

13 February 2014

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Sutherland LEP Review
NSW Department of Planning and Infrastructure
PO Box 39
SYDNEY NSW 2001

Dear Sir or Madam,

RESPONSE TO SUTHERLAND SHIRE LOCAL ENVIRONMENTAL PLAN 2013 INDEPENDENT REVIEW

Thank you for the opportunity to provide comment in relation to the independent review of the Amended Draft Sutherland Shire Local Environmental Plan (DSSLEP) 2013.

This submission is made by Coles Group Property Development (Coles) who own several sites in the Caringbah Centre. The purpose of the submission is to endorse amendments which were made to the draft planning controls which are proposed to apply to the Caringbah Coles site under the Amended Draft Sutherland Shire Local Environmental Plan (DSSLEP) 2013, following a submission from Coles in relation the originally exhibited Draft Sutherland Shire Local Environmental Plan (DSSLEP) 2013.

1.0 SITE

The Coles site in Caringbah comprises 7 allotments which include the existing 4 allotments which contain the current Coles supermarket and 3 adjoining allotments which have been acquired with the intention of undertaking a development to deliver a new upgraded Coles supermarket within a mixed use development on the site which will also contain residential accommodation.

The site is known as 178-184 Willarong Road, Caringbah and is legally described as Lots 26, 27, 28 and 29 in DP 1006, Lot D in DP 387699, Lot A in DP 449572, and Lot X in DP 396618. The site is irregular in shape and is located with a frontage to Willarong Road to the west, President Avenue to the south and President Lane to the east. The site also adjoins an existing Council car park along the northern end of its eastern boundary. A location plan is included as **Figure 1**.

The site currently contains a collection of older industrial and commercial buildings which have generally reached the end of their lifecycle.



Figure 1: Site

2.0 BACKGROUND

The existing Coles supermarket within the Caringbah Centre is constrained and is an underperforming store which has reached the end of its life cycle. Accordingly, the supermarket requires redevelopment to provide a full line offer to the latest Coles design standards. Coles has committed significant capital in purchasing adjoining land for the purpose of expanding and revitalising its supermarket operation, which will provide for the resolution of some existing issues such as the current loading dock arrangement.

The issues with the current supermarket and the acquisition of adjoining sites is such that the redevelopment of the site has become a pressing matter and is an immediate priority for Coles.

Coles have previously provided submissions to Sutherland Shire Council in relation to an appropriate suite of new planning controls for the site based upon an indicative concept for the redevelopment of the existing Coles and adjacent sites.

Coles have also held discussions with Council in relation to a redevelopment of the Coles site and the adjacent Council car park which has resulted in a draft Memorandum of Understanding between Coles Supermarkets and Sutherland Shire Council.

3.0 STRATEGIC PLANNING FRAMEWORK

The DSSLEP 2013 has been informed by a range of strategic plans and studies, with a common theme to identify opportunities within the existing greater Sydney context to accommodate housing and employment growth. In particular, the DSSLEP 2013 seeks to facilitate an increased residential population particularly in locations close to centres with good access to jobs, shops, public transport, health facilities, community centres, and parks. The relevant strategic plans and studies are summarised below.

New South Wales 2021 (The State Plan)

NSW 2021 is a 10 year plan based around five broad strategies to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability and strengthen the State's local environment and communities.

One of the goals in relation to rebuilding the economy is to place downward pressure on the cost of living. The target in relation to this goal is to facilitate the delivery of 25,000 new dwellings in Sydney per year by continuing to set dwelling targets for local councils outlined in subregional strategies and to partner with local councils to ensure that targets for housing and growth are reflected in relevant planning proposals and in local planning instruments.

Metropolitan Plan for Sydney 2036

In 2005, the NSW Government released the Metropolitan Strategy—City of Cities: A Plan for Sydney's Future—to support growth while balancing social and environmental impacts over 25 years. In 2011 that Strategy was updated and integrated with the Metropolitan Transport Plan to known as the Metropolitan Plan for Sydney 2036.

The Metropolitan Plan for Sydney 2036 integrates land use, urban and funded—transport planning together and incorporates the targets in the updated NSW State Plan.

The plan identifies that Sydney will need 770,000 additional homes by 2036— a 46% increase on the city's current 1.68 million homes. The location, size and type of new housing must reflect the population's changing needs. As a result, the plan includes a target that 80% of all new homes should be located within the walking catchment of existing and planning centres with good public transport. In addition, 70% of new homes should be located within existing suburbs. The delivery of these targets is to be through subregional strategies and Local Environmental Plans.

The Plan identifies a target for the South subregion, within which Sutherland Shire is located, of 58,000 additional dwellings between 2006 and 2036.

Draft South Subregional Strategy

The Draft South Subregional Strategy was released in 2007 and provides further detail to fulfill the goals and objectives outlined in the Metropolitan Plan for Sydney 2036. The Draft South Subregional Strategy was released prior to the updated Metropolitan Plan, which explains the difference in housing targets for the South area which has subsequently been increased under the Metropolitan Plan.

The Draft South Subregional Strategy provides general and specific directions relevant to the Sutherland Shire local government area including:

- dwelling target of 35,000 for South subregion between 2004 and 2031.
- dwelling target of 10,100 for Sutherland Shire between 2004 and 2031.
- 60–70 per cent of new housing will be accommodated in existing urban areas, focused around centres and corridors.
- renew local centres to improve economic viability and amenity.

Caringbah is identified as a Town Centre which is characterised as containing one or two supermarkets, community facilities, medical centre, schools, and between 4,500 and 9,500 dwellings.

The Draft South Subregional Strategy provides the following commentary in relation to Caringbah Town Centre:

A key direction of this Strategy is to resolve the role of Caringbah, Miranda and Sutherland in their growth over the next 25 years. Careful strategic planning will need to be undertaken to ensure the growth of each centre is complementary.

Sutherland Shire Housing Strategy 2031

Council's analysis of the zoning, height and FSR controls under the Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) indicates that only 56% of the anticipated new dwellings in Sutherland Shire in the period to 2031 will be located within centres.

This falls short of the 80% target set by the Department of Planning and Infrastructure and accordingly Council has prepared the Housing Strategy to identify changes to the planning controls to assist in revitalising existing town centres and providing additional housing within defined radii of centres.

In relation to the Caringbah Centre, the strategy notes that the following:

Caringbah needs a strategic vision to regain its place in the hierarchy of centres in Sutherland Shire. There has not been any significant recent redevelopment in the core commercial area of Caringbah for ten years. Opportunities exist to encourage increased residential unit development and promote mixed use development in the centre.

The Strategy particularly identifies the Coles site as follows:

The existing Council car park adjacent to Coles is another key site where Council's landholding could help deliver positive change. Combined with surrounding land it has potential to create a new retail focus for the centre in a central accessible location. This can be combined with higher density housing and public domain improvements to deliver good public outcomes.

4.0 EXISTING PLANNING CONTROLS FOR THE SITE

The existing primary planning controls relevant to the Coles site in Caringbah Centre under the current SSLEP 2006 are illustrated in the below table:

Control	SSLEP 2006
Zone	Zone 8 – Urban Centre
FSR	2.5:1
Height	5 storeys

5.0 DRAFT SSLEP 2013 PROPOSED PLANNING CONTROLS FOR THE SITE (INITIALLY PROPOSED CONTROLS)

The initially exhibited proposed controls for the site under the DSSLEP 2013 grouped the site into Area 1 with a number of adjoining sites, which was an intended amalgamation requirement which was a prerequisite for achieving the full FSR and height for the site. These draft controls are illustrated in the below table:

Control	DSSLEP 2013 (Area 1)
Zone	Zone B3 – Commercial Core
FSR	2.5:1, plus 0.5:1 provided: <ul style="list-style-type: none">the building on a site having an area of at least 6,000 square metresthe development provides a pedestrian plaza, pedestrian access through the site from Park Lane to the Kingsway and from Park Lane to Willarong Roadthe development provides vehicular access to 344-346 Kingsway (Lot 1 DP 219784) and 340 Kingsway (S/P 13533)
Height	20 metres, plus 26 metres provided: <ul style="list-style-type: none">the building on a site having an area of at least 6,000 square metresthe development provides a pedestrian plaza, pedestrian access through the site from Park Lane to the Kingsway and from Park Lane to Willarong Roadthe development provides vehicular access to 344-346 Kingsway (Lot 1 DP 219784) and 340 Kingsway (S/P 13533)

6.0 ISSUES

A submission dated 30 April 2013 from Coles was submitted to Sutherland Shire Council in response to the draft controls which were exhibited for the site in the DSSLEP 2013.

The submission included the following discussion of the various issues and the concerns with the proposed draft controls for the site:

6.1 Amalgamation Requirement

The strategic planning framework outlined above has identified that the density expressed in the planning controls for the Caringbah Centre needs to be uplifted in order to provide the necessary stimulus to ensure that revitalisation of the centre actually occurs which will contribute to the delivery of residential dwellings in close proximity to public transport and a range of services.

Importantly, it is noted that there has been no significant redevelopment in the Caringbah Centre for over 10 years under the current planning controls.

However, contrary to the objective to uplift the density within Caringbah Centre, the proposed planning controls for 'Area 1' under the DSSLEP 2013 effectively retain the same height and FSR as that which currently exists. The only opportunity to access higher density in 'Area 1' requires the amalgamation of sites to achieve a minimum 6,000 square metre site, amongst other requirements.

The amalgamation clause would force the collaboration of multiple parties, with differing financial interests, priorities, timelines, accountabilities, motivations and goals. These parties span two levels of government as well as private interests.

The range of differing interests is such that any amalgamation process has the potential to result in a highly protracted process which may require many years of negotiation. There is a significant risk that unreasonable expectations or demands by any of the parties could also indefinitely halt such a process. It is not an uncommon scenario where the owner of a small residual site in such a circumstance has unrealistic expectations of the value of their site and the amalgamation process is effectively held to ransom.

As discussed in the Background section, the redevelopment of the Coles site has become a pressing matter and delays likely to be associated with an amalgamation process are unacceptable. These delays could ultimately result in the abandonment of additional density as a result of a pressing need to redevelop the site in a timely fashion. The opportunity cost of such an outcome would be significant not only for the loss of dwellings which could have been delivered within a large landholding in the town centre, but also because it would prevent the achievement of one 6,000 square metre

amalgamated site meaning that the remaining land owners within 'Area 1' would also no longer be able to access the higher density available upon amalgamation.

The potential issues and difficulties associated with amalgamation are such that the sites within the Caringbah Centre may be prevented from achieving any uplift in density beyond that which currently exists. This is the same density which has failed to provide the necessary stimulus for over 10 years to result in any significant redevelopment within the centre. Notwithstanding the pressing need for Coles to upgrade its supermarket, it is likely that the current lack of activity within Caringbah Centre will continue without removal of the amalgamation requirement and the provision of a genuine uplift in density for the Centre.

From an urban design perspective, it is evident that Council has satisfied itself that the sites within 'Area 1' the Caringbah Centre are capable of absorbing an FSR of 3:1 and a height of 46 metres whilst achieving an appropriate urban form outcome. None of the sites within the Caringbah Centre are landlocked and amalgamation is not required to achieved orderly development within the Centre. Having regard to the issues above, it is therefore considered both necessary and appropriate to remove the amalgamation requirement so that the sites within the Caringbah Centre are afforded an FSR of 3:1 and a height of 46 metres.

6.2 Pedestrian Through-Site Link

The proposed planning controls under the DSSLEP 2013 effectively retain the same height and FSR as that which currently exists. Opportunity to access higher density in 'Area 1' requires the provision of a pedestrian plaza and pedestrian access through the site from Park Lane to the Kingsway and from Park Lane to Willarong Road, amongst other requirements.

However, there is a particularly limited pedestrian catchment that would access this linkage via the existing narrow, fence enclosed pathway to the west of Willarong Road. In addition, the street length along Willarong Road between the railway line to the north and President Avenue to the south is particularly short, being approximately 115 metres, and does not warrant a through-site link.

The limited pedestrian catchment and flow of pedestrians are such that it would be difficult to activate a through-site link in this location which would present safety and security issues such that the link would need to be closed during the evening and night period. Best urban design practice is to reinforce pedestrian activity along the existing streets and this is considered much more appropriate in this circumstance for pedestrians to be encouraged to use a route with more surveillance potential, lighting and sightlines such as along President Avenue.

In addition to the above concerns, the requirement for a through-site link in the Coles site would significantly constrain the layout and design of a new supermarket on the site which would be prohibitive to the delivery of a new full line supermarket in this location.

6.3 Vehicle Access

The proposed planning controls under the DSSLEP 2013 effectively retain the same height and FSR as that which currently exists. Opportunity to access higher density in 'Area 1' requires the provision of vehicular access to 344-346 Kingsway (Lot 1 DP 219784) and 340 Kingsway (S/P 13533), amongst other requirements.

Currently the sites at 344-346 Kingsway and also 340 Kingsway achieve vehicular access to their respective car parks at the rear across the Council owned car park at 39R President Avenue. The purpose for this requirement is so that in the event the Council car park is redeveloped, the design of the new development retains vehicular access to 344-346 Kingsway and also 340 Kingsway and does not landlock these sites.

This requirement assumes that amalgamation of all the lots within 'Area 1' will occur. As discussed earlier in this submission, amalgamation is considered unreasonable in order to access an FSR of 3:1 and a height of 46 metres, and an amendment to the planning controls should be more specific and require the provision of vehicular access to 344-346 Kingsway and 340 Kingsway upon any redevelopment of 39R President Avenue.

7.0 RECOMMENDATIONS

The Coles submission dated 30 April 2013 in response to the initially exhibited DSSLEP 2013 provided the following summary of existing, draft and recommended controls for the site to resolve the issues raised above:

Issue	Existing	Proposed	Recommendation
Zone	Zone 8 – Urban Centre	Zone B3 – Commercial Core	Zone B3 – Commercial Core
FSR	2.5:1	2.5:1, plus 0.5:1 provided: <ul style="list-style-type: none">the building on a site having an area of at least 6,000 square metresthe development provides a pedestrian plaza, pedestrian access through the site from Park Lane to the Kingsway and from Park Lane to Willarong Roadthe development provides vehicular access to 344-346 Kingsway (Lot 1 DP 219784) and 340 Kingsway (S/P 13533)	3:1

Height	5 storeys	20 metres, plus 26 metres provided: <ul style="list-style-type: none"> the building on a site having an area of at least 6,000 square metres the development provides a pedestrian plaza, pedestrian access through the site from Park Lane to the Kingsway and from Park Lane to Willarong Road the development provides vehicular access to 344-346 Kingsway (Lot 1 DP 219784) and 340 Kingsway (S/P 13533) 	46 metres
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8.0 COUNCIL RESPONSE

Following the initial exhibition of the DSSLEP 2013, a report was prepared by Council which addressed the submissions and proposed some amendments to the draft LEP. The amended Draft LEP was subsequently re-exhibited as the Amended Draft Sutherland Shire Local Environmental Plan 2013 with a closing date of 1 November 2013.

The Council report which considered the Coles submission is attached to this submission, however, it concluded the following:

In response to Coles' submission, additional testing and urban design modeling has been undertaken to determine potential impacts of the Coles site being redeveloped independently, without the car park, at a maximum FSR of 3:1 and height of 46 metres.

The outcome of such preliminary modeling demonstrates that development on this site can be achieved at this FSR and height whilst maintaining reasonable visual, aesthetic and amenity impacts to established built form West of Willarong Road, proposed President Avenue building envelopes and the greater Caringbah Town Centre area.

Whilst the Coles proposal does not provide a pedestrian plaza or pedestrian access through the site from Park Lane to Willarong Road, the proposal will maintain pedestrian movements and vehicular access to 344-345 Kingsway (Lot 1 DP 219784) and 340 Kingsway S/P 13533) through the Council car park. The desire for pedestrian access to Willarong Rd is questionable. The main attractor for pedestrian movements appears to be to/from the intersection of Willarong Road and President Ave to/from the Kingsway. Therefore it is considered that pedestrian access through the Coles site to Willarong Rd is not a mandatory requirement.

In relation to the Coles site, the Council report concluded with the following recommendations:

- 1. That the Coles site be removed from Area 1;*
- 2. That the FSR be increased to a maximum of 3:1 across the Coles site;*
- 3. That the height be increased to a maximum of 46 metres across the Coles site.*

As a result of these recommendations, the exhibition of the Amended Draft Local Environmental Plan 2013 removed the Coles site from the required amalgamation 'Area 1' and provided a FSR of 3:1 and a height of 46 metres for the site.

9.0 CONCLUSION

Coles is pleased that in reviewing the merits of the amalgamation requirement that Sutherland Shire Council has recognised that a mandatory requirement for amalgamation would be highly problematic due to the number of landowners, as well as, the potential and willingness for those landowners to act promptly to enter into an agreement with Coles Group Property Development. An amalgamation requirement would stymie a timely development of the site which would be detrimental to achieving the strategic objective under the various state and local policies for the timely delivery of housing and employment in centres.

The Council has undertaken a robust assessment of the urban form which would likely occur with the provision of an FSR of 3:1 and height of 46 metres for the site and have demonstrated through appropriate modelling that the site has the environmental capacity to accommodate a building resulting from the application of these controls to the site.

Coles is satisfied that there has been a meaningful consideration of the submission in relation to the site and endorses the proposed controls for the site under the Amended Draft Sutherland Shire Local Environmental Plan 2013. The amended planning controls are appropriate on urban design grounds having regard to the context of the site and the location of the site within a town centre consistent with the Metropolitan Plan.

Yours Faithfully



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