

**Planning Proposal – Sutherland Shire Local Environmental Plan 2006
(Draft Amendment No 12)
Section 55 of the Environmental Planning and Assessment Act, 1979**

LOCAL GOVERNMENT AREA

Sutherland Shire Council

NAME OF PLANNING PROPOSAL

Sutherland Shire Local Environmental Plan 2006 (Draft Amendment No 12)

ADDRESS OF LAND

This Planning Proposal addresses a number of minor issues relating to Sutherland Shire Local Environmental Plan 2006:

- Amendment to Clause 14 of SSLEP2006,
- Reclassification of one (1) property from community to operational land,
- Rezoning of one (1) property and
- Updated Flood Maps.

The planning proposal is structured to provide general information relating to each of these issues, as well as specific information where appropriate.

ADDRESS OF LAND

The plan applies to the following land parcels:

- 25 Baringa Road, Engadine (Lot 13 DP 28541)
- 97 Soldiers Road, Jannali (Lot 16 DP 20055)
- 111-119 Princes Highway, Sylvania (Lots 1 and 2 DP 21894)
- 4 Shiprock Road, Port Hacking (Lot 111 DP 1123035)
- Specific land parcels identified within the Oyster Creek Catchment

MAP

Attachment:

1. 25 Baringa Road, Engadine
2. 97 Soldiers Road, Jannali
3. 111-119 Princes Highway, Sylvania
4. 4 Shiprock Road, Port Hacking
5. SSLEP2006 Flood Planning Map
6. SSLEP2006 Flood Planning Map (Comparison)

DETAILS OF THE PLANNING PROPOSAL

1. A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2)(a)]

- To amend Sutherland Shire Local Environmental Plan 2006, Clause 14 – Exceptions to Zoning Table – specified development on specified land to:

- permit medium density housing (villa and town houses being consistent with the surrounding built form) at 97 Soldiers Road, Jannali; and
- provide greater flexibility in the uses permissible (i.e. business premises; food shops; hotels; motels; restaurants (not incorporating a drive-through service); service support industries and vehicle rental centres) on the land at 111-119 Princes Highway, Sylvania which has a commercial character but is currently residentially zoned.. Floor space ratio for land at 111-119 Princes Highways, Sylvania shall be limited to a maximum of 1:1 for the aforementioned land uses.
- To enable the reclassification of public land at 25 Baringa Road, Engadine from “community” to “operational” land. While the property is already classified as operational land, it needs to be reclassified again to enable the removal of a covenant over the site which restricts all uses of the land other than for bush fire protection purposes, parks or recreation reserves. The land is currently vacant; however, it was previously utilised by the Rural Fire Service. The site is considered more suitable for residential uses.

The reclassification and removal of the covenant will remove restrictions on the use of this land and enable its sale given that it is surplus to Council’s needs. In accordance with Section 30 of the Local Government Act 1993, upon the commencement of the LEP amendment to reclassify the land as operational, the land ceases to be a public reserve, and that the land is by operation of the plan discharged from any conditions, restrictions and covenants affecting the land or any part of the land.

- To enable the rezoning of a section of land at 4 Shiprock Road, Port Hacking (Lot 111 DP1123035) from Zone 1 – Environmental Housing (Environmentally Sensitive Land) to Zone 13 – Public Open Space. The land is currently preventing access to Shiprock Aquatic Reserve and is to be acquired by Council for the inclusion in Shiprock Reserve. Zone 13 is therefore considered the most appropriate zone.
- To update the Flood Planning Maps in Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) to reflect the revised flood modelling undertaken for Oyster Creek. This modelling and flood mitigation works undertaken in the area reveals that fewer properties are flood affected and that the flood risk has been reduced.

2. An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2)(b)]

- Amendment to Sutherland Shire Local Environmental Plan 2006 to amend Clause 14 - Exceptions to Zoning Table – specified development on specified land by deleting the existing reference to 108-119 Princes Highway and adding the following:

Column 1 Land	Column 2 Development for the purpose of the following	Column 3 Requirements
97 Soldiers Road, Jannali	Villa house; townhouse	
111-119 Soldiers Road, Sylvania	Business premises; food shops; hotels; motels; restaurants; service support industries; vehicle rental centres	Floor space ratio shall be limited to a maximum of 1:1 Restaurants shall not incorporate a drive-through service.

- Amendment to Schedule 4 Classification and reclassification of public land, Part 2 Land classified, or reclassified, as operational land—interests changed to reclassify and remove the covenant, as detailed in Column 3 over the land at 25 Baringa Road, Engadine (Lot 13 DP 28541).
- To enable the rezoning of land at 4 Shiprock Road, Port Hacking (Lot 111 DP 1123035) from Zone 1 – Environmental Housing (Environmentally Sensitive Land) to Zone 13 – Public Open Space. This will involve the map series Sutherland Shire Local Environmental Plan 2006 – Zoning.
- The Flood Planning Maps in Sutherland Shire Local Environmental Plan 2006 are also updated to reflect revised flood modelling undertaken for a particular catchment being Oyster Creek.

3. Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]

Proposed reclassification of land at: 25 Baringa Road, Engadine

1. Is the planning proposal the result of any strategic study or report?

The site at 25 Baringa Road, Engadine is not considered to be suitable for a fire station which has outgrown the site given its limited size (575m² in area). Council reviewed and rationalized the area of land required to service the needs of the community in the Engadine area. The outcome of this review was that other uses for the site such as its use as a public park cannot be justified given its location only 250 meters away from Engadine Park (Anzac Oval) as well as a nearby reserve on Collins Place. As a result, Council resolved to sell this parcel of land as it is surplus to Council's needs. It was intended that the sale of this land would partly fund a new fire station at 22R Ferntree Road, Engadine and it could fund other Council infrastructure projects.

Council resolved to reclassify the subject land and remove the existing covenant over the site as part of the next LEP Amendment. This matter is to be absorbed into a future combined planning proposal. This report found that there is no significant planning merit in retaining part of this parcel in community ownership. The land is vacant with the exception of a number of mature trees. The site is not suitable for community uses given its limited size.

The covenant over the land is to be removed from the LEP in order to permit a range of uses and not restrict its sale. The optimal use of the site is for residential purposes.

2. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is minor in nature and is not contrary to Council's community plan known as *Our Shire Our Future: Our Guide for Shaping the Shire to 2030* or local strategic plan.

Council's current open space acquisitions policy is focused on creating large areas for public recreation and use.

It should be noted that the subject site is located within an area that contains a significant amount of community facilities and open space. The site is only a small

parcel of land essentially reducing its contribution to the passive and recreational opportunities for residents within the locality.

3. *If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.*

The planning proposal includes the removal of a covenant listed against the land in Schedule 4 of the LEP which restricts its use and therefore its sale for residential purposes. While the land is already classified for "operational" purposes the covenant in place over the land restricts its sale and use for anything other than bush fire protection purposes under the Bush Fires Act 1949 or as a park and recreation reserve. In the case of the subject site there is no significant planning merit to retain the site for community use. The sale of this site for residential purposes is considered to be the most appropriate utilisation of this site.

4. *The concurrence of the landowner, where the land is not owned by the relevant planning authority.*

Sutherland Shire Council is the landowner of 25 Baringa Road, Engadine (Lot 13, DP 28541).

3. Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]

Other Amendments

A Need for planning proposal

1. *Is the planning proposal the result of any strategic study or report?*

The planning proposal addresses a number of issues including:

- the rezoning of specific land at 4 Shiprock Road, Port Hacking;
- the amendment of clause 14; and
- the updating and correction of existing maps and schedules.

A strategic study or report is considered unnecessary for the nominated rezoning, updating and/or correcting existing maps and schedules and the correcting of clause 14. These matters have been the subject of the following reports to Council.

Issue	Council Report	Attachment
Clause 14	EAP122-11	
	EAP151-11	
Reclassification	EAP175-11	
Rezoning	EAP077-11	

However, the following justifications are provided in relation to each specific issue:

- 97 Soldiers Road, Jannali
The proposed amendment is not a direct result of any specific strategic study. An initial planning proposal for rezoning was received, however following an initial assessment Council instead resolved to proceed with amendments to Clause 14 of SSLEP2006 to permit villa and townhouses with consent at 97 Soldiers Road,

Jannali as an exception to the zoning table. This approach permits medium density housing as sought by the landowner, but does not make other vulnerable land uses permissible. This approach is appropriate given that the land is designated as bushfire prone.

- 111-119 Princes Highway Sylvania

The proposed amendment is not a direct result of any specific strategic study. An initial planning proposal for rezoning of a larger area was submitted to Council with support from two of the three affected land owners. Following an initial assessment, an amended planning proposal for an amendment to Clause 14 of SSLEP affecting the land the subject of this proposal was submitted with support from both affected land owners.

The proposed amendment to Clause 14 of SSLEP2006 is considered a more appropriate means to achieve the desired outcome as it allows for a range of commercial uses on the land while addressing some of the identified traffic concerns associated with a rezoning of the land.

- 4 Shiprock Road, Port Hacking

The part of lot Council wishes to rezone will provide access to the existing Shiprock Aquatic Reserve. The portion of the site is to be acquired by Council after rezoning and incorporated in the upgrade of Shiprock Reserve (SAF135-10 - Attachment 9). The rezoning and subsequent acquisition will provide for safe formalised public access to the aquatic reserve.

- Oyster Creek Catchment

The LEP Flood Planning Maps need to be updated to reflect the most recent information and flood modelling Council holds for Oyster Creek.

This report states that "In August 2010 Council engaged WMAwater to undertake revised flood modelling, to reflect the changes brought about by implementation of the Oyster Creek Floodplain Risk Management Plan. The results show a noticeable drop in predicted water surface levels. The 1% Annual Exceedance Probability (AEP), or 1 in 100 year flood, is lower by up to 500 mm. Prior to implementation of flood mitigation measures, one hundred and thirty nine (139) properties in the vicinity of Oyster Creek were assessed to be affected by flooding. There are now fewer properties one hundred and nineteen (119) affected by flooding and flood levels within those that are still affected, are lower than they were prior to implementation of Council's flood mitigation projects."

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Achieving the desired objectives requires:

- the rezoning of specific land at 2 Shiprock Road, Port Hacking;
- the amendment of clause 14; and
- the updating and correction of existing maps and schedules.

There is no other alternative to achieve these other than via a planning proposal.

3. *Is there a net community benefit?*

While the planning proposal is minor in nature, specific comments relating to particular components are set out below:

- 97 Soldiers Road, Jannali / 111-119 Princes Highway Sylvania
The proposal presents an opportunity for community benefit through the addition of housing at 97 Soldiers Road, Jannali and employment at 111-119 Princes Highway, Sylvania.
- 2 Shiprock Road, Port Hacking
The rezoning and acquisition of this site for inclusion in the Reserve creates safe access for current and future users and will give way for the planned upgrade of the Reserve.
- Oyster Creek Catchment
The updated flood planning maps reflect the latest flood modelling undertaken and identify to the community the flood risk for properties within this catchment. As such there is a net community benefit to advise the community of this updated information.

B Relationship to strategic planning framework

1. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The proposed amendments are generally minor in nature and present consistency with the objectives and actions contained with the South Subregion Draft Subregional Strategy. Specific comments relating to particular components are set out below:

- 111-119 Princes Highway Sylvania
The location of the land, opposite Sylvania Southgate shopping centre suggests that it may contribute to the development to a 'potential enterprise corridor' along the Princes Highway as identified in the draft strategy.

The draft strategy also considers the future of Southgate Centre as a 'small village'. The proposed amendment has potential to contribute to strengthening the character and function on Southgate Centre.

The proposed amendment will not remove opportunities for residential development that could contribute to meeting the dwelling targets for the Sutherland Shire.

2. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

The planning proposal is not contrary to Council's community plan known as *Our Shire Our Future: Our Guide for Shaping the Shire to 2030* or local strategic plan.

3. *Is the planning proposal consistent with applicable state environmental planning policies?*

The planning proposal does not contravene any state environmental planning policies. Council has resolved to request the applicant to provide a Preliminary Site Investigation conducted by a suitably qualified person to confirm the suitability of the land at 111-119 Princes Highway, Sylvania for the uses permissible in the proposed zone, as a result of potential contamination of the site.

4. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

The following s.117 directions apply to this planning proposal:

Direction	Consistent	Comments
1.1 Business and Industrial Zones	Yes	
2.3 Heritage Conservation	Yes	
3.1 Residential Zones	Yes	Direction 3.1 Residential Zones requires that a planning proposal that affects land within an existing or proposed residential zone must broaden housing choice in terms of building types and locations. The proposal 111-119 Princes Highway, Sylvania and 97 Soldiers Road, Jannali does not remove the residential permissibility relating to the land, however, it does broaden the range of other uses permissible on the land.
3.4 Integrating Land Use and Transport	Yes	
4.1 Acid Sulfate Soils	Yes	<u>111-119 Princes Highway, Sylvania</u> Direction 4.1 Acid Sulfate Soils directs that a planning proposal must not be prepared for the intensification of land uses on land identified as having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. An inconsistency with this direction is considered justified as the site is situated approximately 160m from the nearest Class 1 acid sulfate soils area. It is unlikely that any works on this site will impact on the groundwater levels to an extent that will disturb potential acid sulfate soils in the nearest Class 1 Acid Sulfate Soils area.
4.3 Flood Prone Land	Yes	
4.4 Planning for Bushfire Protection	Yes	<u>97 Soldiers Road, Jannali</u> The planning proposal was referred to the NSW Fire Service for comment regarding the suitability of the site given its designation as Bushfire Prone Land. After comments received from the NSW Rural Fire Service, it is considered that the planning proposal is consistent with the objectives (a) and (b) of this direction. The rezoning of the subject site to allow villa and townhouses would not result in incompatible uses nor jeopardise sound bushfire management practice.

6.1 Approval and Referral Requirements	Yes	
7.1 Implementation of the Metropolitan Strategy	Yes	

C Environmental, social and economic impact

5. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The planning proposal will not have any adverse impacts on critical habitat, threatened species, populations or ecological communities, or their habitats. Comments relating to specific components of the proposal are set out below:

- 2 Shiprock Road, Port Hacking
The site provides access to an Aquatic Reserve, which comprises 2 hectares of protected area (administered by NSW Department of Primary Industries) encompasses a unique aquatic environment, with a rare diversity of marine organisms. The site is of great interest to the underwater diving community. However the rezoning itself will have no direct impact on the aquatic environment. The proposed future development on the site will be subject to a development assessment which would consider any impact on the community. The Department of Environment, Climate Change and Water (DECCW) has requested that it be provided with an opportunity to add conditions to a DA, to ensure that safe environmental practise is followed in view of the particular environmental importance of the marine reserve. With the commencement of the development application process, the DECCW will be consulted accordingly and their request to add conditions of consent complied with.

6. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

There are no likely environmental effects from the majority of the elements of the planning proposal. Specific impacts or environmental concerns which may result from the developments permissible as a result of the planning proposal will be assessed and managed as part of the development assessment process.

In relation to the Oyster Creek catchment, the revision of the flood risk maps to reflect the latest information on known flood risk will enable Council to better manage the development in the catchment and minimise its impact on flooding.

7. *How has the planning proposal adequately addressed any social and economic effects?*

- 97 Soldiers Road, Jannali / 111-119 Princes Highway Sylvania
An amendment to Clause 14 of Sutherland Shire Local Environmental Plan 2006 to permit medium density housing at 97 Soldiers Road, Jannali and commercial use at 111-119 Princes Highway, Sylvania as an exception to the zoning table will increase flexibility and potential development on the sites. The permissibility of a range of housing and commercial activity as a result of the planning proposal will also contribute to increasing housing and employment opportunities within the LGA.

- 4 Shiprock Road, Port Hacking

Due to the minor nature of the planning proposal social and economic effects will be minimal. Social benefits from this lot will be realised once the site is rezoned and acquired through the upgrade of the reserve, providing a safe area for the community to utilise the aquatic reserve. The adjoining waterway area is of high aquatic diversity; however the site is significantly disturbed due to current use of the reserve by divers. Any Aboriginal heritage such as the Midden would be considered further, at the development assessment stage.

Rezoning this site will introduce an acquisition liability for Council; however the owner has agreed to sell the applicable parcel of land to council prompting the need for rezoning. The required portion of open space will be acquired after rezoning.

- Oyster Creek Catchment

The flood risk maps need to be updated to reflect the adopted *Oyster Creek Floodplain Risk Management Plan* and flood modelling undertaken. Flooding risks need to be made known to the public and any redevelopment on the land will need to consider this constraint. In the case of Oyster Creek, the flood modelling and flood risk mitigation works undertaken reveal that fewer properties are affected by flooding and the degree of risk is lessened for some properties. This removes a significant constraint on future development and as such the planning proposal does not have a significant economic or social effect.

The planning proposal is unlikely to raise any significant social and economic concerns.

D State and Commonwealth interests

1. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal is minor in nature and unlikely to cause any impact on public infrastructure. Comments relating to specific components of the proposal are set out below:

- 111-119 Princes Highway Sylvania

Should there be any traffic impacts at the intersection of Port Hacking Road/ Madeira Street, there remains scope to ameliorate these by using engineering solutions such as the provision of a left slip lane from the Highway into Madeira Street and/or widening of the Madeira Street approach to the intersection. These measures would provide additional intersection capacity that will not impact on accessibility to adjoining residential precincts. The need for any such treatments would be established as part of a DA assessment process for specific applications and referred to the RTA for comment.

2. *What are the views of the State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

Public Authorities will be consulted in accordance with the Gateway Determination once it is received.

The proposed amendments to Clause 14 in regards to the permissibility of medium density housing at 97 Soldiers Road, Jannali has been the subject of correspondence between Council and the NSW Rural Fire Service (RFS) prior to the submission of this planning proposal. With the requirements of a bushfire protection assessment plan

being prepared and submitted in support of the planning proposal, the RFS has deemed all issues raised to be resolved and requirements met.

4. Details of the community consultation that is to be undertaken on the planning proposal. [Act s. 55(2)(e)]

Council proposes that the planning proposal be exhibited in accordance with any requirements as determined by the gateway process and the requirements of Section 29 of the Local Government Act, 1993 and Section 57 the Environmental Planning and Assessment Act, 1979.

Council proposes to give notice of the public exhibition of the planning proposal:

- In the local newspaper (The St George and Sutherland Shire Leader and the Liverpool City Champion);
- On Council's website;
- In writing to relevant adjoining landowners who may be affected by the proposal.

In addition, Council is required to conduct a public hearing in relation to the land parcel at 25 Baringa Road, Engadine proposed to be reclassified to allow for the covenants on the property to be extinguished. Council will give notice of this public hearing in accordance with the relevant provisions of the Local Government Act 1993 and the associated regulations.