

Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)(Draft Amendment No 20)

Proposal Title : Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)(Draft Amendment No 20)

Proposal Summary : The Planning Proposal seeks to make the following amendments to Sutherland Shire Local Environmental Plan 2006:

-Increase the maximum floor space ratio permitted in Zone 1 – Environmental Housing (Environmentally Sensitive Land), Zone 2 – Environmental Housing (Scenic Quality), Zone 3 - Environmental Housing (Bushland) and Zone 4 - Local Housing.

-Decrease the minimum landscaped area required to 30% for Zone 1 - Environmental Housing (Environmentally Sensitive Land), Zone 2 - Environmental Housing (Scenic Quality), Zone 3 - Environmental Housing (Bushland), Zone 4 - Local Housing and Zone 5 - Multiple Dwelling A.

-Include a provision to allow a reduction in landscaped area by 5% if a significant tree within the building platform is accommodated on site.

-Delete Clause 18 which allows for the removal of waterfront structures.

-Introduce a new term 'waterfront cottages' as a permissible land use in Zone 1- Environmental Housing (Scenic Quality) and Zone 16 - Environmental Protection (Waterways).

-Exclude boatsheds and garden sheds from gross floor area calculations.

PP Number : PP_2013_SUTHE_001_00 **Dop File No :** 13/01463

Proposal Details

Date Planning Proposal Received :	24-Dec-2012	LGA covered :	Sutherland
Region :	Sydney Region East	RPA :	Sutherland Shire Council
State Electorate :	CRONULLA HEATHCOTE MENAI MIRANDA	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	4-20 Eton Street		
Suburb :	Sutherland	City :	Sydney
Land Parcel :		Postcode :	2232

DoP Planning Officer Contact Details

Contact Name : **Deewa Baral**
 Contact Number : **0292286451**
 Contact Email : **deewa.baral@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Jazmin van Veen**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Southern Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
 Conduct has been
 complied with : **Yes**
 If No, comment :

Have there been meetings or
 communications with
 registered lobbyists? : **No**
 If Yes, comment :

Supporting notes

Internal Supporting
 Notes :
 External Supporting
 Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

- Comment : **The Planning Proposal seeks to make the following amendments to Sutherland Shire Local Environmental Plan 2006:**
- Increase the maximum floor space ratio permitted in Zone 1 – Environmental Housing (Environmentally Sensitive Land), Zone 2 – Environmental Housing (Scenic Quality), Zone 3 - Environmental Housing (Bushland) and Zone 4 - Local Housing.**
 - Decrease the minimum landscaped area required to 30% for Zone 1 - Environmental Housing (Environmentally Sensitive Land), Zone 2 - Environmental Housing (Scenic Quality), Zone 3 - Environmental Housing (Bushland), Zone 4 - Local Housing and Zone 5 - Multiple Dwelling A.**
 - Include a provision to allow a reduction in landscaped area by 5% if a significant tree within the building platform is accommodated on site.**
 - Delete Clause 18 which allows for the removal of waterfront structures.**
 - Introduce a new term 'waterfront cottages' as a permissible land use in Zone 1- Environmental Housing (Scenic Quality) and Zone 16 - Environmental Protection (Waterways).**
 - Exclude boatsheds and garden sheds from gross floor area calculations.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

- Comment : **-Amendment to Clause 35(5) of SSLEP to remove sliding scale and introduce a set maximum FSR of 0.5:1 in Zone 1-Environmental Housing (Environmentally Sensitive Land) and Zone 2 - Environmental Housing (Scenic Quality), irrespective of building type.**
- Amendment to Clause 35(6) and (7) to increase FSR maximum to 0.55:1 in zone 3- Environmental Housing(Bushland) and Zone 4-Local housing, irrespective of building type.**
- Amendment to Clause 36(3), 36(4) and 36(5) to reduce the landscaped area requirement to 30% for development in Zone 1 - Environmental Housing (Environmentally Sensitive Land), Zone 2 - Environmental Housing (Scenic Quality), Zone 3 - Environmental Housing (Bushland), Zone 4 - Local Housing and Zone 5 - Multiple dwelling A irrespective of building type.**
- Addition of subclause to Clause 36 to allow the minimum landscaped area on any land to be reduced by 5%, if a significant tree within the typical development zone (building platform) is accommodated on site.**
- Deletion of Clause 18 - Development in or Adjacent to Waterways.**
- Addition of 'waterfront cottage' to the dictionary being 'a dwelling constructed forward of the foreshore building line more than 3 years prior to the commencement of this amendment'.**
- Amendment to Clause 11 to allow 'waterfront cottage' as a permissible use in Zone 1 - Environmental Housing (Environmentally Sensitive Land), Zone 2 - Environmental Housing (Scenic Quality) and Zone 16 - Environmental Protection (Waterways).**
- Amendment to the definition of gross floor area to exclude freestanding boatsheds and garden storage sheds from the calculation.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **N/A**

e) List any other matters that need to be considered :

**RPA has indicated that the Planning Proposal does not contravene any State Environmental Planning Policies (SEPPs) and s117 Directions.
The Department's assessment of the relevant s117 Directions revealed that the Planning Proposal is consistent with these Directions.
2.1 Environment Protection Zones
3.1 Residential Zones
6.3 Site Specific Provisions**

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The Planning Proposal does not require any map changes.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes that the Planning Proposal be exhibited in accordance with any requirements as determined by the Gateway process and the requirements of s29 of the Local Government Act, 1993 and s57 of the Environmental Planning and Assessment Act, 1979.
Council proposes to give notice of the public exhibition of the Planning Proposal in the local newspaper (e.g. The St George and Sutherland Shire Leader and the Liverpool City Leader) and on Council's web site.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **Despite Council not identifying any specific relevant s117 Directions, the Department's analysis revealed that the following are relevant:
2.1 Environment Protection Zone: The inconsistency with this Direction is of minor significance as the proposed reduction in the landscaped area is equivalent to that mentioned in SEPP (Exempt and complying Codes) 2008 and does not impose major impact on the environment.
3.1 Residential Zones: The proposal is consistent with this Direction as it does not reduce the potential for residential development.
6.3 Site Specific Provisions: The proposal is consistent with this Direction.**

The proposal meets the adequacy criteria to proceed to Gateway Determination.

Proposal Assessment

Principal LEP:

Due Date : July 2013

Comments in relation
to Principal LEP :

On 20 December 2012, Council submitted the Draft Sutherland Shire Standard Instrument LEP 2013 (DLEP2013), requesting the Director General issue a Gateway Determination to allow the DSLEP2013 to be proceed to exhibition.

The Department is working toward finalising the Gateway Determination report to allow Sutherland Council to exhibit the DSLEP2013 in the first quarter of 2013.

Assessment Criteria

Need for planning
proposal :

There is a need for this Planning Proposal as an interim measure to facilitate greater development opportunities until the Draft Sutherland Shire Standard Instrument LEP 2013 (DLEP2013) is made. It is to be noted that Council has lodged the DLEP2013 as a planning proposal on 20 Dec 2012, which is currently under consideration for a Gateway Determination.

An assessment of the draft provisions in the Planning Proposal is as follows:

-In relation to Clause 35(5) switching the permissible FSR provision from 'sliding scale' to uniform permissible FSR, irrespective of the lot size, is in line with the DLEP2013 and is supported.

-In relation to Clause 35(5) ,(6) and (7) the recommended increment in FSR (an increment of 0.1:1 for smaller lots and 0.17:1 for larger lots) are reasonable having regard to the constrained shape of the plot and the existing height restrictions.
It is to be noted that the increment in FSR has been incorporated in the submitted DLEP2013.

-In relation to Clauses 36(3) ,(4) and (5) the reduction of the landscaped area requirement from 45% to 30% irrespective of the lot size is acceptable and is similar to the minimum requirements for complying development under the SEPP (Exempt and Complying Codes)2008 for lots between 600-900m2.
Council has incorporated the reduced landscape requirement in the submitted DLEP2013.

-In relation to Clause 36, a further reduction of 5% for landscaped area as an incentive is reasonable. It is to be noted that the term 'significant tree' as defined in the SSLEP 2006 does not match the intent behind this proposed Clause.

In the absence of any other definition, it is considered that 'significant tree' under the proposed Clause 36 can only relate to the definition for 'significant tree' in SSLEP 2006.Council will be advised of this as part of the Gateway decision.

Also to be noted that a Subclause with the above incentive has been incorporated in the submitted DSLEP2013.

-Deletion of Clause 18 –'Development in or Adjacent to Waterways', is considered as acceptable. Council considers that the Clause is no longer relevant. Moreover, there is no Standard Instrument template Clause or model provision which addresses the objectives of Clause 18.

It is to be noted that this alteration (deletion) has been incorporated in the submitted DSLEP2013.

-The addition of 'waterfront cottage' to the dictionary of SSLEP 2006 is considered acceptable at this stage. However, it is to be noted that 'waterfront cottage' would fall under the definition of a 'dwelling' under the Standard Instrument LEP. Council's DSLEP2013 submission does not include a request to insert this definition and Council has previously been advised that it will need to rely on the Standard Instrument definitions.

-Amending Clause 11 of SSLEP 2006 to allow 'waterfront cottage' as permissible use in Zone 1, Zone 2 and Zone 16 is acceptable at this stage. It is to be noted that Council addresses this in the DSLEP2013 by allowing 'dual occupancies in certain waterfront zones and including a local provision containing specific matters for consideration.

-Legal advice was sought in regards to the definition of 'waterfront cottage' (defined as a dwelling constructed forward of the foreshore building line more than 3 years prior to the commencement of this amendment) and the amendment of Clause 11 of SSLEP 2006 to allow 'waterfront cottage' as permissible use in Zone 1, Zone 2 and Zone 16. It was recommended that if the Council's intent is to allow those existing 'waterfront cottages' to remain in place, the removal of Clause 18 of the SSLEP 2006 would be sufficient to safeguard these structures. Without Clause 18 there is nothing that would affect already existing 'waterfront cottages' that may have had consent at the time they were constructed. However, Council's intent is to safeguard all waterfront cottages and not only those that benefit from consent. Given that the DSLEP2013 does not transfer this definition, it is considered acceptable to include it in SSLEP2006 at this stage. However, Council will be reminded that the transfer of the definition in the DSLEP2013 will not be supported.

-Amendmending the definition of 'gross floor area' to exclude free standing boatsheds and garden storage sheds is acceptable at this stage. However, it is not possible to alter this definition in DSLEP2013 as this definition is contained within the SI Order. Council was advised on 16 Nov 2012 that it cannot change the definition of 'Gross Floor Area' in the Standard Instrument but was given alternative options (ie to increase FSR to waterfront properties) to reach the same outcome. It is recommended that Council be reminded of this advice in a Gateway Determination.

Consistency with strategic planning framework :

The Planning Proposal is consistent with the Draft Subregional Strategy (South Subregion). The Draft Subregional Strategy has set a dwelling target of 10,100 new dwellings by 2031. Increasing the development potential of residential zoned property supports in reaching these targets through redevelopment. Amendments to FSR and landscaped area controls also provides greater flexibility to achieve Direction C2.3 of Draft Subregional Strategy through mix of housing types. The Planning Proposal is consistent with the Council's community plan 'Our Shire Our Future: Our Guide for Shaping the Shire to 2030' which seeks to deliver balanced development and housing for all of the community.

Environmental social economic impacts :

There are no likely adverse impact on environment, critical habitat, threatned species, ecological communities or their habitat, as a result of this Planning Proposal. Site specific impacts that may result from increased development can be managed as part of the development assessment process. The Planning Proposal is unlikely to raise any significant social or economic concerns.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :			
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			

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Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Sutherland Shire Council_Planning Proposal for Amendment 20 to Sutherland Shire Local Environmental Plan 2006_.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

Additional Information : **It is recommended that the Planning Proposal proceed, subject to the following conditions:**

- 1.The Planning Proposal is exhibited for 14 days; and**
- 2.The Planning Proposal is completed in 9 months time.**

The RPA should be advised that:

1. The Planning Proposal is considered to be consistent with the relevant s117 Directions listed as:

- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**
- 6.3 Site Specific Provisions**

2.No consultation with the public authorities is required.

3.No further studies are required to be carried out.

4.It is recommended that the Council be reminded of the advice given by the Department on 16 Nov 2012 concerning the definition of 'Gross floor area' and that the definition for waterfront cottages cannot be included in the DSLEP2013.

5.It is also recommended that given the proposed Clause 36 can only relate to the definition of 'significant tree', as defined in SSLEP 2006, Council be reminded to exhibit any relevant material as part of the exhibition package which will clearly demonstrate the type of trees that may be applicable under this clause.

Supporting Reasons : **The Planning Proposal is considered to be the most efficient means of achieving the stated objectives and intended outcomes.**

Signature:



Printed Name:

DANIJELA KARAC'

Date:

14 January 2013