



Business Paper

Shire Planning Committee

Tuesday, 3 April 2018

6.30pm

**Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLANDSHIRE

ORDER OF BUSINESS

- 1. ACKNOWLEDGEMENT OF COUNTRY**
- 2. APOLOGIES**
- 3. DISCLOSURES OF INTEREST**
- 4. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS**
- 5. PRESENTATIONS**
- 6. REPORTS FROM OFFICERS**
 - PLN030-18 Effectiveness of 2017 Submissions on NSW Planning Policy Matters
 - PLN031-18 Tree Management Update
 - PLN032-18 Minimum Lot Size Submissions Report
- 7. QUESTIONS**
- 8. CONSIDERATION OF BUSINESS IN CLOSED SESSION**
- 9. CONFIDENTIAL REPORTS FROM OFFICERS**

**PLN030-18 EFFECTIVENESS OF 2017 SUBMISSIONS ON NSW PLANNING
POLICY MATTERS**

Attachments: Nil

EXECUTIVE SUMMARY

- This report is in response to Council's resolution seeking a summary on the effectiveness of Council's submissions to amendments to NSW planning policy.
- In 2017, the Strategic Planning Unit made 11 detailed submissions to the State Government regarding proposed changes to planning legislation and environmental planning instruments. Nearly 100 separate concerns or recommendations were raised in these submissions.
- The majority of these instruments are still under post-exhibition review thus Council's influence cannot be fully assessed.
- Four instruments have been finalised. Council's submissions have had mixed results, but some changes have been made in response to Council's submissions.
- It is important that Council continues to participate in the plan making process, regardless of the outcome, because it is committed to maintaining dialogue across all levels of government around issues impacting our community.

REPORT RECOMMENDATION

That the report regarding the Effectiveness of 2017 Submissions on NSW Planning Policy Matters be received and noted.

PURPOSE

This report is in response to Council's Resolution to Motion MOT010-18, seeking a summary on the effectiveness of Council's submissions to NSW planning policy reform in 2017.

BACKGROUND

Over the course of a typical year, the Strategic Planning Unit is routinely requested by State Government authorities to provide comment on proposed changes to planning legislation, policy documents and other matters. Unless proposed changes are of a minor nature, submissions are reported to Council for endorsement prior to being finalised and lodged with the relevant authority.

In 2017, the unit prepared 11 submissions to ten separate draft planning instruments. Over 100 separate matters, questions or recommended changes were raised in response to these exhibitions. In all but one instance, submissions contained matters substantive enough to require Council's endorsement prior to the submission being finalised. The table below provides a summary of the key issues addressed in submissions and the status of the relevant instruments.

Draft Instrument	Council Report #	# Key issues raised	Status Feb 2018	# Reco's supported
Draft (new) <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities)</i> and associated changes to <i>Standard Instrument</i>	PLN027-17 18/04/2017	8	In force 01/09/2017	1
Draft amendment to <i>State Environmental Planning Policy (Infrastructure) 2007</i>	PLN027-17 18/04/2017	2	In force 15/12/2017	0
Draft amendment to <i>State Environmental Planning Policy No. 64 - Advertising and Signage</i>	NA	0	In force 29/11/2017	NA
Draft amendments to <i>RFS Planning for Bushfire Protection</i>	PLN014-18 04/09/2017	10	Under review	TBD
Draft Voluntary Planning Policy Framework	PLN021-17 20/03/2017	5	Under review	TBD
Planning Legislation Updates (<i>EP&A Act</i>)	PLN020-17 06/03/2017	7	Staged commencement from 01/02/2018	1
Draft <i>South District Plan</i> and	PLN019-17 20/03/2017	22+		13 incorporated into revised draft
Revised Draft <i>South District Plan</i>	PLN024-18 12/18/2017	10 new	Plan under review	TBD
Draft amendment <i>Complying Development (Codes) SEPP</i> affecting medium density housing and draft <i>Medium Density Design Guide</i>	PLN015-17 20/02/2017	20	Under review	TBD

Draft <i>Coastal Management SEPP</i> Coast Reforms Package		15	Under review	TBD
Options Paper on Short Term Holiday Letting	PLN019-18 20/11/2017	5	Under review	TBD

DISCUSSION

Crafting new or amending current planning legislation, policies or strategies is a lengthy process, often taking more than a year. Hence, the majority of the draft instruments which Council made submissions on in 2017 are yet to be finalised and the efficacy of Council input yet unknown. Of those which have come into effect, only one of Council's 10 recommendations was taken up in the gazetted policies. The Council recommendation that was taken up relates to the new Educational Establishments and Child Care Facilities SEPP, which now specifies that home-based childcare undertaken on bushfire prone land is subject to complying development standards and direction from RFS (rather than exempt development standards, as proposed in the draft). This is an important 'win'.

Council had better success in response to its submission on the first draft South District Plan, where the majority of matters raised received some level of recognition in the revised draft Plan. Examples include acknowledgment of the need to link infrastructure with growth, ANSTO as a catalyst for growth, a review Sutherland Shire's 'centre' nominations, acknowledgment of need for GSC and Council to meet together to set housing targets beyond the five year target, and support for the Green Grid.

In December 2017, Council made a submission on the revised draft South District Plan. This submission primarily addressed further transport and infrastructure planning and funding concerns, requested clarity on matters related to non-industrial uses in industrial precincts, and requested a boundary change to the Metropolitan Rural Area to exclude those parts of southern and western Sutherland Shire Council considers to have been categorised as 'rural'. The final South District Plan was released in late March and is currently being reviewed.

With regard to the exhibited proposed changes to update the Environmental Planning and Assessment Act 1979 (EP&A Act), Council's key concerns were in relation to the composition of - and mandatory consent powers given to - Local Planning Panels, the expansion of complying development provisions, and related community consultation and compliance matters. The first stage of the revised Act came into force on 1 March 2018. However, with the exception of the introduction of a five-year review of LEPs, none of the matters raised by Council were acknowledged in the revised Act.

The remaining seven instruments where Council made submissions are still under post-exhibition review.

The success of the exhibition process to influence planning decision at the State level is hard to predict, regardless of the matter raised or the perceived strength of Council's case. Because these processes rarely result in a detailed submissions report, it is also hard for participants to understand how submissions have been taken into consideration, singularly or as part of the whole.

Looking to the future, the NSW State Government has been undertaking a review of all SEPPs, with the aim to modernise, simplify and improve the effectiveness and usability of current policies. This process will continue over a number of years. Accordingly, Council will be invited to comment on each draft amendment placed on exhibition. At the same time, there will undoubtedly also be a steady stream of other planning matters where it is in Council's interest to make a submission.

RESOURCING STRATEGY IMPLICATIONS

Preparing submissions on draft planning legislation, policies and strategies is the responsibility of the Strategic Planning Unit and is carried out within existing resource allocation.

STRATEGIC ALIGNMENT

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
1.4 Ensure community confidence in Sutherland Shire Council.	1N Advocate and maintain dialogue across all levels of government and with key stakeholders around issues impacting our community.

POLICY AND LEGISLATIVE REQUIREMENTS

There are no policy or legislative requirements relating to this matter.

CONCLUSION

While preparing submissions on often complex draft planning legislation, policies and other matters is time intensive, it is one of the few mechanisms available to Council to influence the strategic planning framework at the State level. It is therefore important that Council continues to participate in this process, regardless of the outcome.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2015/66230

PLN031-18 TREE MANAGEMENT UPDATE

PLN031-18

Attachments: Nil

EXECUTIVE SUMMARY

- This report aims to inform Council of current and proposed statistical information on tree loss and gain across the Shire, and responds to motion MOT023-17 and MOT008-18.

REPORT RECOMMENDATION

That the report Tree Management Update be received and noted.

PURPOSE

The purpose of this report is to provide a status update on current and future statistical information on tree loss and gain across the Shire, and responds to motion MOT023-17 and MOT008-18.

BACKGROUND

At its meeting of 20 February 2017, Council resolved the following (MOT023-17 – Quarterly Report on Trees):

Council to receive a report each quarter in 2017 with information readily available on:

- 1) *The number of trees as a consequence of:
 - (i) development consents;
 - (ii) permits to remove trees on public land;
 - (iii) permits to remove trees on private land; and
 - (iv) Council's proactive tree removal on health and safety grounds.*
- 2) *The number of trees planted as an outcome of:
 - (i) conditions of development consent requiring replacement plants; and
 - (ii) the Green Streets Program.*
- 3) *The number of replanted trees that are inspected to ensure their survival.*
- 4) *The report include the previous four years historical figures where available.*

In addition to the above, Council also resolved on 20 November 2017 (MOT008-18 – Trees Near Housing on Council Land in Bushfire Prone Zones):

That a report be provided in early 2018 setting out options for the appropriate management of trees on public land in bushfire zones.

The review shall include:

- 1) *Mechanisms to ensure trees within ten metres of a dwelling do not elevate the risk of fire to the property;*
- 2) *Identification of opportunities to improve the local tree canopy under Council's Green Streets Program in circumstances where trees are removed*
- 3) *Within the policy, Council's tree planting not affect any residents solar panels.*

DISCUSSION

MOT023-17, 20/2/17: Quarterly Report on Trees

The data within the table below include trees determined for removal during the time period between 1 August 2017 and 1 February 2018. For DA's and private tree applications, residents have up to 3 years to remove trees that have been approved for removal. Some trees approved for removal are not actually removed due to cost, owners selling the property, and the like. Therefore the data for private property is representative of what was approved to be removed during this timeframe.

Avenue for tree removal	No of trees approved for removal	No of trees required to be planted if removals occur	Trees planted to date
Development applications	1042	2749	573 (not all sites are inspected)
Private Tree applications	775	398	unknown
Reactive public place trees	490	Offset through Green Streets	
RMS Projects	195	975	Not commenced
Ausgrid Projects	149	596	Not commenced
Green Streets Program			1239
Total:	2723	4962	1822

There are a number of limitations to presenting accurate data on trees for both public and private land:

- The data fields to capture tree removal for DA's were configured in June 2017 and amended in August 2017, and it has been an incremental adoption of populating tree fields over a 6 month period;
- We do not know the volume of tree removal on private property for exempt species, trees removed under RFS 10/50 Code of Practice, or illegal tree removal that was not reported to Council;
- Our public place tree system is only configured to capture up to 3 trees per request;
- For storm events, safety and priority requests, not all tree removal data is captured;
- Public place tree reporting statistics are not yet captured across multiple Council systems; and
- Does not take into account mortality rates of trees on development sites that were to be retained, but die (from a sample of projects this could be a significant number).

Council's Community Strategic Plan sets a goal of no net canopy loss across The Shire. Providing data on trees being removed and replanted in a numerical way is not the best way to assess the net gain/loss of canopy. The canopy of a large tree removed may cover an area of 30m², whereas a replacement tree has virtually no canopy for at least a few years. A better way to measure this is spatially via vegetation analysis from aerial photography.

The technology now exists to compare images of canopy cover over time and identify differences to be able to see where and how much vegetation has been removed. Council can then monitor changes and trends in tree canopy and direct maintenance and planting into areas where canopy is

reducing. It will illustrate if our greening goals are successful, inform decision making, and can help prioritise the activities that will best meet our target outcomes.

This technology has been used by state government and other LGA's, and provides a of the state of canopy at a point in time. Council is currently investigating acquiring canopy cover vegetation analysis software.

MOT008-18. 20/11/17 Trees near housing on Council Land in Bushfire Prone Zones

1. Mechanisms for bushfire management on private property:

The 10/50 Vegetation Clearing Bill introduced in August, 2014 allows people to clear certain vegetation near their homes to improve protection from bush fires. Council's policies and procedures acknowledge the need for property owners and occupiers in bushfire prone areas to manage vegetation that may contribute to a bushfire. For existing developments, they enable the legitimate management of bushfire hazards, even on environmentally sensitive land. For new developments adequate bushfire protection and environmental protection measures are designed and incorporated at the time of approval.

On private land within the entitlement area, trees within 10 metres and other vegetation within 50 metres of a dwelling are able to be cleared by land owners without first needing to gain approval from Council or other agencies, so long as the clearing is undertaken in accordance with a Code of Practice published by the Rural Fire Service. Council has linked RFS mapping to its website for ease of use by our residents.

Where residents are concerned that trees on Council property are a bushfire hazard, Council seeks advice from the RFS. Council has a strong and well-established working relationship with the RFS that ensures a prompt and systematic bush fire management referral process. The RFS employs qualified Planning and Mitigation Officers with extensive experience and knowledge to determine risks and appropriate responses. All tree pruning/removal requests which specify bushfire risk are referred to RFS as a priority. Council follows the recommendations of RFS and undertakes works as advised. Council has received very few complaints in the history of this referral service.

2. Identification of opportunities to improve the local tree canopy under Council's Green Streets Program in circumstances where trees are removed

In regard to when trees are planted, tree planting projects are carried out during the cooler months of the year. The record breaking dry months we experienced over the 2017-18 summer period resulted in the planting season in 2017 finishing early and delayed commencement of planting projects and proactive public place tree works in 2018.

Undertaking large scale planting in the Shire in these climatic circumstances is a waste of resources, as Council cannot adequately water all trees and they are prone to failure.

With regard to where trees are planted, there are generally economies of scale in planting out streets or precincts of a reasonable scale rather than one planting is small numbers where trees have been removed (unless they are replacement trees planted and maintained by property owners). Projects are progressed based on a range of criteria that have facilitated planting on main roads, in highly used areas, in conjunction with community organisations and infrastructure projects or redevelopment of land, and to provide a spread of projects across the Shire.

Opportunities to enhance the program that will be pursued going forward include:

Initiatives	Opportunities
Resident engagement - Community	Improved communication with our community resulting in increased canopy cover, community satisfaction and increased public understanding of the value of trees in urban spaces. A success of the Green Streets process is increased requests for street plantings by the community. Currently we have 30 larger scale requests, and many more for one off frontage plantings
Greater Sydney Commission Blue Green Grid – Dept of Planning and Environment	Green Streets planting strategies aligned to locations of greatest congregation and usage from our community to reinforce this strategy
2020 Vision – Federal collaboration of business and government	Green Streets planting strategies aligned to hot spot locations where canopy loss and heat island effect have increased
Greener Places Policy - Dept of Planning and Environment	This policy seeks to improve green infrastructure in urban areas by heightening the importance of trees and open space within the planning system
Removal/Replacement Projects – Various state organisations	Collaborative projects with RMS, Transport NSW, Sydney Trains, Sydney Water and Ausgrid
Cross divisional Projects - Council	Green Streets Strategy with Open Space and Recreation Strategy outcomes, parks and reserves projects, and cycleway and footpath programs

3. Within the policy, Councils tree planting not affect any residents solar panels:

Trees and solar energy can co-exist. When undertaking planting projects, designers consider existing solar services as well as northerly aspects to consider future solar generation. Species selection is made to ensure long term retention of trees in a location with minimal conflict with lines, poles, paths, pipes and panels.

The consultation process adopted for Green Streets enables residents to discuss any concerns with Council at the time street tree planting is occurring and to resolve concerns of current and future situational impacts before they occur.

The Green Streets Strategy will outline the consideration of existing solar generation as part of the site assessment when planning the Shire's next generation of canopy.

RESOURCING STRATEGY IMPLICATIONS

Obtaining vegetation analysis in the Sutherland Shire will be pursued by Shire Planning in conjunction with Information Management and Technology, and is expected to be carried out within the existing resource allocation.

COMMUNITY ENGAGEMENT

No external consultation applies to this request.

STRATEGIC ALIGNMENT

In the recent community engagement exercise, our community stated that the number one thing they value in the Sutherland Shire is "access to our beautiful beaches, parks and natural reserves." This is reflected in our vision, being:

"A connected and safe community that respects people and nature, enjoying active lives in a strong local economy"

This is also reflected in our Community Strategic plan Outcome 2:

"We want to enhance and protect the beautiful and healthy natural environment of Sutherland Shire"

which flows down into the following strategy:

Strategy 2.2 Enhance and protect diverse natural habitats:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.2.1: Enhance and protect our diverse flora, fauna and ecological communities	2.D.5 Implement the Green Streets Program
2.2.2: Manage, promote and enhance our tree canopy in urban and natural areas	
2.2.3: Encourage responsible urban planning which balances growth with environmental sustainability	

POLICY AND LEGISLATIVE REQUIREMENTS

There are no policy or legislative requirements relating to this matter.

CONCLUSION

The above information has been provided in response to Council's request for information and responds to motion MOT023-17 and MOT008-18.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Environment Health and Building, Michael Ryan, who can be contacted on 9710 0131.

File Number: 2015/11082

PLN032-18 MINIMUM LOT SIZE SUBMISSIONS REPORT

Attachments: Nil

EXECUTIVE SUMMARY

- The Minimum Lot Size Planning Proposal was on exhibition from 24 January 2018 to 21 February 2018.
- Six submissions were received in support of the proposal stating that the proposed minimum lot size controls will maintain the character of the low density neighbourhoods of the Sutherland Shire and increase safety for emergency access in the low density zones.
- Two submissions were received in objection to the proposal arguing that the implementation of a minimum lot size will limit development across the Sutherland Shire. The submissions give examples of dual occupancies constructed on lots of less than the proposal that have maintained the objectives of the zone.
- The issues raised in the submissions deal with matters that were integral to Council's decision to proceed with the Planning Proposal. No new issues have been raised. The limited amount of feedback suggests that this change to the planning framework is generally acceptable to the community. It is recommended that the Planning Proposal proceed as exhibited.

REPORT RECOMMENDATION

THAT:

1. Council proceed with the draft Planning Proposal as exhibited.
2. Council write to the Secretary of the Department of Planning and Environment to seek approval for any inconsistency with the requirements of Section 117 Directions 3.1 Residential Zones and 4.4 Planning for Bushfire Protection.
3. Council formally request Parliamentary Counsel prepare and make a legal instrument to introduce the following minimum lot size:
 - 600m² for the construction of dual occupancy in zone R2 Low Density Residential,
 - 700m² for the construction of a dual occupancy in zone E4 Environmental Living,
 - 1200m² for the construction of multi dwelling housing in zone R2 Low Density Residential.
4. Council formally request Parliamentary Counsel insert a specific savings provision to ensure all development applications received prior to the gazettal of this amendment are determined as if this proposed controls have not commenced.
5. On receipt of the Opinion of the Parliamentary Counsel's Office that the legal instrument can be made, pursuant to Clause 400 of the Local Government (General) Regulations 2005, the LEP be executed under the Common Seal of the Council of the Sutherland Shire in the presence of the Mayor and General Manager.

PURPOSE

The purpose of this report is to detail the results of the exhibition of the Minimum Lot Sizes Planning Proposal.

BACKGROUND

A briefing on development outcomes of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) and Sutherland Shire Development Control Plan 2015 (SSDCP2015) was held with Councillors on 22 May 2017, as required by Council resolution (MOT015-17). At the briefing staff suggested that introducing minimum lot sizes is one way to improve planning outcomes for dual occupancy and multi dwelling housing. This is because larger lot sizes generally allow for greater flexibility in design, resulting in less visually intrusive development. Also larger lots can better accommodate ancillary elements that add bulk yet are not controlled by floor space ratio (FSR) provisions.

Council resolved on 21 August 2017 (PLN010-18) to prepare a Planning Proposal to effect changes to minimum lot sizes for the construction of dual occupancies and multi dwelling housing in the low densities zones of the Sutherland Shire.

The proposal was prepared and submitted to the Department of Planning and Environment on 21 September 2017. A Gateway Determination was received on 6 December 2017, allowing the proposal to proceed to exhibition subject to conditions. The Gateway Determination delegated plan-making power to the Council. However, it requires Council to obtain the agreement of the Department's Secretary in relation to the requirements of relevant Section 117 Directions 3.1 Residential Zones and 4.4 Planning for Bushfire Protection prior to the plan being made.

DISCUSSION

The Planning Proposal was publicly exhibited from the 24 January 2018 to 21 February 2018. During the exhibition period a total of eight submissions were received. Six submissions were received in support and two submissions were received in objection to the proposed amendments. An analysis of the submissions is provided below.

Submissions Against the Planning Proposal

One submission received in objection was prepared by a local architect who notes that the proposed lot size controls for dual occupancies limit development and housing stock and contradict the urban consolidation principles required for future growth of Metropolitan Sydney. The submission makes reference to a property at 16 Lucas Street, Cronulla where a dual occupancy was designed and constructed on a 440sqm block with no adverse impacts to adjoining neighbours. The submission notes that floor space ratios, landscaped area and setbacks are the same for dwellings and dual occupancies and should not make any difference to the amount of site that can be developed. Another submission objected to the proposed controls noting that it would limit the development of smaller lots

for dual occupancies when there are already a number of small lots developed for dual occupancies in a certain street in Cronulla.

Response:

Ability to meet housing targets

In 2006 the draft South Subregional Strategy set a target for the Sutherland Shire to accommodate 10,100 extra dwellings by 2032. This housing target set the basis for the housing strategy which informed the provisions of SSLEP2015. Since the gazettal of the SSLEP2015, Council has approved a net increase of 5,054 potential dwellings across the Sutherland Shire.

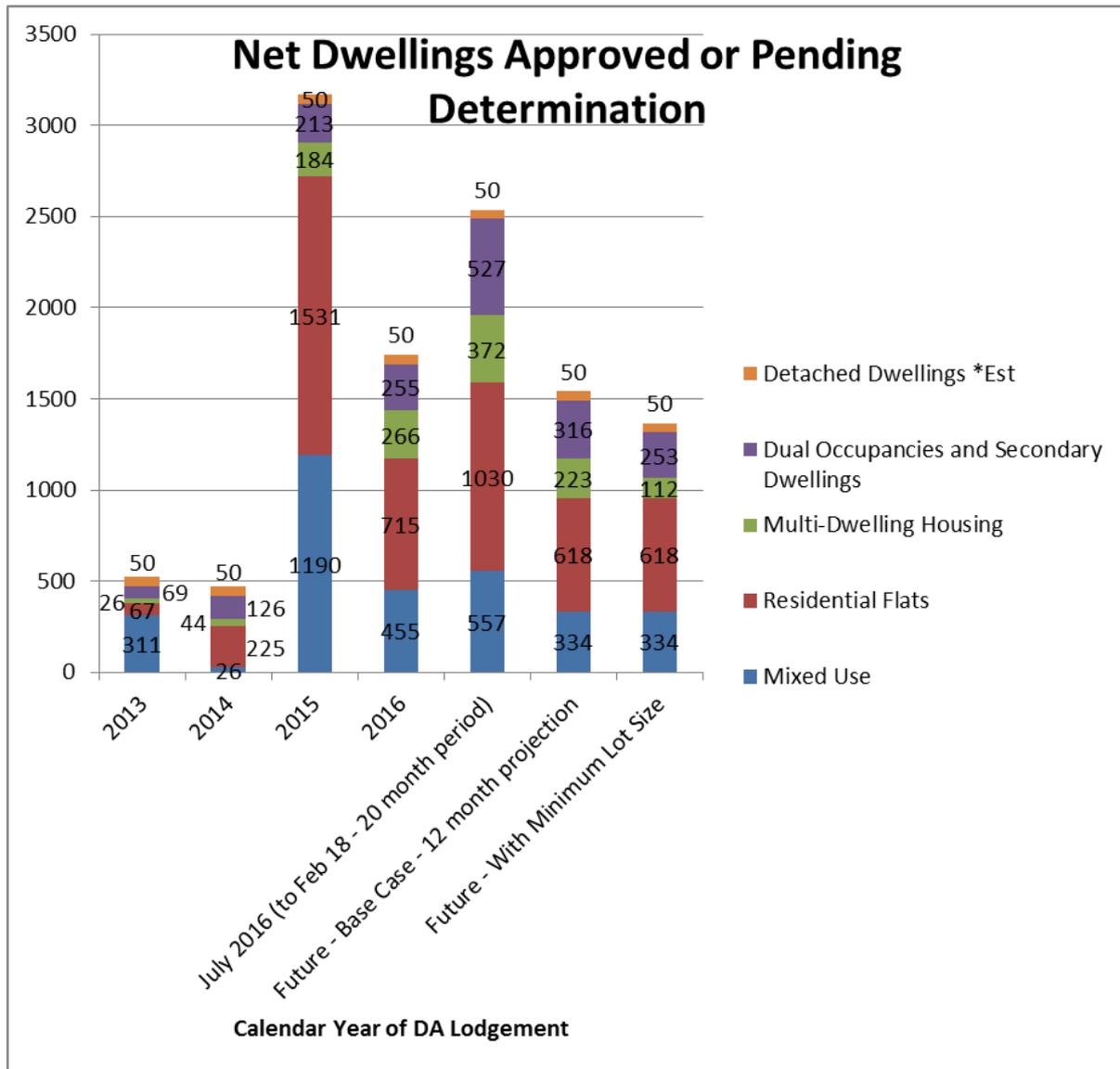
The recently finalised South District Plan set the Sutherland Shire a target of 5,200 additional dwellings completions from 2016 to 2021. This target is based on likely population growth and market demand. Using the rate of development applications received between 1st July 2016 and 31st February 2018 for the purposes of projecting future net dwelling approvals, it is estimated that Council will approve 1,542 dwellings per year over the next five years. This would equate to 7,710 approvals by 2021.

The District plan measure is completions, not approvals. Although Council does not currently have quality data on the likely percentage of approvals that proceed to construction, there is always a reasonable attrition rate due to market forces, demand, finance availability, and other factors. In simple terms, history shows that not every dwelling approved is built.

The graph below shows the net dwelling increases in the Sutherland Shire over time and provides projections into the future. The final column on the graph shows modified figures to illustrate the implications of the proposed minimum lot size provisions on Council's ability to meet its housing targets.

The analysis indicates that the minimum lot size requirements would, on average, reduce the number of multi-dwelling applications by 50% and dual occupancy applications by 20%. Based on these assumptions, Council would continue to produce an additional 1,367 net dwellings per year for the next five years. This would lead to a total number of approximately 6,835 additional net dwellings by 2021.

Taking into account the attrition rate referred to above, it is anticipated that the potential 6,835 net dwelling approvals will deliver the 5,200 additional dwellings required in the District Plan.



Council’s role as a planning authority is to accommodate the required level of growth in a balanced way. Growth needs to be carefully managed so that it responds to community expectations and is consistent with the desired future character of neighbourhoods. It is therefore entirely appropriate that Council tailors its planning framework to achieve better outcomes in its lower density zones.

Improving Development Outcomes

Ancillary structures (e.g. balconies, paving and pergolas), parking/garaging and driveways are doubled when a dual occupancy is constructed as opposed to a single dwelling. These ancillary structures and additional features must fit into the remaining spaces around the buildings, adding to the overall site coverage and apparent building bulk. The increased number of associated structures reduces the sense of openness, the degree of privacy and the landscaped character in localities that are predominantly occupied by single dwellings.

On smaller lots, the impacts of dual occupancy and multi dwelling development in the low density neighbourhoods are intensified. The low density neighbourhoods of Sutherland Shire have a distinctive sense of place which flows from a strong landscape character. Significantly, experience has shown that the redevelopment of smaller lots to higher density generally fails to achieve an appropriate landscaped context, and magnifying the impacts of change within neighbourhoods.

Achieving a balanced outcome for landscaping and quality design on small narrow lots is difficult because there is less area to resolve site-specific design issues. With the doubling or tripling of ancillary features, there is less area for deep soil landscaping and little space for large scale canopy trees to be maintained and planted on site. Such developments outcomes do not maintain the low density neighbourhood character which is an underlying objective of the zone. By designating the minimum lot size in the SSLEP2015, the expectation of the form and density of development is established in a transparent way.

Submissions in Support of the Planning Proposal

Six submissions were received in support of the proposed amendment making the following points:

- Two submissions make reference to the impact the level of development has had on traffic and parking across the Sutherland Shire since the gazettal of the SSLEP2015;
- Two submissions raise concerns in relation to emergency evacuation and delays due to traffic hold ups and the limited ability of emergency services to access all areas of the Sutherland Shire;
- Three submissions note that the increased level of multi dwelling housing in the low density zone is affecting the amenity for neighbouring properties primarily through overlooking and overshadowing. The submissions make particular reference to new developments in Seaforth Avenue, Woolooware and the loss of character in the street due to the amount of medium density development being undertaken;
- Three submissions note that the adoption of minimum lot sizes will reduce the adverse impacts of development on neighbours' amenity, streetscape and the character of the low density zones;
- One submission notes that even with a proposed minimum lot size, the SSLEP2015 standards for dual occupancy and multi dwelling housing will be very lenient when compared with the LEP standards of Council areas which have a similar character to the Sutherland Shire;
- One submission makes reference to the impact the NSW Government's "Missing Middle" SEPP will have across the Sutherland Shire given that the provisions of the proposed SEPP rely on minimum lot sizes within Council's LEP. The submission therefore requests that a minimum lot size be included in the R3 zone given that the Draft SEPP proposes a higher FSR and lesser setbacks and landscaping standards than permitted in the R3 zone under the SSLEP2015;
- One submission calls for increased setback controls in the low density zones to allow more developments to meet the SSLEP2015 and SSDCP2015 objectives; and

- One submission notes that the SSLEP2015 should have contained minimum lot size provisions when gazetted in 2015. The submission notes that the developments occurring in the low R2 zone appear more suited to an R3 zone and the lack of a minimum lot size over the past three years has resulted in a lack of diversity in the housing stock as older dwellings redeveloped into dual occupancies and town houses. The submission notes that the 'cookie cutter' style of development has occurred with inappropriate building mass under the current controls which are unaffordable for the younger generations.

Response

The submissions received make important points which were the basis of Council's decision to introduce minimum lot size through this Planning Proposal (PLN015-18). While the intention of the proposed amendment is not to stop redevelopment in the lower density neighbourhoods, it will require developments on larger lots where there is sufficient room to plant trees in the front and rear setback, and reduce the apparent density of development. This will assist in reducing the impacts of medium density developments in the low density zones of the Sutherland Shire.

The R3 Medium Density Residential zone is tailored to multi dwelling housing. The R3 zone facilitates a more dense urban form than the R2 zone and provides a transition between areas of single dwellings and areas of residential flats. The strategy supports Council's obligation to provide for a mix of housing types. The R3 zone has been applied to those areas most suitable for a more intense form of development. A minimum lot size in the R3 zone is not considered appropriate because the intention is that all the land zoned R3 will ultimately be developed for multi dwelling housing.

The submission calling for increased setbacks is noted, but the setback controls are contained in the Sutherland Shire Development Control Plan 2015. The subject amendment relates only to SSLEP2015 provisions. Changing the setback controls is not within the scope of this planning proposal. It must be noted that while increasing the setback controls would assist in reducing the impact of a new development on adjoining properties, any amendments to the setback controls would greatly affect the ability for a site to realise the FSR applicable to the site.

The low density zones of the Sutherland Shire allow for a number of permissible uses. The permissibility of dual occupancies and multi dwelling housing is intended to provide an appropriate housing mix so that people can down size within their communities. Since the gazettal of SSLEP2015 there has been an unprecedented level of dual occupancy and multi dwelling housing development. This is largely due to the financial feasibility under current market conditions and the strength of local demand. Council is not able to control the costs of these developments as they are driven by the market. This planning proposal will not stop redevelopment but seeks to improve the development outcomes of these forms of developments. The need for better outcomes is an issue raised in submissions.

Prior to the exhibition of the proposed amendment, the planning proposal was referred to the Rural Fire Service (RFS) for comment. The RFS raised no concerns with the proposed amendment. The RFS made reference to their previous comments to Council regarding the need for emergency access to all areas of the Sutherland Shire and the impact that dual occupancies and multi dwellings have on their ability to access neighbourhoods due to the increased number of parked cars on narrow streets. The RFS feedback supports the Planning Proposal.

Section 117 Directions

Upon receipt of the Gateway Determination, the Department of Planning and Environment noted that Council may still need to obtain the agreement of the Department's Secretary to satisfy the requirements of relevant Section 117 Directions 3.1 Residential Zones and 4.4 planning for Bushfire Protection. Given there may be some inconsistency with Section 117 Direction – 3.1 Residential Zones, specifically as it relates to the reduction in permissible residential density of land, it is recommended Council seek approval for any inconsistency with this 117 Direction as it applies to the subject planning proposal.

Council has sought comments from the RFS regarding the consistency with the relevant bushfire protection 117 Direction. The RFS has provided comments in support of the planning proposal and noted its consistency with the relevant direction. As such, these comments will be forwarded to the Departments Secretary.

Savings Provision

At present, under the provisions of SSLEP2015 there is no minimum lot size for the construction of a dual occupancy in zones R2 and E4 and multi dwelling housing in R2. Council currently has a large number of undetermined development applications for these forms of development in the system, many of which would not meet the proposed minimum lot sizes under the subject amendment. In order to ensure these development applications can be assessed under the current controls, it is recommended Council formally request Parliamentary Counsel insert a specific savings provision upon gazettal of the amendment. This provision would ensure that any application made before the commencement of this amendment is determined as if the amendment had not commenced.

RESOURCING STRATEGY IMPLICATIONS

Amendments to SSDCP2015 are the responsibility of the Strategic Planning Unit and will be carried out within existing resource allocation.

COMMUNITY ENGAGEMENT

Following a public notice in the St George and Sutherland Shire Leader and Liverpool Champion, the Draft Amendment was on public exhibition between 24 January 2018 and 21 February 2018. Printed copies were available for public viewing in all Sutherland Shire libraries and in the foyer of Council's Administration Building on Eton Street, Sutherland. The content was also available digitally on the Join

the Conversation platform, accessible through Council's website. Submissions could be made via Join the Conversation facility or by post.

STRATEGIC ALIGNMENT

The draft SSLEP2015 amendment is consistent with the following outcomes:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
1.1 Actively engage with the community to understand their views and aspirations	6B Manage new and existing development within a robust and effective framework.
1.4.1 Ensure a strong governance framework that provides transparency, accountability and sustainability.	
6.3.3 Provide streetscapes and public places that are cool, attractive and where people feel safe.	

POLICY AND LEGISLATIVE REQUIREMENTS

The draft amendments to SSLEP2015 were exhibited for public comment in accordance with legislative requirements (Environmental Planning and Assessment Regulation 2000).

CONCLUSION

During the public exhibition of Draft SSLEP2015 – Minimum Lot Sizes, seven submissions were received. Six of the submissions received were in support of the proposed amendment and two in objection. The submissions have been reviewed and analysed but do not warrant any further amendments than those being proposed. Sutherland Shire Local Environmental Plan 2016 – Minimum Lot Size Amendment is recommended to be adopted as exhibited.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is the Manager of Strategic Planning, Mark Carlon who can be contacted on 9710 0523.

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