

Our Ref: 0088/13lt5

14 February 2014

Marian Pate
NSW Department of Planning and Infrastructure
PO Box 39
SYDNEY 2001

Dear Marian,

**RE: SUTHERLAND DRAFT LEP REVIEW
1 ROSEBERRY STREET HEATHCOTE**

We advise that we act on behalf of the owner of the above property and have been instructed to make a submission to be included as part of the independent review of the Draft Sutherland Shire LEP 2013. In accordance with the terms of reference set out by the Minister for Planning and Infrastructure, this submission relates to a site that was included in Mayoral Minute No. 6/13-14 dated 29 July 2013.

As conveyed to the Panel during recent Public Hearing sessions, it is critical that a distinction is made between matters referred to in the Mayoral Minute of 29 July 2013 as to whether they were amendments supported by Council's professional staff following submissions made on the initial public exhibition period, or were amendments instigated by the Mayor. We note that in relation to this submission, the Mayoral Minute was consistent with the recommendations of staff contained in their report relating to the first round of exhibition.

By way of background, Planning Ingenuity made a submission to Council as part of the initially exhibited Draft LEP disputing the appropriateness of the application of the *E4 Environmental Living* zone to the subject site and requesting that it is changed to the *R2 – Low Density Residential*. The submission maintained that there were no significant environmental qualities of the site that warranted the zoning and identified that the application of the E4 Zone would prohibit Places of Public Worship. As the property owner is the Heathcote Gospel Trust the implications of applying the E4 Zone was significant. The detailed submission is attached to this letter.

Staff were supportive of the request and in fact applied the R2 Zone to a number of other properties as it was logical to do so. Council's report summarising submissions made the following recommendation:

" It is considered that the issues raised in the submissions have merit and are applicable to more properties in this vicinity than just the two that are the subject of the submissions.

In consultation with the RFS, it is considered that the area bounded by Parkes Street, Oliver Street, Rosebery Street, Whitton Street, (part of) King Street, and Willandra Street (as mapped above), be rezoned from E4 Environmental Living to R2 Low Density Residential.

It is considered that the greater density of development and additional permitted uses under this zoning is consistent with areas sharing similar characteristics within Sutherland Shire and does not impede evacuation routes from areas closer to the bushfire hazard.

It is therefore recommended that council consider rezoning this area from E4 to R2 as mapped."

As discussed, the subject site was mentioned in the Mayoral Minute as follows:

“ With respect to Chapter 11: Zoning and Bushfire Risk

- i. The following areas be rezoned from E4 Environmental Living to R2 Low Density Residential:
 - The area bounded by (and including) No. 1 Rosebery Street (Lot 981 DP 47101), No. 1 King Street (Lot E DP30572), No. 15 King Street (Lot 71 DP619052) and No. 1 Rosebery Street (Lot 72 DP 619052), Heathcote.”

The changes to the Draft LEP, as exhibited in the second round, were therefore made as a result of thorough analysis and the request by Planning Ingenuity in their submission on behalf of the land owner. The request was considered by professional Council staff based on further analysis and consultation with the Rural Fire Service. Professional staff recommended that the LEP was changed to identify the subject site, and others, as being within the R2 Zone. The site was included in the Mayoral Minute to reinforce the views of staff.

It is therefore abundantly clear that the changes to the LEP in relation to the subject site are both appropriate and are agreed as acceptable by Planning Ingenuity, professional staff and the Mayoral Minute.

We therefore request that the panel endorse the Mayoral Minute as it relates to the subject site, that is, include the site in the R2 Zone.

Should you wish to discuss any of the above, please feel free to contact the undersigned.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
DIRECTOR



ANNEXURE A

COPY OF INITIAL SUBMISSION ON DRAFT SUTHERLAND LEP 2013

Our Ref: 0088/13lt3
Council Ref: LP/03/252376

29 April 2013

The General Manager
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Dear Sir,

**SUBMISSION ON THE DRAFT SUTHERLAND LEP 2013
NO. 1 ROSEBERY STREET, HEATHCOTE**

INTRODUCTION

We refer to the *Draft Sutherland Shire LEP (SSLEP) 2013* file number LP/03/252376 which is on exhibition from 19 March to 1 May, 2013. We act on behalf of the owner of No. 1 Rosebery Street and have been instructed to make a submission in relation to the Draft LEP to request that Council make amendments to enable the redevelopment of this site for its highest and best use, that is multi dwelling housing development.

In our opinion, two mechanisms for achieving this request are available to Council. The site may be rezoned to R2 – Low Density Residential, consistent with the eastern side of Rosebery Street. Alternatively, Schedule 1 – Additional Permitted Uses could be amended to specifically permit “multi dwelling housing” on the subject site.

In forming our opinion on the suitability of rezoning the subject site we have researched the site and locality and considered the *SSLEP 2006* and *Draft SSLEP 2013* controls in the context of the local and state strategic planning framework. We have also considered Council's *Housing Strategy – December 2012* which is a supplementary document also on public exhibition.

BACKGROUND

The basis for this submission is related to the recently approved place of public worship at No. 44R Forum Drive, Heathcote. This site is also owned by the Heathcote Gospel Trust, who is the owner of the site subject to this submission. The intention is to relocate services and meetings to the new site at Forum Drive, once construction works are completed. As a result, the current site at No. 1 Rosebery Street will become surplus to the requirements of the Trust. Redevelopment of this site is considered to be the most economical use of this land.

The subject Rosebery Street site is located within Zone 3 – Environmental Housing (Bushland) pursuant to SSLEP 2006 and is identified in the Draft LEP 2013 as Zone E4 – Environmental Living.

SITE & LOCALITY

The subject site is located on the western side of Rosebery Street, known as No. 1 Rosebery Street, comprising of 4 individual lots. The primary allotment being Lot 1 in DP 758511, which was the original

lot purchased to build the hall. Subsequently Lot 981 in DP 47101 and Lot 10 in DP 1014211, which were originally part of the un-made Waterfall Road adjacent to Waterfall Creek, were purchased along with Lot 72 in DP 619052, originally known as 15A King Street Heathcote to expand the car parking area.

The total site has an approximate area of 3,250m². This comprises a single storey church building along the Rosebery Street frontage, with a paved side and rear area encompassing a driveway and car parking for approximately 60 vehicles. In addition, the subject is almost entirely hard paved, with vegetation generally limited to mature trees within the front setback to Rosebery Street and small shrubs within formal planter boxes along the site boundaries. These attributes are noted below in Figures 1 and 2.

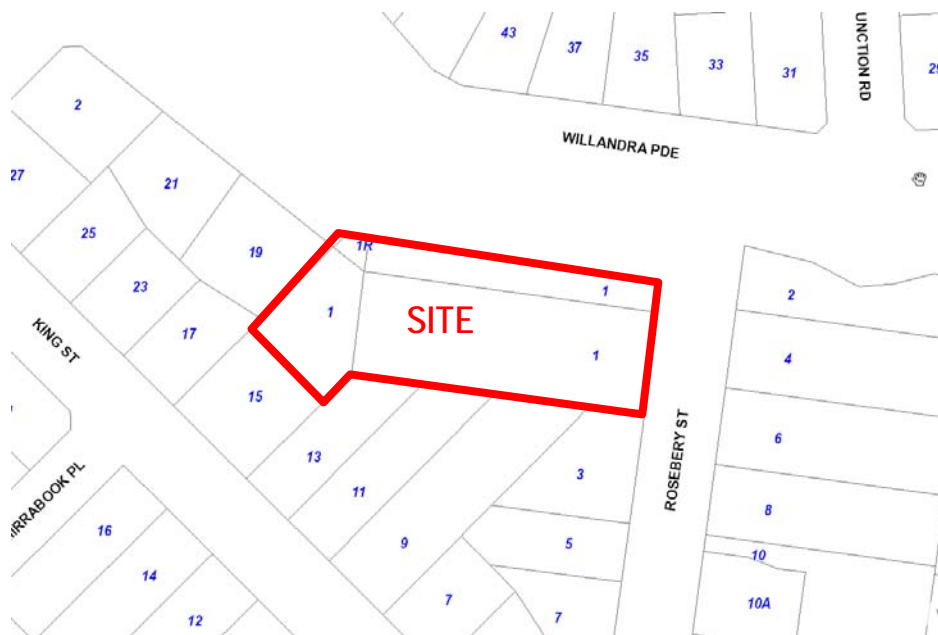


Figure 1: Location Plan (site boundaries shown in red)



Figure 2: Aerial photograph of the site (site boundaries shown in red)

As noted above in Figure 2, the subject site is located within a predominately low density residential area comprising of single dwelling houses to the south, west and on the opposite side of Rosebery Street to the east.

Residential density increases to the south and south-east through more recent villa and townhouse development, residential flat buildings and shop-top housing in close proximity to Heathcote Town Centre. Adjoining to the south is a small local reserve, which presently contains extensive mature vegetation and adjoining to the north is road and drainage reserve along Willandra Parade which is also heavily vegetated.

The site is located within reasonable proximity to Heathcote Town Centre, being in the order of 400m to the south and south-east. This local centre provides a range of retail opportunities such as a supermarket, newsagent, hairdresser, bakery, butcher, veterinarian and service stations amongst other commercial land uses. Heathcote Public School and pre-school facilities are located approximately 280m to the south and Heathcote Railway Station is located approximately 470m to the south-east. These attributes are noted below in Figure 3.

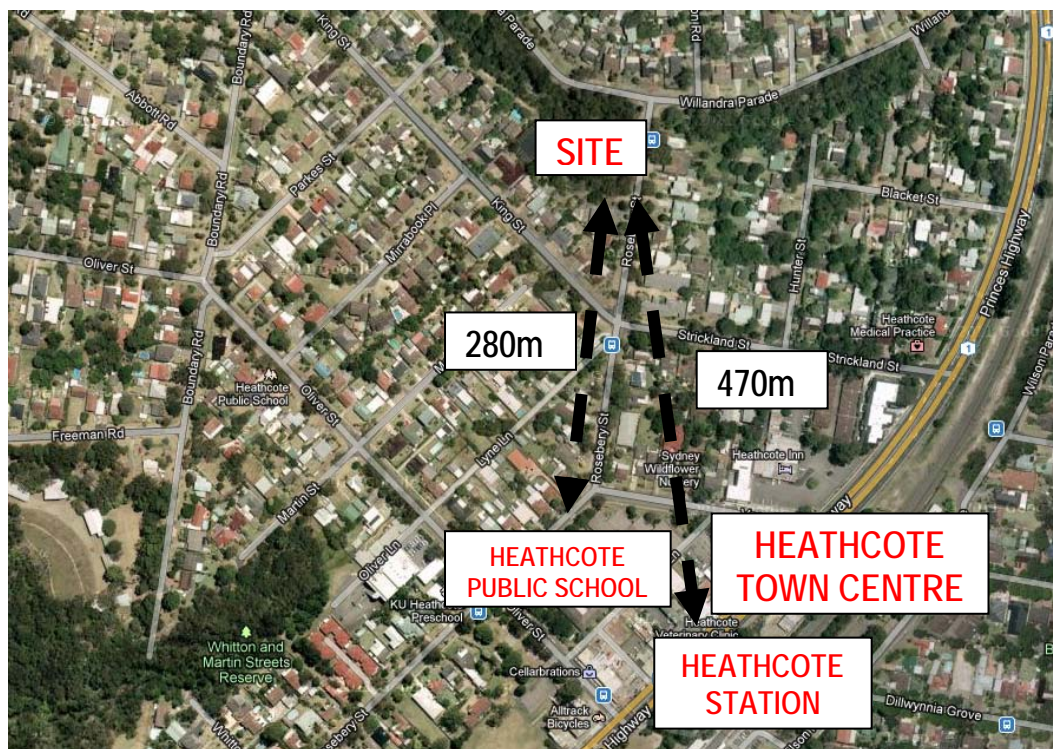


Figure 3: Local context map

THE REQUEST

It is requested that the proposed zoning under Draft SSLEP 2013 be changed to enable 'multi dwelling housing', preferably under a *R2 – Low Density Residential* zoning, which would permit the redevelopment of the site at the appropriate time. This would allow 'multi dwelling housing' which is considered the most suitable and economic future use of the site. This land is compatible with the surrounding low density residential characteristics of the locality and would take advantage of the nearby facilities and services which are noted above in Figure 3.

This request may be enabled in one of two ways:

- 1) Include the subject site within Zone *R2 – Low Density Residential* which permits ‘multi dwelling housing’; or
- 2) Amend Schedule 1 – Additional permitted uses to specifically allow for ‘multi dwelling housing’ on the subject site. This can be achieved with the following wording under the heading “Heathcote”:

“ **Use of certain land at Rosebery Street, Heathcote**

- (1) This clause applies to the land at 1 Rosebery Street, Heathcote, being Lot 1 in DP 758511, Lot 981 in DP 47101 and Lot 72 in DP 619052.
- (2) Development for the purpose of multi dwelling housing is permitted with consent.”

LAND ATTRIBUTES

The subject site is considered to be a considerable land holding, which is in the order of 3,250m². A single holding of this size and proportion is somewhat rarely found within Heathcote. Enhancing this attribute is the site's location. As noted in the site and context section, it is located in close proximity to Heathcote town centre with nearby services, retail opportunities and schools. In addition, two bus stops for either direction of the 991 bus service are located directly in front of the subject site and Heathcote Railway Station is located within approximately 470m walking distance of the site.

The site has relatively few directly adjoining residences. There are drainage lands and a roadway to the north and a public reserve to the south. The adjoining residences to the south and south-west are generally set as near to King Street as possible, enjoying the higher topography in this location. Other residences to the west are generally located around the ‘dogleg’ portion of the property presently used as a car park. This relationship with neighbouring properties will ensure that there would be limited privacy and overshadowing impacts from any proposed redevelopment of the subject site.

In addition, the site is almost entirely hard paved area with no significant vegetation to note. The site is not affected by hazards such as landslip or flooding.

As the E4 zone is very extensive and includes a substantial number of typical suburban residential properties like the subject site, we assume that the rationale for an Environmental Zone, rather than a Residential Zone, relates to the fact that properties within the proposed zone are within the vicinity of bushland and consequently are potentially affected of bushfire. In almost every instance, and particularly in relation to the subject site, developed properties within this zone in Heathcote exhibit little or none of the bushland character that typified the area prior to its development as a residential suburb. In essence, apart from the potential threat of bushfires, there is nothing of special ecological, scientific, cultural or aesthetic value that differentiates this land from other suburban residential land in Heathcote and elsewhere in the Shire.

In our opinion, the possible threat of bushfires is not sufficient reason to justify inclusion of this land within an Environmental zone rather than a Residential zone. In our opinion a more suitable zoning for the subject site would be *Zone R2 Low Density Residential*. Whilst the site is mapped as being prone to bushfires, it is our opinion that this matter will not necessarily affect the development potential for multi dwelling housing on the subject site.

Any bushfire planning related issues can be dealt with through a development application. Any such application would need to satisfy bushfire setbacks and design requirements as necessary.

As noted previously, the land will become surplus to requirements of the Trust once the Forum Drive facility is operational. As a result, this purpose built structure would have reached the end of its economic life. It is considered that redevelopment of the site for multi dwelling housing is an appropriate and arguably preferable use of the land than other potential uses of the Rosebery Street site in its present form.

Collectively, these attributes provide for a good opportunity to achieve new housing which will contribute towards Council's *Housing Strategy* targets and to create the availability of more of a variety of housing within the local area. In addition, a rezoning to permit multi dwelling housing has the potential to contribute to the economic viability of the Heathcote Town Centre through increased business trading.

STRATEGIC CONTEXT

In preparing this submission, we have considered the strategic planning framework within which the Draft LEP has been prepared. It is our opinion that the subject request is not contrary to this framework at State or local level. We make the following observations in relation to the strategic planning framework:

1. South Subregion of the Draft Metropolitan Strategy:

The Metropolitan Strategy comments on the increase of housing across the Greater Metropolitan area with the majority of new housing will be accommodated in existing urban areas, focused around centres of varying sizes. The South Subregion is required to provide an additional 22,000 dwellings by 2021 and 42,000 by 2031.

This proposed rezoning offers Council an ideal opportunity to respond to the objectives of the subregional strategy and to also move closer to the required dwelling targets, whilst still keeping within the low density characteristics of the surrounding locality.

2. Housing Strategy – December 2012

On exhibition, as supplementary information to demonstrate the strategy underlying the Draft LEP in relation to dwelling provision is Council's *Housing Strategy*. The purpose of the Strategy is stated to deliver housing to meet the needs of today's community and the needs of future generations. The *Housing Strategy* includes various objectives which are as follows:

- 1. To meet the current and future needs of an aging population.*
- 2. To deliver Council's Ageing Strategy.*
- 3. To meet the current and future needs of smaller sized households.*
- 4. To meet the community needs for increased housing choice.*
- 5. To encourage redevelopment to promote the revitalisation of centre.*
- 6. To facilitate the use of public transport and the efficient utilisation of existing and future infrastructure.*
- 7. To retain the established development pattern of low density housing in a landscaped setting with some higher density precincts close to centres.*
- 8. To consider environmental constraints in nominating locations for additional housing*
- 9. To meet the requirements of the Draft South Subregional Strategy – Planning to 2031 (NSW Department of Planning and Infrastructure).*

It is considered that the subject request responds favourably to all the above objectives. The proposal will provide more compact housing suited to smaller families and the elderly; is located to suitably take advantage of the existing Heathcote Town Centre and public transport services; maintains a low density style of living in contributing towards the achievement of State Government housing targets; and does sufficiently consider the environmental constraints of the site. Accordingly, it makes town planning sense to support a R2 zoning on the subject site.

3. Draft LEP 2013

The subject site is located within the E4 – Environmental Living Zone pursuant to Draft Sutherland LEP 2013.

The zone objectives and permissible uses are stated as follows:

“ Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*
- To allow for development which preserves and enhances the natural landscape setting of the locality.*
- To protect and restore trees, bushland and scenic values particularly along ridgelines and in other areas of high visual significance.*
- To ensure the character of the locality is not diminished by the cumulative impacts of development.*
- To minimise the risk to life, property and the environment by restricting the type, or level and intensity of development on land that is subject to natural or man-made hazards.*
- To allow the subdivision of land only where the size of the resulting lots makes them capable of development that retains or restores natural features while allowing a sufficient area for development.*
- To share views between new and existing development and also from public space.*

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Dwelling houses; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Home industries; Neighbourhood shops; Recreation areas; Roads; Secondary dwellings

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.”

Zone E4 Environmental Living, as applied to the site under the Draft LEP presents significant issues in the economic development of the subject site. This zone does not allow for a more diverse use of housing, particularly more compact housing which is more suitable in locations close to Heathcote town centre, such as the subject site.

In addition, it is important to consider economic aspects of the site. The current facility has reached the end of its economic life and is no longer considered to be fit for purpose. This is evidenced through the Trust's recently approved Forum Drive facility.

It is preferred by the owner's that the site is developed as one land holding. This attribute is considered to be rare in the Heathcote area and would be extremely unlikely to be repeated in future, given the fragmented land ownership patterns of the surrounding residences. A multi

dwelling redevelopment would be most suitable under the *R2 – Low Density Residential Zone*, with the objectives and permissible uses stated as follows:

" Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure the single dwelling character, landscaped character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.*
- To protect and enhance existing vegetation and other natural features and encourage appropriate bushland restoration.*
- To protect and restore trees and bushland particularly along ridgelines and in areas of high visual significance.*
- To allow the subdivision of land only where the size of the resulting lots retains natural features and allows sufficient area for development.*

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works, Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Multi dwelling housing; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Seniors housing

4 Prohibited

Any development not specified in item 2 or 3"

As demonstrated above, to not permit multi dwelling housing on the subject site would be a significant opportunity lost in terms of developing a high quality multi dwelling housing project within Heathcote.

If the recommendation that the R2 zone be applied to the site is not accepted by Council, at the very least allowance of multi-dwelling housing on the subject site through an "additional use clause" will not be inconsistent with surrounding uses or in conflict with the zone objectives.

CONCLUSION

We thank you for the opportunity to comment on Council's Draft LEP. For the reasons outlined in this submission, it is our view that the Draft LEP in its current form does not appropriately reflect highest and best use of the subject site. The Housing Strategy highlights the need for an increased supply of more diverse and compact housing in close proximity to existing centres and public transport services, which is entirely consistent with our suggested rezoning proposal. A multi dwelling housing redevelopment would maintain the low density characteristics of the local area, whilst contributing towards the achievement of the State Governments additional housing targets for the South Subregion.

This subject request can be implemented through inclusion of the subject site in the R2 zone or through amendment to Schedule 1 – Additional Permitted Uses to specifically allow for 'multi dwelling housing' on the subject site. The subject request will have minimal impact on the surrounding land uses and is considered entirely appropriate for the subject site given increasing demands for more compact housing stock. The subject site will shortly become surplus to requirements of the Trust and a rezoning is required to achieve the most economic usage of the land. A rezoning to low density residential is considered to be in the public interest.

As demonstrated in this submission, the subject request is not inconsistent with the Sydney Metropolitan Strategy or Council's Housing Strategy and will meet the overall environmental, economic and social objectives of the Environmental Planning & Assessment Act, 1979. We therefore respectfully request that the Draft LEP be amended as detailed in this submission.

We trust that this submission is self explanatory, however, should you require any further clarification, please do not hesitate to contact our office.

Yours faithfully,
Planning Ingenuity Pty Ltd

A handwritten signature in black ink, appearing to read 'L. Fletcher'.

Lindsay Fletcher
MANAGING DIRECTOR