

Sutherland Shire Local Environmental Plan
Amendment to draft SSLEP2013 version 3 (LEP3)
(revised 18 November 2014)

Sutherland Shire Council

Planning Proposal - Section 55 of the Environmental Planning and Assessment Act, 1979

LOCAL GOVERNMENT AREA

Sutherland Shire Council

NAME OF PLANNING PROPOSAL

Sutherland Shire Local Environmental Plan 2013 (Amendment to draft LEP3)

ADDRESSES OF LAND

This proposal is projected to apply to land zoned for E4 Environmental Living within Sutherland Shire.

INTRODUCTION

This planning proposal has been prepared to allow Complying Development provisions to be included in draft SSLEP2013, to allow for modest dwellings and ancillary residential development on land in zone E4 Environmental Living. It is proposed to exclude from the provisions environmentally constrained land, such as land affected by a foreshore area, heritage items, internal lots, and land shown on the environmentally sensitive land map. It is intended that these provisions will be incorporated into Council's standard instrument LEP (SSLEP2013) when made.

SSLEP2006 and Complying Development

In 2002, council undertook scientific research which established the underlying environmental values of land throughout the Shire. This work underpinned the development of SSLEP2006 (particularly the application of the various zones). This assessment is well regarded and has stood the test of time. The application of Zone 1 - Environmental Housing (Environmentally Sensitive Land), Zone 2 - Environmental Housing (Scenic Quality) and Zone 3 - Environmental Housing (Bushland) were based on this assessment.

Under the provisions set out in SSLEP2006 Schedule 3 Complying Development, a range of minor and ancillary development (pools, cabanas, sheds etc) may be undertaken in these zones; however, the erection of, or additions or alterations to, a dwelling house may not.

Draft SSLEP2013 and zones

The new local environmental plan (LEP) proposes a variety of residential zones. The plan uses standardised zones, as required by the State government. In determining the appropriate equivalent zone in the Standard Instrument the plan relies on the earlier scientific research used to determine zones in SSLEP2006.

The residential zones in draft SSLEP2013 were applied having particular regard to the character of an area and existing development, the quality of the vegetation, the landform, and how the area contributes to the scenic quality of the locality, particularly when viewed from afar. The Shire's most environmentally sensitive low residential density foreshore areas (SSLEP2006 zone 1) were transferred to the E3 Environmental Management zone.

The E4 Environmental Living zone has been applied to SSLEP2006 zones 2 or 3, effectively merging two disparate zones into one. The character of these lands is generally too suburban for an E3 designation and either too environmentally sensitive or constrained for a R2 zoning, where greater density, multi dwelling development and vulnerable uses are permitted.

The zone has been applied largely to the western parts of the Shire affected by bushfire and limited evacuation routes (Engadine, Loftus, Woronora Heights, Barden Ridge, parts of Menai, Alford's Point and Illawong). It also applies to the more urban waterfront residential areas along Gunnamatta Bay and Burraneer Bay. In total, 22,947 parcels are zoned E4.

Multi dwelling development is not permissible in the E4 zone

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E4 Zoning Rationale

The absence of appropriate standard instrument zone choices for the transfer of Zone 2 – Environmental Housing (Scenic Quality) and Zone 3 - for Environmental Housing (Bushland) led to Council's use of the E4 zone for these areas. The rationale for this choice includes the following:

- Dwelling houses are the only mandated use in the E4 land use table. Thus, the land use table has been customised to limit residential densities to an appropriate level and prohibit vulnerable uses (such as child care centres and seniors housing).
- Multi dwelling development is permissible in the R2 Low Density Residential Zone; and.
- Zone objectives can be tailored to address a particular mix of land values and constraints. These include ensuring that residential development does not have an adverse effect on the special ecological, scientific and aesthetic values of land in this zone; and minimising the risk to life, property and the environment by restricting the type, or level and intensity of development on land that is subject to natural or manmade hazards.

Council's rationale and zoning choice for these lands have been endorsed via the Gateway process.

The draft SSLEP2013 has been exhibited for public comment three times and subsequently considered by Council. On the 10th November, 2014 Council resolved to refer the draft plan to the NSW Department of Planning and Environment and the Minister for Planning to be made.

Complying Development in the E4 zone

While, in principle, council understood that the ability to undertake complying development in these locations would be lost under an E4 zoning with the gazettal of the new LEP; the nature and impact of this loss have only become apparent in the past few months.

In response to the high volume of DAs received for in development in the E4 zone since April, and the ability of council to identify environmentally sensitive land in a new LEP, council has sought a solution that allows more fine grained planning to be applied in this zone, as in other 'residential' zones, through the Codes SEPP.

Council aims to provide land owners in E4 with an attractive alternative to a DA, which delivers tailored development outcomes more appropriate to the environmental risks and values inherent to the land within this zone (subject to exclusions). It also seeks to allow more conservative forms of development than are provided for in the LEP for that zone. The proposed draft controls (see Appendix 2) are also more modest than the provisions for complying development under the Housing Code.

The SEPP and Complying Development

Until February of this year, land rezoned as E4 Environmental Living in draft SSLEP2013 (currently SSLEP2006 zones 2 & 3), could, by means of clause 1.6 (1) (b), undertake the wider range of complying development available under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP). However, with the February amendment to the SEPP introducing clause 1.6 (1B), permissibility of the General Housing Code now applies only to named zones (R1, R2, R3, R4, and RU5). This, combined with the imminent making of draft SSLEP2013, will result in a loss of complying development provisions.

The resulting loss of opportunity to undertake this wider range of complying development on E4 zoned land is credited with the subsequent spike in Development Applications for minor developments lodged in Sutherland Shire in the months following the amendment to the SEPP. Many of these DAs could otherwise have been considered as Complying Development. The loss of opportunity to apply for a CDC conflicts with the NSW Government's aim to streamline the approval process for low impact development types, and is costly for applicants, as well as for council. The upward trend in DA numbers is expected to be exacerbated once the new LEP is made and all options for undertaking complying development in the E4 zone end.

The SEPP provides the ability to provide a separate set of complying development controls specific to the E4 zone. As set out in 'Clause 1.10 Same development' in the Codes SEPP, it is understood that the provision of such controls through the use of Schedule 3 would not require an amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

1.10 Same development

(1) For the purposes of this Policy, 2 or more instruments are take to specify the same development if they specify development for the same purpose may be carried out on the same land, even though there may be some differences into eh specifications or development standards for that development....

On 9 August, 2014 Council planning staff met with officers of NSW Planning and Environment, including its legal specialists. The purpose of the meeting was to determine how council could retain the option of complying development in the E4 zone under SSLEP2006, until the new LEP was gazetted. The meeting also sought to find a solution as to how a tailored suite of complying development controls specific to Sutherland Shire E4 lands could be applied through Schedule 3.

Planning and Environment confirmed that both approaches were consistent with the aims of the SEPP. Council was advised that because the proposed complying development provisions for dwelling houses in the E4 zone would not relate to the zones where this use is also permitted under the SEPP (R1, R2, R3, R4, and RU5), this approach would not be in conflict with the SEPP provisions.

The matter of amending draft SSLEP2013 to provide Complying Development in the E4 zone (subject to exclusions) came before Council in DAP018-15. The relevant Council Resolutions directing that the matters be included in this planning proposal are contained in Appendix 1.

DETAILS OF THE PLANNING PROPOSAL

Part 1 - A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2) (a)]

The primary objective of this planning proposal is to amend 'Schedule 3 Complying development' in draft SSLEP2013 to allow complying dwelling development in the E4 Environmental Housing zone within Sutherland Shire.

The proposal also seeks to incorporate tailored development standards for complying development for dwellings in the E4 zone that are a hybrid of the current complying development provisions (in SSLEP2006) and those in the SEPP General Housing Code.

The intended outcome of this change is allow the continuation of a tailored form of complying development for dwellings in those areas of Sutherland Shire generally characterised as suburban development within a natural landscape setting. It is considered that the ability to undertake complying dwelling development in the E4 zone (subject to exclusions) using the proposed standards will not compromise the environmental values of the area (consistent with SEPP Clause 1.10 Same development).

It is also considered that allowing the option for complying development on land in Sutherland Shire proposed to be zoned E4 will facilitate development and assist in reducing Development Application numbers.

Part 2 - An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2) (b)]

It is proposed to include development standards in the Standard Instrument LEP for Complying Development dwelling houses in the E4 Environmental Living zone. The Complying Development standards are a hybrid of the current Complying Development provisions (in SSLEP2006) and the State Environmental Planning Policy Exempt and Complying Development Codes 2008 provisions.

The intention is to allow conservative forms of dwelling development which are unlikely to adversely affect surrounding development. Should an applicant desire more intense forms of development, a Development Application can be lodged – this would enable a merit assessment of the proposal. The complying standards proposed are a step between exempt development and where a Development Application is appropriate.

See Appendix 2 for proposed development standards and exclusions for complying development within the E4 Environmental Living zone.

Part 3 - Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2) (c)]

A. Need for planning proposal

1. Is the planning proposal the result of any strategic study or report?

Yes. The planning proposal is an outgrowth of strategic work behind council's draft LEP. DAP018 -14, in which Council resolved on 26 August 2014 that, *"the Environmental Planning Unit submit a Planning Proposal to NSW Planning and Environment for Complying Development in the E4 Environmental Living zone and submitted to Gateway for approval to exhibit."*

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. It is considered that allowing a moderated form of complying development in this relatively widespread, un-named (in the SEPP) residential zone is the best way to reduce the number of Development Applications received in relation to this zone without compromising the environmental values of the land.

A. Relationship to strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes. The planning proposal is generally consistent with the objectives of the draft South Subregional Strategy (2007) in that it addresses an identified demand within the local housing market. Allowing the option for complying development to nearly 22,500 properties will also assist in streamlining the approval process, thus lower some of the costs of some forms of development.

With regard to the draft Metropolitan Strategy for Sydney (2012), the planning proposal is generally consistent with Action 6.1 Streamline development assessment for housing.

Given the environmental sensitivities of the land within the E4 Environmental Living zone, it can be considered that the right type of housing is provided in these locations to reduce the environmental impacts of the development, and is of a standard the community expects. Environmentally Sensitive land is proposed to be excluded from the application of the provisions.

4. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

The planning proposal is not contrary to council's community plan known as *Our Shire Our Future: Our Guide for Shaping the Shire to 2030*. Matters addressed in this planning proposal will provide opportunities to deliver the desired outcomes of providing 'housing that accommodates Shire household structures and demography', and 'development that balances the negative impacts of development on the environment'.

5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The planning proposal does not contravene any state environmental planning policies (SEPPs). See Appendix 3.

It is considered that (subject to exclusions) the proposed continuation of a tailored form of complying development - specific to E4 zone land in

Sutherland Shire - will not compromise the environmental values of that land, generally characterised as suburban development within a natural landscape setting.

It is also consider that allowing the option for complying development on land in Sutherland Shire proposed to be zoned E4 will not duplicate controls or zones applicable elsewhere in the State Environmental Planning Policy (Exempt and Complying development Codes) 2008 SEPP. This position is based on the following clause from the Codes SEPP.

1.10 Same development

(2) For the purposes of this Policy, 2 or more instruments are take to specify the same development if they specify development for the same purpose may be carried out on the same land, even though there may be some differences into eh specifications or development standards for that development....

In addition, the option of undertaking complying development in the E4 zone will facilitate low impact developments in Sutherland Shire, thus reducing Development Application numbers.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

The planning proposal does not contravene any Ministerial Directions. See Appendix 4.

B Environmental, social and economic impact.

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The planning proposal is not considered to result in any adverse impacts on critical habitat, threatened species, populations or ecological communities, or their habitats.

Sutherland Shire's mapping system contains up-to-date information on the location of threatened species and ecological communities in the local government area. In addition, the new LEP (draft SSLEP2013) includes comprehensive mapping of environmentally sensitive lands, including terrestrial biodiversity, natural landforms, riparian lands and watercourses, and groundwater vulnerability. Council has also mapped, acid sulfate soils, potentially contaminated land and foreshore areas throughout the Shire. Under the planning proposal, as in the Codes SEPP, complying development is excluded in such areas (environmentally sensitive lands).

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. The development standards put forward in the planning proposal for complying development in the new E4 zone in draft SSLEP2013 are the same as the current development controls for the affected zones (zones 2 and 3 under SSLEP2006) requiring development consent under section 77 of the Act (e.g., FSR 0.45:1; landscape area 45%; maximum height of 8.5m). The standards are conservative and are more restrictive than the maximum height and density standards proposed to be contained within draft SSLEP2013.

9. *How has the planning proposal adequately addressed any social and economic effects?*

Yes. The social and economic effects of facilitating development are considered to be positive and beneficial to both the community and to Council.

C State and Commonwealth interests

10. *Is there adequate public infrastructure for the planning proposal?*

Yes. The proposal does not contribute to an increase in density of the affected properties thus it is considered that there is adequate infrastructure to accommodate the proposal.

11. *What are the views of the State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

Not applicable at this stage.

Part 4 – Maps to identify the intent of the planning proposal and the area to which it applies.

See Appendix 5

Part 5 - Details of the community consultation that is to be undertaken on the planning proposal. [Act s. 55(2) (e)]

Council proposes that the planning proposal be exhibited in accordance with any requirements as determined by the Gateway process and the requirements of Section 29 of the *Local Government Act, 1993* and Section 57 the *Environmental Planning and Assessment Act, 1979*.

Council proposes to give notice of the public exhibition of the planning proposal:

- in the local newspaper (The Sutherland Shire Leader) and;
- on council's web-site.

Part 6 - Project Timeline

Task	Estimated Completion Time	Dates
Submission of Planning Proposal to P&I		12/09/2014
Submission of amended Planning Proposal to P & I		
Gateway Determination	DP&E to determine	
Anticipated timeframe for the completion of required studies	N/A	Not required
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	During exhibition	
Commence exhibition and completion dates for public exhibition period	1week to finalise exhibition documents, distribute to libraries & place advert in Sutherland Shire Leader. Four (4) weeks public consultation period.	
Finish Exhibition	28 days from commencement of exhibition	
Dates for public hearing (if required)	Following exhibition Dates TBA 21 days from time from public notification in Sutherland Shire Leader	To be determined
Timeframe for consideration of submissions	Three weeks	
Timeframe for the consideration of a proposal post exhibition		
Report completed, mapping revised, instrument amended and report considered at Development Assessment and Planning (DAP) Committee		
Council meeting	To be determined	
Anticipated date Relevant	NA	

Planning Authority will forward to the department for plan to be made		
PC Opinion and plan made	Approx 3 weeks plus time for legislation website	
Anticipated commencement date		DP&E to determined – same as date of commencement of new LEP

APPENDIX 1 COUNCIL REPORT

Development Assessment and Planning Committee



18/08/2014	DAP018-15
Report Title:	Complying Development
File Number:	LP/03/568054
Author:	Manager - Environmental Planning (BM)

Minute Number: 131
Council Meeting Date: 26/08/2014

EXECUTIVE SUMMARY:

Development Application numbers have been increasing since changes were made to the State Policy (Exempt and Complying Development Codes 2008) restricting the ability for complying development. One way to address this is for Complying Development provisions to be included in draft SSLEP2013 allowing for modest dwellings and ancillary residential development to proceed without a Development Application for land in zone E4 Environmental Living.

SUMMARY OF RECOMMENDATION:

It is recommended that Complying Development provisions be included in draft SSLEP2013 to allow for modest dwellings and ancillary development on land in zone E4 Environmental Living.

FINANCIAL / RESOURCE IMPLICATIONS:

Allowing some forms of development as Complying Development will reduce Development Application numbers and therefore reduce income. However, it will facilitate the more efficient determination of more significant matters.

RELATIONSHIP TO STRATEGIC DIRECTIONS:

Council has been a strong supporter of Complying Development. Including Complying Development provisions in the draft plan is consistent with long held Council policy and current provisions in SSLEP2006.

POLICY / LEGAL IMPLICATIONS:

In order to allow Complying Development in the E4 Environmental Living zone Council has been advised by Planning & Environment to include Complying Development provisions in the new Standard Instrument plan SSLEP2013. It is recommended that Council prepare a Planning Proposal for Complying Development provisions for the E4 zone. The provisions will come into effect when the plan is made.

LIST OF APPENDICES:

Schedule 3 Complying Development Provisions.

PREVIOUS CONSIDERATION / HISTORY OF MATTER:

Amendments to State Environmental Planning Policy Exempt and Complying Development Code and EPA Regulations (DAP086-14 [Notes Link](#)).

Background

The report recommends that Complying Development provisions be included in draft SSLEP2013 to simplify the construction of dwellings and ancillary development in zone E4 Environmental Living.

Changes made to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP) on 22 February 2014 resulted in the new zones in Council's exhibited draft Standard Instrument LEP being used for the purposes of the SEPP. This has taken away the ability for some residents to undertake Complying Development. This is particularly the case for ancillary dwelling development in zone 3 Environmental Housing (Bushland) which is now largely proposed to be zoned E4 Environmental Living. This has contributed to a spike in Development Applications that are currently outstanding in the system.

Complying Development allows development of greater intensity than allowed as exempt development. Exempt development is permitted in all residential zones. Complying Development involves no merit assessment but must meet pre-determined standards. Complying Development requires certification from Council or a Private Certifier. Because Complying Development proceeds without independent review or neighbour notification, its form should have minimal effects on the environment and amenity of the locality. Complying Development is best used for types of work that are routine and reasonably expected within a neighbourhood.

It is considered that the E4 zone is suitable for modest new dwellings/ alterations additions/ and ancillary development as Complying Development, without the need for Council development consent. Land affected by a Foreshore Building Line, heritage items, or Environmentally Sensitive Land is proposed to be excluded from the provisions.

It is considered that it is important that dwellings fit in with the environment and protect residential amenity of the locality, particularly in the E4 zone. The draft provisions will largely replicate the Complying Development standards in SSLEP2006 in terms of height, FSR, landscaped area and setbacks in a format similar to the SEPP provisions. Whilst the development standards are less generous than the new LEP provisions, this is appropriate because the provisions should reflect development of a scale and intensity that does not raise potential amenity issues. Applicants have the option of lodging a Development Application should their proposal be more than the standards allow. Through the Development Application the merits of the proposal can be tested and neighbours consulted where appropriate.

In order to allow Complying Development in the E4 Environmental Living zone Council has been advised by Planning & Environment to include Complying Development provisions in the new Standard Instrument plan SSLEP2013. It is recommended that Council prepare a Planning Proposal for Complying Development provisions for the E4 zone. The aim is for the provisions to come into effect when the plan is made.

Exempt & Complying Development

For many years Sutherland Shire Council has been one of the best performing NSW councils regarding Complying Development. According to the Department's Local Performance Monitoring Report in 2012/13 Sutherland Shire Council was in the top 5 councils issuing Complying Development Certificates (CDC). However, the other LGAs had

special projects such as land release activities that temporarily increased their contribution to CDCs or greater use of the SEPP. In 2011/12 SSC was second (behind City of Sydney) issuing CDC. In 2011/10 SSC was third in NSW (behind City of Sydney and Port Macquarie Hastings).

Under SSLEP2006, Complying Development for ancillary works may be undertaken in zones 1 (Environmental Housing (Environmentally Sensitive Land), Zone 2 Environmental Housing (Scenic Quality), zone 3 Environmental Housing (Bushland), zone 4 Local Housing, zone 5 Multi Dwelling A and zone 6 Multi dwelling B. However, complying new dwellings (or additions) can only be undertaken in zones 4, 5 or 6.

Previously applicants could choose between Council's SSLEP2006 Complying Development provisions and the SEPP provisions. Until February 2014, the SEPP (clause 1.6) enabled the Complying Development provisions to be applied to a land use zone in which equivalent land uses are permitted to those in the named land use zone. This allowed Zone 3 properties to rely on the SEPP provisions for dwellings.

However, changes were made to the SEPP on 22 February 2014 which resulted in the zones in Council's new LEP being used for the purposes of the SEPP (Clause 1.6 (1B)). Accordingly, the draft SSLEP2013 applies the following general translation of zones:

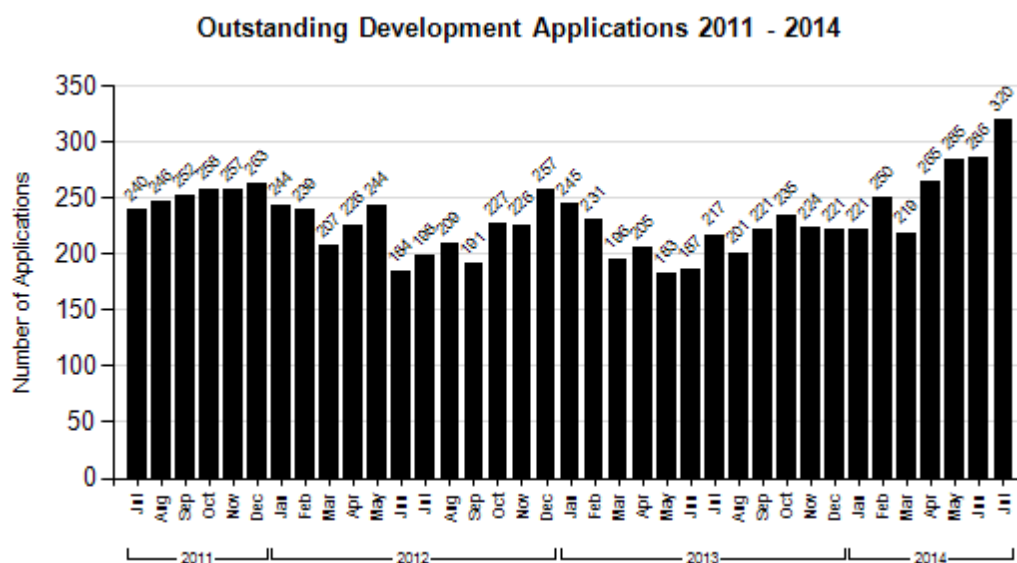
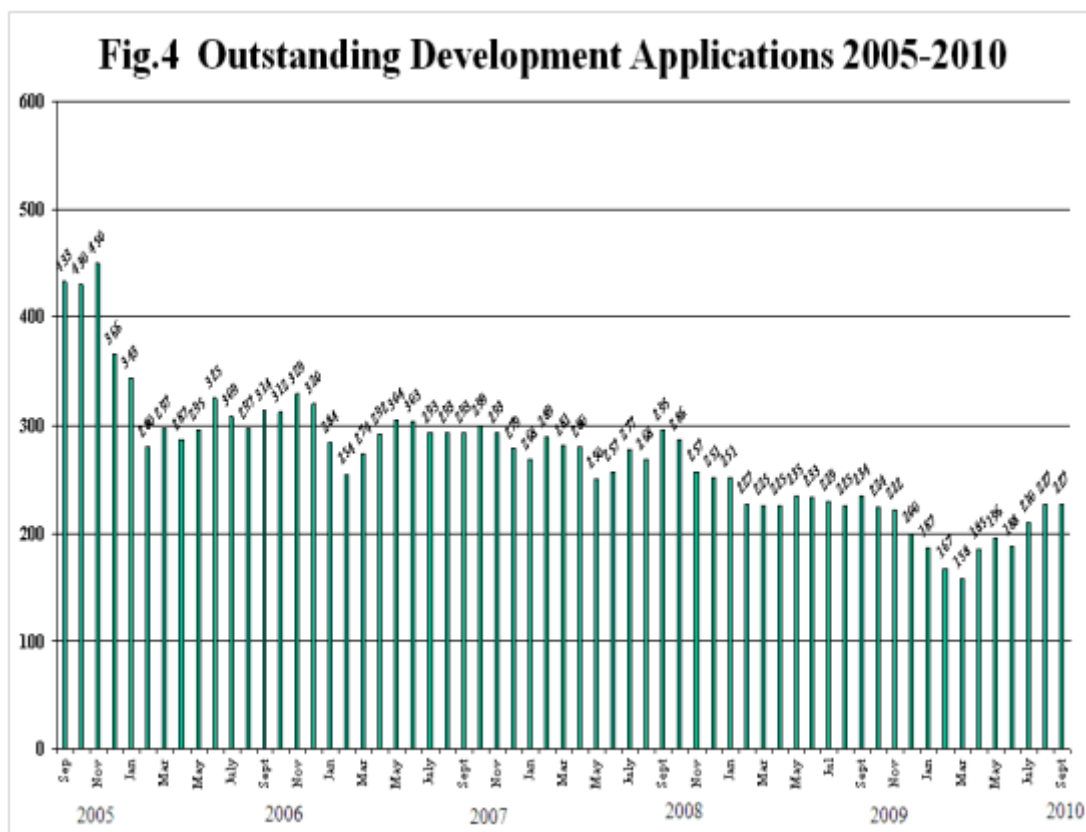
SSLEP2006 zone	Equivalent SSLEP2013 zone
Zone 1, 2, 3	E3 & E4
Zone 4	R2
Zone 5	R3
Zone 6	R4

The change has the biggest impact on zone 3 Environmental Housing (Bushland) properties. Before February property owners in zone 3 could undertake complying dwelling development, now they cannot.

In determining the appropriate zones for residential land, Council relied upon the scientific research undertaken in 2002 which established the underlying environmental values of land throughout the Shire. This work underpinned the development of the current SSLEP2006. Council chose to use the E3 and E4 zones for the environmentally sensitive foreshore areas and areas subject to bushfire risk, as these were zones in which higher density uses were not mandated uses, and vulnerable uses (such as child care and aged housing) could be limited. Vulnerable uses were not supported due to bushfire risk and evacuation issues.

As a result environmental protection zones are widely applied as residential zones in the new LEP. Within the Sutherland Shire 22, 947 parcels of land have been zoned E4 Environmental Living. This has been applied in areas where bushfire risk requires the restriction of sensitive land uses. This has resulted in a reduction in the ability for Complying Development, particularly dwelling development in zone 3. And in turn, this has contributed to an increase in Development Applications. The problem will be exacerbated when draft SSLEP2013 is made.

The scale of the problem is increasing. The tables below indicates trend of increasing Development Application numbers from February this year. :



Council has seen an increase of applications being lodged in the order of 25 - 30%. This is the equivalent of 4 assessment officers plus 0.5 Development Enquiry Officer and 1 administration officer.

Currently there are over 70 Development Applications being assessed by Council (lodged since 1 April 2014) of the type that could otherwise be considered as complying development. Without surveying each applicant it cannot be conclusively determined that the applicant would otherwise have lodged a CDC instead of a DA. It is acknowledged that some of these applications do exceed the Complying Development criteria. This is because applicants understand that as they will be subjected to the assessment process regardless, they are lodging a Development Application that has not had regard to the complying criteria.

However, it is evident that some of these applications could have been considered as Complying Development.

The solution

Council has been advised by Planning & Environment that Complying Development provisions could be included in Council's own draft Standard Instrument LEP (SSLEP2013) for the E zones. It is considered that the E4 zone is appropriate for complying development. The E4 Environmental Living zone is applied to areas where there is development of a more suburban character within a natural landscape setting. In the E4 zone the environmental qualities of the land can restrict the type, level and intensity of development e.g. acid sulphate soils, bushfire and flooding. However design standards and exclusions can be formulated to address such matters. The E4 zone applies largely to the western parts of the Shire affected by bushfire (Engadine, Loftus, Woronora Heights, Barden Ridge, parts of Menai, Alfords Point and Illawong). It also applies to the more urban waterfront residential areas along Gunnamatta Bay and Burraneer Bay.

Development Exclusions

Council can formulate its own development exclusions and standards for Complying Development in the E4 zone. It is considered that, like the SEPP Complying Development provisions, development should not be permitted on the following land (meaning the entire lot):

- land identified as a draft Heritage Item, Heritage Item or State Heritage Item.
- land identified as Acid Sulfate Soils Map as being Class 1 or 2.
- land identified as Environmentally Sensitive Land.
- land identified as being affected by the Foreshore Area (FBL).
- land identified in any Development Control Plan as contaminated risk land.

The ability to identify environmentally sensitive land in a LEP is a new opportunity for council. It has been included in the standard instrument to provide a common approach to environmental management of natural features. Sutherland Shire is endowed with significant environmental features including sandstone outcrops, significant bushland and natural creek lines. Together these elements contribute to the landscape character of the Shire and help give it a unique sense of place. These natural features are typically difficult to develop and this is largely why they exist to today. However, once these features are lost they can never be regained. As such it is appropriate that when new development is located in close proximity to these features that it is sensitively carried out. The environmentally sensitive land controls in SSLEP2013 flag these natural features so they are sensitively considered in the design and assessment process. As such assessment through a Development Application is appropriate in these instances.

It is not recommended that bush fire prone land, flood prone land or land affected by the ANEF (Kurnell) be excluded from the Complying Development provisions. These constraints can be addressed through a certification process or the application of development standards.

Development Standards

Development standards proposed to be applied to the E4 Complying Development are a hybrid of the current Complying Development provisions (in SSLEP2006) and the SEPP provisions. The intention is to allow more conservative forms of development which are unlikely to adversely affect surrounding development. Should an applicant desire more intense forms of development, a Development Application can be lodged – this would enable a merit assessment of the proposal. The complying standards proposed are a step between exempt development and where a Development Application is appropriate.

It is proposed that development not exceed a maximum floor space ratio of 0.45:1 to be complying development. This standard is less than the draft plan (SSLEP2013) which allows 0.5:1. A slight stepping back in density is appropriate because no merit assessment will occur. Development of a greater scale has potential for greater overshadowing and amenity impacts on adjacent development. As such it requires assessment as to whether the resultant impacts are reasonable or may be able to be mitigated. The recommended controls aim to ensure that development sits comfortably within the natural qualities of an E4 Environmental Living setting, allowing greater opportunities for landscape planting and privacy between neighbours. The standards aim to ensure that new dwellings built as Complying Development maintain the status quo of the neighbourhood.

In keeping with this logic, it is proposed that development must achieve the minimum landscaped area of 45% - the same landscape standard as the current SSLEP2006. Whilst the draft plan proposes a 40% minimum landscaped area, it is considered that the higher landscape standard for Complying Development will result in development that is less likely to adversely affect neighbours. Should more intense development be sought the applicant can proceed to a Development Application.

In addition, the following general development standards are proposed to be applied. These generally reflect the existing complying controls.

Dwelling development (including alterations and additions) on battle axe land (land accessed by a Right of Way or access handle) is to be limited to single storey (5.4m). All development must be setback behind the building alignment (7.5m or the average of adjacent dwelling development, whichever is the greater) and 1.5m from side boundaries.

A 3m secondary street setback is required for dwelling development (including alterations and additions).

Ancillary development is limited to 4m high.

Open form ancillary development (pergolas, awnings, decks, carports etc) will be permitted up to 40 sq.m. and must be setback 1.5m from side and rear boundaries.

The floor level of any ancillary development must be no greater than 0.6m above natural ground.

Swimming pools are to be no more than 0.6m above ground and setback 1.5m from boundaries, behind the building alignment.

Above ground pre-fabricated pool (where any coping width is no greater than 250mm wide) must not exceed a height of 1.2m above ground level.

The maximum length of any external wall without openings is 6m.

Dwellings (including alterations and additions) must be setback 6m from rear boundary.

Dwelling windows must address privacy concerns (like the SEPP provisions).

Car parking must not be reduced; two spaces per dwelling must be provided (no more).

Dwellings (including alterations and additions) are limited in height to 8.5m.

Dwellings (including alterations and additions) must provide a 6x6m accessible outdoor space.

Upper storey living room windows must have privacy screens.

Second storey balconies are only permitted where they face a street.

More detailed drafting of the development standards is attached as Appendix 1.

Detached garages, basements, roof top terraces and detached studios are not proposed to be included as permissible forms of complying development. Cubby houses, garden sheds,

greenhouses are proposed to be limited to the extent permitted as exempt development (20sq.m.). Larger forms of this ancillary development type can create significant adverse environmental impacts, particularly in these sensitive locations.

Conclusion

It is recommended that Council prepare a Planning Proposal to include the above land based exclusions and development standards for Complying Development in the E4 Environmental Living zone as it applies to draft SSLEP2013. Following Gateway approval it is recommended that the draft provisions be exhibited for public comment. The approval process is anticipated to be much shorter than for the new LEP and as such the two may be able to be exhibited as a single document. Should this not be achieved, the exhibition could follow the new LEP. However, it is intended that the complying provisions will form part of the draft Standard Instrument plan when it is made.

1. That the Environmental Planning Unit submit a Planning Proposal to NSW Planning and Environment for Complying Development in the E4 Environmental Living zone (Appendix 1). The plan be submitted to Gateway for approval to exhibit.
2. That the General Manager be given delegated authority to make any amendments that are required by the Gateway Determination before the draft planning proposal is exhibited.
3. That the draft plan be exhibited in accordance with the Gateway determination. It is intended that the complying provisions will form part of the draft Standard Instrument plan when it is made.

1. That the Environmental Planning Unit submit a Planning Proposal to NSW Planning and Environment for Complying Development in the E4 Environmental Living zone (Appendix 1). The plan be submitted to Gateway for approval to exhibit.
2. That the General Manager be given delegated authority to make any amendments that are required by the Gateway Determination before the draft planning proposal is exhibited.
3. That the draft plan be exhibited in accordance with the Gateway determination. It is intended that the complying provisions will form part of the draft Standard Instrument plan when it is made.

(Councillor Scaysbrook / Councillor Croucher)

1. That the Environmental Planning Unit submit a Planning Proposal to NSW Planning and Environment for Complying Development in the E4 Environmental Living zone (Appendix 1). The plan be submitted to Gateway for approval to exhibit.
2. That the General Manager be given delegated authority to make any amendments that are required by the Gateway Determination before the draft planning proposal is exhibited.

3. That the draft plan be exhibited in accordance with the Gateway determination. It is intended that the complying provisions will form part of the draft Standard Instrument plan when it is made.

(Councillor Schreiber / Councillor Provan)

APPENDIX 2 AMNENDMENT TO SCHEDULE 3

Schedule 3 Complying development

Part 1 Types of development

Dwelling houses

Applies to the erection of or additions or alterations to, single storey or two-storey dwelling houses, the addition of a second storey to a single storey dwelling house, and a second storey alteration or addition to an existing two storey dwelling house in Zone E4 Environmental Living.

Complying Development Provisions

Land based exclusions

These provisions apply to the erection of a new single storey or two storey dwelling house, alterations or additions to an existing single storey or two storey dwelling house or the addition of a second storey to an existing single storey dwelling house, or ancillary development to a dwelling house in zone E4 Environmental Living, where:

- The lot is not identified as a draft Heritage Item, Heritage Item or State Heritage Item
- The lot is not identified as Acid Sulfate Soils Map as being Class 1 or 2
- The lot is not identified as Environmentally Sensitive Land
- The lot is not identified as being affected by the Foreshore Area
- The lot is not identified as potentially contaminated land

General Development Standards

- 1) Development must achieve the minimum landscaped area 45%
- 2) Development must not exceed a maximum floor space ratio of 0.45:1
- 3) Development must not reduce the number of car parking spaces on site, or if the construction of a new dwelling – it must provide two car parking spaces (and no more than two space) behind the building line.
- 4) If the development includes the erection of a new dwelling house or an addition to a dwelling house on land in the 20-30 ANEF contours, development is constructed in accordance with AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.

If the development includes the building of any new kerb, crossover or driveway, in association with car parking, before a complying development certificate is issued, have written consent from the relevant roads authority (if required under section 138 of the Roads Act 1993) for the building of any kerb, crossover or driveway.

5) If the development is constructed on bush fire prone land or bushfire interface property,

(a) the development must conform to the specifications and requirements of the following that are relevant to the development:

(i) Planning for Bush Fire Protection (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,

(ii) Addendum: Appendix 3 (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to Planning for Bush Fire Protection (ISBN 0 9751033 2 6)

(b) the part of the lot on which the development is to be carried out and any associated access way is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and

(c) the lot has direct access to a public road or a road vested in or maintained by the council, and

(d) there is sufficient access designed in accordance with the acceptable solutions identified in clause 4.1.3 (2) of Planning for Bush Fire Protection (ISBN 0 9751033 2)

(e) published by the NSW Rural Fire Service in December 2006, and

(f) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2008, The storage and handling of LP Gas and the requirements of relevant authorities (metal piping must be used), and

(g) all fixed gas cylinders on the lot are located at least 10m from flammable materials and are enclosed on the hazard side of the installation, and

(h) any gas cylinders on the lot that are within 10m of a dwelling house:

(i) have the release valves directed away from the dwelling house, and

(ii) have metal connections to and from the cylinders, and

(i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

Note. The requirements of AS 3959—2009, Construction of buildings in bushfire-prone areas set out in the Building Code of Australia also apply.

- 6) A standard specified in (1)(b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
- (a) Repealed
 - (b) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (c) the council.
- 7) If the development involves the removal or pruning of a tree or other vegetation that requires a permit or development consent, before the complying development certificate is issued, have a permit or development consent for that removal or pruning, unless the tree or vegetation is within 3m of the development and the tree or vegetation has a height of less than 6m.
- 8) If the development is constructed or installed on a flood control lot:
- (1) the development must not be on any part of a flood control lot unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering as not being any of the following:
- (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (2) The development must, to the extent it is within a flood planning area:
- (a) have all habitable rooms no lower than the floor levels set by the council for that lot, and
 - (b) have the part of the development at or below the flood planning level constructed of flood compatible material, and
 - (c) be able to withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), and
 - (d) not increase flood affectation elsewhere in the floodplain, and
 - (e) have reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest habitable floor level of the development, to a safe refuge, and
 - (f) have open car parking spaces or carports that are no lower than the 20-year flood level, and
 - (g) have driveways between car parking spaces and the connecting public roadway that will not be inundated by a depth of water greater than 0.3m during a 1:100 ARI (average recurrent interval) flood event.

(3) A standard specified in subclause (2) (c) or (d) is satisfied if a joint report by a professional engineer who specialises in hydraulic engineering and a professional engineer who specialises in civil engineering confirms that the development:

(a) can withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), or

(b) will not increase flood affectation elsewhere in the floodplain.

(4) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that Manual unless it is otherwise defined in this clause.

For the purposes of General Development Standards, the following apply:

flood compatible material means building materials and surface finishes capable of withstanding prolonged immersion in water.

Floodplain Development Manual means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

high hazard area means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

high risk area means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

internal lot means a lot to which there is no practical means of vehicular access by car or to which the only practical means of vehicular access is by way of:

(a) an access corridor (in the case of a hatchet-shaped lot), or

(b) a right of way that traverses another lot, or

(c) an access corridor that is common property in a strata plan or community title scheme.

bushfire interface property means a lot identified as bushfire interface property by Council's Development Control Plan

(1) All stormwater drainage collecting as a result of the erection of, or alterations or additions to, a dwelling house or ancillary development must be conveyed by a gravity fed to:

(a) a public drainage system, or

(b) an inter-allotment drainage system, or

(c) an on-site disposal system.

(2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must:

(a) if an approval is required under section 68 of the Local Government Act 1993, be approved under that Act, or

(b) if an approval is not required under section 68 of the Local Government Act 1993, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.

ANEF contour, for an airport, means a noise exposure contour shown as an ANEF contour on any Noise Exposure Forecast Contour Map for that airport prepared by the Department of the Commonwealth responsible for airports.

ancillary development means any of the following that are not otherwise exempt development:

awning, blind or canopy, balcony, deck, patio, pergola, terrace or verandah, carport driveway, hard stand space, pathway or paving, fence or screen, rainwater tank, retaining wall, swimming pool or spa pool and child-resistant barrier.

Building line means, whichever is the greater:

a distance of 7.5m from the primary frontage, or
the average distance of the setbacks of the nearest 2 dwelling houses having the same primary road boundary and located within 40m of the lot on which the dwelling house is erected.

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

Development Types and Specific Development Standards

The following development is not development specified under these provisions:

- (a) the erection of a roof terrace on the topmost roof of an existing or new dwelling house or an existing outbuilding,
- (b) the erection of a building over a registered easement.
- (c) dwelling development including a basement

Ancillary Development comprising: Awnings, carports, gazebos, pergolas, shade structures and sunshades, deck or patio

Applies to development that:

- (a) occupies an area not greater than 40m², and
- (b) is not exempt development

Development must be setback behind the building line.

Development must be set back from the side and rear boundaries of the land at least 1.5m

Development must not have a solid enclosing wall higher than 1.4m above the floor level of the structure it is enclosing, and have not less than one-third of its perimeter open

Development must not exceed a height of 4m above ground level.

The finished floor level must be no more than 0.6m above ground level.

Dwelling houses

Applies to the erection of, or additions or alterations to single storey or two-storey dwelling houses, and the addition of a second storey to a single storey dwelling house, and a second storey alteration or addition to an existing two storey dwelling house.

Development must be no greater in height than 8.5m as measured vertically from ground level to the highest point of the roof of the building

Development is limited to two storeys. For the purposes of calculating storeys the number of storeys in a dwelling house, any existing basement (including a garage) is to be counted as a storey.

Development on an internal lot is limited to single storey no greater than 5.4m as measured vertically from ground level to the highest point of the roof of the building

Development must be set back behind the building line.

Development must be setback a minimum of 3m from a secondary frontage.

Development must be set back a minimum of 1.5m from the side boundaries.

Any second storey must not exceed a depth of 50% of the depth of the allotment, measured from the primary street frontage.

Development must not reduce the existing number of car spaces (to fewer than 2 spaces).

Development must be set back from the rear boundaries by a minimum of 6m. Finished ground floor level must be within 0.6m of the existing ground level.

Any cut must not extend further than 900mm beyond the dwelling footprint. Fill must be contained within the footprint of the dwelling.

Natural rock outcrops on the site greater than 5m² in area must be retained.

Vegetative cover on slopes greater than 18° must be maintained.

Dwelling entry must face the street and the dwelling must overlook any other adjacent public areas.

Dwelling must not present blank walls to any street frontage.

The maximum length of any external wall without openings is 6m.

A window in a habitable room (other than a bedroom), in a new dwelling house, or a new window in any alteration or addition to an existing dwelling house, must have a privacy screen for any part of the window that is less than 1.5m above floor level if:

(a) the window:

- (i) is in a habitable room that has a finished floor level of more than 0.6m above ground level (existing), and
- (ii) has a sill height of less than 1.5m above that floor level, and
- (iii) faces a side or rear boundary and is less than 6m from that boundary, or
- (iv) faces residential land

Any privacy screen required must be installed:

- (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level facing towards the relevant side or rear boundary.

A dwelling must provide at least one primary area of useable private open space at ground level and directly accessible from a living area with minimum dimensions of 6m x 6m. A minimum of 50% of the outdoor private open space for the dwelling must receive direct sunlight at ground level for at least four hours between 9 am and 3 pm on 21 June.

Development must not involve the installation of any oil or solid fuel heating appliance or any commercial mechanical exhaust ventilation system.

Upper storey balconies must face the street and privacy screens are required where the side setback is less than 3m and the balcony is greater than 1m².

Fences

Applies to fences other than fences that are exempt development

Front fences within the front building line must not exceed 1.2m in height above ground level.

Side or rear fences, behind the building line, must not exceed 1.8m in height above ground level.

Swimming pools

Must be installed or erected in rear or side yards, behind the building line.

Pool must be set back as follows from the side and rear boundaries of at least 1.5m to the waterline of the pool.

In-ground pool must not exceed a height of 0.6m above ground level.

Above ground pre-fabricated pool (where any coping width is no greater than 250mm wide) must not exceed a height of 1.2m above ground level.

Pool pump and equipment associated with the pump must be designed so as to be sound insulated or isolated so that the noise emitted does not exceed an LAeq of 5 dB (A) above background noise level in any octave band from 63 Hz centre frequencies inclusive, as measured at the property boundary in accordance with the Australian Standard AS 1055.1—1997, Acoustics—Description and measurement of environmental noise—General procedures.

Pool, surrounds and any decking must be screened by plants if the pool, its surrounds or decking stands more than 500mm above ground level.
Child resistant barriers must meet the standards specified by the Swimming Pools Act 1992.

Development must meet the standards required under Sutherland Shire Council Environmental Specification—Swimming Pools.

Development must not be part of a development that requires development consent under clause 6.4 Acid Sulfate Soils.

Driveway, hard stand space, pathway or paving

Applies to the construction or installation of a pathway or paving, including any paving of a deck, pergola, patio or terrace.

Applies to the construction or installation of a driveway associated with access to an open hard stand space, a carport, a garage, and the construction or installation of a hard stand space associated with a driveway, whether open or part of a carport.

Development does not require cut or fill more than 600mm below or above ground level (existing).

Development must have at least 50% of the area forward of the building line as landscaped area.

Development must maintain a 750mm wide landscaped strip along the boundary with an adjoining lot on which a dwelling is located.

Driveways and car spaces must be constructed in accordance with AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking or AS: 2890.2—2002, Parking facilities, Part 2: Off-street commercial vehicle facilities.

If the development is a driveway or car space, it must not be wider than the open hard stand space, carport or garage with which it is associated

Complying development certificate conditions

Part 1 Conditions applying before works commence

1 Protection of adjoining areas

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

(a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or

(b) could cause damage to adjoining lands by falling objects, or

(c) involve the enclosure of a public place or part of a public place.

2 Toilet facilities

(1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

(2) Each toilet must:

(a) be a standard flushing toilet connected to a public sewer, or

(b) have an on-site effluent disposal system approved under the Local Government Act 1993, or

(c) be a temporary chemical closet approved under the Local Government Act 1993.

3 Garbage receptacles

(1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.

(2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

4 Adjoining wall dilapidation report

(1) If a wall on a lot is to be built to a boundary and there is a wall (the adjoining wall) on the lot adjoining that boundary that is less than 0.9m from that boundary, the person having the benefit of the complying development certificate must obtain a dilapidation report on the adjoining wall.

(2) If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the adjoining wall, the report may be prepared from an external inspection of the adjoining wall.

5 Run-off and erosion controls

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

6 Tree protection measures

(1) This clause applies to each protected tree and any other tree that is to be retained on a lot.

(2) The trunk of each of the following trees must be provided with a tree guard that is comprised of hardwood timber panels each having a minimum length of 2m, minimum width of 75mm and minimum thickness of 25mm and secured, but not permanently fixed or nailed, to the tree and spaced a maximum of 80mm apart:

- (a) each tree that is within 6m of a dwelling house or any ancillary development that is to be constructed, and
- (b) each protected tree that is within 10m of a dwelling house or any ancillary development that is to be constructed.

(3) Each protected tree that is within 6m of a dwelling house, outbuilding or swimming pool must have a fence or barrier that is erected:

- (a) around its tree protection zone as defined by section 3.2 of AS 4970—2009, Protection of trees on development sites, and
- (b) in accordance with section 4 of that standard.

(4) The person having the benefit of the complying development certificate must ensure that:

- (a) the activities listed in section 4.2 of that standard do not occur within the tree protection zone of any tree on the lot or any tree on an adjoining lot, and
- (b) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the lot during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

(5) The tree protection measures specified in this clause must:

- (a) be in place before work commences on the lot, and
- (b) be maintained in good condition during the construction period, and
- (c) remain in place for the duration of the construction works.

Note. A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed prior to work commencing:

- (a) the current condition of any council property in the vicinity of the development must be documented and photographed and provided to the Council at the time notice to commence demolition or the erection of a building is given, and
- (b) security must be provided in accordance with the Council's Schedule of Fees and Charges for Goods and Services.

Part 2 Conditions applying during the works

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

Hours for construction

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

Maintenance of site

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction:
 - (a) all vehicles entering or leaving the site must have their loads covered, and
 - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) At the completion of the works, the work site must be left clear of waste and debris.

Earthworks, retaining walls and structural support

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
 - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and

- (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and
- (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.

(2) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

Drainage connections

(1) If the work is the erection of, or an alteration or addition to, a dwelling house, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.

2) Any approval that is required for connection to the drainage system under the Local Government Act 1993 must be held before the connection is carried out.

12 Archaeology discovered during excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

Note. Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

Aboriginal objects discovered during excavation

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- (a) all excavation or disturbance of the area must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

Part 3 Conditions applying before the issue of an occupation certificate

Vehicular access

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

Utility services

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

APPENDIX 3

APPLICABILITY OF STATE ENVIRONMENTAL PLANNING POLICIES

The following tables list the State Environmental Planning Policies (SEPPs) and Deemed SEPP's which are applicable to the Sutherland Shire Local Government Area, and their applicability to the planning proposal.

1. STATE ENVIRONMENTAL PLANNING POLICIES APPLICABLE TO SUTHERLAND SHIRE LOCAL GOVERNMENT AREA

State environmental planning policies (SEPPs) deal with issues significant to the state and people of New South Wales. They are made by the Minister for Planning and may be exhibited in draft form for public comment before being gazetted as a legal document.

STATE ENVIRONMENTAL PLANNING POLICY	RELEVANT TO PLANNING PROPOSAL?
<u>SEPP No. 1- Development Standards</u> Gazetted 17.10.80	No
<u>SEPP No. 4 – Development Without Consent and Miscellaneous Complying Development</u> (Previously known as SEPP No. 4 – Development without Consent) Gazetted 4.12 1981	No
<u>SEPP No. 6 - Number of Storeys in a Building</u> Gazetted 10.12.82	No
<u>SEPP No. 19 - Bushland in Urban Areas</u> Gazetted 24.10.86	No
<u>SEPP No. 21 - Caravan Parks</u> Gazetted 24.4.92	No
<u>SEPP No. 22 - Shops and Commercial Premises</u> Gazetted 9.1.87	No
<u>SEPP No. 30 - Intensive Agriculture</u> Gazetted 8.12.89	No
<u>SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)</u> Gazetted 15.11.91	No

STATE ENVIRONMENTAL PLANNING POLICY	RELEVANT TO PLANNING PROPOSAL?
<u>SEPP No. 33 - Hazardous and Offensive Development</u> Gazetted 13.3.92	No
<u>SEPP No. 39 - Spit Island Bird Habitat</u> Gazetted 9.9.94	No
<u>SEPP No. 50 – Canal Estates</u> Gazetted 10.11.97	No
<u>SEPP No. 55 – Remediation of Land</u> Gazetted 28.8.98	No
<u>SEPP No. 64 - Advertising and Signage</u> Gazetted 16.3.01	No
<u>SEPP No. 65 - Design Quality of Residential Flat Development</u> Gazetted 26.7.02	No
<u>SEPP No. 71 - Coastal Protection</u> Gazetted 01.11.02	No
<u>SEPP (Housing for Seniors or People with a Disability) 2004</u> Gazetted 31.03.04	No
<u>SEPP (Building Sustainability Index: BASIX)</u> Gazetted 01.07.04	No
<u>SEPP (Development on Kurnell Peninsula) 2005</u> Gazetted: 01.07.05	No
<u>SEPP (Major Development) 2005</u> Gazetted: 01.08.05	No
<u>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</u> Gazetted: 16.02.07	No
<u>SEPP (Temporary Structures) 2007</u> Gazetted: 28.09.07	No

STATE ENVIRONMENTAL PLANNING POLICY	RELEVANT TO PLANNING PROPOSAL?
<u>SEPP (Infrastructure) 2007</u> Gazetted: 21.12.07	No
<u>SEPP (Exempt and Complying Development Codes) 2008</u> Gazetted 12.12.08	Yes
<u>SEPP (Affordable Rental Housing) 2009</u> Published: 31.07.09	No

2. DEEMED STATE ENVIRONMENTAL PLANNING POLICIES APPLICABLE TO SUTHERLAND SHIRE LOCAL GOVERNMENT AREA (REGIONAL ENVIRONMENTAL PLANNING POLICIES)

All existing REPs are now deemed State environmental planning policies (SEPPs). These cover issues such as urban growth, commercial centres, extractive industries, recreational needs, rural lands, and heritage and conservation. The Department of Planning and Infrastructure is reviewing all these remaining REPs as part of the NSW planning system reforms.

DEEMED STATE ENVIRONMENTAL PLANNING POLICY	RELEVANT TO PLANNING PROPOSAL
<u>REP No. 2 – Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment</u> Gazetted 5.2.99	No
<u>REP No. 9- Extractive Industry (No. 2)</u> Gazetted: 15.9.95	No

APPENDIX 4

APPLICABILITY WITH LOCAL PLANNING DIRECTIONS

The following Directions have been issued by the Minister for Planning and Infrastructure to relevant planning authorities under section 117(2) of the *Environmental Planning and Assessment Act 1979*. These directions apply to planning proposals lodged with the Department of Planning and Infrastructure.

Note: Directions 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA), 5.6 Sydney to Canberra Corridor and 5.7 Central Coast have been revoked.

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
1. Employment and Resources	
1.1 Business and Industrial Zones	No. The planning proposal does not relate to business or industrial zones.
1.2 Rural Zones	No. The planning proposal does not relate to rural zones.
1.3 Mining, Petroleum Production and Extractive Industries	No. The planning proposal does not affect mining, petroleum production or extractive industries.
1.4 Oyster Aquaculture	No. The planning proposal does not apply to land where oyster aquaculture is undertaken.
1.5 Rural Lands	No. The planning proposal does apply to rural lands.
2. Environment and Heritage	

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
2.1 Environment Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas. This direction requires that: (a) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (b) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i>.	Yes. The development standards put forward in the planning proposal for complying development in the new E4 zone in draft SSLEP2013 are generally consistent with development controls for the affected zones (zones 2 and 3) under SSLEP2006) which requiring development consent under section 77 of the Act. These controls (e.g., FSR 0.45:1; landscape area 45%; maximum height of 8.5m). These are currently considered to provide sufficient protection on land zoned for residential purposes. An exclusion will apply to a draft a Heritage Item, Heritage Item or State Heritage Item; land identified as containing Class 1 or 2 Acid Sulfate Soils on Council's Acid Sulfate Soils Mapping series; or land identified as Environmentally Sensitive Land on Council's Environmentally Sensitive Land Mapping series.
2.2 Coastal Protection	No. The planning proposal does not relate to coastal protection.
2.3 Heritage Conservation (a)	No. The planning proposal does not relate to heritage conservation.
2.4 Recreation Vehicle Areas	No. The planning proposal does not propose to enable land to be developed for a recreation vehicle area.
3. Housing, Infrastructure and Urban Development	

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
3.1 Residential Zones The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Yes. The planning proposal is consistent with this direction by providing appropriate environmental protections for low impact developments.
3.2 Caravan Parks and Manufactured Home Estates	No. The planning proposal does not relate to caravan parks or manufactured home estates.
3.3 Home Occupations	No. The planning proposal does not relate to home occupations.
3.4 Integrating Land Use and Transport	No. The planning proposal neither impacts positively or negatively on integrated land use and transport objectives.
3.5 Development Near Licensed Aerodromes	No. The planning proposal does not apply to land near licensed aerodromes.
3.6 Shooting Ranges	No. The planning proposal does not apply to shooting ranges.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	No. The planning proposal does not propose any amendment to Clause 6.5 Acid Sulfate soils in DSSLEP2013.
4.2 Mine Subsidence and Unstable Land	No. The planning proposal does not apply to land that is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or has been identified as unstable land
4.3 Flood Prone Land	Yes. The proposal is consider with this direction.
4.4 Planning for Bushfire Protection	Yes. The proposal is consistent with this

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
	direction. Clause 3A.37 will apply.
5. Regional Planning	
5.1 Implementation of Regional Strategies	No. The Planning Direction is not applicable to Sutherland Shire
5.2 Sydney Drinking Water Catchments	No. The Planning Direction only applies to land within the Sydney drinking water catchment.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No. The Planning Direction is not applicable to Sutherland Shire Local Government Area.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No. The Planning Direction is not applicable to Sutherland Shire Local Government Area.
5.8 Second Sydney Airport: Badgerys Creek	No. The Planning Direction is not applicable to Sutherland Shire Local Government Area.
6. Local Plan Making	

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This direction requires that a planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (d) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (e) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.	Yes. The planning proposal is consistent with the Planning Direction.

PLANNING DIRECTION	RELEVANT TO PLANNING PROPOSAL? COMMENT
6.2 Reserving Land for Public Purposes The objectives of this direction are: - to facilitate the provision of public services and facilities by reserving land for public purposes, and - to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This direction requires that a planning proposal must: (a) not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General). .	No.
6.3 Site Specific Provisions	No. The Planning Direction only applies to a site specific planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036 The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036. This direction requires that a planning proposal shall be consistent with the NSW Government's Metropolitan Plan for Sydney 2036 published in December 2010 ("the Metropolitan Plan").	Yes. The planning proposal is consistent with the Planning Direction