

Rezoning of the British American Tobacco Australia (BATA) Site - Westfield Drive, Eastgardens

Proposal Title : **Rezoning of the British American Tobacco Australia (BATA) Site - Westfield Drive, Eastgardens**

Proposal Summary : **The planning proposal seeks to partially rezone the site from 4(a) Industrial Zone under Botany Local Environmental Plan 1995 ('BLEP 1995') to part 3(b) Business Restricted Zone and part 2(b) Residential "B" Zone under BLEP 1995. The proposed business component will have a maximum floor space ratio ('FSR') of 3:1 and building heights up to 44m. The proposed residential component will have a maximum FSR of 1:1 and building heights of 11m to 39m.**

PP Number : **PP_2012_BOTAN_002_00** Dop File No : **12/02748**

Proposal Details

Date Planning Proposal Received : **11-May-2012** LGA covered : **Botany Bay**

Region : **Sydney Region East** RPA : **The Council of the City of Botany Bay**

State Electorate : **HEFFRON** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Westfield Drive**

Suburb : **Eastgardens** City : **Sydney** Postcode : **2036**

Land Parcel : **Lot 1 DP 776089**

DoP Planning Officer Contact Details

Contact Name : **Lise Sperling**

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RPA Contact Details

Contact Name : **Catherine McMahon**

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DoP Project Manager Contact Details

Contact Name : **Rosalind Louis**

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Contact Email : **rosalind.louis@planning.nsw.gov.au**

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro East subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :	The Department's Code of Practice in relation to communications and meetings with lobbyists has been complied with. Sydney Region East has not met any lobbyist in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning the proposal.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :			

Supporting notes

Internal Supporting Notes :

THE SITE AND IT'S SURROUNDS

The site is privately owned by British American Tobacco Australia ('BATA') and zoned 4(a) Industrial Zone under Botany Local Environmental Plan 1995 ('BLEP 1995') to permit its use for tobacco manufacturing and packaging. Residential, retail and commercial development is currently prohibited on the site. The site comprises of an area of 16.5ha.

Development to the north of the site comprises of low density residential dwellings, a mix of commercial and residential uses between 2 to 4 storeys to the east, Westfield Eastgardens shopping centre is located to the south and Bonnie Doon golf course to the west. The site adjoins a strategic bus corridor and is bound by Heffron Road, Bunnerong Road, Westfield Drive and Banks Avenue.

PREVIOUS PROPOSALS/APPLICATIONS

In November 2010, BATA proposed to consolidate its industrial operations on the site leaving approximately 10ha for a mixed use redevelopment including 15 residential towers between 3 to 12 storeys. BATA requested that the former Minister for Planning declare the proposal a Major Project under the repealed Part 3A of the Environmental Planning and Assessment Act 1979.

In January 2011, the Director General on behalf of the Minister refused BATA's request based on the loss of industrial land and resultant inconsistency with the Metropolitan Plan for Sydney 2036 and the Draft East Subregional Strategy. It was recommended that the proposal be considered through the emerging draft comprehensive Botany LEP or as a future planning proposal.

On 21 December 2011, BATA submitted a development application (DA No.2011/272) to Council for the reduction of the existing tobacco manufacturing operations to the north-eastern portion of the site and subdivision of the industrial component of the site.

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This development application is currently under assessment by Council.

CONSULTATION WITH ROADS AND MARITIME SERVICES

On 14 May 2012, representatives from the Department's Sydney Region East Team met with representatives from Botany Bay Council ('Council'), Roads and Maritime Services ('RMS') and BATA. RMS raised concerns regarding the traffic modelling undertaken by Colston Budd Hunt & Kafes ('CBHK') along Bunnerong Road and East/West Boulevard, the volume and impact of traffic and vehicular access points to the site. The Department considers that the traffic-related issues raised by RMS can be adequately addressed as part of any future development application.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objectives of the planning proposal are as follows:

- partially rezone the site from 4(a) Industrial Zone under BLEP 1995 to part 3(b) Business Restricted Zone and part 2(b) Residential "B" Zone under BLEP 1995. The proposed business component is to have a maximum FSR of 3:1 and building heights up to 44 metres. The proposed residential component is to have a maximum FSR of 1:1 and building heights of 11 metres to 39 metres, and

- translate and maintain the remaining portion of 4(a) Industrial Zone under BLEP 1995 to enable the consolidation and continuation of industrial operations at the site. This remaining land comprises of approximately 6.1ha and is located at the north-eastern portion of the site.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal seeks to amend clause 12 'Floor space ratios' of the BLEP 1995 and the BLEP 1995 Zoning Map.

At the time of making the planning proposal, it is intended to be designed in the Standard Instrument format and to be known as Botany Local Environmental Plan (British American Tobacco Australia) 2012 ('BATA LEP'). On this basis, the part 2(b) Residential "B" Zone under BLEP 1995 is to be R3 Medium Density Residential and the part 3(b) Business Restricted Zone component is to be B4 Mixed Use. The 4(a) Industrial Zone is to be IN1 General Industrial.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

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SEPP No 65—Design Quality of Residential Flat Development

e) List any other matters that need to be considered :

SEPP 32 Urban Consolidation (Redevelopment of Urban Land)

The Department notes that part of the site is surplus to BATA's needs. Due to the site's strategic location, the surplus land is considered to be suitable for urban consolidation in accordance with clause 6 under SEPP 32.

SEPP 55 Remediation of Land

Contamination and remediation has been considered in the planning proposal in accordance with clause 6 under SEPP 55. A Phase 1 Contamination Assessment study prepared by Douglas Partners concludes that it is likely that the site can be made suitable to support the proposed residential and mixed uses.

SEPP No 65 Design Quality of Residential Flat Development

SEPP 65 does not strictly apply at this stage of the proposal. The planning proposal states that SEPP 65 will be considered in more detail in any future development application.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

1.1 Business and Industrial Zones

Direction 1.1 applies as the site is within an existing industrial zone. Under this Direction, a planning proposal must not reduce the total potential floor space area for industrial uses in industrial zones.

The Department considers that the proposal is justified by the Botany Bay Planning Strategy 2031 (refer to 'Assessment Criteria' section of this report) and an Economic Impact Assessment study prepared by Hill PDA. The Botany Bay Planning Strategy 2031 identifies Eastgardens as a future retail employment, manufacturing and mixed used town centre. The Economic Impact Assessment states there is high demand for housing and additional retail floorspace in Botany LGA. The agreement of the Director General is recommended under Direction 1.1.

6.3 Site Specific Provisions

It is understood that Council intends to make a draft Development Control Plan ('DCP') for the site for specific development standards for maximum FSR and building heights. In this regard, the planning proposal is considered consistent with this Direction.

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Direction 7.1 applies as the planning proposal concerns land within Botany LGA. The planning proposal will provide up to 1500 dwellings and 1550 jobs, which will help meet important dwelling and employment targets under the Metropolitan Plan. The Department considers that the planning proposal is therefore consistent with the objectives and overall intent of the Metropolitan Plan.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment :

The Department advises Council to exhibit for 14 days:

- in the local newspaper;
- on Council's website;
- in writing to adjoining landowners; and
- to notify Transport for NSW and RMS regarding the potential traffic impact by the proposal.

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Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

On 18 April 2012, the Department issued Council a revised s65 certificate to exhibit the draft Botany LEP 2012. The draft LEP is on exhibition from 22 May 2012 until 22 June 2012. This planning proposal has also been incorporated into the exhibited draft LEP and is identified as a 'key site'.

Given the significant public benefits associated with this proposal, the Department considers there is a need for the planning proposal to proceed separately from the draft Botany LEP 2012. The planning proposal will provide certainty, facilitate the earliest release of the land, and mitigate risk through any potential delay to the draft Botany LEP 2012 process and its finalisation.

Assessment Criteria

Need for planning
proposal :

The site is generally underutilised under the existing industrial zoning. The redevelopment of the site's surplus land for residential and mixed uses will help meet important Government objectives and directions including:

- growing the existing retail centre at Eastgardens;
- contributing to achieving housing and employment targets within the Sydney East Subregion and Botany LGA in a location that is well-served with public transport, infrastructure, retailing and business services, recreational and entertainment opportunities; and
- achieving an appropriate density of development for the site's location and context, adjoining an existing centre and strategic bus corridor.

The Department considers that the proposed rezoning will not create a precedent for other landowners to rezone industrial land given the site's unique features including:

- it is isolated from other industrial zones at Botany and Banksmeadow;
- the site's context, adjoining an existing retail centre, strategic bus corridor and a mix of residential and commercial uses, is less suitable for industrial use and unsuitable for heavy industry; and
- it is not environmentally constrained by aircraft noise and hazards of significance. It is therefore most suited for residential and mixed uses.

The planning proposal enables a potential capacity of 1200 to 1500 dwellings at the site based on the proposed heights ranging between 11m to 39m with an FSR of 1:1 across the residential component. Based on the site's strategic location, its size and potential development capacity, it is considered that greater residential development yield could be accommodated on the site in the future. It is recommended that Council consider implementing a 5-year review of the site including an assessment of housing demand and supply in Botany LGA.

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Consistency with strategic planning framework :

BOTANY BAY PLANNING STRATEGY 2031

Council's Botany Bay Planning Strategy 2031 identifies Eastgardens as a future retail employment, manufacturing and mixed used town centre, 'subject to BATA site coming online'.

The Strategy states there is a lack of residential zoned land in the LGA suitable for intensification due to environmental constraints such as airport noise and heritage. The site presents an opportunity to intensify residential and commercial/retail uses in an established area well-served by public transport and infrastructure whilst consolidating and maintaining the manufacturing operation of the site.

The planning proposal is considered generally consistent with the Strategy's principles as the proposed site will enhance housing choice, increase residential and employment densities close to an established retail area and excellent public transport, and help manage growth in Botany LGA.

DRAFT SYDNEY EAST SUBREGIONAL STRATEGY 2007

The Draft Sydney East Subregional Strategy identifies the site as 'Category 1 Employment Lands - Land to be Retained For Industrial Purposes'. Despite this, the site is not identified within the Three Ports (Botany, Newcastle and Port Kembla) State Significant Site under Schedule 3 of the Major Development SEPP. The Department considers the site is not critical to Port Botany's existing or future intensive industrial functions.

The Department notes that the site sits adjacent to the existing retail centre and strategic bus corridor at Eastgardens identified in the Draft Subregional Strategy. The proposed development of the site will concentrate on residential and commercial/retail densities in the existing centre ensuring users will be within 500m of public bus services, in line with the Draft Subregional Strategy's directions.

The Department considers that the planning proposal will enable a wider range of employment to help meet the Draft Subregional Strategy's employment targets for the East subregion. An economic assessment of the proposal forecasts 1550 jobs can be accommodated on-site under the proposed mixed use business zone compared to 900 jobs under the existing industrial zoning.

The proposed residential zoning on the surplus land of the site will create between 1200 to 1500 new dwellings contributing to housing targets of the Draft Subregional Strategy. Residential and mixed use development on the site is considered most suitable and compatible with adjoining uses. The site is adjacent to low to medium density residential dwellings, some commercial uses, Westfield Eastgardens shopping centre, Bonnie Doon golf course and is well-separated from other industrial land in the area. The Department does not perceive BATA's continued light industrial use on part of the site will create additional or unacceptable impacts on existing and future residential amenity.

The Department therefore considers the planning proposal's departure from the objectives of Category 1 Employment Lands under the Draft Subregional Strategy is justified.

METROPOLITAN PLAN FOR SYDNEY 2036

The planning proposal supports the Metropolitan Plan's objectives to expand an existing centre and develop it into a renewed mixed use centre serviced by a strategic bus corridor. The proposal will provide additional housing and the potential for more employment on the site than the current industrial zoning.

Although the Plan notes that the State Government supports the retention of existing strategically important employment lands, the site is not identified under a State Significant Site in the Major Development SEPP. It is therefore not considered strategically significant employment land and the proposed rezoning is unlikely to impact on Port Botany's continued viability.

The Department is satisfied that the planning proposal will achieve a more efficient use of

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Environmental social
economic impacts :

the site and help meet important Government objectives and directions for Botany LGA and the wider subregion. The proposal's variation from the Plan is therefore justified.

Environmental Impact

There is no environmentally sensitive land or land with significant biodiversity on or around the site that will be affected by the planning proposal. There are no environmental constraints or hazards of significance.

Social Impact

The site is currently underused under the industrial zoning. It is considered that the proposed rezoning and redevelopment of the site's surplus land for residential, retail, commercial and recreational uses would efficiently and effectively use an inner city site with an established public transport network and infrastructure.

The planning proposal is considered to:

- support the sustainable growth of Botany LGA;
- contribute to the East subregion's housing target;
- create a diverse community by providing a range of dwelling and employment types; and
- open the site to the wider community and enhance public safety.

Economic Impact

The planning proposal is considered to achieve a positive economic outcome for Botany LGA. It provides the potential for more employment on the site than the current industrial zoning and a broader range of employment types including manufacturing, creative industry, professional and retail jobs. The proposal provides the opportunity for Eastgardens to perform a major centre role through the provision of a wider diversity of land uses.

Assessment Process

Proposal type : **Routine** Community Consultation **14 Days**
Period :

Timeframe to make **6 Month** Delegation : **RPA**
LEP :

Public Authority **Transport for NSW**
Consultation - 56(2)(d) **Transport for NSW - Roads and Maritime Services**
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Aerial Photograph.pdf	Photograph	Yes
Site Locality Map.pdf	Map	Yes
Proposed Zoning under Botany LEP 1995.pdf	Map	Yes
Proposed Zoning under draft Botany LEP 2012.pdf	Map	Yes
Proposed Floor Space Ratio under draft Botany LEP 2012.pdf	Map	Yes
Proposed Building Heights under draft Botany LEP 2012.pdf	Map	Yes
Planning Proposal.pdf	Proposal	Yes
Council's Letter to the Department of Planning and Infrastructure.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

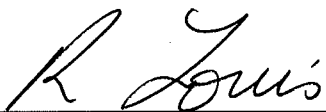
S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 3.5 Development Near Licensed Aerodromes
 6.3 Site Specific Provisions
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

- a) The planning proposal be exhibited for at least 14 days.**
- b) The planning proposal be completed within 6 months of the Gateway Determination.**
- c) Council to consider implementing a 5-year review to assess housing demand and supply on the site and future development capacity.**
- d) Notify Transport for NSW and the Roads and Maritime Services of the exhibition and opportunity to comment.**
- e) No further studies are required to be carried out for the planning proposal.**

Supporting Reasons : **The site is generally underutilised under the existing industrial zoning. It is considered that the redevelopment of the site's surplus land for residential and mixed uses will help meet important Government objectives and directions and is therefore supported by the Department.**

Signature: _____



Printed Name: _____

Rosalind Louis

Date: _____

1.6.2012

