

Our Ref: 161
Your Ref: LP/03/252376

2 February 2014



Dr John Roseth and Ms Meredith Sussex
Joint Chair - Public Hearings
Sutherland LEP Review,
NSW Department of Planning and Infrastructure

(by hand to Public Hearing 3 February)

Attention: Ms Marian Pate, DoPI

Dear Ms Pate,

Re: Draft Sutherland LEP 2013 - LP/03/252376
Property: John Paul Village (JPV) Heathcote (as detailed in submission)

This is a formal submission under section 57(6) of the *Environmental Planning and Assessment Act* 1979 (the Act). This submission is to replace the previous submissions especially with respect to the issue of the propose E4 zone which is not supported for the site in addition to HOB, FSR and additional permissible use issues.

JPV is a registered charity that provides one of the largest aged care facilities in the Sutherland Shire. JPV currently provide 110 high care, 80 low care beds, with 167 independent living units, allowing a full range of ageing in place services.

Over the next decade JPV is planning to meet demand for increased dementia care through additional residential care facilities with an increased mix of high and low care facilities. It is proposed to increase onsite parking and loading facilities, storage and commercial kitchens within basements. The long-term strategic planning objective for the site is aimed at internalising impacts arising from the provision of increased residential care.

The pressing need for more residential care is a pressing matter of *public interest*¹. Whilst balancing the public interest against private interests may be an issue in some of the strategic planning options being reviewed by the public hearing into the Draft LEP, there is no doubt that the pressing need to meet demand for additional residential care facilities is in the public interest and supports this submission.

Whilst JPV acknowledges the LEP process is ongoing, it cannot wait for the LEP process to be completed. JPV is likely to lodge a staged development application before the LEP is finalised seeking to build new facilities to meet the increasing dementia care needs of our community.

Council is aware of the needs of JPV to proceed with these new facilities. At the governance level and senior staff level of Council there is support for JPV proceeding with a staged development application before the Draft LEP is gazetted.

¹ *Double Bay Marina v Woollahra Council* [2009] NSWLEC 1001 - planning principle: discerning the public interest

Nevertheless, the Draft LEP seeks to impose FSR and HOB constraints that must be considered under section 79C(1)(a)(ii) of the EPA Act and this submission seeks modest changes to support delivery of new residential care facilities.

JPV is critical Council's delivery of strategic planning objectives aimed at meeting future increasing demands for the full range of aged care required within the Sutherland Shire.

With respect to the current Draft LEP, it is submitted that the amendments to the Draft LEP 2013, as sought by this submission, are minor and reasonably required to better meet the objectives of the Sydney regional and sub-regional plans and the draft LEP 2013, as well as meet Council's published "Ageing well: Housing" 24/05/2013 aims and objectives, in particular to the increasing dementia care needs of our community.

This submission seeks a very modest additional HOB of 4m, with a HOB up to 13m in the north-western portion of the site (an area distant from residential neighbours). This submission seeks that the LEP not adopt any FSR for this site, consistent with the existing LEP, which provides no FSR development standard for this special use site.

Sutherland Shire Draft Housing Strategy 2031, as reported to Council DAP025-13 on 12 November 2012, supports this submission. The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%.

There are over 321,600 Australians living with dementia. This number is expected to increase by one third to 400,000 in less than ten years. Without a medical breakthrough, the number of people with dementia is expected to be almost 900,000 by 2050².

Those areas with increasing aging populations will therefore struggle to meet low and high dependency residential age care demands. The Sutherland Shire is one of these areas.

JPV in this case are not seeking development standards that would permit anything above 3 storeys above existing ground levels. 13m HOB is reasonably achievable, cognizant that 3 storeys is capable of satisfying demands and delivering acceptable urban form outcomes in this specific context.

The context is discussed in further detail below.

Given the site layout, this will be readily achievable in the north-western precinct of the site.

The effective height, due to the unusual topography created by the railway bridge approach, will render any 3-storey building to be viewed as a 2 storey built form when approached from the Princes Highway. This area of the site is also well removed from neighbours and abuts the SP2 and then the B6 zone, which has a proposed HOB of 16m and FSR of 1:1 to its east.

This submission does not trigger any need for further public consultation under section 57 of the Act with respect to the request that FSR continue not be applied to the site and that HOB be increased from 9m to 13m for Lot 10 in DP 1110571.

There are no adverse environmental or amenity impacts arising from the amendments sought that cannot be resolved appropriately within the required environmental assessment under Part 4 of the Act. In particular, it is noted that early discussion with the Council and

² <http://www.fightdementia.org.au/content/statistics>

the NSW Rural Fire Service also support a master plan that will see a new perimeter access north adjoining the Royal National Park to the North.

The Land

The land to which this submission relates is 15 The Avenue (Lot 10 in DP 1110571) shown outlined in yellow in Figure 1 - The Site.



Figure 1 - The Site

Context

The general location context is shown in Figure 2. JPV is bound to its west by the Illawarra Railway Line (Zone SP2) which adjoining land fronting the Princes Highway with the following planning attributes:

- Zone (B6) Enterprise Corridor
- HOB (O) 16m
- FSR (N) 1:1

To the north is the Royal National Park, containing a cleared and maintained asset protection zone (APZ).

To the east JPV own the following sites with frontages to Nirimba Crescent (these sites are not subject to this submission):

- 23 Nirimba Crescent (Lot 60 in DP31803) – House
- 27 Nirimba Crescent (Lot 62 in DP31803) - House
- 29 Nirimba Crescent (Lot 63 in DP31803) – House (exchanged)
- 31 Nirimba Crescent (Lot 64 in DP31803) – House

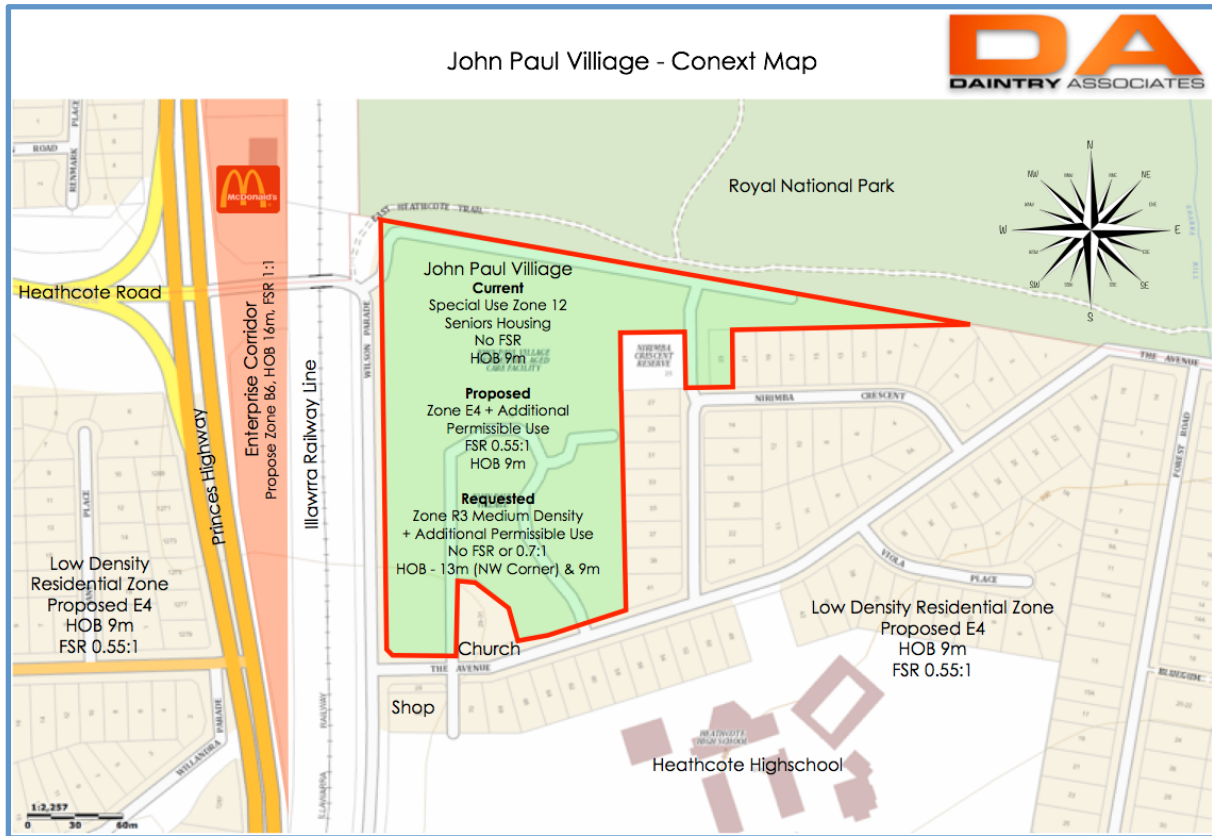


Figure 2 - Context Map

There are 5 residential properties with a common boundary to existing independent living within the south-eastern portion of JPV. The existing independent living will remain and retains an appropriate transition and buffer to the increased HOB and FSR that JPV seek in the north-western corner of the site abutting the Royal National Park and Illawarra Railway Line - Enterprise Corridor zone.

No.25 Nirima Crescent is RE1 Open Space being parkland shared by JPV and the public.

To the south is the Catholic Church;

- 29-31 The Avenue (Lot 101 in DP858731)

The site is separated from remaining neighbours by Nirimba Crescent and The Avenue, which act as effective zone boundaries in terms of the additional permissible use proposed by the Draft LEP.

In summary, as will be articulated further below, this submission seeks that the north-western corner of the site have a HOB of 13m. The north-western corner of the site abuts the SP2 and B6 zone, which has an FSR of 1:1 and HOB of 16m, and abuts the Royal National Park. The site currently has no FSR and non-should be applied given its special use nature with continue as an additional permissible use.

In this context it is submitted that the public hearing report required under section 57(7) may reasonably support the requested increase to HOB (13m) and No FSR (or if any FSR is imposed 0.7:1).

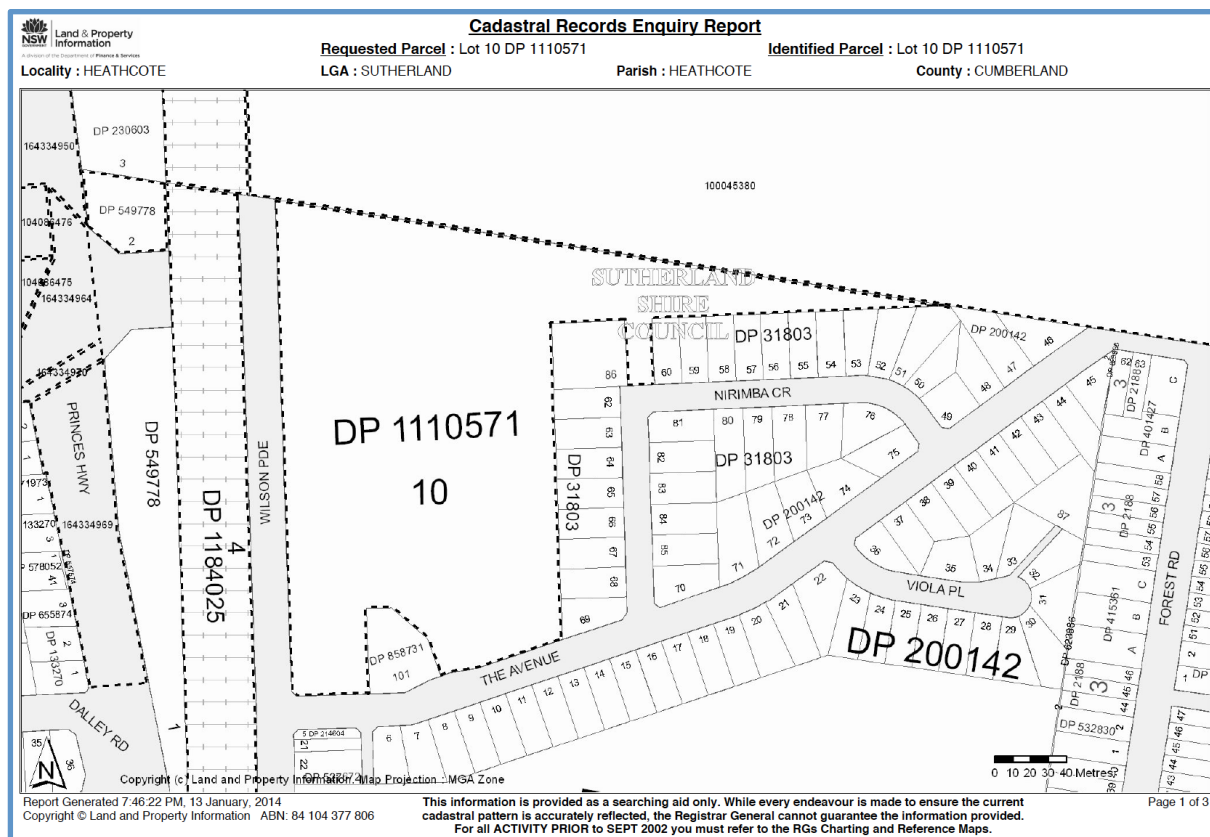


Figure 3 - Cadastral Map Lot 10 in DP 1110571

Proposed Zone E4

JPV do not support the proposed Zone E4. JPV do support the additional permissible use of “Seniors Housing” being included in Schedule 1 Additional Permitted Uses of the Draft LEP for the total site.

We note that existing use rights would nevertheless apply to the site, but support the removal of existing use right issues to make the development application process more certain.

It is our submission the site should be zoned R3 Medium density residential as the site is as built effectively a medium density development. In the alternative it may be zoned R2.

Nevertheless irrespective of the R3 or R2 zone it should remain subject to the additional use provision as proposed within Schedule 1 of the Draft LEP.

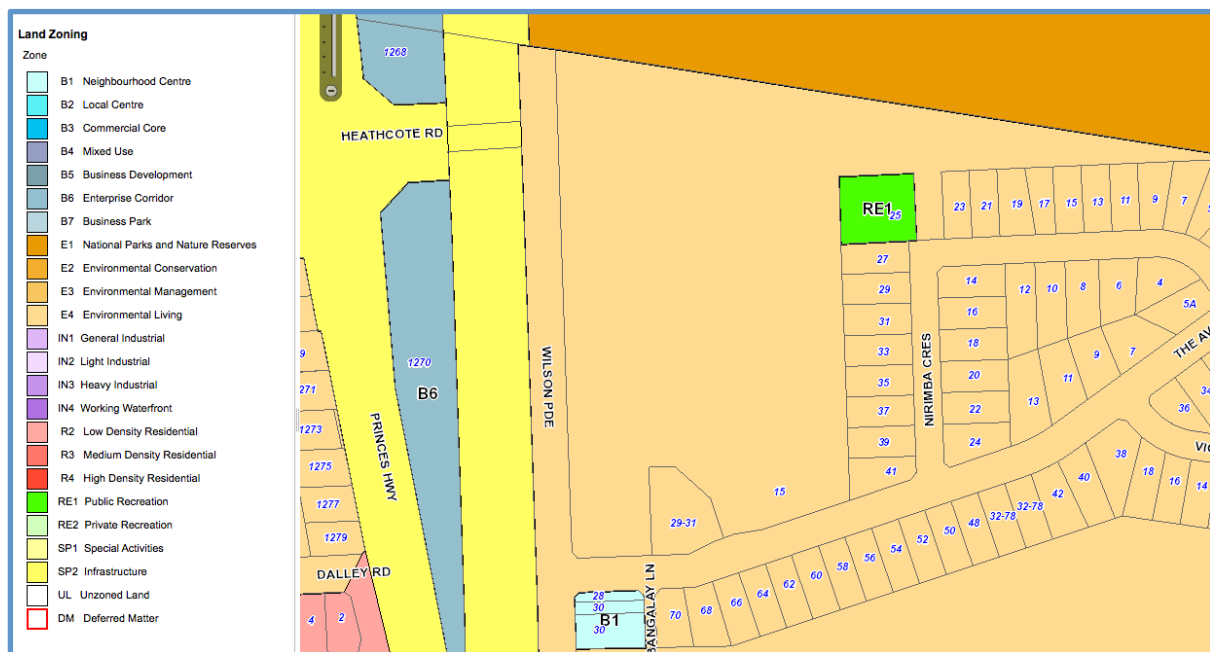


Figure 4 - Draft Land Zoning

The site's current use is for both residential care facilities (190 beds) and grouped self-contained dwellings for seniors (167 independent living units) is a medium density residential care facility.

Dr Roseth and Ms Sussex should be briefed about the unintended consequence of the proposed E4 Environmental Living Zone to the proper application of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. It appears upon our reading of this SEPP that it would not be able to be applied to any land within any environmental zone.

There are areas of R2 in the vicinity south of Dalley Road and Both of the Heathcote Road and in the circumstances of this case preferably the R3 but tolerably the R2 zone as well as the additional permissible use provision will ensure that the intent of the current Special Use Zone 12 for Seniors Housing and the existing use of the site for a wide range of care options can continue within reasonable plans for increase dementia care in the north-western corner of the site.

The Draft LEP defines seniors housing as:

“Seniors housing means a building or place that is:

- a) a residential care facility, or
- b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
- c) a group of self-contained dwellings, or
- d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
- e) seniors or people who have a disability, or
- f) people who live in the same household with seniors or people who have a disability, or

- g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

Note. Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.”

JPV do not seek under this Draft LEP that it's other land holdings be subject to this additional permitted use.

JPV may in that regard prepare a planning proposal for that purpose at a later date and this will require further public consultation and exhibition as those other land holding neighbour low density residential properties.

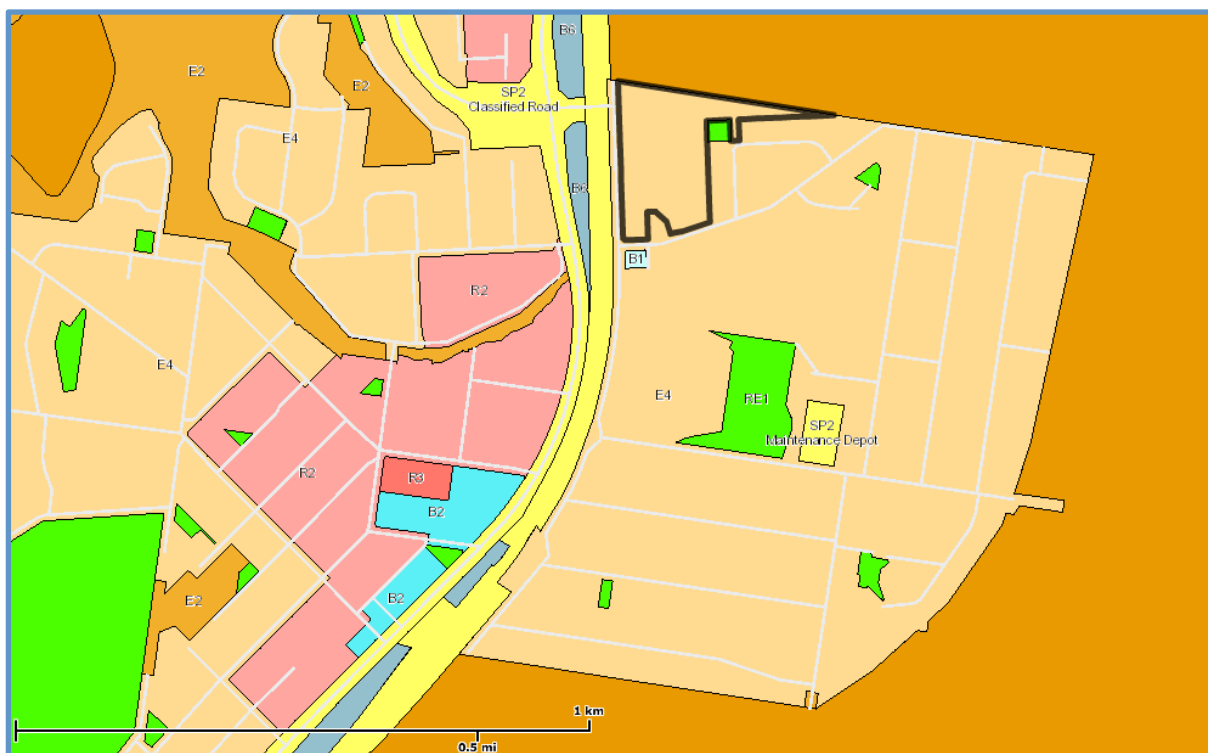


Figure 5 - Proposed Zones wider locality

So it is clear, this submission does not seek any zone, HOB or FSR change to No.23, 27, 29 and 31 Nirimba Crescent, East Heathcote at this date.

Extract Schedule 1 of Draft LEP Instrument (2013_08_20_SSLEP2013_Instrument.pdf)

“16 Use of certain land at The Avenue, Heathcote

- (1) This clause applies to the land at 15 The Avenue, Heathcote, being Lot 10 DP 1110571.
- (2) Development for the purpose of **Seniors housing** is permitted with consent.”

HOB

The site is currently subject to Clause 33(4) of SSLEP 2006, with a default HOB of 7.2m (uppermost ceiling) and 9m (maximum roof height). The Draft LEP proposes a HOB of J1 - 9m (Figure 6 - Draft HOB)



Figure 6 - Draft HOB

It is noted that the affected area of the site adjoins the SP2, B6 (FSR 1:1, HOB 16m) and Royal National Park. With respect to the north west corner of the site (Figure 7 - Proposed HOB (N – 13m) - JPV North-west) it is submitted that a HOB of (N) 13m should be applied to allow merit consideration of a development application for a new 3 storey residential care facilities in the north-western precinct of the site, without the need for a SEPP 1 under Sutherland Shire LEP 2006 or a clause 4.6 justification under the Draft LEP 2013.



Figure 7 - Proposed HOB (N – 13m) - JPV North-west precinct

FSR

Sutherland Shire LEP 2006 does not assign any FSR to 15 The Avenue (Lot 10 in DP 1110571). JPV through development applications have worked with the local community and Council over many decades to develop new residential care facilities to meet the increasing demands of the Sutherland Shire for such facilities. The outcomes have always been excellent and in the public interest.

Council is not required to assign any FSR to the site. Draft Sutherland Shire LEP 2013 should adopt the same approach as the current LEP. No FSR should be assigned to the site. The site and its impacts are self contained and manageable through the Part 4 merit assessment process.



Figure 8 - Draft FSR

If any FSR is proposed it must have regard to the relationship of the site to its neighbours and the public interest, in particular allowing sufficient additional FSR to meet the well documented demand for increased aged care facilities, in particular dementia care.

Preliminary master planning work has identified the need for more aged care facilities, including additional onsite parking. The same master planning has also identified that new kitchen facilities are required and whilst these are proposed to be underground they will by the standard instrument definition of GFA contribute to the FSR despite adding no above ground bulk to the site.

JPV has identified that the FSR to be assigned to the site will need to be “H”, 0.7:1 in JPV are to meet real demands Council has identified itself through Council’s published “Ageing well: Housing” 24/05/2013 aims and objectives.

Economics

Council's Housing Strategy report noted that council's own residential aged care facility at Engadine community centre was increased in height from 4 to 6 storeys primarily because the future commercial operator found that it would not be financially feasible at 4 storeys.

JPV are at registered charity and are only seeking a HOB increase to permit 3 storeys above ground on the north-western portion of the site.

JPV are not a commercial entity and economics is a minor driver. The major driver is the need for increased dementia care facilities within the boundaries of the existing site and to deliver more on-site parking for visitors and service vehicles, internalising the impacts of any additional residential age care by placing increased HOB in the north western corner of the site.

Social Planning

Sutherland Shire Draft Housing Strategy 2031 as detailed by DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 clearly support the need for more housing for smaller house holds and in particular identify a pressing need for more aged care facilities.

To quote Council's strategic planning report:

"The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%."

The Ageing Strategy was well received by the community and well regarded across local government. Specific commitments made by council through the adoption of its Ageing Strategy in relation to housing include:

- Increase housing choice by increasing permissible building heights and densities in centres with proximity to transport, shopping and facilities;
- **Increase aged housing by increasing permissible building heights and densities for aged persons housing in centres with proximity to transport, shopping and facilities;**
- Provide incentives for villa developments; and
- Promote dual occupancy as a viable and cost effective form of aged housing.

This specific strategy supports JPV's submission.

JPV is close to public transport but JPV also provides its own bus service, which transports residents to local centres and on other excursions.

It is submitted that the social planning objectives of Council will be better achieved by increasing permissible building heights and densities for aged persons housing at JPV as proposed.

Public Hearing

JPV notes that the Council at its meeting of 30 September 2013 resolved (Mayoral Minute No. 15/13-14) to 'request the Minister for Planning and Infrastructure to direct the Planning and Assessment Commission to conduct a public hearing in accordance with Section 57 of the Environmental Planning and Assessment Act, 1979 into the content of Draft Sutherland Shire Local Environmental Plan 2013'.

We note that this site is not among any of the sites considered controversial nor is it contained or referenced by Mayoral Minute No.6/13-14 dated 29 July 2013.

It is our submission that the public hearing report should recommend that the subject site be provided with a HOB of 13m in the north western corner as detailed by Figure 3 above and that the site, consistent with the current LEP not be assigned any FSR. If assigned FSR be assigned not less than 0.7:1.

Summary

On behalf of JPV it is submitted that 15 The Avenue (Lot 10 in DP 1110571) should continue to have no FSR assigned to it. If any FSR is assigned to the site it should be 0.7:1 to allow JPV to achieve what is clearly in the broad public interest, that is increasing dementia care services to the Sutherland Shire.

HOB of 13m may be assigned to the north-western corner of the site without any need for further public consultation as this increase HOB will have no adverse impacts upon the locality in terms of urban form and will have no increased impacts upon neighbours. All other issues can be resolved through the development assessment process.

Schedule 1 should be amended as proposed. The proposed additional permissible use of the site has already been subject to public exhibition without any submissions raising any concern and is consistent with existing use and existing use rights would prevail in any case.

JPV will actively participate in any further public consultation process.

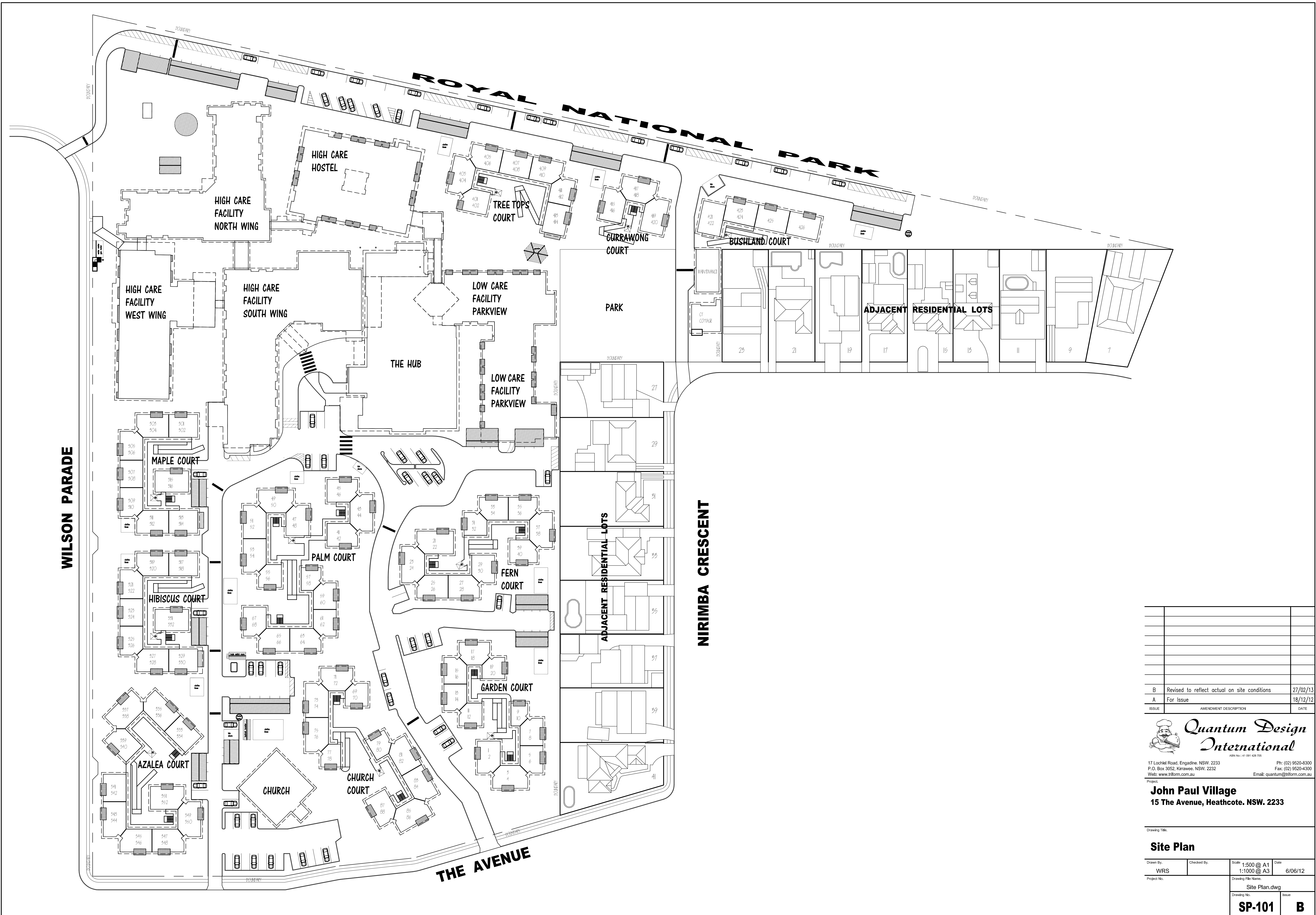
Please don't hesitate to contact me on 0408 463 714 or by email brett@daintry.com.au.

Yours faithfully,



Brett Daintry, MPiA, MAIBS, MEHA
Director

cc. Mr Gerry Renouf, Chief Executive Officer, John Paul Village -
<gerryr@johnpaulvillage.com.au>



B	Revised to reflect actual on site conditions	27/02/13
A	For Issue	18/12/12
ISSUE	AMENDMENT DESCRIPTION	DATE



**Quantum Design
International**
ABN No : 41 091 428 705

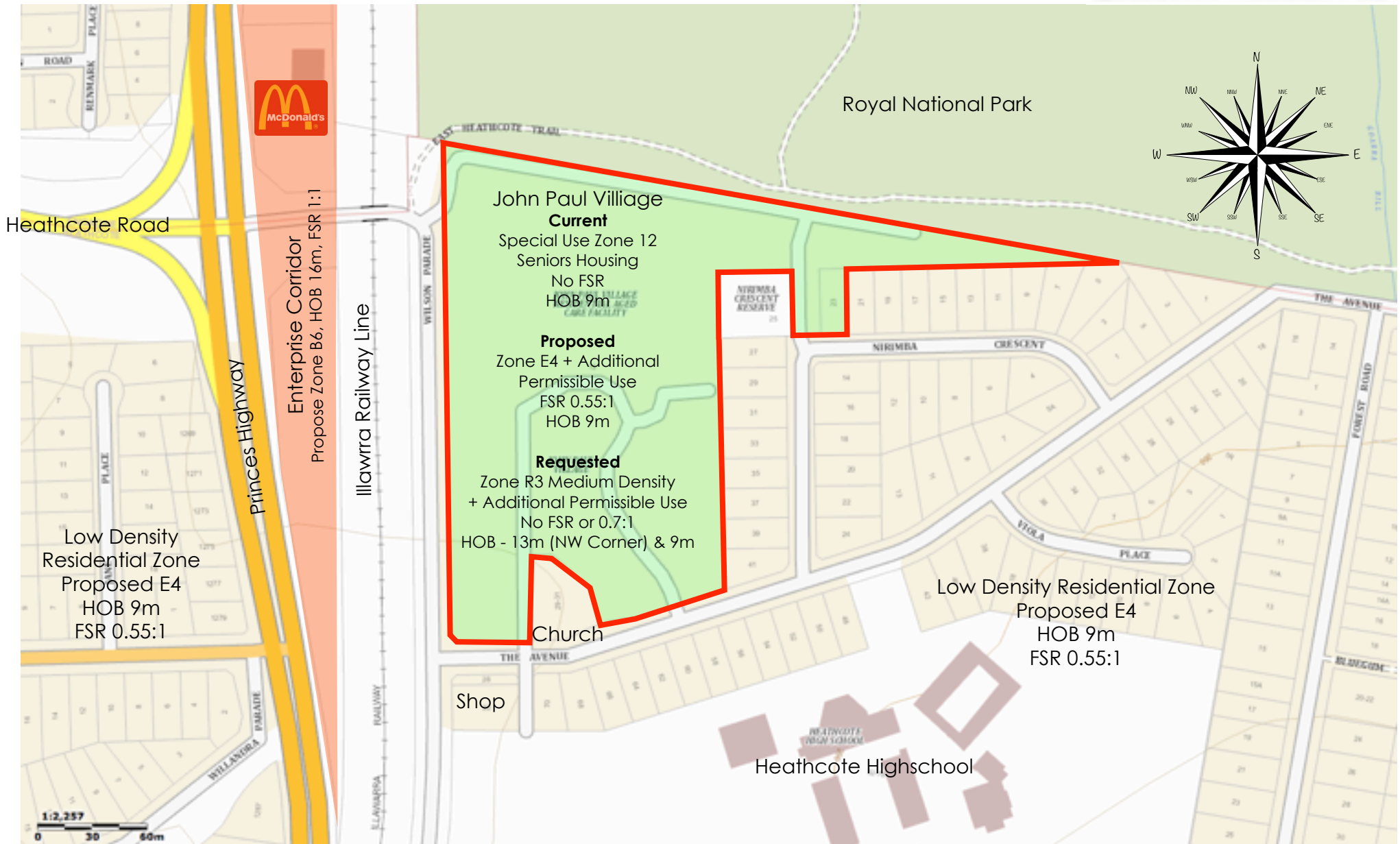
17 Lochiel Road, Engadine, NSW, 2233
P.O. Box 3052, Kirrawee, NSW, 2232
Web: www.triform.com.au

Ph: (02) 9520-8300
Fax: (02) 9520-4300
Email: quantum@triform.com.au

Project: **John Paul Village**
15 The Avenue, Heathcote, NSW, 2233

Drawing Title:			
Site Plan			
Drawn By:	Checked By:	Scale:	Date:
WRS		1:500 @ A1 1:1000 @ A3	6/06/12
Project No:		Drawing File Name:	
		Site Plan.dwg	
Drawing No:		Issue:	
SP-101		B	

John Paul Villiage - Conext Map



Our Ref: 161
Your Ref: LP/03/252376

Saturday, 29 June 2013



Mr John W Rayner
General Manager
Sutherland Shire Council

(by email ssc@ssc.nsw.gov.au & bmorris@ssc.nsw.gov.au)

Attention: Beth Morris, Acting Manager Environmental Planning

Dear Ms Morris,

Re: Draft Sutherland LEP 2013 - LP/03/252376

Property: John Paul Village (JPV) Heathcote (as detailed in submission)

This is a late formal submission under section 57(3) of the *Environmental Planning and Assessment Act* 1979 (the Act). No request is made under section 57(5) of the Act.

It is submitted that the amendment of the Draft LEP 2013, as sought by this submission, is minor and reasonably required to better meet the Sydney Regional, Sub-regional and draft LEP 2013, as well as meet Council's published "Ageing well: Housing" 24/05/2013 aims and objectives.

Council's Sutherland Shire Draft Housing Strategy 2031, as reported DAP025-13, 12 November 2012, supports this submission. The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%. There are over 321,600 Australians living with dementia. This number is expected to increase by one third to 400,000 in less than ten years. Without a medical breakthrough, the number of people with dementia is expected to be almost 900,000 by 2050¹. Those areas with increasing aging populations will therefore struggle to meet low and high dependency age care demands.

Council's Housing Strategy report also noted council's own residential aged care facility at Engadine community centre was increased in height from 4 to 6 storeys primarily because the future operator found that it would not be financially feasible at 4 storeys. JPV in this case are not seeking anything above 3 storeys. 12m HOB is reasonably achievable, cognizant that 3 storeys is capable of satisfying demands side needs and urban character objectives. Further, given the site layout, this will only be achievable in the northern precinct of the site. The effective height, due to the unusual topography created by the railway bridge approach, will render any 3 storey building to be viewed as a 2 storey built form. This area of the site is also well removed from neighbours.

This submission does not trigger any need for further public consultation under section 57 of the Act with respect to the request that FSR continue to not be applied to the site and that HOB be increased from 9m to 12m for Lot 10 in DP 1110571. There are no adverse environmental or amenity impacts arising from the amendments sought that cannot be resolved appropriately within a required environmental assessment under Part 4 of the Act.

¹ <http://www.fightdementia.org.au/content/statistics>

Council should proceed under section 58 of the Act and seek determination that further community consultation is not required under section 58(3) of the Act, consequential to adoption of this submission in the final Council resolution adopting LEP 2013.

John Paul Village

The total site encompasses:

- 15 The Avenue (Lot 10 in DP 1110571) – Main site
- 29-31 The Avenue (Lot 101 in DP858731) - Church
- 23 Nirimba Crescent (Lot 60 in DP31803) – House
- 27 Nirimba Crescent (Lot 62 in DP31803) - House
- 29 Nirimba Crescent (Lot 63 in DP31803) - House
- 31 Nirimba Crescent (Lot 64 in DP31803) – House



Figure 1 - John Paul Village - Land Holdings June 2013

Proposed Zone E4

JPV support Zone E4 subject to the use “Seniors Living” being included in Schedule 1 Additional Permitted Uses of the Draft LEP for the total site. JPV understand that 15 The Avenue (Lot 10 in DP 1110571) is included in Schedule 1 of the exhibited Draft LEP but would request that as part of the new LEP, and if not, as part of the first round of amendments to the new LEP, that the remaining lots identified above and in Figure 1 above be included in Schedule 1. JPV will be lodging a Development Application for a new dependency care facility to meet well documented demand.

HOB

Clause 33(4) of SSLEP 2006 provides a default position of 7.2m and 9m to the site. With respect to the main site it is submitted that a HOB of 12m should be applied to allow merit consideration of a development application for a new 3 storey low and high dependency care facilities in the northern precinct of the site, without the need for a SEPP 1 under Sutherland Shire LEP 2006 or a clause 4.6 justification under the Draft LEP 2013.

FSR

Sutherland Shire LEP 2006 does not assign any FSR to 15 The Avenue (Lot 10 in DP 1110571) and Draft Sutherland Sire LEP 2013 should adopt the same approach. The site and its impacts are self contained and manageable through the Part 4 merit assessment process.

Summary

On behalf of JPV it is submitted that 15 The Avenue (Lot 10 in DP 1110571) should continue to have no FSR assigned to it and a HOB of 12m may be assigned without any need for further public consultation to 15 The Avenue (Lot 10 in DP 1110571).

Schedule 1 should be amended, noting that Council must take a precautionary approach in light of Friends of Turramurra Inc v Minister for Planning [2011] NSWLEC 2010, to include all JPV's land holdings.

JPV will actively participate in any further public consultation process if the additional permitted use of the remaining lots needs to proceed through the first round of amendments to Sutherland Sire LEP 2013.

We would be please to meet with Council's relevant Strategic Planning officers to progress these issues and discuss Our Lady of the Way, Sylvania site with Council at your earliest opportunity.

Please don't hesitate to contact me on 0408 463 714 or by email brett@daintry.com.au.

Yours faithfully,



Brett Daintry, MPIA, MAIBS, MEHA
Director

Attachments:

1. Site Plan
2. SSC Ageing Well: Housing

cc. Mr Gerry Renouf, Chief Executive Officer, John Paul Village -
<gerryr@johnpaulvillage.com.au>

Our Ref: 161
Your Ref: LP/03/252376

Monday, 28 October 2013



Mr John W Rayner
General Manager
Sutherland Shire Council

(by email ssc@ssc.nsw.gov.au)

Attention: Mark Carlon, Manager Environmental Planning

Dear Mr Carlon,

Re: Draft Sutherland LEP 2013 - LP/03/252376

Property: John Paul Village (JPV) Heathcote (as detailed in submission)

This is a formal submission under section 57(3) of the *Environmental Planning and Assessment Act 1979* (the Act).

JPV is a registered charity that provides aged care facilities. Over the next decade JPV is planning to meet demand for increased dementia care through new facilities. Whilst JPV acknowledges the LEP process is ongoing it cannot wait for the LEP process to be completed or for any new planning proposals and is likely to lodge a development application before Christmas seeking to build new facilities to meet the increasing dementia care needs of our community. JPV will consult with its neighbour and Council staff through the pre-DA process as to that proposal.

In the interim, with respect to the current Draft LEP, it is submitted that the amendments to the Draft LEP 2013, as sought by this submission, are minor and reasonably required to better meet the objectives of the Sydney regional and sub-regional plans and the draft LEP 2013, as well as meet Council's published "Ageing well: Housing" 24/05/2013 aims and objectives, in particular to the increasing dementia care needs of our community.

Council's Sutherland Shire Draft Housing Strategy 2031, as reported DAP025-13 on 12 November 2012, supports this submission. The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%.

There are over 321,600 Australians living with dementia. This number is expected to increase by one third to 400,000 in less than ten years. Without a medical breakthrough, the number of people with dementia is expected to be almost 900,000 by 2050¹. Those areas with increasing aging populations will therefore struggle to meet low and high dependency age care demands. The Sutherland Shire is one of these areas.

JPV in this case are not seeking anything above 3 storeys. 13m HOB is reasonably achievable, cognizant that 3 storeys is capable of satisfying demands and deliver acceptable urban form outcomes in this specific locality. Further, given the site layout, this will only be achievable in the north-western precinct of the site. The effective height, due to the unusual topography created by the railway bridge approach, will render any 3 storey building to be

¹ <http://www.fightdementia.org.au/content/statistics>

viewed as a 2 storey built form when approached from the Princes Highway. This area of the site is also well removed from neighbours, abuts the SP2 and the B6 zone which has a proposed HOB of 16m and FSR of 1:1.

This submission does not trigger any need for further public consultation under section 57 of the Act with respect to the request that FSR continue to not be applied to the site and that HOB be increased from 9m to 13m for Lot 10 in DP 1110571.

There are no adverse environmental or amenity impacts arising from the amendments sought that cannot be resolved appropriately within a required environmental assessment under Part 4 of the Act.

The Land

The land to which this submission relates is 15 The Avenue (Lot 10 in DP 1110571) shown outlined in yellow in Figure 1 - Draft Land Zoning.

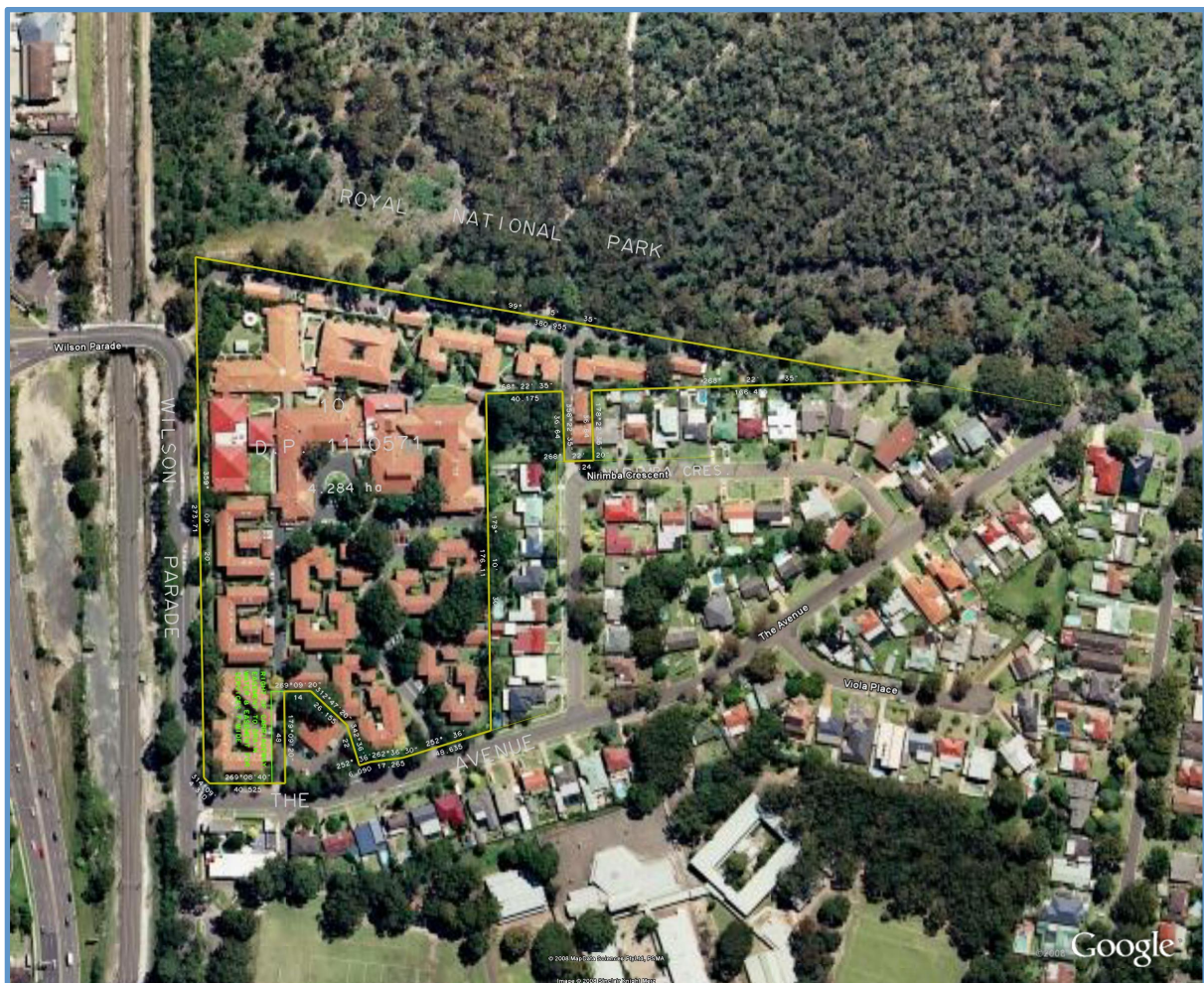


Figure 1 - John Paul Village - Land to which this submission relates

Context

JPV is bound to its west by the Illawarra Railway Line (Zone SP2) which adjoining land fronting the Princes Highway with the following planning attributes:

- Zone (B6) Enterprise Corridor
- HOB (O) 16m
- FSR (N) 1:1

To the north is the Royal National Park.

To the east JPV own the following sites with frontages to Nirimba Crescent (these sites are not subject to this submission):

- 23 Nirimba Crescent (Lot 60 in DP31803) – House
- 27 Nirimba Crescent (Lot 62 in DP31803) - House
- 29 Nirimba Crescent (Lot 63 in DP31803) - House
- 31 Nirimba Crescent (Lot 64 in DP31803) – House

There are 5 residential properties with a common boundary to existing town houses within the south-eastern portion of JPV. The existing town-houses will remain and present an appropriate transition and buffer to the increased HOB and FSR that JPV seek in the north-western corner of the site abutting the Royal National Park and Illawarra Railway Line-Enterprise Corridor.

No.25 Nirimba Crescent is RE1 Open Space being parkland shared by JPV and the public.

To the south is the Catholic Church;

- 29-31 The Avenue (Lot 101 in DP858731)

The site is separated from remaining neighbours by Nirimba Crescent and The Avenue, which act as effective zone boundaries in terms of the additional permissible use proposed by the Draft LEP.

In summary, as will be articulated further below, this submission seeks that the north-western corner of the site, abutting the SP2 and B6 zone which has an FSR an FSR of 1:1 and HOB of 16m, and abutting the Royal National Park, be permitted to contain a 3 storey building by providing a HOB not less than 13m and no FSR or appropriate FSR of 0.7:1.

In this context Council may reasonably support the requested increase to HOB (13m) and FSR (0.7:1).

Proposed Zone E4

JPV support Zone E4 subject to the additional permissible use of “Seniors Living” being included in Schedule 1 Additional Permitted Uses of the Draft LEP for the total site.

JPV do not seek under this Draft LEP that other land holdings be subject to this additional permitted use. JPV may in that regard prepare a planning proposal for that purpose at a later date as this will require further public consultation and exhibition.

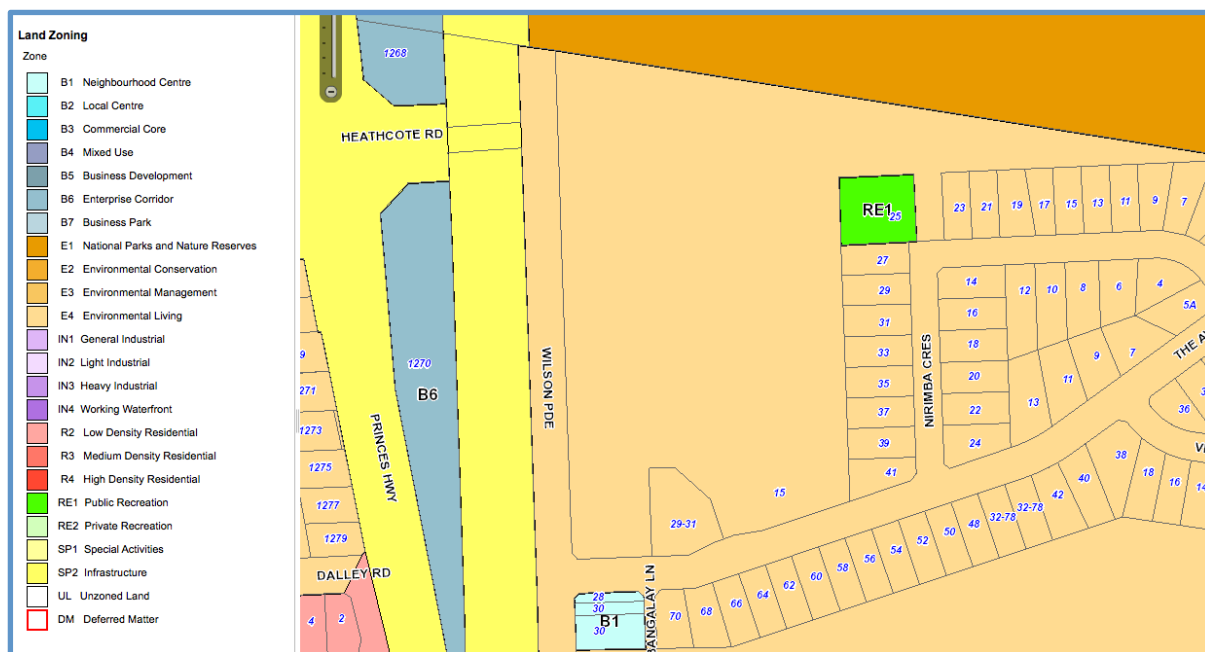


Figure 1 - Draft Land Zoning

Extract Schedule 1 of Draft LEP Instrument (2013_08_20_SSLEP2013_Instrument.pdf)

“16 Use of certain land at The Avenue, Heathcote

(1) This clause applies to the land at 15 The Avenue, Heathcote, being Lot 10 DP 1110571.

(2) Development for the purpose of Seniors housing is permitted with consent.”

The site is currently subject to Clause 33(4) of SSLEP 2006, with a default HOB of 7.2m and 9m. The Draft LEP proposes a HOB of J1 - 9m (Figure 2 - Draft HOB)



It is noted that the affected area of the site adjoins the SP2, B6 (FSR 1:1, HOB 16m) and Royal National Park. With respect to the north west corner of the site (Figure 3 - Proposed HOB (N – 13m) - JPV North-west) it is submitted that a HOB of (N) 13m should be applied to allow merit consideration of a development application for a new 3 storey high dependency care facilities in the northern precinct of the site, without the need for a SEPP 1 under Sutherland Shire LEP 2006 or a clause 4.6 justification under the Draft LEP 2013.



FSR

Sutherland Shire LEP 2006 does not assign any FSR to 15 The Avenue (Lot 10 in DP 1110571). JPV through development applications have worked with the local community and Council over many decades to develop new aged care facilities to meet the increasing demands of the Sutherland Shire for such facilities. The outcomes have always been excellent and in the public interest.

Council is not required to assign any FSR to the site. Draft Sutherland Sire LEP 2013 should adopt the same approach as the current LEP. No FSR should be assigned to the site. The site and its impacts are self contained and manageable through the Part 4 merit assessment process.



Figure 4 - Draft FSR

If any FSR is proposed it must have regard to the relationship of the site to its neighbours and the public interest, in particular allowing sufficient additional FSR to meet the well documented demand for increased aged care facilities, in particular dementia care.

Preliminary master planning work has identified the need for more aged care facilities, including additional onsite parking. The same master planning has also identified that new kitchen facilities are require and whilst these are proposed to be underground they will by the standard instrument definition of GFA contribute to the FSR despite adding no above ground bulk to the site.

JPV has identified that the FSR to be assigned to the site will need to be “H”, 0.7:1 in JPV are to meet real demands Council has identified itself through Council’s published “Ageing well: Housing” 24/05/2013 aims and objectives.

Economics

Council's Housing Strategy report noted council's own residential aged care facility at Engadine community centre was increased in height from 4 to 6 storeys primarily because the future commercial operator found that it would not be financially feasible at 4 storeys.

We ask Council to note that JPV are at registered charity and are only seeking a HOB increase to permit 3 storeys above ground on the north-western portion of the site.

JPV are not a commercial entity and the economic are a minor driver. The major driver is the need for increased dementia care facilities within the boundaries of the existing site.

Social Planning

Sutherland Shire Draft Housing Strategy 2031 as detailed by DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 clearly support the need for more housing for smaller house holds and in particular identify a pressing need for more aged care facilities.

To quote Council's strategic planning report:

"The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%."

The Ageing Strategy was well received by the community and well regarded across local government. Specific commitments made by council through the adoption of its Ageing Strategy in relation to housing include:

- Increase housing choice by increasing permissible building heights and densities in centres with proximity to transport, shopping and facilities;
- **Increase aged housing by increasing permissible building heights and densities for aged persons housing in centres with proximity to transport, shopping and facilities;**
- Provide incentives for villa developments; and
- Promote dual occupancy as a viable and cost effective form of aged housing.

This specific strategy supports JPV's submission.

JPV is close to public transport but JPV also provides its own bus service which transports residents to local centres and on other excursions.

It is submitted that the social planning objectives of Council will be better achieved by increasing permissible building heights and densities for aged persons housing at JPV as proposed.

Public Hearing

JPV note that the Council at its meeting of 30 September 2013 resolved (Mayoral Minute No. 15/13-14) to 'request the Minister for Planning and Infrastructure to direct the Planning and Assessment Commission to conduct a public hearing in accordance with Section 57 of the Environmental Planning and Assessment Act, 1979 into the content of Draft Sutherland Shire Local Environmental Plan 2013'.

JPV request that this submission be table to the public hearing and that Council registered JPV's request to address the public hearing in writing and orally.

Summary

On behalf of JPV it is submitted that 15 The Avenue (Lot 10 in DP 1110571) should continue to have no FSR assigned to it. If any FSR is assigned to the site it should be 0.7:1 to allow JPV to achieve what is clearly in the public interest and that is increasing dementia care services to the Sutherland Shire.

HOB of 13m may be assigned to the north-western corner of the site without any need for further public consultation as this increase HOB will have no adverse impacts upon the locality in terms of urban form and no increased impacts upon neighbours.

Schedule 1 should be amended as proposed, noting that Council must take a precautionary approach in light of Friends of Turramurra Inc v Minister for Planning [2011] NSWLEC 2010, to include all JPV's land holdings. This proposed additional permissible use of the site has already been subject to exhibition without any previous submissions raising any concern.

JPV will actively participate in any further public consultation process.

JPV would be please to meet with Council's relevant Strategic Planning officers to progress these issues.

Please don't hesitate to contact me on 0408 463 714 or by email brett@daintry.com.au.

Yours faithfully,



Brett Daintry, MPIA, MAIBS, MEHA
Director

cc. Mr Gerry Renouf, Chief Executive Officer, John Paul Village -
<gerryr@johnpaulvillage.com.au>