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PLANNING PROPOSAL

Amendment to the Botany Bay Local Environmental Plan
2013

Schedule 4

24 October 2013

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INTRODUCTION

Site Description

The subject precinct is bounded by the Southern and Western Suburbs Ocean Outfall and Hale Street (to the south); Byrnes Street (to the east); and Bay Street and a Sydney Stormwater catchment (to the north). Refer to Figure 1 – Aerial Photograph for the location of the subject precinct. The precinct comprises the following land use:

- business/office premises, freight transport facilities, heavy industrial uses and landscape material supplies for land on the southern side of Erith Street; and
- general industrial uses, vehicle body repair workshops and waste/resources management facilities for land on McFall and Bay Street.

The adjoining sites mainly consist of the following uses:

- low-density residential and warehouse and distribution centre along Bay and Erith Streets; and
- business/office premises, industrial uses and warehouse and distribution centres along Byrnes Street.

The precinct is triangular in shape with a total area of approximately 25,500sqm. The precinct is located within a 25-30 and 30-35 ANEF contour under the *Australian Noise Forecast 2033(ANEF) Chart*, and identified on an Acid Sulfate Soils Map as being Class 2.



Figure 1 – Aerial view of the precinct

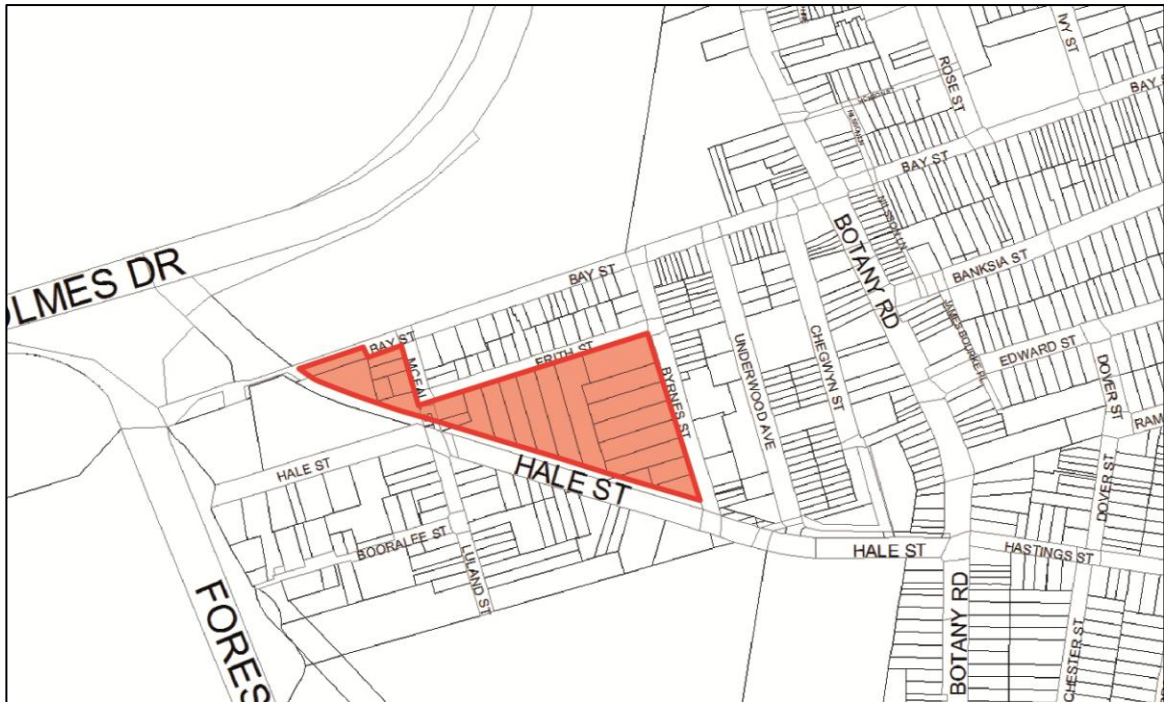


Figure 2 – Area of land affected by the Planning Proposal



Figure 3 – Byrnes Street



Figure 4 – Erith Street



Figure 5 – McFall Street

Address of Land

The properties subject to this planning proposal are listed below:

Property Address	Lot and DP
1 Bay Street, Botany	Lot 1 DP 972702
5-7 Byrnes Street, Botany	Lot 1 DP 596566
5-7 Byrnes Street, Botany	Lot 1 DP 596566
9 Byrnes Street, Botany	Lot 7 DP 28449
9 Byrnes Street, Botany	Lot 8 DP 28449
9 Byrnes Street, Botany	Lot 9 DP 28449
13 Byrnes Street, Botany	Lot 10 DP 28449
15 Byrnes Street, Botany	Lot 11 DP 28449
15 Byrnes Street, Botany	Lot 12 DP 28449
21 Byrnes Street, Botany	Lot 1 DP 444691
21 Byrnes Street, Botany	Lot 1 DP 507540
23 Byrnes Street, Botany	Lot 1 DP 169307
15 Erith Street, Botany	CNR Lot 1 DP 28449
13 Erith Street, Botany	Lot 22 DP 803133
11 Erith Street, Botany	Lot 23 DP 803133
9 Erith Street, Botany	Lot 4 DP 28449
7 Erith Street, Botany	Lot 5 DP 28449
5 Erith Street, Botany	Lot 6 DP 28449
2 McFall Street, Botany	Lot A DP 939296
4 McFall Street, Botany	Lot A DP 939096
6 McFall Street, Botany	Lot 1 DP 938564
6 McFall Street, Botany	Lot D DP 939296
McFall Street, Botany	Lot 1 DP 773161
10 McFall Street, Botany	Lot 1 DP 961998

Table 1 – Properties subject to the Planning Proposal

Relevant Planning Controls

Properties fronting Erith and Byrnes Street are zoned as IN1 in the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013*. The objectives of the IN1 zone are as follows:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port.
- To enable development for the purposes of business premises or office premises associated with, and ancillary to, port facilities or industries.
- To encourage ecologically sustainable development.

The IN1 zone permits the following uses with development consent:

Boat building and repair facilities; Business premises; Depots; Food and drink premises; Freight transport facilities; General industries; Jetties; Light industries; Neighbourhood shops; Office premises; Roads; Signage; Truck depots; Vehicle

body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities.

Due to a mapping anomaly, properties fronting McFall and Bay Street are currently zoned as IN1 – General Industrial in the *Botany Bay Local Environmental Plan (BBLEP) 2013*. A copy of the zoning map can be found in **Attachment 1**. The objectives of the IN1 – General Industrial zone are as follows:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*

The IN1 – General Industrial zone permits the following uses with development consent:

Depots; Freight transport facilities; General industries; Industrial training facilities; Light industries; Neighbourhood shops; Restaurants or cafes; Roads; Take away food and drink premises; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4

As the Department is aware that the objectives and permissible land uses of the IN1 – General Industrial zone under the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* are dissimilar to the IN1 - General Industrial zone contained in the *Botany Bay Local Environmental Plan (BBLEP) 2013*. This inconsistency may cause interface issues within the precinct the subject of the Planning Proposal.

The Planning Proposal seeks to rezone the subject precinct to a B7 – Business Park zone under the BBLEP 2013. The objectives of the B7 – Business Park zone are as follows:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of workers in the area.*
- *To encourage uses in the arts, technology, production and design sectors.*

The B7 – Business Park zone permits the following uses with development consent:

Child care centres; Dwelling houses; Food and drink premises; Home industries; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Respite day care centres; Roads; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

History & Council Resolution

At the Development Committee Meeting held on 13 April 2011, Council considered a report in relation to the Botany Bay Comprehensive LEP (i.e. Botany Bay LEP 2013). Council deferred the LEP and requested that a further report be prepared to respond to Council's direction for the three (3) key areas of its jurisdiction, one being land zoned under the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* (formerly known as *SEPP (Major Development) 2005* so that it is zoned as part of the comprehensive LEP process.

At the Development Committee Meeting held on 4 May 2011, Council considered a report dated 27 April 2011, which proposed to rezone all the land that currently falls under *State Environmental Planning Policy (Port Botany and Port Kembla) 2013*. The Council's report (refer to **Attachment 3**), dated 27 April 2011, recommends that the subject precinct be zoned as B7 - Business Park under the BBLEP 2013 with a maximum FSR of 1.5:1 and maximum height of 12 metres. Council adopted the report.

On 17 May 2011, Council officers held a formal pre-Section 64 meeting with officers from the Department. The rezoning of the SEPP land was discussed and Council was advised that the Department would not support the rezoning of the SEPP land as part of the comprehensive LEP process. Department Officers suggested that Council resolve to prepare a separate planning proposal for the rezoning.

On 15 June 2011, Council resolved to prepare a planning proposal under Section 55 of the *Environmental Planning and Assessment Act (EP&A) 1979* to rezone all land covered by the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013*. The meeting resolved to follow Council's resolution dated 4 May 2011 in terms of zoning, FSR and building height.

On 10 November 2011, a meeting was held between officers of the Department of Planning and Infrastructure and Council. At the meeting, the Department advised that the Council's resolution to amend the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* would not be supported. The Department advised Council officers that it should consider concentrating on the portion of the land they wish to rezone being the subject precinct and the B7 – Business Park zone would be more appropriate for the subject precinct.

On 19 December 2011, based on the advice provided by the Department, Council resolved to amend its earlier resolution dated 15 June 2011 as follows:

- *To remove the area zoned IN1 General Industrial, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and bounded by Byrnes Street, Erith Street and McFall Street, within the Hale Street Industrial Precinct from the SEPP (Major Development) 2005 and zoned as B7 - Business Park (with FSR of 1.5:1 and a maximum height of 12 metres) under the provision of the draft Botany Bay LEP 2011.*
- *To include "general industries" as a permitted use with prior consent in the IN1 zone under State Environmental Planning Policy (Major Development) 2005.*

Due to change in legislation, Council at its meeting held on 4 September 2013 resolved to amend its previous resolution dated 19 December 2011 as follows:

- *The area zoned IN1 General Industrial, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and bounded by Byrnes Street, Erith Street and McFall Street, within the Botany (West) Industrial Precinct to be removed from the SEPP and zoned B7 Business Park (with a FSR of 1.5:1 and a height of 12 metres) under the Botany Bay LEP 2013;*
- *The area zoned IN1 General Industrial under the Botany Bay LEP 2013, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and Bay and McFall Streets, within the Botany (West) Industrial Precinct, be rezoned to B7 Business Park (with a FSR of 1.5:1 and a height of 12 metres) under the Botany Bay LEP 2013; and*
- *Council refer the planning proposals to the Department of Planning and Infrastructure under Section 56 for Gateway Determination.*

Note: The reference to “general industries” was inserted into SEPP (Port Botany and Port Kembla) upon its gazettal on 31 May 2013 and therefore the inclusion of “general industries” is not required as part of the Planning Proposal.

Other Information

9-17 Byrnes Street, Botany

The subject site is located on the western side of Byrnes Street, Botany between Hale Street to the south and Erith Street to the north. The site is known as 9-17 Byrnes Street which comprises Lots 7, 8, 9, 10, 11 & 12 in DP 28449. The combined site area for 9-17 Byrnes Street is approximately 10,175sqm.

The subject site is currently used as a reception; warehousing and distribution of goods and freight; the storage of maritime containers; and administration of these uses without prior development consent from Council. Council has received numerous complaints from adjoining properties in relation to the hour of operations, noise and traffic impact of the unauthorised use. In 2011, Council convened a number of Residents Consultative Committee meetings to discuss issues relating to the subject site.

On 9 July 2011, City of Botany Bay Council commenced proceedings against Admiral seeking an injunction to restrain Admiral from using the premises for the reception, warehousing and distribution of goods and freight and for the storage of maritime containers and for the administration of such uses. The court convicted Admiral Management Group Pty Ltd and the defendant is fined the sum of \$20,000. At the court hearing, the defendant informed the court that Admiral Transport would vacate the premises at 15-17 Byrnes Street, Botany by the end of August 2013.

A copy of the Judgement can be found in **Attachment 4**.

Additional information relating to the subject site can be founded below:

Development Application (DA 09/113)

On 30 September 2008, a development application (DA 09/113) was submitted for 9-17 Byrnes Street, Botany. The application proposed the following:

- Demolition of existing garage, and part ground floor and first floor of Unit 4 to allow for the construction of new truck access on Byrnes Street, re-construction of the ground, first floor, second floor and covered rooftop enclosed pergola area and observation deck, removal of 3 street trees to allow for the construction of an additional vehicle access from Byrnes Street to provide 8 stacked car spaces, a proposed “No Parking” zone on Byrnes Street and for the use of the premises 24 hours a day , 7 days a week as a transport yard, storage warehouse, storage of containers, and an unpacking facility for sea freight from Port Botany and an inspection area for Custom and AQIS.

On 24 November 2009, the application was refused by Council (under delegation) for the following reasons:

2. *The proposed development does not satisfy the provisions of the State Environmental Planning Policy (Major Projects) Amendment (Three Ports), in that the development does not minimise any adverse effect of industry on other land uses (Environmental Planning and Assessment Act 1979 s79C (1)(a)(i)).*

3. *The proposed development does not satisfy the controls in Part 3 A2, B2, B4, B5, B6, B7, B9, B10, C1 and C5 of the Development Control Plan No. 33 – Industrial Development in respect of drainage, floor space ratio, layout, height, building design and finishes, setback, parking and access, signage, landscaping and noise impact (Environmental Planning and Assessment Act 1979 s79C (1)(a)(iii)).*
9. *Based on the number of objections received by Council, the proposed development will have an adverse impact on the amenity of the area and the proposed development is contrary to the public interest (Environmental Planning and Assessment Act 1979 s79C (1)(e)).*

A copy of the Assessment Report and Notice of Determination can be found in **Attachment 5**.

Development Application (DA 10/297)

On 11 June 2010, a development application (DA 10/297) was submitted for 9-17 Byrnes Street, Botany. The application proposed the following:

- Demolition of a portion of the southern front corner of the existing building (Unit 4) to provide a wider driveway access to Byrnes Street including the removal of one street tree located on the footpath.

On 23 June 2011, the development application was refused by Council (under delegation) for the following reasons:

2. *The proposed development does not satisfy the provisions of the State Environment Planning Policy (Major Projects) Amendment (Three Ports), in that the development does not minimise any adverse effect of industry on other land uses (Environmental Planning and Assessment Act 1979 s79C (1)(a)(i)).*
3. *The proposed development is inconsistent with the objectives and controls contained in Development Control Plan No. 33 – Industrial Development in respect of parking and vehicular access and site contamination (Environmental Planning and Assessment Act 1979 s79C (1)(a)(iii)).*
4. *The proposed development is inconsistent with the primary aims and objectives of the Off-Street Parking Development Control Plan in relation to off-street parking, pedestrian and motorist safety, vehicle manoeuvrability within access ways to sites and on roads, and effect of vehicle types used in association with the development upon the surrounding road network (Environmental Planning and Assessment Act 1979 s79C (1)(a)(iii)).*
6. *The proposed development is likely to have an adverse environmental impact upon the natural and built environment in that vehicle manoeuvring, car/truck parking/access is not acceptable for the site ... (Environmental Planning and Assessment Act 1979 s79C (1)(b)).*

A copy of the Assessment Report and Notice of Determination can be found in **Attachment 5**.

Council determinations for the subject precinct can also be found in **Attachment 3**.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

Objectives

This Planning Proposal will enable a range of office; light industrial and airport related uses for the subject precinct with a maximum building height of 12m and floor space ratio of 1.5:1.

Intended Outcomes

The intended outcomes of the Planning Proposal are to:

- provide for airport-related facilities and development that support the operation of the Sydney Airport;
- enable a range of light industrial and commercial (i.e. business and office) employment opportunities which are more compatible with the nearby residential uses and the established character of the precinct;
- minimise any adverse impact (i.e. noise and air) of future developments on the surrounding land uses; and
- reduce heavy vehicle movement thus improve pedestrian and cycling environment of the precinct.

PART 2 - EXPLANATION OF PROVISIONS

The precinct is partially subject to *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* and *Botany Bay Local Environmental Plan (BBLEP) 2013*. Table 1 outlines the key controls under *SEPP (Port Botany and Port Kembla) 2013*; *BBLEP 2013* and the proposed amendments to the *BBLEP 2013*.

	State Environmental Planning Policy (Port Botany and Port Kembla) 2013	BBLEP 2013 (Hale St and Bay St)	Proposal
<i>Land Use Zoning</i>	IN1	IN1	B7
<i>FSR</i>	N/A	1.5:1	1.5:1
<i>Building Height</i>	N/A	12m	12m

Table 2 – Summary of key controls

Proposed amendment

The Planning Proposal seeks the following amendments:

- Rezone Nos. 9-15 Erith Street and Nos. 5-9, 13-15, 21-23 Byrnes Street, Botany from IN1 General Industrial, as zoned in the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013*, to B7 - Business Park under the *BBLEP 2013*;
- To correct a mapping anomaly, Nos. 2-10 Mcfall Street and 1 Bay Street, Botany is to be rezoned to B7 – Business Park zone in the *BBLEP 2013*;
- Apply Clause 4.3 Height of building to permit a maximum building height of 12 metres over the subject precinct;
- Apply Clause 4.4 Floor space ratio (FSR) to permit a maximum FSR of 1.5:1 over the subject precinct; and

- Incorporate 23 Byrnes Street, Botany (i.e. Canary Island Date Palms [Phoenix canariensis]) into Schedule 5 (Environmental Heritage) of the BBLEP 2013.

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal.

1 Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the result of a Council direction and investigation into three (3) key areas located within the local government area. Council's investigation is supported by a report, prepared by Council, recommending the subject precinct be zoned as B7 Business Park under the Botany Bay Standard Instrument (i.e. BBLEP 2013) with a maximum FSR of 1.5:1 and maximum height of 12 metres. A copy of the Council's report can be found in **Attachment 3**.

Prior to the preparation of this planning proposal, the rezoning of the precinct was discussed with the Department. Council was advised that the Department would not support the rezoning of the SEPP land as part of the Botany Bay Comprehensive LEP process. Department Officers recommended that Council resolve to prepare a separate planning proposal for the rezoning.

Refer to History & Council Resolution for additional information.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the objectives or intended outcomes for the following reasons:

- On 17 May 2011, Council Officers held a formal pre-Section 64 meeting with officers from the Department, including officers from Legal Branch. Council Officers were advised that the Department would not support the rezoning of the SEPP land as part of the Botany Bay Comprehensive LEP process and suggested that Council resolve to prepare a separate planning proposal;
- The Botany Bay Local Environmental Plan 2013 was gazetted on 21 June 2013;
- The rezoning of the land is consistent with Council's planning objectives set out in the Botany Bay Local Environmental Plan 2013;
- The Planning Proposal is the only mean to amend the zoning and development standards contained in the BBLEP 2013. The rezoning will integrate the subject precinct into the surrounding areas and minimise adverse impacts on the existing land uses; and
- The planning proposal will result in a better planning outcome for the sites as the proposed B7 - Business Park zone will reduce the landuse conflict with the existing low density residential development at 2-28 Erith Street and 5-37 Bay Street; Botany Public School located on Bay Street; and ensure consistent zoning with the surrounding properties contained in the BBLEP 2013.

3 Is there a net community benefit?

Council has prepared the following Net Community Benefit Test for the planning proposal.

- *Will the LEP be compatible with agreed State and regional strategic direction for the development in the area (e.g. land release, strategic corridor, development within 800 metres of a transit node)?*

The precinct is located within the “Global Economic Corridor” and “Sydney Airport & Environs Specialised Centre” as identified in the *Metropolitan Plan for Sydney 2036*, *draft Metropolitan Strategy for Sydney to 2031* and the *draft East Subregional Strategy*. It is located within a walkable catchment (i.e. 200m to 400m) of the “Botany Village Centre” and a transit node (i.e. Route M20, 309 and 310) which provides connection to the Sydney CBD.

The Planning Proposal is likely to generate more employment opportunities as it is located within close proximity to a strategic centre and transit node. This is consistent with Goal 20 – Build Liveable Centres of the *NSW 2021: A plan to make NSW number one*.

- *Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?*

As identified in the *Metropolitan Plan for Sydney 2036*, *draft Metropolitan Strategy for Sydney to 2031* and the *draft East Subregional Strategy*, the precinct is located within a “Global Economic Corridor” and “Sydney Airport & Environs Specialised Centre”.

The Global Economic Corridor is a 25 km arc of “significant agglomeration of economic activity” which contributes around 50% of NSW Gross State Product (GSP). The priority of the corridor is to create at least 59,000 additional jobs, to create a total of 173,000 additional jobs within the existing corridor.

The Sydney Airport & Environs Specialised Centre focuses upon airport and related activities. The Strategy intends to protect employment land within the centre and “*plan and manage growth to support the core economic role of Specialised Centre*”.

According to the *draft Metropolitan Strategy for Sydney to 2031*, the priorities of the Sydney Airport (& environs) Specialised Precinct is to protect and enhance industrial areas related to economic function of Sydney Airport and provide capacity for at least 8,000 additional jobs in 2031. The planning proposal is consistent with these priorities as it will enable additional jobs to be provided whilst preserving industrial uses (i.e. light industrial) within the precinct.

The IN1 zone under the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* and the BBLEP 2013; and B7 – Business Park zone (i.e. proposed zone under this planning proposal) enable a similar range of development within the precinct. The B7 zone will preclude industrial uses such as Waste or resource management facilities, Jetties, Truck depots and Vehicle repair stations, general industrial, industrial training facilities whilst enabling child care centres, respite day care centres, passenger transport facilities and vehicle sales or hire premises on site. The prohibited industrial uses do not directly relate to the core economic roles/activities of the “Sydney Air & Environs Specialised Centre”. The additional permissible land uses within the B7 zone will better compliment the airport uses and possible future expansion of the Sydney Airport.

Attachment 8 provides a comparison of permissible landuses for the IN1 zone under the SEPP (Port Botany and Kembla) 2013 and the B7 zone under the Botany Bay Local Environmental Plan 2013.

The planning proposal will not result in the reduction of employment land within Sydney Airport & Environs Specialised Centre or the Botany Bay LGA.

Clause 21 of the *SEPP (Port Botany and Port Kembla) 2013* restricts the business and office premises only if it is “associated with and ancillary to port facilities or industrial uses of land”. This severely restricts the future development and employment opportunities of the precinct related to Sydney (Kingsford-Smith) Airport.

Council engaged SGS Economics & Planning in 2009 to provide advice on the employment lands¹. The SGS report, *Botany Bay Employment Land: Employment Generation Assessment* dated May 2010, indicates that office uses “generate the most employment with a potential for 548 jobs should 100 per cent of the site be used ... Industrial land uses have a lower jobs generation however within these Local Light Industrial provides the most jobs”. Based on the findings, the proposed rezoning is likely to generate more employment opportunities within the precinct and Botany Bay LGA and contribute to the employment capacity target identified by the *draft Metropolitan Plan for Sydney to 2031* and *East Subregional Strategy*.

- *Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?*

The planning proposal is unlikely to create a precedent or change the expectations of the landowners or other landholders as the adjoining area is zoned as B7 - Business Park under the BBLEP 2013. The planning proposal will consolidate landuses along Bay Street, McFall Street, Underwood Avenue, Erith and Byrnes Street.

The proposed FSR and building height controls are consistent with the B7 - Business Park zone at Underwood Avenue, Botany. This will ensure a consistent scale of development with the adjoining areas.

- *Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of theses consideration?*

Council is unaware of any other spot rezoning proposals in the locality. The proposed rezoning is unlikely to have any impact on the locality as the planning proposal does not seek to reduce the employment generating land available; still enable the industrial uses within the precinct (i.e. in the form of light industrial); and consolidate land uses along Bay Street, McFall Street, Underwood Avenue, Erith and Byrnes Street within the BBLEP 2013.

- *Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?*

The planning proposal will not result in a loss of employment lands as the precinct is being rezoned from IN1 zone under the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* to a B7 zone under the BBLEP 2013. According to the report prepared by SGS Economics & Planning, ‘Office’ and ‘Business Park’ land uses are likely to generate more employment opportunities than ‘freight and logistics’ land

¹ Hale Street Extension study area, referred in the *Botany Bay Employment Land: Employment Generation Assessment* dated May 2010 (prepared by SGS Economics & Planning), incorporates land to the south of Hale Street and east of Byrnes Street.

uses (i.e. defined as “freight transport facilities” in the *Standard Instrument (LEP) Order 2006*).

The proposed B7 – Business Park zone still enables light industrial uses (i.e. high-technology industry) within the precinct which will minimise the adverse impacts on the established land use within the precinct. Hence, it is unlikely that the planning proposal will result in the reduction of industrial land within Botany Bay local government area (LGA).

- *Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?*

The planning proposal will not impact upon the supply of residential land or housing supply.

- *Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?*

The site located is located within the 400m walking radius of the Botany Village Centre, which consists of a newsagent, barber, restaurants, supermarket, chemist and florist.

A bus stop is located at the intersection of Bay Street and Botany Road, approximately 200m from the site, which provides regular connection to Eastgardens Shopping Centre and Sydney CBD (i.e. Route M20, 309 and 310).

The area is currently being used for freight and logistics uses, local industry uses and some manufacturing uses which requires a high-level of truck movements. Due to the insufficient road carriageway widths, the existing streets (i.e. Erith Street, Mcfall Street, Bay Street and Byrnes Street) cannot appropriately cater for heavy vehicle (i.e. B Double or Heavy Truck) to manoeuvre within this precinct. Furthermore, the precinct is located behind the Southern and Western Suburbs Ocean Outfall (SWSOOS) with no direct access to General Holmes Drive, Foreshore Road or Hale Street. Hale Street can only be accessed via Chegwyn Street and Underwood Avenue and these local streets are not designed to accommodate heavy truck movement.

The planning proposal will minimise heavy truck movement within the Precinct as it prohibits freight and transport facilities and truck depots and will greatly improve the pedestrian and cycling environment of the precinct.

- *Will the proposal result in changes to the car distance travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?*

The IN1 zone (*State Environmental Planning Policy (Port Botany and Port Kembla) 2013*) and the proposed B7 – Business Park zone enables a similar range of uses, it is unlikely the planning proposal will result in changes to the car distance travelled by customers, employees and suppliers. However, the planning proposal is likely result in the reduction of heavy truck movement within the precinct, thus, improving the environment for pedestrian and cyclist.

- *Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposed? If so, what is the expected impact?*

The subject sites are located within close proximity to Sydney Airport and Port Botany, which attracts significant investment from Federal and State Government. Council is aware that there is an expansion to the container handling facilities at Port Botany to service an increase in freight movements. It is unlikely the planning proposal would impact on future freight movement of Port Botany as the land within the precinct is unsuitable for freight transport facilities. The proposed B7 zone permits developments within the precinct that will support the Sydney Airport. In addition, the existing use right provision enables previously approved uses to continue to operate.

On 5 June 2013, Sydney Airport Corporation Limited released the Sydney Airport Preliminary Draft Master Plan (PDMP) 2033. The Master Plan details Sydney Airport's vision for the operation and development of the airport that will enable the forecast growth in air travel for tourism and trade well beyond the 2033 planning period. The subject precinct is not affected by the Master Plan.

- *Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?*

The site has not been identified as land with high biodiversity values or requires environmental protection by the Government. Sydney Water has conducted a preliminary flood study for the suburb of Botany which indicates that the precinct is subjected to 1 in 100 years flooding event, ranging from 0.2 – 0.6m. As a condition of the gazettal of the comprehensive LEP, Council is required to undertake flood study for the Botany Bay local government area. The study is anticipated to be completed by late 2014. Furthermore, any flooding matters can be addressed during the development assessment stage prior to the development of the land.

Canary Island Date Palms (*Phoenix Canariensis*) located on 23 Byrnes Street are listed as a heritage item in the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013*. As part of the Planning Proposal, it is proposed that the Canary Island Date Palms (*Phoenix Canariensis*) located on 23 Byrnes Street, Mascot be included into Schedule 5 – Environment Heritage of the BBLEP 2013. Hence, any future development on the property will be subjected to a development application and heritage impacts can be considered during the development assessment stage.

- *Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?*

The IN1 zone under the *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* permits freight handling facilities, truck depots and vehicle body repair workshops within the precinct. These uses utilise freight handling vehicles and large articulated trucks. A number of issues have evolved over time and created ongoing issues with adjoining residents and other businesses. These issues include:

- The appropriate interface with existing housing along Erith and Bay Street, as well as interspersed with industries through the precinct;
- Conflicts in traffic and pedestrian access;

- Inadequate space for vehicle manoeuvring, poor onsite storage, noise and odour from operations;
- Inadequate road network (including width of roads) for manoeuvring of trucks; and
- Poor built form and public domain.

The planning proposal is likely to improve to the existing situation as freight handling facilities, general industry, truck depots and vehicle body repair workshops are prohibited under the proposed B7 zone. This will ensure more compatible uses with adjoining properties, improve the interface with the residential uses along Erith Street and reduce the number of heavy truck movement along Erith Street, Byrnes Street and McFall Street. More importantly, the proposed B7 zone will be consistent with the B7 zoning at Underwood Avenue and Chegwyn Street (i.e. *Botany Bay Local Environmental Plan 2013*). Hence, the rezoning will be a significant improvement to the existing situation.

- *Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in these areas?*

Clause 21 of the *SEPP (Port Botany and Port Kembla) 2013* enables business and office premises only if it is “associated with and ancillary to port facilities or industrial uses of land”.

No retail premises are permitted within the IN1 zone.

The proposed B7 zone will enable “business premises” and “office premises”, without any restriction (i.e. “port related”), to be operated within the subject precinct. Hence, the planning proposal will increase the choice and competition of business and office premises operating in these areas. Retail premises are still prohibited within the proposed B7 zone under the *BBLEP 2013*.

- *If a stand-alone proposal and not a centre, do the proposal have the potential to develop into a centre in the future?*

Council does not anticipate the precinct to be developed into a centre as the intent of the B7 zone is to provide a range of office and light industrial uses and encourage employment opportunities within the precinct. Furthermore, the precinct is located within close proximity (i.e. 200-400 metres) to the “Botany Village Centre” as identified in the draft *East Subregional Strategy*.

- *What are the public interest reasons for preparing the draft plan? What is the implication of not proceeding at that time?*

The planning proposal is in the public interest for the following reasons:

- The B7 zone is intended to provide “a range of office and light industrial uses and encourage uses in arts, technology, production and design sectors”. The permissible uses within the B7 zone are more compatible with the residential developments on Erith and Bay Streets and Botany Public School on Bay Street.
- The B7 zone is likely to reduce freight handling vehicle and large articulated trucks within the precinct and will minimise conflicts in traffic and pedestrian access.

- The B7 zone is consistent with the adjoining land uses (i.e. Underwood Avenue and Chegwyn Street) contained in the *Botany Bay Local Environmental Plan 2013* and avoid future land use conflict and fragment of land uses.
- The B7 zone is likely to generate more employment opportunities than the existing IN1 zone. This will provide additional local employment opportunities for the local community.

The implications of not proceeding at this time will result in major land use conflicts and vehicle and pedestrian conflicts.

Section B – Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategy)?

Metropolitan Plan for Sydney 2036

Metropolitan Plan for Sydney 2036 establishes a long-term planning framework to manage Sydney's growth in a sustainable manner and strengthen its economic development whilst enhancing the unique lifestyle, heritage and environment of Sydney.

The following objectives and actions apply to the subject precinct:

- **Objective B2** – *To strengthen major and specialised centres to support sustainable growth of the city;*
- **Action B2.1** – *Promote identified future directions for Major and Specialised Centres through subregional and local planning, infrastructure planning and location of services;*
- **Action E3.2** – *Identify and retain strategically important employment lands; and*
- **Action E6.2** – *Build capacity and support economic growth in and around Sydney Airport and Port Botany.*

The subject precinct is located within the Global Economic Corridor and Sydney Airport & Environs Specialised Centre.



Figure 6 – Metropolitan Plan for Sydney 2036

Draft Metropolitan Strategy for Sydney to 2031

The draft Metropolitan Strategy for Sydney is a new plan to guide our Sydney's growth to 2031. The draft Metropolitan Strategy is a consultation document and was placed on public exhibition until 28 June 2013.

The following objectives and actions apply to the subject precinct:

- **Objective 4** – Deliver strategic outcomes (Global Economic Corridor)
- **Objective 10** – Provide capacity for jobs growth and diversity across Sydney
- **Objective 11** – Support the land use requirements of industries with high potential
- **Objective 13** - Provide well-located supply of industrial lands

The subject precinct is located within the Global Economic Corridor and Sydney Airport & Environs Specialised Centre.

In accordance with Objective 13 of the draft Metropolitan Strategy, Council has conducted an Industrial Lands Strategic Assessment for rezoning of existing industrial land to other uses. Refer to **Attachment 7** for further information.

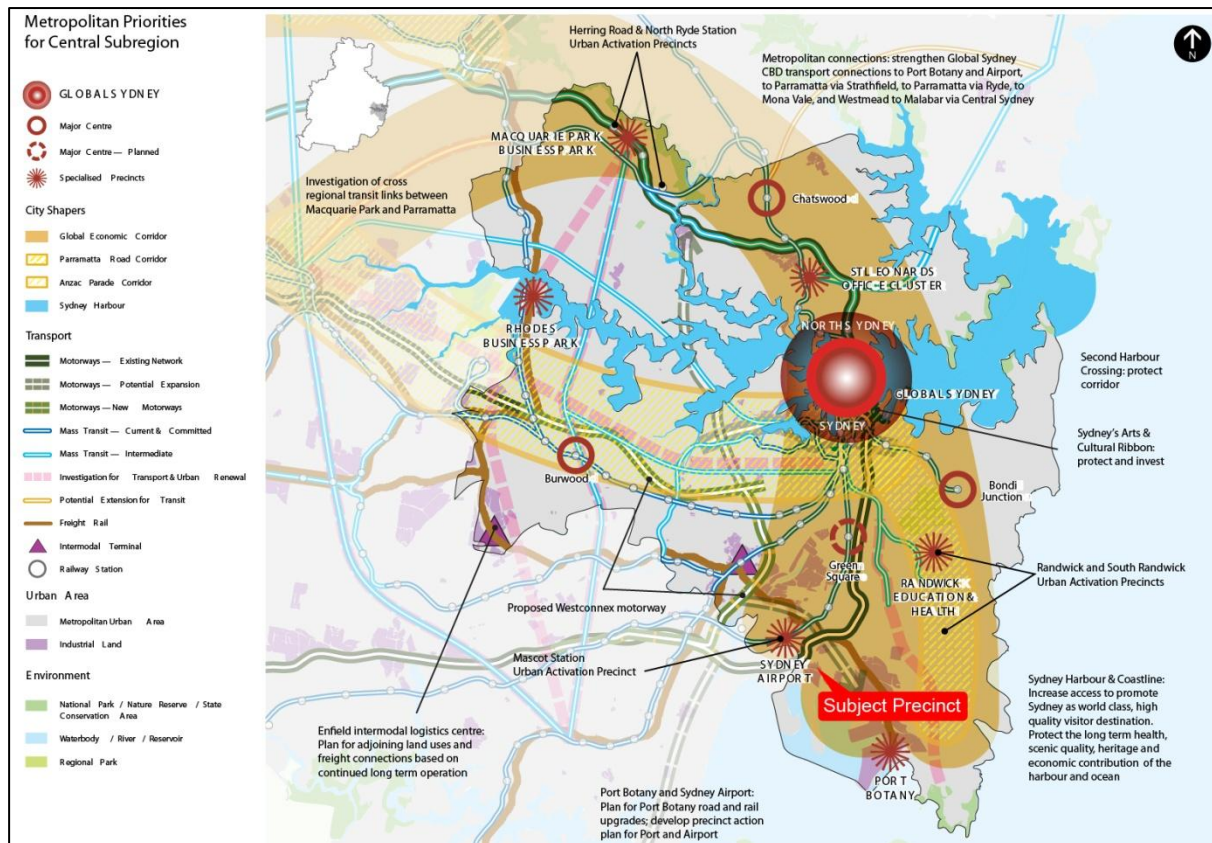


Figure 7 – Metropolitan Priorities for Central Subregion

Draft East Subregional Strategy

The draft *East Subregional Strategy* is an intermediate step in translating the Metropolitan Plan at a local level and acts as a broad framework for the long-term development of the area, guiding government investment and linking local and state planning issues.

The following directions and actions apply to the subject precinct:

- **A1.2** – Plan for sufficient zoned land and infrastructure to achieve employment capacity targets in employment lands;
- **A1.9.1** – Local government to explore opportunities to revitalise strategic Employment Lands;
- **A1.9.2** – The Department of Planning to work with councils in identifying and implementing to manage interface issues between employment and residential land uses;
- **A2.2** – Strengthen industry clusters;
- **A2.3** – Support magnet infrastructure; and
- **B1.2.1** – Councils to implement the strategic centre employment capacity targets and plan for sufficient commercial, retail, industrial and business park floor space within their Principal LEP.

The subject precinct is located within the Sydney Airport & Environs Specialised Centre.



Figure 8 – Sydney Airport & Environs Specialised Centre

The planning proposal is consistent with the *Metropolitan Plan for Sydney 2036*, the *draft Metropolitan Strategy for Sydney to 2031* and the *draft East Subregional Strategy* for the following reasons:

- The proposed B7 zone enables a similar range of activities as the existing IN1 under the *SEPP (Port Botany and Port Kembla) 2013* with the following exception: *boat building and repair facilities; depots; freight transport facilities; general industries; jetties; truck depots; vehicle body repair workshops; vehicle repair stations; and waste or resource management facilities*. These uses are not directly related to the “Sydney Airport & Environs Specialised Centre”. The prohibition of these uses is unlikely to have adversely impacts on the future growth of the specialised centre.
- The proposed rezoning will broaden the development opportunities within the precinct; enable uses that “*better support*” the ‘Sydney Airport & Environs Specialised Centre’ and ensure future developments/uses are more compatible with ‘Botany Village Centre’ and residential development along Erith and Bay Streets.
- The proposed B7 zone will “foster industry clusters” for the ‘Sydney Airport & Environs Specialised Centre’.
- The proposed B7 zone will contribute to the job target (i.e. 59,000 additional jobs) identified for the Global Economic Corridor.
- According to the SGS report, office uses “generate the most employment with a potential for 548 jobs should 100 per cent of the site be used ... Industrial land uses have a lower jobs generation however within these Local Light provides the most jobs”. Based on this finding, the proposed rezoning is likely to generate more employment opportunities within the precinct which contribute to the employment

capacity target identified by the draft Metropolitan Strategy for Sydney to 2031 and *East Subregional Strategy*.

- The proposed rezoning will not result in the reduction of industrial employment land as the proposed B7 zone enables light industrial and warehouse or distribution centre within the precinct.
- The precinct comprises of smaller lots with poor building quality, narrow road and insufficient off-street parking which “*no longer meets the need*” of the heavy industrial uses or modern industrial operation such as freight and logistics. The planning proposal provides an opportunity to “*revitalise*” the area and presents a zone that can better cater to the existing character and infrastructure.
- By rezoning the precinct to B7 - Business Park, it will ensure a consistent zoning with Underwood Avenue, Chegwyn Street and Bay Street, contained in the BBLEP 2013. It will strengthen the prospect of “*industry clusters*” within the ‘Sydney Airport & Environs Specialised Centre’, minimise land use conflicts and fragmentation of land use.
- The area zoned IN1 – General Industrial under the *SEPP (Port Botany and Port Kembla) 2013* is located adjoining residential and other business uses. A number of ongoing issues have arisen over time such as traffic and pedestrian conflicts; inadequate space for vehicle manoeuvring; inadequate road network (including width of roads) for manoeuvring of trucks; port onsite storage; noise and odour from industry operation; and poor built form and public domain. The proposed B7 Business Park zone will enable more compatible uses to the adjoining residential and other business uses. In addition, it presents an opportunity to better “*manage interface issues between employment and residential land uses*” and minimise any potential land use conflicts.



Figure 9 – Residential (left) and industrial (right) interface at Erith Street

- The subject precinct is located within the “Sydney Airport and Environs Specialised Centre” as identified by the draft *East Subregional Strategy*. However, the intent of the *SEPP (Port Botany and Port Kembla) 2013* is to protection of land for port purposes, and the permissible uses for the IN1 – General Industrial zone is largely related port activities. This is inconsistent with the long-term strategic direction of the “Sydney Airport and Environs Specialised Centre”. By preserving the existing IN1 zone, it may restrain the future development/expansion of the Sydney Airport and places addition pressure on the adjoining areas to provide “*landside activities as airport activity grows*”.

Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

The *Botany Bay Planning Strategy 2031* (the Strategy) establishes a framework for growth and development for the Botany Bay Local Government Area and addresses the draft *East Subregional Strategy* dwelling and job targets.

The planning proposal is considered to be consistent with the local strategic plan. In particular, the following Strategy Directions:

- Revitalising Botany Road and Traditional Centres;
- Reviving the Local Economy; and
- Maintaining Sydney Airport as a Global Gateway.

More importantly, the *Botany Bay Planning Strategy 2031* recommends a business zone north of Botany centre to “facilitating the expansion of commercial activity potential north of Botany centre (Flyover site, Lord Street to Bay Street)” and “create ‘side street’ retailing potential into Bay Street.”

Is the planning proposal consistent with applicable state environmental planning policies?

The State Environmental Planning Policies directly applicable to the planning proposal are addressed below.

Attachment 9 summarise the Planning Proposal’s consistency with State Environmental Planning Policies (SEPPs) and relevant deemed SEPPs.

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The aim of the *SEPP No. 55 – Remediation of Land* is to provide for a State-wide planning approach to the remediation of contaminated land. In accordance with SEPP No.55, a Stage 1 - Preliminary Investigation has been conducted for No. 9-17 Byrnes Street, Mascot (i.e. Lot 8, 9, 10, 11 & 12 DP 288449) and the findings are as follows:

Is the information about the site history adequate?

Based on the information available to Council, the subject site was used for the following purposes:

- 1995 to 2001 – occupied by Pascol Paint and used as a “paint manufacture”.
- 2001 to 2003 – occupied by Micos Aluminium.
- 2004 to 2005 – occupied by Red Sun Production Pty Ltd to construct film sets.
- 2007 to current – occupied by Admiral Management Group Pty Ltd and used as freight transport facilities.

If contamination or a contaminating activity, whether previous or existing, is confirmed should the proponent conduct a detail investigation to further define the extent and degree of contamination?

In 1995, an Environmental Audit Protocol was conducted and states that underground storage tanks are located on-site, which are used to store effluent from the paint manufacturing process.

There is also evidence of ground contamination as the site was used for “chemical staining from raw materials, manufactured paint and hazardous sludge on the paved yard/storage area at the rear of the site”. In addition, it was noted that “surface waters come into contact with contaminants, which enters the rubble drains along the southern and western perimeters of the yard site which is absorbed into the ground”.

Based on the finding of the Environmental Audit Protocol, Council requested the proponent to undertake a number of modifications/additions to the site to minimise pollution risks.

Does this site pose a significant threat to human health or the environment?

The contaminant contained on-site is likely to pose a significant threat to human health or the environment. However, a Site Audit Statement for the subject site was issued on 16 November 2001.

Is a site audit of the preliminary investigation necessary?

In 2001, a Site Audit Statement, prepared by Golder Associates Pty Ltd, was issued for No.9-17 Byrnes Street (i.e. Lot 8, 9, 10, 11 & 12 DP 288449). The Auditors indicates that the site contains a number of disused and decommissioned Underground Storage Tanks and associated pipework and concludes that:

“It is the Auditor’s judgement that the 95% upper confidence limit of the mean concentration of metals, TPH, PAHs and associated chemical are safe for planned industrial/commercial uses of the site. If further development on site occurs resulting in alterations to the pavements, the conditions below are required to be implemented during redevelopment subsequent use of the site for those industrial and commercial purposes:

- All soil excavated after the date of this statement is to be disposed off site in accord with EPA requirements. Soil imported to the site shall comply with the criteria nominated in EPA Guidelines for Assessing Services Station Sites. Soil surfaces left exposed after backfilling excavations, are to be sealed by hardstanding, or floor concrete.*
- Ensure workers handling soils found below hardstanding/floor concrete are advised of the hazards appropriate to the possible metals, petroleum hydrocarbon and polyaromatic hydrocarbon and related chemical contamination of soils which they may encounter, so they can adopt suitable occupational health and safety precautions. Some of these soils may smell of petroleum hydrocarbons, but not at a level which should ordinarily be harmful to human health.*
- Not abstract groundwater from the site and use it for any purposes other than environmental monitoring.*

Conclusion

Based on the Auditor's recommendation, Council is satisfied the land is suitable for the proposed B7 - Business Park zone under the BBLEP 2013. In addition, the redevelopment of the sites will be subject to a development application, and SEPP 55 will be considered as part of the development assessment process. Any remediation matters can be further assessed and conditioned by Council.

Hence, the proposed rezoning is consistent with *SEPP No.55 – Remediation of Land*.

State Environmental Planning Policy (Port Botany and Port Kembla) 2013

The objectives of *SEPP (Port Botany and Port Kembla) 2013* is to protect land at Port Botany for port purposes; to provide a consistent planning regime for the development and delivery of infrastructure on land in Port Botany; to identify certain development within the Lease Area as exempt development or complying development; to specify matters to be considered in determining whether to grant consent to development adjacent to development for port purposes; to provide for development at Port Botany that does not, by its nature or scale, constitute an actual or potential obstruction or hazard to aircraft; to identify certain development as State significant development or State significant infrastructure; and to ensure that land around the Lease Area is maintained for port related and industrial uses.

The planning proposal is inconsistent with the *SEPP (Port Botany and Port Kembla) 2013* as it seeks to rezone the subject precinct to a B7 - Business Park zone under the BBLEP 2013. Consistency with the *SEPP (Port Botany and Port Kembla) 2013* is considered unreasonable and unnecessary for the following reasons:

- ***Inconsistent with the Metropolitan Plan for Sydney 2036 and draft East Subregional Strategy*** - The subject precinct is located within the "Sydney Airport and Environs Specialised Centre" as identified by the *Metropolitan Plan for Sydney 2036* and draft *East Subregional Strategy*. However, the permitted uses, under IN1 – General Industrial, are largely related port activities, which are inconsistent with the long-term strategic direction of the "Sydney Airport and Environs Specialised Centre". By preserving the existing IN1 zone, it may restrain the future development/expansion of the Sydney Airport and places additional pressure on the adjoining areas to provide "*landside activities as airport activity grows*".
- ***Existing landuses within the precinct do not reflect the objectives or permissible landuses of the SEPP (Port Botany and Port Kembla) 2013*** - Council's landuse survey indicates that no properties within the precinct are currently being used as "port-related industries".

The precinct is generally occupied by "General Industrial" uses, which is permitted with consent under the IN1 zone of the *SEPP (Port Botany and Port Kembla) 2013* and prohibited in the proposed B7 under the BBLEP 2013. The precinct landuses are summarised in the table below:

Landuse	Number of properties
General Industrial	5
Vacant Properties	2
Landscaping Material Supplies	2
Warehouse and Distribution Centres	2
Light Industries	1
Office Premises	1
Vehicle Body Repair Workshops	1
Waste or Resource Management Facilities	1
Freight Transport Facilities	1 ²

Table 3 – Council Landuse Survey

Council has received one (1) development application for “port related uses” within the subject precinct. The development application is as follow:

- 9-17 Byrnes Street (DA113/09) – Alterations and additions to the existing building and use of the building as a transport yard, storage warehouse, unpacking facility for sea freight from Port Botany. The application was refused by Council on 24 November 2009 as the development is considered to adversely affect the amenity of the locality in that the noise generated by the operation of the premises particularly in relation to vehicular noise impact upon the nearby residences in Erith Street. A copy of the Council determination can be found in **Attachment 5**.

² Nos. 9-17 Byrnes Street and 3 Erith Street are being used by Admiral Group as a reception; warehousing and distribution of goods and freight; the storage of maritime containers; and administration of these uses without prior development consent from Council. On 23 October 2012, the court convicted Admiral Management Group Pty Ltd, fined it \$20,000. At the court hearing, the defendant informs the court that Admiral Transport will vacate the premises at 15-17 Byrnes Street, Botany by the end of August 2013.

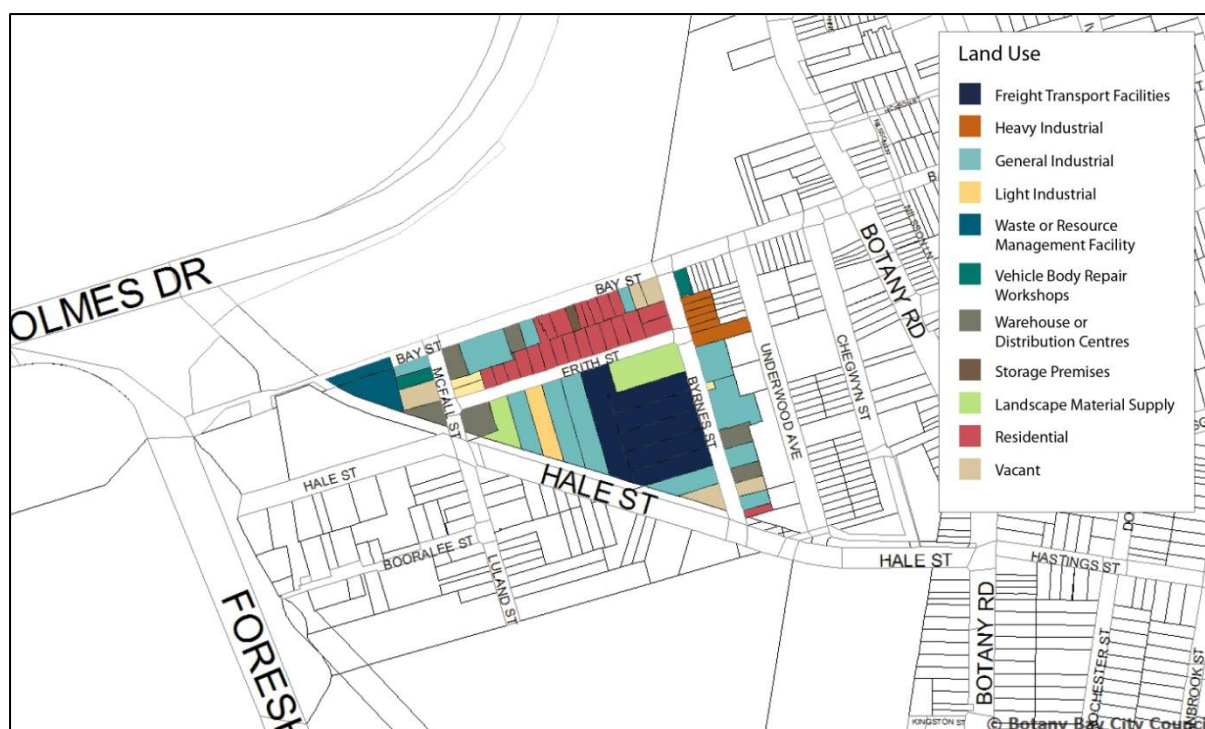


Figure 10 – Council's Landuse Survey

As illustrated by Council's record and landuse survey, the precinct fails to attract many "port-related industrial or uses" since the gazettal of the *SEPP (Port Botany and Port Kembla) 2013* (formerly known as *SEPP (Major Development) 2005*). This is mainly due to the constraints of the precinct (i.e. smaller lots size, fragmented landownership, and inadequate infrastructure) which prevents the area from appropriately cater for "port-related industrial" uses and associated large articulated vehicle. Hence, it is unlikely the precinct would be able to accomplish the visions and objectives of the *SEPP (Port Botany and Port Kembla) 2013*. A copy of Council's landuse survey can be found in **Attachment 6**. It should be noted that Council's landuse survey comprises property located on Bay Street, north of Byrnes Street and west of Erith Street.

- **Inconsistent with the BBLEP 2013** – By retaining the existing IN1 zone under the *SEPP (Port Botany and Port Kembla) 2013*, it is incompatible with the adjoining B7 – Business Park zone (i.e. Bay Street, Underwood Avenue and Chegwyn Street) under the BBLEP 2013; inconsistent with intended visions and characteristics of the area; and will result in the further fragmentation of landuses and zone.
- **Traffic Impacts** - The Southern and Western Suburbs Ocean Outfall (SWSOOS), on the northern side of Hale Street, prevents the precinct from having a direct vehicular access to Hale Street, which provides connection to General Holmes Drive and Foreshore Road. In order to gain access to the precinct, all trucks and vehicular must access via Underwood Avenue and into Erith & Bay Streets. This is considered inappropriate as these roads (i.e. local roads) are not designed to accommodate heavy vehicles.

Note: No truck over 12.5m is permitted on Botany Road between Hale Street and Mill Pond Road, Botany.

Byrnes Street, Erith Street and Bay Street are approximately 9-10 metres in width and supports two-way traffic with on-street parking. Due to the narrowness of the roads, heavy rigid vehicle associated with port-related industrial have difficulty manoeuvring within the precinct. Council's Engineer also indicates that these streets are unsuitable to accommodate any traffic movements for vehicle larger than a heavy rigid vehicle.



Figure 11 – Truck unloading on Erith Street

Considering these factors, this precinct is not considered suitable for port-related industrial uses as intended in the *SEPP (Port Botany and Port Kembla) 2013*.

- **Noise Impacts** – The precinct is located in close proximity to residential developments on Erith and Bay Streets. The noise impacts generated by “port-related industrial” (i.e freight transport facilities) are considered to be significant and inappropriate.
No. 9-17 Byrnes Street is used as a transport yard, storage warehouse and unpacking facilities for sea freight from Port Botany, without Council’s consent. Council has received numerous complaints from the surrounding residents in relation to the noise impacts generated by the operation and associate vehicles. By enabling more freight transport facilities within the precinct, it will create additional adverse impacts (i.e. noise) and landuse conflicts with the established residential uses on Erith Street and Bay Street.

This is inconsistent with the objective of the IN1 zone “to minimise any adverse effect of industry on other land uses”.

This type of industrial uses should be relocated to an industrial area void of any surrounding residential development.

- **Safety** – A “pick-up and set-down” zone for Botany Public School is located opposite Nos. 41-57 Bay Street. By enabling a heavy vehicle within the precinct, this will cause significant traffic and pedestrian conflict on Bay Street during school hours.
- **Industrial lands** – The *SEPP (Port Botany and Port Kembla) 2013* consists of 305.99 hectare of industrial land.

This planning proposal seeks to rezone 2.18 ha of IN1 – General Industrial (SEPP) to B7 – Business Park (BLEP 2013). This represents a reduction of 0.71% of general industrial zoned land under the *SEPP (Port Botany and Port Kembla) 2013*. Considering the above factors, the reduction in industrial land is considered minimal and would not impacts on the function or operation of Port Botany.

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Ministerial Directions (s.117 directions) directly applicable to the Planning Proposal are addressed below.

3.1 Business and Industrial Zones

The intents of this direction are to encourage employment growth in suitable location; protect employment land in business and industrial zones; and support the viability of identified strategic centres.

In preparing a Planning Proposal, the relevant planning authority must consider the follow factors:

- a) *Give effect to the objectives of this direction;*
- b) *Retain the areas and locations of existing business and industrial zones;*
- c) *Not reduce the total potential floor space area for employment uses and related public services in business zones;*
- d) *Not reduce the total potential floor space area for industrial uses in industrial zones;*
and
- e) *Ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.*

The Planning Proposal is consistent with the objectives of Business and Industrial zones direction for the following reasons:

- The IN1 zone (*SEPP (Port Botany and Port Kembla) 2013*) and B7 zone (BBLEP 2013) enables similar industrial and business uses within the precinct (refer to **Attachment 8**). Council is not seeking to reduce or remove employment generating opportunities within this area but rather promote businesses which best fit within the constraints of the precinct.
- The B7 zone allows light industry uses within the precinct and thereby, does not reduce the potential floor space for industrial uses.
- According to the Employment Generation Assessment report prepared by SGS Economics & Planning, office landuses (i.e. permissible in the B7 zone) will have the highest jobs generation (304 jobs per ha). This is followed by Business Park (151 jobs per ha), Local Light (70 jobs per ha), Freight Logistics (29 jobs per ha) and Manufacturing Light (26 jobs per ha). Based on this finding, the proposed B7 -

Business Park is likely to generate more employment opportunities within the precinct.

- The industrial uses permit (i.e. high technology industries, light industry and home industry relating to existing dwelling) in a B7 - Business Park zone is more compatible with the adjoining land uses and provides a better interface with the B2 - Local Centre zone at Botany Village Centre.
- Under the *Botany Bay Local Environmental Plan 2013*, a total of 350.25 hectares (or 18.4%) of the Botany Bay LGA is zoned for industrial purposes. This represents an increase in industrial zoned land of 8.44 hectares compare to the *Botany Local Environmental Plan 1995*. The precinct consists of 17 properties and has an area of approximately 2.55ha. This represents a reduction of 0.73% of general industrial zoned land for the Botany Bay LGA.

2.3 Heritage Conservation

The intent of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significant.

Clause 31 of the *SEPP (Port Botany and Port Kembla) 2013* identifies the Canary Island Date Palms (*Phoenix Canariensis*) located on 23 Byrnes Street, Mascot as a heritage item.

As part of the planning proposal, it is proposed that Canary Island Date Palms (*Phoenix Canariensis*) located on 23 Byrnes Street be listed and described in Schedule 5 of the BBLEP 2013 and shown on the Heritage Map. Consequently, Clause 5.10 (Heritage Conservation) will be applicable to the site which will ensure the heritage item is appropriately conserved.

Future developments on the site will be subject to Council's consent and impacts on the heritage items will be assessed, in accordance with Clause 5.10 of the BBLEP 2013, during the development application stage. Hence, the Planning Proposal is consistent with the Direction.

3.4 Integrating Land Use and Transport

The intent of this direction is to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) Improving access to housing, jobs and service by walking, cycling and public transport, and*
- b) Increasing the choice of available transport by reducing the dependence on cars, and*
- c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- d) Support the efficient and viable operation of public transport services, and*
- e) Providing for the efficient movement of freight.*

The Planning Proposal is consistent with the direction for the following reasons:

- The rezoning is likely to generate additional employment opportunities within walking distance (i.e. 200-400m) of high frequent bus routes (i.e. Route M20, 309 and 310).
- The B7 - Business Park will compliment the nearby (i.e. 200m-400m) Botany Village Centre.

- The B7 - Business Park zone will develop a better interface with the B2 - Local Centre zone at Botany Village Centre and consistent land uses with the adjoining areas.
- The B7 - Business Park prohibits freight transport facilities which will minimise truck movement and improve pedestrian and cycle access within the precinct.

3.5 Development Near Licensed Aerodromes

The intent of this direction is to ensure the effective and safe operation of aerodromes; does not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The Planning Proposal is consistent with the objective of Development Near Licensed Aerodromes direction for the following reasons:

- The objectives of Clause 6.8 (Airspace operations) of the BBLEP 2013 is to ensure “effective and ongoing operation of the Sydney (Kingsford Smith) Airport by ensuring that such that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport and to protect the community from undue risk from that operation”;
- A maximum building height of 12m will be applicable to the subject precinct. The maximum building height is consistent with the adjoining area contained in the BBLEP 2013;
- The maximum building height (i.e. 12m) does not exceed the “*Inner Horizontal Surface*” of 51m AHD as indicated on the Obstacle Limitation Surfaces (OLS) map;
- Department of the Commonwealth and Sydney Airport Corporation will be consulted in accordance with the gateway determination;
- The primary aim of the B7 zone is to provide a range of office and light industrial uses and encourage employment opportunities;
- Any development application exceeds 15.42m (building height) will be referred to Sydney Airport Corporation Limited for comments prior to approval; and

4.1 Acid Sulfate Soils

The intent of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. The direction requires an acid sulfate soils study to be prepared if the planning proposal requires an intensification of land uses.

A model local provision (i.e. Clause 6.1 – Acid Sulfate Soils) and an Acid Sulfate Soil Map has been incorporated into the *Botany Bay Local Environmental Planning 2013*.

The precinct is identified as Class 2 Acid Sulfate Soils (ASS).

Future developments (i.e. any works below the natural ground surface or by which watertable is likely to be lowered) within the precinct are subject to Council’s consent and an acid sulfate soil management plan will be required. Any significant adverse environmental impacts can be addressed during the development application stage. Hence, the Planning Proposal is consistent with the Direction.

6.1 Approval and Referral Requirements

The intent of the direction is to ensure that LEP provisions to encourage the efficient and appropriate assessment of development.

No concurrence, consultation or referral of a Minister or public authority is required for any of the sites.

7.1 Implementation of the Metropolitan Plan for Sydney 2036

The intent of direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the *Metropolitan Plan for Sydney 2036*.

As illustrated above, the planning proposal is not inconsistent with the Strategic Directions and Actions of the *Metropolitan Plan for Sydney 2036*.

Section C – Environmental, social and economic impact.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposal will not impact upon any critical habitat, threatened species, populations or ecological communities or their habitats as the precinct does not contain any of the above communities.

Are there any other likely environmental effect as a result of the planning proposal and how are they proposed to be managed?

The planning proposal is of minor significance, and it is not envisaged that there will be any adverse environmental effects on the precinct:-

- The precinct is located within the ANEF 30-35 contour as identified on the *Australian Noise Exposure Forecast 2033 (ANEF) Chart*. Any development within the precinct will be subject to compliance with the *Australian Standard 2021 (AS 2021)*;
- Botany Bay Local Government Area is not subject to flooding, landslip and bushfire hazard; and
- No physical works are proposed. Hence, there will be minimal impacts to the precinct and adjoining areas.

How has the planning proposal adequately addressed any social and economic effects?

Social effects: The planning proposal will result in a positive social effect to the precinct as the B7 - Business Park zone enables more compatible and consistent land uses with the existing residential developments and better interface with the Botany village centre.

The proposed zone will prohibit freight transport facilities which will result in the reduction of truck movement within the precinct and improve pedestrian and cycling connection to the adjoining areas.

As part of the planning proposal, a maximum height of 12m and a maximum FSR 1.5:1 will be introduced. The proposed development standards are consistent with the adjoining B7 Business Park zone (i.e. Underwood Avenue and Chegwyn Street) under the BBLEP 2013. This will ensure that future developments are an appropriate and relative in scale.

Economic effects: The planning proposal will result in a positive economic effect as the rezoning is likely to generate additional job opportunity within the precinct. The B7 Business Park zone will provide a better interface and support to the B2 - Local Centre zone at the Botany village centre.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Due to the inadequate road widths, heavy rigid vehicle (i.e. associated with freight transport facilities) that need to access the streets within this precinct have difficulty manoeuvring in an acceptable manner.

The road system is of a local nature and not built to accommodate the type and size of vehicles required by freight transport facilities. Council has received complaints in relation to road damage caused by these vehicles in their attempt to enter and exit freight transport facilities located within the precinct.

The prohibition of freight transport facilities is likely to improve the transport movement within the precinct and minimise vehicular and pedestrian conflict.

Future developments and uses within the precinct will be subjected to an assessment of the road capacity prior to determination of development applications.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The following State and Commonwealth government authority will be consulted:

- Road and Maritime Services;
- Sydney Ports Corporation;
- Sydney Airport Corporation; and
- Department of the Commonwealth and the lessee of the Sydney Airport.

Should the gateway determination deem it necessary for Council to consult with other State and Commonwealth government authorities, Council will forward a copy of the planning proposal to the relevant authorities.

PART 4 - COMMUNITY CONSULTATION

Council proposes that the planning proposal be exhibited as follows:

- In accordance with section 57 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the planning proposal will be placed on public exhibition for 28 days; and
- Any other requirements as determined by the Gateway under section 56 of the EP&A Act.

PART 5 – CONCLUSION

In summary, the Planning Proposal seeks the following amendments:

- Rezone Nos. 9-15 Erith Street and Nos. 5-9, 13-15, 21-23 Byrnes Street, Botany from IN1 General Industrial, as zoned in the State Environmental Planning Policy (Port Botany and Port Kembla) 2013, to B7 - Business Park under the BBLEP 2013;
- To correct a mapping anomaly, Nos. 2-10 Mcfall Street and 1 Bay Street, Botany is to be rezoned to B7 – Business Park zone in the BBLEP 2013;
- Apply Clause 4.3 Height of building to permit a maximum building height of 12 metres over the subject precinct;
- Apply Clause 4.4 Floor space ratio (FSR) to permit a maximum FSR of 1.5:1 over the subject precinct; and
- Incorporate 23 Byrnes Street, Botany (i.e. Canary Island Date Palms (*Phoenix canariensis*)) into Schedule 5 (Environment Heritage) of the BBLEP 2013.

As illustrated in the Planning Proposal, the proposed rezoning is consistent with relevant State and local legislations; directions, policies and strategic documents. Furthermore, it enable uses that better cater to the Sydney Airport; generate additional employment opportunities for the LGA; provide opportunities to better manage interface with the “Botany Village Centre” and resolve many issues (i.e. noise and odour; truck movements and conflict of land uses) currently existed within the precinct. The rezoning will result in widespread and long-term benefits to the State, LGA and the local community.

ATTACHMENT

1. Botany Bay Local Environmental Plan 2013 – Zoning and Planning Controls (Current)
2. Botany Bay Local Environmental Plan 2013 – Zoning and Planning Controls (Proposed)
3. Council Report and Resolution
4. Court Judgement for 9-17Byrnes Street, Botany
5. Assessment Report and Determination for 9-17 Byrnes Street, Botany
6. Landuse Survey
7. Industrial Land Strategic Assessment Checklist for Rezoning of Existing Industrial Land to Other Uses
8. Permissible Uses Comparison
9. List of State Environmental Planning Policies
10. SEPP (Port Botany and Port Kembla)