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Plan finalisation report – PP-2023-1138

Housekeeping and other amendments to Bayside LEP

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Bayside Local Environmental Plan 2021 (Amendment No. 5).

The planning proposal seeks to make housekeeping and other amendments to the *Bayside Local Environmental Plan 2021*.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to the land identified on the Land Application Map of the Bayside LEP 2021. There is one site specific change to land at 11 Station Street, Arncliffe.
Type	District
Council / LGA	Bayside Council

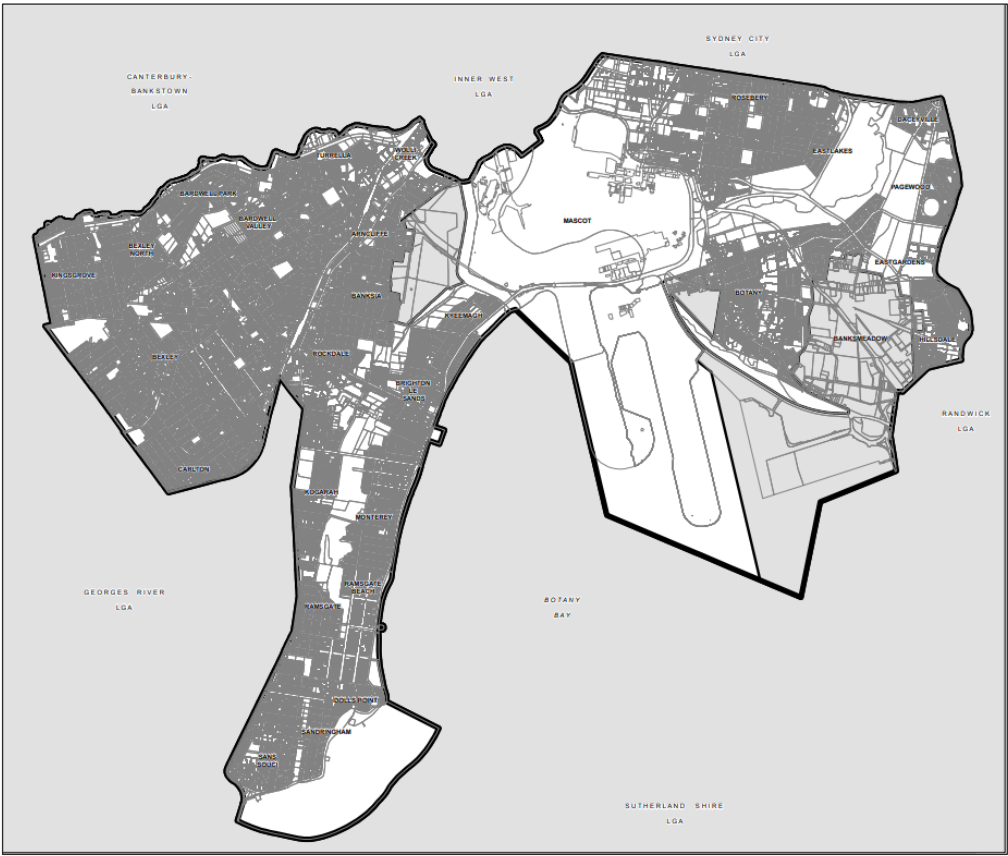


Figure 1 Subject site (Source: Planning proposal, 2023)

1.1.3 Purpose of plan

The planning proposal LEP seeks to make a number of policy and housekeeping amendments which include:

- amendments to correct minor administrative errors
- updates to Schedule 1 Additional Permitted Uses
- update to Schedule 2 Environmental Heritage
- update Design Excellence, FSR, Land Reservation Acquisition, Heritage, Land Zoning, Height of Buildings and Lot Size maps to maintain currency and correct errors and anomalies relating to boundaries, labelling and property descriptions
- update the Land Reservation Acquisition Map to remove sites that have been acquired
- remove a heritage item as the original building was demolished
- minor zoning and control amendments for land at 11 Station Street, Arncliffe (see **Table 2**).

Table 2 Current and proposed controls for 11 Station Street, Arncliffe

Control	Current	Proposed
Land Zone	R2 Low Density Residential	RE1 Public Recreation
Maximum height of the buildings	8.5m	Remove control
Floor space ratio	0.5:1	Remove control
Minimum lot size	450m ²	Remove control
Land classification	Community	No change

1.1.4 State electorate and local member

The site falls within the Rockdale, Heffron and Maroubra state electorates. The Hon Stephen Kamper MP, The Hon Ron Hoenig MP and The Hon Michael Daley MP are the respective State Members.

The site falls within the Kingsford Smith and Barton federal electorates. The Hon Matt Thistlethwaite MP and The Hon Linda Burney MP are the respective Federal Members.

To the team's knowledge, none of the above MPs have made any written representations regarding the proposal. There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 13 July 2023 (**Attachment B**) determined the proposal should proceed subject to conditions.

In accordance with the Gateway determination the proposal was due to be finalised on 13 April 2024. Whilst the administrative condition relating to timeframes was not met, this is considered minor as the intent of the planning proposal is clear and it was exhibited in accordance with the Act.

The Department is satisfied that there are no outstanding issues relating to Gateway determination conditions which would prevent finalisation.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the planning proposal was publicly exhibited by Council from 16 October 2023 to 10 November 2023.

On 28 February 2024, Council resolved to proceed with the planning proposal and submit it for finalisation. No post-exhibition changes were made.

3.1 Submissions during exhibition

One community submission was received, which opposed increases in high-rises in the area due to insufficient infrastructure and traffic. The planning proposal does not propose any changes to development controls that will significantly increase permissible development density or generate demand for infrastructure.

The Department is satisfied that Council has addressed the submission.

3.2 Advice from agencies

In accordance with the Gateway determination, Council consulted with the agencies listed in **Table 3** who have provided the following feedback:

Table 3 Advice from public authorities

Agency	Advice raised	Council response
Transport for NSW	No objection raised. Provided confirmation of acquisition or land no longer required for sites to be removed from the Land Reservation Acquisition Map	Noted
Sydney Water Corporation	No comment on the basis the amendments do not result in the need for connection to water or wastewater servicing.	Noted

The Department is satisfied that there are no outstanding agency objections.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

As outlined in the Gateway determination report, the planning proposal submitted to the Department for finalisation:

- remains consistent with the relevant regional and district plans
- remains consistent with the Council's Local Strategic Planning Statement
- remains consistent with all relevant SEPPs.

The following tables indicate the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

Section 9.1 Direction 5.2 Reserving Land for Public Purposes

Direction 5.2(1) requires the approval of the relevant public authority and Planning Secretary for the reduction of reservations for land for public purposes.

Condition 1 of Gateway determination required Council to address the unresolved inconsistency with Direction 5.2 *Reserving Land for Public Purposes* prior to consultation and provide documentation that the relevant authorities no longer needed land proposed to be removed from the Land Reservations Map.

The planning proposal was updated to address Direction 5.2 and Council provided the Department with copies of the land titles confirming acquisition by public authorities prior to public exhibition. TfNSW and Sydney Water raised no objection to the planning proposal in their submissions.

The Department is satisfied that the requirements of Direction 5.2 have been met and consistency with the Direction has been resolved.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 6 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Maps have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> . Council provided comment on the draft LEP on 13 September 2024.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	Parliamentary Counsel issued a Certificate on 8 November 2024 that the draft LEP is in an appropriate form for it to be published on the NSW Legislation website.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it has strategic and site-specific merit, being justified in accordance with the strategic planning framework under the EP&A Act, including Council's Local Strategic Planning Statement, Section 9.1 Ministerial Directions and State Environmental Planning Policies
- it is consistent with the Gateway determination
- the issues raised during community and agency consultation have been adequately addressed
- there are no outstanding agency objections to the proposal.



12 November 2024

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