

7 REPORTS

City Planning & Environment Committee

9/11/2022

Item No	CPE22.035
Subject	Post-Exhibition Report: Bayside Draft Development Control Plan 2022
Report by	Peter Barber, Director City Futures
File	F18/262

Summary

The purpose of this report is to:

- provide a summary of responses received during the exhibition of the draft Bayside Development Control Plan 2022 (DCP); and
- recommend that Council endorse the adoption of the DCP, subject to certain amendments.

The draft Bayside DCP 2022 consolidates and replaces two existing DCPs – *Botany Bay Development Control Plan 2013* and *Rockdale Development Control Plan 2011* – and creates a common set of objectives, provisions and guidance for development within the Bayside Local Government Area.

On 24 August 2022, Council resolved to place the draft DCP and accompanying Technical Specifications (refer **Attachments 1 to 5** to this report) on public exhibition for a period of 28 days. Council also resolved to refer the draft DCP to the Bayside Design Review Panel for comment and recommendations.

Public exhibition of the draft Bayside DCP 2022 occurred between 7 September 2022 and 5 October 2022.

- 71 submissions were received from residents and landowners via email and Council's Have Your Say online survey (see **Attachment 6**);
- 12 submissions were received from public agencies, service providers and infrastructure operators (see **Attachment 6**);

The draft DCP was considered at a meeting of the Bayside Design Review Panel. The DRP made a range of comments that are contained in **Attachment 7**.

A number of amendments are proposed in response to submissions and advice received, and these are described in **Attachment 8**. Council officers are satisfied that these proposed amendments are generally minor in nature and do not warrant re-exhibition.

Officer Recommendation

- 1 That Council note the submissions (**Refer Attachment 6**) received during the public exhibition of the draft Bayside Development Control Plan 2022.
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- 2 That, pursuant to section 3.43 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and in accordance with section 14 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation), Council adopt the Bayside Development Control Plan 2022 as exhibited (**Attachment 1**), subject to the amendments specified in **Attachment 8**.
 - 3 That, in accordance with section 16 of the EP&A Regulation, Council repeal the following Development Control Plans:
 - (i) Botany Bay Development Control Plan 2013; and
 - (ii) Rockdale Development Control Plan 2011.
 - 4 That Council adopt the associated Technical Specifications (2022) (**Attachments 2, 3, 4 and 5**) and repeal existing Technical Specifications (2011), relating to:
 - (i) Traffic, Parking and Access;
 - (ii) Stormwater Management;
 - (iii) Waste Management; and
 - (iv) Landscape.
 - 5 That, in accordance with section 14(2) of the EP&A Regulation, Council gives public notice of its decision to adopt the Bayside DCP 2022 and repeal the Botany Bay Development Control Plan 2013 and the Rockdale Development Control Plan 2011, on Council's website, within 28 days of its decision.
 - 6 That, in accordance with section 20(1) of the EP&A Regulation, Council provide a copy of the Bayside Development Control Plan 2022 to the Planning Secretary (NSW Department of Planning and Environment) within 28 days of its decision.
 - 7 That the General Manager be authorised to make further minor modifications, if required, to any administrative (numerical, typographical, interpretation and formatting) errors identified in the finalisation of the Bayside Development Control Plan 2022.
 - 8 That all persons who made a submission in relation to the Bayside Development Control Plan 2022 be advised of Council's resolution.
 - 9 That the adopted Bayside Development Control Plan 2022 come into effect on 16 January 2023 and that the Botany Bay Development Control Plan 2013 and the Rockdale Development Control Plan 2011 be repealed on that date.
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Background

The draft Bayside DCP 2022 is a consolidated DCP for the Bayside Local Government Area (LGA). It has been prepared to replace two current DCPs:

- Botany Bay Development Control Plan 2013 (Botany Bay DCP 2013)
- Rockdale Development Control Plan 2011 (Rockdale DCP 2011).

The draft DCP is informed by Bayside Local Environmental Plan 2021, which came into force in August 2021. It is also informed by Bayside's Local Strategic Planning Statement (adopted March 2020) and the Bayside Local Housing Strategy (adopted March 2021). The Bayside Development Control Plan will be made in accordance with section 3.43 of the Environmental Planning and Assessment Act.

On 28 August 2022, Council considered a report on the draft DCP, via the minutes from the City Planning and Environment Committee, and resolved:

1. *That, in accordance with Clause 13 of the NSW Environmental Planning and Assessment Regulation 2021, the draft Bayside Development Control Plan 2022 and accompanying draft Technical Specifications be placed on public exhibition for a period of 28 days.*
2. *That, in accordance with Clause 15 of the NSW Environmental Planning and Assessment Regulation 2021, the draft Development Control Plan be referred to the Bayside Design Review Panel for comment and recommendations.*
3. *That Council receives a further report post-exhibition to consider any submissions made during the public exhibition period.*

Exhibition of Draft Bayside DCP 2022

The draft Bayside DCP 2022 was exhibited for a period of 28 days – from Wednesday 7 September 2022 to Wednesday 5 October 2022 – in accordance with the provisions of the EP&A Act, EP&A Regulation, and Bayside Community Participation Plan.

Community engagement included:

- Exhibition notice on Council's website;
- Community engagement page set up on Council's Have Your Say website;
- Notifications to over 50 public authorities and key stakeholder bodies;
- Advertising flyers distributed to all households in the Bayside LGA;
- Notices displayed in Council libraries;
- Facebook post, including a 'boost' of the post to reach up to 4,900 people per day across Bayside LGA during the exhibition;
- Advertisement on e-billboards;
- Advertisement in Council's eNews (sent to over 50,000 subscribers); and

- Notifications of respondents to exhibitions held for Bayside LEP 2021 and the LSPS, as well as Talking Bayside members.

The community engagement page set up on Council's Have Your Say website contained a link to the draft DCP, Appendices and Technical Specifications. It also included Frequently Asked Questions and 'Explainer' documents in a translatable format. The Explainers provided a Plain English overview of each chapter in the draft DCP, including the type of controls covered and whether a chapter was new or carried over (partly or wholly) from an existing chapter in Botany Bay DCP 2013 or Rockdale DCP 2011.

In addition, Council staff held two information 'drop-in' sessions at Rockdale and Eastgardens libraries, to respond to any inquiries from members of the public. These were advertised on Council's Have Your Say page.

A dedicated phone number and email address were also set up to answer any queries from the community.

Assessment of Submissions

Community Submissions

A total of 71 submissions were received from members of the public, via email and Council's Have Your Say online survey.

A summary and response to each of the key points in every submission is available at **Attachment 6**.

The key issues raised related to:

- Height and density of development;
- Traffic and parking concerns;
- Encouraging further uplift in certain locations;
- Concerns over restrictiveness of controls specific to certain housing types;
- Landscaping and tree preservation;
- Impacts on heritage conservation values;
- Encouragement of further bicycle infrastructure.

Submissions by Public Authorities

Over 50 public authorities and key stakeholder bodies were consulted on the draft DCP.

Submissions were received in response from:

- Civil Aviation Safety Authority;
- NSW DPE – Biodiversity and Conservation;
- NSW Ports;
- NSW State Emergency Service;
- NSW Department of Communities and Justice;

- NSW Health – South East Sydney Local Health District;
- NSW Department of Primary Industries – Fisheries;
- Sydney Airport Corporation Ltd;
- Port Authority of NSW;
- APA Group;
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts – Airspace Protection and Airport Safeguarding; and
- NSW Environmental Protection Authority.

Feedback and comments received from public authorities and key stakeholder bodies have been addressed in the response to the submissions received (refer **Attachment 6**).

Referral to Bayside Design Review Panel

On 1 September 2022, the draft DCP was considered at a meeting of the Bayside Design Review Panel (DRP). This referral satisfies clause 15 of the EP&A Regulation, which requires Council to seek the DRP's comment in relation to any proposed DCP that contains provisions relating to residential apartment development (specifically, in relation to design quality of this development type). This clause requires Council to consider any comments from the DRP about these provisions.

The DRP made a number of comments and suggestions on the draft DCP. These relate to the following matters:

- Sustainability and greener building design elements;
- Designing for Country;
- Pursuing controls for greater tree canopy cover;
- Advocating for endemic tree planting;
- Ensuring appropriate tree root protection zones;
- Identifying additional controls for public domain interfaces;
- Highlighting circumstances where more detailed building setbacks may be required;
- Additional suggestions for building articulation controls; and
- Access between buildings and the public domain.

A summary of these comments, and Council officer responses to each, is included at **Attachment 7**. Council officers are satisfied the comments by the DRP have been adequately addressed.

Post-Exhibition Amendments

In response to the submissions received, and further internal consideration by Council staff, certain post-exhibition amendments are recommended to be made to the draft Bayside DCP 2022.

These amendments concern the following:

- Changes to wording of objectives and controls regarding residential design quality, in response to DRP feedback;
- Changes to wording, statutory requirements or technical guidelines, in response to feedback from public agencies and infrastructure operators; and
- Clarifications made to certain text and graphics, in response to comments from the community and Council officer review post-exhibition.

Council officers are satisfied that the proposed post-exhibition amendments are not substantial in nature, and do not warrant re-exhibition of the draft DCP. A summary of the recommended post-exhibition amendments to the draft DCP is included at **Attachment 8**.

Next Steps

Should Council resolve to adopt the draft Bayside DCP 2022, in accordance with the above recommendations, the DCP is intended to come into force on 16 January 2023 (noting Council's adoption date will be November 2022).

A number of steps will be required prior to the DCP coming into force from that date, including:

- The DCP will be revised to incorporate all post-exhibition amendments contained in Attachment 8, along with any minor amendments required to correct numerical, typographical, interpretation and formatting errors identified in this final phase;
- Council will give public notice of its decision to approve the DCP and repeal existing DCPs, on Council's website within 28 days of Council's resolution;
- The final adopted DCP, Appendices and Technical Specifications will be provided to the Planning Secretary of the NSW Department of Planning and Environment within 28 days of Council's resolution;
- The final adopted DCP, Appendices and Technical Specifications will be published on Council's website, while repealed DCPs, Appendices and Technical Specifications will be removed, and archived; and
- All respondents to the draft DCP exhibition will be notified of Council's resolution.

Financial Implications

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

Community Engagement

As detailed earlier in this report.

Attachments

- 1 Attachment 1 Exhibited Draft Bayside DCP 2022 (including Appendices) (Under separate cover Attachments Part One)
- 2 Attachment 2 Exhibited Draft Technical Specification - Traffic, Parking & Access (Under separate cover Attachments Part One)
- 3 Attachment 3 Exhibited Draft Technical Specification - Stormwater Management (Under separate cover Attachments Part One)
- 4 Attachment 4 Exhibited Draft Technical Specification - Waste Management (Under separate cover Attachments Part One)
- 5 Attachment 5 Exhibited Draft Technical Specification - Landscape (Under separate cover Attachments Part One)
- 6 Attachment 6 Response to Community and Public Agency Submissions (Under separate cover Attachments Part One)
- 7 Attachment 7 Response to Design Review Panel Comments (Under separate cover Attachments Part One)
- 8 Attachment 8 Proposed Changes to DCP Post-Exhibition (Under separate cover Attachments Part One)