

Request for Pre-Gateway Review

Planning Proposal

10-14 Merton Street, Sutherland

Sutherland Council

4 July 2016

Preamble:

DDC Urban Planning has been commissioned by Urban Wave Pty Ltd. to request a review of Sutherland Council's determination to refuse its support for a planning proposal for 10-14 Merton Street Sutherland.

A Pre-Gateway Review can be sought before a planning proposal has been submitted to the Department of Planning and Environment for a Gateway determination in the following circumstances:

- a) the council has notified the proponent that the request to prepare a planning proposal is not supported; or
- b) the council has failed to indicate its support 90 days after the proponent submitted a request, accompanied by the required information

The Planning Proposal was originally submitted to Council on 23 December 2014 and ongoing negotiations with Council saw some amendments made to the final Urban Design Report considered by Council (attached). Council determined the matter at its meeting of 21 March 2016 by refusing the application. DDC Urban Planning who were the point of contact for the applicant throughout the process were not notified of the determination. Upon calling the Council to enquire of the determination, an email was sent with an unsigned letter from Council attached. This was the first time the applicant had been notified and this date was 17 June 2016 (notification attached).

This Pre-Gateway Review request is submitted in response to this determination.

This request is prepared pursuant to Part 3 of the Act having regard to Planning Circular '*Delegations and independent reviews of plan-making decisions*'.

1. Summary of Planning Proposal:

The site is known as 10-14 Merton Street Sutherland. The subject site is well located adjacent to Sutherland town centre commercial and administration precincts. The site is within 250m of the railway station.

The specific property is described as Lots 151 and 152 DP 1020267. It has a frontage of 46.94m to the Merton Street and a depth of 67.05m giving it a total area of 3,147m². The site is generally flat with a moderate slope to the south. It contains no features of significance and is currently home to two small weatherboard cottages.

The objective of the original Planning Proposal was to allow for a 36m residential building above basement car parking. This building form will result in a maximum floor space ratio of 3:1.

2. Request for a Review and Gateway Recommendation:

Following some further discussions with Council in respect of this site, this formal request for review has been divided into two parts. **Part A** seeks a review of the proposal lodged with Council and Part B provides an amended building form and controls which illustrate a reduced scale, following a meeting with Council's Mayor, General Manager and Director of Planning on 17 June 2016. These amended controls comprise **Part B** of the review and can be adopted if the Gateway considers them appropriate. This is discussed at the rear of this report.

Part A:

In support of the Pre-Gateway Review request, please find enclosed the following documentation:

1. A completed application form;
2. Email notification from Jordan Windenstrom at Sutherland Council dated 17 June 2016.
3. Planning Proposal, prepared by DDC Urban Planning dated December 2014;
4. Urban Design Report by Geoform Design dated December 2014;
5. Site Survey dated December 2014;
6. UDR Shadow Modelling expert opinion by Steve King dated December 2014;
7. Timeline of events and meetings
8. Copies of all relevant correspondence between the proponent and Sutherland Council;
9. A copy of the Council report of refusal dated 21 March 2016 prepared for the proposal; and
10. A cheque in the amount of \$5,000 being the initial fee for the Department's administration and eligibility assessment.

Specifically the Pre-Gateway Review now seeks that Gateway provide a recommendation in the following terms:

1. To increase the floor space ratio (FSR) on the site from 1.5:1 to 3:1;
2. To increase the building height control on the site from 20m to 36m;

The department will undertake an assessment to determine whether the proposal:

- (a) has strategic merit as it:
- is consistent with a relevant local strategy endorsed by the Director-General, or
 - is consistent with the relevant regional strategy or Metropolitan Plan, or
 - can otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc).

(b) has site-specific merit and is compatible with the surrounding land uses, having regard to the following:

- the natural environment (including known significant environmental values, resources or hazards),
- the existing uses, approved uses and likely future uses of land in the vicinity of the proposal,
- the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

This submission provides a justification as to why a Pre-Gateway Review is warranted and an assessment against the Pre-Gateway Review eligibility criteria.

3. Background:

- A. On 11 March 2013 (amended on 6 May 2013) Sutherland Council resolved to nominate an area of Sutherland as an Urban Activation Precinct which included this site.
- B. The UAP program never progressed and a new LEP was resolved to be prepared. In the week commencing 23 September 2013, Sutherland Council referred the LEP to the Minister for an independent enquiry and Public Hearing.
- C. The site was subsequently zoned R4 under the new Sutherland Shire LEP 2015. The site was permitted a maximum FSR of 1.5:1 and a height limit of 20m.
- D. The site has a frontage of 46.94m to the Merton Street and a depth of 67.05m giving it a total area of 3,147m².
- E. The site is 250m from heavy rail transport and understood to be a key centre in terms of future density and services. It is not mentioned in A Plan for Growing Sydney and sub-regional plans or district plans have not yet been finalised.

4. Strategic Merit:

The first eligibility assessment criterion for a Pre-Gateway Review is whether the Planning Proposal has strategic merit in that it:

- is consistent with a relevant local strategy endorsed by the Director-General, or
- is consistent with the relevant regional strategy or Metropolitan Plan, or
- can otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc).

This proposal is generally consistent with the directions and principles of "A Plan for Growing Sydney" although the state Plan is not specific in relation to Sutherland.

The Planning Proposal accords with the broad direction of "Action 2.1.1: Accelerate housing supply and local housing choices."

The Plan encourages Government and Councils to work together to:

"increase housing supply across the whole metropolitan area, particularly in and around centres..."

“The most suitable areas for significant urban renewal are those areas best connected to employment and include:

- in and around centres that are close to jobs and are serviced by public transport services that are frequent and capable of moving large numbers of people;”*

Throughout the process, the Council staff continually provided formal reports to Council that built a case against this proposal suggesting that the strategic merits of the proposed controls within the context of Sutherland were not justified. Controls of a similar height and larger were proposed just north of the site along Flora Street. It should also be noted that at several times during the overall process there were established policy directions to enlarge the controls for this site and there were also recommendations of approval for larger controls than ultimately proposed. The timeframes of these events are outlined in **Tab 7** of this submission and provide some evidence of local policy direction, albeit unratified in the final context.

An arbitrary town centre boundary has existed for many years and defined the previous town centre zone (Zone No. 8) north of the site on Flora Street. This historical zoning generally informed the extent of Council's 2014 Housing Strategy (Refer to Figure 1 below). This Strategy boundary was slightly extended to include the properties immediately north of this subject site, but did not include the subject site. It appears that the assessment for potential higher densities were confined to sites within this Strategy boundary area. Sites outside this area received 'blanket' controls.

It is contended that the proximity of this subject site to the town centre and railway station as well as its size, warrants consideration of higher densities, although the Council reports argues otherwise.

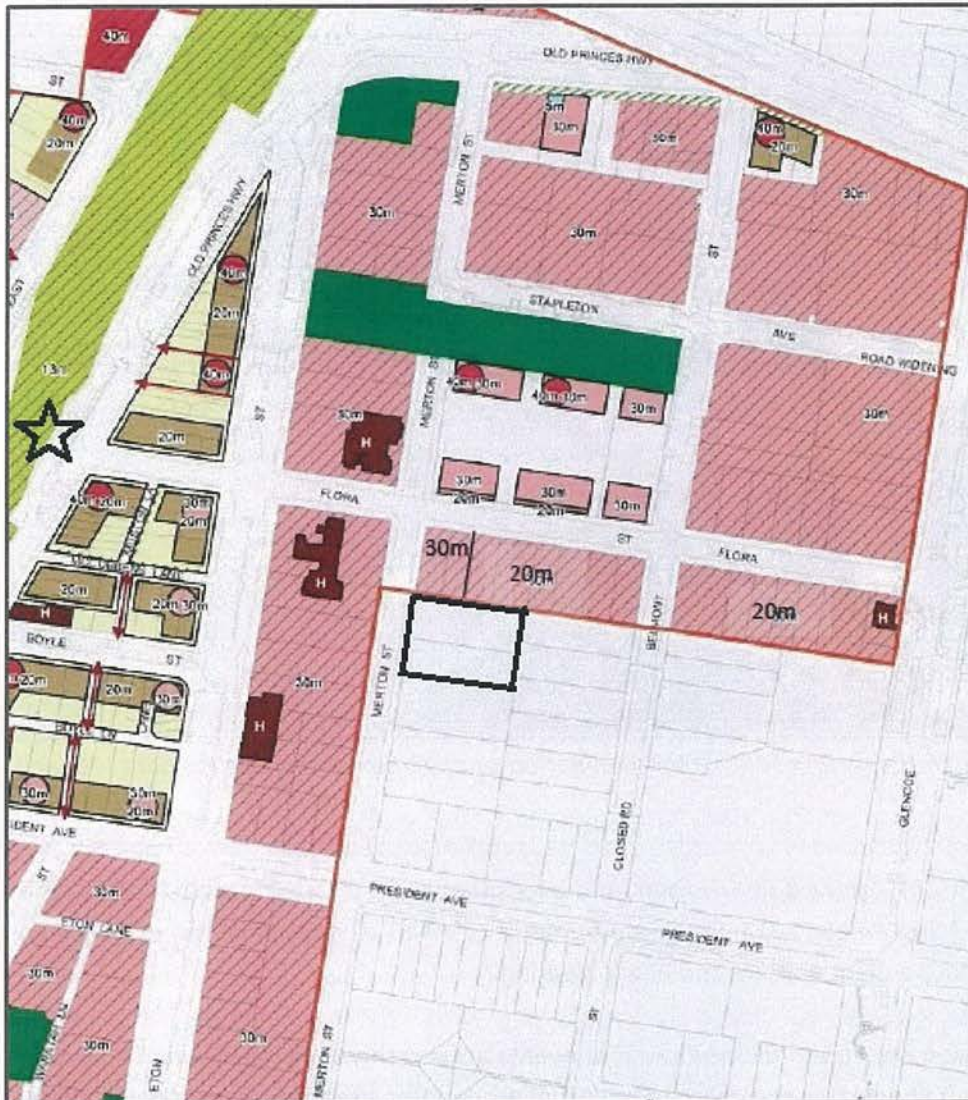


Figure 1 – Excerpt of Map 3 from Sutherland Shire Council Housing Strategy 2014

Figure 1 shows the study area immediately along the northern boundary of the subject site. The site's proximity to the Railway Station (shown by star) is also evident. The smaller site to the north received an allowable height of 30m and a maximum FSR of 3:1 as part of the new SSLEP 2015.

In 2012, Council considered a report on 12 November 2012 (DAP024-13) which outlined the State Government's new Urban Activation Precincts program. On consideration of this report, council resolved to nominate Caringbah, Miranda and Sutherland for the Urban Activation Precincts program.

Early in 2013, Sutherland Council resolved to nominate an area of Sutherland (see minutes of Development and Planning Assessment meeting held on 11 March 2013 DAP070-13, amended on 6 May 2013 Mayoral Minute No.33/12-13) as an Urban Activation Precinct. This particular site was well inside the boundary of the proposed UAP, shown in Figure 2 below:

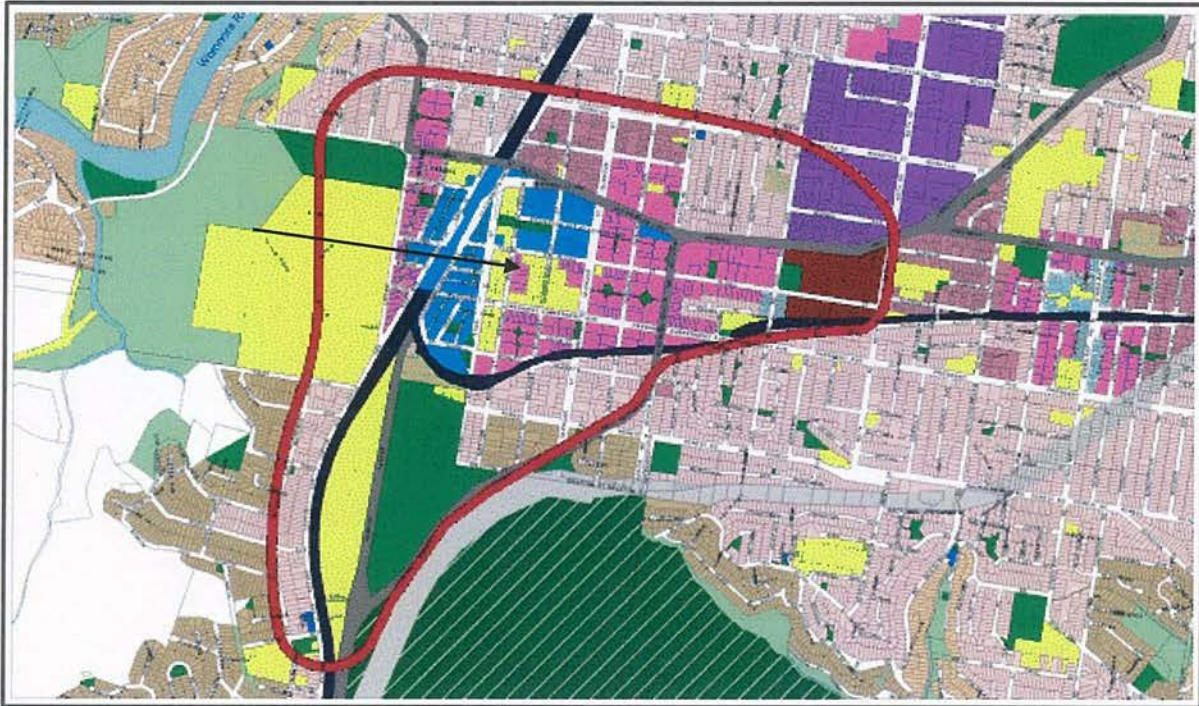


Figure 2 - Area under consideration in 2013 for nomination as an Urban Activation Precinct (Council Report)

The NSW Department of Planning and Environment never progressed the UAP program and in the week commencing 23 September 2013, Sutherland Council referred all aspects of the draft LEP to the Minister for an independent enquiry and Public Hearing.

Tab 7 to this submission outlines a full timeframe of events around this time and Council reporting following this period. It illuminates the policy momentum around this site through to, and including, the Development Committee's approval of a 40m height limit just 2 weeks before the Council meeting which subsequently overturned this resolution.

At a state planning level, the clear intention of A Plan for Growing Sydney is to guide higher density development, however it is non-specific in relation to Sutherland and updated sub regional plans were never released. The Greater Sydney Commission is now preparing District Plans, but these are also not released as yet.

This Planning Proposal was made on the basis that the site has strategic merit as part of the Sutherland Town Centre given its proximity to the railway station. Housing demand around centres in the Sutherland Shire remains very strong due to demand drivers. The site's amalgamated site also affords the opportunity for some meaningful development in an emerging centre.

Table 1 below provides a summary and aims to demonstrate how the proposal is consistent with the strategic planning framework for the site.

Table 1: Assessment of consistency	
A PLAN FOR GROWING SYDNEY 2014	
GOAL 1: A competitive economy with world-class services and transport	COMMENT
Direction 1.1: Grow a more internationally competitive Sydney CBD.	N/A
Direction 1.2: Grow Greater Parramatta – Sydney's second CBD	N/A
Direction 1.3: Establish a new Priority Growth Area– Greater Parramatta to the Olympic Peninsula	N/A
Direction 1.4: Transform the productivity of Western Sydney through growth and investment	N/A
Direction 1.5: Enhance capacity at Sydney's gateways and freight networks	N/A
Direction 1.6: Expand the Global Economic Corridor	N/A
Direction 1.7: Grow strategic centres - providing more jobs closer to home	It is the clear intent of the Plan to establish each centre with appropriate development to stimulate appropriately located housing and employment uses to reduce travel times around the city. This proposal accords with this vision and will allow more people to live in attractive, well located suburbs which have access to appropriate transport infrastructure and job-generating land uses. Locating more residents within proximity to the Sutherland Railway Station and Town Centre will help locate more people closer to their places of work. This site is readily connected to eastern employment centres of Miranda, Caringbah and Cronulla and north to the CBD, Redfern, Arncliffe and Kogarah.
Direction 1.8: Enhance linkages to regional NSW	N/A
Direction 1.9: Support priority economic sectors	N/A

Direction 1.10: Plan for education and health services to meet Sydney's growing needs	N/A
Direction 1.11: Deliver infrastructure	N/A
GOAL 2: A city of housing choice with homes that meet our needs and lifestyles	COMMENT
Direction 2.1: Accelerate housing supply across Sydney Action 2.1.1: Accelerate housing supply and local housing choices Action 2.1.2: Accelerate new housing in designated infill areas (established urban areas) through the priority precincts and urbangrowth NSW programs	The Government notes the need to: • <i>work with councils to identify where development is feasible;</i> • <i>identify where investments in local infrastructure can create housing supply;</i> • <i>target locations which deliver homes closer to jobs;</i> • <i>directly facilitate housing supply and choice through the projects of UrbanGrowth NSW and Priority Precincts; and</i> • <i>direct the Greater Sydney Commission to work with councils over the long-term with a requirement that councils review housing needs when preparing their Local Environmental Plans.</i> This proposal creates a feasible accommodation unit with a scale of development which is located on a major transport node in a centre, previously identified in the Metropolitan Strategy as a "potential major centre". It will deliver housing near jobs and on transport links. Feasibility is well established throughout Sutherland Shire at the moment and this proposal will add to local housing choices but providing greater numbers of smaller, more-affordable housing units. Action 2.1.1 notes that: <i>the most suitable areas for significant urban renewal are those areas best connected to employment and include:</i> • <i>in and around centres that are close to jobs and are serviced by public transport services that are frequent and capable of moving large numbers of people; and</i> • <i>in and around strategic centres.</i> This proposal is within an established centre with jobs nearby. Locating housing near jobs is a key part of the Strategy.

Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs Action 2.2.1: Use the greater Sydney commission to support council-led urban infill projects Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres	<i>The Government will:</i> • <i>support council-led urban infill and to support local efforts to lift housing production around local centres, transport corridors and public transport access points; and</i> • <i>work with councils to improve their urban renewal skills, and to improve the coordination between the NSW Government, councils and private proponents of local urban infill projects.</i> This project is 250m from a centre with good access to other centres such as Miranda, Carringbah and Cronulla and north to the CBD, Redfern, Arncliffe and Kogarah.. This proposal accords with this strategy and will increase the efficiency and effectiveness of transport infrastructure.
Direction 2.3: Improve housing choice to suit different needs and lifestyles Action 2.3.1: Require local housing strategies to plan for a range of housing types Action 2.3.3: Deliver more opportunities for affordable housing	In relation to overall needs, the Plan notes the following: <i>The fastest growing households in Sydney are single person households. In 2011, only 36.6 per cent of households were couples with children. Households that are couples with children will grow at a slower rate than both couple and single person households over the next 20 years. Despite these trends, 57.3 per cent of Sydney's housing stock is detached houses.</i> <i>Research indicates a current shortage of semi-detached houses across Sydney and a shortage of apartments in the middle and outer areas of the city. This is affecting the capacity of people to buy or rent a home.</i> This proposal seeks to provide a floor space ratio that will allow for meaningful density on a well-positioned site. Sydney's affordability issues are well documented and government must urgently work together to ensure the highest practicable densities are located around key transport nodes. This will create homes better suited to the budgets of most people.
Direction 2.4: Deliver timely and well planned greenfield precincts and housing	N/A
GOAL 3: A great place to live with communities that are strong, healthy and well connected	COMMENT
Direction 3.1: Revitalise existing suburbs Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth	This Planning Proposal seeks to locate new housing within a key centre within the Sutherland Shire and one that is highly likely to be connected via transport nodes to the St George area health

	district. This transport infrastructure has already been directed to this area via heavy rail. The Planning Proposal will assist in the revitalisation and further development of Sutherland Centre. The state Plan sets a target to increase the proportion of people living within 30 minutes by public transport of a strategic centre, as part of Priority E5 'Jobs closer to home'. This proposal also supports this initiative. It is increasingly evident that significant demand exists in the future for smaller housing types. Vertical accommodation is also essential to meeting housing targets in the most sustainable fashion. Increasing the supply of housing that is in high demand will directly contribute to improved affordability, particularly as the world's population and Australia's population are now growing so quickly. This process will also flow through to rental affordability as well which has strong ties to capital value. Greater diversity brings greater choice allowing young residents to potentially remain in Sutherland which is near the suburbs where they grew up.
Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney	N/A
Direction 3.3: Create healthy built environments	This proposal will reduce reliance on the car as a primary means of transport.
Direction 3.4: Promote Sydney's heritage, arts and culture	N/A
GOAL 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources	COMMENT
Direction 4.1: Protect our natural environment and biodiversity	N/A
Direction 4.2: Build Sydney's resilience to natural hazards	N/A

Direction 4.3: Manage the impacts of development on the environment	If the Planning Proposal can demonstrate compliance with broader strategic direction and access to appropriate transport nodes/ centres then the environmental impacts can be managed at future Part 4 assessment stages. The Urban Design Report does examine impacts around overshadowing. The amended report (Part B of this report) shows that a larger amalgamated building provides a better outcome in this regard than the individual development of both sites. Solar access to neighbouring properties can also comply with adopted standards.
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In its Council Meeting report, Sutherland Shire Council did not specifically address the key considerations outlined in the Guidelines in terms of consistency or inconsistency, but rather addressed some general concerns they had about the proposal. **Table 2** below responds directly to each of Council's issues.

Table 2: Response to Council's comments about compliance	
Council Comments	Response
1. Feasibility of Development <i>The planning proposal claims that 6 storey development is not feasible however, it does not include a feasibility study in support of its claim. This information was requested but has not been provided.</i> <i>The claimed benefits for the supply and cost of housing in Sutherland Centre arising from the proposed additional height and density are also not adequately demonstrated in the planning proposal. While on the face of it, an increase in FSR and density would appear to provide for increased opportunity for housing close to the centre, the reality is increasing land and construction costs can undermine the financial viability of development. Construction costs are likely to be significantly higher as buildings over 25m (8 storeys) must comply with higher and more expensive fire safety standards and additional basement car park levels are necessary to accommodate the increased parking demand. Such increased development costs may actually decrease the feasibility of developing on this site, ultimately stalling its development.</i>	Feasibility for any development project relates to several factors, some of which are beyond planning controls. The following quote provided by Planning staff in relation to Sutherland Commercial Centre (Meeting on 11/03/2013 - DAP070-13) provides a balance to comments made in their assessment of this site: <i>The commercial core of Sutherland remains relatively underdeveloped as a centre despite an allowable height of eight storeys since the adoption of SSLEP2006. The slow rate of development can be attributed to the economic climate since 2008, combined with the expense and difficulty of amalgamating small commercial sites.</i> Residential flat buildings and shop top housing were permissible in the previous zone referred to in the above quote. Council's comments in respect to feasibility fail to note that the cost of capital or interest rates are also huge drivers of development feasibility. Feasibility is essentially controlled by market forces and are beyond the scope of local government's town planning staff expertise. Planning controls are about controlling urban form. Planning controls are maximum controls which allow for the most feasible development to be designed within these parameters. Council's use of speculative feasibility assumptions prior to any DA assessment is not a valid reason for refusal. They are also redundant given they have approved nearby lands

	with height controls of 30m, 35m and 40m elsewhere in the centre. These negative comments about this specific site make no sense in the overall context. Feasibility matters are also often commercial in confidence and Council were operating outside their authority in requiring such information in order to assess the appropriateness of urban form controls.
2. Overshadowing Modelling Relies on Inaccurate Assumptions <i>The planning proposal seeks to demonstrate that overshadowing from a building of the height and density proposed will not have any greater impact on adjoining development than that from a complying development under SSLEP 2015. However, the overshadowing analysis is not well founded, as it is based on incorrect assumptions regarding the street setback and FSR achieved by the modelled built form. It does not directly compare the proposed height and density with that is permissible under SSLEP2015.</i>	The Council were furnished with updated information throughout the proposal and Council staff reported inaccurate building forms to Council Meetings. Council staff remodeled building forms on its own Urban Design Modelling system and misrepresented what had been submitted by the applicant. Even their comments about erroneous front setbacks were obsolete as they were amended in the updated modelling provided to them. While it was speculative at the time, what is possible under the SSLEP 2015 is now very clear as one DA is approved and one is being considered. The amended UDR (Part B) shows a building form which is a better outcome than what is possible under current controls if the sites are amalgamated and larger setbacks to the south are afforded. It is acknowledged this does result in a higher FSR than what is currently allowed and also that site amalgamations are difficult to legislate.
3. Context <i>The proposal does not consider the full context of the site within the R4 zone and its relationship with the adjoining commercial centre. It would sit as an isolated tower in a comparatively low density context.</i>	The proposed controls for the overall centre have all been changed with many sites to the north allowing 40m and 30m heights. Clearly all these resolutions aim to facilitate a <u>new</u> context for Sutherland rendering the existing context obsolete. Using context as reason for refusal therefore lacks substance, as the entire centre has been re-contextualised. The report's specific comments largely relate to issues relevant to the DA stage. One relevant comment related to height which stated: <i>An appropriate built form on this site needs to allow for a transition in scale between Sutherland's commercial core and the existing, established residential flat area. Instead of providing a transition, the planning proposal increases the building height</i> This is a valid consideration. If the site's context is contained to the southern properties on Merton Street only, it may have some merit. However, when you look at the overall centre and the 30m – 40m buildings allowed east and south east of the site along Eton Street, the proposed building is not isolated or out of context. It

	simply sits within the middle of a town centre. Indeed, this site is significantly closer to the railway station than many sites with higher densities. Furthermore, buildings of 20m, 30m and 40m all provide a similar context in terms of scale. They are typical of medium rise buildings and the natural variation over a skyline in this regard is to be expected. This is the direction that Council are taking for Sutherland Centre.
4. Non Compliance with SEPP 65 – Impacts on Internal Amenity <i>The proposal has not demonstrated compliance with the ADG - SEPP 65. It has not been demonstrated that the proposed units can achieve the minimum solar access and ventilation requirements. Furthermore no account is taken of overshadowing from potential 30m and 20m high buildings that can be accommodated on the adjoining sites to the north. A significant level of over shadowing will be created by these neighbouring buildings. This factor must be taken into account to determine an appropriate built form for the subject site. As such, the planning proposal has not demonstrated that the proposed increase in height and density will result in a building that will provide an adequate level of amenity for future residents.</i>	Council staff seemed intent on requiring a design resolution equivalent to the rigour required for a Development Application. Insistence on such information is contrary to the intent of Gateway which is to gain initial approval before more significant funds are outlaid. The accredited architect had certified that a complying scheme would be possible within the proposed form and this would always be subject to DA scrutiny which is significant in its thoroughness. It also carries the added safety of Council being the consent authority. The appropriateness and robustness of the Part 4 Planning process to deal with this issue seemed to be lost on Council staff. The overshadowing to the south was always understood and the UDR modelled shadow impacts carefully. The amended UDR in Part B of this report does this again.

5. Site-Specific Merit:

The second eligibility assessment criterion for a Pre-Gateway Review is whether the planning proposal has site-specific merit and is compatible with the surrounding land uses, having regard to certain matters.

The comments in Table 2 also support this case. The site and the locality allows for a range of heights ranging from 20m, 30m and 40m. A 30m height limit exists on the site immediately to the north. The northern side of Flora Street just north of the site, allows for floor space ratios of 4:1.

The site has already been deemed appropriate for residential units and this is not under contest from Council, as an approved DA for a 20m building exists on 10 Merton Street. This proposal seeks to create additional height and floor space to allow for more meaningful density which is suitable given the site's proximity to the railway station.

A detailed urban design analysis of the site also shows its capability to accommodate an attractive building with acceptable impacts on adjoining lands in a town centre context. The dwellings to the south are obviously impacted and would also not have been approved under current planning controls. The impacts have been mitigated to ensure they can be within acceptable limits once a DA

is prepared. Any future DA will articulate the building envelope, modify setbacks, insert balconies and allow for a greater examination of solar access.

This Proposal seeks to develop a site that:

- Supports the growth in Sydney by locating housing adjacent to a heavy rail stop;
- Delivers increased housing diversity and choice through the provision of housing stock to suit the needs of a changing population;
- Maximises housing yield on an amalgamated site within a more suitable building footprint which is 250m from a heavy rail station;
- Has ready access to nearby recreational lands, educational facilities and health facilities;
- Is within an area already zoned for higher density housing;
- Will assist in creating more affordable housing.

The required matters to be considered in the Review are set out in **Table 3** below:

Table 3: Site Specific Merit Assessment Criteria
The natural environment (including known significant environmental values, resources or hazards).
- The subject site itself has no significant natural features worthy of protection. - The proposal will not adversely impact critical habitat or threatened species, populations or ecological communities or their habitats; - There are no known issues such as contamination, acid soils or stormwater flooding which cannot be appropriately managed through the DA process; - The overshadowing analysis in the Urban Design Report attached to the Planning Proposal illustrates that impacts will be borne on adjoining lands having regard to a higher density area. The proposed impacts will be further ameliorated as the building form is further refined and reduced. This impact is considered reasonable in the context and will be subject to the rigors of the DA process.
The existing uses, approved uses and likely future uses of land in the vicinity of the proposal
- A six storey residential building is approved on the site at 10 Merton Street and a similar building is currently being considered on 12-14 Merton Street. - Unit buildings are located around the site. - A 30m height limit exists immediately to the north and 30m – 40m heights exist east and south-east of the site on the western side of the school (between Merton and Eton Streets). - Sutherland centre is likely to have building heights of well in excess of 30m and 40m in decades to come, but this is not yet established.
The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision
- The site is located on existing bus routes and adjacent to a major heavy rail stop. Connections to other regional centres such as the St George region are reasonably advanced although not set in policy. - The capability of the road network is suitable.

- Appropriate car parking can be provided within a basement parking area and this is enhanced via an amalgamated site.
- All essential services are available to the site and capable of upgrading as appropriate.
- Access to social, health and educational services via walking and public transport is exceptional.

Part B:

While a Pre Gateway Review must consider the application as submitted to Council, Part B of this report attaches an amended UDR prepared following meetings with Council. These amended controls may be considered as a reasonable solution for the site if they Gateway felt this was the most appropriate outcome. Any determination could be modified to reflect the amended controls. Council can be consulted in this regard. In support of this, the following documentation is attached:

Part B - A revised Urban Design Report prepared by Aleksander Design Group dated June 2016;

If the controls shown in Part B material were considered optimal and appropriate, the amended Pre Gateway Review request would be:

1. To increase the floor space ratio (FSR) on the site from 1.5:1 to 2.5:1;
2. To increase the building height control on the site from 20m to 30m;

The Part B amended building form modelling has emerged through careful analysis and consideration of the site and building forms following a Development Application process for the separate sites. Aleksander Design Group prepared DA plans for No. 10 Merton Street (now approved) and No. 14 Merton Street is with Council at present. These schemes are within the current controls allowed on the sites which is six (6) stories and 1.5:1 FSR.

The amended UDR shows that an amalgamation of the land and a nine (9) level building with appropriate setbacks can provide a better planning outcome for the overall site than the isolated development of the two sites. Specifically it will allow a greater level of solar access to the town houses south of the site.

This revised UDR has been discussed with the General Manager, Director of Planning and Mayor at a meeting on 17 June 2016. The revised building form in the Part B UDR was agreed to better reflect what may be appropriate for the site at this time, in a political and policy sense, albeit no formal approval can be issued from a meeting.

This current amended UDR illustrates improved solar access for southern neighbours based on the site's amalgamation and is also reflective of the building form that will emerge on the property immediately north of the site.

6. Justification for Review:

All the comments in the tables above underpin the justification for the review and should be read in that context.

Existing controls of 6 storeys within 250m of heavy rail stops give little regard to the future growth of Sydney over the next few decades. Amalgamated sites are often required to facilitate meaningful development. Site amalgamation possibilities do not last forever and hence the opportunity to development this site exists now. Whether it exists in the future is uncertain.

Meritorious development near transport should always be considered. The context of 2013 UAP initiatives and subsequent resolutions of Council to increase the density on this site have been in place for three years. Several circumstances have delayed consistent policy development in Sutherland. This policy context is not reflective of the merits of the specific site, but more illuminates the lack of staff intent to embrace significant new policy context, unusual circumstances leading to an independent review and political game-playing. The final resolution saw a Councillor who had previously declared an interest in relation to this site, then apply his vote to overturn the Committee resolution made two weeks earlier (refer to **Tab 7** timeline). This does not constitute a fair and reasonable hearing.

Sydney needs development of key centres and the Gateway has the opportunity to look at a meritorious site which is well located to transport.

Other than a very general comment about strategic intent, the Council report provides very little substance underpinning the refusal other than usual Development Application considerations. These all remain valid at the Part 4 stage of assessment and Council staff will be actively involved in any final resolution. This review however, seeks a determination of the Part 3 controls.

Following meetings with the Council, this Review offers a Part B alternative outlining a revised UDR and proposing controls which represent a smaller density increase than originally proposed. Formal consideration of the Part B controls are invited as part of this request.

Should you have any questions about this matter I can be contacted on 0405 504 025 or via email on tim@ddc-group.com.au.

Yours Sincerely,



Tim Stewart
Principal Planner
DDC Urban Planning