



strategy project and policy services to business and government

ABN 38 155 462 810

21 September 2013

Mr. John Rayner,
General Manager,
Sutherland Shire Council,
Locked Bag 17,
Sutherland, NSW 1499

Copy to: Mr. Mark Carlon, Manager Environmental Planning
Councillor Kent Johns, Mayor of Sutherland

Dear Sir,

**SUBMISSION ON NEW DRAFT SUTHERLAND SHIRE LOCAL ENVIRONMENTAL PLAN 2013
RE 223, 223G and Part 223A BELGRAVE ESPLANADE, SYLVANIA**

This submission on the new Draft Sutherland Shire Local Environmental Plan (SSLEP) 2013 is made on behalf of Signorelli Investments Pty Ltd, the owners and operators of Doltone House, 223 Belgrave Esplanade, Sylvania. It should be read in conjunction with the submission of 5 June 2013 on the earlier draft of the LEP (attached). The recommendations in the previous submission remain relevant for this version of the LEP and are summarised in the Table A attached to this letter.

The purpose of this letter is to highlight the areas of support and the remaining issues to be resolved. More detailed substantiation can be found in the previous submission accompanying this letter.

Support for B1 Neighbourhood Centre zoning proposal

The proposal contained in the new draft LEP to rezone not just Doltone House at 223 Belgrave Esplanade Sylvania as B1 Neighbourhood Centre but also the two orphan parcels of land at 223G and part of 223A as B1 Neighbourhood Centre is strongly supported.

As indicated in the previous submission the premises have been operating since the original consent in 1968 as a function centre and the small adjacent parcels of land at 223G and 223A (part) have been exclusively used by Doltone House under lease from Council for many years. The existing and previously proposed zoning for these orphan parcels of land are highly inappropriate and inconsistent with the use of the land over a long period of time.

The proposed zoning in the draft LEP regularises the land use and ensures that it is consistent with the zoning of the Doltone House building with which it is inextricably linked.

Accordingly, it is strongly recommended that Council support this change when it adopts the LEP after exhibition.

Support for reclassification of land and request for expedition

At its meeting of 28 July Council resolved to reclassify the orphan parcels of land at 223G and 223A (in part) from community to operational land. Doltone House strongly supports this in line with the real uses applying to these parcels of land and its previous submission.

While Doltone House accepts that this involves a different process and cannot be completed within the same time frame as the resolution of the final LEP to be submitted to the Minister, it nevertheless believes that it would be prudent to expedite the change to classification to ensure that the lands in question are brought into line with the contemporary uses.

Accordingly, it is recommended that the reclassification of the parcels of land at 223G and part of 223A be expedited.

Proposed FSR and height controls either not specified or inadequate

It is noted that although the two orphan parcels of land are proposed to be zoned the same as Doltone House at 223 Belgrave Esplanade, the same controls are not proposed for these two contiguous parcels of land at 223G and 223A (part).

While Doltone House at 223 Belgrave Spanked is proposed to have a height limit of 9 metres and an FSR limited of 1:1, the new draft LEP is silent on height and FSR controls for these contiguous parcels of land.

In its submission of 5 June 2013 Doltone House argued that the FSR controls for these parcels of land should be altered to be more consistent with contiguous land to the North and West of the site (ie on the western side of Belgrave Esplanade) The land and buildings on the west side of Belgrave Esplanade proposed to be zoned B1 Neighbourhood Centre and the neighbouring land proposed to be zoned R4 is very different in typology and character to the land occupied by housing to the east of Belgrave Esplanade.

The setting of controls for the B1 and R4 zoning that are consistent with each other would achieve a better outcome in terms of planning consistency and would create no precedent in respect of the other parts of Sylvania.

Consistent with the previous submission of 5 June it is recommended that all of the land proposed to be zoned B1 Neighbourhood Centre in Sylvania (including 223, 223G and

223A (part) Belgrave Esplanade) be treated consistently with the R4 zoning adjacent to it by applying the following controls:

- A FSR limit fo 1.2:1;
- A height limit of 16 metres.

Function centres should be a permissible use.

The new proposed Sylvania B1 Neighbourhood Centre zone prohibits function centres - unchanged from the original draft LEP.

Doltone House has been operating as a fuction centre since 1968. It undoubtedly has existing use rights. It is absurd to continue to prohibit a use that has established existing use right over a long period of time and is perfectly compatible with the neighbourhood.

Accordingly , it is recommended that “function centres” be made a permissible use for all of the Sylvania B1 Neighbourhood Centre zone including for the parcels of land known as 223 , 223G and part 223A Belgrave Esplanade Sylvania but including such a use as an Additional Permitted Use in Schedule 1 to the LEP.

Conclusion

Doltone House appreciates that Council has seen fit to pursue the regularisation of the Doltone House site from a planning perspective in this new draft LEP. It believes that the rezoning and reclassification proposals are the most important changes sought and fully supports them.

The other inadequacies identified above also need to be rectified although Doltone House would not support their rectification if it meant that the site was to be deferred again for re-exhibition of such changes. In other words, Doltone House would like to see all of the changes that can be made without the need for re-exhibition included in the LEP going forward to the Department of Planning and Infrastructure with the remaining outstanding matters to be addressed in the same time frame as the reclassification process which itself should be expedited.

Your attention to these matters to finally resolve these long standing anomalies would be greatly appreciated.

Yours sincerely

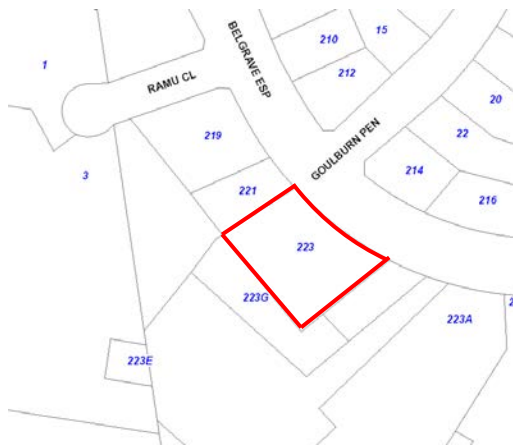


Frank Sartor
Consultant Planner

Copy Paul Signorelli, Executive Chairman Signorelli Investments Pty Ltd

TABLE A RECOMMENDED AMENDMENTS IN SUBMISISON OF 5 JUNE 2013

223 Belgrave Esplanade, Sylvania
Lot 501 of DP 533882



Reclassification

N/A

Development Standards

- Include the lands in Schedule 1: Additional Permitted Uses to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Increase the Maximum Building Height from 9m to 16m.
- Increase the maximum FSR from 1:1 to 1.2:1;

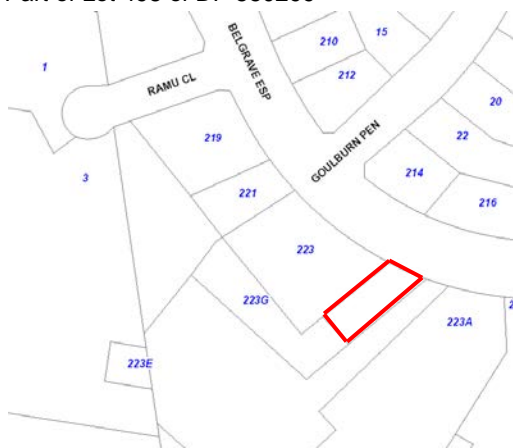
223G Belgrave Esplanade, Sylvania
Part of Lot 498 of DP 550299



Reclassification of its land from
Community to Operational Land

- Rezone land from RE1 Public Recreation to B1 Neighbourhood Centre;
- Include the lands in Schedule 1: Additional Permitted Uses to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Make provision for a Maximum Building Height of 16m.
- Make provision for a maximum FSR of 1.2:1;

Part of 223A Belgrave Esplanade, Sylvania
Part of Lot 498 of DP 550299



Reclassification of its land from
Community to Operational Land

- Rezone land from RE1 Public Recreation to B1 Neighbourhood Centre;
- Include the lands in Schedule 1: Additional Permitted Uses to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Make provision for a Maximum Building Height of 16m.
- Make provision for a maximum FSR of 1.2:1.



strategy project and policy services to business and government

ABN 38 155 462 810

5 June 2013

Mr. John Rayner,
General Manager,
Sutherland Shire Council,
Locked Bag 17,
Sutherland, NSW 1499

Copy to: Mr John Brunton, Director Environmental Services
Mr. Mark Carlon, Manager Environmental Planning

Dear Sir,

**SUBMISSION ON DRAFT SUTHERLAND SHIRE LOCAL ENVIRONMENTAL PLAN 2013
223, 223G and Part 223A BELGRAVE ESPLANADE, SYLVANIA**

I am pleased to make this submission on the Draft Sutherland Shire Local Environmental Plan (SSLEP) 2013, on behalf of Signorelli Investments Pty Ltd, the owners and operators of Doltone House, 223 Belgrave Esplanade, Sylvania.

I acknowledge that the public exhibition stage for the Draft SSLEP 2013 has passed and the period for making a written submission under Section 57(3) of the Environmental Planning and Assessment Act 1979 has expired. However, I would request that Council consider this submission and the issues raised hereunder in their assessment of the Draft Plan prior to the adoption of the plan.

Signorelli Investments Pty Ltd seek a number of amendments to the draft plan with regard to the Height and Floor Space Ratio controls on their land at 223 Belgrave Esplanade, Sylvania; the zoning, classification and development controls on the adjoining sites; 223G and part of 223A Belgrave Esplanade, as they affect their operations at 223 Belgrave Esplanade; and the permissibility of additional uses on these sites.

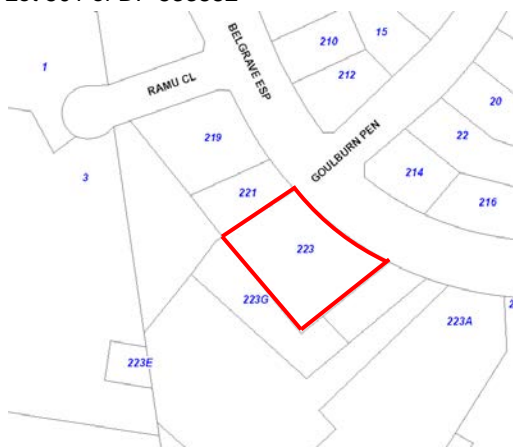
This submission sets out the recommendations for amendments to the Draft LEP in relation to these properties and the planning justification for those amendments.

SUMMARY OF RECOMMENDED AMENDMENTS

Reclassification

Development Standards

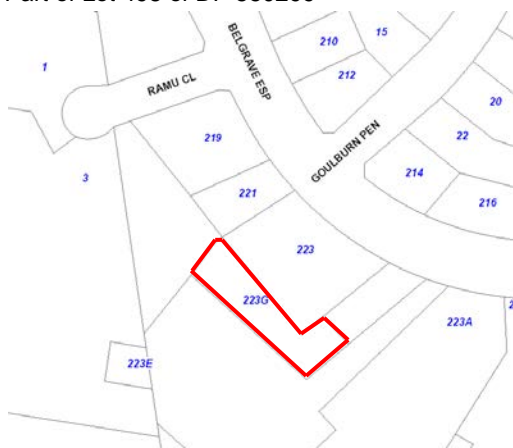
223 Belgrave Esplanade, Sylvania
Lot 501 of DP 533882



N/A

- Include the lands in **Schedule 1: Additional Permitted Uses** to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Increase the Maximum Building Height from 9m to 16m.
- Increase the maximum FSR from 1:1 to 1.2:1;

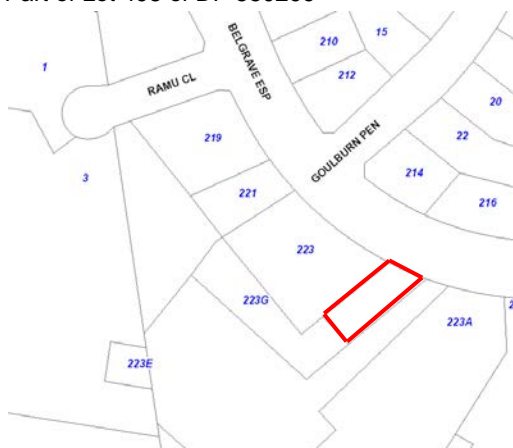
223G Belgrave Esplanade, Sylvania
Part of Lot 498 of DP 550299



Reclassification of its land from
Community to Operational Land

- Rezone land from **RE1** Public Recreation to **B1** Neighbourhood Centre;
- Include the lands in **Schedule 1: Additional Permitted Uses** to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Make provision for a Maximum Building Height of 16m.
- Make provision for a maximum FSR of 1.2:1;

Part of 223A Belgrave Esplanade, Sylvania
Part of Lot 498 of DP 550299



Reclassification of its land from
Community to Operational Land

- Rezone land from **RE1** Public Recreation to **B1** Neighbourhood Centre;
- Include the lands in **Schedule 1: Additional Permitted Uses** to make provision for the continued operation and development of the site for the purposes of a Function Centre.
- Make provision for a Maximum Building Height of 16m.
- Make provision for a maximum FSR of 1.2:1.

SITE LOCATION

The site at 223 Belgrave Esplanade, Sylvania which has an area of 1,750m² accommodates a two storey structure which operates as a Function Centre. The Function Centre is operated by Doltone House, one of a chain of six function centres around Sydney. The land at 223G Belgrave Esplanade, which has an area of 1,050m² is leased and used as an exclusive car park to serve the function centre. The adjoining land, part of 223A Belgrave Esplanade, which has an area of approximately 498m², is used by the function centre as a setting for wedding photographs.

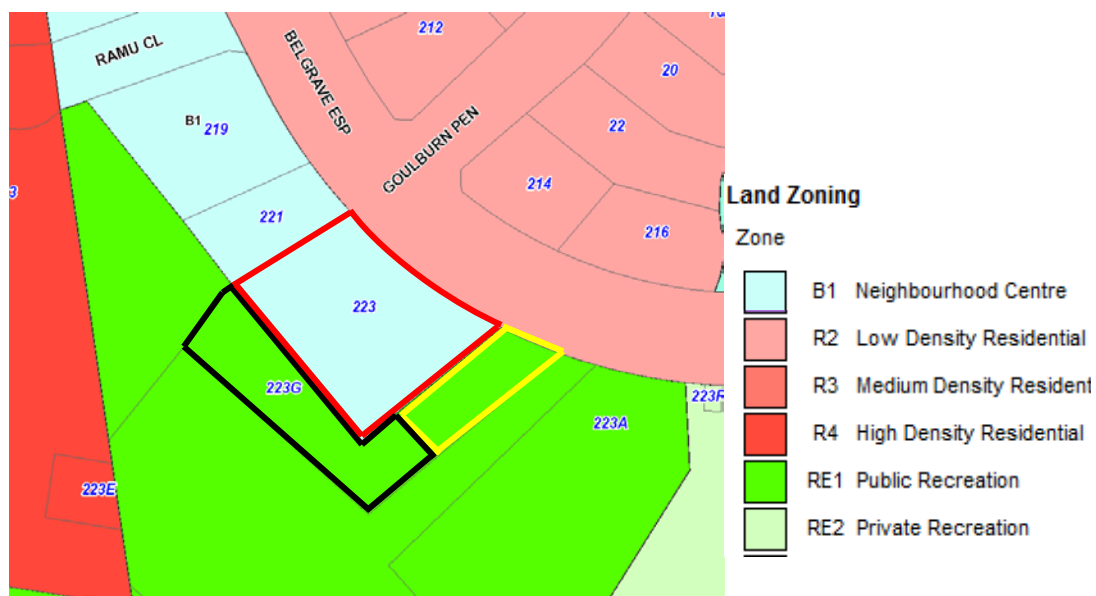
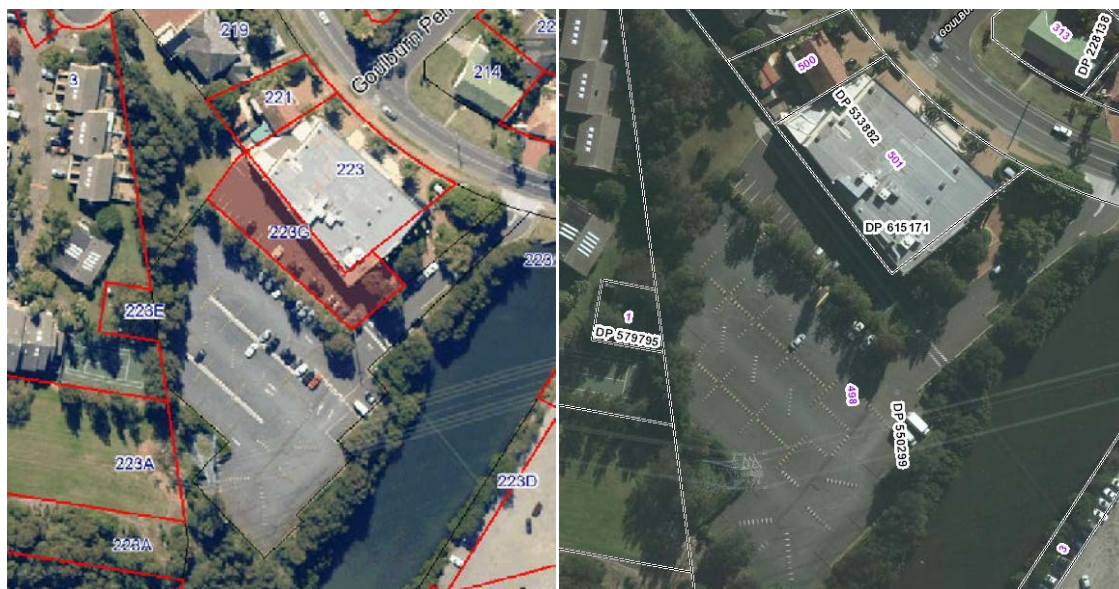


Figure 1: 223, 223G and Part of 223A Belgrave Esplanade which form the subject of this submission – Sites outlined in red, black and yellow respectively. (Source: SSC Maps, Six Viewer and Draft SSLEP 2013)

PLANNING HISTORY

Development Consent was first granted for the development of a function centre, which consisted of two wedding reception lounges and a three bedroom residential flat, on 223 Belgrave Esplanade, on 10 September 1968 (Development Consent No 2292/68). Additions and alterations were approved in 1985 (No 0178/85), 1995 (No 950292 & No 95808), 1996 (No 960196) and 1998 (No 990487). Most recently in 2006, consent was approved for further additions and alteration (RA06/0036).

The centre, which operates as Doltone House, hosts wedding receptions, but is also available for conferences, business meetings and private events. Though permissible with consent under earlier LEPs, including the SSLEP 2000, which preceded the current LEP which was gazetted in 2006, the use of the site for a 'function centre' is not specifically allowed under the current SSLEP 2006 zoning of **Zone 10 – Neighbourhood Centre** on the site. Under the Draft SSLEP 2013, the site is zoned **B1 Neighbourhood Centre**, under which a 'function centre' is specifically prohibited.

The land partly surrounding Doltone House is owned by Sutherland Shire Council. Though not listed in Schedule 4 (Classification and Reclassification of public land) of either the current SSLEP 2006 or the Draft SSLEP 2013, I understand that the lands are classified as Community Land, and zoned for **Zone 13 - Public Open Space** in the SSLEP 2006 and **RE1 Public Recreation** in the Draft SSLEP 2013. Notwithstanding this, these lands have been utilised, and some areas maintained, by Doltone House for in excess of 15 years.

The land at 223G Belgrave Esplanade has historically been used for additional car parking spaces for Doltone House. Between 1996 and 1999, Doltone House undertook works to clean up this area and to provide more suitable parking arrangements for the patrons using the centre. At this time, Signorelli Investments offered to purchase the property from Council, though this matter was not progressed.

The limited area of land to the south of Doltone House, being part of 223A Belgrave Esplanade, has been landscaped and maintained by Doltone House for at least twenty three years and is utilised for garden photographs for wedding receptions, etc.

Since January 2010, 223G Belgrave Esplanade has been the subject of a 5 year exclusive use lease between Council and Doltone House to use 223G Belgrave Esplanade as a car park for the sole use of Doltone House. The terms of the lease recognise the prior use of the lands by Doltone House for the purpose of parking, deliveries, waste storage and collection entry and exit.

The land to the rear of this leased area is the subject of a licence between Council and Doltone House to be utilised by Doltone House on a non exclusive basis for the purpose of parking. It is not proposed to alter the status of this area. (Refer to **Figure 2**).



Figure 2: Lands which form the subject of lease and licence between Council (lessor) and Doltone House (lessee)
(Source: SSC Maps)

In 2006, Sutherland Shire Council sought to reclassify the 223G Belgrave Esplanade from Community to Operational under Amendment No 34 of the SSLEP 2000. The Amendment was referred to the Department of Planning for the guidance of the LEP Review Panel. At this time, it was advised that, in line with Planning Circular PS06-005, that this was *‘essentially a house keeping exercise that can be undertaken as part of the preparation of a comprehensive LEP’*. It was recommended by the Department, at the time, that Council would prepare a LEP in the following 12 months that would deal with a number of minor matters including the reclassification of land parcels. The SSLEP 2006 was gazetted shortly after this correspondence, though no such ‘Housekeeping’ LEP followed. The current Draft SSLEP thus incorporates what would have been the ‘housekeeping’ LEP.

PROPOSED AMENDMENTS

A ‘function centre’, which the Draft SSLEP 2013 defines as meaning *“a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility”* is not

permissible under the **B1** Neighbourhood Centre zoning on which the existing Doltone House is located.

Notwithstanding this, it is considered that the most appropriate zoning for 223 Belgrave Esplanade is to remain as **B1** Neighbourhood Centre as, though prohibited under the Land Use Table in **Clause 2.3** of the Draft SSLEP 2013, the use of the lands for the purposes of a Function Centre is in accordance with the objectives of the **B1** zone which are as follows:-

- *“To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To allow small-scale office uses that provide local employment opportunities and services for residents.*
- *To allow for residential accommodation while maintaining active retail, business or non-residential land uses at street level.*
- *To provide for pedestrian-friendly and safe shopping designed to cater for the needs of all ages and abilities. “*

To overcome the prohibition of a ‘function centre’ on 223 Belgrave Esplanade, and the use of 223G Belgrave Esplanade and part of 223A Belgrave Esplanade for ancillary uses to same, and having regard to the long established use of all of the sites, it is recommended that in accordance with **Clause 2.5** of the Draft SSLEP 2013, provision be made for the use of these lands for this purpose with their inclusion in **Schedule 1** of the Draft plan. Whilst this would acknowledge the approved use of 223 Belgrave Esplanade as Function centre, and the established use of 223G and part of 223A Belgrave Esplanade as ancillary to this, it would not create any undesirable precedent. Moreover, it would remove the existing use rights provisions, and the generally unregulated ‘intensification’ and ‘expansion’ provisions of Division 10 of the Act, for 223 Belgrave Esplanade.

In this regard, it is considered reasonable to increase, but to limit by development standard, the Maximum FSR and Building Height on the subject site. As Council would be aware, the existing use rights provisions, allow an intensification or expansion of development the benefit of existing use rights in the consideration of such a proposal on the site.

The maximum building height and FSR controls set out in the Draft SSLEP 2013, in this case being a maximum Building Height of 9m and a Maximum FSR of 1:1 would have no application. Rather a consideration of surrounding controls and merit impact would be given determining weight.

Given similarly zoned **B1** lands to the north of the subject lands (217 Belgrave Esplanade) have a Maximum FSR of 1.2:1. (Refer to **Figures 3A & 3B** over) such would seem a reasonable increase in FSR for the subject site of 223, 223G and Part of 223A Belgrave Esplanade.

Meanwhile, whilst the Maximum Building Height specified for 223 Belgrave Esplanade is 9m, the lands to the R4 (High Density Residential) Lands to the west have a Maximum Building Height of 16m. In this regard, if the existing use rights are to be extinguished, it is requested that Council consider uplifting the Maximum Building Height to 16m in line with the controls in the Draft SSLEP for adjoining lands. (Refer to **Figure 3C** over).



Figure 3A: Land Use zoning Map (Source: Draft SSLEP 2013)

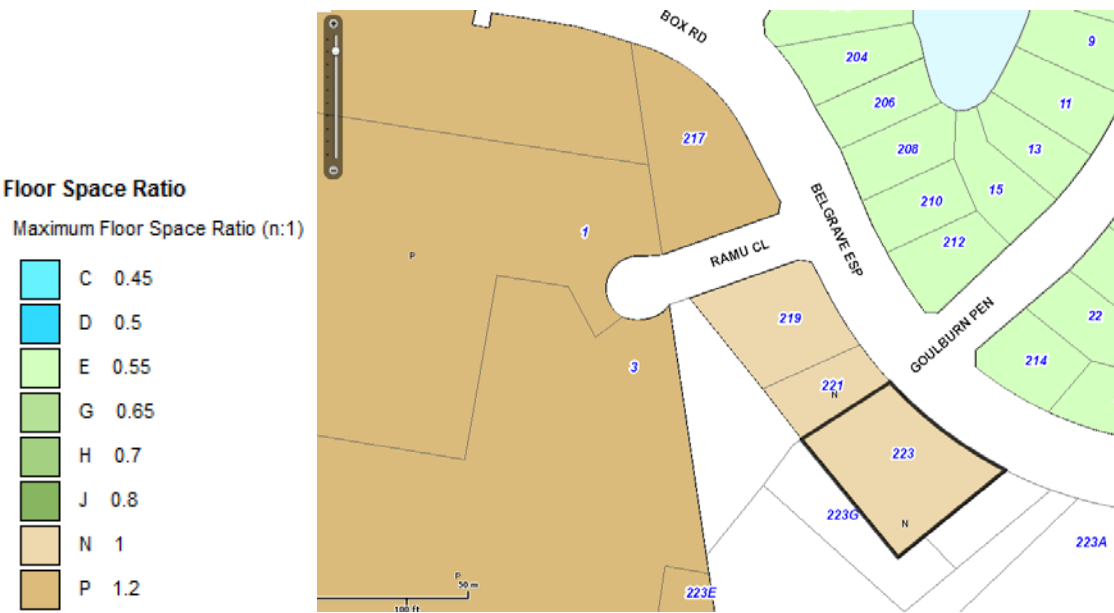


Figure 3B: Floor Space Ratio Map (Source: Draft SSLEP 2013)

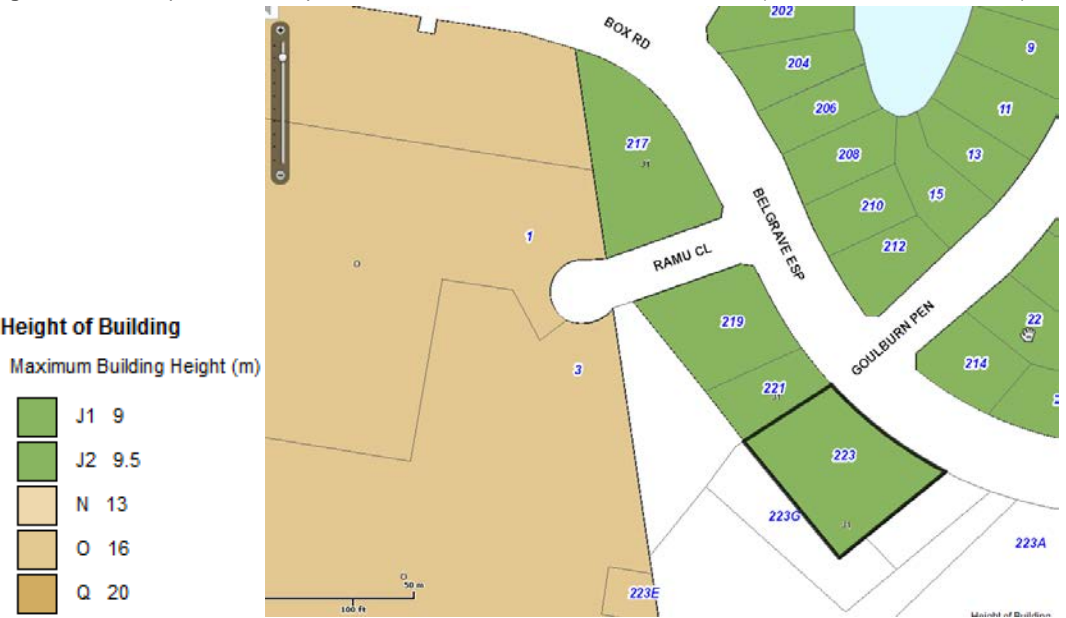


Figure 3C: Height of Buildings Map (Source: Draft SSLEP 2013)

Whilst the Draft SSLEP 2013 does not make provision for the reclassification of 223G Belgrave Esplanade, it was clearly the intention of Council to do so in 2006. As there is no change in circumstances, it is requested that Council reclassify this land and part of 223A, and make provision for same in **Part 3** of **Schedule 4** of the Draft SSLEP 2013.

Notwithstanding the lease between Council and Doltone House, the use of the land at 223G Belgrave Esplanade as a car park, ancillary to the function centre, is expressly prohibited by the Draft SSLEP 2013. Reclassification and rezoning 223G and part of 223A Belgrave Esplanade, would regularise the existing situation and allow Council to sell the land (which is privately and exclusively used by the Function Centre) should they so wish subject to undergoing the necessary processes.

The proposed **RE1** zoning on 223G Belgrave Esplanade and part of 223A Belgrave Esplanade, though a continuation of the established zoning on these sites, is at odds with the established uses of the sites. Though a 'car-park' is permissible under **Clause 2.3** of the Draft SSLEP 2013 with consent¹, this relates to a public car park and not an ancillary use to a Function Centre, as is the case here. Moreover, the objectives of the **RE1** zone conflict with the use of the lands, though the lands are leased by Council for this purpose: Parking, deliveries, waste storage and collection entry and exit.

Objectives of RE1 zone

- *"To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes."*

It is therefore considered that the most appropriate zoning for 223G Belgrave Esplanade and part of 223A Belgrave Esplanade, as utilised by Doltone House, would be to extend the zoning from 223 Belgrave Esplanade and to zone the sites as **B1**.

RECOMMENDATIONS

For the reasons outlined in this submission, we request that the following amendments be made to the Draft Sutherland Shire LEP 2013 prior to its gazettal:-

RECOMMENDATION 1:

*Reclassify 223G Belgrave Esplanade, and part of 223A Belgrave Esplanade, both being part of Lot 498 of DP 550299, from Community to Operational Land and as such be included in **Part 3** of **Schedule 4** of the Draft SSLEP 2013.*

RECOMMENDATION 2:

¹ Land uses permissible and prohibited in **Zone RE1 Public Recreation** under the Draft SSLEP 2013

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Environmental facilities; Car parks; Child care centres; Community facilities; Emergency services facilities; Food and drink premises; Helipads; Information and education facilities; Kiosks; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads

4 Prohibited

Pubs; Any development not specified in item 2 or 3.

*Rezone 223G Belgrave Esplanade, and part of 223A Belgrave Esplanade, both being part of Lot 498 of DP 550299, from **RE1** Public Recreation to **B1** Neighbourhood Centre*

RECOMMENDATION 3

Include 223, 223G and part of 223A Belgrave Esplanade in Schedule 1: Additional Permitted Uses with the insertion of the following text in the Draft SSLEP 2013:

“SYLVANIA

24 Use of certain land at 223, 223G and part of 223A Belgrave Esplanade, Sylvania

- (1) This Clause applies to land at 223, 223G and part of 223A Belgrave Esplanade, being Lot 501 of DP 533882 and part of Lot 1, DP1169864.*
- (2) Development for the purposes of a Function Centre is permitted with consent.”*

RECOMMENDATION 4

*Make provision for a Maximum FSR on 223, 223G and part of 223A Belgrave Esplanade of **1.2:1**.*

RECOMMENDATION 5:

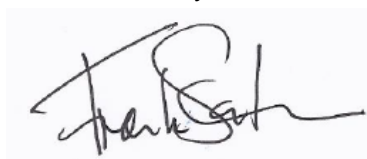
*Make provision for a Maximum Building Height on 223, 223G and part of 223A Belgrave Esplanade of **16m**.*

Whilst it is acknowledged that the formal period for submissions to the Draft SSLEP 2013 under Section 57(3) of the Environmental Planning and Assessment Act 1979 has expired, the Council has an obligation to consider any submission received prior to its adoption of the SSLEP 2013.

In this respect, if the Council considers the request to have merit but does not consider it has had time to fully assess the proposal, I would formally request that, in the absence of adoption of the modification, that Council indicate its willingness to consider a Planning Proposal submitted by the owner and that such willingness be documented as a resolution of Council.

Please do not hesitate to contact the undersigned for any further information or clarification.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Sartor', written over a light blue rectangular background.

Frank Sartor
Consultant Planner