

Mr Scott Phillips  
General Manager  
Sutherland Shire Council  
Locked Bag 17  
Sutherland NSW 1499

16/09284

Dear Mr Phillips

**Planning proposal to amend Sutherland Shire Local Environmental Plan 2015**

I am writing in response to Council's letter dated 18 May 2016 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to address issues relating to the finalisation of *Sutherland Shire Local Environmental Plan 2015*.

As delegate of the Greater Sydney Commission, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I am unable to support the inclusion of planning proposal amendments 1 and 13, nor the de-listing of heritage item 4206, as the amendments are inconsistent with S117 Directions 3.1 Residential Zones, 2.1 Environment Protection Zones and 2.3 Heritage Conservation, respectively. Prior to public exhibition, the planning proposal is to be updated to remove all references to these matters. There are no other inconsistencies and no further approval is required in relation to these Directions.

If Council intends to seek the de-listing of heritage item 4206, this should be done by way of a separate planning proposal that gives consideration to the recommendations of Council's Sutherland Shire Community Based Heritage Review.

Plan making powers were delegated to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the Local Environmental Plan should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request

should be forwarded to the Department of Planning and Environment's regional team for administrative purposes.

The State Government is committed to reducing the time taken to complete Local Environmental Plans 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 Greater Sydney Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Helen Wilkins of Sydney Region East, Planning Services on 02 9228 6559.

Yours sincerely

 8/9/16  
**Dr Oliver Holm**  
**Acting Deputy Secretary**  
**Planning Services**

Encl:  
Gateway Determination  
Written Authorisation to Exercise Delegation  
Attachment 5 – Delegated Plan Making Reporting Template

## Gateway Determination

***Planning proposal (Department Ref: PP\_2016\_SUTHE\_004\_00) to address issues relating to the finalisation of Sutherland Shire Local Environmental Plan 2015.***

I, the Acting Deputy Secretary, Planning Services, at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Sutherland Shire Local Environmental Plan 2015* to address issues relating to the finalisation of the LEP should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to remove the following items from the planning proposal:
  - (a) Amendment 1 - Rezone 327 properties in GyMEA Bay from R2 Low Density Residential to E4 Environmental Living;
  - (b) Amendment 7 - Removal of Objective: 'To allow for residential accommodation while maintaining active retail, business or non residential land uses at street level';
  - (c) Amendment 13 - Rezone part of Carol Avenue Reserve, Jannali, from E2 Environmental Conservation to RE1 Public Recreation; and
  - (d) Amendment 15 – Removal of heritage item 4206, a stand of eucalyptus and single fig tree at Prices Circuit Crown Reserve, Woronora.
2. Prior to public exhibition, Council is to amend the planning proposal to include:
  - (a) the draft DCP changes for amendments 3 and 14;
  - (b) an Initial Evaluation under SEPP 55 for amendment 12, and the proposal is to be updated to address the results of the evaluation;
  - (c) current and proposed Heritage Maps; and
  - (d) the Sutherland Shire Community Based Heritage Review inventory sheets for the 55 heritage items proposed to be removed from Schedule 5 Environmental Heritage.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
  - (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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2013)*; and
  - (c) write to individual landowners subject to a proposed amendment.

4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage, for amendment 2 and amendment 15.
- Department of Education and Communities, for amendment 5.
- Sydney Water, for amendment 4.
- Rural Fire Service, for amendments 8 and 9.
- Aboriginal Land Council, for heritage item 0401 of amendment 15.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

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 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 Local Environmental Plan is to be **12 months** from the week following the date of the Gateway determination.

Dated 8<sup>th</sup> day of September 2016.



**Dr Oliver Holm**  
**Acting Deputy Secretary**  
**Planning Services**  
**Department of Planning and Environment**  
  
**Delegate of the Greater Sydney Commission**



## Planning & Environment

### WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Sutherland Shire Council is authorised to exercise the functions of Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

| Number               | Name                                                                                                                |
|----------------------|---------------------------------------------------------------------------------------------------------------------|
| PP_2016_SUTHE_004_00 | Planning proposal to address issues relating to the finalisation of Sutherland Shire Local Environmental Plan 2015. |

In exercising the Greater Sydney Commission's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated

8/9/ 2016

  
Dr Oliver Holm  
Acting Deputy Secretary  
Planning Services  
Department of Planning and Environment

Delegate of the Greater Sydney Commission