

Burwood Council

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POLICY - CARRYING OUT BONUS DEVELOPMENT IN THE PUBLIC INTEREST

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Table of Contents

1.	Purpose.....	3
Part A		3
2.	Where does this policy apply?	3
3.	How does this policy work?.....	5
4.	What is bonus development and the extent of bonus?	5
5.	What is the public interest requirement?.....	5
6.	What matters will be considered in meeting the public interest requirement?.....	6
7.	What is the amount of a monetary contribution or the value of another offer?	6
8.	What matters are excluded from the public interest requirement?	7
9.	What is the relationship to developer contributions?.....	7
10.	What is the planning framework?.....	7
11.	What can be expected in the development assessment stage?	8
PART B		9
1.	Where does this policy apply?	9
2.	How do the bonus provisions work?	9
3.	What is satisfactory community infrastructure?	9
4.	What is the amount of a monetary contribution or the value of another offer?	10
5.	What land is excluded?	10
6.	What is the relationship to the contributions plan?.....	10
7.	What can be expected in the development assessment stage?	10
Related Documents		12

1. Purpose

This policy provides guidance on:

- **Part A** - carrying out bonus development in the public interest in certain commercial centre areas of the Burwood Local Government Area (LGA) under this policy
- **Part B** - carrying out bonus development in the Middle Ring and Commercial Core areas of the Burwood Town Centre under the provisions of the *Burwood Local Environmental Plan (BLEP) 2012*

The policy informs developers or applicants where and how bonus development may be approved. It also informs Council Officers and experts appointed by Council who will assess the Development Application (DA) and/or the Section 4.55 Modification Application (s4.55), which involve bonus development in the public interest.

Part A

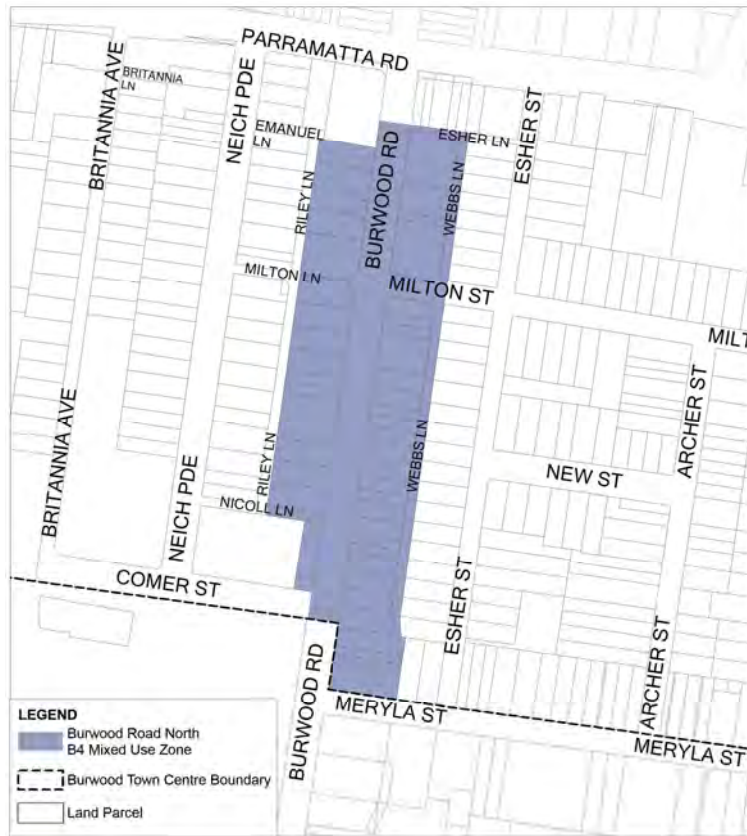
1. Where does this policy apply?

This part of the policy provides guidance on how bonus development may be carried out in the commercial centres shown on Maps 1, 2, 3 and 4 below being:

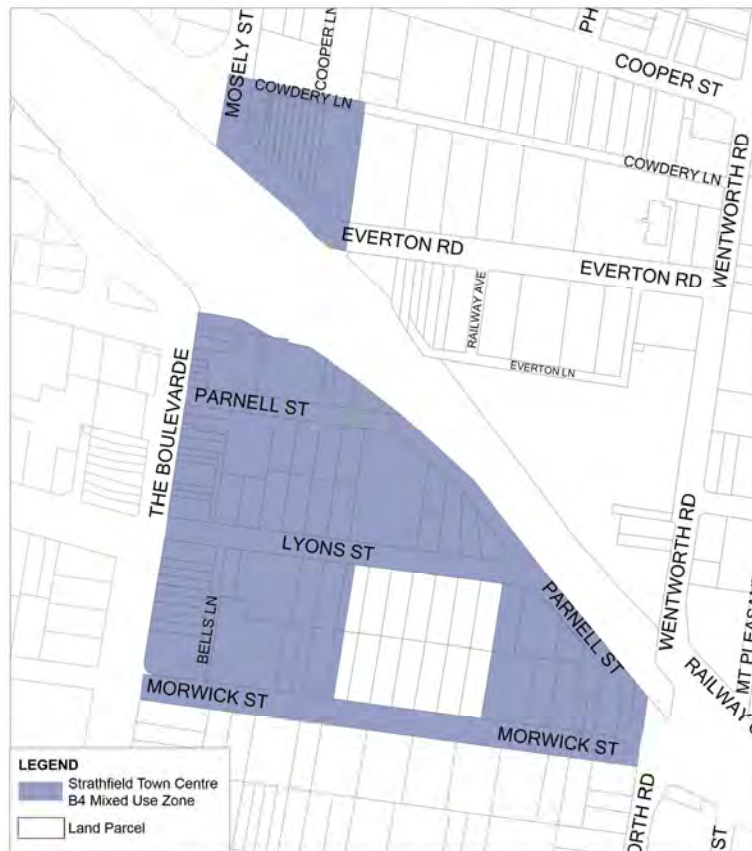
1. The Perimeter and Transition areas of the Burwood Town Centre as delineated in Figure 2(a) in Section 3.3.2 of the Burwood Development Control Plan (BDCP) 2013.
2. Land included in the B4 Mixed Use zone in Burwood Road North in the BLEP 2012
3. Land included in the B4 zone in the Strathfield Town Centre in the BLEP 2012
4. Land included in the B2 Local Centre zone on the northern side of Liverpool Road Burwood and Strathfield in the BLEP 2012



Map 1



Map 2



Map 3



Map 4

2. How does this policy work?

In these centres Council must be satisfied at its discretion before development consent can be granted that the bonus development is carried out in the public interest and will help meet the demand for open space, community facilities or other public infrastructure within the Burwood Local Government Area (LGA). Sections 4 and 5 below provide more details on the Public Interest Requirement.

3. What is bonus development and the extent of bonus?

In these centres bonus development refers to development involving additional floor space, which results in the Floor Space Ratio (FSR) of the entire development being over and above the maximum FSR and/or the maximum Residential FSR stipulated for the site in the BLEP 2012.

The maximum FSR bonus that may be accepted in these centres is 10% of the applicable maximum FSR development standards in the BLEP. The floor space resulting from the bonus may fully apply to the residential component of a development.

For example, the maximum FSR for a site within the B4 Mixed Use zone area in North Burwood Road is 3:1, and the maximum Residential FSR for the site is 2.7:1, under the current BLEP 2012. The former may be increased to a maximum of 3.3:1 under this policy. Assuming the whole of the additional floor space is used for residential purposes, the maximum Residential FSR may be increased to a maximum of 2.97:1.

4. What is the Public Interest Requirement?

Council commissioned Cred Community Planning and Hill PDA to undertake an Open Space and Community Facilities Study in 2014 (the Study). It is stated in the Study that the following will be in demand by 2031:

Open Space and Parks

- An additional open space of 165,055m²
- Quality over quantity
- Green open space, especially in the north of the Burwood LGA
- Places for informal recreation and social gatherings
- Shaded seating, tables and games which make "parks as living rooms"
- Exercise equipment for older people
- Adventure play grounds for a range of age groups
- Multipurpose courts and fields over single purpose

Community Facilities

- An additional floor space of 2,169m² for community facilities
- Small meeting rooms
- 405 child care places
- Two community gallery or exhibition spaces
- One creative arts space
- Multipurpose and flexible facilities
- One youth space and one seniors space which can be within multipurpose facilities
- Space in Burwood Park to support events
- Facilities especially in the south of the LGA
- Additional office space for public purposes

Council must be satisfied that the bonus development is carried out in the public interest and will help meet the demand for open space and community facilities within the Burwood LGA as identified in the Study.

5. What matters will be considered in meeting the Public Interest Requirement?

The public interest is met, if the developer voluntarily offers to:

- dedicate land free of costs; or
- pay a monetary contribution to Council; or
- provide any other public benefit; or
- any combination of the above

to be used for or applied towards a public purpose.

6. What is the amount of a monetary contribution or the value of another offer?

Where a developer voluntarily offers a monetary contribution, the amount of the contribution is determined by the dollar rate per square metre of Gross Floor Area (GFA) that is approved as additional development pursuant to this policy.

The dollar rate per square metre for bonus development in each of the areas on Maps 1-4 will be determined from time to time by Council resolutions. Council's Schedule of Fees and Charges will

be updated when required to incorporate the rates determined by Council. See http://www.burwood.nsw.gov.au/fees_and_charges.html.

Where a developer voluntarily offers the dedication of land, any other public benefit or a combination of offers, Council will require reliable information on the cost and value of the offer(s) to meet the Public Interest Requirement. The DA/s4.55 is to include supporting cost and valuation reports by a registered quantity surveyor and a registered valuer.

Council may seek the services of independent qualified persons to verify such cost and value reports. In these cases, all costs associated with obtaining such advice will be at the expense of the developer.

Determination as to whether the Public Interest Requirement is met will be at the absolute discretion of Council.

7. What matters are excluded from the Public Interest Requirement?

Land identified for acquisition for road widening in the BLEP 2012 generally will not be considered to have satisfied the Public Interest Requirement. Consideration may however be given to an entire land parcel that is identified for local open space acquisition in the BLEP 2012.

Section 3.9 of the Burwood Development Control Plan (BDCP) requires open spaces, forecourts and pedestrian links to be provided at certain locations within the Burwood Town Centre in conjunction with approved development. These are to be made available for public use. Compliance with these public domain provisions does not satisfy the Public Interest Requirement for the purposes of this policy and does not entitle the developer to any bonus floor space. This is because compliance usually does not result in any loss of development potential on the site and because the BDCP went through public exhibition and adoption by Council before coming into force.

Provisions of open spaces and pedestrian links in conjunction with developments, additional to the BDCP public domain provisions, could be considered to satisfy the Public Interest Requirement.

8. What is the relationship to developer contributions?

The Public Interest Requirement to be provided in a bonus scheme is over and above the requirements of the Section 7.12 Contributions Plans for the Burwood Town Centre and the Burwood LGA excluding the Burwood Town Centre. Also the calculation of the Section 7.12 contribution will include floor space gained as bonus development.

9. What is the planning framework?

BLEP 2012

The BLEP 2012 is the statutory principal document that regulates development. It is supported by a series of maps, which sets out zoning, maximum height of buildings and maximum FSR.

Clause 4.4 - *Floor Space Ratio* sets out the maximum FSR for development which is shown in the FSR map.

Clause 4.4A - *Exceptions to Floor Space Ratio* sets out the maximum FSR for the purpose of residential accommodation (the maximum Residential FSR) and for serviced apartments by areas that are delineated in the FSR map. It also sets out maximum FSR for bonus development (see Part B below).

Clause 4.6 - *Exceptions to development standards* provides a degree of flexibility in applying certain development standards to particular development. In all cases where an applicant is

seeking approval of a departure from a development standard involving bonus FSR, the applicant must make a written request that justify the contravention of a development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.

The consent authority must not grant approval to the variation of the development standard unless it is satisfied that these matters have been demonstrated and that the proposed development is consistent with the objectives of the particular standard and the objectives for the zone. This requirement applies in conjunction with bonus development considerations and compliance with the Public Interest Requirement.

Clause 6.5 - *Design excellence in zones B2 Local Centre and B4 Mixed Use* aims to deliver in the Burwood Town Centre and other centres in the Burwood LGA the highest standard of architectural, landscape and urban design for development involving the erection of a new building of 3 or more storeys on land in Zone B2 Local Centre or Zone B4 Mixed Use.

BDCP

The BDCP supports the controls set out in the BLEP 2012 with detailed development controls to achieve the vision for the Burwood Town Centre and other centres covered by this policy.

Section 7.12 Contributions Plan for the Burwood LGA (excluding the Burwood Town Centre)

This Plan imposes a flat levy on the cost of development of up to 1%, the rate depending on the type and scale of development. Contributions received will be spent by Council on the provision, augmentation or improvement of the local infrastructure specified in the Works Schedule of the Plan.

Section 7.12 Contributions Plan for the Burwood Town Centre

This Plan imposes a 4% flat levy on the cost of development where it exceeds \$250,000. Contributions received will be spent by Council on the provision, augmentation or improvement of the local infrastructure specified in the Works Schedule of the Plan.

10. What can be expected in the development assessment stage?

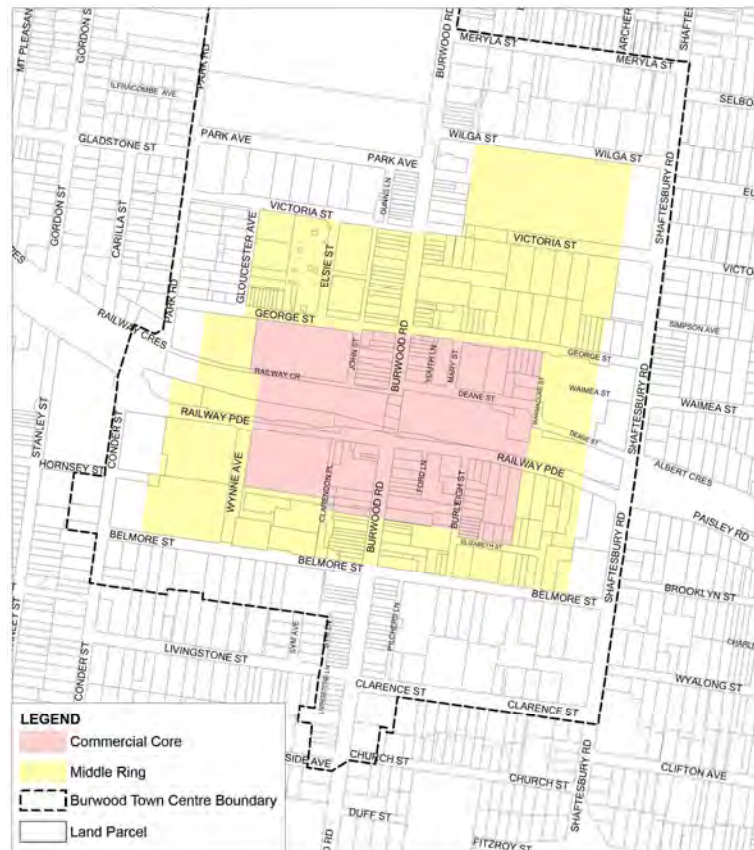
The DA/s4.55 will be referred to independent planning, urban design, and possibly valuation and economic consultants, for assessment for probity reasons. The proposed development, including any bonus floor space, which could result in up to an additional 10% of the maximum total FSR, must be able to stand on design and planning merits before approval of the DA/s4.55 can be recommended. It is not sufficient justification for bonus floor space over and above the controls of the BLEP 2012 to rely only on a “public interest” contribution or benefit for approval.

PART B

1. Where does this policy apply?

This part of the policy provides guidance on how Council may be satisfied that a development will provide community infrastructure in the Commercial Core and Middle Ring areas of the BTC.

The Commercial Core and Middle Ring areas (shown on Map 5 below) are the same as Area 1 and Area 2 referred to in Clause 4.4A *Exceptions to floor space ratio* of the Burwood Local Environmental Plan (BLEP) 2012 and are delineated in the Floor Space Ratio Map of the BLEP 2012.



Map 5

2. How do the bonus provisions work?

In these areas bonus development may be approved by Council under Clause 4.4A (5) provided compliance is achieved with the maximum FSR development standards in that Clause. In addition Council must be satisfied before development consent is granted that the requirements of Clause 4.4A (6) and (9) of the BLEP 2012 for the provision of community infrastructure have been met.

N.B. Council cannot approve exceedances of the maximum FSR development standards in Clause 4.4A (5). These are mandatory maximum development standards.

3. What is satisfactory community infrastructure?

Under this policy, Council may determine at its absolute discretion that subclauses (6) and (9) of Clause 4.4A have been satisfied for a development having regard to whether:

- Community infrastructure of the kind(s) specified in subclause (9) of Clause 4.4A is provided on site as part of the development or on another site within the Burwood Town Centre free of

cost to Council. Also that infrastructure has to be assessed as appropriate for the Burwood Town Centre, taking into account the nature of the community infrastructure and its value to the community working or residing in the Burwood Town Centre or

- Land is dedicated free of cost to Council for the provision of community infrastructure within the Burwood Town Centre of the kind(s) specified in subclause (9) of Clause 4.4A. Also that land has been assessed and determined as appropriate for the Burwood Town Centre, taking into account the nature of the community infrastructure and its value to the community working or residing in the Burwood Town Centre or
- Any combination of the above or
- A monetary contribution is voluntarily offered to and accepted by Council for the provision of community infrastructure within the Burwood Town Centre of the kind(s) specified in subclause (9) of Clause 4.4A

4. What is the amount of a monetary contribution or the value of another offer?

Where a monetary contribution is offered, the amount will be determined in accordance with the dollar rate per square metre of GFA that is approved as additional development under BLEP Clause 4.4A(5). The dollar rate per square metre for bonus development in the Commercial Core and Middle Ring areas will be determined from time to time by Council resolutions. Council's Schedule of Fees and Charges will be updated periodically to incorporate the rates determined by Council. See http://www.burwood.nsw.gov.au/fees_and_charges.html

The community infrastructure for which received monetary contributions will be expended are those listed in the Schedule of Works for the Section 7.12 Plan for the Burwood Town Centre, provided those works comply with the meaning of community infrastructure in subclause (9) of Clause 4.4A of the BLEP 2012, and the community infrastructure is of value to the community working or residing in the Burwood Town Centre.

Where community infrastructure is offered in kind or by dedication of land, Council will require the DA/s4.55 to include reliable information on the cost and value of the offer(s), where necessary supported by cost and valuation reports by a registered quantity surveyor and a registered valuer.

Council may seek the services of independent qualified persons to verify such cost and value reports. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant.

5. What land is excluded?

Where land is offered for dedication under BLEP Clause 4.4A (6) the following is excluded:

- land designated for acquisition (eg. road widening) under the BLEP 2012
- land referred to in the Burwood Development Control Plan Section 3.9 Public Domain and Amenity

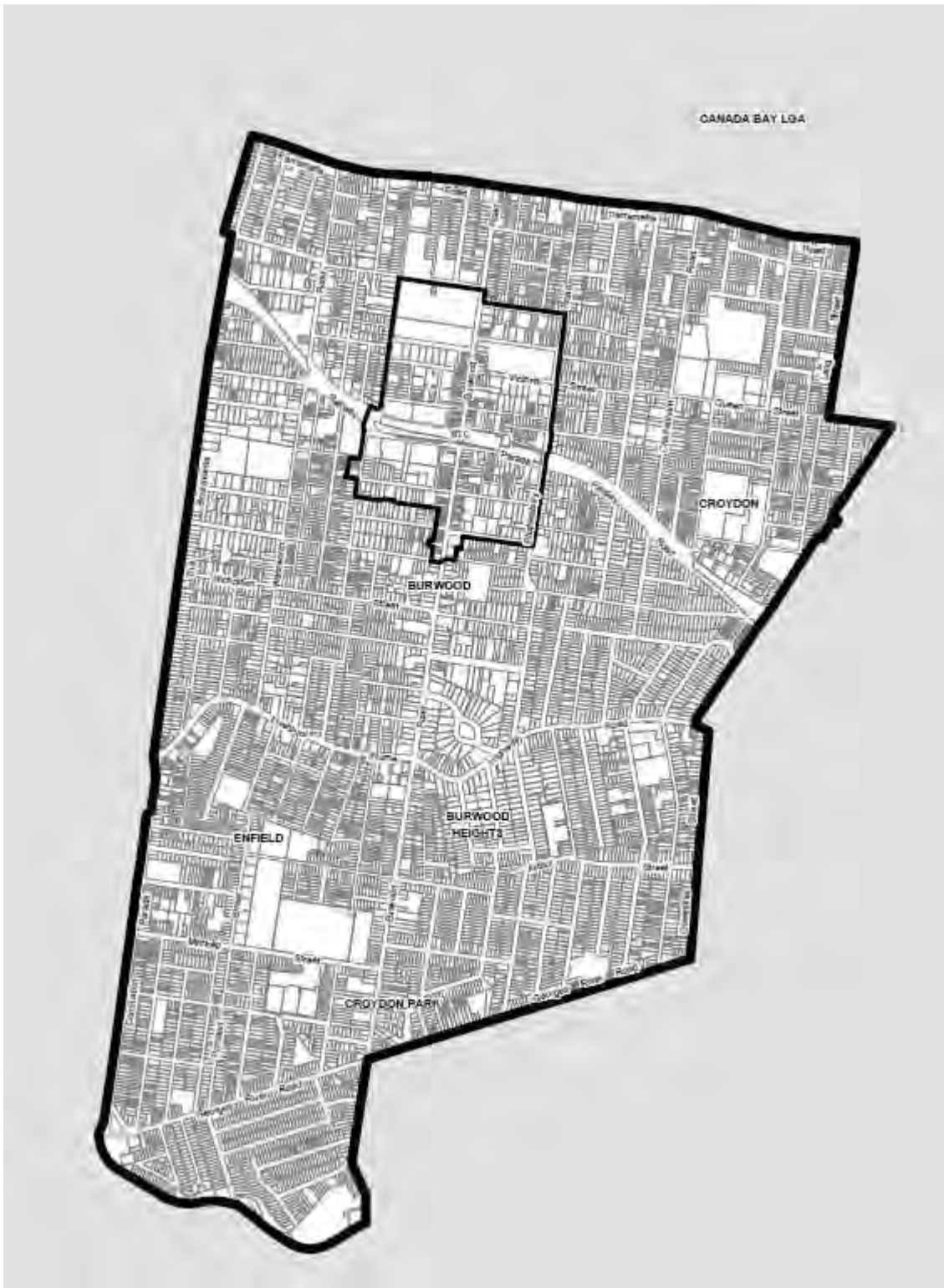
6. What is the relationship to the contributions plan?

Compliance with BLEP Clause 4.4A (6) is over and above the requirements of the Section 7.12 Contributions Plan for the Burwood Town Centre. Also the calculation of the Section 7.12 contribution will include floor space gained as bonus development.

7. What can be expected in the development assessment stage?

The DA/s4.55 will be referred to independent planning, urban design, and possibly valuation and economic consultants, for assessment for probity reasons. The proposed development, including

any bonus floor space, must be able to stand on design and planning merits before approval of the DA/s4.55 can be recommended. It is not sufficient justification for bonus floor space over and above the controls of the BLEP 2012 to rely only on a “public interest” contribution or benefit for approval.



Map 6

Related Documents

- Burwood Local Environmental Plan 2012
- Burwood Development Control Plan
- Section 7.12 Contributions Plan for the Burwood Town Centre
- Section 7.12 Contributions Plan for the Burwood LGA (excluding the Burwood Town Centre)

Review

This policy will be reviewed no later than every four years.

Contact

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