



IRF24/852

Gateway determination report – PP-2023-1358

Wentworth Avenue Eastlakes, Pedestrian Bridge

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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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Table 1: Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal Report – Digital Signage Wentworth Avenue
City Planning and Environment Committee Minutes - 14 February 2024
Council Resolution 28 February 2024
Statement of Heritage Impact (May 2021, Heritage 21)
Ecological Assessment Report (October 2023, Lesryk Environmental)
Lighting Impact Assessment (October 2023, Electro Light)
Traffic and Road Safety Assessment (April 2023, Outdoor Systems)
Visual Assessment Report (May 2023, Urbis)
Visual Impact Assessment Response to Council RFI (October 2023, Urbis)

1 Planning proposal

1.1 Overview

Table 2: Planning proposal details

LGA	Bayside Local Government Area
PPA	Bayside Council
NAME	Wentworth Avenue Eastlakes, Pedestrian Bridge
NUMBER	PP-2023-1358.
LEP TO BE AMENDED	Bayside LEP 2021
ADDRESS / DESCRIPTION	Pedestrian Bridge over Wentworth Avenue, Eastlakes
RECEIVED	19/03/2024
FILE NO.	IRF24/852
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that explain the intent of the proposal.

The objective of the proposal is to allow ‘signage’ as an additional permitted use (APU) to enable the ongoing use of an existing digital signage panels on each side of the bridge.

The advertising signage was originally approved through a Land and Environment Court appeal in 2006, when signage was a permissible use within the zone. Signage was also previously permitted in the SP2 Infrastructure zone of the Botany Bay LEP 2013 but is no longer permissible under SP2 Infrastructure (Classified Road) under the Bayside LEP 2021. Council receives income from advertising displayed on the existing sign (associated with the previous DA approval).

The planning proposal seeks to facilitate future development processes to formalise and regularise the existing use.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The proposal seeks to amend the Bayside LEP 2021 to make ‘signage’ an additional permitted use on the subject site. It proposes to achieve this by amending Schedule 1 *Additional Permitted Uses* and the corresponding map as follows:

1. Amend Schedule 1 of the LEP to include the following new clause:

Use of certain land at Wentworth Avenue Eastlakes

(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 to identify where the proposed APU applies.

The planning proposal should be updated prior to consultation to include a statement that the proposed provisions will be subject to Parliamentary Counsel drafting, should the proposal proceed to finalisation. A Gateway condition is recommended in this regard.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site of the proposal is the pedestrian golf course access bridge over Wentworth Avenue at Eastlakes, formerly described as part Lot 1 in DP 1144655 (**Figure 1**).

The Wentworth Avenue bridge has existing digital signage panels on each side of the bridge (**Figure 2 and 3**).

The road corridor of this part of Wentworth Avenue is surrounded by the Eastlakes Golf Course and vegetation. The closest residential land is approximately 250m to the southeast.

The site is within the Mill Stream and Botany wetlands open space corridor. The existing bridge the signage is mounted on is located above the road and is outside of the wetland areas and removed from any area of high ecological value. The site is near the Botany Water Reserves heritage item.

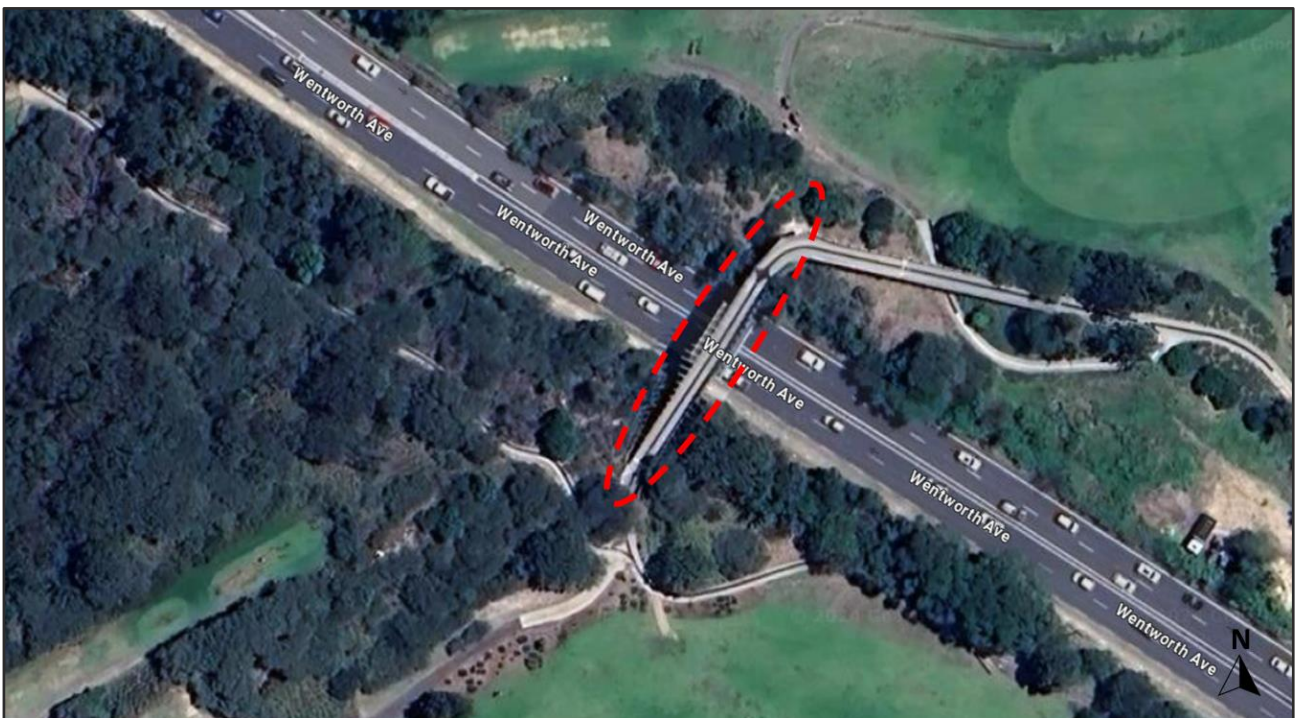


Figure 1: Subject site (source: Nearmap, 2024)



Figure 2: View of sign facing South East (source: Nearmap 2024)

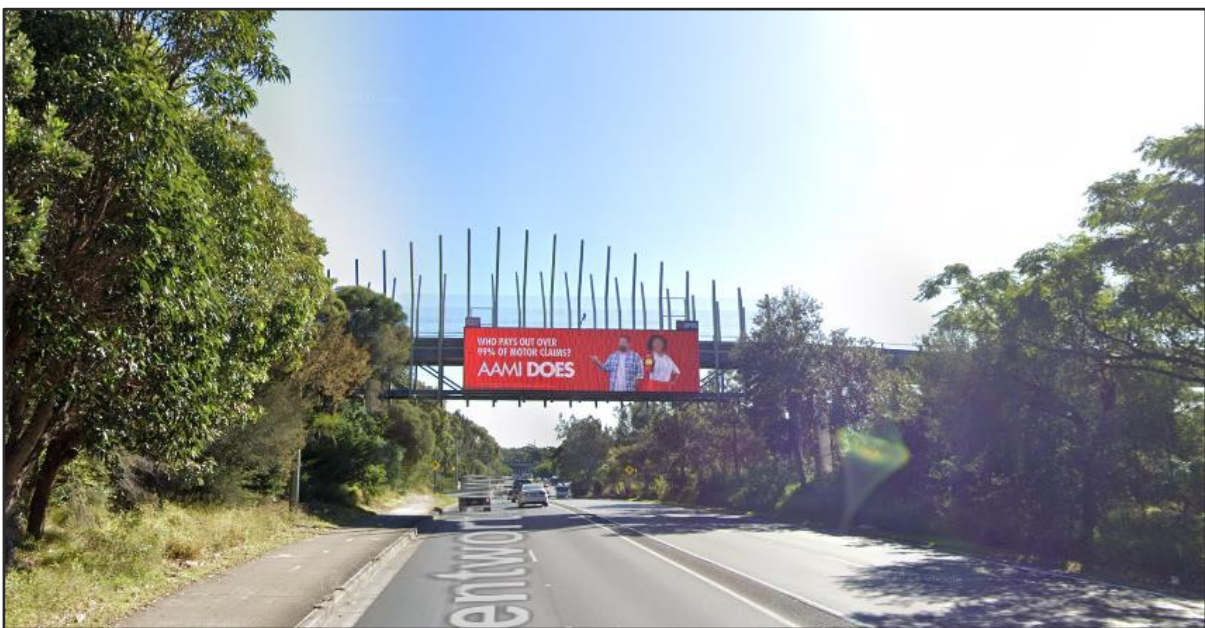


Figure 3: View of sign facing North West (source: Nearmap 2024)

1.5 Mapping

The planning proposal seeks to amend the Additional Permitted Uses Map of the Bayside LEP 2021. The proposal does not include draft mapping showing the proposed changes to the APU map. A Gateway condition is recommended for the proposal to be updated to include mapping suitable prior to community consultation.

1.6 Background

The Wentworth Avenue bridge has existing digital signage panels on each side of the bridge.

The bridge and associated advertising signage at Eastlakes Golf Course was originally approved by the NSW Land and Environment Court (appeal no.11019) on 30 November 2006 when signage was a permissible use in the SP2 Infrastructure zone under the Botany LEP 1995. This consent has expired and cannot be extended.

In 2016, the land was zoned SP2 Infrastructure under the Botany Bay LEP 2013.

On 27 October 2016, Council modified the consent to approve the conversion of the advertising signs to digital panels on the basis that the signage benefitted from existing use rights.

Under the current Bayside LEP 2021 SP2 Infrastructure (Classified Road) zone signage is a prohibited use.

To remedy this, on 29 June 2023 the proponent submitted a request for a planning proposal to expand the permissible uses (via an Additional Permitted Use) to include signage.

Council appointed The Planning Studio to undertake an independent assessment of the PP, because Council receives income generated by the existing advertising signage under the previous DA approval. Council commissioned independent peer reviews of the Traffic and Safety Assessment and Statement of Heritage Impact Assessment which determined that any potential impacts had been considered and were adequately addressed.

Council requested additional information in October 2023. The proponent submitted updated information on 27 October 2023.

The Bayside Local Planning Panel considered the proposal on 5 December 2023.

On 28 February 2024, Council resolved to submit the planning proposal for Gateway determination.

2 Need for the planning proposal

The planning proposal is not a result of a strategic study or report. The proposal seeks to regularise the existing use on the site which was approved when signage was permissible in the relevant zone under the previous LEP. Signage is not permissible in the zone under the current Bayside LEP 2021.

The need for the planning proposal has arisen from the lapsing consent of a development application. The existing advertisements are no longer a permitted use in the sites zoning. The proposal will facilitate the introduction of an APU to allow the existing structures to remain. This will permit future development processes to formalise and regularise the existing use.

To make signage a permissible use on the site and regularise the ongoing use of advertising signage an amendment to the Bayside LEP 2021 is required. A planning proposal is the best means of amending the LEP.

Council seeks to permit signage as an APU on the site to achieve this. The planning proposal is considered to be the best means of achieving the objectives and intended outcomes of this proposal. Longer term, Council should consider the permissibility of signage in the SP2 Infrastructure and other zones of the Bayside LEP 2021 more broadly.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan – *A Metropolis of Three Cities* (the Region Plan) was released by the NSW Government in 2018. The Plan contains objectives, strategies and actions which seek to manage growth and change across Greater Sydney over the next 20 years.

Under section 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning proposal is to give effect to the relevant District Plan. By giving effect to the District Plan, the proposal is also consistent with the Regional Plan. Consistency with the District Plan is assessed in section 3.2 below.

3.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the EP&A Act. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4: District Plan assessment

District Plan Priorities	Justification
E6 Creating and renewing great places and local centres, and respecting the district's heritage	<p>This priority seeks to identify, conserve, interpret and celebrate the district's heritage values.</p> <p>The proposal is consistent with this planning priority as it seeks make signage permissible and facilitate regularising an existing structure and advertisements over Wentworth Avenue. The proposal does not seek to reduce existing heritage provisions in the LEP. The planning proposal has given adequate consideration of heritage impacts.</p> <p>The proposal is consistent with this priority.</p>
E16 Protecting and enhancing scenic and cultural landscapes	<p>This priority seeks to identify, enhance and protect the districts scenic and cultural landscapes.</p> <p>The proposal seeks to permit signage to facilitate processes to regularise the use of an existing structure and advertisements over Wentworth Avenue. It does not seek to amend the principal development standards or other provisions in the LEP. The proposal has given adequate consideration to environmental impacts and is not expected to adversely affect the district's scenic and cultural landscapes.</p> <p>The proposal is consistent with this priority.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5: Local strategic planning assessment

Local Strategies	Justification
Bayside Local Strategic Planning Statement (LSPS)	<p>The Bayside LSPS was endorsed by the Greater Sydney Commission in 2020. The LSPS seeks to provide a strategic land use vision for Bayside and aligns local planning with the objectives and priorities of the Region and District Plans.</p> <p>The planning proposal is consistent with the relevant priorities and actions of the LSPS, including:</p> <ul style="list-style-type: none"> • <i>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.</i> • <i>Bayside Planning Priority 11: Develop clear and appropriate controls for development of heritage items, adjoining sites and within conservation areas.</i> • <i>Bayside Planning Priority 19: Protect and improve the health of Bayside's waterways and biodiversity.</i> <p>The planning proposal seeks to permit signage to facilitate processes to regularise an existing advertising signage structure on the bridge. The predominant visual character is road and streetscape vegetation will remain unaffected. Council is satisfied that there is no impact on the heritage items from an existing structure and that the bridge and attached signage is located outside of the wetland areas and removed from any area of high ecological value.</p> <p>The proposal is consistent with the LSPS.</p>
Bayside 2032: Community Strategic Plan (CSP) 2018-2032	<p>Bayside 2032 sets the strategic direction for Council's Delivery Program and Operational Plans. It identifies the priorities for the future and objectives and strategies to achieve the community vision.</p> <p>The planning proposal is consistent with the Bayside 2032.</p>

3.4 Local planning panel (LPP) recommendation

On 5 December 2023 the Bayside LPP considered the proposal and provided the following advice to Council:

1. *Bayside Local Planning Panel recommends to Council that pursuant to s3.33 of the Environmental Planning and Assessment Act 1979, the draft Planning Proposal for the land occupied by the existing pedestrian bridge over Wentworth Avenue (limited to the road reserve), Eastlakes, be submitted to the Department of Planning and Environment for a Gateway determination; and*
2. *Bayside Local Planning Panel recommends to Council that following receipt of a Gateway Determination, public exhibition be undertaken and a submissions report be presented to Council.*

On 28 February 2024, Council considered the advice of the LPP and resolved to support the proposal and submit it for Gateway determination.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6: 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.4 Site Specific Provisions	Inconsistent	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The planning proposal seeks to expand permissible uses on the site to facilitate development processes to regularise the existing signage structure. It does not seek to apply overly restrictive site specific planning controls.</p> <p>The planning proposal is the best means of achieving the objectives. However, longer term council should consider reviewing the permissibility of signage in the Bayside LEP 2021 more broadly. The Department acknowledges that this is outside the scope of the current proposal and would require further review, permitting signage in appropriate zones would provide more certainty and orderly uses in the LEP.</p> <p>The inconsistency with the direction is considered minor and justified.</p>
3.2 Heritage Conservation	Consistent	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal seeks to facilitate processes to regularise the use of the existing signage structures as the LEP has changes since the original consent was issued. It does not seek to amend the principal development standards that apply to the site or reduce the existing heritage provisions in the Bayside LEP 2021.</p> <p>The site is near the Botany Water Reserves heritage item. The proposal is supported by a Heritage Impact Statement prepared by Heritage 2021 (May 2023). It concludes that the proposal would have a neutral impact on heritage and recommended it proceed.</p> <p>The planning proposal is consistent with this Direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.2 Coastal Management	Inconsistent	<p>The objective of this direction is to protect and manage coastal areas of NSW.</p> <p>The site is within the Mill Stream and Botany wetlands open space corridor. The existing bridge the signage is mounted on is located above the road and is outside of the wetland areas and well removed from any area of high ecological value.</p> <p>The planning proposal seeks to facilitate the continuing use of an existing sign. It does not seek to amend the existing development standards or coastal protection provisions.</p> <p>Inconsistency with this direction is considered minor and justified.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7: Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Resilience and Hazards) 2021	Consistent	<p>The site is adjacent to Mill Stream and Botany Open Wetlands. The SEPP requires consistency with the objectives of the <i>Coastal Management Act 2016</i>.</p> <p>The planning proposal seeks to enable the ongoing use of an existing signage structure. It does not seek to amend the land use zoning or planning controls that apply to the site.</p> <p>The proposal will not hinder the operation of the SEPP.</p>
SEPP (Industry and Employment) 2021	Consistent	<p>Chapter 3 of the Industry and Employment SEPP aims to ensure signage is compatible with the desired amenity and visual character of an area. Section 3.4(1)(a) requires signage to be permitted in another environmental planning instrument for the SEPP provisions to apply.</p> <p>The planning proposal is supported by specialist reports relating to visual impact, traffic, illumination and heritage to address the provisions of the SEPP and the 'Transport Corridor Outdoor Advertising and Signage Guidelines' (November 2017).</p> <p>The proposed APU will allow Chapter 3 Advertising and Signage to apply to the assessment of any future development applications for signage on the bridge.</p> <p>The proposal will not hinder the operation of the SEPP.</p>

SEPPs	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Transport and Infrastructure) 2021	Consistent	<p>The SEPP aims to facilitate the effective delivery of infrastructure across the state and establishes requirements for development that is likely to increase demand for infrastructure, services and facilities.</p> <p>Future development applications relating to signage on the bridge may be required to be referred to TfNSW due to the traffic volume on Wentworth Avenue.</p> <p>The proposal will not hinder the operation of the SEPP.</p>
SEPP (Biodiversity and Conservation) 2021	Consistent	<p>Chapter 2 of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve amenity of non-rural areas.</p> <p>The proposal will not hinder the operation of the SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The planning proposal seeks to introduce an APU to allow the existing advertising signage structures on the bridge to remain. There are unlikely to be significant environmental impacts resulting from the proposal.

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Visual and lighting impacts	<p>The proposal is accompanied by a Visual Assessment Report and Lighting Impact Assessment addressing the provisions of SEPP (Industry and Employment) 2021 and the relevant guidelines and standards.</p> <p>The bridge and attached signage has limited visibility from its surrounding areas due to the existing topography and vegetation along the road corridor. Visibility is limited to the road corridor from moving vehicles and being experienced for short periods of time.</p> <p>The Department is satisfied that a detailed assessment of visual and lighting impacts can be suitably undertaken as the development application stage.</p>
Impacts on environmental values	<p>The subject site is within an established road reserve. It is unlikely that critical habitat areas, threatened species, populations, or ecological communities will be adversely impacted by the planning proposal.</p>
Heritage	<p>Heritage is discussed in section 3.5 of this report.</p>

Environmental Impact	Assessment
Traffic and road safety	<p>The proposal is supported by a Traffic & Road Safety Assessment prepared by Traffic and Safety Solutions. The report concludes that the existing signage complies with the road safety criteria specified in 'Transport Corridor Outdoor Advertising and Signage Guidelines – Assessing Development Applications Under SEPP 64' (November 2017).</p> <p>Given the proposal seeks to regularise an existing sign and that the proposed APU will allow the relevant development controls and provisions of the SEPP to apply, it is unlikely there will be additional Traffic and Road Safety Impacts directly resulting from the proposal. Regardless, consultation with TfNSW is recommended.</p> <p>The Department is satisfied that there are no likely impacts adverse directly resulting from the proposal and that future impacts can be adequately addressed through future development assessment processes.</p>

4.2 Social and economic

The proposal is unlikely to generate any significant adverse social or economic impacts.

The proposal does not seek to rezone land or reduce the permissible density of land in the Bayside LGA. It seeks to enable processes to regularise the use of existing advertising signage on the pedestrian bridge which was granted consent when it was permissible under a previous LEP.

The proposal will support the continued use of the existing advertising sign which will benefit the owner and operator of the bridge and signage infrastructure who advertise on the signs, as well as Bayside Council who collect rent from the Golf Club and the sign operators.

The Department is satisfied that the proposal has adequately addressed economic impacts associated with the proposal.

4.3 Infrastructure

There is no specific infrastructure demand that will directly result from the planning proposal.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW (TfNSW).

6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 28 March 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

The Department recommends that Council not be authorised to be the local plan-making authority for this proposal as Council has financial interest in the site.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the Greater Sydney Region Plan, Eastern City District Plan, Council's Local Strategic Planning Statement, and the relevant SEPPs and Section 9.1 Directions. Inconsistency with Section 91. Direction 1.4 Site Specific Provisions and 4.2 Coastal are justified in accordance with the terms of the Direction.
- The proposal will allow for the continued use of existing advertising signage on Wentworth Avenue Eastlakes.
- An amendment to the Bayside LEP 2021 is the best means of achieving the objectives and intended outcomes of the planning proposal.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that that the inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions and 4.2 Coastal Management are minor and justified.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

1. Prior to consultation the planning proposal is to be amended to;
 - a) include mapping showing the proposed changes to the Bayside LEP Additional Permitted Uses Map
2. Consultation is required with the following public authorities:
 - Transport for NSW (TfNSW)
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway not authorise Council to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 28 March 2025.



3/06/2024

Jazmin van Veen

Director, Local Planning (North, East and Central Coast)

Assessment officer

William Pruss

Planning Officer

02 8229 2975