



# Sutherland Shire Environment Centre

PO Box 589 Sutherland NSW 1499 | office@ssec.org.au  
www.ssec.org.au | ABN 96 127 431 611

Sutherland Shire Council  
Environment Health and Building Unit

4 October, 2021

## **Re: DRAFT Urban Tree and Bushland Policy October 2021**

To whom it may concern,

The Sutherland Shire Environment Centre (SSEC) was founded 30 years ago with the express purpose of ensuring that the natural attributes of the Shire, including the surrounding waterways and parks are looked after and can be enjoyed by future generations. Over the past few years, we have been contacted by many Shire residents who are concerned by the removal of mature trees and the degradation of the Shire's unique bushland which has been exacerbated by the introduction of the 10/50 Vegetation Clearing Scheme and unsympathetic urban development.

We welcome the opportunity to comment on the Draft Urban Tree and Bushland Policy (the Draft Policy). It is acknowledged the Draft Policy reflects the importance and value of the Shire trees and bushland as a shared community asset – now and into the future.

This submission focusses on Council realising a “holistic, integrated and consistent”<sup>1</sup> approach to the Shire's tree and bushland management so that the aspirations and objectives of the Draft Urban Tree and Bushland Policy can be achieved fairly, transparently, and successfully.

## **COMMENTS AND RECOMMENDATIONS**

### **PURPOSE:**

The Purpose of the Draft Policy should articulate the value of the Shire's existing trees and bushland as well as Council's clear intent to enhance and protect diverse natural habitats within the Shire.

### **RECOMMENDATIONS:**

Strengthen and clarify the Purpose within the policy by the inclusion of statements along the lines –

- The purpose of this Policy is to protect the special natural attributes of the Shire's treed landscape and bushland. Each natural component of the landscape and natural environment affords residents environmental, social and economic benefits.

- This Policy aims to avoid any unjustified, unplanned or piecemeal removal of any component of the Shire's natural landscape as reflected in Outcome 2 objective of "No Net Canopy Loss" in Council's Community Strategic Plan.

#### **PRINCIPLES:**

SSEC believes Council should reinforce environmental protection along with risk management issues. Improvements to asset management need to include mechanisms to provide the community with easily accessible information about the current state of the Shire's natural environment. A central website should be developed in accordance with the Draft Policy's commitment to consulting with the community<sup>2</sup> and should include: Council's canopy and bushland mapping, NSW Rural Fire Service 10/50 zones and details of vegetation removal, tree and bushland removal applications, determinations of applications, current Council projects (like The Green Web Program), allocation of funding and resources.

#### **RECOMMENDATIONS:**

Strengthen, clarify and include clear direction for the following dot points.

#### **3.2 (first dot point)**

##### **Address community concerns regarding trees through appropriate asset intervention levels**

To address community concerns about safety, protection and preservation of the Shire's trees and bushland through management and maintenance of current canopy cover, and ongoing replanting and regeneration programs that strategically plan for removal and renewal.

#### **3.4 (Add a new dot point)**

##### **Improve biodiversity and connectivity**

Protect and retain wherever possible wildlife refuge, especially existing tree hollows, including those in 'dead' trees

#### **3.5 (first dot point)**

##### **Integrated and system-based tree asset management**

Develop standard procedures and systems for the consistent assessment, planting, management and maintenance of trees and bushland that can be communicated and easily accessed by the general community.

#### **3.6 (first dot point)**

##### **Community education on the benefit of trees and canopy cover**

Improve awareness of the importance of trees and bushland and educate residents to address community concerns by involving community members in decision making and planning processes, supporting community projects and programs that enhance and protect the Shire's diverse natural habitats, and ensuring that information is easily accessible to the community.

## **REVIEW PROCESS:**

The Draft Policy notes that the community is concerned about an ageing tree population, and that our trees and bushland are a shared, intergenerational natural asset requiring strategic and consistent management<sup>1</sup>. The Draft Policy recognises the community's common goal of establishing "a sustainable urban tree canopy and bushland"<sup>3</sup> that includes the consideration of both existing and future risk as part of any assessment. The Draft Policy notes the need to improve processes for the assessment and management of tree risk<sup>4</sup>.

The July 2021 Staff report to Council advised that the Shire's ageing tree population is likely to be "turned over within the next 20-40 years"<sup>5</sup>. This means that each public tree that can be saved with proper Council management represents a precious community resource. Across the board, tree removal decisions should be made by qualified personnel who are guided by Council Policy to prioritise<sup>6</sup> trees in-situ and keep risk<sup>7</sup> to acceptable levels in line with the Draft Policy.

Presently, there is an allowance in the assessment process where Councillors do not consult with the wider community and are free to override Staff recommendations when making a final determination on tree removal appeals. It is a very unsatisfactory, uneconomical and unfair situation. The community has the expectation that Council fairly and expertly assesses tree removal applications. Although only a small percentage of overall tree removal requests are escalated by individual residents to Councillors, there is no guarantee that the number of requests will remain low in the future.

By way of example: historically Councillors have overridden Staff determinations to retain a street tree by agreeing with a resident that a damaged footpath or perhaps driveway (private infrastructure) is threatened by continued tree retention. Such support ignores available Council maintenance measures to the tree and Council infrastructure (remediating footpath trip hazards), or the resident's responsibility to maintain their own infrastructure. Little or no neighbourhood consultation takes place.

SSEC stated our concern to Council last year<sup>8</sup> regarding the perceived conflict of interest when Councillors overturn Staff recommendations after an individual ratepayer directly petitions a particular Councillor to secure public tree removal. As evidenced by a number of staff reports to Council, this situation incurs unplanned, additional Council costs that are borne by all ratepayers. The original Draft Policy presented at the July 2021 Council meeting proposed an alternative process to determining tree reviews via a Review Panel that included a community representative. This proposition was rejected by the majority of Councillors<sup>9</sup>. Consequently, the original Draft Policy was amended and the community was denied the opportunity to consider the proposition for an alternative final assessment process.

SSEC believes a community representative on the proposed Review Panel offers an opportunity for independent community input and reflects Council's commitment to participatory decisions. There are many examples of where community representation on management committees (eg. Bush Fire Management Committee, Mining Consultative Committees etc) is valued.

SSEC is aware that Council's Compliance and Enforcement Policy states<sup>10</sup>:

5.2 "Compliance and enforcement matters are sensitive and easily susceptible to allegations of impropriety, bias or inconsistency. Consistent with Councillor's Code of Conduct, to manage those risks, and to balance their role as both a local advocate for community members as well as ensuring Council maintains fair and impartial decision-making processes, Councillors should not attend on-site meetings with Council Staff, the complainants, or persons the subject of investigation or enforcement action, or direct staff in relation to particular outcomes relating to investigations or enforcement options or actions.... Councillors can always assist individuals who raise concerns with them by liaising with the relevant senior manager and satisfying themselves that Council's policies and guidelines are being carried out correctly."

To better reflect the direction of 5.2 in Council's Compliance and Enforcement Policy 2021, SSEC believes the Review Process should include the four voting members on the Review Panel as originally proposed. An additional measure that could be taken to ensure that decisions are unbiased and transparent would be to engage several community members to serve on the Review Panel on a rotating basis.

The current right of Councillors to overturn Staff recommendations regarding trees via a Notice of Motion to Council, is an apparent Councillor breach of Council Policy. This situation needs to change to ensure transparency and fairness.

#### **RECOMMENDATIONS:**

- **The Review Panel to include community representation, as originally proposed to Council and**
- **Council to accept the Review Panel's final determination regarding tree and bushland removal**

#### **NEIGHBOUR NOTIFICATIONS:**

Presently, there is very little, if any neighbour notification of tree removals. It is a grievance often expressed to the SSEC by community members. SSEC believes that if the community is given a greater opportunity to understand the issues – for and against tree and bushland removal – grievances will not escalate and a fair appraisal can occur. The introduction of neighbour notifications will see the need for Councillors to treat all residents and ratepayers with equal consideration and reflect the value that all trees represent a shared community asset. The wider community is currently

not advised and undoubtedly, neighbours along any given street or locality are affected when a tree is removed.

It is not fair to only nominate immediate neighbour notification as the Draft Policy states<sup>11</sup>. **Potential tree and bushland removal on either private or public land should include a streetscape and locality approach when notifying the community of applications for tree removal.**

Councillor Jack Boyd's recent Face Book post (Sept 8, 2021 removal of trees at Seymour Shaw Park) is a good example of dealing with public concern about the removal of public trees, **tellingly, after works had commenced**. The initial reaction from the public was along the lines of "what is Council up to now?" In that post, Cr Boyd explained justification for tree removal, and that the justification was based on "expert" Council arborist advice regarding safety issues posed to the public.

SSEC believes that a better, timely and wider notification to local residents of impending tree removals is necessary and that the Draft Policy could be improved by inclusion of the following:

**RECOMMENDATION:**

- **Strengthen and clarify 6. Community Consultation Schedule B Strategic Direction to read –** Council will consult with the community on policy changes, trends in urban tree performance, and tree planting projects by ensuring notification and justification for tree removals on both public and private lands is clearly articulated to neighbours and the wider community in a timely manner.

**10/50 VEGETATION CLEARING SCHEME (VCS)**

It is unclear how the 10/50 VCS affects the goals and aspirations of the Draft Policy. Presently Council does not account for the loss of canopy and vegetation in zoned areas. SSEC believes the Draft Policy should explain how 10/50 clearing affects the Shire's landscape, tree canopy and bushland targets.

**CONCLUSION:**

SSEC recognise the pressures, risks and threats to the Shire's current tree canopy and bushland as highlighted in the Draft Policy.

We also recognise the value and benefits our current tree canopy offers to this generation of Shire residents and that those benefits should be protected and enhanced for future generations.

Better management and process regimes must reflect Council's commitment to unbiased, transparent, wider and informed community consultation. The revised Draft Policy should clearly articulate recognition of the value of a healthy and regenerating natural landscape.

Councillors have a duty of care when accepting the advice and determinations of their expert Council Staff members. Community confidence in Council operations can only be achieved when Councillors rely on expert opinion and follow approved management, policy and process regimes. To this end,

Councillors should accept recommendations from a Tree Review Panel, that includes community representation, as a final outcome to tree disputes. Otherwise, no matter the aspirations of the proposed new Policy, when Councillors are 'open' to and 'free' to overturn expert Staff recommendations after being directly approached by an individual resident, Council Policy and transparency of decisions are undermined. Certainly, there is a perception of Councillor bias when this occurs. Thank you for your time and consideration of this submission. SSEC trusts our comments will be addressed and reflected in the new and final Urban Tree and Bushland Policy.

Sincerely,



**Dr Tassia Kolesnikow, Chair**

**Sutherland Shire Environment Centre**

Cc: SSC Chief Executive Officer, Manjeet Grewal [MGrewal@ssc.nsw.gov.au](mailto:MGrewal@ssc.nsw.gov.au)

<sup>1</sup> Urban Tree & Bushland Policy Draft 2021, Purpose

<sup>2</sup> Schedule B, point 6 Draft Urban Tree and Bushland Policy

<sup>3</sup> Urban Tree & Bushland Policy Draft 2021, Schedule B

<sup>4</sup> Urban Tree & Bushland Policy Draft 2021, Schedule A

<sup>5</sup> <https://cms.ssc.nsw.gov.au/files/sharedassets/website/document-library/governance/council-meetings/2021-0726-council-minutes.pdf>

<sup>6</sup> 3.3 Improve the quality and Quantity of the urban canopy and bushland across Sutherland Shire Draft Urban Tree Policy

<sup>7</sup> 3.2 Address community concerns regarding trees through appropriate asset intervention levels Draft Urban Tree Policy

<sup>8</sup> Letter to General Manager 21/6/20 (attached)

<sup>9</sup> <https://cms.ssc.nsw.gov.au/files/sharedassets/website/document-library/governance/council-meetings/2021-0726-council-minutes.pdf>

<sup>10</sup> <https://www.sutherlandshire.nsw.gov.au/Council/Policies-and-Documents/Policies>

<sup>11</sup> Schedule C Review Process Draft Urban Tree and Bushland Policy