

Sutherland Shire Local Environmental Plan 2006 (Draft Amendment No 18)

Proposal Title : **Sutherland Shire Local Environmental Plan 2006 (Draft Amendment No 18)**

Proposal Summary : **The Planning Proposal seeks to rezone 48-62 Flora St, 68-92 Flora St, 124-138 Acacia Rd, 2A & 2B Fauna Place, and 465-489 President Ave, Kirrawee from Zone 6 Multiple Dwellings B to Zone 5 Multiple Dwelling A. It is also proposed to reduce the maximum permissible height to 2 storey/9 metres, and reduce the maximum permissible floor space from 0.8:1 to 0.7:1 for these properties.**

The Planning Proposal also seeks to rezone 64-66 Flora Street, Kirrawee to Zone 13 Public Open Space.

PP Number : **PP_2012_SUTHE_002_00**

Dop File No :

12/11423-1

Proposal Details

Date Planning Proposal Received : **04-Jul-2012**

LGA covered :

Sutherland

Region : **Sydney Region East**

RPA :

Sutherland Shire Council

State Electorate : **MIRANDA**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **48-62 Flora Street**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel :

Street : **68-92 Flora Street**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel :

Street : **124-138 Acacia Road**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel :

Street : **2A & 2B Fauna Place**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel :

Street : **465-489 President Avenue**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel :

Street : **64-66 Flora Street**

Suburb : **Kirrawee**

City : **Sydney**

Postcode : **2232**

Land Parcel : **Lot 1 DP 505219 and Lot 1 DP 523842**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Beth Morris**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Metro South subregion	Consistent with Strategy :	No
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 Yes
 Lobbyists Code of
 Conduct has been
 complied with :
 If No, comment :

Have there been No
 meetings or
 communications with
 registered lobbyists? :

If Yes, comment : **The Department is not aware of any meetings or communications with registered lobbyists concerning this planning proposal.**

Supporting notes

Internal Supporting
 Notes :

- This Planning Proposal has been triggered by Council refusing a DA (DA11/1067) for construction of a residential flat building (RFB) at 64-66 Flora St, Kirrawee, mainly due to concerns over height, parking and privacy. It appears this DA was recommended for approval by Council's staff, however the IHAP recommended refusal and the DA was refused by Council.
- The DA appears to be the first proposal for a residential flat building since the land was zoned Zone 6 Multiple Dwelling B under the current Sutherland Shire Local Environmental Plan 2006.
- By way of background, before the 2006 comprehensive LEP was made, only villas and townhouses were allowed on the southern side of Flora St (where the subject site of the

External Supporting
Notes :

DA is located). Residential Flat Buildings were allowed on the northern side. This was informed by the Kirrawee Local Area Masterplan (LAM).

- On 4 June 2012 Council professional staff completed a report in response to Council's resolution to rezone the subject land at Kirrawee. The report concluded that the Planning Proposal is difficult to support on planning grounds, being contrary to Ministerial Directions because it reduces residential density in a locality that enjoys ready access to a centre and public transport. This report was upheld by the Environment and Planning Committee, recommending that Council reconsider its position in relation to the proposed rezoning. Council instead resolved to proceed with the original proposed changes to the zones, height and FSR.
- On 24 July 2012 a representative from the Department met with Council staff and two Councillors at the request of Council, to inspect the site (including from two north facing rear yards in Fauna Place).

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment :

The statement of the objectives is considered to be adequate. These are:

- rezone 48-62 Flora St, 68-92 Flora St, 124-138 Acacia Rd, 2A & 2B Fauna Place, and 465-489 President Ave, Kirrawee to medium density and thereby prohibit development of land for residential flat buildings.
- reduce the maximum permissible height on the above properties to two storey/9m,
- reduce the maximum permissible floor space on the above properties to 0.7:1.
- rezone 64-66 Flora St, Kirrawee (Lot 1 DP 505219 and Lot 1 DP 523842) for open space purposes.

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

Is an explanation of provisions provided? Yes

Comment :

The explanation of provisions provided is considered to be adequate.

The planning proposal seeks to amend Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) as below:

- Land Zoning Map (rezone the Zone 6 Multiple Dwelling B parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee to Zone 5 Multiple Dwelling A).
- Height and Density Controls Map - Kirrawee Centre (reducing the height limit for 48-62 Flora St, 68-92 Flora St, 124-138 Acacia Rd, 2A & 2B Fauna Pl and 465-489 President Ave to 2 storeys/9 metres)
- Height and Density Controls Map - Kirrawee Centre [removing the maximum permissible floor space ratio (FSR) for Area D from the map, thus the default FSR applying to the Multiple Dwelling A zone - SSLEP2006 clause 35 - will apply]
- Land Zoning Map (rezone 64-66 Flora St, Kirrawee - Lot 1 DP 505219 and Lot 1 DP 523842 - from zone 6 Multiple Dwelling B to zone 13 Public Open Space).

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

6.2 Reserving Land for Public Purposes

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? Yes

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

d) Which SEPPs have the RPA identified?

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

(a) Council's Strategy:

- The proposed amendment is not a direct result of any strategic study, however has been triggered by Council's refusal of a DA for 12 residential units at 64-66 Flora St, Kirrawee.
- Some provisions appear to mirror some of those of the Kirrawee Local Area Masterplan (LAM). The LAM envisaged a variety of housing types to accommodate the changing demographics of the Sutherland Shire and accommodate the greater number of people wishing to live near public transport. It should be noted that although the LAM proposed this area for medium density (with FSR of 0.7:1 and heights ranging from 2 to 4 storeys) the 2006 SSLEP was made with the subject land rezoned to Zone 6 Multi Dwelling B, FSR increased to 0.8:1 and no 9m height limit for three storey development as proposed by the LAM.
- However, the detailed planning work behind the LAM was undertaken in 2003, and other provisions proposed in the LAM (such as 4 storey developments on the corners facing Acacia Rd) are not reflected in this Planning Proposal.

Direction 3.1 Residential Zones

- Direction 3.1 applies as a Planning Proposal must not reduce the permissible residential density of land.
- This Planning Proposal is inconsistent with Direction 3.1, as:
 - o The Planning Proposal prohibits the development of residential flats, and only allows townhouse development.
 - o The Planning Proposal also rezones residential land for open space purposes, thereby reducing dwelling potential further.
 - o The Planning Proposal will reduce the permissible residential density of the land from 0.8:1 to 0.7:1, and reduce the height limit to 2 storeys/9 metres.
- Based on the reduced FSR, it is estimated the above changes to the planning controls would result in approximately 100 less dwellings.
- Council's claim that the inconsistency is 'minor' is not supported, as the result will be a decrease to residential density (equating to approx 100 dwellings, based on the reduced FSR) over a large block located a short distance to Kirrawee Railway station and shopping centre. As such, the agreement of the Director General is not recommended at this stage.

Direction 3.4 Integrating Land Use and Transport

- The subject land is within a 400m catchment of Kirrawee Train Station. The Planning Proposal seeks to reduce the opportunities for increased densities and is therefore inconsistent with this Direction.
- Council's claim that the inconsistency is 'minor' is not supported, as the resulting decrease in residential density will be applied to an entire block within 400m catchment of Kirrawee Railway Station. As such, the agreement of the Director General is not recommended in this instance.

Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036

- The Metropolitan Plan aims to provide additional housing in proximity to centres. The effect of this Planning Proposal will be to decrease the number of potential dwellings to be located close to the Kirrawee village and Railway Station.
- Council's claim that the Planning Proposal will 'partly' meet the objectives of the Plan by ensuring local planning controls include more low rise medium density housing in and around the Kirrawee centre is not fully supported, as the end result will decrease the number of available dwellings around the Kirrawee centre. As such, the agreement of the Director General is not recommended in this instance.

South Subregion – Draft Subregional Strategy 2007

- The Draft South Subregional Strategy identifies Kirrawee as a Village, and states Councils should 'investigate increasing densities in all centres where access to employment, services and public transport can be provided'. Furthermore, the Strategy requires Council to plan for 10,100 new dwellings (to 2031), 80% of which are to be within centres. It should be noted that Council believes it can meet these requirements through mechanisms outlined in its draft Housing Strategy 2031.
- Based on the reduced floor space ratio (from 0.8:1 to 0.7:1), Council planners believe this Planning Proposal will result in approximately 100 less dwellings in this precinct.
- Consequently the proposal does not fully meet the objectives of the Draft South Subregional Strategy as it reduces the permissible residential density in a locality targeted for increased density. However, it could be argued that Council is planning for 'housing choice' in this area, given the northern side of Flora Street is characterised by residential flat buildings.

Sutherland Shire Local Environmental Plan 2006 (SSLEP2006)

- Council's LEP identifies Kirrawee as a centre with potential for additional housing. The nearby zone 7 Mixed Use – Kirrawee area (Kirrawee Brick Pit) is identified as a work/live precinct suitable for high density housing. Under SSLEP2006, land in proximity to centres (particularly railway stations) is suitable for higher density housing. It is noted that the only area in the Sutherland Shire near a railway station that does not have capacity for higher density development is the area around Como Station, due to significant environmental constraints. Thus this Planning Proposal is contrary to the logic inherent in the existing planning framework regarding housing capacity.
- It is noted that Council's Open Space Land Acquisition Policy does not support the acquisition of open space to create 'pocket parks'. Whilst this may be considered a local matter, it should be noted that a park exists in Flora Street, opposite the site of the proposed open space and 50m to the west. This existing park is twice as large and has recently been upgraded with playground equipment.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Maps provided are considered to be adequate and include:

- proposed zoning map
- Height and Density controls - Kirrawee Centre

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has not suggested an exhibition period but suggests that the Planning Proposal be exhibited in accordance with any requirements as determined by the gateway process.

- Council proposes to give notice of the public exhibition of the Planning Proposal:**
- in the local newspaper (The St George and Sutherland Shire Leader and the Liverpool City Champion);
 - on Council's website
 - in writing to relevant adjoining landowners who may be affected by the proposal.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

Draft Sutherland Comprehensive LEP is currently at post s.62 stage. Council has not yet formally resolved to submit its draft plan to the Department.

If it were to go ahead, the Planning Proposal would require an amendment to the applicable Zoning and height and Density Controls maps in the Sutherland Shire Local Environmental Plan 2006.

Assessment Criteria

Need for planning
proposal :

Council believe the current pattern of zoning in this area creates a poor transition between existing and potential building forms. Council's view has been informed by its consideration of DA11/1067 (64-66 Flora St, Kirrawee), where it considered that the 3 storey Residential Flat Building resulted in excessive overlooking and visual intrusion from bulk and scale on existing adjoining townhouses and single dwellings in Fauna Place. Council refused this DA (though the report by Council planners recommended approval). It is understood that the applicant has since lodged an appeal against Council's refusal of DA11/1067 in the Land & Environment Court. This particular site is proposed to be zoned Zone 13 Public Open Space under this Planning Proposal, and acquired by Council.

Consistency with
strategic planning
framework :

The Planning Proposal is not the result of a particular strategic plan, and there doesn't appear to be enough detailed planning work underpinning the proposed rezonings (particularly the open space zone). Council cites the Kirrawee Local Area Masterplan (LAM) as providing some basis to its approach. The LAM was funded by DUAP's Living Centres Project in 2003 and provided the basis for Council's 2006 comprehensive LEP. However, only certain aspects of the LAM have been used to justify Council's vision for the area, whilst other aspects (such as 4 storey corner blocks fronting Acacia Road) have not been mentioned. Instead it appears a 'blanket' rezoning to townhouses/villas has been applied without the detailed planning work to justify this decision.

The proposed open space zoning of 64-66 Flora Street, Kirrawee does not appear to be supported by any strategic plan. Council's existing policy on open space acquisition does not support the acquisition of open space to create 'pocket parks', plus there is an existing large park in Flora St, opposite the site and 50m to the west. The report of Environment and Planning Committee does not support this proposed rezoning to Open Space on planning grounds, however this could be seen as a local issue.

Environmental social
economic impacts :

The Planning Proposal will not have any adverse impacts on critical habitat, threatened species, populations or ecological communities, or their habitats.

There are no likely environmental effects from the planning proposal.

The genesis of this Planning Proposal appears to be the impact of Residential Flat Buildings on existing low scale adjoining properties (in Fauna Place), and whether amenity impacts from townhouse development would be less. This DA appears to be the first Residential Flat Building proposed in this area since the Zone 6 Multiple Dwelling B came into effect in the 2006 LEP, and thus the 'impacts' of this type of development are in dispute.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The Planning Proposal should not proceed at this stage, for the following reasons:**
 - it will effectively "downzone" a large area located within 400 metres of a railway station and shopping centre and will result in approximately 100 less dwellings
 - is inconsistent with several s.117 Directions relating to decrease in residential density;
 - insufficient investigation undertaken to enable fine grain planning controls to be applied to the entire block.

However, following further investigation (including a site visit with Council staff and some Councillors on 27 July 2012) Council's assertion that 3 storey residential flat development is inappropriate in this location appears to have some merit. Further investigation needs to be completed to ensure appropriate fine grain planning controls for the entire block under consideration. If Council can demonstrate it has thoroughly considered all areas of the block for opportunities to increase residential capacity (such as corner blocks fronting Acacia Road), then the Planning Proposal could be further considered.

Options:

1. The preferred option would be not to issue a Gateway determination at this stage, as the Planning Proposal is not supported in its current form. This is due to the lack of fine grain planning (particularly the proposed open space zone and potential of corner sites fronting Acacia Road for increased residential density) and the need to strategically demonstrate thorough consideration of all areas of the block for opportunities to increase residential capacity. If Council still wish to proceed with the intent behind the Planning Proposal, the detailed planning work contained in the Kirrawee Local Area Masterplan could be used as a basis for further analysis and justification (see Flora Street West precinct Plan – Fig 5.2.33). The Dept would be willing to look at a revised Planning Proposal that addressed these concerns.

2. IF the Panel decides to support the Planning Proposal to proceed to public exhibition, it is recommended that Council also exhibit a thorough strategic assessment of opportunities for increased residential density within the block, which would result in beneficial local outcomes for the Kirrawee precinct.

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Sutherland Shire Local Environmental Plan 2006 (Draft Amendment No 18)

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

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

**3.1 Residential Zones
3.4 Integrating Land Use and Transport
6.2 Reserving Land for Public Purposes
7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Additional Information :

It is recommended that the Planning Proposal not proceed in its current form.

Supporting Reasons :

It is considered that the Planning Proposal should not proceed in its current form for the following reasons:

- The decision to effectively 'downzone' such a large area located within 400 metres of a railway station and shopping centre will result in approximately 100 less dwellings. This is in conflict with Ministerial Directions 3.1, 3.4 and 7.1. and Government policy to maintain or increase housing supply.
- Council should consider the total area of the block and produce a plan that provides for transition but also identifies sites that could retain higher density, thus providing more housing compared to the current planning proposal.
- If Council can address this issue by a more thorough investigation of opportunities for increased density/heights within the block, then a new Planning Proposal could be considered. The fine grain planning approach contained within the Kirrawee Local Area Masterplan (see Flora Street West precinct plan – Fig 5.2.33) could provide a basis for this further strategic investigation, and identifies corner blocks fronting Acacia Road as possibly containing greater density.

It is acknowledged that the current pattern of zoning in this area may create a poor transition between existing and potential building forms. Following the site visit, the following was concluded:

- In urban design terms, it makes sense to have the Zone 4 Local Housing area around Fauna Place 'buffered' by a 'transitional' medium density zone (however corner sites fronting Acacia Rd could benefit from higher forms).
- The southern side of Flora St has a different character to northern side.
- By zoning for townhouses/villas in this location, it gives greater housing choice (as residential flat buildings are permissible on northern side of Flora St).

Signature:



Printed Name:

DAVID PITNEY

Date:

6/8/12