
PLN041-18 FURTHER AMENDMENTS TO SSLEP 2015

Attachments: Nil

EXECUTIVE SUMMARY

- Council previously resolved to undertake some minor amendments to Sutherland Shire Local Environmental Plan 2015 (PLN028-18 and PLN001-19). Council deferred its decision on this matter for a briefing session and to allow property owners and neighbours to be notified. A briefing was held on 28 May 2018 and all affected property owners have been notified. Feedback has resulted in some changes to the planning proposal being recommended.
- Amendments are needed to update mapping layers to reflect changes in land information, to facilitate minor forms of development as complying development, to permit exhibition homes, and to correct descriptions in the heritage schedule.
- Three additional matters have been identified that can be addressed as part of the amendment. It is proposed to list a new item *Maris Park – Sandstone Boundary Wall and Park*, as a local heritage item consistent with advice Council previously received. It is also proposed to change Item *A1069 Brick kerbing*, and Items *A0631* and *A4114 Alignment of first road in Sutherland Shire* to be correctly identified as local heritage items rather than archaeological sites.
- It is recommended that all of the above matters be merged into one planning proposal to ensure efficient processing. The Planning Proposal must be considered by the Local Planning Panel before it can be submitted to NSW Planning and Environment for a Gateway Determination.

REPORT RECOMMENDATION

THAT:

1. The Planning Proposal reported through PLN028-18 and PLN001-19 be amended to include the changes identified in this report.
2. The combined Planning Proposal be referred to the Sutherland Shire Local Planning Panel.
3. Provided the Sutherland Shire Local Planning Panel does not identify any significant concerns that would require further consideration by Council, the Planning Proposal be submitted to NSW Planning and Environment for a Gateway Determination.
4. Subject to a positive Gateway Determination, the planning proposal be exhibited in accordance with Council's policies and the conditions of the Gateway Determination.

PURPOSE

This report also advises Council on the results of community consultation. It also recommends that two more minor issues be added to the Planning Proposal.

BACKGROUND

On the 5 February 2018 Council considered a report (PLN028-18) recommending drafting amendments to Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). The amendments covered a range of planning issues. Council resolved to defer the recommendations of the report, subject to a Councillor briefing and notification of affected property owners and neighbours.

On the 16th July Council considered a report (PLN001-19) recommending that additional minor amendments are incorporated into the planning proposal.

Two minor heritage matters have been identified since the previous report was submitted to Council. They can be added to the Planning Proposal to facilitate the efficient resolution of these matters.

DISCUSSION

Results of Consultation with Property Owners and Neighbours Affected by Proposed Amendments (PLN028-18)

In accordance with Council resolution of 19 February 2018 (PLN028-18), a Councillor Briefing was held on 28 May 2018 and letters were sent to property owners and neighbours affected by all land specific heritage and mapping changes. The following table shows where changes to the proposed amendments have been requested by the public and recommends a Council response:

Table 3: Requested changes to the proposed amendment

Affected Property (and Previously Reported Amendment)	Submission	Assessment of Submission and Recommended Action
<u>28-30 Grosvenor Crescent, Cronulla – Local Heritage Item 1027</u> (Update address of heritage listing to reflect the heritage item's location on both lots within the property)	The owner of the property expressed support for the intent of the amendment but requested that the heritage listing should include the house in addition to the garden which is currently listed.	Council's 2013 Community Heritage Review recommended that the house be included in the heritage listing as a fine example of an interwar house and garden. Because the expert advice affirms the request from the property owner, it is recommended that Council amend the description of the item to <i>"house and garden"</i> in addition to updating the address of the item to <i>"28-30 Grosvenor Crescent, Cronulla"</i> as previously reported.
<u>119 Fowler Road,</u>	A neighbour of the subject	Council's heritage officer has considered the

<p><u>Illawong – Local Heritage Item 2016</u> (Update address of heritage listing to reflect location of item)</p>	<p>property advised Council that the house component of the heritage item had been destroyed some years previously and that the wharf is part of the adjacent property at 123 Fowler Road.</p>	<p>neighbour's submission together with available evidence and supports a change to the heritage listing to reflect this new information.</p> <p>It is therefore recommended that in addition to updating the listing address, Council should amend the description of the heritage item to remove the reference to the house and wharf, to read as follows:</p> <p><i>"Boat shed and stone waterfront".</i></p>
<p><u>12R South Street, Gymea</u> <u>Lot 3 DP 882658</u></p> <p><u>682 Old Illawarra Road, Menai</u> <u>Lots 3 & 4 DP 1066190</u></p> <p>(Remove the lots from the land acquisition and reservation map)</p>	<p>Roads and Maritime Services advised that properties which had been acquired by other NSW State entities should remain mapped for acquisition by RMS.</p>	<p>Council's Property and Rating Database and advice from RMS indicate that these properties have been acquired by the State of NSW through the Minister for Planning or another State entity.</p> <p>As these properties are not directly in RMS control, Council should not remove them from the land acquisition and reservation map at this time. It is therefore proposed that the previously reported change to these properties not proceed.</p>
<p><u>45 Flora Street and 580 Princes Highway, Kirrawee – Lots 1 & 2 in DP1242067</u> (Adjust zone and other boundaries to match the approved park boundary)</p>	<p>A submission was made on behalf of the developers of the South Village, requesting an update to the heritage listing which applies to the site to reflect the heritage structures which have been retained, rather than the whole of site listing which currently applies.</p>	<p>Council's heritage officer has reviewed the submission and broadly supports the requested change.</p> <p>The mapping of the existing archaeological site is no longer considered appropriate given the extensive redevelopment. It is therefore proposed that in addition to the previously reported mapping changes, the archaeological item listing and heritage mapping be restricted to the preserved "Pipe Kiln" which is located on part of the site. The proposed heritage listing which reflects the future subdivision of the site is as follows:</p> <ul style="list-style-type: none"> • Suburb: <i>Kirrawee</i> • Item Name: <i>Pipe Kiln of the former Sutherland Brick Company</i>

		<ul style="list-style-type: none"> • Address: <i>Part of 566-594 Princes Highway</i> • Property Description: <i>Part of Lot 3 in DP1215830</i> • Significance: <i>Local</i> • Item no: <i>A2404</i>
<u>111 Princes Highway, Sylvania – Lot 55 in DP1215725</u> (Correct a mapping anomaly by adjusting zone and other boundaries to match property boundary)	<p>Four submissions were received from neighbours of the subject site objecting to the proposed mapping adjustment for the following reasons:</p> <ol style="list-style-type: none"> 1. The current use of the site is not affected by the zoning anomaly. 2. The change could allow redevelopment of the site with consequences for their amenity during construction and the structure of their swimming pool. 	<p>The concerns raised in the submissions have been addressed below:</p> <ol style="list-style-type: none"> 1. It is correct that the current and future use of the site as a preschool is not affected by the zoning or mapping issues. However a mapping anomaly currently burdens the subject property. 2. The proposed LEP mapping change is not proposed to facilitate any specific development proposal and Council has not received any applications to redevelop the site. Redevelopment of the site is already permissible under the existing LEP controls and zoning, despite the mapping anomaly. Any development proposal on this site would be assessed with a view to protecting the integrity of adjacent property. It is therefore considered that the proposed change will neither prevent nor create the impacts set out in the submissions from neighbours. <p>Consequently, it is recommended that Council should adjust the zone boundary and other mapping to match the property boundaries on this site as previously reported. It is good planning practice that zoning boundaries reflect whole lots of land.</p>
<u>Saint Patrick's Primary School and Church</u> <u>551 President Avenue, 54 Belmont</u>	<p>Sydney Catholic Schools provided a consultant submission requesting that Council amend the Environmentally Sensitive</p>	<p>Council's Environmental Science team has conducted a site inspection and surroundings and confirmed the reduced extent of significant vegetation on the subject sites. It is therefore recommended that the</p>

<p><u>Street, 130 Flora Street, Sutherland;</u></p> <p><u>507, 511 & 515 – 521 President Avenue;</u></p> <p><u>84-88 Glencoe Street;</u></p> <p><u>103-105, 110, 112, 114, 116, 118 & 120 Flora Street -</u> (No previous amendment, new matter raised in a submission)</p>	<p>Land - Terrestrial Biodiversity map to match the actual extent of significant vegetation on the St Patrick's School and Church Site. The submission includes a vegetation assessment prepared by an environmental consultant.</p>	<p>Environmentally Sensitive Land - Terrestrial Biodiversity map be amended to excise the following lots which have been found to not have significant vegetation. These lots extend beyond the landholdings of Sydney Catholic Schools.</p> <ul style="list-style-type: none"> • Lots 1, 2, 3, 5, 6, 7, 8, 9, 10 in Section 44 of DP 802; • Lots 1 & 2 in DP 326496; • Lots A & B in DP 449596; • Lot 1 in DP 881766; • Lot 1 in DP1015888; • Lot 1 in DP 1015890; • Lot 4 in DP 15941; • Strata Plan 41980; • Lot 1 in DP1231961; • Strata Plan 94756; • Lots 1, 2, 3 & 4 in DP 324080; • Lot A & B in DP 431965; • Strata Plan 41980; and • Strata Plan 64905.
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New Local Heritage Item: *Maris Park – Sandstone Boundary Wall and Park*

Maris Park is a public reserve in Port Hacking which features a sandstone wall on its frontage to Turriell Point Road. The sandstone wall continues along Turriell Point Road and marks the front property boundaries for 26, 40 and 42 Turriell Point Road, and a side property boundary for 2 Sandbar Place, as indicated in the plan below.

Figure 1: Indicative extent of proposed heritage item: *Maris Park – Sandstone Boundary Wall and Park*



The park and the sandstone boundary wall are remnants of the historic property “Maris Park,” which occupied this land in the early 20th century. In 2012, Council proposed to demolish part of the sandstone wall out of concern for public safety. Members of the community protested these works and requested that the wall be rebuilt and protected. Council restored the damaged sections of the wall and commissioned Australian Museum Consulting to undertake an assessment of its heritage significance. The assessment concluded the park and wall meet the criteria for listing as local heritage items. The recommendations of the heritage consultant have not been acted upon.

The assessment recommends that the listing should “*..incorporate all extant sections of the wall..*”, including those on private property. Heritage listing would place additional requirements on the affected properties to ensure that the wall is preserved. The affected owners of 26, 40 and 42 Turriell Point Road and 2 Sandbar Place will be specifically consulted. Similarly the owners of 38 Turriell Point Road will also be consulted as their property benefits from a right of way across no. 40, which could be affected by the proposed heritage listing.

Changing the Category of Archaeological Site A1069 Brick kerbing to a Local Heritage Item

There are well preserved sections of brick kerb and guttering within the road reserves at Gerrale Street, Waratah Street, Ewos Parade, Parramatta Street and Richmount Street, Cronulla. This guttering is currently listed under SSLEP2015 as an archaeological site.

In February 2017, the Office of Environment and Heritage (OEH) wrote to the applicant for DA16/0416 in relation to a permit for works in and around the heritage kerb and guttering in Gerrale Street, Cronulla. OEH advised that the heritage kerb and gutter should not be classified as archaeological relics for the purposes of the *Heritage Act 1977*. Consequently, Council's heritage officer has requested that the heritage listing of the kerb and guttering should be transferred from the list of "archaeological sites" to "heritage items" in Schedule 5 of SSLEP2015. The change will ensure that the heritage kerb continues to be protected.

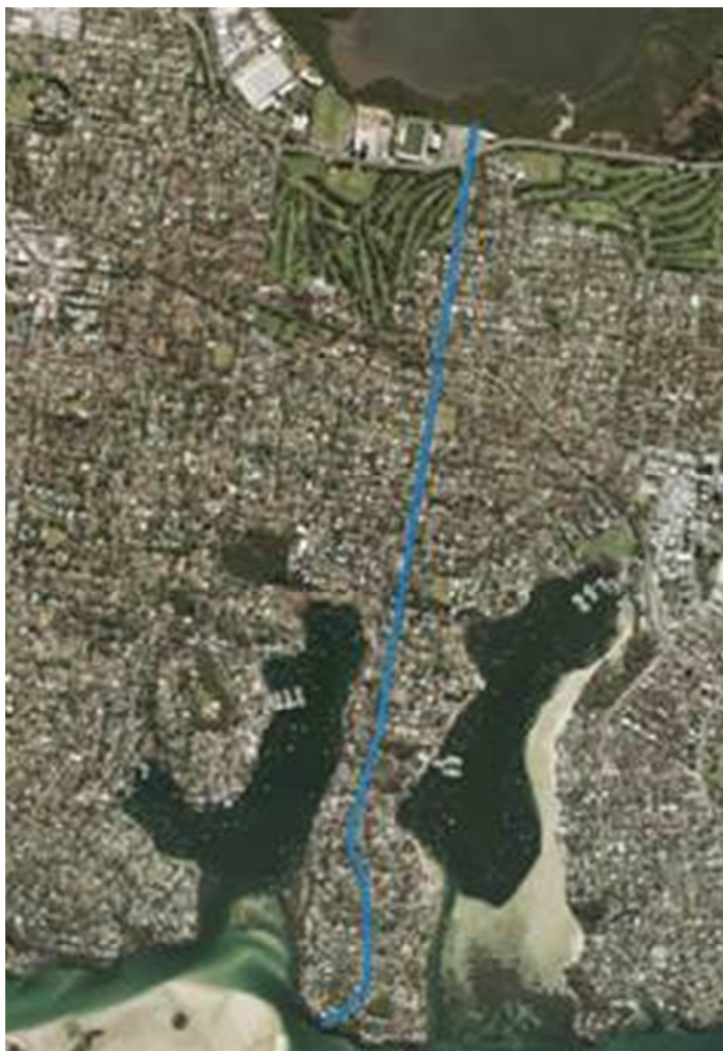
Figure 2: SSLEP2015 Heritage Mapping: Item A1069 (shown in blue)



Changing the Category of Archaeological Sites A0631 and A4114 Alignment of first road in Sutherland Shire to a Local Heritage Item

In July 2018, the Office of Environment and Heritage (OEH) wrote to a utility contractor in relation to a request for exemption of works in proximity to the heritage items; A0631 and A4114, which relate to the alignment of the first road in Sutherland Shire, along the length of Woollooware Road, Burraneer and Woollooware. OEH advised that the road alignment should not be classified as archaeological relics for the purposes of the *Heritage Act 1977*. Consequently, the heritage listing should be transferred from the list of “archaeological sites” to “heritage items” in Schedule 5 of SSLEP2015. The change will allow future development applications to be more efficiently processed.

Figure 3: SSLEP2015 Heritage Mapping: Items A0631 and A4114 (shown in blue)

**RESOURCES 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, public exhibition will be undertaken as required by the conditions issued by NSW Planning and Environment. Community engagement is expected to 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 that is affected by a property specific mapping or heritage change.

Recent amendments to the EP&A Act 1979 create a role for Local Planning Panels 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 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.

Should the Local Planning Panel identify any significant concerns, the matter will be reported back to Council before proceeding to Gateway Determination.

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
2.2.3 Encourage responsible urban planning which balances growth with environmental sustainability.	6B.6 Provide an effective Development Application (DA) process.

POLICY AND LEGISLATIVE REQUIREMENTS

The Environmental Planning and Assessment Act and Regulations require 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 heritage issues and other matters arising from community input. The amendments will ensure the LEP is implemented as intended and facilitate better local development outcomes.

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: 2017/272970

Minute No: 363**PLN041-18****Further Amendments to SSLEP 2015****File Number: 2017/272970**

RESOLVED: (Councillor Scaysbrook/Councillor Nicholls)

THAT:

1. The Planning Proposal reported through PLN028-18 and PLN001-19 be amended to include the changes identified in this report.
2. The combined Planning Proposal be referred to the Sutherland Shire Local Planning Panel.
3. Provided the Sutherland Shire Local Planning Panel does not identify any significant concerns that would require further consideration by Council, the Planning Proposal be submitted to NSW Planning and Environment for a Gateway Determination.
4. Subject to a positive Gateway Determination, the planning proposal be exhibited in accordance with Council's policies and the conditions of the Gateway Determination.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Croucher, Forshaw, Johns, McLean, Nicholls, Plibersek, Scaysbrook, Simone, Simpson and Steinwall.

The decision was unanimous.**Minute No: 364****PLN042-18****The Low Rise Medium Density Code - Options for Implementation****File Number: 2016/257428**

***Councillor Nicholls declared a significant non-pecuniary interest in this matter, left the Meeting, took no part in the discussion and did not vote.

RESOLVED: (Councillor Steinwall/Councillor Plibersek)

THAT:

1. Council make a request to the Minister for Planning for permanent suspension of the Code to Sutherland Shire because Council's planning framework is delivering record numbers of dwellings across all forms of housing.