

Draft Planning Proposal

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



April 2023

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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 and Environment's (DPE) 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 DPE 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 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's '*Local Environmental Plan Making Guideline*' (September 2022).

Background

The BLEP 2021 was notified on 27 August 2021.

During the preparation of the draft BLEP 2021, DPE 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.

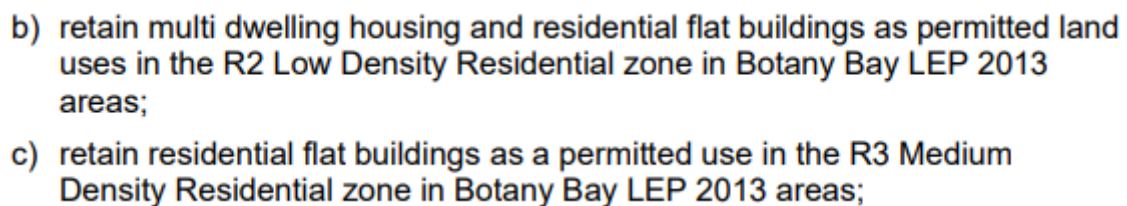
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- A rectangular box with a black border containing two bulleted items. Item b) reads: 'retain multi dwelling housing and residential flat buildings as permitted land uses in the R2 Low Density Residential zone in Botany Bay LEP 2013 areas;'. Item c) reads: 'retain residential flat buildings as a permitted use in the R3 Medium Density Residential zone in Botany Bay LEP 2013 areas;'.
- 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 DPE 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 DPE 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.

DPE 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 DPE in June 2021. DPE 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:

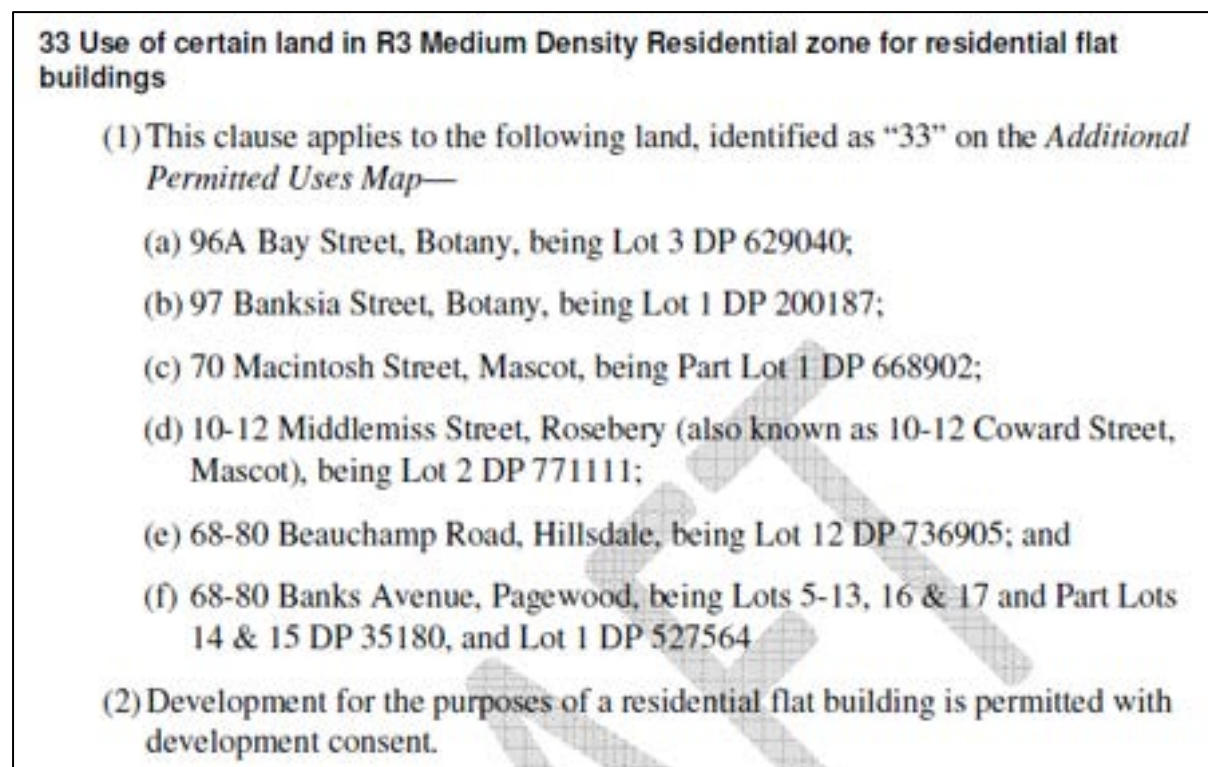


Figure 2: Extract from Schedule 1 of the *Draft* BLEP 2021

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 the BLEP 2021. These sites are located in the R3 Medium Density Residential zone under the BLEP 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 BLEP 2021 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 2021 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 BLEP 2021, and the FSR bonus for the 6 sites was included in the notified (gazetted) BLEP 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).

The six sites are described in further detail below.

96A Bay Street, Botany - Lot 3 DP629040

The site is zoned R3 Medium Density Residential with a site area of approximately 4,100sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in the R3 Medium Density zone. An existing industrial building occupies the site (Figure 4). The site is surrounded by residential flat buildings, attached dwellings and detached dwellings.

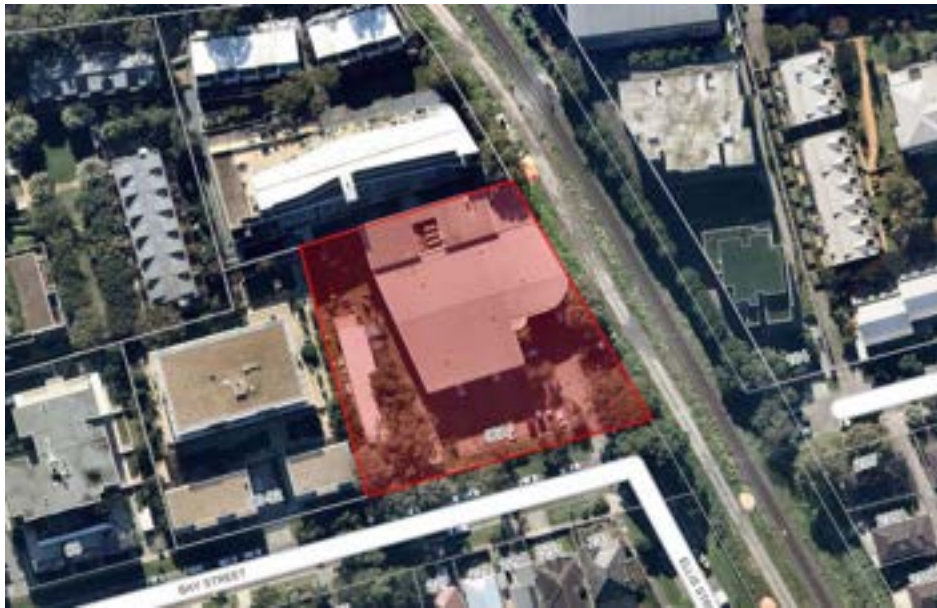


Figure 3 – Aerial of 96A Bay Street, Botany



Figure 4 – Existing industrial building



Figure 5 – Adjoining site to the west consists of terraces fronting the street with a residential flat building behind

97 Banksia St, Botany - Lot 1 DP200187

The site is zone R3 Medium Density Residential with a site area of approximately 6,700sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in R3 Medium Density zone. An existing industrial building occupies the site (Figure 7). The site is surrounded by attached, semi-detached, and detached dwellings.



Figure 6 – Aerial of 97 Banksia Street, Botany



Figure 7 – Existing industrial building

70 Macintosh Street, Mascot - Part Lot 1 DP668902

The site is zone R3 Medium Density Residential with a site area of approximately 5,360sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in the R3 Medium Density zone. The site is owned by New South Wales Land and Housing Corporation (LAHC). As such, the site consists of social housing in the form of town houses and is surrounded by low density detached dwellings to the east and industrial buildings to the west.



Figure 8 – Aerial of 70 Macintosh Street, Mascot



Figure 9 – Existing social housing dwellings, as seen from Macintosh Street

10-12 Middlemiss Street, Rosebery (also known as 10-12 Coward Street Mascot) - Lot 2 DP 771111

The site is zone R3 Medium Density Residential with a site area of approximately 17,700sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in the R3 Medium Density zone. The site is owned by New South Wales Land and Housing Corporation (LAHC). As such, the site consists of social housing in the form of single-storey town houses and is surrounded by low density semi-detached and detached dwellings.



Figure 10 – Aerial of 10-12 Middlemiss Street, Rosebery



Figure 11 – Single storey dwellings within LAHC site.

68-80 Beauchamp Road, Hillsdale - Lot 12 DP 736905

The site is zone R3 Medium Density Residential with a site area of approximately 7,800sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in the R3 Medium Density zone. The site is owned by New South Wales Land and Housing Corporation (LAHC). As such, the site consists of social housing in the form of two-storey town houses and adjoins residential flat buildings, detached dwellings, and Matraville Public School.



Figure 12 – Aerial of 68-80 Beauchamp Road, Hillsdale



Figure 13 – Existing dwellings as viewed from Beauchamp Road

68-80 Banks Avenue, Pagewood - Lots 5-13, Part Lots 14 & 15, Lots 16 & 17 DP35180 and Lot 1 DP527564

The site is zone R3 Medium Density Residential with a site area of approximately 9,200sqm. The land is affected by Additional Permitted Uses Clause 35 which enables residential flat buildings in the R3 Medium Density zone. The site is owned by New South Wales Land and Housing Corporation (LAHC). As such, the site consists of social housing in the form of four-storey apartments and adjoins Jellicoe Park to the east and Bonnie Doon Golf Club to the west. Surrounding the site are mostly detached dwellings.



Figure 14 – Aerial of 68-80 Banks Avenue, Pagewood



Figure 15 – Entrance to site via Banks Avenue

Gateway Determination

On 3 August 2022, a Gateway Determination was issued by the DPE allowing the Planning Proposal to proceed to public exhibition, subject to satisfying a number of conditions.

Condition 1(f) (i) (ii) and (g) required the Planning Proposal to be amended prior to being placed on public exhibition. The condition reads:

1. *Prior to community consultation, the planning proposal is to be updated to:*
 - f) *include a detailed investigation of the land subject to this Planning Proposal to determine the suitability of prohibiting multi-dwelling housing and residential flat building developments where this type of development is in areas already predominately characterised with such developments or this permitted use is already constructed on the subject sites. Any identified areas must:*
 - i *be assessed against the objectives of the R2 and R3 zones to determine any inconsistencies with the intent of this planning proposal, providing analysis of whether such identified areas should be included or excluded from the proposal; and*
 - ii. *consider any impacts of existing use provisions applicable under the Environmental Planning and Assessment Act 1979; and*
 - g) *include updated urban design analysis/testing for the 6 sites identified to retain permissibility of a residential flat building land use. The updated urban design analysis/testing must consider current legislative requirements, including the Bayside LEP 2021.*

This version of the Planning Proposal (Version 2 – dated April 2023) has been amended to comply with these conditions imposed by the Gateway Condition.

In relation to, condition 1(g), the Gateway Determination requires updated urban design analysis and testing for the six sites identified to retain permissibility of RFB as a land use in the zone.

Council has carried out further urban design testing of all six sites. All six sites have been identified as warranting additional LEP provisions, to provide certainty in ensuring appropriate built form outcomes can be achieved for those sites. This has been confirmed with the NSW Department of Planning and

Environment. It is noted that there is no change proposed to the development controls (FSR and Height of Building) applicable to those sites. The six sites include:

- 96A Bay Street, Botany;
- 97 Banksia Street, Botany;
- 70 Macintosh Street, Mascot;
- 10-12 Middlemiss Street, Rosebery (also known as 10-12 Coward Street, Mascot);
- 68-80 Beauchamp Rd, Hillside;
- 68-80 Banks Avenue, Pagewood.

To address condition 1(g) of the Gateway determination, Council proposes the Planning Proposal to be updated to include the following provisions to apply to the six subject sites:

- Apply Clause 6.16 of the Bayside LEP 2021, which relates to development requiring the preparation of a Development Control Plan. This Clause currently applies to two sites in the Bayside LGA. The inclusion of this clause for the six sites will provide certainty in ensuring appropriate built form outcomes for each of the sites.
- Apply Clause 6.10 of the Bayside LEP 2021, which relates to Design Excellence. The inclusion of the Design Excellence Clause and Map for each of the six sites will provide certainty to ensure a high standard of architectural, urban, and landscape design can be achieved for the six sites.

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.
- Retain residential flat buildings as an APU on six sites zoned R3 Medium Density Residential.
- Apply Clause 6.10 of the Bayside LEP 2021, which relates to Design Excellence. The inclusion of the Design Excellence Clause and Map for each of the six sites will provide certainty to ensure a high standard of architectural, urban, and landscape design can be achieved for the six sites.
- Apply Clause 6.16 of the Bayside LEP 2021, which relates to development requiring the preparation of a Development Control Plan. This Clause currently applies to two sites in the Bayside LGA. The inclusion of this clause for the six sites will provide certainty in ensuring appropriate built form outcomes for each of the sites.

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.

The application of Clause 6.10 and 6.16 of the BLEP 2021 is in response to condition 1(g) of the Gateway Determination.

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 BLEP 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**).

Apply Clause 6.10 and 6.16 of the Bayside LEP 2021 to the following six sites:

- (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.

Clause 6.10 of the BLEP 2021 currently states:

6.10 Design excellence

- (1) *The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*
- (2) *This clause applies to the following development—*
- (a) *development involving the erection of a new building or external alterations to an existing building within the Arncliffe Precinct or the Banksia Precinct,*
 - (b) *development involving the erection of a new building or external alterations to an existing building on land shown edged heavy black on the [Design Excellence Map](#),*
 - (c) *development that is the subject of a development application that relies on clause 4.3(2A) (a), (f), (g), (h), (i) or (k).*

Note—

In determining an application for a modification of a development consent granted under this clause, the consent authority must again take the requirements of this clause into consideration (see section 4.55 (3) of the Act).

- (3) *Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*
- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
 - (c) *whether the development detrimentally impacts on view corridors,*
 - (d) *the requirements of any development control plan made by the Council and as in force at the commencement of this clause,*
 - (e) *how the development addresses the following matters—*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*

- (xi) achieving appropriate interfaces at ground level between the building and the public domain,
 - (xii) excellence and integration of landscape design.
- (5) Development consent must not be granted to development to which this clause applies unless—
- (a) if the development is in respect of a building that is, or will be, higher than 12 metres or 3 storeys (or both) but not higher than 40 metres or 12 storeys (or both)—
 - (i) a design review panel has reviewed the development, and
 - (ii) the consent authority takes into account the findings of the design review panel, or
 - (b) if the development is in respect of a building that is, or will be, higher than 40 metres or 12 storeys (or both)—
 - (i) an architectural design competition is held in relation to the development, and
 - (ii) the consent authority takes into account the results of the architectural design competition.
- (6) Subclause (5)(b) does not apply if—
- (a) the NSW Government Architect certifies in writing that an architectural design competition need not be held but that a design review panel should instead review the development, and
 - (b) a design review panel reviews the development, and
 - (c) the consent authority takes into account the findings of the design review panel.
- (7) An architectural design competition conducted in accordance with the Design Excellence Guidelines that were in force when the competition was conducted is taken to have been conducted in accordance with the Design Excellence Guidelines.
- (8) In this clause—

architectural design competition means a competitive process conducted in accordance with the Bayside Design Excellence Guidelines.

Design Excellence Guidelines means—

- (a) the Bayside Design Excellence Guidelines adopted by the Bayside Council and in force on the commencement of [State Environmental Planning Policy Amendment \(Arncliffe and Banksia Precincts\) 2018](#), or
- (b) if no guidelines were in force on that commencement—the Design Excellence Guidelines issued by the Planning Secretary, as amended from time to time.

design review panel means a panel of 3 or more persons established by the consent authority for the purposes of this clause and approved by the NSW Government Architect.

The inclusion of the Design Excellence Clause and Map for each of the six sites will provide certainty to ensure a high standard of architectural, urban, and landscape design can be achieved for the six sites and to meet condition 1(g) of the Gateway Determination.

Clause 6.16 of the BLEP 2021 currently states:

6.16 Development requiring the preparation of a development control plan

- (1) The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan.
- (2) This clause applies to the following land—
 - (a) Lot 100, DP 1250842 and Lot 24, DP 1242288, 128 Bunnerong Road and 120 Banks Avenue, Eastgardens,

- (b) Lots 1–3 and 11–12, DP 9142, Lot 0, SP 48926 and Lot B, DP 407002, 215–235 O’Riordan Street and 1–3 Ewan Street, Mascot.
- (3) Development consent must not be granted for development on land to which this clause applies unless—
 - (a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, or
 - (b) guidelines and controls similar to those mentioned in subclause (4) already apply to the land, or
 - (c) the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated.
- (4) The development control plan must provide for all of the following—
 - (a) design principles drawn from an analysis of the site and its context,
 - (b) the compatibility of the proposed development with the desired future character of the area,
 - (c) the phasing of development and how it will provide for the social and recreational needs of a new community,
 - (d) distribution of land uses, including open space (its function and landscaping) and environment protection areas,
 - (e) the existing and proposed mix of land uses,
 - (f) subdivision pattern and provision of services,
 - (g) building envelopes and built form controls, including bulk, massing and modulation of buildings,
 - (h) (Repealed)
 - (i) heritage conservation, including both Aboriginal and European heritage,
 - (j) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and appropriate car parking provision, including integrated options to reduce car use,
 - (k) the overall transport hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, with particular regard to public transport, pedestrians and cyclists,
 - (l) improvements to the public domain,
 - (m) minimising adverse impacts on adjoining buildings or the public domain,
 - (n) achieving appropriate interface at ground level between buildings and the public domain,
 - (o) impacts on view corridors,
 - (p) the application of the principles of ecologically sustainable development,
 - (q) environmental impacts, such as overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,
 - (r) environmental constraints, including acid sulfate soils, flooding, groundwater, stormwater, aircraft movement and noise, contamination and remediation,
 - (s) opportunities to apply integrated water sensitive urban design,
 - (t) (Repealed)
- (5) For land specified in subclause (2)(a), the development control plan must also provide for—
 - (a) housing mixes and tenure choices, including affordable and adaptable housing, and
 - (b) no additional overshadowing to the residential buildings in Zone R2 on the eastern side of Bunnerong Road between 9am and 3pm on 21 June in each year.

This Clause currently applies to two sites in the Bayside LGA. The inclusion of this Clause for the six sites will provide certainty in ensuring appropriate built form outcomes for each of the sites and to meet condition 1(g) of the Gateway Determination.

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 and Environment's (DPE) 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 DPE 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.

Investigation of land subject to this Planning Proposal – Suitability of Prohibiting Existing Multi-Dwelling Housing and Residential Flat Buildings

A condition of the Gateway required Council to carry out an investigation to determine the suitability of prohibiting existing Residential Flat Buildings (RFBs) and Multi-Dwelling Housing (MDH), and any potential existing use impacts. The condition reads:

- f) *include a detailed investigation of the land subject to this Planning Proposal to determine the suitability of prohibiting multi-dwelling housing and residential flat building developments where this type of development is in areas already predominately characterised with such developments or this permitted use is already constructed on the subject sites. Any identified areas must:*
 - i. *be assessed against the objectives of the R2 and R3 zones to determine any inconsistencies with the intent of this planning proposal, providing analysis of whether such identified areas should be included or excluded from the proposal; and*
 - ii. *consider any impacts of existing use provisions applicable under the Environmental Planning and Assessment Act 1979; and*

DPE notes that as a result of this PP, existing MDH and RFBs to which APUs '34' and '35' currently apply will become prohibited uses and will need to rely on 'existing use' provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regs).

The DPE further notes that there may be existing localities within the subject areas predominately characterised by MDH and RFBs. However, the concern is that these areas would no longer reflect the objectives of the R2 or R3 zoning in which they are located. To ensure the PP has regard to any established approved MDH and RFB developments, an investigation of potential sites affected by this PP has been carried out to determine the suitability of using existing use rights for these sites.

Identification of Sites – Criteria

In identifying the sites that may be impacted by the PP, the following criteria was used:

- Applicable area: All land affected by APU 34 and APU 35.
- Zones: R2 Low Density Residential and R3 Medium Density Residential.
- LEP: Botany Local Environmental Plan 2013
- BLEP 2013: Clause 6.11, Clause 4.3 (2A), Clause 4.4 (2A)

The BBLEP 2013 commenced on 21 June 2013 and applied to land currently within the areas affected by APUs 34 and 35. The key Clauses in the BBLEP 2013 which allowed RFB and MDH in R2 zone and RFB in R3 zone are shown in the table below:

Clause	Overview of Clause
Clause 6.11	This Clause allowed RFB and MDH in the R2 zone where a building had been designed and constructed for a purpose <i>other than</i> a residential use. The objective of the clause was to provide for the adaptive re-use of the land and existing buildings approved for RFB and MDH.
Clause 4.3 (2A)	This Clause offered a bonus height of up to 22m for sites which exceeded 2,000sqm in areas where the building height would otherwise be limited to 10-14m, depending on location. The objective of this clause was to allow increased densities on larger or amalgamated sites in R3 and R4 zones.
Clause 4.4B	This clause offered a bonus floor space ratio (FSR) of 1.65:1 as a cost offset, and as an incentive to amalgamate and develop sites over 2,000sqm zoned R3 and R4 for MDH and RFB, and affected by constraints including acid sulphate soils, and either contamination or noise (aircraft, rail, road).

Table 1: Key Clauses from BBLEP 2013 Relevant to Subject Planning Proposal

RFB and MDH in R2 Zones

It is important to note that RFB and MDH are only permitted in the R2 zone by virtue of Clause 6.11, which allowed these uses in the R2 zone if it could be demonstrated that a building had been designed and constructed for purposes *other than* residential use. In the absence of this clause, RFB and MDH in R2 zone would be prohibited.

RFB in R3 zones - Bonus Provisions

In 2015, a PP to remove the bonus provisions Clause 4.3 (2A) and Clause 4.4B from the BBLEP 2013 was initiated by the former Botany Bay Council.

The bonus provisions were introduced to permit additional height and floor space ratio (respectively) on R3 Medium Density Residential and R4 High Density Residential zoned sites affected by contamination; high groundwater levels; industrial building stock containing hazardous elements in the building fabric; and affected by noise from roads and aircraft. The aim of the bonus provisions was to offset the additional costs associated with developing affected sites.

However, the bonus provisions do not provide for an acceptable transition between sites zoned R2 and sites zoned R3 and R4. Where R3 and R4 zoned land immediately adjoins R2 zoned land, the increased building height and bulk enabled by the bonus provisions present adverse impacts to the prevailing streetscape, and results in overshadowing and overlooking impacts.

In September 2015, a Gateway Determination was issued, which recommended that the draft Planning Proposal proceed, subject to conditions.

The Gateway Determination was subsequently rescinded by DPE, on the basis of the objectives of the Bonus Provisions PP having been adequately dealt with as part of the draft BLEP 2021.

Identification of Sites Impacted by the Subject Planning Proposal

Council identified the sites that were lawfully approved using the following criteria:

- Development Applications for MDH and RFBs in the R2 zone, which must utilise Clause 6.11 of the BBLEP 2013.
- Development Applications for RFBs in the R3 zone utilising Clause 4.3 (2A) and Clause 4.4 (2A) of the BBLEP 2013.

There were no Development Applications for RFBs and MDH in the R2 zone since the commencement of the BBLEP 2013 in June 2013.

A total of five Development Applications for RFBs have been lodged since June 2013 in the R3 zone that have utilised the bonus provisions in the BBLEP 2013 to seek approval for RFB and/or MDH development, these include:

- 15-19 Edgehill Avenue Botany
- 32 Page Street Banksmeadow
- 41 Rhodes Street Hillsdale
- 72-86 Bay Street Botany
- 278 Bunnerong Road Hillsdale

Address	DA	Proposal	Use of Bonus Provision in BLEP 2013
15-19 Edgehill Avenue Botany	2014/10040	Mix residential development comprising 9 townhouses and residential flat building – total 89 units.	Yes
32 Page Street Banksmeadow	2014/10080	Mix residential development comprising 35 townhouses and residential flat building – total 221 units.	Yes
41 Rhodes Street Hillsdale	2015/10221	Residential flat building – total 46 units.	Yes
72-86 Bay Street Botany	2016/10024	Additional 6 units to existing RFB	Yes
278 Bunnerong Road HILLSDALE	2015/10221	Residential flat building – total 84 units.	Yes

Table 2: Development Applications for RFBs Utilising Bonus Provisions under BBLEP 2013

Table 2 clearly demonstrates that, over the life of the BBLEP 2013 (June 2013-August 2021), only five development sites were realised. This amounts to a total of 446 dwellings (44 townhouses and 402 apartments).

Zone Objectives and Intent of Planning Proposal

Of the five sites subject to DA approvals listed above, an assessment of each of the site's consistency with the objectives of the zone and intent of the PP was carried out. The assessment identified that the DA approvals are consistent with the intent of the PP.

All of the five sites subject to DA approvals listed above are located in the R3 Medium Density Residential Zone. The objectives of the R3 zone include:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The intent of the PP is to:

- Remove the Additional Permitted Uses (APUs) identified as '34' and '35.
- To retain Residential Flat Building as an APU on six sites zoned R3.
- Ensure land uses permitted within the R2 and R3 zones generally reflect the objectives of the zoning, with the exception of the six unique sites subject to APUs.
- Harmonise permissible land uses in the R2 and R3 zones across the Bayside LGA.

The five sites under investigation are consistent with both the intent of the PP and the objectives of the R3 zone more broadly. Specifically, development on those sites is consistent with that of the broader R3 zone in the BLEP 2021 across the LGA, and enables a variety of housing types.

In relation to the harmonisation of permissible land uses in the R3 zone across the Bayside LGA, the PP will ensure that the permissible land uses in the R2 and R3 zones are harmonised across the LGA, and are reflective of the objectives of the zones. This will also ensure land uses are consistent with the established levels of residential amenity within each of the zones.

Council notes that while the PP will result in RFB being a prohibited use in the R2 and R3 zones, it is considered the impact on the existing RFBs is considered minor as:

- There are only 5 sites that will be impacted by the PP;
- The DPE has assessed the PP and notes the following in relation to the PP:
 - *it demonstrates strategic merit by being consistent with the Bayside Local Housing Strategy;*
 - *it is consistent with the Eastern City District Plan and Council's local strategic plans;*
 - *it will harmonise permitted land uses in the R2 and R3 zones across the Bayside LGA;*
 - *the proposed amendment will ensure the developments permissible in the R2 and R3 zones reflect the zone objectives; and*
 - *The inconsistency with Local Planning Direction 6.1 Residential zones is considered minor and justified. The subject areas are identified as constrained in the Bayside LHS for residential intensification and are not identified as investigation areas for future residential development. Removing the Additional Permitted Uses will not impact on dwelling typology or delivery targets in the LGA.*
- There are adequate provisions in the EPA Act 1979 and EPA Regulations 2021 that provide adequate protection for existing approved RFBs remaining in both zones.

Based on the above, Council does not consider that the PP would impact these five sites.

Existing Use Rights

The PP will remove RFBs as a permitted land use in the R3 zone and this would result in the five sites which contain lawfully approved RFBs to become prohibited uses upon the finalisation of this PP (LEP amendment). These sites will need to rely on existing use rights for the purpose of an RFB. Existing use rights provide certain protections to landowners from changes to planning laws that apply to their land. They will allow people to, for example, continue to live in

their homes, or to continue to operate their businesses as they did before the change, until they decide to seek a new permitted use, or intensify/expand their current use (subject to the limitations of the planning legislation pertaining to existing use rights, discussed below).

The EPA Regulations 2000 contain provisions which allow an existing use to be enlarged, expanded, or altered, subject to certain limitations. These limitations include requirements that any changes to existing uses must be minor in nature, cannot involve an increase of greater than 10 per cent in floor space, or involve a significant intensification of that existing use.

It is considered that existing use right provisions would allow the five existing approved RFBs to retain their uses, and enable minor alterations to occur to those developments, subject to relevant approvals.

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
	Objective 7:	

Directions	Objectives	Consistency
	<p>Communities are healthy, resilient and socially connected</p> <p>Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods.</p> <p>Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation</p>	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.
4. Housing the city	<p>Objective 10: Greater housing supply</p> <p>Objective 11: Housing is more diverse and affordable</p>	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.
5. A city of great places	<p>Objective 12: Great places that bring people together</p> <p>Objective 13: Environmental heritage is conserved and enhanced</p>	The proposal will not intensify development or impact upon heritage items or Heritage Conservation Areas.
Productivity		
6. A well connected city	<p>Objective 14: A metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities</p> <p>Objective 15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive</p> <p>Objective 16: Freight and logistics network is competitive and efficient</p> <p>Objective 17: Regional transport is integrated with land use</p>	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.
7. Jobs and skills for the city	<p>Objective 18: Harbour CBD is stronger and more competitive</p> <p>Objective 19: Greater Parramatta is stronger and better connected</p>	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.

Directions	Objectives	Consistency
	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:	

Directions	Objectives	Consistency
	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	<p>The proposal will not intensify development, and will not impact upon transport, social infrastructure or heritage.</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 DPE 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.</p>
E4	Fostering healthy, creative, culturally rich and socially connected communities	
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	<p>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.</p>
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	<p>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.</p>
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 and Environment's (DPE) 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 DPE 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 Planning Proposal, to enable final resolution of this planning inconsistency.</p>

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 DPE. 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 Council's 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 and Environment's (DPE) 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 DPE 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 DPE 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. The proposal will not intensify development or impact upon heritage items or Heritage Conservation Areas.
B7	Provide choice in housing to meet the needs of the community	
B8	Provide housing that is affordable	
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	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.
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	

Planning Priority		Consistency
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	
B19	Protect and improve the health of Bayside's waterways and biodiversity	<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 DPE 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>
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	
B24	Reduce community risk to urban and natural hazards and improve community's resilience to social, environmental and economic shocks and stressors	

Bayside Community Strategic Plan 2018-2032

The Bayside Community Strategic Plan 2018-2032 (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 2018-2032 themes

Theme One – In 2032 Bayside will be a vibrant place	How We Will Get There	Consistency
Community Outcome – Bayside's places are accessible to all	Create spaces, places and interactions that are safe, accessible, and engaging (Deliver)	
	Improve availability of parking for residents (Deliver, Advocate)	

	Promote the provision of affordable housing for those who need it (Partner, Advocate)	<p>N/A</p> <p>The proposal will not intensify development, and will not impact upon these community outcomes, 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.</p>
	Provide safe, accessible open space with a range of active and passive recreation opportunities to match Bayside's growing community (Deliver, Partner)	
	Welcome visitors and tourists to Bayside (Partner)	
Community Outcome – Bayside's places are dynamic and connected	Create green and welcoming streetscapes (Deliver)	N/A – as above.
	Ensure public buildings are well maintained as important community hubs with the opportunity for shared and multiple use of facilities (Deliver, Advocate)	
	Facilitate greater connectivity through active transport (Deliver, Partner, Advocate)	
	Support and deliver cultural and arts facilities, programs, events, and opportunities (Deliver, Partner, Advocate)	
Community Outcome – Bayside's places are people focused	Activate local areas and town centres with facilities valued by the community (Deliver, Partner)	N/A – as above.
	Create and maintain vibrant, visually appealing, and welcoming places with their own village atmosphere and sense of identity (Deliver, Partner, Advocate)	
	Promote innovative and well-designed local developments which incorporate open space and put people first (Deliver, Partner, Advocate)	
Community Outcome – Bayside's transport system works	Promote adequate, accessible, reliable public transport for ease of travel to work and leisure (Advocate)	N/A – as above.
	Promote Bayside as a 30-minute City where residents do not have to travel for more than 30 minutes to work (Advocate)	

	Support an effective and efficient local road network through investment in maintenance and reduced traffic issues in Bayside (Deliver, Partner, Advocate)	
Theme Two – In 2032 our people will be connected in a creative City	How We Will Get There	Consistency
Community Outcome – Bayside celebrates and respects our diverse community	Reflect and celebrate cultural diversity in Bayside's activities (Deliver, Partner)	N/A – as above.
	Support cultural and arts events that reflect and involve community (Deliver, Partner)	
	Treat community members with dignity and respect (Deliver, Partner, Advocate)	
	Value, respect and celebrate Bayside's shared heritage and history (Deliver, Partner, Advocate)	
Community Outcome – Bayside utilises and benefits from technology	Harness technological changes and ensure benefits are shared across Bayside (Deliver, Advocate)	N/A – as above.
	Promote smart use of technologies to make life better (Advocate)	
	Provide accessible information and services online and through social media (Deliver)	
Community Outcome – The community feels valued and supported	Engage and communicate with all community members (Deliver)	N/A – as above.
	Promote access to active recreation, health care and education services to support a healthy community (Deliver, Partner, Advocate)	
	Provide services and facilities which ensure all community members feel a sense of belonging, including children, families, young people, and seniors (Deliver, Advocate)	
	Value and acknowledge our pets, and welcome them	

	across Bayside (Deliver, Advocate)	
	Work with our partners to ensure flexible care/support arrangements for seniors, children, people with disabilities and vulnerable members of our community are available across Bayside (Partner, Advocate)	
Community Outcome – The community is united and proud to live in Bayside	Develop and support community connections and networks which enhance resilience (Partner, Advocate)	N/A – as above.
	Develop and support emerging community leadership (Partner)	
	Ensure Council's decisions reflect community objectives and desires (Deliver)	
	Engage effectively with community and provide information in a timely manner (Deliver)	
	Foster a sense of community pride in and satisfaction with Bayside (Deliver, Partner, Advocate)	
	Support community to play their part and imagine the future together (Partner, Advocate)	
Theme Three – In 2032 bayside will be green, resilient, and sustainable	How We Will Get There	Consistency
Community Outcome – Bayside is resilient to economic, social, and environmental impacts	Build community capacity and resilience to prepare for, cope with, adapt to and recover from economic, social, and environmental impacts (Deliver, Partner, Advocate)	N/A – as above.
	Engage with community to provide an appropriate response to threats and adverse events (Deliver, Partner)	
	Promote education about climate change so that the community understands the	

	potential impacts (Deliver, Partner, Advocate)	
	Support and promote local climate and resilience leadership and initiatives (Partner, Advocate)	
Community Outcome – Bayside's use of renewable energy is increasing	Promote and facilitate emerging transport technologies for greener transportation and to meet the community's changing needs (Partner, Advocate)	N/A – as above.
	Promote the use of renewable energy through community education (Deliver, Partner, Advocate)	
	Prioritise renewable energy use by Council where possible to reduce greenhouse gas emissions, and report publicly on benefits (Deliver, Advocate)	
Community Outcome – Bayside's waterways and green corridors are regenerated and preserved	Capture and reuse rainwater at Council facilities where feasible (Deliver)	N/A – as above.
	Enhance and extend green grid corridors (Deliver, Partner, Advocate)	
	Increase Bayside's tree canopy (Deliver)	
	Involve community in the preservation of natural areas (Deliver, Partner)	
	Respect, manage and protect the natural environment and biodiversity (Deliver, Partner)	
Community Outcome – Bayside's waste is well managed	Address illegal dumping proactively (Deliver, Partner, Advocate)	N/A – as above.
	Educate the community on sustainable waste management and recycling practices (Deliver, Partner)	
	Promote a circular economy by encouraging and/or implementing avoidance, reuse, rehoming, repair, recycling, recovery solutions before landfilling (Deliver, Partner, Advocate)	

Theme Four – In 2032 Bayside will be a prosperous community	How We Will Get There	Consistency
Community Outcome – Bayside generates diverse local employment and business opportunities	Encourage and support improved employment outcomes for First Nations peoples (Deliver, Partner, Advocate)	N/A – as above.
	Monitor socio-economic outcomes and work with partners to identify actions Council can support (Partner)	
	Support innovative and new and emerging businesses to locate in Bayside (Partner, Advocate)	
	Support local apprenticeships and cadetships, as a major employer (Deliver, Advocate)	
Community Outcome – Bayside recognises and leverages opportunities for economic development	Support major employers to partner with local small business (Advocate)	N/A – as above.
	Take advantage of Bayside's position as an international hub for transport and logistics related business (Advocate)	
	Preserve industrial lands and employment lands and partner with major employers to support local jobs (Deliver, Partner)	
	Encourage participation from creative industries and entrepreneurial businesses (Advocate)	
	Ensure local Plans and regulations have kept pace with the sharing economy (Deliver)	
Community Outcome – Council is financially sustainable and well governed	Ensure Council decision making is transparent, and data driven (Deliver)	N/A – as above.
	Foster a customer centric culture (Deliver)	
	Invest in a skilled and dynamic workforce to meet future challenges, meet	

	accountability and compliance requirements, and deliver Council's quadruple bottom line: social, environmental, economic, and civic leadership (Deliver)	
	Manage Council assets to meet community expectations within available resources (Deliver)	
	Manage Council finances for the long-term benefit of the community and to prioritise infrastructure funding commitments (Deliver)	
	Plan for growth and development so the benefits of prosperity are shared (Deliver)	

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 and Environment's (DPE) 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 DPE 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 DPE 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 Bike and Transport Strategy

The purpose of the Draft Bayside Bike and 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 includes recommendations to facilitate an increase in the use of cycling to support the 30-minute city concept. This will help 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
	(Primary Production) 2021	Not relevant to this draft Planning Proposal
	Resources and Energy) 2021	Not relevant to this draft Planning Proposal
	(Resilience and Hazards) 2021	Not relevant to this draft Planning Proposal
	(Industry and Employment) 2021	Not relevant to this draft Planning Proposal
	(Transport and Infrastructure) 2021	Not relevant to this draft Planning Proposal
	(Biodiversity and Conservation) 2021	Not relevant to this draft Planning Proposal
	(Planning Systems) 2021	Not relevant to this draft Planning Proposal
	(Precincts – Eastern Harbour City) 2021	Not relevant to this draft Planning Proposal
	(Precincts – Western Parkland City) 2021	Not relevant to this draft Planning Proposal
	(Precincts) – Regional 2021	Not relevant to this draft Planning Proposal
65	Design Quality of Residential Apartment Development	<p>Consistent</p> <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.</p> <p>Further urban design testing and analysis have been carried out in response to Condition 1(g) of the Gateway Determination. The Planning Proposal seeks to apply the following provisions to 6 sites identified to retain permissibility of a residential flat building land use:</p> <ul style="list-style-type: none"> • Apply Clause 6.16 of the Bayside LEP 2021, which relates to development requiring the preparation of a Development Control Plan. This Clause currently applies to two sites in the Bayside LGA. The inclusion

No.	Title	Consistency with draft Planning Proposal
		<p>of this clause for the six sites will provide certainty in ensuring appropriate built form outcomes for each of the sites.</p> <ul style="list-style-type: none"> Apply Clause 6.10 of the Bayside LEP 2021, which relates to Design Excellence. The inclusion of the Design Excellence Clause and Map for each of the six sites will provide certainty to ensure a high standard of architectural, urban, and landscape design can be achieved for the six sites.
	(Building Sustainability Index: BASIX) 2004	Not relevant to this draft Planning Proposal
	(Exempt and Complying Development Codes) 2019	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

Focus area 1: Planning Systems			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
1.1	Implementation of Regional Plans	<p>Objective:</p> <p><i>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i></p> <p>Application:</p> <p><i>This direction applies to a PPA when preparing a PP for land to which a Regional Plan has been released by the Minister for Planning.</i></p> <p>Direction 1.1</p> <p><i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning</i></p> <p>Comment:</p> <p>The draft PP is consistent with the Greater Sydney Region Plan (GSRP). An assessment of the draft PP's consistency with relevant directions and objectives of the GSRP is included earlier in this report at Table 2.</p> <p>Comment:</p> <p><i>A Plan for Growing Sydney is superseded by the Greater Sydney Region Plan - A Metropolis of Three Cities. 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.</i></p> <p>Consistency:</p> <p>No inconsistencies with the terms of the direction were identified in the response to Question 3 of this draft Planning Proposal.</p>	Yes
1.2	Development of Aboriginal Land Council land	<p>Not applicable</p> <p>Bayside LGA is not identified on the Land Application Map contained within <i>State Environmental Planning Policy (Aboriginal Land) 2019</i>.</p>	N/A
1.3	Approval and Referral Requirements	<p>Not applicable</p>	N/A

		The draft PP does not propose to include provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority. No inconsistencies with the terms of the direction were identified.	
1.4	Site Specific Provisions	Not applicable The draft PP does not contain any site specific provisions	N/A
Focus area 1: Planning Systems – Place-based			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable The direction does not apply to Bayside LGA.	Not applicable
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable The direction does not apply to Bayside LGA.	Not applicable
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable The direction does not apply to Bayside LGA.	Not applicable
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable The direction does not apply to Bayside LGA.	Not applicable
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable The direction does not apply to Bayside LGA.	Not applicable

1.10	Implementation of the Western Sydney Aerotropolis Plan	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable
1.11	Implementation of Bayside West Precincts Bayside West 2036 Plan	<p>Objective</p> <p><i>The objective of this direction is to ensure development within the Bayside West Precincts (Arncliffe, Banksia and Cooks Cove) is consistent with the Bayside West 2036 Plan (the Plan).</i></p> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP for land in the Bayside LGA area that applies to land within the Bayside West Precincts in the Arncliffe, Banksia and Cooks Cove Bayside.</i></p> <p>Direction 1.11</p> <p><i>A PPA must ensure that a PP is consistent with the Bayside West Precincts 2036 Plan, approved by the Minister for Planning and published on the Department of Planning and Environment website in September 2018.</i></p> <p>Comment:</p> <p>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.</p>	Yes
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	<p>Not applicable</p> <p>The direction does not apply to this draft PP as it is not within the Cooks Cove Precinct.</p>	Not applicable
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable
1.14	Implementation of Greater Macarthur 2040	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable
1.15	Implementation of the Pyrmont Peninsula Place Strategy	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable
1.16	North West Rail Link Corridor Strategy	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable

1.17	Implementation of the Bays West Place Strategy	<p>Not applicable</p> <p>The direction does not apply to Bayside LGA.</p>	Not applicable
Focus area 3: Biodiversity and Conservation			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
3.1	Conservation Zones	<p>Not applicable.</p> <p>The draft PP does not contain any conservation zones.</p>	Not applicable
3.2	Heritage Conservation	<p>Objective</p> <p><i>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i></p> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP.</i></p> <p>Direction 3.2</p> <p><i>A PP must contain provisions that facilitate the conservation of:</i></p> <ul style="list-style-type: none"> (a) <i>items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</i> (b) <i>Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</i> (c) <i>Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</i> 	Yes

		Comment: The draft Planning Proposal does not propose amending the status of any heritage items or HCAs.	
3.3	Sydney Drinking Water Catchments	Not applicable Bayside LGA is not identified as an LGA within the Sydney drinking water catchment.	Not applicable
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable The direction does not apply to Bayside LGA.	Not applicable
3.5	Recreation Vehicle Areas	Not applicable The Direction is not applicable to this draft PP.	Not applicable

Focus area 4: Resilience and Hazards

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
4.1	Flooding	<p>Objectives</p> <p><i>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</i></p> <p>Application</p> <p><i>This direction applies to all PPAs that are responsible for flood prone land when preparing a PP that creates, removes or alters a zone or a provision that affects flood prone land.</i></p> <p>Direction 4.1</p> <p><i>A PP must include provisions that give effect to and are consistent with:</i></p> <p>(a) <i>the NSW Flood Prone Land Policy;</i> (b) <i>the principles of the Floodplain Development Manual 2005 (FPDM 2005);</i></p>	Yes

		<p>(c) <i>the Considering flooding in land use planning guideline 2021; and</i></p> <p>(d) <i>any adopted flood study and/or floodplain risk management (FPRM) plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.</i></p> <p><i>A PP must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones</i></p> <p><i>A PP must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</i></p> <p>(a) <i>permit development in floodway areas;</i></p> <p>(b) <i>permit development that will result in significant flood impacts to other properties;</i></p> <p>(c) <i>permit a significant increase in the dwelling density of that land;</i></p> <p>(d) <i>permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate;</i></p> <p>(e) <i>are likely to affect the safe occupation of and efficient evacuation of the lot; or</i></p> <p>(f) <i>are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.</i></p> <p><i>For the purposes of preparing a PP, the flood planning area must be consistent with the principles of the FPDM 2005 or as otherwise determined by a FPRM Study or Plan adopted by the relevant council.</i></p> <p>Comment:</p> <p>The draft Planning Proposal does not involve the rezoning of land nor does it seek to increase density on any flood prone land. As such, the proposal is consistent with this direction.</p>	
4.2	Coastal Management	<p>Objective</p> <p><i>The objective of this direction is to protect and manage coastal areas of NSW.</i></p> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP that applies to land that is within the coastal zone, as defined under the Coastal Management Act</i></p>	Yes

		<p>2016 – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>Direction 4.2</p> <p>A PP must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) Any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land. <p>A PP must not rezone land which would enable increased development or more intensive land-use on land:</p> <ul style="list-style-type: none"> (a) within a coastal vulnerability area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021; or (b) that has been identified as land affected by a current or future coastal hazard in a LEP or DCP, or a study or assessment undertaken: <ul style="list-style-type: none"> i. by or on behalf of the RPA and the PPA, or ii. by or on behalf of a public authority and provided to the RPA and the PPA. <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>Comment:</p> <p>The draft Planning Proposal does not involve the rezoning of land nor does it seek to increase density in any coastal management areas. As such, the proposal is consistent with this direction.</p>	
4.3	Planning for Bushfire Protection	<p>Not applicable</p> <p>Bayside LGA does not contain any land mapped as bushfire prone land under s10.3 of the Environmental Planning and Assessment Act 1979.</p>	Not applicable

4.4	Remediation of Contaminated Land	<p>Objective</p> <p><i>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</i></p> <p>Application</p> <p><i>This direction applies to:</i></p> <ul style="list-style-type: none"> (a) <i>land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</i> (b) <i>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> (c) <i>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 – land:</i> <ul style="list-style-type: none"> 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> ii. <i>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>Direction 4.4</p> <p><i>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> <ul style="list-style-type: none"> (a) <i>the draft Planning Proposal authority has considered whether the land is contaminated, and</i> (b) <i>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> (c) <i>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> 	Yes
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		<p>Comment:</p> <p>The draft Planning Proposal either maintains or reduces the existing land use permissibility within the R2 and R3 zone.</p>	
4.5	Acid Sulfate Soils	<p>Objective</p> <p><i>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</i></p> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</i></p> <p>Direction 4.5</p> <p><i>The RPA must consider the Acid Sulfate Soils Planning Guidelines adopted by the Secretary of the DPE when preparing a PP that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</i></p> <p><i>When a PPA is preparing a PP to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</i></p> <ul style="list-style-type: none"> <i>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Secretary, or</i> <i>(b) such other provisions provided by the Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</i> <p><i>A PPA must not prepare a PP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the RPA has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</i></p> <p><i>The RPA must provide a copy of any such study to the Secretary prior to undertaking community consultation. Where provisions referred to above have not been introduced and the RPA is preparing a PP that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the PP must contain provisions consistent with the above.</i></p> <p>Comment:</p> <p>The draft Planning Proposal does not propose any changes to the Land Use Tables in the BLEP 2021.</p>	Yes

		Rather, it has the intent of deleting APUs 34 and 35 under Schedule 1.	
4.6	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.

Focus area 5: Transport and Infrastructure

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
5.1	Integrating Land Use and Transport	<p>Objectives</p> <p><i>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i></p> <ul style="list-style-type: none"> (a) <i>improving access to housing, jobs and services by walking, cycling and public transport, and</i> (b) <i>increasing the choice of available transport and reducing dependence on cars, and</i> (c) <i>reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> (d) <i>supporting the efficient and viable operation of public transport services, and</i> (e) <i>providing for the efficient movement of freight.</i> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</i></p> <p>Direction 5.1</p> <p><i>A 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 Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001) (Guidelines).</i></p>	Yes

		<p>Comment:</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>	
5.2	Reserving Land for Public Purposes	<p>Not applicable</p> <p>The draft PP does not include any proposal to reserve land for public purposes.</p>	Not applicable.
5.3	Development near Regulated Airports and Defence Airfields	<p>Objectives</p> <p><i>The objectives of this direction are:</i></p> <ul style="list-style-type: none"> (a) <i>to ensure the effective and safe operation of regulated airports and defence airfields,</i> (b) <i>to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and</i> (c) <i>to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i> <p>Application</p> <p><i>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.</i></p> <p>Direction 5.3</p> <p><i>In the preparation of a 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"> (a) <i>consult with the Department of the Commonwealth responsible for airports and the lessee/operator of that airport;</i> (b) <i>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> (c) <i>not allow development types that are incompatible with the current and future operation of that airport.</i> (d) <i>obtain permission from that Department of the Commonwealth, or their delegate, where a 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</i> 	Yes

		<p><i>to undertaking community consultation in satisfaction of section 57 of the Environmental Planning and Assessment Act 1979.</i></p> <p><i>A 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:</i></p> <p><i>(a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25; or</i></p> <p><i>(b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30; or</i></p> <p><i>(c) for commercial or industrial purposes where the ANEF is above 30.</i></p> <p>Comment:</p> <p>The draft Planning Proposal does not introduce any amendments that would impact on the operations of Sydney Airport.</p>	
5.4	Shooting Ranges	The direction does not apply to this draft PP as the sites are not located on or adjoining any existing shooting ranges.	Not applicable

Focus area 6: Housing

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
6.1	Residential Zones	<p>Objectives</p> <p><i>The objectives of this direction are:</i></p> <p><i>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p> <p><i>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i></p> <p><i>(c) to minimise the impact of residential development on the environmental and resource lands.</i></p> <p>Application</p> <p><i>This direction applies when a PPA prepares a PP that will affect land within:</i></p> <p><i>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</i></p>	Yes

- (b) *any other zone in which significant residential development is permitted or proposed to be permitted.*

Direction 6.1

A PP must include provisions that encourage the provision of housing that will:

- (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.*

A PP must, in relation to land which this direction applies:

- (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.*

Comment:

The draft Planning Proposal is aligned with the Department of Planning and Environment's (DPE) 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 DPE 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 DPE 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, 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 proposed APU 34, now

		needs to be reintroduced as part of this draft Planning Proposal.	
6.2	Caravan Parks and Manufactured Home Estates	Not applicable The Direction is not relevant to this draft PP.	Not applicable.

Focus area 7: Industry and Employment

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
7.1	Business and Industrial Zones	Not applicable The draft PP does not include any business or industrial zones.	Not applicable
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable The Direction is not relevant to this draft PP.	Not applicable
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable The direction does not apply to Bayside LGA.	Not applicable

Focus area 8: Resources and Energy

No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
8.1	Mining, Petroleum Production & Extractive Industries	Not applicable. The Bayside LGA does not contain land zoned for mining, petroleum or extractive industries.	Not applicable

Focus area 8: Resources and Energy			
No.	Title	Draft Planning Proposal consistency with terms of direction	Consistent: Yes/ No (if No, is inconsistency adequately justified?)
9.1	Rural Zones	Not applicable. The draft PP does not affect any Rural Zones	Not applicable
9.2	Rural Lands	Not applicable The direction does not apply to Bayside LGA.	Not applicable
9.3	Oyster Aquaculture	Not applicable. The draft PP does not affect any Priority Oyster Aquaculture Areas	Not applicable
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable The direction does not apply to Bayside LGA.	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.

The six sites seeking retention of APU 35 have been identified as requiring a higher level of design consideration during the DA stage. As such, it is recommended that DCP and Design

Excellence clauses apply to these sites to ensure that appropriate design outcomes can be achieved.

There are no other environmental effects likely to occur as a result of the proposal.

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);
- Bike Plan and Transport Strategy;
- 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.	<p>Remove existing APUs 34 and 35 from the relevant APU map sheets.</p> <p>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.</p>
DEX_008 DEX_011 DEX_012	DEX applies to various sites subject to Clause 6.10 Design Excellence.	Apply maps to the six sites.

Proposed LEP Maps





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;
- Letters to all affected landowners; 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 DPE for Gateway Determination	Mid-February 2022
Anticipated commencement date (date of Gateway determination)	3 August 2023
Anticipated timeframe for the completion of required technical information	Late-January 2023
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	28 days
Commencement and completion dates for public exhibition period	May 2023
Timeframe for consideration of submissions	June 2023
Timeframe for the consideration of a draft Planning Proposal post-exhibition	June 2023
Submission to DPE/PCO for finalisation	July 2023
Gazettal of LEP Amendment	August 2023

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 – DPE 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

Appendix 4 – Existing APU 34 and 35 maps



Bayside Local Environmental Plan 2021

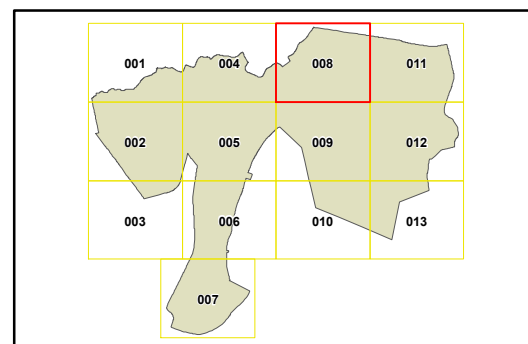
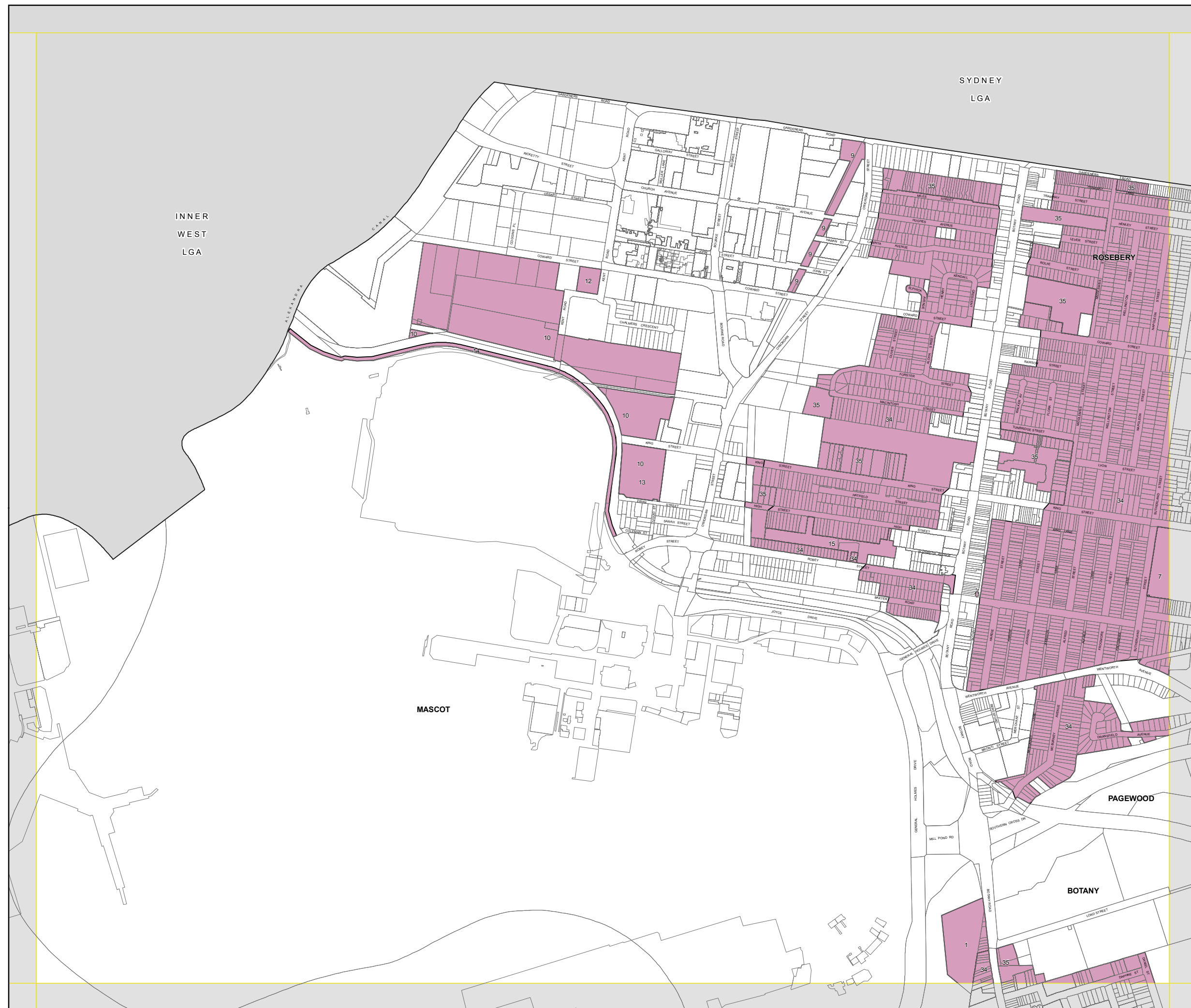
Additional Permitted Uses Map - Sheet APU_008

Additional Permitted Uses

Refer to Schedule 1

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MGA Zone 56


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Bayside Local Environmental Plan 2021

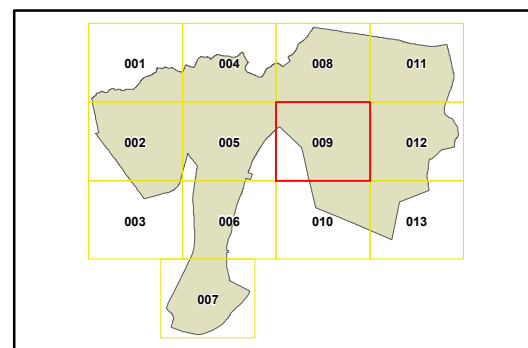
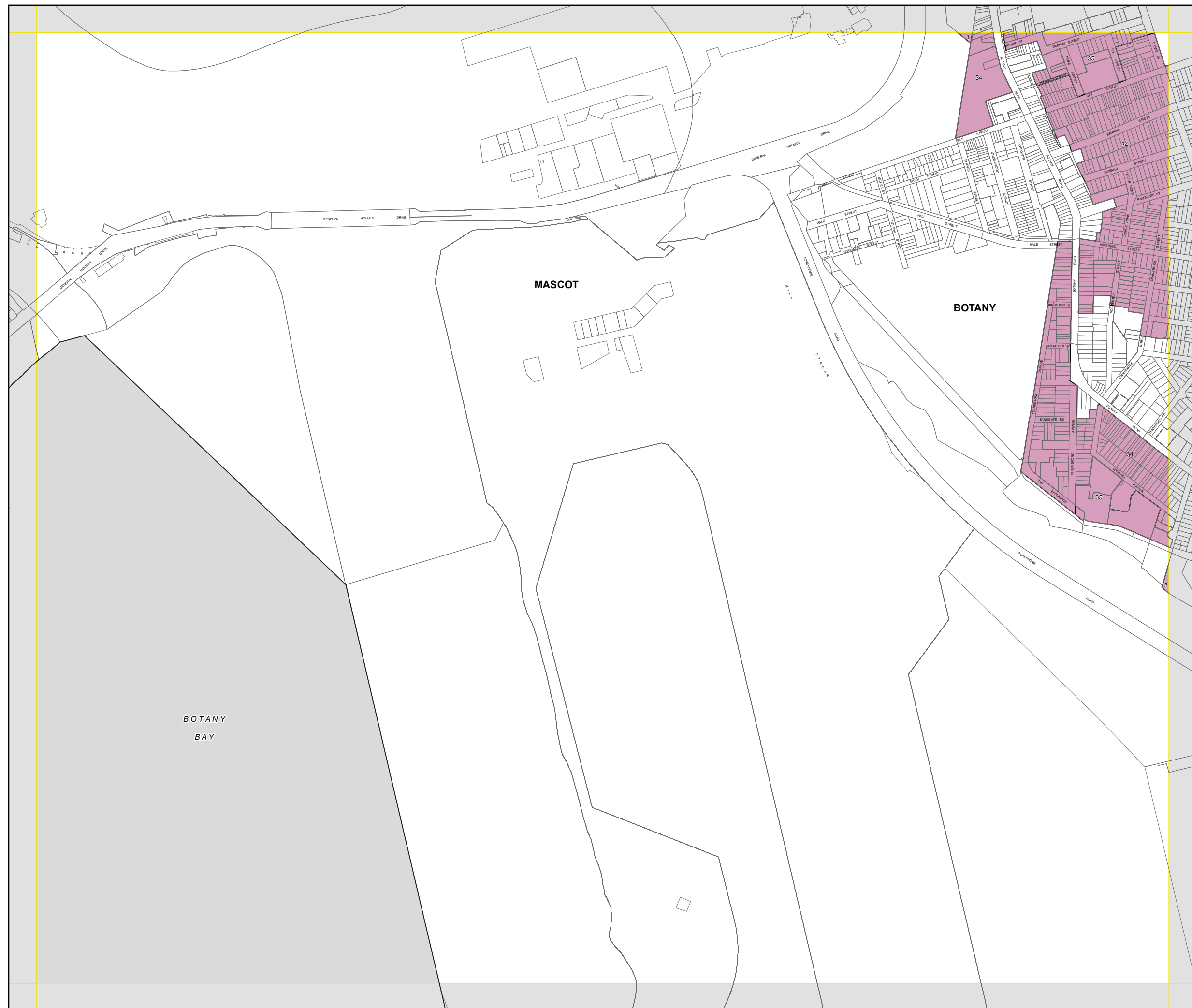
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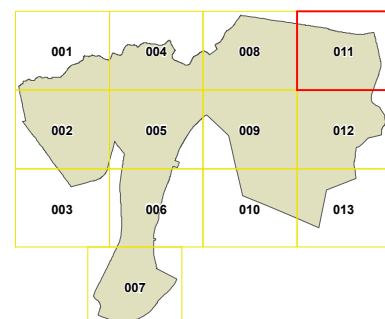
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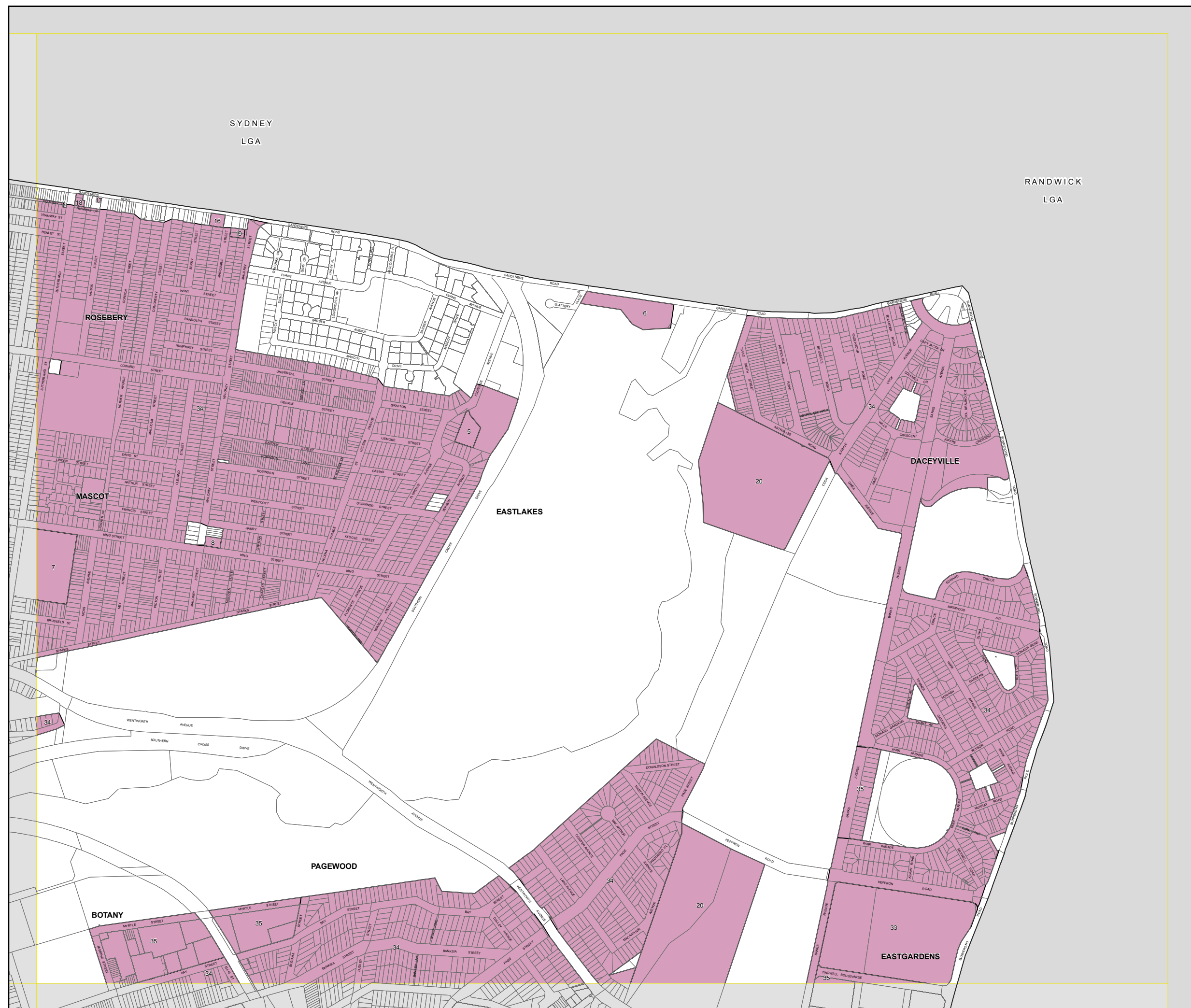


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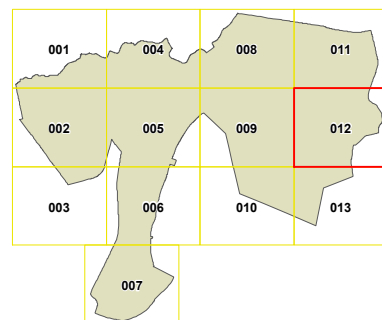
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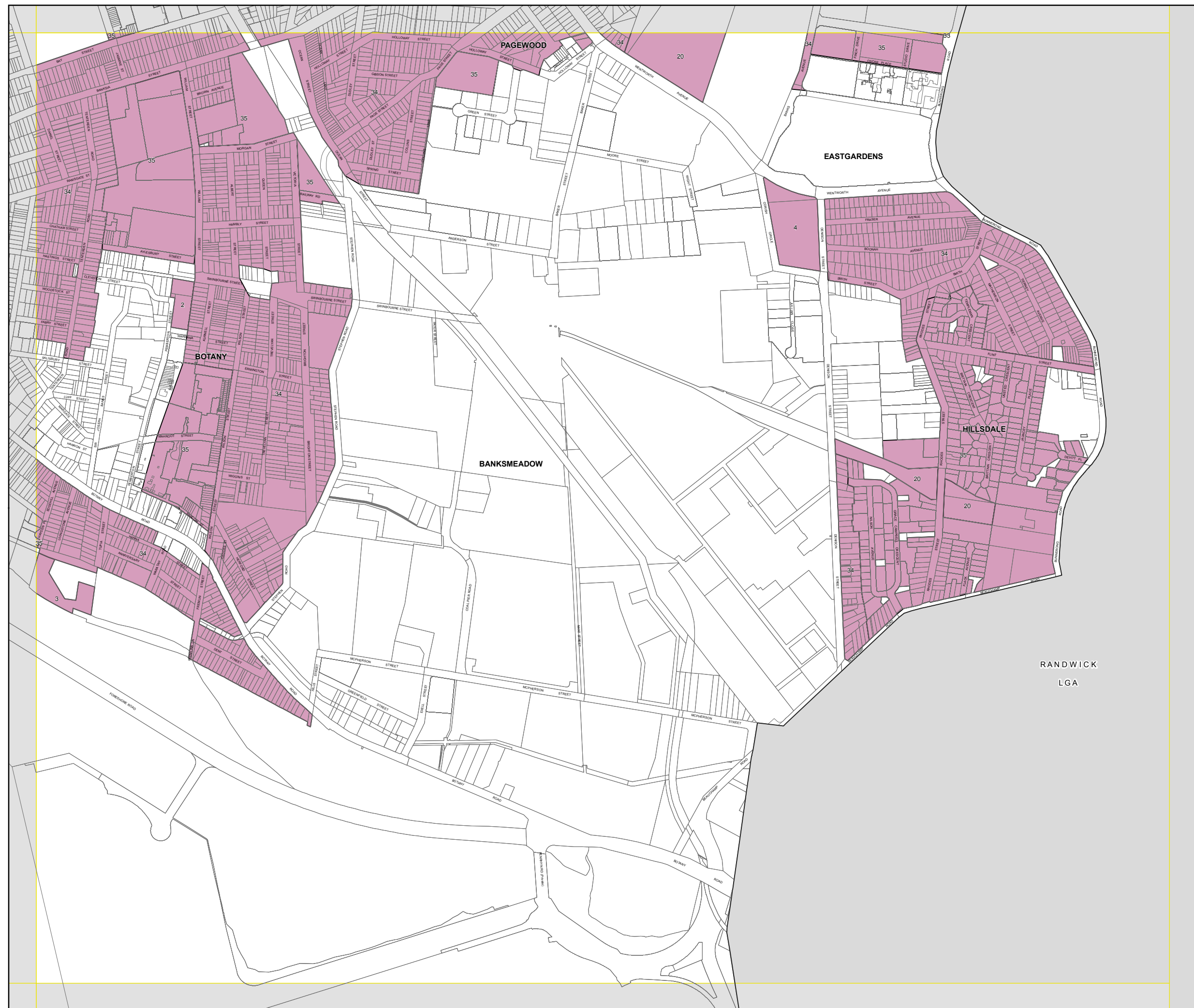


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Appendix 5 – Proposed APU 34 and 35 maps




Bayside Local Environmental Plan 2021

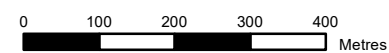
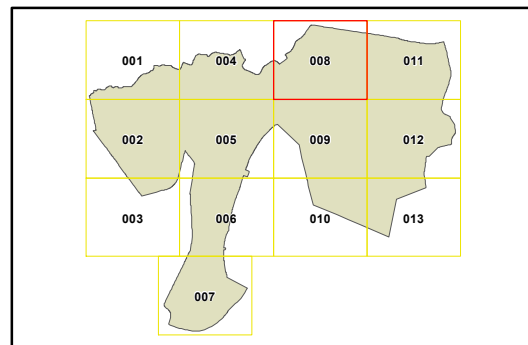
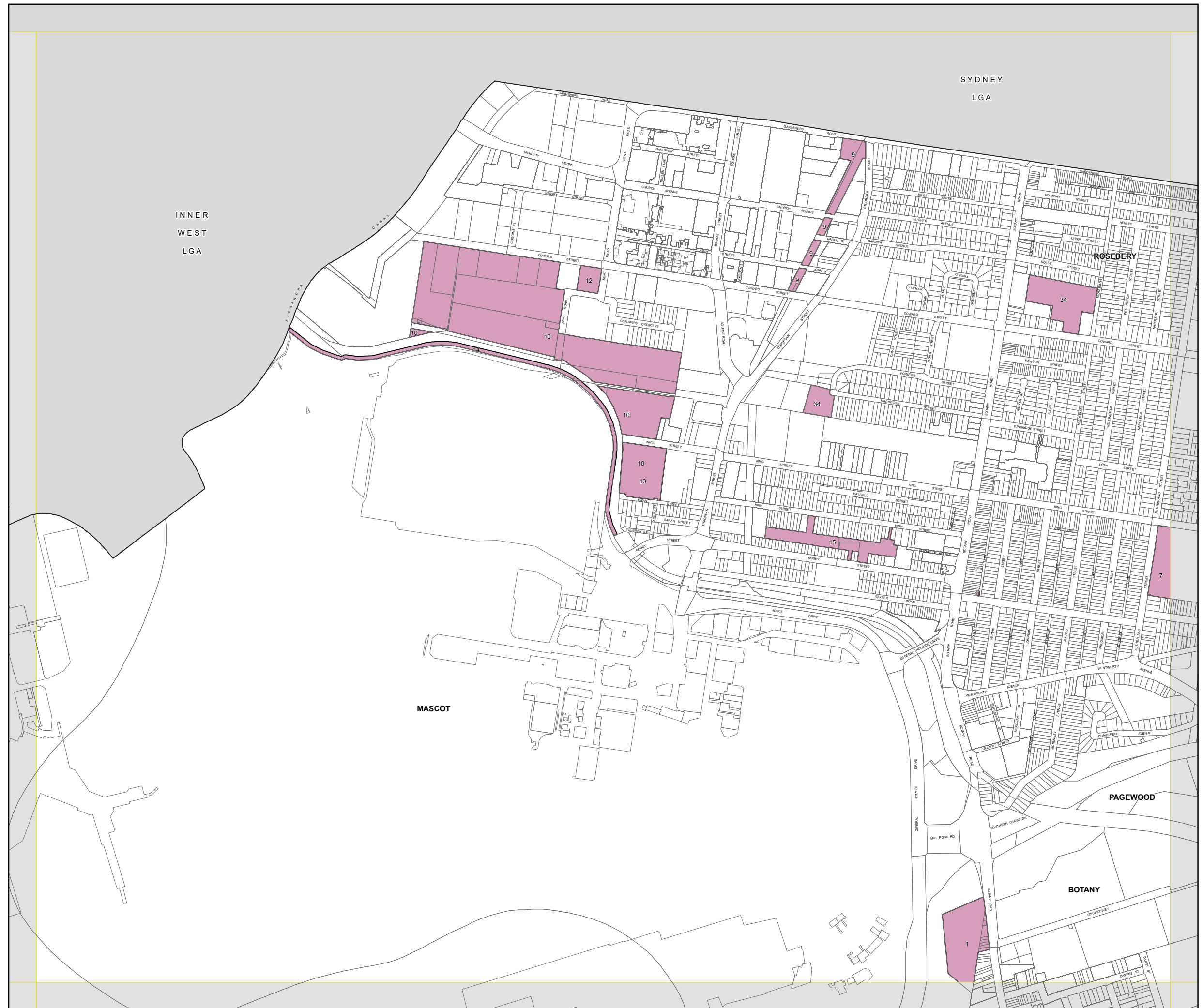
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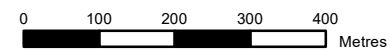
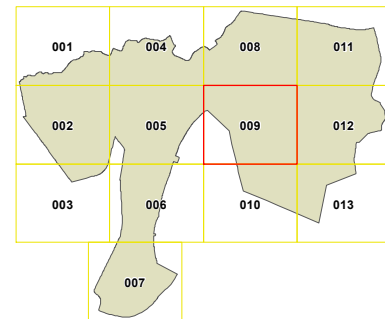
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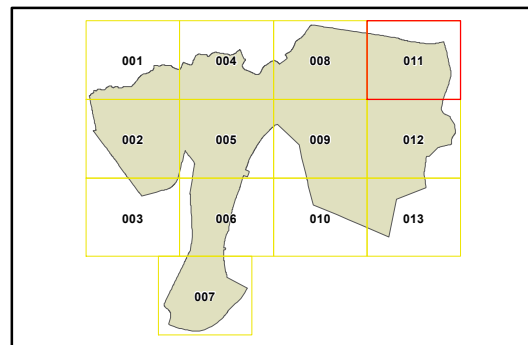
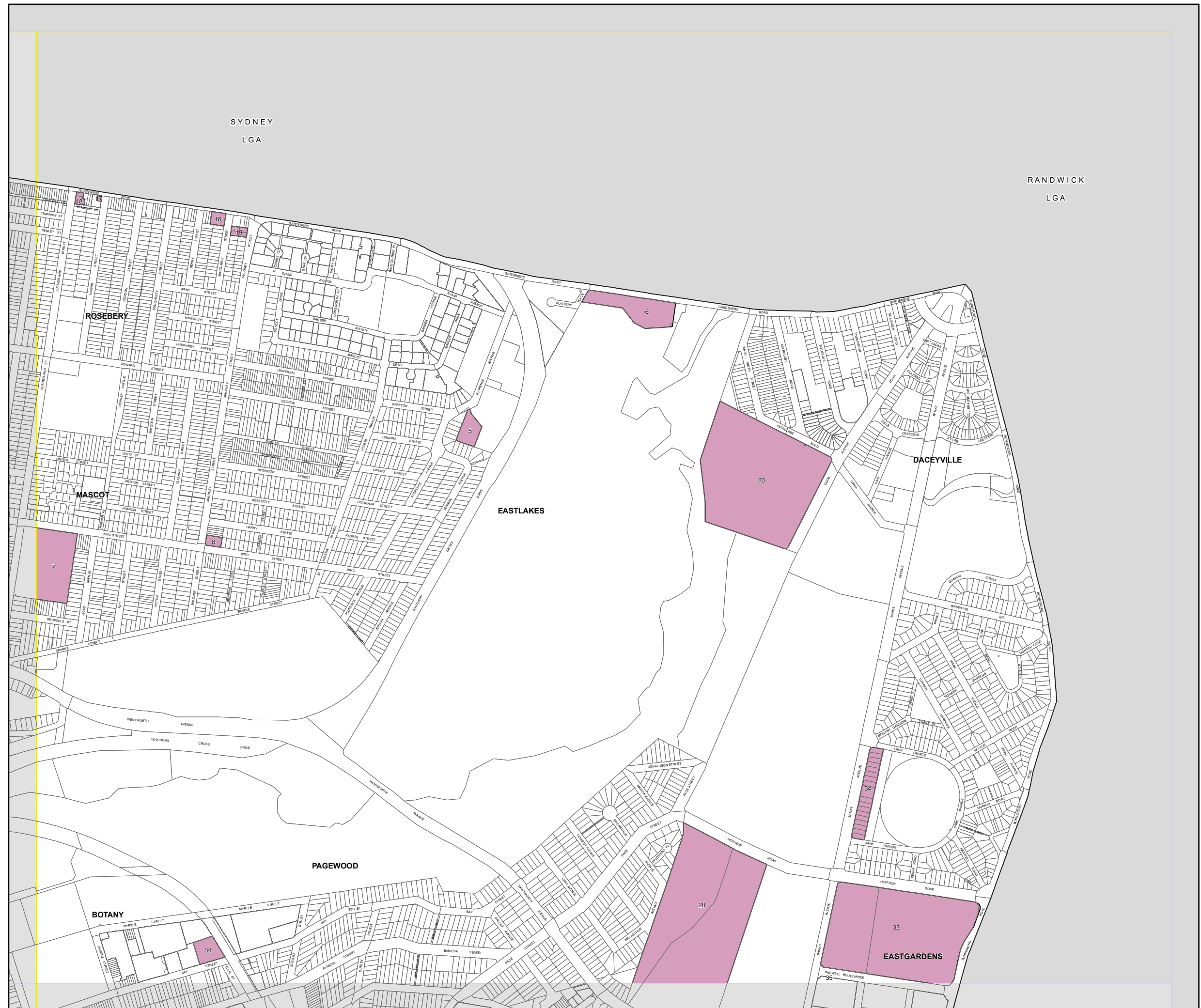
Additional Permitted Uses Map - Sheet APU_011

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Bayside Local Environmental Plan 2021

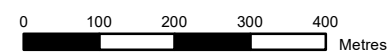
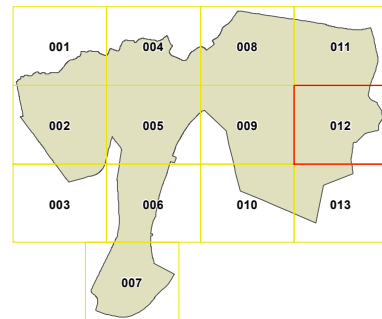
Additional Permitted Uses Map - Sheet APU_012

Additional Permitted Uses

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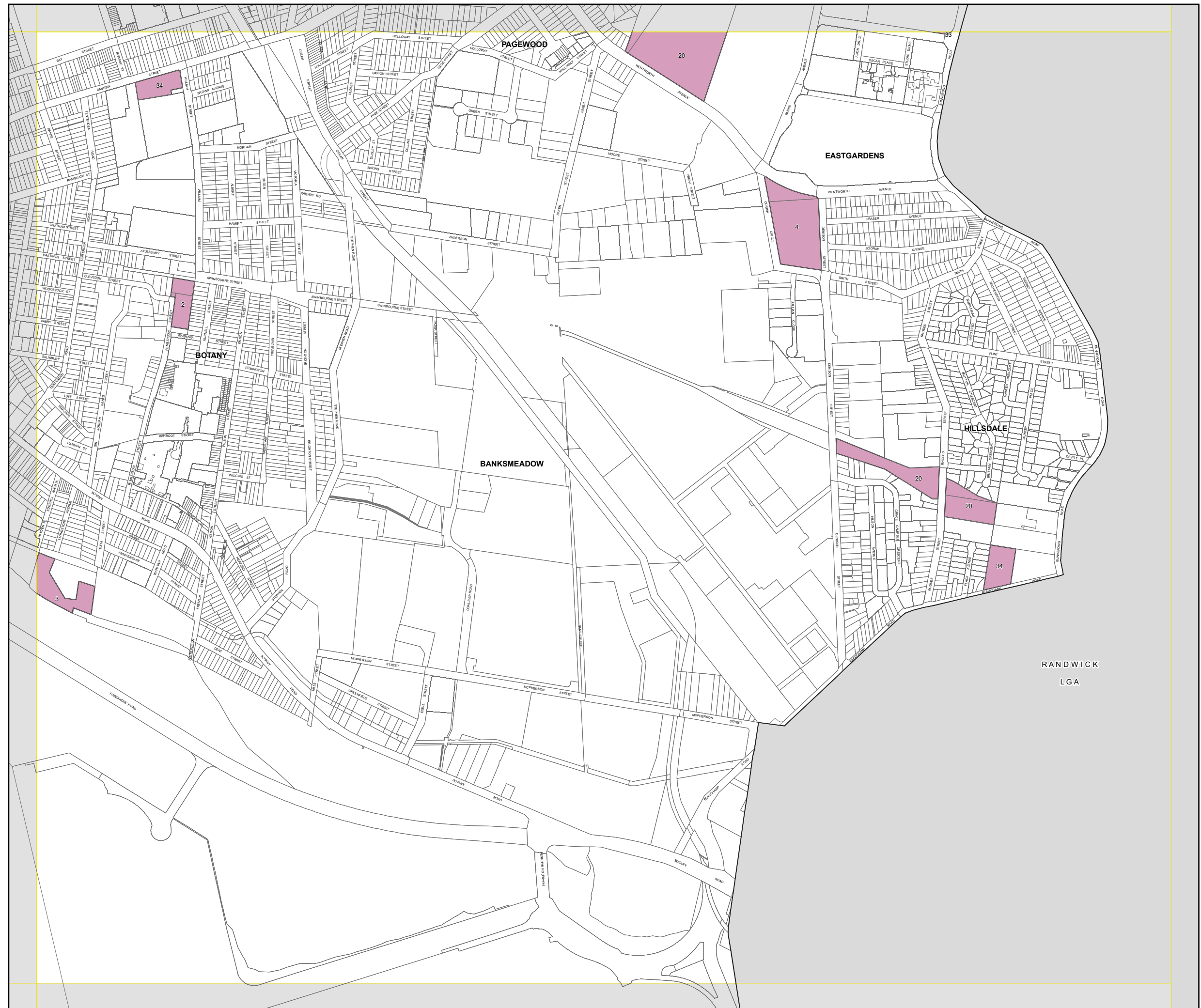
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Appendix 6 – Proposed Design Excellence Clause map




Bayside Local Environmental Plan 2021

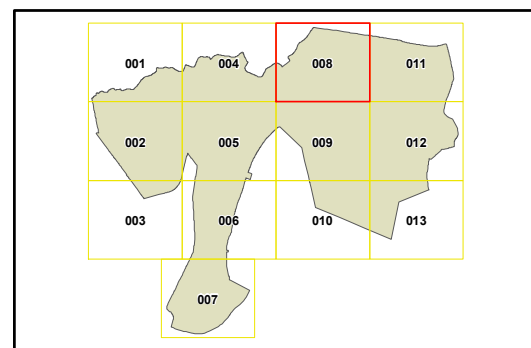
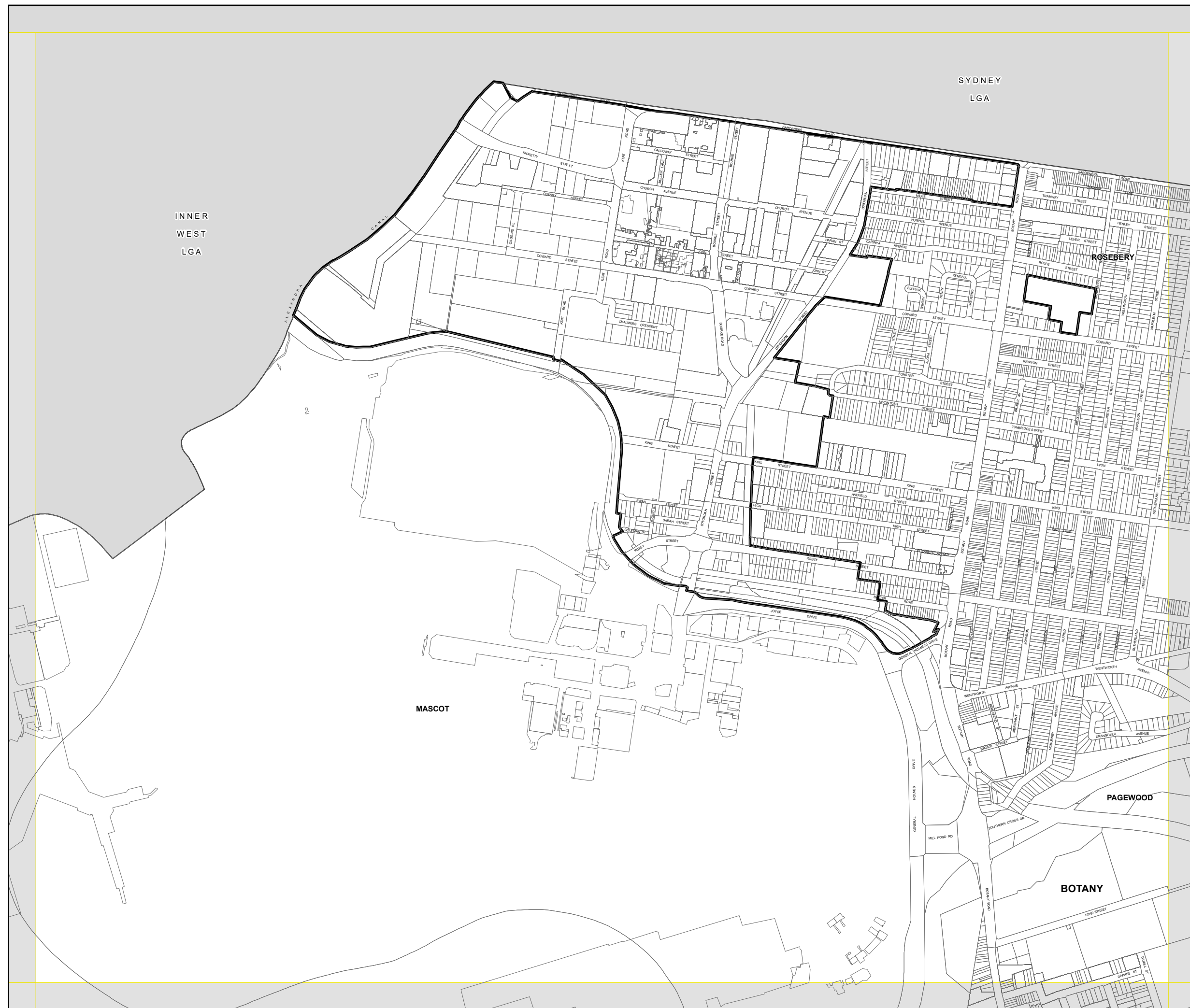
Design Excellence Map
- Sheet DEX_008

Design Excellence

 Refer to Clause 6.12

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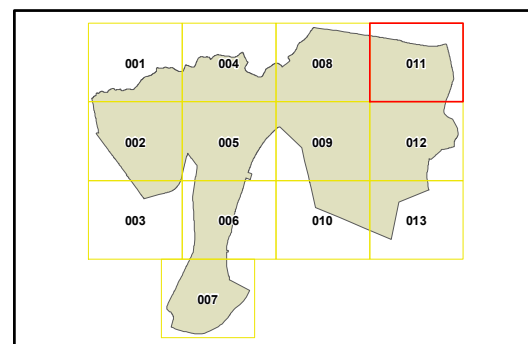
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Design Excellence

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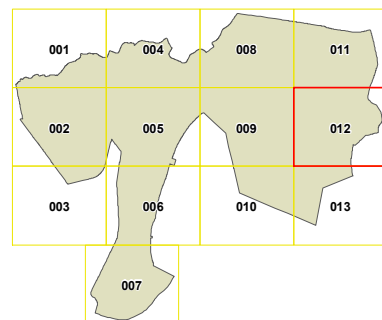
Design Excellence Map
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Design Excellence

 Refer to Clause 6.12

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