

Environmental Health and Regulation Committee



Report Title: Remaining Minor Amendments - Sutherland Shire Local Environmental Plan 2015 – Amendment 4

Report Number: EHR034-16

Committee Meeting Date: 30/11/2015

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Number:
352

EXECUTIVE SUMMARY

- This is the third report concerning draft Amendment 4 to SSLEP2015 and proposes 8 amendments required to either improve the plan, or respond to recently completed studies or to requests made to Council.
- A consolidated planning proposal for Amendment 4, incorporating all the proposed amendments to SSLEP2015 should be prepared and submitted for Gateway Determination.
- The proposed changes to minimum lot sizes in the industrial and business zones will necessitate amendment to SSDCP2015.

REPORT RECOMMENDATION

That Council adopt the draft amendments as detailed in Schedule A of this Report as part of Amendment 4 to Sutherland Shire Local Environmental Plan 2015.

PURPOSE

Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) was made by the State Government on 23 June 2015. Since the plan was made, a number of amendments have been identified as being required to improve the accuracy of the plan, or in response to studies that have recently been completed, or submissions made to Council. This report considers the following matters:

- Signage on bus shelters and seats
- Zoning of John Paul Village, Heathcote
- Incorporation of 874-876 Old Princes Highway, Sutherland in the LEP
- Reclassification of 11 Dampier Street, Kurnell
- Zoning of the southern part of Woollooware Golf Course and Woollooware Scout Hall
- Expansion of the Bulky Goods Precinct, Taren Point
- Minimum lot sizes in business and industrial zones
- Strata subdivision of multi dwelling development
- Updating of the Environmentally Sensitive Land Maps

BACKGROUND

In the time since the plan was made, Council has considered 3 reports which have proposed amendments to SSLEP2015:

- DAP036-16 📄 06/10/2015 SSLEP2015 Amendment 4 Special Uses – Schools
- DAP040-16 📄 06/10/2015 SSLEP2015 Draft Amendments affecting Low Density Residential Zones – Amendment 4
- EHR030-16 📄 02/11/2015 SSLEP2015 Minor Amendments to Zones, Other Maps and Schedules

Another two reports relating to LEP amendments are also to be considered by Council – Review of Small Shops currently zoned R2, R3 and Heritage Review. Following consideration of these reports, Council will have considered all the items identified on the Environmental Planning Unit’s work program for inclusion in the LEP Amendment (DAP035-16 📄), except for updated Flood Mapping. The inclusion of updated Flood Mapping in the LEP can only be progressed once Council has adopted a number of Floodplain Risk Management Studies and Plans. This has not occurred to date. Following consideration of these reports, all the proposed LEP amendments which Council has supported will be combined into a consolidated planning proposal, known as Amendment 4 to SSLEP2015, to be submitted for a Gateway Determination. This should allow public exhibition of the proposed amendments early in 2016.

DISCUSSION

1. Advertising on bus shelters

Council has entered into a contract with Adshel (a private company) to supply, install and maintain bus shelters (102 with advertising and 49 without non-advertising) for a period of 15 years. In addition, Adshel cleans approximately 25 Council-owned bus shelters. Under the contract Council receives a minimum revenue share of approximately \$7,000 per advertising shelter per annum, amounting to approximately \$714,000 per annum. The cost of the maintenance is covered by the advertising revenue. Should Council request the provision of any additional non-advertising bus shelters from Adshel that are not listed in the contract, Council must purchase the shelters and pay the cost of ongoing maintenance & cleaning. This cost is approximately \$22,000 per shelter (supplied and installed) and a further \$1,200 per shelter per annum for cleaning and maintenance.

Most of the advertisements on the bus shelters are currently illuminated static signs. Two shelters have illuminated scrolling signs with 2 advertisements whereby each static poster is displayed for a few seconds. It is likely that the advertisements on bus shelters will be converted to LED television type screens in the near future. RMS does not permit the use of moving images or flashing advertisements on public roads.

Bus shelters with advertising are limited to bus routes on high volume roads where they have maximum visibility. Council nominated the locations for the shelters in consultation with the bus operator and Adshel. Advertising signs when confined to bus shelters constructed by or on behalf of Council is relatively inoffensive in its visual impact on the streetscape. This is because the size and style of the advertising signs are restricted by the uniform design of bus shelters, and the frequency of bus stops with shelters is limited.

The construction of bus shelters by or on behalf of a public authority is exempt development under the Infrastructure SEPP (Clause 97), but the clause specifically excludes any commercial advertising on them. Advertising is prohibited in residential and open space zones under SEPP 64 - Advertising and Signage. This prevents the undesirable consequence of a proliferation of advertising signage.

Advertising on bus shelters is not separately defined in SSLEP2015. Advertising on bus shelters is a type of 'signage', which is defined as follows:

*“ **signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:*

- (a) an advertising structure,*
- (b) a building identification sign,*
- (c) a business identification sign,*

but does not include a traffic sign or traffic control facilities.”

Under SSLEP2015, signage (and therefore advertising on bus shelters) is permitted in: *B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor, B7 Business Park, IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, and IN4 Working Waterfront.* Business and industrial zones on busy roads are appropriate for advertising signs and are locations where advertisers would choose to locate advertising signs on bus shelters. However, this limited permissibility for advertising on bus shelters means that Council will forgo income in the future, and incur costs of constructing bus shelters without advertising when a new bus shelter is required.

Council would have maximum flexibility to allow for advertising on bus shelters in all zones if the use is identified as exempt development in SSLEP2015, as was the case under SSLEP2006. Draft Sutherland Shire Local Environmental Plan 2015, as exhibited and referred to NSW Planning & Environment, contained a provision to allow ‘advertising signs on bus shelters and seats’ as exempt development. This provision was carried over from SSLEP2006 at the request of the Property Services Unit. However, it was not included in the LEP when it was made.

Property Services have requested that another attempt is made to have a provision permitting advertising as exempt development included in the next amendment to the LEP. There are precedents in other council areas where bus shelter advertising signage is exempt development e.g. Canada Bay LEP2013, Fairfield LEP2013 and Willoughby LEP2012. To permit advertising on bus shelters, this will require Schedule 2 Exempt Development of SSLEP2015 to be amended by adding “Signage on bus shelters and seats”, with conditions as shown below.

“Signage on bus shelters and seats

- (1) Must be located on or in a bus shelter or seat*
- (2) Must not flash*
- (3) Must have the consent in writing of the owner of the land on which the advertising is to be located.*

This is a simplification of the wording previously referred to the Department and is similar to the wording of clauses previously accepted for other council areas' LEPs.

2. Rezoning of John Paul Village, Heathcote

A recent request on has been received on behalf of John Paul Village, Heathcote to rezone 4 adjacent properties from E4 Environmental Living to Special Activities SP1 (Seniors Housing) and that the Additional Permitted Uses Schedule 1 be amended to include the subject properties, consistent with the zoning of John Paul Village on the adjoining land. The subject properties are 23 & 27 to 31 Nirimba Crescent, Heathcote and shown below.



SSLEP2015 zoning



2014 Aerial Photo

Background

The John Paul Village site (Lot 10 DP1110571, No. 15 The Avenue) was initially proposed to be zoned E4 Environmental Living in the preparation of SSLEP2015. Council considered submissions made on behalf of John Paul Village objecting to the proposed E4 zoning and resolved to zone Lot 10 DP1110571 SP1 Special Activities (Seniors Housing). It was considered the E4 zoning did not permit the application of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Housing) and hence may unduly limit the expansion of the facility. In recognition of the long term role of JPV in providing quality seniors housing and aged care, it was considered that a Special Use zone was more appropriate than forcing the village to rely on 'existing use' rights. Lot 10 has an 8.5m height limit consistent with surrounding properties, but no FSR limitation. This is consistent with other sites zoned SP1. During the preparation of SSLEP2015, it was noted that development in excess of the 8.5m height would need to rely on the provisions of SEPP Seniors Housing to exceed the LEP height controls.

Council recently considered a development application for alterations and additions to the residential care precinct of John Paul Village with consent granted by the JRPP. The approved works consist of alterations and additions to the residential care precinct of John Paul Village including the construction of a new three storey facility with basement car parking (DA14/0823). The proposal included a total of 63 additional aged care rooms accommodating 46 additional residents and 89 additional car spaces. The proposal included landscaping and

internal / external civil works and a revised two-way driveway access point off Wilson Parade at the north western corner.

The four adjacent residential lots are owned by Trustees of Catholic Aged Care Sydney. No.31 Nirimba Crescent is currently vacant and is being used as an informal car park. No. 23, 27 and 29 Nirimba Crescent contain single storey older style dwellings. Adjacent to No. 23 Nirimba Crescent is a small dwelling forming part of John Paul Village, driveway access to the village and then Nirimba Crescent Reserve. The lots have a FSR of 0.55:1 and maximum building height of 8.5m.



2014 Aerial Photo

Planning consultants on behalf of John Paul Village have advised that, at this time, there is no long term development plans for No's. 27, 29 and 31. JPV intends to demolish the two existing dwellings and provide additional off street parking. This would assist in accommodating overspill parking, particularly during the upcoming construction. There are no current plans for the use of No. 23 Nirimba Crescent.

Planning Considerations

23 Nirimba Crescent is bush fire prone and 27 and 29 Nirimba Crescent are partially bush fire prone, however, the risk is compounded due to the restricted access to East Heathcote. Seniors Housing is prohibited in the E4 zone, as such developments are generally considered incompatible with the environmentally sensitive nature of these lands and/or the bushfire risk. An underlying principle of the plan is minimising the exposure of people and investment to bushfire risk. Seniors housing is particularly vulnerable because occupants generally require assistance to evacuate which redirects the limited number of emergency workers away from fire fighting activities. Concern is raised that rezoning the subject properties in Nirimba Crescent will permit the the use of the land for Seniors Housing. However, it is noted that the Rural Fire Service did not raise objection to the recent expansion of the care facility. In practice the land in question represents only a very small increase to the overall land size for the existing seniors' housing and aged care facility.

Nirimba Crescent is a quiet residential street, dominated by single storey dwellings. The present development of Seniors Housing is not consistent with the surrounding E4 Environmental Living zoning because of its density and scale. However the use has been in existence for many years and the need for such housing continues to grow. SP1 only permits roads, the use in red lettering (in this case Seniors Housing), and uses incidental or ancillary to that purpose. The application of the SP1 zoning would permit the expansion of John Paul Village to these sites and potentially further intensify development at the village. By zoning the land SP1, Council would be accepting that the uses permitted by the SP1 zoning (Seniors Housing) will ultimately occur on site, to some degree. Given the land has been purchased by the Trustees of Catholic Aged Care Sydney and may ultimately facilitate improvements to village, rezoning the land is a pragmatic solution that recognises the importance of the service provided to the community.

As there is no FSR associated with the SP1 zoning, development intensity is subject to a merit based test through the development assessment process. The current plan for the land is to cater for overflow parking. This will lessen potential amenity impacts upon residents in surrounding streets, particularly during the upcoming construction phase. As such the rezoning will be of some benefit to the local community. Should future development be of a scale and character that is greater than surrounding development, there is potential for adverse amenity impacts to adjoining residential dwellings. The rezoning of the land at this stage does not preclude a good future outcome should John Paul Village seek to integrate this land into the village proper.

The four lots form only part of the western and northern extent of Nimrimba Crescent. The whole western side of Nimrimba Crescent is not proposed to be rezoned. This fragmentation creates an anomaly in the zoning pattern. The zoning pattern (and subsequent development) may increase the propensity for adverse environmental impacts on adjacent low density residential dwellings. However, if the intensity of development on the land to be rezoned remains low, as is proposed, the relationship between adjoining land would be acceptable.

There is a minor vehicular access point to John Paul Village adjacent to the park (No.25). The predominant access point to the village is largely off Wilson Parade and a SP1 zoning is, therefore, unlikely to add additional traffic to Nimrimba Crescent.

Although the proposed rezoning of the subject lots may create the potential for minor adverse environmental impacts, these are issues that could be addressed through the development assessment process. The rezoning will facilitate more on site parking which is in the community's interest and will lessen amenity impacts during the upcoming construction phase. It is recommended that Council proceed with the rezoning of 23 27, 29 and 31 Nimrimba Crescent (Lots 60, 62,63 and 64 DP 31803) to SP1 (Seniors Housing) with a height limit of 8.5m and no FSR control, consistent with the adjacent SP1 zoning. Consistent with the SP1 zoning, the minimum lot size requirement and landscape area requirement should be removed from these lots.

3. 874-876 Old Princes Highway, Sutherland

874-876 Old Princes Highway, Sutherland (Lot 1051, 1086, 1120 DP752064) is deferred from SSLEP2015. This land, located near Waratah Park includes the PCYC site and some portions of council land on the northern side of the leisure centre. This land is zoned Zone 15 - Private Recreation under SSLEP2006.

Prior to the initial exhibition of the new LEP, a concept proposal was received from Miranda RSL for this land. In response, the first exhibition of Draft Sutherland Shire Local Environmental Plan 2013 provided an opportunity for increased height and density on land immediately to the north of the Sutherland Leisure Centre, which is predominantly zoned. A subsequent submission from Miranda RSL detailed a revised concept proposal for the site and sought an increase in FSR for the site from the 1:1 as exhibited in the first draft to 3:1. Supporting the request were plans for a large scale development comprising approximately 500 residential units, a 100 bed residential aged care facility and new facilities for Sylvanvale. The staff report to the first exhibition did not support the submission, finding the proposed density excessive and out of context in this setting.

During the exhibitions of the LEP, a large number of submissions were received objecting to any alienation of Waratah Park from public ownership and use. The opposition was based on the principle of development occurring on what is perceived as public open space. The submissions requested that the sites be retained for open space and be removed from the Sutherland Centre Strategy Maps as a future development site. The subsequent Mayoral Minute No 6/13-14 resolved to defer the land at 874-876 Old Princes Highway from the draft plan. Council invited the Miranda RSL Club to proceed with their concept as a stand-alone planning proposal for the site. In May 2014 Council had correspondence with consultants working on behalf of the proponent, and in May 2015 wrote to the Administrator of the Miranda RSL Sub-Miranda Club, regarding the progress of any planning proposal - to no avail. There do not appear to be any current plans afoot to proceed with a planning proposal for the land.

Deferring the land from SSLEP2015 was a short term solution in order to enable the submission and full evaluation of a planning proposal. It is now evident that a planning proposal is not likely to be submitted for the site in the near future. It is recommended that the site be brought back in to SSLEP2015, and be zoned RE2 Private Recreation zone. This zoning is the nearest equivalent to the Zone 15 Private Recreation zone which applied to the land under SSLEP 2006. Sites zoned RE2 generally have a floor space ratio of 0.45:1 and a maximum building height of 9m. Current development would comply with these limitations and consequently it is recommended that these standards apply. The RE2 Private Recreation zone and associated development standards, would not preclude submission of a stand-alone planning proposal by the Miranda RSL Club, or other parties in the future.

4. Reclassification of 11 Dampier Street, Kurnell (Lot 158 DP7632)

Council has previously exhibited a draft LEP amendment to SSLEP2006 to reclassify 11 Dampier Street, Kurnell from “community” land to “operational” land under the Local Government Act 1993 (LEP Amendment No. 12). The draft plan was adopted by Council in November 2009 (EAP083-10 📄) but the Department of Planning and Environment advised in June 2010 that the draft LEP could not be made as the subject land was subject to State Environmental Planning Policy (Kurnell Peninsula) 1989 and therefore could not be reclassified through a LEP Amendment (EAP061-11 📄). With the making of SSLEP2015 and the incorporation of Kurnell into the LEP, this impediment has been removed.

11 Dampier Street is a lot of 624m² with no significant vegetation and no structures other than a makeshift driveway. The lot was originally purchased by Council in the 1960s to create a public road. Since that time it appears it has been used for informal vehicular access to the rear of private properties fronting Prince Charles Parade and Torres Street, Kurnell. The future use of this land has been considered by Council several times previously and reclassification as 'operational' land supported (FIN164-11 📄 and SDC011-12 📄).



11 Dampier Street (edged in red)

The State Government has issued directives, detailed in the Land Use Safety Study for the Kurnell Peninsula (2007), that there is to be no intensification of residential development through subdivision in Kurnell village. This is reinforced in clause 4.1D Subdivision of Land in Kurnell Village of SSLEP2015 which states:

‘(2) Despite any other provision of this Plan, development consent must not be granted to the subdivision of land to which this clause applies if the consent authority is satisfied that the subdivision will result in an increase in the residential capacity of the land’

Consequently, subdivision of the adjoining residential parcels cannot be undertaken and the creation of a formal road to facilitate subdivision of the adjoining residential parcels is inappropriate.

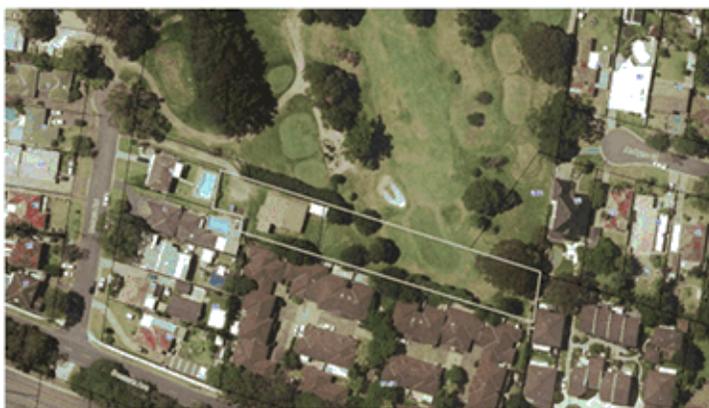
Reclassification of the lot to operational land will enable Council to better regulate the existing vehicular access across the land. It will give Council the ability to issue licenses for private vehicle access and retain options to stop or vary vehicular access in the future in response to amenity impacts. The reclassification will also adequately protect Council from public liability claims.

The amenity impacts on nearby and surrounding residents arising from the currently unauthorised use of the land has been the subject of a number of previous reports to Council (FIN072-06 📄 and (FIN247-05). The reclassification of this parcel does not raise any significant economic, social or environmental impacts. An environmental study for this proposed reclassification is not considered necessary given the minor nature of this proposal.

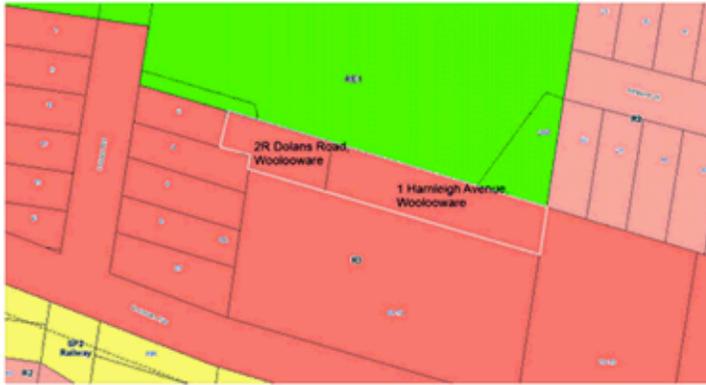
It is recommended that the reclassification of the land from 'community' land to 'operational' land which was previously supported by Council be included in the comprehensive 'housekeeping' planning proposal.

5. Rezoning of southern part of Woollooware Golf Course and 2nd Woollooware Scout Hall

An anomaly in the zoning of land on the southern side of Woollooware Golf Course has been identified. The affected land is Lot 22 DP 552678, described as 2R Dolans Road, Woollooware and 1 Harnleigh Avenue, Woollooware. The eastern part of the lot forms the southernmost part of Woollooware Golf Course and the 2nd Woollooware Scout Hall is located on the western part of the lot. The land is owned by Council.



Aerial photograph identifying subject land



SSLEP2015 Zoning of subject land

The lot is zoned R3 Medium Density Residential in SSLEP2015, the same zoning as the adjoining land to the south. This zone is a straightforward transfer of the zone applied in SSLEP2006. Investigations have revealed that the lot has always had a residential zoning, having initially been assigned a residential zone under the County of Cumberland Planning Scheme 1951. Research and aerial photography indicates that prior to 1970, the land formed part of a residential lot. Subdivision to create the subject lot occurred in 1970 and 1971 and by 1978 the Scout Hall and Golf Course were located on the lot.

In order to address the zoning anomaly, it is appropriate that the lot be rezoned RE1 Public Recreation to reflect the longstanding use of the lot for public recreation purposes. This is consistent with the zoning of the rest of the golf course and the zoning of other land on which Scout halls are located. There is generally no requirement for land zoned RE1 to have development controls (FSR, height, landscaped area and minimum lot size). Consequently, the LEP maps should be amended to remove these controls from this lot.

6. Bulky Goods - Taren Point

During the exhibition of the draft LEP, submissions were received from landowners requesting that the bulky goods zoning (B5 Business Development) be expanded to the western side of Taren Point Road, and in particular to 100-104 Parraweena Road (Cronulla Furniture) and lots fronting Taren Point Road between Parraweena Road and Kumulla Road, Caringbah (Cronulla Carpets, Proud Furniture etc). Officers concluded that there was merit in expanding the bulky good precinct to this land , but the intensification of use requires flooding and access constraints to be addressed.

As part of the making of the plan, Council added bulky goods as an additional permitted use for 100-104 Parraweena Road, Miranda. This was not supported by NSW Planning and Environment. SSLEP2015 was subsequently made by the Minister for Planning without the subject permissibility. Further advice has been sought regarding the omission of some of the uses proposed in the Additional Permitted Uses Schedule; to date no

advice has been received.

Council reconsidered this matter in setting the priorities for the Planning Unit at its meeting of 19 October 2015 (DAP035-16) and resolved in part:

4. That in regard to item 26 in Table 1, being the potential expansion to the Taren Point Bulky Goods Precinct, a meeting is to be arranged with landowners within the next month with the intention of this matter being report to Council before Christmas so that it can be included in the Stage 1 amendment to the LEP.

Analysis

The subject precinct is zoned IN1 General Industrial with a maximum height of 16m and a maximum FSR of 1.5:1. Whilst there are a number of bulky goods uses occurring in the precinct, bulky goods retailing is not permissible in the IN1 zone under Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). It is not known whether the current uses benefit from 'existing use' rights. Under 'existing use' rights legislation, there are limitations on the intensification of such uses.



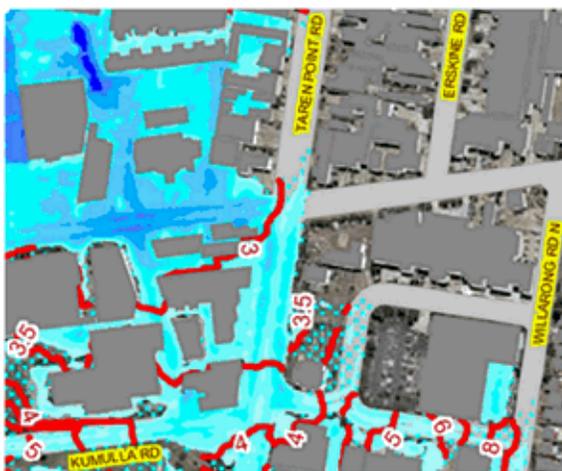
SSLEP2015 zoning and aerial photo extract

The precinct is significantly constrained by flooding and access constraints. However, this prime location can provide opportunities for significant urban renewal. The precinct is directly opposite the main concentration of bulky goods retailers in Sutherland Shire and provides a logical spot to meet the unsatisfied local demand for bulky goods floor space. Before Council can support rezoning of the land it must be satisfied that the land can safely and efficiently accommodate the uses and intensity of development that would become permissible under the B5 Business Development zone.

The B5 Business Development zone would permit bulky goods retailing, office premises and restaurants, at a floor space ratio of 1.5:1 and could be a catalyst for redevelopment. Previous economic analysis has indicated

that there is unsatisfied demand for additional bulky goods retailing space in Sutherland Shire. It is logical that Taren Point Road becomes a centre for this type of retail trade. However, bulky goods retailing is an intensive land use and the scale of the precinct under consideration needs to be appreciated. Together the area outlined in red has an area of 18,500 m² creating the potential for approximately 27,800 m² of retail floor space, requiring 618 car spaces. By way of comparison, the Taren Point Home Makers Centre has a comparable retail floor area of approximately 27,000 m².

The adopted Gwawley Bay Catchment Flood Study recognises that this area is significantly constrained by flooding and that land (shaded in blue in diagram below) is at risk of flooding in a 1% AEP (1 in 100yr) storm. Industrial/commercial properties in Kumulla, Parraweena and Taren Point Roads are known to flood. A major public stormwater drain and overland escape route/flow path passes between the properties in question. The subject land is affected by significant drainage easements. The study identifies the need to increase the capacity of the public drain and improve the overland flow paths.



Redevelopment of the properties in question is subject to the study and the Floodplain Risk Management provisions in SSDCP2015. Building over public drainage/easements is not permitted. Basement car parking is undesirable due to the level of flood risk and potential for losses. As development occurs, individual proposals will need to be assessed to ensure that they do not exacerbate existing flooding in the area. Over time, measures will be taken by both land owners and Council to alleviate the flood risk.

The use of the existing drainage easements for driveway access could maintain the overland flow paths and may be the most efficient use of such land. This would limit the location of buildings and constrain floor space potential. It is also likely to necessitate a transition to the finished floor levels for car parking and retailing floor space and will, therefore, require ramping. Ramping from driveways to parking areas and to floor space is a constraint that must be considered in any future design of access ways and development. If poorly resolved ramping can and

elevated spaces can create poor urban design outcomes.

The uses permissible in the B5 Business Development zone will generate significant traffic movements and demand for car parking. A comparison of existing traffic and projected traffic generation based on the proposed use/zone is required to inform the rezoning decision.

RMS guidelines for traffic generating developments aim to minimise the number of site access points. Road safety and efficiency is typically improved if there is no access from the primary road (Taren Point Road) where alternatives are available (Parraweena Road & Kumulla Road). Given the site constraints, existing access arrangements, and safety concerns in Parraweena Road, there may be some flexibility for ingress/egress off Taren Point Road if a co-ordinated design solution can be facilitated. Access solutions could include staged access ways or rights-of-way that allow for development of individual sites but ultimately facilitate the desired co-ordinated access. Individual sites could then be assessed on merit as development occurs if all parties were aware of how individual sites would ultimately fit together. If all property owners worked together to come to a mutually acceptable Masterplan it is expected that a sensible solution for access could be found.

Taren Point Road is one of the key entry routes into the Sutherland Shire. It is desirable that it has high quality architectural and landscape elements which together create a cohesive, attractive and welcoming streetscape. New development provides an opportunity to improve the overall appearance of Taren Point Road. The architectural treatment, setbacks and landscaping will be vital in ensuring that the desired future character of Taren Point Road is achieved. Resolving flood levels may also have implications for setbacks and building height. More building height may be needed to accommodate the flooding levels given that underground parking is unlikely to be appropriate. Draft SSDCP 2015 currently requires a 9m setback to a primary frontage and a 3 metre setback to the secondary street, with a minimum landscape setback of 3m. Further transitions to accommodate adjoining development may also be required or to accommodate ramping. It is best if the setbacks, building heights and built forms are thought through together so that a cohesive long term outcome results. Achieving this may require amendments to the LEP and DCP provisions, including DCP provisions showing how individual sites could be developed as part of a cohesive whole.

The B5 zone and bulky goods retailing, as opposed to industrial development, will attract visitors that are unfamiliar with the locality, local flooding conditions and the level of risk. Access, parking, flood awareness, emergency management planning and the safety of visitors will require resolution. However, this will not be simple. If sites develop in a piecemeal fashion, it is likely that a sub-optimal outcome will result as each development may further constrain adjoining property owners' abilities to resolve the constraints.

Council officers consider that a co-ordinated approach by all land owners is required to address the key design

constraints of flooding and access and to facilitate the best design solution for each part of the precinct. The best way forward is to develop a masterplan for the precinct so that each party knows with some certainty how adjoining land may ultimately be developed. Before a rezoning can be supported Council needs to be assured that as each site in the precinct is developed, vehicle access will become more efficient and safer, the impacts of flooding on life and property will not be exacerbated, and the future built forms will result in a net improvement to the streetscape of Taren Point Road.

Meeting with landowners

On 20 October 2015 Council officers facilitated a meeting with representatives of all property owners within the precinct. An architect and planner representing some of the land owners were also in attendance. Council officers outlined the opportunities and constraints associated with development of the precinct for bulky goods/B5 Business Development zoning and the need to address access and flooding constraints in a coordinated manner.

There was no agreement among the landowners at the meeting as to how best to proceed and no commitment from the land owners to work together. It appeared that some parties do not appreciate the seriousness of the constraints and the impact these will have upon development outcomes. The architectural and planning consultants did offer sensible solutions as to how a masterplan solution could work.

Council officers advised the land owners that the best way to proceed with the development of individual sites is to resolve the design constraints in a masterplan which could be built into the DCP, allowing development to then progress on individual sites. In this way Council, would have certainty that redevelopment would result in good long term planning outcomes and hence support a B5 Business Development zoning. This advice was also forwarded to the land owners in writing the following day.

Following the meeting, one of the main land owners in the precinct (100-104 Parraweena Road, 189, and 181-178 Taren Point Road) advised in writing that they do not wish to be part of a proposed masterplan for the precinct. Without the cooperation of all land owners it will be difficult to resolve the access and flooding constraints that affect the precinct. This makes it difficult to support a rezoning of the whole precinct to B5 Business Development.

Correspondence has also been received on behalf of the owner of 173-175 Taren Point Road and 94-98 Parraweena Road. The correspondence seeks Council's support for a site specific rezoning of this land to Zone B5 Business Development. In support of the rezoning, the submission suggests that assumptions in the Gwawley Bay Catchment Flood Study may result in the study suggesting a greater flooding problem than could exist with better management of the stormwater system. The submission also asserts that the most appropriate stormwater management decisions can be made during the development assessment stage. The submission also highlights

that it is proposed to rationalise crossovers to both Taren Point Road and Parraweena Roads and create a right-of-way to ensure that future co-ordination of access can be achieved.

The Flood Study has made assumptions based on historical flood data and these assumptions are consistent with technical standards endorsed by the Institution of Engineers. The assumptions are also consistent with the assumptions made by other councils. The rationalisation of vehicular access points, largely removes vehicular crossing which are currently redundant and the proposed right-of-way will not benefit the adjacent strata plan.

In considering a rezoning, Council must be satisfied that the rezoning would not have adverse environmental impacts and that the uses is appropriate for the level of risk. A rezoning must demonstrate that it is consistent with local and regional planning strategies and SEPPs,. It must demonstrate strategic merit as well as have site specific merit, and be compatible with surrounding land uses. Council must be satisfied that the rezoning proposal will not have adverse environmental impacts, social or economic impacts. Individual spot rezonings generally demonstrate little strategic merit. A spot rezoning will not address the constraints facing the whole precinct. A sensible solution relies on all landowners working together to resolve these. However, should the owner of 173-175 Taren Point Road and 94-98 Parraweena Road wish to pursue the proposed rezoning, a planning proposal can be prepared and lodged. This will then be subject to a detailed assessment.

The land still has significant development potential. The land is presently zoned IN1 General Industrial and may be developed in accordance with the zone's permissible uses. Given the reluctance of all land owners to work together, it is recommended that a rezoning to facilitate bulky goods retailing (B5 Business Development zone) not be pursued at this time.

7. Minimum lot sizes in industrial areas

SSLEP2015 does not specify a minimum lot size requirement on any industrially zoned land in Sutherland Shire, although it does identify minimum lot size requirements for specific large strategic sites (e.g. land zoned B7 Business Park in Taren Point). This is the same approach used in SSLEP2006 and by a number of other Sydney area council LEPs, where minimum lots sizes for subdivision on industrial and 'employment' lands are set out in DCPs rather than LEPs.

According to the NSW Planning & Environment *Employment Lands Development Program 2015 Report (ELDP2015 Report)* there is 599.5 ha of land zoned for strategically important industrial and related employment purposes in Sutherland Shire. These lands form distinct precincts which support a wide range and size of industrial, manufacturing and logistical or warehouse operations important to the local, regional and national economies. They also support non-industrial uses such as bulky goods retailers, child care centres, places of public worship, food shops, veterinarian hospitals and businesses considered inappropriate in other zones.

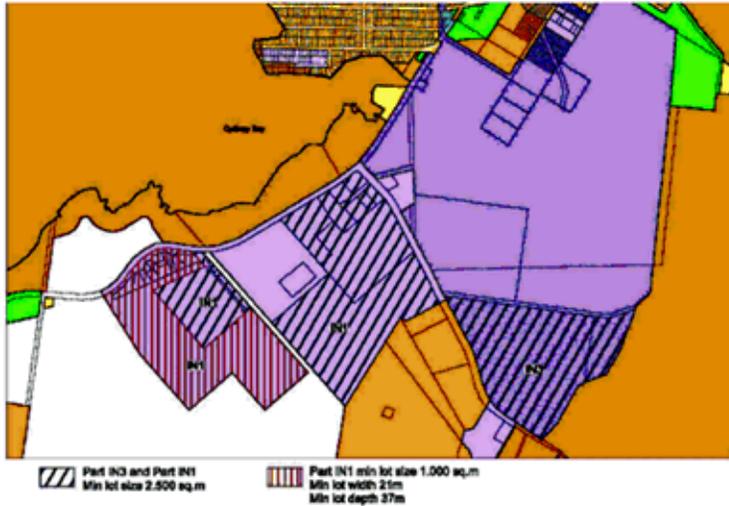
Recent structural changes in the economy, high local land prices and supply chain efficiencies have led many traditional manufacturing, construction and warehouse employers to close, relocate to cheaper better connected sites in Sydney's west, or to move offshore. As a result, a number of key 'employment' sites in Sutherland Shire's industrial lie vacant or underutilised. While on one hand, large 'employment' zoned spaces are reportedly in demand for transport, logistics (e.g. freight transport facilities) and the e-commerce/online business, the land is also under pressure from non-industrial uses such as bulky goods retailing. Given their economic and employment generation potential, it critical that a balance is found between protecting the few remaining larger employment sites in Sutherland Shire from excessive fragmentation and encouraging the development of small, emerging businesses and technologies.

Currently, with the exception of land zoned for B7 Business Park, which has a minimum lot size for subdivision of 1 hectare under SSLEP2015, minimum lot sizes in the remaining 'employment land' zones are set out in SSDCP2015 as specific in the table below. The minimum lot size of 1,000m² was transferred from SSDCP2006 to draft SSDCP2015 for industrial sites.

Table 1 Minimum Lot Sizes for Subdivision in SSDCP2015

SSLEP2015 Zone	Minimum Lot size in DCP2015	Exceptions to lot sizes - Kurnell	
		As mapped in DCP Map 1	Sites which rely on Captain Cook Drive for sole access
IN1 General Industrial	1000m ²	2500m ²	4 ha
IN2 Light Industrial	1000m ²	NA	NA
IN3 Heavy Industrial	1000m ²	2500m ²	NA
IN4 Working Waterfront	Not specified	NA	NA
B5 Business Development	1000m ²	NA	NA
B6 Enterprise Corridor	1000m ²	NA	NA

Minimum lot sizes for industrial land in Kurnell were transferred from the Kurnell SEPP to the DCP as indicated on the map below. Where no hatching is indicated, the minimum lot size for subdivision is 1,000m², with a minimum lot width of 21 metres and a minimum lot depth of 37 metres. Where a proposed allotment relies on Captain Cook Drive for its sole means of access, the minimum allotment size for subdivision is 4 hectares. The lot size requirement was removed from one site in the IN1 zone in response to a submission to the first exhibition of the draft DCP.



Kurnell Industrial Areas IN1 (part) and IN3 - Minimum Lot Sizes for Subdivision

In considering submissions in response to the exhibition of the draft DCP, a review of Council's current approach to the application of minimum lot sizes on non-residential land has been undertaken. In general, the minimum lot sizes specified in SSDCP2015 are considered sufficient to ensure subdivided sites are large enough to meet the needs of a range of industrial and employment uses, while also being capable of achieving adequate vehicle access, manoeuvrability and parking. However, the application of these controls to protect strategic sites from excessive fragmentation can be strengthened by including minimum lot sizes for these zones in SSLEP2015. However, for all sites within the IN4 Working Waterfront zone and most land zoned IN1 and IN3 on the Kurnell Peninsula (the Kurnell Industrial Precinct) a more tailored approach is required.

IN4 Working Waterfront zone

The IN4 Working Waterfront precinct, located on Mangrove Lane in the Shell Point section of Taren Point, is one of the last remaining areas within the South Sydney region available for industrial uses for which water access is essential. In this zone, permissible land uses are limited to maritime industrial activities, the needs of industry clients and workers, and other uses requiring direct waterfront access. The application of this zone to this location, where maritime activities have been located since at least 1943, is critical to ensure that this regionally significant industry can continue to operate and grow in Sutherland Shire.

The precinct consists of five properties ranging in size from 1,360m² to 14,583m². Currently, boat building and repair facilities occupy two of the three largest sites, and all but one site (15 Mangrove Lane) has direct water access. The entire zone and adjacent waterway is identified as Environmentally Sensitive Land in SSLEP2015.

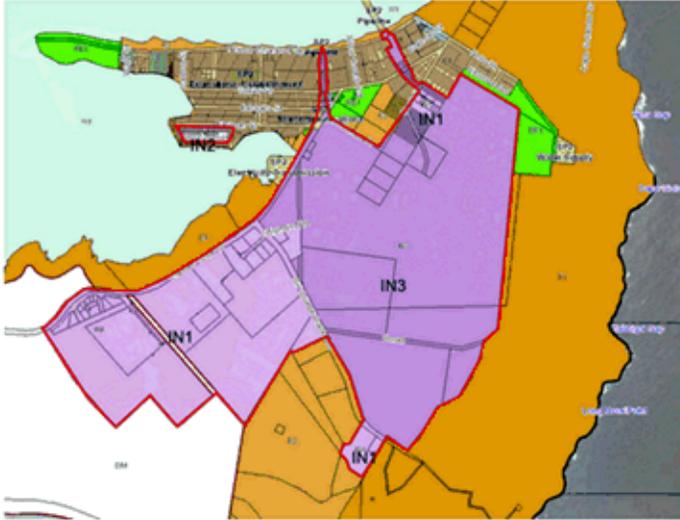


2014 Aerial and zoning view: IN4 zone - Mangrove, Lane Shell Point (lots and zoning boundary outlined in red)

In keeping with the LEP objectives for the zone, any future subdivision of land within this precinct is required to provide direct access to a navigable waterway. Given the environmental constraints in this location, and the small area of appropriately zoned adjacent water (W2 Recreational Waterways) to support the infrastructure associated with uses in the IN4 zone, it is considered that the subdivision of existing lots would lead to unacceptable intensification of the foreshore area. Subdivision of existing lots will also limit the ability to accommodate maritime uses that require large spaces for equipment and manoeuvring. It is, therefore, recommended that subdivision of land to create new lots in the IN4 zone is effectively prohibited by the designation of a minimum lot size for subdivision of 10,000m² (1 hectare). The permissibility and minimum size of strata subdivision in this zone is unaffected by this recommendation.

Kurnell Industrial Precinct

The Kurnell Industrial Precinct contains the largest area of industrially zoned land in the Sydney South region. According to the *ELDP 2015 Report* approximately 366.7 ha of land on the Kurnell Peninsula is zoned for general, light or heavy industrial uses (see map below), of which 106.1 hectares (approximately 28 percent of the precinct) was undeveloped as of January 2015.



In preparation for this report, council officers undertook a review of minimum lot sizes in Kurnell's industrial zones. The review considered existing land uses and subdivision patterns, the potential of redundant industrial sites for redevelopment, and the location of threatened ecological communities in relation to undeveloped sites, as shown below. Development in these areas requires special consideration under the *Threatened Species Conservation Act 1995* and the *Environmental Planning and Assessment Act 1979*.



Kurnell Industrial Precinct - 2013 OEH Endangered Ecological Communities

Dark Blue = Coastal Freshwater Wetland

Medium Blue = Coastal Swamp Paperbark – Swamp Oak Scrub

Light Blue = Estuarine Reedland

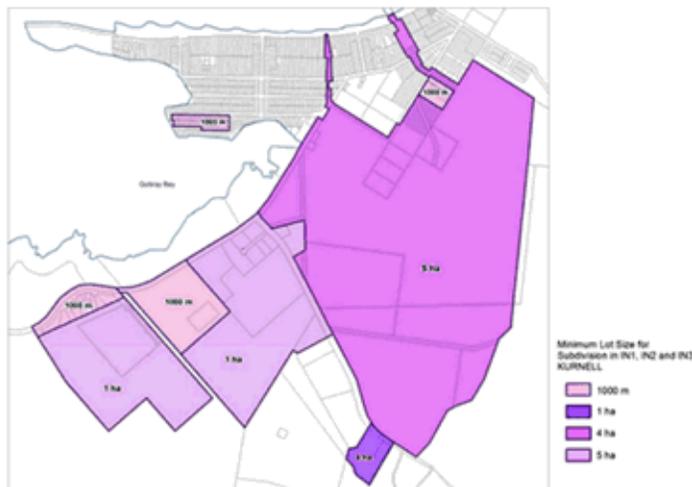
Green = Coastal Sand Littoral Forest

Purple = Coastal Sandplain Heath

The review concluded that a 1,000m² minimum lot size is appropriate in the already highly fragmented IN2 zone and in those parts of the IN1 zone where there is an existing small lot subdivision pattern. The transfer of the existing minimum lot width and depth for these sites to the LEP is not considered necessary. A wider range of minimum lot sizes, which includes significantly larger minimum lot sizes than in draft DCP2015, is recommended for the remaining land in Kurnell zoned IN1 or IN3. Larger minimum lot sizes are considered to offer the following benefits:

- improved flexibility in the development of sites with identified environmental constraints;
- preservation of the few remaining large industrially sites in Sutherland Shire (and the Sydney South region) from excessive fragmentation; and
- capability to support a mix of industrial building types, consistent the strategic direction of the *ELDP2015 Report*.

It is therefore recommended that the minimum lot sizes for Kurnell be as reflected in the following map.



Transferring the minimum lot size requirements for industrial and 'employment' lands from the DCP to the LEP will require a concurrent amendment to the DCP. It is recommended that the proposed changes to the DCP to remove the minimum lot sizes be placed on exhibition simultaneously with the exhibition of the planning proposal for Amendment 4 to SSLEP2015.

8. Strata subdivision of multi-dwelling housing and residential flat buildings

SSLEP2015 intended to permit the strata subdivision of multi-dwelling housing without the need to meet the minimum lot width and depth requirements for subdivision (that is a lot width of 15m and a depth of 27m). However, upon SSLEP2015 being made and becoming operational, it has become evident that the omission of a provision to exclude strata subdivision from the provisions of Clause 4.1A effectively prohibits strata subdivision. Instead, the minimum lot width and lot depth requirements specified in Clause 4.1A apply to all subdivision, including strata subdivision of multi-dwelling housing.

The SEPP (Exempt and Complying Development) permits the strata subdivision of multi dwelling housing or a building for which development consent or complying development certificate was granted or issued, as complying development. However, the strata subdivision must be completed within 5 years of the date the development consent or complying development certificate. Once the five years has lapsed, under the current planning controls there is no mechanism for strata subdivision of multi dwelling housing or residential flat buildings to be undertaken.

In order to address this situation, an amendment to SSLEP2015 could be made to exclude strata subdivision from the operation of Clause 4.1A in the same way as strata subdivision is excluded from the minimum lot size requirements. The relevant clause to add is

'This clause does not apply in relation to the subdivision of individual lots in a strata plan.'

9. Environmentally Sensitive Land Mapping

During the preparation of Draft SSLEP2015 Amendment 1, a submission was received which requested that the Environmentally Sensitive Land maps in SSLEP2015 were updated to incorporate the most recent NSW Office of Environment and Heritage (OEH) data, "Native Vegetation of the Sydney Metropolitan Area 2013, Version 2". In June 2015, Council resolved to update the Environmentally Sensitive Land - Terrestrial Biodiversity map series as part of a future 'housekeeping' amendment to SSLEP2015.

Incorporating the latest OEH data into the SSLEP2015 Environmentally Sensitive Land - Biodiversity maps makes changes to 495 properties. Of these, 480 new properties have been identified as containing as threatened or endangered ecological communities, and should be added to the map as 'environmentally sensitive land' while 15 properties no longer are no longer identified as containing threatened or endangered ecological communities and should be removed from the map. These changes are detailed in Appendix A, attached.

The changes mean that once SSLEP2015 Amendment 4 is made, any of those new 'environmentally sensitive' properties zoned as E4 Environmental Living will not be able to undertake complying development for the purpose of the construction of a new single storey and two storey dwelling houses, for alterations or additions to existing single storey and two storey dwelling houses, or for certain ancillary development. For these uses, a Development

Application will be required. This applies to 124 properties of the 495 properties.

The newly identified properties will also be subject to clause 6.5 'Environmentally sensitive land – Terrestrial biodiversity'. As directed by subclause (3), in deciding whether to grant development consent for development on land to which this clause applies, the consent authority will be required to consider the potential impacts of the proposed development on the fauna and flora on the land and the measures proposed to avoid, minimise or mitigate the impacts of development.

CONSULTATION

Consultation in relation to the potential expansion of the Bulky Goods Precinct has been carried out with the affected landowners as indicated in this report.

The proposed reclassification of 11 Dampier Street, Kurnell has previously been exhibited.

Further consultation will occur during the exhibition of the Planning Proposal for Amendment 4.

BUDGET AND RESOURCES

The preparation of a Planning Proposal to progress these LEP amendments is budgeted for within the budget and resources allocation to Strategic Planning.

POLICY

The recommendations contained in this report will form part of a Planning Proposal to amend SSLEP2015.

CONCLUSION

It is recommended that the planning proposal for Amendment 4 to SSLEP2015 incorporate the following:

1. Include "Signage on bus shelters and seats" as exempt development;
2. Rezone land adjacent to John Paul Village to SP1 (Seniors Housing);
3. Incorporate 874-876 Old Princes Highway, Sutherland into SSLEP2015;
4. Reclassify 11 Dampier Street, Kurnell from 'community' land to 'operational' land;
5. Rezone the southern part of Woollooware Golf Course to RE1 Public Recreation;
6. Amend the Minimum Lot Size Map to include industrially zoned land (IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, IN4 Working Waterfront, B5 Business Development and B6 Enterprise Corridor);
7. Amend Clause 4.1A to facilitate strata subdivision of multi dwelling development and

exclude such from the minimum lot size requirements'

8. Update the Environmentally Sensitive Land Maps to include the most recent Office of Environment and Heritage data on threatened species and endangered ecological communities.

Following this round of Council, all the outstanding planning issues previously identified for consideration for inclusion in amendment 4 to SSLEP2015 will have been considered. Those which have been supported can be combined into a consolidated planning proposal to be known as Sutherland Shire Local Environmental Plan 2015 - Amendment 4 and submitted to Planning NSW for Gateway Determination. On receipt of a Gateway Determination authorising the Planning Proposal to proceed, the Planning Proposal and supporting documentation is to be placed on public exhibition for a period of 28 days. It is anticipated that this could be in the first quarter for 2016. Public hearings will also be required for the proposed reclassification of land. Following these consultation processes, the outcomes of the public exhibition will be reported to Council.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategic Planning - Mark Carlon, who can be contacted on 9710 0523.

NOTE: The appendix to this report is available electronically only.

SCHEDULE A

1. In relation to bus shelters: that Schedule 2 Exempt Development be amended by adding "Signage on bus shelters and seats", with conditions as shown below:

"Signage on bus shelters and seats"
 - (1) Must be located on or in a bus shelter or seat
 - (2) Must not flash
 - (3) Must have the consent in writing of the owner of the land on which the advertising is to be located."
2. In relation to John Paul Village, that 23 27, 29 and 31 Nirimba Crescent (Lots 60, 62, 63, 64 DP 31803) be rezoned SP1 (Seniors Housing) with a height limit of 8.5m and no FSR control consistent with the adjacent SP1 zoning.
3. In relation to 874-876 Old Princes Highway, Sutherland (Lot 1051, 1086, 1120 DP752064), that this land be incorporated into SSLEP2015, with a zoning of RE2 Private Recreation and associated development standards of a floor space ratio limitation of 0.45:1 and a height of 9m.

4. In relation to 11 Dampier Street, Kurnell (Lot 158 DP7632), the reclassification of the land from 'community' land to 'operational' land which was previously supported by Council be included in the comprehensive 'housekeeping' planning proposal to form Sutherland Shire Local Environmental Plan 2015 - Amendment 4.
5. In relation to the southern part of Woollooware Golf Course, that :
 - a. Lot 22 DP 552678, identified as 2R Dolans Road, Woollooware and 1 Harnleigh Avenue, Woollooware be rezoned RE1 Public Recreation to reflect the long standing used of this lot for public recreation purposes.
 - b. Consequential amendments be made to the FSR, Height, Landscaped Area and Minimum Lot Size maps to remove Lot 22 DP 552678 from these maps.
6. In relation to the bulky goods retailing, that a rezoning on the western side of Taren Point Road to B5 Business Development zone not be pursued at this point in time.
7. In relation to minimum lot sizes on industrial areas, that:
 - a. The SSLEP2015 Minimum Lot Size Map be amended to include land zoned for IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, IN4 Working Waterfront, B5 Business Development and B6 Enterprise Corridor.
 - b. The minimum lot size for subdivision in these zones is 1,000m², except in the IN4 Working Waterfront zone, where the minimum lot size is 1 hectare and in the industrial zones in Kurnell where the minimum lot sizes as indicated on the relevant map within this report.
8. In relation to the strata subdivision of multi dwelling development and residential flat buildings, Clause 4.1A be amended to excluded such from from the minimum lot size requirements as follows:

'This clause does not apply in relation to the subdivision of individual lots in a strata plan.'
9. In relation to ESL Mapping, that the SSLEP2015 Environmentally Sensitive Land Maps be amended as detailed in Appendix A to include the latest OEH data identifying land containing threatened or endangered

ecological species.

10. The Strategic Planning Unit prepare a consolidated Planning Proposal to be known as Sutherland Shire Local Environmental Plan 2015 - Amendment 4 incorporating all the LEP amendments supported by Council, and submit this to Planning NSW for Gateway Determination.
11. On receipt of the Gateway Determination authorising the Planning Proposal to proceed, the Planning Proposal and supporting documentation be placed on public exhibition for a period of 28 days.
12. SSDCP2015 be amended to reflect the transfer of minimum lot sizes in the IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, B5 Business Development and B6 Enterprise Corridor zones from the DCP to SSLEP2015, and that the DCP amendments are exhibited simultaneously with the exhibition of SSLEP2015 Amendment 4.

COMMITTEE RECOMMENDATION

That Council adopt the draft amendments as detailed in Schedule A of this Report as part of Amendment 4 to Sutherland Shire Local Environmental Plan 2015.

(Councillor Schreiber / The Mayor, Councillor Pesce)

COUNCIL RESOLUTION

That Council adopt the draft amendments as detailed in Schedule A of this Report as part of Amendment 4 to Sutherland Shire Local Environmental Plan 2015.

(Councillor Johns / Councillor Provan)

APPENDIX

Remaining Minor Amendments - Sutherland Shire Local Environmental Plan 2015 – Amendment 4

Appendix A - ESL Map changes



2015 11 02 List of ESL map changes Appendix (A3336740).docx

(To view the document, double click on icon and select 'Open'. Select 'File' 'Close' to return to report.)