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PLANNING PROPOSAL NO. 1/2015

Amendment to the Botany Bay Local Environmental Plan
2013

Deletion of Clause 4.3(2A) and 4.4B

26 February 2015

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INTRODUCTION

The Botany Bay Local Environmental Plan 2013 was gazetted on 21 June 2013 and commenced on 26 June 2013.

Council at its Meeting held 25 February 2015 resolved to prepare a Planning Proposal in accordance with the Environmental Planning & Assessment Act 1979 and its Regulation to amend the Botany Bay Local Environmental Plan 2013 as follows:

- a) Delete Sub-clause (2A) in Clause 4.3 – Height of Buildings relating to a 22 metre height for sites zoned R3 and R4; and
- b) Delete Clause 4.4B as it relates to exceptions to FSR in Zone R3 and R4.

The resolution has come about by reason of the assessed impacts that the additional height and FSR has raised within the Botany Bay LGA community. Not only has the development standards resulted in additional building bulk and height it has also presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly where they adjoin R2 Low Density Residential zones.

The bonus provisions do not provide for an acceptable transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. Where the R3 and R4 Residential Zones are immediately adjoining R2 low density residential zones, the increased building height and building bulk presents adverse impacts to the prevailing streetscape and results in overshadowing and overlooking impacts.

Furthermore, the FSR bonus in the Botany Bay LEP 2013 has not been implemented as intended and in some cases this has been exploited by developers. The joint use of both provisions (22m height and the 1.65:1 FSR) has impacted upon the Botany Bay community and has caused concern within that community.

A copy of the Council's Report dated 17 February 2015 & Resolution dated 25 February 2015 is attached as **Attachment A**.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

Objectives

- To delete the 22 metre height for sites which have an area over 2000m² and which are zoned R3 Medium Density Residential or R4 High Density Residential.
- To delete the 1.65:1 bonus FSR for sites which have a site area over 2000m² and are affected by acid sulfate soils, contamination, and noise.
- To reduce the amenity impacts resulting from the additional bulk and scale.

Intended Outcomes

The Planning Proposal seeks to delete Sub-clause (2A) in Clause 4.3 – Height of Buildings relating to a 22 metre height for sites zoned R3 Medium Density Residential and R4 High Density Residential; and Delete Clause 4.4B as it relates to exceptions to FSR in the Zone R3 and R4.

The intent of the Planning Proposal is not to stop medium to high density residential development on land zoned R3 and R4, nor is the intent to limit the capacity of the Botany Bay LEP 2013 to deliver additional residential development.

Council's intent in requesting the deletion of the bonus clause relating to 22 metres is to allow it to consider a merit based objection to the Height of Building (HOB) Map standard. If a height is sought over that height on the HOB LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This provides Council with the flexibility it requires for a site by site analysis. The intent behind the removal of the bonus FSR of 1.65:1 is to prevent overdevelopment of the sites. The maximum FSR permitted on sites over 2000m² zoned R3 or R4 will still be a maximum of 1.5:1 (permitted under Clause 4.4(2A)) and this can be varied on a case by case analysis through a Clause 4.6 objection.

What this means is that height and bulk of development can be assessed on a merit based site by site analysis which will result in development more in keeping with the scale of adjoining development and the proper treatment of the development where it is adjacent to land zoned R2 Low Density Residential. Council can take into account the impact of such development, rather than the bonus height and FSR being a given right by the provisions of the LEP. Council can consider the pre-existing conditions of a site in assessing the merits of a height of FSR increase.

Medium to high density residential development will still occur within the LGA. The Planning Proposal does not seek to reduce the amount of land zoned for medium to high density residential development. The planning proposal will not have any impact on the supply of residential land or affordability. The planning proposal will correct an issue that has arisen with the bonus provisions for land zoned R3 and R4. As stated above it will allow Council to consider height over that specified on the HOB Map and FSR over 1.5:1 on merit issues and Clause 4.6 of the Botany Bay LEP 2013.

Council's previous Development Control Plan No. 35 – Multi Unit Housing & Residential Flat Buildings did and Council's current Botany Bay Development Control Plan 2013 does contain consistent

provisions relating to urban form for the larger sites in the R3 and R4 zones - that that they include two storey townhouses plus attic to the street edge and higher building located to the rear of the development site.

Since the changes in the legislation relating to development control plans – ie carry less weight as statutory documents (refer to Section 64BA(1) of the Environmental Planning & Assessment Act 1979) - Council has less ability to require suitable low rise development at the street and adjoining R2 zoned land. As Council is unable to enforce its DCP provisions that were intended to moderate the blanket LEP bonus provisions for the larger sites zoned R3 and R4, this planning proposal is required to ensure that suitable development occurs on these sites.

In summary the intended outcomes of the Planning Proposal are outlined in the following table:

Table 1 – Intended Outcomes

Clause	Resolution of Council	Intended Outcome
Clause 4.3 – Height of Buildings	Delete the bonus Sub-Clause (2A) of 22m for 2000m ² sites zoned R3 Medium Density Residential or R4 High Density Residential.	That development will be restricted to 10 to 14 metres depending on locality. Heights over the maximum height will require individual assessment under Clause 4.6 of the Botany Bay LEP 2013. Heights in the Height of Building (HOB) Map were based on surveys carried out by Council Officers of existing heights of development in the R3 and R4 Zones. In the HOB Map the following maximum heights apply to land zoned R3 and R4: • Mascot – 11 to 12 metres; • Botany – Daphne and Street, Myrtle/Jasmine Streets; Wilson/Pemberton Street & Edgehill Avenue – 10 metres; • Eastlakes – 14 metres; and • Hillsdale – 12 metres. If a height is sought over that height limit on the Height of Buildings LEP Map an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013.

Clause	Resolution of Council	Intended Outcome
		This will allow Council to consider a merit based objection to the height standard.
Clause 4.4B – Exceptions to FRS in Zone R3 and R4	Delete the Clause for a bonus of 1.65:1 for 2000m2.	The maximum FSR permitted on sites over 2000m2 zoned R3 or R4 is 1.5:1 (permitted under Clause 4.4(2A)).

PART 2 - EXPLANATION OF PROVISIONS

Existing Provisions

Botany Bay Local Environmental Plan 2013

The Botany Bay Local Environmental Plan 2013 was gazetted on 21 June 2013 and commenced on 26 June 2013.

The relevant clauses which apply to **R3 and R4 Zones** are outlined in **Table 2** as follows:

Table 2 – FSR & height Provisions relating to R3 and R4 Zones

Summary of Existing Provision in the BBLEP 2013	Source of provision
4.3 – Height of Buildings	
Subclause (2) - The height of a building on any land is not to exceed the maximum shown for land on the Height of Buildings Map (HOB Map).	Heights are generally a maximum of 10 to 14 metres depending on the locality of the site. Heights in the HOB Map were based on surveys carried out by Council of existing heights of development in the R3 and R4 Zones. In the HOB Map the following maximum heights apply to land zoned R3 and R4: • Mascot – 11 to 12 metres; • Botany – Daphne and Street, Myrtle/Jasmine Streets; Wilson/Pemberton Street & Edgehill Avenue – 10 metres; • Eastlakes – 14 metres; and • Hillsdale – 12 metres.
Subclause (2A) - Notwithstanding the HOB Map land in R3 or R4 Zone which exceeds 2000m ² in area the height can exceed that on the height of HOB Map but must not exceed 22m.	This bonus provision was developed from the 2010 Neustein Urban Study. This subclause applies to sites with an area over 2000m ² in the R3 and R4 Zones provided for a building height of 6 storeys (22 metres).
4.4 – Floor Space Ratio	
Subclause (2) - The maximum FSR for a building on any land is not to exceed the FSR shown for the land on the FSR Map.	FSR are generally a maximum of 0.85:1 depending on the locality of the site.

Summary of Existing Provision in the BBLEP 2013	Source of provision
Subclause (2A) - Notwithstanding the FSR Map land in R3 or R4 Zone which exceeds 2000m² in area the FSR can exceed that on the FSR Map but must not exceed 1.5:1.	This bonus provision was developed from the 2010 Neustein Urban Study. However in the Study the emphasis was on a measure to encourage site consolidation and hence stimulate redevelopment. There was no testing or discussion of the impacts on sites that were already 2000m² in terms of suitability of such FSR and height increases. The provision was then supported by the Department of Planning & Infrastructure.
Subclause (2C) – applies to 12 and 14 Daniel Street & 41 Daphne Street, Botany – allows a maximum FSR of 1.5:1.	The FSR Map permits a maximum FSR of 0.85:1. Council received a request for additional FSR on 23/09/2011 for an amalgamated site of 1900m² – 12 and 14 Daniel Street & 41 Daphne Street. The submission was considered by the Council's Policies & Priorities Committee on 25/01/2012. Council at that meeting agreed to an additional 0.65:1 increase in FSR (ie maximum FSR of 1.5:1) for an amalgamated site of 1900m² in area. However should the land be developed as three individual lots a FSR 0.85:1 for each lot will apply.
4.4B – Exceptions to FSR in Zone R3 and R4	
Despite clause 4.4, a FSR for the purposes of multi dwelling housing and residential flat buildings on land to which this clause applies that results in a floor space ratio that does not exceed 1.65:1 if: - o the site area is equal to or greater than 2,000 square metres, and - o the site area is land identified on the Acid Sulfate Soils Map, and - o the consent authority considers that the development is, or is likely to be, adversely affected by any of the following: contamination, noise (including aircraft, rail or road noise).	Council at its Development Meeting held 1 August 2012 resolved to include the provision in the exhibited draft Botany Bay Local Environmental Plan 2012. The provision provides additional bonus FSR for sites over 2000m² of 10% above the exhibited FSR development standard of 1.5:1 – a FSR of 1.65:1 if the site is affected by three or more of the following constraints: • <i>Site contamination;</i> • <i>Aircraft Noise;</i> • <i>Rail Noise;</i> • <i>Road noise;</i> • <i>Demolition;</i> • <i>Groundwater;</i>

Summary of Existing Provision in the BBLEP 2013	Source of provision
Council has to be satisfied that: - the development will be compatible with the desired future character in terms of building bulk and scale, and - the development will contribute to the amenity of the surrounding locality, and - any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.	<i>Acid Sulphate Soils.</i> Council was advised that in the determination of Development Applications in recent times for multi unit housing (including residential flat buildings) it had become apparent that to achieve the long term outcomes of the Council and utilise land previously used for an industrial purpose for a reuse, it generally comes with a legacy of contamination, high groundwater levels and industrial building stock that contains elements in their construction of hazardous materials (asbestos). It has also been found that in addition to the above matters the sites are affected by transport noise (road/aircraft) that collectively give rise to development constraints. The FSR incentive of 1.65:1 was also proposed to ensure that residential development complied with the Council's policy considerations for: - Unit sizes; - Car parking rates; and - Basement carparking. Therefore, an incentive of up to 10% above the exhibited FSR development standard of 1.5:1 for larger sites of over 2000m² was proposed. Following Parliamentary Counsel review of the additional floor space ratio for sites greater than 2,000sqm recommended by Council the gazetted planning instrument included the following clause. <i>(1) The objective of this clause is to encourage the development of larger sites (former industrial sites) to facilitate better built form and urban design.</i> <i>(2) This clause applies to land in Zone R3 Medium Density Residential and Zone R4 High Density Residential.</i> <i>(3) Despite clause 4.4, development consent may be granted to development for the purposes of multi dwelling housing and residential flat buildings on land to which this clause applies that results in a floor space ratio that does not exceed 1.65:1 if:</i>

Summary of Existing Provision in the BBLEP 2013	Source of provision
	<i>(a) the site area is equal to or greater than 2,000 square metres, and</i> <i>(b) the site area is land identified on the Acid Sulfate Soils Map, and</i> <i>(c) the consent authority considers that the development is, or is likely to be, adversely affected by any of the following:</i> <i>(i) contamination,</i> <i>(ii) noise (including aircraft, rail or road noise), and</i> <i>(d) the consent authority is satisfied that: the development will be compatible with the desired future character in terms of building bulk and scale, and</i> <i>(ii) the development will contribute to the amenity of the surrounding locality, and</i> <i>(iii) any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.</i> It is noted that the intent of the Council's draft clause has been lost in that sites only have to achieve an area of 2,000sqm, be affected by acid sulphate soils and potentially be affected by any of the following issues which may constraint its future development potential being site contamination, aircraft noise; rail and road noise. The impact of groundwater has been removed from the clause along with the requirement that a site must be affected by three or more of the constraints identified by Council in order to qualify for the additional FSR of 1:65:1. The intent of the additional FSR was to overcome considerable development costs associated with site affected by an industrial legacy and other environmental factors. The clause contained with the gazetted BBLEP 2013 no longer requires sites to present with an industrial legacy rather, site only need to be subject to acid sulphate soils and noise impacts to qualify for additional floor space to 1.65:1.

Note: The bonus provisions above do not apply to the British American Tobacco (BATA) Site at 128 Bunnerong Road, Pagewood as the BATA site has its own maximum permitted FSRs and heights – refer to Clauses 4.3(2B) and 4.4(2B).

Proposed amendment

The Planning Proposal seeks the following amendments to the Botany Bay Local Environmental Plan 2013:

1. To delete **Clause 4.3(2A) – Height of Buildings** which states:

Despite subclause (2), if an area of land in Zone R3 Medium Density Residential or Zone R4 High Density Residential exceeds 2,000 square metres, the height of a building on that land may exceed the maximum height shown for the land on the [Height of Buildings Map](#) but must not exceed 22 metres.

Effect: Sites zoned R3 or R4 will revert to the height as allowed in the LEP Height of Building Map.

2. To delete **Clause 4.4B – Exceptions to floor space ratio in Zone R3 and Zone R4** which states:

- (1) *The objective of this clause is to encourage the development of larger sites (former industrial sites) to facilitate better built form and urban design.*
- (2) *This clause applies to land in Zone R3 Medium Density Residential and Zone R4 High Density Residential.*
- (3) *Despite clause 4.4, development consent may be granted to development for the purposes of multi dwelling housing and residential flat buildings on land to which this clause applies that results in a floor space ratio that does not exceed 1.65:1 if:*
 - (a) *the site area is equal to or greater than 2,000 square metres, and*
 - (b) *the site area is land identified on the [Acid Sulfate Soils Map](#), and*
 - (c) *the consent authority considers that the development is, or is likely to be, adversely affected by any of the following:*
 - (i) *contamination,*
 - (ii) *noise (including aircraft, rail or road noise), and*
 - (d) *the consent authority is satisfied that:*
 - (i) *the development will be compatible with the desired future character in terms of building bulk and scale, and*
 - (ii) *the development will contribute to the amenity of the surrounding locality, and*

- (iii) *any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.*

Effect: Sites zoned R3 or R4 will revert to the FSR as allowed on the LEP FSR Map. For sites over 2000m² and zoned R3 or R4 the maximum FSR will be 1.5:1.

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

As indicated above in **Table 2** the bonus provisions (Clauses 4.3(2A) & 4.4(2A) in the Botany Bay LEP 2013) for additional height and FSR for sites zoned R3 or R4 which have an amalgamated area of 2000m² was developed from the 2010 Neustein Urban Study. A copy of the Study has been previously forwarded to the Department and also can be found on Council's website at <http://www.botanybay.nsw.gov.au/index.php/council-services/services/city-planning/strategic-a-supporting-studies> However as stated above, the Study emphasised a measure to encourage site consolidation and hence stimulate redevelopment. There was no testing or discussion of the impacts on sites that were already 2000m² in terms of suitability of such FSR and height increases.

With respect to the **height**, the intent outlined within the 2010 Neustein Urban Study was that increased floor to ceiling heights would be required on the ground floor and first floor to accommodate commercial/retail development with residential above. This would provide for an overall building height of 22 metres within 6 storeys. However developments within the R3 and R4 Residential zones are not required to accommodate commercial/retail development (though it is permitted) on the ground and first floor, the consequence of which gave rise to 7 storey building heights within the 22m height cap where the development is pure residential.

This was not the intent of the 2010 Neustein Urban Study and the bonus height control of 22m has raised issues within the community. Not only has development used the bonus provision, applicants have successfully lodged development in excess of the bonus. This has occurred at the Wilson/Pemberton Street Precinct (where there is development which is 7 storeys and over in height). This has resulted in building height which is higher than what was envisaged by the 22m height control and has presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly adjoining low density R2 Residential zones. The bonus provision allows no transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. It has been noted that a number of pre-approval discussions in the R3 Residential zone are immediately adjoining R2 low density residential zones and the increased building height presents adverse impacts to the prevailing streetscape and adjoining R2 low density residential zones, resulting in overshadowing and overlooking impacts. The bonus provisions have resulted in the likelihood of a real built scale imbalance between the R2 and the R3 zones at their interface.

The increase in the FSR for sites over 2000m² and zoned R3 or R4 has also led to increased bulk and scale of development adjacent to R2 Low Density Residential zoned areas, causing unacceptable streetscape impacts.

The matter was reported to the Council Meeting held on 25 February 2015 and a copy of the report is contained in **Attachment A**. The Council resolved to:

1. Delete Sub-clause (2A) relating to a 22 metre height for sites zoned R3 and R4 in Clause 4.3 – Height of Buildings; and
2. Delete Clause 4.4B as it relates to exceptions to FSR in Zone R3 and R4.

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 best means of achieving the objectives or intended outcomes for the following reasons:

- The intent of the 2010 Neustein Urban Study has not been realised and the bonus height limit of 22 metres has raised transition and streetscape issues within the community.
- Applicants are seeking 7 storeys within the 22m height cap, which is contrary to the work behind the bonus clauses and the accompanying Botany Bay Development Control Plan 2013 of 6 storeys.
- The existing clauses are not constructed to require a transition zone between development on the bonus sites and adjoining R2 Low Density Residential Zoned land.
- The deletion of the 22 metre height limit will allow Council to consider a merit based objection to the HOB Map standard. If a height is sought over that height on the Height of Buildings LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This will still provide Council with the flexibility based on the actual characteristics of the site and surrounding development.
- The deletion of the 1.65:1 FSR limit will prevent the overdevelopment of infill sites which are surrounded by low density residential and not in proximity to public transport modes.
- The removal of the bonus FSR of 1.65:1 and height of 22m will still allow redevelopment on the infill sites zoned R3 or R4 if the land area is over 2000m². The maximum FSR permitted on sites over 2000m² zoned R3 or R4 will be a maximum of 1.5:1 (permitted under Clause 4.4(2A)). Height of the redevelopment will be consistent or in scale with the surrounding heights.
- The adverse impacts of the joint utilisation of the bonus provisions over the one site has resulted in the overdevelopment of such sites, with impacts overspilling to adjoining properties.
- If the height does exceed that height on the HOB Map, then Council will require sound justification and design planning – to ensure that interface and streetscape issues are addressed.
- To balance amenity between properties within the area.

- The planning proposal exhibition would provide an opportunity to consider the range of the community views in relation to the deletion of the controls.
- The remaining controls still identify development potential and revitalisation more in keeping with the character of the existing residential areas.

3 Is there a net community benefit?

It is envisaged that the planning proposal will provide a net community benefit, which will outweigh the cost of implementing and administering the planning proposal.

Table 3 below addresses the evaluation criteria for conducting a net community benefit test from the Draft Centres Policy (2009) as required by the Department's guidelines.

Table 3 – Consistency with Net Community Benefit Evaluation Criteria

Evaluation Criteria	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg. Land release, strategic corridors, development within 800m of a transit node)?	The planning proposal is consistent with agreed State and Regional strategic directions for development in the area. Council will meet its employment and housing targets in the draft East Subregional Strategy. The bonus controls to be deleted will not affect the employment and housing targets.
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub regional strategy?	The sites that would be affected by the planning proposal are zoned R3 Medium Density Residential and R4 High Density Residential. They are mainly infill sites previously zoned for non-residential uses such as industrial.
Is the LEP likely to create a precedent or create or change the expectations of the landowners or other landholders?	The LEP will change the expectation of landowners of the R3 and R4 zoned sites. However there has been a community concern against the bonus provisions which has resulted from development applications being lodged with Council seeking a bulk and scale that is inconsistent with the streetscape, bulk and scale. The bonus FSR provision of 1.5:1 will still

Evaluation Criteria	Comment
	apply to sites with site area of 2000m² and zoned R3 or R4. If a height is sought over that height on the Height of Buildings LEP Map an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This will allow Council or the Joint Regional Planning Panel to consider a merit based objection to the height standard. Furthermore the new clause 4.4C (proposed under Planning Proposal No. 2/2013) will still apply to sites seeking the bonus FSR.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	There are no other spot rezonings proposed.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The planning proposal will not facilitate a permanent employment generating activity or result in loss of employment lands.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The planning proposal will not have any impact on the supply of residential land or affordability. The planning proposal will correct an issue that has arisen with the bonus provisions for land zoned R3 and R4. It will allow Council to consider height over that specified on the HOB Map and FSR over 1.5:1 on merit issues and Clause 4.6 of the Botany Bay LEP 2013. Council can then take into account the impact of such development, rather than the bonus height and FSR being a given right by the provisions of the LEP. Council can take into account the pre-existing conditions of a site in assessing the merits of a height of FSR increase.
Is the existing public infrastructure (roads, rail and utilities) capable of servicing the proposal site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	There would be no change to existing public infrastructure. There is adequate pedestrian and cycling access and public transport is available to a majority of the R3 and R4 sites.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely	There will be no impact on distances travelled by customers, employees and suppliers. There will be no impacts in terms

Evaluation Criteria	Comment
impacts in terms of greenhouse gas emissions, operating costs and road safety?	of greenhouse gas emissions, operating costs and road safety.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	No impacts are expected.
Will the proposal impact on land that the Government has identified a need to protect (eg. Land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	No significant environmental impacts are envisaged.
Will the LEP be compatible / complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The planning proposal will be compatible with surrounding landuses. It will address the impact of the amenity and public domain in the streets where there is an R2/R3 or R2/R4 interface and will protect the wider community.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	N/A
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The planning proposal has been prepared for public interest reasons as follows: • The intent of the 2010 Neustein Urban Study has not been realised and the bonus height limit of 22 metres has raised transition and streetscape issues within the community. The 22m height limit has permitted an extra storey over that envisaged when the height bonus was being considered by Council. The Study emphasised a measure to encourage site consolidation and hence stimulate redevelopment. There was no testing or discussion of the impacts on sites that were already 2000m2

Evaluation Criteria	Comment
	in terms of suitability of such FSR and height increases. • The existing clauses are not worded to require a transition zone between development on the bonus sites and adjoining R2 Low Density Residential Zoned land. • The deletion of the 22 metre height limit will allow Council to consider a merit based objection to the HOB Map standard. If a height is sought over that height on the Height of Buildings LEP Map, an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This provides Council with the flexibility it requires for a site by site analysis. • The deletion of the 1.65:1 FSR limit will prevent the overdevelopment of infill sites which are surrounded by low density residential and not in proximity to public transport modes. • Development potential to take into account the pre existing site constraints and policy considerations.

Section B – Relationship to strategic planning framework.

- 1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategy)?**

A Plan for Growing Sydney

A Plan for Growing Sydney provides a framework for strengthening the global competitiveness of Sydney and delivering investment and jobs growth in Western Sydney.

The planning proposal is consistent with the relevant Directions and Actions of the Plan as follows:

- *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. The planning proposal does not affect airport and seaport related development nor road transport investments.

- *Action 1.5.2: Support the productivity of the freight network by identifying buffers around key locations on the freight network.* The planning proposal will affect sites that are already zoned under the Botany Bay LEP 2013 R3 or R4. The planning proposal does not increase land for residential development adjacent to the freight rail network.
- *Direction 1.6: Expand the Global Economic Corridor, Direction 1.7: Grow strategic centres – providing more jobs closer to home and Direction 1.9: Support priority economic sectors.* The planning proposal does not impact on employment targets, nor land zoned for industrial.
- *Action 2.1.1: Accelerate housing supply and local housing choices.* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Council will meet its housing targets – please refer to the discussion under **Draft East Subregional Strategy**.
- *Direction 2.2: Accelerate urban renewal across Sydney – provide homes closer to jobs.* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Housing will still be supplied that suits expected future needs. Council will exceed the housing targets.
- *Direction 2.3: Improve housing choice to suit different needs and lifestyles.* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Housing will still be supplied that suits expected future needs.
- *Direction 3.1: Revitalise existing suburbs.* As stated Council is not reducing the supply of land and sites for residential development. Council has commenced the process of revitalising its suburbs through the Mascot Local Centre Urban Design Strategy.
- *Direction 3.2: Create a new network of interlinked, multi purpose open and green spaces across Sydney.* The planning proposal does not impact on open space zoned land.
- *Central Subregion priorities include: Accelerate housing supply, choice and affordability and build great places to live.* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Council will meet its housing targets – please refer to the discussion under **Draft East Subregional Strategy**. Furthermore the planning proposal does not affect the priorities for the transport gateways.

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 planning proposal is consistent with the relevant objectives and actions of the Plan as follows:

- *C1 Ensure adequate supply of land and sites for residential development:* Council is not reducing the supply of land and sites for residential development. No rezonings are proposed by the planning proposal. Council has met its housing targets of 6500 dwellings by 2031 without the bonus incentives of 22m height limit and 1.65:1 FSR.

The Draft East Subregional Strategy (Dated July 2007) provided for the following targets:

- Employment Capacity Target from 2001 to 2031 - 16,700 new jobs
- Housing Target from 2004 to 2031 – 6,500 extra dwellings

To support the preparation of the draft Botany Bay LEP 2011 two studies were prepared under Planning Reform Funding as follows:

- Botany Bay Planning Strategy 2031, March 2009, prepared by SGS Economics and Planning; and
- LEP Standards and Urban Design Controls Study for the City of Botany Bay LEP 2011, dated September 2010, prepared by Neustein Urban.

Copies of the above studies have been previously supplied to the Department of Planning & Environment, but are available on the Council's website at <http://www.botanybay.nsw.gov.au/en/15-council-services/city-planning/353-strategic-a-supporting-studies>

In summary the Neustein Urban Study indicated that the City of Botany Bay is able to achieve its dwelling targets. The study forecasts an increased residential dwelling capacity of 7,460 to 8,242 compared with a target of 6,500 dwellings, with 1,015 already constructed.

The Neustein Urban Study provided a summary table of employment and residential capacity for each of the study areas (Table 10.1 of the Study). This is reproduced as **Table 4** below.

Table 4 Employment and dwelling capacity of the five study areas (from Table 10.1 from the Neustein Urban Study)

		Short term 2004-2015 (25% of sites redeveloped)		Long term 2015-2031 (50% of sites redeveloped)	
Study Area	Location	Employment	Residential	Employment	Residential
1 (includes Mascot Station Precinct)	Land in zone B7	1,036 to 3,315*	0	2,072 to 6,630*	0
	Land in zone IN1	797	0	1,594	0

		Short term 2004-2015 (25% of sites redeveloped)		Long term 2015-2031 (50% of sites redeveloped)	
Study Area	Location	Employment	Residential	Employment	Residential
	Land below ANEF 25	1,320	1,650	2,640	4,950
	Land above ANEF 25	5,310	0	10,620	0
	Existing employment to be lost as a result of redevelopment (to be deducted from employment capacity)	(1,449)	0	(2,897)	0
	Study Area 1 total	7,014 to 9,293*	1,650	14,029 to 18,587*	4,950
2 (Mascot & Eastlakes)	Residential areas	0	354	0	708
	Botany and Gardeners Roads	480	180	960	360
	South Botany	124	0	247	0
	Wentworth Avenue	582	0	1,163	0
	Study Area 2 total	1,186	534	2,370	1,068
3 (Botany Local Centre & surrounds)	Botany centre	320	120	640	240
	Botany Road	243	91	485	182
	Study Area 3 total	563	211	1,125	422
4 (Pagewood)	Page and Holloway Ave	0	10	0	21

		Short term 2004-2015 (25% of sites redeveloped)		Long term 2015-2031 (50% of sites redeveloped)	
Study Area	Location	Employment	Residential	Employment	Residential
Neighbourhood Centre)	Study Area 4 total	0	10	0	21
5 (Hillsdale)	Residential areas	0	172	0	343
	B4 zone	202	101	403	202
	B5 zone	100	0	200	0
	Study Area 5 total	302	273	603	545
Dwellings created since 2004			1015		1015
Total		9,065 to 11,344*	3,693	18,127 to 22,685*	8,021

* where there is a mix of industrial and commercial uses employment capacity has been calculated as a range between 1 person per 80m² to 1 person per 25m² for the total area

Council generally adopted the recommendations of the LEP Standards & Urban Design Study.

The Department is to note that the bonus clause relating to a FSR of 1.65:1 for R3 and R4 zoned land (Clause 4.4B of the BBLEP 2013) was not a recommendation of the Neustein Study and therefore its deletion will not have an impact on the dwelling numbers in **Table 4**.

The height bonus of 22m was a recommendation of the Neustein Urban Study however if the height bonus is deleted as requested by Council, Council can still consider heights over the HOB LEP Map on a merit by merit basis through a Clause 4.6 Objection to the height development standard. The bonus FSR provision of 1.5:1 will still apply to sites with site area of 2000m² and zoned R3 or R4. If a height is sought over that height on the Height of Buildings LEP Map an exception to the development standard will be required under Clause 4.6 of the Botany Bay LEP 2013. This will allow Council or the Joint Regional Planning Panel to consider a merit based objection to the height standard.

Therefore, it is clearly demonstrated that Council will meet its dwelling targets.

New dwellings completed between 2003/04 to 2012/13

From the information available on the Department's website the total number of dwellings completed by suburb within the Botany Bay LGA is summarised in **Table 5** below.

Table 5 - New dwellings completed between 2003/04 to 2012/13 within

Suburb	2003/04 to 2012/13
Banksmeadow	43
Botany	418
Daceyville	8
Eastlakes	16
Hillsdale	155
Mascot	1560
Pagewood	14
Rosebery	44
Botany Bay Total	2258

As seen above, Council has met 1/3 of the target with another 17 years to achieve the current draft target of 6,500 additional dwelling.

Current Development

The Department should note that the following areas (listed in **Table 6**) were not included in the LEP Standards & Urban Design Study but are subject to medium and high residential redevelopment at present:

Table 6 – Additional development sites outside the Study Areas of the LEP Standards & Urban Design Study

Precinct/Site	Status	Additional dwellings
Wilson/Pemberton Street Precinct, Botany	Early stages completed; recent stages	1295

Precinct/Site	Status	Additional dwellings
	under construction and DAs approved and lodged for the last stages.	
39-43 Rhodes Street, Hillsdale	DA lodged	243
Meriton site at 130-150 Bunnerong Road, Pagewood	DA lodged	2,733
32 Page Street Pagewood	DA lodged	262
Total		4533

As can be seen from **Table 6** above Council will supply approximately an additional 4533 dwellings over that indicated in the Neustein Urban Study over the next 5 to 10 Years – this is on top of the redevelopment that is underway within Mascot Station Precinct (included as part of Area 1 in Table 6 above). The additional supply of 4533 dwellings does not include shop top housing in the Local and Neighbourhood Centres of the LGA and other infill sites within the LGA.

The Mascot Town Centre Precinct was included in Area 1 under the Neustein Urban Study. Since it's rezoning in 2003 to a residential zone, the eastern part of the Mascot Station Precinct has been redeveloped to an extent there are only about 3 sites left for residential redevelopment.

Since the gazettal of the Botany Bay LEP 2013 in June 2013 redevelopment within the western part of the Mascot Station Precinct is underway with sites having either redevelopment already approved and under construction or have DAs lodged with Council. **Table 7** details the sites within the western part of the Mascot Station Precinct:

Table 7 – Sites under redevelopment within the Mascot Station Precinct

Precinct/Site	Status	Additional dwellings
39 Kent Road, Mascot	Approved and under construction	167
19-33 Kent Road, Mascot	Approved and under construction	985
671-683 Gardeners Road, Mascot	Approved	242
246-250 Coward Street, Mascot	DA lodged	88
256-280 Coward Street, Mascot	DA Lodged	542

It is clear from the figures in **Tables 6 and 7** that medium and high residential development has not been stifled within the LGA. The Botany Bay LEP 2013 will meet the Draft East Subregional Strategy housing target of 6,500 extra dwellings between 2004 and 2031; and will also deliver an additional 5,300 dwellings above that figure in **Table 4** prepared by Neustein Urban. Most of this redevelopment is close to transport nodes such as the Mascot Train Station and the bus interchange at Eastgardens Westfields.

The deletion of Clauses 4.3(2A) and 4.4B will not affect the achievement of the existing target of 6,500 dwellings nor the attainment of higher residential growth within Botany Bay LGA. What the deletion will achieve is best practise outcomes for areas of redevelopment as applications would be assessed on a merit by merit case. As stated above the bonus FSR provision of 1.5:1 will still apply to sites with a site area over 2000m² and zoned R3 or R4. The height of the development can still be increased over the height on the HOB LEP Map but it will be subject to merit based assessment and the provision of a Clause 4.6 Objection. Council can then ensure that the impact of height is addressed in terms of residential amenity and public domain in the streets where there is an R2/R3 or R2/R4 interface. It will provide Council with the flexibility it requires for a site by site analysis.

In summary the planning proposal is consistent with the *A Plan for Growing Sydney* and the draft East Subregional Strategy.

2. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the objectives relating to residential development in the Council's *Community Strategic Plan* as follows:

- *11.10 Encourage high-quality planning and urban design outcomes that enhance the character and local needs of the community*
- *11.20 Encourage environmentally sustainable developments*
- *11.30 Identify, preserve and protect items of heritage value*

A copy of Council's Community Strategic Plan can be found at

<http://www.botanybay.nsw.gov.au/index.php/council-services/information-directory/corporate-services>

Attached as **Attachment B** to this Planning Proposal is a study of sites which are currently able to be amalgamated and subsequently achieve the bonus provisions as per Clause 4.3(2A) and 4.4B of the Botany Bay LEP 2013. A number of the sites investigated are determined to be unsuitable for development which is built to the bonus provisions. A variety of factors have influenced this outcome including:

- the Botany/Randwick Industrial Area Land Use Safety Study (2001) and the Quantitative Risk Assessment Study (QRA) which limit the potential for increased residential development in Hillsdale;
- information regarding the likelihood of flooding in the area and the associated risks;
- urban design factors including desired future character, streetscape, site size and suitability, and traffic and access concerns; and
- the number of allotments required for amalgamation and the likelihood of this acquisition.

Following the studies for each site, it was determined that there are 2 sites which offer suitable locations to maintain the bonus provisions within the LGA as follows:

- **Site F – Daphne Street, Botany:** Site F is suitable as it is located close to the Botany Local Centre and frequent public transport. It has a dual frontage to Daphne Street and Ivy Street, which would provide opportunity to adequately deal with vehicle access to and from the site. The dual frontage would also disperse any increase in local traffic from the increased density, and hence lessen the impact on the surrounding neighbourhood.

The dual frontage and ideal aspect also provides a good opportunity to provide more residences on the site with increased solar access, natural ventilation, and local views. This would allow a well-designed residential building to provide a greater level of amenity to its residents than a number of the other study sites.

The locality also has a number of Residential Flat Buildings (RFB) either completed, currently under construction, or currently under assessment. As such the area is adequately dense, and the streetscape appropriate to accommodate the addition of a new RFB which utilises the bonus provisions.

However due to the dimensions of the site, it would be difficult to comply with the current controls of the Botany Bay DCP2013, which state that a RFB should be located to the rear of the site, with Multi-Unit Housing to the street frontages. A DA is currently being assessed at the adjacent site, for an RFB only. If this DA is approved, it would set a precedent for this site to be allowed to develop in the same manner, which would likely result in a more efficient and amenable design outcome.

- **Site O – 1331 Botany Road, Botany:** Site O offers an appropriate location for a new RFB as it is ideally located at the beginning of the Botany Local Centre, and hence provides the opportunity to create a landmark gateway building for the area. Like Site F, the site has a dual frontage to Botany Road and Lord Street, and would enjoy the same benefits from this. As the two sites are currently owned by the same owner, acquisition could occur relatively simply.

The site currently houses St Matthews Anglican Church, which is of local heritage significance. Whilst the site may provide an ideal location for increased residential density, any redevelopment of the site would likely detract from or remove the heritage Church, and would also greatly impact upon the community. Hence it is unlikely that this site will be used for redevelopment.

Remaining Sites

Sites able to be amalgamated and subsequently achieve the bonus provisions as per Clause 4.3(2A) and 4.4B of the Botany Bay LEP 2013

The Case Study attached as **Attachment B** illustrates the advantages and disadvantages of allowing development on each amalgamated site to utilise the bonus provisions of Height 22m and FSR 1.65:1. Whilst many of the remaining sites are likely to undergo redevelopment or regeneration in the future, it is advised that an approach involving Multi-Unit Housing and smaller scale RFB designs would be more appropriate for many of the sites, whilst still achieving the desired outcomes outlined in the BBDCP2013 and BBLEP2013.

For example Site G would be able to accommodate an increase in density, however not to the extents that the bonus provisions allow. This site has 3 dwellings along Wilson Street which are unlikely to amalgamate, however the remaining 4 lots would provide an adequate site to house a smaller development. A smaller development (i.e. one that adhered to the current LEP controls and not the bonus provisions) would be able to provide a greater level of amenity for residents within such a development, whilst also not greatly increasing the local traffic along Rancom Street. The site is also ideally located adjacent to the Banksmeadow Neighbourhood Centre, and frequent public transport services on Botany Road.

A development which takes advantage of the bonus provisions on this site is likely to: create increased overshadowing to neighbours; unreasonably increase the amount of local traffic to Rancorn Street; not be in keeping with the BBDCP2013 controls; and hence not provide a good urban design outcome. However a development which is more sensitive to the surrounding area is likely to add vibrancy and density to the local centre without compromising the character of the neighbourhood.

In conclusion the outcomes of the case study indicate that Site F would adequately accommodate a development which utilises the bonus provisions, however the remaining sites would benefit from developments which are more sensitive to their surroundings and are in keeping with the controls outlined in the BBLEP2013.

Sites over 2000m² with a DA under assessment

Sites 12 to 18 on Map 4 in **Attachment B** are subject to a Development Application under assessment. Given that these sites are under assessment they have not been included in the individual assessments in Attachment B. Furthermore, it is advised:

- Nos, 21 Daphne Street Botany, 32 Page Street Botany, and 130-150 Bunnerong Road Pagewood are subject to current deemed refusal appeals to the Land and Environment Court;
- No. 39 Rhodes Street Hillsdale was approved by the Land and Environment Court on 2 February 2015; and
- No. 54 Pemberton Street and 47-67 Wilson Street Botany is still under assessment. It was deferred by the Joint Regional Planning Panel on 19 January 2015 for amended plans.

Sites over 2000m² that are not subject to a DA

Sites 1 to 11 on Map 4 in **Attachment B** are not subject to a DA assessment. It should be noted that 7 of the 11 sites are owned by the NSW Land and Housing Corporation. Given that these sites are covered by State Environmental Planning Policy (Affordable Rental Housing) 2009 – the provisions of which overrule the provisions of the Botany Bay LEP 2013 – the removal of the bonus provisions will not affect the development of the sites.

Site 3 at 70 Mascot Drive Eastlakes contains an active church and therefore the removal of the bonus provisions will not affect the development of the site.

Site 7 – 97 Banksia Street Botany and Site 8 – 10 Aylesbury Street Botany are adjacent to both low density residential (single houses) and medium density development (townhouse and villa development). Therefore a height of 22 metres on these sites is not appropriate and would be out of character with the surrounding building form and scale of the locality.

Site 6 at 96A Bay Street, Botany is adjacent to the Botany Goods Railway Line and opposite low density residential development and adjacent to medium density residential development. It may be possible that development on this site could reasonably exceed the height limit on the

LEP Height of Building Map (being 10m) but it would not be appropriate at 6 storeys. This is a site that would be required to be a merit based assessment in terms of height.

3. Is the planning proposal consistent with applicable state environmental planning policies?

Attachment C summarises the Planning Proposal's consistency with State Environmental Planning Policies (SEPPs) and relevant deemed SEPPs. The Planning Proposal is consistent with SEPPs, and relevant deemed SEPPs.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with the applicable section 117 directions.

Attachment D outlines compliance with each of the section 117 directions.

Section C – Environmental, social and economic impact.

1. 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.

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

The planning proposal is of minor significance, and it is not envisaged that there will be any adverse environmental effects. The planning proposal will address a concern raised in the community with the height and bulk of development on sites over 2000m² in area zoned R3 or R4.

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

Social effects: The planning proposal will result in a positive social effect to the community by requiring development in keeping with the streetscape and character of the area.

Economic effects: The proposal will not have any negative economic effect.

Section D – State and Commonwealth interests

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

There will be no net change in the demands on public infrastructure for any of the sites as a result of this planning proposal.

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

State and Commonwealth public authorities will be consulted in accordance with the Gateway Determination.

PART 4 - 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 5 - MAPPING

No mapping is required for the Planning Proposal

PART 6 – PROJECT TIMELINE

The project timeline for the Planning Proposal is outlined in **Table 8** below.

Table 8 – Draft Timeline

	Timeframe ¹
Anticipated commencement date	March 2015
Anticipated timeframe for the completion of required technical information	TBA advised by Department as to what technical information may be required.
Report back to Council on Gateway Determination	May 2015
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	June 2015
Commencement and completion dates for public exhibition period	July 2015
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	August 2015
Date of submission to the Department to finalise the LEP	September 2015
Anticipate date RPA will make the plan (if delegated)	October 2015
Anticipated date RPA will forwarded to the Department for notification	October 2015

¹ Subject to the Department of Planning & Infrastructure approval and timeframe

PART 7 – CONCLUSION

In summary, the Planning Proposal seeks the following amendments:

- To delete the 22 metre height for sites which are zoned R3 Medium Density Residential or R4 High Density Residential, and have a site area over 2000m².
- To delete the 1.65:1 bonus FSR for sites which have a site area over 2000m² and are affected by acid sulfate soils, contamination, and noise.

As detailed in this planning proposal, the resolution has come about as a result of the impacts that the additional height and FSR has raised within the Botany Bay LGA community. Not only has the development standards resulted in additional building bulk and height it has also presented as potential amenity impacts resulting from new developments not being in context with existing urban environments particularly where they adjoin R2 Low Density Residential zones.

The bonus provisions do not provide for a transition between the sites zoned R2 Low Density Residential and land zoned R3 and R4. Where the R3 and R4 Residential Zones are immediately adjoining R2 low density residential zones, the increased building height and building bulk presents adverse impacts to the prevailing streetscape and results in overshadowing and overlooking impacts.

The combination of the two bonus controls – 22m height and 1.65:1 FSR –has resulted in the overdevelopment of sites and impacts on adjoining properties.

Council is not opposed to bonuses or variations to height and FSR if there is merit. However Council believes it needs to be a controlled process - through the utilisation of Clause 4.6 of the Botany Bay LEP 2013.

As outlined in this report, the Planning Proposal to delete Clauses 4.3(2A) and 4.4B will not stifle residential development. The Neustein Urban Study (2010) forecasted an increased residential dwelling capacity of 7,460 to 8,242 dwellings (between 2004 to 2031) with 1,015 already constructed at the time of preparation of the Study. The number of new dwellings completed between 2003/04 to 2012/13 is 2258. A total of 4533 dwellings can be supplied by Council in the next 10 years from sites that were not included in the Neustein Urban Study and therefore are additional to the increased residential dwelling capacity of 7,460 to 8,242 dwellings forecasted by Neustein Urban in 2010. There are currently 1152 dwellings under construction within the newly rezoned western section of the Mascot Station Precinct with an additional 870 dwellings approved or have a DA lodged. There are limited sites zoned R3 or R4 with a consolidated site area of 2000m² left redevelopment.

Therefore, in light of the above, the Department is requested to reconsider its position and allow the above clauses to be deleted as Council has clearly demonstrated that in the absence of these clauses, it has the capacity to achieve the specified housing target (of 6,500 dwellings) of the Draft East Subregional Strategy (Dated July 2007).

ATTACHMENTS

- A. A copy of the Report dated 17 February 2015 and Council's Resolution dated 25 February 2015.
- B. Case Studies of Sites zoned R3 or R4 and able to be amalgamated
- C. List of State Environmental Planning Policies
- D. Ministerial Directions

Attachment A

**A copy of the Council Report dated 17 February 2015 and Council's Resolution dated
25 February 2015**

Refer to separate attachment

Attachment B – Case Studies

Please refer to separate attachment

Attachment C
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.4 – Development without Consent and Miscellaneous Exempt & Complying Development</i>	Not applicable
<i>No.6 – Number of Storey in a Building</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<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.22 – Shops and Commercial Premises</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.26 – Littoral Rainforests</i>	Not applicable
<i>No.29 – Western Sydney Recreation Area</i>	Not applicable
<i>No.30 – Intensive Agricultural</i>	Not applicable
<i>No.32 – Urban Consolidation (Redevelopment of Urban Land)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.33 – Hazardous and Offensive Development</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.36 – Manufactured Home Estates</i>	Not applicable
<i>No.39 – Spit Island Bird Habitat</i>	Not applicable
<i>No.41 – Casino Entertainment Complex</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</i>	Not applicable

State Environmental Planning Policy (SEPP)	Consistent with applicable State Environmental Planning Policies
<i>Residential</i>	
<i>No.60 – Exempt and Complying</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>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>No.70 – Affordable Housing (Revised Schemes)</i>	Not applicable
<i>No.71 – Coastal Protection</i>	Not applicable
<i>Affordable Rental Housing (2009)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<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>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Infrastructure (2007)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Kosciusko National Park – Alpine Resorts (2007)</i>	Not applicable
<i>Kurnell Peninsula</i>	Not applicable
<i>Major Development (2005)</i>	Not applicable
<i>Mining, Petroleum Production and Extractive Industries (2007)</i>	Not applicable
<i>Penrith Lakes Scheme (1989)</i>	Not applicable
<i>Port Botany and Port Kembla (2013)</i>	Consistent The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<i>Rural Lands (2008)</i>	Not applicable
<i>SEPP 53 Transitional Provisions (2011)</i>	Not applicable
<i>State and Regional Development (2011)</i>	Consistent

State Environmental Planning Policy (SEPP)	Consistent with applicable State Environmental Planning Policies
	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>Temporary Structures (2007)</i>	Consistent
	The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
<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 Corridor</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. 25 – Orchard Hills</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 26 – City West</i>	Not applicable
<i>Sydney Regional Environmental Plan No. 28 - Parramatta</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

Attachment D
Section 117 Directions Compliance

Directions		Consistency with Section 117 Directions
1. Employment and Resources	1.1 Business & Industrial Zones	The planning proposal will not affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).
	1.2 Rural Zones	The planning proposal will not affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).
	1.3 Mining	The planning proposal does not have the effect of prohibiting the mining of coal etc or restricting the potential development of resources of coal, etc.
	1.4 Oyster Aquaculture	The planning proposal does not propose a change in use.
	1.5 Rural Lands	The planning proposal will not affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or that changes the existing minimum lot size on land within a rural or environment protection zone.
2. Environment and Heritage	2.1 Environment Protection Zones	The Botany Bay LEP 2013 already contains provisions that facilitate the protection and conservation of environmentally sensitive areas. The planning proposal does not seek to change/alter those provisions. The planning proposal does not apply to land within an environment protection zone or land otherwise identified for environment protection purposes.

Directions		Consistency with Section 117 Directions
	2.2 Coastal Protection	The planning proposal does not apply to land in the coastal zone.
	2.3 Heritage Conservation	The Botany Bay LEP 2013 already contains provisions that facilitate the conservation of heritage items etc. The planning proposal does not seek to change/alter those provisions.
	2.4 Recreation Vehicle Areas	The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.
3. Housing, Infrastructure and Urban Development	3.1 Residential Zones	The planning proposal is consistency with this Direction. The planning proposal does not alter any existing residential zone boundary – it deals with FSR and height bonuses for land over 2000m2 which is zoned R3 or R4. The planning proposal: • Does not affect the variety and choice of housing types, • Does not affect the use of existing infrastructure and services, nor the access to infrastructure and services, and • Does minimises the impact of residential development on the surrounding environment.
	3.2 Caravan Parks and Manufactured Home Estates	The planning proposal does not identify suitable zones, locations and provisions for caravan parks.
	3.3 Home Occupations	The Botany Bay LEP 2013 already permits home occupations to be carried out in dwelling houses without the need for development consent. The planning proposal does not

Directions		Consistency with Section 117 Directions
		seek to change/alter those provisions.
	3.4 Integrating Land Use and Transport	The planning proposal will not create, alter or remove a zone relating to urban land. The existing provisions of the Botany Bay LEP 2013 give effect to and are consistent with the aims, objectives and principles of: • <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and • <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001). The planning proposal will remove two provisions relating to urban land – land zoned R3 and R4 but the removal of these two provisions will not affect the consistency of the Botany Bay LEP 2013 with the aims, objectives and principles of: • <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and • <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).
	3.5 Development Near Licensed Aerodromes	The Botany Bay LEP 2013 already contains provisions – <i>Clause 6.8 - Airspace Operations</i> and <i>Clause 6.9 – Development in areas subject to aircraft noise</i>. The planning proposal does not seek to change/alter those provisions.
	3.6 Shooting Ranges	The planning proposal will not affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or

Directions		Consistency with Section 117 Directions
		adjoining an existing shooting range.
4. Hazard and Risk	4.1 Acid Sulfate Soils	The Botany Bay LEP 2013 already contains a provision relating to acid sulfate soils – <i>Clause 6.1 – Acid sulfate soils.</i> The planning proposal does not seek to change/alter those provisions.
	4.2 Mine Subsidence and Unstable Land	The planning proposal does not permit development on land that is within a mine subsidence district, or has been identified as unstable in a study, strategy or other assessment undertaken.
	4.3 Flood Prone Land	The planning proposal does not create, remove or alter a zone or a provision that affects flood prone land.
	4.4 Planning for Bushfire Protection	The planning proposal does not affect, or is in proximity to land mapped as bushfire prone land.
5. Regional Planning	5.1 Implementation of Regional Strategies	The Planning Proposal is consistent with a regional strategy released by the Minister for Planning. The draft <i>East Subregional Strategy</i> 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 planning proposal is consistent with the relevant objectives and actions of the Plan as follows: • <i>C1 Ensure adequate supply of land and sites for residential development:</i> Council is not reducing the supply of land and sites for residential development.

Directions		Consistency with Section 117 Directions
		No rezonings are proposed by the planning proposal. Council has met its housing targets of 6500 dwellings by 2031 without the bonus incentives of 22m height limit and 1.65:1 FSR.
	5.2 Sydney Drinking Water Catchment	The Direction does not apply to the City of Botany Bay.
	5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The Direction does not apply to the City of Botany Bay.
	5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The Direction does not apply to the City of Botany Bay.
	5.8 Second Sydney Airport: Badgerys Creek	The Direction does not apply to the City of Botany Bay.
	5.9 North West Rail Link Corridor Strategy	The Direction does not apply to the City of Botany Bay.
6. Local Plan Making	6.1 Approval and Referral Requirements	The planning proposal does not require the concurrence, consultation or referral of development applications to a Minister or public authority.
	6.2 Reserving Land for Public Purposes	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
	6.3 Site Specific Provisions	The planning proposal does not allow particular development to be carried out.
7. Metropolitan Planning	7.1 Implementation of A Plan for Growing Sydney	The planning Proposal is consistent with A Plan for Growing Sydney. The planning proposal achieves the overall intent of the Plan and does not undermine the achievement of its planning principles; directions; and priorities for subregions, strategic centres and transport gateways