consultation

All properties directly affected by the above proposals were notified via a survey package which included a letter, copy of the design plans as well as a survey with the option of providing feedback on the proposals. Council received no submissions.

Financial Implications

The Black Spot Program is 100% funded by the Australian Government and administered by Transport for New South Wales. The combined total cost of the two successful projects is \$378,850. It is not expected to have any impact on Council's capital and operational budgets.

Recommendation

That Council approve the construction of the two successful Black Spot Program projects, as per the approved plans included in the report.

Attachments

There are no attachments for this report.

(ITEM LTC19/21) CAR SHARE BAYS - VARIOUS LOCATIONS APPLIED FOR BY GOGET

File No: 21/37620

REPORT BY TRAFFIC ENGINEERING OFFICER

Summary

GoGet has requested approval for an additional three dedicated car share bays to be installed throughout Burwood LGA in on-street locations to meet the demands of their members.

Background

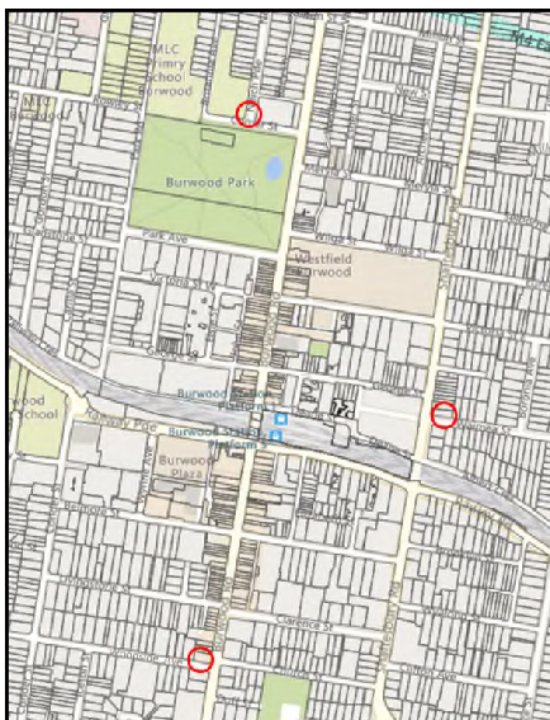
Burwood Council adopted its Car Share Policy in October 2017 to manage the car share parking in the Burwood Local Government Area (LGA) in a fair and equitable manner. The Policy ensures that car share operators are provided equal access to defined car share spaces as well as providing residents and businesses in the Burwood LGA access to an environmentally sustainable alternative to car ownership.

Council has previously approved four car share parking bays within George Street and Wynne Avenue car park along with an additional seven on-street parking bays throughout Burwood and Strathfield in April 2021 to service their network of members.

Proposal

GoGet has approached Council for the proposed three locations:

- Neich Parade, Burwood – Western side in existing 2P angled parking area
- Waimea Street, Burwood – Northern side in existing 1P parking area
- Woodside Avenue, Burwood – Northern side in existing 2P parking area



Council's Car Share Policy requires car share operators to demonstrate that at least 10 current members will have reasonable proximity access to the space. GoGet P/L has provided the number of members within a 250m radius to each bay which represents approximately a three minute walk time. The number of members for each location is shown below.

- Neich Parade, Burwood – 25 members
- Waimea Street, Burwood – 52 members
- Woodside Avenue, Burwood – 35 members

Per the TfNSW guidelines these bays are to be signposted as 'No Parking - Authorised Car Share Vehicles Excepted' with permits to be provided for approved vehicles with unique identifying zones.

As set out in Council's Policy, dedicated car share spaces may be contracted for a period of three years performance based, with a two year option period. Given there has been no interest from other car share providers it is proposed to permit GoGet P/L to have use of these three bays for the three year period with a two year option based on performance of the bays which is to be reviewed annually.

Consultation

Given the high demand for parking in these areas, all properties surrounding each proposed car share bays were notified of the proposal which included a letter and survey with the option of providing feedback.

The following responses were received from each area:

Location	# of surveys sent out	# of surveys received	Response Rate	Responses
Neich Parade Burwood	41	1	2 %	1 <i>'Strongly Against'</i>
Waimea Street Burwood	6	2	33 %	1 <i>'Strongly Against'</i> and 1 <i>'Neutral'</i>
Woodside Avenue Burwood	6	1	16%	1 <i>'Strongly Against'</i>

Despite the objections received to the proposals, given the low response rate it is recommended to proceed with the implementation of the car share bays.

Financial Implications

Per Council's Fees and Charges a fee will be charged to the operator for the ongoing annual approval as well as to partly cover costs associated with the implementation of a dedicated car share space. The current fee is \$1,175.00 per space per year which will total \$3,525.00 for the three proposed spaces.

Car share operators may request to line mark parking bays at their own cost however must obtain approval from Council prior to any works being undertaken. Fees are reviewed annually and set out in Council's Statement of Revenue Policy.

Recommendation

That Council approve the installation of three 'No Parking - Authorised Car Share Vehicles Excepted' in the following locations as shown on the plan in the report:

- Neich Parade, Burwood
- Waimea Street, Burwood
- Woodside Avenue, Burwood

Attachments

- 1 Proposed three GoGet locations

ITEM NUMBER LTC19/21 - ATTACHMENT 1
Proposed three GoGet locations

PROPOSED GO GET LOCATIONS



Proposed GoGet location – Woodside Avenue Burwood



Proposed GoGet location – Neich Parade Burwood



Proposed GoGet location – 11 Walmea Street Burwood

(ITEM LTC20/21) CORONATION PARADE, ENFIELD - IMPROVEMENT TO PARKING LAYOUT AND RESTRICTONS

File No: 21/38465

REPORT BY ENGINEER TRAFFIC & DESIGN

Summary

As part of the Enfield Village Revitalisation Project, Council’s technical staff have established the need to improve the current parking layout on Coronation Parade, Enfield. The improvement will include a new disabled parking space and realignment of the existing kerb line.

Background

The Enfield Village Revitalisation Project seeks to transform the strategic strip shopping centre of Enfield into a vibrant local centre that better caters to the needs of the local community and enhances support for local businesses.

As part of the initial review of the prospective scope of works, Council undertook several site inspections and found the following traffic and parking issues:

- Illegal double parking on Coronation Parade given the width of the existing parking lane (see picture below)
- No disabled parking spaces along the shopping precinct on Liverpool Road and Coronation Parade
- Low to moderate parking turnover on Coronation Parade



DOUBLE PARKING ON CORONATION PARADE

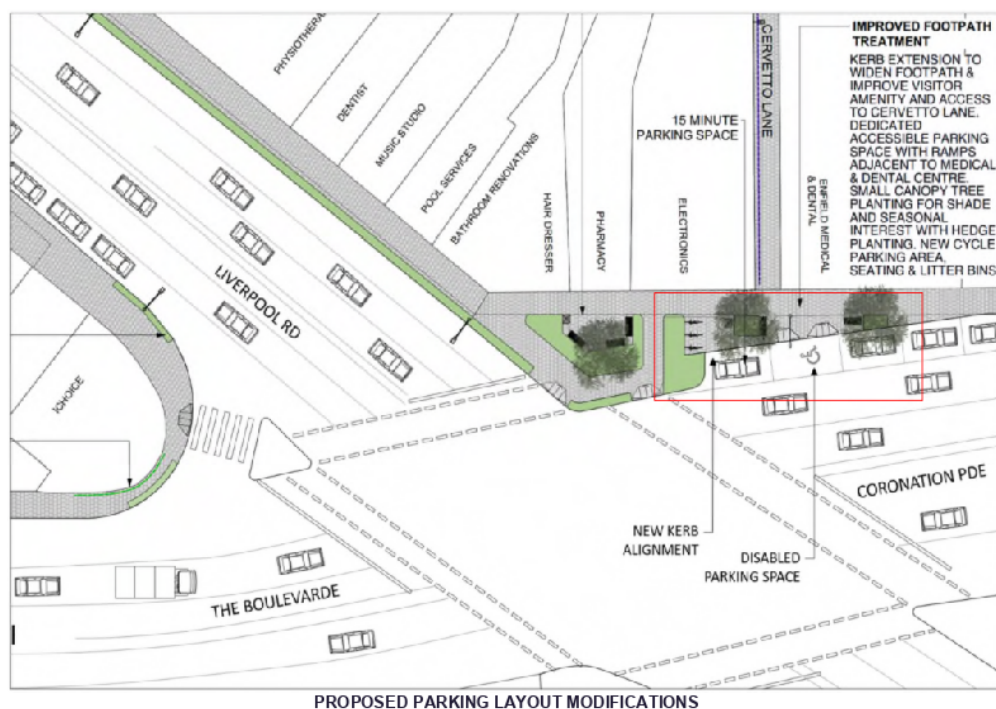
The eastern side of Coronation Parade currently consists of three ‘1/4P’ parking and two ‘1/2P’ parking spaces both between the hours of 8.30am – 6.00pm Mon – Fri and 8.30am – 12.30pm Sat. Council’s Byer Street car park is easily accessible via Cervetto Lane and provides 41 parking spaces which are ‘2P 8.00am – 6.00pm Mon – Fri and 8.00am – 1.00pm Sat’.

Proposal

In order to alleviate the issues stated above, Council will be engaging a suitably qualified consultancy to commence the detailed design of the project along Liverpool Road (up to Willie Street) and Coronation Parade. The design will include the following traffic and parking improvements:

- Realigning the kerb line on Coronation Parade to reduce the parking lane width and eliminate the possibility for double parking.
- Amend the current parking layout on Coronation Parade to include a new disabled parking space considered essential for assisting patients visiting the nearby medical and dental practice.

See conceptual plan below.



The proposed disabled parking space will need to comply with AS2890.5 Parking Facilities Part 5: On-street parking. This standard provides the requirements for on-street disabled parking and outlines that for a parallel disabled on-street parking space, the provision of two kerb ramps of 1.0m in width are required.

It should be noted that one 15-minute parking space will be lost to accommodate the disabled parking however this is considered necessary in order to assist the elderly visiting the medical and dental practice.

Furthermore, the required improvements will be completed as part of the Enfield Village Revitalisation Project construction works currently scheduled for early 2022.

The remaining on-street parking along Coronation Parade is proposed to be retained as '1/2P 8.00am – 6.00pm Mon – Fri and 8.00am – 1.00pm Sat' to provide high turnover and so as to align with the times in the Byer Street car park.

Consultation

Consultation with affected stakeholders has been undertaken. The introduction of the proposed disabled parking space and realignment of the kerb line was supported by the local community and businesses.

As Coronation Parade is a classified State Road consultation with Transport for NSW has been undertaken. TfNSW has advised that for formal approval of the kerb realignment and adjustment to the kerb ramps at the signalised intersection approval will need to be sought via their Developer Works Unit. TfNSW have provided a list of requirements which will need to be submitted along with the detailed design.

Financial Implications

The cost of installing new disabled parking signage, delineating the disabled parking spaces, constructing two kerb ramps and realigning the existing kerb line is estimated to cost \$25,000.00. These works have been budgeted as part of the Enfield Village Revitalisation Project.

Recommendations

1. That Council approve the installation of a 'Disabled Parking' space with associated signage and line marking on the eastern side of Coronation Parade, Enfield, south of Liverpool Road.
2. That Council approve the construction of two concrete kerb ramps as outlined in Australian Standard 2890.5 Parking Facilities Part 5: On-street parking.
3. That Council approve the realignment of the existing kerb line in Coronation Parade, Enfield.
4. That Council approve the remaining on street parking on the eastern side of Coronation Parade be signposted as '1/2P 8.00am – 6.00pm Mon – Fri and 8.00am – 1.00pm Sat'.

Attachments

There are no attachments for this report.

(ITEM LTC21/21) GRANTHAM STREET BURWOOD - PROPOSED 2P PARKING RESTRICTIONS

File No: 21/37637

REPORT BY TRAFFIC ENGINEERING OFFICER

Summary

Council has received requests from residents in Grantham Street to implement timed parking restrictions with a Resident Parking Scheme for residential properties within the street.

Background

Grantham Street is a local street which connects Parramatta Road to Rowley Street. The street has a 50kph speed limit with a 40km School Zone in the morning and afternoon school peak periods. The road has a carriageway width of 10.0m and has a combination of unrestricted parking and 'No Parking (Pick Up and Drop Off)' restrictions on the northern side and '1P Parking' and 'No Parking' restrictions on the southern side. The residential properties at the northern end of Grantham Street are surrounded by a local hospital and private school.

The concerns raised are focused on the residential properties #8 to #26A and #9 to #9A where parking is unrestricted and highly sought after by teachers, students, hospital staff and the public due to the close proximity of the train station, private hospital, private school and Burwood Park.

Parking audits undertaken within the northern end of Grantham Street confirm that the unrestricted parking areas are often at 100% occupancy with little to no turnover throughout the day.

Proposal

It is proposed to install '2P - 8.00am – 6.00pm Monday to Friday and 8.00am – 12.30pm Saturday - Permit holders excepted Area 2' parking restrictions fronting #8 to #26A and #9 to #9A Grantham Street. These properties will be entitled to Residential and Visitor Parking Permits per Council's Permit Parking Scheme Policy.



Consultation

Consultation was conducted with residents located at #8 to #26A and #9 to #9A Grantham Street Burwood regarding the proposed changes. Council has received 2 responses, both 'Strongly in Favour' of the proposal.

Financial Implications

The cost of modifying and installing signs is estimated to be \$600.00 and will be funded from the 2021/22 Traffic Facilities budget.

Recommendation

That Council approve the proposed installation of '2P - 8.00am – 6.00pm Monday to Friday and 8.00am – 12.30pm Saturday, Permit holders excepted Area 2' fronting #8 to #26A and #9 to #9A Grantham Street Burwood per the plan in the report.

Attachments

There are no attachments for this report.

(ITEM LTC22/21) PORTLAND ST, ENFIELD - PROPOSED RAISED CONCRETE THRESHOLDS

File No: 21/37875

REPORT BY ENGINEER TRAFFIC & DESIGN

Summary

Council undertook a review of traffic speeds within Portland Street, Enfield, following concerns raised by multiple residents. It has been suggested that investigations be undertaken with a view to install traffic calming devices to assist in reducing vehicle speeds.

Background

Portland Street runs in a north-south direction and is an unclassified collector road, meaning that it carries a low to moderate vehicle capacity that serves to move traffic from local streets to major roads. Portland Street is currently bounded by Shelley Street to the north and Georges River Road to the south with a number of intersecting streets in between.



Aerial View of Portland Street, Enfield

Following a number of residential concerns regarding traffic speeds along Portland Street, Council undertook an in depth analysis of the recent traffic data. The speed data shows that the highest vehicle speeds recorded along Portland Street was in the section between Wynnstay Avenue and Mitchell Street where no traffic calming devices are currently installed. The recorded 85th percentile speed for north bound vehicles was recorded at 54km/h while south bound vehicles were recorded at 53km/h, both slightly above the sign posted 50km/h speed limit.

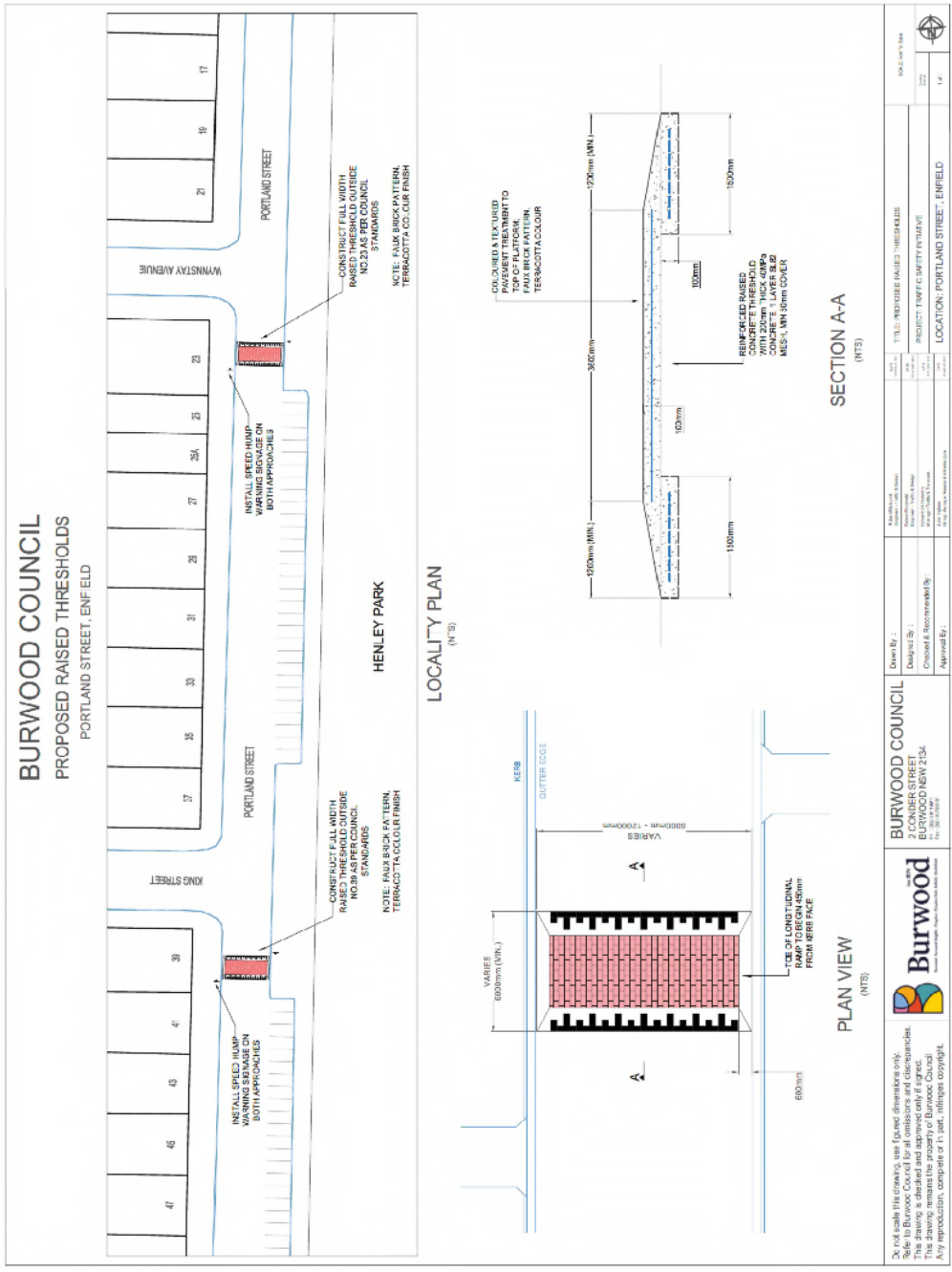
Even though these numbers don't appear to be excessive and are fairly consistent for a local 50km/h road, the concern is with the number of vehicles traveling above the sign posted speed limit in the vicinity of Henley Park which includes children's playground and sporting fields.

Between Shelley Street and Mina Rosa Street where there is a raised pedestrian crossing, the traffic data shows a compliance rate of 99%. This means that 99% of vehicles are traveling at or below the posted speed limit. However, between Wynnstay Avenue and Mitchell Street, where there are currently no traffic calming devices, the compliance rates drop to 79% meaning that 21% of vehicles are traveling over the sign posted limit. This confirms that the existing raised pedestrian crossing is effective in slowing down vehicle speeds.

In terms of accident history, a review of historical crash data shows that there have been no recorded accidents in Queen Street between Ivanhoe Road and Croydon Road in the last five-year period.

Proposal

Given the above results and thorough analysis, Council is proposing to construct two raised concrete thresholds outside properties No.23 and No.39 Portland Street. Refer to the concept plan below.



Multiple devices were considered for this location that included rubber speed cushions, concrete chicanes, and an asphalt speed humps however after careful consideration, the raised concrete threshold was preferred due to its effectiveness, sturdy construction and durability and will complement the existing raised pedestrian crossing within the street.

The introduction of these raised concrete thresholds will not result in any loss of on-street parking but more importantly will work to ensure that motorists adhere the sign posted speed limit and a thus create a safer road environment for all road users.

Consultation

All residents directly affected by the proposal in Portland Street were notified through a hand delivered survey package which included a letter, a copy of the concept plan and a survey with the option of providing feedback on the proposal. Two response were received, one of which was in support of the threshold near #39 however recommended the threshold near #23 be relocated just north of the intersection at Mitchell Street, and the other which was against the threshold at #23 due to the noise associated with vehicles traveling over the raised thresholds.

Financial Implications

The cost of installing two new raised concrete thresholds with all associated signs and line marking is estimated to cost \$50,000. This will be funded from the Traffic Facilities Budget – 2021/22.

Recommendation

That Council approve the construction of two new raised concrete thresholds with all associated signs and line marking outside No.23 and No.39 Portland Street, Enfield, as per the plan in the report.

Attachments

There are no attachments for this report.

(ITEM LTC23/21) BURWOOD ROAD, CROYDON PARK - PROPOSED CONCRETE SPEED CUSHION

File No: 21/38129

REPORT BY ENGINEER TRAFFIC & DESIGN

Summary

Council staff have identified the need to consider the installation of a concrete speed cushion on Burwood Road, Croydon Park, in order to assist with sight line issues facing cyclists on the Cooks River Cycleway trying to cross Burwood Road.

Background

Burwood Road runs in a north-south direction and is classified a regional road, meaning that it carries a high vehicle capacity that serves to move traffic to local streets. The section just north of the Fifth Avenue Bridge has a two-lane two-way traffic configuration and includes a bicycle crossing facility to assist cyclists using the Cooks River Cycleway navigate Burwood Road.

As part of the recent gateway signage project constructed in Flockhart Park (which falls adjacent to the bicycle crossing facility on Burwood Road), Council's technical staff undertook a road safety audit along Burwood Road to ensure that any areas of risk that could lead to potential road accidents are eliminated.

The audit raised some concerns with sight lines for cyclists traveling east along the Cooks River Cycleway, more specifically for cyclists looking south on the approach to Burwood Road. The newly constructed vertical wall obstructs the views for cyclists increasing the risk of potential conflict with north bound vehicles.

It should be noted that a raised concrete threshold currently exists within the southbound travel lane to provide additional protection for cyclists by slowing down this traffic.



AERIAL MAP OF BURWOOD ROAD SHOWING SIGHT LINE ISSUE FOR CYCLISTS

Proposal

Following the in depth analysis of the site from a traffic and road safety perspective, Council proposes to install 1.8m wide Concrete Speed Cushion within the northbound travel lane, just south of the newly constructed gateway project. This treatment will assist in reducing traffic speeds and potential future conflicts between cyclists and vehicles.

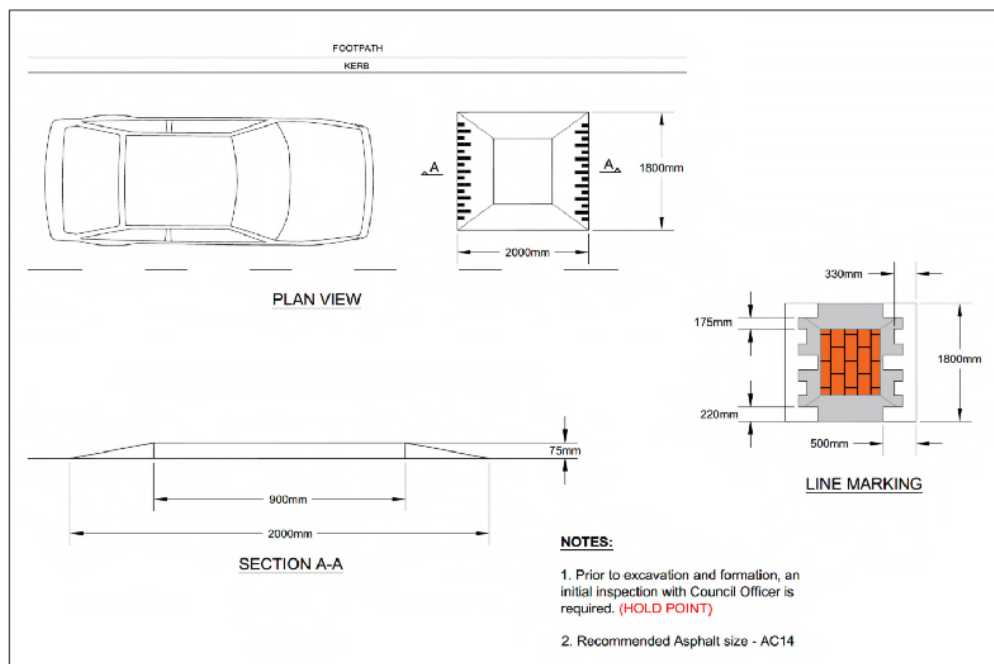
Multiple treatments were considered such as a rubber speed cushion and a permanent full length raised threshold however the concrete speed cushion was preferred due to its competitive price, quick construction, durability, minimal impact on bus services and overall effectiveness.

Furthermore, Council proposes to include some additional line marking on Burwood Road by introducing white edge lines. These edge lines will create a narrowing effect which will further assist in slowing traffic and will ultimately make the entire area safer for all road users.

See images and standard drawing below.



PROPOSED CONCRETE SPEED CUSHION



STANDARD CONCRETE SPEED CUSHION SPECIFICATION

Consultation

No Consultation has been undertaken. The proposal will not have a negative impact upon the community or residents and will only make the area safer for all road users.

Financial Implications

- Cost of installing a new '1.8m Wide Concrete Speed Cushion' – Approximately \$5,000.00 (Traffic Facilities Budget – 2021/2022).
- Cost of installing new 'Edge Lines' – Approximately \$500.00 (Traffic Facilities Budget – 2021/2022).

Recommendations

1. That Council approve the installation of a 1.8m wide Concrete Speed Cushion on Burwood Road, Croydon Park, as per the drawings in the report.
2. That Council approve the installation of the required E1 edge lines on Burwood Rd, Croydon Park, as per the drawings in the report.

Attachments

There are no attachments for this report.

(ITEM LTC24/21) WENTWORTH ROAD, BURWOOD - NO PARKING RESTRICTIONS

File No: 21/37834

REPORT BY MANAGER TRAFFIC & TRANSPORT

Summary

Concerns have been received regarding southbound traffic delays on weekdays along Wentworth Road approaching the signalised intersection of Railway Parade, Morwick Street and Wentworth Road Burwood, due to the lack of southbound lane capacity on approach to the traffic signals.

Background

Under current traffic conditions two southbound approach lanes are located in Wentworth Road between Railway Crescent and Railway Parade. Traffic flow is reduced to one southbound lane between Railway Crescent and Gladstone Street due to parking being permitted in the '4P 9.00am - 4.00pm Monday to Saturday' area on the eastern side of the road.

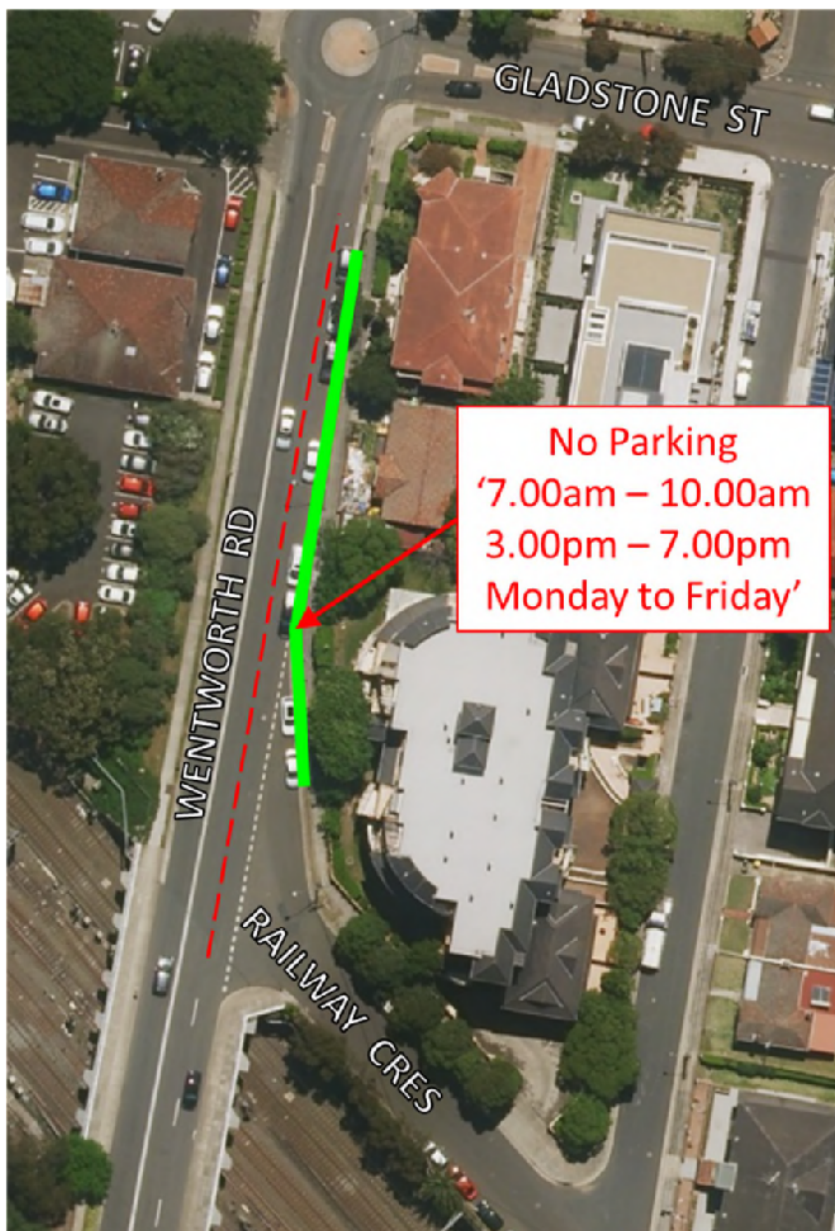
Traffic congestion occurs, in part, due to the on-street parking limiting southbound capacity to one lane. In March 2019 the Burwood Local Traffic Committee supported a report to install 'No Parking 4.00pm - 7.00pm, Monday to Friday' restrictions on the eastern side Wentworth Road, between Gladstone Street and Railway Parade, to improve traffic flow in the afternoons.

Proposal

It is proposed to extend the existing afternoon 'No Parking' restrictions on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent to include '7.00am – 10.00am and 3.00pm – 7.00pm Monday to Friday'. Between the hours of 10.00am and 3.00pm and outside of the proposed 'No Parking' times it is proposed to convert this area to unrestricted parking.

Under the Road Rules 'No Parking' restrictions permit motorists to stop their vehicle for up to two minutes provided the driver stays within three metres of the vehicle which allows for the pick-up or drop-off of passengers or goods.

A plan of the proposed parking changes is detailed below:



Consultation

Consultation has been undertaken via a mail out survey sent to residents of Wentworth Road and Gladstone Street. No responses were received.

Financial Implications

The estimated cost for the installation of new signage is \$300 and will be funded from the 2021/2022 Traffic Facilities Budget.

Recommendations

1. That Council approve the extension the existing afternoon 'No Parking' restrictions on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent to include '7.00am – 10.00am and 3.00pm – 7.00pm Monday to Friday'.
2. That Council approve the parking area on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent become unrestricted parking between the hours of 10.00am and 3.00pm Monday to Friday.

Attachments

There are no attachments for this report.

(ITEM LTC25/21) SHAFTESBURY ROAD, BURWOOD - CHANGES TO PARKING RESTRCITIONS

File No: 21/37860

REPORT BY MANAGER TRAFFIC & TRANSPORT

Summary

Concerns have been received regarding northbound traffic delays along Shaftesbury Road, on approach to the intersection at Parramatta Burwood, due to the lack of northbound lane capacity on approach to the traffic signals.

Background

Transport for NSW recently finished upgrades at the intersection of Parramatta Road and Shaftesbury Road which saw additional lanes added on both roads to improve traffic flow.

Under current traffic conditions two northbound approach lanes are located in Shaftesbury Road between Milton Street and Parramatta Road. Traffic flow is reduced to one northbound lane due to parking being permitted on the western side of Shaftesbury Road outside of the hours of 6.30am – 9.30am and 3.30pm – 6.30pm Monday to Friday and 6.30am – 12.30pm Saturday and all day Sunday. Between these times the kerbside parking lane is signposted as 'No Stopping' to ensure two uninterrupted traffic lanes.

Proposal

It is proposed to extend the existing 'No Stopping 6.30am – 9.30am 3.30pm – 6.30pm Mon – Fri 6.30am – 12.30pm Sat' restrictions to 'No Stopping' in order to ensure two northbound traffic lanes are available at all times.

A plan of the proposed parking changes is detailed below:



Consultation

Consultation has been undertaken via a mail out survey sent to residents of Shaftesbury Road. Seven surveys were sent out with only one responses received which was against the proposal. The resident advised that their family parks on Shaftesbury Road outside of the current 'No Stopping' times and assist with their mobility which will be impacted should their family have to park around the corner in Milton Street.

In order to address the concerns raised by the resident is proposed to modify the recommendation from extending the 'No Stopping' restrictions to the introduction of 'No Parking' restrictions within the same area. These 'No Parking' restrictions will still allow motorists to stop their vehicle for up to two minutes to facilitate the pick-up and drop-off of passengers and goods provided that the driver of the vehicle stays within three metres of the vehicle.

Financial Implications

The estimated to cost for the installation of new signage is \$300 and will be funded from the 2021/2022 Traffic Facilities Budget.

Recommendation

That Council approve the installation of 'No Parking' restrictions on the western side of Shaftesbury Road between Milton Street and Parramatta Road as per the plan in the report.

Attachments

There are no attachments for this report.

(ITEM LTC26/21) 31 WILGA STREET BURWOOD - PROPOSED NO PARKING RESTRICTIONS

File No: 21/37692

REPORT BY TRAFFIC ENGINEERING OFFICER

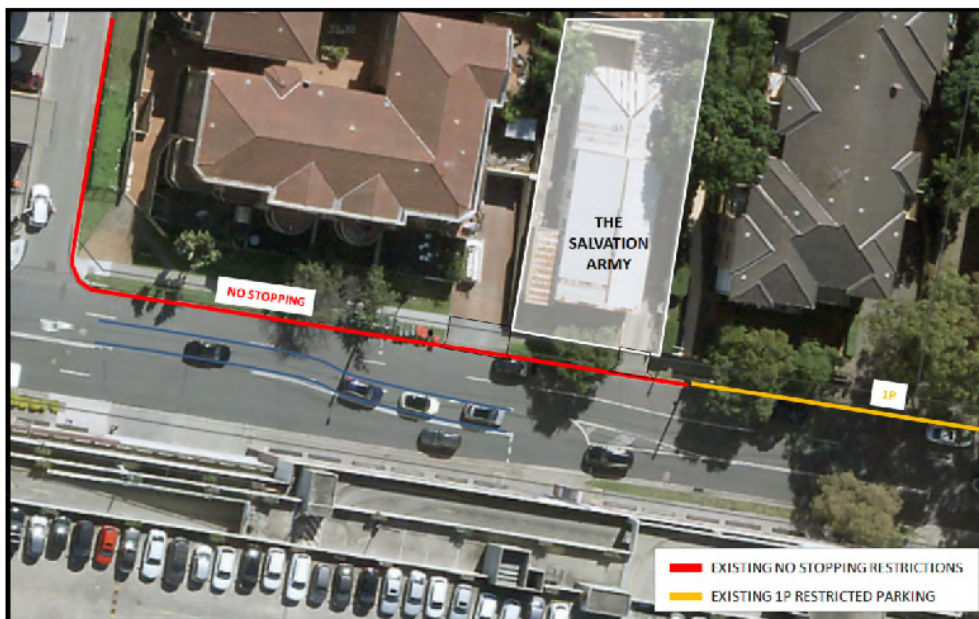
Summary

Council has received a request from The Salvation Army to implement a safe drop off and pick up zone fronting their property at 31 Wilga Street Burwood.

Background

Wilga Street is a local street which connects Burwood Road to Shaftesbury Road. Under existing traffic conditions, two eastbound lanes are provided in Wilga Street for the first 90 metres east of Burwood Road. The street has a combination of 40kph and 50kph speed limits and is highly used by local residents to access their properties as well as access and egress to Westfield's car park. The road has a carriageway of 11.0m and has a combination of 'No Parking', 'No Stopping' and '1P Parking' restrictions on the northern side with 'No Stopping' restrictions along the entire southern side.

Due to the current Covid-19 pandemic, The Salvation Army has seen an increase in patrons attending their business on Wilga Street. With the limited off-street parking spaces, The Salvation Army has requested Council to explore the opportunity to implement an on-street 'drop off and pick up zone' fronting their property. The requested area will be highly utilised by their elderly customers and community services throughout the week.

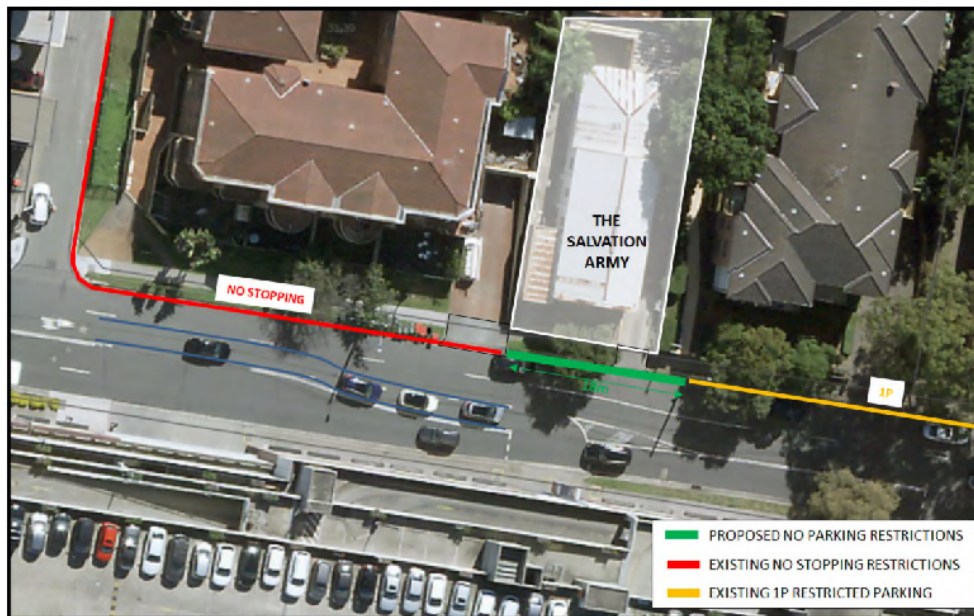


Wilga Street is commonly known to have an increase in vehicle congestion while entering and egressing Westfield on weekends and public holidays. Any proposed changes to on-street parking will need to be monitored to determine if vehicles will not impede the ability for vehicles to merge between the two east bound lanes.

Proposal

Following an in-depth investigation of the area, it is proposed to install 'No Parking' restrictions fronting The Salvation Army at 31 Wilga Street for a distance of 18m utilising the existing post.

The implementation of 2 on-street No Parking spaces will not create further congestion when utilised and will allow sufficient space for vehicles to merge between the two east bound lanes.



It should be noted that the 'No Parking' restrictions will still permit motorists to pull up for two minutes provided the driver stays within 3.0m of their vehicle but does not allow vehicles to be parked indefinitely.

Consultation

Consultation was not required as there is no loss to on-street parking spaces.

Financial Implications

The cost of modifying and installing signs is estimated to be \$400.00 and will be funded from the 2021/22 Traffic Facilities budget.

Recommendation

That Council approve the installation of 'No Parking' restrictions for a total length of 18m fronting 31 Wilga Street Burwood.

Attachments

There are no attachments for this report.



MINUTES OF THE MEETING OF THE BURWOOD LOCAL TRAFFIC COMMITTEE held electronically via Zoom on Thursday 2 September 2021 commencing at 9.30am.

ATTENDANCE Ms Maryanne Duggan, representing State Member for Strathfield
Mr Peter Whitney, Transit Systems

Mr George El Kazzi, Director City Assets
Mr John Inglese, Group Manager Assets and Infrastructure
Mr Roberto Di Federico, Manager Traffic and Transport

APOLOGIES

Cr John Faker (Mayor) Chairperson – Feedback on items provided via email prior to the meeting.
Snr Constable Germaine Grant, NSW Police Service – Feedback on items provided via email prior to the meeting.
Mr Shah Kshitij, Transport for NSW – Feedback on items provided via email prior to the meeting.

CONFIRMATION OF MINUTES

That the minutes of the Burwood Local Traffic Committee of Burwood July 2021, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

GENERAL BUSINESS

(ITEM LTC18/21) 2021-2022 AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM SUBMISSIONS

Summary

This is a report concerning the outcome of Council's submission of projects for the 2021-2022 Australian Government Black Spot Program.

COMMENTS

- TfNSW
The splitter island gap dimensions for both roundabouts should maintain minimum 2.0m width to provide protection to pedestrians who are using the devices as refuges when attempting to cross the street in two stages.

Council will aim to achieve the minimum 2.0m width at all locations provided that this does not impact the swept path of service vehicles.

- Burwood Mayor
Landscaping should be included in the design where possible such as within splitter island and kerb blisters.

Council staff will investigate options including landscaping on the four corners of the intersection of the grass verges.

MINUTES OF BURWOOD LOCAL TRAFFIC COMMITTEE MEETING 2 SEPTEMBER 2021

Recommendation

That Council approve the construction of the two successful Black Spot Program projects, as per the approved plans included in the report, including investigation into additional landscaping in the final designs.

(ITEM LTC19/21) CAR SHARE BAYS - VARIOUS LOCATIONS APPLIED FOR BY GOGET

Summary

GoGet has requested approval for an additional three dedicated car share bays to be installed throughout Burwood LGA in on-street locations to meet the demands of their members.

Recommendation

That Council approve the installation of three 'No Parking - Authorised Car Share Vehicles Excepted' in the following locations as shown on the plan in the report:

- Neich Parade, Burwood
- Waimea Street, Burwood
- Woodside Avenue, Burwood

(ITEM LTC20/21) CORONATION PARADE, ENFIELD - IMPROVEMENT TO PARKING LAYOUT AND RESTRICTIONS

Summary

As part of the Enfield Village Revitalisation Project, Council's technical staff have established the need to improve the current parking layout on Coronation Parade, Enfield. The improvement will include a new disabled parking space and realignment of the existing kerb line.

Recommendations

1. That Council approve the installation of a 'Disabled Parking' space with associated signage and line marking on the eastern side of Coronation Parade, Enfield, south of Liverpool Road.
2. That Council approve the construction of two concrete kerb ramps as outlined in Australian Standard 2890.5 Parking Facilities Part 5: On-street parking.
3. That Council approve the realignment of the existing kerb line in Coronation Parade, Enfield.
4. That Council approve the remaining on street parking on the eastern side of Coronation Parade be signposted as '1/2P 8.00am – 6.00pm Mon – Fri and 8.00am – 1.00pm Sat'.

(ITEM LTC21/21) GRANTHAM STREET BURWOOD - PROPOSED 2P PARKING RESTRICTIONS

Summary

Council has received requests from residents in Grantham Street to implement timed parking restrictions with a Resident Parking Scheme for residential properties within the street.

Recommendation

That Council approve the proposed installation of '2P - 8.00am – 6.00pm Monday to Friday and 8.00am – 12.30pm Saturday, Permit holders excepted Area 2' fronting #8 to #26A and #9 to #9A Grantham Street Burwood per the plan in the report.

MINUTES OF BURWOOD LOCAL TRAFFIC COMMITTEE MEETING 2 SEPTEMBER 2021

(ITEM LTC22/21) PORTLAND ST, ENFIELD - PROPOSED RAISED CONCRETE THRESHOLDS

Summary

Council undertook a review of traffic speeds within Portland Street, Enfield, following concerns raised by multiple residents. It has been suggested that investigations be undertaken with a view to install traffic calming devices to assist in reducing vehicle speeds.

COMMENTS

- TfNSW
Pedestrian fencing or landscaping on either side of the threshold to avoid the facility being misunderstood as a crossing by pedestrians.

Council will include landscaping on both sides of the street at each of the new thresholds which will keep in character with the surrounding area.

- Burwood Mayor
The height of the raised threshold should be reduced to 75mm as Portland Street is used regularly by school buses.

This was agreed to by all members.

Recommendations

1. That Council approve the construction of two new raised concrete thresholds with all associated signs and line marking outside No.23 and No.39 Portland Street, Enfield, as per the plan in the report, subject to the height of the thresholds reduced to 75mm above the road surface.
2. That Council approve landscaping on both sides of Portland Street at each of the raised thresholds to avoid the facilities being misunderstood as pedestrian crossings.

(ITEM LTC23/21) BURWOOD ROAD, CROYDON PARK - PROPOSED CONCRETE SPEED CUSHION

Summary

Council staff have identified the need to consider the installation of a concrete speed cushion on Burwood Road, Croydon Park, in order to assist with sight line issues facing cyclists on the Cooks River Cycleway trying to cross Burwood Road.

COMMENTS

- TfNSW
Additional speed hump warning and supplementary speed warning signs are required adjacent to the speed cushion.

This was agreed to by all members.

Recommendations

1. That Council approve the installation of a 1.8m wide Concrete Speed Cushion on Burwood Road, Croydon Park, as per the drawings in the report, including additional speed hump and speed warning signs.
2. That Council approve the installation of the required E1 edge lines on Burwood Rd, Croydon Park, as per the drawings in the report.

MINUTES OF BURWOOD LOCAL TRAFFIC COMMITTEE MEETING 2 SEPTEMBER 2021

(ITEM LTC24/21) WENTWORTH ROAD, BURWOOD - NO PARKING RESTRICTIONS

Summary

Concerns have been received regarding southbound traffic delays on weekdays along Wentworth Road approaching the signalised intersection of Railway Parade, Morwick Street and Wentworth Road Burwood, due to the lack of southbound lane capacity on approach to the traffic signals.

Recommendations

1. That Council approve the extension the existing afternoon 'No Parking' restrictions on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent to include '7.00am – 10.00am and 3.00pm – 7.00pm Monday to Friday'.
2. That Council approve the parking area on the eastern side of Wentworth Road between Gladstone Street and Railway Crescent become unrestricted parking between the hours of 10.00am and 3.00pm Monday to Friday.

(ITEM LTC25/21) SHAFTESBURY ROAD, BURWOOD - CHANGES TO PARKING RESTRCTIONS

Summary

Concerns have been received regarding northbound traffic delays along Shaftesbury Road, on approach to the intersection at Parramatta Burwood, due to the lack of northbound lane capacity on approach to the traffic signals.

Recommendation

That Council approve the installation of 'No Parking' restrictions on the western side of Shaftesbury Road between Milton Street and Parramatta Road as per the plan in the report.

(ITEM LTC26/21) 31 WILGA STREET BURWOOD - PROPOSED NO PARKING RESTRICTIONS

Summary

Council has received a request from The Salvation Army to implement a safe drop off and pick up zone fronting their property at 31 Wilga Street Burwood.

Recommendation

That Council approve the installation of 'No Parking' restrictions for a total length of 18m fronting 31 Wilga Street Burwood.

QUESTIONS WITHOUT NOTICE

The following Questions Without Notice were submitted at the Meeting:

Member for Strathfield

- *Does Council have any Electric Vehicle (EV) charging stations around Burwood? The NSW Government will soon be offering rebates for 25,000 newly purchased EVs which will likely see an uptake in EV's.*

Currently there are no EV charging stations within the Burwood LGA however this is being considered by Council's Strategic Planning team. Grant funding opportunities will be investigated.

This concluded the business of the meeting at 9.50am.

(ITEM IN20/21) ANSWERS TO QUESTIONS ON NOTICE

File No: 21/3786

REPORT BY DIRECTOR CORPORATE SERVICES

Summary

The following Questions on Notice (QoN) were submitted by Councillor Furneaux-Cook on 24 August 2021. Council Officers responded to the QoN and Councillors were notified on 7 and 21 September 2021 of the outcome of the QoN.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making.

This is now submitted as part of the Council Agenda for Public Notification:

Cr Lesley Furneaux-Cook**Question 1**

How and how often does council directly correspond with households regarding recycling, for example flyers in rate notices as per Canada Bay or stickers on bins?

Answer – Group Manager Environment & Waste

Council provides educational stickers for recycling bins to all residential properties in the LGA. We also offer the same message as the stickers on larger signs for apartment buildings bin areas.

Council recently completed direct education with eight of the larger apartment buildings within the Burwood Town Centre precinct. The program involved a review of the bin areas, the number of bins, the systems in place, i.e. chutes for general and, if recycling was on each floor or residents have to walk recycling to bin areas, a visual inspection of the recycling bin contents to determine the major contaminants or what residents were getting wrong (plastics are tricky). Educational signs were placed in the floor chute and recycling rooms on each floor.

Council also has a weekly social media waste/recycling message #wastetipwednesday that provides tips and advice on recycling at the kerbside through to how to correctly dispose of a 'problem waste' to reducing single use plastics etc.

Waste and sustainability also features in the quarterly printed council newsletters, directly letterboxed to all residential properties across the LGA.

The waste and recycling team work with strata managers, body corporates and building managers to provide recycling information to residents.

Question 2

How often does Burwood Youth Action Group (BYAG) meet and how can young people join in or become involved?

Answer – Director, Community Life

The Burwood Youth Advisory Group (BYAG) meets monthly, usually on the second Tuesday or Wednesday evening of the month depending on the best availability of members. Under normal circumstances face-to-face meetings are held at the Burwood Library and Community Hub. During the current lockdown meetings have continued to be held monthly via Zoom.

To be eligible to join BYAG, you need to be aged between 12-24 years and either live, work or study in the Burwood LGA. Young people can join or become involved at any time by emailing youth@burwood.nsw.gov.au to express their interest.

Following any expressions of interest, the Council Officer responsible for supporting the BYAG arranges either a face-to-face or phone meeting with the young person and/or their parents to provide them with more information about BYAG, including ongoing training and development opportunities. After the meeting with the young person, if they remain interested in joining BYAG, they are required to complete the BYAG registration form and seek parental/guardian consent where applicable depending on their age.

No Decision – Information Item Only

Attachments

There are no attachments for this report.

**(ITEM IN21/21) POWER OF ATTORNEY FOR THE GENERAL MANAGER -
REPORT FOR PERIOD OF JUNE TO AUGUST 2021**

File No: 21/42331

REPORT BY GENERAL MANAGER

Summary

At the Council Meeting of 28 May 2019, Council resolved to delegate to Tommaso Briscese a general Power of Attorney.

The resolution included a request for a report to Council every three months on all documents signed under the general Power of Attorney.

Council notes that the following document was signed under Power of Attorney between June and August 2021:

- Draft Voluntary Planning Agreement for 105-115 Liverpool Road, Burwood. Item 5/21.

Operational Plan Objective

2.1.3 Ensure transparent and accountability in decision making

No Decision – Information Item Only**Attachments**

There are no attachments for this report.