

Attachment D - Summary of Assessment Against Gateway Determination

Gateway Condition	Comment
1- The Planning Proposal is to be updated to:	
1(a) Remove the proposed provision which requires the preparation of a site-specific development control plan.	<p>Condition Met</p> <p>The planning proposal has been updated to remove the proposed provision of a requirement for the preparation of a site-specific development control plan.</p>
1(b) Address Section 9.1 Ministerial Direction 4.1 Flooding.	<p>Condition Met</p> <p>The planning proposal has been updated to address the requirements of Section 9.1 Direction 4.1 Flooding.</p> <p>As required under the objectives of this Direction, the proposal has considered the principles of the adopted flood study (Mascot, Rosebery and Eastlakes Floodplain Risk Management Study and Plan, 2018) to classify the flood and hazard level of the site. Reference has also been made to alignment with Principles in the 2005 Flood Plain Manual and the Flood Risk Management Manual 2023 (updated following the 2022 Flood Inquiry) as required as per the Gateway report, including:</p> <ul style="list-style-type: none"> • That during the 1% AEP flood event, the site and surrounding roads are within hazard category H1 ('no constraints') • During a PMF flood event, the site remains within hazard category H1, however with some parts of the adjacent road reserve increasing to category H2 'Unsafe for Small Vehicles.' • The proposal does not trigger objectives 3 or 4 as of the Direction as the proposal does not relate to land identified as a floodway, high hazard area, or propose to increase the FSR. The proposal also does not contain provisions that apply to areas between the flood planning area and PMF to which Special Flood Considerations apply, as this optional clause has not been adopted in the Bayside LEP. <p>Notwithstanding the above, the proposal has outlined Botany Bay DCP controls which will need to be addressed at the DA stage in relation to the design and layout. A flood evacuation plan is also proposed to be prepared at the DA stage.</p> <p>Council have not identified the site as being affected in the 1% AEP, but only during PMF events.</p> <p>The Department considers that this direction has been adequately addressed, considering the existing long-standing residential apartment use on site, and that there will be change to the existing FSR. Additionally, Council's mapping system only identifies the site as being affected by PMF, not the 1% AEP. It is therefore unlikely that the site is within the Flood Planning Area (1%AEP plus freeboard, as defined in the Flood Risk Management Manual 2023). Furthermore, the hazard category risk is low ('no constraints' during 1% AEP and PMF events).</p>

		<p>With consideration of the Authority & Government Agency Pre-lodgement guide (Local Environmental Plan Making Guideline, 2023) the Department considers that consultation with the Environment and Heritage Group, NSW Department of Planning (EHG), is not required as:</p> <ul style="list-style-type: none"> • The proposal is not clearly mapped in the Bayside LEP as being in a flood planning area (i.e., area of land below the flood planning level, meaning a defined flood event (1%AEP) plus freeboard (0.5m)) • The proposal is not inconsistent with Ministerial 9.1 Direction 4.1 Flooding. <p>However, it is considered that consultation with NSW State Emergency Services (SES) is required as:</p> <ul style="list-style-type: none"> • The proposal relates to flood prone land (i.e., land susceptible to PMF flood events) and includes an increase in the density and intensification of existing uses.
1(c)	Address consistency with Section 9.1 Ministerial Direction 4.4 Remediation of Contaminated Land, by providing a preliminary site investigation carried out in accordance with the contaminated land planning guidelines.	<ul style="list-style-type: none"> • A preliminary site investigation is currently being prepared for the planning proposal. Further updates to the planning proposal are to be carried out prior to finalisation.

2- Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:

2(a)	the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days.	<ul style="list-style-type: none"> • The planning proposal and its supporting documents will be publicly exhibited from 14 December 2023 to 1 February 2024 which meets the minimum 20 working days requirement and is also in line with the Department's requirements for exhibitions running over the Christmas closedown period.
2(b)	the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023).	<ul style="list-style-type: none"> • The exhibition documents and methodology comply with the relevant provisions of the EP&A Act 1979 and the LEP Making Guidelines as referenced in the condition.
3	Consultation with NSW Health, as the landowner of part of the site, is required.	<ul style="list-style-type: none"> • Formal consultation with NSW Health will be completed during the exhibition period and in accordance with the Gateway determination.

4	<p>Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:</p> <ul style="list-style-type: none"> • Bayside Council • Greater Cities Commission • Transport for NSW. 	<ul style="list-style-type: none"> • Formal consultation with these public authorities and Council will be completed during the public exhibition in accordance with the Gateway determination.
5	<p>A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).</p>	<ul style="list-style-type: none"> • N/A
6	<p>The LEP should be completed by 18 October 2024.</p>	<ul style="list-style-type: none"> • The LEP is on track to being completed by 18 October 2024, with the planning proposal indicating a finalisation date of May 2024.