

Mr R J Dowsett
Director Planning & Development
City of Botany Bay
141 Coward
Mascot 2020
Ph: (02) 9366 3666
council@botanybay.nsw.gov.au



PLANNING PROPOSAL NO. 2/2013

Amendment to the Botany Bay Local Environmental Plan
2013

Deletion of Clause 4.3(2A) and 4.4B

20 December 2013

CONTENT

INTRODUCTION.....	3
PART 1 - OBJECTIVES OR INTENDED OUTCOMES	4
Objectives.....	4
Intended Outcomes	4
PART 2 - EXPLANATION OF PROVISIONS	6
Existing Provisions.....	6
Botany Bay Local Environmental Plan 2013	6
Development Control Plan	9
Proposed amendment	9
PART 3 – JUSTIFICATION	11
Section A - Need for the planning proposal.....	11
Section B – Relationship to strategic planning framework.	15
Section C – Environmental, social and economic impact.	18
Section D – State and Commonwealth interests.....	18
PART 4 - COMMUNITY CONSULTATION.....	19
PART 5 - MAPPING	20
PART 6 – PROJECT TIMELINE.....	21
PART 7 – CONCLUSION	22
ATTACHMENTS.....	23

INTRODUCTION

The Botany Bay Local Environmental Plan 2013 was gazetted on 21 June 2013 and commenced on 26 June 2013.

Council at its Meeting held 11 December 2013 resolved to prepare a Planning Proposal in accordance with the Environmental Planning & Assessment Act 1979 and its Regulation to amend the Botany Bay Local Environmental Plan 2013 as follows:

- a) Delete Sub-clause (2A) in Clause 4.3 – Height of Buildings relating to a 22 metre height for sites zoned R3 and R4; and
- b) Delete Clause 4.4B as it relates to exceptions to FSR in Zone R3 and R4.

The resolution has come about by reason of the assessed impacts that the additional height and FSR has raised within the Botany Bay LGA community. Not only has the development standards resulted in additional building bulk and height it has also presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly where they adjoin R2 Low Density Residential zones.

The bonus provisions do not provide for an acceptable transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. Where the R3 and R4 Residential Zones are immediately adjoining R2 low density residential zones, the increased building height and building bulk presents adverse impacts to the prevailing streetscape and results in overshadowing and overlooking impacts.

Furthermore, the FSR bonus in the Botany Bay LEP 2013 has not been implemented as intended and in some cases this has been exploited by developers. The joint use of both provisions (22m height and the 1.65:1 FSR) has impacted upon the Botany Bay community and has caused concern within that community.

A copy of the Council's Resolution dated 11 December 2013 and an extract from the Ordinary Council Business Paper which contains the report dated 12 November 2013 is attached as **Attachment A**.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

Objectives

- To delete the 22 metre height for sites which have an area over 2000m² and which are zoned R3 Medium Density Residential or R4 High Density Residential.
- To delete the 1.65:1 bonus FSR for sites which have a site area over 2000m² and are affected by acid sulfate soils, contamination, and noise.
- To address the interface between the R2/R3 and R2/R4 zones within the Botany Bay Local Government Area.
- To reduce the amenity impacts resulting from the additional bulk and scale.

Intended Outcomes

The intended outcomes of the Planning Proposal are outlined in the following table:

Table 1 – Intended Outcomes

Clause	Resolution of Council	Intended Outcome
Clause 4.3 – Height of Buildings	Delete the bonus Sub-Clause (2A) of 22m for 2000m ² sites zoned R3 Medium Density Residential or R4 High Density Residential.	<p>That development will be restricted to 10 to 14 metres depending on locality. Heights over the maximum height will require individual assessment under Clause 4.6 of the Botany Bay LEP 2013.</p> <p>Heights in the Height of Building (HOB) Map were based on surveys carried out by Council Officers of existing heights of development in the R3 and R4 Zones.</p> <p>In the HOB Map the following maximum heights apply to land zoned R3 and R4:</p> <ul style="list-style-type: none"> • Mascot – 11 to 12 metres; • Botany – Daphne and Street, Myrtle/Jasmine Streets; Wilson/Pemberton Street & Edgehill Avenue – 10 metres; • Eastlakes – 14 metres; and • Hillsdale – 12 metres. <p>If a height is sought over that height limit on the Height of Buildings LEP Map an exception to the development standard will be</p>

Clause	Resolution of Council	Intended Outcome
		required under Clause 4.6 of the Botany Bay LEP 2013. This will allow Council to consider a merit based objection to the height standard.
Clause 4.4B – Exceptions to FRS in Zone R3 and R4	Delete the Clause for a bonus of 1.65:1 for 2000m ² .	The maximum FSR permitted on sites over 2000m ² zoned R3 or R4 is 1.5:1 (permitted under Clause 4.4(2A)).

PART 2 - EXPLANATION OF PROVISIONS

Existing Provisions

Botany Bay Local Environmental Plan 2013

The Botany Bay Local Environmental Plan 2013 was gazetted on 21 June 2013 and commenced on 26 June 2013.

The relevant clauses which apply to **R3 and R4 Zones** are outlined in **Table 2** as follows:

Table 2 – FSR & height Provisions relating to R3 and R4 Zones

Clause in Botany Bay LEP 2013	Summary of Provisions	Source of provision
<p>4.3 – Height of Buildings</p>	<p>Subclause (2) - The height of a building on any land is not to exceed the maximum shown for land on the Height of Buildings Map (HOB Map).</p>	<p>Heights are generally a maximum of 10 to 14 metres depending on the locality of the site.</p> <p>Heights in the HOB Map were based on surveys carried out by Council of existing heights of development in the R3 and R4 Zones.</p> <p>In the HOB Map the following maximum heights apply to land zoned R3 and R4:</p> <ul style="list-style-type: none"> • Mascot – 11 to 12 metres; • Botany – Daphne and Street, Myrtle/Jasmine Streets; Wilson/Pemberton Street & Edgehill Avenue – 10 metres; • Eastlakes – 14 metres; and • Hillsdale – 12 metres.
	<p>Subclause (2A) - Notwithstanding the HOB Map land in R3 or R4 Zone which exceeds 2000m² in area the height can exceed that on the height of HOB Map but must not exceed 22m.</p>	<p>This bonus provision was developed from the 2010 Neustein Urban Study. This subclause applies to sites with an area over 2000m² in the R3 and R4 Zones provided for a building height of 6 storeys (22 metres).</p>

Clause in Botany Bay LEP 2013	Summary of Provisions	Source of provision
	<p>Subclause (2C) – applies to 12 and 14 Daniel Street & 41 Daphne Street, Botany – allows a maximum height of 12 metres.</p>	<p>The HOB Map permits a maximum height of 10 metres.</p> <p>Council received a request for additional height on 23/09/2011 for an amalgamated site of 1900m² in area consisting of Nos. 12 and 14 Daniel Street & 41 Daphne Street.</p> <p>The submission was considered by the Council’s Policies & Priorities Committee on 25/01/2012. Council at that meeting agreed to an additional 2 metre increase in height (ie maximum of 12m) for an amalgamated site of 1900m² in area.</p> <p>However should the land be developed as three individual lots a height limit of only 10 metres will apply to each lot.</p>
<p>4.4 – Floor Space Ratio</p>	<p>Subclause (2) - The maximum FSR for a building on any land is not to exceed the FSR shown for the land on the FSR Map.</p>	<p>FSR are generally a maximum of 0.85:1 depending on the locality of the site.</p>
	<p>Subclause (2A) - Notwithstanding the FSR Map land in R3 or R4 Zone which exceeds 2000m² in area the FSR can exceed that on the FSR Map but must not exceed 1.5:1.</p>	<p>This bonus provision was developed from the 2010 Neustein Urban Study.</p> <p>The provision was supported by the Department of Planning & Infrastructure.</p>
	<p>Subclause (2C) – applies to 12 and 14 Daniel Street & 41 Daphne Street, Botany – allows a maximum FSR of 1.5:1.</p>	<p>The FSR Map permits a maximum FSR of 0.85:1.</p> <p>Council received a request for additional FSR on 23/09/2011 for an amalgamated site of 1900m² – 12 and 14 Daniel Street & 41 Daphne Street.</p> <p>The submission was considered by the Council’s Policies &</p>

Clause in Botany Bay LEP 2013	Summary of Provisions	Source of provision
		<p>Priorities Committee on 25/01/2012. Council at that meeting agreed to an additional 0.65:1 increase in FSR (ie maximum FSR of 1.5:1) for an amalgamated site of 1900m2 in area.</p> <p>However should the land be developed as three individual lots a FSR 0.85:1 for each lot will apply.</p>
<p>4.4B – Exceptions to FSR in Zone R3 and R4</p>	<p>Despite clause 4.4, a FSR for the purposes of multi dwelling housing and residential flat buildings on land to which this clause applies that results in a floor space ratio that does not exceed 1.65:1 if:</p> <ul style="list-style-type: none"> o the site area is equal to or greater than 2,000 square metres, and o the site area is land identified on the Acid Sulfate Soils Map, and o the consent authority considers that the development is, or is likely to be, adversely affected by any of the following: contamination, noise (including aircraft, rail or road noise). <p>Council has to be satisfied that:</p> <ul style="list-style-type: none"> • the development will be compatible with the desired future character in terms of building bulk and scale, and • the development will contribute to the amenity of the surrounding locality, and • any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan. 	<p>Council at its Development Meeting held 1 August 2012 resolved to include the provision in the exhibited draft Botany Bay Local Environmental Plan 2012. The provision provides additional bonus FSR for sites over 2000m2 of 10% above the exhibited FSR development standard of 1.5:1 – a FSR of 1.65:1 if the site is affected by three or more of the following constraints:</p> <ul style="list-style-type: none"> • <i>Site contamination;</i> • <i>Aircraft Noise;</i> • <i>Rail Noise;</i> • <i>Road noise;</i> • <i>Demolition;</i> • <i>Groundwater;</i> • <i>Acid Sulphate Soils.</i> <p>Council was advised that in the determination of Development Applications in recent times for multi unit housing (including residential flat buildings) it had become apparent that to achieve the long term outcomes of the Council and utilise land previously used for an industrial purpose for a reuse, it generally comes with a legacy of contamination, high groundwater levels and industrial building stock that contains elements in their construction of hazardous materials (asbestos). It has also been found that in addition to</p>

Clause in Botany Bay LEP 2013	Summary of Provisions	Source of provision
		<p>the above matters the sites are affected by transport noise (road/aircraft) that collectively give rise to development constraints.</p> <p>The FSR incentive of 1.65:1 was also proposed to ensure that residential development complied with the Council's policy considerations for:</p> <ul style="list-style-type: none"> • Unit sizes; • Car parking rates; and • Basement carparking. <p>Therefore, an incentive of up to 10% above the exhibited FSR development standard of 1.5:1 for larger sites of over 2000m² was proposed.</p>

Note: The bonus provisions above do not apply to the British American Tobacco (BATA) Site at 128 Bunnerong Road, Pagewood as the BATA site has its own maximum permitted FSRs and heights – refer to Clauses 4.3(2B) and 4.4(2B).

Development Control Plan

Council's previous Development Control Plan No. 35 – Multi Unit Housing & Residential Flat Buildings and Council's current Botany Bay Development Control Plan 2013 have consistent provisions relating to urban form for the larger sites in the R3 and R4 zones - that that they include two storey townhouses plus attic to the street edge and higher building located to the rear of the development site.

Since the changes in the legislation relating to development control plans – ie they are not statutory documents (refer to Section 64BA(1) of the Environmental Planning & Assessment Act 1979) - Council is unable to require low rise at the street and adjoining R2 zoned land.

As Council is unable to uphold its DCP provisions for the larger sites zoned R3 and R4, a planning proposal is proposed that ensures that the streetscape is considered for these larger sites.

Proposed amendment

The Planning Proposal seeks the following amendments to the Botany Bay Local Environmental Plan 2013:

1. To delete **Clause 4.3(2A) – Height of Buildings** which states:

Despite subclause (2), if an area of land in Zone R3 Medium Density Residential or Zone R4 High Density Residential exceeds 2,000 square metres, the height of a building on that land may exceed the maximum height shown for the land on the [Height of Buildings Map](#) but must not exceed 22 metres.

2. To delete **Clause 4.4B – Exceptions to floor space ratio in Zone R3 and Zone R4** which states:

- (1) *The objective of this clause is to encourage the development of larger sites (former industrial sites) to facilitate better built form and urban design.*
- (2) *This clause applies to land in Zone R3 Medium Density Residential and Zone R4 High Density Residential.*
- (3) *Despite clause 4.4, development consent may be granted to development for the purposes of multi dwelling housing and residential flat buildings on land to which this clause applies that results in a floor space ratio that does not exceed 1.65:1 if:*
 - (a) *the site area is equal to or greater than 2,000 square metres, and*
 - (b) *the site area is land identified on the [Acid Sulfate Soils Map](#), and*
 - (c) *the consent authority considers that the development is, or is likely to be, adversely affected by any of the following:*
 - (i) *contamination,*
 - (ii) *noise (including aircraft, rail or road noise), and*
 - (d) *the consent authority is satisfied that:*
 - (i) *the development will be compatible with the desired future character in terms of building bulk and scale, and*
 - (ii) *the development will contribute to the amenity of the surrounding locality, and*
 - (iii) *any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.*

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

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

As indicated above in **Table 2** the bonus provisions (Clauses 4.3(2A) & 4.4(2A) in the Botany Bay LEP 2013) for additional height and FSR for sites zoned R3 or R4 which have an amalgamated area of 2000m² was developed from the 2010 Neustein Urban Study. A copy of the Study has been previously forwarded to the Department and also can be found on Council's website at <http://www.botanybay.nsw.gov.au/index.php/council-services/services/city-planning/strategic-a-supporting-studies>

With respect to the **height** the intent outlined within the 2010 Neustein Urban Study was that increased floor to ceiling heights would be required on the ground floor and first floor to accommodate commercial/retail development with residential above. This would provide for an overall building height of 22 metres within 6 storeys. However developments within the R3 and R4 Residential zones are not required to accommodate commercial/retail development (though it is permitted) on the ground and first floor, the consequence of which gave rise to 7 storey building heights within the 22m height cap where the development is pure residential.

This was not the intent of the 2010 Neustein Urban Study and the bonus height control of 22m has raised issues within the community. Not only has this development standard resulted in additional building height than what was envisaged by the 22m height control it has also presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly adjoining low density R2 Residential zones. The bonus provision allows no transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. It has been noted that a number of pre-approval discussions in the R3 Residential zone are immediately adjoining R2 low density residential zones and the increased building height presents adverse impacts to the prevailing streetscape and adjoining R2 low density residential zones, resulting in overshadowing and overlooking impacts. The bonus provisions have resulted in the likelihood of a real built scale imbalance between the R2 and the R3 zones at their interface.

The increase in the FSR for sites over 2000m² and zoned R3 or R4 has also led to increased bulk and scale of development adjacent to R2 Low Density Residential zoned areas, causing unacceptable streetscape impacts.

The matter was reported to the Council Meeting held on 11 December 2013 and a copy of the report is contained in **Attachment A**. The Council resolved to:

1. Delete Sub-clause (2A) relating to a 22 metre height for sites zoned R3 and R4 in Clause 4.3 – Height of Buildings; and
2. Delete Clause 4.4B as it relates to exceptions to FSR in Zone R3 and R4.

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:

- The intent of the 2010 Neustein Urban Study has not been realised and the bonus height limit of 22 metres has raised transition and streetscape issues within the community.
- Applicants are seeking 7 storeys within the 22m height cap, which is contrary to the work behind the bonus clauses and the accompanying Botany Bay Development Control Plan 2013 of 6 storeys.
- The existing clauses are not constructed to require a transition zone between development on the bonus sites and adjoining R2 Low Density Residential Zoned land.
- The deletion of the 22 metre height limit will allow Council to consider a merit based objection to the HOB Map standard. If a height is sought over that height on the Height of Buildings LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This provides Council with the flexibility it requires for a site by site analysis.
- The deletion of the 1.65:1 FSR limit will prevent the overdevelopment of infill sites which are surrounded by low density residential and not in proximity to public transport modes.
- The removal of the bonus FSR of 1.65:1 and height of 22m will still allow redevelopment on the infill sites zoned R3 or R4 if the land area is over 2000m². The maximum FSR permitted on sites over 2000m² zoned R3 or R4 will be a maximum of 1.5:1 (permitted under Clause 4.4(2A)). Height of the redevelopment will be consistent or in scale with the surrounding heights.
- The adverse impacts of the joint utilisation of the bonus provisions over the one site has resulted in the overdevelopment of such sites, with impacts overspilling to adjoining properties.
- If the height does exceed that height on the HOB Map, then Council will require sound justification and design planning – to ensure that interface and streetscape issues are addressed.
- To balance amenity between properties within the area.
- The planning proposal exhibition would provide an opportunity to consider the range of the community views in relation to the deletion of the controls.
- The remaining controls still identify development potential and revitalisation more in keeping with the character of the existing residential areas.

3 Is there a net community benefit?

It is envisaged that the planning proposal will provide a net community benefit, which will outweigh the cost of implementing and administering the planning proposal.

Table 3 below addresses the evaluation criteria for conducting a net community benefit test from the Draft Centres Policy (2009) as required by the Department’s guidelines.

Table 3 – Consistency with Net Community Benefit Evaluation Criteria

Evaluation Criteria	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg. Land release, strategic corridors, development within 800m of a transit node)?	<p>The planning proposal is consistent with agreed State and Regional strategic directions for development in the area.</p> <p>Council will meet its employment and housing targets in the draft East Subregional Strategy. The bonus controls to be deleted will not affect the employment and housing targets.</p>
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub regional strategy?	<p>The sites that would be affected by the planning proposal are zoned R3 Medium Density Residential and R4 High Density Residential. They are mainly infill sites previously zoned for non-residential uses such as industrial.</p>
Is the LEP likely to create a precedent or create or change the expectations of the landowners or other landholders?	<p>The LEP will change the expectation of landowners of the R3 and R4 zoned sites. However there has been a community concern against the bonus provisions which has resulted from development applications being lodged with Council seeking a bulk and scale that is inconsistent with the streetscape, bulk and scale.</p> <p>The bonus FSR provision of 1.5:1 will still apply to sites with site area of 2000m² and zoned R3 or R4. If a height is sought over that height on the Height of Buildings LEP Map an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This will allow Council or the Joint Regional Planning Panel to consider a merit based objection to the height standard.</p>
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	<p>There are no other spot rezonings proposed.</p>

Evaluation Criteria	Comment
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The planning proposal will not facilitate a permanent employment generating activity or result in loss of employment lands.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The planning proposal will not have any impact on the supply of residential land or affordability. The planning proposal will correct an issue that has arisen with the bonus provisions for land zoned R3 and R4. It will allow Council to consider height over that specified on the HOB Map and FSR over 1.5:1 on merit issues and Clause 4.6 of the Botany Bay LEP 2013. Council can then take into account the impact of such development, rather than the bonus height and FSR being a given right by the provisions of the LEP. Council can take into account the pre-existing conditions of a site in assessing the merits of a height of FSR increase.
Is the existing public infrastructure (roads, rail and utilities) capable of servicing the proposal site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	There would be no change to existing public infrastructure. There is adequate pedestrian and cycling access and public transport is available to a majority of the R3 and R4 sites.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	There will be no impact on distances travelled by customers, employees and suppliers. There will be no impacts in terms of greenhouse gas emissions, operating costs and road safety.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	No impacts are expected.
Will the proposal impact on land that the Government has identified a need to protect (eg. Land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	No significant environmental impacts are envisaged.
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 planning proposal will be compatible with surrounding landuses. It will address the impact of the amenity and public domain in the streets where there is an R2/R3 or R2/R4 interface and will protect the wider community.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	N/A

Evaluation Criteria	Comment
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	<p>The planning proposal has been prepared for public interest reasons as follows:</p> <ul style="list-style-type: none"> • The intent of the 2010 Neustein Urban Study has not been realised and the bonus height limit of 22 metres has raised transition and streetscape issues within the community. The 22m height limit has permitted an extra storey over that envisaged when the height bonus was being considered by Council. • The existing clauses are not worded to require a transition zone between development on the bonus sites and adjoining R2 Low Density Residential Zoned land. • The deletion of the 22 metre height limit will allow Council to consider a merit based objection to the HOB Map standard. If a height is sought over that height on the Height of Buildings LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This provides Council with the flexibility it requires for a site by site analysis. • The deletion of the 1.65:1 FSR limit will prevent the overdevelopment of infill sites which are surrounded by low density residential and not in proximity to public transport modes. • Development potential to take into account the pre existing site constraints and policy considerations.

Section B – Relationship to strategic planning framework.

- 1. 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 planning proposal is consistent with the relevant objectives and actions of the Plan as follows:

- *Objective D1 To ensure an adequate supply of land and sites for residential development:* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal.
- *Objective D2 To produce housing that suits our expected future needs:* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Housing will still be supplied that suits expected future needs.
- *Objective D3 To improve housing affordability:* There will be no loss of housing affordability. Council has placed its resolution on its website and Council Officers are advising clients.
- *Objective D4 To improve the quality of new housing development and urban renewal:* The planning proposal will address the quality of housing and urban renewal as it will force applicants to design developments that fit in with the streetscape. Since the changes in the legislation relating to development control plans – ie they are not statutory documents (Section 64BA(1) of the EP&A Act 1979) - Council is unable to require low rise developed at the street and adjoining R2 zoned land.

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 planning proposal is consistent with the relevant objectives and actions of the Plan as follows:

- *Objective 5: Deliver new housing to meet Sydney's growth:* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal.
- *Objective 6: Deliver a mix of well-designed housing that meets the needs of Sydney's population:* The planning proposal does not change the mix of housing stock in the Botany Bay LGA.
- *Objective 7: Deliver well-designed and active centres that attract investment and growth:* The Botany Bay LEP 2013 and the Botany Bay DCP 2013 will deliver well designed and active centres.

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 planning proposal is consistent with the relevant objectives and actions of the Plan as follows:

- *C1 Ensure adequate supply of land and sites for residential development:* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Council has met its housing targets of 6500 dwellings by 2031 without the bonus incentives of 22m height limit and 1.65:1 FSR.

In summary 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*.

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

The planning proposal is consistent with the objectives relating to residential development in the Council's Community Strategic Plan as follows:

- *11.10 Encourage high-quality planning and urban design outcomes that enhance the character and local needs of the community*
- *11.20 Encourage environmentally sustainable developments*
- *11.30 Identify, preserve and protect items of heritage value*

A copy of Council's Community Strategic Plan can be found at

<http://www.botanybay.nsw.gov.au/index.php/council-services/information-directory/corporate-services>

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

Attachment B summarises the Planning Proposal's consistency with State Environmental Planning Policies (SEPPs) and relevant deemed SEPPs. The Planning Proposal is consistent with SEPPs, and relevant deemed SEPPs.

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

The planning proposal is consistent with the applicable section 117 directions.

Attachment C outlines compliance with each of the section 117 directions.

Section C – Environmental, social and economic impact.

1. **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.

2. **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. The planning proposal will address a concern raised in the community with the height and bulk of development on sites over 2000m² in area zoned R3 or R4.

3. **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 community by requiring development in keeping with the streetscape and character of the area.

Economic effects: The proposal will not have any negative economic effect.

Section D – State and Commonwealth interests

1. **Is there adequate public infrastructure for the planning proposal?**

There will be no net change in the demands on public infrastructure for any of the sites as a result of this planning proposal.

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

State and Commonwealth public authorities will be consulted in accordance with the Gateway Determination.

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 - MAPPING

No mapping is required for the Planning Proposal

PART 6 – PROJECT TIMELINE

The project timeline for the Planning Proposal is outlined in Table 4 below.

Table 4 – Draft Timeline

	Timeframe ¹
Anticipated commencement date	30 January 2014
Anticipated timeframe for the completion of required technical information	TBA advised by Department as to what technical information may be required.
Report back to Council on Gateway Determination	By Mid February 2014
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	14 March 2014
Commencement and completion dates for public exhibition period	14 March 2014 to 18 April 2014
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	30 April 2014
Date of submission to the Department to finalise the LEP	By end of May 2014
Anticipate date RPA will make the plan (if delegated)	End of June 2014
Anticipated date RPA will forward to the Department for notification	End of June 2014

¹ Subject to the Department of Planning & Infrastructure approval and timeframe

PART 7 – CONCLUSION

In summary, the Planning Proposal seeks the following amendments:

- To delete the 22 metre height for sites which are zoned R3 Medium Density Residential or R4 High Density Residential, and have a site area over 2000m².
- To delete the 1.65:1 bonus FSR for sites which have a site area over 2000m² and are affected by acid sulfate soils, contamination, and noise.

As detailed in this planning proposal, the resolution has come about as a result of the impacts that the additional height and FSR has raised within the Botany Bay LGA community. Not only has the development standards resulted in additional building bulk and height it has also presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly where they adjoin R2 Low Density Residential zones.

The bonus provisions do not provide for a transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. Where the R3 and R4 Residential Zones are immediately adjoining R2 low density residential zones, the increased building height and building bulk presents adverse impacts to the prevailing streetscape and results in overshadowing and overlooking impacts.

The combination of the two bonus controls – 22m height and 1.65:1 FSR –has resulted in the overdevelopment of sites and impacts on adjoining properties.

Council is not opposed to bonuses or variations to height and FSR if there is merit. However Council believes it needs to be a controlled process - through the utilisation of Clause 4.6 of the Botany Bay LEP 2013.

ATTACHMENTS

- A. A copy of the Council's Resolution dated 11 December 2013 and an extract from the Ordinary Council Business Paper which contains the report dated 12 November 2013
- B. List of State Environmental Planning Policies
- C. Ministerial Directions