



Business Paper

Council Meeting

Monday, 25 November 2024

6:30pm

**Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLAND SHIRE

**COR087-24 PLANNING PROPOSAL 78 PORT HACKING ROAD SYLVANIA:
RESULTS OF EXHIBITION**

Attachments: Appendix A (under separate cover) and Appendix B [B](#)

EXECUTIVE SUMMARY

- The Planning Proposal applying to the land at 78 Port Hacking Road, Sylvania was publicly exhibited from 6 August 2024 to 2 September 2024. The Planning Proposal seeks an amendment to the Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to rezone the land to R2 Low Density Residential, to facilitate the adjacent Coptic Church's use of the site as formal car parking.
- Council received nine public submissions and one submission from State agencies, raising issues relating to perceived traffic generation and the sale of the land.
- The issues raised in submissions are addressed in this report but are not of such significance that amendment to the Planning Proposal is warranted. Most issues can be dealt with at the development application stage.

REPORT RECOMMENDATION

THAT:

1. The report 'Consideration of Submissions to the Exhibition of the Planning Proposal for 78 Port Hacking Road, Sylvania' be received and noted.
2. Council submit a request to the Department of Planning, Housing and Infrastructure that the Sutherland Shire Local Environmental Plan 2015 be amended in accordance with the exhibited Planning Proposal (Appendix A).

PURPOSE

This report considers submissions received during the exhibition period of the Planning Proposal to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) as it applies to 78 Port Hacking Road, Sylvania.

BACKGROUND

Below is a timeline of key events leading to this report:

Date	Event
19 October 2020	Council authorised the road closure, reclassification and conditional sale of the land (now known as 78 Port Hacking Road, Sylvania) within Lot 1 DP1284163 (SER010-20)
1 September 2023	Gazettal of the road closure and classification of the land as operational land for the purpose of the <i>Local Government Act 1993</i>
12 December 2023	Sutherland Shire Local Planning Panel considers the Planning Proposal and unanimously supports the proposal (SSLPP073-23)
5 February 2024	Sutherland Shire Planning and Growth Committee recommends the Planning Proposal be referred for a Gateway Determination (PLN002-24)
13 February 2024	Planning proposal lodged for Gateway consideration
29 April 2024	DPHI grants a conditional Gateway approval to proceed to exhibition
6 August 2024	Public exhibition commences
2 September 2024	Public exhibition concludes

DISCUSSION

During the exhibition period, a total of 10 submissions were received. Eight submissions were received from 488 aware visitors to the Join the Conversation public exhibition webpage, one email submission was received from a member of the public, and one email submission was received from state agencies as summarised in the following sections of this report.

State Agency Submissions

This portion of Port Hacking Road is closed. Access from Port Hacking Road to the church site has been available for many years.

Consultation was undertaken with Transport for NSW, from which they have recommended the removal of the subject site's vehicular access to / from Port Hacking Road, consistent with the Government Gazette no. 394 of Friday 1 September 2023. Currently, the church at 76 Port Hacking Road benefits from a right of carriageway through the subject site, with this being the only legal vehicular access point for 76 Port Hacking Road. While the Gazette removed the general rights of passage and access across Lot 1 DP1284163 (the subject site), it did not remove rights of access and passage to Lot 1 DP1265251 (the church) from Port Hacking Road. There is no vehicular access to

the church from Shoalhaven Road and such is unlikely to be supported given the suburban nature of the street and convoluted access required.

Further, condition 58 of the Contract for the Sale of Land dated 6 May 2024 states:

58. Consolidation

The Purchaser must promptly and no later than 12 months from the date of this Contract consolidate the Property with the adjacent land at Lot 1 DP1265251.

Consolidation and a subsequent DA for a formal carpark will enable the cessation of the right of carriageway per TfNSW's request.

TfNSW notes that it will provide more detailed comments in relation to a future site driveway / entrance requirements (e.g. deceleration lanes, slip lanes), when this site proceeds to the Part 4 DA stage and detailed plans can be provided.

Community Submissions

Of the nine community submissions received, two of the submissions received were in support of the Planning Proposal, and seven did not support the Planning Proposal. Summaries of the issues raised in the nine community submissions against the proposal are provided below. All submissions are attached at Appendix B.

Traffic Generation

Summary: Three submissions expressed concern that a car park will generate additional traffic onto Port Hacking Road and that there are currently no provisions to accommodate this. One submission also commented that the road reserve could be used to widen Port Hacking Road.

Consideration: Traffic generation and management will be dealt with at DA stage. While the intention of the planning proposal is to rezone the land to facilitate its formal use as a car park, it should be noted that the land is currently used informally for parking and has been for decades. It is acknowledged that traffic patterns in and out of the site may be more structured and concentrated in line with church service and community event times, which are currently listed on the church website and mostly occur off-peak times. The traffic and parking report submitted with the development application for the church at 76 Port Hacking Road noted that the road reserve could be used for up to 22 car parking spots. Regarding the submission proposing widening the road, Port Hacking Road is a state road and Council has no jurisdiction over its widening.

Sale of Land

Summary: Two submissions asserted that Council land is public land and should not be sold to private entities and stated that any sale of Council land should be in the form of a public auction to ensure transparency. Two submissions considered that there was enough parking already for the church and that a DA should not have been approved if there was insufficient parking. One

submission commented that the land could be rented rather than sold to generate ongoing income for Council. One submission commented that the land should be retained by Council and used for road widening or as much needed green space.

Consideration: The land has already been sold. As background, The Coptic Orthodox Church, the current owner of 76-86 Port Hacking Road, approached Council in late 2020 to purchase the road reserve at the front of their property with the intention of using the land for formal carparking. An independent valuer was engaged to provide advice on compensation payable to Council. Council resolved to authorise the closure of the road and sell the land ([SER010-20, Minute No. 235](#)). In a subsequent report ([PLN049-20](#)), it was noted that the rezoning and sale of the land would have the public benefit of passing responsibilities to the main users of the land (the church) to suitably embellish for use as formal parking at no cost to Council and to remove from Council the risks associated with the current unformed car park on public land. Leasing the land would put the onus on Council to prepare the site for car parking and would remain Council's responsibility to maintain. Leasing was not considered a viable option.

The traffic and parking study submitted with the development application for the church stated that there would be sufficient on-site parking for most uses but that the Council-owned road reserve (the subject site for this planning proposal) could be used as overflow parking when required, as had been done by the nursery prior.

Port Hacking Road is a State road and road widening would fall under the State's jurisdiction.

RESOURCING STRATEGY IMPLICATIONS

Management of Council's Local Environmental Plans is conducted within the existing budget and resources of Strategic Planning.

COMMUNITY ENGAGEMENT

The Planning Proposal was placed on public exhibition for 30 days between 6 August 2024 and 2 September 2024. An advertisement was published in the Sutherland Shire Leader on 6 August 2024. Adjacent landowners were sent notification letters in accordance with Council's Community Engagement Strategy.

STRATEGIC ALIGNMENT

This report contributes to the delivery of Our Community Strategic Plan - Outcome Six 'A high quality urban environment, supporting a growing and liveable community'. It specifically delivers on the Delivery Program (2023-2024) Principal Activity 6B 'Plan for the future land use and development needs of our community'.

POLICY AND LEGISLATIVE REQUIREMENTS

The *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2021* set the framework for the assessment of Planning Proposals. These steps were strictly adhered to.

CONCLUSION

The exhibition of the Planning Proposal generated a small amount of community interest with submissions mostly against the proposal. The main points of concern related to traffic generation and the sale of what is perceived as a public asset. Traffic generation concerns will be dealt with at the DA stage. As the land has already been sold, submissions regarding the sale can only be noted at this time. Accordingly, it is recommended that Council submit a request to the Department of Planning, Housing and Infrastructure for the Sutherland Shire Local Environmental Plan 2015 to be amended in accordance with the exhibited Planning Proposal (Appendix A).

RESPONSIBLE MANAGER

The manager responsible for the preparation of this Report is the Acting Manager Strategic Planning, Beth Morris.

File Number: 2020/386021

Appendix A Submissions Received		
Public submissions (extracted verbatim from <i>Join the Conversation</i>):		
	How do you feel about the Planning Proposal for 78 Port Hacking Road, Sylvania?	Do you have any feedback or suggestions about the Planning Proposal for 78 Port Hacking Road, Sylvania for Council to consider?
1	Very unhappy	There was plenty of parking when it was a nursery. They have plenty of room to have a carpark on their own property without taking the councils land and turning it into a 8m car park.
2	Very unhappy	We would like to ensure that should this be approved we have the right measures in place to ensure people slow down to enter the car park. There is already issue with the lane on Port Hacking Road with poor signage indicating that the lane terminates. There will be a need for more signs to advise road users that the lane ends. Adding arrows on the road. We will only see accidents daily if this is not taken into account as we see this happen daily as we enter and leave our homes on this road. The main reason is due to not enough signage to advise that the far lane ends. This terminates on a bend. Council would need to take the safety of the locals into account as many use this foot path also walking. School students and elderly.
3	Unhappy	It should be retained as council owned property and could be part of widening Port Hacking Rd or much needed green space
4	Neutral	Do not sell the land to the Church without putting it to market. It should not be a closed or predetermined sale. Instead or selling the land, rent it to the Church on a 10-20 year lease (or similar) with option to extend. Ensuring ongoing income for Council with no loss of assets.
5	Very happy	Waste land useful to sell for the future of the shire Add all the land wasted for the never to build f6 corridor too. Sell and or developer.

		Not just sport we don't all okay sport. Gardens? Please no more Aboriginal named places some forget the majority of people not always the minority
6	Very unhappy	This is public land and should remain that way. It's a precarious position on Port Hacking Road and there will require an adjustment to the speed and traffic to accommodate [sic.] additional vehicles entering. port Hacking Road should remain the way it is.
7	Very unhappy	Keep the land and make them rent it off the rate payer. If they haven't thought to have parking for the current building, then i dont think we should be selling off tax payers land to a church. If there orginal [sic.] DA doesnt have enough parking why would we sell off an asset that the tax payer owns. This is not in the best interest for the community. Also if the land should be put up for sale it will need to be a public auction to make sure no potential corruption can take place
8	Very happy	[no comment]

Transport for NSW

17 September 2024

TfNSW Reference: SYD24/01384
Council Reference: PP-2024-270



Ms Clare Phelan
Chief Executive Officer
Sutherland Shire Council
4-20 Eton Street
Sutherland NSW 2232

Attention: Ella Roessler-Holgate

PLANNING PROPOSAL TO AMEND SUTHERLAND LEP 2015 – LOT 1 DP 1284163, 78 PORT HACKING ROAD, SYLVANIA

Dear Ms Phelan,

Reference is made to your email correspondence of 5 August 2024 seeking comment from Transport for NSW (TfNSW) for a planning proposal to rezone the subject land from SP2 Infrastructure (Classified Road to R2 Low Density Residential. We note consultation is being undertaken with TfNSW under Condition 3 of the Gateway Determination dated 4 April 2024.

TfNSW appreciates the opportunity to provide comment and notes that the intended outcome of the planning proposal is to enable the adjoining Coptic Orthodox Church, as the new landowner of the site, formal use of the land that is currently part of the Port Hacking Road reserve for additional car parking.

The agency has reviewed the planning proposal and recommends the removal of the subject site's vehicular access to/from Port Hacking Road. This is consistent with the Government Gazette dated 1st September 2023, which outlines the road closure and the removal of rights of passage and access of Lot 1 DP 1284163. As the site has now been sold by Council to the Coptic Orthodox Church, it is anticipated the two sites will be amalgamated into one large site resulting in a consolidated vehicular access point via Port Hacking Road.

TfNSW will provide more detailed comments in relation to a future site driveway/entrance requirements (e.g. deceleration lanes, slip lanes) when this site proceeds to the Part 4 DA stage and detailed plans can be provided.

Thank you for the opportunity to provide advice on the subject planning proposal. Should you have any questions or further enquiries in relation to this matter, please contact Tricia Zapanta via email: development.sydney@transport.nsw.gov.au

Yours sincerely



Carina Gregory
Senior Manager Strategic Land Use – Eastern
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OFFICIAL

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