

**Draft Sutherland Shire Local Environmental Plan 2013 - Amendments to Waterways Zoning**

Proposal Title : **Draft Sutherland Shire Local Environmental Plan 2013 - Amendments to Waterways Zoning**

Proposal Summary : **The Planning Proposal seeks to include a wider range of development in the waterways zones and includes:**

- extension of boundaries of zone W2 Recreational Waterways
- addition of uses 'mooring pens' and 'boatsheds' as permissible uses under the W1 Natural Waterways zone
- replacement of the final objective under W1 Natural Waterways zone with a new objective
- addition of new objectives to W1 Natural Waterways and W2 Recreational Waterways zones.

PP Number : **PP\_2013\_SUTHE\_004\_00**      Dop File No : **13/07641**

**Proposal Details**

Date Planning Proposal Received :	<b>12-Apr-2013</b>	LGA covered :	<b>Sutherland</b>
Region :	<b>Sydney Region East</b>	RPA :	<b>Sutherland Shire Council</b>
State Electorate :	<b>CRONULLA HEATHCOTE MENAI MIRANDA</b>	Section of the Act :	<b>55 - Planning Proposal</b>
LEP Type :	<b>Housekeeping</b>		

**Location Details**

Street : **Cronulla Street**

Suburb : **Cronulla**      City : **Sutherland**      Postcode : **2230**

Land Parcel :

**DoP Planning Officer Contact Details**

Contact Name : **Deewa Baral**

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**RPA Contact Details**

Contact Name : **Margaret Paige**

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Contact Email : **mpaige@ssc.nsw.gov.au**

**DoP Project Manager Contact Details**

Contact Name :

Contact Number :

Contact Email :

## Draft Sutherland Shire Local Environmental Plan 2013 - Amendments to Waterways Zoning

### Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	<b>Southern Regional Strategy</b>	Consistent with Strategy :	<b>Yes</b>
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	<b>0</b>	No. of Dwellings (where relevant) :	<b>0</b>
Gross Floor Area :	<b>0</b>	No of Jobs Created :	<b>0</b>
The NSW Government Lobbyists Code of Conduct has been complied with :	<b>Yes</b>		
If No, comment :			
Have there been meetings or communications with registered lobbyists? :	<b>No</b>		
If Yes, comment :	<b>The Department is not aware of any meetings or communications with registered lobbyists concerning this Planning Proposal.</b>		

### Supporting notes

Internal Supporting Notes : **The Planning Proposal relates to waterways zoning and it does not trigger any additional dwellings or jobs.**

**Council intend to incorporate the outcome of this Planning Proposal into the draft Sutherland Shire Local Environmental Plan (SSLEP). Public exhibition of the draft SSLEP 2013 concluded on 1May 2013. The due date for completing the draft SSLEP 2013 is 15 November 2013.**

**Council currently has delegation to make the plan and has submitted Attachment 4-Evaluation Criteria for the Delegation of Plan Making functions and a project timeline. If Council is given delegation for this Planning Proposal, Council should be aware that it cannot be made before the draft SSLEP 2013 is notified.**

**An alternative option requested by Council is to incorporate the Planning Proposal into the draft SSLEP 2013 as a post exhibition change. However, the Planning Proposal involves significant post exhibition changes that may affect development entitlements which were possible under the exhibited draft SSLEP. On this basis, if the Planning Proposal is implemented by way of a post - exhibition change, the draft SSLEP may need to be re-exhibited to avoid a potential challenge as to the validity of the LEP.**

**Therefore, the preferred course of action would be to implement Council's proposed Planning Proposal by way of an amendment to the SSLEP 2013 after it is made.**

External Supporting Notes :

### Adequacy Assessment

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

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

Comment : **The statement of objectives is considered to be adequate.**

**The planning proposal seeks to include a wider range of development in the waterways zones including:**

- rezoning of waterways (Gunnamatta Bay, Burraneer Bay, Dolans Bay, Yowie Bay and a section of the Georges River) from W1 Natural Waterways to W2 Recreational Waterways;**
- addition of uses 'mooring pens' and 'boatsheds' as permissible under the W1 Natural Waterways zone;**
- replacement of the final objective under W1 Natural Waterways zone with a new objective**
- addition of new objectives to W1 Natural Waterways and W2 Recreational Waterways zone**

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

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

Comment : **The proposal seeks to make the following amendments:**

**1. Amend zoning maps to include Gunnamatta Bay, Burraneer Bay, Dolans Bay, Yowie Bay and a section of the Georges River (from Tom Ugly's Bridge to the north-western point of Kangaroo Point) under W2 Recreational Waterways zone.**

**2. Amend the Land Use Table for W1 Natural Waterways as follows:**

**2a) Replace the final objective with the following:**

- To allow permitted water based structures where appropriate having regard to:**
  - a) the cumulative impact of man-made structures and their concentration within a section of the waterway;**
  - b) the natural character and natural scenic quality of the waterway; or**
  - c) the established recreational use and functionality of the waterway; or**
  - d) the views of the waterway and land/waterway interface from the public and private domain;**
  - e) appropriate water based facilities to serve private properties.**

**2b) Add the following new objectives:**

- To allow suitable mooring facilities having regard to the established character of an area, recreational uses, the functionality of the waterways and the cumulative impact of man-made structures or the waterway.**
- To allow for multiple mooring pens to be attached to a water recreation structure in zone W1 Natural Waterways.**

**3. Amend the Land Use Table for W1 Natural Waterways to add uses 'mooring pens' and 'boatsheds' under permitted with consent heading.**

**4. Amend the Land Use Table for W2 Recreational Waterways to add the following new objective:**

- To allow suitable mooring facilities having regard to the established character of an area, recreational uses, the functionality of the waterways and the cumulative impact of man-made structures or the concentration of development with a section of the waterway.**

**Justification - s55 (2)(c)**

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

b) S.117 directions identified by RPA :

**2.1 Environment Protection Zones**

\* May need the Director General's agreement

**2.2 Coastal Protection**

**2.3 Heritage Conservation**

**4.1 Acid Sulfate Soils**

**4.3 Flood Prone Land**

**6.1 Approval and Referral Requirements**

**7.1 Implementation of the Metropolitan Plan for Sydney 2036**

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

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

d) Which SEPPs have the RPA identified?

**SEPP No 71—Coastal Protection**

**SEPP (Infrastructure) 2007**

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

**The planning proposal does not contravene any State Environmental Planning Policies or s117 Directions.**

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

If No, explain :

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

**The maps to identify the specific areas proposed to be rezoned from W1 Natural Waterways to W2 Recreational Waterways have been provided.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment :

**Council proposes that the Planning Proposal be exhibited in accordance with the requirements of the Gateway Determination. Council should clearly explain in its exhibition material that this Planning Proposal is amending the exhibited draft SSLEP 2013.**

**Council purposes to give notice of the public exhibition in the local newspaper (The St George and Sutherland Shire Leader and The Liverpool City Leader) and on Council's website. These arrangements are considered satisfactory. In addition, Council is required to consult the Department of Primary Industries - Fisheries, as the outcome of the proposal could have a considerable impact on the marine lives within the waterways.**

**The Planning Proposal makes substantial changes to provisions in the recently exhibited draft SSLEP 2013 and relates to waterways that covers a wider area within the LGA, therefore, it is recommended to be exhibited for a period of 28 days.**

**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 : **November 2013**

Comments in relation to Principal LEP : **The principal LEP was on exhibition until 1 May 2013. Council intend to incorporate the outcome of this Planning Proposal into the principal LEP.**

**Assessment Criteria**

Need for planning proposal :

**1. The proposal seeks to rezone Gunnamatta Bay, Burraneer Bay, Dolans Bay, Yowie Bay and a section of the Georges River (from Tom Ugly's Bridge to the north-western point of Kangaroo Point) from W1 Natural Waterways to W2 Recreational Waterways zone as Council intend to permit a wider range of development in the waterways and support the reasonable expansion of existing marinas. The proposal seeks to retain the controls under the existing SSLEP 2006, as marinas are permitted on the above mentioned waterways currently and W1 Natural Waterways zone under the draft SSLEP 2013 prohibits marinas. This rezoning would also remove part of Georges River, Gunnamatta Bay, Burraneer Bay, Dolans Bay and Yowie Bay from Schedule 1 Additional Permitted Uses under the draft SSLEP 2013, as the listed use is permissible under W2 Recreational Waterways zone. It is considered that the proposal is in line with the current LEP and supports the Department's position that an appropriate zone rather than Schedule 1 should be used where possible.**

**2. The proposal seeks to amend the Land Use Table for W1 Natural Waterways zone by adding new objectives that permit appropriate water based structures and allow suitable mooring facilities. This would encourage development in zone W1 Natural Waterways that is informed by locality and site specific characteristics and is supported.**

**3. The proposal also seeks to include uses - 'mooring pens' and 'boatsheds' as permissible under W1 Natural Waterways zone which are prohibited under the draft SSLEP 2013. The proposal addresses the current demand for 'mooring pens' and is supported.**

**4. The proposal seeks to amend the Land Use Table for the W2 Recreational Waterways zone by adding a new objective that allows suitable mooring facilities. This addresses the current demand for fixed moorings and is supported.**

Consistency with strategic planning framework :

**The Planning Proposal is consistent with the objectives of the draft South Subregional Strategy as it protects environmental assets, improves the health of waterways and protects biodiversity.**

**The proposal is not contrary to Council's community plan 'Our Shire Our Future: Our Guide for Shaping the Shire to 2030' as the proposal will provide opportunities to deliver balanced development and diverse leisure opportunities.**

Environmental social economic impacts :

**The Planning Proposal aims to provide more opportunities for permanent boat moorings in the Shire's waterways. These permanent boat moorings can have adverse impact on the threatened seagrass species 'Posidonia australis' found around Port Hacking. In addition, there may be a similar impact on other seagrasses including 'Zostera' and 'Halophila' that might result in reduced food resources for marine life.**

**As boat moorings are only permissible with consent, the assessment of the likely impact of the development and the mandatory approval from the Department of Primary Industries - Fisheries would restrict those developments that will make considerable impact on the endangered species.**

**In addition, a permanent berthing area tends to provide a stable platform for boat maintenance which might result in increased release of pollutants into the aquatic environment and this would need to be considered at the development assessment stage.**

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This proposal addresses the current demand for fixed moorings in the Shire.

### Assessment Process

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

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

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 :

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
<b>Waterways Planning Proposal .pdf</b>	<b>Proposal</b>	<b>Yes</b>
<b>Attachment 4 _Evaluation Criteria for the delegation of plan making funtions.pdf</b>	<b>Proposal</b>	<b>No</b>
<b>Waterways PP Letter.pdf</b>	<b>Proposal Covering Letter</b>	<b>Yes</b>

### Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones**  
**2.2 Coastal Protection**  
**2.3 Heritage Conservation**  
**4.1 Acid Sulfate Soils**  
**4.3 Flood Prone Land**  
**6.1 Approval and Referral Requirements**  
**7.1 Implementation of the Metropolitan Plan for Sydney 2036**

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

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- 1. The Planning Proposal is exhibited for 28 days; and
- 2. The Planning Proposal is completed in 9 months time.
- 3. Council be given delegation for this Planning Proposal, but Council should be made aware that it cannot be made before the draft SSLEP 2013 is notified.
- 4. Council should clearly explain in its exhibition material that this Planning Proposal is seeking to amend the controls in the exhibited draft SSLEP 2013.

The RPA should be advised that:

- 1. Consultation with the Department of Primary Industries - Fisheries is required.
- 2. No further studies are required.
- 3. As the Planning Proposal is making a significant post exhibition change it may not be appropriate to incorporate these changes into the draft SSLEP 2013 before it is made. It would be appropriate for this Planning Proposal to be made as an Amendment to SSLEP 2013.

Supporting Reasons :

The Planning Proposal provides for a wider range of development in the waterways zones subject to locality and site specific characteristics. The proposed rezoning reinstates control for marinas under SSLEP 2006 and meet demands for suitable moorings in the Shire.

Signature:

DPitney

Printed Name:

DAVID PITNEY

Date:

9/5/13

