

*Our ref: S15/65*



26 February 2015

Marcus Ray  
Acting Deputy Secretary  
Planning Services  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Mr Ray

**Planning Proposal No.1/2015 – Amendment to the Botany Bay LEP 2013 –  
Deletion of Clauses 4.3(2A) and 4.4B**

The Council of the City of Botany Bay at its meeting on the 25 February 2015 resolved to submit to the Department of Planning & Environment, a new Planning Proposal (No. 1/2015) in accordance with the Environmental Planning & Assessment Act 1979 and its Regulation to seek the deletion of Clauses 4.3(2A) and 4.4B of the Botany Bay Local Environmental Plan 2013.

The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and relevant guidelines prepared by the Department (i.e. A guide to preparing planning proposal).

The Planning Proposal is referred to the Department for a Gateway Determination. I advise that Council has prepared a detailed analysis of the sites zoned R3 and R4 under the Botany Bay LEP 2013. This analysis is **Attachment B** to the Planning Proposal. I have also attached to this letter Map 4 from the analysis showing the sites within the LGA that are zoned R3 and R4. This map is to be read in conjunction with pages 27 to 30 of the Planning Proposal.

Whilst the proposed changes to the BBLEP 2013 currently on public exhibition through Planning Proposal 2/2013 (Department's reference: PP\_2014\_BOTAN\_001\_00) will reduce the impact of the bonus provisions, the preferred position of Council is to remove the bonus provision altogether. This is because the provisions may result in a poor planning outcome, due to the excessively generous nature of the bonus, particularly with regard to height, regardless of the suitability of the site for such higher density.

The bonus in height allows for development to go from 10/14 metres to 22 metres; and from FSR 0.85:1 (depending on locality) to 1.5/1.65:1. The impact of this was evident in the DA for 15-19 Edgehill Avenue, that was determined by the JRPP on 20 November 2014. Such was the JRPP's concern over the provisions that the Chairman

of the Panel wrote to the Department expressing his concerns.

The urban design clauses currently on public consultation will aid in the assessment of applications. However, the urban design clauses do not go far enough and therefore Council now requests the deletion of Clauses 4.3(2A) and 4.4B of the BBLEP 2013 through the planning proposal process.

The intent of the Planning Proposal is not to stop medium to high density residential development on land zoned R3 and R4, nor is the intent to limit the capacity of the Botany Bay LEP 2013 to deliver additional residential development. The intent in requesting the deletion of the bonus clause relating to 22 metres is to allow it to consider a merit based objection to the Height of Building (HOB) Map standard. If a height is sought over that height on the HOB LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This provides Council with flexibility based on the particular site characteristics. The intent behind the removal of the bonus FSR of 1.65:1 is to reduce overdevelopment of the sites. The maximum FSR permitted on sites over 2000m<sup>2</sup> zoned R3 or R4 will still be a maximum of 1.5:1 (permitted under Clause 4.4(2A)) and this can be varied on a case by case analysis through a Clause 4.6 objection.

Council requests an Authorisation from the Department to exercise the delegation of plan making functions. I attach to this letter a completed evaluation criteria.

Council is confident that the Planning Proposal is well justified and that no existing land holders will be adversely affected.

Prior to any decision by Gateway it is requested that the Department contact Council officers to arrange a joint site inspection of the 33 sites identified in Map 4. This will assist in understanding the Council's position on the matter.

Should you have any queries concerning this matter, please contact the writer on telephone No. 9366 3520.

Yours faithfully



**C McMahon**  
**PRINCIPAL PLANNER**