
Bayside Local Planning Panel - Other Applications

25/03/2025

Item No	5.1
Subject	Planning Proposal to Introduce an Additional Permitted Use to 1 Highworth Avenue, Bexley
Report by	Peter Barber, Director City Futures
File	SF24/5991

Summary

SLR Consulting Australia (the Proponent) on behalf of McDonald's Properties Australia Pty Ltd (the owner) has lodged a Planning Proposal request (PP) with Bayside Council (Council) to add an Additional Permitted Use (APU) to Schedule 1 of the *Bayside Local Environmental Plan 2021* (BLEP 2021) at 1 Highworth Avenue, Bexley (the subject site).

The Planning Proposal (refer **Attachment 1**) seeks to amend the BLEP 2021 as follows:

- Introduce a new Additional Permitted Use (APU) in Schedule 1 which makes development for the purposes of 'Take-away food and drink premises' permissible with development consent on the subject site.
- Amend the Additional Permitted Uses Map to identify where the proposed APU applies.

The aim of the PP is to allow for the expansion of the car park ancillary to the McDonald's restaurant on the corner of Forest Road and Highworth Avenue, Bexley.

The subject site is currently zoned R2 Low Density Residential and contains a single dwelling. The proponent does not seek to change the zone of the subject site, and the inclusion of an APU in the BLEP 2021 would not prohibit future residential use of the site. This is considered to be the best planning approach for enabling expansion of an existing commercial operation, without sterilising the land for future residential use, in a centre that has not been flagged for any future expansion at this time.

The form and content of the PP complies with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

It is recommended that the Planning Proposal be supported.

Officer Recommendation

That the Bayside Local Planning Panel recommend to Council that:

- 1 Pursuant to s3.33 of the *Environmental Planning and Assessment Act 1979* the Planning Proposal Request to introduce an Additional Permitted Use to 1 Highworth Avenue, Bexley be submitted to the Department of Planning, Housing and Infrastructure for a Gateway determination.
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Background

On 1 July 1971, the former Council of the Municipality of Rockdale received an application seeking permission to establish a McDonald's Drive-In Restaurant on the corner of Forest Road and Highworth Avenue, Bexley.

On 16 December 2010, Don Fox Planning on behalf of the owner made a submission following the exhibition of the draft *Rockdale Local Environmental Plan 2011* (RLEP). The submission requested that the subject site and the adjoining 3 Highworth Avenue be rezoned to facilitate expansion of the restaurant.

On 2 May 2011, Council responded to the request made by Don Fox Planning. The response noted that at its meeting on 30 March 2011, Rockdale Council had resolved not to include this change in the Draft RLEP, and instead invited the proponent to submit a separate Planning Proposal.

On 31 January 2022, SLR Consulting Australia (the Proponent) on behalf of McDonald's Properties Australia Pty Ltd (the owner) lodged a Scoping Proposal with Council for the subject site. The Scoping Proposal advised that the Proponent was seeking to amend the BLEP 2021 to either:

1. Rezone the subject site to E1 Local Centre, **or**
2. Add an Additional Permitted Use (APU) allowing development for the purposes of *food and drink premises* to be permitted with consent on the land.

On 15 February 2022, a Scoping Proposal meeting between Council officers and the Proponent took place. Following the meeting, Council officers forwarded the Scoping Proposal to State agencies for their comment, in line with DPHI's *Local Environmental Plan Making Guideline*.

On 9 June 2022, Council officers issued a Scoping Proposal Letter of Advice. The Letter of Advice included the following agency requirements for the Planning Proposal:

- **NSW Office of Environment and Heritage** required a Heritage Impact Assessment (HIA) be prepared to support the PP. Heritage items within the vicinity of the subject site include:
 - I150 within BLEP 2021, 'Bexley Fire Station' on the corner of Forest Road and Queen Victoria Street, and
 - I147 within BLEP 2021, 'Street Plantings' located along Queen Victoria Street.
- **NSW Environment Protection Authority** required a Noise Impact Assessment (NIA) be prepared to support the PP due to proximity to nearby residential developments, ensuring the amenity and wellbeing of the community is protected.
- **Transport for NSW (TfNSW)** stated that, should the PP seek to rezone the site, TfNSW confirmation of vehicular access to and from the site would be required. To address these comments Council required the PP be supported by a Traffic Impact Assessment Report (TIA).

On 1 February 2024, the Proponent submitted the PP via the NSW Planning Portal. On 1 March 2022, the PP was returned to the Proponent as it did not meet the requirements for lodgement for the following reasons:

- i) The PP was not supported by a HIA and NIA, per requirements identified within the Scoping Proposal Letter of Advice dated 9 June 2022.
- ii) The PP did not correctly identify that it was seeking to introduce an APU under Schedule 1 of the BLEP 2021 per the Scoping Proposal Letter of Advice. In the letter, Council officers advised that to permit a car park as ancillary to the development, the PP should seek to permit development for the purposes of 'Takeaway food and drink premises', as opposed to 'Car park'.
- iii) Under the section titled 'Relationship to Strategic Planning Framework', the PP did not address the *Eastern City District Plan* or the *Bayside Community Strategic Plan 2032* – nor did the PP address question 5 within Part 3 of Section 2 of the Guideline.
- iv) The proponent was required to update Table 2 of the PP to address all current Section 9.1 Ministerial Directions.

On 1 July 2024, the Proponent submitted the updated PP and Council confirmed the updates met the adequacy assessment and that documentation required under the Scoping Proposal Letter of Advice was included. In line with the Guideline, Council advised that the PP would be formally lodged upon payment of Stage 1 fees, which was completed on 11 September 2024.

On 2 October 2024, Council's internal traffic and engineering specialists determined that the supporting TIA did not meet current requirements. Council officers subsequently returned the PP again, requesting an updated TIA be prepared to meet the requirements of:

- RMS's *Guide to Traffic Generating Developments 2002* and
- Section 3.5.2 of the *Bayside Development Control Plan 2022* (BDCP).

On 13 December 2024, the Proponent provided an updated TIA and Council officers progressed the assessment process as outlined in the Guideline.

Subject Site

The PP applies to land at 1 Highworth Avenue, Bexley, legally described as Lot 26 in Deposited Plan 8760. The subject site is shown in **Figure 1** below, outlined in red, and the adjacent parcels occupied by the existing McDonald's restaurant are outlined in yellow.



Figure 1: Aerial photo - subject site outlined in red. McDonald's site outlined yellow.

The subject site is rectangular in shape approximately 542m² in size. The subject site is located on the eastern side of Highworth Avenue off Forest Road. Land to the north and east of the site is predominantly single detached dwellings and to the west of the subject site, beyond the restaurant car park, is a vehicle repair workshop.

The subject site contains a single storey detached dwelling, which according to the HIA prepared by NBR & Partners Pty Ltd (NBR), was constructed around 1919.

Directly adjacent to the south of the subject site is the existing McDonald's restaurant, located on the corner of Forest Road and Highworth Avenue. The McDonald's site is irregular in shape and approximately 2,240m².

The subject site is accessible via three well-served bus routes within 500m walking distance, including:

1. Bus route 452 (Beverly Hills to Rockdale) is accessible from Forest Road at Glenfarne Street, approximately 100m walking distance from the subject site to the south. The bus route provides direct access to Rockdale, Hurstville and Beverly Hills train stations.
2. Bus route 446 (Roselands to St George Hospital) is accessible from Besborough Avenue at / before Forest Road, approximately 200m walking distance from the subject site to the west. The bus route provides access to Roselands Shopping Centre, St Georges Hospital, and Bardwell Park, Bexley North and Kogarah train stations.
3. Bus route 492 (Rockdale to Drummoyne) is accessible from St Gabriel's Catholic Church, Stoney Creek Road, approximately 500m walking distance from the subject site to the north. The bus route provides direct access to the Kingsgrove and Rockdale train stations.

There are several trees and other vegetation on the site. **Figure 2**, below, shows the frontage of the subject site, and the mature plantings in the front garden and in front of the property boundary.



Figure 2: Photo of the subject site from Highworth Avenue

Figure 3, below, shows numerous plantings along the subject site's boundary along the McDonald's site car park. Numerous mature plantings are also visible at the rear of the property.



Figure 3: Photo of the site from the vehicle entry / exit of McDonald's

SITE CONTEXT

Historical aerial imagery indicates that the McDonalds restaurant and car park were constructed between 1965 and 1977, when it replaced the former single storey dwellings along Forest Road. Notably, the restaurant has been under the operation of the current owner since its development. As with the subject site, historical aerial imagery shows the dwellings at 2, 6, 5 and 7 Highworth Avenue were constructed prior to 1943.



Figure 4: Aerial images of site and surrounds from 1943 and 2024.

To the south of the subject site are two heritage items, shown in **Figure 5** below, as follows:

- I150 within BLEP 2021, 'Bexley Fire Station' on the corner of Forest Road and Queen Victoria Street, and
- I147 within BLEP 2021, 'Street Plantings' located along Queen Victoria Street.



Figure 5: Image of BLEP 2021 Heritage Map

Figures 6 to 10, below, show context of the streetscape with **Figure 10** showing the view from the heritage significant Victoria Street.

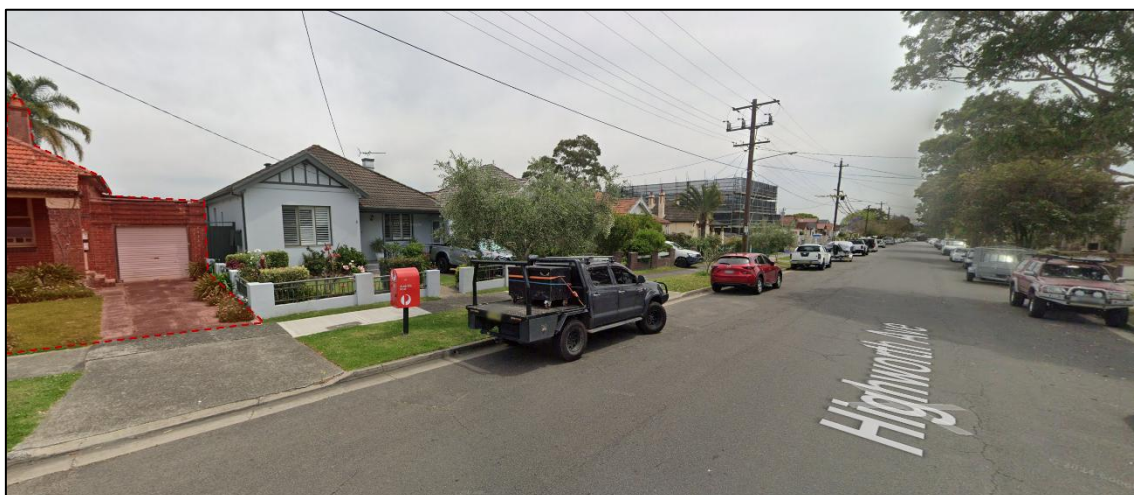


Figure 6: Image of Highworth Avenue facing west (shown in red)



Figure 7: Image of Highworth Avenue opposite the site facing north



Figure 8: Image of Highworth Avenue facing southeast towards the intersection with Forest Road



Figure 9: Image looking south to subject site (in red) and McDonald's Restaurant (in yellow)



Figure 10: Image of subject site (in red) and McDonald's (in yellow) looking northwest from heritage listed Victoria Street. Heritage listed Bexley Fire Station visible to left of photo.

Existing Controls

The subject site and adjoining McDonald's site are subject to controls under the BLEP 2021 and BDCP 2022.

Table 1: Current Controls

Control	1 Highworth Avenue	543 & 555 Forest Road
Bayside Local Environmental Plan 2021		
Zoning	R2 Low Density Residential	E1 Local Centre
Floor Space Ratio (FSR) (Cl. 4.4)	0.5:1	1:1
FSR Area (Cl. 4.4)	Area 15: Must not exceed 0.55:1 if the land is <460 m ²	N/A

Control	1 Highworth Avenue	543 & 555 Forest Road
Height of Buildings (HOB) (Cl. 4.3)	8.5 m	13 m
Acid Sulfate Soils (ASS) (Cl. 6.1)	Class 5	Class 5
Minimum Lot Size (LSZ) (Cl. 4.1)	450 m ²	N/A
Development in areas subject to aircraft noise (ANEF) (Cl 6.8)	20-25	20-25
Heritage Conservation (Cl 5.10)	Within view of local heritage items I150 and I147.	Opposite local heritage items I150 and I147.


Planning Proposal

The PP (**Attachment 1**) seeks to add an APU to the subject site within Schedule 1 of BLEP 2021 to identify 'Take-away food and drink premises' as an APU on the subject site.

The proponent does not seek to change the zone of the subject site, and the inclusion of an APU in the BLEP 2021 would not prohibit future residential use of the site. This is considered to be the best planning approach for enabling expansion of an existing commercial operation, without sterilising the land for future residential use, in a centre that has not been identified for any future expansion at this point in time.

This change would be reflected in the written and mapped instrument, as shown in **Table 2**, below.

Table 2: Proposed Additional Permitted Uses Map Changes

Additional Permitted Uses (NSW Planning Portal Spatial Viewer)	
Current	

Additional Permitted Uses (NSW Planning Portal Spatial Viewer)

Proposed



Currently, the subject site is zoned R2 Low Density Residential, under which the proposed land use is not permitted, and the McDonald's site is currently zoned E1 Local Centre.

The PP does not propose any changes to zoning, but rather seeks to add an APU to the subject site within Schedule 1 of BLEP 2021, to identify '*Take-away food and drink premises*' as an APU on the subject site.

The Proponent's PP Report states that the aim of the PP is to allow for the expansion of the car park ancillary to the restaurant on the corner of Forest Road and Highworth Avenue, Bexley.

A draft Concept Plan has been prepared by Richmond and Ross Consulting and Engineers to provide context to the intended development should the proposed changes in this PP come into effect. In total, the site's Gross Floor Area (GFA) will increase from 2,240m² to a total of 2,782m².

The draft Concept Plan visualises an expansion of the car park at the McDonald's site, by:

- Adding additional car spaces from 29 to 41 spaces,
- Relocating and widening the driveway access further away from the intersection of Highworth Avenue and Forest Road, and
- Widening the drive-through from single to dual-lane access.

The PP is supplemented by the following technical documentation:

Table 3: Supporting Documentation

Document	Doc. Abbr.	Author	Auth. Abbr.	Attachment No.
Concept Plan	-	Richmond and Ross Pty Ltd	'Richmond and Ross'	Attachment 2

Document	Doc. Abbr.	Author	Auth. Abbr.	Attachment No.
Traffic Assessment	'TIA'	Colston Budd Rogers & Kafes Pty Ltd	'CBRK'	Attachment 3
Noise Impact Assessment	'NIA'	Muller Acoustic Consulting Pty Ltd	'MAC'	Attachment 4
Heritage Impact Assessment	'HIA'	NBRS & Partners Pty Ltd	'NBRS'	Attachment 5
Lighting Performance	-	ACOR Consultants Pty Ltd	'ACOR'	Attachment 6

Assessment of Planning Proposal Request

Environmental Planning and Assessment Act 1979 (EP&A Act)

The Guideline – issued under Division 3.4 of the EP&A Act – provides guidance and information on the process for preparing Planning Proposals. The assessment of the submitted PP has been undertaken in accordance with the latest version of the Guideline, dated August 2023.

The Guideline requires an evaluation of:

- All Section 9.1 Directions and SEPPs have been adequately addressed, and
- Relevant Regional/District Plans and LSPS (if relevant) have been addressed.

Section 9.1 Directions

Section 9.1 Directions by the Minister are issued regarding the content of LEPs, to the extent that the content must achieve or give effect to principles, aims, objectives or policies set out in those directions. An assessment of the PP against the section 9.1 Directions is provided in **Table 4**, below.

Table 4: Consistency with Section 9.1 Directions

Ministerial Direction	Comment	Consistency
Focus area 1: Planning Systems		
1.3 Approval and Referral Requirements	<p>Objective: To ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>Comment: The PP will not introduce any new concurrence or referral requirements.</p>	Consistent
1.4 Site Specific Provisions	<p>Objective: To discourage unnecessarily restrictive site-specific planning controls.</p>	Consistent

Ministerial Direction	Comment	Consistency
	<p>Comment: Direction 1.4(2) states that 'A planning proposal must not contain or refer to drawings that show details of the proposed development'.</p> <p>The PP includes drawings, but does not seek to embed references to them in the Bayside LEP.</p>	
Focus area 1: Planning Systems – Place-based does not apply to this PP as none of the directions apply to this site.		
Focus area 2: Design and Place - This focus area was blank when the Directions were made.		
Focus area 3: Biodiversity and Conservation		
3.2 Heritage Conservation	<p>Objective: To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>Comment: The subject site is within the vicinity of items of environmental heritage significance. However, the HIA explains that the PP will have only minor and acceptable impacts on the heritage significance of these items.</p>	Consistent
Focus area 4: Resilience and Hazards		
4.5 Acid Sulfate Soils	<p>Objective: To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>Comment: The subject site is on land classified as Class 5 Acid Sulfate Soils (ASS). The proposed provisions of the PP do not propose intensification of land uses.</p>	Consistent
Focus area 5: Transport and Infrastructure		
5.1 Integrity Land Use and Transport	<p>Objective: To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. 	Inconsistent, but justified as minor.

Ministerial Direction	Comment	Consistency
	<p>Comment:</p> <ul style="list-style-type: none"> Increased car dependency <p>The PP seeks to apply an APU to allow <i>Take away food and drink premises</i> with the intent to facilitate expansion of the car park. The reconfiguration of the car park may improve safety for pedestrians in and around the subject site.</p> <p>Justification: As the PP only seeks expansion of an existing car park, and this may improve pedestrian safety, the inconsistency is considered minor.</p>	
Focus area 6: Housing		
6.1 Residential Zones	<p>Objectives: To:</p> <ul style="list-style-type: none"> (a) encourage a variety and choice of housing types to provide for existing and future housing needs, (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) minimise the impact of residential development on the environment and resource lands. <p>Comment: The PP will lead to the demolition of a residential dwelling. However, the land will retain a residential zoning and could be used again for this purpose in the future.</p> <p>Justification: As the PP only facilitates the loss of a single dwelling, it is of minimal impact.</p>	Inconsistent, justified as minor.
Focus area 7: Industry and Employment		
7.1 Employment Zones	<p>Objective: To:</p> <ul style="list-style-type: none"> (a) encourage employment growth in suitable locations, (b) protect employment land in employment zones, and (c) support the viability of identified centres. <p>Comment: The PP will facilitate a minor amount of additional employment on or adjacent to land in an existing E1 Local Centre zone. While the site is not strategically identified as a focus for growing employment, it is appropriate to the scale of this PP.</p>	Consistent

Ministerial Direction	Comment	Consistency
Focus area 8: Resources and Energy does not apply to this PP as it does not relate to resource and energy production or harvesting.		
Focus area 9: Primary Production does not apply to this PP as it does not relate to rural zones or lands, oyster aquaculture or farmland.		

State Environmental Planning Policies (SEPPs)

An assessment of the draft PP against the relevant SEPPs is provided below in **Table 5**.

Table 5: Consistency with relevant SEPPs

State Environmental Planning Policy (SEPP)	Comment	Consistency
(Exempt and Complying Development Codes) 2008	<p>This SEPP provides a standard set of Exempt and Complying Development provisions which apply broadly across the State. The SEPP aims to provide streamlined assessment processes for development which complies with specified development standards.</p> <p>Comment: This PP does not propose any provisions which would conflict with the SEPP or its objectives.</p>	Consistent
(Housing) 2021	<p>This SEPP facilitates development of affordable and diverse housing in the right places. The SEPP aims to increase affordable and social housing, promote housing diversity, and streamline the approval process for large residential developments.</p> <p>Comment: The PP does not propose any provisions which would conflict directly with the SEPP. The PP is seeking to apply an APU rather than a permanent rezoning, which will not prohibit future residential development.</p>	Consistent
(Biodiversity and Conservation) 2021	<p>The SEPP aims to protect biodiversity and preserve the amenity of non-rural areas through preservation of trees and other vegetation.</p> <p>Comment: This PP does not propose any provisions which would conflict with the SEPP or its objectives.</p>	Consistent
(Transport and Infrastructure) 2021	<p>Chapter 2 of this SEPP facilitates the effective delivery of infrastructure throughout the State. The chapter provides consultation requirements which apply to this land in the instance of a DA on the land.</p> <p>Comment: This PP does not propose any provisions which would conflict with the SEPP or its objectives. The PP will</p>	Consistent, subject to future Development Applications

State Environmental Planning Policy (SEPP)	Comment	Consistency
	facilitate improvement of traffic movement and safety at the intersection of Forest Road and Highworth Avenue, as well as the nearby intersections along Forest Road.	
(Industry and Employment) 2021	Chapter 3 of this SEPP aims to regulate signage and the display of advertisements in transport corridors to protect the amenity and visual character of the area. Comment: This PP does not propose any provisions which would conflict with the SEPP or its objectives.	Consistent
(Sustainable Buildings) 2022	This SEPP encourages the design and construction of more sustainable buildings across NSW. Comment: This PP does not propose any provisions which would conflict with the SEPP or its objectives.	Consistent

Strategic Planning Framework – Regional and District

Table 6: Consistency with Strategic Planning Framework

Relevant Directions, Priorities, Objectives and Actions	Comment	Consistency
Regional Plans – The Greater Sydney Region Plan – A Metropolis of Three Cities		
<i>The Greater Sydney Region Plan – A Metropolis of Three Cities (Greater City Commission, 2018) outlines the vision of three cities, being the Western Parkland, Central River, and Eastern Harbour Cities, the lattermost of which includes the Bayside LGA.</i>		
Direction 1: A city supported by infrastructure <i>Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact</i> <i>Objective 4: Infrastructure use is optimised</i>	<i>The Greater Sydney Region Plan identifies major road and public transport infrastructure projects for investigation that will support growth in the Bayside LGA. The PP facilitates development which is aligned to the future uplift in infrastructure capacity and accessibility.</i>	Consistent
Direction 5: A city of great places <i>Objective 13: Environmental heritage is identified, conserved and enhanced</i>	The PP Report is supported by a HIA (Attachment 5), which assessed the impacts of the proposed changes from the PP to heritage items I150 (Bexley Fire Station) and I147 (Street Plantings).	Consistent

Relevant Directions, Priorities, Objectives and Actions	Comment	Consistency
	The HIA found that the provisions of the PP have minor and acceptable impacts on the nearby heritage items.	
Direction 6: A well-connected city <i>Object 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</i>	The provisions of the PP support walkable and 30-minute cities by expanding employment for the local community in a location served by public transport.	Consistent
Direction 7: Jobs and skills for the city <i>Objective 22: Investment and business activity in centres</i>	<p>The PP sets out to facilitate development which will increase capacity of the current restaurant on the corner of Forest Road and Highworth Avenue, Bexley.</p> <p>In doing so, the PP supports additional employment during both the construction and operation stages of any future works.</p>	Consistent
District Plan – Our Greater Sydney 2056 – Eastern City District Plan		
<i>The Eastern City District Plan (ECDP) is a guide for implementing the Region Plan in the context of the Eastern Harbour City.</i>		
Direction 1: A city supported by infrastructure <i>Priority E1: Planning for a city supported by infrastructure</i>	<p>The Eastern City District Plan identifies major road and public transport infrastructure projects for investigation that will support growth in the Bayside LGA. The PP facilitates development which is aligned to the future uplift in infrastructure capacity and accessibility.</p>	Consistent
Direction 5: A city of great places <i>Priority E6: Creating and renewing great places and local centres and respecting the District's heritage</i>	<p>The PP Report is supported by a HIA (Attachment 5), which assessed the impacts of the proposed changes from the PP to heritage items I150 (Bexley Fire Station) and I147 (Street Plantings).</p> <p>The HIA found that the provisions of the PP have minor and acceptable impacts on the nearby heritage items.</p>	Consistent

Relevant Directions, Priorities, Objectives and Actions	Comment	Consistency
Direction 6: A well-connected city <i>Priority E10: Delivering integrated land use and transport planning and a 30-minute city</i>	The provisions of the PP support walkable and 30-minute cities by expanding employment for the local community in a location served by public transport.	Consistent
Direction 7: Jobs and skills for the city <i>Priority E12: Retaining and managing industrial and urban services land</i>	The PP facilitates the expansion of retail uses on land in or adjacent to the E1 Local Centre zone. This contributes to the protection of industrial and urban services land from encroachment by retail uses.	Consistent
Direction 8: A city in its landscape <i>Priority E17: Increasing urban tree canopy cover and delivering Green Grid connection</i>	The Bayside DCP includes requirements for car parks to include landscaping and tree canopy. This will ensure the resulting development supports this District Plan priority.	Consistent

Strategic Planning Framework – Local

Table 7: Consistency with Local Strategic Planning Framework

Relevant Directions, Priorities, Themes, Objectives and Outcomes	Comment	Consistency
Bayside Local Strategic Planning Statement		
The Bayside Local Strategic Planning Statement (LSPS) sets out a 20-year vision for land use in the LGA, including identifying special character and values to be preserved and how change will be managed. The LSPS explains how Council is implementing the planning priorities and actions of the relevant district plan, in conjunction with the Bayside Community Strategic Plan.		
Direction 1: A city supported by infrastructure <i>Priority B1: Align land use planning and infrastructure planning to support the growth of Bayside</i>	<i>The Bayside Local Strategic Planning Statement identifies major road and public transport infrastructure projects for investigation that will support growth in the Bayside LGA. The PP facilitates development which is aligned to the future uplift in infrastructure capacity and accessibility.</i>	Consistent

Relevant Directions, Priorities, Themes, Objectives and Outcomes	Comment	Consistency
Direction 6: A well connected city <i>Priority B12: Deliver an integrated land use and a 30-minute city</i>	<p>The provisions of the PP support walkable and 30-minute cities by expanding employment for the local community in a location served by public transport.</p>	Consistent
Direction 7: Jobs and skills for the city <i>Priority B15: Growing investment, business opportunity and jobs in Bayside's strategic centres and centres</i>	<p>The PP sets out to facilitate development which will increase capacity of the current restaurant on the corner of Forest Road and Highworth Avenue, Bexley.</p> <p>In doing so, the PP supports additional employment during both the construction and operational stages.</p>	Consistent
Bayside Community Strategic Plan		
<p><i>The Bayside Community Strategic Plan 2018-2032 (CSP) plans for the future of the Bayside LGA. The CSP sets the strategic direction for Council's Deliver Program and Operation Plans guided by themes and community outcomes established through research and community engagement.</i></p>		
Theme 1: In 2032 Bayside will be a vibrant place <i>Outcome 1.1: Bayside's places are accessible to all</i> <i>Outcome 1.3: Bayside's places are people focussed</i> <i>Outcome 1.4: Bayside's transport system works</i>	<p>The provisions set out within the PP allows for facilitation of parking availability of an individual business, while creating safer internal circulation and access for pedestrians and community through careful consideration of future car park layout.</p>	Consistent
Theme 2: In 2032 our people will be connected in a creative city <i>Outcome 2.3: The community feels valued and supported</i>	<p>Should a Gateway determination be issued, this PP will be subject to public exhibition, including written notification to landowners and occupants within the vicinity of the subject site.</p> <p>During exhibition, the community will have the opportunity to put forward their thoughts and considerations towards the project and future development in the area.</p>	Consistent
Theme 4: In 2032 Bayside will be a prosperous community	<p>The owner of the subject site and the adjacent land is part of the second largest fast food franchisers operating in Australia, being one store out of over</p>	Consistent

Relevant Directions, Priorities, Themes, Objectives and Outcomes	Comment	Consistency
<i>Outcome 4.2: Bayside recognises and leverages opportunities for economic development</i>	<p>1,000 in Australia. As such, taking the opportunity to leverage additional capacity along Forest Road will support economic growth within the Bayside LGA.</p> <p>Further, the restaurant which is set to benefit from the provisions of the PP has been operating since somewhere from the late 1960s to the early 1970s.</p>	
Bayside Local Housing Strategy		
<i>The Bayside Local Housing Strategy 2020-2036 (LHS) sets the strategic framework and vision for housing the Bayside LGA. It draws on existing policy and demographic trends alongside analysis of local opportunities and constraints to formulate an action plan for residential growth.</i>		
<p>The PP does not directly relate to the objectives and actions of the LHS. While the PP will facilitate the expansion of the restaurant car park at the expense of a single dwelling house, this is considered acceptable because:</p> <ul style="list-style-type: none"> • This area of the LGA is not identified for housing intensification in the LHS; • The loss of a single dwelling does not materially impact on the availability and affordability of housing across the LGA; and • The subject site will retain an R2 Low Density Residential zone, so it can be converted back to housing in future if required. <p>Consequently, the PP is considered to be consistent with the LHS.</p>		

Table 8: Consistency with the Bayside Local Environmental Plan 2021

Control	Objective	Consistency
Land Use Table		
Zone R2 Low Density Residential (subject site)	<ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day-to-day needs of residents. • To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area. • To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling. 	The land use is one that provides for the day to day needs of residents, as identified in the second objective.

Control	Objective	Consistency
Zone E1 Local Centre (Adjoining Restaurant)	<ul style="list-style-type: none"> To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. To encourage investment in local commercial development that generates employment opportunities and economic growth. To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. To encourage business, retail, community, and other non-residential land uses on the ground floor of buildings. To ensure development within the zone does not detract from the economic viability of commercial centres. To ensure the scale of development is compatible with the existing streetscape and does not adversely impact on residential amenity. To ensure built form and land uses are commensurate with the level of accessibility, to and from the centre, by public transport, walking and cycling. To create lively town centres with pedestrian focused public domain activated by adjacent building uses and landscape elements. To accommodate population growth in the Rockdale town centre through high density residential uses that complement retail, commercial and cultural premises in the town centre. 	<p>Under the BLEP 2021, an objective of this zone is to provide a range of retail, business and community uses that service the needs of people who live in, work in, or visit the area.</p> <p>The intended outcome of this PP is to expand development of the car park at the restaurant site to respond to the growing population living in, working in, or visiting the area. The PP is therefore consistent with the objectives of this zone.</p>

Part 4 Principal development standards		
Clause 4.1 Minimum subdivision lot size	<ul style="list-style-type: none"> To ensure that subdivision is consistent with the predominant subdivision pattern of the area. To minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties. To ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls. 	This PP does not seek to amend Minimum Subdivision Lot Size control for the subject land.
Clause 4.3 Height of Buildings	<ul style="list-style-type: none"> To ensure that building height is consistent with the desired future character of an area. To minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development. To nominate heights that will provide an appropriate transition in building form and land use intensity. 	This PP does not seek to amend maximum Height of Building provisions for the subject land.
Clause 4.4 Floor Space Ratio	<ul style="list-style-type: none"> To establish standards for the maximum density and intensity of land use. To ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality. To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation, To ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other 	This PP does not seek to amend Maximum Floor Space Ratio control for the subject land.

	public places such as parks and community facilities.	
Part 5 Miscellaneous provisions		
Clause 5.10 Heritage conservation	<ul style="list-style-type: none"> To conserve the environmental heritage of Bayside. To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings, and views. To conserve archaeological sites. To conserve Aboriginal objects and Aboriginal places of heritage significance. 	This PP is supported by a HIA which indicates minimal impact to heritage items within the vicinity of the subject land.
Part 6 Additional local provisions		
Clause 6.1 Acid sulfate soils	<ul style="list-style-type: none"> To ensure that development does not disturb, expose, or drain acid sulfate soils and cause environmental damage. 	The proposed provisions of the PP do not propose intensification of land uses.
Clause 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> To prevent certain noise sensitive development from being located near Sydney (Kingsford-Smith) Airport and its flight paths. To assist in minimising the impact of aircraft noise from the airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings. To ensure that development in the vicinity of that airport does not hinder or have any other adverse impact on the ongoing, safe and efficient operation of the airport. 	The proposed provisions of the PP do not propose intensification of land uses.

Consistency with the **Bayside Development Control Plan 2022** will be considered as part of any future Development Application stage(s).

Site-Specific Considerations and Technical Studies

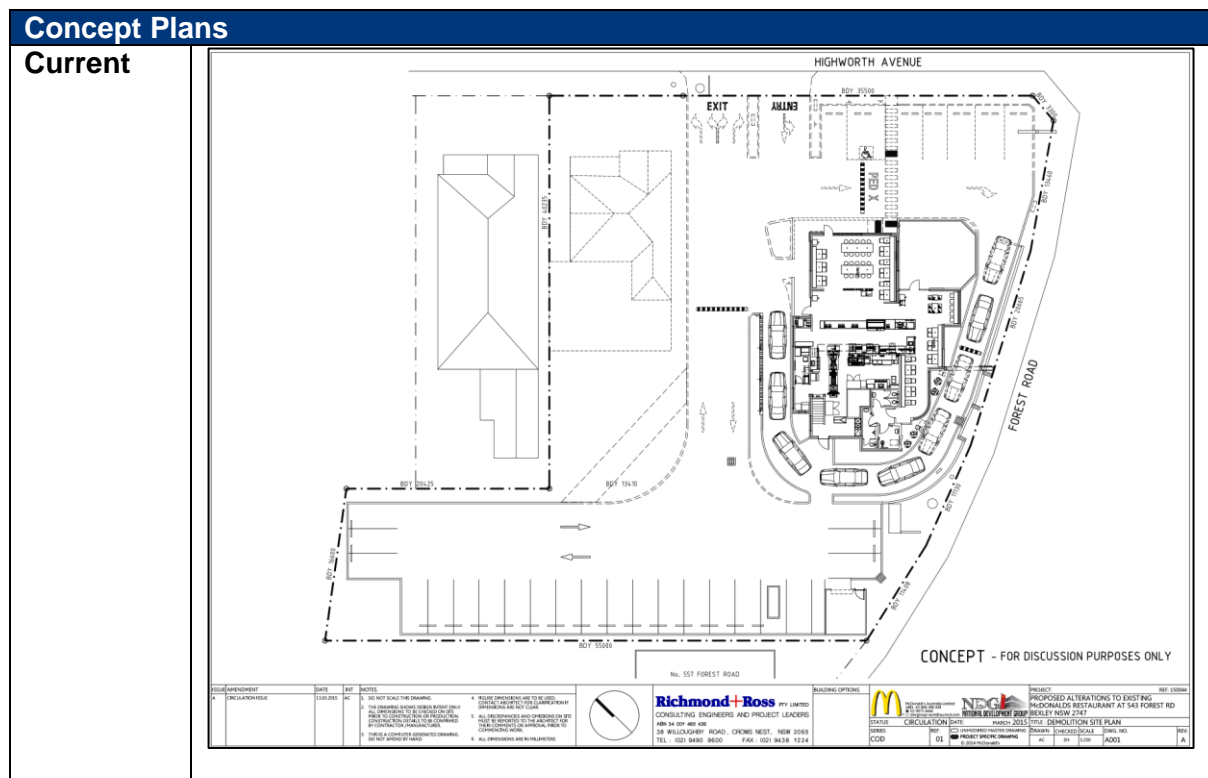
CONCEPT PLANS

The PP is supported by a draft Concept Plan prepared by Richmond and Ross (**Attachment 2**). The draft plan indicates:

- Adding additional car spaces from 29 to 41 spaces,
- Relocating and widening the driveway access further away from the intersection of Highworth Avenue and Forest Road, and
- Widening the drive-through from single to dual-lane access.

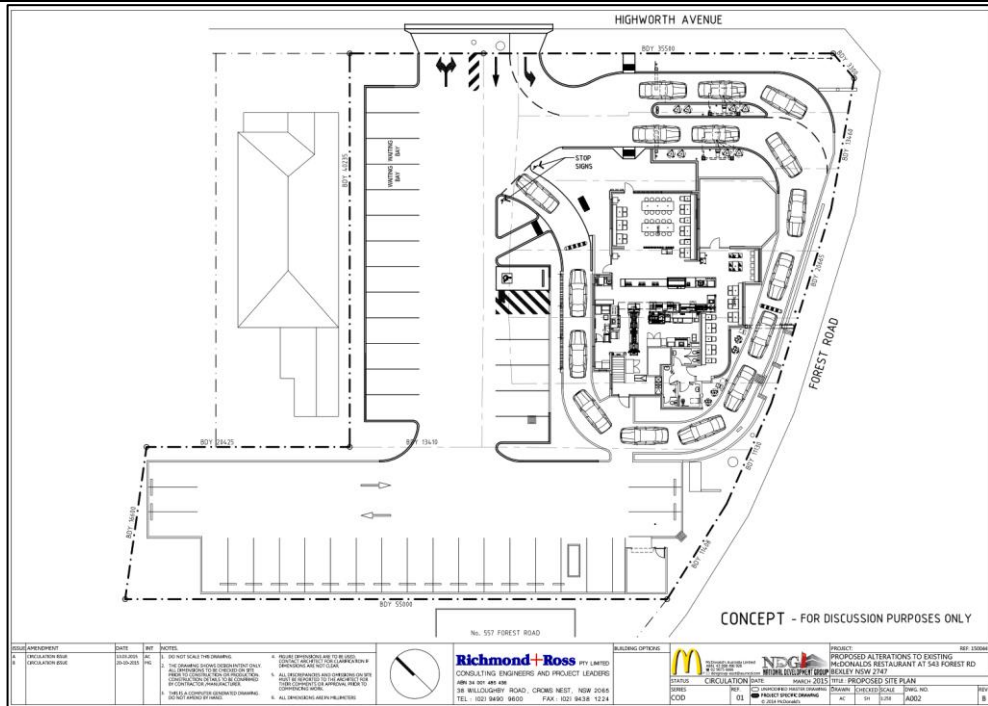
The current and draft Concept Plans are shown in **Table 9**, below.

Table 9: Current and Draft Concept Plans (Source: Concept Plan, Richmond and Ross)



Concept Plans

Draft Concept



Noting that the PP does not give consent for carrying out of the intended development, consistency of architectural plans will be considered during the DA stage(s) of any works.

TRAFFIC ASSESSMENT

In accordance with requirements under the Scoping Proposal Letter of Advice from Council – based on advice from TfNSW – the PP is supported by a TIA (**Attachment 3**) prepared by Colston Budd Rogers & Kafes Pty Ltd (CBRK). The TIA analysed the following locations:

1. Forest Road – (i) east of Queen Victoria Street, and (ii) west of Highworth Avenue;
2. Queen Victoria Street – south of Forest Road;
3. Highworth Avenue – i) north of Forest Road and ii) north of the restaurant access; and
4. The restaurant access – west of Highworth Avenue.

The approximate locations from the analysis are included in **Figure 11**, below.

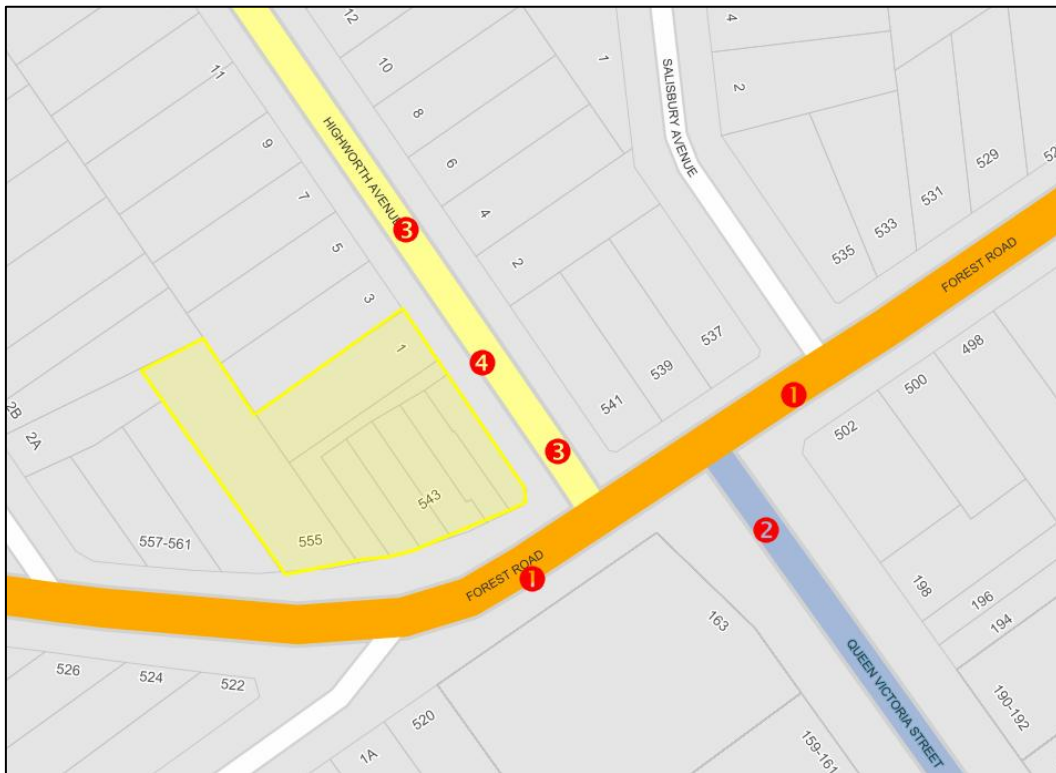


Figure 11: Approximate Locations of Traffic Study, shown in red.
Subject site & existing McDonald's site highlighted yellow.

The traffic analysis included in the report, during the weekday morning and afternoon peak hours, found that:

1. Forest Road carried some 1,100 to 1,400 vehicles per hour (two-way);
2. Queen Victoria Street carried some 800 to 950 vehicles per hour (two-way);
3. Highworth Avenue carried some 400 to 500 vehicles per hour (two-way); and
4. The restaurant access generated some 125 vehicles per hour (two-way).

In their report, CBRK noted that the expansion of the site would allow for:

- Parking on the western and southern sides of the site, separate to the drive through;
- Additional parking, from 29 to 41 spaces;
- Provision of two waiting bays;
- Accessible parking which complies with AS 2890.6-2009;
- Provision of dual drive-through lanes;
- Relocation of the access further north on Highworth Avenue; and
- Increased queuing capacity in the drive through from 9 to 17 cars.

Further detailed Traffic Assessment would be required for consideration at the DA stage(s) for any future development or associated works.

Council's internal referrals did not raise any issues with the TIA that supports the PP.

NOISE IMPACT ASSESSMENT

As required by the NSW EPA within the Scoping Proposal advice, the PP is supported by a Noise Impact Assessment (**Attachment 4**), prepared by Muller Acoustic Consulting Pty Ltd (MAC).

Notably, MAC notes that:

1. Current ambient noise environment surrounding the subject site comprises of commercial, road traffic and aircraft noise during the day period, and traffic during the evening and night periods;
2. While operating hours of the restaurant – which currently includes day, evening and night periods – are not being extended, that the operational area is being effectively expanded to incorporate the additional gross floor area of the subject site; and
3. There is expected operational and sleep disturbance noise emissions from the operation.

The report makes recommendations for the construction and operation stages of a potential DA for reasonable and feasible noise controls. The report concludes that noise emissions from the operation would satisfy the relevant Project Noise Trigger Levels at all assessed receivers for all assessment periods, conditional of recommendations imposed, to be reviewed that the DA stage of the anticipated project.

As the NIA is not necessarily pertinent to the intended changes under the PP, but was required by the EPA, it is recommended that the PP and supporting documentation be submitted to the EPA during exhibition, should a Gateway determination be issued.

HERITAGE IMPACT ASSESSMENT

As required by the NSW Office of Environment and Heritage with the Scoping Proposal Letter of Advice, the PP is supported by a HIA (**Attachment 5**), prepared by NBRs, to evaluate impact to nearby heritage items as below:

- I150 within BLEP 2021, 'Bexley Fire Station' on the corner of Forest Road and Queen Victoria Street; and
- I147 within BLEP 2021, 'Street Plantings' located along Queen Victoria Street.

The HIA evaluated the impact of the development as proposed in the draft Concept Plan submitted prepared by Richmond and Ross (**Attachment 2**).

In the HIA, NBRs concluded that the proposed demolition and development at the subject site will have *'an acceptable impact on the heritage significance of the heritage items in the vicinity'*.

Notably, the HIA found that the proposed works will not impact the items, nor their setting and frontages. It identified that the hard landscaping associated with the open car parking will be low in scale, recessive, and will not dominate the streetscape.

As the HIA is not necessarily pertinent to the intended changes under the PP, but was required by the NSW Office of Environment and Heritage (OEH), it is recommended that the PP and supporting documentation be submitted to OEH during exhibition, should a Gateway determination be issued.

LIGHTING PERFORMANCE

Due to the proximity of the proposed site to roadways and private residencies, the PP is supported by a Lighting Performance Report, prepared by ACOR (**Attachment 6**). The Lighting Performance Report provides recommendations for any future Development Application(s), based on the draft Concept Plan (**Attachment 2**).

The Lighting Performance Report recommends the following, should future proposed development proceed:

- Assuming medium night-time vehicle and/or pedestrian movements the following AS/NZS 1158.3.1:2020 technical parameters are applicable:
 - A lighting subcategory of PP2 for pedestrian pathways.
 - A lighting subcategory of PC2 for shared vehicle/pedestrian areas.
 - A lighting subcategory of PCX for pedestrian crossings.
 - A lighting subcategory of PCD for disability parking areas.
- Assuming an AS/NZS 4282:2023 environmental zone of “A3” (Medium district brightness for suburban areas in towns and cities) the following technical parameters are applicable:
 - Obtrusive lighting levels of 2 lux measured at external walls facing the proposed site (curfew).
 - Threshold increment of 1 measured at driver’s eye level in the direction of oncoming traffic.
 - Less than 2% upward waste light ratio (sky glow).
 - Maximum light fitting illuminance rating of 2,500 cd (curfew).

Further, ACOR recommend that the designer shall conduct and submit AS/NZS 1158.3.1:2020 and AS/NZS 4282:2023 calculations using the appropriate light modelling software (i.e. AGI32) and submit to the relevant McDonald’s Development manager and/or consulting engineer for review.

Satisfactory lighting designs would need to be prepared and approved in any future DAs for the site.

Conclusion

As detailed in the above, the draft Planning Proposal (PP) seeks to make an amendment to the *Bayside Local Environmental Plan 2021* for the inclusion of an Additional Permitted Use in Schedule 1 to allow development on the subject land for the purpose of *Take away food and drink premises* be permitted with development consent. The PP has been prepared in accordance with s3.33 of the *Environmental Planning and Assessment Act 1979* and the relevant guidelines prepared by the NSW Department of Planning and Environment including the *Local Environmental Plan Making Guideline* (August 2023).

The PP provides justification for the proposed amendment to the *Bayside Local Environmental Plan 2021* and is considered to have site specific merit. Further, it does not conflict with any strategic planning objectives, plans or policies applicable to the site.

The intended changes to the PP for the inclusion of an Additional Permitted Use is deemed the most appropriate method of achieving the desired outcome, rather than a more permanent rezoning of the subject site. Inclusion of an APU in the BLEP 2021 would not prohibit future residential use for the site. This is considered to be the best planning approach for enabling expansion of an existing commercial operation, without sterilising the land for future residential use, in a centre that has not been flagged for any future expansion at this time.

It is therefore recommended that the Bayside Local Planning Panel recommend to Council that, pursuant to s3.33 of the *Environmental Planning and Assessment Act 1979*, the draft Planning Proposal to introduce an Additional Permitted Use to 1 Highworth Avenue, Bexley be submitted to the Department of Planning, Housing and Infrastructure for a Gateway determination.

Attachments

- 1 [↓](#) Planning Proposal Report
- 2 [↓](#) Appendix A - Concept Plan
- 3 [↓](#) Appendix B - Traffic Assessment Report
- 4 [↓](#) Appendix C - Noise Impact Assessment
- 5 [↓](#) Appendix D - Heritage Impact Assessment
- 6 [↓](#) Appendix E - Lighting Performance Report