

BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT

Proposal Title : **BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT**

Proposal Summary : **The planning proposal seeks to amend Botany Bay Local Environmental Plan 2013 (BBLEP 2013) by:**

1. deleting a heritage item (a removed fig tree) from Schedule 5;
2. removing a road widening reservation applying to 1008 Botany Road, Mascot;
3. correcting the location of the IN1 General Industrial zone boundary applying to the BATA site at 128 Bunnerong Road, Pagewood;
- 3A. amending the associated Height of Building Map for 128 Bunnerong Road, Pagewood;
4. amending the Height of Building Map to reflect a 9m height limit for certain land zoned R2 Low, R3 Medium and R4 High Density Residential in areas H1 and H2 of the Botany Bay Development Control Plan 2013 (BBDGP 2013);
5. including a Council depot and public administration building at 2 Hollingshed Street Mascot as permitted uses under Schedule 1 applying to clause 2.5 Additional Permitted Uses;
6. permitting development for the purpose of a recreation area for certain land at Linear Park, Mascot; and
7. amending the Floor Space Ratio Map to apply a 3:1 floor space ratio to 284 Coward Street, Mascot.

PP Number : **PP_2014_BOTAN_004_00** Dop File No : **PCU56486**

Proposal Details

Date Planning Proposal Received :	12-Jan-2015	LGA covered :	Botany Bay
Region :	Metro(CBD)	RPA :	The Council of the City of Botany Bay
State Electorate :	HEFFRON MAROUBRA	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	Corner of Florence Avenue and Vernon Avenue		
Suburb :	Eastlakes	City :	Postcode : 2018
Land Parcel :	Lot 127 DP 17209		
Street :	1008 Botany Road		
Suburb :	Mascot	City :	Postcode : 2020
Land Parcel :	Lot 53 DP 1097375		
Street :	128 Bunnerong Road		
Suburb :		City : Pagewood	Postcode : 2035
Land Parcel :	Lots 1 and 2 DP 1187426		

BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT

Street : **2 Hollingshed Street**
Suburb : **Mascot** City : Postcode : **2020**
Land Parcel : **Lot 2 DP 827779**
Street : **Land at Coward, John, Haran, Church, O'Riordan Street and Gardeners Road**
Suburb : **Mascot** City : Postcode : **2020**
Land Parcel : **Lots 1-5 DP 85917, Lot 1, 224757, Lot 278 DP 1100292**
Street : **284 Coward Street**
Suburb : **Mascot** City : Postcode : **2020**
Land Parcel : **Lot 7 DP 245170**

DoP Planning Officer Contact Details

Contact Name : **Michael Kokot**
Contact Number : **85754126**
Contact Email : **michael.kokot@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Catherine McMahon**
Contact Number : **9366352000**
Contact Email : **mcmahonc@botanybay.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Diane Sarkies**
Contact Number : **8575411100**
Contact Email : **diane.sarkies@planning.nsw.gov.au**

Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Metro East subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	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 :			

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

The planning proposal largely involves minor matters which do not alter the principles and policies underpinning BBLEP 2013. The exception is Item 4, which seeks to reduce the LEP's height controls applying to certain land zoned R2 Low Density, R3 Medium Density and R4 High Density Residential for certain precincts in Rosebery, Mascot and a small western part of Eastlakes.

The planning proposal was first submitted on 18 August 2014. Following a request for additional information, a revised planning proposal was received on 22 October, 2014. In addition, further information, eg on mapping anomalies, has been sought and received from Council up to 12 January 2015.

The planning proposal is generally consistent with relevant State and local planning policies and can be publicly exhibited, provided a condition is included requiring Item 4 to be deleted. This will enable further analysis of its consistency with planning policy to be undertaken as part of a separate planning proposal.

Given the proposed removal of Item 4, the proposal is consistent with s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licensed Aerodromes, 4.1 Acid Sulfate Soils, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific Provisions and 7.1 Implementation of A Plan for Growing Sydney.

The proposal's inconsistencies with Directions 1.1 Business and Industrial zones and 4.3 Flood Prone Land are of minor significance.

Council requested delegation to make the plan by email dated 20 November 2014, which also included Attachment 4 - Evaluation Criteria for the delegation of plan making functions and a project timeline of 9 months to make the plan (see TAG C). Council's request for the delegation is supported.

External Supporting Notes :

BBLEP 2013 was notified on 21 June 2013. On review, a number of inconsistencies and errors were identified by Botany Council. On 23 July, 2014 Council resolved to amend BBLEP 2013 to correct the following matters, as outlined in the planning planning proposal:

1. deleting a heritage item (a removed fig tree) from Schedule 5;
2. removing a road widening reservation applying to 1008 Botany Road, Mascot;
3. correcting the location of the IN1 General Industrial zone boundary applying to the BATA site at 128 Bunnerong Road, Pagewood;
- 3A. amending the associated Height of Building Map for 128 Bunnerong Road, Pagewood;
4. amending the Height of Building Map to reflect a 9m height limit for the H1 and H2 sites zoned R2 Low, R3 Medium and R4 High Density Residential;
5. including a Council depot and public administration building at 2 Hollingshed Street Mascot as permitted uses under Schedule 1 applying to clause 2.5 Additional Permitted Uses;
6. permitting development for the purpose of a recreation area for certain land at Linear Park, Mascot; and
7. amending the Floor Space Ratio Map to apply a 3:1 ratio to 284 Coward Street, Mascot.

Council has requested use of the plan making delegation for this matter.

BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT

The Department is not aware of any meetings or communications with registered lobbyists concerning this planning proposal.

Adequacy Assessment

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

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

Comment : The statement of objectives is generally consistent with the Department's 'A Guide to Preparing Planning Proposals'.

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

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

Comment : The planning proposal (TAGS A.1-3) seeks to make the following changes to BBLEP 2013, which are generally of a housekeeping nature or to correct minor errors:

1. deleting a heritage item (a removed fig tree) from Schedule 5;
2. removing a road widening reservation applying to 1008 Botany Road, Mascot;
3. correcting the location of the IN1 General Industrial zone boundary applying to the BATA site at 128 Bunnerong Road, Pagewood;
- 3A. amending the associated Height of Building Map for 128 Bunnerong Road, Pagewood;
4. amending the Height of Building Map to reflect a 9m height limit for the H1 and H2 sites zoned R2 Low, R3 Medium and R4 High Density Residential;
5. including a Council depot and public administration building at 2 Hollingshed Street Mascot as permitted uses under Schedule 1 applying to clause 2.5 Additional Permitted Uses;
6. permitting development for the purpose of a recreation area for certain land at Linear Park, Mascot; and
7. amending the Floor Space Ratio Map to apply a 3:1 FSR ratio to 284 Coward Street, Mascot.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones
2.3 Heritage Conservation
3.1 Residential Zones
3.4 Integrating Land Use and Transport
3.5 Development Near Licensed Aerodromes
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
7.1 Implementation of A Plan for Growing Sydney

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
SEPP No 55—Remediation of Land
SEPP No 64—Advertising and Signage
SEPP No 65—Design Quality of Residential Flat Development
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007
SEPP (Major Projects) 2005

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

It is agreed with Council that the proposal is consistent with all relevant SEPPs.

S117 DIRECTIONS

The proposal is consistent with the s117 Directions identified by Council as having direct

relevance to this planning proposal, with the exception of Directions 1.1 Business and Industrial Zones and 4.3 Flood Prone Land, with which it is generally justifiably inconsistent.

1.1 Business and Industrial zones

This Direction encourages employment growth, protects employment land in business and industrial zones and supports the viability of centres. When proposing to affect land within these zones, the RPA is required to retain the existing business and industrial zones, not reduce the total potential floor space for industrial uses and ensure new employment areas are in accordance with a strategy approved by the Secretary.

The planning proposal contains three items involving this Direction:

Item 3: 128 Bunnerong Road, Pagewood (BATA site)

Council proposes to correct an erroneous property boundary between the IN1 General Industrial and R3 Medium Density zones applying to the site's western and southern boundaries, to align with the actual subdivision plan applying to the land. The change mainly involves shifting land for a Council road to the west between the two zones. This also requires amending the Height of Buildings Map accordingly (see Item 3A, discussed under Direction 3.1). A copy of the subdivision plan is at Attachment 4 of Council's revised submission at TAG A.3.

While Council has addressed the inconsistency with s117 Direction 3.2 Residential zones, it has not address the inconsistency with this Direction. However, Council's argument regarding Direction 3.2 similarly applies in this case in that the proposal is minor and does not impact on the provision of industrial land in the LGA. Council has also advised the site owner (Meriton) supports this action.

Item 5: 2 Hollingshed Street, Mascot

Council acquired the site, a small redundant road reservation corner lot, several years ago and uses it for storing outdoor maintenance equipment. The site was inadvertently rezoned to B2 Local Centre under BBLEP 2013. Council proposes to permit the non-conforming use by applying Depots and Public administration buildings to the site via Schedule 1 of BBLEP 2013. Council justifies any inconsistency by noting the correction results from an error, there is no rezoning involved, employment uses will continue and the proposal does not affect Council's ability to meet employment targets.

Item 7: 284 Coward Street, Mascot

Council requires this change to show the 3:1 FSR intended for the site under BBLEP 2013, as the site was inadvertently shown as blank on the Floor Space Ratio Map during the making of the LEP.

Council has stated this item, zoned B7 Business Park and surrounded by other similarly zoned land, is addressing an inconsistency or minor error and is consistent with this s117 Direction. While Council has not addressed the consistency of the proposal with the other s117 Directions, it is considered that this is the only relevant Direction to this item. As the proposal does not reduce any business land or controls applying to the land, this aspect of the proposal is considered to be consistent with this Direction.

Council's submission (p4 at TAG A.2) requests the Department to include a condition requiring the provision of a map showing the intended 3:1 FSR for the site on the Floor Space Ratio Map, as this was overlooked in the original submission.

It is agreed with Council that the above proposed amendments involve matters of minor significance which are considered to be justifiably inconsistent with this Direction.

2.3 Heritage Conservation

The intent of this Direction is to conserve items, areas, objects and places of heritage significance and indigenous heritage significance. The proposal involves removing heritage item 175 (a fig tree) from Schedule 5 of BBLEP 2013 because it has been removed by way of a Supreme Court Judgement (see Attachment 5 at TAG A.3). It is

agreed with Council that the proposed change does not impact on the LGA's heritage resources and is considered to be a minor matter which is consistent with this Direction, as the heritage item no longer exists.

3.1 Residential zones

This Direction encourages a wide variety of housing choice and types, making efficient use of infrastructure and services and minimising impact on the environment. The planning proposal involves the following items relating to residential development:

Items 3 & 3A: 128 Bunnerong Road, Pagewood (BATA site)

The correction of the erroneous property boundary adjustment involved is explained above in relation to consistency with s117 Direction 1.1. Council states the proposal is minor and does not impact on the provision of residential land in the LGA. Council has also advised the site's owner (Meriton) supports this action. It is agreed with Council that correcting this error is consistent with this Direction.

Item 4: areas H1 and H2 in Mascot/Eastlakes, identified under BBDCP 2013

The assessment of the adequacy of the planning proposal in relation to this Direction needs to be read in conjunction with the later section dealing with consistency with the strategic planning framework.

This proposed change involves introducing a uniform 9m height limit over land zoned R2 Low Density, R3 Medium Density and R4 High Density Residential, currently covered by various heights between 9-14m as identified under BBLEP 2013 (see pp 21-30 at TAG A.2). This proposal emanated from community feedback during the making of BBLEP 2013 and related Council meeting resolutions.

While no specific study or strategy was prepared, Council's planning proposal has justified this amendment by referring to analysis of future planning controls for the area undertaken through the Botany Bay Strategy (2009), prepared to address the draft East Subregional Strategy dwelling/job targets, as well as a later LEP Standards and Urban Design Controls Study (2010) (see pp 21-30 at TAG A.2).

Areas H1 and H2 in BBDCP 2013 generally relate to an area recommended for upzoning to R3 Medium Density Residential under the 2009 Strategy (see p 25 of Tag A.2). On the other hand, the 2010 Study proposed R3 Medium Density or R2 Low Density Residential for land west of Botany Road (adjoining, but outside the current planning proposal), depending on whether amalgamations for flats or small lot subdivision was the preferred option. The submission states Council decided to follow the R2 low density option in the making of BBLEP 2013 for this adjoining land.

Council's submission goes on to apply the same reasoning to the subject land (east of Botany Road) in applying a similar small lot framework to it, thereby justifying the need for the proposed building height reductions. However, it is not clear from the submission to what extent it is appropriate to apply this to the subject land.

Council introduced small lot subdivision provisions for the H1 and H2 areas through BBDCP 2013 to provide a greater range of mainly affordable terrace-style housing types. The intention is stated as to provide for greater density, while maintaining the community's preferred lower scale character for the area.

As there are no minimum allotment size requirements in BBLEP 2013, the small lot subdivisions will be achieved through merit based assessment of DAs for subdivision proposals for 5m frontages under BBDCP 2013, in conjunction with the height and FSR controls in BBLEP 2013. Council has justified the proposed 9m height limit in this context to assist with reducing any privacy, overshadowing or other amenity impacts from smaller lot subdivision.

It needs to be clarified that the actual areas proposed for height reductions are area H2 and only a small part of area H1 on the map submitted by Council (p21 at TAG A.2). Area H1 already includes large areas of R2 land with a current 9m height control, for which no

further height reductions are required.

Council did not provide a specific map showing the precise areas affected. However, the Department has prepared a map showing an approximation of the specific areas affected by Item 4 and their zoning (TAG B) to aid in understanding the proposed changes. These areas involve the following height reductions (approximated by comparing the current and amended Height of Buildings Maps at pp 29/30 at TAG A.2):

- R4 zoned land (area H1): from 14m to 9m (5m loss, well over 1 storey)
- R3 zoned land (area H1): from 12m and 11m to 9m (2-3m loss, @ one storey)
- R2 zoned land (area H1): from 11m to 9m
- R2 zoned land (area H2): from 10m to 9m.

As can be seen from TAG B, the proposed reduction in height for land zoned R4 High Density Residential east of Maloney Street, Eastlakes to which a 14m height control currently applies appears to be an anomaly. This area already contains two existing large nine storey residential flat buildings (RFBs), surrounded largely by three storey RFBs, which have little likelihood of being redeveloped for small lot housing. Council's submission has not adequately addressed the specific merit of this aspect of the proposal.

Similarly, Council has not provided sufficient direct analysis to justify the proposed 3m height reduction for land zoned R3 Medium Density Residential to the east of Botany Road, which currently contains mostly low height dwellings capable of being redeveloped for medium density housing.

The main argument for reducing the R3 height control, as well as the proposed 2m height reduction for nearby land R2 Low Density Residential, appears to be to assist with resolving amenity issues related to denser development from small lot subdivision. However, an explain of the existence of these higher height controls has not been adequately provided.

Given the proposed changes under Item 4 are not of a housekeeping nature and require further analysis, it is proposed to include a condition requiring Council to remove all land subject to Item 4 from the planning proposal. This would then enable Council to demonstrate the merits of the proposal to ensure consistency with Metro policy, the Standard Instrument and associated S117 Direction 3.1 matters, should it still wish to pursue this matter.

Given the removal of Item 4 from the planning proposal, it can be agreed that the remaining items are consistent with this Direction.

3.4 Integrating Land Use and Transport

This Direction aims to improve non-car based access to housing, jobs and services, reduce travel demand, support public transport and efficient freight movement. It applies when an RPA proposes to amend a zone or provision applying to urban land and therefore applies to all the items involved in this planning proposal.

Given the removal of Item 4 from the planning proposal, it is agreed with Council that the proposal is consistent with this Direction because:

- BBLEP 2013 was accepted as being consistent with the aims and objectives of this Direction and related policy documents (Improving Transport Choice - Guidelines for Planning & Development; and The Right Place for Business & Services); and
- the planning proposal does not relocate urban zoned land or otherwise seek to amend the principles/policy underpinning the LEP, but rather to largely address errors in the making of BBLEP 2013.

3.5 Development Near Licensed Aerodromes

This Direction applies when an RPA prepares a planning proposal creating, altering or removing a zone or provision in the vicinity of a licensed aerodrome. It applies because many of the properties involved in the proposal are affected by Sydney Airport's ANEF

noise contours.

It is agreed with Council that the proposal is consistent with this Direction because:

- it is of a housekeeping nature which does not rezone land for residential or other urban purposes or increase densities;
- BBLEP 2013 includes model provisions (clauses 6.8 and 6.9) relating to airspace operations and development in areas subject to aircraft noise;
- future developments penetrating the Airport's Operations Surface Limitation will be referred to the Commonwealth for comment; and
- any potential impacts on effective and safe operations can be addressed at DA stage.

4.1 Acid Sulfate Soils

This Direction aims to avoid significant adverse environmental impacts from using land potentially containing acid sulfate soils. It applies because many of the properties involved in the proposal (eg those covered by Items 3 and 4), are within the low hazard risk class 4 and 5 categories on the BBLEP 2013 Acid Sulfate Soils maps.

If a condition removing item 4 is agreed to, this Direction would only apply to item 3. On this basis, it is agreed with Council that the proposal is consistent with this Direction because:

- the proposal is of a housekeeping nature and does not involve an intensification of land uses on land identified as having a probability of containing acid sulfate soils;
- BBLEP 2013 contains the model 6.1 Acid Sulfate Soils provision;
- any future development resulting from the proposal would require Council consent and an acid sulfate soils management plan at DA stage; and
- any potential negative impacts can be addressed at DA stage.

4.3 Flood Prone Land

This Direction aims to ensure development of flood prone land is consistent with Government flood prone land policy and an LEP's provisions are commensurate with the flood hazard. As Council has not undertaken a flood study, the Direction implies Council must not determine a flood level inconsistent with the 2005 Flood Plain Development Manual. The Direction applies to the proposal because Item 3 (128 Bunnerong Road, Pagewood) and Item 4 (areas H1 and H2 in BBDCP 2013) may be affected by flooding.

If a condition removing item 4 is agreed to, this would leave this Direction applying to item 3. On this basis, it is agreed with Council that the inconsistency with this Direction is justifiable on the basis of it being a minor matter, given:

- while flood mapping has not been prepared to date, Council has commenced flood studies which will provide more accurate data on the LGA's flooding characteristics;
- when this mapping is completed, Council will adopt the model flooding provisions;
- currently, where Council is concerned about the impact of a development on overland flows, it requests a flood study as part of the DA process; and the proposed changes do not in themselves enable changes or intensification of the land uses which may impact or be impacted by the flood prone land.

6.2 Reserving Land for Public Purposes

This Direction aims to facilitate the provision and removal of reservations of land for public services and facilities where required or no longer needed. The Direction applies to Item 2, a road widening reservation over Lot 53, DP 1097375 at 1008 Botany Road, Mascot on the Land Reservation Map in BBLEP 2013. It is agreed with Council that the proposal is consistent with this Direction because the reservation was made in error and Roads and Maritime Services (RMS) has agreed to its removal (see Attachment 3 at TAG A). Council should nevertheless formally consult RMS about the proposal under section 56(2)(d) of the Act.

6.3 Site Specific Provisions

This Direction aims to discourage unnecessarily restrictive site specific controls. The Direction is relevant because Council proposes to permit additional uses for two sites via Schedule 1 of BBLEP 2013: item 5, 2 Hollingshed Street Mascot (see discussion under Direction 1.1) and Item 6, Linear Park. The latter involves permitting a recreation area on land owned by Sydney Water, which Council has been allowed to do in several similar instances. There is a Masterplan for the Park and lease arrangements with Sydney Water are nearly completed.

It is agreed with Council that the proposal is consistent with this Direction because it is of minor significance and does not make a zoning change, rather adding an extra use, which does not restrict the use of the land.

7.1 Implementation of A Plan for Growing Sydney

This updated version of the Direction, which came into force on 14 January 2015, aims to give legal effect to the recently finalised Plan for Growing Sydney. A proposal can be inconsistent with the document if it is minor or achieves its overall intent, doesn't undermine its vision, land use strategy, policies, outcomes or actions. The Direction applies to the proposal as a whole.

Council's submission assessed the proposal against the previous version of this Direction. However, given the proposed removal of Item 4 from the planning proposal, the proposal is considered to be consistent with this Direction because its housekeeping nature does not alter the policy intentions of BBLEP 2013. Notwithstanding, it is recommended that Council be requested to update the planning proposal prior to public exhibition to demonstrate consistency with the new Direction.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided maps indicating the current and proposed provisions under BBLEP 2013.

Council requested the following mapping changes to be made as Gateway conditions(TAG A.1-3):

- Item 3A, 128 Bunnerong Road, Pagewood (BATA site): amend the BBLEP Height of Building Map to correspond to the property boundary change being made to the Land Zoning Map to correct an error (see discussion under S117 Direction 1.1 and 3.1);
- Item 7, 284 Coward Street, Mascot: to assign an erroneously omitted FSR value for the site under BBLEP 2013; and
- a map depicting the two new Schedule 1 sites (Items 3A and 7), also covering Council's 18 existing Schedule 1 sites. While this is not a mapping requisite, it is considered to be good practice and promotes greater transparency.

The maps provided for Item 2, 1008 Botany Road: Figure 2 (p 5) are not considered sufficiently legible and should be required by Gateway to be supplied in sufficient size to clearly identify the land location and applicable controls for exhibition purposes.

It is also noted that, while not needed to be rectified given the proposed deletion of Item 4, the following mapping matters are also inadequate:

- Height of Buildings Map 4 shows certain relevant areas as blank, but which are zoned R2 and actually have a 9m height currently applying;
- an amended Height of Buildings Map 1, showing the height changes proposed in areas H1 applying to that sheet, is missing; and
- the maps for Item 4 (Figures 5 and 6 at pp 6, 21-30 at TAG A.2) sites H1 and H2 of BBDCP 2013 should be supplied in sufficient size to clearly identify the land location and applicable controls for any future exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes to exhibit the proposal for a minimum of 28 days in accordance with the standard exhibition and notification procedures.**

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? **No**

If No, comment : **The explanation of the proposal's provisions is generally adequate, except in relation to providing:**

- justification for the inconsistency of reducing the height of land along Maloney Street Mascot zoned R4 High Density Residential already developed as residential flats, from 14 to 9m (in Item 4, area H1) with S117 Directions 3.1 and 7.1. However, as discussed in the report, this is recommended to be removed from the proposal by way of a condition; and**
- written explanation of the consistency of requested late additional changes to the submitted planning proposal (ie items 3A and 7) with the relevant S117 Directions, eg 1.1 Business and Industrial Zones and 3.1 Residential Zones. A Gateway condition is proposed to ensure Council covers these matters for consistency and transparency, as part of the exhibition materials.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Botany Bay comprehensive LEP commenced on 21 June, 2013 and has been working well. However, apart from the more significant height reductions proposed under Item 4, Council has identified the need for some mostly minor adjustments and correction of errors and inconsistencies to improve the operation of the instrument.

Assessment Criteria

Need for planning proposal :

Apart from Item 4, which proposes more significant policy changes, the planning proposal largely arose from Council's perceived need to make some relatively minor adjustments and correction of errors and inconsistencies to improve the operation of the instrument.

Consistency with strategic planning framework :

The consistency of the planning proposal with A Plan for Growing Sydney has not been assessed by Council as the planning proposal was submitted well before the 14 December release date. To overcome this inconsistency, a condition has been proposed that Council revises the planning proposal to demonstrate consistency with A Plan for Growing Sydney. This is consistent with similar action for all planning proposals requiring Gateway approval.

Council's submission advised the planning proposal is generally consistent with the draft Metropolitan Strategy for Sydney 2031, the Metropolitan Plan for Sydney 2036 and the draft East Subregional Strategy (and its 6,500 dwellings and 16,700 jobs targets) because:

- most of the changes are minor and do not alter the strategic underpinning of BBLEP 2013, which was approved at the time;
- it is consistent with Metro 2036 housing objectives (D1-4), the draft East Subregional Strategy and draft Metro 2031 housing objectives 5 and 6; and
- Item 4 will provide a range of additional and affordable small lot housing types adjacent to the Mascot local centre, the Maloney Street neighbourhood centre and Eastlakes town centre.

Most of the planning proposal is of minor significance and therefore consistent in the above regard. Given Item 4 proposes an overall 9m height limit over land zoned R2, R3 and R4 to which various heights between 9-14m apply, more detailed assessment of this aspect of the planning proposal is considered to be warranted - particularly as the planning proposal does not account for the reasons why the higher height controls were introduced through BBLEP 2013.

While no specific study or strategy was prepared for this proposal, Council bases its argument for consistency with Metro-related policy and Directions 7.1, 3.1 and 3.4 on various studies to contend there will be no overall loss of yield and that there is no change from the planning framework endorsed during the making of BBLEP 2013, which was generally deemed to be consistent with all relevant policy considerations at the time (eg pp 36-39 at TAG A.2).

While proposing to reduce height controls, Council argues its local policy for small lot housing will promote more affordable and varied housing, thereby ensuring consistency with Metro 2036, draft Metro 2031 and the draft East Subregional Strategy, mainly on the basis of the height reductions being consistent with the development character of the area (p 38 at TAG A.2).

However, particularly in the absence of a detailed analysis, including the likely effect on yields in each of the affected zones, it not clear that Council's argument adequately demonstrates the proposal's consistency with relevant higher order housing policies.

Council should therefore be requested to provide a quantitative analysis to bolster its arguments about consistency with planning policy, ie: a comprehensive strategic justification of the proposal, factoring in the reasons for the current controls and likely development consequences of changing them; and consistency with relevant planning policy including the s117 Directions, particularly 3.1 Residential zones and 7.1 Implementation of A Plan for Growing Sydney.

Given its non-housekeeping nature and overall inadequacy of the information supporting Item 4, it is proposed to condition its removal from the planning proposal, to enable Council to progress it as a separate planning proposal and undertake a detailed quantitative analysis to comprehensively justify its consistency with planning policy.

Provided Item 4 is removed from the planning proposal as proposed, it is agreed with Council's advice that the proposal is consistent with Council's local strategic planning framework underpinning its comprehensive LEP and its Community Strategic Plan.

Environmental social economic impacts :

It is agreed with Council's advice that:

- there is no indication of any adverse impact on critical habitat or threatened species; and
- there are no other likely environmental, social or economic impacts.

BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority 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

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
TAG A.1 Botany Housekeeping planning proposal - covering letter 15.10.14.obr	Proposal Covering Letter	Yes
TAG A.2 Botany Housekeeping planning proposal - report.obr	Proposal	Yes
TAG A.3 Botany Housekeeping planning proposal - attachments and maps.obr	Proposal	Yes
TAG B Item 4 - actual areas involved.obr	Map	Yes
TAG C Project timeline, Attachment 4 and request for delegation.obr	Proposal	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**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**

BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013 - HOUSEKEEPING AMENDMENT

Additional Information :

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

It is recommended the planning proposal proceed, subject to the following conditions:

1. The planning proposal is exhibited for 28 days.
2. The planning proposal is completed within 9 months.
3. The plan making function be delegated to Botany Council.
4. Prior to undertaking public exhibition, the planning proposal is to be revised to demonstrate consistency with A Plan for Growing Sydney, released on 14 December 2014.
4. Given its non-housekeeping nature, Item 4 (applying to areas H1 and H2 identified under BBDCP 2013 proposed for height reduction to 9m) is to be removed from the planning proposal and progressed under a separate planning proposal, together with further analysis of consistency with planning policy, supported by quantitative analysis of its implications.
5. The following map changes are to be made prior to exhibition, to correct errors and improve legibility for exhibition purposes:
 - the BBLEP 2013 Floor Space Ratio Map is to be amended to show the 3:1 ratio applying to Item 7 (Lot 7, DP 245170, 284 Coward Street, Mascot);
 - the BBLEP 2013 Height of Buildings Map is to be amended to correspond to the property boundary being made to correct errors, as described in relation to Items 3 and 3A (128 Bunnerong Road, Pagewood) of the planning proposal;
 - Council is to prepare a map showing the two items being actioned via Schedule 1, being Item 5 (2 Hollingshed Street, Mascot) and Item 6 (Linear Park, Mascot), together with all of Council's current Schedule 1 matters; and
 - given the difficulty of reading the information on the maps provided for Item 2, 1008 Botany Road, Mascot (Figure 2 on page 5 of Council's submission), sufficiently large scale copies are to be supplied with the exhibition materials.
6. Consultation with Roads and Maritime Services is required in relation to Item 2, removal of a road widening reservation over its land at 1008 Botany Road, Mascot.
7. Given the proposal does not include specific discussion of the consistency of Item 3A (128 Bunnerong Road, Pagewood) and Item 7 (284 Coward Street, Mascot) with the relevant s117 Directions, this information is to be included in the exhibition materials, for consistency and transparency.

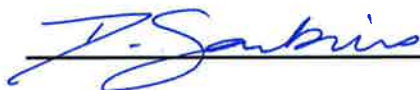
The RPA should also be advised that:

8. No further studies are required to be undertaken.
9. The proposal is consistent with s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licensed Aerodromes, 4.1 Acid Sulfate Soils, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific Provisions and 7.1 Implementation of the Metropolitan Plan for Sydney to 2036.
10. The Secretary's delegate agrees the inconsistencies with Directions 1.1 Business and Industrial zones and 4.3 Flood Prone Land are of minor significance.

Supporting Reasons :

The planning proposal, which is largely of a minor nature given the proposed removal of Item 4, is considered to be the most efficient means of achieving its stated objectives.

Signature:



Printed Name:

Diane Sarkies

Date:

26/2/15