



Sisters of the Good Samaritan
of the Order of St Benedict

Good Samaritan
Congregational Offices

Postal address:

PO Box 876
Five Dock NSW 2046

1A Harris Road
Five Dock NSW 2046

Tel (61 2) 8752 5300

Fax (61 2) 8752 5333

Email gsoffices@goodsams.org.au

www.goodsams.org.au

7 August 2013

The Chairperson
Oxford Falls Valley & Belrose North Strategic Review
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Sisters of the Good Samaritan – Oxford Falls Valley Strategic Review submission

The proposed down zoning of our land to E3 Environmental Management is of grave concern to our Congregation. The proposed action, if implemented, would have serious implications for our Congregation. In the light of such a threat, I am duty bound to take all possible actions to protect our current rights a private land owner.

Property and Ownership

Since 1951 the Sisters of the Good Samaritan (SGS) have owned and been a local rate payer in respect of Lots 808, 809, 812,813 and 817 in DP 752038. These Lots are sometimes referred to as 70A and Lot 817 Willandra Road notwithstanding their street frontage is to Lady Penrhyn Drive.

The lots are identified in the attached map in Appendix 1.

Information supplied to the review

We have conducted extensive studies of our property and have a wealth of very current and very accurate information relating to the property. All of this information was offered to the review but no requests for information were received.

We have produced a species impact statement and also received a biobanking statement in respect of our property, both indicating that development of our property is possible without having a significant impact on threatened species. We provided this information in electronic form to the review on an unsolicited basis. It appears that this information has not been used in the review.

Submission

We have a number of issues with the review process and the way we have been treated as a private land owner in the area. Warringah Council has demonstrated specific intent to limit any future development potential in respect of our land for more than 15 years and such inherent bias should not be promoted as independence.

We submit that our land should be zoned RU6 Transition or R5. All zones achieve a translation of the existing provisions that apply to the site. All zones are available to be used under the standard instrument. We do not consider a subjective choice not to use zones available for this purpose to be acceptable in the context of the strategic review.

In respect of the Draft review report we submit the following key points.

1. *Seniors living* – the need for more appropriate accommodation for seniors is undeniable and limiting the ability for any land to participate in a merit assessment process will exacerbate supply problems that already exist.
 - Limiting future potential of accommodation for seniors is inconsistent with the Metropolitan Strategy and not in the broad interests of the community. Seniors accommodation plays an important role in co-locating for more affordable care and services delivery in the home and also facilitates urban renewal and modernisation as older dwellings are updated and redeveloped for improved supply of residential accommodation.
 - Application of E3 and relationship to SEPP Seniors Living 2004 (Housing for Seniors and People with Disability) (SEPP SL) is an incorrect recollection of history. The principle argument of the draft report in its justification for removing the permissibility of seniors housing is one of ‘administrative oversight’ as we understand it. It proposes that had the revisions to the SEPP SL in 2004 been adjusted in WLEP2000 then seniors living would not have been permissible. This logic is intended to support the stripping of a current permissible use as being a reasonable translation.

This could only be true if the land was considered Environmental Protection land at this time (which it was not). To assume it was makes this a self-fulfilling prophecy. The proof that it was not is evidenced in the WLEP2000 Environmental Protection map layer that was exhibited with the draft WLEP2000 (Attached at Appendix 2).

Our land was explicitly **excluded** from classification as Environmental Protection land on this exhibited map.

If the ‘higher standards’ of the SEPP SL that were updated in 2004 were actually in effect earlier in 2000 then a very clear conclusion could be drawn based on this Environmental Protection map, they would NOT have applied to our property and therefore seniors housing would have remained a permissible use. Refer Appendix 3 for timeline and supporting mapping.

The argument prescribed to the contrary by the Draft report can only survive using the presumption that the land would have been zoned E3 at the time the new provisions were introduced which clearly based on the WLEP 2000 map it was not.

Importantly, following the exhibition of the Draft WLEP2000 this proposed Environmental Protection map layer WAS NOT supported by the Department for the reason that it unnecessarily limited the future development potential of the land. Please refer to your records on this matter and you will note that the Department has already opposed the very actions that are behind this review.

- **Site compatibility threshold** - Seniors Living potential development will be required to get site compatibility under an R5, RU4 or RU6 zone. All of these zones represent a better translation than E3 of the current provisions applicable to our land.

The current situation under WLEP2000 is that some land, including our land, is not required to get a site compatibility certificate because it is a permissible use under the WLEP2000 and there CL 24(1A) of SEPP SL applies. This will change if translated as R5, RU4, RU6. Not having permissibility under another planning instrument will require a Site Compatibility Certificate to be sought and received prior to any development application being submitted.

There are suitable checks and balances in the system as it stands to not require an E3 zone to be applied to limit seniors housing potential. Allowing an appropriate translation of current permissible uses WILL NOT result in greater chances of seniors living development happening that is not strongly supported on a merit basis by the Department and with the involvement of Council.

2. *Translation methodology* – is it translation or reassessment of zoning? What role do constraints play in a translation when there are applicable zones available in the Standard Instrument LEP? The language used throughout the report such as ‘upzoning’ suggests that in parts, the review is more than a pure translation exercise as has been previously communicated. That said, some aspects of the controls that apply to the land have been selectively avoided such as density controls temporarily derived in 1974 that have no currency or relevance.
 - The constraints assessment is not indicative of a translation exercise and should be completely disregarded at this stage. It is appropriate to consider under Phase 2 when the PAC studies are undertaken.
 - The constraints information is out dated and not grounded in current reality. Therefore completely inappropriate for the purpose of assessing site by site development potential (which is beyond the scope of this review anyway).
3. *Planning system review* – has the planning system review been adequately included in this review.
 - The review of the planning system is likely to present a framework that this review should be mindful of. By the time the next steps in this process are undertaken we are likely to have a planning system being implemented which may remove the relevance of some of the actions being taken in this review, such as the E3 zone.
 - What will be the status of E3 and other zones under the new system – this should be considered in detail to ensure the outcomes of this review and the subsequent planning process remain relevant.
4. *Independence of Council*
 - Our land has been consistently focussed on by Council and we believe that the historic actions taken by Council prevent them from being able to be independent regarding our property.
 - These actions include writing to the Minister prior to the deferral of our land from WLEP2011 and specifically requesting it (and only two other sites) be zoned E3 and the rest deferred. This specific targeting is neither reasonable nor indicative of the independence that this review purports to, and must have.
 - For this reason, we request that the Department ensures that this bias does not contribute to the outcomes of this review by limiting the participation of Council representatives directly involved in past actions or by taking a more active position to ensure the promised independence is realised.

Summary

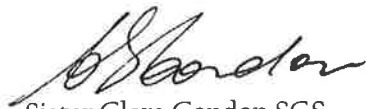
We respectfully request that the Department gives full consideration of our submission with a focus on:

- WLEP2000 Environmental Protection layer exhibit – the Department opposed this map and approach once and we request that the Department revisits the sound reasons for doing this;

- Allowing seniors living to be merit assessed within the system that exists; and
- Ensuring that a translation rather than reassessment is the outcome of the review. As it stands the Draft report tries to do a little of both and that is inconsistent with the scope of the review.

We would welcome the opportunity to discuss further our concerns. We have limited our submission to the current report themes rather than technical errors and inconsistencies and our offer to supply historic information and context will always remain.

Yours faithfully



Sister Clare Condon SGS
Congregational Leader

Appendix

- 1 Identification of SGS owned land
- 2 WLEP2000 Environmental Protection exhibited map
- 3 Timeline and supporting maps
 - a. Increased constraints assessed from same base data
 - b. Release potential to significantly constrained without doing any studies
 - c. Explicit exclusion as Environmental Protection land