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Department Generated Correspondence (Y)

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Our ref: PP_2011_SUTHE_003_00 (10/07982)
Your ref: LP/06/654494

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

Dear Mr Rayner,

Re: Planning Proposal to address a number of issues relating to Sutherland Shire LEP 2006 (Amendment No. 12)

I am writing in response to your Council's letter dated 21 June 2011 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 Shire Local Environmental Plan 2006 to address a number of issues including:

- Item 1 - to amend Clause 14 Exceptions to Zoning Table of the LEP in relation to land at 97 Soldiers Road, Jannali and 111-119 Princes Highway, Sylvania;
- Item 2 - to reclassify land at 25 Baringa Road, Engadine from 'community' land to 'operational' land;
- Item 3 - to rezone land at 4 Shiprock Road, Port Hacking from Environmental Housing to Open Space; and
- Item 4 - to update flood maps.

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.

In relation to item 1, the Department does not favour an amendment to Clause 14 to achieve the intent of Council's planning proposal in either instance. It is noted that the proposed end use of land at 111-119 Princes Highway, Sylvania is a commercial land use on land that is zoned for residential purposes. Consequently, the Department believes the sites should be zoned appropriately and the proposal is therefore to proceed as a rezoning proposal rather than an amendment to Clause 14 of the LEP. In doing so, Council is to zone land at 97 Soldiers Road, Jannali to Zone 4 Local Housing or an appropriate residential zone and is to remove land in relation to 111-119 Princes Highway, Sylvania from Clause 14 and zone the land Zone 9 Local Centre or an appropriate commercial zone from Council's existing Business zones.

It is noted that a number of amendments are being made to Council's Flood Planning Maps to reflect the revised flood modelling undertaken for Oyster Creek. Council is to include mapping amendments with the planning proposal for exhibition purposes to ensure the community are clearly informed as to the land subject to the amendment.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 4.4 Planning for Bushfire Protection are of minor significance. However, Council is to include the comments made by the RFS in relation to the proposal with the planning proposal for exhibition purposes.

Council is reminded of its obligations for the preparation of an LEP involving the reclassification of public land as described in *PN 09-003 Classification and reclassification of public land through a local environmental plan* and the *Best Practice Guideline for LEPs and Council Land* (January 1997) issued by the Department.

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 within four (4) weeks from the week following this 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 Margaret Kirton of the Regional Office of the Department on 02 9228 6111.

Yours sincerely,



Tom Gellibrand 29/8/11
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_SUTHE_003_00): to address a number of issues relating to Sutherland Shire LEP 2006 (Amendment No. 12)

I, the Deputy Director General, Plan Making & Urban Renewal 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 Shire Local Environmental Plan 2006 to address a number of issues including:

- Item 1 - to amend Clause 14 Exceptions to Zoning Table of the LEP in relation to land at 97 Soldiers Road, Jannali and 111-119 Princes Highway, Sylvania;
- Item 2 - to reclassify land at 25 Baringa Road, Engadine from 'community' land to 'operational' land;
- Item 3 - to rezone land at 4 Shiprock Road, Port Hacking from Environmental Housing to Open Space; and
- Item 4 - to update flood maps

should proceed subject to the following conditions:

1. An amendment to Clause 14 of the Sutherland Shire LEP 2006 to allow for the construction of townhouses at 97 Soldiers Road, Jannali is not supported in this instance. Council is to proceed with the planning proposal by rezoning the subject site to an appropriate Residential zone such as Zone 4 Local Housing.
2. An amendment to Clause 14 of the Sutherland Shire LEP 2006 to add additional commercial uses to land at 111-119 Princes Highway, Sylvania is not supported in this instance. Council is to proceed with the planning proposal by rezoning the subject site to an appropriate Business zone such as Zone 9 Local Centre.
3. Council is to revise the planning proposal as required by conditions 1 and 2 above, and undertake an assessment of the revised proposal against all relevant s117 Directions and SEPPs and provide justification for any inconsistencies with the revised planning proposal.
4. Council is to submit the revised planning proposal to the Regional Director, Sydney Region east for review prior to commencing with community consultation.
5. 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)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Roads and Traffic Authority

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.

7. 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).
8. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 29th day of August 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure