

Appendix B: Assessment of the Bayside LEP 2020 Land use table

Each table below highlights changes to the land uses from the Legacy LEPs under the Bayside LEP 2020. Not all land uses are listed, only the changes in land use permissibility are discussed. Therefore, this information should be read in conjunction with the Land Use Matrix which has been submitted with this planning proposal (**Attachment A6**). Council has also provided a land use justification matrix which justifies each land use amendment under this planning proposal (**Attachment A5**)

B1.1 Zone RU4 Primary Production Small Lots

LEP	Rockdale LEP 2011 – RU4		Botany Bay LEP 2013 – RU4	
Bayside LEP 2020	Objectives: No Change		Zone not included in Botany Bay LEP 2013.	
	Propose to now be permitted with consent: Roads (from permitted without consent)	Propose to now be prohibited: No change	Propose to now be permitted with consent: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.	Propose to now be prohibited: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.

Council Justification

- Roads are mandated as either (i) permitted with consent; or (ii) without consent in the standard instrument in the zone. As roads can introduce impacts on both private and government agency/council owned land, they are proposed to be changed to require consent in this zone. Council needs to determine road locations and planning impacts in order to have greater autonomy over land use planning decisions for this use.

Department Comments

The proposed RU4 Primary Production Small Lots zone for the Bayside LEP 2020 is considered satisfactory, because:

- The addition of roads as an additional permitted use is considered acceptable as this will allow Council to adequately assess any environmental impacts from proposed road construction within the zone.
- No issues were identified with the proposed inclusion of the RU4 Primary Production Small Lots in the Bayside LEP 2020. This zone will still be applied consistently with the existing zoning from the Rockdale LEP 2011.

B1.2 Zone R2 Low Density Residential

LEP	Rockdale LEP 2011 – R2 zone		Botany Bay LEP 2013 – R2 zone	
Bayside LEP 2020	Objectives Retain the existing local objective and introduces a new local objective, being: <i>To enable residential development in accessible locations so as to maximise public transport patronage and to encourage walking and cycling.</i> No change is proposed to the existing mandated objectives.		Objectives: Replace the single local objective and adds the local objectives (quoted left) and a new local objective carried over from the Rockdale LEP 2011. <i>To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.</i> No change is proposed to the existing mandated objectives.	
	Propose to now be permitted with consent: - Home-based childcare (to be permitted without consent) - Home business (from permitted without consent) - Home industry (from permitted without consent) - Bed and breakfast accommodation - Neighbourhood shops - Roads (from permitted without consent) - Business identification signage	Propose to now be prohibited: Exhibition village	Propose to now be permitted with consent: - Dual occupancy - Hostels - Secondary dwellings - Seniors housing - Home business - Home industry - Water supply system (including all uses under this group term) - Education establishments - Schools - Exhibition homes	Propose to now be prohibited: - Multi-dwelling housing - Residential flat buildings - Office premises - hospitals

Council Justification

Council considers that the R2 Low Density Residential (R2) zone is intended to accommodate low density residential housing and ancillary land uses. Council states some of the predominant land uses within this zone include single and double storey dwelling houses, and dual occupancies (attached or detached). Council's justification for key land use changes are discussed below:

- Council considers that to permit residential flat buildings and multi-dwelling housing in the R2 zone would be inconsistent with the low-density residential zone's objectives;
- Council considers that as dual occupancies are permitted in the former RLEP 2011, are permitted in majority of the nearby surrounding councils and certain dual occupancies are to be considered complying under the Medium Density Code, this use should be permitted with consent in this zone;
- Council considers that hostels are an appropriate use within the zone, as they are commensurate with the scale of low-density residential development through the application of applicable development standards and controls;

Council considers that secondary dwellings are an appropriate use in the R2 zone as the use is consistent with the zone objectives, they provide a small scale and diverse form of housing. They also assist in providing housing supply. This is also consistent with the Affordable Rental Housing SEPP which generally permits secondary dwellings in the R2 zone.

- Council considers that seniors housing (all uses permitted under the group term) is an appropriate use within the zone as it is consistent with the zone objectives and promotes the integration of differing demographics within the community in the zone. Council considers this to be consistent with the Seniors Housing SEPP which permits certain seniors housing in certain circumstances, including where development for the purposes of a dwelling house is permitted in the zone.
- Council considers that office premises within the residential zones is not an appropriate land use for the zone. Council argues that permissibility of this development in the residential zones under Botany Bay LEP 2013 has resulted in the perpetuation of inappropriately located out-of-centre development, whilst office premises developments are not suitable for adaptive reuse into residential land uses.
- Council considers that neighbourhood shops are a land use of an appropriate scale, and are consistent with, the R2 Low Density Residential zone and its objectives. Therefore, they should be permitted with consent.
- Council considers that educational establishments are an appropriate use as they meet the objectives of the zone. This is consistent with current Rockdale LEP 2011 permissibility. All existing schools in the former Botany Bay LGA are located on land in the R2 Low Density Residential zone and should be permitted with consent. Accordingly, all land uses classified under the group term educational establishments are permitted with consent. This is consistent with the Education and Childcare SEPP, which permits educational establishments in certain prescribed zones. The R2 Low Density Residential zone is one of those prescribed zones.

Department Comments

The proposed R2 Low Density Residential zone for the Bayside LEP 2020 is considered satisfactory, because:

- The proposed amendment to the zone objectives is satisfactory as it seeks to encourage sustainable transport options. This is in keeping with the District Plan and assists in creating amenity associated with a low-density residential zone.
- The proposed consolidation will now permit secondary dwellings and dual occupancy development within the R2 zones under the Botany Bay LEP 2013 which are residential uses consistent with a low-density residential zone. This also provides a diversity of housing types within the zone.

- The land use permissibility under this zone is in keeping with *SEPP (Exempt and Complying Development Code) 2008*, *SEPP No 64 – Advertising and Signage*, *SEPP (Educational Establishments and Child Care Facilities) 2017*, *SEPP (Affordable Rental Housing) 2009* and *SEPP (Infrastructure) 2007*.
- All other changes are considered appropriate, will not result in significant adverse environmental impacts, contribute to the objectives of the zone or can be managed through the development application process.

The Department notes that Council is seeking to prohibit residential flat buildings and multi-dwelling housing in the R2 zone under the Bayside LEP 2020. This is consistent with the current R2 zone under the Rockdale LEP 2011. Council has also clarified that only a single construction certificate has been issued for multi-unit and multi storey development within the R2 zone within the last five years. Council also noted that this indicates these forms of development within the R2 zone of the Botany Bay LEP 2013 are not prevalent. It is also noted that clause 6.11 prohibits both residential flat buildings or multi-dwelling housing in the R2 zone unless the site is being used for a purpose other than residential accommodation. This further restricts and limits sites on which these uses can be developed. Council also considers that dual occupancy developments will be permitted under the R2 Low Density Residential zoning in Botany Bay LEP 2013 areas. On this basis, Council considers the impact of the rezoning on development potential would be minor.

Notwithstanding the information provided, the Department considers the justification for the proposed prohibition of multi dwelling housing and residential flat buildings in the R2 zone under Botany Bay LEP 2013 areas to be limited, with the broader implications of the reduced residential density not having been properly examined.

It is also noted that these proposed prohibitions would be contrary to Ministerial Direction 3.1 and Planning Priority E5 of the District Plan, as it would reduce the potential for these forms of development which would limit the variety and choice of these housing types in Botany Bay LEP 2013 areas.

In order to determine how development potential and dwelling targets would be affected, and to demonstrate how housing diversity would be maintained, the Department considers that finalising the Local Housing Strategy (LHS) is integral to the assessment of the proposed prohibition of these forms of development in the R2 zone under Botany Bay LEP 2013 areas.

The Local Housing Strategy has not yet been exhibited or endorsed and as such, the proposed rezoning is considered premature at this stage. Consequently, a Gateway condition is recommended to retain multi-dwelling housing and residential flat buildings in the R2 zone under the Botany Bay LEP 2013 areas. Retaining these as permissible uses in this zone will also include the retention of clause 6.11, as this relates to permissibility of these developments.

It is also noted that clause 6.13 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting office premises in the R2 zone under the Bayside LEP 2020. Should these uses no longer be permitted, this clause will not be necessary.

B1.3 Zone R3 Medium Density Residential

LEP	Rockdale LEP 2011 – R3 zone		Botany Bay LEP 2013 – R3 zone	
Bayside LEP 2020	Objectives Retain the existing local objective and introduces a new local objective, being: <i>To enable residential development in accessible locations so as to maximise public transport patronage and to encourage walking and cycling.</i> No change is proposed to the existing mandated objectives.		Objectives: Replace the single local objective and add the local objective quoted left and a new local objective carried over from the Rockdale LEP 2011 below. <i>To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.</i> No change is proposed to the existing mandated objectives.	
	Propose to now be permitted with consent: - Home based child care (from permitted without consent) - Home business (from permitted without consent) - Home industry (from permitted without consent) - Bed and breakfast accommodation - Roads (from permitted without consent) - Business identification signage	Propose to now be prohibited: - Residential accommodation (only seeks to remove group term – does not affect uses under this term already permitted or prohibited) - Exhibition village	Propose to now be permitted with consent: - Dual Occupancy (includes all uses under this group term) - Hostels - Secondary dwellings - Home business - Water supply systems (includes all uses under this group term) - Exhibition homes	Propose to now be prohibited: - Residential flat buildings - Office premises - Sewerage systems (includes all uses under this group term) - Signage (only seeks to remove group term – does not affect uses under this term already permitted or prohibited)

Council Justification

Council considers that the R3 Medium Density Residential (R3) zone is applied to land considered appropriate for medium density development. An assortment of housing types have been mandated under the Standard Instrument, to encourage housing choice and diversity within this zone. Council intends this zone will accommodate medium density housing choices, including semi-detached and row or terrace housing, to provide housing choice and diversity to facilitate affordability. Council's justification for key land use changes are discussed below:

- Council considers that to permit residential flat buildings in the R3 zone would be inconsistent with the medium density residential zone's objectives;
- Council considers that as dual occupancies are permitted in the former RLEP 2011, are permitted in majority of the nearby surrounding councils and certain dual occupancies are to be considered complying under the Medium Density Code, this use should be permitted with consent in this zone;
- Council considers that hostels are an appropriate use within the zone, as they are commensurate with the scale of low-density residential development through the application of applicable development standards and controls;
- Council considers that secondary dwellings are an appropriate use in the R3 zone as the use is consistent with the zone objectives, they provide a small scale and diverse form of housing. They also assist in providing housing supply. This is also consistent with the Affordable Rental Housing SEPP which generally permits secondary dwellings in the R3 zone.
- Council considers that office premises within the residential zones is not an appropriate land use for the zone. Council argues that permissibility of this development in the residential zones under Botany Bay LEP 2013 has resulted in the perpetuation of inappropriately located out-of-centre development, whilst office premises developments are not suitable for adaptive reuse into residential land uses.

Department Comments

The proposed R3 Medium Density Residential zone for the Bayside LEP 2020 is considered satisfactory, because:

- The proposed amendment to the zone objectives is satisfactory as it seeks to encourage sustainable transport options. This is in keeping with the District Plan and assists in creating amenity associated with a medium density residential zone.
- The proposed consolidation will now permit secondary dwellings and dual occupancy development within the R3 zones under the Botany Bay LEP 2013 which are residential uses consistent with a medium density residential zone. This also provides a diversity of housing types within the zone.
- The proposal to prohibit office premises is considered appropriate. This land use has the potential to undermine the character and amenity of medium density residential land if not developed appropriately. The Department considers the removal of this land use is acceptable.
- The land use permissibility under this zone is in keeping with *SEPP (Exempt and Complying Development Code) 2008*, *SEPP No 64 – Advertising and Signage*, *SEPP (Educational Establishments and Child Care Facilities) 2017*, *SEPP (Affordable Rental Housing) 2009* and *SEPP (Infrastructure) 2007*.

- All other changes are considered appropriate, will not result in significant adverse environmental impacts, contribute to the objectives of the zone or can be managed through the development application process.

It is noted that Council is seeking to prohibit residential flat buildings in the R3 zone under the Bayside LEP 2020. This is consistent with the current R3 zone under the Rockdale LEP 2011. Council has also noted that dual occupancy developments will be permitted under the R3 Medium Density Residential zoning in Botany Bay LEP 2013 areas. On this basis, Council considers the impact of the rezoning on development potential would be minor.

Notwithstanding the information provided, the Department considers the justification for the proposed prohibition of this development to be limited, and the broader implications of the reduced residential density have not been properly examined.

It is also noted that this proposed prohibition would be contrary to Ministerial Direction 3.1 and Planning Priority E5 of the District Plan, as it would reduce the potential for residential flat buildings which would limit the variety and choice of this form of housing in Botany Bay LEP 2013 areas.

In order to determine how development potential and dwelling targets would be affected, and to demonstrate how housing diversity would be maintained, the Department considers that finalising the Local Housing Strategy (LHS) is integral to the assessment of this proposed prohibition.

The Local Housing Strategy has not yet been exhibited or endorsed and as such, the proposed rezoning is considered premature at this stage. Consequently, a Gateway condition is recommended to retain residential flat buildings as a permitted use in areas zoned R3 under the Botany Bay LEP 2013.

Similarly, it is also noted that clause 6.13 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting office premises in the R3 zone under the Bayside LEP 2020. Should this use no longer be permitted, this clause will not be necessary.

B1.4 Zone R4 High Density Residential

LEP	Rockdale LEP 2011 – R4 zone		Botany Bay LEP 2013 – R4 zone	
Bayside LEP 2020	Objectives Retain the existing local objective and introduces a new local objective, being: <i>To enable residential development in accessible locations so as to maximise public transport patronage and to encourage walking and cycling</i> No change is proposed to the existing mandated objectives.		Objectives: Replace the single local objective and add the local objective quoted left. No change is proposed to the existing mandated objectives.	
	Propose to now be permitted with consent: - Bed & breakfast accommodation - Roads (from permitted without consent) - Recreation areas (to permitted with consent)	Propose to now be prohibited: - Residential accommodation (only seeks to remove group term – does not affect uses under this term already permitted or prohibited) - Sewerage systems (group term) - Biosolids treatment facilities - Sewage treatment plants - Exhibition villages	Propose to now be permitted with consent: - Dual Occupancy (includes all uses under this group term) - Group Homes (includes all uses under this group term) - Secondary dwellings - Seniors housing (includes all uses under this group term) - Home based child care (to permitted without consent) - Water recycling facilities - Water supply systems (includes all uses under this group term) - Exhibition homes	Propose to now be prohibited: - Sewerage systems (only seeks to remove group term – does not affect uses under this term already permitted or prohibited) - Signage (only seeks to remove group term – does not affect uses under this term already permitted or prohibited)

Council Justification

Council considers that the R4 High Density Residential (R4) zone not only provide for high density housing, but other uses that provide services to residents. These include, being neighbourhood shops, community facilities, places of public worship, centre-based child care facilities and respite day care centres. Council states that the zone is required to meet the increased demands of the community for apartment living. Council's justification for key land use changes are discussed below:

- Council considers that to permit residential flat buildings in the R3 zone would be inconsistent with the medium density residential zone's objectives;
- Council considers that as dual occupancies are permitted in the former RLEP 2011, are permitted in majority of the nearby surrounding councils and certain dual occupancies are to be considered complying under the Medium Density Code, this use should be permitted with consent in this zone;
- Council considers that seniors housing (all uses permitted under the group term) is an appropriate use within the zone as it is consistent with the zone objectives and promotes the integration of differing demographics within the community in the zone. Council considers this to be consistent with the Seniors Housing SEPP which permits certain seniors housing in certain circumstances, including where development for the purposes of a dwelling house is permitted in the zone.
- Council considers that hostels are an appropriate use within the zone, as they are commensurate with the scale of low-density residential development through the application of applicable development standards and controls;
- Council considers that secondary dwellings are an appropriate use in the R3 zone as the use is consistent with the zone objectives, they provide a small scale and diverse form of housing. They also assist in providing housing supply. This is also consistent with the Affordable Rental Housing SEPP which generally permits secondary dwellings in the R3 zone.

Department Comments

The proposed Zone R4 High Density Residential zone for the Bayside LEP 2020 is considered satisfactory. The reasons are discussed below:

- The proposed amendment to the zone objectives is satisfactory as it seeks to encourage sustainable transport options. This is in keeping with the District Plan and assists in creating amenity associated with a high-density residential zone.
- The proposed consolidation will now permit group homes, secondary dwellings, dual occupancy and seniors housing development within the R4 zones under the Botany Bay LEP 2013 are residential uses consistent with a high-density residential zone. This also provides a diversity of housing types within the zone.
- The land use permissibility under this zone is in keeping with *SEPP (Exempt and Complying Development Code) 2008*, *SEPP No 64 – Advertising and Signage*, *SEPP (Educational Establishments and Child Care Facilities) 2017*, *SEPP (Affordable Rental Housing) 2009* and *SEPP (Infrastructure) 2007*.
- All other changes are considered appropriate, will not result in significant adverse environmental impacts, contribute to the objectives of the zone or can be managed through the development application process.

B1.5 Zone B1 Neighbourhood Centre

LEP	Rockdale LEP 2011 – B1 zone		Botany Bay LEP 2013 – B1 zone	
Bayside LEP 2020	<u>Objectives</u> Add two local objectives to the existing mandated objective: <i>To ensure development contributes to the vibrancy of the neighbourhood.</i> <i>To ensure residential development provides housing that meets the needs of the community.</i> No change is proposed to the existing mandated objectives.		<u>Objectives</u> Delete the existing local objective and add the two local objectives quoted left.	
	Propose to now be permitted with consent: • Bed & breakfast accommodation • Waste or resource transfer stations • Roads (from permitted without consent) • Signage (no change to existing permitted uses under this group term)	Propose to now be prohibited: • Residential accommodation (only seeks to remove group term – does not affect uses under this term already permitted or prohibited) • Seniors housing (includes all uses under this group term) • Plant nurseries • Service stations • Bio solids treatment facilities • Sewerage treatment plants • Recreation facilities (major)	Propose to now be permitted with consent: • Group homes (includes all uses under this group term) • Home based child care (to permitted without consent) • Home businesses (to permitted without consent) • Retail premises • Pubs • Veterinary hospitals • Water recycling facilities • Water supply systems (includes all uses under this group term) • Electricity generating works • Passenger transport facilities • Environmental facilities • Recreation facilities (outdoor)	Propose to now be prohibited: • Dwelling houses • Waste or resource management facilities

			• Exhibition homes • mortuaries	
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Council Justification

Council considers that the B1 Neighbourhood Centres (B1) zone is defined by small-scale convenience retail premises, neighbourhood shops, business premises, medical centres and community facilities that serve the daily needs of residents within walking distance of homes. Council's justification for key land use changes are discussed below:

- Council states that though the residential component in this zone is an important element in revitalising and sustaining local areas, dwelling houses and seniors housing are inappropriate uses for the zone, as it precludes orderly and economic development. Council also states that it fails to achieve the zone objectives.
- Council considers that retail premises are an appropriate land use for the zone, given the scale and types of users that tend to occupy such developments, including their access requirements close to services and facilities. Therefore, they should be permitted with consent.
- Council considers that pubs are an appropriate use for the zone, subject to development consent. This will encourage the vitality of the centre, but ensure it is only proposed in appropriate locations in consideration of the relevant planning controls, liquor licensing requirements, social impacts and public safety requirements.
- Council considers that service stations are not an appropriate for B1 neighbourhood centre zones as it results in a poor interface to surrounding residential zones and has significant potential for poor amenity outcomes (noise, pollution, odour), therefore is proposed to be prohibited.
- Council considers that given that similar uses such as garden centres and landscaping material supplies are prohibited in the zone, plant nurseries are not a suitable land use and should be prohibited in the zone.

Department Comments

The proposed B1 Neighbourhood Centres zone for the Bayside LEP 2020 is considered satisfactory. The reasons are discussed below:

- The proposed amendments to the zone objectives are satisfactory as they seek to ensure a vibrant neighbourhood centre and provide for residential development which meets the needs of the community. This is in keeping with the District Plan and assists in creating amenity associated with a neighbourhood centre, including residential development types.
- The land use permissibility under this zone is in keeping with *SEPP (Exempt and Complying Development Code) 2008*, *SEPP No 64 – Advertising and Signage*, *SEPP (Educational Establishments and Child Care Facilities) 2017* and *SEPP (Infrastructure) 2007*.
- The permissibility of group homes is considered appropriate given that this residential use contributes to the vibrancy of neighbourhood centres and rely upon close access to services. This also provides for housing diversity.
- The permissibility of retail premises is considered appropriate given that these developments contribute to the vibrancy of neighbourhood centres, an active street frontage and provide for the needs of the community.

- The retention of open zoning for a business zone is consistent with the recommendations of the LEP Practice Note PN 11-002 as it provides flexibility in land use permissibility.
- All other changes are considered appropriate, will not result in significant adverse environmental impacts, contribute to the objectives of the zone or can be managed through the development application process.

Similarly, it is also noted that clause 6.12 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting dwelling houses in the B1 zone under the Bayside LEP 2020. Should this use no longer be permitted, this clause will not be necessary.

B1.6 Zone B2 Local Centre

LEP	Rockdale LEP 2011 – B2 zone		Botany Bay LEP 2013 – B2 zone	
Bayside LEP 2020	<u>Objectives</u> Delete previous two local objectives and replace with the following new objectives: <i>To create lively town centres with amenable and pedestrian focused public domain activated by building uses that engage with the street.</i> <i>To accommodate population growth through high density mixed use development that complements the role of retail, commercial and cultural premises in the Rockdale town centre</i> No change is proposed to standard instrument mandated objectives		<u>Objectives</u> Add two new local objectives quoted left. No change is proposed to standard instrument mandated objectives	
	Propose to now be permitted with consent: - Home industry - Waste or resource transfer stations - Roads (from permitted without consent) - Research stations	Propose to now be prohibited: - Bio solids treatment system - Sewerage treatment plants - Advertising structures - Recreation facilities (major)	Propose to now be permitted with consent: - Group homes (includes all uses under this group term) - Hostels - Home based child care (to permitted without consent) - Home based business (to permitted without consent) - Sex service premises - Water recycling facilities - Water supply systems (includes all uses under this group term) - Helipads - Electricity generating works - Roads (from permitted without consent) - Environmental facilities	Propose to now be prohibited: - Dwelling houses - Residential flat buildings - Waste resource management facilities

			• Exhibition homes • mortuaries	
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Council Justification

Council considers that the B2 Local Centre (B2) zone provides centres that offer a variety of commercial, civic, cultural and residential uses. These service the wider needs of the community. This zone provides for shop-top housing and other uses such as educational establishments, entertainment facilities, function centres, information and education facilities, office premises, and tourist and visitor accommodation. Such a mix of uses and activities in one location promote walking, cycling and public transport options for more people. Council's justification for key land use changes are discussed below:

- Residential flat buildings refer to a building containing three or more dwellings at a bulk and scale which is not considered to be compatible with the zone objectives and other permissible uses. Accordingly, this land use is proposed to be prohibited, in order to ensure local centres retain local service and retail functions at ground level.
- Currently, residential flat buildings are permitted with consent under the Botany Bay LEP 2013 in the B2 Local Centre zone, but are prohibited under the Rockdale LEP 2011:
 - It is intended that this change will help prevent the poor planning outcomes that have often resulted from locating residential flat buildings in the B2 zone, mainly through loss of activation at ground floor level in key commercial areas, either from ground floor residential apartments and/or other inactive uses at street level; and
 - It is important to note that shop top housing will continue to be permitted in the B2 zone.

Department Comments

The proposed B2 Local Centres zone for the Bayside LEP 2020 is considered satisfactory, because:

- The proposed amendments to the zone objectives are satisfactory as they seek to ensure a vibrant town centre, through street activation and public domain whilst facilitating residential development in proximity to services. This is in keeping with the District Plan and assists in creating amenity associated with a local centre, including residential development.
- The land use permissibility under this zone is in keeping with *SEPP (Exempt and Complying Development Code) 2008*, *SEPP No 64 – Advertising and Signage*, *SEPP (Educational Establishments and Child Care Facilities) 2017* and *SEPP (Infrastructure) 2007*.
- The permissibility of group homes and hostels is considered appropriate given that these residential developments contribute to the vibrancy of local centres and rely upon close access to services.
- The retention of open zoning for a business zone is consistent with the recommendations of the LEP Practice Note PN 11-002 as it provides flexibility in land use permissibility.
- All other changes are considered appropriate, will not result in significant adverse environmental impacts, contribute to the objectives of the zone or can be managed through the development application process.

- Prohibiting residential flat buildings and dwelling houses within the B2 zone is satisfactory, because:
 - Multi storey residential development will still be permitted as shop top housing within this zone, which is consistent with the zone objectives being to facilitate high-density mixed-use development;
 - These uses are currently prohibited in the B2 zone under the Rockdale LEP 2011; and
 - This will prevent residential development which does not provide an active frontage to the street.

Similarly, it is also noted that clause 6.12 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting dwelling houses in the B2 zone under the Bayside LEP 2020. Should this use no longer be permitted, this clause will not be necessary.

B1.7 Zone B4 Mixed Use

LEP	Rockdale LEP 2011 – B4 zone		Botany Bay LEP 2013 – B4 zone	
Bayside LEP 2020	<u>Objectives</u> No change to existing objectives.		<u>Objectives</u> No change to existing objectives.	
	Propose to now be permitted with consent: • Industrial retail outlets • Light industries (including all uses permitted under this group term) • Waste or resource transfer facilities • Roads (from permitted without consent)	Propose to now be prohibited: • Residential accommodation (only seeks to remove group term – does not affect uses under this term already permitted) • Bio solid treatment facilities (group term) • Sewerage treatment plants • Advertising structure • Recreation facilities (major)	Propose to now be permitted with consent: • Group homes (includes all uses under this group term) • Home based child care (moved to permitted without consent) • Home business (moved to permitted without consent) • Hostels • Water recycling facilities • Water supply systems (including all uses permitted under this group term) • Helipads • Electricity generating works • Environmental facilities • Water recreation structures • Exhibition homes • mortuaries	Propose to now be prohibited: • Dwelling houses • Waste or resource management facilities (group term)

Council Justification

Council considers that the B4 Mixed Use (B4) zone is intended for land supporting numerous land uses. These include commercial land uses, residential land uses, tourist and visitor accommodation and community uses. Council's justification for key land use changes are discussed below:

- Council also states that though the residential component in this zone is an important element in revitalising and sustaining local areas, dwelling houses are inappropriate for the zone, as it precludes orderly and economic development. Council also states that it fails to achieve the zone objectives.
- Council considers that group homes play an important social role and is considered an appropriate land use for this zone.
- Council considers that hostels are an appropriate use within the zone, as they are commensurate with the scale of low-density residential development through the application of applicable development standards and controls;
- Council considers that light industries (including all uses permitted under this group term) are an appropriate use in the zone, and it meets the objectives of this zone.

Department Comments

The proposed B4 Mixed Use zone for the Bayside LEP 2020 is considered satisfactory, because:

- The zone provides a mix of compatible residential, business and commercial land uses which contribute to the integration of land uses and are consistent with the zone objectives;
- The zone will permit group homes and hostels which provide for a diversity of housing choices and land uses;
- The zone will permit light industries which provide for a diverse mix of commercial uses, which will not interfere with the amenity of permitted residential uses;
- Prohibiting dwelling houses within the B4 zone is satisfactory, because:
 - This use is not consistent with the zone objectives to provide for the integration of suitable business, office, residential and retail land uses; and
 - This use is currently prohibited in the B4 zone under the Rockdale LEP 2011.

Similarly, it is also noted that clause 6.12 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting dwelling houses in the B4 zone under the Bayside LEP 2020. Should this use no longer be permitted, this clause will not be necessary.

- Permitting helipads will facilitate the development of enhanced emergency medical facilities, subject to a thorough development assessment process which includes consideration of the *National Airports Safeguarding Framework Guideline H: Protecting Strategically Important Helicopter Landing Sites* and the Department's accompanying implementation guide, *Safeguarding Strategically Important Helicopter Landing Sites in NSW*;
- The retention of open zoning for a business zone is consistent with the recommendations of the LEP Practice Note PN 11-002 as it provides flexibility in land use permissibility;

- Light industries (including all uses permitted under this group term) are a suitable use for this zone. They contribute to the diversity and mix of uses sought in the zone and are defined as not interfering with amenity of surrounding uses thus making them compatible with other permitted uses in this zone; and
- All other changes are considered appropriate and will not result in significant adverse environmental impacts or can be managed through the development application process.

B1.8 Zone B6 Enterprise Corridor

LEP	Rockdale LEP 2011 – B6		Botany Bay LEP 2013 – B6	
Bayside LEP 2020	Objectives: No Change		Zone not included in Botany Bay LEP 2013.	
	Propose to now be permitted with consent: • Roads (from permitted without consent)	Propose to now be prohibited: No change	Propose to now be permitted with consent: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.	Propose to now be prohibited: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.

Council Justification

Council considers that the B6 Enterprise Corridor (B6) zone is for land where commercial or industrial development is to be encouraged along main roads, such as the Princes Highway. This zone provides for uses such as business premises, hotel or motel accommodation, light industries, hardware and building supplies, garden centres and warehouse or distribution centres. Council's justification for the single land use change is provided below:

- Roads are mandated as either (i) permitted with consent; or (ii) without consent in the standard instrument in the zone. As roads can introduce impacts on both private and government agency/council owned land, they are proposed to be changed to require consent in this zone. Council needs to determine road locations and planning impacts in order to have greater autonomy over land use planning decisions for this use.

Department Comments

The proposed B6 Enterprise Corridor zone for the Bayside LEP 2020 is considered satisfactory, because:

- The addition of roads as an additional permitted use is considered acceptable as this will allow Council to adequately assess any environmental impacts from proposed road construction within the zone.
- No issues were identified with the proposed inclusion of the B6 Enterprise Corridor zone in the Bayside LEP 2020. This zone will still be applied consistently with the existing zoning from the Rockdale LEP 2011.

B1.9 Zone B7 Business Park

LEP	Rockdale LEP 2011 – B7		Botany Bay LEP 2013 – B7	
Bayside LEP 2020	Zone not included in Botany Bay LEP 2013.		Objectives: No Change	
	Propose to now be permitted with consent: The zone is not included in Rockdale LEP 2011. The land to which this zone will apply will not change.	Propose to now be prohibited: The zone is not included in Rockdale LEP 2011. The land to which this zone will apply will not change.	Propose to now be permitted with consent: No Change	Propose to now be prohibited: Dwelling houses

Council Justification

Council considers that the B6 Business Park (B7) zone is for land accommodating office and light industrial uses, which include high technology industries. Council states that business park zones form vital economic and employment functions. Council considers that specialised functions must be protected for the long term and competing uses must not override the core activities. Council's justification for the single land use change is provided below:

- Council considers that dwelling houses are not a compatible use within a business park zone. The objectives of the zone seek to encourage office and light industrial uses as well as arts, technology, production and design employment sectors. Council contends that a residential land use does not satisfy any of these objectives.

Department Comments

The proposed B7 Business Park zone for the Bayside LEP 2020 is considered satisfactory, because:

- Prohibiting dwelling houses within the B7 zone is satisfactory, because:
 - this use is not consistent with the zone objectives to provide for the integration of suitable business, office and light industrial land uses; and
 - Council has indicated that a single construction certificate for alterations and additions to a dwelling house has been issued in this zone for the last five years.

Council is currently preparing a LHS which will involve the Department's endorsement. The LHS will have to consider an evidence base

Similarly, it is also noted that clause 6.12 of the Botany Bay LEP 2013 is proposed to be deleted due to prohibiting dwelling houses in the B7 zone under the Bayside LEP 2020. Should this use no longer be permitted, this clause will not be necessary.

- No issues were identified with the proposed inclusion of the B7 Business Park zone in the Bayside LEP 2020. This zone will still be applied consistently with the existing zoning from the Botany Bay LEP 2013.

B1.10 Zone IN2 Light Industrial

LEP	Rockdale LEP 2011 – IN2		Botany Bay LEP 2013 – IN2	
Bayside LEP 2020	Objectives: No Change		Objectives: No Change	
	Propose to now be permitted with consent: • Timber yards • Roads (from permitted without consent) • Research stations	Propose to now be prohibited: • General industries • Air transport facilities (including all uses under this group term) • Helipads • Electricity generating works • Port facilities • Correctional facilities • Jetties • Cemeteries • Open cut mining	Propose to now be permitted with consent: • Animal boarding or training establishments • Take-away food & drink premises • Highway service centres • Restricted premises • Sex service premises • Veterinary hospital • Industries (group term – only certain uses to be permitted – discussed below) • Artisan food and drink industry • Sewerage systems (all uses under this group term to be permitted) • Waste or resource management facilities (all uses under this group term to be permitted) • Water supply systems (all uses under this group term to be permitted) • Freight transport facilities • Passenger transport facilities • Transport depots • Truck depots • Community facilities	Propose to now be prohibited: No Change

			• Information and education facilities • Public administration building • Boat launch ramps • Boat sheds • Charter and tourism boating facilities • Environmental facilities • Recreation facilities (indoor) • Recreation facilities (major) • Recreation facilities (outdoor) • Crematoria • Environmental protection works • Mortuaries	
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Council Justification

Council considers that the IN2 Light Industrial (IN2) zone is to accommodate a range of light industry, warehouse or distribution centres, depots and other related land uses. Council states that the land uses in this zone are to be 'light' in nature, meaning they are to not cause nuisance or adversely affect the surrounding amenity by noise, emissions or odour. Council argues that this zone does not make provisions for hazardous, heavy or offensive industries. Council's justification for key land use changes are discussed below:

- Council considers that animal boarding or training establishments are an appropriate use in this zone and is a use consistent with the zone objectives. This also facilitates this use under the Bayside LEP 2020 given the lack of other suitable zone for this use;
- Council considers that food and drink premises are an appropriate use in this zone because they provide for the daily needs of employees and businesses within industrial zones. It also limits the need for travel beyond their immediate locality for meals and refreshments;
- Council considers that highway service centres are an appropriate use in this zone and is a use consistent with the zone objectives. This also facilitates this use under the Bayside LEP 2020 given the lack of other suitable zone for this use;
- Council considers that restricted premises are an appropriate use in this zone and is a use consistent with the zone objectives;
- Council considers that sex service premises are an appropriate use in this zone and is a use consistent with the zone objectives;

- Council considers recreation facilities, including indoor, outdoor and major are appropriate uses for this zone due to the land sizes available to accommodate this use and it meets the objectives of the zone;
- Council considers crematoria an appropriate use in this zone and is a use consistent with the zone objectives. This also facilitates this use under the Bayside LEP 2020 given the lack of other suitable zone for this use;
- Council considers mortuaries an appropriate use in this zone and is a use consistent with the zone objectives. This also facilitates this use under the Bayside LEP 2020 given the lack of other suitable zone for this use;
- Council considers cemeteries are not an appropriate use for this zone and do not meet the zone objectives. Therefore, it is considered appropriate to prohibit this use, consistent with the Botany Bay LEP 2013;
- Council considers information and education facilities are an appropriate use in this zone and is a use consistent with the zone objectives; and
- Council considers open cut mining are not an appropriate use for this zone and do not meet the zone objectives. Therefore, it is considered appropriate to prohibit this use, consistent with the Botany Bay LEP 2013.

Department Comments

The proposed IN2 Light Industrial zone for the Bayside LEP 2020 is considered satisfactory, because:

- The proposal also seeks to permit uses which:
 - encourage employment opportunities;
 - encourages a wide range of light industrial uses;
 - minimise industrial uses on other lands;
 - provides for the day to day needs of workers; and
 - supports and protects industrial land uses.
- Uses which are not 'light' in nature and may cause nuisance or adversely affect the surrounding amenity have been identified and prohibited, consistent with Practice Note PN 11-002. This includes the prohibition of 'General Industries' and 'Open cut mining';
- Encourages crematoria and mortuaries which are urban services use identified within the District Plan as requiring retention in the industrial zones;
- Retaining business premises as a prohibited land use will ensure that industrial uses are the primary focus of the zone;
- All other changes are considered appropriate and will not result in significant adverse environmental impacts or can be managed through the development application process.

B1.11 Zone SP2 Infrastructure

LEP	Rockdale LEP 2011 – SP2		Botany Bay LEP 2013 – SP2	
Bayside LEP 2020	Objectives: No Change		Objectives: No Change	
	Propose to now be permitted with consent: • Roads (from permitted without consent) • Environmental protection works (permitted without consent)	Propose to now be prohibited: No change	Propose to now be permitted with consent: No change	Propose to now be prohibited: No change

Council Justification

Council considers that the SP2 Infrastructure (SP2) zone is intended for land accommodating or proposing to accommodate community and public infrastructure. Council's justification for key land use changes are discussed below:

- Roads are mandated as either (i) permitted with consent; or (ii) without consent in the standard instrument in the zone. As roads can introduce impacts on both private and government agency/council owned land, they are proposed to be changed to require consent in this zone. Council needs to determine road locations and planning impacts in order to have greater autonomy over land use planning decisions for this use.
- Environmental protection works meet the objectives of infrastructure zone as they concern the rehabilitation of land towards its natural state or to protect land from degradation.

Department Comments

The proposed SP2 Infrastructure zone for the Bayside LEP 2020 is considered satisfactory, because:

- the land uses permitted with consent are all types of public infrastructure or land used for community purposes which are unlikely to change in the future (as per Practice Note PN 11-002).
- All other changes are considered appropriate and will not result in significant adverse environmental impacts or can be managed through the development application process.

B1.12 Zone SP3 Tourism

LEP	Rockdale LEP 2011 – SP3		Botany Bay LEP 2013 – SP3	
Bayside LEP 2020	Objectives: No Change		Zone not included in Botany Bay LEP 2013.	
	Propose to now be permitted with consent: • Roads (from permitted without consent)	Propose to now be prohibited: No change	Propose to now be permitted with consent: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.	Propose to now be prohibited: The zone is not included in Botany Bay LEP 2013. The land to which this zone will apply will not change.

Council Justification

Council considers that the SP3 Tourist (SP3) zone is established for land where tourism is considered the focus of a particular location. Council states that this is lands such as where a natural/built site or location attracts visitors and the intended future use of the area is prioritised for developing tourist-related uses. Council discusses that suitable development may include tourist and visitor accommodation, function centres, information and education facilities, recreation facilities, food and drink premises and other ancillary and compatible land uses. Council's justification for key land use changes are discussed below:

- Roads are mandated as either (i) permitted with consent; or (ii) without consent in the standard instrument in the zone. As roads can introduce impacts on both private and government agency/council owned land, they are proposed to be changed to require consent in this zone. Council needs to determine road locations and planning impacts in order to have greater autonomy over land use planning decisions for this use.

Department Comments

The proposed SP3 Tourism zone for the Bayside LEP 2020 is considered satisfactory, because:

- The addition of roads as an additional permitted use is considered acceptable as this will allow Council to adequately assess any environmental impacts from proposed road construction within the zone.
- No issues were identified with the proposed inclusion of the SP3 Tourism zone in the Bayside LEP 2020. This zone will still be applied consistently with the existing zoning from the Rockdale LEP 2011.

B1.13 Zone RE1 Public Recreation

LEP	Rockdale LEP 2011 – RE1		Botany Bay LEP 2013 – RE1	
Bayside LEP 2020	Objectives: No Change		Objectives: No Change	
	Propose to now be permitted with consent: - Roads (from permitted without consent) - Emergency services facilities - Information and education facilities - Environmental protection works (to permitted without consent) - Flood mitigation works (to permitted without consent)	Propose to now be prohibited: No change	Propose to now be permitted with consent: - water supply systems (including all uses under this group term) - boat launching ramps - flood mitigation works (to permitted without consent)	Propose to now be prohibited: markets

Council Justification

Council considers that the RE1 Public Recreation (RE1) zone be applied to land reserved for a wide range of public recreational areas, and other related land uses, often in the form of open space and local or regional parks. Council discusses that suitable land uses primarily include uses associated with recreational and community purposes. Council's justification for key land use changes are discussed below:

- Council states that both Legacy LEPs have adopted clause 2.8 Temporary use of land, that allows development consent to be granted for development on land in any zone for a temporary use for a maximum period of 52 days a year. Council therefore considers it appropriate that Markets be prohibited in the RE2 zone, consistent with the Rockdale LEP 2011 private recreation zone.
- Council considers that information and education facilities are an appropriate use in the zone. Council contends that this is consistent with the zone objectives and Practice Note: PN09-006.
- Due to the importance of waterways in the Bayside LGA, including the introduction of the proposed W2 Recreational Waterways zone adjoining some RE2 zoned land, Council considers that boat launching ramps and jetties are suitable as complementary land uses which facilitate recreation activities.
- Council considers that emergency service facilities provide a vital public purpose and are therefore an appropriate use in this zone.

Department Comments

The proposed RE1 Public Recreation zone for the Bayside LEP 2020 is considered satisfactory, because:

- the proposed permitted uses enable:
 - the land to be used for public recreation purposes;
 - a range of compatible land uses within a public recreation zone; and
 - protection and enhancement of the natural environment for recreation purposes.
- Prohibiting markets is acceptable as the Bayside LEP 2020 will permit markets as a temporary land use for up to 52 days a year under Part 5 of the LEP;
- Permits recreation uses which complement adjoining land uses, such as the proposed W2 Recreational Waterways zone; and
- All other changes are considered appropriate and will not result in significant adverse environmental impacts or can be managed through the development application process.

B1.14 Zone RE2 Private Recreation

LEP	Rockdale LEP 2011 – RE2		Botany Bay LEP 2013 – RE2	
Bayside LEP 2020	Objectives: No Change		Objectives: No Change	
	Propose to now be permitted with consent: • entertainment facilities • Roads (from permitted without consent) • Centre-based child care facilities • Information and education facilities • Place of public worship • Respite day care centres • Flood mitigation works	Propose to now be prohibited: • markets	Propose to now be permitted with consent: • water supply systems (including all uses under this group term) • boat launching ramps • jetties • environmental protection works (to permitted without consent)	Propose to now be prohibited: • Food & drink premises (including all uses under this group term) • Markets • Car parks

Council Justification

Council considers that the RE2 Private Recreation (RE2) zone enables exclusive recreation-related uses for groups of specific users. Council states that these sites are, typically, privately owned. Such uses may include bowling clubs, sporting facilities, and other recreational uses. Council's justification for key land use changes are discussed below:

- Council states that both Legacy LEPs have adopted clause 2.8 Temporary use of land, that allows development consent to be granted for development on land in any zone for a temporary use for a maximum period of 52 days a year. Council therefore considers it appropriate that Markets be prohibited in the RE2 zone, consistent with the Rockdale LEP 2011 private recreation zone.
- Council considers that childcare centres are an appropriate use in the zone because they provide an important social role in local communities. The provision of this land use is also encouraged by the District Plan.
- Council considers that food and drinks premises, unless associated with a recreation facility, do not meet the objectives of this zone.
- Council considers that car parks can often be ancillary to other permitted uses such as a recreation facility or community facility. Council considers it appropriate to prohibit car parks in the zone, with car parking still permitted as an ancillary use. Furthermore, Council contends that this will prevent the potential of standalone carparking occupying land that should instead be made available for a range of recreation uses.
- Council considers that information and education facilities are an appropriate use in the zone. Council contends that this is consistent with the zone objectives and Practice Note: PN09-006.
- Due to the importance of waterways in the Bayside LGA, including the introduction of the proposed W2 Recreational Waterways zone adjoining some RE2 zoned land, Council considers that boat launching ramps and jetties are suitable as complementary land uses which facilitate recreation activities.

Department Comments

The proposed RE2 Private Recreation zone for the Bayside LEP 2020 is considered satisfactory, because:

- Permits recreation uses which complement adjoining land uses, such as the proposed W2 Recreational Waterways zone;
- Provides for recreational and social infrastructure (centre based childcare consistent with Botany Bay LEP 2013) which supports the needs of the community and is consistent with the zone objectives;
- The amendments allow Council to better manage public open space as an asset for the community, consistent with the District Plan; and
- All other changes are considered appropriate and will not result in significant adverse environmental impacts or can be managed through the development application process.

A1.15 Zone W1 Natural Waterways – New Zone

Bayside LEP 2020 - W1 Natural Waterways	
<u>Item 1 - Zone Objectives</u>	• To protect the ecological and scenic values of natural waterways. • To prevent development that would have an adverse effect on the natural values of waterways in this zone. • To provide for sustainable fishing industries and recreational fishing.
<u>Item 2 - Permitted without consent</u>	Environmental protection works
<u>Item 3 - Permitted with consent</u>	Aquaculture; environmental facilities; flood mitigation works
<u>Item 4 - Prohibited</u>	Any other development not specified in item 2 or 3

Council Justification

Council seeks to introduce a W1 Natural Waterways zone into the Bayside LEP 2020 to appropriately zone Wolli Creek, Bayside's natural waterway. This waterway supports important wetlands and associated ecosystems and is currently unzoned. The entire length of Wolli Creek is proposed to be zoned W1 Natural Waterways, given the function that Wolli Creek provides to the adjoining wetlands and riparian corridor.

Council states the objectives of this zone under the Standard Instrument are to:

- protect ecological values of natural waterways; and
- prevent development that could have adverse impacts on the natural values of waterways.

Council states this will also limit inappropriate development that could occur if the land was to be zoned W2 Recreational Waterways. The zoning will also reflect the importance of the adjoining Wolli Creek Parklands which are currently zoned E1 National Parks and Nature Reserves under the Canterbury LEP 2012.

Department Comments

The proposed W1 Natural Waterways zone for the Bayside LEP 2020 is considered satisfactory. The reasons are discussed below:

- will be in accordance with Practice Note: PN 11-001 which requires all land to be zoned;
- will complement adjoining W1 zoning of the Cooks River under the Marrickville LEP 2011 (**Figure 1**); and

- zoning Wolli Creek as W1 Natural Waterways to complement the adjoining E1 National Parks and Nature Reserve of the Canterbury LEP 2012.



Figure 1: Proposed W1 zoning of Wolli Creek highlighted in red (Source: Planning Portal)

A1.16 Zone W2 Recreational Waterways – New Zone

Bayside LEP 2020 – W2 Recreational Waterways	
<u>Item 1 - Zone Objectives</u>	• To protect the ecological, scenic and recreation values of recreational waterways. • To allow for water-based recreation and related uses. • To provide for sustainable fishing industries and recreational fishing.
<u>Item 2 - Permitted without consent</u>	Environmental protection works
<u>Item 3 - Permitted with consent</u>	Aquaculture, Boat launching ramps; Boat building and repair facilities; Boat sheds, Building identification signs; Business identification signs; Environmental facilities; Flood mitigation works; Jetties, Kiosks; Marinas, Moorings, Water recreation structures
<u>Item 4 - Prohibited</u>	Any other development not specified in item 2 or 3

Council Justification

Council seeks to introduce a W2 Recreational Waterways zone into the Bayside LEP 2020 to appropriately zone Cooks River, Muddy Creek and Georges River. Currently, a number of Bayside's waterways exist as unzoned land and as such are potentially exposed to development which may not be compatible with, or could impact adversely on, the unzoned waterway.

This zone is intended to accommodate some land uses associated with water-based recreation, boating and water transport. This is consistent with the existing uses of these waterways, such as jetties and boat sheds whilst complementing the adjoining zones under the Kogarah LEP 2011 and Marrickville LEP 2011.

The waterways within the LGA which currently exist as unzoned land are:

- A portion of Georges River adjacent to Sandringham;
- The lower reaches of the Cooks River where it meets Botany Bay; and
- Muddy Creek.

Department Comments

The proposed W2 Recreational Waterways zone for the Bayside LEP 2020 is considered satisfactory. The reasons are discussed below:

- The zone will be in accordance with Practice Note: PN 11-001, which requires all land to be zoned;

- The zone will complement adjoining W2 zonings under:
 - the Kogarah LEP 2011 for the Georges River (**Figure 2**); and
 - the Marrickville LEP 2011 for the Cooks River (**Figure 2**).
- The zone is consistent with the existing uses of the waterways, which include:
 - jetties;
 - boatsheds;
 - boat launching ramps; and
 - marinas.



Figure 2: Proposed waterways to be zoned W2 Recreational Waterways highlighted in red (NSW Planning Portal)