

14th February 2014

Independent Review of Draft Sutherland Shire Local Environmental Plan 2013

To whom it may concern,

This is my submission to the above-mentioned review

I spoke at two of the hearings 29th January 10 -12PM session, and February 4th 10 -12PM session, outlining my concerns about the Local Environmental plan, compounded by the extra development to be allowed following the Mayoral minute of 29th July 2013.

Outline of this submission

I have insufficient information to make any knowledgeable comment on the first term of reference.

1. Assess and advise whether Sutherland Shire Council has prepared the draft Sutherland Shire Standard LEP 2013 (draft Plan) in accordance with the Environmental Planning and Assessment Act 1979.

With regard to Terms of Reference:

2. Advise on the appropriateness of the provisions contained within the second exhibited version of the draft plan.
3. Examine the 75 changes made to the LEP by the Mayoral Minute N0 6/12-14 dated 29th July 2013.

I have compared, in this submission, the appropriateness of particular provisions of the Draft Local Environmental Plan with the first three particular aims in the Local Environmental Plan that relate to impacts on the community.

1.2 (2)

(a) To deliver the community's vision for Sutherland Shire by achieving an appropriate balance between development and management of the environment that will be ecologically sustainable, socially equitable and economically viable.

(b) to establish a broad planning framework for controlling development, minimizing adverse impacts of development, protecting areas from inappropriate development and promoting a high standard of urban design,

(c) to protect and enhance the amenity of residents, workers and visitors in all localities throughout Sutherland Shire,

Aims (b) and (c) are self-explanatory. Aim (a) should be similarly self-explanatory but I consider it necessary to firstly ensure that the correct interpretation of what "community vision" should mean in your review.

I then list my examination of the provisions that I deem are inappropriate with interspersing of the Mayoral Minute as it has affected these particular items, under headings:

1. Proposed 9 m height in low density residential areas
2. Increased Floor Space Ratio in low density residential areas
3. Proposed medium density development in "Area 6" in low density residential zoning
4. Proposed 16 m height in medium Jannali R3 zone
5. Proposed 20 m height in Jannali Shopping Village
6. Sacrifice of amenity and subjugation of employment opportunities for Shire Residents by cramming in more people to work in the City

7. Safety and Comfort of Train Service
8. Impact on Sutherland Town Centre Amenity
9. Reclassification of Entertainment Centre
10. Housing Targets

I conclude with specific concerns about abuse of process by introduction of the Mayoral Minute of 29th July 2013 and by the proponent Councillors at the Council meeting.

“COMMUNITY VISION”

The Draft LEP states the first particular aim of in Section 1.2 (2) as:

- (a) To deliver the community’s vision for Sutherland Shire by achieving an appropriate balance between development and management of the environment that will be ecologically sustainable, socially equitable and economically viable.

The aims of the LEP are the yardsticks to measure the appropriateness of the provisions of the Draft LEP. However it is necessary to define the community’s vision as accurately as possible. According to media reports (I was not present) of the hearing where the mayor spoke, the Mayor claimed that the LEP had vision. We do not know if this version of a vision has been documented, but if in whatever form it is intended that the aim 2.1 (2) (a) refers to the Mayor’s vision, then the plan has a fatal flaw.

Alternatively, the Mayor's intention might have been to define a vision, not as it is, but what it should be. The 29th July Mayoral Minute states:

“Council’s vision for the future of the Shire must integrate with the State’s vision for Sydney and its role in the global economy.”

This idea of re-educating the community to change its vision probably was the basis of the proposed community consultation proposed in the Mayoral Minute of 19/11/2012 as follows:

“Communication aims to inform and educate Sutherland Shire residents about the Draft LEP and Housing Strategy, and the reasons behind them. It is important that the community understands the reasons for, the implications of, and the benefits which will follow the Housing Strategy and Draft LEP....

Planned communication channels & activities:

- A4 flier sent to every household
- Media releases
- Leader advertising
- Mayor’s column in Leader
- Our Shire
- Council website – Building & Environment page
- Council website – Spotlight (homepage)
- Social media – Facebook and Twitter
- Presentations to community
- Hotline

Other options to consider:

- ☐ Staff at shopping centres
- ☐ Community meeting

However this intensive program of community education did not proceed and the Mayor’s notification letter dated 15 March 2013 contained only vague general references to “implications

for all property owners” “town centres”.... “dual occupancies” and “floor space ratios” that gave no hint of the massive overdevelopment that is to be unleashed upon the shire.

The only valid reference to something close to a community vision is the “Shire Vision” for which I found some information in a Strategic review in 2011 that appears on the council’s web-site. It states:

The Shire Vision, first adopted in 1999 and again in 2007, is:

*Sutherland Shire, in Sydney’s south, shaped by bays, rivers, beaches and national parks:
A community working together to attain safe, healthy and active lifestyles, through accountable decision-making that achieves sustainable development and economic opportunities, which respect people and nature*

Insight into the Community vision, too complex with a range of opinion to be written concisely, can nevertheless be found in the residents’ responses at the review workshops to the topic of development in the Supplementary Report to the Strategic Review.

This review lists a range of aspirations and ideas for a positive future, but tempered with a shared concern about the adverse impacts of overdevelopment. This concern is common with particular aims (b) and (c).

Additionally about 2,000 submissions to the first LEP exhibition, where most of them opposed provisions in the Draft LEP, and 1,500 submissions to the second exhibition, (although the proportion for and against is unknown because the council has kept the submissions secret from the general public) reflect a community vision.

The following are my personal concerns about certain provisions and are why they are NOT appropriate to the community vision and other aims of the Local Environmental Plan.

1. Proposed 9 m height in low density residential areas

Council has repeatedly tried to indicate powerlessness to prevent 3-storey development ensuing from the 9m overall height limit. For example, the Council Planning Proposal documents for both the initial exhibition and re-exhibition of the Draft LEP earlier this year state:

“The general height limit for low density residential areas is 9 metres, consistent with SSLEP2006 controls. However, unlike SSLEP2006, the SI does not provide a limit in the number of storeys in a development, nor is there a height limit to the underside of the uppermost ceiling. Consequently, a 9 metre height limit will enable three (3) storey dwellings (including townhouses).”

Similarly, Council report “9_Building_Height_and_Amenity” in response to submissions stated.

“However, the Standard Instrument format does not allow Council to use standards in the DSILEP to control the height to the underside of the ceiling nor limit construction to two storeys.

Therefore Council must choose a general height limit in metres.”

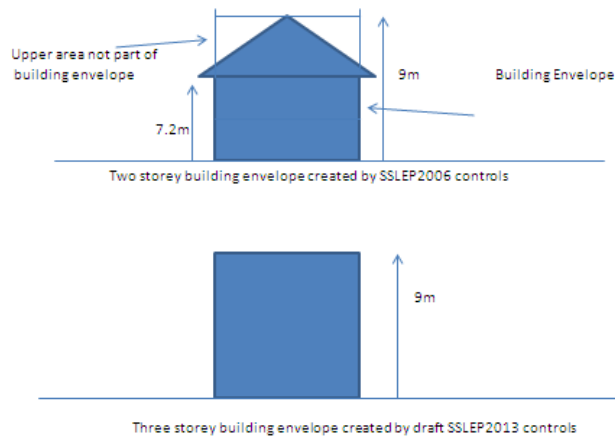
The Council position of allowing wholesale three-storey development of single dwelling areas, a prospect hitherto not contemplated under the present LEP, would cause unacceptable amenity impacts by drastically reducing access to sunlight and grossly invade privacy by having a 9 metre high wall of a three storey dwelling (including townhouses) immediately adjacent to side boundaries. These impacts would be so severe that the LEP will fail to its particular aims (a), (b), and (c), and therefore the provision as it appears in the Draft LEP is inappropriate

The Council Planning staff report in response to submissions also recognised the inappropriateness of the proposal in their report in response to submissions to the first LEP exhibition, as follows:

“...Residents concerns about three storey dwellings are not unfounded...”

Such dwellings tend to be larger and bulkier and can result in more amenity impacts than two storey development.

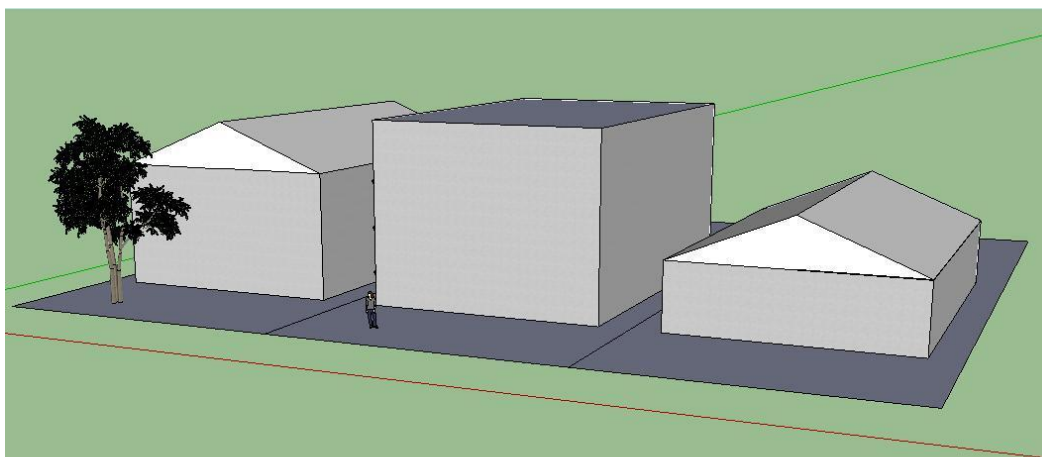
The current and proposed control results the following building envelopes:



...9m buildings are likely to create greater adverse overshadowing impacts as the wall heights adjacent to boundaries are greater....

Neighbouring occupiers are entitled to a reasonable level of privacy, both within their homes and outside in their private gardens. In determining development applications, Council aims to ensure that new extensions do not impose an unacceptable loss of privacy on the occupants of neighbouring dwellings. However it is the development standards that ultimately determine what degree of impact is considered acceptable. This is of particular concern if this standard is to be used in the future for complying development...”

To make a positive contribution to the streetscape, new development needs to reinforce the scale and character of existing buildings and landscape elements. The diagram below shows a block outline form and how a 9m building would sit in the streetscape against a typical two storey building and a single storey dwelling.



CAD visualisation of built form on streetscape and character

The current controls seek to ensure development is compatible with the scale and character of most neighbourhoods in Sutherland Shire. Nine metre dwellings will have a tendency to dominate local streetscape character to a greater extent than is currently typical of new development. Pitched roofs help

to reduce the overall scale of development. However if floor space is to be maximised, a pitched roof cannot be accommodated. This will increase the likelihood that facades

Furthermore the Council Planning staff attempted to overcome the likelihood of three storey development by recommending:

“It is recommended that an 8.5m height limit apply to the lower density zones.”

This still posed a risk of three storey development and 8.5 m building height adjacent to boundaries, but the risk reverted to a certainty when this modest inroad to the 9 m proposal was ignored by the Mayoral Minute recommending the Draft LEP for Gateway Determination.

Ironically, the Mayoral Minute revealed a strategy to overcome this problem, where a provision to limit ceiling height was proposed for a particular area appears in the re-exhibited plan.

6.23 E2 Environmental Conservation zone

(1) This clause applies to, and zoned E2 Environmental Conservation.

(2) Despite any other provision of this plan, an existing dwelling house in the E2 Environmental Conservation zone subject to this clause, may be enlarged or altered with development consent. Any existing dwelling house altered or enlarged must comply with the following:

(a) height must not exceed 7.2 metres to any point on the uppermost ceiling and 9 metres to the highest point on the roof, and

(b) gross floor area must not increase by more than 30m² or 10% of the existing gross floor area, whichever is the lesser, or exceed a maximum floor space of 300m² (inclusive of any ancillary buildings).

I recommend that a similar Local Provision be inserted in Part 6 to cover the whole shire, such as:

Despite any other provision of this plan, any new dwelling house in the R2 residential zone must comply with the following:

(a) height must not exceed 7.2 metres to any point on the uppermost ceiling and 9 metres to the highest point on the roof.

with any necessary variation for Kurnell to allow for flooding

I made this recommendation at the 10AM -12 hearing on Tuesday 4th February to replace my earlier recommendation at the 10AM -12 hearing on Wed 29th January to rely on the Development Control Plan.

11. Increased Floor Space Ratio and in low density residential areas

The Council Planning staff report in response to submissions on Floor Space Ratio and Landscaping ratio states:

Sutherland Shire Council has provided a legacy of strong controls on built form. Height, FSR and landscaped area work in concert to produce the building form that characterise each of the Shire's localities. Because the draft plan proposes to increase height and FSR and reduce landscape area, there will be substantial increase in the perceived building bulk of new residential dwellings. Over time, this will have a cumulative impact on the character of the Shire, particularly its scenic quality.

Despite this impact they recommend no reduction of the Floor Space Ratio. The change from 0.45 to 0.55 is a significant 22% increase and overshadowing impacts and invasion of privacy will cause

the LEP to fail to its particular aims (a), (b), and (c), and therefore the provision in the Draft LEP is inappropriate.

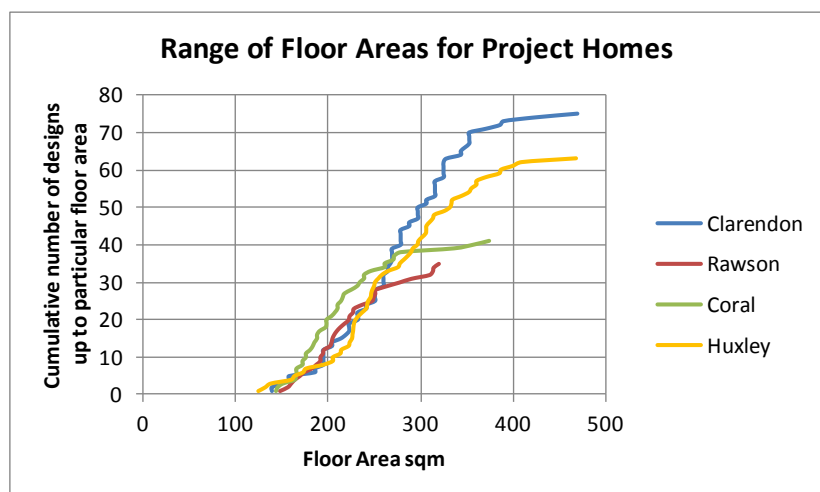
I recommend, as I did at the 4th February hearing, a compromise ratio of 0.5, based on following.

The Council Report on Landscape and Floor Space ratio in response to submissions to the first LEP exhibition tried to justify the 0.55 ratio and downplay residents' objections as follows:

"Although some submissions indicated that the proposed FSR increases were in excess of that required for a dwelling, analysis of standard project homes plans suggest that homes can be expected to be between 150 m² and 330 m² (including garage), a size that can be accommodated in the proposed FSR controls of 0.55:1 and 0.5:1."

I looked at a few project home websites and there is indeed a range of project home sizes, up to 470 sqm. Masterton is a prominent project home builder but I could find no floor area data on their web-site.

Although this is interesting marketing data, it is totally irrelevant compared to residents' objections community concerns.



In fact the council report states:

" A total of 1328 submissions received object to increased Landscape Area and Floor Space Ratio (FSR) on the grounds that it will fundamentally change the green, landscaped character of Sutherland Shire"

*(The context suggests a grammatical error and rather that the objection would be against **decreased** Landscape area and increased Floor Space ratio.)*

Against this significant number of objection, only 10 submissions were in favour. Perhaps this was the source of the so-called demand for larger houses?

Although Clarendon and Huxley have a large range of project homes up to 470 sqm, two of the less well-known companies had not many over **300 sqm metres** which would correspond to a **0.5 to 1 floor space ratio**. This is the value I suggested at the hearing that would be more appropriate and give some scope for moderate increase in house size for 600 sqm block and still allow larger homes on appropriately larger blocks. It is far more generous than 0.4 for Willoughby Council for example, where it applies for 'standard' housing and not as the Sutherland Council report attempts to mislead the reader that such ratios of 0.25 to 0.4 apply to 'sensitive' areas only (for the other Council areas mentioned thus:

“A distinction between the controls for ‘standard’ low density residential areas and ‘sensitive’ foreshore zones is not unusual, particularly in areas with similar landscaped character and topography e.g. Hornsby, Ku-ring-gai and Willoughby. The FSR and landscape area controls in a range of councils for ‘sensitive’ residential zones indicates that the proposed FSR controls in DSSLEP2013 will allow significantly larger development with less landscaping than in other areas with similar topography and character, where the maximum FSR range is 0.25:1 – 0.4:1 and the landscape area range is between 25% and 50%.”

In any event, it is inappropriate to base a planning control on a marketing range of housing designs on the premise of alleged demand. The Council presents no figures to validate that there is significant demand. Demand or not, a house size of 330 sqm is more a sign of an expression of personal opulence rather than a home that respects the residential amenity of the neighbours.

12. Proposed increased density development in “Area 6” in low density residential zoning

The Present 2006 Development Control Plan endeavours to protect amenity to neighbours resulting from dual occupancy thus:

3.b.3 Additional Controls for Dual Occupancies

1. Two storey development is only permitted on the front of an allotment and may extend to a maximum of 50% of the depth of the site measured from the property boundary if there are no adverse impacts on adjoining land in terms of privacy, solar access to recreation areas or facilities, or primary views.

However Area 6 of the proposed 2013 LEP attempts to destroy this provision as follows:

4.5A Density Controls for Multi Dwelling Housing [local]

(1) The objective of this clause is to facilitate housing choice in accessible locations without significant impact on local amenity.

(2) Despite clause 4.3 and clause 4.4, the consent authority may consent to the erection of multi dwelling housing on land zoned R2 Low Density Residential within Area 6 on the Height of Buildings Map, Floor Space Ratio Map and Landscape Area Map, if:

- (a) the floor space ratio does not exceed 0.6:1
- (b) the height is not in excess of 5.4 metres, and
- (c) a minimum of 20% of the site is available for landscaped area.

Amenity impacts will be as follows

1. The height of 5.4 metres along effectively the whole side boundary will allow 2-storey development with any obstacles to a pitched roof exceeding this limit removed by Clause 5.6 of the proposed LEP allowing “architectural” roofs higher than this nominal limit. A town-house development with a central courtyard would necessitate locating two storey dwellings close to and along the side boundaries for most of their extent, with much increased adverse impact on the solar access and privacy of adjoining back yards.
2. The Further increased allowable floor space ratio from **0.45** for General Housing in present LEP 2006, (past the increase to 0.55 for R2 in the draft 2013 LEP), to **0.6** –overall 33% relative increase
3. Drastically reduced landscaping requirements from 45% for General Housing in present LEP 2006, (past the decrease to 35% for R2 in the draft 2013 LEP), to **20%**. Overall 55% relative decrease
4. No minimum lot size that would allow proper layout, forcing likelihood of two-storey up to 5.4 m metre high walls along and immediately adjacent to one whole side property

boundary with long driveway for 3 or 4 units along whole of other side. The present 2006 LEP standard specifies a minimum lot size of 1,200 sq metres for seniors housing and villas.

5. No controls that this “Accessible Housing” must be occupied by seniors, with the result of cramped accommodation for two-car families, with overflow parking in streets.

In summary the Area 6 provisions would cause unacceptable amenity impacts by severely reducing access to sunlight and grossly invade privacy by having a 5.4 metre high wall of a two storey dwelling immediately adjacent and potentially almost the full length of side boundaries. These impacts would be severe enough that the LEP will fail to its particular aims (a), (b), and (c), and therefore the provision as it appears in the Draft LEP is inappropriate

I recommend, as I recall doing so at the 4th February hearing, that the floor space ratio for accessible housing in Area 6 be reduced from 0.6 to a compromise value of 0.55, and a “Local Provision” in Part 6 of the Local Environmental Plan stating that the ceiling height be limited to 3.6 metres, which is what the current 2006 LEP stipulates for villa type housing.

I recommend a similar “Local Provision” to restrict the height of dual occupancies. (However my recommendation of 0.5 FSR for R2 to apply to dual occupancies)

Comment on Community Consultation

The provision for “Accessible Housing” was considered by Council not to be a rezoning so therefore we affected landholders were not given any specific alert in the general letter issued by the Mayor in December 2012. However the impact is similar to a rezoning such that “tailored” letters should have been sent out to our affected properties in Area 6

4 Impact of Proposed 16 m height in medium Jannali R3 zone

At present the home unit area east of the railway has a number of mature trees interspersed with the buildings and with open spaces between buildings that allow views of the sky and access to sunlight to enhance the ambience and amenity. This represents a choice differing from some of the more intensely developed medium density areas.

The proposed increased height limit and increased floor space ratio threaten this amenity and would remove the choice of the present less dense home unit development from the medium density mix, onto a generic more intense medium density model with reduced access to open vistas and sunlight, and that would result in the destruction of the tree canopy now enjoyed.

In fact the council report unreel “Analysis of Issues” states:

The existing residential flat zone is fully developed, ...

Which therefore raises the question why raise the height limit of this area at all?

The potential amenity impact if adjoin units are redeveloped would be unacceptable and so the LEP will fail to its particular aims (a), (b), and (c), and therefore the provision for 16 m height as it appears in the Draft LEP Height of Buildings Map is inappropriate for this particular medium density area in Jannali (East).

5. Impact of Proposed 20 m height in Jannali Shopping Village

At present this is a sunny low rise shopping village. The Council's website extols its features thus:

"Jannali has benefited from recent centre upgrades and now has a quality landscaped streetscape with ample opportunities for outdoor eating."

Further it states:

"The aim for Jannali Centre is to encourage mixed use redevelopment while maintaining solar access to the public domain and pedestrian connectivity across the centre."

However the means to achieve this aim of preserving solar access does not appear in the Draft LEP. Possibly it may be forthcoming in the accompanying development Control Plan but we are at the mercy of Council in this and my fear is that "where practical" will become an excuse not to fully comply with this aim for reasons something like "the targeted floor space ratios would not be achieved".

The now sunny pedestrian and outdoor eating areas are therefore in danger of becoming a cold windswept canyon. My calculations show that the width of street from shop frontage to shop frontage will be in shadow for four months of the year and shadows will rise on the southern frontage wall to between two and four storeys on June 20th-21st between the reference times of 9 AM and 3 PM.

It was suggested at the Independent Hearing into the Draft Local Environmental Plan that similar buildings at Cronulla mall would be set back from the frontage. However the recent 8-storey development on the corner of President Ave and Eton St Sutherland* (albeit 2 storeys higher but same 2:1 FSR on new LEP - but actual unknown) clearly shows the likely outcome with no set-back of the units above the podium from the street and the podium air-space orientated to benefit residents in the units rather than the streetscape.

**This site discussed in Sutherland Centres*

The overshadowing impact from 20 m high buildings is unacceptable. Jannali village is particularly susceptible to overshadowing because of the east-west direction of Box Road, so more care should have been taken in determining the allowable height. Accordingly the LEP will fail its particular aims (a), (b), and (c), and therefore the provision for 20 m height as it appears in the Draft LEP Height of Buildings Map is inappropriate for this Jannali village.

I don't have a particular recommendation for height because this should be determined from detailed studies such as were done for particular sites in Cronulla.

6. Sacrifice of amenity and subjugation of employment opportunities for Shire Residents by cramming in more people to work in the City

The unprecedented magnitude of change to the Sutherland Shire will diminish the quality of life for its residents, much more than what would be required for providing for the Shire's children and aged. It is designed to allow a massive influx of people into the shire who will then need travel back towards the city to work because the proposed rezonings are unbalanced in providing much more accommodation than the minimal increase in employment in town centres, mainly in administrative and retail at that. One recent bad example was the Kirrawee Brickpit development

which, apart from initial building jobs that may not necessarily go to Shire residents anyway, will provide minimal employment in non-technical retail and (deliberately*) endanger the Flora St industrial area and the employment it provides.

*The proponent of the Kirrawee Brickpit development stated:

“Hill PDA undertook a number of detailed feasibilities to guide the quantum and mix of uses within the proposed development. Within the feasibilities we estimated that residential and retail elements would sell for around \$6,300 per sqm and \$8,000 per sqm respectively. This is much higher (more than double) than those that can be achieved for commercial office space. We believe that commercial (office) uses would deliver end values of around \$3,500 to \$4,500 and industrial would be considerably lower than this.

At a macro-economic level, we consider there is considerable potential to uplift values of those lands within the mixed use zones close to the brick pit site. The potential scale of the uplifts should be adequate to stimulate investment in these areas which overtime should transition from industrial to a more varied mix of uses.”

The underlying motive for maximising residential over employment is clearly demonstrated by the proponent to be driven by profit, therefore over-riding community benefit. The proposed LEP threatens more of this.

Mayoral Minute No. 33/12-13 about the Mayor’s acquiescence to representation by the Local member Mr Annesley to withdraw the Miranda-Caringbah Urban Activation Precinct stated:

“Sutherland Shire Council remains committed to ensuring that Sutherland centre remains a strong commercial focal point for southern Sydney. However, the strategic potential of the centre will not be realised unless future growth is planned for and encouraged. Sutherland Shire needs to grow its employment base so that more people can work locally and our local economy is strong and vital. Growing the educational facilities at Loftus, concentrating commercial and business services at Sutherland and ensuring Kirrawee provides a strong retail base is critical to the long term role of Sutherland Shire within southern Sydney. The recently released draft Metropolitan Strategy for Sydney 2031 nominates Sutherland as a planned major centre which is consistent with Council’s vision for the centre.”

Similarly the shire’s website introduces the links to the Draft Sutherland Centre Strategy document thus:

“Sutherland: the administrative centre of the Shire supported by housing, employment opportunities, and a transport node.”

However the intent of this Mayoral Minute and the Website introduction has now been revealed to be misleading in the light of the Sutherland Town Centre Strategy which includes the statement:

“rather than focus on employment as the future strategy for the Centre, Sutherland Shire Council is committed to the growth of the Sutherland as a high density, mixed-use centre.”

Why the Council might have done this turnaround is exposed in an earlier version stating:

“Rather than focus on employment as the future strategy for the centre, Sutherland Shire Council is committed to the growth of the centre as a high density mixed use centre where residents can enjoy quality apartments in a lively, attractive centre, offering a full range of shops and services and direct rail links to city jobs.”

If the new aim is to provide accommodation for city workers, why not in the city or closer to it, rather than ruin the Shire and further overload the train system, detailed in following Section 6 of this submission.

Of course the reason is the profit motive such as revealed above for the Kirrawee brickpit development, and as similarly justifying Council's proposed reclassification of the Sutherland Entertainment Centre based on increased dollar value per square metre.

As well as failing particular aims (a), (b), and (c), the change of focus from employment to housing city workers makes the Draft LEP fail because it has no aim at all to provide employment. Therefore it is inconsistent with the Planning Proposal which extols the Shires Employment Strategy and therefore inappropriate.

7 Safety and Comfort of Train Service

I object to the impact of worsening overcrowding on trains from greatly increased population. This would be a major impact now that the intent of the Sutherland Centre Strategy turnaround is to house city workers rather than focus on providing job opportunities for people in the Shire. The impact would be multiplied from similar problems in other centres, indeed in the whole Shire.

Like the Shire, the railway system is not an infinite reservoir that can soak up extra people without consequences. The capacity serving the whole Shire and South Coast is constrained to single track each way between Sutherland and Hurstville, plus the St George passengers between Wolli Creek and Erskineville, and on to the city with a substantial portion of South Coast passengers during peak hour.

Platform 4 of Town Hall Station is dangerously overcrowded where passengers attempt to move along too-long sections of substandard width of access path on the platform while waiting for homeward trains.

This has been a well publicised story in the, some quotations below with full copies in the Appendix

Sydney Morning Herald website story 14th May 2007 with my emphases.

TOWN HALL station, one of Sydney's busiest, is a dangerous place: severely overcrowded, accident-prone and it does not meet basic emergency safety standards.

...

Town Hall is the second busiest CityRail station, after Central Station. It handles around 140,000 trips per day.

Demand is well beyond the original design capacity, the reports say, and lack of platform space leads to severe congestion. But by 2021, it will have to handle around 178,000 trips a day.

...

But a tender document, released in 2005, said the stairs and escalators are not wide enough, so "current emergency egress provisions fall short of the fire and safety guidelines".

...

It said a preliminary master plan for an overhaul of the station found emergency exit doors were also substandard, and a total reconfiguration of stairs and escalators was essential.

It said one of the only ways to create more room was to excavate rock at the northern ends of platforms. The cost of doing so was estimated at around \$171 million over 10 years.

Another report, dated November 2006, said congestion was a major problem on platforms during the afternoon peak. It was worst on platforms one, two and four, which did not meet RailCorp standards.

...

The report, put together by consultants Translawcom, said the RailCorp standard on the Fruin level of service, a crowd level indicator, "is not currently achieved at Town Hall station".

Another internal report, based on a 2005 risk management workshop with a consultancy, compared safety incidents at Wynyard and Town Hall, and found the rate at Town Hall was much higher.

Town Hall had just 40,000 more passenger movements a day, but from January 2002 to September 2005 it had 529 incidents, compared with 148 at Wynyard. There were 230 falls, compared with 56. Each of the eight falls blamed on crowding happened at Town Hall, which was also the site of 33 striking incidents, compared with just four at Wynyard. Of eight fires, six were at Town Hall.

...

Sydney Connections website May 17, 2008 from the Herald, Sat 17 May 2008.

...

PEAK-HOUR congestion at Town Hall station is heading for crisis point as the State Government shifts funding priorities to the north-west underground metro.

The overcrowded station has failed to meet safety standards since 2001 and still lacks fire escape stairs. Each day 150,000 people use the station and this figure is predicted to exceed 168,000 by 2016.

Last week the Government admitted a huge surge of peak-period passengers was beginning to affect CityRail's performance.

The struggle to meet customer demands "is resulting in increased crowding on some lines", the Ministry of Transport wrote to the Independent Pricing and Regulatory Tribunal.

"Crowding is the key area of CityRail's performance that, for an increasing number of passengers, is not being met."

The huge number of people changing trains at Town Hall makes the overcrowding worse.

Despite these problems the summary in the "Public Authorities" report states: "Transport for NSW is broadly supportive of the plan..." with only their suggested wording changes to broaden the aims including:

To provide for development that reduces car dependency, increases use of public transport and encourages walking and cycling.

The exhibition materials do not include the actual letters to ascertain whether the Department defined any constraints, perhaps to suggest that growth be deferred until Town Hall Station is brought up to standard?

This issue is crucial to actually fulfilling one of the stated aims of the LEP

1.2 Aims of Plan [compulsory]

...

(2) The particular aims of this Plan are as follows:

(e) to concentrate development in localities with adequate infrastructure accessible to transport and centres.

Where presumption of "adequate infrastructure" is clearly misplaced.

The Council's "Public Authorities" report states:

In addition to the above authorities, Council has also received submissions from the following authorities:

...

- NSW Transport – Railcorp

Railcorp apparently has made a separate response relating to property matters, but there is nothing in the Council's report about either NSW Transport or Railcorp mentioning rail system capacity issues.

Irrespectively of what they said or didn't say, the overcrowding of the railway system, particularly Town Hall Station is an emergency needing action to start immediately, but which will take longer than what town centres and infill development will be occupied with extra pressure on the train system.

Accordingly there is no option but to remove all residential growth from the LEP except for so much that can be balanced rezoning to grow local employment, preferably with a margin to ensure sufficient job take-up by shire residents rather than more residents commuting to the city.

Accordingly all residential growth zonings is inappropriate, except possibly for housing for senior's whose use of the train service is unlikely in peak hours.

In the years while the railway is being fixed we will have time to sensibly plan a more appropriate future.

8 Impact on Sutherland Town Centre Amenity

The strategy document describes the following as:



"Successful residential building adjacent to the centre providing quality units in a well landscaped setting that contributes to the public domain."

The justification of the LEP is based on very seriously flawed value judgements such as this. How can such a building with no setback of residential units from the street frontage, be described as "successful", let alone appropriate, and how can a couple of spindly trees in the narrow footpath space (with the picture enhanced by a few small grass plants in the roundabout and the trees to the right of picture by careful choice of camera angle) be described as a "well landscaped setting when there is no room for any landscaping on the building site, and how can its extensive overshadowing of "the public domain" in Eton St be described as "contributes to the public domain"?

How ironic that the idea of the view of this building across an open piece of sky as shown below in the Centres Strategy Report:



will be obscured and replaced by the oppressive closed in feeling of 31 m high buildings on the other side of Eton St that will be allowed under U2 zoning.

The document attempts a positive spin on the strategy by referring to Peace Park thus:



“Peace Park – Attractive linear park in Civic Spine, which serves as a pedestrian way to the commercial core.”

How will it still be attractive when dominated by adjacent 40 m buildings now to be allowed to be built on the present adjacent car park and reclassified Entertainment Centre site, such that the backdrop to this particular view will become a 40 m high building to replace open sky above the trees.

The report’s description the park as a “linear park” concedes its inadequacy as a true town centre park because it is too narrow to function as a meaningful town park but only as a “pedestrian way”. Forby Gardens is not encumbered by being a “pedestrian way” but it is also too small to be considered as a proper town centre park.

I have also signed a St Patricks Parish submission objecting to the LEP, arising from the threat to the amenity of the Church and Parish Centre grounds posed by immediately adjacent 30 m high buildings in Flora St between Belmont St and Glencoe St that would be allowed under the proposed LEP.

It is noteworthy that the Council has not bothered to attempt to present any “artist’s impression of the proposed town centre. Rather every presented image is present day with a generally sunny outlook, and any shade is provided by trees, except the single prophetic image of the new building on the corner of Eton St and President Ave with its overshadowing of Eton St which will be joined by similarly gloomy outlooks when re-development occurs under the enabling of the proposed LEP.

The latest absurdity to be found is proposed 40 m development overlooking three and possibly four school playgrounds.

The amenity impacts will ensure the LEP fails its particular aims (a), (b), and (c), and the facilitation of 13 to 14 storey buildings overlooking school playgrounds make the LEP have the potential to fail particular aim if children are targeted :

(d) to minimise the risk to life, property and the environment from hazards, particularly bushfire, flooding and climate change,

9. Traffic Generation

The overall increase in housing density will increase traffic impacts. Although closeness of extra units to the railway will encourage more train commuters, the overall density increases across the whole Shire will result in more traffic generation by people further from centres.

For example in Jannali, the increased development intensity to be allowed in “low density “ residential areas (R2) will result in more traffic through Jannali from within and from surrounding suburbs and also result in more extensive commuter parking in front of houses.

Apart from Soldiers Road and the short length of Railway Cr between White St and Buller Streets, the streets within and providing access to and from Jannali Village are narrow and cluttered with commuter parking during week-days. Increased traffic and more commuter parking in these narrow streets will increase danger to pedestrians, cyclists, motorists, and residents trying to drive out from their driveways.

10 Housing targets

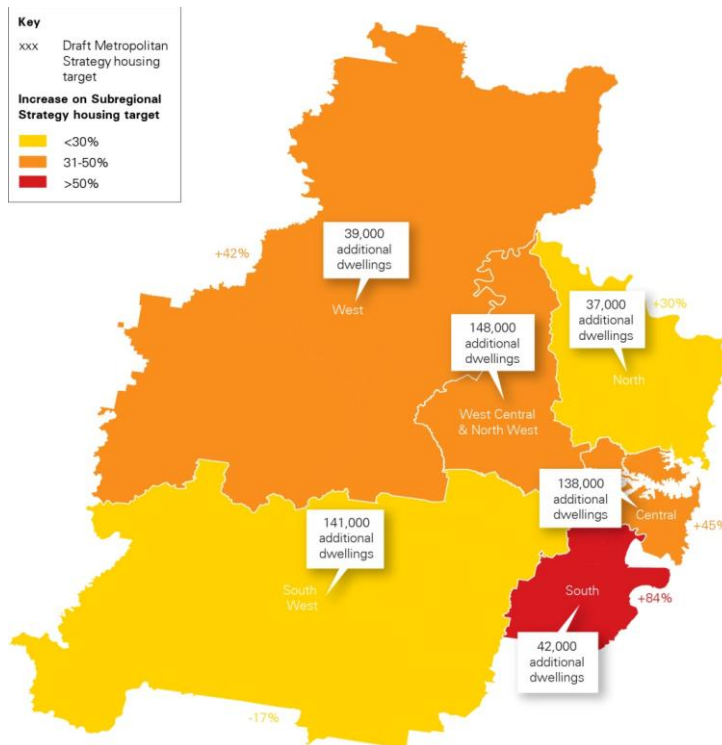
At the hearings, it was evident that the LEP exceeds the Government targets. This doubly impacts on the Shire because the Government target for the South Sub Region which includes the Shire was recently increased by 84%

The Metropolitan Strategy states:

The South Subregion target has increased by the greatest percentage (84% of the original housing target). This is likely due to the small housing target originally applied under the South Subregional Strategy.



Subregion	Draft Subregional Strategy Targets (2011-2031)	Draft Metropolitan Strategy Targets (2011-2031)	Change
Central	95,100	138,000	42,900 (+45%)
North	28,400	37,000	8,600 (+30%)
West	27,400	39,000	11,600 (+42%)
South	22,800	42,000	19,200 (+84%)
South West	168,900	141,000	-27,900 (-17%)
West Central & North West	113,000	148,000	35,000 (31%)
Total	455,600	545,000	89,400 (+20%)



This South Subregion, consisting of the Sutherland Shire with Canterbury, Hurstville, Kogarah, and Rockdale, has become the sacrificial housing hotspot, lumped in with the Central Region (Sydney CBD, lower North Shore, inner-west, and the eastern suburbs). The impact of the target on the South Subregion is even more intense than suggested by the plan because about half of the red area on the map comprises National Parks and military reserves, etc.

The reason given for the increase in housing target: "...likely due to the small housing target originally applied..," is very vague with the questionable "likely due to" and therefore has no sound basis that could justify the revising increase in targets.

Accordingly I submit that the provisions in the LEP for growth in excess of already high targets is inappropriate.

10 Reclassification of Entertainment Centre

I object to the proposed reclassification, on the following grounds:

- a) Attempted alienation of community land without any commensurate reclassification of nearby land for community purposes.
- b) Rushed and secretive process which has not afforded the community with enough information and any hope that the community interest is paramount over pressures to over-develop our shire and our community spaces, with doubt over status of alleged Public Meeting.

I detail these objections hereunder.

(a) Attempted alienation of community land without any commensurate reclassification of nearby land for community purposes

The Department of Planning's LEP Practice Note "Classification and reclassification of public land through a local environmental plan" states the following in the Introduction.

'Community' land is generally open to the public, for example, parks, reserves or sports grounds.

'Operational' land may be used for other purposes, for example, as works depots or garages, or held by council as a temporary asset.

It is thereby clear that the proposed reclassification from Community to Operational is inappropriate for the Entertainment Centre.

If Council is nevertheless intent on reclassification, then that listed in the Draft LEP offers no legal protection of the Community uses of the land. Legal protection could have easily been achieved by either listing in Part 1 of Schedule 4 instead of Part 2, or by listing retention of interest as Entertainment Centre in Column 3, if listed in Part 2.

Any public expression by Councillors of the intent to retain the site as an entertainment centre, although well meaning, will offer no legal protection. If as may happen, there is an intent to build a replacement entertainment centre on another site, then such should be spelt out now with reclassification of the alternative site (e.g. the present car park to the east) to community uses.

Contrary to impressions attempted to be conveyed by the Mayor as quoted in the Leader*, the proposed rezoning to business does not mandate a change to classification. The reclassification is a separate matter from rezoning.

** "Mayor Kent Johns said the Council was required to rezone and reclassify the entertainment centre site under state government requirements." The Leader—Sutherland Edition, Thursday May 23, page 3.*

In my objection to the special levy, I did criticise money being spent on what was a problem building on a constrained site attempting to provide for multiple uses and now needing to conform to new legislative requirements. Those comments are not to be construed as a wish to dispense with an Entertainment Centre altogether, but rather to suggest a new purpose built auditorium with more roomy radial seating, perhaps to supplement the existing multi-purpose Entertainment Centre.

However any such proposal should be put to the community as a proper scheme rather than a vague proposal to for increased "opportunities" or "options" that would trade off our community spaces and skyline to a developer for a better auditorium, as either a mere adjunct to a multi-storey commercial development without the open setting the present one enjoys, or one which

may not be on the same site, but maybe tucked further away from the centre of Sutherland as would be facilitated by the proposed reclassification, or that we lose the Entertainment Centre altogether because of the lack of legal protection for community use in the proposed reclassification.

(b) Rushed and secretive process which has not afforded the community with enough information and any hope that the community interest is paramount over pressures to over-develop our shire and our community spaces

Comments appearing the public domain express disquiet over there being sufficient notice for community input, possibly in contravention to the Reclassification Practice Note which states in part:

“A public hearing must be held when ‘community land’ is proposed to be reclassified as ‘operational land’. To ensure council and the community have sufficient time to consider relevant matters associated with the proposed change, the public hearing is held after the close of the exhibition period under section 68 of the EP&A Act (section 29 of the LG Act) for an LEP and in accordance with section 57(6) (when the Part 3 amendment to the EP&A Act commences).

Public hearing provisions are set out in the EP&A Regulation (clause 14) and public notice of a hearing must be sent or published at least 21 days before the start of the public hearing.”

Whether or not the extended closing date gives the community “sufficient time to consider relevant matters”, the Reclassification Practice Note requires that people be allowed to speak after the exhibition period. Therefore any Council claim that the information session was a public hearing is wrongly based.

The Council Planning Staff recommended public hearings for the reclassification of all lands including the Entertainment Centre, but this has been ignored by the Mayoral Minute recommending the Draft LEP for Gateway Determination, except that the other lands have now been removed from the list.

ABUSE OF PROCESS

The State Government's "Practice Note 16 - Meetings Practice Note" states:

"Mayoral minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by the councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice being given to the councillors."

Clearly the LEP 2013 requires "a lot of consideration by the councillors", but opposition Councillors at the meeting complained about the short notice given. Whilst the Mayor might claim that prior notice had been given, I doubt that it was "the usual period of notice".

The local newspaper, the leader quoted:

"The LEP was exhibited for 44 days (March 18 to May 1) but mayor Kent Johns introduced a number of last minute changes in a Mayoral Minute which councillors received at 5.10pm to be debated at the 6.30pm council meeting."

Clearly 100 minutes was not enough time for due consideration and therefore the Mayor acted contrary to the intent of the Practice Note.

One is entitled to doubt that the councillors in support of the Mayoral Minute changes to the Draft LEP had sufficient time to absorb the full contents of the Mayoral Minute that would enable them to "exercise a reasonable degree of care and diligence" according to the Government Act 1993:

439 Conduct of councillors, staff, delegates and administrators

- (1) Every councillor, member of staff of a council and delegate of a council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act.

Disclosure: I have not made a political donation to a councillor or council employee.

Yours sincerely

James Maclachlan