



City Planning & Environment Committee

6:30pm Wednesday, 13 March 2024

Venue:

Botany Town Hall, Corner Edward
Street & Botany Road, Botany

Contract Us:

1300 581 299 or 9562 1666

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PO Box 21, Rockdale NSW 2216

ABN: 80 690 785 443

City Planning & Environment Committee Meeting – Councillor Seating



Heidi Lee
DOUGLAS



Liz BARLOW



Chairperson
Jo Jansyn



Christina CURRY



Jennifer MUSCAT



**Deputy
Chairperson**
MAYOR
Bill SARAVINOVSKI



Greta WERNER

General Manager
Meredith
WALLACE

Director
Peter BARBER

Statement of Ethical Obligations

Obligations

Oath [Affirmation] of Office by Councillors

Oath

I swear that I will undertake the duties of the office of councillor in the best interests of the people of Bayside Local Government Area and the Bayside Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of Bayside Local Government Area and the Bayside Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Code of Conduct conflict of interests

Pecuniary interests

A Councillor who has a **pecuniary interest** in any matter with which the council is concerned, and who is present at a meeting of the council at which the matter is being considered, must disclose the nature of the interest to the meeting.

The Councillor must not be present at, or in sight of, the meeting:

- a) at any time during which the matter is being considered or discussed, or
- b) at any time during which the council is voting on any question in relation to the matter.

Non-pecuniary conflicts of interests

A Councillor who has a **non-pecuniary conflict of interest** in a matter, must disclose the relevant private interest in relation to the matter fully and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter.

Significant non-pecuniary interests

A Councillor who has a **significant** non-pecuniary conflict of interest in relation to a matter under consideration at a council meeting, must manage the conflict of interest as if they had a pecuniary interest in the matter.

Non-significant non-pecuniary interests

A Councillor who determines that they have a non-pecuniary conflict of interest in a matter that is **not significant** and does not require further action, when disclosing the interest must also explain why conflict of interest is not significant and does not require further action in the circumstances.

MEETING NOTICE

A meeting of the
City Planning & Environment Committee
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Wednesday 13 March 2024 at 6:30 PM**

AGENDA

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The meeting will be video recorded and live streamed to the community via Council's YouTube page, in accordance with Council's Code of Meeting Practice.

Meredith Wallace
General Manager

1 ACKNOWLEDGEMENT OF COUNTRY

Bayside Council acknowledges the traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 APOLOGIES

3 DISCLOSURES OF INTEREST

In accordance with Council's Code of Meeting Practice, Councillors are reminded of their Oath or Affirmation of Office made under Section 233A of the Local Government Act and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

4 MINUTES OF PREVIOUS MEETINGS

City Planning & Environment Committee

13/03/2024

Item No	4.1
Subject	Minutes of the City Planning & Environment Committee Meeting - 14 February 2024
Report by	Richard Sheridan, Director City Performance
File	SF23/8272

Officer Recommendation

That the Minutes of the City Planning & Environment Committee meeting held on 14 February 2024 be noted

Present

Councillor Jo Jansyn, Chairperson
Councillor Bill Saravinovski, Mayor (via audio-visual link until 7:44pm)
Councillor Heidi Lee Douglas
Councillor Liz Barlow
Councillor Christina Curry
Councillor Jennifer Muscat
Councillor Greta Werner

Also present

Councillor Ann Fardell
Councillor Scott Morrissey
Meredith Wallace, General Manager
Peter Barber, Director City Futures
Josh Ford, Coordinator Planning Policy
Robert McKinlay, Senior Urban Planner
Ana Trifunovska, Senior Urban Planner
Anh Hoang, Governance Officer
Gina Nobrega, Governance Officer
Wolfgang Gil, IT Service Management Officer

The Chairperson opened the meeting in the Committee Room, Botany Town Hall, at 6:36pm.

1 Acknowledgement of Country

The Chairperson affirmed that Bayside Council acknowledges the traditional custodians the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 Apologies and Attendance via Audio Visual link

Apologies

There were no apologies received.

Attendance Via Audio Visual Link

Committee Recommendation (Councillor Douglas and Muscat)

That Councillor Saravinovski's attendance at tonight's meeting via audio-visual link be granted.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

[4.1 Minutes of the City Planning & Environment Committee Meeting - 8 November 2023](#)

Committee Recommendation (Councillor Muscat and Douglas)

That the Minutes of the City Planning & Environment Committee meeting held on 8 November 2023 be noted.

4.2 Business Arising

There was no Business Arising.

The Committee notes that the Minutes of the City Planning & Environment Committee of Wednesday 8 November 2023 were received and the recommendations therein were adopted by the Council at its meeting of 22 November 2023.

5 Items by Exception

There were no Items by Exception.

6 Public Forum

Details associated with the presentations to the Council in relation to items on this agenda can be found in the individual items.

CPE24.001 Draft Submission on NSW Government's Transport Oriented Development Program

Written submissions were received from the following people:

- Ms Leonie Bunch, Affected Resident, FOR the Officer Recommendation

- Ms Natalie Fisher, Affected Resident, FOR the Officer Recommendation
- Mr Gibran Khouri, Affected Resident, FOR the Officer Recommendation

and were distributed to Councillors prior to the Committee Meeting.

The following people spoke at the meeting:

- Ms Leonie Bunch, Affected Resident, speaking FOR the Officer Recommendation
- Ms Natalie Fisher, Affected Resident, speaking FOR the Officer Recommendation (apology)

7 Reports

[CPE24.001 Draft Submission on NSW Government's Transport Oriented Development Program](#)

The following person spoke at the meeting:

- Ms Leonie Bunch, Affected Resident, speaking FOR the Officer Recommendation

Committee Recommendation (Councillors Barlow and Werner)

- 1 That Council endorses the draft submission to the NSW Department of Planning, Housing and Infrastructure in response to the targeted consultation on the Transport Orientated Development Program.
- 2 That feedback be provided to the Director City Futures by 5:00 pm on Tuesday, 20 February 2024 and that this feedback be included in the submission. A marked up version to also be provided to Councillors prior to the February meeting of Council.

[CPE24.002 Proposed Local Planning Agreement - Cooks Cove Planning Proposal](#)

Committee Recommendation (Councillors Saravinovski and Barlow)

- 1 That Council endorses the offer to enter into a Planning Agreement with Cooks Cove Inlet Pty Ltd for local infrastructure and development contributions resulting from the Cooks Cove Planning Proposal as detailed in this report.
- 2 That the final Draft Planning Agreement be publicly exhibited in accordance with legislative requirements.
- 3 That the General Manager and delegate(s) are authorised to negotiate and finalise all documentation necessary following the conclusion of the public exhibition period, taking into consideration any submissions.
- 4 That the final Planning Agreement be reported back to Council before execution.

Councillor Werner abstained from voting on this item.

CPE24.003 Western Sydney International Airport Flightpaths EIS - Draft Submission

Committee Recommendation (Councillors Barlow and Douglas)

That Council endorses the attached draft submission in relation to the exhibited *Environmental Impact Statement for Western Sydney International (Nancy-Bird Walton) Airport - Airspace and flight path design*.

CPE24.004 Draft Submission on Planning Proposal - 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot (Land & Housing Corporation Site)

Committee Recommendation (Councillors Muscat and Douglas)

That the draft submission (**Attachment 1**) in response to the Planning Proposal for 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot be endorsed and formally submitted to the NSW Department of Planning, Housing and Infrastructure.

Councillor Werner abstained from voting on this item.

CPE24.005 Pre-Gateway Report: Draft Planning Proposal at Wentworth Avenue, Eastlakes (Land Occupied by Pedestrian Bridge)

Committee Recommendation (Councillors Curry and Muscat)

- 1 That Council notes the advice of the Bayside Local Planning Panel;
- 2 That Council:
 - a) endorses the draft Planning Proposal for the inclusion of *Signage* as an Additional Permitted Use for the extent of land occupied by the pedestrian bridge over Wentworth Avenue, Eastlakes;
 - b) forwards the draft Planning Proposal and supporting documents to the Department of Planning, Housing and Infrastructure for a Gateway Determination with a request that Council be authorised as the Local Plan Making Authority (LPMA);
 - c) delegates authority to the General Manager to make any amendments to the Planning Proposal and supporting documents prior to public exhibition;
 - d) subject to receiving a Gateway determination from the Department of Planning, Housing and Infrastructure, and satisfying any conditions, proceeds to public exhibition for community and stakeholder input; and
 - e) considers a further report following the results of public exhibition to consider any submissions received, and any changes to the draft Planning Proposal arising from the exhibition process.

CPE24.006 Post Exhibition Report - Concept Design: Banksia/Arncliffe to Barton and Riverine Park Pedestrian and Cycle Link

Committee Recommendation (Councillors Douglas and Werner)

- 1 That the exhibited design for the Arncliffe to Barton and Riverine Park Pedestrian and cycle links project is endorsed.
- 2 That the Banksia/Arncliffe to Barton and Riverine Park Pedestrian and cycle links project proceeds to the detail design phase.
- 3 That all contributors to the engagement process be advised of the Council's decision and thanked for their submissions.

CPE24.007 Draft Submission to NSW Department of Planning and Environment - State Significant Development at 26-42 Eden Street & 161-179 Princes Highway, Arncliffe (SSD-11429726)

Committee Recommendation (Councillors Douglas and Muscat)

That Council endorses the draft submission in relation to Modification 3 for the State Significant Development Application (SSDA) for 26-42 Eden Street and 161-179 Princes Highway, Arncliffe.

CPE24.008 Post Exhibition Report - Planning Proposal for Housekeeping and Other Amendments to the Bayside LEP 2021

Committee Recommendation (Councillors Douglas and Curry)

- 1 That Council notes the submission received during exhibition of the Planning Proposal.
- 2 That Council proceeds with the Planning Proposal and forwards it to the Department of Planning, Housing and Infrastructure, as the Local Plan Making Authority, requesting that the LEP amendment be finalised.
- 3 That Council notes the Department of Planning, Housing and Infrastructure, as the Local Plan Making Authority, will determine whether the Planning Proposal will proceed, pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

CPE24.009 NSW Government Proposed Reforms to Outdoor Dining on Private Land and Live Music Venues

Committee Recommendation (Councillors Douglas and Curry)

That Council endorses the submission made on 15 November 2023 to the Department of Planning, Housing and Infrastructure in relation to the proposed reforms to Outdoor Dining on Private Land and Live Music Venues, noting that a number of the proposed reforms have already been finalised and implemented by the State Government.

The next meeting will be held in the Committee Room, Botany Town Hall, on Wednesday 13 March 2024.

The Chairperson closed the meeting at 8:40 pm.

Attachments

Nil

5 ITEMS BY EXCEPTION

These are items that have been identified to be confirmed in bulk in accordance with the Officer Recommendation and without debate. These items will not include items identified in the Public Forum, items in which councillors have declared a Significant Conflict of Interest and a Pecuniary Interest, items requiring a Division and any other item that a Councillor has identified as one they intend to speak on or vote against the recommendation

6 PUBLIC FORUM

Members of the public, who have applied to speak at the meeting, will be invited to address the meeting.

Any item the subject of the Public Forum will be brought forward and considered after the conclusion of the speakers for that item.

7 REPORTS

City Planning & Environment Committee

13/03/2024

Item No	CPE24.010
Subject	Draft Submission on Explanation of Intended Effect: Changes to Create Low and Mid-Rise Housing
Report by	Peter Barber, Director City Futures
File	F23/1050

Summary

On 15 December 2023, the Department of Planning, Housing and Infrastructure (DPHI) placed an *Explanation of Intended Effect: Changes to Create Low and Mid-Rise Housing* (the EIE) on public exhibition.

The EIE outlines planned housing reforms to permit more apartments and medium density dwellings within 800m walking distance to train stations, light rail stops and town centres. The definition of town centres includes land zoned E1 Local Centre, E2 Commercial Centre and MU1 Mixed Use. The EIE complements and expands upon the Transit Oriented Development Program (TOD program), which was reported to Council in February 2024.

The EIE has several components:

- **Mid-rise housing (4-6 storey apartments):** This part facilitates apartments on land zoned R3 Medium Density Residential or other land that allows residential flat buildings or shop top housing (R4, E1, MU1 & SP3 zones) and applies within an 800m walking distance of a train station, light rail stop or town centres.
- **Low-rise housing (Terraces, Townhouses and Manor Houses):** This part facilitates low rise medium density housing types on land zoned R2 Low Density Residential within an 800m walking distance of a train station, light rail stop or town centres.
- **Dual Occupancies:** This part facilitates dual occupancies on all land zoned R2 Low Density Residential.

The EIE specifies height of building and floor space ratio development standards and other requirements for development within 400m and 800m walking distance of a train station, light rail stop or town centres and overrides contradictory provisions in Council's LEP and DCP. The EIE implements many of these requirements as "non-refusal standards" meaning that if a development complies with the standard, it cannot be refused development consent on that basis.

The EIE definition of town centres potentially includes most of the town centres in the LGA. The EIE 800m walking distances therefore potentially apply to almost all land in the Bayside LGA and would facilitate the delivery of a very large number of homes, estimated to be the equivalent to more than 40 years of housing supply. The effect is likely to be similar in other local government areas in Greater Sydney.

The exhibition of the EIE concluded on 23 February 2024. A draft submission was provided to the DPHI pending consideration by Council.

Council's primary concerns with the proposal relates to funding and provision of infrastructure, open space and services for the community, impact on heritage and local character, impact of density and height on Port Botany and the Airport, management of natural hazards, missed opportunities for master planning, poor design outcomes and complexity of the policy.

The draft submission addresses these issues, whilst also suggesting improvements.

The purpose of this report is to seek Council's endorsement of the draft submission to enable a final Council endorsed submission to be forwarded to DPHI for consideration.

Officer Recommendation

That Council endorse the draft submission to the NSW Department of Planning, Housing and Infrastructure in response to the exhibition of the *Explanation of Intended Effect: Changes to Create Low and Mid-Rise Housing*.

Background

In the last 5 years Council has consulted with the community to develop the *Bayside Local Strategic Planning Statement 2020* (LSPS) and the *Bayside Local Housing Strategy 2021* (LHS). These documents provide strategic direction and planning actions to support the delivery of housing for the community. The LHS actions include housing targets to provide:

- 10,150 additional dwellings between 2016 and 2021,
- 7,720 additional dwellings between 2021 and 2026, and
- 8,151 additional dwellings between 2026 and 2036.

11,622 dwellings were completed in Bayside between 2016 and 2021, exceeding the housing target for that period. Subsequently, a series of external shocks such as the COVID-19 pandemic, supply chain disruptions, construction cost inflation and high interest rates have disrupted the development industry. Housing completions have therefore reduced in recent years but are likely to rebound as economic conditions improve.

On 12 September 2023 Council responded to the Minister for Planning's request to increase housing supply by noting that much work had been done to provide housing within the LGA including:

- Major projects such as the Eastlakes Shopping Centre redevelopment, the Eden Street Land and Housing Corporation redevelopment, Meriton Pagewood Green rezoning and Bayside West Precincts 2036 Plan: Arncliffe/Banksia Precincts which would together deliver more than 8,000 new dwellings.
- Council led planning proposals for the Rockdale Town Centre and Transport Interchange and the R3 Medium Density Residential Zone which will deliver 3,872 dwellings.
- Outcomes of Council's Bayside Local Housing Strategy Implementation and Delivery Plan including delivery of an Affordable Housing Strategy and master planning locations for new housing in West Kogarah, Botany Road and Bexley North.

On 15 December 2023, the *Explanation of Intended Effect: Changes to Create Low and Mid-Rise Housing* (EIE) was placed on public exhibition (**Attachment 1**). The EIE outlines reform that aims to deliver more housing in areas that the NSW Government considers have capacity to accommodate growth by capitalising on current and future investment in public infrastructure.

The EIE provides the following context for the reforms:

- The NSW Productivity Commission Report: Building More Homes Where Infrastructure Costs Less found cost of servicing new housing with infrastructure can be up to \$75,000 more expensive per dwelling in outer suburbs compared to inner suburbs.
- Across Sydney, 77% of residential areas are zoned low density, 12% medium density and 2% high density.
- Multi-dwelling housing is prohibited in 82% of low density zoned properties across Sydney.
- Dual occupancies are prohibited on 14% of low density zoned properties.

The NSW Government intends that the EIE will be in place from 1 July 2024 to support its National Housing Accord commitment to deliver at least 314,000 new homes with a stretch goal of 377,000 new homes by 2029.

The Proposed Policy

The EIE has several components:

- **Mid-rise Housing:** This part facilitates apartments on land zoned R3 Medium Density Residential or that allows residential flat buildings or shop top housing such as R4 High Density Residential, SP3 Tourist, E1 Local Centre, and MU1 Mixed Use.
 - Within 400m walking distance of a train station, light rail stop, or town centres – a proposed height of buildings development standard of 21m and Floor Space Ratio (FSR) of 3:1. These are similar to the standards applied by the proposed Transport Oriented Development (TOD) program.
 - Between 400m and 800m walking distance of a train station, light rail stop, or town centres – a proposed height of buildings development standard of 16m and FSR of 2:1.
 - No minimum lot size and lot width requirements within these areas.
 - Apartment Design Guide criteria will be amended to standardise car parking & landscaping requirements. Other requirements like building separation would be relaxed.
- **Low-rise Housing:** This part facilitates low rise medium density housing types (such as townhouses) on land zoned R2 Low Density Residential within 800m walking distance of a train station, light rail stop, or town centres.
 - **Multi-Dwelling Housing:** these are townhouse and villa developments which are typically arranged around a shared driveway or over basement parking. The EIE proposes to allow these developments on lots as small as 600m² with a width of 12m or more.

- **Multi-Dwelling Housing (Terraces):** this is a development where all dwellings are attached and face or are aligned generally along a public road. The EIE proposes to allow these developments on lots as small as 500m² with a width of 18m or more.
- **Manor Houses:** this is a two-storey residential flat building. The EIE proposes to remove the existing 4 dwelling limit on these developments and allow them on lots as small as 500m² and 12m wide.
- Depending on the specific type of development, applies a proposed height of buildings development standard of 9.5m and a FSR of 0.7 or 0.8:1.
- Car parking and tree planting requirements will be standardised.
- **Dual Occupancies:** This part facilitates dual occupancies on all land zoned R2 Low Density Residential everywhere in NSW, with a height of buildings development standard of 9.5m, a FSR of 0.65:1 and minimum lot size of 450m² and 12m lot width. Parking will be standardised as 1 space per dwelling.

For each type of development, the EIE identifies “non-refusal standards” which effectively override competing standards in Council’s LEP and DCP. For example, if the EIE specifies a building height of 21m for a development and it complies with that height, Council cannot refuse the development on that basis, regardless of any lower LEP or DCP height limit.

Impact on Bayside

Town Centres

In addition to railway stations and light rail stations, the EIE proposes to allow additional development around town centres. The EIE definition of town centres includes the following Bayside LEP 2021 zones:

- E2 Commercial Centre - including Westfield Eastgardens and centres in neighbouring LGAs such as Kingsford and Maroubra Junction.
- E1 Local Centre and MU1 Mixed Use *“But only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants.”* This could potentially capture most town centres in the Bayside LGA depending on how strictly it is interpreted by the Department.

The EIE specifically requests feedback from Council on which centres should be included on the basis of this definition. A spokesperson for the Department of Planning was quoted by the Sydney Morning Herald on 27 February 2024 as saying:

“We have indicated broad parameters only and will work with each local Council to understand the constraints and capacity options around each centre.” The spokesperson also acknowledges confusion around the definition of “full line supermarkets” by noting *“Woolworths Metro outlets vary in size and this type of supermarket will be discussed with Councils as part of the proposed reforms.”*

Council’s submission provides an assessment of each potential town centre with regard to the EIE’s criteria, constraints, and housing opportunities. **Figure 1** below shows the areas potentially affected by the EIE distances from railway stations, light rail stops and town

centres. Initial estimates suggest these walking distances could capture more than 20,000 lots in the R2 Low Density Residential zone, making up 86% of the land within that zone.

Centres, train stations and light rail stops in adjacent LGAs will also impact the Bayside LGA. In their draft submission, Randwick City Council has requested that none of their E1 zoned centres (such as Matraville) be included as centres for the purposes of the EIE. Georges River Council has recommended that Kingsgrove and parts of Hurstville be included. The City of Sydney submission has expressed concerns over the potential inclusion of Eastlakes as a centre for the purposes of the EIE due to the impact on the suburb of Rosebery.

Attachment 3 contains a zoning map and table summarising the changes to permissibility, floor space and building height by zone across the LGA.

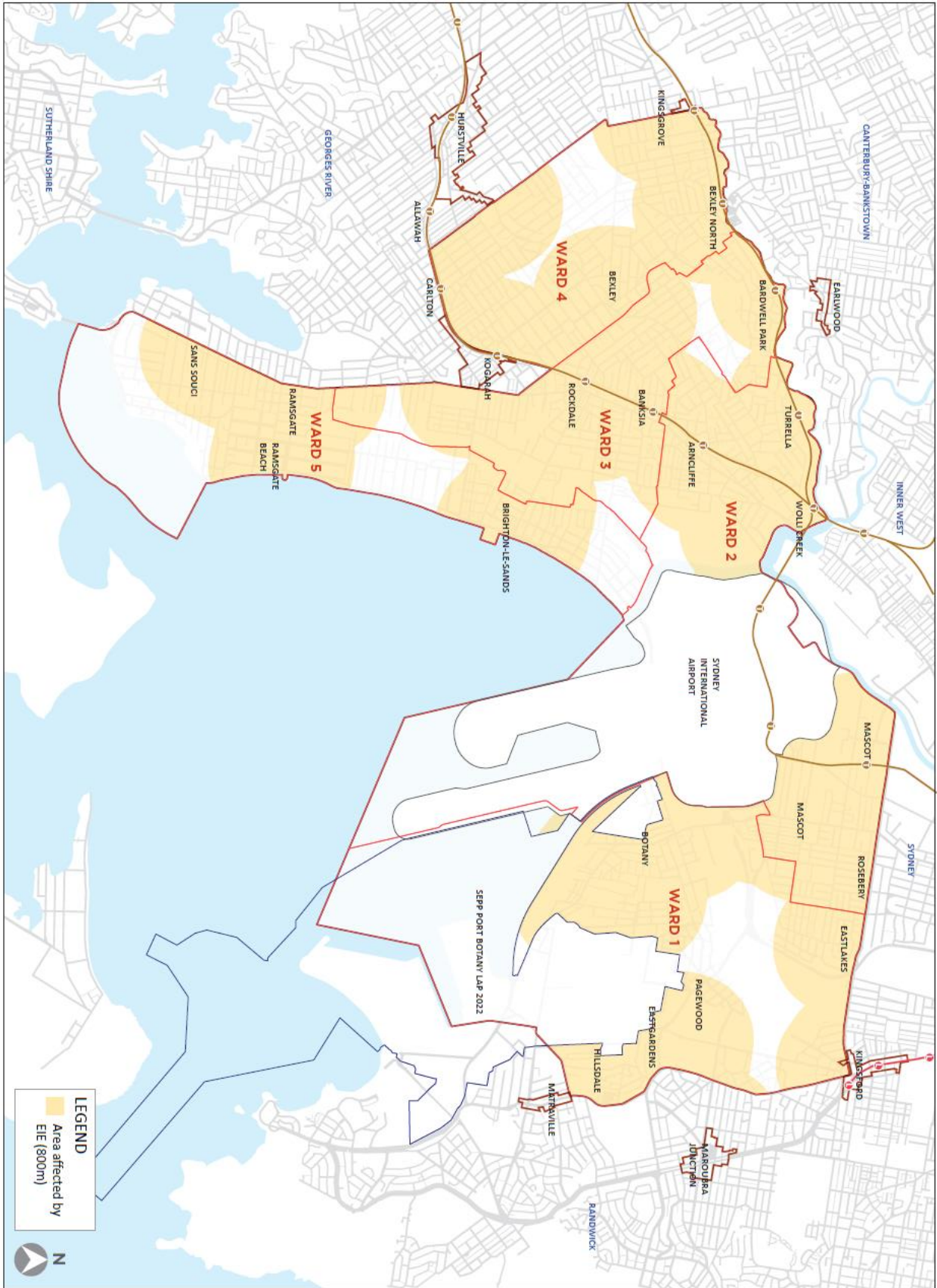


Figure 1: Map showing areas potentially identified by the EIE for additional housing density.

Mid-Rise Housing (R3, R4, MU1, E1 and SP3 zones)

Residential flat buildings or Shop-top housing are already permissible in zones R4, SP3, MU1 and E1 under the Bayside LEP 2021. The height and floor space controls for these developments vary across the LGA.

- Lower scale centres such as Bexley or Sans Souci allow development to heights of 13m to 20.5m with FSRs of 1:1 or 2:1.
- Wolli Creek and Mascot station have height limits set between 28m and 46m with FSRs of 2.2:1 up to 3.2:1.
- Rockdale centre has a building height limited to 40m but FSR is not limited, as an incentive to encourage commercial development.

The R3 zone in Bayside does not generally permit small scale residential flat buildings, except for specified areas in the former Botany LGA. Height of buildings are limited to 10 or 12m with an FSR of 0.85:1 or 1:1. In other parts of the LGA, the R3 zone allows multi dwelling housing with height of buildings at 8.5m with an FSR of 0.6:1.

Within 400m walk of a train station, light rail stop or town centre zone, the EIE will allow residential flat buildings and shop top housing to be constructed to 21m with an FSR of 3:1. Between 400m and 800m walk, this reduces to 16m and 2:1 FSR. This will apply in the R3, R4, E1, MU1 and SP3 zones.

The NSW Government's incentives for affordable rental housing allows developments to exceed height and FSR limits by 30% in exchange for providing 15% of their dwellings for affordable housing for 15 years. These bonuses will also apply to the EIE's height and floor space limits.

The key outcomes of this are:

- The R3 Medium Density Residential zone area will effectively become an R4 High Density Residential zone (for lots within 800m of a station or centre). The predominant development type in this zone will change from single dwellings and multi-dwelling housing to residential apartment buildings. Arncliffe and Brighton-Le-Sands will be heavily affected by this change.
- Precincts that were zoned and planned for a particular level of density and resident population could develop to accommodate a much larger population, with resulting pressure on infrastructure, services and amenities.
- The change in scale may create conflicts with heritage items and heritage conservation areas.
- Raised height limits in some places may create conflicts with Sydney Airport's protected airspace.
- The proposed FSRs do not align with the proposed height of buildings controls to practically accommodate residential flat buildings with appropriate amenity.

Low-Rise Housing (R2 zone)

Multi-dwelling housing is generally prohibited in Bayside's R2 Low Density Residential zone. Exceptions are granted in some areas for conversion of existing non-residential buildings, but this is rare. Height limits in the west of Bayside are generally set at 8.5m, whereas the

eastern part of Bayside has height limits between 7.5m and 10m. Floor space ratio in the west of Bayside is generally 0.5:1 whereas in the east it varies from 0.5:1 to 0.7:1.

Within 800m walk of a train station, light rail stop or town centre zone, the EIE will allow development of Multi-Dwelling Housing, Multi-Dwelling Housing (Terraces) and Manor Homes in the R2 zone. The development standards for these types generally equal or exceed the standards under the LEP in the R2 zone. The key outcomes of this are:

- The R2 Low Density Residential zone area will effectively become an R3 Medium Density Residential zone (for lots within 800m of a station or centre). The predominant development type in this zone will likely change from single dwellings and dual occupancy to Multi-Dwelling housing.
- The increased dwelling yield and the potential to amalgamate sites will likely encourage development in suburbs where small lots previously made it financially unfeasible.
- The change in scale may create conflicts with heritage items and heritage conservation areas.
- Parking requirements proposed are generally lower than required by Council's DCP.

Dual Occupancies (R2 zone)

Dual Occupancy is a common form of infill development within the R2 zone. Height limits in the west of Bayside are generally set at 8.5m, whereas the eastern part of Bayside has height limits between 7.5m and 10m. Torrens title subdivision of a dual occupancy is restricted in the west of Bayside, with current controls requiring a minimum lot size of 700m².

This part of the EIE applies to Dual Occupancies on all land zoned R2 Low Density Residential everywhere in NSW. A proposed height of buildings development standard of 9.5m will apply and a FSR of 0.65:1, minimum lot size of 450m² and 12m lot width. Parking will be standardised as 1 space per dwelling. The EIE will also facilitate subdivision of Dual Occupancies. The key outcomes of this are:

- In the west of the LGA:
 - The reduced lot size, lot width and subdivision provisions will allow more lots to develop into dual occupancies. There are approximately 9,000 land parcels in the R2 zone in the west of the LGA which could potentially take advantage of these provisions.
 - The higher floor space ratio and height limits will allow buildings to be taller and bulkier than currently allowed in the zone.
- In the east of the LGA:
 - The impacts on building form will be more limited in most places because floor space ratios and height limits are generally higher in the LEP and there is no minimum lot size for subdivision.
 - With the proposed height of buildings development standard, development on some lots near the east-west runway of Sydney Airport may intrude into protected airspace.

Housing Capacity

A preliminary estimate of the additional housing potential that the EIE and TOD program might facilitate has been undertaken. This involved reviewing land parcels within the various station and centre zone distances (400m and 800m). It excludes parcels that were unlikely to develop by virtue of strata title, government ownership, land zoning and other matters.

The estimate assumed that the EIE floor space ratio could be fully realised. In the E1 Local Centre and MU1 Mixed Use zones, 10% of floor space was allocated to non-residential uses such as shops. The estimate does not include any additional housing that could be provided under the State's incentives for affordable rental housing.

The total housing capacity facilitated by the LEP with the TOD program and EIE is equivalent to more than 40 years of housing capacity at the rate delivered from 2016 to 2021. In isolation, these capacity changes would likely allow more residential apartment buildings in lower density suburbs of Bayside. However, as large areas of Greater Sydney are also affected by the EIE, development activity may shift to other LGAs. **Table 1** below summarises the amount of housing capacity by suburb as part of the TOD program and the EIE.

Suburbs	TOD Program	EIE Railway and Light Rail Stations	EIE E2 Centres	EIE MU1 & E1 Centres	EIE Dual Occupancy	Suburb Total
Arncliffe	-	12,446	-	4,340	44	16,830
Banksia	7,880	444	-	370	23	8,717
Bardwell Park	-	1,319	-	15	-	1,334
Bardwell Valley	-	1,458	-	351	142	1,951
Bexley	-	2,685	-	5,647	878	9,210
Bexley North	-	1,774	-	558	67	2,399
Botany	-	-	-	5,859	-	5,859
Brighton-Le-Sands	-	-	-	8,792	29	8,821
Carlton (Bayside Only)	-	1,488	-	-	62	1,550
Daceyville	-	284	-	-	3	287
Dolls Point	-	-	-	298	3	301
Eastgardens	-	-	355	-	-	355
Eastlakes	-	-	-	1,667	14	1,681
Hillsdale	-	-	1,126	668	-	1,794
Kingsgrove (Bayside Only)	-	1,547	-	476	-	2,023
Kogarah (Bayside Only)	1,544	931	-	478	270	3,223
Kyeemagh	-	-	-	-	243	243
Mascot	-	1,514	-	3,406	-	4,920
Monterey	-	-	-	-	428	428
Pagewood	-	11	638	428	359	1,436
Ramsgate (Bayside Only)	-	-	-	921	-	921
Ramsgate Beach	-	-	-	1,162	-	1,162
Rockdale	7,214	1,926	-	926	13	10,079
Rosebery	-	-	-	1,103	-	1,103
Sandringham	-	-	-	275	146	421
Sans Souci (Bayside Only)	-	-	-	5,253	93	5,346
Turrella	4,956	337	-	-	-	5,293
Wolli Creek	-	3,147	-	220	-	3,367
Total	21,594	31,311	2,119	43,213	2,817	101,054

Table 1: Summary of theoretical housing capacity introduced by the TOD program and EIE.
 (*Note:* Numbers are net additional dwelling potential possible under the Bayside LEP with the proposed policies in place)

For reference, at the 2021 census the Bayside LGA had 74,727 dwellings. More than 70% of the estimated dwelling capacity would be delivered as residential apartments.

Council Submission - General Matters

The draft submission recognises the urgent need to address the housing crisis. It also identifies matters of concern and recommendations in relation to the overall impact and detail of the policy as it relates to the Bayside LGA:

- Funding and provision of local infrastructure, open space and services for the new population.
- Inadequate capacity in State infrastructure such as main roads, public transport services and education.
- Impact on heritage items, Heritage Conservation Areas and local character generally.
- Additional population density around Port Botany and heavy industry with risks relating to transport and processing of dangerous goods, contaminated land, freight transport and port operations.
- Additional population density and taller buildings within the Sydney Airport flight paths without consideration of protected airspace or aircraft noise.
- Additional density within flood prone areas and other land subject to hazards such as land slip.
- Opportunity to work with Council in developing Masterplans for Kogarah West, Bexley North, Mascot (Botany Rd) and Rockdale (as outlined in Council's adopted Housing Strategy).
- The policy is highly complex and makes the planning system more difficult to understand.
- Building design issues driven by inappropriate controls such as:
 - Proposed medium density building height and FSR combinations are not feasible and do not deliver well designed buildings.
 - Proposed low rise building heights of 9.5m are not needed to deliver two storey development and exceed the existing height limits in the R2 Low Density Residential zone across much of Bayside.
 - Changes to minimum lot sizes and widths across the diversity of the LGA.
 - Changes to Apartment Design Guide Criteria will lead to reduced amenity and are not fully described in the EIE.
 - Proposed standard waste collection arrangements may be unworkable in dense neighbourhoods where waste collection on the street is unsafe, inappropriate or impractical.
 - Standard carparking rates are proposed. Carparking should not be standardised without an update of the State's Guide to Traffic Generating Developments and consultation with Councils.
- The proposed approach will not lead to orderly and economic development of land.

Council Submission - Nominating Centres

The EIE directly asks Councils for input into which centres should be included. A review of each centre has been undertaken including a summary of issues. Table 2 summarises the conclusions of the review as provided in the submission:

Potential Centres	Does it meet the EIE definition?	Does it have a railway station?	Constraints	Appropriate for Additional Housing Capacity?	Recommend as Centre in EIE?
Arncliffe - Wolli Creek	Yes	Yes	Airport airspace Flooding	Yes, in appropriate places	Yes, E1 and MU1 zones
Banksia - Rockdale	Yes	Yes	Aircraft Noise Airport airspace Flooding Proposed HCA	Yes, in appropriate places Subject to Investigation Area in Local Housing Strategy	Yes, E1 and MU1 zones
Bardwell Park	No	Yes	Flooding Airport airspace Pipeline	Yes, at low scale.	No
Bexley	Potentially subject to size of supermarket.	No	Airport airspace Flooding Proposed HCA	Limited by transport	No, reconsider when metro delivered
Bexley North	Potentially subject to size of supermarket.	Yes	Flooding Pipeline	Yes, in appropriate places Subject to investigation area in Local Housing Strategy	No, work with Council on masterplan
Botany	Potentially subject to size of supermarket.	No	Aircraft Noise Port Road Freight Industrial Risk Contaminated Groundwater Flooding Heritage	No, very constrained	No, very constrained
Brighton-Le-Sands	Yes	No	Transport	Limited by transport	No, reconsider when metro delivered
Carlton	No	Yes	Flooding	Some potential	No
Eastgardens	Yes	No	Port Road Freight Industrial Risk Contaminated Groundwater Flooding	Only in limited areas	Included by EIE - not recommended
Eastlakes	Yes	No	Flooding Local streets	Limited by transport	No, reconsider when metro delivered

Potential Centres	Does it meet the EIE definition?	Does it have a railway station?	Constraints	Appropriate for Additional Housing Capacity?	Recommend as Centre in EIE?
Hillsdale	Yes	No	Port Road Freight Industrial Risk Contaminated Groundwater Flooding	Limited land available	No, very constrained
Kingsgrove	Yes	Yes	Flooding Pipeline	Limited	Yes, MU1 zone
Kogarah	Yes	Yes	Airspace Flooding	Subject to Investigation Area	Yes, MU1 zone only
Mascot (Botany Road)	Yes	No	Aircraft Noise Airspace Flooding	Subject to Investigation Area	No, work with Council on masterplan
Mascot Station	Yes	Yes	Aircraft Noise Flooding	Limited land available	Yes, E1 zone
Ramsgate	No	No	Flooding	Limited by transport	No, reconsider when metro delivered
Ramsgate Beach	Yes	No	Flooding	Limited by transport	No, reconsider when metro delivered
Sans Souci	Yes	No	Flooding	Limited by transport	No, reconsider when metro delivered

The draft submission (**Attachment 2**) is included in this report for Council's consideration and endorsement.

Next Steps

Following Council's endorsement of the submission, it will be provided to DPHI for their consideration. DPHI have indicated they will seek further engagement with Councils on the details of the proposed policy. The EIE indicates that the policy changes will come into effect before 1 July 2024.

The NSW Parliament Upper House committee on Planning and Environment has launched an inquiry into the recent planning reforms including the EIE and TOD program. Should Council wish to participate, public submissions to the inquiry are open until 28 March 2024. A copy of Council's submission can be forwarded to the Committee and local members of parliament.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

In October 2023, DPHI introduced Housing and Productivity Contributions with phase-in discounts to apply up to June 2025, in anticipation of the reforms outlined in the TOD Program and EIE. DPHI are developing a digital tool to allow for contributions to be calculated online, which will be integrated into the NSW Planning Portal. The contribution will need to be paid prior to the issue of a Construction Certificate.

There is a significant financial risk to Councils in terms of their ability to fund social and physical infrastructure needed to support very large population increases. The EIE states that existing Local Infrastructure Plans (7.11 and 7.12) will continue to apply. A statement is also provided that the DPHI *will work with Councils to identify where further infrastructure planning and funding is required and accelerate that work to ensure it is in place at the right time.*

Community Strategic Plan

Theme One – In 2032 Bayside will be a vibrant place	<input checked="" type="checkbox"/>
Theme Two – In 2032 Our people will be connected in a creative City	<input checked="" type="checkbox"/>
Theme Three – In 2032 Bayside will be green, resilient and sustainable	<input type="checkbox"/>
Theme Four – In 2032 Bayside will be a prosperous community	<input checked="" type="checkbox"/>

Risk Management – Risk Level Rating

No risk	<input type="checkbox"/>
Low risk	<input checked="" type="checkbox"/>
Medium risk	<input type="checkbox"/>
High risk	<input type="checkbox"/>
Very High risk	<input type="checkbox"/>
Extreme risk	<input type="checkbox"/>

Community Engagement

DPHI released the EIE for exhibition from 15 December 2023 to 23 February 2024.

Attachments

- 1 EIE - Changes to Create Low and Mid-Rise Housing [↓](#)
- 2 Draft Bayside Submission on EIE Low & Mid-Rise Housing [↓](#)
- 3 Maps and Table Showing Zone and Place Impacts [↓](#)

Department of Planning and Environment



Explanation of Intended Effect: Changes to create low- and mid-rise housing

December 2023

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Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Explanation of Intended Effect: Changes to create low and mid-rise housing

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Abbreviations

Term	Explanation
Codes SEPP	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
DA	Development Application
DCP	Development Control Plan
DPE	Department of Planning and Environment
EIE	Explanation of Intended Effect
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Housing SEPP	State Environmental Planning Policy (Housing) 2021
LEP	Local Environmental Plan
R1 Zone	General Residential
R2 Zone	Low Density Residential
R3 Zone	Medium Density Residential
R4 Zone	High Density Residential
LRHDC	Low-Rise Housing Diversity Code, part of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
MLS	Minimum Lot Size
SEPP	State Environmental Planning Policy
SEPP 65	State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
Six Cities Region	A region defined in the <i>Greater Cities Commission Act 2022</i> which stretches from the Shoalhaven-Wollongong region to the south, the Blue Mountains to the west, and the Newcastle-Lower hunter region to the north
SILEP	Standard Instrument – Principal Local Environmental Plan: sets out the standard provisions that all local environmental plans must follow

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1 Introduction

The NSW Government is proposing changes to the planning system. These changes respond to the housing crisis and will build a better planning system for the future.

This document explains a suite of proposals to encourage more low and mid-rise housing options for NSW households that are in the right places and designed well.

We want to enable more diverse, well-designed, low-rise and mid-rise housing near established town centres and in areas where there is good public transport. This will address the immediate urgency of the housing crisis and create a fairer and more resilient housing market for the future. The changes will give NSW households more choice and promote vibrant, sustainable and liveable communities.

These proposals are the first step towards addressing the crisis. Our longer-term aim is to enable better planning that is led locally.

Tell us what you think

We welcome your feedback on the changes we propose. To have your say, please complete the [online feedback form](#).

How this document is structured

This explanation of intended effect is divided into the following chapters:

- **Chapter 2: The housing crisis** explains the current housing issues NSW is facing and the need for a government response that is proportional and effective
- **Chapter 3: Opportunities for more housing** identifies the barriers and opportunities to encourage more housing in the right locations
- **Chapter 4: Policy proposals** details the proposed policy options to encourage more diverse and well-located housing
- **Chapter 5: Have your say** invites your feedback on the proposals.

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Summary of the reforms

Appendix A summarises the proposed policy reforms.

Our broader response

The proposals in this document are the planning policy part of the Department of Planning and Environment's response. Our broader response to the housing crisis includes:

- a program to speed up development applications
- measures to increase the provision of social and affordable housing
- a Transport-oriented Development program.

Read more about the department's [response to the housing crisis](#).

Relevant legislation

In preparing this explanation of intended effect, the department has considered Division 3.30 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

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2 The housing crisis

2.1 Housing in NSW

NSW is growing. One in five Australians lives in Greater Sydney. Almost one in four Australians lives in the broader Six Cities Region, which extends beyond Sydney to the Central Coast, Newcastle and the Illawarra–Shoalhaven. One million more residents are expected to call NSW home by 2034.

In the context of heightened demand, the supply of new homes is also declining. Residential building approvals have fallen since mid-2021. Multiple factors have driven this, including shortages of construction materials and labour, limited market feasibility, and rising interest rates.

In the 5 years to March 2023, NSW built 284,978 homes, or around 57,000 each year. But under current market and policy conditions, we expect fewer new homes will be built in the next few years. In the past 12 months, only 47,430 homes were completed.

Housing affordability pressures are affecting more households, and a growing population of renters now faces record-low vacancy rates.

We must act urgently to address the housing crisis, but we can also carry out targeted planning reforms now. This will create a more flexible planning system that can better respond to future shocks. It will also provide for homes where people want to live and create the climate-resilient, vibrant communities we want to live in.

2.2 National Housing Accord

The National Housing Accord (the Accord) was announced in October 2022. Under the Accord, governments across Australia, institutional investors and the construction sector are collaborating with a shared ambition to address housing supply and affordability, including through:

- an aspirational target of 1 million new well-located homes over 5 years from 1 July 2024.
- delivery of more affordable homes through immediate and longer-term actions.

In August 2023, National Cabinet endorsed a new national target to build 1.2 million new well-located homes to help align supply with expected demand over the next 5-years. In line with its relative population share of the National Accord target, NSW has committed to deliver at least 314,000 new homes by 2029, with a stretch goal of 377,000 homes.

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National Planning Reform Blueprint

On 16 August 2023, National Cabinet met in Brisbane to agree on a range of new priorities to create more secure and affordable housing for Australians. The NSW Government has committed to delivering on the reforms in the blueprint.

The National Planning Reform Blueprint includes:

- updating state, regional, and local strategic plans to reflect housing supply targets
- promoting medium- and high-density housing in well-located areas close to existing public transport connections, amenities and employment
- streamlining approval pathways
- reforms to support the rapid delivery of social and affordable housing
- reforms to support timely issuing of development approvals
- considering the phased introduction of inclusionary zoning and planning to support permanent, affordable, social and specialist housing in ways that do not add to construction costs
- addressing gaps in design guidance for housing and building certification to ensure quality
- improving community consultation processes
- resourcing this work with professionals, including planners, in local government.

2.3 Well-located infill housing

Sydney is one of the least dense global cities...

As well as having comparably low population density, Sydney's housing stock overwhelmingly comprises low-density detached homes. The current zoning rules in Sydney also make it difficult to provide the diverse range of housing types we need to accommodate our growing population, changing demographics and a wide range of housing preferences.

Within many of our residential areas, important and suitable housing types such as terraces and small apartment blocks are not allowed.

Even where the zone technically allows a certain housing type, it may be prevented in practice by incompatible planning controls.

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Figure 1: Residential flat building in Lane Cove

Small residential flat buildings are a key medium density housing option, but they cannot currently be built on most lots zoned for medium density homes.

... and urban sprawl is expensive and unsustainable

In recent years, there has been an overreliance on greenfield areas on the fringes of Sydney to provide much of our new housing. According to the NSW Productivity Commission's report, *Building More Homes Where People Want to Live*, between 2016 and 2021, fewer than 20% of new dwellings were built within 10km of the CBD.

In addition, there is a shortage of new homes in many parts of the city that have great transport options, convenient town centres, and local amenities such as parks and beaches. This undersupply of new housing in these key parts of the city has led to a lack of affordable choices where people want to live.

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Figure 2: A birds-eye view of a residential subdivision under construction

The Productivity Commission's 2023 report, *Building more homes where infrastructure costs less*, says we will need to build at least 550,000 new homes in Sydney by 2041 just to keep up with our growing population. We would need to go even further than this to tackle the housing affordability crisis.

The report found the costs of servicing new housing with infrastructure can be up to \$75,000 more expensive for each home in the outer suburbs compared to the inner suburbs. The most transparent and efficient way to build Sydney's housing from now on is to build the homes where infrastructure such as roads, rail, water, schools and open space costs less.

Infill development

By supplying new housing in existing urban areas (known as 'infill development'), we can do density well by making sure new housing is built in locations that are well-serviced by infrastructure and have capacity for growth.

This will:

- allow new infrastructure to be funded in a more cost-effective way
- re-purpose and upgrade existing infrastructure

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- create efficiencies in providing infrastructure for growing communities
- minimise road congestion
- improve access to green spaces
- use our existing public transport networks
- lower costs for water, schools, and hospitals
- protect important habitat and biodiversity from an encroaching urban fringe.

We lack a diversity of housing options

It is important to have a variety of housing options to cater for different housing needs, preferences and life stages. For example, the number of bedrooms is usually important for families with children, but convenience and access to shops and amenities are important for couples without children and older households (*The Housing We'd Choose*, Grattan Institute, 2011).

Although it is often assumed that living in a detached house on a large block of land is what most Australians want, research by the Grattan Institute found Sydney residents ranked 'whether the house is detached' as only the 5th most important variable when selecting a home. Having a big garden was ranked 20th (*The Housing We'd Choose*, Grattan Institute, 2011). Further, household sizes are changing in the Six Cities Region. A greater share of households are trending toward couples without children.

Recent research by the University of NSW's City Futures Research Centre on behalf of Government Architect NSW found that medium-rise apartment buildings were the most preferred type of building among apartment purchasers. These buildings of less than 20 apartments were preferred for their larger interior sizes, greater sense of community and smaller strata schemes.

Terraces, cottages and small apartment blocks represented much of the housing built in the first half of the 20th century. In the inner suburbs, these housing types now account for one-fifth of the housing stock (NSW Productivity Commission, *Building more homes where people want to live*, 2023).

Other important types of housing such as terraces and town houses used to be common options and comprised a much larger share of new residential builds.

In the areas where new housing has been concentrated in recent decades, however, the share of diverse housing types has been declining.

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This reduction in the diversity of new dwelling stock has been observed in recent years. Housing policymakers and the community are raising concerns that most new housing is either freestanding homes on the fringes of Sydney, or high-rise apartment buildings along busy roads (NSW Productivity Commission, *Building more homes where people want to live*, 2023). The Six Cities Region has an acknowledged and well-documented 'missing middle'.

In Sydney, most residential areas are zoned for low density (single family homes) and only a small proportion of land is zoned for medium or high-density development. The current zoning distribution does not sufficiently support a diverse housing mix, and where medium-density zones exist, key mid-rise housing types are not allowed. Delivering more well-located, diverse housing types is a key focus for the NSW Government as it will promote a greater array of housing options for households and create vibrant urban communities.

More homes should be located near public transport hubs and town centres

More homes are best placed in areas that are well-serviced by town centres and good public transport, so people can quickly and easily get to where they need to be. This means that more people will be able to live within walking distance of supermarkets, restaurants, and good public transport to get them to work and other places. This is an accepted model of urban development that is commonly referred to as 'transport-oriented development'. It has been a key feature of strategic planning in NSW for many years.

There is still significant opportunity across NSW to make sure the homes we need are in these great locations. Taking this approach would address the housing challenges in a way that makes the most sense. This approach represents density done well. It makes daily commutes shorter and cheaper, taking the financial burden off households and curbing traffic congestion, leading to better quality of life. The goal is to build more homes and strategically position them close to where people need to go, giving more people access to convenient transport options and amenity.

2.4 Ongoing strategic planning efforts

Strategic planning in NSW

The planning process determines how we use and develop land – whether it be in a city, regional community or on a rural property. Strategic planning looks at the big picture. It helps inform how and where change can take place, if it's where new housing may be located, or where transport links or community infrastructure should go.

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Decisions about any development and the best use of land must be transparent, clear and fair. The NSW planning system ensures this by setting a clear strategic vision, which in turn informs planning controls that guide decisions. In NSW, regional and district plans created at the state level set the overarching vision for our region and its unique districts. Councils create local strategic planning statements, local environmental plans, and development control plans, which apply the strategic vision at a local level.

How housing is delivered

Housing delivery is a shared responsibility. At the federal level, the Commonwealth works with state and local governments, investors and industry to set aspirational housing targets and support additional housing supply through the National Housing Accord.

The NSW Government and councils work to meet these targets by ensuring the planning system allows for and incentivises well-located housing. This includes long-term strategic planning, delivering infrastructure at the right time, zoning land and setting controls, and assessing development. Many councils also have a local housing strategy which details how much housing (and of what types) needs to be delivered in the local area, where it will go, and how it will look.

When state and local strategic plans are in place, government agencies and the development industry are then able to use the planning system to deliver quality social, affordable and market housing in the right places to support growing communities.

Infrastructure is critical to housing

Councils in NSW rely on a variety of funding sources to support the delivery of local infrastructure. This includes libraries, parks, roads, local transport infrastructure, recreation and sport facilities and stormwater drainage facilities to meet the needs of their communities. The right infrastructure funding mix will be needed to support increased housing supply as proposed in this document.

Section 7.11 local infrastructure contributions and 7.12 levies are the main mechanisms councils use to fund local infrastructure under Part 7 of the EP&A Act. In infill areas where new housing supply is proposed, councils already have section 7.11 and/or section 7.12 local infrastructure contributions plans in place. Because of this, it will be important to decide if councils' existing infrastructure contributions frameworks are enough to address any increased demand created by expected growth.

Section 7.11 and 7.12 contributions plans list infrastructure items to be delivered and their costs. These plans also specify how much councils will charge developers to pay for this infrastructure. The amount councils can charge for both section 7.11 and section 7.12 contributions is limited under NSW Government legislation and policy, as Table 1 shows.

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Table 1. Caps on council funding for local infrastructure

Funding mechanism	Cap
Section 7.11 Contributions	\$20,000 per home/lot for most infill areas
Section 7.12 Levies, calculated using a simple percentage levy based on the cost of development	1% of the cost of development for most areas

The changes to the planning system that we propose in this explanation of intended effect will result in more homes being built in infill areas. These will be areas already serviced by state and local infrastructure, such as roads, rail and bus infrastructure, water and drainage, schools and open space. This is an efficient approach to infrastructure provision.

While increasing housing supply in infill areas will increase demand on existing infrastructure, it also allows us to upgrade, improve and deliver more local amenities and services through development contributions. The delivery of any new or upgraded existing infrastructure to support housing supply must be well coordinated and funded. We propose using existing mechanisms in the infrastructure contributions system to fund state and local infrastructure (see section 4.4).

The Six Cities Region

The Six Cities Region is Australia's first global-city region. It is a network of six connected cities in Australia that connect to each other, while celebrating and drawing on each city's unique character and strengths.

The Six Cities Region is made up of:

- Lower Hunter and Greater Newcastle City
- Central Coast City
- Illawarra–Shoalhaven City
- Western Parkland City
- Central River City
- Eastern Harbour City.

. The [Six Cities Region Discussion Paper](#) has been released. It represents the first step in planning at this scale. New region and district plans will be published in 2024, and these will feed into new local plans created by councils over the coming years.

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2.5 Applying the proposed reforms

The proposals outlined in this EIE represent a progressive approach to accommodating growth across the Six Cities Region. The planning system needs to enable and incentivise more density and diverse housing options in well located areas. The proposed reforms are designed to deliver new housing supply in established areas that have capacity to accommodate growth in a way that capitalises on current and future investment in public infrastructure.

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3 What's preventing more low and mid-rise houses being built?

NSW needs more well-located mid-rise housing options such as small blocks of units. They are a strongly desired development type among buyers and renters. Small apartment developments can exhibit high quality design for the benefit of residents and the local neighbourhood while contributing to the vibrancy of our centres.

3.1 Mid-rise housing

For this explanation of intended effect, **mid-rise housing** refers to residential flat buildings and shop-top housing that is generally between 3 and 6 storeys. These small-scale residential buildings are important to promote in our overall housing mix. They cater to a variety of needs and preferences and create more inclusive and vibrant communities.



Figure 3: Mid-rise housing types L-R residential flat buildings and shop top housing

What are Residential Flat Buildings (RFB) and shop top housing?

A **residential flat building** is a building that contains three or more homes and is 2 or more storeys. At least one of the homes must not have direct access at the ground level for it to be considered a residential flat building. It does not include other similar residential buildings such as co-living housing or multi-dwelling housing. Residential flat buildings are commonly referred to as apartment

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buildings or flats. Residential flat buildings are a mandated permitted use in all General Residential and High Density Residential zones.

Shop-top housing is a building that contains one or more apartments above ground floor shops or other commercial uses. Shop-top housing is common in mixed-use neighbourhoods and town centres. It provides residential neighbourhoods with easy access to supermarkets, cafes, and other important services. Shop-top housing is a mandated permitted use in all General Residential, High Density Residential, Local Centre (E1) and Mixed Use (MU1) zones.



Figure 4: Shop top housing in Surry Hills

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Figure 4: Residential flat building on Huntley Street, Alexandria

There is a need for more well-located mid-rise housing

Well-located mid-rise housing options such as small blocks of units are a strongly desired development type among buyers and renters as identified in research from UNSW City Futures Research Centre cited earlier. Fulfilling the latent demand in the housing market for small apartment buildings provides an opportunity to address calls for greater housing diversity to meet the needs of people at different stages of life. Small apartment developments can exhibit high quality design for the benefit of residents and the local neighbourhood while contributing to the vibrancy of our centres.

Mid-rise housing is often prohibited in well-located areas

Across the Six Cities Region, most residential areas, around 77%, are zoned for low density. But only around 12% of areas are zoned for medium density, and 2% for high density. Even in the 12% of Medium Density Residential zones, residential flat buildings and shop-top housing are prohibited in around 60% of these areas.

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Six Cities Residential Lots

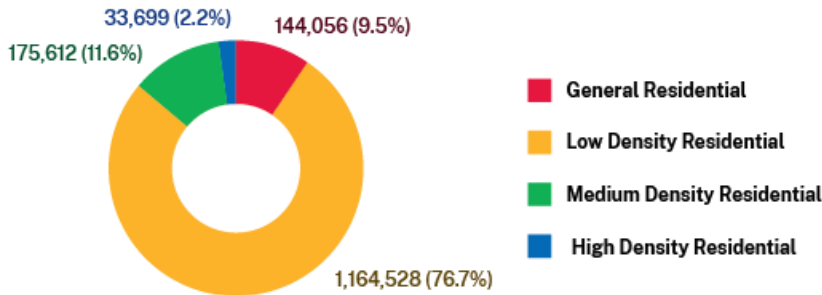


Figure 6: Overview of zoning of residential lots within the Six Cities region

Only 42% of well-located medium density lots in areas around heavy and light rail stations and close to important town centres permit residential flat buildings. This land needs to be better used by allowing development controls more suitable for mid-rise housing.

Restrictive development controls can discourage mid-rise housing

In the limited areas where mid-rise housing is permitted, site requirements and development controls can make delivering mid-rise housing a challenge.

Across all medium density lots in the Six Cities Region, the average maximum height of building control is around 9.9 metres and the average maximum floor space ratio control is 0.73:1. These controls only enable a 3-storey building with a limited number of apartments possible. Such small developments are not usually economically feasible to deliver in well located areas.

Height of Buildings Controls by Zone-Six Cities LGAs

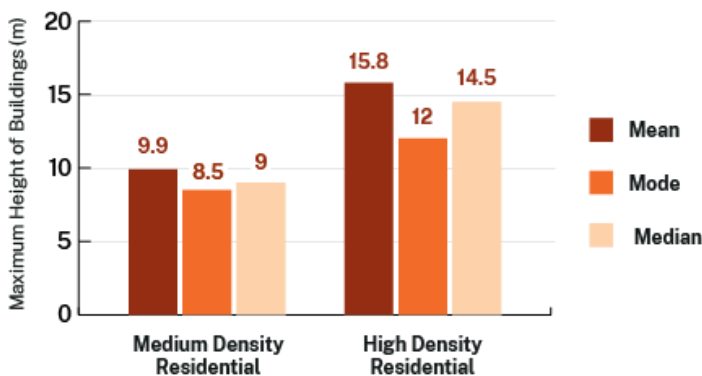


Figure 7: Overview of height of buildings controls in the medium and High Density Residential zones within the Six Cities

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Even in High Density Residential zones, the average maximum height of building control is around 15.8m and the average maximum floor space ratio control is 1.25:1. Again, these controls only enable a 4 to 5 storey building with a limited number of apartments possible.

In many medium and high-density residential zones, both the average and median built form controls are insufficient to realise the opportunities of mid-rise housing. Getting these planning settings right is critical to attracting investment in new mid-rise housing projects to deliver housing supply in well-located areas.

3.2 Low-rise housing

For this explanation of intended effect, **low-rise housing** refers to multi dwelling housing (such as terraces and townhouses), manor houses and dual occupancies. It is generally one or 2 storeys, sometimes incorporating a habitable roof. It does not include freestanding houses.



Figure 8: Low-rise housing types L-R dual occupancy, multi-dwelling housing (terraces), manor house

Multi dwelling housing (MDH) and manor houses

What are multi-dwelling housing and manor houses?

Multi-dwelling housing is a term used to describe residential developments that have three or more dwellings on a single lot with each dwelling having access at ground level. It includes rows of terraces and townhouses, but it does not include apartment buildings. They are a historically popular form of housing in Sydney, commonly found closer to the city centre. They are typically one or 2-storeys with a small front and back yard and setback to the side neighbours. They offer most of the benefits of a traditional freestanding house, but for a more affordable price.

Manor houses are small 2-storey apartment blocks. They are also an historically popular form of housing in Sydney's earlier suburbs, found in places like the eastern suburbs and the inner west. They often have the appearance and size of a 2-storey freestanding house but contain two apartments on the ground floor and two on the first floor. The ground floor apartments often get their own backyards, which offers a great level of amenity at a more affordable price.

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Figure 9: Manor house in Thornton



Figure 10: Townhouses in residential area at Gledswood Hills

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Most low-density areas prohibit multi-dwelling housing and manor houses

Multi-dwelling housing is prohibited in the Low Density Residential zone in 82% of lots across the Six Cities. This is particularly pronounced in Greater Sydney, where 94% of councils prohibit multi-dwelling housing in their low-density zones.

Multi Dwelling Housing Permissibility in Low Density Residential Lots -Six Cities LGAs

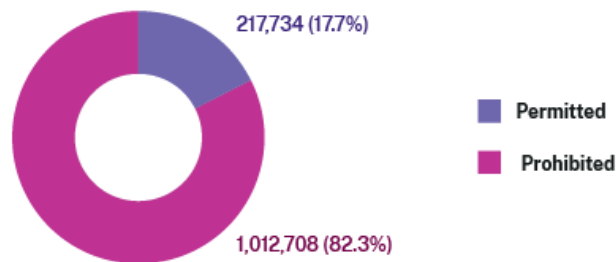


Figure 11: Permissibility of MDH across Low Density Residential zone lots within the Six Cities region

Similarly, manor houses are prohibited in all Low Density Residential zones in Greater Sydney, although they can be developed where multi-dwelling housing is permitted if using complying development under the Low-Rise Housing Diversity Code.

The main zone where multi-dwelling housing and manor houses are permitted is the Medium Density Residential zone where they are always permitted. The issue is that the medium-density zone only accounts for a small proportion of residential land, around 12% in the Six Cities Region.

Another issue is that Medium Density Residential zones also sometimes allow the multi-storey apartment buildings that developers usually prefer over the lower-yielding multi-dwelling housing and manor houses. So, there is a scarcity of land that allows for multi-dwelling housing and manor houses. And in the few areas they are allowed, developers often prefer apartments. As a result, very few new multi-dwelling housing and manor houses have been built in recent decades.

Multi-dwelling housing and manor houses are suitable in well-located low-density areas

Multi-dwelling housing and manor houses can be designed to comfortably sit within a freestanding house neighbourhood, without significantly changing character and offering a diverse and affordable option. Their scale and presence can be designed so they have no more impact than a freestanding house and they can enhance the desirable characteristics of a neighbourhood.

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Low-density residential zones that are within walking distance of town centres and transport hubs should be able to accommodate more multi-dwelling housing and manor houses. These housing types offer a sustainable way of encouraging more homes in low-density neighbourhoods. Focusing efforts in places that already have good access to public transport and everyday needs will avoid undesirable impacts such as more congestion and a lack of street parking.

Some development controls discourage multi-dwelling housing and manor houses

There are a range of development controls that often apply to multi-dwelling housing and manor houses. These can further limit the potential sites and make them particularly difficult to design, especially when compared to the controls for freestanding houses.

Many councils set minimum lot sizes that range between 700 m² and 2,000 m². These minimum lot sizes can be unnecessarily large, as well-designed multi-dwelling housing and manor houses can easily fit on much smaller sites. These requirements often rule out large proportions of the already limited lots that allow multi-dwelling housing and manor houses, sometimes up to 75% of permitted lots in a given area.

There are also other controls, such as floor space ratio and minimum car parking requirements, that can make these housing types compromised in design, impractical to develop and economically unviable. Because of this, it is more workable to develop freestanding housing and larger apartment buildings.

Dual occupancies**What are dual occupancies?**

Dual occupancies are two dwellings on a single lot and are commonly known as duplexes or semis. They are a common form of housing in Sydney, with a strong historical presence in the form of one and 2-storey 'semis' and in the more modern form of 2-storey duplexes. They are typically two side-by-side houses that both have a front yard, a back yard, and are setback to the side neighbours. They offer most of the benefits of a traditional freestanding house, but for a more affordable price.

Dual occupancies are suitable in all low-density areas

Well-designed dual occupancies are perfectly suited to provide more housing in all low-density residential areas across the state. Their scale, form and presence can be designed so they have no more impact than a freestanding house and they can enhance the desired character of an area.

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Figure 12: Dual occupancy housing in Ryde

Dual occupancies are prohibited in many low-density areas

Within the Six Cities region, dual occupancies are prohibited in 14% of low density lots. In the same region, within the Medium Density Residential zone, dual occupancies are prohibited in 35% of lots.

Dual Occupancy Permissibility by Lots -Six Cities LGAs

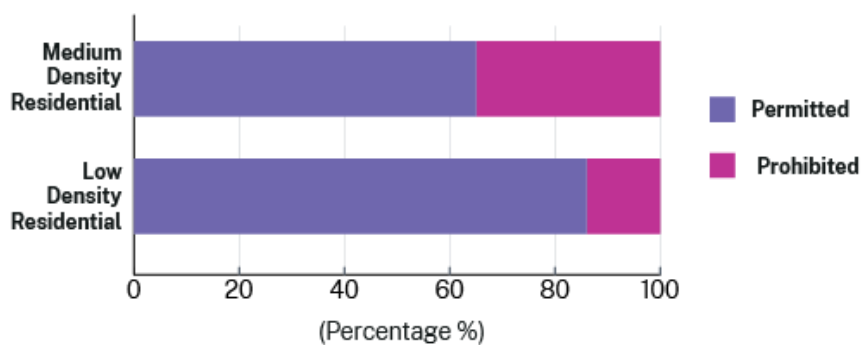


Figure 13: Permissibility of dual occupancies on low and Medium Density Residential zone lots within the Six Cities

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All Low Density Residential zones should be able to accommodate dual occupancies as a sustainable way to provide more housing supply and provide more diverse housing options for the community.

Dual occupancies are suitable in the General Residential zone

Within the Six Cities region, there are 23 LEPs with a General Residential zone. Of these, only 19 (or 83per cent) permit dual occupancies. General residential lots comprise 9.5% of all residential lots within the Six Cities.

An objective of the General residential zone is to provide a variety of housing types and densities. This objective can be more directly achieved by promoting dual occupancies in this zone.

Unsuitable development controls discourage dual occupancies

There are a range of development controls that often apply to dual occupancies which can further limit the sites where they can be built and make them particularly difficult to design, especially when compared to the controls for freestanding houses.

Many Councils set minimum lot sizes which range between 450m² and 800m². These minimum lot sizes can be unnecessarily large as well-designed dual occupancies can easily fit on much smaller sites. These requirements often rule out a large proportion of the lots that permit dual occupancies, sometimes up to 72% of permitted lots in a given area.

There are also a range of other controls, like floor space ratio, that can make dual occupancies difficult to design. Because of this, it is often easier to develop freestanding housing.

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4 Policy proposals to build more low and mid-rise housing

4.1 Mid-rise housing

Expanded permissibility within well located areas

The department is proposing to permit residential flat buildings on all Medium Density Residential zoned land in well located areas – that is, within station and town centre precincts. Since RFBs are a mandated use in the General Residential and High Density Residential zones, the Medium Density Residential zone presents an opportunity to expand the permissibility for this important mid-rise typology.

Figure 14 below shows the current and proposed permissibility settings for RFBs on well-located and other lots zoned for medium density within the Six Cities region.

RFB Permissibility in Medium Density Residential Zone - Six Cities LGAs



Figure 14: Permissibility of RFBs on well-located and other lots within Medium Density Residential zone in Six Cities

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Mid-rise housing in Station and Town Centre Precincts

Station and town centre precincts

The Station and town centres precincts are proposed to be:

- within the Six Cities Region; and
- 800m walking distance of a heavy rail, metro or light rail station; or
- 800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre; or
- 800m walking distance of land zoned E1 Local Centre or MU1 Mixed use but only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants.
 - The Department is seeking input from councils to determine which E1 and MU1 centres contain an appropriate level of goods, services and amenities to be included.

Non-refusal standards

To facilitate these developments, the NSW Government propose to set standards for non-refusal that will apply wherever residential flat buildings or shop top housing are permitted (currently or newly proposed) within Station and Town Centre Precincts with the exception of the Low Density Residential zone. The standards are designed to allow more density in the inner part of the precincts within 400 metres of the stations and centres and less density in the outer part of the precincts from 400 metres to 800 metres.

Non-refusal standards

Non-refusal standards are a type of provision (legal condition) used in the planning system to set consistent standards for certain types of development and provide certainty and flexibility for councils and proponents.

Non-refusal standards are usually outlined in a SEPP and overrule LEP or DCP provisions. If the equivalent LEP or DCP standard is already more permissive than the non-refusal standard, it will continue to apply.

This approach gives councils the flexibility to set more permissive local controls that suit local areas. It also means that if a proposed development does not comply with the non-refusal standard but still complies with Council's standard, it will not need a clause 4.6 variation request.

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The purpose of this approach is to increase housing potential, not reduce what is already allowed.

The specific intentions are that if a development:

- Complies with the standard, a consent authority **must not** refuse consent on those grounds;
- Does not comply with the standard, it will be assessed under the equivalent applicable LEP or DCP standard;
- Does not comply with the standard, but does comply with the equivalent LEP or DCP standard, a clause 4.6 variation is not required;
- Does not comply with both the standard and the equivalent LEP or DCP standard, a clause 4.6 variation will be required.

The non-refusal standards have been calibrated to enable a typical 3 to 6 storey apartment building that can achieve an appropriate level of amenity for the apartments and to neighbouring dwellings.

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these provisions.

The proposed non-refusal standards for residential flat buildings and shop top housing in the station and town centre precincts are:

In the inner part of the precincts within 400 metres of the stations/centres:

- Maximum Building Height: 21m
- Maximum FSR: 3:1

In the outer part of the precincts from 400 to 800 metres of the stations/centres:

- Maximum Building Height: 16m
- Maximum FSR: 2:1

The non-refusal standards will apply to any residential flat building and shop top housing development on land in station and town centre precincts (with the exception of land zoned R2). For residential flat buildings, the non-refusal standards apply to land where this land use is currently permitted or proposed to be permitted. For shop-top housing, the non-refusal standards apply where this land use is currently permitted.

We are also proposing to turn off minimum site area and width standards in LEPs as part of these reforms. This will allow development assessment to consider the individual merits of mid-rise developments on a case-by-case basis within the context of the site.

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Design criteria to support mid-rise housing

The [Apartment Design Guide](#) gives consistent planning and design standards for apartments in NSW. It gives design criteria and general guidance about how development proposals can achieve the nine design quality principles identified in *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65).

The proposed new mid-rise housing provisions in station and town centre precincts will be supported by suitable design criteria that will vary some ADG provisions. These measures will ensure that design controls applying to new mid-rise housing proposals are appropriately differentiated to facilitate smaller apartment buildings.

The design provisions will ensure mid-rise apartment buildings are well-designed and promote excellent amenity and liveability for residents and the community.

The intent of the proposed changes to the design criteria is set out below.

- **Building separations:** Reducing the minimum building separation requirements for 5 and 6 storey buildings to match the current requirements for up to 4-storey buildings.
- **Setbacks:** Front setbacks to be the average of neighbouring buildings with a 6m maximum. Side and rear building setback requirements are to increase by an additional 1m for every 2-storey difference in height between neighbouring buildings.
- **Vehicle Access:** Design of basement and ground floor for mid-rise building is not required to accommodate large vehicles entering or turning around within the site. Waste collection method to be detailed in Waste Management Plan.
- **Visual Privacy:** To be managed through the proposed modified building and separation provisions.
- **Communal Open Space:** A minimum of 8m² of communal open space is to be provided per apartment, up to a maximum 25% of the site area.
- **Landscaping:** Minimum deep soil and planting requirements, depending on the size of the site as set out Appendix B.
- **Car parking:** Minimum car parking rates to create a consistent set of appropriate requirements for mid-rise housing across the Six Cities.

Affordable Housing

The existing In-fill Affordable Housing bonus provisions of the Housing SEPP will continue to apply for development under the proposed mid-rise housing in station and town centre precincts provisions.

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The department is also proposing to work with local councils to introduce affordable housing contribution schemes (inclusionary zoning) on more land across the Six Cities where there has been sufficient value uplift. Further consultation about this is expected in 2024.

4.2 Low-rise housing

Multi dwelling housing and manor houses

Expanded permissibility

We propose to make multi-dwelling housing and manor houses permitted with consent in the Low Density Residential zone within station and town centre precincts.

Manor houses will be characterised as 2-storey residential flat buildings (excluding any habitable roof). They will not be limited to 3 or 4 dwellings as they currently are under the Codes SEPP.

Station and town centre precincts

Station and town centres precincts will be:

- within the Six Cities Region; and
- 800m walking distance of a heavy rail, metro or light rail station; or
- 800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre; or
- 800m walking distance of land zoned E1 Local Centre or MU1 Mixed use but only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants
 - The Department is seeking input from councils to determine which E1 and MU1 centres contain an appropriate level of goods, services and amenities to be included.

Non-refusal standards

We propose to set key non-refusal standards that will apply to MDH and manor houses wherever they are permitted in Station and Town Centre Precincts. The non-refusal standards are designed to encourage MDH and manor houses to achieve the benefits of more and diverse housing while managing their impacts on surrounding properties, the local environment and neighbourhoods.

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Proposed non-refusal standards for multi-dwelling housing (terraces), multi-dwelling housing and manor houses in station and town centre precincts are:

Multi dwelling housing (terraces)

- Maximum Building Height: 9.5m
- Maximum FSR: 0.7:1
- Minimum Site Area: 500m²
- Minimum Lot Width: 18m
- Minimum Car Parking: 0.5 space per dwelling

Multi dwelling housing

- Maximum Building Height: 9.5m
- Maximum FSR: 0.7:1
- Minimum Site Area: 600m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 1 space per dwelling

Manor Houses

- Maximum Building Height: 9.5m
- Maximum FSR: 0.8:1
- Minimum Site Area: 500m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 0.5 space per dwelling

The non-refusal standards will apply to any multi-dwelling housing, multi-dwelling housing (terraces), or manor house in station and town centre precincts where they are currently permitted or proposed to be permitted under these proposals.

Lot size and width

The proposed minimum lot size and width standards provide sufficient space for a typical 2-3 bedroom dwelling layouts with a reasonable front and back yard, side setbacks to the neighbours, and car parking for most dwellings.

Floor space ratio and building height

We have set the proposed floor space ratio and building heights to encourage these housing types. They provide more floor space allowance than most low-density areas which will encourage MDH and manor houses rather than large freestanding houses. The building height is designed to accommodate 2 storeys with the potential habitable roof, depending on the design. Built form

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impacts on neighbours such as privacy and overshadowing will still need to be considered through the design criteria in the applicable design guides and local requirements.

Car parking

The proposed car parking rates for terraces and manor houses will be a reduction to most council's current DCP requirements and the standards of the Codes SEPP. The proposed rates will only apply in the target precincts which have walkable access to most needs and alternative transport options. The reduced rates for terraces will also reduce the need for multiple driveways along the street and the resultant impact that has on street parking and landscaping. For manor houses, reduced parking rates will facilitate better design outcomes including increased landscaping and more privacy for neighbours.

Application of other Planning Controls

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these new provisions.

Landscaping requirements outlined in relevant DCPs will continue to apply and the Low Rise Housing Diversity Design Guide will continue to be relevant. The Design Guide will be updated to be consistent with the landscaping targets set out in Appendix C.

The Low Rise Housing Diversity Code will continue to only apply to MDH (terraces) and manor houses limited to 3 or 4 dwellings. This includes on land where it is proposed to newly permit these land use types.

To ensure good design outcomes are achieved, for development applications the consent authority must consider the Low Rise Housing Diversity Design Guide for development applications. Similarly, complying developments will continue to be required to be consistent with the Low Rise Housing Diversity Design Guide for complying development with a verification from a registered architect.

Subdivision

We propose to permit the torrens subdivision of multi-dwelling housing (terraces) provided the proposed lots meet appropriate size, width and access requirements.

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Dual occupancies

Expanded permissibility

We propose to permit dual occupancies in all Low Density Residential zones across NSW. We are also looking to work with the remaining few councils whose LEPs prohibit dual occupancies in the General Residential zone to consider whether they could be permitted.

Non-refusal standards

We propose to set key non-refusal standards that will apply to dual occupancies wherever they are permitted in Greater Sydney. The non-refusal standards are designed to encourage dual occupancies to realise the benefits of more and diverse housing in low-density areas.

Non-refusal standards for dual occupancies

Proposed non-refusal standards for dual occupancies in Greater Sydney:

- Maximum Building Height: 9.5m
- Maximum FSR: 0.65:1
- Minimum Site Area: 450m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 1 space per dwelling

The non-refusal standards will apply to any dual occupancy in Greater Sydney where it is currently permitted or proposed to be permitted under these proposals.

Lot size and width

The proposed lot size and width is set at the lower end of the range of lot sizes that apply in different Council areas in Greater Sydney. It provides sufficient space for a 3-to-4-bedroom dwelling layout with a reasonable front and back yard, side setbacks to the neighbours, and a garage for each dwelling.

Floor space ratio and building height

The proposed FSR provides slightly more floor space allowance than most low-density areas, which will encourage dual occupancies rather than large freestanding houses. The proposed building height is designed to accommodate a 2-storey dual occupancy. Built form impacts on neighbours such as privacy and overshadowing will need to be considered through the design criteria in the applicable design guides and local requirements.

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Car parking

The proposed car parking rate is typical in many areas and will be a slight reduction in some. It is important that excessive car parking is not required, as it can influence whether a dual occupancy can fit on any given site. One space is sufficient to ensure there is not a significant impact on car parking availability in the street.

Application of Other Planning Controls

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these new standards.

Landscaping requirements outlined in relevant DCPs will continue to apply and the Low Rise Housing Diversity Design Guide will continue to be relevant. The Design Guide will be updated to be consistent with the landscaping targets set out in Appendix C.

Under the complying development pathway, proposals will continue to be required to be consistent with the Low Rise Housing Diversity Design Guide for complying development.

Affordable Housing

The existing In-fill Affordable Housing bonus provisions of the Housing SEPP will continue to apply for development under the proposed low-rise housing provisions.

Subdivision

It is proposed to permit the torrens subdivision of dual occupancies provided the proposed lots meet appropriate size, width and access requirements.

4.3 Flooding

Managing the risk of flooding to life and property through local planning controls is a key priority for the NSW Government. We need to ensure that all new development in flood prone areas is compatible with the current and future flood risk of the land.

Council's current flooding controls will continue to apply to all development where the low- and mid-rise reforms are proposed to ensure that flood risk is appropriately managed. In areas of particularly high flood risk, such as the Hawkesbury Napean Valley, the Department will work councils to exclude the relevant areas from the application of the proposed reforms.

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4.4 Infrastructure Contributions

The NSW planning system allows councils and the NSW Government to collect contributions that fund infrastructure needed to support new development.

From 1 October 2023, all residential development that intensifies land use (where new dwellings are created) will be subject to the Housing and Productivity Contribution (HPC) and will replace the former State Infrastructure Contribution (SIC). HPC contributions will go towards the provision of state and regional infrastructure such as roads, parks, hospitals and schools. It does not affect how councils collect local contributions.

Councils will continue to require the payment of section local infrastructure contributions (7.11 and/or section 7.12 contributions) for all new development in accordance with relevant council contributions plans. Revenue collected goes towards funding infrastructure like community facilities, stormwater drainage, local open space and local roads.

In infill areas where there will be additional housing supply as a result of this proposal, councils already have section 7.11 and/or section 7.12 contributions plans in place that apply to new residential development. These existing plans will allow councils to collect more revenue as more dwellings are built.

However, it is important to ensure that councils will have sufficient revenue to fund any new or upgraded local infrastructure that may be required. Some changes may be needed to councils' current contributions frameworks to allow for anticipated growth.

The department will work with councils to identify where further infrastructure planning and funding is required and accelerate that work to ensure it is in place at the right time.

The best approach will depend on the current contributions framework in the area, anticipated growth and local infrastructure needs. Stakeholder consultation, including public exhibition, will be necessary before any changes are carried out.

Council feedback on infrastructure needs

We are seeking feedback on councils' preferred approach to identifying and addressing additional infrastructure needs that arise as a result of the proposed changes. The aim is to ensure that delivery of local infrastructure occurs at a rate that will keep up with the anticipated growth needed to address the housing crisis.

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4.5 Relationship with the Transit Oriented Development program

The Department is also progressing a Transit Oriented Development program, which will fast-track rezoning in 8 key precincts, and introduce new planning settings in a number of other identified station precincts across the Six Cities, including new permissibility settings, built form controls, social and affordable housing provisions and heritage arrangements.

The proposed low- and mid-rise reforms will work in tandem with the Transit Oriented Development program to achieve good urban form through appropriate density transition around centres. The reforms proposed under the Transit Oriented Development program are generally more permissive than the low- and mid-rise reforms and therefore will prevail over the low and mid-rise controls, where areas overlap.

Read more about the department's [response to the housing crisis](#).

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5 Have your say

The Department of Planning and Environment welcomes community and stakeholder feedback on this explanation of intended effect. Your feedback will help us better understand the views of the community and will inform the proposals discussed in this document.

To submit feedback, complete the [online feedback form](#).

Your submission may address the issues raised in this document or you may give more input about the changes we propose.

We will publish a response to submissions after the exhibition period ends.

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Appendix A – Summary of proposed reforms

Typology	Proposed permissibility change	Proposed non-refusal standards
Low-rise housing		
Dual occupancies	Make dual occupancies permitted with consent across Low Density Residential (R2) zones in NSW.	<p>Introduce non-refusal standards that apply to dual occupancies wherever they are permitted in Greater Sydney:</p> <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.65:1 • Minimum Site Area: 450m² • Minimum Lot Width: 12m • Minimum Car Parking: 1 space per dwelling
Manor houses	Make manor houses permitted with consent in the Low Density Residential (R2) zone within <i>station and town centre precincts</i> in the Six Cities region.	<p>Introduce non-refusal standards that apply to Manor Houses wherever they are permitted within <i>station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.8:1 • Minimum Site Area: 500m² • Minimum Lot Width: 12m • Minimum Car Parking: 0.5 space per dwelling
Multi-dwelling housing (terraces)	Make MDH (terraces) permitted with consent in the Low Density Residential (R2) zone within <i>station and town centre precincts</i> in the Six Cities region.	<p>Introduce non-refusal standards that apply to MDH Terraces wherever they are permitted within <i>station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.7:1 • Minimum Site Area: 500m² • Minimum Lot Width: 18m • Minimum Car Parking: 0.5 space per dwelling

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Typology	Proposed permissibility change	Proposed non-refusal standards
Multi-dwelling housing	Make MDH permitted with consent in the Low Density Residential (R2) zones within <i>station and town centre precincts</i> in the Six Cities region.	<p>Introduce non-refusal standards that apply to MDH whenever they are permitted within <i>station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.7:1 • Minimum Site Area: 600m² • Minimum Lot Width: 12m • Minimum Car Parking: 1 space per dwelling
Mid-rise housing		
Residential flat buildings (RFBs)	Permit RFBs with consent in the R3 zone within <i>station and town centre precincts</i> in the Six Cities region.	<p>Introduce non-refusal standards that apply to RFBs wherever they are permitted (excluding R2 zones) in <i>station and town centre precincts</i> in the Six Cities region.</p> <p>Within <i>inner (0-400m) station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 21m • Maximum FSR: 3:1 <p>Within <i>outer (400-800m) station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 16m • Maximum FSR: 2:1
Shop-top housing (STH)	No change proposed.	Introduce non-refusal standards that apply to shop top housing (identical to those proposed for RFBs) wherever they are permitted (excluding for R2 zones).

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Typology	Other proposals
Mid Rise Housing (both RFBs and STH)	<p>Amend the Apartment Design Guide which sits under the <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> (SEPP 65) to include suitable design criteria for mid-rise housing (e.g. related to building separations, setbacks, vehicle access, visual privacy and communal open space).</p> <p>The design provisions will ensure mid-rise apartment buildings are well-designed and promote excellent amenity and liveability for residents and the community.</p>
Subdivision of MDH (Terraces) and Dual Occupancies	<p>New provisions are proposed to enable the torrens subdivision of multi dwelling housing (terraces) and dual occupancies that have been approved under the proposed low-rise housing reforms. The proposed lots will need to meet appropriate size, width and access requirements.</p>
Low Rise Housing through the Complying Development Pathway	<p>The Low Rise Housing Diversity Code will continue to apply including to areas where low rise typologies are proposed to be permitted under the reforms.</p>

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Appendix B – Landscaping provisions for mid-rise housing

Development category	Tree canopy target (min % of site area)	Deep soil target	Tree-planting rate
Residential flat buildings and Shop-top housing			
Less than 650 m ²	15%	As per Apartment Design Guide	For every 350 m ² of site area or part thereof, at least one small tree must be planted in the deep soil area
650 m ² – 1,500 m ²	15%	As per Apartment Design Guide	For every 350m ² of site area or part thereof, at least one medium tree is to be planted in the deep soil area
Greater than 1,500 m ²	20%	As per Apartment Design Guide	For every 575m ² of site area or part thereof, at least 2 medium trees or one large tree must be planted in the deep soil area

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Appendix C – Landscaping provisions for low-rise housing

Development category	Lot size	Tree canopy target (min % of site area)	Deep soil target (min % of site area)	Tree-planting rate
Manor houses	<300m ²	20%	20%	For every 200m ² of site area, or part thereof, at least one small tree
	300-600m ²	25%	25%	For every 250m ² of site area, or part thereof, at least one medium tree
	>600m ²	30%	30%	For every 350m ² of site area, or part thereof, at least 2 medium trees or one large tree
Dual occupancies	<300m ²	15%	15%	At least 1 small tree, per dwelling
	300-600m ²	20%	20%	For every 200m ² of site area, or part thereof, at least one small tree
	>600m ²	25%	25%	For every 225m ² of site area, or part thereof, at least one medium tree
Multi-dwelling housing (terraces)	<1,000m ²	20%	20%	For every 300m ² , or part thereof, at least one medium tree
	1,000-3,000m ²	25%	25%	For every 200m ² , or part thereof, at least one medium tree
	>3,000m ²	30%	30%	For every 350m ² , or part thereof, at least 2 medium trees or one large tree

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26 February 2024

Our Ref: 23/1050
Our Contact: Robert McKinlay (02) 9366 3724

Department of Planning, Housing and Infrastructure
LOCKED BAG 5022
PARRAMATTA NSW 2124

Dear Sir / Madam

Draft Bayside Council Submission on the Explanation of Intended Effect: Changes to Create Low-Rise and Mid-Rise Housing

Thank you for the opportunity to comment on the exhibited *Explanation of Intended Effect: Changes to Create Low-Rise and Mid-Rise Housing* (the EIE). Bayside Council provides the attached as a draft submission, which will be considered by Council for formal endorsement at its meeting to be held on 27 March 2024. A final version will be provided immediately following the Council meeting.

Bayside Council acknowledges the National 'housing crisis' and the urgent need to house Australia's growing population. All stakeholders need to play their part in a solution, including Local Government. Bayside Council is a strong supporter of increasing the provision of homes close to public transport, community services and open space, provided that increased development potential is carefully considered against the opportunities and constraints of each location.

DPHI's data shows that Bayside has been fulfilling its obligations in regard to facilitating new homes, exceeding the housing target of 10,150 dwellings between 2016 and 2021 established by the Eastern City District Plan and Council's Local Housing Strategy (LHS). Apart from City of Sydney and Parramatta, Bayside facilitated more housing in this period than any other Council within 20km of the Sydney CBD.

It is also vitally important that the housing and the neighbourhoods we create in the process provide a good standard of living for our community. Not only are the consequences of poor planning and development very difficult and expensive to remedy after the event, they leave an undesirable legacy that lasts for generations. Expedient short-term solutions must not create long term quality of life legacy issues.

The imperative of finding fast solutions in NSW has set aside planning work undertaken by State and local government in recent years, including the Metropolitan, District and Local level plans, and local Housing Strategies. The planning processes set out in documents including the LEP Making Guidelines (2023), have also been truncated. The rapid introduction of broad-brush statutory planning controls based on superficial analysis increases the risk of poor outcomes.

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Bayside would prefer to lead its own planning in partnership with our community and the NSW Government, rather than having broad brush controls imposed over much of the LGA that may not deliver optimal outcomes. While drawing circles around centres is not a proven methodology to achieve quality results in urban development, Council could work to refine the boundaries and controls around suitable centres quickly to increase the amount of land available for higher density housing.

Council has identified a range of general concerns, together with recommendations to address them. In response to the EIE's request for input on which centres should be included, Council has conducted a review of constraints and housing opportunities to provide recommendations on where the policy should apply.

The measures proposed in the EIE could potentially double the number of dwellings currently existing in Bayside. It is of great concern that such a massive change comes with no plans to provide public transport, roads, parks, community facilities, schools, and other social infrastructure required to support a decent quality of life for residents.

If you require any further clarification, please do not hesitate to contact Robert McKinlay, Senior Urban Planner on (02) 9366 3724.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Barber', with a horizontal line extending to the right.

Peter Barber
Director City Futures

Enclosed: **Attachment 1** Draft Bayside Council Submission

Bayside Council Draft Submission on the Explanation of Intended Effect: Changes to Create Low-and Mid-Rise Housing

Introduction

With a solid track record of facilitating housing, and commitment to working through its State endorsed Local Housing Strategy to maintain a strong housing delivery pipeline, Bayside would prefer to undertake its own planning in partnership with our community, rather than having broad-brush controls imposed in particular areas that may not deliver optimal outcomes.

In view of this, Bayside Council encourages increasing a diverse range of housing types near established centres and public transport. However, the increased density and housing supply proposed resulting from infill development must be evaluated against the unique land constraints that apply to each specific location. Council has undertaken a comprehensive constraints analysis which identifies strategic and some site specific matters that must be considered by DPHI as it further develops and implements the EIE. These constraints must be considered in the context of the large increase to theoretical housing capacity that the EIE is likely to deliver in specific places.

Impact of the EIE

From Council's initial estimates, the EIE and TOD SEPP will together facilitate theoretical housing capacity for an additional 100,000 homes across the Bayside LGA. This is equal to more than 40 years of housing production at the rate produced from 2016 to 2021.

At the 2021 census, the Bayside LGA had 74,727 dwellings. If 75% of the additional capacity facilitated by the changes is realised, the population of Bayside would grow to more than double the number at the 2021 census. Table 1 and Figure 1 below outline Council's estimate of where the policy could apply and the impact on dwelling capacity.

Bayside Council requests the opportunity to work with DPHI to improve aspects of the policy so that homes can be delivered in better places, to make better use of existing infrastructure, and to provide a better environment for the community. Council has also identified constraints in certain areas which require further evaluation and consultation before additional housing density is introduced.

Suburbs	TOD Program	EIE Railway and Light Rail Stations	EIE E2 Centres	EIE MU1 & E1 Centres	EIE Dual Occupancy	Suburb Total
Arncliffe	-	12,446	-	4,340	44	16,830
Banksia	7,880	444	-	370	23	8,717
Bardwell Park	-	1,319	-	15	-	1,334
Bardwell Valley	-	1,458	-	351	142	1,951
Bexley	-	2,685	-	5,647	878	9,210
Bexley North	-	1,774	-	558	67	2,399
Botany	-	-	-	5,859	-	5,859
Brighton-Le-Sands	-	-	-	8,792	29	8,821
Carlton (Bayside Only)	-	1,488	-	-	62	1,550
Daceyville	-	284	-	-	3	287
Dolls Point	-	-	-	298	3	301
Eastgardens	-	-	355	-	-	355
Eastlakes	-	-	-	1,667	14	1,681
Hillsdale	-	-	1,126	668	-	1,794
Kingsgrove (Bayside Only)	-	1,547	-	476	-	2,023
Kogarah (Bayside Only)	1,544	931	-	478	270	3,223
Kyeemagh	-	-	-	-	243	243
Mascot	-	1,514	-	3,406	-	4,920
Monterey	-	-	-	-	428	428
Pagewood	-	11	638	428	359	1,436
Ramsgate (Bayside Only)	-	-	-	921	-	921
Ramsgate Beach	-	-	-	1,162	-	1,162
Rockdale	7,214	1,926	-	926	13	10,079
Rosebery	-	-	-	1,103	-	1,103
Sandringham	-	-	-	275	146	421
Sans Souci (Bayside Only)	-	-	-	5,253	93	5,346
Turrella	4,956	337	-	-	-	5,293
Wolli Creek	-	3,147	-	220	-	3,367
Total	21,594	31,311	2,119	43,213	2,817	101,054

Table 1: Summary of theoretical housing capacity introduced by the TOD program and EIE.
(Note: Numbers are net additional dwellings possible under the Bayside LEP with the proposed policies in place)

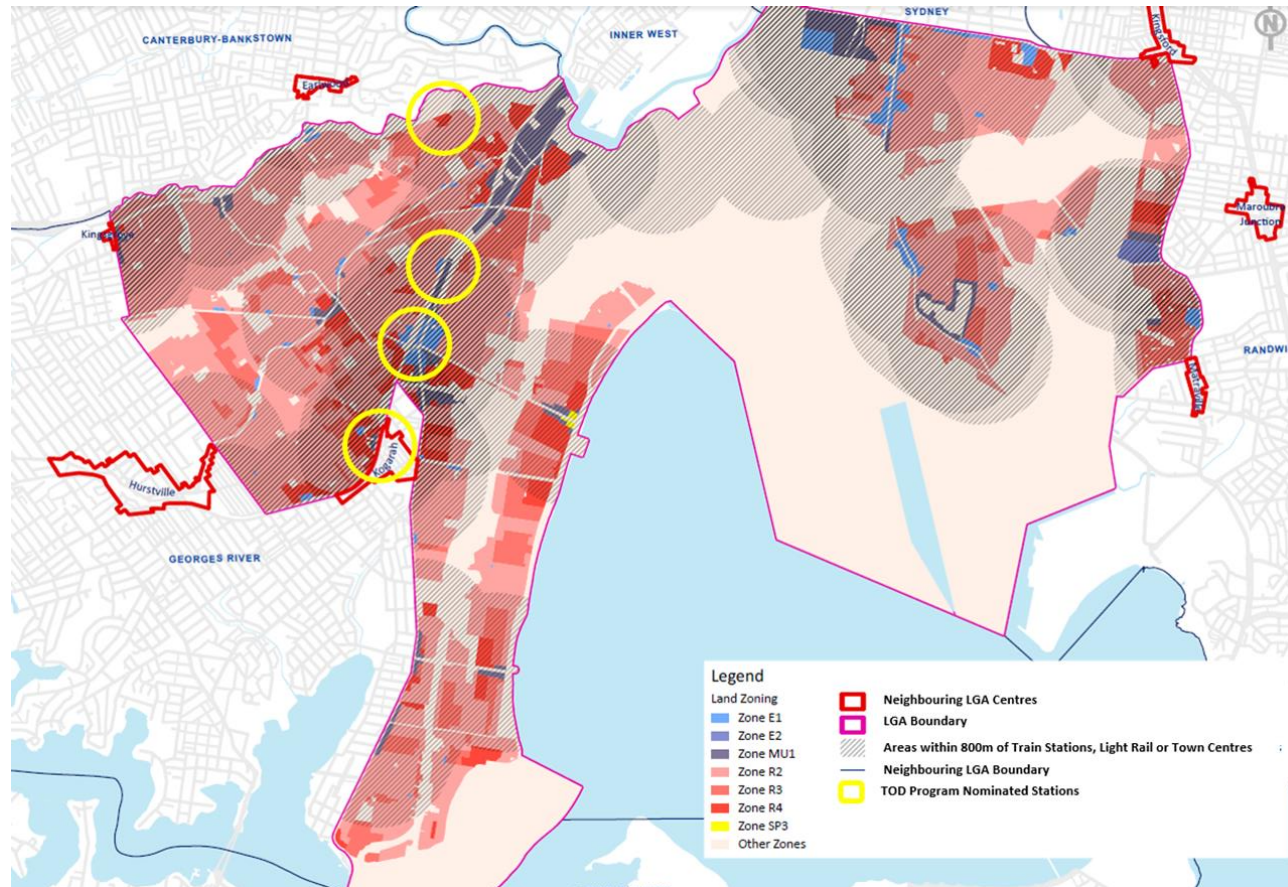


Figure 1: Map showing areas identified by the EIE for additional housing density.

General Matters

Funding and Provision of Local Infrastructure, Open Space and Services for the New Population

- Council has been undertaking forward planning in line with the Local Strategic Planning Statement (LSPS), Local Housing Strategy (LHS) and the Greater Sydney Region Plan and Eastern City District Plan.
- Planning Priority 1 of Bayside's LSPS is to *Align land use planning and transport infrastructure planning to support the growth of Bayside*. Increasing housing capacity across the LGA in an unplanned manner impacts Council's ability to predict, fund and provide new open space, infrastructure and services to support a growing community.
- Growth may occur in locations where infrastructure capacity does not exist or is expensive to provide. The *Sydney Region Plan A Metropolis of Three Cities* established the Growth Infrastructure Compact as a way of identifying places where growth and required infrastructure could be accommodated more economically. By contrast the EIE's approach is broad and does not specifically align growth with infrastructure capacity, potential or committed projects.
- New public open space is expensive to provide. Increasing development potential of all land will make it more expensive to acquire land to provide for the open space needs of a growing community. Councils have historically reserved land for these purposes before rezoning. The EIE's timeframe does not allow this to occur.
- Our Development Contribution Plans do not align with the forecast growth proposed under these reforms and there has not been sufficient time since this proposal was announced for Council to model predicted impacts on infrastructure and appropriate funding for new infrastructure to support a much larger population.
- The EIE will take effect before Council can update the Contributions Plans, infrastructure works schedules and financial plans.
 - **While the Government's intention is for housing to be delivered quickly, it will take many years for contributions plans to accumulate sufficient funds to purchase and embellish land for parks and community facilities, and in the interim, communities will suffer poor amenity.**
 - **Recommendation: The Government should provide funding to Councils to help manage the infrastructure and planning gaps that are likely to emerge (the Housing Productivity Contribution is one available source).**
 - **Recommendation: The Government should provide a default Local Infrastructure Contributions Plan with a rate in place of the current unrealistic \$20,000 cap, which Councils can use in the event any existing plans are not sufficient.**

Inadequate Capacity in State infrastructure such as Main Roads, Public Transport Services and Education

- The EIE unlocks a large amount of housing capacity but contains no detail on how the Government will provide supporting infrastructure and services.
- Peak hour trains run only every 15 minutes on the T8 line at Turrella and every 10 minutes on the T4 line for all stations between Hurstville and Wollli Creek. Capacity is understood to be limited by bottlenecks on the inner parts of the network.
- Metros are indicated in Future Transport 2061 to connect Kogarah to Parramatta, Randwick, and Miranda. No commitment has been made to deliver them and it would be premature to increase density significantly along these proposed metro corridors without knowing when or if transport capacity will be delivered.
- **The M6 Stage 1 project will soon be completed, however, there is not yet a commitment to deliver Stage 2.**
- **Some local public schools already operate near or over capacity. Department of Education predictions of demand have historically proven to be inaccurate.**
- **Recommendation: The Government should undertake a whole of government review of its infrastructure capacity, program and service planning to understand how it will support the housing capacity unlocked by the EIE.**

Impact on Heritage Items, Heritage Conservation Areas and Local Character Generally

- Planning Priority 9 of Bayside's LSPS is *Manage and enhance the distinctive character of the LGA through good quality urban design, respect for existing character and enhancement of the public realm.*
- Planning Priority 11 of Bayside's LSPS is *Develop clear and appropriate controls for development of heritage items, adjoining sites and within conservation areas.*
- Bayside has two existing heritage conservation areas:
 - **Daceyville Garden Suburb** will be within the walking catchments of light rail stops and the E2 Commercial centre zone at Kingsford.
 - **Botany Township** is located on land on or within walking distance of the E1 Local centre zone.
- Bayside has also completed exhibition of a Planning Proposal to add four Heritage Conservation Areas at:
 - Banksia (Gibbs and Farr Street)
 - Brighton-Le-Sands (Brighton Parade)
 - Bardwell Valley (Landsdowne Street and Hamilton Street)

- Oceanview Estate (various streets in Bexley and Rockdale)
- All of these existing and proposed HCAs are fully or partly affected by the EIE walking distances to stations or town centres and have zoning which permits residential development.
- Parts of the HCAs that are outside the EIE walking distances are still subject to the EIE's Dual Occupancy provisions.
- Bayside also has heritage items listed in zones and places to which the EIE will apply.
- Many of Bayside's suburbs also demonstrate a coherent and distinctive local character which is valued by residents.
- The EIE's proposed changes to the height, bulk, and typology together with changes to subdivision requirements are likely to detract from the heritage qualities and change the character of these areas and properties.
- **Recommendation: The Government should consider excluding the EIE provisions from application to Heritage Conservation Areas, sensitive heritage items and suburbs identified for local character protection.**

Additional Population Density around Port Botany and Heavy Industry with Risks Relating to Transport and Processing of Dangerous Goods, Contaminated Land, Freight Transport and Port Operations

- Planning Priority 14 of Bayside's LSPS is *Protect and grow the international trade gateways*.
- Botany Industrial Park (BIP) at Banksmeadow is a nationally significant industrial facility producing economically essential materials. Transport and processing of these materials poses known risks to the surrounding areas. For the most recent risk assessment see <https://www.planning.nsw.gov.au/sites/default/files/2023-03/quantitative-risk-assessment-2018-botany-industrial-park-report.pdf>
- Transport of dangerous goods to and from BIP and Port Botany takes place on a limited number of roads, some of which pass existing homes. A recent Planning Proposal at the nearby Westfield Eastgardens contains an assessment of these risks, see <https://apps.planningportal.nsw.gov.au/prweb/PRRestService/DocMgmt/v1/PublicDocuments/DATA-WORKATTACH-FILE%20PEC-DPE-EP-WORK%20RR-2023-15120230531T060513.675%20GMT>
- Past industrial activity has resulted in contamination of groundwater across a large area of Banksmeadow and nearby residential land. For the most recent consolidated human health risk assessment see <https://www.orica.com/Locations/Asia-Pacific/Australia/Botany/Botany-Transformation-Projects/Groundwater-Cleanup/publications-reports-and-reviews#chhra>
- As a nationally significant trade gateway, Port Botany's access routes (road and rail) must be protected from encroachment by further residential density both for the protection of freight transport, port operations and to limit population exposure to noise and other impacts. Strategic directions on this are found in the Eastern City District Plan (Actions 30, 31 & 32),

Future Transport 2061 (E1.4) and the NSW Freight and Ports Strategy (Objective 3-Goal 4 and Objective 5-Goal 2).

- Additional residential density should not be introduced into these areas without a strategic risk assessment. The EIE provisions should not be applied here until safe and appropriate locations can be identified.
- **Recommendation: The EIE should exclude centres and residential land near to Port Botany, its industrial areas, site affected by land/water contamination and along key freight/dangerous goods transport corridors or with significant contamination**
- **Recommendation: The Government should undertake detailed consultation with the operators of Port Botany, BIP and other key stakeholders.**

Additional Population Density and Taller Buildings within the Sydney Airport Flight Paths without Consideration of Protected Airspace or Aircraft Noise.

- Planning Priority 14 of Bayside's LSPS is *Protect and grow the international trade gateways*.
- Sydney International Airport at Mascot is Australia's busiest airport and is situated at the centre of the Bayside LGA.
- The airspace required to safely operate flights is protected under Commonwealth legislation and regulations. Below is a simplified map of the Obstacle Limitation Surface (OLS), which defines part of the protected airspace. For more information see <https://www.sydneyairport.com.au/corporate/planning-and-projects/airspace-protection-tile>

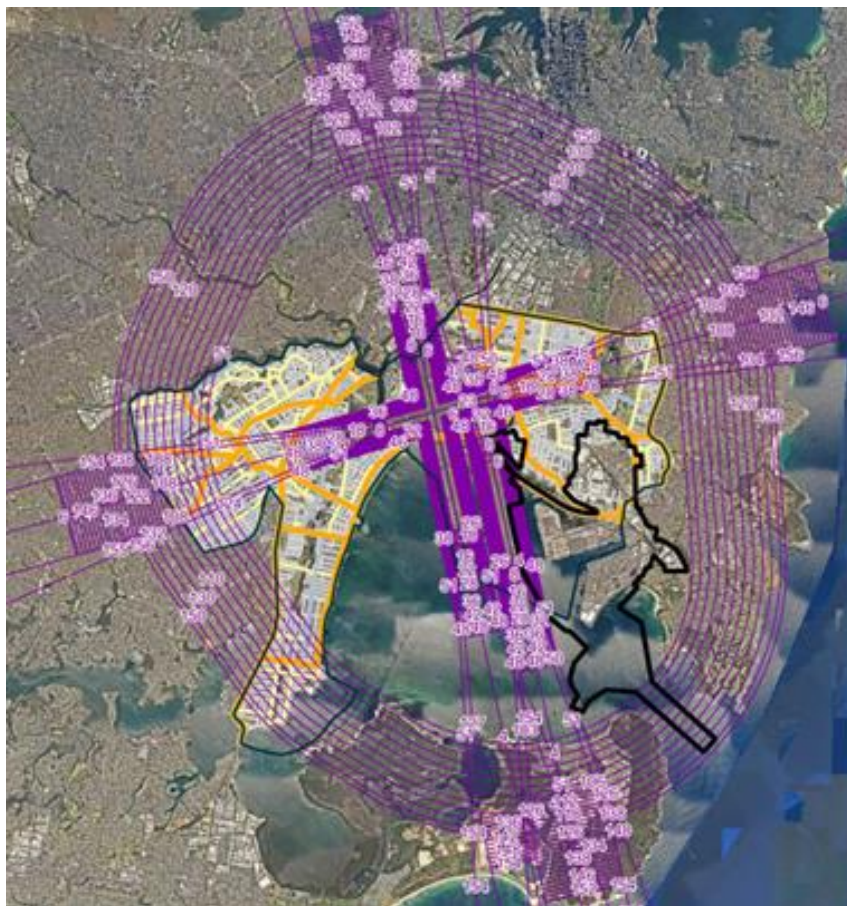


Figure 2: Overview of the Obstacle Limitation Surfaces for Sydney Airport overlying the Bayside LGA.

- The proposed building heights outlined in the EIE are likely to cause conflicts in the following places:
 - Close to the eastern end of the east-west runway at Mascot where the land surface varies from 5m to 13m above sea level, prescribed airspace sits as low as 14m.
 - West of the airport there are several suburbs where land is higher than 30m above sea level and the prescribed airspace sits as low as 51m above sea level. In some areas the land surface approaches or intercepts prescribed airspace, particularly around Bexley.
- Aircraft Noise is also a major issue associated with the operation of a major airport. A simplified map of some of the ANEF contours overlying the Bayside LGA is provided below.

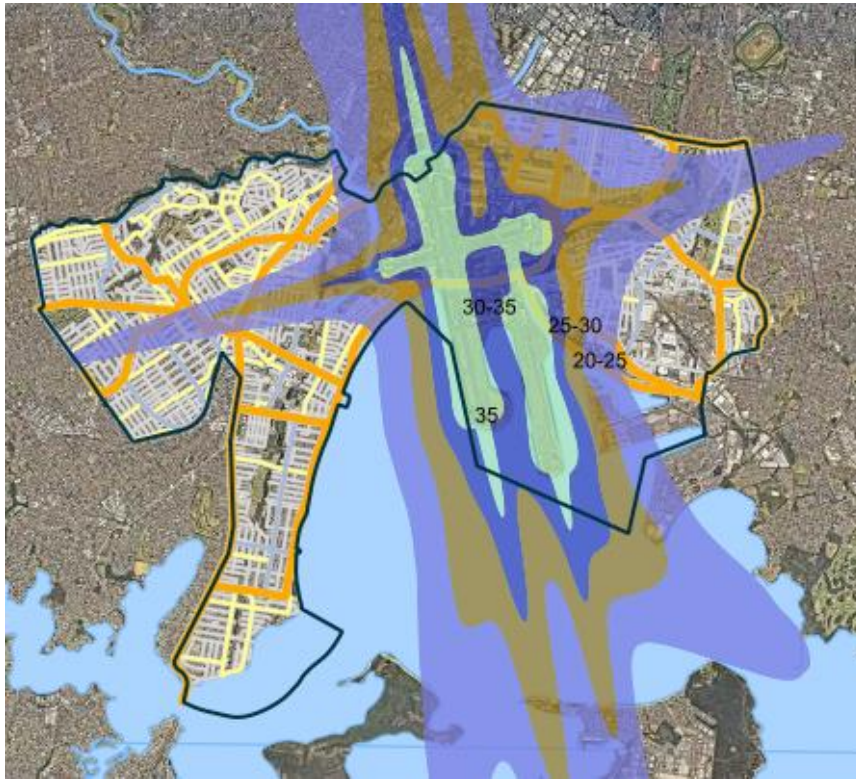


Figure 3: Overview of ANEF contours for Sydney Airport overlying the Bayside LGA.

- The EIE increases the potential residential density of land within the 25 ANEF contour, potentially leading to increased population subject to intense aircraft noise.
- A consequence of the above may be further restrictions on flights like the existing curfew, with impacts on airport capacity, efficiency, and economic contribution.
- Under the National Airports Safeguarding Framework (NASF) – Guideline A at item 20 the Government is required to balance the need to provide housing against the operational needs of airports and manage impacts.
- Under the NASF – Guideline F at item 19 the Government is advised that “...all intrusions into the OLS have the potential to create aviation safety risks and to limit the scope of operations into and out of the airport.”
- **Recommendation: Defer application of the EIE to land within the ANEF 25 contour to allow detailed consultation with Sydney Airport, Air Services Australia and surrounding Councils.**

- **Recommendation:** Where the EIE does apply to land within the ANEF 25 contour, new residential development should be required under the proposed policy to be designed to minimise noise exposure and intrusion.
- **Recommendation:** Modify the EIE non-refusal standards for building height so that they are below the lower limit of prescribed airspace where relevant.

Additional Density within Flood Prone Areas and other Land Subject to Hazards such as Land Slip

- Planning Priority 14 of Bayside's LSPS is *Reduce community risk to urban and natural hazards and improve the community's resilience to social, environmental and economic shocks and stressors.*
- Bayside LGA is significantly affected by flood risk. The map below shows an overview of the 1% AEP flood (blue) and Probable Maximum Flood (purple) extents. In some locations the flood risk can be managed in new development, whereas others experience flood depths and velocities that can structurally damage buildings.

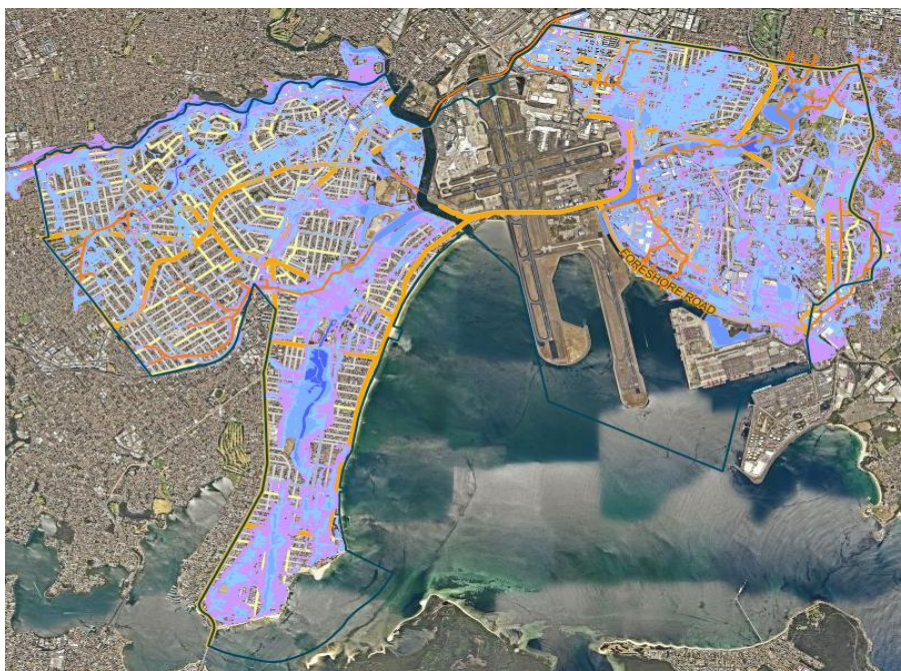


Figure 4: Overview of the 1%AEP and PMF flood extents overlying the Bayside LGA.

- The EIE suggests that Councils will retain their capacity to refuse development on the basis of flood risk. This will be essential to ensure that our community is not further exposed to flood risk.
 - The west of the Bayside LGA has significant undulating terrain which is known to be unstable in places. The Bayside LEP 2021 has existing provisions which allow Council to assess development on the basis of soil stability. The EIE does not directly address this specific risk or any others. It is recommended that the EIE should not disable or override any existing LEP or SEPP provisions that allow Councils to limit development in the context of various natural hazards.
- **Recommendation: Maintain the effect of existing LEP provisions related to flood hazards and other natural hazards.**

Opportunity to Work with Council in Developing Masterplans for Kogarah West, Bexley North, Mascot (Botany Rd) and Rockdale

- Council's Local Housing Strategy identifies priority areas for further investigation to accommodate more housing, jobs, open space and services for the community. All of these areas are now potentially captured by the EIE provisions.
 - By increasing the development potential of land under the EIE, Council's opportunities to fund infrastructure through Voluntary Planning Agreements or reserve/acquire land are diminished.
 - At the same time, risks and constraints in these areas could be better managed, by not increasing residential density on land where it would be unsafe.
 - Some locations already identified for investigation by Council may ultimately be underdeveloped if the blanket Low/Mid rise controls are imposed.
- **Recommendation: Work with Council to accelerate the delivery of Masterplans for areas already endorsed by Council for investigation.**

The Policy is Highly Complex and Makes the Planning System More Difficult to Understand

- Local Environmental Plans are the established tool for regulating the type and intensity of land uses. LEPs have mapping which allows residents to understand where rules and zones apply.
- Councils have established processes for distilling the rules in LEPs and advising potential buyers and developers, using 10.7 Planning Certificates.
- The EIE proposes to override existing LEP provisions and to do so with walking distances that will not be mapped.
- Council, residents and development applicants will not necessarily be able to see easily which parts of the EIE will apply to their property. It is understood that if any part of a development site is within an EIE walking distance, the entire development benefits from the EIE provisions.

- **Recommendation: Rather than applying these controls through a SEPP, the EIE reforms should instead be implemented through changes to LEP zoning and development standards to improve transparency and legibility.**

Building Design Issues driven by inappropriate controls

- Proposed medium density building height and FSR combinations are not feasible and do not deliver well designed buildings.
 - The EIE proposes unusual combinations of height and floor space ratio (FSR) for mid-rise housing: FSR of 3:1 and building height of 21m (within 400m), or FSR of 2:1 and building height of 16m (within 800m).
 - Under the Bayside LEP 2021, the 3:1 FSR on residential or mixed-use zoned land is not paired with any height below 28m, and heights over 30m are typical. Around Mascot Station, the 3.2:1 FSR is paired with a 44m height limit. At Wolli Creek, the 3:1 FSR is paired with either a 31m height limit or a 46m height limit.
 - The 2:1 FSR is paired with a broader range of heights down to 13m, however, this is typically done in low scale older town centres where redevelopment has not occurred, or as part of a mid-block height control to create a transition in scale. On sites where development has recently occurred, the 2:1 FSR control is typically paired with heights at 20m or more.
 - Council has attempted to model the proposed FSR and height controls on real world development sites in our centres. The full FSR cannot be accommodated within the proposed building heights.
 - Site amalgamation will be essential for the FSR to be realised, even with higher height limits. However, the EIE proposes to disable lot size and width controls which encourage amalgamation.
 - In combination these may cause land to become overvalued and make development sites harder to assemble, ultimately stifling delivery of housing.



Examples of the scale of development envisaged in the EIE, delivered with good amenity and built form outcomes – both are at an FSR of 1.5:1 and on lots of between 1300 and 1400 sqm

- Proposed low rise building heights of 9.5m are not needed to deliver two storey development and exceed the existing height limits in the R2 low density residential zone across much of Bayside.

- A height limit of 9.5m is not needed to deliver two storey developments. The existing 8.5m and 9m height limits are already sufficient for two storeys. 9m height limits are used in other LGAs to allow 3 storey multi-dwelling housing.
 - Taller and bulkier 3 Storey developments make it more difficult for Council to mitigate the impacts of overshadowing and loss of views or privacy. These are often primary objections to infill Development Applications. If the goal of the EIE is to deliver housing, then it should also be aiming for community acceptance and good amenity for residents.
- R2 zone minimum lot sizes and development standards are not appropriate in all parts of Bayside. For example, the 450sqm minimum lot size will generate little additional dual occupancy housing in the eastern parts of Bayside, because the predominant lot size is smaller. In some of the western areas of Bayside where lots in the order of 700sqm dominate, three storey dual occupancies at an FSR of 0.65:1 will integrate poorly with the existing character. A more nuanced approach is required to deliver good results for low rise medium density housing types across the metropolitan area, which Councils are best placed to advise on.
- Minimum lot widths are important to achieve good streetscape outcomes for low rise development types. For example, 12m minimum for dual occupancy will deliver a streetscape with two front doors, two garage doors, two paved driveways and very little landscaped space at ground level. This provides a poor relationship with the public domain.
- Minimum lot widths and areas provide a sound starting point to enable good development outcomes. Where they are not provided for medium rise development, there is a risk that development will be proposed on lots that are fundamentally too small to accommodate well designed buildings that provide good amenity. This will result in requests to vary planning controls and standards, extended application assessment times, appeals to the Court, and ultimately substandard development. This could be avoided by setting these basic parameters in advance.
- Changes to the Apartment Design Guide (ADG) Criteria will lead to reduced amenity and are not fully described in the EIE.
 - The changes to building separation, setback and privacy requirements will lead to reduced amenity within the dwellings, especially on lower levels and for sites with steep slopes. These changes may not be needed if the FSR and height issues noted above are better matched.
 - The changes to standardise waste collection are not needed. Bayside Council already has appropriate provisions that combine space for waste collection with other servicing and deliveries. Loading areas also facilitate safe access for removalists and bulky deliveries while minimising traffic disruption. The proposed changes are unclear and may allow waste to be left on public property for collection. That approach may work for low density development in suburban environments, but is not safe, practical or appropriate when applied to mid-rise housing in centres.
 - The EIE proposes to set standard minimum car parking rates for residential flats without stating what they will be. It is unclear whether other Council parking provisions such as bicycle parking and electric vehicle charging will also be standardised or overridden.

Access to carparking is a key priority identified in Council's Community Strategic Plan. The NSW Guide to Traffic Generating Developments has not been substantially updated since October 2002. It appears premature to set standard parking requirements across Greater Sydney without first establishing an appropriate strategic direction and evidence base.

- **Recommendation: Undertake a comprehensive design-led review of the proposed controls to deliver more practically on the policy's intent.**
- **Recommendation: Provide more detail and consult further with Councils on the proposed changes to the ADG.**
- **Recommendation: Ensure the changes to waste collection requirements allow Council to refuse applications which would not manage waste collection appropriately.**
- **Recommendation: Complete a review of the 21 year old *Guide to Traffic Generating Developments* and then consult with Councils on how parking policy should evolve across Greater Sydney.**
- **Recommendation: that a more nuanced approach be adopted for low rise housing types so that new development is not incongruous with existing character.**
- **Recommendation: that minimum lot widths and areas be reconsidered where proposed to ensure good outcomes, and minimum lot widths and areas be prescribed for all forms of development.**

The approach proposed will not lead to orderly and economic development of land

- One of the core, enduring Objects of the Environmental Planning and Assessment Act is to promote the orderly and economic use and development of land. The amount of land covered by the changes (over 80% of Bayside) and the extent of the uplift being provided will not aid the achievement of this object for these reasons:
 - Development typically occurs on the easiest development sites first. This will result in a scattered development pattern within 800m of centres, and awkward transition periods decades long where single storey homes stand amongst 6 storey flat buildings.
 - Collecting developer contributions to a point where there are sufficient funds to acquire land and provide facilities will take longer where development is dispersed.
 - Servicing scattered density is less efficient and will ultimately result in new pockets of more dense housing waiting longer to receive social infrastructure compared to if development rolled out in a more traditional, consolidated pattern.
 - Mismatched FSR and height controls, and absence of minimum lot sizes and widths will result in speculative development where the potential maximum yield will not be achievable, and some sites not being capable of being developed at all when detailed design is undertaken. Overpaying for development sites will drive up dwelling prices.

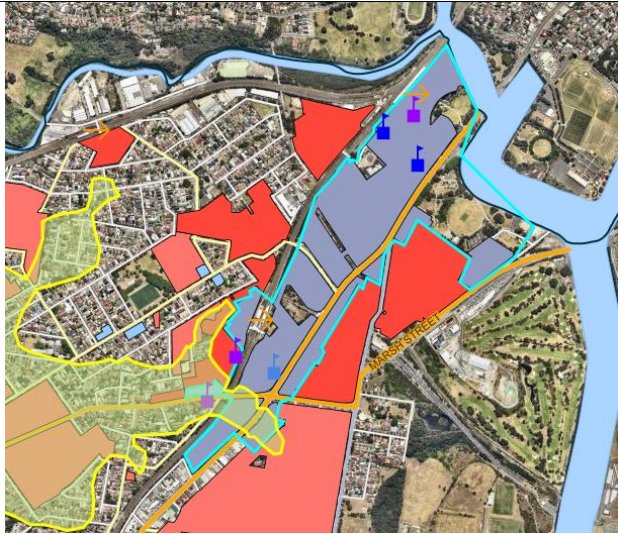
- The finance, development and construction industries do not have the capacity to ramp-up to match the massive increase in the development potential of land that is proposed, resulting in uplifted land remaining vacant for a long period of time.
- **Recommendation: Consider a more staged and measured approach in a smaller number of locations so that individual centres expand and develop in a shorter time horizon, and the delivery of infrastructure and services can be more timely and efficient.**

Centre Recommendations

Arncliffe – Wolli Creek






<p>Does this Centre Meet the EIE Definition?</p>	<p>Yes Within the MU1 and E1 zone this centre currently has several supermarkets of various sizes, as well as mixed businesses and grocers. A further mid-sized supermarket is proposed for delivery as part of an SSD at Eden Street Arncliffe. Woolworths at Wollie Creek is subject to a temporary consent and will be replaced by further development. A diversity of smaller shops, businesses and restaurants has developed within the centre around both railway stations to serve other daily needs of residents. Large undeveloped sites remain available with mixed use zoning that could accommodate further large format and variety retail.</p>
<p>Public Transport</p>	<p>Two railway stations serve the centre zones and the surrounding residential land. Wollie Creek benefits from being located on the T8, T4 and South Coast lines.</p>
<p>Flooding</p>	<div data-bbox="531 678 1182 1189" data-label="Image"> <p>The image is an aerial photograph of a city center, likely Wollie Creek, with various areas overlaid in different colors to indicate flood risk. The colors include shades of blue, purple, and cyan. The map shows a dense urban layout with streets and buildings. A prominent street is labeled 'MARSH STREET'. The flood risk areas are concentrated in the central and lower parts of the image, while the surrounding areas appear to be less affected or flood-free.</p> </div> <p>Flood risks are present within much of the land inside the centre. However, adjacent to it the higher land is less affected or even flood free. Higher land to the east, south and west is flood free. DPHI should consider excluding the most flood prone land from additional density.</p>

<p>Airspace</p>	 <p>Wollri Creek & Arncliffe sit within the Inner Horizontal Surface of the Sydney International Airport Obstacle Limitation Surface (OLS). This sets a limit of 51m AHD across most of the corridor and surrounds. Under the EIE and TOD SEPP programs, development could be permitted at up to 21m in height. This would conflict with the OLS at or above the 30m elevation contour (indicated in yellow) within the R3, R4, E1 and MU1 zones.</p>
<p>Appropriate for Additional Housing Capacity?</p>	<p>Areas of land to the east and south of the centre are zoned for high and medium density residential. Much of this land is relatively unconstrained. There is infrastructure and services to support growth. Traffic calming and pedestrian bridges may be needed to help connect these areas over the Princes Highway. Residential land to the west has low density zoning and also sits within the catchment of Turrella Station and is at least partly subject to the TOD Program.</p> <p>Bayside’s Local Housing Strategy identified that there was potential for additional development within Arncliffe centre, and that development to the north and west of Arncliffe Station should be limited to low scale typologies given the topography.</p>
<p>Recommended?</p>	<p>The MU1 and E1 zoned areas of Wollri Creek and Arncliffe do align with the EIE criteria for centres and are recommended for inclusion. The area is strategically identified for growth and is well served by infrastructure. The risks and constraints identified above should be considered when applying the policy.</p>

Banksia – Rockdale



<p>Does this Centre Meet the EIE Definition?</p>	<p>Yes Bayside Council has sought to have Rockdale nominated as a strategic centre and identified it as such in the Bayside Local Strategic Planning Statement. The corridor incorporates two full line supermarkets, two smaller format supermarkets and many other smaller food, grocery, convenience and mixed business retailers spread along its length. The corridor also contains a variety of larger format and specialist retailers within the shopping centre and in separate developments along the Highway. As former light industrial sites redevelop into mixed use residential developments, new amenities are added. At the centre of the precinct, the Bayside Council Town Hall and a portfolio of adjacent land in public ownership can facilitate expansion of public open space and facilities in future.</p>	
<p>Public Transport</p>	<p>Two railway stations serve the centre zones and the surrounding residential land.</p>	
<p>Flooding</p>		<p>Flood risks are concentrated in the railway and highway corridor and affect much of the nominated centre area already captured by the TOD SEPP and railway station buffers under the EIE. Higher land to the east and west is flood free.</p>
<p>Airspace</p>		<p>Rockdale sits within the Inner Horizontal Surface of the Sydney International Airport Obstacle Limitation Surface (OLS). This sets a limit of 51m AHD across most of the centre and surrounds. Under the EIE and TOD SEPP programs, development could be permitted at up to 21m in height. This would conflict with the OLS at or above the 30m elevation contour (indicated in yellow) within the R3, R4, E1 and MU1 zones.</p>

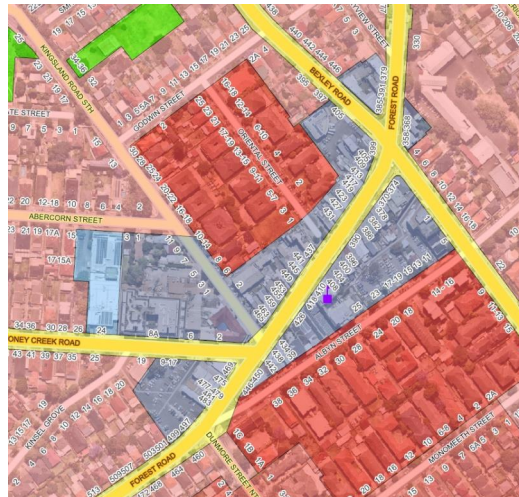
<p>Aircraft Noise</p>		<p>The ANEF 25 contour cuts across the centre of the corridor. This area can still be developed subject to appropriate noise mitigation. The land is already captured in the railway station buffers from Rockdale and Banksia.</p>
<p>Proposed Heritage Conservation Area</p>	<p>Council has exhibited a Planning Proposal to create four new Heritage Conservation Areas, two of which are within walking distance of this centre:</p> <ul style="list-style-type: none"> • Banksia (Gibbes Street and Farr Street) • Oceanview Estate 	
<p>Appropriate for Additional Housing Capacity?</p>	<p>Council’s Local Housing Strategy notes that both Banksia and Rockdale are constrained by aircraft noise. Open space areas provide good amenity and could be a focus for apartment development. Rockdale already has large areas of the centre zoned for high density development.</p>	
<p>Recommended?</p>	<p>The MU1 and E1 zoned areas of Rockdale and Banksia do align with the EIE criteria for centres. The area is strategically identified for growth and is well served by infrastructure. Specific risks and constraints identified above should be considered when applying the policy in this area.</p>	

Bardwell Park



Does this Centre Meet the EIE Definition?	No, this centre lacks the diversity of shops needed to fulfill the criteria set out in the EIE.
Public Transport	The train station on the T8 line serves the area.
Flooding	There are extensive flooding risks associated with Wolli Creek along the railway line and also some overland flow paths and gullies through the residential area.
Airspace	The hilly terrain south of the station does approach the OLS. Consultation with Sydney Airport should be undertaken.
Moomba to Sydney Ethane Pipeline	The gas pipeline adjoins this suburb. The Government should consult with pipeline operators to confirm that additional housing in this area is appropriate.
Appropriate for Additional Housing Capacity?	Bayside’s Local Housing Strategy noted that the character and topography of this area limit the appropriateness of apartments and larger medium density dwellings. Additional density should be limited to low scale infill development.
Recommended?	The centre zone in this area does not align with the EIE’s requirements. However, the railway station does mean that this centre and surrounds could deliver additional housing, though at a more modest scale. DPHI should undertake consultation with operators of the Moomba to Sydney Ethane Pipeline to ensure that density in this location meets acceptable risk criteria.


Bexley



Does this Centre Meet the EIE Definition?	This centre potentially meets the definition in the EIE. It has a small supermarket, but this is supported by a variety of local shops and businesses.
Public Transport	Buses only The Greater Sydney Region Plan and the Eastern City District Plan identified a future Metro corridor from Kogarah to Bankstown and Parramatta, which could potentially serve Bexley.
Flooding	There are some areas of flood prone land to the west and north of the centre.
Airspace	The centre is entirely above the 30m contour, meaning that 21m buildings on the MU1, E1, R4 or R3 zoned land would affect protected airspace.
Appropriate for Additional Housing Capacity?	Bayside’s Local Housing Strategy does not recommend additional density in Bexley, until the State commits to deliver a metro station here. The amenity of the centre is very badly affected by heavy vehicles using Forest Road and to avoid M5 road tolls.
Recommended?	This centre may align with the EIE definition but were the EIE provisions applied to the surrounding land, it would deliver a very large increase in potential housing capacity within the R3 and R2 zoned land without adequate provision for the needs of the new population. The EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process with infrastructure and service capacity assessments.

Bexley North



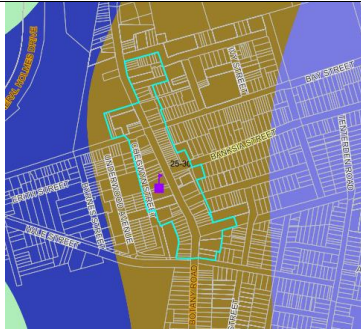

Does this Centre Meet the EIE Definition?	This centre potentially meets the definition in the EIE. It has a small supermarket, but this is supported by a variety of local shops and businesses.
Public Transport	The train station on the T8 line services the area.
Flooding	 <p>There are extensive flooding risks associated with Wollie Creek along the railway line, and also some overland flow paths along New Illawarra Road, Bexley Road, Sarsfield Circuit and Slade Road.</p>
Moomba to Sydney Ethane Pipeline	The gas pipeline adjoins this suburb. The State should consult with pipeline operators to confirm that additional housing in this area is appropriate.
Appropriate for Additional Housing Capacity?	Yes, flood free areas around the centre do have potential to accommodate more density. Terrain is quite steep in this area, posing a challenge for redevelopment. The centre itself has extensive complex flooding issues. Bayside’s Local Housing Strategy recommends investigation of this area for further housing.

Recommended?	<p>The centre zone in this area does not align with the EIE's requirements. However, the railway station does mean that this centre and surrounds will deliver additional housing. Flooding issues within the centre and near it require careful consideration.</p> <p>It is recommended that DPHI work with Council on its investigation area for this centre to look at how the flooding constraints and other issues can be overcome rather than applying the blanket EIE controls.</p>
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Botany



<p>Does this Centre Meet the EIE Definition?</p>	<p>This centre potentially meets the definition in the EIE. The suburb contains several areas of E1 and MU1 with a variety of shops and services. Two small supermarkets serve separate catchments within the suburb. A large portion of the MU1 zoned land is still used for light industrial purposes.</p>	
<p>Public Transport</p>	<p>Buses only</p>	
<p>Flooding</p>		<p>Much of the area is flood prone.</p>

<p>Aircraft Noise</p>		<p>The suburb is very close to Sydney Airport. Large areas of it are within the 25 ANEF contour and subject to intense aircraft noise.</p>
<p>Heritage Conservation Area</p>		<p>The centre contains a Heritage Conservation Area, and numerous heritage items.</p>
<p>Industrial Risk, Port Botany, Contaminated Ground Water</p>	<p>The global trade gateway at Port Botany and the supporting industrial lands impose constraints on the residential potential of this suburb. Freight routes, industrial risk and contaminated ground water are all complicating factors which should be carefully assessed.</p>	
<p>Appropriate for Additional Housing Capacity?</p>	<p>Bayside’s Local Housing Strategy notes that the area is highly constrained and is not suitable for additional density.</p>	
<p>Recommended?</p>	<p>While parts of these centre zones may align with the EIE definition, they and the surrounding residential land are quite constrained. Therefore, the EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process.</p>	

Brighton-Le-Sands



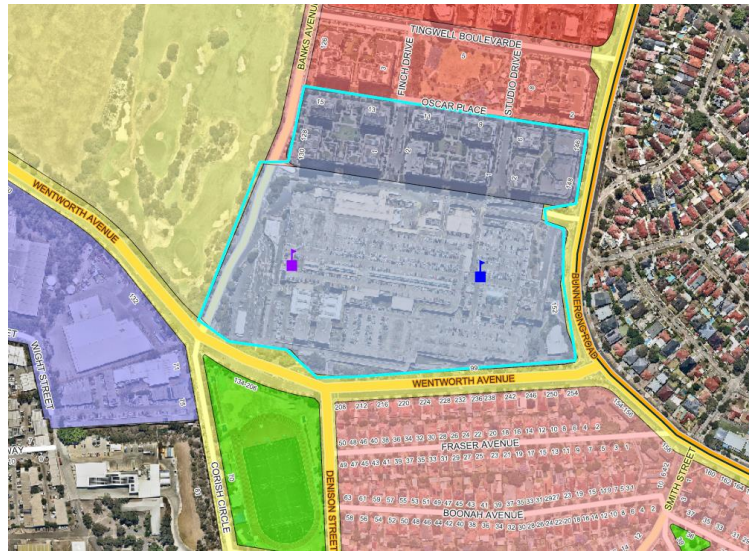
Does this Centre Meet the EIE Definition?	Yes It has a mid-sized supermarket, and this is supported by a variety of local shops and businesses.
Public Transport	Buses only The Eastern City District Plan identified a future Metro corridor from Kogarah to the airport and Randwick, which could potentially serve Brighton-Le-Sands.
Flooding	There is some flooding risk within the centre on Bay Street. To the west of the suburb much of the land is flood prone.
Appropriate for Additional Housing Capacity?	The suburb already has a lot of zoned capacity for new medium density housing. The Bayside Local Housing Strategy notes that later stages of the Brighton-Le-Sands Masterplan are dependent on improvements to public transport. Were this centre and surrounding land included in the EIE it could potentially enable development of more than 8,000 dwellings. This is difficult to justify without a train station serving the centre..
Recommended?	This centre does align with the EIE definition but were the EIE provisions applied to the surrounding land, it would deliver a <u>very large</u> increase in potential housing capacity within the R3 zoned land without adequate provision for the needs of the new population. The EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process with infrastructure and service capacity assessments.

Carlton



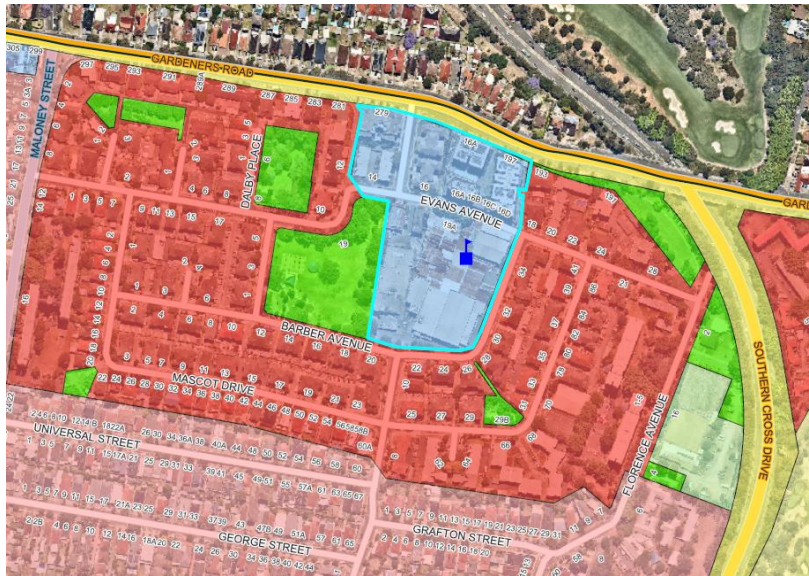
Does this Centre Meet the EIE Definition?	No, this centre lacks the diversity of shops needed to fulfill the criteria set out in the EIE.
Public Transport	The train station on the T4 line services the area.
Flooding	A large stormwater drainage channel to the north of the station is associated with localised flood risks, but the suburb is broadly flood free.
Appropriate for Additional Housing Capacity?	<p>There is limited capacity left in the existing R4 zone. Outside the flood affected area there is potential for additional low rise medium density housing within the walking catchment of the train station.</p> <p>The Bayside Local Housing Strategy identified that there was potential for development between Carlton and Kogarah. This area would be captured in the walking distances for both Carlton and Kogarah railway stations.</p>
Recommended?	The centre zone in this area does not align with the EIE’s requirements. However, the railway station does mean that this centre and surrounds will deliver additional housing. This outcome is strategically and practically acceptable, subject to refinement of boundaries and controls.

Eastgardens



Does this Centre Meet the EIE Definition?	The centre is included in the EIE definition through its E2 zoning. It is also a major shopping centre with multiple supermarkets and a very wide variety of smaller shops and services.
Public Transport	Buses only
Flooding	There are extensive areas of flood prone land in and around this centre.
Industrial Risk, Port Botany, Contaminated Ground Water	The Botany Industrial Park sits to the southwest of the centre. Risks associated with industry and the transport of dangerous goods directly impact this centre and surrounding residential land. The contaminated ground water plume also affects residential land within walking distance of this centre.
Appropriate for Additional Housing Capacity?	The area to the immediate north of the centre is already being redeveloped for high density residential. Due to the industrial constraints, further residential development around this centre should not take place until its safety can be assessed quantitatively. Bayside’s Local Housing Strategy identified this centre as having potential for investigation, if public transport was improved.
Recommended?	The centre is included in the EIE by its zoning. However, it is located along a dangerous goods transport route and some of its nearby residential land is close to the Botany Industrial Park. In light of this, and other constraints this centre should not be included until these complex issues are addressed.

Eastlakes



Does this Centre Meet the EIE Definition?	Yes This centre includes a local shopping centre with multiple supermarkets and a selection of smaller shops and services.
Public Transport	Buses only The Eastern City District Plan identified a future metro corridor from Kogarah to the airport and Randwick which could potentially serve Eastlakes.
Flooding	Large parts of this suburb are flood prone.
Aircraft Noise	The low-density residential area south of this centre is underneath a flight path and subject to intense aircraft noise.
Industrial Risk	The Botany Industrial Park sits to the southeast of the centre. Risks associated with industry and the transport of dangerous goods impact some of the surrounding residential land.
Appropriate for Additional Housing Capacity?	Council’s Local Housing Strategy considered this centre to be constrained and an important location for the retention of existing older housing stock that supplies affordable housing. It also noted that many surrounding lots are too small, making it hard to amalgamate a viable development site. The LHS therefore did not recommend further redevelopment.
Recommended?	While this centre likely does align with the EIE definition, it and the surrounding residential land are quite constrained. Therefore, the EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process.

Hillsdale



Does this Centre Meet the EIE Definition?	Yes This centre includes a local shopping centre with multiple supermarkets and a selection of smaller shops and services.
Public Transport	Buses only
Flooding	Large parts of this suburb are flood prone.
Industrial Risk	The Botany Industrial Park is situated to the west of the centre. Risks associated with industry and the transport of dangerous goods impact some of the surrounding residential land. Due to the industrial constraints, further residential development around this centre should not take place until its safety can be assessed quantitatively.
Appropriate for Additional Housing Capacity?	Council’s Local Housing Strategy considered this centre to be constrained and an important location for existing older housing stock that provides affordable housing. It also noted that many surrounding lots are already developed for walk up flats, making it hard to amalgamate a viable development site. The LHS therefore did not recommend further redevelopment.
Recommended?	While this centre likely does align with the EIE definition, it and the surrounding residential land are quite constrained. Therefore, the EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process.

Kingsgrove


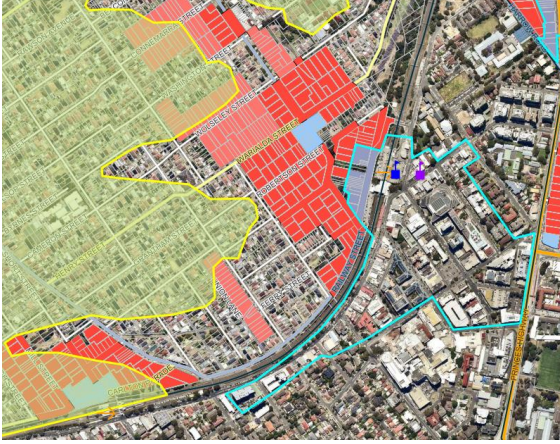


Does this Centre Meet the EIE Definition?	Yes It has a mid-sized supermarket, and this is supported by a variety of local shops and businesses.
Public Transport	The train station on the T8 line services the area. The Greater Sydney Region Plan and the Eastern City District Plan identified a future metro corridor from Kogarah to Bankstown and Parramatta which could potentially serve Kingsgrove and interchange with existing services.
Flooding	There are extensive flooding risks associated with Wolli Creek along the railway line and also some overland flow paths and gullies through the residential area.
Moomba to Sydney Ethane Pipeline	The pipeline runs past this suburb. The State should consult with pipeline operators to confirm that additional housing in this area is appropriate.
Appropriate for Additional Housing Capacity?	Bayside’s Local Housing Strategy recommended delaying density increases in this area to coincide with delivery of the Metro. Such a delay may no longer be appropriate in the context of the present housing crisis, given the proximity to Kingsgrove railway station and the metrics proposed in the EIE.
Recommended?	Kingsgrove centre does align with the EIE criteria and is recommended for inclusion. The area is well served by infrastructure and can support additional housing. Specific risks and constraints identified above should be considered when applying the policy to the surrounding land.

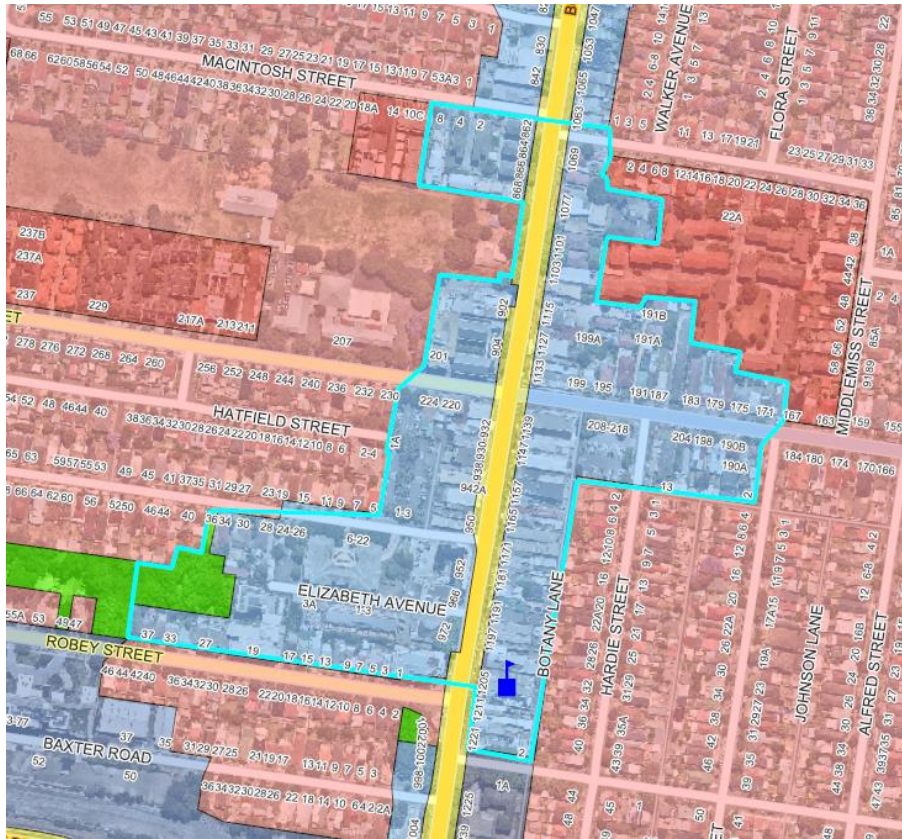
Kogarah




Does this Centre Meet the EIE Definition?	Yes This centre includes multiple supermarkets over the railway station and a wide selection of smaller shops and services. Strategically, this centre is identified as a Health and Education Precinct by the GCC in the Greater Sydney Region Plan and the Eastern City District Plan.
Public Transport	The train station on the T4 line services the area.

<p>Flooding</p>	 <p>While much of the centre is flood free, there are drainage channels and overland flow paths west, north and east of the centre.</p>
<p>Airspace</p>	 <p>Kogarah sits within the Inner Horizontal Surface of the OLS. This sets a limit of 51m AHD across most of the centre and surrounds. Under the EIE and TOD SEPP programs development could be permitted at up to 21m in height. This would conflict with the OLS at or above the 30m elevation contour (indicated in yellow) within the R3, R4, E1 and MU1 zones.</p>
<p>Appropriate for Additional Housing Capacity?</p>	<p>Much of the residential land is already developed and strata titled as walk-up flats. Bayside’s Local Housing Strategy identifies further development potential between Kogarah and Carlton.</p>
<p>Recommended?</p>	<p>The MU1 zoned area of Kogarah centre does align with the EIE criteria for centres. The area is strategically identified for growth and is well serviced by infrastructure. Specific risks and constraints identified above should be considered when applying the policy to the surrounding land. Subject to detailed analysis, the MU1 zoned strip could be capable of accommodating more than is proposed.</p>

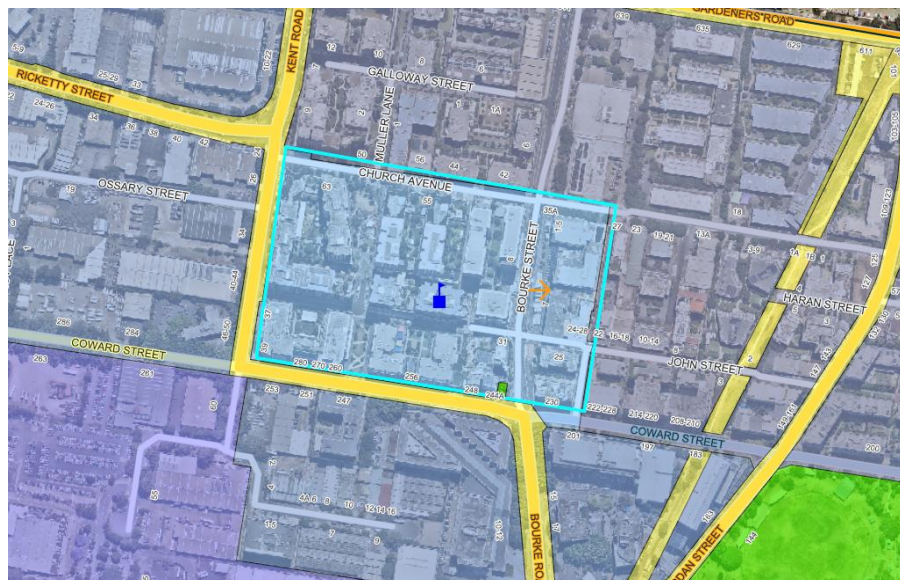
Mascot (Botany Road)



Does this Centre Meet the EIE Definition?	Yes This centre potentially meets the definition in the EIE. Botany Road has a lengthy linear strip of E1 zoned land, but most of the businesses are clustered in the south between Macintosh Street and Hollingshed Street.
Public Transport	Buses only.
Flooding	Much of this suburb is flood prone.

<p>Airspace</p>	 <p>The end of the east-west runway sits just southwest of this centre. The R2 and MU1 zoned land to the south of Hollingshed Street is under the flight path and in places the land surface is within 9.5m of protected airspace. Consultation with Sydney Airport is strongly recommended before increasing residential densities and building heights in this location.</p>
<p>Aircraft Noise</p>	<p>The southern half of Botany Rd is heavily affected by aircraft noise.</p>
<p>Appropriate for Additional Housing Capacity?</p>	<p>Bayside’s Local Housing Strategy does not recommend Mascot for additional residential intensification.</p>
<p>Recommended?</p>	<p>While part of this centre may align with the EIE definition, it and the surrounding residential land are quite constrained. Therefore, the EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process. Council has already resolved to investigate Mascot (Botany Road) for housing as an outcome of the LHS. Initial advice is that the housing capacity is likely better accommodated at the north of Botany Road, rather than around the active commercial area in the south. It is therefore recommended that this centre and surrounding land be excluded from the impact of the EIE to allow the investigation to be completed.</p>

Mascot Station



Does this Centre Meet the EIE Definition?	Yes The E1 zoned area around Mascot station has a supermarket and a variety of smaller shops. The surrounding MU1 area has a much lesser density of these amenities and would not meet the definition.
Public Transport	The train station on the T8 line services the area.
Flooding	Much of the area is flood prone. Development has been designed to try and mitigate these risks.
Airspace	The Mascot Station precinct sits to the east of the North-South runway flight paths. Building height limits are already higher than those proposed in the EIE.
Appropriate for Additional Housing Capacity?	The centre and surrounds are already developed, often to a higher density than that proposed in the EIE. Council’s Local Housing Strategy does not recommend further investigation of this area.
Recommended?	The E1 zoned area around the station does align with the EIE criteria for centres. The area is well served by infrastructure and can support growth. Given existing LEP zoning and development standards, the additional housing facilitated by the EIE controls in this location will be minimal. The E1 zoned land around the station is recommended for inclusion by the EIE as a centre.

Ramsgate



Does this Centre Meet the EIE Definition?	The centre has a limited number of small shops and no supermarket. By itself this centre is unlikely to supply sufficient variety of goods and services to meet the daily needs of people living in its walking catchment.
Public Transport	Buses only. The Eastern City District Plan identified a future Metro corridor from Kogarah to Miranda which could potentially serve Ramsgate.
Flooding	The area around Ramsgate and Sans Souci is flood affected, but much of this is relatively shallow and low flow velocity.
Appropriate for Additional Housing Capacity?	This area is zoned predominantly for low density residential uses, and this should be maintained. Small pockets of R3 and R4 land are located immediately adjacent to the centre and contain existing Residential Flat Building developments. Land within 800m of the centre is affected by Land Reservation Acquisition for the M6 motorway. Bayside Council's Local Housing Strategy identified this area as having good housing potential if transport and infrastructure gaps were improved.
Recommended?	This centre may align with the EIE definition but were the EIE provisions applied to the surrounding land, it would deliver a very large increase in potential housing capacity within the R3 and R2 zoned land without adequate provision for the needs of the new population. The EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process with infrastructure and service capacity assessments.

Ramsgate Beach



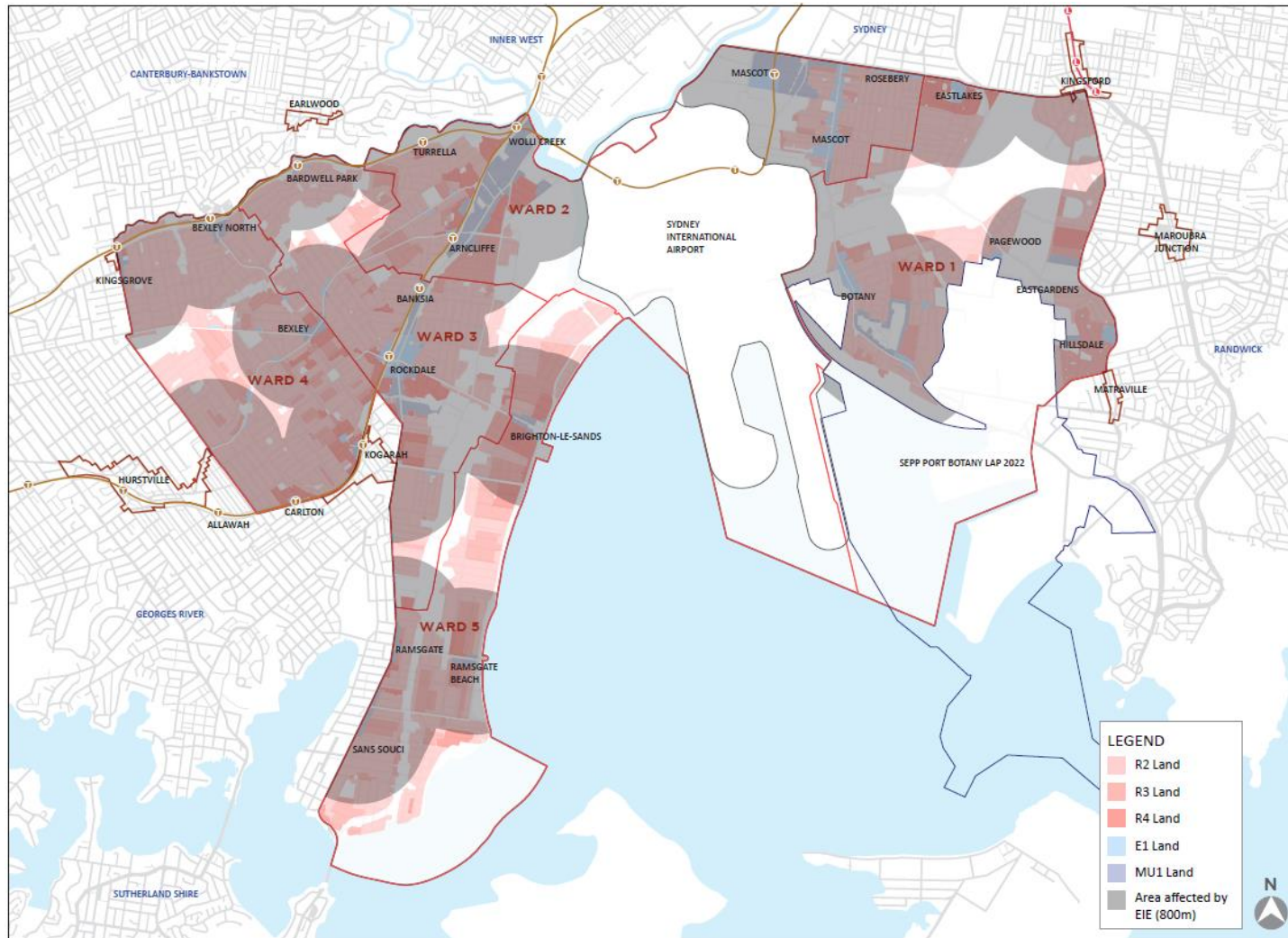
Does this Centre Meet the EIE Definition?	Yes Within the MU1 zone, the centre contains a mid-sized supermarket and a variety of smaller shops and a post office. Consequently, it can provide sufficient variety of goods and services to meet the daily needs of local residents.
Public Transport	Buses only. The Eastern City District Plan identified a future Metro corridor from Kogarah to Miranda which could potentially serve Ramsgate Beach.
Flooding	The area around Ramsgate and Sans Souci is flood affected, but much of this is relatively shallow and low flow velocity.
Appropriate for Additional Housing Capacity?	Bayside Council’s Local Housing Strategy identified this area as having good housing potential if transport and infrastructure gaps were improved.
Recommended?	This centre may align with the EIE definition but were the EIE provisions applied to the surrounding land it would deliver a very large increase in potential housing capacity within the R3 and R2 zoned land without adequate provision for the needs of the new population. The EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process with infrastructure and service capacity assessments.

Sans Souci



Does this Centre Meet the EIE Definition?	Yes Within the MU1 zone, this centre contains a mid-sized supermarket and a variety of smaller shops. Consequently, it can provide sufficient variety of goods and services to meet the daily needs of local residents. The area has parks and beaches which will support a high quality of life for new residents. The identified centre boundary includes land zoned MU1 under the Bayside LEP 2021 and land zoned E1 under the Georges River LEP 2021.
Public Transport	Buses only. The Eastern City District Plan identified a future Metro corridor from Kogarah to Miranda which could potentially serve Sans Souci.
Flooding	The area around Ramsgate and Sans Souci is flood affected, but much of this is relatively shallow and low flow velocity.
Appropriate for Additional Housing Capacity?	Bayside Council’s Local Housing Strategy identified this area as having good housing potential if transport and infrastructure gaps were improved.
Recommended?	This centre may align with the EIE definition but were the EIE provisions applied to the surrounding land it would deliver a very large increase in potential housing capacity within the R3 and R2 zoned land without adequate provision for the needs of the new population. The EIE provisions should not apply to this centre or surrounding land until transport capacity and other constraints have been addressed through a place-based planning process with infrastructure and service capacity assessments.

Attachment 3: Map and Table Summarising the EIE Impacts on Zones and Centres



Centre / Railway Station	Zone	Existing Development Standards			Proposed EIE/TOD Non-Refusal Standards					
		Height	FSR	Permissibility	Within 400m			Within 400m – 800m		
					Height	FSR	Permissibility	Height	FSR	Permissibility
Wolli Creek to Arncliffe	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	26.5-28	2.2:1	RFB	21-28	3:1	RFB	16-28	2-2.2	RFB
	MU1	16-70	2-4:1 or N/A	Shop-top housing	16-70	3-4:1 or N/A	Shop-top housing	22-70	2-4:1 or N/A	Shop-top housing
	E1	13	1:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Banksia to Rockdale	R2 (TOD)	8.5	0.5:1	Dual occupancy	21	3:1	RFB	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	22-40	2-3:1 or N/A	Shop-top housing	22-40	3:1 or N/A	Shop-top housing	16	2-3:1 or N/A	Shop-top housing
	E1	13-40	1:1 or N/A	Shop-top housing	22-40	3:1 or N/A	Shop-top housing	16	2-3:1 or N/A	Shop-top housing
Kogarah	R2 (TOD)	8.5	0.5:1	Dual occupancy	21	3:1	RFB	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	E1	13	1:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Carlton Station	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	13-14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	E1	12	1:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Turrella	R2 (TOD)	8.5	0.5:1	Dual occupancy	21	3:1	RFB	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	12-31	1.25 – 3.93:1	RFB	21	3:1	RFB	16-31	2-3.93	RFB

Centre / Railway Station	Zone	Existing Development Standards			Proposed EIE/TOD Non-Refusal Standards					
		Height	FSR	Permissibility	Within 400m			Within 400m – 800m		
					Height	FSR	Permissibility	Height	FSR	Permissibility
	E1	13	1:1	Shop-top housing	-	-	-	16	2:1	Shop-top housing
Bardwell Park	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	E1	16	2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Bexley North	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	MU1	16	2:1	Shop-top housing	21	3:1	Shop-top housing	-	-	-
	E1	13	1:1	Shop-top housing	-	-	-	16	2:1	Shop-top housing
Kingsgrove	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R4	20.5	2:1	RFB	21	3:1	RFB	-	-	-
	MU1	19	2:1	Shop-top housing	21	3:1	Shop-top housing	19	2:1	Shop-top housing
Mascot Station	R2	9	0.55:1	Dual occupancy	21	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	11-12	0.85-0.9	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	MU1	26-44	3-5.2:1	Shop-top housing	26-44	3-5.2	Shop-top housing	26-44	2-5.2	Shop-top housing
	E1	14-44	3.2:1	Shop-top housing	44	3-3.2	Shop-top housing	16-44	2-3.2	Shop-top housing
Kingsford (Centre and Light Rail Stops)	R2	7.5-8.5	0.5-0.6	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	E1	8.5	0.5:1	Shop-top housing	21	3:1	Shop-top housing	-	-	-
Mascot (Botany Rd)	R2	7.5-11	0.55:1	Dual occupancy	9.5-11	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	12	0.85:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	14-26	2:1	Shop-top housing	21-26	3:1	Shop-top housing	16	2:1	Shop-top housing
	E1	14	2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Eastlakes	R2	9-10	0.55:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5-10	0.7:1	Multi dwelling
	R4	10-14	0.85-1	RFB	21	3:1	RFB	16	2:1	RFB

Centre / Railway Station	Zone	Existing Development Standards			Proposed EIE/TOD Non-Refusal Standards					
		Height	FSR	Permissibility	Within 400m			Within 400m – 800m		
					Height	FSR	Permissibility	Height	FSR	Permissibility
	E1	14	1.5-2	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Eastgardens	R2	8.5	0.55-0.65:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	9-39	0.85-1:1	RFB	21-39	3:1	RFB	16	2:1	RFB
	R4	16.6-69	2.35:1	RFB	21-69	3:1	RFB	16-37	2.35:1	RFB
	MU1	12-44	1-3:1	Shop-top housing	28-44	3:1	Shop-top housing	16	2:1	Shop-top housing
	E1	12-14	1.5-2:1	Shop-top housing	-	-	-	16	2:1	Shop-top housing
Hillsdale	R2	8.5	0.55-0.65	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	9-12	0.85-1	RFB	21	3:1	RFB	16	2:1	RFB
	E1	14	2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
	MU1	12-19	1:1	Commercial	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Botany	R2	8.5-9	0.55	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	10	0.85-1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	10	1:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
	E1	12-22	2-2.5:1	Shop-top housing	21-22	3:1	Shop-top housing	16	2:1	Shop-top housing
Brighton- Le-Sands	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5-20.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	28-36	3-4:1	Shop-top housing	28-36	3-4:1	Shop-top housing	-	-	-
	E1	13	1:1	Shop-top housing	-	-	-	16	2:1	Shop-top housing
	SP3	28-51	3-4:1	Shop-top housing	28-51	3-4:1	Shop-top housing	-	-	-
Ramsgate	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB

Centre / Railway Station	Zone	Existing Development Standards			Proposed EIE/TOD Non-Refusal Standards					
		Height	FSR	Permissibility	Within 400m			Within 400m – 800m		
					Height	FSR	Permissibility	Height	FSR	Permissibility
	R4	14.5-33	1-2:1	RFB	21-33	3:1	RFB	16	2:1	RFB
	MU1	16-20.5	2:1	Shop-top housing	21	3:1	Shop-top housing	16-20.5	2:1	Shop-top housing
Ramsgate Beach	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	16-20.5	2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
Sans Souci	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	16-20.5	2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing
	E1	13	1:1	Shop-top housing	-	-	Shop-top housing	16	2:1	Shop-top housing
Bexley	R2	8.5	0.5:1	Dual occupancy	9.5	0.7:1	Multi dwelling	9.5	0.7:1	Multi dwelling
	R3	8.5	0.6:1	Multi dwelling	21	3:1	RFB	16	2:1	RFB
	R4	14.5	1:1	RFB	21	3:1	RFB	16	2:1	RFB
	MU1	16	2:1	Shop-top housing	21	3:1	Shop-top housing	-	-	-
	E1	13	1-2:1	Shop-top housing	21	3:1	Shop-top housing	16	2:1	Shop-top housing

City Planning & Environment Committee

13/03/2024

Item No	CPE24.011
Subject	Planning Proposal Request - 263, 273 & 273A Coward Street, Mascot
Report by	Peter Barber, Director City Futures
File	SF23/8734

Summary

On 12 May 2023, a Planning Proposal Request (PP) was submitted to Council for land at 263, 273 & 273A Coward Street, Mascot ('the site'). The site is currently zoned E4 General Industrial under the *Bayside Local Environmental Plan 2021* (BLEP 2021).

The PP seeks the following amendments to the BLEP 2021:

- Increase the floor space ratio (FSR) standard under clause 4.4 from the current base control of 1.2:1 to a maximum 2:1;
- Remove the site from the current Additional Permitted Use provisions under Schedule 1 Clause 14, which allows for the site to be developed for any purposes where the purpose is related to the operation of Sydney (Kingsford Smith) Airport, and also allows the FSR control to be increased to 1.5:1 for these developments; and
- Insert a new Additional Permitted Use clause to allow for:
 - Office premises (to a maximum of 5% of total floor space associated with any development); and
 - Restaurant and/or café uses.

The PP has been the subject of a detailed strategic and site-specific merit assessment against the planning framework. It is recommended to the City Planning and Environment Committee (CP&EC) that it be supported by Council for the reasons outlined in this report, including that it will protect and increase the amount of employment floor space within the Bayside LGA.

The proponent has offered to enter into a planning agreement with Council, which will be considered separately by Council at a future meeting once negotiations have concluded.

The PP was considered by the Bayside Local Planning Panel (BLPP) on 12 December 2023, where the Panel unanimously agreed that Council should support the Planning Proposal Request, for the following reasons:

- *The Panel is satisfied that the PP has both strategic and site specific merit for the reasons outlined above.*
- *The Panel were concerned that there could be a proliferation of signage, particularly third party advertising, and would seek for that to be regulated through a DCP signage strategy.*
- *The Panel concurs with the Council Officer's rationale and recommendation.*

The Assessment Report prepared for the BLPP is located within **Attachment 1**, and the BLPP's recommendation is within **Attachment 2**.

This assessment and report has been prepared by planning consultants, Patch Planning, engaged by Council.

Officer Recommendation

- 1 That the City Planning & Environment Committee notes the advice of the Bayside Local Planning Panel.
- 2 That Council, pursuant to s3.33 of the Environmental Planning and Assessment Act 1979, the Planning Proposal Request for land known as 263, 273 & 273A Coward Street, Mascot be submitted to the Department of Planning, Housing and Infrastructure for a Gateway Determination.
- 3 That should a Gateway Determination be issued to proceed to public exhibition, a further report be presented to the City Planning and Environment Committee following the exhibition period addressing any submissions received.
- 4 That the Bayside Development Control Plan 2022 be reviewed and updated concurrently with the Planning Proposal post-Gateway, to ensure consistency with the concept scheme and the controls contained in these documents and the Planning Proposal.

Background

Owner: Perpetual Corporate Trust Limited

Applicant: Urbis Pty Ltd on behalf of Perpetual Corporate Trust Limited

SUBJECT SITE AND SURROUNDING AREA

The site is known as 263, 273 & 273A, Mascot, legally described as PT 100 and 101 in DP 1277278, and PT 3 in DP 230355. The site is shown in **Figure 1**.

The site is located at the western end of Coward Street with frontages to Coward Street to the north (380m boundary), adjoining warehouse development to the west (260m boundary), the Port Botany Rail Line to the south (400m boundary), and industrial/warehouse development to the east (250m boundary). The site is 94,565.6sqm in area.

Further details about the site are contained within the Assessment Report at **Attachment 1** and the Planning Proposal at **Attachment 3**. All of the Appendices referred to in the Planning Proposal have not been published given the significant number, though are available to view upon request.

An existing Council stormwater drainage pipe runs from the east to west from Kent Road before routing south towards the Sydney Water channel. The site has developed drainage systems that collect rainwater and discharge it into the stormwater channel. The stormwater channel ultimately discharges into the Alexandra Canal.



Figure 1: Aerial photograph of site (Source: Urbis Planning Proposal)

There are significant trees across the site, primarily within the landscaped setbacks along the northern and southern boundaries of the site but also within the Kent Road setback and along the edges of the hardstand car parking areas.

There are no known scenic and culturally important landscapes based on the existing development at the site, although the site is highly visible from Qantas Drive and Sydney Airport.

SITE CONTEXT

Perpetual Corporate Trust Limited purchased the site and nearby land parcels from Qantas Airways Limited (Qantas) in late 2021. The consolidated land holding comprises a total of 137,565sqm across Mascot as shown in **Figure 2**.

The PP applies to the northern most lot identified in **Figure 2** as 'QF1 / QF2' comprising 94,565.6sqm. As detailed in the Assessment Report (**Attachment 1**) State Significant Development proposals are underway for Multi-Storey Warehouse and Distribution Centres on the remaining properties.

The site is located within the Mascot West Employment Lands Precinct and close to major transport infrastructure, including Sydney Kingsford Smith Airport, WestConnex and the Sydney Gateway Road Project (see **Figure 3**). The Mascot West Employment Lands comprise warehouse and distribution developments and manufacturing facilities. Notable land use activities surrounding the site include:



Figure 2: LOGOS consolidated landholdings in the precinct
(Source: Urbis Planning Proposal)

- Airgate Business Park to the west of the site, which comprises multiple buildings such as the DHL Express Head Office immediately to the west of the subject site, with other tenants including Woolworths and Toll Global Forwarding.
- Industrial zoned land to the north on the opposite side of Coward Street which accommodates a variety of small-medium scale industrial style buildings.
- Immediately adjoining land to the east along Coward Street which includes older-style industrial buildings accommodating manufacturing activities and other industrial and commercial buildings.
- The Port Botany freight line to the south.



Figure 3: Site Context Map (Source: Urbis Planning Proposal)

PLANNING PROPOSAL HISTORY

A history of the Planning Proposal Request is included in **Table 1** below:

Table 1: History and Context of the draft Planning Proposal

Date	Summary of Event
17 November 2021	Preliminary meeting to discuss Planning Proposal between Applicant and Council
31 May 2022	Technical meeting to discuss Planning Proposal between Applicant and Council
17 August 2022	Technical meeting to discuss required inputs to support a Planning Proposal between Applicant and Council
26 September 2022	Scoping Proposal Report submitted to Council, which sought an update to BLEP 2021 to facilitate an increase in the current FSR development standard from 1.2:1 (or 1.5:1 under Schedule 1) to 2:1.
17 November 2022	Scoping Proposal meeting held between Applicant and Council.
30 November 2022	Pre-lodgement Advice issued to Proponent.
12 May 2023	Subject Planning Proposal Request submitted seeking to amend the Bayside LEP 2021.
August - October 2023	Resolution of Requests for Information with applicant.
12 December 2023	Bayside Local Planning Panel meeting

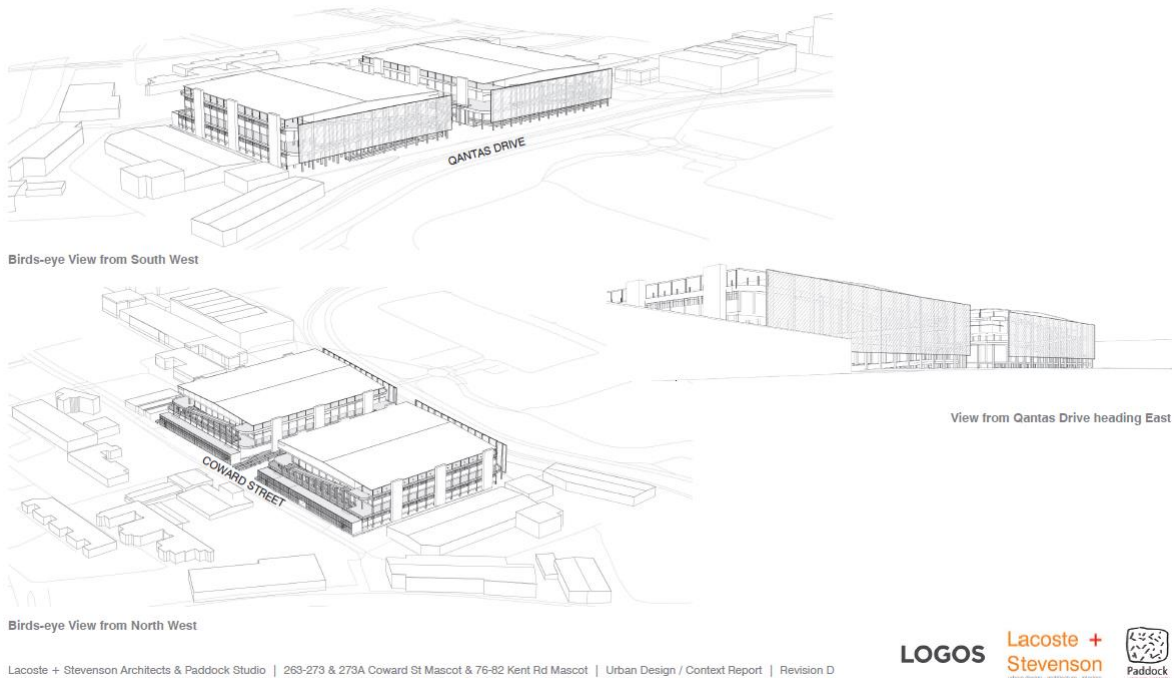
Details of the Planning Proposal

The Planning Proposal (refer **Attachment 3**) seeks amendments to the Bayside LEP 2021 as detailed in **Table 2** below.

Table 2: Proposed Amendments to the Bayside LEP 2021

Control	Bayside LEP 2021	Planning Proposal Request
Zone	E4 – General Industrial	No change.
Height of Buildings (HOB)	44m	No change.
Floor Space Ratio (FSR)	1.2:1 (base) and 1.5:1 (where development is for a purpose listed in Schedule 1 Clause 14)	2:1

<p>Schedule 1 Additional Permitted Use (APU)</p>	<p>Remove the site from clause 14(1) in Schedule 1 and the associated pink shading and '10' notation on the Additional Permitted Uses Map.</p>	<p>Insert a new clause 45 that reads: 45 Use of certain land at 263-273 and 273A Coward Street and 76-82 Kent Road, Mascot <i>(1) This clause applies to land at 263-273 and 273A Coward Street and 76-82 Kent Road, Mascot, being PT 100 and 101 in DP 1277278, and PT 3 in DP 230355, and identified as "45" on the Additional Permitted Uses Map.</i> <i>(2) Development for the following purposes is permitted with development consent:</i> <i>(a) office premises</i> <i>(b) café or restaurant</i> <i>(3) Despite subclause (2), development consent must not be granted to development for the purposes of office premises where the gross floor area of the office premises exceeds 5% of the total gross floor area of the development.</i></p>
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Concept design from Urban Design/Context Report.

Public Benefit Offer

Perpetual Corporate Trust Limited has also offered to enter into a Voluntary Planning Agreement (VPA) with Council. The following is a summary of the offer:

- Public Artwork: Works in kind to deliver 4 x integrated permanent public artwork pieces across the southern facades facing Qantas Drive. This public artwork forms a significant component of the Proponent’s Letter of Offer to enter into a VPA; and

- Stormwater Upgrades: Works in kind to upgrade the stormwater system in the vicinity of the PP site including upgrades to the existing stormwater diversion from Kent Road, and stormwater improvements to upsize and replace existing drainage infrastructure along the northern side of Kent Road.

The Letter of Offer to enter into a VPA is subject to further negotiation between the Proponent and Council. These discussions will focus on clarifying the requirements of the Proponent's Design Excellence Strategy for the digital artwork, and as such determining if the public art can be classified as a material public benefit. Further details are also sought to ascertain to what extent the stormwater upgrades constitute work required to support the proposal and/or a public benefit, and confirmation that the offer does not exclude development contributions under either s7.11 or s7.12 of the Act.

Any Planning Agreement offer will be considered separately by Council at a future meeting once negotiations have concluded.

Assessment of the Planning Proposal Request

A detailed assessment of the PP's strategic and site-specific merit in accordance with the Department of Planning, Housing and Infrastructure's LEP Making Guidelines is included in the Planning Assessment Report to the BLPP in **Attachment 1**.

The PP is supported as it provides sufficient justification to support the proposed changes to development standards, will have a positive net economic impact, and there are no tangible risks associated with de-linking existing bonus FSR provisions from the development of airport-related land uses.

The PP is also consistent with the directions outlined in the *Greater Sydney Regional Plan* (GSRP), the planning priorities in the *Eastern City District Plan* (ECDP) and *Bayside Local Strategic Planning Statement* (LSPS), and the Section 9.1 Ministerial Directions, demonstrating strategic and site-specific merit.

Council has also undertaken an assessment of the draft PP, including an assessment of visual impact and urban design, flooding, stormwater management, traffic and parking and economic impact.

Key issues identified within the assessment include:

- Visual impact and urban design, which has been considered through an Urban Design Report and Visual Impact Assessment.

Although the proposal would result in some level of visual impact, these are not likely to be any more significant than the visual impacts that would be experienced through a development under the existing planning controls and are therefore considered acceptable.

- Flooding and Stormwater, which has been appropriately addressed through the submission of a Civil Engineering Report confirming that the site is capable of suitably accommodating the proposed increase in density from a flooding perspective, and will not result in significant flood impacts to other properties.
- Traffic, which has been considered through a Traffic Report identifying that, with the implementation of certain measures on nearby roads and intersections, these intersections will operate to a satisfactory level of service.

- Economic Impact, which has been considered through an Economic Impact Assessment demonstrating justification in changes to planning controls to achieve the significant economic benefits associated with the proposal.

The PP also responds to strategic directions at a State and local level regarding the alignment of infrastructure and land use, as it will leverage recent significant road transport investments such as Sydney Gateway and WestConnex, and is also located within walking distance from rail transport at Mascot Station which can service the future workforce.

The introduction of office uses to the site has been capped at 5% of total GFA, which will ensure that the strategic hierarchy of centres is not compromised.

The BLPP outlined concerns that there could be a proliferation of signage as a result of any future development, particularly third party advertising. Advertising structures are currently prohibited on the site, and the PP does not seek to change this. However, there is concern that the proposed digital art screens facing Qantas Drive could be used for third-party advertising. This could be regulated and controlled through a DCP requirement for a Signage Strategy.

Bayside Local Planning Panel Advice

The Planning Proposal Request was considered by the Bayside Local Planning Panel at its meeting on 12 December 2023. The Panel advises Council that the draft Planning Proposal should be supported, and their advice is outlined below, and included in **Attachment 2**:

- 1 *That the Bayside Local Planning Panel recommend to Council that, pursuant to s3.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the draft Planning Proposal for land known as 263 and 273 Coward Street, Mascot be submitted to the Department of Planning and Environment for a Gateway Determination;*
- 2 *That, should a Gateway Determination be issued to proceed to public exhibition, a further report be presented to Council following the exhibition period addressing any submissions received throughout that process; and*
- 3 *That Bayside DCP 2022 be reviewed and updated concurrently with the draft PP post-Gateway, to ensure consistency with the concept scheme and the controls contained in these documents and the draft PP.*
- 4 *That the PP include a requirement for the preparation of a site-specific development control plan within the relevant clause of the Bayside LEP 2021.*

The concept development scheme supporting the PP proposes public art facades which would screen the warehouse structures. In the reasons for their recommendation, the BLPP highlighted a concern that this could result in a proliferation of signage, particularly third party advertising and sought for this to be regulated through a DCP signage strategy. Concurrent review and update of the Bayside DCP 2022 with the draft PP post-Gateway, as recommended in the BLPP advice, would ensure that any proposed signage is appropriately regulated in the future.

Conclusion

The draft PP has been subject to a detailed merit-based assessment against the strategic and statutory planning framework as required by the *Environmental Planning and Assessment Act 1979*, relevant guidelines, Planning Circulars and Practice Notes.

In considering whether to progress a draft Planning Proposal to a Gateway determination, Council is required to consider if the proposed changes to the Bayside LEP 2021 have both strategic and site-specific merit. The proposal has been found to be consistent with the strategic planning framework applying to the site. In particular, the draft PP supports the protection of employment lands and will facilitate the renewal of the site for ongoing employment purposes. The draft PP also responds to strategic directions at a State and local level regarding the alignment of infrastructure and land use, as it will leverage recent significant road transport investments such as Sydney Gateway and WestConnex, and is also located within walking distance from rail transport at Mascot Station which can service the future workforce. The introduction of office uses to the site has also been capped at 5% of total GFA, which will ensure that the strategic hierarchy of centres is not compromised.

Regarding site-specific merit, the assessment undertaken has identified impacts on the locality that would likely arise if the draft Planning Proposal proceeds. These include visual impact and urban design impacts, flooding and stormwater impacts, traffic impacts and economic benefits. The PP has also given consideration to site-specific constraints, and has demonstrated these can be addressed through any future development outcome.

The Proponent's Offer to enter into a VPA will be considered in a separate report to Council.

Giving consideration to the above, it is considered that the draft PP has demonstrated both strategic and site-specific merit, and is recommended to be submitted to the Department of Planning, Housing and Infrastructure for Gateway determination.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>	A fee has been paid by the Proponent for the assessment of this draft Planning Proposal.
Included in existing approved budget	<input type="checkbox"/>	
Additional funds required	<input type="checkbox"/>	

Community Strategic Plan

Theme One – In 2032 Bayside will be a vibrant place	<input checked="" type="checkbox"/>
Theme Two – In 2032 Our people will be connected in a creative City	<input type="checkbox"/>
Theme Three – In 2032 Bayside will be green, resilient and sustainable	<input checked="" type="checkbox"/>
Theme Four – In 2032 Bayside will be a prosperous community	<input checked="" type="checkbox"/>

Risk Management – Risk Level Rating

No risk	<input type="checkbox"/>
Low risk	<input checked="" type="checkbox"/>

Medium risk	<input type="checkbox"/>
High risk	<input type="checkbox"/>
Very High risk	<input type="checkbox"/>
Extreme risk	<input type="checkbox"/>

There is a risk that if Council defers or does not support this draft Planning Proposal, that the Proponent will lodge a Rezoning Review with the Department of Planning, Housing and Infrastructure (formerly the Department of Planning and Environment). This risk is considered to be low, as the current version of the proposal being reported to the CP&EC demonstrates strategic and site-specific merit.

Community Engagement

The Planning Proposal has not been subject to community consultation. Should Council support the draft Planning Proposal, it will be drafted and submitted to the Department of Planning, Housing and Infrastructure seeking a Gateway determination. If a Gateway determination is issued, the draft Planning Proposal will be subject to community consultation in accordance with Section 3.34(2)(c) of the Environmental Planning and Assessment Act 1979 and Council's Community Participation Plan. The specific requirements for community consultation will be listed in the Gateway determination, including the requirement to consult with any government agencies and authorities.

Attachments

- 1 Planning Proposal Assessment Report - Bayside Local Planning Panel Report 12 December 2023 (Under separate cover Attachments Part One) [⇒](#)
- 2 Bayside Local Planning Panel Advice - 12 December 2023 (Under separate cover Attachments Part One) [⇒](#)
- 3 Draft Planning Proposal Report - Urbis (Under separate cover Attachments Part One) [⇒](#)
- 4 Proposed LEP Mapping (Under separate cover Attachments Part One) [⇒](#)
- 5 Letter of Offer (Under separate cover Attachments Part One) [⇒](#)
- 6 Architectural Plans (Under separate cover Attachments Part One) [⇒](#)
- 7 Urban Design Context Report (Under separate cover Attachments Part One) [⇒](#)
- 8 Transport Report (Under separate cover Attachments Part One) [⇒](#)
- 9 Visual Impact Assessment (Under separate cover Attachments Part One) [⇒](#)
- 10 Heritage Impact Statement (Under separate cover Attachments Part One) [⇒](#)
- 11 Aboriginal Objects Due Diligence Assessment (Under separate cover Attachments Part One) [⇒](#)
- 12 Landscape Concept Plan (Under separate cover Attachments Part One) [⇒](#)
- 13 Economic Impact Assessment (Under separate cover Attachments Part One) [⇒](#)
- 14 ESD Report (Under separate cover Attachments Part One) [⇒](#)

City Planning & Environment Committee

13/03/2024

Item No	CPE24.012
Subject	Post Exhibition Report - Planning Proposal to Create Heritage Conservation Areas and supporting DCP Amendment
Report by	Peter Barber, Director City Futures
File	SF21/5101

Summary

On 22 March 2023, Council resolved to exhibit a Planning Proposal to create four Heritage Conservation Areas (HCAs) in parts of Banksia, Bardwell Valley, Brighton Le Sands, and Ocean View Estate, Bexley and an amendment to the Bayside Development Control Plan (DCP) to support the Planning Proposal.

A Gateway determination was issued by the Department of Planning, Housing and Infrastructure on 28 July 2023, which authorised Council as the Local Plan Making Authority.

The Planning Proposal and draft DCP amendment were publicly exhibited on the NSW Planning Portal and Bayside Councils Have Your Say webpage from 1 September 2023 to 29 September 2023. A total of 336 letters were mailed to landowners within the proposed HCAs, and 524 letters were sent to landowners of adjacent properties.

During the exhibition period, Council received 16 submissions via email, 1 via mail, 21 via Council's Have Your Say page and 8 via the NSW Planning Portal. Full details of the exhibition results are provided in this report.

Following a review of all submissions received, it is recommended that Council proceeds with making the LEP amendment pursuant to Section 3.36(2)(a) of the Environmental Planning and Assessment Act 1979 with a minor change to the status of 1 Brighton Parade, Brighton-Le-Sands from "Contributory" to "Neutral" status in *Appendix 11 – Brighton Le Sands Inventory Sheet* of the Planning Proposal and adopts the DCP amendment.

Officer Recommendation

- 1 That Council notes the submissions received during exhibition of the Planning Proposal and DCP amendment and the analysis of the submissions by the independent heritage consultant.
- 2 That Council approves a change to the status of 1 Brighton Parade, Brighton-Le-Sands from "Contributory" to "Neutral" status in *Appendix 11 – Brighton Le Sands Inventory Sheet* of the Planning Proposal.
- 3 That Council exercises its delegation as Local Plan Making Authority to make the LEP pursuant to Section 3.36(2)(a) of the Environmental Planning and Assessment Act 1979.
- 4 That Council adopts the amendments to Bayside Development Control Plan 2022 and for the DCP amendment to come into effect once the LEP has been made.

- 5 That Council delegates authority to the General Manager (or her delegate) to make any formatting, grammatical, and other minor changes to the Development Control Plan provided these do not change the intent of the amendment.
 - 6 That all persons and organisations who made submissions be advised of Council's decision.
-

Background

In 2019, GML Heritage Consultants (GML) prepared the *Bayside Heritage Study – Review of Heritage Conservation Areas*, which recommended that Council introduce the following HCAs:

- Brighton Parade, Brighton Le Sands
- Hamilton and Lansdowne Streets, Bardwell Valley
- Gibbes and Farr Street, Banksia
- Ocean View Estate, Bexley
- Aloha and Forster Streets, Mascot
- Moorefield Estate, Kogarah

These findings were presented at a briefing on 2 October 2019 and subsequently placed on exhibition on 9 October 2019. Approximately 580 letters were sent to all landowners within the six proposed areas. A total of 220 submissions were received and 66 telephone enquiries were answered.

The outcome of this consultation was reported to Council on 11 November 2020. At this meeting, Council resolved to proceed with the HCAs proposed for Banksia, Bardwell Valley, Brighton Le Sands and Ocean View Estate, Bexley, following minor amendments to their borders, based on community feedback from the 2019 exhibition. Council also resolved not to proceed with the HCAs proposed for Mascot and Kogarah.

The 2019 GML report, Council resolutions, and draft PP were considered by the Bayside Local Planning Panel (BLPP) at their meeting on 22 March 2022. The BLPP noted a lack of further heritage advice to justify the exclusion of properties from the proposed HCAs, and therefore recommended that Council request detailed heritage advice and justification for any property's exclusion before deciding the extents of the final HCAs.

The BLPP suggested all six HCAs recommended by GML be progressed to a Gateway determination, unless Council had the benefit of heritage advice that justified the removal of any properties within or the entirety of any recommended HCAs.

Based on the recommendations from the BLPP, Bayside Council engaged Niche Environment and Heritage (Niche) to conduct an Independent Desktop Review of the original 2019 report, its findings, and associated materials. In early 2023, Niche submitted to Council the *Planning Proposal Review – Bayside Council: Proposed Heritage Conservation Areas*.

Based on the results of the report prepared by Niche, the PP was amended with the recommendation to only proceed with the proposal of creating four HCAs under the BLEP 2021, being:

- Brighton Parade, Brighton Le Sands
- Hamilton and Lansdowne Street, Bardwell Valley
- Gibbes and Farr Street, Banksia
- Ocean View Estate, Bexley.

The report prepared by Niche justified the resolution by Council to not proceed with the proposed HCAs of Aloha and Forster Streets, Mascot and Moorefield Estate, Kogarah.

The draft PP and accompanying draft DCP controls were considered and endorsed by Council at its meeting on 22 March 2023.

Council resolved:

1. *That the draft PP be updated to include the changes proposed by the independent Heritage Consultant, as outlined in the report to the City Planning & Environment Committee for the meeting on 8 March 2023.*
2. *That, pursuant to s3.34 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the updated draft PP be submitted to the Department of Planning and Environment (DPE) for a Gateway determination.*
3. *That, pursuant to Clause 14 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), the proposed draft DCP amendments be endorsed for public exhibition for a period of no less than 28 days, and be exhibited concurrently with the draft PP, should a Gateway determination for the draft PP be issued.*
4. *That, should a Gateway determination be issued, a further report be presented to Council following the public exhibition period of the draft PP and draft DCP amendments, to provide details of any submissions throughout that process.*

As required by resolution point 2, the draft PP and accompanying draft DCP amendments were submitted to DPHI with a request for Gateway Determination.

On 28 July 2023, the Director, Eastern and South Districts at DPHI, as delegate of the Minister for Planning and Public Spaces, issued a Gateway determination (**Attachment 2**), subject to conditions. DPHI subsequently amended the Gateway determination to extend the date for completion to 10 May 2024 (**Attachment 3**).

Figure 1 below provides a visual representation of the history of various reporting steps to date.



Figure 1: History of Key Reporting Steps

The PP was exhibited on the NSW Planning Portal and Bayside Councils Have Your Say page from 1 September 2023 to 29 September 2023. 336 letters were mailed to landowners within the proposed HCAs, and 524 were sent to landowners in the adjacent properties.

During the exhibition period, Council received 16 submissions via email, 1 via mail, 21 via Council's Have Your Say page and 8 via the NSW Planning Portal. Full details of the exhibition results are provided later in this report.

Community and Public Authority Engagement

Gateway Requirements for Public Authority Consultation

The Gateway determination (condition 3) required consultation with the Department of Planning and Environment – Environment and Heritage and The National Trust of Australia (NSW) for a minimum of 30 working days.

The Department of Planning and Environment – Environment and Heritage was consulted via the NSW Planning Portal, and The National Trust of Australia was consulted via email. Both authorities were provided with a copy of the PP and relevant supporting material on 22 August 2023.

Public Authority Submission Summary

A response was received from the Department of Planning and Environment – Environment and Heritage via the NSW Planning Portal on 6 September 2023:

We encourage identification and listing of new heritage items to environmental planning instruments, provided that all necessary due diligence, assessments and notifications have been undertaken. Prior to finalisation of the planning proposal, Council should be satisfied that this is the case. The determination for listing of Local Heritage items rests

with Council, and as such, the Heritage Council of NSW and Heritage NSW do not require further referral or consultation on this planning proposal.

No objections were raised to the PP, subject to Council undertaking all necessary due diligence.

The National Trust of Australia (NSW) did not provide a submission, despite additional time being offered.

Gateway Requirements for Community Consultation

The Gateway determination (condition 2) required public exhibition of the PP as per the notice requirements in the DPHI *Local Environmental Plan Making Guidelines* for a minimum of 20 working days.

The PP, including draft DCP amendments, was publicly exhibited from 1 to 29 September 2023. Extensive consultation occurred including:

- Letter notification of all property owners in the proposed HCAs in writing by mail;
- Letter notification to properties adjoining the proposed HCAs in writing by mail;
- Information flyer enclosed with the letter notification;
- Exhibition material available on the Have Your Say page of Council's website; and
- Hard copies available on request at Council's Customer Service Centre / Council facilities.

Community Consultation Submission Summary

There were 45 submissions received during the public exhibition period and 1 submission received prior to commencement of exhibition, resulting in a total of 46 submissions:

- 8 submissions were received through the Planning Portal;
- 1 submission was received by mail;
- 16 submissions were submitted through email (a number of submissions were duplicated via other methods and only been counted as an email submission); and
- 21 submissions were received via Council's Have Your Say webpage.

Of the submissions received:

- 10 submissions relate to the Banksia HCA;
- 9 submissions relate to the Bardwell Park HCA;
- 9 submissions relate to the Brighton Le Sands HCA;
- 10 submissions relate to the Oceanview Estate HCA; and
- 8 submissions did not specify or related to HCAs generally.

A breakdown of submissions in relation to each proposed HCA is included in Table 1, and illustrated in Figure 2, below:

Table 1: Breakdown of Submissions from the Public

HCA	Oppose	Partial Support	Support	Enquiry/Request
Banksia	6		3	1
Bardwell Valley	3		6	
Brighton Le Sands	6	1	2	
Oceanview Estate	2		8	
Not Specific	1		7	
Sentiment Total	18	1	26	1

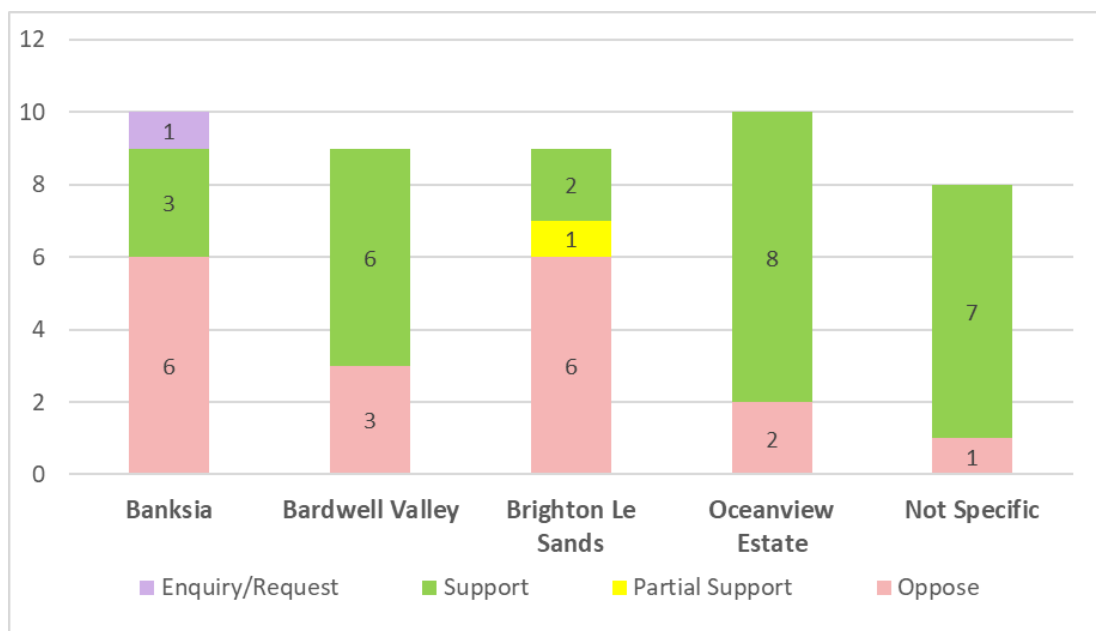


Figure 2: Breakdown of Submissions from the Public

Key Issues Raised in Submissions

Council sought the advice of GML to assess the heritage issues raised by members of the public in submissions. Their summary, response and recommendation in relation to each submission and each proposed HCA are included in **Attachment 4**. The key issues raised are summarised below with comments or clarifications, as necessary.

Integrity of the Heritage Conservation Areas

25 submissions raised concerns that properties in the HCAs had already been significantly altered. Some submissions stated that this invalidated the proposed HCAs. Other submissions questioned why the HCAs had taken a long time to implement, allowing further degradation of heritage qualities. One submission raised concerns with development in the existing Daceyville HCA.

GML considered this issue but recommended that there was sufficient historical character visible within the streetscape to proceed with all proposed HCAs.

New Development within Proposed Heritage Conservation Areas

22 submissions raised concerns about the conflict between new development and the proposed HCAs. Some submissions expressed an intent to demolish and/or redevelop properties and argued that this would be frustrated by the HCAs. Other submissions supported the HCAs, noting that future development would need to respect existing character.

GML considered submissions which raised this issue and noted that listing an HCA generally prevents demolition of neutral and characteristic properties, but does not prevent maintenance, repair or modification subject to approval. Alterations and additions, including rear extensions can be allowed, provided they meet the requirements of the DCP. In limited circumstances, Council may allow demolition of a characteristic property if it is satisfied that other options are unsuitable. New development within an HCA would generally be required to conform to the character of the area.

Significance of Heritage Listings

17 submissions commented on the significance of the proposed HCAs, or properties within them. Some submissions stated that many properties within the HCAs were in poor condition or not aesthetically worthy of protection. Other submissions supported the HCAs as a way of protecting the aesthetic and historic qualities they value. Some submissions identified additional properties for Council to consider listing as additional heritage items. One submission asked that Council remove the group heritage listing of properties within the Brighton Le Sands HCA if that HCA proceeds.

GML considered the various issues raised. All HCAs were considered to retain sufficient heritage significance to proceed. GML further recommended that in future Council investigate the potential heritage significance of:

- 4 Connemarra Street, buildings on Forest Road, Bexley and other properties around and outside the boundaries of the Ocean View Estate HCA.
- The existing group heritage listing of properties within the Brighton Le Sands HCA, as these may be effectively protected by the HCA.

Effect on Property Owners

16 submissions raised concerns about the impacts of HCAs on property owners. These concerns included:

- Unfair restrictions on development rights, particularly regarding two storey additions, driveways, and garages.
- Additional costs will be imposed when owners want to develop their land.
- Devalue properties and make them harder to sell.
- Increased costs of home insurance.

GML noted that listing an HCA generally prevents demolition of neutral and characteristic properties, but does not prevent maintenance, repair, or modification, subject to approval. Alterations and additions, including rear extensions can be allowed provided they meet the

requirements of the DCP. In limited circumstances Council may allow demolition of a characteristic property if it is satisfied that other options are unsuitable. New development within an HCA would generally be required to conform to the character of the area.

GML noted that there are opportunities for Council to further assist owners of heritage properties including:

- Reviewing the heritage exemption process, and
- Increased funding for owners to assist with maintenance and restoration.

It is noted that the financial impacts of HCAs are complex. While some buyers may be deterred by a HCA, others may welcome the certainty that changes to the streetscape will be limited. It is noted that Council has a Local Heritage Grants program that offers limited financial assistance to owners of heritage buildings. There are minor works exemptions under the Bayside LEP for works that are considered minor or relating to maintenance of a heritage building.

Boundaries of Heritage Conservation Areas

7 submissions identified issues with the boundaries of the proposed HCAs. Two submissions specifically stated that 1 Brighton Parade should not be included within the Brighton Le Sands HCA because it is a 1960s dwelling. The remainder of the submissions identified additional heritage areas or items for consideration.

GML acknowledged the concerns regarding 1 Brighton Parade. They note that it has been included in the HCA to preserve the integrity of the streetscape of Brighton Parade. Rather than remove the property from the HCA, they have recommended consideration be given to changing the status of 1 Brighton Parade from “Contributory” to “Neutral” status. This will facilitate more flexibility when considering any future development on the property.

GML also recommended that Council investigate the potential heritage significance of new HCA(s) in Bexley including Salisbury Avenue, Bowood Avenue, Highworth Avenue, Donnan Street, Besborough Avenue and Halley Avenue. It is noted that a future Heritage Study could investigate these suggestions in further detail.

Proposed DCP Controls

3 submissions made specific comments about the proposed DCP controls. The issues raised for the proposed Brighton Le Sands HCA include:

- Control C4 would restrict an owner’s ability to build additional storeys at the rear of their property.
- Control C5 would financially burden owners who have approved developments.
- Control C7 needs clarification as to whether it applies to the street-facing portions of new additions or the whole property.

One issue was raised in relation to the Banksia HCA, requesting that control C7 which restricts the construction of additional driveway crossings should not apply to properties where they already exist. Another submission supported strengthening the restriction on driveway crossings within the HCA, noting this was supported by GML’s 2019 report but has not been included in the proposed DCP controls.

GML noted that the HCA does not prevent modifications to properties, including rear extensions, provided they meet the objectives and controls of the DCP. GML recommended that control C7 of the Brighton Le Sands HCA DCP section be reviewed to clarify its application and purpose. No changes were recommended to the controls for the Banksia HCA.

Council staff broadly agree with GML's recommendations in relation to the Brighton Le Sands DCP controls and further add:

- The proposed area specific DCP controls are complemented by general HCA controls that already exist in section 3.4.6 of the Bayside DCP 2021. The general HCA controls allow consideration of additions with more storeys, provided they are behind the existing building and not visible from the street. There is therefore no need to amend control C4.
- In relation to control C5, the HCA and DCP do not prevent any valid existing development consents from being activated.

Council staff note the GML recommendation to alter control C7 of the Brighton Le Sands section of the BDCP 2022 amendment. Upon inspection, however, the wording of this control is to be read in conjunction with existing general HCA controls in section 3.4.6 of the BDCP 2022. No change is ultimately required of this control, as it is complimented by existing controls which indicate that the impact of development should be assessed based on views from the public domain. As such, concerns from the public exhibition have been sufficiently addressed.

Heritage Grants

5 submissions referred to Council's Local Heritage Grants program. Some raise issues including:

- Questions on the status of specific Heritage Grant applications.
- Complaints that the application process for a Heritage Grant is too lengthy and challenging.

The remainder of submissions requested financial assistance with heritage properties, or simply noted that they found the existing Heritage Grant program to be helpful.

GML did not provide recommendations regarding this issue as it is outside the scope of the Planning Proposal. Specific questions on the status of individual grant applications can be directed to Council's Heritage Advisor and the application process is considered appropriate.

Recommended Post Exhibition Amendments

Having considered the submissions and the advice of GML, the resulting recommendation is that the Planning Proposal be amended to reflect the changed status of 1 Brighton Parade from "*Contributory*" to "*Neutral*" in the Brighton Le Sands Inventory Sheet. This change is reflected in:

- The Brighton Le Sands HCA diagram at Figure 7 in Q10 of the Planning Proposal
- The Brighton Le Sands HCA Inventory in Appendix 11 of the Planning Proposal at page 7

In both cases, the map of the proposed HCA will be replaced with the map in Figure 3 below.

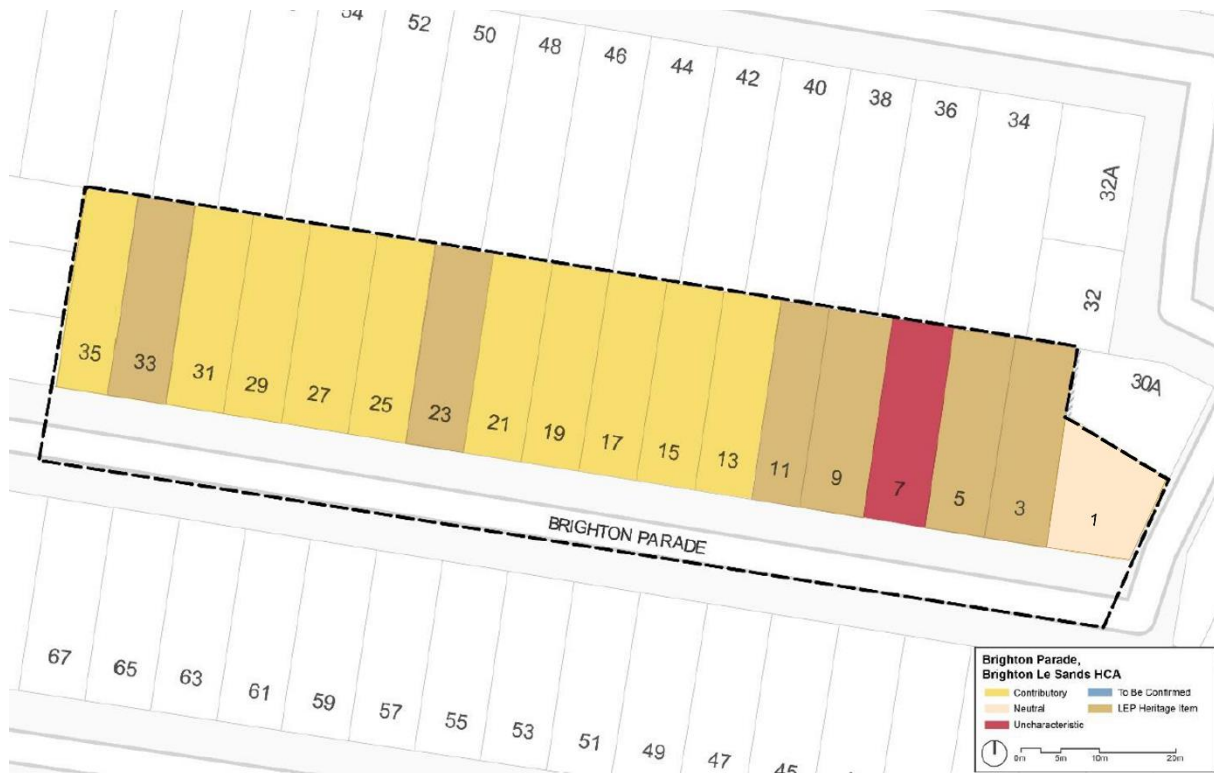


Figure 3: Amended Map of the Proposed Brighton Le Sands HCA

The exhibited DCP provisions relating to the Ocean View Estate HCA contain two minor typographical errors in relation to the suburb name. These errors will be corrected under delegation when the DCP amendments are finalised.

Changes to the Planning Proposal

The only change is the classification of 1 Brighton Parade from 'Contributory' to 'Neutral'. No changes have been made to proposed LEP written or mapped instrument.

No controls which are proposed to be added to BDCP 2022 specify alternate controls between 'Contributory' and 'Neutral' properties within a given HCA.

Conclusion

The Planning Proposal was publicly exhibited from 1 to 29 September 2023, and 45 unique submissions were received (26 support, 18 oppose, and 1 partially supportive).

Following a review of all submissions by GML Heritage, it is proposed to amend the Planning Proposal by changing the status of 1 Brighton Parade from "Contributory" to "Neutral" in Appendix 11 of the PP – Brighton Le Sands HCA Inventory Sheet.

Financial

- | | | |
|--------------------------------------|-------------------------------------|--|
| Not applicable | <input checked="" type="checkbox"/> | The costs associated with this planning proposal are included in the 2023/24 Budget for the Strategic Planning department. |
| Included in existing approved budget | <input type="checkbox"/> | |
| Additional funds required | <input type="checkbox"/> | |

Community Strategic Plan

- | | |
|--|-------------------------------------|
| Theme One – In 2032 Bayside will be a vibrant place | <input checked="" type="checkbox"/> |
| Theme Two – In 2032 Our people will be connected in a creative City | <input type="checkbox"/> |
| Theme Three – In 2032 Bayside will be green, resilient and sustainable | <input type="checkbox"/> |
| Theme Four – In 2032 Bayside will be a prosperous community | <input type="checkbox"/> |

Risk Management – Risk Level Rating

- | | |
|----------------|-------------------------------------|
| No risk | <input type="checkbox"/> |
| Low risk | <input checked="" type="checkbox"/> |
| Medium risk | <input type="checkbox"/> |
| High risk | <input type="checkbox"/> |
| Very High risk | <input type="checkbox"/> |
| Extreme risk | <input type="checkbox"/> |

Community Engagement

The community engagement process and outcomes are discussed in detail in the body of this report.

Attachments

- 1 Post-Exhibition Planning Proposal (Under separate cover Attachments Part Two) [⇒](#)
- 2 Gateway Determination (Under separate cover Attachments Part Two) [⇒](#)
- 3 Gateway Alteration (Under separate cover Attachments Part Two) [⇒](#)
- 4 GML Community Submissions Review and Assessment (Under separate cover Attachments Part Two)