

## Gateway Determination

**Planning proposal (Department Ref: PP-2022-1517):** to amend Bayside Local Environmental Plan 2021 to amend the Bayside Local Environmental Plan 2021 (Bayside LEP 2021) to remove Additional Permitted Uses 34 & 35 and introduce an Additional Permitted Use for Residential Flat Buildings in the R3 zone at six separate sites.

I, the Director, Eastern and South Districts, at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Bayside Local Environmental Plan 2021 to amend the Bayside Local Environmental Plan 2021 (Bayside LEP 2021) to remove Additional Permitted Uses 34 and 35 from Schedule 1 of the LEP and retain residential flat buildings as an Additional Permitted Use via Schedule 1 for 6 selected sites should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
  - a) include existing and proposed Additional Permitted Use mapping
  - b) include clear descriptions and images of the six sites identified to retain permissibility of a residential flat building land use;
  - c) reflect the current Local Planning Directions (section 9.1 Ministerial Directions) numbering;
  - d) reflect the current titles/naming of State Environmental Planning Policies;
  - e) provide an assessment of the proposal against the Bayside 2032 – Community Strategic Plan
  - f) include a detailed investigation of the land subject to this Planning Proposal to determine the suitability of prohibiting multi-dwelling housing and residential flat building developments where this type of development is in areas already predominately characterised with such developments or this permitted use is already constructed on the subject sites. Any identified areas must:
    - i. be assessed against the objectives of the R2 and R3 zones to determine any inconsistencies with the intent of this planning proposal, providing analysis of whether such identified areas should be included or excluded from the proposal; and
    - ii. consider any impacts of existing use provisions applicable under the *Environmental Planning and Assessment Act 1979*; and
  - g) include updated urban design analysis/testing for the 6 sites identified to retain permissibility of a residential flat building land use. The updated urban design analysis/testing must consider current legislative requirements, including the Bayside LEP 2021.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- a) the planning proposal must be made publicly available for a maximum of 20 days; and
  - b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021)*.
3. Consultation is required with the following public authorities:
- Land and Housing Corporation.
  - Affected landowners subject to the changes sought by this planning proposal.
- Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 days to comment on the proposal
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
  5. The planning proposal must be placed on exhibition not more than 4 months from the date of the Gateway determination.
  6. The planning proposal must be reported to council for a final recommendation no later than 7 months from the date of the Gateway determination.
  7. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
    - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
    - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
    - (c) there are no outstanding written objections from public authorities.
  8. The LEP should be completed on or before 3 May 2023.

Dated 3 day of August 2022.



**Amanda Harvey**  
**Executive Director, Metro East and South**  
**Planning and Land Use Strategy**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning and**  
**Homes**