

PLANNING PROPOSAL

Amendment to Bayside Local Environmental Plan 2021
Wentworth Avenue Pagewood



Additional Permitted Use to allow Signage

Planning Proposal to amend Bayside LEP 2021 to enable signage as a Schedule 1 additional permitted use

Wentworth Avenue Pagewood, Pedestrian Bridge linking Eastlakes Golf Course
prepared for

Outdoor Systems

C.F. Blyth RPIA, Director



Plansight Pty Ltd
Town Planners
ABN: 48 083 364 792
13 Clive Road Eastwood NSW 2122
e: aussietroutboy@gmail.com
m: 0411 4287455

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1.0 Introduction

1.1 Background

The NSW Land & Environment Court upheld appeal No.11019 of 2006 that proposed the erection of a bridge and associated advertising signage at Eastlakes Golf Course, Wentworth Avenue Pagewood (Original Consent). The Original Consent was granted on 30th November 2006.

A Section 96 modification application was submitted to Bayside Council (**Council**) in 2016 to modify the approved signage to accommodate digital LED panels and approved by Council on 27 October 2016. The consent was activated and LED panels were erected on either side of the bridge as per the S.96 approval.

There has been some debate between the Proponent and Council as to whether the Original Consent ceased 15 years after the date on which it was granted (being 29 November 2021) by virtue of the former the *State Environmental Planning Policy No.64 Advertising and Signage*, or, whether the Original Consent ceases on 31 December 2025 by virtue of Condition of Consent 22(a). 13 imposed on the Original Consent.

Irrespective of the date on which the Original Consent ceases or ceased, the ongoing use of the advertising signage will require an amendment to the LEP, either presently or prior to December 2025, to render the Signage use permissible at the site.

1.2 Zoning History

The Wentworth Avenue bridge has digital signage panels erected on each side of the structure. When originally approved at appeal in 2006 the signage was permissible in the applicable zoning. When a conversion to digital panels was approved in 2016 by Council, the site was zoned SP2 Infrastructure in the Botany Bay LEP 2013 and signage of the type in existence was not a permissible use. It was accepted however by Council, that the signage benefitted from Existing Use Rights and a modification to the existing consent was approved.

The site is zoned now zoned SP2 Infrastructure (Classified Road) in Bayside LEP 2021 (BLEP). Signage of the type in existence on the bridge remains a use that is not permissible in the zone. Chapter 3 Advertising and Signage of State Environmental Planning Policy (Industry and Employment) 2021 provides at Cl.3.12 Duration of Consents that a consent granted under the Part ceases to be in force 15 years after the date on which it becomes effective.

Given that the Original Consent was issued on 30th November 2006, and on one view, may have expired 15 years after the date on which it became effective under S.83, it may be the case that the consent expired on 29th of November 2021.

In the alternative, if it is the case that the Original Consent does not expire until 31 December 2025, an amendment to the BLEP will be required to make the use of the signage permissible after that date.

1.3 Pre Lodgement Consultation

As required by the NSW Department of Planning and Environment document “Planning Proposals, A Guide to preparing planning proposals”, a pre lodgement meeting was held with representative of Council’s strategic Planning Branch on 9th March 2023 to respond to the scoping proposal previously submitted and discuss the intent of the Planning Proposal (PP) and what specialist consultant reports may be required in support.

Council staff were generally in support of the PP and the manner in which that was proposed to amend BLEP by including provisions within Schedule 1 of the LEP that would make the signage a permissible use on the subject site. A copy of the Scoping Proposal Advice is enclosed at Appendix 1.

The site specific nature of the proposal and the fact that the desired result was already in place pursuant to a S.96 approval dating from 2016 was noted as being significant, along with the fact that any impacts related to the operation of the signage can be factually documented through an analysis of the history of since issue of the S.96 approval.

Required specialist studies were noted as:

- *Traffic & Road Safety Assessment*
- *Visual Impact Assessment Report*
- *Lighting Impact*
- *Heritage Impact*
- *Illumination impacts on the local environment and/or biodiversity*

Subsequent to issue of advice from Council dated 13 March 2023 listing amongst other things the above studies, the applicant has been advised that the requirement to submit an illumination report relating to impacts on the local environment and/or biodiversity has been withdrawn.

In response to a request for further information dated 13th October 2023 the above studies with the exception of the Traffic & Road Safety Assessment have been expanded. In addition an ecological assessment report prepared by Lesryk Environmental Pty Ltd has been prepared.

2.0 Site Location & Context

The site of the proposal is the pedestrian golf course access bridge erected over Wentworth Avenue at Pagewood, formerly described as part Lot 1 in DP 1144655.



Fig 1. Aerial photograph of site location

The context of the site is the road corridor of Wentworth Avenue beyond which in either direction north and south lies Eastlakes Golf Course. The sides of the road are lined with vegetation.

The closest residential land is located approximately 250m to the south east. Due to the location of the signage within the road corridor, the physical separation distance, roadside vegetation and the orientation of the houses, residential land use is not part of the immediate site context.

3.0 Objectives and Intended Outcome

The objective of the proposal is to amend BLEP by including an 'additional permitted use' provision within Schedule 1 of the BLEP that would make Signage a permissible use on the subject site.

The use sought is already in place and has a history of approvals explained in Section 1.0 of this report. The necessity for the PP has arisen due to the change of zoning that has occurred over time since the original consent dating from 2006 and the interrelationship with State Environmental Planning Policy (Industry and Employment) 2021.

The existing signage panels would remain in position in the exact format they currently adopt. No change to the manner in which the digital panels operate is proposed. After a successful amendment to the BLEP a fresh development application would be submitted which would seek consent for the continued use of the bridge for the subject signage panels subject to State Environmental Planning Policy (Industry and Employment) 2021 and the Transport Corridor Outdoor Advertising Guidelines, November 2017.

The proposal is not considered significant in the strategic context as signage has constituted part of the existing environment since it was erected pursuant to the Original Consent in 2006 and modified to digital panels via a S.96 approval in 2016. Accordingly as an enabling amendment and subject to the issue of a fresh development consent no physical or other environmental change will result.

Subsequent to the making of an amendment to the BLEP, a development application will follow for the use of the bridge to carry the digital panels and upon an approval being issued the provisions of Cl.3.12 Duration of Consents in Chapter 3 *State Environmental Planning Policy (Industry and Employment) 2021* will apply.

This clause applies a 15 year life for any consent issued pursuant to that Part. At Part (2) of Clause 3.12 the consent authority may apply a period less than 15 years only if-

- (a) *before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or*
- (b) *the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or*
- (c) *the specification of a lesser period is required by another provision of this Chapter.*

These existing provisions of the SEPP allow for the consideration of strategic matters in the assessment of a development application for signage.

4.0 Explanation of Provisions

The PP seeks to include an Additional Permitted Use (APU) in Schedule 1 of Bayside Local environmental Plan to facilitate use of the subject land for Signage.

It is proposed that the following amendment be made to the LEP:

1. Amend Schedule 1 of the LEP to include the following additional permitted use

Use of certain land at Wentworth Avenue Pagewood

(1) This clause applies to the following land:

part Lot 1 in DP 1144655

*(2) Development for the purpose of **signage** is permitted with development consent*

2. Amend the Additional Permitted Uses map, Sheet APU_011, that accompanies Bayside LEP 2021 to identify where the proposed APU applies.

The PP is supported due to the fact that the intended use is already in existence and has a history of approval. No alteration or change to the manner in which the use operates is proposed to occur. The use has operated without adverse environmental impact since its commencement.

5.0 Justification of Strategic and Site Specific Merit

The Environmental Planning and Assessment Act 1979 (the EP&A Act) and the Environmental Planning and Assessment Regulation 2000 (EPA Reg.) provide for the following amongst other matters:

- *Provisions concerning the rezoning of land;*
- *requirements for preparation of a local environmental study as part of a rezoning process;*
- *matters to have regard to in the determination of a development application;*
- *approval permits etc necessary under other legislation from obtained from various authorities*

This PP has been prepared in accordance with the requirements set out in Section 3.33 of the EP&A Act in that it explains the intended outcomes of the proposed instrument. It also provides justification and an environmental analysis of the proposal.

5.1 Need for Proposal

The PP is not the result of a strategic study or report. The PP is a necessary response in order to enable the continuation of the use of the site for Signage as an additional permitted use. It is a response to the zoning of the site which currently prohibits signage and the provisions of State Environmental Planning Policy (Industry and Employment) 2021.

As such a PP is the most appropriate way to achieve the inclusion of signage as a permitted land use on the identified site.

5.2 Relationship to Strategic Planning Framework

5.2.1 Consistency with Objectives and Actions within Regional Strategies

- **A Metropolis of Three Cities: The Greater Sydney Region Plan**

The plan, prepared by the greater City Commission, sets a 40 year vision until 2056 and is to transform Sydney to a metropolis of three cities :

- *the Western Parkland City*
- *the Central River City*
- *the Eastern Harbour City.*

It seeks to create places where people can access employment, education health services and great places within 30 minutes of home.

The site would fall within the Eastern Harbor City and there are ten directions across the whole metropolis that concern infrastructure and collaboration, liveability, productivity and sustainability. Strategic objectives have been set for each of the 10 identified directions.

Specific objectives within the Plan that may be related to the subject site of the APU include the following landscape and scenic related issues:

Objective 13: Environmental heritage is identified, conserved and enhanced
Strategy 13.1 managing and monitoring the cumulative impact of development on the heritage values and character of places.

These objectives and strategies have been assessed by Heritage 21 in the accompanying Statement of heritage Impact and the following is concluded:

“The request for additional information received by the client from Bayside Council on 13 October 2023 (PP-2023/31) outlined the following

Noting that the subject site is adjoined by a state and locally listed heritage item, which is recognised for its notable scenery, the Planning Proposal will need to address Objective 13 of the Greater Sydney Region Plan, and the associated Strategy 13.1 which identifies a need to manage and monitor the cumulative impact of development on the heritage values and character of places. This will also require consideration of Planning Priority E6 Creating and renewing great places and local centres and respecting the District’s heritage and corresponding Action 20.C of the Eastern City District Plan.

As previously mentioned, the planning proposal would not involve new development in the vicinity of the locally-listed and state-listed “Botany water reserves”, The proposal seeks to continue the use of the advertising displayed on the Eastlakes Golf Club Pedestrian Footbridge, which is sufficiently sheltered from the golf course and associated reserves. The continues use of the advertising signage would not engender a negative impact on the heritage values or character of the heritage landscape. The proximity of the signage to the reserves has been identified, and it is the opinion of Heritage 21 that the continued use of such signage respects the heritage values of the place. The impact of the billboards is mitigated and managed by the surrounding landscapes shielding the view of the signs from the golf course and the nearby reserves.”

Objective 28: Scenic and Cultural Landscapes are protected
Strategy 28.1: Identify and protect scenic and cultural landscapes
Strategy 28.2: Enhance and protect views of scenic and cultural landscapes from the public realm

These objectives and strategies have been assessed by Urbis in the accompanying Visual Assessment report and the following is concluded:

“The introduction of additional permitted use to allow for future signage at the site, consistent with the existing, will have no adverse impact on the ability to protect scenic and cultural landscapes within the visual catchment.

The immediate visual context of the site is heavily influenced by the road corridor and the presence of the golf course on either side of Wentworth Avenue. The golf course setting is not highly visible in views from Wentworth Avenue due to roadside vegetation, which provides continuous screening of the golf course.

As such its scenic quality and character do not influence the visual character of the Wentworth Avenue.

Views to the site from the public realm are highly constrained by vegetation and topography concentrated along the road corridor. Oblique views that include part of the adjacent golf course and features are visible intermittently from within the road corridor, in isolated, oblique, and highly constrained views. The proposal is consistent with the existing and desired future character of the visual catchment.

Given the intended outcome of the Planning Proposal is to allow for future signage consistent with the existing, the result of any approval would have a neutral effect on view compositions and the existing visual context. Future signage would remain visually compatible with the context and character of this part of the Bayside LGA.”

(source: Urbis Visual Assessment Report digital Signage Wentworth Avenue Pagewood 10 May 2023)

As a site specific PP and bearing in mind the APU sought for the site is already in existence the proposal does not conflict with any of the strategies and objectives covered by the plan.

- **Eastern City District Plan**

The Plan covers Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West, Randwick, Strathfield, Waverley and Woollahra local government areas and is a 20 year plan operating at district level that encompasses the priorities and actions to implement the Greater Sydney Regional Plan, A Metropolis of three Cities.

The District Plan sets out planning priorities for each of the identified strategies of Infrastructure and collaboration, liveability, productivity and sustainability. Priorities for Implementation are also set.

Again as a site specific PP concerning an APU the proposal does not conflict with any to the stated planning priorities or give rise to any issue with a strategic context. Considerations

related to the impact of the PP relate to its immediate context are appropriately addressed in the accompanying expert consultant reports.

It is noted that the Eastlakes Golf Course adjacent to the bridge and road corridor is part of open space network identified as the Mill Stream and Botany wetlands Open Space Corridor at Table 5 Page 110 of the Plan.

Relevant issues in the District Plan include:

Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage and corresponding Action 20.C of the Eastern City District Plan.

As is the case in relation to the Greater Sydney Region Plan, Heritage 21 has considered this priority and action and has reached the same conclusion:

"The request for additional information received by the client from Bayside Council n 13 October 2023 (PP-2023/31) outlined the following

Noting that the subject site is adjoined by a state and locally listed heritage item, which is recognised for its notable scenery, the Planning Proposal will need to address Objective 13 of the Greater Sydney Region Plan, and the associated Strategy 13.1 which identifies a need to manage and monitor the cumulative impact of development on the heritage values and character of places. This will also require consideration of Planning Priority E6 Creating and renewing great places and local centres and respecting the District's heritage and corresponding Action 20.C of the Eastern City District Plan.

As previously mentioned, the planning proposal would not involve new development in the vicinity of the locally-listed and state-listed "Botany water reserves", The proposal seeks to continue the use of the advertising displayed on the Eastlakes Golf Club Pedestrian Footbridge, which is sufficiently sheltered from the golf course and associated reserves. The continues use of the advertising signage would not engender a negative impact on the heritage values or character of the heritage landscape. The proximity of the signage to the reserves has been identified, and it is the opinion of Heritage 21 that the continued use of such signage respects the heritage values of the place. The impact of the billboards is mitigated and managed by the surrounding landscapes shielding the view of the signs from the golf course and the nearby reserves."

*Planning Priority E16 Protecting and enhancing scenic and cultural landscapes
Objective 28: Scenic and cultural landscapes are protected
Action 64: Enhance and protect views of scenic and cultural landscapes from the public realm.*

These matters have been assessed by Urbis in the accompanying Visual Assessment report prepared by Urbis and the following is concluded:

“The introduction of additional permitted use to allow for future signage at the site, consistent with the existing, will have no adverse impact on the ability to protect scenic and cultural landscapes within the visual catchment.

The immediate visual context of the site is heavily influenced by the road corridor and the presence of the golf course on either side of Wentworth Avenue. The golf course setting is not highly visible in views from Wentworth Avenue due to roadside vegetation, which provides continuous screening of the golf course.

As such its scenic quality and character do not influence the visual character of the Wentworth Avenue. Views to the site from the public realm are highly constrained by vegetation and topography concentrated along the road corridor. Oblique views that include part of the adjacent golf course and features are visible intermittently from within the road corridor, in isolated, oblique, and highly constrained views. The proposal is consistent with the existing and desired future character of the visual catchment.

Given the intended outcome of the Planning Proposal is to allow for future signage consistent with the existing, the result of any approval would have a neutral effect on view compositions and the existing visual context. Future signage would remain visually compatible with the context and character of this part of the Bayside LGA.”

(source: Urbis Visual Assessment Report digital Signage Wentworth Avenue Pagewood 10 May 2023)

Given that the PP is for an additional permitted use being existing signage erected on a bridge over the road corridor, it raises no issues for the visual catchment, heritage, open space corridor nor any endangered community which may be evident within the adjacent open space.

5.2.2 Consistency with Council’s Community Strategic Plan or other Local Strategic Plan

5.2.2.1 Bayside Local Strategic Planning Statement (LSPS) March 2020

Council’s Strategic Planning Statement is also based upon the planning priorities of Infrastructure and collaboration, liveability, productivity and sustainability and presents a vision until 2036. At page 7 of the plan, its purpose is stated:

“.....the Bayside LSPS focuses on the vision and priorities for land use and is implemented mainly through a Local Environmental Plan (LEP). It will also inform other planning tools, such as:

- *Development control plans – that provide the detailed controls for development.*
- *Development contribution plans – to ensure that local facilities are provided as the community’s needs change and grow.”*

It will also inform the preparation of other plans such as town centre master plans and public domain plans.”

Relevant priorities in the LSPS include:

Bayside Planning Priority 9: Manage and enhance the distinctive character of the LGA through good quality urban design, respect for existing character and enhancement of the public realm

This priority has been assessed by Urbis in the accompanying Visual Assessment report and the following is concluded:

Consistency with Plans :

“The Planning Proposal has no significant impact on the distinctive character of this part of the Bayside LGA. The predominant visual character of road carriageway and streetscape vegetation will remain unaffected and any change to the character of the public realm would be imperceptible.

Further there are no residential dwellings located within the immediate visual catchment of the site. The closest private domain views would likely be from residential dwellings within Pagewood that back onto the golf course along Bay Street and Cowper Avenue (approximately 155m south-west). Existing topography and vegetation would significantly limit any potential direct views to the proposed signs from residences.

As such, the introduction of an additional permitted use under Schedule 1 of the LEP allowing for signage as a permissible use on the site would have no adverse impact on public domain views and is consistent with the goals of Bayside Planning Priority 9, as part of the Future Bayside Local Strategic Planning Statement.”

(source: Urbis Visual Assessment Report digital Signage Wentworth Avenue Pagewood 10 May 2023)

Bayside Planning Priority 11: Develop clear and appropriate controls for development of heritage items, adjoining sites and within conservation areas.

The site of the APU is adjacent to a heritage item noted as Botany Water Reserves. The accompanying Statement of Heritage impact prepared by Heritage 21 concludes:

“Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender neutral impact on the heritage significance of the subject site and heritage items in the vicinity. We therefore recommend that Bayside Council view the application favourably heritage grounds.”

(Source heritage 21 Statement of Heritage Impact, Proposed Planning Proposal at Eastlakes Golf Club Pedestrian Footbridge Job 9892 May 2023)

Bayside Planning Priority 19: Protect and improve the health of Bayside’s waterways and biodiversity.

The site of the APU is noted as being within the Mill Stream and Botany wetlands Open Space Corridor.

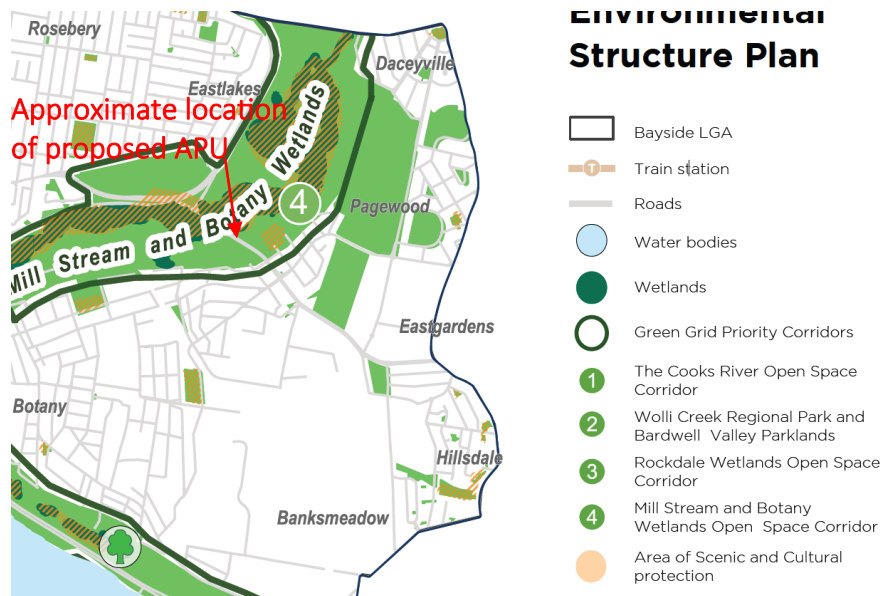


Fig 2. Site of APU (Bayside Council LSPS 2020)

The actual bridge upon which the signage is located is outside of the wetland areas and well removed from any area of high ecological value. Referencing the structure plan at Page 31 of the LSPS, the site of the APU is clearly within “road” as mapped in the Plan, reproduced on the page above.

Given the location of the PP within and above a road corridor and the fact of its existence, the proposal raises no issue in relation to the Environmental structure Plan and associated objectives and planning priority 19 set out in the LSPS.

5.2.2.2 Bayside Community Strategic Plan 2032

The Bayside Community Strategic Plan 2018 - 2023 (CSP) identifies the community’s main priorities and expectations for the future and ways to achieve these goals. The CSP includes a range of Guiding Principles related to social justice, resilient cities, and good governance.

A range of outcomes and strategies are provided which relate to the social, environmental and economic, health, sustainability and prosperity of the Bayside LGA.

The PP being an APU is not inconsistent with any of the objectives and associated strategic directions in the CSP, noting that there are no themes within the CSP that relate directly to signage or any specific association with the subject site.

5.2.3 Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the planning proposal is following Table 1:

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
State Environmental Planning Policy (Resilience and Hazards) 2021	The SEPP covers coastal management and hazardous or offensive development. As an APU whilst the site is adjacent to the Mill Stream and Botany wetlands Open space Corridor, given its existence and the fact that no work is to be carried out, the proposal will not conflict with any provision of the SEPP.	Nothing in this Planning Proposal impacts on the operation of this SEPP or conflicts with its provisions.
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3 concerns Advertising and Signage. The PP as an APU which is already in existence has been assessed as appropriate pursuant to the SEPP and its predecessor SEPP 64 Advertising and Signage. The accompanying specialist reports covering visual impact, traffic, illumination and heritage address relevant environmental impact of the proposal including the provisions of the SEPP and the Transport Corridor Guidelines and find the proposal to be complying.	Nothing in this Planning Proposal impacts on the operation of this SEPP or conflicts with its provisions.
State Environmental Planning Policy (Transport and Infrastructure) 2021	Pursuant to Chapter 3, the SEPP may require a signage development application to be referred to TfNSW owing to the traffic volume on Wentworth Avenue. The more detailed considerations of State Environmental Planning Policy (Industry and Employment) 2021 and the Transport Corridor Guidelines addressed in the accompanying traffic and road safety assessment, determine that the PP is appropriate and complying.	Nothing in this Planning Proposal impacts on the operation of this SEPP or conflicts with its provisions.

5.2.4 Consistency with Section 9.1 Ministerial Directions for Local Plan Making

An assessment of relevant Section 9.1 Directions against the planning proposal is provided in Table 2 below.

Table 2: Relevant Section 9.1 Ministerial Directions

Ministerial Direction	Objectives	Consistency and Implementation
Focus area 3: Biodiversity and Conservation		
3.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The site is situated within the vicinity of the heritage item known as Botany water reserves in BLEP 2021. As an APU proposal (no rezoning proposed) and as it exists with no further work to be carried out, nothing in the PP is contrary to the objectives of the Ministerial Direction.
Focus area 4: Resilience and Hazards		
4.2 Coastal Management	The objective of this direction is to protect and manage coastal areas of NSW.	The PP site is above a road corridor adjacent to the Mill Stream and Botany wetlands Open space Corridor, however as an APU (no rezoning proposed) and as it exists with no further work to be carried out, nothing in the PP is contrary to the objectives of the Ministerial Direction.

5.2.5 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The proposal does not entail any work or development that would affect any endangered community or habitat. Notwithstanding that an additional report has been prepared by Lesryk Environmental Pty Ltd to determine whether any areas of critical habitat or features of the signage could be utilised by a threatened species, population or ecological community.

The investigation concluded

“The areas of Biodiversity Values that were mapped (Figure 1) in the adjacent land would not be impacted by the ongoing operation and maintenance of the signs. Additionally the installation work for these signs was undertaken within the road corridor of Wentworth Avenue, therefore not impacting these areas. To permit the initial installation work, and the ongoing operation/maintenance, no vegetation was/is required to be cleared.

The signs, once installed did not present any additional barriers to the flying or movement patterns of flying species such as microbats or birds.

The installation of the two advertisement signs onto the pedestrian footbridge that spans Wentworth Avenue, Eastlake would not have had any adverse ecological impacts on any

areas of critical habitat or features that could be utilised by a threatened species, population or ecological community

(source: Lesryk Environmental Ecological Assessment – Existing Advertising Signs, Wentworth Avenue, Eastlake 24 October 2023)

5.2.6 Consistency with Bayside LEP 2021

Simply, it *might* be put that the use of the site for signage is not consistent with the BLEP 2021 in as much as signage if the type proposed is not permitted use in the applicable SP2 Infrastructure zoning. Signage has however been permissible in the past under previous planning instruments or with the benefit of existing use rights.

Consequently the use of the site for signage has previously been found to be appropriate and consents and approvals have been duly granted. The PP proposes no additional works to what were approved in the S.96 modification approved by Council on 27 October 2016.

The PP seeks to add signage on this site as an APU pursuant to the LEP and enable the use to continue with consent. A further development application would be made for the use after the successful resolution of the PP.

The PP does not conflict with any state, regional or local planning strategy and notably the provisions of SEPP (industry and Employment) 2021 require such an evaluation to be carried out at Cl.3.12 where a lesser duration than 15 years may be applied to a consent subject to strategic considerations.

As regards the balance of provisions in the BLEP 2021 such as heritage conservation at Cl.5.10 and Riparian land, wetlands and waterways the proposal remains consistent.

5.2.7 Consistency with Bayside Development Control Plan 2023

It is noted that the DCP was adopted after the scoping proposal meeting on 9th March 2023 and is effective from 10 April 2023.

The consistency of the proposal with the provisions of the DCP needs to be approached similarly to the Bayside LEP 2021 in the realisation that the current zoning does not permit signage but that there are previous consents and modification approvals granted by the Council and the Land & Environment Court when the signage was permissible in the zone or when the land had the benefit of existing use rights.

Section 3.16 of the DCP relates to Signs and Advertising. At the outset the DCP amongst other things acknowledges:

“These provisions are to be applied in conjunction with an assessment of any proposed signage under State Environmental Planning Policy (Industry and Employment) 2021.”

As such given the history of approvals, the lack of environmental impact and the existence of the use, the planning proposal is assessed as consistent with the provisions of S.3.16 of the DCP.

In relation to other provisions of the DCP that may be determined as relevant, consistency can also be established in relation to the following sections:

3.2 Design Excellence, noting the site specific design of the bridge, the simple elegant lines of the LEP panels and minor visual impact;

3.4 Heritage, noting the lack of impact on the adjacent heritage item;

3.5 Transport, Parking and Access, noting the positive traffic safety history of the site;

3.7 Landscaping, Private Open Space and Biodiversity, noting as a proposal for an APU, the lack of impact on any public open space, wetland or threatened community;

5.3 Environmental, Social and Economic Impact

5.3.1 Traffic and Road safety Impact

The PP has been subject to a detailed Traffic & Road Safety Assessment prepared by Traffic & safety Solutions (Appendix 1).

The report carries out a thorough assessment of the proposal and its history of operation since the panels were implemented on site in 2017. The assessment covers the performance of the signage in relation to:

- The Transport Corridor Outdoor Advertising and Signage Guidelines – Assessing Development Applications under SEPP 64 (November 2017)
- An analysis of the crash history of the roads in the relevant local road network;
- Referencing an earlier audit prepared by McLaren Traffic Engineering.

The assessment concludes:

“This traffic and road safety assessment for the existing digital signs has been shown to comply with the road safety criteria specified in the Department of Planning and Environment’s ‘TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINES – ASSESSING DEVELOPMENT APPLICATIONS UNDER SEPP 64 (NOVEMBER 2017)’.

The analysis of the crash history of the roads from where the proposed digital LED sign will be visible from indicates that there have been only 3 crashes occurring within the study area in the most recent 5 year period. Of these 3 crashes, only 1 crash is considered to be a crash where the sign would be potentially visible to the driver. This equates to a very low crash rate and considering that the existing signs has been in operation during since 2017,

there are no indications in the crash history that the road safety has reduced by the installation of these signs.

This is also supported by the concluding statement in the Road Safety Audits prepared by McLaren Traffic Engineering:

'The brief provided has been examined and the site inspected both during clear daylight and night periods to determine the safety impacts of the subject digital signage.

This road safety audit has found no adverse impact on road safety associated with the subject and operational digital advertising sign.'

Based on the findings of this traffic and road safety assessment report it is our professional opinion that the proposed digital LED sign can be recommended for approval." (source: Traffic & road Safety Assessment Existing Digital Advertising Sign Wentworth avenue Pagewood NSW 2035 Traffic & safety Solutions 4/4/2023)

5.3.2 Visual Impact assessment

A comprehensive Visual Assessment Report (VAR) has been carried out by Urbis (Appendix 2). The assessment covers the provisions of SEPP (Industry & Employment) 2021 including an assessment of the Schedule 5 Assessment Criteria, the Transport Corridor Outdoor Advertising & Signage Guidelines 2017, land use compatibility and visual compatibility.

The report also references strategic documents such as The Greater Sydney regional Plan, Eastern City District Plan and Bayside Local Planning Statement. It also includes as an appendix, an earlier visual assessment prepared by Dr Ricard Lamb dated 12 November 2021. The VAR concludes:

"▪ This report concurs with and supports the findings of Dr Richard Lamb in the Visual Impact Assessment for the site prepared in November 2021 and has been reviewed to inform this Addendum Report.

▪ The visual catchment of the site is limited in length and highly constrained by existing topography and vegetation focused north-west and south-east along the road corridor.

▪ Parts of the site may be visible in intermittent, oblique, and heavily filtered views from adjacent sections of the golf course; however, views are limited, highly constrained and do not adversely affect the visual amenity of the surrounding area.

▪ Views to the site and Planning Proposal are predominantly from within the road corridor, from moving viewing situations, experienced for short periods of time.

▪ There are no residential dwellings located in the immediate visual context of the site and a low or less risk of impacting private domain views. The proposal has high visual compatibility with the existing and future desired character of Wentworth Avenue.

▪ The proposal will not create adverse visual impacts on the heritage context of the site.

- *Subsequent to the planning proposal approval no additional visual clutter would eventuate, given the replacement of existing signage of the same size and in the same location as is existing*
- *The proposal is consistent with the relevant State and local strategic planning policies regarding visual impact.*

Urbis support the planning proposal on visual impacts grounds and urge Council to approve the proposal.” (source: Urbis Visual Assessment Report digital Signage Wentworth Avenue Pagewood 10 May 2023)

5.3.3 Heritage Impact Assessment

Heritage 21 has prepared the accompanying Statement of Heritage Impact. The heritage impact summary states as follows:

“7.1.1 Aspects of the proposal which respect or enhance the heritage significance of the subject site, and heritage items in the vicinity:

- *The planning proposal would allow the subject site to continue to be used for advertising signage.*
- *The planning proposal would seek to utilise the existing signage and would not seek to modify or include additional signage.*
- *The proposal would not seek to modify to alter fabric listed under Schedule 5 of the Bayside LEP 2021;*
- *The pedestrian bridge is located in an isolated position , away from structures and buildings listed as heritage significant within the ‘Botany water reserves’ heritage curtilage and would thus engender minimal impact to heritage significant views to these structures.*
- *The proposal would not alter or impact significant natural elements of the adjoining “Botany water reserves”, including the Sydney Freshwater Wetlands, the Eastern Suburbs Banksia Scrub, animal species and their habitats, as well as other features of the landscaping.” (Source heritage 21 Statement of Heritage Impact, Proposed Planning Proposal at Eastlakes Golf Club Pedestrian Footbridge Job 9892 May 2023)*

The assessment finds no aspect of the PP as being detrimental to heritage conservation and goes on to conclude:

“Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender neutral impact on the heritage significance of the subject site and heritage items in the vicinity. We therefore recommend that Bayside Council view the application favourably heritage grounds.” (Source heritage 21 Statement of Heritage Impact, Proposed Planning Proposal at Eastlakes Golf Club Pedestrian Footbridge Job 9892 May 2023)

5.3.4 Illumination Assessment

Electro Light has prepared a detailed Lighting Impact Assessment of the signage panels. The assessment provides an illumination assessment pursuant to the relevant design guidelines and Australian Standards. A design certification is also provided.

The assessment has found that the existing panels are operating in accordance with and in compliance with relevant Australian Standards. In summary the assessment states:

7. SUMMARY

- The existing double sided signage (Sign 1 & Sign 2) installed at the pedestrian bridge over Wentworth Ave, Pagewood, NSW, shall be commissioned on site to yield the following maximum luminances:

LUMINANCE LEVELS FOR DIGITAL ADVERTISEMENTS		
Lighting Condition	Max Permissible Luminance (cd/m2)	Compliant
Full Sun on face of Signage	No Limit	✓
Day Time Luminance (typical sunny day)	6000	✓
Morning and Evening Twilight and Overcast Weather	700	✓
Night Time	350	✓

- The signage operator must ensure that the average luminance difference between successive images does not exceed 30% to ensure compliance with AS4282. The dwell time shall be 10 seconds or greater.
- The existing double sided signage (Sign 1 & Sign 2) has been found to comply with all relevant requirements of AS 4282-2019 Control of the Obtrusive Effects of Outdoor Lighting
- The existing double sided signage (Sign 1 & Sign 2) digital signage complies with CASA Manual of Standards Part 139 - Aerodromes - Section 9.21
- In complying with the above requirements, the existing double sided signage (Sign 1 & Sign 2) should not result in unacceptable glare nor should it adversely impact the safety of pedestrians, residents or vehicular traffic. Additionally, the signage should not cause any reduction in visual amenity to nearby residences or accommodation.

(Source: Electro Light , Lighting Impact Assessment- Outdoor Signage at the pedestrian bridge over Wentworth Avenue Pagewood NSW 28th April 2023, Ref: 3048.1)

5.3.5 Social and Economic Impacts

The PP is not supported by a social or an economic impact assessment, however it is unlikely to result in adverse social or economic impacts. The proposed APU will facilitate continued use of the signage panels enabling appropriate advertising to appear on the site subject to submission of a development application after finalisation of the proposal. It will

thus have a positive economic impact from the point of view of the owner and operator of the bridge and signage infrastructure and advertisers utilising the sign.

An additional public benefit will result subject to satisfaction of Cl3.1 Aims, objectives etc, of State Environmental Planning Policy (Industry and Employment) 2021 which includes at aim (e) the following:

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

A variety of strategies is available to ensure that a public benefit results in such circumstances. The Transport Corridor Outdoor Advertising and Signage Guidelines 2017 at Chapter 4 sets out the public benefit test and explores a range of what might be appropriate public benefits, which includes:

- *improved traffic safety (road, rail, bicycle and pedestrian)*
- *improved public transport services*
- *improved public amenity within, or adjacent to, the transport corridor*
- *support school safety infrastructure and programs*
- *other appropriate community benefits such as free advertising time to promote a service, tourism in the locality, community information, or emergency messages.*

Positive social impact is thus a likely outcome upon successful agreement between an applicant and the consent authority.

5.4 State and Commonwealth Interests

5.4.1 Adequacy of Public Infrastructure

The site is fully serviced with infrastructure for utilities necessary to ensure the proper operation of the signage. The signage has been able to operate effectively since its commissioning and no additional infrastructure is required to ensure continued operation.

Transport for NSW (TfNSW), NSW Heritage and SACL(Sydney Airport) will be consulted and indeed preliminary consultation has occurred (see following).

6.0 Community Consultation

Community consultation will be undertaken as per the conditions of a Gateway determination. Council would ensure the exhibition of the Planning Proposal for a period in accordance with their notification procedures.

The consultation strategy for this Planning Proposal would include:

- Notification in locally circulated newspapers;
- Web based notification via Council's website and application tracker;

In order to focus relevant consideration Bayside Council has carried out preliminary consultation after submission of the Planning Proposal Scoping Proposal with:

- Transport for NSW (TfNSW)
- NSW Heritage
- SACL(Sydney Airport)

Should a Gateway determination be made the PP would be referred to these authorities. The responses received in the preliminary consultation are summarised below:

External	
Agency	Comment
Transport for NSW (TfNSW)	<p>The following comments were provided by TfNSW:</p> <p><i>The Proposal relates to existing digital signage on both sides of the Eastlakes Golf Course bridge over Wentworth Avenue in Pagewood. Wentworth Avenue is a SP2 Infrastructure (Classified Road) zone and the existing signage is not a permissible use in the zone in the BLEP 2021. The Proposal therefore seeks to amend BLEP 2021 by including an 'additional permitted use' provision within Schedule 1 of the BLEP 2021 that would make 'Advertising Signage' a permissible use on the subject site.</i></p> <p><i>Considering the above, TfNSW in-principle has no objection subject to the review of detailed technical reports during the statutory stakeholder consultation for the Proposal.</i></p> <p><i>Please note that the comments provided are of a preliminary nature. They are not to be interpreted as binding upon TfNSW and may change following review of the formal planning proposal in the future, should Council be supportive of the draft planning proposal.</i></p>
Heritage NSW	<p>The following comments were provided by Heritage NSW:</p> <p><i>Based on the information provided, we understood that there are no identified impacts on:</i></p>

	<ul style="list-style-type: none"> • <i>Aboriginal objects or places protected under the National Parks and Wildlife Act 1974, and/or</i> • <i>State Heritage Register items or historic archaeology protected under the Heritage Act 1977.</i>
SACL	SACL have raised no issues with the proposal.
Internal	
<i>Council's Environment Officer</i>	<p>To minimise impacts on the local environment and/or biodiversity, the planning proposal should address the following:</p> <ul style="list-style-type: none"> • Consider the <i>Australian Government National Light Pollution Guidelines for Wildlife</i> (January 2020) • All lighting must comply with <i>AS/NZS 4282:2019 Obtrusive Effects of Outdoor Lighting</i> which addresses impact of light pollution on biodiversity. • All lighting must comply with <i>AS 4282-1997 Control of the obtrusive effects of outdoor lighting</i>. • To avoid harmful effects on insects, microbats and birds, proposal must not use bright 'blue-white' LED lighting. • To avoid unintended harmful effects on wildlife, choose lighting options with little or no short wavelength (400-500 nanometres). • To protect amenity of the surrounding area, lighting must be designed to ensure no adverse impact on the amenity of the surrounding area by light overspill.

As noted in Section 1.3 of this report, the internal response noted above from Council's Environmental Officer requiring a wildlife and biodiversity impact report is understood to be no longer required.

7.0 Mapping

The following maps from the BLEP are required to be amended to achieve the intent of the Planning Proposal:

Additional Permitted Uses Map

- APU_011

8.0 Project Timeline

The Relevant Planning Authority charged with assessment and determination of the PP has discretion to determine the project. That fact that the proposal is for an additional permitted use which is already in existence is of specific note in this proposal.

The information set out in the PP report has been assembled in order to present any possible impacts and to provide justification in support of the PP to aid determination. The following timeline is suggested in accordance with Table 4 of the guideline.

STAGE	DATE
Submission of draft Planning Proposal	June 2023
Review by Council consultants	September – mid October 2023
Response to initial review	Late October 2023
Council decision	November 2023
Referral of Planning Proposal to Department of Planning & Environment for Gateway determination	November 2023
Gateway determination	January 2023
Pre-exhibition preparation and review	February 2023
Commencement and completion of public exhibition period	March 2023
Consideration of submissions	March/April 2023
Post-exhibition review and additional studies	Early April 2023
Submission to the Department for finalisation	Mid-April 2023
Gazettal of LEP amendment	June 2024

9.0 Conclusion

This Planning Proposal seeks an amendment to Bayside Local Environmental Plan 2021. The PP seeks to permit an additional permitted use in Schedule 1 for the use of Lot 1 in DP 1240836 as 'signage'.

The PP is a necessary response in order to enable the continuation of the use of the site. It is a response to the zoning of the site which currently prohibits signage and the provisions of State Environmental Planning Policy (Industry and Employment) 2021.

The Planning Proposal has been prepared in accordance with S.3.33 of the Environmental Planning & Assessment Act 1979 and the relevant guidelines prepared by the NSW Department of Planning Industry & Environment including the Local Environmental Plan Making Guideline September 2022.

The PP provides justification for the proposed amendment to BLEP and is considered to have site specific merit being an APU. Further it does not conflict with any strategic planning objectives, plans or policies applicable to the site.

It is therefore recommended that Bayside City Council resolves to support and forward this Planning Proposal to the Department of Planning and Environment for Gateway determination in accordance with the Environmental Planning and Assessment Act 1979.

C.F.Blyth RPIA Director

Plansight Pty Ltd

Docs/PPReport-Digital Signage Wentworth Avenue Pagewood

APPENDIX 1

13 March 2023

Our Ref: 23/63993
Our Contact: Ana Trifunovska 9562 1698

Chris Blyth
Director – Plansight Pty Ltd
13 Clive Street
EASTWOOD NSW 2122

Email: aussietroutboy@gmail.com

Dear Mr Blyth,

Re: Scoping Proposal Advice – Potential Draft Planning Proposal at Wentworth Avenue Eastlakes – Advertising Signage

I refer to the meeting held on 9 March 2023 to discuss the Scoping Proposal for a potential draft Planning Proposal at Wentworth Avenue Eastlakes.

Attached is preliminary advice in response to the Scoping Proposal, which includes information obtained from referrals to relevant public agencies, and technical experts within Council.

The advice provided is preliminary in nature, in response to the submitted information with the Scoping Proposal. Comments provided are not interpreted as binding upon Council, and may change following review of the formal lodgement of a draft Planning Proposal to Council.

We trust this information will be of assistance if you proceed to the stage of submitting a draft Planning Proposal.

If you require further clarification, please do not hesitate to contact Ana Trifunovska, Senior Urban Planner on 02 9562 1698 or via email ana.trifunovska@bayside.nsw.gov.au.

Yours sincerely



Maritza Abra
Acting Manager Strategic Planning

Postal address

PO Box 21, Rockdale NSW 2216
ABN 80 690 785 443

Bayside Customer Service Centres

Rockdale Library, 444-446 Princes Highway, Rockdale
Westfield Eastgardens, 152 Bunnerong Road, Eastgardens

E council@bayside.nsw.gov.au

W www.bayside.nsw.gov.au

T 1300 581 299 | 02 9562 1666

SCOPING PROPOSAL ADVICE

Pedestrian Bridge – Advertising Signage over Wentworth Avenue, Eastlakes

Meeting: 9 March 2023, 10.00 -10.30am
Site: Pedestrian Bridge over Wentworth Avenue, Eastlakes adjoining Eastlakes Golf Club
Present: Josh Ford, Ana Trifunovska – Bayside Council
Chris Blyth – Plansight Pty Ltd

The Proposal

Construction of a pedestrian and service bridge and associated advertising signage at the subject site was considered at NSW Land and Environment Court proceedings in 2006. The appeal was upheld on 30 November 2006, however, the conditions of consent and subsequent applications state that the signage is limited to an expiry date.

In order to continue to use of the existing advertising signs, Scoping Proposal advice is sought as advertising signage is a prohibited use within the SP2 Infrastructure zone under the Bayside Local Environmental Plan 2021 (BLEP 2021).

The objective of the potential draft Planning Proposal at Wentworth Avenue, Eastlakes is to add a Clause under Schedule 1 Additional Permitted Uses of the BLEP 2021, that will permit signage.

Strategic Merit

Based on the information provided in the Scoping Proposal, the proposal does not appear to undermine strategic merit in the locality (as outlined in the strategic planning framework), as the proposal for land use permissibility is largely a site-specific matter.

To determine whether a draft Planning Proposal should be supported, Council will only be able to progress a draft Planning Proposal if it is consistent with:

- Part 3 – Justification of strategic and site-specific merit, as outlined in the Department of Planning and Environment's (DPE) Local Environmental Plan Making Guideline (September 2022).

Under the guidelines, the key assessment criteria for whether a draft Planning Proposal has strategic merit include:

- Whether the proposal gives effect to the relevant regional plan, the relevant district plan and any corridor or precinct plans applying to the site.
- Whether the proposal demonstrates consistency with the relevant LSPS that has been endorsed by DPE.
- Responds to a change in circumstances that has not been recognised by the existing planning framework.

In addition, any proposal that seeks to address this criteria needs to be supported with clear and appropriate technical studies and justification.

The proposal must have regard to the following planning documents:

- Regional Plans – A Metropolis of Three Cities: The Greater Sydney Region Plan
- District Plans – Eastern City District Plan
- Bayside Local Strategic Planning Statement (LSPS)
- Bayside Community Strategic Plan 2032
- Relevant SEPPs – including SEPP (Transport and Infrastructure) 2021 and associated Transport Corridor Outdoor Advertising and Signage Guidelines 2017
- Relevant Ministerial Directions
- Bayside LEP 2021
- Botany Bay DCP 2013

Site-Specific Merit

To determine whether a proposal should be supported and whether it has site-specific merit, Council will only be able to progress a draft Planning Proposal if it is consistent with:

- Part 3 – Justification of strategic and site-specific merit, as outlined in the DPE's Local Environmental Plan Making Guideline (*September 2022*).

Under the Guidelines, the draft Planning Proposal must be able to identify the potential environmental, social and economic impacts of the proposal, and outline proposed mitigation measures and justification. The draft Planning Proposal is to be able to demonstrate that the proposal is suitable for the site, and the site is suitable for the resultant development.

To enable Council to carry out a proper assessment of your proposal, the following technical information is required (if the proposal proceeds to lodgement):

- Planning Proposal report (prepared in accordance with DPE's LEP Plan Making Guideline – *September 2022*);
- Supporting technical documents including:
 - Traffic Impact Assessment (including information on crash and accident history)
 - Visual Impact Assessment
 - Lighting Impact Assessment (including any impacts on fauna)
 - Statement of Heritage Impact

Nomination of Category

Under the LEP Guidelines (September 2022) it is classified as a **Standard** Planning Proposal.

Bayside Council's Schedule of Fees and Charges 2022-2023 (applicable until 30 June 2023) identify the following fees for a Standard Planning Proposal:

- *Minor Planning Proposals (up to 2,000 sqm) – Stage 1 - \$45,110.00*

Authority/Agency Consultation

The Scoping Proposal was referred to the following agencies:

- Transport for NSW (TfNSW)
- NSW Heritage
- SACL (Sydney Airport)

Council has received responses from all referral agencies. In addition, referral responses have been provided by Council's Environment and Resilience team. A summary of the feedback is included in **Appendix 1**.

The agencies that Council would anticipate referral to - if a Gateway determination was to be issued – are as listed above, in addition to any agencies not listed above that may otherwise be identified in the conditions in a future Gateway Determination.

Planning Proposal Process

The following summary outlines the steps (generally) involved in making an amendment to the Bayside LEP 2021:

1. Draft Planning Proposal lodged
2. Detailed assessment of draft Planning Proposal
3. Draft Planning Proposal considered by:
 - Bayside Local Planning Panel
 - City Planning and Environment Committee
4. Council resolves to prepare a Planning Proposal (initial endorsement by Council)
5. Planning Proposal referred to the Department of Planning and Environment requesting Gateway Determination to proceed to exhibition.
6. Planning Proposal and any additional studies/information prepared and exhibited.
7. Public exhibition
8. Planning Proposal considered by City Planning and Environment Committee
9. Final endorsement by Council
10. Amendment to the BLEP 2021 is formally made upon notification.

Appendix 1 – Referral Responses

External	
Agency	Comment
Transport for NSW (TfNSW)	<p>The following comments were provided by TfNSW:</p> <p><i>The Proposal relates to existing digital signage on both sides of the Eastlakes Golf Course bridge over Wentworth Avenue in Pagewood. Wentworth Avenue is a SP2 Infrastructure (Classified Road) zone and the existing signage is not a permissible use in the zone in the BLEP 2021. The Proposal therefore seeks to amend BLEP 2021 by including an 'additional permitted use' provision within Schedule 1 of the BLEP 2021 that would make 'Advertising Signage' a permissible use on the subject site.</i></p> <p><i>Considering the above, TfNSW in-principle has no objection subject to the review of detailed technical reports during the statutory stakeholder consultation for the Proposal.</i></p> <p><i>Please note that the comments provided are of a preliminary nature. They are not to be interpreted as binding upon TfNSW and may change following review of the formal planning proposal in the future, should Council be supportive of the draft planning proposal.</i></p>
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