

Mrs Heather Warton
Director City Planning & Environment
City of Botany Bay
141 Coward Street
Mascot NSW 2020
Ph: (02) 9366 3666
council@botanybay.nsw.gov.au



PLANNING PROPOSAL

The Planning Proposal seeks to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of the Airport in Mascot.

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ATTACHMENTS

1. Council Report and Resolution – Ordinary Council Meeting dated 23 July 2014
2. Department of Planning & Environment letter dated 30 January 2015
3. Council Report and Resolution – Development Committee Meeting dated 4 March 2015
4. Council Report – Development Committee Meeting dated 5 August 2015
5. List of State Environmental Planning Policies

INTRODUCTION

The Planning Proposal relates to properties covering an area of approximately 70ha immediately north of Sydney (Kingsford Smith) Airport. As identified in the figures below, the subject precinct is bounded by Gardeners Road and Coward Street (via Kent Road) to the north, Alexandra Canal to the west, O'Riordan Street to the east and Joyce Drive/Qantas Drive to the south. These properties are currently zoned B5 – Business Development, B7 – Business Park and IN1 – General Industrial.

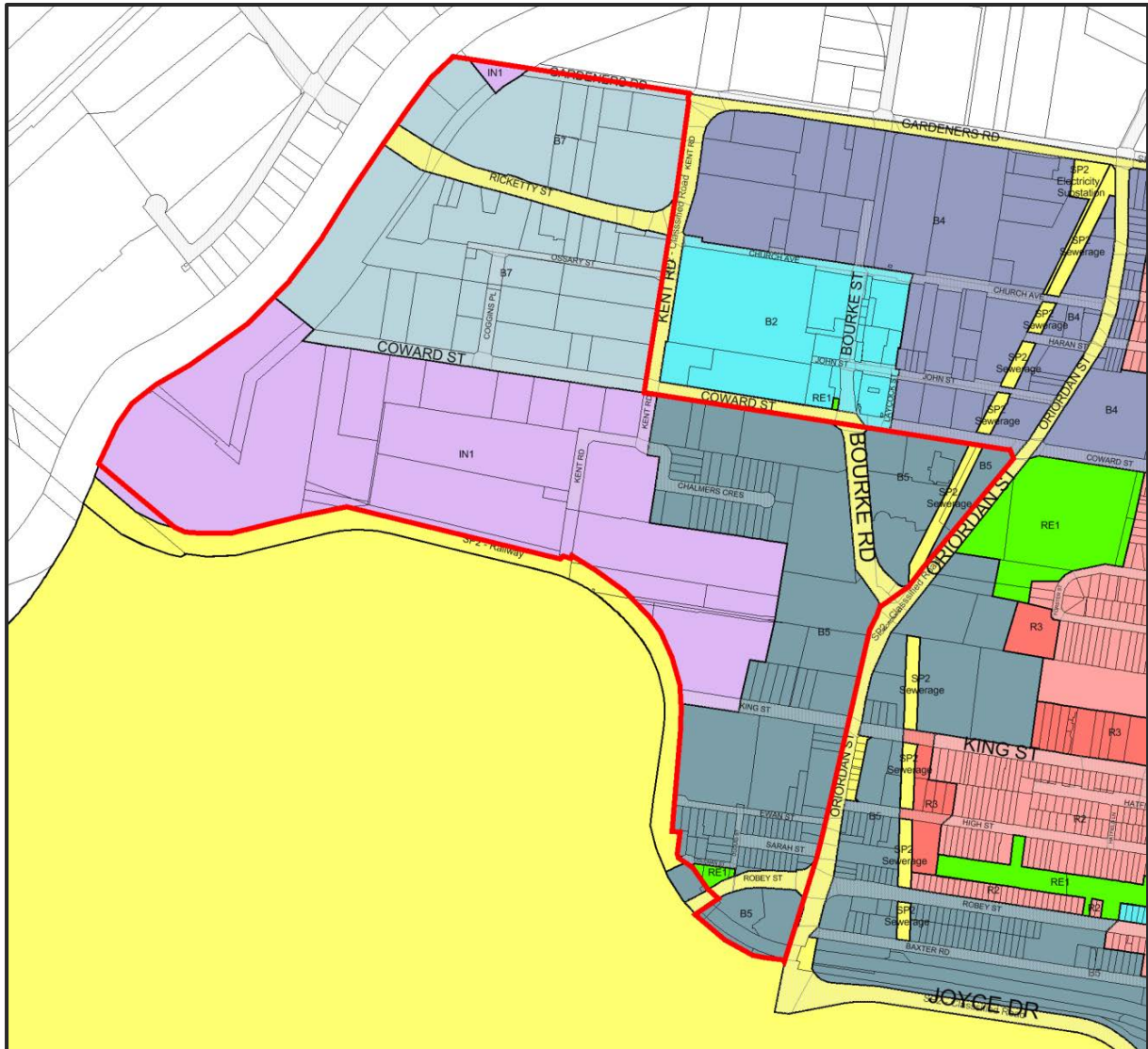


Figure 1 – Zoning map of the area affected by the Planning Proposal



Figure 2 – Aerial view of the area affected by the Planning Proposal

Relevant Planning Controls

The subject properties are zoned B5 – Business Development, B7 – Business Park or IN1 – General Industrial under the *Botany Bay Local Environmental Plan (BBLEP) 2013*.

The objective of the B5 zone is as follows:

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

The B5 zone permits the following uses with development consent:

Bulky goods premises; Child care centres; Food and drink premises; Garden centres; Hardware and building supplies; High technology industries; Landscaping material supplies; Neighbourhood shops; 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 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 objectives of the IN1 zone are as follows:

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

The IN1 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

History & Council Resolutions

Botany Local Environmental Plan (BLEP) 1995

In order to cater for airport-related activities and land uses within the Botany Bay Local Government Area (LGA), 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related - Restricted zones were incorporated into the *Botany Local Environmental Plan 1995*.

The subject properties were previously zoned either 4(c1) - Industrial Special - Airport Related or 4(c2) Industrial Special - Airport Related - Restricted in the *BLEP 1995*.

The objectives of the 4(c1) zone are as follows:

- The primary objective is to permit the development of a wide range of uses which have a relationship to Sydney (Kingsford Smith) Airport.
- The secondary objectives are:

- a) to encourage airport-related land uses as the dominant activity and to permit certain development with ancillary seaport-related activities,
- b) to permit industrial uses with an airport affinity,
- c) to enable development of support services (such as retail, social and recreational facilities) to a scale appropriate for the area,
- d) to ensure that the scale, design, material of construction and nature of the development, in the opinion of the Council, contributes positively to the visual amenity and the gateway function of the area,
- e) to permit general advertising structures only when they significantly enhance the environment and do not create a clutter of signage in the locality, and
- f) to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.

The 4(c1) zone permits the following uses with development consent:

Air freight forwarders; airport-related industries; airport-related land uses; building identification signs; bus depots; business identification signs; car parking facilities; child care centres; clubs; community facilities; convenience shops or facilities; customs agencies; general advertising; high technology industries; hotels; light goods dispatch; motels; places of worship; public buildings; recreation facilities; refreshment rooms; subdivision; taverns; tradespersons' supply and service stores; utility installations; vehicle rental centres; warehouse or distribution 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.

The objectives of the 4(c2) zone are as follows:

- The primary objective is to provide for a wide range of development and land use activities that predominantly have a relationship with Sydney (Kingsford Smith) Airport, together with encouraging other non airport-related uses.
- The secondary objectives are:
 - a) to encourage airport-related land uses,
 - b) to permit the development of commercial premises and non airport-related uses,
 - c) to provide for industrial land uses which are related to airport-related development,
 - d) to improve the appearance of buildings and works in an endeavour to enhance the gateway function of this area to Sydney (Kingsford Smith) Airport,
 - e) to prohibit some types of traffic-generating development which would adversely affect the gateway function of those major roads,
 - f) to permit general advertising structures only when they significantly enhance the environment and do not create a clutter of signage in the locality, and
 - g) to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.

The 4(c2) zone permits the following uses with development consent:

Air freight forwarders; airport-related land uses; building identification signs; business identification signs; car parking facilities; child care centres; commercial premises; community facilities; convenience shops or facilities; general advertising; high technology industries; hotels; light goods dispatch; motels; motor showrooms; places of worship; public buildings; recreation facilities; refreshment rooms; serviced apartments; subdivision; taverns; tradespersons' supply and service stores; utility installations; vehicle rental centres; warehouse or distribution 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.

Botany Bay Local Environmental Plan (BBLEP) 2013

The Standard Instrument LEP Program was initiated in 2006 to create a common format and content for LEPs. The *BBLEP 2013* has been prepared in response to the State Government's initiative and in accordance with relevant Department of Planning & Environment's Practice Notes and Circulars.

Generally, zones under the *BBLEP 2013* have been converted to "best match" zones contained within the *BLEP 1995*. However, the Standard Instrument did not establish an equivalent zone for 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related - Restricted. More importantly, the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) also prohibits a council from developing "new zones, create subzones, or change the name of a standard zone". Hence, the lands north of the airport have been zoned as B5 – Business Development, B7 – Business Park and IN1 – General Industrial, depending on the existing land uses.

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

History of the Planning Proposal

At the Ordinary Council Meeting held on 23 July 2014, Council resolved to prepare a Planning Proposal to:

- rezone properties north of Sydney (Kingsford Smith) Airport from B5 – Business Development, B7 – Business Park or IN1 – General Industrial to SP1 – Airport Related under the *BBLEP 2013*; and
- introduce Clause 6.18 (Development in the Airport Precinct) in the *BBLEP 2013* to permit certain airport and non-airport related uses in the precinct that do not compromise the role of Sydney Airport.

A copy of the report and resolution is contained in **Attachment 1**.

In accordance with Council's resolution, the Planning Proposal was forwarded to the Department of Planning & Environment for Gateway Determination on 12 August 2014.

On 30 January 2015, the Department of Planning & Environment issued Council a letter stating that the Planning Proposal raises the following legal and policy issues under the Standard Instrument LEP:

- the SP1 – Special Activities zone should not be used to group a number of distinct land use zones and unrelated lots of land in the way Council has proposed; and
- 'Airport-related land uses' and 'Airport-related industry' are not land uses in the Standard LEP Dictionary.

Accordingly, the Regional Team of the Department of Planning & Environment recommended refusal of the proposal if it proceeded to Gateway in its current form. Council were advised to consider withdrawing the current Planning Proposal to enable preparation of a revised proposal that is consistent with A Plan for Growing Sydney and the Standard LEP. This may involve identifying additional Standard Instrument land uses for certain lots within the subject land and permitting them via Schedule 1 – Additional Permitted Uses.

A copy of the letter from the Department of Planning & Environment is contained in **Attachment 2**.

At its Development Committee Meeting held 4 March 2015, Council resolved that:

1. Council resolve to prepare a revised Planning Proposal in accordance with Section 56(7) of the *Environmental Planning & Assessment Act 1979* to address the concerns raised in the Department of Planning & Environment's letter dated 30 January 2015; and
2. Once prepared, the revised Planning Proposal be reported to Council.

A copy of the report and resolution is contained in **Attachment 3**.

On 20 March 2015, Council wrote to the Department of Planning & Environment advising that Council will not be proceeding with the Planning Proposal submitted on 12 August 2014 for Gateway Determination and a revised Planning Proposal would be prepared. Accordingly, this revised Planning Proposal has been prepared for Council's consideration.

Qantas Planning Proposal

On 10 July 2015, *BBLEP 2013 (Amendment No. 1)* was gazetted. The amendment relates to the Qantas Planning Proposal which introduced additional permitted uses relating to Sydney (Kingsford Smith) Airport on Qantas owned land at Mascot through the insertion of Clause 9A (Use of certain land at Coward Street, King Street and Kent Road, Mascot); and Clause 10A (Use of certain land at King Street, Mascot) in Schedule 1 (Additional permitted uses) of the *BBLEP 2013*. The FSR map was also amended to identify Qantas owned IN1 zoned land with reference to a new clause (Clause 4.4 (2D) – Floor Space Ratio) to increase the FSR to 1.5:1 for uses permissible under Clause 9A.

It should be noted that the Qantas owned land at Mascot affected by the gazetted amendment is also affected by this subject Planning Proposal. Considering the intended outcomes of the Planning Proposal are similar to the gazetted amendment, the amendments to Schedule 1 (i.e. Clause 9A and 10A) are proposed to be deleted and replaced by similar clauses encompassing a larger area north of Sydney (Kingsford Smith) Airport. Consequently, reference to Clause 9A in newly inserted Clause 4.4 (2D) will need to be amended to refer to the proposed clause.

Council Resolution

At its meeting on 5 August 2015, Council resolved to prepare the Airport-Related Land Uses Planning Proposal and refer it to the Department of Planning & Environment for Gateway

Determination in accordance with Section 56 of the *Environmental Planning & Assessment Act 1979*.

A copy of Council's Report can be found in **Attachment 4**.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

Objective

The Planning Proposal seeks to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of Sydney (Kingsford Smith) Airport in Mascot.

Intended Outcomes

The intended outcomes of the Planning Proposal are to:

- Enable a wide range of uses which have a relationship and are compatible with Sydney Airport;
- Support and encourage airport-related land uses in proximity to Sydney Airport; and
- Acknowledge the strategic importance of the subject properties in supporting the role of Sydney Airport and environs.

PART 2 - EXPLANATION OF PROVISIONS

Proposed amendment

The Planning Proposal seeks the following amendments to the *BBLEP 2013*:

1. Delete the following under Schedule 1 – Additional permitted uses:
 - a. Clause 9A – Use of certain land at Coward Street, King Street and Kent Road, Mascot; and
 - b. Clause 10A – Use of certain land at King Street, Mascot.
2. Insert the following under Schedule 1 – Additional permitted uses to apply to all the subject properties:
 - 1) Development is permitted with development consent:
 - a) for any of the following purposes, but only if the purpose relates to the use of Sydney (Kingsford Smith) Airport:
 - i. business premises,
 - ii. office premises,
 - iii. function centres,
 - iv. information and education facilities,
 - v. passenger transport facilities,
 - vi. tourist and visitor accommodation, or
 - b) for the purpose of any other building or place used only for purposes that relate to the use of Sydney (Kingsford Smith) Airport.
 - 2) Without limiting subclause (1), development is permitted with development consent for the purpose of a building or place used for the provision of any of the following services:

- a) services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:
 - i. the assembly, storage or land transport of air freight,
 - ii. the accommodation, or transportation by air or land, of air passengers or air crew,
 - iii. the storage, operation, maintenance or repair of aircraft or aircraft components,
 - iv. the administrative functions associated with the airport, such as airport management and security,
 - v. the functions of government departments and authorities related to air passengers and air freight,
 - b) services provided for hotel or motel guests, including banking, dry cleaning, hairdressing and the like, that are located within the confines of the hotel or motel building.
- 3) In determining whether to grant development consent under this clause, the consent authority must consider the following:
- a) whether or not the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway,
 - b) whether or not the development is likely to compromise the viability of adjoining industrial uses.
3. Insert the following under Schedule 1 – Additional permitted uses to apply to B5 and B7 zoned land within the subject area:
- 1) Development for any of the following purposes is permitted with development consent, but only if the purpose relates to the use of Sydney (Kingsford Smith) Airport:
- a) freight transport facilities,
 - b) industrial training facilities,
 - c) general industries,
 - d) light industries,
 - e) storage premises,
 - f) transport depots.
- 2) In determining whether to grant development consent under this clause, the consent authority must consider the following:
- a) whether or not the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway,
 - b) whether or not the development is likely to compromise the viability of adjoining industrial uses.
4. Amend Clause 4.4 (2D) – Floor space ratio to delete reference to ‘Clause 9A’ and replace it with reference to the proposed clause discussed in point 2 above.

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 the result of any strategic study or report. It is a result of a translation issue from the *BLEP 1995* into the Standard Instrument *BBLEP 2013*.

As discussed above, prior to the introduction of the *BBLEP 2013*, 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related – Restricted zones were developed to enable a wide range of uses which have a relationship to Sydney (Kingsford Smith) Airport. However, the Standard Instrument did not establish an equivalent zone for 4(c1) and 4(c2) zones and prohibits a council from developing “new zones, create subzones, or change the name of a standard zone”. Due to these reasons, properties north of the airport were translated to “best match” the standard zones presented in the Standard Instrument. However, these zones (i.e. B5 – Business Development, B7 – Business Park and IN1 – General Industrial) fail to acknowledge or capture the importance of Sydney (Kingsford Smith) Airport and enable a wide range of developments and land use activities that may not be associated with Sydney Airport.

The introduction of additional permitted uses will provide certainty to aviation-related activities and uses presently undertaken on these properties and those that are planned in the future; protect aviation-related uses within the Botany Bay LGA; enable the clustering of airport-related uses and developments; avoid incompatible development or uses in the vicinity of the Airport; and underline the importance of these properties in supporting the role and function of Sydney Airport as the gateway to NSW and Australia.

Refer to **History & Council Resolution** 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 Council.

Section B – Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

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 strengthen its economic development whilst enhancing the unique lifestyle, heritage and environment of Sydney.

The following goals and directions apply to the Planning Proposal:

- **Goal 1** – A competitive economy with world-class services and transport.
 - o **Direction 1.5** – Enhance capacity at Sydney’s gateways and freight networks.
 - **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.
 - o **Direction 1.6** – Expand the Global Economic Corridor.
 - **Action 1.6:1** – Grow high-skilled jobs in the Global Economic Corridor by expanding employment opportunities and mixed-use activities.

The precinct is located within the “Global Economic Corridor” and “Transport Gateway – Sydney Airport Precinct”. The key priorities for the Transport Gateway – Sydney Airport Precinct are to:

- Identify and protect strategically important industrial-zoned land in and near Sydney Airport Precinct.
- Protect Sydney Airport’s function as an international gateway for passengers and freight, and support airport-related land uses and infrastructure in the area around the Airport.
- Facilitate road planning to connect Sydney Airport to WestConnex.

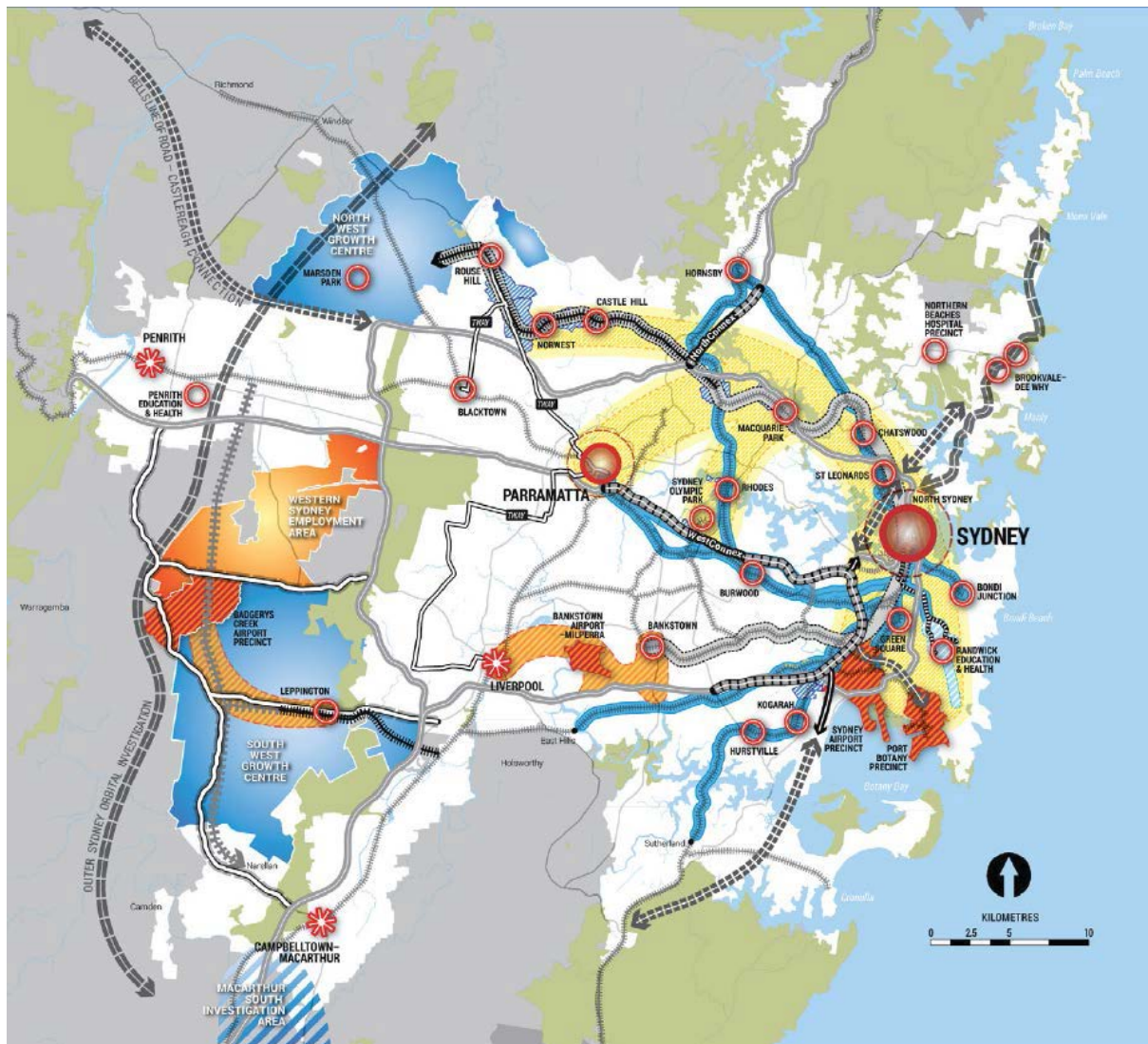


Figure 3 – A Plan for Growing Sydney

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 precinct:

- **A1.2** – Plan for sufficient zoned land and infrastructure to achieve employment capacity targets in employment lands;
- **A1.2.1** – State Government to work with Sydney Airport Corporation Limited (SACL) on managing growth of aviation and non-aviation activities at Sydney Airport;
- **A1.2.2** – The Department of Planning and Botany Bay Council to facilitate development of a commercial and warehouse precinct, associated with Sydney Airport, adjoining Mascot Station.
- **A1.5** – Protect and enhance employment lands of state significance;
- **A1.5.2** – The Department of Planning and Botany Bay and Randwick Councils to protect lands for Port and Airport related activities;

- **A2.2** – Strengthen industry clusters;
- **A2.3** – Support Magnet Infrastructure; and
- **G2.1** – Identify State planning places.



Figure 4 – Draft East Subregional Strategy – Sydney Airport and Environs Specialised Centre

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

- Acknowledges the importance and function of Sydney Airport by permitting land uses that support the role of Sydney Airport and Environs as a transport gateway;
- Supports Sydney Airport (i.e. national and international infrastructure) by enabling a range of airport-related uses;
- Builds and preserves capacity and supports economic growth in and around Sydney Airport and Mascot Station Precinct;
- Ensures airport-related land uses and activities are operated economically without being restricted by incompatible and inappropriate uses;

- Strengthens the function of the Sydney Airport and Environs Specialised Centre by enabling a range of airport-related uses;
 - Protects existing industrial lands and aviation uses in close proximity to Sydney Airport;
 - Enables industrial uses (i.e. airport-related industries, high-technology industries, light industries) that do not compromise the role of Sydney Airport or the function of the Airport Precinct and do not have adverse impacts on the surrounding land uses and development;
 - Retains a strong employment focus in the Sydney Airport Specialised Precinct;
 - Establishes complementary land uses to support the future growth of the Sydney Airport and Port Botany Precincts and expected growth in demand for air travel and freight movement;
 - Enables the clustering of airport-related land uses and agglomeration of airport industries with 1km of Sydney Airport; and
 - Increases employment capacity in the Global Economic Corridor, Transport Gateway, Sydney Airport Precinct and Botany Bay LGA.
4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The intent of the Planning Proposal is to safeguard and establish certainty for the existing and future airport-related activities on land near Sydney Airport. This is consistent with the objectives of the 4(c1) and 4(c2) zones contained in the *BLEP 1995*.

Botany Bay Local Environmental Plan (BBLEP) 2013

Additional permitted uses on the Qantas Land within Schedule 1 of the *BBLEP 2013*

Under the former *Botany Local Environmental Plan (BLEP) 1995*, all of the land uses which may have been contemplated for the subject precinct were permissible as either “airport-related industry” or “airport-related land use”.

BLEP 1995 defines “airport-related land use” as:

A building or place used as an office or for other business or commercial purposes or industry related to Sydney (Kingsford Smith) Airport, and includes a building or place used for the provision of:

- a) *services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:*
 - i. *the assembly, storage or land transport of air freight,*
 - ii. *the accommodation or transportation of air passengers by air or land,*
 - iii. *the operation, maintenance or repair of aircraft or aircraft components,*
 - iv. *the administrative functions associated with the airport, such as airport management and security,*
 - v. *the functions of government departments and authorities related to air passengers and air freight, and*
- b) *services provided for hotel or motel guests, including banking, dry cleaning, hairdressing and the like, that are located within the confines of the hotel or motel building.*

BLEP 1995 defines “airport-related industry” as:

The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for a commercial purpose related to the Sydney (Kingsford Smith) Airport, but does not include any of the following:

- a) any industry elsewhere defined for the purposes of this plan,*
- b) any hazardous or offensive development or potentially hazardous or offensive development under State Environmental Planning Policy No 33—Hazardous and Offensive Development,*
- c) any development that is declared to be designated development by the Environmental Planning and Assessment Regulation 2000,*
- d) any offensive storage establishment,*
- e) any materials recycling yard,*
- f) any hazardous storage establishment.*

The “airport-related industry” and “airport-related land use” definitions contained in the BLEP 1995 offered a wide range of uses and provided an appropriate degree of flexibility in the use of land in close proximity to the Airport whilst ensuring that those uses were purposes related to the Airport.

Under the Standard Instrument (i.e. BBLEP 2013), no such land uses are defined.

During the drafting of the Qantas Planning Proposal, Parliamentary Counsel advised that only Standard Instrument land uses can be inserted into a Standard Instrument LEP. Therefore, “airport-related industry” and “airport-related land use” cannot be referenced in the BBLEP 2013. Accordingly, the Planning Proposal seeks to incorporate the components of the “airport-related land uses” and “airport-related industries” definitions within Schedule 1 of the BBLEP 2013.

The intent of the Planning Proposal is comparable to *State Environmental Planning Policy (Three Ports) 2013* as it aims to protect employment lands and aviation uses in close proximity to Sydney Airport; safeguard the airport from incompatible land uses; and recognise Sydney Airport as a gateway to Sydney and key infrastructure to the NSW economy. The additional land uses will allow flexibility in the future use of the subject precinct; enable airport-related developments and uses; and achieve broader strategic planning objectives outlined in *A Plan for Growing Sydney* and the draft *East Subregional Strategy*.

The inclusion of airport-related land uses in Schedule 1 of the BBLEP 2013 will restrict additional permitted development in the precinct unless it can be demonstrated to be purposes related to Sydney (Kingsford Smith) Airport. A clause is also proposed to be inserted to ensure that “*the consent authority must consider whether or not the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway; and whether or not the development is likely to compromise the viability of adjoining industrial uses.*” This would ensure that any future development proposal utilising Schedule 1 of the BBLEP 2013 is for a purpose that would support the Airport and be consistent with the strategic role of the precinct.

It is envisaged that a similar clause to the BBLEP 2013 (*Amendment No. 1*) (i.e. Qantas Planning Proposal) would be drafted for this proposed amendment. The amendment was supported by Parliamentary Counsel and the Department of Planning & Environment and gazetted on 10 July 2015. Accordingly, there should be no impediment for a similar approach

to be undertaken in respect of the subject precinct considering its significance in supporting the Airport and Transport Gateway – Sydney Airport Precinct. Refer to **Section B – Relationship to strategic planning framework** for further discussion.

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 employment targets. The Strategy also provides the foundation for the development of the *BBLEP 2013*.

The following direction, objectives and actions apply to the subject precinct:

- **Strategic Direction 5** – *Maintaining Sydney Airport as a Global Gateway;*
- **Objective 5.1** – *Protect existing employment areas near the Airport for related activity;*
- **Action 5.1.1** – *Facilitate the transition of specific land north of Sydney Airport for Airport related business activities;*
- **Objective 5.2** – *Support the development of new offsite employment locations near the Airport to accommodate the growth in demand for Airport related activity;*
- **Action 5.2.1** – *Work with Marrickville Council and the State Government to encourage SACL to find a funding and development mechanism to bring the freight designated land to the north of the Airport into use;*
- **Action 5.2.2** – *Encourage State (and possibly Federal) Government involvement in the restructure of the identified land north of the Airport;*
- **Objective 5.5** – *Ensure Airport activities do not further compromise residential amenity.*

The Planning Proposal is consistent with the Strategy as it will maintain Sydney Airport as a Global Gateway to Australia; protect employment land north of the Airport; and encourage airport-related uses in close proximity to the Airport whilst not compromising adjoining land uses.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Attachment 5 summarises the Planning Proposal's consistency with State Environmental Planning Policies (SEPPs) and relevant deemed SEPPs.

6. 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 intent of this direction is 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:

- The proposal will retain the existing business and industrial zones for their associated purposes;
- The Planning Proposal does not seek to reduce the employment generating land available within the Botany Bay LGA;
- The Planning Proposal will safeguard existing and future employment lands (i.e. aviation uses and industries);
- The Planning Proposal will support the viability of the Mascot Station Precinct and Sydney Airport Precinct; and
- The Planning Proposal will not impact upon the supply of residential land or housing supply.

3.4 Integrating Land Use and Transport

The intent of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) *Improving access to housing, jobs and services by walking, cycling and public transport, and*
- b) *Increasing the choice of available transport by reducing 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) *Supporting 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 Planning Proposal will generate additional employment opportunities within walking distance (i.e. 500m approx) of Mascot train station and high frequent bus routes; and
- The Mascot Station Precinct will provide the ancillary retail and service activities for the subject precinct.

3.5 Development Near Licensed Aerodromes

The intent of this direction is to ensure the effective and safe operation of aerodromes; their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and development for residential purposes or human occupation incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The majority of the properties are situated between 25 and 30 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. 44m) 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 the “relevant Commonwealth body” (i.e. Sydney Airport Corporation Limited) for comment. 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.

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

The subject properties are identified as Class 2 Acid Sulfate Soils.

Future developments (i.e. any works below the natural ground surface or are likely to lower the watertable) are subject to Council's consent and lodgement of an acid sulfate soils management plan. No works are proposed as part of the Planning Proposal. Any significant adverse environmental impacts resulting from future developments 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.

Some of the properties are subject to flooding.

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 properties.

Future developments (excluding exempt developments) are subject to consent. Any significant adverse environmental impacts resulting from future developments 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 this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The Planning Proposal does not introduce any LEP provisions that result in any additional requirements for concurrence, consultation or referral to a Minister or public authority.

6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The Planning Proposal seeks to permit additional land uses on the subject properties through Schedule 1 of the *BBLEP 2013*. It offers an appropriate degree of flexibility in land use within proximity to Sydney Airport whilst ensuring future uses are related to the Airport.

Note: *The land use table for the IN1, B5 and B7 zones will remain unchanged.*

The Planning Proposal is not inconsistent with the objective of the direction as it will not introduce restrictive site specific planning controls or impose any additional development standards/requirements to those already contained in the IN1, B5 and B7 zones.

7.1 Implementation of A Plan for Growing Sydney

The intent 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 discussed above, the Planning Proposal is consistent with the Strategic Directions and Actions of *A Plan for Growing Sydney*.

Section C – Environmental, social and economic impact.

7. 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.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Aircraft Noise: The properties are located within the ANEF 20-25, 25-30 and 30-35 contours as identified by the *Australian Noise Exposure Forecast 2033 (ANEF) Chart*. Any development on these properties will be subject to compliance with the *Australian Standard 2021* (AS 2021).

Flooding: Some of the properties are subject to flooding. 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 properties. Future developments will be subject to consent and any significant adverse environmental impacts will be addressed during the development application stage.

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

Traffic: These properties will remain as employment lands. Hence, it is unlikely the Planning Proposal will generate additional traffic movements.

9. How has the planning proposal adequately addressed any social and economic effects?

Social effects: The Planning Proposal is unlikely to impact on items or places of European or Aboriginal cultural heritage; existing social infrastructure; and existing retail centres.

The Planning Proposal will not alter the land use table contained in the *BBLEP 2013*. The proposed additional uses will not generate additional permanent population in the Botany Bay LGA. Hence, it is unlikely the Planning Proposal will place additional pressure on existing social infrastructure (including schools and hospitals).

Economic effects: According to the Sydney Airport Masterplan 2033, Sydney Airport contributes approximately \$27.6 billion (2012) (equivalent to 6% of the NSW economy and 2% of the Australian economy) and is forecasted to increase to over \$42 billion in 2033. Total employment (i.e. direct and indirect employment) is also expected to increase from 283,700 jobs in 2012 to over 400,000 by 2033.

Economy.Id also indicates that the 'Transport, Postal and Warehousing'¹ industry had the largest output by industry, generating over \$10 billion or 47.2% of output in the Botany Bay LGA in 2013/14 (**Table 1**). It is the largest employer, generating 25,920 local jobs (41% of employment in the Botany Bay LGA) in 2013/14 (**Table 2**). For the precinct north of the airport (bounded by Gardeners Road, O'Riordan Street and Qantas Drive), 'Transport, Postal and Warehousing' industry generates 10,189 jobs or 57.1% of the precinct jobs. Furthermore, as a component of the 'Transport, Postal and Warehousing' industry, the 'Air and Space Transport'² industry generates 16,055 jobs or 25.4% of employment in the Botany Bay LGA (2013/14).

¹ The Transport, Postal and Warehousing Division includes units mainly engaged in providing transportation of passengers and freight by road, rail, water or air. Other transportation activities such as postal services, pipeline transport and scenic and sightseeing transport are included in this division.

Units mainly engaged in providing goods warehousing and storage activities are also included.

² Aircraft charter, lease or rental (with crew; for use in scheduled international air transport); Air transport service (scheduled international); Air transport terminal operation (for scheduled international air transport; except airports); Freight transport service (scheduled international air transport); Passenger transport service (scheduled international air transport)

Output by industry sector - Botany Bay LGA		
City of Botany Bay - Constant prices	2013/14	
Industry	\$m	%
Agriculture, Forestry and Fishing	9.4	0.04
Mining	0.0	0.0
Manufacturing	2,969.7	14.0
Electricity, Gas, Water and Waste Services	217.9	1.0
Construction	877.6	4.1
Wholesale Trade	1,277.8	6.0
Retail Trade	463.6	2.2
Accommodation and Food Services	399.9	1.9
Transport, Postal and Warehousing	10,008.1	47.2
Information Media and Telecommunications	358.2	1.7
Financial and Insurance Services	382.4	1.8
Rental, Hiring and Real Estate Services	1,467.1	6.9
Professional, Scientific and Technical Services	645.9	3.0
Administrative and Support Services	915.8	4.3
Public Administration and Safety	638.0	3.0
Education and Training	67.6	0.3
Health Care and Social Assistance	218.6	1.0
Arts and Recreation Services	47.6	0.2
Other Services	218.5	1.0
Total Industries	21,183.2	100.0

Source: National Institute of Economic and Industry Research (NIEIR)

Table 1 – Output by Industry

Employment (total) by industry (2013/14) - Botany Bay LGA		
Industry	Number	%
Agriculture, Forestry and Fishing	55	0.1
Mining	0	0.0
Manufacturing	6,352	10.0
Electricity, Gas, Water and Waste Services	568	0.9
Construction	4,410	7.0
Wholesale Trade	4,301	6.8
Retail Trade	3,847	6.1
Accommodation and Food Services	2,859	4.5
Transport, Postal and Warehousing	25,920	41.0
Information Media and Telecommunications	708	1.1
Financial and Insurance Services	734	1.2
Rental, Hiring and Real Estate Services	1,501	2.4
Professional, Scientific and Technical Services	2,652	4.2
Administrative and Support Services	2,471	3.9
Public Administration and Safety	2,456	3.9

Education and Training	717	1.1
Health Care and Social Assistance	1,905	3.0
Arts and Recreation Services	274	0.4
Other Services	1,528	2.4
Total Industries	63,257	100.0

Source: National Institute of Economic and Industry Research (NIEIR)

Table 2 – Employment by Industry

In 2008, Council engaged SGS Economic & Planning to conduct an Urban Capacity Analysis (“Botany Strategic Planning Study: Future Demand and Supply of Employment Land”) for the Botany Bay LGA. The study projected a 14 hectare land demand for off-site airport land uses.

These statistics highlight the importance of the airport-related industry to the NSW economy and Botany Bay LGA. The Planning Proposal will safeguard the existing airport-related industries located within the precinct, enable the ability to meet future demand for airport-related activities and allow the clustering of airport-related industries within 1km of Sydney Airport.

The Planning Proposal will not result in a reduction of employment lands located within the subject precinct or the Botany Bay LGA as the land use table contained in the *BBLEP 2013* will not be altered and the permissibility of residential development will remain unchanged.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The subject properties are serviced by existing public transport infrastructure, utility services, roads and essential services.

The Planning Proposal is unlikely to place additional demands or pressures on existing public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The following State and Commonwealth government authorities will be consulted:

- Sydney Airport Corporation Limited;
- NSW Ports;
- Commonwealth Department of Infrastructure and Regional Development;
- Transport for NSW;
- Road and Maritime Services;
- WestConnex Delivery Authority; and
- Adjoining LGAs.

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

The Planning Proposal does not require amendments to any of the maps contained in the *BBLEP 2013*.

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>	November 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>	December 2015-January 2016
<i>Commencement date for public exhibition period</i>	February-March 2016
<i>Dates for public hearing (if required)</i>	N/A
<i>Timeframe for consideration of submissions</i>	March 2016
<i>Timeframe for the consideration of a proposal post exhibition</i>	April-May 2016
<i>Date of submission to the Department to finalise the LEP</i>	June 2016
<i>Anticipated date RPA will make the plan (if delegated)</i>	August 2016
<i>Anticipated date RPA will forward to the Department for notification</i>	September 2016

Table 3 – Proposed Timeframe

* Subject to NSW Department of Planning & Environment approval and timeframe

PART 7 - CONCLUSION

In summary, the Planning Proposal seeks to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of the Airport in Mascot.

The Planning Proposal is generally consistent with relevant State and local legislation, directions, policies and strategic documents and will have a minimal environmental, social and economic impact.

The Proposal will enable a range of uses that will support Sydney Airport; strengthen the economic activity of the Global Economic Corridor and Transport Gateway – Sydney Airport Precinct; generate additional employment opportunities for the Botany Bay LGA; and have a positive social and economic impact.

ATTACHMENTS

1. Council Report and Resolution – Ordinary Council Meeting dated 23 July 2014
2. Department of Planning & Environment letter dated 30 January 2015
3. Council Report and Resolution – Development Committee Meeting dated 4 March 2015
4. Council Report – Development Committee Meeting dated 5 August 2015
5. List of State Environmental Planning Policies

Attachment 1 – Council report and resolution dated 23 July 2014

9.3 PLANNING PROPOSAL NO. 4/2014 - AIRPORT RELATED LAND USES**File No:** S14/85**Responsible Officer:** Rodger Dowsett - Director of Planning and Development**Date of Preparation:** 23 June 2014

RECOMMENDATION TO COUNCIL**THAT:**

- 1. That a Planning Proposal be prepared in accordance with the Environment Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000 to amend the Botany Bay Local Environmental Plan 2013 as follows:**
 - a. To rezone land identified in Figure 3 from B5 – Business Development; B7 – Business Park or IN1 – General Industrial to SP1 – Airport Related; and**
 - b. To introduce Clause 6.18 into BBLEP 2013 to permit certain non-airport related uses that do not compromise the role of Sydney Airport.**
 - 2. That the Planning Proposal be referred to the Department of Planning & Environment for Gateway Determination; and**
 - 3. That the result of the Gateway Determination be reported to a subsequent meeting of the Council.**
-

RECOMMENDATION TO COMMITTEE**THAT:**

This item be referred to Council with the following recommendation:

- 1. That a Planning Proposal be prepared in accordance with the Environment Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000 to amend the Botany Bay Local Environmental Plan 2013 as follows:**
 - a. To rezone land identified in Figure 3 from B5 – Business Development; B7 – Business Park or IN1 – General Industrial to SP1 – Airport Related; and**
 - b. To introduce Clause 6.18 into BBLEP 2013 to permit certain non-airport related uses that do not compromise the role of Sydney Airport.**
 - 2. That the Planning Proposal be referred to the Department of Planning & Environment for Gateway Determination; and**
-

3. That the result of the Gateway Determination be reported to a subsequent meeting of the Council.
-

EXECUTIVE SUMMARY

Under the *Botany Local Environmental Plan 1995*, 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related – Restricted were developed to cater for airport-related activities and land uses within the Botany Bay LGA. The primary objective of the zones was to enable a wide range of uses which have a relationship to Sydney (Kingsford-Smith) Airport.

In the preparation of an LEP to replace the Botany LEP 1995 the Department of Planning's Standard Instrument did not establish an equivalent zone for 4(c1) or 4(c2) zones and prohibited a council from developing "*new zones, create subzones, or change the name of a standard zone*". Due to these reasons, land uses to north of the airport have been converted to "best match" the standard zones in the Standard Instrument and which are now contained in the BBLEP 2013.

However, given the significance of supporting airport related land uses, the current zonings are not the preferred outcome at this time.

These zones (i.e. B5 – Business Development, B7 – Business Park and IN1 – General Industrial) are inconsistent with the intents and purposes of the 4(c1) and 4(c2) zones under the former BLEP 1995. Council may pursue the rezoning of these properties from B5 – Business Development, B7 – Business Park and IN1 – General Industrial to SP1 – Airport Related by submitting a Planning Proposal to the Department of Planning & Environment for Gateway Determination to re-establish an Airport Related zone. This concept to re-introduce an Airport Related zone has been discussed with the officer of the Department of Planning & Environment.

A copy of the draft Planning Proposal is on file for the Council's review.

If agreed to by the Council, a new clause will be inserted into the *Botany Bay Local Environmental Plan 2013* which enables some of the existing uses, permissible under the existing B5 and B7 zones, to be retained on the subject sites. Some of these uses may not be airport-related development but are appropriate in the locality such as non-airport related office and business development, medical centres and commercial car parks.

Under the *Botany Local Environmental Plan (BLEP) 1995*, the 4(c1) zone permitted the following uses with development consent:

Air freight forwarders; airport-related industries; airport-related land uses; building identification signs; bus depots; business identification signs; car parking facilities; child care centres; clubs; community facilities; convenience shops or facilities; customs agencies; general advertising; high technology industries; hotels; light goods dispatch; motels; places of worship; public buildings; recreation facilities; refreshment rooms; subdivision; taverns;

tradespersons' supply and service stores; utility installations; vehicle rental centres; warehouse or distribution 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.

The 4(c2) zone permitted the following uses with development consent:

Air freight forwarders; airport-related land uses; building identification signs; business identification signs; car parking facilities; child care centres; commercial premises; community facilities; convenience shops or facilities; general advertising; high technology industries; hotels; light goods dispatch; motels; motor showrooms; places of worship; public buildings; recreation facilities; refreshment rooms; serviced apartments; subdivision; taverns; tradespersons' supply and service stores; utility installations; vehicle rental centres; warehouse or distribution 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.

The 4(c1) zone only permitted development and use which have a relationship to the Sydney (Kingsford-Smith) Airport such as airport related industries, and custom agencies whilst the 4(c2) zone enabled a wide range of uses which may not necessarily be associated to the Airport such as commercial premises.

The table below provides a comparison of permissible landuses for the 4(c1) and 4(c2) zones.

Type	4(c1) – Industrial Special – Airport Related Landuses	4(c2) – Industrial Special – Airport Related – Restricted Landuses
<i>Business</i>	Convenience shops or facilities, Hotels, Motels, Taverns, Tradespersons' supply and service stores and Vehicle rental centres.	Commercial premises, Convenience shops or facilities, Hotels, Motels, Motor Showrooms, Serviced Apartments, Taverns, Tradespersons' supply and service stores and Vehicle rental centres.
<i>Industrial</i>	Air freight forwarders, Airport-related industries, Bus depots, High technology industries, Light good dispatch and Warehouse or distribution centres.	Air freight forwarders, High technology industries, Light good dispatch and Warehouse or distribution centres.
<i>Infrastructure</i>	Child care centres, Clubs, Community facilities, Place of worship, Public buildings,	Child care centres, Community facilities, Place of worship, Public buildings, Recreation facilities,

Type	4(c1) – Industrial Special – Airport Related Landuses	4(c2) – Industrial Special – Airport Related – Restricted Landuses
	Recreation facilities, Refreshment rooms and Utility installation.	Refreshment rooms and Utility installation.
<i>Other</i>	Airport-related land uses, Building identification signs, Business identification signs, Car parking facilities, Customs agencies, General advertising and Subdivision.	Airport-related land uses, Building identification signs, Business identification signs, Car parking facilities, General advertising and Subdivision.

The land zoned 4(c1) Industrial Special – Airport Related (dark purple in **Figure 1** below) under the Botany LEP 1995 was located:

- Fronting Gardeners Road, Alexandra Canal, Coward Street & Kent Road; and
- Fronting Coward Street, Bourke Road and along O’Riordan Street; and
- Fronting Baxter Road – between Baxter Road and Joyce Drive.

The land zoned 4(c1) Industrial Special – Airport Related Restricted (light purple in **Figure 1** below) under the Botany LEP 1995 was located:

- Fronting the south of Coward Street to the Goods Railway Line.

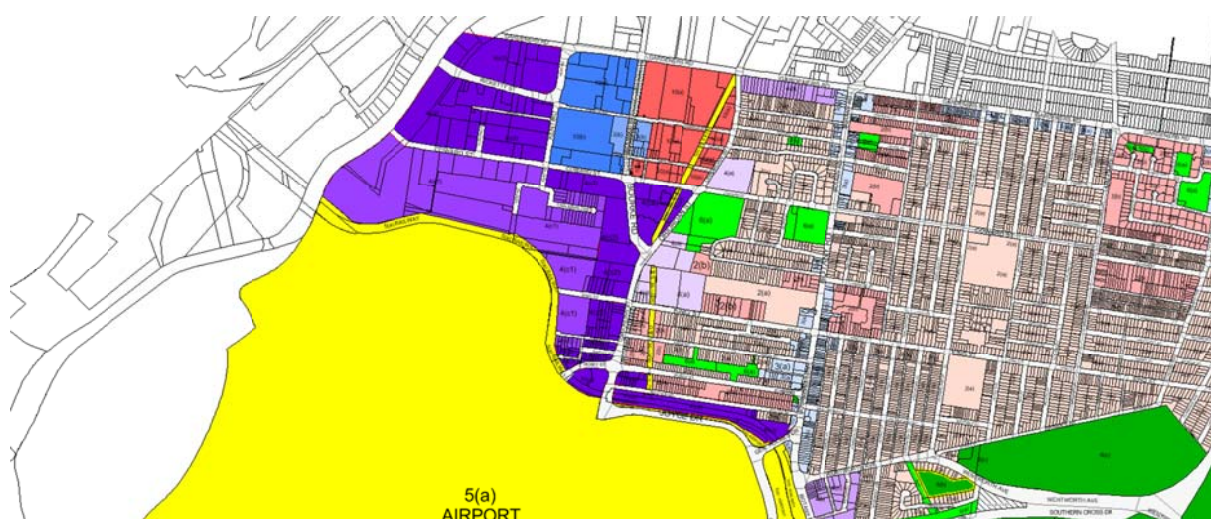


Figure 1 – Identification of Land Zoned 4(c1) & 4(c2) under Botany LEP 1995

Background

The Planning Proposal relates to 291 properties north of Sydney Airport. The properties are bounded by Ricketty Street/ Kent Road/Coward Street to the north, Alexandra Canal to the west, O’Riordan Street to the east and Joyce Drive/Qantas Drive to the south. These properties are located immediately north of Sydney Airport and, as stated previously, are currently zoned B5 – Business Development, B7 – Business Park and IN1 – General Industrial. These properties cover an area of approximately 70ha.

Area of land affected by the Planning Proposal is shown below:



Figure 2 – Aerial view of the area



Figure 3 – Area of land affected by the Planning Proposal

A list of the properties subject to this planning proposal is on file.

There is no change proposed to the height of 44m under the Botany Bay LEP 2013 which applies to the area identified by **Figure 3**.

There is also no change to the FSR under Botany Bay LEP 2013 which applies to the area identified by **Figure 3** and is detailed below:

Area	FSR under BBLEP 2013
Land bounded by Coward Street (south), Alexandra Canal, the Goods Railway Line & around Kent Road south (coloured brown and labelled “P” in Figure 4 below.	1.2:1
Remaining land fronting O’Riordan Street (coloured red and labelled “V1” in Figure 4 below.	3:1

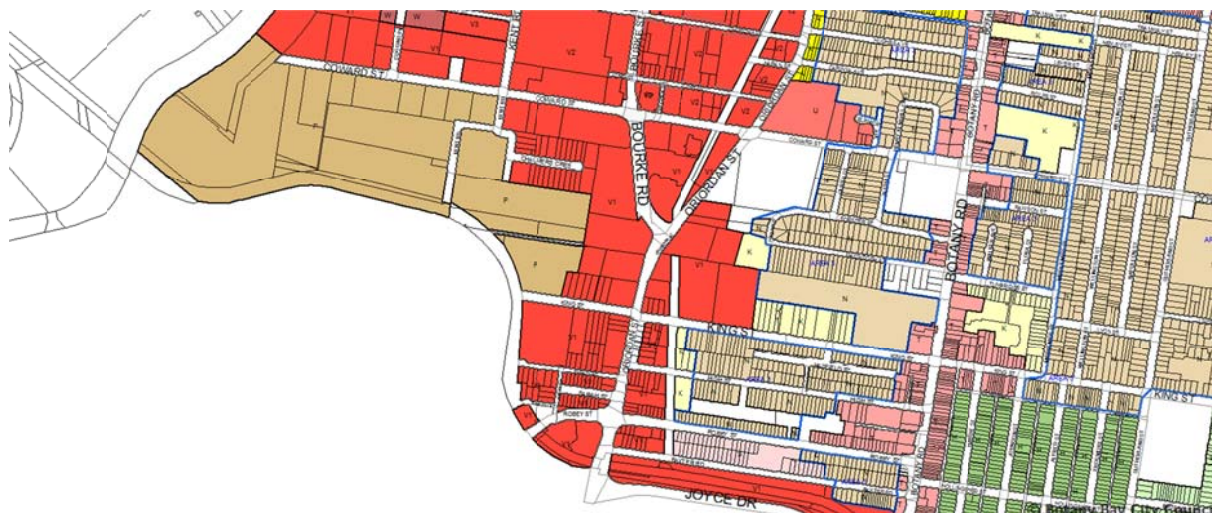


Figure 4 – FSRs under the Botany Bay LEP 2013

Discussion

Botany Local Environmental Plan (BLEP) 1995

In order to cater for airport-related activities and land uses within the Botany Bay LGA, 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related - Restricted zones were incorporated into the *Botany Local Environmental Plan 1995*.

Botany Bay Local Environmental Plan 2013

The Standard Instrument LEP Program was initiated in 2006 to create a common format and content for LEPs. The *Botany Bay Local Environmental Plan (BBLEP) 2013* has been prepared in response to the State Government's initiative and in accordance with relevant the Department's Practice Notes and Circulars.

Generally, zones under the BBLEP 2013 have been converted to "best match" zones contained within the BLEP 1995. However, the Standard Instrument did not establish an equivalent zone for 4(c1) - Industrial Special - Airport Related or 4(c2) - Industrial Special - Airport Related - Restricted. More importantly, the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) also prohibits a council from developing "new zones, create subzones, or change the name of a standard zone". Hence, the lands north of the airport have been zoned as B5 – Business Development, B7 – Business Park and IN1 – General Industrial, depending on the existing land uses.

The Planning Proposal is not inconsistent with relevant State and local strategic documents (such as *Metropolitan Plan for Sydney 2036*, draft *East Subregional Strategy*; and *Botany Bay Planning Strategy 2031*) and applicable state environmental planning policies and Ministerial Directions (s.117 directions).

Proposal

The Planning Proposal seeks to rezone the land identified in **Figures 2 and 3** to SP 1 – Airport Related. Under the provisions of the BBLEP 2013, the land use table for the SP1 zone is as follow:

Zone SP1 Special Activities

1. Objectives of Zone

- *To provide for special land uses that are not provided for in other zones.*
- *To provide for sites with special natural characteristics that are not provided for in other zones.*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*

2. Permitted Without Consent

Environmental protection works

3. Permitted With Consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

4. Prohibited

Any development not specified in item 2 or 3

The Land Zoning Map will indicate that the area depicted in **Figures 2 and 3** of this report be zoned SP1 - Airport Related.

The Planning Proposal also introduces the following clause into BBLEP 2013:

Clause 6.18 – Development in the Airport Precinct

- (1) The object of this clause is to achieve orderly development and facilitate the provision of airport and non-airport related uses in the Airport Precinct.***
- (2) This clause applies to the land known as the Airport Precinct, as shown edged darked blue and marked “Airport Precinct” on the Key Site Map.***

- (3) *The consent authority must not grant consent to development to which this applies unless the consent authority is satisfied that:*
- *The development is not inconsistent with the objective of the zone in which the land is located;*
 - *The development do not compromise the role of the Sydney Airport or the function of the Airport Precinct; and*
 - *The development will not have significant adversely impacts on the surrounding land uses and development;*

- (4) *Despite any other provision of this Plan, the following uses are permissible with development consent on land to which this clause applies in SP1 – Airport Related:*

“Airport related land uses; Airport related industry; Business premises; Car parks; Child care centres; Food and drink premises; Health services facility; High technology industries; Industrial training facilities; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Public administration building; Recreation area; Recreation facility (indoor); Roads; Tourist and Visitor Accommodation; Vehicle sales or hire premises; Warehouse or distribution centre.”

- (5) *In this clause:*

airport-related land use means a building or place used for purposes related to Sydney (Kingsford Smith) Airport, and includes a building or place used for the provision of services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:

- a) *the assembly, storage or land transport of air freight, or*
- b) *the accommodation or transportation of crew or air passengers, and the provision of associated shops, information and services, including banking, dry cleaning, hairdressing and the like, or*
- c) *the storage, operation, maintenance or repair of aircraft or aircraft components, or*
- d) *the administrative functions associated with the airport, such as airport management and security, or*
- e) *the functions of government departments and authorities related to air passengers and air freight.*

airport-related industry means a general industry or light industry for a purpose related to Sydney (Kingsford Smith) Airport.

In zoning the land SP1-Airport Related, developments such as depots, general industries and waste or resource management facilities will not be permitted. These uses are currently

permitted in the IN1 – General Industrial zone under the BBLEP 2013. As is advised earlier in this report, the Planning Proposal does not seek to amend the height or Floor Space Ratios (as outlined in Botany Bay LEP 2013) for the land affected by the Planning Proposal.

Other

On 9 December 2013, Qantas Airways Limited submitted a Planning Proposal to seek amendment of the Botany Bay Local Environmental Plan (BBLEP) 2013 in respect of Qantas' land at Mascot.

The Qantas Planning Proposal seeks the following amendments to the Botany Bay LEP 2013:

- Incorporate the following new objective in the IN1 – General Industrial and B5 – Business Development zones: *To support the role of Sydney Airport and Environs as a specialised centre by providing for an international aviation gateway and airport-related land uses and industries on land located in close proximity to the Sydney Airport.*
- Insert airport related landuses and airport related industry as a permissible uses on Qantas owned land; and
- Increase the FSR for “airport related land uses” or “airport related industries” on Qantas land from 1.2 to 1.5:1.

At its meeting held on 26 March 2014, Council resolved to refer the Planning Proposal to the Department of Planning & Environment for Gateway Determination. The Planning Proposal was submitted to the Department of Planning & Environment on 9 April 2014.

The Planning Proposal over the land owned by Qantas Airway Limited will need to be revisited as that Planning Proposal - as well as seeking airport related landuses and airport related industries as permitted uses over the Qantas land - is also seeking an increase in FSR from 1.2:1 to 1.5:1 for some of the land covered in **Figure 3** of this report and the inclusion of a new objective into the IN1 General Industrial and B5 Business Development Zone.

At the time of preparing this report the Gateway Determination has been issued for the Qantas Planning Proposal dated 18 June 2014. The Gateway Determination has no objection to the Qantas Planning Proposal but has required the preparation of a traffic impact assessment which assess the cumulative impact of development in the precinct and identifies mitigation measures to accommodate traffic impacts, especially at the O’Riordan Street/King Street intersection.

Next Steps

The rezoning of land identified in **Figure 3**, the Planning Proposal be finalised and lodged with the Department Planning & Environment for the Gateway process. If the Department supports the Planning Proposal, Council will need to amend the Qantas Planning Proposal by deleting the new objective into the IN1 General Industrial and B5 Business Development Zone and the reference to airport related landuses and airport related industries. The Qantas Planning Proposal will then only need to seek an increase in FSR from 1.2 to 1.5 for land owned by Qantas as their land will be incorporated into a new zone for airport related land uses.

Conclusion

In summary, the Planning Proposal seeks the following amendments:

- To rezone land identified in Figure 2 from B5 – Business Development, B7 – Business Park or IN1 – General Industrial to SP1 – Airport Related; and
- To introduce Clause 6.18 into BBLEP 2013 to permit certain non-airport related uses (ie commercial uses) that do not compromise the role of Sydney Airport.

The Planning Proposal is not inconsistent with relevant State and local legislations; directions, policies and strategic documents and will have a minimal environmental, social and economic impact.

9.3 PLANNING PROPOSAL NO. 4/2014 - AIRPORT RELATED LAND USES**File No:** S14/85

On the motion of Councillor Kondilios, seconded Councillor Troy

- 188/14
1. That a Planning Proposal be prepared in accordance with the Environment Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000 to amend the Botany Bay Local Environmental Plan 2013 as follows:
 - a. To rezone land identified in Figure 3 from B5 – Business Development; B7 – Business Park or IN1 – General Industrial to SP1 – Airport Related; and
 - b. To introduce Clause 6.18 into BBLEP 2013 to permit certain non-airport related uses that do not compromise the role of Sydney Airport.
 2. That the Planning Proposal be referred to the Department of Planning & Environment for Gateway Determination; and
 3. That the result of the Gateway Determination be reported to a subsequent meeting of the Council.

AT THIS STAGE, Councillor Kondilios reiterated his interest in Item 9.4 of the Council Agenda - Planning Proposal No. 5/2014 - Housekeeping Amendment to Botany Bay Local Environmental Plan 2013 and left the Council Chamber. Councillor Kondilios did not participate in the discussion of this item, nor did he vote in respect of this item.

9.4 PLANNING PROPOSAL NO. 5/2014 - HOUSEKEEPING AMENDMENT TO BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013**File No:** S13/111

On the motion of Councillor Troy, seconded Councillor Curry

- 189/14
1. That a Planning Proposal be prepared in accordance with the Environment Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000 to amend the Botany Bay Local Environmental Plan 2013 as follows:
 - a) Amend the Botany Bay Local Environmental Plan 2013 by the removal of the Heritage Item **I75** (Street Trees at corner of

Attachment 2 – Department of Planning & Environment letter dated 30 January 2015



Ms Heather Warton
Director, Planning & Development
Botany Bay Council
PO Box 331
MASCOT NSW 1460

14/20758

Dear Ms Warton,

I refer to Council's planning proposal for a new SP1 Airport related development zone and associated land use permissibility framework for land to the north of Sydney Airport under Botany Bay Local Environmental Plan 2013 (BBLEP 2013).

As stated at the November 2014 Quarterly meeting, it is acknowledged that Council considers the previous zoning framework under BBLEP 1995 provided greater certainty for airport related uses, however its proposed re-instatement under the Standard Instrument LEP raises a number of legal and policy issues as follows:

- the SP1 Special Activities zone shouldn't be used to group a number of distinct land use zones and unrelated lots of land in the way Council has proposed;
- 'Airport related' is not a land use in the Standard LEP Dictionary; and
- 'Airport related land uses' and 'Airport related industry' are not types of development for the purposes of permitting or prohibited development according to Direction 5 to the Standard LEP.

The above is outlined in more detail in **Attachment 1**.

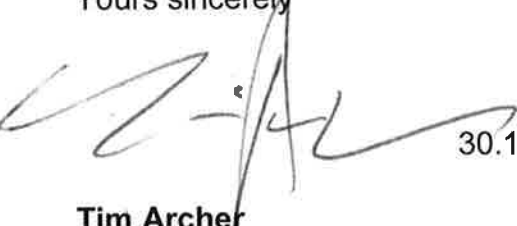
At the broader planning policy level, one of the key actions of the recently released *A Plan for Growing Sydney* is to enhance capacity at Sydney's Gateways, including Sydney Airport. A key action to be undertaken by the new Greater Sydney Commission will be the development and implementation of a planning strategy to support the operation of the Airport and Port, including land use and transport aspects.

The Department broadly supports Council's intent of providing for airport and port related land uses in this area, but in light of the above, the Regional Team would recommend refusal of the proposal if it proceeded to the Gateway in its current form.

As such, Council may wish to consider withdrawing the current planning proposal to enable preparation of a revised proposal that is consistent with *A Plan for Growing Sydney* and the Standard LEP. This may involve identifying additional land uses for certain lots within the subject land, and permitting them via Schedule 1 'Additional Permitted Uses', but only if they are listed in Direction 5.

The Regional Team would be pleased to meet with Council to discuss a way forward. Please contact myself directly on (02) 8575 4140, or Michael Kokot on (02) 8575 4126, to arrange a suitable time or to discuss further.

Yours sincerely



30.1.15

Tim Archer
Acting Director, Metropolitan Region (East)
Planning Services

ATTACHMENT 1

BOTANY PROPOSED SP1 AND RELATED DEVELOPMENT ZONE SUMMARY OF PLANNING POLICY AND LEGAL ISSUES

Planning policy

- The intentions for Standard Instrument (SI LEP) related zones are outlined in the Department's Circular PN 11 – 002, which specifies that the SP1 Special Activities zone is intended for land uses or sites with special characteristics (eg Luna Park) which cannot be accommodated in other zones (see p. 7).
- It is therefore not intended that the SP1 zone be used to group together a number of distinct land use zones and unrelated lots of land, such as for the proposed SP1 Airport Related development zone.

Legal and drafting aspects

- Council's proposal attempts to establish land use permissibility through subclause (4) of the proposed clause 6.18 – Development in the Airport Precinct.
- However, the preferred approach is to do this via the Land Use Table (LUT) and standard zones.
- As outlined in clause 2.3(1) of the SI LEP, it is the LUT which specifies what development is permissible with or without consent or is prohibited.
- Under the LUT, clause 3 of zone SP1 mandates that a purpose be shown on the Land Zoning Map that is permitted with consent.
- Council has labelled 'airport related' on the proposed map as being permitted with consent. However, as conveyed to Council through the Gateway determination for the preceding Qantas Lands planning proposal, this is not a recognised planning purpose or land use, and is not a defined term in the Dictionary of the SI LEP.
- 'Airport related land uses' and 'Airport related industry' are not types of development that can be included in the LUT as permissible/prohibited according to Direction 5 of the SI LEP.
- These terms do not provide certainty for landowners in the area, and are unlikely to be accepted by Parliamentary Counsel at legal drafting stage of the LEP amendment.

Attachment 3 – Council report and resolution dated 4 March 2015

5.15 UPDATE ON PLANNING PROPOSAL NO. 4/2014 - AIRPORT RELATED LANDUSES

File No:	S14/85
Attachments:	Attachment A - Letter dated 30 January 2015 from Department of Planning & Environment
Responsible Officer:	Heather Warton - Director of City Planning & Environment
Date of Preparation:	16 February 2015

EXECUTIVE SUMMARY

This report provides an update on Planning Proposal No. 4/2014 for the rezoning of land north of the airport to a SP1 – Airport Related Zoning. The Department of Planning and Environment (DP&E) has requested that the Planning Proposal be revised so that it is consistent with *A Plan for Growing Sydney* and the Standard LEP.

BACKGROUND

The Planning Proposal relates to 291 properties north of Sydney Airport. The properties are bounded by Ricketty Street/Coward Street to the north, Alexandra Canal to the west, O’Riordan Street to the east and Joyce Drive/Qantas Drive to the south. The properties are located immediately north of Sydney Airport. Refer to **Figure 1 - Aerial** view of the area and **Figure 2 – Area of land affected by the Planning Proposal** for the location of the subject properties. These properties are currently zoned as B5 – Business Development, B7 – Business Park and IN1 – General Industrial. These properties cover an area of approximately 70ha.

Council resolved on 23 July 2014 to prepare a Planning Proposal to amend the Botany Bay Local Environmental Plan 2013 as follows:

- Rezone properties identified in Figures 1/2 to SP1 – Airport Related which is similar to the 4(c1) - Industrial Special - Airport Related and 4 (c2) Industrial Special – Airport Related - Restricted zones under the previous Botany Local Environmental Plan 1995; and
- Introduce Clause 6.18 into Botany Bay Local Environmental Plan 2013 to permit certain non-airport related uses that do not compromise the role of Sydney Airport.
Clause 6.18 – Development in the Airport Precinct was proposed to state:

- (1) *The object of this clause is to achieve orderly development and facilitate the provision of airport and non-airport related uses in the Airport Precinct.*
- (2) *This clause applies to the land known as the Airport Precinct, as shown edged darked blue and marked “Airport Precinct” on the Key Site Map.*
- (3) *The consent authority must not grant consent to development to which this applies unless the consent authority is satisfied that:*

- *The development is not inconsistent with the objective of the zone in which the land is located;*
- *The development do not compromise the role of the Sydney Airport or the function of the Airport Precinct; and*
- *The development will not have significant adverse impacts on the surrounding land uses and development;*

(4) Despite any other provision of this Plan, the following uses are permissible with development consent on land to which this clause applies in SP1 – Airport Related:

Airport related land uses; Airport related industry; Business premises; Car parks; Child care centres; Food and drink premises; Health services facility; High technology industries; Industrial training facilities; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Public administration building; Recreation area; Recreation facility (indoor); Roads; Tourist and Visitor Accommodation; Vehicle sales or hire premises; Warehouse or distribution centre.

(5) In this clause:

Airport related land use means a building or place used for purposes related to Sydney (Kingsford Smith) Airport, and includes a building or place used for the provision of services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:

- a) the assembly, storage or land transport of air freight, or*
- b) the accommodation or transportation of crew or air passengers, and the provision of associated shops, information and services, including banking, dry cleaning, hairdressing and the like, or*
- c) the storage, operation, maintenance or repair of aircraft or aircraft components, or*
- d) the administrative functions associated with the airport, such as airport management and security, or*
- e) the functions of government departments and authorities related to air passengers and air freight.*

Airport related industry means a general industry or light industry for a purpose related to Sydney (Kingsford Smith) Airport.

The Committee should note that FSR and Height of Building for the subject properties will remain unchanged

The Planning Proposal was forwarded to DP&E under cover of Council letter dated 12 August 2014. Further information was supplied to the DP&E on 18 September 2014 and 30 October 2014. The Planning Proposal was also discussed at a meeting held 12 November 2014 between the DP&E and Council.



Figure 1 – Aerial view of the area

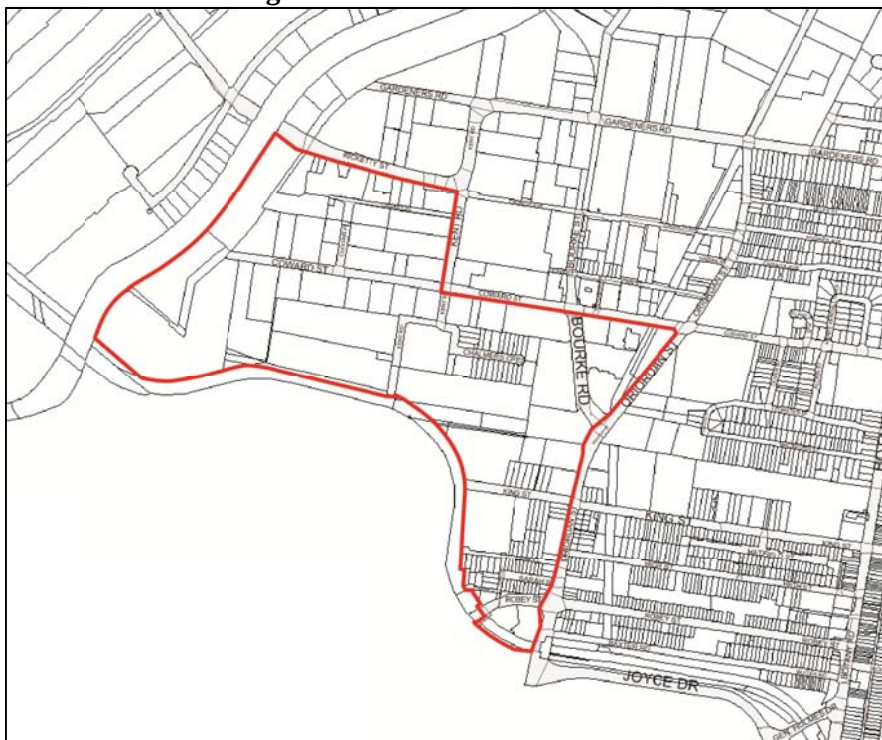


Figure 2 – Area of land affected by the Planning Proposal

DEPARTMENT OF PLANNING & ENVIRONMENT'S LETTER DATED 30 JANUARY 2015

The DP&E by letter dated 30 January 2015 has advised Council to consider withdrawing the current planning proposal to enable the preparation of a revised planning proposal that is

consistent with *A Plan for Growing Sydney* (which was released on 15 December 2014) and the Standard LEP.

In summary the Planning Proposal will not be supported by the DP&E for the following reasons:

- The SP1 Special Activities Zone is intended for land uses or sites with special characteristics which cannot be accommodated in other zones – eg Luna Park. The SP1 Zone was not intended to group together a number of distinct land use zones and unrelated allotments of land.
- The Planning Proposal does not address *A Plan for Growing Sydney* – though the reason for this is that the Planning Proposal was lodged with the DP&E on 12 August 2014 and *A Plan for Growing Sydney* was released in December 2014.

A Plan for Growing Sydney does however have a specific direction relating to the Transport Gateways (Port Botany and the Airport) with a number of actions.

The Direction 1.5 states: *Enhance capacity at Sydney's gateways and freight networks*. The accompanying Action 1.5.1 states: *Development and implement a strategy for the Sydney Airport and Port Botany Precincts to support their operation, taking into account landuses and the proposed road transport investments*. The DP&E has advised in its letter dated 30 January 2015 that this action will be undertaken by the new Greater Sydney Commission.

A copy of the DP&E's letter is attached as **Attachment 1**.

QANTAS PLANNING PROPOSAL

The Qantas Planning Proposal is the subject of a separate report to the Development Committee. The Qantas Planning Proposal seeks the following amendments:

- Introduce 'airport-related land uses', 'airport-related industry' and additional permitted uses (as defined in the Standard Instrument Local Environmental Plan dictionary) to land owned by Qantas within Schedule 1 of the BBLEP 2013.
- Under the introduced clauses in Schedule 1 of the BBLEP 2013 relating to land owned by Qantas, insert a clause to ensure that "*when considering applications under this clause, the consent authority shall have regard to whether the development supports the role of Sydney Airport and Environs as a transport gateway and does not compromise the viability of adjoining industrial uses.*"
- Amend the BBLEP 2013 to provide for a maximum floor space ratio of 1.5:1 on that part of the Qantas Land zoned IN1 for 'airport-related land uses' or 'airport-related industries'.

The Department to date has supported the Qantas Planning Proposal as the new Schedule 1 list of landuses relates to a smaller area of land and does not seek a new zone.

CONCLUSION

In light of the DP&E's letter dated 30 January 2015 further work is required by Council in conjunction with the Department, especially given the stated role of the Greater Sydney Commission in this LGA. Therefore this report recommends that DP&E be advised that Council will be lodging a revised Planning Proposal to address the issues raised in the letter dated 30 January 2015.

A revised Planning Proposal will be the subject of a further report to the Council prior to its lodgement with the DP&E.

RECOMMENDATION

THAT:

1. Council resolve to prepare a revised Planning Proposal in accordance with Section 56(7) of the Environmental Planning & Assessment Act 1979 to address the concerns raised in the Department of Planning and Environment's letter dated 30 January 2015 and
2. Once prepared the revised Planning Proposal be report back to the Council.

The Chairman advised that, in relation to Item 5.14, Council resolved that:

1. The contents of the report be noted.
2. The Planning Proposal be amended to delete the proposed IN1 and B5 zone objective, re-word it as a condition with reference to 'transport gateway' and move it to Schedule 1.
3. The amended Planning Proposal dated March 2015 be adopted and forwarded to the NSW Department of Planning and Environment for gazettal.

5.15 UPDATE ON PLANNING PROPOSAL NO. 4/2014 - AIRPORT RELATED LANDUSES

File No: S14/85

On the motion of Councillor Mitchell, seconded Councillor Troy

COUNCIL RESOLVED THAT:

1. Council resolve to prepare a revised Planning Proposal in accordance with Section 56(7) of the Environmental Planning & Assessment Act 1979 to address the concerns raised in the Department of Planning and Environment's letter dated 30 January 2015 and
2. Once prepared the revised Planning Proposal be report back to the Council.

5.16 DANGEROUS GOODS TRANSPORT QRA, DENISON STREET, HILLSDALE

File No: 12/91-04

On the motion of Councillor Keneally, seconded Councillor Glinatsis

COUNCIL RESOLVED THAT:

1. Council write to the Department of Planning & Environment regarding Recommendation 1 of the *Dangerous Goods Transport QRA Denison Street, Hillsdale*, requesting that the Department be the authority responsible for monitoring of the transport of dangerous goods in the study area and any future update of the QRA;
2. Council review the adequacy of existing emergency evacuation arrangements for Hensley Athletic Field to ensure that appropriate mitigation measures are

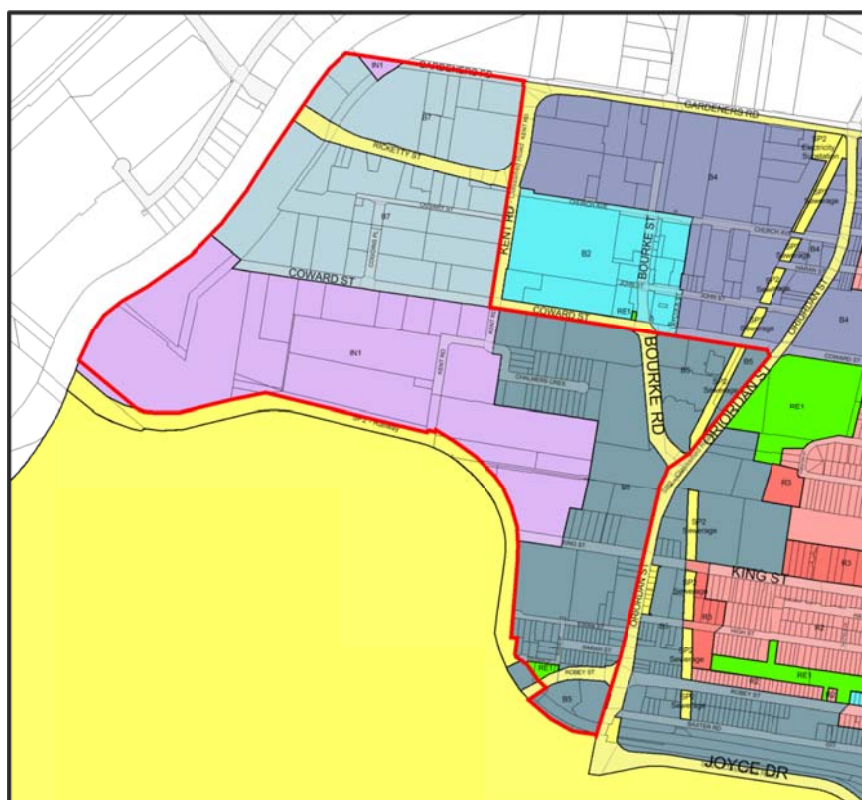
Attachment 4 – Council report and resolution dated 5 August 2015

5.15 AIRPORT-RELATED LAND USES PLANNING PROPOSAL

File No:	S14/85-02
Attachments:	Attachment 1 - Airport-Related Land Uses Planning Proposal
Responsible Officer:	Stephanie Lum - Senior Strategic Planner
Date of Preparation:	14 July 2015

EXECUTIVE SUMMARY

A Planning Proposal (**Attachment 1**) has been prepared seeking to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of the Airport in Mascot as identified on the map below. The properties are bounded by Gardeners Road and Coward Street (via Kent Road) to the north, Alexandra Canal to the west, O’Riordan Street to the east and Joyce Drive/Qantas Drive to the south.



The intended outcomes of the Planning Proposal are to:

- Enable a wide range of uses which have a relationship and are compatible with Sydney Airport;
 - Support and encourage airport-related land uses in proximity to Sydney Airport; and
-

- Acknowledge the strategic importance of the subject properties in supporting the role of Sydney Airport and environs.

It is recommended that Council refer the Planning Proposal to the Department of Planning & Environment (DP&E) for Gateway Determination.

BACKGROUND

Airport-Related Land Uses Planning Proposal

To cater for airport-related activities and land uses within the Botany Bay Local Government Area (LGA), the subject properties were zoned 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related - Restricted zones in the *Botany Local Environmental Plan 1995*.

The Standard Instrument LEP Program was initiated in 2006 to create a common format and content for LEPs. The Standard Instrument did not establish an equivalent zone for 4(c1) - Industrial Special - Airport Related and 4(c2) - Industrial Special - Airport Related - Restricted. More importantly, the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) also prohibits a council from developing “new zones, create subzones, or change the name of a standard zone”. Hence, the lands north of Sydney (Kingsford Smith) Airport have been zoned as B5 – Business Development, B7 – Business Park and IN1 – General Industrial in the Standard Instrument *Botany Bay Local Environmental Plan (BBLEP) 2013*.

At the Ordinary Council Meeting held on 23 July 2014, Council resolved to prepare a Planning Proposal to:

- rezone properties north of Sydney (Kingsford Smith) Airport to SP1 – Airport Related under the *BBLEP 2013*; and
- introduce Clause 6.18 (Development in the Airport Precinct) in the *BBLEP 2013* to permit certain airport and non-airport related uses in the precinct that do not compromise the role of Sydney Airport.

In accordance with Council’s resolution, the Planning Proposal was forwarded to the DP&E for Gateway Determination on 12 August 2014.

On 30 January 2015, the DP&E advised Council that the Planning Proposal raised the following legal and policy issues:

- the SP1 – Special Activities zone should not be used to group a number of distinct land use zones and unrelated lots of land in the way Council has proposed;
- 'Airport related land uses' and 'Airport related industry' are not land uses in the Standard LEP Dictionary.

Accordingly, the DP&E recommended refusal of the proposal if it proceeded to Gateway and advised Council to consider withdrawing the current Planning Proposal to enable preparation of a revised proposal. Accordingly, at its Development Committee Meeting held 4 March

2015, Council resolved to prepare a revised Planning Proposal to address the DP&E's concerns.

It should be noted that the Qantas owned land at Mascot affected by *BBLEP 2013 (Amendment No. 1)* i.e. the Qantas Planning Proposal is also affected by this Airport-Related Land Uses Planning Proposal.

Qantas Planning Proposal

On 10 July 2015, *BBLEP 2013 (Amendment No. 1)* was gazetted. The amendment relates to the Qantas Planning Proposal which introduced additional permitted uses relating to Sydney (Kingsford Smith) Airport on Qantas owned land at Mascot through the insertion of Clause 9A (Use of certain land at Coward Street, King Street and Kent Road, Mascot); and Clause 10A (Use of certain land at King Street, Mascot) in Schedule 1 (Additional permitted uses) of the *BBLEP 2013*. The FSR map was also amended to identify Qantas owned IN1 zoned land with reference to a new clause (Clause 4.4 (2D) – Floor Space Ratio) to increase the FSR to 1.5:1 for uses permissible under Clause 9A.

PROPOSED AMENDMENT

Since the Qantas owned land at Mascot affected by the gazetted amendment is also affected by this subject Planning Proposal and the intended outcomes of the Planning Proposal are similar to the gazetted amendment, the Planning Proposal seeks to replace the gazetted Qantas Planning Proposal amendment. Accordingly, the amendments to Schedule 1 (i.e. Clause 9A and 10A) are proposed to be deleted and replaced by similar clauses encompassing a larger area north of Sydney (Kingsford Smith) Airport.

Consistent with the gazetted amendment, the Planning Proposal intends to insert two clauses in Schedule 1 (Additional Permitted Uses) with the first encompassing all the subject properties and the second only applying to B5 and B7 zoned land within the subject area since the additional permitted uses are already permissible within the IN1 zone. The proposed clauses will contain the additional permitted land uses from the gazetted amendment and the subclause ensuring that these additional uses will only be permitted if the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway and will not compromise the viability of adjoining industrial uses.

Given the proposed amendment will replace the gazetted amendment, reference to Clause 9A in newly inserted Clause 4.4 (2D) will become defunct and will need to be amended to refer to the proposed clause.

The Planning Proposal seeks the following amendments to the *BBLEP 2013*:

1. Delete the following under Schedule 1 – Additional permitted uses:
 - a) Clause 9A – Use of certain land at Coward Street, King Street and Kent Road, Mascot; and
 - b) Clause 10A – Use of certain land at King Street, Mascot.

2. Insert the following under Schedule 1 – Additional permitted uses to apply to all the subject properties:
- 1) Development is permitted with development consent:
 - a) for any of the following purposes, but only if the purpose relates to the use of Sydney (Kingsford Smith) Airport:
 - ii. commercial premises,
 - iii. function centres,
 - iv. information and education facilities,
 - v. passenger transport facilities,
 - vi. tourist and visitor accommodation, or
 - b) for the purpose of any other building or place used only for purposes that relate to the use of Sydney (Kingsford Smith) Airport.
 - 2) Without limiting subclause (1), development is permitted with development consent for the purpose of a building or place used for the provision of any of the following services:
 - a) services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:
 - ii. the assembly, storage or land transport of air freight,
 - iii. the accommodation, or transportation by air or land, of air passengers or air crew,
 - iv. the storage, operation, maintenance or repair of aircraft or aircraft components,
 - v. the administrative functions associated with the airport, such as airport management and security,
 - vi. the functions of government departments and authorities related to air passengers and air freight,
 - b) services provided for hotel or motel guests, including banking, dry cleaning, hairdressing and the like, that are located within the confines of the hotel or motel building.
 - 3) In determining whether to grant development consent under this clause, the consent authority must consider the following:
 - a) whether or not the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway,

- b) whether or not the development is likely to compromise the viability of adjoining industrial uses.
- 3. Insert the following under Schedule 1 – Additional permitted uses to apply to B5 and B7 zoned land within the subject area:
 - 1) Development for any of the following purposes is permitted with development consent, but only if the purpose relates to the use of Sydney (Kingsford Smith) Airport:
 - a) freight transport facilities,
 - b) industrial training facilities,
 - c) general industries,
 - d) light industries,
 - e) storage premises,
 - f) transport depots.
 - 2) In determining whether to grant development consent under this clause, the consent authority must consider the following:
 - a) whether or not the development is likely to support the role of Sydney (Kingsford Smith) Airport and environs as a transport gateway,
 - b) whether or not the development is likely to compromise the viability of adjoining industrial uses.
- 4. Amend Clause 4.4 (2D) – Floor space ratio to delete reference to ‘Clause 9A’ and replace it with reference to the proposed clause discussed in point 2 above.

CONSIDERATION

The Planning Proposal seeks to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of the Airport in Mascot. The introduction of additional permitted uses will provide certainty to aviation-related activities and uses presently undertaken on these properties and those that are planned in the future; protect aviation-related uses within the Botany Bay LGA; enable the clustering of airport-related uses and developments; avoid incompatible development or uses in the vicinity of the Airport; and underline the importance of these properties in supporting the role and function of Sydney Airport as the gateway to NSW and Australia.

The revised Planning Proposal addresses the DP&E’s concerns with the previous Planning Proposal by introducing additional permitted uses through Schedule 1 of the *BBLEP 2013* rather than rezoning it to SP1 – Special Activities. The revised Planning Proposal also does not introduce any land uses not derived from the Standard Instrument.

The Planning Proposal is not inconsistent with relevant State and local legislation, directions, policies and strategic documents and will have a minimal environmental, social and economic impact. Given a similar approach to the recently gazetted *BBLEP 2013 (Amendment No. 1)* has been undertaken, there should be no impediment for the proposed amendment.

CONCLUSION

A Planning Proposal has been prepared seeking to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of the Airport in Mascot. The purpose of the Planning Proposal is to cater for airport-related activities and land uses on land near the Airport to support its role as a transport gateway.

It is recommended that Council refer the Planning Proposal in **Attachment 1** to the DP&E for Gateway Determination.

RECOMMENDATION

THAT:

1. A Planning Proposal be prepared in accordance with the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* to amend the *Botany Bay Local Environmental Plan 2013* to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of Sydney (Kingsford Smith) Airport in Mascot;
2. The Planning Proposal be referred to the Department of Planning & Environment for Gateway Determination in accordance with Section 56 of the Act; and
3. The Planning Proposal be exhibited in accordance with the Gateway Determination and the submissions be reported to Council.

5.13 UPDATE OF APPLICATIONS TO BE DETERMINED BY THE JRPP**File No:** 09/24**COUNCIL RESOLVED THAT:**

Note the above report on the summary and status of applications where the determining authority is the JRPP.

5.14 130-150 BUNNERONG ROAD, PAGEWOOD - DRAFT PLANNING AGREEMENT ASSOCIATED WITH THE STAGE 1 APPLICATION DA 14/096.**File No:** DA-14(96).03

On the motion of Councillor Keneally, seconded Councillor Glinatsis

COUNCIL RESOLVED THAT:

If a section 34 Agreement is entered into and DA 14/096 is approved, that the General Manager be granted delegation to finalise the wording of the Planning Agreement and to enter into the Planning Agreement with Karimbla Properties (No. 39) Pty Limited associated with DA 14/096 for a Stage 1 Development at 130 – 150 Bunnerong Road Pagewood, based on the draft in Attachment 1.

5.15 AIRPORT-RELATED LAND USES PLANNING PROPOSAL**File No:** S14/85-02

On the motion of Councillor Castle, seconded Councillor Troy

COUNCIL RESOLVED THAT:

1. A Planning Proposal be prepared in accordance with the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* to amend the *Botany Bay Local Environmental Plan 2013* to introduce additional permitted uses relating to Sydney (Kingsford Smith) Airport on land located north of Sydney (Kingsford Smith) Airport in Mascot;
 2. The Planning Proposal be referred to the Department of Planning & Environment for Gateway Determination in accordance with Section 56 of the Act; and
 3. The Planning Proposal be exhibited in accordance with the Gateway Determination and the submissions be reported to Council.
-

Attachment 5 - List of State Environmental Planning Policies

State Environmental Planning Policy (SEPP)	Consistent with applicable State Environmental Planning Policies
<i>No.1 – Development Standards</i>	Not applicable
<i>No.14 – Coastal Wetlands</i>	Not applicable
<i>No.15 – Rural Landsharing Communities</i>	Not applicable
<i>No.19 – Bushland in Urban Areas</i>	Not applicable
<i>No.21 – Caravan Parks</i>	Not applicable
<i>No.26 – Littoral Rainforests</i>	Not applicable
<i>No.29 – Western Sydney Recreation Area</i>	Not applicable
<i>No.30 – Intensive Agriculture</i>	Not applicable
<i>No.32 – Urban Consolidation (Redevelopment of Urban Land)</i>	Not applicable
<i>No.33 – Hazardous and Offensive Development</i>	Not applicable
<i>No.36 – Manufactured Home Estates</i>	Not applicable
<i>No.39 – Spit Island Bird Habitat</i>	Not applicable
<i>No.44 – Koala Habitat Protection</i>	Not applicable
<i>No.47 – Moore Park Showground</i>	Not applicable
<i>No.50 – Canal Estate Development</i>	Not applicable
<i>No.52 – Farm Dams and Other Works in Land and Water Management Plan Areas</i>	Not applicable
<i>No.55 – Remediation</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.59 – Central Western Sydney Regional Open Space and Residential</i>	Not applicable
<i>No.62 – Sustainable Aquaculture</i>	Not applicable
<i>No.64 – Advertising and Signage</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.65 – Design Quality of Residential Flat Development</i>	Not applicable
<i>No.70 – Affordable Housing (Revised Schemes)</i>	Not applicable
<i>No.71 – Coastal Protection</i>	Not applicable
<i>Affordable Rental Housing (2009)</i>	Not applicable
<i>Building Sustainability Index: BASIX (2004)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Exempt and Complying Development Codes (2008)</i>	Consistent

	The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Housing for Seniors or People with a Disability (2004)</i>	Not applicable
<i>Infrastructure (2007)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Kosciuszko National Park – Alpine Resorts (2007)</i>	Not applicable
<i>Kurnell Peninsula (1989)</i>	Not applicable
<i>Major Development (2005)</i>	Not applicable
<i>Mining, Petroleum Production and Extractive Industries (2007)</i>	Not applicable
<i>Miscellaneous Consent Provisions (2007)</i>	Not applicable
<i>Penrith Lakes Scheme (1989)</i>	Not applicable
<i>Rural Lands (2008)</i>	Not applicable
<i>SEPP 53 Transitional Provisions (2011)</i>	Not applicable
<i>State and Regional Development (2011)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Sydney Drinking Water Catchment (2011)</i>	Not applicable
<i>Sydney Region Growth Centres (2006)</i>	Not applicable
<i>Three Ports (2013)</i>	Not applicable
<i>Urban Renewal (2010)</i>	Not applicable
<i>Western Sydney Employment Area (2009)</i>	Not applicable
<i>Western Sydney Parklands (2009)</i>	Not applicable
<i>Sydney Regional Environmental Plan No.8 - Central Coast Plateau Areas</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 9 – Extractive Industry (No.2 – 1995)</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 16 – Walsh Bay</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 18 – Public Transport Corridors</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 19 – Rouse Hill Development Area</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2 – 1997)</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 24 – Homebush Bay Area</i>	Not applicable

<i>Sydney Regional Environmental Plan No. 26 – City West</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 30 – St Marys</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 33 – Cooks Cove</i>	Not applicable
<i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>	Not applicable