

Greater Sydney, Place and Infrastructure

IRF20/722

Gateway determination report

LGA	Georges River
PPA	Georges River Local Planning Panel
NAME	Georges River Local Environmental Plan 2020
NUMBER	PP_GRIVE_001_00
LEP TO BE AMENDED	Proposes to repeal: Kogarah Local Environmental Plan 2012 Hurstville Local Environmental Plan 2012 Hurstville Local Environmental Plan 1994 Makes: Georges River Local Environmental Plan 2020
ADDRESS	Applies to the entire Georges River LGA
DESCRIPTION	Applies to the entire Georges River LGA
RECEIVED	12 February 2020
FILE NO.	IRF20/722
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to consolidate the provisions of the three existing local environmental plans which apply to Georges River local government area (LGA), rezone land to facilitate additional dwelling capacity and to implement the vision of the *Georges River Local Strategic Planning Statement 2040* (LSPS). The LSPS was endorsed on 5 March 2020. The planning proposal will provide a consistent approach to planning and development across Georges River LGA in response to the amalgamation of Kogarah City Council with the City of Hurstville in 2016. The extent of former LGAs is shown in **Figure 1**.

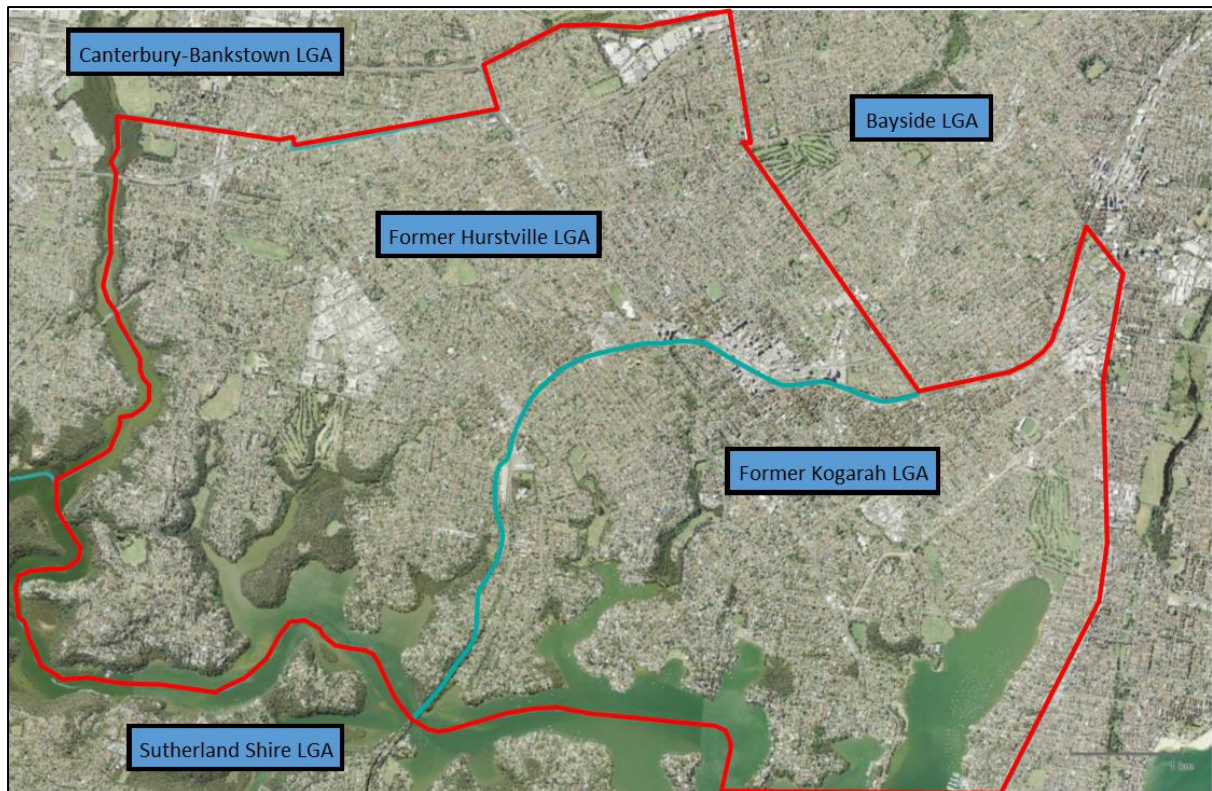


Figure 1: Former Hurstville and Kogarah LGAs

The resulting new local environmental plan, *Georges River Local Environmental Plan 2020* (GR LEP 2020) is intended to give effect to the *South District Plan* (the District Plan) in accordance with Section 3.8 of the *Environmental Planning and Assessment Act 1979* (the Act). The NSW Government provided funding to Georges River Council to accelerate preparation of the new LEP by mid-2021 in order to meet Council's obligation under the Act.

1.2 Site description

The planning proposal applies to the entire Georges River LGA (**Figure 2**). Georges River consists of 38 square kilometres and is home to approximately 153,450 people. The LGA is in the South District under the *A Metropolis of Three Cities – The Greater Sydney Region Plan*. The South District Plan identifies Hurstville as a Strategic Centre and Kogarah as a Health and Education Precinct. The South District Plan identifies planning priorities for Georges River LGA, as depicted in **Figure 3**.

Further context for the proposed site-specific provisions and re-zonings is provided in **Section 3**.



Figure 2: Georges River LGA (Source: Georges River LSPS)

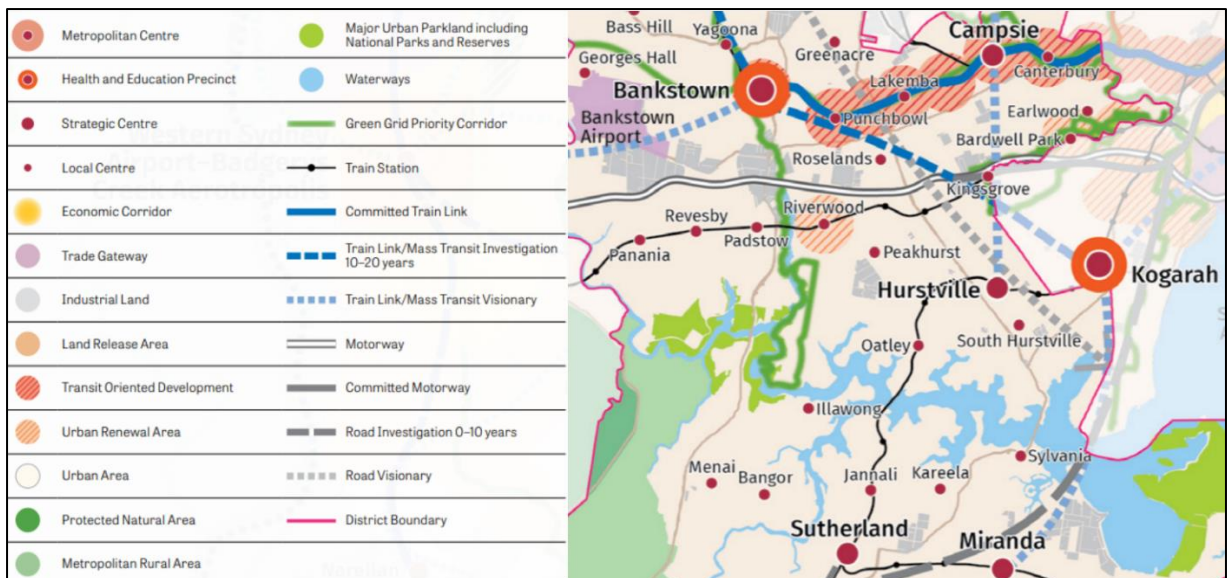


Figure 3: South District Plan Structure Plan (Source: South District Plan)

1.3 Existing planning controls

The provisions of the following LEPs apply to Georges River LGA at present (**Figure 1**):

- *Kogarah Local Environmental Plan 2012* (KLEP 2012);
- *Hurstville Local Environmental Plan 2012* (HLEP 2012); and
- *Hurstville Local Environmental Plan 1994* (HLEP 1994).

KLEP 2012 and HLEP 2012 are made in accordance with the standard instrument. However, HLEP 1994 applies to the land deferred from HLEP 2012 and applies to three Hurstville sites within the 3(b) City Centre Business Zone (**Figure 4**).

Development standards for these deferred sites, including building height and FSR controls, are contained in the accompanying *Hurstville Development Control Plan No. 2 Amendment Number 5*. See **Appendix 4** for more detail.



Figure 4: Map of deferred Hurstville sites

1.4 Structure of the Department's assessment

The Department's assessment of the planning proposal is structured in the following manner:

- The **Gateway Report** provides a succinct and strategic assessment of the proposal, including its consistency with relevant SEPPs and s9.1 Ministerial Directions.
- **Appendix 1** provides a summary of every proposed provision and describes where further detailed assessment of each is located within the Gateway Report appendices.
- **Appendix 2** provides a detailed assessment of each written clause which varies from the standard instrument or model provision.
- **Appendix 3** considers every change to land use permissibility under the proposed Land Use Table.
- **Appendix 4** assesses the proposed translation of three sites in Hurstville from Hurstville LEP 1994 to the new Georges River LEP.
- **Appendix 5** considers the proposed changes to development standards at No 821 Forest Road, Peakhurst (Club Grandviews bowling club).
- **Appendix 6** assesses the proposed rezoning of sites presently within the Additional Permitted Uses schedule of Kogarah LEP 2012.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed, subject to conditions, for the following reasons:

- The planning proposal has strategic merit and is required to respond to the requirement under the Act for Council to update its LEP to give effect to the South District Plan;
- The planning proposal is consistent with the relevant section 9.1 Ministerial Directions and SEPPs, subject to conditions which will ensure outstanding inconsistencies are resolved; and
- The planning proposal will provide a new consolidated LEP for the Georges River LGA that:
 - provides clarity and consistency for community members through the provision of a unified set of development standards and decreased amount of associated documentation;
 - provides a consistent planning framework across the LGA and thus greater certainty for landowners and new development;
 - enables the future implementation of broad LEP policies across the LGA, removing the need for amendments to multiple LEPs and simplifying the planning process.
- The planning proposal will remove discrepancies and anomalies from the legacy LEPs.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is a consolidated Georges River LEP which will ensure a consistent approach to planning and development across the LGA.

The objectives of the planning proposal are to:

- Give effect to the *South District Plan* by addressing its Planning Priorities and Actions;
- Implement the *Georges River Local Strategic Planning Statement 2040* (LSPS) vision for the LGA by addressing its Planning Priorities and Actions;
- Address housing the demand identified by the *South District Plan*;
- Identify additional housing opportunities through the harmonisation of existing LEPs;
- Retain and manage industrial and urban services land;
- Provide a regulatory environment that enables economic opportunities in the LGA's centres and employment zones;
- Protect future transport and infrastructure corridors;
- Facilitate opportunities for creative and artistic industries; and
- Identify, conserve and enhance environmental heritage.

The objectives are considered clear for the purpose of community consultation.

2.2 Explanation of provisions

Council provides an explanation of provisions in the Planning Proposal, a draft instrument for the purpose of community consultation, and a land use matrix. All of these documents are located in the supporting documentation as follows:

- **Attachment A:** Planning Proposal;
- **Attachment A appendices:** Council's appendices to the planning proposal, including the draft instrument (**Appendix 1**); and
- **Attachment F:** Land use matrix.

The documentation explaining the provisions is considered adequate, except for where elaboration or justification is required, as considered in detail in the **Gateway Report Appendices**.

Council prepared the new LEP in accordance with the following principles:

- Achieve equity across the LGA through the harmonisation process, particularly in respect to development potential and the management of environmental hazards and risks;
- Retain existing controls where the status quo can be maintained;
- Develop a hierarchy of residential zones to ensure development typologies reflect the objectives of the respective zone, including a 'true' medium density residential zone;

- Protect the amenity and local character of low density residential zoned areas;
- Provide high density residential areas with opportunities for greater activation;
- Facilitate employment growth in centres, particularly in mixed use zones;
- Protect industrial zoned land whilst allowing greater land use and development flexibility;
- Promote good design and environmentally sustainable practices in larger developments;
- Enhance and protect the natural environment, especially in the foreshore localities along the Georges River;
- Formalise key infrastructure uses such as schools and hospitals; and
- Adopt the model local provisions for Standard Instrument LEPs as provided by the DPIE where applicable.

A table of the proposed provisions is provided at **Appendix 1** of the **Report Appendices**, including a comparison with the provisions of HLEP and KLEP.

Greater consideration of the proposed provisions is provided in **Section 3, 4 and 5** of this report. Where significant provisions are proposed which may vary from the Standard Instrument (SI) or Model Provision (MP), a detailed assessment is provided in the **Report Appendices**.

Recommended amendments:

The provisions are considered clear for the purpose of community consultation, with the exception of those for which greater justification is required by Gateway conditions. See **Section 3** for these considerations.

2.3 Mapping

The planning proposal combines the mapping of the existing LEPs, as modified by the provisions described above, into a consolidated set of maps. A schedule of the proposed maps is provided below. Detailed consideration of the provisions which alter mapping is located in the **Report Appendices** and **Section 3, 4 and 5** below.

Map	HLEP 2012	KLEP 2012	GRLEP 2020	Explanation	Department comment
Land Application	✓	✓	✓	Map to which the LEP applies	Satisfactory
Land Zoning	✓	✓	✓	Consolidated zoning map. Proposed rezonings are considered in Appendix 2.2 .	Satisfactory, subject to conditions
Lot Size	✓	✓	✓	Consolidated lot size map. Proposed lot size development standards are considered in Appendix 2.3 .	Satisfactory

Map	HLEP 2012	KLEP 2012	GRLEP 2020	Explanation	Department comment
Lot Size for Dual Occupancy Development Map	x	✓	✓	Map of minimum lot size controls for dual occupancy development. As this map is already in place in KLEP, applying the map across the LGA is considered acceptable.	Satisfactory
Height of Buildings	✓	✓	✓	Consolidated height control map. Site specific changes to building height are considered in Appendix 2.2 .	Satisfactory, subject to conditions
Floor Space Ratio	✓	✓	✓	Consolidated FSR map. Site specific changes to FSR are considered in Appendix 2.2 .	Satisfactory, subject to conditions
Land Reservation Acquisition	✓	✓	✓	Consolidated map which incorporates new land identified for Council acquisition, and removes land already acquired. See Appendix 2.4.1 for more detail.	Satisfactory, subject to conditions
Heritage	✓	✓	✓	Consolidated map depicting the combined heritage schedules of HLEP and KLEP. A number of amendments are proposed. See Appendix 2.7 for assessment.	Satisfactory, subject to conditions
Acid Sulfate Soils	✓	✓	✓	Consolidated map of acid sulfate soils, as per the Model Provision.	Satisfactory

Map	HLEP 2012	KLEP 2012	GRLEP 2020	Explanation	Department comment
Coastal Hazard and Risk	x	x	✓	New mapping to support the new clause which requires significant development in the foreshore area, riparian land and areas affected by future sea level rise to consider the impact of sea level rise and tidal inundation, impacts on the water quality of Georges River, and other coastal hazards. See Appendix 2.5.3 .	Satisfactory, subject to conditions
Foreshore Building Line	✓	✓	✓	A consolidated foreshore building line map to give effect to the proposed Coastal Hazard and Risk clause (see above).	Satisfactory, subject to conditions
Foreshore Scenic Protection Area	✓	x	✓	A consolidated map extending into the KLEP foreshore. See Appendix 2.5.4 for detailed assessment.	Satisfactory, subject to conditions
Riparian Lands and Watercourses	✓	x	✓	Maps sensitive land along the Georges River foreshore to support the proposed Coastal Hazard and Risk clause. See Appendix 2.5.3 for further consideration.	Satisfactory, subject to conditions
Flood Planning	x	✓	✓	Maps three 1 in 100 event flooding layers to give effect to the proposed Flood Planning clause, as described and assessed in Appendix 2.5.1 .	Satisfactory, subject to conditions
Probable Maximum Flood Map	x	x	✓	Maps three probable maximum flood level layers to give effect to the proposed Flood Planning clause, which is considered unsatisfactory in Appendix 2.5.1 .	Unsatisfactory

Map	HLEP 2012	KLEP 2012	GRLEP 2020	Explanation	Department comment
Key Sites	x	x	✓	Maps the Penshurst and South Hurstville industrial precincts where the proposed Creative Industries in Zone IN2 local provision would apply. See Appendix 2.5.13 .	Satisfactory

The mapping is considered appropriate for community consultation, subject to the modifications identified in the **Report Appendices**.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal responds to the need for Councils to update their LEPs as stipulated in the Act. The planning proposal is justified by the District Plan, the Georges River LSPS and a number of Council strategies and studies. These strategic documents are considered in detail in **Section 4** and the **Report Appendices**, where relevant.

The planning proposal is the best and most appropriate means of achieving Council's intended outcome to create a consolidated LEP for the Georges River LGA.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal is consistent with the relevant Premier's Priorities, which are to increase the proportion of homes in urban areas within 10 minutes' walk of quality green, open and public space, and to increase the tree canopy and green cover across Greater Sydney.

4.2 District

The Greater Sydney Commission published the South District Plan (the District Plan) on 18 March 2018. The plan establishes the planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets. The planning proposal is consistent with the relevant priorities for infrastructure, liveability, productivity and sustainability outlined in the District Plan, subject to conditions, as considered below.

4.2.1 S1: Planning for a city supported by infrastructure

Planning Priority 1 seeks to align future growth with infrastructure.

The planning proposal intensifies the development of existing urban land, which ensures existing infrastructure use is optimised in line with Action 6 and Objective 4. In addition, the planning proposal is accompanied by an Infrastructure Integration Roadmap which identifies the infrastructure required to support the growth facilitated by the new LEP. In response, Council is preparing a consolidated development contributions plan for the entire LGA. This plan will provide place-based infrastructure in line with Action 4 and Objective 3.

4.2.2 S3: Providing services and social infrastructure to meet people's changing needs

Planning Priority 3 seeks to deliver integrated and targeted delivery of services and infrastructure to support growth and take account of existing levels of provision and use.

The planning proposal is consistent with the priority because it:

- provides for increased permissibility of crematoria in business zones and the light industrial zone, as per Action 8 and Objective 6;
- protects the existing school and hospital uses by including these facilities in Zone SP2 Infrastructure, as per Action 8 and Objective 6; and
- adds 'entertainment facility' as an additional permitted use at Jubilee Stadium, which optimises the use of this public land in line with Action 9 and Objective 6.

4.2.3 S4 Fostering healthy, creative, culturally rich and socially connected communities

Planning Priority 4 aims to foster healthy, resilient and socially connected communities with diverse neighbourhoods through promoting active lifestyles and the arts.

The planning proposal is consistent with the priority because it will:

- encourage active street life in commercial centres by requiring non-residential uses on street frontages (as considered in **Appendix 2.5.10**) and minimum non-residential FSRs (see **Appendix 2.3.8**), in line with Council's Commercial Centres Study (Part 1) consistent with Action 10 and Objective 7;
- encourage further retail premises, including cafes, restaurants and small bars in high density residential zones to facilitate greater social interaction and street life (see **Appendix 3.3**), consistent with Action 10 and Objective 7; and
- permit a broad range of creative office uses in Zone IN2 Light industrial (see **Appendix 2.5.13**), consistent with Action 14 and Objective 7.

4.2.4 S5: Providing housing supply, choice and affordability, with access to jobs, services and public transport

Planning Priority 5 aims to provide greater housing supply, diversity and affordability through well designed, well located housing and a variety of housing stock to suit all stages of life.

The planning proposal is consistent with the priority because:

- the proposed increased development capacity for diverse medium and high density typologies in residential and mixed use centres is located in existing urban areas which will make use of existing transport infrastructure, whilst encouraging housing and employment in close proximity, consistent with Objective 11; and
- a Gateway condition requires the large scale residential upzoning across the LGA to be further justified (see **Appendix 2.2.2**).

Council is currently working to finalise its Local Housing Strategy (LHS) and Local Strategic Planning Statement (LSPS) which will review all land in the Georges River LGA. The draft LHS was endorsed by Council on 24 February for exhibition alongside this planning proposal. The LSPS is yet to be assured by the Greater Sydney Commission.

4.2.5 S6: Creating and renewing great places and local centres, and respecting the District's heritage

Planning Priority 6 aims to create great places which bring people together and where heritage is identified, conserved and enhanced.

The planning proposal is consistent with the priority because:

- It encourages diverse land uses and walkability in existing centres (**see Appendix 3.3, 3.4, 3.5, 3.6 & 3.7**), consistent with Action 18; and
- It consolidates the existing heritage schedules of HLEP and KLEP, thus identifying and conserving the heritage of the LGA, as per Objective 13.

It is noted that further place-based planning for centres, as directed by Action 18, will be undertaken with the development of Council's *Commercial Centres Strategy* (Part 2) which will inform a later amendment to the new GRLEP, which is considered acceptable.

4.2.6 S9: Growing investment, business opportunities and jobs in strategic centres

Planning Priority 9 aims to ensure investment and business activity is achieved in identified centres.

The planning proposal is consistent with the priority because:

- The planning proposal provides for an appropriate mix of employment uses in high density residential, business and industrial zones (see **Appendix 2**), as per Action 28 & 32;
- High density residential zones and business zones where shop top housing is permitted are clustered near the Kogarah strategic centre, in line with Action 28(l);
- Health care facilities will be permissible in the B3 Commercial Core and B4 Mixed Use zones applying to Hurstville centre, in line with Action 35;
- No rezoning of the existing commercial zones applying to Hurstville centre to residential zones is proposed, as per Action 35;
- Health care facilities will be permissible in the B4 Mixed Use zone applying to Kogarah strategic centre, as per Action 36; and
- No loss of land zoned for employment in Kogarah is proposed, as per Action 36.

4.2.7 S10: Retaining and managing industrial and urban services land

Planning Priority S10 seeks to retain and manage all existing industrial and urban services land, particularly against pressure from residential development.

The planning proposal is consistent with the priority because:

- All existing industrial and urban services land is proposed to be retained, in accordance with Action 39; and
- Increased building heights in industrial areas are proposed, as per Action 42.

The planning proposal is considered to be consistent with all other relevant planning priorities of the District Plan.

S12 Delivering integrated land use and transport planning and a 30-minute city

Planning Priority S12 seeks to deliver appropriate land uses and densities with supporting infrastructure.

The planning proposal is consistent with this priority because it concentrates high density development in existing centres and areas with access to public transport. All changes are located within existing urban areas.

S13 Protecting and improving the health and enjoyment of the District's waterways

Planning Priority S13 seeks to ensure the coast and waterways are protected and healthier.

The planning proposal supports this by:

- Strengthening coastal hazard development controls (see **Appendix 2.5.3**); and
- Extending the Foreshore Scenic Protection Area across the entire foreshore of the LGA (see **Appendix 2.5.4**).

S14 Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes better managing rural areas

Planning Priority S14 seeks to protect biodiversity whilst enhancing urban bushland and remnant vegetation.

The planning proposal is consistent with this priority because it will retain existing zonings of bushland and areas of environmental protection.

S15 Increasing urban tree canopy cover and delivering Green Grid connections

This priority seeks to increase urban tree canopy and to see the Green Grid link parks, open spaces, bushland and walking and cycling paths.

The planning proposal is consistent with this priority because it includes a new local provision to require a proportion of landscaped area in new development (see **Appendix 2.5.8**).

S16 Delivery high quality open space

Planning Priority S16 seeks to ensure that public open spaces are accessible, delivered and enhanced.

The planning proposal involves adding new areas of public space to the Land Reservation Acquisition Map, which is considered to give effect to this priority (see **Appendix 2.4.1**).

S18 Adapting to the impacts of urban and natural hazards and climate change

Planning Priority S18 seeks to adapt to climate change and other future shocks and stresses.

The proposed coastal hazard local provision adapts to the effects of climate change by incorporating sea rise and tidal inundation projections to 2100 on the proposed Coastal Hazard Map (see **Appendix 2.5.3**).

S19 Preparing local strategic planning statements informed by strategic planning and S20 Monitoring and reporting on the delivery of the plan

These Planning Priorities seek to ensure the preparation of a Local Strategic Planning Statement and an associated body of studies that give effect to the District Plan at the local planning level.

Georges River Council has prepared a draft Local Strategic Planning Statement which is currently waiting final endorsement from the Greater Sydney Commission.

4.3 Local

Where a proposed provision is justified by a specific local strategy or study, including the future *Local Housing Strategy*, the *Commercial Centres Strategy* (Part 1), the *Industrial Land Review*, the *Foreshore Strategic Directions Paper*, the *Infrastructure Integration Roadmap*, and the future *Hurstville Heritage Review*, it is discussed in detail with respect to that provision in the **Report Appendices**.

Draft Local Strategic Planning Statement

The planning proposal is consistent with the Georges River Local Strategic Planning Statement 2040 (LSPS) which establishes the 20 year vision for land use in the LGA, the special character and values that are to be preserved, and how change will be managed in the future. The draft LSPS was publicly exhibited between 26 June 2019 and 7 August 2019. The planning proposal notes that the draft LSPS provides a vision for implementing the new LEP. It also describes an anticipated process of additional LEP amendments to progressively implement the priorities of the District Plan and the LSPS as additional strategies and studies are completed.

The LSPS was endorsed on 5 March 2020. The planning proposal is considered consistent with the LSPS, with consideration of key issues below:

- The proposed minimum non-residential FSR local provision and ground floor non-residential uses along street frontages local provisions (see **Appendix 2.3.8 & Appendix 2.5.10**) align with Action A59 to implement such clauses;
- Additional land uses will be permitted in certain areas of Council's light industrial zone by virtue of the proposed Creative industries in Zone IN2 clause (see **Appendix 2.5.13**) as per Action A60;
- Tourist and visitor accommodation and serviced apartments will be permissible in Zone B4 to allow medi-hotel development in the Kogarah medical precinct, consistent with Action A65;
- Adding 'entertainment facility' as an additional permitted use for Jubilee Stadium is consistent with Action 26;
- The proposed environmental sustainability local provision (see **Appendix 2.5.7**) implements Action 91 which requires such a provision; and

- The proposed expansion in area of the FSPA throughout the KLEP area (see **Appendix 2.5.4**) implements the direction of Action A84.

4.4 Section 9.1 Ministerial Directions

The planning proposal is acceptable with regard to most applicable Section 9.1 Ministerial Directions since it is either consistent or the inconsistency is justified in most cases. Where inconsistencies remain unresolved, Gateway conditions are imposed as discussed below.

Note that further justification for the proposed Housing Investigation Areas is required by a Gateway condition since insufficient information was provided. See **Appendix 2.2.2** for further information.

Direction 1.1 Business and Industrial Zones

Direction 1.1 seeks to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified centres.

The direction applies because the planning proposal affects business and industrial zoned land.

The planning proposal will not reduce the potential floor space for employment uses, public services or industrial uses, and is consistent with this direction.

Direction 2.1 Environment Protection Zones

The direction applies to all planning proposals and seeks to protect and conserve environmentally sensitive areas.

The Department is satisfied that the planning proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas, including the existing land zoned E1 National Parks and Nature Reserves and E2 Environmental Protection.

It is noted that the planning proposal seeks to reduce the extent of the area mapped as Foreshore Scenic Protection Area (FSPA) within the HLEP area. However, the planning proposal intends to:

- Extend the FSPA across the extent of the foreshore in the KLEP area, which does not include such a clause at present;
- Introduce new stringent minimum subdivision size and minimum lot size development standards in these areas; and
- Apply a sliding scale FSR control for dual occupancies which reduces the GFA permitted on larger lots, as is typical in the FSPA.

The changes are justified by Council's *Foreshore Strategic Directions Paper*, which is considered acceptable (see **Appendix 2.5.4**). As such, on balance, the planning proposal's reduction of the FSPA within the HLEP area (which is confined largely to suburban lots away from the immediate foreshore), is considered acceptable. Any inconsistency with Direction 2.1 is of minor significance.

Direction 2.2 Coastal Management

This direction aims to protect and manage coastal areas of NSW.

A planning proposal must include provisions that give effect to:

- The objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;
- The NSW Coastal Management Manual and associated toolkit;
- NSW Coastal Design Guidelines 2003; and
- Any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the *Coastal Protection Act 1979* that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.

The planning proposal's consistency with the direction is unresolved at this time since it does not explain how it gives effect to the *Georges River Estuary Coastal Zone Management Plan* (CZMP). See **Appendix 2.5.3** for more detail. A Gateway condition is imposed to require Council to explain the consistency of the proposed provisions with the CZMP.

Direction 2.3 Heritage Conservation

This direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The planning proposal is considered to be consistent with the direction since it consolidates the existing heritage schedules of HLEP and KLEP. It also makes a number of amendments in accordance with the recommendations of the draft *Hurstville Heritage Review*. A Gateway condition requires that prior to the commencement of community consultation, the Review Recommendations document is to be signed by its author, with their heritage qualifications also clearly stated.

Direction 2.4 Recreation Vehicle Areas

This Direction aims to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

The Georges River LGA includes land to which this Direction applies as an environmental protection zone (E1 Natural Parks and Nature Reserves) is currently included in the HLEP area. This zone, without amendment, is proposed to be included in the consolidated Georges River LEP 2020.

The Planning Proposal does not propose development for the purposes of a recreation vehicle areas within the E1 Natural Parks and Nature Reserves zone nor any other uses that would conflict this the aims of this Direction.

Therefore, the planning proposal is consistent with this Direction.

Direction 3.2 Residential Zones

This direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs.

The direction applies when a planning proposal affects residential zoned land.

The planning proposal is inconsistent with the direction since the permissible residential density of land will be reduced in certain R3 zones, as considered in detail at **Appendix 2.2.1**. In addition, the proposed broad changes to residential zones by the new land use table (**Appendix 3**) and the significant rezonings from an R2 zone to R3 and R4 zones in the housing investigation areas (**Appendix 2.2.2**) rely upon the justification in the draft LHS. The draft LHS does not form a part of the submitted planning proposal.

As a result, consistency with the direction is unresolved at this time and conditions are imposed requiring:

- the planning proposal to be amended prior to community consultation to include the draft LHS; and
- the planning proposal to be amended to reflect the endorsed LHS prior to submission for finalisation, should the LHS be endorsed by the finalisation stage.

In the case of the latter condition, it is important that the finalised planning proposal be consistent with the LHS, should it be endorsed by the time of the LEP's finalisation. The Department will be responsible for endorsing the LHS and determining whether Council resolved the inconsistency with this direction at finalisation stage.

Otherwise, the planning proposal is consistent with the direction at this time since it:

- Broadens the choice of building types in the housing market;
- Makes more efficient use of existing infrastructure and services by concentrating growth in centres;
- Contains provisions, including the design excellence and environmental sustainability clauses, which encourage good design; and
- Will not, on the balance of all provisions and standards proposed, reduce the permissible residential density of the subject land.

Direction 3.3 – Home Occupations

This Direction aims to encourage the carrying out of low-impact small businesses in dwelling houses.

The planning proposal is consistent with this Direction as it proposes to continue to permit home occupations without consent across all zones where dwelling houses are permitted.

The Planning Proposal also does not seek to prohibit home occupations where they are already permitted.

The planning proposal is therefore considered consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

This direction aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts:

- Improve active and public transport access to homes and jobs;
- Increase transport choices and reduce car dependency; reduce travel demand;
- Support the operation of public transport services; and
- Provide for the efficient movement of freight.

This direction applies when a planning proposal seeks to create, alter or remove a zone or a provision relating to urban land.

The planning proposal is consistent with the aims, objectives and principles of the guidelines for planning and development and the business and services planning policy. The location of land zoned for urban purposes and the provisions applying to those zones are not proposed to be significantly amended such that they would subvert the aims of this Direction.

Therefore, the planning proposal is consistent with this direction.

Direction 3.5 Development Near Regulated Airports and Defence Airfields

This direction seeks to ensure the effective and safe operation of regulated airports and defence airfields. It seeks to ensure their operation are not compromised by development and that development incorporates appropriate mitigation measures if situated in noise sensitive land.

The direction applies when a planning proposal seeks to create, alter or remove a zone or a provision relating to land near a regulated airport.

A number of increases to building heights are proposed, including the Housing Investigation Areas (see **Appendix 2.2.2**) and throughout Zone IN2 (see **Appendix 2.3.4**).

The consistency of the planning proposal with the direction is unresolved at this time since a Gateway condition requires Council to consult with Sydney Airport and the Commonwealth Department of Infrastructure, Transport, Cities and Regional Development prior to the commencement of community consultation.

Should the Commonwealth Department consider that the proposal seeks to allow development which would constitute a controlled activity for the purposes of the *Airports Act 1996*, it must provide permission to Council prior to the commencement of community consultation.

It is noted that Council have conducted a preliminary consultation with Sydney Airport at the Department's request. The Airport indicates that it is unlikely to raise any issues with the planning proposal since it prefers to assess specific development proposals.

4.1 Acid Sulfate Soils

This direction requires an acid sulphate soils study where intensification is likely to occur in an area identified as being affected by acid sulphate soils.

The planning proposal adopts the model provision, consistent with the direction. The proposed development standards and provisions which permit an intensification of development on land mapped as having a probability of containing acid sulfate soils is considered to be of minor significance since detailed assessment may be conducted at the DA stage.

Any inconsistency with this direction is of minor significance.

4.3 Flood Prone Land

This Direction aims to ensure appropriate consideration of flood prone land in line with government policies and plans when a planning proposal seeks to create, remove or alter a zone or a provision that affects flood prone land.

As discussed in **Appendix 2.5.1** in reference to the proposed flooding provisions, the planning proposal is inconsistent with the *Floodplain Development Manual 2005*. As a result, a Gateway condition requires the planning proposal to be amended to use the model flood planning provision.

Consistency with this direction remains unresolved.

4.4 Planning for Bushfire Protection

This direction aims to protect life, property and the environment from bush fire hazards.

The planning proposal affects land mapped as bushfire prone in the former Hurstville LGA.

As a result, a Gateway condition requires Council to consult with the NSW Rural Fire Service and take into consideration its comments prior to the commencement of community consultation in accordance with the direction.

6.2 Reserving Land for Public Purposes

This direction seeks to facilitate the provision and removal of reservations of land for public purposes.

The planning proposal states that land which has already been acquired by the relevant acquisition authority has been removed from the HLEP and KLEP Land Reservation Acquisition Map. However, it does not identify the subject land or the relevant authorities.

As such, consistency with the direction is unresolved, since it requires Council to provide the approval of the relevant public authority when proposing to alter or reduce existing reservations of land.

A Gateway condition requires Council to clarify the consistency of the planning proposal with the clause. Should the approval of public authorities be required, this can be conducted during public consultation of the planning proposal.

The proposed reservations for Council acquisition are considered acceptable for the purpose of clause (4) of the direction.

All other directions

The planning proposal is considered consistent with all other applicable ministerial directions.

4.5 State environmental planning policies (SEPPs)

Assessment with regards to particularly relevant SEPPs is contained below:

4.5.1 SEPP No 19-Bushland in Urban Areas

The planning proposal is acceptable with regards to the SEPP because the Department is satisfied that priority has been given to retaining bushland in preparation of the planning proposal.

4.5.2 SEPP 55-Remediation of Land

This SEPP relates to the remediation of land where rezoning occurs.

Under the planning guidelines for SEPP 55 (Managing Land Contamination, DUAP, 1998) rezonings that cover a large area, for instance more than one property, are identified as generalised rezonings. This description applies to the planning proposal.

The planning guidelines acknowledge that for generalised rezonings, 'it is difficult for a planning authority to be satisfied that every part of the land is suitable for the proposed use(s) in terms of contamination at the rezoning stage' (page 22). The planning guidelines state that in these cases, the rezoning may proceed as long as measures are in place to ensure the potential for contamination and the suitability of the land for the proposed uses are assessed once detailed proposals are made. These measures are currently in place under *Clause 7 – contamination and remediation to be considered in determining development applications* of SEPP No. 55.

However, the Guideline instructs that if the rezoning includes the identification of locations for sensitive uses¹, such as childcare centres, then it may be appropriate to determine the suitability of the land in those locations at the rezoning stage.

In accordance with the Guideline, the following Gateway conditions are imposed:

- the proposed change to Zone SP2 Infrastructure which introduces centre-based child care facilities as permissible with consent is deleted. This is because no investigation of the land zoned SP2 is provided in accordance with the SEPP; and
- the proposed rezoning of the land at 141-143A Stoney Creek Road, Beverley Hills from SP2 'Public Administration' to R2 Low Density Residential is deleted. This is because no investigation of the land to which sensitive land uses are proposed to be permitted is provided. The history of uses carried out on the land is unclear. The land may remain within the SP2 zone, or Council may amend the planning proposal at a later date with further information to satisfy SEPP 55 and the Guideline.

All other proposed land use changes are considered to only introduce sensitive uses in zones where other sensitive uses are already permitted, which is satisfactory.

¹ The following uses are identified under cl. 6(4)(c) of SEPP No.55 as requiring consideration of contamination assessment residential, educational, recreational or child care purposes, or for the purposes of a hospital.

4.5.3 Greater Metropolitan Regional Environmental Plan No 2-Georges River Catchment

The planning proposal is partly justified by Council's *Foreshore Strategic Directions Paper*, which considers the aims and planning principles of the REP in making its recommendations, as required by Part 2 of the REP.

A Gateway condition requires the planning proposal to explicitly explain its consistency with the recommendations of the *Georges River Estuary Coastal Zone Management Plan*, as required by Clause 8 of the REP.

Subject to this condition, the planning proposal is acceptable with regards to the REP.

SEPP 70-Affordable Housing (Revised Schemes)

Council state in the planning proposal that it will pursue an affordable housing scheme and accompanying LEP clause at a later date once the necessary economic analysis and justification is complete.

Other SEPPs

The planning proposal is considered acceptable with regards to all other applicable SEPPs.

5. STRATEGIC ASSESSMENT

5.1 Social

The planning proposal will provide the community with a single Local Environmental Plan with a unified set of provisions and decreased amount of associated documentation. This will assist in improving clarity and consistency and will also assist in providing certainty to landowners.

5.2 Environmental

The planning proposal will result in positive environmental outcomes, subject to Gateway conditions, because:

- The proposed land use table and zones strike an appropriate balance of environmental protection, the consideration of residential amenity, and flexibility for business;
- The proposed development standards, including altered minimum subdivision size and minimum lot size controls, will ensure that substantial developments are appropriately sited in their context; and
- The proposed local provisions will provide an appropriate level consideration for environmental impacts.

5.3 Economic

The planning proposal will have a positive economic impact because:

- The proposed zoning and provisions relating to residential development provide for the delivery of a diversity of housing typologies in areas served by existing infrastructure;

- A number of provisions are proposed to encourage the growth of business, including GFA requirements in commercial centres, greater permissibility of retail premises in high density residential zones, and allowance for a greater range of businesses, including creative industries, in industrial zones;
- It retains and effectively manages existing employment land; and
- The consolidation of a single set of planning controls across the LGA will provide greater certainty for development.

5.4 Infrastructure

The planning proposal is accompanied by an *Infrastructure Integration Roadmap* which anticipates a future local contributions plan. It is considered appropriate that Council continue to develop this consolidated contributions plan to address the local infrastructure demands of the planning proposal.

6. CONSULTATION

6.1 Community

Council proposes a consultation period of 28 days with planning proposal and accompanying strategies placed on exhibition together.

A public consultation period of 28 days in accordance with the Department's guideline, *A Guide to Preparing LEPs*, is considered appropriate and forms a condition of the Gateway determination.

6.2 Agencies

Council does not nominate the public agencies to be consulted about the planning proposal.

A Gateway condition requires consultation with the following agencies prior to the commencement of community consultation:

- Sydney Airport;
- Commonwealth Department of Infrastructure, Regional Development and Cities (Should Council be advised that permission by this Department is required in accordance with the s9.1 Direction 35 and/or the Airports Act 1996, this permission must be granted prior to the commencement of community consultation and written evidence of this permission must be submitted to the Department of Planning, Industry and Environment);
- NSW Rural Fire Service

An additional Gateway condition requires consultation with the following agencies during public consultation:

- Bayside Council;
- City of Canterbury Bankstown;
- Sutherland Shire Council;
- Office of Environment, Energy and Science;
- NSW Land and Housing Corporation;

- NSW Health;
- NSW Department of Education;
- Sydney Water Corporation;
- Environmental Protection Authority;
- Heritage, Department of Premier and Cabinet); and
- Transport for NSW.

As discussed in **Section 4.4**, the planning proposal does not identify the agencies which have acquired the land proposed to be removed from the Land Acquisition Map. Should any agency other than the Council have acquired the land, a Gateway condition requires those agencies to be consulted during the public consultation period.

7. TIME FRAME

Council proposes to submit the LEP to the Department for finalisation by June 2020, which is considered appropriate.

A nine month timeframe is recommended to allow for some flexibility following submission of the planning proposal for finalisation.

8. LOCAL PLAN-MAKING AUTHORITY

Council does not request delegation to be the local plan-making authority.

It is considered that, in this case, Council should not be given plan making authority due to the extent of the amendments sought by the proposal, which affects the entire LGA. The Department also considers it best placed to ensure compliance with the Standard Instrument LEP and model clause requirements at finalisation.

9. CONCLUSION

The planning proposal has strategic merit and is required to respond to the requirement under the Act for Council to update its LEP to give effect to the South District Plan.

It is considered that the planning proposal gives effect to the South District Plan and it will harmonise the planning provisions across the Georges River LGA.

The planning proposal is supported to proceed subject to conditions.

A summary of these conditions is provided below.

10. RECOMMENDATION

It is recommended that the delegate of the Minister:

1. agree that the inconsistencies with section 9.1 Directions *2.1 Environment Protection Zones* and *4.1 Acid Sulfate Soils* are minor or justified; and
2. note that the consistency with section 9.1 Directions *2.2 Coastal Management*, *3.2 Residential Zones*, *3.5 Development Near Regulated Airports and Defence Airfields*, *4.3 Flood Prone Land* and *6.2 Reserving Land for Public Purposes* is unresolved and will require justification (as reflected in the conditions).

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The conditions listed in the Schedule of Conditions are to be satisfied.
2. The final LEP should be updated where required to have regard to the endorsed Local Housing Strategy and Local Strategic Planning Statement, should the endorsement of either document occur prior to finalisation.
3. Prior to the commencement of community consultation, the following public authorities/organisations must be consulted with in order to meet the requirements of the relevant section 9.1 Directions:
 - NSW Rural Fire Service;
 - Sydney Airport; and
 - Commonwealth Department of Infrastructure, Regional Development and Cities - Should Council be advised that permission by this Department is required in accordance with the s9.1 Direction 35 and/or the Airports Act 1996, this permission must be granted prior to the commencement of community consultation and written evidence of this permission must be submitted to the Department of Planning, Industry and Environment.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. Consultation is required with the following public authorities during the exhibition period:
 - Bayside Council
 - City of Canterbury Bankstown
 - Sutherland Shire Council
 - Office of Environment, Energy and Science
 - NSW Land and Housing Corporation
 - NSW Health
 - NSW Department of Education
 - Sydney Water Corporation
 - Environmental Protection
 - Heritage, Department of Premier and Cabinet
 - Transport for NSW
6. A public hearing is not required to be held into the matter.
7. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination.
8. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



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9 March 2020
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