



Business Paper

Shire Planning Committee

Tuesday, 3 April 2018

6.30pm

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

SUTHERLANDSHIRE

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.

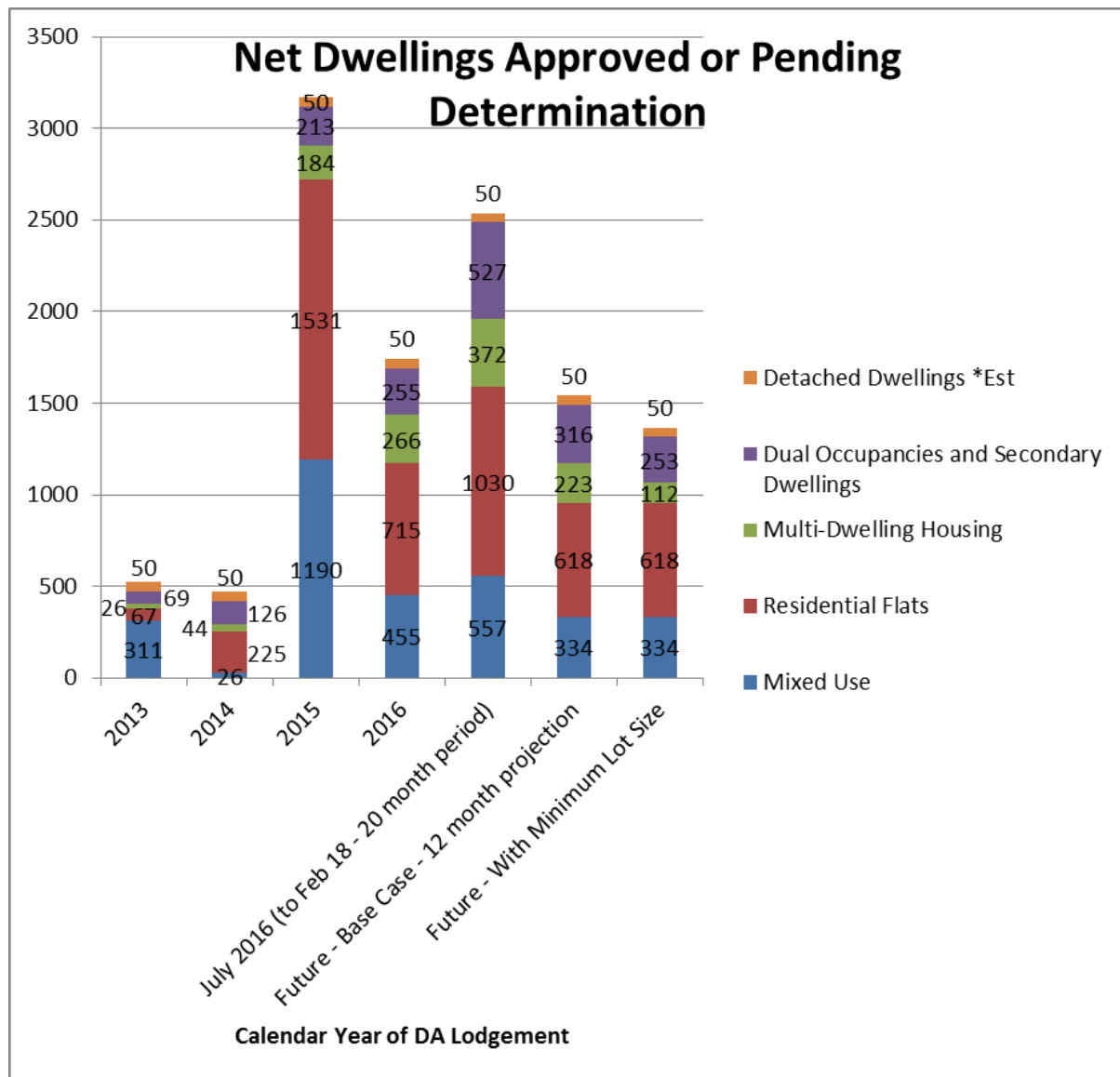
The recently finalised South District Plan set the Sutherland Shire a target of 5,200 additional dwellings completions from 2016 to 2021. This target is based on likely population growth and market demand. Using the rate of development applications received between 1st July 2016 and 31st February 2018 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, Woollooware 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.

File Number: 2018/295507



Minutes

Council Meeting

Monday, 16 April 2018

6.30pm

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

SUTHERLANDSHIRE

Minute No: 234**PLN032-18****Minimum Lot Size Submissions Report****File Number: 2018/295507**

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

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Minute No: 235**COR018-18****Draft Delivery Program 2017 - 2021, Incorporating Operational Plan and Budget 2018-19, and Draft Resourcing Strategy****File Number: 2017/278520**

MOTION: (Councillor Simpson/Councillor Provan)

THAT:

1. Model 1 from the Long Term Financial Plan for inclusion as the four year budget within the Delivery Program, be endorsed.