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18 May 2020

Ms Meredith Wallace
General Manager
Bayside Council
Rockdale NSW 2217

Email – planningourfuture@bayside.nsw.gov.au

Dear Ms Wallace

Planning Proposal – Bayside Local Environmental Plan 2020

The Property Council of Australia welcomes the opportunity to provide comments on the planning proposal to initiate preparation of Bayside Local Environmental Plan 2020.

As Australia's peak representative of the property and construction industry, the Property Council's members include investors, owners, managers and developers of property across all asset classes. We are pleased to provide the following comments for your consideration.

The Property Council understands that Bayside Council is one of eighteen (18) councils in Greater Sydney that are participating in the Accelerated LEP Review Program. The identification of certain local government areas for accelerated translation of the relevant District Plan during 2020 (one year ahead of the remaining 15 councils in Greater Sydney) was appropriate. Bayside Council's participation in this program is also appropriate.

Bayside Council has been given financial assistance from the NSW Government to complete each of the required milestones under the program. The completion of this Planning Proposal (PP_2020_BSIDE_001_00) is one such milestone. Finalisation of Council's Local Strategic Planning Statement (LSPS) and a Local Housing Strategy (LHS) being other important steps.

Page 5 of the Planning Proposal states "during 2018 and 2019 Council has also been progressing detailed review, analysis and master planning to inform potential strategic changes to the Local Environmental Plan. Given the strict deadline imposed on Bayside Council by the NSW Department of Planning, Industry and Environment, Council has not been able to incorporate strategic changes, as it had previously anticipated". The planning proposal goes on to say "The Draft BLEP does not propose to rezone land except: where Council has completed appropriate background studies and where an anomaly has been identified and is required to be rectified".

Section 3.8 of the *Environmental Planning and Assessment Act 1979* requires a Planning Proposal Authority, when preparing a planning proposal under section 3.33, to give effect to any district strategic plan applying to the local government area to which the planning proposal relates. Also as soon as practicable after a district strategic plan is made, the relevant council must review its local environmental plan for the area and prepare such planning proposals under section 3.33 as are necessary to give effect to the district strategic plan. Unfortunately, the current planning proposal only goes so far and, in our view, fails to adequately give effect to the Eastern City District Plan.

It is disappointing that more than two years since the Regional Strategic Plan and Eastern City District Plan were endorsed by the NSW Government and more than eight months since the public exhibition of Council's draft LSPS, it is not in a position to exhibit a planning proposal that will "give effect" to the important need to boost housing supply for residents of Bayside Council LGA. Council should set out its planned timeframe for completion of the next phase of the LEP update, being the completion of its LHS.

Nevertheless, the Property Council acknowledges the substantial effort Council has made towards the presentation of this Planning Proposal. Harmonisation of the planning controls of two separate councils (Botany Bay and Rockdale) is very complex and can also be controversial.

Housing Targets

The Greater Sydney Commission (GSC) issued Council with a letter of support on 18 March 2020 which included a 6-10 year housing target between 8,500 and 10,500 dwellings. This involves the production of more than 1,700 new dwellings annually.

The GSC's Eastern City District Plan created a 0-5 year housing target for Council of 10,150 additional dwellings from 2016/17 to 2020/2021 (about 2,030 new dwellings each year). We understand that in the first three years of this period (2016/17 to 2018/19) there were 8,152 dwellings completed in the Bayside LGA. Council should take necessary action to ensure its policy settings are appropriate for the continuation of new housing supply at or above the current level.

The Property Council acknowledges the substantial effort Council has made towards the preparation of this Planning Proposal with very tight timeframes set by the State government.

General Comments on the Planning Proposal

The intent of the current Planning Proposal is to:

- Carry forward most of the provisions contained in the following environmental planning instruments (Botany Local Environmental Plan 1995, Rockdale Local Environmental Plan 2011 and Botany Bay Local Environmental Plan 2013);
- Create a common set of objectives, land use tables and clauses for the Bayside LGA;
- Reflect the objectives of the Greater Sydney Region Plan and the priorities of the Eastern City District Plan;
- Implement the relevant Priorities and Actions of the Bayside Local Strategic Planning Statement; and
- Address anomalies in the written instruments and rectify mapping errors.

These actions are generally considered to be appropriate and, in most cases, supported. Detailed comments on specific issues are provided on the following pages.

Land Use

As part of the harmonisation of the planning controls between the former Botany Bay LGA and Rockdale LGA this Planning Proposal involves relatively minor changes to a number of residential zones within the area of the former City of Botany Bay.

We note that it was proposed to remove “residential flat buildings” from the permissible uses of the R2 Low Density Housing zone and removal of “residential flat building” from the R3 Medium Density Residential Zone. Council’s intention was to provide consistency of permissible land uses in these zones across the whole Bayside LGA. We support the view of Department of Planning, Industry and Environment expressed in the Gateway determination issued to Council which says “as these amendments proceed the LHS and it is not clear what impact these changes will have on the supply and diversity of housing”. It is appropriate for those changes to be excluded.

Additionally, the planning proposal involves a number of changes are proposed to business zones, including the removal of “dwelling houses” from certain business zones and the removal of “residential flat buildings” from the B2 Local Centre zone. “Shop top housing” will continue to be permitted in the B2 Local Centre zone. “Office premises” will be removed as permissible land uses from certain residential zones.

Given the need to provide a pipeline of housing in local government areas like Bayside, we reserve our position on this proposal pending the release of Council’s Local Housing Strategy and Employment Lands Study.

Removal of bonus Height of Buildings and FSR clauses

The Planning Proposal will remove two bonus clauses currently applying to building height and FSR on larger sites in the R3 and R4 residential zones. These clauses (cl 4.3(2A) and cl 4.4(2A) of Botany Bay LEP 2013), were intended to incentivise site amalgamation to form development sites above 2,000sqm for residential flat building development. It is understood that these clauses have not operated as originally intended.

An earlier separate planning proposal designed to remove these clauses was developed in 2015 and a Gateway determination was issued to Council on 7 September 2015. This was due to concerns about increased density of development on some sites located in close proximity to low density residential areas and the Port Botany industrial area.

It is understood that Council seeks to exclude six (6) sites in the former Botany Bay LGA from the proposed removal of the height and FSR bonus. In May 2017, the NSW Land and Housing Corporation provided Council with concept designs that its sites can be developed with the relevant density and height bonus and not unreasonably impacting on owners of adjoining land. It is appropriate that the owners of these sites develop their sites with the benefit of these bonus clauses.

The Property Council supports the proposed changes to the density and height bonus for R3 Medium Density Residential zone and the exemptions to apply to six premises.

Flooding Clause

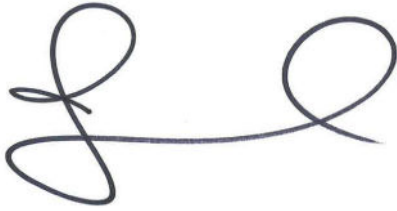
It is understood that Council intends to use the Planning Proposal to apply the current flooding clause from the Rockdale LEP 2011 to land within the former Botany Bay LGA. It is also proposed that a Floodplain Risk Management clause will be applied across the entire Bayside LGA. The clause provides for consideration of development controls primarily related to risk to life in areas outside the Flood Planning Area. The clause will ensure that special consideration is given to essential

community facilities and critical services including emergency response facilities such as hospitals and critical infrastructure.

As the NSW Government has recently released a package of flood planning guidance documents for public comment, it would be appropriate that any proposed floodplain risk management clause is consistent with the advice provided by the Department of Planning, Infrastructure and Environment. We recommend the final wording of the clause does not impose any requirements above that proposed by the NSW Government.

Should you have any questions in relation to this content of this submission, do not hesitate to contact Troy Loveday, Senior Policy Adviser, on 0414 265 152 or tloveday@propertycouncil.com.au

Yours sincerely

A handwritten signature in dark blue ink, consisting of a large, stylized 'J' followed by a horizontal line and a large loop.

Jane Fitzgerald
NSW Executive Director
Property Council of Australia