



Contact: Carmen Lau
 Phone: (02) 9228 6111
 Fax: (02) 9228 6244
 Email: Carmen.Lau@planning.nsw.gov.au
 Postal: GPO Box 39 Sydney NSW 2001

Mr John Rayner
 General Manager
 Sutherland Shire Council
 Locked Bag 17
 SUTHERLAND NSW 1499

Our ref: PP_2012_SUTHE_002_00 (12/06286-1)
 Your ref: LP/06/694793

Dear Mr Rayner,

Planning Proposal to make a number of minor and housekeeping amendments to Sutherland LEP 2006

I am writing in response to your Council's letter dated 26 March 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Sutherland Local Environmental Plan 2006 as follows:

- To rezone land at 50 Pacific Crescent, Maianbar from Zone 1 – Environmental Housing (Environmentally Sensitive Land) to Zone 10 – Neighbourhood Centre;
- To rezone 32R Timbrey Circuit, Barden Ridge from Zone 3 – Environmental Housing (Bushland) to Zone 13 – Public Open Space and reclassify the site from 'community' land to 'operational' land;
- To rezone 999N Lenna Place, Jannali from Zone 23 – Road to part 3 – Environmental Housing (Bushland) and part Zone 4 – Local Housing and reclassify the site from 'community' land to 'operational' land;
- To reclassify land at 25 Baringa Road, Engadine from 'community' land to 'operational' land;
- To amend Clause 14 'Exceptions to Zoning Table' by removing reference to 50 Pacific Crescent, Maianbar; and
- To amend Schedule 2 'Exempt Development' to remove various uses covered by SEPP (Exempt and Complying Development Codes), and include 'animal grazing', 'events (community and fundraising)' and 'luminous pole advertising' as additional land uses.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that a 'change of use of premises resulting from a change from one kind of restaurant to another' is included as exempt development under Schedule 2 of Sutherland Local Environmental Plan 2006. Given that the use is included as complying development under Subdivision 2 of the General Commercial and Industrial Code of SEPP (Exempt and Complying Development Codes) Council is strongly encouraged to consider deleting the use as the SEPP will prevail over the provisions of Council's LEP. Should Council consider it appropriate, the planning proposal is to be amended prior to the commencement of public exhibition and a revised copy of the planning proposal provided to the Department's Regional Office.

It is noted that under Subdivision 3A of SEPP (Exempt and Complying Development Codes) 'horse stabling' is identified as exempt development in certain rural zones. Council should

consider therefore, whether 'horse stabling' is an appropriate use in Schedule 2 of the LEP, and should amend the planning proposal prior to the commencement of public exhibition if Council considers it appropriate.

It is noted that Council refers to the 'Sydney Metropolitan Strategy' in the planning proposal as part of the assessment against the strategic planning framework. Council is to amend the planning proposal to remove references to 'Sydney Metropolitan Strategy' and refer instead to the "Metropolitan Plan for Sydney", which supersedes the Strategy.

It is noted that the draft Sutherland Comprehensive LEP is currently at post section 62 stage. Council should consider how it intends to amend the Comprehensive LEP to give effect to the proposed subject amendments. Council should consider revising the planning proposal to amend both the draft Sutherland Comprehensive LEP and the Sutherland LEP 2006 to ensure the proposed amendments can take effect irrelevant of the timing of the Standard Instrument LEP. If Council considers it necessary, the planning proposal should be amended prior to the commencement of community consultation and a copy of the revised planning proposal provided to the Department's Regional Office.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 2.1 Environment Protection Zones, 3.1 Residential Zones and 4.1 Acid Sulfate Soils are of minor significance. No further approval is required in relation to these Directions.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service, prior to undertaking community consultation, take into account any comments made and amend the planning proposal (if necessary) as per the requirements of the Local Planning Direction.

I have also agreed that the planning proposal's inconsistencies with S117 Direction 6.2 Reserving Land for Public Purposes are of minor significance. No further approval is required in relation to this Direction.

Council are reminded of their obligations for exhibiting and conducting a public hearing when reclassifying land from 'community' land to 'operational' land as per the Department's LEP Practice Note 09-003.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal following consultation with public authorities as required by the conditions of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Carmen Lau of the Regional Office of the Department on 02 9228 6111.

Yours sincerely,


Sam Haddad
Director-General
21/4/2012.

Gateway Determination

Planning Proposal (Department Ref: PP_2012_SUTHE_002_00): to make a number of minor and housekeeping amendments to Sutherland Local Environmental Plan 2006.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Sutherland Local Environmental Plan 2006 to:

- rezone land at 50 Pacific Crescent, Maianbar from Zone 1 – Environmental Housing (Environmentally Sensitive Land) to Zone 10 – Neighbourhood Centre;
- rezone 32R Timbrey Circuit, Barden Ridge from Zone 3 – Environmental Housing (Bushland) to Zone 13 – Public Open Space and reclassify the site from ‘community’ land to ‘operational’ land;
- rezone 999N Lenna Place, Jannali from Zone 23 – Road to part 3 – Environmental Housing (Bushland) and part Zone 4 – Local Housing and reclassify the site from ‘community’ land to ‘operational’ land;
- reclassify land at 25 Baringa Road, Engadine from ‘community’ land to ‘operational’ land;
- amend Clause 14 ‘Exceptions to Zoning Table’ by removing reference to 50 Pacific Crescent, Maianbar; and
- amend Schedule 2 ‘Exempt Development’ to remove various uses covered by SEPP (Exempt and Complying Development Codes), and include ‘animal grazing’, ‘events (community and fundraising)’ and ‘luminous pole advertising’ as additional land uses,

should proceed subject to the following conditions:

1. Council is to amend the planning proposal to delete references to ‘Sydney Metropolitan Strategy’ and refer instead to the “Metropolitan Plan for Sydney”, which supersedes the Strategy.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (“EP&A Act”) as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Aboriginal Land Council
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any

comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 21st day of April 2012.



Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure