

Planning Services

Plan Finalisation Report

Local Government Area: Sutherland Shire

File Number: 17/09849

1. NAME OF DRAFT LEP

Sutherland Shire Local Environmental Plan 2015 Amendment No.10 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at 99R Acacia Road and part 42 Auburn Street, Sutherland (the site).

3. PURPOSE OF PLAN

The draft LEP seeks to reclassify land at 99R Acacia Road, Sutherland, from community to operational land and change the development controls for 99R Acacia Road and part 42 Auburn Street, Sutherland, as follows:

Part 99R Acacia Road, Sutherland

- reclassify 445m² of land from Community to Operational;
- rezone the land from RE1 Public recreation to R4 High Density Residential;
- apply a maximum floor space ratio (FSR) of 1.5:1;
- apply a maximum height of buildings of 20m; and
- apply a minimum landscape area of 30%.

Part 42 Auburn Street, Sutherland

- rezone land from R4 High Density Residential to RE1 Public recreation;
- amend the land acquisition map to identify the site; and
- remove the development standards applying to the site.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Heathcote Electorate. Mr Lee Evans MP is the State Member for Heathcote.

Mr Craig Kelly MP is the Federal Member for Hughes.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 25 November 2016 ([Attachment C](#)) determined that the proposal should proceed subject to conditions. The timeframe for completing the LEP was to 1 September 2017, 9 months from the date of the Gateway determination.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 21 December 2016 to 31 January 2017. No submissions from members of the public were received.

On 23 February 2017, a public hearing was organised by an independent chairperson to discover and explore issues of concern for those in attendance (12 attendees). A public hearing report ([Attachment H](#)) was issued to Council which noted that the main concerns noted were the potential loss of public amenity due to overdevelopment of the BUPA site, the timing and type of park embellishment, and environmental concerns including impacts on the STIF.

It is considered that Council has satisfactorily addressed the issues raised during this meeting and they do not warrant changes nor preclude finalisation of the proposed rezoning and reclassification of the land.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult Office of Environment and Heritage (OEH) and Transport for NSW in accordance with the Gateway determination. Council has consulted these authorities.

Council received two public authority submissions from the Office of Environment and Heritage (OEH) and the Road and Maritime Services (RMS).

The initial OEH submission ([Attachment F](#)) raised concerns regarding possible impacts to Sydney-Turpentine Ironbark Forest (STIF), an Endangered Ecological Community, particularly:

- potential removal, fragmentation and isolation of STIF;
- overshadowing of STIF vegetation by new buildings;
- the close proximity of potential development to the reserve; and
- possible hydrological changes associated with excavated construction work.

OEH recommended that further consideration be given to the impact of the development and investigation be undertaken to provide measures to limit negative impacts on the STIF species present and to enhance the connectivity along Acacia Road between the BUPA development and the Council reserve.

In response to OEH comments, BUPA conducted further research which included a comprehensive flora survey, an assessment of significance and Section 5A assessment (Seven Part Test) for STIF, a vegetation management plan, an ecologist report, a tree removal and retention plan and corrected inconsistencies in the arborist report.

In March 2017, OEH reviewed the additional information and provided a submission supporting the recommendations made by the further research and raised no further concerns in relation to the Planning Proposal ([Attachment G](#)).

The submission from RMS raised no objections.

8. ASSESSMENT

The reclassification is considered appropriate considering the following matters:

- the exchange of land of identical dimensions will result in no net loss of currently zoned residential and open space land; and
- the reclassification will create more regularly shaped parcels of land which will result in more useable local open space and facilitate the development of seniors housing.

Section 117 Directions

The draft LEP is considered consistent with the relevant Section 117 Directions.

There are no outstanding inconsistencies in relation to Section 117 Directions.

State Environmental Planning Policies

The draft LEP is consistent with relevant State Environmental Planning Policy's (SEPPs). There are no outstanding inconsistencies in relation n to relevant SEPPs.

9. MAPPING

The maps associated with this amendment have been submitted via the ePlanning Portal and checked by GIS staff. The maps have been sent to Parliamentary Counsel.

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (Attachment D). Council confirmed on 13 June 2017 that it was satisfied with the draft and that the Plan should be made (Attachment E).

11. PARLIAMENTARY COUNSEL OPINION

On 22 June 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC.

12. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because:

- Council supports the draft LEP;
- there are no outstanding agency concerns;
- it assists Council to better manage Council-owned land;
- the exchange of land of identical dimensions will result in no net loss of currently zoned residential and open space land; and
- the reclassification will create more regularly shaped parcels of land which will result in more useable local open space and facilitate the development of seniors housing.