

Sutherland planning proposal to facilitate a land swap between Council and BUPA owned land

Proposal Title : **Sutherland planning proposal to facilitate a land swap between Council and BUPA owned land**

Proposal Summary : **Planning proposal to amend Sutherland Local Environmental Plan 2015 (SLEP 2015) to enable a land exchange between Sutherland Shire Council (Council) and Healthcare Property Funds Pty Ltd (BUPA) to facilitate development for seniors housing and better configuration of adjoining local open space.**

PP Number : **PP_2016_SUTHE_005_00** Dop File No : **16/13829**

Proposal Details

Date Planning Proposal Received : **01-Nov-2016** LGA covered : **Sutherland**

Region : **Metro(CBD)** RPA : **Sutherland Shire Council**

State Electorate : **HEATHCOTE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **Part 99 R Acacia Road**

Suburb : **Sutherland** City : **Sutherland** Postcode : **2232**

Land Parcel :

Street : **Part 42 Auburn Street**

Suburb : **Sutherland** City : **Sutherland** Postcode : **2232**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Michael Kokot**

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
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 : **The Department's Code of Conduct has been complied with.**

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

If Yes, comment : **Sydney Region East has not knowingly met with or communicated with any lobbyist in relation to this planning proposal.**

Supporting notes

Internal Supporting Notes :	The planning proposal is supported because it: * meets the objectives and directions of the NSW planning policy framework by facilitating the provision of seniors housing, while retaining a potentially Endangered Ecological Community (EEC) - Sydney Turpentine - Ironbark Forest (EEC - STIF) and possible remnant vegetation on the subject land; * rationalise the configuration of residential and open space land; and * does not reduce the amount of land currently zoned for residential and open space. Delegation of plan making functions for this planning proposal has not been requested by Council. It cannot be delegated because the re-classification component involves a 'suspension of covenants' clause under section 28 of the Environmental Planning and Assessment Act, 1979 and discharge of interests in public land under section 30 of the Local Government Act, 1993.
External Supporting Notes :	Council supports the planning proposal because: * the exchange of land of identical dimensions will result in no net loss of currently zoned residential and open space land; • both parties will have more regularly shaped parcels of land; • this will result in more useable local open space and facilitating the development of a seniors housing development on the adjoining land; and • the proposal is consistent with the Government's and Council's strategic planning frameworks. Delegation of this planning proposal has not been requested by Council, as it cannot be delegated because the re-classification component involves a 'suspension of covenants' clause under section 28 of the Environmental Planning and Assessment Act, 1979 and discharge of interests in public land under section 30 of the Local Government Act, 1993.

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It is recommended Council's proposed timeline be extended by one month, allowing 6 months to submit the request for the draft instrument to be prepared. A total of 9 months is recommended, with the additional 3 months to draft and make the instrument, given the Governor's approval is required.

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 facilitate a land swap of equal amounts of residential and open space land, to rationalise the shape of the open space and to facilitate a seniors housing development.

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

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

Comment : The objective of the planning proposal is to amend Sutherland Shire Local Environmental plan 2015 (SSLEP 2015) by:
* rezoning Council land at part Lot 11, DP 1103619, 99 Acacia Road, Sutherland from RE1 Public Recreation to R4 High Density Residential and reclassifying it from community to operational; and
* rezoning BUPA's land at part Lot 200, DP 1110295, 42 Auburn Street Sutherland, from R4 to RE1.

The explanation of the proposal's provisions is clear.

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

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

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

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 19—Bushland in Urban Areas

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

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

STATE ENVIRONMENTAL PLANNING POLICIES AND REGIONAL ENVIRONMENTAL PLANS

The planning proposal is considered to be consistent with all relevant SEPPs and REPs (none identified). Reasons for consistency with SEPP 19 warrants explanation because of the possibility of there being EEC - STIF on the land.

SEPP No. 19 Bushland in Urban Areas

This policy aims to protect and preserve bushland within urban areas listed in Schedule 1, which includes Sutherland Shire. The proposal affects land that may contain an EEC - STIF and possible remnant vegetation. The proposal states the trees are largely on the perimeter of the boundaries of the subject land, allowing a developable area limiting

impact on the trees.

It is noted that while Council's submission states the presence of EEC - STIF, Council has since clarified this is only inferred from information received from OEH in relation to a related planning proposal (Sutherland Housekeeping Amendment 4), which is with Council post-Gateway. That proposal seeks to map various areas of bushland as Environmentally Sensitive Land (ESL), including the subject land, to which the provisions of clause 6.5 Environmentally sensitive land - terrestrial biodiversity of SSLEP 2015 would apply. This clause seeks to ensure that development consent is dependent on avoiding or minimising any significant impact on the vegetation.

The ESL mapping would exclude the application of the Codes SEPP, the Housing for Seniors SEPP (see the SEPP's clause 4 and 6 and Schedule 1). However, BUPA's proposed seniors housing development would still be permissible on the portion of the subject land proposed to be rezoned to R4 High Density Residential.

The proposal is considered to be consistent with SEPP 19 because the area proposed for development and the Council's intended local controls will afford retention of the EEC, and there will be additional environmental controls applying through a related proposal, as outlined above.

SECTION 117 DIRECTIONS

The planning proposal is considered to be consistent with the relevant identified Directions, with the exception of those identified below, with which it is justifiably inconsistent.

2.1 Environmental Protection Zones

This Direction aims to ensure planning proposals protect and conserve environmentally sensitive areas. While the subject land is not located within an Environmental Protection Zone, Council's and BUPA's portions may contain EEC - STIF (see discussion on SEPP 19 above). In addition Council is currently finalising a planning proposal (Housekeeping Amendment 4), which would map the site as environmentally sensitive apply specific planning controls to it.

Council states the technical inconsistency with this Direction is justified as being of minor significance, given there will be no net change to the quantum of the currently zoned RE1 Public Recreation land and there will be greater environmental controls for the bushland through the controls proposed through the Housekeeping Amendment 4.

In addition, the provisions of the Threatened Species Conservation Act, 1995 the Environment Biodiversity and Conservation Act, 1999 and the National Parks and Wildlife Act, 1974 would apply to the site and any proposed development, in the event there actually is EEC - STIF and remnant vegetation on the subject land.

It is recommended the Secretary's delegate agree to the inconsistency of the proposal with this Direction on this basis.

3.1 Residential zones

This direction requires the Secretary's delegate's agreement to changes to land and/or planning controls affecting residential land. The proposal is technically inconsistent with this Direction because it will rezone land currently zone R4 High Density Residential to RE1 Public Recreation.

While Council did not identify this direction as being relevant, it is recommended the Secretary's delegate agree the proposal is justifiably inconsistent with this direction as a minor matter, given there will be no net loss of R4 zoned land as a result of the proposal.

6.2 Reserving Land for a Public Purpose

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This direction requires the Secretary's approval for changes to existing zonings or reservations for public purposes. While Council did not identify this Direction, it is relevant because the proposal will change the zoning of existing RE1 Public Recreation zoned land.

It is recommended the Secretary's delegate agree the proposal is justifiable consistent with this Direction as a minor matter, as there will be no net loss of RE1 zoned land as a result of this proposal.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal includes adequate maps showing the current and proposed provisions in relation to:

- Land zoning;
- Height of buildings;
- Floor space ratio (FSR); and
- Landscape area.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Given the nature of the proposal, Council's proposal 28 day community consultation period is supported.

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 : It is recommended Council's proposed timeline be extended by one month, allowing 6 months to submit the request for the draft instrument to be prepared. A total of 9 months is recommended, with the additional 3 months to draft and make the instrument, given the Governor's approval is required.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Sutherland Shire LEP 2015 was notified on 23 June 2015.

Assessment Criteria

Need for planning proposal : The planning proposal is the only means of achieving the aims of the proposal.

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Consistency with strategic planning framework :

METROPOLITAN AND LOCAL PLANNING POLICY

A Plan for Growing Sydney

Council has identified the planning proposal's consistency with Goal 2 - A city of housing choice with homes that meet our needs and lifestyles, and its Directions 2.1 (accelerate housing supply) and 2.1.3 (Deliver more housing by developing surplus/under-used government land).

The planning proposal is considered to be generally consistent with the document's goals and guiding principles relating to housing growth, urban renewal and protection of the natural environment.

Draft South District Plan

As the draft South District Plan (draft SDP) was released on 21 November 2016, the planning proposal has not addressed its consistency with that document. The proposal is considered to be generally consistent with the draft SDP's priorities and actions because:

- * it will result in more useable local open space, in keeping with Action L15 - support planning for shared spaces;
- * it will facilitate a seniors housing development, assisting the implementation of Sutherland's 5,200 dwelling target and Productivity Priority 9 Deliver housing diversity; and
- * there will be no net loss of currently zoned residential and open space land; should any threatened species or EEC be found on the land, this will be appropriately managed, in alignment with Action L3 - Conserve and enhance the District's environmental heritage, including Aboriginal, European and natural.

Sutherland Community Strategic Plan: Our Shire, Our Future

The proposal will facilitate the orderly development of land for residential purposes, while preserving the current amount of land for open space in this locality. In so doing, it is consistent with the following objective of the Plan: Housing for all - Housing accommodates Shire household structures and demographic changes.

It is therefore considered the proposal is consistent with this Plan.

Environmental social economic impacts :

Environmental impacts

Refer to discussion of environmental impacts in the consideration of SEPPs and section 117 Directions sections.

Economic and social impacts

It is considered there will be some positive economic and social effects, as while the planning will not change the quantum of residential and open space land, it will rationalise it for better use, including facilitating a seniors housing development and usable public open space.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Transport for NSW - Roads and Maritime Services		

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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. :

Flora

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: **2.1 Environment Protection Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 6.2 Reserving Land for Public Purposes
 6.3 Site Specific Provisions
 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **It is recommended the planning proposal proceeds subject to the following conditions:**

- 1. Prior to public exhibition, the planning proposal is to be updated to clarify:**
 - * consistency with the draft South District Plan, which was released on 21 November, 2016;**
 - * that the presence of the Endangered Ecological Community Sydney Turpentine Ironbark Forest and any threatened species on the site have not yet been determined;**
 - * the local and other controls which currently apply or will apply to protect any identified threatened species or Endangered Ecological Communities; and**
 - * the interests being changed, by including a copy of the title search.**
- 2. Consultation is required with:**
 - * Office of Environment and Heritage, in relation to the identification of any Endangered Ecological Communities and threatened species, and any necessary provisions to ensure they are not adversely affected by any proposed development; and**
 - * Transport for NSW.**
- 3. The planning proposal is to be publicly exhibited for a minimum of 28 days.**
- 4. The planning proposal is to be completed within nine months.**

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Supporting Reasons :

5. A public hearing is required to be held on the re-classification component.

The planning proposal is supported because it will:

- * meets the objectives and directions of the NSW planning policy framework by facilitate the provision of seniors housing, while retaining a potentially Endangered Ecological Community - Sydney Turpentine - Ironbark Forest and possible remnant vegetation on the subject land;
- * rationalise the configuration of residential and open space land; and
- not create any loss of land currently zoned for residential and open space.

Signature:



Printed Name:

KAREN ARMSTRONG

Date:

25/11/16