

Development Assessment and Planning Committee



06/10/2015	DAP040-16
Report Title:	SSLEP2015 Draft Amendments Affecting Low Density Residential Zones - Amendment 4
File Number:	2015/220811
Author:	Manager Environmental Planning (JW/BM)

REPORT SUMMARY

EXECUTIVE SUMMARY:

Concurrent with this report, Council is considering a report on the EPU work program (DAP035-16), comprising a list of proposed amendments to Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) that can be undertaken in the short term and longer term projects that require further planning research or work. This report addresses proposed amendments to SSLEP2015 associated with the medium and low density residential zones. These minor amendments were not undertaken as part of the adoption of the final plan, as those actions would result in the need to re-exhibit the plan.

This report advises on:

- a minor amendment to the plan to remove the single storey restriction on the height of developments in the rear of properties in the R3 Medium Density Residential zone,
- a minor amendment to the plan to make attached dwellings permissible in order to permit dual occupancy subdivision,
- a minor amendment to redraft the provisions that permit the retention of existing waterfront cottages as part of a dual occupancy development,
- the inclusion of a clause to enable the subdivision of existing dual occupancies in the E3 and E4 zones, and
- a minor rezoning of the land at 48-50 Clio Street from R3 to R4 and associated height increase from 9m to 13m and FSR increase from 0.7:1 to 1:1.

This report also addresses the zoning of part of Gymea Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiach Avenue, Forest Road and Kiora Road. This area is zoned R2 Low Density Residential zoning designation consistent with its environmental values (as exhibited in LEP1, LEP2 and LEP3 and gazetted in SSLEP2015), however in response to the exhibition of LEP3 some residents have requested it be rezoned for E4 Environmental Living.

SUMMARY OF RECOMMENDATION:

That the following minor amendments to SSLEP2015 proceed at this time, as follows:

- That the part of Gymea Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiach Avenue, Forest Road and Kiora Road retain the R2 Low Density Residential zoning. If Council is of the view that the area should be

rezoned as E4 Environmental Living through an amendment to SSLEP2015, an alternative recommendation is provided.

- That clause 4.3(2C) be amended to delete reference to the R3 Medium Density Residential zone.
- That the land use table for the R2, R3 and R4 residential zones be amended to include a *semi-detached dwelling* as a use permitted with development consent.
- That the land use table for the B2 zone be amended to list *semi-detached dwelling* as a prohibited use.
- That the land use table for the B3 and B4 zones be amended to prohibit *attached dwelling* in these zones.
- That Council request the Department of Planning and Environment include a provision in the SSLEP2015 in order to enable the strata subdivision of existing dual occupancies in the E3 Environmental Management and E4 Environmental Living zones.
- That 48-50 Clio Street, Sutherland be rezoned from R3 Medium Density Residential to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1.

FINANCIAL / RESOURCE IMPLICATIONS:

N/A.

RELATIONSHIP TO STRATEGIC DIRECTIONS:

Housing for all: Housing accommodates Shire household structures and demographic changes.

Active neighbourhoods: People are easily able to meet with and support their neighbours.

Balanced development: The negative impacts of development on the environment, people and economy are minimised.

Diverse local jobs: Infrastructure, technology and support for local economic and employment opportunities enable residents to achieve a work/life balance.

Local economic opportunities: A strong local economy that responds to local and visitor needs and interests.

Diverse leisure opportunities: Abundant, healthy and well maintained natural environments for people to enjoy.

Primary Strategies: Protect our environment.
Conserve natural resources.
Respect and value our heritage & culture.

POLICY / LEGAL IMPLICATIONS:

The SSLEP2015 forms a significant component of the future planning framework for Sutherland Shire. With regards to the GyMEA Bay Survey, a decision to rezone the subject area as E4 would undermine the planning process by which 'environmental' zones (i.e., E3 Environmental Management and E4 Environmental Living) have been applied throughout Sutherland Shire.

LIST OF APPENDICES:

GyMEA Bay Residents Survey.

PREVIOUS CONSIDERATION / HISTORY OF MATTER:

- 29/06/2015 CCL061-15 Making of SSLEP2015 
- 10/11/2014 DAP043-15 - Results of Draft Sutherland Shire Local Environmental Plan 2013 (LEP3) Exhibition 
- 10/11/2014 CCL028-15 DSSLEP2013 - Landscaped Area Drafting Error 
- 10/11/2014 DAP038-15 - Draft SSLEP2013 Timetable 
- 05/08/2014 CCL004-15 - Findings of the Independent Review of Sutherland Draft Local

Environmental Plan 2013

- 05/08/2014 CCL005-15 Results of re-exhibition of DSSLEP2013 and recommendations of Independent Review into Sutherland Draft Local Environmental Plan
- 05/08/2014 CCL006-15 Results of Public Exhibition - Planning Proposal - Waterways Rezoning (Amending Draft Sutherland Shire Local Environmental Plan 2013)
- 05/08/2014 CCL007-15 Finalisation of DSSLEP2013 (LEP3) For Exhibition
- 29/07/2013 CCL004-14 Draft Sutherland Shire Local Environmental Plan 2013

REPORT IN FULL

Introduction

The third exhibition of draft SSLEP2013 (SSLEP2015) raised a number of planning issues that could not be addressed by amendments to the plan without necessitating a fourth exhibition of the draft plan. Council was of the view that to further delay the new LEP was not in the public interest.

At its meeting of 10 November 2014 (DAP043-15) Council finalised the content of the new LEP. The report detailed matters where issues raised in submissions warranted a further review of specific aspects of the plan. In relation to these matters Council resolved:

8. That the Environmental Planning Unit prepare a report for Council's consideration detailing any amendments to the new Local Environmental Plan that it considers would be appropriate given the issues raised in submissions and provide Council with an understanding as how these projects may be accommodated on the work program of the unit.

This report addresses some of the matters raised in submissions to the draft plan that necessitated amendments to the plan with regards to the controls affecting the low density zones that are considered appropriate. These consist of:

- The zoning of Gymea Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiach Avenue, Forest Road and Kiora Road and the results of the Gymea Bay and Yowie Bay Resident Survey.
- Minor amendment to the LEP to allow 2 storey development in rear of properties in the R3 zone.
- Minor amendment to the LEP to make attached dwellings permissible in order to cover dual occupancy subdivision.
- Introduction of a clause into the LEP to allow the subdivision of existing dual occupancies in the E3 and E4 zones.
- Minor rezoning to the land at 48-50 Clio Street from R3 to R4 and associated height increase from 9m to 13m and FSR increase from 0.7:1 to 1:1.

Gymea Bay and Yowie Bay Resident Survey

This section of the report addresses the low density area of part of Gymea Bay, Yowie Bay and Miranda. During the exhibition of the draft plan submissions called for this area, currently zoned as R2 Low Density Residential under SSLEP2015. Some residents have requested a zoning consistent with the SSLEP2006 zoning, i.e., as E4 Environmental Living.

The subject area encompasses 327 properties bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiach Avenue, Forest Road and Kiora Road within the suburbs of Gymea

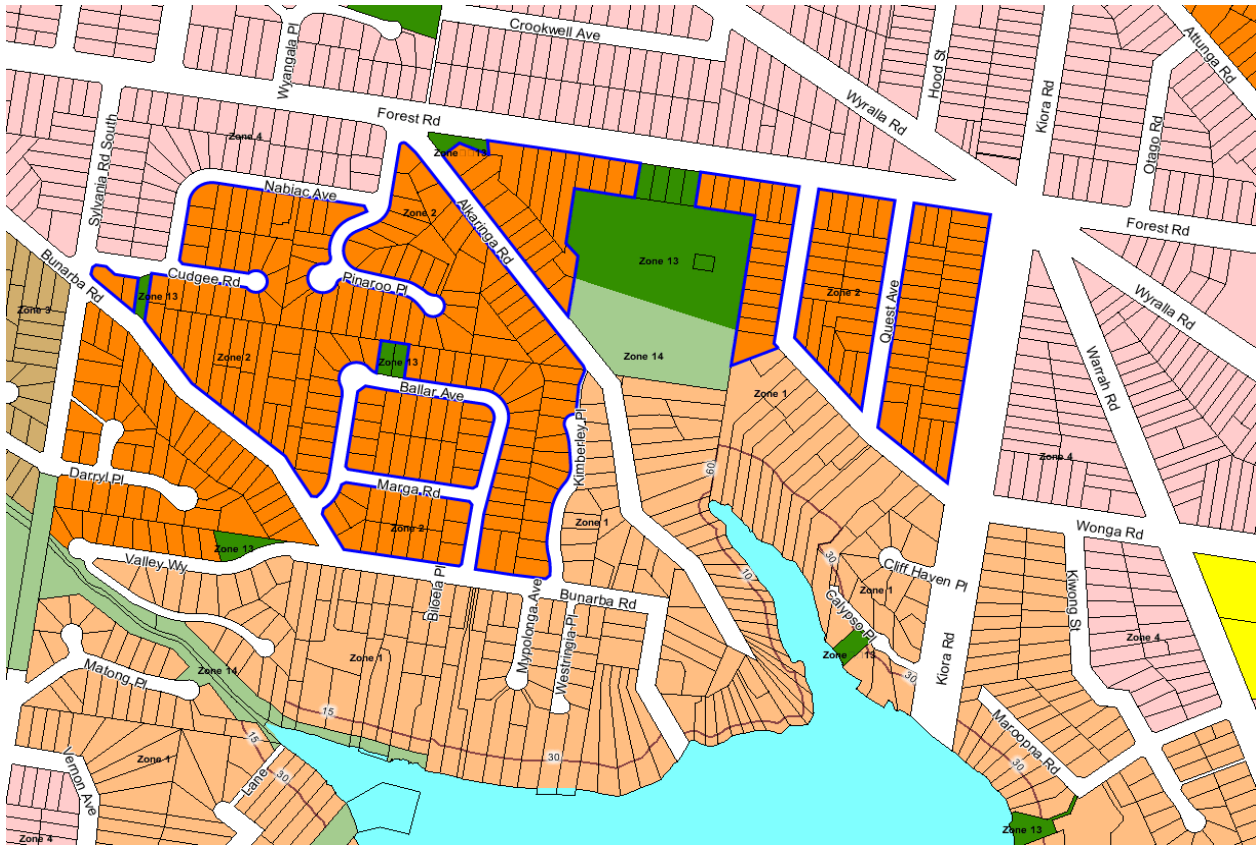
Bay, Yowie Bay and Miranda.



Location map: Aerial view with subject area outlined in red

Similar issues were raised during the making of SSLEP2006. In 2004, as part of the preparation of the then draft plan, the subject area underwent a robust environmental risk assessment (featured in *Australia Planner* Volume 41 No 1 in 2004) using criteria consistently applied across the Sutherland Shire to determine suitability for different zonings. Using this methodology, the area did not meet the threshold to be considered an 'environmental housing' zone. The area was consequently proposed to be zoned for 'local housing' in draft LEP 2004.

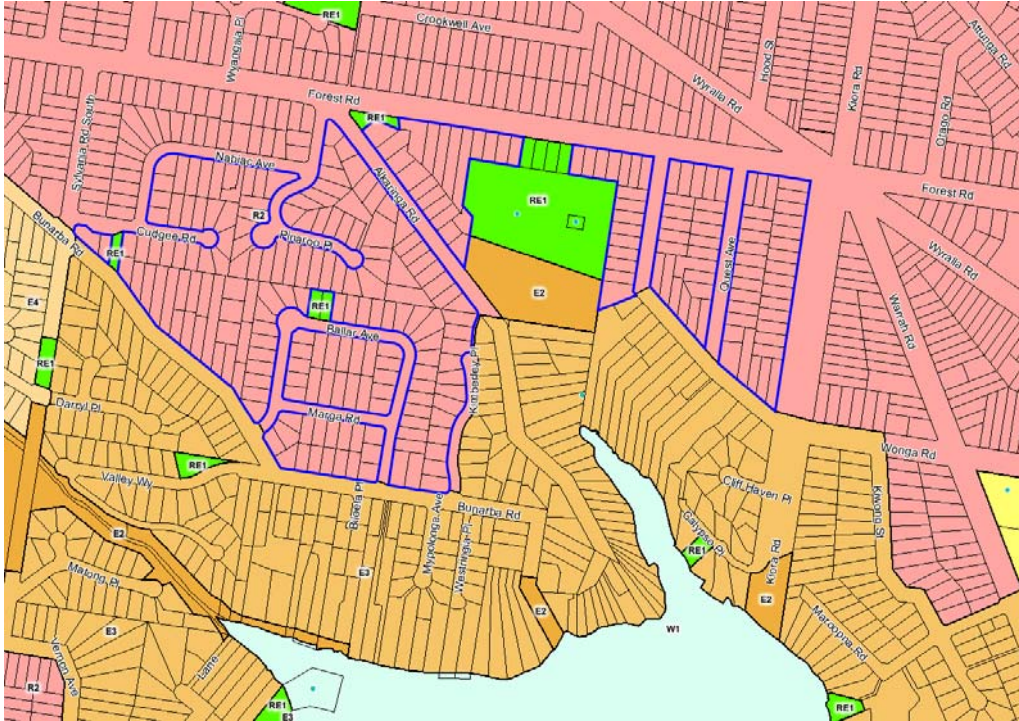
In response to the exhibition of draft LEP2004, council received 114 submissions objecting to the proposed zoning. Consequently, Council resolved in EHC187-04 to rezone the properties from 'Zone 4 Local Housing' to 'Zone 2 Environmental Housing (Scenic Quality)'. The area was zoned Zone 2 – Environmental Housing (Scenic Quality) on the gazettal of SSLEP2006.



Zone 2 – Environmental Housing (Scenic Quality) SSLEP 2006 (outlined in dark blue)

Draft SSLEP2015

In the drafting of Council's standard instrument LEP (Draft SSLEP2013), the environmental qualities of the Shire were again assessed to determine the zone that best reflects the environmental capability of the land. This area is a typical suburban location characterised by one and two storey dwellings in a landscape setting. The average lot size of properties within the subject area is 600sq.m. The character and setting of the area is consistent with the objectives of the proposed R2 Low Density Residential zone, which seek to protect the low density character and landscape setting.



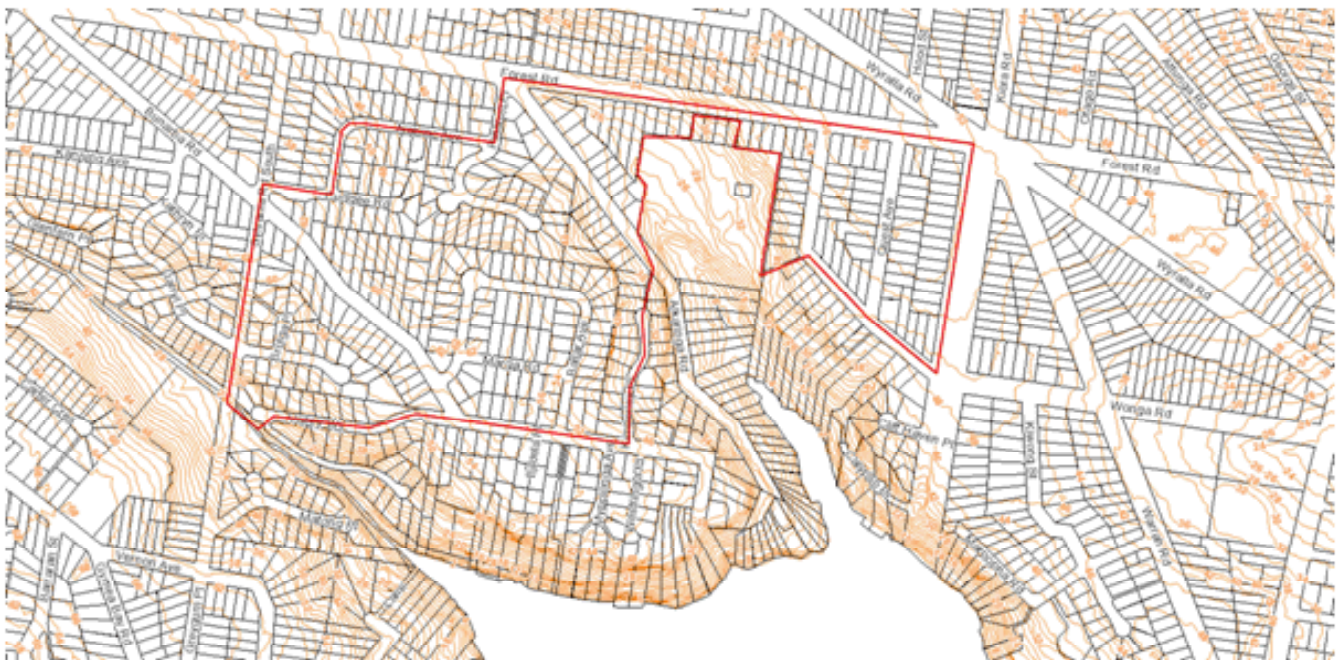
R2 Low Residential Housing under SSLEP2015 (area outlined in dark blue)

The decision to zone the area as R2 Low Density Housing in the draft plan was based on an updated assessment of the location's environmental risk and constraints conducted by council's science unit. Assessment criteria included as assessment of:

- location of designated Greenweb areas;
- the presence of threatened species;
- the proximity to a waterway;
- waterfront location;
- the presence of acid sulfate soils;
- scenic quality - as designated in the 2001 study, *The Shires Foreshore: Achieving Scenic Quality*;
- Aboriginal archaeology; and
- topography/slope.



SSDCP2015 Greenweb



Contours

The subject land is only partly affected by Greenweb and is not affected by threatened species. The land is not affected by wetlands. Only 13 of the 327 lots are affected by the SSLEP2015 Environmentally Sensitive Lands mapping. The location is not visible from a waterway being substantially setback from the water. The land is affected by class 5 acid sulfate soils – this affects construction methods. The land is in the medium and low area for aboriginal sensitivity. A small number of properties in Wonga Rd are bush fire prone as a result of Alkaringa Reserve, but on the whole the land is not subject to bush fire risk.

It is considered that the character of the subject area is not dissimilar to other areas zoned for low density residential. The area is capable of accommodating increased densities including multi dwelling development. Public transport is available on Forest Road and the area is within a 1 to 2 km walk to either Miranda or Gymea stations. Some sites have been developed for dual occupancy housing. The current absence of multi dwelling housing in this location is an artefact of the Zone 2 'Environmental Housing' zoning by Council in 2006, which prohibited their development here, rather than the unsuitability of the area to provide multi dwelling housing with good amenity.

Based on environmental risk criteria the subject area received a total of 17.5 points out of a possible 33. This score was too low to achieve the threshold for inclusion in a zone reserved for land with special ecological, scientific or aesthetic values. Neither was it deemed to make a significant visual contribution to the scenic foreshores of Yowie or Gymea Bay. It was therefore considered that the character and setting of the area were more consistent with the objectives of the proposed R2 Low Density Residential zone than with the E4 Environmental Housing zone (the Standard Instrument equivalent of Zone 2 – Environmental Housing (Scenic Quality)).

It is recognised that the R2 zoning increases development opportunities in the locality. It was considered that the road network can accommodate the increased vehicle trips from dual occupancy and multi dwelling development. Storm water discharge can be managed to pre development rates. Larger lots adjoining Alkaringa Reserve are subject to the Environmentally Sensitive Land clauses that require consideration of whether the development is likely to have any adverse impact on the environmental qualities of the area. In summary the land is most suited to a R2 zoning.

These issues were reported to Council in CCL004-14 following the first exhibition of the draft plan, with the result that the R2 Low Density Residential designation was retained in the following two exhibitions drafts (LEP2 and LEP3).

Draft SSLEP2013 Public Exhibition

One submission was received objecting to the R2 zoning, during the first exhibition of the draft plan. No submissions were received during the second exhibition. However, during the third exhibition, following significant resident interest, 149 proforma submissions and three individual submissions were received in response to the exhibition of LEP3. All submissions objected to the proposed R2 zoning on the basis of:

- it would result in overdevelopment and subsequent loss of amenity through the reduced minimum lot size for subdivision, permissibility of medium density development and the lack of a minimum lot size for such developments, an increase in the types of non residential development permitted in the zone, increased building density and reduced landscaped area requirements;
- the potential for increased traffic and congestion, and decreased road safety;
- the loss of vegetation resulting in reduced visual amenity in a locality currently recognised for its scenic quality, as well as impacting on the wildlife in the Coonong and Alkaringa Catchment areas and the implementation of Council's Greenweb strategy;
- difficulties in evacuation in the event of a bushfire in Coonong Reserve or other calamity; and
- a number of the submissions note that existing residents paid a premium to locate in an area where medium density development was not permitted.

The submissions requested that the land be zoned E4 Environmental Living.

At its meeting of 10 November 2014, Council considered submissions received during the exhibition of LEP3. It resolved (DAP043-15) not to amend the plan to reflect an E4 Environmental Housing zoning at that time because an amendment would require re-exhibition of the draft plan. However, in relation to changes that may require re-exhibition, Council resolved the following:

8. That the Environmental Planning Unit prepare a report for Council's consideration detailing any amendments to the new Local Environmental Plan that it considers would be appropriate given the issues raised in submissions and provide Council with an understanding as how these projects may be accommodated on the work program of the unit.

Following the consideration of submissions, at the then Mayor's request, a survey was then prepared to seek the views of affected residents on this matter. On 19 November 2014, surveys were mailed to each of the 327 property owners in the subject area.

Response to Mayor's survey:

One hundred eighteen (118) survey responses were received by the cut-off date of 22 January 2015. The responses are summarised below:

- 327 properties were mailed the survey and 118 responses were received by 22 January 2015. The survey responses came from 31% of the subject properties. From this 118, 52 were completed online and 66 were mailed back to council.
- Analysis of all responses highlights that the residents would prefer the E4 Environmental living (102 responses or 88.7%) rather than the R2 – Low Density Residential zone.

With respect to the remainder of the survey:

- 83% of respondents stated they would not be concerned that the E4 zone would not allow for dual occupancy and Torrens title subdivision.
- 82% of respondents preferred the higher (40% minimum) landscaped area standard.
- 79% of respondents were concerned about the reduced subdivision standard (The E4 zone requires a wider lot width of 18m – it should be noted that 98% of lots are not big enough to subdivide, regardless of the zoning).

Respondents expressed a strong desire to maintain current density and streetscape. The following issues were highlighted: potential increases in traffic, loss of parking and overdevelopment that is perceived to occur through the designation of the area as R2 Low Density Residential. When asked to rank 6 land uses permissible in the R2 zone from 1 to 6, with 1 being the greatest concern, respondents placed multi dwelling houses and boarding houses as the two most concerning land uses, followed by child care centres, group homes, seniors housing and respite day care centres.

It is noted that as 66% of residents did not respond to the survey, limited conclusions can be drawn from the results.

The R2 Low Density Residential versus the E4 Environmental Living zone

Development Standards:

The table below outlines the relevant development standards of the current R2 zone versus the previous zone and proposed E4 zone.

There is no difference between the development controls governing the potential bulk and scale of new residential development constructed in either the R2 or the E4 zone (see Table 1 below).

There are however minor differences between the minimum landscaped area and minimum lot dimension between the two zones. A 40% landscaped area is an acceptable minimum standard to preserve and enhance their high value environmental attributes in the two environmental zones E3 and E4. However, as previously stated, generally, the subject land does not contain existing environmental values to justify the higher landscape area standards.

Table 1: Comparison of Development Controls in Subject Area

COMPARISON OF DEVELOPMENT CONTROLS IN SUBJECT AREA			
Development Standard	Numerical Control		
	SSLEP2006	SSLEP2015	
	Zone – 2 Environmental Housing (Scenic Quality)	E4 Environmental Living*	R2 Low Density Residential
Height	2 storeys	8.5m	8.5m
FSR	0.45:1	0.55:1	0.55:1
Landscaped Area	45% (on lots less than 850m ²)	40%	35%
Standard Lot Area (minimum)	700m ²	550m ²	550m ²
Internal Lot Area (minimum)	850m ²	700m ²	700m ²
Lot Width and Depth (minimum)	18 metres/27 metres	18 metres/ 27 metres	15 metres/ 27metres

Note: Land within the E4 Environmental Living zone has a different minimum lot size, depending on its location. With respect to the subject land, the 550m² minimum lot size applies.

With regard to subdivision lot size in general, a review of the subject area shows that 98% of lots are of insufficient size or width to permit further residential subdivision in either the R2 or E4 zone.

Permissibility:

The key difference between the two zones is the increased permissibility provided for in the R2 zone. Multi dwelling housing, boarding houses, group homes, seniors housing and child care centres are permissible in the R2 zone and not in the E4 zone – see below:

Table 2: Comparison of Uses Permitted with Consent in Subject Area

COMPARISON OF USES PERMITTED WITH CONSENT IN SUBJECT AREA

	PREVIOUS ZONE	CURRENT ZONE	ALTERNATE ZONE
Use	SSLEP2006 Zone 2 – Environmental Housing (Scenic Quality)	SSLEP2015 Zone R2 – Low Density Residential	SSLEP2015 Zone E4 – Environmental Living
Bed and Breakfast Accommodation	Yes – as exempt development	Yes	Yes
Boarding Houses	No	Yes (mandated)	No
Boatsheds	Yes		Yes
Bushland regeneration, bushfire hazard reduction works	Yes	Now permitted by other legislation	Now permitted by other legislation
Child Care Centres	Yes	Yes	No
Community Facilities	Yes	Yes	Some permitted under SEPP Infrastructure
Dual Occupancies	Yes	Yes (in 'Area A' only)	Yes
Dwelling Houses	Yes	Yes (mandated)	Yes (mandated)
Environmental protection works	Yes (under the SEPP Infrastructure)	Yes	Yes
Flood mitigation works	Yes (under the SEPP Infrastructure)	Yes	Yes
Group Homes	No	Yes (mandated)	No
Health Consulting Rooms	Yes (residential medical practices)	Yes	Yes
Home Businesses	Yes - as exempt development	Yes	Yes
Home Industries	Yes - as exempt development	Yes	Yes
Home Occupations	Yes - as exempt development	Yes	Yes

Multi dwelling Housing	No	Yes	No
Places of Public Worship	Yes	Yes	Yes
Recreation areas	Yes	Yes	Yes
Respite Day Care Centres	No	Yes	No
Roads	Yes	Yes	Yes
Secondary Dwellings	(see dual occupancy)	Yes	Yes
Seniors Housing	No	Yes	No

Boarding houses and group homes:

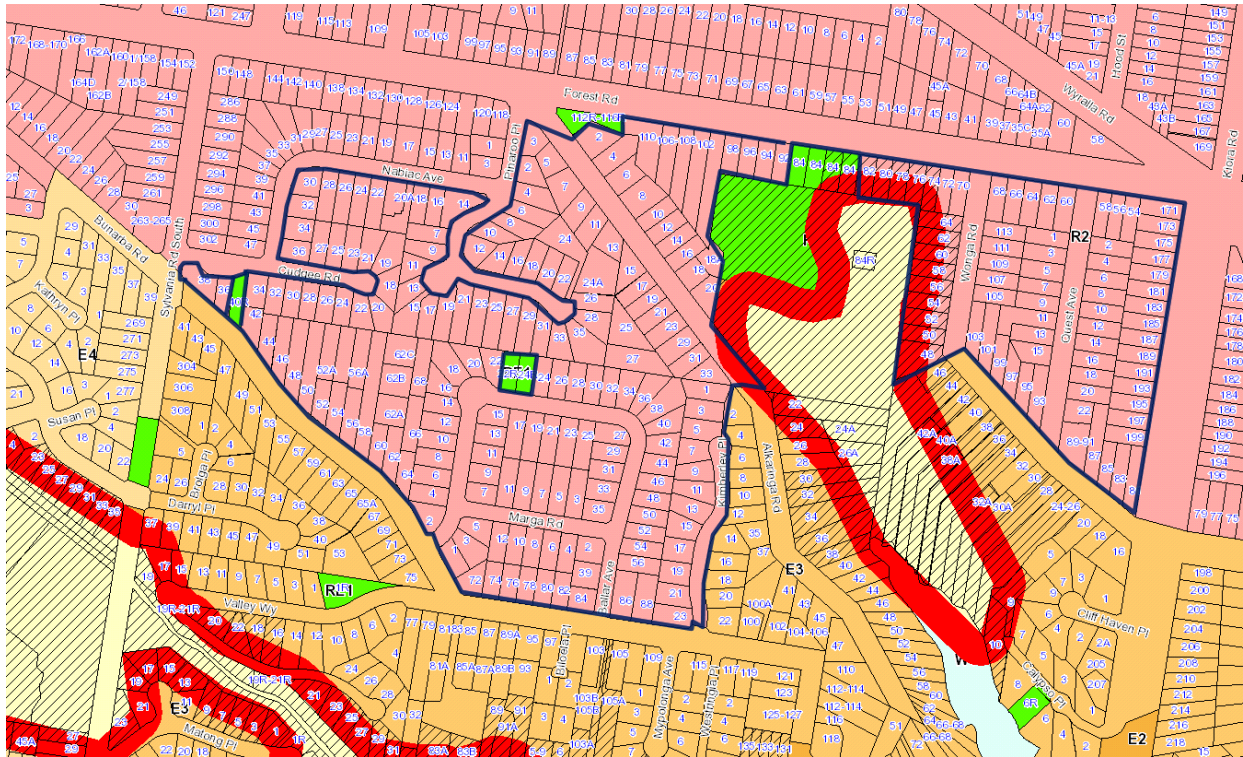
Boarding houses and group homes represent a small but important component of the housing choice mix. They are a mandatory permissible use in the R2 zone and prohibited in the E4 zone. As they are subject to the same development controls as other residential uses in the R2 zone, the use would not be expected to add visual bulk or scale to the locality. Parking rates are less generous for these uses than for other residential development types, thus demand for on street parking could increase in the vicinity of any boarding house or group home developed in this area. While it is acknowledged that local residents have concerns about perceived social impacts from boarding houses and group homes, such developments are subject to additional levels of review (including anti-social behaviour and crime prevention, safety and security, and community risk perception) as part of the assessment process. It is considered that, given residential land prices in this location, it is unlikely that development for this purpose would be economically feasible.

Dual Occupancy:

Dual occupancy development is permissible in the R2 zone and permitted where the property is located within 'Area A' on the Additional Permitted Uses Map within the E4 zone. 'Area A' is reserved for those E4 lands not subject to bushfire risk.

As illustrated in the bushfire prone land map below, if the subject area were to be rezoned as E4 Environmental Living, the majority of properties would qualify for inclusion in 'Area A' thus be eligible to undertake dual occupancy development. Risk from bush fire is contained and not dissimilar to other areas where dual occupancy is permitted.

Secondary dwellings are permissible in both the E4 and R2 zones.



Bushfire Prone Land Map: Bushfire prone land outlined in red. Subject area outlined in black.

Child care centres and Respite day care centres:

Prohibited in the E4 zone, child centres and respite day care centres are mandatory permissible with consent uses in the R2 zone.

Historically, the 'Local Housing' zone, now the R2 Low Density Residential zone, has been favoured by child care centre developers because the zone provides a homely, suburban landscaped setting and good overall amenity for children. While this trend is likely to continue, increasingly, child care providers are looking to industrial areas where land sizes are larger, land costs lower and more parking is available. It must be noted that while childcare centres are prohibited in the current E4 zone, they were permissible in the previous zoning (Zone 2 - Environmental Housing (Scenic Quality)) of this area under SSLEP2006.

Development applications for respite day care centres are relatively rare. However, where provided, the streetscape and amenity impacts are similar to child care centres.

Seniors housing:

The provision of seniors housing is governed by the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which includes development standards: Including a maximum building height of 8 metres, a maximum FSR of 1:1 and minimum landscaped area and parking rates based on the number of residential care facility beds. A consent authority cannot refuse a development application if a development complies with these standards.

Given the ageing profile of the Sutherland Shire population and the demand for seniors housing, it is considered that providing increased potential to include this use in the housing mix within an established suburban setting is a positive community outcome, and thus should be supported in principle.

Traffic congestion and parking:

While it is recognised that the application of the R2 zone has the potential to increase development opportunities in the locality, it is considered that the road network can accommodate the increased vehicle trips from multi dwelling development in these circumstances. Therefore no change to the current zoning is seen to be justified on the basis of increased traffic.

Conclusion

Environmental quality and risk assessments of the area undertaken by council in 2004 and again in 2014 demonstrate that the area does not share environmental values with those parts of Sutherland Shire zoned as E4 Environmental Living. Hence the area does not merit the application of the E4 zone.

It is acknowledged that the ability to undertake multi dwelling housing and seniors housing development in the R2 zone poses potential amenity impacts on the locality. However, such development would require site amalgamation. Greater impact is likely to come from dual occupancy development. However, the area is eligible for inclusion in 'Area A' on the Additional Permitted Uses Map, which specifically provides permissibility for dual occupancy developments. In this case, the differences between the E4 and R2 zonings will be further narrowed to the permissibility of child care centres, respite day care centres and boarding houses.

While it is acknowledged that approximately one-third of the resident population (based on survey return rates and results) are opposed to the R2 zoning, there are no compelling planning grounds for amending SSLEP2015 to rezone this area from R2 Low Density Residential to E4 Environmental Living. Rezoning this area to E4 Environmental Living without adequate planning justification has the potential to compromise the integrity of Sutherland Shire's planning framework. Therefore, it is not supported.

Option 1:

No change. The area remains zoned R2 Low Density Residential.

Option 2:

If Council is of a view to rezone the subject properties as E4 Environmental Living, the subject area largely unaffected by bushfire risk must be included in 'Area A' on the Additional Permitted Uses Map. This approach, which is consistent with the methodology applied elsewhere in the E4 zone, would result in dual occupancy development being permitted with consent on the majority of properties within the subject area, and prohibit dual occupancy development on the relatively small number of bushfire prone properties within the subject area (along part of Wonga and Forest Roads).

Clause 4.3(2A) Building Heights of Dual Occupancies in R3 Medium Density Residential

Concern was raised during the final exhibition of the then draft SSLEP2015 that the R3 Medium Density Residential zone permitted multi dwelling development with a 9m height limit; however a rear dual occupancy development would be limited to a 5.4m height limit.

Dual occupancy and multi dwelling development are permissible in the R3 zone, with a maximum height of 9m indicated on the Height of Buildings Map. Despite this, clause 4.3(2C) states:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.

The intention of the clause was to limit the impacts of dual occupancy development in rear yards, in order to limit the potential for adverse amenity impacts, particularly in the low density residential zones. However, the R3 Medium Density Residential zone has a maximum FSR of 0.7:1 and a height limit of 9m. Achieving the maximum development potential for both forms of development requires two storey development on most of the site.

The associated draft SSDCP2015 controls in the R3 zone permit three storey multi dwelling development (townhouses) on the entire site, including in the rear of the site with a rear boundary setback of 4m. It must be recognised that the height limitation for dual occupancy development in, clause 4.3(2C) is incongruous.

A change to permit a rear dual occupancy dwelling greater than 5.4m in height will necessitate some changes to SSDCP2015, as presently the controls for residential development in the R3 Medium Density Residential zone vary dependent on development type (dwelling, dual occupancy, multi dwelling development) rather than the zone. It is recommended that further review of the DCP also be undertaken.

Conclusion

Consequently it is recommended that Clause 4.3(2C) be amended to delete reference to the R3 Medium Density Residential zone:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, ~~Zone R3 Medium Density Residential~~, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.

Subdivision of Dual Occupancy Development – Permissibility of Semi-detached dwellings

Sutherland Shire Local Environmental Plan 2015 permits the construction and Torrens Title subdivision of attached dual occupancy developments (side by side development) in the R2, R3, and R4 Residential zones. Once subdivided, this arguably results in a form of development which is not permitted under the land use table, for the reasons outlined below:

- By definition a dual occupancy means two dwellings on one lot of land. Once subdivided into two lots, such development is no longer characterised as a dual occupancy (as it is one dwelling on one lot of land).
- The resultant development does not fit within the definition for any other forms of permissible development. Within the residential zones, the land use table prohibits any development not specifically listed as being permitted with consent.

The resultant development can be defined as a *semi-detached dwelling* under SSLEP2015.

Semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling (emphasis added).

In form, semi-detached dwellings resemble an attached dual occupancy, which has been

subdivided by Torrens Title, to create one lot for each of the dwellings. However such is not generally a permissible use under SSLEP2015. An example of a *semi-detached dwelling* is provided below:

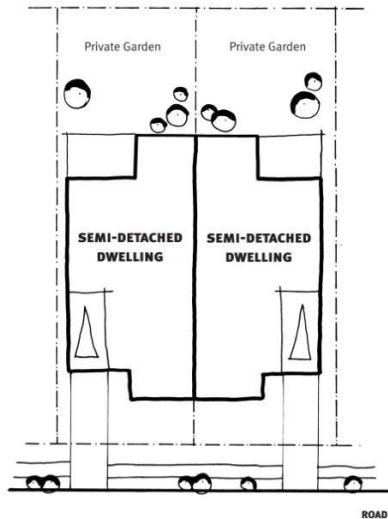


Figure 1: Indicative Semi-Detached Dwelling (source: Camden Growth Centres DCP Glossary, DPI)

Semi-detached dwellings are prohibited in the R2, R3 and R4 Residential zones where the construction and Torrens Title subdivision of attached dual occupancy developments is permissible.

Semi-detached dwellings are a relatively common form of development within the Menai Town Centre, where the planning rules applying during its development in the 1990s applied a minimum density control for residential development in that locality. Examples of semi-detached dwellings within Menai Town Centre demonstrate that, with appropriate design controls, semi-detached dwellings can provide an acceptable form of small lot dwelling, which provide for reasonable amenity for occupants and fit within the streetscape. However, the prohibition on *semi-detached dwellings* in the R2 zone means that these existing semi-detached dwellings are now prohibited development and will need to rely on existing use rights.

The design outcome of semi-detached dwellings development is consistent with that which would be achieved through Torrens Title subdivision of attached dual occupancy. It is, therefore, considered consistent with the intent of the LEP to add *semi-detached dwellings* as a permissible form of development in R2, R3 and R4 Residential zones to address the identified permissibility problem.

By default, SSLEP2015 permits semi-detached dwellings in the B1 Neighbourhood Centre and B2 Local Centre as these are 'open zones' and the use is not specifically prohibited. These are permissible in these zones because of the open land use table for these zones, which makes *any other development not specified in item 2* [development without consent] or 4 [prohibited development] permissible with consent.

Semi-detached dwellings are considered appropriate in the smaller scale B1 Neighbourhood zone, where both dual occupancy development and its Torrens Title subdivision are permissible. However, in the B2 zone where lower density forms of development including

dwelling houses and dual occupancies are explicitly prohibited, semi-detached dwellings should also be prohibited. An appropriate and viable scale and form of development in these larger urban centres generally relies on amalgamation of lots within the centres to facilitate the desired development, whereas semi-detached dwellings result in small lot subdivisions and would potentially lead to further fragmentation of the subdivision pattern in the urban centres.

Conclusion

- i. The land use table for the R2, R3 and R4 residential zones be amended to include a *semi-detached dwelling* as a use permitted with development consent.
- iii. The land use table for the B2 zone be amended to list *semi-detached dwelling* as a prohibited use.

Dual Occupancy development where one dwelling is an existing waterfront dwelling

Dual occupancy development in the E4 Environmental Living zone is permitted where the land is not subject to bush fire risk. All three versions of SSLEP2015 were exhibited with provisions that enabled dual occupancy development in zone E3 Environmental Management where that included the retention of a waterfront dwelling within the foreshore area. The Additional Permitted Uses (APU) provision, as exhibited, stated (LEP3):

Use of certain land zoned E3 Environmental Management

- (1) *This clause applies to land shown edged heavy red on the Additional Permitted Uses Map and identified as Area B.*
- (2) *Development for the purpose of dual occupancy is permissible with consent only on lots where one of the dwellings is a lawfully constructed dwelling within the Foreshore Area.*
- (3) *The dwelling in the foreshore area must have been in existence for a minimum of three (3) years prior to the commencement of this plan.*
- (4) *Dual occupancy development is only permissible where the dwelling in the foreshore area forms part of the existing character of the waterfront.*
- (5) *The erection of a new dwelling which forms part of a dual occupancy within the foreshore area is prohibited.*

However in the drafting of the final plan by Parliamentary Counsel, the APU provision was amended to:

27 Use of certain land in Zone E3 Environmental Management

- (1) *This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.*
- (2) *The erection of a dual occupancy under this clause is permissible with development consent if:*
 - (a) *one of the dwellings is a lawfully constructed dwelling on the foreshore area, and*
 - (b) *that dwelling has been in existence for at least 3 years before the commencement of this Plan, and*
 - (c) *the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.*
- (3) *The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.*

However, the clause as made in SSLEP2015 does not facilitate existing developments of two dwellings - one new dwelling above the foreshore building line FBL and one existing dwelling below the FBL, where Council had required the removal of the foreshore dwelling as a condition of development consent. Subsequent development consent for a dual occupancy development

would not be possible as the development does not involve 'the erection of a dual occupancy' - as two dwellings are already there. It was Council's intention that this type of dual occupancy development, where they meet the above provisions, be permitted.

Accordingly it is recommended that the APU provision be amended as follows:

27 Use of certain land in Zone E3 Environmental Management

- (1) This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.
- (2) ~~The erection of a~~ Dual occupancy **development** under this clause is permissible with development consent if:
 - (a) one of the dwellings is a lawfully constructed dwelling on the foreshore area, and
 - (b) that dwelling has been in existence for at least 3 years before the commencement of this Plan, and
 - (c) the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.
- (3) The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.

Permissibility of Attached Dwellings in higher density centre zones

Attached dwellings have been made a permissible use in the higher density centre zones. However the development of such would ultimately frustrate the potential of the zone. It is recommended that the use be prohibited in B3 and B4 zones.

Attached dwelling means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling. (emphasis added)

An example of attached dwelling form is provided below:

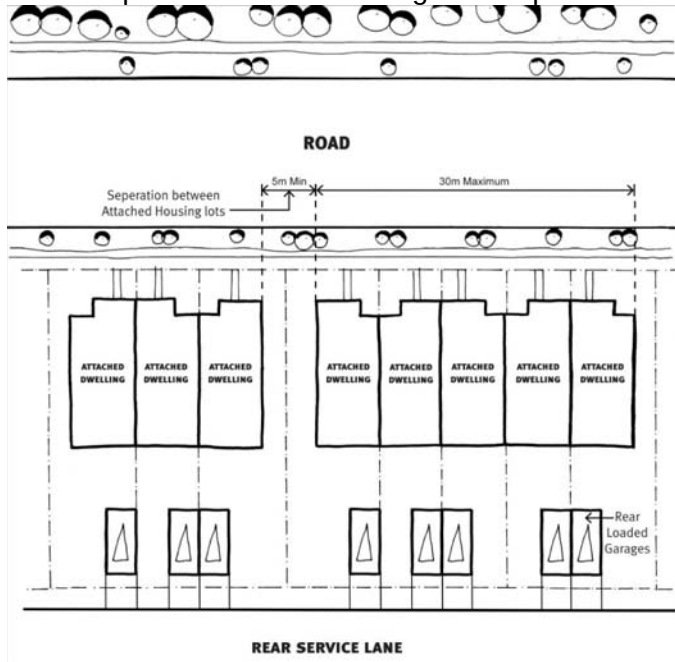


Figure 2: Indicative Attached Dwelling Development (source – Camden Growth Centres DCP Glossary, DPI)

Attached dwellings can be comparable in scale and form to *multi dwelling housing*, (townhouses and/or villa houses) which is defined as:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The key difference between these two forms of development is in the subdivision pattern. Each dwelling within an *attached dwelling* development is located on its own, small Torrens Title lot of land. In a *multi dwelling housing* development all dwellings are located on the one lot of land, which may be strata subdivided. As such, an *attached dwelling* development will permanently modify the underlying subdivision pattern and lot sizes in the area, whereas multi dwelling housing (strata subdivided) does not have such an effect.

Attached dwellings are permitted in the R3 Medium Density Residential, R4 High Density Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Centre and B4 Mixed Use zones. The LEP applies the same development standards to *attached dwellings* as for all other types of development. There is no exception to the minimum subdivision requirements for lot size, width and depth for *attached dwelling* developments in the R3 residential zone. This means that the potential for this form of development is limited in the zone to existing lots that meet the minimum lot size requirements. This limitation does not exist in the other zones (R4, B1, B2, B3, B4) where there is no minimum lot size for subdivision.

Within the R4, High Density Residential zone, all forms of residential development are permissible. Provided that dwelling types from as low scale to secondary dwellings to high density residential flat buildings can be constructed within the R4 zone, it is considered appropriate to maintain the permissibility of attached dwellings within the R4 zone.

Attached housing is considered an appropriate form of development in the smaller centres (generally zoned B1 and B2), given their comparable scale to other forms of permissible residential development e.g. shop top housing in these zones. As these zones are often characterised by small narrow lots, permitting attached dwellings also provides opportunities for residential redevelopment of small B1 centres which may be struggling and perhaps returning to a more residential character.

The B3 and B4 zones are intended to permit only higher density forms of development, in conjunction with commercial uses. *Multi dwelling development* is prohibited in these zones. As outlined above, attached dwellings are comparable in scale to that of multi-dwelling housing and as such it is considered that *attached dwellings* should also be prohibited in these zones as the small lot subdivision pattern associated with attached dwellings will lead to fragmentation of the land holdings in the commercial centres, an outcome which is antipathetic to the achievement of an appropriate and viable scale and form development in these centres.

Conclusion

- i. The land use table for the B3 and B4 zones be amended to prohibit *attached dwelling* in these zones.

Subdivision of Existing Dual Occupancies in the E3 Environmental Management Zone and E4 Environmental Living Zones

During the final exhibition of the LEP a number of submissions were received relating to the

subdivision of existing dual occupancies in the E3 Environmental Management and E4 Environmental Living zones, where they are now generally a prohibited use. The submissions received seek an amendment to the LEP to enable the strata-subdivision of existing constructed dual occupancies in the E3 zone and in the E4 zone, particularly where lots on which the dual occupancies are located are smaller than the minimum required.

Under SSLEP2015, in the more sensitive E3 and E4 zones, the permissibility of dual occupancy development and subdivision of such is limited.

- In the E4 zone, dual occupancy development is permissible only in Area A as mapped on the Additional Permitted Uses Map. The strata subdivision of such dual occupancy developments requires the site area of the development to meet the minimum lot size requirements of the plan. The Torrens Title subdivision of such a dual occupancy development requires each resultant lot to meet the greater lot size requirements of the plan.
- In the E3 zone, dual occupancy is only permissible in Area B as mapped on the Additional Permitted Uses Map. In addition, a dual occupancy in E3 zone Area B must comprise one existing lawfully constructed dwelling in the foreshore area in existence for at least 3 years and Council must be satisfied that the dwelling forms part of the existing character of the waterfront. Subdivision of dual occupancy development in the E3 zone is generally not permissible. A standard 'battle-axe' type subdivision requires each resultant lot to meet the greater lot sizes required by the plan.

The intention of these provisions was to limit the increased density of development in the most environmentally sensitive parts of the Shire.

During the exhibition of the draft plan, one detailed submission was received from the owners of the property at 31A and 31B Oyster Bay Road, Oyster Bay. Whilst rated separately (and valued separately by the Valuer General), these dwellings, located in the E3 zone, have not been subdivided and remain on the one title. The dwellings are located one behind the other. A right of way occurs along one side of the lot to another lot (Lot A with dwelling) located at the water. The lot, created in 1928, is approximately 648sq.m (approx 15.2m x 50.5m). The minimum lot size in the E3 zone is 850sq.m (street front lot and 1000sq.m internal lot). The subject dual occupancy development at 31A and B Oyster Bay Road was approved in August 2004. At the time SSLEP2000 Clause 40 prohibited the Torrens Title subdivision of dual occupancy development (except those developments where consent was granted before September 1995). Strata title subdivision was permissible only where the dual occupancy was granted consent before February 2000.



Aerial photo - 31A and 31B Oyster Bay Road, Oyster Bay – Lot B DP321728

The submissions received during the exhibition of the draft plan request that strata subdivision be made permissible for the existing dual occupancies in the E3 zone. In support of the proposal, the submissions received note that the use is an existing dual occupancy approved by Council, it is consistent with the objectives of the E3 zone, it is not located on the waterfront, and adds to the housing supply. The submission received states that the proposal for subdivision is consistent with comments made by the Independent Review into the LEP regarding the wider application of dual occupancy. The proponent concludes that subdivision is in these circumstances a 'paper subdivision' and the proposal will not have an adverse effect on the locality. The submission cites other dual occupancy development in the locality (e.g. 62 Oyster Bay Road), which was approved and subdivided before 2000, in support of their submission.

During the final exhibition of the LEP, a similar submission was made by the owners of 1 Ischia Street, Cronulla (176A and 176B Ewos Parade). The subject land is zoned E4 Environmental Living, however, the land is not located in Area A where dual occupancies are permissible as an Additional Permitted Use. The subject lot is approximately 587sq.m and is approximately 13.4m wide. This dual occupancy which was erected in 1992 has not been subdivided.



Aerial photo - 1 Ischia Street, Cronulla Lot 16 DP 6861

As outlined above, the draft plan limits the permissibility of dual occupancy development in the E3 and E4 zones to where they are mapped as an Additional Permitted Use. Regardless, where a development has been lawfully constructed and used, and becomes prohibited by a subsequent Environmental Planning Instrument, the Existing Use Rights provisions of the Environmental Planning and Assessment Act 1979 apply to permit the continued use, rebuilding and potentially even the enlargement of the development, notwithstanding any prohibition. Existing Use Rights are established through Section 103 of the Environmental Planning and Assessment Act 1979 where it is explicitly stated that nothing in the Act or an Environmental Planning Instrument prevents the continuance of an existing use. The Environmental Planning and Assessment Regulations 1980, Section 41 then clarifies further by stating that: an existing use may, subject to this Division, (a) be enlarged, expanded or intensified, or (b) be altered or extended, or (c) be rebuilt. Consequently it is considered that the dual occupancy use may continue, regardless of the prohibition created by the draft plan.

With respect to subdivision, it is noted that the Oyster Bay development was undertaken by the present owners in 2004 with the knowledge that subdivision at that time was not permissible. The dual occupancy development does not meet the plan's minimum lot sizes or widths (18m) required for a standard subdivision in the E3 zone. The lot, being 648sq.m, is also undersize for the E3 zone (850sq.m. required). Any subdivision of a dual occupancy lot within the E3 Environmental Management Zone presently requires the resulting lots to be 850sq.m for a standard lot and 1000sq.m for an internal lot requiring the property to have a minimum size of 1850sq.m. The lot sizes required for the subdivision of dual occupancies in the E zones have been deliberately set at the same minimum requirement for the subdivision of land to maintain

the established character, density and scale of development. Larger lots enable the preservation of trees and natural features.

The foreshore areas play a fundamental role in setting the scenic and environmental quality of the Sutherland Shire. In the lead up to SSLEP2000 the community voiced their concern that dual occupancy development in this type of area resulted in increased tree removal and more hard surfaces. Council resolved not to encourage dual occupancy in these localities due to cumulative scenic and environmental impacts. Similarly in SSLEP2006 and the current plan the development of these sensitive areas was also not supported. Consequently, the drafting of dual occupancy provisions for the E3 zone in the current SSLEP2015 sought to carry forward the restrictions on the foreshore areas with the exception for those existing waterfront cottages.

As with any new environmental planning instrument which makes changes to the existing land use controls, there will be a range of sites within the local government area, with lawfully approved uses, which become prohibited. This is an inevitable consequence of the planning process.

Council has chosen in the preparation of the new LEP not to support the wider development of dual occupancy development in the E3 zone. It is recognised that subdivision of this development is largely a 'paper subdivision' with no associated building works. It must be noted however that unless mapped as an additional permitted use, dual occupancies are not permissible in the E3 zone. Being already constructed and in existence, subdivision of the land would have no impacts on the environmental qualities of the land. There are likely to be other similar dual occupancy situations. It is considered that Council should address such situations more holistically with a provision to enable the strata subdivision of all existing dual occupancy developments.

It is recommended that Council request the Department of Planning and Environment include a provision in the SSLEP2015 to enable the strata subdivision of existing dual occupancies in the E3 and E4 zone on lots already in existence, even where they are located on lots smaller than the minimum lot size for subdivision in the E3 and E4 zone.

It is therefore recommended that council include the following enabling provision in the LEP:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.

Conclusion

It is considered appropriate that council include the following enabling provision in the LEP to enable the strata subdivision of existing dual occupancies in the E3 Environmental Management and E4 Environmental Living Zones:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.

Clio Street Precinct, Sutherland

During the exhibition of LEP3 Council received a submission requesting the rezoning of 48-50 Clio Street from R3 Medium Density Residential to R4 High Density Residential and an

associated height increase to 13m and FSR increase to 1:1. The site is presently zoned R3 and subject to a 9m height limit and a FSR of 0.7:1. The subject properties are immediately adjacent to a heritage listed building at 52 Clio St. It was considered that the proposal had merit however amendments would require re-exhibition of the plan.

The Clio Street Precinct is the area comprising two residential blocks located north of the Sutherland overpass and commercial core. The precinct is bounded by Clio Street, Glencoe Street, Toronto Parade and Old Princes Highway. The precinct was considered for rezoning to R4 High Density Residential in response to submissions from the first exhibition of SSLEP2013. Council resolved to rezone the entire area/precinct to zone R4 High Density Residential with height 20m and FSR 1.5:1. This change was exhibited in the second version of the draft SSLEP2015.

The Clio Street Precinct is unusual in that there is a cluster of heritage properties on the western side. The importance of these separate properties is increased by the fact that they are located in close proximity to each other. The existence of heritage properties adds greatly to the experience of the place. Heritage properties connect the community to the place by maintaining physical reminders of its history and reinforcing memories. This is particularly important in a centre like Sutherland which is the administrative centre of the Sutherland Shire.

In order to maintain their significance, heritage properties are best respected and appreciated where there is sufficient space around them. This is called their curtilage. Following the second exhibition of the draft plan, Council resolved to reduce the height and density controls for a number of sites and rezone the western portion of the precinct to R3 Medium Density in an attempt to provide a better setting for the existing heritage items in the precinct.



Clio Street Precinct: SSLEP2015 Heritage listed properties

Heritage Listed Properties

- 100 Toronto Parade (on the corner of Clio Street) is a rare industrial heritage building, Brinsley's Joinery Works (Local Heritage items B191 and A032). Established by one of the

pioneering families, the joinery was started by Ralph Brinsley Snr about 1914. After fire destroyed the original timber structure, the current brick building was built in 1929.

- 102 Toronto Parade (Local Heritage item B192), is a timber house associated with Brinsley Joinery Works adjacent. The building and garden are fine examples of the Interwar California Bungalow and garden style. The building exhibits unusual timber detailing, which reflects the association with the Brinsley Joinery Works. The building demonstrates principal characteristics of California bungalows in the Sutherland Shire and has a high level of integrity.
- 104 Toronto Parade (Local Heritage item B193) is a brick house adjacent to 102 Toronto Parade. It is one of the few good local brick examples of a standard form Late Federation cottage.
- 52 Clio Street (Local Heritage item B152) is a good example of a standard form Federation house.



Figure 2 - 102 Toronto Parade, Sutherland



Figure 3 - 52 Clio Street, Sutherland

Following the consideration of submissions to exhibition of LEP2, Council resolved to rezone the properties adjoining a number of heritage items from R4 High Density Residential to R3 Medium Density Residential, and maintain the R4 zoning on others whilst reducing their development potential (height and FSR). Together these changes were an attempt to better preserve the heritage items. It is important that they are not 'dwarfed' by any adjoining buildings. It is for this reason that buffer areas were provided for the heritage listed sites through reductions in the maximum permissible heights and FSRs on these sites.

The Independent Review into the DSSLEP2013 made the following recommendation in relation to the issue (Recommendation no. 50):

The Panel further recommends that heritage issues be taken into account in any final determination of the rezoning of the area south of Clio Street, Sutherland.

In response to this recommendation and the exhibition of LEP2, a cautious approach was taken with the application of zones in the Clio Street precinct. While the impact of high density development on adjoining properties has been extensively noted through the past two LEP exhibitions, if designed properly, the impact of a high density form of development can be ameliorated via a range of different measures including setback controls, landscaped setbacks and the location of differing elements of the building. However, it was considered that buildings to a height of 20m directly adjoining a heritage item would more than likely detract from the heritage significance of the items.

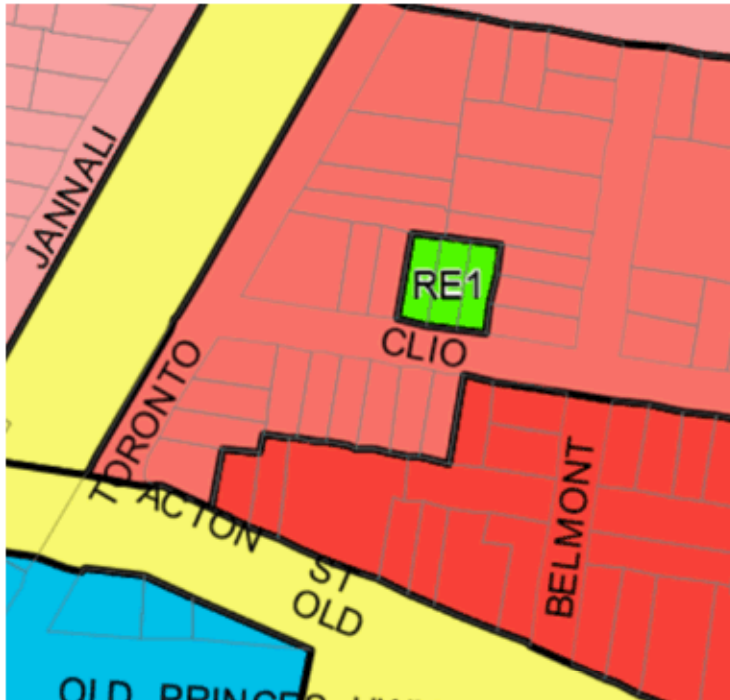


Figure 4 - SSLEP2015 Zoning Map



Figure 5 - SSLEP2015 Height of Buildings Map (J1 = 9m, N = 13m, Q = 20m)



Figure 6 - SSLEP2015 Floor Space Ratio Map (E = 0.55:1, H = 0.7:1, N = 1:1, S1 = 1.5:1)

Response to Issue:

During the exhibition of LEP3 Council received a submission requesting the rezoning for 48-50 Clio Street to R4 High Density Residential and associated height increase to 13m and FSR 1:1. While six storey buildings would be unsuitable on the sites at 48 and 50 Clio Street, given the area of the site and its location adjoining the R4 zoned properties to the west, there is potential for the site to be developed for residential flats at a lower density. It is considered that the two lots could accommodate buildings of a height to 13m and an FSR to 1:1, consistent with the controls applied at numbers 19 and 21 Acton Street, Sutherland. This variation of height and density would allow a transition in scale from the maximum allowable height of 20m to the existing one storey heritage houses. This outcome would require the sites at 48 and 50 Clio Street to be rezoned to R4 High Density Residential.

Conclusion

It is recommended that 48-50 Clio Street, Sutherland be rezoned to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1. The SSLEP2015 Lot Size Map be amended accordingly.

Conclusion

This report recommends a number of minor amendments to SSLEP2015 that can be undertaken as one amendment.

With respect to the land within Gynea Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabic Avenue, Forest Road and Kiora Road, it is recommended that there be no change to SSLEP2015 and that the area remains zoned R2 Low Density Residential.

With respect to dual occupancy development in the R3 Medium Density Residential zone it is recommended that Clause 4.3(2C) be amended allow two store rear dual occupancy development and delete reference to the R3 Medium Density Residential zone:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, ~~Zone R3 Medium Density Residential~~, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.

To facilitate the retention of existing waterfront dwellings within the foreshore area it is recommended that the Additional Permitted Uses provision 27 be amended as follows:

27 Use of certain land in Zone E3 Environmental Management

- (1) This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.*
- (2) ~~The erection of a~~ Dual occupancy ~~development~~ under this clause is permissible with development consent if:*
 - (a) one of the dwellings is a lawfully constructed dwelling on the foreshore area, and*
 - (b) that dwelling has been in existence for at least 3 years before the commencement of this Plan, and*
 - (c) the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.*
- (3) The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.*

With respect to subdivision of dual occupancy development, it is recommended that semi-detached dwellings (which result from the subdivision of a dual occupancy development) be a permissible form of development. It is recommended that the land use table for the R2, R3 and R4 residential zones be amended to include a *semi-detached dwelling* as a use permitted with development consent. It is also recommended that the land use table for the B2 zone be amended to list *semi-detached dwelling* as a prohibited use as this form of development does not facilitate the highest and best use of such land.

Similarly it is recommended that the land use table for the B3 and B4 zones be amended to prohibit *attached dwelling* in these zones.

With respect to the subdivision of existing dual occupancies in the E3 Environmental Management Zone and E4 Environmental Living Zones, it recommended that council permit the strata subdivision of such by including the following enabling provision in the LEP:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.

With respect to the Clio Street Sutherland precinct, it is recommended that 48-50 Clio Street, Sutherland be rezoned to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1.

REPORT RECOMMENDATION

1. That with respect to the land within Gynea Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabitac Avenue, Forest Road and Kiora Road, it is recommended that there be no change to SSLEP2015 and that the area remains zoned R2 Low Density Residential.

2. That the SSLEP2015 Clause 4.3(2C) be amended allow two storey rear dual occupancy development and the reference to the R3 Medium Density Residential zone be deleted:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, ~~Zone R3 Medium Density Residential~~, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.

3. That the SSLEP2015 Additional Permitted Uses provision 27 be amended as follows:

27 Use of certain land in Zone E3 Environmental Management

- (1) This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.*
 - (2) ~~The erection of a~~ Dual occupancy ~~development~~ under this clause is permissible with development consent if:*
 - (a) one of the dwellings is a lawfully constructed dwelling on the foreshore area, and*
 - (b) that dwelling has been in existence for at least 3 years before the commencement of this Plan, and*
 - (c) the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.*
 - (3) The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.*
4. That the SSLEP2015 be amended to permit semi-detached dwellings in the R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential as a use permitted with development consent.
 5. That the SSLEP2015 be amended to prohibit *semi-detached dwelling* in the B2 Local Centre zone.
 6. That the SSLEP2015 be amended to prohibit *attached dwellings* in the B3 Commercial Core and B4 Mixed Use zones.
 7. That the SSLEP2015 be amended to permit the strata subdivision of existing dual occupancies in the E3 Environmental Management Zone and E4 Environmental Living Zones by including the following enabling provision in the LEP:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the

commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.

8. That the SSLEP2015 be amended to rezone 48-50 Clio Street, Sutherland to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1 and the SSLEP2015 Lot Size Map be amended accordingly.
9. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited.

COMMITTEE RECOMMENDATION

1. That with respect to the land within GyMEA Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiac Avenue, Forest Road and Kiora Road, it is recommended that there is a change to SSLEP2015 and that the area is zoned E4 Environmentally Sensitive Land.
2. That the SSLEP2015 Clause 4.3(2C) be amended allow two storey rear dual occupancy development and the reference to the R3 Medium Density Residential zone be deleted:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.
3. That the SSLEP2015 Additional Permitted Uses provision 27 be amended as follows:

27 Use of certain land in Zone E3 Environmental Management

 - (1) This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.*
 - (2) The erection of a Dual occupancy development under this clause is permissible with development consent if:*
 - (a) one of the dwellings is a lawfully constructed dwelling on the foreshore area, and*
 - (b) that dwelling has been in existence for at least 3 years before the commencement of this Plan, and*
 - (c) the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.*
 - (3) The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.*
4. That the SSLEP2015 be amended to permit semi-detached dwellings in the R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential as a use permitted with development consent.
5. That the SSLEP2015 be amended to prohibit *semi-detached dwelling* in the B2 Local

Centre zone.

6. That the SSLEP2015 be amended to prohibit *attached dwellings* in the B3 Commercial Core and B4 Mixed Use zones.
7. That the SSLEP2015 be amended to permit the strata subdivision of existing dual occupancies in the E3 Environmental Management Zone and E4 Environmental Living Zones by including the following enabling provision in the LEP:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.

8. That the SSLEP2015 be amended to rezone 48-50 Clio Street, Sutherland to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1 and the SSLEP2015 Lot Size Map be amended accordingly.
9. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow the proposal to be publicly exhibited.

(Councillor Johns / Councillor Cook)

COUNCIL RESOLUTION

1. That with respect to the land within GyMEA Bay, Yowie Bay and Miranda bounded by Kimberly Place, Burnarba Road, Forest Road South, NabiAc Avenue, Forest Road and Kiora Road, it is recommended that there is a change to SSLEP2015 and that the area is zoned E4 Environmentally Sensitive Land.
2. That the SSLEP2015 Clause 4.3(2C) be amended allow two storey rear dual occupancy development and the reference to the R3 Medium Density Residential zone be deleted:

(2C) Despite subclauses (2) and (2A), the maximum height for a rear dwelling that is part of a dual occupancy on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone E3 Environmental Management and Zone E4 Environmental Living is 5.4 metres if the lot has only one road frontage.

3. That the SSLEP2015 Additional Permitted Uses provision 27 be amended as follows:

27 Use of certain land in Zone E3 Environmental Management

- (1) This clause applies to land shown edged heavy red and identified as "Area B" on the Additional Permitted Uses Map.*
- (2) The erection of a Dual occupancy development under this clause is permissible with development consent if:*
 - (a) one of the dwellings is a lawfully constructed dwelling on the foreshore area, and*
 - (b) that dwelling has been in existence for at least 3 years before the commencement of this Plan, and*

- (c) *the consent authority is satisfied that the dwelling forms part of the existing character of the waterfront.*
- (3) *The erection of a new dwelling that forms part of a dual occupancy on the foreshore area is prohibited.*

4. That the SSLEP2015 be amended to permit semi-detached dwellings in the R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential as a use permitted with development consent.
5. That the SSLEP2015 be amended to prohibit *semi-detached dwelling* in the B2 Local Centre zone.
6. That the SSLEP2015 be amended to prohibit *attached dwellings* in the B3 Commercial Core and B4 Mixed Use zones.
7. That the SSLEP2015 be amended to permit the strata subdivision of existing dual occupancies in the E3 Environmental Management Zone and E4 Environmental Living Zones by including the following enabling provision in the LEP:

Despite clauses 4.1, 4.1A and 4.1B, development consent may be granted for the strata subdivision of a lawfully constructed dual occupancy development, in existence at the commencement of this plan, in Zone E3 Environmental Management and Zone E4 Environmental Living.
8. That the SSLEP2015 be amended to rezone 48-50 Clio Street, Sutherland to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1 and the SSLEP2015 Lot Size Map be amended accordingly.
9. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited.

(Councillor Johns / Councillor Simpson)

APPENDIX

SSLEP2015 Draft Amendments Affecting Low Density Residential zones - Amendment 4



2014 11 19 Survey (A2837396).DOCX

(To view the document, double click on icon and select 'Open'. Select 'File' 'Close' to return to report.)