



Business Paper

Shire Planning Committee

Monday, 2 July 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**
 PLN037-18 Further Drafting Amendments To SSLEP2015
- 7. QUESTIONS**
- 8. CONSIDERATION OF BUSINESS IN CLOSED SESSION**
- 9. CONFIDENTIAL REPORTS FROM OFFICERS**

PLN037-18 FURTHER DRAFTING AMENDMENTS TO SSLEP2015

Attachments: Nil

EXECUTIVE SUMMARY

- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) requires ongoing amendment to ensure the efficient operation of the plan.
- The proposed changes are designed to allow exhibition homes and villages in the Low Density R2 and Medium Density R3 zones and as an additional permitted use in the mapped Ridgeway Estate (310 New Illawarra Road, Barden Ridge - zoned E4 Environmental Living). Minor changes to correct mapping issues and consequential amendments resulting from standard instrument changes relating to subdivision are also included.
- The amendments can be amalgamated with the previously reported amendments to ensure efficient processing of the plan.

REPORT RECOMMENDATION

THAT:

1. The planning proposal adopted through PLN028-18 be amended to include the changes identified in this report, and the combined planning proposal be submitted to NSW Planning and Environment for a Gateway determination with a request that Council may make the plan under delegation.
2. Subject to an approval being granted at Gateway, the above planning proposal be exhibited in accordance with Council's policies and any conditions specified in the Gateway determination.
3. Council receive a further report on required amendments to Sutherland Shire Development Control Plan 2015 to support this amendment.
4. As this Planning Proposal covers only very minor issues and will not have any significant impact on the environment, it is considered that it does not warrant referral to the Local Planning Panel.

PURPOSE

This report identifies a range of minor planning issues that have come to light through the operation of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) and provides solutions to resolve the issues through an amendment to the LEP.

BACKGROUND

On the 5th February Council considered a report (PLN028-18) recommending drafting amendments to Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). The amendments covered a range of minor planning issues which have come to light through the operation of SSLEP2015. Council resolved:

That the matter stand deferred subject to:

- a. *That the impact of the changes is referred to a Councillor briefing for further explanation of specific changes.*
- b. *Notification letters to be distributed to the owner and neighbours of each property which is affected by a property specific mapping or heritage change.*

A Councillor briefing was held 28 May 2018. Council officers have notified owners and neighbours of the proposed amendments and are awaiting responses.

Several other minor matters have been identified since the original report was submitted to Council and can be added to the draft amendment. This will allow the efficient and timely resolution of these matters.

DISCUSSION

Consequential amendments to Dual Occupancy Subdivision provisions

On the 20th of April 2018, the Standard Instrument LEP was amended to clarify Clause 4.1 (4) - to ensure that strata subdivision generally was exempted from the requirement for a minimum lot size. However, SSLEP2015 Clause 4.1A, which uses similar wording, was not amended by the order. Consequently there are three interrelated problems in clause 4.1A of SSLEP2015.

- Cl.4.1A(3)(c) applies minimum dimensions to subdivision (e.g. 15m x 27m), which now also applies to strata subdivision given that this clause was not also amended— this anomaly was unintended and is not unworkable in a practical sense
- Strata subdivision of a new dual occupancy development in zone E3 is not permitted, except where the dual occupancy was in existence before the commencement of the plan. The redrafting of the clause by Parliamentary Counsel has added further ambiguity. Simplification and clarity is required to maintain the intent of Council's policy position.
- The redrafted provisions deal with strata lots but ignore stratum lots. Minimum lot size and dimension requirements should not apply to stratum lots that are part of multi occupancy and mixed use developments.

The amendment of the Standard Instrument LEP on 20 April 2018 may have clarified the application of clause 4.1 of SSLEP2015 to strata subdivision, but it did not resolve an almost identical problem in clause 4.1A. The amendment of clause 4.1 without corresponding amendment of 4.1A creates the impression that the distinction between the two is intentional. A consequential amendment to clause 4.1A is therefore required to reflect the policy intent of the clause.

Mapping Amendments – Environmentally Sensitive Land Map

The Environmentally Sensitive Land (ESL) clauses aim to protect highly valuable natural environments. Clause 6.5 Environmentally Sensitive Land – terrestrial biodiversity was based on ecological mapping provided by the Office of Environment and Heritage (OEH). Two sites have recently been identified as not meeting the threshold of ESL mapping. The sites have been inspected by Council officers who are experts in the field. The sites are:

1. 89-91 Willarong Rd – planted trees only in town house development
2. 93 Willarong Rd –planted exotic trees in rear yard – no Sydney Turpentine Ironbark Forest.

Accordingly, it is recommended that they be removed from the Environmentally Sensitive Land – Terrestrial Biodiversity Map.

Mapping Amendment SP2 Infrastructure land at 145 Woronora Rd Engadine - Landscaped Area Map

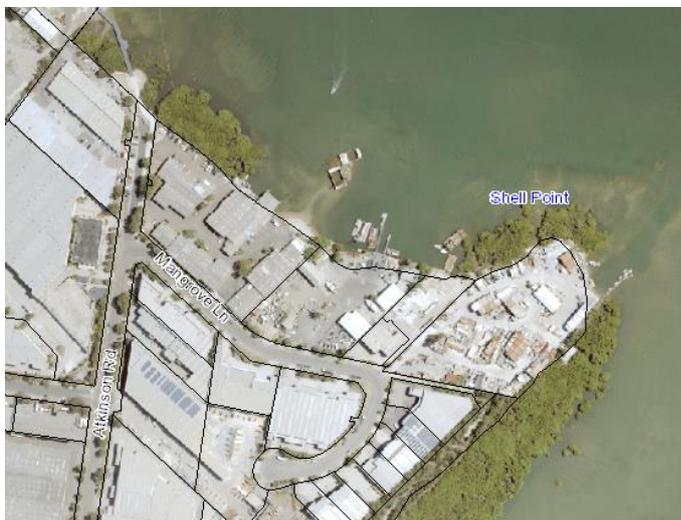
As part of SSLEP 2015 Amendment 9, 145 Woronora Rd Engadine was rezoned SP2 Infrastructure (Child Care Centre) in order to facilitate expansion of the existing centre. The surrounding residential zoning, E4, did not facilitate the use. However, Clause 6.14 (*Landscaped areas in certain residential, business, industrial and environment protection zones*) does not apply to the SP2 zone. Hence the Landscaped area mapping should be removed.

Mapping Amendment – Foreshore Area

Land zoned at Mangrove Lane, Taren Point is zoned IN4 Working Waterfront. The IN4 zone reflects the use of the land for a variety of water-based industries. Parts of the adjoining waterway are zoned W2 Recreational Waterway permitting access to the waterway and uses requiring waterway access e.g. boat launching ramps. Other adjoining waterway is zoned W1 Natural Waterways. This is shown on the zoning map and aerial photography below.

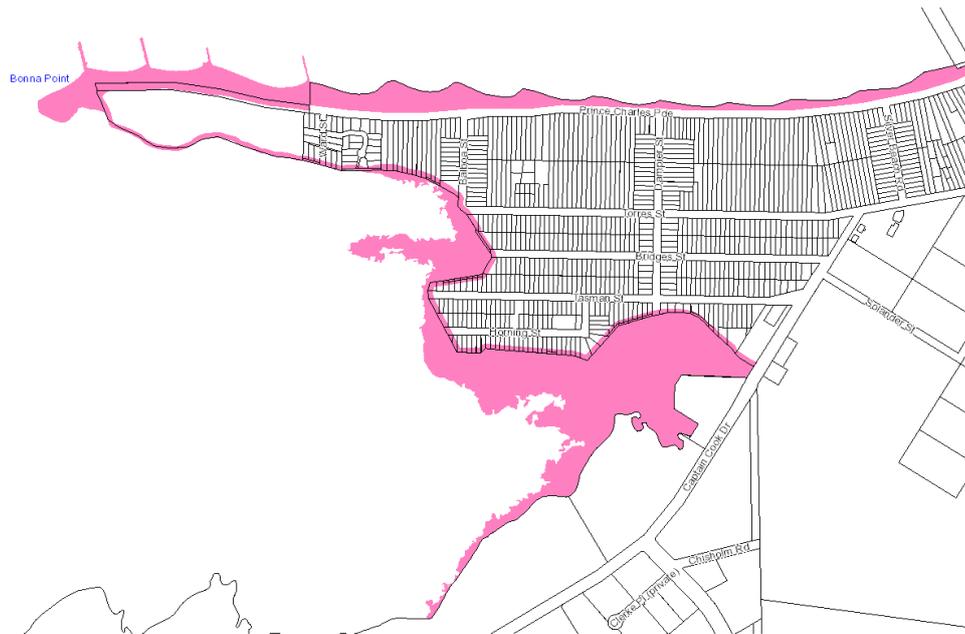


Zoning SSLEP2015



Aerial photography January 2018

A foreshore building line does not apply to the land as this would inhibit waterfront industrial and maritime activities on this land, and so undermine the intention of the IN4 zone. However, there is a foreshore area in the waterway marked on the mapping (see map extract below – foreshore area shown pink). A foreshore area is defined in the Standard Instrument as “the land between the foreshore building line and the mean high water mark of the nearest bay or river”. As there is no foreshore building line on the land, the mapping of a foreshore area in this location is an obvious error.



Foreshore Area SSLEP2015

The mapping error can be corrected by removing the foreshore area in these localities from the SSLEP2015 Foreshore Building Line Map. Hence it is recommended that the foreshore area mapping be removed where there is no corresponding Foreshore Building line.

Exhibition Homes and Villages

Council officers receive regular enquiries from project home builders seeking sites for exhibition homes in Sutherland Shire, usually on high traffic roads such as the Princes Highway. Exhibition homes and villages are currently a prohibited use in the residential zones under SSLEP2015.

Exhibition Homes and Exhibition Villages are defined by the Standard Instrument as follows:

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

exhibition village means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

Exhibition homes and villages are generally permitted by Councils where there is potential for substantial new subdivision – for example the LEPs of Liverpool, Wollongong, Camden, Shellharbour all make provision for exhibition homes and villages in low density zones. Nearby, Rockdale and Hurstville LEPs allow such, while the Kogarah LEP does not. Where Councils permit exhibition homes they also have detailed Development Control Plan (DCP) provisions in place.

Exhibition homes are best located along busier roads in residential areas. This facilitates greater exposure and prominence for the operator of the exhibition home/village. The traffic and noise impacts of the exhibition homes are less likely to cause amenity problems in these locations which are already impacted by background traffic and noise. The R2 and R3 zones are the most appropriate zone for exhibition homes in Sutherland Shire. However, exhibition homes could unreasonably affect residential amenity if they are established in quiet residential streets which experience little traffic movement.

The following DCP controls are suggested to introduce a framework to manage exhibition homes and protect residential amenity.

Objectives:

- a) *To ensure potential amenity impacts of exhibition homes or villages are considered upfront in the development assessment process;*
- b) *To ensure suitable car parking and access arrangements are provided within exhibition villages to maintain the existing amenity and privacy of residential properties in the locality;*
- c) *To ensure the proposed entry and exit access arrangements for an exhibition village integrate with the existing road hierarchy in order to maintain efficient functioning of road network in the locality;*
- d) *To encourage innovative housing options,*
- e) *To ensure best practice design, building materials and techniques which showcase ESD and energy efficiency principles.*

Controls:

1. *Exhibition homes/ exhibition villages should be located:*
 - a) *close to arterial and distributor roads as identified on Council's DCP Road Hierarchy Map.*
 - b) *where vehicular access is from a collector street as identified on Council's DCP Road Hierarchy Map.*
 - c) *on streets with widths that permit adequate safe manoeuvrability of vehicles and lines of sight for pedestrians, cyclists and vehicles.*
 - d) *where traffic control devices do not impede vehicular access to and from the site.*
2. *Exhibition homes/ exhibition villages shall not be permitted:*
 - a) *where access is from a street with a carriageway width of less than 6.5m.*
 - b) *on streets which are cul-de-sacs.*
3. *All works affecting public roads, including new driveways, access roads and intersection works are to be in accordance with the requirements of this DCP and the relevant Council's Public Domain Manual.*
4. *Landscaping of streets is to be in accordance with the requirements of this DCP, and street landscaping is to be maintained for the duration of operation of the exhibition home/village.*

5. *Car parking for exhibition homes shall be provided off street. However, on-street car parking may be considered where there are no privately occupied dwellings opposite or adjoining the individual exhibition homes.*
6. *A minimum of 3 car parking spaces shall be provided per exhibition home.*
7. *Where parking is provided at an individual exhibition home it must be constructed and finished in a way that will give the appearance of a private driveway or parking spot when the exhibition home is closed.*
9. *A traffic impact assessment which examines the local and cumulative impacts of the proposal and other exhibition homes in the area on the road network may be required.*
10. *Hours of operation are limited to 9am to 5pm, 7 days.*
11. *Any signage is required to fit into a residential streetscape without creating amenity impacts.*
12. *The operation of an Exhibition Home/Village shall be limited to 3 years after which it shall cease to operate.*
13. *An Exhibition Village shall cease to operate when any of the individual Exhibition Homes ceases to operate as an Exhibition Home.*

Council's SSDCP2015 requires amendment to include the above objectives and controls.

Exhibition villages are most appropriate within new residential estates such as the new estate at Barden Rige. It is recommended that the use also be permitted as an additional permitted use in the mapped Ridgeway Estate (310 New Illawarra Road, Barden Ridge - zoned E4 Environmental Living). Exhibition homes or villages in this location could be considered as part of the master planning of this land which may support departure from the DCP controls.

RESOURCING STRATEGY IMPLICATIONS

Management of Council's LEP is conducted within the existing budget and resources of Strategic Planning.

COMMUNITY ENGAGEMENT

Subject to a positive Gateway determination, be publicly exhibition will be undertaken as required by the conditions issued by NSW Planning and Environment. It is expected that community engagement will include:

- Public exhibition of the planning proposal on Council's Join the Conversation website for 28 days with the opportunity for members of the public to prepare submissions in response.
- Publication of an advertisement in a local newspaper prior to the exhibition commencing.
- Exhibition of the planning proposal and supporting documentation at all Sutherland Shire Council libraries and the Administration Building.
- Notification letters will be distributed to the owner and neighbours of each property which is affected by a property specific mapping or heritage change.

Recent amendments to the EP&A Act 1979 create a role for IHAP in the consideration of Planning Proposals. The Minister for Planning issued a direction on 23 February 2018 that Councils must refer Planning Proposals to their Independent Hearing and Assessment Panels for advice before they are sent for a Gateway Determination. The direction takes effect from 1 June 2018 and applies to all Planning Proposals unless the Council considers that it meets one of the following criteria:

- (a) the correction of an obvious error in a local environmental plan;
- (b) matters that are of a consequential, transitional, machinery or other minor nature; or
- (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.

As this Planning Proposal covers only very minor issues and will not have any significant impact on the environment, it is considered that it does not warrant referral to the Panel.

STRATEGIC ALIGNMENT

The issues addressed in this report have connections to the goals and principles of the Sutherland Shire Community Strategic Plan, including:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
4.1 Create and strengthen community connections through shared cultural experiences.	DP 41 Implement legislative requirements to ensure environmental, archaeological and Aboriginal heritage are conserved and valued.
4.1.1 Identify and appreciate places, spaces and stories that contribute to our Sutherland Shire identity.	DP 41.2 Implement Sutherland Shire LEP 2015 Clause 5.10 Heritage Conservation
6.2.2 Develop and implement strategies to improve housing affordability.	6B.6 Provide an effective Development Application (DA) process.
2.2.3 Encourage responsible urban planning which balances growth with environmental sustainability.	

POLICY AND LEGISLATIVE REQUIREMENTS

The State Government requires Council to submit all planning proposals for a Gateway Determination before placing them on public exhibition. The recommendations contained in this report will initiate this process and lead to the amendment of the LEP.

CONCLUSION

The proposed changes to SSLEP2015 are designed to address practical issues that have been identified with the operation of the plan. Resolution of these issues will help to provide greater clarity for applicants and minimise conflicts between Council, applicants and the community. The recommendations contained in this report will be implemented through an amendment to the LEP.

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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