

# **Planning Proposal**

## **Minimum Lot Sizes for Dual Occupancies and Semi-detached Dwellings**



Version 3.0 (December 2022)

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<b>Version 3.0 – December 2022</b>	Post-Council Resolution of 28 September 2022

## Introduction

This Draft Planning Proposal Report explains the intended effect of, and justification for, the proposed amendments to *Bayside Local Environmental Plan 2021* (BLEP 2021) to introduce minimum lot size and minimum lot width for dual occupancy and semi-detached dwelling development in Bayside's R2 Low Density Residential zone (R2 zone). Dual Occupancies and semi-detached dwellings are already permitted with consent in the R2 zone under the BLEP 2021. By introducing these new standards, the draft Planning Proposal (PP) intends to better guide built form outcomes by way of full development applications (DAs) lodged with Bayside Council and, for dual occupancies, Complying Development Certificates (CDCs) issued in accordance with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

The proposal is part of a suite of three draft Planning Proposals being prepared by Bayside Council in order to update and rationalise planning controls for residential uses in the R2 and R3 zones, pursuant to Council's adopted Local Housing Strategy (LHS), the other two being:

- Draft Planning Proposal – Deletion of Additional Permitted Uses 34 & 35 (considered by Bayside Local Planning Panel (BLPP) at its meeting on 16 December 2021; and
- Draft Planning Proposal – Changes to planning controls in the R3 Medium Density Residential zone (being prepared for consideration by the BLPP later in 2022).

The PP is aligned with the LHS, which was endorsed by Council in March 2021 (**Appendix A**) and the Department of Planning and Environment (DPE) in June 2021 (**Appendix B**). It has been prepared specifically in response to relevant actions contained in the LHS, being:

- **Action 3.6:** *Permit Dual Occupancies throughout the Bayside LGA with minimum site frontage and area provisions set out in the LEP (except in identified Heritage Conservation Areas or potential local character areas).*
- **Action 6.1:** *Review development controls including the use of minimum lot size and frontages controls to ensure that effective design can be achieved in infill development situations.*

The PP has been prepared in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979 and DPE's 'Local Environmental Plan Making Guideline' (December 2021).

## Background

Dual occupancies are defined in the Standard Instrument LEP as two dwellings on one lot of land, either attached to, or detached from, one another, but not including a secondary dwelling. The BLEP 2021 permits dual occupancies with consent in all of its residential zones. While the land use is now permitted uniformly across these zones in Bayside LGA, prior to the finalisation of the BLEP 2021 in August 2021, dual occupancies were only permitted under the former Rockdale Local Environmental Plan 2011, while they were prohibited in all residential zones under the former Botany Bay Local Environmental Plan 2013.

No LEP control currently governs lot sizes for new dual occupancies in the LGA, although the Rockdale Development Control Plan 2011 (RDCP 2011) requires a minimum lot size of 700 sqm and minimum site frontage of 15m for dual occupancy development. Further, Clause 4.1(3B) of BLEP 2021 requires resulting lots of at least 350 sqm from the subdivision of a lot containing an existing dual occupancy or on which a dual occupancy is proposed. As this control depends on the Lot Size Map to have effect, and the Lot Size Map only covers land on the former Rockdale LGA side, Clause 4.1(3B) currently only applies to subdivision proposals on this side of Bayside LGA.

Semi-detached dwellings are defined in the Standard Instrument LEP as a dwelling that is on its own lot of land and is attached to only one other dwelling. They are inherently linked to dual occupancies, as the subdivision of attached dual occupancies effectively creates semi-detached dwellings.

Therefore, this PP examines both land uses collectively, to ensure a consistent approach to proposals for construction and subdivision relating to dual occupancies and semi-detached dwellings.

Semi-detached dwellings are permitted with consent in the R2 zone under the BLEP 2021 and were previously permitted with consent in this zone under both the former Rockdale Local Environmental Plan 2011 and Botany Bay Local Environmental Plan 2013. There are no current lot size controls relating specifically to semi-detached dwellings in the BLEP 2021, although Clause 4.1(3B) essentially governs the size of lots on which semi-detached dwellings are created as a result of the subdivision of an existing or proposed dual occupancy. As explained above, this currently only applies to the former Rockdale LGA side. There is also a control in the RDCP 2011 requiring each lot resulting from a subdivision for the purposes of semi-detached dwellings to have a width of at least 9m at the front alignment of the building.

During the preparation of BLEP 2021, Council outlined its intention that, following the finalisation of the LEP and the LHS, a future amendment would be made which would inform minimum lot size controls specific to dual occupancies. In their Gateway assessment report, DPE considered this approach satisfactory, and noted that further refinement of these controls should be informed by a detailed evidence base, including the LHS as a reference.

In its letter approving the LHS, the DPE including the following requirements relevant to this PP:

*4. To ensure housing diversity is achieved by 2036, 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;*
- 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.*

*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 of approved over the last five years (development applications and complying development certificates) and anticipated future take-up rates.*
- b) Recommended controls outlined in LHS for medium-density housing in the implementation plan, including the current status and timeline for implementation.*

A draft Implementation Plan will be prepared by end of 2022. This plan will outline implementation details for all actions contained in the LHS, including the above actions relating to this PP.

In accordance with the requirements contained in the DPE's approval of the LHS, a summary of development approvals for dual occupancies and semi-detached dwellings in the Bayside LGA over the last five years, and forecast future approvals, has been prepared, and is included later in this report.

## **Low Rise Housing Diversity Code**

Further impetus for this PP was provided by the introduction of the Low Rise Housing Diversity Code (LRHD Code) under the Codes SEPP. This Code permits dual occupancies as complying development on land in Zones RU5, R1, R2 and R3, provided that they are already permitted in the environmental planning instrument applying to the land.

First introduced in July 2018 (then named the Low Rise Medium Density Housing Code), the LRHD Code's commencement was deferred in Bayside LGA until July 2020. With the finalisation of the BLEP 2021 in August 2021, the Code now allows dual occupancies as complying development in R2 and R3 zones across the LGA (wherever Codes SEPP exemptions are not in place). The intention of

the Code is to encourage further take-up of the 'missing middle' of housing supply – historically undersupplied low-medium-density housing types, such as dual occupancies, manor houses and multi-dwelling housing – by allowing fast tracked approvals for these housing types.

The LRHD Code contains a range of controls development must adhere to in order to qualify as complying development. These relate to:

- lot size;
- lot width;
- building height;
- gross floor area (GFA) of buildings;
- setbacks (primary road, secondary road and side);
- landscaped area;
- articulation zones, screening and balconies;
- parking and vehicle access.

As these controls largely override local LEP and DCP provisions, Council has limited input into the built form outcomes that eventuate from Code-compliant dual occupancy developments. The exception is lot size (Clause 3B.8(1)(b) and 3B.21(b)(ii) of the Code), wherein the Code allows a minimum lot area control for dual occupancies specified in an LEP to apply in place of the default control of 400 sqm.

While there is only a short history of dual occupancies being allowed as complying development under this Code in Bayside LGA, there is potential for larger scale disruptive change to occur in certain neighbourhoods with a more traditional, lower-density suburban character, in the absence of a tailored minimum lot size control being adopted under the LEP. This is due to the default control of 400 sqm being substantially lower than the current control of 700 sqm contained in the RDCP 2011, and no equivalent control existing in Botany Bay Development Control Plan 2013 as a result of the land use only recently being permitted in the former Botany Bay LGA. Further, under the Code, the area of the parent lot also influences the maximum GFA of buildings, minimum setbacks, and minimum landscaped area, allowable for Code-compliant dual occupancy developments.

It is therefore imperative that the BLEP 2021 be amended to include minimum lot size controls for dual occupancies. This PP will introduce controls in the R2 zone as a priority, in order to better guide dual occupancy development in lower-density neighbourhoods where the default control of 400 sqm under the LRHD Code could be most disruptive to neighbourhood character and amenity. A separate PP will follow in the future, which will examine medium density residential housing typologies more broadly in the R3 zone.

## **Subdivision Code**

The Subdivision Code, contained in the Codes SEPP, has also been amended as a result of the LRHD Code. It now allows, as complying development, the subdivision of land on which a complying development certificate has been issued for dual occupancy development, provided certain requirements are met.

Clause 6.4(1)(d) allows for the Torrens title subdivision of a dual occupancy development (creating semi-detached dwellings), for which a complying development certificate has been issued under the LRHD Code, provided the area of each resulting lot is at least:

- (i) the minimum subdivision lot size control for dual occupancy development contained in an LEP; or
- (ii) if no LEP control exists – 200 sqm.

Similar to the LRHD Code, the Subdivision Code therefore allows a local provision to be substituted in place of this default control of 200 sqm. On the former Rockdale LGA side, this is already in place, as Clause 4.1(3B) specifies a minimum subdivision lot size of 350 sqm for this land. However, on the former Botany Bay LGA side, the Code's default control still applies.

As this PP seeks to introduce both lot size and subdivision lot size controls across the entire R2 zone, new LGA-wide LEP provisions will now apply to complying development applications for Torrens title subdivision.

## **Development Control Plans**

A review of DCP detail is currently underway, with the intent of harmonising the RDCP 2011 and BBDCP 2013 controls into a single document for the Bayside LGA. As there are a number of controls in these documents that are directly or indirectly relevant to this PP, it is recommended that the RDCP 2011 and BBDCP 2013 are reviewed to ensure consistency between these controls and the PP.

## **Part 1 - Objectives or Intended Outcomes**

The objective of this PP is to encourage housing diversity in suburban neighbourhoods without adversely impacting residential amenity and character of neighbourhoods.

This will be achieved by introducing new minimum lot size and width controls to better guide the consideration of proposals for dual occupancy development in the R2 zone, where it is already permitted with consent under the BLEP 2021. The proposed controls have been tailored to specific parts of the R2 zone, based on urban design advice, and a review of recent development approvals history (the past 5 years).

For the consideration of full DAs, the proposed new controls will provide a consistent assessment approach across Bayside LGA's R2 zone, which until 27 August 2021 (with the commencement of the BLEP 2021), had been subject to two separate local planning regimes under the former LGAs of Rockdale and Botany Bay.

For the consideration of complying development proposals under the LRHD Code, the PP will allow locationally-appropriate minimum lot size standards to be substituted in place of the Code's default standard of 400 sqm, that currently applies across the zone.

## **Part 2 - Explanation of Provisions**

The PP will introduce new controls that affect development for the purposes of:

- Construction of dual occupancies;
- Subdivision of land on which dual occupancies exist or are proposed (creating semi-detached dwellings); and
- Construction of semi-detached dwellings (either involving or not involving subdivision of land).

It seeks to amend BLEP 2021 by introducing new minimum lot size, subdivision lot size and width controls across the R2 zone for dual occupancy and semi-detached dwelling development. This will involve creating two new LEP Clauses.

### **Clause 4.1A Exceptions to minimum subdivision lot size for certain residential development**

This clause will explain that development consent must not be granted to the subdivision of a lot in the area marked "Area A" on a new Special Provisions Map, on which there is an existing dual occupancy, or on which dual occupancy or semi-detached dwellings are proposed, unless:

- a) the area of each lot resulting from the subdivision is equal to or greater than 275 sqm,
- b) the width of each lot resulting from the subdivision, measured at the building line to the primary road frontage, is equal to or greater than 7.5 metres for a lot that adjoins a single road frontage, or 6 metres for lots that adjoin more than one road or laneway, and

- c) each of the lots will have one of the dwellings on it.

For the remainder of the R2 zone, this clause will require a minimum subdivision lot size of 325 sqm instead. The other two requirements listed above will also apply to this land.

### **Clause 4.1B Minimum lot sizes and special provisions for certain residential development**

This clause will explain that development consent must not be granted to development for the purposes of dual occupancies on land in the area marked as “Area A” on the Special Provisions Map, unless:

- a) the area of the lot on which the development is proposed is equal to or greater than 550 sqm, and
- b) the width of the lot on which the development is proposed, measured at the building line to the primary road frontage, is equal to or greater than 15 metres for a lot that adjoins a single road frontage, or 12 metres for a lot that adjoins more than one road or laneway.

For the remainder of the R2 zone, the above lot width requirements will apply, while a minimum lot size of 650 sqm will be required instead.

The clause also explains that development consent must not be granted to the construction of semi-detached dwellings, not involving subdivision, unless:

- a) the area of each lot on which the development is proposed is equal to or greater than 275 sqm, and
- b) the width of each lot on which the development is proposed, measured at the building line to the primary road frontage, is equal to or greater than 7.5 metres for a lot that adjoins a single road frontage, or 6 metres for a lot that adjoins more than one road or laneway.

For the remainder of the R2 zone, the above lot width requirements will apply for the construction of semi-detached dwellings, not involving subdivision, while a minimum lot size of 325 sqm will be required instead.

The proposed new Special Provisions Map is available at **Appendix C**.

The existing Clause 4.1(3B) states that development consent may be granted to the subdivision of a lot on which there is an existing dual occupancy, or on which a dual occupancy is proposed, if the area of each resulting lot is equal to or greater than 350 sqm and each lot will have one dwelling on it. The proposed new controls are intended to operate as exceptions to this provision, which will continue to operate for Zones R3 Medium Density Residential and R4 High Density Residential, where dual occupancies are also permitted.

As explained previously, a separate draft Planning Proposal will examine residential typologies more broadly in the R3 zone. Clause 4.1(3B) will be revisited at this time.

## **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 PP is aligned with the LHS, and has been prepared specifically in response to Actions 3.6 and 6.1 of the LHS. The LHS was endorsed by Council in March 2021 (**Appendix A**) and the DPE in June 2021 (**Appendix B**).

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

The proposed amendments generally reflect the template set out in the DPE's model clause for Minimum Lot Size for Dual Occupancies, which has been settled by Parliamentary Counsel's Office. There are also various precedents adopted in other Standard Instrument LEPs, which contain provisions relating to lot size and width for dual occupancies, and employ a Lot Size for Dual Occupancies Map to delineate controls within a zone.

A summary of LEPs within the Eastern City District (where Bayside LGA resides) and South District (adjoining the Bayside LGA) currently containing variations of the Minimum Lot Size for Dual Occupancies settled model clause is shown in Table 1 below:

**Table 1 – Summary of LEPs containing Minimum Lot Size for Dual Occupancies clause for R2 zone**

LEP	Minimum lot size controls (sqm)	Minimum lot width controls (m)	Lot Size for Dual Occupancies Map used
Eastern District			
Burwood LEP 2012	Attached dual occupancies: 500	Nil	No
	Detached dual occupancies: 600		
Canada Bay LEP 2013	Attached dual occupancies: 450	Nil	No
	Detached dual occupancies: 800		
Randwick LEP 2012	Attached dual occupancies: 450	Nil	No
Woollahra LEP 2014	Attached dual occupancies: 460	Nil	No
	Detached dual occupancies: 930		
South District			
Bankstown LEP 2015	Attached dual occupancies: 500	15	Yes (Special Provisions Map)
	Detached dual occupancies: 700	20	
Canterbury LEP 2012	600	Nil	No
Georges River LEP 2021	650	Attached dual occupancies: 15 Detached dual occupancies: 18 (if 1 dwelling faces primary road) or 22	Yes
	1000		
Sutherland LEP 2015	600	Nil	No

Further, a number of LEPs contain provisions relating to subdivision for the purpose of semi-detached dwellings, either embedded within mandatory Standard Instrument LEP Clause 4.1, or in standalone clauses outlining exceptions to Clause 4.1.

The controls are proposed to sit outside Clause 4.1, under two new clauses. The reason for this is that provisions contained within Clause 4.1 can only apply to land identified on the Lot Size Map. This map, which contains lot size controls relating to subdivision generally, currently only applies to the former Rockdale LGA side. Council intends to review Clause 4.1 overall at a future date. In the meantime, it is considered that the best means to achieve the objectives and intended outcomes of this PP is to propose new controls that operate independently of Clause 4.1.



## 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 PP 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).

## Greater Sydney Region Plan – A Metropolis of Three Cities

Table 2 below provides an assessment of this PP against the GSRP:

**Table 2 – Consistency with the GSRP**

Directions	Objectives	Consistency
<b>Infrastructure and collaboration</b>		
<b>1. A city supported by infrastructure</b>	<b>Objective 1:</b> Infrastructure supports the three cities	The PP seeks to better guide built form outcomes for land uses already permitted with consent in the R2 zone under the BLEP 2021. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. There will not be demand for out of sequence infrastructure.
	<b>Objective 2:</b> Infrastructure aligns with forecast growth – growth infrastructure compact	
	<b>Objective 3:</b> Infrastructure adapts to meet future needs	
	<b>Objective 4:</b> Infrastructure use is optimised	
<b>2. A collaborative city</b>	<b>Objective 5:</b> Benefits of growth realised by collaboration of governments, community and business	N/A – as above.
<b>Liveability</b>		
<b>3. A city for people</b>	<b>Objective 6:</b> Services and infrastructure meet communities' changing needs	See above.
	<b>Objective 7:</b> Communities are healthy, resilient and socially connected	
	<b>Objective 8:</b> Greater Sydney's communities are culturally rich with diverse neighbourhoods.	
	<b>Objective 9:</b> Greater Sydney celebrates the arts and supports creative industries and innovation	
<b>4. Housing the city</b>	<b>Objective 10:</b> Greater housing supply	The PP intends to improve design outcomes of housing typologies currently permitted with consent in the R2 zone

		under the BLEP 2021 and LRHD Code, and will continue to contribute towards Bayside LGA’s overall housing supply and choice. The PP is also consistent with Bayside’s endorsed LHS.
	<b>Objective 11:</b> Housing is more diverse and affordable	
5. A city of great places	<b>Objective 12:</b> Great places that bring people together	Strategy 12.1 states “ <i>using a place-based and collaborative approach throughout planning, design, development and management, deliver great places by...providing fine grain urban form, diverse land use mix, high amenity and walkability in and within a 10-minute walk of centres...recognising and celebrating the character of a place and its people</i> ”.
	<b>Objective 13:</b> Environmental heritage is conserved and enhanced	
		The PP is consistent with Objective 12, and Strategy 12.1 in particular, as it seeks to better guide design outcomes for dual occupancies and semi-detached dwellings to ensure these housing typologies adequately conform with suburban character throughout the Bayside LGA.
Productivity		
6. A well connected city	<b>Objective 14:</b> A metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
	<b>Objective 15:</b> The Eastern, GPOP and Western Economic Corridors are better connected and more competitive	
	<b>Objective 16:</b> Freight and logistics network is competitive and efficient	
	<b>Objective 17:</b> Regional transport is integrated with land use	
7. Jobs and skills for the city	<b>Objective 18:</b> Harbour CBD is stronger and more competitive	The PP does not have any significant impacts upon jobs and skills, as it proposes very specific changes to controls in the R2 zone only.
	<b>Objective 19:</b> Greater Parramatta is stronger and better connected	
	<b>Objective 20:</b> Western Sydney Airport and Badgerys Creek Aerotropolis are economic catalysts for Western Parkland City	
	<b>Objective 21:</b> Internationally competitive health, education, research and innovation precincts	
	<b>Objective 22:</b>	

	Investment and business activity in centres	
	<b>Objective 23:</b> Industrial and urban services land is planned, protected and managed	
	<b>Objective 24:</b> Economic sectors are targeted for success	
Sustainability		
8. A city in landscape	<b>Objective 25:</b> The coast and waterways are protected and healthier	The PP seeks to better guide built form outcomes by introducing new minimum lot size controls that facilitate dual occupancy and semi-detached dwelling development, while better reflecting suburban characteristics of the R2 zone. In doing so, the PP will also improve opportunities for deep soil landscaping on infill development sites within this zone.
	<b>Objective 26:</b> A cool and green parkland city in the South Creek corridor	
	<b>Objective 27:</b> Biodiversity is protected, urban bushland and remnant vegetation is enhanced	
	<b>Objective 28:</b> Scenic and cultural landscapes are protected	
	<b>Objective 29:</b> Environmental, social and economic values in rural areas are maintained and enhanced	
	<b>Objective 30:</b> Urban tree canopy cover is increased	
	<b>Objective 31:</b> Public open space is accessible, protected and enhanced	
	<b>Objective 32:</b> The Green Grid links parks, open spaces, bushland and walking and cycling paths	
9. An efficient city	<b>Objective 33:</b> A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code.
	<b>Objective 34:</b> Energy and water flows are captured, used and re-used	

	<b>Objective 35:</b> More waste is re-used and recycled to support the development of a circular economy	
<b>10. A resilient city</b>	<b>Objective 36:</b> People and places adapt to climate change and future shocks and stresses	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. It will not impact upon the resilience of the Bayside LGA.
	<b>Objective 37:</b> Exposure to natural and urban hazards is reduced	
	<b>Objective 38:</b> 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 PP'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	<p>This priority requires that land use planning aligns with infrastructure planning.</p> <p>The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code.</p>
E2	Working through collaboration	N/A – as above.
Liveability		
E3	Providing services and social infrastructure to meet people's changing needs	<p>The PP does not propose to prohibit any residential uses. Rather, it intends to improve design outcomes of housing typologies that are currently permitted with consent in the R2 zone of the BLEP 2021, and will continue to contribute towards Bayside LGA's overall housing supply and diversity. The PP is also consistent with the LHS, endorsed by both Council and the DPE.</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	<p>Under Priority 6, Action 18 reiterates the wording of Strategy 12.1 of the Greater Sydney Region Plan.</p>
E6	Creating and renewing great places and local centres, and respecting the District's heritage	<p>The PP is consistent with this Objective as it seeks to better guide design outcomes for dual occupancies and semi-detached dwellings to ensure these housing</p>

		typologies do not undermine suburban character or amenity throughout R2 zoned land.
Productivity		
E7	Growing a stronger and more competitive Harbour CBD	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
E8	Growing and investing in health and education precincts and the Innovation Corridor	
E9	Growing international trade gateways	
E10	Delivering integrated land use and transport planning and a 30-minute city	
E11	Growing investment, business opportunities and jobs in strategic centres	
E12	Retaining and managing industrial and urban services land	
E13	Supporting growth of targeted industry sectors	
Sustainability		
E14	Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways	The PP seeks to better guide built form outcomes by introducing new minimum lot size and width controls that facilitate dual occupancy and semi-detached dwelling development, while better reflecting the suburban characteristics and amenity of the R2 zone. In doing so, the PP will also improve opportunities for deep soil landscaping on infill development sites within this zone.
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 LHS was prepared having regard for the LSPS.  The PP is aligned with the LHS, which was endorsed by Council in March 2021 (refer <b>Appendix A</b> ), and by the DPE in June 2021 (refer <b>Appendix B</b> ).
E22	Monitoring and reporting on the delivery of the Plan	

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 PP is consistent with Future Transport Strategy 2056. The proposal will better guide built form outcomes in an R2 zoned suburban setting for a land use already permitted with consent in the zone. It represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.

### **South East Sydney Transport Strategy (SESTS)**

This PP is consistent with the SESTS, for the reasons outlined in the section above. It will not result in any 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 PP 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 LSPS in accordance with the guidance provided by the DPE. Council has aligned the LSPS Priorities to the *Greater Sydney Region Plan – A Metropolis of Three Cities* (GSRP), the Planning Priorities in the Eastern City District Plan as well as Councils Community Strategic Plan.

**Table 4** below provides an assessment of this PP against the LSPS:

**Table 4 – Consistency with the LSPS**

Planning Priority		Consistency
<b>B1</b>	Align land use planning and transport infrastructure planning to support the growth of Bayside	The PP seeks to better guide built form outcomes for land uses already permitted in the R2 zone. It represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
<b>B2</b>	Align land use planning with the delivery and management of assets by Bayside Council to support our community	
<b>B3</b>	Working through collaboration	
<b>B4</b>	Provide social infrastructure to meet the needs of the Bayside Community	
<b>B5</b>	Foster healthy, creative, culturally rich and socially connected communities	
<b>B6</b>	Support sustainable housing growth by concentrating high density urban growth close to centres and public transport corridors	The LHS was prepared having regard for the Bayside LSPS.  The PP is aligned with the LHS, which was endorsed by Council in March 2021 (refer <b>Appendix A</b> ), and by the DPE in June 2021 (refer <b>Appendix B</b> ).  The PP responds to Actions 3.6 and 6.1 of the LHS. It seeks to better guide design outcomes for low-rise medium density housing typologies and is intended to improve housing supply and choice in more traditional suburban settings, while ensuring these typologies adequately conform with existing character.
<b>B7</b>	Provide choice in housing to meet the needs of the community	
<b>B8</b>	Provide housing that is affordable	
<b>B9</b>	Manage and enhance the distinctive character of the LGA through good quality urban design, respect for existing character and enhancement of the public realm	
<b>B10</b>	Value, protect and conserve Aboriginal heritage	
<b>B11</b>	Develop clear and appropriate controls for development of heritage items, adjoining sites and within conservation areas	Any potential risk to heritage significance as a result of these already-permitted land uses should therefore be reduced as a result of the PP.  The proposal represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. It will not impact upon these planning priorities, beyond further refinement of land uses already permitted in the R2 zone.
<b>B12</b>	Delivering an integrated land use and a 30-minute city	
<b>B13</b>	Contribute to growing a stronger and more competitive Harbour CBD	
<b>B14</b>	Protect and grow the international trade gateways	
<b>B15</b>	Growing investment, business opportunities and jobs in Bayside's strategic and local centres	
<b>B16</b>	Contribute to growing the health and education precincts of Kogarah, Randwick and Camperdown	
<b>B17</b>	Retain and manage industrial and urban services lands	

Planning Priority		Consistency
<b>B18</b>	Support the growth of targeted industry sectors	The PP seeks to better guide built form outcomes by introducing new minimum lot size controls that facilitate dual occupancy and semi-detached dwelling development while better reflecting suburban characteristics of the R2 zone. In doing so, the PP will also improve opportunities for deep soil landscaping on infill development sites within this zone.
<b>B19</b>	Protect and improve the health of Bayside's waterways and biodiversity	
<b>B20</b>	Increase urban tree canopy cover and enhance Green Grid connections	
<b>B21</b>	Deliver high quality open space	
<b>B22</b>	Protect and enhance scenic and cultural landscapes	
<b>B23</b>	Reduce carbon emissions through improved management of energy, water and waste	
<b>B24</b>	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 2018-2030

The Bayside Community Strategic Plan 2018-2030 sets the strategic direction for Council's Delivery Program and Operational Plans. The themes and directions outlined in the plan inform Council's activities towards achieving the identified outcomes.

**Table 5** below identifies how the PP is consistent with the themes:

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

Theme One – Bayside will be a vibrant place	How We Will Get There	Consistency
<b>Strategic Direction –</b> Our places are people-focussed	Local areas are activated with cafes, restaurants and cultural events	The PP seeks to better guide design outcomes for dual occupancies and semi-detached dwellings to ensure these housing typologies adequately conform with suburban character throughout Bayside LGA.
	Places have their own village atmosphere and sense of identity	
	My community and council work in partnership to deliver better local outcomes	
	The public spaces I use are innovative and put people first	
	There is an appropriate and community-owned response to threats	
<b>Strategic Direction –</b> Our places connect people	Walking and cycling is easy in the City and is located in open space where possible	N/A – as above.



	We are one community with shared objectives and desires	
	Our heritage and history is valued and respected	
<b>Strategic Direction –</b> Our places are acceptable to all	Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community	The PP does not specifically relate to affordable rental housing, but will better guide design outcomes for already-permitted lower-density infill housing typologies that are intended to improve housing supply and choice within Bayside's R2 zone.
	SMART Cities – making life better through smart use of technologies	
	Assets meet community expectations	
	Bayside provides safe and engaging spaces, places and interactions	
	People who need to can access affordable housing	
	We welcome visitors and tourists to our City	
<b>Strategic Direction –</b> My place will be special to me	Local developments reflect innovative, good design and incorporate open space and consider vertical families	The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
	Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work	
	Traffic and parking issues are a thing of the past	
	Road, rates and rubbish are not forgotten	
	Gateway sites are welcoming and attractive	
<b>Theme Two – In 203 our people will be connected in a smart City</b>	<b>How We Will Get There</b>	<b>Consistency</b>
<b>Strategic Direction –</b> We benefit from technology	Council engages with us and decision making is transparent and data driven	If the PP is supported by Council and a Gateway Determination issued by the DPE, a formal public consultation process would take place.
	We can access information and services online and through social media	

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

Theme Three – In 2030 bayside will be green, leafy and sustainable	How We Will Get There	Consistency
<b>Strategic Direction –</b> Our waste is well managed	I can reduce my waste through recycling and community education	N/A – as above.
	Illegal dumping is a thing of the past	
<b>Strategic Direction –</b> We are prepared for climate change	We understand climate change and are prepared for the impacts	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
	Our City is prepared for/ able to cope with severe weather events	
	Our streetscapes are green and welcoming	
<b>Strategic Direction –</b> We increase our use of renewable energy	Our City promotes the use of renewable energy through community education	N/A – as above.
	Our City models use of renewable energy and reports gains benefits to the community	
<b>Strategic Direction –</b> Waterways and green corridors are regenerated and preserved	Water is recycled and re-used	N/A – as above.
	The community is involved in the preservation of our natural areas	
	We have an enhanced Green Grid/ tree canopy	
Theme Four – In 2030 we will be a prosperous community	How We Will Get There	Consistency
<b>Strategic Direction –</b> Opportunities for economic development are recognised	Major employers support/ partner with local small business	N/A – as above.
	We are an international hub for transport and logistics-related business	
	Industrial lands and employment lands are preserved – partnering with major employers to support local jobs	
<b>Strategic Direction –</b> Local housing, employment and business	Bayside will be a 30 minute City – residents work local or work off-site – no-one has to travel for more than 30 minutes to work	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that

opportunities are generated	Council is a major employer, supports local apprenticeships and cadetships	permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
	People who need to can access affordable housing	
<b>Strategic Direction –</b> The transport system works	We can easily travel around the LGA – traffic problems/ gridlock are a thing of the past	See above. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS.
	We can easily travel to work by accessible, reliable public transport	
<b>Strategic Direction –</b> We are prepared for a sharing economy	Innovative businesses are supported to locate in Bayside	N/A
	Local Plans and regulations have kept pace with the sharing economy	

## Bayside Local Housing Strategy

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

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

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

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

**Table 6 – Bayside Housing Targets**

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

Source: SGS 2019

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

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

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

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

The PP is aligned with the LHS and responds specifically to the following actions contained in the Strategy:

- **Action 3.6:** *Permit Dual Occupancies throughout the Bayside LGA with minimum site frontage and area provisions set out in the LEP (except in identified Heritage Conservation Areas or potential local character areas).*
- **Action 6.1:** *Review development controls including the use of minimum lot size and frontages controls to ensure that effective design can be achieved in infill development situations.*

Action 3.6 is assigned a short-term (0-2 years) timeframe. Following commencement of the BLEP 2021, dual occupancies are now permitted across all of Bayside LGA's residential zones. The PP seeks to complete this Action within the identified timeframe.

Action 6.1 is also assigned a short-term (0-2 years) timeframe and refers to a broader undertaking, including a separate proposal which will examine medium density residential typologies across Bayside LGA's R3 zone. The PP will partly complete this Action, insofar as it relates to consideration of dual occupancies and semi-detached dwellings in the R2 zone.

## Historical and forecast supply of medium-density housing

The DPE's 30 June 2021 letter approving the Bayside LHS (**Appendix B**) determined that the LHS addresses housing supply and the need for housing diversity, although it noted that commitment to further actions for housing diversity and delivery are required.

The following requirements included in the letter of approval are relevant to this PP:

*4. To ensure housing diversity is achieved by 2036, 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;*
- 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.*

*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 of approved over the last five years (development applications and complying development certificates) and anticipated future take-up rates.*
- b) Recommended controls outlined in LHS for medium-density housing in the implementation plan, including the current status and timeline for implementation.*

This PP prioritises the introduction of new controls better guiding dual occupancy and semi-detached dwelling development in the R2 zone. In the case of the former land use, an added impetus is the commencement of the LRHD Code and the need to introduce a more locationally-appropriate minimum lot size standards to be substituted in place of the Code's default standard of 400 sqm that currently applies across the zone.

In partial completion of the above requirements, an analysis of historical and forecast supply of medium-density housing typologies relevant to this PP has been carried out. This is elaborated upon in **Appendix D**. A separate draft Planning Proposal will examine medium-density housing more broadly in the R3 zone. It is intended that an equivalent summary will be included with that proposal, reviewing historical and forecast supply of a broader range of medium-density housing typologies.

## Historical supply of dual occupancy and related development in Bayside LGA (2016-2021)

A 5-year review of approvals of dual occupancy developments in Bayside LGA's R2 zone (full DAs and CDCs), from November 2016 to November 2021, is included in **Table 7**.

**Table 7 – Summary of approvals history of dual occupancy dwelling developments in Bayside LGA's R2 zone (November 2016-November 2021)**

Year	Zone R2 Approvals	Average parent lot size (sqm)	Average resulting lot size where subdivision included (sqm)
Nov 2016-Nov 2017	16	772.45	387.24
Nov 2017-Nov 2018	15	737.49	369.75
Nov 2018-Nov 2019	7	745.26	376.23
Nov 2019-Nov 2020	10	821.25	405.52
Nov 2020-Nov 2021	29	750.53	367.94
<b>TOTAL</b>	<b>77</b>	<b>765.4</b>	<b>381.34</b>

The above approvals have occurred entirely on the former Rockdale LGA side of Bayside LGA. Of these, 60 were approved by way of full DAs, while 17 were approved by CDC under the LRHD Code, the earliest issued on 20 April 2021 (the LRHD Code having come into force in Bayside LGA in July 2020).

As highlighted previously in this report, dual occupancies have only been permitted on the former Botany Bay LGA side since the adoption of the BLEP 2021 in August 2021. Prior to this, dual occupancies were only permitted on the former Rockdale LGA side.

While none of the above approvals of dual occupancy development occurred on the former Botany Bay side, semi-detached dwelling proposals have instead featured on this side of the LGA. A 5-year review of approvals of this housing typology is included in **Table 8** below.

**Table 8 – Summary of approvals history of semi-detached dwelling developments in Bayside LGA's R2 zone (November 2016-November 2021)**

Year	Zone R2 Approvals	Average original lot size – where subdivision is included (sqm)	Average resulting lot size (sqm)
Nov 2016-Nov 2017	10	540.96	278.19
Nov 2017-Nov 2018	8	506.81	253.31
Nov 2018-Nov 2019	13	539.89	268.01
Nov 2019-Nov 2020	10	462.16	231.86
Nov 2020-Nov 2021	12	515.55	257.88
<b>TOTAL</b>	<b>53</b>	<b>513.07</b>	<b>257.85</b>

Further, 460 proposals for secondary dwellings have also been approved across Bayside LGA in this timeframe, including:

- 336 by way of full DAs; and
- 112 by way of CDC issued under *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), formerly *State Environmental Planning Policy (Affordable Rental Housing) 2009*. These have largely occurred in Bayside's R2 zone.

Although not directly related to the PP, this suggests that secondary dwellings continue to be the preferred form of lower-density infill housing development in Bayside LGA.

## **Forecast supply of dual occupancy and related development in Bayside LGA (2021-2026)**

Due to several key factors influencing development patterns over the past 5 years, it is difficult to accurately forecast future supply of dual occupancy and related lower-density infill housing development in the short term future. These factors include:

- The formation of Bayside LGA in September 2016 from former Rockdale and Botany Bay LGAs shortly before the beginning of the approvals history timeframe;
- Harmonisation of planning controls under the BLEP 2021 only occurring in August 2021, before which dual occupancies were not permitted anywhere on the former Botany Bay LGA side;
- Differing suburban lot patterns on either side of Bayside LGA: former Rockdale LGA typically possesses a more traditional suburban pattern, where lot sizes of 700 sqm or larger and frontage widths of 15m or wider are more common, whereas former Botany Bay LGA has a more inner-city suburban pattern, where these lot sizes and frontage widths are scarce;
- The commencement of the LRHD Code later in the approvals history timeframe: in July 2020 on the former Rockdale LGA side and August 2021 on the former Botany Bay LGA side; and
- The uncertain effects of the global Covid-19 pandemic on both the approvals history and forecast supply timeframes.

Regardless of whether or not this PP progresses, proposals for dual occupancy developments are likely to continue to heavily favour the former Rockdale LGA side. Lot size and width patterns across the R2 zone lend themselves to more achievable built form outcomes, while there are also fewer environmental constraints creating blanket exemptions from the Codes SEPP on this side.

On the other hand, the R2 zone on the former Botany Bay LGA side is substantially affected by various exemptions from complying development under the Codes SEPP, in particular:

- Groundwater exclusion zone (identified in maps under Schedule 5 of the Codes SEPP);
- Acid Sulfate Soils Classes 1 and 2;
- Sydney Airport noise contours: Australian Noise Exposure Forecast (ANEF) 25+; and
- Heritage Conservation Areas.

Further, restrictive lot patterns ensure the LRHD Code does not apply in many parts of the R2 zone, as lot sizes and widths often fall below measurements required for complying development. On this side, the suburb of Botany is most likely to contain suitable candidate sites for dual occupancy development, but is also almost entirely exempted from the Codes SEPP due to constraints listed above. This is explained in further detail in Urban Design Considerations, under Part 3C of this report. For these reasons, both the LRHD Code and this PP are expected to have a limited effect on forecast supply of dual occupancies on this side of Bayside LGA.

Applying a methodology wherein the rate of take-up of lots observed over the 5-year approvals history is applied to remaining supply of lots under current and proposed controls, forecasts of expected

approvals have been determined. These include forecasts for a 'do nothing' scenario (where the PP does not progress) as well as a PP scenario.

The forecast of approvals for new dual occupancies and semi-detached dwellings under a 'do nothing' scenario is as follows:

DA Approvals In Former Rockdale LGA:	57
CDC Approvals In Former Rockdale LGA:	85
DA Approvals In Former Botany Bay LGA:	46
CDC Approvals In Former Botany Bay LGA:	6
<b>Total Approvals – 'Do Nothing' Scenario:</b>	<b>194</b>

The forecast of approvals under a PP scenario is outlined below:

DA Approvals In Former Rockdale LGA:	109
CDC Approvals In Former Rockdale LGA:	25
DA Approvals In Former Botany Bay LGA:	8
CDC Approvals In Former Botany Bay LGA:	1
<b>Total Approvals – PP Scenario:</b>	<b>143</b>

In summary, a generally lower number of future approvals is forecast under the PP scenario than under the 'do nothing' scenario, applying the same take-up rate experienced over the 5-year approvals history analysed above.

As explained in further detail in Appendix D, these should be taken to be baseline forecasts, factoring in an approvals history that has been influenced by changes to the statutory planning framework, as well as disruptions caused by the ongoing Covid-19 pandemic. It is arguable that the LGA will see greater take-up as post-pandemic economic conditions improve and landowners familiarise themselves with the proposed new controls under both the LEP and LRHD Code.

The following observations are also made in support of the PP:

1. Lot width is considered critical to ensuring good design outcomes, as it determines the prevailing form of the streetscape. This is explained in further detail in Urban Design Considerations, under Part 3C of this report. Further to this point, the proposed lot width controls are essentially carried over from the LRHD Code. This ensures a consistent response to the issue under both full DA and CDC processes.
2. The need to better control design outcomes is a key factor behind this PP. While lot width is critical to the future form of a streetscape, lot size is instrumental to built form on a site, particularly under the LRHD Code where a sliding scale of gross floor area allowance is applied based on lot size. As explained in Part 3C of this report, when developed for dual occupancies under the Code, sites smaller than 500 sqm will infill the full extent of the allowable site envelope. Development under the default Code controls will therefore result in excessive bulk that is at odds with the more traditional suburban elements of the LGA.
3. There is a need for lot size and width controls on the former Botany Bay LGA side. The absence of these controls leaves Council reliant on LEP building height and FSR controls, as well as DCP setback, landscaping and parking controls, to manage built form outcomes on this side of the LGA.
4. Further to Point 1, although already established under the LRHD Code, the minimum lot width requirement of 15m (for lots with a single, primary road frontage) places a significant limitation on lot supply, particular on the former Botany Bay LGA side. Zoning



maps included at **Appendix E** illustrate the degree of change to the size of Bayside LEP 2021's R2 zone, when factoring in both this lot width requirement and other requirements under the LRHD Code.

Taking these factors into account, Council considers the forecast take-up under the PP acceptable.

## **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. A Centres and Employment Lands Study was then finalised by SGS in 2021 to inform the Strategy. A Draft Action Plan is being prepared by Council staff to carry forward recommendations of the Study and will be considered by Council in early 2023.

The PP 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 PP does not impact upon this draft Strategy.

## **Draft Bayside Transport Strategy and Bike Plan**

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

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

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

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

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

A Draft Action Plan to carry forward recommendations of the BTS and BBP was endorsed for exhibition by Council in November 2022.

The PP 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 9** below:

**Table 9 – Consistency with applicable State Environmental Planning Policies (SEPPs)**

No.	Title	Consistency with draft Planning Proposal
65	Design Quality of Residential Apartment Development	<b>Not relevant to this draft Planning Proposal</b>
	(Building Sustainability Index: BASIX) 2004	<b>Not relevant to this draft Planning Proposal</b>
	(Biodiversity & Conservation) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Exempt and Complying Development Codes) 2008	<p><b>Comment:</b></p> <p>Part 3B Low Rise Housing Diversity Code (LRHD Code) of the Codes SEPP allows development for the purposes of dual occupancies as complying development in R2 and R3 zones across Bayside LGA (where other Codes SEPP exemptions are not in place).</p> <p>Clauses 3B.8(1) and 3B.21(b) of the Code contain stipulations that dual occupancies proposed as complying development must occur on a parent lot that is not less than whichever is the greater of the following:</p> <ul style="list-style-type: none"> <li>(a) 400 sqm;</li> <li>(b) The minimum lot area specified for dual occupancies in the environmental planning instrument that applies to the land concerned.</li> </ul> <p>The PP seeks to introduce a minimum lot size control that will apply to R2 zoned land under the BLEP 2021, which will operate both as an LEP control for full DAs and a provision for complying development proposals under the above clauses of the Code.</p> <p>Part 6 Subdivision Code contains provisions pertaining to the subdivision (Torrens and Strata) – as complying development – of dual occupancies for which a complying development certificate has been issued under the LRHD Code. Under Clause 6.4(d), Torrens subdivision of a dual occupancy (which has been approved as complying development) may be carried out as complying development under this Code if the area of each resulting lot is at least:</p> <ul style="list-style-type: none"> <li>(a) The minimum size specified for the subdivision of land for the purpose of a dual occupancy in the environmental planning instrument that applies to the land, or</li> <li>(b) If no minimum size is specified – 200 sqm.</li> </ul> <p>Clause 4.1 of the BLEP 2021 contains a minimum subdivision lot size for dual occupancies of 350 sqm, which applies to land in the former Rockdale LGA, while no provision applies to land in the former Botany Bay LGA. This provision therefore operates as the relevant lot size control for Torrens subdivision of dual occupancies under the Subdivision Code on land in the former Rockdale LGA, while the Code's control of 200 sqm operates on the former Botany Bay LGA side.</p> <p>The PP proposes to introduce a new control of 235 sqm on R2-zoned land on the former Rockdale LGA side, while also</p>

No.	Title	Consistency with draft Planning Proposal
		introducing controls of 325 sqm and 275 sqm on R2-zoned land on the former Botany Bay LGA side.  The PP is consistent with this SEPP.
	(Housing) 2021	<b>Not relevant to this draft Planning Proposal</b>  This SEPP contains provisions relating to the permissibility of secondary dwellings, which are unaffected by this PP.
	(Industry & Employment) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Planning Systems) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Precincts – Eastern Harbour City) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Primary Production) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Resilience & Hazards) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Resources & Energy) 2021	<b>Not relevant to this draft Planning Proposal</b>
	(Transport & Infrastructure) 2021	<b>Not relevant to this draft Planning Proposal</b>

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

**Table 10** below reviews the consistency of the PP 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 10 – 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><b>Objective:</b> The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p><b>Application:</b> 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.</p> <p><b>Direction 1.1</b> Planning proposals must be consistent with a Regional Plan released by the Minister for Planning</p> <p><b>Comment:</b></p>	Yes

		The PP is consistent with the Greater Sydney Region Plan (GSRP). An assessment of the PP's consistency with relevant directions and objectives of the GSRP is included earlier in this report at <b>Table 2</b> .	
1.2	Development of Aboriginal Land Council land	<b>Not applicable</b> Bayside LGA is not identified on the Land Application Map contained within <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> .	N/A
1.3	Approval and Referral Requirements	<b>Not applicable</b> The 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.	N/A
1.4	Site Specific Provisions	<b>Not applicable</b> The 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	<b>Not applicable</b> 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	<b>Not applicable</b> 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	<b>Not applicable</b> 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	<b>Not applicable</b> The direction does not apply to Bayside LGA.	Not applicable
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	<b>Not applicable</b> The direction does not apply to Bayside LGA.	Not applicable
1.10	Implementation of the Western Sydney Aerotropolis Plan	<b>Not applicable</b> The direction does not apply to Bayside LGA.	Not applicable

1.11	Implementation of Bayside West Precincts Bayside West 2036 Plan	<p><b>Objective</b> 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).</p> <p><b>Application</b> 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.</p> <p><b>Direction 1.11</b> 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.</p> <p><b>Comment:</b> The PP applies generally to R2-zoned land across Bayside LGA, including land within Bayside West Precincts. This PP does not create any conflict with this Direction, or prevent future planning exercises being carried out in fulfilment of this Direction.</p>	Yes
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	<p><b>Not applicable</b> The direction does not apply to this 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><b>Not applicable</b> The direction does not apply to Bayside LGA.</p>	Not applicable
1.14	Implementation of Greater Macarthur 2040	<p><b>Not applicable</b> The direction does not apply to Bayside LGA.</p>	Not applicable
1.15	Implementation of the Pyrmont Peninsula Place Strategy	<p><b>Not applicable</b> The direction does not apply to Bayside LGA.</p>	Not applicable
1.16	North West Rail Link Corridor Strategy	<p><b>Not applicable</b> The direction does not apply to Bayside LGA.</p>	Not applicable
1.17	Implementation of the Bays West Place Strategy	<p><b>Not applicable</b> The direction does not apply to Bayside LGA.</p>	Not applicable
<b>Focus area 3: Biodiversity and Conservation</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent: Yes/ No (if No, is inconsistency adequately justified?)</b>
3.1	Conservation Zones	<p><b>Not applicable.</b> The PP does not contain any conservation zones.</p>	Not applicable
3.2	Heritage Conservation	<p><b>Objective</b></p>	Yes

		<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><b>Application</b>  <i>This direction applies when a PPA prepares a PP.</i></p> <p><b>Direction 3.2</b>  <i>A PP must contain provisions that facilitate the conservation of:</i></p> <ul style="list-style-type: none"> <li><i>(a) 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></li> <li><i>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</i></li> <li><i>(c) 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></li> </ul> <p><b>Comment:</b>  The PP does not propose any changes to the heritage provisions/controls contained in the BLEP 2021. It seeks to better guide built form outcomes for land uses that are already permitted in the R2 zone under the BLEP 2021 and LRHD Code. Any potential risk to heritage significance as a result of these already-permitted land uses should therefore be reduced under the PP.</p>	
3.3	Sydney Drinking Water Catchments	<p><b>Not applicable</b>  Bayside LGA is not identified as an LGA within the Sydney drinking water catchment.</p>	Not applicable
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	<p><b>Not applicable</b>  The direction does not apply to Bayside LGA.</p>	Not applicable
3.5	Recreation Vehicle Areas	<p><b>Not applicable</b>  The Direction is not applicable to this PP.</p>	Not applicable
<b>Focus area 4: Resilience and Hazards</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent:</b>

			Yes/ No (if No, is inconsistency adequately justified?)
4.1	Flooding	<p><b>Objectives</b>  <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><b>Application</b>  <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><b>Direction 4.1</b>  <i>A PP must include provisions that give effect to and are consistent with:</i></p> <ul style="list-style-type: none"> <li><i>(a) the NSW Flood Prone Land Policy;</i></li> <li><i>(b) the principles of the Floodplain Development Manual 2005 (FPDM 2005);</i></li> <li><i>(c) the Considering flooding in land use planning guideline 2021; and</i></li> <li><i>(d) 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></li> </ul> <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> <ul style="list-style-type: none"> <li><i>(a) permit development in floodway areas;</i></li> <li><i>(b) permit development that will result in significant flood impacts to other properties;</i></li> <li><i>(c) permit a significant increase in the dwelling density of that land;</i></li> <li><i>(d) 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></li> <li><i>(e) are likely to affect the safe occupation of and efficient evacuation of the lot; or</i></li> <li><i>(f) 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</i></li> </ul>	Yes

		<p>infrastructure, flood mitigation infrastructure and utilities.</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>The PP introduces new controls to further guide built form outcomes for land uses that are already permitted across Bayside LGA's R2 zone, which includes flood prone land. It represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. On balance, it is consistent with this Direction.</p>	
4.2	Coastal Management	<p><b>Objective</b>  <i>The objective of this direction is to protect and manage coastal areas of NSW.</i></p> <p><b>Application</b>  <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 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.</i></p> <p><b>Direction 4.2</b>  <i>A PP must include provisions that give effect to and are consistent with:</i></p> <ul style="list-style-type: none"> <li><i>(a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;</i></li> <li><i>(b) the NSW Coastal Management Manual and associated Toolkit;</i></li> <li><i>(c) NSW Coastal Design Guidelines 2003; and</i></li> <li><i>(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.</i></li> </ul> <p><i>A PP must not rezone land which would enable increased development or more intensive land-use on land:</i></p> <ul style="list-style-type: none"> <li><i>(a) within a coastal vulnerability area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021; or</i></li> <li><i>(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:</i></li> </ul>	Yes



		<p>i. by or on behalf of the RPA and the PPA, or</p> <p>ii. by or on behalf of a public authority and provided to the RPA and the PPA.</p> <p><i>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.</i></p> <p><b>Comment:</b> The PP proposes to introduce planning controls in relation to specific lower-density residential uses across the R2 zone, which partly occurs within the Coastal Zone. However, the PP does not propose any rezoning or significant change to density, but rather a refinement of planning controls that apply to uses that are already permitted in the land use zone. The PP is consistent with this direction.</p>	
4.3	Planning for Bushfire Protection	<p><b>Not applicable</b> Bayside LGA does not contain any land mapped as bushfire prone land under s10.3 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>	Not applicable
4.4	Remediation of Contaminated Land	<p><b>Objective</b> <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><b>Application</b> This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>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</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no</p>	Yes

		<p>knowledge (or incomplete knowledge).</p> <p><b>Direction 4.4</b>  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:</p> <ul style="list-style-type: none"> <li>(a) the draft Planning Proposal authority has considered whether the land is contaminated, and</li> <li>(b) if the land is contaminated, the draft Planning Proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</li> <li>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the draft Planning Proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</li> </ul> <p><b>Comment:</b>  The PP is not amending any provisions to alter land use permissibility beyond further refinement of land uses that are already permitted in the R2 zone.</p>	
4.5	Acid Sulfate Soils	<p><b>Objective</b>  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.</p> <p><b>Application</b>  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.</p> <p><b>Direction 4.5</b>  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.</p> <p>When a PPA is preparing a PP to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <ul style="list-style-type: none"> <li>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Secretary, or</li> <li>(b) such other provisions provided by the Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</li> </ul>	Yes

		<p>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.</p> <p>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.</p> <p><b>Comment:</b> The land subject to this PP includes all R2-zoned land in Bayside LGA, where dual occupancies and semi-detached dwellings are already permitted. This zone occurs over a number of different Acid Sulfate Soils classes. The PP represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code.</p> <p>Clause 6.1 of the BLEP 2021 requires an Acid Sulfate Soils Management Plan at DA stage, before carrying out any development on the land.</p> <p>On balance, the PP is consistent with this Direction.</p>	
4.6	Mine Subsidence and Unstable Land	<p><b>Not applicable</b> Bayside LGA does not contain land within a proclaimed Mine Subsidence District, or land that has been identified as unstable.</p>	Not applicable.
<b>Focus area 5: Transport and Infrastructure</b>			
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><b>Objectives</b> 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:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> </ul>	Yes

		<p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p> <p><b>Application</b>  <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><b>Direction 5.1</b>  <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> <p><b>Comment:</b>  The PP seeks to further guide built form outcomes of land uses that are already permitted across Bayside's R2 zone. It represents a general increase in density for specific lower-density infill housing typologies in the R2 zone, above that allowed under existing LEP and DCP controls, but a lower density than that permitted under the LRHD Code. This is consistent with the overall level and spatial distribution of growth envisioned by the approved LSPS and LHS. The PP is consistent with this Direction.</p>	
5.2	Reserving Land for Public Purposes	<p><b>Not applicable</b>  The 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><b>Objectives</b>  <i>The objectives of this direction are:</i></p> <ul style="list-style-type: none"> <li>(a) <i>to ensure the effective and safe operation of regulated airports and defence airfields,</i></li> <li>(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></li> <li>(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></li> </ul> <p><b>Application</b>  <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><b>Direction 5.3</b>  <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>	Yes

		<p>(a) consult with the Department of the Commonwealth responsible for airports and the lessee/operator of that airport;</p> <p>(b) for land affected by the prescribed airspace (as defined in Regulation 6(1) of the Airports (Protection of Airspace) Regulation 1996, prepare appropriate development standards, such as height controls.</p> <p>(c) not allow development types that are incompatible with the current and future operation of that airport.</p> <p>(d) 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 to undertaking community consultation in satisfaction of section 57 of the Environmental Planning and Assessment Act 1979.</p> <p>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:</p> <p>(a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25; or</p> <p>(b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30; or</p> <p>(c) for commercial or industrial purposes where the ANEF is above 30.</p> <p><b>Comment:</b> The PP seeks to further guide built form outcomes of land uses that are already permitted across Bayside's R2 zone. The potential increase in density in the vicinity of Sydney Airport as a result of the PP is not significant enough to infringe on any elements of this Direction.</p>	
5.4	Shooting Ranges	The direction does not apply to this PP as the site is not located on or adjoin an existing shooting range.	Not applicable
<b>Focus area 6: Housing</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent: Yes/ No (if No, is inconsistency adequately justified?)</b>
6.1	Residential Zones	<p><b>Objectives</b> The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that</p>	Yes

		<p>new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environmental and resource lands.</p> <p><b>Application</b>  This direction applies when a PPA prepares a PP that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p><b>Direction 6.1</b>  A PP must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>A PP must, in relation to land which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately services (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it) and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p> <p><b>Comment:</b>  The PP does not seek to prohibit any currently-permitted residential uses. Although it does amend, or in some areas, create controls for permitted housing types, the intent of the PP is to improve design outcomes of these uses. Further, the PP is consistent with the Bayside LHS, which is endorsed by both Council in March 2021 (refer <b>Appendix A</b>), and by the DPE in June 2021 (refer <b>Appendix B</b>).</p>	
6.2	Caravan Parks and Manufactured Home Estates	<p><b>Not applicable</b>  The Direction is not relevant to this PP.</p>	Not applicable.
<b>Focus area 7: Industry and Employment</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent: Yes/ No (if No, is inconsistency adequately justified?)</b>
7.1	Business and Industrial Zones	<p><b>Not applicable</b>  The PP does not include any business or industrial zones.</p>	Not applicable

7.2	Reduction in non-hosted short-term rental accommodation period	<b>Not applicable</b> The Direction is not relevant to this PP.	Not applicable
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	<b>Not applicable</b> The direction does not apply to Bayside LGA.	Not applicable
<b>Focus area 8: Resources and Energy</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent: Yes/ No (if No, is inconsistency adequately justified?)</b>
8.1	Mining, Petroleum Production & Extractive Industries	<b>Not applicable.</b> The Bayside LGA does not contain land zoned for mining, petroleum or extractive industries.	Not applicable
<b>Focus area 8: Resources and Energy</b>			
<b>No.</b>	<b>Title</b>	<b>Draft Planning Proposal consistency with terms of direction</b>	<b>Consistent: Yes/ No (if No, is inconsistency adequately justified?)</b>
9.1	Rural Zones	<b>Not applicable.</b> The PP does not affect any Rural Zones	Not applicable
9.2	Rural Lands	<b>Not applicable</b> The direction does not apply to Bayside LGA.	Not applicable
9.3	Oyster Aquaculture	<b>Not applicable.</b> The 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	<b>Not applicable</b> 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 PP only applies to R2-zoned land across Bayside LGA, seeking to better guide built form outcomes of a land use already permitted in this zone under the BLEP 2021. No adverse ecological impacts are likely.

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



## Urban Design Considerations

A review of relevant urban design considerations has been undertaken in order to determine the most appropriate minimum lot size and width controls for different parts of Bayside LGA's R2 zone.

As explained previously in this report, prior to the commencement of the BLEP 2021 in August 2021, dual occupancy development has historically been permitted only on the former Rockdale LGA side of Bayside LGA. Although no such controls have existing in the LEP, a minimum lot size control of 700 sqm and width control of 15m have existing in the RDCP 2011.

Upon commencement of the LRHD Code in July 2020, dual occupancy developments became permissible without consent (as complying development under the Code) on sites as small as 400 sqm. Such a development is not consistent with the current and desired character of the former Rockdale LGA side's more traditional suburban neighbourhoods. Although this PP seeks to introduce controls relating only to lot size, subdivision lot size and lot width, a range of design considerations have been taken into account in developing this PP, which are described below.

On the former Rockdale LGA side, no lot size or width controls currently apply to development specifically for the purpose of semi-detached dwellings, although Clause 4.1(3B) requires a lot size for lots resulting from the subdivision of a current or proposed dual occupancy of at least 350 sqm. In the RDCP 2011, Part 5, Clause 26 contains a minimum lot width control for attached and semi-detached dwellings of 9 metres (measured at the front alignment of the building) and a minimum lot depth of 25 metres. Developments proposed specifically for this land use have not been common on the former Rockdale LGA side, although dual occupancy DAs often come bundled with, or shortly followed by, a proposed subdivision.

On the former Botany Bay LGA side, no lot size or width controls currently apply to semi-detached dwelling development. Proposals for this land use have primarily been guided by LEP height and FSR controls, along with provisions in the BBDCP 2013 relating to setbacks, landscaped areas, parking and access.

It is therefore important that both land uses be examined together under this PP.

### Floor area

Under the LRHD Code, permissible floor area for a dual occupancy development is calculated on a sliding scale relevant to the size of the site. This results in additional floor space ratio (FSR) in excess of BLEP 2021 controls on all sites smaller than 1,000 sqm. The difference in permissible floor area when developing under the LRHD Code is documented in **Table 11** below:

**Table 11 – Differences in permissible floor area under LRHD Code vs BLEP 2021**

Site Area	LRHD Code floor area provision 25% site area +300sqm	BLEP 2021 FSR control for former Rockdale LGA R2 zone 0.5:1	BLEP 2021 FSR control for former Botany Bay LGA R2 zone 0.55:1
400 sqm	400sqm 1:1	200 sqm	220 sqm
450 sqm	412sqm 0.92:1	225 sqm	247.5 sqm
500 sqm	425sqm 0.85:1	250 sqm	275 sqm
550 sqm	437.5sqm 0.79:1	275 sqm	302.5 sqm
600 sqm	450sqm 0.75:1	300 sqm	330 sqm
650 sqm	462.5sqm 0.71:1	325 sqm	357.5 sqm
700 sqm	475sqm 0.67:1	350 sqm	385 sqm
750 sqm	487.5sqm 0.65:1	375 sqm	412.5 sqm
800 sqm	500sqm 0.62:1	400 sqm	440 sqm
850 sqm	512.5sqm 0.6:1	425 sqm	467.5 sqm
900 sqm	525sqm 0.58:1	450 sqm	495 sqm
950 sqm	537.5sqm 0.57:1	475 sqm	522.5 sqm



1000 sqm	550sqm	0.55:1	500 sqm	550 sqm
Note: some sites within the former Botany LGA permit FSR in excess of 0.55:1 refer to detail comments below (Existing Higher FSR areas with R2 zones).				

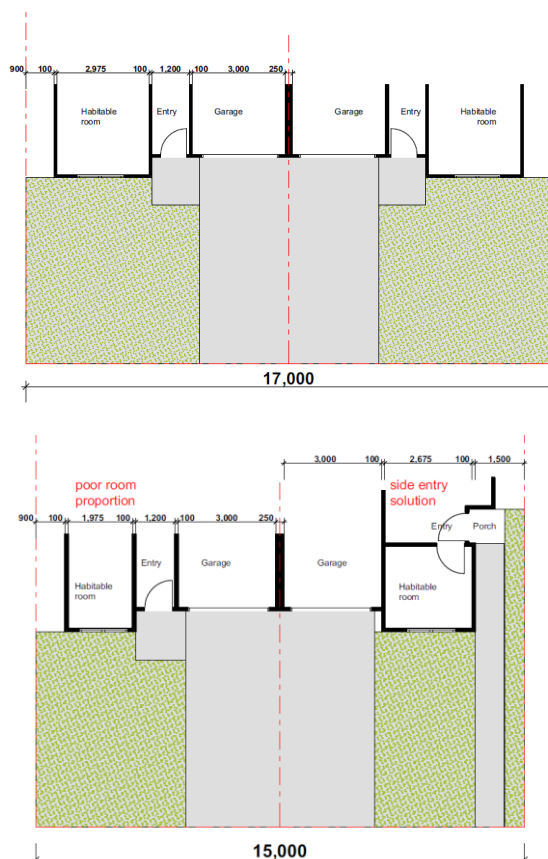
When developed for dual occupancies under the LRHD Code, sites smaller than 500 sqm will infill the full extent of the allowable site envelope to achieve the maximum floor area allowed by the Code. At the other end of the scale, large sites of 1,000 sqm will allow a similar FSR (0.55:1) to BLEP 2021 controls for R2 zones.

Under the LRHD Code, sites of 650 sqm still allow a significant increase in FSR above the equivalent control in BLEP 2021 (+137.5 sqm on former Rockdale LGA side and +105 sqm on former Botany Bay LGA side). However, the ratio of building to envelope will be approximately 71%. This ratio provides more scope for articulation and a site-specific design response.

### Site widths

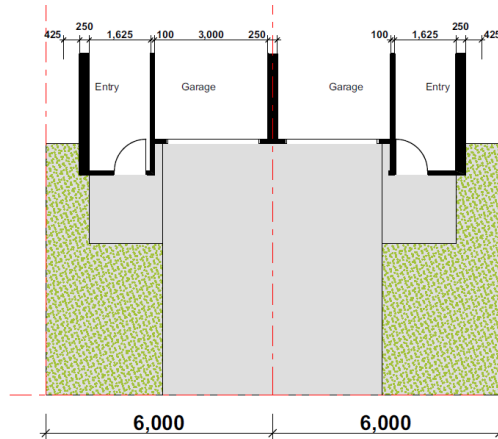
The site width will have a significant impact upon the character of a dual occupancy.

A 17m site width will accommodate generous areas of landscaping within the street setback while allowing habitable rooms, garages and front entries of both dwellings to present to the street, providing a very suburban presentation. A 15m site width can also provide a reasonable suburban character, when considered alongside guidance to maximise landscaping in the street setback, provide a prominent street entry and allow habitable rooms to address the street. **Figure 1** below illustrates these built form scenarios:



**Figure 1 Street frontage outcomes for dual occupancy developments with 15m and 17m site widths**

In more urban areas, a narrower site width of 12m can still provide a functional dual occupancy but will create a more urban aesthetic, with minimal areas of landscaping and insufficient space to accommodate street level habitable rooms fronting the street. **Figure 2** illustrates this built form outcome:



**Figure 2 Street frontage outcomes for dual occupancy developments with 12m site width**

The LRHD Code typically requires a minimum lot width of 15m. However, development is permissible on sites as narrow as 12m if parking can be provided from a secondary street or lane. Across Bayside LGA's R2 zone, the most appropriate lot width outcome is 15m where a lot contains only a single road frontage, and 12m where a lot adjoins more than one road or laneway.

### **Specific R2-zoned localities with higher FSR controls**

Although under the BLEP 2021, the R2 zone is typically paired with an FSR control of 0.5:1 on the former Rockdale LGA side and 0.55:1 on the former Botany Bay LGA side, there are some R2-zoned areas on the latter side that permit FSR in excess of 0.55:1. Consideration has been given to these sites to determine the potential impact of the LRHD Code on sites and to determine if Council should apply specific development controls within these areas. The areas in question are within the following suburbs:

- Mascot (FSR of 0.7:1);
- Daceyville (FSR of 0.6:1);
- Pagewood (FSR of 0.7:1); and
- Hillsdale/Eastgardens (FSR of 0.7:1).

Within these areas, small lot housing and sites smaller than 400 sqm in area and narrower than 12m in width are prevalent. Where small patterns of lots that meet these minimum requirements emerge, they typically do not include secondary street or lane frontages. They therefore do not qualify for the densest form of dual occupancy development permissible under the LRHD Code. Development for dual occupancies (or subdivided to create semi-detached dwellings) under BLEP 2021 should not be encouraged with these site characteristics, in these areas.

### **Proposed controls (per Council Resolution of 28 September 2022)**

In summary, the LRHD Code controls establish floor area with a sliding scale, which results in significant uplift in FSR, particularly on smaller sites. This results in dual occupancy developments (and semi-detached dwellings, following subdivision under current Subdivision Code controls) that are inconsistent with the scale and character of the neighbourhood.

Although the most effective way to counteract this would be to be able to introduce local FSR controls to complying development, the LRHD Code does not include such an allowance. Notwithstanding, locationally-appropriate lot size controls can be introduced for complying development under the LRHD Code (and subdivision lot size controls, for complying development under the Subdivision Code), which can allow for a denser form of development than is permissible under the BLEP 2021, while still respecting neighbourhood character.

On the former Rockdale LGA side, a blanket minimum lot size control of 650 sqm (or 325 sqm for semi-detached dwellings) is proposed under the BLEP 2021. These should be accompanied by lot width controls of 15m for lots with a single road frontage or 12m for lots that adjoin more than one road or laneway (or 7.5m and 6m, respectively, for semi-detached dwellings), which reflects the controls currently in the LRHD Code. This approach allows for a balanced outcome within the more traditional suburban context of the side and also ensures continuity with current controls under the RDCP 2011.

On the former Botany Bay LGA side, a minimum lot size control of 550 sqm is proposed for the R2-zoned land within the suburb of Botany (or 275 sqm for semi-detached dwellings), alongside the aforementioned lot width controls. Lot sizes and widths are somewhat more generous in this suburb than areas further to the north, although it is almost entirely excluded from the Codes SEPP. Therefore, a reduced lot size control can be accommodated here, provided a minimum lot width controls are also applied.

In the suburbs of Mascot, Rosebery and Eastlakes further north, where the LRHD Code partly applies, a minimum lot size of 550 sqm is also proposed (or 275 sqm for semi-detached dwellings). Under the LRHD Code, dual occupancies could be developed at an FSR of up to 0.79:1, which is considerably denser than the current BLEP 2021 controls of 0.55:1 and 0.7:1. However, the denser suburban fabric, combined with a sparsity of realistic infill candidate sites, should ensure that any impact to existing neighbourhood character is minimised. It should be noted that the proposed minimum lot width controls (which currently exist in the LRHD Code) present the main hurdle to widespread take-up in this area, under the BLEP 2021 or the LRHD Code.

Further east, in the suburbs of Daceyville, Pagewood, Eastgardens and Hillsdale, a minimum lot size of 650 sqm is proposed (or 325 sqm for semi-detached dwellings), alongside the aforementioned lot width controls, consistent with the former Rockdale LGA side and in recognition of the more traditional suburban aesthetic of the R2 zone in these areas.

The proposed map of 'Area A' (R2-zoned land in Botany, Mascot, Rosebery and Eastlakes) is available at **Appendix C**.

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

The PP will result in positive social and economic outcomes for the Bayside LGA by preventing inappropriate densities in traditional suburban contexts without deterring take-up of a lower-density infill housing typology.

### **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 (each accompanied by an Action Plan) in accordance with the Bayside Asset Management Strategy and as outlined in the Bayside LSPS. The strategies will inform provision of additional local infrastructure to meet the needs of the future population. These strategies are:

- Local Housing Strategy;
- Social Infrastructure (Open Space, recreation and community facilities);
- Transport Strategy;
- Bike Plan;
- Centres and Employment Lands 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 PP does not impact upon the intent or objectives of the draft strategies, and future plans, for planning residential development within the Bayside LGA. The PP has the intention of ensuring appropriate densities in traditional suburban contexts, by better guiding built form outcomes for a housing typology already permitted in the R2 zone under the BLEP 2021.

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

As this PP 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 PP.

Given that the PP does not have the intention of intensifying development, but rather further refines consideration of already-permitted land uses, no government agency consultation is considered necessary in this case.

## **Part 4 – Mapping**

Refer to **Table 12** for an outline of the changes to the draft Bayside LEP maps.

**Table 12 – Proposed Map Sheet Amendments**

Map Tile No.	Existing	Proposed
	Nil	Introduce new Lot Size for Dual Occupancies Map, covering all of Bayside LGA's R2 zone.

## **Part 5 - Community Consultation**

The PP 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 PP will include, as a minimum:

- Community engagement project set up on Council's Have Your Say website;
- Notices in Council libraries;
- Notification to anyone who submitted feedback as part of Council's 'Planning Our Future', LSPS and BLEP 2021 consultation projects; and
- Letters to State and Commonwealth Government agencies identified in the Gateway Determination.

## Part 6 – Project Timeline

**Table 13** below provides a proposed, approximate timeline for the project:

**Table 13 – Approximate Project Timeline**

Task	Timing
Council resolved to submit PP for Gateway Determination (subject to certain amendments)	28 September 2022
Submit to DPE for Gateway Determination	November 2022
Gateway Determination issued by DPE	December 2022
Anticipated timeframe for completion of any further justification required by Gateway Determination City Planning & Environment Committee and Council to endorse exhibition of DCP Amendments	February 2023
Public exhibition of PP and DCP Amendments and consultation with agencies	March 2023
Timeframe for consideration of submissions	March-April 2023
Bayside Local Planning Panel Meeting (to consider submissions and post-exhibition recommendations)	April 2023
City Planning & Environment Committee and Council to consider submissions and endorse finalisation of LEP and DCP amendments	May 2023
Submission to DPE/Parliamentary Counsel's Office to finalise LEP Amendments	June 2023
Anticipated timeframe for finalisation of LEP Amendment	End June 2023