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PLANNING PROPOSAL No.6/2014

1545-1551 Botany Road, Botany

April 2015

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INTRODUCTION

The Planning Proposal relates 3 parcels of land located at No. 1545-1551 Botany Road, 0Botany (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 1 - Aerial Photograph** for the location of the subject site.

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 identified in the draft East Subregional Strategy.

Council requests for delegation of the plan making function for this planning proposal. An *Evaluation Criteria for the Delegation of Plan Making Function* can be found in **Attachment 12**.

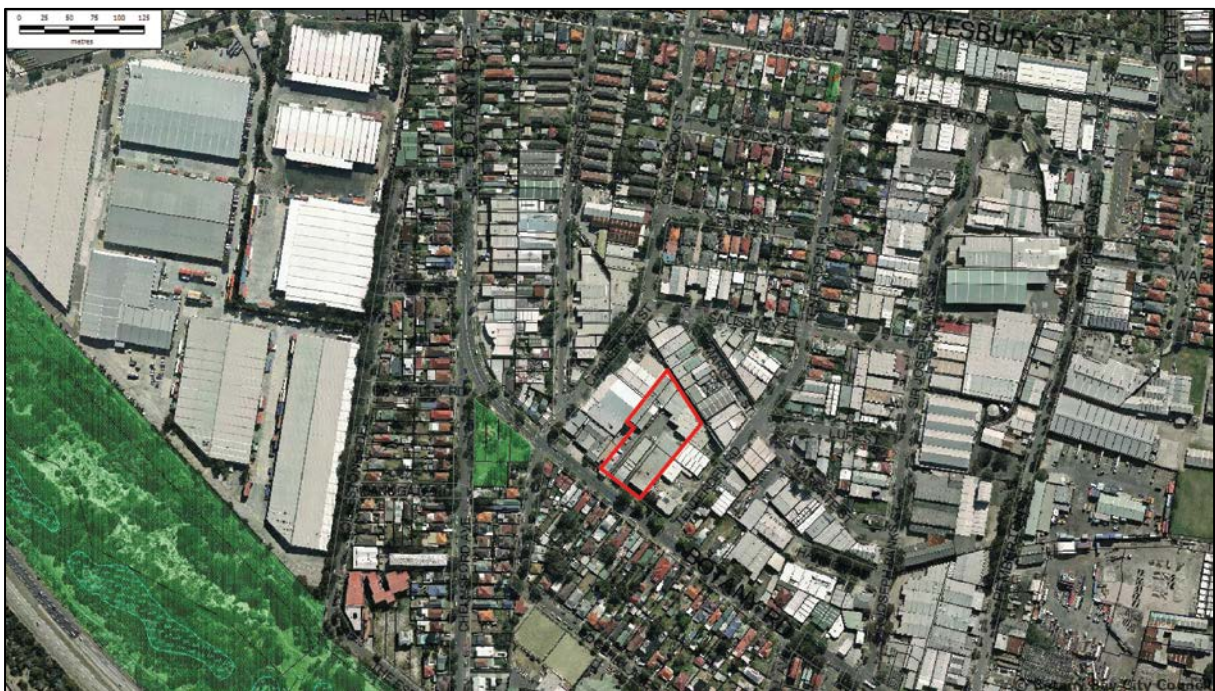


Figure 1 – Aerial photograph of the subject site

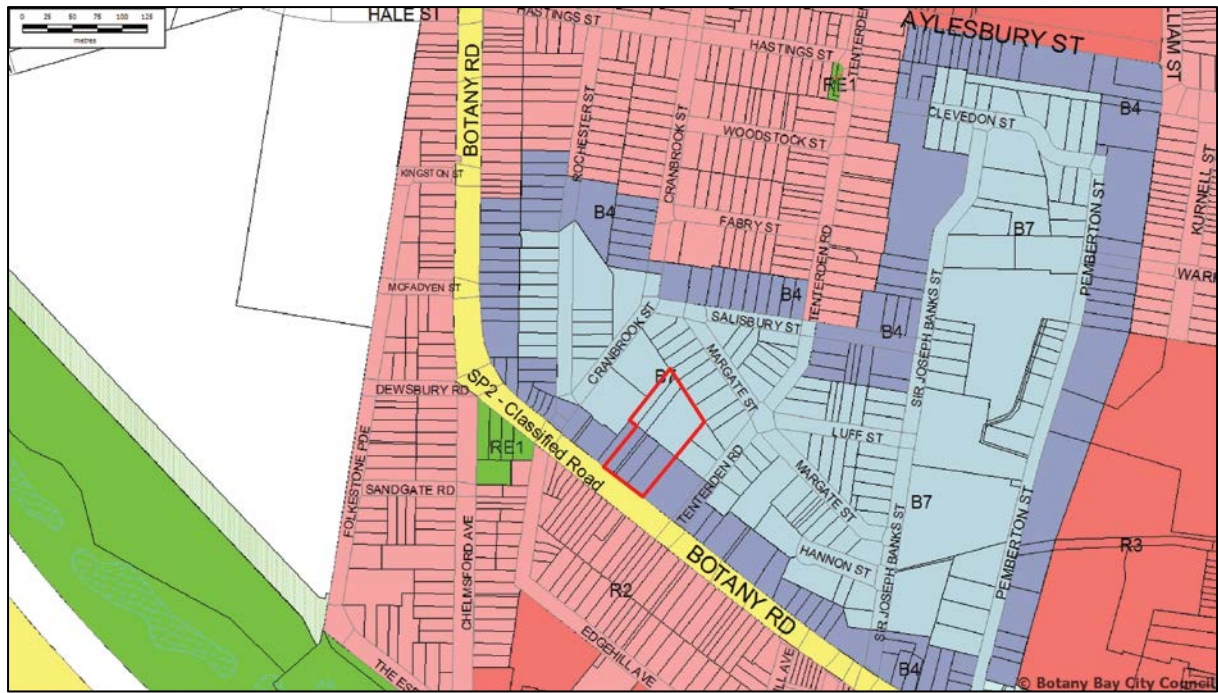


Figure 2 – Zoning map

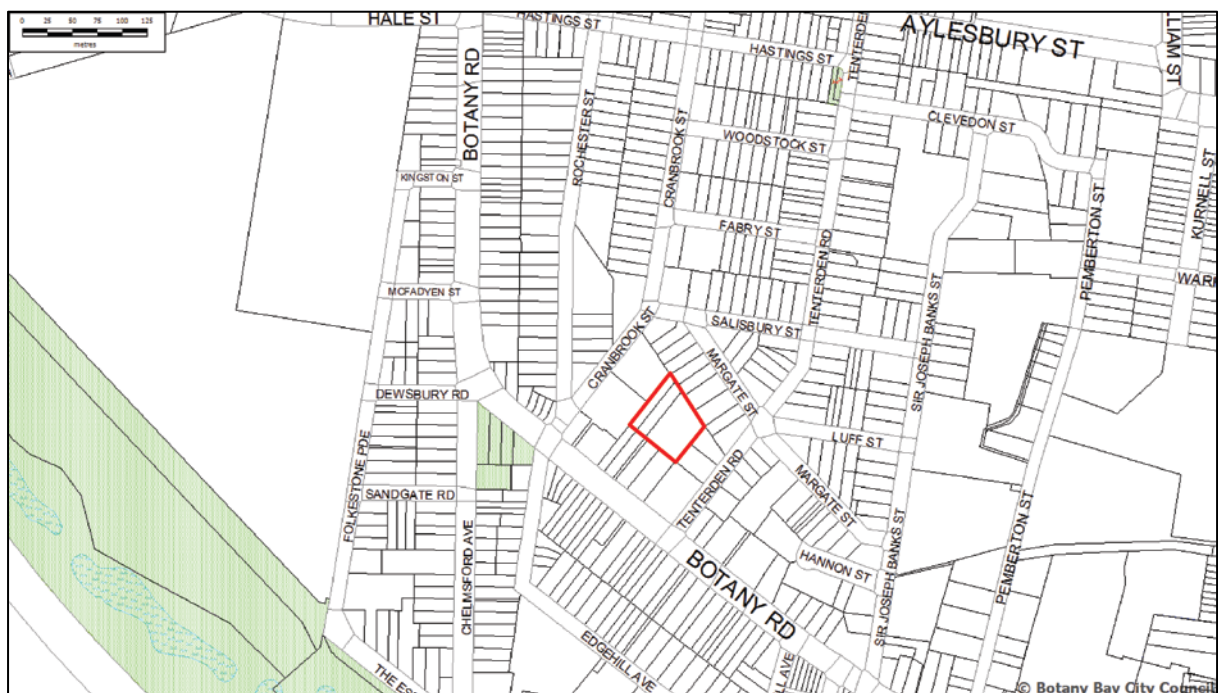


Figure 3 – Land affected by Planning Proposal

Address of Land

The properties subject to this Planning Proposal are listed below:

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

Table 1 – Properties subject to the Planning Proposal

Relevant Planning Controls

The land subject to this Planning Proposal is part of a larger site which is subject to a split zoning. The street front half of the site is zoned as B4 - Mixed use and the rear half of the site is zoned B7 - Business Park (**Figure 3 – Zoning**). The Planning Proposal only relates to that part of the land zoned B7 – Business Park.

The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The B4 zone permits the following uses with development consent:

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; Any other development not specified in item 2 or 4

The objectives of the B7 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 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

The Planning Proposal 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.

A landuse comparison table can be found in **Attachment 5**.

History & Council Resolution

Botany Local Environmental Plan (BLEP) 1995

The subject site was zoned 4(b) – Mixed Industrial. The objectives of the 4(b) zone are as follows:

- *The primary objective is to improve the environmental amenity of the locality by encouraging the upgrading and redevelopment of properties for light industrial, retail and commercial uses which would not detract from the amenity of the area by reason of the size or type of activity proposed.*
- *The secondary objectives are:*
 - (a) *to ensure that any development which occurs is commensurate with the capacity of the road network in the vicinity;*
 - (b) *to ensure that development by the nature of its operations does not detrimentally affect the environment or the amenity of adjoining or adjacent residential premises; and*
 - (c) *to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.*

The 4(b) zone permits the following uses with development consent:

Automotive uses; building identification signs; business identification signs; car repair stations; child care centres; clubs; commercial premises; community facilities; convenience shops or facilities; high technology industries; hotels; light goods dispatch; light industries; recreation facilities; refreshment rooms; service stations; subdivision; taverns; tradespersons' supply and service stores; utility installations; vehicle rental centres.

Demolition of any building or work, archaeological site, potential archaeological site shown on the map, place of Aboriginal heritage significance, or potential place of Aboriginal heritage significance shown on the map.

A landuse comparison table can be found in **Attachment 5**.

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)"*. An extract of the study can be found in **Appendix 6**.

Botany Bay Local Environmental Plan (BBLEP) 2013

Buffer Zone

Based on the recommendation of the *Botany South Industry Study*, a buffer zone (i.e. B4 – Mixed Uses) has been incorporated into the draft *Botany Bay Local Environmental Plan (BBLEP) 2012*. The buffer zone is bounded by Botany Road, Cranbrook Street, Salisbury Street, Hasting Street, Cranbrook Street, Sir Joseph Banks Street, Aylesbury Street and Pemberton Street.

The buffer zone (i.e. B4 zone) has been provided along lot boundaries with the majority of B7 zoned land having direct frontage to an existing street.

Public Exhibition

In accordance with the *EP&A Act 1979*, the draft *BBLEP 2012* (i.e. Standard Instrument) was placed on public exhibition from Thursday 22 May 2012 to Friday 22 June 2012.

Consequently, the proponent made a representation to Council to rezone the subject site (i.e. Lot Y DP 417308; Part Lot B DP 354414; and Lot 1 DP 130719) to B4 – Mixed Use.

Council considered all the matters raised in the submissions and noted the representation made by the proponent. As illustrated in **Attachment 7**, minimal supporting information and justification was provided. Hence, Council was unable to support the request as part of the standard instrument process. Furthermore, Council considered the amendment sought is “substantially different” from that which was the subject of public exhibition. Therefore, re-exhibition of the draft LEP will be required. To avoid further postponement to the standard instrument, the request was not supported by Council.

A copy of Council’s letter can be found in **Attachment 8**.

The *BBLEP 2013* was gazetted on 21 June 2013 and commenced on 26 June 2013.

Pre-Development Application

A pre-development application meeting was held on 16 July 2013. The proponent presented conceptual designs to Council for the construction of retail premises, residential flat buildings and child care centre. A copy of the pre-development application plans can be found in **Attachment 13**.

On 26 July 2013, Council provided a written correspondence to the proponent stating that the concepts cannot be supported. However, Council would consider a planning proposal to provide for a single zone over the entire site and requires the following key principles to be addressed:

- *Facilitate an active street frontage to Botany Road;*
- *Present a single driveway crossing to basement car parking;*
- *Provide for employment opportunities which enhance and diversify the area;*
- *Present a mix of employment and residential opportunities;*
- *Design the built form mitigate any impact resulting from surrounding light industrial uses;*
- *Maintain compliance with Council’s Car Parking DCP and residential apartment sizes for any residential component;*
- *Present a maximum FSR of 1:1;*
- *Present a maximum building height of 12m; and*

- Facilitate opportunities for deep soil planting along boundaries of the subject site.

A copy of the Council's written correspondence can be found in **Attachment 14**.

Planning Proposal

On 30 July 2014, an application was made by SJB Planning, on the behalf of Dunning 77 Pty Ltd (the owner of the subject land), seeking the following:

- 1) Incorporate residential flat buildings as an additional permitted land use within Schedule 1 of the BBLEP 2013.

According to the draft Practice Note dated September 2012 prepared by the Department of Planning & Environment (DP&E), "*Schedule 1 should not be used if the proposed land use could be permitted by an existing or future zoning*". Hence, Council does not support the incorporation of residential flat buildings into Schedule 1 of the BBLEP 2013.

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 objective of the B7 – Business Park zone, thus preventing Council from issuing development consent.

Based on above reason, Council recommend that the site be rezoned from B7 – Business Park to B4 – Mixed Use which enables coherent and coordinate development of the property and permitting residential flat buildings, subject to Council's consent.

Given the active street frontage along Botany Road, non-residential development will be prohibited on the ground floor. All premises on the ground floor of the building facing the street are to be used for the purposes of business premises or retail premises.

Council Resolution

At the Ordinary Council Meeting held on 9 December 2014, it (the Council) resolved to prepare a Planning Proposal to rezone Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719 from B7 – Business Park to B4 – Mixed Use.

A copy of the Council's Report and Resolution can be found in **Attachment 3**.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

Objectives or Intended Outcomes

This Planning Proposal is to rezone land at 1545-1551 Botany Road to enable a coherent and coordinate development and address the technical constraints (i.e. split zoning) of the site.

PART 2 - EXPLANATION OF PROVISIONS

Proposed amendment

The Planning Proposal seeks the following amendments:

- 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 does not seek amendment to Clause 4.3 - Height of Building or Clause 4.4 - Floor Space Ratio. Hence, Lot Y DP 417308, Part Lot B DP 354404 and Lot 1 DP 130719 will retain the existing maximum building height of 12m and a FSR of 1:1.

It should be noted that the maximum building height for the front half of the site (i.e. currently zoned as B4) will remain at 10m and consistent with neighbouring B4 zone.

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 not a direct result of any strategic study or report. An application was made by SJB Planning, on the behalf of Dunning 77 Pty Ltd, seeking amendment to the *BBLEP 2013* in the following manner:

- 1) 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*.

Council does not support the proposed approach as it is inconsistent with the draft Practice Note dated September 2012 prepared by the DP&E which states:

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

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 objective of the B7 – Business Park zone, thus preventing Council from issuing development consent.

Due to above reasons, it is recommended that the site be rezoned from B7 – Business Park to B4 – Mixed Use and the recommendation was adopted by Council on 9 December 2014.

Refer to **Background** 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 only means of achieving the objectives and intended outcomes as it involves a statutory amendment to the *BBLEP 2013*. Other possible options (i.e. community education and new administrative processes) are unable to achieve the outcomes sought by SJB Planning.

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)?

A Plan for Growing Sydney

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

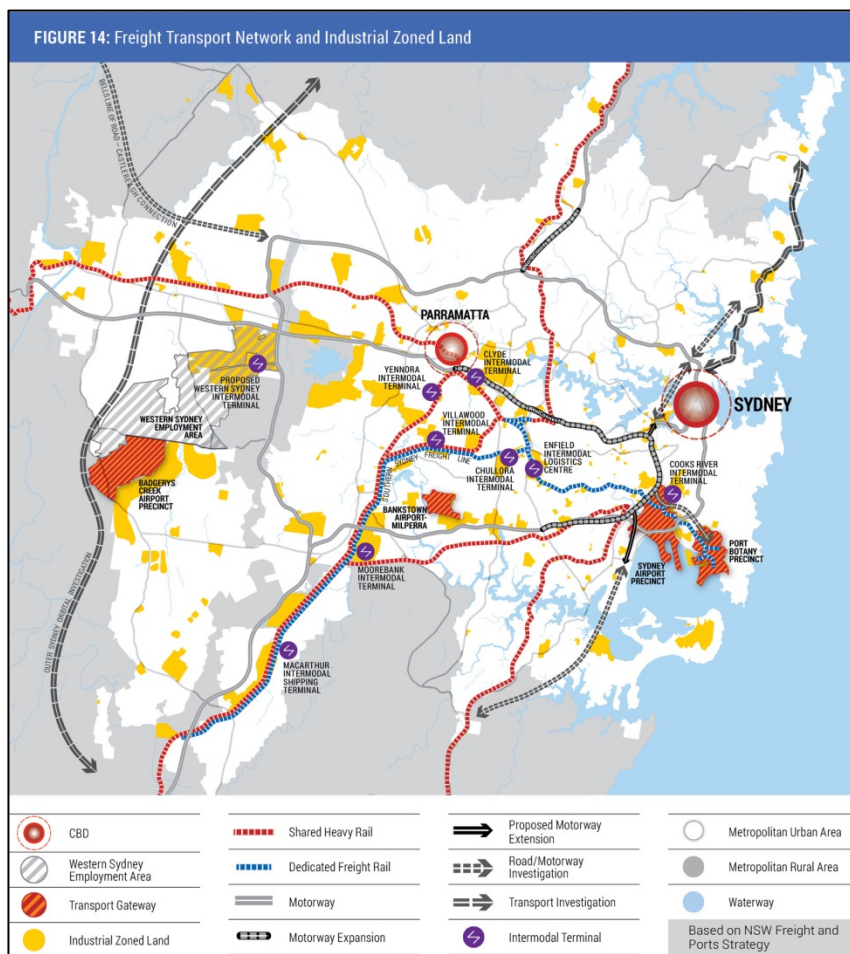


Figure 4 – Freight Transport Network and Industrial Zoned Land

The following directions and actions apply to the subject site:

- **Direction 1.5** - Enhance capacity at Sydney's gateway and freight networks:
 - o Action 1.5.1 - Develop and implement a strategy for the Sydney airport and Port Botany precincts to support their operation, taking into account land uses and the proposed road transport investments
- **Direction 1.9** - Support priority economic sectors
 - o Action 1.9.2 - Support key industrial precincts with appropriate planning controls.
- **Direction 2.1** - Accelerate housing supply across Sydney:
 - o Action 2.1.1 - Accelerate housing supply and local housing choices
- **Direction 2.2** - Accelerate urban renewal across Sydney – providing homes closer to jobs:
 - o Action 2.2.2 - Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres.
- **Direction 2.3** - Improve housing choice to suit different needs and lifestyles:
 - o Action 2.3.3 - Enable the subdivision of existing homes and lots in areas suited to medium density housing.

The site is located within the Global Economic Corridor and 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 site:

- **C1** – Ensure adequate supply of land and sites for residential development;
- **C1.3** – Plan for increased housing capacity targets in existing areas;
- **C2** – Plan for a housing mix near jobs, transport and services;
- **C2.1** – Focus residential development around centres, town centres, villages and neighbourhood centres; and
- **C2.3** – Provide a mix of housing.

The subject site is located within the 'Port Botany & Environs Specialised Precinct'.



Figure 5 – Draft East Subregional Strategy (Indicative only)

This Planning Proposal is consistent with the *A Plan for Growing Sydney* and the draft *East Subregional Strategy* for the following reasons:

- The subject site is identified as industrial zoned land in Figure 14 of *A Plan for Growing Sydney*. However, this appears to be incorrect as the subject site and adjoining properties are either zoned as B4 – Mixed Use and B7 – Business Park since the introduction of the BBLEP 2013. Both B4 and B7 zones only permits light industrial uses on the subject site (**Note:** General and heavy industries are both prohibited in the B7 and B4 zones). The closest industrial zoned land is located west of Folkestone Parade and east of Stephen Road. These lands are zoned as IN1 – General Industrial under *State Environmental Planning Policy (Three Ports) 2013*;
- Council has conducted an industrial strategic assessment for the subject site. The checklist can be found in **Attachment 15**;
- The area generally consists of the residential uses, general industry, vehicle repair station and vehicle body repair workshop. Majority of the existing uses do not associate with the Port Botany or Sydney Airport (i.e. aviation, freight and logistics). Therefore, it is unlikely the rezoning will impacts on the function and future growth of the Port Botany or Sydney Airport. Council's landuse survey can be found in **Attachment 16**;
- The Department should be aware that vehicles over 12.5m are prohibited to travel on Botany Road between Mill Pond Road and Hill Street. The intent of the restriction is to protect the amenity of the Botany and Banksmeadow area. The enforcement of industrial uses (i.e. heavy and general industries) on the subject site will adversely impact on the R2 – Low Density Residential zone located on the southern side of

Botany Road and contrary to the intent of the buffer zone recommended in *Botany South Industry Study*. Council questions the industrial significance of the subject land as any future industrial uses (i.e. heavy and general) will result in land use conflict and contrary to Action 1.5.1 of the Strategy;

- As the proposal seeks to rezone approximately 3,202sqm of B7 – Business Park to B4 – Mixed Use zone. The proposal will not result in the loss of industrial land or activity within the Botany Bay LGA;
- The proposed rezoning will not result in the reduction of employment land within the area as the proposed B4 zone still enables light and home industries; business premises, office and retail premises on the subject site. The suitability of the future uses will be considered by council during the development application stage;
- The proponent has indicated that light industrial units are unsuitable for the subject site as it requires setting aside approximately 60% of the site for truck manoeuvring purposes. In addition, a driveway width of approximately 10m-11m, to be provided through the B4 zoned land, is required to accommodate the turning movement at the site by a rigid vehicle. By incorporating these elements, it will significantly reduce the developable area (from a FSR of 1:1 to approximately 0.4:1) and impacting the development feasibility of the site. A copy of the Indicative Truck Circulation Paths can be found in **Attachment 10**;
- As clearly stated in a written correspondence prepared by the Department (dated 30 January 2015), the new Greater Sydney Commission will undertake the “development and implementation of a planning strategy to support the operation of the airport and port, including land use and transport aspects”. Hence, the responsibility to the development and implementation of the structure plan and strategy for Airport and Port precincts is with the new Greater Sydney Commission;
- It should be that the subject site is not located within the Sydney Airport Precinct or Port Botany Precinct. Therefore, the rezoning of the site is unlikely to impact on the strategic importance of the industrial zoned land in and near the Port or Airport;
- The proposal will enable the development of residential flat buildings which will contribute to the housing targets contained in the draft *East Subregional Strategy*;
- The subject site is located approximately 500m from the ‘Botany Villages Centre’ and ‘Banksmeadow Small Villages Centre’;
- The site is located on high frequent bus routes (i.e. 309, 310, M20 and X09) which provides connection to the Sydney CBD, Mascot Station and Eastgardens Shopping Centre;
- The proposal will enable additional housing in an existing urban area and within the catchment of the Port Botany & Environs Specialised Precinct. This will enable the concept of jobs closer to home;
- The site can accommodate a range of apartment types and sizes to cater for different household type. Any future development of the property will be subject to a development application and apartment types and sizes will be considered during the assessment process; and
- The *BBLEP 2013* has ensured sufficient lands are provided for residential, commercial and industrial purposes and comply with the employment and housing capacity targets identified in the draft *East Subregional Strategy*.

Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Botany Bay Planning Strategy 2031

The *Botany Bay Planning Strategy 2031* (the Strategy) establishes a framework for growth and development for the Botany Bay LGA and addresses the draft *East Subregional*

Strategy dwelling and job targets. The Strategy also provides the foundation for the development of the *BBLEP 2013*.

The key objectives and actions identified in the Strategy of relevance to the proposal include:

Objective 1.2 – Minimise residential development in location heavily affected by aircraft and traffic noise or other environmental impacts

The proponent has engaged Koikas Acoustics Pty Ltd to prepare a preliminary acoustic assessment report for the construction of a new mixed-use development at 1545-1551 Botany Road, Botany. The report states that:

“With a 31dB (road traffic) and 29dB (aircraft) maximum noise reduction for the building, it is our professional opinion that typical acoustically rated building material and construction solutions can be incorporated into the building design to achieve the indoor sound level requirements”.

A copy of the preliminary acoustic assessment report can be found in **Attachment 9**.

Any future development of the property will be subject to a development application. Acoustic impacts and suitability for residential use will be considered during the development assessment stage. In addition, the proposal must comply with Divisions 17 of *State Environmental Planning Policy (Infrastructure) 2007* and Part 3J (Aircraft Noise and OLS) of the *Botany Bay Development Control Plan (DCP) 2013*.

Objective 1.3 – Protect the valued characteristics of Botany Bay’s centres and suburbs and minimise impacts from industrial areas and activities

The preliminary acoustic assessment also conducted a site inspection during the daytime and evening periods. It was found that the “surrounding industrial sites are currently not emitting noise that is significant, or measurable, above the existing ambient noise in the area”.

A copy of the preliminary acoustic assessment report can be found in **Attachment 9**.

As illustrated by indicative layout plan, a 3 storey car parking will be located to the rear of the site which provides a buffer to the industrial uses located at 1-9 Margate Street, Botany. The residential flat building will be located approximately 20.7m from the rear boundary.

Any future development of the property will be subject to a development application and must comply with the relevant sections of the *BBDGP 2013* (i.e. Part 4B.5.6 – Acoustic Privacy). The suitability for residential use can be considered during the development assessment stage.

Objective 2.1 - Reinforce the role of Botany Road as a major high amenity, activity spine through the LGA.

In accordance with Clause 6.15 of the *BBLEP 2013*, an active street frontage is required along the Botany Road. All premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

As indicated on the indicative layout plans, a retail premise will be located on the ground floor along Botany Road frontage. A copy of the indicative layout plan can be found in **Attachment 11**.

Any future development of the property will be subject to a development application and must comply with Clause 6.15 of the *BBLEP 2013*.

Action 4.1.1 – Retain South Botany area for light industry activities (with the exception of the Wilson-Pemberton Street Precinct)

Light industries are permitted with development consent in the B4 and B7 zone.

The proponent has indicated that light industrial units are unsuitable for the subject site as it requires setting aside approximately 60% of the site for truck manoeuvring purposes. In addition, a driveway width of approximately 10m-11m, to be provided through the B4 zoned land, is required to accommodate the turning movement at the site by a rigid vehicle. By incorporating these elements, it will significantly reduce the developable area (from a FSR of 1:1 to approximately 0.4:1) and impacting the development feasibility of the site.

A copy of the Indicative Truck Circulation Paths can be found in **Attachment 10**.

Council has undertaken an industrial lands strategic assessment for the subject site and the checklist can be found in **Attachment 15**.

Botany Bay Local Environmental Plan (BBLEP) 2013

A buffer zone (i.e. B4 – Mixed Uses) has been incorporated into the *BBLEP 2013* and provided along lot boundaries. The majority of B7 zoned land has direct frontage to an existing street.

Due to the established subdivision pattern, part of Lot B DP 354414 and Lot 1 DP 130719 is subject to a split zoning where land zoned B7 Business Park can only be accessed via the land zoned B4 Mixed Use fronting Botany Road. Lot Y DP 417308 is zoned as B7 and has no direct frontage and reliant on access over Lot B DP 354414. The front half of Lot B DP 354414 and Lot 1 DP 130719 are zoned as B4 - Mixed use (approximately 58.5m) and the rear half of the site are zoned B7 - Business Park (approximately 65m). The subject sites are the only instance where B4 and B7 boundary does not run along the lot boundaries. This can be illustrated by the diagrams below:

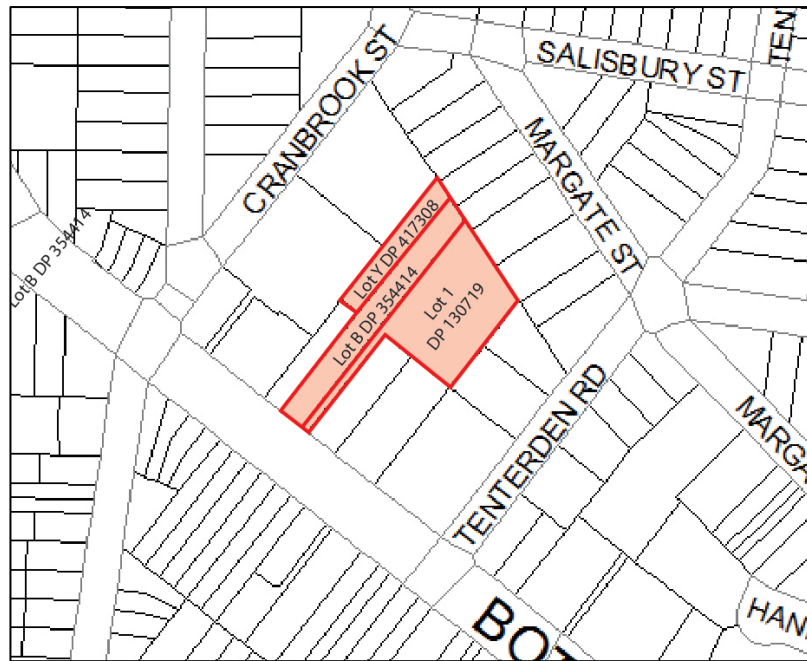


Figure 6 – Land subject to Split Zoning

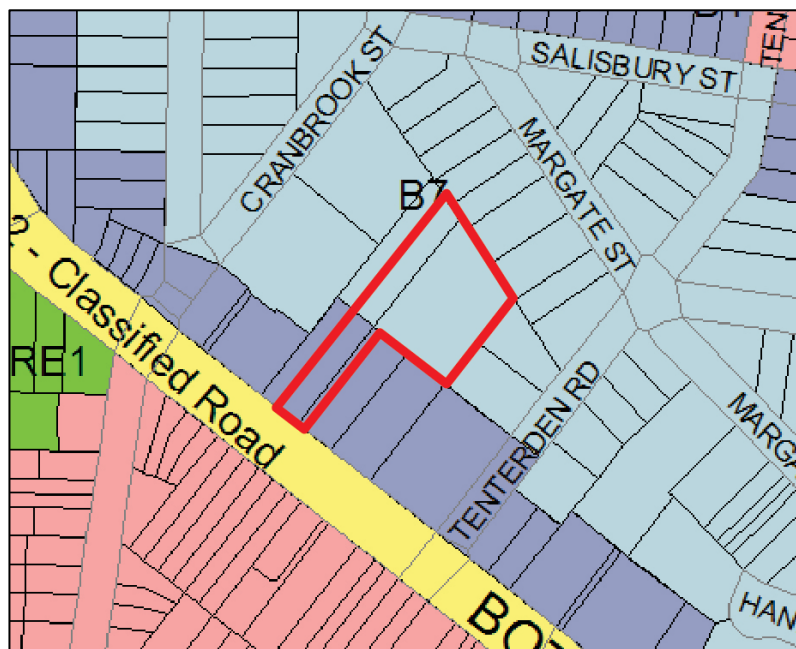


Figure 7 – Existing Dual Zoning (B4 and B7)

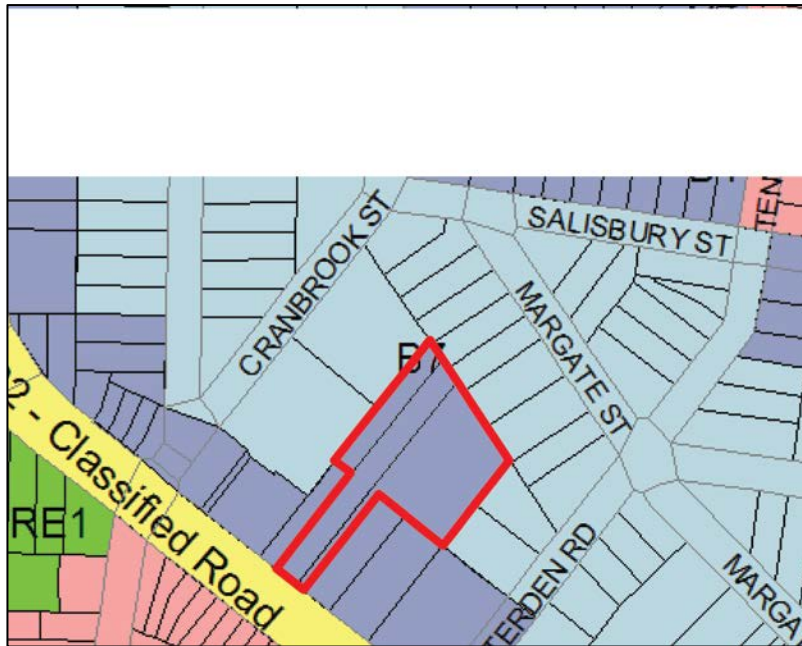


Figure 8 – Proposed Rezoning

The split zoning presents a technical constraint to the redevelopment of the sites as it prevents the redevelopment of the site in a coherent and co-ordinated manner. Furthermore, Lot B DP 354414 and Lot 1 DP 130719 are the only sites which are subjected to the B4 and B7 split zoning. Therefore, it will not create precedent for other properties within the Botany area.

The planning proposal only seeks to rezone the B7 proportion of Lot B DP 354414; Lot 1 DP 130719 and Lot Y DP 417308 as illustrated in **Figure 8**. Therefore, the 'buffer zone' recommended in the *Botany South Industry Study* will be retained and residential properties located on the southern side of Botany Road (i.e. R2 zone) will continue to be protected.

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.

Is the Planning Proposal consistent with applicable state environmental planning policies?

Attachment 4 summarise the Planning Proposal's consistency with State Environmental Planning Policies (SEPPs) and relevant deemed SEPPs.

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.

1.1 Business and Industrial Zones

The intents of this direction are to encourage employment growth in suitable locations; 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 following 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 direction for the following reasons:

- According to the *Employment Lands Development Program – 2014 Update Report*, approximately 66.7 and 481.1 hectares of employment land are located within the Botany area and Botany Bay LGA. The proposal seeks to rezone approximately 3,202 sqm of B7 – Business Park to B4 – Mixed Use zone which represents a reduction of 0.48% (Botany area) and 0.07% (Botany Bay LGA) of employment lands. Hence, it will not significantly reduce employment land or opportunity within the Botany Bay LGA.
- The *BBLEP 2013* has ensured sufficient lands are provided for residential, commercial and industrial purposes and comply with the employment and housing capacity targets identified in the draft *East Subregional Strategy*.
- The rezoning still enables employment opportunities on the subject site as commercial premises are permissible with development consent in the B4 zone.
- As noted from the site inspection, the adjoining properties consist variety of land uses such as dwelling houses, general industrial, timber yards, vehicle body repair workshops, vehicle repair stations and wholesale supplies. There are no established land uses/patterns within the vicinity of the site. Hence, the proposal will not impact on the clustering of industries or activities.
- The adjoining uses do not associate with the Port Botany or Sydney Airport (i.e. aviation, freight and logistics). Therefore, it is unlikely the rezoning will impacts on the function and future growth of the Port Botany or Sydney Airport. A copy of Council's landuse survey can be found in **Attachment 16**.
- The rezoning of the site is the result of a technical constraint of the site (i.e. split zone) and will not set a precedent for other B7 zoned lands within the Botany Bay LGA.
- The Planning Proposal is generally consistent with the *Metropolitan Plan for Sydney 2036*, the draft *Metropolitan Strategy for Sydney to 2031* and the draft *East Subregional Strategy*.
- Council has undertaken an industrial lands strategic assessment for the rezoning of subject site and the checklist can be found in **Attachment 15**.

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 subject site is located within the catchment of 'Port Botany & Environs Specialised Precinct' and approximately 500m from the 'Botany Villages Centre' and 'Banksmeadow Small Villages Centre'.
- The 'Botany Villages Centre' and 'Banksmeadow Small Villages Centre' will provide the ancillary retail and service activities for the site.
- 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.

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 office uses, and incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The subject site is situated between 20 and 25 ANEF contours.

The Planning Proposal will not impact on the effective and safe operation of Sydney Airport as the maximum permissible height of buildings (i.e. 12m) will remain unchanged in the *BBLEP 2013*.

Furthermore, model local provisions (i.e. *Clause 6.8 - Airspace Operations and Clause 6.9 – Development in areas subject to aircraft noise*) have already been incorporated into the *BBLEP 2013*.

Future developments that penetrate the Limitation or Operations Surface will be referred to "relevant Commonwealth body" (i.e. Sydney Airport Corporation Limited) for comments. Any impacts on the effective and safe operation of aerodromes can be addressed during the development application stage. Hence, the Planning Proposal is consistent with the Direction.

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.

The subject site is identified as Class 2 Acid Sulfate Soils (ASS)

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

Future developments (i.e. any works below the natural ground surface or by which watertable is likely to be lowered) 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.

4.3 Flood Prone Land

The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

There is no flood study or anecdotal evidence suggesting that flooding has occurred or is liable to occur on the subject site. It is noted that a Sydney Water main drainage system is located along the rear boundary. Hence, it is recommended that the Planning Proposal be referred to Sydney Water for consultation.

No works are proposed as part of the Planning Proposal. Hence, the Planning Proposal will not alter the potential flood impacts both on and off the subject site.

Future developments (i.e. excluding works permitted under *SEPP (Exempt and Complying Development Codes) 2008*), are subject to consent. 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 provision to encourage the efficient and appropriate assessment of development.

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

7.1 Implementation of A Plan for Growing Sydney

The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in *A Plan for Growing Sydney*.

As the planning proposal only seeks to rezone the B7 proportion of Lot B DP 354414; Lot 1 DP 130719 and Lot Y DP 417308 as illustrated in **Figure 8**. Therefore, the 'buffer zone' recommended in the *Botany South Industry Study* will be retained and residential properties located on the southern side of Botany Road (i.e. R2 zone) will continue to be protected.

As illustrated by indicative layout plan, a 3 storey car parking will be located to the rear of the site which provides a buffer to the industrial uses located at 1-9 Margate Street, Botany. The residential flat building will be located approximately 20.7m from the rear boundary and the

units will be acoustically treated in compliance with the Building Code of Australia. Furthermore, any future industry developments located 1-9 Margate Street will be restricted to “light industrial” only as general and heavy industries are prohibited on B7 zoned land.

The split zoning presents a technical constraint to the redevelopment of the sites as it prevents the redevelopment of the site in a coherent and co-ordinated manner. Lot B DP 354414 and Lot 1 DP 130719 are the only sites which are subjected to the B4 and B7 split zoning. Therefore, it will not create precedent for other properties within the Botany area.

As demonstrated above, the proposal will achieve the overall intent of the Plan and does not undermine the achievement of its planning principles; directions; and priorities for subregions, strategic centres and transport gateway.

Is the Planning Proposal consistent with applicable state environmental planning policies?

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 site 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?

Aircraft Noise: The precinct is located within the ANEF 20-25 contour as identified by the *Australian Noise Exposure Forecast 2033 (ANEF) Chart*. Any development on the subject site will be subject to compliance with the *Australian Standard 2021 (AS 2021)*.

Flooding: There is no flood study or anecdotal evidence suggesting that flooding has occurred or is liable to occur on the subject site.

No works are proposed as part of the Planning Proposal. Hence, the Planning Proposal will not alter the potential flood impacts both on and off the subject site.

Landslip and Bushfire Hazard: Botany Bay LGA is not subject to landslip and bushfire hazard.

Traffic: Based on the submitted concept plans, vehicular access will be provided along the western side boundary and a 3 storey above ground car park will be provided at the rear of the property. Detailed consideration and assessment of car parking would be considered during the development application stage and all future developments are to comply with car parking requirements contained in the *BBDGP 2013*.

The proposal only seeks to rezone approximately 3,202sqm of B7 zoned land with approximately 1,900sqm (including lifts, stair and balconies) of potential residential floor area. It will not significantly alter the traffic movements and capacity of the existing road network.

Botany Villages Centre and Banksmeadow Small Villages Centre are located approximately 500m from the subject site which can serve the daily shopping needs of the future occupants.

The site is also 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.

Future traffic generation of the proposed developments will be considered during the development application stage.

Groundwater: The site is located within the area of the Botany Sands aquifer and Zone 3 – Botany Groundwater Management zone. Any proposed works on the subject site which penetrate the water table may require activity approval under the *Water Management Act 2000* and any such application would be integrated development for the purpose of the *EP&A Act1979*.

Any development proposal involving penetrating of the water table would require assessment of the groundwater at the development application stage.

How has the Planning Proposal adequately addressed any social and economic effects?

Social effects: Based on the concept plan provided by the proponent, the majority of the B7 zone will be used for vehicular access and car parking purposes with approximately 1,900sqm (including lifts, stair and balconies) of potential residential floor area. It is unlikely the additional floor area will place significant pressure on existing social infrastructure such as schools and hospitals.

The Botany Villages Centre and Banksmeadow Small Villages Centre are located approximately 500m from the site which provides 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.

There is no heritage item located within the subject precinct. Future developments, excluding works permitted under *SEPP (Exempt and Complying Development Codes) 2008*, will be subject to development application and any heritage impacts/issues can be addressed during the development assessment stage.

Considering above factors, the Planning Proposal is unlikely to generate additional impact on items or places of European or Aboriginal cultural heritage or existing social infrastructure such as schools and hospitals.

Economic effects: The Planning Proposal will result in a positive economic effect as the additional residential floor space will enable additional housing to be provided within Botany Bay LGA; enables the co-ordinate and coherent development and permits the highest and best use at the site. The proposal will not significantly impact on the economic and employment opportunities within the Botany Bay LGA as the proposal only seeks to rezone approximately 3,202sqm.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the Planning Proposal?

The site is serviced by existing public transport infrastructure, utility services, roads and essential services. Considering the proposal only seeks to rezone approximately 3,202sqm of B7 land with approximately 1,900sqm (including lifts, stair and balconies) of potential

residential floor area, it is unlikely the proposed rezoning will place unacceptable demands on existing public infrastructure.

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:

- 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.

PART 4 - MAPPING

Mapping for the Planning Proposal can be found in **Attachment 1 & 2**.

PART 5 - 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 6 – PROJECT TIMELINE

The project timeline for the Planning Proposal is as follow:

	<i>Timeframe*</i>
<i>Anticipated commencement date</i>	April 2015
<i>Anticipated timeframe for the completion of required technical information</i>	N/A
<i>Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)</i>	May 2015
<i>Commencement date for public exhibition period</i>	June 2015
<i>Dates for public hearing (if required)</i>	N/A
<i>Timeframe for consideration of submissions</i>	July 2015
<i>Timeframe for the consideration of a proposal post exhibition</i>	August 2015
<i>Date of submission to the Department to finalise the LEP</i>	September 2015
<i>Anticipate date RPA will make the plan (if delegated)</i>	October 2015
<i>Anticipated date RPA will forwarded to the Department for notification</i>	November 2015

Table 2 – Proposed Timeframe

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

PART 7 – CONCLUSION

In summary, the Planning Proposal seeks the following amendments:

- 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 generally consistent with relevant State and local legislations; directions, policies and strategic documents and will have a minimal environmental, social and economic impact.

ATTACHMENT

1. Botany Bay Local Environmental Plan 2013 – Zoning and Planning Controls
2. Proposed Zoning
3. Council's Report and Resolution
4. List of State Environmental Planning Policies
5. Permissible Uses Comparison
6. Botany South Industry Study
7. Proponent's Submission dated 28 June 2012
8. Council's Response dated 25 January 2013
9. Acoustic Report prepared Koikas Acoustic Pty Ltd
10. Indicative Truck Circulation Paths
11. Indicative Layout
12. Evaluation Criteria for the Delegation of Plan Making Function
13. Council's Response dated 26 July 2013
14. Pre-Development Application Conceptual Design
15. Industrial Lands Strategic Assessment Checklist for Rezoning of Existing Industrial Land to Other Uses
16. Land Use Survey

Attachment 1 – Botany Bay Local Environmental Plan 2013 – Zoning and Planning Controls

Attachment 2 – Proposed Zoning

Attachment 3 – Council’s Resolution and Report

Attachment 4 - List of State Environmental Planning Policies

Attachment 5 – Landuse Comparison

Attachment 6 – Botany South Industry Study

Attachment 7 – Proponent’s Submission dated 28 June 2012

Attachment 8 – Council's Response dated 25 January 2013

Attachment 9 – Acoustic Report prepared by Koikas Acoustic Pty Ltd

Attachment 10 – Indicative Truck Circulation Paths

Attachment 11 – Indicative Layout prepared by SJB

Attachment 12 - Evaluation criteria for the delegation of plan making function

Attachment 13 – Pre-Development Application Conceptual Design

Attachment 14 – Council's Response dated 26 July 2013

Attachment 15 – Industrial Lands Strategic Assessment Checklist for Rezoning of Existing Industrial Land to Other Uses

Attachment 16 – Land Use Survey