



New South Wales

## Burwood Local Environmental Plan No 35

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (R97/00047/S69)

ANDREW REFSHAUGE, M.P.,  
Minister for Planning

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## **Burwood Local Environmental Plan No 35**

### **1 Name of plan**

This plan is *Burwood Local Environmental Plan No 35*.

### **2 Aims of plan**

This plan aims to:

- (a) establish new planning controls and rationalise existing planning controls to provide for an overall increase in potential housing stock and for the development of a wider choice of housing forms, and
- (b) ensure that good urban design is a feature of all new development commensurate with the overall character of the local government area of Burwood, and
- (c) ensure opportunities for an increase in housing stock in “streetscape” Conservation Areas whilst maintaining the integrity and significance of Conservation Areas throughout the area, and
- (d) facilitate the preparation of a development control plan to provide greater flexibility by omitting certain development standards from the *Burwood Planning Scheme Ordinance*, and
- (e) permit residential development of certain land reserved for local road widening, and
- (f) permit mixed development in the Business Special Zone and to increase the floor space ratio permissible in this zone to accommodate this type of development, and
- (g) provide greater certainty for developers by including height limit as a development standard in the *Burwood Planning Scheme Ordinance*.

### **3 Land to which plan applies**

This plan applies to all land within Burwood Council’s area.

### **4 Amendment of Burwood Planning Scheme Ordinance**

The *Burwood Planning Scheme Ordinance* is amended as set out in Schedule 1.

## **Schedule 1 Amendments**

(Clause 4)

### **[1] Clause 4 Interpretation**

Omit the definition of *storey* in clause 4 (1). Insert instead:

*storey* means any floor used or capable of being used as a dwelling or commercial premises other than:

- (a) a floor used principally for storage, or
- (b) a floor used wholly or partly for parking substantially below natural ground level.

### **[2] Clause 9A**

Insert after clause 9:

#### **9A Local road widening reservations**

- (1) This clause applies to land consisting of a site partly reserved for the purpose of widening existing local roads with the remainder of the site within Zone No 2 (a), 2 (b1), 2 (b2), 2 (c1) or 2 (c2).
- (2) The Council may consent to the carrying out of development on land to which this clause applies for any purpose for which development may be carried out either with or without development consent in the residential zone affecting part of the site.
- (3) This clause has effect despite clause 9 but does not apply to land fronting Marmaduke Street, George Street west of Marmaduke Street, or Deane Street west of Marmaduke Street, Burwood.

### **[3] Clause 24**

Insert “; mixed development” after “industries referred to in Schedule 4” in Column IV of the matter relating to Zone No 3 (b) in the Table to clause 24.

**[4] Clause 53A**

Insert after clause 53:

**53A Dual occupancy development**

- (1) This clause applies to all land including conservation areas.
- (2) A person may, with the consent of the Council:
  - (a) alter or add to a two storey dwelling-house already erected on an allotment so as to create 2 attached dwellings, or
  - (b) alter or add to a single storey dwelling-house already erected on an allotment so as to create 2 single storey attached dwellings, or
  - (c) erect 2 single storey attached dwellings on an allotment, or
  - (d) erect 2 detached dwelling-houses on an allotment where the dwelling at the front of the allotment is 2 storeys and the dwelling at the rear is single storey, or
  - (e) erect a single storey dwelling-house at the rear of an existing 2 storey dwelling already erected on the allotment, or
  - (f) erect a dwelling-house and alter or add to a building other than a dwelling-house, erected on an allotment, so as to create 2 dwelling-houses, not exceeding one storey in height,  
if, but only if, not more than two dwellings will be on the allotment after the development has been carried out.
- (3) The Council shall not consent to an application made for consent to carry out development in accordance with this clause unless:
  - (a) in a case where the development will result in the creation of two attached dwellings—the area of the allotment on which the dwellings will be situated is not less than 500 square metres, or
  - (b) in a case where the development will result in 2 detached dwelling-houses—the area of the allotment on which the dwelling-houses will be situated is not less than 600 square metres.

- (4) The Council may refuse consent to an application made for consent to carry out development in accordance with this clause unless, in the case of development that will result in 2 detached dwelling-houses on land fronting a major arterial road, vehicular access is provided by way of an adjacent local road (where possible) or by way of a consolidated driveway.
- (5) Consent must not be granted to development allowed by this clause in respect of land that, because of its special streetscape, is a conservation area (within the meaning of clause 79A or Part 7A) unless the Council is satisfied that adequate regard has been had to such matters required to be taken into account by clauses 79A, 79C, 79D and 79E as are relevant to the proposal.
- (6) The Council shall not grant a consent referred to in subclause (5) unless it has taken into consideration a heritage impact statement, being a statement that describes:
  - (a) the impact that the proposed development the subject of the application for consent is likely to have on the heritage significance of the building, structure, heritage item or conservation area concerned, and
  - (b) any measures proposed to mitigate any adverse aspects of that impact.
- (7) The provisions of subclauses (5) and (6) prevail over all other provisions of this plan, whether or not there is any direct or indirect inconsistency between subclauses (5) and (6) and the other provisions.

**[5] Clause 55 Floor space ratio**

Omit clause 55 (2) and (4).

**[6] Clause 55 (3)**

Omit the Table to clause 55 (3). Insert instead:

**Table**

<b>Column I</b>	<b>Column II</b>
Zone No 2 (b1)	0.4:1
Zone No 2 (b2)	0.55:1

## 2002 No 231

Burwood Local Environmental Plan No 35

Schedule 1      Amendments

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Zone No 2 (c1)	0.75:1
Zones Nos 2 (c2), 3 (d), 4 (b)	1:1
Zones Nos 3 (a), 3 (b), 3 (c3)	1.5:1
Zones Nos 3 (c1), 3 (c2)	2:1

### [7] Clause 56A

Insert after clause 56:

#### 56A Height of buildings in Zones Nos 2 (b1), 2 (b2), 2 (c1), 2 (c2) and 3 (a)

The Council must not consent to the erection of a building on land within a zone shown in Column I of the Table to this clause that exceeds the height shown in Column II of that Table.

#### Table

Column I	Column II
Zone	Maximum height of buildings in storeys
2 (b1)	2
2 (b2)	2
2 (c1)	3
2 (c2)	8
3 (a)	4

**[8] Clause 58A**

Insert after clause 58:

**58A Mixed development in Zone No 3 (b)**

Mixed development shall not be carried out on land within Zone No 3 (b) if:

- (a) the total floor space that is to be used for dwellings, dwelling-houses or residential flat buildings will exceed 50% of the total floor space of the building or buildings erected or to be erected on the land concerned, or
- (b) the height of any building on the land will exceed 4 storeys at the street alignment or 5 storeys elsewhere.

**[9] Clause 66 Residential flat buildings—standards**

Omit “305” wherever occurring in Column II of the matter relating to Zone No 2 (b1) in the Table to the clause.

Insert instead “250”.

**[10] Clause 66, Table**

Omit “140” wherever occurring in Column III of the matter relating to Zone No 2 (b1).

Insert instead “125”.

**[11] Clause 67 Residential flat buildings in Zone No 2 (b2), 2 (c1) or 2 (c2)**

Omit the clause (which imposes minimum frontages and site areas for residential flat buildings in Zones Nos 2 (b2), 2 (c1) and 2 (c2) fronting a main or county road).

**[12] Clause 68 Parking spaces**

Omit the clause.

**[13] Clause 69 Setbacks**

Omit the clause.

2002 No 231

Burwood Local Environmental Plan No 35

**[14] Clause 70 Residential flat buildings within Zone No 2 (b1) or 2 (b2)**

Omit the clause.

BY AUTHORITY