

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.
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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
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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.

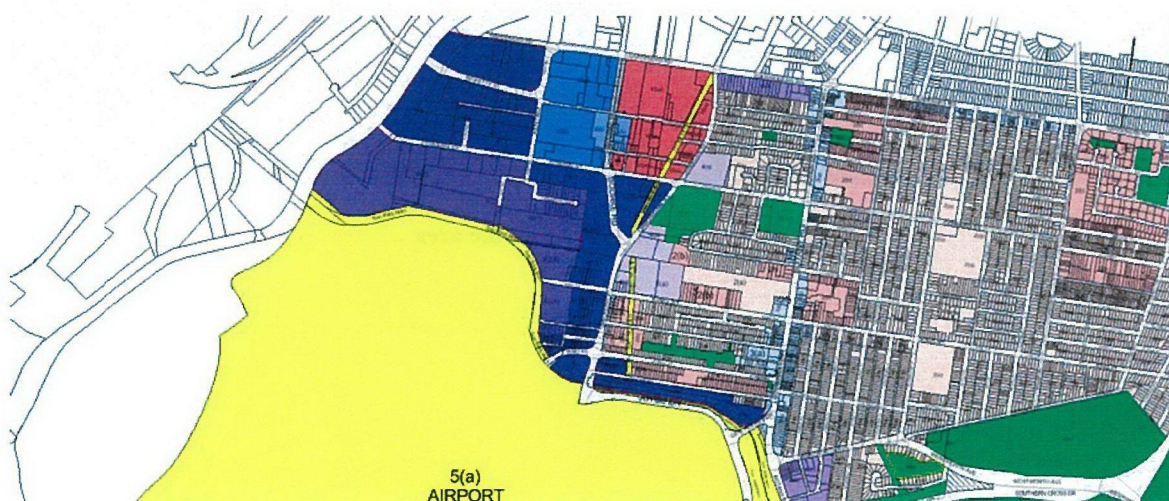


Figure 1 – Identification of Land Zoned 4(c1) & 4(c2) under Botany LEP 1995

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:

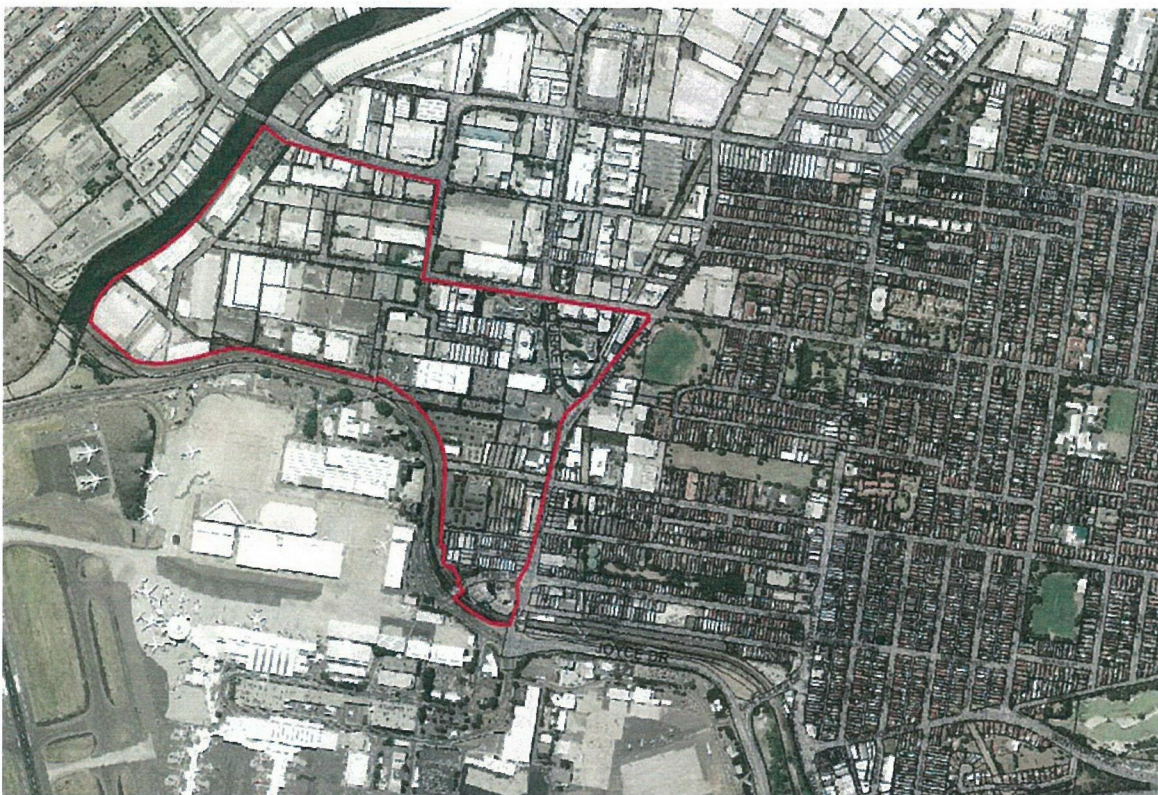


Figure 2 – Aerial view of the area

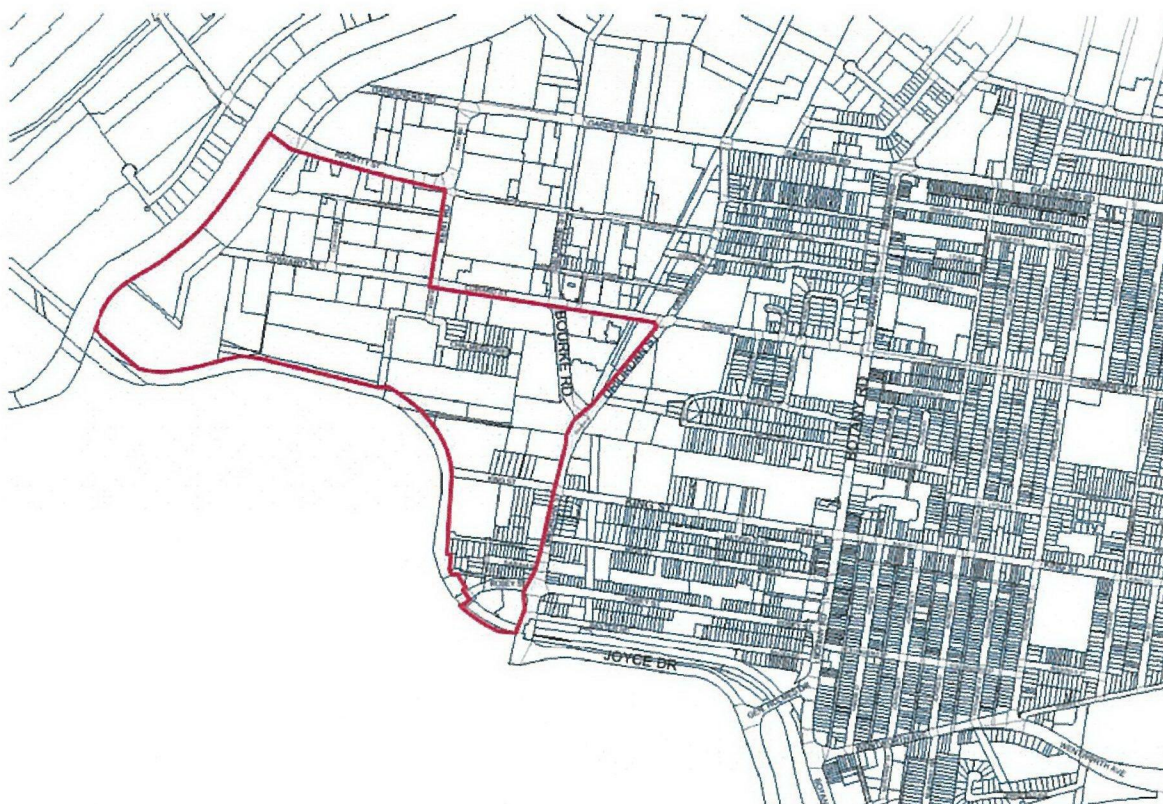


Figure 3 – Area of land affected by the Planning Proposal

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

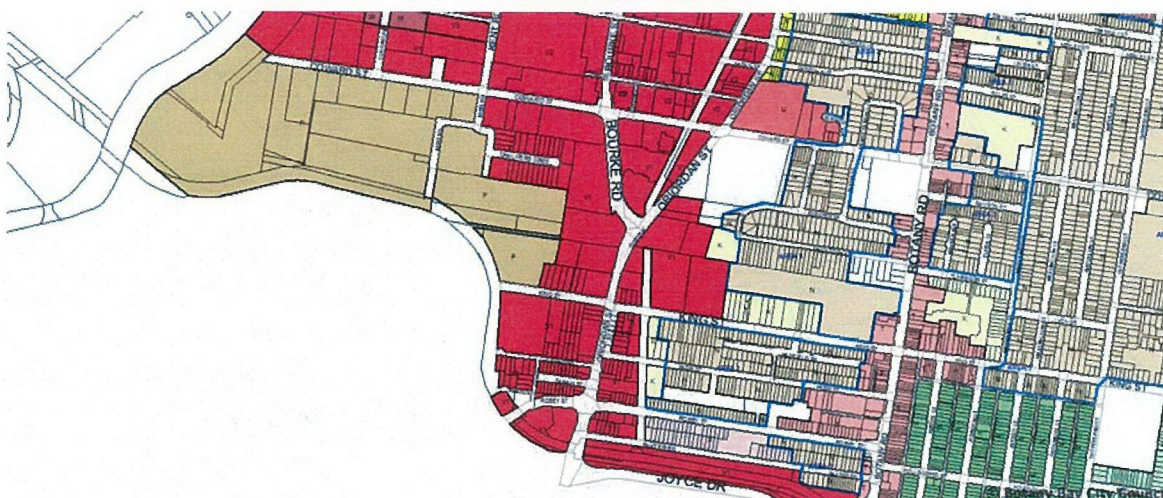


Figure 4 – FSRs under the Botany Bay LEP 2013

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**.

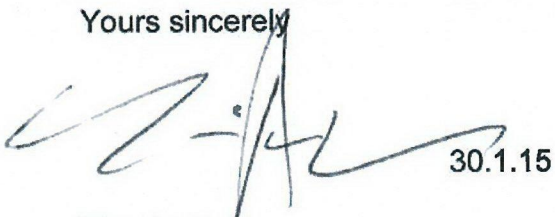
At the broader planning policy level, one of the key actions of the recently released *A Plan for Growing Sydney* is to enhance capacity at Sydney's Gateways, including Sydney Airport. A key action to be undertaken by the new Greater Sydney Commission will be the development and implementation of a planning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

A handwritten signature in black ink, appearing to be 'Tim Archer', with a long horizontal flourish extending to the right.

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.

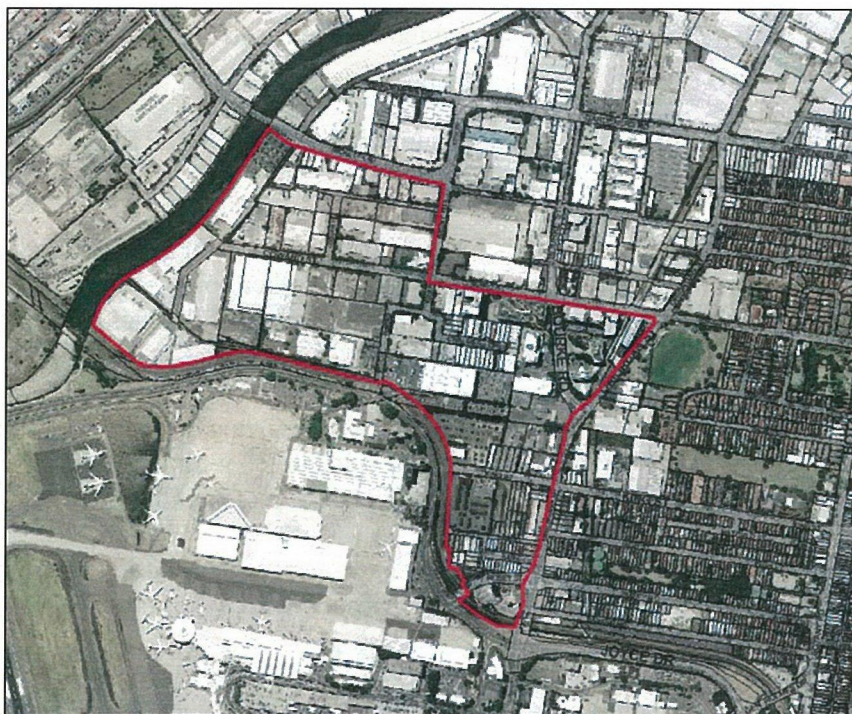


Figure 1 – Aerial view of the area

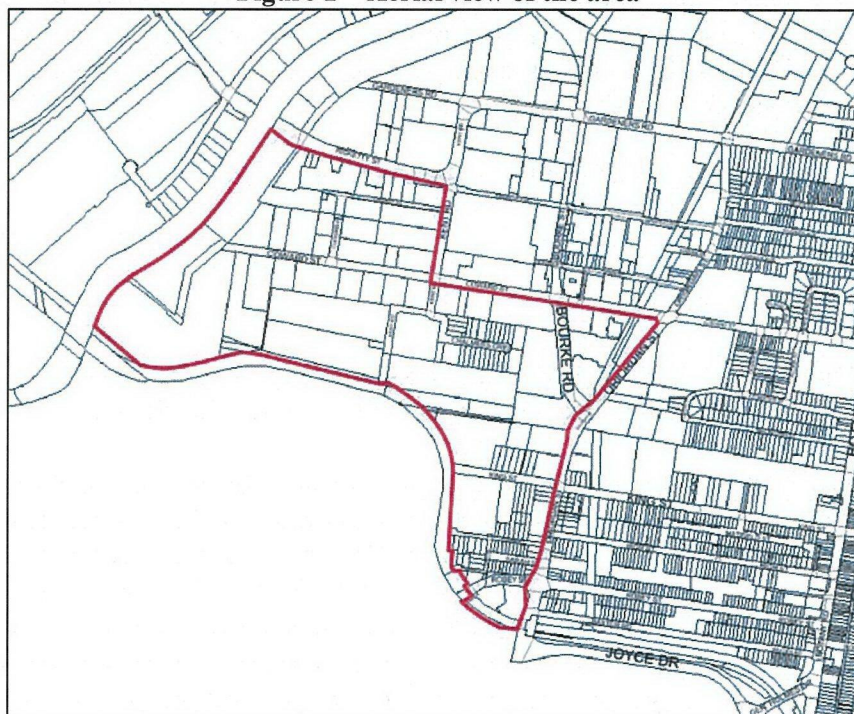


Figure 2 – Area of land affected by the Planning Proposal

**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 dated 5 August 2015

5.15 AIRPORT-RELATED LAND USES PLANNING PROPOSAL

File No: S14/85-02

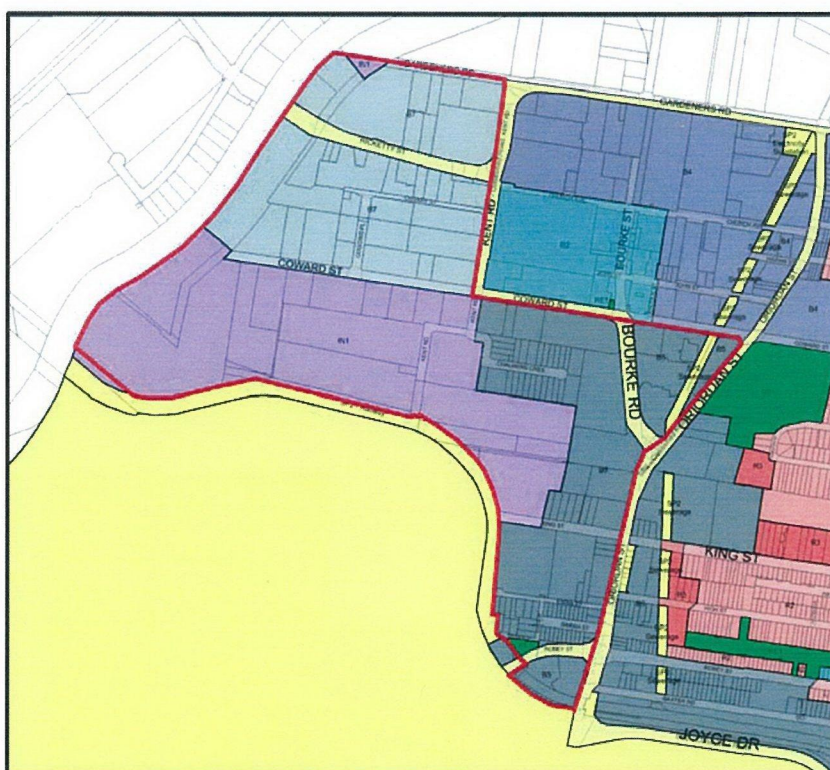
Attachments: Attachment 1 - Airport-Related Land Uses Planning Proposal

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.

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