

Draft Planning Proposal

Deletion of Additional Permitted Uses 34 & 35 from Schedule 1 of Bayside Local Environmental Plan 2021



November 2021

Contents

Part 1	Objectives or Intended Outcomes
Part 2	Explanation of Provisions
Part 3	Justification <ul style="list-style-type: none">A. Need for the draft Planning ProposalB. Relationship to Strategic Planning FrameworkC. Environmental, Social & Economic ImpactD. State and Commonwealth Interests
Part 4	Mapping
Part 5	Community Consultation
Part 6	Project Timeline
Appendices	Appendix 1 – Council Resolution for Bayside Local Housing Strategy Appendix 2 – DPIE Endorsement Letter for Bayside Local Housing Strategy Appendix 3 – Gateway Determination for Bayside LEP 2021

Table of revisions	
Version 1.0 – 19 November 2021	Bayside Local Planning Panel Meeting 16.12.21 (Pre-Gateway)

Introduction

This draft Planning Proposal explains the intended effect of, and justification, for the proposed deletion of two Additional Permitted Uses (APUs) from Schedule 1 of the Bayside LEP 2021 (BLEP 2021). Item 34 relates to the use of certain land in the R2 Low Density Residential zone for *multi-dwelling housing*¹ and *residential flat buildings*². Item 35 relates to the use of certain land in the R3 Medium Density Residential zone for residential flat buildings.

An extract of these items from Schedule 1 of the BLEP 2021 is provided below:

34 Use of certain land in R2 Low Density Residential zone for multi-dwelling housing and residential flat buildings

- (1) *This clause applies to land identified as “34” on the [Additional Permitted Uses Map](#).*
- (2) *Development for the following purposes is permitted with development consent—*
 - (a) *multi-dwelling housing,*
 - (b) *residential flat buildings.*
- (3) *Despite subclause (2), development consent must not be granted to development for the purposes of residential flat buildings or multi-dwelling housing on land to which this clause applies unless—*
 - (a) *the development is a building that was designed and constructed for, or on land that, on the commencement of this Plan, was used for, a purpose other than residential accommodation, and*
 - (b) *the consent authority has considered—*
 - (i) *the impact of the development on the scale and streetscape of the surrounding locality, and*
 - (ii) *the suitability of the building or land for adaptive reuse, and*
 - (iii) *the degree of modification of the footprint and facade of the building.*

35 Use of certain land in R3 Medium Density Residential zone for residential flat buildings

- (1) *This clause applies to land identified as “35” on the [Additional Permitted Uses Map](#).*
- (2) *Development for the purposes of a residential flat building is permitted with development consent.*

Neither use identified in these APUs meets the objectives of each of the respective zones under the BLEP 2021, and a draft Planning Proposal is the only way to resolve this planning inconsistency.

The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both items in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer **Appendix 1**), and by DPIE in June 2021 (refer **Appendix 2**). The retention of both APUs has no strategic merit, and the deletion of both APUs is now sought via this draft Planning Proposal, to enable final resolution of this planning inconsistency.

¹ **multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

² **residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

This draft Planning Proposal has been prepared in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning, Industry and Environment's 'A Guide to Preparing Planning Proposals' (December 2018) and 'A Guide to Preparing Local Environmental Plans' (December 2018).

Background

The Bayside Local Environmental Plan 2021 (BLEP 2021) was notified on 27 August 2021.

During the preparation of the draft BLEP 2021, DPIE conditioned the Gateway determination (included as **Appendix 3**) to require items 34 and 35 of Schedule 1 to be retained as permitted with consent (refer extract in Figure 1 below), which was limited to the extent of land zoned R2 Low Density Residential and R3 Medium Density Residential subject to the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) at the time.

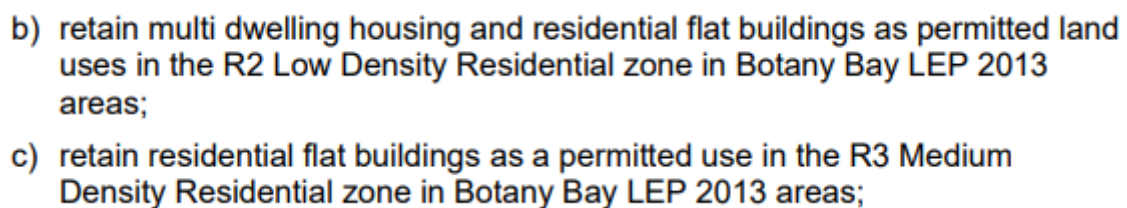
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- b) retain multi dwelling housing and residential flat buildings as permitted land uses in the R2 Low Density Residential zone in Botany Bay LEP 2013 areas;
 - c) retain residential flat buildings as a permitted use in the R3 Medium Density Residential zone in Botany Bay LEP 2013 areas;

Figure 1: Extract from Gateway Determination for BLEP 2021

Council had resolved to prohibit these uses from their respective zones when the matter was considered for Gateway determination, apart from 6 individual sites that were, at the time, included under APU 33 under Schedule 1 of the *draft* BLEP 2021, discussed further below.

So as to best enable Council's pre-Gateway resolution on the draft BLEP 2021 to be considered, and the conditions of the Gateway determination that were applied by DPIE to be adhered to, APUs 34 and 35 were included in Schedule 1, so that the uses did not become blanket permitted with consent (by way of inclusion in the Land Use Tables for each of the two zones) in these respective zones across the entire Bayside LGA upon notification of the BLEP 2021. This was important, as the Rockdale Local Environmental Plan 2011 (RLEP 2011) did not permit the uses within the respective zones, and Council was harmonising zones across the *entire* Bayside LGA under the consolidated Bayside LEP 2021. This meant that APU 33 was no longer required at that time, as APU 35 was all encompassing across the extent of the R3 zone subject to the former BBLEP 2013, rather than just those 6 sites (which, now needs to be reintroduced as part of this draft Planning Proposal, due to the deletion of APU 35).

The original intent (as per Council's pre-Gateway resolution) was to remove these uses from the respective R2 Low Density Residential & R3 Medium Density Residential zones (apart from the 6 sites under APU 33), and the only reason the uses were retained was because DPIE did not feel that Council had enough evidence to prohibit the uses, as the Local Housing Strategy was not finalised at that time of considering the Gateway Determination.

DPIE conditioned the Gateway Determination accordingly, meaning that staff had to "lasso" the entire extent of the R2 and R3 zones in the BLEP 2021 with either Schedule 1 APU item 34 (applied to the R2 zone) or item 35 (applied to the R3 zone) where the former BBLEP 2013 applied. The draft BLEP 2021 was exhibited with this change made, meaning that the requirements of the Gateway Determination were met prior to exhibition.

Council's Local Housing Strategy was endorsed by Council in March 2021, and by DPIE in June 2021. DPIE has informally agreed that Council now has the strategic underpinnings to resolve this matter via an amendment to the Bayside LEP.

Consequential Amendments Required

As discussed briefly above, 6 individual sites that were included under APU 33 under Schedule 1 of the *draft* BLEP 2021 as shown in Figure 2, below:

33 Use of certain land in R3 Medium Density Residential zone for residential flat buildings

- (1) This clause applies to the following land, identified as “33” on the *Additional Permitted Uses Map*—
- (a) 96A Bay Street, Botany, being Lot 3 DP 629040;
 - (b) 97 Banksia Street, Botany, being Lot 1 DP 200187;
 - (c) 70 Macintosh Street, Mascot, being Part Lot 1 DP 668902;
 - (d) 10-12 Middlemiss Street, Rosebery (also known as 10-12 Coward Street, Mascot), being Lot 2 DP 771111;
 - (e) 68-80 Beauchamp Road, Hillsdale, being Lot 12 DP 736905; and
 - (f) 68-80 Banks Avenue, Pagewood, being Lots 5-13, 16 & 17 and Part Lots 14 & 15 DP 35180, and Lot 1 DP 527564
- (2) Development for the purposes of a residential flat building is permitted with development consent.

Figure 2: Extract from Schedule 1 of the *Draft BLEP 2021*

These sites had been subject to a former Gateway Determination (Deletion of Bonus Provisions under the BBLEP 2013) and detailed urban design testing process to determine that the sites could meet planning requirements to facilitate future DA consideration of RFBs within those particular sites. Hence, APU 33 was inserted into the draft BLEP 2021 at the time, to limit the permissibility of RFBs to only those 6 sites.

These sites had been subject to a former Gateway Determination (Deletion of Bonus Provisions under the BBLEP 2013) and a detailed urban design testing process to determine that the sites could meet planning requirements to facilitate future DA consideration of RFBs within those particular sites.

Certain key sites (identified in Figure 2 above) are identified for bonus FSR of 1.65:1 in Clause 4.4(2H) of Bayside LEP 2021. These sites are located in the R3 Medium Density Residential zone under Bayside LEP 2021, however, were considered suitable for RFBs, and the assessment of their planning merit (as part of any future DA) can be managed through the applicable LEP clauses, SEPP 65 (and the supporting ADG), and the DCP.

The effect of harmonising the permitted/prohibited uses in the R3 Medium Density Residential under the Bayside LEP has the effect of prohibiting residential flat buildings, where the BBLEP 2013 currently permits them in the R3 zone. To allow certain sites to retain permissibility, APU 33 was inserted into the draft BLEP at the time, to limit the permissibility of RFBs to only those 6 sites.

This approach was endorsed by Council on 20 December 2019 (report requesting Gateway determination) for the draft Bayside LEP, and the FSR bonus for the 6 sites was included in the notified (gazetted) Bayside LEP 2021 on 27 August 2021.

To ensure that RFB's are retained for the sites listed above, a new APU, which will now be identified as APU 34, needs to be reintroduced as part of this draft Planning Proposal. The wording will be representative of APU 33 in the draft BLEP 2021, which was considered by Council pre-Gateway (Figure 2 above).

Part 1 - Objectives or Intended Outcomes

The objective of this draft Planning Proposal is to delete APUs 34 and 35 from Schedule 1 of the BLEP 2021, which currently enable land uses that are inconsistent with the objectives of the R2 Low Density Residential and R3 Medium Density Residential zones.

The deletion of APUs 34 and 35 from Schedule 1 of the written instrument and the APU maps supporting the BLEP 2021 will provide far greater clarity for understanding the locations of the remaining APUs in the BLEP 2021. More importantly, it will provide greater transparency around permissibility and prohibition of land uses in the Land Use Tables for the R2 Low Density Residential and R3 Medium Density Residential zones in the BLEP 2021, which the APUs currently distort.

With the deletion of APU 35 from Schedule 1, a new APU, which will be identified as APU 34, now needs to be reintroduced (from the *draft* BLEP 2021) as part of this draft Planning Proposal. The wording will be representative of APU 33 that was included in the draft BLEP 2021, which was considered by Council pre-Gateway. This is discussed in further detail in Part 2, below.

Part 2 - Explanation of Provisions

Items 34 and 35 of Schedule 1 of the BLEP 2021 currently state:

34 Use of certain land in R2 Low Density Residential zone for multi-dwelling housing and residential flat buildings

- (1) *This clause applies to land identified as “34” on the [Additional Permitted Uses Map](#).*
- (2) *Development for the following purposes is permitted with development consent—*
 - (a) *multi-dwelling housing,*
 - (b) *residential flat buildings.*
- (3) *Despite subclause (2), development consent must not be granted to development for the purposes of residential flat buildings or multi-dwelling housing on land to which this clause applies unless—*
 - (a) *the development is a building that was designed and constructed for, or on land that, on the commencement of this Plan, was used for, a purpose other than residential accommodation, and*
 - (b) *the consent authority has considered—*
 - (i) *the impact of the development on the scale and streetscape of the surrounding locality, and*
 - (ii) *the suitability of the building or land for adaptive reuse, and*
 - (iii) *the degree of modification of the footprint and facade of the building.*

35 Use of certain land in R3 Medium Density Residential zone for residential flat buildings

- (1) *This clause applies to land identified as “35” on the [Additional Permitted Uses Map](#).*
- (2) *Development for the purposes of a residential flat building is permitted with development consent.*

The uses in each of the APUs do not meet the objectives of each of the respective zones under the BLEP 2021, and the retention of both APUs has no strategic merit.

The complete deletion of both APUs 34 and 35 from the BLEP 2021 is now sought via this draft Planning Proposal, to enable final resolution of this planning inconsistency.

The deletion of APUs 34 and 35 from Schedule 1 of the written instrument and the APU maps supporting the BLEP 2021 will provide far greater clarity for understanding the locations of the remaining APUs in the BLEP 2021. More importantly, it will provide greater transparency around permissibility and prohibition of land uses in the Land Use Tables for the R2 Low Density Residential and R3 Medium Density Residential zones in the BLEP 2021.

Six sites had been subject to a former Gateway determination (Deletion of Bonus Provisions under the BBLEP 2013) and detailed urban design testing process to determine that the sites could meet planning requirements to facilitate future DA consideration of RFBs within those particular R3 zoned sites. These sites are now subject to Clause 4.4 (2H) of the Bayside LEP 2021 which allows a bonus FSR of 1.65:1 for residential flat buildings. Hence, APU 33 was inserted into the draft BLEP 2021 at the time, to limit the permissibility of RFBs to only those 6 sites. With the deletion of APU 35 from Schedule 1, a new APU, which will be APU 34, now needs to be reintroduced as part of this draft Planning Proposal. The wording will be representative of APU 33 that was included in the draft BLEP 2021, which was considered by Council pre-Gateway. The wording to be inserted in Schedule 1 is included below:

34 Use of certain land in R3 Medium Density Residential zone for residential flat buildings

- (1) *This clause applies to the following land, identified as “34” on the [Additional Permitted Uses Map](#)—*
- (a) *96A Bay Street, Botany, being Lot 3 DP 629040;*
 - (b) *97 Banksia Street, Botany, being Lot 1 DP 200187;*
 - (c) *70 Macintosh Street, Mascot, being Part Lot 1 DP 668902;*
 - (d) *10-12 Middlemiss Street, Rosebery (also known as 10-12 Coward Street, Mascot), being Lot 2 DP 771111;*
 - (e) *76-80 Beauchamp Road, Hillsdale, being Lot 12 DP 736905; and*
 - (f) *68-80 Banks Avenue, Pagewood, being Lots 1-17 DP 36180 and Lot 1 in DP 527564*
- (2) *Development for the purposes of a residential flat building is permitted with development consent.*

The APU mapping will be changed to show these sites on the relevant map sheets that support the BLEP 2021 (refer **Part 4**).

Part 3 – Justification

A Need for the Draft Planning Proposal

Q1 Is the Draft Planning Proposal a result of any strategic study or report?

The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both items in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer **Appendix 1**), and by DPIE in June 2021 (refer **Appendix 2**). The retention of both APUs has no strategic merit, and the deletion of both APUs is now sought via this draft Planning Proposal, to enable final resolution of this planning inconsistency.

Q2 Is the Draft Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The draft Planning Proposal is the only means by which to delete APUs 34 and 35 from Schedule 1 of the BLEP 2021, and introduce a new APU 34, to accommodate the six sites that were identified under APU 33 in the pre-Gateway version of the draft BLEP 2021.

B Relationship to strategic planning framework

Q3 Is the draft Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The draft Planning Proposal is consistent with the objectives and actions of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (GSRP) and the *Eastern City District Plan* (ECDP). **Table 2** below provides an assessment of this draft Planning Proposal against the GSRP:

Table 2 –Consistency with the GSRP

Directions	Objectives	Consistency
Infrastructure and collaboration		
1. A city supported by infrastructure	Objective 1: Infrastructure supports the three cities	The proposal will not intensify development, and will not impact upon infrastructure provision. By limiting development to a scale consistent with the objectives of both the R2 and R3 zones, there will not be demand for out of sequence infrastructure.
	Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact	
	Objective 3: Infrastructure adapts to meet future needs	
	Objective 4: Infrastructure use is optimised	
2. A collaborative city	Objective 5: Benefits of growth realised by collaboration of governments, community and business	N/A – as above.
Liveability		
3. A city for people	Objective 6: Services and infrastructure meet communities' changing needs	The proposal will not intensify development. The draft Planning Proposal does not propose any changes to the Land Use Tables in the BLEP 2021. Rather, it has the intent of deleting APUs 34 and 35 under Schedule 1, to remove the potential for development that is of an inappropriate scale in the R2 and R3 zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
	Objective 7: Communities are healthy, resilient and socially connected	
	Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods.	
	Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation	

4. Housing the city	Objective 10: Greater housing supply	The proposal will not intensify development. The draft Planning Proposal does not propose any changes to the Land Use Tables in the BLEP 2021. Rather, it has the intent of deleting APUs 34 and 35 under Schedule 1, to remove the potential for development that is of an inappropriate scale in the R2 and R3 zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
	Objective 11: Housing is more diverse and affordable	
5. A city of great places	Objective 12: Great places that bring people together	The proposal will not intensify development or impact upon heritage items or Heritage Conservation Areas.
	Objective 13: Environmental heritage is conserved and enhanced	
Productivity		
6. A well connected city	Objective 14: A metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities	The proposal will not intensify development, and will not impact upon transport, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones.
	Objective 15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive	
	Objective 16: Freight and logistics network is competitive and efficient	
	Objective 17: Regional transport is integrated with land use	
7. Jobs and skills for the city	Objective 18: Harbour CBD is stronger and more competitive	The draft Planning Proposal does not have any significant impacts upon jobs and skills, as it proposes changes to APUs relating to two residential zones only.
	Objective 19: Greater Parramatta is stronger and better connected	
	Objective 20: Western Sydney Airport and Badgerys Creek Aerotropolis are economic catalysts for Western Parkland City	
	Objective 21: Internationally competitive health, education, research and innovation precincts	
	Objective 22: Investment and business activity in centres	

	Objective 23: Industrial and urban services land is planned, protected and managed	
	Objective 24: Economic sectors are targeted for success	
Sustainability		
8. A city in landscape	Objective 25: The coast and waterways are protected and healthier	The proposal will not intensify development, and will therefore not detrimentally impact the landscape, urban tree canopy or public open spaces within the Bayside LGA.
	Objective 26: A cool and green parkland city in the South Creek corridor	
	Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced	
	Objective 28: Scenic and cultural landscapes are protected	
	Objective 29: Environmental, social and economic values in rural areas are maintained and enhanced	
	Objective 30: Urban tree canopy cover is increased	
	Objective 31: Public open space is accessible, protected and enhanced	
	Objective 32: The Green Grid links parks, open spaces, bushland and walking and cycling paths	
9. An efficient city	Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change	The proposal will not intensify development, and will actually result in a more efficient city by excluding inappropriately scaled development in the R2 and R3 zones, that is currently enabled via the two APUs.
	Objective 34: Energy and water flows are captured, used and re-used	
	Objective 35: More waste is re-used and recycled to support the development of a circular economy	

10. A resilient city	Objective 36: People and places adapt to climate change and future shocks and stresses	The proposal will not intensify development, and will not impact upon the resilience of the Bayside LGA.
	Objective 37: Exposure to natural and urban hazards is reduced	
	Objective 38: Heatwaves and extreme heat are managed	

Eastern City District Plan (March 2018)

The Eastern City District Plan (ECDP) identifies a range of planning priorities for the District, in line with the four categories identified in the Greater Sydney Region Plan:

- Infrastructure and collaboration;
- Liveability;
- Productivity; and
- Sustainability.

The draft Planning Proposal's consistency with the priorities in the ECDP are discussed in further detail in **Table 3** below:

Table 3 – Consistency with the Eastern City District Plan

Infrastructure and Collaboration		
E1	Planning for a city supported by infrastructure	The proposal will not intensify development, and will not impact upon infrastructure provision.
E2	Working through collaboration	N/A – as above.
Liveability		
E3	Providing services and social infrastructure to meet people's changing needs	The proposal will not intensify development, and will not impact upon transport, social infrastructure or heritage.
E4	Fostering healthy, creative, culturally rich and socially connected communities	APUs 34 and 35 currently enable development that is inconsistent with the objectives of the R2 and R3 zones, so while the deletion of the APUs may be viewed as impacting housing choice, Council had resolved during preparation of the BLEP 2021 to prohibit these uses from their respective zones. It was never intended for these APUs to be implemented as they have been in the BLEP 2021, and it was only following the direction from DPIE in the Gateway Determination conditions, that these APUs were even required. The deletion of the APUs will create greater transparency in the R2 and R3 zones, as these APUs currently distort the permitted land uses in the Land Use Tables for each of the zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
E5	Providing housing supply, choice and affordability, with access to jobs, services and public transport	
E6	Creating and renewing great places and local centres, and respecting the District's heritage	

Productivity		
E7	Growing a stronger and more competitive Harbour CBD	The proposal will not intensify development, and will not impact upon these priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
E8	Growing and investing in health and education precincts and the Innovation Corridor	
E9	Growing international trade gateways	
E10	Delivering integrated land use and transport planning and a 30-minute city	
E11	Growing investment, business opportunities and jobs in strategic centres	
E12	Retaining and managing industrial and urban services land	
E13	Supporting growth of targeted industry sectors	
Sustainability		
E14	Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways	The proposal will not intensify development, and will not impact upon these priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
E15	Protecting and enhancing bushland and biodiversity	
E16	Protecting and enhancing scenic and cultural landscapes	
E17	Increasing urban tree canopy cover and delivering Green Grid connections	
E18	Delivering high quality open space	
E19	Reducing carbon emissions and managing energy, water and waste efficiently	
E20	Adapting to the impacts of urban and natural hazards and climate change	
Implementation		
E21	Preparing Local Strategic Planning statements informed by local strategic planning	The Bayside LHS was prepared having regard for the Bayside LSPS.
E22	Monitoring and reporting on the delivery of the Plan	<p>The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both APUs in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer Appendix 1), and by DPIE in June 2021 (refer Appendix 2).</p> <p>The retention of both APUs has no strategic merit, and the deletion of both APUs is now sought via this draft</p>

Planning Proposal, to enable final resolution of this planning inconsistency.

Premier's Priorities 2015-2019

The 'Premier's Priorities' set out 12 priorities which reflect a 'whole-of-government' approach to tackling important issues for the people of NSW, from helping vulnerable children and raising the performance of school students, to improving housing affordability and building local infrastructure. The 12 priorities are:

- Creating jobs;
- Delivering infrastructure;
- Driving public sector diversity;
- Improving education results;
- Improving government services;
- Improving service levels in hospitals;
- Keeping our environment clean;
- Making housing more affordable;
- Protecting our kids;
- Reducing domestic violence reoffending;
- Reducing youth homelessness; and
- Tackling childhood obesity.

This draft Planning Proposal will not impact upon, and is consistent with, the Premier's Priorities.

Future Transport Strategy 2056

The Future Transport Strategy 2056 is an update of the 2012 Long Term Transport Master Plan for NSW. It is a 40-year strategy, supported by plans for regional NSW and for Greater Sydney. It outlines a vision, strategic directions and customer outcomes, with infrastructure and services plans underpinning the delivery of these directions across the state.

The vision is built on the following six outcomes:

1. Customer Focused;
2. Successful Places;
3. A Strong Economy;
4. Safety and Performance;
5. Accessible Services; and
6. Sustainability.

This draft Planning Proposal is consistent with Future Transport Strategy 2056. The proposal will actually prevent the potential for denser forms of development in zones that should instead be limited to the densities envisaged for each zone, as per the objectives of each zone. This will help ensure that there is no requirement for poorly sequenced transport infrastructure or services.

South East Sydney Transport Strategy (SESTS)

This draft Planning Proposal is consistent with the SESTS. The proposal will actually prevent the potential for densities of development in zones that should instead be limited to the densities envisaged for each zone, as per the objectives of each zone. This will help ensure that there is no requirement for poorly sequenced transport infrastructure or services.

NSW State Infrastructure Strategy 2018-2038

The *NSW State Infrastructure Strategy 2018-2038* (SIS) sets out the government's priorities for the next 20 years and combined with the *Future Transport Strategy 2056*, the *Greater Sydney*

Region Plan and the *Regional Development Framework*, brings together infrastructure investment and land-use planning for our cities and regions. The SIS looks beyond the current projects and identifies policies and strategies needed to provide the infrastructure that meets the needs of a growing population and a growing economy.

The Strategy sets out six overarching strategic directions to instil best practice approaches across NSW's infrastructure sectors:

1. Continuously improve the integration of land and infrastructure planning;
2. Plan, prioritise and deliver an infrastructure program that represents the best possible investment and use of public funds;
3. Optimise the management, performance and use of the State's assets;
4. Ensure NSW's existing and future infrastructure is resilient to natural hazards and human-related threats;
5. Improve state-wide connectivity and realise the benefits of technology; and
6. Drive high quality consumer-centric services and expand innovative service delivery models in infrastructure sectors.

This draft Planning Proposal reflects, and is consistent with, the objectives of the NSW State Infrastructure Strategy.

Q4 Is the draft Planning Proposal consistent with Council's local strategy or other local strategic plan?

Bayside Local Strategic Planning Statement – A Land Use Vision to 2036

Council has adopted the Bayside LSPS in accordance with the guidance provided by the DPIE. Council has aligned the Bayside LSPS Priorities to the *Greater Sydney Region Plan – A Metropolis of Three Cities* (GSRP), the Planning Priorities in the Eastern City District Plan as well as Councils Community Strategic Plan.

Table 4 below provides an assessment of this draft Planning Proposal against the Bayside LSPS:

Table 4 – Consistency with the Bayside LSPS

Planning Priority		Consistency
B1	Align land use planning and transport infrastructure planning to support the growth of Bayside	The proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
B2	Align land use planning with the delivery and management of assets by Bayside Council to support our community	
B3	Working through collaboration	
B4	Provide social infrastructure to meet the needs of the Bayside Community	
B5	Foster healthy, creative, culturally rich and socially connected communities	
B6	Support sustainable housing growth by concentrating high density urban growth close to centres and public transport corridors	The Bayside LHS was prepared having regard for the Bayside LSPS. The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both APUs in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer
B7	Provide choice in housing to meet the needs of the community	

Planning Priority		Consistency
B8	Provide housing that is affordable	<p>Appendix 1), and by DPIE in June 2021 (refer Appendix 2).</p> <p>APUs 34 and 35 currently enable development that is inconsistent with the objectives of the R2 and R3 zones, so while the deletion of the APUs may be viewed as impacting housing choice, Council had resolved during preparation of the BLEP 2021 to prohibit these uses from their respective zones. It was never intended for these APUs to be implemented as they have been in the BLEP 2021, and it was only following the direction from DPIE in the Gateway Determination conditions, that these APUs were even required. The deletion of the APUs will create greater transparency in the R2 and R3 zones, as these APUs currently distort the permitted land uses in the Land Use Tables for each of the zones.</p> <p>The proposal will not intensify development or impact upon heritage items or Heritage Conservation Areas.</p>
B9	Manage and enhance the distinctive character of the LGA through good quality urban design, respect for existing character and enhancement of the public realm	
B10	Value, protect and conserve Aboriginal heritage	
B11	Develop clear and appropriate controls for development of heritage items, adjoining sites and within conservation areas	
B12	Delivering an integrated land use and a 30-minute city	
B13	Contribute to growing a stronger and more competitive Harbour CBD	
B14	Protect and grow the international trade gateways	
B15	Growing investment, business opportunities and jobs in Bayside's strategic and local centres	
B16	Contribute to growing the health and education precincts of Kogarah, Randwick and Camperdown	
B17	Retain and manage industrial and urban services lands	
B18	Support the growth of targeted industry sectors	<p>The proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones.</p> <p>Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.</p>
B19	Protect and improve the health of Bayside's waterways and biodiversity	
B20	Increase urban tree canopy cover and enhance Green Grid connections	
B21	Deliver high quality open space	
B22	Protect and enhance scenic and cultural landscapes	
B23	Reduce carbon emissions through improved management of energy, water and waste	

Planning Priority	Consistency
B24 Reduce community risk to urban and natural hazards and improve community's resilience to social, environmental and economic shocks and stressors	<p>The proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones.</p> <p>The proposal will not detrimentally impact the waterways, biodiversity, Green Grid connections, urban tree canopy or public open spaces within the Bayside LGA.</p> <p>The proposal will not impact carbon emissions.</p> <p>Given the potential risks from gas pipelines and land uses within Port Botany, and previous advice from DPIE on these matters, the proposal to limit the scale of land uses to match zone objectives is seen as an appropriate planning response in relation to this planning priority.</p>

Bayside Community Strategic Plan 2018-2030

The Bayside Community Strategic Plan 2018-2030 (which superseded the Rockdale City Community Strategic Plan) sets the strategic direction for Council's Delivery Program and Operational Plans. The themes and directions outlined in this plan inform Council's Delivery Program and the annual Operational Plans that describe Council's activities towards achieving those outcomes in the Delivery Program.

Table 5 below identifies how the draft Planning Proposal is consistent with the themes:

Table 5—Consistency with The Bayside Council Community Strategic Plan 2018-2030 themes

Theme One – Bayside will be a vibrant place	How We Will Get There	Consistency
Strategic Direction – Our places are people-focussed	Local areas are activated with cafes, restaurants and cultural events	N/A - the proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones.
	Places have their own village atmosphere and sense of identity	
	My community and council work in partnership to deliver better local outcomes	
	The public spaces I use are innovative and put people first	
	There is an appropriate and community-owned response to threats	

Strategic Direction – Our places connect people	Walking and cycling is easy in the City and is located in open space where possible	N/A – as above.
	We are one community with shared objectives and desires	
	Our heritage and history is valued and respected	
Strategic Direction – Our places are acceptable to all	Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community	N/A – as above.
	SMART Cities – making life better through smart use of technologies	
	Assets meet community expectations	
	Bayside provides safe and engaging spaces, places and interactions	
	People who need to can access affordable housing	
	We welcome visitors and tourists to our City	
Strategic Direction – My place will be special to me	Local developments reflect innovative, good design and incorporate open space and consider vertical families	The proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
	Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work	
	Traffic and parking issues are a thing of the past	
	Road, rates and rubbish are not forgotten	
	Gateway sites are welcoming and attractive	
Theme Two – In 203 our people will be connected in a smart City	How We Will Get There	Consistency
Strategic Direction – We benefit from technology	Council engages with us and decision making is transparent and data driven	N/A – as above.

	We can access information and services online and through social media	
	We are a digital community	
	Technological change has been harnessed and we are sharing the benefits	
Strategic Direction – We are unified and excited about our future	Community leadership is developed and supported	N/A – as above.
	We are all included and have a part to play in the City	
	The City is run by, with and for the people	
	We are proud of where we live	
Strategic Direction – The community is valued	Aboriginal culture and history is recognised and celebrated	N/A – as above.
	We are a healthy community with access to active recreation and health education	
	All segments of our community are catered for – children, families, young people and seniors	
	Opportunities for passive and active activities are available to community members, including people with pets	
	The value of pets in the community is recognised and they are welcomed across the city	
Strategic Direction – We treat each other with dignity and respect	We can participate in cultural and arts events which reflect and involve the community	N/A – as above.
	Flexible care/ support arrangements for seniors, children and people with disabilities are available across the LGA	
	Cultural diversity is reflected and celebrated in the City's activities	
	Our public buildings are important community hubs and are well maintained and accessible	

Theme Three – In 2030 bayside will be green, leafy and sustainable	How We Will Get There	Consistency
Strategic Direction – Our waste is well managed	I can reduce my waste through recycling and community education	N/A – as above.
	Illegal dumping is a thing of the past	
Strategic Direction – We are prepared for climate change	We understand climate change and are prepared for the impacts	N/A – as above.
	Our City is prepared for/ able to cope with severe weather events	
	Our streetscapes are green and welcoming	
Strategic Direction – We increase our use of renewable energy	Our City promotes the use of renewable energy through community education	N/A – as above.
	Our City models use of renewable energy and reports gains benefits to the community	
Strategic Direction – Waterways and green corridors are regenerated and preserved	Water is recycled and re-used	N/A – as above.
	The community is involved in the preservation of our natural areas	
	We have an enhanced Green Grid/ tree canopy	
Theme Four – In 2030 we will be a prosperous community	How We Will Get There	Consistency
Strategic Direction – Opportunities for economic development are recognised	Major employers support/ partner with local small business	N/A – as above.
	We are an international hub for transport and logistics-related business	
	Industrial lands and employment lands are preserved – partnering with major employers to support local jobs	
Strategic Direction – Local housing, employment and business opportunities are generated	Bayside will be a 30 minute City – residents work local or work off-site – no-one has to travel for more than 30 minutes to work	

	Council is a major employer, supports local apprenticeships and cadetships	The proposal will not intensify development, and will not impact upon these planning priorities, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65.
	People who need to can access affordable housing	
Strategic Direction – The transport system works	We can easily travel around the LGA – traffic problems/ gridlock are a thing of the past	The proposal will not intensify development, and will not impact upon transport planning, beyond limiting development in the R2 and R3 zones to a scale reflecting the objectives of those zones. Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing has identified compliance with SEPP 65. Transport considerations would be assessed as part of any DA assessment for those particular sites.
	We can easily travel to work by accessible, reliable public transport	
Strategic Direction – We are prepared for a sharing economy	Innovative businesses are supported to locate in Bayside	N/A
	Local Plans and regulations have kept pace with the sharing economy	

Bayside Local Housing Strategy

The purpose of the Bayside Local Housing Strategy (Bayside LHS) is to set the strategic framework and vision for housing in the Bayside LGA up to 2036.

The Bayside LHS has been prepared in accordance with the NSW Government *Local Housing Strategy Guidelines and Template (2018)* and the requirements of the *Greater Sydney Region Plan: A Metropolis of Three Cities (2018)* and its *Eastern City District Plan (2018)*.

Council is required to meet the Eastern City District Plan housing target of 10,150 dwellings between 2016 and 2021, deliver a 6 to 10 year housing target, and outline its contribution to the Eastern City District's 20 year housing target. The District Plan also requires all councils to develop an affordable housing contributions scheme.

To respond to the requirements, Council has developed the following housing targets for the Bayside LGA (**Table 6**). The evidence base behind these targets is contained within the Bayside LHS.

Table 6: Bayside Housing Targets

2016-2021	2021-2026	2026-2036	TOTAL 2016-2036
10,150	7,720	8,151	26,021

Source: SGS 2019

As directed by planning policy, this capacity should be in accessible locations with high levels of amenity and serviceability.

Accordingly, the Bayside LHS conducted a proximity analysis to determine the parts of the Bayside LGA that are most suited to accommodating additional housing. The proximity analysis measured proximity to:

- Railway stations
- Other public transport stops with a service running at least every 20 minutes
- Supermarkets
- Schools
- Open space
- Community facilities.

The Bayside LHS was prepared having regard for the Bayside LSPS.

The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both APUs in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer **Appendix 1**), and by DPIE in June 2021 (refer **Appendix 2**).

APUs 34 and 35 currently enable development that is inconsistent with the objectives of the R2 and R3 zones, so while the deletion of the APUs may be viewed as impacting housing choice, Council had resolved during preparation of the BLEP 2021 to prohibit these uses from their respective zones. It was never intended for these APUs to be implemented as they have been in the BLEP 2021, and it was only following the direction from DPIE in the Gateway determination conditions, that these APUs were even required. The deletion of the APUs will create greater transparency in the R2 and R3 zones, as these APUs currently distort the permitted land uses in the Land Use Tables for each of the zones.

As outlined earlier in this report, in endorsing the draft BLEP 2021 for a Gateway determination, Council resolved to retain provisions to enable RFBs in the R3 Medium Density Residential zone for a very limited number of sites. Those limited sites had been subject to a (subsequently rescinded) Gateway determination related to the former Botany Bay LEP 2013, regarding height and floorspace ratio bonus provisions. This was drafted into the draft BLEP 2021 as APU 33 of Schedule 1, however, a condition imposed on the Gateway determination required Council to retain RFBs as a permissible use in the R3 zone until the LHS had been completed.

Proposed APU 34 will limit the potential for RFBs on a very limited number of sites in the R3 zone, where previous built form testing (in conjunction with the Gateway determination for the Deletion of Bonus Provisions) has identified compliance with SEPP 65.

Draft Bayside Centres and Employment Strategy

Council is in the process of preparing a draft Centres and Employment Strategy. A background paper was prepared by SGS to inform this Strategy and was placed on exhibition for public comment in March 2020.

The draft Planning Proposal does not impact upon this draft Strategy.

Draft Social Infrastructure Strategy

The draft Social Infrastructure Strategy (draft SIS) is currently being developed to guide Bayside Council in the planning and provision of social infrastructure to the year 2036. It will provide an analysis of social infrastructure on a series of catchments defined by the Australian Bureau of Statistics. A discussion paper was prepared by Otium and Ethos Urban in support of this Strategy, which was placed on exhibition in May 2019. This paper followed and took into account a series of workshops held in the same month.

The draft Planning Proposal does not impact upon this draft Strategy.

Draft Bayside Transport Strategy

The purpose of the Bayside Transport Strategy (BTS) is to provide policy and directives to Council to enhance the existing transport network and plan for increased demand.

One of the key aims of the strategy is to facilitate the delivery of the Future Transport 2056 '30-minute city' concept which is the benchmark indicator for successfully integrated land use and transport planning whereby residents can reach their closest strategic and metropolitan centre within 30-minutes by public transport, walking or cycling.

The draft BTS notes that when planning for growth, public transport nodes are the right places for increasing land use density.

The draft BTS also recommended the preparation of a Bike Plan to facilitate an increase in the use of cycling to support the 30-minute city concept.

The draft Planning Proposal does not impact upon this draft Strategy.

Draft Bayside Bike Plan

In accordance with the draft BTS, the draft Bayside Bike Plan (BBP) has been prepared to guide investment in infrastructure to build a safe and connected cycling network to facilitate an increase in the use of cycling and the creation of more bicycle friendly local centres.

The draft Planning Proposal does not impact upon this draft Strategy.

Q5 Is the draft Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Consistency with the State Environmental Planning Policies is provided in **Table 7** below:

Table 7 – Consistency with applicable State Environmental Planning Policies (SEPPs)

No.	Title	Consistency with draft Planning Proposal
1	Development Standards	Not relevant to this draft Planning Proposal
19	Bushland in Urban Areas	Not relevant to this draft Planning Proposal
21	Caravan Parks	Not relevant to this draft Planning Proposal
33	Hazardous and Offensive Development	Not relevant to this draft Planning Proposal
36	Manufactured Home Estates	Not relevant to this draft Planning Proposal
44	Koala Habitat Protection	Not relevant to this draft Planning Proposal
47	Moore Park Showground	Not relevant to this draft Planning Proposal
50	Canal Estate Development	Not relevant to this draft Planning Proposal
64	Advertising and Signage	Not relevant to this draft Planning Proposal
65	Design Quality of Residential Apartment Development	Consistent

No.	Title	Consistency with draft Planning Proposal
		<p>The draft Planning Proposal has the intent of deleting APUs 34 and 35 from Schedule 1, to achieve complete prohibition in the BLEP 2021 of Multi-Dwelling Housing from the R2 zone, and Residential Flat Buildings from the R2 and R3 zones.</p> <p>For the six sites (zoned R3) that are to be included under proposed APU 34, previous built form modelling for RFBs has demonstrated their ability to comply with SEPP 65. This modelling was undertaken in conjunction with a Gateway determination that was issued for the Deletion of Bonus Provisions relating to the former Botany Bay LEP 2013.</p>
70	Affordable Housing (Revised Schemes)	Not relevant to this draft Planning Proposal
	(Aboriginal Land) 2019	Not relevant to this draft Planning Proposal
	(Affordable Rental Housing) 2009	Not relevant to this draft Planning Proposal
	(Building Sustainability Index: BASIX) 2004	Not relevant to this draft Planning Proposal
	(Coastal Management) 2018	Not relevant to this draft Planning Proposal
	(Concurrences) 2018	Not relevant to this draft Planning Proposal
	(Educational Establishments and Child Care Facilities) 2017	Not relevant to this draft Planning Proposal
	(Exempt and Complying Development Codes) 2008	Not relevant to this draft Planning Proposal
	(Gosford City Centre) 2018	Not relevant to this draft Planning Proposal
	(Housing for Seniors or People with a Disability) 2004	Not relevant to this draft Planning Proposal
	(Infrastructure) 2007	Not relevant to this draft Planning Proposal
	(Kosciuszko National Park – Alpine Resorts) 2007	Not relevant to this draft Planning Proposal
	(Kurnell Peninsula) 1989	Not relevant to this draft Planning Proposal
	(Mining, Petroleum Production and Extractive Industries) 2007	Not relevant to this draft Planning Proposal
	(Miscellaneous Consent Provisions) 2007	Not relevant to this draft Planning Proposal
	(Penrith Lakes Scheme) 1989	Not relevant to this draft Planning Proposal
	(Primary Production and Rural Development) 2019	Not relevant to this draft Planning Proposal
	(State and Regional Development) 2011	Not relevant to this draft Planning Proposal
	(State Significant Precincts) 2005	Not relevant to this draft Planning Proposal
	(Sydney Drinking Water Catchment) 2011	Not relevant to this draft Planning Proposal
	(Sydney Region Growth Centres) 2006	Not relevant to this draft Planning Proposal
	(Three Ports) 2013	Not applicable to this draft Planning Proposal

No.	Title	Consistency with draft Planning Proposal
	(Urban Renewal) 2010	Not relevant to this draft Planning Proposal
	(Vegetation in Non-Rural Areas) 2017	Not relevant to this draft Planning Proposal
	(Western Sydney Employment Area) 2009	Not relevant to this draft Planning Proposal
	(Western Sydney Parklands) 2009	Not relevant to this draft Planning Proposal

Table 8 below reviews the consistency of the draft Planning Proposal with the formerly-named State Regional Environmental Plans, now identified as deemed SEPPs.

Table 8 - Consistency with deemed State Environmental Planning Policies (SEPPs)

No.	Title	Consistency with draft Planning Proposal
8	(Central Coast Plateau Areas)	Not relevant to this draft Planning Proposal
9	Extractive Industry (No.2 – 1995)	Not relevant to this draft Planning Proposal
16	Walsh Bay	Not relevant to this draft Planning Proposal
20	Hawkesbury-Nepean River (No.2 – 1997)	Not relevant to this draft Planning Proposal
24	Homebush Bay Area	Not relevant to this draft Planning Proposal
26	City West	Not relevant to this draft Planning Proposal
30	St Marys	Not relevant to this draft Planning Proposal
33	Cooks Cove	Not relevant to this draft Planning Proposal
	(Sydney Harbour Catchment) 2005	Not relevant to this draft Planning Proposal
	Greater Metropolitan Regional Environmental Plan No 2— Georges River Catchment	Not relevant to this draft Planning Proposal

Q6 Is the draft Planning Proposal consistent with applicable Local Planning Directions

Table 9 below reviews the consistency of the draft Planning Proposal with the Local Planning Directions for LEPs under section 9.1 (formerly section 117 Ministerial Directions) of the *Environmental Planning and Assessment Act 1979*.

Table 9 – Consistency with Local Planning Directions

1. Employment and Resources			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
1.1	Business and Industrial Zones	Not applicable The draft Planning Proposal does not include any business or industrial zones.	Not applicable
1.2	Rural Zones	Not applicable The draft Planning Proposal does not include any rural zones.	Not applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable. The Bayside LGA does not contain land zoned for mining, petroleum or extractive industries.	Not applicable
1.4	Oyster Aquaculture	Not applicable Whilst the Bayside LGA adjoins Georges River, identified on a map within the <i>NSW Oyster Industry Sustainable Aquaculture Strategy (2006)</i> , there is no aquaculture activity within the Bayside LGA.	Not applicable
1.5	Rural Lands	Not applicable <i>This direction applies to all local government areas in the State except for:</i> <i>(a) Lake Macquarie,</i> <i>(b) Newcastle,</i> <i>(c) Wollongong, and</i> <i>(d) local government areas in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury.</i>	Not applicable.
2. Environment and Heritage			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
2.1	Environmental Protection Zones	Not applicable. The draft Planning Proposal does not contain any environmental protection zones.	Not applicable
2.2	Coastal Protection	Not applicable. The draft Planning Proposal does not propose rezoning of any land.	Not applicable
2.3	Heritage Conservation	Not applicable. The draft Planning Proposal does not propose amending the status of any heritage items or HCAs.	Not applicable
2.4	Recreation Vehicle Areas	The Direction is not applicable to this draft Planning Proposal.	Not applicable

2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>The Direction is not applicable to this draft Planning Proposal.</p> <p>The direction applies to the Local Government Areas of Ballina, Byron, Kyogle, Lismore and Tweed.</p>	Not applicable.
2.5	Remediation of Contaminated Land	<p><i>(2) This direction applies to:</i></p> <p><i>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</i></p> <p><i>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</i></p> <p><i>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital –</i></p> <p><i>land:</i></p> <p><i>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</i></p> <p><i>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</i></p> <p><i>(4) A draft Planning Proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:</i></p> <p><i>(a) the draft Planning Proposal authority has considered whether the land is contaminated,</i></p> <p><i>and</i></p> <p><i>(b) if the land is contaminated, the draft Planning Proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the draft Planning Proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i></p> <p>The draft Planning Proposal is not amending any provisions to permit land uses beyond those currently permitted in the Land Use Tables of the R2 Low Density Residential and R3 Medium Density Residential zones under the BLEP 2021. Rather, the proposal is deleting provisions that enable certain uses under Schedule 1 of the BLEP 2021.</p>	Yes

3. Housing, Infrastructure and Urban Development			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
3.1	Residential Zones	<p><i>What a relevant planning authority must do if this direction applies</i></p> <p>(4) A draft Planning Proposal must include provision that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>(5) A draft Planning Proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. <p>The draft Planning Proposal is aligned with the Department of Planning, Industry and Environment's (DPIE) approach to retaining both APUs in the BLEP 2021 until the Bayside Local Housing Strategy (LHS) was endorsed by Council. The LHS was endorsed by Council in March 2021 (refer Appendix 1), and by DPIE in June 2021 (refer Appendix 2).</p> <p>APUs 34 and 35 currently enable development that is inconsistent with the objectives of the R2 and R3 zones, so while the deletion of the APUs may be viewed as impacting housing choice, Council had resolved during preparation of the BLEP 2021 to prohibit these uses from their respective zones. It was never intended for these APUs to be implemented as they have been in the BLEP 2021, and it was only following the direction from DPIE in the Gateway determination conditions, that these APUs were even required. The deletion of the APUs will create greater transparency in the R2 and R3 zones, as these APUs currently distort the permitted land uses in the Land Use Tables for each of the zones.</p> <p>As outlined earlier, six sites (zoned R3) had been subject to a former Gateway determination (Deletion of Bonus Provisions under the BBLEP 2013) and detailed urban design testing process to determine that the sites could meet planning requirements to facilitate future DA consideration of RFBs within those particular sites. Hence, APU 33 was inserted into the draft BLEP 2021 at the time, to limit the permissibility of RFBs to only those six sites. With the deletion of APU 35 from Schedule 1, a new APU, which will be APU 34, now needs to be reintroduced as part of this draft Planning Proposal.</p>	Yes

3.2	Caravan Parks and Manufactured Home Estates	The Direction is not applicable to this draft Planning Proposal.	Not applicable.
3.3	Home Occupations	<p><i>Draft Planning Proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.</i></p> <p>The draft Planning Proposal does not propose to amend the current permissibility of home occupations in existing zones under the BLEP 2021.</p>	Yes
3.4	Integrating Land Use and Transport	<p><i>What a relevant planning authority must do if this direction applies</i></p> <p><i>(4) A draft Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</i></p> <p><i>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p><i>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p> <p>The draft Planning Proposal is consistent with the aims, objectives and principles of the abovementioned publications, as the draft Planning Proposal seeks to remove certain enabling provisions for medium density and high density residential land uses from land zoned for low and medium density residential purposes, respectively.</p>	Yes
3.5	Development near Regulated Airports and Defence Airfields	<p>The direction applies as the draft Planning Proposal proposes to alter a provision relating to land near Sydney Airport, defined as a 'core regulated airport' under the <i>Airports Act 1996</i>.</p> <p><i>What a relevant planning authority must do if this direction applies</i></p> <p><i>(4) In the preparation of a draft Planning Proposal that sets controls for development of land near a core regulated airport, the relevant planning authority must:</i></p> <ul style="list-style-type: none"> <i>a) consult with the Department of the Commonwealth responsible for airports and the lessee/operator of that airport;</i> <i>b) for land affected by the prescribed airspace (as defined in Regulation 6(1) of the Airports (Protection of Airspace) Regulation 1996, prepare appropriate development standards, such as height controls.</i> <i>c) not allow development types that are incompatible with the current and future operation of that airport.</i> <i>d) obtain permission from that Department of the Commonwealth, or their delegate, where a draft Planning Proposal seeks to allow, as permissible with consent, development that would constitute a controlled activity as defined in section 182 of the Airports Act 1996. This permission must be obtained prior to undertaking community consultation in</i> 	Yes

		<p>satisfaction of section 57 of the Environmental Planning and Assessment Act 1979.</p> <p>(7) A draft Planning Proposal must include a provision to ensure that development meets Australian Standard 2021-2015, Acoustic- Aircraft Noise Intrusion – Building siting and construction with respect to interior noise levels, if the proposal seeks to rezone land:</p> <ul style="list-style-type: none"> a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25; or b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30; or c) for commercial or industrial purposes where the ANEF is above 30. <p>The draft Planning Proposal does not introduce any amendments that would impact on the operations of Sydney Airport.</p>	
3.6	Shooting Ranges	The direction does not apply to this draft Planning Proposal as the site is not located on or adjoin an existing shooting range.	Not applicable
3.7	Reduction in non-hosted short term rental accommodation period	The direction applies to land within the Byron Shire Council LGA.	Not applicable

4. Hazard and Risk

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
4.1	Acid Sulfate Soils	<p>What a relevant planning authority must do if this direction applies</p> <p>(4) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a draft Planning Proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(5) When a relevant planning authority is preparing a draft Planning Proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <ul style="list-style-type: none"> (a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or (b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines. <p>(6) A relevant planning authority must not prepare a draft Planning Proposal that proposes an intensification of land uses on land identified as having a probability of</p>	Yes

		<p>containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.</p> <p>The draft Planning Proposal does not propose any changes to the Land Use Tables in the BLEP 2021. Rather, it has the intent of deleting APUs 34 and 35 under Schedule 1.</p>	
4.2	Mine Subsidence and Unstable Land	<p>Not applicable</p> <p>Bayside LGA does not contain land within a proclaimed Mine Subsidence District, or land that has been identified as unstable.</p>	Not applicable.
4.3	Flood Prone Land	<p><i>What a relevant planning authority must do if this direction applies</i></p> <p>(4) A draft Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Risk Flood Areas).</p> <p>(5) A draft Planning Proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>(6) A draft Planning Proposal must not contain provisions that apply to the flood planning areas which;</p> <ul style="list-style-type: none"> (a) Permit development in floodway areas, (b) Permit development that will result in significant flood impacts to other properties, (c) Permit a significant increase in the development of that land, (d) Are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) Permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, building or structures in floodways or high hazard areas), roads or exempt development. <p>(7) A draft Planning Proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-general (or an officer of the Department nominated by the Director General).</p> <p>(8) For the purposes of a draft Planning Proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk areas) unless a relevant planning authority provides adequate justification</p>	Yes

		<p>for the proposed departure from that Manual to the satisfaction of the Director General.</p> <p>The draft Planning Proposal does not propose any changes to the Land Use Tables in the BLEP 2021. Rather, it has the intent of deleting APUs 34 and 35 under Schedule 1.</p>	
4.4	Planning for Bushfire Protection	The direction is not applicable. Bayside LGA does not contain any land mapped as bushfire prone land under section 10.3 (previously section 146) of the <i>Environmental Planning and Assessment Act 1979</i> .	Not applicable
5. Regional Planning			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
5.1	Implementation of Regional Strategies	Not applicable The South Coast Regional Strategy and the Sydney-Canberra Corridor Regional Strategy do not apply to the Bayside LGA.	Not applicable.
5.2	Sydney Drinking Water Catchments	Not applicable Bayside LGA is not identified as an LGA within the Sydney drinking water catchment.	Not applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable The direction applies to: (a) Ballina Shire Council; (b) Byron Shire Council; (c) Kyogle Shire Council; (d) Lismore City Council; (e) Richmond Valley Council; and (f) Tweed Shire Council.	Not applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable This direction applies to council areas between Port Stephens Shire Council and Tweed Shire Council.	Not applicable
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	Revoked 18 June 2010	Revoked
5.6	Sydney to Canberra Corridor	Revoked 10 July 2008	Revoked
5.7	Central Coast	Revoked 10 July 2008	Revoked
5.8	Second Sydney Airport: Badgerys Creek	Revoked 20 August 2018	Revoked

5.9	North West Rail Link Corridor Strategy	Not applicable The direction applies to land within Hornsby Shire Council, The Hills Shire Council and Blacktown City Council.	Not applicable.
5.10	Implementation of Regional Plans	<i>Draft Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning</i> Comment: The draft Planning Proposal's consistency with the <i>Greater Sydney Regional Plan – A Metropolis of Three Cities</i> (GSRP) is provided at the response to Question 3 of this draft Planning Proposal. Consistency: The response to Question 3 of this draft Planning Proposal identified no inconsistencies with the GSRP. No inconsistencies with the terms of the direction were identified.	Yes
5.11	Development of Aboriginal Land Council Land	Not applicable Bayside LGA is not identified on the Land Application Map contained within <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> .	Not applicable.

6. Local Plan Making

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
6.1	Approval and Referral Requirements	<p>(4) A draft Planning Proposal must:</p> <p>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <ul style="list-style-type: none"> - the appropriate Minister or public authority, and - the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> - can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and - has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. <p>Comment: The draft Planning Proposal does not propose to include</p>	Not applicable.

		<p>provisions that require the concurrence, consultation or referral of Development Applications to a Minister or public authority.</p> <p>Consistency: No inconsistencies with the terms of the direction were identified.</p>	
6.2	Reserving Land for Public Purposes	<p><i>What a relevant planning authority must do if this direction applies:</i></p> <p>(4) <i>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</i></p> <p>(5) <i>When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</i> <i>(a) reserve the land in accordance with the request, and</i> <i>(b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</i> <i>(c) identify the relevant acquiring authority for the land.</i></p> <p>(6) <i>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</i> <i>(a) include the requested provisions, or</i> <i>(b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</i></p> <p>(7) <i>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</i></p> <p>The draft Planning Proposal does not include any proposal to reserve land for public purposes.</p>	Not applicable.
6.3	Site-specific Provisions	<p><i>A draft Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</i></p> <p>a) <i>Allow that land use to be carried out in the zone the land is situated on, or</i></p>	Yes

		<p>b) <i>Rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone; or</i></p> <p>c) <i>Allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</i></p> <p>Comment: Site-specific provisions are not proposed as part of this draft Planning Proposal. In fact, the draft Planning Proposal has the effect of removing certain APUs in Schedule 1 of the BLEP 2021 that currently enable uses that are inconsistent with the objectives of the R2 and R3 zones.</p> <p>Consistency: No inconsistencies with the terms of the direction were identified.</p>	
7. Metropolitan Planning			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
7.1	Implementation of A Plan for Growing Sydney	<p><i>Draft Planning Proposals shall be consistent with:</i></p> <p>(a) <i>the NSW Government's A Plan for Growing Sydney published in December 2014.</i></p> <p>Comment: <i>A Plan for Growing Sydney</i> is superseded by the <i>Greater Sydney Region Plan - A Metropolis of Three Cities</i>. The draft Planning Proposal's consistency with the Greater Sydney Region Plan is addressed in the response to Question 3 of this draft Planning Proposal.</p> <p>Consistency: No inconsistencies with the terms of the direction were identified in the response to Question 3 of this draft Planning Proposal.</p>	Yes
7.2	Implementation of Greater Macarthur Land Release Investigation	<p>Not applicable The direction applies to Campbelltown City Council and Wollondilly Shire Council.</p>	Not applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	<p>Not applicable The direction does not apply to Bayside LGA.</p>	Not applicable

7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable The direction applies to Blacktown City Council, The Hills Shire Council and Hawkesbury City Council.	Not applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable The direction applies to land contained within Greater Parramatta Priority Growth Area.	Not applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable The direction applies to Wollondilly Shire Council.	Not applicable
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable The direction applies to Campbelltown City Council.	Not applicable
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not applicable The direction applies to Liverpool City Council, Penrith City Council, Blue Mountains City Council, Blacktown City Council, Camden Council, Campbelltown City Council, Fairfield City Council and Wollondilly Shire Council.	Not applicable
7.9	Implementation of Bayside West Precincts Bayside West 2036 Plan	<i>What a draft Planning Proposal authority must do if this direction applies</i> <i>(4) A draft Planning Proposal authority must ensure that a draft Planning Proposal is consistent with the Bayside West Precincts Bayside West 2036 Plan.</i> N/A – the draft Planning Proposal only applies to certain land that was previously subject to the BBLEP 2013, which did not include land located within the Bayside West Precincts.	Not applicable.
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	The direction does not apply to this draft Planning Proposal as the draft Planning Proposal is not within the Cooks Cove Precinct.	Not applicable.

C Environmental, social and economic impact

Q7 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?

The draft Planning Proposal only applies to certain residential-zoned land that was previously subject to the BBLEP 2013, being either R2 Low Density Residential or R3 Medium Density Residential zone, that current APUs 34 and 35 under Schedule 1 of the BLEP 2021 apply to. No adverse ecological impacts are likely at all.

Q8 Are there any other likely environmental effects as a result of the draft Planning Proposal and how are they proposed to be managed?

The draft Planning Proposal only applies to certain residential-zoned land that was previously subject to the BBLEP 2013, being either R2 Low Density Residential or R3 Medium Density Residential zone that current APUs 34 and 35 under Schedule 1 of the BLEP 2021 apply to. No other environmental effects are likely at all.

Q9 How has the draft Planning Proposal adequately addressed any social and economic effects?

The draft Planning Proposal will result in positive social and economic outcomes for the Bayside Local Government Area by preventing inappropriately scaled residential development in unsuitable locations, and eliminating the need for out of sequence infrastructure to support such out of place development.

D State and Commonwealth interests

Q10 Is there adequate public infrastructure for the draft Planning Proposal?

Council is in the process of preparing new infrastructure strategies in accordance with the Bayside Asset Management Strategy and as outlined in the Bayside LSPS. The strategies will inform provision of additional local infrastructure to meet the needs of the future population. These strategies are:

- Local Housing Strategy;
- Social Infrastructure (Open Space, recreation and community facilities);
- Transport Strategy;
- Bike Plan;
- Employment and Centres Strategy;
- Social Infrastructure (Recreation, Open Space and Community facilities); and
- Environment Strategy.

Council has also commenced the preparation of key statutory or policy documents which will assist in the implementation of local infrastructure:

- Bayside Development Contributions Plan; and
- Bayside Plan of Management.

Public Domain Plans will also provide direction and expectations about public assets.

The draft Planning Proposal does not impact upon the intent or objectives of the draft strategies, and future plans, for planning residential development within the Bayside LGA. The draft Planning Proposal has the intention of ensuring appropriate scaled residential land uses are permitted within the R2 and R3 zones, based on the objectives of each of those zones. Deleting APUs 34

and 35 will ensure that the land uses permitted with consent in the Land Use Tables for each of those zones is not undermined by APUs 34 and 35.

Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

As this draft Planning Proposal has not yet been forwarded to the Minister for Planning and Public Spaces for a Gateway Determination, the appropriate State and Commonwealth public authorities have not yet been consulted. However, State and Commonwealth public authorities will be consulted in accordance with a Gateway Determination and will be given at least 28 days to comment on this draft Planning Proposal.

Given that the draft Planning Proposal does not have the intention of intensifying development, and is actually realigning scale of permissible residential development types within the R2 and R3 zones, based on the objectives of both those zones, no government agency consultation is considered necessary in this case.

Part 4 – Mapping

Refer to **Table 10** for an outline of the changes to the draft Bayside LEP maps.

Table 10: Proposed Map Sheet Amendments

Map Tile No.	Existing	Proposed
APU_008 APU_009 APU_011 APU_012	APUs 34 and 35 apply in a blanket fashion to all land zoned R2 Low Density Residential (APU 34) and R3 Medium Density Residential (APU 35) that was subject to the former Botany Bay LEP 2013.	Remove existing APUs 34 and 35 from the relevant APU map sheets. Retain six individual sites under the proposed new APU 34 (consistent with APU 33 included in the pre-Gateway version of the draft BLEP 2021) on the relevant APU map sheets for those six sites – being map sheets APU_008, APU_008, APU_011 and APU_012.

Proposed LEP Maps

Additional Permitted Uses




Bayside Local Environmental Plan 2021

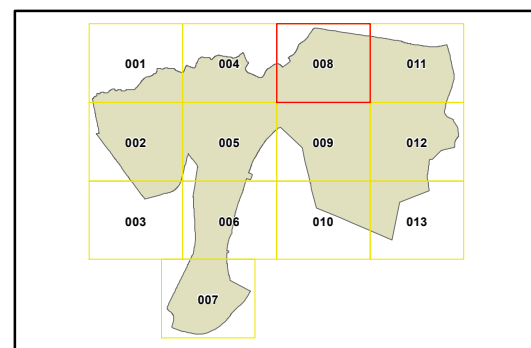
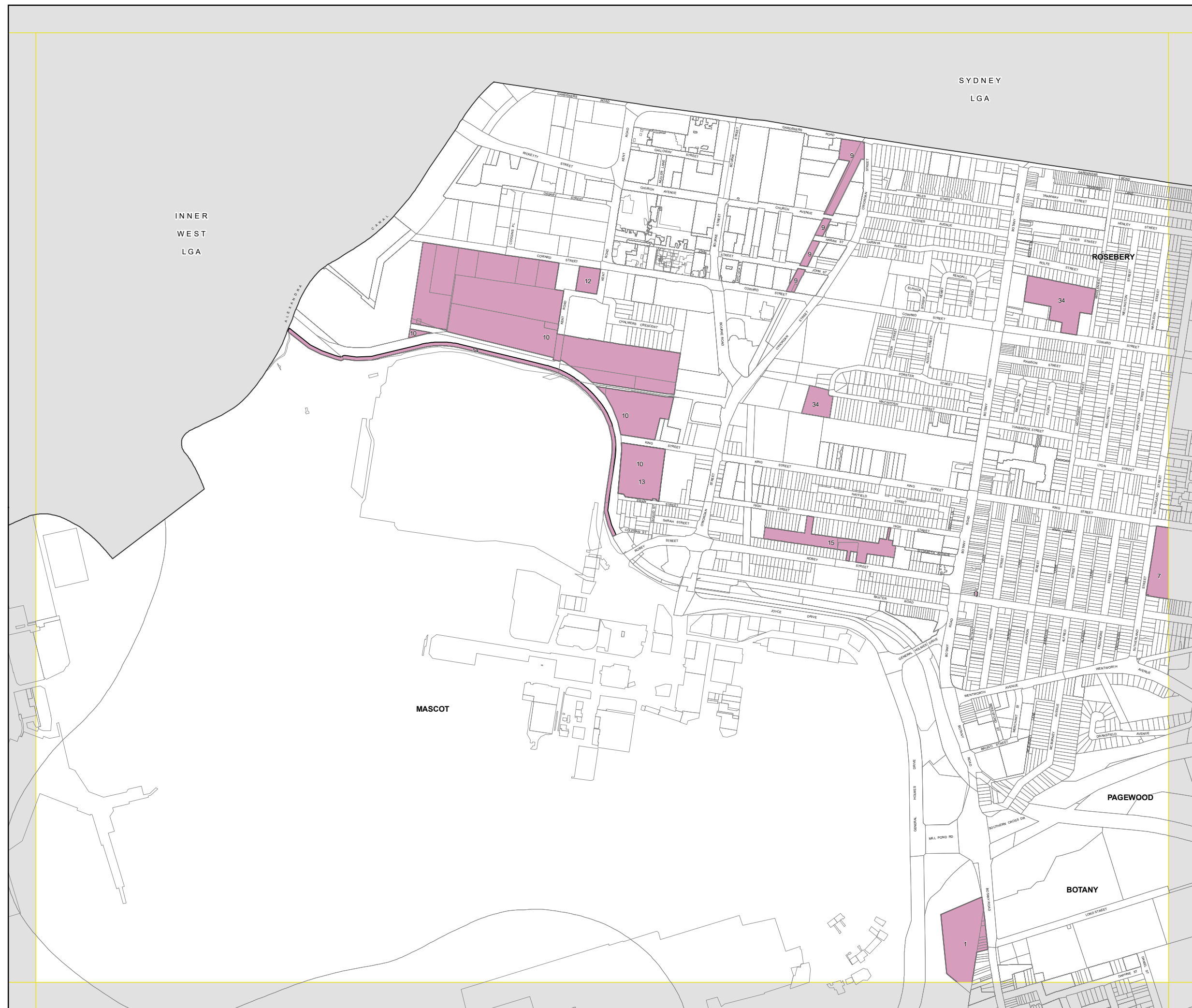
Additional Permitted Uses Map - Sheet APU_008

Additional Permitted Uses

 Refer to Schedule 1

Cadastre

 Base Data 01/03/2021
© Spatial Services



0 100 200 300 400
Metres

Projection:
GDA 1994
MGA Zone 56

Scale 1:10,000 @ A3


Map Identification Number : 0500_COM_APU_008_010_20210301




**Bayside Local
Environmental
Plan 2021**

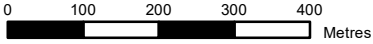
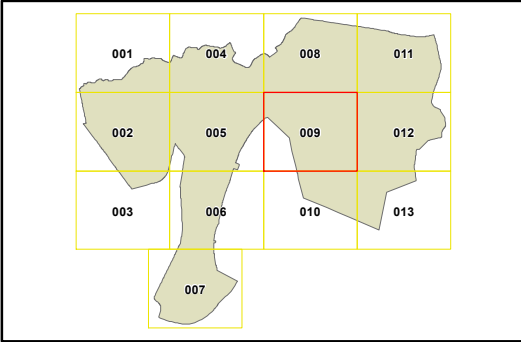
**Additional Permitted Uses Map
- Sheet APU_009**

Additional Permitted Uses

 Refer to Schedule 1

Cadastre

 Base Data 01/03/2021
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Projection:
GDA 1994
MGA Zone 56


Scale 1:10,000 @ A3




Bayside Local Environmental Plan 2021

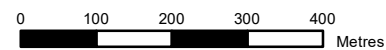
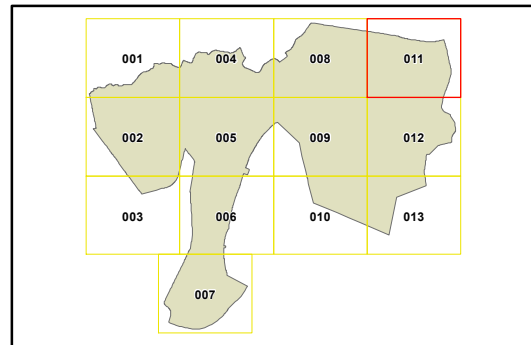
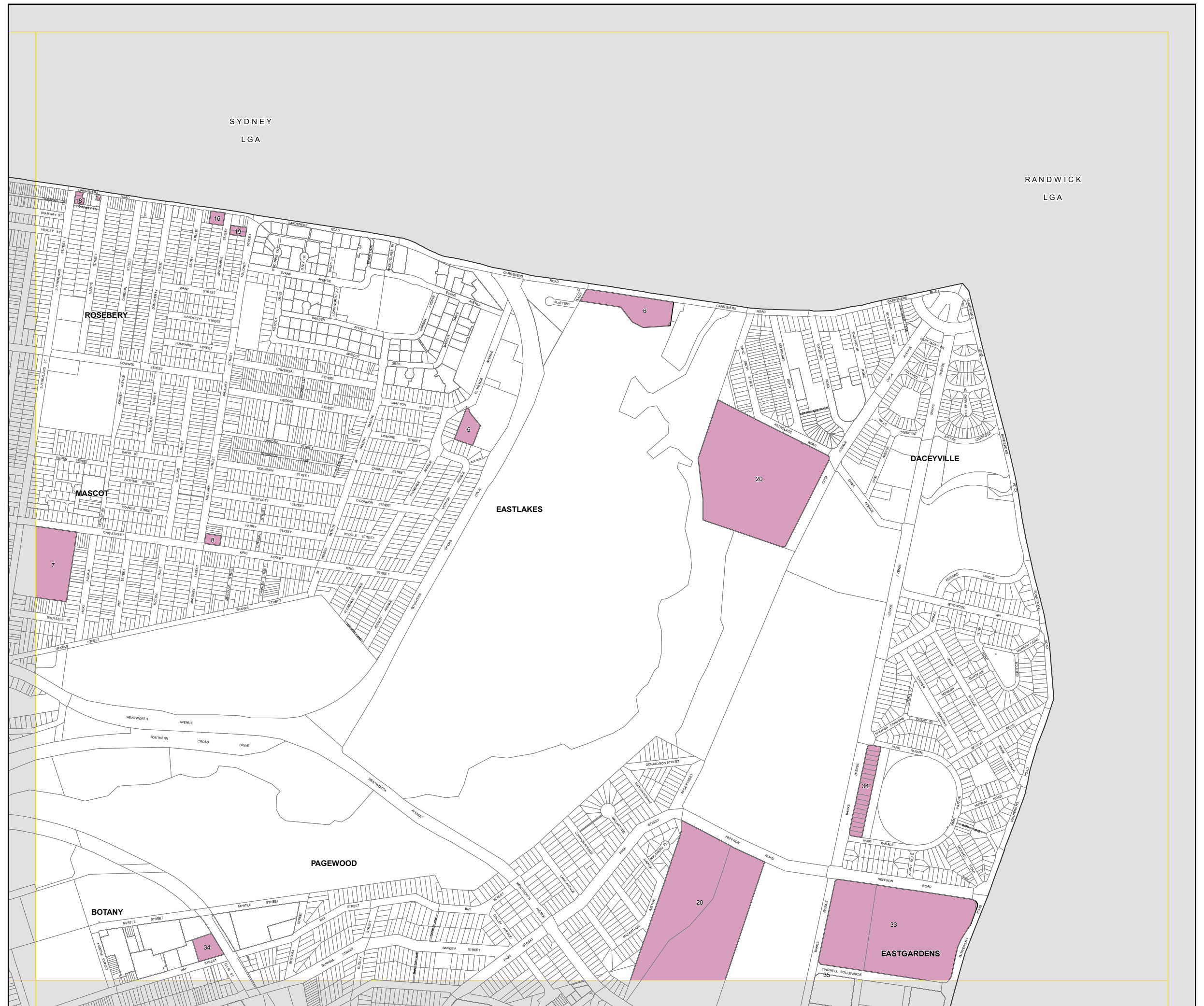
Additional Permitted Uses Map - Sheet APU_011

Additional Permitted Uses

 Refer to Schedule 1

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GDA 1994
MGA Zone 56

Scale 1:10,000 @ A3



**Bayside Local
Environmental
Plan 2021**

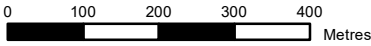
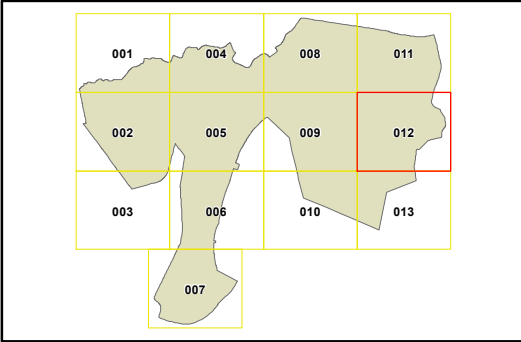
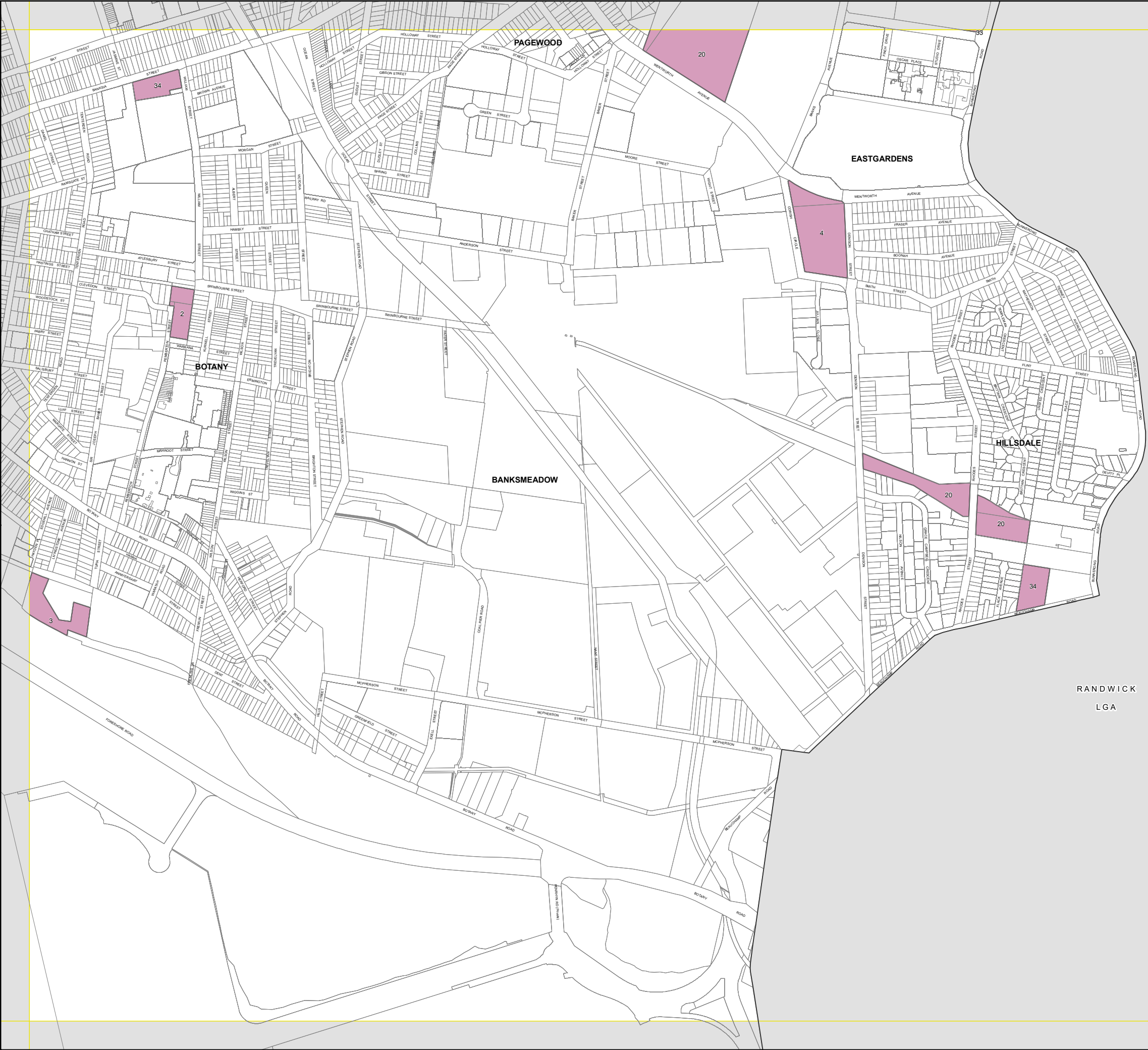
**Additional Permitted Uses Map
- Sheet APU_012**

Additional Permitted Uses

Refer to Schedule 1

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Base Data 01/03/2021
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Projection:
GDA 1994
MGA Zone 56

Scale 1:10,000 @ A3

Part 5 - Community Consultation

The draft Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the *EP&A Act 1979* and the *Environmental Planning & Assessment Regulation 2000* and any requirements of the Gateway determination.

Public exhibition of this draft Planning Proposal will include:

- Exhibition notice on Council's website;
- Community engagement project set up on Council's Have Your Say website;
- Notices in Council libraries;
- Notification to all Talking Bayside Members;
- Notification to anyone who submitted feedback as part of Council's 'Planning Our Future' and 'Local Strategic Planning Statement' consultation projects; and
- Letters to State and Commonwealth Government agencies identified in the Gateway Determination.

Part 6 – Project Timeline

The table below provides a proposed, approximate timeline for the project:

Table 12 – Approximate Project Timeline

Task	Timing
Bayside Local Planning Panel Meeting	16 December 2021
Bayside Council Meeting	Mid-February 2022
Submit to DPIE for Gateway Determination	Mid-February 2022
Anticipated commencement date (date of Gateway determination)	Early May 2022
Anticipated timeframe for the completion of required technical information	N/A – Early May 2022
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	28 days
Commencement and completion dates for public exhibition period	Mid-May 2022 to Mid-June 2022
Timeframe for consideration of submissions	Mid-June 2022 to Mid-July 2022
Timeframe for the consideration of a draft Planning Proposal post-exhibition	Mid-August 2022
Date of submission to the Department to finalise the LEP	Mid-August 2022
Anticipated date draft Planning Proposal Authority (PPA) will make the plan (if delegated)	Mid-September 2022
Anticipated date PPA will forward to the Department for notification	Mid-September 2022

Appendix 1 – Council Resolution for Bayside LHS

RESOLUTION

Minute 2021/047

Resolved on the motion of Councillors Barlow and Macdonald

- 1 That Council delegates authority to the General Manager to make administrative amendments to the Deed of Variation to the Planning Agreement for 177 Russell Avenue, Dolls Point, if required after conclusion of the exhibition period.
- 2 That Council delegates authority to the General Manager to execute the Deed of Variation to the previously executed Voluntary Planning Agreement consistent with the information included in this report and attachments.
- 3 That the General Manager seeks the agreement of the proponent to include a clause in the Deed of Variation that requires plants to be sourced from the Bayside Garden Centre where possible, so that the benefit to The Intellectual Disability Foundation of St George (a partner in Bayside Garden Centre) is not lost as a consequence of the proposed change from Council undertaking the landscape work to the proponent undertaking the landscape work.

Division on planning decision

For: Councillors Curry, Morrissey, Sedrak, Ibrahim, Nagi, Rapisardi, Kalligas, Saravinovski, Barlow, Macdonald, McDougall and Awada

The Motion was declared carried.

8.3 Bayside Local Housing Strategy - Post Exhibition Report

Councillor Saravinovski had previously declared a Less than Significant Non-Pecuniary Interest, and left the Chamber for consideration of, and voting on, this item.

Councillor Ibrahim had previously declared a Pecuniary Interest, and left the Chamber for consideration of, and voting on, this item.

The following person made a written submission to the meeting:

- Gibran Khouri, interested resident, against the Officer Recommendation.

RESOLUTION

Minute 2021/048

Resolved on the motion of Councillors Tsounis and Awada

- 1 That Council adopts the draft Bayside Housing Strategy, with the exception of Action 2, Action 3.6 and Action 4.6.
- 2 That Council delegates to the General Manager the determination of Actions 2, 3.6 and 4.6 and to update the draft Bayside Housing Strategy if necessary.

- 3 That Council delegates to the General Manager the submission of the final draft Bayside Housing Strategy to the Department of Planning, Industry and Environment for its review and endorsement.

Division on planning decision

For: Councillors Nagi, Rapisardi, Tsounis, Barlow, Macdonald and Awada

Against: Councillors Curry, Morrissey, Kalligas and McDougall

Abstained: Councillor Sedrak

The Motion was declared carried.

8.11 2018-21 Delivery Program & 2020-21 Operational Plan 6 Monthly Progress Report

Garnett Brownbill, interested citizen, was scheduled to speak against the Officer Recommendation. At 7.35 pm three call attempts were made to Mr Brownbill. The first attempt failed to connect. The second attempt failed to answer and went to voicemail. The third attempt failed to connect, went to voicemail and a message was left noting Council was unable to connect him for his registered opportunity to address the meeting.

RESOLUTION

Minute 2021/049

Resolved on the motion of Councillors Ibrahim and Rapisardi

That Council receives and notes the statutory 6 month progress report on Council's 2018-21 Delivery Program & 2020-21 Operational Plan.

8.12 72 Laycock Street, Bexley North - Order of AHEPA NSW Inc

Councillor Tsounis had previously declared a Less than Significant Non-Pecuniary Interest.

Councillor Kalligas had previously declared a Less than Significant Non-Pecuniary Interest.

Councillor Awada had previously declared a Less than Significant Non-Pecuniary Interest.

The following person spoke at the meeting:

- Christopher Alexandrou, member of AHEPA NSW Inc, speaking for the Officer Recommendation.

Appendix 2 – DPIE Endorsement Letter for Bayside LHS

Ms Meredith Wallace
General Manager
Bayside Council
444-446 Princes Highway
Rockdale NSW 2216

Dear Ms Wallace

Bayside Council - Local Housing Strategy

Thank you for submitting Bayside Council's Local Housing Strategy (LHS) to the Department.

The Department commends Council on preparing a robust evidence base to support its LHS, providing Council with a clear understanding of the housing needs of the Bayside local government area and a strong commitment to strategic planning.

I can confirm that I have determined to approve Bayside Council's LHS adopted by Council in March 2021. My decision reflects the analysis undertaken to develop a comprehensive strategic planning and an evidence base to inform your LHS and deliver more than 7,720 dwellings for the period 2021-26.

In doing so, I have determined that:

- The LHS addresses housing supply, including the 6-10 year housing target, to be delivered mainly through capacity under existing planning controls, current and subsequent planning proposal.
- The LHS addresses the need for housing diversity, although commitment to further actions for housing diversity and delivery are required.
- The LHS addresses housing affordability, although commitment to further actions for delivery are required.
- The LHS is generally consistent with Section 9.1 Directions and SEPPs.
- The LHS is consistent with the Eastern City District Plan, subject to the requirements identified below.

My approval is subject to the following requirements:

1. Based on the committed pipeline and capacity under existing planning controls the Department's assessment of Bayside Council's LHS indicates that Council has ability to meet the Greater Sydney Commission's (GSC) target of 8,500 –

10,500 additional dwellings in the 2021-2026 period. This is subject to implementing the actions in its LHS and those requirements outlined in this approval. Council is to therefore adopt and work towards achieving and exceeding a minimum housing target aligned to the GSC target range for this period to ensure that regional strategic planning can be appropriately managed.

2. Within four months of Council being notified of the LHS approval, Council is to prepare an updated and prioritised Implementation and Delivery Plan that clearly articulates the actions, roles and responsibilities and timing to facilitate housing supply, diversity and affordability between 2021 and 2026 and beyond. This is critical particularly based on Council's recent decision at its meeting on 9 June 2021, wherein Council resolved to proceed with Rockdale Town Centre and Waltz Street precinct, and not at this stage progress the areas of Bay Street (Rockdale to Brighton) and West Arncliffe. Council may need to consult with DPIE, TfSNW, Sydney Water and adjoining Councils. Council should submit at the same time to the Department any feasibility analysis and updated collated data identifying completions and committed development pipeline.
3. Council is to prioritise the Eastgardens future investigation area, in collaboration with Randwick City Council and DPIE, for the future planning of the strategic centre and one other future investigation area of Council's choosing as a matter of priority to ensure housing supply, diversity and affordability is secured in a timely manner. The investigation area should include the confirmation of future implementation mechanisms including any necessary planning proposals and their timing.
4. To ensure housing diversity is achieved by 2026, Council is to expedite the following investigations and obtain Gateway for planning proposals by December 2022:
 - a) the introduction of dwelling size and mix controls;
 - b) the review and update of medium density controls; and
 - c) the review and update of dual occupancy controls.Council should concurrently review development controls including the use of controls to ensure effective design for infill development as outlined in the LHS.
5. For all future investigation areas (irrespective of their priority), confirm the indicative yields, desired dwelling mix and timeline for future investigation areas, so both Council and DPIE understand the timing of housing delivery in the 10+ year (2026+) period. The investigation area studies may need to be supported by feasibility analysis.
6. Provide housing diversity targets including non-standard dwellings in future iterations of the LHS for the entire LGA. This should include student accommodation, key worker housing and seniors housing, and may need to be supported by feasibility analysis.

7. Future iterations of the LHS continue to be informed by a detailed land use opportunities and constraints analysis and mapping to confirm long-term housing opportunities. This analysis should:
 - be contextualised having regard to the Greater Sydney Regional Plan, Eastern City District Plan, the Bayside LSPS (including any updates), Future Transport 2056, SETS and delivered infrastructure reinvestments and the progression and implementation of the LHS actions;
 - be undertaken in collaboration with relevant stakeholders;
 - consider the implications of DPIE 2019 Population Projections for the LGA, or any future revised DPIE projections;
 - clearly articulate existing and future opportunities and constraints as either manageable or insurmountable;
 - include the relevant evidence base from any background study/ies prepared by Council and include better referencing to other existing and emerging Council strategies, such as the Centres and Employment Lands Strategy, the Social Infrastructure Strategy, and the Land Use Limitation Study; and
 - consider how to best manage and balance housing needs with economic and productivity objectives particularly in the strategic centres and along key economic corridors such as the Princes Highway.
8. Future iterations of the LSPS and LHS should detail the key local and State infrastructure commitments and investment decisions that will support the unlocking of housing supply. This analysis should consider public and active transport, education and health facilities, open space, community infrastructure, drinking supply, wastewater and utility services. Council is encouraged to cross reference any endorsed Council strategies and plans, where relevant, and collaborate with DPIE and other State agencies (and in particular SINSW, Sydney Water and TfNSW) to ensure identified opportunities are realistic and accurately reflect staging, sequencing, servicing and delivery of critical infrastructure such as public transport, education facilities and drinking supply and waste water services. Thresholds/triggers, funding, responsibilities for delivery and indicative timeframes should also be identified.
9. As housing diversity is a key objective in the LHS, Council is to provide a comprehensive evidence base in relation to the delivery of medium-density housing, including dual occupancy and associated controls, particularly if Council will request an exemption from the Low Rise Housing Diversity Code. This should include:
 - a. Historical and forecast supply of medium-density housing, including statistics on range of housing types approved over the last five years (DA and CDCs) and anticipated future take-up rates.
 - b. Recommended controls outlined in LHS for medium-density housing in the implementation plan, including current status and timeline for implementation.

10. Council is to monitor and review the supply and delivery of housing, in particular, to track its performance against the 6-10 year housing target and the housing diversity and affordability outcomes delivered. The Monitoring and Implementation framework shall include timing, take up rates and any specific issues that would need to trigger an update of the LHS. A monitoring and review system should be set up to ensure that appropriate mechanisms can be identified and implemented to meet Council's housing needs.
11. Future iterations of the LHS should outline a clear commitment on the timing and process for reviews and updates.
12. The direction and strategic planning approaches endorsed in State-led precinct plans are to prevail in the event of any inconsistency with this approval and/or the Council's LHS (as revised and current).
13. Council is to update or revise the LHS to inform its LSPS following the making of a future District Plan.

Any planning proposals for new housing development will be assessed against Bayside Council's LHS, the requirements above and Advisory Notes enclosed. Any State Government policy changes that may occur in the future are to prevail in the event of any inconsistency.

Implementing your Local Housing Strategy

The State Government is committed to reducing the time taken to complete planning proposals that support housing delivery by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage.

To meet these commitments, a detailed implementation plan is required. This should reflect a comprehensive work program for all strategic planning work Council commits to undertake to implement its LHS, and should include but not be limited to:

- The future investigation areas of Banksia, Arncliffe, Rockdale, Kogarah, Carlton, Bexley North, Bardwell Park, Brighton Le Sands, Eastgardens, and Ramsgate
- Future planning proposals and amendments to Development Control Plans to enable greater housing diversity and medium-density housing.
- An Affordable Housing Policy, and (if feasible) include a Contribution Scheme in accordance with the Department's Guideline for Developing an Affordable Housing Contribution Scheme that commits Council to examining the feasibility of levying affordable housing contributions for any new planning proposals that would result in development uplift or an increase in land value. This should be included in a future LHS, or be completed earlier, if possible.

- When preparing the Scheme, Council is to demonstrate:
 - it has considered all mechanisms and locations that may be available to secure affordable housing; and
 - in consultation with relevant stakeholders, State Government-owned sites capable of contributing to long-term social and affordable housing demand are identified.

Local Housing Strategy Reviews and Updates

We strongly recommend that Council review and revise (where required) its LHS before the LSPS is required to be reviewed by the GSC. This will help best inform the next update to the LSPS.

It will also provide Council with the opportunity to improve and clarify aspects of the LHS. The Advisory Notes enclosed provide specific guidance on matters that Council is encouraged to consider when updating the LHS. The Department will expect these same matters, including alignment with the LHS, to be addressed in planning proposals and will be reinforcing them through Gateway determinations as an interim measure in the absence of the LHS review process.

Once again, I would like to take this opportunity to acknowledge the significant amount of work your team has undertaken to develop the LHS. Please be advised that the LHS will be published on the NSW Planning Portal alongside the letter of approval and Advisory Notes.

Should you have any further questions, please contact myself or Jenny Rudolph, Director Local Strategies and Plan Making on 8275 1030.

Yours sincerely



Amanda Harvey
Executive Director
Local Strategies and Plan Making

30 June 2021

Encl: Advisory Notes



Bayside Council Local Housing Strategy

Advisory Notes

The following advisory notes identify the further work Council will need to undertake to strongly position future planning proposals and further iterations of the Local Housing Strategy (LH). The advisory notes provide specific guidance on matters that Council is encouraged to consider when updating the LHS. The Department will expect these same matters to be addressed in planning proposals (where relevant) and that these will be reinforced through Gateway determinations as an interim measure in the absence of the LHS review process.

Matter	Consideration for future LHS updates and preparation and assessment of planning proposals
General	
Implementation	<p>Future iterations of the LHS should be underpinned by an Implementation Plan with a priority work program, clearly defined roles, responsibilities and definitive timeframes with risks and dependencies identified and clarity around delivery and anticipated yields.</p> <p>The Plan should be prepared in consultation with DPIE, TfSNW and SINSW, to ensure any critical interdependencies are satisfactorily resolved. This is encouraged to be informed by resourcing and budgets to demonstrate how housing targets will be delivered.</p> <p>The Implementation Plan should specifically address work streams related to items identified in Councils work program, including:-</p> <ul style="list-style-type: none">• details of any interdependencies, thresholds or impediments that are required to be secured to facilitate housing delivery, diversity and affordability.• confirmation of the extent and timing of any specific changes Council is planning to make to its LEP, DCP, or contribution plans to implement the LHS.• expedite planning for all other future investigation areas (noting Eastgardens and one other investigation area selected by Council are to be expedited to ensure supply for the 6-10 year period) and in doing so, identify a potential yield for each future investigation area, or alternatively indicative targets for dwelling types;• consider the South East Transport Strategy (SETS) and the opportunities that transport infrastructure investments provide to support a resilient housing supply pipeline.• demonstrate that the proposed approach to delivering housing diversity in the upcoming Comprehensive LEP is the most effective application of planning provisions to achieving housing diversity.• consider the housing priorities and requirements across all cohorts and plan for non-standard dwellings.

Matter	Consideration for future LHS updates and preparation and assessment of planning proposals
	<ul style="list-style-type: none"> • expedite the introduction of dwelling size and mix controls. • expedite the review of medium density and dual occupancy controls. • expedite the planning of Eastgardens future investigation area in consultation with Randwick City Council, and one other future investigation area to be nominated by Council and in doing so establish targets to ensure housing diversity is achieved. • articulate, in future strategic planning work, the need to balance employment and housing functions of strategic centres, particularly regarding facilitation of housing supply and affordability to meet the needs of lower income workers. • consider all mechanisms and locations that may be available to secure affordable housing. • identify State Government-owned land and LAHC opportunities as potential opportunities to renew social housing estates to meet increasing demand and long-term social and affordable housing opportunities. • consider whether a broader policy for the protection of existing affordable housing is appropriate. <p>The future LHS should also ensure that the supply pipeline data is cross-checked against published data and is inclusive of the scope of imminent developments and planning proposals.</p>
Review and monitoring framework	Revisions to the LHS may be required in response to significant changes in the LGA such as announcements on new infrastructure investment and employment opportunities, significant changes in projected population growth or updates to the LSPS. The framework should also review the supply and delivery of housing, including the 6-10 year housing target and targets for medium-density and seniors housing.
Infrastructure	Future iterations of the LHS should detail the key local and State infrastructure commitments and investment decisions that will support the unlocking of housing supply. This analysis should consider public and active transport, education and health facilities, open space, community infrastructure, drinking supply, wastewater and utility services. Council is encouraged to cross reference any endorsed Council strategies and plans, where relevant, and collaborate with DPIE and other State agencies (and in particular Transport for NSW (TfNSW), Schools Infrastructure NSW (SINSW) and Sydney Water) to ensure identified opportunities are realistic and accurately reflect staging, sequencing, servicing and delivery of critical infrastructure such as public transport, education facilities and drinking supply and wastewater services. Thresholds/triggers, funding, responsibilities for delivery and indicative timeframes should also be identified.

Matter	Consideration for future LHS updates and preparation and assessment of planning proposals
Making appropriate provision for any additional housing opportunities that may arise out of sequence	<p>The inclusion of a transparent and robust framework to consider additional opportunities will assist Council, the Department and other relevant agencies to assess proposals that are inconsistent with the LHS. It will also ensure that changes to land use or development controls do not take place without demonstrating strong strategic merit. Council is encouraged to develop a framework within which to consider such proposals, including but not limited to the following heads of consideration:</p> <ul style="list-style-type: none"> • Strategic merit and case for change • Robust demographic evidence • Housing Affordability and Diversity • Demand analysis and economic impacts • Infrastructure delivery and funding to be borne by the proponent • Stakeholder consultation and outcomes • Sustainability and resilience
Community and Stakeholder Engagement	Future iterations of the LHS address feedback provided through the exhibition and community engagement process of the LHS.
Consultation and engagement with agencies	<p>Council should continue consultation with the following agencies and Councils:</p> <ul style="list-style-type: none"> • TfNSW in relation to the future investigation areas and impacts of the SETS on housing. • SINSW: <ul style="list-style-type: none"> ○ Prior to the finalisation of any future strategy or planning proposal that proposes a significant increase in the number of dwellings; and ○ When Council is aware of variations in the following: <ul style="list-style-type: none"> - The actual number of lots or dwellings varying from planning proposal estimates/ strategic plans. - An emerging demographic that varies from the planned population profile, either with more or less families with children. - Rates of development and dwelling take-up varying from planned release programs or forecast residential take-up rates. ○ Neighbouring councils: Collaboration with Randwick Council on planning for Eastgardens-Maroubra Junction. <p>This is to ensure SINSW specifically understands where growth, or changes to growth rates are occurring and can effectively respond by targeting appropriate resourcing to impacted Government schools.</p>

Matter	Consideration for future LHS updates and preparation and assessment of planning proposals
Affordable Housing	<p>Council's LHS evidence base is considered sufficient to justify the preparation of a SEPP70 affordable housing contribution scheme. An LHS requirement of approval is included for Council to prepare a scheme that sets out delivery and rent models, tenant eligibility criteria, tenancy allocation, asset ownership and management.</p> <p>Notwithstanding potential issues related to development feasibility, the District Plan requires Council to prepare an affordable housing contribution scheme. The scheme would be prepared in advance of any out-of-sequence planning proposals and sends a critical signal to the market regarding Council's strategic planning intentions regarding affordable housing provision. It will also commit Council to examining the feasibility of affordable housing contributions for all new proposals that are likely to result in an uplift of land value. If feasible and appropriate, affordable housing contributions would be required by LEP provisions that implement the contributions scheme. The scheme should be prepared in accordance with the <i>Greater Sydney Region Plan</i> key parameters for successful implementation of Affordable Rental Housing Targets and the NSW Government's <i>Guideline for Developing an Affordable Housing Contribution Scheme</i>.</p> <p>Future iterations of the LHS should be required to consider all mechanisms and locations that may be available to secure affordable housing.</p> <p>Future iterations of the LHS should identify State Government-owned land and LAHC opportunities as potential opportunities to renew social housing estates to meet increasing demand and long-term social and affordable housing opportunities. This can be done in liaison with LAHC.</p> <p>Council should also consider whether a broader policy for the protection of existing affordable housing is appropriate.</p>
Housing Diversity	<p>Future iterations of the LHS will need consider the cohorts such as seniors living, key worker housing, student accommodation and group homes and their housing needs to ensure they are appropriately accommodated. Council is encouraged to investigate the inclusion of seniors housing provisions in its LEP that increase the supply of housing for seniors and people with a disability.</p>
Interdependencies with relevant local evidence base	<p>Incorporate the findings and outcomes of latest studies, policies and State-led precinct plans prepared since the publication and release of the LHS.</p>
Structure Plan	<p>Future iterations of the LHS should include a structure plan(s) that clearly identifies housing growth areas /precincts and their anticipated delivery over the short, medium- and longer-term horizons. Annotations to identify likely yield ranges and any key threshold assumptions should also be included.</p>
Data	
Data	<p>Council should ensure in the future LHS that supply pipeline data is cross-checked against published data and is inclusive of the scope of imminent developments and planning proposals.</p>



Matter	Consideration for future LHS updates and preparation and assessment of planning proposals
<p>Clarification of 6 to 10 year target and 10-20 year housing forecast.</p>	<p>Revisions to the LHS should provide a breakdown of how the 6 to 10 year target will be achieved, including when and where anticipated supply will be delivered and explain market take up rates. LHS revisions will also need to include a revised housing delivery forecast for the 10-20 year period as new information becomes available.</p> <p>The Department does not support Council claiming credit for the dwellings delivered within the 0-5 year or 6-10 year period and carrying these dwellings into the 10+ year period. Council should ensure that all population and dwelling forecasts are cross-checked against published DPIE projections to provide greater transparency. Additional guidance and support can be arranged with the Department's Evidence and Insights team to resolve any discrepancies in dwelling forecasts. Council should also consider the actions and timeframes identified in Council's LSPS and the GSC's letter of assurance.</p>

Appendix 3 – Gateway Determination for Bayside LEP 2021



Gateway Determination

Planning proposal (Department Ref: PP_2020_BSIDE_001_00): to consolidate the Rockdale Local Environmental Plan (LEP) 2011, Botany Bay LEP 2013 and Botany LEP 1995 to create a single Local Environmental Plan for the Bayside local government area.

I, the A/Executive Director, Eastern Harbour City at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that a proposal to consolidate the Rockdale LEP 2011, Botany Bay LEP 2013 and Botany LEP 1995 to create a single Local Environmental Plan for the Bayside local government area, should proceed subject to the following conditions:

1. Prior to undertaking community consultation, Council is required to amend the planning proposal to:
 - a) clearly state that the draft instrument attached to the planning proposal is for exhibition purposes only and is subject to change as part of the drafting of the final LEP;
 - b) retain multi dwelling housing and residential flat buildings as permitted land uses in the R2 Low Density Residential zone in Botany Bay LEP 2013 areas;
 - c) retain residential flat buildings as a permitted use in the R3 Medium Density Residential zone in Botany Bay LEP 2013 areas;
 - d) address the consistency with Ministerial Direction 6.2 – Reserving Land for Public Purposes in relation to the Dransfield Avenue deferred site and consolidation of land reservation and acquisition clauses;
 - e) accurately reflect all amendments made to 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens (Amendment No.8 to the Botany Bay LEP 2013);
 - f) ensure proposed clause 6.1 – Acid Sulfate Soils is consistent with the adopted model provision;
 - g) include the supporting information regarding the deletion of the bonus building height (Cl. 4.3(2A)) and floor space (Cl.4.4B) clauses under the Botany Bay LEP 2013, including the concept plans that support retention of the provisions on identified sites;
 - h) delete the bonus floor space clause (cl.4.4(2A)) under the Botany Bay LEP 2013;
 - i) include the additional information provided on the proposed amendments for dual occupancy, attached dwellings and semi-detached dwellings;

- j) include discussion about proposed clause 4.1(3A) concerning the exclusion of the access handle from lot area calculations for a battle-axe lot;
 - k) include a map to clearly identify the *intensive urban development area*, referenced in Part 7 of the Rockdale LEP 2011 and meaning the Arncliffe and Banksia Planned Precincts;
 - l) ensure no amendments on land identified under *State Environmental Planning Policy (Three Ports) 2013*; and
 - m) include a savings provision which will not result in the proposed amendments affecting current development applications or appeal processes.
2. The final LEP should be updated where required to have regard to any endorsed Local Strategic Planning Statement (LSPS).
 3. 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 minimum of **28 days**;
 - (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 section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018);
 - (c) write to the landowners and operators of the Botany Industrial Park; and
 - (d) write to the affected landowners in the residential zones under the Botany Bay LEP 2013.
 4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Transport for NSW
 - Department of Education;
 - NSW Port Authority;
 - Heritage NSW;
 - Sydney Airport;
 - Civil Aviation Safety Authority;
 - Commonwealth Department of Infrastructure, Transport, Regional Development and Communications;
 - NSW Land and Housing Corporation;
 - Office of Environment, Energy and Science;
 - Sydney Water Corporation;
 - Natural Resource Access Regulator;

- Office of Environment, Energy and Science;
- State Emergency Service;
- Environmental Protection Authority; and
- Adjoining Councils.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

5. 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).
6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Date 19th day of March 2020.



Amanda Harvey
A/Executive Director, Eastern
Harbour City
Greater Sydney, Place and
Infrastructure
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces