

BAYSIDE LOCAL ENVIRONMENTAL PLAN

Plain English Explanatory Discussion
Paper

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BAYSIDE LOCAL ENVIRONMENTAL PLAN

Plain English Explanatory Discussion Paper

Introduction

This discussion paper contains a detailed description of the written instrument for the *Bayside Local Environmental Plan* (Bayside LEP). This paper provides a discussion outlining the strategic intent and purposes behind each development standard adopted. This includes the actions taken to create one LEP for the Bayside Local Government Area (LGA), the Bayside LEP, to direct land use planning. The harmonised Bayside LEP reflects the objectives of, and has been informed by, all NSW state policies and local government strategies relating to legislative and best practice land use planning. The Bayside LEP has been prepared in accordance with the *Standard Instrument - Principal Local Environmental Plan*.

Background

Local Environmental Plans (LEPs) are legal planning instruments that provide key land use policies and development standards. LEPs identify zonings, which stipulate what land uses are permitted or prohibited within those zonings. LEPs also include development standards, such as height and floor space ratio, which help to ensure appropriate form, scale and density of development in particular zones. LEPs also identify environmentally significant features, such as heritage items, open space and recreation areas, waterways and environmentally sensitive areas that must be retained and protected.

The Bayside LEP has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2000*. The Bayside LEP reflects the standardised environmental planning instrument known as the *Standard Instrument - Principal Local Environmental Plan*, as directed by the Department of Planning, Industry and Environment through the *Standard Instrument (Local Environmental Plans) Order 2006*.

On the 9th of September 2016, the Bayside Local Government Area (LGA) was declared, amalgamating the former Rockdale and Botany Bay LGAs. This amalgamation resulted in an inconsistent planning framework as two different LEPs govern different areas across the LGA. Both the existing *Rockdale Local Environmental Plan 2011 (RLEP)* and *Botany Bay Local Environmental Plan 2013 (BBLEP)* were prepared in accordance with the SI LEP, however both planning instruments include specific objectives and clauses beyond the minimum information required in an LEP. This has resulted in two different Standard Instrument format LEPs regulating land use and development in differing ways.

Where non-standard objectives and/or clauses adversely impact the overall intention of the standard zone, including its application across the entire LGA, the objectives and/or clause has been amended to ensure consistency. Council has engaged with specialist planning consultants, to assist in formulating the consistency in the application of objectives and clauses. Recommendations made in accordance with practicability and compliance with the existing State Environment Planning Policies (SEPPs), Local Planning Directions, and the broader NSW strategic planning framework, have informed, and guided, the harmonisation of controls. It has also included a comprehensive review of

surrounding Council LEPs and controls. Overall, Council has undertaken a comprehensive review to consolidate and form a single LEP, which is to apply to all land located within the Bayside LGA (Figure 1).

The Bayside LEP will be the primary Environmental Planning Instrument for the LGA, and will replace the *RLEP 2011* and *BBLEP 2013*. The *Sydney Regional Environmental Plan No 33 – Cooks Cove* will continue to act as the Environmental Planning Instrument for the area within the boundaries of the land to which it currently applies. The *State Environmental Planning Policy (Three Ports) 2013* will continue to regulate land use and development for Port Botany and the land to which it applies.

In accordance with the NSW Department of Planning, Industry and Environment “*Guidance for Merged Councils on Planning Functions*” Bayside Council has undertaken the necessary analysis and evaluation of existing controls, and where possible, has aligned and harmonised zones, provisions and clauses of the existing *RLEP 2011* and *BBLEP 2013*. This means that unless stated, Council is not seeking to implement any significant strategic changes by amending the planning provisions which apply throughout the LGA.

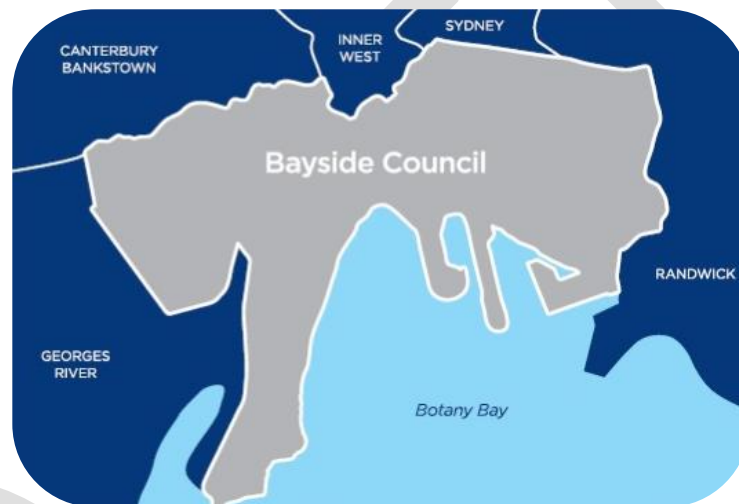


Figure 1: Bayside Council Local Government Area

Objectives and intended outcomes

The Bayside LEP will simplify the planning process by reducing the number of planning instruments applicable to land in the LGA, removing duplication of planning controls and aligning the land uses and controls that apply under the current planning instruments. This will remove confusion and complication for the community, and provide greater certainty to landowners.

This has been achieved through:

- Consistent application of zone objectives, zoning, permitted and prohibited land uses, specific clauses and development standards across the LGA;
- Zoning key environmental features, such as waterways, which previously were unzoned;
- Rezoning of lands identified as “Deferred Matters” (DM) under BBLEP 2013 to appropriate zones used by the Department of Planning, Industry and Environment’s *Standard Instrument – Principal Local Environmental Plan (SI LEP)*;
- Retention - and addition of a limited number of - Additional Permitted Uses to enable specific uses on certain land; and
- Deletion of former clauses that are no longer relevant or applicable to the Bayside LGA.

Explanatory Comment

Overview of Structure

The SI LEP contains five (5) key parts, six (6) Schedules that *must* be populated when Council's are preparing a new SI format LEP. Council's have the ability to implement additional parts, relating to specific provisions relevant to land use planning within their LGAs. The SI LEP also includes a Dictionary identifying the various land use terms and references, and a section on Historical Notes, to which amendments to legislation and the LEP itself are made over time.

Each part of the Bayside LEP has been summarised in this document.

PART 1 – PRELIMINARY

Clause 1.1 Name of Plan [compulsory]

This clause identifies the name of the Plan as 'Bayside Local Environmental Plan'.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.1

Clause 1.1AA Commencement [compulsory]

This Plan commences on the day on which it is published on the NSW legislation website.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.1AA

Clause 1.2 Aims of Plan [compulsory]

This clause identifies that the Plan is being prepared as a SI LEP, and sets out the specific aims of the Plan. The aims listed in subclause (2) have been formed by Bayside Council to reflect the local planning context and character. These aims are consistent with the following strategic planning documents underpinning the LEP:

- Local Planning Directions
- State Environmental Planning Policies
- Sydney Regional Environmental Plans
- Greater Sydney Regional Plan
- A Metropolis of Three Cities
- Eastern City District Plan
- Future Transport Strategy 2056
- NSW State Infrastructure Strategy
- Local Strategic Planning Statement
- Bayside Community Strategic Plan

The Bayside LEP aims to reflect existing themes and key objectives of the current LEP's, such as protecting residential amenity, encouraging economic growth and development, as well as conservation of cultural and environmental heritage. Furthermore, additional aims have been adopted to increase the urban tree canopy cover and enhance green corridor connections.

As required by DPIE, the aims of the Plan are to regulate land use planning matters, through the implementation of the various zonings, clauses and provisions of the Bayside LEP.

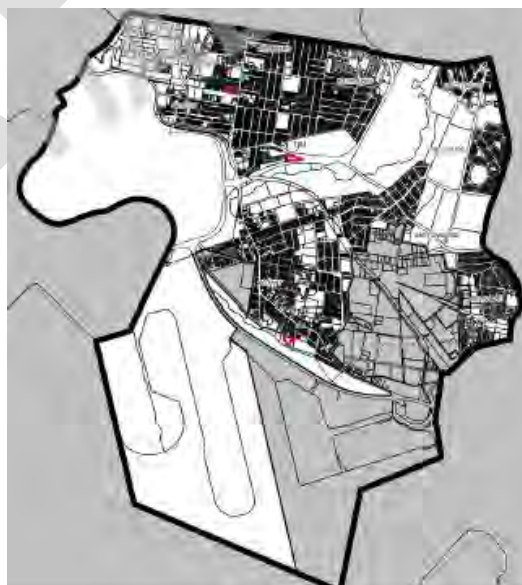
Clause 1.3 Land to which Plan applies [compulsory]

The Land application Map indicates the area of the LGA that is regulated by Bayside LEP, through the application of a thick black boundary line around the land. The Standard Instrument makes provision for specific areas to be excluded from the application of the Bayside LEP. This applies to the areas identified under the *Sydney Regional Environmental Plan No 33 – Cooks Cove* and *State Environmental Planning Policy (Three Ports) 2013*, which are currently excluded from planning controls under the RLEP 2011 and BBLEP 2013. It is proposed by the DPIE that *Sydney Regional Environmental Plan No 33 – Cooks Cove* and *State Environmental Planning Policy (Three Ports) 2013* will continue to be excluded from the planning controls of Bayside Council, thus are not incorporated in the Bayside LEP.

When the Botany Bay LEP 2013 came into effect, it was considered appropriate to defer the application of new planning controls for three (3) properties identified as *Deferred Matters* subject to the Botany Bay LEP 1995. These *Deferred Matters* lands are still subject to the Botany Bay LEP 1995, and include privately-owned and government-owned parcels of land.

These properties are:

- Certain sites at Macintosh Street & Botany Road, Mascot, being:
 - 18B Macintosh Street (Lot 8 DP 1191439)
 - 18A Macintosh Street (Lot 7 DP 1191439)
 - 16 Macintosh Street (Lot 1 DP 155113)
 - 14 Macintosh Street (DP 89104)
 - 12B Macintosh Street (Lot 5 DP 1191439)
 - 12A Macintosh Street (Lot 4 DP 1191439)
 - 10C Macintosh Street (Lot 3 DP 1191439)
 - 10B Macintosh Street (Lot 2 DP 1191439)
 - 10A Macintosh Street (Lot 1 DP 1191439)
 - 8 Macintosh Street / 568 Botany Road (DP 4276)
 - 4 Macintosh Street (Lot 106 DP 550420)
 - 2 Macintosh Street (Lot 105 DP 550420)
 - 562 Botany Road (DP 65912)
 - 564 Botany Road (DP 3806)
 - 566 Botany Road (DP 4322);
- 80 Dransfield Avenue, Mascot (Lot 6 DP 776212); and
- 26 Tupia Street, Mascot (Lot X DP 32914)



As part of the harmonisation process, these *Deferred Matters* properties have been incorporated into the Bayside LEP, by applying the most appropriate conversion zones and controls. These planning provisions comply with the requirements of *Local Planning Direction 3.1 - Residential Zones*, and will eliminate the continued complications and inconsistency with land being governed by past instruments.

Clause 1.4 Definitions [compulsory]

The SI LEP includes mandatory standard definitions relating to land uses and other terms relevant to the interpretation of the Bayside LEP. The standard definitions cannot be changed. There are a limited number of definitions/terms used in the current RLEP 2011 and BBLEP 2013 that are not specifically defined in the SI LEP Dictionary, but are relevant to the Bayside LGA. These definitions/terms are proposed to be included in the Bayside LEP.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.4

Clause 1.5 Notes [compulsory]

This clause states that any of the notes that are located below some clauses and definitions are provided as a guide in understanding a clause or definition, and do not form part of the LEP itself.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.5

Clause 1.6 Consent authority [compulsory]

This clause states that Bayside Council is the consent authority for the purposes of the Bayside LEP.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.6

Clause 1.7 Maps [compulsory]

Clause 1.7 relates to the establishment of maps as part of the Bayside LEP. All new Bayside LEP maps are required to be prepared in electronic form so that they can be accessed online. All Councils are required to adopt the standard technical specifications in relation to the colours, lines and symbols used on the face of the maps. The following maps are included in the Bayside LEP:

- Acid Sulfate Soils Map
- Active street frontages Map
- Additional Permitted Uses Map
- Design Excellence Map
- Foreshore Building Line Map
- Floor Space Ratio Map
- Heritage Map
- Height of Buildings Map
- Key Sites Map
- Land Application Map
- Land Reservation Acquisition Map
- Land Zoning Map
- Lot Size Map
- Riparian Lands
- Terrestrial Biodiversity Map
- Waterways Map
- Wetlands Map

Clause 1.8 Repeal of other local planning instruments applying to land [compulsory]

Clause 1.8 establishes the fact that at the time of the publication (gazettal) of the Bayside LEP on the NSW Legislation website, all other local environmental plans applying to the land will be repealed.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.8

Clause 1.8A Savings provision relating to the development applications [local]

This clause explains that, in instances where Development Applications (DAs) have been lodged before the commencement of this Plan, they are to be determined as if the Bayside LEP has been exhibited, but not yet commenced. This means that DAs will be assessed on the basis of the zoning and controls in place when they were lodged.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.8A

Clause 1.9 Application of SEPPs [compulsory]

This clause outlines the relationship of the Bayside LEP with SEPPs. All Regional Environmental Plans (REPs) are deemed to be SEPPs. Section 3.28 of the *Environmental Planning and Assessment Act 1979* establishes that SEPPs prevail over LEPs.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.9

Clause 1.9A Suspension of covenants agreements and instruments [local]

In order for development to be carried out under this Plan, this clause suspends any agreement, covenant or other similar instrument that restricts the carrying out of development, under certain circumstances.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 1.9A

PART 2 – PERMITTED OR PROHIBITED DEVELOPMENT

Clause 2.1 Land use zones [compulsory]

A comprehensive review of all zones that apply under the RLEP 2011 and BBLEP 2013 has been undertaken, to identify the suitable land zones for inclusion in the Bayside LEP. Clause 2.1 identifies which of the Standard Instrument zones have been incorporated into the Bayside LEP. All existing zones included under the RLEP 2011 and BBLEP 2013 are to be retained, with the introduction of two additional zones, W1 Natural Waterways and W2 Recreational Waterways. The list of zones proposed in the Bayside LEP includes:

- RU4 Primary Production Small Lots
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist
- RE1 Public Recreation

- RE2 Private Recreation
- E1 National Parks and Nature Reserves
- W1 Natural Waterways
- W2 Recreational waterways
- W3 Working Waterways

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.1

RU4 Primary Productions Small Lots

This zone identifies land being for small scale primary industry, including food production sources, emerging primary industries, and agricultural uses that operate on smaller rural holdings. The objectives of this zone are to encourage employment opportunities in relation to primary production on small lots, and minimise the fragmentation or alienation of resource lands important for food security to residential purposes. This zone is proposed to be applied to all land currently zoned RU4 Primary Productions Small lots under the RLEP 2011. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011: RU4 Primary Production Small Lots zone

R2 Low Density Residential

This zone is intended to accommodate low density residential housing and ancillary land uses. Some of the predominant land uses within this zone include single and double storey dwelling houses, and dual occupancies (attached or detached).

Inconsistent land uses in this zone between the RLEP 2011 and the BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Low density residential zoning is included within the Bayside LEP, as there are many established low density residential neighbourhoods found across the Bayside LGA. This zone is proposed to be applied to all land currently zoned R2 Low Density Residential under the RLEP 2011 and the BBLEP 2013.

Despite the R2 zoning table under Bayside LEP, Residential Flat Buildings and Multi Dwelling Housing will continue to be a permissible use for R2 zoned land under BBLEP 2013 as an Additional Permitted Use, in accordance with Clause 6.11 of BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: R2 Low Density Residential zone

R3 Medium Density Residential

This zone is applied to land considered appropriate for medium density development. An assortment of housing types have been mandated under the SI LEP, to encourage housing choice and diversity within this zone.

Inconsistent land uses between the RLEP 2011 and the BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

This zone is proposed to be applied to all land currently zoned R3 Medium Density residential under the RLEP 2011 and the BBLEP 2013. This land will continue to contribute to the future housing needs

of the Bayside LGA. Accordingly, this zone will accommodate the identified need for more medium density housing choice such as semi-detached, row or terrace houses, to prevent families and large households not being priced out of the Bayside LGA.

Despite the R3 zoning table under Bayside LEP, Residential Flat Buildings and Multi Dwelling Housing will continue to be a permissible use for R3 zoned land under BBLEP 2013 as an Additional Permitted Use.

Equivalent clause in RLEP 2011 & BBLEP 2013: R3 Medium Density Residential zone

R4 High Density Residential

This zone is applied to land identified for high density housing types, such as residential flat buildings or shop top housing. This zone also includes additional uses that provide facilities or services to residents, being neighbourhood shops, community facilities, places of public worship, centre-based child care facilities and respite day care centres.

Inconsistent land uses between the RLEP 2011 and the BBLEP 2013 have been evaluated and determined by best planning practice. **Refer to Planning Proposal Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

This zone is proposed to be retained for all land currently zoned R4 High Density Residential under the RLEP 2011 and the BBLEP 2013. The Bayside LEP high density residential zoning reflects the provisions of current and desired densities and urban forms. High density residential zoning is required to meet the increased demand in families with children, couples without children, and downsizers wanting to live in apartments. This zoning will assist in accommodating the forecasted housing demand of 28,000 new dwellings by 2036, as well as meet housing targets under the *Eastern City District Plan* to deliver 10,150 additional dwellings between 2016-2021.

Equivalent clause in RLEP 2011 & BBLEP 2013: R4 High Density Residential zone

B1 Neighbourhood Centre

This 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 easily walkable distances.

Inconsistent land uses between the RLEP 2011 and the BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

The B1 Neighbourhood Centre zoning has been included in the Bayside LEP to encourage a focus on local communities, and to retain existing smaller scale centres established across the Bayside LGA. This zone is proposed to be applied to all land currently zoned B1 Neighbourhood Centre under the RLEP 2011 and the BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: B1 Neighbourhood Centre zone

B2 Local Centre

This zone is intended to provide centres that offer a variety of commercial, civic, cultural and residential uses that service the wider community. This zone provides for shoptop 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.

This zone is proposed to be applied to all land currently zoned B2 Local Centre under the RLEP 2011 and the BBLEP 2013. The retention of the zone over this land will provide for the existing and future concentrations of services and infrastructure to support sustainable housing growth. This zone will cater land for the existing established centres of local centre scale within the Bayside LGA, which have been identified as focal points under the *Eastern City District Plan*.

Inconsistent land uses between the former LGA's have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011 & BBLEP 2013: B2 Local Centre zone

B3 Commercial Core

This zone is applied to land for major centres that provide a wide range of uses including large-scale retail, office, businesses, entertainment and community facilities directly connected to major transport routes. These centres are intended to meet the needs of the local community, as well as the needs of the wider district. Land which is zoned Commercial Core may be surrounded by other business zones, such as B4 Mixed Use or B5 Business Development, in order to provide a variety of supporting uses and deliver an appropriate transition from the major centre.

This zone is proposed to be applied to all land currently zoned B3 Commercial Core under the BBLEP 2013. The zone does not exist in the RLEP 2011.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification. This zone is proposed to be applied to all land currently zoned B3 Commercial core under the BBLEP 2013.

Equivalent clause in BBLEP 2013: B3 Commercial Core zone

B4 Mixed Use

This zone is intended for land supporting a vast range of land uses, and to encourage the inclusion of commercial, residential, tourist and visitor and community uses. The residential component in this zone is an important element in revitalising and sustaining local areas, as well as increasing housing diversity close to commercial cores and major transport nodes.

Inconsistent land uses between the RLEP 2011 and the BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

This zone is proposed to be applied to all land currently zoned B4 Mixed Use land under the RLEP 2011 and the BBLEP 2013. Initial capacity studies have indicated that there is significant floor space potential for existing mixed use zones within the Bayside LGA. Mixed use zoning will also provide for more employment opportunities and boost the local economy across Bayside.

Equivalent clause in RLEP 2011 & BBLEP 2013: B4 Mixed Use zone

B5 Business Development

This zone provides for business premises, warehouse and distribution centres, and specialised retail premises that require large floor areas in locations that are close to, and that support the viability of, centres. This zone encourages employment opportunities and supports the directions set out in the *Greater Sydney Regional Plan – A Metropolis of Three Cities* to create better conditions for a stronger economy through investment in business activity centres. This zone is proposed to be applied to all land currently zoned B5 Business Development under the BBLEP 2013. The zone does not exist in the RLEP 2011.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in BBLEP 2013: B5 Business Development zone

B6 Enterprise Corridor

This zone is intended 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. The existing B6 zoned area within the Princes Highway corridor has development potential for long term delivery of flexible, small-scale commercial and creative spaces, while retaining the arterial road corridor focus for uses such as specialised retail premises. This zone is proposed to be applied to all land currently zoned B6 Enterprise Corridor under the RLEP 2011. The zone does not apply to land under the BBLEP 2013.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011: B6 Business Enterprise Corridor zone

B7 Business Park

This zone is established for land accommodating office and light industrial uses, which include high technology industries. Business park zones form vital economic and employment roles across the district. Specialised functions must be protected for the long term, and competing uses must not override the core activities. Permissible uses in this zone includes ancillary facilities and services such as centre-based child care facilities, respite day care centres, and neighbourhood shops to support daily needs of workers. The existing B7 zoned area within the Mascot Town Centre has capacity to accommodate additional employment growth, and is anticipated to realise future significant commercial development uses. This zone is proposed to be applied to all land currently zoned B7 Business Park under the BBLEP 2013. The zone does not apply to land under the RLEP 2011.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in BBLEP 2013: B7 Business Park zone

IN1 General Industrial

This zone caters for land supporting industrial and warehouses uses, which include general industry, high technology industries, industrial training facilities, and depots.

General industrial zoning is to be carried over from the BBLEP 2013, as it will support and protect employment land for industrial uses, particularly within the international trade gateways of Sydney

Airport and Port Botany, as well as Botany Industrial Park. Furthermore, the *Eastern City District Plan* requires the Bayside LEP to retain and manage all existing industrial and urban services land. Retaining industrial lands support *Planning Priority E9 – growing international trade gateways* and *Planning Priority E12 – retain and managing industrial and urban services land*. This zone is proposed to be applied to all land currently zoned IN1 General Industrial under the BBLEP 2013. The zone does not apply to land under the RLEP 2011.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in BBLEP 2013: IN1 General Industrial zone

IN2 Light Industrial

This zone accommodates a range of light industry, warehouse or distribution centres, depots and other related land uses. 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. This zone does not make provisions for hazardous, heavy or offensive industries.

The *Eastern City District Plan* requires the retention and management of all existing industrial and urban services land. Therefore, the IN2 Light Industrial zoning is proposed to be applied to all land currently zoned IN2 Light industrial under the RLEP 2011 and BBLEP 2013.

Inconsistent land uses between the current RLEP 2011 and BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011 & BBLEP 2013: IN2 Light Industrial zone

SP1 Special Activities

This zone is applied to public or private land to facilitate quite specific uses that cannot be, or should not be, accommodated in other zones. This zone is proposed to be applied to all land currently zoned SP1 Special Activities under the BBLEP 2013. This zone does not apply to land under the RLEP 2011.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in BBLEP 2013: SP1 Special Activities zone

SP2 Infrastructure

This zone is intended for land accommodating, or proposing to accommodate community and public infrastructure.

Inconsistent land uses between the current RLEP 2011 and BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

This zone is proposed to be applied to all land currently zoned SP2 Infrastructure under the RLEP 2011 and BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: SP2 Infrastructure zone

SP3 Tourist

This zone is established for land where tourism is considered the focus of a particular location. 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. Such 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.

The extent of the existing SP3 Tourist zoning under the RLEP 2011, as it currently applies to land at Brighton Le Sands, is proposed to be retained in the Bayside LEP.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011: SP3 Tourist zone

RE1 Public Recreation

This zone is 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. The permissible land uses primarily include uses associated with recreational and community purposes.

Inconsistent land uses between the RLEP 2011 and BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

The Bayside LGA accommodates an established diverse range of open space and recreational sporting facilities, including a number of destination and regional open spaces. This zone is proposed to be applied to all land currently zoned RE1 Public Recreation under the RLEP 2011 and BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: RE1 Public Recreation zone

RE2 Private Recreation

Private recreational areas enable exclusive recreation-related uses for groups of specific users, as sites are, typically, privately owned. Such uses may include bowling clubs, or other sporting uses, and recreational facilities. Places of public worship are also permitted with consent in the zone.

Inconsistent land uses between the RLEP 2011 and BBLEP 2013 have been evaluated and determined by best planning practice. Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Private Recreation land is included within the Bayside LEP, as there is a significant amount of open space that is owned by government agencies and private landowners. This zone is proposed to be applied to land currently zoned RE2 Private Recreation under the RLEP 2011 and BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: RE2 Private Recreation zone

E1 National Parks & Nature Reserves

This zone is proposed to be applied to land currently zoned E1 National Parks & Nature Reserves under the RLEP 2011, which is limited to a small area of land in Botany Bay, at Towra Point. All uses currently authorised under the National Parks and Wildlife Act 1974 will also continue to be permitted without consent in this zone.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in RLEP 2011: E1 National Parks & Nature Reserves zone

W1 Natural Waterways

This zoning is being introduced in the Bayside LEP, since Wolli Creek is currently unzoned under the RLEP 2011. Wolli Creek supports important wetlands, which provide important natural ecosystem functions. The objectives of this zone under the SI LEP include protecting ecological values of natural waterways, and preventing development that could have adverse impacts on the natural values of waterways. 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. Wolli Creek is proposed to be zoned W1 Natural Waterways, in order to 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, North of Wolli Creek, within the Canterbury-Bankstown LGA, which is currently zoned E1 National Parks and Nature Reserves.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

No equivalent clause

W2 Recreational Waterways

This zone is intended to accommodate some land uses associated with water-based recreation, boating and water transport.

The W2 Recreational Waterways zoning is being introduced in the Bayside LEP for several waterways that are currently unzoned. These particular unzoned waterways include:

- A portion of George's River adjacent to Sandringham;
- Lower reached of the Cooks River where it meets Botany Bay; and
- Muddy Creek

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

No equivalent clause

W3 Working Waterways

This zone accommodates land uses associated with commercial shipping, water-based transport, and maritime industries.

The W3 Working Waterways zoning is included in the Bayside LEP, as the waterways of Bayside Council are an integral part of Sydney's Blue Grid. These waterways support the important trade and gateway role of Port Botany and Sydney Airport.

Therefore, this zone has been proposed to be retained for all land that is currently zoned W3 Working Waterways under the BBLEP 2013.

Refer to Planning Proposal **Appendix E – Land Use Comparison and Justification Matrix** for greater clarification.

Equivalent clause in BBLEP 2013: W3 Working Waterways Zone

Clause 2.2 Zoning of land to which Plan applies [compulsory]

This clause indicates that the land use zones under the Plan are shown on the Land Zoning Map.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.2

Clause 2.3 Zone objectives and land use table [compulsory]

This clause explains the Land Use Table which specifies the objectives for development and the land uses that are (i) permissible without consent; (ii) permitted with consent; or (iii) prohibited development, for each zone. This clause also requires the consent authority to consider the zone objectives set out in the Land Use Table when determining a Development Application.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.3

Clause 2.4 Unzoned land [compulsory]

This clause establishes the requirement for development consent for any development on land that is not zoned under the Plan. The consent authority is required to consider the objectives of adjoining zones, and must be satisfied that proposed development is appropriate and compatible with adjoining land uses prior to granting development consent.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.4

Clause 2.5 Additional permitted uses for particular land [compulsory]

This clause allows additional permitted uses on particular land, despite anything contrary to the Land Use Table or another provision in the Plan. Schedule 1 identifies the exclusive properties and lots of land with relevant land uses and conditions which clause 2.5 applies.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.5

Clause 2.6 Subdivision – consent requirements [compulsory]

The purpose of this clause is to clarify the requirements for development consent for the subdivision of land and strata subdivision of a building. This clause establishes the exception to the subdivision of land on which there is a secondary dwelling and subdividing would result in lot sizes less than the minimum size shown on the Lot Size Map.

This clause also identifies circumstances where a subdivision and strata subdivision of a building may be Exempt or Complying Development under the *State Environmental Planning Policy (Exempt and Complying Development Code) 2008*.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.6

Clause 2.7 Demolition requires consent [compulsory]

This is a model clause prepared by the DPIE. This clause requires development consent for the demolition of buildings and structures, unless identified under Schedule 2 or under the *Exempt and Complying Development Codes SEPP 2008*.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.7

Clause 2.8 Temporary use of land [optional]

This clause permits the temporary use of land for a maximum of 52 days in any 12 month period, when development consent is granted. This time period reflects the existing RLEP 2011 and BBLEP 2013. The consent authority can only grant consent to the temporary use of land if it is satisfied that the use:

- does not prejudice future development of the site;
- does not adversely impact on adjoining land or the amenity of the neighbourhood;
- does not adversely impact on the environment or increase the risk of natural hazards that may affect the land.

Specific exclusions to the stated 106 day period can be added for sales offices, exhibition homes, builder's site offices.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 2.8

LAND USE TABLE

The Land Use Table lists, for each zone:

- the objectives of the zone;
- development permitted without consent;
- development permitted with consent; and
- prohibited development

The land use table includes mandated zone objectives and land uses by the SI LEP, and cannot be changed by Council. A general rule of retaining the permissibility / prohibition of land uses has been applied in each zone, where appropriate and consistent with the proposed zone objectives. However, in instances of inconsistency between the RLEP 2011 and BBLEP 2013, Council has taken the most suitable approach in applying uses that are consistent with the zone objectives and are most appropriate when considering the local context. Justification for each land use for each zone is listed in **Appendix E – Land Use Comparison and Justification Matrix**.

PART 3 – EXEMPT AND COMPLYING

In 2008 the NSW Government introduced a policy for Exempt and Complying Development standards to be used state-wide, under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Other less common types of 'Exempt' or 'Complying' Development are also identified in other state policies such as:

- *State Environmental Planning Policy No 64—Advertising and Signage* (only applicable to works carried out by the RTA or Railcorp or relating to an Government election)
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Housing for Seniors or people with a Disability) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007* (the majority of the policy relates to works by a public authority however also wind turbines, solar energy systems)
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019*

Under the revised provisions of the *Environmental Planning and Assessment Act 1979*, Council's must include Exempt or Complying Development provisions that are unique to their local areas in the relevant Schedules of new Comprehensive Local Environmental Plans. The provisions must not be inconsistent with and/or duplicate those contained within state policies.

Clause 3.1 Exempt Development [compulsory]

This clause identifies that development listed in Schedule 2 is 'Exempt Development', meaning that it is minor development which does not require approval if it meets the predetermined criteria. Exempt Development must comply with both the development standards in Schedule 2, and the requirements specified in this clause.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 3.1

Clause 3.2 Complying development [compulsory]

This clause identifies that development listed in Schedule 3 is 'Complying Development', meaning that it is minor development which requires approval in the form of a Complying Development certificate rather than development consent. Either Council or a private certifier may issue a Complying Development Certificate, provided the development meets the pre-determined criteria. Complying Development must comply with the development standards and conditions of approval detailed in Schedule 3, as well as the requirements specified in this clause.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 3.2

Clause 3.3 Environmentally sensitive areas excluded [compulsory]

This clause specifies 'environmentally sensitive areas' where exempt or complying development must not be carried out.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 3.3

PART 4 – PRINCIPAL DEVELOPMENT STANDARDS

Clause 4.1 Minimum subdivision lot sizes [optional]

This clause establishes minimum subdivision lot sizes for certain land in the Bayside LGA. A minimum subdivision lot size is set in accordance with the Lot Size Map. Where a lot of land has an existing dual occupancy or a dual occupancy is proposed, the area of each lot resulting from the subdivision must be equal to or greater than 350sqm. Furthermore, this clause does not apply to the subdivision of land in R2 Low Density Residential where the erection of an attached dwelling or a semi-detached dwelling is proposed.

Equivalent clause in RLEP 2011: Clause 4.1

Clause 4.2 Rural subdivisions

This clause provides flexibility in relation to minimum subdivision lot sizes for rural zoned land, by enabling rural subdivision below the mapped minimum lot size, only where no dwellings will result from subdivision. The intent is to allow the more orderly and economic use of certain rural zoned land. The existing clause in the RLEP 2011 is to be included in the Bayside LEP. This clause does not apply to BBLEP 2013.

Equivalent clause in RLEP 2011: Clause 4.2

Clause 4.3 Height of Buildings [optional]

This clause sets out the objectives for the height of buildings and specifies that a building must not exceed the maximum height shown on the Height of Buildings map for the land. This maintains a level of order and ensures the established local character of the different areas across the LGA are retained. The clause also includes references to specific height bonus provisions that are applicable to a limited number of sites within the Bayside LGA.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 4.3

Clause 4.4 Floor Space Ratio [optional]

The floor space ratio (FSR) is the ratio of the gross floor area of a development to the site area. This controls the bulk and scale of future development. FSR is a tool used:

- as a measure for potential development density of a site
- to ensure sufficient floor space can be accommodated to meet future residential and commercial needs of the area
- to establish development of buildings that are compatible with the bulk, form and scale of the existing and desired future character of the locality
- to ensure any adverse impacts of development on the amenity and environment of the surrounding areas are minimised

This clause establishes FSR objectives, and requires development to comply with the maximum FSR shown on the FSR Map.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 4.4

Clause 4.5 Calculation of floor space ratio and site area [optional]

This clause sets out the objectives and definition of 'floor space ratio'. This includes the standardised SI LEP method for calculating the site area of development and additional provisions for the purposes of applying FSR to a development site.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 4.5

Clause 4.6 Exceptions to development standards [compulsory]

This clause exists to provide flexibility in planning controls by enabling the consent authority to vary development standards in certain circumstances. This clause details the matters to be addressed and the process that would allow a development proposal to contravene a development standard, such as height or floor space ratio.

The clause identifies that consent will only be granted where compliance within a development standard is considered unreasonable and unnecessary in the circumstances. The proposed development must satisfy the objectives of both the development standard, and the relevant zone. The concurrence of the Secretary of the DPIE is also required before consent is granted. This concurrence is generally delegated by Council through an independent hearing and assessment panel, unless the proposed development has an overwhelming majority of circumstances. Matters for consideration by the consent authority are listed. The clause identifies particular development standards to which it does not apply.

PART 5 – MISCELLANEOUS PROVISIONS

Clause 5.1 Relevant acquisition authority [compulsory]

This clause is a model clause prepared by the DPIE. It generally relates to State Government or Council acquisition for roads, or open space purposes.

The purpose of this clause is for the identification of the relevant public authority for acquiring exclusively reserved land for certain public purposes, in accordance with 3.15 *Owner – initiated acquisition of land reserved for public purposes (cf previous s 27)* in the *Environmental Planning and Assessment Act 1979*, and under the *Land Acquisition (Just Terms Compensation) Act 1991*. This clause supplements existing owner-initiated acquisition procedures where acquisition can be triggered if the owner will suffer hardship, if there is any delay in the land being acquired by the relevant authority.

Land that is to be acquired is identified on the Land Reservation Acquisition map. This clause limits development on land intended for acquisition.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.1

Clause 5.1A Development on land intended to be acquired for public purposes [local]

This clause applies to land identified on the Land Reservation Acquisition Map. The purpose of this clause is to limit development on certain land intended to be acquired for a public purpose by the relevant authority of the State. Development consent is to only be granted for a purpose specified in the table found in this clause.

Equivalent clause in RLEP 2011: Clause 5.1A

Clause 5.2 Classification and reclassification of public land [compulsory]

This clause enables Council to classify or reclassify public land by listing it in Schedule 4 of the Bayside LEP. All Council land (other than public roads or crown reserves) is required to be classified as 'community land' or 'operational land' under the *Local Government Act 1993*.

Community land is land that is considered important to the community, because of its use or special features. Examples of community land are public open space, or land where other restrictions apply such as a trust deed which creates an obligation to maintain public access. The ongoing use and management of community land is to be set out in a Plan of Management under the *Local Government Act 1993*.

Operational land has no particular restrictions, other than those that may apply to any piece of land under the Plan. This land includes Council depots, and other land owned by a council and used for operational purposes.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.2

Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

This clause establishes the numerical standards for various permissible uses for certain types of development, namely being bed and breakfast accommodation, home businesses, home industries,

industrial retail outlets, farm stay accommodation, kiosks, neighbourhood shops, neighbourhood supermarkets, roadside stalls, secondary dwellings and artisan food and drink (exclusion). This is mandated by the SI LEP, and imposes development standards for these niche land uses. Numerical standards have been determined through a harmonisation process, which included referencing best practice standards applied by adjoining Councils.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.4

Clause 5.6 Architectural roof features [optional]

This clause allows the development of architectural roof features to exceed the maximum building height control, if certain specified criteria can be met. This is to accommodate development for roof features of visual interest or decorative form.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.6

Clause 5.7 Development below mean high water mark [compulsory if land to which plan applies contain tidal waters]

This clause requires development consent for any development that is carried out below the mean high water mark of a body of water subject to tidal influence. The waters surrounding the municipality are tidal and therefore this clause is included in the Bayside LEP.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.7

Clause 5.8 Conversion of fire alarms [compulsory]

This clause applies to a fire alarm system that can be monitored by NSW Fire Brigades, or by a private service provider. The clause outlines development that requires consent and development that is complying development.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.8

Clause 5.10 Heritage conservation [compulsory]

This clause is mandated by the SI LEP, and sets out provisions to conserve the environmental heritage of the Bayside LGA. It applies to heritage items, heritage conservation areas, archaeological sites, and places of Aboriginal heritage significance. It identifies when development consent is required, and requires the consent authority to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned.

Under this clause, the consent authority may require a Heritage Impact Assessment, or Heritage Conservation Management Plan. This clause also allows land uses that may not otherwise be permitted on the site of a heritage item, as an incentive for the conservation of that item. This clause is supported by Schedule 5 and the Heritage Map which identify both the heritage items and heritage conservation areas found within the Bayside LGA.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.10

Clause 5.11 Bush fire hazard reduction [compulsory]

This clause enables bushfire hazard reduction authorised by the *Rural Fires Act 1997* to be carried out without consent.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.11

Clause 5.12 Infrastructure development and use of existing buildings of the Crown

This clause identifies that the Plan does not restrict any development that is permitted under *State Environmental Planning Policy (Infrastructure) 2007*, if it is carried out by or on behalf of a public authority.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.12

Clause 5.19 Pond-based, tank-based and oyster aquaculture

This clause outlines the key objectives to encourage the development of sustainable oyster, pond-based and tank based aquaculture. This clause specifies the matters that must be satisfied by the consent authority in order for consent to be granted. This is criteria based on site location and operational requirements, subject to the permissible zones found in Part 1 of Schedule 6.

This clause states that the consent authority is not limited to the minimum requirements set out in Part 1 of Schedule 6, and may impose additional conditions deemed necessary for development consent.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.19

PART 6 – LOCAL PROVISIONS

6.1 Acid Sulfate Soils [local and model]

This is a model clause prepared by the DPIE. The objective of this model clause is to avoid development resulting in environmental hazards, through the disturbance of acid sulfate soils. This clause sets out requirements for development that involves the disturbance of soil or groundwater, and provides for assessment of certain excavation works on land within an acid sulfate soil area or buffer area identified in the Acid Sulfate Soils Map. Complying Development under the SEPP (Exempt and Complying Development Codes) 2008 (including Complying Development under the Housing Code) cannot be carried out on land identified as Class 1 or Class 2 on the Acid Sulphate Soils Map.

Both the RLEP 2011 and BBLEP 2013 have adopted a provision relating to acid sulfate soils that are consistent with the DPIE's model provision. Development Applications within areas identified on the Acid Sulfate Map will need to consider, and assess, the impact of the development on acid sulfate soils and prepare an acid sulfate soils management plan if a preliminary assessment indicates a management plan is required.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 6.1

6.2 Earthworks [local]

This clause sets out the matters that are considered in the assessment of earthworks to ensure the protection of environmental functions and processes, amenity of neighbouring uses, cultural or heritage items, or features within land of the Bayside LGA. This clause permits earthworks of minor nature without requiring separate development consent.

This local provision means that any development application will need to consider the impact of proposed excavation such as soil stability, soil erosion, the structural integrity of adjoining properties and the health and vitality of existing vegetation (trees). Proposed development will also need to be designed to complement the topography of the land to minimise the need for cut and fill processes and the associated bulk and height.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 6.2

6.3 Stormwater and water sensitive urban design [local]

This clause provides specific criteria for the assessment of Development Applications to ensure minimised impacts of urban stormwater on the subject land, adjoining properties and the environmental and water quality of native bushland and the surrounding receiving waters. This includes the requirement to consider water sensitive urban design principles, and the integration of management measures in the proposed development.

Equivalent clause in RLEP 2011: Clause 6.7

Equivalent clause in BBLEP 2013: Clause 6.3

6.4 Terrestrial Biodiversity [local]

This clause is intended for the protection and conservation of terrestrial and aquatic biodiversity found in the Bayside LGA. This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map. This clause states that the consent authority must consider whether the development is likely to have any adverse impacts on the native ecological and threatened communities on land or detrimentally impact the composition of the land.

This clause establishes the matters of consideration that the consent authority must be satisfied with before granting consent, including whether the development design and form is managed to avoid significant adverse environmental impact, and whether the impact of the development cannot be avoided or minimised by adopting feasible alternatives.

Equivalent clause in RLEP 2011: Clause 6.8

Equivalent clause in BBLEP 2013: Clause 6.4

6.5 Flood Planning [local and model]

This is a model clause prepared by the DPIE which is currently applicable in the Rockdale LGA. The Bayside LEP is to incorporate this local provision across as there are significant parts of the LGA that are impacted. This clause is to apply to the whole LGA to ensure flooding is assessed consistently and that all developments incorporate appropriate measures to:

- minimise the flood risk to life and property;
- ensure compatibility with the flood hazard of the land; and
- avoid significant adverse impacts on flood behaviour and the environment.

Equivalent clause in RLEP 2011: Clause 6.6

6.6 Flood Plain Risk Management

This clause is proposed to be included in the Bayside LEP in order to provide for the management of lands that are at primary risk to life in areas outside the Flood Planning Area. This clause ensures the management of proposed development will not introduce significant evacuation or emergency response issues, or adversely impact the operational capacity of emergency response facilities and critical community infrastructure during extreme flood events. This is consistent with the objectives of the NSW Flood Prone Land Policy (2005) and Section 9.1 Local Planning Directions.

Equivalent clause in RLEP 2011 & BBLEP 2013: no equivalent clause

6.7 Riparian land, wetlands and waterways [local]

This clause ensures the protection and maintenance of riparian land, watercourse, waterbodies and waterways found within the Bayside LGA. This clause applies to the mapped streams and the land adjacent to the mapped streams (ranging from 10m to 40 metres). This clause outlines the matters that the consent authority must assess before granting consent. These matters include determining if the proposed development is likely to have adverse impacts on the quality of watercourses and inhabiting native species, if any appropriate measures to avoid minimise or mitigate the impacts are to be applied, and whether the impact of the development cannot be avoided by adopting feasible alternatives

Equivalent clause in RLEP 2011: Clause 6.9

Equivalent clause in BBLEP 2013: Clause 6.5

6.8 Limited Development on Foreshore area / Foreshore building line [local and model]

This clause applies to development on land in the foreshore area as shown on the Foreshore Building Line Map. This is a model clause recommended by the DPIE for land in the inner harbour area. Minor modifications have been made to reflect the particular circumstances (concern of sea level rise) arising in the Bayside LGA. The objective of this clause is to ensure that proposed development in the foreshore area does not adversely impact the amenity, scenic quality and natural foreshore processes.

This clause identifies development that is allowed in the foreshore area, and also identifies the matters the consent authority must be satisfied with before granting consent to development in the foreshore area.

Some of the matters of which the consent authority must be satisfied include;

- the appearance of any proposed structure when viewed from the waterway and foreshore are to be compatible with the surrounding area; and
- No adverse environmental harm or potential opportunity for compromised public access by proposed development.

Equivalent clause in RLEP 2011: Clause 6.5

Equivalent clause in BBLEP 2013: Clause 6.7

6.9 Airspace Operations [local and model]

Sydney Airport raised in their submission the current drafting of clause 6.9 does not capture all of the airspace protection surfaces that comprise Sydney Airport's prescribed airspace. A more appropriately worded clause – which, Council notes is already used in other LEPs, including the Hurstville and Liverpool LEPs – is suggested.

Equivalent clause in RLEP 2011: Clause 6.4

Equivalent clause in BBLEP 2013: Clause 6.8

6.10 Development in areas subject to aircraft noise [local and model]

This is a model clause prepared by the DPIE. It is mandated in the SI LEP, and is established to prevent certain noise sensitive developments from being located near Sydney (Kingsford Smith) Airport and its associated flight paths. This includes land located within Australian Noise Exposure Forecast (ANEF) Contour of 20 or greater. This clause aims to minimise the impact of aircraft noise by requiring appropriate noise attenuation measures in noise sensitive buildings. It requires the

consent authority to consider the requirements of the relevant Australian Standard, and whether development will increase the number of dwellings or people affected by aircraft noise before granting consent to any development in the vicinity of the airport.

This clause is included within the Bayside LEP as land under the RLEP 2011 and BBLEP 2013 is included within the ANEF 2039 contours. The consent authority must also be satisfied that the development will meet interior noise levels prescribed in the *Australian Standard 2021 – 2015, Acoustic-Aircraft Noise Intrusion – Building siting and construction* for the purpose of certain land uses in specified noise exposure contours. The intent and operation of this clause is not to change from how it currently applies to land near Sydney Airport, or land identified within the ANEF contour.

Equivalent clause in RLEP 2011: Clause 6.3
Equivalent clause in BBLEP 2013: Clause 6.9

6.11 Active street frontages [local and model]

This clause promotes uses that attract pedestrian traffic along certain ground floor street frontages and applies to land identified as “Active Street Frontages” on the Active Street Frontage Map. This clause is a model clause provided from the DPIE to enhance public security and passive surveillance, thus overall improving the amenity to the public domain by encouraging pedestrian activity. Active street frontages can also assist in supporting the economic viability of a centre. This clause emphasises that development consent is not to be granted unless the consent authority is satisfied that the proposed development will have an active street frontage.

It is noted that active street frontages are not required for entrances and lobbies, access for fire services and vehicular access of the ground floor of buildings.

In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are uses for the purposes of business or retail premises, or a medical centre.

Equivalent clause in RLEP 2011: Clause 6.11
Equivalent clause in BBLEP 2013: Clause 6.15

6.12 Design Excellence [local]

The purpose of this clause is to seek sustainable outcomes that enhance the public realm through high quality architectural and urban design. in certain locations. This clause applies to certain development involving the construction of a new building, or external alterations to an existing building, on land identified on the Design Excellence Map. Development consent is contingent upon whether the proposed development exhibits design excellence.

Equivalent clause in RLEP 2011: Clause 6.14
Equivalent clause in BBLEP 2013: Clause 6.16

6.13 Location of sex services premises [local and model]

The purpose of this clause is to minimise land use conflicts and adverse amenity impacts on places that are regularly frequented by children. This clause states that the consent authority may not grant consent unless satisfied that the premises is appropriately located and separated by at least one local road from:

- land zoned as R2 Low Density Residential, R3 Medium Density Residential or RE1 Public Recreation
- land uses of centre-based child care facilities, community facilities, schools or places of worship

Equivalent clause in RLEP 2011: Clause 6.13

Equivalent clause in BBLEP 2013: Clause 6.17

6.14 Converting serviced apartments to residential flat building [local]

The purpose of this clause is to prevent substandard residential accommodation occurring through the conversion of serviced apartments to a residential flat building. This clause states the subdivision of a building or part of a building from a serviced apartment into a residential flat building under a strata scheme must consider the design quality principles set out in Schedule 1 of the *SEPP 65- Design Quality of Residential Apartment Development*, and the design principles of the *Apartment Design Guide*, before consent can be determined.

Equivalent clause in BBLEP 2013: Clause 6.10

6.15 Vehicular Access to Certain Land at Hillsdale fronting Denison Street [local]

This clause applies to land at Hillsdale as shown on the Key Sites Map in the BBLEP 2013. The purpose of this clause is to ensure that vehicular access to any development within the Hillsdale Area is to only be provided from Denison Street. The consent authority is to not grant consent if otherwise. This clause is to be included within the Bayside LEP to protect the character of the Hillsdale area.

Equivalent clause in BBLEP 2013: Clause 6.14

6.16 Site area of proposed development in Arncliffe and Banksia Precincts includes dedicated land [local]

This clause states that when applying a floor space ratio under clause 4.5, the site area for the proposed development on land within the Arncliffe and Banksia Precincts is to include land that is dedicated to Council, or a public authority, for a public purpose and would have been part of the site area if it had not been dedicated. This local clause aligns with the *Bayside West Precinct 2036 Plan*, which is identified for urban renewal to provide more open space, infrastructure, homes and jobs.

Equivalent clause in RLEP 2011: Clause 6.15

6.17 Essential Services [local]

This clause states that the consent authority may not grant consent unless satisfied that essential services for the proposed development have been made available and accessible when required. Essential services under this provision include:

- the supply of water,
- electricity,
- disposal and management of sewage,
- stormwater drainage or on-site conservation, and
- suitable road and vehicular access

Equivalent clause in RLEP 2011: 6.12

6.18 Development requiring the preparation of a development control plan [local]

This clause is a site specific clause applying to 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens. It requires the preparation of a DCP.

Equivalent clause in BBLEP 2011: Clause 6.18

6.19 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens—general [local]

This clause is a site specific clause applying to 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens. It requires a minimum amount of non-residential floor space.

Equivalent clause in BBLEP 2011: 6.19

PART 7 – INTENSIVE URBAN DEVELOPMENT AREAS

7.1 Arrangements for designated State public infrastructure [local and model]

This clause ensures satisfactory requirements for the provision of land for designated State public infrastructure. Development consent is to not be granted for residential accommodation in an intensive urban development area, unless the Secretary has certified satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure lands.

Equivalent clause in RLEP 2013: Clause 7.1

7.2 Public utility infrastructure [local and model]

This clause prevents the development on land in an intensive urban development area, unless Council is satisfied that any public utility infrastructure is appropriately supported and adequate arrangements have been made to ensure the infrastructure is available when required.

Equivalent clause in RLEP 2013: Clause 7.2

7.3 Relationship between Part and remainder of Plan [local and model]

This clause outlines that in the event of inconsistency, all clauses and provisions under Part 7 Intensive urban development areas will prevail over any other provisions under any Part of this plan.

Equivalent clause in RLEP 2013: Clause 7.3

SCHEDULES

Schedule 1 Additional Permitted Uses

This schedule supports clause 2.5 “Additional permitted uses for particular land”. It lists permitted land uses (in addition to those permitted by the Land use Table) which may be carried out with consent on the nominated land.

Equivalent clause in RLEP 2011 & BBLEP 2013: Schedule 1

Schedule 2 Exempt development

This schedule supports clause 3.1 “Exempt Development”, and lists development that may be carried out without development consent or other council approval if the requirements in Part 3 of Bayside LEP, and the relevant criteria in Schedule 2 are satisfied. This schedule is supplementary to SEPPs, which also identify types of development that are Exempt Development. No Exempt Development is proposed to be listed in Schedule 2 of the Bayside LEP, as the Codes SEPP supersedes all former controls listed in the RLEP 2011 and the BBLEP 2013. This avoids confusion and prevent overcomplicating the overall intent of the schedule.

Equivalent clause in RLEP 2011 & BBLEP 2013: Schedule 2

Schedule 3 Complying development

This Schedule supports clause 3.2 “Complying development”. Part 1 of the Schedule lists local development which may be approved by Council, or an accredited certifier, provided the requirements of Part 3 of the Plan and the listed criteria are satisfied, and subject to the conditions set out in Part 2 of the Schedule being the same conditions in the *SEPP (Exempt and Complying Development Codes) 2008*. Both the RLEP 2011 and BBLEP 2013 do not have any listed local development included under Schedule 3.

Equivalent clause in RLEP 2011 & BBLEP 2013: Schedule 3

Schedule 4 Classification and reclassification of public land

This schedule supports clause 5.2 “Classification and reclassification of public land”. It lists Council property that is to be classified or reclassified as either community land or operational land under the *Local Government Act 1993*. No sites are proposed for classification or reclassification in the Bayside LEP.

Equivalent clause in RLEP 2011 & BBLEP 2013: Schedule 4

Schedule 5 Environmental heritage

This schedule supports clause 5.10 “Heritage conservation”. Part 1 lists heritage items, and Part 2 lists heritage conservation areas. These heritage items and conservation areas correspond to the areas shown on the proposed Heritage Map. All existing items under RLEP 2011 and BBLEP 2013 have been incorporated into Schedule 5 of the Bayside LEP.

Equivalent clause in RLEP 2011 & BBLEP 2013: Schedule 5

Schedule 6 Pond-based and tank-based aquaculture

This schedule supports clause 5.19 “Pond-based, tank-based and oyster aquaculture”, and outlines site location and operational requirements for these types of aquaculture uses, which must be satisfied for the consent authority to grant consent.

Equivalent clause in RLEP 2011 & BBLEP 2013: Clause 5.19

Dictionary

The Dictionary is the Standard Instrument Dictionary, and defines mandated terms used in the Bayside LEP.

The Dictionary includes definitions for heritage related matters such as *Aboriginal object*, and *Heritage conservation* etc. Definitions and terms relating specifically to the Bayside LGA, such as *Arncliffe Precinct* and *Banksia Precinct*, are also listed. Generally the relevant definitions are very similar to those in the RLEP 2011 and BBLEP 2013.

Equivalent clause in RLEP 2011 & BBLEP 2013: Dictionary