

To sutherlandpreview@planning.nsw.gov.au
Review of Draft Sutherland Shire LEP 2013
Submission by Doug Patterson at 155 Woronora River Waterfrontage

1. The draft LEP 2013 has not been prepared in accordance with the EPA Act and should be amended to confirm existing use rights for the residents on the Woronora River.

2. 1. The definition of zone E2 is altered so that:

Item 2: permitted without consent to read "home occupation" and;

Item 3: permitted with consent to be amended to include "development of existing dwellings; rebuilding of existing dwellings"

And include a general clause similar to Kurnell resident's existing use rights clause 6.7 (6).

Council planning staff advises they are not up to date on use rights and have been unable to seek or advise standard practice.

The council's offer on 26/4 (as attached) to approve occupancy and extensions in development applications is specifically prohibited by LEP clause 5.1 item 4 (b). Such unlawful actions should be avoided.

Our councillor's inclusion of % extensions is a partial option that still leaves occupancy rights prohibited under clause 5.1 item 4 (b) in our zone with council breaching the LEP.

3. Change the draft to confirm home occupation E2, or modify to E3 zone as they have done around Anzac and Shackle roads above our property.

4. Public hearings may not be required for the above rectifications.

5. Supporting Attachments are Objection by Patterson dated 30/4/13, Mayoral advice dated 26/4/13

6. Advise the Minister that council planning officers on a number of occasions promised consultation on the above issues but did not honour their promises and allowed distrust in the planning process to continue.

Background:

I am a professional engineer with 40 years of experience in design, construction and maintenance of land and building including liaison with a number of councils.

All families in this valley have been significantly disadvantaged by the council's onerous approaches to their planning responsibilities.

One senior planner advised in 2000 that our houses were no longer a threat to the valley and we should all work together to enhance it. He has moved on but his concept is sound and used in other councils.

Council cannot allocate resources to support or maintain this rural area and the residents have taken on many such functions.

We have seen the council lose every legal action in our area; however council officers still invoke legal confrontation against our families instead of respecting the EPA Act and proven State Planning procedures.

Yours Sincerely, Doug Patterson CMIE Aust. Dated 6/2/2013, Please confirm receipt asap

Contact; dougpatrickson@bigpond.com or Mobile 0418 419 430

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Postal; PO Box 71 Menai Central 2234

**Objection to Draft Sutherland Shire LEP 2013 on LP/03/252376
By Doug Patterson at 155 Woronora River Waterfrontage**

I attended the council's consultation day in the chambers and requested information on our existing use rights under the draft E2 zone on 3 occasions. The council officers informed me that they are not up to date on these rights and I should take my own advice.

I requested how many existing houses in SSC and NSW are subject to this draft E2 zone. Council officers could not answer the question and suggested that I should resubmit my email request but I have not received an answer or indication of time for an answer.

- 1. It appears that this draft E2 does not comply with the Act and must be modified to "permitted without consent: house occupations" and "permitted with consent: modifications and rebuilding of existing dwellings". as used elsewhere in NSW or revert to an equivalent rural zoning as used elsewhere under the Standard Instrument Order.**
- 2. When council officers "are up to date and the experience with E2 zones on existing homes becomes available, then the principle of natural justice should be used to allow a consultation period. This will confirm the residents existing use rights, the councils lawful management of the LEP and forestall the need to use superior law to confirm our lawful rights.**
- 3. The draft changes from traditional rural zones along the river and escarpment into built up E3 zones for developers and an unlawful version of E2 does not comply with the Act, denies natural justice, and persecutes the existing 13 families. This redraft must be consistent with action 2 above and clause 5.1 item 4b.**

I confirm that I have not made any political donation or gift to any councillor or employee.

Yours Sincerely, Doug Patterson MIE Aust. Mob 0418 419 430
PO Box 71 Menai Central 2234



File Ref: CRMS: 772154485

Mr Doug Patterson

Email: dougpatterson@bigpond.com

26 APR 2013

Dear Mr Patterson

Thank you for your email of 16 April 2013 in relation to the draft Sutherland Shire Local Environmental Plan 2013 and your property at 155 Woronora River Frontages.

Under the draft Plan, the property is identified for acquisition for Regional Open Space purposes by the Corporation under the Environmental Planning & Assessment Act (the Minister for Planning & Infrastructure). Consequently, the land is proposed to be zoned E2 Environmental Conservation, as this is the most appropriate standard land use zone in the Standard Instrument Order. The objectives of this zone include the protection, management and restoration of the ecological, scientific, cultural or aesthetic values of land to which the zone is applied. Through the application of this zone to the land along the Woronora River, it is envisaged that the Woronora River frontage will be conserved.

Under the proposed E2 zone, a dwelling house is not permissible in the zone. An existing dwelling house may be categorised as an 'existing use' under the Environmental Planning & Assessment Regulations 1994. The Regulation contains provisions (Clauses 41-44) which permit an existing use to be enlarged, expanded, intensified, altered, extended or rebuilt, subject to development consent.

These controls are largely the same as the existing planning controls applying to the land, ie Sutherland Shire Local Environmental Plan 2000, and the land is also identified for acquisition by the Corporation under the Environmental Planning & Assessment Act (the Minister for Planning and Infrastructure). Under the controls, a dwelling house is permissible in the zone, provided that it is erected on 2 or more hectares of land and used in conjunction with agriculture, an animal establishment or rural industry. The controls make specific provision for an existing dwelling house to be enlarged or altered with development consent. Specific provisions limit the height and floor area of a dwelling house.

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Page (2)
Mr Doug Patterson

In summary, although a dwelling house is no longer permissible on the land under the draft Plan 2013, there are provisions for the extension of existing dwellings under the Regulations. These require a development application to be submitted, which relies on the establishment of 'existing use rights'. The property remains identified for acquisition.

I hope that this provides information relating to the permissibility of your existing home as well as the mechanism available for any future alteration or extension of the dwelling. Should you require any further information, please contact to Environmental Planning Unit on 9710 0800.

Yours sincerely


Councillor Kent R Johns
Mayor

26/4/13