

Planning Proposal

Botany Local Environmental Plan 2013 Amendment to Clause 4.3 – Building Height



18 May 2021

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A	Prepared by LJB Urban Planning dated 18.5.21
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Introduction

This Planning Proposal explains the intended effect of, and justification, for the proposed amendment to *Botany Local Environmental Plan 2013*. It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and *A Guide to Preparing Planning Proposals* (NSW Department of Planning & Environment, August 2016).

Background

This Planning Proposal has been prepared by LJB Urban Planning Pty Ltd on behalf of Toplace Pty Ltd and is submitted to Bayside Council for consideration.

The Planning Proposal contains an explanation of the intended effect and justification of a proposed amendment to Botany Bay Local Environmental Plan 2013. (BBLEP 2013)

The LEP amendment relates to land known as 146 to 154 O’Riordan Street, Mascot. The site contains 4 lots which are legally known as Lots 13, 14 and 15 in DP 1232496 and Lot A in DP 402876. The site is located on the eastern side of O’Riordan Street to the east of the Bourke Street intersection. Mascot Oval adjoins the site to the north.

This Planning Proposal seeks to increase the height permitted across part of the site from 22 metres to part 44 metres. No change is proposed to the zoning of the site, the maximum permitted FSR of 3:1 or the height at the rear of the site. A Building Height plane clause is proposed to apply to land within the 22 metre height zone to ensure appropriate building setbacks to Mascot Oval and the R3 zone to the rear.

The Building Height Plane will in effect ensure appropriate setbacks are achieved. Should a future development seek to provide a lesser setback (as permitted by BDCP 2013) the Building Height Plane clause will require the height of the building to be reduced to maintain a transition. This is an appropriate outcome to ensure an appropriate interface with Mascot Oval and residents within the R3 zone. The front portion of the site that falls within the proposed 44m height zone, does not have the same relationship with Mascot Oval and therefore does not have the same transition requirements.

The proposed increase in height will provide a continuation of the 44 metre height limit in this section of O’Riordan Street. It will enable the permitted density to be achieved and ensure a transition of building heights to the lower density zoned properties to the east.

This Planning Proposal has been prepared in conjunction with PTW Architects and is a direct result of an architectural Urban Design study, review of strategic plans and policies as well as the surrounding built form in the locality.

The Urban Design Study that supports this Planning Proposal is accompanied by a concept design. The concept design is based on the use of the site as a mixed use

development including hotel, serviced apartments and ancillary services that are permitted in the zone.

A previous Planning Proposal was submitted to Bayside Council to amend the LEP in the form that is currently proposed. The Planning Proposal process is summarised below:

- *December 2018 - Planning Proposal lodged*
- *23 January 2019 - Bayside Council requested additional expert reports*
- *26 March 2019 - Additional expert reports submitted including Urban Design report, Traffic Report, Heritage report, Flood report, Aeronautical report, Detailed Site Investigation*
- *16 July 2019 - Planning Proposal endorsed by Bayside Local Planning Panel to proceed to Gateway with conditions*
- *14 August 2019 - Planning Proposal endorsed by Bayside Council to proceed to Gateway with conditions*
- *19 December 2019 - Gateway determination issued with conditions*
- *23 June 2020 – Updated Planning Proposal submitted to the DPIE*
- *26 June 2020 – DPIE endorsed the Planning Proposal for exhibition*
- *22 July 2020 to 19 August 2020 – Public exhibition of Planning Proposal*
- *29 September 2020 – Planning Proposal endorsed by Local Planning Panel. Panel recommended that Council exercise its delegations and make the LEP.*
- *9 December 2020 – Report to Council recommending the Council request the Minister to make the LEP in the form it was exhibited. Council resolved not to make the LEP. No reasons or justification was provided.*

Notwithstanding the extensive process that had been undertaken and the support given to the Planning Proposal through the process, as the Council resolved not to make the LEP, the applicant has no option but to re-commence the process.

Local Planning Framework

The site is zoned B5 Business Development under Botany Bay Local Environmental Plan 2013

Clause 4.3 of the LEP specifies a maximum building height of 22 metres.

Clause 4.4 of the LEP specifies a FSR of 3:1.

The land to which this Planning Proposal relates does not contain a heritage item and is not within a heritage conservation area.

The site is located adjacent to Mascot Oval (I82), which is heritage listed. A heritage report accompanies this submission at **Appendix 4**. The conclusion of the report is considered in this Planning Proposal report.

Clause 6.8 of the LEP requires consultation with the relevant Commonwealth body if the development will penetrate the Limitation or Operations Surface. The proposed Planning Proposal was referred to the Department of Infrastructure, Transport, Regional Development and Communications and a Controlled Activity approval has been granted. An Aeronautical Impact Assessment Report accompanies this

submission at **Appendix 7** and a controlled activity is attached at **Appendix 9**. The conclusion of the report is considered in this Planning Proposal report.

Clause 6.16 of the LEP applies as the site is nominated as a Key Site, being located with the Mascot Station Precinct. Future development of the site will need to exhibit design excellence. An Urban Design Report accompanies this submission at **Appendix 1**. The constraints and opportunities of the site as identified in the report are considered in this Planning Proposal report.

Part 1 - Objectives or Intended Outcomes

The objective of the Planning Proposal is to:

- *Amend Botany Bay 2013 LEP controls to allow for more appropriate height controls along O’Riordan Street; and*
- *Provide for the orderly and economic development of land.*

The increased building height will provide a continuation of the existing height controls along the western side of O’Riordan Street and properties to the south. A continuation of the 44 metre height control will result in a more balanced building form which transitions across the site to 22 metres to mitigate impacts towards lower density properties to the east. The Planning Proposal also seeks to include a Building Height Plane clause to restrict the building form within the 22 metre height zone. The Building Height Plan will ensure an appropriate transition of building scale at the interface with the RE1 and R3 zones. The outcome of the Building Height plane will result in the stepping of the building form towards these sensitive uses.

This Planning Proposal provides for the orderly and economic development with the additional height enabling the permitted density to be achieved while still maintaining a transition of building heights across the site. The retention of the existing height control will not enable the orderly or economic development of the land.

Part 2 - Explanation of Provisions

The proposed outcome will be achieved by:

- Amending *Botany Bay LEP 2013* Height of Building Map to achieve a maximum permissible height of 44 metres along part of the site adjacent to O’Riordan Street as shown on the map provided at Part 4 of this report.
- Amending *Botany Bay LEP 2013* Height of Buildings Map to identify part of the site as ‘Area 3’ as shown on the map provided at Part 4 of this report.
- Amending *Botany Bay LEP 2013* to include a site specific Building Height Plane clause applying to the part of the site identified as ‘Area 3’. It is suggested that the clause be worded as follows:

(2D) Despite subclause (2), the area of land identified as “Area 3” is subject to a 45 degree Building Height Plane that is measured on the northern boundary at a height of RL19 and a height of RL26 on the eastern boundary.

Table 1 – Proposed Map Amendments

Map Sheet No.	Amendment	Explanation
HOB_001	<ul style="list-style-type: none"> • Increase the western half of the site from 22 metres to 44 metres. Retaining 22 metre height limit along the eastern half of the site. 	Increase height along O’Riordan Street to be consistent with existing and future building form while maintaining a lower height at the rear to transition to lower densities and Mascot Oval.
HOB_001	<ul style="list-style-type: none"> • Identify part of the site as ‘Area 3’. 	To ensure a transition of building height within the 22 metre height zone towards Mascot Oval and the R3 zoned land to the east.

The LEP will conform to the Standard Instrument (Local Environmental Plans) Order 2006.

The zoning, floor space ratio, heritage, and acid sulfate soil maps, which currently form part of the BBLEP 2013, will remain unchanged as a result of the Planning Proposal.

Part 3 – Justification

A Need for the Planning Proposal

Q1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not a direct result of a strategic study. This Planning Proposal has been prepared in response to an Urban Design Report prepared by PTW Architects accompanying this submission at **Appendix 1**.

The purpose of the study was to inform the proposal in terms of potential heights considering the existing urban form along O’Riordan Street. It also considered the potential impact on the increased height and whether this achieved a better outcome for this site.

The Urban Design Report recommends an increase in building height for the following reasons:

- The site is located at a key and highly visible intersection of Bourke and O’Riordan Street;
- The sites proximity to Mascot Station;
- The existing built form which includes: 11 storey Holiday Inn, 14 storey Pullman Hotel, 14 storey Travelodge and 7 storey Ibis Hotel;
- The heights along O’Riordan Street corridor and achieving a consistent height as all other sites with frontage to O’Riordan Street south of the Park; and
- Ability to achieve more consistent heights along O’Riordan Street that will transition across the site towards the east.

The key concepts underlying the above strategy, identified by PTW Architects, are:

- *Height transition;*
- *Park activation;*
- *Enhanced natural surveillance; and*
- *Acoustic buffer.*

The urban design analysis recommends an increase of across approximately 50% of the site to 44 metres (western side) and retaining the 22 metres to the remainder of the site (eastern side). It also provides for a transition in building height by the inclusion of a Building Height Plane to the northern and eastern boundary in the rear portion of the site. The Building Height Plane has resulted from a resolution of Council and not the Urban Design Analysis undertaken on the site.

The purpose of the Building Height Plane is to achieve a transition or stepping in building height towards Mascot Oval and the R3 zone to the rear.

It is noted that the Building Height Plane will in effect ensure appropriate setbacks are achieved. Should a future development seek to provide a lesser setback (as permitted by BDCP 2013) the Building Height Plane clause will require the height of the building to be reduced to maintain a transition. This is an appropriate outcome to ensure an appropriate interface with Mascot Oval and residents within the R3 zone. The front portion of the site that falls within the proposed 44m height zone, does not have the same relationship with Mascot Oval and therefore does not have the same transition requirements.

A supplementary Urban Design & View Analysis accompanies this submission at **Appendix 2**. The report addresses the previous suggestion by the Local Planning Panel that the Building Height Plane should be extended to the buildings along O’Riordan Road frontage. The report confirms that this is not a good urban design or planning outcome and therefore the Planning Proposal does not incorporate this suggestion.

The analysis confirms that the increased height is appropriate on this site and will not result in adverse impacts. The increased height will assist in reducing the acoustic impacts of traffic noise along O’Riordan Street for the medium density residential dwellings to the east.

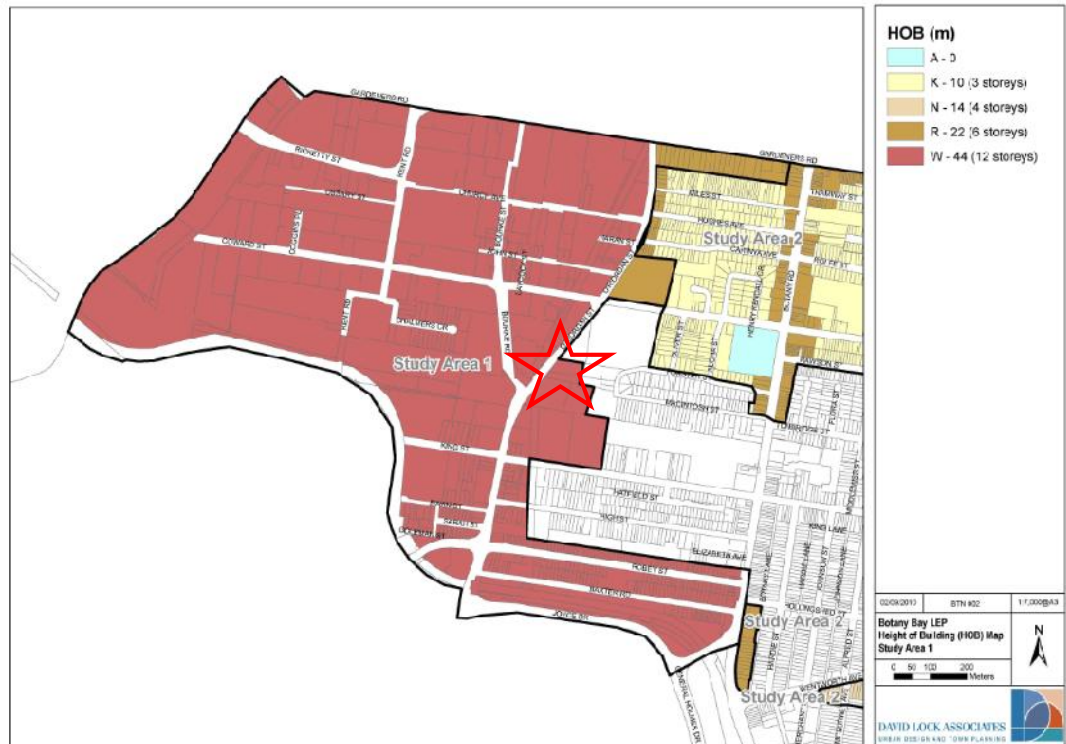
The Planning Proposal does not seek to change the maximum permitted FSR of 3:1. It is unlikely that the permitted FSR could be achieved within the 22-metre height control without a significantly large footprint that is likely to impact on the residential dwellings to the east and reduce passive surveillance of Mascot Oval.

The proposed massing enables flexibility for a future building design that will have the potential to achieve design excellence and construction of high-quality buildings that will provide an active street frontage and improve the public domain. The massing that supports the planning proposal would result in a mixed use development including hotel, serviced apartments and ancillary services.

The additional height will provide an appropriate balance of building form along O’Riordan Street and will be a consistent approach to the building form in the surrounding locality.

The LEP Standards and Urban Design Controls Study for the City of Botany Bay LEP 2011 were prepared in September 2010. The report recommended a height of 44 metres to the entire site as shown below:

Figure 5.7: Proposed height controls for Study Area 1



The LEP as gazetted maintained a continuous 44 metre height control to O’Riordan Street in the B5 zone with the exception of the subject site and the site to the south, east of the SP2 land. There does not seem to be a logical reason why this site did not continue the 44m height alignment along O’Riordan Street. Given the importance of this corridor and the intersection with Botany Road, increased height in this location is considered a better urban design outcome.

Q2 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 way of achieving the objectives and intended outcomes. The extent of variation to the height controls proposed under this Planning Proposal is most appropriately addressed by a change to the sites height controls.

The additional height is appropriate along O’Riordan Street given the existing and future building forms and the importance of the Global Economic Corridor.

There are no alternate approaches that would effectively achieve the intended outcome of this site. The proposed increase in building height is only appropriate in this location following a detailed consideration of the opportunities and constraints of this site including, but not limited to:

- Prominence of the Global Economic Corridor and relationship with the intersection with Bourke Street;

- Creation of a strong and defined edge to O’Riordan Street;
- Proximity to lower density residential to the east and desire to retain a transition of building heights;
- Proximity to Mascot Oval and opportunity for increased passive surveillance of the public domain.

B Relationship to strategic planning framework

Q3 Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal is consistent with the objectives and actions of the current metropolitan plan, known as Greater Sydney Region Plan – A Metropolis of Three Cities – 2056. This is discussed below.

Greater Sydney Region Plan 2056

The Greater Sydney Commission prepared the current regional plan ‘Greater Sydney Region Plan – A Metropolis of Three Cities – 2056’. This plan was recently updated in March 2018.

The following diagram outlines the planning of greater Sydney and how relevant directions, plans, strategies and programs will be applied and implemented:

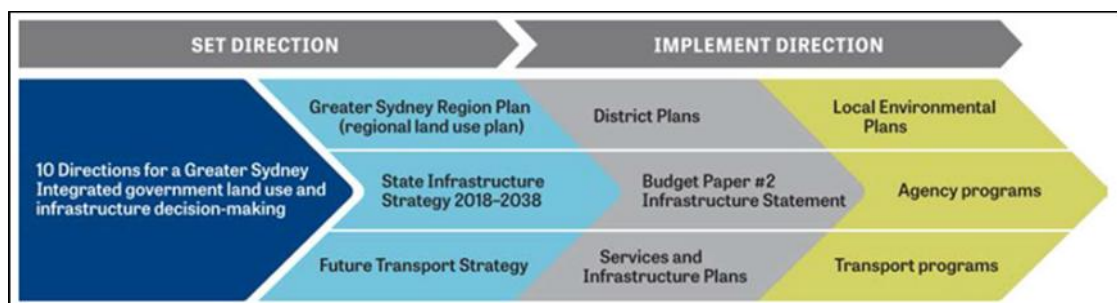


Figure 1: Directions for a Greater Sydney, Prepared by Greater Sydney Commission

The regional plan has incorporated the 10 guiding directions to create a greater Sydney by 2056. The Plan provides a broad vision with detailed strategies and actions having an emphasis on creating a global metropolis of three cities being:

- *Eastern Harbour City;*
- *Central River City; and*
- *Western Parkland City.*

The Plan incorporates a 40-year vision and establishes a 20-year plan to manage population growth and change. It has also assisted in informing the

recent district plans, the assessment of planning proposals and will continue to assist in infrastructure planning.

The Plan places a strong emphasis on creating a ‘30-minute’ city with greater consideration on transport and infrastructure.

Mascot is in the Eastern Harbour City area. The site is also positioned within the ‘Green Square to Mascot Eastern Economic Corridor’. The Plan recognises the importance of this corridor:

The Eastern Economic Corridor from Macquarie Park to Sydney Airport is the State’s greatest economic asset – contributing two-thirds of NSW’s economic growth in the 2015-16 financial year. It will build on its credentials and leverage its strong financial, professional, health, education and innovation sectors.

The Planning Proposal does not seek to change the existing B5 Business Development zone as it relates to height only. The proposed height will provide greater consistency with the existing and future urban form along O’Riordan Street enhancing its role as part of the Economic Corridor.

The additional height will continue to positively contribute to a further increase in local job opportunities and support the Mascot Station Town Centre Precinct to the north, which has seen a significant growth of residential dwellings in recent years.

The Planning Proposal will satisfy Section 4 *Liveability* Objective 12 *Great Places* that Bring People Together within the Regional Plan. The additional height and future redevelopment of the site will have the potential to create an improved built environment that provides more consistent building scale along O’Riordan Street, between the Airport (Joyce Drive) and Mascot Town centre, further emphasising the importance of the locality.

The future redevelopment of the site with the increased height as shown in accompanying Urban Design Study will be capable of improving links to Mascot Town Centre and surrounding businesses/residences.

Section 5 Productivity, Objectives 14, 15, 16, 22 and 23, will continue to be satisfied. The zoning will remain B5 Business Development. There are 775,000 jobs located within the Eastern Economic Corridor and the additional height will enable development of the site to its potential and provide greater employment prospects in the future. 817,000 jobs are required over the next 20 years to 2036.

The increased height that can be achieved by this Planning Proposal is consistent with the direction and objectives within this Plan.

Eastern City District Plan

The Eastern City District Plan seeks to implement the directions established within the Greater Sydney Region Plan 2056. It seeks to ensure that the

district is developed in accordance with the ‘three cities’ approach to improve social, economic and environmental conditions.

The population growth within the district is proposed to increase from approximately 1 million to 1.34 million in 2036, with a projected housing rate increase of 157,500 new dwellings.

Mascot is located with the ‘Green Square – Mascot’ Strategic Centre. In 2016 it was estimated to have approximately 59,500 jobs. This is likely to increase to between 75,000 and 80,000 by 2036.

The planning proposal does not change the zoning of the site or the permitted FSR. The additional height sought on the site will not affect the achievement of the Planning Priorities within the district plan. In effect, it will allow for the site to be developed to its full economic potential, retaining the FSR of 3:1.

In addition, the Planning Proposal will continue to satisfy the following Planning Priorities:

- E9 – Growing International Trade Gateways;
- E10 – Delivering Integrated Land Use and Transport Planning and a 30 Minute City;
- E11 – Growing Investment, Business Opportunities and Jobs in Strategic Centres; and
- E12 – Retaining and Managing Industrial and Urban Services Land.

The Planning Priorities will still be satisfied in the following ways:

- Development of the site as permitted in the B5 Business Development zone;
- The additional height will be consistent with the existing and future built environment along O’Riordan Street between the airport and Mascot Town Centre;
- Future redevelopment of the site has the opportunity to improve the interface between surrounding streets and the nearby Mascot Town Centre and Mascot Oval, with improved public domain and safety for pedestrians;
- Mascot is identified as a strategic centre and the additional height will provide further articulation of the skyline towards the Mascot town centre; and
- The increase in height along O’Riordan Street will ensure a suitable transition of built form from 44m to 22m across the site, continuing to the existing 12 metres in the lower density zones to the east.

Planning Priority E16 Protecting and Enhancing Scenic and Cultural Landscapes will be satisfied as the Mascot Oval to the north will not be affected by any additional shadow due to orientation of the site. Any future development of this site has the opportunity to improve the interface with and use of the open space making it a safer environment for enjoyment of visitors and potential employees. The inclusion of the Building Height Plane Clause will assist in facilitating this.

As outlined above, the Planning Proposal demonstrates consistency with the applicable ‘Planning Priorities’ and therefore is consistent with the Eastern City District Plan.

Q4 Is the Planning Proposal consistent with Council’s local strategy or other local strategic plan?

Table 2 below identifies how the Planning Proposal is consistent with the community outcomes.

Table 2 – Consistency with the Bayside Community Strategic Plan 2030

Theme One – Bayside will be a vibrant place	How We Will Get There	Consistency
Strategic Direction – Our places are people-focussed	Local areas are activated with cafes, restaurants and cultural events	Ability for future non-residential uses to be provided at ground level adjacent to O’Riordan Street.
	Places have their own village atmosphere and sense of identity	Planning Proposal relates to additional height. Existing zoning retained and can be achieved by the range of uses permitted.
	My community and council work in partnership to deliver better local outcomes	This Planning proposal will not affect the community and Council partnership. This Planning Proposal will be publicly exhibited for consideration of the community.
	The public spaces I use are innovative and put people first	The Planning Proposal does not relate to public spaces.
	There is an appropriate and community-owned response to threats	Not affected by this Planning Proposal.
Strategic Direction – Our places connect people	Walking and cycling is easy in the City and is located in open space where possible	The site is in close proximity to Mascot Town Centre, Railway station, bus services and the airport.
	We are one community with shared objectives and desires	The Planning Proposal is consistent with the surrounding building form and existing LEP heights along O’Riordan Street.
	Our heritage and history is valued and respected	The additional height will not affect the heritage significance of Mascot Oval. It is intended that the interface with the park can be improved with additional opportunity for passive

		surveillance. The Building Height Plane clause maintains an appropriate transition in height.
Strategic Direction – Our places are acceptable to all	Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community	The Planning Proposal will not affect any existing or future open space. Any future redevelopment in line with the Planning Proposal is likely to improve the public domain along O’Riordan Street and connection with adjoining open space.
	SMART Cities – making life better through smart use of technologies	The proposed height will have no impact on the use of technologies.
	Assets meet community expectations	Proposed height is consistent with existing LEP heights along O’Riordan Street. Community expectations will not be significantly affected.
	Bayside provides safe and engaging spaces, places and interactions	Existing zoning and FSR will remain unchanged and the additional height
	People who need to can access affordable housing	Zoning does not permit residential development.
	We welcome visitors and tourists to our City	Additional height will not detrimentally affect the welcoming of visitors.
Strategic Direction – My place will be special to me	Local developments reflect innovative, good design and incorporate open space and consider vertical families	Planning Proposal relates to additional height which is consistent with surrounding building form along O’Riordan Street.
	Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work	The site is positioned to be able to meet the 30-minute city principle.
	Traffic and parking issues are a thing of the past	The Planning Proposal will not adversely affect the existing traffic network or create parking concerns, refer to accompanying Traffic Report.
	Road, rates and rubbish are not forgotten	Noted. Planning Proposal does not affect this. Any future detailed applications will have consideration.
	Gateway sites are welcoming and attractive	The increased height along O’Riordan Street will be consistent with the surrounding built form and further identify the major gateway that O’Riordan Street is. This goal will be achieved with this Planning Proposal.

Theme Two – In 2030 our people will be connected in a smart City	How We Will Get There	Consistency
Strategic Direction – We benefit from technology	Council engages with us and decision making is transparent, and data driven	Noted. This Planning Proposal will be exhibited in accordance with Council Policy.
	We can access information and services online and through social media	Planning Proposal will not affect this.
	We are a digital community	Noted.
	Technological change has been harnessed and we are sharing the benefits	Noted.
Strategic Direction – We are unified and excited about our future	Community leadership is developed and supported	Noted. Planning Proposal will not affect this.
	We are all included and have a part to play in the City	The Planning Proposal is consistent with existing and future building form along O’Riordan Street and will be exhibited accordingly for community consideration.
	The City is run by, with and for the people	Noted.
	We are proud of where we live	Noted.
Strategic Direction – The community is valued	Aboriginal culture and history is recognised and celebrated	Noted.
	We are a healthy community with access to active recreation and health education	The site adjoins Mascot Oval which provides public open space for existing and future employees across the site. The height will not affect this.
	All segments of our community are catered for – children, families, young people and seniors	Noted. Planning Proposal will not affect this goal.
	Opportunities for passive and active activities are available to community members, including people with pets	Noted. Planning Proposal will not affect this goal.
	The value of pets in the community is recognised and they are welcomed across the city	Noted. Planning Proposal will not affect this goal.
Strategic Direction – We treat each other with dignity and respect	We can participate in cultural and arts events which reflect and involve the community	The additional height will not affect this goal.
	Flexible care/support arrangements for seniors, children and people with disabilities are available	The additional height will not affect this goal.

	across the LGA	
	Cultural diversity is reflected and celebrated in the City’s activities	The proposed height will not affect cultural diversity.
	Our public buildings are important community hubs and are well maintained and accessible	Not applicable.
Theme Three – In 2030 bayside will be green, leafy and sustainable	How We Will Get There	Consistency
Strategic Direction – Our waste is well managed	I can reduce my waste through recycling and community education	The Planning Proposal seeks to increase height only. Any future detailed application will need to have consideration for waste measures before, during and after construction.
	Illegal dumping is a thing of the past	The additional height will not affect this goal.
Strategic Direction – We are prepared for climate change	We understand climate change and are prepared for the impacts	The additional height will not affect this goal.
	Our City is prepared for/able to cope with severe weather events	The additional height will not affect this goal.
	Our streetscapes are green and welcoming	The additional height will not affect this goal. A future detailed development application will have consideration for this.
Strategic Direction – We increase our use of renewable energy	Our City promotes the use of renewable energy through community education	This Planning proposal will not affect the continuing community education.
	Our City models use of renewable energy and reports gains benefits to the community	This Planning proposal will not affect the use of renewable energy and reports for the community.
Strategic Direction – Waterways and green corridors are regenerated and preserved	Water is recycled and re-used	The additional height will not affect this goal.
	The community is involved in the preservation of our natural areas	The additional height will not affect this goal. A future detailed development application will have consideration to this.
	We have an enhanced green grid/tree canopy	The additional height will not affect this goal. A future detailed development application will have consideration to this.
Theme Four – In 2030 we will be a prosperous community	How We Will Get There	Consistency
Strategic Direction – Opportunities for economic development	Major employers support/partner with local small business	The additional height will not affect this goal. Any future redevelopment

are recognised		will have consideration to this.
	We are an international hub for transport and logistics-related business	This has been discussed in the Planning Proposal. The increased height will be consistent with the surrounding character and assist in identifying the significance of O’Riordan Street as a gateway between Sydney Airport and the CBD.
	Industrial lands and employment lands are preserved – partnering with major employers to support local jobs	There is no change of use to the existing zone under the Planning Proposal. The permitted uses will remain unchanged and consistent with the LEP zones.
Strategic Direction – Local housing, employment and business opportunities area generated	Bayside will be a 30-minute City – residents work local or work off-site – no-one has to travel for more than 30 minutes to work	The site is situated within close proximity to Mascot Railway Station which has frequent train services to Airport and CBD. The site achieves the ‘30-minute’ city objective.
	Council is a major employer, supports local apprenticeships and cadetships	The additional height will not affect this goal.
	People who need to can access affordable housing	Residential uses are not permitted within the current zone. However, future employment on the site is in close proximity to the evolving Mascot Town Centre Precinct, containing residential dwellings.
Strategic Direction – The transport system works	We can easily travel around the LGA – traffic problems/gridlock are a thing of the past	The accompanying Traffic Report has determined that the additional height will not detrimentally affect existing and future traffic networks within the locality.
	We can easily travel to work by accessible, reliable public transport	The site is in close proximity to frequent bus and trains services that service the City and surrounding suburbs.
Strategic Direction – We are prepared for a sharing economy	Innovative businesses are supported to locate in Bayside	The additional height will not affect this goal. A future detailed development application will have consideration for this.
	Local Plans and regulations have kept pace with the sharing economy	

Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Consistency with the State Environmental Planning Policies is provided in Table 3, below.

Table 3 - Consistency with State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
1	Development Standards	(Repealed by <i>RLEP 2011</i>)
19	Bushland in Urban Areas	Not Applicable
21	Caravan Parks	Not Applicable
30	Intensive Aquaculture	Not Applicable
32	Urban Consolidation (Redevelopment of Urban Land)	
33	Hazardous and Offensive Development	Not Applicable
36	Manufactured Home Estates	Not Applicable
44	Koala Habitat Protection	Not Applicable
47	Moore Park Showground	Not Applicable
50	Canal Estate Development	Not Applicable
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Not Applicable
55	Remediation of Land	Not inconsistent. A Detailed Site Assessment accompanies the Planning Proposal at Appendix 8 and determined that the site is capable of being made suitable for the intended development.
62	Sustainable Aquaculture	Not Applicable
64	Advertising and Signage	Not Applicable
65	Design Quality of Residential Apartment Development	Not Applicable
70	Affordable Housing (Revised Schemes)	Not Applicable
	(Affordable Rental Housing) 2009	Not Applicable
	(Building Sustainability Index: BASIX) 2004	Not Applicable
	(Coastal Management) 2018	Not Applicable
	(Educational Establishments and Child Care Facilities) 2017	Not Applicable
	(Exempt and Complying Development Codes) 2008	Not Applicable
	(Housing for Seniors or People with a Disability) 2004	Not Applicable
	(Infrastructure) 2007	Not inconsistent. No increase in FSR is proposed. The accompanying traffic assessment at Appendix 3 has determined that the additional height will not create adverse traffic and parking conditions.
	(Kosciuszko National Park – Alpine Resorts) 2007	Not Applicable
	(Kurnell Peninsula) 1989	Not Applicable
	(Mining, Petroleum Production and Extractive Industries) 2007	Not Applicable
	(Miscellaneous Consent Provisions) 2007	Not Applicable
	(Penrith Lakes Scheme) 1989	Not Applicable
	(Rural Lands) 2008	Not Applicable
	(State and Regional Development) 2011	The future development of the site is likely to be deemed as regional development, meeting the relevant threshold. The Planning Panel will be the determining authority.
	(State Significant Precincts) 2005	Not Applicable
	(Sydney Drinking Water Catchment) 2011	The Planning Proposal will not have an effect on water quality and therefore

		remains consistent with the SEPP.
	(Sydney Region Growth Centres) 2006	Not Applicable
	(Three Ports) 2013	Not Applicable
	(Urban Renewal) 2010	Not Applicable
	(Vegetation in Non-Rural Areas) 2017	Not Applicable
	(Western Sydney Employment Area) 2009	Not Applicable
	(Western Sydney Parklands) 2009	Not Applicable

See Table 4 below which reviews the consistency with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

Table 4 - Consistency with deemed State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
8	(Central Coast Plateau Areas)	Not Applicable
9	Extractive Industry (No.2 – 1995)	Not Applicable
16	Walsh Bay	Not Applicable
20	Hawkesbury-Nepean River (No.2 – 1997)	Not Applicable
24	Homebush Bay Area	Not Applicable
26	City West	Not Applicable
30	St Marys	Not Applicable
33	Cooks Cove	Not Applicable
	(Sydney Harbour Catchment) 2005	Not Applicable
	Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment	Not Applicable

Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

See Table 5 below which reviews the consistency with the Ministerial Directions for LEPs under section 9.1 (formerly section 117) of the *Environmental Planning and Assessment Act 1979*.

Table 5 - Consistency with applicable Ministerial Directions

1. Employment and Resources

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	The Planning Proposal does not seek to change the land use zone and therefore does not reduce the extent of uses permitted within the B5 Business Development zone. The additional height will be consistent with existing and future built form along O’Riordan Street and will ensure the orderly economic development of land. The proposed Planning Proposal is not inconsistent with this direction.
1.2	Rural Zones	Not Applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not Applicable
1.4	Oyster Aquaculture	Not Applicable
1.5	Rural Lands	Not Applicable

2. Environment and Heritage

No.	Title	Consistency with Planning Proposal
2.1	Environmental Protection Zones	Not Applicable
2.2	Coastal Protection	Not Applicable
2.3	Heritage Conservation	The site is within close to the heritage listed Mascot Oval. The additional height and

		<p>potential future redevelopment of the site will not detrimentally affect the significance of the item given the surrounding context.</p> <p>The proposed height will be stepped across the site and the existing car park for Mascot Oval provides additional separation to minimise bulk and scale. The Building Height Plane Clause will provide further certainty regarding the interface with the park.</p> <p>As the site is located to the south of Mascot Oval, there will be no additional shadow effect on the heritage listed open space. The heritage report confirms that the increase in height will have a minor impact on Mascot Oval; however this is acceptable given the proposed stepping of height across the site.</p> <p>A Heritage report prepared by Extent Heritage Advisors accompanies this report at Appendix 4 concludes the following:</p> <p><i>The planning proposal application to raise the permissible height of future buildings at 146-154 O’Riordan Street will have a minor impact to the views, but not the setting of the adjacent Mascot Park.</i></p> <p><i>The proposed change of the permissible height from 22 metre to 44 metres only applies to the western area of the subject site, where the surrounding building heights would match the proposed uplift. Other areas of the subject site have lowered height limits that step toward Mascot Park, creating a better sense of proportion. Additionally, the orientation of the narrow face of the building toward O’Riordan Street aligns the greater building mass and scale toward the centre of the subject site. Collectively, these mitigations address the sense of enclosure otherwise created by the proposed height increase.</i></p> <p><i>Though development in the vicinity is not in keeping with some controls in the Botany Bay DCP (see Part 9.3, C.2 and C.10), accepting that those controls may not be anticipating landscape items, overall the impact of the proposed uplift to Mascot Park is minor. This is an acceptable level of impact, particularly with stepped height.</i></p>
2.4	Recreation Vehicle Areas	Not Applicable
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not Applicable

3. Housing, Infrastructure and Urban Development

No.	Title	Consistency with Planning Proposal
3.1	Residential Zones	Not Applicable
3.2	Caravan Parks and Manufactured Home Estates	Not Applicable

3.3	Home Occupations	Not Applicable
3.4	Integrating Land Use and Transport	<p>The Planning Proposal seeks to provide additional height to provide a more consistent building form along both the eastern and western side of O’Riordan Street.</p> <p>Any future development of the site is supported by the proximity to Mascot Station. The site is approximately 550 metre walk from the station, taking approximately 7 minutes on foot. Train services will provide frequent services to and from the site connecting south-western Sydney and the CBD as well as suburbs to the west and north. This contributes towards the ‘30-minute city’.</p> <p>In addition, the site is a 9-minute walk and train ride away to the airport (1.5 kms to the south) and the Sydney CBD is a 20-minute walk and train ride away (5.5km to the north). Increased height and a viable future redevelopment, in this location will further encourage the use of public transport and may reduce the reliance on private vehicle use.</p> <p>The proposal is consistent with the aims, objectives and principles within the following publications:</p> <ul style="list-style-type: none"> • <i>Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001); and</i> • <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i>
3.5	Development near Regulated Airports and Defence Airfields	<p>This Direction applies as the site is located near a regulated airport, Sydney Airport.</p> <p>The Direction requires consultation with operator of the airport and the Commonwealth Department of Infrastructure in the preparation of the Planning Proposal. This is required to occur prior the commencement of the community consultation.</p> <p>A Preliminary Aeronautical Impact Assessment prepared by AVLAW Consulting accompanies this report at Appendix 7 and a controlled activity approval at Appendix 9.</p> <p>As the development will penetrate the OLS Inner Horizontal Surface which is at 51m AHD, the application was referred to the Department of Infrastructure Transport, Regional Development and Communications as it constitutes a ‘controlled activity’. This required a Controlled Activity Approval which was granted on 22 June 2020.</p>

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4. Hazard and Risk

No.	Title	Consistency with Planning Proposal
4.1	Acid Sulfate Soils	The land to which this Planning Proposal relates is identified on Councils Acid Sulfate Soils map as Class 4. The Botany Bay LEP 2013 requires the submission of an acid sulfate soils management plan. This matter will be addressed at the development application stage.
4.2	Mine Subsidence and Unstable Land	Not Applicable
4.3	Flood Prone Land	<p>The subject site is identified within the ‘Mascot, Rosebery & Eastlakes Flood Study Final Draft dated May 2015 prepared by WMA Water’ as being potentially flood affect. This report formed Part 1 and 2 of the NSW Flood Program.</p> <p>The more recent study ‘Mascot, Rosebery and Eastlakes Floodplain Risk Management Study and Plan’ dated 9 April 2017 prepared by Royal Haskoning DHV forms Part 3 and Part 4 of the NSW Flood Program.</p> <p>Preliminary Flood Advice prepared by Cardno Pty Ltd accompanies this report at Appendix 5 confirms that the site is not affected by the 1% AEP or the Probable Maximum Flood (PMF). There is localised ponding of up to 0.3-0.5m in depth, but this is likely to be caused by internal site runoff as the ground levels are higher than the external levels and some flow paths from the site may be blocked by buildings / ground levels. The report provides flood planning levels for the future redevelopment of the site.</p> <p>The report also concludes that the ‘raising of floor levels, or site levels shall not create or exacerbate flooding on any other private land or public properties, including roads and open space’. Council’s engineers have indicated that no flood study is required.</p> <p>It is noted that an increase in building height will have no impact on the flooding behaviour.</p>
4.4	Planning for Bushfire Protection	Not applicable, the land is not identified as bushfire prone land.

5. Regional Planning

No.	Title	Consistency with Planning Proposal
5.1	Implementation of Regional Strategies	Revoked 17 October 2017
5.2	Sydney Drinking Water Catchments	Not Applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable
5.4	Commercial and Retail Development along the Pacific Highway, North	Not Applicable

	Coast	
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	Revoked 18 June 2010
5.6	Sydney to Canberra Corridor	Revoked 10 July 2008
5.7	Central Coast	Revoked 10 July 2008
5.8	Second Sydney Airport: Badgerys Creek	Not Applicable
5.9	North West Rail Link Corridor Strategy	Not Applicable
5.10	Implementation of Regional Plans	Not Applicable

6. Local Plan Making

No.	Title	Consistency with Planning Proposal
6.1	Approval and Referral Requirements	The Planning Proposal does not include additional provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.
6.2	Reserving Land for Public Purposes	This Planning Proposal does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site Specific Provisions	The Planning Proposal seeks an increase of height from 22 metres, to 44 metres along O’Riordan Street. It also seeks to impose a site specific Building Height Plane Clause. The Planning Proposal contains an Urban Design study which provides indicative building envelopes. The study illustrates that the height will not create detrimental effect for adjoining sites and will be consistent with the built form along O’Riordan Street based on the existing LEP controls.

7. Metropolitan Planning

No.	Title	Consistency with Planning Proposal
7.1	Implementation of A Plan for Growing Sydney	<p>The Planning Proposal achieves the overall intent of the current plan (Greater Sydney Region Plan 2056) and does not undermine the achievement of its vision, land use strategy, policies or outcomes. The proposal will remain consistent with the ‘30-minute City’ strategy, being only:</p> <ul style="list-style-type: none"> • 7-minute walk from Mascot Railway Station; • 9-minute walk and train ride from Sydney Airport; • 20-minute walk and train ride from Sydney CBD; and • Within 30 minutes of many suburbs located along the ‘airport’ railway line. <p>The increased height will have no effect on the permitted uses across the site as the zone will remain B5 Business Development. The additional height will remain stepped to minimise bulk and scale, particularly for lower density zones to the east but will allow for the orderly economic development of the land, that can evolve to reflect the built form desired within a ‘strategic centre’ and achieve the permissible FSR of 3:1, which remains unchanged.</p> <p>The subject site is within an area that is highly accessible and has excellent access</p>

		to public transport and increasing housing, both of which will support future uses across the site and will assist in meeting employment targets. The Planning Proposal maintains consistency with a Greater Sydney Region Plan 2056.
7.2	Implementation of Greater Macarthur Land Release Investigation	Not Applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.9	Implementation of Bayside West Precincts 2036 Plan	Not Applicable
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	Not Applicable

C Environmental, social and economic impact

Q7 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?

No. The Planning Proposal will not result in any impact to any critical habitats, threatened species, populations or ecological communities.

Q8 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Flooding

As discussed above, the site is potentially flood affected. The accompanying flood assessment has determined the flood planning level for the future development of the site.

Preliminary Flood Advice prepared by Cardno Pty Ltd accompanies this report at **Appendix 5** confirms that the site is not affected by the 1% AEP or the Probable Maximum Flood (PMF). There is localised ponding of up to 0.3-0.5m in depth, but this is likely to be caused by internal site runoff as the ground levels are higher than the external levels and some flow paths from the site may be blocked by buildings / ground levels. The report provides flood planning levels for the future redevelopment of the site.

The report also concludes that the ‘raising of floor levels, or site levels shall not create or exacerbate flooding on any other private land or public properties, including roads and open space’. Council’s engineers have indicated that no flood study is required.

It is noted that an increase in building height will have no impact on the flooding behaviour.

There are no further likely environmental effects associated with the development of this site that cannot be suitably mitigated through the detailed design process.

Traffic:

A Traffic Impact Report prepared by TSA accompanies this report at **Appendix 3** has concluded the following:

This Practice has undertaken an assessment of the potential traffic and transport implications associated with the Planning Proposal to redevelop land at 146 – 154 O’Riordan Street, Mascot. Based on this assessment, the following conclusions are now made:

- *The subject proposal involves increasing building height controls with respect to Botany LEP 2013 to allow for a mixed use development;*
- *The surrounding road network operates with a good level of service during peak periods;*
- *The subject development has been projected to generate in the order of 326 peak hour vehicle trips to and from the subject site, which is estimated to be approximately 99 trips over and above the existing site generation; and*
- *The strategic planning process for surrounding precincts associated with the redevelopment of Sydney Airport has considered the broader traffic and transport infrastructure requirements to service the additional demand associated with future land uses (including the proposed development). The proposed development is generally in accordance with the strategic planning intent for the subject land and the broader impacts of the development have therefore been considered in past studies.*

Having regard to the conclusions abovementioned, this Practice is satisfied that the proposed development is worthy of support in relation to the traffic and transport issues discussed.

Overshadowing and Solar Access:

The accompanying Urban Design Report at **Appendix 1** demonstrates that the increased height will not result in unreasonable shadow effects and will still maintain high levels of solar access to adjoining properties and Mascot Oval.

Noise:

Any future development and uses within the building will be required to satisfy the BCA and Council noise requirements.

Visual Impact:

The proposed height controls and accompanying envelopes within the Urban Design study prepared by PTW Architects, respond appropriately to adjoining sites. In particular, the 44-metre height along O’Riordan Street is consistent with the existing and future developments. While maintaining the reduced height to the east and north-east and the inclusion of the Building Height Plane Clause the controls are appropriate

to minimise impacts on medium density residential dwellings and the heritage listed Mascot Oval.

The likely building envelope and visual impact has been assessed in detail in the Urban Design study prepared by PTW Architects, attached at **Appendix 1** and supplementary Urban Design and View Analysis attached at **Appendix 2**. The building envelopes that form part of the Urban Design Study would result in a mixed use development including hotel, serviced apartments and ancillary uses that are permitted in the zone.

No. There are no other identified environmental effects, other than those discussed above, of the Planning Proposal.

Q9 Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal is consistent with the Greater Sydney Region Plan 2056, which seeks to create three cities and the ‘30 minute’ city principle. As the site is located within 7 minutes’ walk of Mascot Station it will achieve the ‘30-minute city’ principle. The future redevelopment of the site is acceptable, and the land use will be appropriately integrated with public transport options.

An Economic Impact Report prepared by MacroPlanDimasi accompanies this report at **Appendix 6** has determined:

The proposal supports a more viable employment outcome for the site, and one that responds to and supports employment growth and demand conditions

D State and Commonwealth interests

Q10 Is there adequate public infrastructure for the Planning Proposal?

The subject site is well serviced by existing and future transport and infrastructure. The site is located within an established urban area which is well serviced by road networks, public transport, utilities and housing opportunities.

A Traffic Impact Report prepared by TSA accompanies this report at **Appendix 3** has concluded the following:

This Practice has undertaken an assessment of the potential traffic and transport implications associated with the Planning Proposal to redevelop land at 146 – 154 O’Riordan Street, Mascot. Based on this assessment, the following conclusions are now made:

- *The subject proposal involves increasing building height controls with respect to Botany LEP 2013 to allow for a mixed use development;*
- *The surrounding road network operates with a good level of service during peak periods;*
- *The subject development has been projected to generate in the order of 326 peak hour vehicle trips to and from the subject site, which is estimated to be approximately 99 trips over and above the existing site generation; and*
- *The strategic planning process for surrounding precincts associated with the redevelopment of Sydney Airport has considered the broader traffic and transport infrastructure requirements to service the additional demand associated with future land uses (including the proposed development). The proposed*

development is generally in accordance with the strategic planning intent for the subject land and the broader impacts of the development have therefore been considered in past studies.

Having regard to the conclusions abovementioned, this Practice is satisfied that the proposed development is worthy of support in relation to the traffic and transport issues discussed.

Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

At this stage, the appropriate State and Commonwealth public authorities have not been identified or consulted. This is to occur in accordance with the Gateway Determination.

Part 4 – Mapping

Figures 1 and 2 illustrate the subject site in relation to wider locality and immediate surrounds:

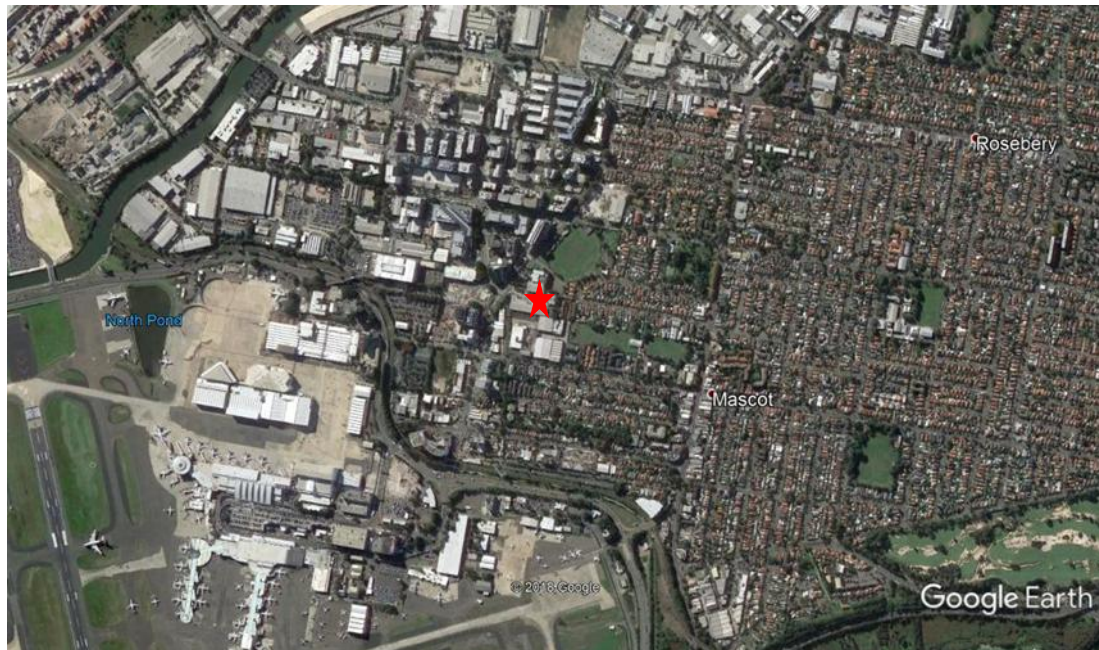


Figure 1: Subject site and surrounding locality.



Figure 2: Subject site and immediate surrounds.

The Botany Bay LEP 2013 Height of Buildings Map – Sheet HOB_001 shall be amended as follows:

Figures 1 illustrate the current control maps as well as proposed controls. Specifically, height of building is proposed to be modified by this Planning Proposal.

Existing LEP Height

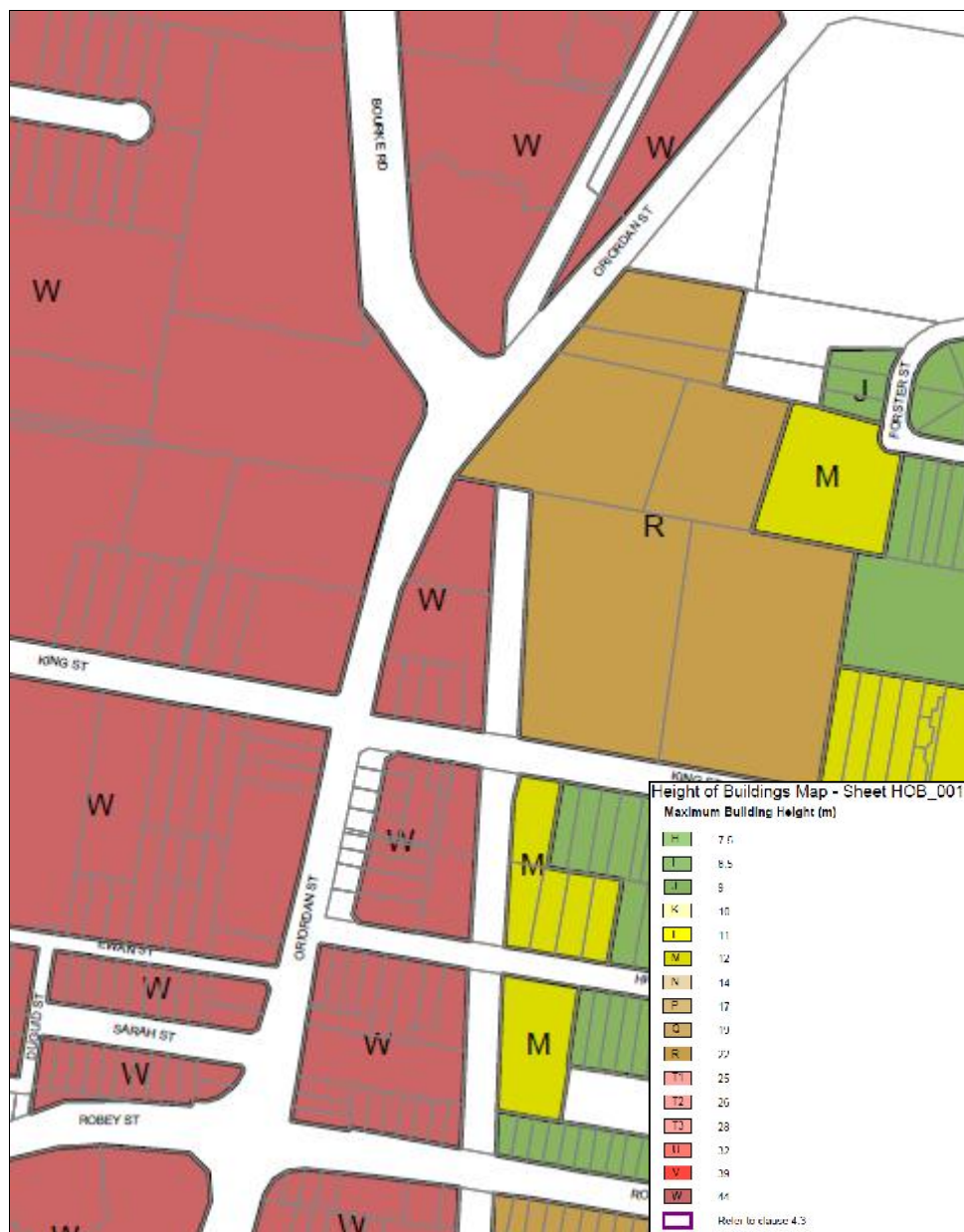


Figure 3: Existing Botany Bay LEP 2013 Height of Buildings Map

Proposed LEP Height

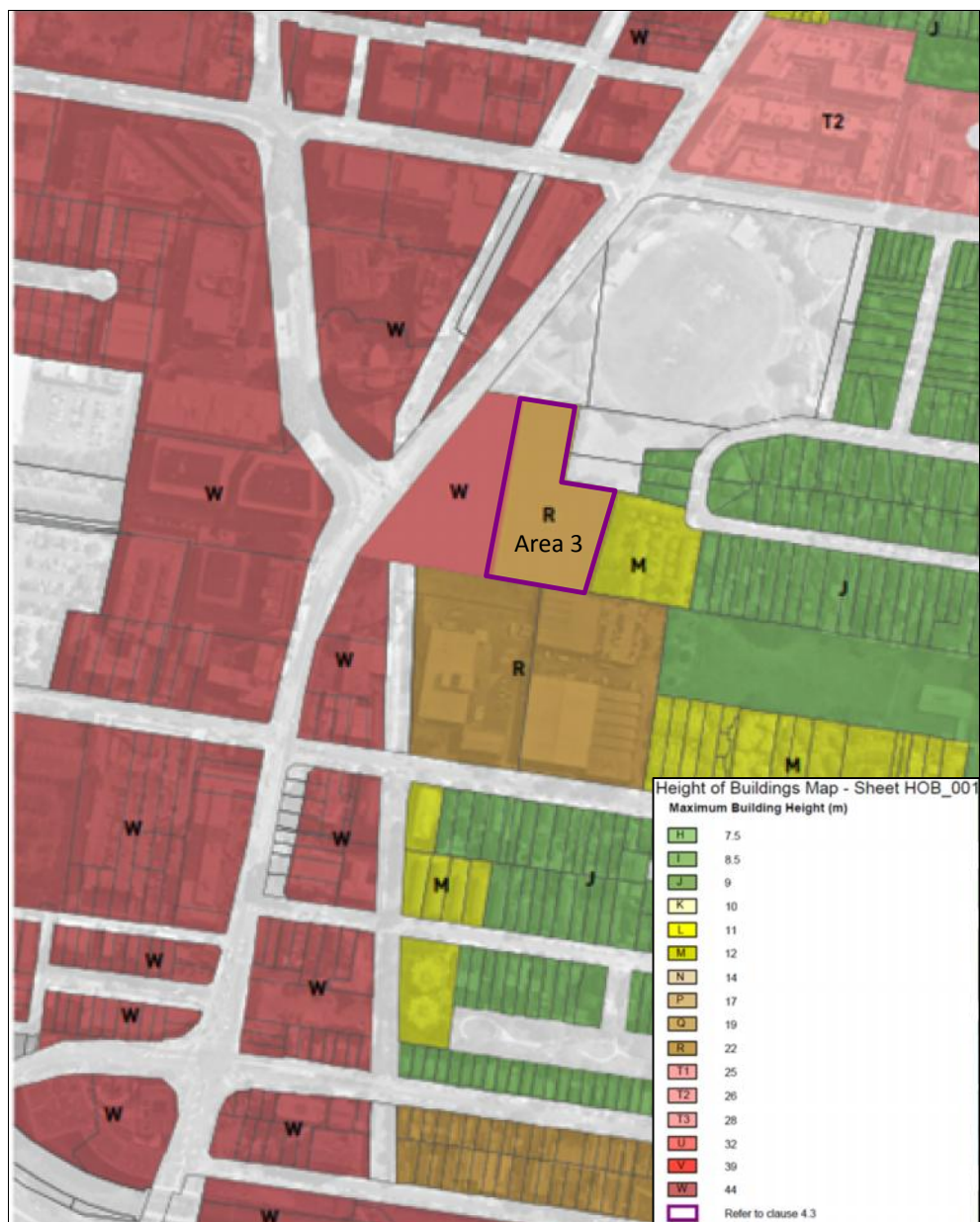


Figure 4: Proposed Botany Bay LEP 2013 Height of Buildings Map

Part 5 - Community Consultation

Given the scale of the proposal the consultation mechanism is likely to include:

- Notification letter to adjoining owners
- Advertisement in the local paper
- Information provided on Council’s website

Following the Gateway Determination, the Department of Planning will advise the extent of ‘formal’ public consultation that is required.

Part 6 – Project Timeline

The table below provides a proposed timeframe for the project.

Table 6 – Approximate Project Timeline

Task	Timing
Anticipated commencement date (date of Gateway determination)	July 2021
Anticipated timeframe for the completion of required technical information	July 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	August 2021
Commencement and completion dates for public exhibition period	September 2021
Dates for public hearing (if required)	Not Applicable
Timeframe for consideration of submissions	September 2021
Timeframe for the consideration of a Planning Proposal post-exhibition	October 2021
Date of submission to the Department to finalise the LEP	November 2021
Anticipated date Planning Proposal Authority (PPA) will make the plan (if delegated)	November 2021
Anticipated date RPA will forward to the Department for notification	December 2021

Appendix 1 – Urban Design Report (Rev D)

Appendix 2 – Supplementary Urban Design & View Analysis

Appendix 3 – Traffic Report

Appendix 4 – Heritage Report

Appendix 5 – Flood Report

Appendix 6 –Economic Report

Appendix 7 – Aeronautical Report

Appendix 8 – Detailed Site Investigation

Appendix 9 - Controlled activity Approval