



## **Business Paper**

### **Shire Planning Committee Meeting**

**Tuesday, 3 October 2017**

**6.30pm**

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

## **ORDER OF BUSINESS**

- 1. APOLOGIES**
- 2. DISCLOSURES OF INTEREST**
- 3. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**
- 4. PRESENTATIONS**
- 5. REPORTS FROM OFFICERS**
  - PLN015-18      The Permissibility of Dual Occupancies in E3 Environmental Conservation and E4 Environmental Living Zones
  - PLN016-18      Sutherland Shire Development Control Plan 2015 - Draft Amendment 1
  - PLN017-18      Exemptions from Section 94 Contributions for Emergency Services
- 6. QUESTIONS**
- 7. CONSIDERATION OF BUSINESS IN CLOSED SESSION**
- 8. CONFIDENTIAL REPORTS FROM OFFICERS (if any)**

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**PLN015-18 THE PERMISSIBILITY OF DUAL OCCUPANCIES IN E3 ENVIRONMENTAL CONSERVATION AND E4 ENVIRONMENTAL LIVING ZONES**

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**Attachments:** Appendix A

**EXECUTIVE SUMMARY**

- At the Councillor Briefing on 22 May 2017, Councillors requested a report addressing the permissibility of dual occupancies in the E3 Environmental Conservation and E4 Environmental Living zones.
- Council currently restricts the development of dual occupancies in parts of E3 and E4 zones to minimise the risk to life and property from bushfire and to help preserve the environmental qualities of sensitive land.
- The Rural Fire Service (RFS) has been consulted regarding the possibility of expanding the permissibility of dual occupancies across zones E3 and E4. The RFS is opposed to increasing permissibility where it will increase the number of people at risk from bushfire or compromise access for emergency vehicles.
- The remaining areas where dual occupancies are currently restricted have important ecological and scenic values. Dual occupancy results in greater building bulk and site coverage than typically associated with a single dwelling. Allowing dual occupancy in these important foreshore locations risks jeopardising the scenic and environmental quality of the waterways.

**REPORT RECOMMENDATION**

That the current permissibility of dual occupancy in Sutherland Shire Local Environmental Plan 2015 be maintained.

## **PURPOSE**

The purpose of this report is to review the permissibility of dual occupancies in the E3 Environmental Management and E4 Environmental Living zones.

## **BACKGROUND**

The principles underlying the zoning pattern of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) are based on achieving a balance between protecting the environmental and scenic qualities of the Shire while facilitating increased residential density and housing choice. This is expressed in the zoning pattern that places the least dense development in areas where land is most environmentally sensitive, with a gradual stepping up in height and density as one moves towards the centres.

The E3 zone is the most environmentally sensitive residential zone and is integral to the scenic quality of Sutherland Shire. The objectives of the E3 zone place significant weight on environmental conservation. When the E3 zone is viewed from the waterway, adjoining land or foreshores, the natural elements of the landscape are dominant. Development in these localities requires careful design and consideration to ensure it is compatible with the environmental and scenic qualities of its setting. The E3 zone applies to low-density residential land on the foreshores that has a strong bushland character. Much of this zone is also subject to bushfire risk.

The E4 Environmental Living zone is the next tier in the zoning pattern. It is applied to areas which are more suburban in character than E3 localities, but still have important relationships with the waterways and natural areas. Buildings, rather than bushland, are the dominant element of the E4 zone. The E4 zone has also been used to differentiate properties that are at risk from bushfire. The objectives of the E4 zone seek to preserve and enhance the natural landscape setting and also minimise the risk to life and property from natural hazards.

## **DISCUSSION**

### **Where is Dual Occupancy Permissible in the E3 and E4 Zones**

SSLEP2015 was prepared in consultation with the RFS with the common objective of minimising the risk to life and property from bushfire. The strategy that flowed from this approach was to ensure that the LEP did not increase residential density or concentrate vulnerable people in areas that needed evacuation in the event of bushfire. As a result, dual occupancy is prohibited on all bushfire prone land within both the E3 and E4 zone. Dual occupancy is also prohibited in the most sensitive foreshore localities in the E3 zone, but is permissible in those parts of the E4 zone that are not at risk from bushfire.

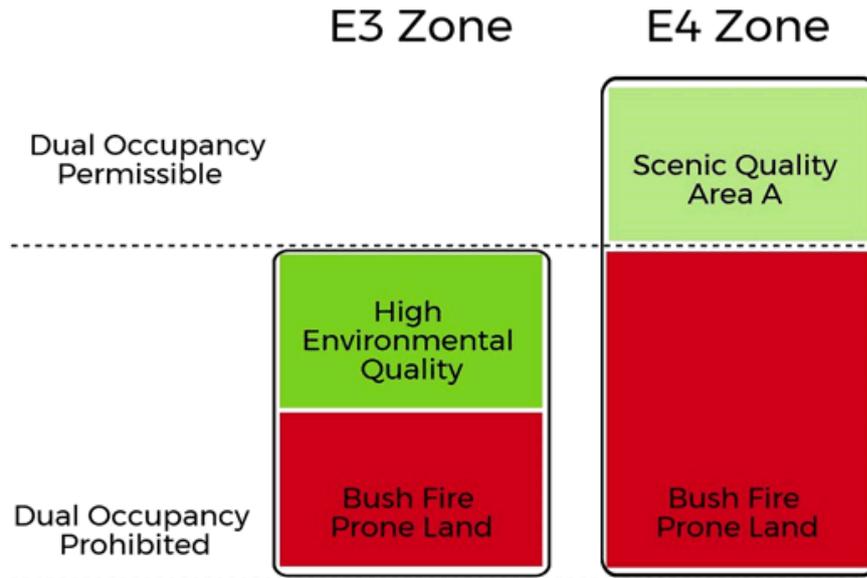


Figure 1: Current Permissibility of dual occupancies in zones E3 and E4

### Review of Permissibility of Dual Occupancy in Bushfire Prone Land

Council is required to prepare its plans in accordance with State Directives. Council's zoning of bushfire prone land is consistent with the objectives of Section 117 Direction *4.4 Planning for Bushfire Protection*. Specifically:

- (a) to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas, and
- (b) to encourage sound management of bushfire prone areas.

In preparing this report, Council sought input from the RFS. The RFS provided a map displaying the potential locations within the E3 and E4 zones where they would be prepared to accept increased permissibility of dual occupancies (Appendix A). This map shows that the RFS has maintained the same position as it did during the preparation of the SSLEP2015. It has confirmed that dual occupancies are not a suitable use in those areas of bushfire risk, particularly in the western parts of the Sutherland Shire. The locations where the RFS would support dual occupancies are focused on the waterway peninsulas with a suburban character. However, these closely correlate with Area A where dual occupancy is currently permissible.

The RFS requested that permissibility not be expanded any further than that which is currently permitted due to issues associated with increasing the number of people at risk from bushfire and access for emergency vehicles. This is a sensible planning strategy. It does not sterilise the land, nor does it increase the level of exposure to bushfire risk. While dwellings can be constructed to meet planning standards for bushfire prone areas, it does not mean they are assured survival in a major bushfire event. As such, the current approach to dual occupancies in the bushfire prone parts of E3 and E4 zone remains appropriate.

### **Review of Permissibility of Dual Occupancy in the Non Bushfire Prone parts of the E3 Zone**

The foreshore areas play a fundamental role in setting the scenic and environmental quality of the Sutherland Shire. Scientific research undertaken in 2002 was used to establish the underlying environmental values of the land throughout Sutherland Shire. This work underpinned the development of SSLEP2006 with the approach being recognised by the Planning Institute of Australia. This research was used to inform the application of and permissible uses in the environmental zones. Essentially, it provided a way to balance the competing needs of protecting the environment and facilitating growth and development. It did this by focusing density where it had least impact on the underlying environmental qualities of the Shire. Essentially the density of development is lowest in the most environmentally important localities and then progressively increases as one moves closer to the centres along the ridge lines.

Following this logic, dual occupancy is not permissible in the E3 zone because it is a more intensive form of development than single dwellings. Even though the permissible floor space ratio may be the same, dual occupancies have greater apparent visual bulk as ancillary elements and hard surfaces are duplicated for each occupancy. For example, garages are not included in floor space, nor are balconies, terraces or voids yet all these elements contribute to the visual bulk. Similarly, each occupancy can be expected to have a swimming pool and outdoor entertaining spaces resulting in additional hard surfaces. The result is that dual occupancies occupy much more of a site than a single dwelling, have more hard surfaces and result in greater tree loss with less space for replanting. Given the sensitive environmental and scenic values of the E3 locations, the prudent approach is to avoid this risk by prohibiting dual occupancy.

It must be noted that much of the E3 zone along the foreshore is steep in its topography with very large lots affected by the foreshore building line. This typically limits the development footprint to the top of the ridgeline. The fact that the lots are very large means that both dwellings in a dual occupancy would be very large, yet both would be sited at the ridge top. At present the ridge line is characterised by canopy trees and natural landforms. The Shire has a wonderful legacy of natural features that complement the waterways to provide a setting of outstanding natural beauty. These scenic values, which are qualities that make Sutherland Shire a great place to live, should not be jeopardised by more intensive development clustered on the upper portions of waterfront lots.

There are a number of existing dual occupancies in the E3 Zone that were constructed under SSLEP2000. Many of the older dual occupancies are relatively low in scale and sit comfortably within the natural environment. A review of these dual occupancies found that they were approved at much lower FSRs and higher landscaped areas than current standards. The majority of the existing dual occupancies were approved with an FSR below 0.4:1 and landscaped area above 55%. As such the scale of these dual occupancies is much less than that which would be permitted under the development standards of the SSLEP2015 which permit an FSR of 0.5:1 and landscaped area of 40%.

Since the gazettal of the SSLEP2015, Council has seen record levels of development, particularly dual occupancies across all zones where the use is permissible. Since the LEP came into effect approximately 600 development applications for dual occupancy have been submitted. This wave of development is changing the character and streetscape of the low density residential zones of the Sutherland Shire. Should this increased permissibility be provided in the E3 zone, there is a strong chance that the zone will see similar levels of development as seen elsewhere in the Shire. In finding the right balance between facilitating dual occupancies and protecting those qualities of the Sutherland Shire that make it a desirable place to live, it is considered that less intensive forms of development are appropriate in the E3 zone. This logic has been applied in the past and remains valid.

### **Current Controls on Dual Occupancy in Area A**

Dual occupancy is permissible in that part of the E4 Environmental Living zone that is not exposed to bushfire risk. These areas are mapped in the LEP as Area A. The enabling clause in the LEP essentially limits such dual occupancy to Strata Title. This was a deliberate strategy to ensure dual occupancy was essentially designed so that it was more akin to a single dwelling so that it would sit more comfortably in its setting. Strata Title requires facilities to be shared and tends to limit the extent of ancillary elements and hard surfaces. This approach opened up the permissibility of dual occupancies in the E4 zone.

### **RESOURCING STRATEGY CONSIDERATIONS**

The permissibility of dual occupancies in zones E3 and E4 is the responsibility of the Strategic Planning Unit. Any change can be pursued utilising existing resources.

### **COMMUNITY ENGAGEMENT**

If any changes to the permissibility of dual occupancies are pursued, SSLEP2015 will be amended via a planning proposal. This process would require community consultation on the proposed changes.

### **STRATEGIC ALIGNMENT**

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.2.1 Enhance and protect our diverse flora, fauna and ecological communities.	The project does not align with any of the deliverables within the four year delivery 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.	
2.4.2 Monitor and manage the environment to minimise the impacts of natural disasters.	
2.4.3 Build community resilience to respond and adapt to environment and climate risks.	

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**POLICY AND LEGISLATIVE REQUIREMENTS**

Changing the permissibility of dual occupancy requires amendment to SSLEP2015. This is achieved by way of a Planning Proposal and requires the support of Department of Planning and Environment.

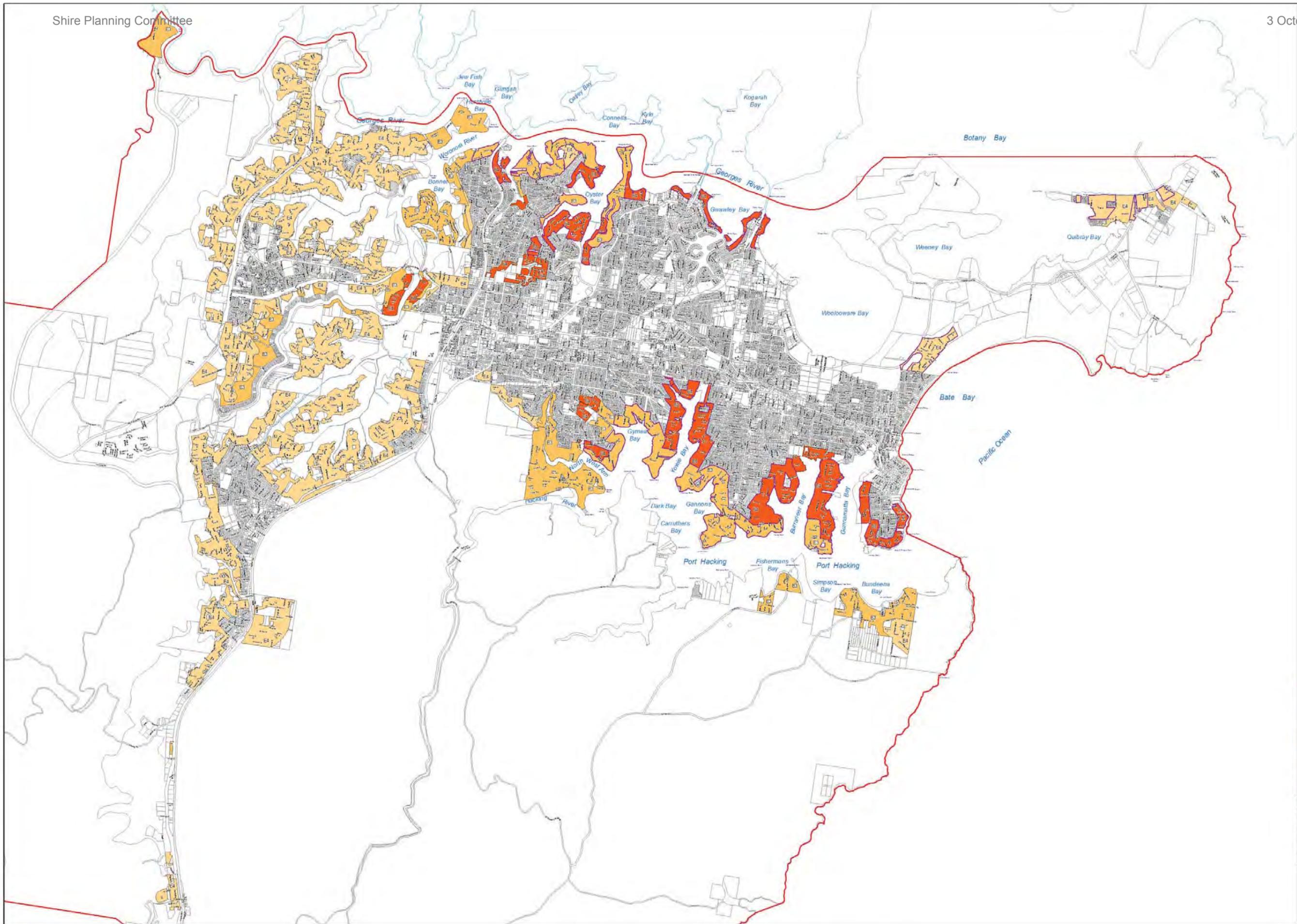
**CONCLUSION**

Council officers have reviewed the permissibility of dual occupancies in the E3 and E4 zones in response to a request made at the Councillor Briefing on 22 May 2017 (MOT015-17). The current permissibility of dual occupancies is based on sound planning which seeks to maintain the environmental qualities of the Sutherland Shire and reduce the risk to life and property from bushfire. The review carried out does not support any widening of permissibility for dual occupancy development in the E3 or E4 because the objectives underlying the zoning pattern remain valid.

**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.

File Number: 2015/21065



- Additional Permitted Uses - Area A
- Areas for potential Dual Occupancies as recommended by RFS
- Zone**
- E3 Environmental Management
- E4 Environmental Living
- SSC LGA BOUNDARY

This map has been produced with the most current data available to Council as supplied by various sources. INFORMATION IN THIS MAP IS SUBJECT TO COPYRIGHT. Council is not responsible for any inaccuracies in the data provided. Contact Council's Business Intelligence (ph. 9710 0116) for further information.



Scale: 1:35,000 @ A1  
0 350 700 1,050 1,400 m

Printed 21/09/2017  
File: Shire\_SSLEP15\_E3&E4

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**PLN016-18      SUTHERLAND SHIRE DEVELOPMENT CONTROL PLAN 2015 - DRAFT  
AMENDMENT 1**

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**Attachments:** Multiple (Under Separate Cover)

**EXECUTIVE SUMMARY**

- A number of minor amendments are required to Sutherland Shire Development Control Plan 2015 (SSDCP2015) to comply with recent changes to legislation and reflect more recent Council policy decisions.
- The SSDCP2015 currently contains detailed provisions for public domain construction, cycleway location, and waste management. These matters are now covered in greater detail by Council's Public Domain Design Manual and Waste Collection Policy for New Multi-Unit Dwellings and Residential Flat Buildings. Accordingly, most existing controls are superfluous.
- Amendments to administrative provisions are recommended to improve the neighbour notification provisions. Similarly, Council has already resolved to extend the duration of development consent activation from three years to five years and has amended the tree replacement requirements and these policy changes need to be reflected in the DCP.
- The SSDCP2015 requires amendment due to the recent introduction of the new State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the new State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017.

**REPORT RECOMMENDATION**

THAT:

1. Sutherland Shire Development Control Plan 2015 be amended to refer to Council's Public Domain Design Manual and Council's Waste Collection Policy for New Multi-Unit Dwellings and Residential Flat Buildings as detailed in this report (Appendix A).
2. Sutherland Shire Development Control Plan 2015 Chapter 42 Administrative Provisions (neighbour notification provisions and duration of development consent provisions) be amended as detailed in this report. Council's Fees and Charges will be required to be amended accordingly.
3. Sutherland Shire Development Control Plan 2015 Chapter 39 Natural Resource Management be amended to include Council's previous resolution on tree replacement.
4. Sutherland Shire Development Control Plan 2015 be amended as required as a result of new State policies.
5. The draft amendments be exhibited for public comment in accordance with legislative requirements.

## PURPOSE

Sutherland Shire Development Control Plan 2015 (SSDCP2015) requires minor drafting edits in order to ensure the efficient application of the DCP. Amendments are required to improve the neighbour notification provisions and reflect Council policy decisions which have been taken since the SSDCP2015 was drafted. DCP Chapters proposed to be amended (marked up with amendments) are attached as appendices.

The proposed changes do not seek to alter current planning policy. The changes are minor and seek to streamline the operation of the plan and/or align with current policies of Council and current legislation.

## BACKGROUND

SSDCP2015 has been prepared to provide more detailed provisions with respect to carrying out development permissible under Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).

Amendments to the Local Government Act 1993, made in late 2015, aimed to prevent Councillors from participating in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument where they have pecuniary interests. To make the DCP, Councillors sought an exemption to the legislation. This was ultimately not supported by the Department of Local Government. Council delegated the making of the DCP to the Sydney South Planning Panel. The DCP was approved by the Panel on 25 July 2017 and came in to effect on 2 August 2017.

A Councillor must determine whether they have a pecuniary interest in the proposed amendments to the DCP. A *pecuniary interest* is defined by the Local Government Act as: *an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person*. Councillors should note that the proposed changes update the DCP to reflect minor areas of existing policy, administrative provisions, or legislative changes. In this instance the proposed changes do not materially change development yields or outcomes.

## DISCUSSION

### Public Domain Design Manual

The Public Domain Design Manual (PDDM) is Council's comprehensive reference document for the design of the public domain. It includes requirements for street and frontage designs, public area pavement finishes, etc. The PDDM includes specific schemes for various centres and precincts including the Caringbah Medical Precinct, the Caringbah North Precinct (ex-Caringbah High School site) and the Pinnacle Street Precinct. The DCP also includes detailed provisions for these precincts. However, further design work has been carried out since the DCP was drafted and in some instances the two documents are in conflict. To avoid confusion, it is best to simply refer to the PDDM in the DCP rather than include specific provisions. This approach means Council can revise the PDDM without further amendment of the DCP. This is a practical solution that will achieve the same

outcomes. Accordingly it is recommended that Chapters 7 - 9 (Caringbah Medical Precinct, the Caringbah North Precinct and the Pinnacle Street Precinct) be amended to:

- remove the current controls for works in the public domain and frontage works as they relate to these centres and specific precincts, and
- link the controls for frontage works/in the public domain in these precincts to the PDDM standards.

### **Cycleway Provisions**

Chapter 36, section 5, of SSDCP2015 provides for the provision of facilities for cycling. The Sutherland Shire Bicycle Network Map forms part of the DCP. Including the bicycle network map in the DCP makes it a static map with any change requiring amendment to the DCP. However, the map needs to be updated as the need arises, for example as cycleways come on line.

Council's PDDM requires:

*"The provision of cycleway infrastructure is required in relation to all new development (except dwelling houses, dual occupancy, secondary dwellings and ancillary development) affected by routes on the Sutherland Shire Bicycle Network Map contained in council's development control plan".*

Cycleways are a community facility and the network map is related to the public domain, rather than a particular development form or its subsequent use. It would be more practical for cycleways to be implemented through the PDDM. Accordingly, it is recommended that Chapter 36 be amended to:

- remove the current detailed controls for frontage works and mapping for cycleways, and
- link controls for cycleways to the PDDM.

### **Waste Management**

Objectives and controls for waste management for new multi-unit dwellings and residential flat buildings (including those as part of a mixed use development) are contained within Chapters 5-9, 12-24 and 32. On 21 August 2017 Council endorsed a separate Waste Collection Policy for Multi-Unit Dwellings and Residential Flat Buildings on lands zoned R2, R3, R4, B2, B3 & B4 (WCP) (INF004-18). The requirements of the WCP differ from those of the DCP for the above forms of development. To have affect, it should be referred to within the relevant chapters and clauses of the DCP. Accordingly it is recommended that Chapters 5-9, 12-24 and 32 be amended to reference the WCP.

### **Neighbour Notification**

On the 21 November 2016 Council resolved (MOT015-17) to receive a briefing on ways to improve the neighbour notification process for Development Applications, as set out in Chapter 41 of Council's draft Development Control Plan 2015. This briefing was held 22 May 2017.

It is evident that there is significant concern in the community regarding applications for increased residential densities (dual occupancies, multi-unit dwellings and residential flat buildings). In response to community concerns, it is recommended that a sign be placed on the land for these types of development. While the DCP currently allows for officer discretion to more widely distribute notification letters, this process can be arbitrary. It can also be difficult to establish affected premises at the commencement of the assessment process. The display of notice on the land is a more transparent and equitable process for additional notification and will enable local residents to be more aware of development proposals. Accordingly it is recommended that changes be made to *Chapter 42 Administrative Provisions*.

### Lapsing of Development Consents

On 15 May 2017 Council resolved (COR050-17) that "Development consents be issued with a lapse time of five years unless there are special circumstances". SSDCP2015, Chapter 42, Section 10.2 currently states that development consents lapse after three years (if not activated prior) and that a one year extension may be granted upon application being made to do so. Accordingly, it is recommended that *Chapter 42 Administrative Provisions* be amended to reflect the current policy position.

### Tree and Bushland Vegetation

On 25 August 2017 the State Government introduced a suite of policies and legislation which change the assessment and approvals process for vegetation clearing and tree removal in non-rural areas of the State. These changes repealed vegetation management clauses 5.9 and 5.9AA of SSLEP2015. The new *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) now performs the same role as the repealed clauses. Council's policy regarding removal of trees and vegetation will remain unchanged. Clearing of vegetation in specifically identified areas (eg littoral rainforests and wetlands) or clearing of large areas of vegetation (2,500sq.m. or greater) will require a permit from Native Vegetation Panel in accordance with the Vegetation SEPP.

Council's tree preservation and vegetation controls are located within chapter 39 of SSDCP2015 and refer to the repealed vegetation management provisions of SSLEP2015. The provisions must be amended to refer to the Vegetation SEPP and to remove obsolete references to the repealed provisions in SSLEP2015. Accordingly it is recommended that changes be made to Chapter 39 Natural Resource Management.

The DCP requires replacement planting in order to retain tree canopy. Council resolved (18 July 2016, EHR003-17) to amend the tree replacement ratios as follows:

Replacement Ratios to be Implemented	
Single Dwellings (DA's)	4:1
Dual Occupancy, Medium, High Density (DA's)	8:1
Application to remove tree private property (No associated Development proposal)	2:1 on private land or 4:1 on public land by Deed of agreement

To ensure the objectives of Council resolution are met, it is recommended that changes be made to *Chapter 39 Natural Resource Management*.

### **Child Care Facilities**

The new State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017 came into effect on 1 September 2017. The SEPP introduces a number of provisions specific to child care centres, now known as centre-based child care facilities. These provisions aim to reduce uncertainty for child care providers and streamline the assessment of new centre-based facilities.

The SEPP aligns the National Quality Framework for Early Childhood Education and Care Facilities with the NSW planning system and introduces an assessment framework. The framework includes a number of non-discretionary development standards for matters such as site area and dimensions, and the new Child Care Planning Guideline. The guidelines place a strong emphasis on ensuring development is compatible with local character and surrounding streetscape. The Guideline contains key national requirements, and siting, planning and design guidance for centre-based child care facilities. The Guideline provisions will prevail over local development control plan requirements.

Following a review of the SEPP and Child Care Planning Guideline, the provisions of *Chapter 35 Other Uses Section 3 - Child Care Centres*, are redundant and are therefore recommended for removal. Car parking rate for child care centres are unchanged and will remain in Chapter 36 Vehicular Access, Traffic Parking and Bicycles.

### **Corporate Risk Management**

Sutherland Council manages issues relating to the natural and man-made environment. This is a key responsibility of Council policy. The changes seek to streamline the application of the DCP and ensure the policies of Council are implemented in a consistent, equitable and efficient manner.

### **RESOURCING STRATEGY CONSIDERATIONS**

Amendment to SSDCP2015 is the responsibility of the Strategic Planning Unit. Any change can be pursued utilising existing resources.

Greater neighbour notification provisions will require greater resources, as more staff time will be required to display a physical notice on the subject land. However, costs can be recouped through levying development applications a charge of \$120. Council's Fees and Charges will be required to be amended accordingly.

### **COMMUNITY ENGAGEMENT**

Changes to SSDCP2015 will require community consultation on the proposed changes in accordance with legislative requirements. The changes will be publicly exhibited for 28 days and the matter reconsidered by Council.

**STRATEGIC ALIGNMENT**

<b>Community Strategic Plan Strategy</b>	<b>Delivery Program (2017-2021) Deliverables</b>
1.1.1 Actively engage with the community to understand their views and aspirations	2B Review and implement the Local Waste Management Plan.
1.4.1 Ensure a strong governance framework that provides transparency, accountability and sustainability.	2D Review and Implement the Urban Tree and Bushland Policy and Programs
6.1.4 Plan, advocate and provide effective road networks.	6B Manage new and existing development within a robust and effective framework.
6.3 Provide welcoming, safe and accessible places and spaces that encourage active lifestyles.	6D Enhance safety and accessibility in the public domain through a range of programs and partnerships.
6.3.1 Improve the design, accessibility and safety of our spaces and places.	
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 SSDCP2015 must be exhibited for public comment in accordance with legislative requirements (Environmental Planning and Assessment Regulation 2000).

**CONCLUSION**

The draft amendments presented in this report seek to streamline the operation of the SSDCP2015 and align controls with current policies of Council and legislation. DCP Chapters proposed to be amended (marked up with amendments) are attached as appendices. It is recommended that the draft amendments be publicly exhibited, in accordance with the legislation, and the results reported back to Council for consideration.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Acting Manager of Strategic Planning, Beth Morris, who can be contacted on 9710 0376.

File Number: 2017/264379

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**PLN017-18      EXEMPTIONS   FROM   SECTION   94   CONTRIBUTIONS   FOR  
EMERGENCY SERVICES**

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**Attachments:** Nil

**EXECUTIVE SUMMARY**

- Council, on behalf of the Sandy Point Rural Fire Service, has recently obtained consent for a new Fire Station. The Rural Fire Service (RFS) has requested re-consideration of the required S94A Contribution.
- Council's S94A Development Contribution plan only provides for the State mandated exemptions, as well as exemptions for aged hostels and nursing homes, and secondary dwellings.
- The RFS provides an essential service to residents of Sandy Point.
- It is recommended that the General Manager be given Delegation to grant exemptions from S94A Contributions for emergency services organisations where the proposal provides for significant community benefit.

**REPORT RECOMMENDATION**

That the General Manager be given Delegation to grant exemptions from S94A Contributions for emergency services organisations where the proposal provides for significant community benefit.

## PURPOSE

The purpose of this report is to seek Council's support for exemption from S94A Contributions for emergency services organisations where the proposal provides a significant community benefit.

## BACKGROUND

Council, on behalf of Sandy Point Rural Fire Service, has recently approved the demolition of the existing Rural Bush Fire station at Sandy Point and the construction of a new station (DA17/0196). Condition 5 of the consent requires a contribution in accordance with the S94A plan of \$12,000. Payment must be made before the commencement of the use/occupation of the premises, unless Council agrees to waive the contribution prior to that time. The development is nearing completion.

## DISCUSSION

Council's 2016 Section 94 Contribution Plan and 2016 Section 94A Contribution Plan were adopted by Council on 7 November 2016 (PLN003-17) and came into force on 1 January 2017. The Section 94A plan applies to all development other than residential flat buildings in centres. A 1% levy is required for developments with an estimated cost of greater than \$200,000 and a 0.5% levy is required for developments with an estimated cost of between \$100,000 and \$200,000. Contributions are used to complete the Works Schedule contained in the Plan.

The State mandates that the following forms of development are exempt from S94 contributions: construction for disabled access, providing affordable housing, reducing potable water, adaptive reuse of an item of environmental heritage, or where section 94 was paid under a previous development consent. The plan also exempts Housing for Seniors or People with a Disability (by a social housing provider), hostels, residential care facilities, and secondary dwellings as defined by Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).

The RFS provides an essential service to the people affected by bush fire within our local community. The proposed replacement of the Sandy Point Rural Bush Fire Station will improve the level of service and safety provided to the Sandy Point community through improved response time to incidents, improved fire fighting capabilities, better on-site training, safer storage of materials and equipment, safer vehicle movements around the new station, improved amenities for both female and male brigade members, and better catering facilities during bush fire events.

Many forms of community development occur without development consent under the provisions of the State Environmental Planning Policy Infrastructure 2007 (the SEPP), particularly emergency facilities. The Standard Instrument defines emergency services facilities as:

**emergency services facility** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

and

**emergency services organisation** means any of the following:

(a) Ambulance Service of New South Wales,

- (b) *Fire and Rescue NSW,*
- (c) *NSW Rural Fire Service,*
- (d) *NSW Police Force,*
- (e) *State Emergency Service,*
- (f) *New South Wales Volunteer Rescue Association Incorporated,*
- (g) *New South Wales Mines Rescue Brigade established under the Coal Industry Act 2001,*
- (h) *an accredited rescue unit within the meaning of the State Emergency and Rescue Management Act 1989.*

However, the SEPP only allows such development without consent in prescribed zones. In the case of the RFS at Sandy Point, a development application was required as the proposal was in the SSLEP2015 RE1 Public Recreation zone. Hence, application of the S94A plan can be inconsistent for such services. Exempting the development application from the application of the plan/levying of the cost would allow the Bush Fire Service to better utilise their money in their primary business, which is serving its local community.

#### **RESOURCING STRATEGY CONSIDERATIONS**

Providing exemptions for certain development from the application of the S94A plan will ultimately result in less contribution towards works on the Section 94A Works Schedule. Hence, it is important that exemptions be limited to those uses that provide significant benefit to residents. The RFS meets this test and the Sandy Point facility is only caught by the zoning of the land. Consequently it is recommended that the General Manager be given Delegation to consider exemptions from S94A Contributions for emergency services organisations so that this anomaly, and any future ones, can be addressed.

#### **STRATEGIC ALIGNMENT**

<b>Community Strategic Plan Strategy</b>	<b>Delivery Program (2017-2021) Deliverables</b>
2.4.2 Monitor and manage the environment to minimise the impacts of natural disasters.	2J Participate in the development and implementation of the Sutherland Shire Local Emergency Plan
2.4.3 Build community resilience to respond and adapt to environment and climate risks.	
3.1.3 Provide emergency, rescue and public health and safety services which support community wellbeing.	

#### **POLICY AND LEGISLATIVE REQUIREMENTS**

The General Manager has delegation to write off 'rates and charges' not exceeding \$10,000. However the RFS S94A contribution, in this case, exceeds that amount. This General Manager's delegation could be extended to grant exemptions from S94A Contributions for emergency services organisations.

**CONCLUSION**

Council's S94A plan only provides for the State mandated exemptions. The RFS would benefit from this exemption but in this case the zoning of the land provides an obstacle. It is recommended that the General Manager be granted Delegation to consider exemptions from S94A Contributions, for emergency services organisations where the proposal provides for significant community benefit. This will facilitate the removal of Condition (5) of DA17/0196 for the RFS (requiring a Section 94A payment of \$12,000).

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Acting Manager Strategic Planning, Beth Morris, who can be contacted on 9710 0376.

File Number: 2017/284970