

## Rezoning Review Briefing Report – RR-2023-35

### 26 Tupia Street, Botany PP-2023-1068 (109 homes)

The purpose of this report is to brief the Sydney Eastern City Planning Panel on the rezoning review request for planning proposal PP-2023-1068 for land at 26 Tupia Street, Botany.

Element	Description
Date of request	18 December 2024
Department ref. no	RR-2023-35 / PP-2023-1068
LGA	Bayside
LEP to be amended	Bayside Local Environmental Plan (LEP) 2021
Address	26 Tupia Street, Botany
Reason for review	<div><input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment</div> <div><input type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support</div>
Has council nominated PPA role	No – Council resolved not to support the planning proposal.
Consultation	N/A
Brief overview of the timeframe/progress of the planning proposal	<ul style="list-style-type: none"><li>25 January 2021: Previous planning proposal lodged with Council.</li><li>13 October 2021: Council resolved to not support the previous planning proposal.</li><li>19 May 2023: Proponent submitted the new revised planning proposal (current proposal).</li><li>26 September 2023: BLPP advised that the planning proposal should not be supported.</li><li>22 November 2023: Council resolved not to support the planning proposal.</li><li>18 December 2023: Proponent submitted request for rezoning review.</li></ul>
Department contact:	Ashley Cook, Senior Planning Officer, Eastern and South Districts

## Planning Proposal

**Table 1. Overview of planning proposal**

Element	Description
Site Area	8,000m <sup>2</sup>
Site Description	<p>The site at 26 Tupia Street, Botany (Lot X DP32914) contains 3 warehouse buildings with 18 industrial units and is surrounded by Council's Sir Joseph Banks Park which is a heritage item (<b>Figure 1</b>).</p> <p>The site is located approximately 250m from Botany Road bus services. The surrounding area is predominantly characterised by one and two-storey detached dwellings.</p> <p>An easement approximately 20-metres wide containing the Southern and Western Suburbs Ocean Outfall Sewer (SWSOOS) and a high-pressure gas pipeline runs along the northern boundary of the site.</p> <p>The site is 150m from Foreshore Road, a major freight route servicing the nearby 24-hour Port, which is approximately 400m away. Sydney International Airport is approximately 800 metres to the west.</p>
Proposal summary	<p>The planning proposal seeks to facilitate redevelopment of the site for residential flat buildings comprising approximately 109 dwellings. It seeks to amend Bayside LEP 2021 to:</p> <ul style="list-style-type: none"> <li>• Increase in maximum height of buildings from 10m to RL 18.3m</li> <li>• Increase the maximum FSR from 0.85:1 to 1.15:1</li> <li>• Permit residential flat buildings as an additional permitted use.</li> </ul> <p>No change is proposed to the existing zoning.</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> <li>• Greater Sydney Region Plan</li> <li>• Eastern City District Plan</li> <li>• Bayside Local strategic Planning Statement (LSPS)</li> <li>• Bayside Local Housing Strategy</li> <li>• Housing SEPP</li> <li>• Section 9.1 Ministerial Directions: <ul style="list-style-type: none"> <li>○ 1.1 Implementation of Regional Plans</li> <li>○ 3.1 Biodiversity and Conservation</li> <li>○ 3.2 Heritage Conservation</li> <li>○ 3.7 Public Bushland</li> <li>○ 3.10 Water Catchment Protection</li> <li>○ 4.1 Flooding</li> <li>○ 4.2 Coastal Management</li> <li>○ 5.1 Integrating Land Use and Transport</li> <li>○ 6.1 Residential Zones.</li> </ul> </li> </ul>



Figure 1. Subject site (source: Nearmap, 2024)

The planning proposal seeks to amend the Bayside LEP 2021 per the changes below.

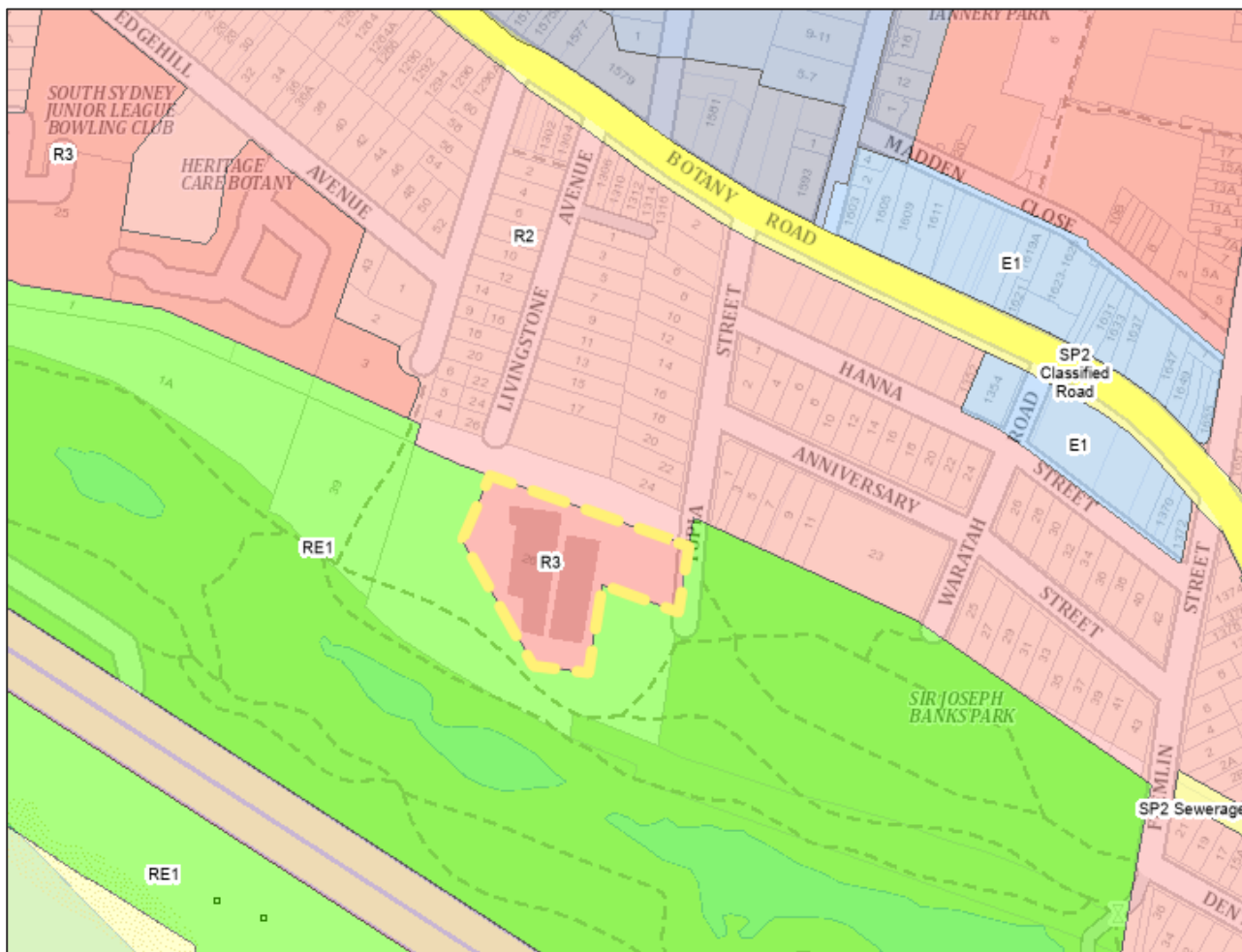
Table 2. Current and proposed controls

Control	Current	Proposed
Zone	R3 Medium Density Residential	No change
Maximum height of the buildings	10m	RL 18.3m (effectively 14.27 to 16.61m above ground level)
Floor space ratio	0.85:1	1.15:1
Additional Permitted Use	N/A	Permit residential flat buildings
Number of dwellings	0	109

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

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**Figure 2 Current zoning (site outlined in yellow dash) (source: NSW ePlanning Spatial Viewer 2024)**



## Concept scheme

A concept scheme has been prepared in support of the proposal (**Figures 2 and 3**). It demonstrates that the proposal could facilitate three four-storey residential flat buildings comprising approximately 109 dwellings.



**Figure 3. Proposed development concept facing north-west (source: planning proposal 2023)**



**Figure 4 Proposed concept scheme (source: planning proposal 2023)**

## Key Issues

### **Issue no. 1: Consistency with strategic framework**

Consistency with the objectives of the Greater Sydney Region Plan and Eastern City District Plan and with Section 9.1 Ministerial Directions.

#### **Council view**

Council is of the view that the proposal does not demonstrate strategic merit as:

- The planning proposal is inconsistent with the Greater Sydney Region Plan and Eastern City District Plan as it is not an area identified for residential intensification and planning for infrastructure has not occurred to aligned with the proposed housing growth.
- The Bayside LSPS 2020 and Local Housing Strategy 2021 (LHS) do not identify the site or the general area as an investigation area for development uplift or residential intensification.
- The proposal is inconsistent with or has not provided suitable justification for a number of Section 9.1 Directions, including 3.1 Biodiversity and conservation, 3.2 Heritage conservation, 3.10 Water catchment protection, 4.1 Flooding, 4.2 Coastal Management, 5.1 integrating Land Use and Transport, and 6.1 Residential zones.

#### **Proponent view**

The proponent is of the view that the proposal has strategic merit as:

- Bayside LSPS 2020 acknowledges that additional areas outside existing centres will need to be planned and rezoned to meet housing needs by 2036.
- Council has committed to strategic planning investigations in Mascot, Bexley North and West Kogarah. However, there is no firm timeline for completion and a commitment to investigate these areas does not guarantee that it will result in changes to planning controls.
- Relying solely on the 3 investigation areas to increase housing supply will create long-term uncertainty and significantly delay the delivery of critically needed housing in the Bayside LGA. Increasing housing supply on other sites that demonstrate sufficient site-specific and strategic merit should also be considered, as the Bayside LSPS 2020 acknowledges.

### **Issue no. 2: Justification for residential intensification in this location**

Whether residential intensification in this location can be justified.

#### **Council view**

Council is of the view that the planning proposal failed to provide sufficient justification to permit substantially greater height and floor space than is permitted under the Bayside LEP.

Whilst Council acknowledges the current R3 zoning and planning controls for the site, it is of the view that the proposal does not demonstrate site-specific merit for intensification for the following reasons:

- The proposed FSR has no clear urban design rationale. The development concept will not result in an acceptable urban design outcome and does not adequately minimise building bulk.

- The proposed amendments to height and FSR standards would result in a future built form that is inconsistent with the scale of the residential area and Sir Joseph Banks Park.
- The proposed increase in density and limited public transport options will increase reliance on car usage and result in adverse traffic impacts. The bus route available on Botany Road is serviced by local bus routes.

## Proponent view

The proponent is of the view that the site is well located and appropriate for residential intensification and that the planning proposal has demonstrated sufficient site-specific merit to justify the proposed uplift as:

- The planning proposal aligns with the objective of the 'R3 Medium Density Residential' zone by facilitating medium density housing in an accessible location.
- The site is within 230m of the Botany Road bus corridor, which provides services that connect commuters to Redfern Station, Port Botany, Mascot and Matraville, and services, shops and restaurants on Botany Road.
- The site can comply with Apartment Design Guide (ADG) requirements and provide landscaped areas and setbacks.
- There is an established need for additional housing supply on well-located sites in the Bayside LHS and based the recent dwelling completions data for the Bayside LGA. Increasing housing supply is a NSW Government priority.

## Issue no.: 3 Flood Risk

The site is identified on Council's flood maps as affected in the 1% AEP and PMF events and must address NSW flood planning requirements.

## Council view

Council is of the view that the site is not suitable for residential intensification due to flood risk and the planning proposal does not comply with the NSW flood planning framework. The concept design plans also show an intent to fill the entire site, which displaces an excessive volume of floodwater which is not supported.

Council considers the proposed emergency response strategy unsatisfactory as the proposed 'shelter in place' emergency management strategy is based on 7.5 hours inundation of Tupia Street due to high depth floodwaters and will result in the site losing access to essential emergency services for a significant period.

Council is of the view that the proposal is inconsistent s9.1 Direction 4.1 Flooding as:

- the planning proposal will result in significant flood impacts to neighbouring properties.
- the site is subject to high hazard flood waters unsuitable for higher density residential development
- the proposal may result in significant increase in government spending.

Council identified inaccuracies in the modelling of existing and post development scenarios as well as in the calculation of flood planning levels for the development.

## Proponent view

The proponent is of the view that the planning proposal and development concept appropriately address flood risk in accordance with s.91. Ministerial Direction 4.1 Flooding.

The proponent submitted a Flood Risk Assessment prepared by BMT Commercial Australia (**Attachment K8**) to support the planning proposal. It concludes that development on the site is compatible with development controls for flooding. It recommends adopting a risk-based approach for the site, with measures including:

- finished floor levels above the PMF level
- elevating the site's central communal open area
- driveway crest levels as close as possible to the PMF
- the installation of a platform above the PMF to provide emergency services access
- a flood evacuation management plan with a 'shelter in place' strategy.

It also recommends implementation of a Flood Risk Management Plan. The report considered that this approach will minimise flood risk to an acceptable degree.

## Other issues:

In addition to the above, Council is of the view that there are unresolved issues regarding:

- Urban design
- Stormwater management
- Traffic and Parking
- Hazards (relating to the adjacent high pressure gas pipeline).



## Attachments

Attachment	Title
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| A1  | Request for Rezoning Review (cover letter)                                      |
| A2  | Request for Rezoning Review (report)  |
| B   | Planning Proposal   |
| C   | Council's response to rezoning review   |
| D   | Site map  |
| E   | Existing maps and proposed LEP maps   |
| F1  | Bayside Local Planning Panel Meeting Agenda, 26 September 2023                  |
| F2  | BLPP Advice, 26 September 2023  |
| F3  | City Planning and Environment Committee Agenda, 8 November 2023                 |
| F4  | City Planning and Environment Committee Minutes, 8 November 2023                |
| F5  | Council Resolution, 22 November 2023  |
| F6  | Council advice in response to scoping proposal                                  |
| G1  | Planning Proposal Appendix A – Proposed LEP Mapping                             |
| G2  | Planning Proposal Appendix B – Concept Design                                   |
| G3  | Planning Proposal Appendix C – Urban Design Report                              |
| G4  | Planning Proposal Appendix D – Hazard Analysis                                  |
| G5  | Planning Proposal Appendix E – Statement of Heritage Impacts                    |
| G6  | Planning Proposal Appendix F – Acid Sulfate Soils Assessment                    |
| G7  | Planning Proposal Appendix G – Sydney Airport Corporation Correspondence        |
| G8  | Planning Proposal Appendix H – Flood Risk Assessment and Flood Emergency Plan   |
| G9  | Planning Proposal Appendix I – Coastal Hazard and Risk Assessment               |
| G10 | Planning Proposal Appendix J – Transport, Traffic and Parking Assessment Report |
| G11 | Planning Proposal Appendix K – Stormwater Management Report                     |
| G12 | Planning Proposal Appendix L – Geotechnical Investigation                       |

# Rezoning Review – Briefing Report

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4 April 2024

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