

Appendix A – Summary of proposed Bayside LEP 2020 provisions

The following tables provide a high level summary of what is proposed for each of the new Bayside LEP 2020 provisions. It also indicates where existing identical and/or similar provisions are contained in each of the Legacy LEPs. For further detail on those provisions where changes are proposed from what is contained in the existing LEPs, please refer to the relevant appendix nominated in the tables.

The green references clauses which were adopted in the specified instrument. The red references clauses which were not adopted in the specified instrument.

Part 1 – Preliminary

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
1.1 Name of Plan	✓	✓	<i>Adopted – references Bayside River Local Environmental Plan 2020</i>	Yes
1.1AA Commencement	✓	✓	Adopted – Commencement on the day which it is published on the NSW legislation website.	Yes
1.2: Aims of the plan	✓	✓	Adopted – Consolidates the existing aims of Rockdale LEP 2011 and Botany LEP 2013 and addresses the LSPS's future direction for Bayside LGA	Yes
1.3 Land to which Plan applies	✓	✓	Adopted – The Bayside LGA – with the exemption of land zoned under the Three Ports SEPP and SREP No.33 – Cooks Cove	Yes
1.4 Definitions	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
1.5 Notes	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
1.6 Consent authority	✓	✓	Adopted without amendment – As per the Standard Instrument	Yes
1.7 Maps	✓	✓	Adopted – Consistent with the Standard Instrument	Yes
1.8 Repeal of planning instruments applying to land	✓	✓	Adopted – Consistent with the Standard Instrument, and with a note clarifying that Rockdale LEP	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
			2011, Botany Bay LEP 2013 and Botany LEP 1994 are repealed.	
1.8 Savings provisions	✓	✓	Not Adopted - The proposal does not include a savings provision. However, it proposed this be conditioned in the Gateway.	No – to condition
1.9 Application of SEPPs	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes

Part 2 – Permitted or prohibited development

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
2.1 Land use zones	✓	✓	Adopted with amendment – It is proposed to amend the land use table. Refer to Appendix B for further consideration.	Yes
2.2 Zoning of land to which Plan applies	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
2.3 Zone objectives and Land Use Table	✓	✓	Adopted with amendment – It is proposed to amend the land use table. Refer to Appendix B for further consideration.	Yes
2.4 Unzoned land	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
2.5 Additional uses for particular land	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
2.6 Subdivision – consent requirements	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes
2.7 Demolition requires	✓	✓	Adopted without amendment – consistent with the Standard Instrument	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
development consent				
2.8 Temporary use of land	✓	✓	Adopted without amendment – Stipulates a maximum of 52 days within a 12-month period.	Yes

Land use table

A land use table which applies an open zoning approach to business zones and industrial zones with a closed approach to all other zones.

The proposal involves consolidating the existing land use zones of Rockdale LEP 2011, Botany Bay LEP 2013 and Botany LEP 1994 (**Table 1**).

The proposed amendments to the land use table are considered satisfactory for the purposes of public exhibition. These changes are discussed in detail at **Appendix B** of the report.

Table 1: Land use zones comparison table

Land use zones	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
Rural Zones				
RU4 Primary Production Small Lots	✓	X	Adopted without amendment	Yes
Residential zones				
R2 Low Density Residential	✓	✓	Adopted with amendment – discussed Appendix B	Yes
R3 Medium Density Residential	✓	✓	Adopted with amendment – discussed Appendix B	Yes
R4 High Density Residential	✓	✓	Adopted with amendment – discussed Appendix B	Yes
Business zones				
B1 Neighbourhood Centre	✓	✓	Adopted with amendment – discussed Appendix B	Yes
B2 Local Centre	✓	✓	Adopted with amendment – discussed Appendix B	Yes

Land use zones	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
B3 Commercial Core	X	✓	Adopted without amendment	Yes
B4 Mixed Use		✓	Adopted with amendment – discussed Appendix B	Yes
B5 Business Development	X	✓	Adopted without amendment	Yes
B6 Enterprise Corridor		X	Adopted with amendment – discussed Appendix B	Yes
B7 Business Park	X	✓	Adopted with amendment – discussed Appendix B	Yes
Industrial zones				
IN1 General Industrial	X	✓	Adopted without amendment	Yes
IN2 Light Industrial	✓	✓	Adopted with amendment – discussed Appendix B	Yes
Infrastructure zones				
SP1 Special Activities	X	✓	Adopted without amendment	Yes
SP2 Infrastructure	✓	✓	Adopted without amendment	Yes
SP3 Tourist	✓	X	Adopted without amendment	Yes
Recreational zones				
RE1 Public Recreation	✓	✓	Adopted with amendment – discussed Appendix B	Yes
RE2 Private Recreation	✓	✓	Adopted with amendment – discussed Appendix B	Yes
Environmental zones				
E1 National Parks and Nature Reserves	✓	X	Adopted without amendment	Yes
Waterway zones				
W1 Natural Waterways	X	X	New Zone – discussed Appendix B	Yes
W2 Recreational Waterways	X	X	New Zone – discussed Appendix B	Yes

Land use zones	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
W3 Working Waterways	X	✓	Adopted without amendment	Yes

Part 3 Exempt and complying development

All clauses in this part are in accordance with the standard instrument and existing clauses in the legacy LEP's with no changes proposed.

Therefore, proposed Part 3 of the Bayside LEP 2020 is considered satisfactory.

Part 4 Principal development standards

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
4.1 Minimum subdivision lot size	✓	X	Adopted with amendment. Further consideration of this amendment is located in Appendix C	Yes
4.2 Rural subdivision	✓	X	Adopted without amendment to Legacy clause or land to which it applies.	Yes
4.2A Minimum lot size for attached and semi-detached dwellings in Zone R2	✓	X	Not Adopted. Further consideration of this amendment is located in Appendix C	Yes
4.3 Height of Buildings	✓	✓	Adopted with amendment - Introduces new objectives for the proposed clause. It is also proposed to consolidate this clause with legacy Rockdale LEP clause 4.3A. The only proposed change is deletion of Cl.4.3(2A). See Appendix C for detailed consideration.	Yes
Rockdale LEP 2011 Clause 4.3A Exceptions to height of buildings	✓	X	Adopted without amendment to the existing standards. This clause will be consolidated under proposed Cl.4.3.	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
4.4 Floor space ratio	✓	✓	Adopted with amendment. This clause will be consolidate this clause with legacy Rockdale LEP 2011 clause 4.4A. Further consideration of FSR amendments is located in Appendix C	Yes
Botany Bay LEP 2013 Clause 4.4A - Exceptions to floor space ratio for residential accommodation	X	✓	Not Adopted - This clause will be consolidated under proposed Cl.4.4 of the Bayside LEP 2020. Minor amendments have been made to the sliding scale to facilitate lower density development and amended land use permissibilities.	Yes
Botany Bay LEP 2013 Clause 4.4B Non-residential floor space ratios in R3 and R4 zones	X	✓	Not Adopted - Will not be carried over to new LEP. These changes are discussed in detail at Appendix C of the report.	Yes
Botany Bay LEP 2013 Clause 4.4C Consent to development in Zone R3 and Zone R4	X	✓	Not Adopted. This amendment is discussed in detail at Appendix C of the report.	Yes
4.5 Calculation of floor space ratio and site area	✓	✓	Adopted without amendment - As per the Standard Instrument	Yes
4.6 Exceptions to development standards	✓	✓	Adopted with amendment - Drafting updates are proposed to references for Cl. 4.6 exclusions. No changes to clauses currently excluded from cl.4.6 operation is proposed.	Yes

Part 5 Miscellaneous provisions

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
5.1 Relevant acquisition authority	✓	✓	Adopted with amendment. As per the Standard Instrument. Seeks to remove land already acquired. No new land is identified for acquisition.	Yes
5.1A Development on land intended to be acquired for public purposes	✓	X	Adopted with amendment - To be introduced onto land zoned under legacy Botany Bay LEP 2013. See Appendix D for detailed consideration.	Yes
5.2 Classification and reclassification of public land	✓	✓	Adopted without amendment - As per the Standard Instrument. No reclassification of public land is proposed with only change deleting land already acquired by the nominated authority.	Yes
5.3 Development near zone boundaries	X	✓	Not Adopted See Appendix D for further consideration.	Yes
5.4 Controls relating to miscellaneous permissible uses	✓	✓	Adopted with amendment. This clause seeks to retain the miscellaneous permissible uses and consolidate the controls relating to: • Home businesses; • Home Industries; • Kiosks; • Neighbourhood shops; • Secondary dwellings; and • Artisan food and drink industry exclusion. See Appendix D for further consideration.	Yes
5.6 Architectural roof features	✓	✓	Adopted without amendment	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
5.7 Development below mean high water mark	✓	✓	Adopted without amendment	Yes
5.8 Conversion of fire alarms	✓	✓	Adopted without amendment	Yes
5.10 Heritage Conservation	✓	✓	Adopted without amendment	Yes
5.11 Bushfire hazard reduction	✓	✓	Adopted without amendment	Yes
5.12 Infrastructure development and use of existing buildings of the Crown	✓	✓	Adopted without amendment	Yes
5.13 Eco-tourist facilities	X	X	Not adopted in Legacy LEPs – No Change	Yes
5.14 Siding Spring Observatory - maintaining dark sky	X	X	Not adopted in Legacy LEPs – No Change	Yes
5.15 Defence communications facility	X	X	Not adopted in Legacy LEPs – No Change	Yes
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	X	X	Not adopted in Legacy LEPs – No Change Despite including a RU4 zoning, this clause is not mandatory for local government areas in the Greater Sydney Region.	Yes
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	X	X	Not adopted in Legacy LEPs – No Change	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
5.18 Intensive livestock agriculture	X	X	Not adopted in Legacy LEPs – No Change	Yes
5.19 Pond-based, tank-based and oyster aquaculture	✓	✓	Adopted without amendment	Yes

Part 6 Additional local provisions

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
Acid sulfate soils clauses	✓	✓	Adopted with amendment – minor wording change. Further consideration of this clause is located in Appendix E	Yes – subject to conditions
Earthworks clauses	✓	✓	Adopted with amendment – minor drafting amendment proposed to the objective of the Legacy clause. Further consideration of this amendment is located in Appendix E	Yes
Stormwater and water sensitive urban design clauses	✓	✓	Adopted with amendment. Further consideration of this amendment is located in Appendix E	Yes
Flood Planning clauses	✓	✓	Adopted with amendment. - removal of flood planning maps from LEP; and - amendment to the flood planning level to 1% AEP from 1:100 ARI Further consideration of this amendment is located in Appendix E	Yes
Floodplain	X	X	A new clause to be adopted in Bayside LEP 2020.	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
Risk Management clauses			Further consideration of this amendment is located in Appendix E	
Terrestrial Biodiversity clauses	✓	✓	Adopted with amendment - Minor changes are proposed. These seek to provide consideration for rehabilitation of identified land. Further consideration of this amendment is located in Appendix E	Yes
Riparian Land and waterways clauses	✓	✓	Adopted with amendment - These Legacy clauses will be consolidated under a proposed Riparian Land, Wetlands and Waterways clause in Bayside LEP 2020. Further consideration of this amendment is located in Appendix E	Yes
Wetlands clauses	✓	✓	These Legacy clauses will be consolidated under a proposed Riparian Land, Wetlands and Waterways clause in Bayside LEP 2020. Further consideration of this amendment is located in Appendix E	Yes
Foreshore area/foreshore building line clauses	✓	✓	Adopted with amendment. Further consideration of this amendment is located in Appendix E	Yes
Airspace Operations clauses	✓	✓	Adopted without amendment.	Yes
Development in areas subject to aircraft noise clauses	✓	✓	Adopted with amendment. A minor amendment to align with the adopted model provision and reference updated Australian Standards -AS2021-2015	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
Active street frontages clauses	✓	✓	Adopted with amendment. Further consideration of this amendment is located in Appendix E	Yes
Design Excellence clauses	✓	✓	Adopted with amendment. Further consideration of this amendment is located in Appendix E	Yes
Location of Sex service premises clauses	✓	✓	Adopted without amendment	Yes
Converting Serviced apartments to residential flat buildings clauses	X	✓	Adopted with amendment Consistent with Legacy clause in the BBLEP, to be introduced into RLEP land. Further consideration of this amendment is located in Appendix E	Yes
Residential flat buildings and multi dwelling housing in zone R2 clause	X	✓	Not Adopted. Will not be carried over to Bayside LEP 2020 – in response to proposed prohibition in these uses in R2 zone. Further consideration of this amendment is located in Appendix B	Yes
Dwelling houses in certain business zones clause	X	✓	Not Adopted. Will not be carried over to Bayside LEP 2020 – in response to proposed prohibition in business zones. Further consideration of this amendment is located in Appendix B.	Yes
Office premises in certain residential zones clause	X	✓	Not Adopted. Will not be carried over to Bayside LEP 2020 – in response to proposed prohibition in residential zones.	Yes

Relevant Clauses	Rockdale LEP 2011	Botany Bay LEP 2013	Proposed Bayside LEP 2020 - Explanation	Satisfactory
			Further consideration of this amendment is located in Appendix B.	
Land at Hillsdale fronting Denison Street and Smith Street clause	X	✓	Adopted with amendment. Currently only included in the BBLEP 2013 but will be included in the new LEP. A minor change to the clause will identify the subject land in a written clause rather than being mapped.	Yes
Essential Services clause	✓	X	Adopted with amendment. Further consideration of this amendment is located in Appendix E	Yes
Site area of proposed development in Arncliffe and Banksia precincts includes dedicated land clause	✓	X	Adopted without amendment. This clause only applies to land identified within the Arncliffe Banksia Precinct. This clause will continue to apply only to that land.	Yes
Development Requiring a development control plan	X	✓	Adopted without amendment. This clause only applies to 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288.	Yes
Development at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens—general	X	✓	Adopted without amendment. This clause only applies to 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288.	Yes

It is noted, that due to time, Council has not included all the provisions Amendment No.8 to the Botany Bay LEP 2013 introduced. Council has confirmed that these amendments are proposed to be included in the Bayside LEP 2020. A condition has been included in the Gateway determination to ensure the proposal is updated to reflect all the amendments introduced under Amendment No.8 to the Botany Bay LEP 2013.

Part 7 – Intensive Urban Development Areas

These controls are in relation to the Arncliffe Banksia Precinct. The proposed provisions that will form Part 7 of the Consolidated LEP are currently found in the Rockdale LEP 2011 – Part 7. It is proposed to transfer this Part into the Consolidated LEP with no amendments. This is therefore considered satisfactory.

Schedule 1 Additional permitted uses

The proposal involves a schedule which:

- Consolidates the schedules of Rockdale LEP 2011 and Botany Bay LEP 2013; and
- Retain residential flat buildings as additional permitted uses on identified sites that have been considered suitable through detailed planning assessment under the Gateway determination (PP_2015_BOTAN_001_00) issued on 7 September 2015. Detailed assessment is discussed in **Appendix C** of this report, including relevant conditions.
- It is also proposed to amend this clause to address land use permissibility changes.

Schedule 2 Exempt development

The proposal deletes all existing exempt development provisions in the existing LEPs to instead rely upon the provisions of SEPP (Exempt and Complying Development Codes) 2008.

The existing exempt provisions within the Legacy LEPs pre-dated the current provisions within the Codes SEPP (Part 2-Div 2 for Signage & Part 2-Div 1 for retaining walls).

The exempt provisions in the legacy LEPs are now addressed within the Codes SEPP and no longer need to be included within the LEP. This amendment is considered satisfactory.

Schedule 3 Complying development

The Legacy LEPs do not nominate additional complying developments. The Consolidated LEP does not propose any amendments.

Schedule 4 Classification and reclassification of public land

The Consolidated LEP does not propose to reclassify any land, as such no amendments are proposed.

Schedule 5 Environmental heritage

The existing nominated heritage items and conservation areas from the Legacy LEPs are being carried over to the Bayside LEP 2020.

It is proposed to identify the entirety of the Southern and Western Suburbs Ocean Outfall Sewer (SWSOOS) sewer outlet.

The SWSOOS is a trunk sewer main constructed above ground from 1909 to 1916 and further extended in the 1930's. It is state listed heritage item. This piece of infrastructure runs in an east-west direction and across the Cooks River, parallel to the M5. This state heritage item was gazetted in 2000.

Heritage NSW consider the boundary and curtilage of SWSOOS is to include all original fabric from Marsh Street, Rockdale to the Ocean Outfall at Malabar with a 2 metre buffer zone parallel to the existing structure. The curtilage is to include all overpasses, access points and setting along the existing alignment of the SWSOOS. The proposed mapping appears to be in keeping with this description.

It is proposed to consult with Heritage NSW about this proposed mapping amendment to ensure consistency with its State Heritage listing.

Schedule 6 Pond-based and tank-based aquaculture

This schedule is mandated in the Standard Instrument and is proposed without amendment for the Consolidated LEP.

Dictionary

The dictionary is mandated in the Standard Instrument and is proposed without amendment for the Consolidated LEP.

Botany LEP 1995 – Deferred Areas

The planning proposal involves incorporating three sites in Mascot which were deferred from Botany Bay LEP 2013 into the new Bayside LEP 2020. It is intended to rezone each deferred site to a standard instrument zone and apply associated development standards to each of the deferred sites. The incorporation of the deferred sites into Bayside LEP 2020 is discussed further at **Appendix F**.