

Sutherland LEP 2015 Amendment 4 Housekeeping

Proposal Title : **Sutherland LEP 2015 Amendment 4 Housekeeping**

Proposal Summary : **The following changes are proposed to Sutherland Local Environmental Plan 2015 (SLEP 2015) to correct minor written and mapping errors and omissions, for reasons explained further in this report:**

- **Changes to the following provisions:**
 - Clause 4.1A Minimum subdivision requirements in certain residential and environment protection zones;
 - Clause 6.9 Limited development on foreshore area;
 - Clause 6.11 Development for dwelling houses in Zone E2 Environmental Conservation and fronting the Woronora River;
 - Clause 6.14 Landscaped areas in certain zones;
 - Schedule 1: Additional Permitted Uses Clause 2 Use of certain land; and
 - Schedule 5 Environmental Heritage.
- **Minor corrections to the following maps and mapping components:**
 - Floor Space Ratio
 - Height of Building
 - Landscaped Area
 - Mean High Water Mark
 - Land Zoning
 - Foreshore Building Line.
- **Minor rezonings at:**
 - Part of Soldiers Road Oval/Jannali Baseball Fields, from E2 Environmental Conservation to RE1 Public Recreation;
 - 574 Kingsway, Miranda, from B3 Commercial Core to SP2 Infrastructure;
 - 10-40 Sussex Street, Bundeena, from E2 Environmental Conservation to E1 National Parks and Nature Reserves; and
 - 2R Dolans Road & 1 Harnleigh Avenue Woollooware, and 66-74 Karimbla Road, Miranda from R3 Medium Density Residential to RE1 Public Recreation.
- **Other map changes to:**
 - update the Biodiversity Maps with the latest OEH data;
 - update to Additional Permitted Uses Map, Flood Planning Map and Natural Landform Map; and
 - update to Land Reservation Acquisition Map to reflect recent acquisitions.
- **Amendments to the Heritage Schedule and Map.**

PP Number : **PP_2016_SUTHE_003_00** Dop File No : **16/08121**

Proposal Details

Date Planning Proposal Received :	18-May-2016	LGA covered :	Sutherland
Region :	Metro(CBD)	RPA :	Sutherland Shire Council
State Electorate :	CRONULLA HEATHCOTE MENAI MIRANDA	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Sutherland LEP 2015 Amendment 4 Housekeeping

Street :

Suburb :

City :

Postcode :

Land Parcel : **Various properties in the Sutherland Shire.**

DoP Planning Officer Contact Details

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RPA Contact Details

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

:

Residential /

Employment land) :

No. of Lots : **0**

No. of Dwellings **0**

(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of

Conduct has been

complied with :

If No, comment : **The Department's code of conduct has been complied with.**

Have there been **No**

meetings or

communications with

registered lobbyists? :

If Yes, comment : **There have been no meetings with registered lobbyists.**

Sydney Region East has not knowingly met or communicated with any lobbyist in relation to this planning proposal.

Supporting notes

Internal Supporting

Notes :

The planning proposal is supported for the following reasons:

Amendments to the written instrument

- Amend Clause 4.1A Minimum subdivision requirements in certain residential and environment protection zones, to permit the strata subdivision of multi-dwelling housing and residential flat buildings without the need to meet the minimum lot width and depth requirements, by inserting a proposed subclause 4) - This clause does not apply in relation to the subdivision of individual lots in a strata plan:
This outcome is consistent with the Exempt and Complying SEPP and Council's intention to over-ride the lot control requirements applying to all subdivisions under clause 4.1A, which was omitted from SSLEP 2015.
- Amend Clause 6.9 Limited development on foreshore area to permit inclinators within the foreshore area, by inserting this use into subclause 2(c):
This was part of the exhibited version of SSLEP 2015, but was inadvertently omitted from the final draft instrument.
- Amend Clause 6.11 Development for dwelling houses in Zone E2 Environmental Conservation and fronting the Woronora River, to include the following three properties to which the clause applies (allowing rebuilding, enlarging and alterations), but were inadvertently omitted from the Additional Permitted Uses Map: 68 Tirto Street, Barden Ridge and 155-157 Woronora River Frontages, Bangor.
- Amend Clause 6.14 Landscaped areas in certain zones to ensure that the list includes all land zones on which a landscaped area is indicated in the Landscape Area Map:
The exhibited version of this clause included zone IN4 Working Waterfront, which was inadvertently omitted from the final draft clause.
- Amend Schedule 1 Additional Permitted Uses Clause 2, Use of certain land at 34 Shell Road, Burraneer to correct the address to which the land applies:
This is a drafting error which incorrectly labels an additional permitted use as being in Bundeena rather than Burraneer.

Mapping corrections

- FSR Maps - Inclusion of 21 lots at 9-21 Nimoola Road, Engadine & 55-81 Warilda Avenue, Engadine and 5 lots at 52-60 Coachwood Road, Illawong:
These were inadvertently removed from draft SSLEP 2015. An FSR of 0.55:1 is proposed, consistent with the surrounding E4 Environmental Living zone. It is recommended Council be required to include the street details of the affected properties on the FSR maps.
- Landscaped Area maps - Inclusion of 5 lots at 52-60 Coachwood Road, Illawong, to apply a Landscape Area of 40%:
These were erroneously omitted from draft SSLEP 2015. Their inclusion is consistent with the surrounding E4 Environmental Living zone.
- Mean High Water Mark - correction of mapping anomalies from re-definition of the line due to new Deposited Plans being created, resulting in properties being zoned partly residential and partly as water:
The proposal seeks to amend the zoning map to apply the existing land-based zone to the whole property, in keeping with its adopted zoning principles for land along the land/water interface:
 - 42A Wonga Road, Yowie Bay (Lot 2 DP 1190478);
 - 16 Bayview Road, Burraneer (Lot 6 DP 16899);
 - 6 Excelsior Road, Cronulla (Lot 1 DP 1208273);
 - 6 Fowler Road, Illawong (Lot 30 DP 1190201);
 - 9 & 11 Holt Road, Taren Point (Lot 4 DP 879606 & Lot 1 DP 1211416);
 - 42 Rutherford Avenue, Burraneer (Lot 1 DP 1211640); and
 - 289 Woollooware Road, Burraneer (Lot 1 DP 1190800).
- Zone corrections from GIS improvements - GIS validation has identified an error in the

zoning of the following properties as E3 Environmental Management in SSLEP2015, which were previously zoned Zone 1 – Environmental Housing (Environmentally Sensitive Land), with reclaimed land below mean high water mark (MHWM) zoned Zone 16 – Environmental Protection (Waterways):

It is proposed to reinstate the dual zoning of these properties as part E3 Environmental Management and part W1 Natural Waterways, with MHWM forming the boundary between the zones, in keeping with Council's long-standing policy of not recognising reclamations and applying a water-based zone to land below the MHWM:

- 5 Juvenis Ave (Lot 111 DP 1006608) and 1 Juvenis Ave (Lot 104 DP 623011), Oyster Bay; and
- 36 Wonga Road, Yowie Bay (Lot 2 DP 1190478).

• Consequential changes to the development standards maps are proposed, to ensure the standards (height, FSR, landscape and lot size) only apply to the land-based zone: Further consequential amendments are also proposed to ensure consistency in the application of the Flood Planning, Natural Landforms and Additional Permissible Uses maps.

• Changes to the Foreshore Building Line (FBL) at 285, 289 and 291 Woollooware Road, Burraneer:

This is a minor outstanding issue following submissions to the exhibition of SSLEP 2015, to ensure an accurate FBL between all three properties.

Minor rezonings

• Rezone part of Soldiers Road Oval/Jannali Baseball Fields (Part of Lot 200 DP 1081859 and Part of Lot 1230 DP 821652) from E2 Environmental Conservation to RE1 Public Recreation to reflect the actual use of this Council owned land: This amendment corrects the inappropriate split zoning of the oval (Jannali Baseball Fields) in the SSLEP 2015.

• Rezone 574 Kingsway, Miranda (Lot 4 DP 10454) from B3 Commercial Core to SP2 Infrastructure (Telecommunications) to reflect the actual use of the land: This amendment applies to one of four Telstra infrastructure sites at the corner of The Kingsway and Kiora Road, Miranda, for which the historical zoning is anomalous with its long-standing use. It is recommended Council be required to consult with Telstra regarding this clause.

• Rezone 10-40 Sussex Street, Bundeena (Lots 15, 16, 17 and 18 inclusive Section K DP 1782) from E2 Environmental Conservation to E1 National Parks and Nature Reserves: On 5 August 2015, these lots were reserved as part of the Royal National Park, under the provisions of section 30A (1) of the National Parks and Wildlife Act 1974. The proposed rezoning to E1 is consistent with the required zoning under National Parks and Wildlife Act 1974.

• Rezone 2R Dolans Road and 1 Harnleigh Avenue, Woollooware (Lot 22 DP 552678) from R3 Medium Density Residential to RE1 Public Recreation to reflect the actual use of this Council owned land for golf course and scout hall purposes: Investigations have revealed the current R3 Medium Density Residential zoning is anomalous to its long-standing use. As there is generally no requirement to apply development controls to land zoned RE1, it is proposed to also remove current mapped controls height, FSR, landscape area and lot size applying to the sites.

• Rezone 66-74 Karimbla Road, Miranda (Lot 6 DP 566645) from R3 Medium Density Residential to RE1 Public Recreation, to reflect the actual use of the Council owned 224 sqm lot as part of Centenary Park, Miranda: The land is classified by Council as 'community' land under the Local Government Act.

Other map changes

• **Update the Biodiversity Maps to include the latest OEH data:**

This responds to a submission to SSLEP 2015 requesting updating of the Environmentally Sensitive Land Map to incorporate the most recent OEH data (Native Vegetation of the Sydney Metropolitan Area 2013, Version 2). It affects 495 properties, 480 being identified as containing threatened or endangered ecological communities. For 124 properties, the amendment would mean, in relation to new single and two storey dwelling houses, the land owners will need to lodge DAs for: new dwellings, alterations/additions, and certain ancillary development. The newly identified properties will also be subject to clause 6.5 'Environmentally sensitive land – Terrestrial biodiversity'. For development proposals, subclause (3) would require the consent authority to consider the potential impacts of the proposed development, as well as proposed mitigating measures. It is recommended Council be required to notify all affected landowners in writing and to provide maps of the affected land as part of the exhibition package.

• **Update the Land Reservation Acquisition (LRA) Map to reflect recent acquisitions of vacant land at the rear of 172 Karimbla Road, Miranda (Lot 1 DP 1205214) and Lot 102 DP1159806, Kirrawee:**

It is proposed to remove the land from the LRA Map, as it has been acquired by the relevant public authority. Vacant land at the rear of 172 Karimbla Road, Miranda is currently shown as 'Local open space, (RE1)' for acquisition by Council as part of the Ewey Creek Corridor. However, this is no longer relevant, as the land was subdivided from the lot remainder and acquired by Council on 16 March 2015. Similarly, lot 102 DP 1159806 at Kirrawee, known as 'Railway Corridor (SP2)' for acquisition by Railcorp, was acquired by Transport for NSW on 13 October 2014.

Heritage amendments

• **Changes in response to the Sutherland Shire Community-based Heritage Review:** The proposed amendments will implement the recommendations of Sutherland Shire Community Based Heritage Review, which did not propose any new items or deletions, but rather identified various corrections to listing and mapping errors, as well as combining several heritage items into single listings. It is recommended Council be required to consult with the Office of Environment and Heritage on the proposed changes and make a copy of Part 2 of the Review, relating to the planning proposal, available as part of the exhibition package.

• **Further corrections to anomalies and errors:**

In addition to the above listed studies, further changes are proposed to the Heritage schedule and maps. These additional changes are mainly administrative in nature, including:

- mapping corrections needed due to new lot boundaries;
- inclusion of seven items erroneously omitted from heritage listing in the South Cronulla Beach precinct;
- adding five mapped items not included in the SSLEP 2015 heritage schedule; and
- correcting erroneous identifiers for certain items in the heritage maps.

External Supporting
Notes :

Council supports the planning proposal because it will improve the currency and operation of SSLEP 2015 by making minor corrections to the instrument and maps, including heritage identification and management.

Council has requested delegation of plan making functions for this proposal. Delegation to Council is supported in this instance.

Adequacy Assessment

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

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

Comment : **The objective of the planning proposal is to correct anomalies and inconsistencies identified in SSLEP 2015.**

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

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

Comment : **The explanations of provisions is clear and adequate.**

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

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 7.1 Implementation of A Plan for Growing Sydney**

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

- SEPP No 19—Bushland in Urban Areas**
- SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**
- SEPP No 55—Remediation of Land**
- SEPP No 70—Affordable Housing (Revised Schemes)**
- SEPP No 71—Coastal Protection**
- SEPP (Building Sustainability Index: BASIX) 2004**
- SEPP (Exempt and Complying Development Codes) 2008**
- SEPP (Housing for Seniors or People with a Disability) 2004**

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

The planning proposal is consistent with relevant SEPPs and inconsistencies with Section 117 Directions are minor and justifiable, as identified in Appendix 5 of the submission (Tab A5). Further details are also available in the analysis section of this report.

Direction 1.1 Business and Industrial Zones

The rezoning of 574 Kingsway, Miranda, from B3 Commercial Core to SP2 Infrastructure (Telecommunications) decreases land zoned for business purposes. As this small lot has historically not been used for business purposes and is used for Telecommunications purposes with the three adjoining lots, this is considered to be a minor, reasonable inconsistency.

Direction 2.1 Environment Protection Zones

The proposed rezoning of land forming part of the Jannali Baseball Fields on Soldiers Road, Jannali from E2 Environmental Conservation to RE1 Public Recreation is a technical inconsistency with this Direction, as the land is currently part of the baseball diamond and associated amenities buildings. Consequently, the land to be rezoned does not have a high ecological value, except as a buffer to the bushland. It is therefore considered that the inconsistency is justifiable as a minor matter.

The proposal is also technically inconsistent with this direction as it seeks to include three properties in clause 6.11 with others where dwelling houses are permissible in the E2 Environmental Conservation zone. However, there are already dwellings on the properties, which are identified in the mapping, so this is really a correction to an omission from a Schedule allowing the provision. The properties are located at 68 Tirto Street, Barden Ridge and 155-157 Woronora River Frontages, Bangor. There are no changes to the development standards that apply to these properties and it is likely the

properties could be redeveloped for dwelling houses by relying on 'existing use rights'. It is therefore also considered that this inconsistency is justifiable as a minor matter.

Direction 3.1 Residential Zones

The proposed rezoning of land at 1 Juvenis Avenue and 5 Juvenis Avenue, Oyster Bay, from E3 Environmental Management to part E3 Environmental Management and part W1 Natural Waterways is inconsistent with provision (b)(i) of this Direction as it reduces the apparent residential capacity of the land. However, the amendment responds to a mapping error discovered through GIS mapping validation and seeks to correctly identify land that is below the mean high water mark as W1. The inconsistency is considered to be justifiable as being of minor significance.

Also the proposed rezoning of 2R Dolans Road and 1 Harnleigh Avenue, Woollooware from R3 Medium Density Residential to RE1 Public Recreation will reduce the area of land zoned for residential purposes. However, as these properties have been used for public recreation for a very long time, the proposed rezoning to reflect a long standing use is considered to be justifiable as being of minor significance.

Direction 6.2 Reserving Land for Public Purposes

As the proposal seeks to rezone the following land to RE1 Public Recreation, reflecting their long standing use for public recreation purposes, it is considered the inconsistency with this Direction is justifiable as a minor matter:

- 66-74 Karimbla Road, Miranda (Council owned land);
- 2R Dolans Road, Woollooware/ 1 Harnleigh Avenue, Woollooware (Lot 22 DP 552678) (part of Woollooware Golf Course, includes scout hall); and
- part of Soldiers Road Oval/ Jannali Baseball field (Council owned).

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Refer to section e) above.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Maps

The mapping includes relevant map extracts identifying the current and proposed provisions, which are adequate to identify the subject land and for community consultation.

It is recommended Council be required to provide mapping of all properties affected by the biodiversity amendments, to provide further labelling to the FSR maps as outlined in the report, and to group the maps by site (rather than by type) and cross-referenced to the relevant explanation of the amendment within the body of the proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council proposes a 28 day community consultation period. Considering the volume of housekeeping amendments, a 28 day exhibition period is considered appropriate.

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 : **The Sutherland Shire LEP 2015 was finalised on 23 June 2015.**

Assessment Criteria

Need for planning proposal :

As the proposal is a housekeeping amendment to correct various small anomalies and omissions, it has not be prepared as a result of a specific study or report in addition to those carried out as part of the making of SSLEP 2015. A key supporting document is the Sutherland Shire Community Based Heritage Review. The first stage of their review, dealing with foreshore heritage, was completed in 2011 and informed the SSLEP 2015. The second stage, dealing with heritage items, trees, landscapes and landforms, informs this proposal. The proposal is the best means of updating the SSLEP 2015 planning controls.

The planning proposal is needed as it will correct minor errors and anomalies in SSLEP 2015, and to implement some carry-over matters from the making of the LEP, to improve the currency and efficiency of the instrument.

Consistency with strategic planning framework :

The proposed amendments are predominantly administrative in nature and to ensure quality outcomes for the long term benefit of the Sutherland Shire through ensuring the accuracy and consistency of its planning controls. The correction of minor anomalies and inconsistencies in the SSLEP 2015 will not have any adverse implications for the actions and objectives contained in A Plan for Growing Sydney or the subregional strategy.

The planning proposal is also consistent with the Sutherland Community Strategic Plan – Our Shire Our Future: Our Guide to Shaping the Shire to 2030.

Environmental social economic impacts :

Environmental

The proposal is unlikely to have any adverse environmental impacts on any critical habitat or threatened species, populations or ecological communities or their habitats, given most of the proposed changes are minor or administrative in nature. The changes to the Terrestrial Biodiversity Map will afford greater consideration of the impacts on threatened species, populations or ecological communities in the assessment of development applications on the land proposed to be added to the map.

Social and economic

The planning proposal is not anticipated to have any negative social or economic impacts. The aim of the planning proposal is to ensure SSLEP 2015 is accurate and consistent with Council's strategic policy direction. The planning proposal is not likely to create any additional demand on existing public infrastructure.

Assessment Process

Proposal type :

Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months**

Delegation : **RPA**

Public Authority Consultation - 56(2)(d) :

**Office of Environment and Heritage
Telstra**

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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

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 7.1 Implementation of A Plan for Growing Sydney**

Additional Information : It is recommended the planning proposal proceeds, subject to:

1. Prior to public exhibition, the planning proposal is to be updated to:
 - a) group the maps (current and proposed) by site (not by type) and cross-referenced back to the relevant explanation of the amendment within the body of the proposal. Maps are also to be consistent with the Department's Standard Technical Requirements for Spatial Datasets and Maps;
 - b) include mapping showing the land proposed to be affected by existing biodiversity controls now applying from the updated Biodiversity Maps; and
 - c) ensure the Floor Space Ratio Maps applying to 9-21 Nimoola Road, Engadine & 55-81 Warilda Avenue, Engadine and 52-60 Coachwood Crescent, Alfords Point include those property descriptions.
4. A copy of Part 2 of the Sutherland Shire Community Heritage Review, applying

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to the proposal, is to be made available as part of the exhibition package.

5. Council is to consult in writing with each landowner affected by biodiversity controls applying to them as a result of the updated Biodiversity Maps.

6. Council is to consult with the Office of Environment and Heritage and Telstra. These public authorities are to be given a copy of the planning proposal and any relevant supporting material, and at least 21 days to comment on the proposal. The proposal is to be revised to respond to any submissions received.

7. The planning proposal is to be exhibited for 28 days.

8. The timeframe for completing the LEP is 9 months.

9. A public hearing is not required to be held about this matter.

10. The plan making function be delegated to Council.

Supporting Reasons :

The planning proposal will have a positive community impact by ensuring SSLEP 2015 is accurate and consistent with Council's strategic policy direction. The planning proposal is not likely to have any negative social or economic impacts or create any additional demand on existing public infrastructure.

Signature:



Printed Name:

MARTIN COOPER

Date:

28/06/2016