

Planning Proposal

Rockdale Local Environmental Plan 2011 'Height of Building Map Amendment'



2 July 2012

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Introduction

This Planning Proposal explains the intended effect of, and justification, for the proposed amendment to *Rockdale Local Environmental Plan (LEP) 2011*. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Infrastructure guides, including 'A Guide to Preparing Local Environment Plans' and 'A Guide to Preparing Planning Proposals'.

Background

Rockdale LEP 2011 was notified on 5 December 2011. *Rockdale LEP 2011* was prepared in accordance with the Department of Planning and Infrastructure's Standard Instrument.

As a result of a pre-development application process, Council identified a series of errors in the Height of Buildings map. The errors have occurred to specific height limits - all 16 metre and 19 metre height limits across nine (9) local centres have been replaced with a 20.5 metre height limit. The details of the errors in each affected centre is articulated below:

1. Land at Kingsgrove Village is shown as 20.5 metres but a large section of this land on Kingsgrove Road should be shown as 19 metres.
2. Land at Bexley North Small Village is shown as 20.5 metres but should be shown at 16 metres.
3. Land at Bardwell Park Neighbourhood Centre is shown as 20.5 metres but should be shown at 16 metres.
4. Land at Bexley Small Village is shown as 20.5 metres but should be shown at 16 metres.
5. Land at Arncliffe Small Village is shown as 20.5 metres but should be shown at 16 metres.
6. Land at Rockdale Town Centre (west of railway line) is shown as 20.5 metres but should be shown at 16 metres.
7. Land at Ramsgate Small Village is shown as 20.5 metres but should be shown at 16 metres.
8. Land at Ramsgate Beach Small Village is shown as 20.5 metres but should be shown at 16 metres.*
9. Land at Sans Souci Neighbourhood Centre is shown as 20.5 metres but should be shown part 16 metres and part 19 metres.

Note: The floor space ratio controls are not affected by the mapping error. Therefore, the amount of floor space available to proponents remains the same.

*See 'Ramgate Beach Small Village' section, below.

The errors were inadvertently made by the Department of Planning and Infrastructure while the *Rockdale LEP 2011* maps were being finalised before they, and the written instrument, were notified on 5 December 2011.

Ramsgate Beach Small Village

On 3 May 2012, Council met with a potential applicant for the purposes of a pre-DA for a development proposal at 158-162 Ramsgate Road, Ramsgate Beach. The development proposal is consistent with the error height of 20.5 metres.

The applicant's case for relying on the 20.5 metre error height limit is for the following reasons:

1. There are hydrological circumstances unique to the Ramsgate Beach Small Village (ie. the high water table) which prevents underground car parking greater than one level below ground. This requires a proportion of the car parking spaces to be provided at ground level. This results in a smaller area of floor space on the ground floor making it difficult to achieve the permissible FSR within the 4-5 storeys.

2. The view that street-wall buildings are not appropriate for the locality because of the character of the centre (ie. it is unlike Council's other local centres where street-wall buildings are a predominant character form), and the interface issues unique to the site (resulting from the expansion of the centre). Due to these considerations, a development with greater setbacks from adjoining properties would achieve a better built form outcome for the site. This results in a smaller building floor-plates which require height to achieve the permissible FSR.

During the preparation of the comprehensive *Rockdale LEP 2011*, Council officers undertook urban design testing to determine the intended 16 and 19 metre heights across Council's local centres. However, the unique hydrological circumstances at Ramsgate Beach were not considered in the assessment because its extent was unknown at the time. Furthermore, the comprehensive LEP process saw that the Ramsgate Beach Small Village was expanded to the northern side of Ramsgate Road. This resulted in land which was zoned low and medium density zones being rezoned to the B4 Mixed Use zone. This meant that the character of the newly zoned land did not comprise the same character as other existing B4 zoned land in Council's other traditional centres.

Having now considered these matters, Council is of the opinion that there is merit in allowing the 20.5 metre height limit, but only in the case of Ramsgate Beach Small Village. This is because the unique circumstances are not evident in any other local centres. Council will also need to make minor amendments to Rockdale Development Control Plan 2011.

A development application (DA-2012/378) has now been lodged with Council for a development proposal which responds to the 20.5 metre height limit.

Part 1 - Objectives or Intended Outcomes

The objective of the Planning Proposal is to amend *Rockdale LEP 2011* to correct errors in the Height of Buildings Map.

Part 2 - Explanation of Provisions

A Height of Buildings Map

The *Rockdale LEP 2011* Height of Buildings (HOB) Map is proposed to be amended as per Table 1 below.

Table 1 – Proposed Height of Buildings Map amendments

HOB Map Tile No.	Amendment	Explanation
HOB_001	- Replace 20.5 metre ('Q' notation) height limit at Kingsgrove Village with 19 metre height limit. - Replace 20.5 metre ('Q' notation) height limit at Bexley North Small Village and Bardwell Park Neighbourhood Centre with 16 metre height limit	Corrects DP&I error
HOB_002	Replace 20.5 metre ('Q' notation) height limit at Bexley Small Village with 16 metre height limit	Corrects DP&I error
HOB_003	- Replace 20.5 metre ('Q' notation) height limit at Bardwell Park Neighbourhood Centre with 16 metre height limit - Replace 20.5 metre ('Q' notation) height limit at Arncliffe Small Village with 16 metre height limit - Replace 20.5 metre ('Q' notation) height limit at Bexley Small Village with 16 metre height limit	Corrects DP&I error
HOB_004	- Replace 20.5 metre ('Q' notation) height limit at Bexley Small Village with 16 metre height limit - Replace 20.5 metre ('Q' notation) height limit at Rockdale Town Centre with 16 metre height limit	Corrects DP&I error
HOB_005	- Replace 20.5 metre ('Q' notation) height limit at Sans Souci Neighbourhood Centre with 16 metre and 19 metre height limits - Replace 20.5 metre ('Q' notation) height limit at Ramsgate Small Village with 16 metre height limit	Corrects DP&I error

Part 3 - Justification

A Need for the planning proposal

A1 Is the planning proposal a result of any strategic study or report?

No. The Planning Proposal is a result of an error. The Planning Proposal seeks to correct the error, except in the case of Ramsgate Beach Small Village. The Planning

Proposal process has been recommended by the Sydney Region East Team, Department of Planning and Infrastructure (DP&I).

A2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objective of the Planning Proposal is to correct errors in the *Rockdale LEP 2011* Height of Buildings Map (except in the case of Ramsgate Beach Small Village). Council has been advised by the DP&I that the best means to resolve this matter is via a Planning Proposal.

A3 Is there a net community benefit?

The intent of the Planning Proposal is to reinstate maximum building heights that were signed off by Council and agreed to by the Rockdale City community at critical statutory stages during the preparation of the *Rockdale LEP 2011* (except in the case of Ramsgate Beach Small Village). The Planning Proposal would deliver certainty to the Rockdale community.

The following table (Table 2) addresses the evaluation criteria for conducting a net community benefit test within the Draft Centres Policy (2009) as required by the Department's guidelines.

Table 2 - Consistency with Net Community Benefit Evaluation Criteria

Evaluation Criteria	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Yes. There are no matters within the Planning Proposal that are inconsistent with State and Regional Planning.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	No.
Is the LEP likely to create a precedent or create or change the expectations of the landowners or other landholders?	No. The Planning Proposal seeks to reinstate the height controls that were endorsed by Council at key statutory stages during the <i>Rockdale LEP 2011</i> process (except in the case of Ramsgate Beach Small Village). No change is proposed to the floor space ratios.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Not applicable
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	No. There are no changes to zoning proposed as a part of this Planning Proposal.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	No. There are no changes to zoning proposed as a part of this Planning Proposal.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposal site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Not applicable
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	Not applicable
Are there significant Government investments	Not applicable

in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact	
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	Not applicable
Will the LEP be compatible / complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The Planning Proposal seeks to reinstate height controls that were in place throughout the preparation, and up to the notification, of <i>Rockdale LEP 2011</i> (except in the case of Ramsgate Beach Small Village). The urban design testing and merit of the controls - including the compatibility with surrounding land - was undertaken at that time and endorsed by Council, by the Rockdale community and by the DP&I.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Not applicable
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Not applicable
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The Planning Proposal seeks to reinstate height controls that were in place throughout the preparation, and up to the notification, of <i>Rockdale LEP 2011</i> (except in the case of Ramsgate Beach Small Village). The implications of not proceeding mean that Rockdale City Council has in place a suite of height controls that were not endorsed by their Council, nor the Rockdale community, nor the DP&I.

B Relationship to strategic planning framework

B1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Sydney South Draft Subregional Strategy

Consistency of the proposed height controls with the Sydney South Region Draft Subregional Strategy was tested and endorsed by the DP&I by way of the issuing of the (former) Section 65 Certificate as part of the preparation of the comprehensive *Rockdale LEP 2011*. The proposed amendment to the heights from 16 metres to 20.5 metres which permits an additional storey is considered to be consistent with the Draft Subregional Strategy.

Metropolitan Plan For Sydney 2036

Consistency of the proposed height controls with the Metropolitan Plan 2036 was tested by Council and endorsed by the DP&I by way of the issuing of the (former) Section 65 Certificate as part of the preparation of the comprehensive *Rockdale LEP 2011*. The proposed amendment to the heights from 16 metres to 20.5 metres which permits an additional storey is considered to be consistent with the Draft Subregional Strategy.

B2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Rockdale City Community Strategic Plan

Council's Vision is: One Community, Many Cultures, Endless Opportunity. The blueprint for the Rockdale community for 2025 is to be achieved through five community outcomes:

1. A vibrant, healthy and socially connected City of many cultures
2. A sustainable City
3. A strong economy
4. Appropriate infrastructure
5. A leading organisation

Table 3 below identifies how the Planning Proposal is consistent with the community outcomes.

Table 3 – Consistency with Rockdale City Community Strategic Plan

Outcome	Strategy	Consistency
2	2.1 Strategic planning for a sustainable future Protect, preserve and promote the City's built and natural environment	Consistent. The Planning Proposal seeks to reinstate height controls that were in place throughout the preparation, and up to the notification, of <i>Rockdale LEP 2011</i> (except in the case of Ramsgate Beach Small Village). The urban design testing and merit of the controls - including the compatibility with surrounding land which considers environmental factors - was undertaken at that time and endorsed by Council, by the Rockdale community and by the DP&I. No change is proposed to the floor space ratios.
2	2.5 Land Planning and Management Promote high quality, well designed and sustainable development that enhances the City.	The Planning Proposal supports this Strategy by improving community sustainability (by removing inappropriate development from the land use table).

B3 Is the planning proposal consistent with applicable state environmental planning policies?

Yes. A copy of the completed s.117 Directions is provided in Table 4, below.

Table 4 - Consistency with State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
1	Development Standards	(Repealed by <i>RLEP 2011</i>)
4	Development Without Consent and Miscellaneous Exempt and Complying Development	(Clause 6 and Parts 3 and 4 repealed by <i>RLEP 2011</i>). Consistent with remainder
6	Number of Storeys in a Building	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
14	Coastal Wetlands	Not applicable
15	Rural Landsharing Communities	Not applicable
19	Bushland in Urban Areas	Not applicable
21	Caravan Parks	Not applicable
22	Shops and Commercial Premises	Consistent. The Planning Proposal does not seek to hinder the application of this

		SEPP
26	Littoral Rainforests	Not applicable
29	Western Sydney Recreation Area	Not applicable
30	Intensive Aquaculture	Not applicable
32	Urban Consolidation (Redevelopment of Urban Land)	Not applicable
33	Hazardous and Offensive Development	Not applicable
36	Manufactured Home Estates	Not applicable
39	Spit Island Bird Habitat	Not applicable
41	Casino Entertainment Complex	Not applicable
44	Koala Habitat Protection	Not applicable
47	Moore Park Showground	Not applicable
50	Canal Estate Development	Not applicable
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
55	Remediation of Land	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
59	Central Western Sydney Regional Open Space and Residential	Not applicable
60	Exempt and Complying Development	(Repealed by <i>RLEP 2011</i>)
62	Sustainable Aquaculture	Not applicable
64	Advertising and Signage	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
65	Design Quality of Residential Flat Development	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
70	Affordable Housing (Revised Schemes)	Not applicable
71	Coastal Protection	Not applicable
	(Affordable Rental Housing) 2009	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
	(Building Sustainability Index: BASIX) 2004	Consistent. The Planning Proposal P does not seek to hinder the application of this SEPP
	(Exempt and Complying Development Codes) 2008	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
	(Housing for Seniors or People with a Disability) 2004	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
	(Infrastructure) 2007	Consistent. The Planning Proposal does not seek to hinder the application of this SEPP
	(Kosciuszko National park Alpine Resorts) 2007	Not applicable
	(Kurnell Peninsula) 1989	Not applicable
	(Major Development) 2005	Not applicable
	(Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
	(Penrith Lakes Scheme) 1989	Not applicable
	(Rural Lands) 2008	Not applicable
	(Sydney Drinking Water Catchment) 2011	Not applicable
	(Sydney Region Growth Centres) 2006	Not applicable
	(Temporary Structures) 2007	Not applicable
	(Urban Renewal) 2010	Not applicable
	(Western Sydney Employment Area) 2009	Not applicable

	(Western Sydney Parklands) 2009	Not applicable
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See Table 5 below which reviews the consistency with the State Regional Environmental Plans, now deemed SEPPs.

Table 5 - Consistency with deemed State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
5	(Chatswood Town Centre)	Not applicable
8	(Central Coast Plateau Areas)	Not applicable
9	Extractive Industry (No.2 – 1995)	Not applicable
16	Walsh Bay	Not applicable
18	Public Transport Corridors	Not applicable
19	Rouse Hill Development Area	Not applicable
20	Hawkesbury-Nepean River (No.2 – 1997)	Not applicable
24	Homebush Bay Area	Not applicable
25	Orchard Hills	Not applicable
26	City West	Not applicable
28	Parramatta	Not applicable
30	St Marys	Not applicable
33	Cooks Cove	Not applicable
	(Sydney Harbour Catchment) 2005	Not applicable

B4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

See Table 6 below which reviews the consistency with the Ministerial Directions for LEPs under section 117 of the *Environmental Planning and Assessment Act 1979*.

Table 6 - Consistency with applicable Ministerial Directions

1. Employment and Resources

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	Consistent. The Planning Proposal does not reduce the amount of commercial land within the City as the floor space ratios remains the same. The Planning Proposal merely returns the controls that were in place at the major statutory milestones during the <i>Rockdale LEP 2011</i> preparation (except in the case of the Ramsgate Small Village). The floor space ratio controls remain the same.
1.2	Rural Zones	Not applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Not applicable

2. Environment and Heritage

No.	Title	Consistency with Planning Proposal
2.1	Environmental Protection Zones	Not applicable
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Consistent
2.4	Recreation Vehicle Areas	Not applicable

3. Housing, Infrastructure and Urban Development

No.	Title	Consistency with Planning Proposal
3.1	Residential Zones	Consistent. The Planning Proposal does not reduce the amount of residential land within the City as the floor space ratios remains the same. The Planning Proposal merely returns

		the controls that were in place at the major statutory milestones during the <i>Rockdale LEP 2011</i> preparation (except in the case of the Ramsgate Small Village). The floor space ratio controls remain the same.
3.2	Caravan Parks and Manufactured Home Estates	Not applicable
3.3	Home Occupations	Consistent
3.4	Integrating land use and Transport	Not applicable
3.5	Development near Licensed Aerodromes	Not applicable
3.6	Shooting ranges	Not applicable
4. Hazard and Risk		
No.	Title	Consistency with Planning Proposal
4.1	Acid Sulfate Soils	Not applicable
4.2	Mine Subsidence and Unstable Land	Not applicable
4.3	Flood Prone Land	Not applicable
4.4	Planning for Bushfire Protection	Not applicable
5. Regional Planning		
No.	Title	Consistency with Planning Proposal
5.1	Implementation of Regional Strategies	Consistent
5.2	Sydney Drinking Water Catchments	Not applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5	Development on the vicinity of Ellalong...	(Revoked)
5.6	Sydney to Canberra Corridor	(Revoked)
5.7	Central Coast	(Revoked)
5.8	Second Sydney Airport: Badgerys Creek	Not applicable
6. Local Plan Making		
No.	Title	Consistency with Planning Proposal
6.1	Approval and Referral Requirements	Consistent
6.2	Reserving land for Public Purposes	Consistent
6.3	Site Specific Provisions	Consistent
7. Metropolitan Planning		
No.	Title	Consistency with Planning Proposal
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Consistent. Consistency of the proposed height controls with the Metropolitan Plan was tested and endorsed by the DP&I during the preparation of the comprehensive <i>Rockdale LEP 2011</i> (except in the case of the Ramsgate Small Village).

C Environmental, social and economic impact

C1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The Planning Proposal seeks to reinstate height controls that were in place throughout the preparation, and up to the notification, of *Rockdale LEP 2011* (except in

the case of Ramsgate Beach Small Village). The urban design testing of the controls undertaken at that time were endorsed by Council, by the Rockdale community and by the DP&I by the issuing of the former Section 65 Certificate. No change is proposed to the floor space ratios.

In the case of the Ramsgate Beach Small Village, the maintenance of the 20.5 metre error height limit is considered negligible.

C2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. In the case of the Ramsgate Beach Small Village, the maintenance of the 20.5 metre error height limit is considered negligible. Council's DCP will be amended so that the overshadowing impacts from properties on the southern side of Ramsgate Road will be fully mitigated.

C3 How has the planning proposal adequately addressed any social and economic effects?

No. (See response at C1, above).

D State and Commonwealth interests

D1 Is there adequate public infrastructure for the planning proposal?

Consultation pursuant to former Section 62 of the *Environmental Planning and Assessment Act 1979* was undertaken during the preparation of *Rockdale LEP 2011*. Matters pertaining to infrastructure (in relation to the 16 and 19 metre height limits) were raised and dealt with at this time.

The Planning Proposal seeks to reinstate the 16 and 19 metre height controls which were in place throughout the preparation, and up to the notification, of *Rockdale LEP 2011*. The Planning Proposal does not seek to amend the floor space ratios and as such, will not create additional demand for infrastructure.

In the case of the Ramsgate Beach Small Village, the maintenance of the 20.5 metre error height limit is considered to have a negligible impact on public infrastructure.

D2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with appropriate State and Commonwealth public authorities has not been undertaken. Given the Planning Proposal seeks to reinstate height controls intended for *Rockdale LEP 2011*, this Planning Proposal does not propose consultation with the State and Commonwealth public authorities as:

1. This has already been undertaken as part of the *Rockdale LEP 2011*; and
2. In the case of the Ramsgate Beach Small Village, the maintenance of the 20.5 metre error height limit is considered negligible.

Part 4 - Community Consultation

Council has also undertaken the following tasks to mitigate the impact of the mapping error:

1. Letters have been sent to all affected landowners informing of the mapping error and of Council's and the DP&I's intentions to resolve the issue as a matter of urgency. This letter spe

2. A notation (condition) has been placed on Council's Pathway system so that any Section 149 (5) Certificate issued for the affected land is made aware of the error and of Council's and the DP&I's intentions to correct the error.
3. A notice has been uploaded onto Council's website which notes the error (weblink: <http://rccweb.rockdale.nsw.gov.au/EPlanning/pages/xc.plan/default.aspx?hid=1744>).
4. All Planning Counter enquiries which pertain to the affected land – the enquirer is informed of the error and of the process underway to correct the error.

The Planning Proposal is seeking to reinstate height controls that were in place during the preparation of *Rockdale LEP 2011*. However, in the case of the Ramsgate Beach Small Village, Council is looking to maintain the 20.5 metre error height limit. Therefore, 2 week exhibition period is proposed with the following targeted consultation mechanisms:

1. **Letters** to affected land owners where the 16 and 19 metre height limits are being reinstated at Kingsgrove Village, Bexley North Small Village, Bardwell Park Neighbourhood Centre, Bexley Small Village, Arncliffe Small Village, Rockdale Town Centre (west of railway line), Ramsgate Small Village and Sans Souci Neighbourhood Centre.
2. **Letters** to all land owners in the Ramsgate Beach Small Village zoned B4 Mixed Use and surrounding residents
3. **Public exhibition material** to be made available at the Dolls Point/Sandringham Library for the two week exhibition period.
4. **Public notice** in *The St George Leader* targeting submissions from the Ramsgate Beach Small Village community.
5. **Website** – all exhibition material will be made available on Council's website for the duration of the exhibition period.

This consultation is considered sufficient for the purposes of the Planning Proposal.

Appendix 1

Council report and Minutes from Council Meeting, 20 June – Item Ord11