

PLANNING PROPOSAL

Sutherland Shire Local Environmental Plan 2015
(SSLEP 2015)

Amendment 7

Part 1 - Planning Proposal

Sutherland Shire Council

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Planning Proposal - 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 2015 Amendment 7

LAND AFFECTED AND PROPOSED CHANGES

The changes affect numerous properties and zones throughout Sutherland Shire.

- The following rezonings are proposed:
 - o 327 properties in Gymea Bay and Miranda from R2 Low Density Residential to E4 Environmental Living
 - o 48-50 Clio Street, Sutherland (Lots 10 and 11 DP 6641) from R3 Medium Density Residential to R4 High Density Residential
 - o 7 Preston Ave, Engadine (Lot 5 DP 232490) from R4 High Density Residential to B3 Commercial Core
 - o 77 properties owned by Sydney Water to either SP2 Infrastructure (Water Supply) or SP2 Infrastructure (Sewerage System), as requested by Sydney Water
 - o Amend the building height for schools in the low and medium density residential areas to 12m.
 - o Small shops in low density residential areas from R2 Low Density Residential or R3 Medium Density Residential to B1 Neighbourhood Centre
 - o 23,27,29 and 31 Nirimba Crescent, Heathcote (lots 60, 62, 63 and 64 DP 31803) from E4 Environmental Living to SP1 Special Activities (Seniors Housing)
 - o 145 Woronora Road, Engadine from E4 Environmental Living to SP2 Infrastructure (Child Care Centre)
 - o 441 Princes Highway, Kareela from RE1 Public Recreation to SP2 Infrastructure (Waste and Resource Management Facility)
 - o Carol Avenue Reserve, Jannali from E2 Environmental Conservation to RE1 Public Recreation
 - o Introduction of Minimum Lot Sizes for land in the Industrial and Business Zones into the LEP. These controls have previously been contained in the DCP.
- Changes to the written instrument are proposed to:
 - o Amend Schedule 2 Exempt Development to permit advertising on bus shelters in all zones
 - o Resolve issues related to dual occupancy development, specifically:
 - The permissibility of semi-detached dwellings (subdivided dual occupancy)
 - Subdivision of dual occupancy in the E3 Environmental Management and E4 Environmental Living zones
 - Provisions to allow the retention of both existing dwellings in the E3 Environmental Management Zone

- Height limitation for dual occupancies in the E3 Environmental Management zone
- Removal of 56 items from the Heritage Schedule and Map in response to the recommendations of the Sutherland Shire Community Based Heritage Review as these items do not meet the threshold for listing as heritage items.

Background

Sutherland Shire Local Environmental Plan 2015 came into force on 23 June 2015.

Prior to the draft LEP being finalized and adopted on 10 November 2014, Council considered a report on submissions in response to the exhibition of Draft Sutherland Local Environmental Plan 2013 (LEP3) (DAP043-15). Council did not make any changes to the draft LEP in response to the submissions because changes to the content of the plan would have triggered the need for re-exhibition. Given that the making of the plan had been very protracted, having been exhibited three times and the subject of an Independent Review, it was not considered to be in the public interest to further delay the making of the plan. Council resolved to consider a future amendment to the LEP once made in response to issues raised in submissions to the LEP. This planning proposal sets out to amend the plan to resolve these outstanding issues.

Since the LEP came into force, a number of new issues have come to light. Some of these result from the drafting of the LEP and require amendment to the LEP to achieve the outcome anticipated by the policy position adopted in finalizing the LEP. Other issues are new matters identified in the past 6 months.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The purpose of this Planning Proposal is to threefold:

- o To address outstanding issues from the finalization of SSLEP2015 which required public exhibition of the proposed change to Draft SSLEP2015:
 - 1. Rezone the land within GyMEA Bay, Yowie Bay and Miranda bounded by Kimberley Place, Bunarba Road, NABIAC Avenue, Forest Road and Kiora Road to E4 Environmental Living.
 - 2. Rezone 48-50 Clio Street, Sutherland to R4 High Density Residential with a maximum permissible height limit of 13m and FSR of 1:1
 - 3. Rezone 7 Preston Avenue, Engadine to B3 Commercial Core with a maximum building height of 20m, FSR of 2:1 and no landscaped area requirement.
 - 4. Rezone properties owned by Sydney Water to SP2 Infrastructure (Water Supply) or SP2 Infrastructure (Sewerage System) and make consequential changes to remove development standards from the relevant maps.
 - 5. Increase the maximum permissible height to 12m for land zoned SP2 Infrastructure (Educational Establishment) and land zoned SP2 Infrastructure (Educational Establishment/ Place of Public Worship), where the maximum height as shown on the SSLEP2015 Height Map is less than 12m.
- o Resolve other issues which were previously raised in submissions to SSLEP2015:
 - 6. Deferred land at 874-876 Old Princes Highway, Sutherland (Lots 1051, 1086 and 1120 DP 752064)
 - 7. Rezoning of small shops in low density residential areas
 - 8. Rezone 23 27, 29 and 31 Nirimba Crescent to SP1 (Seniors Housing) with a height limit of 8.5m and no FSR control, consistent with the adjacent SP1 zoning
 - 9. Rezoning of 145 Woronora Road, Engadine as SP2 Infrastructure (Child Care Centre) to facilitate the successful operation and expansion of the existing child care centre
 - 10. Include provisions to allow signage on bus shelters and seats to be undertaken as exempt development.
- o Respond to issues which have been identified since the Plan came into force:
 - 11. Issues associated with the dual occupancy provisions
 - 12. Rezone land at the former Council sullage depot at 441 Princes Highway to permit a Waste and Resource Management Facility

13. Rezone Carol Avenue Reserve, Jannali to RE1 Public Recreation as a possible location for a skateboard park
14. Include the minimum lot sizes for industrial and business zones in the LEP and make changes to the minimum lot size for land in Kurnell.
15. Remove items from the Schedule 5 Environmental Heritage, consistent with the recommendations of the Sutherland Shire Community Based Heritage Review.

Council is willing to exercise an Authorization to delegate the plan making function for this planning proposal, should such a delegation be issued as part of the Gateway determination. The evaluation criteria for the issuing of an Authorisation is attached as Appendix 2.

PART 2 - EXPLANATION OF THE PROVISIONS

1. Gymea Bay Rezoning (see Part 2 p3)

This is an outstanding issue from the finalisation of SSLEP2015.

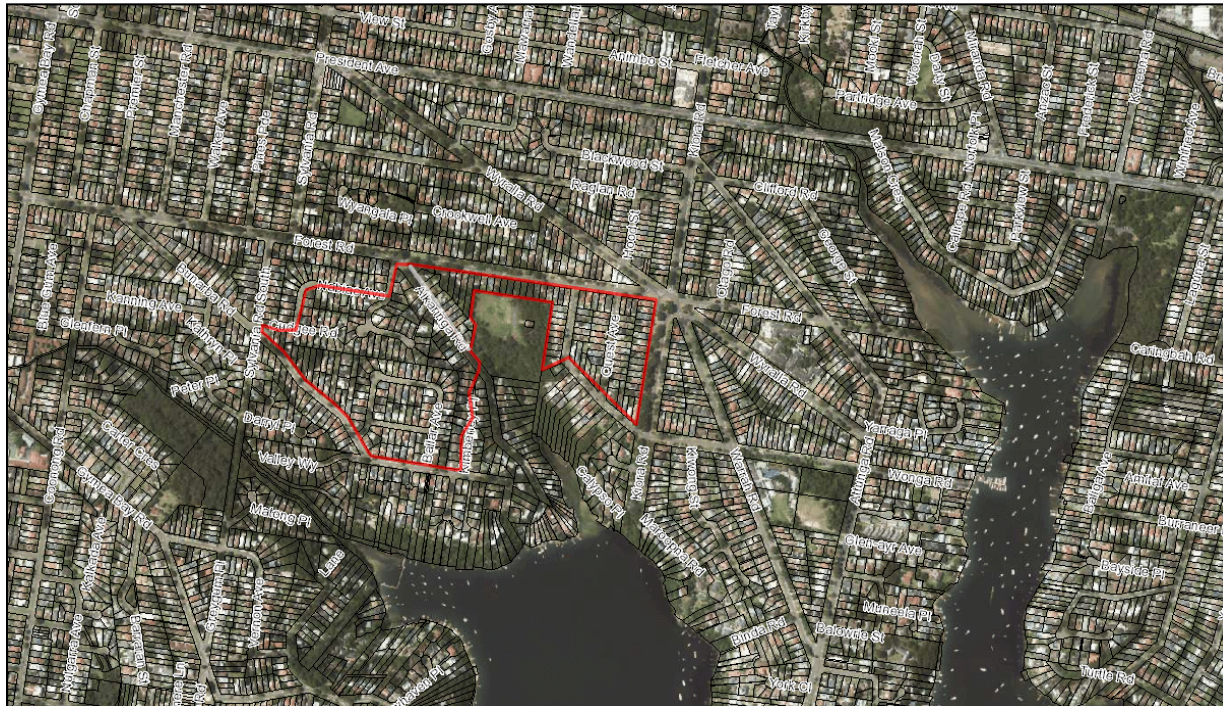


Figure 1: Location of properties to be rezoned

The subject area encompasses 327 properties bounded by Kimberly Place, Burnarba Road, Forest Road South, Nabiac Avenue, Forest Road and Kiora Road within the suburbs of Gymea Bay, Yowie Bay and Miranda. 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 600 m².

Under SSLEP2006, the land was zoned Zone 2 Environmental Housing (Scenic Quality). SSLEP2015 rezoned the land R2 Low Density Residential. Land to the south of the area is zoned E3 Environmental Management in recognition of its special ecological, scientific or aesthetic values, being along the foreshore of the Port Hacking.

The zoning of properties in SSLEP2015 was based on an assessment which considered, amongst other matters:

- the presence of threatened species,
- the area's proximity to a waterway,
- scenic quality,
- bushfire risk,
- Aboriginal archaeology, and
- slope.

The land is only partly affected by Greenweb and is not affected by threatened species or wetlands. 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. Based on these environmental risk criteria, it was considered that the properties did not achieve the threshold for inclusion in a zone reserved for land with special ecological, scientific or aesthetic values (e.g., E4 Environmental Living).

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. It was determined that the character and setting of the area is consistent with the objectives of the R2 Low Density Residential zone which seek to protect the low density character and landscape setting. The LEP was exhibited three times with the proposed R2 zone.

In response to the third exhibition of SSLEP2015, submissions were received which objected to the proposed zoning and requested that the land be zoned E4 Environmental Living on the basis that the R2 zoning would result in overdevelopment of the area, increase traffic and result in the loss of local amenity. A number of the submissions also noted that existing residents paid a premium to locate in an area where medium density development was not permitted.

In finalising the draft plan, Council considered the submissions received and resolved 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.

The following tables provide comparisons between the R2 and the E4 zones:

Table 1: Differences in aims and objectives between the zones

Zone	Intent of Zone	Zone Objectives
R2	This zone is intended to be applied to land where primarily low density housing is to be established or maintained. Typically the zone features detached dwelling houses, but it may be appropriate to include 'dual occupancy' or some 'multi-dwelling housing.' This is the lowest density urban residential zone and the most restrictive in terms of other permitted uses considered suitable. These are generally restricted to facilities or services that meet the day-to-day needs of residents.	• To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To protect and enhance existing vegetation and other natural features and encourage appropriate bushland restoration particularly along ridgelines and in areas of high visual significance. • To allow the subdivision of land only if the size of the resulting lots retains natural features and allows a sufficient area for development. • To ensure the single dwelling character, landscaped character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.
E4	This zone is generally intended for land with special environmental or scenic values, and accommodates low impact residential development.	• To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. • To ensure that residential development does not have an adverse effect on those values. • To allow for development that preserves and

Zone	Intent of Zone	Zone Objectives
E4		enhances the natural landscape setting of the locality. • To protect and restore trees, bushland and scenic values particularly along ridgelines and in other areas of high visual significance. • To ensure the character of the locality is not diminished by the cumulative impacts of development. • To minimise the risk to life, property and the environment by restricting the type or level and intensity of development on land that is subject to natural or man-made hazards. • To allow the subdivision of land only if the size of the resulting lots makes them capable of development that retains or restores natural features while allowing a sufficient area for development. • To share views between new and existing development and also from public space.

Table 2: Comparison of Development Controls in Subject Area (differences highlighted in red)

COMPARISON OF DEVELOPMENT CONTROLS IN SUBJECT AREA		
Control	Current: R2 Low Density Residential	Proposed: E4 Environmental Living
Height	8.5m	8.5m
FSR	0.55:1	0.55:1
Landscaped Area	35%	40%
Standard Lot Area (minimum)	550m ²	550m ²
Internal Lot Area (minimum)	700m ²	700m ²
Lot Width and Depth (minimum)	15 m/ 27m	18 m/ 27 m

Table 3: Comparison of Uses Permitted with Consent in Subject Area

COMPARISON OF USES PERMITTED WITH CONSENT IN SUBJECT AREA			
Use	Previous: SSLEP2006 Zone 2 – Environmental Housing (Scenic Quality)	Current: Zone R2 – Low Density Residential	Proposed: Zone E4 – Environmental Living
Bed and Breakfast Accommodation	Yes	Yes	Yes
Boarding Houses	No	Yes (mandated)	No
Boatsheds	Yes	NA	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	Yes
Dwelling Houses	Yes	Yes	Yes
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	Yes	Yes
Home Industries	Yes	Yes	Yes
Home Occupations	Yes	Yes	Yes
Multi dwelling Housing	No	Yes	No
Places of Public Worship	Yes	Yes	Yes
Recreation areas	Yes	Yes	Yes
Respite Day Care Centres	NA	Yes	No
Roads	Yes	Yes	Yes
Secondary Dwellings	Yes	Yes	Yes
Seniors Housing	No	Yes	No

At the Mayor's request, a survey has been conducted to seek the views of affected residents in relation to the zoning of the land. Three hundred and twenty seven (327) surveys were sent out - with 44% of residents responding. The vast majority of respondents expressed a preference for the area to be rezoned as E4 Environmental Living.

Over 80% of respondents expressed that they were not concerned that the E4 zone would not allow for dual occupancy and Torrens Title subdivision. A similar proportion of respondents expressed a preference for the higher landscape area requirement associated with the E4 zone. However, respondents expressed concerns about the reduced subdivision standard in the R2 zone - the E4 zone requires a wider lot width of 18m for subdivision, compared with the 15m requirement in the R2 zone. 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 the current density and streetscape, highlighting concerns such as potential increases in traffic, loss of parking and overdevelopment as being associated with the zoning of the area as R2 Low Density Residential. Respondents voiced the greatest concern about the permissibility of multi dwelling houses and boarding houses, followed by child care centres, group homes, seniors housing and respite day care centres in the R2 zone.

In response to the survey results, it is proposed to rezone the area from R2 Low Density Residential to E4 Environmentally Sensitive Land. Consequential map amendments are proposed to the Landscape Area Map to align the landscape area requirement for the area with that generally applied to land zoned E4 Environmental Living (40%).

2. 48-50 Clio Street, Sutherland (Lots 10 and 11DP 6641) (See Part 2 p5)

This is an outstanding issue from the finalisation of SSLEP2015.



Figure 2: Clio Street Precinct (48-50 Clio Street identified by red line)

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. There are 4 heritage properties on the western end of Clio Street and along Toronto Parade. The importance of these separate properties is increased as they are located in close proximity to each other.

In the exhibition of LEP1 and LEP2, the precinct was proposed to be zoned R3 Medium Density Residential, with a height of 9m and FSR of 0.7:1. In response to submissions, the eastern part of the precinct was rezoned to R4 High Density Residential with height 20m and FSR 1.5:1 in draft LEP3. The sites in the western part fronting Clio Street and Toronto Parade were retained as R3 Medium Density, with height of 9m and FSR 0.55:1 to provide a better setting for the heritage items in the precinct, and ensure that they are not 'dwarfed' by any adjoining buildings.

In response to submissions to 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 subject properties are immediately adjacent to a heritage listed building at 52 Clio St. The site is presently zoned R3 and subject to a 9m height limit and a FSR of 0.7:1.

Consideration of the request identified that 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 was 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 will allow a transition in scale from the maximum allowable height of 20m to the east to the existing one storey heritage houses.

Council considered that the request had merit, and supported a rezoning to R4 High Density Residential, with a maximum permissible height limit of 13m and FSR of 1:1. Council resolved that this change would be included in a future amendment to the plan.

As there is not minimum lot size specified in SSLEP2015 for land zoned R4, a consequential amendment to the Minimum Lot Size Map is proposed to remove the lots from the map.

3. 7 Preston Avenue, Engadine (Lot 5 DP 232490) (See Part 2 p7)

This is an outstanding issue from the finalisation of SSLEP2015.

The site located at the southern edge of Engadine Centre which is zoned B3 Commercial Core. The Engadine Hotel car park adjoins the site to the north and west. A residential flat building adjoins the site to the south. A mixed use development (within the B3 zone) is located opposite on Preston Avenue. The site is 556 m² in area with a frontage of 15m to Preston Avenue. It is currently is zoned R4 High Density Residential Zone, with a maximum height of 16m, FSR of 1.2:1 and landscaped area of 30%.



Figure 3: Location of 7 Preston Avenue, Engadine (outlined in black)

A submission to the third exhibition of DSSLEP2015 requested that the site be rezoned from R4 High Density Residential to the B3 Commercial Core zone, as the size and dimensions of the property mean it is unable to develop as residential units.

Increased development on the land is suitable if appropriately designed and setback to maintain solar access to the adjoining residential land to the south. However, the small lot size will restrict its development potential for residential flats and as such redevelopment is unlikely to be achieved. The property is effectively isolated if it retains the R4 zoning.

Redevelopment of the adjoining at-grade Engadine Hotel car park can be expected at some future time. Incorporating the site into the B3 zone would facilitate its redevelopment as part of a larger, amalgamated site.

Council considered that the request had merit, and supported a rezoning to B3 Commercial Core zone, with a corresponding increase in the maximum permissible building height from 16m to 20m, FSR from 1.2:1 to 2:1 and removal of the landscape area requirement. Council resolved that this change would be included in a future amendment to the plan.

The B3 zone is an open business zone and affords the land greater permissibility than the R4 High Density Residential zoning. Applying the same controls as that affecting the adjoining B3 land, the subject site would have an FSR increase from 1.2:1 to 2:1 and a maximum building height increase from 16m to 20m. There is no landscaped area requirement in the B3 zone.

Given this site directly adjoins a purely residential development, should the land be redeveloped, there is potential for amenity impacts on the neighbouring residential land to the south. To ameliorate any amenity impacts from a potential redevelopment on the subject site, it is proposed to include a specific clause in the DCP to require a 3m ground floor setback to the adjoining residential land to the south. This setback will help maintain amenity to the adjoining

land and allow area for sufficient landscaping. Any development on the land for residential flats above 20m would need to be built in accordance with the provisions of SEPP 65 which requires greater upper level setbacks and separation between the adjoining dwellings. These controls would help address potential amenity impacts. Amenity impacts would also be further considered during the assessment of any development application on the site.

4. Rezoning of Sydney Water Properties (see Part 2 p9)

This is an outstanding issue from Sydney Water's submission to the third exhibition of DSSLEP2015.

During the preparation of SSLEP2015, a submission from Sydney Water was received in April 2013 indicating the authority's preferred zoning for each category of asset types forming part of their infrastructure network. As far as possible, SSLEP2015 aligns with the zones requested in this submission.

In response to the third exhibition of the draft LEP, Sydney Water made a second submission (October 2014). This submission indicated a change in the authority's position in relation to the zoning of wastewater pumping stations and water pumping stations. SP2 Infrastructure is Sydney Water's preferred zone for its wastewater pumping stations and water pumping stations assets as it reflects the existing use of the land. The request affects 77 lots, which are currently zoned the same as the surrounding land. The 4 lots categorised as 'water pumping stations' are requested to be rezoned to SP2 Infrastructure (Sewerage System) and the 73 lots categorised as 'wastewater pumping stations' are requested to be rezoned to SP2 Infrastructure (Water Supply). The requested zone for these assets had never been publicly exhibited. Consequently, it was considered appropriate for the request to be pursued in an amendment subsequent to the making of SSLEP2015.

Sydney Water can undertake its development and works, and operating and maintenance activities on any land zoning under the State Environmental Planning Policy (Infrastructure) 2007. The zoning of the land will have no impact on the permissibility of Sydney Water's activities. Therefore, the amendment proposes to amend the zoning of the lots to SP2 Infrastructure (Water Supply) or SP2 Infrastructure (Sewerage System) in accordance with the request from Sydney Water for the zone to reflect the actual use of the land. A listing of the affected lots, the current zone and the proposed zoning is attached in Appendix 3.

As land zoned SP2 does not generally have any associated development standards in SSLEP2015, consequential changes to the following maps are proposed to remove the mapped development standards from the land:

- Height of Building Map
- Floor Space Ratio Map
- Landscape Area Map
- Lot Size Map

5. Building Height for Schools (see Part 2 p71)

This is an outstanding issue from the finalisation of SSLEP2015.

SSLEP2015 allows maximum building height of 8.5m or 9m for most schools; a height limit consistent with the adjoining low and medium density residential areas. The exception being

those schools in the town centres where height limits are in keeping with those proposed for surrounding development.

During the third exhibition of DSSLEP2015, submissions objected to the proposed heights for school sites in the low and medium density residential areas. The submissions maintained that the 8.5m or 9m height control is appropriate for domestic residential buildings, but not for contemporary educational buildings where floor to ceiling heights of about 3.6m are necessary.

State Environmental Planning Policy (Infrastructure) 2009 (Infrastructure SEPP) (Clause 31A) sets a 12m height limit for complying development of existing government and non-government schools. The complying development provisions in the SEPP include controls for setbacks and standards to limit overshadowing of adjacent residential properties. It can be reasonably expected that most development for educational establishments will be undertaken utilising these provisions. The SEPP height control (12m) overrides any lesser height control specified in the LEP. Therefore having a lower maximum height in SSLEP2015 has no effect.

It is proposed to increase the maximum permissible height limit to 12 m for all schools in Sutherland Shire on land zoned SP2 Infrastructure (Educational Establishment) and SP2 Infrastructure (Educational Establishment/ Place of Public Worship) where the lots are located adjacent to low and medium density residential areas and the height limit shown on the SSLEP2015 Height Map is less than 12m (except those in the town centres which already have a maximum permissible building height greater than 12m). This will ensure consistency between the LEP and the maximum permissible height under the Infrastructure SEPP. A listing of the schools and lots affected is provided as Appendix 4 to this planning proposal.

A consequential amendment to the map legend is required to include a 12m height category.

6. Inclusion of Deferred Land at 874-876 Old Princes Highway, Sutherland (Lots 1051, 1086 and 1120 DP 752064) (see Part 2 p136)



Figure 4: 874-876 Old Princes Highway, Sutherland

874-876 Old Princes Highway, Sutherland is located near Waratah Park, Sutherland and includes the PCYC site and some portions of council land on the northern side of the Sutherland Leisure Centre. The land is deferred from SSLEP2015. This land is zoned Zone 15 – Private Recreation under SSLEP2006.

During the preparation of SSLEP2015 a concept proposal was received for a large scale development including residential units, a residential aged care facility and new facilities for Sylvanvale for this land. Council staff did not support the scale of the proposed development, finding the proposed density excessive and out of context in this setting. There was also significant community opposition to the perceived alienation of Waratah Park from public ownership and use. Public submissions requested that the sites be retained for open space. Council resolved to defer the land from the plan and invited the proponent to proceed with a stand-alone planning proposal for the site.

Deferring the land from SSLEP2015 was a short term solution in order to enable the submission and full evaluation of a planning proposal. It is now evident that a planning proposal is not likely to be submitted for the site in the near future. Consequently, it is proposed that the site be brought into SSLEP2015, and be zoned RE2 Private Recreation zone. This zoning is the nearest equivalent to the Zone 15 Private Recreation zone which applied to the land under SSLEP 2006 (the current zone applicable to the land).

Sites zoned RE2 generally have a floor space ratio of 0.45:1 and a maximum building height of 9m. Current development on the land would comply with these limitations and consequently it is recommended that these standards apply. The RE2 Private Recreation zone and associated development standards would not preclude submission of a stand-alone planning proposal in the future.

7. Rezoning of Small Shops in Low Density Residential Areas (see Part 2 p141)

During the preparation of SSLEP2015, three submissions were received requesting the rezoning of specific small shops to a zone which reflects the actual use of the sites and avoids reliance on existing use rights. Council resolved that a comprehensive review of small shops in the R2 zone be undertaken.

A review examining the groups of small shops specifically identified in the submissions as well as additional small shops located in the R2 and R3 zones has been conducted. The properties considered are identified in Appendix 5.

The review found that the shops/ groups of shops are generally older, small scale premises occupied by speciality shops. While 'neighbourhood shops' are permissible in the R2 and R3 zones, such speciality shops do not meet the criteria to be classified as 'neighbourhood shops' and are consequently not permissible in the zone. The existing businesses generally rely on existing use rights to operate. For each DA e.g. to change uses or redevelop the site for commercial purposes, existing use rights need to be established, which is a costly and time consuming barrier to development. It is, therefore, proposed to rezone the above properties to B1 Neighbourhood Centre to make commercial uses permissible on the land.

The main consequence of rezoning the subject sites to B1 Neighbourhood Centre is that the existing use of the sites would be legitimised and a greater range of uses become permissible on the land, including business premises, neighbourhood shops and shop top housing. The B1 zone is an 'open' zone, which means that all uses not expressly prohibited are permitted. Many retail and commercial uses could be established in the B1 zone, for example food and drink premises including take away food premises, restaurants or cafes. Because B1 is an open zone, 100% residential uses would also be permitted, such as dwelling houses and multi dwelling development (i.e. townhouses).

For the land owner, the greater range of uses possible in zone B1 is of benefit, as is removing the necessity to use 'existing use' rights to change the use of the commercial premises. The flexibility to change use and possibly to expand afforded by the B1 zone would make the business premises easier to lease to a greater range of businesses or allow for residential development in the future if businesses failed to thrive. However, it does not guarantee the viability of shops in the zone or suggest that redevelopment for residential purposes will occur as many lots are small and narrow and therefore require site amalgamation.

For the landowner, rates should be unaffected by the zone change, as rates are based on the use of the land and not the zone. However, if the value of the land increases or the use of the land were to change from business to residential, or vice versa, rates will be affected.

While rezoning to B1 has advantages for the land owner, the future residential amenity of neighbours may be affected by the rezoning. While neighbours are living with the existing shops, which have in many cases been there for a long time, an intensification of development may not be a welcome change. Most of the existing shops were built prior to 1980 and may not use the full extent of the 0.55:1 floor space ratio and height of 8.5m which applies to the land currently. Maintaining the existing FSR and height controls will protect the amenity of surrounding residential uses, by limiting any development to the same scale as is currently permissible. This is unlikely to provide a trigger for extensive commercial/ residential redevelopment, although small extensions could occur depending on the existing floor space ratio. Applying a B1 zone means that no landscaped area requirement or minimum lot size for subdivision would be appropriate for the land. These controls are therefore proposed to be removed from the land.

In considering the above zoning issues, an inconsistency in the LEP objectives for the B1 zone has been noted. One of the zone objectives currently requires active uses at street level, as follows:

'To allow for residential accommodation while maintaining active retail, business or non residential land uses at street level. '

This objective, while desirable in the case of a mixed use development with a nil front setback in a commercial zone, could be at odds with some of the permissible uses in the Zone B1 zone. To be consistent with the flexibility of use allowed in the zone, it is considered appropriate to remove this objective from the zone objectives.

8. 23, 27, 29 and 31 Nirimba Crescent, Heathcote (Lots 60, 62, 63 and 64 DP 31803) (see Part 2 p167)



Figure 5: Nirimba Crescent, Heathcote (subject properties outlined in red)

Nirimba Crescent is a quiet residential street, dominated by single storey dwellings and zoned E4 Environmental Living. John Paul Village (Lot 10 DP1110571, No. 15 The Avenue) is zoned SP1 Special Activities (Seniors Housing). It has an 8.5m height limit consistent with surrounding properties, but no FSR limitation. Development in excess of the 8.5m height relies on the provisions of SEPP Seniors Housing to exceed the LEP height controls. This is consistent with other sites zoned SP1. The present development of Seniors Housing is not consistent with the surrounding E4 Environmental Living zoning because of its density and scale. However the use has been in existence for many years and the need for such housing continues to grow.

Council recently considered a development application for alterations and additions to John Paul Village with consent granted by the JRPP. The approved works consist of alterations and additions to the residential care precinct of John Paul Village including the construction of a new three storey facility with basement car parking (DA14/0823).

A request has been received on behalf of John Paul Village, Heathcote to rezone 4 adjacent properties from E4 Environmental Living to Special Activities SP1 (Seniors Housing) and to amend the Additional Permitted Uses Schedule 1 to include the subject properties. This would be consistent with the zoning of John Paul Village.

The four lots are owned by Trustees of Catholic Aged Care Sydney. No.31 Nirimba Crescent is currently vacant and is being used as an informal car park. No. 23, 27 and 29 Nirimba Crescent contain single storey older style dwellings. Adjacent to No. 23 Nirimba Crescent is a small

dwelling forming part of John Paul Village and driveway access to the village. The lots have a FSR of 0.55:1 and maximum building height of 8.5m.

Consultants on behalf of John Paul Village have advised that, at this time, there are no long term plans for Nos. 27, 29 and 31. It is intended to demolish the two existing dwellings and provide additional off street parking. This would assist in accommodating overspill parking, particularly during the upcoming construction. There are no current plans for the use of 23 Nirimba Crescent.

The SP1 zone only permits roads, the use in red lettering (in this case Seniors Housing), and uses incidental or ancillary to that purpose. The application of the SP1 zoning would permit the expansion of John Paul Village to the four identified sites and potentially further intensify development at the village.

As there is no FSR associated with the SP1 zoning, development intensity is subject to a merit based test through the development assessment process. The current plan for the land is to cater for overflow parking. This will lessen potential amenity impacts upon residents in surrounding streets, particularly during the upcoming construction phase. As such the rezoning will be of some benefit to the local community.

The four subject properties are fully or partially bush fire prone, with the risk compounded due to the restricted access to East Heathcote. Seniors Housing is prohibited in the E4 zone, as such developments are generally considered incompatible with the environmentally sensitive nature of these lands and/or the bushfire risk. Seniors housing is particularly vulnerable to bushfire risk because occupants generally require assistance to evacuate which redirects the limited number of emergency workers away from fire fighting activities. However, the Rural Fire Service did not raise objection to the recent expansion of the care facility.

As only four lots in Nirimba Crescent are proposed to be rezoned, this creates an anomaly in the zoning pattern. The zoning pattern (and subsequent development) may increase the propensity for adverse environmental impacts on adjacent low density residential dwellings. However, if the intensity of development on the land to be rezoned remains low, as is proposed, the relationship between adjoining land would be acceptable.

There is a minor vehicular access point to John Paul Village adjacent to the park (No.25). The predominant access point to the village is largely off Wilson Parade and a SP1 zoning is, therefore, unlikely to add additional traffic to Nirimba Crescent.

Should future development be of a scale and character that is greater than surrounding development, there is potential for adverse amenity impacts to adjoining residential dwellings. However, the rezoning of the land at this stage does not preclude a good future outcome should the land be integrated into the development of the village proper.

Consistent with the SP1 zoning, consequential changes to the following maps are required to remove the FSR applied to the land.

9. 145 Woronora Road, Engadine (Lot B DP35768) (See Part 2 p168)



Figure 6: 145 Woronora Road, Engadine (marked by red boundary)

The Bullfrog Childcare Centre is a successful and long established business located adjacent to Engadine West Public School. The space used for the childcare centre is at the rear of the site behind a single dwelling house.

The site is zoned E4 Environmental Living under SSLEP2015. Childcare centres have been excluded as a permissible use from all areas that are subject to risk of bushfire or which require evacuation during bushfire events. This is a sensible strategy because the presence of childcare centres exacerbates the complexity of evacuation during a bushfire. Children must be safely evacuated while parents try and move towards the fire front to get to their children. Such situations have proven very difficult for emergency services to manage in past bushfire events. Childcare centres are permissible in the R2 zone which is on the opposite side of Woronora Road. However, the zoning boundary has been based on bushfire risk.

Council received representations from the owners of 145 Woronora Road, Engadine seeking a rezoning as they wish to expand their business. The owners can intensify the use of the site by relying on existing use rights. Existing use rights legislation allows a lawfully commenced use to continue operating and expand where a planning instrument subsequently prohibits the use. However, established case law has determined that it is only the land actually used for the existing use that benefits from being able to be used contrary to the zoning of the land. This means that the owner cannot extend the centre to the front portion of the site that currently contains the dwelling house.

Council previously considered this matter during the preparation of SSLEP2015 and resolved to add the property to Schedule 1 to allow a child care centre as an additional permitted use on the land. However, it was one of a number of properties that were removed from the Schedule by Parliamentary Counsel prior to the making of the plan. It is officers' understanding that Parliamentary Counsel's Office took the view that Council had over-used Schedule 1 in preference to the use of a zone where the use would be permissible.

Engadine West Public School is located next door to the subject land and is zoned SP2 Infrastructure (Educational Establishment). It is proposed to rezone the subject land to SP2 Infrastructure (Child Care Centre) as an expansion of the adjoining zone.

10. Provisions to allow signage on bus shelters and seats to be exempt development

Council has a contract with Adshel (a private company) to supply, install and maintain bus shelters (102 with advertising and 49 without non-advertising) for a period of 15 years. In addition, Adshel cleans approximately 25 Council-owned bus shelters. Under the contract Council receives a minimum revenue share of approximately \$7,000 per advertising shelter per annum, amounting to approximately \$714,000 per annum. The cost of the maintenance is covered by the advertising revenue.

Should Council request the provision of any additional non-advertising bus shelters, Council must purchase the shelters and pay the cost of ongoing maintenance and cleaning. This cost is approximately \$22,000 per shelter (supplied and installed) and a further \$1,200 per shelter per annum for cleaning and maintenance.

Most of the advertisements on the bus shelters are currently illuminated static signs. Two shelters have illuminated scrolling signs with 2 advertisements whereby each static poster is displayed for a few seconds. It is likely that the advertisements on bus shelters will be converted to LED television type screens in the near future.

Bus shelters with advertising are limited to bus routes on high volume roads where they have maximum visibility. Council nominated the locations for the shelters in consultation with the bus operator and Adshel. Advertising signs when confined to bus shelters constructed by or on behalf of Council is relatively inoffensive in its visual impact on the streetscape. This is because the size and style of the advertising signs are restricted by the uniform design of bus shelters, and the frequency of bus stops with shelters is limited.

Bus shelters and advertising on bus shelters is regulated. The construction of bus shelters by or on behalf of a public authority is exempt development under the Infrastructure SEPP (Clause 97), but the clause specifically excludes any commercial advertising on them. RMS does not permit the use of moving images or flashing advertisements on public roads. Advertising is prohibited in residential and open space zones under SEPP 64 - Advertising and Signage. This prevents the undesirable consequence of a proliferation of advertising signage.

Under SSLEP2015, advertising on bus shelters is a type of 'signage', which is defined as follows:

"signage means any sign, notice, device, representation or advertisement that advertises or

promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,*
 - (b) a building identification sign,*
 - (c) a business identification sign,*
- but does not include a traffic sign or traffic control facilities.”*

Under SSLEP2015, signage (and therefore advertising on bus shelters) is permitted in: B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor, B7 Business Park, IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, and IN4 Working Waterfront. Business and industrial zones on busy roads are appropriate for advertising signs and are locations where advertisers would choose to locate advertising signs on bus shelters.

However, the limited permissibility of advertising on bus shelters in other zones means that Council will forgo income in the future, and incur costs of constructing bus shelters without advertising when a new bus shelter is required.

Council would have maximum flexibility to allow for advertising on bus shelters if the use is identified as exempt development in SSLEP2015, as was the case under SSLEP2006. Draft Sutherland Shire Local Environmental Plan 2015, as exhibited and referred to NSW Planning & Environment, contained a provision to allow ‘advertising signs on bus shelters and seats’ as exempt development. This provision was carried over from SSLEP2006 at the request of the Property Services Unit. However, it was not included in the LEP when it was made. Property Services has requested that a provision permitting advertising as exempt development included in the LEP. There are precedents in other council areas where bus shelter advertising signage is exempt development e.g. Canada Bay LEP2013, Fairfield LEP2013 and Willoughby LEP2012.

To permit advertising on bus shelters, this will require Schedule 2 Exempt Development of SSLEP2015 to be amended by the addition of a new provision. The following is proposed:

Signage on bus shelters and seats

- (1) Must be located on or in a bus shelter or seat*
- (2) Must not flash*
- (3) Must have the consent in writing of the owner of the land on which the advertising is to be located.*

This is a simplification of the wording previously referred to the Department and is similar to the wording of clauses previously accepted for other council areas' LEPs.

11. Issues relating to Dual Occupancy Development

SSLEP2015 includes a series of provisions specific to dual occupancy development. These aim to facilitate dual occupancy development and permit the subdivision of dual occupancy as means of providing housing choice, by making this form of development permissible in all residential zones. Dual occupancy development is more restricted in the E4 and E3 zones.

As SSLEP2015 has been implemented a number of issues with the drafting of the plan have been identified which frustrate these intentions. In order to resolve these issues, this planning proposal seeks to address them.

a. Permissibility of semi-detached dwellings (subdivided dual occupancy)

SSLEP2015 permits the construction of attached dual occupancy developments (side by side development) in the R2, R3, and R4 Residential zones.

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 can be defined as a semi-detached dwelling under SSLEP2015 as a semi-detached dwelling means '*a dwelling that is on its own lot of land and is attached to only one other dwelling*'. However, semi-detached dwellings are not permissible uses in the R2, R3 and R4 zones. Subdivision of an attached dual occupancy in these zones, therefore, results in a form of development which is not permitted under the land use table.

The design outcome of semi-detached dwellings development is the same as an attached dual occupancy which is subdivided under Torrens Title as illustrated in the figure below.

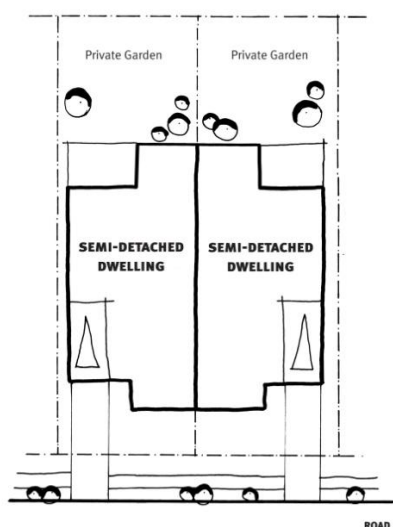


Figure 7: Indicative Semi-Detached Dwelling (source – Camden Growth Centres DCP Glossary, DPI)

Semi-detached dwellings are a relatively common form of development within the Menai Town Centre as a result of the minimum density control for residential development which applied during its development in the 1990s. 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.

To ensure consistency with the intent of the LEP to facilitate dual occupancy and subdivision of dual occupancy, it is proposed to add semi-detached dwellings as a permissible form of development in R2, R3 and R4 Residential zones.

Both dual occupancy development and its Torrens Title subdivision are permissible in the B1 Neighbourhood Centre zone. As this zone is a low intensity, small scale business zone, often located within residential neighbourhoods, permitting semi-detached dwellings in the B1 zone is also considered appropriate. This is already permissible as the B1 zone is an open zone.

In contrast, in the B2 zone lower density forms of residential development including dwelling houses and dual occupancies are explicitly 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. In contrast, semi-detached dwellings result in small lot subdivisions and could potentially lead to further fragmentation of the subdivision pattern in the urban centres. In response, and consistent with the prohibition on dual occupancy development in the zone, it is proposed to amend the land use table for the B2 zone to prohibit semi-detached dwellings.

b. Subdivision of dual occupancy in the E3 and E4 zones

SSLEP2015 aims to limit increased density of development in the most environmentally sensitive parts of the Shire – the E3 and E4 zones. Consequently, there are limitations on dual occupancy development in these zones.

In the E4 Environmental Living zone dual occupancies are only permitted where mapped (which excludes bush fire prone land). A minimum lot size applies for the construction of a dual occupancy. For subdivision of dual occupancies in the zone, the original lot must meet the minimum lot size for Strata Title subdivision, while for Torrens Title subdivision each resultant lot must meet minimum lot sizes.

In the E3 Environmental Management zone, dual occupancy development is only permissible where mapped and is restricted to a limited number of sites with existing lawfully constructed dwellings located in the foreshore area (waterfront cottages). No minimum lot size applies for construction of a dual occupancy, but for subdivision (Torrens title and Strata title) of dual occupancies in the zone, each resultant lot must meet minimum lot sizes.

During the exhibition of the draft LEP, submissions were received from the owners of existing dual occupancies in the E3 and E4 zones. These submissions requested that strata subdivision be made permissible for the existing dual occupancies in these zones. In support of the proposals, the submissions noted that the existing dual occupancies had been approved under previous planning instruments and add to housing supply in the Shire.

The subdivision of dual occupancy development was previously permissible. However, SSLEP2000 prohibited the Torrens Title subdivision of dual occupancy development (except for 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. SSLEP2006 prohibited all forms of subdivision of dual occupancy development in the foreshore zones, the equivalent zones to E3 and E4.

Where dual occupancies are already in existence in the E3 and E4 zones, subdivision of dual occupancies in these zones would have no impacts on the environmental qualities of the land.

The subdivision of existing dual occupancies is largely a 'paper subdivision' with no associated building works.

In response to the submissions previously received, it is proposed that an enabling provision be included in the LEP to permit the strata subdivision of existing dual occupancies in the E3 and E4 zone, even where they are located on lots smaller than the minimum lot size required for subdivision.

The proposed provisions to be inserted after Clause 4.1B is:

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.

c. Provisions to permit the retention of both existing dwellings in the E3 zone

Waterfront cottages are a traditional element of Sutherland's land/water interface. SSLEP2015 softens Council's previous policy on the removal of waterfront cottages and facilitates their retention in appropriate circumstances. This is achieved through Clause 27 of the Additional Permitted Uses Schedule which makes provision for dual occupancy development in mapped areas of the E3 zone where one of the dwellings is an existing waterfront cottage within the foreshore area.

The clause reads 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 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.*

As drafted Subclause (2) makes the erection of a dual occupancy permissible, thus allowing consent to be granted for a new dwelling above the foreshore building line and the retention of an existing dwelling within the foreshore area, provided the conditions in Clause 27 are met.

However, this does not address Council's intention to make the retention of two existing dwellings - one dwelling above the foreshore building line (FBL) and one dwelling below the FBL, where Council had required the removal of the foreshore dwelling as a condition of development consent – permissible by granting subsequent development consent for dual occupancy, provided the other conditions in the clause are met. Such consent is not possible as the development does not involve 'the erection of a dual occupancy' – the two dwellings are already in existence.

To address this drafting issue, it is proposed to amend the provision to remove the reference to the erection of a dual occupancy. The proposed amended provision is:

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.*

d. Height limitation for dual occupancies in R3

For dual occupancies in the R2, R3 and R4 zone where the dwellings are positioned one behind the other on the lot, the LEP restricts the rear dwelling to a maximum height of 5.4m i.e. single storey. The intention of this is to protect the amenity of the backyards of adjacent lots.

Concern was raised during the final exhibition of the draft LEP that the R3 Medium Density Residential Zone permits multi dwelling development with 9m height limit across the whole of a lot, Clause 4.3 (2C) limits a rear dual occupancy dwelling to 5.4m in height. When considered with the DCP controls which require a 4m rear setback for multi dwelling development in the zone, a three storey town house style development in the rear of a site in the R3 zone is a likely outcome. The height limitation for dual occupancy development is therefore incongruous. It is proposed to remove the limitation from the R3 zone by amending Clause 4.3 (2C) to delete the reference to the R3 Medium Density Residential zone as follows:

- (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.*

12. 441 Princes Highway, Kareela (Part of Lot 7013 DP1059414) (see Part 2 p168)

Sutherland Shire has been identified by the NSW Environment Protection Authority (EPA) as a priority area to establish a Community Recycling Centre (CRC) as part of its target to create a state-wide network of services consisting of 86 centres. A CRC is a facility where residents drop off selected common household problem wastes, such as paints, gas bottles, fire extinguishers, motor and cooking oils, car and household batteries, florescent tubes and globes, and smoke detectors. The wastes collected are either sent off to recycling centres for treatment and resale, or can be treated on-site for reuse.

A CRC will provide greater opportunity for Shire residents to dispose of their household waste appropriately without being limited to the twice yearly event that is currently provided. The demand on the current collection days is so great that excessive traffic queues are generated. Providing a full time service will help avoid these traffic problems.

After exploring the suitability of various parcels of Council owned land for a CRC, Council's Engineering Operations Group has identified the former sullage depot at 441 Princes Highway, Kareela (off Bates Drive) as a suitable potential location. The site is centrally situated with the local government area, has some existing infrastructure and a site layout conducive to a drop-off facility. The proposed development includes a large undercover material drop-off area, the upgrading of existing facilities, improvements to vehicle access and other works. Under the Standard Instrument definitions such a facility would be defined as a waste management facility.

The site is Crown Land, although Council has responsibility for the care, control and management of the site and the rest of 441 Princes Highway, which is known as the Bates Drive Oval. The site has an area of approximately 5 360m² and vehicular access is from Bates Drive. The site is informally used as a depot at present. The site and adjoining Bates Drive Oval (developed for sports fields) are currently zoned RE1 Public Recreation. The current zoning of the land prohibits the proposed development.



Figure 9: Location of 441 Princes Highway, Kareela (outlined in red)

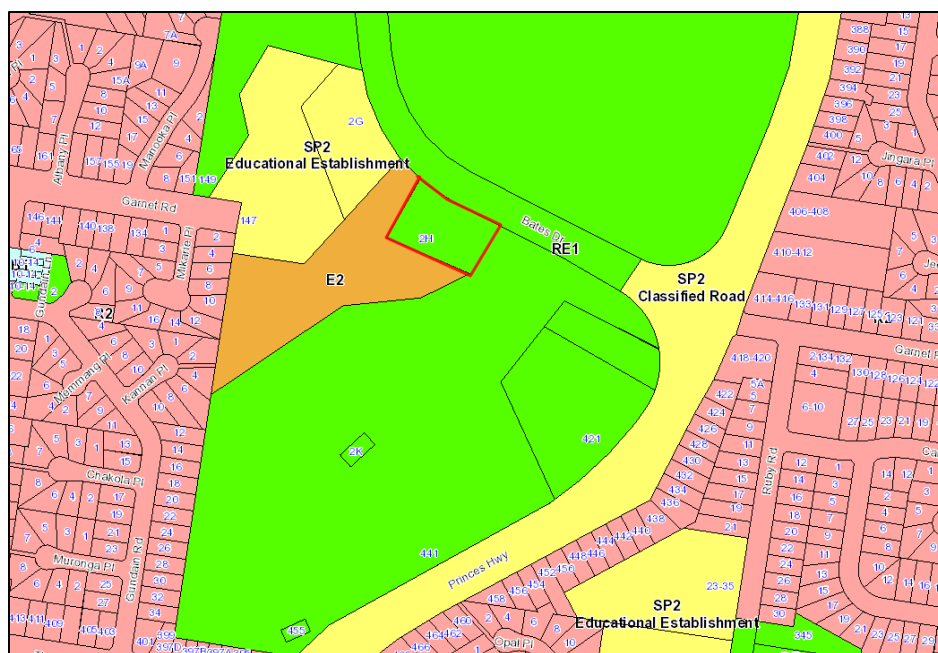


Figure 10: Zoning of land surrounding 441 Princes Highway, Kareela (outlined in red)

An area of bushland zoned E2 Environmental Conservation is located to the west and south west of the subject site. This land was formerly the home of the flying fox colony that has now been relocated. Bates Drive Public School and Sylvanvale School adjoin the E2 land further to the north and northwest.

The proposed rezoning of the site and the proposed development raise a number of planning issues. The site is identified as class 5 acid sulfate soils land and environmentally sensitive land – terrestrial biodiversity. Although these requirements are considered to have minimal impact on the rezoning of the site, appropriate measures will need to be adopted at the DA stage to satisfy the requirements set out in the relevant clauses of SSLEP2015.

Also, even though the adjoining E2 and RE1 land provide open space to function as a buffer so assisting to reduce the potential adverse impacts to the surrounding residential areas, the proposed development may have some impacts on the adjoining land. The interface with the E2 land to the west is particularly sensitive. However, there is nothing to suggest that the proposed development would be incompatible with the conservation value of this land. The topography of the locality is such that the site sits approximately 14 m below the level of the adjacent playing fields. This change in level and the existing vegetation within the reserve is such that the proposed use will not impact upon the recreational value of the playing fields.

It is proposed to rezone the land to SP2 Infrastructure with the specified use of 'Waste and Resource Management Facility' to provide an opportunity for a CRC to be established on the site. The definition of a 'Waste and Resource Management Facility' will permit a resource recovery facility; a waste disposal facility; a waste or resource transfer station; or, a combination of the three. This will give control over the long term use and development of the land, and the likely impact of future proposed development.

Lake Macquarie Council and Port Stephens Council have also adopted the zone SP2 for their community recycling centre developed under the same NSW EPA initiative.

13. Part of Carol Avenue Reserve, Jannali (Part of Lot 200 DP 1081859) (see Part 2 p169)



Figure 11: Carol Avenue Reserve (marked in red)

The subject site at Carol Avenue Reserve, Jannali has been identified as a potential location for a potential skateboard park. It is located on the north-west corner of the intersection of Carol Avenue and Sutherland Road, Jannali and is also known as 159R Sutherland Road, Jannali.

The site is easily accessible from two street frontages. The site is used for passive recreation such as informal ball games. A number of schools are in the vicinity, including Jannali High School, and Jannali Public School. Immediately to the north of the subject site are netball courts, and beyond is a medium density residential development. Land to the south is zoned E4 Environmental Living.

The site forms part of the Burnum Burnum Sanctuary. Burnum Burnum Sanctuary is a bushland reserve with walking tracks which is bisected north to south by Tudar Road, and extends to the Woronora River to the west. Burnum Burnum Sanctuary, which is owned by the State of NSW, was originally dedicated in 1886, and has been under Sutherland Shire Council's care control and management since 1907. Most of this reserve, which is located to the west of the subject site, is sloping, heavily vegetated with native bushland, and would be difficult to develop without destroying its natural qualities. It is zoned E2 Environmental Conservation. The main aim of E2 Environmental Conservation zone is to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. Limiting uses on land zoned E2 ensures it remains in its most natural state.

Following the first public exhibition of draft SSDCP2015, Council undertook a review of this approach, considered existing land uses, subdivision patterns and the potential of redundant industrial sites for redevelopment. For industrially zoned land on the Kurnell Peninsula, the review also considered the location of threatened ecological communities in relation to undeveloped sites.

In general, it was considered that, with the exception of land zoned IN4 Working Waterfront and specific sites on the Kurnell Peninsula, the minimum lot sizes proposed in draft SSDCP2015 were appropriate to ensure subdivided sites are large enough to meet the needs of a range of industrial and employment uses. To prevent excessive fragmentation of the key IN4 Working Waterfront land and the former Kurnell Refinery and Carbon Black sites, Council resolved to apply a minimum lot size of 1 ha, 5ha and 4 ha respectively to this land. For the land zoned IN1 and IN2 in Kurnell where there is existing small lot subdivision, a minimum lot size of 1 000 m² is to be retained, while a minimum lot size of 2 500 m² is proposed for the remaining land zoned IN1.

However, a development control plan does not have the legislative weight of a LEP. To protect the strategic employment sites from excessive fragmentation by subdivision into small lots, it is proposed that minimum lot sizes for industrial and employment zones are included in SSLEP2015. This will require amendment to the Minimum Lot Size Map.

The following tables set out the current approach and the proposed changes (in red).

SSLEP2015 Zone	Minimum lot size for subdivision	
	Current - Draft DCP2015	Proposed - SSLEP2015 Amendment
IN1 General Industrial	1000m ²	1000m ²
IN2 Light Industrial	1000m ²	1000m ²
IN4 Working Waterfront	Not specified	1 hectare
B5 Business Development	1000m ²	1000m ²
B6 Enterprise Corridor	1000m ²	1000m ²

Table 4: Comparison of minimum lot sizes for subdivision on industrial and business zoned land – excluding Kurnell Industrial Precinct

Zone	Current - draft SSDCP2015		Proposed - SSLEP2015
	Minimum Lot size in draft DCP2015 - as mapped	Minimum lot size for sites which rely on Captain Cook Drive for sole access	
IN1 General Industrial	2500m ²	4 ha	See map below
IN2 Light Industrial	1000m ²		1000m ²
IN3 Heavy Industrial	2500m ²	NA	5 ha

Table 5: Comparison of minimum lot sizes for subdivision on industrial land - Kurnell Industrial Precinct

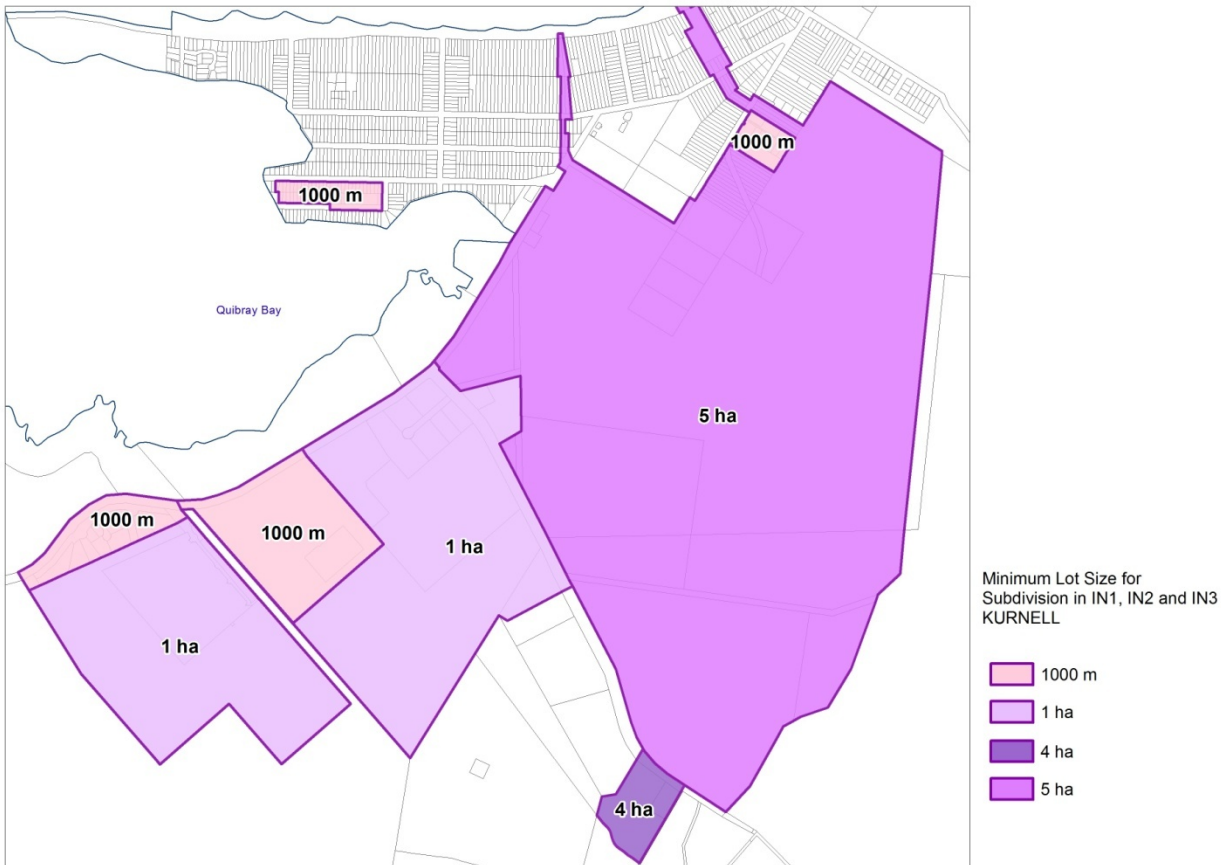


Figure 13: Proposed Minimum Lot Size for Subdivision IN1, IN2 and IN3 Kurnell

15. Heritage Amendments

The Sutherland Shire Community Based Heritage Review considered built heritage items, trees, landscapes and landforms listed in the LEP. The review identified 56 items which were found to be below the threshold for inclusion in the LEP as heritage items. Based on this assessment, these items are proposed to be removed from Schedule 5 Environmental Heritage.

The items are listed below:

1. **Barden Ridge**, Woronora River – 0301 – Shackels Beach
2. **Bonnet Bay**, 185-195 Washington Drive – 0401 – Sandstone formations
3. **Bundeena**, Liverpool Street – 0505 - Remnant canopy, including *Angophora costata* (Smooth-barked Apple or Sydney Red Gum), *Eucalyptus robusta* (Swamp Mahogany), *Banksia integrifolia* (Coast Banksia)
4. **Bundeena**, Thompson Street – 0511 - Median plantings, including *Angophora costata* (Smooth-barked Apple or Sydney Red Gum)
5. **Burraneer**, Fronting 20–34 Bulls Road – 0603 - Beach on western side of Gunnamatta Bay

6. **Burraneer**, Burraneer Bay Road – 0605 - Street trees, consisting of *Eucalyptus paniculata* (Grey Ironbark)
7. **Burraneer**, Dolans Road – 0607 - Single tree, *Angophora costata* (Smooth-barked Apple or Sydney Red Gum)
8. **Burraneer**, Woolooware Road – 0624 - Street trees
9. **Burraneer**, Dolans Road – 4106 - 2 trees, *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
10. **Caringbah**, Burraneer Bay Road – 0803 - 2 street trees
11. **Caringbah**, Caringbah Road – 0804 - Street trees, including *Eucalyptus microcorys* (Tallow Wood)
12. **Caringbah**, Caringbah Road – 0805 - Street trees (possibly remnant canopy), consisting of *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
13. **Caringbah South**, Eastern side of Oleander Parade, at intersection with Burraneer Bay Road – 0809 - Street trees, consisting of *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
14. **Cronulla**, Franklin Road – 1021 - Street plantings, consisting of *Eucalyptus* (possibly Snappy Gum)
15. **Cronulla**, Gunnamatta Road – 1028 - Possible remnant canopy, consisting of *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum) and *Angophora costata* (Smooth-barked Apple or Sydney Red Gum)
16. **Cronulla**, Below south-western corner of Tonkin Park – 1059 - Sandstone platform at head of Gunnamatta Bay
17. **Cronulla**, Riverview Ave – 1062 - Frontage trees, consisting of *Eucalyptus paniculata* (Grey Ironbark) and some *Eucalyptus pilularis* (Blackbutt)
18. **Cronulla**, 6 Excelsior Road – 1064 - Garden and Trees
19. **Engadine**, Woronora Road – 1203 - Stand of *Pinus radiata* (Radiata Pine or Monterey Pine) and *Lophostemon confertus* (Brush Box)
20. **Grays Point**, Between Grays Point and Point Danger – 1301 - Mangrove Stands
21. **Grays Point**, On foreshore in front of 14-20 Grays Point Road – 1302 - Grays Point rocky foreshore to public reserve
22. **Grays Point**, Swallow Rock Drive – 1306 – Sandy beach next to boat ramp
23. **Grays Point**, Swallow Rock Drive - 1308 - Mangrove stands, between Swallow Rock and foreshore
24. **GyMEA**, Forest Road – 1501 - Street trees, consisting of *Eucalyptus pilularis* (Blackbutt)
25. **GyMEA**, GyMEA Bay Road – 1504 - Street trees, consisting of *Eucalyptus*
26. **GyMEA**, GyMEA Bay Road – 1505 - Street trees, consisting of *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
27. **GyMEA Bay**, Coonong Road – 1603 - Street trees, consisting of *Eucalyptus microcorys* (Tallow Wood)
28. **GyMEA Bay**, Coonong Road – 1608 - Single tree, *Eucalyptus*
29. **Jannali**, Sutherland Road – 2103 - Single tree, *Eucalyptus microcorys* (Tallow Wood)
30. **Loftus**, 44 National Ave – 2702 - House
31. **Lucas Heights**, Heathcote Road – 2801 - *Eucalyptus squamosa*

32. **Miranda**, Forest Road – 3101 - Street trees, consisting of *Eucalyptus pilularis* (Blackbutt)
33. **Miranda**, 223A Port Hacking Road -3113- Gwawley Creek storm water canal
34. **Miranda**, The Boulevarde - 3115 - Cultural plantings, consisting of *Melaleuca quinquenervia* (Broad-leaved Paperbark)
35. **Sutherland**, Sumner Street – 3638 - 2 trees, *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
36. **Sutherland**, Sunbury Street – 3639 -Stand of *Eucalyptus microcorys* (Tallow Wood) and *Eucalyptus pilularis* (Blackbutt)
37. **Sutherland**, The Grand Parade – 3641 - Single tree, *Eucalyptus punctata* (Grey Gum)
38. **Sutherland**, Belmont Street – 3607 - Street plantings, consisting of *Eucalyptus scoparia* (Willow Gum)
39. **Sutherland**, Waratah Street – 3647 - Single tree, *Eucalyptus pilularis* (Blackbutt)
40. **Sylvania**, 39 Belgrave Esplanade – 3701 - Norfolk Island Pine
41. **Sylvania**, Between 12 Marra Place and 9 Lachlan Avenue - 3705 - Sandy Beach
42. **Taren Point**, Between 75-93 Holt Road - 3903 - Sandy Beach
43. **Taren Point**, Between 31-47 Holt Road – 3902 - Sandy Beach
44. **Taren Point**, Between 3-9 Holt Road – 3901 - Sandy Beach
45. **Taren Point**, Between 2-12 Woodlands Road – 3905 - Sandy Beach
46. **Woolooware**, Cabramatta Road – 4101 - Single tree, *Ulmus parifolia* (Chinese Weeping Elm)
47. **Woolooware**, Cabramatta Street – 4109 - 2 *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
48. **Woolooware**, Coronia Avenue – 4103 - Single tree, *Angophora costata* (Smooth-barked Apple or Sydney Red Gum)
49. **Woolooware**, 53 Burraneer Bay Road – 0606 - Single tree, *Quercus robur* (English Oak)
50. **Woolooware**, Captain Cook Drive, frontage to Woolooware High School – 4102 - Trees, including *Sarcocornia quinqueflora* (Saltmarsh), *Avicennia marina* (Grey Mangrove) and *Casuarina glauca* (Swamp Sheoak)
51. **Woronora**, Prices Circuit – 4203 – Sandstone formations
52. **Woronora**, Prices Circuit – 4206 - Stand of *Eucalyptus* and single fig tree
53. **Woronora**, Menai Road – 4202 - Single tree, *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)
54. **Woronora**, The Crescent – 4214 - Single tree, *Eucalyptus pilularis* (Blackbutt)
55. **Woronora**, Prince Edward Park Road – 4208 - Single tree, *Eucalyptus camaldulensis* (River Red Gum)
56. **Yowie Bay**, Coora Road – 4607 - 3 trees, *Angophora costata* (Smooth-barked Apple or Sydney Red Gum)

PART 3 - JUSTIFICATION

Section A – The need for the Planning Proposal

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

At its meeting on 10 November 2014 (DAP043-15) Council considered the results of the final exhibition of the then draft Sutherland Shire Local Environmental Plan 2015. In adopting the draft plan for referral to the Department of Planning and Environment for it to be made, Council did not make any changes to the draft LEP in November 2014 because changes to the content of the plan would have triggered the need for re-exhibition. Given the making of the plan had been very protracted, being re-exhibited three times and being the subject of an Independent Review, it was not considered to be in the public interest to further delay the making of the plan. As a result the plan was made by the Minister of Planning on 23 June 2015.

This planning proposal responds to the Council resolution of 10 November 2014 (DAP043-15) to address outstanding matters arising from submissions to the draft LEP forming SSLEP2015.

The planning proposal also responds to a number of other matters. Below are details of the studies undertaken in relation to specific elements of the planning proposal:

- **Gymea Bay Rezoning Survey**

In response to a request from the Mayor, in January 2014, a survey of residents affected by the proposed rezoning in Gymea Bay was conducted. Three hundred and twenty seven (327) surveys were sent out, with respondents offered a choice of responding electronically or by postal return. 44% of residents responded. The results of the survey were reported to Council in October 2015 (DAP040-16) and are summarized in Part 2 of this planning proposal. The majority of respondents supported a rezoning of the land to E4 Environmental Living.

- **Review of Small Shops in Low Density Residential Areas**

In response to Council's resolution of December 2014 that a 'comprehensive review of small shops in the R2 zone be undertaken', the Environmental Planning Unit conducted a review of individual or small groups of shops in the R2 and R3 Low Density Residential zone. Fourteen locations were considered.

The results of the review were reported to Council in November 2015 (DAP036-16) and are summarized in Part 2 of this planning proposal. As a result of the review, the properties are proposed to be rezoned B1 Neighbourhood Centre.

- **Review of Minimum Lot Sizes in Industrial and Business Zones**

Minimum lots sizes for the subdivision of industrial and employment lands in Sutherland Shire have historically been contained in the development control plan. Following the first public exhibition of draft SSDCP2015, Council undertook a review of its approach to the application of minimum lot sizes on non-residential land. The review considered existing land uses and subdivision patterns and the potential of redundant industrial sites for redevelopment. For industrially zoned land on the Kurnell Peninsula, the review also considered the location of threatened ecological communities in relation to undeveloped sites.

The results of the review were reported to Council in November 2015 (DAP034-16) and are summarized in Part 2 of this planning proposal. As a result of the review, minimum lot size controls for the industrial and business zones are proposed to be included in the LEP.

- **Heritage Amendments – reference study**

The proposed amendments to the Heritage Schedule of the SSLEP2015 were the result of a comprehensive review of the Heritage items of the Sutherland Shire.

The Sutherland Shire Heritage Study was conducted by Perumal Murphy Wu and was completed in 1993. The study informed the establishment of a heritage list which has been included through subsequent Local Environmental Plans. However, this was a very early heritage study and the degree of documentation fell short of current standards.

In 2009 State funding was awarded to Council to complete a comprehensive review of this study and the heritage items of the Sutherland Shire. After a call for tenders, Architectural Project PL were selected to carry out this review. The review aimed to provide a more rigorous basis for heritage listed properties to ensure Council has a strong and defensible base on which to properly manage the heritage values of the Shire.

The review of heritage items was split into two stages; the first stage of the review, dealing with Foreshore Heritage, was successfully completed in 2011. The recommendations of this review were incorporated into the Heritage Schedule of SSLEP2015 and are now in effect. The second stage of the review, known as the Sutherland Shire Community Based Heritage Review, considered built heritage items, trees, landscapes and landforms. The project team included Warwick Mayne Wilson, Heritage Landscape Consultants. Overall, the review considered 289 Items listed in the LEP. This is the study which has informed the proposed removal of items from the heritage schedule which forms part of this Planning Proposal.

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

The planning proposal is the only means to achieve the intended outcome as amendments to SSLEP2015 are required.

Section B – Relationship to strategic planning framework

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

Yes, the proposed amendments are consistent with the broad policy directions contained in the *Metropolitan Strategy for Sydney* and the draft South Subregional Strategy (2007).

Specifically, the Metropolitan Strategy for Sydney has the following goals and directions:

- **Goal 1: A competitive economy with world-class services and transport**
The minimum lot sizes proposed for the business and industrial zones aim to ensure that there is land available in a range of configurations to support the development of a range of economic activities.

- **Goal 2: A city of housing choice with homes that meet our needs and lifestyles**

Direction 2.1 Improve housing supply across Sydney

Direction 2.3 Improve housing choice to suit different needs and lifestyles

The planning proposal aims to ensure a variety of housing options and locations for the community. This is proposed to be achieved through the amendments to the dual occupancy provisions to facilitate this housing form in a variety of locations. The proposed rezoning of 48-50 Clio Street, Sutherland will allow higher density residential development in close proximity to Sutherland Centre. While the proposed rezoning of land in Gymea Bay, Miranda and Yowie Bay will remove the permissibility of dual occupancies from this land, this is in accordance with the expressed housing choice of residents in this area. Overall, the planning proposal will support to overall aim of SSLEP 'to meet the future housing needs of the population of Sutherland Shire' and the above goal and directions of the metropolitan strategy.

- **Goal 3: A great place to live with communities that are strong, healthy and well connected**

Direction 3.2 Create a network of green and open spaces across Sydney

The proposed rezoning of Carol Avenue Reserve will complement the existing green and recreational spaces within Sutherland Shire.

- **Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources**

Direction 4.3: Manage the impact of development on the environment

The proposed rezoning of land at 441 Prince Highway, Kareela to accommodate a proposed Community Recycling Centre will assist in encouraging safe disposal of wastes which would otherwise make their way to landfill.

The planning proposal responds to the following actions in the South Subregion Draft Subregional Strategy:

Economy and Employment:

SO A1.5.4 Protect Employment Land identified as strategically important:

The minimum lot sizes proposed for land in the industrial areas aims to protect Category 1 land identified for retention for industrial purposes from excessive fragmentation. This will ensure that a range of sites, particularly larger sites are available for industrial uses.

SO A3.3 Encourage emerging businesses

The minimum lot sizes can also provide suitable land for small and emerging industrial enterprises. The proposed rezoning of small shops in the low and medium density residential zones as B1 Neighbourhood Centre can also provide premises for emerging businesses.

Housing:

C2.3 Provide a mix of housing

One of the overall aims of SSLEP2015 is to meet the future housing needs of the population of Sutherland Shire. Through amending the dual occupancy provisions, rezoning residential land and making attached and semi-attached dwellings permissible in specified zones, the planning proposal will contribute towards providing a variety of housing options and locations for the community.

Parks, Public Places and Culture

SO E6.1.2 Review/update heritage studies:

A review of the heritage items in Sutherland has been conducted. The proposed removal of items from the heritage list is in response to the recommendations of the study.

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

The Sutherland Shire Community Strategic Plan Our Shire Our Future: Our Guide to Shaping the Shire to 2030 provides the long term vision and a set of desired futures for the Sutherland Shire which the local community aspires to achieving. The Community Strategic Plan establishes a framework for growth and development for the Sutherland Shire LGA and addresses the draft South Subregional Strategy and employment targets. The Strategy also provides the foundation for the development of the SSLEP2015.

The planning proposal is consistent with the following primary strategies from the Community Strategic Plan:

- **Provide effective and integrated infrastructure:** Through the zoning of the Sydney Water sites and the amended heights for educational establishments, the Planning Proposal seeks to ensure that the community is aware of the location and form of important infrastructure provision.

- **Respect and value all heritage and culture:** While the removal of items from the heritage may be anathema to this strategy of respecting all heritage, the items proposed for removal have been identified as not reaching the threshold for heritage listing. Recognising this allows Council and the community to identify and focus on those items which do have heritage value.

The planning proposal aims to achieve the following desired Community Outcomes identified in the Community Strategic Plan:

- **Housing for all:** The planning proposal aims to ensure a variety of housing options and locations for the community. The proposed rezoning of 48-50 Clio Street, Sutherland will provide greater options in close proximity to Sutherland Centre, while the proposed provisions relating to dual occupancy encourage this housing form in a variety of locations.
- **Diverse local jobs and local economic opportunities:** The proposed minimum lot size in the industrial and business zones aim to protect strategic industrial lots for new opportunities for local job creation and ensure that a range of lot sizes are available to accommodate the needs of a variety of industrial uses, which differ depending on the type of use, size and lifecycle stage of the business. The proposed rezoning of small shops, through broadening the range of opportunities available may provide new opportunities for local activity and employment.

Is the planning proposal consistent with applicable state environmental planning policies?

Yes. The Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (SEPPs) and deemed SEPPs as identified in Appendix 6. The following comments are made in relation to specific SEPPs:

- **SEPP No. 19 - Bushland in Urban Areas:** The planning proposal includes the proposed rezoning of Carol Avenue Reserve from E2 to RE1. Although this may appear to be a loss of bushland, the land proposed to be rezoned is grassed and used for recreational purposes such as informal ball games. Consequently, the land to be rezoned does not have a high ecological value, except as a buffer to the bushland. The proposed rezoning will have no significant impact on the adjoining bushland.
- **SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land):** The proposed rezoning of 48-50 Clio Street, Sutherland contributes to urban consolidation by increasing the potential residential density in close proximity to Sutherland Centre. Similarly, the proposed rezoning of 7 Preston Avenue, Engadine will contribute to urban consolidation in Engadine Centre.
- **SEPP No. 64 - Advertising and Signage:** The erection of bus shelters on any land by or on behalf of Council is exempt development under the Infrastructure SEPP. The planning proposal proposes to make advertising on bus shelters in all zones exempt development to allow Council to have maximum flexibility. The SEPP prohibits advertising in residential zones, but Council's bus shelters are located in residential zones. Although the proposed LEP amendment is inconsistent with SEPP64, it will only facilitate a limited form of advertising.

- **SEPP (Housing for Seniors or People with a Disability) 2004:** The proposed rezoning of land in Nirimba Crescent, Heathcote zones more land for use for Seniors Housing development associated with John Paul village in the future. At the moment the land is proposed to be used to improve amenity in the area through accommodating overspill parking during the upcoming construction phase associated with a development consent.
- **SEPP (Infrastructure) 2007:** The proposed rezoning of Sydney Water properties has no impact on the permissibility of Sydney Water's activities under the SEPP. The rezoning will, however, make Sydney Water's intentions for its landholdings area clear to the public.

The proposed amendment to the maximum building height for schools aligns the controls in the LEP with the building height controls for educational establishments in the SEPP.

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

Yes. The Planning Proposal is generally consistent with the applicable Ministerial Directions as identified in Appendix 7. The following comments are made in relation to specific directions:

- **Direction 1.1 Business and Industrial Zones:** The rezoning of 7 Preston Avenue, Engadine to B3 Commercial Core will increase the area of business zones. Eight lots owned by Sydney Water are proposed to be rezoned from business and industrial zones to SP2 at the request of Sydney Water. While this will theoretically reduce the total potential floor space area in the business and industrial areas, the long standing use of these properties has been for Sydney Water purposes. Rezoning 14 existing small shop locations from R2 to B1 zone provides opportunities for the existing businesses to expand or for change of use from one business to another without the constraints associated with relying on existing use rights. The inclusion of minimum lot sizes in industrial zones is intended to prevent the excessive fragmentation of land in these zones. The proposal has no change on the total potential floor space area in the industrial zones. By prohibiting 'semi-detached' and 'attached dwellings' in the B2 and B3 and B4 zones, respectively, aims to protect the business floor space potential in the business zones.
- **Direction 2.1 Environment Protection Zones:** The proposed rezoning of land in Gympie Bay to E4 Environmental Living will result in this land being considered as land within an environmental protection zone. Thirty five owned by Sydney Water are proposed to be rezoned from an environmental protection zone to SP2 at the request of Sydney Water. This proposed zone reflects the long standing use of these properties has been for Sydney Water purposes. The proposal intends to permit the retention of both existing dwellings on a foreshore lot in the E3 zone, where development consent has previously been granted for one new dwelling above the foreshore building line, conditional upon the removal of the dwelling below the foreshore building line. The requirements of clause 27 of Schedule 1 Additional Permitted Uses are still to be met. There is no change to the development standards to be applied. As the waterfront dwelling is already in existence, the proposal is not considered to reduce the environmental protection standards in the SSLEP2015.
- **Direction 2.2 Coastal Protection:** The proposal intends to permit the retention of both existing dwellings on a foreshore lot in the E3 zone, where development consent has previously been granted for one new dwelling above the foreshore building line, conditional

upon the removal of the dwelling below the foreshore building line. The requirements of clause 27 of Schedule 1 Additional Permitted Uses are still to be met. As there are no changes to any of the coastal protection provisions proposed, the planning proposal is not considered to change the implementation of the coastal policy.

- **Direction 2.3 Heritage Conservation:** The planning proposal proposes the removal of 56 items from Schedule 5 Environmental Heritage and the Heritage Map in accordance with the Sutherland Shire Community Based Heritage Review. This is considered appropriate as the Study found these items to be below the threshold for inclusion in the Heritage Schedule.
- **Direction 3.1 Residential Zones:** The following amendments will provide increased opportunities for a variety of housing choice:
 - The proposed rezoning of 48-50 Clio Street, Sutherland, land in GyMEA Bay and 7 Preston Avenue, Engadine
 - Amendment of Clause 4.3(2C) to allow two storey rear dual occupancies in the R3 zone
 - Permitting 'semi-detached dwellings' in the R2, R3 and R4 zones
 - Permitting strata subdivision of existing dual occupancies in the E3 and E4 zones.
- **Direction 3.4 Integrating Land Use and Transport:** The proposed rezoning of land at 48-50 Clio Street, Sutherland and 7 Preston Avenue, Engadine will provide potential for increased residential development in close proximity to urban centres and public transport nodes. As the R3 and R4 zones are in close proximity to the centres, proposed change to permit 'semi-detached dwellings' in these zones will provide opportunities for increasing residential densities in close proximity to the centres and public transport.
- **Direction 3.5 Development near Licensed Aerodromes:** The planning proposal does propose changes to the minimum lot size for industrial land in Kurnell which is affected by aircraft noise. However, the proposed changes do not affect permissibility within the location, and makes no changes to the FSR or height controls. The objective is to prevent the fragmentation of industrial land. It is therefore not considered necessary to consult with the relevant Department of the Commonwealth.
- **Direction 4.1 Acid Sulfate Soils:** The proposal does affect land classified as having acid sulphate soils e.g. the land proposed to be rezoned in GyMEA Bay. However, the planning proposal does not propose introducing any new provisions to regulate works on acid sulphate land, nor does it propose any intensification of land uses on the land.
- **Direction 4.3 Flood Prone Land:** Industrial land in Kurnell is identified as flood prone land. The proposed changes to minimum lot size for subdivision make no changes to permissibility, nor do they introduce provisions which amend the flood planning provisions. Some of the Sydney Water properties to be rezoned are in the flood planning area. However, Sydney Water can undertake their activities on this land under the Infrastructure SEPP.
- **Direction 6.2 Reserving Land for Public Purposes:** The planning proposal seeks to rezone part of Carol Avenue Reserve, Jannali to RE1 Public Recreation. The planning proposal also seeks to rezone 23 lots which are currently zoned RE1, owned by Sydney Water, utilised by Sydney Water and for which a rezoning to SP2 has been requested by

Sydney Water. Approval from the Secretary - Planning and Environment for all these proposed rezonings will be sought as part of the Gateway process.

- **Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036:** The draft plan is consistent with the Planning Direction as detailed above.

Section C – Environmental, social and economic impact

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?

No. Most of the proposed amendments do not affect land where critical habitat or threatened species, populations or ecological communities or their habitats have been identified.

Endangered ecological species have been identified on the industrial land at Kurnell. The planning proposal seeks an amendment to the minimum lot sizes for subdivision in this locality, generally proposing larger lot sizes for the land than currently apply. One of the benefits of the proposed larger lot sizes is that this will provide greater flexibility on individual lots to sensitively accommodate these species in any future development.

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

No other significant environmental effects are anticipated to emerge as a result of the planning proposal. Development facilitated as a result of the proposed amendments to the LEP will be subject to the relevant environmental provisions of the LEP. These provisions address a range of issues such as coastal protection, foreshore protection, flood, bush fire, groundwater vulnerability, riparian land and watercourses, scenic quality etc. Any specific environmental impacts identified in relation to specific land or specific proposals will be addressed through the development application process, including requiring modification of plans, conditions of consent etc.

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

Most of the matters addressed in the planning proposal are unlikely to have any negative social or economic impacts. Rather, positive social or economic impacts are generally anticipated.

In relation to the proposed rezoning of the identified groups of small shops, while the proposed zoning to B1 is anticipated to provide greater economic opportunity, there may be some negative amenity impacts for adjoining residents where there is an intensification of development and activity on the rezoned land. However, this cannot be definitively anticipated, and can be individually managed through the development application process for specific sites.

The proposed rezoning of 441 Princes Highway to facilitate a 'Waste and Resource Management Facility' may be associated with potential adverse impacts on the surrounding areas. However, the adjoining E2 and RE1 land will assist in functioning as a buffer. The topography of the site is also beneficial as the specific site is located approximately 14m below the level of the adjoining playing fields. This change in level and the existing vegetation will assist in minimizing the impact of the proposed use on the recreational value of the playing fields.

The precinct in Jannali where Carol Avenue Reserve is located already has amenity impacts associated with Jannali High School, the intensity of use of Jannali Oval and the use of the adjoining netball courts. The proposed rezoning to RE1 to facilitate a skateboard park has potential to result in impacts associated increased visitation such as noise disturbance and increased demand for on-street visitor parking.

In general, the planning proposal facilitates smaller scale development, widely spread across the Shire. It is considered that most of the social and economic impacts will be localized to each site and can be addressed through the future development process for specific proposals.

Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

This proposal is unlikely to have any impacts on infrastructure provision.

What are the views of State and Commonwealth public authorities consulted in accordance within the gateway determination?

The views of State and Commonwealth agencies will be sought through consultation following receipt of the Gateway Determination.

PART 4 – MAPS

See Planning Proposal Part 2 - Maps

PART 5 - COMMUNITY CONSULTATION

Preliminary Consultation

Preliminary consultation has been undertaken in relation to the following elements of the planning proposal:

- GyMEA Bay rezoning: A survey of 327 residents was undertaken in January 2014, with a 44% response rate. The planning proposal responds to the preference expressed by the majority of respondents for a rezoning to E4 Environmental Living.
- Review of small shops in low density residential areas: As part of this review, sixteen letters were sent to the owners of the sites under review. Twelve owners either made a written submission or responded to the letter by telephone. All respondents requested the potential rezoning to B1 Neighbourhood Centre.

Proposed Consultation

In accordance with “A Guide to Preparing Local Environmental Plans” prepared by the Department of Planning and Environment (2013), the Planning Proposal will be exhibited for a period of **28 days**. It is proposed that the exhibition will include:

Advertisement in local newspaper

An advertisement will be placed in the Council page in the St George and Sutherland Shire Leader and The Liverpool City Leader identifying the purpose of the planning proposal and where the planning proposal can be viewed.

Consultation with affected owners and adjoining landowners.

A letter will be sent to landowners whose land is affected by the planning proposal, and adjoining landowners. Opportunities for one-on-one consultations to discuss the proposals will be offered to interested parties.

Displays at the Council Administration Building and local libraries

The planning proposal will be displayed at the Council Administration Building, 4-20 Eton Street, Sutherland and in all branch libraries (located in Bundeena, Caringbah, Cronulla, Engadine, Menai, Miranda, Sutherland and Sylvania)

Advertisement on the Council website

The planning proposal will be exhibited on the Council website (www.sutherlandshire.nsw.gov.au) with links from the home page. It is anticipated that the mapping changes will be available through Shire Maps (Council’s interactive online mapping system) which will be especially beneficial for the public to compare the existing and proposed changes for any property.

Direct contact

Interested parties will be able to contact the Strategic Planning Unit of Council directly through a telephone hotline and through a dedicated email address.

PROPOSED TIMELINE

The following timeframes are proposed:

Milestones	Timing
1. Gateway Determination	July 2016
2. Exhibition Start	August 2016
3. End Exhibition	September 2016
6. Review and Consideration of submissions	October/November/ December 2016
7. Report to Committee on submissions	January 2017
8. Council Meeting	February 2017
9. Request for draft instrument to be prepared	February 2017

Appendix 1 - Checklist

Appendix 2 – Evaluation criteria for the issuing of an Authorisation