

DEVELOPMENT COMMITTEE BUSINESS PAPER

4 SEPTEMBER 2013

The matters contained in this document are to be determined by the Committee under the delegation of authority granted by resolution of Council at its meeting held on 25th September, 2002.

Council's resolution is subject to the decision of the Committee being unanimous or where one or another Councillor has requested that an item be referred to the full Council.

NOTICE IS HEREBY GIVEN THAT

a meeting of the Development Committee of Botany Bay City Council will be held on 4 September 2013 at Botany Town Hall, Cnr Edward Street and Botany Road, Botany commencing at 6:30 pm.

> Ms Lara Kirchner GENERAL MANAGER

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4.13 PLANNING PROPOSAL TO AMEND BOTANY BAY LEP 2013 - LAND ZONED UNDER THE SEPP (PORT BOTANY & PORT KEMBLA) 2013

File No: 11/123

Attachments: Attachment A - Draft Planning Proposal

Responsible Officer: Rodger Dowsett - Director of Planning and Development

Date of Preparation: 14 August 2013

EXECUTIVE SUMMARY

This report seeks to amend a Council resolution dated 19 December 2011 dealing with a Planning Proposal over land bounded by the following roads - Bay, Erith (south side) and Byrnes Streets - the area of which is currently zoned IN1 General Industrial under SEPP (Port Botany & Port Kembla) 2013.

The resolution of Council dated 19 December 2011 requires amendment due to changes in legislation as follows:

- The gazettal of State Environmental Planning Policy (Port Botany and Port Kembla) 2013 on 31 May 2013 which addressed one of the issues raised by Council Officers in meetings with the Department ie the inclusion of *general industries* as permitted with consent in the IN1 General; Industrial Zone; and
- The gazettal of Botany Bay LEP 2013 on 21 June 2013 which zones the land north of Erith Street as B7 Business Park and land west of McFall Street as IN1 General Industrial refer to **Figure 1** below.

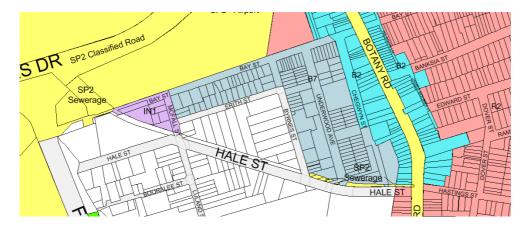


Figure 1 – Land zoned B7 Business Park & IN1 General Industrial under Botany Bay LEP 2013

The report seeks to amend the Planning Proposal resolution by:

- Including land west of McFall Street currently zoned IN1 General Industrial under the BBLEP 2013 to a B7 Business Park Zone; and
- Deleting reference to the inclusion of "general industries" as the SEPP (Port Botany & Port Kembla) 2013 now contain general industries as a permitted use with consent in the IN1 Zone.

Background

On 24 July 2009 State Environmental Planning Policy (Major Development) Amendment (Three Ports) 2009 was gazetted.

The Amendment:

- Included 'port facilities' as a Part 3A Project 'class of development';
- Identified certain land at and around Port Botany, Port Kembla and Newcastle Port as 'State Significant Sites'; and
- Replaced the zones and planning controls in Botany LEP 1995 that relate to Port Botany and adjoining industrial land with new zones.

The major implication of the SEPP was that parts of the LGA became zoned under State Environmental Planning Policy (Major Development) 2005 and removed the then Botany Local Environmental Plan 1995. This included the majority of the Hale Street Industrial Precinct, the Banksmeadow Industrial Precinct, and part of the Hillsdale Industrial Precinct, Foreshore Road, Botany Bay foreshore area and Sydney Port's land.

On 15 June 2011 Council resolved to prepare a planning proposal under Section 55 of the Environmental Planning and Assessment Act 1979 for land zoned under the SEPP.

As a result of discussions with the Department of Planning & Infrastructure, Council at its Development Committee Meeting held 19 December 2011 considered a report dated 6 December 2011 on the matter and resolved as follows:

- 1. The contents of the report be noted;
- 2. That Council amend its previous resolution dated 15 June 2011 and resolved to prepare two (2) separate planning proposals under Section 55 of the Environmental Planning and Assessment Act 1979 seeking the following changes to State Environmental Planning Policy (Major Development) 2005:
 (a) Stage 1:
 - (i) The area zoned IN1 General Industrial, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and bounded by Byrnes Street, Erith Street and McFall Street, within the Hale Street Industrial Precinct to be removed from the SEPP and zoned B7 Business Park (with FSR of 1.5:1 and a height of 12 metres) under the provisions of Botany Bay LEP 2011; and
 - (ii) To include "general industries" as a permitted use with prior consent in the IN1 Zone under the SEPP.

- (b) Stage 2:
 - (i) To remove the remaining areas from the SEPP in accordance with Council's previous resolution dated 15 June 2011; and
- 3. That Council resolved to refer the planning proposals to the Department of Planning and Infrastructure under Section 56 for Gateway Determination;
- 4. That Council advise the residents of Erith and Bay Streets of the amended approach; and
- 5. That in connection with by-pass traffic flow on Hale Street and Hastings Road, Botany the matter be referred to the Director of Assets and Environment for an engineered traffic study and report to the Traffic Committee at its meeting in February 2012.

Amendments required as a result of recent legislation changes

As stated in the Executive Summary, this report seeks to amend a Council resolution dated 19 December 2011 dealing with the Planning Proposal covering land in Bay, Erith and Byrnes Streets which is currently zoned IN1 General Industrial under SEPP (Port Botany & Port Kembla) 2013.

The resolution of Council dated 19 December 2011 requires amendment due to changes in legislation as follows:

- The gazettal of State Environmental Planning Policy (Port Botany and Port Kembla) 2013 on 31 May 2013 which addressed one of the issues raised by Council Officers in meetings with the Department ie the inclusion of *general industries* as permitted with consent in the IN1 General; Industrial Zone; and
- The gazettal of Botany Bay LEP 2013 on 21 June 2013 which zones land to the west of McFall Street as IN1 General Industrial.

The report seeks to amend the Planning Proposal resolution:

• To Include land zoned IN1 General Industrial under the BBLEP 2013 to a B7 Business Park Zone

Due to a mapping anomaly, properties fronting McFall and Bay Street are currently zoned as IN1 – General Industrial in the *Botany Bay Local Environmental Plan* (BBLEP) 2013. The objectives of the IN1 – General Industrial zone are as follows:

- o *To provide a wide range of industrial and warehouse land uses.*
- o To encourage employment opportunities.
- o To minimise any adverse effect of industry on other land uses.
- o To support and protect industrial land for industrial uses.

The IN 1 – General Industrial zone permits the following uses with development consent: Depots; Freight transport facilities; General industries; Industrial training facilities; Light industries; Neighbourhood shops; Restaurants or cafes; Roads; Take away food and drink premises; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4

The Planning Proposal as amended seeks to rezone the land zoned IN1 under the BBLEP 2013 subject precinct to a B7 – Business Park zone under the BBLEP 2013. The objectives of the B7 – Business Park zone are as follows:

- o To provide a range of office and light industrial uses.
- o 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.
- o *To encourage uses in the arts, technology, production and design sectors.*

The B7 – Business Park 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 will mean that all properties north of the SWOOS will be zoned B7 Business Park, with a height of 12 metres and a FSR of 1.5:1. This will ensure consistency of landuse within this Precinct and reduce the current interface issues with uses permitted in the more generous IN1 General Industrial Zone. It will also assist in reducing large trucks utilising the precinct.

• To delete reference to the inclusion of "general industries" as the SEPP (Port Botany & Port Kembla) 2013 now contain general industries as a permitted use with consent in the IN1 Zone.

The reference to "general industries" was inserted into the SEPP upon its gazettal on 31 May 2013 and therefore is not required as art of the Planning Proposal.

A copy of the draft amended Planning Proposal is **attached**. If Council adopts this report the Planning Proposal will be finalised and lodged with the Department of Planning & Infrastructure for the Gateway Process.

If the Planning Proposal is supported by the Department of Planning & Infrastructure, all land north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS) and east of Chegwyn Street is proposed to be zoned B7 Business Park under the Botany Bay LEP 2013.

Conclusion

The report seeks to amend the Planning Proposal resolution dated 19 December 2011 by:

- Including land west of McFall Street currently zoned as IN1 General Industrial under the BBLEP 2013 to be rezoned to a B7 Business Park Zone; and
- Deleting reference to the inclusion of "general industries" as the SEPP (Port Botany & Port Kembla) 2013 now contain general industries as a permitted use with consent in the IN1 Zone.

The report recommends that Council amend the Planning Proposal as suggested and forward it to the Department of Planning & Infrastructure.

RECOMMENDATION

THAT:

- 1. The contents of the report be noted; and
- 2. Council amend its previous resolution dated 19 December 2011 and resolve to prepare two (2) separate planning proposal under Section 55 of the Environmental Planning & Assessment Act 1979 seeking the following changes to State Environmental Planning Policy (Port Botany & Port Kembla) 2013 and Botany Bay Local Environmental Plan 2013:
 - a) The area zoned IN1 General Industrial, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and bounded by Byrnes Street, Erith Street and McFall Street, within the Botany (West) Industrial Precinct to be removed from the SEPP and zoned B7 Business Park (with a FSR of 1.5:1 and a height of 12 metres) under the Botany Bay LEP 2013; and
 - b) The area zoned IN1 General Industrial under the Botany Bay LEP 2013, north of the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS), and Bay and McFall Streets, within the Botany (West) Industrial Precinct, be rezoned to B7 Business Park (with a FSR of 1.5:1 and a height of 12 metres) under the Botany Bay LEP 2013; and
- 3. Council refer the planning proposals to the Department of Planning and Infrastructure under Section 56 for Gateway Determination.