

5.32 PLANNING PROPOSAL NO. 6/2014 - 1545-1551 BOTANY ROAD, BOTANY

File No:	S14/104
Attachments:	Attachment 1 - Request from SJB Planning Attachment 2 - Draft Planning Proposal No. 6/2014 - 1545-1551 Botany Road, Botany
Responsible Officer:	Heather Warton - Director of City Planning & Environment
Date of Preparation:	20 November 2014

EXECUTIVE SUMMARY

A request for a Planning Proposal has been received from SJB Planning, on the behalf of Dunning 77 Pty Ltd, in relation to the rezoning of the rear part of Nos. 1545-1551 Botany Road, Botany from B7 – Business Park to B4 – Mixed Use. No change in FSR or height is proposed. A copy of the request is contained in **Attachment 1** to this report.

BACKGROUND

Nos. 1545-1551 Botany Road, Botany, consists of 4 parcels of land and are owned by Dunning Pty Ltd (refer to **Figure 1** below).

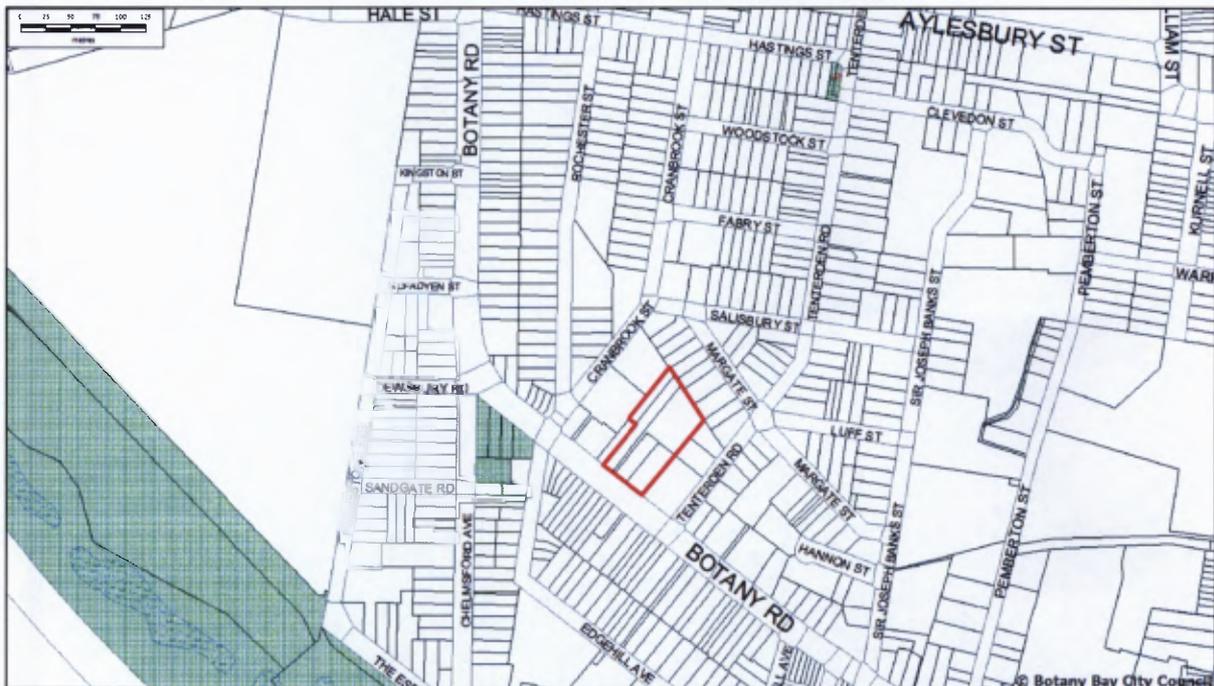


Figure 1 – 1545-1551 Botany Road, Botany

The current zoning of No. 1545-1551 Botany Road is split into two zones – B4 Mixed Use and B7 Business Park – refer to **Figure 2** below.

The Planning Proposal relates to 3 of the 4 parcels of land located at No. 1545-1551 Botany Road, Botany (being Lot Y DP 417308, Part Lot B DP 354414 and Lot 1 DP 130719). The site is currently occupied by a range of industrial buildings. To the rear of the site is a stormwater drainage channel. Refer to **Figure 3 - Aerial Photograph**.

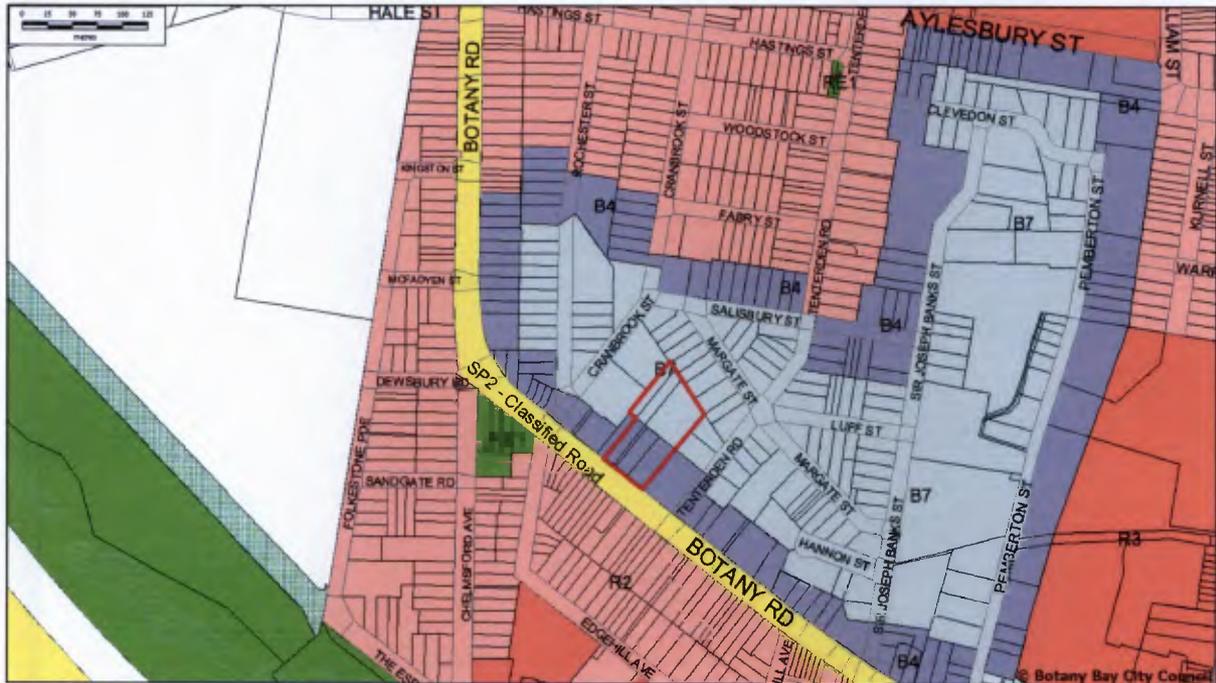


Figure 2 – Current Zoning of 1545-1551 Botany Road, Botany



Figure 3 – Aerial view of the allotments to be rezoned

The site is located on the south-western edge of a larger industrial precinct broadly bound by Botany Road to the south and west, Wilson Street to the east and Aylesbury Street to the north. The industrial development includes a diversity of larger footprint buildings through to small lot buildings. Properties located south of the site (separate by Botany Road) are zoned as R2 – Low Density Residential and predominantly used as single detached dwellings.

The site is located between Botany Village to the north and Banksmeadow Small Village to the south-east. The site is also located within the Port Botany & Environ Specialised Precinct.

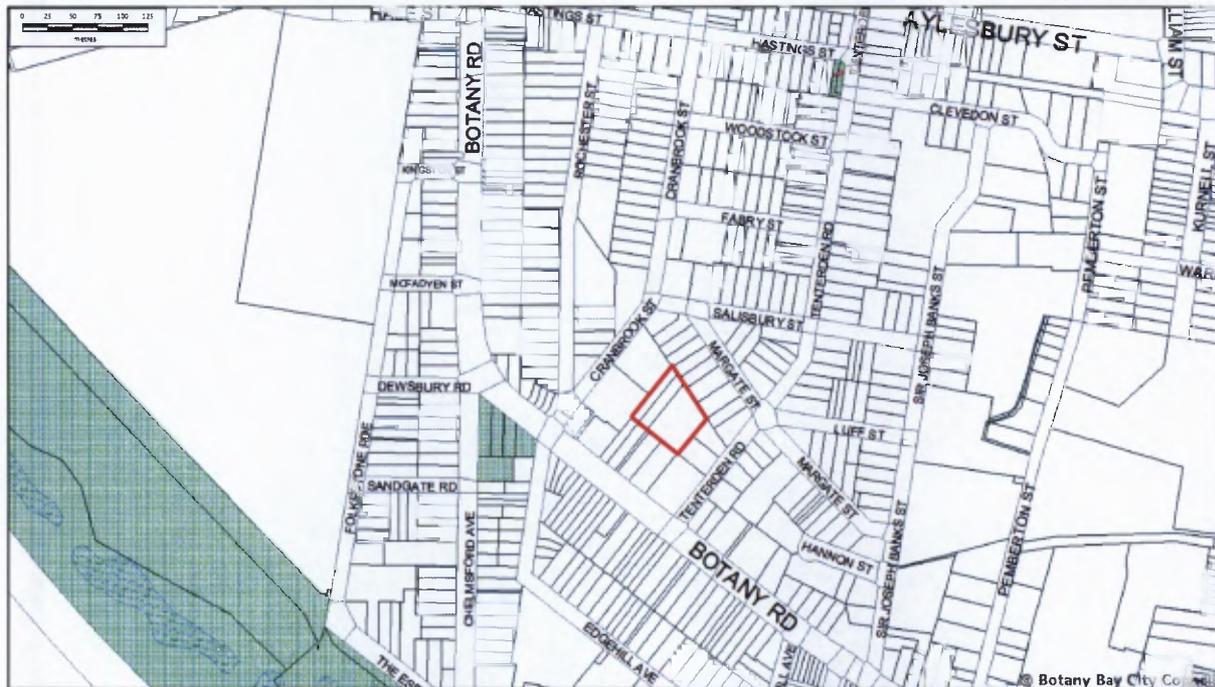


Figure 4 – Site affected by the Planning Proposal

The properties subject to this Planning Proposal illustrated above in **Figure 4** and are listed below:

Address	Lot and DP	Zoning - Botany Bay Local Environmental Plan 2013	FSR & Height
1549 Botany Road, Mascot	Lot Y DP 417308	B7 – Business Park	FSR 1:1 & Height 12m
1549 Botany Road, Mascot	Part Lot B DP 354414	B7 – Business Park B4 – Mixed Use	FSR 1:1 & Height 12m FSR 1:1 & Height 10m
1549 Botany Road, Mascot	Lot 1 DP 130719	B7 – Business Park B4 – Mixed Use	FSR 1:1 & Height 12m FSR 1:1 & Height 10m

Table 1 – Properties subject to the Planning Proposal

PLANNING PROPOSAL REQUEST

The applicant for the Planning Proposal requests that Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719 be rezoned from B7 – Business Park to B4 – Mixed Use to enable the site to be developed for purposes permitted in a B4 Zone in a coherent and co-ordinated manner.

The Committee should note that B4 Mixed Use permits the following:

Boarding houses; Child care centres; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Light industries; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing.

No. 1545-1551 Botany Road, Botany, is also affected by Clause 6.15 – Active Street Frontages which requires that development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless Council is satisfied that the building will have an active street frontage after its erection or change of use. This means that the ground floor use along the Botany Road frontage of the site has to be for a non-residential purpose.

EVALUATION

Botany South Industry Study

In 2003, Council engaged SGS Economics & Planning to assess the potential for renewal of the Botany south area in Botany Bay LGA. The study recommended that a ‘buffer zone’ be established between the residential (i.e. south of Botany Road) and heavier industrial uses. The intent of the buffer zone is to “*provide a softer edge to the residential uses, reducing the impact of the industrial area on these dwelling and increasing the level of amenity for residents*”. It is also stated that industrial uses may be appropriate in the buffer zone if the use (such as offices, light assembly, wholesale and light warehousing facility) “*emit low levels of noise, provide high level of privacy for residents (limited overlooking) and create a positive perception of the industrial area (contained uses that are not easily viewed from the public domain or present well to it)*”.

Botany Bay Local Environmental Plan (BBLEP) 2013

Clause 5.3 (Development near zone boundaries) of the BBLEP 2013 enables ‘residential flat buildings’ to be constructed on the B7 zone (i.e. within a relevant distance of 25 metres of zone boundaries). However, Clause 5.3(4) also states that the development must not be inconsistent with the objectives for development in both zones. The intent of the B7 zone is to encourage employment opportunities and enable other land uses that provide facilities or services to meet the day to day needs of workers in the area. Residential flat buildings are inconsistent with the objectives of the B7 zone. Therefore, Clause 5.3 will not be applicable.

Regional or sub-regional strategy, State Environmental Planning Policies and Ministerial Directions (s.117 directions)

The Planning Proposal is not inconsistent with relevant State and local strategic documents (such as Metropolitan Plan for Sydney 2036, draft East Subregional Strategy; and Botany Bay

Planning Strategy 2031) and applicable state environmental planning policies and Ministerial Directions (s.117 directions).

Reasons to Support the rezoning request

The split zoning (**Figure 2**) presents a technical constraint to the redevelopment for the sites as it prevents the redevelopment of the site in a coherent and co-ordinated manner. Due to this reason, an application was made by SJB Planning, on the behalf of Dunning 77 Pty Ltd, seeking amendment to the *BBLEP 2013* to incorporate 'residential flat buildings' as an additional permitted land use, for part of the site zoned B7 – Business Park zone, within Schedule 1 of the *BBLEP 2013*.

However the Department of Planning & Environment's draft Practice Note dated September 2012 states:

“Schedule 1 should not be used if the proposed land use could be permitted by an existing or future zoning”.

Therefore the use of Schedule 1 is inconsistent with the draft Practice Note as the rezoning of the whole site to B4 – Mixed Use can achieve the same outcome - being the construction of a mixed use development.

Furthermore, Clause 2.3(2) of the *BBLEP 2013* states:

“The consent authority must have regard to the objectives for development in a zone when determining a development in respect of land within the zone”

Residential flat buildings are antipathetic to the objectives of the B7 – Business Park Zone which are:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide 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.

Therefore, it would be difficult for Council to issue an approval for residential flat buildings in the B7 zone as such a use is not consistent with the objectives of such a zone, notwithstanding if the use is inserted into Schedule 1 of the *BBLEP 2013*.

Considering the above factors, it is recommended that the rear of the site (i.e. Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719) be rezoned from B7 – Business Park to B4 – Mixed Use to provide a consistent zoning, enable a coherent and coordinate development and address the technical constraints (i.e. split zoning) of the site. It will not set a precedent for other B7 zoned lands within the Botany Bay LGA as the subject sites are the only instance where B4 and B7 boundary does not run along the lot boundaries.

Based on the indicative layout plan for a mixed use development prepared by SJB Planning, the rear of the site will contain the carparking for the mixed use development which then will provide a buffer to the industrial uses located at 7-13 Margate Street, Botany.

Future developments (i.e. excluding works permitted under *SEPP (Exempt and Complying Development Codes) 2008*,) are subject to development consent. Any significant adverse environmental impacts (i.e. noise, flooding and acid sulfate) can be considered during the development application stage.

The nearby Botany Villages Centre and Banksmeadow Small Villages Centre will provide ancillary retail and service activities and serves the daily shopping needs of the future occupants. In addition, the site is located on high frequent bus route (i.e. 309, 310, M20 and X09) which provides connection to the Sydney CBD, Mascot Station and Eastgardens Shopping Centre.

Public Authorities Consultation

The following State and Commonwealth government authority will be consulted:

- Sydney Water; and
- Road and Maritime Services.

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.

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.

FINANCIAL IMPLICATIONS

The costs of the rezoning process will be borne by the proponent.

Conclusion

The Planning Proposal as amended by Council Officers seeks to rezone Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719 from B7 – Business Park to B4 – Mixed Use.

The Planning Proposal is not inconsistent with relevant State and local legislations; directions, policies and strategic documents and will have a minimal environmental, social and economic impact.

A copy of the draft Planning Proposal prepared by Council Officers is contained in **Attachment 2**. If Council wishes to pursue the rezoning of these properties, the Planning Proposal will be finalised and lodged with Department of Planning & Environment for the Gateway process.

RECOMMENDATION

THAT:

1. A Planning Proposal be prepared in accordance with Section 54 & 55 of the *Environmental Planning & Assessment Act 1979* and the provisions of the *Environmental Planning & Assessment Regulation 2000* to amend the *Botany Bay Local Environmental Plan 2013* to rezone Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719 from B7 – Business Park to B4 – Mixed Use
2. The Planning Proposal be referred to Department of Planning & Environment for Gateway Determination in accordance with Section 56 of the Act; and
3. The results of the Gateway Determination be reported to Council.